

THE SWEDISH CONSTITUTION AND
THE BUDGETARY PRINCIPLES

BY

NILS STJERNQUIST

*Professor of Political Science,
University of Lund*

IN 1943 Nils Herlitz and Georg Andrén¹ pointed out in the Swedish Parliament (Riksdag) that the changes made in the Swedish Constitution had only to a limited degree affected provisions of primary political significance and that in consequence the Constitution was in important respects to be regarded much more as an historical document than as a source of living law.² Especially they emphasized that the provisions relating to the financial power had remained practically unchanged since 1809. These provisions were very antiquated and imperfect and in some instances extremely difficult to interpret. It would perhaps be even more correct to say that, because of their old-fashioned character, several of them could no longer be applied at all; in fact many were no longer in use. The rules which could still be said to be alive were extremely few in number.

Herlitz and Andrén proposed a revision of the constitutional rules concerning taxation, budgetmaking and related matters. In the subsequent discussion of the constitutional provisions relating to the financial power the general views of Herlitz and Andrén have often been recalled.³ The purpose of this essay is, first, to

¹ Private member's motion in the First Chamber 1943, No. 97. Herlitz was at this time professor of constitutional and administrative law in the University of Stockholm, and Andrén was professor of political science in the University of Gothenburg.

² Unlike most other countries with a written constitution Sweden has four fundamental laws: the Instrument of Government (Regeringsformen) of 1809, the Riksdag Act (Riksdagsordningen) of 1866, the Act of Succession (Successionsordningen) of 1810 and the Freedom of the Press Act (Tryckfrihetsförordningen) of 1949. The basic document is the Instrument of Government. Practically all the constitutional rules discussed in this paper are contained in the Instrument of Government and have been unchanged since 1809.

An English translation of the Swedish fundamental laws was published in 1954 by the Swedish Ministry for Foreign Affairs, *The Constitution of Sweden*, transl. by Sarah V. Thorelli. General surveys of Swedish Government and politics are Herlitz, *Sweden, A Modern Democracy on Ancient Foundations*, 1938, Håstad, *The Parliament of Sweden*, 1957, and N. Andrén, *Modern Swedish Government*, 1961.

³ See S.O.U. 1952: 45 ("Bestämmelser och praxis rörande statens budget"), 1954: 40 ("Grundlagarnas bestämmelser om budgeten m.m."), 1959: 16 ("Riksdagens budgetarbete"). At present a Royal commission is preparing a total revision of the Swedish Constitution and it will also deal with all the problems discussed in this paper.

compare modern budgetary principles with the budgetary principles prevailing 150 years ago and embodied in the Constitution, and, secondly, to analyse against this background the new problems arising from the confrontation of old-fashioned constitutional rules with the views, techniques and demands of a new age.

At the beginning of the 19th century the majority of the Swedish population was engaged in agriculture, the structure of which remained in many respects that of the Neolithic period. Since the end of the Middle Ages there had existed a popular assembly (the Riksdag), divided into four estates, the nobles, clergy, burghers and peasants. The state administration had been given a firm basis at the end of the 17th century and on the whole worked smoothly. During the 18th century, the era of Mercantilism, the state regulated commercial and industrial life; its activity was, however, mainly confined to questions concerning defence, public order and religion. On the whole it was a static society mainly directed to the protection of existing interests and institutions.

The structure and goals of a state budget depend and have always depended on the general structure and aims of the community. Consequently, a static society has a static budget. In such a society it is essential first of all to see to it that means really are available for the existing institutions so that they can continue to function. Secondly, however, it is of equal importance to prevent an expansion of state expenditure. If these principles can be followed, both revenue and expenditure will remain unchanged year after year. The system results in a standing budget or, to use an older terminology, in a "normal budget". It may be added that in Sweden the budget of 1696 was officially used as the "normal budget" for a long time.

Budgetmakers, however, have always had to face new demands, which—at least at the moment of their appearance—often seem to be of a temporary nature. To the extent that means have been available with which such demands could be met without neglecting any of the older ones, it has been regarded even in a static society as reasonable to provide for such extra demands. But this expenditure had to be kept within the limits of the means available. These means were not of a standing character but were extraordinary.

The expenditure of the state should thus, it was considered, be met out of the standing revenue. In older times, the land taxes, especially, belonged to this category of income. Only in special situations should the King be allowed to demand an extraordinary

tax (*bevillning*) from the citizens. It is characteristic that these situations—all of them requiring considerable sums—were expressly mentioned in the first written Constitution, the King's Code which was part of the General Rural Code of about 1350. For defensive wars and fortifications and for the marriage of his children the King had the right to demand an extraordinary tax.

Finally, it was a general principle of budgetmaking that all possible savings should be made.

In the application of the budgetary principles, however, complications arose. Some of these complications were technical, others political. The *technical* complications had their origin in the existing barter economy. The state revenue was to a considerable extent received in goods; because of the communications of that time these goods could not easily be collected, sold or otherwise converted into money. The problem how to use such state revenue was definitely solved at the end of the 17th century, in the reign of Charles XI. The solution involved an extensive decentralization of the state finances and the state administration. Specific items of revenue were earmarked to defray specific items of expenditure, usually in such a way that the expenditure of a geographical area was covered out of the revenue from that area. This solution appeared in its purest form when an estate belonging to the Crown was assigned to a civil servant to provide him with an income and an official residence. Thus the particular item of expenditure had its specifically assigned defrayment, although the amount of this defrayment, in terms of money, varied with the yield of the estate and the prices of the produce. By this system the problems arising from poor communications were also solved. The arrangement implied that state expenditure was generally regarded as a disposal of state resources. Known as the Swedish tenure system, it originated far back in the feudal period.

The decentralized administration of finance made it necessary to have two kinds of budgets, on the one hand a list of items of expenditure and on the other a list of revenue items and the objects to which they were to be applied. By this interrelationship of revenue and expenditure the static character of the system was underlined. The state budget was in fact divided into several special budgets.

If the technical complications involved in applying the budgetary principles could on the whole be solved, the situation was different as regards the *political* complications. These had their origin in the many long wars in which Sweden was involved in the

period before 1815. The state revenue was needed and to a considerable extent used for warfare, that is for purposes other than those intended. As a budgetary principle the dream of every minister of finance was introduced, namely that the revenue should be adapted to the expenditure. It is true that when confronted with the results of the policy pursued, and generally in times of sober reflections, the old budgetary principles were always returned to, and the King promised over and over again to keep the budget within the bounds of the standing revenue. But such promises were never kept. The development before 1809 is largely characterized by a tug-of-war between those who supported the officially established budgetary principles and those who claimed that political necessity came first. In this tug-of-war the purists generally lost, and the result was that this period of Swedish history can rightly be called the era of bad state finance.

This tug-of-war was very intensive during the period just before 1809, when the hazardous war policy pursued by Gustavus IV brought the country to the verge of economic ruin. The old budgetary principles had their most prominent spokesman in the Paymaster General, Carl Erik Lagerheim, who was what we would now call minister of finance. Over and over again Lagerheim emphasized that expenditure should be adapted to revenue. Grants for salaries and money for unavoidable interest and amortization payments had to be paid first of all, but after that—to use Lagerheim's own words in his autobiographical notes⁴—grants for public buildings, fortresses and the yearly support of the fleet, for military supplies and whatever else could and might be used for extraordinary expenditure had to be adapted to the remaining revenue. In other words, the grants for equipment and investment should be regarded as a variable part of the budget, their size to be decided exclusively by the size of the available resources. It seemed self-evident that the budget should be balanced. Lagerheim, however, met with opposition. To some degree this may have been due to ignorance on the part of the ruler. Lagerheim says that in the 1790's the Duke Regent, later King Charles XIII, thought that the budget was always self-sufficient, though in fact it showed a deficit year after year. The opposition, however, found its principal argument in political necessity. The war policy of Gustavus IV made inevitable a suspension of the old budgetary principles.

⁴ *Lagerheims självbiografiska anteckningar*, pp. 18 f., the Swedish National Archives.

This policy led to war not only against Napoleon and his allies, among them Denmark-Norway, but also against Russia. Russian troops conquered Finland and considerable parts of northern Sweden. The war brought both economic and political disaster. The King was dethroned in 1809. To the new men in power it was clear that autocracy had to be replaced by a real separation of powers between King and Riksdag.⁵ The King should have the executive power and the Riksdag the fiscal power, while the legislative power should be divided between King and Riksdag. A new Constitution that attempted to realize this separation of powers was adopted in 1809. This is the *Regeringsform*, Instrument of Government, still in force today (hereafter occasionally referred to as RF).

In certain respects the provisions concerning the budget in the Constitution of 1809 contained important innovations. The Riksdag was entrusted with the task both of granting extraordinary taxes and also of approving the budget. In order to secure the power of the Riksdag over the budget it was laid down in RF Art 60 that customs and excise duties, postal charges, stamp duties and taxes on home distilling of liquor should no longer be regarded as standing revenue but as special extraordinary taxes. Therefore it was henceforth impossible to cover state expenditure out of standing revenue, that is to say without assistance from the Riksdag.

In order to safeguard the budgetary powers of the Riksdag a number of provisions were inserted in the Constitution of 1809 with a view to preventing the King from procuring funds from sources outside the control of the Riksdag. In RF Art. 58 the King was enjoined to account for any revenue that might be received because of treaties with foreign powers. Art. 60 prohibited—with a certain exception—the King from increasing a general tax or duty of whatever name or character without the consent of the Riks-

⁵ As previously mentioned, the first written Swedish Constitution was the King's Code, the *Kungabalk*, in the General Rural Code, dating from about 1350. The first Instrument of Government came into being in 1634. During the reigns of Charles XI and especially Charles XII (1680–1718) Sweden was an absolute monarchy. After the death of Charles XII new Instruments of Government were introduced in 1719 and 1720, and up to 1772 Sweden had a parliamentary system. This was the so-called Era of Liberty. Following Gustav III's *coup* in 1772, a new Instrument of Government was adopted, which tried to establish a system of separation of powers. In 1789 the King made himself an absolute monarch. This despotism was abolished in 1809.

dag. Art. 73 provided that no new taxes or levies of troops, money or goods could be imposed, collected or demanded without the free will and consent of the Riksdag. Art. 74 regulated the right to make requisitions, Art. 75 the forms for the preparation of the table of market rates. Art. 76 prohibited the King from contracting loans at home or abroad or burdening the realm with new debts without the consent of the Riksdag. According to Art. 77 the estates belonging to the Crown were to be administered in accordance with principles established by the Riksdag. Nor could these estates be sold or otherwise alienated without the consent of the Riksdag. The surrender of national territory was forbidden in Art. 78. The right to coin money was regulated in Art. 79, and the then existing military establishment was fixed in Art. 80.

The right of the Riksdag to decide over a considerable part of the revenue which up to that time had been used to meet standing expenditure had its logical counterpart in a duty to grant funds for needs it had recognized. RF Art. 62 stated that it was the responsibility of the Riksdag, after consideration of the requirements of the administration, to grant extraordinary taxes to meet such requirements. It is thus evident that it was assumed that the budget should be balanced and that a balance should be achieved by adapting revenue to expenditure.

According to the original wording of RF Art. 58 the King was to cause a statement of the financial condition of the administration in all its branches, as regards income and expenditure, assets and liabilities, to be presented at each session to the Committee of Supply of the Riksdag. On the basis of the needs of the realm and the administration the King should further, according to Art. 59, present proposals as to the budgetary requirements in excess of the standing revenues and as to which of these should be provided for by extraordinary taxes. The basic rule for the role of the Riksdag in the budgetmaking process was stated in Art. 62. The Committee of Supply was to present to the Riksdag the requirements of the administration, and it was the right and duty of the Riksdag to consider these requirements. After this consideration it was the task of the Riksdag to grant an extraordinary tax corresponding to the considered requirements, to prescribe the special purposes for which the separate items of the tax might be used, and to grant these items under definite budgetary headings. In addition, according to Art. 63, two special credit amounts, the small *kreditiv* and the large *kreditiv*, should be set aside for unforeseen contingencies. The extraordinary taxes

were to be valid for five years, or if the Riksdag met earlier, up to the end of the year in which its session started. A characteristic feature of the extraordinary taxes was thus that the decisions had reference to a certain length of time and therefore had to be repeated at each session, if the extraordinary taxes were to continue to be paid. The standing revenue, on the other hand, came in independently of what the Riksdag decided and was not confined to a certain period of time. Both the standing revenue and the extraordinary taxes were to be at the disposal of the King to meet the needs recognized by the Riksdag in accordance with the budget (Art. 64). Such funds were not to be applied to purposes other than those authorized (Art. 65).

The provisions cited refer only to the Royal administration. The Riksdag itself controlled the National Debt Office and the Bank of Sweden. According to RF Art. 66 the Riksdag was to provide by special taxes the funds which were found to be indispensable for the payment of the interest and capital of the public debt administered by the National Debt Office.

The new rules were motivated by the general political aim of the new régime. No other deviations from the settled budgetary system were intended or even possible as long as the old fiscal system remained unchanged. It was natural, furthermore, that the makers of the new Constitution should have tried to re-establish the old budgetary principles which had been violated by the dethroned King. The budgetary provisions of the Constitution of 1809 can in fact only be understood against the background of this old budgetary system. It should be strongly emphasized that the makers of the Constitution were bound by ideas prevailing in their own time, and that, to a considerable degree, especially as regards the financial power, they had to base their decisions on existing conditions.

Thus, although the Instrument of Government did not expressly state that there should be a "normal budget", it is obvious that the makers of the Constitution took the system of a normal budget for granted. The budget is treated throughout as something existing and fixed.⁶ It is not the duty of the Riksdag to make a new budget but only to confirm the already existing budget. What this means appears from RF Art. 62. After considering the actual needs,

⁶ See Lagerroth, "Rättskontinuitetens problem i Sverige", *Festskrift tillägnad Nils Herlitz*, 1955, p. 209.

the Riksdag should defray recognized deficits out of extraordinary taxes. It should be mentioned that the extraordinary taxes played the role of a supplementary sum or rather supplementary sums on the revenue side of the budget. In accordance with the old system of interrelated revenue and expenditure the extraordinary taxes were to be specifically assigned. In other words, the budgetmaking did not in principle imply that new or increased grants should be voted and included in the budget. The budget was not an instrument for accomplishing reforms or, generally, for a new or changed policy. The grants were to be of a standing character and in principle unchangeable. The limited freedom the Administration might need was to be made possible by the customary grant for extraordinary expenditure and—in more catastrophic situations—by the two *kreditiv*. In any case the variable part of the budget should be confined to available means.

The procedure used by the Committee of Supply during the session of 1809–10, and the presentation of it given by the Riksdag to the Government in its report on the establishment of the budget, show the eagerness of the Riksdag to follow the old, approved budgetary principles. For each governmental agency a special budget was established in which were listed all the salaries of permanent officials. This budget was not supposed to vary, unless new circumstances required a new organization of the agency. Variable expenditure was put down in the so-called general expenditure budget. It constituted, together with the grant for extraordinary expenditure, a special budgetary title, the eighth. Expenditure which could be withdrawn after a certain time was transferred to the so-called general withdrawal budget.⁷ It was obvious that the size of the grants under the eighth title was dependent on the amount of means available.

As previously mentioned, the budgetary provisions of the Instrument of Government of 1809 remain in all essential respects unchanged, and later amendments have been made cautiously and according to the law of least resistance. The Finance Bill is today presented direct to the Riksdag, no longer to the Committee of Supply. When presenting the bill the King has not only to state the need for extraordinary taxes but also to make proposals as to the manner of providing by extraordinary taxes for budgetary needs in excess of what would be covered by the standing revenue.

⁷ Ridderskapets och Adelsn's protokoll 1809–10, April 1810, pp. 263 f.

In connection with the reform of the Riksdag in 1866, when the four estates were replaced by a bicameral system, it was decided that the Riksdag should meet annually. Thus the Riksdag became a regular feature of Swedish national life, and its ability to assert its position against the King was strengthened. Another consequence was that the state budget was passed annually. Today the fiscal year is not even linked to the calendar year. Since 1923 the fiscal year has run from July 1 to June 30. Finally, it may be mentioned that the two *kreditiv* have been transformed into emergency budgets.

This account of the budgetary practice prevailing 150 years ago, the original budgetary provisions of the Instrument of Government of 1809 and the amendments made, should provide the necessary basis for a comparison between the budgetary principles of the Constitution and those of today.⁸ The main emphasis will be placed upon those budgetary principles which have at least some connection with the Constitution. Therefore, we only need to dwell in passing upon the question of the structure and scope of the budget. In this respect the Constitution only mentions that there are revenue and expenditure, as well as budgetary titles. The latter concept is not precisely defined. A considerable reduction in the number of budgetary titles was decided on in 1810, a fresh revision came with the great reorganization of the ministries in 1841,⁹ and since then new amendments have been made in step with further changes in the number of ministries. The system and scope of the budget have repeatedly and radically been modified. The first modification was made immediately after the enactment of the Instrument of Government of 1809. Then in 1868 the so-called extraordinary budget was merged with the state budget; in the 1870's the grants for the National Debt Office were also included in the state budget, these being followed in 1911 by those capital investments whose cost was to be defrayed by borrowing. Subsequently, extensive changes were made in 1937 and

⁸ The most important work on the development of budgetary principles and budgetary custom since 1809 is Herlitz, *Riksdagens finansmakt*, 1934 (Sve-riges riksdag, Vol. XII). See further S.O.U. 1952: 45. For a survey of the present budgetary system, see Budgetary Structure and Classification of Government Accounts (U.N. Department of Economic Affairs), 1951, pp. 68 ff., and The Swedish Budget for the Fiscal Year 1962/63, a Summary of the Finance Bill, publ. by the Ministry of Finance, 1962.

⁹ With this reform the basis of the present organization of the Swedish ministries came into being.

1944. All these modifications have been made without the slightest change in the text of the Constitution. In other words, the main principles of the budgetary system—even the fundamental division between current budget and capital budget—are unknown to the Constitution. Nor is there any other statutory basis for them.¹

There is, however, reason to deal with other questions at some length. In the first place, it should be pointed out that the constitutional requirements that the budget shall be balanced and that the balancing shall be achieved by adapting revenue to expenditure were given up long ago, as will be seen below.

Turning now to the revenue side of the budget, it should first be noted that the specific assignment of the extraordinary taxes for special purposes, prescribed by the Constitution, has been abandoned and in fact never was practised to any noticeable extent.² Of the old fiscal system existing in 1809 only some fragments remain. The barter economy has disappeared and been replaced by a money economy. The Swedish tenure system and the old land taxes have been abolished. In consequence revenue is no longer necessarily earmarked for specific items of expenditure, and for that reason it has been possible to pass to the opposite system, in which state revenue *as a whole* is expected to cover state expenditure. In other words, it is no longer of interest to know whence the means providing for a certain branch of the administration are actually derived. Repeatedly the Government and the Riksdag have spoken in favour of this indivisibility of state revenue, or of what is usually called the principle of the unity of the budget. Only exceptionally does the system of specific assignments or special budgets still exist. The best-known example is that revenue from taxes on motor vehicles is in principle reserved for the highways. In other cases such a specific assignment can be made for practical reasons. The major public enterprises are allowed to use their own revenue to a certain extent, administrative boards may sometimes utilize fees and other administrative receipts, and the existing real estate funds may each dispose of its income. In this connection it should be mentioned that as a rule borrowings are supposed to be used only for profitable investments. It is another matter that a new tax has sometimes been justified by a special need, e.g. defence or the supply of energy.

¹ On several occasions, however, the introduction of special budget statutes has been discussed. See *S.O.U.* 1954: 40.

² The special tax according to RF Art. 66 for the needs of the National Debt Office has never been voted.

Thus the constitutional provision that the Riksdag shall prescribe that specific amounts of the extraordinary taxes be used for special purposes is today void of meaning.

Another innovation is that the amount of the state revenue is no longer fixed, or substantially fixed, but is only estimated. Until 1876 the general extraordinary tax ("allmänna bevillningen") was paid over to the National Debt Office, which then had to deliver to the Ministry of Finance so much of it as the Riksdag had allocated for the annual expenditure of the state budget. A surplus arising from revenues other than the general extraordinary tax was at first a basis for assignments by the Government or the Riksdag (cf. below). In 1830, however, the Riksdag decided that the surplus should be delivered to the National Debt Office.³ Thus the revenue side of the budget was substantially fixed. But when, as will be illustrated later on, the principle of fixing the grants at certain amounts gradually came to be abandoned, it seemed meaningless to adhere to the principle that the revenue should be fixed. Moreover, the revenue came to be estimated. Thus the decisions of the Riksdag today concerning the revenue side of the current budget are designed to estimate the amounts of state revenue during the fiscal year.

For this reason the connection between the fiscal year and the decisions on the extraordinary taxes has been dissolved. As has already been pointed out, a characteristic feature of decisions concerning extraordinary taxes, according to the Instrument of Government, is that they have reference to a certain period of time (at present the fiscal year) and thus have to be repeated each year if the money is still needed. Another characteristic feature of these decisions is that they must be made in connection with the approval of the budget. Right up to the middle of the 1850's the constitutional provisions regarding the time limit for the extraordinary taxes were faithfully observed. At each session a new customs tariff was approved, and so on. After that date, however, the ordinances concerning the special extraordinary taxes were accepted provisionally; this was only natural, as after 1866 the Riksdag met annually. Similarly, in 1911 the Riksdag ceased to grant expressly the general extraordinary tax every year in those

³ It may be mentioned that during the 1820's and 1830's the Opposition tried to have either all the state revenue or the special extraordinary taxes (especially the customs duties) delivered to the National Debt Office in the same way as the general extraordinary tax. See Rexius, *Studier rörande striden om finansmakten under Karl XIV Johan*, 1917, pp. 90 ff.

parts of the budget which were left unchanged. Moreover, the decisions concerning extraordinary taxes are nowadays not made in direct connection with the approval of the budget but are generally codified in so-called tax ordinances, adopted by the Riksdag and promulgated by the King in Council. In fact, rules on extraordinary taxes have sometimes been embodied in a statute adopted jointly by King and Riksdag.⁴ These tax ordinances and jointly adopted statutes are generally valid until they are changed or repealed in the same way as they were adopted. When during the last decades it has happened that a certain extraordinary tax has been granted for a limited period only, this period has been expressly indicated in the decision. In other words, the time limit prescribed by the Instrument of Government is regarded as an abnormal arrangement, which has to be specially emphasized.

Against this exposition of the actual state of affairs it may be objected that the purpose of the decision annually made by the Riksdag concerning the percentage by which the basic amount of the income tax is to be determined is precisely to link the extraordinary taxes with the approval of the budget and still gives to these taxes a character of supplementary budget amounts. At the time of the introduction of this system, it was explicitly stated that the percentage ought to be variable according to the financial situation of the state.⁵ But in fact the percentage has not really been flexible, and therefore no real connection of the intended kind has been achieved. Furthermore, the connection between the annual decision about the percentage by which the basic amount of the income tax is to be determined and the following fiscal year has also been weakened. Because of the fact that the fiscal year does not coincide with the calendar year, it has been found necessary to lay down in the Income Tax Ordinance, sec. 12, that the Riksdag is bound to fix the same percentage for the first half of the coming fiscal year as that in force during the last half of the current fiscal year. This is contrary to the Instrument of Government in so far as it deviates from the general principle of constitutional law that the present session of the Riksdag should not be bound by decisions from previous sessions, nor make any decisions which will bind future sessions of the Riksdag.⁶ In this way,

⁴ See, for instance, Lag angående statsmonopol å tillverkning och import av tobaksvaror, *Svensk Författningssamling* 1943, No. 346.

⁵ See Stjernquist, "Dubbla beslut", *Statsvetenskaplig tidskrift* 1960, pp. 23 f.

⁶ Cf. Westerberg, *Skatter, avgifter och pålagor*, 1961, p. 100.

however, the possibilities of varying the percentage have been reduced.

From what has been said it becomes evident that the decisions concerning extraordinary taxes are no longer only intended to provide means for a certain limited period (the following fiscal year) and that—apart from the fixation of the percentage—they are not made in direct connection with the approval of the budget. They create, in fact, resources for an indefinite sequence of fiscal years. In this way the distinction made by the Instrument of Government between the standing revenue and the extraordinary taxes is obliterated. The extraordinary taxes can no longer play a role as supplementary budget amounts. The provision in RF Art. 61 that all taxes and duties voted by the Riksdag shall be valid up to the beginning of the fiscal year for which new extraordinary taxes are to be voted by the Riksdag now appears as merely an empty form. The oft-cited provision in RF Art. 62 that it is the responsibility of the Riksdag, after considering the requirements of the administration, to grant corresponding extraordinary taxes has also, from this point of view, the same character.

In addition, the extraordinary taxes have increased so much both absolutely and relatively that for this reason, too, they can no longer be merely considered as supplementary sums. In the budget voted by the Riksdag in 1810, the standing revenue amounted to 1,339,536 *riksdaler*, the special extraordinary taxes to 1,437,349 *riksdaler*, while the contribution of general extraordinary tax to the budget amounted to 596,126 *riksdaler*. In the budget for the fiscal year 1962/63 the revenue on the current budget was estimated at 19,206 million Swedish crowns, of which no less than 17,571 million crowns were covered by extraordinary taxes.

From having once constituted the main part of the state revenue and prior to 1809 in principle the only source of revenue on which the budget should be based, the standing revenue has become a relatively insignificant part of the total amount needed. This is due to several factors. Already in the Instrument of Government customs and excise duties and other kinds of revenue had, as previously mentioned, been transferred to the category of extraordinary taxes. The main constituents of the old standing revenue, namely the land taxes and the *per capita* tax, have been abolished. At the same time the needs of the administration have grown enormously and led to an increase, both absolutely and relatively, in the amount of the extraordinary taxes. The provision of RF Art. 62 that it is the responsibility of the Riksdag to grant extra-

ordinary taxes corresponding to the budgetary requirements has also been affected by the fact that borrowings have been introduced on the revenue side of the budget.

The method of using borrowings had been practised to a considerable extent prior to 1809. Even during the session of 1809 the state had to borrow from the Bank of Sweden to be able to meet certain expenditure. Borrowing was later resorted to during the reign of Charles XIV⁷ (1818–44) on several occasions, when the state itself had to act as creditor. The well-known scholar, Bishop Agardh, and others, advocated, however, that borrowing should be a permissible means of meeting immediate state expenditure also. Nevertheless, for a long time the opposition remained strong; it was not broken until the 1850's, when it was decided that money could be borrowed for financing the construction of the national railways. With this decision the main rule, valid since then, that borrowings may be used for profitable aims was established.⁸ From the point of view of the Constitution, the decisive step was taken when in 1911 capital investments were included in the budget. Later it has also been considered justifiable in certain situations to resort to borrowing in order to meet the expenditure of the current budget (cf. below).

The introduction of borrowings into the budget was not in harmony with the provision of RF Art. 62 that it is the responsibility of the Riksdag, after considering the requirements of the administration, to grant corresponding extraordinary taxes.⁹

According to the Constitution, it is characteristic of extraordinary taxes that they require a specific decision of the Riksdag, that they shall meet the deficiencies of the budget, that they are fixed in respect to amount, that they shall be granted for specific purposes and that they are valid only for the fiscal year. Of all these characteristics the only one remaining today is that extraordinary taxes are based upon decisions of the Riksdag. But in this respect they do not fundamentally differ from several kinds of standing revenue. To a considerable degree, fees and other administrative charges have been fixed after authorization by the Riksdag. For this reason the distinction between standing revenue

⁷ In 1810 the French Marshal Bernadotte was elected Crown Prince of Sweden and adopted the name Carl Johan (Charles John).

⁸ Herlitz, *Riksdagens finansmakt*, 1934, p. 219.

⁹ Connected with RF Art. 62 is the rule in the Riksdagsordning Art. 40 that it is incumbent upon the Committee of Ways and Means to recommend the manner in which the budget may be balanced by means of taxation. Cf. also RF Art. 59 and Riksdagsordning Art. 34.

and extraordinary taxes is meaningless and could simply be removed from the Constitution.¹ A distinction which ought to be made is that between, on the one hand, taxes (compulsory contributions from the citizens without any immediate returns) and, on the other hand, state revenue which is not derived from taxes. This distinction is generally accepted. It is another matter that in practice it sometimes may be difficult to distinguish between the two kinds of revenue.²

With respect to the expenditure side we meet a corresponding development, as the notion of a "normal budget" gradually disappears.

The system of the "normal budget" implied, as mentioned above, that grants listed in the budget, so-called old grants, must not be withdrawn. Apart from the first session after the revolution of 1809, when naturally the conditions were exceptional, no reductions or withdrawals of old grants were made until the session of 1840–41, when the Liberal Opposition predominated at the beginning of the session. After some famous conflicts—at the session of 1850–51 when the grant for the Council of Mines was reduced, and at the session of 1874 when the salary grant to the head of the Board of Trade was withdrawn—the King beat a timely retreat when faced by the claim of the Riksdag to exercise the right of withdrawing old grants. It is worth noting that in the 1870's the "normal budget" argument was no longer presented with the same force as 40 years earlier when the well-known Opposition member Thore Petré had spoken with fervour of the principle that whatever was once listed in the ordinary budget was not a matter for reduction.³ Other arguments against the withdrawal of old grants persisted longer—e.g. that the King's constitutional power of governing the realm prevented such withdrawal.⁴

On the other hand, it has always been held that the Riksdag is obliged to grant monies in a considerable numbers of cases. Thus the Riksdag is obliged to see to it that expenditure guaranteed by statute can be defrayed.⁵ Furthermore, the Riksdag has of course to ensure that monies are granted to meet various other commitments and obligations of the state. Among these are the salaries

¹ Of the same opinion are Runemark, *S.O.U.* 1954: 40, p. 83, and Westerberg, *op. cit.*, p. 259.

² See Westerberg, *op. cit.*, pp. 139 ff.

³ Committee of Supply 1834–35, Report No. 203, p. 16.

⁴ See Herlitz, *Riksdagens finansmakt*, 1934, pp. 290 ff.

⁵ See Herlitz, *Svenska statsrättens grunder*, 2nd ed. 1954, p. 150.

and pensions of civil servants. Finally, as a rule the Riksdag has to carry on the long-term building and reform programmes on which King and Riksdag have decided. During the last decades an endeavour to make some grants more permanent has been noticeable, in the sense that efforts have been made to secure them against inflation by means of index clauses. A characteristic feature of the policy of today is, furthermore, that the Riksdag makes decisions "in principle", the costs of which will be met in coming sessions. Here we meet one aspect of what has been called, with some vagueness, automatism. The picture also includes the division of grants into quotas payable over several years. It is significant, however, that at the same time it has been carefully emphasized that the development here described does not imply any deviation from the principle that the Riksdag may not in a given session do anything to inhibit the decisions which will be made at following sessions. "Normal budget" thinking is in principle entirely abolished. On the other hand, it cannot be denied that the statements that the Riksdag is not bound by decisions of previous sessions have not infrequently been deceptive.

Secondly, the "normal budget" approach implied that the ordinary expenditure budget should not be furnished with new or enlarged grants. Even if it was not really maintained that this was the meaning of the Constitution, it was evident that for a long time there had to be very strong reasons for any increase in the ordinary expenditure budget. It was not until the 1930's that these old lines of thought had to yield.

The principle of the inflexibility of the ordinary expenditure did not, however, prevent the practice of making expenditure outside the budget. In the first place, such spending was done by the King. At the enactment of the Instrument of Government of 1809 the King was considered bound by the budget voted by the Riksdag. The revenue was to be at the disposal of the King to meet the needs recognized by the Riksdag in accordance with the budget (RF Art. 64), and they were not to be used for any purposes other than those authorized (RF Art. 65). The budget was to be strictly followed with regard to the payments. The King's freedom of action was to be guaranteed—except in the cases of emergency provided for by the two *kreditiv*—by the sum for extra expenditure under the eighth budgetary title. At the session when the Instrument of Government of 1809 was enacted, the Riksdag also delegated to the King the use of the savings under each budgetary title. The accession of Charles XIV in 1814, however,

soon put an end to all consideration of the principle that the budget should be strictly followed. The King began to make grants without asking for the consent of the Riksdag. The essential basis of this practice was the surplus on the state revenue and, further, other funds and resources, some of them very considerable, which had been created outside the state budget. This practice culminated in the decision of February 3, 1816, that considerable salary increments should be paid to ministers out of the St. Bartholomew fund.⁶ Gradually, however, this royal policy was circumscribed, mainly by reason of the fact that the extraordinary resources were emptied and the surplus on the state revenue was delivered to the National Debt Office, but partly also because the Riksdag restricted the King's disposal of the savings. Essentially, this development was completed during the latter part of the 19th century. From that time the King was also in fact bound by the budget voted by the Riksdag.⁷

With the abandonment of this royal practice, the Riksdag, however, began to make grants outside the budget. At the session of 1809–10 expenditure which was variable had been listed in the general expenditure budget under the eighth budgetary title, while expenditure which could be withdrawn within a certain time had been listed in the general withdrawal budget. The general expenditure budget thus constituted the variable part of the budget. It was, however, extremely limited in extent. But both the King and groups able to work for their own interests inside the Riksdag demanded that the Riksdag should grant means for new purposes. It was out of the question to expect an increase of the general extraordinary tax in order to enlarge the general expenditure budget under the eighth budgetary title. It may be added that the general extraordinary tax was for a long time relatively constant in amount; it was about as high in 1867 as in 1810. But there were other resources; when these were abundant, the demands became irresistible. The resources here referred to were above all the surplus on the state revenue and other means at the disposal of

⁶ Statsrådsprotokoll över kolonialärenden, Feb. 3, 1816, The Swedish National Archives. In 1814 the island of St. Bartholomew had been sold by Sweden, and Bernadotte made the Swedish Riksdag place the proceeds at his disposal.

⁷ In Swedish constitutional doctrine it has been widely discussed whether the Government is obliged to execute expenditure decisions of the Riksdag, or whether such decisions are to be considered only authorizations of the Riksdag. In practice this question has not been very important. The decisions of the Riksdag have generally been executed but have been considered to be authorizations.

the National Debt Office. It is significant that the Riksdag began to allot grants from the resources of the National Debt Office when the surpluses were definitely transferred to the Office and could no longer constitute a basis for grants made by the King.

But it is also significant that these grants made by the Riksdag were not supposed to be included in the state budget and to be managed by the Office of the Paymaster General. The reason was no doubt partly that the Riksdag did not feel sure that the King would follow the intentions of the Riksdag concerning the purposes which should be provided for; these purposes were often relatively vaguely indicated. But partly the reason was to be found in the old conception of the budget as a "normal budget", which should not and could not be changed. The general expenditure section of the budget should be kept within the given limits.⁸ The regulation of expenditure effected by the National Debt Office was from the session of 1828-30 onwards called the extraordinary budgetmaking (*extra statsregleringen*). The result was the extraordinary budget (*extra ordinarie staten*). The budget of the state was called the ordinary budget. This meant a return to the division characteristic of Swedish state finance in old times; the efforts during the session of 1809-10 to get rid of this division had been in vain. When, for instance, in the budget bill of 1840 it was said that it was important to preserve the difference between, on the one hand, annual or permanent expenditure which should be defrayed out of the annual revenue and, on the other, such grants as were called for either once only or for special objects restricted to a certain time and could be allotted from temporary resources, then the affinity with older theories of state finance is evident.⁹ And when at the session of 1850-51 the Committee of Supply announced that the expenditure appropriated for the National Debt Office was adapted to the available resources, this statement is in harmony with Lagerheim's fundamental view.

The extraordinary budgetmaking would be worth a special study. The objects of the expenditure were of various kind. Some of them called for considerable sums: grants for construction of canals and railways, for reconstruction of fire-ravaged towns, etc. In accordance with the guiding principle they were generally similar, inasmuch as they would probably not be needed after a

⁸ Allmänna utgiftsbudgeten (the budget for general expenditure) was discontinued with the new organization of the ministries in 1841.

⁹ Proposition 1840-41, No. 1, p. 3.

certain time. Gradually, however, salary grants too came to be listed in the extraordinary budget.

In accordance with the prevailing principle it was for a long time characteristic of the extraordinary budgetmaking that it was kept within the limits of the available resources. But the demands became so far-reaching that they called for means beyond those available. In this connection the possibility of borrowing was suggested. It has already been mentioned that towards the middle of the 19th century borrowing came to be used to defray immediate state expenditure. But this occurred not only outside the ordinary but also outside the extraordinary budget.

During the period 1809–66 the administration of finance was to a considerable extent divided between King and Riksdag. As previously mentioned, there was a tendency to enlarge the share of the National Debt Office. After the reform of the Riksdag in 1866, however, the development took the opposite direction, and the involvement of the National Debt Office gradually ceased. The general extraordinary tax was delivered to the Office of the Paymaster General from 1876 onwards. In 1868 the extraordinary budget and the ordinary budget were combined, and the Office of the Paymaster General took over the administration of all means. But in the budget ordinary grants and extraordinary grants were clearly distinguished. Grants listed as ordinary were still considered to be standing and could only exceptionally be varied. On the other hand, the demands provided for by extraordinary grants were not of a standing character and could be reduced or withdrawn. Consequently the Riksdag was less unwilling to give extraordinary grants than ordinary grants, a fact well known both to the Cabinet and within the Riksdag.

As the idea of a “normal budget” disappeared, however, the distinction between the ordinary and the extraordinary grants had to be abandoned. In the first place, it became evident that extraordinary grants too had a tenacious vitality. In fact, they were quite as permanent as the ordinary grants. It is significant that when for reasons of economy the salary grants were reduced at the session of 1933, the reduction mainly affected the permanent salary grants, not the extraordinary ones.¹ Secondly, the ordinary grants were considered less permanent than before, partly because of the salary regulations made from time to time, partly because of the establishment of new governmental agencies and changes in the

¹ Proposition 1934, No. 220, Appendix B, p. 10.

ones already existing. To this was added the fact that the permanence of the grants of the budget was reduced by the introduction of a system of having both proposed grants, that is grants which could be overdrawn, and reserved grants, that is grants in the case of which sums not expended during the fiscal year could remain available during following fiscal years.²

Although there was no established practice with regard to the division between ordinary and extraordinary grants, it may be added that grants for unestablished civil servants were listed either as ordinary or as extraordinary. When during the session of 1934 it was decided to introduce a more uniform and rational classification of the expenditure side of the budget and in this connection to abolish the division into ordinary and extraordinary grants, this division had already long been meaningless.³ The Office of the Paymaster General and the National Office of Public Accounts, which had together prepared the report forming the basis of the new arrangement, stated on this occasion that there had been a retreat from the earlier doctrine of constitutional law that there was a constitutional difference between ordinary and extraordinary grants.⁴

Another factor of importance for the development was the changed attitude of the Riksdag toward the question of raising grants. The period after the reform of the Riksdag in 1866 was marked by a more negative attitude than that prevailing in the decades immediately preceding. The predominant party in the Second Chamber, the Country Party (representing the farmers), was for a long time strong enough to prevent any raising of grants, and it often exercised its power. Thus the peasants brought about a situation where the Riksdag in fact corresponded to the characterization of the legislative power given in the famous memorial of June 2, 1809, with which the new constitution was presented: "wisely slow in action but firm and strong in resistance".⁵ As the influence of the Country Party was reduced, however, the Riksdag became more favourably disposed towards bills concerning new or increased grants. With the introduction of universal suffrage in the period 1909-21 new groups of citizens achieved political in-

² See Heckscher, *Svensk statsförvaltning i arbete*, 2nd ed. 1958, p. 288. Heckscher, *Swedish Public Administration at Work*, 1955, is an English summary of this work.

³ See Proposition 1934, No. 220, pp. 27 f. Cf. p. 14.

⁴ *Ibid.*, Appendix B, p. 10.

⁵ It is doubtful whether the concept "the legislative power" denoted the Riksdag. Generally, however, the concept has been interpreted in this sense.

fluence, thus making the attitude of the Riksdag towards new and increased grants even more favourable.⁶ The policy of social welfare is a good illustration of this trend. The restraining influence passed to the Minister of Finance, as since 1933 the Government had acquired a strong parliamentary position. Not until the 1950's, when it could be assumed that considerable groups of voters wanted reductions, did the principle of economy gain ground in the Riksdag. It should, however, be emphasized that we here meet two different ideologies with different consequences for the state budget, one implying a larger responsibility and activity of the state, the other wanting to place a larger responsibility on the individual.

The 19th century was generally characterized by specialized grants and by detailed provisions for the disposal of the grants. Recently, however, the development has tended in the opposite direction under the impact of parliamentarism as well as of wars and emergencies. Large lump sums have been placed at the disposal of the Government, and considerable financial delegation has been approved by the Riksdag. Furthermore, directives and statements by the Riksdag have not infrequently been given in a more indirect way, as the Riksdag has expressed its agreement with the declarations of the Cabinet or with the reasons stated in committee reports. They have often also been so vaguely formulated as to appear both void of meaning and capable of several interpretations.⁷ Finally, the Riksdag has repeatedly been confronted with a *fait accompli* in certain important questions involving large sums of money, especially in the cases of salaries and of support to the farmers. Before bringing a bill before the Riksdag the Government has already in fact bound the state by contracts and agreements with the organizations concerned.⁸ The problems caused by this practice are currently under consideration by the Swedish Cabinet.⁹

It should also be pointed out that in connection with expenditure decisions the Riksdag today makes a series of decisions which concern not the following fiscal year alone but a longer, often unlimited period of time. Sometimes the decisions do not at all affect

⁶ See G. Andrén, *Tvåkammarssystemets tillkomst och utveckling*, 1938, pp. 628 ff. (Sveriges riksdag, Vol. IX).

⁷ Cf. G. Andrén, "Några anteckningar angående statsutskottet och dess arbetsformer", *Festskrift till Axel Brusewitz*, 1941, pp. 196 f.

⁸ See S.O.U. 1960: 10, pp. 62 ff.

⁹ S.O.U. 1960: 10 and Lidbeck, "Statstjänstemännens förhandlingsrätt", *Från departement och nämnder* 1962, pp. 57 ff.

the following fiscal year. The Riksdag approves, for example, establishments of officials and salary scales to be valid until further provision is made, it decides to set up a new governmental agency, it approves a long-term plan for defence, it decides on fundamental reforms in the field of education, and it passes statutes of different kinds to be valid provisionally, such as payment regulations, ordinances concerning health insurance funds and unemployment funds, maternity benefits, etc. The legal character of these decisions has been much debated.¹ They are unknown to the Constitution.

We thus reach the more fundamental factors behind the development. As mentioned in the introduction, the disappearance of the idea of a "normal budget" and the transition to new budgetary principles and a new budgetary practice are closely related to the fact that, with the changing structure and conception of society, the budget has been given new tasks and aims. The original task of constituting a housekeeping plan for a certain period still exists. By fixing this plan in advance a guarantee is given that means will be available. The increased risk, created by the increased use of proposed grants, that the revenue will not be enough to cover the expenditure has generally been offset by the fact that the revenue has in the outturn exceeded the estimated amount. To this it should be added that the use of reserved grants has caused the fixing of the grants to a certain fiscal year to appear less rigid, and that the introduction of a system, unknown to the Constitution, of supplementary budgets has made the current budget appear less settled in advance. It may also be added that the more frequent recourse to planning for several years ahead has made the fixation of the grants to one fiscal year at a time inconvenient and has actualized the demand for long-term budgets,² just as the need to adapt investments to the economic situation (cf. below) has created a demand for half-year budgets for investments.

Contrary to what was true 150 years ago the budget has today the important feature of being an instrument for accomplishing reforms. Through the budget the state has assumed new respon-

¹ *S.O.U.* 1954: 40, pp. 66 f. Of great importance and significance is the Riksdag decision in 1958 on the costs of defence. After an agreement between the party leaders the Riksdag decided that for a period of three years the Ministry of Defence should have an increase in the amount by 2.5 per cent annually and, further, an adjustment for increases in prices and salaries.

² See Committee of Supply, 1960, No. 15, and Proposition 1960, No. 150, p. 16.

sibilities and extended its activity into new spheres. In the budget voted at the session of 1809–10, the grants for the royal family and for defence constituted the largest items. Of the current budget voted by the Riksdag of 1962, the grants for the royal family formed only an infinitesimal part, whereas the provision for defence is still of course a major item. But in addition, grants for social welfare and education now amount to considerable sums, even in relative terms. At present, the grants for social welfare exceed the expenditure for defence. The state budget has grown both absolutely and relatively. During the 1950's the current budget approximately trebled.³

A new task, which the budget has been given only in this century, is to act as an income-equalizing instrument. Here progressive taxation is a factor of considerable importance. By means of the state budget, money deriving from taxes is transferred from the taxpayers in general to local councils and to certain groups of citizens (through pensions, family allowances and so-called subsidies to people in certain occupations, especially farmers). The size of this transfer of income is very extensive. Of the total expenditure of the current budget of 1958–59, immediate income transfers alone constituted no less than 45.3 per cent. These income transfers are essentially bound up with the modern welfare and regulation state. They had no place in the liberalist society prevailing in the middle of the 19th century. The old mercantilistic society of the 18th century, on the other hand, was not without such elements.

Another new task, assigned to the budget since the beginning of the 1930's, is that of acting as a regulator of the national economy. Keynes' idea of an active budget policy, varying according to the economic situation, was in the 1930's adopted and further elaborated by a number of Swedish economists, such as Erik Lindahl, Gunnar Myrdal, Bertil Ohlin and Dag Hammarskjöld. Furthermore, a considerable contribution in this direction was made by Ernst Wigforss, Minister of Finance from 1932 to 1959. Thus, the Cabinet and the Riksdag started out from the idea that the current budget should be overbalanced or underbalanced according to the economic situation.⁴ The purpose is regulatory, and the

³ Proposition 1960, No. 150, Appendix E, p. 4.

⁴ See Lundberg, *Konjunkturer och ekonomisk politik*, 2nd ed. 1958, Landgren, *Den "nya ekonomin" i Sverige*, 1960 (with an English summary), Wigforss, "Den nya ekonomiska politiken", *Ekonomisk tidskrift* 1960, pp. 185 ff. Cf. Bent Hansen, "Rationell budgetpolitik", *Tiden* 1956, pp. 6 ff. and Rehn, "På väg mot en rationell finanspolitik", *Idé och handling*, 1960, pp. 76 ff.

state budget is planned on contracyclical lines with a view to balancing the national economy. As the matter was formulated in the budget statement to the session of 1960, an essential aim of the state budget is to counterbalance the oscillations of the private sector of the economy.⁵ The new policy meant that the principle of annual balancing was abandoned. The purpose was to introduce a multiannual balance. This reform was at the time considered revolutionary. In fact, however, underbalancing of the current budget had been practised earlier, and it may well have been that the reform was accepted earlier on the plane of economic practice than it was on that of economic theory.

During the last few decades the political discussion of the state budget has largely centred on the question of how large the surplus or the deficit on the current budget should be, and, sometimes, having regard to the fact that a balance in the national economy was supposed to exist, whether or not the budget should be balanced. For a time during the 1950's this debate became completely confused, when the principle was suggested that the state budget should be totally balanced. This meant that the surplus on the current budget should be so large that it would entirely meet the revenue demands of the capital budget. In principle, the capital budget is financed by borrowing, but the surplus on the current budget should make the borrowing unnecessary. For once, albeit unconsciously, budget policy would coincide with the principles of the Constitution.

It has been said that the principle of multiannual balancing is obviously contrary to the wording as well as to the meaning of the Constitution.⁶ The statement is correct so far as underbalancing is contrary to the Constitution; whatever amounts the budget needs beyond the standing revenue are supposed to be met by extraordinary taxes. To the extent that the statement refers to overbalancing, however, it shows a misunderstanding of what overbalancing means.⁷ Only when overbalancing becomes so large that the surplus on the current budget can cover more than the revenue demands of the capital budget and any maximum amortization payment of the national debt is it possible to argue that overbalancing is incompatible with the Constitution.

The principle stated in the Constitution that revenue should be

⁵ Proposition 1960, No. 1, Finansplanen, p. 11.

⁶ Malmgren, *Sveriges grundlagar*, 8th ed. 1961, RF Art. 59. The statement is not made by Malmgren but by the editors of the recent edition.

⁷ Welinder, *Offentlig hushållning*, 3rd ed. 1962, pp. 183 f.

adapted to expenditure might have been suitable at a time when the idea of a "normal budget" flourished and the involvement of the state and hence its expenditure were limited. With the enlargement of the state sector, both absolutely and relatively, it is, however, obvious that this principle of balancing can no longer be useful. Nor can the state, unlike the good private citizen, adapt expenditure to revenue. State revenue and state expenditure have to be weighed against each other and against the interests of the national economy.

The principles behind the budget provisions of the Constitution belong to a time long past and, as mentioned in the introduction, they cannot reasonably be applied to the present conditions. Even the legal principle that the Riksdag approves the budget has today an entirely different and essentially more formal meaning than before, especially since the separation of powers between King and Riksdag prescribed by the Constitution has withered away and been succeeded by a parliamentary system.⁸ On the whole it is true to say that, in so far as the budget provisions of the Constitution are observed, this happens, so to speak, in a vacuum. One illustration is the fact that the revenue side of the state budget still distinguishes between extraordinary taxes and other kinds of revenue.

Repeatedly demands have been made for a revision and modernization of the budget provisions of the Constitution. Is such a revision and modernization called for? It could be argued that in spite of the defective and obsolete text of the Constitution, budget-making has functioned relatively well and that the budgetary provisions have not caused too much trouble. In other words, the fact that these provisions have not and could not have been followed, and that, on the whole, practice has been allowed to develop freely, has not led to any serious complications. The development can be said to have resulted in a situation similar to that prevailing in Britain, in which country practice has to a considerable degree replaced or supplemented old constitutional provisions. Is not such a development satisfactory, it may be asked, and if so what is the use of revising and modernizing the Constitution?

When demands have nevertheless been made for such a revision and modernization, they have assumed that Swedish legal tradition is different from English legal tradition. Swedish opinion

⁸ The parliamentary system was definitively accepted in Sweden in 1917.

generally considers it highly unsatisfactory if existing legal provisions are not and cannot be followed. In such a situation the old provisions are usually replaced by new ones. And when a whole body of law has become antiquated in structure and style or lost its homogeneity through repeated partial amendments, the same body of law is usually rewritten.⁹ One illustration of this from the field of public law is the Local Government Act of 1953. A further argument for a revision and modernization of the constitutional budget rules is that a legal text, especially one of a constitutional nature, should be plain to read, and comprehensible to the general public. It must unfortunately be admitted that the budgetary provisions in the Swedish Constitution at present represent the exact opposite of this ideal.

Apart from what has been said before, it should be noticed that there is no guarantee that a future application of the out-of-date constitutional budget rules will be as free of complications as hitherto. The tranquillity or the lack of constitutional controversy in Sweden in recent decades has essentially been due to the fact that the Cabinet has had the support of a majority in Parliament.¹ With a greater balance of power between the political parties and their constellations, constitutional problems will probably assume more immediate importance. Certain symptoms of this have already appeared.² The budgetary provisions of the Constitution invite to dissension. They are, however, so obsolete that in many cases neither judges nor scholars can reasonably have any definite opinion as to the true meaning of the law in force.³ Passions are easily aroused when it is asserted that the Constitution has been violated. For this reason it is important that the text of the Constitution shall be so clear that it can fulfil its primary purpose, in times of conflicting opinions, of channelling the forces of society into definite directions so as to prevent disturbance and disaster.⁴

⁹ Cf. Westerståhl, "Några synpunkter på en allmän författningsrevision", *Statsvetenskaplig tidskrift* 1959, p. 175. It may be added that today British constitutional law is Statute law in important parts.

¹ Sweden has proportional representation and hence a multi-party system. Since 1933 the Social Democratic Party has been predominant. See Rustow, *The Politics of Compromise. A Study of Parties and Cabinet Government in Sweden*, 1955.

² See Stjernquist, "Dubbla beslut", *Statsvetenskaplig tidskrift* 1960, pp. 1 ff.

³ Cf. Friedmann, *Legal Theory*, 3rd ed., p. 306: "Judges under democratic constitutions cannot go to the length of ignoring the written text, however obsolete or outmoded, without impairing all respect for the stability of law. Yet a static interpretation of an outmoded constitution would be equally fatal."

⁴ Herlitz, *Svenska statsrättens grunder*, 2nd ed. 1954, p. 19.