

DISSENTING REPORT OF SENATOR TERRY AULICH,
MR BOB BROWN, M.P., AND MR JOHN BRUMBY, M.P.

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 and Mr John Brumby, M.P.

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OVERVIEW

1. It is our firm belief that the Australia Card proposal is an effective, innovative approach to the problems of tax evasion, social security fraud and illegal immigration. The proposal has quite justifiably received widespread public support. After five months of closely examining the issues and the extensive evidence presented to us we also lend the concept our full support.

2. Contained within the Australia Card proposal are a number of important legal and administrative reforms. These include:

- . the establishment of a Data Protection Agency;
- . the computerisation of births, deaths and marriages registers; and
- . the application of the proposed information privacy principles to the Australia Card program. By implication, the Government submission supports the introduction of Privacy legislation.

Each of these reforms are long overdue and we advocate their immediate introduction.

3. We also support the following recommendations contained in the body of the Report:

the implementation of the House of Representatives Standing Committee on Expenditure recommendations on illegal immigrants.

- . the transfer from the Department of Education to the Department of Social Security of the responsibility for processing applications and payments under the education assistance schemes.
 - . the introduction of improved controls by financial institutions as recommended by the Costigan Royal Commission.
 - . administrative reforms within the Department of Social Security to minimise fraud in relation to false identities.
4. We reject the tax file number proposal outlined in the body of the Report for the following reasons:
- . tax file number systems lack integrity and can only achieve moderate levels of success in combating fraud.
 - . The integrity of the tax file number system is not capable of being upgraded to the standard of the Australia Card, with or without a photograph. There will be less rigorous checks on the issue of a tax file number and, accordingly, it will be easier to use such a number to defraud the revenue.
 - . The fact that no card will be issued (and hence the tax file notice issued will have no security features) means it will be relatively simple to fake the document, or use stolen or lost tax file numbers.
 - . The proposed administrative arrangements whereby the Department of Social Security (DSS) or its nominated agents interview applicants, yet the Australian Taxation Office (ATO) issues the numbers, is cumbersome and inefficient. The public will be considerably

inconvenienced and expected to travel large distances for DSS interviews. DSS has only 204 branch offices, whereas under the Government proposal some 356 Medicare offices will administer the Australia Card Scheme. Furthermore, there is an inherent incompatibility in linking a benefit-paying Department with a revenue-gathering authority. This is likely to cause conflicts both within and outside the Department of Social Security in relation to its perceived role in the community.

- . The establishment and operating costs of the tax file number registry will actually be far higher than estimated in the majority report. The proposal for one tax file number registry and another independent registry for Medicare, represents a costly duplication of time, effort and money.
- . Compliance costs for the non-Government sector will be higher than for the Australia Card proposal. Because there is no direct link between the tax file number and proof of the identity of the person it has been issued to, banks, employers and other financial institutions may find it necessary to call up the ATO to validate each file number presented. Even this validation procedure will not ensure that the person presenting the number is in fact the person to whom that number was issued.
- . The ATO revenue gains from the tax file proposal over ten years will compare most unfavourably with the Government estimates of \$3.115b for the Australia Card proposal (without photo), or at a very conservative minimum, \$4.074b with photo (see Table 8.7 Government Submission, p. 123).

5. We strongly support the introduction of an Australia Card with a photograph. We propose that this Card be used and recorded by only four Departments: the Australian Taxation Office, the Department of Social Security, the Health Insurance Commission and the Department of Immigration and Ethnic Affairs. However, we propose that access to the Australia Card Register be limited to the first three Departments. The reasons for our support of this amended proposal are:

- . The use of a Card with photo will maximise revenue gains, at little additional cost.
- . The tightly restricted use of the Card to four Government agencies, will in fact increase revenue above that estimated in the Government's proposal and diminish threats to civil liberties.
- . The freedoms and privacy of Australians will be more than adequately protected by the introduction of the Data Protection Agency and Privacy legislation. Indeed, with the eventual expansion of the Data Protection Agency to cover private sector data bases, we believe that individual civil liberties in Australia will actually be enhanced as a result of these measures.
- . Our proposal offers considerably greater financial benefits than the tax file number proposal, with less inconvenience to the general public and lower compliance costs for the non-Government sector.
- . The introduction of such a high integrity identification card will enable Government agencies such as ATO and DSS to more easily detect organised tax evasion and fraud, and hence assist in the fight against organised crime.

The Australia Card proposal is keenly supported by many prominent community organisations, lawyers and individuals, and nationwide opinion polling confirms that more than seven out of ten Australians strongly support the introduction of the Card.

Finally, we are convinced that no other proposal before the Government promises such massive inroads into tax avoidance and other revenue/benefits fraud. With estimated revenue benefits in the order of \$8 billion over ten years, it is highly unlikely that any other project will ever present itself to Government which offers such a high benefit to cost ratio.

MAJOR RECOMMENDATIONS

1 We have been persuaded by this and other evidence to recommend as a minority, that the Australia Card program proceed but on a more restricted basis than that proposed in the Government submission.

2 We recommend that the use of an Australia Card and its register be restricted to four departments only: the Health Insurance Commission, which will operate the System; the Australian Taxation Office; the Department of Social Security; and, on a strictly limited basis, the Department of Immigration and Ethnic Affairs.

3 We also recommend severe penalties, to apply in both the public and private sector, for the unauthorised recording of the Australia Card number and for the transmission of that number to unauthorised persons, organisations and other institutions, public or private.

4 We recommend that the Australia Card program include ATO use(s) 1-10 (as set out in the Government Submission to the Joint Select Committee on an Australia Card¹⁸) and the associated sanctions.

5 We recommend that the Department of Social Security use the Australia Card and associated register to:

- . identify persons claiming social security benefits, including those benefits formerly administered by the Education Department which we have recommended be transferred to the Department of Social Security;
- . identify clients on an on-going basis after their eligibility has been established;

- . verify the existence of claimed dependants;
- . detect undisclosed income; and
- . deter other fraudulent practices.

6 We recommend the adoption of the Government proposal that, from March 1987, the Medicare benefits card be progressively replaced by the Australia Card.

7 We recommend that the Australia Card Register have access to the files of the Department of Immigration and Ethnic Affairs although, in the normal course of events, the DIEA would not be an authorised user of the Australia Card Register.

8 We recommend that Australia Card numbers be assigned to the relevant DIEA records.

9 We recommend that any future extensions of use should require full Parliamentary and public discussion of the merits of the proposal. An extension of use should require amendment to the Australia Card Act by the Parliament of the Commonwealth.

10 The Government submission states that there should be no requirement for any individual to carry his or her Australia Card (or similarly, to carry the card of any dependents).²⁰ We agree and recommend accordingly.

11 We recommend that the requirement to present the Australia Card should be mandatory only for the purposes specified in the legislation.

12 We recommend that

- (a) all access to the Australia Card register be logged as a security measure. Invalid requests for access which are refused should be logged separately; and
- (b) the type of security and secrecy provisions that prevail in respect of tax records at the Australian Taxation Office be applied to the three Departments which will have access to the register.

13 We recommend the establishment of a Register to give high integrity to the Australia Card and to minimise the creation of false identities. The Register should contain the basic personal, program management and other information set out in the HIC Planning Report.³²

14 We recommend that all access to the Register by Government agencies be recorded and that the record be made available, subject to the access provisions of the legislation, to the record subject.

15 We recommend that a colour photograph be included on Australia Cards issued to persons over 18.

16 We recommend that a digitised black and white photograph be included on the Register.

1. Introduction

1.1 It is our firm belief that the Australia Card proposal is an effective innovative approach to the problems of tax evasion, social security fraud and illegal immigration.

1.2 From the time the Australia Card concept was first proposed, it has received widespread public support. Mr Eric Risstrom, the National Director of the Australian Taxpayers Association, referred to the community support for an identity card with a photograph at the time of the 1985 Taxation Summit. At public meetings held by the Association the support was such that: 'On a show of hands we were getting consistently, in all States but Queensland, nine out of 10 favouring a card'¹ Opinion polling in 1985 and 1986 has also revealed consistent support for the card among approximately seven out of ten Australians.²

1.3 At the public hearings held by the Joint Select Committee on an Australia Card and in submissions and letters sent to it, there is abundant evidence of widespread support, including support from organisations such as:

- . The Returned Services League of Australia³
- . The Australian Taxpayers Association⁴
- . The Australian Retailers Association⁵
- . The Australian Hotels Association⁶
- . The Salvation Army⁷
- . The Sydney City Mission⁸

1.4 We also received evidence in favour of the proposal from such informed individuals as:

- . Professor Douglas Whalan, who was the Chairman of the Australian Government's Committee of Enquiry into the Protection of Privacy and the author of its report tabled in the Parliament in 1973.⁹
- . Associate Professor Robert Hayes, the Commissioner in Charge of the Australian Law Reform Commission reference on Privacy.¹⁰
- . Professor Peter Groenewegan of the Department of Economics at Sydney University and the author of many books and articles on tax policy and tax reform.¹¹
- . Mr Richard Krever, a tax law specialist from Monash University.¹²

1.5 We have been persuaded by this and other evidence to recommend that the Australia Card program proceed, but on a more restricted basis than that proposed in the Government submission. We recommend that the use of an Australia Card and its Register be restricted to four departments only: the Health Insurance Commission, which will operate the System; the Australian Taxation Office; the Department of Social Security; and, on a strictly limited basis, the Department of Immigration and Ethnic Affairs. We have decided on this approach because we have serious concerns about the possible intrusion of privacy and breaches of civil liberties under a widespread system of national identification. Our restrictions on the Departments able to use the Card and the Registry, combined with the Government commitment both to establish a Data Protection Agency and to legislate for privacy when introducing the Australia Card program, will, we believe, answer those concerns. With Professor

Whalan, we believe that an Australia Card system, with very carefully circumscribed limits on its use and an independent protective body such as the DPA, may well mean that 'our privacy may be better protected than it is now'.¹³

2. Privacy, Civil Liberties and the Common Law

A. The Australia Card and Privacy

2.1 We acknowledge the concerns of many witnesses about the purported invasion of privacy posed by the introduction of an Australia Card. We do, however, draw to the Parliament's attention some of the areas in which it would be safe to assume little or no privacy currently exists. Compared with many data bases already in operation, the Australia Card would appear to represent at most a minor intrusion into the average citizen's privacy.

2.2 The Australian Taxation Office, for instance, has extraordinary and comprehensive powers under the Income Tax Assessment Act to seek details about individuals, in some cases without those individuals being aware of the Tax Office's intrusion. Sections 263 and 264 of the Income Tax Assessment Act provide virtually unlimited powers to the Commissioner of Taxation for full and free access to all buildings, places, books, documents and other papers for any of the purposes of the Act. It is ironic, to us, that the majority report makes no mention of these extensive powers, which already exist, or their potential threat to civil liberties.

2.3 Many commercial enterprises keep detailed records of an individual's credit-worthiness; others rely on access to data bases. The information kept on such data bases is usually unknown to the individual concerned. In some cases, a two-way sharing of information between retailers, for example, and credit-worthiness companies has been a long-standing practice. It is well-known that the information obtained by some companies is sold to other companies interested in sending out unsolicited material. In all cases, the individual concerned has little or

no say in the process. Banks appearing before the Joint Select Committee indicated that they routinely double check information given on loan application forms with other banks-without customer approval.¹⁴ Few individuals ever are given the opportunity to see data kept on them by private companies, let alone make corrections to any information contained on those files. The consequences of this are not trivial: it is obvious that a poor credit rating constitutes a severe handicap in a society where access to credit is an integral part of our lives. If that credit rating is based on incorrect information, it can have serious consequences for the affected individuals.

2.4 Government Departments also maintain data bases on citizens. Evidence heard before the Joint Select Committee on an Australia Card indicated that the Medicare card number is only an external number and that there is already a universal identity number associated with each individual. This fact was revealed by a witness, Mr M.G. Parsons, Assistant General Manager, Claims and Membership of the Health Insurance Commission.¹⁵ We are surprised that the opponents of a national identification card system who sat on the Joint Select Committee did not pursue this matter further. We believe it is likely that they chose to ignore the existence of such a numbering system because widespread knowledge of its existence might serve to strengthen public acceptance of the Australia card, on the basis that a universal identifier already exists and no harmful consequences have been perceptible as a result of its operation. The Department of Social Security in its evidence gave a full picture of the computer matching and extended uses of data base material which enables that Department to seek out fraud or merely check eligibility for benefits. It was apparent from the evidence that a number of other Departments also regularly engage in data matching. These Departments include the Australian Taxation Office, the Department of Immigration and Ethnic Affairs and the Health Insurance Commission.

2.5 Computers in State and local government have been used to compile extensive data bases that help build up profiles of individuals. Land data systems being established in Victoria and New South Wales will enable those individual profiles to be established, with the potential for real estate agents, solicitors and accountants to gain access on request.

2.6 To protect themselves from organised crime, insurance companies are now establishing computer programs to draw together disparate information about claimants.

2.7 In short, absolute privacy does not exist in a society which has up-to-date technology and accepts the use of that technology. If one is born, marries or begets children, if one buys or sells a house or land, if one borrows money, if one votes or receives an award wage, and if one pays tax, one is on a file somewhere and technology is already being used to draw those separate items of information together.

2.8 We believe the question of privacy is an important matter, but the key issue is not whether or not the Australia Card will invade privacy - the question is, at what point do we set the limits? The Joint Select Committee's proposal for a Data Protection Agency and privacy legislation will help to provoke discussion about the degree of privacy invasion that we are prepared to accept. Similarly, proposals to log every access to the Australia Card data base should prevent unauthorised access.

2.9 At the end of the day, the protective mechanisms contained in privacy legislation, a Data Protection Agency and an Australia Card may well provide a framework for the protection of civil liberties and privacy that is far superior to that which we have now. As Professor Whalan of the Australian National University said in evidence:

... it is inevitable in our community that we are going to have complex, complete, intertwined computerised records. What we do not have at present is a completely adequate protection against the use or misuse of those records, and that need for some sort of protection I believe exists quite independently of the proposal for an Australia Card. If we do have an Australia Card it is vital, I believe, that we have both very carefully circumscribed limits on its use and a protective body with similar independence to that possessed by the Ombudsman. Perhaps one irony would be that if we do have an Australia Card with all those protections ... our privacy may be better protected than it is now.¹⁶

2.10 Professor Whalan is a key figure in the debate. As one who was influential in the introduction of the Ombudsman concept in this country, and a noted civil libertarian, Professor Whalan's view that the Australia Card may well help to advance the protection of civil liberties and privacy is, we consider, an important contribution.

B. The Australia Card, Civil Liberties and the Common Law

2.11 Opponents of the Australia Card proposal have stated that a universal identification system is unlikely to be accepted in any of those countries which have a common law judicial system. The clear implication is that common law countries such as the United Kingdom, Australia, Canada and New Zealand, are, per se, more protective of the civil rights and liberties of their citizens than countries such as France, Germany and Switzerland which operate under a civil law system.

2.12 We believe this to be, at best, mythical and at worst, a case of Anglo-Saxon condescension. The common law did not protect twenty-year-olds in Australia from a two year conscription into the defence forces, in some cases to fight in

an immoral war in Vietnam. It has not protected suspects in Northern Ireland from arbitrary arrest and detention. Nor has it prevented the passage in Australia of statutes that specifically remove the right of citizens not to incriminate themselves - a right universally considered sacrosanct in the common law system. The former Royal Commissioner, Frank Costigan, QC, found that the removal of privilege against self-incrimination is not a novel concept. In discussing the powers granted to a Royal Commission, Mr Costigan noted that, leaving aside the courts of law, Commonwealth legislation alone grants the power to conduct and examine witnesses to no fewer than 79 different authorities and office holders:

Out of the 79 cases where a witness may be summonsed and questioned under Federal law, in 69 cases (or some 87%) the witness is compelled to answer notwithstanding.¹⁷

Mr Costigan considered that a study of State legislation would reveal a similar situation.

2.13 Further, there is significant evidence to show that the courts can not keep up with the sheer volume of Acts passing through our Parliaments. To contend that courts have the time or the resources to develop law as they may have in the past is to ignore the changes that are taking place in the framework of common law countries. To contend further that the introduction of an Australia Card will be at odds with a long-cherished common law system which has protected our freedoms is to rewrite modern history for partisan purposes.

C. The Data Protection Agency

2.14 It is our view that the proposed Data Protection Agency (DPA) and privacy legislation will be suitable mechanisms to protect civil liberties and safeguard against the invasion of privacy. We have strongly supported their establishment in the

body of this Report, and believe that their application should be extended to an Australia Card Register. Further, we propose the tightening of security procedures in relation to the Australia Card Register in those departments which will have access to or will be associated with the system. In our view, security should be as tight as that presently existing in the Taxation Office in relation to tax records. We also recommend severe penalties, to apply in both the public and private sector, for the unauthorised recording of the Australia Card number and for the transmission of that number to unauthorised persons, organisations and other institutions, public or private. Finally, we recommend logging all accesses to the Australia Card Register to preserve a full record of its use and to discourage unauthorised access, including frivolous access.

3. Uses of the Card and Associated Register

3.1 We propose strict limitations on the uses to which the Australia Card and its associated register may be put. Their uses should be restricted to the following four Departments: the Australian Taxation Office, the Department of Social Security, the Health Insurance Commission (Medicare) and the Department of Immigration and Ethnic Affairs.

A. Australian Taxation Office

3.2 We recommend that the Australia Card program include Australian Taxation Office use(s) 1-10 (as set out in the Government Submission to the Joint Select Committee on an Australia Card¹⁸) and the associated sanctions.

3.3 There should be no deletions to this list, and at this stage we do not believe that there should be additions to the list.

3.4 We believe that the Card and the register will significantly reduce tax evasion and enhance the administration and enforcement of the tax laws by efficiently matching information reported to the ATO. With the achievement of these aims, community confidence in the fairness and equity of the tax system will increase with a corresponding rise in voluntary compliance.

B. Department of Social Security

3.5 We recommend that the Department of Social Security use the Australia Card and associated Register to:

- * identify persons claiming social security benefits, including those benefits formerly administered by the Education Department which we have recommended be transferred to the Department of Social Security;
- * identify clients on an on-going basis after their eligibility has been established;
- * verify the existence of claimed dependants;
- * detect undisclosed income; and
- * deter other fraudulent practices.

3.6 We accept the Government proposal that registration for the Card, with the associated ability to present the Card or provide the number, be a prerequisite for the payment of all welfare benefits and payments for which the Card/number is required.¹⁹

3.7 We also accept that the effectiveness of the Australia Card/Register for social security purposes will depend upon the integrity of the overall system. For this reason the system must be of the highest integrity.

C. Medicare

3.8 We recommend the adoption of the Government proposal that, from March 1987, the Medicare benefits card be progressively replaced by the Australia Card. Throughout the 2-year issue period for the Australia Card, Medicare benefits cards should be withdrawn from individuals as they are issued with Australia Cards. Production of an Australia Card will then be the means by which to obtain Medicare benefits. The Australia Card Register will be accessed by the Health Insurance Commission to establish eligibility for benefits.

3.9 The adoption of this proposal will give increased confidence that Medicare benefits will be paid only to those so entitled. We believe that the use of the national identification system not only will help combat fraud in this area, but also will realise a saving in resources (since the Australia Card will have multiple uses) without detriment to the level of service or the confidentiality of medical records. The sanctions outlined in the Government proposal under 3.3.2 should apply.

D. Department of Immigration and Ethnic Affairs

3.10 We recommend that the Australia Card Register have access to the files of the Department of Immigration and Ethnic Affairs although, in the normal course of events, the DIEA would not be an authorised user of the Australia Card Register. We recommend that Australia Card numbers be assigned to the relevant DIEA records.

E. Extension of Current or Future Uses

3.11 In principle, we believe that the uses of the Card and associated Register should be as limited as possible. On these grounds we believe that the Australia Card Register should not be used for the location of maintenance defaulters.

3.12 We recommend that any future extensions of use should require full Parliamentary and public discussion of the merits of the proposal. An extension of use should require amendment to the Australia Card Act by the Parliament of the Commonwealth.

F. Voluntary Uses of the Card

3.13 We consider that the Australia Card should be able to be used by individuals on a voluntary basis to establish their identity for a wide variety of transactions. This use should be at the absolute discretion of the individual.

G. Carrying the Card

3.14 The Government submission states that there should be no requirement for any individual to carry his or her Australia Card (or similarly, to carry the card of any dependents).²⁰ We agree and recommend accordingly.

H. Legislation to Prohibit Demand for Presentation of the Card Outside Prescribed Uses

3.15 We recommend that the requirement to present the Australia Card should be mandatory only for the purposes specified in the legislation. No Department, Statutory Authority or other Government Agency should demand the production of the Australia Card or record the Card number for purposes of identification other than those prescribed by the legislation. We concur with the Government proposal that the Australia Card legislation should prohibit demands for production of the Australia Card or the Card number to establish identity for purposes not sanctioned by the legislation. In particular, legislation should prohibit law enforcement agencies demanding production of the Card. It should be a serious offence for any organisation, either public or private, to record the Australia Card number unless they are a prescribed user under the Australia Card legislation. It should be an offence for any prescribed user to transmit that information to any unauthorised person or agency.

I. Companion System for Entities

3.16 We accept that a companion system for entities will be necessary to ensure that there is no leakage of revenue from the Australia Card system. ["Entities" is defined here to mean any organisation or association of persons, whether incorporated or unincorporated, and including persons engaging in transactions in joint names].

3.17 We accept the proposal outlined in the Government submission as the best method of implementing such a companion entity system.²¹ The reporting of the Australia Card number of a natural person associated with an entity as well as the name and tax file number of the entity when that entity engages in a prescribed transaction, has the advantage of maintaining the integrity of the Australia Card system (since multiple entity cards will not be required) and reducing the possibilities of fraud. Moreover, this method will produce negligible additional costs for the Government.

4. Administrative and Operational Arrangements

A. Integrity

4.1 Integrity is at the heart of the Australia Card proposal - the system must be sound, reliable and relatively incapable of being corrupted. In our view, the Health Insurance Commission (HIC) is correct to argue that integrity 'is critical to the success of the [Australia Card] program in terms of both the achievement of its objectives and its acceptance by the general community'.²² We believe a tax file number system is a poor alternative because it must have a lower integrity than the Australia Card system. Not only would a tax file number system have lower integrity, it would have less acceptance, less utility and less reliability.

4.2 Nonetheless, perfect integrity is an impossible goal and we agree with the Government that the procedures adopted to ensure the integrity of the system will need to be balanced against considerations of public convenience and cost. We believe that the proposal detailed in the Government submission and HIC Final Planning Report represent a reasonable compromise between these conflicting aims.²³

B. Procedure for Initial Proof of Identity

4.3 We approve of the general Government strategy to establish identity. This strategy is set out in the Government's submission at Chapter 11²⁴ and is given in detail in the HIC Planning Report.²⁵ It involves an amalgam of methods including an interview and a three stage process of data matching by computer in order to validate identity against existing Government records. This computer matching will make use of data supplied by an applicant as well as information contained in

computerised registries of births, deaths and marriages. If an applicant is successfully matched against relevant Government databases then the level of documentation required from the applicant at the interview is reduced. In cases where the matching proves partially or wholly unsuccessful, applicants will be informed in advance of additional documentation that will be required at the interview. We agree that this strategy will reduce demand for primary documents from State Registries of Births, Deaths and Marriages and improve public convenience. The strategy should also reduce the risk that false identities will be established on the Register, since the Government will have the ability to check the source of an identity independent of documents supplied by the applicant.

C. Registration - Special Arrangements

4.4 In general we accept the measures outlined in the Government submission²⁶ and in the Health Insurance Commission Planning Report²⁷ for special groups, including the frail aged, those in institutions, some disabled persons, homeless or destitute persons, some ethnic groups and persons living in remote areas.

4.5 In the case of Aborigines and Torres Strait Islanders living in remote areas, the Health Insurance Commission Planning Report makes clear that more detailed planning, in consultation with relevant Government Departments and representatives of Aboriginal communities, would be required²⁸ We recommend that such planning and consultation be carried out forthwith.

D. Security of Data on the Register

4.6 We are generally satisfied with the security procedures outlined in the HIC Planning Report.²⁹ These procedures cover security vetting and training of staff, security of telephone

access lines to the central computer, the physical security of terminals and the central computer, and the security systems in the computer software.

4.7 We recommend that

- (a) all access to the Australia Card register be logged as a security measure. Invalid requests for access which are refused should be logged separately; and
- (b) the type of security and secrecy provisions that prevail in respect of tax records at the Australian Taxation Office be applied to the three Departments which will have access to the register. The files of the Department of Immigration and Ethnic Affairs in relation to the Australia Card numbering system will also need to be secure. We recommend this measure to limit the use of the Australia Card number as far as is possible even within user Departments.

E. Arrangements for Changes to Data

4.8 There should be provision for a co-ordinated system by which the public can conveniently notify the Health Insurance Commission of changes to address, citizenship status or other relevant matters. This system must also ensure that the integrity of the data on the register is maintained.

4.9 We agree to the exchange of information between the Health Insurance Commission and user agencies in order to maintain and update the records, provided that information accessed from user agencies is of a high level of integrity and that user agencies have access to information only on their own clients.

F. Individuals Access to data on the Australia Card Register

4.10 We are satisfied with the Government proposal for access by an individual to the data on the Register that relates to him or her.³⁰ At this stage we agree that one free access per year is sufficient to protect individual privacy and civil liberties. Any additional copies of the personal information record should be made available on the payment of a fee based on the cost to the Health Insurance Commission of providing the data.

G. The Card: Eligibility

4.11 Eligibility for the issue of an Australia Card should extend to Australian citizens, residents of external territories, foreign nationals who are entitled to work or study in Australia, and visitors in Australia for longer than six weeks who may require the use of an Australia Card. Special provision may be needed for some shorter term visitors.

4.12 We accept that some children will need to be issued with cards in their own right because of special circumstances. The eligibility for such cards should be based on the criteria set out in the Health Insurance Commission's Planning Report.³¹

H. The Register

4.13 We recommend the establishment of a Register to give high integrity to the Australia Card and to minimise the creation of false identities. The Register should contain the basic personal, program management and other information set out in the HIC Planning Report.³²

4.14 We recommend that all access to the Register by Government agencies be recorded and that the record be made available, subject to the access provisions of the legislation, to the record subject. This provision will help deter unlawful access and enable record subjects to know how and to what extent their records are being used and if the use is proper. (See also Chapter 3 of the Committee Report).

I. Photographs on the Card

4.15 We recommend that a colour photograph be included on Australia Cards issued to persons over 18. This will help enable an individual to be identified as the rightful holder of a Card as easily and as with as much confidence as is possible. It will add to the integrity of the system by making fraudulent use of lost or stolen Cards more difficult and give additional public confidence in the system.

J. Digitised Photographs on the Register

4.16 We recommend that a digitised black and white photograph be included on the Register. With photographs on the Card and in the Register it will be much easier to control counterfeiting and fraudulent use of the Card. Black markets in lost or stolen cards would also be discouraged.

4.17 There should be very few exceptions to the policy of including photographs on the card and the Register if the integrity of the Australia Card is to be maximised. We agree with the policies set out in the HIC Planning Report³³ with respect to exceptions.

4.18 Civil liberties issues are raised by the policy of including photographs on the card and in the Register. While there are groups in the community with cultural and/or religious objections to having photographs taken, these objections may not

amount to a refusal to have a photograph included on the Australia Card and recorded in the Register when the benefits that the Australia Card will confer are explained. Where individuals still object to the inclusion of a photograph, we believe that the Health Insurance Commission should consider these on a case by case basis. Exceptions should be granted only under the most stringent conditions to ensure that the integrity of the Australia Card remains as high as possible.

K. Display of Information on the Card

4.19 The Australia Card should include in the case of adult citizens:

- . a colour photograph
- . the Australia Card number (embossed)
- . name (embossed)
- . signature
- . validity date

For security and social reasons, sex, date of birth and citizenship status should not be included on the card.

4.20 Children's Cards, issued to responsible adults, should display:

- . the Australia Card number (embossed)
- . name (embossed)
- . date of birth
- . sex

- . validity dates

- . responsible adult (name and Australia Card number)

There will be no need for a child's Card to include a photograph, but sex and date of birth information should be on the Card, both as a check on identity without the photograph and as a way of checking on eligibility of the child for age-related benefits.

4.21 Cards issued to visitors should be visually distinct from those issued to Australian citizens. In addition to the information displayed on an adult's Card, a visitor's Card should note whether the visitor is entitled to Medicare benefits or authorised to work in Australia.

L. Emergency Information on the Register

4.22 We believe that the Register should not contain optional emergency information. Our grounds for this belief are the need to restrict the uses and purposes of the Register, the danger that too much information on the Register might facilitate the creation of dossiers on record subjects, and practical difficulties in keeping emergency information up to date. Not only would it be difficult to ensure that optional emergency information was kept current, outdated information may be dangerous if used as a basis for treatment. Also, in situations where identity is difficult to establish, the information would be of no use. Finally, the proposal would generate significant additional costs: information would need to be available on a 24 hour basis but present HIC planning is for 12-13 hour/day access for computers, linked by a dedicated line. Since most inquiries would not be possible over a direct dedicated line, it would be necessary to set up a

telephone-based access system and, in order to preserve the security of the system, this would require a 'bankcard' style operation. Given our other reservations we do not believe that these additional costs can be justified.

M. Emergency Information on the Card

4.23 For similar reasons, we believe that the Australia Card should not display emergency information. The Card should be used only for the limited purposes specified and its use should not be extended unduly. The placing of emergency information on the Card may facilitate data linkage and help in the production of individual dossiers. The potential invasion of privacy is also a concern because the Card would give access to private information in the course of its normal use. Furthermore, the Card would not be the best way to make emergency information available as Cards would not always be carried and, even if carried, may become easily separated from the cardholder. In addition, those under 18 would not usually have their own Cards.

4.24 In the future, the Government may wish to institute an inquiry to determine the best means of making emergency information available.

N. Additional Names on the Register

4.25 Provision should be made in the Register for more than one name to be recorded against each identification number in order to retain the common law right of individuals to choose the name by which they will be known. For security reasons, individuals should be issued with only one Card showing only one identity. This policy will help ensure the integrity of the Australia Card system.

O. Additional Security features on the Card

4.26 The Government may wish to consider the inclusion of a digitised signature in machine-readable form on the Card as an additional security check to enable automated matching of user signatures with the signature stored on the Card. At this stage, we believe that such a feature may be regarded as odious and therefore we do not favour its introduction.

P. Control of Lost or Stolen Cards

4.27 In order to restrict the use of lost or stolen Australia Cards, the Health Insurance Commission (HIC) has proposed that the Australia Card number include a two digit issue number. This will enable the HIC to store information about particular Cards (eg, those which have been lost, stolen or replaced) in the Register. When user organisations check the Register for Card status, they will be advised whether the Card in question has been lost, stolen or is otherwise invalid. Action can then be taken to recover such Cards.³⁴ We are in favour of this proposal.

4.28 We also approve of a nominal fee being charged by the HIC for the replacement of lost, stolen or otherwise damaged Cards. We believe that this will discourage people from reporting misplaced cards as having been lost and will therefore help reduce the number of persons with more than one Card in their possession.

Q. Distribution of Cards

4.29 We accept the Health Insurance Commission (HIC) plan for the distribution of Australia Cards and believe it is a responsible compromise between the demands of convenience to the public, reasonable cost and maintenance of high security and integrity of the Card.

5. Costs and Benefits of Our Proposal

5.1 In its submission to the Committee, the Government claims that introduction of the Australia Card (without photo) would produce cumulative revenue benefits over a ten year period of \$4.48b against cumulative costs of \$1.046b. Chapter 2 of this Report makes detailed reference to these estimates. In summary, the Committee as a whole considers that taxation estimates were generally reliable but very conservative, that social security benefits were understated and that immigration benefits were overstated.

5.2 On the basis of evidence received by the Committee, it is our view that the estimated revenue gains arising from the proposed ATO uses are conservative in the extreme. As the Second Commissioner of Taxation, Mr J.P. McDermott, pointed out, the ATO estimates take no account of additional back taxes and penalties; take no account of amendments to prior returns; and are based on overall estimates of tax evasion which are extremely low.³⁵ We are firmly of the belief that the likely benefits of the ATO uses of the Australia Card proposal would be at least double the estimates provided in the Government submission.

5.3 On this basis, we would therefore expect the cumulative revenue gains from the Taxation Office uses of an Australia Card without photo to be in the order of \$6.2b, and the gains for a Card with photo to be in the order of \$8.1b. It is worthy of note that the revenue gains available from the ATO uses of a Card with photo (\$8.1b) alone would finance tax reductions for average PAYE taxpayers at a rate approaching \$8 per fortnight for the next ten years.

5.4 As is noted elsewhere in this dissenting report, we have recommended introduction of an Australia Card with photo, but with uses confined strictly to those proposed for ATO, DSS (including education allowances), Medicare and DIEA. Under our proposal, the Australia Card would not be used by the Departments of Housing and Construction, Veterans' Affairs and Community Services, the Australian Institute of Health or the Australian Bureau of Statistics. Our reasons for not recommending usage in these areas relate to questions of data protection and privacy, as well as revenue cost/benefits. Information provided to the Committee by the Government clearly shows that, under the above-mentioned Departmental uses, the estimated costs of introducing the Card over the ten year period are approximately \$27m, whereas estimated revenue gains are only \$5m.³⁶ By adopting our proposal for restricted use of the Card, overall net benefits would therefore exceed those estimated under the Government's proposal by some \$22m over the ten year period.

5.5 The overall cumulative benefits and costs of our proposal are shown in the following table.

TABLE

Minority Committee Australia Card Proposal (with photo)
Cost/Benefit Summary
1986/7 to 1995/6

	<u>Cumulative</u> <u>Costs</u> <u>\$m</u>	<u>Cumulative</u> <u>Benefits</u> <u>\$m</u>	<u>Cumulative</u> <u>Net Benefits</u> <u>\$m</u>
ADMINISTERING AGENCIES			
HIC	858.5	-	(858.5)
Health Aust Card Sec	2.0	-	(2.0)
Data Protection Agency	21.3	-	(21.3)
USER AGENCIES			
ATO	94.585	8,148.0	8,053.415
HIC-Medicare	3.075	68.9	65.825
DSS (including Educational Allowance	18.543	19.518	0.975
Immigration (DIEA)	21.159	1,291.957	1,270.798
TOTAL	<u>1,019.162</u>	<u>9,528.375</u>	<u>8,509.213</u>

Notes:

- (i) All figures represent cumulative ten year totals, and are not adjusted for annual discount.
- (ii) Revenue benefits for DIEA are probably overstated, however those for DSS are significantly understated.
- (iii) Although DIEA will not be a 'user' of the card and register, financial benefits in this area will result from detection and deterrence of illegal immigrants.

5.6 Using a conservative steady state and a 10 per cent annual discount rate, it is clear that the Benefit Cost Ratio (BCR) of the proposed ATO uses of the Australia Card would be in the order of 65:1, while that for all uses would be in the order of 7:1.

5.7 A more realistic analysis using the same 10 per cent discount rate, but allowing for a 3 per cent per annum increase in the level of economic activity and a population growth of 1.29 per cent per annum, would yield even higher BCRs.

5.8 It is rare indeed for any Government to have before it a proposal which offers such a high benefit to cost ratio. We believe it would be totally irresponsible for the Government not to proceed with this proposal, providing as it does massive revenue gains in the tax avoidance/evasion area at minimal cost to the community, both in financial and civil liberties terms.

A. Compliance Costs for the Private Sector

5.9 Evidence presented to the Committee included some estimates of the compliance costs for the private sector of the Australia Card proposal. These cost estimates ranged from a low of \$160 million over 10 years (reported by the Australian Retailers Association³⁷) through \$377 million over 10 years (given by the Confederation of Australian Industry³⁸) to a high of \$516 million over seven years (given by Mr Roger Clarke³⁹). The disparity in these estimates has led the Committee to concur with the conclusion of Professor P.D. Groenewegen, of the Department of Economics at the University of Sydney, that

... it would be exceedingly difficult to calculate compliance costs for industry unless you know precisely the details which are going to be required ... If you do not

have this precise information, I cannot see how you can calculate and estimate compliance costs of any reasonable nature ...⁴⁰

5.10 It is self-evident that all the above figures are guesstimates and that some are based on very shaky assumptions indeed. For example, Mr Clarke estimates that it would cost employers \$60 million for each of the first two years, and \$24 million annually thereafter, in time lost while employees attend a HIC office to register and later collect their Card.⁴¹ This estimate relies on the assumption that every employee would need to register in worktime. This is patently a false assumption since the HIC proposes that Commission offices operate for extended hours during the registration phase. During implementation, Australia Card offices would be open for 12 hours per day as well as on Saturday mornings where appropriate. Other offices will be open for up to nine hours per day where warranted.⁴²

5.11 Nevertheless, it is clear that there will be some costs for the private sector, especially for banks which will need to change their customer account systems to allow information to be supplied to the Australian Taxation Office (ATO) in the form the ATO requires. We do not believe, however, that these costs will be proportionally large and agree with the point made by Mr N.J. Meers, National Executive Director of the Australian Retailers Association, in evidence before the Committee that compliance costs,

... when you relate them in percentage terms to the profitability, the sales and the general importance of the private sector, are not a significant amount. It will have to be borne and it may well be passed on. It may even have a small inflationary effect. But that is something to be considered against the enormous problem we have of a society which now has a substantial activity that is anti-social.⁴³

5.12 We also point out that the compliance costs of the Government proposal for the private sector will be considerably less than that for the upgraded tax file number system, as explained elsewhere in this Report.

6. Arguments against the Proposed Tax File Number System

6.1 We wish to record our strong opposition to the tax file number system recommended by the majority of the Committee. We are concerned that the majority decision to reject the Australia Card proposal is primarily a political decision aimed at denying the Government: (a) significant revenues and (b) a chance to implement a system which is manifestly popular in the electorate at large.

6.2 We believe the tax file number system is a weak alternative to the Australia Card proposal and is, in fact, a watered-down version of the proposal. Despite the public posturings of the signatories to the majority report and their explicit assertions that they have rejected the Government proposal, the tax file number system clearly adopts major elements of the proposal:

- . it embraces a unique personal numbering system (based on a tax file number which will have very little security and will be easy to falsify);
- . it endorses the compulsory use of the number in relation to taxation matters, employment, social security, banking and other financial transactions; and
- . it proposes, in effect, a central number register which will be within the Australian Taxation Office instead of the Health Insurance Commission.

6.3 Unfortunately, while accepting and endorsing major elements of the Government's proposal, the majority of Committee members has chosen to recommend procedures which are grossly inadequate to achieve the objectives of that proposal.

6.4 We believe the majority report has been cobbled together and is demonstrably lacking in the thought and consideration needed to build a workable system to combat tax evasion, social security fraud, and certain other frauds. For example, there has been no examination of the operation of systems based on tax file numbers elsewhere, nor of the mechanisms needed to make such systems work effectively. The absence of such an examination is plainly evident in the failure of the majority to endorse the issuing of a tax card. Consideration of the problems encountered in countries such as Canada and the United States, which both utilise a low-integrity identification number system, would have led the majority to see the wisdom of establishing a high integrity system from the outset.

6.5 The majority proposal arose out of questions addressed to representatives of the Australian Taxation Office (ATO) during their appearances before the Joint Select Committee. It is fair to say that the tax file number option was not initiated by officers of the ATO, nor did they appear enthusiastic about that as an alternative to an Australia Card.

6.6 The reasons for the ATO's reluctance to sponsor the tax file number alternative is obvious when that alternative proposal is examined. First, the security and integrity of the system will not be capable of being upgraded to the standard of the Australia Card: it will be easier to obtain a tax file number and easier to use it in a fraudulent way.

6.7 This is because tax payers with a continuous tax record of more than five years standing will be accepted as genuine identities (unless and until audit checks reveal otherwise). We believe that this one step alone will allow the continuation of a significant number of false names and numbers in the tax system - significant enough to begin the proposed new tax file number system with a fatal flaw.

6.8 Second, the security and integrity of the tax file number system will be breached. The tax file notice issued will have no security features so it will be relatively easy to fake the notice or to use stolen or lost tax file numbers. The majority report does not address this problem in any way.

6.9 Third, while the interviews will be conducted by the Department of Social Security or nominated agents, the Australian Tax Office will issue the tax file numbers and maintain the Register of identities. Once responsibility is split in this manner, problems of coordination, communication and control are inescapable.

6.10 Further, the Australian Taxation Office has had little experience in the near universal registration of citizens and the use of computer equipment required for such registration. The Health Insurance Commission has the necessary experience. Those who criticise the HIC for the multiple issue of Medicare cards conveniently overlook the fact that the existing universal identity numbers and other safeguards in the system inform the HIC of the multiple possession of Medicare cards. Nor do these critics take into account the further consideration that Medicare was established within the constraints of cost and compromises in relation to the integrity of the cards issued.

6.11 It is also significant that the Australian Taxation Office has consistently underspent and undergeared its allocation for computer based equipment. The Health Insurance Commission, on the other hand, has equipment currently in use which can service the population universally.

6.12 The proposal of the majority of the Committee to allow officers other than those from the Department of Social Security (DSS) to carry out interviews when DSS offices are not easily accessible is likely to lower the integrity of the tax file number system even further. Management problems are likely to arise in training staff in common requirements and criteria when the staff do not belong to the same Department. While it is true that the Health Insurance Commission (HIC) will also need to consider appointing agents in some country areas, it is likely to require far fewer than the DSS since the HIC plans to extend its network of branch offices to 356 for the implementation process.⁴⁴ The HIC will thus have less of a problem than the DSS which has only 204 branch offices and only modest plans to expand the network.⁴⁵

6.13 We confidently predict that if the upgraded tax file number scheme is adopted it will be so flawed that tax evasion and social security fraud will not be reduced to the same level as is achievable under the Australia Card proposal. As a result, the Commonwealth revenue will suffer unnecessarily.

6.14 Apart from the problems of integrity outlined above, we believe that the scheme will not be a cheaper alternative to the Australia Card proposal. In spite of its assertion that this will be the case, the majority of the Committee has not carefully costed its proposal or taken detailed evidence on costs. In fact, a comparison of the two proposals shows that the cost of Medicare registration, administration and card issue should be added to the costs of the tax file number scheme. This is an area where the majority recommendation, if adopted, will cause a costly duplication of time, effort and money.

6.15 Additionally, there are two other matters in relation to costs which concern us. Firstly, there is likely to be a large increase in the staff of the Department of Social Security in order to carry out the registration of people applying for tax file numbers. This growth is likely to be larger than necessary because of the requirement for people to apply in person. Demand is likely to be unpredictable and, as a consequence, there will be inefficiencies in the allocation of staff, problems with office administration and an overall unpredictable growth in costs. This aspect of the tax file number scheme should be compared to the system proposed by the Government, where letters will be sent to persons inviting application for an Australia Card. The Government's proposed system will allow the efficient utilisation of resources and staff.

6.16 Second, costs to the private sector will rise if it becomes necessary to guard against fraud through the verification of tax file numbers at the time of presentation. This could only be done by a phone-up system similar to that operated by Bankcard. The costs of operating such a system are likely to be large.

6.17 When taken together, these factors make the assertion of the majority - that the tax file number system will have substantially lower costs - extremely doubtful. Certainly the compliance costs for employers, banks and other financial institutions will be much higher than under the Government's proposal. This is a direct consequence of the lower integrity and security of the tax file number system compared with that of the proposed Australia Card. Because there is no direct link between the tax file number and the person to whom it has been issued, the employers, banks and other financial institutions will need to examine additional documentation to establish that the identity claimed is genuine.

6.18 These considerations make it impossible for us to support the introduction of a tax file number system.

Endnotes

1. Evidence, p. 118.
2. Health Insurance Commission Final Planning Report Canberra, 1986 [hereafter FPR]; paragraph B3.1 et seq. p. 53 ff.
3. Evidence, p. 3838 ff.
4. Evidence, p. 118 ff.
5. Evidence, p. 3455 ff.
6. Evidence, p. 1537 ff.
7. Evidence, p. 1433 ff.
8. Submission, No. 108.
9. Evidence, p. 3816 ff.
10. Evidence, p. 595 ff.
11. Evidence, p. 3483 ff.
12. Evidence, p. 3770 ff.
13. Evidence, p. 3826.
14. Evidence, pp. 1265-67.
15. Evidence, p. 3591.
16. Evidence, p. 3826.
17. Royal Commission on the Activities of the Federated Ship Painters and Dockers Union, Final Report Volume 2 (Canberra, 1984); p. 18
18. Submission by the Government of Australia to the Joint Select Committee on an Australia Card Towards Fairness and Equity Canberra, 1986 [hereafter 'TFE']; paragraphs 5.2.4-5.2.40; pp. 53-63.
19. TFE, paragraph 3.3.2, p. 40.
20. TFE, paragraph 4.4.1, p. 49.
21. TFE, paragraphs 6.1-6.8, pp. 81-91.
22. FPR, paragraph 2.33, p. 19.

23. TFE, Chapter 6, p. 81 ff; and FPR, Appendix E, pp. 73-4.
24. TFE, pp. 149-151.
25. FPR, see Appendix G, pt 3, p. 82, Appendix H, pts 2 and 3, pp. 91-95 and Appendix N pp. 147-157.
26. TFE, paragraph 3.5, pp. 44-45.
27. FPR, Appendix P, pp. 163-165.
28. FPR, paragraph P3.7, p. 168.
29. FPR, paragraph 2.16, p. 33 and Appendix R, pp. 173-177.
30. TFE, paragraphs 14.8.3, 14.8.4 and 14.11.10 on pp. 181 and 185; and FPR, paragraph G4.3, p. 84.
31. FPR, paragraph K5.1, pp. 123-124.
32. FPR, paragraph J3.1.1, p. 114; paragraph J4.1, p. 116; and paragraphs J6.1-6.4, pp. 118-120.
33. FPR, paragraph Y4.4, pp. 220-221.
34. FPR, paragraph G6.2.2, p. 86.
35. Evidence, pp. 1888-9.
36. TFE, tables 8.6 and 8.7, pp. 121-123.
37. Evidence, pp. 3456-7.
38. Evidence, pp. 4003-4.
39. Evidence, p. S299.
40. Evidence, pp. 3519-20.
41. Evidence, p. S297.
42. FPR, paragraph 2.11.8, p. 28 and paragraph U4.5, p. 198.
43. Evidence, p. 3457.
44. FPR, paragraph U4.1, p. 197.
45. Department of Social Security Annual Report 1984-85 (AGPS, 1985); p. 56.