
The Parliament of the Commonwealth of Australia

Territory Representation

**Report of the Inquiry into increasing the minimum representation of
the Australian Capital Territory and the Northern Territory in the
House of Representatives**

Joint Standing Committee on Electoral Matters

November 2003
Canberra

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Foreword

Australia's Constitution guarantees each original State at least five seats in the House of Representatives. The Australian Capital Territory (ACT) and Northern Territory (NT) are currently guaranteed one seat each by the *Commonwealth Electoral Act 1918*. Subject to these minimum entitlements, a combination of the Constitution and the Electoral Act sets out a precise manner for determining the number of House of Representatives members each State and Territory will return at a federal election. Based on official population statistics, this determination takes place in the thirteenth month after the first sitting of the House of Representatives following an election.

In the February 2003 determination, the NT was deemed to be just 295 persons short of the population needed to retain the second seat it gained – for the first time – at the 2001 election.

The loss of the NT's second seat by such a small margin generated much public discussion. In July 2003 the Special Minister of State requested that the Committee inquire into and report on guaranteeing a minimum of two seats each in the House of Representatives for the ACT and the NT.

The majority of submissions to the inquiry supported a guaranteed minimum of two seats for the NT.

The Committee was not persuaded by all of the arguments contained in these submissions. However, the inquiry did reveal a lack of clarity in the process for determining the population estimates of the Territories and States. The inquiry also found that the level of uncertainty in the population estimates for the Territories significantly exceeded those for the States.

Concerns regarding the transparency of the process were raised as a consequence of evidence provided to the Committee about the method by which the “latest statistics of the Commonwealth” are obtained, and the absence of a legislative definition for these statistics. As a result the Australian Statistician and to a lesser extent the Australian Electoral Commissioner are given a degree of unintended

discretion when deciding which statistics will be used to determine State and Territory representative entitlements in the House of Representatives.

During the course of the inquiry it emerged that the quarterly publication *Australian Demographic Statistics* does not, as initially claimed, contain all of the Estimated Resident Population (ERP) figures used for the determination of entitlements.

It also became apparent during the inquiry that the Australian Electoral Commission has at times pressed for later quarterly figures to be provided to it as opposed to the latest published quarterly statistics.

For the 2003 determination, the Electoral Commissioner sought (and obtained) September 2002 population figures from the Australian Bureau of Statistics despite the fact that the preceding set of population statistics (for June 2002) had yet to be published. It should be noted that the NT would have retained its second seat had the population figures for the June quarter, rather than the September quarter, been used for the February 2003 determination.

The other area of concern to the Committee is the greater unreliability of the published population estimates for the Territories than those for the States, as acknowledged by the Australian Bureau of Statistics. In the case of the NT, the margin of error in the 2001 net undercount for the census, which carries through to the quarterly figures, is 1.2% (which is up to 3 times the error margin in the States) and for the ACT, it is 0.8% (which is up to twice the equivalent in some of the States). The error margin for Australia as a whole is 0.2% (which is one-sixth of the error margin for the NT).¹

It is clear that the population estimates for the NT and the ACT are less reliable than the estimates for the States, principally because of the difficulty associated with deriving an accurate estimate from a smaller population. This is an important issue when considering cases such as the NT, as it lost a seat on a shortfall of 295 people, which is well within the margin of error surrounding its population estimate.

The Committee does not support a legislative guarantee of two seats for each of the Territories without regard to the size of their populations relative to those of the States. The existing basic principle for determining the number of Members to be elected by the Territories should not be disturbed. It is, however, also important that any systemic disadvantages imposed on the Territories in comparison with the original States be addressed whenever they are identified.

¹ At the 95% confidence level; see further discussion of these concepts in Chapter 5 of the report.

In response to the concerns which emerged during the inquiry the Committee makes the following three recommendations:

1. That in order to make the process of determining the representation of the Territories in the House of Representatives more transparent and certain, the *Commonwealth Electoral Act 1918* be amended:
 - to require the Australian Statistician:

to include in the quarterly Estimates of Resident Population published in *Australian Demographic Statistics*, in addition to the estimated populations of the States, the Australian Capital Territory and the Northern Territory, estimates of the populations of the Territories of Jervis Bay, Cocos (Keeling) Islands and Christmas Island.
 - to require the Australian Electoral Commissioner:

on a date twelve months after the first sitting of a new House of Representatives, to take note of the latest statistics of the population of the Commonwealth, including separate statistics of the populations of each of the States and Territories of the Commonwealth, that have been published as Estimates of Resident Population in *Australian Demographic Statistics*; and
 - to require the Australian Electoral Commissioner:

to make to those statistics whatever adjustments are required by other sections of the Commonwealth Electoral Act 1918 for the purposes of making the determination, for example the Norfolk Island statistics, and to make and publish the determination including details of the adjustments and calculations involved within one month after the end of the twelfth month after the first sitting of a new House of Representatives.
2. That in future, the margin of error for the Australian Capital Territory and the Northern Territory is incorporated into the determination of seats for the Territories when a Territory falls short of quota. If the shortfall is within the margin of error acknowledged by the Australian Bureau of Statistics, the Australian Electoral Commissioner is to use the Estimated Resident Population figure at the top of the margin of error to determine the Territory's entitlement.
3. That the 2003 determination for the Northern Territory be set aside by government legislation to the extent that it applies to the Northern Territory.

With respect to recommendation three, some Committee members believe that the margin of error for the NT creates significant doubt as to the outcome of the 2003 determination and believe that the estimate of the NT's 2003 population should be the ERP figure at the top of the margin of error. This would result in the NT retaining its second seat.

Other Committee Members believe that it was the intention of the Parliament that the "latest statistics of the Commonwealth" be the latest *published* statistics at the time of the determination – not a special version or early release of the ERP figures – and for the 2003 determination the published statistics that should have been used were the June 2002 ERP figures. If the June 2002 ERP figures were used, the NT would have been entitled to two House of Representatives seats.

All Committee Members agree with the recommendations.

The Committee would like to thank those organisations and individuals who made submissions to the inquiry and appeared before the Committee at public hearings. In particular, the Committee would like to acknowledge the staff of the Australian Bureau of Statistics and the Australian Electoral Commission who provided the Committee with further information following the public hearings.

I would also like to thank the Members of the Committee for their work on this inquiry and place on record my appreciation of the support provided to the Committee by the secretariat. I commend the report to Parliament.

Petro Georgiou MP

Chair



Membership of the Committee

Chair Mr Petro Georgiou MP

Deputy Chair Mr Michael Danby MP

Members Mr John Forrest MP
 Mr Daryl Melham MP
 Ms Sophie Panopoulos MP

Senator Andrew Bartlett

Senator George Brandis

Senator Brett Mason

Senator Andrew Murray

Senator Robert Ray

Committee Secretariat

Secretary	Russell Chafer
Inquiry Secretary	Bronwen Jagers (to July 2003)
	Frances Gant (from August 2003)
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Terms of reference

In July 2003, the Special Minister of State, Senator the Hon Eric Abetz, referred to the Committee an inquiry with the following terms of reference:

That the Joint Standing Committee on Electoral Matters 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.



List of abbreviations

ABS	Australian Bureau of Statistics
ACT	Australian Capital Territory
AEC	Australian Electoral Commission
ALP	Australian Labor Party
ANU	Australian National University
CAEPR	Centre for Aboriginal Economic Policy Research
ERP	Estimated Resident Population
JSCER	Joint Select Committee on Electoral Reform
NSW	New South Wales
NT	Northern Territory
PES	Post Enumeration Survey
SA	South Australia
WA	Western Australia

List of recommendations

5 The Population Estimates

Recommendation 1

The Committee recommends that in order to make the process of determining the representation of the Territories in the House of Representatives more transparent and certain, the *Commonwealth Electoral Act 1918* be amended:

- to require the Australian Statistician to include in the quarterly Estimates of Resident Population published in *Australian Demographic Statistics*, in addition to the estimated populations of the States, the Australian Capital Territory and the Northern Territory, estimates of the populations of the Territories of Jervis Bay, Cocos (Keeling) Islands and Christmas Island.
- to require the Australian Electoral Commissioner:
 - ⇒ on a date twelve months after the first sitting of a new House of Representatives, to take note of the latest statistics of the population of the Commonwealth, including separate statistics of the populations of each of the States and Territories of the Commonwealth, that have been published as Estimates of Resident Population in *Australian Demographic Statistics* and;
- to require the Australian Electoral Commissioner:
 - ⇒ to make to those statistics whatever adjustments are required by other sections of the Commonwealth Electoral Act 1918 for the purposes of making the determination, for example the Norfolk Island statistics; and
 - ⇒ to make and publish the determination including details of the adjustments and the calculations involved,

within one month after the end of the twelfth month after the first sitting of a new House of Representatives. (paragraph 5.38)

7 Increasing the Representation of the Territories in the House of Representatives

Recommendation 2

The Committee recommends that in future, the Australian Statistician advise the Electoral Commissioner of the margin of error for the Territories at the time of supplying the latest statistics of the Commonwealth, and that the margin of error for the ACT and the NT be incorporated into the determination of seats for the Territories when a Territory falls short of quota. (paragraph 7.52)

If the shortfall is within the margin of error acknowledged by the ABS, the Australian Electoral Commissioner is to use the ERP figure at the top of the margin of error to determine the Territory's entitlement. (paragraph 7.53)

Recommendation 3

The Committee recommends that the 2003 determination be set aside by government legislation to the extent that it applies to the Northern Territory. (paragraph 7.67)



Executive summary

Chapter one - Introduction

In February 2003, the Australian Electoral Commissioner determined that at the next federal election, which is due to be held by mid-April 2005, Queensland will gain an additional House of Representatives seat, and South Australia (SA) and the Northern Territory (NT) will each lose one seat. For the NT, this means that its entitlement in the House of Representatives will be reduced from two seats to one.

Scope and conduct of inquiry

On 9 July 2003, the Special Minister of State, Senator the Hon Eric Abetz, wrote to the Committee asking it to inquire into and report on increasing the guaranteed minimum representation for the Australian Capital Territory (ACT) and the NT to two seats each in the House of Representatives.

The Committee wrote to all Members, Senators, State and Territory governments, political parties, the Australian Electoral Commission (AEC) and the Australian Bureau of Statistics (ABS) inviting them to make submissions to the inquiry.

The Committee received 28 submissions, and three public hearings were held in Canberra and Darwin during August and September 2003.

The Tollner Bill

On 16 June 2003, Mr David Tollner MP, Member for Solomon, introduced a private Member's Bill to the House of Representatives which seeks to amend the *Commonwealth Electoral Act 1918* to provide the NT and the ACT with a minimum of two seats each.

The Committee's reference is not an examination of the Tollner Bill, although that Bill is relevant to the issues raised by the Committee's reference.

Structure of the report

The report comprises seven chapters which discuss the history of Territory representation in the Commonwealth Parliament, the process used by the ABS for determining State and Territory entitlements to House of Representatives seats, population estimates and the “latest statistics of the Commonwealth”, and policy proposals for increasing the minimum representation of the Territories.

Chapter two - Territory representation in the Commonwealth Parliament

The provisions governing the representation of the original States in the Commonwealth Parliament are set out in parts II and III of the Constitution. Representation of the Territories is governed by section 122 of the Constitution.

The House of Representatives

Section 24 of the Constitution provides that the House of Representatives shall be composed of Members directly chosen by the people of the Commonwealth, and that the number of Members shall be, as nearly as practicable, twice the number of Senators. This is referred to as the “nexus”.

Section 24 also provides that at least five Members shall be chosen in each original State.

Paragraphs (i) and (ii) of section 24 of the Constitution prescribe the formula for determining State representation entitlements in the House of Representatives.

In the 40th Parliament, there are 150 Members of the House of Representatives.

The Senate

The original States are each guaranteed a minimum of six Senators under section 7 of the Constitution. Currently, each State elects 12 Senators.

Legislative provisions governing the representation of the NT and the ACT in the Commonwealth Parliament

Section 122 of the Constitution provides that the Parliament may allow for representation of the Territories in either House of Parliament “to the extent and on the terms which it thinks fit”. A number of cases brought before the High Court of Australia have considered the validity of legislation governing representation of the Territories in the Commonwealth Parliament.

The High Court has confirmed the right of the Commonwealth to determine the number of Senators and Members for the Territories, the method for electing or appointing Parliamentary representatives for the Territories, and the rights afforded to each Territory Senator and Member. It also confirmed that different

sections of the Constitution apply to the representation of the States and Territories in the Commonwealth Parliament.

House of Representatives

The NT was granted one Member of the House of Representatives in 1922 by the *Northern Territory Representation Act 1922*. The ACT was granted representation by one Member in the House of Representatives by the *Australian Capital Territory Representation Act 1948*. The voting and participatory rights of these Members were restricted.

In 1968, the Member for the NT was afforded the same rights, privileges and immunities as Members for the States, and in 1966, full voting rights were conferred on the Member for the ACT by the *Australian Capital Territory Representation Act 1966*.

In 1990, all legislative provisions pertaining to the representation of the Territories in the Commonwealth Parliament were incorporated in the *Commonwealth Electoral Act 1918*.

The Senate

The NT and the ACT were first granted Senate representation by the enactment of the *Senate (Representation of the Territories) Act 1973*. The Act provided that the NT and the ACT should each be represented by two Senators directly chosen by the people of the respective Territory voting as one electorate. This is the current entitlement of the Territories.

Territory Senators have the same Parliamentary rights, privileges, and immunities as State Senators, however, Territory Senators are elected for a term concurrent with that of Members of the House of Representatives.

The Joint Select Committee on Electoral Reform

In 1985, a predecessor of this Committee, the Joint Select Committee on Electoral Reform (JSCER) recommended that the ACT and the NT be entitled to representation in the House of Representatives of at least one Member each, and that representation after that be determined by dividing the population of each Territory by the quota used to determine the representation entitlements of the States. The Committee's recommendations were adopted, and the Electoral Act was amended accordingly in January 1990.

Chapter three - Determining representation in the House of Representatives

The formula

Section 24 of the Constitution sets out the formula for determining the entitlement of each of the States to seats in the House of Representatives as follows:

- (i) A quota shall be ascertained by dividing the number of the people of the Commonwealth, by twice the number of the Senators.
- (ii) The number of Members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more Member shall be chosen in the State.

Section 48 of the *Commonwealth Electoral Act 1918* sets out the process for determining the representation of the Territories in the House of Representatives. As is the case with the States, the Territories' entitlements to seats in the House of Representatives are determined by the result after dividing the population of the Territories by the quota. When the division returns a remainder greater than one half of the quota, a Territory is entitled to an additional House of Representatives seat.

Section 46 of the Electoral Act requires the Australian Electoral Commissioner to ascertain the population of the Commonwealth and of the States and Territories within the 13th month following the first sitting of a new House of Representatives. These population figures are then used to determine the entitlements of each State and Territory to seats in the House of Representatives.

For the purpose of determining these entitlements, the population of the Commonwealth does not include the population of the Australian Territories. Similarly, to determine the quota, the population of the Commonwealth is divided by twice the number of Senators from the States (ie, Territory Senators are excluded).

Determination for the 41st Parliament

In February 2003, the Australian Electoral Commissioner determined the number of Members of the House of Representatives for each State and Territory for the next Parliament - the 41st Parliament.

The quota for the 2003 determination was 133,369.375:

Population of the Commonwealth:	19,205,190
Twice the number of Senators from the States:	$72 \times 2 = 144$
= Quota:	133,369.375

The number of House of Representatives Members for each State and Territory to be returned in the next Parliament is shown in Table 3.1.

Table 3.1. 2003 determination of State and Territory entitlements in the House of Representatives

State/Territory	Population as at February 2003	Quotas ¹	No. of HoR Members	Change
New South Wales	6,657,478	49.9176	50	none
Victoria	4,888,243	36.6519	37	none
Queensland	3,729,123	27.9609	28	+1
Western Australia	1,934,508	14.5049	15	none
South Australia	1,522,467	11.4154	11	-1
Tasmania	473,371	3.5493	5 ²	none
Northern Territory	199,760	1.4978	1	-1
Australian Capital Territory	322,871	2.4209	2	none

Source: Australian Electoral Commission, *Electoral Newsfile No.110 April 2003*.

¹This is calculated by dividing the population of a State or Territory by the quota.

²Tasmania, as an original State, is guaranteed a minimum of five House of Representatives seats.

Chapter four - State and Territory representation in the House of Representatives

Table 4.2 details - for each of the States and Territories that have lost seats in the House of Representatives since federation - the margin by which the jurisdiction was short of retaining that House of Representatives seat.

Table 4.2. States and Territories that have lost seats: 1901 – next federal election

State/Territory	Election Year	Change in number of Seats	Quotas ¹	Quota Gap	Population Gap
Northern Territory	2004-5	2 to 1	1.498	0.002	295 ²
Australian Capital Territory	1998	3 to 2	2.495	0.005	658
South Australia	1993	13 to 12	12.451	0.049	5,627
Victoria	1913	22 to 21	21.375	0.125	7,717
New South Wales	1993	51 to 50	50.417	0.083	9,554
Victoria	1922	21 to 20	20.358	0.142	10,698
South Australia	2004-5	12 to 11	11.415	0.085	11,282
South Australia	1934	7 to 6	6.327	0.173	15,870
Victoria	1906	23 to 22	22.051	0.449	24,643
Victoria	1996	38 to 37	37.279	0.221	26,404
Victoria	1990	39 to 38	38.176	0.324	35,982
New South Wales	1955	47 to 46	45.986	0.514	38,239
New South Wales	1967	46 to 45	44.440 ³	0.560	53,402

Source: Australian Electoral Commission, 28 October 2003.

¹The quotas and the quota gap listed in table 2 have been rounded to 3 decimal places. To calculate the population gap down to an individual person, the AEC uses a quota calculated to 8 decimal places.

² Some submissions to the inquiry have referred to a population shortfall of 291 and 295 people for the NT. An additional 294 people would increase the population of the NT to 200,054 which is 1.49999953 quotas. An additional 295 people would increase the population to 200,055 people and return a quota of 1.50000703 (two seats).

³An extra seat was granted on any remainder of the quota between 1964-1972 determinations of entitlements to seats.

The Territories have experienced the smallest margins (in terms of the number of people) by which a jurisdiction has been short of retaining a House of Representatives seat.

Chapter five - The population estimates

Issues relating to the population estimates of the Commonwealth and the States and Territories, especially the NT, recurred throughout the inquiry.

The latest statistics of the Commonwealth

The Constitution and the Electoral Act do not define what is meant by the “latest statistics of the Commonwealth”. The Explanatory Memorandum of the Electoral

Act also does not define what is meant by the “latest statistics of the Commonwealth”.

Estimated resident population figures

The Committee was told by the AEC and the ABS that the “latest statistics of the Commonwealth” are the Estimated Resident Population (ERP) figures produced by the ABS for each State and Territory as at the end of March, June, September and December of each year. The ERP figures are published by the ABS in *Australian Demographic Statistics* about five to six months after the reference period.

In addition, the Australian Statistician told the Committee - in reference to the population estimates provided for the 2003 determination - that the ERP figures published in *Australian Demographic Statistics* are the same as those provided to the Electoral Commissioner for the purposes of the determination.

The Committee was therefore led to believe that the ERP figures contained in *Australian Demographic Statistics* - whether this is a current, early or embargoed version of the published *Australian Demographic Statistics* - are the “latest statistics of the Commonwealth” provided to the Electoral Commissioner for the determination of entitlements.

During the course of the inquiry, it became apparent that this was not the case. Rather, much confusion surrounded the concept of the latest statistics of the Commonwealth and, more specifically, what is provided to the Australian Electoral Commissioner to make the determination.

The Committee pursued these issues extensively in the public hearings and in subsequent discussions with the two agencies. The Committee now understands that the publication *Australian Demographic Statistics* does not contain all of the ERP figures that are provided to the Electoral Commissioner by the ABS for the purposes of the determination.

The Committee also understands that the process for obtaining the latest statistics of the Commonwealth involves a letter of request from the Australian Electoral Commissioner to the Australian Statistician. The Australian Statistician then responds in a letter of reply that contains population estimates, some of which - namely separate figures for the Territories of Jervis Bay, Christmas Island and Cocos (Keeling) Islands - are not published in *Australian Demographic Statistics*.

The population figures supplied by the Australian Statistician to the Electoral Commissioner are further supplemented by separate population figures for enrolled electors resident in Australia’s external Territories, and eligible electors from Norfolk Island obtained by the AEC. The Electoral Commissioner uses these additional figures to modify the population estimates of the States and Territories and determine House of Representatives entitlements.

The “latest” statistics of the Commonwealth

The absence of a legislative definition of the latest statistics of the Commonwealth provides the Australian Statistician, and to a lesser extent, the Electoral Commissioner, with a degree of discretion when deciding which statistics will be used to determine State and Territory representative entitlements in the House of Representatives.

Contrary to the impression conveyed in the evidence that the process for obtaining the latest statistics of the Commonwealth involved the ABS providing whatever population statistics they had available, it is clear that the AEC has closely monitored the evolution of the quarterly figures, and has at times pressed for later quarterly figures to be provided to it on the basis that getting more recent figures than the last published quarters was particularly sensitive.

The “latest statistics of the Commonwealth” used in the 2003 determination

Uncertainty about the date of the latest statistics was an issue in relation to the 2003 determination.

At the time of the Electoral Commissioner’s letter of request to the Australian Statistician for the “latest statistics of the Commonwealth” for the February 2003 determination, neither the June 2002 nor the September 2002 quarterly figures had been published by the ABS. Nonetheless, the Electoral Commissioner pursued the September 2002 figures for the purposes of the determination. A representative of the AEC explained that the September 2002 quarterly figures were sought because the AEC had a “good suspicion” that these figures would be ready for the February 2003 determination.

The ABS conceded that if the September figures could not have been produced in time for the Electoral Commissioner to make his determination then the June figures would have been provided.

If the June 2002 figures were used as the latest statistics in the 2003 determination, rather than the September 2002 quarterly figures, the NT would have retained its second seat.

The Committee has to admit its surprise that the meaning of the “latest statistics of the Commonwealth” is so fluid, and that there appears to be an unintended degree of discretion afforded to the Australian Statistician and the Australian Electoral Commissioner to determine which quarterly estimates are the “latest statistics of the Commonwealth”.

There is a recollection that the 1986 Committee, which framed the recommendations leading to the current formula in the Commonwealth Electoral Act for determining the number of Members of the House of Representatives for

the ACT and NT, had an expectation that it would be based on the latest *published* quarterly statistics.

Issues in estimating the population of the NT

Concerns about the population estimates used for the 2003 determination of entitlements were expressed in a number of submissions to the inquiry. Members of Parliament from the NT, and the NT Government, expressed the view that the Census methodology used by the ABS to enumerate the population, particularly of the NT's indigenous communities, lends itself to under-estimating the population of the Territory.

The Committee notes the controversy surrounding the population estimates for the NT and understands that the ABS has acknowledged there are shortcomings in some areas, and a project to validate its methodology is underway. For the most part, the matters in contention are for statisticians and demographers to work through. It is important, however, that the ABS and the AEC resolve these issues promptly.

Margins of error

The most recent Census of Population and Housing provides the basis for subsequent quarterly population estimates. The ABS acknowledges that a small percentage of the population is missed in the Census count, and that an even smaller percentage is counted more than once. Accordingly, a Post Enumeration Survey is conducted, through which the ABS estimates the net undercount of a population which it uses to adjust the Census.

Table 5.3 shows the net undercount estimates of the 2001 Census and the error margins at a 95% confidence level. The first set of columns shows that the NT had the highest estimated net undercount of all the jurisdictions, at 4.0% or 7,800 people.

The second set of columns refers to the margin of error surrounding the estimated net undercount figures - that is, the number of people by which the net undercount could actually be over or under estimated. The table shows that for the NT, we can be 95% confident that the estimated net undercount is within 1.2 percentage points or 2,600 people above or below the estimated undercount of 7,800 people. In other words, with an estimated net undercount of 7,800 people, there is a 95% chance that the net undercount is actually between 5,200 and 10,400 people.

Table 5.3. Net undercount 2001 Census

	Net Undercount		Net Undercount - 95% confidence interval		
	Number	Rate %	Error margin*	Lower limit	Higher limit
<i>New South Wales</i>	130,100	2.0	0.4	103,700	156,500
<i>Victoria</i>	67,300	1.4	0.4	49,800	84,700
<i>Queensland</i>	68,500	1.9	0.4	51,700	85,300
<i>South Australia</i>	24,300	1.6	0.4	17,800	30,800
<i>Western Australia</i>	37,400	2.0	0.6	26,800	48,100
<i>Tasmania</i>	7,400	1.6	0.6	4,700	10,100
<i>Northern Territory</i>	7,800	4.0	1.2	5,200	10,400
<i>A.C Territory</i>	3,300	1.0	0.8	800	5,700
<i>Australia</i>	346,100	1.8	0.2	307,600	384,600

Source: adapted from Information paper: *Census of Population and Housing, Data Quality – Undercount, Australia 2001*, ABS Catalogue No 2940.0 in submission #6 from the ABS.

* Percentage points.

The significance of the margins of error in the net undercount is this: when the net undercount is applied to the Census figures, the margins of error in the net undercount carry through to the adjusted Census figures, and hence to the quarterly population estimates that are used to determine State and Territory entitlements to seats in the House of Representatives.

For the NT, this means that its estimated population of 199,760 people is actually an estimated population range of between 197,160 and 202,360 people (that is, 199,760 plus or minus 2,600 people, at a 95% confidence level). Similarly, for the ACT, its estimated population of 322,871 people is actually an estimated population range of between 320,471 and 325,271 people (that is, 322,871 plus or minus 2,400 people, at a 95% confidence level).

Compared with the estimates made for the States, there is greater variability in the estimates for the Territories. It is clear that the population estimates for the NT and the ACT are less reliable than they are for other jurisdictions.

This is an important issue when considering cases such as the NT, as it lost a seat on a shortfall of 295 people, which is well within the margin of error surrounding its population estimate.

Chapter six - Characteristics of electorates in the Territories

Numerical size of Territory divisions

One of the primary concerns expressed in submissions to the Committee was the number of electors in electorates within the ACT and the NT compared to electorates in the States. It was argued that the numerical size of Territory

electorates fluctuates more readily than those in the States and by comparison, the Territories are likely to have relatively small or relatively large numbers of electors per electorate than the States. The loss of one House of Representatives seat will, in the case of the NT, result in its representation entitlement being halved. In the Territories, losing one seat can result in electorates with the largest number of people enrolled to vote in any division within Australia.

At the next election, the ACT and the NT will each have divisions comprised of approximately 110,000 voters as a result of the February 2003 determination. The national average divisional enrolment in the next Parliament based on August 2003 enrolment figures is 85,967 voters.

Population projections

A number of submissions to the inquiry, particularly those by people or bodies from the NT, suggested that the population of the NT will increase and again entitle it to two House of Representatives seats at the election after next.

The relevant issue in determining State and Territory entitlements in the House of Representatives is not whether the population of a State or Territory increases or decreases. The significant issue in determining these entitlements is the State or Territory's population growth relative to the population growth of Australia.

In September 2003, the ABS released its latest population projections. On the basis of these projections, the ABS claims that it is unlikely that the NT's population will grow at a faster rate than the population of the rest of Australia.

The ABS also released its population estimates for the March 2003 quarter in September 2003. According to the Australian Statistician, these figures show that the NT's population in March 2003 would not have entitled it to two House of Representatives seats.

Geographic size of the Territory divisions

As a single electorate, the NT would cover approximately 1,348,175 square kilometres, including the Cocos (Keeling) and Christmas Islands, and would replace the electorate of Lingiari (which is to be abolished pursuant to the 2003 determination) as the second largest in Australia behind Kalgoorlie. Many submissions to the inquiry, including those from the current NT Members of the federal Parliament, raised the geographic size of the NT as an issue in support of increasing the minimum representation of the NT to two House of Representatives Members.

The geographic size of the ACT was not raised as an issue in submissions to the inquiry.

Distinctiveness of the Territories

A number of submissions to the inquiry sought to highlight unique characteristics of the NT and ACT as grounds for granting each jurisdiction a minimum of two House of Representatives seats. Most of these issues, again, were only raised in reference to the NT.

The Committee notes that each electorate in Australia has unique characteristics and challenges, and that representation in the House of Representatives is not based on social and economic factors.

Chapter seven – Increasing the representation of the Territories in the House of Representatives

The majority of submissions received by the Committee supported increasing the representation of the Territories in the House of Representatives. Throughout the course of the inquiry, a number of proposals for achieving this were raised. These included to:

- amend the Electoral Act to provide for an increase in the guaranteed minimum number of House of Representatives seats for the Territories;
- incorporate the margins of error surrounding the population estimates for the Territories when determining entitlements to seats in the House of Representatives;
- introduce a requirement that determinations of entitlements to seats for the Territories be confirmed by a subsequent determination during the next Parliament before becoming effective; or
- change the process for determining State and Territory entitlements to seats in the House of Representatives.

One submission to the inquiry strongly opposed increasing the minimum number of House of Representatives seats for the Territories.

Committee conclusions

The Committee is of the opinion that the existing basic principle for determining the number of Members to be elected by the Territories should not be disturbed. It is, however, also important that any systemic disadvantages imposed on the Territories in comparison with the original States be addressed whenever they are identified.

As discussed in chapter five, there is a margin of error in the estimates provided by the ABS, based on the margin of error associated with the net undercount of the population in the 2001 census.

In the case of the NT, the margin of error in the 2001 net undercount is 1.2% at the 95% confidence level (which is up to 3 times the error margin in the States) and for the ACT, it is 0.8% (which is up to twice the equivalent in some of the States). There is greater variability in the estimates for the Territories compared with the estimates made for the States.

The population estimates for the NT and the ACT are less reliable than they are for other jurisdictions. This leads to the conclusion that, in proportionate terms, the Territories are likely to have a relatively wider range of possible population figures than the States, and could suffer a greater relative disadvantage.

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to require the Australian Statistician to advise the Electoral Commissioner at the time of supplying the latest statistics of the Commonwealth, of the margins of error in numerical terms associated with the population estimates of the Territories for the Census on which the ERP figures are based.

If a Territory falls short of a quota, and the shortfall of people required is within the margin of error acknowledged by the ABS, the Australian Electoral Commissioner is to use the ERP figure at the top of the margin of error to determine the Territory's entitlement.

Some Committee Members believe that the margin of error for the NT creates significant doubt as to the outcome of the 2003 determination. These Committee Members believe that the estimate of the NT's 2003 population should be the ERP figure at the top of the margin of error. This would result in the NT retaining its second seat. For this reason, these Committee Members believe that the Electoral Commissioner's determination should be set aside to the extent that it applies to the NT.

Other Committee Members believe that it was the intention of the Parliament that the "latest statistics of the Commonwealth" be the latest *published* statistics at the time of the determination – not a special version or early release of the ERP figures – and for the 2003 determination the published statistics that should have been used were the June 2002 ERP figures. If the June 2002 ERP figures were used, the NT would have been entitled to two House of Representatives seats. For this reason, these Committee Members also believe that the Electoral Commissioner's determination should be set aside to the extent that it applies to the NT.

The AEC advises that setting aside the February 2003 determination to the extent that it applies to the NT would have the effect of restoring the NT to two divisions as if the determination had not taken place.

The Committee unanimously agrees that the 2003 determination should be set aside by government legislation to the extent that it applies to the NT.

