AUSTRALIAN ELECTORAL COMMISSION

SUPPLEMENTARY SUBMISSION

TO THE JOINT STANDING COMMITTEE ON ELECTORAL MATTERS' INQUIRY INTO REPRESENTATION OF THE TERRITORIES IN THE HOUSE OF REPRESENTATIVES

Canberra

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SUPPLEMENTARY SUBMISSION TO THE INQUIRY INTO REPRESENTATION OF THE TERRITORIES IN THE HOUSE OF REPRESENTATIVES

1 Introduction

1.1 This supplementary submission by the Australian Electoral Commission (AEC) is presented to the Joint Standing Committee on Electoral Matters (JSCEM) in response to its inquiry into the representation of Territories in the House of Representatives.

1.2 This submission follows the AEC's previous submissions lodged on 15 August and 2 September 2003. The AEC attended public hearings conducted by the JSCEM on Monday 18 August 2003 and Thursday 18 September 2003 to give evidence at the request of the JSCEM.

1.3 At the 18 August hearing members of the JSCEM asked the AEC to provide international comparisons of systems of apportionment. This submission responds to that request.

1.4 The AEC's first submission to this inquiry had a number of attachments containing statistical information requested by the JSCEM. Due to the increased difficulty in sourcing the requested information for dates prior to 1984 within the time available, the information provided with the AEC's first submission was limited to the period from 1984 to date. Statistical information prior to 1984 is provided to the JSCEM attached to this submission. The attachments contain:

- average divisional enrolments in each State and Territory, for those occasions when the Australian Capital Territory (ACT) or the Northern Territory (NT) lost or gained a seat before 1984 (**Attachment A**);
- a table of quotas and quota shortfalls where States or Territories lost a seat before 1984 (**Attachment B**);
- copies of certificates of the numbers of people in the Commonwealth and the States appearing in Commonwealth Gazettes and used to determine the entitlement of the States to representation in the House of Representatives before 1984 (**Attachment C**).

1.5 The AEC views the representation entitlements of electors in the Territories as a matter for the Parliament. On that basis the AEC will not be making any recommendations as part of this submission nor commenting on appropriate policy for the representation of the Territories. The submission includes, nevertheless, some responses to other submissions lodged with the JSCEM where their contents warrant AEC comment on matters of fact.

2 International comparisons

2.1.1 At the hearing of 18 August 2003, Senator Mason asked whether the United States and Great Britain used similar systems of apportionment to that used in Australia, that is a quota divided into census population figures to ascertain the entitlement of regional entities (in Australia, the States and

Territories) to seats in the lower house. The AEC has collated the readily available information for a number of countries with similar forms of government.

2.2 Canada

2.2.1 Canada's system of apportionament is generally similar to Australia's in that it decides the representation of its provinces in the House of Commons by dividing the population of its provinces by an electoral quota to determine the number of seats allocated to each province. The detail, however, is different in that Canada starts with a given number of seats that is not calculated by the size of the Senate (the Senate in Canada is appointed not elected and is approximately one-third the size of the House of Commons) and then adjusts the result to cater for some minimum representation rules.

2.2.2 The Chief Statistician of Canada formally provides population figures to the Chief Electoral Officer after each 10 yearly census. Canada commences with the number of seats in the House of Commons in 1985 (when the Representation Act 1985 [Can] was passed and the process for determining entitlements last revised) and subtracts a seat for each of the three territories. The balance is divided into the total population of the provinces (not including the territories) to obtain a quota. The quota is divided into the populations of the various provinces. If there is a remainder of greater than 0.5, the result is rounded up to the next whole number and the province gains an extra seat.

2.2.3 The result is adjusted by the 'senatorial clause' to guarantee that no province can have fewer members in the House of Commons than it has in the Senate, and the 'grandfather clause' to guarantee that no province can have fewer members in the current House of Commons than it did in the 1976 House of Commons.

2.2.4 Canada, therefore, uses official census statistics and divides its population by a quota to ascertain the number of seats to which each province is entitled.[1]

2.3 New Zealand

2.3.1 New Zealand has a single house parliament with members elected both by single member constituency and by party list. The single member constituencies are apportioned. The number of seats for the South Island is fixed at 16. The number of seats for the North Island and the number of Maori seats are calculated from the five-yearly census in proportion to the 16 seats for the South Island[2].

2.3.2 A quota is determined by dividing the official general electoral population of the South Island, as measured by the census, by 16. The general electoral population is the number of people minus the Maori electoral population. That quota is divided into the general electoral population of the North Island to determine the number of seats for the North Island. It is also divided into the Maori electoral population to give the number of Maori seats.

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[1] See the Canadian Parliament's website (http://www.parl.gc.ca).
[2] See the NZ Electoral Commission website, http://www.elections.org.nz/elections/esyst/boundaries_drawn.html.

2.3.3 New Zealand, therefore, uses official census statistics and divides its population by a quota to ascertain the number of seats to which the North Island and the Maori constituency are entitled. Other than for the calculation of the number of seats for the North Island, the scheme has few similarities with that in Australia.

2.4 United Kingdom

2.4.1 The system for determining the entitlement of seats in the United Kingdom parliament for England, Scotland, Wales and Northern Ireland is set out in Schedule 2 to the Parliamentary Constituencies Act 1986 (UK). In summary:

- the total number of seats over the United Kingdom 'shall not be substantially greater or less than 613';
- the number of constituencies in Scotland used to be set at not less than 71 but the Scotland Act 1998 (UK) repealed that provision and required the electoral quota for England to be divided into the number of electors for Scotland to determine the approximate number of seats for Scotland[3];
- the number of constituencies in Wales shall not be less than 35; and
- the number of constituencies in Northern Ireland shall be 17 (with a possibility of reducing to 16 or increasing to 18). [4]

2.4.2 The United Kingdom is not a useful comparison for the Australian situation, as the number of seats in each regional entity, in this case countries rather than states, is set by legislation more often than by a universal formula. Electoral quotas are used in the redistribution and in determining the number of seats for Scotland, but the UK system is not governed by a population quota based on the census as the Australian system is.

2.5 United States of America

2.5.1 The USA bases its states' entitlements to representation in the House of Representatives on its Constitution and 10-yearly census measurement of the population in each state. The USA Constitution states 'Representatives ... shall be apportioned among the several States which may be included within this Union, according to their respective Numbers'[5] and the fundamental reason for conducting the decennial census of the United States is to apportion the members of the House of Representatives among the 50 states[6]. Adjustments are made in the census figures for service people and their families on overseas postings.

2.5.2 The USA Constitution guarantees at least one seat for every state and the size of the House of Representatives has remained constant at 435 since 1910. After the first 50 seats have been apportioned on the basis of one to each state, the apportionment calculation is constructed to apportion seats 51 to 435 among the states.

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[3] 2003. Boundary Commission for Scotland. *Fifth Periodical Review of Parliamentary Constituencies in Scotland.* See website http://www.bcomm-scotland.gov.uk/.
[4] 2000. Boundary Commission for England. *Review of Parliamentary Constituencies in England, Appendix D.* See website, http://www.statistics.gov.uk/pbc/default.asp.
[5] USA Constitution, Article 1, Section 2.
[6] See US Census Bureau website: http://www.census.gov/population/www/censusdata/apportionment.html.

2.5.3 While the basic parameters seem much the same as in Australia (that is, official census figures of population and seats awarded in the same proportion to the population) the calculation done in the USA is quite complicated. It uses a 'multiplier' for each seat to be calculated for a state (so multipliers up to about 55 are calculated because California gets the highest number of seats, 53 at the last apportionment). The multiplier uses the reciprocal of the geometric mean. For each state a 'priority value' is calculated by multiplying the population of the state by the multiplier for the next seat the state might win. The final step is to award the 51st seat to the state with the highest priority value (automatically lowering the priority value for that state which is then looking for its third seat), the 52nd seat to the state with the then highest priority value, and continues through to seat 435.

2.5.4 As an example, the multiplier for a state's second seat is –

1 divided by the square root of $2x(2-1) = 1/\sqrt{2} = 1/1.414 = 0.71$.

That figure is multiplied by each state's population to give each state a priority value. For the 51st seat, California with the highest population will have the highest priority value and will be awarded the 51st seat. California's next priority will then be calculated by multiplying its population by the multiplier for a third seat, which is –

1 divided by the square root of $3x(3-1) = 1/\sqrt{6} = 1/2.449 = 0.41$

while every other state's mulitplier remains at 0.71 because those states have only one seat so far. Almost halving California's multiplier will lower its priority and give the 52nd seat to another populous state such as Texas or New York.

2.5.5 In illustration, in the apportionment following the 2000 Census, California was awarded the 51st, 53rd, 56th, 62nd, 65th, 71st, 78th, 85th, 93rd, 101st, 106th, and 116th seats, for example, to a total of 53. Texas was awarded the 52nd, 59th, 66th, 75th, 87th, 102nd, and 113th seats, for example, to a total of 32. Seven states didn't make it to the top of the priority table even when their populations remained multiplied by the second seat multiplier, 0.71, throughout the entire process. Those seven states were not awarded a second seat.

2.5.6 The table of the awarding of seats 51 to 435 and their respective priority values can be found on the USA Census internet site at –

http://www.census.gov/population/censusdata/apportionment/00pvalues.txt.

2.5.7 As in Australia, the USA uses official census figures and apportions seats in relation to the population of the states. The method used for the calculation is quite complex in comparison to Australia, partly because the total number of seats is fixed and cannot float to adjust to the calculation as it does in Australia, and partly because seats are not awarded on a simple formula but by a formula which calculates each state's priority to be awarded the next available seat.

2.6 Conclusion

2.6.1 The USA and Canada use official census statistics to apportion seats in proportion to each state or province's population. New Zealand does the same for its North Island and uses a fixed number of seats for its South

Island. Great Britain retains a mainly legislative scheme to award seats to each member country, but applies a scheme similar to Australia's scheme to award House of Commons seats to Scotland.

2.6.2 All the countries considered base their apportionment on census figures. None of them base their apportionment on population figures calculated regularly by their statisticians between each census.

3 Comments on other submissions

3.1.1 The AEC does not wish to comment on the policy implications of making determination arrangements for the NT and ACT that are different from the Constitutional requirements applying to the states. The Joint Select Committee on Electoral Reform (the JSCER) canvassed this question in its 1985 inquiry on the subject and the Parliament dealt with this matter at the time of the passage of the *Electoral and Referendum Amendment Act 1989*.

3.1.2 Neither does the AEC wish to evaluate the advice provided to the JSCEM or the AEC by the Australian Bureau of Statistics, or comment on parts of submissions which question the methods used to ascertain the numbers of people of the Commonwealth and the States. The AEC considers that as the Parliament established a position of Australian Statistician to provide expert advice on statistical matters and the Government has appointed the Statistician to be a member of the Australian Electoral Commission, it would not be appropriate or useful for officers of the AEC to attempt to evaluate advice from the Statistician in that area of expertise.

3.1.3 Where there are other matters in submissions that place material before the JSCEM which the AEC considers warrant comment, the AEC has commented here.

3.2 Submission No.2 - Mr Col Friel

3.2.1 This submission states that the Senators representing the Northern Territory should be included in the divisor when establishing a quota under section 24 of the Constitution or section 48 of the *Commonwealth Electoral Act 1918* (the Act), that is that the numbers of people of the Commonwealth should be divided by 148 rather than 144 to calculate the quota. Alternatively it states that there is no reason in the Constitution to ignore the Senators for either Territory, so that the divisor should be 152.

3.2.2 The intent of section 24 the Constitution appears to be to establish representation in the House of Representatives for people of the original States in direct proportion to the number of Senators for those States. As representation in the Parliament for Territories is separately covered by section 122, there is no room to include the Senators for the Territories in the calculation in section 24.

3.2.3 On 10 August 1911, the then Attorney-General (WM Hughes) issued the opinion that 'the people of the Commonwealth' in section 24 of the Constitution and in section 10 of the *Representation Act 1905* (the Representation Act) do not include the people of the Northern Territory or the Territory for the Seat of Government. The Representation Act provisions are now reflected in the Act. The opinion contrasted the situation following the

then recent handing of the Northern Territory from South Australia to the Commonwealth with the situation up till that time. It recommended that the Representation Act be amended to make the point explicit[7].

3.2.4 On 9 August 1961, the then Secretary of the Attorney-General's Department confirmed that 'people of the Commonwealth' does not include the people of the Territories, notwithstanding the fact that both the NT and the ACT were by then represented in the House of Representatives.

3.2.5 The *Representation Act 1973* inserted a definition into the Representation Act:

> 1A. In this Act, 'the people of the Commonwealth' does not include the people of any Territory.

3.2.6 Up until that time there had been no question of dividing the number of people of the Commonwealth by twice the number of Senators for both the States and the Territories, as there had been no Senators for the Territories. In 1973, the Parliament provided that each of the ACT and the NT should be represented in the Senate by two Senators. The Senators were first elected at the 1974 double dissolution election. To clarify what had been the practice and the inherent intent of section 24 of the Constitution, the *Representation Act 1973* amended the Representation Act to clarify that the number of the people of the Commonwealth is to be divided by 'twice the number of the Senators for the States'.

3.2.7 In 1977, in the McKellar case, the High Court confirmed that section 1A of the Representation Act was valid[8].

3.2.8 When the determination provisions were moved from the Representation Act (which was repealed) to the Act in 1983, similar provisions were inserted in the Act:

> In this Division [3 – Representation of the States in the House of Representatives], 'people of the Commonwealth' does not include the people of any Territory that is referred to in section 122 of the Constitution.
>
> A quota shall be ascertained by dividing the number of people of the Commonwealth ... by twice the number of the senators for the States.[9]

3.2.9 It is clear that the people of the NT and the ACT are not to be included in 'the people of the Commonwealth' for the purpose of determining representation of the States in the House of Representatives, and equally clear that the Territory Senators cannot be included in the number of Senators to be doubled for the divisor.

3.3 Submission No.14 Mr David Tollner MP, Member for Solomon

3.3.1 Mr Tollner's suggested amendment to be moved to cater for the situation in which his Private Member's Bill, the Commonwealth Electoral Amendment (Representation of Territories) Bill 2003 (the Bill), might be passed and take effect close to the next election does not seem to achieve the required solution. It is not the making of a fresh determination under the Bill that requires time before the next election, it is the conduct of any

[7] Opinions of the Attorneys-General, Vol 1, p558, No 428.
[8] ALJR 1977, Vol 51 page 328.
[9] *Commonwealth Electoral Act 1918*, sections 45 and 48.

necessary redistribution. If the JSCEM wishes to pursue the remedy suggested by Mr Tollner (appropriately amended to refer to a lack of time to complete a redistribution), the AEC believes the better option would be for the legislation to provide that the Division of the Northern Territory be returned to the divisions of Lingiari and Solomon as they existed prior to the determination made on 19 February 2003. At that time the two divisions differed from an average NT divisional enrolment by 5.7% and there was no reason other than the loss of a seat to alter or review the boundaries.

3.3.2 The Liberal Party of Australia (Submission No.16) is also of the view that the Bill should simply provide that the Divisions of Solomon and Lingiari be restored. A fresh redistribution of boundaries would then be required when the divergence of the divisional enrolments from the average divisional enrolment for the NT exceeded 10% for three months, or at the expiration of seven years from the last redistribution (which was in 2000).

3.3.3 Mr Tollner also claims that there were approximately 30,000 eligible indigenous voters not accounted for at the census. The AEC would require detail of the grounds for Mr Tollner's claim to be able to evaluate it. The electoral roll does not contain any markers for ethnicity and there is no way that the AEC can count the number of indigenous electors on the roll. A direct comparison of the census figures with the electoral roll is difficult for a variety of reasons. People are counted in the census on their location on one night every five years. People who are enrolled need to meet basic qualifications including citizenship and age, and need to qualify to be enrolled in a particular electoral district in the Northern Territory by residence in that district for a period of one month.

3.3.4 Without evidence to the contrary, the AEC doubts the claim made. An overcount of 30,000 electors (approximately 30%) in the electoral roll for the Northern Territory would represent such a serious problem that it would be apparent to the AEC. An undercount of 30,000 NT Australian citizens over 18 years of age in the census would also be such a serious problem it would be apparent to the Australian Bureau of Statistics, regardless of the ethnic origin of the electors. In his evidence to the JSCEM in Darwin on 29 August 2003, Mr Tollner advised that the figure of 30,000 was anecdotal and he was unable to put forward any evidence for it.

3.4 Submission No.17 - Australian Democrats (ACT Division)

3.4.1 This submission recommends a maximum 10% deviation from a 'national quota' for electorates.

3.4.2 There is a quota used in the determination process, which is a population quota discovered by dividing twice the number of Senators representing the States into the number of the people of the Commonwealth (not including the Territories).

3.4.3 There is also a quota used during the redistribution process, which is a quota of electors for a particular State or Territory, from which the electors in each division determined by the redistribution may not vary by more than 10%.

3.4.4 Submission No.17 refers both to the quota of electors and to the population quota. There may be places in the submission where it is possible to misunderstand which quota is meant.

3.5 Submission No.22 - The Hon Warren Snowden MP, Member for Lingiari

3.5.1 At point 1.16 in his submission, Mr Snowden recommends investigating amendments to the Act to ensure that when a State or Territory gains a seat, it retains that seat for at least two parliaments. Such a change could not apply to States without a referendum to amend the Constitution in relation to the States.

3.5.2 When the 1985 inquiry of the JSCER reported, it recommended a method of determining seats in the House of Representatives for the Territories which was the same as that applying to the States (excepting the minimum 5 seats). The resulting legislation was passed by the Parliament in late 1989, receiving assent in early 1990. To adopt Mr Snowden's recommendation would be a significant departure from the considered practice adopted by the Parliament at that time.

3.5.3 At point 1.29, Mr Snowden suggests that the restrictions applying to the latest statistics for the Commonwealth used in determining the representation of the States might not apply to statistics to be used to determine the representation of the NT. As set out in its previous submission, the AEC is required by the Act to use the same statistics for both purposes.

3.5.4 The 1990 amendments, bringing the process for the Territories into line with that for the States, require the AEC to obtain the latest statistics of the Commonwealth for the purpose of ascertaining the numbers of people of the Commonwealth, the States and the Territories. It is not open to the AEC to use two or three different sets of statistics of the Commonwealth in the one determination process. Nor is it open to the AEC to use other than the latest quarterly ERPs, a requirement that was specifically inserted in the *Census and Statistics Act 1905* by the Parliament to meet the requirements of section 24 of the Constitution.

3.5.5 At point 1.38, Mr Snowdon recommends a process of review of the Electoral Commissioner's determination.

3.5.6 Prior to 1983, the redistribution of a State was subject to parliamentary approval before it came into effect. In the first report of the 1983 JSCER, the Committee recommended that the requirement for parliamentary approval be repealed so that the redistribution process would be independent of the political process as far as possible. The independent conduct of redistributions was one of the main reasons for the establishment of the independent AEC in the 1983 amendments to the Act.

3.5.7 The process of ascertaining the numbers of the people of the Commonwealth and determining the entitlement of the States to seats in the House of Representatives has never been subject to parliamentary approval or review. The requirement for the procedure is laid out in section 24 of the Constitution and legislative provisions altering that procedure have been the subject of successful High Court challenge, such as in the McKellar case. If

the process was no longer to be carried out by the Electoral Commissioner, it would still need to be carried out in the same manner or a subsequent election could well be overturned in the High Court.

3.5.8 A review process, to apply to the representation of the States, could be legislated only following a successful referendum to amend the Constitution by providing for such review. To legislate a review process for Territories only, would be a significant departure from the position already adopted by the Parliament following the 1985 inquiry by the JSCER and the resulting legislative amendments to bring the Territory process into line with the Constitutional process applying to the States.

ATTACHMENT A

Average divisional enrolments at particular representation events for the NT and ACT

WHEN		AVERAGE DIVISIONAL ENROLMENT AT TIME OF EVENT							
DATE	EVENT	*NSW*	*Vic*	*Qld*	*WA*	*SA*	*Tas*	*ACT*	*NT*
16 March 1973	ACT gets 2 seats, enrolment as at December 72 election	57357	56750	56779	53724	55923	43929	83591	29929
15 May 1968	NT member gets full voting rights, enrolment as at November 67 Senate election	51741	50785	49991	49106	54044	40124	[1]63293	[1]21186
30 March 1966	ACT member gets full voting rights enrolment as at November 1966 lection	50191	51602	50027	48122	53224	39533	[2]48127	[2]17395
6 December 1948	ACT gets member with restricted voting rights enrolment as at October 1949 election	40782	41510	38724	39471	43432	32308	11841	6586
5 October 1922	NT gets member with restricted voting rights enrolment as at November 1922 election	36271	41434	40623	33725	39702	22452	no MP	1376

[1] Electors in the ACT and NT did not vote in Senate election. Enrolment taken from October 1969 election, see 1971. Department of the Parliamentary Library. *Parliamentary Handbook.* p683.

[2] ACT and NT enrolment not found in bound election statistics, taken from 1971 *Parliamentary Handbook*, p680.

ATTACHMENT B

Quotas on loss of a seat and fraction of quota involved - pre 1984

in date order

year	*state losing seat*	*quota*	*quota gap*
1977	NSW, Qld, SA lost seats[1]		
1967	New South Wales from 46 to 45[2]	44.440	> 0.560
1961	Western Australia from 9 to 8[3]	8.470	> 0.030
1961	Queensland from 18 to 17[3]	17.439	> 0.061
1961	New South Wales from 46 to 45[3]	45.127	> 0.373
1954	New South Wales from 47 to 46	45.986	> 0.514
1933	South Australia from 7 to 6	6.327	> 0.173
1921	Victoria from 21 to 20	20.358	> 0.142
1911	Victoria from 22 to 21	21.375	> 0.125
1904	Victoria from 23 to 22	22.051	> 0.449

in quota gap order

year	*state losing seat*	*quota*	*quota gap*
1961	Western Australia from 9 to 8[3]	8.470	> 0.030
1961	Queensland from 18 to 17[3]	17.439	> 0.061
1911	Victoria from 22 to 21	21.375	> 0.125
1921	Victoria from 21 to 20	20.358	> 0.142
1933	South Australia from 7 to 6	6.327	> 0.173
1961	New South Wales from 46 to 45[3]	45.127	> 0.373
1904	Victoria from 23 to 22	22.051	> 0.449
1954	New South Wales from 47 to 46	45.986	> 0.514
1967	New South Wales from 46 to 45[2]	44.440	> 0.560

1. 1977 determinations reduced seats because the *Representation Amendment Act 1977* returned the calculation to giving a further seat only when the remainder exceeded 0.5.

2. From 1964 till the 1972 determination, any remainder gave an extra seat.

3. 1961 determination set aside by *Representation Act 1964*.

ATTACHMENT C

Gazettes of section 48 Determinations, 1904-2003

List of Special Gazettes showing Determinations of Numbers of Members in the House of Representatives for States and Territories

Date of Determination	*Gazette*	Cause	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
19.02.2003	**S 45**, 20.02.03	13th month of new parliament	50	37	28	15	11	5[1]	2	1
09.12.1999	**S 605**, 10.12.99	13th month	50	37	27	15	12	5#	2	2
28.02.1997	**S 76**, 03.03.97	10th month	50	37	27	14	12	5#	2	1
04.03.1994	**S 77**, 04.03.94	10th month	50	37	26	14	12	5#	3	1
01.03.1991	**S 58**, 01.03.91	10th month	50	38	25	14	12	5#	2	1
30.06.1988	**S 194**, 01.07.88	10th month	51	38	24	14	13	5#	2[2]	1[3]
18.02.1986	**S 59**, 18.02.86	10th month	51	39	24	13	13	5#	**	*
27.02.1984[4]	**S 73**, 27.02.84	new legislation	51	39	24	13	13	5#	**	*
1982	not found yet	12th month								
08.02.1979[5]	**S 22**, 09.02.79	12th month	*43*	*33*	*19*	*11*	*11*	5#	**	*
21.03.1977[6]	**S 47**, 22.03.77	new legislation	*43*	*33*	*19*	*10*	*11*	5#	**	*
27.09.1972	**92A**, 27.09.72	after Census	*45*	*34*	*18*	*10*	*12*	5#	*	*
14.08.1967	**73**, 24.08.67	after Census	*45*	*34*	*18*	*9*	*12*	5#	*	*
1964/5[7]	not found yet	new legislation								
22.12.1961[8]	**2**, 11.01.62	after Census	*45*	*34*	*17*	*8*	*11*	5#	*	*
04.11.1954[9]	**68**, 11.11.54	after Census	*46*	*33*	*18*	*9*	*11*	5#	*	*
1948/49[10]	not found yet	new legislation								
17.11.1947[11]	**226**, 27.11.47	after Census	*28*	*20*	*10*	*5*	*6*	5#		*
10.11.1933[12]	**64**, 16.11.33	after Census	*28*	*20*	*10*	*5*	*6*	5#		*
03.04.1926	**61**, 01.07.1926	5 years	28	20	10	5#	7	5#		*
24.08.1921[13]	**67**, 29.08.21	after Census	*28*	*20*	*10*	5#	7	5#		
31.10.1911	**83**, 30.10.11	after Census	*27*	*21*	*10*	5#	7	5#		
12.01.1906	**3**, 16.01.06	new legislation	*27*	*22*	*9*	5#	7	5#		
31.12.1904	**20**, 29.04.05	Constitution	*27*	*22*	*9*	5#	7	5#		

[1] # Original States are entitled to a minimum of 5 Members in the House of Representatives.

[2] The ACT was granted one Member with restricted voting rights in 1948 and full voting rights in 1966. In 1973, the ACT was granted two Members.
From 1990, representation for the Territories in the House of Representatives has been determined at the same time and in a similar manner as for the States. For more detail on representation of the Territories, see the Joint Select Committee on Electoral Reform's report, November 1985, *Determining the entitlement of federal territories and new states to representation in the Commonwealth Parliament.*

[3] The NT was granted one Member with no voting rights in 1922, restricted voting rights in 1936, expanded voting rights in 1959, and full voting rights in 1968.

[4] Opinion dated 17 December 1976 from Secretary of the Attorney-General's Department that relevant provisions were (and possibly whole Representation Act was) invalid following McKinlay's case.

[5] Numbers of seats shown in italics are calculated afresh, certificates of numbers of seats to which states were entitled were forwarded to the Minister under the terms of the Representation Act at the time. In many instances, no copies of the certificates were found in the short time available, and it is in those cases that the numbers are shown in italics.

[6] The *Representation Amendment Act 1977* altered the method of determining quotas by reinstating the requirement for more than a half-quota remainder before representation was increased.

[7] A fresh determination was required by the *Representation Act 1964.*

[8] The 1961 determination was set aside by amendments made in the *Representation Act 1964.* Until the High Court challenges in the McKinlay and McKellar cases, and the resulting amendments in the *Representation Amendment Act* 1977, States received an extra seat when their quota exceeded a whole number by any amount.

[9] 1954 was chosen for a Census half-way between 1947 and a return to every 10th year (from 1901) in 1961. Note also that this determination is after the increase in Senators for the States from 36 to 60.

[10] A new determination was required after passage of the *Representation Act 1948,* increasing the Senators from 6 per State to 10 per State.

[11] No Census was taken during WWII, the next one being in 1947.

[12] Enumeration day for 1931 was cancelled by the *Representation Act 1930,* partly because the Census was rescheduled for 1933.

[13] Enumeration day for 1916 was cancelled by the *Representation Act 1916.*