

1957.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA.

JOINT COMMITTEE OF PUBLIC ACCOUNTS.

THIRTY-FIRST REPORT.

ADVANCE TO THE TREASURER
PRESENTATION OF SUPPLEMENTARY
ESTIMATES.

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JOINT COMMITTEE OF PUBLIC ACCOUNTS.

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The Senate appointed its Members of the Committee on 16th February, 1956, and the House of Representatives its Members on 22nd February, 1956.

DUTIES OF THE COMMITTEE.

Section 8 of the *Public Accounts Committee Act* 1951 reads as follows:—

8. The duties of the Committee are—

- (a) to examine the accounts of the receipts and expenditure of the Commonwealth and each statement and report transmitted to the Houses of the Parliament by the Auditor-General in pursuance of sub-section (1.) of section fifty-three of the *Audit Act* 1901–1955;
- (b) to report to both Houses of the Parliament, with such comment as it thinks fit, any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Parliament should be directed;
- (c) to report to both Houses of the Parliament any alteration which the Committee thinks desirable in the form of the public accounts or in the method of keeping them, or in the mode of receipt, control, issue or payment of public moneys; and
- (d) to inquire into any question in connexion with the public accounts which is referred to it by either House of the Parliament, and to report to that House upon that question,

and include such other duties as are assigned to the Committee by Joint Standing Orders approved by both Houses of the Parliament.

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JOINT COMMITTEE OF PUBLIC ACCOUNTS.

ADVANCE TO THE TREASURER PRESENTATION OF SUPPLEMENTARY ESTIMATES.

CHAPTER I.—THE CURRENT PRACTICE OF PRESENTING SUPPLEMENTARY ESTIMATES.

Ever since federation Supplementary Estimates have been presented by the Treasurer to the Parliament for approval. The first recorded presentation of the Supplementary Appropriation measure is for the years 1901-02 and 1902-03. For both years Supplementary Estimates were presented in the Supplementary Appropriation Act of October, 1903, although it is more usual for the Act to relate to expenditures for one year only.*

2. Your Committee commenced their consideration of the expenditures contained in Supplementary Estimates in 1953, in respect of the financial year 1951-52. Indeed, the First Report of the Committee was concerned with Supplementary Estimates for the year 1951-52. Since then, the Committee has presented Reports on the expenditures contained in each of the Supplementary Appropriation measures.

3. It was as recently as 1956 that the Treasury, after consultation with Your Committee, arranged that Supplementary Estimates should be presented to the Parliament in the Session immediately following the end of the financial year to which they relate.

4. In our Twenty-Eighth Report, which covered items in the Supplementary Estimates for 1955-56 and was presented to the Parliament on 4th October, 1956, we indicated our approval of this more expeditious procedure. We observed that—

“Until this year, Supplementary Estimates for one year have not been available for Parliamentary consideration until the end of the following financial year. Your Committee favour their earlier presentation. To be able to consider them in conjunction with the main Estimates for the ensuing year is more satisfactory than was the previous practice: it represents a notable advance on the situation as described by the Select Committee on Public Accounts in its Report on the Form of the Government Accounts:—

‘The then Commonwealth Treasurer (The Hon. E. G. Theodore) when introducing the Supplementary Estimates for the three-year period stated: “I am afraid that the Commonwealth Parliament has got into a rather bad habit of allowing Supplementary Estimates to accumulate for two or three years, and then to pass them without much consideration being given to them. For some years past the Supplementary Estimates have not been brought down year by year. I think they should be . . .”’”

For a full discussion, see Twenty-fifth Report, paragraphs 5-9; tabled 22nd May, 1956, Q. 1.

Twenty-eighth Report, paragraph 2, page 5, tabled on 4th October, 1956.

Report Joint Select Committee on Public Accounts, 1932, page 19.

5. Your Committee are of the opinion that this advanced date of presentation represents a substantial improvement over the position appertaining in previous years, and especially over the position as described in the quotation above from the Report of the 1932 Joint Select Committee on Public Accounts.

6. However, there is yet another factor that needs to be considered in relation to Supplementary Appropriation measures. It was brought to our notice by the Treasury, who invited our attention to the possibility that this measure is not in present circumstances necessary to achieve an efficacious appropriation of funds. In summary form the reasoning runs that, because the Parliament appropriates certain funds in the main Estimates to the Vote “Advance to the Treasurer”, there is no further appropriation of them in what is known as the Supplementary Appropriation measure. The function of Supplementary Appropriation measures is in fact only to signify Parliamentary approval to the allocation of expenditure already made from the Treasurer’s Advance to the appropriate heads of expenditure, an allocation which the Treasurer has power to make under section 36A of the Audit Act.

7. To appreciate the significance of this situation, it is necessary to recapitulate briefly the nature of the annual Supplementary Appropriation measure. It is passed after the close of the financial year to which it relates, and purports to appropriate in retrospect

* Supplementary Estimates, unlike the main Appropriation measure and the Additional Estimates, are submitted to the Parliament for consideration after the close of the financial year to which they relate. They allocate to heads of expenditure moneys made available by the Treasurer from the Advance to the Treasurer voted in the main Estimates for this and other purposes. (The Advance to the Treasurer is £16,000,000 for 1956-57, and is contained in Division No. 232 of the Estimates.)

Until 1956, when the Supplementary Estimates for 1955-56 were presented in October, 1956, Supplementary Estimates had been presented during the autumn session of the Parliament, or even longer after the close of the financial year.

a sum of money in respect of that year. Thus the Appropriation section of the *Supplementary Appropriation Act 1955-56* reads as follows:—

*Supplementary
Appropriation
Act 1955-1956,
No. 77 of 1956,
Section 2.*

“2. The sum of six million eight hundred and eleven thousand two hundred and sixty-six pounds which has been issued from the Consolidated Revenue Fund for the service of the year ended the thirtieth day of June, One thousand nine hundred and fifty-six, shall be deemed to have been appropriated as from the first day of July, One thousand nine hundred and fifty-five, for the purposes and services expressed in the Schedule to this Act.”

Appropriation
of £6,811,266.

To all intents and purposes this appears to be an appropriation, although, out of keeping with the other Appropriation measures submitted to the Parliament, it relates to a financial year that has come to an end. The sum of money involved is, it will be noted, only “deemed to have been appropriated”, not actually appropriated.

8. The notation to the Vote “Advance to the Treasurer” lends further support to the view that there is an appropriation involved in the measure known as the *Supplementary Appropriation Act*. The wording of the notation to the Advance to the Treasurer for 1956-57 reads (it was amended following comments by Your Committee in our Fourteenth Report, on *Supplementary Estimates for 1952-53*):—

Tabled 9th
April, 1954.

“To enable the Treasurer to make advances which will be recovered within the financial year and also to meet expenditure particulars of which will afterwards be included in a Parliamentary Appropriation.”

9. Thus the expenditure to which the *Supplementary Appropriation* measure relates has already been authorized by the Parliament in its Advance to the Treasurer. The particulars actually submitted to the Parliament in *Supplementary Estimates* are referred to in the notation to the Treasurer’s Advance as those “which will afterwards be included in a Parliamentary Appropriation”.

10. It is in fact not lawful for moneys to be drawn from the Treasury without appropriation. Thus, whatever may be the position in other countries—and some of these we discuss in Chapter III. below—the position in Australia is that a prior appropriation is necessary. This is to comply with Section 83 of the Constitution, which provides that:

Section 83 of
the
Constitution.

“No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.”

Money to be
appropriated
by law.

CHAPTER II.—THE LEGAL AND CONSTITUTIONAL STATUS OF SUPPLEMENTARY APPROPRIATION MEASURES.

11. In order to acquaint ourselves more fully with the legal position regarding the presentation of a *Supplementary Appropriation* measure, we invited Mr. J. Q. Ewens, the Parliamentary Draftsman, to give evidence before us. He explained that the fundamental principle governing expenditure of funds from the Treasury is stated in Section 83 of the Constitution. It will be recalled that Section 83 provides that no moneys may be withdrawn from the Treasury without prior appropriation.

12. The Parliamentary Draftsman’s view is that once funds are validly appropriated to the Advance to the Treasurer there is, as a matter of law, no necessity for any further “appropriation”. He said—

Q. 2.

“ . . . All the money that is expended under the Treasurer’s Advance has been drawn from the Treasury under appropriation made by law, namely the appropriation for the Treasurer’s Advance. There is no need for the money to be appropriated twice. In fact, I would think it a mistake that money already appropriated should be appropriated again. . . . When one looks at the *Supplementary Appropriation Act*, it does not in fact purport to appropriate it again; it concedes that it is already appropriated and it says that it shall be deemed to have been appropriated for certain purposes and services.”

Q. 31.

It seems worth observing in passing that this kind of “double” appropriation does not occur in respect of the *Supply Bill* and subsequent annual *Appropriation Bill* (to which the *Estimates* are attached as a Schedule). The main *Appropriation Act* authorizes the issue from Consolidated Revenue Fund of only the amount required, over and above that granted in the *Supply Act* or *Acts*, to meet the expenditure proposals contained in the *Estimates*.

13. It may or may not be merely a matter of linguistics whether *Supplementary Estimates* are properly termed an “appropriation” or not (though the Parliament approves such usage by voting the Advance to the Treasurer in its present form). What is of substance is that the “appropriation” constituted by *Supplementary Estimates* is in a significant respect (it deals with past expenditure) different from the other appropriation measures submitted to the Parliament for approval. It therefore cannot have the function of the other appropriation measures, which is to authorize the drawing of money from the

Treasury. The legal position is that, once the money is appropriated (to Treasurer's Advance), there is no need for further appropriation and the funds can lawfully be spent. Mr. Ewens explained the position in this way—

“ . . . The money is appropriated and made available to the Treasurer, and he spends it. Nothing that happens afterwards can change what he has done. What he has done has been perfectly within the law and the Constitution. One can test it in this way; Assume for the purposes of argument that the Parliamentary appropriation, namely the Supplementary Appropriation Act that these words contemplate, is not in fact passed in a particular year. Assume for the moment that there has been a change of government or some Parliamentary change. Qs. 9-11.

COMMITTEE MEMBER.—Instead of an Appropriation Act, could the requirements be that he should present particulars in a certain form?—(Mr. Ewens) ‘Particulars of which will afterwards be presented to Parliament’.

COMMITTEE MEMBER.—Yes, so that the Estimates would be available later for approval.—(Mr. Ewens) That merely emphasizes the point I was trying to make. We have a Treasurer's Advance, it is expended and the Treasurer no doubt has every good intention of presenting to Parliament a statement showing how he spent it. However, through some change of government or change of Treasurer or some unusual happening, that is not done. If I were then asked whether the money expended by the Treasurer out of the Treasurer's Advance had been lawfully expended and whether the provisions of Section 83 of the Constitution had been complied with, I would answer unhesitatingly that everything had been done lawfully and in accordance with the Constitution. It is nothing to the point that the Parliamentary appropriation which Parliament thought would be presented afterwards turned out not to be presented.”

14. It might, therefore, be misleading, and from a strictly legal point of view is unnecessary, for the Parliament to deal with the expenditure under consideration in a Supplementary Appropriation measure in the same way as it does with an original appropriation of funds that is made within the year in respect of which the funds are to be applied.

15. There are, however, more than purely legal matters to be taken into account. Our discussions with the Parliamentary Draftsman and the First Assistant Secretary (Budget and Accounting) of the Treasury (Mr. C. L. S. Hewitt), also ranged over the constitutional and other issues involved.

16. Your Committee state at the outset that, whatever the legal position, it is our view that the expenditure at present contained in Supplementary Estimates should not be placed beyond Parliamentary control. We are of the opinion that, in general, the facilities at present afforded for Parliamentary scrutiny of the expenditure contained in Supplementary Estimates are both appropriate and adequate. It is axiomatic, therefore, that any alternative form of presentation of the expenditure contained in Supplementary Estimates should furnish at least the same facilities for scrutiny and debate.

17. In order to discuss the appropriate form in which expenditure now contained in Supplementary Estimates should in future be presented to the Parliament, we think it necessary to review briefly the nature of Parliamentary control of finance. The constitutional authorities say that Parliamentary control is exercised through;

- (i) the imposition of taxation
- (ii) the grant and appropriation of Supply
- (iii) the authorization of expenditure.

18. Parliamentary control of these various stages in the spending of money is exerted, in formal terms, through debate on the floor of the House. When taxation proposals are before the House, they may be debated, as may requests for Supply and Appropriation measures. In the latter category come measures such as Additional Estimates, the presentation of which indicates that further funds are required for some purpose not provided for in the original Estimates.

19. But, as we have already indicated, the presentation of a Supplementary Appropriation measure of the Australian kind does not fit happily into this familiar pattern. Australian Supplementary Estimates are concerned with none of the traditional limitations or controls—in respect of taxation, supply or appropriation. They appear to be concerned merely with the approval of expenditure already made under an appropriation. See paragraphs 11-13.

20. Thus Supplementary Estimates fall outside the traditional role of financial control. In the other appropriation measures, past expenditure is never directly before the Parliament: it can only indirectly become an issue in a debate whose concern is proposals for future expenditure, and according to the relevancy rules cannot properly be the subject of debate. Are Supplementary Estimates an exception to this rule?

21. Your Committee think we must accept the view of the law officers that Supplementary Estimates are not in the strict sense of the word an appropriation. Nevertheless, it is our firm opinion that they constitute an important element in the general

system of Parliamentary scrutiny of expenditure, particularly because they alone of all the financial measures relate directly to past expenditure. It is, therefore, our emphatic opinion that details of expenditure from Treasurer's Advance, as it is subsequently allocated to heads of expenditure, should continue to be placed before the Parliament. (In thus attempting to meet the legal position we do not wish to convey the impression that the Treasurer has any intention of departing from the practice of presenting the expenditures involved to the Parliament: there is no suggestion of that).

22. We observe that by virtue of the fact that Supplementary Estimates relate to past expenditure, they provide an opportunity to debate actions of the administration that have already been performed. Unlike the debates on other appropriation measures, debates on Supplementary Estimates are immediately concerned only with past expenditure. Any relevance they have for the grant by Parliament of funds for future expenditure can only be indirect. Hence, by their very nature, Supplementary Estimates are what might be termed an "administrative control", rather than a "policy control". It may be that it is largely for this reason that they are so well suited to examination by the Public Accounts Committee; and that Your Committee's examinations have to date yielded, it would seem, acceptable results.

23. However, there is no reason why Supplementary Estimates should not contain highly political, i.e., debatable, matter. Although the amounts are small, it is quite conceivable that on occasions matters of principle may be involved despite the Treasury practice of insisting that only relatively routine expenditure may be financed from the Treasurer's Advance. (Contentious matters are normally voted further money by Additional Estimates, or are held over until the main Estimates of the following year.)

24. Before proceeding to consider the possible forms in which expenditure at present contained in the Supplementary Appropriation measure should be presented to the Parliament, we think it desirable to discuss two further pertinent legal issues. First, as explained above, the legal position is that moneys expended from Treasurer's Advance, and that are subsequently presented to the Parliament in the form of Supplementary Estimates, are validly appropriated in the annual Estimates. Section 83 of the Constitution is complied with and no further appropriation is required. Hence from a strictly legal point of view, the appropriation contained in Supplementary Estimates is unnecessary.

Q. 25.

25. Second, the Auditor-General objected, early in the history of the Commonwealth, to the practice by which the Treasurer allocated to heads of expenditure, as set out in his annual Finance Statement, amounts that were not until a later date embodied in the Supplementary Appropriation measure for Parliamentary approval. Because of these objections, a new clause was added to the Audit Act in 1906. The new clause is now section 36A. Section 36A provides that the Treasurer may charge to such heads as he directs expenditure in excess of specific appropriation. The section reads as follows:—

*Audit Act
1901-1955,
section 36A.*

"Expenditure in excess of specific appropriation or not specifically provided for by appropriation may be charged to such heads as the Treasurer may direct provided that the total expenditure so charged in any financial year, after deduction of amounts of repayments and transfers to heads for which specific appropriation exists, shall not exceed the amount appropriated for that year under the head 'Advance to the Treasurer'."

Debiting of
expenditure
charged to
Treasurer's
Advance.
Inserted by
No. 8, 1906,
section 8.

26. Mr. Hewitt explained the operation of section 36A to us in the following way:—

Q. 25.

" . . . Mr. Ewens and the Chairman have referred to Section 36A of the Audit Act, which I do think has an important bearing on the appropriation, and I venture to suggest that it is in itself a supplementary appropriation clause. Its origin was in the persistent complaints of the Auditor-General from 1902 to 1906 that the expenditure of money which was being withdrawn from the Treasury under the appropriation Advance to the Treasurer, then written in a form almost identical with that in the current Appropriation Act, was recorded and shown in the Finance Statement as expenditure under the heads of appropriation shown in the Supplementary Estimates. The expenditure was not shown as a debit to the appropriation 'Advance to the Treasurer'. The Auditor-General said at that time, I think quite logically, that the appropriation to which it should and could only be charged was 'Advance to the Treasurer', and that there was at the time of publishing the Finance Statement no appropriation that would permit the moneys to be recorded as a debit to other votes. Whilst the Attorney-General of the day said, in effect, that an appropriation could be exceeded if it was exceeded by a journal entry and not by a cash payment, the Treasurer did not persist with that viewpoint but instead put forward this amendment of the Audit Act. This, the Treasury has understood, authorizes the moneys which are withdrawn from the Treasury under the appropriation 'Advance to the Treasurer' to be recorded in the books of account solely as expenditure against the appropriations to which, by their very nature, the particular payments relate. . . ."

27. If presentation as an appropriation measure of the expenditure contained in Supplementary Estimates were to cease, savings in cost would result. A bill, and in particular an Appropriation Bill, is one of the most expensive ways of producing a

Parliamentary document. The expense of printing the Schedule is considerable, and Acts receive a very wide circulation. Other forms of presentation of the details of expenditure might be devised to save these costs without prejudicing Parliamentary consideration of the expenditure. Qs. 53, 55, 59.

28. The insignificance of the expenditure involved is another factor that might prompt the conclusion that it is hardly necessary to take up valuable Parliamentary time to consider each year a Supplementary Appropriation measure. Supplementary Estimates are normally for relatively small amounts. While they may sometimes be for amounts larger than would be approved by Transfer under section 37 of the Audit Act, they are, in terms of the total Budget, a relatively small amount (0.6 per cent. of total Budget expenditure in 1955-56). They amount, in total, to no more than some of the major Votes included in current Estimates.

29. Despite what may be said about the disadvantages of presenting Supplementary Estimates to the Parliament for consideration, Your Committee consider that there are advantages. It is true that during the last 30 years there have been few occasions on which the items contained in Supplementary Estimates have been mentioned in debate: but at the same time it is also true that the possibility of debate is there and could at any time be availed of by Members. Such an opportunity was, for example, taken in connexion with the debate in the Senate on the Supplementary Appropriation Bill for 1955-56. Sir W. Ivor Jennings, in his book "Parliament", indicates that even when there are debates on Supplementary Estimates, they are rarely important. But he recognizes their potential:

". . . The exceptional case shows, however, that the debates are sometimes—though rarely—important. Even debates arising out of mistakes in estimating are of value in compelling Departments not only to estimate properly but also to keep within their estimates. If supplementary estimates passed through as a matter of form there would be great temptation to Departments to exceed estimates. The debate is an effective sanction even though it is useless as a debate. The difficulty is that, not being within the supply rule, supplementary estimates are often used purely for obstruction. This could be altered by a modification of the supply rule."

1939 edition,
page 302.

30. The Supplementary Estimates to which he is referring are, of course, Supplementary Estimates as understood in British Parliamentary parlance. They contain proposals similar in nature to those presented to the Commonwealth Parliament in Additional Estimates. But they also contain requests for supplemental appropriations for services that have proved more costly than anticipated at the time when the original Estimates were approved.

For a fuller
note, see next
Chapter, para-
graphs 34-37.

31. Your Committee think that, in any consideration of future treatment of the expenditure at present contained in Supplementary Estimates, the significance to departmental officers of the possibility of a full-scale Parliamentary debate upon their request for additional funds should not be underrated. Nowadays, scrutiny by Your Committee of every item of Supplementary Estimates may constitute something of the same sanction; but if it is not backed by the contingency of a full-dress debate, it must lack the authority and therefore the sanction of criticism by the Houses of the Parliament. It is this element in particular that inclines us not to favour the removal from scrutiny by the Parliament as a whole of the expenditures now presented in Supplementary Estimates.

32. There is much to be said for the point of view expressed by one of our Members during the hearings in connexion with the presentation of the annual Supplementary Appropriation measure:

"It is the only way of having it compulsorily dealt with by Parliament. At the present time it has to go before Parliament at some time for consideration and approval. Although you say there is nothing to be gained by obtaining Parliament's approval, it must be obtained. I can understand that. . . ."

Q. 56.

CHAPTER III.—THE TREATMENT OF EXCESS EXPENDITURE IN OTHER COUNTRIES.

33. Other countries having a system of annual votes that operates in association with the lapse of unexpended funds at the end of the year of appropriation have also to meet the problem of expenditures made in excess of that authorized by appropriation, or in respect of purposes for which there is no direct appropriation. In order that our examination of the alternatives to presenting excess expenditure in the form of a Supplementary Appropriation measure might be made with knowledge of the way in which the problem is handled elsewhere, we have sought information about the procedures followed by other countries. We selected as more or less parallel cases the United Kingdom, Canada, and New Zealand. It will be understood that the notes that follow are not intended as exhaustive accounts of the whole of their financial procedures and therefore may, for simplicity of exposition, omit some of the nuances with which such procedures are fraught.

PRACTICE IN THE UNITED KINGDOM.

34. Following the main appropriation for the year, it is practice in the United Kingdom to submit "Supplementary Estimates" to the Parliament in July and in February (the latter often called the "Spring Supplementaries"). Generally speaking, the former make provision for new services arising from new government policies, and are therefore similar in nature to the Additional Estimates submitted to the Commonwealth Parliament in May (or thereabouts) each year. The latter tend to make up insufficiencies in the main Estimates and therefore bear a general resemblance to Australian Supplementary Estimates. The United Kingdom Treasury "Notes for the use of Accounts Branches" contain the following passage, which seems to place the position in perspective:—

Notes for Use of Accounts Branches, paragraph 32; Accounts General, No. 18.

"The presentation of Supplementary Estimates can, therefore, be justified only in exceptional circumstances. During the war and the initial period of post-war reconstruction the difficulty of making accurate estimates of expenditure covering the whole financial year was sometimes insurmountable. This condition no longer exists and the time has now come when the normal procedure must be re-established. Before proposals for new services requiring Supplementary Estimates can be considered it must be clearly established not merely that such new services are desirable, but that it is impossible to postpone expenditure until Parliamentary authority can be obtained in ordinary course in the original estimates for the next financial year.

As regards excess cost of already existing services where such is unavoidable, every effort must be made to reduce the volume of expenditure in other directions with a view to avoiding a Supplementary Estimate.

The purpose of Supplementary Estimates is not to supply a convenience to Departments which desire that larger sums be placed at their disposal, but to afford a means whereby Parliamentary sanction may be sought for unavoidable excesses over the provision made in the original estimate."

35. If it so happens that the two series of "Supplementary Estimates" have not voted sufficient funds to cover what is actually spent during the financial year, departments may seek from the Parliament, after the close of the year, an Excess Vote (because it is no longer possible to present a "Supplementary Estimate" in the sense in which that measure is understood in the United Kingdom). The excess expenditure is disclosed in the Report of the Comptroller and Auditor-General and, the Treasury Notes continue—

Ibid, paragraph 35.

". . . the Public Accounts Committee at its first meetings considers the circumstances leading to the excess. If the Committee is satisfied, it authorizes the presentation to Parliament of an 'Excess Vote', which is presented to Parliament immediately the report of the Committee appears and is passed through the same procedure as a Supplementary Estimate."

36. The "Excess Vote", which is determined after the close of the year from the exact amount of the excess, merely ensures that the covering authority of the Parliament has been obtained at a later stage for expenditure whose postponement would be against the public interest. The expenditure is actually met during the year (notwithstanding that there has been no appropriation under that particular head of expenditure) by advances from the Civil Contingencies Fund. This is a fund to which no payments may finally be charged. We understand that the normal rule is that advances for voted services must be provided for in the Estimates of the following financial year, and so repayments are made to the Fund. The excess is brought to the attention of the Public Accounts Committee in the Report of the Comptroller and Auditor-General, and the Committee examines the Department concerned. If possible, it makes its report prior to consideration by the Parliament of the March Consolidated Fund Bill. We note that an excess may occur not only on the net amount, but also on the gross amount authorized for a particular service, e.g. where Appropriations in Aid exceed the original Estimate. But even if additional receipts should be available to meet the excess gross expenditure, their use for that purpose has to be authorized by the Parliament through a token Excess Vote.

37. Your Committee understand that a serious view is taken of Excess Votes, and that the occasions upon which they are sought are therefore rare. Indeed, it appears that many departments may go for years at a time without requiring an Excess Vote on any of the services under their control. However, we have been informed that the Committee is discriminating in its criticism and does not withhold its approval to excess expenditure if an Excess Vote is due to causes clearly outside the control of a department; particularly if the expenditure arises out of liabilities falling automatically on the department under statute.

PRACTICE IN CANADA.

38. The dates of the Canadian financial year are similar to those of the United Kingdom and New Zealand (April-March). Late in the closing year (usually in January) the main Appropriation measure for the ensuing year is tabled. During the financial year, two Supplementary Appropriation Acts are, as a rule, passed, the first normally being tabled in May. The second Supplementary measure (termed Further Supplementary Estimates or "Final Supplementary Estimates") is brought down just before the close of the year (31st March).

39. Canadian practice is based on the principle that no payments may be made out of the Consolidated Revenue Fund without authority of Parliament. That authority may be contained in a continuing statute of the Parliament, or in annual appropriations. But there are two further ways in which funds not specifically appropriated to a head of expenditure may be paid from the Consolidated Revenue Fund. One method is by the use of the "Unforeseen Expenditures" Grant. The other is by warrant of the Governor-General authorizing "urgent expenditure".

See *Financial Administration Act, 1951*, Chapter 12, section 28.

40. Two types of unforeseen expenditures grants are made. The first is similar, it appears, to the Australian "Incidental and Other Expenditure" Vote, and may only be used for expenditures within the purview of the department. The second is similar to the Treasurer's Advance, and is the general "Unforeseen Expenditures" Grant. By the wording of this Grant, it is placed under the control of the Treasury Board (consisting of the Minister of Finance (ex officio Chairman) and any five members of the Queen's Privy Council for Canada who may be nominated from time to time by the Governor in Council). The Canadian Treasury Manual of Accounting Instructions indicates that when an expenditure in excess of a specific vote is defrayed from the general Unforeseen Expenditures Grant, application must be made to the Treasury Board for the payment to be made. That application is as a rule made by the Minister of Finance

See 1953 Manual of Accounting Instructions, Part VIII., page 11.

Financial Administration Act, section 3. Manual, Part VIII., page 11.

" . . . and the encumbrances and payments are under the control of Central Office. In accounting to Parliament, by custom, the Minister of Finance is relieved from detailed explanations of items which concern the well-being of the State or relationships with other countries."

1953 Manual of Accounting Instructions, Part VIII., page 11.

Almost all allotments to departmental votes from the Unforeseen Expenditures Grant must, we understand, be reimbursed from Supplementary Estimates to be presented to the Parliament on the next suitable occasion.

41. Urgent expenditure is provided for by section 28 of the *Financial Administration Act, 1951*. It provides that in certain cases expenditure may be authorized without prior appropriation when the Parliament is not sitting (section 28 (4)). The authority for the expenditure must be that of the Governor in Council, acting upon the request of the Minister in question and after a report by the Minister of Finance. The special warrant issued is deemed to be an appropriation for the fiscal year in which the warrant is issued (and unexpended funds lapse, as with ordinary appropriations, at the close of the fiscal year). Section 28 of the Financial Administration Act reads as follows:—

"28. (1) Where an accident happens to any public work or buildings when Parliament is not in session and an expenditure for the repair or renewal thereof is urgently required, or where any other matter arises when Parliament is not in session in respect of which an expenditure not foreseen or provided for by Parliament is urgently required for the public good, the Governor in Council, upon the report of the Minister that there is no appropriation for the expenditure, and the report of the appropriate Minister that the expenditure is urgently required, may order a special warrant to be prepared to be signed by the Governor-General authorizing the payment of the amount estimated to be required for such expenditure.

Urgent expenditure not provided for.

1951, Chapter 12.

(2) A special warrant issued pursuant to this section shall for the purposes of this Act be deemed to be an appropriation for the fiscal year in which the warrant is issued.

Special Warrant.

(3) Every warrant issued under this section shall be published in the *Canada Gazette* within thirty days after it is issued, and a statement showing all warrants issued under this section and the amounts thereof shall be laid by the Minister before the House of Commons within fifteen days after the commencement of the next ensuing session of Parliament.

Publication and report to House of Commons.

(4) For the purposes of this section Parliament shall be deemed to be not in session when it is under adjournment *sine die* or to a day more than two weeks after the day the accident happened or the other matter arose."

When Parliament deemed not in session.

42. We understand that, because of the late date on which the Final Supplementary Estimates for a fiscal year are presented to the Parliament, and because of the arrangements described above, urgent expenditure in excess of a specific appropriation is very rarely made on the warrant of the Governor-General. Thus the problems created in Australia by few and relatively early supplemental appropriations, and the lack of a power to issue a special warrant that is deemed to be an appropriation, hardly arise in Canada.

43. When expenditure in excess of a specific appropriation is authorized, in Canada, either by unforeseen expenditures or by a Governor-General's warrant, it needs the approval of the highest authority (either that of the Treasury Board or of the Governor in Council), and provision is made to lay the information before the Parliament and the public at an early date. The most interesting feature of the Canadian procedure is that the warrant executed by the Governor-General is deemed to be an appropriation in accordance with section 28 (2) of the *Financial Administration Act*. In this way the rule that no expenditure may be made without appropriation is strictly and completely complied with.

PRACTICE IN NEW ZEALAND.

44. The New Zealand financial year, following British practice, closes on 31st March. The New Zealand Parliament usually appropriates funds for the current year well on in the year. In 1955, for example, the main Appropriation measure was assented to on 28th October, 1955, almost seven months after the beginning of the financial year. (In 1953, the date of assent was 27th November). In the same measure, the Minister of Finance is given an indemnity in respect of expenditure in excess of Parliamentary appropriation for the previous year. (The clause also indemnifies him against writing off amounts of money and stores irrecoverable or written off).

45. Thus in New Zealand the expenditure contained in the Australian Supplementary Estimates is appended as a schedule to the main Appropriation measure. Section 5 of the New Zealand *Appropriation Act 1955* reads—

Act No. 104
of 1955.

“Whereas the Minister of Finance has, under the authority of sections fifty-one and seventy-six of the Public Revenues Act 1953, issued during the year that ended with the thirty-first day of March, nineteen hundred and fifty-five, in excess of or without the appropriation of Parliament, the respective sums mentioned in the Fourth Schedule to this Act, out of the Consolidated Fund and the other accounts mentioned in the said Schedule, amounting in the whole to the sum of one million one hundred and fifty-three thousand six hundred and fifty-three pounds four shillings and sixpence, and has caused those sums to be applied to the several services mentioned in the said Fourth Schedule, and has also discharged from the Public Account and other accounts the sum of seven hundred and eighty-eight thousand nine hundred and twenty-one pounds three shillings and sevenpence mentioned in the Fifth Schedule to this Act as being money due to but irrecoverable or abandoned by the Crown, together with the value of stores written off departmental accounts: Be it therefore enacted that the application and discharge of the said sums are hereby sanctioned.”

Indemnity as to
unauthorized
expenditure of
£1,153,653
4s. 6d. and
amounts
written off,
£788,921 3s. 7d.

See section 49
of the Public
Revenues Act
1953 (No. 73).

46. It is interesting to note that during the first three months of the financial year, and in the absence of an appropriation measure, expenditure may occur in anticipation of provision in the Appropriation Act. Except with the approval of the Minister of Finance, such expenditure may not exceed the unexpended balance of the vote in question, together with an amount equal to one-fourth of the vote. A further relaxation of the principles of prior appropriation and lapse of funds is contained in section 50 of the Public Revenues Act. It empowers the Minister of Finance to transfer to a separate fund the unexpended balance of a grant that does not normally recur.

47. The Act further provides (section 50) that during the financial year, and after the passing of the annual Appropriation Act, excess expenditures may be approved by the Treasury, for amounts of up to £500, or by the Minister of Finance, for amounts up to £2,000. For larger amounts, Cabinet authority is required.

Treasury
Instructions
1953, Nos. B5,
and 10-12.

48. A distinction is made between overspending an item, when the total vote will not thereby be exceeded, and overspending a vote. In the case of over-expenditure on an item only, a margin of approximately 10 per cent. of the amount appropriated is allowed before it is considered “materially overspent”. In the event of a material over-expenditure, an approach must be made to the Treasury for authority to overspend (up to that amount the Permanent Head may approve the over-expenditure). When, on the other hand, a vote appears likely to be overspent, the Permanent Head must advise his Minister to that effect, and the Finance Minister’s approval must be obtained to charging the amount to the Unauthorized Expenditure Account. Authority for a charge to this Account is also necessary when a department wishes to make a payment for which no item has been provided.

49. Expenditure charged to the Unauthorized Expenditure Account must be included in the statement of public accounts for the year, and may not be greater than 1½ per cent. of the total amount of all sums appropriated during the year. Section 51 of the *Public Revenues Act 1953* reads—

Act No. 73 of
1953.
Statutes,
Vol. 1.,
page 791.

“51. (1) Where during the period between the passing of the Appropriation Act for any financial year and the end of that year it is desirable that money should be expended in excess of or without the appropriation of Parliament, the Minister of Finance may approve the expenditure of such sums as he considers necessary.

Unauthorized
expenditure.
1926, No. 13,
section 58;
1947, No. 6,
section 7;
1952, No. 26,
section 9 (2.).

(2) The Treasury shall advise the Audit Office of all expenditure approved under this section, whereupon the money may be issued and paid accordingly.

(3) All sums issued and paid under this section shall be charged as unauthorized expenditure to such funds and accounts as the Minister directs.

(4) The total amount of all sums issued and paid under this section in any financial year shall not exceed one and a half per cent. of the total amount of all sums appropriated by the Appropriation Act for that year.

(5) A statement of the unauthorized expenditure for any financial year shall be included in the public accounts for that year.”

50. The report of the Controller and Auditor-General contains sections dealing with the Appropriation Account and Unauthorized Expenditure. In the report the main items of over-spending are mentioned. Thus, in respect of unauthorized expenditure for the year 1955-56, the Auditor-General reports—

“Unauthorized expenditure in terms of section 51 of the Public Revenues Act 1953 falls into two categories—

- (a) Money required to be expended without the appropriation of Parliament.
- (b) Money required to be expended in excess of the appropriation of Parliament.

In stating the amount that may be disbursed under these two headings the section imposes a limit equivalent to 1½ per cent. of the total expenditure authorized by the Appropriation Act. On the basis of last year's appropriations of £291,110,967 the limit for the 1955-56 year was £4,366,664. The actual expenditure was—

		£	s.	d.
(a) For services not provided for	62,910	7	2
(b) For services in excess of votes	2,772,931	16	4
		£2,835,842	3	6

Details of these amounts are given on pages 53 to 55 of the public accounts. No comment is called for in respect of the amount required for services not provided for since the narrations in the accounts give sufficient explanation and the total amount required was relatively small. The votes which were most substantially overspent were—

		£
Maintenance of Public Works and Services	319,056
Health	108,654
Subsidies to Hospital Boards	104,314
Education	240,148
Maori Land Settlement	262,114
Housing Construction	399,079
Medical, Hospital, &c., Benefits	479,929
Telegraph Extension	427,477

While the unauthorized expenditure of £2,835,842 is well within the statutory limit of £4,366,664, it compares unfavorably with the preceding year's total of £1,153,653.”

51. Your Committee note the limitation of the amount of unauthorized expenditure to a sum equivalent to 1½ per cent. of the total expenditure authorized by the Appropriation Act. On that basis, the amount available for expenditure in Australia would be approximately £22,000,000; but we observe that the Australian Advance to the Treasurer is, so far as we are concerned in this Inquiry, primarily used for expenditure in excess of an already existing appropriation. Although certain new items are included in Supplementary Estimates (they would not be allowed under a Section 37 Transfer), major new items would normally be included in Additional Estimates or would be held over until the next main Estimates.

CHAPTER IV.—POSSIBLE METHODS OF PRESENTATION.

52. Since Your Committee are agreed that the expenditure now contained in the Supplementary Appropriation measure should continue to be presented to the Parliament for consideration, the question we have to settle is in what form that expenditure should be presented. In any case, we think it vital that the use made of the Advance entrusted to the Treasurer by the Parliament should be scrutinized by the Parliament. The sanctions for this are, of course, rooted in the principles of Parliamentary control of finance, and in general, we would not expect any deviation from them.

53. It remains, therefore, to consider the means by which the constitutional obligation upon the Treasurer to account to the Parliament for the use of the Advance may best be expressed and discharged. There seem to be four methods by which the expenditure might be considered by the Parliament, each of which we discuss in the following paragraphs. The methods are—

- (i) to continue the appropriation measure as before, or in another form;
- (ii) to abandon the presentation of Supplementary Estimates as at present, and to rely on the information contained in either or both of the Estimates for the year following the expenditure, and the Finance Statement for the year in which the expenditure is made (to which is attached the Auditor-General's Report for that year);
- (iii) to abandon the presentation of Supplementary Estimates as at present, and to append full details of the expenditure to the Report of the Auditor-General; or

- (iv) to provide that, in lieu of the Supplementary Appropriation measure, the Treasurer should submit to the Parliament for its consideration and approval a statement of allocations to heads of expenditure made by him from the Treasurer's Advance under section 36A of the Audit Act.

These four methods are general in terms, and to each of them variations could be made. As they stand, the methods used by other countries do not appear to be applicable to conditions in Australia. But, particularly in the case of method (i), they do suggest variants of whichever of the procedures outlined above the Parliament may decide to adopt.

54. Before discussing the four ways in which the Parliament might decide to continue to scrutinise the expenditure contained in Supplementary Appropriation measures, we think it necessary to mention one pertinent general consideration. The timing of the presentation of Supplementary Estimates is, in our opinion, an important factor. If it is decided that existing arrangements should continue, then the Supplementary Appropriation measure will be presented in the same session as the Budget and the main Appropriation measure for the year. It will be recalled that in 1956 the two series of measures were for the first time presented to the Parliament in the same session. Thus an opportunity not previously available was given to the Parliament to consider in detail, early in the course of the new financial year, some of the financial transactions of the previous year.

For a fuller discussion, see Twenty-fifth and Twenty-eighth Reports, tabled respectively on 22nd May and 4th October, 1956.

55. Your Committee are of the opinion that the advanced date of presentation of Supplementary Estimates lends added point to them, even if it does make the former relatively leisurely examination by Your Committee impracticable. When they were presented nine months or more after the close of the financial year to which they related, any debate that took place could not but be largely unreal. Now they are considered when the proceedings of the previous year are relatively freshly in mind. Earlier presentation also means that, on occasion, it may be possible for Members to use in the main Estimates debate material derived from Supplementary Estimates and Your Committee's Report upon items contained in them.

See paragraphs 44-45.

56. On the other hand, it is possible to take the view that, since Supplementary Estimates are now presented more or less concurrently with the main Estimates, there is no need to debate them separately. They might become a measure attached to the annual appropriation (as in New Zealand). Your Committee could continue to report on any items that we thought of importance; but any substantive debate could take place on the main Estimates rather than on a separate Supplementary Appropriation measure. Such a solution has the advantage that the relevancy rule, by which the details of past Votes and expenditures may not be debated, would not, presumably, then apply, at least to the expenditures hitherto contained in the Supplementary Appropriation measure. Alternatively, the expenditures now contained in the Supplementary Appropriation measure might be set out in a table in the Finance Statement, which appears at approximately the same time. In that case, the Parliament would have devolved upon Your Committee its responsibility for scrutinizing the expenditures contained in Supplementary Appropriation measures, just as it has already devolved upon it consideration of Transfers made under section 37 of the Audit Act.

See paragraphs 83-86 and Chapter V. below.

Eighteenth Report, tabled on 11th November, 1954.

57. Earlier we indicated our view that it would not be desirable to remove the expenditures contained in Supplementary Appropriation measures from the scrutiny of the Parliament itself. We think that this could be achieved in the future without the presentation of an actual appropriation measure. We content ourselves with observing that in that event, and were the Treasurer at some stage to decide to present the Estimates at a date before the close of the previous financial year, such a procedure might have to be reviewed. (We recall in this connexion the Committee's discussion of the possibility of presenting an earlier Budget and Estimates. It is set out in Chapter VII. of our Eighteenth Report, on the Form and Content of the Financial Documents presented to the Parliament). Debate upon the outcome of the previous year, as represented by the present Supplementary Appropriation measure, could assume much greater significance than hitherto if the Estimates were ever to be brought down before the end of the financial year. The debate on the main Estimates would necessarily place greater emphasis on the future and rather less on the achievements of the past year, the final results for which would not be available.

58. The outcome is, we think, that if there is any prospect of the Estimates being brought down at an earlier date (irrespective of the date of announcement of the Budget), the form in which the expenditure contained in Supplementary Estimates should be presented ought, in the light of that prospect, to receive careful attention. Earlier Estimates might well make desirable a detailed consideration of the expenditure at present contained in the Supplementary Appropriation measure, perhaps by adopting or adapting the appropriation procedure.

59. The way is now clear for us to proceed with our discussion of the alternative forms in which the expenditure at present contained in the Supplementary Appropriation measure might be presented to the Parliament.

60. (i) *The Supplementary Appropriation measure might continue, or be presented in another form.* Your Committee have already indicated that we think the legal position, as described by us in Chapter II. above, should be recognized and acted upon. It is undesirable that a legally ineffective measure should year by year be presented to the Parliament for consideration and approval. Yet the underlying reason for submitting the expenditure to the Parliament for consideration and approval is sound. In our opinion, the conclusion must be that it is imperative that the detailed expenditures contained in Supplementary Estimates continue to be presented annually to the Parliament, even though the form of presentation be altered.

See paragraphs 11-14 above.

61. It would, of course, be possible to continue to present the expenditure at present contained in Supplementary Estimates in the form of an appropriation measure that does not involve a "double appropriation". The means that springs most readily to mind is an adaption of the procedure followed in the United Kingdom. If the permissive provisions of section 36A of the Audit Act were not used, expenditure from Treasurer's Advance being shown at the end of each year as a debit to the Advance, and if the Advance was regarded as being in the nature of a revolving fund, then funds could be voted in the ensuing main Estimates to recoup the previous year's expenditure. (We recall that the general issues involved in the use of the Treasurer's Advance were discussed by us in connexion with our Inquiries into Supplementary Estimates for the years 1951-52 to 1953-54.)

See paragraphs 12-14 above.

See paragraphs 34-37 above.

See First, Fourteenth and Twentieth Reports, tabled respectively on 6th March, 1953, 7th April, 1954, and 24th May, 1955.

62. Such a method of dealing with the expenditure from Treasurer's Advance has the merit that a further Parliamentary Appropriation is necessary. Furthermore, the actual use the Treasurer makes of the Advance for supplementing appropriations could, if it was felt desirable, be made clear to the Parliament in his annual Finance Statement, and would in any case be presented to the Parliament in the form of an Appropriation Schedule. In effect, such a device would make real the "advance" concept that must surely originally have prompted the naming of the Vote "Advance to the Treasurer".

63. The Treasury advised us, however, that if the permissive provisions of section 36A were not availed of, there would be a considerable amount of additional clerical and accounting work. The saving of this additional burden of routine work was, we were told, one of the reasons why the amendment of the Audit Act that has become section 36A was suggested. The reason for the additional work is that, were section 36A not in existence, the excess expenditure would, during the course of the financial year, have to be debited to the Advance to the Treasurer. At a later date, and after reimbursement of the Advance had been made, the expenditure would have to be posted to the appropriate heads of expenditure. This would introduce a qualification of some importance to the expenditure recorded in the Finance Statement. Further complications would be the need to seek special votes in the Supply Bill and in the main Estimates.

Q. 70.

64. Another way of presenting the expenditure contained in Supplementary Estimates to the Parliament in bill form would be to adapt the New Zealand procedure. By that procedure the Finance Minister (or, in cases of lesser amounts, Ministers or Permanent Heads) is empowered, subject to publication and an overall limit on the amounts authorized, to approve excess expenditure. An indemnity is subsequently provided in the Appropriation Act.

See paragraphs 44-51 above for further discussion.

65. It would no doubt be possible to devise amendments of the Audit Act that, while enabling the Treasurer to approve the making of excess expenditure from the Advance already appropriated by the Parliament, would also provide that he should be given an indemnity in respect of expenditures made from the Advance under those approvals. In this way also, the Parliament could have before it in substantive form the expenditure at present contained in Supplementary Appropriation measures. But then its function would not be to appropriate funds: it would be to provide an indemnity for expenditure from a previous appropriation.

66. If a choice had to be made between these alternatives, Your Committee would prefer the former. It seems to us to be closer to existing arrangements than is the New Zealand procedure, and we think it has many attractions. However, it is our view that, given the legal position, the most appropriate way of ensuring Parliamentary scrutiny of the expenditure at present contained in Supplementary Appropriation measures would be by presentation to the Parliament of a statement from the Treasurer of allocations made by him during the year (a) to supplement an existing appropriation or (b) for purposes for which there was no specific appropriation.

67. The following paragraphs discuss three further methods of presentation of the expenditure contained in Supplementary Estimates. The last method (discussed in paragraphs 83-92 below) is the one to which we have just alluded.

68. (ii) *The present procedure might be abandoned, and the information conveyed through the other financial documents presented to the Parliament.* In considering this alternative it is necessary to bear in mind two facts—

- (a) the information contained in Supplementary Estimates Schedules is already provided for Members in other places in the financial documents presented each year by the Treasurer to the Parliament: this matter is discussed below; and
- (b) the dates on which the Budget and Estimates are placed before the Parliament have a bearing upon the means used to convey to the Parliament the information at present conveyed in Supplementary Estimates Schedules: this matter is discussed in paragraphs 54-58 above.

Qs. 22, 25, 44,
51, 55, 56.

69. In his evidence, Mr. Hewitt stressed that there are other places in which the information contained in Supplementary Estimates can be found. One place is in the Estimates for the year following that to which the Supplementary Estimates relate. By examining the Vote and Expenditure columns for the previous year it is possible to ascertain whether expenditure has exceeded the appropriation. In such cases, the expenditure must have been authorized in one of two ways. Either it will have been made available by a Transfer of funds from an under-expended item in the same subdivision, and will have been authorized by the Governor-General under section 37 of the Audit Act; or, under the present arrangements, it would later be placed before the Parliament for approval in the form of a Supplementary Estimate. If additional funds were obtained during the year by Additional Estimates, a footnote is included to that effect, though the amount of the Additional Estimate is usually not shown. But attention is not drawn in a footnote to expenditures in excess of the Vote that have been made possible by Section 37 Transfers, or are to be approved in Supplementary Estimates.

Q. 44.

70. More complete information is contained in the Treasurer's Finance Statement. It is presented to the Parliament together with the Auditor-General's Report, and in the usual course of events comes before the Parliament later than the Estimates for the ensuing year: in recent years it has been available in September or October, the Estimates late in August. In this, the Treasurer's formal annual statement of accounts, votes that have received funds through the Additional Estimates are footnoted, as are amounts to be obtained by Supplementary Estimates. Further footnotes in the Finance Statement indicate when items have been re-arranged by Transfer made under section 37 of the Audit Act. The latter can also be ascertained from a glance at the relevant Appendix to the Report of the Auditor-General.

71. If the Supplementary Estimates measure as such were to be dropped, and no information given in a substitute document, it would be desirable to add in the Estimates further explanatory footnotes to the expenditures that were in excess of the original Vote or were made without specific appropriation. Presumably the expenditures that are now considered by the Parliament in Supplementary Estimates would then only be given consideration in the course of debate upon the Estimates for the ensuing year.*

72. This method of presentation would have the effect of placing the Supplementary Estimate type of expenditure on all fours with that authorized by Section 37 Transfers. Moreover, it would clearly be the cheapest. Neither special schedules nor Ministerial statements would be involved. All that would be required would be a few extra footnotes in the documents already presented to the Parliament.

73. Further point is lent to this suggestion when it is borne in mind that the Supplementary Appropriation measure cannot be placed before the Parliament until both the Estimates and associated documents, and the Finance Statement, have been submitted. The reasons are, first, that the Government Printer is quite unable to cope with extra work while he is handling, in addition to ordinary parliamentary and government business, the printing of daily "Hansard" and of these large and complicated financial measures. Second, and in respect of presentation of a separate statement before the tabling of the Finance Statement, it would be inappropriate to table a partial statement of accounts before the full and audited statement was presented. Thus Supplementary Estimates will always have to come a bad second, even though the information would be available in draft form by the end of July or early August.

Qs. 117-121.

74. Your Committee, after due consideration of all these factors, are of the opinion that the information that could be included in the main Estimates or Finance Statement would not be an adequate substitute for that at present contained in the Supplementary Estimates, even if those documents were revised to provide more footnotes. We have in mind not so much the adequacy of the information, as the constitutional proprieties. We think the expenditures in question should be placed directly and explicitly before the

* Some change might also be necessary in the relevancy rule, though that matter raises broader questions that we do not wish to discuss at this stage, because we do not think this a satisfactory alternative.

Parliament, and should not be relegated to the category of footnotes, or even of a special table in the Finance Statement or accompanying Report of the Auditor-General. As we have already observed, it is not only a matter of conveying information. There is a constitutional principle at stake. The Parliament itself has a right, and perhaps an obligation, to consider details of expenditures in excess of specific appropriation or not specifically provided for by appropriation.

See generally,
Qs. 70-77.

75. (iii) *Full details of the expenditure at present contained in Supplementary Estimates might be appended to the Report of the Auditor-General.* The earliest Reports of the Auditor-General contained as an Appendix a facsimile of the Schedule to the Supplementary Appropriation measure. It is not clear why the practice of including this Schedule ceased, though there may well have been two reasons. The first, and probably the most important, is that the information was merely a duplication of that presented to the Parliament in the form of a Schedule to the annual Supplementary Appropriation Act. The second reason may have been that, after the amendment of the Audit Act in 1906, the Auditor-General's objection to the practice of recording the expenditure from Treasurer's Advance in the Finance Statement under the various heads rather than as expenditure from the Advance was itself removed. Section 36A was added to the Audit Act, and it empowered the Treasurer to direct the charge of expenditure from the Advance to the appropriate heads of expenditure, provided that the total amount so charged does not exceed the total appropriation to the Advance.

See P.P.
1902-03,
Vol. II,
pages 321, 885.

Q. 25.

76. Whatever may have been the reasons, the Auditor-General has not published a facsimile of the Schedule to the Supplementary Appropriation measure since the First World War. Instead, he includes in an Appendix to his Report the major items that will be included in that measure. Major items are those in respect of which a Supplementary Estimate of £ 50,000 or more is required.

Q. 43.

77. Your Committee observe that, although this Appendix to the Auditor-General's Report is useful, it would not suffice for the kind of examination we have given to Supplementary Estimates. In fact, an analysis of our Reports on Supplementary Estimates shows that comparatively few of the items upon which Your Committee have made comment have been included in the list of major items appended by the Auditor-General to his Report. The reason is that Your Committee are concerned with financial procedures. Defects in them or in the manner in which they are observed need not necessarily coincide with the largest over-expenditures. It is our view that nothing short of a detailed examination of each of the items in respect of which excess expenditure has been made will suffice to reveal the occurrence of some unsatisfactory feature of financial administration. It is such an examination that Your Committee have in the past given to the items contained in Supplementary Estimates.

78. Nevertheless, there are attractive reasons in favour of this alternative to presenting a formal Supplementary Appropriation measure. In the first place, the Auditor-General already makes available to the Parliament in his Report a full list of "Transfers of Supplies under Section 37 of the Audit Act". The Auditor-General does not make any particular comment upon the Transfers: for several years at least the Report has indicated what transfers were made, and that a list of them was annexed as an Appendix. It could be equally appropriate for the Auditor-General to annex to his Report a list of expenditures authorized from funds voted in the Advance to the Treasurer. (As already mentioned, the Report does in fact contain a short note about expenditure from the Advance to the Treasurer, and annexes as an Appendix the "Principal Divisions and Items of Expenditure in Treasurer's Advance for which Supplementary Appropriation is required"). In addition, we venture the opinion that the kind of scrutiny most suited to the expenditures contained in the Supplementary Appropriation measure may best be given by Your Committee. It could not be given by the Parliament as a whole. Nevertheless, and as we have already indicated, we do not favour removing the possibility of a full-scale debate upon these expenditures.

See Report for
year ending
June, 1956,
Appendix D.

See Report for
year ending
June, 1956,
paragraph 5 and
Appendix C.

79. Although inclusion of the information in the Auditor-General's Report would be both appropriate and satisfactory, we are of the opinion that the question of timing is important. It is not conceivable that the Auditor-General could bring in his Report before the early days of September. Your Committee regard it as an achievement worthy of note that for some years past the Auditor-General has managed to produce his main Report during September. But it is clear that the present state of affairs represents a pinnacle of achievement. It might be over-optimistic to expect that in all future years he would be able to keep to this timetable, even if it were only printing difficulties that hindered him. Furthermore, the date at which his Report would be presented would not necessarily be convenient for Your Committee: we have found it best that our Report be presented concurrently with the bringing in by the Treasurer of the Supplementary Appropriation measure. In recent years he has been good enough to make this possible for us by consulting us about the date on which our Report would be ready for presentation.

See Qs. 107-
116.

See Qs. 107-112.

80. In order to make concurrent presentation possible, the Treasury in 1956 (the first occasion of earlier presentation of the Supplementary Appropriation measure) made available to Your Committee by early August the amounts that were subsequently to be incorporated in the Supplementary Appropriation. We think valuable this working arrangement with the Treasurer, and that it is also important that we should be able to present our Report on the expenditures contained in Supplementary Estimates independently of the date upon which the Auditor-General presents his Report.

Qs. 45, 46.

81. There is one further difficulty associated with the presentation of the information as an Appendix to the Report of the Auditor-General. It was alluded to during our hearings. Any debate that the Parliament might wish to conduct upon items of excess expenditure (which would now be contained in an Appendix to the Auditor-General's Report) would necessarily involve delaying the order by the Parliament that his Report be printed. The Clerk of the House, Mr. A. A. Tregear, has indicated that there would be real difficulties in holding up a section of the Auditor-General's Report.* There are obvious and strong objections to any proposal that would have the effect of holding it up in its entirety pending the completion of a debate that might easily be adjourned for a considerable period.

82. It is our opinion that presentation in an Appendix to the Report of the Auditor-General of the expenditure hitherto contained in the Supplementary Appropriation measure would not be the best choice.

Qs. 47-55.

83. (iv) *The Treasurer might submit to the Parliament, in lieu of the Supplementary Appropriation measure, a statement of allocations to heads of expenditure made by him from the Treasurer's Advance under section 36A of the Audit Act, with a resolution seeking the approval of the House to those allocations.* The Parliamentary Draftsman expressed the view that perhaps the most satisfactory alternative would be the presentation of a statement by the Treasurer to the Parliament in place of the Supplementary Appropriation measure. It could be brought before the Parliament by his moving a motion to the effect that the allocations directed by him be approved.

84. One way in which this could be achieved would be to modify the wording of the notation to the Advance to the Treasurer (it will be recalled that this now reads "To enable the Treasurer . . . to meet expenditure particulars of which will afterwards be included in a Parliamentary Appropriation"). The modification would indicate that particulars of the expenditure would afterwards be included in a statement to be submitted to the Parliament.

Qs. 72-92.

85. Such an amendment to the wording of the notation, assuming it could be drafted with suitable brevity, would lay on the Treasurer a "high moral obligation" to present the statement. Indeed, it is a notation that explicitly embodies the constitutional principle of Parliamentary control of finance. The conventions of the constitution being as they are, Your Committee do not think circumstances need be contemplated in which a Treasurer would be found to make default in his obligation to report to Parliament the allocations he had made of the Advance entrusted to him. We think the simple notation, coupled with a reliance upon constitutional convention, has attractions, not only because it is in harmony with the general spirit of the obligations (largely conventional) imposed in a system of responsible government; but also because, as the Treasury representative indicated, the Treasurer has year by year presented the Supplementary Appropriation measure even though from at least the early 1930's there have been doubts whether there was any legal obligation to present it.

Qs. 72-77, 88.

Qs. 83-86.

86. However, the notation to the Vote for Advance to the Treasurer does not amount, we were advised by the Parliamentary Draftsman, to compulsion at law. We are inclined to the view that, in line with the provision already made for the presentation of variations under section 37 of the Audit Act, there should be a statutory provision placing upon the Treasurer an obligation to present the statement. In recommending this, we have in mind that this would be a provision indicating constitutional proprieties rather than legally compellable details. In the event of a failure to render an account to the Parliament for the use of the Advance, the last resort is, after all, found not in the courts of law but in the Parliament itself.

87. To provide for the presentation of a statement such as we envisage, an amendment of the Audit Act would probably be necessary. The effect of the amendment we have in mind would be to make it incumbent upon the Treasurer to present for the approval of the Parliament a statement advising it of the expenditure in the previous year

* Mr. Tregear was asked—

"Would it be possible for a debate to take place upon one of the Appendices to the Auditor-General's Report (containing details of allocations under section 36A of the Audit Act by the Treasurer from the Advance to the Treasurer), while allowing the remainder of the Report to be printed?"

He replied—

"(i) This suggestion is not supported. It could be done but only after a complicated detaching of the particular appendix and perhaps a separate tabling, and certainly, a separate motion.

(ii) To achieve substantive debate, the form would be for the Statement to be tabled and a motion made that it be approved or some similar wording."

authorized from the Advance, and of the consequent allocations made by him under section 36A of the Audit Act. Your Committee are of the opinion that some time limit should be specified that would make the presentation necessary within a reasonable time after the close of the financial year. Thus there could be an obligation upon the Treasurer to present the statement for Parliament's consideration either within a stated period from the end of the financial year (or from the commencement of the first session after the close of the financial year), or by a fixed date, e.g., 15th October each year. Alternatively, the Treasurer could be enjoined to present the statement as soon as possible, and within the financial year following that of appropriation. We are inclined to favour the latter, especially as it could perhaps be linked with an authorization to vary the date of presentation in order that the date might more or less coincide with that of the presentation of the Report of Your Committee upon the items included in the statement.

88. Turning to the manner in which the statement should be presented by the Treasurer to the Parliament, we favour a form that requires positive consideration by the Parliament of the Treasurer's use of the Advance. For example, the statement might be presented for the approval of the House (and the Senate). The resolution could, we were advised by the Clerk-Assistant, House of Representatives, be to the effect that the House (or the Senate) approves the allocations from the Vote "Advance to the Treasurer" directed by the Treasurer under section 36A of the Audit Act. The presentation of a statement accompanied by such a resolution has the advantage that although, as a statement, it cannot be amended in any way, some positive Parliamentary action is invited, and detailed matters in it could be discussed. It might be desirable, to make possible rather freer debate, that the motion be presented in such a way that the House (and the Senate) would resolve themselves into Committee of the Whole for its consideration. On the other hand, even were the Parliament to disagree with the allocations, the validity of the appropriation would not in any way be affected. The appropriation would already have been manifestly and duly made in the main Appropriation Act. The statement would serve to account to the Parliament for expenditures authorized by the Treasurer from it: Parliamentary disapproval, however expressed, would have no legal effect whatever upon the appropriation itself. Q. 102.

89. The adoption of such a procedure would, we consider, be likely to involve some amendment of the Audit Act. The Treasury is at this very time engaged upon a comprehensive review of all the provisions of that Act, and it might well be inconvenient for the Treasurer to arrange forthwith for an amendment such as we are envisaging. Your Committee would not want to hasten unduly the revision at present being undertaken, which must be the product of mature consideration; but think that this proposal should be added to the list of amendments held by the Treasury for consideration. That measures ineffective in law are being presented to the Parliament for approval should lend incentive to the early completion of the revision. Q. 54.

90. It seems to us that presentation by the Treasurer of a special statement along the lines we have just discussed would have most of the advantages attendant upon the adoption of any other procedure, and would suffer from fewer disadvantages. In the first place, presentation in statement form of the expenditure now contained in Supplementary Estimates would have the over-riding advantages of accepting and taking into account the legal position, and of making clear the precise nature of the Parliamentary action required in respect of the expenditures involved. Moreover, presentation in this form would be comparatively inexpensive; would relate only to the expenditures at present contained in the Supplementary Appropriation measure, and would not, therefore, be confused with other financial measures; and the statement could be tabled as early as Your Committee were able to make their Report upon the items contained in it. In short, presentation of a statement would, it seems to us, be an appropriate way in which the Treasurer could account for approvals given to expenditure from the Advance in order to supplement appropriations or to make possible expenditure without specific appropriation.

91. In the second place, if the statement must be accompanied by a resolution that requires positive consideration by the Parliament of the expenditures authorized from the Advance to the Treasurer, much of the positive advantage in presenting a Supplementary Appropriation measure is retained, whilst the legal redundancy is avoided. We have already said that we think it vital that the Parliament should, under any new arrangements, preserve for itself full opportunity to examine and express an opinion upon the use made by the Treasurer of the Advance entrusted to him.

92. There are also subsidiary advantages in a separately presented statement of expenditures made from the Advance. The expenditures and allocations would neither be confused with the other matters that are appended to the Report of the Auditor-General, suffer the possible delay in presentation that could occur in the tabling of his Report, nor disturb unduly the general financial arrangements already existing. Yet such a statement would provide a means by which the Parliament could scrutinize directly the expenditure in question, and a convenient document upon which Your Committee could report.

93. Your Committee set out our recommendations in summary form in Chapter V.

CHAPTER V.—RECOMMENDATION.

94. Your Committee recommend that—

- (i) If it is decided to cease presenting in the present form the expenditure contained in the Supplementary Appropriation measure, and we think that should be done, it would probably be necessary to amend the Audit Act to give effect to the new arrangements.
- (ii) The Treasurer should submit, with a resolution seeking the approval of the Parliament, and in lieu of Supplementary Estimates, a statement indicating the expenditure authorized by him from the Treasurer's Advance, as allocated to various heads of expenditure under section 36A of the Audit Act.
- (iii) The Treasurer's Statement of Section 36A Allocations should be tabled for the consideration of the Parliament as soon as possible within the financial year following the year to which they relate.
- (iv) The Joint Parliamentary Committee of Public Accounts should endeavour to prepare for the Parliament a Report on each Statement as early as possible in the ensuing financial year, and if practicable by the date on which the Treasurer tables it (*see* Recommendation (iii)).
- (v) The Auditor-General might consider, in the light of the proposed new procedure, the information that should be made available in or attached to his Report.
- (vi) An emendation of the notation in the annual Estimates to the Vote "Advance to the Treasurer" would need to be made to conform to the new procedure. It might indicate that particulars of expenditure from the Advance are subsequently to be considered by the Parliament as provided by the Audit Act (which would probably have to be amended as outlined in (i), (ii) and (iii) above).

In making these recommendations, Your Committee have been anxious to preserve for the Parliament the same opportunity for consideration of the expenditures as it has hitherto enjoyed through the presentation of the Supplementary Appropriation measure.

For and on behalf of the Committee,

F. A. BLAND,
Chairman.

PETER H. BAILEY,
Secretary,
Joint Committee of Public Accounts,
Parliament House,
Canberra, A.C.T.

16th May, 1957.