

## ADDENDUM

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### Introduction

1 Throughout the lengthy and often complex hearings which have been held by this Joint Select Committee, and as a result of my own researches, I have been impressed that a number of matters have been brought to light which I believe need to be put clearly before the Parliament. There are several issues, some central, some less so, which I believe need to be aired publicly and more clearly understood as the Parliament and the wider community deliberate upon the Committee's Report and Recommendations and the Government's eventual responses to them. This is the purpose of my writing a personal Addendum to our Report.

### Concurrence

2 I wish to express my personal support for the conclusions and the recommendations contained in the body of the Report and agreed upon by a majority of Committee members. They have the support of representatives of the four principal parties represented in the Parliament. As such, I believe they truly represent the opinions of the overwhelming majority of informed Australians, and most certainly the overwhelming majority of those Australians (other than the official representatives of Departments) who appeared before the Committee or submitted material for our consideration.

## Surreptitious Social Engineering

3 Proponents of the Australia Card have claimed an enormous range of alleged 'benefits' which would flow from its introduction. These range from the elimination of taxation fraud, welfare cheating, and illegal immigration on the one hand, through to improvements in the health care system and the elimination of organised crime on the other.

4 Taken as a whole the proposal seems superficially attractive, and has been presented in this superficial guise by both government and various pollsters to produce allegedly 'overwhelming' community support for the proposal - a claim demonstrably false under analysis.

5 However, the more each individual claim is tested, the more clearly each is exposed to be far less than it seems, and collectively the whole proposal grows weaker.

6 The term 'social engineering' I have borrowed from the writings of the British philosopher Sir Karl Popper. He uses it to describe any system which seeks to make wholesale changes in our social institutions and relationships enacted by governments in order to achieve some alleged greater good or benefit. He characterises it as an approach based on always appealing 'to our emotions rather than to reason', surely a correct description of the propaganda for the Australia Card. He concludes however that:

Even with the best of intentions of making heaven on earth it only succeeds in making it a hell - that hell which man alone prepares for his fellow-men.<sup>1</sup>

7 A similar point was made by the famous American Supreme Court Justice, Brandeis, who wrote:

... experience should teach us to be most on our guard when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachments of men of zeal, well-meaning, but without understanding.<sup>2</sup>

8 One does not need to rely however upon British philosophers or American jurists to make this point. It was made to us forcefully by several distinguished witnesses.

9 The very predicate of the Australia Card seeks to effect fundamental change in the premises of Australian society.

10 Professor Geoffrey Walker, Professor of Law at the University of Queensland, told the Committee:

Originally the Government's announcements said that the system was basically to be established as a record of entitlement to Commonwealth benefits and as a record for tax purposes but now in the HIC report we see that the system is now seen as a record of "Those identities that are entitled to operate in the Australian community". I repeat: Entities entitled to operate. We see a shift of emphasis away from merely entitlement to government benefits to an entitlement to exist if you like.<sup>3</sup>

11 This language, rightly described by several witnesses and commentators as 'Orwellian', the turning of Australian citizens into 'entities entitled to operate' is symptomatic of the whole approach of the Australia Card.

12 What is proposed is a significant shift in our social relationships. No longer is the onus upon the Government to prove its legitimacy to the people, we will now have to prove that we are 'entitled to operate' to the Government. What is

more, there will be major penalties imposed upon us if we fail to do so. Such an attitude may be acceptable to some people but I reject it. It is totally antithetical to my liberal beliefs.

13 This question was further addressed by His Grace the Right Reverend Michael Challen, Bishop of the Anglican Diocese of Perth and Chairman of its Social Responsibilities Commission. His Grace told us:

A fundamental point we would want to make - you would not be surprised about that - is the impact of an identity card and information system on a fundamental reality about human relationships, namely the matter of trust. No family, no community and no nation can really work very happily except on the basis of trust, and trust is not a commodity which one gives to another. Trust is a quality and a response which you evoke out of another by, in fact, entrusting yourself to that person or group. If that sounds a bit theoretical I think it is far from theoretical. It is absolutely basic, whether you want to talk about family life, marital relationship or community life. At the moment our society, by and large, operates on the basis of trust. Now and then people are asked to identify themselves. It is the Commission's expectation that once a universal identity card system is established, that order will be reversed. That is to say, notwithstanding provisions against the misuse of the card, it will require the card to be produced on demand for purposes beyond the Government's intention. We believe that people will require the card to be produced as a normal practice and therefore people will not be trusting one another, and therefore the quality of trust will not be fostered or strengthened in our social relationships. What is abnormal at the moment, we suspect, would become normal. I do not know whether you have heard of that from other submissions, but I want to emphasise that very basic point to the Committee.<sup>4</sup>

14 His Grace further warned of the eventual consequences for our society in these words:

Certainly it is imperative upon us all to try to order our society on the basis of commonly accepted moral values primarily, rather than through legislation, through insistence. The more we have taken the second route, the more we minimise the moral imperative. I think we get into a downward spiral.<sup>5</sup>

15 Another witness, Mr Frank Costigan Q.C., the former Royal Commissioner, after describing the whole proposal as 'a significant intrusion into individual privacy',<sup>6</sup> went on to discuss this reverse onus of proof inherent in the proposal and its propensity to alter society thus:

Mr SAUNDERSON - One can argue that the feeling that one can develop with the card is that everybody is guilty and the only way you prove your innocence is by the production of cards when you are doing your dealings and that sort of thing. So it is the reverse.

Mr Costigan - It is worse than that really, because you ultimately have to prove that the computer is wrong and you can just imagine the problems if something has gone wrong and you have to persuade the person across the counter that you are right and the computer is wrong.

...

Mr Costigan - I think it really is a big change in the way in which we have lived in our society. If you introduce something like a national identity card - again, going down the track 10 or 20 years, seeing it as it would be then - I think you really have changed the kind of society we have. You have got to be pretty satisfied that the benefits you are getting out of that justify that. I certainly am not satisfied.<sup>7</sup>

16 His Honour Mr Justice Michael Kirby, President of the NSW Court of Appeal and former Chairman of the Australian Law Reform Commission has been a trenchant critic of the Australia Card proposal. He has drawn attention to its defects in several papers.<sup>8</sup> Centrally he says:

If there is an identity card, people in authority will want to put it to use. Those of you who have visited Europe where people must always carry such cards, will have noticed the very real difference between the relationship of authority to the individual and that which has hitherto existed in the English speaking countries. What is at stake is not just catching a few tax avoiders. It is not even the efficiency of policing. It is not the defence of innocent and law abiding citizens from law breakers. What is at stake is nothing less than the nature of our society and the power and authority of the state in relation to the individual.<sup>9</sup>

17 In attacking the falacious use of public opinion polls to boost acceptance of the Card, his Honour has warned that 'sadly ... the public is all too frequently willing to participate in the destruction or erosion of its own liberties', but that:

... it remains for those who are aware of the special relationship that exists in countries of the common law between authority and the citizen to point to the dangers. A dentist who survived Auschwitz may declare that the best thing of living in Australia (it could equally be Canada, the United States or England) is that he is never liable to be stopped on the corner by someone in uniform with the demand "Papieren!". Yet provide an ID card and the risk exists that the data base will be enhanced and that more and more officials will seek access to it, in the name of efficiency. And that in due course of time carrying the card will be obligatory. And producing it will become a commonplace and, ultimately, in response to some outrage, obligatory.<sup>10</sup>

18 His Honour's comments are prophetic when one considers that in the wake of the Russell Street bombing, proposals are now being put forward for significant increases in the powers of bodies such as the National Crime Authority<sup>11</sup> and State Police Forces despite clear Government statements that these moves were not in contemplation.<sup>12</sup>

19           The Government's (and even more grossly, the Health Insurance Commission's) lack of sensitivity about potential changes in our fundamental social arrangements has been pointed up by a number of even its own Members, in papers, or most eloquently in a speech in the House of Representatives by Mr Lewis Kent MP. He said:

I also reject the necessity for the introduction of the card. That it is called an Australia Card is an exercise in cynicism in itself. Nothing can be more un-Australian than the need to prove one's identity on the call of an official, be it a policeman or a bureaucrat. It would be much more appropriate for the proposed card to be called a Hitlercard or Stalincard, as the whole exercise smacks of authoritarianism.

The proposal to introduce an identification card system and computerised data bank on individuals is a sinister attack on our civil liberties by the bureaucracy.

... It was of no concern to the small minds of the bureaucracy that in the process of mopping up the petty amounts from average Aussies who are reluctant to pay taxes on inflation, by the use of identity cards our traditional liberties and our way of life which respects the privacy of the individual will be jeopardised.

...

I can tell honourable members of more extreme uses of systems of identification. I have many friends who have their numbers, not imprinted on a plastic card, but tattooed on their forearms. They have told me that if it were not for the use of ID cards overseas, the nazis would have found it much more difficult to find them and herd them into concentration camps. I mention this only to show the extremes to which systems of identification can be taken. I am not suggesting for one moment that such a use of ID cards would ever be contemplated by the Australian bureaucracy. Nonetheless, I refuse to be numbered and branded.

There is no doubt that once the ID card is introduced it can be used for any purpose, legitimate or sinister, depending on the Government of the day - or, even worse, on the bureaucracy. Irrespective of assurances by the Treasurer, would anyone seriously suggest that the police will not use it as one of their tactics to intimidate individuals, by asking them to produce their ID card at every opportunity? One would have to be born in cuckoo land to believe that they will not.<sup>13</sup>

20 The insensitivity of the bureaucracy is best exemplified in three instances. The first has already been referred to in the evidence of Professor Walker, namely the characterization of people as mere 'entities entitled to operate'.

21 The second appears minor, but quite illustrates how bureaucratic minds lack sensitivity in dealing with social and personal issues.

22 The right to change one's name, or indeed to 'operate' under any name of one's choice (provided it is not for fraudulent purposes) is well established in English law. Halsbury notes that it dates back well over two centuries; it is affirmed by the Courts and in most Australian States it requires no formal step to be taken.<sup>14</sup> Nevertheless, for mere purposes of bureaucratic convenience, the Health Insurance Commission proposes to take it upon itself to determine if changes to one's own name are 'frivolous' or not, and where the HIC decides they are 'frivolous', a 'financial penalty to discourage'<sup>15</sup> such a change of name on one's own Australia Card is proposed.

23 A third example is relevant to hundreds of thousands of Australians. Many people came to Australia from the United Kingdom and Ireland prior to 1984, and under the provisions of the Australian Citizenship Act 1948 they were entitled to



exercise all the legal rights of Australians without having to be formally naturalized. These provisions were only altered by passage of the Statute Law (Miscellaneous Amendments) Act 1981, taking effect in January 1984. Under the HIC proposals these people will be required to have Australia Cards bearing the words 'permanent resident' on the front whereas other people who have no greater or indeed different rights will have the word 'citizen' on theirs.<sup>16</sup> I can see no reason for this, indeed the distinction is one totally void of any legal or social relevance. It is a mere example of bureaucratic insensitivity to the feelings of individuals.

#### Why the proposal is fundamentally flawed

24 I have already drawn attention to the attack which the Australia Card proposal makes on our social arrangements, but its fundamental flaw lies in its failure to understand the legal basis of Australian society.

25 Our society and our laws are based upon the principles of the common law. I had thought that that much was understood and appreciated by people in the most senior levels of government. Apparently this is not so. In evidence before the Committee I put several questions to the Health Insurance Commission, to Mr C.R. Wilcox (the General Manager) and to Mr K.J. Hazell (Assistant General Manager, Australia Card Division). These officers had a primary responsibility for drawing up the details of the Government's proposals, and Mr Hazell visited several countries to investigate Identity Card systems. The following exchange took place:

Senator PUBLICK - I wish to direct a question to Mr Hazell, as the person who was responsible for the overseas visit. Which countries did you visit which have legal systems based on British common law principles?

Mr Hazell - Could you explain what you mean by that?

Senator PUBLICK - Which common law countries did you visit as distinct from civil law countries?

Mr Hazell - I am afraid I do not understand what you mean.

Senator PUBLICK - It is, in fact, in some ways quite a critical distinction. There are certain countries which operate on the basis of the common law, and Australia, Canada and New Zealand are examples. There are also countries such as France, Belgium, Israel, Germany and the Scandinavian countries which operate on the basis of civil law. The underlying principles of the legal system are absolutely and fundamentally different. I want to know which common law countries you visited as part of your stay.

Mr Hazell - I believe the only one would be Hong Kong.

Mr Wilcox - Would you run through the countries that were visited?

Mr Hazell - In Europe we went to France and Belgium. Then we visited Israel, Hong Kong, the USA and Canada. Canada and the USA have very common systems but I am afraid the implication of your question is still lost on me.

Senator PUBLICK - This is one of the things that really does concern me because the whole basis on which a country's legal system is built is of significance to the sorts of things that you can do in terms of introducing new schemes.<sup>17</sup>

26 I find it quite unbelievable that senior officers of the public service are in such ignorance about so fundamental a matter and are quite unable to understand the implications involved in this point. The fact that ALL common law countries

have rejected a system of national ID cards seems to have made no impact upon the HIC or the Government in this regard; indeed this point and the selectivity of the overseas data gathered as a result was remarked upon by several witnesses.

27 This attitude, a lack of concern about fundamental common law principles leads to a degree of cynicism about how the 'merits' of the cards are to be promoted. When asked how he would respond to the concerns expressed by State Premiers such as Sir Joh Bjelke-Petersen, the Minister for Health (Dr Blewett) merely replied:

State Governments are infinitely bribable.<sup>18</sup>

#### The proposal fails all key tests

28 Both at the 1985 Tax Summit and in subsequent discussions the Government sought to identify three principal purposes for the Australia Card, namely

- . to combat tax evasion
- . to reduce welfare fraud
- . to identify illegal migrants<sup>19</sup>

29 In each case the Government proposal fails to do anywhere near everything that is claimed for it.

(a) **Tax:** In relation to the impact of the Australia Card system on the problems of tax evasion I note:

- (i) many of the Tax Office figures on losses of revenue are speculative, depending on the various systems used to assess losses which can never be precise.<sup>20</sup>

- (ii) many of the ATO estimates of revenue loss have been challenged by reports as authoritative as that of the Auditor-General who indicated that various ATO estimates contained 'strong elements of conjecture and the need for heavy qualification'.<sup>21</sup>
- (iii) the Government has been most selective in which areas of tax evasion it is seeking to pursue. In recent weeks several comments have been made on this matter. Kenneth Davidson for example wrote:

We have a Government running itself into a lather over capital gains tax, modifications to the company vehicle perk and the Australia Card which together, will be lucky to net \$100 million in their first year, while ignoring a \$1 billion-plus a year erosion of the corporate tax base through negatively geared takeovers.

If Mr Keating can't see and won't act to protect the tax base when Australia's largest company is the target for tax stripping, then he is simply not up to the job of Treasurer  
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and similarly expressions of concern were made by Maximillian Walsh.<sup>23</sup>

- (iv) there have been no satisfactory explanations by the Government as to why some of the areas initially proposed for inclusion in the Australia Card system to combat tax evasion were dropped in subsequent submissions, much to the obvious disapproval of the ATO, as is seen in the following extract of evidence:

Senator PUPLICK - In the original interdepartmental committee report on the national identity system of August 1985 there was reference to the use of the card for all cash

transactions in excess of a specified amount. In this current report, there is an adjustment shown on page 115 of a decline in revenue of \$46m due to the removal of the use in relation to cash reporting. I wonder whether you could explain the rationale behind removing that requirement from the original proposal through to this proposal. Was it a Taxation Office idea or did it originate somewhere else, to exclude that from the original list of proposed uses of the card?

Mr Killaly - It is a policy question. I think that is the best answer to that.

Senator PUBLICK - If so, it was determined by Cabinet. Would you like to tell me who made the policy, as a matter of interest?

Mr Killaly - You promised not to ask these questions about policy.

Senator PUBLICK - I did not promise not to ask you questions about who made policy. If that is an embarrassment I can appreciate the problem.

Mr Killaly - We were fairly keen on that use; I would say that.

CHAIRMAN - I think it might be a good idea to get on to the next session.<sup>24</sup>

- (v) there is an admission in every quarter that the proposals would do nothing significant about the cash or 'black' economy, itself estimated at an equivalent of anywhere from 5 to 15 per cent of the value of GDP.<sup>25</sup> It is equally of note that the cash economy in places such as Sweden, often cited as a model for the Australia Card system still flourishes and denies the revenue there up to 20 per cent of current revenue which should be gathered.<sup>26</sup>

- (vi) in recent years Governments have moved vigorously to close tax loopholes wherever possible. From 1977 to 1982 the previous Government enacted 18 pieces of legislation designed to eliminate tax evasion.<sup>27</sup> The current Government has already moved to prevent abuses via the system of dividend imputation and in relation to redeemable preference shares.<sup>28</sup>
- (vii) government powers, previously thought not to be available in relation to taxation offences (such as access to safety deposit boxes in banks<sup>29</sup>) are now being found to be available, obviating the need for the Australia Card in certain areas.
- (viii) there is no evidence that tax evasion through companies and corporate structures can be effectively tackled even with the 'companion entities' system proposed.<sup>30</sup>
- (ix) even those most concerned to assist in the protection of the revenue and those best placed to comment on the proposals have cast doubts on its tax-effectiveness. Dr Ian Spry QC, Editor of the Australian Tax Review, has concluded:

On a full analysis it appears that the alleged necessity for an Australia Card does not exist. Accordingly the various dangers that would accompany its introduction appears to render it markedly undesirable.<sup>31</sup>

- (x) no evidence was given to the Committee that, even with the Card in place, the ATO was contemplating the sort of radical revision in its internal procedures which is clearly required in the light of several

adverse comments by the Auditor-General.<sup>32</sup> Specifically attention should be drawn to the evidence recently given to the House of Representatives Expenditure Committee indicating that in recent years the ATO has spent only some 41 per cent of the funds actually allocated to it for computer equipment,<sup>33</sup> a matter to which public attention has also been drawn.<sup>34</sup>

(b) **Welfare fraud:** Many quite extravagant and unsubstantiated claims about the level of welfare fraud have been made. On the evidence of the Department of Social Security, which was closely examined in two public and one in-camera sessions, I accept that only 0.6 per cent of overpayments are attributable to identity fraud and that some 61 per cent are attributable to income variations - which cannot of course be picked up by the Card proposal.<sup>35</sup> I accept also that many of the so-called 'Saturday-night myths' (to use the Department's phrase), on investigation turn out to be quite false.<sup>36</sup> Finally I accept the point made by the Department to the Subcommittee of the House of Representatives Standing Committee on Expenditure that a card system of itself poses threats to the integrity of the welfare system and opens the door for greater fraud.<sup>37</sup> In saying what I have, I would not want to give the impression of being satisfied with the systems currently used by the Department of Social Security, although like the Auditor-General's report<sup>38</sup> I recognise they are being improved.<sup>39</sup> I merely seek to make the point that the alleged benefits of the Card in relation to welfare fraud are, on close inspection, revealed to be quite illusory.

(c) **Illegal migrants:** No evidence given to the Committee was as unpersuasive as that given by the Department of Immigration and Ethnic Affairs.<sup>40</sup> Reference to paragraphs 1.52 to 1.55 of this Report will demonstrate what I mean. The claims of savings to revenue in the order of \$1292 million over a ten year period simply cannot be taken seriously.

30 I thus believe that, on the tests proposed by the Government itself for the introduction of the Card, no case can be made out.

#### Cost/benefit questions

31 Over a period of time not only has the Australia Card proposal been modified on numerous occasions, so have the issues of both the cost of its introduction and the purported revenue gains.

32 At the time of the Tax Summit the original proposal envisaged establishment costs of \$297 million; annual operating costs of approximately \$100 million and eventual revenue gains rising to \$454 million annually after 1992/3.<sup>41</sup>

33 At various times establishment costs varied from \$38 million, through \$266.9 million to \$297 million.<sup>42</sup>

34 Annual operating costs were variously given as \$49 million through \$100 million to \$111.8 million.<sup>43</sup>

35 Revenue gains by the seventh year varied from \$454 million through \$574.7 million up to \$980 million.<sup>44</sup>

36 In the Government's major report 'Towards Fairness and Equity', prepared by the Australia Card Secretariat and dated 6 February 1986, total costs were presented as being \$1046.574 million and total benefits as \$4480.25 million over a ten year period.<sup>45</sup>

37 However, within that submission it is also possible to note costs of \$726.595 million and benefits of only \$2459.646 million if one takes the cumulative discounted benefits which were clearly favoured by the Department of Finance in its evidence to the Committee.<sup>46</sup>



38        Within a matter of days, however, these figures were yet again revised so that the Final Planning Report of the Health Insurance Commission reduced costs to \$733.346 million by reducing HIC costs.<sup>47</sup>

39        I wish however to draw attention to the following matters which cast grave doubts upon all of these claims:

#### Benefits

- (i) the alleged benefits of \$1292 million arising in relation to the Department of Immigration and Ethnic Affairs cannot be taken seriously as already noted; however, Professor C.J. Barter, the Professor of Computer Science at the University of Adelaide, in his evidence explained how it might be possible that the unintended consequences of the use of the card in immigration matters could turn out to be not a saving, but a cost to revenue.<sup>48</sup>
  
- (ii) the Tax Office itself has produced contradictory figures of revenue which will flow from higher levels of 'voluntary compliance' which are alleged to follow the Card's introduction, ranging from \$137 million through \$112 million down to \$105 million.<sup>49</sup>
  
- (iii) the Department of Finance was anxious to remind the Committee that all the figures given were those calculated in the Department of Health, and that the Department of Finance (where the chief source of government expertise in this matter lies) was anxious not to be held responsible for the figures given.<sup>50</sup>

## Costs

- (iv) despite the fact that this programme is to operate over a ten year period, in the calculations presented, there is no cost given for the replacement of any equipment during that period in the HIC. This was admitted in evidence by the HIC<sup>51</sup> which appeared quite unconcerned about it. On the other hand this failure to provide the replacement of any sophisticated computer equipment over a ten year period was described as 'ludicrous' by Professor Barter in his evidence.<sup>52</sup>
- (v) there appears to be a very serious underestimate of the number of transactions (and thus costs) which will be involved in keeping the records up to date. In evidence, Dr Colin Hughes, the Australian Electoral Commissioner, said:

The final point to be made by way of a footnote is in respect of the volume of transactions that we experience in keeping the rolls up to date. The numbers are very large indeed. They appear to be considerably larger than in the anticipated correcting activity of the Australia Cards so far which may merely mean that we are looking at different standards of requiring updates in terms of changes of name, changes of address and the like. A factor of four or five seems to be involved that we put through in a year, four or five times would seem to be the number of transactions that are being contemplated at the moment for the card.<sup>53</sup>

Given the experience of the Australian Electoral Commission these criticisms must be taken seriously. In response to a request from me the Commission provided data indicating that on average somewhere in the vicinity of some 1.12 million such changes to the electoral rolls had to be made each year,<sup>54</sup> and it is to be borne in mind that the Electoral Rolls relate only to adults whereas the Card system is to include several million children; plus large numbers of people entitled to medical benefits or required to pay tax who are not eligible to be on the Electoral Rolls.

- (vi) as one simple example of failure to examine government costs I direct attention to evidence given by the Australian Archives in Senate Estimates Committee hearings that the Australia Card proposal would mean significant costs for them - a matter not referred to in any Government document to date.<sup>55</sup>
  
- (vii) no costs are included for the levels of compliance required by State and Local Governments. These will be considerable. They involve most aspects of State Government activities especially those of an economic nature. It is clear that there has been no meaningful consultation on cost questions with the States.<sup>56</sup> In the case of Local Government there will be costs involved for it as an employer, in real estate transactions and the like.<sup>57</sup> In submissions and in evidence, bodies such as the Northern Territory Government and the Australian Council of Local Government Associations<sup>58</sup> indicated that they would expect their costs to be reimbursed by the Federal Government.<sup>59</sup>

- (viii) no proper costs are included for compliance by the private sector<sup>60</sup> and such as are attempted were characterised by Dr Bruce Felmingham of the University of Tasmania as 'confused and confusing'.<sup>61</sup> The Retailers Association estimated costs for the private sector to be at least \$160 million. The Confederation of Australian Industry in evidence claimed that private sector costs would be some \$377 million. It is reported that for these reasons the Department of Industry, Technology and Commerce opposed the ID Card proposal in its Cabinet submission.<sup>62</sup>
- (ix) one major cost to the private sector not addressed by the Government is the cost involved in allowing all employees to report at least twice to HIC offices for their interviews and subsequent issue of Cards. The time lost to industry and the private sector generally would be enormous, as indeed would be the cost, estimated by the CAI in their submission to be at least \$17 million.<sup>63</sup>
- (x) the banks who appeared before us indicated that their compliance costs would be very high, that they would have real difficulty in meeting proposed demands and that they would expect the Government to reimburse their costs in full.<sup>64</sup>
- (xi) a further area of significantly increased costs to the private sector was raised with the Committee by the Law Council of Australia.<sup>65</sup>

40 I thus conclude that in the Government's figures there has been:

- (a) a gross and deliberate over-estimation of benefits;
- (b) a gross and deliberate underestimation of costs; and
- (c) a deliberate exclusion of costs which will be incurred (with little or no corresponding benefits) by State and Local Governments and the whole of the Australian private sector.

#### The unaddressed issue of privacy

Privacy is thus not a luxury for organizational life; it is a vital lubricant of the organizational system in free societies.<sup>66</sup>

41 At a federal level Australia has an appalling record in terms of the protection of personal privacy. Governments of all persuasions have ignored it as an issue. Zelman Cowen's 1969 Boyer Lectures, 'The Private Man', raised issues which remain unaddressed.<sup>67</sup> The 1973 report of Professor Morison is unattended to.<sup>68</sup> The Courts have failed to give any meaningful protection to personal privacy rights.<sup>69</sup> The 1983 recommendations of the Australian Law Reform Commission have not been acted upon.<sup>70</sup>

42 In relation to the Australia Card proposal the Government has put forward a totally Alice-in-Wonderland timetable - 'the Card first, then a Data Protection Agency and last of all Privacy Legislation'. This order of priorities is entirely the reverse of what it should be. I find that quite unacceptable as indeed does the whole Committee.

43 As an example of the Government's attitude to privacy I draw attention to recent reports that it is proposing amendments to the Companies Regulations to require listed companies to

disclose the names and salaries of their five highest paid executives.<sup>71</sup> I shall discuss in detail the Government's assault on privacy with its proposed amendments to the Health Insurance Regulations, since disallowed in the Senate, at a later stage.

44 The primary concern of those anxious to protect privacy derives from the consequences of creating one centralised national data bank. The Government has sought to deny that it is creating such a bank. This may well be true in a purely physical sense but it is untrue in an operational sense.

45 Mr Chris Bushell, the Governor of the Community Affairs Board of the Australian Computer Society explained this in his evidence to the Committee. He said:

The next point that I want to make is that there seems to be the feeling that there will be no centralised data base set up by the Government. This statement appears in its submission. The problem is that the minute you have a common number which appears in a number of different files or data bases - call them what you will - whether you like it or not, you have a centralised data base if the links exist, whether or not it is physically centralised. There is quite a common concept in the computing world of distributed data bases but it has no difference in use from a centralised data base.<sup>72</sup>

46 His proposition was agreed to when raised in our discussions with Professor Barter,<sup>73</sup> the Western Australian Branch of the Australian Computer Society<sup>74</sup> and others.

47 Central data bases pose two unacceptable (to me) threats to privacy. In the first place, they may contain erroneous data, quite unbeknown to the individual concerned until it is too late. Evidence from the United States

demonstrates that data error is a serious problem. In studies, up to one-third of social security cases put under investigation as possible frauds were found to result from data input error, as were 24 per cent of cases in a Massachusetts bank survey.<sup>75</sup> Information supplied by the WA Branch of the Australian Computer Society at the request of the Committee provided further details of numerous studies (including the criminal files held by the US FBI) of data error and their consequences.<sup>76</sup>

48 In 1984 one American journal carried details of how people had been removed as welfare benefit recipients, had their careers adversely affected and even been arrested and held for long periods in detention because of data errors in computers which had been linked for various purposes.<sup>77</sup>

49 Improper linkage is the second threat, carrying with it as it does the associated problem of unauthorised access. If the Government proposal is accepted, some 50 000 bureaucrats could have access to the Australia Card register.

50 In its submission to the Committee, the Government of South Australia drew attention to the work of John Shattuck. It quoted him as follows:

What makes computer-matching so fundamentally different from a traditional investigation is that its purpose is to generate the evidence of wrongdoing that usually is required before a traditional investigation can be initiated ... Computer-matching can turn the presumption of innocence into a presumption of guilt.<sup>78</sup>

51 Shattuck makes two further points: first, that the history of computerised data systems has one clear trend, namely they are always adapted to purposes other than those for which

they were originally intended; and secondly, matching exercises are not limited to individuals but include whole categories of people because they are of particular or momentary interest to governments.<sup>79</sup>

52 Of course it may be said that this is not the purpose of the Australia Card, nor are such exercises practiced here.

53 The evidence is to the contrary.

54 Dr Blewett (the Minister for Health) has written:

The key to the system is not the card itself, but the generation of one number which will act as a linkage number, between for example social security and tax records.<sup>80</sup>

55 Dr Blewett also admits that:

It is true that it makes it somewhat easier to do cross matching within the system ...<sup>81</sup>

56 Our fears are supposed to be allayed by guarantees and protections written into the proposed legislation, but all instances of limited uses of such records have turned out to be unlimited uses a few years down the track.

57 At least one major cross-matching exercise has already taken place in direct relationship to the Australia Card proposal. The HIC Final Planning Report reveals:

As foreshadowed in the Commission's Interim Planning Report in August 1985, a pilot study has been undertaken to test the extent to which computer matching might be successful and reliable and might assist in the Australia Card registration process. This pilot study compared the Medicare enrolment file with the Australian Electoral Commission's electoral roll and the



Department of Immigration and Ethnic Affairs' citizenship file. Subsequently, a further comparison with some Department of Social Security files was conducted.<sup>82</sup>

58 The Government's bona fides must be called into question when one considers that both this exercise and the proposals advanced for the Card as a whole are in breach of the OECD guidelines to Protect Privacy to which Australia is supposed to adhere.<sup>83</sup>

59 This was pointed out by Mr Bushell in relation to the Government Submission when he said:

Paragraphs 5.16 and 15.4.6 are quite appalling statements, almost throwaway lines or throwaway paragraphs saying: "Once we have got the Australia Card with its data then afterwards by appropriate legislation I am sure we will find new ways of using it." That is all fine. It must be pointed out that the OECD guidelines specifically prohibit that and one would hope the privacy legislation when it comes before Parliament also prohibits that. The point is that you cannot find - you may not find - additional uses for data after that data have been collected. That is quite a clear prohibition. It is very depressing to see a document, with the Government's imprimatur upon it, which quite blandly states that intention.<sup>84</sup>

60 This view was strongly endorsed by several subsequent witnesses and in particular by the New South Wales Privacy Committee.<sup>85</sup>

61 A further major threat to privacy is apparent when one looks at the proposals relating to the 'companion entity' system advanced by the Tax Office.

62 The following exchange between myself and Mr Foster (Acting Assistant Commissioner, ATO) illustrates the possibilities inherent in the 'companion entity' system as

originally proposed which would require the placing of some individual's Australia Card number on the bank accounts of clubs, societies, businesses and other bodies with which that individual might have some connection.

Senator PUBLICK ... I am concerned with whether in fact information now exists in the Australian Taxation Office as a result of this proposal which allows you to say that Chris Puplick is authorised to operate a Liberal Party account, a Friends of the Colo Valley account, an account in the name of the Right to Life Association, or an account for the Businessmen Against Socialist Intervention which is going to campaign in a political campaign sense. I am not saying that you would want to do that, I am simply saying that for the first time that information is available to you if the procedures under proposed use (2) are fully given effect to.

Mr Foster - I would have to agree that it would permit us to draw that information together.

Senator PUBLICK - But you are currently not in a position to do it?

Mr Foster - To do it at the moment we would have to do a very resource intensive search around the banks and one thing and another.

Senator PUBLICK - And that is despite the fact that I personally may gain no benefit whatsoever from any of the transactions involved, because none of the actual money is mine?

Mr Foster - No, you are not the beneficial owner of the funds involved.

Senator PUBLICK - But I am recorded, nevertheless, as being linked with all of this?

Mr Foster - As having some connection with that account.<sup>86</sup>

B.63 Such problems are not merely prospective, they exist at the moment with government data. Mr David Fisher (Director, Australia Card Secretariat, Department of Health) blandly told the Committee in relation to some current programs:

That linkage, or the matching, in whatever form it is done, is legitimate; it is not actually subject to direct external scrutiny at present, and many individuals probably do not even know that it is going on and would want to complain about it - if they did want to.<sup>87</sup>

64 Data, especially when in the wrong hands, can be improperly used. This prospect becomes more acute with a centralised data bank. The Banks themselves gave evidence of the problems of fraud once people improperly had access to data such as Bankcard or Credit Card numbers at ATMs.<sup>88</sup> A Queensland report noted recently that people in Brisbane:

have worked out a formula to find Telecom customers' secret Personal Identification Numbers once they know their Telecard number.

...

Told it was possible to work out a Telecom customer's PIN code, Telecom's Queensland public relations Manager, Mr Ian Cain, said: "That may be so".<sup>89</sup>

65 Apart from worries about fraud arising from improper access, there are concerns about deliberate 'leaks'.

66 On 29 April 1985 during a major dispute between the Government and several doctors in NSW, information about those doctors' incomes was leaked to certain newspapers which published them in detail.<sup>90</sup> The details were quite intrusive on the privacy of the individuals concerned. The data could only have come from HIC files. The Health Minister, Dr Blewett,

called for an investigation.<sup>91</sup> Needless to say, nothing came of it - no source of the leak was discovered, no one was punished. The Australian Federal Police in reported advice to Cabinet and in its evidence to the Committee admitted openly that there was nothing that could be done about leaks and that rules designed to prevent such things were virtually unenforceable.<sup>92</sup>

67 The inherent dangers of this situation were clearly outlined in a letter signed by twelve public servants in the Department of Social Security in the following terms:<sup>93</sup>

ID card immoral

Sir: As public servants in the Department of Social Security, we are concerned at the proposed Australia Card.

Dr Blewett (Letters, February 26) does not point out that the computer records of Social Security already hold the following data: a person's name, date of birth, residential address, postal address, bank account, branch and number, sex, marital status, family composition, and details of any financial income and assets. If this proposed Australia Card number was added then we would indeed have a "centralised computer data bank holding large amounts of information".

We are concerned about the pressure put on various officers by outside agencies such as debt collectors attempting to gain information. Cases of this nature have already occurred. While there may be a "watchdog" authority set up, it will not stop information being leaked. It will only provide a source of retribution after the event.

We question the need for this card at all. Proof of identity procedures already in existence are adequate, the only problem being a shortage of staff to fully investigate possible abuses of the welfare system.

We also object to the Australia Card on moral grounds; we don't want to become a number in a system.

Anyway, what is to stop any future government legislating to amalgamate all computer records of the Department of Social Security, the Police Department, the Taxation Office and all other government bodies?

Keith Hall and 11 others,  
Ellis Street,  
Concord.

March 6

68 Despite protestations to the contrary, the Government itself plans one centralised area of data linkage now, and although it appears a mere matter of sound record-keeping it is also an indication of things to come.

69 The HIC Final Planning Report announces:

Q2.2 It is proposed that approved user agencies will be able to indicate on the Australia Card register for their clients their interest in receiving an automatic update in changes of information, whether this be due to error or a change initiated by the applicant. Changes of data will then be advised to user agencies on a regular basis to be arranged between the Commission and each user.

70 There is no doubt that this area will grow. There will always be excuses for other 'relevant' data to be 'shared' - it may be criminal records, health data, maintenance (Family Law) arrangements or the like.

71 Finally I draw attention to a recent publication by Hugo Cornwall entitled The Hacker's Handbook.<sup>94</sup> A reading of this 'do-it-yourself' crack the computer system manual issues warnings that are quite unaddressed by the Government to date.

B.72 As Professor Arthur Miller stated:

In the past, dictatorships have always come with hob-nailed boots and tanks and machine guns, but a dictatorship of dossiers, a dictatorship of data-banks can be just as repressive, just as chilling and just as debilitating ...<sup>95</sup>

#### Organised crime

73 All the expert witnesses who appeared before us agreed that the Australia Card would have no significant impact on organised crime in Australia. This view was put by the former Royal Commissioner, Mr Frank Costigan QC, by his former Counsel Assisting, Mr Doug Meagher QC, and by the Australian Federal Police. A former AFP officer has also recently attacked the currently proposed system as in no way being fool-proof because of the lack of integrity in documents proposed to be used to establish identity for the issue of the Card in the first place.<sup>96</sup> They and the Banks in fact raised the question of major new areas of criminal activity starting up in the forging of Australia Cards just as recent reports have indicated that fraudulent birth certificates and drivers' licences have been created, even inside prisons themselves.<sup>97</sup>

74 Major American studies have specifically rejected the introduction of national identity card systems because of the extent to which they could benefit rather than combat organised crime (see below).

75 Because the Card would have intrinsic value in itself it would be worth forging. It is also to be borne in mind that this Card is to be issued to non-Australians, including visitors from countries with whom we have reciprocal health agreements.<sup>98</sup> These already include New Zealand, the United

Kingdom and Italy, with Greece, Spain, Ireland, and Yugoslavia in prospect. Cards returned to those countries could easily be exchanged for use by others or else forged and used for quite improper purposes.

#### Overseas lessons

76 Much has been made by the Government and the HIC of the advantages of Identity Cards overseas. The full picture has not been told.

(a) **Common law countries:** I have already raised the issue of the failure of the HIC to appreciate the distinctions of importance raised by the existence of the common law system. No common law country has a comprehensive ID system such as is proposed for Australia.

(i) **United Kingdom:** Proposals for a Unique Personal Identifier (UPI) were investigated by the Committee on Data Protection (the Lindop Committee) in 1978. It emphatically rejected the introduction of a UPI, and commented:

As regards the implications for privacy, there can be no doubt that the UPI would greatly reduce the British citizen's traditional anonymity, because his identity number would remain with him for life and be used in most transactions, making it easier in principle for the state to trace his changes of name and address. Anonymity would, of course, suffer even more if the citizen were required to notify such changes to a population register.<sup>99</sup>

(ii) In 1981 the Canadian Privacy Commissioner reported to the Government on the Use of the Social Insurance Number. The Commissioner drew attention to two facts causing concern. The first was that the SIN had grown into being used for a host of reasons never contemplated or approved of when it was introduced for purely welfare purposes. The second was that

... prohibition of the collection and use of the social insurance number will not eliminate sharing of information on computerized data banks.<sup>100</sup>

(iii) USA: While not entirely a common law country, the USA has much in common with Australia in terms of this question of identity cards. Three major studies are relevant.

77 In 1976 the Report of the Federal Advisory Committee on False Identification (one of whose members was a witness before the Committee) concluded:

It is certain that any new system designed to verify and store identity information on over 200 million people would be extremely expensive and require a major national effort. It is highly probable that proposals for such a system would be opposed politically. If such a system were implemented despite these difficulties, it would be subject to defeat by imposters or counterfeiters taking advantage of careless inspection of documents or through corruption of officials. Occasional errors would also occur in such a system that could adversely affect innocent people. Organized crime would take advantage of any national ID system because of the presumption of validity surrounding such a large system. Criminals could reap benefits far greater than they obtain under the current multifaceted system of identification.



The FACFI therefore strongly opposes any new type of state, or local government-issued ID intended to supersede existing documents. In short, FACFI opposes any so called "National ID card".<sup>101</sup>

78 In short the Report held that a national ID Scheme would be of primary benefit to criminals and would add to what was already a 'multibillion dollar national problem' of the criminal use of false identification.<sup>102</sup>

79 In 1977 the Report of the Privacy Protection Study Commission endorsed these views. It warned of the effects of such systems

... on the balance of power between government and the rest of society. Accumulations of information about individuals tend to enhance authority by making it easier for authority to reach individuals directly.<sup>103</sup>

especially as

... government has enormously broadened its opportunities both to help and to embarrass, harrass and injure the individual.<sup>104</sup>

80 Finally, in 1980 the General Accounting Office issued a report on tamper-resistant social security cards which concluded that such a system was not viable, but which also drew attention to the growth out of all proportion of the required and actual use of the SSN for Americans since its modest and allegedly limited use introduced decades ago.<sup>105</sup>

- (b) **Civil law countries:** Not all civil law countries allow the use of ID cards - some, like the Netherlands, very forcibly reject their use, largely due to their experiences under occupation in wartime.<sup>106</sup> However it is to be noted that in countries such as France where such systems are in use, they exist alongside an

established body of administrative law which is quite unlike anything known to the Australian legal system.<sup>107</sup> It is interesting to note that the HIC visited countries such as Israel and Hong Kong where ID systems are used without drawing attention to the particular problems relevant there such as constant threat of war or terrorist attacks in one or the massive problem of large-scale illegal immigration in the other.

81 Bishop Challen noted in his submission how the HIC officers had confined their attentions to talking in those countries with the bureaucrats who were running the ID systems and who were direct beneficiaries of the existence of the schemes in question.<sup>108</sup>

82 There was also no mention of the fact that in West Germany it has recently been decided that the citizens of that country will be required to carry the ID card at all times as from the middle of 1987.<sup>109</sup>

83 Sweden has often been held up as a model, and Mr Lars Tegnhed of the Swedish Tax Board gave evidence to our Committee. He revealed a position in which personal privacy has virtually no meaning in Sweden.<sup>110</sup> In recent months in Sweden there has been growing opposition to the levels of personal data held on Swedish citizens. A project called 'Metropolit' has been halted because it was revealed that a major study was being undertaken on citizens of Stockholm without their knowledge.<sup>111</sup> A major medical institute is found to have done studies on women (again without their knowledge) matching medical records on cancer and abortions.<sup>112</sup> The Central Bureau of Statistics has proposed abandoning its census in favour of simply linking seventeen existing population registers.<sup>113</sup> As one commentator has noted:

Every Swedish citizen is caught in a cobweb of computerised information, just waiting for the spider.<sup>114</sup>

84 If there are any lessons for Australia from overseas data it is surely that common law countries reject ID systems and most of the western European countries with such a system are either watching them grow apace or else now trying to wind them back.

#### **Incrementalism: A well founded fear**

85 I have already drawn attention to the fact that numerous witnesses expressed before us a fear that the use of the Card and the level of access by the bureaucracy would certainly grow. Similarly I have drawn attention to the incremental use of card systems or numbering systems in Canada, the USA, West Germany and Sweden.

86 The Government itself clearly admits this to be the case. Its submission to the Committee states boldly:

While the Government cannot rule out categorically the possibility that at some future date additional uses may suggest themselves as being desirable or essential to meet emerging problems ...<sup>115</sup>

87 The Department of Health Report on the National Identity System of August 1985 listed seven Commonwealth Departments which might use the Card.<sup>116</sup> By February 1986 one potential user (the Electoral Commission) had withdrawn but there were by then 13 Departments cleared for access, with another listed as a 'possible' user (Attorney-General's).<sup>117</sup>

88 In submissions, bodies as diverse as the Australian Hotels Association, the Tasmanian Police Department and the Bureau of Statistics<sup>118</sup> asked for access.

89 In a speech in October 1985 Dr Blewett promised that:

Within the ambit of those functions, the Australia Card itself will be needed in only three situations:

- . in connection with employment;
- . when conducting specified financial dealings and other matters with tax implications; and
- . when claiming Commonwealth benefits.

No other uses of the Card will be permitted by law.<sup>119</sup>

90 However, by February 1986 the Australian Institute of Health <sup>120</sup> for example had been included which could hardly claim justification under any of the points previously announced by the Minister.

91 The drift to incremental use is world-wide. Even in the U.K. this presented a problem until in 1951 it was left to the Courts, not the Government to call a halt to the incremental usage of identity cards which had been introduced as an 'emergency' measure at the outbreak of war in 1939. The Court noted that ID cards and indeed the whole of the relevant Act (the National Registration Act 1939) were being misused by the Authorities. It is noted the Act 'was never passed for the purposes for which it is now apparently being used'.<sup>121</sup>

92 A paper by the Parliament's Legislative Research Service has noted that:

the US social security number is an example of how easily an identification system and its centralised data and information facilities can be used for purposes other than the original one.<sup>122</sup>

B.93 As Shattuck writes:

The history of computerized data systems over the last decade shows one clear trend : they have always been adapted to purposes other than their originally intended use.<sup>123</sup>

94 There is every reason to hold those same fears for Australia.

#### Community attitudes

95 Much has been made of the allegedly high level of public support for the Australia Card proposal revealed in public opinion polls. This data was challenged persuasively by the South Australian Chamber of Commerce and Industry and by Professor Barter in their evidence.<sup>124</sup>

96 Both indicated the unsatisfactory nature of the questions posed and the quite problematic interpretation of the data derived. Neither was alone in making such challenges, and as Senator Haines pointed out, much the same could be said of public opinion data on the Bill of Rights, an issue currently before the Senate.<sup>125</sup>

97 I am impressed by the fact that numerous community groups came before the Committee to voice their concern.

98 Councils of Civil Liberties, the Law Society, the International Commission of Jurists, the New South Wales Privacy Committee and various Computer Societies opposed the introduction of the Card.<sup>126</sup>

99 Professors of Law, and Computing Science appeared to add their opposition. Leading jurists have opposed the Australia Card as have other leading academics, and representatives of Church organisations, including the Anglican Diocese of Perth and the Australian Catholic Social Welfare Commission.<sup>127</sup>

100 Three major unions, the Administrative and Clerical Officers Association, the Federated Clerks Union and the Victorian Teachers Union have opposed the Australia Card as has the Confederation of Australian Industry, and the SA Chamber of Commerce.<sup>128</sup>

101 The Federal Council of the Liberal Party, and Liberal Party Divisions in New South Wales, Victoria and the Young Liberal Movement have voted to oppose the scheme.<sup>129</sup>

102 Expressions of opposition have been made by the Queensland Division of the National Party.<sup>130</sup>

103 The Legal and Administrative Policy Committee of the Australian Labor Party; the ALP's Victorian Branch and the Society of Labor Lawyers - Victoria made submissions to the Committee in opposition to the Government's proposal which was also opposed by a resolution of the Labor Women's Conference.<sup>131</sup>

104 The Government of Queensland flatly opposed the scheme and the Governments of South Australia and the Northern Territory indicated their significant concerns with the proposal.<sup>132</sup>

105 The Opposition Shadow Cabinet announced that it would oppose the scheme if it did not adequately address the issues of cost/savings; the combatting of fraud and the protection of privacy; none of which concerns I believe has been adequately addressed.<sup>133</sup>

106 There is no doubt that the overwhelming weight of evidence from sources other than the Government and the bureaucracy has been hostile to the whole proposal. Even within the bureaucracy it is clear that great opposition to the

Australia Card exists, although the Minister for Health has on two occasions refused to release documents expressing such concerns (from bodies including ASTEC) to the Committee for our examination.<sup>134</sup>

107 Finally those primarily concerned with law enforcement and the fight against organised crime have made clear either their hostility or their total scepticism about the efficacy of the whole proposal.

108 I believe that sound decisions in Government need to be based upon the consideration of the weight of evidence from informed opinion and that informed opinion in Australia, reflected in submissions, evidence, resolutions and editorials<sup>135</sup> is overwhelmingly against the Government's proposals in its current form.

It can't happen here - who said?

109 Proponents of the Australia Card scheme have sought to infer that the types of concerns expressed by opponents are somehow far-fetched and unrealistic in the Australian context. This claim should be tested on the basis of real evidence, and this I propose to do.

- (1) The Australian system will work because of our experience with Medicare cards. This claim has been made by the HIC and others. However, one needs to bear in mind that the HIC has already issued more Medicare Cards than it should have. My colleague, James Porter MP, has established from the HIC that there are already 20 000 cards 'suspected' of being duplicates, and that the total number of cards on issue is already 1.7 per cent greater than the population projection.<sup>136</sup> The Commission's Final Report admits to a loss or theft

rate of 6 per cent, or 670 000 cards over the last two years,<sup>137</sup> and I have drawn attention to the concerns about fraud overseas, fraud found by Mr Costigan and the Federal Police, and the problems associated with the issue of cards to foreigners in line with reciprocal health care arrangements.

- (2) We will be able to resist the pressures for increased use of and access to the Card and the Data Base. I believe I have dealt with this already and that Government claims to the contrary have been shown to be untenable.
- (3) Records are not misused in Australia. An example of the hollowness of this claim is provided from South Australia, where in 1983, the State Cabinet used computer records of its own employees and directed State Government agencies to provide trade unions on a quarterly basis with lists of employees who did not have trade union subscriptions deducted from their pay.<sup>138</sup>
- (4) Records in Australia would not be used for improper political purposes. In my discussion of the 'leaking' of data from the HIC (the proposed operator of the Australia Card system) relative to the income of individual doctors involved in a direct political dispute with the Government, I think I have laid this myth to rest.
- (5) There will not be linkages of data. From evidence drawn from existing practice, from work undertaken preparatory to the introduction of the Card, from the clear pronouncements of both the Minister for Health and the Health Insurance Commission itself, I think this claim can also be discounted.



- (6) There will be no penalties imposed on people who opt to stay out of the system.<sup>139</sup> This claim has been refuted in detail by the NSW Privacy Committee. It has listed some 50 new offences or penalties provided for non-production of the Australia Card to various authorities<sup>140</sup> and has described the consequences of non-registration thus:

An important aspect of the proposed national identification system which is omitted from the brochure is that failure to register or to produce the Australia Card - the government issued identity - will have very serious consequences. In fact, more than 50 offences, sanctions and similar disabilities are proposed for the enforcement of the Australia Card system.

The following scenario illustrates the practical effects of non-registration on the average Australian citizen.

If a person is unemployed, he/she will not be given assistance by the Commonwealth Employment Service to find a job, and will not receive unemployment benefits. Should he/she wish to improve job prospects by undertaking a tertiary course, enrolment in the tertiary institution will not be permitted and educational allowances, such as TEAS, will not be paid.

If this person is fortunate enough to find a job, 49 per cent of gross income will be withheld for tax purposes. What little is left of earnings cannot be deposited in a bank or invested with any financial institution as all investments (whether interest bearing or not) are prohibited under the national identification system in the absence of an Australia card. The earnings cannot even be kept in a safety deposit box as this facility will only be available to people who can produce the Card.

If, as might be expected, a person in this situation experiences financial difficulty it will be extremely difficult, if not impossible to obtain credit, as no account can be held with a financial institution. Saving to put a deposit on a home would be a pointless exercise as housing loans will be impossible to obtain, First Home Owners Scheme assistance will not be available, and buying or selling a home without the Australia Card will be prohibited anyway.

Should the non-registrant fall ill, Medicare benefits will not be paid although "entitlement" to those benefits will not be affected.

If, as a result of all these prohibitions a person wishes to leave the country, he/she will have to leave by stealth as a passport will not be issued without an Australia card.

All these consequences follow even if a person has no intention of defrauding the Commonwealth and is willing and able to produce sufficient evidence of identity as would have conferred eligibility for an Australia Card. There can be no doubt, then, that the real effect of the proposed national identification system will be to deny important rights to Australian citizens not because of criminal conduct or intent, but simply on the basis of non-registration.<sup>141</sup>

- (7) Medical data in particular will be protected. This has ceased to be believable as a claim as a result of legislation introduced by the NSW Labor Government (which does in fact have a Privacy Committee Act) in relation to the reporting to various authorities of the results of AIDS anti-body tests<sup>142</sup> and as a result of activities of the Queensland National Party Government in relation to the police seizure of medical files relating to abortions carried out in that State.<sup>143</sup>

- (8) Only the guilty have something to fear. This line has been pushed by the Government, however exactly the reverse situation was put to us by Professor Walker in his evidence. After a lengthy and penetrating analysis of possible scenarios involving such issues as data error, bureaucratic subjectivity, psychiatric assessments misused by employers, the effect of surveillance on workers and the reconstruction of unrelated data to fit certain patterns, he concluded that:

One must repeat that the evidence from other countries does not give the slightest reason to believe that a system of compulsory identity numbering and ID cards will have noticeable success in putting an end to the depredations of serious wrongdoers. It is only the amateurs who will be caught, those who do one stupid thing in their lives, have learned their lesson, and would like to make a fresh start. It would almost be truer to say that the innocent, and the relatively innocent, will be the only ones who will have anything to fear.<sup>144</sup>

He further says:

Indeed I would suggest that the innocent are perhaps the only people who have anything to fear because the guilty will get away with it anyway.<sup>145</sup>

- (9) The Minister caught in the act. I have left until last the most compelling evidence of how shallow are the claims of adequate privacy protection advanced by the Government. On 17 April 1986 the Senate Standing Committee on Regulations and Ordinances presented its Seventy-ninth Report relating to the disallowance (by

effluxion of time) of the Health Insurance Regulations made under Statutory Rule No. 290 of 1985.<sup>146</sup> These Regulations inserted a single line (eight words) and no more into the Health Insurance Regulations. In informing the Senate of what had occurred, the Chairman of the Regulations and Ordinances Committee said:

The Health Insurance Regulation (Amendment) provided that the Secretary of the Department of Social Security was to be a prescribed person to whom could lawfully be given, otherwise confidential information in the trusteeship of the Health Insurance Commission.

The Commission administers Medicare and as the report indicates it is the recipient and the repository of vast amounts of computerised medical information about the health of millions of Australians.

The Health Insurance Act contains secrecy provisions designed to protect the privacy of this very sensitive material. It is a serious criminal offence for officers acquainted with information to reveal it outside the Commission.

However the Minister for Health can suspend the operation of these secrecy provisions to some extent by prescribing persons to whom the information may be given.

In the past the Minister has prescribed official medical and medical-legal investigators as appropriate to receive information.

These Regulations appear to be a major departure in that they prescribe, as a recipient of secret material, a person who has no official involvement or connection with the Health Insurance Commission or the investigation of medi-fraud.

In addition, the prescription is totally open-ended in that in theory it makes lawful the release to social security of any information held by the Commission. Clearly this could include medical information.

The Commission has such sophisticated computer hardware and software that it would be theoretically possible to compile and release intimate and embarrassing medical profiles on identifiable individuals, families and groups in society.

It would be unthinkable that the Minister for Health would allow this, or that the Minister for Social Security would wish it.

However a dangerous situation is created when the legal possibility exists that medical information could be released without breaking the Act or the Regulations.

We would be astounded if the Taxation Office were legally permitted to circulate full details of the tax returns of every Australian to other areas of the bureaucracy.

Yet the potential invasion of privacy represented by the power to circulate medical details is much more serious since our state of physical and mental health is a source of our most intimate weaknesses.

Improper revelation of medical information exposes us to humiliation, ridicule, contempt, embarrassment, blackmail and great stress.

We have a system of health insurance that for good and honourable reasons is designed to identify, and apply to, every citizen in the Nation.

However, when married up with modern computer technology and a tendency towards the centralisation of

bureaucratic and governmental power we have a recipe for potential abuse of privacy that is breathtaking in its scope.

I have no doubt that these implications have arisen inadvertently and incidently from the Minister's genuine concern to assist with detection of social security fraud.

Fraud on the public revenue, whether it be tax evasion or making false welfare claims, is a corrosive crime that affects everyone of us by unfairly depleting our pooled resources. No less than tax evasion, it is a crime that is particularly offensive when used to defraud welfare revenue because by diminishing our pooled resources it places unfair pressures on honest and genuinely needy claimants.

The Committee supports the Minister for Health and the Minister for Social Security in their efforts to tackle these frauds but the end does not justify any means.

The Health Insurance Regulations were prepared without proper regard being given to their legal implications for millions of ordinary Australians who use Medicare and have a legitimate expectation that the privacy of their medical histories will be respected by a sensitive bureaucracy and powerful legal protections.

It is with some regret that I report that both the sensitivity and the legal protections appear to have succumbed to the imperatives of detecting fraud.

I accept, and I think the Committee accepts, that the Minister and his officials had no intention to release anything but identity details which Social Security could use to check the identities of claimants. The Committee considered that the release of such innocuous materials would not be an undue trespass on rights.

A balance must be struck between the detection of fraud and the protection of privacy.

The drafting of these Regulations did not reflect that balance although the Ministers intentions of course did so.<sup>147</sup>

110 This saga is a most instructive one. It shows how bureaucratic zeal coupled with what amounts to Ministerial over-sight can lead to significant intrusion upon civil liberties and on privacy in an area as sensitive as personal health records collected (compulsorily in effect) by the Government. It was only the vigilance of a Senate Committee which prevented this abuse. Correspondence with the Minister for Health reveals that even when this matter was first drawn to his attention he sought to persist with putting the challenged Regulation in place notwithstanding the Senate Committee's expressed concerns, and even claimed that the decision was made with the full consideration of such issues in mind.<sup>148</sup>

111 Here we have both the Minister responsible for the Australia Card proposals and the Department designated to put the proposals into effect proposing to operate in a manner that a Senate Committee charged with responsibility to protect individual civil liberties finds to be repugnant.

112 Here we have an Act (the Health Insurance Act 1973) which allegedly protects sensitive personal data from disclosure being subverted by regulatory action taken without the direct knowledge or consent of the Parliament.

113 Here we have every concern expressed by witnesses before the Committee about the possibility of insidious subversion of our civil liberties and our right to privacy being totally borne out and justified at the very same time as the

Joint Select Committee is being asked to give its imprimatur to a massive scheme extending bureaucratic intervention in our lives and authorising the gathering, storing and dissemination of personal data on a scale never before proposed in any free western democracy.

There is a better way

114 The majority of the members of the Joint Select Committee share many of my concerns about the Australia Card proposal. As a result they have decided on balance to recommend against adoption of the Government's proposal in its present form. However, we realise that this casts upon us a clear responsibility to recommend some alternative which addresses at least the area of principal concern, namely tax evasion.

115 The Report of the Joint Select Committee thus proposes as its central recommendation the use of an improved and upgraded system based upon a tax file number of higher integrity than that currently used.<sup>149</sup> There are several consequential recommendations, such as those having to do with resource allocations for the Tax Office and improvements in procedures for other Departments. There are also subsidiary recommendations on such issues as the upgrading and co-ordination of the Births, Deaths and Marriages Registers. Finally, there are significant recommendations addressing matters such as the long overdue need for privacy legislation and Parliamentary oversight of these proposals.

116 These recommendations have my support. I believe they adequately address areas of prime concern without at the same time posing the threats to privacy and civil liberties which I see as inevitable consequences arising from the Australia Card.

CHRISTOPHER PUPPICK  
Senator for New South Wales



## Endnotes

1. Popper, K., The Open Society and its Enemies (Routledge, 1945); Vol. 1, p. 168.
2. Olmstead v. U.S. 277 US 438 (1927).
3. Evidence, pp. 3405-6.
4. Evidence, pp. 3032-3.
5. Evidence, p. 3044 (all underlined quotes from Evidence have my emphasis added).
6. Evidence, p. 1203.
7. Evidence, pp. 1231-2.
8. Kirby, J., 'Access to Information and Privacy' National Forum on Access to Information and Privacy; Canada, (6 March 1986); 'Privacy Protection in Australia', *ibid.* (7 March 1986).
9. Kirby, J., 'Living with the New Surveillance', Macquarie University Graduation Ceremony, 2 May 1985, p. 8.
10. Kirby, J., 'Access to Information and Privacy': *loc. cit.*, pp. 13-14.
11. Sydney Morning Herald, 29.3.86; Melbourne Sun, 8.4.86.
12. This is a perfect example of 'incrementalism'. In reply to a question in the Senate, Senator Evans, on behalf of the Government, indicated that it was opposed to the extension of phone tapping powers 'at the federal level'. Senate Hansard, 15.4.86, p. 1725. The power is, however, to now be extended to State Police, see Sydney Morning Herald, 10.4.86. On 15 April Senator Evans said:

The Government has made clear its position in the past - that it does not think that it is appropriate to extend the power (i.e. to tap telephones) at the Federal level ...  
(Senate Hansard, p. 1725).

On April 16 Senator Evans said:

... the Commonwealth is now finalising legislation ... to extend intercept powers to ... the National Crimes Authority ...  
(Senate Hansard, p. 1784).

in addition to the State Police. Thus within 24 hours the whole philosophy of incrementalism is seen at its clearest.

13. Hansard, House of Representatives, 13.2.86, p. 451. The dehumanising effect of personal numbering was remarked upon by the Nagle Royal Commission into Prisons in NSW in 1978 where the abolition of such a practice was recommended.
14. Halsbury's Laws of England, 4th ed. Vol. 35, para. 1173; see also Earl Cowley v. Countess Cowley (1901) AC 450 and letter submitted by Department of Attorney-General to Committee, 13.3.86.
15. Health Insurance Commission: Final Planning Report (hereafter FPR), February 1986, para. Q2.4.
16. HIC: FPR, para. K6.5 and J3.3.
17. Evidence, pp. 3720-21.
18. Transcript, 'A.M.', 1.11.85, p. 3.
19. Blewett, N., 'The Australian Identity Card - A Threat to Liberty?' address to A.G.M. South Australian Council for Civil Liberties, 31.10.85, p. 8.
20. Evidence, p. 1901 (McDermott, ATO).
21. Report of the Auditor-General on Efficiency Audits (ref. Tax Office); AGPS, December 1984, p. 30.
22. Age, 17.3.86.
23. Sydney Morning Herald, 17.3.86.
24. Evidence, p. 2235. (ATO).
25. Evidence, pp. 3539-40 (Groenewegen); US News and World Report, 19.4.82.
26. US News and World Report, 8.3.82; Evidence, p. 3258 (Tegnhed)
27. Acts Nos. 57, 126 of 1977; Nos. 57, 87, 123, 172 of 1978; Nos. 146, 149 of 1979; No. 19 of 1984; Crimes (Tax Offences) Act 1980; Nos. 108, 110, 112 of 1981; Nos. 29 76, 106, 109 of 1982.
28. Treasurer, Press Release No. 30, 7 April 1986.
29. Commissioner of Taxation v. J.J. Kerrison; Banich Management P/L; Baiber Kerrison and National Australia Bank Ltd. Supreme Court of South Australia (unrep) per Bollen J., No. 579/1985, Judgment No. 8339, delivered 17 February 1986.

30. Evidence, p. 189, et seq.
31. Spry, I., 'The Australia Card - Is it Really Necessary?', Defence 2000, Vol. 12, 24.2.86, p. 7.
32. See fn. 21; also Auditor-General: Report, March 1986, pp. 144-149.
33. House of Representatives Standing Committee on Expenditure, Reference: Review of Efficiency Audits of the Australian Taxation Office; transcript of evidence (12.3.86), pp. 67-68.
34. Jane Hutchison: 'Tax Office Nears the Point of No Return', Business Review Weekly, 20 September 1985, pp. 42-61.
35. Evidence, pp. 1985 and 2000.
36. Evidence, p. 3618.
37. House of Representatives Standing Committee on Expenditure: Reference Review of efficiency audit on control of prohibited immigration. Transcript of evidence, 23.5.1985, p. 90.
38. Report of the Auditor-General, September 1985 (PP. 263/1985), p. 118.
39. See Statement by Minister for Community Services: Senate, Hansard, 12.2.86, p. 219 ff.
40. Evidence, p. 2105. See also Department of Social Security comment on these figures at Evidence, p. 3618.
41. These figures are from Statement by Treasurer: Reform of the Australian Taxation System (September 1985), pp. 25-31.
42. Respectively figures from Report of the Inter-Departmental Committee on a National Identification System (June 1985) para. 8; Report of IDC entitled 'The National Identity System' (29 August 1985) para. 212; Treasurer's Statement (September 1985). Hereinafter I shall refer to these as IDC; NIS and Treasurer.
43. Respectively IDC; NIS and Treasurer.
44. Respectively Treasurer; NIS and IDC.
45. Department of Health: Towards Fairness and Equity (6 February 1986), submission to Joint Select Committee (hereafter TFE), pp. 121 and 123.
46. Evidence, pp. 2747-8.

47. Health Insurance Commission: Final Planning Report (FPR); February 1986, p. 214.
48. Evidence, P. 2968.
49. High figures appear in Submission by P. Foster, Acting Second Commissioner of Taxation to Joint Select Committee, dated 3 January 1986 at Attachment A. Lower figure is from a speech by Mr P. Foster, 'Australia Card : Impact on Tax Evasion' (December 1985) at p. 19, provided in Department of Health submission, 28.2.86.
50. Evidence, p. 2722. Finance particularly raised questions about Immigration estimates - Evidence, p. 2754.
51. Evidence, p. 3719.
52. Evidence, p. 2972.
53. Evidence, pp. 2794-5.
54. Material supplied in writing by A.E.O. to Committee, 8.4.86.
55. Hansard, Senate Estimates Committee D, 10.4.86, pp. 62-3.
56. Evidence, p. 1877.
57. Evidence, p. 3934.
58. Northern Territory submission (No. 101), para. 4(7); Evidence, p. 3938.
59. *ibid.*
60. Evidence, p. 1878.
61. Evidence, P. 3195.
62. Evidence, p. 3457 (Retailers) and p. 4004 (CAI). Views of the Department of Industry, Technology and Commerce are reported in Financial Review 7.2.86. The Department or its Business Regulation Review Unit are reported as casting doubt on the value of the HIC analysis of costs and benefits. The Minister for Health has denied the Committee access to this information regarding the Department of Industry analysis of the proposal.
63. Evidence, p. 4003.
64. National Bank, Evidence, p. 1008; Commonwealth Bank, p. 1079; ANZ Bank, p. 1249; Westpac Banking Corporation, p. 1408.

65. Evidence, p. 3905 ff.
66. Westin, A.F., Privacy and Freedom (Atheneum, N.Y., 1967), p. 51.
67. Cowen, Z., The Private Man (ABC, Sydney, 1969), p. 41.
68. Morison, W.L., Report on the Law of Privacy (February 1973), pp. 85/73.
69. Senate Standing Committee on Constitutional and Legal Affairs: A Bill of Rights for Australia? (AGPS, 1985), para. 2.69.
70. A.L.R.C., Privacy, Report No. 22 (AGPS, 1983).
71. Daily Telegraph, 17.3.86.
72. Evidence, pp. 2928-9.
73. Evidence, p. 2949.
74. Evidence, p. 3119.
75. Marx, G.T., and Reichman, N., 'Routinizing the Discovery of Secrets', American Behavioural Scientist, Vol. 27(4), March/April 1984, p. 435.
76. Laudon, K.D., 'Data Quality and Due Process in Large Inter-Organizational Systems', Communications of the A.C.M., Vol. 29(1), January 1986.
77. US News and World Report, 30 April 1984.
78. Submission of Government of South Australia, 10 January 1986, point (vii). The SA Premier's doubts about the Card proposals are also noted in The Canberra Times, 26.9.85.
79. Shattuck, J., 'In the Shadow of 1984 : National Identification Systems, Computer Matching and Privacy in the USA', Hastings Law Journal, Vol. 35, July 1984.
80. Australian Financial Review letter, 17.7.85.
81. Age, interview, 28.9.85.
82. HIC - FPR, para. 2.7.1.
83. Kirby, J., International Guidelines to Protect Privacy in Trans Border Data Flows, ANZAAS Jubilee Congress, 15.5.80, pp. 26-7.

84. Evidence, p. 2925.
85. Submission, 013b, Chapters 9 and 10.
86. Evidence, pp. 2080-81.
87. Evidence, p. 2695.
88. Much of this evidence was given in writing on a 'confidential' basis, which basis I respect.
89. Courier - Mail, 15.2.86.
90. Canberra Times, 30.4.85; Sydney Morning Herald, 30.4.85.
91. ibid.
92. Age, 12.9.85; Evidence, pp. 2785-7.
93. Sydney Morning Herald, 17.3.86.
94. Century Communications, London, 1985. See also: 'Raiders snoop on business secrets' Today's Computers April 1986, pp. 25-30; "Hackers found guilty after cracking Duke's code" The Australian 29.4.86 - details of hackers entry into computer files of HRH the Duke of Edinburgh.
95. See United States Senate: Report of the Committee on Government Operations: 'Protecting Individual Privacy in Federal Gathering, Use and Disclosure of Information', September 1974. Report 393-1183, p. 7.
96. Evidence, pp. 1186-1192 (Meagher); pp. 1218-1229 (Costigan); 2775 (AFP). See also remarks by Dr. Malcolm Hall, former officer of the AFP, now of the Scientific Research Directorate to the American Society for Industrial Security Congress, The Australian and Melbourne Sun 29.4.86.
97. Sun Herald, 14.7.85 (forgery in jail); Sydney Morning Herald, 13.7.85; Melbourne Sun, 4.12.85 (forged licences); Sydney Morning Herald, 9.10.85 (credit card forgery). See also 'The art of forging ID cards is losing its simple charm' by Gareth Powell, Sydney Morning Herald 13.1.86.
98. HIC - FPR, para. J3.4. See also Minister for Health: News Releases, 10.1.86 and 2.4.86.
99. Report of the Committee on Data Protection: Cmmd. 7341 (December 1978) para. 29.19.
100. Report of the Privacy Commission on the Use of the Social Insurance Number (January 1981), p. 3.

101. Report of the Federal Advisory Committee on False Identification, US Department of Justice: The Criminal Use of False Identification, November 1976 at xvii (Also Evidence, Mr O'Connor (Polaroid)).
102. ibid., p. vi.
103. Report of the Privacy Protection Study Commission : Personal Privacy in an Information Society (July 1977), p. 5.
104. ibid., p. 6.
105. US-General Accounting Office : Re-issuing tamper-resistant cards will not eliminate misuse of social security numbers : Report (1980). It is to be noted that one commentator has already observed that the Australia Card proposal, even at the Tax Summit 'could well go beyond the North American systems'. Kesselman, J.R. : Assessing Australian Tax Reform Proposals' Economic Papers Vol.4(3), September 1985.
106. Clarke, R., Submission 86, 'Identification - Identification Schemes', p. 17.
107. Evidence, p. 3414 (Professor Walker); p. 719 (Mr O'Hair).
108. Evidence, p. 3029, in para 4 of Submission which describes the HIC Report as involving 'a biased sample of witnesses'.
109. The Australian, 4.3.86.
110. Evidence, pp. 3235 et seq.
111. Computer World Australia, 21.2.86; The Advertiser, 12.2.86.
112. International Herald Tribune, 13.3.86.
113. Transnational Data Report, Vol. VII (4), June/July 1984.
114. Thoor, A., 'The Invisible Eye', Forum (Stockholm) v.4 (1983), p. VIII.
115. TFE, p. 79, at 5.16.4.
116. NIS, pp. 14-18.
117. TFE, Chapter 5.
118. Evidence, p. 1560 (AHA); Submission 126 (Tasmanian Police); Evidence, p. 2337 (ABS). See also concerns on this matter expressed by Law Council of Australia, Sydney Morning Herald 30.4.86.

119. cf. fn. 19.
120. TFE, p. 75.
121. Willcock v. Muckle, (1951) 2 KB 851.
122. 'Identity Cards - The Major Issues', Current Issues Brief, No.1, 1985-6 Legislative Research Service, Department of Parliamentary Library.
123. Shattuck, loc. cit., p. 1000.
124. Evidence, p. 2950.
125. Evidence, p. 2844.
126. Submission opposing the Australia Card: Victorian CCL (No. 6); New South Wales CCL (No. 9); Queensland CCL (No. 16); South Australian CCL (No. 106); Tasmanian CCL (Evidence, p. 3166); Law Institute of Victoria (No. 5); Queensland Law Society (No. 80); Law Council of Australia (Evidence, p. 3905); International Commission of Jurists (letter, 25.6.85); NSW Privacy Committee (Submission No. 13, 136); Australian Computer Society - National (No. 104); SA Branch (No. 48); WA Branch (Evidence, p. 3128); Bar Association Queensland (No. 63).
127. Submission opposing: Professor Walker (Qld : Law) (No. 39); Professor Barter (Adelaide : Computer) (No. 49); Professor Webster (UNSW : Community Medicine) (No. 19); Dr E. Emberson (University of WA) ( No. 45); P. Butler (Qld : Law) (No. 46); Dr D. Walsh (Sydney : Anthropology) (No. 47); Dr R. Krever (ANU : Law) (No. 105); Professor R. Johnson (University of Wollongong : HPS) (Australian, 29.7.85); Anglican Diocese of Perth (No. 84); Catholic Social Welfare Commission (No. 73); Mr Justice Kirby (No. 97).
128. Submissions opposing: ACOA (No. 95); FCU (No. 7); VTU (No. 18); CAI (No. 119); SA Chamber (No. 15).
129. Financial Review, 18.7.85; Australian, 18.11.85; resolutions of various Divisions.
130. Senate Hansard, 3.12.85, p. 2754 (Senator Sheil). See also Shiel, G., 'ID Cards - The Implications', Civil Liberty, No. 120, January/February 1986, pp. 29-30.
131. Letter to Committee from National Legal Policy Committee (4.3.86); Submission Nos. 121 and 122; Sun-Herald, 6.10.85. See also John Saunderson M.P., (ALP), 'ID Cards - The Case Against', Civil Liberty, No. 120, January/February 1986, pp. 24-29; Senator Nick Bolkus (ALP:SA) 'ID Cards - Many Unanswered Questions', (Submission, No. 111).



132. Submissions, listed in Appendix. Letters, dated 28.1.86 (Qld) and 10.1.86 (SA).
133. Clarke, R., 'The National Identification Scheme', C.I.S. Policy Forum, No. 14B, 22.1.86 at fn. 50. Also J.J. Carlton, MP (Shadow Treasurer), Statement, ID CARDS (17.9.85).
134. Sydney Morning Herald, 4.12.85. Letters from Minister for Health denying access dated 10.3.86 and 23.4.86.
135. Most perceptively 'Tear Up the Australia Card' editorial, Financial Review, 12.9.85.
136. Evidence, p. 3611.
137. HIC: FPR at Q3.2.
138. Bushell, C.J., 'Privacy Versus Policy, Precedent and Expediency', Australian Computer Journal, Vol. 15 (4), November 1983, p. 151.
139. See claim by Dr. Blewett, The Bulletin, 13.8.85, p. 26.
140. Submission 13, pp. 109-112.
141. ibid., pp. 15-16.
142. Public Health (Proclaimed Diseases) Amendment Bill 1985 (NSW). For the consequences of this breach of privacy see Sydney Morning Herald, 8.4.86. This was despite earlier firm guarantees from the NSW Health Minister that such breaches of the confidentiality of medical records would never take place.
143. National Times, 7.2.86 and 24.5.85; The Age, 7.2.86.
144. Evidence, p. 3380.
145. Evidence, p. 3423.
146. Senate Standing Committee on Regulations and Ordinances, Seventy-Ninth Report, April 1986.
147. Senate Hansard, 17 April 1986, p. 1893 ff. (Senator Cooney).
148. Report, p. 37-8.
149. Support for the use of the tax file number in preference to the Australia Card was expressed by Kenneth Davidson, 'A better way than ID cards', Age 25.7.85 which drew attention to the tax file numbers' superiority as a system already in place, harder to subvert and less threatening to civil liberties.