

Comes with the territory

Ensuring fair political representation for Northern Territorians - and all Australians

A straightforward way to ensure the Northern Territory has two House of Representatives seats is to increase the overall size of the House. An increase of about 50% in the number of parliamentarians would make Australians better represented, increase the talent pool for ministries and committee chairs and ensure one vote, one value in Australia.

Discussion paper

Bill Browne

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Level 1, Endeavour House, 1 Franklin St

Canberra, ACT 2601

Tel: (02) 61300530

Email: mail@tai.org.au

Website: www.tai.org.au

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Summary

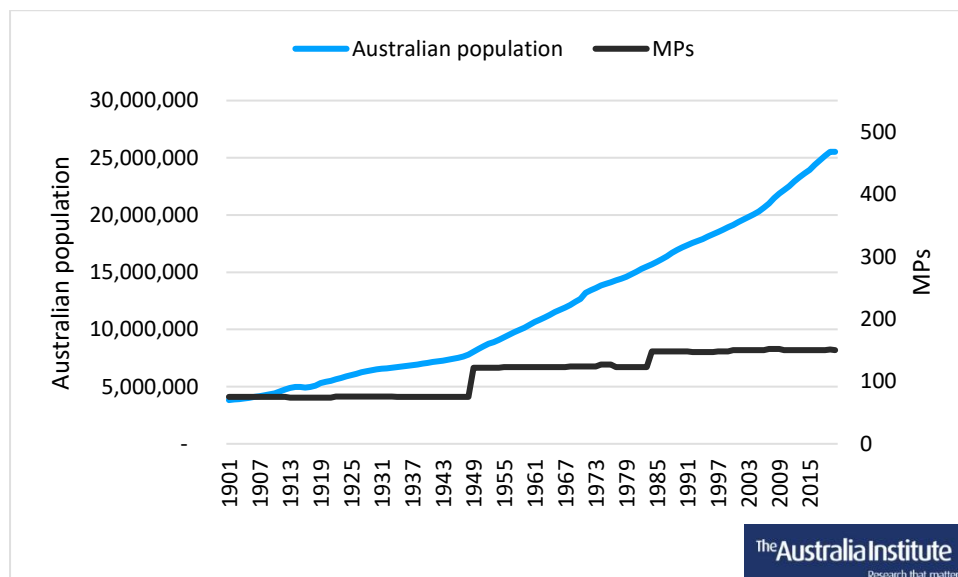
Australia’s federal parliamentarians have never been so thinly spread. Whereas at Federation there were 51,000 Australians per House of Representatives MP, there are now 170,000 Australians per MP. That leaves MPs stretched and voters disengaged.

It is bad enough that there are 170,000 Australians per MP, but it is even worse that rounding the NT’s quota down would lead to 250,000 Northern Territorians for one MP.

The risk of NT representation falling dramatically exposes deeper problems in the distribution of MPs in Australia. Australia’s population has grown dramatically since Federation, but the number of MPs has not kept up – with no more MPs now than there were in the 1980s. This leaves all MPs responsible for ever larger electorates, and makes the under-representation of people in the Northern Territory particularly acute.

The extreme case of the NT also exposes the existing disproportionality in the distribution of MPs among the states and territories. As an original state, Tasmania has always received more MPs than its population would strictly entitle it to – while the smaller territories have been limited to what the quota, strictly applied, gives them. Due to rounding, this can leave the territories either significantly over- or under-represented based on whether they happen to cross a particular population threshold.

Figure: Australia's population and its number of MPs



Source: Author’s calculations, from ABS and AEC sources and original research.

A simple way to address both problems would be to increase the size of the House of Representatives. Even a small increase would guarantee the NT’s second seat for the

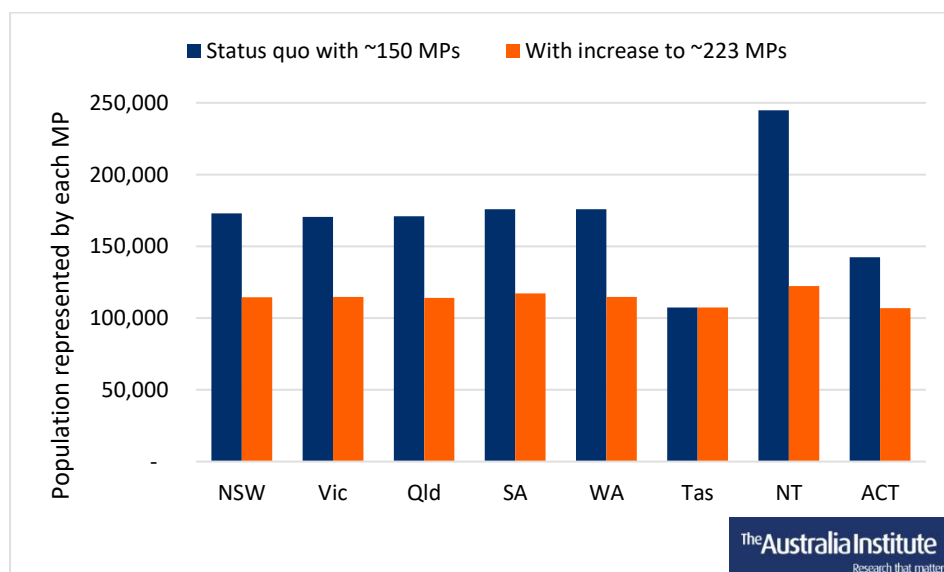
foreseeable future, but a larger increase would make MP allocations less “swingy” and address the problem of under-representation.

We recommend an increase of about 50 percent: to around 223 members of the House of Representatives, and a commensurate increase in senators to 18 per state.

This increase has several benefits:

- It would increase representation of the territories, with a guaranteed two seats for the Northern Territory and the possibility of three. The ACT would have four seats, an increase of one.
- For the first time since Federation, it would provide for one vote, one value: every state would have the number of MPs its population entitles it to.
- It would return the number of people per MP to around what it was following the 1984 Hawke Government reforms, allowing for more responsive and locally-focused MPs.
- It would increase the talent pool from which ministers can be drawn. The number of ministers has tripled since 1901, or more than quadrupled if parliamentary secretaries are included, while the parliament has only about doubled in size.
- It would reverse the growing geographical size of rural and regional electorates.

Figure: Australians per MP



Source: Author’s calculations, from ABS and AEC sources and original research.

It is also worth considering how territory senators are allocated, given an increase to 18 senators per state would leave the ACT and NT’s two senators each looking even more inappropriate.

We recommend a simple formula: territory senators should be allocated so that they receive senators proportionate to Tasmania’s population and senators. For example, the ACT’s population is 81 percent the size of Tasmania’s population. If Tasmania receives 12

senators (the status quo), then the ACT would receive 10 senators. If Tasmania receives 18, the ACT would receive 14.

This would ensure better representation for the Northern Territory in the Senate as well as the House of Representatives. The NT would go from two senators to six (if senators per state remains at 12) or from two senators to eight (if senators per state increase to 18).

It is also in keeping with the spirit of the Constitution, which provides for smaller polities to receive proportionately more (but not absolutely more) parliamentarians to reflect their vulnerability.

If these changes are not feasible in the short term, there are more limited changes that could help ensure representation for the territories:

- Allocating territory MPs based on Tasmania's ratio of population to seats, rather than the states' ratio of population to seats.
- Using the "harmonic mean" to allocate seats instead of the arithmetic mean, as suggested by Antony Green.
- Setting a floor of two for Northern Territory seats, as would be achieved by Senator Malarndirri McCarthy's bill.

Introduction

In 2020, the Northern Territory is set to lose one of its two House of Representatives seats in a redistribution. The loss is a result of the territory's population falling relative to Australia's population. Seats for both the Northern Territory and the Australian Capital Territory are distributed based on the same formula as seats for the states, but because of their small overall size, a small change in population can lead to a substantial increase or decrease in representation as the territory's seat entitlement is rounded up or down.

For example, the ACT went from Australia's worst-represented state or territory to its third-best represented when its seat allocation went from two to three.¹ The NT is currently the second-best represented state or territory, but that will change to being overwhelmingly the worst-represented state or territory if it is reduced to just one seat.

Senator Malarndirri McCarthy has proposed a private member's bill that would preserve the NT's second House of Representatives seat by setting a floor of two seats for the NT. Unless Parliament intervenes, either by passing Senator McCarthy's bill or finding another alternative, the Northern Territory will lose its second House of Representatives seat. The single NT seat will be the largest seat by population that has ever existed in Australia, with around 250,000 people represented by a single MP.²

That is about 35,000 people larger than the largest previous electorates that have existed. It is 90,000 people more than the average 170,000 people per MP, and more than double the 110,000 Tasmanians per MP.

When Australia became a federation in 1901, there were about 50,000 people per MP and Northern Territorians voted as South Australians. In 1911, the territory came under direct federal control and Northern Territorians lost the franchise.

The origins of the Northern Territory's federal representation can be found in the "Darwin Rebellion" of 1918, in which workers in Darwin mobilised against the federal government's appointed administrator Dr John Gilruth. Following the rebellion, Gilruth was guarded by the Navy for two months before he and his family fled Darwin. The NT was given its first

¹ Browne (2018) *It's time ... for more politicians*, <https://www.tai.org.au/content/its-time-more-politicians>

² It would also be one of the largest electorates in the world by area, although that is also true currently of the electorate of Lingiari. See for background: Tomlin (2016) *How do you represent an electorate bigger than many countries?*, <https://www.abc.net.au/news/2016-06-16/huge-electorates-a-mental-and-physical-challenge-for-australia/7310496>; Wahlquist (2016) *Durack: the electorate bigger than many countries still finds it hard to get noticed*, <https://www.theguardian.com/australia-news/2016/may/15/durack-australias-largest-electorate-feels-like-its-being-ignored>

federal seat three years later, and Gilruth's chief antagonist, union leader Harold Nelson, was the first MP elected for the seat of the Northern Territory.

When the NT received its first MP (albeit without voting rights) in 1922, that MP was only responsible for 3,600 people according to Australian Bureau of Statistics population figures – noting that Aboriginal people were not universally given the right to vote until 1962, were not generally counted until the 1971 Census and were not treated equally in their voting obligations until 1983.³

In general, representation in the House of Representatives is based on the principle of one vote, one value or, at least, the closely related principle of one resident, one value – with seats distributed among states by population and within states by number of electors.⁴ Under the Constitution, the only specified exception to the distribution of seats by population is that smaller states are permitted a minimum of five seats. Western Australia and Tasmania were the original beneficiaries of this disproportionality; Tasmania remains a beneficiary to this day.

Residents of smaller polities should at the very least receive the same representation as residents of larger polities. However, because of rounding residents of the ACT and the NT have often received less representation than residents of the states. And they have never received the same level of representation as Tasmanians have, even though the arguments for disproportionate representation for smaller polities apply even more strongly to the territories than they do to the relatively larger Tasmania.

Terminology

In this paper, “MP” is used as shorthand for a member of the House of Representatives only. “Parliamentarian” is used for MPs and senators together.

³ AIATSIS (2016) *My Voice for My Country*, <https://aiatsis.gov.au/exhibitions/my-voice-my-country>; National Archives of Australia (n.d.) *Population censuses in the Northern Territory*, <https://web.archive.org/web/20200326020925/http://guides.naa.gov.au/records-about-northern-territory/part2/chapter10/10.9.aspx>

⁴ *Constitution of the Commonwealth of Australia*, sec.24; *Electoral Act 1918* (Cth), sec.65, <https://www.legislation.gov.au/Details/C2019C00103/>

House of Representatives numbers

NORTHERN TERRITORY REPRESENTATION SINCE 1922

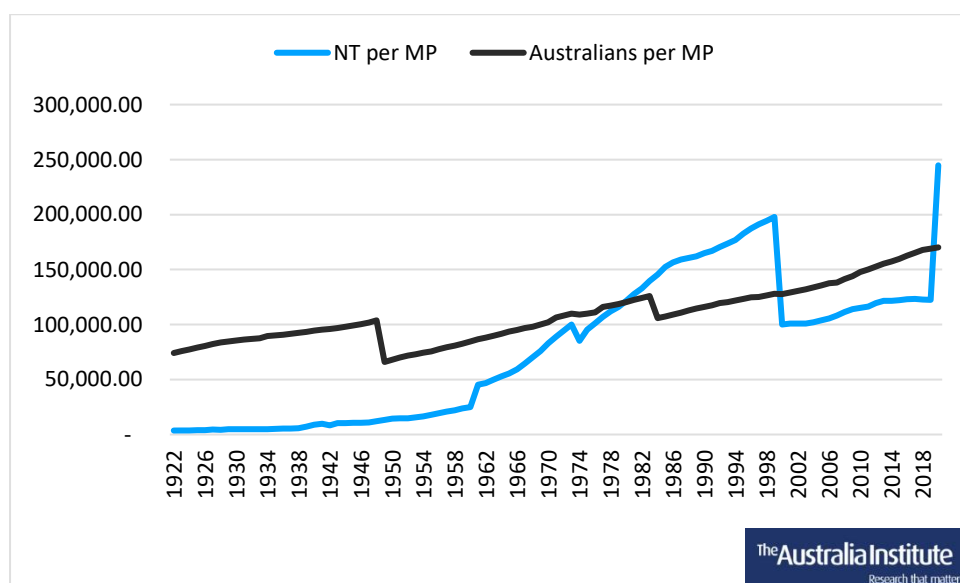
Northern Territorians have a mixed history of representation in the House of Representatives, with limited or no franchise for Aboriginal people and limited or no voting rights for the MP that they did receive in 1922. These limitations were addressed in the 1960s and 1970s, when the single member for the Northern Territory received full voting rights, Aboriginal people were universally enfranchised and Aboriginal people were counted in the Census.

As demonstrated in Figure 1, the Northern Territory has experienced both extremes of under- and over-representation over the years. When the seat was created in 1922, HG Nelson, MP, represented 3,600 people while the average for MPs was 74,000. When the NT's member received full voting rights in 1968, that MP represented around 70,000 people while overall there were 98,000 people per MP.

However, the NT reached an inflection point in the 1970s where its single MP represented more people than the average MP across all of Australia. This is because the NT's quota was rounded down; in the states rounding has less of an observable effect on the total distribution. This was corrected in 2000 when the single seat was divided into two (Solomon and Lingjari), making the NT better represented than the average across Australia.

However, if the NT does lose its second seat it will end up with 250,000 people per MP, the largest ever recorded and well above the Australian average of 170,000 people per MP.

Figure 1: Northern Territorians per MP, including 2020 redistribution



DEGRESSIVE PROPORTIONALITY, TASMANIA AND THE TERRITORIES

It is not unusual for seats or other voting rights to be apportioned so that smaller polities have disproportionately more members of parliament relative to their population. Where smaller polities have fewer seats in absolute terms but more seats relative to population, this is called “degressive proportionality”. As well as the Australian House of Representatives, the Bundesrat of Germany, the US electoral college system for electing the President and the European Parliament also make use of degressive proportionality.

Since Federation, Australia has allocated more seats to smaller states than their population would suggest.⁶ Tasmania and Western Australia were initially both beneficiaries of this rule; even after two increases in the size of the House of Representatives Tasmania still depends on its constitutional minimum of five seats to this day.

This may be reasonable to protect the interests of Tasmanians, but if it is reasonable for Tasmania then it is even more reasonable for the Australian Capital Territory and the Northern Territory. Instead, Australia follows the principle of degressive proportionality for the states but not for the territories (except that both territories have a floor of one MP, which both are well above).

As shown in Figure 2, Tasmania has always had more MPs per capita than its population would suggest, thanks to its guaranteed five seats under the Constitution. These days there are about 0.63 Tasmanians per MP for every Australian per MP. This is a more extreme difference than at Federation, when it was about 0.70. The ratio last dipped below 0.70 in 1983. One year later, the size of the House of Representatives was increased significantly and the ratio rose to 0.83.

⁵ Unless otherwise mentioned, graphs and tables in this report use the same data sets.

Population data from: ABS (2014) *Australian historical population statistics*,

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/3105.0.65.0012014?OpenDocument> and ABS

(2020) *Australian demographic statistics*,

<https://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/D56C4A3E41586764CA2581A70015893E>; note that as 2020 population is not yet available, this report repeats the 2019 figures for 2020.

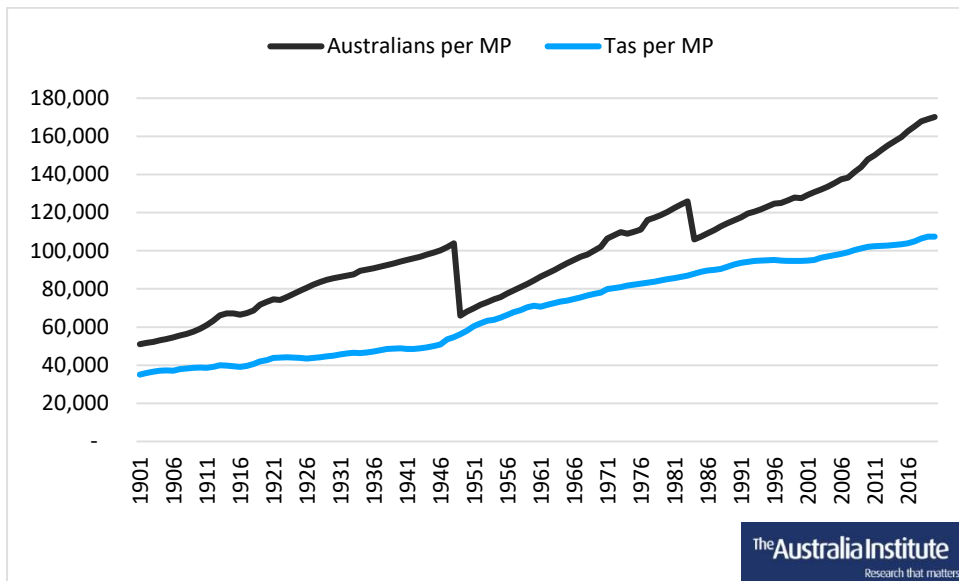
House of Representative numbers by state and territory from: Christian (2004) *Australian federal redistributions: 1901–2003*, p 21–24,

https://web.archive.org/web/20190307125719/https://www.aec.gov.au/about_aec/research/paper4/index.htm, with later elections (and SA and Tasmania allocations for 1901) added manually;

Senate numbers calculated by reference to the election year following Senate reforms.

⁶ The Constitution only provides these seats to “Original States”. Northern Territory statehood would not provide more seats for the NT by default.

Figure 2: Tasmanians per MP

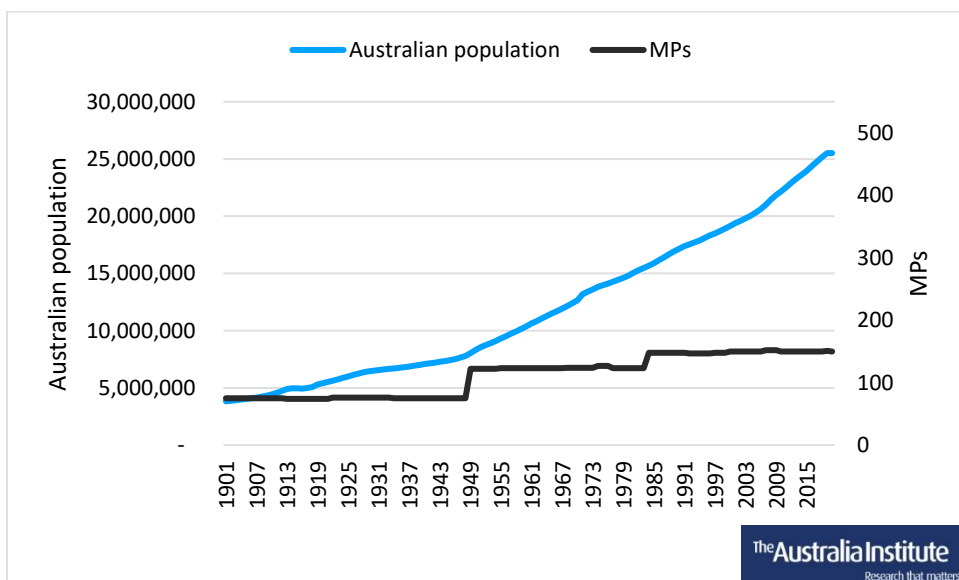


Source: Author’s calculations, from ABS and AEC sources and original research.

SHRINKING HOUSE

As demonstrated in Figure 3, the size of the House of Representatives has not increased in line with Australian population. There would be around 500 MPs today, instead of around 150, if Australia had maintained its Federation ratio of 51,000 Australians per MP.

Figure 3: Australia's population and its number of MPs



Source: Author’s calculations, from ABS and AEC sources and original research.

Curiously, Australia's population at Federation (3.8 million) is close to that of the United States in 1790 (3.9 million).⁷ Australia had 75 MPs at Federation, and the US had 65 members of Congress 1788 when its Constitution was enacted. Both initially targeted a ratio of about 30,000 people per parliamentarian.

The records of the Constitutional Conventions show that Australia's Founding Fathers were concerned about levels of representation – in particular how the unprecedented “nexus” between Senate and House of Representatives made it difficult to increase the size of the house.⁸ Isaac Isaacs, then Attorney-General of Victoria, raised the issue:

Here we are to start with about one member to every 50,000 of the population. At a future period we may find that there is one member for every 100,000 of the population, and we may desire to make the quota one member for every 80,000. We could not do that without the consent of the Senate, and the difference between us and America is simply this, that if the Senate does not agree, the House of Representatives is kept lower in numbers and the representation is made more difficult than would otherwise be the case. But if the Senate does agree its numbers must also be increased. What a farce that is!⁹

Most legislatures around the world do not increase strictly proportional with population growth, but there is a trend for larger legislatures in larger populations. Political scientist Rein Taagepera found in 1972 that a nation's lower house or only house of Parliament tends to have a number of seats equal to the cube root of the polity's population. Taagepera hypothesises that following the cube root rule allows for the most efficient communication between representatives and between a representative and their constituency (another way of putting this is that it minimises a representative's workload).¹⁰

In Australia's case, that would suggest that our legislature of 150 MPs is much too small. The cube root of 25.5 million is 294.

Recently, the *New York Times* recommended expanding the size of the US House of Representatives to match the cube law rule.¹¹ The *Times* anticipated likely criticism:

⁷ census.gov (2014) *United States - Race and Hispanic Origin: 1790 to 1990*, <https://web.archive.org/web/20141114183703/http://www.census.gov/population/www/documentation/twps0056/tab01.pdf>

⁸ Gorman & Melleuish (2018) *The nexus clause: A peculiarly Australian obstacle*, <https://www.tandfonline.com/doi/abs/10.1080/23311983.2018.1517591>

⁹ Isaacs (1898) *Australasian Federation Conference : Third Session : Debates - March 3*, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;adv=yes;orderBy=customrank;page=0;query=%22number%20of%20members%22%20Dataset%3Aconventions;rec=5;resCount=Default>

¹⁰ Taagepera (1972) *The size of national assemblies*, <https://escholarship.org/uc/item/45g370k4>

¹¹ Although note that they seem to have misunderstood or deliberately adapted Taagepera's original rule by reducing the total number of representatives by 100 to reflect senators, perhaps on the grounds that the US

Many Americans will groan at the thought of expanding a government they already consider too big and unwieldy. Polls consistently show that the public would rather throw the bums out than hire more of them.

... The problem is that there's virtually no evidence that a larger House would be less effective at governing. It is true that individual representatives would find their influence diluted by the addition of more members, but that's not an argument against expansion. Nor would growing the House cost too much. Salaries for lawmakers and their staffs would total less than one million dollars per representative — which means a couple hundred representatives could be added for the price of, say, five F-14 fighter jets.

Most important, expanding the House would mean not just a government with more representatives, but one that is literally more representative — including more people from perennially underrepresented groups, like women and minorities, and making for a fuller and richer legislative debate.¹²

GROWING MINISTRY

Historically, one justification for increasing the size of the Parliament is that it increases the talent pool from which ministers can be drawn. This argument was advanced by Robert Menzies in 1942,¹³ at which time the size of Parliament had not increased since Federation.

The first Australian government, the Barton Ministry, had around 10 ministers; the second Morrison Ministry has 30, plus 12 parliamentary secretaries.¹⁴ In this time, the size of Parliament has about doubled — but the number of roles to fill is about four times larger. The growth of the committee system also demands talented parliamentarians outside of the ministry and parliamentary secretaries.

Senate is (they say) a more significant lawmaking body than the upper houses of other countries. Salzberg (2018) *The Problem With Our Democracy Isn't Gerrymandering. It's Integers*, <https://www.forbes.com/sites/stevensalzberg/2018/11/12/the-problem-with-our-democracy-isnt-gerrymandering-its-integers/>; The NYT Editorial Board (2018) *America Needs a Bigger House*, <https://www.nytimes.com/interactive/2018/11/09/opinion/expanded-house-representatives-size.html>

¹² The NYT Editorial Board (2018) *America Needs a Bigger House*

¹³ Gorman & Melleuish (2018) *The nexus clause: A peculiarly Australian obstacle*

¹⁴ Parliament of Australia (2020) *Current Ministry List*,

https://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/parliamentary_handbook/current_ministry_list

GROWING RURAL AND REGIONAL ELECTORATES

As Australia's urban population grows faster than its rural and regional population, rural and regional electorates are going to grow geographically larger.¹⁵

A good demonstration of this principle is Western Australia's electorates. Since Federation, the number of seats apportioned to the state has more than tripled, but the physically largest WA electorate in 2020 is 1.6 million square kilometres – about the same area as the physically largest WA electorate was in 1901.¹⁶

¹⁵ Gorman & Melleuish (2018) *The nexus clause: A peculiarly Australian obstacle*

¹⁶ The largest division in 2020 is Durack; the largest in 1901 was Coolgardie. Another WA electorate, Kalgoorlie, was the largest electorate in the world until it was abolished in 2010. Wahlquist (2016) *Durack: the electorate bigger than many countries still finds it hard to get noticed*

Increase in representation

Australia needs more politicians. On average, an MP represents over 150,000 Australians, including over 100,000 voters. This leaves MPs over-stretched, and makes it less likely that local issues can prevail in an electoral contest.¹⁷

A simple way to guarantee the Northern Territory has two representatives without violating the principle of one vote, one value is to increase the overall number of parliamentarians. Because of the way House of Representatives seats are determined, this would also require an increase in the number of Senators.

An increase in the number of parliamentarians by about half (from around 150 to around 223 MPs, and from 76 senators to around 130) would lead to much better representation for Australians:

- There would be around 115,000 Australians per MP, instead of around 170,000. This is around where it was in the 1980s following the Hawke Government's reforms.
- There would be around 74,000 voters per electorate, down from 110,000. This makes it more likely that local issues can be successfully campaigned on, and allows for more diversity in representatives.
- Every federal seat would be the same size, instead of Tasmanian electorates being significantly smaller than other electorates. For the first time in Australian history, the House of Representatives would be elected on the principle of "one vote, one value".
- The crossbench would likely be larger, but also more diverse – avoiding the concentration of power in just a small number of independent or minor party MPs.

This proposal is the Australian equivalent of the "Wyoming Rule", which would set the quotient for a US House of Representatives seat at the population of the state with the smallest population.¹⁸

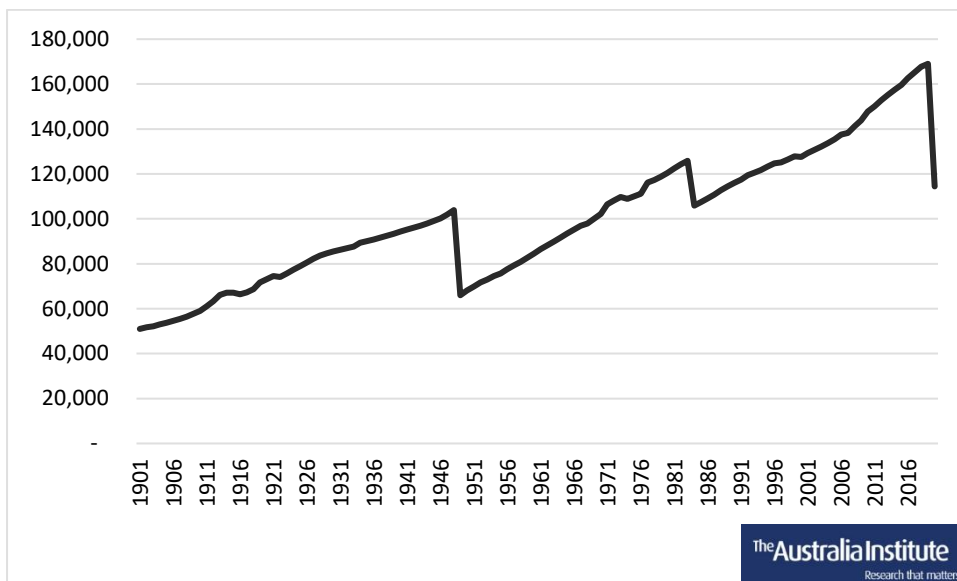
As shown in Figure 4, increasing the number of parliamentarians by 50 percent would only return Australian representation to what it was in the 1980s. For most of Australian history, MPs represented fewer Australians than they would under the recommended increase in the size of Parliament.

¹⁷ For more, see Browne (2018) *It's time ... for more politicians*

¹⁸ Taylor (2010) *Representation in the House: The Wyoming Rule*,

<https://www.outsidethebeltway.com/representation-in-the-house-the-wyoming-rule/>

Figure 4: Australians per MP, including recommended increase



Source: Author's calculations, from ABS and AEC sources and original research.

It was always expected that the number of parliamentarians would grow to allow for population growth. The House of Representatives has room for 240 MPs and the Senate for 120 senators.¹⁹ Adjustments could presumably be made to fit some additional senators.

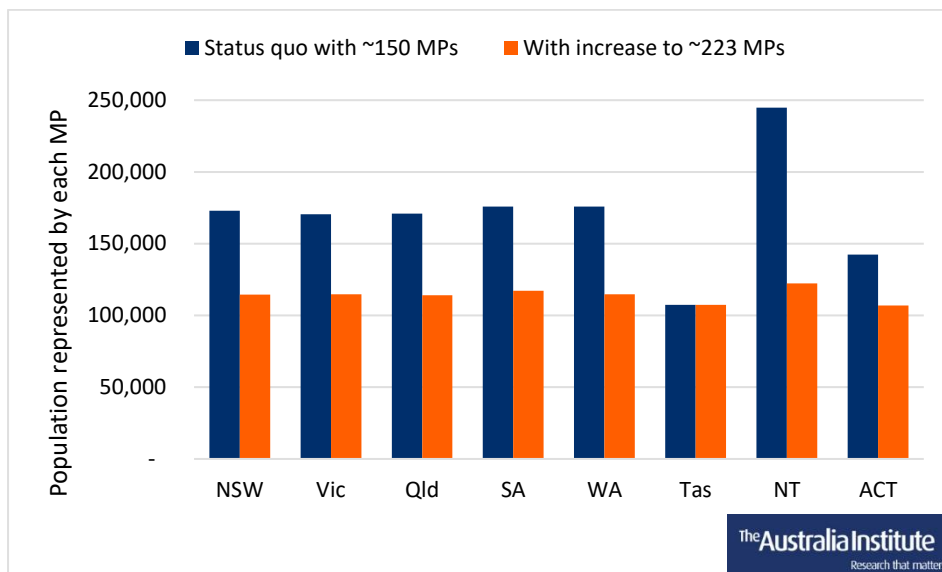
Constitutionally, it is not possible to increase the number of MPs without also increasing the number of senators. A referendum in 1967 to “break” this nexus and allow more MPs without more senators was decisively rejected by Australian voters.²⁰

As shown in Figure 5, an increase in federal parliamentarians would make representation much more even across the states and territories. There is no change to the number of Tasmanians per MP, but there are significant decreases for all other states and territories.

¹⁹ Parliamentary Education Office (n.d.) *Australia's Parliament House*, <https://peo.gov.au/understand-our-parliament/parliament-house/australias-parliament-house/>

²⁰ For details, see Gorman & Melleuish (2018) *The nexus clause: A peculiarly Australian obstacle*

Figure 5: Australians per MP



Source: Author's calculations, from ABS and AEC sources and original research.

A smaller increase in the number of Senators, even to 14 per state, would still guarantee the NT its second representative for the near future (the NT would have about 1.75 quotas).

TERRITORY SENATORS

While the size of the House of Representatives and the number of senators per state can be adjusted without any change to the number of territory senators, it makes sense for territory representation to be increased.

In line with the principle of degressive proportionality, the territories should have at least a number of senators relative to their population compared to that of Tasmania. If Tasmania receives 12 senators (the status quo), then the ACT should receive 10 senators. If Tasmania receives 18, the ACT should receive 14.

This would ensure better representation for the Northern Territory in the Senate as well as the House of Representatives. The NT would go from two senators to six (if senators per state remains at 12) or from two senators to eight (if senators per state increase to 18).²¹

Territory senators could still be elected for three-year terms, or have half elected each time (with adjustments for population).

²¹ There is a provision for territories to increase their Senate seats, but it is not feasible given the current populations. The number of senators per state would have to more than double before the ACT became entitled to a third senator. *Electoral Act 1918* (Cth), sec.40(2)<https://www.legislation.gov.au/Details/C2019C00103/>

IMPLICATIONS FOR AN INCREASE IN THE NUMBER OF PARLIAMENTARIANS

If the number of parliamentarians were increased by about half, there would be a number of implications for the electoral system.

In the House of Representatives:

- All states and territories, with the exception of Tasmania, would have more MPs.
- Malapportionment, the difference in population between the largest and smallest seats, would be reduced.

Table 1: House of Representatives seats by state and territory

	Status quo	50% increase
NSW	47	71
Vic	39	58
Qld	30	45
SA	10	15
WA	15	23
Tas	5	5
NT	1	2
ACT	3	4
Total	150	223

Source: Author's calculations

The change also has implications for the Senate:

- States would elect an odd number of senators each election (9). In general, electing odd numbers makes it easier for one party to win an overall majority of seats,²² although the more seats there are, the less often preferences are distributed and the more likely it is that minor parties and independents are elected.
- Senators would be elected on a 10 percent quota. This is significantly higher than the 8.3 percent quota for the SA Legislative Council or the 4.5 percent quota for the NSW Legislative Council, but lower than the current 14 percent quota for the Australian Senate.

²² See e.g. Green (2016) *On Senate Electoral Reform and Blocking Majorities*, <https://www.abc.net.au/news/2016-03-14/on-senate-electoral-reform-and-blocking-majorities/9388754>; Stone (2005) *Constitutional Change and Bicameralism in Australia: the Perversity of "Reform,"* <https://www.aspg.org.au/wp-content/uploads/2017/09/06-Stone-conf-paper.pdf>

Alternatives

A significant increase in the size of Parliament is politically difficult, and beyond the scope of Senator McCarthy's private member's bill. In the interim, three ways of preserving the Northern Territory's representation seem viable:

- The proposed approach in Senator McCarthy's bill, of setting a floor of two seats for the Northern Territory.
- Using the Tasmanian population quota to calculate the territories' MP entitlement, instead of the total states' population quota.
- Calculating seat allocations based on the harmonic mean instead of the arithmetic mean.

USING THE TASMANIAN QUOTA

One simple way to ensure two seats for the Northern Territory would be to calculate the seats allocated to the territories based on the effective Tasmanian quota instead of the national quota.

The result of this allocation would be two seats for the Northern Territory (on a quota of 2.3, so with the opportunity for three seats if the population grew) and four seats for the Australian Capital Territory.

HARMONIC MEAN

Antony Green has suggested calculating seat allocations based on the harmonic mean, instead of the arithmetic mean (plus standard error adjustment).²³ His argument is sound, and would lead to a fairer allocation of seats. Adopting the harmonic mean would not preclude other measures, like a minimum seat number for territories or increasing the size of the House of Representatives, from also being adopted.

²³ Green (2020) *2020 Apportionment of Seats: Part 2 – Allocating to the Territories*, <https://antonygreen.com.au/2020-apportionment-of-seats-part-2-allocating-to-the-territories/>

Conclusion

Australia's Constitution balances two competing principles: degressive proportionality, in which smaller polities receive proportionately more representation, and one vote, one value, in which all citizens' votes have the same strength. Tasmania, as an original state from Federation, receives the benefits of degressive proportionality with its floor of five MPs even though on population terms it is only "entitled" to three.

A floor of two MPs for the Northern Territory is compatible with the principle of degressive proportionality, but a more ambitious change to representation is warranted: an increase in the overall number of MPs. This would secure Northern Territory representation, but also increase the talent pool for ministries, reverse the growth in physical size of rural and regional electorates, and make MPs more responsive to local communities and local issues.