



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

**Reference: Representation for the territories in the House of Representatives**

THURSDAY, 18 SEPTEMBER 2003

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## **JOINT COMMITTEE ON ELECTORAL MATTERS**

**Thursday, 18 September 2003**

**Members:** Mr Georgiou (*Chair*), Mr Danby (*Deputy Chair*), Senators Bartlett, Brandis, Mason, Murray and Ray and Mr Forrest, Mr Melham and Ms Panopoulos

**Senators and members in attendance:** Senators Bartlett, Brandis, Mason, Murray and Ray and Mr Danby, Mr Forrest, Mr Georgiou, Mr Melham, Ms Panopoulos

**Terms of reference for the inquiry:**

To inquire into and report on:

Increasing the minimum representation for the Territories to provide for a minimum of two seats each for the Australian Capital Territory and the Northern Territory in the House of Representatives.

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**Committee met at 8.51 a.m.**

**BERGER, Mr Matthew Henry, Director, Producer Price Indexes, Producer Price Indexes Business Statistics Centre, Economics Accounts Division, Economic Statistics Group, Australian Bureau of Statistics**

**LINACRE, Ms Susan, Deputy Australian Statistician, Population Statistics Group, Australian Bureau of Statistics**

**TREWIN, Mr Dennis John, Australian Statistician, Australian Bureau of Statistics**

**WILLIAMS, Mr Paul, Assistant Statistician, Census, Demography and Geography Branch, Population Statistics Group, Australian Bureau of Statistics**

**CHAIR**—I declare open this public hearing of the Joint Standing Committee on Electoral Matters' inquiry into the representation of the territories in the House of Representatives. The committee is examining whether the Northern Territory and the Australian Capital Territory should each be guaranteed a minimum of two House of Representatives seats. Since its first public hearing, the committee has received a number of submissions to the inquiry. The purpose of today's meeting is to follow up on some of the issues that were raised at the public hearing that the committee held in Darwin last month. To date, 25 submissions have been received as evidence, including supplementary submissions from the Australian Bureau of Statistics and the AEC, who are appearing before the committee this morning.

I remind witnesses that, although the committee does not require them to give evidence under oath, this hearing is a legal proceeding of the parliament and warrants the same respect as the proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The evidence given today will be recorded and will attract parliamentary privilege. The committee has received your submission and your supplementary submissions. Are there any corrections or amendments you would like to make?

**Mr Trewin**—No, there are not, but I would like to make a short statement. Firstly, I should let all the members of the committee know that I am the non-judicial member of the Electoral Commission, as has been the past practice of Australian statisticians. I was not sure whether you were aware of that, so I thought I should let you know. Secondly, I want to assure you that our population estimates for the Northern Territory as at the end of September 2002 were the best available, given the data that was available to us at that time. Nevertheless, they are subject to error and they are subject to revision as more data becomes available.

With respect to possible errors in the estimates, the sources were outlined in some detail in our first submission. One of the most important contributors to the population estimates are the population censuses, as they are used to rebase our population estimates every five years. Despite our best effort, there is some undercount in the census. This is higher in the Northern Territory than in the other states and territories. It is also higher for the Aboriginal population than for other population groups in Australia. Adjustments are made for the undercount when preparing the population estimates and, specifically, the undercounts in the census for the

Northern Territory and for the Aboriginal population, including those in remote areas, are accounted for when preparing the population estimates for the Northern Territory.

As we stated in our first submission, there is a margin of error around our population estimates. In fact, the margin of possible error is greater than the difference between our population estimates and the number of people that were required for the Northern Territory to have two seats in the House of Representatives. We have been quite open about this. Committee members should be aware that our population estimates are just as likely to have overestimated the true population as they are to have underestimated the true population.

As I also mentioned earlier, the population estimates are subject to revision as new data becomes available. More details—the reasons for the revisions—are contained in our first submission, and the next lot of revisions will be included in the June quarter 2003 release of demographic statistics, which is to be published this coming December. These revisions will make adjustments as a result of more information we have on births and from the passenger card system, for example. I am happy to answer any questions the committee may have on this statement or any other questions that you may want to ask.

**CHAIR**—Thank you very much. That was a very effective summation of the position. Could I just pursue a couple of points. There is a statement in the transcript that the margin for error is 0.6 or 0.8 in the Territory. At the last hearing with the ABS I asked if you could be underestimating by 1,300 or overestimating by 1,300. Mr Williams said, ‘Yes, that’s right.’ Mr Edwards said that at the 95 per cent level of confidence, you would double that—it would be 2,600. Having read the transcript again, I did not understand why, at the 95 per cent level of confidence, it is not actually 1,300 but 2,600. At what level of confidence is the 1,300? Or am I misunderstanding this entirely?

**Mr Trewin**—No. It is a difficult concept to get across; you are actually required to have some training in statistics to understand it.

**CHAIR**—Forgive me.

**Mr Trewin**—To answer your question, it is at about 65 per cent that the margin of error would have been 1,300.

**CHAIR**—So with 1,300, you are 65 per cent confident and 35 per cent unconfident—that is the obverse.

**Mr Trewin**—Yes, that is right.

**CHAIR**—Is 65 per cent a high level of confidence?

**Mr Trewin**—The traditional measure that is used is the 95 per cent confidence limit to tell whether there is a significant difference between two things. That is what statisticians traditionally use to give a reasonable of certainty, but it is the 65 per cent level where you are reasonably confident.

**CHAIR**—I will ask a semistatistical question. Given the error margin—and I appreciate the plus or minus; you are saying that there is an equal chance of it being over or under—do you feel really happy about knocking off one seat and doubling the size of the single seat left in the Northern Territory when we are talking about being 291 voters short of the quota and given that there is an equal chance that, at the 65 per cent level of confidence, you could be 1,300 up or 1,300 down? How do you feel about that?

**Mr Trewin**—I am not sure it is my job to have a feeling about that, but—

**CHAIR**—I am asking for an informed judgment as a citizen, given your particular background.

**Mr Trewin**—As we have been quite open about our statistics not being perfect—they are subject to revision—and when it is such a close call like that, you can understand a degree of frustration.

**CHAIR**—I have one other question. The AEC has, in its supplementary submission, spoken about the process whereby the best available or the available figures are provided to the AEC by the ABS. Paragraph 3.5 of that submission says:

Occasionally, the latest available ERP during the month of ascertainment may not yet have been published. This has occurred in 1994, 1999, and 2003. In these circumstances, the Australian Statistician will either arrange to ensure the latest ERP is released slightly earlier than anticipated to meet the timeline determined by section 46 of the Act, or provide the Electoral Commissioner with an embargoed version of the latest ERP for use in the ascertainment.

Is that the process you followed?

**Mr Trewin**—Yes, it is. We were asked to provide the latest available population statistics. As happened this time, there are occasions when the data might be available but not yet in the public domain. On this occasion, as we did in 1994 and 1999, we made special arrangements in order to make that data available to the commission. As we have a policy of equal access for all Australians, we also made the information publicly available at the same time.

**CHAIR**—Let me get this straight: what you did in this particular circumstance, in 2003, was release the latest ERP slightly earlier than anticipated.

**Mr Trewin**—That is right. Normally, they come out in a publication—which I have a copy of here—called *Australian demographic statistics*. That is quite an extensive publication, and the population estimates are a relatively small—

**CHAIR**—So you released that earlier than you intended?

**Mr Trewin**—No, we did not. This contains a lot of information, not all of which was available at the—

**CHAIR**—So you did not release the latest ERP slightly earlier?

**Mr Trewin**—That information was available, but not all the information in this publication was available, which is why we released the ERP.

**CHAIR**—With respect, this submission says that you may release the latest ERP ‘slightly earlier than’ usual? Is this what happened in this case?

**Mr Trewin**—Yes.

**CHAIR**—So, that ERP was released slightly earlier than intended?

**Mr Trewin**—Than was originally intended, yes.

**CHAIR**—So, what we saw, when you published your document, was exactly what you gave the commissioner in advance?

**Mr Trewin**—Yes, it was, but at the same time we gave the commissioner the latest available population estimates we also had an electronic public release. It was not just exclusive to the commissioner.

**CHAIR**—Okay. So, what you published in your hard copy on time was what you gave the commissioner ahead of time?

**Mr Trewin**—No, sorry. At the same time as we gave the commissioner the population estimates we had an electronic release to the general public. Four weeks later, we released this publication *Australian demographic statistics*, which also contained those estimates. There were identical, but this publication contains a lot of other information as well, and, at the time we released the latest available population estimates, not all that information that is in this publication was available. That is why we had a special release.

**CHAIR**—Ah! So it was a special release. It was not an early release; it was a special release.

**Mr Trewin**—Yes.

**CHAIR**—Okay. It was not the latest ERP; it was something else.

**Mr Trewin**—It was the latest available estimates of residential population. As the Electoral Commission submission says, it is the same procedure we adopted in 1994 and 1999. We did not need to do it 1997, because the latest available statistics were the ones that were in our regular publication.

**CHAIR**—Okay. We intend to pursue this, but my understanding was that, in 1999, it actually was the latest version released earlier than intended.

**Mr Trewin**—That is right. We brought forward the—

**CHAIR**—So, it was the full monty, and you brought forward the date of publication.



**Mr Trewin**—Yes.

**CHAIR**—In 2003, you did not bring forward the date of publication; you actually prepared a special publication, which was different from the latest ERP.

**Mr Trewin**—Yes. The reason for that is the gap in 2003 was four weeks, whereas in 1999 it was one week. With a bit of special effort, we were able to bring forward the 1999 publication by a week.

**Senator ROBERT RAY**—So what you are saying is, depending on when a Prime Minister calls an election, the way you apply this may vary according to how close you are. In other words, a territory may get lucky and retain two seats.

**Ms Linacre**—The numbers do not change.

**Senator ROBERT RAY**—Some of you are shaking your heads, but this may well be the case; another couple of weeks difference would have meant you would not have been able to use the September figures. Hansard cannot record your saying no—and your saying yes—by shaking your head. Please verbalise what you have to say.

**CHAIR**—It looks different from this side of the room!

**Mr MELHAM**—People have had different reactions, and I am interested in people verbalising those reactions.

**Ms Linacre**—I will tell you why I had my reaction. I think there is a difference between the method of presentation and the information you are providing around the ERPs, and the ERP itself.

**Senator ROBERT RAY**—I think we understand that. My point is that, in some cases, you are able to get the very latest one by whatever terminology you like—bringing forward publication and others, and I accept that you can do that—but in another case, because the timing is a little different, you are not able to do it. Therefore, what we might be looking at is a differential application just on the flukiness of when an election is called and the 13 months cut in.

**Mr Trewin**—For example, if the election had been one month earlier—I am guessing a little here—we may not have had all the information we needed to compile the September quarter estimates. To that extent your statement is true, but the latest available statistics then would have been for the June quarter. Given the date the election was called, we did have information available in order to compile the estimates.

**Senator ROBERT RAY**—I think that is a yes to my question—it is variable according to the election date.

**Mr Trewin**—Yes.

**Senator ROBERT RAY**—In other words, if the election was a month earlier, your statistics would have been staler. That is no criticism, but they would have been staler. In this case, they

would have had a different result because, as we know, the calculation on the June figures left the Northern Territory with two seats.

**Mr Trewin**—Yes. When you have a close call, like we had this time with the Northern Territory and WA, that is one of the things that can happen. But our requirement is to provide the latest available statistics. That is how we interpret the requirement and that is what we provide.

**Senator ROBERT RAY**—I will get to the interpretation of that as the day goes on. I want to take another tack before I come back to the issues pursued by the chair. You are aware we had the discussion that it was not very useful using the Parliamentary Library figures of 1999 to do forward projections, and you told us that you would bring out new figures on 2 September. Incidentally, when I asked for them three days earlier, I was certainly told I could not have them. So there was no special publication just for this committee. Leaving that aside, have you re-established what you think will be the projection of the Northern Territory figures? I saw your graphs, and they went from 2003 to 2051. I could not extrapolate—in the 10th of a centimetre—what was going to happen in the next three to four years. Can you tell me?

**Ms Linacre**—The projections are just that—projections not forecasts. We are not forecasting what will happen. We provide information on certain assumptions and we calculate what that projects into in terms of population numbers. It depends on which set of assumptions you are putting into it as to what you get out of it. The assumptions that we have provided you with are based on three series—A, B and C—and the assumptions that are built into those take account of past trends, past rates of international migration, interstate migration, fertility and so on. The first one of the three provides a very high forecast of fertility, overseas migration and interstate migration from the Northern Territory perspective, whereas the third series is clearly at the other end. What period did you want to look at—was it 2005?

**Senator ROBERT RAY**—No. I might simplify the question, because we might get drowned here. On the basis of the figures on 2 September, is it likely that the Northern Territory will rise faster than the rest of Australia, will it be about the same or will it be below for the period 2003 to 2007? In turn, we would then be able to make a conclusion about their entitlements to seats in the future, knowing how close it is at the moment.

**Ms Linacre**—Looking at the middle projection is probably the conservative way of looking at it. On that basis you would not be predicting that the population growth rate in the Northern Territory was going to be greater than that for the rest of Australia, on those projections.

**Senator ROBERT RAY**—Going back to the latest available figures, Chair, I did check the explanatory memorandum, and there is no guidance there. So the only guidance I can go by is what was in the mind of this committee in 1985, when I was chairing it. I am the only member of that committee left in the parliament, so there is no-one here to contradict me. I knew what was meant then.

You have explained to us, and we have had explained elsewhere, that you have brought forward the publication of the figures. Could you go back to your submission to us that we considered on 18 August and point out where that is explained to me, because I missed it at the time.

**Mr Williams**—That was our submission dated 14 August.

**Senator ROBERT RAY**—That would be right.

**Mr Williams**—I do not think we discussed that particular issue in that submission, but it is discussed in our subsequent submission.

**Senator ROBERT RAY**—I have to say, Mr Trewin, it was extremely unhelpful not to mention that. It is absolutely germane to our inquiry. We all make mistakes, but I really think that bringing the figures forward in that way, which is critical to our understanding of it, should have been mentioned in your submission. We now have correspondence between the Electoral Commissioner and your organisation to that effect. We had no knowledge of that at our meeting on the 18th, which meant we could not pursue it properly. In any decent submission, that should have been included. So you might take that on board for the future, because the only reason that you are back here today, basically, is that we now have to pursue those sorts of issues. In relation to that letter, who initiated the conversation between Mr Berger and Mr Rushton? You would probably know, Mr Berger!

**Mr Berger**—Mr Rushton rang me. He initiated the conversation.

**Senator ROBERT RAY**—This was to establish no doubt when the September figures would be available and how it fitted the timetable of the AEC?

**Mr Berger**—That is right, and, on the ABS's part, when we would have to prepare that special publication.

**Senator ROBERT RAY**—You would have been pretty much reinforced in your view that this had happened before, because we have now heard that it happened in 1994 and 1999, I think.

**Mr Berger**—That is right.

**Senator ROBERT RAY**—Have you looked at the circumstances of what happened in 1997 and on other occasions when it was not used? It was only in 1997, really.

**Mr Trewin**—I am guessing to some extent here. I presume that when similar sorts of discussions occurred it was recognised that the latest available statistics would have been those that were in one of our scheduled releases. We would not have had the information available to update the population estimates that were in the most recent release.

**Senator ROBERT RAY**—In the time since this provision has been put in for the states in particular, but also the territories, have you ever had reason to seek advice on what the 'latest available statistics' mean in a legal sense or in the sense that you are obliged to comply with the Commonwealth Electoral Act?

**Mr Trewin**—I have not. I cannot speak for my predecessors, but I am not aware that they did.

**CHAIR**—Paragraph 29 of your submission states:

On those occasions where the AEC request for the latest statistics falls ahead of the publication of the quarterly estimates, but after a new set of estimates is internally available, it has been ABS practice to provide these to the AEC, and make them publicly available.

The letter says the AEC normally uses the latest estimated resident population figures but that these will not be available and that a special version can be prepared. When you say 'after a new set of estimates is internally available', what does that actually mean? Does it mean that you have it ready to rock and roll but your printing deadline is later? Does it mean that you have some of it ready or that the pertinent bits are ready? What does that mean—'after a new set of estimates is internally available'? Manifestly, the estimates were not all internally available because you published a truncated version of them.

**Mr Trewin**—No, we published the full version of the estimates that were required for the electoral determination. It was a truncated version of that publication, if you like.

**CHAIR**—The letter says:

The AEC normally uses the latest Estimated Resident Population (ERP) figures ...

**Mr Trewin**—Yes, they were available.

**CHAIR**—The latest ERP figures—

**Mr Trewin**—They were available internally.

**CHAIR**—What was available internally—everything you published in late March?

**Mr Trewin**—No.

**CHAIR**—Is that the ERP?

**Mr Trewin**—It is more than that. The title of the publication is *Australian demographic statistics*. I will quickly go through the tables, it includes, as well as the ERP—

**CHAIR**—How much was not published the first time around? How much was excluded from the special—

**Mr Trewin**—Ninety-five per cent or 99 per cent of this publication was excluded.

**CHAIR**—Because that was not internally available?

**Mr Trewin**—Yes.

**CHAIR**—I would like to think about that. It was internally available, but it could not be published, because 95 per cent was not internally available?

**Mr Trewin**—I might explain that. Our estimates of residential population go through a series of revisions as more data becomes available. The first set of estimates for the September quarter, for example, is dependent on certain sources of data that we use to make those estimates becoming available. Those sources of data were available in time for us to be able to make estimates of residential population as at 18 February, which is the date that we provided information to the Electoral Commission.

**Senator ROBERT RAY**—Could I just follow that up and ask: exactly at what point in time would they not have been available? If you were required, say, one, two, three or four weeks before you handed it over, where is the cut-off point?

**Mr Williams**—I think it would be best to answer that in terms of what was actually available in the lead-up. As Dennis says, it does depend on the availability of statistics and that is dependent on information on births, deaths and internal migration. We do have a schedule for the availability of that data, depending on how it comes from the state registrar. You cannot always predict the availability. Part of the other point that I think should be highlighted is the methodology we actually use. The publication that Dennis referred to contains a lot of information that is driven down once we reach the top line estimates. The first part of doing our estimates is to reach the top line estimates of what is the estimated resident population, and then we work out things like the age and sex and those sorts of things, which is the more detailed stuff. But, as I said, it is hard to predict when the sources of information will become available.

**Senator ROBERT RAY**—That is not really my question. We know on this occasion that you were able to supply the Electoral Commission with the ERPs at a particular time, which was in advance of the publication—we know that—but at what point prior to that could you not have done it? We are not talking about going on a witch hunt to find out whether you did the right or wrong thing, but I am looking at taking the flukiness out in the future. If you could not have given us the September figures two weeks before, it seems to me that it all then depends on the flukiness of the election date, and we should take that out of the act and make very certain what we mean.

**Mr Williams**—I accept the point you are making. But a part of it is that there is a flukiness in the delivery of data from our sources.

**Senator ROBERT RAY**—Yes, as well.

**Mr Williams**—On top of that, in this particular estimate we were also dealing with our final census figures. So there were a couple of variations in our normal process for that particular release.

**Senator ROBERT RAY**—What I am saying is that those are set variables, whereas election dates are capricious.

**Mr Williams**—That is right.

**Senator ROBERT RAY**—That is the difference, and that is why we are trying to get an evenness of approach.

**Mr Williams**—That is right.

**Mr Trewin**—If there had been too much, for example, quite clearly we would not have been able to do it.

**Senator ROBERT RAY**—Yes, but then you are within a month of the other figures. What I am worried about, Mr Trewin, is this: what if it was a week or what if it was 10 days? On some occasions it applies, on some occasions it does not.

**Mr Trewin**—That is right. Absolutely. I can see where you are coming from.

**Senator ROBERT RAY**—Your example of two months means we are only a month out going the other way, so people accept that.

**Mr Williams**—Yes.

**CHAIR**—I will pursue one point, to clarify it in my own mind. To me the availability of a new estimates means that when the Electoral Commissioner wrote to you and said, ‘Can I have the latest available?’ you said, ‘What’s the latest available? Do I have the latest population statistics available?’ So you asked, ‘Can we press a button and send it out to him?’ Is that what happened?

**Mr Trewin**—No, there was a discussion between Matt Berger and Terry Rushton to try and establish exactly what the latest available statistics would be. As part of the research involved in those discussions it was established that within the time we had to produce a formal response to the Electoral Commission the September quarter 2002 estimates actually would be available internally, so they would be, in our view, the latest available statistics. So following that we decided that we would have this special release on 18 February—

**Senator ROBERT RAY**—Can I just stop you there? Mr Becker’s letter keeps on talking about a separate publication.

**Mr Trewin**—Yes.

**Senator ROBERT RAY**—You were saying it is called a separate release.

**Mr Trewin**—It is a publication, if you like. I am using the word ‘release’ in the same sense as the word ‘publication’. In this case we did not have a paper publication. It was an electronic publication. It is the sort of thing that we are increasingly doing. Not all our publications are produced on paper, some are produced electronically, and that was the case on this occasion.

**CHAIR**—So if something had come unstuck in your preparation—because it was not something that you had in hand but it was something that you believed you could have in hand before the—

**Mr Trewin**—Yes. We had a fair degree of confidence that we could do it.

**CHAIR**—But if that confidence had for some obscure reason been displaced what would you have relied on? What data would you have relied on?

**Mr Trewin**—If that was the case, the latest available statistics would have been those of the June quarter. But we did not make the decision to make this release of the September quarter until we had a reasonable degree of confidence that we could in fact do it. There was always the possibility that something might have happened, but we had a high degree of confidence that we could do it.

**Senator MASON**—The questions from my colleagues this morning have related again to methodology and, in particular, to timing. Has the ABS been criticised before with respect to these issues—either methodology in general or timing in particular?

**Mr Trewin**—Are you talking about the release for electoral determination purposes or more generally?

**Senator MASON**—The former: the release for electoral purposes.

**Mr Trewin**—I am not aware of any criticism.

**Senator MASON**—This is the first time?

**Mr Trewin**—Yes.

**Senator ROBERT RAY**—I do not think it is criticism—at this stage, anyway.

**Mr Williams**—I am not aware of any criticism.

**CHAIR**—We are trying to uncover the process.

**Senator MASON**—I know that, Senator.

**Mr MELHAM**—It is a forensic exploration.

**Mr Williams**—There is no record of any criticism previously. We have checked our files. There has been no evidence of criticism when we have undertaken this in the past.

**Mr Trewin**—Our population estimates of course do come under close scrutiny always from the states and territories because there are dollars depending on them.

**Senator MASON**—Sure. I understand that.

**Mr Trewin**—I think every state and territory thinks we are low.

**Senator MASON**—Yes. In terms of general methodology has there been discussion both here and in previous sessions of this committee about the more general questions?

**Mr Trewin**—No. I am not aware of any.

**Senator MASON**—I have one specific question about Indigenous people. There is evidence that there may have been an undercount of them—that census forms were not returned from certain areas and so forth. What do you say to that?

**Mr Trewin**—I am not sure if you were here when I made my opening statement. I did say that despite our best intentions there is an undercount in the census and it is higher for Indigenous people than for other population groups. But we make an adjustment for that undercount in our population estimates, so it is wrong to conclude that, because there is some undercount, population estimates are necessarily wrong.

**Senator MASON**—Have there been criticisms before of the methodology you use with respect to the counting of Indigenous populations.

**Mr Trewin**—It is one of those areas where, in each successive census, we have tried to learn from our previous experience and improve our Indigenous enumeration. There was a 1986 study quoted in the Northern Territory submission which pointed to some criticisms, but in the three censuses since then we have continually tried to improve our methods. I think we do a much better job now than we used to. It is still not perfect. We have commissioned a working group to work with us to help us further improve Indigenous enumeration for the 2006 census.

**Senator MASON**—Okay. So you recognise that there are deficiencies in the methodology, and you are trying to improve.

**Mr Trewin**—Yes.

**Senator MASON**—Thank you.

**Mr MELHAM**—The first paragraph of your supplementary submission opens with the following comment:

Some of the statements in the submissions seriously misstate the actual situation.

You are obviously talking about some written submissions and oral evidence we have received. In particular, in paragraph 4, you point out:

There is one collector for every ten households (compared with one for every 400 households for mainstream enumeration).

How long has that been the case?

**Mr Williams**—We have gradually introduced that. It certainly was the case for 2001. We have been gradually evolving that methodology, which has that intensive enumeration, over three or four censuses. I do not have the information on what the actual ratio was for former censuses. The information there is based on the 2001 census.



**Mr MELHAM**—In paragraph 5, referring to the Northern Territory, the supplementary submission states:

... the census misses the very young, young adult males and the very old but to nowhere near the extent suggested by the earlier study. However, the adjustments made to census counts to arrive at the Estimated Resident Population account for these missed people.

**Mr Williams**—That is right.

**Mr MELHAM**—So that is not something that, on your best estimate, could make the difference between the figures as given for the Northern Territory and some other mythical figures?

**Mr Williams**—The figure that we present—the estimated resident population—is the adjusted figure. We take the census figure. We know that we miss young people—the very young and young males in particular. The figure that is used for the estimated resident population is the adjusted figure. We adjust the figure to take that into account.

**Mr MELHAM**—At the end of paragraph 6, your submission quotes a study which says:

... “As we have suggested, this methodology will, if anything, err towards double counting” ...

**Mr Williams**—Because of the particularly intensive nature of it and because we know that the Indigenous population is difficult to count, we tell our collectors at the census: ‘If in doubt, count.’ For instance, if there is any doubt that someone is going to be counted elsewhere, we will count that person. That is our instruction to our collectors. We do have provisions. For instance, where we go into a community where there might be traditional activities and people are not currently in the community, we will count those people. We try to err on the side of counting people rather than not counting people.

**Mr MELHAM**—In paragraph 7 you cite some evidence that you have received and you proceed to debunk that in paragraph 8, where you say that the census in communities is conducted by interview and forms are not left behind with Indigenous households.

**Mr Williams**—From the specific evidence that has been presented to the Australian Bureau of Statistics, we have no evidence that this sort of thing happens. I have spoken to the people who were responsible for the Wadeye enumeration and it just does not gel with their knowledge and understanding of the way that that collection was conducted there. That is all I can say. That is evidence presented to this committee; it is not evidence that has ever been brought forward to the Australian Bureau of Statistics.

**Mr MELHAM**—But the evidence I am asking you about in terms of your methodology is different from what has been presented to this committee.

**Mr Williams**—That is exactly right. In terms of our evidence for the Indigenous populations in remote Indigenous communities, the case in Wadeye—from discussions with my own staff—was that, because of the problems there, we had people from our Northern Territory office in

Wadeye involved with the collection. They were very close to the ground in understanding what actually went on. So we just do not know where that sort of information is coming from.

**Mr MELHAM**—Ms Linacre, I think Senator Ray asked you some questions about the Northern Territory as a proportion of Australia's population in future projections. I just want to explore that a bit more. Is it your evidence that, on projected populations, the Northern Territory is probably not going to be entitled to two seats in the immediate future?

**Ms Linacre**—As I said, the projections are based on assumptions, and it depends what assumptions you build in to work out what projections you get out. So the difficulty is in determining what the appropriate assumptions are. The ABS has published a whole range of projections, and those different projections give different outcomes, depending on the assumptions that are in there.

**Mr Trewin**—The one thing we can say is that we have now released population estimates up to March quarter 2003.

**Mr MELHAM**—What do they show?

**Mr Trewin**—They show that the Northern Territory is a bit further away from two seats than they were at September quarter 2002.

**Senator ROBERT RAY**—You knew that the figure was 291; what is it now?

**Mr Trewin**—I have not worked that out.

**Senator ROBERT RAY**—No-one has worked that out—okay.

**Mr MELHAM**—But it is more than 291; is that what you are saying when you say that it is further away?

**Mr Trewin**—According to our estimates, their population has declined slightly over the six months since the end of September quarter 2002, whereas Australia as a whole has been growing, so their proportion of the Australian population has shrunk. That is driven mainly by the decrease in internal migration. Of course, if things happen in future, that may change. Over about a four- or five-year period their internal migration has been gradually declining.

**Mr MELHAM**—So it is not a recent thing; you say that there is a pattern there that has emerged.

**Mr Trewin**—Yes, there is a trend pattern over recent years, not just recent months. But, of course, that can be reversed.

**Mr MELHAM**—What would it take to reverse that—basically, a change in migration patterns?

**Mr Trewin**—Yes. It is usually employment opportunities and things like that that change it. A lot of the growth in the nineties was driven by defence movements.

**CHAIR**—Mr Trewin, you have a sense of what the committee is interested in. Do you want to make a final statement or summation, now that you have had things running through your mind? I would like to make sure that you were not being blindsided.

**Mr Trewin**—The only point I would like to make in conclusion is that these are very important statistics. As I said, they are not perfect, and we are continually trying to improve them. I mentioned before that we have set up a working group which includes representatives from the Northern Territory government as well as Aboriginal people to help us with the enumeration strategy for the next census. We have also engaged an expert from Statistics Canada to have a good look at our methods. We picked Canada because they have very similar problems to those we have. They have provinces rather than states, but it is a similar sort of country, and they also have an Indigenous population. We take all this very seriously and we are continually trying to improve our methods. Just to repeat what I said at the start: the estimates we produced for September quarter 2002 was the best we could do, given the data available, but we are not pretending that it was perfect. When it is such a close call it is very difficult, but my job is to put out the best basic information available.

**Senator BRANDIS**—I was just wondering whether it has ever been the practice of the ABS to publish, in these statistics, margins for error?

**Mr Williams**—In terms of our population estimates, we do publish—particularly around the census time—the things such as the post-enumeration survey results and the errors associated with those. Certainly, those are published—there are working papers that contain this information.

**Senator BRANDIS**—Can I ask for a more direct answer: the statistics on the basis of which the AEC determination was made for the Northern Territory did not contain a margin for error estimate, did they?

**Mr Williams**—In terms of the way that they were presented in that particular publication, there was not an accompanying statement about the margin of error.

**Senator BRANDIS**—So the answer to my question is: no, there was not a margin for error.

**Mr Trewin**—But in the public domain there is information about the sources of error and whatnot in our population area estimates. What you are referring to in particular is the sampling error on the post-enumeration survey adjustment. That information was available, if not coincidentally released with information we have provided for the Electoral Commission.

**Senator BRANDIS**—I think most people as a matter of commonsense would realise that an estimate, almost by definition, contains the possibility of error, because it does not purport to be a concrete figure—it is an estimate. But I am interested to know two things: first, whether from a statistical point of view there is a recognised methodology for determining appropriate margins for error depending on the particular type of survey concerned—I imagine there is; and secondly, whether you think it would be a good practice to actually publish that quantified margin for error with this series of statistics?

**Mr Trewin**—It is part of our practice with all our statistical releases to have statements available on the concepts, sources and methods—and some description of the quality of those statistics. We do not always release that coincidentally. Sometimes we make reference to a document that is available in the public domain—usually on our web site. The answer to your question is: yes.

**Senator BRANDIS**—But that is qualitative, Mr Trewin. Why can't we have—as we often see with opinion polls, for example—an actual quantitatively expressed margin for error?

**Mr Trewin**—Where we can measure it in quantitative terms, we do.

**Senator BRANDIS**—But you did not on this occasion?

**Mr Trewin**—We did.

**Senator BRANDIS**—Then why did you not publish the quantitatively expressed margins for error?

**Mr Trewin**—They were published. That was already there in the public domain.

**Senator BRANDIS**—So you did the subsequent post enumeration survey—is that what it was called?

**Mr Trewin**—Yes.

**Senator BRANDIS**—Is that what you refer to when you say that that is the margin for error?

**Mr Trewin**—Yes, that is the bit that is measurable—it is a sampling error. There are statistical methods for measuring sampling errors. Other sources of errors are more difficult. Sometimes we can give indicative information, and where we can we do.

**Senator BRANDIS**—So is it your evidence to this committee that there has been regard given to the appropriate statistical method for measuring what I have called the 'margin for error' and that has been published in this survey?

**Mr Trewin**—In my view, all the relevant information was in the public domain at the time these estimates were released.

**Senator BRANDIS**—That is not quite the same thing, Mr Trewin. Everything that is published in the world is in the public domain. That does not tell me much. I am not a statistician, so forgive me if I use inexpert language. As part of your bottom line, did you or did you not publish a margin of error?

**Mr Trewin**—Yes, we did—we published descriptions of the errors associated with the population estimate.

**Senator BRANDIS**—But that is qualitative. Did you publish a quantitatively expressed margin for error?

**Mr Trewin**—Yes, we did.

**CHAIR**—Thank you.

[9.40 a.m.]

**BECKER, Mr Andrew Kingsley, Electoral Commissioner and Chief Executive Officer, Australian Electoral Commission**

**MOYES, Mr Andrew David, Assistant Commissioner, Enrolment and Parliamentary Services, Australian Electoral Commission**

**CHAIR**—I welcome the witnesses from the Australian Electoral Commission to today's hearings. The committee has received your submission, supplementary submissions and some other communications. Are there any corrections or amendments you would like to make?

**Mr Becker**—No, not at this stage.

**CHAIR**—Do you wish to make a brief statement?

**Mr Becker**—Yes, I do, if I may. Some of the evidence to your committee's hearing in Darwin may have implied that the AEC did not follow the correct procedure in obtaining the latest statistics of the Commonwealth from the Australian Statistician. I want to state quite categorically that that is not the case. The procedure followed by the AEC for the February 2003 determination is the same procedure that the AEC has followed since its formation in 1984. The procedure is based on the legislative requirements of the Commonwealth Electoral Act and legal advice obtained by the AEC on the interpretation of the relevant sections of the act.

The procedure followed for the 2003 ascertainment is as follows. Section 46 of the act requires that I ascertain the numbers of the people of the Commonwealth and the several states and territories using the latest statistics of the Commonwealth in the 13th month after the first sitting of the House of Representatives. For the current parliament, the 13th month was between 13 February and 12 March 2003. Section 47 of the act requires that, at my request, the Australian Statistician will provide me with all the statistics I require for, among other things, the purposes of making an ascertainment.

On 22 October 2002 I wrote to the Australian Statistician requesting that he provide the latest statistics of the Commonwealth during the 13th month. This is the letter contained in Senator Crossin's submission. It was the subject of some debate at the Darwin hearing. I would like to discuss the context of this letter in some detail. The third paragraph of the letter indicates that the AEC usually uses the quarterly estimated resident population, the ERP statistics, to make the ascertainment.

The basis for using the quarterly ERP as the latest statistics of the Commonwealth has been discussed previously in our submissions to this inquiry. However, it is worth reiterating a couple of points. The use of the quarterly ERP came about as a result of concurrent amendments to the Representation Act and the Census and Statistics Act in 1977. These concurrent amendments were intended to remedy a deficiency in the statistics previously used as the latest statistics identified by the High Court as part of its judgment in the McKinlay case. Legal advice obtained

by the AEC confirmed that the intent of the concurrent amendments was to ensure the use of the quarterly ERP as the latest statistics of the Commonwealth for the ascertainment.

The fourth paragraph of the letter refers to contact between officers of the AEC and the Australian Bureau of Statistics. The contact referred to was that the AEC informed the ABS of the impending arrival of the official request for the latest statistics of the Commonwealth. Part of this contact involved the AEC attempting to determine what the latest available ERP would be in the 13th month. The letter indicates that the AEC had asked the ABS about the availability of the September quarter 2002 ERP, which was due for release in March 2003.

The letter then indicates that the ABS advised the AEC that the September quarter 2002 ERP would not be publicly released until late March 2003 but that the ABS may prepare a special version of the September quarter 2002 ERP as a separate publication. The term 'special version' in this instance refers to the type of publication, not to the statistics contained within the publication.

What is being referred to is a release of the September 2002 ERP ahead of its scheduled public release, rather than a specially compiled set of statistics. Evidence collected in Darwin stated that the Australian Statistician should have supplied the June ERP to the AEC on the basis that this was the latest ERP at the time of the request for the latest statistics of the Commonwealth. However, it is clear from the section 46 of the act that it is the latest statistics of the Commonwealth at the time of ascertainment, as opposed to when the request is made—which was in October—that is required for the ascertainment. In fact, I think June 2002 statistics were not available even in October—that is my recollection.

On 18 February, the Australian Statistician wrote to me providing, as requested, the latest statistics of the Commonwealth for the ascertainment. At that time, the latest statistics were the September quarter 2002 ERP stats published on the same day. The Australian Statistician's letter then points out that those statistics would also be included in the ABS's usual compendium publication, *Australian demographic statistics, September quarter 2002*, to be released on 20 March 2003. In other words, the two sets of statistics were the same.

The early release of the latest available quarterly ERP for the ascertainment is not an unusual event and has previously occurred, as you know, in 1999 and 1994. In these circumstances, the Australian Statistician has ensured the quarterly ERP is released slightly earlier than anticipated, to meet the time line determined by section 46 of the act. When this occurred in 1994, the AEC sought legal advice to determine whether quarterly ERPs released earlier than anticipated constituted the latest statistics of the Commonwealth. Based on this legal advice the AEC believes it is not necessary for the quarterly ERPs to be publicly available in order to be considered the latest statistics of the Commonwealth. However, the early release of the September quarter 2002 ERP allowed a public release of the ERP concurrent with the statistics being provided to the AEC.

In summary, at the time of the ascertainment, the latest statistics of the Commonwealth were the September quarter 2002 statistics, although they were not scheduled to be publicly released at that time of the ascertainment. These were the statistics provided by the Australian Statistician to the Electoral Commissioner upon request, and the ABS practice is to publicly release these statistics early to coincide with their delivery to the AEC under the terms of section 46 of the act.

There are three further issues I would like to comment on. Firstly, I understand the committee will be requiring the production of two legal opinions referred to in the AEC's submissions to the inquiry to date. The AEC does not normally release legal opinions; there are good reasons for not doing so. Many of the legal opinions obtained by the AEC contain material directly related to potential cases of criminality. Other legal opinions reveal deficiencies in the act that, if made public, would allow contravention of the intent of the act. Finally, the release of uncontroversial legal opinions, like the opinions requested by the committee, would reveal by omission that the AEC has opinions that may highlight deficiencies in the act and potential cases of criminality. The substance of the relevant parts of the legal opinions requested is contained in the submissions already provided to the committee by the AEC. Nevertheless, I have the legal opinions with me and will table them if the committee requests that. However, given the AEC's concern about the precedent this would set, we would request that the opinions be taken on a confidential basis.

Secondly, there was some discussion in Darwin as to why the correspondence of 22 October had not been made available to the committee by the AEC. The reason for this is that the correspondence was routine as far as this process goes and the terms of reference for the inquiry address territory representation, not the process of ascertainment. As the committee has expressed an interest in this aspect of the process, the AEC has compiled a chronology of correspondence between the AEC and the ABS, containing copies of the correspondence, which I will now table. Finally, the committee has also expressed an interest in examining the explanatory memoranda for those acts amending relevant sections of the act. The AEC has compiled copies of all explanatory memoranda, from many acts, relating to the relevant sections of the act, which I now table. Thank you for the opportunity to make a statement.

**CHAIR**—Thank you for that.

**Senator BRANDIS**—Mr Chairman, before questioning begins, I just want to seek your guidance in relation to a procedural matter. As I understood Mr Becker a moment ago, the view from the table seemed to imply a belief on the part of the AEC that legal opinions which it considers to be confidential should be tabled and that, if they are tabled, whether they should be tabled in camera is a matter for the discretion of the AEC. Mr Chairman, I seek your guidance on this, but I think both of those propositions are wrong. It is for this committee, I would submit to you, to decide whether or not it requires the production by an officer of documents that are relevant to its inquiry, and it is for this committee to decide whether or not to receive such documents in camera. Of course, there will commonly be very good policy reasons to respect a request for confidentiality from an officer, but the point that I am at pains to make and put on the record is that it is not up to the AEC or, indeed, any agency or department to make that decision; it is up to you, as the chairman of the committee, in the first instance.

**Mr MELHAM**—My understanding of what he said is that they would prefer, if the committee wanted them, that they be received confidentially. That is my understanding.

**Senator BRANDIS**—The reason I have made that statement is that I want to make it very clear because it sounded to me as if there was a belief that the committee was being indulged by the witness.

**Mr MELHAM**—No, I did not think that.



**CHAIR**—Could I take this pretty straightforwardly. The AEC has made a variety of points about its legal opinions—some of them may have substance and some of them may not. In the case of the two legal opinions that we are discussing—one which was in 1980, which was 23 years ago, and the other one was in 1994, which was seven years ago—does the AEC believe that it is appropriate to provide those opinions to this committee?

**Mr Becker**—I really do not have any problem with those opinions. I am just talking about the precedent. Those opinions are uncontroversial—

**CHAIR**—Okay, that is fine.

**Mr Becker**—and we have given you the substance of those opinions anyway.

**CHAIR**—That resolves one issue. The issue of the confidentiality is actually a matter for this committee. We will, of course, take your preferences into account, but the bottom line is that we determine what is kept in camera, acting on advice and acting on argument. I would be unhappy to accept opinions sight unseen and, without having seen them, say that we will treat them as having being submitted in camera.

**Mr Becker**—I recognise and my colleagues recognise, of course, that you have every right to request this information. All that we were saying was that, because there are ways that you can put a mosaic together with things like legal advice, it is not so much what is said but what is not said that can quite often lead you to a particular conclusion. We were just saying that if the committee would consider the confidentiality issue then we would be happy to, but it is your call. I have never suggested otherwise.

**Mr Moyes**—We need to make that quite clear. It was simply a request. We do not have any belief, as expressed, that we would have any decision in that.

**Senator ROBERT RAY**—Could I ask whether you sought any advice from anyone outside the Electoral Commission on whether you should table legal advice or not.

**Mr Becker**—Outside the Electoral Commission, we have. That legal advice has told us that, of course, the parliament can do what it likes. You can insist that anybody turns up here and, as the chair rightly pointed out earlier, it would be incumbent upon us to supply any document that we have.

**Senator ROBERT RAY**—Was that advice put to you in writing?

**Mr Becker**—Yes, it was.

**Senator ROBERT RAY**—Could we have that?

**Mr Becker**—Of course. If you demand that, of course you can have it.

**Senator ROBERT RAY**—I am not demanding it; I am asking whether we can have it. I am not a demanding person.

**CHAIR**—That was a good one!

**Senator ROBERT RAY**—That is the first mislead of the day, Chair! So, what do you say to that?

**Mr Becker**—If the committee wants it, obviously it can have it, on the same basis as the—

**Senator ROBERT RAY**—That one I am willing to get in confidence, because I think it helps the committee process. So I would suggest to my colleagues that if we got that advice we would not publish it.

**Senator MASON**—I agree with Senator Ray.

**CHAIR**—I think you have a consensus led by an undemanding person! Can you tell us about the circumstances of the 1994 request for the latest available statistics?

**Mr Becker**—No, I cannot, but I presume that it was much the same as the situation we have just gone through.

**Mr Moyes**—I could fill in perhaps a little bit of that. Again, I do not have the papers with me and I could not go through it chronologically. It was not unlike—

**CHAIR**—Incidentally—because it does bear on what we are going to say—can we have copies of the opinions, please?

**Senator ROBERT RAY**—What happened to the copies of the correspondence? We have the difficulty that, when things are dumped on the desk mid-hearing, we cannot necessarily read them and ask questions about them. It would have been much more helpful to have had that yesterday.

**Mr MELHAM**—I move that we receive them.

**Mr Becker**—Chair, would you like me to point you to paragraph 7?

**CHAIR**—That would be worthwhile, but can we just be a little bit careful, given your request for confidentiality? Could you point us at it?

**Mr Becker**—Yes. Can you look at paragraph 7 of the first opinion.

**CHAIR**—And the second document?

**Mr Moyes**—The relevant paragraph in the second document would be paragraph 9. That is the 1994 opinion.

**CHAIR**—If this goes to highlighting deficiencies in the act and potential cases of criminality, it must be in the earlier paragraphs!

**Mr Becker**—I was not implying that. I was in fact saying that this is very uncontroversial but there are other opinions which, of course, are not quite so simplistic.

**CHAIR**—So your view is that you can get the data from the Statistician at the latest possible time to reflect the best state of knowledge of the population of Australia?

**Mr Becker**—I do not know about the latest possible time; I say ‘at an appropriate time’.

**Mr Moyes**—It is so that we can obtain the latest statistics. That is what we are required to do: obtain the latest statistical population information of the Commonwealth. In writing to the Statistician—as we can under the act—he is obliged to provide that information to us. Our view, and based on our advices, is that we obtain whatever that latest statistic is. It is determined by the Statistician.

**CHAIR**—What would have been the situation that we would have canvassed with the Statistician if, at the time of your request, the Statistician had to come to you and said, ‘I’m short-staffed. I can’t do it before the relevant date’? What would have happened?

**Mr Becker**—In that event we would take the latest available statistics of the Commonwealth. That is what we do. If they were unavailable then we would not take them.

**Senator BRANDIS**—What if there were later ones? What if, at the time you arrived at your determination, new statistics had been published—ones further to those that were available at the time the determination was initially made?

**Mr Becker**—At the time of the ascertainment they were the latest statistics available. If they became available later on then they were not—

**Senator BRANDIS**—But there is a lag between the ascertainment and the publication, isn’t there?

**Mr Becker**—On this occasion it was the same day.

**Senator BRANDIS**—But what if, hypothetically, there were a gap between the date of ascertainment and the date the AEC publishes its maps, for instance? If in that gap new statistics were published would you review the ascertainment?

**Mr Becker**—No.

**Mr Moyes**—It is inevitable that, in the time that it takes to process a redistribution—it is many months—there will be further releases of the latest statistics of the Commonwealth.

**Senator BRANDIS**—So the date of ascertainment is a deadline.

**Mr Moyes**—But it is quite clear that the ascertainment takes place in the 13th month after the first sitting. That is when it is done.

**Senator BRANDIS**—So, to use my expression, it is a deadline.

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**Mr Moyes**—It is a deadline; yes.

**Senator BRANDIS**—And that is the way that you understand the act—that it is a statutory deadline? So, even if subsequently it becomes apparent to you that on the basis of more recent statistics the outcome would be otherwise, that is something that you cannot be cognisant of?

**Mr Moyes**—The expression ‘the chips fall where they lie’ has been used.

**CHAIR**—You said that at the time you asked for the September quarter statistics the June quarter statistics were not available.

**Mr Becker**—I do not think they were at that stage. We are talking about the letter of 22 October and the conversations that I think Terry Rushton had had with Mr Berger from the ABS.

**Mr Moyes**—Or earlier in October and I think there is a six-month lag.

**CHAIR**—I think you see my point. The June quarter statistics were not yet available, but you wanted the statistics for an even later period than the June quarter.

**Mr Moyes**—I think we need to determine something here as far as the timing is concerned. The letter from the commissioner to the Statistician in October was pointing out that the statistics we were seeking—the latest Commonwealth statistics—would be available in the 13th month after the first sitting of parliament, which was from mid February to mid March. The fact that the letter was sent in October is not really relevant to the issue of what was available at that time. What is critical to this is what was available in that month.

**CHAIR**—That does not mean what is available; it means what would be available. That is what you were after.

**Mr Becker**—We were just alerting the Statistician to the fact that he would have to compile some stats for us.

**Mr Moyes**—His response to that was that the September quarter statistics would be available in that time.

**Senator ROBERT RAY**—I want to go back in a minute to one of the three additional points you made, but firstly I want to take you back to your evidence at the previous committee meeting. In response to Senator Mason asking you to comment on various principles, you said:

The Australian statistician gives us the figures and that is it; we work it out on the figures.

Prior to receiving the statistics for the September quarter, did the Electoral Commission at any stage do any calculation, on the June quarter statistics, as to seat entitlement?

**Mr Becker**—I do not recall doing anything on the June quarter—

**Senator ROBERT RAY**—Hold on. I am asking the Electoral Commission—you just happen to be representing them; I am not asking what you did personally. I want to be very clear on this:

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did anyone in the Electoral Commission do calculations on the June figures—or maybe on the March figures? I want to know whether anyone did calculations on seat entitlement or possible seat entitlement in advance of when these September quarter figures from the Statistician arrived on your desk.

**Mr Moyes**—Each month, when we receive the published statistics for each quarter, we do a calculation to see what the lie of the land might be at that point in time. As much as anything, that is for planning purposes to see what might be coming up.

**Senator ROBERT RAY**—Do you not see the massive danger in that? You would have known what the June quarter statistics were. There is no allegation here. Do you not see the danger of knowing what the June figures were and then asking for figures to be brought forward which might bring about a different result?

**Mr Moyes**—In some respects, these are calculations that could be made by anybody.

**Senator ROBERT RAY**—Of course they are—and they are made by us too. I am asking whether they are made by you, because you—not me—determine whether you are going to bring forward and use a special publication of figures.

**Mr Becker**—We did not make that determination about whether we were bringing forward the publication of a particular set of statistics.

**Senator ROBERT RAY**—Sorry? I have just been through the correspondence! You have certainly been actively engaged in encouraging the Bureau of Statistics to publish or disseminate those figures early.

**Mr Becker**—We encouraged the Bureau of Statistics to give us the latest available statistics. As the opinion tells you, the latest statistics do not have to be published in order to be the latest available statistics.

**Senator ROBERT RAY**—When I read Mr Terry Rushton's email, I see that he says:

If you recall, I mentioned that it is possible that 3 States (Queensland, South Australia and Western Australia) may undergo redistribution based on the September Quarter ERP.

That was written in October 2002, so that implies that you were keeping a close eye on the—

**Mr Becker**—Absolutely.

**Senator ROBERT RAY**—That surely puts you in a difficult position as to what you then regard as the latest statistics. It certainly is not the impression you gave me or Senator Mason in your evidence of 18 August.

**Mr Becker**—The fact that we monitor what is going on really has no bearing on the timing of the ascertainment. At the time we were looking at the possibility of losing a seat in Western Australia, losing a seat in Adelaide and in South Australia, and gaining a seat in Queensland. The

Northern Territory was not even on the radar. It was not until that last minute. What is dangerous about that, Senator? I am sorry; I just cannot see it.

**Senator ROBERT RAY**—The danger is that it is open to manipulation. There is the fact of whether or not you pursue a particular set of times or specially produced figures, where you already have the knowledge of where the trends may go or not go. You can just track it through the last five quarters, and you think, ‘Gee, they haven’t lost a seat yet.’ You might be able to know in your own mind whether a fresh quarter is going to influence matters or not. I am not alleging that there is any conspiracy here; I am saying that we are open to dangerous ground here that I never understood before.

**Mr Becker**—I just cannot see it.

**Senator BRANDIS**—Mr Becker, can I just pursue this potential for manipulation with you?

**Mr Becker**—There is no conspiracy, Senator Ray. That would require the conspiracy involvement of the Statistician and his people, and my people—

**Senator ROBERT RAY**—Of course it would not! That is nonsense, Mr Becker. The Statistician is responding to your requests. Do not bring the Statistician into this. We are not alleging conspiracy; we are looking for potential flaws in the act. It would have been nice, by the way, if you had told us about this. I listened to your weasel words on the second point. It would have been nice if we had been told about this on 18 August, because it is absolutely material to what the latest statistics are. We did not get the correspondence then; we discovered the correspondence through the estimates process. You should have given us that letter. While you are at it, you might like to point to where, in the submission we received from you on 18 August, you mention these factors. I cannot find it anywhere.

**Mr Becker**—I thought that I made it clear to the committee that we did not see that letter as being anything more than a request saying, ‘In time, you’ll have to provide us with some statistics.’

**Senator ROBERT RAY**—We are not alleging a conspiracy here. But I am saying that that was a very poor judgment by you that that was not material to this committee’s considerations—a very bad misjudgement—because of course it is.

**Mr Becker**—That is your opinion, Senator.

**Senator ROBERT RAY**—It is my opinion, and you are getting my opinion because what you say at the start of your submission, in a sort of huffy way, is:

Given that these statements—

referring to the statements in Darwin—

were made in a public forum, the AEC is keen to ensure that accurate information is placed before the JSCEM at the earliest possible opportunity.

I am taking you up on your invitation and wondering why it was not supplied.

**Mr Becker**—The issue in that letter that was brought up by Senator Crossin was about whether there had been a special deal done—a special set of publications—for the September 2002 statistics. That was the issue she was raising. The point to us was that that was not a special deal; the statistics were not special, but the publication was going to be different from the normal statistic data. That to me is not material. What was material were the latest statistics.

**Senator ROBERT RAY**—I am not endorsing Senator Crossin's view one way or the other, but we would have liked to have known. You can dump a submission on us the day before, filled up with pages of irrelevancies and with one of the most pertinent facts left out. What do you think I am—got one tooth and play a banjo? We want that sort of information.

**Mr Becker**—You said that it came up in the estimates. It had come up in the estimates a couple of months beforehand.

**CHAIR**—I think that part of the issue is that the committee was left with the impression that this was a purely automatic process, and in fact the process is that you request special steps to be taken. If it were not an automatic process, the process would be that the available statistics, without your request, would have been the June statistics. It was your request that triggered—

**Mr Becker**—No, that is not true, Mr Chairman.

**CHAIR**—I am just reading your letter. It says:

Mr Berger has advised that the Australian Demographic Statistics would not be available until late March 2003—

but they—

may prepare a special version ... I would appreciate it if you could confirm that ...

That is a request.

**Mr Becker**—Yes: that is a request for the latest available statistics. It is not a special—

**CHAIR**—What I am saying is that we thought that it was an automatic process: they give you the numbers whenever—

**Mr Becker**—Not special statistics. There was nothing special about the statistics; they were the latest available statistics, which our advice tells us it is incumbent upon us to accept. It is not that we may or may not, or that we might like to think about whether we will take these or those. That is not the choice of the commission.

**Senator ROBERT RAY**—You are not saying that you would be subject to legal challenge if you had accepted June figures on this occasion? That is nonsense!

**Mr Becker**—I would suggest that you possibly could be. They were not the latest available statistics.

**Senator ROBERT RAY**—Of course they were, and any court would rule that, because they were the latest published statistics. They are the ones you used on other occasions—

**Mr Becker**—Well, the High Court—

**Senator ROBERT RAY**—Not in 1994 and not in 1999, but you used them in 1997.

**Mr Moyes**—We used them in 1997 because—

**Senator ROBERT RAY**—Precisely.

**Mr Moyes**—the advice of the Statistician at that time would have been—and I do not have the evidence before me—that there was not an earlier release because no later statistics were available in that month of ascertainment.

**Senator ROBERT RAY**—There is nothing in these legal opinions that would suggest that, if you had been forced to use the June quarter by a couple of weeks, it would have been open to legal challenge. That is just nonsense. Let us get to the facts of the matter.

**CHAIR**—Indeed, you did not even have the June quarter statistics when you—

**Mr Becker**—No, we did not at that stage.

**Mr Moyes**—If I could again get the timing of that into perspective: we know that each quarter's statistics come out after a six-month lag, so in October—while we may not have had June—come February-March we have a good suspicion that the September figures may well be available. That is the context in which we have sought advice from the Statistician as to whether, in that period of time, the September figures would be available. He has answered affirmatively and said that they would be published for us.

**CHAIR**—I refer you back to the letter from the commission.

**Senator BRANDIS**—Mr Becker, it seems to me, just looking at sections 46 and 47 of the act, that the difficulty you are in is that those two sections of the act are not very harmonious. Whereas section 46 specifies a time at which the ascertainment must be made and requires that the ascertainment be on the basis of the latest statistics of the Commonwealth, all section 47 says is:

The Australian Statistician shall, on request by the Electoral Commissioner, supply the Electoral Commissioner with all such statistical information as he or she requires for the purposes of this division.

So, as I read it, it seems to me that a request could be made by the AEC of the ABS under section 47, prior to the ascertainment period required by section 46, and there is no clear statutory guidance given to you as to when the statistics are to be called for. It might be implicit, but it is certainly not perfectly clear from the act, that the statistics are to be called for during the ascertainment month. Do you see what I mean?

**Mr Becker**—Yes.



**Senator BRANDIS**—Therefore, there is a lack of automaticity—or, to put the converse point, there is a dangerous element of discretion left as to when the statistics are called for, which exposes the AEC to the possibility that it could be alleged that the timing of its call under section 47 was being manipulated. Do you agree that that is the way the statutory scheme seems to work?

**Mr Becker**—The very fact that you have all raised that means that that is possible, but the fact of the matter is that it has never even been a consideration of the AEC.

**Senator BRANDIS**—But, in fairness to you, Mr Becker—and in fairness to your agency—the statute under which you operate ought to protect you from the possibility of that being alleged. I do not think that it would be fair to Senator Ray to say that he has alleged anything, but he has raised the possibility that there could be manipulation. I invite your comment on this: it seems to me that what you need is an amendment to section 47 which specifies, by reference to the effluxion of a period of time from the previous election, what the actual cut-off date for the latest statistics which you then use for the purposes of the exercise in section 46 is to be.

**Mr Becker**—Given this argument, that certainly would be helpful.

**Senator BRANDIS**—Thank you.

**Senator ROBERT RAY**—I would like to refer Mr Becker to correspondence received by him on 13 November 2002 from Mr Dennis Trewin, who gave evidence earlier. What did you understand Mr Trewin to mean when he said, ‘We will be preparing a special issue of estimated resident population figures’? We have heard a lot of terms floated around about what in fact was produced, but he refers to it here as ‘a special issue’. How does that relate to the latest available figures?

**Mr Becker**—It means exactly what we meant in the letter of 22 October saying that we did not want special statistics; we wanted a special publication. That is what he is referring to here. It was published that day—the same day we received the information—and, as you heard this morning, that was exactly the same information that was in the demographic glossy that he produced.

**CHAIR**—Can I take it that you would be supportive of clarification of the timing of the determination of the definition of the available statistics?

**Mr Becker**—Since it has become an issue, yes.

**Senator BRANDIS**—Can I go back and bring to a conclusion the questions I was asking you. I think you followed the point I was putting to you and seemed to embrace it. Would you recommend that this committee recommends an amendment to section 47 of the act to cover the AEC against the eventuality we have been exploring?

**Mr Becker**—Yes. Even if it does not cover the AEC against the possibility of a conspiracy or anything like that, at least it clarifies the point to the committee that, when we are talking about the latest statistics available, we are talking about the latest statistics available, not about whether

it is the January quarter or the September quarter. I am sure that, if we had taken the June quarter, the committee, probably rightly, would have jumped all over us.

**CHAIR**—With respect, no.

**Senator ROBERT RAY**—No, because the difficulty we have here is that we have no proper explanatory memorandum of what the latest statistics are. As you realise, these things happen, but there is no explanatory memorandum, and if you wanted to find the reasoning you would have to go back to the internal deliberations of this committee in 1985 and that would have no strength at law at all. What the intention was then and what the reality is now are quite different. And the intention was not to get a brought-forward thing. I think bringing forward the statistics was done out of the very best of motives, not the worst of motives. I think we accept that. But the difficulty for us is that until we saw the letter that was tabled at the estimates committee we had no idea you had brought it forward. There is no mention in the Bureau of Statistics submission and none in yours at all, which makes it very difficult for this committee to make an evaluation.

**Mr Becker**—Can I clarify a fact? You are saying ‘brought it forward’, but it was not brought forward. The publication may have been brought forward but the statistics were not brought forward; the statistics were still back here in September.

**Senator ROBERT RAY**—Gee whiz, I think I understand that.

**Mr Becker**—Well, you were not making that very clear, Senator.

**Senator ROBERT RAY**—I think I understand that, but—

**Mr Becker**—It was not brought forward at all.

**Senator ROBERT RAY**—inasmuch as normally they are taken—unless there is some initiative taken—off the latest published figures; however, on this occasion, steps were taken for an earlier than normal publication. That is a fair characterisation.

**Mr Becker**—That is correct, and the statistics were the same.

**Senator ROBERT RAY**—And that was not necessarily people’s understanding of the act; it now is.

**Mr Becker**—But when the act says ‘the latest available statistics’ it means, in my view—and that is what the parliament would have intended—the latest available statistics. It does not say ‘the latest published statistics’.

**Senator ROBERT RAY**—It would have been nice if you had told us this. We would not have had to be sitting here a month later.

**Senator BRANDIS**—The problem is, Mr Becker, as we now discover, the way this works is that the ‘latest available statistics’ means the latest statistics you have called for, and there is potentially an element of discretion in that.

**Mr Becker**—There is.

**Mr Moyes**—I would like to just add something too. In the context of an amendment—if that is what is being considered—in relation to what may be the ‘latest statistics of the Commonwealth’, we also have to bear in mind that they are not defined, but it is stated that way in the Constitution as well. I think, in any amendment, to try to define that you would have to be careful in respect to the constitutionality of it.

**Senator BRANDIS**—No, with respect, you would not have to be at all. What you would be doing is giving a definition to a term. At the moment, when people consider section 24 of the Constitution, they look at the McKinlay case. The expression at section 24 has been given a judicial definition. All that is being suggested here is that the judicial definition be replaced by, or made more certain by, the statutory definition. There is no inconsistency and no amendment to the Constitution involved.

**Mr Moyes**—I am not suggesting necessarily an amendment to the Constitution. I am simply suggesting that it may have to be borne in mind.

**Senator BRANDIS**—We can bear it in mind, but it is a commonplace, it is just a matter of language. The expression, in section 46 of the act, is the same expression used in section 24 of the Constitution. My point is that that expression is not then replicated in section 47 of the act, nor is it defined.

**Mr Moyes**—I agree that it is not defined.

**Senator BRANDIS**—It is not defined statutorily, anyway.

**CHAIR**—I think part of the issue is that people who do things habitually think things happen automatically. In fact, in this case, the commissioner does have to specifically ask for an update of statistics. It would have been quite open to another commissioner to say, ‘Oh well, if they are not going to be published until after March, then we have to take June.’ That is how much latitude you have.

**Mr Moyes**—I think, in that context, the commission is obliged to ask for the latest statistics, and that is what occurred.

**CHAIR**—Yes, I am not being critical. But when the response from the Statistician was, ‘No, you won’t have the latest statistics in your time line,’ it could have been left at that, or you could have picked up the offer of, ‘But we may’—and the word is ‘may’—‘provide a special one,’ and you said, ‘Yes, I would like the special one.’

**Senator ROBERT RAY**—I have a procedural question. You very kindly said that if we requested the advice on tabling advices you would give it to us. Could you give it to us today? The committee has indicated on that advice that we will treat it in total confidence.

**CHAIR**—And just to round that out, I propose that we receive the 1980 and 1994 advices in confidence but we will draw on them publicly as necessary to illuminate any points. Is that satisfactory?

**Mr Becker—Yes.**

[10.30 a.m.]

**SANDERS, Dr William Garrison, Fellow, Centre for Aboriginal Economic Policy Research, Australian National University**

**TAYLOR, Dr John, Senior Fellow, Centre for Aboriginal Economic Policy Research, Australian National University**

**CHAIR**—I welcome the witnesses from the Australian National University Centre for Aboriginal Economic Policy Research to today's hearing. I hope you have enjoyed it to date. Do you have any further comments to make on the capacity in which you are appearing?

**Dr Taylor**—I am appearing in my capacity as a population researcher with the centre.

**CHAIR**—Would you like to make a brief opening statement?

**Dr Taylor**—With your indulgence, it might not be quite so brief, but we would like to make an opening statement.

**Mr MELHAM**—Before you do, have you seen the supplementary submission from the Bureau of Statistics?

**Dr Taylor**—We have indeed, and part of what we want to say in the opening statement refers to that supplementary submission.

**Mr MELHAM**—That is what I wanted to make sure of.

**Dr Taylor**—We have followed the deliberations of this committee over the past few weeks with a good deal of interest given the frequent reference to research outputs from the Centre for Aboriginal Economic Policy Research in many of the submissions and in your discussions. Accordingly, we welcome this opportunity to meet with the committee to provide whatever assistance we can in regard to matters surrounding the enumeration of Indigenous people in the Northern Territory. To this end, the first thing we would like to do for the record is to point out misrepresentations, misunderstandings and misinterpretations of our research findings that have no doubt crept inadvertently into aspects of the evidence to date by other parties.

First of all, I refer to the submission by Warren Snowden of August 2003 in which he cites CAEPR discussion paper No. 227 to support a claim that the ABS was forced to admit that it underestimated the Aurukun population in 2001 by 17 per cent. I table the only research available that attempts to inform such an issue. This is CAEPR discussion paper No. 243 by myself and Martin Bell, and you will see that this notes a possible five per cent under-enumeration of this population for 2001. The 17 per cent figure cited by Warren Snowden probably harks back to the findings of a 1986 study by my colleague David Martin, which we published in a joint paper in 1996 and to which the ABS has made reference in its latest submission.

Indeed, a number of submissions refer to this 17 per cent figure, yet none seem to understand its methodological origin or how it might be best interpreted in a public policy context. Thus the ABS supplementary submission of 3 September states that the Martin figure for Aurukun was 'based on constructing kinship and family groups over an extended period of time and geography'. That is to say that the method of having an extended period of time and geography means that this cannot 'be compared directly with either the "usual residence" or "as enumerated" census counts' of the ABS. The committee should know that this misunderstands, misinterprets and misrepresents the facts in this paper.

**CHAIR**—Would 'misunderstands' be enough?

**Dr Taylor**—I am an academic, remember. The relevant paper is tabled. Briefly, in 1986 the anthropologist Dr David Martin—an individual with longstanding personal and research connections with the people of Aurukun—conducted a census of the population, coincidentally at the same time as the 1986 ABS census was under way. Using ethnographic and administrative data sources, he first compiled a list of all Wik people who might conceivably be found as resident in Aurukun at that time. The list was then used to crosscheck the results of a count of individuals conducted over three days, with the whereabouts of those unaccounted for followed up and their residential status recorded. Absent usual residents were not included in this exercise. This method produced a count that was 17 per cent higher than the simultaneous ABS count.

As the ABS notes, the enumeration strategy for remote Indigenous people as applied in the Northern Territory was not introduced into Queensland until 1991. This seems to be a point they are anxious to make. However, in order to test precisely whether this introduction had any impact on comparative counts, you will see in the paper tabled that we projected the 1986 Martin census data forward to 1991. This time, because the 1991 ABS count of Aurukun was actually lower than in 1986, the projected estimate of the Aurukun population was 30 per cent higher than the ABS count, not 17 per cent higher.

The reasons for this difference are outlined in the paper and include a failure by the ABS to enumerate people at outstations, together with what we considered an inherent tendency in the ABS methodology to undercount children and young men. The suggestion in the ABS submission that the researchers agree that the Martin count could not be compared to the ABS count constitutes a misinterpretation of the paper. In an ideal world, clearly the best way to validate a population count would be to have a second independent and simultaneous count of the same population rather than to seek to estimate net undercount post facto by sample survey. This is why I for one have referred to the Aurukun study, which is tabled, as a rigorous independent check of an Indigenous census count. For obvious resource reasons, though, it remains the only such check I am aware of to date.

Elsewhere in the submissions and evidence presented to this inquiry we note the frequent use of select quotes from CAEPR research monograph No 22, which is also tabled. These appear most prominently in the ABS supplementary submission of 3 September. The committee should be aware that the full text from which these quotes are lifted is far more circumspect in its findings about the tendency of ABS methods to either overcount or undercount remote Indigenous populations than the select use of isolated quotation would suggest.

**CHAIR**—They must be academics too!

**Dr Taylor**—We would advise a full reading of the textual setting before any attempt is made by this committee to draw conclusions on such matters. Whatever the case, it is true to say that reference in the CAEPR work to the possibility of overcounting due to the application of special enumeration methods in remote areas was a reference specific to the standard ABS enumeration methodology—that is, of counting people where they are found. That is something that my colleague Will Sanders will comment on briefly in a second. One of the key findings of the study was that the intent of the ABS in the Northern Territory and, to an unknown extent, its practice was to deviate from this standard approach by adopting a usual residence based count. By observing the application of this particular approach in Alice Springs, we concluded that a larger than normal undercount was likely.

Finally, evidence has been presented to the inquiry that suggests a sizeable undercount of the Indigenous population in Wadeye and associated outstations. For the committee's information, I am presently commissioned by the Thamarrurr Regional Authority and the Northern Territory government in their respective capacities as partners to the COAG Indigenous Communities Coordination Pilot, the ICCP trial, at Wadeye to provide a baseline socioeconomic profile of the regional population. On commencing this work with the Thamarrurr Regional Authority, an immediate issue arose in regard to the perceived adequacy of the ABS ERP for Wadeye and associated outstations. I will refer to this area as Thamarrurr.

In 2001, the census count of Indigenous usual residents in Thamarrurr was 1,396. Subsequent adjustment of this count by the ABS produced an ERP of 1,552. For a number of reasons, local service providers and community leaders had reason to doubt the reliability and therefore utility of this ABS estimate. The reasons for this doubt are that, in August 2003 the Wadeye clinic reported a total of 1,916 Indigenous active clients—that is, people who have recently been using the clinic and who are considered as usual residents. In July 2003, the recently updated Commonwealth electoral roll identified a total of 940 Indigenous adults aged 18 plus with a usual residence in Thamarrurr. Given the age structure, this would suggest a total population of around 1,900.

In August 2003, the Health Insurance Commission recorded a total of 2,089 clients with a usual address in the Thamarrurr region. Comparison of the 1996 and 2001 ABS ERPs indicated an intercensal population growth rate for this region of barely 1 per cent per annum. This was half the NT average. The perception of local leaders and service providers was that a population growing well above the NT average would be more likely. Finally, in August 2003 the Thamarrurr Housing Office had a list of some 2,500 individuals who had resided in the region at some time in the year.

Accordingly, my initial role in the ICCP trial has been to adjudicate these various counts and estimates and, in so doing, to produce a figure that is more fit for the purpose of representing the true quantum of needs faced by ICCP bureaucrats and the intended recipients of their efforts, namely the good people of the Thamarrurr region. This work commenced in August and is all but complete. In effect, the method applied was similar to that used by Dr Martin in Aurukun. The population list compiled by the Thamarrurr Housing Office was used to crosscheck names enumerated from a census of dwellings. Discrepancies were followed up by a team of senior men and women from sections of the community that were representative of various clan groups. In turn, they sought assistance from representatives of each of the major family groups, of which there are 62.

The main difference from the Martin approach was that absent usual residents were counted in. The net result was a usual resident population in August 2003 of 2,074, although that figure has yet to be finalised. To compare with the ABS 2001 ERP, we must project the latter two years on to allow for natural increase. In this exercise, net migration is assumed to be zero, as this is what ABS census data indicates. Using official births and deaths data, the 2003 ERP is thus estimated at 1,703. That is 21 per cent below the Thamarrurr community census count of the same month.

In closing, I note that figures of up to 2,500 for Wadeye have been quoted to your committee in various submissions. To avoid any further confusion by introducing yet another figure, I think it is useful to point out the essential difference here between my recent count of Indigenous usual residents and estimates of a service population such as those cited in various submissions: as indicated, the first is an actual count of Indigenous usual residents while the latter are estimates of the number of people, including non-Indigenous people, who might demand services, such as housing, in the region in a given year. Inevitably, service population estimates exceed counts of usual residence. I will now hand over to Will Sanders to say a few words as well.

**CHAIR**—While we still have the thread of what you have said, can we defer that just for a moment? For the benefit of committee members, could you relay your problems with the ABS's comments on CAEPR in paragraph 6 of their submission?

**Dr Taylor**—In our view, paragraph 6 essentially comprises a collection of select quotes that, out of their textual context, take on greater force of meaning than was intended in the original manuscript. I think it would be fair to say that, if you read the text as tabled, you would discover that the intent is to be far more circumspect than is suggested here.

**CHAIR**—How would you describe the ABS's efforts? Can you address in particular the issue that I think you have touched on:

As we have suggested, this methodology will, if anything, err towards double counting.

**Dr Taylor**—I think it may be worth handing over to Will, because he has some interesting points to make on that.

**Dr Sanders**—Let me come in here. This was a statement made at the end of our monograph in a debate we were having about a difference between what we referred to as a 'standard' counting methodology—counting people present and asking them about absent usual residents—versus a non-standard methodology. The non-standard methodology was used in the Alice Springs town camps and, we believe, also to some extent elsewhere in the Northern Territory where the ABS Northern Territory administration tried instead to count usual residents only—so people who were present, who nominated themselves as visitors, were let go on the understanding that they would be counted elsewhere as usual residents. This statement was part of a debate that we were having in which we were arguing for the standard methodology.

**CHAIR**—So what is your view about the actual methodologies that the ABS applies to the enumeration of Indigenous populations?

**Dr Sanders**—Can I make my opening statement, because I think that actually—



**CHAIR**—Yes, but could you answer the question first so that we can follow your opening statement even more acutely?

**Dr Sanders**—Yes, okay. As a result of the Alice Springs town camp case study I was critical of the ABS attempt in the Northern Territory to adopt a non-standard methodology. I was arguing for, and supportive of, the standard methodology of counting people present and asking them about absent usual residents.

**CHAIR**—That is why I ask the question. Can you just break that down for me? In terms of the methodology adopted by the ABS at the last census, is it your view that the methodology overstates or understates the size of the Indigenous population?

**Dr Sanders**—It was my view in the Alice Springs town camps that the non-standard methodology probably led to a larger than normal undercount.

**CHAIR**—In terms of magnitude, firstly, was it larger than normal—

**Dr Sanders**—I cannot say how much larger than normal.

**CHAIR**—Do a conservative estimate.

**Dr Sanders**—I would prefer not to, but I am happy to refer you to the text of the case study—

**CHAIR**—We have to deal with these things. You can take us off and we get lost—we are just simple politicians.

**Dr Taylor**—I might jump in and help Will out there. The simple fact is there is not adequate evidence available—there might well be if the research effort were put in but that has not been the case to date—to give a definitive answer to your question. However, what the committee probably should be aware of is the existence of, if you like, spot estimates of what that might be, albeit very much tied to the specificity of those particular cases. Whether that is generalised across the board would be impossible to say without the research, but in my submission I have cited an instance where a community essentially asked the same question, ‘We do not accept the reliability of this estimate. What do you think the estimate should be?’ The answer to that was to conduct another census and then compare the estimates. As I point out—I forget the figure now—the difference between the two turned out to be in the order of 20 per cent or 21 per cent.

**CHAIR**—And in terms of number?

**Dr Taylor**—In terms of number, it is in the order of 300 people or so.

**Senator BRANDIS**—Do you mean there was a 20 per cent or 21 per cent undercount?

**Dr Taylor**—Difference.

**Senator BRANDIS**—So the first lot was 20 per cent or 21 per cent less than it should have been?

**Dr Taylor**—The initial count of the population in Wadeye, which is the instance I am referring to, was 1,392. That was adjusted to an estimate of 1,552.

**Senator BRANDIS**—Okay, so the first one was that percentage less than it should have been?

**Dr Taylor**—Presumably the estimate of 1,552 versus 1,392, which is an eleven per cent increase, was the ABS's estimate of how much they had undercounted.

**Senator BRANDIS**—What was the name of that locality again?

**Dr Taylor**—Wadeye in the Northern Territory.

**Senator BRANDIS**—Do you have any reason to believe that was other than a typical locality?

**Dr Taylor**—This is the point that I was anxious to stress—that these are specific cases with their own unique circumstances surrounding the enumeration.

**Senator BRANDIS**—But every case is going to have its own unique circumstances. This is a wilderness of single instances, but in that wilderness, nevertheless, one is capable of saying, 'This is not atypical, even though every case has its unique circumstances.' Do you have any reason to believe that it was atypical?

**Dr Taylor**—In contemplating this type of issue in the course of my work over the years, I have drawn the conclusion that it is typical that there will be instances such as this at any given census. I have some evidence to suggest that, census to census, place to place, the quality of the count is variable.

**Senator BRANDIS**—We all understand that.

**Dr Taylor**—The Aurukun study is a case in point. The document tabled, CAEPR Research Monograph No. 22, has a case study of the 2001 count in Aurukun. As the ABS correctly cites in its submission, it was concluded from that study that the 2001 count was pretty good. However, that has never been the case before in Aurukun. You only have to look at the data to see that the 2001 count massively increased the population. To my mind that goes to suggest that, census to census, place to place, the quality of the count can vary quite considerably depending on the circumstances of the time. It is a very human exercise.

**Senator BRANDIS**—Dr Taylor, we know it is not a perfectly exact science, but you and your colleague, Dr Sanders, have—at least, to my mind—told us two relevant pieces of information, which presumably reflect your professional judgment and expertise. Dr Sanders has told us that his conclusion is that there was a larger than normal undercount, but he resists the chair's request that he put some quantitative clothing or garment on that qualitative remark. You, Dr Taylor, have given us an instance of one locality—Wadeye—where you say that the undercount was 20 to 21 per cent, but again you are resisting my attempts to press you to express a view as to whether that was a typical instance. Nevertheless, in this mire of impression and professional judgment, there are these two empirical things you have told us, albeit heavily qualified: that is, you, Dr Sanders, have told us that this was a larger than typical undercount, and you, Dr Taylor,

in an instance which you decline to say was atypical, have told us that there was a 20 to 21 per cent undercount. Can you tell us anything more?

**CHAIR**—He also declined to say it was typical.

**Dr Taylor**—I can see what you are striving for.

**Senator BRANDIS**—I am just striving to get you to tell us as clearly as you can what your conclusion is.

**Dr Taylor**—We are striving for the same thing. It is fair to say that I am on the public record—and the paper has been tabled by me together with my colleague, David Martin—arguing that there is an inherent tendency in the methodology applied by the ABS to count remote Indigenous peoples towards an outcome that undercounts young children and young men in particular. We observe that to be the case. In the paper, we speculate on or argue about why that is the case.

Essentially, what we are talking about here is the method applied by the ABS which seeks to develop a population list as an aggregation of residents of physical structures called ‘dwellings’—households—as opposed to a situation where one encompasses that population as a list of a collectivity of social beings not necessarily tied to any particular household within the community, which is far more the reality.

**Mr MELHAM**—So you advocate a change of methodology?

**Dr Taylor**—We have argued on the record for compiling a list of social beings within the community, whichever dwelling they may or may not reside in, to use as a crosscheck when you are going around counting people to make sure you have not missed anybody.

**Senator ROBERT RAY**—Sorry, I had a division to attend so I missed the discussion of all the ‘typical’ and ‘atypical’ stuff. In your experience in the Northern Territory, have you ever known them to overcount the Indigenous population?

**Dr Taylor**—No, I have not come across an instance of overcounting. To the extent that I have been around sufficient places to make a generalised judgment on that score, in every instance the indications have been that the likely situation is to under-represent numbers.

**Mr FORREST**—Senator Brandis asked a question earlier to the ABS regarding an engineering approach. We have got two academics here. Academically, is there a possibility to come up with an answer when you are dealing with variable data, confidence limits and so forth, which is based on the number of times you have taken records. For instance, the engineer would say that the number of people in this room is 12 people, plus or minus six per cent, because of the vagaries of senators and members going to divisions and so on. What that means is there are 12 people, plus or minus 5 per cent. So there can be 12.6 people or 11.4 people. You cannot have half people, so there are going to be 13 people or 11 people. In the last three-quarters of an hour, that is what has been happening—I have been taking note. Is it possible to take a straight academic approach to this and give, with that sort of probability, a percentage, plus or minus?

Senator Brandis asked a question to other witnesses and I have been thinking about it ever since, because in an engineering sense you can do that. Or is it impossible?

**Dr Taylor**—It is essentially what the ABS does and it is what it has presented to this committee in the submission. The example you describe of members moving in and out of the room raises the possibility that if someone came in and did a survey of those members they would miss somebody. One can estimate the standard error around that possibility. The ABS has tabled that. If I recall correctly, the figure was 291, which is your problem figure—it has a standard error of 2,600 plus or minus around it. In other words, there is an error that is 10 times the net shift that you are concerned about.

**Mr MELHAM**—Are we going to get to the opening statement of Dr Sanders?

**CHAIR**—I think we may incorporate it into *Hansard*. Dr Taylor, what you are saying there is: firstly, there is a systematic undercount of some magnitude; secondly, when you mentioned 1,500 plus eleven per cent, in relation to figures on Wadey, were those the actual ABS adjustment?

**Dr Taylor**—Yes.

**CHAIR**—And what are your estimates?

**Dr Taylor**—Twenty per cent higher—

**CHAIR**—Than the post-adjusted figure?

**Dr Taylor**—Yes.

**CHAIR**—That figure from Wadey was 20 per cent above the 11 per cent adjustment, so it is in the order of several hundred.

**Senator BRANDIS**—When you say several hundred, do you mean more than 291?

**CHAIR**—No, 20 per cent of 1,500 would be about 300 people. My final question is: when we talk about margins of error or whatever—which I keep on getting wrong—and the ABS says plus or minus 1,300 at 65 per cent level of confidence, if there is a systematic undercount of an Indigenous population is the minus impacted on at all? Are the probabilities of the error margin being plus or minus impacted on? If that sounds stupid, I will say it again.

**Dr Taylor**—While I am thinking about that, because it is a clever question in a way—

**CHAIR**—I am sorry.

**Dr Taylor**—I would like to say I did not actually say there was a systematic undercount. What I pointed out were certain inherent aspects of the methodology that could tend towards an undercount. I think the bottom line for this committee is—because we are digging a hole in a way; because there is a bigger picture here—take this 291 figure: what can we really say about that in making major policy decisions of major import? I listened to the debate this morning with

the ABS about standard errors. If I heard them correctly, the statistician indicated that the standard error around the net undercount for the Northern Territory was a high standard error. Certainly, when you look at their submission relative to any other jurisdiction in the rest of Australia, it is relatively high. What it is basically saying is: how much confidence can we lend to this net shift of 291 which came out of the electoral redistribution. I think the answer is: not an awful lot. If I was a decision maker I would have very little confidence in my decision making with a standard error of that magnitude. At the end of the day, that is where we always arrive in this sort of discussion.

**Senator BRANDIS**—So cutting to the chase, Dr Taylor and Dr Sanders, you are not public policy decision makers.

**CHAIR**—Join the rest of us.

**Senator BRANDIS**—You are expert witnesses who come before this committee to give the parliament the benefit of your professional expertise and judgement. In your professional judgement, with regard to all of the matters you have addressed in your submission, is your advice to this committee that, on the balance of probability, the undercount was more than 291?

**Dr Taylor**—It may sound like a simple question, but it does take some thinking through.

**Senator BRANDIS**—I am sure it takes a lot of thinking through, but I now want to press you for a conclusion.

**CHAIR**—Take 30 seconds.

**Dr Taylor**—On the basis of my professional experience and advising the committee using that, I would answer that the probability that the undercount is greater than 291 is a certain probability—just as the probability that it might be the other way around is a certain probability as well.

**Mr MELHAM**—But you do not know which way it is?

**Dr Taylor**—I do not know which way.

**Senator BRANDIS**—Dr Sanders told us before that he thought that the undercount was greater than usual.

**Dr Taylor**—That is true, but the ABS adjusts for these undercounts. We are talking about the undercount of people which, as the ABS has explained to the committee, it then goes on to adjust, to take into account that undercount. The question is whether that adjustment is sufficient or not. What sort of confidence can one lend to any estimate that derives from that adjustment? My professional advice would be that at the end of the day one should really be looking at the confidence you can lend to these net shifts in population due to electoral redistribution.

**Senator BRANDIS**—I do not want to have an arcane discussion with you about probability theory, Dr Taylor. However, do you think it is more probable that the undercount was greater

than 291 than that the overcount after the adjustment was greater than 291? What is the relativity between the two species of probability here?

**Dr Taylor**—I cannot answer that question because statistically speaking they have equal weight. But if you want a context in order to interpret the confidence interval, I think that is what we tried to provide in our opening statement, which is not complete yet.

**CHAIR**—Yes, but you know why it is not complete—because we would actually rather ask you questions.

**Dr Taylor**—I would like to put on the record that, empirical evidence shows that there is likely to be a greater tendency to undercount in these sorts of social settings than to overcount.

**Mr MELHAM**—But if there had been the adjustment by the Australian Bureau of Statistics on top of that—

**Dr Taylor**—Of course, then there is an adjustment. The ABS itself acknowledges these are difficult places to count people.

**Mr MELHAM**—I accept that. So that is why you then have to look at the other factors.

**Dr Taylor**—That is correct.

**Mr MELHAM**—You cannot just look at that in isolation.

**Dr Taylor**—There is a whole social context here that the committee needs to consider in making any judgement about statistics.

**CHAIR**—In the context of the Northern Territory, I would say that your evidence is that there is a substantial undercount of the Indigenous population in particular locales, beyond the adjustment made by the ABS. Is that right?

**Dr Taylor**—I have tabled an instance of that.

**Dr Sanders**—And I have tabled another instance.

**Senator BRANDIS**—In all likelihood, do you think that is more than 291?

**CHAIR**—In the instances, yes.

**Dr Taylor**—I have the actual figures and it is just over 300.

**Mr MELHAM**—That is before adjustments.

**CHAIR**—No, that is with adjustments. In that case, it is after the 11 per cent inflation.

**Dr Taylor**—Basically, the estimated adjustment to August 2003 is of the order of 1,703 as opposed to a count of the population in August 2003 of 2,074.

**Mr FORREST**—I was wondering if Dr Sanders wanted to make his opening statement?

**CHAIR**—Dr Sanders, can you table the statement and we will incorporate it. Our apologies, but we have to force the pace. Is it the wish of the committee that the document be incorporated in the transcript of evidence? There being no objection, it is so ordered.

*The document read as follows—*

**Opening statement to the Joint Committee on Electoral Matters 18/09/2003**

**By Dr Will Sanders**

**Fellow**

**Centre for Aboriginal Economic Policy Research Australian National University.**

The case study, which I conducted, of the 2001 Census enumeration in the Alice Springs town camps had two major findings, both of which seemed to be suggestive of a larger than normal census undercount, though how much larger than normal I cannot say.

The first finding was that the household plus personal form collection structure used in the town camps and other discrete Indigenous communities was very demanding on both interviewers and interviewees and that this led to the possibility of people either avoiding the census collection task or losing interest in it before the task was fully completed. This issue was not specific to the Northern Territory and could, in principle, arise in any discrete Indigenous community in which the household plus personal form structure was employed. In the other two communities studied by the CAEPR team in 2001, Aurukun in Queensland and an outstation community in east Arnhemland, these dysfunctional demands of the two form structure did not become as great an issue as in the Alice Springs town camps as the exposure of interviewees to the household forms was restricted. Hence the issue of how much, in practice, the demands of the household plus personal form structure contributed to larger than normal undercounts in discrete Indigenous communities, not only in Northern Territory but, Australia-wide, must be left somewhat open.

The second major finding of the Alice Springs case study related to the issue of who to count and an attempt within the Northern Territory branch of the Australian Bureau of Statistics to move away from the standard census method of counting people present, plus absent usual residents unlikely to be counted elsewhere. The alternative Northern Territory approach, in discrete Indigenous communities, as I came to understand it, was of counting all people where they are usually resident and hence letting 'visitors' go in the places they were encountered on the understanding that they would be counted elsewhere as usual residents. This was the approach employed in the Alice Springs town camps, and of which I was quite critical. I observed people present in the town camps at the time of the census not being enumerated there because of their claimed status as 'visitors' and I doubted that they would be counted elsewhere. I thought that this shift to a usual residents basis of counting in the discrete Indigenous communities of the Northern Territory had been poorly thought through and, at least in Alice Springs and the surrounding areas, was probably leading to a larger undercount than would have occurred using the standard census counting methodology - though I could not in any way quantify that larger than normal undercount.

This issue of changing the method of who to count in the 2001 census is specific to discrete Indigenous communities in the Northern Territory. However, through liaising with my CAEPR colleague who was conducting the east Arnhemland outstation case study I became aware that in that instance the Census Field Officer and community collectors were following the standard census method of who to count. So in the end it was unclear to me how much of the 2001 census count in discrete Indigenous communities in the Northern Territory was effected by this attempted change in Census collection method relating to who to count.

I should also add that since CAEPR undertook this work on the 2001 Census, I have found the Australian Bureau of Statistics to be extremely receptive to our analysis and our ideas for improvement of census collection methods in discrete Indigenous communities. We have over recent months worked with the Australian Bureau of Statistics on moving to a single household form structure for these communities, so as to lessen the demands of census collection on both interviewers and interviewees. As I understand it, it has also been agreed within the Australian Bureau of Statistics, that the standard census method of who to count will be used in the Northern Territory discrete Indigenous communities in 2006, as elsewhere.

I will conclude by simply restating that my observations of the 2001 Census enumeration in the Alice Springs town camps did lead me to believe that there was probably a larger than normal census undercount occurring in those camps and the related outlying central Australian communities, due to the high demands of the household plus personal form structure and the rather ill-thought through adoption of a non-standard usual residence method of counting. How widespread a larger than normal undercount might have been across the Northern Territory, due to these two factors, I can not tell.

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

That the committee accepts as exhibits the papers tabled by Dr Taylor and authorises publication of the evidence given before it at public hearing this day, including publication on the parliamentary database.

**Committee adjourned at 11.08 a.m.**