

**THE APPROPRIATENESS OF THE SIZE
OF THE LEGISLATIVE ASSEMBLY
FOR THE ACT AND OPTIONS FOR
CHANGING THE NUMBER OF
MEMBERS, ELECTORATES AND ANY
OTHER RELATED MATTER**

Report No. 4 of the Standing Committee on Legal Affairs

June 2002

Legislative Assembly for the Australian Capital Territory



RESOLUTION OF APPOINTMENT OF THE STANDING COMMITTEE ON LEGAL AFFAIRS

On 11 December 2001 the Legislative Assembly for the Australian Capital Territory resolved to establish a general purpose standing committee, called the Standing Committee on Legal Affairs:

to perform the duties of a scrutiny of bills and subordinate legislation committee and examine matters related to community and individual rights, consumer rights, courts, police and emergency services, corrections including a prison, governance and industrial relations, administrative law, civil liberties and human rights, censorship, company law, law and order, criminal law, consumer affairs and regulatory and regulatory services.

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Summary of recommendations

Each recommendation shows the page number on which it appears.

1. The committee commends the action of the Assembly in requesting the Chief Minister undertake discussions with the Commonwealth government in relation to amending the Australian Capital Territory (Self-Government) Act 1988 to devolve to the Assembly the power to determine the number of members. The committee recommends that the Chief Minister also seek an amendment of the Self-Government Act to remove the power of the Commonwealth to fix the number of ministers that make up the ACT executive. 31
2. The committee recommends that the number of members in the Legislative Assembly for the ACT be increased. 32
3. A majority of the committee recommends that the Legislative Assembly for the ACT be increased to 21 members based on three electorates of seven members each. 32
4. A majority of the committee recommends that the Legislative Assembly and the ACT government consider extending the term of the Assembly from its present three years to four years—recognising that, over time, the longer Assembly term would partially offset the cost of additional Assembly members. 34
5. The committee recommends that a decision about increasing the number of members be made before October 2002, so that the Electoral Commission can take the decision into account as it conducts the 2002/2003 redistribution required by the *Electoral Act*. In the event that a decision is not made by October 2002, then the Assembly should amend the *Electoral Act* to provide for the 2002/2003 redistribution to be delayed until a final decision is made on increasing the number of members. 34
6. The committee recommends that the *Electoral Act* be amended to require that the Electoral Commissioner should not sit on a matter involving a review of his decision in relation to a recount. 35
7. The committee recommends that the Legislative Assembly and the Government review the entitlement of members who are not re-elected to ensure that any ambiguities and uncertainties (including legislative barriers) are removed. Further, the committee recommends that the term of office of members not re-elected at a general election should cease at the time the poll is declared, rather than on the actual election day as at present. 35

Recommendation number 3 above is not supported by one member of the committee (Mr Hargreaves MLA) whose **Dissent** to this recommendation is set out at the end of this report.

Recommendation number 4 above is not supported by one member of the committee (Ms Tucker MLA) who states:

I am interested in the concept of extending the term of the Assembly but cannot support a recommendation on this matter at this stage, as I believe that this issue has not been adequately considered by this inquiry which was focussed on the size of the Assembly. The issue of the term of the Assembly was not raised in the public debate that led to this inquiry and submissions generally only addressed the question of the number of members. Debate over the term of the Assembly raises broader issues such as how to ensure government accountability to the Assembly and the community over a longer period that were not examined by this inquiry. It is too simplistic to argue that the term of the Assembly should be extended as a way of covering the cost of additional members. I believe that this issue deserves further public debate but not in the context of this inquiry.

Origin of the inquiry

1. On 12 December 2001 the Legislative Assembly for the Australian Capital Territory resolved:

That this Assembly:

- (i) requests the Chief Minister to undertake discussions with the Commonwealth Minister for Territories on the possibility of amendments to the *Australian Capital Territory (Self Government) Act 1988* to devolve to the Assembly the power to determine the number of members, with the aim of commencing any change to the Assembly at the election scheduled for 2004; and
- (ii) refers to the Standing Committee on Legal Affairs for inquiry and report by the last sitting day of June 2002 the appropriateness of the size of the Legislative Assembly for the Australian Capital Territory and options for changing the number of members, electorates and any other related matter.

2. This report satisfies part (ii) of the Assembly's resolution.

Conduct of the inquiry

3. In early February 2002 the committee placed advertisements in the local media inviting public submissions, with the closing date being 15 April 2002. The committee subsequently extended the deadline to the end of April 2002. At that time, the committee had received 22 submissions. The committee subsequently accepted seven late submissions.

4. All submissions were authorised for publication and are available on request from the Committee Office of the Legislative Assembly. The authors of the submissions are listed at Attachment D to this report.

5. The submissions are summarised in the following section of this report.

6. In order to hold discussions with other small parliaments and with local government bodies, the committee travelled inter-state on 11-15 March 2002. In Brisbane the committee met Lord Mayor Soorley and senior Brisbane City Council officers. In Darwin, the committee met current and past members of the Northern Territory Legislative Assembly (including Mr Hatton, a former Chief Minister), along with staff of the Northern Territory Electoral Office, the Clerk of the Assembly (Mr McNeill) and his staff. In Hobart, the committee met the Tasmanian Attorney-General (Dr Patmore MHA), the Leader of the Opposition (Mr Cheek MHA), Greens member Ms Putt MHA, the President of the Legislative Council (Mr Bailey MLC) and other Council members (including the Leader for the Government, Mr Aird MLC), the Clerk of the Assembly (Mr Alcock), the Hobart Lord Mayor (Mr Vallentine), the Chief Electoral Officer (Mr Taylor), and a leading academic (Dr Herr of the Uni of Tasmania).

7. The committee extends its appreciation to the many people who facilitated this visit. That so many senior people were willing to meet the committee is deeply appreciated and indicates the mutual respect existing among Australian parliaments—and between the ACT Assembly and local government.

8. The committee held three public hearing—on 10 May, 31 May and 7 June 2002. The following persons addressed the committee at these public hearings (listed in alphabetical order):

- Mr Clode (director of the Liberal Party of Australia, ACT Division Inc.)
- Mr Connor
- Mr Corr (ACT Convenor, The Greens)
- Mr Green (ACT Electoral Commissioner)
- Professors Halligan and Wettenhall (University of Canberra)
- Mr Hird (former MLA, and former Speaker of the ACT House of Assembly)
- Dr Kirschbaum
- Professor Pettit and Mr McCarthy (Australian National University)
- Mr Reynolds (president, Gungahlin Equality Party)
- Mr Rucroft (president, Gungahlin Community Council);
- Mr Quayle
- Mr Stanhope MLA (Chief Minister).

9. Extracts from the oral evidence presented by these witnesses are included in the following section.

Summary of evidence presented to the committee

10. This section summarises the key points made in oral and written evidence tendered to the committee. In order to ensure accuracy, the summaries utilise direct quotations wherever possible. The summaries are in alphabetical order.

ACT Electoral Commission

11. The ACT Electoral Commission considers that:

The most appropriate option at this time is to increase the size of the Assembly to 21 members, with three electorates each returning seven members... [This] would allow for a modest increase in the size of the Assembly, allowing for four extra members, and would allow for the greater proportionately of seven member electorates... This option satisfies all of the [following] principles... while also providing for appropriate levels of proportionality and stability...

- each electorate must have at least five members; and
- each electorate must have an odd number of members.

While these entrenched principles can be altered by a 2/3 majority of the Assembly or by referendum, the Commission supports the retention of these principles...

[Also, a 21-member Assembly also would enable the adoption of two further principles, namely:] electorates should each return the same number of members; and the total number of members should be an odd number—accordingly there should be an odd number of electorates... Following this [second] principle would prevent deadlocks in votes in the Assembly...

The Commission estimates that the extra cost of moving to three electorates each returning seven members would be in the order of \$90,000 - \$120,000 per election.¹

¹ Submission by ACT Electoral Commission dated 30 April 2002.

[The adoption of the above principles would mean] that the next two most obvious [electoral] models [are] either five of five, or three of nine giving 27.¹

12. In relation to these alternative options, the Commission submitted:

The 25-member option would increase the size of the Assembly by eight members, with five-member seats. The lesser level of proportionately inherent in five-member electorates is not as attractive as the seven-member electorates option. With five electorates, this option would not be compatible with the federal electorates if the ACT was to be allocated three federal seats.²

[Also,] if we were to have five electorates each returning five members, that would definitely split Belconnen and Tuggeranong... [In addition,] with the five-member seats... parties getting between 35%-50% of the vote each get two seats... but in the seven-member seat one [party] is more likely to get two and the other [party] is more likely to get three... [which is] a more accurate reflection of the will of the electorate.³

The 27-member option would involve a drastic increase in the size of the Assembly of ten members. It would also lower the quota needed for election to 1/10 plus 1, or around 10%. This would increase the chances of the election of more minor party candidates and independents. With nine-member electorates, this option would also increase the number of Robson rotations needed, or require the Robson rotation principles to be compromised. This option is not as attractive as the 21-member option.

The 33 member and 35 member options would involve roughly doubling the size of the Assembly. These are not considered to be realistic options at this time.

Another series of options... would be to adopt an odd number of members elected from one electorate. Options could include 19, 21, 23, 25, 27, 29 or 31 members elected from the ACT as a whole.

While these options are technically feasible... adoption of elections at large would significantly change the nature of ACT elections. Adopting, say, a 23-member Assembly elected at large would require the quota for election to be set at 4.17%. This could lead to a significant increase in the number of minor party and independent candidates elected, possibly leading to instability and uncertainty in the Assembly. The ballot paper would have to be much larger, and parties would need to run large slates of candidates. Voters would be instructed (under the current Hare-Clark regime) to number a minimum of 23 preferences. A large number of Robson rotation variations would also be needed to reduce the impact of linear votes...

[And] removing local electorates and adopting elections at large might also serve to put distance between members of the Assembly and their local communities.

For these reasons, the Commission suggests that making the ACT one electorate would not be appropriate.⁴

13. The Electoral Commissioner expanded on the 23 and 25-member options (across a number of electorates) in supplementary information provided to the committee:

A couple of other alternatives... [are] two electorates of seven members and one of nine, giving 23 members; or two electorates of nine and one of seven, giving 25 members...

If you had electorates that weren't equal, that might give you a little more flexibility to draw the boundaries so that Belconnen and Gungahlin, for example, constitute an electorate by themselves... The other thing about a mix of nines and sevens is that the

¹ Mr Green, ACT Electoral Commissioner, transcript of public hearing on 10 May 2002.

² Ditto.

³ Mr Green, transcript, op cit.

⁴ Submission by ACT Electoral Commission, op cit.

quota for a nine-member electorate is 10% and the quota in a seven-member electorate is 12.5% and the difference between those isn't as great as the difference between the quotas of a five-member and a seven-member electorate, and the proportionality of nine-member electorates... will tend to exaggerate differences between the parties so that the parties are more likely to get different numbers of seats than the same number of seats, which is what you tend to get with five-member seats.¹

14. In relation to altering the boundaries of electorates, the Electoral Commissioner told the committee:

[The Commission considers] that the criteria 'one vote, one value' is more important than the community interest criteria... [The former] is set out in the *Self-Government Act*, it's not something that the Assembly has any control over.

The proposal that boundaries be set up in such a way that they're almost engineered to ensure that districts aren't split is something that is fraught with quite a number of problems. One is that you cannot guarantee, as enrolment numbers fluctuate, that you can always draw the boundaries in such a way that you will meet the enrolment tolerances set out in the *Self-Government Act* and the *Electoral Act* by totally encompassing districts even if you start tweaking the number of members to be elected in each electorate...

There will always be a need to split districts because of the way the ACT is set up and because of the overriding benefits of having one vote, one value.²

15. In relation to the timing of any changes to the number of Assembly members, the Electoral Commission submitted:

If the number of members to be elected to the Assembly is altered, this will impact on the redistribution requirements set out in the *Electoral Act*. In particular, given that the next redistribution is due to commence as soon as practicable after 19 October 2002, it is very desirable that any change to the number of members is made effective before that date...

If it is not possible to effect a change... [before that date] it would be desirable if the Assembly could pass an amendment to the *Electoral Act* delaying the commencement of the 2002/2003 redistribution until the necessary changes have been made.³

16. The Commission considers that:

Complementary changes to the redistribution provisions that could be adopted include:

- Requiring the boundaries of Commonwealth House of Representatives Divisions to be considered, where the number of those Divisions is the same as the number of Legislative Assembly electorates; and
- Avoiding the need to conduct an automatic redistribution process where population projections indicate no need for a boundary change.⁴

17. The Commission does not favour 'automatic' adjustment of electorates according to a formula:

¹ Mr Green, transcript of public hearing on 31 May 2002.

² Mr Green, transcript, op cit.

³ Submission by ACT Electoral Commission, op cit.

⁴ Ditto.

The Commission suggests that a decision to move from 21 members to 27 or 35 members is one that should be taken deliberately, rather than provide for an automatic increase tied to population or electoral enrolment...

If it is not accepted that all electorates should return the same number of members, thereby allowing other options to be considered [other than the 27-member or 35-member options], the Commission would still caution against providing for an automatic increase in the size of the Assembly. Given the possible permutations of sizes and number of electorates, it would appear to be desirable to consciously adopt change rather than attempt to make change automatic according to a formula.

The Commission would also caution against the destabilising effect of altering the number of electorates.

Rather than attempt to provide for automatic increases in the size of the Assembly, it might be desirable to seek to simplify the process of changing the number of members in the Assembly... [such as amendment of the Commonwealth's *Self-Government Act*] to give the ACT Legislative Assembly the power to set its own number of members. This power has been given to (and exercised by) the Northern Territory Legislative Assembly.¹

18. The Commission set out the legislative background to considering changes to the size of the Assembly:

The number of members of the Legislative Assembly is currently specified in section 8 of the *Self-Government Act*, which sets out:

8 Legislative Assembly

- (1) There shall be a Legislative Assembly for the ACT.
- (2) Subject to subsection (3), the Assembly shall consist of 17 members.
- (3) The regulations may fix a different number of members for the purpose of subsection (2), but regulation shall not be made for that purpose except in accordance with a resolution passed by the Assembly.

The division of the ACT into three electorates is specified in section 34 of the *Electoral Act 1992*, which provides:

34 Multi-member electorates

- (1) The Territory shall be divided into three separate electorates.
- (2) Seven members of the Legislative Assembly shall be elected from one electorate.
- (3) Five members of the Legislative Assembly shall be elected from each of the other two electorates.

The boundaries of the ACT electorates are reviewed through a redistribution process, set out in Part 4 of the *Electoral Act*... The next redistribution of the ACT electorates is due to commence as soon as practicable after 19 October 2002...

Section 36 of the *Electoral Act* further specifies factors to be taken into account when electorates are redistributed:

36 Factors relevant to redistribution

In making a redistribution of electorates, the augmented commission shall—

¹ Ditto.

- (a) ensure that the number of electors in an electorate immediately after the redistribution is within the range permitted by the *ACT (Self-Government) Act 1988* (Cwlth), section 67D (2); and
- (b) endeavour to ensure, as far as practicable, that the number of electors in an electorate at the time of the next general election of members of the Legislative Assembly will not be greater than 105%, or less than 95%, of the expected quota for the electorate...; and
- (c) duly consider—
 - (i) the community of interests within each proposed electorate, including economic, social and regional interests; and
 - (ii) the means of communication and travel within each proposed electorate; and
 - (iii) the physical features and area of each proposed electorate; and
 - (iv) the boundaries of existing electorates; and
 - (v) the boundaries of divisions and sections fixed under the *Districts Act 1966*.

The *Entrenchment Act* entrenches various principles of the ACT's electoral system... Principles that are entrenched can only be amended or repealed either by passage by a majority of members of the Legislative Assembly and passage of a referendum by a majority of electors, or by at least a 2/3 majority of the members of the Legislative Assembly.

Two aspects of the ACT's electoral system that are relevant to the issue of the size of the Assembly are entrenched under section 4(1) of the *Entrenchment Act*... The relevant provisions are:

4 Entrenchment of electoral system

- (1) This Act applies to any law that is inconsistent with any of the following principles of the proportional representation (Hare-Clark) electoral system:
 - (a) at a general election, an odd number of members of the Legislative Assembly shall be elected from each electorate;
 - (b) at a general election, at least five members of the Legislative Assembly shall be elected from each electorate;
- ...
- (2) This Act applies to any law made pursuant to a power at any time vested in the Legislative Assembly to make a law with respect to the number of members of the Legislative Assembly.¹

ACT Government

19. The ACT government submitted that:

The current number of members in the Legislative Assembly is, at 17, arguably the minimum necessary for the Assembly to function properly... Given that the Assembly is already at or near its lowest practical limit in terms of its ability to function as a legislature in the Westminster tradition, the government does not favour a reduction in the size of the Assembly.

If it is the clear wish of the community, the Assembly could remain at its present size. However, the government does recognise that, due to population growth and the increasing complexity of government, there is considerable justification in the argument

¹ Ditto.

that the size of Canberra warrants an increase in the number of members and, potentially, electorates...

[However,] there is no necessarily “right” answer to the question of how many members the Legislative Assembly should have. Comparisons with other jurisdictions in Australia are complicated by the unique, hybrid nature of government in the ACT... Nor is comparison with the other domestic self-governing territory, the Northern Territory, particularly helpful. The ACT is a relatively compact ‘city-state’, while the Northern Territory, with a smaller population than the ACT, covers a vast geographic area. Moreover, the Northern Territory has its own system of local government for which there are additional elected representatives. Similar arguments arise in a comparison with the Tasmanian system of government and the differences in that state.¹

20. In reference to the ratio of politicians to voters, the government submitted:

The [Pettit] report considered that the ratio of MLAs to electors should be maintained at approximately 1:10,000, as it was at the start of self-government in 1989. The number of enrolled voters in the ACT was 219,217 as at 16 May 2002. Based on this number, the number of MLAs would currently need to be around 22 to maintain the 1:10,000 ratio... That ratio is significantly above the ratios of representation in all other comparable jurisdictions.

As the Pettit report argued that the number of members should always be an odd number, this consideration would suggest that, on population growth grounds alone, the number of Assembly members could increase from 17 to 21 or 23. An increase to 21 members would be above the 1:10,000 ratio. An increase to 23 members would currently be below the 1:10,000 ratio, but on present population growth trends, it would be above the 1:10,000 ratio in about six years’ time.

There are significant lead times involved in establishing a new set of arrangements for the size of the Legislative Assembly and the configuration of electorates. Given these lead times, and the desirability to have some stability in arrangements once they are made, there is merit in considering an appropriate size for the Assembly that would allow some margin for further growth in the ACT population. The government is of the view that consideration could therefore be given to an expansion in the number of members to 25. Based on population projections the ACT would achieve a 1:10,000 ratio consistent with having 25 members in around 14 years’ time...

Based on the recommendations of the Pettit report, the required number of members is 23. An Assembly of 25 members would allow for future growth and longer-term stability.²

21. The government listed four ‘important additional benefits’ of a larger Assembly, namely:

—the opportunity for wider community representation in the Assembly, including by women and the Aboriginal and Torres Strait Islander community and multicultural communities;

—a larger pool of members from which government and shadow ministries could be formed and the ability to increase the size of the ministry... [In this respect, the submission states that] the government considers that an increase above the present limit of five ministers is needed for the ACT... given the range and complexity of issues dealt with the ministers, and the expectation that ministers will be accessible to electors and community and other organisations...

¹ Submission by the ACT government dated 28 May 2002.

² Ditto.

- an increase in the number and diversity of members available to sit on Assembly committees (recognising that the committee system is an important part of the deliberations of the Assembly); and
- a closer and more immediate connection between members and the electorate they serve, arising from the potential to have a greater number of geographically smaller electorates, consistent with the principles of the Pettit Review.¹

22. The government noted that ‘the main additional cost is the direct cost of having additional members’. The government estimated the cost of each member as \$217,000 per annum, which covers ‘salaries, staffing entitlements and administrative expenses’. The government estimated the cost ‘of an additional minister... [as] around \$410,000 per year’.²

23. However, a further cost of additional members relates to their accommodation expenses:

The number of members and staff that can be accommodated in the Legislative Assembly building is understood to be near its practical limit. An increase in the number of MLAs to 21 or beyond would therefore appear to require that alternative accommodation arrangements be made. Depending on the number of additional MLAs that might be agreed, there may also be a need to make special arrangements for them to be accommodated in the Legislative Assembly chamber. It is also likely that some additional costs would be necessary with respect to general accommodation and other operating costs to the Assembly Secretariat, given the additional workload which would be expected to arise.³

ACT Legislative Assembly (Speaker Mr Berry MLA)

24. The Speaker of the Legislative Assembly, Mr Berry MLA, provided costings for a larger Assembly:

[The costings] are based on an increase to 21 and 25 members respectively as these appear to be the models that have been given the most consideration...

[In relation to remuneration] the approximate cost of the current Assembly is \$10.7m that this estimated to increase to:

- between \$12.4m and \$12.7m if the Assembly was increased to 21 members, and
- between \$14.4m and \$14.9m if the Assembly was increased to 25 members.

[In relation to accommodation] the estimated costs associated with accommodating 21 members are relatively low, compared to an increase to 25, mainly due to the fact that there is a capacity within the current building to accommodate additional members’ suites simply by making better use of office space that is not fully utilised. It is estimated that the additional four members, under a model of 21, could be accommodated at a cost in the range of \$250,000 to \$350,000. This is a one-off cost of refurbishment only...

However, it is clear that the current building could not accommodate 25 members...

[In order to estimate the cost of 25 members, an assumption was made] that the executive would relocate out of the current building to the North Building... [involving] an entire floor of [that] building... [to be] refurbished, irrespective of the size of the executive (that is, whether there were five or even eight ministers)...

¹ Ditto.

² Ditto.

³ Ditto.

The total [one-off] cost of refurbishing accommodation, plus other related expenses, for an Assembly of 25 members and with a relocated executive has been estimated to run to between \$1.5m and \$1.7m.¹

Mr Alcorta

25. Mr Alcorta submitted that:

In the ACT's case, it is urgent, not to say imperative, that the Legislative Assembly be increased to, at least, the same size as the Northern Territory's 25. Canberra has a larger population than the Northern Territory and, on current trends, it will have a larger population than Tasmania in the next 10-15 years. It is necessary that the ACT's parliament prepare for the task of administering well this very important part of Australia now...

On almost every criteria, Australia's three smallest jurisdictions – the ACT, the NT and Tasmania – do not have effective parliaments because they are too small. Just 25 seats in the NT's sole Legislative Assembly, 40 in Tasmania (25 in the House of Assembly and 15 in the Legislative Council), and 17 in the ACT's single Legislative Assembly, just five more than Hobart's City Council...

Government [in the ACT] is made up of four ministers... It stretches credulity to imagine that any of them are across their portfolios in any detail. For example, Ted Quinlan is the Deputy Chief Minister, Treasurer, Minister for Economic Development, Minister for Business and Tourism, Minister for Sport, Racing and Gaming, Minister for Police, Emergency Services and Correction. Really.

The four ministers are supposed to oversee 14,000 public servants working in six departments and dozens of agencies and independent statutory authorities which, in Canberra, include municipal functions. As well, the Assembly has two select committees (Estimates and Status of Women), six standing committees and five advisory committees. A ridiculous task.²

Australian Democrats (ACT Division)

26. The Democrats submitted that three electorates of seven members is desirable because:

It is consistent with recommendation 5 [of the Pettit report] (minimum number of MLAs to be five), recommendation 7 (the total number of MLAs should be odd)... [and remove the current] imbalance in numbers of representatives between electorates...

An increase to the number of MLAs from 17 [to] 21 promotes greater representation, as the Assembly must deal with what would otherwise be dealt with by local government and state government. The range of issues that may cross any MLA's desk in a particular day will range from footpath repairs, parks requiring attention, to budget decision that add up to millions of dollars.

The Ministry face this, as well as the backbench members, cross-bench members and shadow ministry... An increase in size would allow the workload to be shared around and aid the members to be more responsive to the peculiar needs of the one-house, one-level government that exists in this territory,

The committee system could also become stronger and better reflect the views of the community... An increase in size would strengthen the committee system by providing a

¹ Submission by Mr Berry MLA, Speaker, dated 24 June 2002.

² Submission by Mr Alcorta dated 3 April 2002.

larger talent pool and allow members to spend more time on their individual committee duties.

An increase would also mean the Executive could be made larger, and a larger talent pool would exist for which portfolios could be handed to.¹

27. The Democrats submit that:

Any further changes [beyond that outlined above] need to be long-term solutions that take into account population trends of the ACT. A step forward may be, rather than declare the preferred ratio of members to electors to be 1:10,000, to legislate a range... [such as] 1:9,000 and 1:11,500. This would mean that only when the ratio fell outside this range would there be a change in the make-up of the Assembly.

[Based on] ABS population trends... for Canberra... [then] under the range system as proposed, this would require a change for the 2004 or 2007 election, then not again for approximately 20-25 years, when a move to 27 MLAs may be appropriate.²

Australian Labor Party, ACT Branch

28. The ALP, ACT Branch, submitted that:

There are strong and compelling arguments for an increase in the total number of members of the Legislative Assembly and the number of electorates...

[This] increase... must be of a magnitude that will establish a reasonable voter to MLA ratio, improve proportional representative outcomes, achieve better 'community-of-interest' electorates, establish an Assembly that will cope with Canberra's growth for the next several decades and deliver efficient and effective executive government that is accountable to the Assembly...

ACT Labor believes that 25 members would be a critical mass for the Legislative Assembly enabling it to cope with population growth for many decades irrespective of the voter to MLA ratio. This option would also ensure electorate fairness with electoral quotas being exactly the same throughout the ACT while at the same time having electorates of a size that do not compromise 'local' representation. It is important to note that with such an increase the ratio of voters to elected representative would still remain one of, if not the highest, ratios in the country...

The clear goal and benefit of the Hare-Clark system is to deliver better proportional representative outcomes. The ACT Legislative Assembly being too small in its total number undermines these goals... [A larger Assembly] would facilitate broader and more balanced representation... [including of women]...

[A larger Assembly also would enable] the committee system [to act] as one of the primary mechanisms by which the community can directly interact with its parliament and vice versa... Committees comprising [just] three members [with] each member having multiple committee responsibilities seriously compromise the Assembly's ability to consistently maintain high standards in the legislation that it passes...

[And] similar problems are encountered with formation of the executive government. A small Assembly severely restricts the talent pool from which the Ministry is drawn, and leaves too few members on the government backbench to fulfil other parliamentary duties... A four-member Ministry is too small to effectively meet the demands of government in the ACT in the long-term... [and] an Assembly of less than 25 members would only allow an increase in the total size of the Ministry to five, a number that is not likely to cope with the long-term demands on ACT governments or address concerns over high levels of delegation of ministerial responsibility...

¹ Submission by Australian Democrats (ACT Division) dated 8 April 2002.

² Ditto.

The option for an increase to 25 MLAs does pose some problems. The ACT community may not be convinced that such an increase is warranted... Further, the electoral boundaries for such an Assembly would not correspond directly or wholly with geographical boundaries with perhaps one or two exceptions.

It is worth noting that the Pettit Report stated that an ACT Assembly of 25 members would be reasonable when compared to other jurisdictions. ACT Labor agrees with this sentiment. It is also valuable to note that the smallest option even considered in the 1994 Morling Report into the size of the Tasmanian Parliament was 25 members... It is also useful when assessing an appropriate size for the Assembly to use the Brisbane City Council as a benchmark, which has 26 members and a cabinet of six. The size of the Council's constituency, budget and issues for which it has responsibility are similar in many ways to that of the ACT Assembly...

Any such change should be agreed upon as soon as possible so that the new electorate boundaries can be established as part of the ACT Electorate Commissioner's redistribution in October of this year.¹

29. In relation to other options for the size of the Assembly, ACT Labor stated:

There are strong arguments for increasing the Assembly to a total size of 35, particularly when using representation ratios of the rest of the country as guidance and assessing the long-term growth and demands of the ACT constituency. However, for reasons of economy and fiscal responsibility... we do not see an increase of this magnitude as feasible.

Equally, at the other end of the spectrum, a small increase to 21 would not bring the necessary benefits to the functioning of the Assembly, or the formation of the executive government, or restore a reasonable level of political representation for the citizens of the ACT.

This then draws into question whether the associated cost of an increase to 21 MLAs is worth the small benefit that is gained. ACT Labor accepts that an increase to 21 seems to be the 'default' position that has developed over the last few years, but believes that on balance it is not the most beneficial or appropriate for the ACT.²

30. ACT Labor submitted that:

Electorates of five members each appear to be the best size... [to avoid] the problems that are created with an electoral boundary with a large geographic spread and the problems of conflicting interests with such large electorates...

Electorates of a similar size with the same numbers of representatives, that are small enough to allow effective local representation through boundaries based on a community of interest, will deliver substantially improved representative democracy in the ACT.

It is important to note that in Tasmania, home of the Hare-Clark system, all electorates are made up of five members each. A maximum of five members per electorate is also the norm in other Hare-Clark jurisdictions...

ACT Labor accepts that electorates of six or four may also successfully achieve these democratic goals, but recognise that the 1995 referendum established five-member electorates as a minimum. It is also noted that an odd number of members per electorate is an entrenched provision of the Act...

ACT Labor... [considers there should] be a minimum of four or five ACT Legislative Assembly electorates... There is no inherent basis or logic for the ACT having only three Assembly electorates.³

¹ Submission by the Australian Labor Party, ACT Branch, dated May 2002.

² Ditto.

³ Ditto.

31. In relation to the role of the Assembly:

ACT Labor supports the current system... with the Chief Minister and members of the Cabinet being drawn from members elected to the Assembly. Although alternative systems, such as voters directly electing a Chief Minister, have been canvassed previously, the ACT Branch believes that the alternatives pose a greater risk of creating conflict between the Assembly and the executive, as well as diminishing the system of parliamentary democracy practised in all Australian states, the Northern Territory and federally.

It is paramount that the electoral and parliamentary system is one that allows the executive to be held accountable to the people of the ACT through the parliament. Further, the structure and operation of the ACT Assembly should conform to the Westminster model of parliamentary government as generally adapted in Australia.¹

32. ACT Labor considers that issues such as:

The number of seats in the ACT and the total number of ministers in the cabinet... should be of no concern to the Commonwealth... The ACT *Self-Government Act* should ensure, to the greatest extent possible, the political sovereignty of the ACT Legislative Assembly so that the power of the Commonwealth to override Territory laws is not available for laws involving only the exercise of Territorial responsibilities.²

Mr Brown

33. Mr Brown 'support[ed] a significant increase in the Assembly's membership, to 25 or 27', because:

The Assembly [is] the sole government body for the ACT (unlike other jurisdictions which have both local and state/territory administrations);

[It would enable] more effective representation of the electorate, by reducing the electors/representatives ratio;

[it would] increase the pool from which Ministers and committee members can be drawn, to enhance both administration and accountability.

In conjunction with increasing the size of the Assembly, I submit [that] the ACT should change to the system of single-member electorates... [whose] advantages include:

- likely emergence of majority governments, without the need for (or appearance of) special deals and over-powerful minorities;
- direct accountability of identified local members to their electorates;
- better quality candidates, particularly from political parties, which would have to choose candidates to win rather than picking a list of party favourites;
- exclusion of lunatic fringe and boofhead candidates, whose election debases the legislature.

Naturally, a system of single-member electorates would have to be accompanied by compulsory voting and the preferential voting system.³

¹ Ditto.

² Ditto.

³ Submission by Mr Brown dated 16 February 2002.

Mr Bull

34. Mr Bull ‘strongly opposes *any* increase in the size of the Legislative Assembly and believes that a reduction would not be unreasonable’. Mr Bull stated, in relation to a comparison of the ACT and other Australian legislatures, that:

Local councillors are overwhelmingly part-timers who, by and large, seem to have a minimal constituency role and have no legislative role. I would suggest that they should be excluded from any consideration of the Assembly’s future size. It is widely believed that Australia is one of the most over-governed countries in the world. The ACT Assembly contributes to this...

An advantage of having one, rather than two, levels of representation in the ACT is that a range of tasks relating to the governance, control and structure of local government and the need to coordinate state functions with counterpart local functions is eliminated. It is not, for example, necessary to have a minister of local government in the ACT. This elimination of duplication itself reduces the workload on political representatives...

ACT Assembly members, by comparison with their inter-state counterparts, do a minimal amount of travelling to and from the Assembly and their constituencies and within their constituencies.¹

35. In relation to the appropriate size of the Assembly, Mr Bull submitted:

There is a minimum size for a legislature below which it cannot function effectively. This is especially true where a parliamentary system with a government and opposition is in place. This minimum might be about 15 persons...

Every [Australian] jurisdiction except Tasmania and the Northern Territory has a greater population per member than the ACT despite the large land areas and extensive travel that legislators are required to undertake. An ACT Assembly of 15 members would result in a per capital population of 20,946 persons [as distinct to the present 18,482]—equivalent to South Australia (which is looking to a possible 25% reduction in the size of its parliament). If the ACT was re-absorbed into New South Wales it would be represented by six or seven members in that parliament—not 17.

The average number of persons per state/territory parliamentary member, including the ACT, is 1:32,419. Excluding the ACT, the average increases to 33,367—nearly double the current ACT average despite the heavier travel load of state and Northern Territory members...

If the Assembly is increased in size can we expect salaries and allowances to be proportionately reduced to keep the overall cost the same?... What increases in ACT taxes would be required to fund extra members?²

36. In relation to the workload of politicians, Mr Bull submitted that:

The tasks of members of parliament have changed over the years. Many government functions have been privatised or out-sourced or delegated to statutory authorities with ministers no longer being directly answerable for them. This has resulted in a significant decrease in responsibilities.

Further, whereas in times gone by, a member of the public unsatisfied with the outcome of decisions by officials had little recourse other than to their legislative member, today they can appeal to a range of administrative law bodies—tribunals,

¹ Submission by Mr Bull dated 11 March 2002 (emphasis in original).

²Ditto.

reviews, ombudsman... These administrative remedies have further lightened the burden on members...

[In addition,] the public service itself has been minimised not only by reduced functions but by a policy requiring it to demonstrate productivity increases (do more with less). Are Assembly members exempt from productivity increases?...

I do not believe that it is acceptable for the Assembly to make decisions in its own favour (more people to do the same amount of work) unless an independent external inquiry has first occurred which undertakes a detailed analysis of the work patterns and volume of work of at least a cross-section of backbench members... [addressing questions such as] how many days spent sitting in the Assembly? How many interviews with constituents? How many letters drafted?¹

37. Mr Bull considers that any decision to increase the size of the Assembly should 'be put to a binding referendum at the next Territory election and if approved, to come into effect at the next following election'.²

Mr Connor

38. Mr Connor submits that the ACT:

[should] be a trailblazer for what in due course could be the future model for electing state governments, namely, a change from the Westminster (mainly adversarial) parliamentary system to the Washington model of executive government, with an emphasis upon consensus.

I am not convinced that under the present system of government there is justification for an increase in the size of the Legislative Assembly. It is not just simply a question of increasing the number of MLAs but, as well, the cost of the additional staff and office space that is likely to be a part of any increase in the Assembly...

[The current ACT system] has its drawbacks. Chief amongst these is an inability to localise and identify with a 'local member' and local councils. Our only relationship to those that take the taxes and make the laws is with "*the Government*"...

Just to compare the ACT [to] other jurisdictions to justify an increase in the Legislative Assembly is insincere... [for] in multi-member electorates, there are no real 'local members'. The politically aware have a distinct advantage over the apolitical, a situation [that] I believe would, to some degree, be rectified with the introduction of single-member electorates...

[The Washington model, when applied to the ACT, could mean] reducing the Legislative Assembly by two members, popularly electing the Chief Minister, and the Chief Minister appoint his Cabinet (Executive) from the heads of the government departments... ie the Under-secretaries. No members of the Legislative Assembly would be eligible for appointment to the Executive... The role of the Legislative Assembly would be entirely responsible for passing and/or rejecting legislation as initiated by the Executive. This proposal... would enhance the status of the Legislative Assembly...

This proposal would also rescind the present system of electing MLAs and changing to single-member electorates...

By removing the Cabinet from the Legislative Assembly, and utilising the heads of departments, this proposal... will prevent the need for an increase in MLAs... I would favour a reduction by two to have an Assembly of 15 MLAs... Whilst I am prepared to settle for the current 12,934:1 ratio of voters per MLA, under my proposal... a 15-

¹Ditto.

²Ditto.

member Assembly with single-member electorates, with the ratio of 14,658 per MLA... would not be that much more onerous. The current system should not be set in concrete, as [has occurred]... with the 1995 Entrenchment Referendum...

Just to increase the Legislative Assembly is too simplistic an answer. It does not necessarily mean... you will increase the quality of parliamentary representation...

The needs of the voters (including their families) would be better served by individual MLAs representing individual electorates... There would be more opportunity under a single-member electorate method of voting for constituents' needs to be met more, at a grassroots level...

I believe... that it is the present system of election of MLAs that is the impediment to the governance of the territory, not the size of the Legislative Assembly. Increasing the number of MLAs will only compound the situation, and not improve it.¹

Ms Doust

39. Ms Doust submitted that 'the number of members should be increased to perhaps double (ie 30)'. Ms Doust stated:

I believe the current Assembly is under-sized but that it should not necessarily be the size of either Tasmania or the Northern Territory parliaments.

This is for several reasons:

- (i) it should be larger because of the dual state and local government responsibilities.
- (ii) It should be larger to increase the level of voter representation.
- (iii) It should not be a great deal larger because a greater proportion of the operating budget would be taken up on supporting the administration/functioning of the Assembly and its representatives.
- (iv) It should not be a great deal larger because, despite the comparisons with Tasmania and Northern Territory in terms of operating budget, it is not comparable in terms of geographic reach. It is more comparable to a NSW local council in this respect.²

40. Ms Doust considered that:

There should be more electorates which are designed to more accurately reflect the differences in areas and voters within Canberra (eg currently both Belconnen/Gungahlin in Ginninderra).³

Greens ACT

41. The ACT convenor of the Greens stated that 'there is a need to increase the size' of the Legislative Assembly while maintaining the Hare-Clark electoral system.⁴ The Greens favour three electorates of seven members over the proposal for five electorates of five members, because the former is 'the most democratic on the basis that fewer votes are wasted' and the quota for election is lower: 'also, with a seven

¹ Submission by Mr Connor dated 4 April 2002.

² Submission by Ms Doust dated 15 April 2002.

³ Ditto.

⁴ Mr Corr, transcript of public hearing on 7 June 2002.

member electorate there's a greater possibility of diversity of views coming from the community'.¹

Gungahlin Community Council Inc.

42. Gungahlin Community Council Inc. stated that the current inquiry 'offers an opportunity to improve community representation and correct electoral boundary deficiencies'. In particular, the Council considers that 'all of Gungahlin should be in one electorate' which, 'at this time of Gungahlin's development', should be the Ginninderra electorate. Further, the Council 'can see some benefit in considering changes to the current 5-7-5 arrangement to a 7-5-7 or 7-7-7 configuration'.²

Gungahlin Equality Party

43. The Gungahlin Equality Party submitted that:

We do not believe that the appropriate number of members for the Legislative Assembly should be based on any direct comparisons to other jurisdictions, especially as each jurisdiction has their own distinctive set of circumstances that may not be applicable to the ACT...

Any justification for an increase in the number of elected members... should be based on:

- evidence from the incumbent elected members that they are currently fully utilised and cannot take on additional responsibilities or achieve additional efficiencies through such means as engaging additional office support staff or by other means
- a clear indication by the electors that they desire additional elected members as well as an understanding of the impact and associated costs this will incur...

The Gungahlin Equality Party does not oppose a change in the size of the ACT Legislative Assembly provided that:

- the change is fully justified to the ACT community on the basis of costs incurred versus overall gains obtained
- the change is fully supported by the ACT electors
- the proposed changes must result in an overall gain and be in the best interests of the ACT community
- a function of any proposed changes is that the current electoral boundaries must be reviewed to ensure that any "communities of interest" are not split across multiple electorates...

The current electoral boundaries that include Gungahlin (being in both Molonglo and Ginninderra) and Woden (being in both Molonglo and Brindabella) divide communities that have many common issues and interests... The division of the Gungahlin and Woden communities undermines their voting power and creates general elector confusion.

We believe that each of the following areas represent readily accepted "communities of interest" and should *not* be split within themselves: Belconnen; Gungahlin; North Canberra (suburbs north of Lake Burley Griffin); South Canberra (suburbs south of Lake Burley Griffin); Weston Creek; Woden; Tuggeranong.³

¹ Ditto.

² Submission by the Gungahlin Community Council Inc. dated 3 April 2002.

³ Submission by the Gungahlin Equality Party dated 15 April 2002 (emphasis in original).

44. While the Gungahlin Equality Party ‘does not currently hold a particular view of what may be the most appropriate electoral distribution mode’, it provided an electoral boundary modelling tool to gauge the:

general viability of various electoral options including (but not limited to):

- maintenance of the existing three electorates with a varying population and number of members scenario;
- modification of the existing three electorates to ensure that the Gungahlin and Woden regions are each represented within a single electorate;
- a single multi-member electorate for the whole of the ACT;
- a three electorate configuration where each electorate has an equal number of members;
- a multiple electorate model that could reflect each of the specific communities of interest [outlined above].¹

Ms Guy

45. Ms Guy submitted that the number of MLAs should *not* be increased for reasons that include:

- (i) The defeat of a comparatively large number of sitting members at each election suggests that we are already electing too much deadwood. Increasing the size would exacerbate the problem;
- (ii) Eliminating more members will not eliminate the problem of members who do not pull their weight...
- (iii) Quoting figures from States/Territory [to justify an increase] has limited use against a rising tide of public opinion that argues that we are over-governed compared to overseas countries such as the UK...
- (iv) In making comparisons to Tasmania and, in particular, the Northern Territory, the compact size of the ACT, and hence reduced costs, is not taken into consideration;
- (v) [in relation to] the claim that representation in the ACT has increased by 30% since self-government, my understanding is that the salaries of members has increased well beyond this level over the same period...
- (vi) With increasing public participation in decision-making (well over 100 at a recent PALM meeting), effectively replacing the councillors in other states, the need for more members is reduced...
- (vii) Electorates should be chosen to include suburbs with similar problems and interests. Gungahlin is suffering because it does not effectively have anyone to represent it and at the last election it was disadvantaged because it was divided between two electorates...²

¹ Ditto.

² Submission by Ms Guy dated 29 April 2002.

Professors Halligan and Wettenhall

46. Professors Halligan and Wettenhall submitted that:

An increase in the size of the Legislative Assembly is warranted... [because]:

- (i) by Australian standards, the people of the ACT are severely under-represented at political level, that difference magnified by the fact that (unlike any other Australian sub-national assembly) the ACT Assembly has responsibility for state-level as well as municipal-level functions;
- (ii) the current level of representation was fixed when the ACT *Self-Government Act* was passed in 1988, and there has been no subsequent adjustment to take account of increasing population;
- (iii) the current division of the ACT into three electorates supplying 17 members in all creates a serious imbalance, which could be rectified if each electorate returned seven members;
- (iv) an Assembly of 17 members is too small to allow adequately for the provision of at least four ministers (that the ministry is so small creates other problems), a Speaker, a government backbench needed to ensure effective representation on committees, and an opposition;
- (v) additionally to (iv), there is any case a need for a bigger “talent pool” from which to choose ministers;
- (vi) given the total cost of government, the increase in cost involved in expanding the Assembly to 21 members would be small in relative terms, and insignificant when considered against the benefits such increase would bring...

[Further,] there is currently a “democratic deficit” in the ACT and... an increase in the number of MLAs would go some way to alleviating this problem.

A final argument... is that there has, over a long period, been a much more rapid growth in the number of unelected personnel in our systems of government (ie officials of one kind or another) than in the number of elected personnel. It is unlikely that all the retrenchments of officials over the recent period have redressed the growing imbalance, and it can therefore be argued that the cause of true democracy requires that measures should be taken from time to time to get a better balance between elected and unelected personnel.¹

47. By ‘democratic deficit’, Professors Halligan and Wettenhall mean the following:

The ACT city-state model fuses two sets of responsibilities which are elsewhere in Australia divided between a state or territory government tier and a local government tier. Thus a broader range of functions is vested in the ACT government than in any other Australian sub-national government. At the same time, that government is very small by Australian standards, with only four or five ministers and a unicameral legislature of just 17 members...

In comparative terms, therefore, members of the ACT Legislative Assembly carry a heavy load and much responsibility, and this must inevitably impact on the way they represent their electors. Their situation is further complicated by the form of proportional representation currently provided for the ACT... [which] makes it more difficult for the MLAs to maintain close relations with, and develop a public profile with, their constituents.

The presence of a tier of local government councils in other Australian jurisdictions means that citizens in those jurisdictions have recourse to another group of elected representatives when they want to involve governmental processes...

¹ Submission by Professors Halligan and Wettenhall dated 12 April 2002.

Therefore, it is possible to argue that by Australian standards there is a democratic deficit in the ACT and an unresolved set of questions about the local (government) issue...

In a systemic sense... the position seems to have changed little from that described by an earlier review of ACT governance: whereas one might expect government in this small territory to be more accessible 'than anywhere else in the country... the community has not been able to capitalise on this advantage'...

Multi-member electorates make it difficult for members to establish relations with communities because there is no direct relationship between the electorate and any individual member. The Hare-Clark system is more attractive to issues-based voters...

While [expanding the Assembly to 21 members] would have implications for representation (the size question...), it would not necessarily have much impact on either the area representation or local government questions.¹

48. Professors Halligan and Wettenhall consider that 'the electorates [should] have an equal number of members... [and,] at this stage, we favour a rearrangement which provides three seven-member electorates'.² Professor Halligan subsequently stated that he 'would by far prefer a figure which was more in the mid-20s', which would mean 'that you wouldn't have to review the size again for some time'. Professor Halligan reiterated his concern that, in the current ACT electoral system, 'the local government side is missing out too much'.³

Mr Hird (former MLA, and former Speaker of the ACT House of Assembly)

49. Mr Hird submitted that:

- the ACT Legislative Assembly should consist of never less than 21 members who should be elected from three electorates of seven members each;
- the ACT Legislative Assembly should be elected for fixed four-year terms, with a redistribution exercise carried out after each election to ensure electorate parity; and
- any changes to the numbers of representatives should only be made upwards, whilst still ensuring electoral parity over the agreed number of electorates, and an odd number of representative being elected from an odd number of electorates.⁴

50. Mr Hird stated that the ACT Legislative Assembly has a 'large and varied range' of responsibilities, reflecting the fact that it 'is responsible for the full range of both state and local government services' as well as being responsible for servicing the south-east region of NSW in matters such as health, education and employment.⁵

51. Mr Hird cited his own experience in the 4th Legislative Assembly (1998-2001):

¹ John Halligan, Lisa Skelly and Roger Wettenhall, 'Patterns of Representation and Community Governance in the City-State,' *Canberra Bulletin of Public Administration* Issue Number 103, March 2002, pp. 48-49. The quotation is taken from the Government Reform Advisory Group, 1995 *Governing Canberra*, ACT Government.

² Ditto.

³ Professor Halligan, transcript of public hearing of 10 May 2002.

⁴ Submission by Mr Hird dated 8 April 2002.

⁵ Ditto.

For part of the time during the last Assembly, I was the only government member available for committee duties (with the exception of the Speaker), and subsequently as well as chairing the busiest committee (Planning and Urban Services), I was required to sit on, and understand the issues, and contribute to the workings of, most other standing and select committees.

I did not object to this on the basis of a perception of personal overwork, however, I certainly considered that I was unable to give each and every issue its full and due consideration.

The pressure and time requirements of this workload also affects personal and family relations to an extent that is far greater than that envisaged when entering public life...

The committee system... [of] the ACT Legislative Assembly is the community's greatest access to the decision-making process, and it should not be compromised by a paucity of numbers of members available to adequately service it.¹

52. Mr Hird noted that the advisory bodies that preceded self-government (the original Legislative Assembly and the House of Assembly):

had 18 members... elected under the Commonwealth *Electoral Act*, with compulsory voting, electing nine part-time members from each of the federal seats of Fraser and Canberra. Members were appointed to various committees or community authorities at the beginning of each Assembly, eg health, education, gaming and liquor, parole board, and in this way provided community input into policy development and management for the ACT...

I cannot recall seeing or hearing any reasoned opinion that the figure of 17 members [for the ACT Legislative Assembly] was arrived at as a result of endeavouring to come up with the most administratively efficient figure.²

53. Mr Hird noted that the 1985 ACT House of Assembly, in a report entitled 'Proposals for Self-Government' by the Standing Committee on the Transition to Territorial Government (August 1985), recommended that the Legislative Assembly to be elected following self-government should consist of 21 full-time members to be elected from multi-member electorates for terms of four years.³ Also, he noted the Joint Parliamentary Committee on the ACT recommended 19 full-time members in its 1974 report to the Commonwealth parliament.⁴

54. In relation to the cost of additional members, Mr Hird suggested that lengthening Assembly terms from three years to four should offset the cost. Over a 12-year period, this would see one less general election with consequent electoral and administrative savings. Mr Hird noted that the last Assembly legislated to extend its term from three years to three years and eight months (February 1998 to October 2001, instead of February 1998 to February 2001). He expressed the view that the October election date was less suitable than the February one, for reasons that include the prolonged election build-up associated with the October timeframe and its interference with the budgetary process.⁵

¹ Ditto.

² Ditto.

³ ACT House of Assembly, Standing Committee on the Transition to Territorial Government, *Report: Proposals for Self-Government* (August 1985), selected excerpts attached to Mr Hird's submission, op cit.

⁴ Mr Hird, public hearing on 31 May 2002.

⁵ *ibid.*

55. In relation to electorates, Mr Hird submitted that:

The three-electorate system has been shown to be acceptable [to] the community, and can provide the basis for a fair and equitable electoral arrangement. However, the numbers of members from each electorate must be equivalent in order to produce parity in representation for all Canberrans, irrespective of address.¹

56. Mr Hird added that three local electorates would also accord with the re-introduction of a third federal seat for the ACT. He suggested that, should the ACT's population significantly increase, the three local electorates should increase their representation from seven members to nine, making the final size of the Assembly 27 members. This would make the Assembly similar in numbers to the legislatures in Tasmania and the Northern Territory, as well as to local government bodies such as Brisbane City Council and the Gold Coast City Council.²

57. Mr Hird further submitted that:

The *Electoral Act* should be amended to ensure the integrity of the decision that the full [Electoral] Commission makes by exempting the Electoral Commissioner from hearing appeals against his own rulings...

Currently, in accordance with the 1992 *Electoral Act*, the Electoral Commissioner makes a decision based on the available evidence where a candidate disputes an aspect of the election.

If that decision is not agreed to, an appeal can then be made to the full Electoral Commission, which is made up of the Chair and two others, one being the Electoral Commissioner who has already given a determination on the disputed decision.

This compromises the perception of an even-handed approach to the hearing of an appeal as one member is required to hear the appeal on an issue upon which he/she has already made a ruling...

If a dispute still exists following an appeal to the full Electoral Commission, the remaining course of action that can be taken is for the matter to be brought to the Supreme Court sitting as the Court of Disputed Returns.

This is an extremely costly option for both the community and for good governance, both in time consumed and in legal and other costs.

[Therefore, Mr Hird recommended that] the *Electoral Act* be amended to allow the Administrative Appeals Tribunal to make a ruling in cases of dispute over an election issue.³

58. Mr Hird also called for 'legislative action' to be undertaken to ensure that the entitlements of members who are not re-elected are clarified, including with respect to the use of vehicles up to the time that the poll is declared.⁴ He suggested that members who are not re-elected should retain all their entitlements up until the poll is declared, rather than losing at least some entitlements at midnight on polling day. Similarly, newly elected members should commence receiving their entitlements from the time the poll is declared rather than the entitlements being backdated to the actual polling day. This would recognise the fact that, up until the declaration of the poll, a

¹ Mr Hird, submission, op cit.

² Mr Hird, public hearing on 31 May 2002.

³ Mr Hird, submission, op cit.

⁴ Ditto.

constituency is represented by its existing members (whether or not they are successfully returned).¹

Mr Horscroft

59. Mr Horscroft submitted that:

The size of the Assembly [should] be set at one MLA for each 8,000 enrolled voters, and one extra MLA in each electorate if the remainder on dividing the number of enrolled voters by 8,000 exceeds 4,000...

A figure of 8,000 enrolled voters per MLA would mean an Assembly of 27 or 28 MLAs.

[Such an increase is warranted on grounds that include the following:]

- the ministers, who at present may number four or five, have to supervise a number of functions that are covered by a substantially greater number in other Australian jurisdictions... Given the need for ministers to be properly au fait with the work of their departments, it would seem logical that... [at least] seven ministers... [are needed.] Such is not possible, given the current very small size of the Assembly...
- [the] standing committees oversight the work of ministers and their departments from the point of view of the Assembly as a whole. Each government backbencher must sit on several of the committees in order to provide a balance to an opposition member... For minor parties and independents, committee memberships can only be on the basis of special interests—there is no possibility of being able to sit on all. With an increase in the number of departments, it would be logical to increase the number of committees. This exacerbates the problem for government backbenchers, and minor parties members and independents... Problems for MLAs would be reduced if there were more MLAs available to staff the committees...
- at the outset of self-government for the ACT, there was one MLA for approximately 10,000 enrolled voters. There are now 13,000... This implies that each MLA has nearly 30% more community work as a result of complaints and representations from electors... On this ground, it would be reasonable to increase the size of the Assembly.²

60. In relation to electorates, Mr Horscroft considers that ‘the number of electorates should be retained at three, but if any change is made, it should be reduced to one’.³ Mr Horscroft stated that Gungahlin should ‘be incorporated into the Ginninderra electorate’. He added:

Moving Gungahlin out of the Molonglo electorate would substantially reduce the latter’s size. However, with the increase in the number of MLAs, it is probable that the number of MLAs for Molonglo would remain the same, if not increase. Ginninderra would be substantially the largest electorate, but should not be split into two distinct parts until Ginninderra is of sufficient size to justify five MLAs.

[Therefore, there should] be one MLA for each 8,000 enrolled voters, subject to no electorate having less than five MLAs, and if the population of the Molonglo electorate be not sufficient to justify five MLAs on that basis, then the ratio of voters to MLA be decreased in each electorate until Molonglo has five MLAs.⁴

¹ Mr Hird, public hearing on 31 May 2002.

² Submission by Mr Horscroft dated 15 April 2002.

³ Ditto.

⁴ Ditto.

61. In relation to the cost of additional members, Mr Horscroft submitted that:

This could be offset, in part, by a small reduction in the amount paid to each member, and to the additional amount paid to each minister.

A major expense is not the salaries of the MLAs, but the salaries of their staffs. It is therefore suggested that the total number of full-time paid staff for MLAs be set at the current number.¹

G&M Kilby, L Louis, H&E Watson

62. The above submitters consider that:

There can be no grounds for increasing the number of Assembly members when the two previous Chief Ministers... have both publicly stated that the ACT would be better served by a council-type administration... The standing committee should examine alternative models, such as the Brisbane City Council...

Nearly all the complaints made by ACT residents [about the operations of the ACT government] can be rectified by increasing the number of doctors, nurses, police staff and Urban Services employees, not by more politicians!...

Arguments based on comparability and reference to other jurisdictions can be shown to be irrelevant and self-serving (no such cases are ever mounted to support a reduction in numbers). The Northern Territory covers a vast, sparsely populated area. It has to grapple with enormous problems not faced by the ACT... Tasmania, too, is very unlike the ACT. Parliamentary government was established in the 1850s, and as a separate colony, it was responsible what became national matters...

On an international scale, Australia has the distinction of being the most "over-governed democracy"... [The committee should] look beyond Tasmania and the Northern Territory. One reference point should be the US, which has one full-time politician per 126,466 of the population.²

Ms Kilpatrick-Lewis

63. Ms Kilpatrick-Lewis considers that 'the ACT is already over-represented and if anything should be reduced in size...[because]:

The area governed is relatively small... I believe some town councils administer areas greater than the ACT. Hence I query the need for a local government at all...

The members with specific portfolios have too much direct influence over policy of individual organisations within their portfolio [as] opposed to making general policy appropriate for all organisations under their care...

The cost of any additional MLAs and their support staff, office, etc will be additional to money currently spent on running the ACT government. As a taxpayer I do not support this increase in wasted money...

I admired the Tasmanian government when it reduced the numbers in its Legislative Assembly. We should follow that example!³

¹ Ditto.

² Submission by G&M Kilby, L Louis, H&E Watson dated 12 April 2002.

³ Submission by Ms Kilpatrick-Lewis dated 27 February 2002.

Dr Kirschbaum

64. Dr Kirschbaum submitted:

There seems to be a strong case that a modest increase in the number of MLAs should be in the best interests of the Canberra community, especially those living in Brindabella and Ginninderra...

There is currently an excessive workload placed on members, and it is extremely difficult for any MLA to remain adequately on top of all the issues that come before the Assembly and still have enough time and energy to be able to look after the many and varied concerns of individual constituents. For members of the government, it is particularly difficult to deal with the heavy workload...

Even with an increase [to 21 members based on a ratio of 10,000 voters per elected member]... Canberra would still continue to have by far the smallest number of representatives per head of population... than any other part of Australia.

With an estimated cost of about \$300,000 per additional MLA per year, I believe this would not be an excessive cost if it can lead to better decisions being made in spending a total ACT budget of about \$2 billion per year.

In terms of fair and democratic representation, the voters of both Brindabella and Ginninderra currently get a poor deal in generally not being able to effectively cast a meaningful vote between the two major parties. In both electorates in the 1995 and 1998 elections, and for one electorate in the 2001 election, two members were elected from each of the major parties despite the different support... [they] enjoyed. Hence, whether voters prefer the Labor or the Liberal Party, even by a substantial margin, two members are likely to be elected from each... The seven-member electorate, on the other hand, returned different numbers of members for the Labor and Liberal parties and two crossbenchers in both 1995 and 1998... In Molonglo, the election of only one non-major party candidate [in 2001] probably accurately expressed the wishes of voters in 2001 as they gave a greater share of votes to the major parties than at previous elections.

It would thus be preferable to have seven (or more) members elected per electorate to accurately reflect voter intentions.¹

65. In relation to a formula to determine future increases in Assembly members, Dr Kirschbaum stated:

If one accepts the notion that the ACT is divided into fixed defined electorates, then the size of the Assembly is very much tied up with the question of how that number is to be subdivided. [This]... militates against having a fixed formula...

[However,] if one were to go for treating the ACT as a single electorate, then I think there would be stronger case for having a fixed formula... [But] I think the fixed equation between numbers of members and numbers of voters is probably not the best formula because there are economies of scale in the Assembly... [eg] we only need one Speaker... and one Chief Minister.²

Liberal Party of Australia, ACT Division Inc.

66. The Liberal Party, ACT Division, stated that it 'supports in-principle the need for a bigger Assembly' and proposed two options:

¹ Submission by Dr Kirschbaum dated 14 April 2002.

² Dr Kirschbaum, transcript of public hearing on 10 May 2002.

[One option is] three electorates [of] seven MLAs each, [an option which] could garner broad community support... given the broad political support for [the] option and the modest size of the proposed increase... [This option is] fiscally responsible. [Also,] a smaller quota would mean that the results are more proportional... [and,] since fewer votes exhaust in a larger electorate, a majority government could not be formed unless a party was able to secure very close to 50% of the vote...

[The second option is] three electorates of six seats [and] one of five seats... [This option] could produce [almost] perfect boundaries based on existing town centres... [and also almost perfect] quotas... [as follows:]

- Tuggeranong = six MLAs [with] enrolment as at 28/2/02 [of] 59,339
- Weston Creek+Woden+South Canberra = six MLAs [with] enrolment as at 28/2/02 [of] 58,520
- Belconnen = six MLAs [with] enrolment as at 28/2/02 [of] 60,192
- North Canberra+Gungahlin+Hall = five MLAs [with] enrolment as at 28/2/02 [of] 43,582 and growing strongly in Gungahlin.

This [second] option has not been widely discussed by Canberra's community councils and requires more discussion by them... This option may also be of interest to other political parties, as a compromise model to consider.¹

67. The Liberal Party opposed the option of five electorates of five members each because:

The lack of sufficient proportionality between votes cast and seats gained is a factor which lends an undemocratic character to this arrangement. Furthermore, although the exact boundaries would be a matter of implementation detail which falls upon others to deal with, the committee cannot ignore the significant degree to which the boundaries would inevitably divide natural communities of interest.²

Mr Marshall

68. Mr Marshall submitted that:

The ACT should not have more MLAs, indeed the ACT government should be abolished... [along with state governments.]

If state and territory governments were abolished and we only had the House of Representatives and if Australia was administered by a series of city councils which currently exist, supplemented by rural district councils, we could save ourselves the cost of a lot of many unnecessary politicians.³

North Canberra Community Council Inc.

69. North Canberra Community Council Inc. submitted:

We believe that an increase in the total number of MLAs is warranted to accommodate their municipal responsibilities...

We believe that the ratio of MLAs to voters should be proportional *and remain constant*, thus allowing changes in electoral representation as population changes occur. With respect to state-type functions, we support the ratio of MLAs to voters returning to at

¹ Submission by the Liberal Party of Australia, ACT Division Inc, April 2002.

² Ditto.

³ Submission by Mr Marshall dated 25 April 2002.

least its 1989 level, ie one MLA to 10,000 voters. On current voter population figures, this implies a need for at least 21 MLAs to deal with state-type functions...

There remains the need for additional representation, perhaps an extra four MLAs, to accommodate the Assembly's workload accompanying its direct responsibility for municipal functions. This would increase membership of the Legislative Assembly to 25, reducing the overall ratio of elected members to voters to approximately one to 8,800.

As a statutory principle, the total number of MLAs should remain as an odd number. Within this context, we consider it should be possible for electorates to have even numbers of MLAs...

The North Canberra Community Council believes... that a community of interest should not be split between electorates, such as happened with the excision of the suburb of Nicholls from the Molonglo electorate before the 2001 ACT election. This also excised Nicholls from its Gungahlin community of interest and added it to Belconnen, an area with which it has less in common.

Regardless of whether the ACT has three or more electorates, we believe electorate boundaries should be drawn up so that the integrity of communities of interest is respected.¹

Professor Pettit

70. Professor Pettit stated:

[While] I... support 21 [members, as] three sevens did seem quite a good idea to me... we did actually think at the time [of the Pettit inquiry] that 25 was an optimum number... [But] we just felt that there was a lot of feeling that it was such a big shift from 17 that it wouldn't wash...

[The cost could be offset by extending the term] to four years from three...

[The reason for increasing the number of Assembly members is to give] support [to] the committee system... to provide an adequate talent pool for a ministry of five and equally to serve the community well in the way of political representation.²

71. A summary of the 1997-98 review of ACT governance, chaired by Professor Pettit, is at Attachment A.

Mr Quayle

72. Mr Quayle submitted that the size of the Assembly should be increased 'to 21 members with seven members elected from three electorates' because this 'provides equality of representation to the two outer-suburban electorates' and 'the boundaries of the three electorates would logically be the same as the three federal electorates that the ACT seems likely to have after the next redistribution'.³

73. Mr Quayle considered that the current 17-member Assembly:

represents the worst of both worlds... With a minuscule backbench, members can be put in the position of having to serve on all committees, so preventing the development of expertise in specific areas. Likewise the pool of ministerial talent is too small and as a

¹ Submission by the North Canberra Community Council Inc. dated 15 April 2002 (emphasis in original).

² Professor Pettit, transcript of public hearing of 10 May 2002.

³ Submission by Mr Quayle dated 27 May 2002.

result high-quality people will not be attracted to the Assembly because of its perceived ineffectiveness. Further, with ministers' time so taken up with portfolio responsibilities, it is almost impossible for them to perform their function as local members concerned with putting forward the concerns the their constituents.¹

Proportional Representation Society of Australia (ACT Branch)

74. The Proportional Representation Society of Australia (ACT Branch) submitted:

The ACT Branch does not believe that a major increase in numbers for the Legislative Assembly is warranted or wanted by electors. There may well be significant opposition to having even 21 MLAs, especially if the increase is not presented as part of a clear package of reform that gives voters more avenues for effective participation in our governance...

If it embarks on an expansionary course, the Assembly would be well advised to thoroughly examine its own procedures to ensure that full use is being made of available resources and talent...

The ACT Branch is not aware of any recent formal thorough examination of where Assembly practices could be improved. We think it prudent that any attempt to increase the number of MLAs include a public demonstration that available resources in the Assembly and community are being deployed as efficiently as possible. Otherwise knee-jerk dismay at any proposed increase in MLAs will have a fertile field in which to make wild allegations and forment disaffection...

A package that included more avenues for effective public involvement in legislative and accountability processes might assuage mild suspicions that politicians were just bolstering their numbers as an attempted easy way out rather than tackling their own contribution to the perceived problem...

If a decision is made [to go to 21 members]... the best-possible arrangement will be three seven-member electorates. In that case, should relative population growth in the ACT accelerate sufficiently to revive an entitlement to three federal electorates, the two sets of boundaries would almost certainly be brought into complete alignment as there would be a strong public expectation that common sense would prevail...

[This reflects the fact that] significantly better representation has been achieved in the seven-member electorate than in those returning five members, both in terms of more closely reflecting voters' expressed wishes and in electing female MLAs...

Were there hesitancy about increasing the size of the Assembly by nearly 25%, the combination of two seven-member electorates and one five-member electorate would lead to slightly better representation and could attract sufficient support to operate successfully for some time...

However, the ACT Branch would view with equanimity the continuation of the current arrangement of 17 members in three electorates as this has worked well in providing fair representation and has been accepted by the people after the extensive debate of the early 90s...

[The ACT Branch] is unable to accept any proposal to regularly expand [the Assembly's] membership or to greatly increase it now...

Apart from introducing near-certain chronic boundary instability, such ongoing growth in Assembly numbers would most probably unleash in the minds of various political contestants the thought of attempting to place the smallest and largest electorates strategically to maximise potential benefits to them...

¹ Ditto.

The ACT Branch believes it is essential to place particular importance on the achievement of a majority of votes, and a guarantee of a majority of seats in that case is a suitable incentive...

Having an odd number of vacancies in each electorate is important because majorities of votes are translated into majorities of seats in those circumstances. Seeking a majority of votes becomes the ultimate pursuit for parties with relatively strong support, whereas with even numbers of vacancies, getting half the seats can be guaranteed with somewhat less than half the votes but a majority is usually well beyond practical reach.¹

Mr Richards

75. Mr Richards submitted:

The inquiry seems to be starting at the wrong end. Has any rigorous investigation been made of the actual work currently undertaken by members of the Assembly? There seems to me to be a need to identify all the functions of a member and then consider whether any particular activities are necessary or even desirable...

A second matter which seems to have received unconvincing support is that we must be under-represented when comparisons are made with the Northern Territory and Tasmania. Perhaps the reverse view should be considered – are they over-represented?²

Mr Thorpe

76. Mr Thorpe considers that ‘the ACT government is far too small for its needs... [because]:

Ministers of the ACT government hold several portfolios and therefore... [cannot] concentrate solely on portfolios of concern or of specific need. This means in the long run the community suffers due to [the lack of] time a Minister can spend on problem areas.

In any other state or territory it would be unthinkable that an independent would hold both the portfolios of Health & Housing, but due to problems faced in the ACT this became the case. I believe even the then Liberal government of the ACT would think this not an ideal scenario...

Some say an increase to 21 members is in order. I say more, I say 25 members could disperse responsibility with greater effect.³

Professor Warhurst

77. Professor Warhurst submitted that:

The Assembly should be enlarged to 21 members... I believe that the argument for an increase in the number of ACT MLAs based on the comparative ratios between citizens and their parliamentary representatives in the smaller Australian jurisdictions is persuasive...

[However,] while reasons such as the inability of a 17-member Assembly to properly undertake committee work and/or to provide a large enough talent pool from which to

¹ Submission by the Proportional Representation Society of Australia (ACT Branch) dated 9 May 2002.

² Submission by Mr Richards dated 13 May 2002.

³ Submission by Mr Thorpe dated 21 February 2002.

select the best possible government ministers may be intellectually persuasive, they are unlikely to be politically persuasive among the general community. There is just too much cynicism around about politicians. Further, it is difficult to prove that the quality of ministers would necessarily improve if the Assembly was larger.

Rather, the best reason for an increase is to improve the representation that ACT citizens can expect from the Assembly. Citizens are the ones who lose directly from having an inadequate number of MLAs to attend to their needs...

If the Assembly is to be increased in size, then I think that a 23.5% increase from 17 to 21 is all that can be justified... I believe that three electorates of seven members each is the logical way to organise the electorates.¹

Weston Creek Community Council

78. The Weston Creek Community Council stated:

We support increasing the size of the ACT Legislative Assembly to either 21 or 25 members provided that the electorates are kept equal in size...

The advantages are that the workload of individual members would become more manageable and constituents would have greater access to their members. In addition, the greater number of members would enable an expansion in the number of Ministers with corresponding benefits of being able to spread the workload and being able to give full attention to difficult portfolios which require full-time attention such as Health. Members would also be able to give more time to Assembly committees.

If the committee decided to recommend an increase... to 21 members from three electorates it follows that the electoral boundaries between the three existing electorates would have to be redrawn. In that case we would argue... for Weston Creek to be counted as a whole rather than being split between two electorates...

We oppose any proposal that would base electorates on "town" centres and any proposal to reduce the status of the ACT Legislative Assembly to a local government body only...

[Electorates based on town centres] would place Weston Creek at a considerable disadvantage... We would then become subsidiary to a greater town centre somewhere else...

[The] local government-only model... raises the difficulty of how the ACT would decide what point of view to put to interstate forums and whether our views would be accepted by our delegate or not. The alternative, that of not having any representation at all at interstate forums, is equally unacceptable because there are many state functions... which are uniform across the country. It is important that the ACT is able to have its say at meetings called to discuss these functions.²

Young Liberal Movement of Australia (ACT Division)

79. The ACT Young Liberals submitted that:

The three main options considered by the ACT Young Liberals are 21, 23 and 25. The ACT Young Liberals preferred option is for an Assembly of 23 MLAs, however, 25 would also be considered as an option. The option of 21 members would not be a preferred option... [because:]

¹ Submission by Professor Warhurst, April 2002.

² Submission by Weston Creek Community Council dated 15 May 2002.

- in terms of representation it would still leave the residents of the ACT under-represented compared with the original Assembly of 1989...
- a 21-member Assembly would invariably lead to seven-member electorates which are not ideal from the perspective of representing communities of interest...
- 21 members would only offer marginal advantages over the current numbers in the Assembly.

23 members is the preferred option of the ACT Young Liberals. This Assembly size would have the advantage of:

- this number is roughly [the] 1989 ratio with some scope for population growth
- electorates would most likely be smaller... and could be tailored to geographic communities of interest especially if electorates of six, five, six and six were chosen
- the major disadvantage would be the need for a Hare-Clark entrenchment provision to be modified by a special Assembly majority...

An Assembly of 25 would offer the advantage of:

- increased talent pool from which to select Ministers and shadow Ministers
- significant scope for population increase...
- smaller electorates that better enable constituents to interact and make informed decisions about their elected representatives...
- consistency of electorate size.

The major disadvantages of five-member electorates are:

- Geographical inconsistency and poor representation of communities of interest...
- Community opposition...

[Overall,] increasing the size of the Assembly would have the advantages of:

- increased opportunity for the Assembly to reflect the diversity of [the] community
- greater scope for young people to be represented by MLAs of their age
- increased opportunity for a fifth and perhaps a sixth minister or the introduction of junior ministers.¹

Other relevant material

80. As well as the evidence taken in the course of this inquiry, the committee has examined past Assembly inquiries into the size of the Assembly and related matters. Three such inquiries are relevant. Starting from the most recent, they are the 1998 *Review of the Governance of the ACT* (the Pettit Report), the 1990 report of the Select Committee on Self-Government, and the 1985 House of Assembly report of the Standing Committee on the Transition to Territorial Government. These reports, and the response of the Territory government (and Assembly) to them, are summarised in Attachment A of this report.

81. The committee has also taken into account the views of several important commentators on the size of (small) parliaments, including information about Tasmania's recent experience in *downsizing* its parliament. This information is set out in Attachment B.

82. Further, the committee has taken into account the history of self-government in the ACT. A summary of the ACT's path to self-government is at Attachment C.

¹ Submission by the Young Liberal Movement of Australia (ACT Division) dated 29 April 2002.

Conclusion and recommendations

83. The committee has carefully considered all of the material set out in this report in reaching the following conclusions and recommendations.

84. The committee considers that the ACT's experience of self-government demonstrates the maturity of both the ACT executive and the Legislative Assembly for the ACT, which should be permitted to determine both the number of members and the number of ministers to comprise the ACT executive. The committee is aware of statements by federal members at the time of self-government urging that the innovative city-state governance system proposed for the ACT required certain safeguards to ensure accountability and responsibility.¹ Whether such statements were appropriate at the start of self-government or not, the committee is convinced that the history of self-government since 1989 demonstrates that the ACT can govern itself in a similar manner to any Australian state or territory. Therefore, the ACT should not be burdened by on-going federal constraints in relation to the size of the Assembly or the size of the ministry.

85. Recommendation 1:

The committee commends the action of the Assembly in requesting the Chief Minister undertake discussions with the Commonwealth government in relation to amending the Australian Capital Territory (Self-Government) Act 1988 to devolve to the Assembly the power to determine the number of members. The committee recommends that the Chief Minister also seek an amendment of the Self-Government Act to remove the power of the Commonwealth to fix the number of ministers that make up the ACT executive.

86. The committee considers that the present size of the Legislative Assembly makes it difficult for the Assembly to perform its function as a legislative body in the Westminster system. This is particularly evident in the areas of committee activity and executive performance. With respect to the former, the number of members available for committee work—especially on the government side (no matter which party is in power)—is too small to enable the full realisation of the benefits a sound committee system can offer. With respect to the executive, the upper limit of five ministers imposed by the Self-Government Act constrains the capacity of the executive to properly deal with the multitude of issues associated with governing Canberra (including representing the ACT in all national forums to ensure that the viewpoint of the ACT community is not ignored by the Commonwealth, states and territories).

87. A third reason for increasing the number of members in the Assembly involves constituency representation. At the time of self-government, the ratio of members to electors was about 1:10,000. This has now become nearer to 1:13,000. The responsibility of members has not decreased in that time, nor has the need for constituents to access their members on a host of state and local functions.

¹ For example, the statement by Senator Hill (then Opposition spokesperson on the ACT) in the Senate, 23 November 1988, Senate Hansard p. 2594.

88. The committee notes that an Assembly of more than 17 members was recommended by inquiries into the form of self-government that were established by both the Commonwealth government and the former ACT House of Assembly [see Attachments A and C].

89. Recommendation 2:

The committee recommends that the number of members in the Legislative Assembly for the ACT be increased.

90. The committee has carefully considered the issue of the appropriate number of members. The committee was made aware of strong arguments for an increase to 21 or 23 or 25 members in time for the next general election in 2004.

91. On balance, a majority of the committee considers that an increase to 21 members is justified on the following grounds:

- it is a *modest* increase in the size of the Assembly and so will not be too expensive (the committee understands that the cost of four additional members would be approximately \$900,000 per year, with the likelihood that they can be accommodated in the existing Assembly chamber and building)
- it recognises the greater proportionality of seven-member electorates—thus the major political parties would get a different number of seats depending on the votes actually cast for them, while at the same time minor parties and independents that can reach the quota of 12.5% would obtain representation
- it applies this improved proportionality to *all three electorates*, thus making it more equitable than the current arrangements
- it satisfies the existing legislative *entrenched* provisions whereby each electorate must have at least five members and each electorate must have an odd number of members
- it provides for the possibility that the electoral boundaries for the Assembly could be aligned to those for the ACT's federal electorates in the event that Canberra's population justifies a third federal member (the committee recognises that there is no guarantee that three federal seats would be a permanent arrangement).

92. One member of the committee (Mr Hargreaves MLA) does not support the following recommendation. Mr Hargreave's **Dissent** to this recommendation is set out at the end of this report.

93. Recommendation 3:

A majority of the committee recommends that the Legislative Assembly for the ACT be increased to 21 members based on three electorates of seven members each.

94. The committee notes the following arguments that were advanced to support increasing the Assembly to 23 members:

- it may be viewed as the minimum number of members required to achieve adequate constituent representation, parliamentary contribution especially on committees, and sound executive governance(see following)
- it would be the figure arrived at were the ratio of members to voters maintained at the level existing at the start of self-government in 1989 (once account is taken of the entrenched provision that each electorate must elect an odd number of members and the desirability of the Assembly also having an odd number of members)
- it may facilitate a better working of the committee system
- it could facilitate an increase in the number of ministers, hence improving the capacity of the executive to adequately deal with the diverse issues associated with governing Canberra
- it would enable changes to the nature of representation of electorates and to the boundaries of the electorates themselves. Two options that were put to the committee involved four electorates based on three electorates of six members and one of five members OR three electorates based on two of seven members and one of nine members. A feature of the first option is that it would require amendment of the current entrenched provision requiring each electorate to have an odd number of members (an entrenched provision can be altered by a 2/3 majority of the Assembly).

95. The committee notes the following arguments that were advanced to support increasing the Assembly to 25 members:

- it would enable five electorates of five members each
- each electorate would have the same number of elected representatives
- the proportionality of five-member electorates is the basis for political representation in the Tasmanian House of Assembly and in other Hare-Clark jurisdictions
- each member could be expected to have a greater familiarity with their electorate (since it would be smaller than is the case with three electorates).

96. Two members of the committee were impressed with the arguments put forward by some witnesses for four-year terms. These arguments were summarised by Professor Pettit in his 1998 report (see Attachment A) as including the following:

A four-year term would mean a saving in electoral costs; it would enable new MLAs to learn the ways of the Assembly and make their mark before facing an election; and it

would make it possible for the Executive to take a longer-term view in forming their policies.¹

97. As well as enabling a cost offset, this measure would bring the ACT into line with other states.

98. Recommendation 4:

A majority of the committee recommends that the Legislative Assembly and the ACT government consider extending the term of the Assembly from its present three years to four years—recognising that, over time, the longer Assembly term would partially offset the cost of additional Assembly members.

99. One member of the committee (Ms Tucker MLA) is interested in extending the term of the Assembly but cannot support the above recommendation at this stage, as she believes that this issue has not been adequately considered by the inquiry. A fuller statement of Ms Tucker's viewpoint is set out after the list of recommendations at the head of this report.

100. The committee acknowledges the importance, when setting electoral boundaries, of preserving the community of interest wherever possible. Members are particularly aware that the present electoral arrangements divide areas in Gungahlin and Woden. To the maximum extent possible and while always respecting the paramountcy of the principle of one vote/one value, the electoral boundaries should respect existing community of interest.

101. Any change to electoral boundaries will affect the redistribution that is required by the *Electoral Act* to commence by October 2002. Therefore, should the Assembly not finalise this matter by that date, it would be prudent to pass legislation enabling that redistribution to be delayed until the Assembly deals with this report and the government's response.

102. Recommendation 5:

The committee recommends that a decision about increasing the number of members be made before October 2002, so that the Electoral Commission can take the decision into account as it conducts the 2002/2003 redistribution required by the *Electoral Act*. In the event that a decision is not made by October 2002, then the Assembly should amend the *Electoral Act* to provide for the 2002/2003 redistribution to be delayed until a final decision is made on increasing the number of members.

103. The committee's terms of reference for this inquiry included a reference to matters that are 'related' to the appropriateness of the size of the Legislative Assembly. The committee draws attention to two such matters.

¹ Pettit report (see Attachment A), p. 36.

104. First, the committee notes the concern expressed by Mr Hird about the situation where the Electoral Commissioner currently participates in a review of his decision to conduct (or not to conduct) an election recount. The committee agrees with Mr Hird that it appears inappropriate for the same person to make the initial decision and then sit on a review of that decision. The committee notes the Electoral Commissioner's statement to further consider this matter.¹

105. Recommendation 6:

The committee recommends that the *Electoral Act* be amended to require that the Electoral Commissioner should not sit on a matter involving a review of his decision in relation to a recount.

106. Second, the committee considers that the situation outlined by Mr Hird pertaining to ambiguity and uncertainty about the entitlement of members who are not re-elected to the use of their office, staff, car etc needs to be resolved. The committee notes the view that, partly in order to ensure that the community always has members representing it (even in the period after an election but before the poll is declared), a member who ultimately is unsuccessful in seeking re-election should retain their entitlements *until the result of the election is declared*. The existing ambiguity about entitlements is not healthy and should be reviewed. This whole issue would be simplified if legislation provided for the term of office of members not re-elected at a general election to cease at the time the poll is declared, rather than on the actual election day (as at present).

107. Recommendation 7:

The committee recommends that the Legislative Assembly and the Government review the entitlement of members who are not re-elected to ensure that any ambiguities and uncertainties (including legislative barriers) are removed. Further, the committee recommends that the term of office of members not re-elected at a general election should cease at the time the poll is declared, rather than on the actual election day as at present.

Appreciation

108. The committee commends its report to the Canberra community and extends its appreciation to the many people who facilitated the inquiry.

Bill Stefaniak MLA
Chair

¹ Mr Green (Electoral Commissioner), public hearing on 10 May 2002.

ATTACHMENT A

ATTACHMENT A: PAST ASSEMBLY INQUIRIES

1. This Attachment summarises the principal findings of past Assembly inquiries into the size of the Assembly, nature of the electorates and other governance issues.
2. There have been two such inquiries since self-government. The most recent occurred during the 4th Assembly and the other occurred during the 1st Assembly. The (then) government's response to each inquiry is also set out in this chapter.
3. Further, this section summarises the 1985 report on 'proposals for self-government' by the Standing Committee on the Transition to Territorial Government in the (then) ACT House of Assembly.

4th Assembly (1998-2001)

4. On 7 November 1997 the ACT Chief Minister and the federal Minister for Regional Development, Territories and Local Government announced a review of the governance of the ACT since the advent of self-government in 1989. The review was asked to consider 'possible alternative forms of governance for the Territory' and was required to 'base its review around the continuation of self-government and of the Hare-Clark electoral system for Territory elections, which was implemented as a result of the outcome of the 1992 ACT Referendum'.¹
5. An 'independent Chair, Professor Philip Pettit, a representative of the Commonwealth Government... and a representative of the ACT Government' conducted the review.² The review team first met on 9 December 1997, and finalised its report on 24 April 1998. The report's title was *Review of Governance of the ACT*.
6. After the report was tabled, the Legislative Assembly established a select committee 'to examine the recommendations made in the Report of the Review of the Governance of the ACT'.³ The select committee comprised three Assembly members (Mr Osborne, Mr Stanhope and Mr Cornwell). The committee's report was finalised in June 1999.
7. In October 1999 the (then) Chief Minister (Mrs Kate Carnell) presented her government's response to the report of the Select Committee on the Report of the Review of Governance.

¹ Terms of Reference for the Review of the Governance of the ACT, reproduced in *Review of the Governance of the ACT*, April 1998, Appendix A.

² Ditto

³ Select Committee on the Report of the Review of Governance, report dated June 1999, resolution of appointment p. ii.

The 1998 Review of the Governance of the ACT (the Pettit report)

8. The Pettit review recommended that:

The electoral system should be revised, first, to allow for four-year terms; second, to make it possible to maintain the modest ratio of representation established with self-government in 1989 (about 1:10,000 electors); and third, consistent with having an odd number of seats in total, to try to keep the electorates geographically coherent and close to one another in number of seats.¹

The number of Ministers in the Executive, including the Chief Minister, should be increased to five and it should be a general principle that no department answers to more than one Minister.²

9. The Pettit review favoured four-year terms because:

[It] would mean a saving in electoral costs; it would enable new MLAs to learn the ways of the Assembly and make their mark before facing an election; and it would make it possible for the Executive to take a longer-term view in forming their policies.³

10. In relation to an increased number of members, the review stated:

We recognise the concerns of those who would resist increasing the costs of government in the ACT, and in particular resist increasing the number of political representatives. If the Territory has managed so far under 17 representatives—and by our own lights, managed fairly well—then why, they will ask, would anyone think of having a greater number? While conscious of these concerns, however, discussion and consultation has led us to conclude that the number of representatives should be increased...

The ACT has no distinct stratum of local government representatives... The only representation it [has] is via the four federal representatives and the 17 MLAs. That makes for a ratio between representatives and people... of about 1:14,5000. The average ratio in Australia in 1996 was about 1:2,250, so that our ratio [is] over six times higher than that average. More striking still is the fact that if we compare the ACT with other small jurisdictions, we find that the ratio will be ten times higher than the ratio in Tasmania, and over 50 times higher than that in the NT.

Opponents will say that the ACT does not need a high ratio of representatives to people, as it is a tightly contained, and a fairly homogenous, community. This strikes us as a view from the top. There is poverty and dependency in Canberra... there is unemployment, youth suicide, and a drug culture... And where there are such problems there will always be a need for representatives to listen to people, to guide them around the services available, to assure them that they are being provided with all that they can claim, to enable them to believe in the system we run, and so on. With each representative answering for more than 14,000 people—with each MLA answering for about 18,000—it is simply impossible for representatives to provide the sort of political service that is standard elsewhere in Australia.

This argues for an increase in the number of MLAs elected in the ACT. And other considerations, related to other aspects of governance, support the argument. A first is that the committee system of the Assembly—perhaps its strongest feature—may collapse unless there is at least a small increase in the number of MLAs, in particular an increase in the number of those in the governing party who are not Ministers; this is because only such members of the governing party can serve on committees. A second

¹ *Review of the Governance of the Australian Capital Territory*, April 1998, p. 11.

² *ibid.*, p. 12.

³ *ibid.*, p. 36.

supporting argument is that an increase in the number of MLAs would improve the talent pool from which the Ministry has to be drawn. And a third is that non-electoral access to government requires a better presence of MLAs in the community...

But how large an increase in MLAs is warranted? Comparisons with elsewhere would make it perfectly reasonable to have an increase to 25 members in all. However our inclination is to propose... that the ratio of MLAs to electors should at least be maintained at or above the level prevailing in 1989... [namely] one MLA to 10,000 electors... [leading to] 21 [members]. Even with this increase, the ACT would have a ratio of representation roughly four times inferior to the Australian average.¹

11. In relation to the power to alter the number of seats in the ACT and the number of Ministers in the Executive, the review saw:

No Commonwealth interest [is]... involved in maintaining the [existing] constraints and we strongly believe that they should be removed... [in order for] the Assembly [to] have the same powers as those enjoyed by a State parliament.²

Under current administrative arrangements, four Ministers, drawn from 17 MLAs, run a budget of \$2b and oversee a range of functions that typically implicate both local and state government. This is government at a lower rate—at least in respect of Ministers—than in any other part of Australia. But the arrangements, in our view, represent a false economy. The tasks of Ministers are varied and complex and it is almost inconceivable that four Ministers, drawn from a small talent pool of 17—and in practice from the smaller talent pool of the seven or so MLAs in the government party—should be able to carry out those tasks effectively. Government is almost certain to become staff-driven—it is almost certain to operate fairly independently of Ministerial will or insight—under such a small, restrictively constituted Ministry.³

12. The Pettit review endorsed the Hare-Clark electoral system because:

It ensures a high degree of proportionality in representation. So far as other things are equal—in particular, so far as it does not undermine stable government—proportionality is desirable in itself. It increases the number of electors who can see themselves as having a spokesperson for their point of view among the members of the Assembly... [And] the proportionality of the system has not undermined stable government [in the ACT]...

But proportionality may be desirable, in any case, for the effect it has in ensuring that within the Assembly... no one party can dominate what happens. In other systems, there is a second chamber that constitutes an upper house of review and that makes it possible for the governing party, even one with a majority in the lower house, to be challenged and checked. That is not so in the ACT system and the only protection here against one-party dominance is that the proportionality of the electoral system makes it very hard for a single party to win majority control of the Assembly...

The Hare-Clark system of election helps to ensure proportionality but only insofar as the electorates are reasonably large. Were most of the electorates to be reduced to three seats, for example, then the chances of one party gaining control of the Assembly would be much greater...

[Therefore,] the minimum number of seats in an electorate should continue to be five.⁴

¹ *ibid.*, pp. 38-39.

² *ibid.*, p. 36.

³ *ibid.*, p. 52.

⁴ *ibid.*, p. 38.

13. Further, the Pettit review considered that:

When electorates are determined... three desiderata... [should apply]: first, to keep them as small and coherent as possible, consistent with the five-seat minimum... second, not to let them differ much in number of representatives... [and third,] the total number of seats should be odd, not even...

[These] three desiderata... suggest that future increases in representation should take the number of seats to 21, 23 or 25... With 21 seats, there would be two possibilities: three seven-seat constituencies—each smaller than the current Molonglo but larger than Brindabella or Ginninderra—or three five-seat constituencies and one six-seat. With 23 [seats, there could be] three six-seat electorates and one five-seat. And with 25, of course, it would be five five-seat constituencies.¹

14. Overall, the Pettit review observed that:

The electoral system more or less ensures against single-party majority government but this has not made government ineffective and, in giving the Assembly a relative independence of the Executive, it provides protection against any danger of one-party dominance.²

A minoritarian system like that in the ACT remains a version of the Westminster system so far as the legislature is the electoral college that chooses the head of the Executive: in our case, the Chief Minister. But its minoritarian character means the function of legislating is not completely controlled by the Executive. The Executive has to continue to negotiate with non-Executive members of the legislature... in order to win support for its various proposals.³

We believe that the relative independence of the Assembly has served the ACT well in guarding against abuses of power by the Executive.⁴

There are a number of respects in which the Assembly conforms to the image of an independent legislature, in particular a legislature that is effectively independent of the minority Executive. Under the Standing Orders by which it conducts its business, for example, it established a right in 1994 for questions without notice to be put to Ministers on a daily basis until all non-Executive members who wish to do so have asked at least one question. Since 1994 the Executive has been required to consult with the appropriate committee before making most statutory appointments. In 1997 the Assembly passed an Act requiring the Executive to consult with a relevant Assembly committee on any negotiations it plans which are likely to lead to interstate agreements requiring legislation. And in 1997 it passed an amendment to the *Financial Management Act 1996*, requiring the Executive to report on a quarterly basis about the state of government finances. But perhaps the most striking way in which the Assembly behaves like an independent legislature is in the active and influential role played by its committees...

The committees of the Assembly... have tended in many areas to have a dual, investigatory-cum-advisory character. They have had an unusual degree of influence over policy-making... We have been told, for example, that it is difficult for the Executive to ignore the recommendations of an Assembly committee, given that by doing so it may offend those from outside the governing party on whose votes it depends...

The Assembly committees are organised so as to represent, first, the government party; second, the main opposition party; and third, the minority parties and independents on the cross-benches...⁵

¹ *ibid.*, p. 40.

² *ibid.*, p. 11.

³ *ibid.*, p. 20.

⁴ *ibid.*, p. 42.

⁵ *ibid.*, pp. 20-21.

The 1999 report of the Select Committee on the Report of the Review of Governance

15. In relation to the number of members, the select committee:

Considers that the Pettit Review did not give adequate weight to a number of arguments against increases in the number of members.

Little account was taken of the additional cost of four extra parliamentarians. Rough estimate made by the committee of the additional cost shows that it is perhaps as much as \$3m over the three-year term of the Assembly.

While Canberra's representation is far less than the Northern Territory and Tasmania, the committee questions whether these two jurisdictions require this level of representation. The committee notes that Tasmania has commenced a process of reducing the number of members.

While the Pettit Review rejected arguments advanced against increased members as 'a view from the top', the fact remains that Canberra is relatively compact and homogeneous. Members are more readily accessible because they do not have to travel to a distant legislature. Nor are they required to be absent from their electorates for extensive periods of time during parliamentary sittings...

The committee... is not aware of any evidence to suggest that the high proportion of politicians to electors in jurisdictions like Tasmania has resulted in any better circumstances for the disadvantaged [as implied by the Pettit Review]. Nor has the committee seen evidence of any relationship between the number of politicians and the level of crime or substance abuse.

The committee notes that one argument advanced in favour of increased numbers of members is that it will increase the number of government members available to serve on committees. The committee considers that the reasoning behind this argument is not necessarily valid. There is no guarantee that the sixth or seventh member in each electorate will be a government member...

The Pettit Review did not fully explore how the present Assembly of 17 members could perform better... The conventions relating to the position of Speaker and the capacity of Ministers to serve on committees were not fully explored. The Pettit Review did not examine possible alternative measures such as changes to the electoral system to enable the direct election of the Chief Minister and the appointment of the Executive from outside the Assembly, and at the same time maintaining a 17-seat legislature (or less).

The committee accepts that strong arguments can be made for an increase in the number of members... [While one member of the committee] considers that these arguments are compelling and supports an increase in the number of members to 21... [the other two members] believe that the arguments against an increase in members outweigh the arguments in support. While self-government is now more generally accepted by the people of Canberra, it is still unpopular with some. To increase the number of local politicians at this stage of self-government will only increase the cynicism and opposition. [Therefore] the committee recommends that the number of seats in the Fifth Assembly remain as 17.¹

¹ *ibid.*, pp. 11-13.

16. In relation to the number of Ministers, the select committee:

Agrees with the Pettit Review that because the responsibilities of Ministers are so varied and complex, it is almost inconceivable that four Ministers would be able to carry out those responsibilities. The committee supports the increase of the Executive to five.¹

17. In relation to the powers of the Assembly, the select committee:

Support[ed] the Pettit Review's recommendations that the *Self-Government Act* should be amended to:

- provide a preamble indicting that any intervention by the Commonwealth Parliament or the Governor-General in Assembly business or enactments should only be on the grounds that the legitimate interests of the Commonwealth require such action; and
- assign to the Assembly the similar powers as those enjoyed by a State parliament to alter arrangements for the normal processes of government.²

18. In relation to the length of an Assembly term, the select committee (by majority decision) favoured the continuation of the provision for three-year fixed terms.³

The government's response (1999) to the Report of the Select Committee on the Report of the Review of Governance

19. The government in 1999 did not support the select committee's recommendation for a 17-seat Assembly because:

The government is of the view that any general perception that self-government is under-appreciated or under-valued will not be remedied by further erosion of the level of representation in numerical terms...

The low number of members significantly affects the effective functioning of the Assembly. The Hare-Clark electoral system has to date resulted in minority governments in the ACT and this is likely to continue to be the case. This creates difficulties with the Assembly committee system since there can be insufficient non-Executive government MLAs available for the effective functioning of committees. Further, there is potential that all of the government MLAs may also be Ministers and not available for committee duties.

While legally the Assembly could, by a simple majority, pass a resolution for the purposes of section 8 of the *Self-Government Act* requesting that the Commonwealth make a regulation to increase the number of members of the Assembly, this would not be in the spirit of the *Proportional Representation (Hare-Clark) Entrenchment Act 1994*. The Entrenchment Act expresses an intention that if the power to make a law with respect to the number of members of the Assembly is at any time vested in the Assembly, then this should be a law to which the Entrenchment Act applies.

As the [select] committee has observed, a simple increase in the number of MLAs under the current electoral arrangements of three electorates would not necessarily resolve these problems.⁴

¹ *ibid.*, p. 41.

² *ibid.*, p. 7.

³ *Ibid.*, p. 9.

⁴ ACT Government response to the report of the Select Committee on the report of the review of governance, October 1999, p. 4.

20. The government did not support the select committee's recommendation for three-year terms but, instead, favoured four-year terms on the basis 'that the benefits of a four-year term in delivering good governance outcomes outweigh any perceived diminution in accountability'.¹

1st Assembly (1989-1992)

21. On 4 July 1989 the Legislative Assembly established a Select Committee on Self-Government to examine:

a number of issues relating to the government of the ACT²... [including] the form of government most appropriate to the ACT taking into account the responsibilities of state, territory and municipal government... [and] the reserve powers retained by the Commonwealth under the ACT Self-Government legislation particularly with respect to:

- (i) the responsibility for future electoral arrangements;
- (ii) the size and structure of the Legislative Assembly;
- (iii) the size of the Executive; and
- (iv) the role and powers of the Governor-General.³

22. The select committee presented its report on 26 April 1990; the government's response was delivered by the (then) Chief Minister, Mr Kaine MLA, on 18 October 1990.

The 1990 report of the Select Committee on Self-Government

23. The select committee noted that:

There are problems faced by a small legislature of 17 members trying to apply the Westminster system with a government, opposition and parliamentary committees. The ministerial/cabinet system introduces multiple roles and divisions more suited to larger legislatures. The Northern Territory Legislative Assembly was considered too small with 19 members to provide a government backbench and an opposition and therefore considered moving to a committee system of government. The Northern Territory Assembly, however, acted in a more conventional manner by enlarging the legislature instead.⁴

24. In relation to the number of elected members, the select committee found:

If the ACT Legislative Assembly was smaller than 17 members there would be the possibility that there would not be fair representation of different views. The Assembly must be sufficiently large to provide a number of Ministers, a Speaker and a suitable number of backbenchers. Backbench members are able to keep closer contact with their electorate and so are able to provide the government with an accurate measure of attitudes of the electors on sensitive issues and seek pertinent information which is of concern to the people. They also provide a strong group from which the Assembly committee members are drawn.

¹ *ibid.*, p. 3.

² Select Committee on Self-Government, report 1990 (April), p. 19.

³ *ibid.*, terms of reference of the select committee, p i.

⁴ *ibid.*, p. 35.

Further, there were 18 members in the previous House of Assembly. A model which drastically reduced the number could involve a perceived loss in political representation. A further reduction in the size of the Assembly would decrease the access of the public to members by reducing the voters' likelihood of being personally acquainted with a member or having a preferred member with whom to raise grievances.

The Committee for Self-Government Report indicated support for an Assembly of 19 or 21 full-time members¹ and [the] Joint Committee on the ACT in its 1974 report recommended 19 full-time members.² [See further in Attachment C of this report.]

There is no perfect number, however, the [select] committee considers that 17 members for 170,000 electors is the minimum number required to provide for an effective Assembly, Executive government and parliamentary committee operations. This is considered even more reasonable when the ACT has no local government representatives.

The [select] committee recommends that there be an increase in the number of ACT Legislative Assembly members only in proportion to an increase in the number of electors.³

25. The select committee considered that the ACT, and not the Commonwealth, should have the power to change the number of members:

The Commonwealth has the power to determine the number of members in the Legislative Assembly under Section 8 (3) of the *Australian Capital Territory (Self-Government) Act 1988*, which states:

“The regulations may fix a different number of Members for the purpose of subsection (2), but regulation shall not be made for that purpose except in accordance with a resolution passed by the Assembly.”

The [select] committee is strongly of the view that the Federal Parliament should legislate to transfer such power to the Assembly.

The number of members of the Legislative Assembly is a matter solely for the ACT to resolve, since it is the citizens of the ACT who will have to bear the costs of any increase. The ACT Legislative Assembly can pass a resolution but the Commonwealth could ignore it. Therefore the ACT assembly needs the power to ensure that the resolutions of the Assembly are carried out...

The [select] committee recommends that the Chief Minister request the responsible Commonwealth Minister amend the *Australian Capital Territory (Self-Government) Act 1988* to remove the ultimate power concerning the number of ACT Legislative Assembly members from the Commonwealth and transfer this power to the ACT Legislative Assembly.⁴

These changes would significantly increase the real and perceived independence of the ACT from the Commonwealth.

26. Similarly, the select committee considered that the ACT Legislative Assembly, and not the Commonwealth, should have the power to determine the number of Ministers. In this regard, the select committee noted:

The breadth of portfolios that individual Ministers have to administer is very much broader than is the case in Federal, State or the Northern Territory governments. It

¹ Task Force on Implementation of ACT Self-Government: Advice to the Minister for Territories and Local Government May 1984, quoted in Select Committee on Self-Government, *Report 1990*, p. 42.

² Joint Parliamentary Committee on the ACT, report on Self-Government and Public Finance in the ACT, 1974 - quoted in Select Committee on Self-Government, *Report 1990*, p. 42.

³ Select Committee on Self-Government, *op cit.*, pp. 42-43.

⁴ Ditto., p. 43.

would, however, be difficult to expand the ministry significantly without expanding the size of the Legislative Assembly. There will always be a need [for] a trade-off between a larger Assembly and perhaps limitations of a small executive.¹

27. The select committee expanded on the ‘two main types of committees that are used in western democracies, executive and parliamentary committees’:

An executive committee system modelled on the Donoughmore version of Westminster has chairmen who have the status of Ministers and constitute an executive board.

This system allows all political parties and independents to participate in administrative supervision and policy development. It would give backbenchers and minority representatives an effective share of responsibility and contribute to the political education of representatives generally and open up the areas of policy making...

The “opposition” parties effectively become part of the executive. There is, however, a danger that this would blur accepted avenues of political accountability...

A further problem is that the process of coalition forming and re-forming on particular issues and bargaining for political support could see frequent changes in political direction.

The [select] committee considers that the paramount difficulty with the executive committee system is the absence of an individual ultimately responsible and accountable for a particular portfolio. Establishing a committee will diffuse responsibility. It is simply a denial of personal responsibilities of the Ministers.

In a democracy the effectiveness of a structure of government should be measured against the scrutiny and control exercised by the electorate, the control exercised by the elected representatives over the administration and the responsiveness of the administration to demands placed on it by the elected representatives. The electoral system itself provides the decisive mechanisms by which governments can be controlled and ultimately changed...

The executive committee system does not sit well with public questioning and scrutiny of the Executive by the minority parties, or “opposition”, which is a feature of the Australian parliamentary system. In a committee system where the majority parties, or “government”, has a majority on each committee then the minority would have to accept and possibly defend the executive decisions made in those committees...

In practice the chair of each executive committee will be a member of the majority.

Another disadvantage of the executive committee system is that the voting public could be sceptical of a committee which tendered advice to a Minister which was also chaired by that Minister...

[By contrast to the above account of an executive committee system,] the ACT Legislative Assembly has a parliamentary committee system to examine government activities and scrutinise bills...

This system enables all non-executive members in the Assembly to be involved and make a real contribution.

The Assembly’s committee system has proved most valuable in enabling members to give detailed consideration to complex matters which could not otherwise have been undertaken in Assembly proceedings. These committees serve as a forum for the exchange of government and community views on administrative and policy issues...

These are advisory committees and the chairman does not have executive or administrative responsibility... Action on committee recommendations rests with the Executive.²

¹ *ibid.*, p. 44.

² *ibid.*, pp. 37-40.

The government's response (1990) to the report of the Select Committee on Self-Government

28. The government in 1990 stated that it:

- 'supports the principle' behind the recommendation that an increase in the number of ACT Assembly members should take place only in proportion to an increase in the number of electors; and
- agrees that the power to alter the number of members, as well as the number of Ministers, should rest with the Legislative Assembly, not the Commonwealth Government.¹

29. The government outlined two reasons why the ACT system of government was 'particularly cost-effective':

Firstly, it combines State and local tiers of government, and thus can avoid some of the duplication and overlap that occurs inevitably elsewhere in Australia between State and local governments, particularly in the areas of policy development and service delivery. It is a lean and efficient model of administration, being significantly smaller than traditional administration. The ratio of elected representatives (Federal, State and local) to population is only 1:13,041. This compares favourably with, for example, the Northern Territory at 1:1,924 and Tasmania with 1:846.

Similarly, it provides a low ratio of public servants to population. For example, while the Northern Territory has one (State/local) government employee for every 9.4 people and Tasmania 1 for every 10.5, the ACT has only one for 16.

Similarly, this form of unicameral parliament achieves further savings of the salaries and on-costs that would be required for an Administrator, upper house members, employees, and accommodation.²

ACT House of Assembly, 1985

30. In August 1985 the ACT House of Assembly Standing Committee on the Transition to Territorial Government, in a report entitled *Proposals for Self-Government*, stated:

The [Commonwealth] Joint Parliamentary Committee... recommended that the Assembly initially consist of 19 full-time members. In considering this recommendation the Assembly, in 1976, believed that in the then present circumstances 18 full-time members was an appropriate number.

The Joint Parliamentary Committee recommendation resulted in a member:population ratio of 1:9,300, whilst the Assembly recommendation two years later gave a ratio of 1:11,000. Extrapolating these figures in terms of a 1985 population of 250,000 results –

- (a) on the Joint Parliamentary Committee basis, in a membership of 27; and
- (b) on the Assembly's recommendation, in a membership of 23.

The [Craig] Task Force [see more in Attachment C of this report] proposed three five-member constituencies resulting in an Assembly of 15 full-time members. However,

¹ Government response to the report of the ACT Legislative Assembly Select Committee on Self-Government, 18 October 1990, p. 1.

² ACT government response to questions taken on notice during a public hearing of the Select Committee on Self-Government on 22 September 1989.

based on the same reasoning, it was prepared also to extend this to three seven-member constituencies, giving 21 full-time members in all.

This committee believes that there should not be an overly large membership for the Legislative Assembly. On the other hand... there must be sufficient members to enable the Westminster system to operate fully and effectively. It is, therefore, of the opinion that an Assembly comprising 21 full-time members is an appropriate recommendation to make.¹

¹ ACT House of Assembly, Standing Committee on the Transition to Territorial Government, Report entitled *Proposals for Self-government*, August 1985, p. 21.

ATTACHMENT B

ATTACHMENT B: ADDITIONAL VIEWPOINTS

1. This Attachment summarises some important additional viewpoints about the size of the ACT parliament and/or the size of small parliaments in general. It also includes a section on Tasmania's recent experience of *reducing* the size of its parliament.

View of the former Speaker of the ACT Legislative Assembly, Mr Cornwell MLA

2. In 2001 the then Speaker of the ACT Legislative Assembly (Mr Cornwell MLA) wrote:

[The combination of state and local government activities] is proving too much for a partisan Chamber of just 17 Members... It is not the make-up of the Assembly that is causing problems. Indeed, the Territory's unusual voting system—Hare-Clark with Robson Rotation, electing five Members from two electorates and seven from a third—probably still would produce a minority government if the numbers were increased to say, 21 or 25 members if the existing three electorates were retained.

It is the size of the Assembly that is the fault.¹

[Some of the problems of] a too-small Legislature [are:]

- Ministers must administer multiple portfolios...
- [on occasions there has been a] sole backbencher [from the government side]...
- the growing ratio of elected Members to constituents...
In [the] 12 years [since self-government], the ACT population has grown from 277,930 residents to 310,839, or a ratio of one elected representative to 18,285 constituents up from one to 16,249...
This 10.6% increase is well outside the tolerance allowed elsewhere in Australia to protect the processes of representative democracy at a national level.²
- A party room, divided along factional lines, is more fraught with threat in small numbers than in large. Further, in a small parliament it is possible, as has happened in the ACT, that the Executive's numbers dominate the party room, thus the backbencher becomes a rubber stamp for decisions.
- A small government backbench often severely limits the choice of the Chief Minister... to choose capable, efficient members of the executive...

It simply is not possible in a small legislature to achieve what is perceived as an essential prerequisite of parliamentary dominance: government control of committees.

In small parliaments, committees often consist only of three members and in the ACT at least there simply are not enough government backbenchers to provide a majority even with this small number.

At a practical level, the size of the Assembly prevents committees meeting and travelling while the legislature is sitting. Frequently, an elaborate system of consultation is necessary even out-of-session so that a committee will not be prevented from meeting because one of its members already is travelling with another committee.³

¹ Mr Greg Cornwell MLA, (then) Speaker of the Legislative Assembly for the ACT, 'A Matter of Numbers', *The Parliamentarian* 2001/Issue Three – Australia p. 74.

² *ibid.*, p. 75.

³ *ibid.*, p. 76.

View of the Clerk of the Senate in the Australian Parliament, Mr Evans

3. Mr Evans considers that:

Two of the primary difficulties of framing a satisfactory system of government are, first, to provide constitutional safeguards...against simple majoritarianism...which are effective, and secondly to provide such safeguards in small jurisdictions...

Simple majoritarianism... is destructive because it produces over-bearing majorities and alienated and disaffected minorities...

The cure for the evils of simple majoritarianism are institutional arrangements, particularly in the construction of the legislature, to encourage the formation of... majorities distributed across different groups in society and different regions...

With a small legislature it is more difficult to secure adequate representation of all shades of opinion, and this makes an undistributed factional majority more likely. It also undermines a fundamental virtue of legislation by representative assembly, that of adequate deliberation... A small assembly tends to become more like a caucus and deliberation is contracted...

There is an optimum size for a legislature that is not related to the size of the electorate... The assemblies in the ACT and the Northern Territory are well below optimum size...

There is a further problem with a small legislature [involving] the maintenance of a system of cabinet government... Most if not all of the state and territory legislatures in Australia are well below that optimum size for cabinet government. That is a system which evolved, after all, in a house of over 600 members. With a small house, when a ministry is appointed from the majority and a shadow ministry from the minority, there are too few backbenchers left to undertake the parliamentary roles of monitoring executive activities and scrutinising legislation, particularly through a parliamentary committee system. The proper performance of such roles depends on there being significant numbers of backbenchers who have no hope of ever reaching the front bench and therefore have no incentive to be either servile to their party leaders or simply troublesome in the hope of gaining promotion... There is also the problem... of restricting the choice of ministers to a small pool of candidates. This leads to the conclusion... that cabinet government cannot work properly in small jurisdictions with small assemblies. It simply becomes... a form of absolutism: the cabinet controls the legislative as well as the executive power...

A radical solution... [is to change the political system to provide that] at the same time as the Lower House is elected, a governor would be directly and separately elected by the electorate. The governor would be the head of state as well as the head of government. This officer would conduct the executive government, and would appoint a small cabinet of ministers from outside the parliament. The parliament would perform the legislative functions of passing laws and scrutinising the operations of government... As each would be elected for a fixed term, there would be no power of dissolution and no early elections... It is suggested that the houses have the ability to scrutinise, but not to veto, executive appointments. An executive veto of legislation could be over-ridden by a special majority of the houses...

[The above proposal] would amount to the adoption at the state level of the basics of the system which has been used with success in some local governments, whereby the mayor and council are separately but simultaneously elected...

Constitutional government... could only be strengthened by the [above] change.¹

¹ Harry Evans 'Constitutional Safeguards, Bicameralism, Small Jurisdictions and Tasmania' *Legislative Studies* Vol. 13, No. 2, Autumn 1999, pp. 1-5.

View of a Tasmanian academic, Dr Chapman

4. In 1997 Dr Chapman, a member of the Morling *Board of Inquiry into the Size and Composition of the Tasmanian Parliament* [see following section] described his preferred model for a smaller Tasmanian parliament:

Tasmania [should] have a unicameral Legislative Assembly of 40 members elected from the four electorates (rather than the existing five based on federal electoral boundaries) using the Hare-Clark electoral system of proportional representation. This method of voting has strong and unequivocal public support in Tasmania, enabling and encouraging the expression of community values in its political representation. Having ten members in each electorate will ensure a low quota, guaranteeing the return of independents and minor parties, therefore broadening the representativeness of the parliament and decreasing the opportunity for major parties to be sure of majorities.

The link between the Legislature and the Executive will be broken by electing the Premier by a popular statewide vote. The election will be for a four-year term with no opportunity to go to the people at will...

The Premier, once elected, must appoint no more than five ministers who will form the Executive. They must not be members of parliament but must be on the Tasmanian electoral roll. Their appointment will be subject to the formal approval of parliament. This procedure will ensure that the separation of legislature and executive will be maintained and the executive remains accountable, collectively and individually, to parliament.

Because the ministers will not be members of parliament, procedures will be required to ensure they can introduce their legislation personally and be called before either the whole of parliament or its committees... A committee system with power to subpoena is an essential aspect of accountability separation of powers. A Legislative Assembly of 40 members will contain enough members to form a highly effective committee system...

Parliamentary procedures would have to be changed and standing orders re-written. While the Premier or a proxy would be required to attend Assembly sittings, Ministers whose legislation is before the Assembly will also be required to attend. They would not have a vote in the Assembly. There would be no Question Time as at present and much of the effort that now goes into that would become part of the committee system...

A number of extra-parliamentary arrangements for accountability, such as the Ombudsman, the Auditor-General, the various Commissions for Human Rights, against discrimination and corruption, should be retained. Their establishment and functions should be constitutionally entrenched as directly responsible to the Legislative Assembly, not the executive.¹

The Tasmanian experience of *reducing* the size of its parliament

5. In July 1998 the Tasmanian Parliament passed legislation that cut the size of the House of Assembly to 25 members (from 35) and of the Legislative Council to 15 members (from 19). The *Tasmanian Year Book 2000* gives the background to this decision:

The Tasmanian Parliament was constituted as a bicameral parliament by the *Constitution Act 1854*, with its first sitting on 2 December 1856. There were 30 members of the

¹ Extract from 'Goodbye Westminster? A Small State Perspective on Changing Political Institutions' by Dr Ralph Chapman, Honorary Associate, Department of Government, University of Tasmania – reproduced in the *Tasmanian Year Book 2000*, pp. 54-55.

Assembly and 15 Councillors. For the next 100 years, the Assembly numbers remained at 30 while the Council numbers rose to 19.

During the 1950s a problem of a deadlocked House developed. As the inaugural 1967 *Tasmanian Year Book* reported, 'one of the virtues claimed for the Hare-Clark [electoral] system is the adequate representation given to minorities. In a small House of 30 members, this virtue tended to be too evident and led to situations where the government of the day did not have the necessary majority to carry all its legislation with confidence'.

The first solution, to give the minority party the right to nominate the House of Assembly Speaker, was not seen as an adequate provision. The solution proposed was to increase the number of MHAs to an uneven 35, which was done.

[Though] the first election under the new provisions produced a 'hung' parliament (17 Labor, 16 Liberal and two Independents)... [the following] seven elections... produced 'majority' governments...

This came to an end with the watershed 1989 election. While the Liberal Party won most seats (17), five Independents grouped together and produced an 'accord' with the minority Labor Party through which the ALP... became government. It didn't work; the 'accord' collapsed and a Liberal majority government was elected in 1992 after an early election called when the Greens threatened a no-confidence motion.¹

[The 1990s saw widespread interest in restructuring parliament.] The public rationale for the reduction in numbers of politicians was over-government; this was given a statistical framework by the Morling Inquiry.²

6. The Morling Inquiry—a four-person *Board of Inquiry into the Size and Composition of the Tasmanian Parliament*, chaired by Mr Morling QC (December 1994)—concluded:

A House of Assembly with fewer than 35 members would have difficulty in discharging adequately its functions as the House of Government. We do not think a reduction in the number of members of the Assembly should be made at the risk of impairing its ability to discharge those functions...

If a reduction in the number of members is regarded as imperative, we recommend that it be achieved by a change to a unicameral Parliament having 44 members, 28 elected by the Hare-Clark system from four seven-member electorates and 16 from single member electorates by preferential voting...

[If the two existing Houses are retained,] we recommend that members of the Assembly should continue to be elected from the existing five electorates each returning seven members...

In our opinion questions of cost are of less significance than other factors in determining whether there should be a reduction in the number of members. The real question is whether, in the present Parliament, the number of members in either or both of the Houses is so far in excess of the number reasonably required for them to properly exercise their functions that a reduction is warranted...

Parliament could function efficiently with the Government having as few as 18 members. However we doubt whether the same could be said of a Parliament in which the Government has as few as, say, 15 or 16 members. Yet in an Assembly of 25 or 30 members, that could well be the case. Indeed, it could have even less than 15 or 16. In such a situation, there could be as few as three or four members on the backbench. In our view, a backbench of about six is close to the practicable minimum if the backbench is to serve any real purpose.³

¹ *Tasmanian Year Book 2000* ABS Commonwealth of Australia 1999 p. 49.

² Ditto.

³ T.R.Morling QC (Chair), Dr R.Chapman, Mr V.R.Archer, The Hon B.K.Miller *The Report of the Board of Inquiry into the Size and Composition of the Tasmanian Parliament*, December 1994 pp. 1-4.

[Further,] we do not consider it is realistic to reduce the number of Ministers much below the present number of ten. At present the average number of portfolios per Minister is 2.3 which is the second highest in Australia. There is a limit to the number of portfolios for which a Minister can be administratively responsible yet still satisfy the principle of Ministerial responsibility.¹

There is no real support... for a reduction in the number of members of the Assembly to 25. The only significant support for reduced numbers in the Assembly was for a reduction to 30 members. An Assembly of 30 members could be comprised of members elected from five electorates each returning six members or from six electorates each returning five members. In both cases it would be more difficult for minority groups to obtain representation in the Parliament. The quota of votes necessary to gain election would rise from 12.5% to 14.3% in a six-member electorate and from 12.5% to 16.7% in a five-member electorate.

Moreover, in a six-member electorate there would be a substantial chance that three members from each of the two major parties might be elected. This would add to the risk of a hung Parliament. An uneven number of members in multi-member electorates reduces that risk.

A reduction in the number of members of the Assembly would prejudice the implementation of a sound and effective committee system...

We are of the opinion that a unicameral Parliament could function satisfactorily with as few as 40 members. However we consider that the preferred model is a mixed electoral system returning 44 members. In such a model 28 members would be elected by the Hare-Clark system from four seven-member electorates and 16 from 16 single-member electorates by preferential voting... Mixed electoral systems are not uncommon in other Parliaments...

Our view is that if the Government and people of Tasmania think it is imperative to reduce the number of members of Parliament, that can best be achieved through a unicameral Parliament.²

7. In April 1997 the Tasmanian Liberal Premier (Mr Rundle MHA) declared that, 'with 54 state MPs and 29 councils, Tasmania was over governed'.³ In July 1997 the peak industry body (the Tasmanian Chamber of Commerce and Industry) proposed 'a single-chamber house consisting of 40 members with 25 elected from five electorates and 15 elected from single-member electorates'.⁴ A review by the former Commonwealth Minister, Mr Nixon, proposed 'a single-chamber Parliament of 27 members, elected from nine three-member electorates'.⁵ Both Mr Nixon and the Chamber of Commerce saw 'the Legislative Council and minority government as the cause of Tasmania's economic woes'.⁶

8. In September 1997 the Tasmanian government:

proposed a single-house Parliament of 28 members elected from four seven-member electorates plus 12 elected from single-member electorates with a special mechanism for ensuring majority votes in the Parliament... [The] Legislative Council, however, expressed support for the Labor Party's plan for a bicameral Parliament consisting of a 25-member Assembly elected from five electorates and a 15-member Council elected

¹ Ditto, pp. 40-41.

² Ditto, pp. 5-6.

² Ditto, pp. 39-41.

³ *Year Book* op cit., p. 48.

⁴ Ditto.

⁵ Ditto.

⁶ Ditto.

from single-member electorates... A compromise proposal for a bicameral 28-seat Assembly and a 12-seat Council also failed to win the support of the Council and the issue appeared dead.

Instead, it rested till May 1998 when it re-emerged in the form of a Labor Party Bill for a 25-seat Assembly and a 15-seat Council. The turning point came when a Liberal backbencher... crossed the floor to vote for the ALP proposal. Then... Mr Rundle recalled Parliament... to adopt the ALP's reduction proposal.¹

9. Subsequently, the Liberal government and the Labor Opposition voted together in favour of the Bill; the Greens opposed it and sought a referendum on the reform of parliament. The Bill passed both Houses:

The *Parliamentary Reform Act 1998* commenced on 28 July 1998 and the general election was held on Saturday 29 August 1998. The election was for 25 seats, five per electorate, in which the Tasmanian Greens were expected to lose seats because of the higher quota needed for election. The expected happened: three Greens lost their seats and the ALP... won an outright majority.²

10. In April 1997 the Liberal government also announced a review of local government boundaries to substantially reduce the 29 local government bodies in Tasmania. The Labor Opposition opposed such boundary rationalisation and, 'with its election to government, the proposal was dropped'.³

¹ Ditto.

² *ibid.*, p. 47.

³ *ibid.* p. 52..

ATTACHMENT C

ATTACHMENT C: THE PATH TO SELF-GOVERNMENT IN THE ACT

1. Most of the material in this Attachment is taken from two sources: the report of the ACT Legislative Assembly's Select Committee on Self-Government *Report 1990*; and the book by Philip Grundy, Bill Oakes, Lynne Reeder, Roger Wettenhall entitled *Reluctant Democrats – The Transition to Self-government in the ACT* (Federal Capital Press, 1996).

[In 1908 the Commonwealth *Seat of Government Act*] nominated the Yass/Canberra District as the location for the National Capital. The land transfer from NSW to the Commonwealth was achieved by the NSW *Seat of Government Surrender Act 1909* and the Commonwealth *Seat of Government Acceptance Act 1909*. Under section 6 of the latter, the laws of NSW and a number of Imperial Statutes were applied to the ACT.

The *Seat of Government (Administration) Act 1910* delegated power to the Governor-General to make ordinances for peace, order and good government in the ACT...

[On 12 March 1913 Canberra was inaugurated and dedicated as the National Capital [and] in 1920 the Federal Capital Advisory Committee was established to take over the construction and planning of the city. The *Seat of Government (Administration) Act 1924* constituted the Federal Capital Commission to perform the functions embraced by municipal and state governments and the national aspects of Canberra for which it was the Commonwealth's adviser...

Under the *Seat of Government (Administration) Act 1928* the first major attempt at self-government proposals for the ACT was made when one of three members of the Federal Capital Development Commission was elected on what was then a property franchise. This was, however, a body deprived of administrative and executive powers.¹ [Further, the sole elected member was not full-time—unlike the other members—and, though he 'was entitled to attend and vote at all meetings of the Commission... [could] not otherwise take part in any of its executive or administrative work'.²]

The Federal Capital Development Commission was abolished during the depression in [the] 1930³ ... and administration of the ACT reverted to the functional portfolios of Home Affairs, Works and Railways, Health and the Attorney General. The pattern of arrangements for the administration of the territory set in 1930 was to remain in essence unchanged for more than 50 years: one department was charged with the general administration of the territory, and other Commonwealth departments (and one NSW department) exercised responsibility for specific functions such as health, education, and police. The arrangements did not provide any formal mechanism for coordination between the departments.⁴

Under the *Advisory Council Ordinance 1930* the first ACT Advisory Council of four appointed officials including the Civic Administrator and three elected members was established. It was to be an advisory body to the [Commonwealth] Minister for Home Affairs, however, few of its recommendations were found to be acceptable.⁵

[The United Australia] Lyons ministry set up a cabinet sub-committee to consider several proposals for the future administration of the Territory. These included a committee of three to advise the minister, in place of the Advisory Council; a municipal council with the conventional functions of Australian local government; and—a scheme favoured by the then Minister for the Interior, J.A.Perkins—a partly elected and partly

¹ Select Committee on Self-Government, report 1990 (April), pp. 7-10

² P Grundy, B Oakes, L Reeder and R Wettenhall, *Reluctant Democrats, the Transition to Self-Government in the Australian Capital Territory*. (Canberra 1996), p. 31.

³ Select Committee, op.cit.

⁴ *Reluctant Democrats*, p. 34.

⁵ Select Committee, pp. 7-10.

nominated legislative council similar to that recently introduced in the Australian-administered mandated territory of New Guinea... But the reconsideration came to nothing, and the Advisory Council's term was again renewed at the end of 1933.¹

After a campaign by the [Federal Capital Territory] Citizen's Representation League, the *Australian Capital Representation Act 1948* provided for the election of the first member for the ACT to the House of Representatives with a right to vote on ACT matters only. This limitation was imposed because the territorial electorate was smaller than the average Australian electorate.

In 1949 the Chifley Government asked the Hobart Town Clerk to inquire into the possible form of self-government for the ACT. The Clerk considered the national, territorial and municipal activities of the administration were indivisible but he advised that a municipal council [of 12 aldermen] be formed. There was a change of government in 1951 and the recommendations were not accepted.

In 1952 the number of elected members on the Advisory Council was increased to five which gave them a majority on the Council for the first time.

In June 1955 the Advisory Council again advocated the establishment of some form of self-government in Canberra.

In the same year a Senate Select Committee on the Development of Canberra recommended the establishment of a Legislative Council [with six elected representatives out of 13 members] with responsibility for making laws on specified subjects, but with no executive or administrative functions. Under this proposal the Governor-General would have the right to delegate further powers but the Federal Parliament would retain the rights of disallowance of any ordinance introduced under the legislative powers of the Council.²

[In 1956 the Commonwealth Government enlarged the Advisory Council to ten members, four of who were appointed and the remainder were elected for two-year terms.³]

[In 1957] a Royal Institute of Public Administration study group recommended a form of government comprised of a National Capital Council (a form of statutory authority with elected representatives), a Joint Standing Committee of Parliament as a safeguard, a Minister for State for the ACT, a Planning Advisory Committee to replace the National Capital Development Commission and with the later option to establish a Canberra City Council. In all respects the proposed government of the ACT was to remain ultimately the responsibility of the Minister. These suggestions were also not implemented...

Up to 1959 the size of the Advisory Council grew so that the ratio of the elected members to the number of electors was maintained at approximately 1:3,000.⁴

In 1961 the Commonwealth Government enlarged the Advisory Council to 12 members, four of whom were appointed and the remainder were elected for three-year terms.⁵

In 1966 the member for the ACT was given the right to vote in any division in the House of Representatives...

In 1967 the Minister for the Interior, Mr Anthony MP, proposed Commonwealth control of Central Canberra with a handover at a later date of state-type functions and with new municipal governments at Woden and Belconnen cities. This proposal emphasised the necessity to keep inviolate the interest of the Commonwealth while providing an effective and efficient system of government to the domestic and community affairs of the local region.

There were a number of public inquiries and in [March] 1969 the members of the Advisory Council resigned en masse as a device to press their case. The Council's main

¹ *Reluctant Democrats*, p. 36.

² Select Committee, pp. 7-10.

³ *Reluctant Democrats*

⁴ Select Committee, pp. 10-11.

⁵ *Reluctant Democrats*

concerns were that it was not being fully consulted and that its advice was not being heeded... [The Council was re-constituted in December 1969.]

In 1973 another Parliamentary Joint Committee on self-government and finance in the ACT was appointed and the then Prime Minister, Mr Whitlam MP, asserted that self-government would arrive as soon as practicable after the presentation of that committee's report.

In July 1974, Cabinet decided to replace the Advisory Council with a larger, wholly elected Legislative Assembly. The first election was held in September 1974, however, the Legislative Assembly's powers were limited by the extent of the Minister for the Capital Territory's wide discretionary powers.¹

[The Assembly comprised 18 members, all elected:] two electorates each returned nine members, using a proportional representation voting system.²

In 1975 the Joint Parliamentary Committee tabled its report recommending that the ACT be granted self-government "in as wide terms as was consistent with the national interest". It also recommended a unicameral legislative assembly operating on parliamentary lines and with powers delegated in stages...

[Also in 1975, Prime Minister Fraser MP] established a Task Force to report on the transfer of functions and necessary legislative, administrative and financial arrangements for the transfer. The report was presented in March 1976 but... the government... abandoned the 1 July 1976 deadline for the transfer of executive powers...

In 1978... the Liberal Government held a referendum of the people of Canberra. The voters were given three options:

- a state-type legislature to which functions would be delegated in stages;
- local government type legislature and executive functions; or
- allowing present arrangements to continue for the time being.

The result was 64% for allowing the existing arrangements to continue, 30% for state-type and 6% for the municipal-type government.

In 1979 the Legislative Assembly was renamed the House of Assembly and elections were held in June...

[In 1983 the new Hawke Labor Government stated it was] committed to bring self-government to the ACT [and] as a first step a broad range of local government powers will be transferred to the ACT House of Assembly.

In November [1983] the then Minister for Territories and Local Government, Mr Uren MP... appointed the Task Force on Implementation of ACT Self-Government. The report by the Task Force, known as the Craig Report, was tabled in May 1984 and recommended the establishment of a body politic with its own legislative, executive and judicial institutions. When tabling the report, the Minister for Territories and Local Government committed the Commonwealth Government to a phased introduction of self-government.³

[The Craig Task Force recommended the creation of an assembly of 15 members elected from three five-member electorates, using a voting system similar to that for Tasmania's Lower House.⁴ By contrast, a submission to the Task Force from Mr Mackerras recommended the establishment of an assembly with 19 members to be elected using two ballot papers: one paper to elect a total of ten members from ten single-member electorates; and the second paper to elect nine members from the territory as a single electorate using the Senate electorate system.⁵ The Craig Task Force considered this proposal was 'impractical and unnecessarily complex' [quoted on p.1134).]

¹ Select Committee, pp. 11-12.

² *Reluctant Democrats*, p. 8.

³ Select Committee, pp. 13-15.

⁴ *Reluctant Democrats*, p. 129.

⁵ *Reluctant Democrats*, p. 134.

In August 1985 the House of Assembly's Standing Committee on the Transition to Territorial Government recommended a membership of 21 full-time members elected from multi-member electorates.¹

In December 1985 the [Cabinet] submission "A Proposal for ACT Government" was endorsed by Cabinet and the Prime Minister announced administrative changes based on the 1985 Report which included an integration of the Territories portfolio and the establishment of an ACT Council to enable elections to be held no later than September 1986 with a handover date of 1 January 1987. It was proposed that the Council would consist of one full-time chair person and 12 part-time members elected from single member electorates...

In 1986 a Draft ACT Council Bill and (Consequential Provisions) Bill 1986 were introduced into Cabinet in February, [into] the House of Representatives in March and [into] the Senate in April. In May, however, the government announced a compromise proposal on the electoral system and in June the Minister declared that the self-government legislation for the ACT would not proceed due to the opposition from the Liberals and the Democrats...

On 30 June 1986 the House of Assembly's term expired in accordance with the timetable proposed by the Minister for Territories for the introduction of self-government.²

2. **The Minister for Territories Mr Scholes MP, saw the proposed council in terms of 'municipal government, similar to that of this home town of Geelong':**

We [the Commonwealth] weren't going to give up schools and we weren't going to give up health and we weren't going to give up law... which left them [the assembly] as a law-making local government body... with the law-making powers of a state, with the criminal law and the legal system outside their jurisdiction... [and] they would not have had any of the infrastructure responsibilities of a state.³

3. **Mr Scholes favoured single member seats, on the basis that:**

There are certainly some major disadvantages [of multi-member electorates]. In all probability a system of three five-member electorates, for example, would see the Labor and Liberal Parties each with six or seven members, with between one and three independents, single issue and minority-party candidates holding the balance of power.⁴

4. **The Liberal Opposition opposed the single member electorates. The ACT House of Assembly also opposed Mr Scholes' proposal and urged its amendment by providing (inter alia) for 21 full-time members and multi-member electorates.⁵**
5. **The government was forced to compromise to secure passage of its legislation through the Senate. In the Second Reading Speech on the government's amended legislation, the Minister for Territories (Mr Holding MP) stated:**

In 1986 this Government first moved to introduce self-government for the Territory. The proposal... allowed for a government comprising a single House of legislature—a people's House. The electoral system proposed—single member electorates—was the same as that used to elect members to every people's House in all English speaking

¹ Select Committee, pp. 16-17.

² Ditto.

³ Gordon Scholes, quoted in *Reluctant Democrats*, p. 137.

⁴ *ibid.*, p. 147.

⁵ *ibid.*, pp. 145-147.

democracies... This proposition was not supported.

The Government... compromised. It proposed an amalgam of Australian electoral systems—around half of the members to be elected from single member electorates using House of Representatives rules, with the balance elected at large using Senate rules... However, this proposal too was not acceptable...

Facing the rejection of existing Australian electoral systems, the Government has turned to an electoral system used commonly throughout the non-English speaking Western democracies to elect people's Houses. This system, known as the d'Hondt system, provides for direct proportional representation... It is once again a compromise... It will be unique to Australia, but this Territory—a city-State—is also unique to Australia. The objective of any electoral system for a people's House is two-fold—to accurately reflect the electoral wishes of the people in the composition of their government and, of great importance, to provide for stable government.

Some with vested interests have advocated that the Hare-Clark system of proportional representation be used to elect the Assembly. This Government makes no apology for rejecting a system that is specifically designed for a House of review...¹

6. Mr Holding stated that the proposed assembly recognised the fact that the ACT:

needs a form of government that acknowledges its unique nature... [namely, that] virtually all its residents live in the one city... [It needs] one level of government appropriate to the City-State of the ACT.²

The Chief Minister will appoint three other Ministers and these four people will form the Australian Capital Territory Executive. The function of the Executive will be to govern the Territory... As with the number of members, the number of Ministers may be varied by regulation at the request of the Assembly.³

The Assembly will have the power to make laws for the peace, order and good government of the Territory...⁴

7. The Senate was told that 'the ACT will have the same legislative and executive powers and responsibilities over finances as the States and the Northern Territory'.⁵

8. The final step in the path to self-government was the following:

On 24 November 1988 the amended Australian Capital Territory Bills were passed by the Senate and returned to the House of Representatives... [where they passed on 29 November 1988].

On 4 January 1989 it was announced that there would be an election on 4 March 1989... [and] the poll was declared on 8 May 1989 and the ACT Legislative Assembly sat for the first time on 11 May 1989.⁶

¹ Mr Holding MP Second Reading speech on the Australian Capital Territory (Self-Government) Bill 1988, *Hansard* [House of Representatives] 19 October 1988, pp. 1926-1927.

² *ibid.*, p. 1923.

³ *ibid.*, pp. 1924-1925.

⁴ *ibid.*, p. 1925.

⁵ Senator Richardson, Second Reading speech on the Australian Capital Territory (Self-Government) Bill 1988, *Hansard* [Senate] 7 November 1988, p. 2125.

⁶ Select Committee, *op.cit.*, pp. 17-18

ATTACHMENT D

ATTACHMENT D: LIST OF SUBMISSIONS TO THE CURRENT INQUIRY

The number beside each submission is the number given by the Committee Office of the Legislative Assembly upon receipt of the submission.

1. Mr Stephen Brown
2. Mr Ken Thorpe
3. Ms Rowena Kilpatrick-Lewis
4. Mr David Bull
5. Gungahlin Community Council Inc. (Mr Ian Ruecroft, President)
6. Mr Kevin Connor
7. Mr Harold Hird (former MLA)
8. Ms Adele Doust
9. North Canberra Community Council In. (Lyn Davey, Chair)
10. Dr Miko Kirschbaum
11. Australian Democrats, ACT Division (Mr Wayne Sievers, President)
12. Professor John Halligan & Professor Roger Wettenhall
13. Mr Dudley Horscroft
14. Professor John Warhurst
15. Gungahlin Equality Party (Jonathon Reynolds, President)
16. G & M Kilby, L Louis, H & E Watson
17. Mr Frank Alcorta
18. Mr Jack Marshall
19. Ms Audrey Guy
20. Liberal Party of Australia, ACT Division Inc. including appendices 1-5
21. Young Liberal Movement of Australia, ACT Division (Mr John Czieszla, President)
22. ACT Electoral Commission
23. Proportional Representation Society of Aust. ACT Branch (Mr Bogey Musidlak, Convenor)
24. Australian Labor Party, ACT Branch (Mr Matthew Cossey, ACT Secretary)
25. Mr R Richards
26. Weston Creek Community Council (Mr Jeff Carl, Chairperson)
27. ACT Government
28. Mr Geoff Quayle
29. ACT Legislative Assembly (Mr Berry MLA, Speaker)

**DISSENTING REPORT, IN RELATION TO RECOMMENDATION 3, BY
JOHN HARGREAVES MLA**

I wish to dissent from recommendation number 3 contained in the Standing Committee on Legal Affairs Report to the Assembly on the size of the Assembly.

I cannot agree with the recommendation to increase the size of the Assembly to 21 Members.

I will address arguments to support a recommendation to increase the size of the Assembly to 23 Members.

General

The argument to increase the size of the Assembly in a minimalist sense to 21 Members does not recognise the increase in the population of the ACT. It argues that the public will not support an increase above 21 Members. This notion is rejected.

It is painfully obvious that Members who support this minor increase do so from an ill conceived intention to protect personal and party interests and have not addressed academic argument to provide the Assembly with sufficient numbers to provide proper representation, effective governance and provide sufficient Members to carry the scrutiny role of committee work. It also does not allow sufficient Members to enable the Committees to fulfil their role as a conduit between the community and the Executive government and the parliament.

The support for a 21 Member Chamber is shortsighted in terms of the proportional representational model.

Clearly, a 23 Member Chamber, constituted by three electorates comprising two electorates of 7 Members and one of 9 Members provides a greater chance of proportionality than does a system comprising three electorates of 7 Members.

The model of a 23 Member parliament, comprising three electorates of 6 Members and one of 5 Members allows a better convergence of community interest and that of the one-vote-one-value principal. This concept was agreed by the Electoral Commissioner in his evidence.

There is no allowance for growth in a 21 Member Chamber, whereas there is a very small allowance for growth in a 23 Member Chamber. Currently the population of the ACT, based on a ratio of one Member per 10,000 voters would result in an Assembly of 21.92 Members, that is 22 Members which is greater than 21 Members.

I wish also to express my dissatisfaction with the lack of academic rigour presented by people who purport to be learned in political construction. Very few submissions addressed anything other than the proportion of voters to Members. Most academic comment centred around the possibilities for parties and independent Members.

There were no submissions addressing good governance, nor was there anything other than passing comment on the role of Committee Members, other than to bemoan the lack of Members to do the work.

It is interesting that the Liberal Party's second choice of a reasonable number was 23 Members, the Young Liberals first choice was 23 Members and the Labor Party's initial choice was 25 Members.

There is clearly division in Liberal ranks and they are putting party preservation ahead of good governance.

I will now present argument, gleaned from the collection of information provided from interstate experience and from the limited scope of evidence received.

Determinant factors

The Assembly's size ought to be configured, having regard to the three elements of political structure.

- Constituent representation
- Parliamentary contribution
- Executive Governance

It is the aggregation of these three imperatives, which should drive the size of any parliament.

It should also be recognised that the general public may agree to a modest increase in the size of the Assembly, but would balk at too great an increase, no matter how valid the argument.

Constituent representation

When self-government was imposed on the ACT, an arbitrary 1:10,000 ratio of elected Members to number of electors was used. The ACT has by far, the greatest number of population per elected Member of any jurisdiction in Australia.

It must be remembered that with the exception of the NT, each jurisdiction has in the Senate 12 Members. The number of Members in the House of Representatives is proportional to the number of electors in that state. Such is not the case in the ACT or the NT. Whilst the numbers of seats available is dependent on the growth/decline elsewhere in the country, the ACT has only 2 Senators and 2 Members of the House of Representatives (formerly there were three).

The total number of elected representatives in the ACT is therefore 4 federal representatives and 17 Legislative Assembly Members, giving a total of 21. The population of the ACT is approaching 325,000.

In the Northern Territory, there are 2 Senators and 2 Members of the House of Representatives, and a Legislative Assembly of 25 Members, giving a total of 29. The population is 196,000

In Tasmania, there are 12 Senators, 5 Members of the House of Representatives, 25 Members of the Legislative Assembly and 15 Members of the Legislative Council, giving a total of 57. The population is 470,000.

Thus the overall representational ratio for the population is ACT 1:15,476: NT 1:6,759 and Tasmania 1: 8,246.

For enrolled voters the ratio is ACT 1:12,829, the NT 1:4,420 and Tasmania 1:8,221.

However, these comparisons are misleading on two fronts. The first is that the States have a guaranteed minimum of Senators, an artificial figure steeped in the creation of the Australian Federation and the negotiations which took place at that time concerning the protection of Original States' rights.

The second is that all other jurisdictions in Australia have a multi-tiered governmental system, embracing the Senate, the House of representatives, and often two layers of representation at the State level and Municipal and City Councils. The ACT has only the federal representation and combines the two layers of governance at the state level and the council governance for municipal services.

To count the multiplicity of layers for governance in other jurisdictions further exacerbates the differential in representation for ACT citizens over those in other jurisdictions.

It is acknowledged that geographical size dictates to a large degree the nature of governance in other jurisdictions, but the differential is much too large to be equated with only this variable.

To compare the nearest two jurisdictions, comparisons with representation at the State level is useful. It is noted here that no account has been taken of the council roles in both NT and Tasmania, where significant municipal services are provided at that level, unlike in the ACT.

Based only on the “state-level” representational ratios, any increase of Members to the ACT Legislative Assembly will not dramatically change this comparison. Currently the population ratio for 17 Members is 1:19,118. To move to 21 Members would be a population ratio for the ACT of 1:15,476, to move to 23 would be a population ratio of 1:14,130: and to move to 25 would be a population ratio of 1:13,000.

In terms of electors, based on there being 220,000 electors (based on the Electoral Commissioner's submission), the ratios would be, from a ratio for 17 Members of 12,941 to a ratio for 21 Members 1:10,476, 23 Members 1:9,565 and 23 Members 1:8,800.

It can be seen that 23 Members is the closest number to 1:10,000 without increasing the ratio above 10,000 voters and thus continuing the representational burden for Members.

It can also be seen that the numbers of population and electors per Member, far exceeds those figures in both the NT and Tasmania. Any comparison with other jurisdictions in Australia only makes the picture worse.

In the interests of fairness, there has to be some movement in the numbers of Members when the population increases. The population of the ACT has increased significantly since 1989.

It would appear that if one accepts, albeit an unscientifically determined number of voters at 1:10,000, this would equate with an increase to 23 Members. This would also not allow for the inevitable growth in Gungahlin, estimated to peak at around 100,000, a further 70,000.

This increase of 6 Members represents an increase of 35% but represents a small numerical increase in personnel.

The construction of electorate boundaries, which could accommodate 23 Members, should be determined by the quality of representation such boundary changes would impose.

If one accepts that proportional representation is paramount, an electorate construction of 2 seats of 9 Members and one of 5 would satisfy the theory. So too would 2 electorates of 7 Members and one of 9 Members. This hinges on the theory that the seats should be of odd number of Members elected in an odd number of seats.

If this is not accepted and that the community of interest, coupled with one vote one value, is a more appropriate model, the construction of 3 seats of 6 Members and one of 5 Members would satisfy this model.

This would allow electorates to be constructed from Tuggeranong (6 Members), Belconnen (6 Members), Gungahlin and North Canberra (5 Members) (also based on a connection with the North Lyneham and Downer and Mitchell areas) and an electorate encompassing South Canberra and Woden/Weston (6 Members).

The current three-electorate system splits communities. Whilst this is not new around Australia, Canberra has the opportunity to combine community of interest around geographical landmarks and, importantly, honour the one vote one value principle.

The notion of proportionality must be weighed against the notion that the greater the number of Members in the smaller number of electorates, the greater chance of proportional representation. This sacrifices the possibility of a Member having a greater familiarity with the electorate and this can be best achieved by having a larger number of electorates made up of a smaller number of Members. The 5 electorate system seems to work well in Tasmania although the reduction down to 25 Members in the legislative Assembly has not met with great acceptance among the Parties in that State.

Parliamentary contribution

The role of committees in the Assembly and the involvement of Members in debates on legislation, motions and matters of public importance should also be a contributing factor in determining the appropriate size of the ACT Legislative Assembly.

In the current Assembly there are 6 Standing Committees addressing policy issues and a Standing Committee on Administration and Procedure.

There are also a number of Select Committees addressing specific issues. These are Select Committees on Estimates, Privileges and services for women.

The Standing Committees are Community Services and Social Equity; Legal Affairs, incorporating the role of Scrutiny of Bills and Subordinate Legislation; Education, Health; Public Accounts; and Planning and Environment.

Each Committee (other than Administration and Procedure) has only 3 Members. The size of the Committees is dictated by two factors. The first is to ensure that the three elements within the Assembly (ie Government, Opposition and Cross-Bench) are represented equally and not proportionally; and the second factor is the numbers of non-Executive Members from which to draw Membership.

This results in a heavy workload for Government backbenchers and the cross-bench. In the current Assembly, there are 3 Government backbenchers so that each Member serves on at least 2 committees. The cross-bench is represented on all committees with the workload shared between the two cross-bench Members.

If the number of Members were increased to 23 Members, there would be additional 6 Members available for committee work, allowing a reconstruction of the Membership of those committees, or the creation of further Standing Committees.

Executive Governance

Currently there is permitted a maximum of 5 Ministers, including the Chief Minister. In the current Assembly, there are 4 Ministers, allowing the Government backbench to sit on a variety of committees. The Speaker is drawn from the Government ranks.

If the Membership of the Assembly is increased, it will allow the appointment of a 5th Minister without the resultant detriment to the workload of Government backbenchers, and thus no diminution of service to the parliamentary workings of the Assembly.

When, in a small parliament, the Executive comprises the same or more Members than its backbench, the sheer numbers will mean that the executive has total control of the Government side of the parliament, and if in the majority, will render the parliament irrelevant.

If governing with the assistance of a cross-bench Member, then predominantly, the parliament is at the mercy of the Executive and in a small parliament, with an executive of 5, it means that 5 people will provide the governance for the Territory.

With an Executive of 5, this would mean that the non-Executive Membership of the Government benches (including the Speaker) would need to be a minimum of 6.

In trying to predict a make-up, it is necessary to understand that there must be an odd number of Members in any Assembly.

The current make-up is 8 Government, 7 Opposition and 2 cross-bench. Thus the Executive equals 4 Members and the Government backbench equals 4 Members.

In a situation of a 21 Member Assembly, the Government would take 10 (or 9) seats and this would result in, at best, 5 Members of the Executive and 5 Members of the Government back-bench, resulting in a tied vote and thus any motion would be negated.

Thus the minimum number of Members for an Assembly, given that the number of Government backbenchers is greater in number than that of the Executive, would be 23. This would provide a minimum Government of 11 Members. If the Government of the day was 1 seat short of a majority, the Oppositions and cross-bench would comprise the other 12 seats.

One formula which can assist in achieving this is that the Executive not comprise more than 25% of the parliament, provided that the Executive not comprise a number less than 50% of the Government benches. Thus in a parliament of 17, the Executive can be no more than 4, in a 21, 23 or 25 Member parliament, the Executive can be no more than 5.

Conclusion

Reasons for an increase in Members of the ACT Legislative Assembly include the growth in population and the need to keep the ratio of Members to people at a reasonable level, an increase in effectiveness in Committee work and the workings of the Parliament and the need to have an effective Ministry, coupled with an effective backbench.

The minimum number, which satisfies all criteria, is 23. This does not allow for growth nor provides a formula for increase as time goes by.

Two formulae, which can be applied over time, are:

- A ratio of 1:10,000 or less Members to electors, and
- A ratio which ensures that the Government backbench is greater in number than that of the Executive, ie that the Executive comprise no more than 25% of the parliament, provided that the Executive not comprise a number less than 50% of the Government benches.

A further comment is related to the critical mass of the Assembly.

The Assembly and the community have matured politically since 1989 and thus the community has a greatly increased demand for quality and output from its Members.

To increase the size of the Assembly to 21 Members is to increase Membership by a mere 4 Members. The Speaker's submission to the committee's inquiry presumes that the likely distribution of the 4 Members is 1 for the Government, 1 for the Opposition and 2 for the cross bench.¹

We remember what it was like to have 4 Members on the cross bench and so too has the community remembered – it removed two of them.

The increase of only 1 Member for the Government would have no material effect. An increase of 3 Members would have a positive impact on governance in this town, as would an increase of 2 in the Opposition and 1 for the cross bench.

I am proposing a solution based on an ideal of good representation and, importantly, good governance. It was Labor's initial preference for 5 electorates of 5 Members. But having evaluated additional comment and evidence, it is believed that, should the Assembly not allow for growth, 23 Members should be the minimum number of Members in this place.

I concur with all other recommendations that do not refer to the size or configuration of the Assembly.

Based on the evidence gleaned from the trip to Queensland, the Northern Territory and to Tasmania, coupled with the advice from Dr Richard Herr, from Tasmania, I have concluded that the minimum size of the Assembly should be 23 Members and that the best configuration should be three electorates of 6 Members and one of 5 Members.

I therefore recommend that the Assembly do endorse the reasonable increase of Members from 17 Members to 23 Members for the Legislative Assembly and that the configuration of electorates be three electorates of 6 Members and one of 5 Members.

Finally, may I thank the Committee secretary, Rod Power for a sterling effort and also thank all those people who provided submissions and those who gave so generously of their time to speak to the Committee.

John Hargreaves MLA

¹ Attachment to the Speaker's submission dated 24 June 2002, 'cost per year of a member of the ACT Legislative Assembly, Proposed Alternative Model #A [21 members]'.