

CHAPTER IV

THE BUDGET PROPOSALS

THE foundation upon which in the last analysis the budget rests is made up of the social facts of contemporary life. Poor persons; preventable and prevented deaths; children of school age, educated, half-educated or neglected; dependent classes; oppression or service from public service companies; industry casting upon society its debit classes or assuming its own burdens — these are the facts that lie at the basis of the budget. Legislatures with a vision and understanding of their duty and their opportunity will see back of the thousands of dollars that are so glibly used in the budget discussion the perversion or direction of social resources to social, unsocial or anti-social ends in terms of contemporary life. These things the reader must keep in mind, too — and for the immediate present in the back of his mind.

The conventional budget discussion begins with the preparation of budget estimates by minor administrative officials. A similar treatment of the subject will be followed here, too.

THE FORMULATION OF BUDGET PROPOSALS

The executive's relation to present budget-making is twofold: the one in the formulation of the budget proposals, and the other in the approval or veto of appropriation bills as passed by the legislature. At the

present time the executive may have an influence on budgetary bills by sending in special messages while they are under consideration. It is proposed that the executive or representatives of the executive shall take a more active share in budget-making during its legislative phase by having a seat in the legislature without a vote. The treatment of this latter subject is reserved for a subsequent chapter.

The President of the United States is required "from time to time to give to the Congress information on the state of the Union and to recommend to their consideration such measures as he shall deem necessary and expedient." Every state of the union has a similar provision in somewhat similar language in its constitution regarding the duty of the executive. From this point of view the proposed budget is merely a systematic and effective way of giving to the public and to the legislature a complete picture both in fiscal and in social terms of the "state of the Union" or the "state of the State." Even were there no such constitutional provision there is need for the coördination of budget estimates with reference to state or national needs and state or national ability to "foot the bill." How we should proceed in the formulation of such budget proposals is the subject matter of this chapter.

WHO SHALL PREPARE BUDGET PROPOSALS IN THE
FIRST INSTANCE?

For intelligent decision on the budget proposals the legislature will need a statement of social and economic conditions, a statement of the effectiveness of adminis-

trative experience in its relation to these conditions, the cost of governmental activity and a program for the coming fiscal period based on the social economic conditions, administrative experience and the cost data. A mere statement of figures in terms of organization units or objects of expenditures or even of departmental functions will not be sufficient for intelligent legislative budget-making, though it will be very helpful. The socio economic background should be explicitly stated.

What shall be the source of this fundamental information in budget-making? Who, in other words, shall prepare budget proposals in the first instance? It would seem obvious that those in closest touch with the concrete situations should organize this experience. They know. It is the best expert opinion we can get, and as men are more and more trained for the public service this opinion will be more and more expert and the experience better interpreted. Or in other words: Shall we capitalize this experience in the interest of better service or disregard it? We have seen in all phases of public administration and in private business, too, for that matter, the utter wastefulness coming from neglect to utilize every member of the organization in the public interest in the one case and in the company's interest in the other. In this fundamental matter of budget-making are we going to profit by this lesson? Of course we are. But while we want and should have this experience and this opinion, there is very grave danger of placing too much reliance upon them.¹

¹ The foregoing and the following discussion has for its object

SHALL DEPARTMENTAL ESTIMATES BE REVISED?

The men near the problems may be too near them; these men may be so absorbed in the routine as to forget the larger issues; they may have grown "stale" on the job. There is need for a fresh point of view, and even for a naïve point of view. And for this reason there is need for review of bureau estimates by department heads and there is need for review of department estimates by some more general authority in order to secure this fresh point of view. This will mean in the final analysis the bringing to the test of the common sense of the political officers the experience and judgment of the experts available in the governmental departments. This is needed but there is a greater need.

The departmental estimates as they are prepared are the expression of the elements of the administration of the government. There is need here particularly for a wider perspective, for a sense of proportion, for a balancing of service against service. The government for the next year or biennium should be run on some plan — preferably a comprehensive plan. This element of plan should be embodied in the budgetary proposals. The comparison of services for efficiency, for economy and for service in the public interest is possible here and is stimulated by the effort to organize the elements into a comprehensive plan as far as that is

the outlining of the *general procedure* for the preparation of budget proposals. This consideration of the budget is limited to those departments over which the executive has control. The consideration of the preparation of budget proposals for those parts of the government not under the control of the executive is discussed toward the end of this chapter.

possible. The effectiveness of the revision of departmental estimates to secure these ends will be determined by the answer given to the question: Who shall revise departmental estimates?

SHALL THE FISCAL OFFICER REVISE BUDGET
ESTIMATES?

It is frequently provided and proposed that the fiscal officer should revise budget estimates. Surely he is in most intimate touch with the fiscal conditions past and present and may be trusted to divine more accurately the probabilities than any other officer. This is the most natural suggestion in the world where the budget is merely a financial instrument.

The United States government was influenced greatly in the beginning by English precedents. On this point the influence was evident and persists to-day, despite, in general, the very great difference in our organization of government and in particular in the function of the Secretary of the Treasury and the finance minister in England. In the act of September 12, 1789, creating the Treasury Department of the United States, it was made a duty of the Secretary to prepare and report estimates of the public revenue and the public expenditure. The present law and practice is for all estimates to be "submitted to Congress *through* the Secretary and in no other manner, and in cases where no estimates have been submitted, the Secretary shall prepare estimates and include them in the book of estimates submitted to Congress."

The states generally have not followed the precedent of the federal practice. So far as anything is

done in the way of budget-making in the states, the governor, as a general rule, is made the officer through whom departments report to the legislature. The provision of the Maryland constitution, even before its recent amendment was highly exceptional. It provided that the comptroller "prepare estimates and reports of revenue and expenditures of state; and make to the legislature reports of his proceedings, and of the state of the treasury department within ten days after the beginning of each session." (Md. VI, 2.)

But the practice of the federal government needs to be discussed more specifically. So far as the budget is merely an orderly presentation of financial conditions past and present, and so far as it is merely a collection of estimates as made by the departments, then there is no very great objection to the budget being presented to the legislature by the Secretary of the Treasury as a ministerial act. But if on the other hand the budget is a social instrument of the most far-reaching importance, if it is the basis of the sovereign act *par-excellence*, if it is to be a coördinated document, then it should be submitted by a person distinctly representative of public opinion and reflecting it, and subject to effective popular control¹ for we live under a form of popular government. The finance officer neither in the nation nor in the state has these qualifications.

WHO SHALL REVIEW DEPARTMENTAL ESTIMATES?

The usual discussion of this point is surprisingly narrow. It would seem that the point depended en-

¹This does not, of course, exist in American government except as men fear or bow to public opinion.

tirely whether it should be the executive or a board variously constituted, representative of the executive, of the legislature or of both. The question is wider than this, though this particular question may be answered if the subject is here limited to the executive departments which we regard as controlled by the governor or the President. Since the boards, whether they be a legislative reference bureau as in Illinois, a budget commissioner in Ohio, or a commission on economy and efficiency in Massachusetts, can be agencies only of the legislature or executive, they can have very little weight because of their indirect relation to the public. The important thing is what the executive or the legislative committee does to the information collected. In this relation, so far as these bureaus are representative of the legislature, their work is merely clerical and may be neglected here.

But if their work is sent to the legislature direct, without the authority of the executive, this plan is doomed to short duration. Their authority to cut, amend or in any way modify departmental estimates is a delegated authority or a usurped executive duty and must return to the source of the authority. The agencies to help the executive do the preliminary sifting, establish standards as far as this is possible, judge existing services, and investigate the conditions and results of departmental procedure can and do serve a useful function. A staff organization for the executive is highly desirable. But its place as a *means* must be constantly borne in mind. It would seem therefore from the administrative side and from the side of the correlation of administration and the policy of the

government that a representative of the public who comes in theory at least with a direct mandate from the people should be responsible for the revision of the expert estimates of the public officials and employees.

Moreover, the duty is in its very nature executive. But the executive is to revise these estimates not because he is well informed about them but because he is representative of the public. And the particular difficulty of the executive in his first year is not so much lack of information, which is bad enough, but lack of appreciation of the governmental service, and — what is perhaps the same thing — naiveté. The governor ought to have a naïve as distinct from an expert view of the government business, but he ought not to be naïve. And one way to protect the executive from a dangerous naiveté is to provide him with a technical staff. *In the conflict of opinion and judgment between the technical staff and the operating officers the executive must make decisions in conformity with public opinion.* This representative function which the executive serves is the fundamental reason for giving him the power of revising departmental estimates.

The budget proposals as submitted to the legislature should not be a collection of departmental estimates. They should be a coördinated instrument, balancing each service against every other and against the community needs and the financial resources of the community. The person who is to do this should be close to the people and responsible, so far as any one in our government is responsible, to the people. The executive officer presumably represents this state-wide or

nation-wide view, and is not confined to or limited by the details of any particular administrative service. The proposed budget should express this broad view, and the executive (not a subordinate) is the person most likely to give it effect.

A further reason is urged — and properly too. It is the executive who is to carry out the work approved by the legislature, and it is reasonable that he should have some say in the formulation of the plan, even though the legislature may modify it as it sees fit.

The powers of the principal executive officer of the nation and of the states provide the machinery for the effective use of this duty in budget-making. It is generally made a duty of public officers in the executive departments to report in writing on subjects relating to the duties of their office when required by the executive. This duty of public officers to report to the executive and the duty of the executive to report to the legislature on conditions in the state or nation and to make recommendations are ample basis for any executive to assume the budget-proposing function without further legislative authority.

A CAUTION

In enforcing arguments to give power to American executives, European experience is frequently used to clinch the point. In deciding what weight to give such experience it ought to be constantly kept in mind that the efficient, the actual executive in countries whose experience is constructively useful, is a group of persons. In America the executive, as the word is used

in the budget discussion, always means a single person. In European governments where the executive power is vested in a single person there is absolutism.

HAS THE EXECUTIVE THE OPPORTUNITY TO PREPARE INTELLIGENT BUDGET PROPOSALS?

While it is conceded that the power of revising the budget proposals of executive departments should be exercised by the executive, the question may be raised as to whether the conditions surrounding executives is favorable to the most intelligent exercise of the budget-revising power by the executive.

A governor is usually elected early in November. On January first or thereabouts he takes office. He is expected immediately to present to the legislature at the beginning of the legislature and from time to time "information on conditions of the state and to make recommendations." The information desired ought to be the basis of the budget proposals, and the recommendations must be made in the light of them. From the time of his election and during the legislature the political exigencies of the situation do not give the governor the opportunity to get the facts about administrative conditions, nor about social conditions intimately related to the administrative conditions upon which budget proposals must be based if they are intelligently prepared. Under present conditions he is practically forced to rely on the knowledge and judgment of some interested persons within the government or on that of some extra legal persons. There is the opportunity for the unseen government. If the governor has had recent legislative or administrative

experience, the danger is not so great but it is still present.

The situation exists in its worst form where the legislature meets early in January, and January first is the beginning of the fiscal year. As the legislature meets, no authority of any governmental bureau, department or commission to continue operation exists under the usual annual or biennial appropriation plan. This is remedied by immediately passing resolutions authorizing departments to continue temporarily under appropriations equal to the old. But this is patch-work, and subjects administrative departments to a legislative influence that is well nigh irresistible. This worst form of the situation is remedied by the continuing appropriation plan outlined in another chapter.

But the specific problem is met by several minor suggestions. Assuming that the governor is to prepare budget proposals, the essential thing is to give him time to "catch his breath" and to get adequate and accurate information. The first suggestion usually made is to shift the fiscal year to July and thereby make it not so imperative that proposals be introduced at once. In the proposed New York constitution this suggestion was combined with the further one that the governor be given until March to submit his budget proposals. This would give him at least some opportunity to get acquainted with the situation. In states with a sixty day or other short limited session there is hardly time for this. It may be added also that there is hardly time in these cases for the genuine consideration of the budget no matter how prepared, and there is every opportunity for every sort of manipulation.

But the most frequent term of a governor¹ just about gives him time to get acquainted with his job when like as not he will fail of reëlection. The present governor of Maryland has pointed out the fact that in the state of Maryland: "There at least need be no fear in my own State of Maryland of any governor becoming a dictator or perpetuating himself in power, for no governor since the Civil War has ever been re-elected in our state."¹ The experience gained by the governor in his two year term cannot be utilized. He cannot very well make proposals when a new governor with new heads of departments must begin all over again. The kaleidoscope of elective public officials of short terms with its bad effects on budget-making will continue so long as we have short terms. The more fundamental remedy is executive officers with longer terms combined with effective machinery for exercising control.

A number of the states have a four year term of office for governor combined with a biennial legislature. This is perhaps the best situation there is in American legislatures for budget-making. But here, as elsewhere, in discussing the American executive one is faced by the difficulty of an executive with a definite term of office without any effective means of control. Perhaps with this last consideration in mind one may regard the present practice of the two year governor with the biennial legislature the best for budget-mak-

¹ Cf. Appendix III.

¹ This quotation is also significant because the Governor of Maryland has also suspicion regarding the autocratic character of the executive budget plan as embodied, for example, in the Maryland amendment.

ing, particularly if, as is sometimes true, there is a presumption that a man will be given a second term if he has been even only moderately successful. The condition in Alabama, with a four year term for governor combined with a quadrennial legislature, is not in the interests of intelligent budget-making. The situation in Massachusetts is not quite so bad even though it is more kaleidoscopic with a one year governor and an annual session of the legislature. A democracy should tend toward the latter situation rather than the former.

In the national government the longer term is combined with frequent meetings of the legislature. The conditions are in general favorable for intelligent budget-making. There is an exception. There is no way of exercising popular control effectively over the executive except through the mid-administration election of members of congress. But this is usually hardly specific enough.¹

¹ Cf. Bagehot, "English Constitution": "But under a presidential government you can do nothing of the kind. The American government calls itself a government of the supreme people; but at a quick crisis, the time when a sovereign power is most needed, you cannot find the supreme people. You have got a Congress elected for one fixed period, going out perhaps by fixed installments, which cannot be accelerated or retarded — you have a President chosen for a fixed period, and immovable during that period; all the arrangements are for stated times. There is no elastic element, everything is rigid, specified, dated. Come what may, you can quicken nothing and can retard nothing. You have bespoken your government in advance, and whether it suits you or not, whether it works well or works ill, whether it is what you want or not, by law you must keep it. In a country of complex foreign relations it would mostly happen that the first and most critical year of every war would be managed by a peace premier, and the first and most critical years of peace by a war premier. In each case the period of transition would be irrevocably governed by a man selected not for what he was to intro-

The President is elected in November but does not assume office until March fourth and does not have to submit his first message until the following December. The first budget estimates for the new administration are submitted eleven months after the election for a fiscal year beginning July of the following year. While he is getting acquainted he is working under a budget prepared by his predecessor and passed by a preceding legislature, but for three of his four years the conditions of budget-making are eminently satisfactory from the point of view under discussion.

BUDGET PROPOSALS OF ADMINISTRATIVE COMMISSIONS

A great deal of the budget discussion proceeds on the conventional distinction between legislative, executive and judicial. It is assumed that the principal, if not the sole problem of budget-making, concerns the executive department. And this assumption is nowhere more patent than in the discussion of the budget proposals. This chapter has proceeded this far in accord with the present assumption. It is now necessary to challenge this assumption in one particular at least; it will be necessary to sharply distinguish between the new administrative commissions and the operating departments of government, properly called executive. To these latter the preceding discussion of this chapter properly applies. Does it apply to the administrative commission?

The budget problem presented by the administrative
duce, but what he has to change—for the policy he was to abandon, not for the policy he was to administer.”

commission may be suggested by a series of questions: Is the Interstate Commerce Commission, for example, an executive department of the federal government for the purposes of budget-making? Is the Wisconsin Railroad Commission an executive department of the state government of Wisconsin for the purposes of budget-making?

Or putting the question in terms of this discussion: Shall the executive revise the estimates of administrative commissions? Or more particularly, shall the President of the United States in a national budget system review the estimates of the Interstate Commerce Commission? And so the question might be framed specifically for every state where there is a genuine administrative commission, public utility, industrial or marketing.

The answer to these questions will depend on the relation of the administrative commission to the executive. In the national government it is not presumed that the relation of the President to the Interstate Commerce Commission is the same as his relation to the War Department. A disagreement with the Secretary of War on an important question is naturally followed by the resignation of the Secretary, as for example in the case of Secretary of War Lindley Garrison. But suppose the President were interested in any of the rate cases recently before the Interstate Commerce Commission, and in his judgment it was wise for any reason satisfactory to himself that such increase ought to be granted. He calls in the Commission, expresses his judgment and intimates that such a decision is expected. The duty of the members of the Interstate

Commerce Commission would be to rebuke the President for an unwarranted interference in their prerogatives, and public condemnation would be visited upon him for a usurpation of power.

And practically the same distinction is made in the states between the administrative commission and the operating department of government.

The reason for this differentiation is that the duties of these commissions are primarily legislative or quasi-legislative and judicial, and only incidentally, if at all, executive. The administrative commission is, in fact, a court. It may be called an economic court instead of a judicial one, for its lawyers are economists and its principal interest economic facts rather than legal precedent. But these differences do not change its essential function: judicial. And so the case for the executive revision of the estimates of administrative commissions is no stronger than the case for the executive revision of the estimates of the courts — in other words, there is no case at all.

Moreover, commissions are a supplementary legislative agency. They are the means the legislature has designated for a more specific determination of the law within the limits set by the legislature. The legislature says to these commissions in substance: "Take what is at least a quasi-legislative duty. We declare that rates must be reasonable; determine in individual cases what is a reasonable rate for we have no means of doing that. Enforce your determinations by orders and have them executed. In any disputes we shall make your findings *prima facie* evidence of the facts, and give your determinations the status of determina-

tion by a court of first instance." The revision of the estimates or recommendations of such a body cannot very well be vested in the executive. This is not part of his work or duties. The form in which the estimates shall go to the legislature must be determined by the commission, and the legislative control is thereby direct.

The primary relationship is of administrative commission to the legislature. The injection of the executive in the budget-making phase of that relationship would practically destroy it. The account of stewardship of the administrative commission is to the legislature direct.¹

The procedure that will be followed, therefore, in connection with the preparation of the budget proposals of administrative commissions will be as follows: the proposals will be prepared in the first instance by the various bureaus of the commission, and these will be reviewed by the commission itself and prepared in final form for the legislature. The proposals as thus prepared will be sent to the executive who will then transmit them without revision to the legislature along with the executive proposals.

¹ This proposal of a direct relationship between the administrative commission and the legislature must not be misunderstood as a desire or an effort to release these agencies from control. The explanation of the present ineffectiveness of these commissions is that they are not subject to any real control. Though this is not our present problem, the methods of control may be indicated briefly as follows as regards personnel: (1) trial on charges before governor, (2) impeachment, (3) interposition and vote of lack of confidence by legislature, and (4) recall by the electorate; and as regards the work of the commission: (1) through further legislative action regarding duties or procedure, and (2) through the budget as indicated in subsequent chapters.

WHO SHALL DETERMINE THE REVENUE PROGRAM?

Who shall determine the revenue program?

It is urged that the finance officer of the administration should be made responsible for facts about revenue and for the revenue program. Perhaps and perhaps not. Look back for a minute at the budget problem as it confronts the administration.

The departments prepare estimates based largely on the experience of the department of the past year and on certain prospective facts of the next year, e. g., an increase in population. The department proposes in its estimates for the continuance of established services, increase or decrease of these services and the organization of new services. Each bureau or subdivision wants as much as it can get to do as much as it can. This expansion is perfectly natural. The highest administrative officer talks the service over with each bureau head individually and in general conference. He attempts some sort of an equilibrium among the subdivisions, but his view and theirs are largely departmental.

The estimates are transmitted to the executive. He knows something about departmental conditions, but nothing very definitely. That also is natural. But he is not to view the estimates from that point of view primarily at all. He presumably knows the various and many needs of the state or nation, and his primary function is to review the estimates in the light of these needs.

But he is required to do more. He must view departmental estimates and national or state needs in the

light of the financial resources of the nation or state. This coördination is the duty of the executive. The financial officer as the person most intimately acquainted with the revenue-producing power of the state on the basis of the existing system must advise the executive along these lines, but he must advise him, too, as to new sources or increased sources of revenue. In other words, the head of the finance department has with reference to the budget exactly the same duties as other department heads.

Take the case of an executive who wishes to propose a state program that will cost more than the existing revenue measures are likely to produce during the fiscal period of the program. The fiscal officer is called on for suggestions. Let it be supposed that he recommends a land tax, an increased income tax, a higher automobile license tax, a tariff on wool or sugar, or an inheritance tax. In deciding upon which shall be recommended the revenue-producing qualities of these taxes are not the only consideration. Their effects on public welfare are not less important. It is to the executive that we assign the function of expressing in the first instance this public welfare point of view, just as it is the function of the legislature to express it finally.¹

¹ This book does not attempt to deal with the many problems of the revenue side of budget-making. But the reader must constantly keep in mind the revenue side of budget-making.