

**Independent Audit Control Through the Cour des Comptes of Lebanon:
A Comparative Analysis**

by

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Abstract

This thesis is intended to throw a light on an important subject, namely, the Study and Evaluation of the Lebanese Bureau of Accounts. The endeavor is to see how well it achieves the purpose for which it was established, this purpose being to insure a better use of the public moneys. The author also examines the different weaknesses which led to the failure of the Bureau to offer its services as best expected. An attempt is made to offer solutions or remedies for improving the present situation in the light of the Lebanese socio-political environment.

Before the creation and functioning of the Lebanese Bureau of Accounts, public moneys were used without any effective means of control, and as such resulting in their misuse and loss. But within the last nine years, the period wherein the Bureau started to exercise control over the use and administration of public funds, a significant measure of carefulness and efficiency in the use of those public funds was achieved. This was done inspite of the fact that the Bureau practiced its functions of post-audit and adjudication much less than anticipated in its enabling statute.

The problems which are facing the Bureau concern mainly: (1) the turnover and the small number of the personnel of the Bureau which led to its failure to practice its functions of post-audit and adjudication as best expected; (2) instability of laws; (3) lack of cooperation on the part of the Council of Ministers and the public departments which still do not have full appreciation and willing acceptance of control by the

Bureau as an outside agency; (4) lack of training for the Auditors of the Bureau; (5) existence of certain weaknesses in the provisions of the establishing law of the Bureau of Accounts which might lead to a loss of responsibility; and (6) lack of social and national responsibility in the Lebanese Public Affairs in general.

The solution for these problems may be: (1) to increase the number of Councillors and Auditors of the Bureau, and to try to satisfy them from both the moral and the material sides. By this way, the Bureau will be able to have stable and trained personnel. (2) The establishing laws of the Bureau should have a measure of stability, because stability is essential for the functioning of any organization. (3) The Council of Ministers and the public departments should cooperate together with the Bureau in order to satisfy and achieve the public interest. This cooperation can be reached by training the employees of the Bureau (mainly the auditors) and those of the public departments in all aspects of Public Administration. (4) The establishing law of the Bureau should be made after scientific study and investigation in the light of the Lebanese socio-political environment, taking into account that responsibility must be definitely located. (5) Finally, Lebanon in general needs people who have a social and a national responsibility to be able to have improvements in the performance of public affairs. Of course, this takes time since social change is a slow process.

On the whole, we can say that although the Bureau has its internal and external weaknesses and obstacles, it proved to be an important and a necessary means of control.

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CHAPTER I

INTRODUCTION

Plan of Study

This study is presented in six chapters. Chapter I is an introduction which includes mainly the statement of the problem, the reasons for choosing it and the methodology. Chapter II comprises a general study of the different practices of auditing agencies in different countries in order to see the general tendencies and base on them a standard or model-features for the purpose of evaluation. Chapter III is devoted to a discussion of the historical background and development of the Bureau of Accounts. In Chapter IV a discussion of the legal status of the Bureau is made. Chapter V discusses the operational or informal status of the Bureau. And finally, Chapter VI is a conclusion and an evaluation.

The purpose of this thesis, therefore, is an attempt to study and evaluate the operation of the Lebanese Bureau of Accounts and see whether it has contributed to a better use of the public funds. This demands, however, an examination of practices in other countries in order to establish a frame of reference.

The aim of establishing such a frame of reference is purely methodological. It is a mere tool to help us think and consider important problems and significant relationships¹ which might be worth considering and evaluating. It is made after the study and examination of a number

1. See William J. Siffin et.al. Toward the Comparative Study of Public Administration, (The Department of Government, Indiana University, 1957), p. 28.

of models of Public Accounting Agencies.

After constructing this frame of reference, the next step will be to describe and analyse the practices of the Lebanese Bureau of Accounts in terms of this frame of reference.

Besides the utilization of the model concept, the author will depend largely, in carrying out the actual research, upon the following sources:- (1) documentary materials, such as books, periodicals, codes of laws related to the subject, reports, and some of the cases handled by the Bureau of Accounts; (2) information gathered through interviews; and (3) personal observation for obtaining and unifying information not otherwise available.

While each one of these methods of fact-finding has its own advantages, at the same time it has its limitations, if used alone. Therefore, a combination of them all is advisable. It is believed that one method will, in such a way, supplement the other and minimize its limitations.

The Significance of the Subject and the Reasons for Choosing it:

There are four main reasons why the author has chosen this subject:-

(1) Modern democratic states, in general, are no longer police states; they are types of welfare states, that is, they are performing besides the classical functions of the police state many welfare activities.² This has caused a great expansion of the functions of modern administrations. Such a big expansion may endanger the private liberties

2. John Clarke Adams, Principles of Public Administration, (In-Service Training Lectures, Public Administration Department, A.U.B., Beirut, Lebanon, 1956, Lecture IV), pp. 1-5.

of the individual, and constitutes a threat to democracy, because there is a danger, according to Lord Acton, that all power tends to corrupt and that absolute power corrupts absolutely. Therefore, in order to provide a basis for a democratic life and a fair protection for the individual against any encroachment upon the rights which are guaranteed to him by the constitution and the laws of the country, the bureaucratic machine must be controlled.

Different states use different types of control. These types may be administrative, legislative, financial, or political. A study of all of these controls is beyond the scope of this thesis. The writer will limit himself to a discussion of the control of the Lebanese Bureau of Accounts over the administrative machinery.

Moreover, auditing agencies in general are considered to be very important because they usually represent the legislative power in overseeing the execution of the budget, within the limits of the existing laws. They have, in addition to the direct advantages, several indirect ones. These indirect advantages result through the prevention of wrongs because of the fear of government employees of their being caught and punished. In most of the cases, knowledge of the existence of such agencies is useful not only in relation to those wrongs which can be discovered and punished but in relation to the wrongs that these agencies may prevent from taking place. So, the choice of the Lebanese Bureau of Accounts as a subject for this thesis is also because of its very importance and the advantages which it secures in its being a sharp sword over the head of the administration in using the public funds. This is what Lebanon needs.

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In this respect, however, the writer would like to point out that there are many people who believe that swords and whips are not the best way for ensuring efficiency. This belief is based on experiences in a socio-political and administrative situation different from that of Lebanon.

(2) In brief, the study of the Lebanese Bureau of Accounts as a living organ is herein undertaken to overcome the lack of written work on the subject. The writer is thinking of contributing something new and original to the literature of the field of Public Administration. We say "the field of Public Administration" because we believe that finance and administration are in fact inseparable. Every administrative act has its financial implications, either creating a charge on the Treasury or making a contribution to it. Nothing can be done without the expenditure of money, at the very minimum for the payment of the salary or wage of the official or employee who acts.

(3) The third reason for the choice of this topic is a personal interest in the study of an agency which, like most Lebanese administrative agencies, has several prototypes in other countries. Consequently, this work may give the reader some idea of the value of learning from the experience of others, and the utility of "transplanting" institutions from one environment to another.

It may be worth mentioning before ending this chapter that such a study cannot be fully understood in isolation from the socio-political setting in which it operates. For this reason, we shall be referring to these aspects where necessary.

CHAPTER II

THE FRAME OF REFERENCE

In the previous chapter, the author introduced the reader to the subject of this thesis, its purposes, methods and significance.

In this chapter, an attempt to construct a model or a frame of reference will be made. This frame of reference will be based on the general tendencies and accepted principles of different practices of auditing agencies¹ in various countries.

The general purpose of this chapter, therefore, is to create a way which will help the writer of this thesis to study and evaluate the Lebanese Bureau of Accounts--his main concern. This frame of reference, as has been mentioned in the introductory chapter, is nothing but a tool, a means to an end.

The best means for the construction of a frame of reference is to have a fairly good background knowledge of the auditing practices of different countries which have cases of a similar nature to the one under examination and analysis. This will educate the analyst and stimulate him to think of many important phenomena and significant relationships.

The main features of the discussion will involve four major headings: (1) the pre-audit; (2) Post-audit and judicial control; (3) the reports; and (4) the features of the model.

1. The term "Auditing Agency" is taken here to mean the same thing as a Bureau of Accounts or a public accounting agency.

1. The Pre-audit

In general, pre-audit as a means of control is important since it prevents the harm before it takes place, and preventing the harm is much better than curing it, especially that sometimes there are certain harms which cannot be cured. But this does not mean that pre-audit ought to be performed by the independent auditing agency, for, as we shall see later, it is better for it to be performed internally, i.e. within the administration itself. It may, however, assume several shapes. "It may extend to the advance determination of the legality of a particular transaction. This may be accomplished in connection with procedures for counter-signature of warrants or other documents authorizing the incurring of obligations."² "Pre-audit may also extend to the examination of vouchers directing payment of obligations and may embrace a determination that obligations have been properly incurred, that they are received, that the amounts certified are correct, and that moneys are available for the specified purpose. The term pre-audit is customarily used to describe an independent control, that is, one outside the jurisdiction of the spending agency or person."³ "It tends to reduce the degree of responsibility exercised by departments and agencies."⁴ As is evident from the procedural steps listed above, there are many points at which pre-audit control can be imposed. If the statutes or practices of a country require pre-audit control at many stages there is an inevitable tendency to duplicate effort, to increase delay and resulting inefficiency in the trans-

2. United Nations, Government Accounting and Budget Execution, (New York, 1952), p. 7.

3. Ibid.

4. Ibid.

action of the government's fiscal affairs. This condition of "over-control" seems to prevail in a number of South American countries, with resulting friction in relations between the contraloria and the administrative agencies.⁵

Speaking also in general terms, we can say that "where pre-audit is used, it seems to work most effectively in those countries where it is a part of the internal administration."⁶ In France, for example, "the Ministry of Finance enforces standards of accountability on itself and on other departments by assigning an official (le controleur des depenses engagees) to work with each department. It is the responsibility of this official to determine the legality of proposed commitments. The Ministry of Finance has no responsibilities for post-auditing. The post-audit function is within the jurisdiction of the Cour des Comptes."⁷ This has been done this way in France in order to keep the executive power fully responsible for its decisions and answerable to parliament when necessary.⁸

Italy, in this context, was the first country to use the pre-audit type of fiscal control.⁹ This was before its unification. Since 1862,

5. For a discussion of over-control and the consequences of intermingled pre-audit and post-audit see United Nations Technical Assistance to Bolivia, (New York, 1951), pp. 22-23; see also the recommendations in the Report of the United Nations Economic Mission to Chile, (N.Y.), pp. 15-22. For a general discussion of pre-audit see G. Palthey, Le Contrôle Préalable des Finance Publiques, (Paris, 1952).
6. United Nations, Government Accounting and Budget Execution, op.cit.
7. Ibid., p. 8.
8. The Lebanese Official Journal, (Issue No. 18, dated 30 April 1954), pp. 222-223 (A report from the Lebanese Bureau of Accounts annexed to the Lebanese Official Journal).
9. Ibid., p. 222.

the Biamonti Bureau of Accounts was responsible for proving the legality of Royal Decrees.¹⁰ Article 100 of the last Italian constitution of the 27th of December 1947 stipulates that the Bureau of Accounts (Corte dei Conti) must give prior approval (visto di legittimita) to all presidential and ministerial decrees which will result in the expenditure of public moneys.¹¹ Moreover, we can say that no matter what the order is, the expenditure will not be incurred and the order of payment will not satisfy the legal requirements and become valid unless it is signed and registered by the Corte dei Conti.¹² The essential weapon in the hands of the Corte dei Conti, therefore, is the legal requirement of its signature on every transaction.¹³ This counter-signature is preventive in nature.

However, there are certain expenditures which are exempted from the counter-signature in the Italian system, such as the salaries and pensions of the employees including their retirement pensions.¹⁴

In Great Britain, "accountability is enforced by a pre-audit administered not by the Treasury, but by the accounting officer of each ministry. This officer is appointed by the Prime Minister and enjoys a permanent status. The advance determination of legality is within his

10. Ibid.

11. Principles of Public Administration, (In-Service Training Lectures, PSPA Department, A.U.B., Beirut, Lebanon, 1956, Lecture XV), p. 3. These lectures were written by Professor J.C. Adams.

12. Report of the L. Bureau of Accounts in the Official Journal, 1952, op.cit., p. 222.

13. Fernand Baudhuin, Précis de Finance Publiques, 2me ed., (Bruxelles: Etablissement Emile Bruylant, Rue de la Regene, 67), 1951, p. 68--as it appears in the Report of the L.B.A., Ibid.

14. Ibid.

jurisdiction."¹⁵ "Any disbursement is subject to another control by the Treasury when extending money to the Paymaster-General."¹⁶

In the U.S.A., pre-audit as being conducted externally by the General Accounting Office has been sharply restricted in recent years; it is increasingly integrated with the internal controls of the administration.¹⁷ "Pre-audit extends to the determination of legality in advance of setting up appropriation accounts in the Treasury Department."¹⁸ This is performed in a routine way by the counter-signature of appropriation warrants.¹⁹ Since 1950, pre-audit, in terms of the examination of documents before payment, has been sharply restricted. Also, the General Accounting Office has tended to restrict its responsibility to making a prior determination of the legality of particular transactions.²⁰

In Sweden, there is no external pre-audit. There is no pattern of fiscal control to prohibit over-expenditure; rather it is assumed that each agency or department will control its own rate of expenditure in accordance with its program and legal limitations. In other words, there is no pre-audit of expenditures by an independent auditing agency.²¹ As a result economy in the use of documentation is achieved in the government's accounting procedures.²² "The absence of pre-audit minimizes delay

15. United Nations, Government Accounting and Budget Execution,
op.cit., p. 8.
16. Ibid.
17. Ibid., p. 85.
18. Ibid.
19. Ibid.
20. Ibid.
21. Ibid., pp. 60-68.
22. Ibid., p. 72.

and paper-work. Pay orders usually accompany vouchers; the use of accounts with the postal system facilitates the handling of small items."²³

At last, one may notice from all that has been written above, that the general tendency in the practices of the different auditing agencies of different countries, is toward decreasing or even eliminating the pre-audit function from the functions of auditing agencies. This, however, does not mean that what is applied in other countries can be applied to Lebanon, because the Lebanese socio-political and administrative circumstances differ from all those of the countries mentioned above. Later on, the author will consider the pre-audit function in the light of the Lebanese socio-political and administrative circumstances.

2. Post-audit and Judicial Control

Post-audit and adjudication seem to be the most common functions of public auditing agencies.

Most countries of the world distinguish post-audit from closing of the accounts. Closing the accounts typically refers to methods accompanying the termination of the financial year--the summarization, formal balancing and publication of the over-all budgetary results. Post-audit involves a verification of the legality of individual transactions and the accuracy of the accounts.²⁴ In Great Britain, the annual report of the Comptroller and Auditor General combines both, the closing of accounts and their post-audit. But in most other countries, the accounts are formally closed by the Ministry of Finance while the post-audit is conducted separately and finished within a period of two

23. Ibid.

24. Ibid., p. 8.

or more years after that time.²⁵

However, "post-audit is generally conceived to be independent of the administration in the sense that the agency responsible for this audit reports directly to parliament. The independence of the audit is usually reinforced by endowing the heads of the auditing agencies with judicial or semi-judicial power, and by protecting the tenure of the auditors. The Cour des Comptes in France has developed along these lines and has become a model for adoption in many countries, particularly in the Middle East and in South America."²⁶ In France, as we have mentioned in our discussion of pre-audit, "there is a sharp division between pre-audit as performed by the Ministry of Finance and post-audit as performed by the Cour des Comptes. The latter is a semi-judicial body and enjoys a high prestige within the government. Its audit extends to the verification of accounts, the disclosure and prosecution of fraud, and the settlement and closing of accounts. In recent years, the jurisdiction of the Cour des Comptes has extended to embrace the accounts of the social insurance institutions and a number of public undertakings."²⁷ Up to the First World War, the power of the Cour des Comptes was purely a control over the accounts, and it took place according to the old rule which required the checking of the accounts and not trying the accounts, while the modern tendency is towards the prosecution of the person who

25. Ibid.

26. Jesse Burkhead, Government Budgeting, (N.Y., John Wiley and Sons, Inc., 1956), pp. 362-363.

27. Ibid., p. 363.

commits wrongs.²⁸

Professors Saramite and Hamelen say in this context that when the fiscal liability of the accountants was within the jurisdiction of the Cour des Comptes, the law was unable to touch the authorizing officials (the ordonnateurs) in cases of negligence or commission of wrongs except by drawing the attention of the government to their wrongs by means of its annual report.²⁹ But this distinction which was basic from the practical point of view, has today lost its importance since the issuance of the provisions which punish the defaulting authorizing officials.³⁰

Moreover, the French Legislature has lately introduced a courageous improvement by issuing a law on the 25th of September, 1948, creating disciplinary councils which will try all employees who commit wrongs against the state or against any public society or against the provisions of the budget. More explicitly, the civil, the military, and the government employees who work in the chambers of the ministries and the secretaries of the state and their staffs have been subjected to the authority of disciplinary councils. This way has insured a control over ministerial actions.³¹

28. See A.P. de Mirimonde, La Cour des Comptes, (Paris, Librairie du Recueil Sirey, 1947), p. 111; and Louis Trotabas, Precis de Science et Legislation Financieres, (Paris, Librairie Dalloz, 1951), p. 134, as both appear in the report of the L.B.A. in the Official Journal, op.cit., p. 226.

29. See Saramite et Hamelen, Les Contrôles Exercés par la Cour des Comptes, (Institute de Droit Compare de L'Universite de Paris--Etude de Finance Publiques et la Reform Budgetaire, Paris, 1954), as it appears in the report of the L.B.A. in the Official Journal, ibid., pp. 225-226.

30. Ibid.

31. Ibid., p. 227.

In Sweden, there are two types of audit: the parliamentary audit and the government audit conducted by the General Accounting Office. The scope of the government audit is wide, touching the verification of vouchers and contracts, the verification that expenditures are properly booked and the ledgers correctly added, and the verification of cash balances. This audit includes an examination of the legality of expenditures in accordance with parliamentary and government directives. In this connection, the auditors of the General Accounting Office have the power to question the exercise of expenditure authority by officials, to investigate the justification for departures, and when necessary, direct a restitution of amounts improperly expended.³² Cases of this sort may be appealed to an administrative court, or if necessary, from there to a supreme administrative court.³³ Sampling techniques are employed when conducting this audit so that typically only a part of all items or transactions is actually examined by the General Accounting Office.³⁴

The Parliamentary audit is carried out by a committee of members chosen from both the upper and lower houses every year. The audit committee is supplied with a small staff at its disposal with authority to check and examine all types of transactions as well as wider questions which have impact on the efficiency of executing the budget.³⁵

In the United States, the General Accounting Office performs a

32. United Nations, Government Accounting and Budget Execution, op.cit., p. 69.

33. Ibid.

34. Ibid.

35. Ibid.

number of different types of audit. The government-type audit, more recently termed the "general audit," "is made on the basis of the personal accountability³⁶ of government officials who have been entrusted with public funds."³⁷ These officials (fiscal officers) are divided into two classes: "The disbursing officers and the certifying officers, who prepare the original vouchers directing payment of funds. For the disbursing officers the audit takes the form of establishing the amount of funds for which they have been charged (or the amount of collection received) and the examination of the documentation to support all receipts and disbursements. For the certifying officers the audit seeks to examine vouchers and supporting papers to establish that the goods and services were received, that the amounts stated are correct, that legal procurement procedures were observed, that the appropriation was available for purposes of expenditure. Illegal or improper expenditures are disallowed and recovery procedures are instituted against the responsible officers. The completion of the audit marks the settlement of the account of the fiscal officer."³⁸

The commercial-type audit includes statements which show: "(1) Assets and liabilities; (2) analysis of surplus or deficit; (3) income and expense; and (4) sources and application of funds."³⁹ This kind of audit

36. The term "accountability" is taken to mean "legal liability--the establishment of a pattern of control over receipts and expenditures that permits a determination, either by the executive or by the legislature (or both) that public monies have been used for a public purpose." See Jesse Burkhead, Government Budgeting, op.cit., p. 359.

37. U.N., Government Accounting and Budget Execution, op.cit., p. 86.

38. Ibid.

39. Ibid.

is to present the over-all picture of the financial condition and operations of the corporation but not to cover every transaction. The report of the General Accounting Office to Congress assumes somewhat greater significance for corporations than for government-type operations. The General Accounting Office has no authority to disallow erroneous or illegal payments made by corporations, but it can only report its findings to Congress.⁴⁰

The comprehensive audit, like the commercial-type, is intended to give an over-all view of the financial operations of an agency. It is utilized in those instances where the agency has established its own pattern of internal financial control. But it is unlike the commercial-type audit in the sense that it examines individual transactions. This audit "seeks to appraise the operating results of an agency's financial programme. It is intended that erroneous and illegal payments will be discovered, and also that the administrative situation which gave rise to these payments will be remedied. The comprehensive audit also includes an examination of property held by agencies and departments."⁴¹

However, it should be mentioned that post-audit and the settlement of accounts are closely tied up with the authority and responsibility of the General Accounting Office to carry out investigations of governmental finances.⁴² The investigatory power is very broad, touching all matters

40. Ibid., the Congress may also, from time to time, restrict the disallowance powers of the Comptroller General over types of transactions other than those of government corporations.

41. Ibid., p. 87.

42. Ibid.

relating to receipts, disbursement and application of funds.⁴³ Reports may be undertaken at the initiative of the General Accounting Office or at the request of the Congressional Committees.⁴⁴

As one may have noticed, the form and scope of post-audit varies among countries. As such, we may distinguish between three types of post-audit: first, we have what is known as "the traditional or legal post-audit, which extends to the verification of documentation and the ascertainment that receipts and expenditures have been treated in accordance with statutory requirements."⁴⁵ It examines the documentation (vouchers) which support the receipt and obligation of moneys. It may also examine the pay orders which have been issued by fiscal officers.⁴⁶ "It may be conducted centrally, or, preferably, at the site of agency accounting operations. The post-audit may be comprehensive in terms of the detailed examination of every transaction, or it may be undertaken in accordance with modern sampling techniques. In the latter form the post-audit becomes more an audit of the accounting system of an agency than an audit of its transactions."⁴⁷ "Although the scope and techniques of a post-audit will necessarily vary in accordance with the institutional requirements of a country, it is evident that where accounting skills are reasonably well developed, the decentralized audit system can provide the most efficient and economical type of control."⁴⁸

43. Ibid.

44. Ibid.

45. Jesse Burkhead, Government Budgeting, op.cit., p. 363.

46. Ibid.

47. Ibid.

48. Ibid.

"Second, post-audit may extend beyond its traditional scope to embrace an examination of transactions in their relation to the administrative rules of an agency. This type of post-audit is more likely to be conducted within an agency, by a unit attached to the head of an agency. It is useful for purposes of appraisal of internal administration."⁴⁹

"Third, post-audit may assume a substantive character--an examination of the effectiveness of administration as a whole, its efficiency and its adequacy in terms of the program of the agency. This type of post-audit may be conducted internally or externally; the findings may be reported to administrators or to the legislature. When the findings are available for internal administrative purposes, the substantive post-audit may be undertaken by the agency responsible for organization and methods analysis, typically located within the Ministry of Finance. When the findings are to be directed to the legislative body, this type of post-audit may be conducted by an independent governmental accounting agency, as in the United States, where substantive post-audits are frequently made by the General Accounting Office, or in France, where the Cour des Comptes may carry out special investigations at the request of the National Assembly."⁵⁰ In some cases, the reports about substantive post-audit are subject to hearings before legislative committees. In Great Britain, the important work of the Public Accounts Committee depends on the annual audit findings of the Comptroller and the Auditor General.⁵¹

49. Ibid.

50. Ibid.

51. See Basil Chubb, The Control of Public Expenditure, (Oxford, 1952), pp. 169-197. A similar system is followed in Canada where the Accountant General testifies before the Public Accounts Committee.

In conclusion, post-audit is a flexible means of control. If properly used it can maintain accountability and increase the efficiency of government administration generally. It can be shaped to serve the requirements of the legislature, and, in certain forms, the requirements of the central executive authority and of the administrator.

"As central governments throughout the world improve the efficiency and increase the responsibility of their administrators, it seems likely that post-audit will be strengthened but that external pre-audit, administered by an independent body responsible directly to the legislature, is likely to diminish in scope."⁵² The goal, of course, should be the establishment of an institutional pattern of financial control that permits maximum freedom to the administrator but encourages the administrator to act responsibly within the scope of the broad intent of the legislature. As a result, pre-audit becomes a matter of internal control and responsibility, subject only to the final overhaul of post-audit. Therefore, post-audit ought to be strengthened and extended to supply the legislature with an authoritative analysis of the administration and custodianship of public moneys and public assets.

Before ending this section about post-audit and adjudication, the writer would like to point out and stress the importance of the fact that most, if not all, public accounting agencies have judicial functions, i.e. the power to prosecute wrong doers. That is why some of these agencies

52. Jesse Burkhead, Government Budgeting, op.cit., p. 364.

are known as courts. As an example, we have the French Cour des Comptes and the Italian Corte dei Conti.

3. The Reports of Public Accounting Agencies

In considering the reports made by public accounting agencies in the light of the practices of some countries, the writer would like to mention first the general purpose behind these reports.

The purpose of auditing in general is to inspect all the stages that a financial transaction passes through. The results of auditing are to be put in general yearly reports and in specific occasional reports.⁵³

These reports are supposed to be the means through which the public auditing agencies inform the legislative bodies--the supreme powers that represent the people in a democratic state--about the execution of the budget, pointing to misbehavior and to the merits and demerits of the financial administration.⁵⁴

In France, for example, the law of 12 March 1936, stipulates that the report of the Cour des Comptes should be placed in the Office of the House of Deputies at the same time it is submitted to the President of the Republic, and that it must be published in the Official Journal.⁵⁵ Moreover, "the French law, No. 50-928, dated August 8, 1950, provides that the Head of the Cour des Comptes can inform the financial committees in both

53. See articles 9, 10, 55, 56, 57, 58, 59, 60, and 61 of the Legislative Decree No. 9, dated Nov. 21, 1952. The text of the Decree is in the possession of the author.

54. See the Annual Report of the L.B.A. as it appears in the Lebanese Official Journal, 1952, op.cit., p. 233.

55. See Daloz, The Collection of Administrative Regulations, 1951, p. 179, as it appears in the Report of the L.B.A. in the Official Journal, ibid., p. 233.

the Council of Ministers and the National Assembly by means of letters directed to the Prime Minister and the Speaker of the House. The Head of the Cour des Comptes can also inform those who decide on the evidencing documents which are examined by the Cour des Comptes, and arranged according to the apportionment of the expenditures, or the kinds of revenues, or according to the accounts of the Treasury."⁵⁶

Not only that, but article 18 of the French Constitution of 1946 provides that the Cour des Comptes helps the National Council to check and examine the accounts of the nation and that it is possible to ask the Cour des Comptes to study matters relating to the execution of the public revenues and expenditures. More than that, the French legislation provides that the Head of the Cour des Comptes is to submit to the knowledge of the President of the Republic a temporary special report which will include the results of matters which have not been agreed upon. Those results will be repeated in the annual report.⁵⁷

In Britain, they carry this matter of submitting reports to the extreme. Reports have to be made whenever need arises.⁵⁸ Then the Comptroller and the Auditor General can come to Parliament whenever there is a report in order to present that report and defend its views. So, it is said that the position of the Comptroller and the Auditor General is more effective than all the public accounting agencies in the rest of the countries, because the role played by the other public accounting agencies of other countries ends at the moment they submit their reports to the

56. Ibid.

57. Ibid., pp. 233-234.

58. Ibid., p. 234.

Parliament, at least concerning the accounts of a certain specified monetary cycle; while the Comptroller and the Auditor General can proceed in their duty within the Committee of Public Accounts of the House of Commons.⁵⁹ In this way, they can qualify the work and the decisions of the Parliamentary Committee with fruitfulness and true effectiveness, because this committee is unable to discover malfeasance and other misbehavior without depending on the information brought by this important employee.⁶⁰

In Belgium, the Bureau of Accounts informs the National Prosecutor General directly and in a general form about any misbehavior or lack of conformity with the laws of the budget, and about any wrong that touches the expenditures which have any relation to the following items: equipment, works, transportation, and employees' compensations.⁶¹

In concluding this section about the reporting system of public accounting agencies we would like to show the importance of something called the special or the occasional report.

The fact that a public accounting agency submits an annual report, does not prevent it from submitting special reports throughout the course of the year if it deems them necessary in one or more matters deserving quick submission (either because of their importance or because of the need for speeding up their explanation), to the Head of the State or to

59. Ibid.

60. Ibid.

61. See the Belgian Public Accounting Law of July 20th, 1921, and which is modified by the laws of June 10, 1922, and July 13, 1950, as it appears in the Report of the L.B.A. in the Official Journal, ibid.

Parliament. Practically, it is preferable to prevent, as soon as possible, the continuous flow of mistakes which might endanger or harm the public interest, and not wait until the end of the year to submit the annual report, for then opportunity to have improvements may have ceased. So, the submission of special reports is advisable in order to insure a continuous flow of information to the top executive and the legislature about the activities of the administration.

With this in mind, let us move now to the discussion of some generally accepted principles or features, the fourth part of this chapter.

4. The Essential Features of a Public Accounting Agency

After having done this general study and comparison of the practices of public accounting agencies in different countries, the writer would like to set forth a number of features or general tendencies or generally accepted principles which he believes are essential to the efficient functioning of a public accounting agency. In this context, it is worth mentioning that no matter how good these features or principles are, they will remain of little use unless they are examined and analysed in the light of the specific socio-political environment in which they are going to be applied. As such, the writer will later on attempt to consider these features in the light of the Lebanese socio-political circumstances, while concluding this thesis. Now, let us give a brief and general presentation and discussion of the features or principles noted above. These features are as follows:-

- (1) Separation of administrative and accounting functions;
- (2) strict procedure of expenditure;
- (3) control of committed expenditures;

(4) the responsibilities and operations of the public accounting agency; (5) the post-audit function; (6) a high degree of flexibility in the pattern of budget control; (7) the reporting system under the post-audit function; (8) effectiveness and speed; and (9) sanctions.

(1) Separation of Administrative and Accounting Functions

In general, there are two major tendencies as far as this matter of separating the administrative functions from the accounting functions is concerned. The first tendency is to decentralize the accounting functions by letting each administrative department have its own accountants and accounting systems. The second tendency is to centralize the accounting functions in one place, usually the Ministry of Finance, where all the accountants are placed under the authority of the Minister of Finance. As such, the administrative and the accounting functions will be separated. In the writer's opinion, this separation safeguards public funds and provides an additional control over the various divisions by the Minister of Finance, especially in those countries where systems of financial control have not developed very much. In general, separation or non-separation is something that depends largely on the degree of political development of the country.⁶² The less the development of the country, the more is the need for separation.

(2) Strict Procedure of Expenditure

The expenditure process is usually divided into four stages (com-

62. See William J. Siffin et.al., Toward the Comparative Study of Public Administration, (The Department of Government, Indiana University, 1957), pp. 23-117.

mitment, settlement, issue of payment orders and actual payment)⁶³ in order to avoid irregularities, to keep expenditures within the limits of actual appropriations, and to insure that payment is made only after services have been actually performed or goods received, with the exception of advance payments.

(3) Comptroller of Committed Expenditures

The presence of a direct representative of the Minister of Finance within each ministry, seems to be good and efficient for control purposes. This statement, of course, does not apply to all situations, times, circumstances and stages of development. For example, countries which are very large and which are highly developed from the administrative point of view might not need such a procedure.

However, the comptrollers of committed expenditure, in general, exercise a pre-audit over all authorizing officials. No commitment may be entered into without the approval of the Comptroller, who examines it from the point of view of allocation of expenditure, availability of funds, accuracy of estimates and conformity with prevailing legislation. This is a powerful instrument of control in the hands of the Minister of Finance.

(4) The Responsibilities and Operations of the Public Accounting Agency

A public accounting agency should possess high prestige through a broad statutory authority and through an independent status or position in relation to the administration. The auditing work of this agency should

63. See Legislative Decree No. 10, dated December 29, 1954, articles 56-108, op.cit.

contribute to effective administration, without undue interference in the internal affairs of the Ministries, by concentrating on post-audit and adjudication. On the other hand, there must be an internal audit and control in the different ministries or departments. Both kinds of audit, the internal and the external, must be coordinated through a clear definition and separation of duties and responsibilities for each organ or body which performs each audit. This coordination is necessary in order to avoid duplication.

The author thinks that a definition for internal and external audits is necessary here in order to make clear our use of the two terms.

Internal and external audits refer to the position occupied by the auditor in relation to the person from whom he receives his instructions in the organizational hierarchy. If the auditor or auditing office comes under the authority of the chief of the organizational unit whose financial administration is being subjected to audit, one talks of internal audit. If the auditor is independent of the unit whose financial administration he audits, thus receiving his instructions from one occupying a higher place in the organizational hierarchy, or standing outside that hierarchy altogether, one talks of external audit.⁶⁴

Now, the Public Accounting Agency, being an external agency performing post-audit and adjudication should be independent of executive controls, and responsibility for control should be vested outside the

64. An analogous distinction between "internal" and "external" control is suggested by Benson, Financial Control and Integration, (1934); Cf. Buck, The Budget in Governments of Today, (1934), pp. 239, 289; Intz, Public Finance, (1936, 3d. ed.), pp. 905-6; W.F. Willoughby, The Government of Modern States, (1936, rev. ed.), p. 487.

executive and the administration. If that agency and its audit are otherwise, the author believes that practically it would not any longer be an audit of great effectiveness.

In general, one of the functions of a public accounting agency is to ensure efficiency, economy and exactness in the financial activities of the administration. As such, it must be separated from, and not subject to, the influence of the administration. This is to avoid partiality and ensure objectivity. The quality of such an organizational separateness is an essential and a pre-requisite to the activity of control itself, especially when this control is, in some cases, of a judicial nature. If this agency of control is subject to the influence and effect of the executive and the administration or if it is a part of them, then it will be a judge in its own cause. Here, in most cases, objectivity is sacrificed and bias over-rules.

On the other side, this agency must not function as an empire by itself, but it must be subject to a certain kind of control, preferably a legislative one, because the essential reason for having an auditing agency is to aid the legislature and enable it to control the administration of public moneys. Such control should not mean that the legislators as individuals can interfere in the activities of the auditing agency by telling it to audit some transactions and leave others, but it means a kind of organizational and hierarchical control.⁶⁵ The auditing agency

65. Although the legislative control over the auditing agency is only hierarchical or organizational, the author still believes that there might exist a certain degree of interference on the part of the legislatures (as individuals if not as a body) if we carry this matter out very deeply and to an extreme...

is to ensure an exact application of the law and no one may interfere in this function as far as it is well performed, save the courts.

(5) The Post-audit Function

It is more convenient and efficient if an auditing agency performs post-auditing only. Pre-audit is better performed internally within the departments and ministries or by officials chosen by the Ministry of Finance and sent to carry out this audit in the different ministries, than to subject the entire financial activities of those departments and ministries to an intensive pre-audit performed by the public accounting agency. The reason for taking such a stand is to save time. If the auditing agency that performs post-audit and adjudication is going to pre-audit every transaction, then there is a fear that the load of work will become very large, and the possibility of its being done efficiently by that agency is very limited. For example, when the Lebanese Bureau of Accounts concentrated on pre-audit, this concentration was at the expense of post-audit. Moreover, time will be lost as a result of the red-tape and delay which are a necessary by-product of increasing the levels of the hierarchy and of inter-agency relationship.

(6) A High Degree of Flexibility in the Pattern of Budget Control

A high degree of flexibility in the pattern of budget control is also essential. It can be obtained through the use of essential grants which permit the administration to conduct programs with considerable freedom to meet conditions. Also, the departments or agencies generally should possess a good deal of administrative responsibility and discretion within the framework of basic statutes, parliamentary directions and government control.

(7) The Reporting System under the Post-audit Function

The reports of a public accounting agency must be made whenever need arises. The public accounting agency should not wait to the end of the fiscal year in order to state in the annual report any misbehavior which is related to the finances of the State, but should be able to report in a temporary and a special form any misbehavior whenever it happens so as to prevent, as soon as possible, the continuous flow of mistakes which might endanger or harm the public interest; otherwise opportunity for improvement may disappear.

(8) Effectiveness and Speed

The word effectiveness is taken here to mean the achievement of the goal with the least use of time, human and material resources. It is an important criterion for purposes of evaluation. It is considered from the point of view of the major aim of every kind of audit. It necessitates seriousness, completeness and comprehensiveness in all aspects of administration. Transactions ought to be subject to some type of intensive and complete audit so as not to open the way for any misbehavior which might lead to inefficiency. Furthermore, if the audit is expected to be useful and fruitful, it must be accompanied by sufficient speed and sanctions. Also, it must be in conformity and in accordance with the general needs and socio-political and administrative circumstances of the country. In line with this statement, we can notice that there are some slight or big differences between the practices followed in different environmental settings of different countries. In general, public accounting agencies in most practices perform post-audit control and adjudication, and some of

them also perform pre-audit control.

Concerning speed, it has been mentioned above that sufficient speed is essential for carrying out the control activities. Lack of speed is always condemned, and it was one of the most important criticisms which was directed towards the French Cour des Comptes some time ago.⁶⁶

(9) Sanctions

The term sanction is taken here to mean a way either to reward those employees who perform their jobs effectively or to discipline those who misbehave or commit wrongs that violate the laws, rules and regulations.

As such, a good and effective means for sanctioning the employees who deal with public moneys is also essential. It is essential because of the many benefits that would result when sanction is applied in both senses, as a reward and as a punishment. As a reward it raises morale, thereby increasing production and improving the efficiency of the work. As a means of disciplining wrong doers, it creates a sense of fear, responsibility and care in those employees who perform the financial activities of the government.

These are the major features or generally accepted principles. As we have said, we shall consider them later on in our evaluation of Lebanese practice in the light of local socio-political circumstances.

66. Report of the L.B.A. dated 30 April, 1952, The Official Journal, op.cit., p. 221.

CHAPTER III

THE HISTORICAL DEVELOPMENT OF THE LEBANESE BUREAU OF ACCOUNTS

In the previous chapter, we studied and compared different auditing practices in different countries, and finally we constructed a number of model-features in order to help us study and evaluate the Lebanese Bureau of Accounts.

In this chapter, the writer intends to discuss the history of the Bureau.

One can clearly see the resemblance between the auditing procedures of present-day Arab governments and the western systems--although the tradition of examination and control of accounts has probably existed here since the days of the early Diwan-al-Azimma.¹

During the 'Abbasid reign, responsibility for provincial finances fell to the 'Amil, appointed by Baghdad, and to his growing staff. He reported to Diwan-al-Kharaj which checked the moneys and other revenue which flowed into Bayt-al-Mal. That Diwan, with its large number of officials was responsible to the Wazir, who headed the whole 'Abbasid administration. For control of expenditures the Wazir relied upon Diwan-al-Nafagat which was actually the office of the Comptroller of the Caliph's

1. See Lewis, Bernard: The Arabs in History, (London, Hutchinson's University Library, 1950), pp. 65-86. See also Lectures of Prof. George Grassmuck, Public Fiscal Management, (Public Administration Dept., A.U.B., Beirut, Lebanon, 1954, Lec. No. XVI, p. 5.

household. This office assumed responsibility for the release of funds from the treasury. As a third safeguarding agency, Diwan-al-Azimma developed as an office for controlling government accounts. Each department necessarily kept a register (Zimam) of its fiscal activities. The Diwan-al-Azimma inspected these, checked them for errors or irregularities and reported on them to the Wazir. Thus, in these 'Abbasid offices of revenue control, expenditure control, and inspection of accounts, there is certainly evidence of precedent for the modern-day Ministry of Finance.²

However, for those Arab governments which experienced French influence and became aware of French practices, the French auditing system set the pattern.³ In Lebanon, particularly, one sees the similarity between the French Cour des Comptes and the Lebanese Diwan-al-Muhassabah.⁴

However, financial control during the period which preceded the creation and the functioning of the Lebanese Bureau of Accounts was carried out by the Lebanese Ministry of Finance. This Ministry controlled all financial activities by means of an Expenditure Department composed of a councillor and two other employees. One may conclude from this organization and procedure that there was no financial control in the full sense of the word, because the Ministry of Finance should itself be subject to audit and control, and how, therefore, could that Ministry control and judge itself? This is why we find that public funds were not carefully used, and large amounts were lost through theft, fraud, inefficiency and the like.

2. George Grassmuck, ibid.

3. Ibid.

4. Ibid.

The idea of a real Bureau of Accounts (Diwan-al-Muhassabah) in Lebanon was first conceived of about thirty-four years ago, when the Lebanese constitution was enacted on 23 May 1926.

What has been said above also applies to the Lebanese Constitution which was copied almost entirely from the French Constitution and which provided for the creation of a Bureau of Accounts. This factor applies not only to the Lebanese Bureau of Accounts, but to most of the Lebanese laws and institutions which are copied on the whole from French practices.

So, article 87 of the Lebanese Constitution provides:-

"Annual final fiscal accounts of the administration shall be submitted to both houses (the Senate and the House of Deputies) for approval before the publication of the budget of the following year and a special law would be drawn for the formation of a Bureau of Accounts."⁵

Deputies of succeeding parliaments ever since 1928 have raised the question of creating a Bureau of Accounts. For example, Mr. Abdallah Bek Bayham, a member of parliament, raised the question of a Bureau of Accounts as provided in the constitution. This was on the 16th of November, 1931.⁶ On the other hand, the government answered on the 30th of November 1931. Another member of parliament named George Bek Zwayn raised the same question sometime earlier on the 8th of March 1928.⁸ Unfortunately, all efforts remained useless until 1951 when a special law was enacted, as

5. See Article 87 of the Lebanese Constitution of 23 May 1926.

6. See the Minutes of the Lebanese Parliament for session 1931-32, "The Library of Dar-al-Kutub," p. 80.

7. Ibid., p. 93.

8. The Lebanese Official Journal, 1928, p. 333.

we shall see later on in this thesis, for the creation of the Lebanese Bureau of Accounts. Before 1951, however, the changing governments tried, in their turn, to submit to the House of Deputies draft laws for the establishment of the Bureau, whose duty would be auditing fiscal matters in the Lebanese Republic. But nothing important was realized before 1945.

On 8 June 1945, the government referred a draft law for the formation of the Bureau of Accounts to Parliament.⁹ The functions of the Bureau as envisaged by the draft law involved the consideration of legality of transactions relating to taxation and revenue and their proper collection and application to the laws of taxation, the use of materials and equipment, and the correctness of accounts submitted by accountants, as well as proper disbursement of expenditures.¹⁰

The Parliament then stopped its further studies and referred the matter to a committee composed of the Director General of the Department of Justice, his Assistant, the Director General of Finance and the Chief of the Income Tax Division to prepare a new draft law of Public Accounting.¹¹ That Committee discharged the duty entrusted to it and laid down the draft law of Public Accounting of 28 November 1950. It relied in doing so on modern foreign laws after adapting their text to the general conditions of the country in the light of practical experience.¹²

9. This is mentioned in the Collection of the Minutes of the Parliament for the Year 1950-1951, The Lebanese Republic, House of Deputies, (The Library of the House of Deputies), Beirut, Lebanon.

10. Ibid.

11. Ibid.

12. Ibid.

This draft law was never passed. On 16 January, 1951, however, a new law of Public Accounting was formulated.¹³ This law established the basics of the Bureau of Accounts, inspite of its being subjected to subsequent amendments, changes, additions and deletions.¹⁴

Ever since that time, the Head of the Bureau of Accounts and his staff have been given "full guarantees" to be able to discharge their duties free of all administrative and political controls.¹⁵ The duties of the Bureau are summed up in that they are to closely supervise and control the administration of public finances, audit state and municipal accounts, and supervise activities relating to the execution of the budget.¹⁶

Article 273 of the Public Accounting Law of 16 January 1951, stipulates that conditions of Chapter III of the said law relating to the establishment and functioning of the Bureau of Accounts shall come into force three months after its publication in the Official Gazette. As that publication was made on 24 January 1951, it was obvious then, that the Bureau of Accounts had been formed and had started to command its duties by 25 April 1951.

But these stipulations were amended under Article 47 of the Budget Law of 5 February 1952, which provided that it is for the Bureau of Accounts to exercise its duties as defined under Article 223 of the Public Accounting Law of January 16, 1951, as of the first of January, 1952.¹⁸

13. Ibid.

14. Ibid. (The law of 16 January 1951 was published in the Lebanese Official Gazette, No. 4., dated 24 January 1951), pp. 87-99 .

15. Ibid.

16. See Report of the Lebanese Bureau of Accounts annexed to No. 18 of the Official Gazette, dated 30 April 1952, p. 220.

17. Ibid.

18. Ibid.

In view of what has been mentioned above, the Bureau was only able to commence its work in the beginning of 1952. However, on the first of April 1952 it was able to submit its first report, which was restricted to a survey of modern international legislation and some general remarks. This was due to the non-availability of cases and reference materials to write about in the report.¹⁹

Later on, during the year 1952, the Bureau submitted a report²⁰ to the President of the Republic recommending the necessity of revising the previous legislation.²¹ This report drew the attention of the government, whereby it issued legislative decree number 9, 21 November 1952 which reorganized the Bureau of Accounts and increased its powers.²² But this new legislation did not remain long in effect and it was suddenly amended by a new legislative decree on the suggestions of certain responsible officials whose duties were to be supervised and controlled under the stipulations of that same law.

The Bureau, thereupon, tried to overcome this matter (the matter of having its powers amended and decreased) by submitting in that regard several suggestions, the most important of which were embodied in its special report to the President of the Republic dated 16 February 1955,²⁴

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19. See Report of the Lebanese Bureau of Accounts, submitted to the President of the Republic about the fiscal year 1952, Sader Press, 1954, p. 2.
 20. The author possesses a copy of this report. It has no particular date, but it is written on it that it is for the fiscal year 1952.
 21. See Report of the L.B.A. for the Fiscal Year 1952, (Sader Printing Press, 1954), p. 5.
 22. Ibid.
 23. This statement is mentioned in the General Annual Report of the L.B.A. submitted to the President of the Republic on 27 November, 1956, pp. 1-2.
 24. See Report of L.B.A. dated 16 February, 1955 (A copy of this report is in the possession of the author).

and a further report prepared by the present Head of the Bureau and submitted on his appointment, embodying the defects of the present legislation regarding pre-audit and post-audit controls.²⁵

In spite of all this, certain public departments²⁶ which had been in the habit of disposing of public finances without control, showed dissatisfaction at such control, claiming that large powers given in respect of pre-audit would hamper the work of the administration. This stand taken by the administration may be justified in two ways: first, the Bureau of Accounts as a newly created organ had to be very strict in applying the laws in order to strengthen its position in relation to the administration; second, the government departments were not used to such a control, and it takes them time to get used to and accept the idea of control coming from the outside. So, the strictness of the Bureau and the lack of "habit" on the part of the administration, both led to the creation of an opposite reaction in the administration which led, after a time, to a modification of the laws and to a decrease in the powers of the Bureau. The author believes that it would have been much better had the Bureau been more lenient in applying the laws at that time till the administration got used to it and to its controls, and as a result, the changes which took place might have been avoided. The public departments, therefore, worked quietly, taking advantage of every possible occasion to persuade responsible people to amend these powers.²⁷

25. Ibid., pp. 1-2.

26. This is taken from the report of the L.B.A. where no specification of any particular department is made.

27. Ibid., pp. 3-4.

In fact, the administration took advantage of the special occasion when exceptional legislative powers were granted to the government and at that time was able to enact legislative decree Number 9 of 23 December 1954 under which the powers of the Bureau were so amended that not only were its powers of pre-audit decreased, but also its powers of post-audit-- those powers which had never been challenged by anyone before.²⁸

So, since 23 December 1954, the date on which legislative decree number 9 was passed, until June 12, 1959 when a new legislative decree number 118 was made, the Bureau carried out its work and was organized in accordance with legislative decree number 9, 23 December 1954.

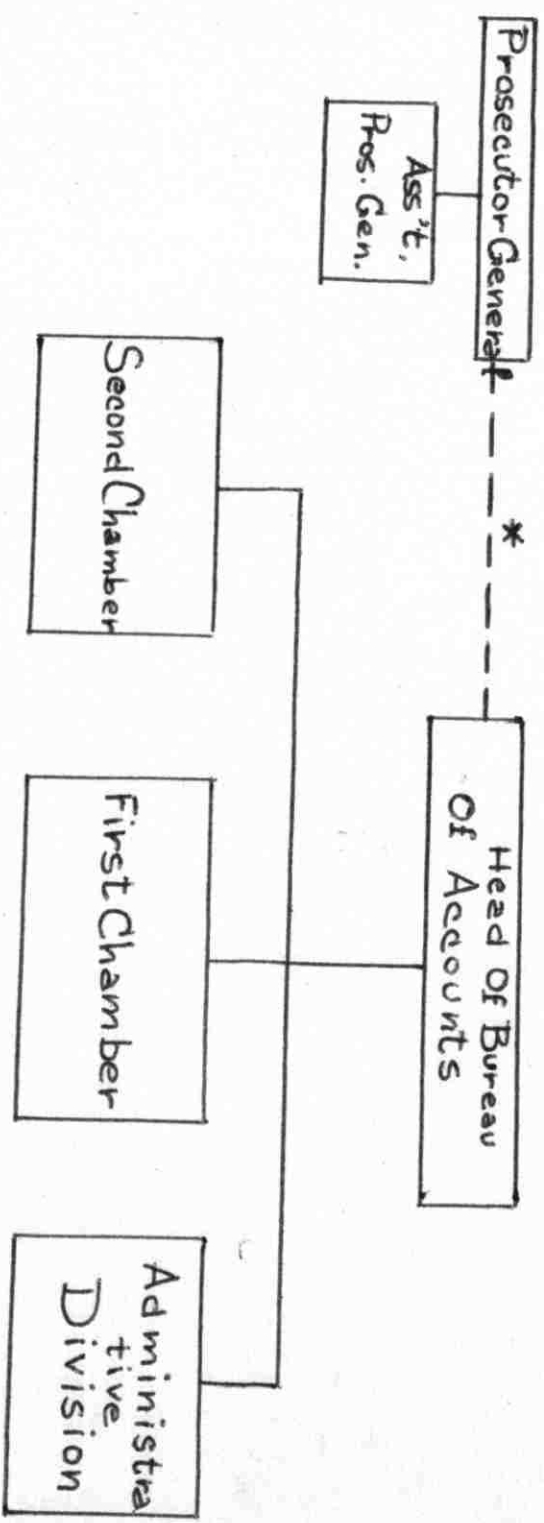
The present organization and functioning of the Bureau, however, is based on the new legislative decree, number 118, dated June 12, 1959 which introduced some changes and modifications.

The coming chapter is devoted to a discussion of the main features of the organization and functioning of the Lebanese Bureau of Accounts as given in that decree of June 12, 1959.

28. Ibid., p. 4.

Chart No. 1.

Bureau Of Accounts Organizational Chart



* --- Prosecutor is not the subordinate of the Bureau's head, although he is in the Bureau's cadre.

Chart No. 2.

معلومات عامة		المرافق والتسيار		العامة		القطاعات		المراقبون		الإداريون	
الاسم	الوظيفة	الاسم	الوظيفة	الاسم	الوظيفة	الاسم	الوظيفة	الاسم	الوظيفة	الاسم	الوظيفة
مدير العامة	مدير العمليات	مدير المرور	مدير الصيانة	مدير المرافق	مدير النقل	مدير الأمن	مدير التدريب	مدير الجودة	مدير البيئة	مدير الصحة	مدير السلامة
مدير العلاقات	مدير الإعلام	مدير المرافق العامة	مدير النقل العام	مدير المرور البحري	مدير النقل الجوي	مدير الأمن البحري	مدير الأمن الجوي	مدير الجودة البحرية	مدير الجودة الجوية	مدير البيئة البحرية	مدير البيئة الجوية
مدير الموارد البشرية	مدير الموارد المالية	مدير المرافق الخاصة	مدير النقل الخاص	مدير المرور البري	مدير النقل البري	مدير الأمن البري	مدير الأمن البري	مدير الجودة البري	مدير البيئة البري	مدير الصحة البري	مدير السلامة البري
مدير المشتريات	مدير العقود	مدير المرافق المتكاملة	مدير النقل المتكامل	مدير المرور الدولي	مدير النقل الدولي	مدير الأمن الدولي	مدير الأمن الدولي	مدير الجودة الدولي	مدير البيئة الدولي	مدير الصحة الدولي	مدير السلامة الدولي
مدير التكنولوجيا	مدير المعلومات	مدير المرافق الحديثة	مدير النقل الحديث	مدير المرور الإلكتروني	مدير النقل الإلكتروني	مدير الأمن الإلكتروني	مدير الأمن الإلكتروني	مدير الجودة الإلكتروني	مدير البيئة الإلكتروني	مدير الصحة الإلكتروني	مدير السلامة الإلكتروني
مدير العلاقات الخارجية	مدير العلاقات الداخلية	مدير المرافق المستقبلية	مدير النقل المستقبلي	مدير المرور المستقبلي	مدير النقل المستقبلي	مدير الأمن المستقبلي	مدير الأمن المستقبلي	مدير الجودة المستقبلي	مدير البيئة المستقبلي	مدير الصحة المستقبلي	مدير السلامة المستقبلي
مدير التدريب	مدير البحث والتطوير	مدير المرافق المبتكرة	مدير النقل المبتكر	مدير المرور المبتكر	مدير النقل المبتكر	مدير الأمن المبتكر	مدير الأمن المبتكر	مدير الجودة المبتكر	مدير البيئة المبتكر	مدير الصحة المبتكر	مدير السلامة المبتكر
مدير العمل	مدير العمل	مدير المرافق العمل	مدير النقل العمل	مدير المرور العمل	مدير النقل العمل	مدير الأمن العمل	مدير الأمن العمل	مدير الجودة العمل	مدير البيئة العمل	مدير الصحة العمل	مدير السلامة العمل
مدير العمل	مدير العمل	مدير المرافق العمل	مدير النقل العمل	مدير المرور العمل	مدير النقل العمل	مدير الأمن العمل	مدير الأمن العمل	مدير الجودة العمل	مدير البيئة العمل	مدير الصحة العمل	مدير السلامة العمل
مدير العمل	مدير العمل	مدير المرافق العمل	مدير النقل العمل	مدير المرور العمل	مدير النقل العمل	مدير الأمن العمل	مدير الأمن العمل	مدير الجودة العمل	مدير البيئة العمل	مدير الصحة العمل	مدير السلامة العمل
مدير العمل	مدير العمل	مدير المرافق العمل	مدير النقل العمل	مدير المرور العمل	مدير النقل العمل	مدير الأمن العمل	مدير الأمن العمل	مدير الجودة العمل	مدير البيئة العمل	مدير الصحة العمل	مدير السلامة العمل

CHAPTER IV

THE MAIN FEATURES OF THE ORGANIZATION AND FUNCTIONS OF THE LEBANESE BUREAU OF ACCOUNTS¹

The Lebanese Bureau of Accounts is a judicial and an administrative body charged with the supervision of the administration of public funds and controlling the use of funds by supervising the accuracy of their accounts and the conformity of these accounts to law, and passing judgment on those responsible for transgressions of the laws and regulations relative to these accounts.

The discussion of this chapter is planned to hit upon the following points:-

1. The Structure and Organization of the Bureau;
2. The Functions and Procedures of the Bureau;
3. Relationships of the Bureau:
 - (a) To the Administration
 - (b) To the Council of Ministers
 - (c) To the Council of State
 - (d) To the Parliament;
4. Weaknesses of the Legal Provisions that limit the effectiveness of the Operation of the L.B.A.

1. As given in the Legislative Decree of 12 June 1959. For an exact translation of this Decree see Appendix "A".

1. The Structure and Organization of the Bureau

Administratively, the Lebanese Bureau of Accounts is attached to the President of the Council of Ministers. But it is considered to be an independent body as far as its functions and duties are concerned.

Personnel of the Bureau

The Bureau is composed of Councillors and Auditors to whom are attached administrative personnel along with an independent public prosecutor.

The Head of the Bureau is named by a decree of the Council of Ministers from among the Councillors of the Bureau of Accounts or the Magistrates of the Council of State or the Magistrates of the Judiciary who, in each instance, must belong to the first ranks in the second grade at least,² and from among the officials who are exercising or have exercised the functions of General Director of Finance.

The Prosecutor General and the Heads of the Chambers are named by decree of the Council of Ministers from among the Councillors of the Bureau belonging to the first two ranks in the third grade at least.

The Councillors and the Assistant Prosecutor General are named by decree, on the basis of a competitive examination, from among the Auditors of the Bureau, who hold a license in law, on condition that they have exercised the function of Auditors for a period of at least four years.

After the competitive examination, for which the Council of the

2. Lebanese public officers are divided into five grades; each grade is composed of several ranks, and each rank of several steps. See article 3 of Legislative Decree No. 118, dated June 12, 1959, Collection of Legislative Decrees, Lebanon, 1959, V. I, p. 93.

Bureau establishes the conditions and terms, supplementary to the general conditions stipulated in the Civil Service Law, the Auditors are named by a decree. Candidates are required to fulfill the following qualifications:-

(1) They must be twenty-one years of age at least;

(2) They must possess a degree in law, or a university diploma in economics, public administration, commerce and finance, or business administration equal to a degree, and obtained after the second part of the Baccalaureate or its equivalent.

The administrative officials are chosen by nomination of the Head of the Bureau, according to the stipulations of the Civil Service Regulations.

The bailiffs are subject to the conditions prescribed in the direct specification of the Ministry of Justice.

The Head, Prosecutor General, Councillors and Assistant Prosecutor General can be transferred to another department only after agreement of the Council of the Bureau and they are dismissable only by a decision of the Disciplinary Council.³

Organization of the Bureau

Section A: The Bureau

The Head of the Bureau organizes its internal administration and corresponds directly with all the public administrations.

Pre-audit and post-audit control assignments are distributed at

3. For details about this Council, its jurisdiction, formation and procedures; see Appendix "A", pp. 121-122.

the beginning of each fiscal year by a decision of the Director with the consent of the Council of the Bureau. This distribution of work can be modified when necessary so long as the modification conforms with the general outline prescribed.

The Head of the Bureau in matters concerning the Bureau of Accounts has administrative and financial powers equivalent to those entrusted by laws and regulations to a Minister, with the exception of the Minister's constitutional powers. In addition, he controls the incurring and disbursement of expenditures of the Bureau. Moreover, he draws up a budget for the Bureau and submits it to the Ministry of Finance. In the Council of Ministers the Head is empowered to modify the decisions of the Bureau, provided that the Bureau is notified of such modifications.

In case of the absence of the Head or in case of the vacancy of the office of the Head, the Head of a Chamber of the Bureau or the Councillor of the highest rank will replace him.

This Councillor studies transactions which are under his jurisdiction. He thus exercises pre-audit and post-audit control over the body to which he is attached.

The Auditors assist the Councillors in their duties. The same Auditor verifies the accounts of a single accountant in the course of a single financial operation. The verification of the accounts of a single accountant cannot be assigned to the same Auditor for more than two consecutive years.

The administrative officers carry out the work with which they are charged in conformity with the internal regulations established by the Head of the Bureau.

The opinion of the Prosecutor General will be decisive when a question arises regarding the Public Officers who are attached to the Bureau.

The work of the Auditors and the books of audit and control are considered correct within the limits of their functions until proven false.

B. The Prosecutor General's Administration

The Prosecutor General represents the Government in the Bureau. In carrying out his judicial control responsibilities, he attends hearings, where he presents his case along with appropriate written opinions. He corresponds directly with the public administrations whenever the fulfillment of his responsibilities so require. The Assistant Prosecutor General undertakes the same functions as the Prosecutor General under the latter's supervision. In case of the absence of both the Prosecutor General and his Assistant, responsibility will be assumed by the Councillor having the highest rank.

A copy of the reports of the Fiscal Control Service is to be communicated to the Prosecutor General. The latter verifies these reports and sends them, along with his observations and suggestions, to the Central Inspection Service so that it may take whatever administrative and judicial measures are necessary for the trial of public officers responsible for infractions of the rules. The Prosecutor General may request his Administration to endeavour to obtain the punishment of any public officer who, in his estimation, has committed an infraction or taken part in the commission of an infraction of a nature prejudicial to the general

administration or the public funds.

If the Bureau has decided that a case merits prosecution, the Prosecutor General must request such an action. The prosecution may progress without the authorization of the administrative authority, but the Prosecutor General must ensure that the interested administration and the Central Inspection Service are cognizant of the action taken.

The Prosecutor General's Administration may, through the Central Inspection Service, charge the Fiscal Control Service with the conduct of any inspection or verification required in the public interest. The Central Inspection Service is required to give priority to such a project if it is requested to do so.

The measures which the Central Inspection Service take against offending public officers will not interfere with their prosecution before the Bureau, if necessary.

2. Functions and Procedures of the Bureau

The Bureau of Accounts has two major functions: one is judicial; the other is administrative. The judicial function is exercised by control over accounts and over all matters of public interest which are under their charge. The administrative function is exercised through pre-audit control over the execution of the budget as well as by reports which are based on the results of pre-audit and post-audit control.

The Judicial Control

Judicial control is of two kinds: control of accounts and control of public officers. Below, the author will briefly discuss each of these two kinds of judicial control.

Control of Accounts

The object of control of accounts is to determine the accuracy of the accounts of accountants and other persons intervening in the contracting of public funds or their payment.

The control of accounts involves the following fiscal operations:⁴

- (a) Matters concerning budget receipts;
- (b) Matters concerning expenditures;
- (c) Matters concerning receipts and payments by the Treasury;
- (d) Matters concerning materials;
- (e) Matters concerning accounts.

The Bureau examines the accounts of the accountants and arrives at provisional or final decisions.

The provisional decision describes the charges attributed to the accountant and the obligations which the accountant must fulfill in response to these charges.

The final decision determines whether the accountant is innocent or guilty.

Control of Public Officers

The control of public officers includes all those who deal with the administration of public funds and all those who interfere in it without the legal capacity to do so. All persons charged with responsibility for the administration of public funds, following nomination, election or contract are considered as public officers in application of

4. For the details see Appendix "A", pp. 129-130.

the regulations of this control. All public officers who commit one of the following infractions or participate in the commission of such infractions are punishable by a fine of twenty-five to five thousand Lebanese pounds, in addition to any civil obligations or penal or disciplinary sanctions which the competent inspector may invoke.

- Contracting of an expenditure contrary to legal stipulations.
- Contracting of an expenditure without approval of the Comptroller of Expenditure Obligation.
- Neglecting to submit formalities to pre-audit control of the Bureau or executing of a formality not submitted to this control.
- Misstating ~~to~~ of an expenditure in order to conceal exceeding of credit.
- Not conforming to the refusal of approval of a formality by the Auditor of the Bureau for the undertaking of an expenditure.
- Executing an order contrary to law and rejected by one who is superior to him in the hierarchy.
- Enriching or attempting to enrich illegally persons who hold contracts with the Administration.
- Committing ~~ca~~ a mistake, omission or negligence of a type which involves material disadvantage to public funds.
- Failing to submit to the Bureau documents and clarifications demanded within the time prescribed by the laws and regulations.
- Contravening the rules relative to the safeguarding of public funds.

Moreover, if it appears to the Bureau that an infraction has

resulted in injury or loss to public funds, the Bureau may punish the official involved, in addition to the fine prescribed above, i.e. a fine of twenty-five to five thousand Lebanese pounds, by a fine calculated with reference to the gravity of the infraction committed and to the gross salary received by the offending official. This fine may not be less than half of the monthly wages of the official and not more than half of his annual wages, with the reservation that the amount earned by the official at the time of the infraction, object of the fine, be taken into consideration. The official who is being tried before the Bureau of Accounts in accordance with these regulations is allowed to have the assistance of a lawyer of his choice. Then the Prosecutor General will have the responsibility to initiate public action in such a matter before the Bureau of Accounts. The procedure to be followed in such a case is fixed by decree taken in the Council of Ministers.

The Bureau assesses the causes of the infraction and the extent of responsibility of the employee who is being tried. Then it can fine him within the limits specified above, or it can say that there is no need for fining him if it has been shown from the investigation that it was practically impossible for the defaulting employee to have known of the contravention at the time when it was committed. Also, the employee will not be punished if the investigation has proved that the contravention was committed as a result of executing a written order sent by his immediate superior on condition that he had formally drawn the attention of this superior at the right time to the contravention which might result from execution of the order. Moreover, the employee who is directly attached to a minister will not be excused from responsibility unless he sends a

copy to the Bureau of the notice which he submits in order to draw the attention of the Minister to the contravention which might exist in his orders.

Finally, the investigations of the contraventions are undertaken by the Bureau of Accounts in response to a request by the Prosecutor General's Administration or that of the Ministry of Finance or the Administration concerned. The Bureau must inform the Chamber of Deputies of contraventions committed by Ministers.

C. Procedures

The Bureau exercises its judicial functions in its capacity as a Tribunal composed of the Head and two Councillors. If a difficulty is faced in the formation of this body, its composition will be completed by some magistrates of the Council of State delegated by decision of the President of the Council of Ministers at the request of the Head of the Bureau.

The Head of the Chamber in the Bureau transmits the formality to the Councillor designated, who conducts the study himself or transmits it to the Auditor charged with assisting in this investigation. The Councillor must request the Administration concerned for written clarifications and information when required, interrogate the official who is accused of the infraction, hear the testimony, and propose to the Bureau the nomination of experts. He may charge the Auditor, in writing, to proceed with any investigation or verification relating to the formality which has been transmitted to him, with the reservation that this written instruction be communicated to the Chief of the Administration before the com-

mencement of the investigation or verification thereof.

The Administration concerned must reply to the request within a fixed period of time, with the reservation that the delay will not be less than ten days. This delay may be extended, when necessary, at the request of the Bureau or the Administration concerned.

The Bureau must consider all relevant dossiers or documents, even those classified as secret, if they pertain to the matter under consideration. The Councillor, in his turn, submits a report on the result of the inquiry which contains a resumé of the case, beginning with his opinion on the matter. Reports of the Councillors who have requested the review and the documents related thereto are transmitted to the Prosecutor General along with a designation of procedures, assessment of debt and recommendations for dismissal or the imposition of fines. All other reports are transmitted if requested and at the discretion of the Head or the body concerned. The Prosecutor General returns these reports accompanied by his written conclusions within a maximum period of ten days.

The provisional decision is announced to the accountant or official concerned through the Councillors in accordance with the stipulations of the Code of Civil Procedure, or by a messenger entrusted with the responsibility of notifying the proper authorities of their reception, or by administrative means, and a copy is sent to the immediate superior of the official concerned. Interested parties should present the defense within a period of time prescribed in the decision, with the reservation that the delay be not less than three days. If the time expires without presentation of a reply, the Bureau may consider the case as having been presented.

The interest parties have the right to examine the dossier and appoint a lawyer. Deliberation will proceed in the chamber of the council with the necessary and pertinent papers being exhibited. The decisions taken in the chamber of the council are by majority vote, and are announced to the interested parties according to the procedures mentioned above, i.e. through the immediate superior of the employee concerned. The results thereof are communicated to the Prosecutor General, the Ministries and Administrations concerned and a copy is sent to the Minister of Finance for implementation according to the laws on recovery of direct contributions. A compulsory lien is placed in the property of the convicted party, and legal action against the convicted man takes effect from the date determined by the decision.

In all cases, the Bureau may recommend supplementary administrative or penal action against the public officer to the Ministry concerned, with the reservation that a copy of the recommendation be communicated to the Central Inspection Service.

Lastly, the regulations of the Code of Civil Procedure apply to reviews and appeals.

Methods of Appeal

The judicial decisions of the Bureau may be appealed before a body composed of the President of the Bureau, the President of the Second Chamber and some members of the Chamber which has issued the decision if:

1. It appears from the verification of another formality that there has been an error, omission, fraud or duplication.
2. Some documents or new facts of a nature which would modify

the decision are found.

The appeal may proceed at the request of the Head, the Prosecutor General, the Minister of Finance on behalf of the Treasurer, the public officer concerned or that of the interested Administration, and the request for review is not suspended unless otherwise decided.

On the other side, a request for invalidation may be placed before the Council of State on grounds of incompetence, violation of legal procedures, or violation of laws and regulations, within a period of two months from the date of notification of the decision in question. The request for such an invalidation is initiated by the Prosecutor General of the Bureau of Accounts, the Minister of Finance on behalf of the Treasurer, the public officer concerned or the interested Administration.

If an invalidation of a decision is made, the Bureau of Accounts must conform to the decision of the Council of State.

Administrative Control

Administrative control of the Bureau includes two kinds: one is pre-audit the other is post-audit.

Section A: Administrative Pre-audit Control

The object of administrative pre-audit control is the establishment of regularity of transactions, stipulations of laws and regulations. Pre-audit control is among its essential operations. All exercises not falling under this control are considered invalid. It is forbidden to any public officer to execute any transaction which has not been subject to such control under pain of imposition of a fine of twenty-

five to five thousand Lebanese pounds in addition to any civil obligations or penal or disciplinary sanctions which the competent Auditor may invoke.

(a) Transactions subject to pre-audit control

Whatever concerns the receipts, or adjudication of revenues and the sale of real property when the amount exceeds 10,000 Lebanese pounds is subject to administrative pre-audit control.

The following transactions, when concerned with expenditures, are subject to administrative pre-audit control:

1. Texts pertaining to the nomination of permanent and temporary public officers, their promotion from one category to another, their transfer from one department to another, conferring upon them of exceptional promotion, or allocation of permanent indemnity.

2. Texts pertaining to contracted service personnel with the exception of per diem employees.

3. The contracting of supplies or work in an amount exceeding 20,000 Lebanese liras.

4. Verbal private contracts including contracts of rental in an amount less than 10,000 Lebanese liras.

5. Formalities of acquisition of furniture and projects for private contracts entered into by the Administration in cases of expropriation when the amount exceeds 20,000 Lebanese pounds.

6. Formalities of gratuities and assistance in accordance with the laws and regulations, with the exception of those in which the amount does not exceed 5,000 Lebanese pounds.

Moreover, friendly settlement of litigation or disputes is subject to pre-audit when the amount of the litigation exceeds 10,000 Lebanese pounds. But transactions which are relative to the statutes of taxes are exempted from this regulation.

(b) Procedure of Pre-audit Control

The formality, along with all relevant documents, is deposited with the Head of the Bureau and a copy of the letter is communicated to the Prosecutor General.

Then the Councillor designated by the terms of the schedule of work distribution decided upon, takes charge of pre-audit control. The Head of the Bureau may take charge himself when the case requires, or in cases which are fixed by the aforementioned distribution schedule.

If the designated councillor or the Head approves the formality, he returns it along with his signature. If he does not approve, the formality is referred to a committee composed of the Head and two Councillors, one of them being the Councillor concerned.

A formality which represents an expenditure exceeding 100,000 Lebanese pounds becomes the object of pre-audit control by a committee composed of three Councillors, one of them being the Councillor concerned.

The Bureau must present its opinion on the formality within ten days of the date of its submission. If it is believed necessary to require written information or, if the case requires, the hearing of the public officer concerned, the Bureau is given a supplementary delay of five days from the date of the receipt of the required clarifications. Here, it should be noted that official holidays are not included in the computation

of the aforementioned delays.

If the Bureau does not present its opinion within the allotted time, its opinion is disregarded and the papers are subsequently returned to the authority concerned.

But if a recommendation of the Bureau conflicts with a recommendation of the Comptroller of Expenditure Obligations for the undertaking of an expenditure, the latter must conform with the recommendation of the Bureau, except in a case where he has obtained the agreement of the Ministry of Finance after referral of the matter to the Council of Ministers. And if the recommendation of the Bureau disapproves the project as presented, the Administration concerned may submit the dispute to the Council of Ministers. The Council of Ministers will hear the Head of the Bureau who will state the circumstances of the disputed recommendation. This Council will decide on the formalities which will be followed in a given decision. When there is a difference between the recommendation of the Minister of Finance and that of the Bureau, the decision of the Council supercedes the endorsement of the Bureau or the endorsement of the Comptroller of Committed Expenditure.

In either case, the decision of the Council of Ministers will be mentioned in the formalities, and will be communicated to the Bureau which will include the case in its annual report.

A review of a decision of the Bureau falling within the scope of pre-audit control may be initiated at the request of the Head or the Prosecutor General before the Bureau or the Administration concerned. The same body which has issued the decision requested in a review is informed of that review.

The pre-audit agreement of the Bureau is considered void if it is not made within the financial year in which the case has been presented. This kind of agreement, however, does not affect the exercise of the Bureau's judicial and other administrative functions.

Section B: Administrative Post-audit Control

The object of administrative post-audit control is the evaluation of financial formalities and their general results from the time of their introduction to their final execution and insertion in the accounts. The results of post-audit control are included in an annual report and special reports.

1. The Annual Report

At the end of each year, the Bureau will prepare a report on the results of its control and on the reforms which it proposes to introduce in the various laws and regulations which, in their application, lead to financial results. The Bureau will formulate this report at a general meeting of the body after consultation with the Prosecutor General. The decision will be by majority vote and in case of a tie, the Head will cast the deciding vote.

The annual report will be submitted to the Ministries and Administrations concerned and it is expected that these Ministries and Administrations will provide their replies within a period of one month. The Bureau has the right to comment on these replies.

The Head of the Bureau will present the annual report to the President of the Republic along with the replies and comments of the Ministries and Administrations concerned and the comments of the Bureau

upon them. The Bureau will submit copies of the report, along with the replies and comments, to the Chamber of Deputies to be distributed among its members. It will also submit copies to the Civil Service Board and the Central Inspection Service. Then the annual report with the replies of the Ministries and Administrations and the comments of the Bureau will be published in the Official Journal and printed in a separate volume.

The Parliamentary Finance Commission and all the Commissions interested, will hear the Head of the Bureau, or his delegate, and, if the case requires, the representatives of interested public administrations, in studying the report, to obtain clarifications.

2. Special Reports

Whenever necessary, the Bureau will present to the President of the Republic, the President of the Council of Ministers or to the administration concerned, special reports on subjects and suggestions assigned to it.

3. Declarations of Conformity

Every year, the Bureau will issue general declarations of the conformity of accounts which are submitted to it, based on evidence as stipulated in the Public Accounting Law.

The declarations of conformity will be communicated to the Minister of Finance and to the President of the Chamber of Deputies for distribution to the members of the Chamber.⁵

3. Relationship of the Bureau

5. The documents whose presentation to the Bureau is obligatory with some details about joint rules concerning pre-audit and post-audit can be seen in Appendix "A", pp. 135-137.

(a) Relationship with the Administration

The relationship of the Bureau of Accounts with the administrative departments is the relationship of the comptroller to the controlled. The Bureau controls the financial activities of those public departments in accordance with the law. As such, it is considered to be an independent agency.

(b) Relationship with the Council of Ministers

The Bureau is administratively attached to the President of the Council of Ministers. Moreover, the Council of Ministers has an important relationship to the Bureau by having the power to say the final word or issue the final decision on matters concerning the pre-audit control of the Bureau.

(c) Relationship with the Council of State

The only relationship between the Bureau and the Council of State is in what concerns the judicial functions of the Bureau. The Council of State has the power to issue final decisions on matters concerning the judicial control of the Bureau.

(d) Relationship with Parliament and Top Executive

The Bureau as an agency is supposed to help the Parliament, the representative body of the people, in controlling the administration of the public moneys. As such, the Bureau has to submit annual periodical reports and special reports in order to keep the Parliament well informed in as far as public finances are concerned. Copies of the reports of the Bureau are to be sent also to the President of the Republic to keep him

informed. This is the formal relationship of the Bureau with the Parliament and the Top Executive.

Now, let us shift to the final part of this chapter and that is about the weaknesses of the legal provisions which limit the effectiveness of the operation of the Lebanese Bureau of Accounts.

4. Weaknesses of the Legal Provisions that limit the effectiveness of the operation of the L.B.A.

This discussion involves the following points:

(1) Concerning the approval of the budget of the Bureau

The budget of the Bureau is prepared by the Head of the Bureau and submitted to the Ministry of Finance, and then it is submitted with the budgets of the ministries to the Council of Ministers, which in turn, submits them to the House of Deputies for approval. In the writer's opinion, the Bureau as an agency independent of the executive, should have its budget submitted directly to Parliament, especially because the Bureau cannot or does not have a representative in the Council of Ministers while discussing the whole budget of the state. Moreover, the present procedure does not seem to be good enough since it may lead to the interference of the government in the affairs of the Bureau.

Now, although this is right in principle, the question remains of how effective this suggested procedure will be in Lebanon. The writer believes that it is doubtful that the suggested procedure will be of great help to Lebanon since the members of Parliament are not better than those of the Council of Ministers, and to a large extent, most of them are affected and directed by their private interests and by the same way of

thinking possessed by the members of the Council of Ministers.

(2) Concerning final authority in matters of pre-audit

The Council of Ministers has final authority in matters concerning the pre-audit control of the Bureau. In the writer's opinion, transactions should not be left to the Council of Ministers to have final authority over them in as far as pre-audit of the Bureau is concerned because this Council might abuse this power by starting to ignore the infractions that might be committed by the public administrations for political reasons and at the expense of the public funds.⁶

(3) Concerning written orders

Article 59 of Legislative Decree No. 118, dated 12 June, 1959⁷, stipulates that public officers can be exempted from responsibility when they commit contraventions as a result of executing the written orders of their superiors.

The author believes that the issuers of written orders of this sort, no matter from where they come, whenever they violate the provisions of the law, must be punished. This can be considered the best solution for the location of responsibility. A second best solution is that the defaulting employee must be held responsible and should refuse to execute orders which he knows are made in violation of the laws. This stand has been taken by the author, because written orders, most of the time, come from the Minister who is, according to the Lebanese Constitution, not

6. This point will be elaborated more later in the light of the Lebanese socio-political situation, see infra, p. 100.

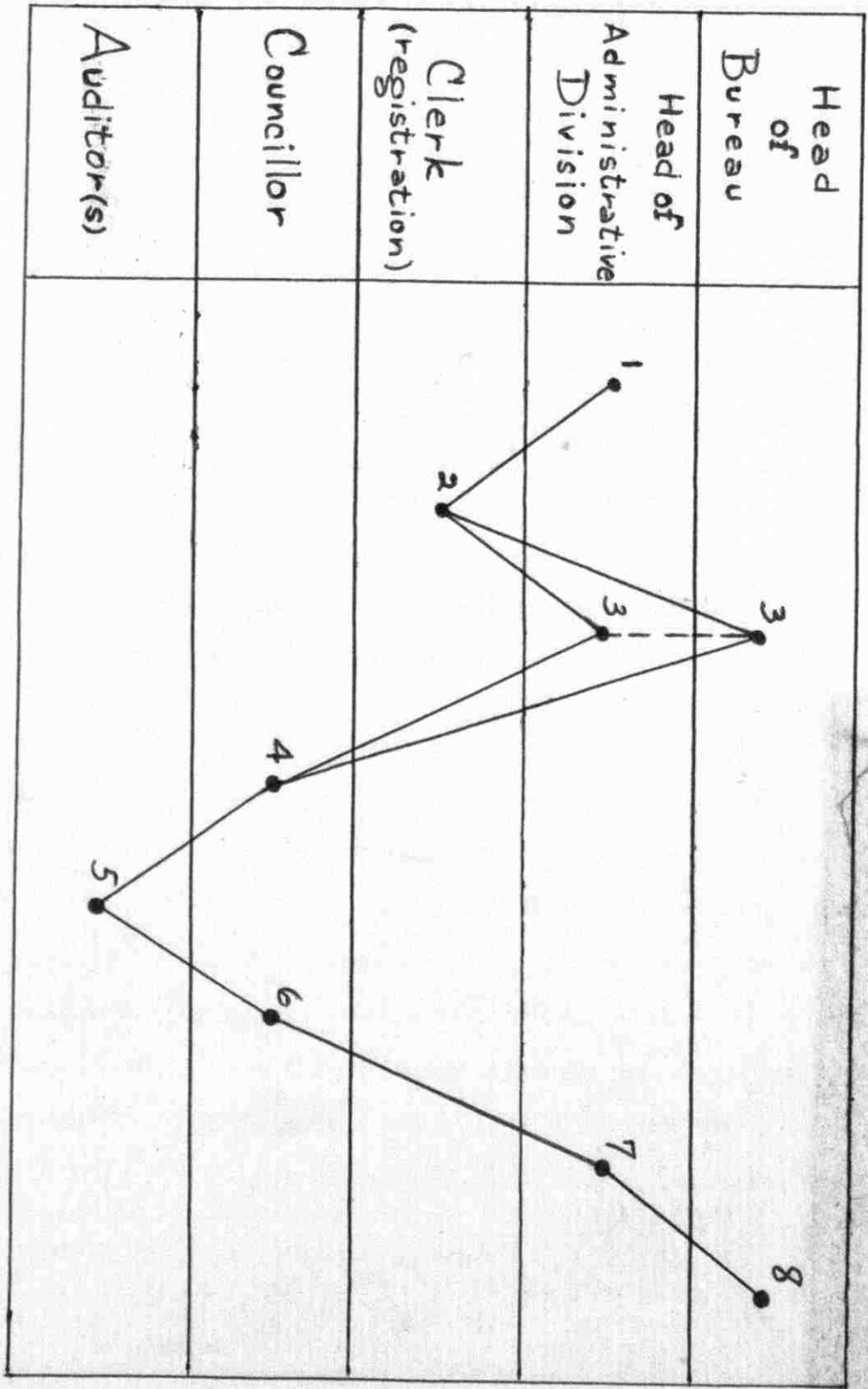
financially responsible. All this should be made in order to define and locate responsibility. Now, if the employee is held responsible in this way, he will be obliged not to obey the written orders of the Minister which violates the laws. Here one may say that the employee will be exposed to the wrath of the Minister. It is true that an employee who refuses to abide by the illegal instructions of his Minister, may be exposed to the wrath of such a Minister; and although the possibility of formal revenge by the Minister is quite limited because of the tenure enjoyed by civil servants and the fact that all matters concerning public officers are subject to close control and supervision by the independent Civil Service Board as well as the courts,⁸ the superior, whoever he may be, can find several ways to take revenge against his subordinate who refuses to execute his orders. Moreover, the atmosphere between the two sides will be electrified, and as a result, cooperation may be lost. However, it must be remembered that we cannot always have a perfect solution to all administrative problems. And in spite of the fact that the author recognizes the shortcomings of his suggestion, this may be the best possible solution under the present circumstances.

8. Infra, pp. 113-114.

Chart No. 13. E. M.

THE LEBANESE BUREAU OF ACCOUNTS

Multiple Column Work Process Chart.



CHAPTER V

THE OPERATIONAL OR THE INFORMAL STATUS OF THE LEBANESE BUREAU OF ACCOUNTS

In the previous chapter the author presented the Legal or the Formal Status of the Lebanese Bureau of Accounts.

The discussion of this chapter involves the Operational or the Informal Status of the Bureau.

I) The Operation of the Bureau

The actual operation of the Bureau is separated into two kinds of procedural stages: administrative and technical.¹

The Administrative Stages:

The administrative operation of the Bureau is also divided into five steps: (1) the registration of transactions; (2) the submission of the transactions to the Head of the Administrative Division of the Bureau; (3) the clerical registration of notices and decisions and their communication to the authorities concerned by a special clerk called "Katib Al-'Dabt," (4) the inspection of their execution; and (5) the inclusion of the transaction in the archives of the Bureau of Accounts.²

The transaction comes to the Head of the Administrative Division

1. From an interview with Mr. Ahmad Addadah, Head of the Administrative Division in the Bureau, on the 27th of December, 1960.

2. Ibid.

who sends it directly to the registration clerk who in turn registers it and then sends it to the Head of the Bureau. The Head of the Bureau sends the transaction to the specified Councillor³ who carries out the necessary investigations and studies, and then decides upon its legality or illegality with the help of the Auditors.

The distribution of work is determined by the Head of the Bureau by a decision that has to be agreed upon by the Council of the Bureau which is formed of the Head of the Bureau, the Prosecutor General of the Bureau and the three Councillors of the upper rank. The work is distributed among the Councillors by giving each one of them a number of departments, public institutions and ministries whose work they study and control in accordance with the law. The Auditors also are distributed among the Councillors to help them in carrying out the duty of control. After studying the decisions of this distribution, the author has found out that it is done on an equitable basis.

The decision (karar) of work distribution is done for one year only. Here, the question of how effective this distribution is may be raised. A person may think that it is better to have a period of distribution of more than one year, at least four or five years, in order to make use of specialization and to ensure a certain measure of efficiency and continuity in the work of the Bureau. In the writer's opinion, this is true in so far as the Councillors only, and not the Auditors, are concerned because the Auditors have to be trained and oriented in all the departments

3. Sometimes a staff or a committee is formed to study and consider important and outstanding matters.

for they, by law, can be promoted to positions of Councillors after spending four years as Auditors in the L.B.A. So, they must have a comprehensive knowledge and understanding of all the departments. That is why a work distribution of a period of more than one year for the Auditors is not desirable, especially since the Auditors of the Bureau are those employees who go out to the different departments of the government to carry out investigations. In this case, if the period of work distribution is going to exceed one year, there is a possibility that specialization will result in "sans façons" between the Auditors of the Bureau and those of the public departments, thereby leading to many troubles such as bribery, favouritism, etc.⁴

Now, let us shift to the second procedural stage in the operation of the Bureau, the technical stage.

The Technical Stage

When the transaction comes to the Councillor, either he studies it by himself or he transmits it to any one (or more than one) of the Auditors. This is left to the discretion of the Councillor and depends in most cases upon the importance of the transaction and upon the load of work for which the Councillor is responsible. There is no specific principle for such a thing.⁵ As such, it might lead to a certain amount of uneven distribution. Although this weakness is not significant for

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4. From an interview with Messers. Shalhoub and Azar, Expert Councillors to the L.B.A., on the 14th of January 1961.
 5. This information is the result of seven interviews, three with Councillors and four with Auditors.

the time being and does not cause problems, later on, if it remains, it may create serious ones. So, we believe that following a more scientific and a more clearly defined method will help the Bureau to avoid future troubles. Of course, this new method should be made flexible in order to meet future needs and future circumstances. In this context, it is also worth mentioning that some seasonal variations in the work-load of the Bureau occur. For example, at the end of the year 1960,⁶ in December, the work-load grew somewhat large (535 files came to the Bureau at once). This situation and similar situations are usually met by additional work-hours on the part of the employees, mainly the councillors and the Auditors of the Bureau, who come to work in the afternoons, or who take some work with them to their homes. The writer has been told that no pay is given in return except in the cases where the Bureau formally requests those employees to work additional hours on matters which fall outside their basic duties.

The opinion of the Auditor is advisory in nature and the Councillor is free to consider or not to consider that opinion.⁷ To this effect, it was said that such a state of affairs is creating problems as far as some of the Auditors are concerned, because they feel that they actually work the things out, and the Councillors are the ones who appear as actual performers. Moreover, some of them (the Auditors) have the feeling that

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6. From an interview with Mr. Ahmad Al-Ahdab, Head of the Bureau, on the 7th of January 1961. Mr. Al-Ahdab added that this increase in the work-load of the Bureau is due to carelessness on the part of the public departments in sending their files at a suitable time. This fact has been confirmed by the public departments. The Ministry of Finance added that it does not have enough employees, and this may have a bearing on the above mentioned point.
 7. From an interview with some Auditors.

their work is not appreciated and is not considered by the Councillors, since the opinion of the Councillors over-rules that of the Auditors.⁸ After investigation, the author has found out that in most cases the Councillors take into consideration the opinions of the Auditors.⁹ The percentage for this, is approximately 80%.¹⁰ On this basis, we may say that what has been said by the Auditors is not fully justifiable especially because, we believe, this is the nature of administration in general and it tends to exist in almost all modern organizations. In other words, the superior from an administrative point of view has the final say, and the Lebanese law itself has specified that the Auditors of the Bureau of Accounts are to help their immediate superiors, the Councillors, in the study and investigation of transactions.¹¹ In spite of all this, the author believes that a human relations problem exists, and that something has to be done about this situation so as to remove this feeling from the Auditors, which, if not removed, might lead to bad and low morale,

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8. From an interview with some Auditors who refused to mention their names.
 9. From an interview with Messers. Shalhoub and Azar, op.cit., on the 5th of April 1961. The author thought of using a random sample but was forbidden from doing so on the basis that there are secret things to which he could not have access.
 10. From an interview with Mr. Addadah, op.cit., on the 5th of April 1961. This person is in the best position to give such information since he sees every decision made by the Councillors and Auditors.
 11. See article 18 of the Legislative Decree No. 118 dated June 12, 1959. (The author possesses the text of this decree).

thereby lowering production to a considerable extent. Therefore, it is necessary that this human relations problem be seriously considered and a certain solution be reached.

Now, let us finish the processes that a transaction passes through.

When the Councillor finishes his study and investigation, he makes a karar including explanations of the matter. This karar and all others have to go to the Head of the Bureau, in accordance with the law and for the purpose of unifying the different points of view of the lower echelons,¹² through the Head of the Administrative Division of the Bureau, who checks and signs them before he passes them to the Head of the Bureau.¹³ The Head of the Bureau follows the "law of exceptions" in his study and review. That is, he makes a spot-check on the transactions in order to keep his subordinates attentive and more careful.¹⁴ The author has observed that all the transactions must go to the office of the Head of the Bureau. In this case, we can say that there is concentration and lack of delegation in the work. Although usually concentration and lack of delegation are considered as serious problems or weaknesses, the author has observed that there is no red-tape and no delay in the work especially since the Head of the Bureau is following an effective way in his review which is the spot-check method. The Head of the Bureau usually reviews more carefully and more intensively the important transactions, such as those which

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12. From an interview with the Head of the Bureau, Mr. Ahmad Al-Ahdab, on the 7th of January 1961.
 13. From an interview with Mr. Addadah, *op.cit.*
 14. Interview with Mr. Ahmad Al-Ahdab, Head of the Bureau, on the 28th of December 1960.

amount to L.L. 100,000 or more,¹⁵ and sometimes he forms a staff, as we said before, to decide on such important transactions.¹⁶

The final step in the processes of the operation of the Bureau has been mentioned above, that is, the clerical registration and communication of notices and decisions to the concerned authorities and then the inspection of their execution.¹⁷

II) The Outcome of Control by the Bureau

The Bureau of Accounts met with some difficulties when it tried to enforce control, especially since some public departments like the Water Department of Beirut did not abide by the law and refused to submit to the Bureau the transactions which are subject to pre-audit as well as their accounts.¹⁸

However, progressively, the Bureau has managed to put an end to such behavior through mutual cooperation and understanding, and through formal and informal contacts.¹⁹

After its powers in matters concerning the pre-audit control were limited and decreased, the Bureau started applying a new system²⁰ of post-auditing in order to recover what it had lost of authority through the legislation of December 23, 1954, and to promote the aim for which it was

15. From an interview with Mr. Ahmad Al-Ahdab, ibid.

16. Ibid.

17. From an interview with Mr. Ahmad Addadah, op.cit.

18. Interview with Mr. Wadih Shalhoub, Expert Councillor to the Bureau, on the 7th of January, 1961. See also, the Annual Report of the L.B.A. submitted to the President of the Republic of Lebanon, dated Nov. 27, 1956, p. 10.

19. Ibid., p. 2.

20. This new system will be discussed in more detail later on in this chapter. Infra, pp. 82-88.

established, that is, to supervise and control public finances according to the laws in effect.²¹

Legislative decree number 9 dated November 21, 1952 provided that the following matters were subject to the pre-audit of the Bureau:²²

(1) Public revenues, the conditions of the contracts concerning the consigned revenues and the conditions of the contracts concerning the exploitation of governmental properties;

(2) Legislative decrees, statutes, decisions and conventions involving the creation or the abolishment of a source of income for the government or the municipalities;

(3) Some actions concerning the decisions and the decrees relating to the creation of an additional permanent expenditure as a result of the appointment of some employees or a change in their salary or their pensions, or their transfer from one position to another when there is a change in their salary or their pensions;

(4) Decrees specifying retirement salaries or dismissal pensions or the repayment of previously cut-off amounts, decrees and decisions which open or transfer appropriations, equipment and public works, agreements which are executed in a coming year and which exceed ten thousand Lebanese pounds;

(5) Non-competitive agreements which exceed ten thousand Lebanese pounds;

21. The Annual Report of the Bureau of 1956, *op.cit.*, p. 10.

22. For more details, see legislative decree No. 9, dated 21 Nov. 1952. In the legislative decree of 23 December 1954, the amount in the transactions were increased a great deal consequently decreasing the number of the transactions subject to the pre-audit of the Bureau.

(6) Agreements concerning the sale or the acquisition of properties exceeding five thousand Lebanese pounds.

As stated in a previous paragraph, and according to legislative decree number 9, dated December 23, 1954, all the above mentioned matters are no longer subject to the pre-audit control of the Bureau. There exist other less important amendments concerning the powers of the Bureau of Accounts; however, the above mentioned ones are but examples to illustrate the changes and the modifications that were introduced into decree number 9, dated November 21, 1952, and also to give an idea about the instability of the laws.

It is worth mentioning here that amendments and changes have never been made on a scientific basis after intensive studies and investigations of need and circumstances.²³

However, as a result of the modifications, the Bureau has put forth, in the field of pre-audit control, as is seen through its annual report and through its activities during the last few years, an effort, the result of which was that public departments were permanently watchful, which in turn led to a big decrease in contraventions.²⁴ The author has investigated and interviewed employees of several departments, such as the Department of Finance in the Municipality of Beirut, the Ministry of Interior, the

23. This conclusion has been reached by the author after a large number of interviews with employees from the Bureau and several others from the public departments, mainly the Ministry of Finance.

24. See Annual Report of the Bureau of 1956, op.cit., pp. 10-11.

Ministry of Agriculture, and the Municipality of Judeidet Marj-'Oyoun to see their attitudes and to verify the above statement. Their opinions were in essence the same, showing appreciation, and admitting that the L.B.A. has contributed a great deal to the Lebanese citizen by controlling the use of the money which he pays to the state in the form of taxes or anything of the sort in order to receive services in return. They said also, that the Bureau has contributed a great deal from an administrative point of view by teaching and then obliging the public departments to conform with the provisions of the law through the many notices, directions, decisions and the other actions which are provided for in the laws. And to support this point with actual evidence, here is one of the cases, called the Diphtheria Case.

The Diphtheria Case:²⁵

The Ministry of Public Health had planned an agreement between the Lebanese Government as represented by its Minister of Public Health and Mr. Adeeb Kaddurah,²⁶ in order to buy 900 tubes of anti-diphtheric vaccine at a price of L.L. 6.00 each, the total price of which was L.L. 54,000. Moreover, the Ministry stated that the vaccine was a new preparation and presented under the name of (Difto P.T.A.P.) on Aluminium Phosphate base, which is preferable to that used previously and it is more efficient and saves money. However, this vaccine is found only at Mr. Kaddurah's agency. In saying so, they depended on a report presented by

25. See the Annual Report of the L.B.A. of 1956, op.cit., pp. 15-17.

26. Mr. Kaddurah is a Lebanese pharmacist and represents the company which owns the anti-diphtheric vaccine.

an expert commission of three physicians.

This draft agreement was sent to the Ministry of Finance, which sent it back inquiring whether it was possible to acquire the same amount of vaccine through a public tender in accordance with the provisions of the law. Accordingly, the Minister of Public Health referred the question to the "Drug Purchasing Commission" which is composed of two physicians and a pharmacist. This commission reported that the desired vaccine is a product of the Italian (I.S.I.) firm, whose only agent is Mr. Kaddurah. As a result, the Ministry of Public Health endorsed the agreement and sent it to the Bureau of Accounts for pre-audit.

During its investigations, the Bureau asked the Ministry concerned for some clarifications. The Ministry answered that it had appointed a Commission to inquire into the availability of such a vaccine and the Commission's report proved that no agent could get the desired anti-diphtheric vaccine with the Aluminium Phosphate base.

The Bureau, through its investigations, found out that the desired vaccine was available in the local market and accordingly issued a notice "no. 723 R/M, dated April 5, 1954," refusing to approve the draft contract because of the non-availability of the legally required conditions, that is, purchase after making a public tender. After the issuance of such a decision, the President of the Expert Commission in the Ministry of Public Health submitted a report, in which he criticised the decision of the Bureau and stated his opinion about the danger to which the public health might be exposed as a result of such a refusal, and finally ended his report by reasserting his decision to accept such an agreement, taking into consideration the fact that this kind of vaccine is the best one and insisting on

referring the question to the Council of Ministers.

The Minister of Public Health, however, decided to submit it to a public tender taking into consideration the advice of the Bureau of Accounts. As a result of this tender the same quantity was offered by Mr. Kaddurah himself at a total price of L.L. 7,920.00 instead of the previously agreed upon price of L.L. 54,000.00.

In this case, we can say that the Bureau has contributed a great deal and saved the difference in prices which amounted to L.L. 47,080.00 by requiring the Ministry to carry out a public tender according to the law. Moreover, this case proves to the reader the importance of pre-audit in relation to the Lebanese environment and shows him how it can teach the public departments to be bound by the provisions of the law and to prevent certain maladies such as patronage, favouritism, etc., and how it can prevent those harms before they take place.

In any case, at the present time the employees of the different departments have been much more careful so as not to commit mistakes or contraventions, because they know that such a thing is going to be caught and consequently they will be punished. This has led, as was pointed out above, to a considerable decrease in the number of contraventions decreased from eighty percent to ten percent.²⁷ In order to reach such a result, the Bureau issued during the years 1954, 1955 and 1956 about 5,000 decisions in matters submitted to its pre-audit and about 200 decisions in matters concerning its post-audit.²⁸ Furthermore, the Bureau issued some

27. From an interview with Mr. A. Adadah, Head of the Administrative Division in the Bureau, on the 27th of December 1960; and Mr. Ahmad Al-Ahdab, Head of the Bureau, on the 7th of January 1961.

28. From the Annual Report of the Bureau of 1956, *op.cit.*, p. 11. The number of decisions in pre-audit for the year 1959 is

4,000 administrative notices including many criticisms and remarks,²⁹ some of which appeared to be a sort of discussion between the Bureau and some public departments. To illustrate such a discussion, the following notice sent by one of the public departments is cited:-

"The Bureau is neither a custodian over the Public Departments, nor an advisor to them, and so, cannot under any conditions send orders for them to submit their financial transactions to the control of the Bureau."³⁰

As an answer to this notice, the Bureau had to send the following statement:-

"When the Bureau performs its duties of controlling and watching the administration of the public finances, it does not mean that the legislature does not give it absolute powers; however, the Bureau knows that the final word in the pre-audit is reserved to the Council of Ministers. The Bureau, having all this in mind, yet performing its duties, knows also that except for these two authorities--The Council of Ministers and the Council of State--the legislature does not give the public departments any capacity to debate with the Bureau matters relating to its duties and its powers, but requires from them either to be bound by its control and its results, or to contest them before the right authorities."³¹

around 1660, and in post-audit around 90; and for the year 1960 in pre-audit the number is around 2500 and in post-audit around 100 decisions. We notice that the ratios mentioned above and the numbers given afterwards, are inconsistent with the numbers stated in this foot-note. I was told that the increase in the number of decisions in the year 1959 was due to the increase in the number of public institutions which became subject to the control of the Bureau; and the increase in the year 1960 was due to the increase and the widening of the powers of the Bureau by the new decree of June 12, 1959, which led to a rise in the number of transactions coming to the Bureau. However, the decisions cited in this footnote include both: the decisions of approval and disapproval.

29. Ibid., p. 11.

30. This quotation is taken from the records of the Bureau, ibid., p. 11.

31. Ibid.

Then the Bureau ends its memorandum by asking the public departments to abide by the provisions of the law and to refrain from debating and questioning its powers, saying:

"To enable the Bureau to perform the duty of watching the public finances and controlling their use; this duty becomes easier and more efficient when both the controller and the controlled understand their respective duties and responsibilities."³²

This example may enable the reader to see how the control of the Bureau started. The author believes that the Bureau of 1955, unlike its predecessor was wise in being patient and in following the method of advice and direction at the beginning, especially since the Bureau was a new agency and the public departments were not used to it and to its control.

However, the situation has now changed a great deal, as we said above, and such discussions and debates no longer exist.³³

One point here needs more elaboration, and that is the activity of the Bureau in encouraging some public departments to abide by the provisions of the law. This point has been touched upon briefly somewhere before. We believe, however, that it is necessary here to show how the different approaches which the Bureau has followed in its development as a financial control agency took place.

Article 2 of legislative decree No. 9 issued on 23 December 1954, brings under the control of the Bureau of Accounts the administrative departments of the state, the "Big" municipalities (those which exceed fifteen thousand persons in population), the municipalities subjected to

32. Ibid.

33. From an interview with Mr. Wadih Shalhoub, Expert Councillor to the Bureau, on the 7th of January 1961.

it by a decision issued in the Council of Ministers, and the public institutions which have connections with the state or the municipalities, unless excluded by a special provision.³⁴ Moreover, the new law of June 12, 1959, added the inspection staff which represents the government in the institutions for which the government insures a minimum profit: all institutions, associations and the like with which the government or the municipalities have financial connections, either through partnership, aids, loans, or because the state puts them under the control of the Bureau by means of a legislative decree issued in the Council of Ministers.³⁵

The duty of the Bureau in relation to the above mentioned institutions is to control the use and the administration of public finances, to rule on the correctness and the legality of financial transactions, and to punish those who violate the rules, regulations, and laws relating to them.³⁶

Now, with this in mind, the Bureau started its work. But as we have said before, the public departments seemed, at the beginning, to lack co-operation and understanding in relation to the Bureau. This situation could have been the result of four main reasons:- (1) due to a lack of understanding of the requirements of the law; (2) due to habit; i.e. the public departments were not used to such control by an outside

34. See article 2 of Legislative Decree No. 9, dated Dec. 23, 1954, op.cit.

35. See article 2 of Legislative Decree No. 118 dated June 12, 1959. (The text of this decree is in the possession of the author).

36. See article 1 of the Legislative Decrees: the one of Dec. 23, 1954, and that of June 12, 1959, ibid.

agency, which led them to have a feeling of antipathy to it; (3) the tendency or the general feeling on the part of Lebanese Government employees to evade responsibility; and (4) the mutual desire of administrative agencies to be free of control by "outsiders."

To illustrate, we take the Water Service of Beirut as an example. The Bureau found out that the W.S.B., which is one of the public institutions subject to its control, had not submitted (since the Bureau has begun functioning) its transactions to the Bureau's control, thus contravening the provisions of the law.³⁷ It seemed therefore necessary to the Bureau to put an end to such a situation and to make that agency conform with the law. So the Bureau started to contact the responsible persons in the W.S.B., asking them to abide by the law, using a lenient method of advice and direction and taking into consideration the four reasons cited in the above paragraph.³⁸ As a result, this agency felt the necessity of complying, accepted the control of the Bureau, and started in late 1956 to submit its transactions.³⁹ From that time on the W.S.B. as well as the rest of the public departments which are required by law to submit their financial transactions to the Bureau, have been submitting them.⁴⁰ The author, however, was told that they still do not pay much attention to the time, at which they comply with the law, thus leaving or postponing

37. Refer to the Annual Report of the L.B.A. for the Year 1956, op.cit., p. 11.

38. From an interview with Mr. W. Shalhoub, op.cit., on the 7th of January 1961.

39. See the Annual Report of the L.B.A. of 1956, op.cit., p. 11.

40. Interview with Mr. Shalhoub, op.cit. on the 7th of January 1961.

many transactions till the end of the year, thereby creating a back-log or a bottle-neck problem.⁴¹ The Bureau is attempting to remedy this situation by means of formal and informal contacts, asking those public departments to send their files on time so as not to accumulate work in the Bureau at the last moment.

It is important to note here that the lack of cooperation is not only in relation to the public departments, but also in relation to the Council of Ministers which, instead of applying the laws, is encouraging the violation of those laws by approving transactions which are illegally made. As illustrations, here are some cases.

1. The Ministry of Interior submitted to the Bureau's pre-audit control a decision to appoint a policeman without due concern to the conditions of appointment. And despite the Bureau's refusal to approve such an appointment, the decision of the Ministry was approved by the Council of Ministers.⁴²

2. Also, the Ministry submitted a decision (karar) for the promotion of a policeman as an exceptional case, without due concern to the provisions related to promotions. Despite the Bureau's refusal to approve such an act, it was approved by the Council of Ministers.⁴³

41. From an interview with Mr. Ahmad Al-Ahdab, *op.cit.*, on the 7th of January 1961. The internal solution of the Bureau for the problem has been discussed before. The additional work is met by additional work-hours, mainly on the part of the Councillors and the Auditors.

42. Case of appointment of Mr. Emile Abu Ra'd as a regular policeman, administrative decision No. 1170/R.M., dated 11-6-1954, and No. 1902/R.M., dated 21-9-1954; *ibid.*, p. 24.

43. See the case of the promotion of Mr. Ra'if Baddawi, administrative decision No. 1286/R.M., dated 29-6-1954 and No. 1553/R.M. dated 3-8-1954; *ibid.*

3. The Bureau took decision No. 576/R.M. dated 9-4-1960 rejecting the appointment, as Heads of Departments of the third class, two employees of the Ministry of Post Office, Telephone and Telegraph. This refusal was based on the illegal procedure of the appointment, that is, the absence of examinations. The Ministry claimed that the two employees concerned had already performed such a job and had acquired expert knowledge in the field, and proposed their acceptance as an exceptional case in order not to hinder the continuation of work. Therefore, the Council of Ministers only took into consideration the opinion of the Ministry concerned, and the two employees were accepted inspite of their illegal appointment and inspite of the refusal of the Bureau.⁴⁴

We conclude from these three cases that the opinion of the Bureau in pre-audit control was and is still not accepted as the last word. It can be rejected by a counter-decision of the Council of Ministers. This, however, does not prevent the Bureau from referring the question to the Chamber of Deputies, the latter being able to interpellate the government from a political point of view.

Now, the truth is that it had occurred to the Bureau to submit such cases in its Annual Report to the Chamber of Deputies;⁴⁵ yet, the latter did not take any step against the government even when it was found to be contravening the law, and this was also for political reasons.

To bring more actual instances of the violation and ignorance of laws on the part of the Council of Ministers, the writer would like

44. From the Records of the Bureau of Accounts.

45. Refer to the Annual Report of the L.B.A., 1956, op.cit.,
p. 25.

to point out that the law⁴⁶ provides that the decisions of the Council of Ministers which oppose the opinion of the Bureau should be accompanied by the reasons and justifications for taking such decisions. It was done this way because of the benefits that the legislature expected when it gave the Council of Ministers the right to decide on conflicts and to supply the justifications in order that the legislature would later on be able to study these justifications in case the Bureau found that there was need to preserve the public interest by submitting a report to the legislature according to article 72 of the above mentioned law. But actually and practically speaking, the decisions of the Council of Ministers used to come out, most of the time, unaccompanied by any justifications.⁴⁷ The writer has analysed some of the decisions of both the Bureau and the Council of Ministers and has found out that this Council makes its decision as if it were the supreme power in the state that could do whatever it wished. Unfortunately, nothing has been done on the part of the legislature and the top executive in order to prevent such a flagrant violation of the laws although the Bureau has done its duty and drawn the attention of the top executive and the legislature to these violations through its report. Although, since 1956, the Bureau has not submitted any reports, the writer was informed by Mr. George Azar, Expert Councillor to the Bureau, that the situation has changed a little in this respect,

46. See articles 71, 72, 73 and 74 of Legislative Decree No. 9, dated 23 December 1954; See also articles 37, 38 and 39 of Legislative Decree No. 118 dated June 12, 1959, op.cit.

47. See the Annual Report of the L.B.A., 1956, op.cit., p. 79.

by having the Council of Ministers adopt the justifications presented by the Ministry concerned.⁴⁸

Another instance of violation on the part of the Council of Ministers is that, it decides sometimes on certain transactions which fall, according to the law, under pre-audit control of the Bureau without having these transactions passed to the Bureau. This kind of behavior contradicts the legal provisions, thereby destroying the procedures which were intentionally made by the legislature in order to be followed.⁴⁹ At the present time, the situation has changed, and if something of this sort is still taking place it would be a result of amnesia.⁵⁰

The legislature, concerning judicial post-audit control, did not give the Council of Ministers any authority over the activities of the Bureau because it acts in this case in its capacity as a court. So, it was obvious that the legislature did not give the executive power which is represented in the Council of Ministers the right to interfere in the affairs of the judicial powers. In spite of that, the Council of Ministers has encroached upon some of the activities of the Bureau which concern judicial post-audit and has issued on certain specific matters some decisions contradicting those of the Bureau by permitting the issuer of payment orders to pay the salaries of some employees when the Bureau required the

48. From an interview with Mr. G. Azar, on the 14th of 1961. Supra, pp. 77 and 78, a case illustrating this point.
49. See the decision of the Council of Ministers dated October 5, 1955; and the decision of the Bureau No. 682/R.M. dated October 17, 1955 and which concerns the purchase of one thousand tons of asphalt by means of a semi-competitive way. Both decisions are taken from the records of the Bureau; L.B.A. Report, op.cit.,
50. From an interview with Mr. Azar on the 14th of Jan. 1961, op.cit.

suspension of their payments because the appointment of those employees was made in violation of the law.⁵¹ At the present time, the situation has changed completely, and no such encroachments are taking place any more.⁵²

However, such an intervention on the part of the Council of Ministers violates the law since that Council cannot decide on matters which have previously been acted upon by the Bureau as a part of judicial post-audit control. Moreover, this kind of act creates a bad atmosphere among the employees of the public departments and might encourage some of them to be arrogant over the acts of the Bureau, believing that this kind of decision of the Council of Ministers will do for them as the written orders which are provided for in article 46 of legislative decree number 9, dated 23, 1954 will do,⁵³ thereby relieving them of responsibility.

This state of affairs, has led the Bureau to proclaim in its Annual Report⁵⁴ that no written orders which the employee might have or receive from his superior or from the minister can in any case excuse the employee from the prosecution of the Bureau and the application of the law on the employees if the matter concerns something which has already been decided upon by judicial post-audit control of the Bureau and then communicated to the authorities concerned.⁵⁵

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51. The Decision of the Council of Ministers dated 24 September 1956, ibid.
 52. From an interview with Messers. Azar and Shalhoub on the 14th of January 1961, op.cit.
 53. See also article 59 of the legislative decree No. 118 dated June 12, 1959, op.cit.
 54. See the Annual Report of the L.B.A. dated Nov. 27, 1956, op.cit.
 55. Ibid., p. 80.

Article 59 of legislative decree No. 118 dated 12 June 1959 stipulates that the employee shall not be punished for contraventions which he commits as a result of executing a written order coming from his hierarchical superior, on condition that this employee formally draws the attention of his superior, at the right time, to the contravention which might result out of executing the superior's written order. Moreover, the employee who is directly responsible to the minister will not be excused unless he directly sends to the Bureau a copy of the written notice which he has submitted to the Minister.⁵⁶

We can notice from these provisions that no much has been done to define and locate responsibility in the case of infractions, and that responsibility can easily be evaded when the employee (or employees) formally informs the minister and the Bureau about the contravention, simply because the minister is not financially responsible according to the Lebanese Constitution.⁵⁷ For example, it happened that a minister told his subordinate to execute on his responsibility (the minister's responsibility) a transaction which contravened the law. Here, the subordinate relieved himself of responsibility by telling the minister about that contravention beforehand and the minister, as we have said, is not financially responsible.⁵⁸ Therefore, in such a case, responsibility has been completely lost. The only thing that can be done about this state of affairs is that Parliament may question the government and can

56. See article 59 of legislative decree No. 118 dated June 12, 1959, op.cit.

57. See article 66 and 70 of the Lebanese Constitution, dated 23 May 1926.

58. From an interview with Mr. W. Shalhoub on the 14th of Jan. 1961, op.cit.

give it a vote of no-confidence and send the government out of office. Unfortunately, nothing has been done so far on the part of Parliament, although many cases of contraventions have taken place.⁵⁹ Here we may note that never did a Lebanese Parliament vote a government out of office for any reason.

The Bureau Follows a New Control System

This point falls under the Outcome of Control by the Bureau. The reason for putting this point here is to show a stage of development in the functioning of the Bureau and to touch upon certain important points.

As has been previously mentioned, the Bureau was given wide powers according to legislative decree of 21 November 1952. But the legislation of 23 December 1954 decreased and limited the powers of the Bureau. In such a state of affairs, the Bureau found it necessary, to safe-guard the public interest, that it should inspect administrative activities especially those concerning decrees and decisions which have a financial effect on the public treasury. In this way, it was able to practice post-audit control indirectly, and to draw the attention of the concerned authorities to cases where contraventions were found, for subsequent prosecution of wrong doers. So, the Bureau had to adopt a new control system to be able to perform its duties of studying and investigating these administrative activities (the ones mentioned above) and started to issue directives, advisory remarks and decisions in accordance with articles 65 and 76 of legislative decree number 9, dated 23 December 1954. These two articles

59. Ibid.

allowed the Bureau to inspect the different stages of any financial transaction from the time of its initiation to the final stage of its execution, registration in the public accounts, and publication in a special report.⁶⁰ This method helped a lot, and as a result many omissions and contraventions were caught. As an example of this point, we have the Caltex case.

The Caltex Case:⁶¹

The government had contracted two companies--The Standard Oil Company of California and the Texas Company (Caltex)--for the delivery to Lebanon of a shipment of combustible fuel, the price of which was to be paid according to prevailing conditions of imported "oil" materials with the provision that if the government, within a period of six months starting from the date of delivery, dealt with other companies under better conditions, the new conditions would apply to the contract previously made with Caltex.

However, after the delivery of the first shipment, Caltex refused to supply another one, which compelled the government to contact other companies in order to make a new contract. The new company was the Socony Vacuum, with which the government had the new contract that provided for a higher price than the one given to Caltex.

It was discovered then, that the contract with Socony Vacuum was effected a few days prior to the expiration of the six month period which

60. See the Annual Report of the L.B.A. of 1956, op.cit., p. 12.

61. Ibid., pp. 13 and 14.

was agreed upon with Caltex. Such negligence forced the Treasury to cover indemnities to Caltex as a result of the difference of prices, indemnities which amounted to L.L. 923,599.55 and which were later reduced to L.L. 640,011.09.

When the transaction of the indemnity was presented to pre-audit control,⁶² the Bureau discovered the negligence and charged the State's Inspection Staff to proceed with the necessary investigations; consequently, the Head of the Fuel Office was sent before the Disciplinary Council and the case was also debated before the Financial Committee of the Parliament. As a result, the Disciplinary Council sent a reprimand to the responsible employee, and the amount mentioned above was paid to the Company in the year 1960.⁶³ The judgment of the Bureau concerning the responsible employee, Mr. Tayyan, was one of negligence in the performance of his duty, but as a matter of fact the negligence was out of date. Besides, it could not be considered a forgery since the elements for such an accusation were nonexistent. Suppose, however, that the negligence took place, and as a result it harmed the Treasury; this harm took place before the first of January 1952, or during that year. In the first place, the control of the Bureau would not apply to him, and in the second place, the law did not provide for punishment of employees who are not accountants. The Bureau finally concluded that since the wrong which was attributed to

62. The writer has been told that the contract was concluded before the Bureau started to function and practice efficiently its powers of audit and control. That is why the Bureau was unable to catch the negligence or the wrong before it was committed. From an interview with Mr. Shalhoub, op.cit., on the 14th of January 1961.

63. The date of the payment of the indemnity, i.e. the year 1960 was given to the author by a Councillor of the Bureau on the 21st of May, 1960.

Mr. Tayyan was not a personal wrong, independent of his basic duties, the responsible employee could/ ^{not} be subject to adjudication before the Bureau.⁶⁴ This is the final step taken by the Bureau as far as the case of Caltex is concerned.

Now, let us go back and continue our discussion of the new control system which was followed by the Bureau. The Bureau, while adopting this new control system, also tried to avoid deprivations, to the public interest by pointing out ahead of time the kinds of contraventions which might occur and ways and means of helping to evade the origination and the augmentation of such deprivations. This way proved to be more effective than disregarding the wrong at the beginning and leaving it till the time when post-audit and judicial control were being effected by prosecuting the responsible person.⁶⁵ This has been and is still the logic of the Bureau of Accounts.⁶⁶ As such, the author was told by several employees⁶⁷ of the Bureau that after having studied and experienced the Lebanese situation and its circumstances, they had found out that pre-audit control is the best and most suitable kind of control, for several reasons:- first, it prevents the harm before it takes place, and preventing harm is better than curing it; second, the Lebanese administrative departments are not yet very mature from the legal, moral and administrative points of view

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64. This information is taken from the decision or the karrar of the Bureau concerning the Caltex Case and issued on April 6, 1957. (The author possesses a copy of this karrar).
65. See the Annual Report of the L.B.A. of 1956, op.cit., p. 12.
66. From an interview with several employees in the Bureau mainly Councillors and Auditors.
67. From interviews with Mr. Ahmad Al-Ahdab--Head of the Bureau; Mr. J. Barraaj--Expert Councillor and Head of a Chamber in the Bureau; Mr. W. Shalhoub--Expert Councillor to the Bureau; and Francois Dibbani, the present Prosecutor General of the Bureau.

so that they may be depended upon and left alone to perform their transactions without being subject to an intensive pre-audit, especially since the Republic of Lebanon, with all its administrative departments, is too small for pre-audit to cause problems which might hinder the work of the administration.⁶⁸ A third reason, is the lack of availability of enough employees (Councillors and Auditors) in the Bureau to carry out a thorough post-audit, especially that post-audit takes a lot of time and effort to perform. This situation is due to instability in the personnel of the Bureau. The Auditors, mainly, are moving every now and then to other governmental departments where they get more benefits and higher salaries.⁶⁹ Furthermore, the author learned from Mr. Adadah, the Head of the Administrative Division in the Bureau, that often the public departments and the newly created agencies such as the Central Inspection Department and the Civil Service Commission take employees from the Bureau because they believe that those employees are best qualified and are sufficiently trained for any other governmental work. Mr. Adadah added that the Bureau has become a "Plant Nursery" for the other departments.⁷⁰ This turnover problem is an important one facing the Bureau of Accounts and hindering its work, mainly insofar as judicial post-audit control is concerned.⁷¹

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68. From an interview with Mr. Al-Ahdab, on the 7th of January 1961, op.cit.
69. After carrying out investigations, the author found out that most, if not all, of the auditors who left the Bureau went and joined other governmental departments. This fact validates our answer. This information has been taken from an interview with Mr. Ahmad Adadah, op.cit.; and from an interview with Mr. Sabrah, an auditor who left the Bureau to another government department, on the 28th of December 1960.
70. From an interview with Mr. A. Adadah, op.cit., on the 28th of December 1960.
71. From interviews with Messers Adadah, Shalhoub and Al-Ahdab on the 28th of December 1960 and on the 7th of January 1961.

The fourth and final reason is the feeling of irresponsibility on the part of the employees of the government departments, and their failure to submit their files at the right time so that the Bureau would have ample time to study and investigate these files.⁷² This point has been admitted by some of the public departments which were interviewed by the author. In addition, the author was told that the failure to send files and documents at the right time is due also to the lack of enough employees in the Ministry of Finance.⁷³

In any case, in this respect the Bureau is not ideal. The author has observed that much carelessness occurs there. For example, some transactions come to the Bureau and stay for a rather long period of time, the Bureau claiming that they want to carry out investigations and studies on them. In this case, usually the ordinary citizen is harmed.

In general, the new control system has been good enough for the Bureau to detect many errors and contraventions which led it to draw the attention of the departments concerned to the contraventions and ask them to avoid illegal actions. Very often, these departments took into consideration the remarks of the Bureau which led to a decrease in the percentage of these contraventions, as we pointed out before. This activity helped in the promotion of one of the Bureau's aims, the protection and control of public finances by teaching and training the public departments to

72. From an interview with Mr. Shalhoub, on the 7th of January 1961, op.cit.

73. From an interview with Mr. N. Halabi, Head of the Department of the Control of Expenditure Obligations, on the 5th of April, 1961.

abide by the provisions of the law.⁷⁴

At the present time and since the issuance of the legislative decree of June 12, 1959, the Bureau has not needed to follow any system like the one discussed above because the new law has given it wide powers to audit and control all the transactions of the government.

Before leaving this sub-section, we should not forget to cite examples of the contraventions discovered by the Bureau. For example, let us take the case of granting financial aid.⁷⁵

On January 24, 1956, the Ministry of Education took decision No. 25 which bestowed a grant to a teacher, Joseph Ass'ad A'kl, in the form of a financial reward amounting to L.L. 800. The Ministry based this decision on article 104 of legislative decree No. 14, dated January 7, 1955 which allows "the granting of a financial reward to any employee who accomplishes an outstanding work, this money to be taken from the special fund provided by the budget for such cases."

The Bureau found out, after an inquiry with the Ministry of Education about the kind of work that the teacher concerned had accomplished, that Mr. A'kl did not do any outstanding work which deserves a special reward, but had asked for a leave of three months in order to finish his fourth year at "Dar Al-Mu'allimeen" and asked for a grant which would enable him to carry on his studies since there was no money in the fund allotted to students at "Dar al-Mu'allimeen." As a result, the Ministry

74. See the Annual Report of the L.B.A. of 1956, op.cit., p. 12.

75. See the Annual Report of the L.B.A. of 1956, op.cit., p. 17.

decided to give him a grant from the fund allocated for financial rewards given according to article 104 of legislative decree No. 14, which constitutes a clear violation of the law.

Another instance concerns the delay in informing the temporary concessioners of public works of the agreement on concessions.⁷⁶

It has been proved to the Bureau that the departments concerned often delay in informing the Temporary Concessioners of Public Works of their agreements, which opens the way for those concessioners to change their minds and disregard their offers and leave the concession. Consequently, those departments will be obliged to repeat the option with additional expenses. For example, the transaction concerning the agreement of offering materials and some services for asphaltting some places falling under the jurisdiction of the Municipality of Beirut, was not communicated to the Temporary Concessioner within the legally specified period. This delay led to the retreat of the concessioner and the carrying out of a new tender with the same conditions but with prices exceeding the previous ones by L.L. 6,400.⁷⁷

This case and many other similar cases led to loss of large amounts. The Bureau used to carry out in each case the necessary investigations but was unable to find out who was responsible, because of the many persons who used to deal with the transaction, and the consequent diffusion of responsibility.⁷⁸

76. Ibid., p. 18.

77. See the case of the offer to asphalt some streets, administrative decision No. 711, R/M dated 28-9-1956, ibid., p. 18.

78. See the report of the L.B.A. for the year 1956, op.cit., p. 19.

In order to limit such a state of affairs, the Bureau decided to call the Heads of Concession Committees of the different departments of the state, the municipalities and the public institutions which are subject to its control, and to give them the necessary instructions which might insure the omission of negligence and carelessness in matters of confirming the concession transactions, and the communication of such confirmation to those concerned. As a result, the Bureau put down the following memorandum which included its advice in this respect,⁷⁹ saying:-

"The Bureau of Accounts found out, when carrying out its investigations about matters concerning the transactions of concession, that informing the concessioner about the confirmation of the offer is being delayed in many instances. This is a result either of a failure to note down the full address of the concessioner or a delay without any logical reasons on the part of some authorities."⁸⁰

"Such a state of affairs may sometimes open the way for the concessioner to depart from the stipulated conditions and ignore his obligations, thereby causing great additional expenses to the Treasury. It has happened also, that some instances like the one stated above have obliged the state to make new expenditures without getting anything in return, and the financial and administrative investigations carried on by the Bureau at that time, were unable to locate the responsibility among the employees."⁸¹

"So, in order to avoid this weakness in the procedures and to avoid the harms that happen to the finances of the state, and in order to be able to define those persons who are responsible for those harms, the Bureau requires all the departments of the state to note the following:-

1. To give the preliminary transactions of concession with the necessary speed;
2. To attach a list including all the transactions of con-

79. See memorandum No. 519 R/Mukarrar, directed to the ministries, departments, public institutions and municipalities, ibid., p. 19.

80. Ibid., p. 19; these are the exact words of the memorandum.

81. Continuation of the memorandum, ibid., pp. 19-20.

cession with the name of the concerned employee, the date of receiving the papers or documents of the concession, and the date of transferring them to the other places or the other authorities;

3. To require from the option committee to ask the temporary concessioner to give his full address in such a way so as to mention the name of the street, the name of the building in which he lives with its number..."⁸²

The Bureau, however, points out in its report that its advice has been taken into consideration. As such, each concession transaction started to have a special covering letter which contained the date of its receipt and the date of its issuance by one department to the other, in a way which would lead to the location and definition of responsibilities which might result from negligence and carelessness.⁸³

So far, we have been pointing out, most of the time, the errors, contraventions and weaknesses of the public departments as reasons leading to the failure of the Bureau to practice its duties of financial control efficiently.

In fact, the Bureau itself has committed several errors and contraventions as well as some negligence and carelessness in its work. Therefore, supporting this fact with actual evidence, we would like to discuss the following points as illustrations.

First; since 1956 the Bureau has not submitted any kind of reports as provided by the law,⁸⁴ thereby neglecting one of its major duties and

82. Ibid., p. 20.

83. Ibid., the end of the memorandum dated August 21, 1956, p. 20.

84. See articles 76, 77, 78, 79, 80, 81, 82, and 83 of Legislative Decree No. 9, dated December 23, 1954; and articles 43, 44, 45, 46, 47, 48, and 49 of Legislative Decree No. 118, dated June 12, 1959, op.cit.

violating the provisions of the law. The author tried to investigate the reasons behind this failure, but nothing could be done about it, with the exception that some Councillors and some auditors confessed that the only reason behind it was carelessness and negligence.⁸⁵ The writer felt, however, that some information about this point was concealed, and in no way could the author obtain any of this information.

Whatever the reason may be, the fact of not submitting annual and special reports, as the law stipulates, constitutes a flagrant and serious violation of the law, and results in failure to accomplish one of its major duties.

Second; not only did the Bureau fail to make the legally required reports, but it also failed to issue decisions (kararat) concerning the closing of accounts.⁸⁶ This is another weakness which has been admitted by some Councillors and Auditors saying that it was the result of carelessness and negligence, while others claimed that it was due to two major reasons:⁸⁷

1. Instability and paucity of personnel of the Bureau especially the Auditors who are moving every now and then to the other departments of the government, mainly the judicial body, where they get more pecuniary benefits.
2. The public departments submitted their closing accounts which

85. From interviews with four Councillors and three Auditors from the L.B.A. on April 5, 1961.

86. See articles 84 and 85 of Legislative Decree No. 9, dated 23 December 1954; and articles 81-84 of Legislative Decree No. 118, dated 12 June 1959.

87. From interview with Councillors and Auditors of the Bureau.

are subject to the post-audit of the Bureau without the legally required factual references and documents necessary for control. The Bureau inquired and investigated the matter but found out that the lacking proofs and documents had been lost! Faced with such a situation the Bureau had to content itself with existing materials, thereby resulting in a deficient post-audit.⁸⁸ However, no prosecutions were carried out by the Bureau because it was impossible to learn specifically who was responsible for the loss.⁸⁹

This failure on the part of the Bureau has never been questioned or cared for by Parliament although the Lebanese Constitution provides that Parliament should see the closing accounts of public departments before approval of the budget. Parliament is content simply in approving the budget, saying that its approval is done with the reservation that the decisions of the Bureau of Accounts will be taken into account later on.⁹⁰ This has been only ink on paper, and it has never happened that Parliament has done anything or has inquired into the decisions of the Bureau.

Therefore, we can notice that the Bureau of Accounts, as an agency, is living on its own, which, in the writer's opinion, is not desirable because it may be exposed to many diseases such as patronage, favouritism, bribery, etc. This point becomes very important when we realize that the employees of the Bureau are Lebanese citizens and do not come from heaven but are born and are living in Lebanese society and are thereby subject

88. Ibid.

89. Ibid.

90. From an interview with Mr. Shalhoub, on the 7th of January 1961, op.cit.

to the same socio-political circumstances, the same value system and the same ways of behaviour as the society at large. Therefore, if the government departments ought to be controlled, we see that the Bureau also must not function as an "Empire by itself." So, Parliament (or any high judicial agency such as the Council of State) should see to the application of the law to the Bureau. But unfortunately, the members of the Lebanese Parliament are too busy in their private interests and personal controversies to give time to more serious matters. As a result, cooperation towards the achievement of the public interest is to a great extent lacking. The author might seem here to be carrying the point somewhat to the extreme. However, the statement contains in it a great deal of truth and reality.

Two instances which the writer has learned of recently, and which raise doubt as to the correct and honest behaviour of the Bureau are as follows: the first instance concerns the Office of Tourism and Summering,

The Bureau approved the evacuation of the Office of Tourism and Summering which was situated on the "Burj" (Place des Canons), the place which is one of the busiest spots in the city of Beirut. The government used to pay two thousand Lebanese pounds per year as rent for this office. All of a sudden, the government left that office without any kind of compensation in return. They rented another office which is not better than the previous one for seventy thousand Lebanese pounds.⁹¹

Now, the question is why the Bureau approved the evacuation of the

91. From an interview with an important government employee who asked that his name not be cited here.

first place and the payment of a large amount for a new place, thereby losing a great amount of money?

The author inquired about the reasons behind this approval, but did not see any logical and reasonable cause. Moreover, when he tried to go deeper and know more about this case, some of the employees of the Bureau grew nervous and were almost going to kick him out.

The second instance concerns the increase of the rent for the building which is occupied by the Ministry of Public Works.

This Ministry used to pay rent of seventeen thousand Lebanese pounds for the building which it has occupied for some time. Then the rent was raised to L.L. 100,000. The Bureau approved the increment. The author, when inquiring about the reasons for approving such a tremendous increment, was told that they raised the rent in accordance with the standard of the newly rented buildings. Again, the reason is not logical.

In conclusion we may say, however, that the Bureau, inspite of its weaknesses, has been of good service to the Lebanese Administration both through its administrative and judicial functions.

The administrative function is practiced through pre-audit control over every transaction which results in an important permanent expenditure, like the appointment of employees and obligations which exceed ten thousand Lebanese pounds.⁹² This pre-audit control has produced very good results and led to a high degree of care and precision in the work of the departments, and the number of mistakes in the preparation of the files for pre-

92. See articles 28, 29, 30, 31 and 32 of Legislative Decree No. 118 dated 12 June 1959, op.cit.

audit control decreased greatly.⁹³ Moreover, it raised the standard of effectiveness in the administration as far as pressure and interference in the appointment of government employees on a spoils basis and the carrying out of concessions are concerned.

On the other hand, the Bureau was able through its judicial post-audit control to direct the accountants and train them on keeping their accounts more effectively and more accurately than before, although this type of control was not practiced on a large scale.⁹⁴

93. Supra; pp. 26-27.

94. From an interview with Mr. Shalhoub, on the 14th of January 1961, op.cit.

CHAPTER VI

CONCLUSION AND EVALUATION

I) Generally Accepted Principles Considered in the Light of the Lebanese Socio-Political Situation

Several generally accepted principles or features necessary for the efficient functioning of a Public Accounting Agency were discussed in Chapter II of this thesis where it was pointed out also that these principles or features remain of little use unless considered in the light of Lebanese socio-political circumstances. With this in mind, the author is going to devote the first part of this chapter to such a discussion.

Now, taking each of these features separately, we would like to start with the first one, the separation of administrative and accounting functions.

In speaking about Lebanon, we may say that separation or decentralization of the accounting functions is advisable in order that the Minister of Finance will have an additional control over the various ministries. This is because the writer believes that the Lebanese Administration has not yet reached a good standard of maturity and understanding to be depended on and allowed to perform "its" accounting and similar financial affairs without control. So, in the writer's opinion, at the present time, the more the control the better the results. Of course, one should not carry this point to the extreme, because too much control might lead to red-tape and similar inefficiencies.

The second feature that needs examination and analysis is the strict procedure of expenditure. In exposing this point to the light of the Lebanese socio-political environment, we see that in essence this procedure is a means of control and therefore suits the Lebanese administrative circumstances. It suits Lebanon because our socio-political and administrative situation is still in a state that does not permit independence and freedom. We still need some more national, political and administrative maturity before reaching the stage of independence. We need to have also, a certain measure of social responsibility, the thing which unfortunately we still lack. The writer's words, here, may appear to the reader somewhat vague or too general. But if one goes to the Lebanese administrative departments, or follows the current socio-political events, he will definitely and clearly see the truth in what has been said above.

The third feature is that which concerns the Comptroller of Committed Expenditures who in general exercises pre-audit over all authorizing officials representing the Minister of Finance. This official examines the commitment from the point of view of allocation of expenditure, availability of funds, accuracy of estimates and conformity with prevailing legislation. This is a powerful instrument of control in the hands of the Minister of Finance. As such, the author recommends its existence in the Lebanese financial procedures simply because he believes and he is fully convinced, after experience, that the Lebanese social and administrative situation necessitates strict and stringent control. However, we should not forget to point out that such a pre-audit should not be

performed by any other agency, in order to avoid duplication. At the same time, the author recommends that employees of this type should be well trained, mature and possess a high degree of prestige and immunity in order to be able to stand against political or personal influences. Moreover, they should be subject to control, but a control coming from outside the public departments which they inspect. For example, the Minister of Finance can exercise control over them.

The fourth feature concerns the responsibilities and the operations of a public accounting agency as far as its independence is concerned.

The independence of the public accounting agency in Lebanon is a must. It is very necessary since there is the possibility of much political intervention and pressure taking place in Lebanon if such an agency is left not fully independent. This is to avoid partiality, to insure objectivity and to avoid all kinds of pressure that might be exerted on the auditors. The quality of such an organizational separateness is an essential and a pre-requisite to the activity of control itself, especially when this control is, in some cases, of a judicial nature. If this agency of control is subject to the influence and effect of the executive and the administration or if it is a part of them, then it will be judging its own cause. Here, in most cases, objectivity is sacrificed and bias overrules.¹ On the other side, this agency must not function as an empire by itself, but it must be subject to a certain kind of judicial control by the Council of State or a legislative control by the legislature, because the

1. Supra, pp. 26-27.

essence of having an auditing agency is to aid the Parliament and enable it to control the use of the public moneys in accordance with the law. Such control should not mean that the legislators as individuals can interfere in the activities of the auditing agency by telling it to audit some transactions and leave others, but it means a kind of organizational control. The auditing agency is to ensure the exact application of the law and no one should interfere in this function as long as it is well performed, save the courts.

Another point concerns the function of the Lebanese Bureau of Accounts, whether it should perform pre-audit or whether it should perform only post-audit and adjudication. In general, the writer's opinion is that the Bureau should only perform post-audit and adjudication. The reason for taking such a stand is to save time, because if the Bureau of Accounts is supposed to perform post-audit and adjudication and also is going to pre-audit every transaction, then there is a fear that the load of work will become very large, and the possibility of that agency's doing it efficiently and effectively will be very limited. In addition, even though pre-audit is considered to be the most effective, as applied before payments are made, it remains difficult, time-consuming and expensive when applied to large scale financial administrations. For example, when the Lebanese Bureau of Accounts concentrated on pre-audit, as we have seen above, we observed that post-audit and adjudication were almost forgotten.

On the other hand, the socio-political and administrative situation in Lebanon does not permit a removal of pre-audit for the time being. This is because the number of mistakes will increase as a result of two main

reasons. (1) Because of carelessness on the part of the administrative departments which are not yet prepared, in all respects, to carry out their internal control; and (2) because of a lack of the necessary preparations on the part of the Bureau. Moreover, pre-audit in Lebanon has actually proved, up to the present time, to be more effective and more useful than post-audit although the present tendency in the practices of different countries² is to have the public accounting agency perform post-audit almost exclusively. Pre-audit is also enhanced by having the Bureau of Accounts bound by a period of ten days for giving its opinion.

More or less, the author believes that a tendency towards post-audit and adjudication in Lebanon depends to a large extent on the progress and development attained by the Lebanese administration. The more the progress and development, the less the need for pre-audit and the more the possibility for having post-audit and adjudication.

The sixth feature says that the power of the Bureau over expenditures should be to audit accounts and to settle them.³ This feature is considered to be a rule of general applicability and has almost nothing to do with the socio-political circumstances of the country.

The seventh feature is that which concerns the degree of flexibility in the pattern of budget control. This quality (flexibility) is not very much considered in the Lebanese practices. The statement applies not only to the budget procedures and budgetary allocations, but it also applies

2. Supra, Chapter II.

3. For a distinction between audit and settlement of accounts, See U.N., Government Accounting and Budget Execution, op.cit., p. 8.

to most, if not all, of the Lebanese laws, for they (the laws) are made in such a specific and detailed way as to permit only a small degree of discretion to the executor of those laws.

Now, putting this point under examination and analysis in the light of the Lebanese socio-political situation, we see that the present state of affairs concerning the specificity of laws, including the pattern of budget control, is something that suits the Lebanese socio-political and administrative circumstances. This is because many of the politicians and the administrative staff of our country, Lebanon, tend to make use of any opportunity or any possibility to violate the laws, the rules, or the regulations in order to satisfy their own personal interests in the short or the long run, in a direct or an indirect way.

The eighth feature concerns the Reporting system and stresses the existence of annual periodical reports and special occasional reports. This matter is very important and necessary insofar as the Lebanese Bureau of Accounts is concerned, especially since there are no social or political obstacles which may hinder the existence of such reports.

The ninth feature is effectiveness. The term effectiveness has been used to mean the achievement of our goal with the least use of time, human and material resources.

In evaluating the work and the operation of the L.B.A., it seems inevitable and also very necessary to take into consideration the question of effectiveness in the achievement of the purpose for which the Bureau of Accounts was established. However, effectiveness as a criterion should be considered no matter what the social or the political situation may be. Unfortunately, this criterion, in general, does not occupy a very important

place in the minds and actions of individual Lebanese officials.

Related to effectiveness, we have speed as one of the features. The writer has taken speed separately in order to point out certain problems which face the Bureau and which are due to a lack of sufficient speed. It has significance when discussing the socio-political and the administrative situation which creates speed problems in the performance of the work of the Bureau.

Finally, sanction⁴ is the last feature. It is very necessary to have a sanction system in the Lebanese Bureau of Accounts, especially since it applies very well to Lebanese socio-political circumstances, for two main reasons: (1) The Lebanese individual, generally speaking, is an understanding one and is very well aware of human needs. I mean he appreciates human relations. As such, he wants his work to be appreciated. (2) On the other hand, if his mistakes and his misbehavior go on without any means of punishment, the result will be anarchic and very dangerous.

With this we come to the end of the discussion of the generally accepted principles or features in the light of Lebanese socio-political circumstances. However, we are going to refer to these principles throughout the rest of the discussion of this chapter which is considered to be a conclusion and an evaluation of the entire thesis.

II) The Functions and Duties and the Role Played by the Bureau

We have seen that the Lebanese Bureau of Accounts of today is by law an independent agency attached hierarchically to the Council of Ministers.

4. For a definition of the term sanction, supra, p. 29.

In general, its function is to audit the fiscal dealings of the State. As such, it enjoys two kinds of authority: one is judicial and the other is administrative. The judicial authority is exercised by the Bureau's post-audit of accounts and its control over every civil servant who deals with the administration of the public moneys. The administrative authority of the Bureau is exercised by its pre-audit over the execution of the budget, and by reports it prepares about both the pre-audit and the post-audit functions which it performs.

As we have pointed out in the previous chapter, the Bureau has concentrated in carrying out its duties of control on pre-audit, and has almost neglected the other duties. This is because they believe that pre-audit is more effective, and that post-audit takes more time and necessitates more employees who are not available at the Bureau. Moreover, we should not forget that post-audit is not as constructive a tool of management as pre-audit. One prevents the occurrence of faults by prior check and guidance but causes delays in administrative procedures and the other seeks to discover faults and supply penalties; thus it is only indirectly preventive but occasions no delay in administrative procedures. Whatever the reasons may be, we may say that the Bureau was created to inspect and control the use of public funds in accordance with the law, and was given a number of duties, the ones mentioned above, to enable it accomplish its aim. So, the failure of the Bureau to apply the law as far as its functions and duties are concerned may create certain problems which will lead to the loss of great amounts of public finances, thereby failing to achieve the aim for which it was established.

Therefore, in the writer's opinion, the Bureau should overcome all the difficulties, if there are any, and try to practice its other duties, mainly post-audit and adjudication, and prepared the periodical reports which are very important and which are provided for in the law. Not only that, but it should stress these duties and should give them more weight since the modern tendency in most public accounting agencies of other countries is towards increasing post-audit and adjudication and decreasing pre-audit. This could be desirable for Lebanon were it not for the special socio-political situation which already exists and which does not permit a removal of pre-audit at the present time.⁵ This is because the number of mistakes will increase as a result of three main reasons: (1) because of carelessness of administrative departments and their lack of preparations necessary to carry out internal control; (2) because of a lack of the necessary preparations on the part of the Bureau; and (3) pre-audit in Lebanon does not have impact on the administrative procedures so as to create bottle-necks, red-tape, delay or any similar problem because the Bureau is by law bound to give its opinion in a period of time of not more than ten days. Moreover, Lebanon is not so large as to create problems like the ones mentioned above. The author, however, believes that a tendency toward post-audit and adjudication in Lebanon depends to a large extent on the progress and development attained by the Lebanese administration.⁶

However, despite the failure to practice the functions of post-audit

5. Supra, pp. 100-101.

6. Supra, p. 101.

and adjudication effectively and on a large scale, the Bureau has proved to be a very important means of financial control and has played a good role in controlling the finances of the state. Before the existence of the Lebanese Bureau of Accounts, the public moneys were used in such an anarchic way that a big portion of those moneys were lost due to either carelessness and negligence, or to fraud and theft, or to any kind of wrong or misbehavior that used to be committed by the employees of the government. But after the establishment and functioning of the Bureau, several of those losses were avoided, the number of mistakes decreased, and a considerable measure of effectiveness in the Lebanese Administration was realized. In this context, the writer would like to note that this has been mainly a result of fear on the part of the government employees of being caught and punished. For all that, we again stress the need for the Bureau to practice its duties, i.e. post-audit and adjudication, because we feel that the employees in public departments by now know that the Bureau is not practicing the duties which they fear and which affect them directly.⁷

In brief, the writer sees it desirable that Parliament should see to the application of the law as far as the Bureau is concerned and request it to perform its duties as the law stipulates, and not to allow it to behave the way it wishes.

II) Causes of Weaknesses which Led to the Failure of the Bureau to Perform Its Services as ^{best} Expected.

In considering the weaknesses which led to the failure of the Bureau

7. A personal observation made by the author.

to perform its services as expected, the writer would like to divide these weaknesses into two major parts, namely internal and external weaknesses.

a) The Internal Weaknesses

By internal weaknesses we mean those weaknesses which are inherent (مؤزمه) in the Bureau itself. As such, we may point out several of these weaknesses, starting with that which concerns the personnel of the Bureau.

It seems that the Bureau has not enough employees (mainly auditors) to be able to perform its duties efficiently, especially those which concern post-audit and adjudication. Moreover, the degree of turnover of Auditors in the Bureau is very great. Auditors are always leaving the Bureau to other government departments, particularly the Ministry of Justice, where they get more pecuniary and moral benefits. This turnover problem is one of the important problems which is facing the Bureau and which must be seriously considered. In this respect, the author would like to suggest two remedies which might help to heal this situation and improve post-audit and adjudication in the light of the Lebanese social, economic and administrative circumstances. First of all, the salaries of the Auditors ought to be increased since the standard of salaries as applied to equal positions in the government especially the Ministry of Justice and in the private institutions as far as duties and responsibilities are concerned are unequal, with the disadvantage pertaining to the Auditors and the Councillors of the Bureau. Of course, this judgment is a rough judgment because the writer has not carried out any scientific investigations of this matter, but he has simply had a general look over the salaries given

to similar employees in the Ministry of Justice and has obtained rough information about the salaries given in some private institutions such as the Middle East Airlines Company, the Arabia Insurance Company, and several other banks. The second remedy is to increase the number of Auditors and Councillors at the same time.

This stand has been taken by the author because he believes that the Lebanese Administration is still somewhat weak in all respects, the thing which necessitates a greater effort on the part of the Bureau. But it is hoped that in time, the Lebanese Administration will be improved, and as a result, the load of work of the Bureau will be decreased and it will not be in need then, for a great number of Councillors and Auditors. Not only that, but also the Bureau will be able to depend on the administrative departments when applying the laws related to public funds, thereby decreasing the pre-audit duties of the Bureau a great deal which will later on leave it only with post-audit and adjudication as its principal functions.

One might say, however, that the need to increase the number of Councillors and Auditors is a result of an increase in the number of public institutions and the nationalization of some private ones which all are subject to the control of the Bureau necessitating a large staff to carry out an effective control. In spite of this, the author believes that what has been said above remains valid and of considerable truth and importance.

Related to the problem of the personnel of the Bureau, we have something to say about the training of the Auditors. From the contacts which the writer has had with the public departments, it has been observed and understood that one of the reasons which is leading to some lack of cooperation on the part of the public departments is deficiency in the

training of Auditors of the Bureau. The employees of the public departments hate to see the Auditors of the Bureau coming to their offices for two reasons.⁸ First, they believe that those Auditors are not trained enough in their duties and the techniques of business; therefore, they take much of their time.⁹ Second, the Auditors lack some training in human and public relations because they do not know how to approach and deal with the employees of the public departments. Whenever an Auditor comes to a public department, he likes to show off, or in a way, he behaves as if the employees of the public departments are his slaves or at least are his subordinates.¹⁰ In the writer's opinion, this kind of behavior on the part of the Auditors is sick and ought to be healed. The only remedy for this, we believe, is to have mutual respect between the employees of the Bureau and those of the public departments who should try to cooperate with each other, keeping in mind that they all work to achieve a common goal, and that is to offer the best service possible to the public with utmost sincerity. This mutual respect can be reached through a definite understanding of the duties and responsibilities on the part of the two sides, and through a certain in-service training program for both the employees of the Bureau and those of the public departments.

Another thing which can be pointed out here concerns the work distribution in the Bureau and the seasonal variation in its work-load.

Work distribution in relation to the Auditors is not made on a

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8. A personal observation made by the author. Every one can see this clearly whenever he talks with employees of the public departments.
 9. From interviews with several employees of the public departments.
 10. Ibid.

scientific and well-defined basis. So, it should be defined and based on a scientific study in order to avoid problems of uneven distribution. At the same time, the system of work-distribution should not be made rigid but flexible so as to meet all needs and circumstances. Also, the decisions (karrarat) of distributing the work of the various agencies among the Councillors are made only for one year, while we believe that they should be made for more than one year, perhaps four or five years, in order to ensure a certain measure of specialization and continuity in the work.

Concerning the seasonal variation in the work-load of the Bureau, we may say that up to the present time, this problem has not yet been solved. And, as we pointed out in the previous chapter, it is due to a lack of cooperation on the part of the public departments, a failure to appreciate the importance of a time-limit, and the lack of enough employees in the Ministry of Public Finance.

With this state of affairs in mind, the writer would like to say that this problem of seasonal variation in the work-load cannot be solved unless the public departments willingly accept the control of the Bureau and cooperate with all their hearts, and send their files on time with care and attention. Also, the Ministry of Finance, being the center of all financial activities of the state, needs to have an increase in its personnel.

b) External Weaknesses

By external weaknesses we mean those weaknesses which are not inherent in the Bureau itself, i.e. not caused by the Bureau.

In discussing these weaknesses, we would like to start with the instability of laws as a basic one. As the reader may have noted while reading the historical part of this thesis, the laws concerning the establishment and the functioning of the Bureau have passed through several changes, additions and deletions.

In general, the Lebanese Bureau of Accounts as an agency or a sort of an institution has been copied from another similar Western institution. Not only that, but also most of our laws and even our constitution bear the same weaknesses and drawbacks.¹¹ We say weaknesses and drawbacks because we believe "that neither laws nor constitutions can be considered the best and the surest remedies for all our political, social and organizational troubles."¹² "An organization or an institution can not be designed according to blue prints at any time and place."¹³

The belief in the rationalization of laws and institutions appeared in the Ottoman Empire during the second half of the nineteenth century when the Ottoman government started to copy extensively many European laws and institutions, hoping to heal the Decaying Man. But inspite of that, the collapse of the aging Empire was inevitable because, as one of the big American authorities pointed out, "an imperfect law can often be repaired by resourceful administration, but poor enforcement will render ineffectual the best of legislation."¹⁴ What is important, therefore, is not only the

11. The writer means here the Lebanese laws and even the constitution have been modeled on the French pattern.
12. See the M.A. Thesis of Mr. As'ad Rahhal, The Lebanese Council of State, A.U.B., 1956, pp. 177-201.
13. Ibid.
14. Marshall E. Dimock, "Administrative Efficiency within a Democratic Polity," in New Horizons in Public Administration: A Symposium, (University, Alabama, 1945), pp. 21-43, at 32, at it appears in Mr. Rahhal's M.A. Thesis, ibid.

provision of good laws and good formal organizations which may be put into writing, but the actual application of those provisions by those organizations. The actual examples and cases which we discussed in the previous chapter may show the reader that application is of utmost importance in the functioning of organizations, and no matter how good the provisions may be, they remain useless unless they are judiciously applied. But one should not forget the difficulties which may face the application of certain laws, rules, or regulations, especially in the case of newly established organs or agencies.

However, Lebanon, historically considered as a split part of the Ottoman Empire, took its share in the tendency to rationalize power by copying laws and institutions, starting during the Ottoman rule. This tendency remained, though on a modified scale, after independence.¹⁵ One of the major causes of instability in our institutions and our laws, an example of which was given in the different laws which established the Bureau and gave it its present status, seems to be this copying without very serious consideration or reference to the needs of the country and to the special circumstances which distinguish it from the country from which the institution was copied. It may be said that administrators in Lebanon have not always acquired a deeper appreciation of "how serious it was to dig up a flourishing tree and transplant it in someone else's backyard. It takes time to reestablish the root structure and during that time the tree withers."¹⁶

15. Ibid.

16. Marshall E. Dimock, p. 35, as it appears in Mr. Rahhal's Thesis, ibid.

This may be considered the main reason contributing to the instability and to some of the inefficiency of the Bureau, though we can assure the reader that this Bureau has developed (and is in a process of development) into a valuable institution which, inspite of many weaknesses, is serving a good and useful purpose.

So, we may say that apparently identical legal, constitutional, or institutional formulae applied by different peoples and in different social settings give essentially different results.

It follows then, that we cannot say that this system or this practice better suits this country rather than the other, because this suitability depends to a great extent on the country's social, political, economic, ideological, educational, geographical and historical background.

Another point that is worth mentioning in this conclusion under the external weaknesses which led to the failure of the Bureau to offer its services as best expected is that which concerns the written orders coming from superiors thereby excusing subordinate defaulters. The superior sometimes (if not most of the time) may be a minister, and the minister does not have a financial responsibility according to the constitution. In this case, responsibility can be easily lost and diffused. To this effect, the writer would like to suggest, as the best solution, that responsibility should not be shifted in any way, but it should settle on those who issue written or oral orders in violation of the laws. And as a second best solution to the diffusion of responsibility as a result of the written orders which come in most of the time from the minister who is financially irresponsible, will be to hold all those who commit wrongs, violations,

or anything of the sort, responsible. What we mean to say here is this: since the minister is considered by the constitution to be financially irresponsible, then it would become necessary that his subordinates must be held responsible for any wrong he commits even when executing his written orders. In this case, the employee will be obliged not to obey the orders of the minister which violate the laws. Here one may say that the employee will be exposed to the wrath of the minister. Yes, it is true that an employee who refuses to abide by the illegal instructions of his minister, may be exposed to the wrath of such a minister, however, the possibility of revenge by the minister is quite limited because of the tenure enjoyed by the civil servants and the fact that all matters concerning public officers are subject to close control and supervision by the independent Civil Service Board as well as the courts.

Now, before finishing our discussion about external weaknesses, we would like to say something about the lack of cooperation of the public departments and that of the Council of Ministers as one of the reasons which has handicapped the efficient functioning of the Bureau.

The lack of cooperation of the public departments has been discussed enough under the internal weaknesses of the Bureau, although it falls under the category of external weaknesses. Therefore, we are not going to repeat what we have already said, nor say anything more.

But concerning the lack of cooperation on the part of the Council of Ministers, we would like to say that the Council of Ministers has been given by law the right to have the final word on matters concerning the pre-audit of the Bureau. This Council, however, has shown some negligence as to the provisions of the law and has approved certain transactions made

by the individual ministries in violation of the law, thus overruling the Bureau's decisions. The Bureau in such cases cannot do anything but report the question in its Annual Report to the Top Executive and to Parliament so that they can see these violations and then question the government and take a political measure (like voting the government out of office) against the government, when necessary. But unfortunately, the Parliament has never done anything about this state of affairs, and has never voted any government out of office for any reason. Now, one can say that not only is the Council of Ministers not cooperating but also the Parliament itself has failed to perform its functions of control and guidance.

In any case, the writer can say that the Lebanese administrative system is very much affected by socio-political factors. The value system in Lebanon is based, to a large extent, on an individualistic philosophy; that is, private interests are highly valued by the Lebanese individual. For example, the members of the Lebanese Parliament in general are elected by the people without taking into consideration the moral, educational and spiritual qualities of the candidates. Most of the people elect those whom they think will serve their private interests most. So, what can we expect most of these members of the Parliament to be?? In the writer's opinion, the main thing that most of these members care for, is to ensure their private interests and sometimes the interests of those who may affect their election as members of Parliament. Even recent elections, took place in such a way as to violate the spirit, the essence and the modern practices of democracy. A great many material and psychological pressures were exerted on the individuals within the electorate. So, it is not strange

that the Parliament and the Council of Ministers which has its members mainly taken from the Parliament, would think of their private interests as the most important thing. Also, it is not strange that they would neglect to look whole-heartedly after the public interest except by the way, if anything of this sort happens. Every one of the responsible politicians and executives look to the public interest through their own self interests. This is true, although the author has not carried out any scientific investigations as far as these facts are concerned. But we are somewhat certain that every one who is familiar with the Lebanese environment is also aware of the existence and prevalence of these facts in the Lebanese socio-political scene.

Nevertheless, what has been said above about the Parliament and the Council of Ministers can also be said about the Lebanese Administration in general. This is because we believe that it is impossible to separate the administration and the socio-political environment in which it acts. Hence, we may say that knowledge, unless accompanied by good spirits and true maturity, can never give good results. This statement is made by the author after he has observed during his contacts with the public departments that employees have got a fairly good background of knowledge as far as their behavior and functions are concerned. But the only thing that they still lack is the application of what they know on what they do and an interaction between their knowledge, their spirits and their actions.

Now, let us ask the question whether it is possible to introduce some reform to our political and administrative situation or not?

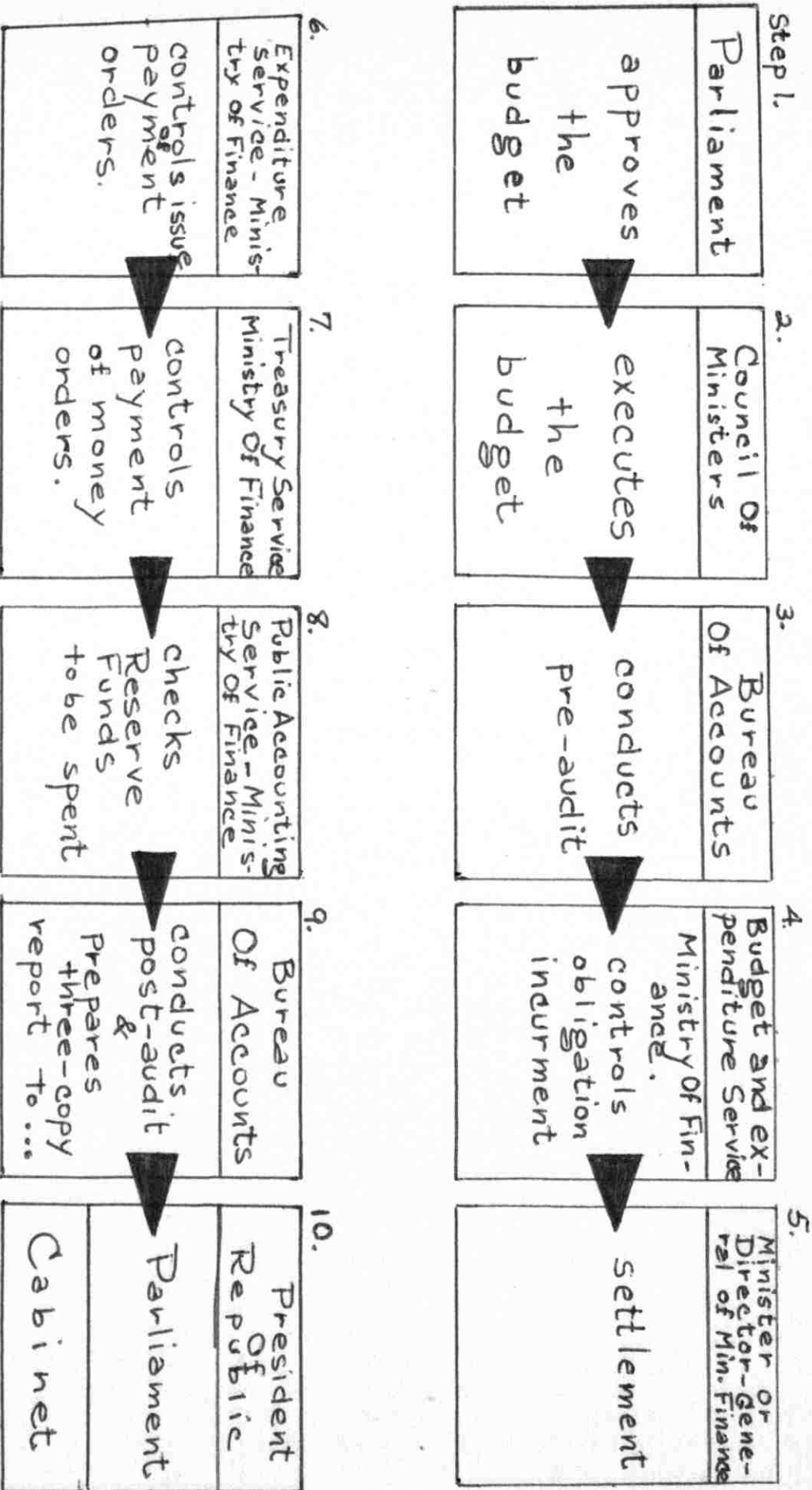
The answer to this question is positive, especially because we have a general belief that nothing is impossible in this world. It is

possible to have reform but perhaps it is going to take a rather long period of time because social change is a slow process, and reforms of this sort cannot be made in a revolutionary way but have to be made in an evolutionary way. Progress and development, however, can be looked at as a two-way relationship between society and the administration in the sense that the responsibility for progress and development cannot be laid only on the society itself, but also the leadership in the country should have its share of this responsibility and should play a good role in speeding up change.

LEBANON

Chart No. 4.

A Work Flow Chart Of Control Over Public Expenditure



arrow shows flow of control.

APPENDIX A

LEGISLATIVE DECREE NO. 118

Issued on 13 June, 1959

Organization of the Bureau of Accounts

The President of the Republic of Lebanon
According to the Constitution of Lebanon
According to the Law of 12 December, 1958
On the proposal of the Minister of Finance
With the approval of the Council of Ministers

Decrees:

FUNDAMENTAL RULES

Article 1: The Bureau of Accounts is a judicial and administrative body charged with the supervision of the Administration of Public Funds and controlling the use of funds by supervising the accuracy of their accounts and the conformity of their actions to law and passing judgment on those responsible for transgressions of the laws and regulations relative to these accounts.

Administratively, this body is attached to the President of the Council of Ministers.

Article 2: The following are under the jurisdiction of the Bureau:

1. State Administrations
2. The great municipalities
3. Municipalities which are subject to government control by decree of the Council of Ministers.
4. Public institutions of the state or municipalities.
5. The organs of control which represent the State in institutions which are controlled by the latter or in institutions to which the State guarantees a minimum benefit.
6. Institutions, societies and organizations with which the State or municipalities have a financial connection by means of participation, assistance or loans and including all other institutions which have been placed under the jurisdiction of the State by decree of the Council of Ministers.

The decree issued by the Council of Ministers according to the proposal of the Minister concerned and after consultation with the Bureau of Accounts, limits the extent and forms of jurisdiction in relation to the institutions, societies and organizations stipulated in paragraphs 4, 5, and 6.

CHAPTER I--ORGANIZATION OF THE BUREAUPart I--Organization of Public Officers

Article 3: The Bureau shall be composed of magistrates and controllers to whom shall be attached administrative personnel along with an independent public representative.

Article 4: The President of the Bureau shall be named by a decree of the Council of Ministers from among the magistrates of the Bureau of Accounts or the magistrates of the Council of State or the magistrates of the Judiciary who, in each instance, shall belong to the two first classes in the second category at least, and from among the officials who are exercising or have exercised the functions of General Director of Finance.

Before taking over his functions, the President shall take an oath as provided in the judicial statute in the presence of the President of the Republic, the Prime Minister, the President of the Council of State, the President of the Civil Service Board and the Chief of the Central Inspection Service.

Article 5: The Prosecutor General and the Presidents of the Chambers shall be named by decree of the Council of Ministers from among the magistrates of the Bureau belonging to the first two classes in the third category at least.

Article 6: The Councillors and the Assistant Prosecutor General shall be named by decree, as a result of competition, from among the Controllers of the Bureau, who hold a license in law, on condition that they have exercised the function of Controller for a period of at least four years.

Before assuming their functions, the magistrates shall take an oath before the Bureau of Accounts, according to the formula provided in the judicial statute.

Article 7: After competition, for which the Council of the Bureau shall establish the conditions and terms by its own decision, supplementary to the general conditions stipulated in the civil service law, the Controllers shall be named by a decree. Candidates are required to fulfill the following qualifications:

1. They must be twenty-one years of age;
2. They must possess a degree in law, or a university diploma in economics, public administration, commerce and finance, or business administration equal to a degree, and obtained after the second part of the Baccalaureate or its equivalent.

Article 8: Before taking office, the Controllers will, in the presence of the Council of the Bureau, take the following oath:

"I swear by Almighty God that I shall discharge my functions loyally and faithfully and shall act in good faith and loyalty as an official and protect the secrets of the profession."

Article 9: The administrative officials shall be chosen by nomination of the President of the Bureau, according to the stipulations of the Civil Service Regulations.

The bailiffs shall comply with the conditions prescribed in the direct specification of the Ministry of Justice.

Article 10: The President, Prosecutor General, Councillors and Assistant Prosecutor General shall be transferred to another department only after agreement of the Council of the Bureau and they shall be dismissed only by a decision of the Council of Discipline.

Article 11: The Council of Discipline is composed as follows:

1. For the President and the Prosecutor General

President	The Presiding Judge of the Court of Cassation
Member	The President of the Council of State
Member	The Inspector General of Justice

Public action is initiated by the Prosecutor General before the Court of Cassation.

2. For the Presidents of the Chambers

President	President of the Bureau
Members	A magistrate of the Council of State and a magistrate connected with the Ministry of Justice, both delegated by the Minister of Justice and both holding the same rank as the President of the Chamber upon whom the Council of Discipline is sitting in judgment.

Public action is initiated by the Prosecutor General before the Bureau.

3. For the Councillors and Assistant Prosecutor General

President	The President of the Bureau
Member	A Councillor of the Bureau nominated by the Council of the Bureau from other than its members with the qualification that he be of a rank at least equivalent to the rank of the magistrate upon whom the Council of Discipline is sitting in judgment.

- Member A magistrate of the Ministry of Justice nominated by the Minister of Justice from the same rank as the Councillor or Assistant Prosecutor General upon whom the Council of Discipline is sitting in judgment.
- Public action is initiated by the Prosecutor General before the Bureau.
4. For the Controllers and Public Officers
- President The President of the Bureau or one of the Presidents of the Chambers delegated by them
- Member A Councillor
- Member A Controller or Public Officer having a rank equivalent to that of the Public Officer upon whom the Council of Discipline is sitting in judgment and chosen by the President of the Bureau.
- When necessary, the administrative public officer, member, may be chosen from the Civil Service, by decision of the Minister concerned.
- Public action will be initiated by the Prosecutor General before the Bureau.
- Article 12: The jurisdiction of the Council of Justice shall be exercised on behalf of the Bureau by a Council composed of the President of the Bureau, the Prosecutor General of the Bureau and the three magistrates of the highest rank in the Bureau.
- The magistrate is referred to the Council of Discipline by a decision of the Council taken on the basis of a proposition by the President of the Bureau. The President of the Bureau and the Prosecutor General are brought before the Council of Discipline by a decision of the same Council augmented by the Representative of the Government on the Council of State and the vice-President of this Council, on the recommendation of the Minister concerned.
- Article 13: The Statute of Magistrates and all the stipulations thereof, with the exception of the rules contained in this legislative decree, apply to the magistrates of the Bureau. The statute of the Civil Service Administration applies to the Controllers and administrative personnel.

Part II--Organization of the Bureau

Section 1: The Bureau

Article 14: The President of the Bureau shall organize its internal administration and correspond directly with all the public administrations.

Preventive and a posteriori control assignments are distributed at the beginning of each financial exercise by a decision of the President with the consent of the Council of the Bureau.

When necessary, this distribution of work can be modified, so long as the modification conforms to the general outline prescribed.

The President of the Bureau has the permanent prerogative, in matters concerning the Bureau of Accounts, to assume financial and administrative powers entrusted by law and regulation to the Minister, with the exception of constitutional powers. In addition, he will control the contracting and disbursement of expenditures of the Bureau.

Article 15: The President will draw up a budget for the Bureau and submit it to the Ministry of Finance.

In case of modification, the Council of Ministers shall decide upon it, after notifying the President of the Bureau.

Article 16: In case of the absence of the President or in case of the vacancy of the office of President, the President of the Chamber or the Councillor of the highest rank will replace him.

Article 17: The magistrate shall study the operations and the formalities which are under his jurisdiction. He will assure, for the body to which he is attached, preventive and a posteriori control.

Article 18: The Controller will assist the magistrate in his duties. The same Controller will verify the accounts of a single accountant in the course of a single financial operation.

The verification of the accounts of a single accountant cannot be assigned to the same Controller for more than two consecutive years.

Article 19: Administrative officers will carry out the work with which they are charged in conformity with the internal regulations established by the President of the Bureau.

The opinion of the Prosecutor General will be decisive when a question arises regarding the Public Officers who are attached to the Bureau.

Article 20: The work of the Controllers and the books of audit and control will be considered correct within the limits of their functions until proven false.

Section 2: The Prosecutor General's Administration

Article 21: The Prosecutor General represents the Government in the Bureau. In carrying out his jurisdictional control responsibilities, he will be present at hearings, where he will present his case along with appropriate written opinions.

He will correspond directly with the public administrations whenever the fulfillment of his responsibilities require. The Assistant Prosecutor General will undertake the same functions as the Prosecutor General under the supervision of the Prosecutor General. In case of the absence of both the Prosecutor General and his Assistant, responsibility will be assumed by the Councillor having the highest rank.

Article 22: A copy of the reports of the Fiscal Control Service will be communicated to the Prosecutor General. The latter will verify these reports and send them, along with his observations and suggestions, to the Central Inspection Service so that it may take whatever administrative and judicial measures are necessary for the trial of public officers responsible for infractions of the rules.

Article 23: The Prosecutor General may request his Administration to endeavour to obtain the punishment of any public officer who, in his estimation, has committed an infraction or taken part in the commission of an infraction of a nature prejudicial to the general administration or the public funds.

If the Bureau has decided that a case merits prosecution, the Prosecutor General must request such an action.

The prosecution may progress without the authorization of the administrative authority, but the Prosecutor General must ensure that the interested administration and the Central Inspection Service are cognizant of the action being taken.

Section 3: Joint Regulations

Article 24: The Prosecutor General's Administration may, through the Central Inspection Service, charge the Fiscal Control Service with the conduct of any inspection or verification required in the public interest. The Central Inspection Service is required to give priority to such a project if it is requested to do so.

Article 25: The measures which the Central Inspection Service takes against offending public officers will not interfere with their prosecution before the Bureau, if necessary.

CHAPTER II--JURISDICTION OF THE BUREAU

Article 26: The Bureau of Accounts has two functions: judicial and administrative. The administrative function is exercised through preventive control over the execution of the budget as well as by reports which are based on the results of preventive and a posteriori control.

The judicial function is exercised by control over accounts and over all matters of public interest which are under their charge.

Part I: Administrative Control

Article 27: Administrative control is of two kinds: preventive and a posteriori.

Section A: Administrative Preventive Control

Article 28: The object of administrative preventive control is the establishment of regularity of transactions and their conformity to the Budget and to the stipulations of laws and regulations.

Article 29: Preventive control by the Bureau is among its essential operations. All exercises not falling under this control are considered invalid. It is forbidden to any Public Officer to execute any transaction which has not been subject to such control under pain of imposition of the sanctions laid down in Article 57 of the present Legislative Decree.

1. Transactions subject to preventive control

Article 30: Whatever concerns the receipt, or adjudication of revenues and the sale of real property when the amount exceeds 10,000 Lebanese Liras is subject to administrative preventive control.

Article 31: The following transactions, when concerned with expenditures, are subject to administrative preventive control:

1. Texts pertaining to the nomination of permanent and temporary public officers, their promotion from one category to another, their transfer from one department to another, conferring upon them of exceptional promotion, or allocation of permanent indemnity.

2. Texts pertaining to contracted service personnel with the exception of per diem employees.
3. The contracting of supplies or work in an amount exceeding 20,000 Lebanese Liras.
4. Verbal private contracts including contracts of rental in an amount less than 10,000 Lebanese Liras.
5. Formalities of acquisition of furniture and projects for private contracts entered into by the Administration in cases of expropriation when the amount exceeds 20,000 Lebanese Liras.
6. Formalities of gratuities and assistance in accordance with the laws and regulations with the exception of those in which the amount does not exceed 5,000 Lebanese Liras.

Article 32: Friendly settlement of litigation or disputes are subject to preventive administrative control when the amount of the litigation exceeds 10,000 Lebanese Liras.

Transactions relative to fiscal infractions are exempted from this regulation.

2--Procedure of preventive control

Article 33: The formality along with all relevant documents is deposited with the President of the Bureau and a copy of the letter is communicated to the Prosecutor General.

Article 34: The magistrate designated by the terms of the schedule of work distribution decided upon in pursuance of Article 41 takes charge of the preventive control.

The President may take charge himself when the case requires, or in cases which are fixed by the aforementioned distribution schedule.

If the designated magistrate or the President approves the formality, he returns it along with his signature. If he does not approve, the formality is referred to a committee composed of the President and two Councillors, one of them being the magistrate concerned.

A formality which represents an expenditure exceeding 100,000 Lebanese Liras becomes the object of preventive control by a committee composed of three magistrates, one of them being the magistrate concerned.

Article 35: The Bureau must present its opinion on the formality within ten days of the date of its submission. If it is believed necessary to require written information or, if the case requires, the hearing of the public officer concerned, the Bureau is given a supplementary delay of five days from the date of the receipt of the required clarifications.

Official holidays are not included in the computation of the aforementioned delays.

If the Bureau does not present its opinion within the allotted time, its opinion is disregarded and the papers are subsequently returned to the authority concerned.

Article 36: If a recommendation of the Bureau conflicts with a recommendation of the Controller for the undertaking of an expenditure, the latter must conform with the recommendation of the Bureau, except in a case where he has obtained the agreement of the Ministry of Finance after referral of the matter to the Council of Ministers.

The Council of Ministers will hear the President of the Bureau who will state the circumstances of the disputed recommendation.

Article 37: The Council of Ministers decides on the formalities which will be followed in a given decision. When there is a difference between the recommendation of the Minister of Finance and that of the Bureau, the decision of the Council supercedes the endorsement of the Bureau or the endorsement of the Controller undertaking the expenditure.

In either case, the decision of the Council of Ministers will be mentioned in the formalities.

Article 38: The decision of the Council of Ministers will be communicated to the Bureau which will include the case in its annual report.

Article 39: A review of a decision of the Bureau falling within the scope of preventive control may be initiated at the request of the President or the Prosecutor General before the Bureau or the Administration concerned.

The same body which has issued the decision requested in a review is informed of that review.

Article 40: Preventive agreement of the Bureau is considered void if it is not made within the financial year in which the case was presented.

Article 41: Preventive agreement of the Bureau does not affect the exercise of judicial and administrative functions.

Section B: Administrative a posteriori control

Article 42: The object of administrative a posteriori control is the evaluation of financial formalities and their general results from the time of their introduction to their final execution and insertion in the accounts.

Article 43: The results of administrative a posteriori control are included in an annual report and special reports.

1. The annual report

Article 44: At the end of each year, the Bureau will prepare a report on the results of its control and on the reforms which it proposes to introduce in the various laws and regulations which, in their application, lead to financial results.

The Bureau will formulate this report at a general meeting of the body after consultation with the Prosecutor General.

The decision will be by majority vote and in case of a tie, the President will cast the deciding vote.

Article 45: The annual report will be submitted to the Ministries and Administrations concerned and it is expected that these Ministries and Administrations will provide their replies within a period of one month.

The Bureau has the right to comment on these replies.

Article 46: The President of the Bureau will present the annual report to the President of the Republic along with the replies of the Ministries and Administrations concerned and the comments of the Bureau upon them.

The Bureau will submit copies of the report, along with the replies and comments, to the Chamber of Deputies to be distributed among its members. It will also submit copies to the Civil Service Board and the Central Inspection Service.

Article 47: The annual report with the replies of the Ministries and Administrations and the comments of the Bureau will be published in the Official Journal and printed in a separate volume.

Article 48: The Parliamentary Finance Commission and all the Commissions interested, will hear the President of the Bureau, or his delegate and, if the case requires, the representatives of interested public administrations, in studying the report, to obtain the necessary clarifications.

2. Special reports

Article 49: Whenever necessary, the Bureau will present to the President of the Republic, the President of the Council of Ministers or to the administration concerned, special reports on subjects and suggestions assigned to it.

3. Declarations of conformity

Article 50: Every year, the Bureau will issue general declarations of the conformity of accounts which are submitted to it, based on evidence as stipulated in the public accounting law.

Article 51: The reports of conformity will be communicated to the Minister of Finance and to the President of the Chamber of Deputies for distribution to the members of the Chamber.

Part II: Judicial Control

Article 52: Judicial control is of two kinds: control of accounts and control of public officers.

Section A: Control of Accounts

Article 53: The object of control of accounts is to determine the accuracy of the accounts of the accountants and of any persons intervening in the contracting of public funds or their payments without authorization.

Article 54: Control of accounts involves the following procedures:

a. In matters concerning budget receipts

1. Accuracy of documents on which collection is based.
2. Accuracy of collections and their conformity to the rules of collection.
3. Transferal of sums collected by public Treasurers.

b. In matters concerning expenditures

1. Accuracy of the documents authorizing payments and the conformity of procedures to the rules of the budget and credits obtained in accordance with them.

2. The existence of evidence of expenditure as prescribed by law.

c. Concerning receipts and payments by the Treasury

Accuracy of formalities of receipt or payment and their conformity to the orders of payment by the competent party.

d. Concerning Materiels.

Accuracy of the receipts for materiels, their preservation and delivery and accuracy of the arrangement of inventory reports.

e. Concerning Accounts

1. Accuracy of the accounts and their conformity to the laws.

2. Conformity of the records to the evidence presented.

Article 55: The Bureau will review the accounts of the accountants and edit and approve them and thereby arrive at provisional or final decisions.

 The provisional decision will determine the charges attributed to the accountant and the obligations which the accountant must fulfill in response to these charges.

 The final decision will determine that the accountant is innocent or guilty of blame, before or in the process itself. In either the first or second case, the Bureau, if the accountant has retired from his functions, may order the erasure of writings dealing with his work, if it is required, and in the third case, the Bureau may require the accountant to repay the outstanding amount within a fixed period. If the debit consists of a major sum, the Bureau may dismiss the accountant.

If the accountant is deceased, his duties will not be transferred to a successor until the Bureau has issued a final decision on his accounts.

The Administration concerned must send the account to the Bureau within a period not exceeding three months from the date of death, and the Bureau must issue its decision within three months from the date of receipt of the account.

In any case, if six months have expired from the date of decease and the Bureau has not issued its decision during that time, the hearing of this decision is disregarded and it is possible to transfer responsibilities to a successor of the accountant, if no other legal obstacle is involved.

Section B: Control of Public Officers

Article 56: Control of Public Officers consists of acts authorized by the Administration of Public Funds and anything related to such acts which is not legally questionable.

All persons charged with responsibility for the administration of public funds, following nomination, election or contract are considered as public officers in application of the regulations of this control.

Article 57: All public officers who commit one of the following infractions or participate in the commission of such infractions are punishable by a fine of twenty-five to five thousand Lebanese Liras, in addition to any civil obligations or penal or disciplinary sanctions which the competent inspector may invoke.

- Contracting of an expenditure contrary to legal stipulations.
- Contracting of an expenditure without approval of the Controller for its expenditure.
- Neglecting to submit formalities to preventive control of the Bureau or executing of a formality not submitted to this control.
- Misstatement of an expenditure in order to conceal exceeding of credit.
- Not conforming to the refusal of approval of a formality by the Controller or the Bureau for the undertaking of an expenditure.
- Executing an order contrary to law and rejected by one who is superior to him in the hierarchy.
- Enriching or attempting to enrich illegal persons who hold contracts with the Administration.
- Commission of a mistake, omission or negligence of a type which involves material disadvantage to public funds.

— Failing to submit to the Bureau, documents and clarifications demanded within the time prescribed by the laws and regulations.

— Contravening the rules relative to the safeguarding of public funds.

Article 58: If it appears to the Bureau that an infraction has resulted in injury or loss to public funds, the Bureau may punish the official involved, in addition to the fine prescribed in paragraph 1 of the preceding article, by a fine calculated with reference to the gravity of the infraction committed and to the gross salary received by the offending official.

This fine may not be less than half of the monthly wages of the official and not more than half of his annual wages, with the reservation that the amount earned by the official at the time of the infraction, object of the fine, be taken into consideration.

The official who is being tried before the Bureau of Accounts in accordance with the regulations of this article is allowed to have the assistance of a lawyer of his choice.

It is the responsibility of the Prosecutor General to initiate public action in such a matter before the Bureau of Accounts. The procedure to be followed in such a case is fixed by decree taken in the Council of Ministers.

Article 59: The Bureau assesses the causes of the infraction and the extent of responsibility of the official who is involved in the legal proceeding. It may fix a fine within the limits prescribed in the preceding article, or decide not to apply the rules if it appears after determination of the circumstances that it was virtually impossible for the offending official to have had full knowledge of the existence of the contravention at the time it was committed.

The official will not be punished if it appears from the investigation that the infraction was committed in execution of a written order received from his direct superior, on condition that he had brought to the attention of the superior in writing and at an appropriate time the infraction which would result from the execution of his order.

The official related directly to the Minister is not absolved of responsibility except if he notified the Bureau immediately of the written memorandum which he had presented to the Minister before the execution of the order and in which he called his attention to the infraction which might result from this order.

The rules of this article and the preceding articles apply to all who are involved in the administration of public funds, without authorization.

Article 60: The fines fixed by the Bureau are not to be in excess of the maximum limit stipulated in Articles 57 and 58 of the present legislative decree.

The fines stipulated in the present section are not susceptible to modification by administrative process.

Article 61: The Bureau of Accounts undertakes the investigation of infractions in response to a request by the Prosecutor General's Administration or that of the Ministry of Finance or the Administration concerned.

Article 62: The Bureau must inform the Chamber of Deputies of infractions committed by Ministers.

Section C: Procedure

Article 63: The Bureau exercises its judicial functions in its capacity as a Tribunal composed of the President and two Councillors.

The regulations of the Code of Civil Procedure apply to reviews and appeals.

Article 64: If the formation of the body is difficult, its composition is completed by some magistrates of the Council of State delegated by decision of the President of the Council of Ministers at the request of the President of the Bureau.

Article 65: The President of the Chamber transmits the formality to the Councillor designated, who conducts the study himself or transmits it to the Controller charged with assisting in this investigation.

The Councillor must request the Administration concerned for written clarifications and information when required, interrogate the official who is accused of the infraction, hear the testimony, and propose to the Bureau the nomination of experts. He may charge the Controller, in writing, to proceed with any investigation or verification relating to the formality which has been transmitted to him, with the reservation that this written instruction be communicated to the Chief of the Administration before the commencement of the investigation or verification thereof.

The Administration concerned must reply to the request within a fixed period of time, with the reservation that the delay will not be less than ten days. This delay may be extended, when necessary, at the request of the Bureau or the Administration concerned.

The Bureau must consider all relevant dossiers or documents, even those classified as secret, if they pertain to the matter under consideration.

Article 66: The Councillor submits a report on the result of the inquiry which contains a resume of the case, beginning with his opinion on the matter.

Article 67: Reports of the Councillors who have requested the review and the documents related thereto are transmitted to the Prosecutor General along with a designation of procedures, assessment of debt and recommendations for dismissal or the imposition of fines.

All other reports are transmitted if requested and at the discretion of the President or the body concerned.

The Prosecutor General returns these reports accompanied by his written conclusions within a maximum period of ten days.

Article 68: The provisional decision is announced to the accountant or official concerned through the Councillors in accordance with the stipulations of the Code of Civil Procedure, or by a messenger entrusted with the responsibility of notifying the proper authorities of their reception, or by administrative means, and a copy is sent to the immediate superior of the official concerned.

Interested parties should present the defense within a period of time prescribed in the decision, with the reservation that the delay be not less than three days. If the time expires without presentation of a reply, the Bureau may consider the case as having been presented.

The interested parties have the right to examine the dossier and obtain a lawyer.

Article 69: Deliberations will proceed in the chamber of the council with the necessary and pertinent papers being exhibited.

Decisions taken in the chamber of the council are by majority vote.

Decisions taken in the chamber of the council are by majority vote.

Article 70: Final decisions are announced to the interested parties according to procedures mentioned in Article 68 of the present Legislative Decree.

The results thereof are communicated to the Prosecutor General, the Ministries and Administrations concerned and a copy is sent to the Minister of Finance for implementation according to the laws on recovery of direct contributions.

Article 71: A compulsory lien is placed in the property of the convicted party.

Legal action against the convicted man takes effect from the date determined by the decision.

Article 72: In all cases, the Bureau may recommend supplementary administrative or penal action against the public officer to the Ministry concerned, with the reservation that a copy of the recommendation be communicated to the Central Inspection Service.

Section D: Methods of Appeal

Article 73: Judicial decisions of the Bureau may be appealed, by review or by invalidation.

Article 74: The review of the decision may be before a body composed of the President of the Bureau, the President of the Second Chamber and some members of the Chamber which has issued the decision.

1. If it appears from the verification of another formality that there has been an error, omission, fraud or duplication.
2. If some documents or new facts of a nature which would modify the decision are found.

The appeal may proceed at the request of the President, the Prosecutor General, the Minister of Finance on behalf of the Treasurer, the public officer concerned or that of the interested Administration.

The request for a review is not suspended without a reversed decision.

Article 75: A request for invalidation may be placed before the Council of State on grounds of incompetence, violation of legal procedures, or violation of laws and regulations, within a period of two months from the date of notification of the decision in question.

A request for invalidation is initiated by the Prosecutor General of the Bureau of Accounts, the Minister of Finance on behalf of the Treasurer, the public officer concerned or the interested Administration.

Article 76: If an invalidation of a decision is made, the Bureau of Accounts must conform to the decision of the Council of State.

Part III--JOINT RULES

Article 77: The public officer, witnesses and experts are called before the Bureau in matters of preventive control through the President of the Bureau. In matters of a posteriori control, they are called by the President of the Chamber. Persons called before the Bureau must respond to the summons; otherwise, they are liable to a fine of twenty-five Lebanese Liras, which doubles in amount each time they fail to respond.

Article 78: The decisions of the Bureau are transmitted to the interested authorities through the President of the Bureau.

CHAPTER III--Documents Whose Presentation to the Bureau is Obligatory

Section A: General Regulations

Article 79: The competent public officers submit their accounts to the Bureau in conformity with a special rule established by agreement of the Ministry of Finance and the Bureau of Accounts and approved by a decree of the Council of Ministers.

This rule determines the accounts, documents and formalities which must be presented to the Bureau and the public officer responsible for this matter and for the fixed delays.

Section B: Municipalities, Administrations and Public Foundations

Article 80: The competent public officers in municipalities, administrations and public foundations whose financial formalities are subject to the legal regulation of public accounts, submit their accounts, documents and formalities in conformity with the rules prescribed in the preceding article.

The municipalities, public foundations and administrations and all bodies which are not subject to the law of public accounts, submit their accounts to the Bureau in conformity with the special rules prescribed by these municipalities, foundations and bodies in conformity with the Bureau of Accounts and approved by the Ministries concerned.

Section C: Joint Rules

- Article 81: The President of the Bureau of Accounts must request from the Administrations concerned all accounts, clarifications and documents which are required for control.
- Article 82: If the public officer fails to present the accounts, formalities and documents requested within the allotted time, the Bureau may charge an expert with their collection and presentation to it at the expense of the aforementioned public official.
- The Bureau shall fix the fees of the expert in question.
- Article 83: The Bureau of Accounts, at the conclusion of the verification of accounts and documents transmitted to it, renders a final decision concerning them, and it has the option of retaining them or returning them to the interested authority after having placed on them a special stamp.
- It may decide, when the case requires, to verify the documents on the premises of the administration itself.
- Article 84: When an approved specification has been executed in violation of legal forms and contrary to the stipulations of Article 13 of the Civil Service Regulations, the Bureau may render a jurisdictional decision forbidding the authorization of disbursement.
- The decision of the Bureau is announced to the Administration concerned and to interested parties who have the right to challenge the decision before the competent jurisdictions.

CHAPTER IV: MISCELLANEOUS REGULATIONS

- Article 85: In case of a conflict of interpretations in the Bureau, the President will lay the matter before the general assembly in order to arrive at a decision unifying the interpretation. A meeting of the general assembly is considered legal if at least one-third of its members are present. The decision is reached by absolute majority with the vote of the President being decisive in case of a tie. The unifying decision is binding.

- Article 86: Magistrates and Controllers of the Bureau are not subject to the authority of the Civil Service Board.
- Article 87: The Minister of Finance may require the opinion of the Bureau in projects of additional credits requested by administrations subject to his control.

The administrations may also request the opinion of the Bureau in all matters relative to financial questions.

This opinion is consultative and the Bureau must furnish it within ten days of the date that the question was submitted to it.

CHAPTER V: TEMPORARY AND FINAL REGULATIONS

- Article 88: Magistrates of the judicial order may be delegated to occupy vacant positions as magistrates in the Bureau so long as they fulfill the qualifications for nomination to the position of judge.
- Article 89: Articles 25 to 31 of Legislative Decree No. 9 of 23 December, 1954, will take the place of the special statute provided in Article 79 of the present Legislative Decree until the implementation of this statute.
- Article 90: With reference to the rules of the preceding article, Legislative Decree No. 9 of 23 December 1954 and all texts of general or specific laws not consistent with the provisions of this Legislative Decree or contrary to its meaning, are cancelled.
- Article 91: The present Legislative Decree will be in force on the day following its publication in the Official Journal.

Beirut, 12 June, 1958

Signed: Fouad Shehab

The Minister of Finance, National Economy, National Defense and Information

Signed: Rashid Karame

The Minister of Public Works and Communications, of National Education, Public Health, Fine Arts, and Agriculture

Signed: Pierre Gemayel

Issued by the President of the Republic, President of the Council of Ministers

Signed: Rashid Karame

Minister of Interior, of Works, Social Affairs and of Posts, Telephones & Telegraph

Signed: Raymond Edde

Minister of Foreign Affairs and Emigrants, of Justice and Public Planning

Signed: Hussein Oueini

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