

TERMS OF REFERENCE

1. On 23 September 1987, the Senate resolved as follows:

That the Australia Card Bill 1986 be referred to the Standing Committee on Legal and Constitutional Affairs for inquiry and report, upon the establishment of that committee, or, if a committee of that name is not established, to a committee specified in a subsequent resolution, and the committee:

- (a) examine in detail the provisions of the Bill;
- (b) consider the provisions of the Bill in the light of the reports of the Joint Select Committee on the Australia Card and of the Scrutiny of Bills Committee;
- (c) examine the integrity of the card manufacturing process in order to assess the likelihood of forgery and fraudulent or criminal misuse;
- (d) assess the feasibility of the proposed system in the event of a failure of any one or more States to co-operate in the establishment of a births, deaths and marriages register;
- (e) examine the extent to which new or updated computer systems and recent crackdown campaigns on welfare cheating and tax avoidance and evasion will obviate the need for the proposed system;
- (f) assess the direct cost to the private sector in establishing and maintaining the system;
- (g) determine the capacity of the proposed Data Protection Agency to adequately safeguard and protect the privacy of the individual and to control unauthorised use of the card and/or individual identification numbers by commercial organisations such as credit insurance companies and unincorporated associations and clubs;
- (h) investigate the desirability, timing and nature of comprehensive privacy legislation in Australia and the extent to which it might or should replace the privacy protection arrangements proposed in relation to the Australia Card;
- (i) examine the extent to which the proposed system accords with OECD guidelines on the Protection of Privacy and Transborder Flows of Personal Data (1981);

- (j) examine the issues raised regarding the physical security of dedicated land lines and other data transmission facilities involved in the Australia Card programme;
- (k) consider the appropriateness of the range and level of proposed penalties on individuals and other entities, including the differential in penalties which applies to breaches of the legislation by the Authority and breaches by private citizens and corporations;
- (l) determine whether any, and if so what, limits or penalties should attach to unauthorised use of identification numbers by Federal, State and local government agencies and private sector bodies;
- (m) examine and, where appropriate, take evidence from overseas experts as to the experience of other countries with identity card systems;
- (n) examine and report on the constitutionality of the Government's proposed Australia Card and personal identification system;
- (o) assess the usefulness of the card and numbering system in achieving the objectives claimed for it, with particular reference to the cash economy, organised crime and large-scale tax evasion;
- (p) examine any matters relevant to the preceding; and
- (q) present a final report on or before the first day of sitting in 1988.

(Journals of the Senate, No. 8, dated 23 September 1987)

...

2. On 8 October 1987, the Senate resolved as follows:

- (1) That, notwithstanding anything contained in the Resolution of the Senate of 23 September 1987, the Senate Standing Committee on Legal and Constitutional Affairs report the Australia Card Bill [No. 3] to the Senate on or before the next day of sitting, without further considering the Bill or the matters referred to the Committee in relation to the Bill

- (2) That, upon receipt the report of the Committee, the Australia Card Bill 1986 [No. 3] be laid aside, without any further question being put.
- (3) That, while, in recognition of:
 - (a) the overwhelming public opposition to the proposed national identity card system; and
 - (b) the determination of the Senate to exercise its proper constitutional rights to disallow the regulations necessary to give effect to the national identification system proposed,

the government is not now pursuing the Australia Card Bill 1986, it has nevertheless not given any guarantees not to introduce the legislation in an amended form or to establish a national identification system by some other means, and the concerns of the Senate regarding the effectiveness, cost and imposition upon personal privacy still remain, the following matters therefore be referred to the Senate Standing Committee on Legal and Constitutional Affairs for report on or before 1 May 1988:

- (a) the provisions of the Australia Card Bill 1986 considered in the light of the reports of the Joint Select Committee on the Australia Card and of the Scrutiny of Bills Committee;
- (b) the feasibility of any proposed national identity system operating in the event of a failure of any one or more States to co-operate on the establishment of a births, deaths and marriages register;
- (c) the extent to which new or updated computer systems and recent crackdown campaigns on welfare cheating and tax avoidance and evasion have obviated the need for a national identity system;
- (d) the appropriate responses which should be made to the recommendations contained in the various Australian Federal Police reports on fraud against the Commonwealth and the Report of the Review of Systems for Dealing with Fraud of the Commonwealth;
- (e) the direct cost to the private sector in establishing and maintaining any such system;

- (f) the capacity of the proposed Data Protection Agency to adequately safeguard and protect the privacy of the individual and to control unauthorised use of any proposed national identity card and/or individual identification numbers by commercial organisations such as credit insurance companies and unincorporated associations and clubs;
- (g) the desirability, timing and nature of comprehensive privacy legislation in Australia in the light of concerns raised in the debate over the proposed Australia Card legislation;
- (h) the extent to which any proposed system should accord with OECD guidelines on the Protection of Privacy and Transborder Flows of Personal Data (1981);
- (i) the extent of personal data held on Australian citizens by Government Departments and Agencies and by private sector agencies, its level of accuracy, access to it and its cross-referencing within the Government sector;
- (j) the security of data already held by Government Departments and Agencies;
- (k) the physical security of dedicated land lines and other data transmission facilities currently in use of proposed;
- (l) the appropriate range and level of penalties on individuals and other entities, which should be imposed for the improper use or release of personal data;
- (m) the evidence available from overseas as to the experience of other countries with identity card systems, including the taking of evidence from overseas expert witnesses;
- (n) the usefulness of any card and numbering system in achieving the objectives of reducing the extent of the cash economy, organised crime and large-scale tax evasion and welfare fraud; and
- (o) any matters relevant to the preceding.

(Journals of the Senate, No. 12, dated 8 October 1987)