



HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Reference: Treatment of census forms

CANBERRA

Tuesday, 2 September 1997

OFFICIAL HANSARD REPORT

CANBERRA

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Members

Mr Andrews (Chair)

Mr Andrew	Mr Mutch
Mr Barresi	Mr Randall
Mrs Elizabeth Grace	Mr Sinclair
Mr Hatton	Dr Southcott
Mr Kerr	Mr Tony Smith
Mr McClelland	Mr Kelvin Thomson
Mr Melham	

Matter referred to the committee for inquiry into and report on:

The treatment of forms from future population censuses.

The inquiry will examine the issues surrounding the destruction or retention of census forms. It will focus on whether the current practice of destroying census forms after processing should continue or whether they should be retained for medical, social and genealogical research.

WITNESSES

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PIGGOTT, Mr Michael, Director, Agency Services, Australian Archives, PO Box 34, Dickson, Australian Capital Territory 2602	26
SKINNER, Mr Tim, Deputy Australian Statistician, Australian Bureau of Statistics, Cameron Offices, Chandler Street, Belconnen, Australian Capital Territory 2616	4
STUCKEY, Mr Steve, Assistant Director-General, Australian Archives, PO Box 34, Dickson, Australian Capital Territory 2602	26
TAM, Dr Siu-Ming, Assistant Statistician, Australian Bureau of Statistics, Cameron Offices, Chandler Street, Belconnen, Australian Capital Territory 2616	4
WHITE, Mr Robert Anthony, Consultant, Australian Bureau of Statistics, Cameron Offices, Chandler Street, Belconnen, Australian Capital Territory 2616	4

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Present

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Mr Barresi

Mr Randall

Mr McClelland

Mr Tony Smith

Mr Mutch

Dr Southcott

The committee met at 4.11 p.m.

Mr Andrews took the chair.

CHAIR—I declare open this public hearing of the committee's inquiry into the treatment of census forms. I welcome the witnesses, any other members of the public and others attending this meeting of the committee. This is the first public hearing of the committee's inquiry into the retention of census forms. The subject of the inquiry is whether the current practice of destroying name-identified forms after the data is collected from them should continue.

On one hand, there has been some pressure from family history groups and other researchers to retain the forms and release them following a period of between 70 and 100 years. We are told that the data on census forms would be of great value to researchers, even though the data would not be released for a significant period of time.

On the other hand, there have been assertions that retention and eventual release of the forms would cause people to be less than honest in completing the forms in the first place. If this happened, the quality and thus the value of the data would be eroded. There are suggestions of concerns about privacy stemming from retention of forms without weighing benefits to be gained from keeping the forms. It has been suggested the cost of storage of either the paper forms themselves or name-identified data stored electronically would be prohibitive.

These are some of the propositions that the committee must test in the course of this inquiry. We look forward to beginning this process today with witnesses from the Australian Bureau of Statistics, Australian Archives and the Australian Institute of Health and Welfare.

McLENNAN, Mr William, Australian Statistician, Australian Bureau of Statistics, Cameron Offices, Chandler Street, Belconnen, Australian Capital Territory 2616

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WHITE, Mr Robert Anthony, Consultant, Australian Bureau of Statistics, Cameron Offices, Chandler Street, Belconnen, Australian Capital Territory 2616

CHAIR—I would like to begin by calling Mr Bill McLennan, the Australian Statistician, and other officers of the Australian Bureau of Statistics to give evidence. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of the parliament.

We have received your submission to the inquiry under cover of letter dated 18 July 1997. Would you like to make some opening statements or a presentation to the committee at the outset?

Mr McLennan—I would, thank you, Mr Chairman. Australia can be justifiably proud, in my view, of its statistical service in terms of both the quality of its output and its integrity. Having worked for three years as chief statistician in the United Kingdom and having been chairman of the United Nations Statistical Commission, I am well placed to say that our statistics are second to none. I am proud to say that, by the way. It is my job as Australian Statistician to produce the best statistics I can for use by the governments of Australia, both federal and state, and for the community generally. It is in this context that the ABS has made a substantial submission, because I believe that the outcomes of this inquiry have the potential to significantly and perhaps adversely affect the quality of census taking in Australia and the quality of ABS statistics more generally.

As I see it, the basic issue for this inquiry is whether the value of the benefit of retaining census forms for medical, social and genealogical research in 75 or 100 years time exceeds the reduction in quality and hence value of the census data and other official statistics for current and future use, and the costs associated with the retention. Over the years many have made a judgment on this issue and have come to the conclusion that census forms should be destroyed. These include the current and previous director-generals of the Australian Archives, following independent investigations of the value and costs of retaining census forms from the 1986, 1991 and 1996 censuses—you will hear from the Director-General himself after me; successive federal governments, starting with a decision by the then Treasurer, Mr Snedden, in 1971 and including a decision in 1979 by the then Treasurer, Mr Howard, to reject a recommendation from the Australian Law Reform Commission that census forms be retained; the previous Privacy Commissioner—and it would seem from the current Privacy Commissioner's submission that she too supports the continued destruction of census forms; the Australian Statistics Advisory Council over many years; and all recent

Australian statisticians.

Following the Australian Archives review for the 1996 census, the Director-General agreed to issue a destruction order for 1996 and subsequent censuses, in the following terms:

A disposal authority allowing the destruction of name identified records for 1996 and beyond will be issued. If circumstances alter for subsequent census records then these disposal arrangements can be reviewed.

ABS considers that there have been no significant changes in circumstances which would warrant any change in the current policy of census form destruction. Indeed, ABS's assessment of the submissions to the inquiry is that they do not materially add to the case for retention that was considered by the Director-General in his last review. However, to the contrary, new evidence shows that public opposition to the retention of census forms is very much higher than expected. There are also significant costs associated with the retention of census forms.

The current practice is for census forms to be destroyed once statistical processing is completed. Names and addresses are not kept or put onto the computer record. However, ABS retains a complete electronic copy of all the unidentified statistical information relating to each person responding to the census. That is a file in excess of 18 million records. The computer file is kept permanently and, subject to the confidentiality requirements of the Census and Statistics Act, is available to support all forms of statistical analysis and research.

The initial decision in 1971 that census forms be destroyed was driven by a public campaign on privacy issues led by a new political party, the Australia Party. The public debate on the proposed Australia Card that took place in the 1980s shows how easily the population's attitudes can be inflamed over privacy concerns. The privacy climate can change very quickly. Market research commissioned by the ABS before each census over the past 20 years has consistently identified privacy and confidentiality as key issues of public concern that need to be addressed in the public relations campaigns.

It is not just an ABS view that these issues are important. The New South Wales Privacy Committee made similar points in its submission to this inquiry, based in part on the direct contact it had with the public during the conduct of the last census and in part on other evidence relating to privacy concerns.

Giving absolute guarantees of privacy and confidentiality of census data to the public is considered by the ABS to be the most effective way to allay such privacy concerns. Rebutting claims about possible misuse of census data would be considerably more difficult if census forms were retained. As the previous Privacy Commissioner, Mr Kevin O'Connor, pointed out, however strong the reassurance initially about confidentiality in the closed access period, the bureau would inevitably come under severe pressure to make exceptions for other public interests.

This theme was picked up by the current Privacy Commissioner, who says in her submission that, if the census forms or information are retained in name identified form, the temptation will be there for the information to be put to other uses, currently ruled out, which could easily be authorised by a government of the future. I do not think this is idle speculation. Examples of past misuse and pressure on the US Census

Bureau over the years to release confidential census information are provided in the ABS submission. There is also a very interesting comment made on this point in the submission from the New South Wales Treasury.

We believe there is significant public opposition to the retention of census forms. Recent research commissioned by the ABS and conducted by AGB McNair soon after the 1996 census indicates there is significant public opposition to the retention of census forms. The key findings of the research are that 89 per cent of respondents agreed that census forms should be destroyed to protect people's privacy and confidentiality; 67 per cent disagreed that census forms should be stored for release in future for research purposes; between 34 and 45 per cent said that they would be less likely to complete a census form if forms were kept for release at some time in the future; between 38 and 49 per cent said that the information on the census form would be less accurate if forms were kept for release; and 63 per cent disagreed that future governments can be trusted to honour guarantees of confidentiality made today regarding census forms. Although these figures are large, they mirror other findings of the ABS.

Further, the research suggests that, if census forms were retained, ABS could expect a significant reduction in the level of public cooperation in the census. Non-response rates of the order of 10 per cent or more are possible. Should civil liberty and privacy groups mount a substantial campaign, they could be even higher. In this context it should be remembered that the AGB McNair research was conducted following the 1996 census, a census which ran smoothly with only low-key privacy debate. The quality of data provided by households could also be expected to be affected, and we would have no way of adjusting the data.

The research suggests also that, while the retention of census forms might lead to a high level of non-response generally, the level of non-response and the accuracy of data provided would vary according to geographic location, age, ethnic background, marital status and level of education. This is quite an important point, as it would make the census statistics less reliable and it is likely that any detailed analysis could even be biased.

Most critically, the accuracy of the ABS population estimates, which rely on the census, would diminish and their accuracy would vary across states and territories, which will have significant consequences. In this respect I would point out that the experience of the United Kingdom in the conduct of its 1991 census should be a warning to us. You would note in our submission that we point out that their 1991 census had quite a high non-response rate and a variable rate across the United Kingdom, so much so that they cannot use the population counts of the census as a basis for their population estimates and are currently relying on their 1981 census information. A situation like that in Australia I would have to rate as a disaster.

It must be remembered that a census is a rare and expensive event, involving, as it does, the whole nation at one point in time. There is no opportunity to re-run the census should the census fail; it is one-off. In addition, I am concerned that a change in the policy on census form retention could undermine confidence in the community, or in parts of the community, about the ABS's resolve to protect the confidentiality of other data that it collects.

The ABS has a very solid compact with its respondents. Response rates are very high and respondents provide accurate data, and in turn the confidentiality of the data is completely protected. This level of

cooperation is the envy of most overseas statistical agencies, and it should not be put at risk by any reduction in the public's confidence in the ABS. In this respect I believe we must remember that, when it comes to questions of integrity, the perception of integrity is as important as the fact of integrity—a point that I am sure is not lost on politicians.

I would like to give you three examples of the possible impact of lower quality census data. The first example relates to the impact on electoral distributions. You might know, for the record, that I am also one of the three members of the Australian Electoral Commission—but I am talking here as a statistician.

The constitutional requirements for reliable state and territory population estimates for the purpose of determining the number of each state's members in the House of Representatives is explained in our submission and in the submission from the Australian Electoral Commission. The 1976 opinion of the then Attorney-General and the then Solicitor-General quoted in the submission has been confirmed by the Attorney-General's Department as still being current.

The opinion suggests that a reduction in the accuracy of state and territory population estimates could afford grounds for the High Court to hold that the number of each state's members in the House of Representatives was not in proportion to the population as is required by the constitution.

In its submission, the Australian Electoral Commission emphasised the important public interest involved in ensuring that determinations of representation entitlements for the federal parliament are based on reliable population estimates. The Electoral Commission suggests that to do otherwise could reduce public confidence in the electoral process, lead to constitutional litigation on the accuracy and appropriateness of the ABS population estimates—something I would not like—and constitutional challenges could throw into doubt the validity of representational entitlements and restrain the calling of an election.

The Electoral Commission's concerns were also shared by the Australian Joint Roll Council in its submission. Further, the seriousness of this point was shared by the parliament in 1977 when the Census and Statistics Act was amended. A requirement was placed on the Australian Statistician to conduct five-yearly population censuses and to produce quarterly population estimates for the states and territories; otherwise the Australian Statistician was given the power to collect statistics generally as he or she considers appropriate. In my view, this is quite a significant difference.

The second example relates to the possible impact on the distribution of grants to the states and territories. State and territory population estimates are used in the distribution of about \$21 billion each year in the Commonwealth grants to the states.

Current inaccuracies in those estimates already are a matter of concern among some of the states and territories, which no doubt you know is reflected in the submissions from the premiers and chief ministers. Increased inaccuracy would be viewed very unfavourably. Also, the Commonwealth Grants Commission's submission expressed concerns that a reduction in the census data accuracy would result in large amounts of money being distributed differently amongst the states.

Thirdly, census data are used extensively in the planning, delivery and evaluation of services to

geographic regions and to various population groups such as migrants, the aged, children and indigenous peoples. They are also used extensively by business and community groups for their planning and research. The submissions from a number of Commonwealth, state and territory governments expressed concern about any reduction in the quality of the detailed data that is currently available from the census. They all pointed to the importance of the accuracy of census data to support their work.

Finally, I want to comment on the case that has been put forward as to the value of keeping name identified census records. The ABS submission records that in the lead-up to the 1996 census no demands were put to the ABS for the use of census forms for medical or historical research, even though the ABS explicitly sought submissions in its consultation processes.

It seems to me that the cases presented in submissions to this inquiry are not substantial in number nor in their content. The Director-General of Australian Archives reported that the only clearly identified use indicated in the submissions to his 1996 census review was by genealogical associations. That would seem to be the case with this inquiry. But, again, no substantive case has been made for the use of census forms for genealogical research which demonstrates substantial social and community benefit.

As the submission from the New South Wales Privacy Commission put it, there is no overwhelming interest in collecting and storing data in a way which breaches contemporary and clearly documented expectations of privacy simply on the supposition that people 100 years hence will find it useful.

In conclusion, I consider there have been no significant changes in circumstances which would warrant any change in the current policy of census form destruction. Indeed to the contrary, new evidence shows that public opposition to the retention of census forms is very much higher than expected.

This evidence reinforces the judgment that if census forms were kept, the cooperation of the public in terms of the level of response in the census and the quality of data provided would suffer. Very serious implications follow for all users of census data and other official statistics, particularly for users of population estimates. Serious impacts would be likely on electoral redistributions, on the distribution of funds to the states and territories, and on a host of government and private sector organisations who use census data for a variety of purposes including infrastructure planning, service delivery and program evaluation. As Australian Statistician, I must conclude that the census forms should continue to be destroyed. Thank you. We are prepared for questions.

CHAIR—If I can summarise your case, it seems to me that it is essentially this: if we don't destroy the data, then there will be a loss of public confidence in the process such that the completion rate of the census by individuals will be significantly lowered. The public detriment involved in the consequences of that outweigh any private benefit—and maybe even any public benefit—that would flow from the retention of the data or release of it in, say, 100 years' time.

My question is this: if that is the essence of your position, to what extent do you think the public attitude has been conditioned by the practice of the last 26 years and the education campaigns that surround the conduct of each census, in which people are told and it is reinforced for them? Perhaps supplementary to that, but I will ask you before you answer the first part: if you had a different public education campaign,

why wouldn't that be equally effective?

Mr Skinner—I will attempt to answer if I can. It is very difficult to unbundle. I think it would be impossible to unbundle the effects of the conditioning process that has gone on over the last 25 years as to the practice that has been in place and the public relations campaigns that we have conducted ever since 1976 in this regard. They have been very effective, and the research that was done after the last census signals that that message has become embedded in the Australian population. They hold that view now, so I don't think we can answer the question to the extent to which it has been conditioned.

All I can say is that at the end of the process, we are convinced that the Australian public does take that assurance that we give them seriously. We know from the media campaigns that we become involved in and the research that we do behind each census that privacy and confidentiality are issues which we have to address continually through that media campaign, to allay the concerns of the population. I can expand on that if you wish.

Your real question is: would a different campaign leading up to 2001 or a subsequent census change people's minds? Again, that is a difficult thing to answer. Where we stand at the moment, and coming out of the last census, around 89 per cent of people think that census forms ought to be destroyed. What you would be asking us to do is to convert those people's opinions. Even if we were successful, with a very successful campaign, and converted 90 per cent of them—which I think would be an outstanding campaign—we would still be left with a 10 per cent non-response problem. If we had a 10 per cent non-response problem in a census which varied by age, sex, geographic location, ethnic origin and so on, we would end up with our census data significantly devalued, and probably that would undermine a whole lot of its uses.

Mr McCLELLAND—That point is made in paragraph 32 of the executive summary.

CHAIR—Are you saying by implication that for those nations which retain their data—the UK and the United States, to take two examples—there are significant problems of reliability on their census data?

Mr Skinner—Let me make two observations about it. The situation in those two countries has been quite different. Using your words, the conditioning processes have been very different over a long period of time, so it is very difficult to look at the attitudes and the sensitivities of the public to privacy in those countries and assume they can be transposed to Australia. By way of example, we could look at something like a social security card or the various forms of ID in those two countries. When the government attempted to put that into Australia some years ago through the Australia Card, it created a very different reaction, so I think it is fair to assume the Australian population is a bit different and are likely to react differently.

I think it is fair to put on the record that people often point to the US and UK and say, 'They can do it, why can't we?' We would not want to run a census of the quality that was done in the UK and the US. As Mr McLennan just said, in the UK their last census, 1991, was of such quality that they were unable to use it to rebase their population estimates, and they continue to rely on their 1981 census to do that. I happen to have been invited, as part of an international panel—I am the international member—to go to the UK to advise them on how to improve the quality of their next census, because they realise they are in a disastrous position if that occurs again.

CHAIR—What was the problem in the UK?

Mr McLennan—The problem was that people thought they were going to use the information in regard to the poll tax.

Mr Skinner—It lined up with the poll tax. There was a very strong public campaign against the poll tax, and people assumed that the government would take the census information and use it to identify households that were not paying the poll tax correctly.

Mr MUTCH—Why would they not assume that in Australia, if the same situation occurred?

Mr McLennan—Maybe I could answer that, having been in the UK as their chief statistician for three years. It is a question of integrity. Here in Australia the ABS has a very high reputation for ‘doing the right thing’, both by the respondents and by everybody else, whereas in the UK statistics had a very bad reputation. Their integrity was extremely low, and that is probably why they brought somebody from overseas to try and sort it out. The problem I found when I went there was a problem of integrity. They were not cheating or doing anything wrong, but all the newspapers, all the comments in the parliament, were that the statistics had been fiddled. It was a very bad scene in terms of public perceptions.

Mr Skinner—But I think it would be fair to say that if we had a similar campaign against the government or against the bureau at a point in time when we were trying to run a census, we would expect to have a similar reaction in Australia. It would be very difficult to isolate the two. There are several places where it has occurred. The UK is a very recent example. To take an example going back a little bit more in time, in the early eighties in Germany there was a very strong public campaign where there was a suggestion that the government would use the census forms to check against admin records. At the end of a very substantial protest they actually had to cancel their census. Some years later they introduced a lot of privacy legislation and confidentiality laws which enabled them to run a census again successfully, but that was many years later. The same occurred in the Netherlands, and they have not run a census since; but they have been able to rely on other registers.

The point we are trying to make in this is that we are very vulnerable at the time we would move in to conduct a census. We spend five years planning for one. The window of opportunity for us to go public and start promoting it is probably within about a month before the census. At that stage, everything we do is locked in. We cannot change the census forms—we have 40,000 or 50,000 collectors sitting out there with the forms already printed. It is a massive logistical exercise. We are very vulnerable to a significant privacy campaign against us.

CHAIR—Haven’t things changed, though, since 1970? In terms of the debate about the Australia Card, a lot of people say we virtually have an Australia Card now, but we don’t call it that. We have all got Medicare cards, and we have got tax file numbers. If you want to, you can take the attitude that Big Brother is looking over our shoulders or has us on a computer bank. We are probably all on dozens of computer banks. Hasn’t the culture changed? And if that culture has changed, why would the attitude to the retention of census data under strict terms which the parliament laid down by an act be different?

Mr Skinner—There is a lot of evidence on the public record now, both qualitative and quantitative, that would suggest that people hold contrary views to the one you are putting. On the qualitative side, there are the views of the two Privacy Commissioners, the last one and the current one. The New South Wales Privacy Commissioner is reinforcing to us that these are significant privacy concerns.

But let me stick with the information that we deal with. In each of the last four censuses we have gone into this as a major exercise and commissioned private sector companies to identify initially what are the key concerns that we are going to have to address. In each of the last four censuses they have come back to us and said, ‘The issue of privacy and confidentiality is one of the three issues you must address in this census. People will need to have their concerns allayed about that issue.’ That is consistent over 20 years.

We have seen a consistent growth in the number of people in our censuses who feed back to us that they are looking for enhanced privacy arrangements, the use of privacy envelopes mailing forms back to us. My colleague Siu-Ming and I got involved, as did some of our other colleagues, in literally hundreds and hundreds of TV and radio interviews at the time of the last census. I do not think I did one where the issue of privacy and confidentiality was not raised.

Coming out of the last census we convened 160 collectors across Australia, brought them into 16 different locations and got somebody to talk to them to get feedback on their evaluation of the process. Every one of those groups identified privacy and confidentiality as being an issue that was raised with the collectors as we were delivering forms and taking them back. At the end of the day the AGB McNair results came as no surprise to us; perhaps the magnitude of them surprised us, but the direction of them certainly did not. For whatever reason, in Australia there is a very solid privacy concern. It is focused as much on the census as anything else, but the census is when we engage the whole community at one time and that is when we get the best feedback on it.

Mr MUTCH—With these interviewer groups, did you ask them specifically about the campaign for census retention? Was that part of your debriefing?

Mr Skinner—What we were asking them was what sorts of issues came up. We did not ask them, ‘Would you have got a different response if we had signalled—’; what we were trying to get was feedback on the processes that we had just gone through.

Mr MUTCH—Would you have written evaluations and questions from those debriefings that you could provide to the committee?

Mr Skinner—Yes we would.

Dr SOUTHCOTT—How confident are you that the results of the AGB McNair survey are an accurate reflection of the population? You are a statistician, so I would be interested in your comments.

Mr MUTCH—Ask AGB McNair.

Mr Skinner—We have with us the representative from AGB McNair who actually did the research

for us. Would you like to comment on that, Mr White?

Mr White—The company stands behind the results for a number of reasons. There are key issues you can look at, given that there was a certain response rate to the survey. Given that response rate, for any problems about potential bias in the results you would look at whether there was a badly designed questionnaire, leading questions, bias and things like that. You can see the questions themselves, and I would stand behind them as not being biased or leading in any way. In fact, they are quite exhaustive in presenting a whole range of options.

It was not a matter of saying, ‘Do you want census forms destroyed, full stop, that is the end of it?’ There were a whole range of issues put to people in terms of census forms being destroyed or kept under a range of different sorts of circumstances, extending to that they be released only to certain people, that only certain bits of information would be released, that they be released now or in 10 years or 100 years—all those sorts of things.

The second part is response rates. The response rate to the survey is for computer assisted telephone interviewing, random digit dial process, which is standard for the industry. It has been accepted that effectively the response rate is nothing like the ABS gets for its surveys. For surveys which generally canvass public opinion you are generally getting around the 50 per cent response. You are hitting people at night and asking them to spend 10 minutes or so completing a questionnaire.

What we have done in the whole process is that at various times we have always tried to look at non-respondents. Once they have refused to do the survey it is very hard to get hold of non-respondents and test out their attitudes. But a whole range of investigations over the last 50 years have addressed the specific issue of non-response bias. With surveys where there is a significant threat involved, for example, if you are doing a survey on AIDS related behaviour so that you mention to people that you are talking about AIDS related behaviour, then you would imagine that with the people who do not respond there could be a correlation there. That has been found to be true in America.

However, for general attitude types of surveys on social issues, we have found that the main thing that correlates with why a person does not respond is more likely to be a personality thing. Some people just do not like to do surveys. They do not like to be rung at home and they do not want to do surveys. Their attitudes can vary quite randomly compared to people who will do surveys. It is more a personality thing.

The one issue that really strengthened our resolve, in terms of backing this data, was that it is probably one of the rare cases where the survey topic is actually related to the reason a lot of people refuse, and they see surveys as an invasion of privacy. I would say that what we have actually provided in our results is, if anything, a conservative estimate of the reaction to this privacy issue in that it is much more likely that people who did not respond are more likely to have stronger views on the whole privacy matter and are more likely to want the destruction of census forms.

Mr RANDALL—Did you do this polling by phone?

Mr White—Yes.

Mr RANDALL—My experience with phone polling is that there are a lot of people with machines on. Would that not skew your result in any case?

Mr White—Yes, people do use answering machines.

Mr RANDALL—They might want to be private themselves.

Mr White—Yes. All we can say is that, when you get down to this 50 per cent hit rate—and that is in doing a survey over a limited period of time and not spending three or four weeks coming back to people, a lot of people do screen calls through their answering machines and you can keep leaving messages and messages and you never get through. We still come back to the fundamental points that we have never been able to show through a lot of intensive back-up research that people who do not respond to surveys have substantially different attitudes on social issues and that the people we are most likely to lose, in terms of non-response, are people who see surveys as an invasion of privacy and would therefore have privacy and confidentiality concerns.

Mr Skinner—The strength of the response certainly surprised us—there is no doubt about it—but one thing has to be said about the research: the population will never be better informed.

CHAIR—We have a division. If you want to finish the sentence, you have one minute.

Mr Skinner—The population will never be better informed about this issue than they were at the time. It was run immediately after the census and 89 per cent of the people in this poll said that they knew what the census was and what the ABS was about. They had just been through the exercise so they were quite well informed about what we ask. That is something that normally does not happen in opinion polls.

My final point is that, even if the finding was out by 50 per cent and if we were looking at 45 to 50 per cent of people in the population who were opposed to the retention of census forms, we would have a problem of great magnitude as well. As for the fact that it is 90 per cent, 60 per cent or 50 per cent, once we are in that ballpark we have a massive job of changing people's views to get them to cooperate with something.

Mr McLennan—That is the same point I wanted to make.

CHAIR—We will have to go to a division. We will suspend the hearing until the division is concluded.

Short adjournment

CHAIR—We will resume the hearing. Mr White, you were talking about the AGB McNair survey before we were interrupted by the division. Without wanting to put words into your mouth, it seemed to me what you were saying was: firstly, that within the bounds of this sort of survey it is reliable; and, secondly, it was not something which was leading in the sense of suggesting a certain outcome.

If I go to the questionnaire, question No. 5, which is the first question, apart from some general information, the respondents are asked to respond to a series of statements starting with:

Computers have increased the chances of breaches of privacy and confidentiality

Having names on computer records is a threat to privacy

Having addresses on computer records is a threat to privacy . . .

In my days when I practised as a barrister I would have got pulled up by a judge for asking leading questions. It seems to me that these are leading questions. Aren't they questions which actually suggest a series of responses on the part of the respondents about the dangers involved in material being kept on computer records? Isn't that going to colour any subsequent questions that you then ask about census forms being destroyed?

Mr White—When we do surveys on people's attitudes, it certainly is very hard to just come up and say, 'What's your attitude to the destruction of census forms?' People say, 'Yeah, I want them destroyed', or they will say they do not want them destroyed. This is not an issue inside their head and which everyone is sitting at home discussing over the dinner table and going through. There are a whole lot of different dimensions, as you would probably appreciate, to any sort of attitude. It is a bit like asking somebody about their attitude to racism. You might ask, 'Are you a racist?' or 'What's your attitude to racism?'

Through various pieces of research, what we do is really look at what the different dimensions of a certain attitude are. The way we approach that is then to come up with a series of statements which tap into different aspects of a certain attitude. We then lead through, and there is a whole battery of statements that work around that attitude dimension. It takes years to develop a true and proper attitude scale that you can use consistently.

This attitude type research is developed over a few months or a few weeks. So what you are really trying to do is cover whole different aspects of certain attitudes, and you come at it from a number of different angles. One of the issues is very much about computers. Privacy and confidentiality are an issue out there. People have addressed it in a whole range of surveys, and people are always talking about whether your names are on computers. They are worried about that. To me that is a legitimate question to ask in a survey—not all of a sudden flagging in someone's mind, 'That's right, computers are a threat to privacy.' It is hard to get away from actually just going straight into the questions about census forms with no preamble about what some of the issues are.

My argument is that I would stand by the fact that the questions you are asking to some extent may lead people in certain ways. Whenever you make a statement about something it has an impact. What I am saying is that there is nothing in those series of questions where, in respect of somebody who has no concern about names and addresses on census forms being retained, we have turned it around so now they are all saying, 'I don't want the census forms retained.' That is all I was saying about the questionnaire.

CHAIR—Why couldn't you have asked questions at the outset about the value of the census? Why couldn't there have been a series of statements—this is off the top of my head, and no doubt if you had a

few weeks you could develop it better—which said, ‘The collection of the Australian census is of enormous value to the future planning of the nation. The collection of statistics is useful for health, housing and educational purposes’? Have you not framed this survey by referring at the outset to privacy and confidentiality and then having a series of statements? I am surprised you do not get even a higher response to them than you have got.

I am asking you whether or not you have framed the issue in such a way that you are more likely to get a particular response. To put it a bit more bluntly: if a political party engaged in a poll like this, I would have thought their opponents would call it push-polling. What is your response?

Mr White—I disagree in that I do not think in any way that this is effectively setting it up so that people will say, ‘The retention of names and addresses on census forms will be’—or will not be—‘a major problem.’ Some people are concerned about computers and names and addresses—it is out there—and some people are not.

It is not like, if you mention it, all of a sudden people say, ‘Oh, yeah, now I am concerned.’ People have views. We all know—and you mentioned it before—that we live in a society where people are concerned about even market researchers—people getting hold of their names and being able to ring them up, as with banks.

We live in this world and we live in a world of computers. We live in a world of privacy and confidentiality and we deal with it every day. What we are saying here is that we are not ignoring that. That is an issue. It is not as if somebody had not thought about it before.

What we are really trying to get at is that that was a particular attitude out in the community and the ABS was interested in finding out the extent to which people were thinking like that. I do not think it is a situation where, by asking something about that, you are immediately making people answer a certain way to later questions on the census.

Mr MUTCH—Did you get an independent body to evaluate the integrity and efficacy of the questions that you asked in the survey that you did conduct?

Mr White—In what respect?

Mr MUTCH—Did you have an independent body check the questions and survey methodology to give it a tick and say, ‘Yes, this will give you impartial answers’?

Mr White—For any of the surveys we have ever done that has never happened. The issue is more that an agency wants to collect some data and it goes to an organisation in which it feels it would have the confidence that it will actually develop such a questionnaire.

Mr MUTCH—Did you explain to participants in the beginning that the major idea of people who want to retain the census is that names and addresses would not be put on a computer at all?

Mr White—Yes.

Mr MUTCH—Did you make that clear to them in advance of asking them questions about computers and invasion of privacy?

Mr White—We were aware of concern about influencing responses and we were aware of how sensitive this situation was and about how the results would be used in the end. There was an issue of ensuring that in no way were the results such that someone could argue that if you did it another way the whole conclusion would be quite different. If the results swing 50/50—or say they were 60/40—then there had to be no argument that, through bias or something like that, you could make it the other way around.

We were very careful about what we were asking people. We were ensuring that people had it in their mind and were aware of what actually did happen with census forms. At various stages it was explained to people but whether they remembered or not is not clear. We wanted to make sure that we did not have people going around thinking that certain things happen that did not happen or making judgments about what should be done in ignorance of what the existing situation was. In question 5 we asked:

Under current census arrangements, name and address information is collected on the census form but is not entered on the computer and census forms are destroyed after processing the census. The following questions relate to seeking your opinion about possible changes to these procedures for future censuses.

That was the context of the research.

Mr MUTCH—You did a pilot testing program. Would you be able to provide us with a copy of the questionnaire that you used for that, an analysis of the results of the pilot, a record of the debriefing and also an indication of the changes that were then made to the questions?

Mr White—Certainly.

Mr BARRESI—Mr White, can I put the question in another way. Perhaps it will answer the intent of some of the questioning. As the consulting company, your job is to fulfil the brief given to you by your client. What was the brief that your client gave you in carrying out the survey? Was there a specific outcome in mind? This will clear it in terms of the line of questioning you are getting at the moment.

Mr White—I effectively summarised the brief I had in an executive summary in the report we gave to the bureau. There were effectively three research questions to be answered:

1. Is the presence of names and address on the census form seen by respondents as a threat to privacy and confidentiality now or at some later time in the future?
2. Should census forms be kept or destroyed? Related to this, why should they be kept or destroyed, and for how long and under what circumstances should they be kept or destroyed?
3. Do names and addresses on census forms impact on the accuracy of the data provided on the census forms? Related to this, would the retention of census forms impact on the accuracy of the data provided on the census form?

That was basically the brief that was given to me. We want to answer those three research questions. The questionnaire was designed to answer those questions. That is set out in the attachment in the second part of our submission.

Mr BARRESI—Yes, I saw that. That is the presenting brief. Go back to the second part of the question; was there an implied outcome in mind at the beginning of the survey?

Mr White—An implied outcome?

Mr BARRESI—Or an outcome that you were hoping to engineer?

Mr White—I certainly knew what was going on with the research. Having worked with the ABS on a whole range of things, I knew where the ABS was coming from and I knew where genealogists were coming from. I knew the issues and it was certainly in that respect that I was told, ‘These are the issues. This is what is happening; one side wants to keep census forms and the other side doesn’t. What we are trying to do is look at community attitudes to this and its likely impact on the census,’ and that is as far as it went. There was certainly nothing in the sense that I was deliberately trying to conjure up certain results. As a market research professional, if I did something like that, that would be the end of my career. I had no vested interest whatsoever in the way that the results came out. It is always nice when the results that come out are the results that people want, and that is the way it worked out. To me that is the way it worked out based on that survey, and the way we designed it in terms of a fair representation of community attitudes on this issue.

Mr MUTCH—And you were under no misapprehension that the result that was achieved was the result that the ABS would have liked to have got?

Mr McLennan—Mr Chairman, I would like to object. I think it is a bit unfair to suggest that the ABS or AGB McNair would engineer something. I think it cuts rather heavily at my integrity and that of the organisation, and I really think it is a bit unfortunate that those terms are being used. Let me bring this back to reality. Let us assume that all of these results are double what they would have been, had there been a 100 per cent response and we only got 30 per cent of people objecting. I still have a real problem. I have the same problem. It doesn’t worry me whether it is 60 per cent or 30 per cent. I still have the same problem.

The fact is that the results of this survey mirror lots of the market research that we have done over 20 years. It mirrors what our collectors tell us. The submission from the New South Wales Privacy Committee, page 614, points out that it mirrors their own experiences with respondents to the last census and respondents to ABS surveys ringing them up. I also refer to two pieces of research done by Roy Morgan, which give similar sorts of attitudes to privacy. The bottom line is that this survey from McNair is giving the indications of what people are happy with. I won’t argue whether it is 63 or 33 per cent. In reality, from where I sit, the problem is the same.

Mr BARRESI—Can I get back to the main game there. On page 6 of the submission, you state that there are current inaccuracies in the state and territory population estimates and that these inaccuracies are already causing concern. You also highlight the fact that the statistics that we gather from the census are used for Commonwealth and state financial relationships as well as planning issues. If those inaccuracies currently exist yet we still manage to successfully plan using those statistics, and successfully allocate our

Commonwealth finances, why should we be any more concerned about other inaccuracies which you are supposing will take place if the census was maintained? In other words, it is not a perfect census.

Mr Skinner—Let me answer it and I will use the three examples Mr McLennan used. What you are saying, in effect, is that we have a certain level of inaccuracy within the census and that, because of that level of inaccuracy, a perfect job was not done. It does not matter how much more inaccurate we make those estimates, an imperfect job will still be done. I think you will find every state Premier, every Chief Minister, would object violently, as they do to us every time we put out our population estimates. Over a period of five years, as we have been estimating them, we independently estimate them on the new census and tell them how far we have been out.

Queensland, in a 10-year period, put to the government that they lost over \$150 million in state grants over that period because we had been underenumerating their population. The Northern Territory government has made representations, including up until recent times, that they have lost millions of dollars because we have underestimated their population, by very small amounts. You are suggesting to me that if the small amount was, for some reason, doubled that that would be a satisfactory outcome. I would suggest state premiers, as one, would find that completely unacceptable.

Let us go to the Electoral Commission example and the position we came to around the 1970s when these opinions were given. The conclusion that followed the law officer's opinion, and the view put to us, was that we ought to run a population census every three years—in fact, in the life of every parliament. On average that would mean every two years to support the quality of estimates that the High court opinion suggests that we ought to have in place to support the electoral process. Our legislation was changed to put a five-yearly census in place. There were also warnings from law officers that that increased time from three to five years increased the risk of a challenge. You are putting to me that if the error is increased—

Mr BARRESI—No, I not putting anything. All I am asking is that you explain it to us.

Mr Skinner—You are putting to me that it would be more inaccurate and that we need not worry about such inaccuracies. I would suggest that there are people who would be very concerned about those inaccuracies. I could take the third example that the very detailed information that the census data contains is used very extensively for small population and geographic areas. There is a level of inaccuracy in those estimates, undoubtedly. If the inaccuracy of census results were to be significantly affected, the decisions that are based on them would be out by who knows what margins.

Mr BARRESI—Are there other mechanisms in place at the moment through various departments that can make up the gap in the inaccuracy?

Mr Skinner—In the population estimates, the short answer is no.

Dr Tam—The only area is to use the census data to check the inaccuracies of the population estimates. We have a chance once in every five years to make good those population estimates. That is why you need to have a highly accurate census to do that job properly.

Mr Skinner—Let me describe the process for you. In 1991, we ran a census and estimated the population of Australia. Having produced that estimate, every quarter from that point onwards we produced a new estimate of the population and we published it. That is then available for whatever purpose, including the Electoral Act. We have run those for five years and produced those estimates every quarter for five years. We produce an independent estimate based on the 1996 census. We then compare the estimates from the moving forward against the estimate that we get from a new benchmark called the population census. We publish what the discrepancy is.

At that point, the states can go back and look at what grants they would have received if we had got the estimate correct, and we are always out. That is what we call the statistical discrepancy; we will never get it right. The census provides us with the opportunity to rebase it. The submission is saying that if we lost the opportunity to rebase it, the errors that are inherent in the process that we have been engaged in will just compound. If we had to leave it for a 10-year period, undoubtedly, the estimates that we had produced every quarter would become increasingly less reliable. The consequences of that are set out in the examples we have given.

Mr MUTCH—I agree with Mr McClelland that the ABS has relied very heavily on this survey. You talked about the integrity of the ABS. There are at least seven major references in your submission to this AGB McNair survey. I think it is quite crucial to your submission and I wondered what steps the ABS took to ensure impartiality in the line of questions asked in that survey.

Mr Skinner—Can I correct the first part of it? I disagree completely with your proposition that that is all we are relying on and relying on it in the main way.

Mr MUTCH—Pretty heavy.

Mr Skinner—It was obviously a very significant piece of new research that had never been made available before and for that reason we have certainly quoted it and put it there. But the case we have developed in here, I think, has been developed over a number of years. We are saying that privacy is a very sensitive issue for the Australian population and I think that we have shown through the development of history from 1971 onwards that that is true. We have relied on market research that has been conducted before every census in the last 20 years—that is four of them—and every one of them told us that the privacy and confidentiality issue was one of the three issues we had to address. We have relied on the feedback we get from our collectors in the field and our interviewers in our household survey program and they reinforce that this is a very key issue.

We have relied on the increased use of mailback. We know through the operations of our census that we are getting far more requests made of us for the use of privacy envelopes to mail things back to us. At the end of the day we have—and we have for many years—relied on that evidence because we thought it was quite overwhelming. The AGB McNair research was intended to sound out the position at the time following the last census to see what it really was.

Mr MUTCH—Just to get back to my question—it is quite important to me. The ABS themselves did

not conduct this survey, but relied on a subcontractor. I was wondering what steps the ABS took, as the experts in this area, to ensure the impartiality of the questions. For instance, do you, as a matter of procedure, review questions that are conducted on your behalf by independent subcontractors?

Mr Skinner—I think that you are putting me in a lose-lose situation. If we had conducted this research ourselves to our own standards, then I think you would have again questioned our integrity in the process and whether we could have been independent.

Mr MUTCH—Not necessarily.

Mr Skinner—Rather, we thought that a better approach in this one was to set out and agree with the researcher, the people we employed in the process, what the research questions that we wanted to have explored were to be—and they are set out in the paper—and then we left it to them to develop the questionnaire.

Mr RANDALL—In other words, they got their writing instructions.

Mr Skinner—No. They got the research questions that we asked them to investigate. If you read questions 1, 2 and 3, they do not lead and draw to conclusions. That is the brief we gave them and that is what they designed the questionnaire around. I take great offence at a suggestion that we have set out to produce this set of statistics.

Mr RANDALL—You should be able to be asked questions.

CHAIR—We have got to go.

Mr BARRESI—Obviously, the population numbers are crucial to you. Are there any nations around the world that gather the information that we get from the census through more than one source of a data gathering exercise?

Mr Skinner—Yes. And we do, as well.

Short adjournment

CHAIR—There was a question which Mr Barresi asked before we had to go to the division. Can you recall the question, and are you happy to respond to it? Otherwise, Mr Barresi can ask it again.

Mr Skinner—Let me tell you what I thought the question was: were there other sources which we might use to estimate population?

Mr BARRESI—Yes, that is right. The census is such an all-embracing document in terms of what you are getting and the population figure itself seems to be one of the crucial figures that seems to be at the core of what we were talking about.

Mr Skinner—I need to go back a little by way of background and just explain how we produce population estimates off the population census and then how we produce our quarterly estimate. We do not

accept the estimate that comes straight out of the population census as the population estimate. We know from the research we do that there is a small under-count in our census—this time it was about 1.6 per cent of the population. So we adjust the counts that come out for that under-enumeration using a post-enumeration survey. We get back to households a month after the census and find out whether they were counted.

We also take into account what is called a ‘demographic estimation technique’ where basically we know the demographic profile of the Australian population. Australia is an island with very good controls of people coming in and out, and we have got very good birth and death records. Through that we are able to keep over time good estimates of the age and sex structure of the population, so we apply them to the census estimates, as well.

So we are making a series of adjustments to the counts that come out to get what we consider is the best estimate. Having got the estimate, distributed by age and sex across the population, every three months we must then put out a new estimate. Births and deaths obviously give us one signal, and the movements in and out of the country are very good. The difficult component to estimate are the numbers of the population that are moving from one state to another. In an intercensal period, 50 per cent of the population change their address, so it is not a small population we are trying to track. Each quarter we are trying to estimate how many Victorians went to Queensland to live, which is a very difficult thing to do.

We rely on counts coming out of the Health Insurance Commission. We have investigated a number of sources over the years, such as school enrolments, electoral roll enrolments, and so on, to see if we can establish relationships with those particular variables. We still monitor them over time, but we use them no more than for monitoring purposes.

We actually rely on the Health Insurance Commission counts. They give us a print-out each quarter for this purpose—it might be each month for our analysis—of the age and sex counts of people who have changed their address from one local government area to another local government area in that period. So, through that and some modelling techniques we set up at the ABS, we were able to estimate the numbers that have moved from Queensland to Victoria. We do not assume that everybody who moves automatically registers with the Health Insurance Commission that they have changed their Medicare address. We estimate those that have and those that go with them and their families.

So they are the sorts of sources that we are using to produce the estimates of population. If we did not have the population count available to us through the census, then we would probably need, as the UK does, to fall back on the demographic estimates which would be the best structure we would have to impose on the population at any point in time. In Australia we can do that better than the UK because our borders are far cleaner in terms of the controls over them. Does that answer your question?

Mr BARRESI—Thank you.

CHAIR—Mr McLennan, because of the interruptions that we have had, obviously there are other issues that we would like to raise with the bureau in relation to the subject matter of the inquiry and your submission, but I think we will have to leave that for another day because there are others that are scheduled to give some evidence. So I indicate at this stage that we would be grateful if we could have another

opportunity to take up some of these matters which we have begun to take up today.

There were two other things I wanted to say. In the exchange there may have been some impression gained that somehow the Bureau of Statistics' integrity was under attack. Let me assure you, as Chairman of the committee, that that is certainly not the case.

Mr McLennan—Thank you.

CHAIR—The purpose of public hearings is to test the submissions and to test matters which are put before us. That is the only way we can seek to try and arrive at some semblance of what is the most appropriate course of action that we can recommend to the parliament and to the government. Other witnesses can be warned that they may well be tested in their submissions in a similar way.

There was one thing which I could put as a question on notice to you and you can come back and discuss it the next time. It always seems to me that in these matters it is useful to have some principles upon which one proceeds. You may well have these, and excuse my ignorance if you do, but I would be interested in a statement on the principles on which you believe the census is taken and, more importantly or more pertinently, the principles on which data is retained in the form in which it is retained.

There is data retained now in its electronic form which is not identifying, that is part of the issue here, but is there a series of principles which you believe ought to inform the practices so far as this area is concerned? As I said, you may well have them and I am ignorant of them, but if not, it may be of some assistance to this inquiry for us to consider at the outset what are the principles and then look at the fleshing out of them so far as the area is concerned. I would be grateful if you could think about that and come back to us.

Mr McLennan—Yes.

CHAIR—In that case, thank you very much for your attendance today and we look forward to some further discussion of the matters.

I understand there will be another division. On a day like today I can see why the Senate has a rule that its committees should not meet while the Senate is meeting, and probably you can as well, but the House does not have that rule so we will just have to struggle on. We will get started, but we may have to go to another division. It does not matter to the Bureau of Statistics now but it may have some impact on subsequent witnesses.

[6.08 p.m.]

NICHOLS, Mr George, Director-General, Australian Archives, PO Box 34, Dickson, Australian Capital Territory 2602

PIGGOTT, Mr Michael, Director, Agency Services, Australian Archives, PO Box 34, Dickson, Australian Capital Territory 2602

STUCKEY, Mr Steve, Assistant Director-General, Australian Archives, PO Box 34, Dickson, Australian Capital Territory 2602

CHAIR—Welcome. Although the committee does not require you to give evidence under oath I should advise you that hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament.

We are in receipt of your submission dated 21 July of this year. Is there an opening statement that you would like to make to the committee?

Mr Nichols—Yes, Mr Chairman. The written submission of the Australian Archives seeks to explain the basis for the Archives involvement in the issue of name identified census records and for the decisions it reached. It does not seek to argue either for retention or destruction but sets out the background and the context from the Archives perspective, and in what I have to say you will see that it is the Archives perspective that I am concerned about, which is not surprising.

The Archives has only been directly involved in the census records issue since the passage of the Archives Act 1983. Prior to that, census records were routinely destroyed or retained by administrative decision. The Archives Act authorises the destruction or retention of Commonwealth records via legal authorities which are developed by the Archives in consultation with government agencies. They are preceded by an evaluation process in which the importance of categories of records are identified against a set of appraisal criteria. Over 700 such authorities have been issued by the Archives since the act was passed.

On this matter the Archives submits that the notion of one law governing the management of all Commonwealth records is a sensible and efficient one. Consistency in disposal and access decisions through the one law helps ensure public confidence in these two activities in relation to records. The Archives has always argued against the proliferation or dispersal of record management rules into individual pieces of legislation which are enacted primarily for other purposes of government.

A process of evaluation or appraisal leading to the issue of disposal authorities proceeded prior to any decision about the last two censuses. In essence, the processes were no different from the appraisals we undertake as part of the day-to-day work of the Archives. In each case we consulted with the Australian Bureau of Statistics and then made our own independent assessment. On both occasions our conclusion was that a concern for the completeness and integrity of the data outweighed direct and presumed benefits arising from public and research use of the name identified data.

I would like to point out that the most recent authority, issued leading up to the 1996 census, was worded to apply to this and future household and population censuses as well. I noted at the time that those disposal arrangements could be reviewed if circumstances altered in a way which appeared to obviate the concerns that retention would compromise the census.

There is one other point I would like to draw to the committee's attention. The Archives does not accept that the only way to preserve privacy is to destroy public records. To accept this proposition would fly in the face of all we and other archives practise. We hold public records in trust for future generations. Many of those records contain information that is personally sensitive, including personnel, medical and benefit entitlement records. Many defence, intelligence and foreign affairs records we hold are sensitive from a national security aspect.

Archives exist and continue to exist because they have proved that the professional archivist takes the responsibility for the protection of sensitive information very seriously. As I observe in my submission, the Australian Archives has an exemplary record in this regard. I would also point out that there has never been an appeal against the Archives for prematurely releasing sensitive information.

The submission also deals with two other matters: the cost of retention of census forms and the question of access. On the first, our findings are very preliminary only, but we would be led to believe that the cost of retention is not high if it is by electronic format only and the process of copying is integrated into the bureau's own data capture processes from the outset.

On the question of access, our assessment is that the census records of 30 years would be exempt from release under the Archives Act on privacy grounds. That would almost certainly apply for a period of 70 to 100 years on current practice. That itself would preclude the release of the data for medical or other research purposes.

I want to conclude by reiterating two key matters. Completeness and reliability of records are important factors we consider about all records when appraising them. If the accuracy of the censuses would be so compromised because of the retention of name identified records that the value of the whole census to the government and community is diminished, then the Archives believes this outweighs all arguments for retention for future research. This is the basis for our decisions about destruction. What, after all, is the point of collecting inaccurate information at great public expense?

Finally, the Archives wishes to place on record its view that privacy alone is not a sufficient reason to destroy public records. Privacy can be protected and confidentiality preserved by secure storage and restriction of access.

CHAIR—Thank you, Mr Nichols. We will suspend for the duration of the division and then return.

Short adjournment

CHAIR—I understand it has been informally arranged so far as the Institute of Health and Welfare is concerned that, because our quorum is going to disappear at seven o'clock due to other commitments of

members, we reschedule your appearance. I apologise for that. The secretariat will make some arrangements to do that. We might be able to give you 10 minutes at the end, but that does not seem satisfactory from either your perspective or ours, so I think we will reschedule for another time. Again, I apologise for the vagaries of this institution.

Mr Nichols, just so I understand this process, the Archives Act 1983 creates a presumption that the documentation which is referred to in the act is to be retained and preserved unless there is some exemption to that by way of a decision of the Archives. Is that the correct way of looking at the mechanism?

Mr Nichols—We might describe it a little differently for you.

CHAIR—Please do.

Mr Stuckey—The presumption in the legislation is that there will need to be a screening process of all records of government. I do not think the act presumes that everything will be retained; what the act does presume is that there will be certain records of the nation which are worthy of retention in perpetuity. But there is also the presumption in the act that there is a disinterested body who will work with agencies of government and of the parliament when they create records to determine what records should be retained and what should be thrown away. It does clearly give the role to the Director-General of the Archives to authorise that disposal, recognising his independent position.

CHAIR—So, under section 24(2)(b) of the act, the census records come within the jurisdiction of the Director-General of the Archives. If you did not make such a decision, would that mean that the census records would be retained?

Mr Stuckey—The decision to—

CHAIR—To destroy them.

Mr Stuckey—They would indeed have to be retained.

CHAIR—That is what I am trying to understand. Tell me if I am wrong. The situation is, legally, that the census records would have to be retained pursuant to the Archives Act unless you made a decision that they could be destroyed. Is that a correct reading of it?

Mr Nichols—Yes. Section 24 talks about the fact that:

Subject to this Part, a person shall not:

- (a) destroy or otherwise dispose of;
- (b) transfer, or be a party to arrangements for the transfer of, the custody of;
- (c) transfer, or be a party to arrangements for the transfer of, the ownership of; or
- (d) damage or alter;
a Commonwealth record.

Census records fall under the definition of 'Commonwealth record'. So all disposal, which is a generic term

referring to how records are managed rather than how they are destroyed, is governed by that.

CHAIR—In relation to the 1996 census, when did you make that decision? To be more precise, was the decision made prior to the census being taken or after?

Mr Nichols—Yes, it was made well prior to the census being taken. I cannot give you the precise date.

CHAIR—That is all right, it is more—

Mr Stuckey—I think it was September 1994.

CHAIR—Presumably that was on the advice of the Bureau of Statistics—that there were advantages in the destruction of the primary data?

Mr Nichols—Yes, we consulted with the bureau to seek their views and their views were, not surprisingly, not dissimilar from the ones they have expressed today. As I said in the submission, we found their views to be convincing—overwhelmingly so.

CHAIR—I also understand from your evidence that the decision that you made at that time was made not only in relation to the 1996 census but also in relation to all future census collections.

Mr Nichols—Yes.

CHAIR—Can you tell me why you made the decision at that time, not only about the 1996 census but subsequent censuses as well?

Mr Nichols—This was the third detailed appraisal we had conducted. The nature of the questions by and large in the census had not changed significantly. We were effectively reappraising the same documents. We felt there was no need necessarily to keep doing this unless circumstances changed, and that is the rider that we have put in. But that is what we would do with any disposal authority. We reserve the right to review it if we feel there is a need to review it.

CHAIR—What is the process of review? Legally, can you simply change your mind and so be it, or is there some mechanism that has to be gone through in order for that review to occur?

Mr Nichols—I suppose, legally I could change my mind and that would be it. But from a professional point of view, there would be a process that I would go through to satisfy myself that things were either the same or different and whether therefore there was any need to change the decision I had come to before.

Mr Stuckey—I would like to add to that. All of the disposal instruments that we issue—they are legal instruments and there have been 700 of them in the last 12 to 13 years—have a sunset clause of 10 years. Our view about the 10 years is that not only may attitudes have changed about the value of material, but also the business of government is likely to have changed sufficiently in 10 years that their values will be

different. Indeed, with lots of records these days, their actual physical format will be different.

We have a rolling process of reviewing these authorities, not just because their value may have changed; the business of government that determines how they are created may have changed as well.

Mr MUTCH—Are name identified census records worth preserving in perpetuity?

Mr Nichols—That is a very difficult question to answer out of context. The decisions we make as archivists are in context. The decision that I have come to, obviously, is that, against the threats that we see in terms of the fact that records are collected for a particular purpose, if that purpose is put at risk, it negates the value in retaining the records. As I said, records that are inaccurate are not really worth keeping.

Mr MUTCH—I think many people would agree with that. If they were not put at risk, as an archivist, are they worth preserving in perpetuity?

Mr Nichols—That is not the context in which I have had to make a decision to date. That would be a different set of circumstances. I do not think I could give you an answer.

Mr MUTCH—I was not really canvassing the decisions you have made. I think they are based, aren't they, on evidence before you?

Mr Nichols—Yes.

Mr MUTCH—Wouldn't the preponderance of that evidence come from the ABS, and would you have had any alternative statistical evidence or information to really balance that with?

Mr Nichols—We have canvassed other views. We have canvassed other views in writing. As I have said, the view we have come to has been based on the overwhelming preponderance of the view put to us by the bureau. You would be asking me to take that out, I take it, and reach a decision about the value of the records.

Mr MUTCH—All I am asking is: are there good historical reasons why you would like to keep those forms?

Mr Nichols—There are. But the same could be said for 90 per cent of other government records which are also destroyed.

Mr MUTCH—But wouldn't you think that census material was something outstanding? Isn't that something that has been put forward by bodies like UNESCO and so forth as being a major part of the record of a country and that it would be good if you could keep it?

Mr Nichols—Yes. That is almost preserving the record as an icon or an object rather than as a record. The information contained in the individual records of itself is not necessarily either of great value or other than information that is duplicated elsewhere.

Mr BARRESI—I would like to pursue that. In your submission, you say that only five to 10 per cent of records are judged to have enduring value and are thus retained. How do you determine value? It can be a very subjective process—the value that you hold compared to another group. What is the basis of that assessment? And could that portion of the entire census therefore be retained as a name census?

Mr Nichols—The name identified portion?

Mr BARRESI—Yes.

Mr Stuckey—It could be retained. I will answer your first question: how do we make that subjective decision? I have been on record as having an argument backwards and forwards with the professional historians who argue that historians should be involved in making the decisions about what is retained. My answer to that is twofold: if I am going to ask historians, why aren't I asking medical researchers, demographers, statisticians or economists?

My second argument is that that is what archivists are trained to do. Archivists are trained to make that subjective decision—to weigh up all those things. The sorts of things that we look for are: research value, evidentiary value—whether the records can be provided in court to support, say, a citizen's claim for an entitlement—display value and historical value. We weigh up other things, as well, which include cost of retention. Ultimately, cost is the final decision about disposal, about whether you keep or whether you throw away. But we also look at things that Mr Nichols alluded to about accuracy and completeness. We keep records because they are evidence that something happened. If the evidence is faulty, it is better not to keep the evidence. What you do is you keep the reasons why you made the decisions to destroy. We are doing no-one any good to keep incomplete or inaccurate records. Our view is that there are other records that are available in Australia that can satisfy lots of the needs of the name identified census records.

Mr BARRESI—When you keep that record, are you keeping the entire individual's record or only that portion which is deemed of value?

Mr Stuckey—We keep, for example, each immigrant's case file. We keep the complete record, because it is not cost effective to cull bits off that file. In the electronic era, it is, however, a lot easier to strip out data that does not have the same value. You can program the computer to drop out particular records.

CHAIR—Can you give me some other examples of what you keep which relates to common every day lives of Australians? For example, we know that, every time we have some contact with the health system, there are computer records kept by the Health Insurance Commission. Are those records kept about individuals? For example, is my use of health insurance kept?

Mr Stuckey—No, it is not. The disposal authority we have got with the Health Insurance Commission, I think, says that they can delete individual transactions about you after between five and seven years. To answer your question about the sort of material that we retain, immigrant case files are an example. We keep veterans' case files. We keep service dossiers of service personnel for the three services. Electoral records are retained and so are electoral rolls. Despite what is quite often quoted in editorials run by the

Sydney Morning Herald, we do not keep taxation records. Your tax record is destroyed after seven years. The reason we do not retain them is that they are huge quantities of material—transactional material—which we just do not retain. If you keep it, the chances are you will not be able to find it.

Mr BARRESI—Just getting back to the census, what part of an individual census return would be deemed of value and you would keep?

Mr Stuckey—The aggregated data. I think we have included in our submission a copy of the disposal authority that we have drawn up with the bureau. The aggregated data is not only retained but is made available fairly early on in the piece. What we do authorise the destruction of is name identified data; it is the data that allows you to link an individual to part of the aggregated data.

CHAIR—You said that you keep veterans' records. So if one has been a member of the services in Australia, it is possible to find the file of the individual concerned—is that right?

Mr Stuckey—Our single most heavily used group of records are the service dossiers of the World War I personnel.

CHAIR—By families or by—

Mr Stuckey—A whole range of people, including medical researchers. For instance, we have given access to material where people have been trying to plot height growth, because that has all sorts of health implications, diet changes et cetera. We have given access to material for particular rural country towns, for example, who wanted to know who all the people were in their town who served. But the vast majority are family historians.

Mr Nichols—Or they are relatives who are just seeking the information.

CHAIR—I understand that information relates to their service record. Does it also relate to things like Veterans' Affairs entitlements? Would that be on an individual's record that you would keep?

Mr Stuckey—There are three parts to a veteran's file. We currently retain two of those parts. What we do destroy is the record of the entitlements. They are retained until seven years after the veteran dies. At the moment we keep their medical history record and their service record.

CHAIR—Just out of curiosity, what information is retained in relation to social security beneficiaries?

Mr Stuckey—No records are retained. All we retain is statistical analyses of how many unmarried women, for example, were granted a pension.

CHAIR—Is there some reason why, if you get a veteran's entitlement, the individual payments are kept on record for seven years and then destroyed, whereas if you receive some other form of social security benefit, they are not?

Mr Stuckey—No, they are retained for about the same period.

CHAIR—They are?

Mr Stuckey—Yes.

CHAIR—So, to take a hypothetical situation, if a person is in receipt of a sole parent's pension, that information is retained for seven years?

Mr Stuckey—Something about that time.

Mr Nichols—But not by the Archives; by the agency.

CHAIR—By the DSS?

Mr Nichols—Yes.

Mr Piggott—Further to the point that we are trying to convey, though census records are not retained it does not mean that we do not hold vast amounts of information about individuals. In 1988, we produced a 160-page guide to our holdings that have family history value. A second edition is about to appear which will be even more extensive, illustrating the point that there are enormous amounts of information in Commonwealth records that are preserved permanently.

Mr BARRESI—Yet that information is insufficient for the genealogical groups, based on feedback that we get.

Mr Piggott—I think family historians, like most users, cannot get enough information. I know that because I have done academic research myself. Once you are on a topic you want everything, believe me; you cannot get enough information.

Mr BARRESI—Going back to the destruction of the census records, when did you make the decision to destroy the 1996 census—or have you made that decision? I am sorry, I may have missed an earlier answer.

Mr Nichols—It was in 1994.

Mr BARRESI—The bureau mentioned privacy and confidentiality as a critical issue and said that as part of the survey they investigated its likely impact on the success of the completion. You have made a point of saying that privacy alone is not sufficient reason for destroying records. How would you ensure privacy, and does the Australian Archives have a role to play in putting the community at ease in its concern about privacy and confidentiality?

Mr Nichols—We would have to stand on our record, I suppose, in terms of how we would ensure privacy. That is the point I was making, that through secure storage and restriction of access is the way we already ensure privacy and confidentiality of very many records. That to us, therefore, is not the issue. Whether that would instil confidence in the community is another question. You would probably have to ask

the Privacy Commissioner the best ways of going about that.

CHAIR—I have a question relating to that. Is there, in your experience, any difference so far as community confidence is concerned because of the way in which the information is retained and stored? For example, to take the issue that we are dealing with, suppose you keep the actual census forms that we all fill in—we saw a lot of them in Sydney a while ago—you put them in the boxes which take half of a warehouse to store, you put it under lock and key, and you say, ‘That is the data, but we do not take from that data the name identification details and put them onto any form of computer.’ Is there any difference in terms of, in your understanding of public confidence or public concerns, in doing that versus taking the name identifying information from the forms and putting that onto a computer system to which then people might have ready access? What I am asking is: are people more confident or any less concerned if you lock away the original data for 100 years and the name identifying aspect is not transferred over to some electronic form?

Mr Nichols—I am out of my field of expertise, I would have to say, but our perception is that there certainly is a different view about computerised records—I think the data matching exercises are a good example of that—from the view about paper records. But, that being said, most of the paper records we are talking about are also older records. I think this is another issue in relation to privacy, that the issue of privacy becomes a lesser issue as records grow older. That is recognised in the way the Privacy Act is framed and the fact that records over 30 years are subject to the Archives Act and its privacy provisions, not the Privacy Act on its own.

Often, when you are talking about paper records, the ones that people encounter are World War I soldiers’ dossiers or something, which I think give people quite a different perception from this notion of what might be on computer. So I think I am agreeing with you in saying that my perception is that that is a problem.

CHAIR—Just to go back to the World War I veterans: there are not many of them left alive now but there are families of them left alive and there are a few of them still around. Have you had any protests or objections from either World War I veterans or, for that matter, their families in relation to the release of information that is in the Archives?

Mr Nichols—I should make it clear that we do not issue the dossiers of veterans that are still living, except to them or to someone they authorise. Sadly, there are not a great many of them. We have a list of those and we get a list every month. Generally the same applies in relation to the widow as well. Other than that, we have had no formal complaints at all. We have had questions from people a couple of times, but you are talking about three or four people asking questions, which we then satisfied—with 600 or 700 of these dossiers being issued a month.

Mr BARRESI—I know this is, to some extent, a unfair question and if you cannot answer it today I am quite happy for you to come back to us. The whole issue of privacy and confidentiality gets to the credibility of the Australian Archives, to some extent. If this committee was to recommend the retention of the census name data, there would be certain recommendations that you would want us to put in our report, which would at least maintain the reputation and credibility of the Australian Archives. What would that be? Would it be legislative? Would it be in terms of resources? Have you actually thought about that aspect at

all?

Mr Nichols—Yes, but I would like to think about it some more. Just off the top of my head—I would not want you to hold me to this—I think that, if you were to recommend in that fashion, the Privacy Commissioner should be given a role. There would certainly be a resource issue for us; as I said, we have not been able to quantify that. It would depend very much on what we were talking about. Whether there would be legislative requirements in addition to those that are already in the act, I could not tell you. But if we could think about that some more I would appreciate it.

Mr BARRESI—Sure.

CHAIR—Whilst we are on that line, could you also give consideration to this: in the hypothetical situation that there was an inclination to that view by the committee, for what length of time should records that are kept not be disclosed? For example, as I understand the American situation, it is 72 years in the United States. But I also understand from discussions I had with the director of the census bureau in America a few weeks ago that they are giving consideration to extending that period of time because people are living longer than when that time frame was first put into place. So there are those sorts of questions as well. As I understand your legislative framework, you work on a 30-year time frame. I do not think anybody, even those who are advocating most strongly that the records be kept, is advocating that they should then be available after 30 years. I have not heard that argument. I would be interested in what views you have about a time frame if we were to think about that.

Mr Nichols—I said in the opening statement that, under current practice, at 30 years they would certainly not be released. We make these decisions about privacy every day; in fact our access examiners do. The presumption in the act is that records will be publicly available at 30 years unless there is a reason for exemption. In this case there certainly would be. I suggested in the opening statement that we would be looking at 70 to 100 years. That is based roughly on the lifetime of a person.

Mr MUTCH—You have got some figures here about the storing of microfilm and you say that it would cost \$2,500 a year for boxes if it was in microfilm. I am not sure what security arrangements you would have at the Archives, but I take it that you would be fairly secure. If we were to say, ‘We want you to keep the name identified aspects of the census on microfilm,’ would you be able to guarantee that that would be safe? Would you require an armed guard, or could we transfer it to the Mint, which might have security built in? I do not believe it is a very great size. I am not sure exactly how big it would be, but it would not be terribly large if we did keep microfilm of the census for the nation.

Mr Nichols—I am not sure how large—

Mr Stuckey—It requires 100 metres of shelving for microfilm.

Mr Nichols—Our repositories effectively have vaults within vaults within vaults to the extent that you want to take it, I suppose. We store a variety of records under very secure conditions. For instance, the records of correspondence between the Governor-General and the monarch, which are not formally under the Archives Act, are stored under arrangements with the palace and under their embargo. Obviously, with

records of this type, our staff do not have access to them either. I should stress we do have very secure premises for whatever is needed.

Mr MUTCH—If the ABS was given charge of these records, do you think that it would be able to keep them in secure storage without any drama?

Mr Nichols—I am sure it could.

Mr MUTCH—And the same with the Mint?

Mr Nichols—I cannot speak for the Mint.

Mr MUTCH—It is the equivalent of Fort Knox, isn't it?

CHAIR—Mr Nichols, would it be possible for any member of the committee to visit the Australian Archives and look at the security you have been describing?

Mr Nichols—Certainly. We would be very happy to conduct any, or all of you, around the—

CHAIR—Is that here in Canberra?

Mr Nichols—Yes. We could arrange something during sittings.

Mr Stuckey—We have repository buildings in each capital city and they all have security vaults, so if you are in your electorate and you want to rock in and see one, just get in touch.

Mr BARRESI—On the question I asked earlier that you were taking on notice, in case it was not explicit, could you also look at the current public access requests and whether or not that particular system needs to be strengthened as well if we were to go to retention on the forms.

Mr Nichols—You say 'strengthened'. I am not sure—

Mr BARRESI—At the moment I imagine you have particular criteria for public access to your records.

Mr Nichols—Right.

Mr BARRESI—Looking at the census data, can you say whether or not the current regulations for public access would be sufficient?

Mr Nichols—Yes.

Mr MUTCH—If we did not want to have public access for 100 years, we would have to amend the Privacy Act to say that there is no access for 100 years, or for 75 years. Is that correct?

Mr Nichols—The only exception to 30 years in the Archives Act at the moment is for cabinet notebooks, and that is written into the legislation at 50 years.

Mr MUTCH—So, in order to preserve for 100 years without access you would have to pass legislation to guarantee that?

Mr Nichols—It would be a way of guaranteeing it. I am saying that under our existing rules—

Mr MUTCH—I see, you can do it anyway.

Mr Nichols—Yes.

CHAIR—One view that has been expressed is that regardless of what might occur on each normal census, the 2001 census has some additional historical significance because of the centenary of Federation and because it comes at the beginning of the century, et cetera. Do you have any views about the retention of the 2001 census as a special case?

Mr Nichols—No, not as being any different from any other case. If you are asking me how we would go about appraising it, it would be the same. Unless it could be shown that the centenary had a particular aspect to it, I cannot see that that would be different. You are appraising the records rather than the year.

CHAIR—It is an arbitrary event anyway.

Mr Nichols—Yes.

CHAIR—If there are no further questions then I thank you for your submission and for coming along today to discuss it. I suspect that some of us will take the opportunity to visit the Australian Archives and see for ourselves—

Mr Nichols—We would like to see you.

CHAIR—Also, there may well be other questions which arise because this is only the beginning of this inquiry and what often happens is that once we hear other evidence there are questions which we would like to relate back to yourselves or the bureau. We could place questions on notice to you, or we could ask you to come back again. Probably, coming back will not be necessary but we might put questions to you on notice.

Resolved (on motion by Mr Barresi):

That, pursuant to the power conferred by paragraph 16 of the committee's resolution of appointment, this subcommittee authorises publication of the evidence given before it at public hearing this day.

Committee adjourned at 7.00 p.m.