



Australian Citizens Party

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MEDIA RELEASE

Friday, 6 September, 2024

Open letter to Treasurer Jim Chalmers and Shadow Treasurer Angus Taylor

Note to concerned citizens: Please read the following open letter and forward it to your local federal MP, Treasurer Jim Chalmers, and Shadow Treasurer Angus Taylor—details below.

Dear Treasurer and Shadow Treasurer,

Your recent correspondence, Treasurer, to the Shadow Treasurer, proposing adding a “public interest” requirement to ensure the Treasurer’s veto powers under Section 11 of the *RBA Act 1959* are only used in extreme circumstances is of great concern, not least because it demonstrates ignorance of the existing law.

Section 11 sets out the mechanism under which differences of opinion between the Government and the RBA board on monetary policy are resolved.

Your original proposal to remove Section 11, Treasurer, would have meant ultimate control over the RBA being transferred from our elected government to unelected bureaucrats. This proposal was rejected by the dissenting reports of both the Coalition Senators and Australian Greens contained in the final report of the Senate Economics Legislation Committee inquiry into the Reserve Bank Reforms Bill.

If you, as Treasurer, are really concerned about the public interest, how do you justify your original proposal to repeal Section 11 and thereby hand over full control of the RBA to unelected technocrats?

Already a public interest objective

Your new proposal to keep Section 11 but add a public interest requirement makes no sense, because at the same time Part 3 of your RBA Reforms Bill 2024 is intended to water down the existing public interest objectives in the *RBA Act 1959* that already govern monetary policy decisions, by removing the specific objective that monetary policy decisions should contribute to “the economic prosperity and welfare of the people of Australia”.

Treasurer, you should be aware that the 1981 Campbell Financial System Inquiry Final Report—which recommended against removing Section 11—noted that a hypothetical difference of



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opinion between the government and the RBA would be, by definition, “as to whether that policy is directed to the greatest advantage of the people of Australia”.

This is an acknowledgment that under the existing law any government’s veto would already be guided by its view of what constitutes the public interest.

Yet you are proposing to overlay a further public interest restriction on an elected government that is already under a public interest obligation, while at the same time watering down the public interest objectives that guide the monetary policy decisions of the unelected Reserve Bank Board.

What is the ‘public interest’?

The concept of “public interest” is used in hundreds of state and federal Acts. Do you, Treasurer, think that the obligations to act in the public interest contained in the *Public Service Act* are superior to the obligation of elected politicians to act in the public interest?

Voters might well ask:

“Don’t we elect all our politicians on the basis that we believe they best represent what we see as the ‘public interest’?”

This view is readily recognised in Australian jurisprudence. The WA Inc. Royal Commission¹ enunciated this in what it called the “trust principle”:

*“The institutions of government and the officials and agencies of government exist for the public, to **serve the interests of the public.**” (Emphasis added.)*

The Royal Commission noted that the “trust principle”:



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"...expresses the condition upon which power is given to the institutions of government, and to officials, elected and appointed alike".

It also noted that:

"First, it is not the purpose of accountability measures to prevent a government from governing. If the measures had that effect, they would defeat the very purpose for which, under the Constitution, power is given to governments, public officials and governmental agencies. The purpose of such measures is to hold governments, public officials and agencies to account for the manner of their stewardship. Government is constitutionally obliged to act in the public interest. To the extent that it is given power to do so, it must be allowed to do so." (Emphasis added.)

In its 1979 report on the then draft Commonwealth Freedom of Information Bill², the Australian Senate Committee on Constitutional and Legal Affairs described the public interest as:

"...a convenient and useful concept for aggregating any number of interests that may bear upon a disputed question that is of general—as opposed to merely private—concern".

None of the Acts referring to "public interest" provide a strict definition of what the public interest is, because in practice, the circumstances in which competing or conflicting public interests, private interests, partisan interests, and personal interests to be balanced are so complex.

Executive responsible to the public interest

As well as disapproving your intention, Treasurer, to remove Section 11, the Coalition Senators' Dissenting Report³ suggests they are of the view that it is the role of executive government to best



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serve the public interest:

"1.71 ...the position taken by the Campbell Committee in 1981 still stands as correct, that although the Bank has functional independence in monetary policy, and this has been crucial to Australia's management of inflation in the last 30 year[s], its independence cannot be absolute:

...the Bank cannot rise above the source of its powers—government and Parliament—and must be responsive to the direction which governments may deem fit to give."

"1.72 Ultimately the Parliament must always maintain sovereignty over institutions with delegated authority in a liberal democracy like Australia. Section 11 is a well-established and understood safeguard."

"1.38 Economist Dr Steven Hamilton, appearing before this Committee at a public hearing, ... questioned the need for removing section 11 on the basis that Parliament should have ultimate control under the law:

... Ultimately, we elect a parliament, we have a democracy, and that parliament ought to have an executive government that is formed from that parliament or to have some ultimate control over that process...."

Already safeguarded against misuse

The Coalition Senators' Dissenting Report also quoted much testimony establishing that Section 11 procedures are already onerous and "politically demanding" for the government of the day to implement:

"1.30 In 1996, the Howard Government's joint statement with the RBA on the conduct of monetary policy noted the continuing relevance of section 11, reiterating its importance as a necessary safeguard:



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...the procedures are politically demanding and their nature reinforces the Bank's independence. Safeguards like this ensure that monetary policy is subject to the checks and balances inherent and necessary in a democratic system."

"1.40 When asked, Dr Hamilton agreed that the RBA currently already has 'functional independence', and that the existing override mechanism under section 11 is well designed and already fairly onerous for government:

Looking at the provisions of section 11 as they are right now, it is a fairly long process. It requires a lot of steps to be taken by the government. They need to publicly disclose and there are exchanges of letters. It doesn't allow the government to just decide to set interest rates differently on a whim. In a sense, I think it is actually pretty well designed for a kind of break-glass scenario in which the government might need to take control of monetary policy."

"1.44 Secondly, he explains why section 11 has never been used:

Section 11 imposes a very politically demanding process that governments would only be willing to use in the most extreme and rare circumstances. After the failure to reach agreement, the government would have to publish its decision, and both the government and the bank would have to lay before both houses of parliament the detailed reasons behind their positions. Little wonder that it's not been used. But, if there had been a conflict, a really big conflict—like the one in the early thirties—it would have been a great help in resolving the issue."

Treasurer, your claim to be concerned for the public interest is disingenuous, at best. This evidence points to your real motivation being a concern that Section 11 actually gives the government of the day the power—and the responsibility—to protect the public interest!



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Removal of Section 36

Another glaring illustration of your lack of concern for the public interest, Mr Chalmers, which on this issue Mr Taylor you seem equally unconcerned, is the intention of Part 2 of the Bill to repeal Section 36 of the *Banking Act 1959*.

Section 36 allows the RBA to guide the private banks on how much they should be lending to different sectors of the economy, a tool the RBA can use to target inflation.

Using Section 36, the RBA could have acted years ago to help first home buyers and prevent Australia's property bubble by implementing lower interest rates for first homeowners and higher rates for investment property speculators.

The Australian Greens' Dissenting Report⁴ noted that:

"1.31 Removing this power would further entrench the neoliberal ideology that commercial banks are the best arbiters of where capital should be directed. Unfortunately, as recent history shows us, **this has turbocharged asset price inflation (particularly in speculative property and stocks) and substantially failed to support or advance productive economic activity.** [Emphasis added.]

"1.32 This was demonstrated clearly by the money printing and quantitative easing measures put in place during Covid. We have no productive infrastructure or industries to point to as a result of the \$188 billion provided to commercial banks via the Term Funding Facility. **What we got was astronomical increases in property values as banks provided more money to more people to bid up the limited supply of housing.** [Emphasis added.]

"1.33 **Commercial banks will not direct credit to where it best enhances society. They will direct it to where the risk is lowest, the returns are highest and the work is easiest—in other words, into property.** [Emphasis added.]

"1.34 As my [Senator Nick McKim's] submission to the Reserve Bank Review outlined:



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House prices have gotten so out of control as a result of tax policies biased to landowners, most notably tax concessions that give property investors a public subsidy to outbid would-be homeowners; and the retreat of governments of all stripes and at all levels as a provider of housing.

*But house prices also have gotten out of control as a result of the structural decline in interest rates and a monetary policy regime that is **agnostic about the flow of credit**. The financialisation of housing is one of the defining features of the period that current monetary policy arrangements have been in place.*

Banks went all-in on increasingly speculative property lending after monetary and prudential regulation was loosened or removed. Thirty years ago, Australian banks lent twice as much to business as they did for housing. Now they lend twice as much for housing as they do for businesses.” (Emphasis added.)

Lender of last resort

Repealing Section 36 also disempowers the RBA as the lender of last resort. It will mean the RBA is expected to bail out the private banks if they get into trouble, but have no power to direct the banks to stop them from engaging in the activities that will put them at risk. *It essentially gives the private banks a blank cheque!*

Conclusion

Lewis Carroll’s *Through the Looking Glass* had Humpty Dumpty say:

“When I use a word ... it means just what I choose it to mean—neither more nor less.”

From all of this, Treasurer, we contend that the real intent behind your proposed “public interest”



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test and repeal of Section 36 of the *Banking Act 1959* is to place a padlock on the power of our elected government to act in the public interest in regard to the financial system.

Treasurer, why is it so urgent for you to stop the use of a power which has never been used? What are you hiding?

Yours sincerely,
Australian Citizens Party

Footnotes:

1. <https://catalogue.nla.gov.au/catalog/1088366>
2. [Senate Standing Committee On Constitutional and Legal Affairs Report of FOI Bill 1978](#)
3. [Coalition Senators' Dissenting Report](#)
4. [Australian Greens Dissenting Report](#)

Note to concerned citizens: What you can do

Please forward this open letter to the following people:

Treasurer Jim Chalmers: jim.chalmers.mp@aph.gov.au

Shadow Treasurer Angus Taylor: angus.taylor.mp@aph.gov.au

[Click here to find the details of your local federal MP.](#) Publication Date 06 September 2024