COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

# HOUSE OF REPRESENTATIVES

## STANDING COMMITTEE ON EMPLOYMENT, EDUCATION AND WORKPLACE RELATIONS

**Reference: Employee share ownership in Australian enterprises**

WEDNESDAY, 14 JULY 1999

SYDNEY

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**HOUSE OF REPRESENTATIVES**

**STANDING COMMITTEE ON EMPLOYMENT, EDUCATION AND WORKPLACE RELATIONS**

**Wednesday, 14 July 1999**

**Members:** Dr Nelson *(Chair)*, Mr Barresi, Mr Bartlett, Dr Emerson, Ms Gambaro, Mrs Gash, Ms Gillard, Mr Katter, Mr Sawford and Mr Wilkie

**Members in attendance:** Mr Barresi, Mr Bartlett, Ms Gambaro, Mrs Gash, Ms Gillard, Dr Nelson, Mr Sawford and Mr Wilkie

**Terms of reference for the inquiry:**

The extent to which employee share ownership schemes have been established in Australian enterprises and the resultant effects on:

(a) workplace relations and productivity in enterprises; and

(b) the economy.

**WITNESSES**


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**Committee met at 9.45 a.m.**

**KIRKWOOD, Mr Jon Barton, Partner, Ernst and Young**

**CHAIR**—Firstly, I would like to welcome everyone here today, the witnesses and observers. I thank the secretariat and Hansard staff for providing us with support.

There are just some formalities that I need to go through. I declare open these public hearings of the inquiry into employee share ownership plans and welcome the witnesses and others in attendance. We will be taking evidence today from Ernst and Young, Coca-Cola Amatil, Equity Strategies, QBE Insurance, the Australian Manufacturing Workers Union, and MAI Services.

The purpose of this inquiry is to identify the extent to which employee share ownership plans have been established in Australian enterprises and to assess the impacts of those plans on workplace relations, productivity in enterprises and on the economy.

I now call on the representative of Ernst and Young to give evidence. I remind you that the proceedings here today are legal proceedings of the parliament and warrant the same respect as do proceedings in the House itself. The deliberate misleading of the committee may be regarded as contempt of parliament. The committee prefers that all evidence be given in public, but if at any stage you wish to give evidence in private you may ask to do so and the committee will consider your request.

At this point perhaps you could give us a 10-minute overview of your submission and then we will engage in some questions and dialogue.

**Mr Kirkwood**—Thank you very much for giving me the opportunity to address the committee today. I am the National Technical Director, Taxation, at Ernst and Young. One of my specialties is employee share and option plans. It has been my practice area for more than 10 years now.

My focus within the subject area is initial public offerings, IPOs, and offers to Australian employees to participate in offshore plans, that is, the plans of companies that are centred outside Australia—I have represented the American Chamber of Commerce and many hundreds of their companies—and also in relation to share and option plans of publicly listed companies. That is my area.

As a number of the submissions have observed, the rules as they currently exist make it simply too hard for small and private companies which are generally forced into a form of bonus arrangement which do not put their shares into play. The owners do not really want to give up the ownership of the company that is the problem. It is very difficult for those companies to comply with the rules.

I note that each of the three hearings so far have mentioned on the one hand the difficulties which face private companies in offering share participation, and on the other hand, from the ATO, the difficulties they face in the threat to the revenue when private companies do some plans that are seen as being a mischief in relation to division 13A.

I have looked at all the submissions your committee has received—there was a lot of reading there—and noted some common themes. There are many mentions of the difficulties for small companies with both corporate law compliance requirements and problems with division 13A, for example, the five per cent maximum holding rule. And nine of the submissions you have received raised a number of the issues that the Ernst and Young submission raised.

Overall, the greatest number of mentions were made in the following 10 areas: first, the prospectus issues and corporate law requirements; second, the no forfeiture requirements regarding exemption plans; third, the inappropriateness of the valuation rules in division 13A; fourth, the view that the $1,000 exemption is too low; fifth, the five per cent limit on individual participation in the company is too low, especially for small companies; sixth, the difficulty of making an offer which fits the taxation rules; seventh, the cessation time rules and the fact that retirement and death are a cessation time, the time when you are taxed under the rules; eighth, an election to be taxed up front to obtain the exemption also captures all planned participation in that year; ninth, the 10-year limit should be extended until the shares are sold, and there are many submissions to that effect; and tenth, trusts should not be taxed like companies as is proposed under the Ralph Review of Business Taxation.

You will appreciate from the submissions and the list of 20 issues which the Ernst and Young submission raised that there are much more than just the 10 items I have mentioned there, but they were the ones most commonly mentioned.

The history of division 13A is interesting, and a sense of history in approaching these things is always important. Over the years I have run into numerous problems with division 13A, which commenced operations in March 1995. Prior to that it was considered that section 26AAC, which contains the predecessor rules, worked quite well.

However, through the early 1990s the so-called New Age share plans were being developed and offered something other than shares in the employer company. Initially, the benefit consisted of an interest in a bundle of equities, often a collection of blue-chip investments. There was really nothing wrong with that, it was a diversification type of plan. However, some innovative share plan developers modified the New Age plan to include holiday homes, overseas trips and luxury cars. That was the straw that broke the camel's back and led initially to a proposed fringe benefit environment which after considerable lobbying in the Senate hearings was changed to create the essential features of division 13A as we see it now.

The main anti-avoidance initiative in division 13A is contained in the requirement that the shares must be in the employer company, or in a holding company of the employer, otherwise the participation will be non-qualifying. The idea of qualifying and non-qualifying participation is that qualification entitles the participant to a deferral of taxation until the so-called cessation time, which is usually when the shares are allotted or when the options are exercised. If the participation is not qualifying, it will be taxed up front.

Another significant initiative in division 13A is the provision of up to $1,000 of exempt income provided all the offers are the same, for example, 500 shares are offered to at least

three quarters of the permanent employees. The shares cannot be sold for three years and there must be no provisions in the plan which can result in forfeiture of participation.

This latter requirement is seen by public companies as unduly onerous because it means that if the participant is caught with their hand in the till so to speak, they must be entitled to retain ownership of the shares even if they are dismissed for fraud or dishonesty. It is a very significant difficulty for public companies.

To obtain the $1,000 exemption the participant must elect to be taxed up front in an election which drags in all other participation in that year. For example, if an employee is offered participation in both an option plan and an exemption plan, to obtain the benefits of the exemption plan the employee must sacrifice the deferral which would have been permitted in relation to the option participation. There does not appear to me to be any sensible reason for this requirement.

The example regarding an initial public offering that I have given in my submission touches on only some of the problems in items 1, 5, 12 and 20 of the list of ESAS issues that I attached to that submission. Some of the items point to bizarre rules in division 13A. For example, section 139DD was not properly thought through. This is the provision which is intended to give rise to an amended assessment where an amount has been included in assessable income but the benefit never in fact arises. Firstly, the provision applies only to rights or options and not to shares. This is clearly an oversight.

Secondly, it can only apply to options that are lost by an employee. But circumstances can arise where an associate of the employee is the holder of the option, in which case the employee will have been taxed anyway; there is nothing lost to the revenue from that. The option may be lost—for example, it never gets to be exercised—but there cannot be any amendment to the employee's assessment. This makes no sense. The fact that the provision does not apply to shares causes many problems, including the bizarre situation of a participant in a share plan being subject to forfeiture if they leave the company within, say, two years but they elect to be taxed up-front in case the value of the shares increases significantly. They will be taxed under capital gains tax at the end, anyway. Because it is a share plan, there can be no amendment of that assessment, even if the shares are forfeited, when the employee leaves within those two years. If this is not bizarre, it is certainly unfair.

Even the requirement that the shares must be in the employer company or a holding company of the employer presents difficulties for joint ventures, where it is decided that the participation will be offered in only one or in both of the listed parent companies, the joint venture participants. Neither of these companies can qualify as a holding company of the employer company. But none of the mischief for which division 13A was designed is at foot in such an arrangement. The result is that participation cannot be qualifying.

Another problem, not directly the fault of division 13A but a consequence of the lack of understanding of how employee share options work, is that any amount, included assessable income, under division 13A should be included in the cost base for capital gains tax purposes. Unfortunately, this is not the case because the particular capital gains tax provisions forgot to carry the cost of the option into the cost of the resulting share. The ATO

does recognise that problem but currently cannot fix it because there are no OPC resources available and no slot in parliament to present amended legislation.

Mr Chairman, dealing with taxation legislation of this complexity can often be about as boring as watching concrete drying, so I will not spend any more of your valuable time trying to explain some of the specific issues raised in my submission. However, I can say that these and many other submissions have been raised on a number of occasions since submissions to the Treasurer. Only a few of the matters—ones that I could describe as politically useful—have been taken up and resulted in amended rules. Unfortunately, the bulk of the items, many of which are included in my submission, have been dealt with in what I would describe as a defensive manner, as if it were unlikely that the legislation could contain any further errors or unintended consequences.

Many of the matters raised impinge on policy issues, which the taxation office, in theory, cannot handle. It appears that the Treasurer's office does not wish to handle them for reasons not yet explained to me. In the circumstances, the deliberations of this committee may be the only means by which the faults or alleged faults in the taxation rules and the associated policy issues can be subjected to a thorough and cooperative review and, where appropriate, put right once and for all. In this regard, I hope my evidence for this committee can assist you to reach a decision with that outcome in mind.

**CHAIR**—Thanks very much, Mr Kirkwood. Certainly your submission was detailed. I had to read it a couple of times to even get close to understanding some of the issues. From Ernst and Young's point of view, the priorities as you see them are the prospectus, the five per cent limit or the $1,000 threshold, the no forfeiture and the possibility of trusts being treated like companies out of the Ralph review.

**Mr Kirkwood**—In fact, I had not mentioned any of those matters in my submission because I was focussing very specifically on the technical, interpretation problems within division 13A. What I recognised in mentioning those issues was that many other submissions had mentioned them. I entirely agree with those points. What I would like to see is at least those 20 issues I have raised reviewed thoroughly in the spirit of cooperation to try to get them fixed.

**CHAIR**—Fair enough. How does Ernst and Young view the UK 2000 initiatives?

**Mr Kirkwood**—Excellent. Not yet mature. I do not think we have seen everything that is final out of the UK. There is a lot of consultation to go on. I think it is an excellent idea. There is one basic thrust. The all-employee type offer is one thing they are looking at. It is not dissimilar to our participation rule for qualification—the 75 per cent rule—but it is a far wider exemption. We should keep a good eye on that and follow the pattern being developed there.

**CHAIR**—You said in your submission that you think employee share plans are a critical factor in achieving profitability in shareholder value. Almost all the witnesses we have spoken to have promoted that view. When you try to find some objective evidence to support what seem like reasonable propositions, it is a bit hard to find. Are you able to point to any?

**Mr Kirkwood**—Remuneration issues are extremely complex HR issues. How do you attribute the success of a company to one individual or to a bundle of individuals? It is very difficult. All my clients tell me that they are doing it because it will make the employees feel they have some ownership in the company and that it will make them feel as though they really belong and focus on the company's issues. I do not have intrinsic evidence in that regard. You will be much more likely to get that from the corporate submissions.

I would like to say, however, that participation in employee share plans divides broadly into two categories. Share plans generally are a reward for past performance and option plans are incentives to future performance. That statement can be too broad in many circumstances, but that is a broad division in what you are looking for. Option plans are aimed at executives because they are people you really want to get running. They are going to put the flag up in the air and say, 'Follow me.'

The employees who follow and work hard are rewarded, usually with share plans. However, I find it very interesting that there is an increasing number of option plans for the general body of employees. I am very supportive of that. They are very suspicious of option plans. They see them as something to do with weird things that go on in the Stock Exchange. A number of companies—you have had some submissions—have said that they switched across to option plans for the general body of employees and that they are seeing some success from it.

**CHAIR**—Finally, are you aware of companies that have had to go into liquidation which have run both share plans and option plans? It is hard to actually differentiate among the successful companies which have and do not have share plans.

**Mr Kirkwood**—I am not aware of any that have gone into liquidation. Conversely, I am aware of many that have been taken over. There are problems with a takeover that forces the employees who hold shares or options to dispose of them and be subject to capital gains tax as a result of it. There should be a rollover arrangement in that situation.

**Mr SAWFORD**—In your submission, you referred to international benchmarks. It was a pretty bland statement. We are ahead of Japan and about the same as Germany. Which international benchmarks are you referring to?

**Mr Kirkwood**—I think the United States has set the benchmark. The UK is now starting to come into the market very solidly. The year 2000 matter that Dr Nelson mentioned is an example of the UK really starting to push share plans as an important issue. But the US has set the pattern for years. One difficulty I find with US companies offering participation to Australian employees—we all want to see the Australian employees being able to own shares in the US companies—is that they cannot amend their plans just to cater for peculiar Australian tax rules. All public company plans are voted on by the general body of shareholders. You can imagine the US shareholders all sitting down and being told, 'We have to make a change to our plans because there is some peculiar Australian tax rule.' They just do not accept it. The US plans and, generally, foreign plans are buried in the concrete of the foreign legislation. We need to conform as best we can to those plans. The US is an excellent benchmark.

**Mr SAWFORD**—I want to put aside for a moment the larger companies, such as Coca-Cola, Lend Lease, Qantas and the Commonwealth Bank. I want to focus on a worker in a private company, maybe family owned, with less than 20 employees. It is a bit of a risk for them to substitute salary. They may be on a limited income. It may have some investment or capital formation in it, but you are not sure. It may have some savings for the employee involved.

But, in terms of participation, really that is just pie in the sky stuff—the ownership still exists; there is no power; there is no empowerment, really. Do you think that the message that ought to be going across to the private company is: if they have spare money, they should be investing in the whole share market, rather than just putting their salary and their savings into a small company—which is, I would have thought, a very poor strategy.

**Mr Kirkwood**—You have raised some very interesting issues there. Firstly, with 20 employees it is impossible to play with the division 13A rules, because of the five per cent maximum—almost every one of them is going to bump into that maximum. That is why private companies are just out of the market. Just going to your last point about the risk issue, because I think it is a very powerful one—why don't they invest in a bundle of equities—that is exactly what the new age share plans were designed to do. I know for a fact that the government was not concerned about that change that was being made. What really broke the camel's back was the idea of putting holiday homes, overseas trips and luxury cars in there. We probably would not be having this meeting today had those plans stopped at the general idea of putting a bundle of blue chip investments in there for employees and leaving it at that.

**Mr SAWFORD**—Then, do we draw the obvious conclusion?

**Mr Kirkwood**—What might that be?

**Mr SAWFORD**—It might be that for the larger firms share ownership is quite viable; in terms of smaller private firms, there may be a different mechanism applied.

**Mr Kirkwood**—I entirely agree with that.

**Mr SAWFORD**—Have you any ideas what that different mechanism ought to be?

**Mr Kirkwood**—The first thing is that the restriction that it be an ordinary share is a significant one—of course, the five per cent rule. A number of changes would have to be made to division 13A to be able to accommodate small and private companies. I would be happy to make a separate submission in that regard. It was not the market that I was representing. I think that some of the people who have come before you before have made some excellent points in that area. It is not specifically my market, but I would be happy to make some points to you.

**CHAIR**—We would really be interested in that.

**Mr SAWFORD**—Thanks for that offer, Jon.

**CHAIR**—There is the issue, obviously, of the person who owns a small company or a small business who might have an interest in transferring it to the employees. It adds a bit of a conflict, so there needs to be—

**Mr Kirkwood**—Absolutely. Fletcher Jones succeeded magnificently in doing that. I have not followed their history recently, but they were the first in Australia to do it. The Lincoln Electric Company in the United States, which has a subsidiary here, is almost entirely owned by the employees. These companies succeed terrifically. But, Mr Sawford, it is not capital formation. I do not know of an employee share plan that has been interested in capital formation. If you need money, you go to the public. If you want to involve the employees in your company, you go to them and you do everything you can to encourage them to take up shares. But the last thing you ask them for is a significant amount of money immediately. That is why the loan arrangements are so common. There are a lot of arguments around whether it is a good or bad thing to make loans to employees, but you cannot say to employees, 'Give me your money, and I will give you a share'—not in public companies, not in private companies; it just does not work.

**Ms GILLARD**—I have two questions. One relates, really, to the small end as well—the proprietary limited company end. It has been put to us during this inquiry that, even if there was an easier, regulatory regime, a lot of the cost associated with a small company like that moving to an employee share ownership plan is the cultural and business practice mind-set change from being a mum and dad family business to properly owing a fiduciary duty towards third parties, like employees. Have you a comment on whether or not it is right—even if we had an easier regulatory regime—that that would continue to impose costs because you would have to change your business practices?

**Mr Kirkwood**—Philosophically, it will always be difficult for a family to give up ownership of a closely held private company. That is why I mentioned the quality of the class of the share. If it has to be an ordinary share then, ergo, you are giving up ownership. But, if it is, for example, a profit participation share—where the equity ownership of the company remains essentially with the family company, but it gives the employees an opportunity to participate in the profits through the ownership of shares—then some of the costs that you have mentioned will dissipate. But it needs a change to the taxation laws to recognise the wider range of types of shares that could be offered that do not put in conflict the ownership of the company and the need to let the employees participate in the profits.

**Ms GILLARD**—If I can just take you to the list of 20 issues, you raise an issue about an associate being the holder of the share. Given that the policy focus we are dealing with is that having employees who are also shareholders breeds a good corporate culture in terms of identifying common cause with the employer, in what circumstances would we countenance then as a public policy mechanism the share being held by an associate?

**Mr Kirkwood**—The very word 'associate' connotes that the people are closely associated. Therefore, if I was offered participation in a company and I thought that my wife should be the shareholder, I benefit from that.

**Ms GILLARD**—But you would only be making that election for tax purposes, wouldn't you?

**Mr Kirkwood**—No, not at all. I am taxed. I think this is something that is not clearly understood. In fact, employees do not understand it. When there is the opportunity to let an associate participate in the plan, the employees are saying, ‘Hey, that is terrific; I can duck the tax.’ That is not the case. The laws are very clear. It is the employee who is taxed from the participation in the plan. The associate can hold the share, but the employee is taxed. The only thing that is changed is that the eventual capital gains tax that might arise will be taxed in the associate’s hands, not in the employees hands. Division 13A is about the initial participation in the plan, right up to the point where capital gains tax takes over.

So, there is no policy problem with associates participating in a plan. The revenue loses nothing from it. It simply overlooks the fact that when an associate is a shareholder, they are not the employee, and then the rules do not apply to enable the assessment of the employee to be amended if, for example, the option is never exercised or the share is lost in some way. There is just a total oversight there. That is why I have raised it. I have only raised the associate issue because the amendment rule, section 139DD, just does not help the employee to get an amendment of their assessment if the share is never finally realised or if the option is not exercised.

**Mr BARTLETT**—You said in your introductory comments that you had a number of discussions with the Taxation Office. Have they given a detailed response to each of those 20 points you have raised and to other issues, or have they simply deflected them all on the basis that they are policy issues?

**Mr Kirkwood**—Certainly anything that is a policy issue is deflected. I have to understand that from the ATO. Theoretically, they are not entitled to deal with policy issues.

**Mr BARTLETT**—But where have they drawn the line?

**Mr Kirkwood**—A submission that I made in December 1995 did get a response from the ATO. But it was not a difficult response for them because, in fact, the government had accepted much of that submission. They said, ‘We are going to do this,’ and, ‘We are going to do that.’ That is the only written response that I have from them. In other meetings we have sat down to try to deal with some of these technical issues, but most of them say, ‘That is a policy issue. I cannot handle that.’ The question of what the government wants as an outcome from division 13A is seen as a policy issue, notwithstanding that you can see a bizarre consequence. It has been put to me that that may be what the government wanted to happen. I cannot believe that, quite frankly. When I put that back to Treasury, they were just not interested in dealing with the policy issues. I do not understand why I have had no response from them on that.

**Mr BARTLETT**—Is it your opinion that a number of those issues could be actually tackled by the ATO, rather than having to go to Treasury?

**Mr Kirkwood**—No, that is not my opinion. I think there are very few issues there where the ATO is very clearly capable of doing something with OPC and on through to parliament; there are so few that it really would not be a sensible exercise to go on with that. I think all of this can be handled by a group that includes Treasury and political influence. I would like to see politicians sitting around, just as you are now. I think this is terrific; to get a feeling

for what is really going on at the political level is vital. When this gets into parliament, you are not going to get snowed; I know that. I think that is terrific. You will have an understanding that many others do not have.

**Mr BARTLETT**—On the other hand, do you think the introduction to division 13A has reduced a lot of those avoidance measures? Has it been effective from that point of view?

**Mr Kirkwood**—Without doubt. You cannot put a holiday home or an overseas trip or a luxury car into an employee share plan now.

**Mr BARTLETT**—So from that point of view it has been a worthwhile introduction. It is just that the unintended consequences—

**Mr Kirkwood**—As a policy imperative, I think that was important. Unfortunately, it has caused problems with joint ventures. I am dealing with a very significant float at the moment between two public companies forming a joint venture. They want to offer shares in the public companies but they cannot provide qualification for the employees.

The Taxation Office has made its observations about the problems of small companies taking advantage of some of the arrangements in division 13A. There have indeed been some amazing things going on there and they are very concerned. But to point to employee share plans generally and say, 'They are no good because of that', I think is dreadful. It is a different bundle of issues.

**Mr BARTLETT**—Your submission, in common with most others, has mentioned the benefits of commitment to the business, productivity enhancement, et cetera. Does the evidence show and difference in terms of productivity enhancement, according to the system of share ownership—whether it is a purchase out of wages, purchase and a matching contribution from the employer, whether it is a loan basis arrangement or whether it is a reward based on performance et cetera?

**Mr Kirkwood**—I am told by my clients, that for employee share plans the only way it works is to make an interest free loan payable out of the dividends, not out of wages. If there are no profits, then it just takes that much longer for the share to be paid off, but there is no real cost to the employee. In fact, a small amount of cash is made available each year to pay the tax on the dividend. There is no downside for the employee. However, there have been some problems where the loan arrangements have been called in—for example, when an employee leaves and their shares are what is called 'underwater'. That happens when they bought the shares for $2 but they are now at $1.50. There have been loan forgiveness arrangements and the Taxation Office has accepted with alacrity the FBT that has arisen and I think that is unfair. What is really needed is a codification of an arrangement whereby for employees there should be no downside from loan arrangements.

**Mr WILKIE**—You mentioned the five per cent ownership limit. Do you think that should be raised? If so, have you any examples as to why or what it should be?

**Mr Kirkwood**—Mr Sawford gave you the example of, say, 20 employees who are going to participate. It is inevitable that one or more of them are going to own more than five per

cent in which case their participation cannot be qualifying and they cannot obtain what would otherwise have been available with deferrals of their taxation. I think something does need to be done in that regard. It may be some stratification, the size of the company, determining whether it steps up from five per cent as the company gets smaller. I did say I would be prepared to make further submissions in that regard or make some recommendations for you there. I think it is a very important issue for small and private companies.

**Ms GAMBARO**—You gave a very detailed submission and you spoke about a number of tax implications. Are there any areas of Corporations Law that impede these share ownership schemes?

**Mr Kirkwood**—Indeed, yes. I did not bring my compatriot along today to answer that question but he is a lawyer so if you wish to ask him that question I am sure he would be able to jump into that very rapidly. My clients tell me that the prospectus requirements are onerous and very difficult to comply with.

**Ms GAMBARO**—That has been raised on a number of occasions.

**Mr Kirkwood**—Yes, and I think you have had some very common themes in that regard.

**Ms GAMBARO**—Another thing that I want to ask you about is section 139CA where you speak about restrictions on the disposal of shares—a three-year employment period, the price of the share, the loan is paid off. Can that be expanded or are you happy with those particular conditions? Do you feel there are some other areas that could be taken into account?

**Mr Kirkwood**—They are the exemption plan rules. Among all of those rules the most onerous—and the one that my clients observe constantly as most onerous—is the no forfeiture provision. I mentioned that there really should be a release where there is, say, bona fide allegation of fraud or dishonesty. As to whether the three-year lock-in is too long or too short—it did start off at five years, by the way, and they brought it back to three years—as a policy imperative, I cannot say whether three years is inappropriate. It has not caused any significant problems, except when the three years come up, the employee leaves and they lose that right—the question of whether that amendment provision is going to cause any problems for them.

I think three years is probably right. Most companies require that their employees continue to be employed for three years, otherwise they will be subject to some form of forfeiture. You cannot put a forfeiture rule into an exemption plan, so the companies are probably fairly happy that the shares have to be held for three years. However, there is another thing. I am sorry; I had forgotten this. If the employee leaves, that three-year cycle is cut and they are entitled to keep those shares at that time. I do not know why that is there.

**Ms GAMBARO**—Do you think that is fair?

**Mr Kirkwood**—If I were a public company—I have had a number of them make a comment to me in this regard—that would probably annoy me. If they cease employment, they probably should forfeit the shares under the three-year rule. They have not continued employment for three years.

**Ms GAMBARO**—What were the reasons given for that? Is it because the employee no longer has an active interest in the company? Are they the main reasons that are given?

**Mr Kirkwood**—Yes. I go back to that comment about the two reasons for participation. For employees, shares are a reward for past service. Options are an incentive for future service. Looking at those share plans and exemption plans, I would have to say that it is theoretically unfair to reward someone for past service by giving them that participation and then have any reason why they could lose the share. The only exception is fraud or dishonesty. I think I have to stick to that. I am not too concerned about the other rules.

**Ms GAMBARO**—That is good. Can I just ask one more question? In the list of issues, in issue 1 you raise the price of the listed share and then the issue of going through an acceptance period. In that, you have said that uncertainty is a huge issue, particularly with blue-collar employees, et cetera. Is that because of the difficulty in grasping the change in the price from when it is listed to when it is accepted, or are there other issues there?

**Mr Kirkwood**—That is the key issue. The company has, for example, an IPO coming up and goes through a lot of work with merchant bankers and others to value their shares. It says, ‘We are going to put the shares on the market at $1.50. We are going to offer these shares to our employees at $1.50.’ But the taxation rules go through a period of looking at the acceptances and the allotment of the share. At the time it is allotted, it might be $1.75, taxed on 25c for no good reason—just by way of accident for a timing reason.

**Ms GAMBARO**—You say that the date of acceptance should be the date of acquisition?

**Mr Kirkwood**—Yes. I think, overall in an IPO, the offer value of the share, provided it is honestly reached, should be unarguably the value of the share, no matter when it is obtained. That would perhaps be simpler.

**Ms GAMBARO**—A simpler method than is currently being used at the moment?

**Mr Kirkwood**—Yes.

**Ms GAMBARO**—Thank you for that.

**CHAIR**—I have a couple of things. Some of the people who have come along are running their employee share acquisition schemes through trusts and others are not. What are the advantages of using a trust from the point of view of both the employer and the employee?

**Mr Kirkwood**—The reason trusts were used, as a matter of history, is as a security to ensure that the employee could not sell the share. If you actually gave the share to the employee, they could go to a stockbroker and say, ‘Can you please sell this share?’ They

may not have paid it off. Traditionally, the trust idea came so that the share was actually issued for the trustee to hand over to the employee when the share was paid off. More recently, the idea of a share trading block, which is a tripartite agreement among the company, the employee and the share registry, has become the go. The Commonwealth Bank is using that. Telstra is using that. A number of companies are using that. It is so much simpler and easier to administer that I am now recommending that companies stay well away from trust arrangements. In any event, they are threatened by the Ralph review. I would strongly recommend that that threat be covered in your recommendation.

**CHAIR**—Yes. We noticed that Lend Lease changed their submission from the time of writing it to the time they turned up. Earlier, we discussed with the Employee Ownership Association this whole concept of the interface between the people who run ESOPs and the tax office. The suggestion was put to us of having some standing committee or some kind of authority which is an interface between the ATO and the companies that run share plans. It would be envisaged, for example, that you would have a major accounting group and representatives of the ATO, business and unions. You would have people coming together and sorting out some of the problems—the technical issues, for example—that you have had no success resolving directly with the ATO. Do you think there is some merit in that sort of thinking?

**Mr Kirkwood**—I think it would need the involvement of something much wider than the ATO. As I mentioned in response to a question from Mr Bartlett, I have attended a number of meetings of the ATO, and I have attended those meetings with some very large corporates. When I say large, they are the largest ones that you have had submissions from. We have got nowhere in those meetings, essentially because of these policy issues. It needs the involvement of a wider group. Treasury and politicians need to all get together so that, around the table, people who can get a sense of the policy imperative can say, 'I have no problem with that,' so that the ATO can go on and say, 'Well, here's how we would do it.'

**CHAIR**—Some of the things that you have been advocating would require some amendments to legislation, so it is not as simple as simply sitting around with them and saying, 'Yeah, that's okay,' to the ATO, 'Go ahead and do it.' There seems to be a thematic criticism of the tax office—but not of the officers personally, of course—that, where it is perceived that they have the authority to make a determination, they will not. They also appear to be not willing to make private rulings, which are helping companies resolve their issues.

**Mr Kirkwood**—That is only applicable in respect of those plans, the employee benefit arrangements that have given a great deal of concern to the ATO. I am still able to obtain private rulings in relation to public company employee share plans. Fortunately, they see a difference. It is really a different world. The submissions the ATO made to you with the second commissioner and others from the tax council network are concerned only with the threat to the revenue from those other arrangements. They are not—and I think they put this to you—much concerned about public companies and their employee share plans.

**Ms GILLARD**—I have one quick question of clarification. With employees leaving within the three-year period and taking the shares, isn't that one of the reasons people

administer the share plans through trusts—because the shares have not vested if they leave within the three-year period?

**Mr Kirkwood**—Yes. That would be another reason but, by the same token, you could also use a share trading block—

**Ms GILLARD**—And get that result?

**Mr Kirkwood**—They can get that result, yes. Qantas and CBA do that.

**CHAIR**—Thank you very much, Mr Kirkwood, for providing us with a detailed submission and also for making the time to come along and speak to us about it. If you would not mind giving some thought to, in particular, those two issues: one, the arrangements that might be put in place to encourage share ownership and ownership transition in small and medium sized companies; and, two, if you could flesh out your thoughts on setting up some standing process which provides an interface among business, employees, the ATO and the political process. We would be very interested to see that, as well.

[10.31 a.m.]

**BROWNING, Mr David, Tax Counsel, Coca-Cola Amatil**

**DONKERSLEY, Mr Rob, Employee Relations Director, Coca-Cola Amatil**

**CHAIR**—I think you heard the introductions of my colleagues and friends earlier today. I now invite you to give an overview of the submission and then we will have some questions and dialogue.

**Mr Donkersley**—I am sure you are aware Coca-Cola Amatil is a substantial company within the Australian scene. We are in the top 20 by market capitalisation. We employ about 33,000 people of whom just under 4,000 are in Australia. The rest are overseas in six other countries in the Asia-Pacific region.

We have had an employee share plan since 1991. If you want to ask questions about overseas, that is fine, but I will concentrate on Australia since that seems to be the main thrust. All our permanent employees are eligible for our employee share plan regardless of whether they are part-time or full-time. As long as they are a permanent employee, then they can participate. It is entirely voluntary. Every individual is allowed to put up to three per cent of base salary into the purchase of Coca-Cola Amatil shares. For every share that the employee purchases, the company matches it with a gift of one, with a vesting period of two years. So two years later, so long as the individual is still there, a share from the company gets deposited into his or her account.

The scheme has been moving forward. About 80 per cent of our Australian employees are in the plan now. We do not set ourselves the target of trying to make that any particular figure because we are well aware that from time to time employees and their families will be in positions where they do not want to give any of their precious income away for savings of any sort. So it is not a badge of honour to push the percentage up, so to speak. But we do like to think that we make everybody aware of the plan and the possibility of participation. Eighty per cent seems to be a good, if you like, 'vote with the feet' that people see it as a valuable plan.

The question that was raised earlier this morning of whether there is an actual link between the existence of such a plan and things like productivity is impossible to prove in our opinion. There are just too many other factors in the piece to be able to single that out and say, 'We do well on productivity because of the existence of this plan.' However, my colleagues and I are convinced that it plays an important part in the armoury of things that we put forward to engage employees in the interests of the business. Certainly we have seen over this time very much more awareness of what the share price is doing and what the fortunes of the company are. Annual reports and so forth get automatically disseminated and they get looked at in a way that is markedly different from what it was before we had this plan.

We feel we have captured the minds of our employees through this plan. We have provided a good vehicle for them to link themselves with the fortunes of the company and take a wider perspective than their individual role in their individual operation could allow. I

suppose it is a testimony that we have kept the thing going, because it is not inexpensive, as you can imagine, in gifting a share for every one that the employee buys. Almost everybody goes to the three per cent limit, if they participate at all. In essence, we are giving a three per cent pay rise. To put it the other way, if we took the matching share away and gave a three per cent pay rise the cost to us would be more or less the same.

It is not an insignificant cost item to us but it is one we are fully behind. We believe, although we cannot prove it, there is this beneficial effect in terms of getting the productivity levels that we want and the commitment that we want from employees throughout the enterprise. Wherever we can, we also make the plan available in overseas countries. Sometimes there are technical or legal issues there but the thing is available in most of our countries. Our objective is to have it available in all countries over time.

If you conclude and believe that the more widespread adoption of such plans is a good thing, having the situation where tax only arises when the shares are sold would seem to us to be a good idea. At the moment, the tax hits in at 10 years or when you leave the company. We would like to think it might be possible to amend that so that tax is levied at the point of sale. That would clearly encourage people to have and to hold those shares in an organisation. It will be a relatively modest change compared with those that you have been assailed with earlier this morning.

**CHAIR**—What sorts of products does Coca-Cola Amatil make?

**Mr Donkersley**—We are in the soft drink business. You may have heard of Coca-Cola!

**CHAIR**—I have, yes.

**Mr Donkersley**—We essentially make, sell and deliver Coca-Cola company products such as Coke, Fanta, Lift, Sprite, in the seven countries in which we operate. We have a number of brands that we own in our own right—for example, Mt Franklin, probably one of the better known brands, the water brand.

**CHAIR**—Any tobacco connections?

**Mr Donkersley**—Not any more.

**CHAIR**—It is interesting to note, if you have an employee share ownership plan and the value of the shares is being affected by forces outside your particular industry, the extent to which the employees might be motivated to stay in it. Why did you choose to have a trust? We had a discussion earlier with Ernst and Young about trusts. Why are you using that as a vehicle for your plan?

**Mr Browning**—As Rob said, the plan was set up in 1991 so it was essentially set up under a different set of tax rules than what currently exists. It was set up under the old 26AAC rules. It was essentially to allow this vesting period to occur. So where the company puts shares into the fund, they only become available to the employee after two years. They are held off in a separate legal entity for that two-year vesting period until the employees are entitled to them. I am not sure that there was a particular legal or tax reason for that, it was

more to show to the employees, 'These shares are really yours. They are being held off by an independent trustee. They are there and they are being held there safely for you.'

**Mr SAWFORD**—Under the current regime what would Coca-Cola do? What would you advise your firm to do? Would you set up a trust again?

**Mr Browning**—I guess, without going into it, we are happy to look at all the current options that are available. At present, the trust works fine for what we do, particularly from an Australian perspective. There is no downside, at least in the Australian perspective, from using the trust. But some of the ideas that Mr Kirkwood put forward previously about this new share trading block arrangement, we would certainly have to look at. Having employees buy the shares directly would make it difficult for them to have this vesting period where they do not get an entitlement to it for two years. So, with the particular way we run our plan, the trust is of some use. If we wanted to do a completely new plan, then we would have to canvass all the various options that are available.

**CHAIR**—If Ralph recommends and the government accepts the treatment of trusts as companies, would that basically force you to restructure your plan? I presume it would have a detrimental impact on your plan.

**Mr Browning**—Yes, either we would need to restructure the plan, or the rules that came in in conjunction with that decision to tax trusts as companies would need to somehow carve out employee share plans. If you brought in that the trust was taxed as a company that would have an effect on the way the share plan works. You would have to make consequential amendments to the capital gains tax rules and to the way the dividends that flow through the trust are taxed in order to make the whole thing workable. Obviously, the simplest thing is to leave employee share trusts out of the Ralph recommendations given that they are a specialised vehicle like superannuation or other collective investment vehicles that are not the focus of why trusts are being potentially taxed as companies—with the perceived avoidance abilities with trusts and so forth. They really are a specialised vehicle. The trust has no particular tax liability itself. It should all pass through the employee.

**Mr SAWFORD**—I have a question on the tax threshold. You are aware of what is being planned in the UK with the £3,000 threshold, which is equivalent to $7,000. Does your company or do you individually have a view on the current tax threshold of $1,000?

**Mr Browning**—I guess the tax threshold of $1,000 is not relevant to our plan because ours is basically what is referred to as a deferral plan rather than an exemption plan. As someone who would potentially be involved in one of these plans more is better, I suppose. So $1,000 does seem fairly low, particularly if you wanted to try and boost up your use of share plans as a vehicle for national savings and complementing your superannuation regime. I think the higher the threshold the better. For employees at different ends of the pay spectrum, $1,000 can be seen as a lot of money or it can be seen as something that is just not worth even bothering about.

**Mr BARTLETT**—Mr Donkersley, in your introductory comments, you suggested, quite rightly, the matching arrangement is the equivalent of possibly a three per cent pay rise for

employees. Since 1991, when the scheme was introduced, has that issue ever been raised in the context of negotiations about pay rises?

**Mr Donkersley**—No, the trade unions have broadly been very supportive of the arrangements and fully accepting of them. They have mounted no challenge, if you like, to those, and we determine our pay rates exclusive of that. We do not cost it in and try and negotiate an advantage because of it. So it sits on top of appropriately negotiated terms and conditions of employment.

**Mr BARTLETT**—Over those years then, would the average rate of pay increase for employees within Coca-Cola Amatil be commensurate with the average rise in pay in similar industries?

**Mr Donkersley**—Broadly, it would be greater.

**Mr BARTLETT**—I have one other question on a different issue. The same sort of scheme operates in CCA operations overseas as well. Have there been any noticeable differences, perhaps because of the cultural context or whatever, in the way that the operation of the scheme in other countries has affected employer-employee harmony, industrial relations, work attitudes, et cetera, compared to Australia?

**Mr Donkersley**—The participation level has been substantially less in overseas countries. I cannot yet claim the same power of the plan in productivity matters. In some of the countries in which we have operated either in the past or currently, the whole concept of share ownership is probably something that is quite a stretch of the imagination for quite a lot of people. It is not a common thing. In a country like Indonesia, the vast majority of people have never owned a share in anything and have never contemplated owning one. Therefore, there is a whole comprehension and education exercise. Also, in countries like that, pay rates when converted to Australian dollars are relatively low, and you are talking about very small numbers of shares that you can buy with your rupiah, three per cent income. You may not on a month by month basis even have enough to buy a whole share. So there are issues like that.

**Mr BARTLETT**—But do you also operate in countries that have a similar standard of living to Australia?

**Mr Donkersley**—Yes, we do. I suppose New Zealand is the nearest equivalent.

**Mr BARTLETT**—How does the comparison work in that sort of country?

**Mr Donkersley**—We get the same sort of reaction I think. The participation rate there is lower for a different reason: they have a harsher tax regime. It is less beneficial in New Zealand; therefore, we tend to get less in it. The idea of a connection with the enterprise seems to hold good internationally. Although our company demerged its European operations last year, prior to that we had it in a number of European countries. In a country like Slovenia, for example, we had an over 70 per cent participation rate. Again, you could see the same sort of thing: a growing interest in the broader concept of the employers' activities

just to what my plant, my sales centre or my national company is doing. We see a benefit in that.

**Mrs GASH**—Obviously, you are very successful with what you are doing in the share process. Is there any move to increase the three per cent at all?

**Mr Donkersley**—No. Why three per cent? Only because we think that is enough to be substantial, but we choose to put some kind of a limit on it so that our exposure is limited through the matching share program. Of course, employees can buy any number that they want in the open market, and all our purchases are at open market price, so we are not subsidising or giving some advantage. The price that the employee or the company, for its matching shares, acquires the shares is the prevailing market price on a month by month basis. So three per cent just seems all right. If you were to say, 'Why not 2½ per cent or four per cent?' I guess I would struggle to say precisely that it has to be three. But it seems to have served us well. It seems to have been well accepted. It seems to be acceptable to us as an employer.

**Mrs GASH**—What percentage of the employees actually hang on to them after they can take them out of the trust, after the trust has expired?

**Mr Donkersley**—I do not have a statistic to give you on that. I will see if I can find one.

**Mrs GASH**—I would be very interested to see how many hang on to them.

**Mr Donkersley**—Anecdotally, it is quite high.

**Mrs GASH**—I would have thought so in your company.

**Mr Donkersley**—I will try and answer that for you separately.

**Mr BARRESI**—I have a number of questions that follow on from what Joanna has been asking. Are the shares that are offered to the employees based on the Australian share market value?

**Mr Donkersley**—We are only quoted on the Australian Stock Exchange.

**Mr BARRESI**—Do you have any employees who participate in a share scheme based on your overseas value? In other words, have you got a share scheme based on the US share price rather than the Australian share?

**Mr Donkersley**—We are not quoted in the US. Coca-Cola Amatil is an Australian public company. The Coca-Cola company that owns the brands that I mentioned is a separate US listed company. We work in collaboration with them but we are separate organisations. So there is no connection between a share in the Coca-Cola company quoted on Wall Street and a share in Coca-Cola Amatil quoted on the Sydney Stock Exchange.

**Mr BARRESI**—I only raised that because I thought there might have been different schemes in terms of your senior executives and how they are treated. Okay, that's fine.

With the employees, you mentioned that there has been an increase in productivity although you cannot necessarily make a causal link between that and the share scheme. I raise this as a suggestion to you. I have not even discussed it with Brendan or with Rod. Is there a possibility of meeting with some of your employees to get their views on the share plan itself?

**Mr Donkersley**—Yes, absolutely.

**Mr BARRESI**—It seems to be fairly comprehensive. You have got a high uptake level of 80 per cent. I would be very much interested in their perspective.

**Mr Donkersley**—We would be delighted to facilitate that if it helped you.

**Mr BARRESI**—The reason why I asked that is because I am very interested in other performance indicators which may be affected by being part of a share plan, such as turnover rates and safety record. You mentioned in your submission that having a piece of the action, being an owner or part owner, makes for a committed and involved work force. I am just wondering how ever present that view is in the day-to-day operation of the company. Does a share plan actually create that, or is it supported by other schemes and programs you have got in place in the company? There is my employee relations background coming out.

**Mr Donkersley**—There are a whole series of facets that I think go together. If we were an organisation that had the plan that we did but made no attempt to encourage involvement and participation and communication, if we did not try and reach out to the hearts and minds of our employees in many other ways, then I am sure it would not have the effect that it has. It is bringing all those things together.

I see it as one part of the way in which we try to engage the energies and attention of our employees so that they all come to work and give of their best every day, every week, every month, every year. That is the challenge to us as an employer. We seek to push away impediments to that and encourage people to reach their full potential in employment. The employee share plan is but one of many elements in that. If you took all the others away I do not think it would have any effect at all.

**Mr BARRESI**—If you took the share plan away would it have an effect?

**Mr Donkersley**—That would have an effect because it is the one thing that overtly ties us to the overall entity. Most people are doing a job of work in a particular function in a particular place. So you are on a production line in Perth, or you are on a filling line in Queensland, or you are selling the product in the Northern Territory, or you are sitting in an accounts office in Melbourne or whatever. Clearly, it is the stone in the pond thing. The things that influence you most are the things closest to you—your work team, your site, your state, your country, and then the totality of Coca-Cola Amatil.

We have not got anything else that links to the totality of Coca-Cola Amatil. We have a hell of a lot that links to the work team and the function and the site and the country, but what else do we have that links us to the totality? The only other thing we have are our communication processes and company magazines and so forth that talk about that.

**Mr BARRESI**—Would you say, therefore, that that is the primary reason why you adopted an employee share plan, or has it been a spin-off which you now wear with pride?

**Mr Donkersley**—Those who devised the plan were aware of the potential engagement at this level and hoped that it would happen. What we have seen is that it has happened, so we have continued with it.

**Mr BARRESI**—I make that point simply because you state that you have not introduced an employee share plan for remuneration reasons. We heard earlier on from Ernst and Young who asked: why would you introduce a share plan for capital reasons? I am just trying to get a feeling for the motivation for Coca-Cola to continue in this process. Productivity obviously is a consideration. Do you have some evidence that you can provide in terms of saying, 'This was what our situation was like—a snapshot—back in 1990, and this is what it is like now, down the track, and these are the spin-offs to the organisation'? I would be very interested in getting some of that information.

**Mr Donkersley**—It may be, if you proceed with that idea of meeting employees, that you get it from the horse's mouth, so to speak. My perception would be that we have step by step moved to a healthier position with regard to employment. There are a number of facets to that. If you go back eight years then we still had a fair amount of old-fashioned semi-confrontational relationships. We have moved, for the most part, well beyond that to a more involved work force, sharing with the company its objectives more fully.

I believe that the employee share plan has played a part in that, but as I said in answer to your previous questions, it would be wrong of me to say that alone has done it. Our motivation for continuing it is that we think it is a good deal for employees and we think it preserves and enhances that link.

**Mr BARRESI**—Do you supplement the share plan with a bonus plan as well?

**Mr Donkersley**—Yes.

**Mr BARRESI**—Are there any details in your submission on that?

**Mr Donkersley**—No, there are not, but you are welcome to them. We have a variety of bonus plans at different levels and in different functions and in different places. But, by and large, we believe in having an element of what you might term 'variable pay' so that there is some overt link between pay and performance. We build that in to most of our—

**Mr BARRESI**—Is this paid on an annual basis?

**Mr Donkersley**—It varies. It may be on a monthly, quarterly or an annual basis, depending on the level of the job and the type of the work.

**Mr BARRESI**—What is the total value of the shares that the employees have?

**Mr Donkersley**—The last annual report says that there were 8.9 million shares held in the plan. The share price this morning was a fraction over $7, so that equals about $63 million.

**Mr BARRESI**—You cannot really afford to drop the plan, can you?

**Mr Donkersley**—We will try not to.

**Ms GILLARD**—I have a couple of tax questions. The employee, when they are putting in their contribution to purchase, is that coming out of post-tax dollars?

**Mr Browning**—Yes.

**Ms GILLARD**—You are the first witness who has raised the applicability of the eligible termination payments regime to the taxation of the matching shares. Am I right in thinking that if you voluntarily terminated your employment and you had matching shares, their value would be taxed at the ordinary marginal rate as opposed to one-third of the rate if you were made redundant and qualified for the ETP?

**Mr Browning**—I am not sure that we raise that in our submission.

**Ms GILLARD**—It is referred to in the information you give out to employees about the operation of the plan.

**Mr Browning**—Right. I have not seen that. It is correct to say that in respect of shares that the employee has received from the company—which has cost the employee nothing—that, if the employee leaves employment, under the rules of division 13A the employee is taxed at that time on the market value of those shares. So, regardless of the fact that they still own those shares, they are taxed on those shares when they leave—which, as Rob said earlier, seems a somewhat unusual result given that the employee still owns those shares and it then would force a lot of employees to sell the shares to pay the tax.

**Ms GILLARD**—That would be taxed as if it were income.

**Mr Browning**—Yes, whatever is your marginal rate, you pay tax on that.

**Ms GILLARD**—If you are made redundant, it is possible that the value of the matching shares could qualify as part of your eligible termination payment.

**Mr Browning**—In certain circumstances, yes. I must admit I am not clear on that point but, certainly in the past, that is the way it has been treated for certain circumstances where employees have been made redundant, et cetera.

**CHAIR**—They would get concessional tax treatment on those shares.

**Mr Browning**—Yes, on the value of those shares. It is treated like another eligible termination payment which is taxed at concessional rates—the same as superannuation payouts, golden handshakes and so forth.

**Ms GILLARD**—I was wondering which one it fell into as there are concessional and non-concessional eligible termination payments.

**Mr Browning**—I cannot help you there, I am afraid.

**Ms GILLARD**—Under this broader question, in your plan for employees you do not have any performance hurdles for the allocation of the matching shares. Other witnesses have put to us that one of the prime reasons they have share plans is that the allocation of shares is focused on performance. What do you think about not having any performance hurdles in your plan?

**Mr Donkersley**—I guess a performance hurdle is staying with the organisation because you lose those matching shares that have not become vested if you resign. So if you have been employed for four years and you have been in the plan for four years, you will have two years worth of matched shares that have become your own, but the two years that would have become your own had you stayed are forfeited. I am not sure if this is exactly the word, but an 'incentive' to remain employed is built into the construction of the plan. More overt performance is built in through the cash bonus schemes that we have.

**Mr WILKIE**—How does your executive plan differ from your ordinary plan and is there a higher participation rate in the executive plan?

**Mr Donkersley**—Our employees share plan is a universal plan open to all employees, save directors of the company. We do have—and this is where maybe you have picked this up—an executive option plan, and that is an option plan not a share purchase plan. We regard that as part of remuneration and that is, as its name suggests, an executive option plan. We consider about 1,400 people to be executives as we define it. Although awards are discretionary by the board, we have a habit of having annual awards from this plan. At that level we say to someone, 'You have a salary, you have benefits, and we can value those. You have cash incentives and we have targets for the achievement of that, and you have options which we will put a value on using the Black Scholes formula,' which is an arcane arithmetic formula for valuing the present value of a future option. Our options are awarded at market value and are exercisable three years after they are awarded, up to 10 years. The recent change in legislation has given us the opportunity to make them 10-year options. So, for those seven years, they are exercisable in that gap of time.

It is quite a different scheme and is quite differently positioned, overtly part of the remuneration package. The only real common element is this thought balloon of linking individual executives to the fortunes of the company, so that as the company prospers—God willing—the share price goes up and shareholders benefit from that, so do the executives who are in the option plan.

**Mr WILKIE**—So the option plan is more performance based?

**Mr Donkersley**—Performance and potential are the considerations that we have in deciding on an award of options. We try and recognise those who are performing well, have potential and have options which we hope will encourage them to stay. If you want an idea on that one, up until 1996 shares obtained through these plans were taxed at the point of sale. Then the law was changed on 1 July 1996 and tax was levied at the point of exercise.

That means that quite a number of people are forced to sell some of their shares to pay the tax at the point of exercise. The whole thought balloon is to try and get people to hold onto these things and share in the fortunes of the company. If one was to revert to that previous tax treatment, then that would be in our opinion a good thing and advantageous to the encouragement of hanging onto those shares.

**CHAIR**—You said in your letter in your submission that you thought the government ought to encourage these plans. What would you like the government to do? What would you like this committee to recommend to the government in terms of encouraging, nurturing and further developing employee share acquisition schemes?

**Mr Donkersley**—My hypothesis is built on our experience in the link between membership of the plan and engagement with the company's objectives. If that is right for us and it has been beneficial for us, then one is assuming that perhaps it would in Australia in general. I have mentioned two things. There is the one I have just mentioned on the option, taxing, and they are both similar, really. Why not get taxed at the point of sale, rather than at exercise, or under the employee share plan, the 10-year rule or the ceasing employment rule?

In other words, encourage people to hang onto the shares that they get when they do have such schemes, which is both in an employer's interest and an employee's interest. Okay, there are revenue implications that you will have to consider in that. We are only talking about when tax is paid. I am talking about deferral, not exemption.

**Mr BARRESI**—Just one more question. Looking through your plan documents, in the details of plan it says:

At the end of each month, the amount in that account is used to purchase shares at the **current average market price**.

**Mr Donkersley**—Yes.

**Mr BARRESI**—So it is a monthly purchase by the company on behalf of the employees?

**Mr Donkersley**—Yes.

**Mr BARRESI**—Would you have an average of what the number of shares purchased each month are? What are we looking at as an average purchase amount?

**Mr Donkersley**—There is a formula. It is the weighted average of the five days trading prior to the moment in time.

**Mr BARRESI**—I am talking about the actual number.

**Mr Donkersley**—I know you are.

**Mr BARRESI**—Secondly, is there is a restriction on any employee selling shares on the open market immediately preceding the company purchasing shares on a monthly basis as part of the trust? I am just looking here at the concept of someone knowing there is going to be this mass injection on the stock exchange by the company purchasing 1,000, 2,000 or whatever it may be shares, and another employee taking advantage of that.

**Mr Browning**—I will speak to that and Rob can correct me if I am wrong. Firstly, whatever the amount is per month, it would not be enough to actually shift the share price in any event.

**Mr BARRESI**—That is why I am trying to get a feel for what the amount is.

**Mr Browning**—There is a restriction on people, certainly people who are senior in the company. You can only buy or sell shares four weeks after the annual general meeting. Is that right?

**Mr Donkersley**—There are limited windows of opportunity.

**Mr Browning**—There is a restriction on being able to trade shares. People who are not covered by that restriction probably may not be able to go in and buy or sell heavily on the market, anyway. You certainly do not see every month a blip-up in the share price immediately before these funds go into the trusts, but it might be $200,000 or $300,000 or something a month, wouldn't it, or something like that?

**Mr Donkersley**—Yes. The value currently is just over $300,000 a month, because there are somewhere between $3 million and $4 million worth of purchases a year. So it is about $300,000 a month divided by seven, which is 40,000. We have over one billion shares in the company at the moment. So we are talking about—if I have got the maths right—40,000-odd a month against a billion.

**Mr Browning**—Also the point is the shares are not actually purchased like that. They are actually newly issued shares. The market price is used to determine the price, but the shares are actually newly issued, so they are not actually bought on the market.

**Mr Donkersley**—The scheme allows us to do either, but we habitually actually issue new shares. But they are so minuscule in relation to—

**Mr BARRESI**—I appreciate that. I think those two points are valuable; firstly, that they are newly issued shares and, secondly, that the executives only have a window of opportunity once a year.

**Mr Donkersley**—It is three times a year, but for four-week periods, apart from special circumstances.

**CHAIR**—Thanks to both of you for coming along today, particularly from such a senior level in the company and answering our questions for us. If you are following the inquiry, if

you see submissions made by others with which you disagree or have further ideas or suggestions, if you would let us know we would be grateful.

**Mr Donkersley**—We appreciate that. And if you want to take up that suggestion of meeting with some employees, just let me know.

**CHAIR**—We probably would, actually. It occurred to me yesterday when we were speaking to the Lend Lease people that we are constantly speaking to people who are at the very top of these companies and performing very well, but we would actually like to talk to the average man and woman in the workplace. So we might organise that.

**Proceedings suspended from 11.12 a.m. to 11.21 a.m.**

**WRIGHT, Mr Edward Joseph, Principal and Director, Equity Strategies Pty Ltd**

**CHAIR**—I understand Mr Wilkie wants to authorise the tabling of an exhibit.

**Mr WILKIE**—I would like to move that the committee receive as evidence and include in its records as an exhibit for this inquiry into employee share ownership plans the document received from Edward Wright, Principal and Director of Equity Strategies Pty Ltd, Sydney, entitled *Gaining loyalty and encouraging long-term performance through share ownership*.

**Ms GILLARD**—I second that.

**CHAIR**—Thank you. Welcome to the inquiry, Mr Wright. Could you tell us a little about Equity Strategies and give us an overview of your submission, and then we will ask questions.

**Mr Wright**—Thank you. Equity Strategies is a specialist adviser on the design, implementation and administration of plans for executives and directors of listed and unlisted companies. This includes advising on and documenting option plans, performance share plans, all employee share plans and phantom share plans and advising on relevant legal issues. My academic background is the law, but my focus for the last nine or 10 years has been in this area—namely, long-term incentive plans in their various guises. Attached to the paper there is a CV.

My interest in speaking to you this morning is not in connection with what I would call all-employee share plans but in respect of executive plans. A lot of evidence has been put to the committee by consultants, tax people and companies in respect of broad based share plans, and it is very good information indeed. I have reviewed the information on the web. I agree with most of it. The plans are in place to carry out the injunction of Senator George Gear when he said, in relation to the new division 13A, that the changes were directed at share plans which encourage employees to own shares in the company in which they are employed or in a holding company of the employer. That is what those plans are directed at.

The question was put earlier as to performance hurdles for broad based plans. I have been reviewing every year for the last three, four or five years the share plans introduced every year by the top 100, and latterly the top 150, companies, and included in the evidence that I have put forward is our latest report that sets forth our findings in relation to executive plans.

In the course of reviewing those plans we have to analyse all the plans that are introduced to decide whether they are executive plans or broad based plans and, arising out of that exposure, it is my clear view that there are very few, if any, broad based plans that are subject to performance hurdles. When I say ‘performance hurdles’ in this context, I mean post-grant performance hurdles. There may be pre-grant performance hurdles in the sense of the Commonwealth Bank’s plan, for example, where they said that the bank had to do well, in effect, and you would be sharing in the profitability of the bank by way of free shares.

My purpose in coming to you is to try to add a little more information in relation to executive plans, which are quite different in concept from broad based plans. Broad based plans are about helping employees to become owners of shares in the company. That, combined with human resource techniques and open-book management and the like, makes the employees feel more a part of the company and encourages the development of an ownership mind-set.

With long-term plans for executives it is quite different. It is all about incentives and retention, and about achieving objectives and rewarding people. It is a promise, and the promise says, 'If this happens, you get rewarded; if it does not happen, you do not get rewarded.' As the plans are emerging now, what they are saying is that if you perform within a scale you will be rewarded and where you are on the scale will dictate the size of the reward.

To go back to the beginning, in my paper which I produced this morning—I am sorry that it was produced at this stage—the first heading is 'Why do companies implement equity based plans for executives?' There are a lot of reasons. I have set them out here. Some examples are: to provide long-term—which is three to five years—incentive to executives to perform at a superior level; to attract and retain high quality executives; to align executive rewards with financial benefits delivered to shareholders; to provide capital accumulation opportunities; and to match competitive practice in the executive marketplace. That is quite comprehensive, but there may well be others. For example, in an IPO when a company has been a family company—particularly at the moment with IT or e-commerce floats—the objectives might be different. The objectives might be to make the float work and to keep the key executive with the company for two years to lead or guide the company to achieve the financial and other objectives set out in the prospectus.

Top people in the IT area—and this is going to become more and more important—are hard to find and they are very mobile. If a company has good people it wants to keep them for a period of time. The situation is different with a mature company such as BHP. We have seen the contortions that BHP has been through. They had to pull in a top man on a global basis, provide a competitive package to that person and tie it in with the achievement of performance hurdles. It is all set out; it is all public knowledge. They use a couple of types of plans and they use scales of performance.

Those are two different situations, but if Australia wants to be part of Silicon Valley in an extended sense then it has to offer opportunities to the people who are participating in the IPO, for example, to do well. There is a big difference between a person who joins IBM, which is already well and truly a mature company, and one who joins ecorp, which has just been floated. Ecorp has a big backing from a powerful treasury, but I am now talking to a lot of people who have ideas, who are going to float, who do not have a lot of money and who will try to raise $10 million or $15 million in the process. They do not go to IBM because they find that dull and boring; they know what they will earn there. If they do an IPO in this emerging field they could become very wealthy or they could fall on their nose. That has been the experience in Silicon Valley. We are just emulating what has happened in Silicon Valley.

They are just background examples. In the field of executive plans there is a wide spectrum of plans you can use. The question becomes: what are you trying to achieve for the company and for the individual? On page 2 of my paper there is a heading 'Different strokes for different folks' and I say that plans have an array of uses. Having identified the objectives of the plan, the company has to ask itself: what is the appropriate type of plan for the company in prevailing financial and business circumstances? I have three headings here. One is 'Long-term incentive and retention.' I mention options, performance shares, restricted shares, equity partnership and phantom shares, and I give descriptions of what those share plans are like.

Then I talk about tax deferral or investment. I regard all-employee share plans—the ones you have been mostly talking about—as both tax deferral and investment. In the main I do not regard them as being part of remuneration because to get the tax benefit up front—and most companies seem to be going for that with regard to their all-employee share plans—they have to be non-discriminatory, and non-discriminatory means that everybody gets the same irrespective of the levels of salary. I think the distinction has to be made between share awards that are compensatory and share awards that are non-compensatory. I know that, from a tax point of view, a value is put on the shares—even when they are given away for nothing—and you get the exemption or the deferral, but if you do not take the exemption and you get more than $1,000 worth there is tax to be paid.

It seems to me that, if the value of the award of shares is the $1,000 model irrespective of what level of income the individual is earning, it is not compensatory. It is not, as with executives, given for performance; it is given for reasons such as those that were outlined by the last speaker. He does not regard it as compensatory; he regards it as an opportunity on an HR basis or on a general basis to draw people into the organisation and make them more aware of the share price and so develop a shareholders' mentality to some extent. While it is taxed for tax purposes, when you look at the Corporations Law an excluded issue and an excluded offer or invitation includes where the employee pays nothing. My view, and this is backed by a large law firm's view, happily, is that, in the case of Coca-Cola, for example, the matching share is not being given for consideration. People say, 'It is implied that you will work well.' But there is a clear exclusion there that says that if you do not pay or provide consideration—there does not have to be a prospectus. This whole prospectus business is one of the major impediments in the share plan operation—the cost of putting things together, which I think can be improved. I will touch on that in a moment.

Moving through the paper from an executive's point of view, we talk about long-term incentives. Long term up to the present time has been three to five years and I think that has been largely dictated by the fact that options over unissued shares under the old corporations regime could not exceed five years. Having said that, it is pretty much the same overseas even though you can now give options over unissued shares—and you always could over issued shares in the market—for more than five years. We are talking about that sort of incentive period and it is over that period that the performance is typically measured.

I mention here that option plans are by far the most widely used long-term incentive plans. They have changed a lot over recent times in the sense that, in the olden days, which were probably up to about 1993, the options were given to executives and they had no performance hurdles. The belief was that, because they have a built in performance hurdle,

namely, that they have value only if the share price goes up from today when they are granted, it was appropriate.

Then during the excessive times of the 1980s, the investment community got so tired of seeing a transfer of wealth from the company and the shareholders going to the executive, that they brought down guidelines. I do not know whether you have seen those guidelines, but I could certainly get you copies of them. They gave guidelines for what they are looking for in share plans for them to support the plans at the annual general meeting, when the shareholder approval is sought; what they are looking to find. With executive plans, they are definitely looking for a linkage between reward delivered and performance, and their preferred performance measure is total shareholder return, which is growth in share price from the day of grant to, say, three years out, plus dividends exceeding whatever benchmark they are measured against. In this report, we analyse the top 150 companies and we give you information on how they have gone about designing these plans and the measures that are used, and then I give you an example of four mining companies and their completely different approaches.

The second thing that has emerged in the last two or three years is so-called performance shares used for executives. Performance shares are very similar to options but, with options, the company says, ‘If you have performed, if the company’s performance hurdle is achieved at the end of three years, then we will sell you a share in the company at today’s price. So you get the growth in the value of the share.’ With performance shares, they say: ‘If you achieve the performance hurdle over the next three years, we will give you fully paid shares. You do not have to pay anything for them, and we will have a range of performance, as I discussed before, so that the number of shares, or the proportion of the number of shares that are notionally awarded that you can exercise by sending in a notice—you do not have to pay anything—will depend on the level of performance.’

At first blush, that sounds very generous. It sounds as though the company is giving away something for nothing, whereas with an option plan you have to pay something, namely, the exercise price, so that you get the gain over the period; with performance shares, you get the full value. But the thing is that with performance shares, to give the same value, you require fewer shares than you do with an option because, with an option, you are only giving the gain. So, to give X dollars worth of benefit, you might need 100 options over 100 shares but, with performance shares, you might only need 30 shares, or 20, which means that the dilution for the shareholders is reduced, and it also means that, if you are using new shares, rather than buying existing shares on the market, the dividends payable in perpetuity are cut back from dividends from 100 shares to dividends from 30 shares.

What I am trying to say is that there has been a lot of development over the last little while. Most of it has occurred, in terms of the time framework, since the last change to the tax laws. That was because, of course, for two years prior to the Governor-General signing off on that in December 1995, nobody knew what was going on. So people were sitting on their hands in terms of new plans. That is just that background. It is touched on here and it is also touched on in the Equity Strategies Report.

It is very interesting to see that—I think we mentioned it here—last year in the top 150 companies there were something like 12 or 15 new executive plans based on performance

shares, whereas the year before there might have been two; and the year before that there might have been one; and before that none.

What happened in the United States is that options typically have not been linked to performance hurdles, but typically senior executives have participation in a raft of possible share plans, certainly options. I would say all of the Fortune 500 companies would have options for executives. They have performance plans which are linked to performance. They have restricted shares which are linked to staying in the company for a period of time. They have a whole raft, and included in this raft is the equivalent of superannuation. Whereas in Australia superannuation is seen as the lifeline to future survival, in the United States there is a raft. They have the 401K plan, for example, where a company runs a plan—a bit like superannuation—that invests in a variety of company shares but it has all of these executive option plans and other types of plans. I brought here for closer reading a summary of the different types of plans. You may have this information already, but it is the tax situation in the United States on their various plans. It is summarised. You may find this worthwhile reading. They have always had performance shares. We have not, in the sense that they are now being used.

During the privatisation of utilities in the UK what happened was that, for example, an electricity company was sold and the senior executives, formerly part and parcel of the utility and part of the utility mentality, were given options. Then they floated and the share prices took off. And there has been a big argument since that the government was not advised properly et cetera. The same thing happens here when non-privatised companies take off. But a consequence of that was that—because, as I said before, to deliver the same value with options, you need a lot more options because it is only the growth—people had been given a lot of options. And former civil servants—and I use this term with respect—overnight became industrialists, and there was a huge amount of criticism about the increase in wealth that they gained from the flotation of the company.

They had the various committees—you will be familiar with the Greenbury Committee and the Hempel Committee—that looked into these things and how they should dampen down what was happening. The Greenbury Committee put forward the proposal that they should look at other types of share plans. Out of that came the use of performance shares because, with performance shares, because you have got a fewer number of shares involved you do not have the same exposure to the rising market so there is less leverage. If you have got 100 shares and a rising market, every dollar it goes up is $100. Whereas if you have got 30 shares on a rising market, it is only $30. So the effect is to dampen it down, not create fat cats and ensure that the public felt comfortable with the government selling off its assets. What happened in 1998, for example, was that of the number of companies in the top 350 that had new option plans almost the same number had performance share plans. That has not happened here but it is going to happen here.

**CHAIR**—Thank you very much, Mr Wright.

**Mr Wright**—There are other things.

**CHAIR**—I thought I would just catch you while you were turning the page. We have got 15 minutes just for a few questions. I will ask you two. On page 2 of your circular there,

you have got 1998 performance measures for executive share and option plans. Is it too early to say that the companies that are adopting these executive share and option plans are outperforming their competitors?

**Mr Wright**—Yes, I think so.

**CHAIR**—But in three years time when we will have basically four years of experience we should be able to make some—

**Mr Wright**—I believe so. Yes, we should. As has been said before, the causation and whether the performance hurdle makes them perform better or the other way around can be disputable because the company's shares can be affected by the market movement in general or it can be affected by the cyclical sector that you are in. For example, if you are in the building and supplies sector you may be turning down and operating irrespective of the share market generally.

**CHAIR**—Is anyone doing any prospective work on analysing the performance of these companies, 15 to 20 at the moment, with comparable companies that do not have these sorts of measures?

**Mr Wright**—I do not believe so. We produce this report, and I think we are the only people that produce this type of report. I am not saying that people do not have it on their database, but I do not know who else has gone through it and analysed it. That may be just because I do not know.

**CHAIR**—Perhaps you should suggest to the government that someone do it, and point out that you are the only one doing it. If you wouldn't mind sending us a copy each time you produce one of these, we would be grateful.

**Mr Wright**—I would be happy to do that.

**CHAIR**—You also raised another point, which I thought was interesting, in relation to BHP—and there have also been other examples, such as AMP. This is where the company has had to offer share and option plans to its senior executives, if not its CEO, in order to attract the right sort of people, and that this is necessary for Australian companies to be internationally competitive. What should or could the government do to facilitate that process? It seemed, from what you were saying, that perhaps some of our companies risk being left behind because we, they or both of us are being slow to take up these plans.

**Mr Wright**—At the very senior level, the Corporations Law does not present a problem because an excluded offer or issue includes offers to executives. The only difficulty there is defining who is an executive. ASIC have a view that you have to be very close to the management of the company—that works well. I have got a few suggestions here so perhaps I should raise them now.

**CHAIR**—Just bullet them quickly.

**Mr Wright**—Yes. I believe that options, for example, or performance shares should not be taxed until they are sold, because the problem with taxing them on exercise is that you have secured your share but you then have to sell your share to pay any taxes payable and also to pay the exercise price. At that stage there is no flow of funds, apart from your own. You are forced to sell down and you are not left holding the share. It does not achieve what the government wants to achieve.

I would like to see the tax benefits under the regime, which restricts the benefits of deferral to employees of the company or the holding company, extended to contractors. In the IT industry, many of the people involved are contractors. They want to be contractors. They pay their own tax and they want to be able to move sideways and backwards and forwards, and they cannot participate in these plans. I would also like to see the tax benefit extended to employees of joint ventures. If you have a 50-50 joint venture that is managed here in Australia, the Australian company cannot give shares in that company because the employee is not employed by a subsidiary. Increasingly, particularly in the IT area, we are seeing joint ventures and so-called 'virtual corporations'.

The next point is that the prospectus requirements, particularly for the broad based plans or plans where you do not get through the executive exclusion, should be made simpler. I liked one of the ideas, which was that the last annual report be produced and then the directors sign off on changes that have occurred since then. If people want to make inquiries, they do. The company should be open to that.

My next point is in terms of tax rulings. There are people selling products around the town and we are told a product has tax rulings on it. This makes it 'a proprietary product'. I talk to top tax advisers and those tax advisers say, 'Look, there is a conflict here between this and this and those people say they have a tax ruling, but we would not encourage anybody to try to utilise this plan or this arrangement without a tax ruling.' If the tax situation is such that these arrangements are within the tax law, I believe that should be made public. I am not saying that the details of particular products should be made public, but I do not understand why people should be put to the expense of getting a tax ruling on something where there is a bit of doubt, when it has already been decided by the tax people that there is not a problem. There seems to be a conflict but they are taking a certain view. Those are my points.

**CHAIR**—That last point is a very good one. Do any of my colleagues wish to ask any questions?

**Mr BARRESI**—This is just a very basic one, Mr Chairman. The performance shares that you spoke about and most of the arguments you are presenting are in regard to executives.

**Mr Wright**—Yes.

**Mr BARRESI**—Is there any evidence to say that the performance share option would work for the general employees? Are there any examples of that?

**Mr Wright**—The tax law for general employees produces sort of performance shares—except there is no performance attached to it. They are getting fully paid shares. They are getting them up front. Normally, for a company to get a tax advantage in respect of shares, there has to be an outlay of money, so they might use a trustee—and you were touching on the trustee issue before. They might use a trustee. They give the money to the trustee and they direct the trustee to either buy shares in the marketplace or subscribe for new shares.

With the $1,000 exemption, they do not have to do anything like that. They can just issue new shares and they get the $1,000, so it is an exception to the normal rule and the employees do get fully paid shares. In a sense it is the same thing. If the company wanted to give more shares, then they could use a performance share plan. They may call it an employee share plan. That would be structured on the basis of rights to acquire shares, and they might be exercised immediately up front. I think the answer is: yes, it could be used. It is a different structure.

**CHAIR**—Are there any other questions for Mr Wright? I think you have overwhelmed us with information, Mr Wright. Thank you very much for making the effort to be involved. Some of the points that you have made, such as that performance shares should not be taxed until they are sold, tax deferral—

**Mr Wright**—Or option shares.

**CHAIR**—Yes—the consequences for contractors, the venture partners, the prospectus changes and that final point about how private tax rulings ought to be public without divulging commercial-in-confidence information—would you mind fleshing out some of those things and sending that along to us? That would be fairly useful.

**Mr Wright**—Yes. Particularly on performance shares, because they are a new product really but they are a similar product. Contractors are also widely used in the mining industry.

**CHAIR**—I am glad you mentioned that. Yesterday I was thinking, as we had various companies coming in, that these days, where you are basically trying to minimise the number of people you employ and increasingly going to contractors, you wonder where the future of employee share ownership lies.

**Mr Wright**—Precisely. With them, it means you might use a phantom plan. Phantom plans have disadvantages in the sense that 'phantom' just means it is a cash bonus, but it is measured in terms of the share price and that is a hit on the profit and loss account.

**CHAIR**—Thank you very much.

**Mr Wright**—I will flesh something out.

**CHAIR**—That is great. Thank you.

**Mr Wright**—Should I leave this? This is the US tax document.

**CHAIR**—Yes. Thanks very much. We will use that. Mr Barresi, I know, will read that and provide a report to all of us.

**Mr SAWFORD**—I think we might give it to Mr Paul McMahon first, then all of us.

**CHAIR**—Okay. Would Mr Barresi like to move that that be accepted, whilst the committee is here?

**Mr BARRESI**—I move that the committee receive as evidence and include in its record as an exhibit for the inquiry into employee share ownership plans a document, entitled *Tax Consequences of Stock-Based Compensation*, received from Mr Edward Wright, Principal and Director of Equity Strategies.

**Mr Wright**—Could I just make one more comment. There has been a lot of criticism about executive pay. I have here a very interesting book, produced by Ira Kay in the New York offices of Watson Wyatt, well-known remuneration people. It is called *CEO Pay and Shareholder Value*. This is what he says:

The fundamental issue is not whether CEOs are overpaid. The critical question is: are they paid for their performance? And, even more pertinent, does their compensation give them the right incentives to perform well for the one stakeholder group that takes most of the risks—the shareholders?

That is how I think people should approach the design of executive plans.

**CHAIR**—Thank you very much. We will adjourn for lunch.

**Proceedings suspended from 11.56 a.m. to 1.31 p.m.**

**RAMSAY, Mr Duncan Alexander Milson, General Counsel, QBE Insurance Group Ltd**

**JONES, Ms Susan Helen, Shareholders Relations Manager, QBE Insurance Group Limited**

**CHAIR**—Would you give us a 10-minute overview of the QBE submission and then we will engage in some discussion.

**Mr Ramsay**—I am the General Counsel at QBE. I do what I call general commercial work. I have been working for QBE for a bit over six years. The QBE employee share plan started after a shareholder resolution in 1981, so it has been around for quite a few years. Personally, I have been participating since I commenced employment in 1993. The QBE share plan is very wide ranging and has been so for many years.

Basically, the only people who are not included are non-executive directors of which there are seven at QBE, there being one executive director. There were two until 1998. The only other exclusion are very junior employees, who either are paid relatively small amounts given their low age, or maybe people who have only joined the company in the last few months or even years. For example, if you look at page 2 of the QBE submission, you will see that if you earn under $25,000 at this stage you are not a participant, or if your employment is under three years you are not a participant. I think that is generally correct.

The basic range of shares goes up according more or less to your salary band. Apart from what I call those standard offers, there are also a greater number of shares issued to the more senior employees. For example, some of the more senior employees in Australia might receive an additional 2,000 or 3,000 or so shares on top of the 1,000 if their salary band is above $45,000. The maximum limit is roughly 60,000 received last year by the QBE managing director, who is probably the most highly paid employee. Because of ASX listing rules that has to be approved yearly by shareholders at the annual general meeting. Compared to some companies, while the share plan is quite wide ranging, the actual number of shares per employee is not huge, certainly not hundreds of thousands or something like that, even to the managing director.

Apart from the strict share plan, there is also an option plan, which essentially has a five-year life because of previous Corporations Law requirements which had a maximum option term of five years. That is mainly for the more senior managers, and that will offer options of roughly 5,000 or so. We can exercise up to 20 per cent per year, and they are essentially an incentive type of mechanism to make those who are regarded as the more valuable employees stay at the company. Whereas the share issue is issued to you on day one which means, amongst other things, that you will get the dividends and any capital gain from day one.

One major feature of the QBE employer share plan which makes it more generous than market average is that it is on a non-recourse basis. So the only security by the employer is the shares themselves. If the market price is less than the issue price at the time of sale on retirement or otherwise, the maximum liability of the employee is whatever the market price is. To give you a practical example of that, last year’s issue price was around $6.50; the

current market price is $5.90. So the 60 cents there is not an employee liability. Most employees choose the non-recourse option because of that big attraction. Some employees do choose to go for a personal recourse option, but generally speaking that is not favoured and, if anything, is politely discouraged by the company because of the obvious disadvantage to employees.

As you can see, at 30 March 1999 there were roughly 7.7 million shares held by 1,200 or so Australian employees from all ranks of management and employee levels. The total number of issued shares of QBE is roughly 387 million. That is roughly two per cent or so. QBE's total shareholder base is roughly 20,000. So you are looking at one or two per cent—or perhaps more than that—or that type of percentage in terms of overall shareholders. Most of the big QBE shareholders, like other public companies are institutions. There are quite a few what the market likes to call mum and dad shareholders, together with all these employee shareholders.

Apart from the Australian employees, through a mechanism of an employee trust, the overseas employees also participate. That has been going on for quite a while. I am not sure exactly when it started. In the last few years, that has become much more wide ranging, similar to the Australian employees. Again, that offers shares or options to a similar type of criteria in terms of salary band or service time, and similar numbers of shares or options, as the case may be, on the same idea that the company will lend you the money. There is no up-front money by the employees and the only security is your shareholding on a non-recourse basis.

That is a conscious board decision to try and make the QBE employee share option plan wide ranging, because the directors strongly believe there is a strong incentive to employees. From a personal level, and from general conversation, the average QBE employee does find it quite a strong incentive. It is not strictly counted in your salary package, as such. QBE works on a salary plus benefits system. Essentially, it is your agreed salary plus benefits, such as super. In effect, these shares are on top of that, not directly counted on the little piece of paper you might receive once a year during the annual salary review. So in some respects it is a bit of a bonus, apart from any monetary bonus you might be entitled to.

I think that the nature of QBE, being an insurance company, is that clearly a part of its business does involve investments, including investments in equities. Compared with some other corporate enterprises, there is some degree of share knowledge and share interest amongst QBE employees, given the nature of their job. Apart from the strict investment division people, the average QBE person would have some interest in shares because they know that is important to policyholders and shareholders. In that environment, it has made it a bit easier to explain this concept to, say, a strict manufacturing concern which will not have that type of business need or use.

Susan Jones has been in charge of day-to-day administration on a full-time basis for quite a few years. She has a lot of contact with the Australian employees and the overseas employees. At this stage, I think everyone is quite happy with the way it works. Clearly, the terms of issue and the security are quite favourable for employees. In short, I think it is strongly supported by the employees. In terms of outside, non-employee shareholders, information is available each year in the annual notice of meeting for the managing director,

and the terms of issue are freely available. In the annual report or otherwise, every now and then we might send out a separate letter updating non-employee shareholders on the nature of the plan. So it is certainly not hidden, by any stretch of the imagination, from non-employee shareholders and, as far as I am aware, no non-employee shareholder has ever really questioned the worth, the need, the level or general terms and conditions of the employee share plan.

The end result of all that is that the plan is strongly supported by everybody from the board of directors down, strongly favoured by employees and, as far as I know, well accepted by non-employee shareholders. It has been a longstanding, generous plan which I think has helped QBE, in particular, to motivate staff, keep staff and generally give staff an additional benefit which most of them would not have access to as readily because it is essentially done for them with little fuss and bother on their behalf. That is the extent of my explanation today.

**CHAIR**—Thank you. Do you have anything to add, Ms Jones?

**Ms Jones**—The only thing I would say is that when Duncan was talking about the non-recourse loan and the difference between a shareholder buying at, say, $6.60 and then, when they go, the share price being $5.90, the shares are put on the market at break-even so that the company is not out of pocket. They could sit there for a year or so, and when the shares came back up to $6, plus stamp duty and brokerage of course, QBE would not actually lose on the sale of those shares. Even though the employee has left, we put them on at break-even and, at a point in time, we get back the amount of money we lent them in the loan, so there is no shortfall to the company. I thought you might have wondered about that.

**CHAIR**—So neither the company nor the employee loses?

**Ms Jones**—That is how we see it.

**Mr Ramsay**—One thing we might not have said in our written submission was that the loan made by the company to the employee is interest free.

**CHAIR**—Are performance indicators for senior and middle management personal indicators, company indicators or both?

**Mr Ramsay**—Both. There is a separate subcommittee of the board called the Remuneration Committee. The group personnel manager accesses market data on salaries and other benefits on a regular basis here and overseas. It is important to note that more than half of QBE's business is overseas. Of the roughly 3,000 or so employees in the QBE group, about 1,700 are in Australia. Australia is the head office and that explains why there are slightly more here. The other 1,300 or so are overseas.

In terms of salary bands and lengths of service, they have stayed that way for quite a while. They are subject to regular review by that subcommittee which does a review of them on the three or so times a year it meets. They are fairly fixed. There is not really that much of a discretionary element in them. The only real element which might change the position is the individual employee's annual salary review, which basically is done on a merit system,

subject to performance. If you are at the $25,000 level then your prospects of getting to the $35,000 level are really subject to your individual performance. Once you get to that level you automatically get your increased 300 shares.

These are not strictly part of the annual negotiations, they are well understood to be an extra benefit. In your annual salary review you might discuss things such as salary, superannuation or what have you, but up to a point, in a loose phrase, the shares are sort of given to you automatically if you tick the box.

**CHAIR**—Thank you.

**Mr SAWFORD**—In terms of the salaries, you have been going since 1981, a long time. Has there ever been a trade-off against salary increases in QBE in the past? Has it ever been part of the bargaining process with employees?

**Mr Ramsay**—Not as far as I know. As far as I know it is completely separate.

**Mr SAWFORD**—On page 3 of your submission you say that ESOP:

provides a significant incentive in recruiting and retaining employees;

We have heard a lot in this inquiry about the retaining of employees but I think you are the first one to actually mention the recruiting of employees. Would you like to expand upon that, and if you have any evidence to support that argument we would be interested in that as well?

**Mr Ramsay**—The employee share ownership plan is well known. Certainly it is not in any sense a hidden benefit. People will often ask at the recruitment stage how it works. Certainly some of the overseas employees are very interested in the topic because employee share plans are very strong overseas. Some of them will ask, 'How many am I likely to get?' 'When is the issue?' 'How does it work?' In some respects there is probably stronger interest in that regard overseas from what I understand.

In terms of Australian employees, I suppose it depends on how share-aware they are, so to speak. They may be a bit more so in 1999 than they were in 1982. Some of the more senior employees might expect it from a previous employment, but some of the more junior employees might find it a bit of a surprise.

To give one practical example involving my secretary, who had only been working for a year or so at QBE, at her previous employment at ANZ Bank I do not think there was an employee share plan. She was quite surprised to find there was one at QBE and quite surprised to find out she was given some QBE shares. From her point of view I do not think it played a big role in terms of her joining QBE. It depends on the employee. To some it is important but to some others it is probably a surprise.

**Mr SAWFORD**—What sort of impact has the scheme had on the turnover of QBE employees over that period of time? Have you any evidence to support your views?

**Mr Ramsay**—In terms of staff turnover, because the shares are received during the December-January period, some people may well stay a bit longer, particularly if they have received shares in the past and if they are thinking on that level. The real retention mechanism is via the options over that five-year period. That is received by the more senior employees. It probably helps a little bit. I would not say it helps a lot. I have never met one QBE employee who has said to me they are going to stay or go as the case may be because of the employee share plan. However, most have done fairly well out of it and certainly there is no risk in it. It helps a little bit, if nothing else.

**Mr SAWFORD**—Did you want to add to that, Susan?

**Ms Jones**—Because I administer it I see quite a lot of coming and going. A number of senior people will not leave the company because over a period of 10 years you can build up a reasonable shareholding which brings you in a reasonable dividend. I have had a number of people come to me and say, 'I would leave but I don't want to lose my shares.'

I have had some younger people who have joined the company, knowing there are shares, getting straight on the phone and saying, 'When am I getting my shares?' I have had other people who have been poached, or wanted to be poached, but they have said to me that once they weigh up the benefits of the shares and the superannuation they decide it is better to stay because they are better off financially.

**Mr WILKIE**—The shares are not portable?

**Ms Jones**—No, the shares are not portable. If an employee leaves the company then the loan must be repaid within 10 business days of them leaving the company. Therefore, unless they choose to buy them, which they may, they may sell sufficient to repay the loan and keep the rest, or they can sell them all. But that loan must be repaid within 10 business days of them leaving the company.

**Mr BARTLETT**—Can they sell them before they leave the company?

**Ms Jones**—Yes, if they wish. If the share price spikes up and there is a good price, they are quite entitled to sell part or all of their holding at any time they choose.

**Mr BARTLETT**—Is there a problem with that sort of speculative activity? It would seem to me that with the no recourse option it is a no lose situation for an employee.

**Ms Jones**—They are becoming quite educated about the share market, which I do not think is a bad thing in today's climate.

**Mr BARTLETT**—Do you find many of them selling when there is a price rise?

**Ms Jones**—Some of them will sell part of their shareholding. There is a vehicle in there for them to sell. There is a formula. Let us say you have got 5,000 shares and you say to me, 'I want to sell 1,000 shares.' Then, based on the market value and their loan, I work out whether they can sell some of those shares. If they can then we deduct 10 per cent of the proceeds and apply it to the loan balance. It reduces the loan balance.

They get the use of the extra funds. It becomes quite an advantage when somebody wants to buy a block of land or buy their first home and they have this ability to do so. That locks them in, I guess, as employees. It is a generalised statement but it can prompt people to say, ‘Oh gosh, this has given me this.’

**Mr BARTLETT**—It is an incentive.

**Ms Jones**—Yes.

**Mr BARTLETT**—So, if they sell a portion of their shares, presumably the next year and subsequent years they qualify for another allotment.

**Ms Jones**—Yes.

**Mr BARTLETT**—For an average employee, say, someone on a salary of $50,000, how many shares would they qualify for up front?

**Ms Jones**—They would get 1,000 shares the first time they were offered. Let us say they were with the company for five years, they would build up 5,000 shares. If they participated in the dividend reinvestment plan or the dividend election plan then they are increasing their holding through dividend reinvestment. If there is a bonus issue, as there has been in the past, then the number of shares is increased again. So they could build up a reasonable shareholding within a period of five years.

**Mr BARTLETT**—What is the current price of QBE shares?

**Ms Jones**—They closed yesterday at $5.90.

**Mr Ramsay**—QBE generally pays dividends twice a year. You have a choice between cash dividends or shares. Quite a few employees elect for the share dividend alternative, so the 5,000 shares will compound in a loose sense. Susan also travels around Australia, and occasionally overseas, on a fairly regular basis to explain the plan to employees. It is not as though they open an envelope and get a memo about it once a year, there is actually quite a bit of education during the course of the year on the topic.

**Ms Jones**—I find that is helping too because people coming up to retirement will start taking a lot more interest in it. They will say, ‘Gosh, I have got this asset. What do I do here?’ In the past it might have been squandered but now I am finding more and more interest in people providing for their future, which helps Australia a bit if we are not all dipping into the social security basket.

**Mr BARTLETT**—What per cent of your employees have shares?

**Ms Jones**—A very high percentage.

**Mr BARTLETT**—It would be almost everyone, wouldn’t it?

**Ms Jones**—Yes. Our take-up rate was 93 per cent last year, which is a very high percentage. There is a lot of education involved. If someone says, ‘I do not understand this,’ then I might spend a half hour, one hour, or a two-hour session explaining how it works, this is what is involved. This is my job.

**Mr Ramsay**—There are roughly 1,700 employees in Australia, maybe 1,600, of which 1,260 have shares. That is a very high percentage. Also, the 10 business days after you leave rule, as Susan explained earlier, is not always strictly enforced. For example, at this time where the share price is reasonably low compared to previous prices, if someone is at retirement we might give them a few months in the hope that the share price might get a bit higher so they can actually make a bit of money on their shares. As the managing director said, we regard it as very beneficial for employees, and that is the way it is administered. We do have strict legal documents but they are not necessarily applied in a strict way.

**Ms Jones**—Pretty much, but there is flexibility.

**Mr Ramsay**—There is flexibility.

**Ms Jones**—If someone is retiring and they have not had time to sort out their money, I am happy to wait three months. I do not mind because I still have the shares as security against that loan, and I can sell them if needs be.

**Mr WILKIE**—You mentioned that your secretary who has been there for just over a year can get shares. I was just reading here that it is less than $25,200 and three years service. Can you get them straightaway, or do you have to wait three years before you can get shares?

**Ms Jones**—The three years service applies if you earn $25,000 or less. If you earn $25,000 or more, you are entitled automatically to 200 shares. The reason for that is that we have a lot of junior people come through who do not stay very long and move out very quickly. They are not really interested in shares; they are interested in partying. Therefore, it can be a waste of time, though I am finding that a lot of younger people are getting more and more interested.

**Mr WILKIE**—I get it. That three years is only if it is less than $25,000.

**Ms Jones**—That is right.

**Mr Ramsay**—Maybe that was not very well explained.

**Ms GILLARD**—I am interested in the tax position of a participant in the scheme. If you are there for a period accruing shares, will you be taxed at the point of exit or at 10 years?

**Ms Jones**—With taxation, as far as the shares are concerned, let us say you have 5,000 shares. If you have elected to participate in the dividend plans and participate in the dividend reinvestment plan, you will need to declare your investment income, because the tax department treats it as cash. If you take a cash dividend, you declare it in your return as well. If you are in the bonus share plan or dividend election plan, you do not need to,

because they are not treated as dividends for tax purposes. That is the investment income side of it.

From the exit side of it, yes, you are liable for capital gains tax. We are taxed exactly the same. We do not get a benefit that other people do not get. We are liable for capital gains tax. That becomes quite interesting, because people are actually starting to use financial planners. If you have built up a series of shares, depending on whether you have participated in a dividend plan, it will very much affect how much capital gains tax you will pay at the end.

At the risk of going on, if you have 5,000 shares and you have participated in the dividend reinvestment plan, your cost base for your capital gains tax in the DRP is the cost that you acquired the shares at. If you participate in the dividend election plan, the dividend is treated as a bonus share for tax purposes. The cost base for those shares is the original price you paid for those shares you originally got. Where you are coming from will affect the capital gains tax liability at the end. People are going to a financial planner and sorting it out, then coming back and saying, 'Susan, I have been to my financial planner. This is what I am intending to do.' I see that as a very positive thing, not only for the company, not only for the person, but externally for when the person leaves the company and maybe has more confidence in taking up shares externally or taking up shares in other companies.

**Mr Ramsay**—Like a lot of other companies, QBE has an employer share plan book which has very general information in it about Australian tax. Essentially, we emphasise to employees that tax is a personal matter for them and that they should speak to a financial planner, accountant or whoever they think the appropriate person is. We try not to get too involved in personal matters like that. We are willing to explain and deal with their advisers if required, but we think that is a personal issue. Some do take it more seriously than others.

**Ms GILLARD**—One of the points that have been put to us during the course of the inquiry is that there is a problem with the current tax regime in that, if you are in a deferred tax arrangement like this one, tax cuts in at 10 years so, if you are at the company for more than 10 years, the tax point becomes 10 years, even though you have not actually sold the shares.

**Mr Ramsay**—I think that might have come a few years ago through some initiative in the tax area. Because our plan started much earlier and because it was so wide ranging, we did not have to get in that little, special income tax incentive base which largely depends upon you going to a large ranging plan. We already had one, so we did not have to worry about that particular issue.

**Ms GILLARD**—The relevant federal department has given us some information where they try to correlate the incidence of employee share plans against a number of variables. One of the variables they try to correlate against is the incidence of union membership. Is your business unionised and, if so, at what kind of level, and what sort of attitude does the relevant trade union have to the plan?

**Mr Ramsay**—The relevant union is the Finance Sector Union. I am not exactly sure of the level of union membership. It is not overly high. I will take a guess at 15 per cent—

something like that. As far as I am aware, the FSU support it because it is a clear benefit to employees with little downside.

**Mr BARRESI**—I might have missed it in your introduction, but are the shares placed in a trust situation for the employees?

**Mr Ramsay**—For Australian employees, they are issued directly to their personal name. It has to be the employee's name—so no company, spouse or that type of alternative—because we want a direct relationship between the employee, the loan, the company and everything. To that extent, they cannot ask their financial planner or whoever, 'Please issue it to my spouse instead,' for example, if he or she happens to be a low paying spouse, for the sake of argument. For ease of administration, they are issued to the overseas employees via a trust but, in substance, they are issued to the individual's name.

**Mr BARRESI**—I mentioned this whole concept of potential conflict of interest that may arise from share ownership plans. Is QBE involved in mergers, acquisitions or large investments?

**Mr Ramsay**—Yes. It is involved in a lot of buying. I would not say that they are very large transactions, historically. They are usually reasonably small; we are not doing these big, front page of the business section type transactions. We are much more an incremental growth type of thing. In terms of conflict of interest, a lot of employees might have some shares. We do not have huge numbers, I do not think. It is an extra bonus, but I do not think it is going to be a material factor in their decision making. Far and away the largest benefit will be their actual salary.

**Mr BARRESI**—Can I just ask you for your opinion, because you have been running the share plan for a while. Let us hypothesise for a while. If a company is involved in significant mergers and acquisitions, is there any safeguard that an organisation can put into place to prevent the employees who are working within that section from being able to trade on the open share market?

**Mr Ramsay**—Under the Corporations Law, there are insider trading rules, which we do remind people about on occasion. Normally, any merger and acquisition activity will be very confidential and, therefore, will be restricted to some of the more senior employees and they will understand the confidential nature of the activity. Compared with other corporations, we do not have this little blackout period three weeks before announcements here or there. We do not operate that system at the moment. We like to think that the insider trading laws are sufficient protection as there are criminal and civil penalties. Maybe in the future we will have to move down a more regimented system where there are blackout periods and stricter rules in that regard. Essentially, because merger and acquisition activity will be restricted to a few employees prior to the public announcement, I think that makes the conflict of interest or bad behaviour minimal and, frankly, it would be pretty obvious if someone did it.

**Ms GILLARD**—Very obvious.

**CHAIR**—I should point out that Mr Barresi is from Melbourne and has an interest in knowing whether Mr Lockett is going to play for Sydney next year.

**Mr Ramsay**—It depends on his health, I think, and his goal kicking ability.

**CHAIR**—Yes, that is right. QBE have been supporters there.

**Mrs GASH**—I am sorry that I was a bit late. I hope I am not repeating something. It was very good to hear that young people are showing a greater interest in the shares opportunity. What percentage of your work force is made up of young people?

**Ms Jones**—I think there is a large percentage of young people. What would you say, Duncan? I think there would probably be 200 or 300 seniors and the rest are junior people.

**Mr Ramsay**—Yes, we probably have more young people in Australia, just for historical reasons. At the same time, we have quite a high turnover rate, particularly among the younger staff members. It might be 15 or 20 per cent. There is a lot of change in that regard. In terms of the overseas operations, because we are fairly well spread and operate in 28 countries, there are 27 places overseas where we operate. By definition, the staff numbers overseas in any individual place are not very large, and they tend to be slightly older employees. It is probably more an issue with the younger staff members in Australia in terms of a larger number. As I say, there is a lot of turnover. While some of them might be interested in the employee share plan, I do not think it makes them stay necessarily. If they see greener pastures, I think they will go pretty readily. They certainly have done so in the past.

**Mrs GASH**—Could I ask a follow-up question: with the loans that you provide for purchase of the shares, do you charge an interest rate?

**Mr Ramsay**—They are interest free.

**CHAIR**—Your submission is very good and very interesting, but are there changes to government laws or changes in government policy—whether it is tax, corporations or anything else—that you would like to see that would help you further develop your employee share ownership plan?

**Mr Ramsay**—Basically, I think we are happy with the current position. For example, if there were some relaxation on the capital gains front, clearly that would be good for employees. From 1 July last year, the old five-year rule about length of options was dispensed with. At this stage, we have not taken advantage of that. We might choose in the future, though, to take advantage of that and lengthen the term of the options to maybe five to seven years or some slightly longer period than five. Generally, I think we are quite happy with the current regime from a tax and legal point of view.

I suppose one important message we would like to give to this committee is that we think it is working well for QBE. We think it is good generally for Australia, and we would not like to see major change restricting it in any way. If the government decides to make it a bit easier, that is great and we support that, but we are not pushing strongly for that. Probably our major fear would be some restriction which would take a very successful plan and just make it a lot harder from an administrative point of view or an employee benefit point of view.

One change which currently exists, which the government might want to make more formal, is that there is an exemption under the Corporations Law where we can issue, in effect, a very simple form of offer document rather than a full-blown prospectus. That is currently by way of ASIC class relief, and that has been the case for quite a few years—since about 1992 or 1993. Before that, we used to have to go through a full-blown prospectus, which we found very expensive. That is one large administrative cost saving we would not like to see changed. If anything, we would like to see that probably cemented in a stronger way.

**CHAIR**—I realise it probably was not intentional, but I must say that I have got the impression that you have two classes of employees. You have the young, lower income, almost transitional kind of employee who has priorities in terms of social life—which I think you referred to, Ms Jones—and then there is the rest of the QBE work force who are more serious.

**Mr Ramsay**—And have no social life!

**CHAIR**—I know what you mean. I had similar sorts of arrangements, I suppose, in my office in my previous life—when I had a life. Shouldn't we in fact be trying to encourage an interest in share ownership amongst those younger employees who are on those lower incomes with lower skill levels? Wouldn't it serve the interests of your company if you could actually give them a career path?

**Mr Ramsay**—I agree. If our turnover rate of employees is, say, 15 per cent, anything to lower that would be fantastic, because it is such a huge training and dislocation cost. There is quite a bit of information about shares indirectly through the super plan—which, at the moment, is operated as a company super plan—because of what the trustee is doing. Because of the nature of the business, there is information about shares, because of the investment operations of QBE. Then you have the employee share plan. I suppose, historically, that we have only offered reasonably low numbers of shares. So maybe if we wanted to make people stay, we would have to offer a higher level of shares. I do not think we would make the terms of issue any more generous. They are non-recourse interest free already; that is probably as generous as you can go.

I think that the directors would feel we cannot up the number of shares too much because, ultimately, they would probably see that to be to the disadvantage of shareholders. So we are conscious of keeping that reasonably low. At the same time, we want to not make it an exclusive club, and that is why we have put a lot of effort into extending it as much as possible to overseas employees. At this stage I think we would like to stay where we are, so maybe some form of general relaxation of the capital gains tax system or something like that might help interest some of the more junior employees. Ultimately, if you are reasonably young and you find that your first job at QBE is not really what you want to do, I do not think there is much we can do to make you stay—share ownership or otherwise; that is just reality.

**CHAIR**—It is a question of whether it is something that we ought to be trying to encourage. Is there something that government can do, for example, which might make it more attractive to your young employees?

**Ms Jones**—Educating the employees is quite difficult when they are young.

**CHAIR**—I know what you mean. I think one of our party pollsters recently said something like, 'This age group is often interested in watching television and going out and having a good time.' I suppose most of us were like that when we were young, too.

**Ms Jones**—There is a feeling that I am getting, from working with people on a daily basis, that young people are becoming more interested, but it depends on which socioeconomic environment they come from—which should not be the case, possibly, but that is the way it seems to me. If a young person comes from a more affluent environment, then they are more likely to understand and know about shares, because their parents or whomever have had an interest themselves. With the floats of the Commonwealth Bank, Telstra and AMP, perhaps that will change. I think it has changed. I live in the western suburbs. There is more of an interest happening with young people. They are saying, 'I don't really understand this,' and people are saying, 'You should, because I have now got shares'—mum and dad have shares in AMP, or what have you, by virtue of owning an insurance policy. They are being encouraged in that way, but I think it is a long education process.

**Mr Ramsay**—For example, small changes through federal-state relations such as minimal or zero stamp duty for employee shareholders would be good. It is probably a policy issue as to whether employee shareholders should be treated differently from the general shareholding population. Another thing which I think some companies have done or wish to do is go beyond their own shares and allow employees, by way of loans or otherwise, to buy shares in other enterprises. Maybe some benefits like that would help. I think, largely, though, these will be at the margin and, if they came into play, would be supported. It is not something which we are getting a lot of employee demand for, as far as I am aware. I think everyone is quite happy with the way it is working. Like anyone else, they would rather get more than less. But, ultimately, that is an issue for the directors, and I think they are worried that it is quite generous, and they do not want to make it overly generous compared to other shareholders.

**Ms Jones**—Tax is the main problem.

**Mrs GASH**—If youth wages were abolished, would you continue with your share options for young people?

**Mr Ramsay**—I think so. The plan has been around for such a long time. It is strongly supported at board level. The threshold is very low. I do not think it would make a big difference one way or the other.

**CHAIR**—I should ask you whether you would still employ young people, although we will not politicise this hearing.

**Ms Jones**—I must say that tax is the main problem with the young people—they do not want to know about it; it is all too hard, and it really is a stumbling block for young people.

**Mr Ramsay**—While there is quite a high turnover rate at QBE, there is also quite a lot of employees who have very long lengths of service. I know quite a lot who have over 10 years service, and having over 20, 30, 40—and even occasionally 50—is not that uncommon.

**CHAIR**—Thank you very much for providing us with a submission and taking the time to come and speak to us today. It is not always easy. We are very grateful to you. If you have anything else to add or you have other information or comments to make upon submissions made by others, please send them to us.

[2.17 p.m.]

**CAMERON, Mr Doug, National Secretary, Australian Manufacturing Workers Union**

**CHAIR**—I welcome Mr Cameron from the Australian Manufacturing Workers Union. Could you give us a 10-minute overview, and we will ask some questions.

**Mr Cameron**—I don't know if I can do it in 10 minutes; I thought I would have half an hour. We have submitted a very brief written submission to the committee. I want to expand on that and to deal with the issues that arise from it. I appreciate the opportunity to address this committee. I will briefly overview our submission and, with the consent of the committee, supplement that written report. I want to go to issues that the committee should consider when determining whether they should expend either energy or resources in promoting employee share ownership in Australian enterprises.

The context of my submissions will be the experience of the union in the manufacturing sector and the drivers that are required to improve the productive performance of the manufacturing sector in this country. With the greatest respect to the committee, a focus on employee share ownership schemes while so many important issues go unaddressed or ignored smacks of fiddling while Rome burns. Employee share ownership is certainly not the key factor which will improve the productive performance of the manufacturing industry.

I want to go to the union's written submission. I think our submission can be summed up on the basis that individuals who participate in shared ownership schemes still feel powerless to affect the share price or have ownership of the decision making processes. Most of our members are already heavily exposed to the share market, through either company superannuation funds, industry superannuation funds or some other superannuation scheme. They would be on average exposed to about 40 per cent in terms of their long-term investment in shares already, without promoting it any further. It is a big exposure for workers on $30,000 a year.

The response from our members placed far more emphasis on factors such as job security, superannuation, general employment conditions, work organisation, the degree of discretion they have on the job, flexible working time arrangements and child care availability. They are the issues that our members see as important in terms of them having the ability to improve the productive performance of a company.

The AMWU supports the view the ACTU put in their submission that if the government is really concerned about lifting productivity in Australian workplaces they should pay attention to issues such as improving the competence of management and enterprises. I do not think anything has been done of any significance to take further the Karpin report on management which was done under the Labor government. That report clearly indicated that Australian management was not up to the task of international competition and we really need to deal with that by providing more opportunities for skill development to employees; paying greater attention to the problems caused by increased casualisation, part-time work and job insecurity, which severely affect employee morale; encouraging greater opportunities for constructive dialogue at national industry and enterprise levels between employers and

union reps; and, stopping the attacks on collective representation of employees and their trade unions.

As I understand it, the role of the committee is to investigate the linkage between employee share ownership and improved productivity in the workplace. If the committee is really interested in properly examining improved productivity, then theorising about how share plans can bring about improved productivity is a waste of time. It is really not the key issue for working people. Drawing links between employee share ownership and improved productive performance is an extremely difficult objective. I draw the committee's attention to our 1995 ILO paper entitled *Workers financial participation: east west experiences*. The ILO study found that positive effects of ESOPs on productivity were overstated, given that the most efficient and productive enterprises are those most likely to introduce financial participation schemes. So these companies were already highly productive before they introduced these schemes, and that is a key issue in my submission. On this basis we would argue that the government has an obligation to assist industry to become more efficient and productive by promoting industry development plans for various industry sectors prior to promoting employee share ownership schemes.

The Australian manufacturing sector is fundamental to the economic prosperity of this country. We have a major structural imbalance in our economy which means that we are over-reliant on agriculture, minerals and tourism. This results in a boom and bust cycle due to the need to import massive amounts of manufactured goods, which impacts on our terms of trade. That is a key issue we should be looking at, instead of employee share ownership schemes.

No modern economy can survive without an effective and technologically competent manufacturing sector. Implementation of employee ownership schemes will not provide the basis for modern, efficient, technologically advanced manufacturing sectors. Over the period May 1997 to May 1999 manufacturing employment has declined from 1.139 million to 1.072 million. These ABS statistics demonstrate that 60,000 jobs have been lost over this period. I remind the inquiry that the Howard government promised to create 220,000 manufacturing jobs when it came to power. That has not happened. In fact, we have gone 60,000 behind.

I also want to draw the attention of the committee to the fact that, over the 1997 to 1999 period, imports of value added manufacturing goods have increased by $20 billion, and that is a major factor contributing to job losses and the effect on the welfare and prosperity of this economy. With the current Asian crisis and the determination of some of our trading partners to trade their way out of trouble, the $20 billion increase in imported manufactured goods will continue unabated unless the government acts to protect Australian industry and Australian jobs.

It is interesting to note that Dr Ashton Calvert, the Secretary to the Department of Foreign Affairs and Trade, indicated, in the fourth annual trade lecture to the Melbourne Business School, that the Uruguay Round of multilateral trade negotiations had resulted in 43 per cent of our industrial exports now facing zero tariffs. I want to put this in context; that is, that 57 per cent of our industrial exports does face tariffs, and some of the highest tariffs are in South-East Asia and with our major trading partners. These are the issues that are important to people's security and their welfare in the future.

I do not have to remind you of the Japanese tariff of 390 per cent on rice and the recent lamb debacle, where $US100 million went in to support the lamb industry in the United States. As I was coming in, I was listening to the ABC and they are now reporting that the American Farm Business Federation is calling for a $US9 billion assistance package to the American farm industry, and $2 billion of that will be to promote American farm exports. They are making no bones about looking after their industry and looking after their people, and we are trying to pretend that there is a level playing field. It is an absolute nonsense.

When discussing the outcome of the Uruguay Round, Dr Calvert said that the biggest disappointment for Australia was the extent of unfairness and distortion that still plagues agricultural markets. Another disappointment was the outcome on industrial tariffs, which allowed our trading partners in South-East Asia to continue with high levels of tariff protection. They are not out there arguing about ESOPs; they are out there protecting their jobs and protecting their economies. So when we are discussing the effects of employee share ownership schemes, that has to be put in the context of the major issues affecting Australian industry.

The lack of a level playing field and the decisions of both Labor and Liberal governments to cut Australian tariffs deeper and faster than comparable industrialised countries are a national disgrace and have cost jobs and the potential to improve the productive capacity of our industries. They are also a contributing factor to diminishing Australia's capacity to be economically independent in the future. Our destiny now lies with major multinational conglomerates, who receive federal and state government funding to build major engineering projects in this country and then restrict Australian manufacturing in bidding for the engineering components of these projects. An example of this is the Comalco project in Queensland, where hundreds of millions of dollars of Australian taxpayers' money is subsidising the project. The design work for the project has been done in India and the major elements of steel fabrication are being manufactured in Korea and Thailand. This is because Bechtel won the contract, and Bechtel will not give our industry a fair go. The conglomerate gets the work elsewhere. There are other examples of this—

**Mrs GASH**—With respect, Mr Chairman, can we get back on to ESOPs for a little bit because that is why we are here.

**Mr Cameron**—I was trying to explain to you that this is the issue for ESOPs.

**CHAIR**—Mrs Gash has intervened there, but I will just say to you, Doug, that we have another half an hour, and we can spend it whichever way you like.

**Mr Cameron**—I am happy to continue.

**CHAIR**—As you can imagine, some of our members would agree strongly with what you are saying and others would disagree. But our focus is on employee share ownership, and we have had a lot of people from business at the top end of management coming to talk to us, and you are the first person that has been here to actually talk on behalf of employees—of workers. You have half an hour to talk to us about that. We can listen to all this if you like.

**Mr Cameron**—That is good; I think you should.

**CHAIR**—That is fine, but you are letting your members down if you do not focus on employee share ownership.

**Mr Cameron**—Don't tell me when I am letting my people down.

**CHAIR**—This committee's inquiry is going to lead to changes in the law—

**Mr Cameron**—I know who is letting us down, so do not lecture me about letting people down.

**CHAIR**—You can attack the government on what is happening in Australia any day of the week.

**Mr Cameron**—Let's keep going.

**CHAIR**—You have half an hour to talk about employee share ownership.

**Mr Cameron**—Let me get on with it then, okay?

**CHAIR**—Okay.

**Mr Cameron**—I have written to the Prime Minister, the Leader of the National Party, John Anderson, Kim Beazley, and to Meg Lees and other independent members of parliament, seeking an urgent parliamentary inquiry into the scandalous situation that is now emerging in this country. I would like to tender a copy of that correspondence to the committee so that the issues that the inquiry should take into account are before you. I am a bit bemused that people cannot see the link here and it really makes me wonder where the committee will go. But that is another issue.

I would draw your attention to page 2 of the letter and the issues that the union would seek the parliamentary inquiry to address. I will not take you in detail to them, but it is about the following: doubling the resources for the national Industrial Supplies Office; the establishment of a 20 per cent development allowance to support industry in Australia; restoration of the 150 per cent research and development tax concession; development of a new investment vehicle for development capital; significant expansion of the Export Market Development Grant Scheme; a recommendation to identify five key sectors to see whether they qualify for a 10 per cent corporate tax rate such as that in Ireland, which is the fastest growing manufacturing country in the world; the establishment of an industrial reconstruction board that will examine individual cases of manufacturing firms that are about to downsize; mandatory Australian industry participation plans; and, where appropriate, tariffs for industry sectors experiencing a flood of imports. We should also look at whether the current boundary should be implemented in terms of tariffs for Australian manufacturing.

I now turn briefly to the issue of productivity and employee share ownership plans. For the committee to understand the effect of ESOPs on productivity, I believe we have to determine what our definition of productivity is. I do not know whether you have actually

looked at that or whether you have had submissions on it. A common measure of productivity is called 'labour productivity'. It is expressed in dollars of output, adjusted for inflation, per hours worked. A more important measure of productivity is multifactor productivity—and if you are looking at productivity this is how you should look at it in terms of ESOPs, if you want to fiddle about with this and continue down this track. That is a composite measure of how efficiently an economy makes use of both labour and capital input. Growth in multifactor productivity reflects such factors as the introduction of new technology, improvement in the skill and motivation of the work force and better techniques of management and work organisation.

These are the definitions used by the Massachusetts Institute of Technology in their seminal publication *Made in America: regaining the productive edge*. This details the outcome of the MIT Commission on Industrial Productivity. The committee discerned six interrelated patterns of behaviour that best characterised the failures to improve productive performance in manufacturing in America. These are really relevant for us as well. These include outdated strategies, short-term horizons, technological weaknesses in development and production, neglect of human resources, failures of cooperation and government and industry at cross-purposes. These are the issues that are important. If we are talking about introducing ESOPs, they should be introduced in the context of these key issues. I believe that an inquiry into manufacturing, as detailed in my correspondence to the Prime Minister, is essential and it should lead to a further inquiry into the key issues as identified by the Massachusetts Institute of Technology commission.

In the context of the current attack on the trade union movement by the federal government, it is interesting to note that, in the chapter 'Failures of cooperation' under the heading 'Labour management relations', MIT notes that many highly industrialised nations competing with the United States have overcome conflict over the right of workers to unionise and to participate in enterprise decision making, and that US firms and unions continue to expend valuable resources and energies battling over union organising and the role of labour in society. MIT goes on to indicate that this legacy of conflict has produced an adversarial pattern of industrial relations—one characterised by much conflict and little trust between workers and their employees.

Research conducted by MIT over the past decade has shown that this traditional pattern of our industrial relations produces low levels of productivity and product quality in industries as diverse as autos, office products and paper. Introducing ESOPs will not affect that if we are in that adversarial industrial relations position. Unfortunately, the industrial legislation introduced by the government is heading down exactly the path of conflict and adversarial industrial relations that MIT sought to avoid. MIT goes on to indicate that long-term trust and cooperation, which you are looking at in the context of ESOPs, is reinforced by a broader consultative rule for union leaders and strategic managerial decisions involving new plant design, major investments in new technology or a major retrofit of an existing facility. Again, I draw the committee's attention to the fact that these issues are more fundamental than any inquiry into employee share ownership plans.

In 1997, we conducted an interview with 320 shop stewards in the vehicle and component sector. Seventy-six per cent said they had little input when new technology was introduced; 73.2 per cent said they had little input when changes to plant layout were made;

72.8 per cent said that stress levels would increase by the year 2000; 70.6 per cent said they had little influence over how the workplace is managed; 66.9 per cent said they had little influence over work allocation; 66.7 per cent said they had little influence when new work processes were introduced; 66.3 per cent said they had little influence over the pace at which the work was done; 60.9 per cent said they had little influence over how work was done; 56.3 per cent said there would be less job security by the year 2000; 48.1 per cent said there would be increased casualisation by the year 2000. These results come from an industry with high unionised rates. It is probably much worse in non-unionised areas. The question I ask is: will holding shares lead to greater input from employees at the workplace? I think the answer is no. Will holding shares lead to less stress and more open decision making? I think the answer is no. Will holding shares lead to greater trust in the workplace? I think the answer is no. Employee involvement in a company means more than holding shares.

I have tried to identify some of the weaknesses in an approach focusing on employee share ownership plans. I now want to turn to the key issues that we need to address in the context of any proposal that this committee brings forward. MIT identified six similarities in firms that were actually both very productive domestically and export competitive. The first one was a focus on simultaneous improvement on cost, quality and delivery; secondly, closer links to customers; thirdly, closer relationships with suppliers; fourthly, the effective use of technology for strategic advantage; fifthly, less hierarchical and compartmentalised organisations, so we get greater flexibility; and, sixthly, human resource policies that promote continuous learning, teamwork, participation and flexibility. In addition to these issues, in a recent study MIT have focused on innovation.

They advocate that these are mutually reinforcing. They are a single integrated strategy and they cannot be treated as individual items. Unfortunately, this committee, in trying to link productivity to ESOPs, is picking out an individual aspect that is not going to fully bring together all of these issues that go towards productive performance. I believe this committee, if it does not deal with these other issues, will have failed the Australian community.

In conclusion, our view is that there are far more important issues that the government should be addressing rather than this particular issue. The government certainly should not be injecting any further energy or taxpayers' money into promoting employee share ownership plans. I will finish up on this: if the committee makes any recommendations at all in relation to employee share ownership plans, it should at least recommend that workers in firms are able to obtain shares on at least the same favourable terms that multimillionaire executives obtain their shares and options. Workers should also be entitled to the same generous redundancy or golden handshakes that failed Australian executives receive. I think you have to address that issue.

The government must also move from a blind ideological opposition to the situation of workers being exploited and the environment being exploited and degraded in unfair competition with Australian industry. It is our view that at the third WTO ministerial meeting in Seattle, which is going to be held in September through December, these issues should be addressed. I would be glad to take any questions on my submission from the committee.

**CHAIR**—Thank you very much, Doug. I am not sure if you quite understand, but we have actually been given a specific reference. Some of us, including me, feel that two people dying a day from illegal drugs, the living conditions of Aboriginal people, 24 deaths in Victorian workplaces to date this year or what is happening in our culture and our economy are arguably more important, but our terms of reference are specifically this.

Toward the end there you touched on the concept of employees or workers—as distinct from management—perhaps having access to the same kind of share options and so on that senior management get. Is that something that you feel ought to be further developed? Because a lot of the companies we have talked to have actually said, 'We offer the same share program to all of our employees'—for example, in Qantas, from James Strong down to baggage handlers.

**Mr Cameron**—All of my submissions are underpinned by the fact that this will not work unless you have a focus on the key issues that I have outlined. Nothing will work simply by looking at employee share ownership schemes; it will not work. I have some understanding of how Qantas are operating. They are not doing it properly. There is no proper consultation at the plant level; workers have absolutely no say in how that operation is moving. Employee share ownership schemes do not give anyone any real say in how things are going.

**Mr BARRESI**—Doug, I do not disagree entirely with your assessment of the Karpin report. I followed that with great interest at the time, and I know a lot of those issues really have not been addressed, so I concur with you on a lot of those things. You mention in your summary that in the questionnaire that you conducted all except one respondent indicated that the presence of a share scheme had not changed the dynamic of workplace relations. However, all respondents indicated that employees now talked about their company's share price. If that is correct—and take the Karpin report comments you made—does this not in a way place pressure on management from an educated employee work force which knows where the company they are working at stands at any given point in terms of share price and the issues that are affecting it? ESOPs are not the be all and end all—I agree with that—but they play a vital role in having this educated work force being able to say, 'You cannot snow us in terms of what is going on in the company.'

**Mr Cameron**—I am not sure of your background, but I must say I have been 26 years in manufacturing, either on the shop floor or as a union official. An educated work force under the current circumstances, under this government's industrial legislation, cannot put pressure on management in any way, shape or form. The pendulum has swung so heavily towards management that workers would not be game in some plants to even raise the issue of the shares. It is a nonsense to talk about an educated individual having any pressure on management. The whole government focus is about taking away power from individuals and giving it to management.

**Mr BARRESI**—But that influence does not necessarily have to be in terms of boardroom participation and argument; it could very well show itself through lack of participation and the take-up rate of shares. If they see how their company is going, they can say, 'I am going to divest myself of these shares, and I do not want to have any part of it.'

**Mr Cameron**—But what would that mean? In most companies, that would not mean anything. It would mean absolutely nothing. The amount of shares that workers have is minimal. They cannot even collectively make an impact on a company. The only way that any impact could be made is through the big funds exercising some collective view on an individual company. That is the reality of a capitalist system. Individual workers cannot do anything. That is the reality. I must say it is an absolute nonsense for people to sit around here and theorise about how this affects companies; it does not affect them one iota.

**Mr BARRESI**—We are also doing an inquiry on mature age unemployment.

**Ms GAMBARO**—I listened to your submission with great interest. I think a lot of the issues that you brought up were management type issues, and I found myself thinking back to another inquiry that I sat on—as did, I think, some of the secretariat here—into industry, into major projects. I know that I am diverting away from shares. One of the things was the local content rule of 80 per cent, and you have stressed that in here. But also one of the real problems was that a lot of companies, through the Industrial Supplies Office network, were not tendering for projects. You cannot force companies to tender for projects or work. I know you are stressing here that the system could be refined, and I do not doubt that. There were some problems with the department of resource not communicating with the department of industry, but the 80 per cent local content—and you quoted a Queensland firm—from what I understand, is followed by a wide array of companies.

Going back to the employee share ownership issue, through this inquiry we have heard that a number of companies link interest and participation to the fact that their employees have shares, have a greater interest and know what is going on. They can pick up an annual report and read what is going on, and if they have shares they have much more of an interest. My first job was working for a retail firm as a shop assistant, and I had significant input into my work environment. I think it is a management type process that you are talking about, and I do not think that in every company in Australia the workers are not empowered to make decisions or participate. I will just leave it at that.

**Mr Cameron**—In terms of the question of Australians not tendering, there is another project—the Visyboard project in New South Wales—which has been supported by government funding as well. The company that won that tender is ABB, another multinational conglomerate. They are tendering that work offshore. No Australian company will be tendering. All of the manufactured goods will be brought in, and Australian workers will bolt that plant together. So there is an emerging problem that may not have been around when that other inquiry took place, and maybe there needs to be another inquiry into that, because huge amounts of money are going in there.

In terms of picking up the annual report, I tend to read annual reports. I read Rio Tinto's annual report. I read BHP's annual report. If anyone can tell me that you are empowered after reading an annual report, you have never read them or, if you have, you do not understand them. It does not work that way. Even actuaries cannot understand them without going in to do more work. They are not designed to empower workers; they are a PR exercise.

**Mr BARTLETT**—I have two quick questions. You made the comment—and your submission says this too—that, except for one of the surveys that you got back, all respondents said that employee share ownership schemes made no impact at all on productivity and workplace relations. In your opinion, why would many of the employers who have put submissions in—and whom we have interviewed—have said that there has been an impact on productivity and workplace relations? How would you account for what seems to be a totally contradictory view on that?

**Mr Cameron**—I think maybe some of those employers who have come before you are those employers that the Karpin report identified as not being real smart, not being real good.

**Ms GAMBARO**—That is a bit harsh.

**Mr Cameron**—I was asked the question; I am being honest with you. I deal with some pretty unsmart employers every day of the week. Because they are an employer does not make them real smart; it does not make them have all the ideas.

**Mr BARTLETT**—Presumably, if there is a cost to the company in terms of bonus share matching schemes, interest-free loans, or whatever in order to encourage or facilitate the take-up of share ownership schemes, they would be looking reasonably carefully to see that there is a benefit to them in terms of commitment, workplace relations, et cetera.

**Mr Cameron**—Don't kid yourself. I went through the second tier exercise in the Industrial Relations Commission. We used to go in there, and companies would be looking at all sorts of trade-off agendas there that meant absolutely nothing in terms of the real productive performance of the company, and they kidded themselves that they were getting something out of it.

**Mr BARTLETT**—So all of the companies have got it wrong, and of all the union respondents have got it right, in your opinion.

**Mr Cameron**—No. I think that is a flippant comment; I am not saying that. I think some companies may be trying. I say again that, if the companies are addressing these fundamental issues that go to improving productive performance, then ESOPs have a role. But if they are just coming in here and arguing to you that employee share ownership plans give some—

**Mrs GASH**—They do not argue; they explain to us.

**Mr BARTLETT**—So you are saying the ESOPs have a role if they are in conjunction with other—

**Mr Cameron**—That was my submission.

**Mr BARTLETT**—Thank you for that. In your submission you say that some members are facing increased pressure to accept new and non-traditional reward systems, such as employee share ownership schemes. Could you just elaborate on what you see as the pressures that are being placed on employees to accept share ownership schemes.

**Mr Cameron**—Yes. To some extent the whole issue of downsizing and cutting workers' jobs is the big whip that is being used against workers in our industry in arguing that you actually should look at these employee share ownership schemes. Don't take a pay increase; don't argue for increased superannuation; don't argue that your entitlements should be preserved and not flogged off somewhere—these are the sorts of pressures that are coming on.

**Mr BARTLETT**—Have you got examples of where involvement in a share ownership scheme has been a trade-off for superannuation or for other conditions?

**Mr Cameron**—Yes, I can get you that; I can submit something to you on that.

**Mr WILKIE**—Qantas said that yesterday.

**CHAIR**—We are aware of Greyhound Pioneer and a couple of other examples, but if you have some illustrations of that we really would like to see that.

**Ms GILLARD**—One of the issues that has come up before the committee—and it is a topical one—is that in a liquidation situation if you are a worker you have your annual leave, long service leave and perhaps some unpaid wages; if you are also a shareholder, at least in terms of the distribution of any of the assets of the company, you are going to have priority in relation to your unpaid wages, annual leave and long service leave. As we know, that is no guarantee you are going to get your money out, but at least you have priority. Insofar as you are a shareholder, you are not going to get anything. The issue that has been raised is—if you accept that taking the shares is one way in which people are going to save—whether they are increasing their exposure to one company and it would be more prudent for them to be exposed to some other form of savings vehicle. That is issue No. 1.

Issue No. 2 is how that is heightened if there has actually been a wages-share trade-off, because you have changed a superior security for something less. I would be interested in your comment on that range of issues about where you stand in a liquidation. Also, are you aware from your experience with the manufacturing sector whether there has been a company that had an employee share ownership plan that went into liquidation occasioning losses that we could look at as an example?

**Mr Cameron**—I do not have an example to give you now, but I will certainly have a look at that and try to find out about that. I must say, given the number of companies that are going under and taking employees' entitlements with them, we believe that the most appropriate way to deal with that is the establishment of a national trust fund where the employees' entitlements are placed in trust, separate from the day-to-day operations of the company, and those entitlements of an individual employee are paid to them if a company is wound up. That is a far better proposition than employee share ownership schemes.

I will just make one point about shares in terms of workers. It is the Chainsaw Dunlap approach. He was out here and did some damage to this economy, as he has done in Canada and in the United States. Management come in, and what is the easiest way to lift the share price? It is to massively downsize the company. We have a real concern. Individual workers are in there with shares in the company. What makes the shares go up? Sacking their

workmates or even sacking that individual. The share price goes up, but you do not have a job. That is an issue you should think about, because that is a fundamental management strategy to lift share price in the short term. What is the point of having a share in the company if you have no job? That is a real issue you need to look at.

**CHAIR**—So will you send those on? We would really like to see any examples.

**Mr Cameron**—Yes.

**Mr WILKIE**—I know we are running out of time, but I would like to get this on the record because I think it is important. Most of the companies that we have talked to have had share ownership plans as a sort of extra to any wages or whatever employees have received. One has said that they had used share ownership as a bargaining tool in enterprise bargaining with unions, which I am totally opposed to. I would like to get the union’s view about using share ownership schemes as a bargaining chip when enterprise bargaining.

**Mr Cameron**—Again, it comes back to the fundamentals. If a company is not addressing the fundamentals to improve the productive performance of the company, it is a nonsense to try to use share bargaining as an enterprise bargaining approach. We take the view that employee share ownership schemes have a place, but it is a small place in the overall context of dealing with the productive performance of the plan. It is a very small part, and you have to do it simultaneously with these other issues. So our approach in enterprise bargaining would be to say: deal simultaneously with these other issues that promote productive performance in the plan, and you may have a deal. If you come in and try to use it as one of these human resource strategies and say, ‘We will give you 200 shares,’ that will never mean anything to you in terms of control. It is an absolute nonsense. I know you have strict terms of reference, but I would be saying to the government, ‘Don’t fiddle while Rome burns.’ Why are we wasting our time sitting here doing this when we have big picture issues we need to deal with?

**Mr SAWFORD**—I do not want to defend the committee—the committee can defend itself—but, as the brief has been given to the committee by the minister, it does not have a great deal of choice.

**CHAIR**—The alternative was worse!

**Mr SAWFORD**—As some of our colleagues note, some of us have been ESOPed out, and we would not disagree with you that it is a third order issue. In many of the comments you made, Doug, you were not out of sorts with what the companies were saying in terms of the organisational climate—that this is just one of a whole range of factors and that it is basically useless to try to identify its impacts. You are not at odds at all with the other information that has been coming to us.

**Mr Cameron**—That is a relief. So Joanna did not need to walk out.

**Mr SAWFORD**—The other interesting thing that we briefly touched on was downsizing in a number of industries. Finance and retail have been two of those, and these are very attractive to finance and retail. There are plenty of people out there in the old marketplace

trying to flog this stuff all over the place. It is important that parliament and parliamentarians at least have a response to it. That does not make it a prime order issue. But all third order issues are not necessarily unimportant. Would you say that? I do not have any problem with what you are saying.

**Mr Cameron**—In the context of this, in terms of what is facing Australia, I think it is pretty unimportant. I really do.

**Mr SAWFORD**—There are a lot of people in the work force—particularly in finance and retail more than any others, and not so much in manufacturing—who are being impacted by this. If I were on $30,000 a year, and I were in that situation where—and you put this point too—I am already vastly exposed—

**Mr Cameron**—Yes, they are.

**Mr SAWFORD**—here is yet another exposure, and not only am I sacrificing salary in some parts but I am also, again, committed to a firm.

**Mr Cameron**—I understand where you are coming from, but I must say that I am very concerned to make the point clear that the federal government should not put any more money or more time than is absolutely required into dealing with this issue. It is a third order issue and we should be looking at the bigger picture.

**Mr SAWFORD**—I do not have a problem with that.

**CHAIR**—In conclusion, Doug, does your union have an attitude towards the Blair government's UK 2000 initiative, which is entrenching in a big way employee share ownership for all employees, right across the British economy?

**Mr Cameron**—You have to look at the whole context of what the Blair government is doing in terms of their partnership approach. I have just been in the UK, where I had a meeting with the Minister for Industrial Relations in the UK. They have got a whole raft of initiatives that they are taking to try and claw back from the devastation caused by Thatcher in the UK. You have to look at it in the overall context. Again, it is not a first order issue with the Blair government. The first order issue is restoring the basic workers' rights in the UK that were taken away—something which we are now seeing being promoted by Peter Reith.

We have now got a position where we are completely out of step with advanced countries. They are coming out of that Thatcherite approach and moving to an approach where the social impact of industrial relations is recognised and where progressive policies are being introduced, while we are heading backwards. We are completely out of sync. Actually, a lot of things the Blair government is doing have been copied from our previous Labor governments. You have to look at the whole context of what is happening over there. I am glad you asked the question.

**CHAIR**—I will argue about that with you in another place, I think. We have to finish, but thank you for coming along and providing us with the submission. All of it is relevant,

but not all of it is specific to this reference. But you are doing a good job for your members, and I thank you for being here.

**Mr SAWFORD**—I move that the committee receive as evidence, and include in its records as an exhibit, correspondence to the Hon. John Howard, MP, from Mr Doug Cameron dated 8 July 1999 and received on 14 July 1999.

[3.01 p.m.]

**TURNBULL, Mr Shann (Private capacity)**

**CHAIR**—Welcome. You are from MAI Services. Presumably MAI does not stand for 'Multilateral Agreement on Investment'. Could you tell us a little bit about MAI Services and give us a 10-minute overview of your submission, and then we will discuss it.

**Mr Turnbull**—MAI Services Pty Ltd is a firm I created in 1962. However, I am here representing myself, rather than my company. I am one of the founding members of the Australian Employee Ownership Association, which was founded about 15 years ago. In 1975, I introduced to Australia the American inventor of ESOPs, Lewis Kelso, who met with members of parliament and various committees like your good selves. To introduce the idea of ESOPs, Mr Kelso had written a number of books, including the *Capitalist Manifesto* and the *New Capitalists*. To introduce Kelso's ideas to Australia in 1975 under the Labor government, I wrote a small book—because Kelso's books were not available—and that had the rather immodest title of *Democratising the Wealth of Nations*. It was published by the Company Directors Association, who thought its members would not buy that, so they had an alternative title called *New Money Sources and Profit Motives*. All members of parliament got a copy, including our present Prime Minister, and I would like to share a copy with the committee, if I may. It is 24-years-old but it is not out of date. It was written to transcend time and position, and is the manifesto of social capitalism.

The objective of my submission is to build on the submission of the Employee Ownership Association to deepen and extend employee ownership, and to give it a political mandate by including other stakeholders, so you can get 100 per cent of the voters behind you, in this way legitimising employee ownership by having an inclusive approach. It is not just employees who are voters but also the other strategic stakeholders of any business—which are its customers and suppliers.

I developed alternative ideas to the Kelso plan. The Kelso plan in America depends upon tax incentives and sophisticated banking arrangements to lend money to workers to buy shares which are self-financing. The plan that the book is based on introduces the idea of an ownership transfer corporation, where you eliminate the fundamental problem of capitalist societies of concentrating wealth and privilege in a minority.

One of the major problems for people like yourselves in politics is that you rely on Treasury advisers and economists, and economists do not look at the ownership issue. They say that ownership is not part of economics. If a businessman published accounts like the national accounts, he would go to gaol because they do not show where the assets and liabilities are. We do not keep a record, and what we are doing in accepting foreign investment, as Professor Edith Penrose said in a leading article about 20 years ago, is accepting unknown, unlimited and uncontrolled foreign liabilities which are putting the nation in debt and that is why we have a foreign account deficit. The Treasury and economists see no alternative because they accept the ownership distribution of a country as a given, not a variable—and rightly so because, until Kelso's and my own book, there was no practical technique of expanding ownership to all citizens to create a stakeholder economy.

The Treasury assumption of managing the national economy is that there are only two ways to distribute national income: you either have work or you have welfare. If you have welfare, you need taxation. The whole economic macro-management is done on those assumptions. We want to minimise welfare and taxation, so we want to maximise employment. What this book suggests is that you want to have fulfilment in employment or leisure. You provide everybody with a property income, so you work for fulfilment rather than out of the necessity to earn a living wage. The idea is to create a universal minimum income scheme to reduce the need for taxation and welfare, and to empower individuals to have political objectives of fulfilment in employment or unemployment.

The Treasury line ignores that there is a third way to distribute national income, which is distributing the ownership of income-reducing property. Throughout the world, macro-economic policies are based on work or welfare and they all ignore the third way, which is distributing income-reducing assets. Decentralising the ownership of assets and distributing income provides the basis for reducing the need for taxation and welfare.

One of the common arguments you hear in the opposition circles is, 'ESOPs are a tax lurk. We don't want them. We can give control to the workers through the industry funds.' That is a lot of nonsense because industry funds just concentrate ownership and control in a small elite minority. I have worked with ACTU people trying to get those industry funds to direct their investments into worker buy-outs. You find that the industry funds contract out the investment decisions to the big banks and the merchant banks—the same people that control the money bags anyway. It is very frustrating. You get this alienation between ownership and control, and then you get the One Nation Party because people feel powerless, unempowered and not involved. It is unconnected capitalism. I am suggesting that Australia could be a world leader, a role model. We could have the Australian model of socialised capitalism by expanding and deepening employee ownership on an inclusive basis to include other stakeholders. That is probably enough to start with.

**CHAIR**—Thank you very much, Mr Turnbull. I can see I would have an interesting dinner party if I invited you and Mr Cameron.

**Mr Turnbull**—I agree with much of what Mr Cameron said. It is one of my greatest frustrations that the employee ownership schemes are misused by the corporates. It is mainly driven by what they call the 'Top Hat' schemes for senior executives and the in-group. To legitimatise them getting excessive payments, they share it around a little bit to give a political mandate. I am suggesting that we want to see beyond that to get not just a mandate within a corporation, but a mandate within the whole voting constituency of Australia, so that all people have an inclusive vested interest in property ownership—not when they retire but in their working life. It would become a national right that you acquire property rights to those corporations of which you are a consumer or a supplier.

**CHAIR**—Why do you think Australia has such low levels of employee share ownership compared with a lot of European countries and the US?

**Mr Turnbull**—I could not answer that authoritatively. I think there is a philosophy in Europe of involving workers. In Germany, employees are seen as members of a company as much as shareholders are, and that is why you get co-determination. It is a philosophical

outlook. When people say ‘my company’, it is not just the company employing them; they really see it as their company. So it is quite a philosophical difference. Last year, I represented Australia at the first meeting of employee shareholders in Europe, which was sponsored by the Economic Union. As you say, Mr Chairman, there is extensive employee ownership throughout Europe, but it is not as organised as it is in Australia, funnily enough. It is done at the grassroots cooperative level.

**CHAIR**—I see you represented Australia in skiing too!

**Mr Turnbull**—Yes.

**CHAIR**—The Kelso plan was as much about transferring company ownership as it was about share ownership. Is that right?

**Mr Turnbull**—No. The Kelso plan was to finance the expansion of the productive base—Kelso’s argument being that, when you want to expand and get new capital equipment, all capital equipment is self-financing. So anybody can own new productive capacity as long as they can get a loan during the payback period. His argument was, ‘Let’s make credit available on condition that it is democratically held by the people who contribute to it—the workers.’ That was the basis of the Kelso plan. It is called a leveraged employee share ownership plan, and I distinguish that from the ESOP plans we have in Australia.

We have very few leveraged employee ownership plans in Australia. We have them in management buy-outs. This is a self-financing idea which is, again, off the radar screen of economists. They do not understand self-financing. But productive assets, or what the president of the Bookings Institute called ‘procreative assets’, are the only way to raise standards of living without people working longer or harder. Procreative assets are self-financing and so you do not need foreign finance or the argument that we do not have enough national savings. It is a nonsense, because the investment creates the savings. It is a bootstrap operation; it is self-financing.

The United States and Japan did not have a world bank to finance their development. They became self-financing. Australia has been inculcated with this defective, deficient economic thinking that we are a dependent economy and that we must have finance from overseas. That is nonsense. We just do not have the right institutions to be independent and to increase ownership and control locally. Employee share ownership plans and stakeholder plans are a way to do that.

I make three points in my submission. One of them is that we have an expanded ownership act. I use the words ‘expanded ownership’ to include employee, other customers and suppliers. Part of that expanded ownership act would be not to have this nonsense of the government giving millions of dollars to industry development in Australia without making the condition that the ownership be spread round. I think Visyboard is one example. Back in the Labor Party days, you had Hawke giving $30 million to Kodak unconditionally to keep jobs. That $30 million should have gone to the employees and been invested in the company—the same with Visyboard. An expanded ownership act would have an ownership impact statement on all economic legislation brought into parliament.

The second point of my submission is to support a community investment code to counter the MIA agreement. I made a submission to the Department of Foreign Affairs and Trade that Australia's submission to the World Trade Organisation be based on all countries unilaterally introducing a community investment code whereby there is a two-tiered corporate tax system. Under the present tax system, the owners can own it forever, but you could get half a tax rate if the owners changed the constitution of corporations so that five per cent of the ownership each year was transferred to the stakeholders. Five per cent a year for 20 years is 100 per cent. So, in 20 years, we would buy back the farm while still attracting more foreign investment. It is a way of having our cake, eating it, and not paying foreigners unknown, uncontrolled and unlimited remittances. It is just economic suicide going the way we are, allowing foreign investment here to extract value—more than the foreigners need—to attract them to invest. Sure, you need foreign investment to transfer technology but, at the present time with the present rules of owning companies, we are vastly overpaying them.

One way to expand employee ownership and other types of stakeholder ownership is a community investment code so that we have a two-tiered tax system. I have made a submission to the Ralph committee on that to tie it in also. It would be a voluntary thing. If the shareholders did not want to increase their profits by having a reduced tax rate, then so be it. Those who wanted to maximise short-term profits would change the corporate constitution so that ownership transferred to employees and other stakeholders. You would all get lots of votes. In other words, in all your communities, you could say, 'This is what we are doing for you.' It is not a third order issue. That is the only thing I disagreed with the previous speaker on. It is not a third order issue, it is a first-order issue to reform the economy, to make it more efficient, more equitable and more sustainable.

**Mr SAWFORD**—In terms of the inquiry thus far, we have only ever had mention of four countries other than Australia, including the UK and the United States. The UK have 10 and it is maybe growing; the US have 15, as far as the employee share ownership plans are concerned. Germany is about the same as us, and Japan is lower. I have not heard of any other country or any other person put forward any other evidence. In terms of employee share ownership, I do not think your example about Germany is particularly valid when they basically have the same level of share ownership as we do. You acknowledge that it is more organised in Australia. You mentioned that Japan—and I suppose I can conclude Germany—may have made significant gains. They had massive foreign investment. They did not create their own economy. I find great difficulty in taking seriously some of the principles you are putting forward to me.

**Mr Turnbull**—First of all, I would clarify that point about Germany. I am not saying that Germany had more ownership.

**Mr SAWFORD**—You mentioned Europe.

**Mr Turnbull**—Yes, but France is the country, not Germany.

**Mr SAWFORD**—My question is very specific. Do you have any evidence of any other countries in Europe, other than Germany, in terms of what is happening with employee share ownership?

**Mr Turnbull**—Yes. I have little evidence of Germany, and I am sorry if there is any misunderstanding there. France has had a more active employee ownership movement since, after the war, General de Gaulle introduced law whereby a small percentage of the companies were distributed to workers. That gave it a kick-start in the 1950s.

**Mr SAWFORD**—Do you have any current references to that, to France or any other country in Europe?

**Mr Turnbull**—I could locate some for you, but I think, from the meeting in Brussels last year, it was the French who had the strongest background in employee ownership rather than Germany. Germany has more work councils and control rather than ownership.

**Mr SAWFORD**—That is fine. If you have the evidence, I am quite interested in looking at it.

**Mr BARTLETT**—I am just interested in your proposal, Mr Turnbull, regarding the Reserve Bank creating money to finance share ownership and the impact of that monetary creation on the level of inflation. Do you not see a problem with inflation?

**Mr Turnbull**—First of all, I would not use the word 'money'. I would use the word 'credit'. Money is only about two or three per cent of the money and credit in circulation.

**Mr BARTLETT**—Money is generally used to measure purchasing power, including credit.

**Mr Turnbull**—Yes, I understand. The Reserve Bank at the moment has no idea of the amount of credit. The amount of credit in Australia is expanding every year as turnover increases. The banking system is a way of creating more credit. As the Governor of the Reserve Bank will himself admit, it is a very blunt instrument. When credit expands, they have no idea where it is expanding to. Is it financing property, derivatives or speculation, or is it expanding productive capacity? It is a blunt instrument. What I am suggesting is that you need to have selective direction of where the credit goes and you need criteria for selective policies. At the moment, we have unselective policies. We have the philosophy of a level playing field and we say, 'Let's not subsidise things.' As a result, we are financing speculation and instability.

**Mr BARTLETT**—But what I am asking is: do you see a problem in terms of an inflationary impact of expansion of credit by the Reserve Bank creating money?

**Mr Turnbull**—It is doing it all the time indiscriminately. What I am suggesting is that a selective policy would reverse inflation by making sure that expansion of credit went into increasing productivity and creating more goods and services. It is the very reverse of what you are suggesting.

**Mr BARTLETT**—How do you say the Reserve Bank is creating credit all the time?

**Mr Turnbull**—Not the Reserve Bank. The banking system expands credit. The more loans that are created—

**Mr BARTLETT**—Of course, that creates money. But you are suggesting that the Reserve Bank do it. You do not see that that will have an inflationary impact?

**Mr Turnbull**—Provided it goes into increasing productivity—and the criteria is that they must be self-financing productive assets—but if you expand credit for speculation, you will get inflation.

**Mr BARTLETT**—Of course, which I put to you is a quite likely outcome of the Reserve Bank financing employee share ownership.

**Mr Turnbull**—Not if it is tied to increasing the productive capacity.

**Mr BARTLETT**—That is a big if. That is a possible secondary effect.

**Mr Turnbull**—Not possible—it would have to be guaranteed. That is the purpose of having loan insurance. You have the non-bank sector guaranteeing that any credit provided is cancelled. You have a self-liquidating process. Unless you have self-liquidating assets, you do not get economic development. That is the purpose of credit insurance. It is a guarantee by the non-bank sector that you cancel the credit created.

**Mr BARTLETT**—I am not convinced that that could work, but perhaps we will pursue that another time. Do you see any impact on the level of the Australian dollar then, as a result of credit creation?

**Mr Turnbull**—It would strengthen the dollar because we would be more productive. We would not have to export.

**Mr BARTLETT**—If there were not an increase in productivity commensurate with the increase in the level of money, we would have inflation and we would have then a downward effect on the dollar.

**Mr Turnbull**—But we are doing the very opposite. There are two ways that you would strengthen the Australian dollar. One is that you are targeting more productivity; two, you are substituting the need to service overseas finance, exporting foreign exchange to pay interest to foreigners because we would be self-financing locally. For two reasons, it would be the very opposite.

**Mr BARTLETT**—Assuming you got an increase in productivity.

**Mr Turnbull**—You would have to have that guaranteed. That is why you have the loan insurance. We have insurance for housing, which does not increase productivity. It is a social welfare action. We have got it back-to-front. What we need is to encourage expanding our productive base.

**Mr BARTLETT**—I am not sure that I agree with the argument, but thank you.

**Mr BARRESI**—In terms of it being guaranteed through increasing the productivity, we just heard from Doug Cameron about all the various ways in which productivity should be

measured and his views about how the share ownership will not have an impact on that. We have yet to hear in any definitive way, from any of the submissions that I have witnessed, that they can show a causal link. There is an anecdotal link but certainly no causal link between their share schemes and productivity improvements. How do we go about making this proof? Otherwise, if we cannot make the link, the loan insurance can come into effect on every single occasion.

**Mr Turnbull**—There are two things about the link. One is that there are surveys in Australia, which you have probably already got, showing that listed companies' share plans have better performance. Have they been submitted to you?

**Mr BARRESI**—In fact, if I recall, what we have heard is that they are only just starting a process of making that sort of investigation.

**Mr Turnbull**—I saw a survey done by Remuneration Planning Consultants about four or five years ago where they looked at many listed companies and showed that they had better performance.

**CHAIR**—In their submission, there was some suggestion that companies with employee share ownership plans had fared better coming out of the recession, but I found it difficult to accept as hard evidence.

**Mr Turnbull**—There are also overseas studies which support that. But your question, more specifically, goes back to the self-financing issue, which is not share price. We are talking about the ability of productive assets to be self-financing. You are saying, 'How can that be?' There is soft evidence on increasing productivity, but this is hard evidence. This is cash flow. What you are looking for is a guarantee about the cash flowing in. If you invest $1 million in a project, you are asking for loan insurance to guarantee that that project is going to return the $1 million, pay off the investment and then pay the interest and provide an extra surplus to increase the living standards of the whole nation. That is what the loan insurance is all about. It is not ifs and buts and maybes. You are getting hard-headed businessmen having to put their sign off on loan insurance that it will pay back more than it costs. That is how you define productivity. You get back more than you put into it.

**Mr SAWFORD**—I have one last question. In the bibliography in your book, you refer to a book that I have not heard of, *The National Dilemma and the Way Out,* written by Winnet Boyd. It is a Canadian publication. Does that have anything to do with the Social Credit Party in Canada?

**Mr Turnbull**—No, not at all.

**Mr SAWFORD**—Is it totally different?

**Mr Turnbull**—It is presenting the Kelso plan in laymen's language and pictures.

**Mr BARRESI**—Are there examples of the Kelso plan in Australia at the moment? Did you say there are some?

**Mr Turnbull**—I cannot give you specific examples. Very few of them are done on leveraged share ownership plans. They are mainly savings plans in Australia.

**Mr BARRESI**—You are saying there are 'very few'. Therefore, there are some? Are there are one or two out there?

**Mr Turnbull**—There could be. I did not want to be pedantic. I cannot give you specific examples, but most plans in Australia are fully funded plans, except for the management buy-outs where you borrow money to buy the shares.

**Mr BARRESI**—If you are able to identify one or two examples in Australia, you will let us know.

**Mr Turnbull**—One comes to mind: the BHP plan is a leveraged plan where they have borrowed over $400 million to buy new shares and the dividends of those shares go back to pay off the loan over 20 or 30 years. And then the money they borrowed, I remember, they refinanced off the balance sheet—that was about four or five years ago. I think about seven per cent of BHP is owned by the employees. I think with that particular plan it may be about four per cent and involve about 30,000 people. It is a leveraged share plan—one of the few—where it is self-financing. I think the BHP initiatives were driven by Holmes a Court's interest in the company, and that was one way of providing a defence.

**Mr BARRESI**—Who carries a risk in that situation?

**Mr Turnbull**—The borrower. It was interesting because they sold the debt to third party bankers, and BHP paper is seen as having maybe little risk. That is how Holmes a Court was able to borrow money against the shares to take it over, I remember, many years ago. It is the integrity of the paper. The lenders are secured against the future cash flow from the company. I do not know the exact risk division between the company and the lenders. It would be best to ask BHP people directly about how that works. But it is an example of a leveraged share ownership plan. The importance of having leverage is that it does not take up people's savings because, if you divert income into savings, you are reducing their ability to spend and consume and to generate greater economic activities.

**Mr BARRESI**—I recently came across an investment adviser who advised a friend of mine—this may be along the same lines that you were talking about; I have a very simple economic mind—that if they went to a bank and borrowed $125,000 or thereabouts, and that is an arbitrary figure, and used their house as a security for the loan, and then purchased $125,000 worth of shares, then the dividend that would come out of the shares would end up paying the loan back. Is this the sort of thing that you are referring to in the leveraged scheme and the creation of wealth?

**Mr Turnbull**—Yes, it is self-financing wealth. In America, it is not just the dividends, it is also contributions by the company which the Congress encourages by giving a tax deduction to the company to contribute to pay back the loans. They also give tax deductions to the banks who lend the money for those loans. They give tax deductions to people who sell shares to workers to create a preference for local ownership, rather than for local companies selling out to foreigners, then you would have to pay the full capital gains tax.

**Mr BARRESI**—For this to be a benefit to an employee in a company, they would have to look at this as a long-term investment. This cannot be three or four years of your working life in company X because with the market fluctuations—peaks, troughs and all those sorts of things—you could be caught out in that sort of situation.

**Mr Turnbull**—About 9,000 of the 10,000 ESOPs in America are private companies not listed companies, so you do not get the market fluctuations. That is one of the biggest deficits in this country. We do not have ESOPs to finance who needs it most. It is a way of financing the non-listed companies in Australia. It is a new source of cheap finance for unlisted companies, for private and medium sized companies. It is not necessarily a long-term pay back period, because in the States it is not just the dividends, as I said, it is the cash flows from the investment and the pay back periods are often seven or eight years.

**CHAIR**—It is interesting. Mr Cameron made a number of assertions, and one of them was that employees as share owners had no real say in how the company was being run or anything like that. I can understand that some workers could obviously have that point of view, which is legitimate. But you could imagine that if we had employee share ownership working in smaller companies, perhaps, from the workers' point of view, they would have far more say.

**Mr Turnbull**—It depends how they are structured. In America, the tax laws make it a condition of getting the tax deductions that the vote on major issues pass through the trust. What normally happens, both in public and private companies, is the shares are held in trust, because the shares are mortgaged in the leveraged ESOP scheme, and the condition of the lender is that they do not want the workers to control it, often the bankers control it. So to stop that the American Congress said, 'We will only provide the tax advantages if critical votes pass through the trust to the workers to give them genuine control.'

**CHAIR**—Thank you very much, Mr Turnbull. We appreciate your commitment to this issue to the extent of not only coming here today and giving us your submission and your time but also providing us with a book. If you have any comments to make on any of the submissions that are made, then we would be very happy to receive them.

**Mr Turnbull**—I will look up some references in France for Mr Sawford.

**Mr SAWFORD**—Or any other places.

**Mr Turnbull**—You are interested in the percentage of employee ownership?

**Mr SAWFORD**—Yes.

**CHAIR**—Thank you.

**Mr SAWFORD**—I move that the committee receives as evidence and includes in its records as an exhibit for the inquiry into employee share ownership plans the document received from Mr Turnbull titled, *New Money Sources and Profit Motives*.

Resolved (on motion by **Mr Sawford**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at the public hearing this day.

**Committee adjourned at 3.32 p.m.**