

**APPROPRIATION (CONSOLIDATED ACCOUNT) CAPITAL 2009–10 (SUPPLEMENTARY) BILL 2010**

*Committee*

Resumed from 13 April. The Deputy Chairman of Committees (Hon Max Trenorden) in the chair; Hon Simon O'Brien (Minister for Finance) in charge of the bill.

**Schedule 1: Consolidated Account for the year ended 30 June 2010 —**

Progress was reported after the schedule had been partly considered.

**Hon KEN TRAVERS:** When we were finalising this bill last night, an issue arose out of the \$110 million identified as working capital for the Department of Health. As a brief summary, I think we effectively agreed that the government is putting in capital, but at least part of that capital will be used to cover and replenish previous capital drawn down to fund recurrent expenditure in the previous year that was not authorised. Will the minister at least nod whether that is correct?

**Hon Simon O'Brien:** The finding of the Auditor General was that it was restricted funds that had been used, not capital.

**Hon KEN TRAVERS:** That is what I am saying. This bill will authorise \$110 million in capital for the health department but, in part, that is to replenish the department's previous working capital that was actually drawn down because of the overexpenditure in the previous year when restricted funds were used for recurrent expenditure, which was not authorised.

**Hon Simon O'Brien:** Yes.

**Hon KEN TRAVERS:** It concerns me that we are in this situation. We are being asked to authorise a capital grant that effectively should have been—if the processes had been followed properly—recurrent expenditure in the previous year, but was never authorised. To me, that indicates a clear breach. The minister pointed out that that was brought to our attention by the Auditor General. He is absolutely right in that regard. The minister said that the Auditor General had investigated this matter.

I want to put on the record that in my view the Auditor General investigated the matter insofar as he got to the point of identifying that the issue occurred. That is as far as the Auditor General can take the matter. He then reports it to the house. It gravely concerns me that nothing has happened since that time—not a single thing. As members of Parliament, we should ask ourselves the question: should we approve expenditure if an agency exceeds its approved expenditure? By way of supplementary appropriation today, we are being asked to fix the problem of approved expenditure being taken without any authorisation by anybody; it was not even by a Treasurer's Advance Authorisation Bill. We now have to effectively approve this by way of supplementary funding. There has been no investigation into who authorised it, how they authorised it and why they authorised it. My view is that those people who authorised and approved that expenditure, which we are now being asked to retrospectively approve today through this bill, should be investigated. Somebody's head—or heads—should have rolled. It is a major fault in our system. The Auditor General can take it only to the point of reporting it to the Parliament. Some could argue that we, as the Parliament, have an obligation to pursue this matter further. It goes back to the control of the executive. We have failed. I still tax my mind whether it is a role for the Standing Committee on Estimates and Financial Operations, even though considerable time has passed, to investigate who approved this. We certainly know the CEO of the Department of Health approved it. That person has gone, but not because of this. I think one reason the former CEO left was that he could not get approval before the end of the financial year. The government left him to hang out to dry. There has been no punishment there.

**Hon Simon O'Brien:** Did the member's estimates committee not do any inquiry into this?

**Hon KEN TRAVERS:** No, we have never properly investigated it. I think the minister is right; I am still of the view that this matter should be properly investigated. I am still of the mind that it is potentially a legitimate issue for the estimates and financial operations committee to look at. Maybe it is something I need to take up with the Public Accounts Committee. In fact, there is a third element, which I will come to in a minute. The Public Accounts Committee sought evidence on this. I note some members of this chamber have great experience on the Public Accounts Committee; in fact, there is a member in this place who led the Public Accounts Committee with great distinction when he was in another place. Not only are the officers of the department ultimately culpable, but also, if there was ministerial approval given to do that, that minister should be held accountable. If that minister sought approval through the cabinet process for this funding, and was denied this funding as part of that process, for the minister to then "supplementarily" approve his agency to take action to incur the expenditure is inappropriate. That has resulted in us having to approve that money today as supplementary funding. That minister has gone around the back of his cabinet colleagues. He has deliberately gone against a

decision of his cabinet, which he is bound to comply with. He still sits in that cabinet today. I find that extraordinary.

My view is this is probably the most fundamentally serious issue to do with financial management in this state that I have seen. I have not let it go. I actually think it is a matter that needs to be pursued. This matter will not be resolved until such time as there is a proper process. One thing I have learned over this process is that, firstly, there are gaps in the process and, secondly, we still have not brought this matter fully to account; yet the government now asks us to pass this appropriation today to approve that action. That is what we are doing. By approving \$110 million in this capital account, we are retrospectively approving what happened. I have referred to the estimates and financial operations committee and the Public Accounts Committee. I mention the Public Accounts Committee because it is far easier for it to get the Minister for Health to appear before it to be held to account on this matter.

There are two other areas in which it could be dealt with. Was the action of a minister improper, and should this matter have been investigated by the Corruption and Crime Commission? I do not know the answer to that one, but I think it is legitimate to ask whether the CCC should have investigated the actions of the minister in giving direct approval to his department to take actions that were directly contrary to a decision of the cabinet. The other person who has an obligation in that regard is the Premier himself. He did not take action against a minister who again approved his agency to take an action that was directly contrary to a decision through the cabinet processes. When we pass this bill, we cannot pass it without making a very strong comment about that history. As I say, I am still of the view that the Premier has an obligation to take action. I would have thought that a minister acting in such a deliberate way to circumvent the processes and decisions of the cabinet is grounds for dismissal from the cabinet. I would further say that the actions of a minister —

**Hon Norman Moore** interjected.

**Hon KEN TRAVERS:** The Leader of the House can laugh, but it is a very serious matter.

**Hon Norman Moore:** I am not laughing at all. Don't you tell me what I am doing when I am not. I think it is a serious matter, but you have raised it about 27 times already.

**Hon KEN TRAVERS:** And no action has been taken!

**Hon Norman Moore:** And now you are trying to elevate it to a level that might get you some coverage.

**Hon KEN TRAVERS:** No, I am not trying to elevate it to a level that will get me some coverage.

**Hon Norman Moore:** That's why you mentioned the CCC, you have mentioned the Premier—

**Hon KEN TRAVERS:** What does the member think should happen?

**Hon Norman Moore:** It has been dealt with, and you know it has been dealt with.

**Hon KEN TRAVERS:** No, it has not been dealt with. Where has it been dealt with?

**Hon Norman Moore:** Vote against the bill.

**Hon KEN TRAVERS:** I am trying to get from the government what has been done about this matter. Nothing has been done about it.

**Hon Norman Moore:** You are saying that Parliament should deal with it. Vote against it.

**Hon Helen Morton** interjected.

**Hon KEN TRAVERS:** No, the Auditor General did not deal with it. That is where Hon Helen Morton misunderstands the role of the Auditor General. The Auditor General has the capacity only to report the matter to the Parliament. It is then for the Parliament to take action to deal with it. It is then for the Premier to take action to deal with it. The Auditor General's role stops at reporting it to the Parliament. He has reported that funds were used, but he has done nothing further, and he has no capacity to take it any further. That is the problem that we have today. We are now being asked to approve an expenditure of \$110 million in capital, which is to retrospectively top up expenditure from 2008–09 which was beyond the approved limit but which was approved by the Minister for Health, and no action has been taken beyond that.

Some could argue that the only action is a political action. If that is the only action, I will keep repeating this matter to highlight the fact that this government has not taken that action. The government does not treat this as a very serious matter, because it has failed to take action on it. It is my view that it should be taken further either by the Premier or by the CCC. If the matter is not taken further, it says to every other minister that they can get their approved expenditure, and if they have surplus funds in their accounts, they can exceed their approved expenditure limit. Everything will be hunky-dory; it can be fixed up even if the cabinet processes have said, "No, you cannot have any more money." That is what this is about. If this is not one of the most serious matters of

public financial discipline and accountability that has occurred in the state of Western Australia for as long as I have been a member of Parliament, I would welcome people to highlight to me a more serious one.

**Hon Norman Moore:** Can't you remember WA Inc? You weren't here then.

**Hon KEN TRAVERS:** The member can talk about WA Inc, and he is welcome to do it. If the member is equating this to WA Inc, I am glad that he is raising it to that level in his own mind.

**Hon Norman Moore:** Don't put words in my mouth. I did not say that at all. You said that you had never known anything as serious as this, and I told you one that was far more serious than that.

**The DEPUTY CHAIRMAN (Hon Max Trenorden):** Members, I can see a patient look on the minister's face, so I think we should try to get to the debate so that the Minister for Finance can respond to the question.

**Hon KEN TRAVERS:** There was a royal commission into WA Inc, but we do not have to have a royal commission because the CCC can do a very similar function to what the royal commission into WA Inc did. I am asking whether the government thinks it is appropriate for us to be approving supplementary funding for the purposes of putting in money that is required as a direct result of a minister of the Crown ignoring a decision of the cabinet processes and approving his agency to expend that money. Does the government believe that is an appropriate course of action? If it does not, what action is it going to take?

**Hon SIMON O'BRIEN:** The matters that are being canvassed are serious and the government takes them seriously. I indicate that the government places a very high level of importance on its accountability to the chamber in ensuring that the proper processes of government are followed. I want to place that reassurance in front of the member. He is demanding that that should be so, and I want to assure him of the government's agreement that proper procedures for the appropriation of moneys and their expenditure are adhered to.

With that assurance, I now turn to the issue that has been raised. This has been the subject of public and parliamentary debate on a number of occasions. The member has asserted that it is something that perhaps needs to be revisited and indeed he has signalled an intention today that it is a matter that we may need to be reminded of from time to time. I take no issue with that.

This matter had an airing in the debate on the Treasurer's Advance Authorisation Bill, because it was envisaged then that an indicative amount of \$110 million would be required for this very purpose and, as members see from the bill before them, in due course it was applied to that purpose. Now that the Treasurer's advance has been exercised and this supplementary appropriation bill has been brought before members, that does not mean that we should not again consider the matter. Again, I take no issue with the honourable member for raising it.

My role in managing this bill is to say, "Here is the full amount for which we have sought supplementary appropriation as the necessary follow-up to the Treasurer's advance bills that were dealt with some time ago." I am in the situation in which I am representing this in a Treasury capacity, not as 17 individual ministers; I do not have the prerogative to do that. I am choosing my words carefully, because I do not want to risk speculation or unqualified or unauthorised comment for fear of misleading the chamber. Any reticence I have in offering views or counter-views has that genuine and well-founded restraint attached to it.

Drawing on what we know as a matter of public record and from the previous debate and drawing also—I think I can properly allude to this as I have alluded to it earlier in the debate—on the findings and previous actions of the Auditor General, who is a parliamentary commissioner and therefore in a very real sense is part of our processes here in the Parliament and not at some cabinet table or some health department headquarters, I indicate the following information that is available to me. As part of the 2009–10 budget, additional funding of \$420 million was allocated to the Department of Health over the period to 2012–13 to meet increased activity, escalating costs, particularly in the Pilbara region, and other cost pressures. That was canvassed widely at the time.

In June 2009, the Minister for Health sought supplementary funding of \$70 million for 2008–09. In September 2009, the Auditor General qualified the metropolitan public hospitals' financial statements for the year ended 30 June 2009 on the basis that metropolitan public hospitals did not have sufficient funds to meet operational needs and drew on \$24.9 million of restricted funds to meet cash flow requirements. I think Hon Ken Travers is well aware of the statements of the time.

According to the Auditor General, controls over the restricted funds, which included specific-purpose grants money, were inadequate for ensuring that they were spent only on their approved purposes. The Department of Health advised that there was no alternative other than to use the restricted funds to pay its creditors. I think I recall correctly that the Auditor General identified and, in seeking to investigate further, formed a view, which was reported, that there was an error of judgement on the part of those involved, right up to director general level. Therefore, in response to what Hon Ken Travers said, there was some progress on the part of the

Parliament beyond simply identifying the expenditure of money in that it actually tried to work out whether that had been properly done and who was responsible for doing it.

Subsequently, as part of the 2009-10 *Mid-year Review of Public Sector Finances*—so this brings us right into the realm of the bills we are dealing with now—the minister requested a cash injection of \$110 million to address the Department of Health's significant liquidity issues, which were claimed to result from the unfunded budget deficits accumulated over the previous couple of years. The central issue, and the most serious issue that Hon Ken Travers has raised, I think, is that perhaps there was some device or artifice employed by the Minister for Health when he sought funding in 2009-10 —

**Hon Ken Travers:** In 2008-09.

**Hon SIMON O'BRIEN:** — and that when he was denied, he then somehow just said, “Oh, just go and spend the money anyway.” My advice is that it was not a case of the department exceeding appropriation; it was just that it used the wrong funds to meet other problems it had. I have not been intimately involved with these matters, but that is the advice I have.

**Hon Ken Travers:** The department definitely exceeded its approved expenditure limit for the year.

**Hon SIMON O'BRIEN:** Granted it exceeded its expense limit, but it did not exceed its appropriation, as I said.

Approval was given at the appropriate cabinet level for a cash injection of \$110 million in the course of the 2009-10 year, so that the Department of Health would be able to function and pay its debts as they fell due; that is the \$110 million we are dealing with now. I think I am capable of offering that on behalf of the Minister for Health because it is what is known, and I take the opportunity to remind the chamber of it. I do not know that I can go any further than that, but Hon Ken Travers—indeed the Parliament—may have a view that there are further matters, or previous matters, to be put to the government, specifically to the Minister for Health. That is a matter for the house or for one or other of its standing committees, or members by question or by substantive notice of motion, or whatever course of action is deemed appropriate, and I respect that. I think I have gone about as far as I can go in assisting the chamber on this matter. I have acknowledged that it is, and has been, an issue, and I acknowledge what the honourable member opposite said about it continuing to be an issue in some respects.

In reference to the 2008-09 budget—this is really beyond what I am capable of responding to today, Mr Deputy Chairman—it was struck, of course, by the Carpenter government, and the balance of that financial year was inherited by the incoming government and a new minister. That probably does not assist us at all, but they were the circumstances at about the time that these moneys were being applied for purposes that they should not have been applied for. I offer that by way of response, and thank members for their contributions.

**Schedule put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.