

hc/let/13887

20 February 2003

Mr John Carter  
Acting Secretary  
Joint Committee of Public Accounts and Audit  
Parliament House  
CANBERRA ACT 2600

Dear Mr Carter

**DRAFT FINANCIAL FRAMEWORK LEGISLATION AMENDMENT BILL**

Thank you for your letter of 13 February 2003 inviting me to make a submission to the Joint Committee of Public Accounts and Audit on the draft Financial Framework Legislation Amendment Bill.

There are no comments on the provisions of the bill as such, as they largely give effect to changes to the law already made, beginning with the enactment of the *Financial Management and Accountability Act 1997*.

The terms of reference of the committee, however, require it to assess whether the bill makes an appropriate contribution to improving the financial framework and reporting of the public sector, particularly in relation to determinations that establish special accounts.

The committee would be aware that there is a good deal of disquiet in the Senate, expressed for example in estimates hearings, about special accounts.

In the first place, the assurances of the Department of Finance and Administration that the statutory provisions about special accounts, and the manner in which they are created and managed, are in accordance with sections 81 and 83 of the Constitution are not entirely convincing to some senators.

On one view the provisions which allow the creation of special accounts amount to a scheme for money to bypass sections 81 and 83. The absence of a statement for the Consolidated Revenue Fund (CRF) including the special accounts reinforces this argument. It is probably only a matter of time before someone challenges the legality of some government expenditure on this basis. Under the old system it could be plausibly argued that the existence of the Loan Fund and the Trust Fund as subordinates of the CRF did not derogate from the constitutional provisions, particularly as there were statements of transactions for them. The new system looks much more dubious.

The way in which trust accounts have been dissolved into special accounts and have disappeared into the general budgets of departments and agencies, apparently in the process shedding all or some of the restrictions on their application, and the diffused way in which special accounts are reported in budget documentation, also worries senators who are concerned to follow where the money has gone and what it is used for.

It may be that the fault lies with the Financial Management and Accountability Act and with the whole Parliament for passing that act without sufficient attention to the implications of special accounts, but the way in which the accounts are administratively treated adds to the opaque nature of the whole process.

As special accounts involve large sums of money, and in some cases not even their existence is revealed in portfolio budget statements and budget papers, it is suggested that the committee should give some attention to the basis and treatment of these accounts.

Yours sincerely

(Harry Evans)