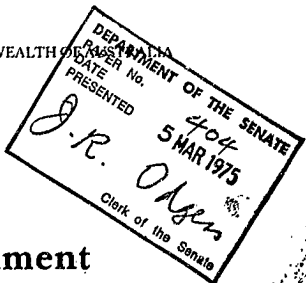


THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA



**Self-government  
and  
Public Finance  
in the  
Australian Capital Territory**

*Report from the Joint Committee on the  
Australian Capital Territory*  
DECEMBER 1974

AUSTRALIAN GOVERNMENT PUBLISHING SERVICE  
CANBERRA 1975.

## Joint Committee on the Australian Capital Territory

The Committee was appointed for the life of the 27th Parliament by resolutions of the House of Representatives and the Senate on 25 November 1969. It was subsequently re-appointed for the course of the 28th and 29th Parliaments. (See *Course of the Inquiry*.) It was first appointed by resolutions of both Houses of Parliament on 8 November 1956 and re-appointed in succeeding Parliaments.

The duties of the Committee are to:

- (a) examine and report on all proposals for modifications or variations of the plan of lay-out of the City of Canberra and its environs published in the *Commonwealth of Australia Gazette* on the nineteenth day of November 1925, as previously modified or varied, which are referred to the Committee by the Minister for the Capital Territory; and
- (b) examine and report on such other matters relating to the Australian Capital Territory as may be referred to the Committee:
  - (i) by the Minister for the Capital Territory; or
  - (ii) by resolution of either House of the Parliament.

### Personnel of the Committee

#### *27th Parliament*

Senator R. G. Withers (Chairman)  
Mr F. M. Daly, M.P. (Deputy Chairman)  
Senator D. M. Devitt  
Senator G. C. Hannan  
Senator C. R. Maunsell  
Senator B. R. Milliner  
Mr K. E. Enderby, M.P.  
Mr E. M. C. Fox, M.P.  
Mr J. M. Hallett, M.P.

#### *28th Parliament*

Senator B. R. Milliner (Chairman)  
Mr J. M. Hallett, M.P. (Deputy Chairman)  
\*Senator the Hon. Sir Kenneth Anderson, K.B.E.  
Senator D. M. Devitt  
\*Senator G. C. Hannan  
Senator the Hon. J. E. Marriott  
Mr N. M. Cooke, M.P.  
Mr J. C. Kerin, M.P.  
Mr F. Olley, M.P.  
Mr R. B. Whan, M.P.

Senator B. R. Milliner (Chairman)  
 Senator the Hon. J. E. Marriott (Deputy Chairman)  
 \*\*Senator the Hon. Sir Kenneth Anderson, K.B.E.  
 Senator D. M. Devitt  
 Mr P. S. Fisher, M.P.  
 Mr K. L. Fry, M.P.  
 Mr J. W. Howard, M.P.  
 Mr J. C. Kerin, M.P.  
 Mr R. B. Whan, M.P.

\*On 17 October 1973 Senator Hannan, at his own request was discharged from attendance on the Committee and was replaced by Senator the Hon. Sir Kenneth Anderson, K.B.E.

\*\*Senator the Hon. Sir Kenneth Anderson was unable to take part in deliberations on this Report and, at his request, he was discharged from attendance on the Committee on 11 December 1974.

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## Key to abbreviations

|                |   |
|----------------|---|
| A.C.T.         | Australian Capital Territory                    |
| A.C.T.A.S.     | A.C.T. Administrative Service                   |
| A.N.U.         | Australian National University                  |
| F.C.C.         | Federal Capital Commission                      |
| N.C.D.C.       | National Capital Development Commission         |
| N.S.W.         | New South Wales                                 |
| The Assembly   | The A.C.T. Legislative Assembly                 |
| The Parliament | The Parliament of the Commonwealth of Australia |

*Note:* All government agencies referred to in the Report are Australian Government agencies unless otherwise indicated.

## SUMMARY OF PRINCIPAL RECOMMENDATIONS

### The Committee recommends that:

- |   | <i>Paragraph<br/>References</i> |
|---|---------------------------------|
| 1. Self-government be granted to the A.C.T. community in as wide terms as is consistent with the national interest.   | 71                              |
| 2. As the most appropriate form of self-government for the A.C.T. there be established a unicameral assembly to be called the A.C.T. Legislative Assembly which would operate on established parliamentary lines. | 91                              |
| 3. The delegation of powers begin immediately but be completed in stages.   | 92                              |
| 4. Jervis Bay come under the authority of the Assembly.   | 95                              |

### Movement towards self-government

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|--|-----|
| 5. The establishment of a Territorial Government be undertaken in two stages. During the preliminary stage, the Assembly should develop its practices and procedures and gradually assume responsibility for functions of government until it has control of those services which currently seem appropriate for territorial administration. The Australian Government should legislate to establish the Assembly in its final form and delegate to it a general power to make Ordinances for the A.C.T. upon the completion of this period of transition. | 98  |
| 6. The Parliament enact legislation in respect of functions for which it intends to retain direct responsibility. This would exclude the Assembly from legislating for those matters. Power to legislate in relation to the residue would then be delegated to the Assembly.   | 99  |
| 7. A Joint Standing Committee of the Parliament be appointed to which all Assembly legislation <b>the subject of notice disallowance</b> should stand referred. The Committee would be required to examine and report to Parliament within the disallowance period on the implications of any such law.  | 102 |
| 8. The Ministry for the Capital Territory be phased out during the transitional period and there be no Minister of State or Department of the Capital Territory under self-government.   | 104 |
| 9. During the transitional period the Assembly seek further powers and establish machinery to facilitate negotiation with the departments and instrumentalities of the Australian Government concerning the problems, mechanisms and timing of transfer.   | 104 |

### National Capital Development Corporation

- |   |     |
|---|-----|
| 10. Parliament legislate to establish a National Capital Development Corporation with the following functions: <ul style="list-style-type: none"> <li>● To undertake and carry out the continued development and construction of the city of Canberra as the national capital of Australia.</li> <li>● To manage on behalf of the Australian Government all aspects of land policy, land administration, land co-ordination, lease sales and management, transport planning and co-ordination.</li> </ul> | 112 |
| 11. The Corporation be responsible to a Minister of the Australian Government and be managed by a Board of five members. The Board would  | 113 |

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consist of three full-time paid Commissioners, one of whom would be the Chairman, and two members of the Assembly nominated by the Assembly as its representatives on the Board.

*Paragraph  
References*

- |  |     |
|--|-----|
| 12. The Legislative Assembly and the National Capital Development Corporation begin negotiations to determine specific instances in which the Corporation might ultimately delegate aspects of its functions to the Assembly or to representative community institutions recognised by the Assembly. | 114 |
|--|-----|

### Education

- |   |          |
|---|----------|
| 13. Institutions of higher learning in the A.C.T. at present, should remain national responsibilities and policies in relation to tertiary education for the A.C.T. should continue to be a national responsibility.  | 116      |
| 14. The A.C.T. Schools Authority be administered by the A.C.T. Legislative Assembly and negotiations for the transfer of responsibility commence as soon as it is clear that some stability has been attained in the administration of the Territory's school system. | 119; 122 |

### Health

- |   |     |
|---|-----|
| 15. Responsibility for A.C.T. health services be transferred to territorial control as soon as it can be established that operations can be effectively administered by the Assembly and the Capital Territory Health Commission. | 129 |
|---|-----|

### Housing Works and Construction

- |   |          |
|---|----------|
| 16. The A.C.T. administration be in charge of its own works program and have power to decide how to implement it, but it should not establish a separate territorial public works organisation.   | 132, 134 |
| 17. Responsibility for provision of welfare housing be transferred to the Assembly. It should implement its programs through the agency of the Department of Housing and Construction or private consultants and should not develop its own home building organisation. The program should be subject to the oversight and approval of the proposed National Capital Development Corporation. | 138      |
| 18. The Australian Government retain responsibility for all other categories of housing now supplied by it, such as housing for officers of the Public Service and members of the Defence Force transferred to Canberra.  | 139      |

### Other functions

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|--|-----|
| 19. Municipal functions of government administered by the City Manager's Office be transferred as soon as possible.                                | 141 |
| 20. The administration of the Canberra Library Service become a territorial responsibility and be transferred at an early stage of the transition. | 143 |
| 21. At an early stage, responsibility for the A.C.T. Police Force be transferred to control by the Assembly.                                       | 145 |
| 22. Specified State-type functions now performed by the Department of the Attorney-General become territorial responsibilities.                    | 146 |
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listed in Part I of the second schedule of the *Stat of Government (Administration) Ordinance 1930-1972* be transferred for administration by the Assembly as soon as practicable.

Paragraph  
References

The Legislative Assembly

- |  |          |
|--|----------|
| 24. Formal powers in relation to the Assembly be delegated to a deputy of the Governor-General.  | 152      |
| 25. The Assembly consist initially of nineteen full-time members.  | 154      |
| 26. The A.C.T. be divided into two electorates based on the divisions currently used in House of Representatives elections. The electorate with the larger number of enrolments at the closing of the rolls before an election would return ten members and the other, nine. | 156, 158 |
| 27. Elections be based on a similar system of preferential voting as operates in federal elections but with optional preferential voting. Vacancies should be filled by the recount of votes system operating for the Tasmanian House of Assembly.                           | 158      |
| 28. Legislation for the A.C.T. on all matters not reserved for national control should emanate from within the Assembly and not from some body external to it.   | 160      |
| 29. The Assembly develop its own executive system and its own standing orders and rules of procedure.  | 161      |

Public Service

- |  |     |
|--|-----|
| 30. An authority be created and called the Australian Capital Territory Administrative Service (A.C.T.A.S.). This Authority would provide a pool of employment for the Assembly and persons employed by departments and authorities accountable to the Assembly would be members of it. The A.C.T.A.S. would be created by an Ordinance made under the Seat of Government (Administration) Act.            | 170 |
| 31. The employment rights of officers and employees transferring from the Australian Public Service to the A.C.T.A.S. be preserved by appropriate legislative amendments. Further, such officers should retain their right to apply for transfer or promotion to vacant positions in the Australian Public Service, including those positions normally open only to officers or employees of that Service. | 172 |

Finance

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|--|-----|
| 32. There should be a territorial budget and the Assembly should determine the proportion of available finance to be allocated for particular services and public works. | 174 |
|--|-----|

Australian Government Financial Assistance

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|---|-----|
| 33. The Grants Commission examine how a self-governing A.C.T. could be integrated into the existing system of Federal-State financial arrangements so that it could qualify for financial assistance on an equivalent basis to the States. The Commission should recommend initial grants, determine whether grants should be made for expenditure disabilities incurred by a self-governing A.C.T. arising solely out of seat of Government and national capital considerations. | 203 |
|---|-----|

Land Development Costs

Paragraph  
References

- |  |     |
|--|-----|
| 34. A final decision on the appropriateness and feasibility of a Comprehensive Land Development Account for the A.C.T. should await the findings of the Commission of Inquiry into Land Tenures.   | 215 |
| 35. It would not now seem possible for all past development costs to be recovered from existing leaseholders in the A.C.T. At the same time the Committee is reluctant to recommend that past costs be simply written off. It recommends that the matter should be considered further by the Australian Government and the Assembly (when that body is established). An appropriate context in which to consider the matter might be in the course of negotiations to determine the basis upon which existing assets are to be transferred to the Assembly under self government, the level of any annual charge to be levied by the National Capital Development Corporation, or the level of any special national capital grant that might be paid by the Australian Government to the Assembly. | 221 |
| 36. The Treasury construct a set of public accounts for the A.C.T. based on the functions it is proposed should be administered by the A.C.T. Legislative Assembly. These accounts should be devised to suit the special needs of the Territory's government.  | 222 |

## Introduction — The course of the inquiry

### Terms of reference on State and municipal costs and revenues in the A.C.T.

On 18 February 1972 the Minister for the Interior, (the Hon. R. J. D. Hunt, M.P.) wrote to the Chairman of the Joint Committee on the A.C.T. appointed for the 27th Parliament. Senator R. G. Withers, requesting that the Committee undertake an inquiry with the following terms of reference:

*Municipal Accounts for Canberra were first published in December 1970. The accounts generally reflect the traditional practices followed by local government authorities in Australia, being based on the concept that municipal facilities and services, including water supply and sewerage facilities, should be paid for mainly by property holders through rates and service charges. Against this background and having regard to special features of Canberra as the National Capital:*

- (a) *Should the capital, maintenance and operating costs of all present and proposed municipal-type facilities and services in the A.C.T. be borne in full by the local community?*
- (b) *If not, what costs or proportion of costs should be met by the local community?*
- (c) *Also, to what extent, if at all, should residents of the A.C.T. be required to contribute financially towards the costs of provision of State-type facilities and services in the A.C.T.?*

The Committee agreed and the Chairman advised the Minister accordingly. Advertisements were placed in newspapers circulating in Canberra and in Australian capital cities inviting interested persons to make submissions to the Inquiry. Individuals and organisations who, it was considered, could assist the Committee, were approached directly and submissions on specific aspects of the terms of reference were sought.

When it was announced that the House of Representatives would be dissolved on 2 November 1972 for an election to be held on 2 December 1972 the Committee reported to Parliament that it was unable to complete its Inquiry. It recommended that it be re-appointed by the 28th Parliament and that the reference be again referred to the reconstituted Committee. Pursuant to para. (4) of the resolution of appointment, the members of the Committee ceased to hold office as a Joint Committee from the date of dissolution of the House of Representatives for the election.

On 3 May 1973 the Committee was re-appointed. At a meeting on 22 May 1973 it considered a letter from the Minister for the Capital Territory, (the Hon. K. E. Enderby, Q.C., M.P.) to the Chairman, Senator B. R. Milliner and agreed to the Minister's request that it continue the Inquiry. It placed further advertisements in newspapers circulating in Canberra and Australian capital cities.

### Extension of the inquiry to include self-government for the A.C.T.

On 23 August 1973 the Minister for the Capital Territory wrote to the Chairman in the following terms:

*Your Committee has already undertaken the arduous task of inquiring into the structure and desirable nature of the financing of Canberra with particular reference to that proportion of costs which should be borne by the local citizens.*

*I am aware that in your analysis of evidence you will gather much information which would be pertinent to the general question of self-government for the Australian Capital Territory. On the*

*other hand I believe that the course of your recommending might be hampered by the lack of clear proposals about the extent and form of future self-government in the A.C.T.*

*The citizens of Canberra would, I believe, welcome an inquiry about self-government as would the Australian Government and I am therefore now writing to ask if your Committee would be prepared to see its terms of reference under the Municipal Accounts Inquiry enlarged by the following addition.*

*Given that the A.C.T. and/or Canberra like any other Australian community must be expected to want to be involved and to take some responsibility for governing its own affairs, examine and report on the most appropriate form of self-government which:*

- (a) *recognises the special nature of the seat of government and the national capital;*
- (b) *takes proper account of the interests of the Australian Government and the interests of the local Canberra community;*
- (c) *meets the needs of what is a largely compact urban community;*
- (d) *recognises the right of the local Canberra community to participate in the governing of the area; and*
- (e) *takes account of the separateness of the Jervis Bay area.*

The Committee agreed to the Minister's request and wrote to him accordingly on 29 August 1973. Further newspaper advertisements were placed, advising the public of the extension of the terms of reference and inviting interested persons and organisations to make written submissions or to add to previous submissions.

On 11 April 1974 the Senate and House of Representatives were dissolved for an election and pursuant to para. (4) of the Committee's resolution of appointment the members of the Committee ceased to hold office as a Joint Committee.

The Committee was re-appointed for the 29th Parliament on 25 July 1974 and immediately agreed to the request of the Minister for the Capital Territory, (the Hon. G. M. Bryant, E.D., M.P.) to resume the Inquiry.

The Committee received forty-eight written submissions and heard evidence from eighty-nine witnesses (some more than once) and held twenty public hearings in Canberra. Five witnesses were brought to Canberra to give evidence.

The Committee made use of relevant documentary material available in Australia and sought further material from other countries to assess developments overseas.

Lists of witnesses and of submissions and exhibits are provided at Appendix 1 and Appendix 2 respectively. Evidence given at public hearings has been published and in due course will be available for inspection at the National Library and at the Committee Office of the House of Representatives.

### Membership of the Committee and interruptions to the inquiry

This Inquiry began towards the end of the 27th Parliament and has been interrupted by two elections. The membership of the Committee has altered after each election and there have been other changes to the membership. Only two members of the Committee which began this inquiry sat to consider this Report.

Interruptions caused by elections have created difficulties. But the resolution appointing the Committee in the 28th and 29th Parliaments by providing:

*... that the Committee have power to consider and make use of the evidence and records of the Joint Committees on the Australian Capital Territory, appointed in previous Parliaments relating to any matters which are again referred to the Committee.*

has ensured continuity and enabled the present Committee to make use of the effective work of its predecessors.

## CHAPTER 1 Historical Perspective

### Seat of Government

#### 1. Section 125 of the Constitution as enacted in 1900 provided:<sup>1</sup>

*The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales and be distant not less than one hundred miles from Sydney.*

*Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.*

*The Parliament shall sit at Melbourne until it meets at the seat of Government.*

2. This provision was inserted after long public debate. Intercolonial jealousy contributed to this result but there was also a strong feeling that the national parliament should be free from the influence of any State capital city and especially that it should be free of pressures from Sydney and Melbourne. It was believed also that the national capital should symbolise a united people.

### Choice of a site

3. After much investigation and debate, Parliament enacted the *Seat of Government Act 1908*<sup>2</sup> which determined that the seat of Government should be sited in the Yass-Canberra district. This site was criticised by many who were concerned at the apparent lack of water and poor quality of the soil in the area. Indeed, there was strong opposition from many quarters to any *bush capital* at all, largely because of the cost.

4. The Yass-Canberra district was surveyed by the District Surveyor, Mr Scrivener, who was asked to recommend the area most suitable for the seat of Government. He was directed to keep in mind that *the Federal Capital should be a beautiful city, occupying a commanding position, with extensive views and embracing distinctive features which will lend themselves to the evolution of a design worthy of the object, not only for the present but for all time.*<sup>3</sup> Scrivener's recommendations were largely accepted.

5. The *Seat of Government (Acceptance) Act 1909*<sup>4</sup> confirmed and ratified an agreement between the Governments of the Commonwealth and N.S.W. on the surrender by the latter of some 910 square miles of land for the seat of Government.

### Design of the national capital

6. In 1911 an international competition was held for the design of the national capital. The design was to be for a permanent seat of Government with an assumed population of 25,000 increasing proportionately with the rest of the country. The competition was won by Walter Burley Griffin, an architect of Chicago, U.S.A. His plan came

<sup>1</sup> Commonwealth of Australia Constitution Act, 63 and 64 Victoria, c. 12. (U.K.)

<sup>2</sup> No. 24 of 1908.

<sup>3</sup> Australia. Parliament. *Federal Capital: Proposed Site at Yass-Canberra*, [C. R. Scrivener], Parl. Paper 6, 1909 (Canberra, 1909), p. 5.

<sup>4</sup> No. 23 of 1909.

under immediate criticism, which was to continue for many years, largely because it was considered to be too extravagant. This criticism was such that implementation of even its broad concept was placed at risk. There began a period of unhappy relations between Griffin, who had been in charge of the construction of the capital since 1916, and the administration, ending in 1921 when Griffin refused to sit on the Federal Capital Advisory Committee and left Canberra. He had succeeded however, in obtaining acceptance for the general concept of his design which was well established on the ground.

7. The *Seat of Government (Administration) Act 1924*<sup>5</sup> provided that as soon as practicable after the commencement of this Act, the Minister shall publish in the Gazette a plan of lay-out of the City of Canberra and its environs. The plan, which was the plan prepared by Griffin with amendments made up to that time, was published in the Gazette on 11 November 1925. This plan simply set down the formal lay-out of the city. The Act also empowered the Minister to modify or vary the gazetted plan but only after giving thirty days' notice of his intention to do so. Further, the instrument of variation or modification was to be laid before both Houses of Parliament and be subject to disallowance. In short, the Act gave to the Parliament the responsibility for safeguarding the Griffin plan. This responsibility has continued to be exercised to the present day. Since 1956 when Parliament first appointed the Joint Committee on the A.C.T., it has been one of the Committee's functions to examine and report on proposals for modification or variation to the plan of lay-out of the City of Canberra and its environs.

### The government of the A.C.T. 1910-1930

8. The *Seat of Government (Administration) Bill* debated in 1910 made provision for the government of the A.C.T. It is significant to note the long title of the Bill: *An Act to provide for the Provisional Government of the Territory for the Seat of Government of the Commonwealth.* The Bill contained a clause providing that until the Parliament makes other provision for the establishment of a local legislature for the Territory, the *Governor-General may make Ordinances having the force of law in the Territory.* The Hon. G. B. Edwards, M.P. (Member for North Sydney) objected to this clause.<sup>6</sup> The wording was said to presuppose the necessity for the establishment of a local legislature which was not even contemplated by the Constitution. In Edwards' view the *great city which might grow upon this site is not going to be governed by the residents of the city but by the people of the whole Commonwealth.* The Hon. King O'Malley (Minister for Home Affairs) declared that he had always been of the same opinion and accepted an amendment that the words *establishment of a local legislature for* be deleted and the words *government of* be inserted in lieu thereof.

9. In 1921 the Federal Capital Advisory Committee was established under the Chairmanship of Mr John Sulman to inquire into and advise the Government on a scheme for the progressive construction of the city with a view to enabling the *Federal Parliament to meet and the Central Administration of the Commonwealth Government to be carried on as early as practicable at Canberra (and on the basis of the acceptance of the plan of lay-out of the Federal Capital City by Mr W. B. Griffin).*<sup>7</sup>

<sup>5</sup> No. 8 of 1924.

<sup>6</sup> Australia. House of Representatives. *Debate* 1910, vol. LIX, p. 5978.

<sup>7</sup> Australia. Parliament. *Construction of Canberra. First General Report of the Federal Capital Advisory Committee*, Parl. Paper 134, 1921 (Canberra, 1921).

10. The Committee in 1921 recommended three stages of development:

- The establishment of the Parliament at the seat of Government and transfer of essential departments;
- Transfer of other departments, an additional railway connection and some architectural and engineering works; and
- Over a prolonged period, construction of monumental buildings, ornamental waters and similar works.

These recommendations were made against the background of widespread criticism of any plans by Government to spend money on the *bush capital*. The Committee stated that *utilitarian development and economy should be the aim in the first stage leaving to future decades — perhaps generations — the evolution of the National City on lines that are architecturally monumental.*<sup>8</sup>

11. The *Seat of Government (Administration) Act 1924*<sup>9</sup> provided for the establishment of a statutory corporation to be called the Federal Capital Commission (F.C.C.). The F.C.C. began its operations on 1 January 1925 under the Chairmanship of Mr John Butters. Mr Butters occupied the position on a full-time basis while the other two members of the F.C.C. were part-time. The F.C.C. was given powers to plan, develop and administer Canberra.

12. The F.C.C.'s relative freedom from parliamentary and Public Service Board supervision was widely criticised. Upon commencement of operations it was soon subjected to criticism from residents of the Territory who complained of its approach to government as a business undertaking and the lack of provision for local participation in government. Opposition to the Commission form of government grew and in 1927 a Representation League was formed in Canberra. Its aim was to gain representation in Parliament for the Territory. It also wanted the elected representative to have full voting rights on the F.C.C.

13. Following public dissatisfaction with the F.C.C.'s administration, the Public Accounts Committee of Parliament inquired into the Territory administration in 1928.<sup>10</sup> Among the Committee's conclusions were:

ment of the Capital Territory as follows:

- *The Territory was established for the people of Australia.*
- *All costs and charges connected with the establishment and maintenance of the national capital should be distributed amongst the people of Australia on an equitable basis.*
- *The citizens of Canberra should not be expected to pay more than a reasonable rate for the services provided for them.*
- *The finances of the Territory should be so adjusted as to ensure closer control by Parliament, economy and simplicity of operation.*

14. In 1928, the structure of the F.C.C. was altered so that the third member would be elected by adult owners of leases or tenants of premises paying rentals of £15 a year or more within the Territory. The elected Commissioner could vote at meetings but was not empowered to take part in the Commission's administrative or executive activities.

15. In 1928, Dr F. Watson was elected Third Commissioner and immediately began a campaign for a form of self-government for the Territory. He forced the F.C.C. to hold open meetings to enable the public to express opinions on A.C.T. Ord-

<sup>8</sup> *First General Report of the Federal Capital Advisory Committee, 1921, p. 7.*

<sup>9</sup> No. 8 of 1924.

<sup>10</sup> Australia, Parliament, *Report of the Joint Committee on Public Accounts on Housing and Building Costs Generally in the Federal Capital Territory*, Parl. Paper 261, 1928 (Canberra, 1928).

nances and by-laws initiated by the F.C.C. After clashes with the other Commissioners he resigned (within three months of his election) but not before he had initiated moves for removal from office of the Minister for Home Affairs and the impeachment of the Prime Minister and the Attorney-General for illegal government of the Territory. Dr Watson was replaced by Dr R. Alcorn, who arranged for a Citizens' League to be elected to advise him as Third Commissioner. Before the end of his term, Dr Alcorn also submitted his resignation as a protest against the F.C.C.'s decisions but it was not accepted by the Minister.

16. In the Fifth Annual Report of the F.C.C. in 1929, Sir John Butters stated: *Experience has proved what was forecasted, viz, that the change made about a year ago by which one member of the Commission was elected by local residents, must be a failure, as continuous clashes were bound to develop where the question of balancing the interests of the local public and the Australian public arose.*<sup>11</sup>

17. The strains of the great depression, a reduction in development expenditure and the resignation of Sir John Butters led a new government in 1930 to disband the F.C.C. Administration of Canberra and the Territory became the responsibility of the Ministers for Home Affairs, Health and Works and of the Attorney-General.

18. In the meantime, the temporary Parliament House had been opened in 1927. Buildings had been constructed for administrative, business and residential purposes and the population of Canberra had reached almost seven thousand. Significant progress had been made on the development of the national capital within a brief period.

#### **The years of Depression, war, and slow growth 1930-1955**

19. In 1932, the functions of the Department of Home Affairs were transferred to the newly established Department of the Interior. These administrative arrangements have basically persisted to the present time though in 1957 and 1972 significant changes were made. An Advisory Council had been established by Ordinance in 1930 to advise the Minister for Home Affairs, which is further discussed at paragraphs 32-34.

20. Construction in the city came almost to a standstill between 1930 and 1948 during the depression and World War II. This slow-down in growth led to considerable idle capacity of major works, such as the water storage dam. The Advisory Council in its early years criticised the lack of funds, division of control and procrastination and postponement of the development of the city under the departmental form of government.

21. These criticisms by the Advisory Council led the Government in 1938 to establish the National Capital Planning and Development Committee consisting of officials of the Departments of Interior, Works, and Health and outside advisers on planning and architecture. Its function was to advise the Minister for the Interior on matters he referred to it. On its own initiative it could advise him on other matters concerning city and regional planning for the national capital.

22. In 1948 provision was made for a representative of the A.C.T. in the House of Representatives. Because the A.C.T. electorate was smaller than the average Australian electorate, the new member was only given the right to vote on matters affecting the Territory.

<sup>11</sup> Australia, Parliament, *Fifth Annual Report of the Federal Capital Commission for the year ended 30th June, 1929*, Parl. Paper 10, 1929 (Canberra, 1929), p. 17.



23. In 1948 the Government decided that some 7,000 departmental officers should be transferred to Canberra over ten years. However, because of inadequate residential and office accommodation only limited progress was made in the transfer program over the following years. Major problems were the lack of a co-ordinated approach to balanced development for the national capital and the shortage of labour and materials for construction.

#### The Senate Select Committee on the Development of Canberra

24. In 1954 a Senate Select Committee was appointed to *inquire into and report upon the development of Canberra in relation to the original plan and subsequent modifications and related matters*. In its Report tabled in September 1955, the Committee concluded: *... there is no positive determination to complete the National Capital, but merely one of living from hand to mouth.*

*The Committee believes that this policy which has characterised all governments and all departments since 1929, must cease, and that a clear program for the transfer of central departments to Canberra should be drawn up, affirmed and carried out within a measurable period.*

*... The time has come to take the responsibility of building the National Capital from the unborn backs of future generations and place it firmly and squarely on the shoulders of people alive today.<sup>12</sup>*

25. Among the recommendations of the Select Committee were that:

- Governmental control of Canberra be through a Minister holding a separate portfolio for the A.C.T. (posts and telegraphs, civil aviation, and the Attorney-General's functions excepted).
- The system of divided departmental control of Canberra be replaced by a single authority. The authority would be constituted by a Commissioner responsible to the Minister for the administration, planning, construction and development of the national capital and have powers, subject to necessary modification, similar to those of the old Federal Capital Commission.
- Parliamentary oversight be exercised by a Senate Standing Committee on the Development of Canberra.
- A Legislative Council be created to carry out the legislative functions of the A.C.T. at a State level in respect of matters enumerated in the report. The Council would have no executive or administrative functions and the Parliament would retain the right of disallowance of any Ordinance introduced under the legislative powers of the Council. It would consist of six elected members, six nominated members, and the Commissioner of the authority as ex-officio president.
- As circumstances warranted, a Municipal Council for the City of Canberra and a Shire Council for the balance of the A.C.T. be established to deal with local government functions.
- The standards of architecture and the landscaping of Canberra be appropriate to a national capital and Canberra be developed as a *Garden City*.

#### A period of rapid development 1957-1974

26. The Select Committee's recommendations led to the establishment in 1957 of the National Capital Development Commission (the N.C.D.C.), a statutory authority

<sup>12</sup> Australia. Parliament, *Report from the Select Committee on the Development of Canberra*, Parl. Paper S.2., 1955 (Canberra, 1955), p. 17.

responsible for the total planning, development and construction of Canberra as the national capital. The Commission is constituted by a Commissioner appointed by the Governor-General and is a body corporate. The Commissioner is assisted by two Associate Commissioners, also appointed by the Governor-General.

27. The Commission was made responsible to the Minister for the Interior but had, and today continues to have, very considerable freedom from ministerial control in its operations. The general administration of Canberra remained a function of the Department of the Interior. Thus, the administration and development of Canberra came largely under the control of a single Minister.

28. In November 1956 both Houses of Parliament, by resolution, appointed a Joint Committee on the A.C.T. with similar functions to the present Committee (see Appendix 3). The Committee has been re-appointed by each succeeding Parliament.

#### National Capital Planning Committee

29. The National Capital Planning Committee was first appointed in 1957 under the Chairmanship of the Commissioner of the N.C.D.C. and comprises experts nominated by professional associations in relevant disciplines. Two further appointments are made of people with special knowledge and experience in artistic or cultural matters. The Committee's role has been to advise the Commission.

30. When the N.C.D.C. commenced its operations in 1958 Canberra's population was some 39,000 and was growing at about 5,000 per year. By 1965 the population had more than doubled to some 85,000 and was increasing at 9,000 per year. The period was characterised by large-scale transfers of public servants to the city, a vigorous program of public housing, land development and office construction and considerably increased private investment. In addition an artificial lake was created and progress was made on the development of important aspects of the Parliamentary Triangle which was designed by Walter Burley Griffin as the symbolic area of the national capital.

31. Since 1958 Canberra has made spectacular progress from a city of 39,000 people to one of 180,000. It has come to be taken as the national capital and the commitment to it as such has become irreversible. There is every reason to believe that the population will reach 300,000 by 1980 and that by that time the city will be graced with monumental structures.

#### A.C.T. Advisory Council

32. The *Advisory Council Ordinance 1930<sup>13</sup>* provided for the establishment of a partly elected council to advise the Minister for Home Affairs on matters affecting the Territory including the making of new Ordinances or amendment or repeal of existing Ordinances. The Council consisted of a Civic Administrator, three nominated departmental heads, and three members elected by the community for a term of twelve months, after which it was generally understood that self-government would be granted. This did not happen and the Advisory Council continued to function with little increase in responsibility. The Advisory Council grew over the years to a final composition of eight elected part-time members, four members nominated by departments with major interests in the A.C.T., and one observer nominated by the Depart-

<sup>13</sup> No. 4 of 1930.

ment of Education. The Council seems to have been overworked and underestimated. While its formal role remained essentially the same over its forty-four years of existence it fought strongly, especially in recent years, for a greater influence both over legislation and administration in the A.C.T.

33. The major role of the Council has always been to advise the appropriate Minister on both legislative and administrative arrangements for the Territory. Over recent years, elected Council members have also had the opportunity to participate directly in the management of a broad range of community facilities and services by sitting on the boards and committees making decisions on these matters.

34. These functions have been performed on a part-time basis. The only supporting staff provided has been a secretary, a receptionist and a clerical assistant. Elected members of the Council have certainly had access to the nominated members and to other departmental officers, but it is clear that they have had a heavy burden of work and limited administrative and research support.

#### The leasehold system of land tenure

35. Section 9 of the *Seat of Government (Administration) Act 1910-1973* provides that *no Crown lands in the Territory shall be sold or disposed of for any estate of freehold...*

36. Evidence of the thinking which led to this provision can be seen in the Parliamentary Debates recorded in *Hansard* of 1901, 1909 and 1910. These debates disclose that the following two things were uppermost in the minds of practically all who expressed their views at the time:

- That there should be no opportunity for land speculation, either in the area to be adopted for the proposed city or in its near vicinity, as a result of the Government's decision to establish a national capital city.
- That the *unearned increment created by the expenditure of the people's money* should belong to the people. The *unearned increment* is reflected in the enhancement of value of land. The statutory requirement for periodic re-appraisal of the unimproved value of leased lands was to provide the Commonwealth with the means of deriving the benefit in the form of increased land rent, as property values rose consequent upon continued development.

37. In December 1924 the first business and residential leases in the city area were granted under the *City Area Leases Ordinance 1924*<sup>14</sup> which defined the city area and laid down conditions under which leases would be granted. Leases were to be granted for business and residential purposes, for a period not exceeding ninety-nine years and were subject to rent as determined by the Minister. A lease granted for business and residential purposes could specify the particular class or classes of business for which the leased land could be used and no land was to be used for any purpose other than the purpose specified in the lease. Leases could now be used as a planning instrument. Other provisions of the system were that:

- Land rent was to be imposed at the rate of 5 per cent per annum of the unimproved value placed on the land by the successful bidder or applicant for the lease or the reserve value whichever was higher.
- The unimproved value of land for rental purposes was to be re-appraised during the twentieth year of the term of the lease and during each tenth year thereafter.
- Restrictions were also placed on the lessee's ability to mortgage, transfer or assign the lease prior to completion of an approved building.

<sup>14</sup> No. 8 of 1924.

38. Development of Canberra has not only been rapid but it has also been balanced and orderly — it has remained truly a planned city. The task of maintaining this balance has been facilitated by the use of the leasehold system of land tenure. This has enabled the planners to specify in detail the purpose for which a block of land is to be used, the nature and standard of any structure, the time within which it is to be built and when the lease may be transferred (thus also reducing speculative activity).

39. Some of the provisions of the *City Area Leases Ordinance 1924* have been abandoned. Since 1935 purchasers of leases have been required to pay, at first, any amount offered or bid above the reserve price of a lease and more recently, the full amount. This capital outlay has come to be known as a *premium*. Until the 1950s very few premiums were paid because the supply of leases exceeded demand. Since 1950 the balance has been reversed. The result has been public outcry over rising lease prices and allegations that the supply of land has been deliberately restricted to maximise profits. These pressures have in turn led to frequent changes in methods of disposal of leases and fluctuations in profits from sales.

40. A further important change was the virtual abolition of land rent in 1970 when it was reduced to a peppercorn value of five cents per annum *if and when demanded*. A number of justifications was given for this action:

- Because of the twenty-year re-appraisal provisions, holders of equivalent leases granted at different times were paying significantly different annual rents. This was seen as anomalous and inequitable.
- Rents on new leases had been rising so sharply with the increasing value of land that in the mid-sixties the Government felt obliged to peg residential valuations at 1962 levels to contain land rent charges to reasonable levels.
- The Government believed that introduction of more frequent rent revaluations would be construed as a breach of its contractual obligations under some 27,000 leases and would raise problems of compensation and lead to increases in the general level of land rent at a time when its preference was for an increase in rate revenues.

41. This change in the nature of the leasehold system in the A.C.T. represented a fundamental departure from previous policy and has had implications for this Inquiry (see Chapter 6).

#### The concept of Canberra as a planned environment

42. Since the decision to hold an international design competition for Canberra there has been a commitment to balanced and orderly planned development of Canberra and the A.C.T. Since the establishment of the N.C.D.C., this concept has extended beyond the city itself and the identifiable national capital areas.

43. In 1964 the N.C.D.C. published *The Future Canberra*, a publication which set out a long-term plan for Canberra<sup>15</sup> — an *outline plan* for a population of 250,000 by about 1980. Instead of intensifying densities at existing centres and continuing to extend the fringes of Canberra it was decided to preserve the open character of the city to limit the extent of the existing districts, and to form new urban districts in the surrounding rural area. The new districts became known as *New Towns* after the English equivalents, and each was to have a population between fifty and one hundred

<sup>15</sup> National Capital Development Commission, *The Future Canberra*, (Canberra, 1964).

thousand people. The New Towns were to be clearly defined. Each would be relatively self-contained but together they would support the central area. The outline also included plans for the Parliamentary Triangle. The 1965 outline plan has been revised in some important respects but its general approach has been adopted in developing the city. There are already about 60,000 people living in the first New Town of Woden — Weston Creek and more than 40,000 live in Belconnen, the second New Town. The first residents have recently moved into the third New Town of Tuggeranong.

## CHAPTER 2

### The Existing Arrangements and Institutions of A.C.T. Government

#### Place of the A.C.T. within the Australian Federation

44. The Territory for the seat of Government occupies a special position in the Australian federal system. Section 125 of the Constitution provides for a seat of Government to be determined by the Parliament which shall be within Territory granted or acquired by the Commonwealth. Section 52(1) provides that Parliament shall, subject to the Constitution, have exclusive powers to make laws for the peace, order and good government of the Commonwealth with respect to the seat of Government.

45. The decision of the High Court of Australia in *Spratt v. Hermes*<sup>1</sup> held that the A.C.T. is governed under Section 122 of the Constitution as a Territory surrendered by the State of N.S.W. and accepted by the Australian Government. The Court ruled that authority under Section 122 is not in any way limited by the exclusive power conferred by Parliament in relation to the seat of Government by Section 52(1).

46. Section 122 provides:

*The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth . . . and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.*

47. It was observed in relation to Section 122 of the Constitution that the Commonwealth Parliament has full power to make such laws for the Government of the Territory as it thinks fit. In the case of a Commonwealth territory it has the same power as a colony of Australia had before Federation. The Commonwealth legislative power in respect of a territory today includes all the power of a State Parliament in respect of a State, but includes that power as if it were not limited by the co-existence of the Commonwealth with certain paramount powers.<sup>2</sup>

48. Spratt's case also affirmed that the seat of Government referred to in Section 52(1) is located within the A.C.T. but is not identical with its boundaries. It would still be open to the Commonwealth under Section 52 to declare a seat of Government within the A.C.T. But until it does so, it is the general power in relation to a territory, under Section 122, that authorises the Commonwealth to legislate for the A.C.T. However, the Constitution must be read as a whole so that Section 122 would be subject to other appropriate provisions like Section 116 which guarantees religious freedom and prohibits laws detracting from it.

49. In making laws specifically for the A.C.T. the Parliament either legislates directly or delegates its law-making power to an appropriate authority.

50. Most of the laws applying in the A.C.T. are statutory rules made pursuant to Section 12 of the *Seat of Government (Administration) Act 1910-1973* which authorises the Governor-General to make Ordinances having the force of law in the Territory. The Section requires Ordinances to be tabled in each House of the Parliament. Either House may disallow an Ordinance on notice given within fifteen sitting days after tabling. On disallowance, the Ordinance becomes void and of no effect. The

<sup>1</sup> *Spratt v. Hermes* (1965) 114 C.L.R. 226

<sup>2</sup> *Australian National Airways v. the Commonwealth* (1945) 71 C.L.R. 29 per Latham C.J. at page 62.



## Department of the Capital Territory

53. Apart from the N.C.D.C. the principal department concerned in the government of the A.C.T. is the Department of the Capital Territory. It was created in 1972 from the Department of the Interior which had previously been responsible for its functions. Its responsibilities are shown in detail on the chart at page 21. It will be seen that they are extensive. They include for instance, formulation of policy in relation to land and for the administration of the leasehold system, supervision of building and construction works other than government contract works and responsibility for industrial standards and safety. The Department operates as the municipal authority for Canberra through the City Manager's Office. It advises the Minister on determining the city budget and the appropriate level of the municipal rate. In these respects the Department interacts with the N.C.D.C. in the development and administration of the A.C.T.

### Responsibility for other functions of government

54. Until the reorganisation in 1972 which led to the establishment of the portfolio and the Department of the Capital Territory, the N.C.D.C. was accountable to the Minister for the Interior. Most aspects of the administration of the social and physical development of the A.C.T. therefore came under the political control of a single Minister. The N.C.D.C. is now responsible to the Minister for Urban and Regional Development.

55. As will be seen from the chart at page 21 responsibility for other aspects of the administration of community services in Canberra is allocated between different Ministers on a functional basis. It will be seen that there are in all some ten Ministers of the Australian Government responsible for aspects of the government of Canberra.

56. It is noteworthy that previously the Commissioner for the A.C.T. Police was responsible to the Minister for the Interior. The detachment of law enforcement from that portfolio and its consolidation with other law enforcement agencies under the Attorney-General was and still is the subject of criticism. Other important recent developments have been the creation of the Commonwealth Teaching Service and the establishment of an A.C.T. Interim Schools Authority. Until recently the N.S.W. Government provided teachers and educational services for the A.C.T. on an agency basis. Electricity is supplied by the A.C.T. Electricity Authority established by the *Australian Capital Territory Electricity Supply Act 1962-1973*. The Interim Committee for the Capital Territory Health Commission has been established to provide public health services (including hospitals).

### Financial administration

57. The cost of developing and governing Canberra is financed by annual budget appropriations from the national Consolidated Revenue Fund. Rates, taxes, service charges and lease sale revenues are paid into the Fund.

58. The fragmentation of services of government in Canberra between various Ministers and their departments has meant that financial information regarding the Territory has been dispersed between different departmental appropriations and has not, until recently, been brought together in a unified set of accounts. The Municipal and Territorial Accounts that have been prepared and published under the auspices of the Department of the Capital Territory attempt to rectify this deficiency.

## New developments in administrative management

59. There are a number of proposals currently under consideration to place the management of particular community services under the control of independent statutory authorities. Thus there would be an A.C.T. Schools Authority, a Capital Territory Health Commission and an A.C.T. Land and Housing Authority in addition to the N.C.D.C. and the various boards and trusts already established. Common features of these proposals are that the authority should be accountable to a Minister of the Australian Government and should be funded by appropriation of Parliament. Local participation in the management of these authorities is to be achieved by representation on their boards of elected members of the A.C.T. Legislative Assembly. These proposals envisage the continuance of a dominant policy formulation role for the Australian Government in matters specific to the A.C.T. It appears that the impetus towards the authority form of management stems from the desire to remove matters of local concern from the administration of national departments of State and to facilitate greater local community participation in the management of the function concerned.

### Jervis Bay

60. The Territory of Jervis Bay consists of twenty-two square miles of land area. The main features of the Territory are: the H.M.A.S. *Cresswell* naval establishment, which has about 600 people associated with it, many of whom live in N.S.W.; the Wreck Bay Aboriginal Settlement, which has a population varying from 150 to 250 people, an annexe of the Australian Botanic Gardens, and a small village. Two-thirds of the land area is reserved as a Nature Reserve and at least part of this may be preserved as an example of the N.S.W. South Coast Heathlands. A marine national park is under consideration. There were plans at one stage to construct a nuclear power station at Jervis Bay.

61. Jervis Bay is governed and administered as part of the A.C.T. pursuant to Section 4(2) of the *Jervis Bay Territory Acceptance Act 1915*.<sup>4</sup> The major administrative authority is the Department of the Capital Territory (though the naval establishment gives the Department of Defence a significant role). Residents of Jervis Bay voted in Advisory Council elections but were not given special representation on the Council.

<sup>4</sup> No. 19 of 1915.

## CHAPTER 3

### Self-government for the A.C.T. — The problems and the Committee's approach

62. It will be seen from the historical introduction that the movement for greater democratic representation by the residents of the A.C.T. is not a new phenomenon. The A.C.T. has experienced a diversity of forms of administration over the years and there has been much experimentation. But never has local democratic control been tried. It was necessary at the outset of this Inquiry to identify the problems of granting self-government to the A.C.T. community.

63. The Royal Institute of Planning and Administration in a study completed in 1957, stated:

*... it should be frankly recognised that the fundamental difficulty associated with the granting of increased self-government to the Territory is that of reconciling local independence and responsibility with the overwhelming financial responsibility of the Commonwealth for both the maintenance and the initial construction of a capital city worthy of the nation. This, of course, is the crux of the political problem.<sup>1</sup>*

64. The Minister for the Interior in 1967 tabled in Parliament an assessment of self-government for the A.C.T., which observed:

*Development of self-government for Canberra and the A.C.T. would be a relatively simple task if it were not for the fact that the sole reason for the establishment of both the City and the Territory is the belief that the Commonwealth should have a Seat of Government and a National Capital.<sup>2</sup>*

65. The pressure from within the A.C.T. for a greater share of government has not been constant. There have been times of great agitation whilst at other times there has been relatively little enthusiasm shown.

66. The Committee found in the course of this Inquiry that those who made submissions and gave evidence generally supported self-government. There were different opinions as to the degree of local control, the range of functions to be administered and the nature of institutions that should be established to represent the community. But only one witness submitted that the present system was preferable to forms of self-government under consideration.

#### Current attitudes of the A.C.T. community

67. However, there was evidence that could not be ignored that the prospect of self-government for the A.C.T. was not universally welcomed.

68. This is due in part to the fact that succeeding Australian Governments have provided an attractive physical and social environment in the course of the development of Canberra and that the affairs of the city are managed efficiently and with due regard to the interests of residents. Citizens of Canberra have become accustomed to departmental management. Although frustrations arise from time to time there is no ground-swell of discontent. There was also the concern expressed on numerous

<sup>1</sup> A.C.T. Regional Group, Royal Institute of Public Administration, *The Government of the Australian Capital Territory*, (Canberra, 1957), p. 21.

<sup>2</sup> Australia, Parliament, *Self-Government for the Australian Capital Territory — A Preliminary Assessment*, May 1967, Parl. Paper 49, 1967 (Canberra, 1967), p. 2.



Examples of public housing in the A.C.T. — low density and medium density.

occasions that self-government would cost more and might lead to a decline in existing standards.

69. It is apparent to the Committee that the A.C.T. cannot continue to be run on the basis of a deficit met by the Australian Government out of general revenues for which it is accountable to Australian taxpayers as a whole. It is argued later in the chapter on finance (chapter 6) that it is essential for accounts to be prepared that indicate clearly the degree to which Canberra is dependent on financial assistance from the Government. Future funding of the A.C.T. by Australian Governments can then be placed on a consistent basis. Steps have already been taken towards raising charges to levels prevailing elsewhere in Australia and these will probably continue whether self-government is introduced or not. Self-government may result in increased costs but if the A.C.T. is required to operate on a strict budgetary system there may be some economies.

70. A significant body of evidence supported the transfer of most State and municipal-type powers and functions to local control. The special position of Canberra as the national capital and seat of Government was recognised by these witnesses but it was argued that the national interest should not be exaggerated and could be contained. Some restricted it to the physical planning and development of Canberra while others sought to limit it geographically to *national capital areas* within the A.C.T. A line of argument pursued by Australian Government departments and instrumentalities supported the idea but insisted that their own departmental responsibilities should not be brought under territorial control. Some argued that the local community could be adequately represented by nominees from the Advisory Council or its successor, participating as members on the boards of special purpose statutory authorities.

71. As a general approach to the Inquiry the Committee accepts that residents of the A.C.T. should not have fewer rights and obligations in regard to the management of their own affairs than residents of other Australian communities. **The Committee recommends that self-government be granted to the A.C.T. community in as wide terms as is consistent with the national interest.**

#### **The national interest in the A.C.T.**

72. The story of the development of Canberra as the national capital has been outlined in Chapter 1. Canberra is an artificial creation, a city established for a specific purpose, to be the centre of the business of government and the administration of the Australian federation. The development of Canberra as the national capital has involved expenditure of considerable sums and resulted in an irreversible commitment to the concept of a planned national capital which is also an important example of city and regional planning. In considering the extent to which the local community should participate in the future government of the A.C.T., the predominant position of the Australian Government has to be recognised. Institutions of representative government established at Canberra must be complementary to the interests of the Australian Government.

73. However, the Committee is satisfied that this presents few problems for the creation of democratic institutions of government at Canberra. The Constitution ensures that the Australian Government must remain the paramount legislative authority in the A.C.T. The Parliament could not abrogate its powers in relation to a Territory under its control without an amendment to the Constitution. Under Section 122 it must always retain full legislative authority. Under the present law it would always

be possible for the Commonwealth to legislate directly for the Territory on any matter relating to the government of the A.C.T. Thus it will always be able to intervene directly in the affairs of the A.C.T. by virtue of this power. In addition the Committee proposes that the Parliament should also have power of disallowance of A.C.T. laws and that certain important functions should be excluded from territorial control.

74. In granting self-government it should be recognised that the Australian Government will only be delegating powers in respect of local matters and will retain full authority for those matters peculiar to the status of Canberra as the national capital.

#### **The national capital concept**

75. In Chapter 1 the Committee has noted the emergence of the idea that Canberra should be constructed as a worthy national capital with which were associated concepts such as the *Garden City* and the development of the leasehold system of land tenure.

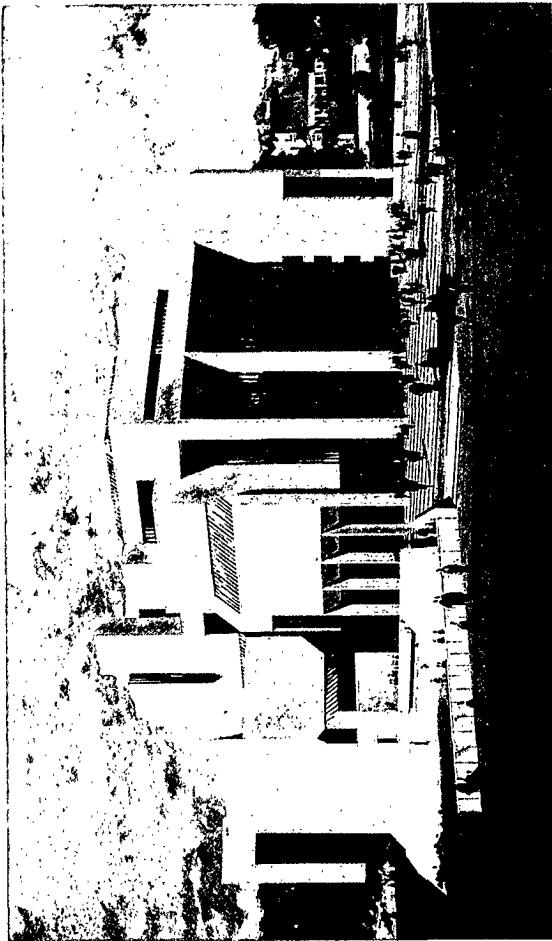
76. Some of these ideas had to be examined in the light of the prospect of self-government. The Committee considered whether Canberra's land revenues should be used to offset its development costs, as the founding fathers envisaged, or whether it would now be acceptable to the Australian community generally if these profits were within the disposal of the local community. Examined also was whether such profits should remain under national control but be earmarked for the future development of the A.C.T.

77. Another notion with which the national capital concept is identified is that Canberra should be a fine (if not splendid) city — a symbolic physical embodiment of the aspirations of the Australian people. It was this concept of Canberra that led to the international design competition of 1911 and, since 1958, to a massive injection of funds into Canberra's development. It was envisaged to be a city containing not only the institutions of government but also centres of culture.

78. The city is not yet complete and succeeding Parliaments will want to ensure that future development does not fall below the established standards, and that the city is maintained and operated efficiently as the seat of Government. It is stressed that the national interest in this respect extends beyond the Parliamentary Triangle and geographically identifiable national areas to include relatively minor aspects of city management like parks and gardens.

#### **The seat of Government**

79. The concept of the seat of Government is absolutely basic to this Inquiry. Canberra was created specifically to provide a location for national administration independent of any particular State. It is the only reason for the construction of the national capital and the development of the A.C.T. by the Australian Government. There can be no question of any form of sovereign government for the A.C.T. Statehood, for instance, would be a complete absurdity and would render futile the national commitment to Canberra over the sixty or so years of its development. The granting by N.S.W. of the area for the A.C.T. as provided for by the Constitution was certainly not undertaken with any view to creating a new State. Nor does the Committee accept that the seat of Government could be confined to an area within Canberra or the A.C.T. as some witnesses have proposed. It is not possible to see any



The proposed new High Court Building — an aspect of Canberra as the Seat of Government.

advantage for the Commonwealth in so confining its activities. Nor is it feasible given the basis upon which Canberra has been planned.

80. The concept of Canberra as planned involves the idea that government administration should not be over-centralised within the city. Consequently the premises occupied by the Government in Canberra are not confined to any particular area.

81. Major office developments are located or are to be located in all the New Towns of Canberra. This means that there will not be any part of Canberra in which the Australian Government does not have an immediate interest as far as the efficient operation of the Public Service and other governmental functions are concerned. Furthermore, it is not only these premises that are affected by planning decisions. It must be accepted that public servants will not necessarily reside in close proximity to their place of work. For example, a person who is promoted from a department located at Belconnen to one at Tuggeranong can hardly be expected to sell his house in Belconnen nor is this intended by the planning authority. Transport links and communications generally are therefore of prime importance to the Australian Government.

82. The Committee accepts that the Canberra community should have rights in the government of the A.C.T. but stresses that these rights are subject to special constraints.

#### Indirect interests of the Australian Government

83. The Department of the Capital Territory said in evidence:

*At the heart of the self-government question there is the argument about the need for the Australian Government to be able to experiment in its own Territory, free of the constraints which apply in any other Territory and in the States, to be able to implement social policies free of interference and to be free to experiment in functional arrangements which bring the greatest body of skill to bear on a particular problem. There are persuasive arguments for maintaining the present functional split with responsibilities running from the grass roots through to a highly purposive National organisation and on to the responsible Ministers.*

84. The Committee does not accept this view as it does not believe that it is part of either the national capital or seat of Government functions for the Australian Government to establish a model social administration at Canberra, which has been described as a *social laboratory*.

85. As long as the Australian Government remains responsible for all aspects of government within the Territory, it has a responsibility to the community and to its own image to provide services at a standard acceptable to that community and, as a minimum, in conformity with standards elsewhere in Australia. Nor should it be prevented from being a pace-setter and innovator whilst it retains direct responsibility. Such experiments would be of limited value, however, unless the level of expenditure involved were realistic in terms of the States' economies.

86. A role of this kind for the Australian Government in the context of self-government would also cause problems of accountability to the Australian community generally if services in the Territory are funded at a level which cannot be recouped from the A.C.T. community. Taxpayers elsewhere could argue that the expenditure of general revenue on one community is not justified where no overriding national justification for the expenditure can be established. On the other hand, if the A.C.T. community is required to meet the cost of exceptionally high standards in the Territory, it would be justified in complaining if the standard setting and spending authority is not accountable to it for these standards.



### The most appropriate form of self-government for the A.C.T.

87. Having accepted the need for self-government for the A.C.T. the Committee examined various proposals made for a form of self-government.

88. In evidence it was submitted that:

- Canberra's Government should be a *City-State* form of administration bringing together under one corporate body's control the various functions of government administered in Australia by both State and local governments. Precedents from overseas were cited for a broader concept of local government. The Committee examined carefully the structure of the government of the City of Brisbane and was fortunate enough to be advised by Mr J. C. Slaughter, C.M.G., a former Town Clerk and City Administrator of that city who submitted a detailed recommendation for a form of government for Canberra modelled on the experience of Brisbane.
- There should be established a form of regional administration involving two levels of government. Traditional Australian patterns of government would be followed but responsibility for functions would be at a level consistent with capacity to manage them. A regional government for the A.C.T. would manage those functions not suitable for the municipal level to undertake.
- The movement towards self-government should have a small beginning at a municipal level and develop towards more ambitious institutions as the need and capacity were established.
- A territorial legislature should be established which could both make laws and control the functions of government normally administered in Australia by both State and local governments.

89. The Committee was convinced that there has been too long a delay in delegating to the A.C.T. community responsibility for governing its own affairs. The Committee is therefore opposed to a movement towards self-government through the establishment in the A.C.T. of municipal government along traditional Australian lines.

90. Different types of legislature were proposed. These ranged from a parliamentary form to regional assemblies or councils with limited powers and with members serving on a part-time basis. The majority of witnesses favoured a parliamentary form.

91. **The Committee recommends as the most appropriate form of self-government for the A.C.T. a unicameral assembly to be called the A.C.T. Legislative Assembly which would operate on established parliamentary lines.** This form of government has a number of virtues including:

- It is a form of government, understood by Australians, with developed practices and procedures which could be readily introduced into the A.C.T.
- It is an appropriate institution on which to confer a delegated law-making authority.
- It is flexible in terms of size and could be adapted and enlarged to meet the needs of the community as population increased.
- It is an appropriate institution in terms of dignity and tradition to initiate, debate and make laws for the A.C.T.

### Gradual evolution to self-government

92. **The Committee recommends that the delegation of powers begin immediately but be completed in stages.** It is important that the Assembly obtain acceptance before the complete range of proposed powers is transferred to it.

93. The Committee was interested to note the following statement:

*Government is evolutionary in character and the most appropriate system for Canberra and the Australian Capital Territory will not be found at once, but will develop in accord with community needs, provided that a proper foundation, one allowing freedom for later development, is devised and applied at the outset.<sup>3</sup>*

This accurately reflects the Committee's views.

### The separateness of the Jervis Bay area

94. The terms of reference required the Committee to take account of the separateness of the Jervis Bay area.

95. The question of Jervis Bay presented peculiar problems for the inquiry in that it is remote from Canberra and has no apparent community of interest with the *largely compact urban community*. For convenience, the laws of the A.C.T. are applied to it. It would be hard to justify the creation and administration of a separate body of law for such a small community. **It is therefore recommended that Jervis Bay come under the authority of the A.C.T. Legislative Assembly.**

<sup>3</sup> Department of the Interior, *Self-Government for the Australian Capital Territory — A Preliminary Assessment*, May 1967, p. 17.

## CHAPTER 4

### The delegation of functions of government

96. The Committee has recommended that self-government be granted to the A.C.T. community in as wide terms as is consistent with the national interest.

97. Later in this chapter the Committee makes recommendations as to functions for which the Australian Government should remain directly responsible and examines the problems associated with the transfer of others. It is concluded that the majority of services of government in the A.C.T. should eventually be delegated for control by the Assembly.

#### Method of delegation

98. It is necessary, firstly, to appreciate how the transfer can be effected. There will need to be a transitional period as discussed earlier in para. 92 of Chapter 3. The Committee recommends that the establishment of a territorial Government be undertaken in two stages. During the preliminary stage, the Assembly should develop its practices and procedures and gradually assume responsibility for functions of government until it has control of those services which currently seem appropriate for territorial administration. The Australian Government should legislate to establish the Assembly in its final form and delegate to it a general power to make Ordinances for the A.C.T. upon the completion of this period of transition.

99. Having considered alternative methods that could be used to effect the transfer to self-government, the Committee recommends that the Parliament enact legislation in respect of functions for which it intends to retain direct responsibility. This would exclude the Assembly from legislating for those matters. Power to legislate in relation to the residue would then be delegated to the Assembly.

100. The proposed Australian Government legislation would establish the A.C.T. Legislative Assembly and confer on it in general terms, power to make Ordinances for the peace, order and good government of the A.C.T. It is considered that conferring power in general terms would give the Assembly the initiative in relation to most aspects of A.C.T. affairs and considerable freedom to initiate policy and legislation in line with new developments affecting the Territory not anticipated at the time of the original grant of self-government. If the powers to be exercised by the Assembly were enumerated and prescribed in legislation continual amendment would be required to add powers to that grant if a self-governing role for the Territory was to be maintained.

101. The Committee, therefore, recommends that the Parliament legislate to delegate powers to the Assembly in general terms as soon as practicable. But it realises that during the period of transition to self-government the Assembly will operate under delegation through the Minister for the Capital Territory and other responsible Ministers.

102. The Act conferring power on the Assembly would enable it to make statutory rules of general application in the A.C.T. and Jervis Bay. But the laws of the Assembly being Ordinances and Regulations made thereunder similar to the rules made at present by the Governor-General under the *Seal of Government (Administration) Act 1910-1973* should be subject to disallowance by Parliament as is the present practice.

But, the laws so made should not be subject to veto by the Executive Branch of the Government. Nor would Royal Assent be required. Once passed by the Assembly, legislation would be tabled in each House of Parliament and would take effect after fifteen sitting days unless disallowed by either House. To ensure that Parliament exercised its right of disallowance after due deliberation, the Committee recommends that a Joint Standing Committee of the Parliament should be appointed to which all Assembly legislation — the subject of notice of disallowance — should stand referred. The Committee would be required to examine and report to Parliament within the disallowance period on the implications of any such law. If the motion to disallow is withdrawn, the proceedings of the Committee will terminate.

103. It is emphasised again that the national capital has been developed as the seat of the Australian Government in accordance with constitutional requirements. Any system of self-government for the A.C.T. must recognise this constraint and any possibility that the proper functions of the seat of Government could be frustrated must be ruled out. But the procedure proposed above locates the power of veto over laws of the Assembly in Parliament rather than the Executive Branch of Government. It is important that the territorial Government should be as free as possible from Australian Government interference in the day-to-day management of its responsibilities. Parliament itself is seen as custodian of the national interest. The influence of the Government of the day on the laws of the A.C.T. should be exercised through its parliamentary majority if it is to be exercised at all.

104. The Committee therefore recommends that there should be no Australian Government Minister appointed specifically in relation to the Capital Territory. In particular there should be no Department of State established in relation to the Capital Territory. In the transition period the Assembly should advise Ministers on laws proposed to be enacted. Ministers should remain responsible through their departments for executive matters. At the same time the Assembly should be seeking further powers and should establish machinery to facilitate negotiation with the departments and instrumentalities of the Australian Government concerning the problems, mechanisms and timing of transfer.

### PARTICULAR FUNCTIONS AND THE TIMING OF TRANSFER

#### Land administration and urban and regional planning and development

105. The Committee heard evidence on inter-related functions involving the physical image of Canberra and its future planning and development.

106. As noted at paras 52 and 53 responsibility for these aspects of city management are currently shared between the N.C.D.C. and the Department of the Capital Territory.

107. Most witnesses submitted that the national interest in planning and development was such that responsibility for these functions should not be at a territorial level. But some submitted that aspects of land administration now under the Department of the Capital Territory could and should be transferred for territorial control. The A.C.T. Advisory Council proposed that:

*The administration, management and distribution of land in the A.C.T. be under the control of the*

Assembly with the exception of that land concerned with the National Capital and seat of government function of the A.C.T. which is controlled by the N.C.D.C.

The Council also proposed that the Assembly should have the use of any profits derived from lease sales.

108. The Secretary of the Department of Urban and Regional Development, Mr. R. B. Lansdown, expressed a different view:

*I would say that the strength of the N.C.D.C., or the strength of development in Canberra over the last fifteen or sixteen years, has been that alongside Interior we had two government organisations with the closest of relationships, where the plans that we prepared were expressed in leases and lease managements by the Department of the Interior. Even in those days . . . we recognised that this separation was in some respects — and I emphasise the 'some' — unfortunate. It meant that there were two separate institutions and two separate loyalties, there could be conflicts and there could be arguments. I am making the point that the management of land — land leasing and land revenues — is a critical part of the whole planning and development operation. If you put that into the Advisory Council — which is not just a separate institution from the N.C.D.C., the planning body, but also an elective or electorally responsible body — I think you would be creating a massive opportunity for differences, for arguments, for delay and for inefficient growth. I would say that if you do that, if you followed the Advisory Council's proposals, you would for all practical purposes be putting the planning function into that elective body . . .*

109. This view was supported by other witnesses professionally involved in urban management and development. Much of the evidence in fact deplored the fragmentation of the function under the present arrangement.

110. It was also noted that the Commission of Inquiry into Land Tenures in its first Report recommended integration of the land management and development functions to strengthen development control and commented specifically in relation to the N.C.D.C.:

*The N.C.D.C. already has the powers needed to implement the Commission's proposals for development control, except for a number of areas in which its powers and responsibilities need to be extended or confirmed:*

- (a) It should be responsible for all development and re-development, in the public sector as well as in the private sector.*
- (b) It should make more effective use of the abilities of the private sector.*
- (c) It should have its financial powers and responsibilities strengthened so that it is clearly responsible for the management as well as the development of estates under public ownership.*

111. The Committee has already indicated the importance it attaches to the continued controlled development of the A.C.T. and is firm in its recommendation that the land administration function should not pass to territorial control. All aspects of planning, development, construction and land administration should remain national responsibilities integrated and placed under the administration of a single authority.

112. The Committee recommends that Parliament legislate to establish a National Capital Development Corporation with the following functions:

- To undertake and carry out the continued development and construction of the city of Canberra as the national capital of Australia.
- To manage on behalf of the Australian Government all aspects of land

<sup>1</sup> *Commission of Inquiry into Land Tenures Report* (Chairman, The Hon. Justice Else-Mitchell), 1973, pp. 177-178.

policy, land administration, land co-ordination, lease sales and management, transport planning and co-ordination.

113. The Corporation would be responsible to a Minister of the Australian Government and be managed by a Board of five members. The Board would consist of three full-time paid Commissioners, one of whom would be the Chairman, and two members of the Assembly nominated by the Assembly as its representatives on the Board.

114. The Committee recommends also that the Assembly and the National Capital Development Corporation negotiate to determine specific instances in which the Corporation might ultimately delegate aspects of its functions to the Assembly or to representative community institutions recognised by the Assembly.

115. The future planning intentions and development proposals of the Corporation should be given wide publicity and be open to objection before their final acceptance and implementation. They could be submitted both to expert scrutiny and be open to public objection before a properly constituted Tribunal which could then report objections to the Assembly and the Parliament.

## Education

(a) Universities and institutions of higher learning

116. It has already been noted that it is an aspect of the concept of Canberra as the national capital that it should be the home of institutions of significance to all Australians. Pursuant to this concept the School of Advanced Studies at the A.N.U. was established in Canberra as a national institution. Other institutions of cultural and educational significance have also been located in Canberra with government encouragement and support. The School of General Studies which caters for undergraduates and the Canberra College of Advanced Education, in common with similar institutions elsewhere in Australia, now receive all their funds from the Australian Government. There is also a noticeable tendency for institutions of higher learning to take on a national significance and outlook.

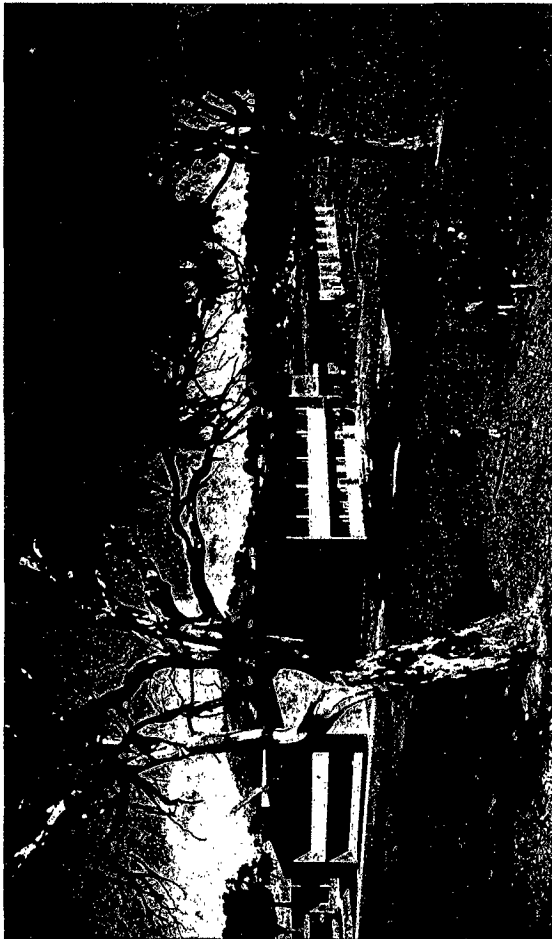
117. It is recommended that institutions of higher learning in the A.C.T. be national responsibilities and that policies in relation to tertiary education for the A.C.T. should continue to be a national responsibility.

(b) Non-tertiary education

118. The burden of evidence supported transfer of the proposed A.C.T. Schools Authority to territorial control. The Australian Government proposes that the Authority will be responsible for the functions listed at Appendix 4. Broadly, those favouring such a transfer saw the operation of the school system as an integral part of community activity. But, the Department of Education disagreed, both on the grounds of efficiency and of national interest.

119. Consistent with its basic approach the Committee rejected the departmental view and recommends that the A.C.T. Schools Authority should be administered by the A.C.T. Legislative Assembly.

120. Departmental representatives and other witnesses also failed to convince the Committee that the A.C.T. school system could not be operated equally efficiently with full responsibility vested in the A.C.T. Legislative Assembly. The Committee



The Waramanga Primary and Infants School — a typical Canberra school.

noted the following statement in the Report of the Assessment Panel commissioned by the Minister for Education on the proposal for an A.C.T. Schools Authority: *The Panel accepts the point of view that ultimately the control of [educational] structures within the Australian Capital Territory should vest with a Territorial legislature of one kind or another . . . The members of the Panel hope that the Act establishing an Educational Authority for the Australian Capital Territory will be drafted in such a way as to permit the ready transfer of control from the Minister for Education to a local legislature at an appropriate time in the future.*<sup>2</sup>

121. The Committee concludes that there is no apparent reason for the functions to be performed by the proposed Schools Authority not to be transferred eventually to territorial control, but is not persuaded that the present is an appropriate time for the transfer to take place. The Authority is now operating under interim arrangements and the establishment of the system is at an early and delicate stage. Transfer to local control should not occur until the administrative organisation has been settled and the system is operating smoothly.

122. The Committee recommends that negotiations for the transfer of responsibility for the proposed A.C.T. Schools Authority to territorial control commence as soon as it is clear that some stability has been attained in the administration of the Territory's school system.

123. As to the staffing of schools, the Committee considers it would be unwise for the A.C.T. to establish its own teaching service until the population has reached sufficient size to provide the career structure necessary to attract and retain teachers. The Committee was advised that transfer of responsibility for the Schools Authority would create no difficulties for the staffing role of the Commonwealth Teaching Service.

124. The Committee recommends therefore that the A.C.T. school system continue to be staffed by the Commonwealth Teaching Service until such time as the size of the system justifies establishment of a separate territorial service.

125. Aspects of non-tertiary education in the A.C.T. not within the scope of the proposed A.C.T. Schools Authority should also be transferred to the Assembly's control. Education institutions created for the nation should naturally remain under national control. The timing of transfer should be determined in the light of developments taking place at the moment after negotiation between the A.C.T. Legislative Assembly and the departments and authorities at present responsible for the administration of aspects of non-tertiary education in the A.C.T.

### Health

126. Evidence concerning the administration of health care facilities, particularly the proposed Capital Territory Health Commission,<sup>3</sup> was not by any means unanimous.

127. The Department of Health argued for national control of the Commission. It stressed in evidence that the relatively small population of the A.C.T. . . . cannot justify the breadth and depth of public health staffing and expertise necessary for efficient development of the very wide range of public health legislation and practices needed. It opposed the transfer of control because of the possibility of further fragmentation of the health function in

<sup>2</sup> Report of the Assessment Panel on the A.C.T. Education Authority, *A Design for the Governance and Organisation of Education in the Australian Capital Territory*, (Australian Government Publishing Service, Canberra, 1973), p. 7.

<sup>3</sup> Features of the proposed Health Commission are outlined at Appendix 5.

Australia by the introduction of yet another body with power to legislate on health. Its concern was primarily with the need for uniformity in the development of health legislation and administration in many fields and for co-operation on those matters of health for which an Australian Government Minister is responsible throughout Australia. The Committee accepts the validity and importance of these points and agrees that any arrangements made for the administration of health in the A.C.T. must conform with the national policy. The Committee, however, believes that this can be done quite easily without denying territorial control of community health. As noted at para 73 the Parliament would only delegate its power to the proposed Assembly. 128. The Department of Health referred to the regional role performed by the A.C.T. in health care. Some fifteen per cent of hospital beds in the A.C.T. are occupied by people resident in the region surrounding the A.C.T. The Committee believes this proportion is likely to increase. It would be wrong for the costs of providing services to the region to be borne by A.C.T. residents but this is not seen as an argument for national control as arrangements can surely be made for costs to be recovered from either the Australian Government or the Government of New South Wales.

129. The Committee recommends that responsibility for A.C.T. health services be transferred to territorial control as soon as it can be established that operations can be effectively administered by the Assembly and the Capital Territory Health Commission.

#### Construction and works

130. The Department of Housing and Construction at present plans, constructs, operates and maintains municipal-type and territorial facilities and services in the A.C.T. on behalf of Australian Government departments and authorities. Some fifty-five per cent of the N.C.D.C.'s works program is carried out or supervised by the Department which also constructs some government houses according to briefs prepared by the N.C.D.C.

131. Opposing the fragmentation of its technical capacity and of its involvement in the A.C.T., the Department stressed:

- The high level of expertise demanded in its field and the scarcity in Australia of people with such expertise.
- The limited size of the operations of a self-contained A.C.T. public works unit would result in recruitment difficulties in respect to expertise which could be attracted to employment.
- Experience here and overseas shows that small public works units are excessively costly.

Other evidence showed that even if the proposed Assembly were to meet its own public works needs, the Department would continue to provide services in the A.C.T. for the Australian Government. It was considered that it would be advantageous for the Assembly to have access to the Department's capacity and expertise.

132. The Committee recommends that the Department of Housing and Construction should continue to carry out State and municipal-type operations in the A.C.T. It should operate as an agent of the Assembly but there would need to be a formal agreement between the territorial and national administrations to determine the terms and conditions under which this agency arrangement could operate.

133. The Committee does not believe that the Territorial administration would necessarily use only the Department of Housing and Construction for its works program. As the N.C.D.C. and other statutory authorities have found, there may be occasions when it would be appropriate for public works to be carried out by other agents.

134. The Committee recommends that the A.C.T. administration be in charge of its own works program and have power to decide how to implement it, but that it should not establish a separate territorial public works organisation.

#### Welfare housing

135. In the A.C.T. the Australian Government provides welfare housing and hostel and housing accommodation for public servants and members of the Defence Force transferred to Canberra. Public housing is a responsibility of the Minister for Housing and Construction but is shared with the N.C.D.C. and the Department of the Capital Territory. The N.C.D.C. is responsible for planning and construction and employs the Department of Housing and Construction or private architect consultants to supervise construction. Administration and management is the responsibility of the Commissioner for Housing through the Housing Branch of the Department of the Capital Territory. Maintenance is undertaken by the Department of Housing and Construction for the Department of the Capital Territory.

136. Welfare housing has a significant effect on the community, therefore policy must accord with community needs. It is important that those deciding welfare housing policy be aware of and responsive to those needs. The Committee believes this more likely to occur if policy for the A.C.T. is determined by the Assembly than by the Parliament especially if, as this Report recommends, related welfare services are to be the responsibility of the Assembly. It is emphasised, however, that in the Committee's proposal the National Capital Development Corporation would have a supervising control over planning, development and construction and also land and lease management.

137. As indicated above, construction at present is carried out by private contractors supervised by the Department of Housing and Construction or private architects working from briefs prepared by the N.C.D.C. The Department of Housing and Construction supported this view and could not see why a similar arrangement should not operate with the administration under the Assembly responsible for preparing the briefs rather than the N.C.D.C.

138. The Committee recommends that responsibility for provision of welfare housing be transferred to the Assembly. It should implement its programs through the agency of the Department of Housing and Construction or private consultants and should not develop its own home building organisation. The program should be subject to the oversight and approval of the proposed National Capital Development Corporation.

139. It is recommended that the Australian Government retain responsibility for all other categories of housing supplied by it, such as housing for officers of the Public Service and members of the Defence Force transferred to Canberra.

#### Local government-type functions administered by the Department of the Capital Territory

140. The Department of the Capital Territory provides most of the services for the community normally rendered by local government. Evidence indicated that the ma-

jority of these services could be placed under the control of the Assembly at a comparatively early stage of the transition to self-government.

141. **The Committee recommends that the transition to self-government should begin by the gradual transfer of those functions of the Department of the Capital Territory listed at Appendix 6.** (Most of these functions are managed by the Department's City Manager's Office).

### **The Canberra Library Service**

142. The Canberra Library Service is part of the administrative structure of the National Library which is a statutory body under the control of the Special Minister of State. The Library's collections are quite separate from those of the National Library and are administered and serviced separately. The Committee was informed that this arrangement was instituted to facilitate the transfer of control of the Canberra Library Service to a self-governing body when established.

143. **The Committee recommends that the administration of the Canberra Library Service should become a territorial responsibility and be transferred at an early stage of the transition.**

### **The A.C.T. Police Force**

144. Evidence as to which level of government should be responsible for the A.C.T. Police Force was divided. The Committee was informed that in the United Kingdom, Canada and to a lesser extent the United States of America, there are moves towards amalgamation of local police forces into larger units. However, the Committee was reminded that the A.C.T. Police Force has operated as an effective law enforcement unit for many years and was until recently under the direction of the Minister for the Interior. There appears to be no compelling reason why the A.C.T. Police Force should not be re-integrated into the A.C.T. administrative structure and placed under the control of the Assembly. It is logical and appropriate that if the Assembly is to have the power to make laws for the peace, order and good government of the Territory, it should also have under its control those who are employed to enforce those laws.

145. **Accordingly, the Committee recommends that at an early stage responsibility for the A.C.T. Police Force be transferred to control by the Assembly.**

### **Functions of the Attorney-General's Department**

146. **The Committee recommends that the following State-type functions now performed by the Department of the Attorney-General should become territorial responsibilities:**

- Registration of births, deaths and marriages.
- A.C.T. Legal Aid Committee.
- A.C.T. Law Reform Commission.
- Office of Curator of Estates of Deceased Persons.
- State-type functions performed by the A.C.T. Office of the Deputy Crown Solicitor.

147. **The Committee recommends that Ordinances administered by the**

**Department of the Attorney-General listed in Part I of the second schedule of the *Seat of Government (Administration) Ordinance 1930-1972* should be transferred for administration by the Assembly as soon as practicable.** The Committee realises in making this recommendation that some aspects of general law administration might be thought appropriate for national administration or, given the special circumstances of the A.C.T., should be controlled by the Australian Government. However, it considers that a clear national interest would need to be established if the initiative in general law-making were to be withdrawn from the A.C.T. Legislative Assembly. In this connection the proposal to amend the criminal law is particularly relevant. This Report proposes that legislation of the Assembly be subject to disallowance by Parliament and possible review by a parliamentary committee. Therefore if the Australian Government wished to remove a particular matter from territorial control it would need to show that these safeguards were inadequate to protect the national interest in that instance.

### **The Judiciary**

148. In evidence the Department of the Attorney-General stated that the Government proposed to legislate on the matter of courts of Petty Session so that they would be governed by Act of Parliament rather than A.C.T. Ordinance as at present. The Department informed the Committee that the Government would repeal the *A.C.T. Supreme Court Act 1933-1973* and provide for that jurisdiction in one of the divisions of the proposed Superior Court of Australia if that legislation were enacted.

149. The Department of the Attorney-General also informed the Committee that the proposal to establish a Court of Petty Sessions would mean the appointment of magistrates by the Australian Government on the advice of Federal Executive Council. This would mean that courts and the appointment of Justices to them will be subject for Acts of the Parliament.

## CHAPTER 5

### The A.C.T. Legislative Assembly

150. In making the recommendation that the A.C.T. Legislative Assembly (hereafter referred to as the Assembly) operate as a Parliament the Committee wishes it to be understood that this relates to its method of functioning rather than its status within the Australian federation. The ultimate source of authority in the A.C.T. must remain the Australian Parliament and the Assembly will exercise a delegated power subject at all times to the supremacy of Parliament. Under the Constitution State Parliaments are sovereign within their own spheres. The Assembly will remain in all matters subordinate to the Australian Parliament.

151. Ordinances of the Assembly will not, therefore, require the assent of the Governor-General to become law once Parliament has delegated the power to make laws. Their enactment by the Assembly will be sufficient to give them the force of law in the A.C.T. and Jervis Bay unless disallowed by Parliament as outlined earlier in para. 102 of Chapter 4.

152. Within the Territory the Assembly would, however, function as a Parliament and be accountable to the people of the A.C.T. for the discharge of functions delegated to its administration in all respects as State Parliaments are accountable to the electors of the States. **There will need to be some delegation of executive power by the Governor-General to a person of appropriate status, such as a Justice of the A.C.T. Supreme Court, who could exercise the formal powers of summoning the Assembly, dissolving it for elections, calling on a person within the Assembly to form a government and presiding at Assembly openings. The Committee recommends that the Australian Government legislate to nominate the office-holder who would perform these functions.**

153. In the following section, the Committee indicates the way it foresees the government of the Territory under the Assembly.

#### Membership

154. Having considered various proposals for an Assembly of from fifteen to thirty-three members, **the Committee recommends that the Assembly consist initially of nineteen full-time members.** In some proposals it was submitted that the Assembly should consist of part-time members. It is not considered appropriate for an institution which will exercise a wide range of responsibilities to operate with members serving on a part-time basis. When the Assembly has had a wide range of functions and responsibilities transferred to it, it is considered that its members will be fully occupied on parliamentary duties.

155. The Committee refrains from making recommendations on levels of remuneration and other emoluments and entitlements of members. **It recommends that initially this matter should be referred to an independent Tribunal for examination and report and that the Assembly should then determine these matters in the context of similar salaries and allowances in Australia.**

## **Elections for the A.C.T. Legislative Assembly**

156. After consideration of all the evidence available to it on this subject the **Committee recommends the division of the A.C.T. into two electorates based on the divisions currently used in House of Representatives elections.** (This system was used in the recent Legislative Assembly election.) There are administrative advantages for the Electoral Office such as common electoral rolls and less frequent changes of boundaries than if a system based on an electorate for each elected member was initiated. There are also some apparent advantages for the public in having a clear line of approach through, say, the Assembly members for Fraser to the federal member for Fraser.

157. There is a reasonable uniformity of both physical and social development throughout the urbanised portion of the A.C.T. which means that there would not likely be problems of areas requiring special representation. The proportional system therefore has certain attractions. It also significantly lessens the redistribution problems of other systems. It does not, as some suggest, necessarily fail to achieve representation of localities within the electorate and electors should be able to identify a member of the Assembly who resides in, or in the vicinity of, his own locality.

158. **The electorate with the larger number of enrolments at the closing of the rolls before an election would return ten members and the other, nine.** Further electorates could be created after the first Assembly election as more seats for the House of Representatives were allocated to the A.C.T. **Elections should be based on a similar system of preferential voting as operates in federal elections but with optional preferential voting. Vacancies should be filled by the recount of votes system operating for the Tasmanian House of Assembly.** (See Appendix 7.)

159. The Assembly will need to give early consideration to ensure the means by which the views of the Jervis Bay and rural communities are to be ascertained. The establishment of a community council at Jervis Bay to communicate with the Assembly could be advantageous.

## **An Executive system in the A.C.T.**

160. **Legislation for the A.C.T. on all matters not reserved for national control should emanate from within the Assembly and not from some body external to it. The Australian Government for instance should not have the power to introduce legislation directly into the Assembly.** This raises the question of how the executive function of government in relation to territorial powers should be exercised. This in turn raises questions of procedures within the Assembly, executive accountability for the functions of government for which the Assembly is responsible, and arrangements for the discharge of formal responsibilities in relation to the government of the Territory.

161. **The Committee recommends that the Assembly develop its own executive system and its own standing orders and rules of procedure.**

162. Two main alternative executive systems appear to be open to the Assembly. There could be either a small Cabinet of about five members accountable to the Assembly who could either come from a majority coalition or governing party within the Assembly or be elected on non-party lines, depending on the nature of the Assembly. Alternatively the Assembly could operate on a committee system. This might

involve a series of committees related to the Assembly's responsibilities, with the Committee Chairmen forming a small Cabinet or business committee. The Chief Executive would be a member of the Assembly accountable to it generally for the Government of the Territory. He could be called the Chief Minister (to distinguish him from the Premiers of the sovereign States). He would be distinct from the presiding officer who would be elected by the Assembly and perform the function of Speaker as generally understood in parliamentary government.

## **Supporting administration for the Assembly**

163. It is necessary to devise a basis for providing the Assembly with administrative support which recognises the following constraints:

- Government of the A.C.T. at the administrative level must be integrated as far as possible. It would be undesirable to have a number of separate authorities each accountable to the Assembly but responsible for its own recruiting and staffing policy, competing between themselves and the Australian Public Service for staff and other resources.
- To ensure continuity in the provision of government services in the A.C.T., officers of the Australian Public Service employed in relation to these matters, must be encouraged to remain at their posts under self-government.
- In order to retain staff in the administration of the A.C.T. under self-government there must be a complete assurance that there will be no loss of existing entitlements, a guarantee of at least equivalent conditions of employment and the right to return to employment in the Australian Public Service on equal terms with other officers of the Service.
- The administration serving the Assembly must be responsive and accountable to it alone. Administrative arrangements made must exclude the possibility of divided loyalty.

## **The Need for an integrated administrative process**

164. The Committee agrees with the Public Service Board and other witnesses who commented on the fragmentation occurring in the administrative arrangements for the A.C.T. Currently there are some twenty-five statutory boards and commissions including public business undertakings and other managerial authorities, professional and vocational registration boards and regulatory, investigatory and promotional agencies, and proposals to place Health and Education under similar forms of administration.

165. It is essential that all aspects of government for which the Assembly is responsible should be co-ordinated under the Assembly. There should be a territorial budget and the Assembly should determine the proportion of available finance to be allocated for particular services and public works. Where the Committee has indicated that an Authority should be answerable to the Assembly, then it follows not only that the Assembly should direct the policy to be adopted by that body, but should be its sole source of finance. Independent authorities answerable to Ministers of the Australian Government, dependent for finance on appropriation of Parliament, could not be regarded as accountable to the A.C.T. community.



166. The question then remains whether the Australian Government should proceed to create authorities on this pattern if it accepts the Committee's recommendation that the function should be a territorial responsibility. Evidence indicates that this form of public management is not as susceptible to central control as an ordinary departmental form of management. The evidence indicated that if these bodies are to be given full control over their recruitment and personnel policy there will be competition within the local sector itself and with the Australian Government for scarce resources.

#### **Preservation of rights of transferring staff**

167. Evidence presented to the Inquiry revealed an anxiety among officers of the Australian Public Service that self-government could mean loss of career opportunities if it meant that the employer would be a territorial Government rather than the Australian Government.

168. The Administrative and Clerical Officers' Association, the largest Public Service industrial organisation with 11,000 members in the A.C.T., submitted:

*The careers of some Association members who currently work as public servants engaged in A.C.T. affairs will be directly affected if a form of self-government is introduced in the A.C.T. In such an event, it is inevitable that an elected Assembly with administrative powers will seek to control the administration serving the Assembly. The Association would view any attempt to remove members currently employed as Commonwealth Public Servants, to a local service with the gravest concern.*

*Our policy . . . is that the Council of Commonwealth Public Service Organisations should ensure that members of all organisations affiliated to it should have their rights protected in the event of the establishment of commissions with State-like functions in either the A.C.T. or Northern Territory. The Association went on to say that unless this condition was met it would oppose self-government for the A.C.T.*

169. The Australian Public Service Board recommended that employment for the A.C.T. administration be under the Public Service Act. In other words servants of the Territory's administration should be members of the Australian Public Service. Although such a recommendation has some attractive features, it would mean that the administrative service of the Assembly would be recruited and employed by an outside Public Service Board which would not be accountable to the Assembly. It will be desirable to encourage mobility between the Australian Public Service and any territorial administration, but the Assembly, as a Parliament, should be in control of its own recruiting and staffing policy.

170. It is recommended that an Authority be created and called the Australian Capital Territory Administrative Service (A.C.T.A.S.). This Authority would provide a pool of employment for the Assembly and persons employed by Departments and Authorities accountable to the Assembly would be members of it. The A.C.T.A.S. would be created by an Ordinance made under the Seat of Government (Administration) Act. The Ordinance would automatically become a law of the Assembly when it is granted legislative powers (see paras. 99-100). The Ordinance should also provide that the A.C.T.A.S. be headed by a Commissioner appointed by the Assembly.

171. Employees of the A.C.T.A.S. should have pay and conditions of service determined by the Public Service Arbitrator but should be recruited by the Commissioner of the A.C.T.A.S.

172. The employment rights of officers and employees transferring from the Australian Public Service to the A.C.T.A.S. should be preserved by appropriate legislative amendments. Further, such officers should retain their right to apply for transfer or promotion to vacant positions in the Australian Public Service, including those positions normally open only to officers or employees of that Service. Those recruited to the A.C.T.A.S. other than from the Australian Public Service would not necessarily be granted such a right. In other words there should be full portability between the two services.

173. The Assembly would continue to have access to the Australian Public Service for some administrative services. It would not for instance seem appropriate for the A.C.T.A.S. to duplicate services readily available in the A.C.T. through Australian Government departments. In technical matters some arrangement should be possible between the Australian and A.C.T. Governments.

## CHAPTER 6

### Finance

174. In the preceding sections of this Report the Committee has recommended a structure for self-government and indicated when the functions of government should be transferred. The Assembly will be responsible for decisions in those areas placed under its administration. In evidence, the Treasury stated:

*We believe, however, that the central point, from a financial point of view, is this: to the extent that citizens of the Territory determine the amount of government expenditure in the Territory, either in respect of a particular function or over a range of functions, then it is crucial that there be procedures which ensure that there is a direct relationship between the amounts of such expenditure and the total level of taxes and charges levied in the Territory.*

The Committee agrees with this statement. It recommends that there be a territorial budget and the Assembly should determine the proportion of available finance to be allocated for particular services and public works.

175. Services of government provided by State and local government throughout Australia are substantially financed through revenues collected by the Australian Government and returned to the States. It is envisaged that once financial responsibility has been attained the A.C.T. will be entitled to receive financial assistance from the Australian Government. However, it will be necessary for the financial affairs of the A.C.T. to be presented in a form capable of objective analysis. It will be necessary for a set of public accounts to be constructed accurately reflecting the financial position in the A.C.T.

#### Existing Financial Information

176. In the past, analysis of financial matters in the A.C.T. has been hampered by the absence of a composite set of accounts. Government services for the A.C.T. have been provided by a number of Australian Government departments. Each department has accounted for its revenue and expenditure for the A.C.T. in the context of overall departmental responsibility. The information concerning finance in the A.C.T. has, therefore, been dispersed among a number of sources.

177. Since 1970 the Department of the Capital Territory (formerly the Department of the Interior) has published municipal accounts for Canberra. These consist of the Canberra Municipal Services Account, the Sewerage Account and the Water Supply Account. Since 1972 it has also published a Tentative Territorial Account providing information on State-type services of government.

#### Notional character of these Accounts

178. Although capital works in the A.C.T. have been financed by parliamentary appropriation by the department or authority incurring the expenditure, in the published accounts it is assumed that these works have been financed by loan funds the principal and interest of which is being repaid. Notional entries are included in the accounts describing hypothetical transactions indicating that certain sums have been borrowed and have been in some cases partly repaid, and that repayment of principal and interest is being made annually out of revenues. The accounts are not therefore

operational in the sense that they reflect the organisation of government in the A.C.T. or are necessarily even descriptive of actual financial transactions.

179. The Municipal Accounts are, however, referred to by the Minister for the Capital Territory when striking a municipal rate for the A.C.T. Although other factors such as the level of rates in other capital cities is also regarded.

#### Notional financial assistance and grants

180. An entry representing a notional payment of Australian Government financial assistance to the A.C.T. is included in the Territorial Account. Capital costs have been discounted by notional Australian Government capital grants. In evidence the Department of the Interior said:

*The decision as to what level of grant should be applied was complicated by the widely differing circumstances which in practice have determined the level of actual grants made to the various States over the years. The Department has applied grants equivalent to the per capita average of grants made in the six States during the relevant years. (The same basis was used for including notional revenue grants.) The Department acknowledges that average grants may not be considered appropriate but suggests that they provide a useful starting point for informed discussion.*

#### Land revenues

181. As well as compiling the A.C.T. Territorial Account the Department has proposed two alternative formats for the account. Each of the proposed alternatives involves a form of Canberra Land Sub-division Account showing the financial results of the Australian Government's activities in servicing and sub-dividing land in Canberra for sale as leasehold sites.

182. In the first alternative a land sub-division profit is calculated by subtracting the debt service charges (calculated on three-quarters of the actual outlays on land sub-division works since 1910) from the estimated land revenue surplus. This approach leads to a land profit being added to the revenue side of the Territorial Account.

183. In the second alternative the estimated debt service charge is assumed to have been written off, so that the estimated land revenue surplus is treated as the net profit on land development and is added to the revenue side of the Territorial Account.

#### Allocation of costs to accounts

184. Services provided within the city by the Australian Government have been debited to various accounts by dividing the city for this purpose geographically into national, territorial and municipal areas. The cost of providing services within areas is debited to an appropriate account. Expenditure in national areas is not debited against the community but there are cases where certain costs particularly in relation to some roads are apportioned between national and local accounts.

185. The Department of the Capital Territory issues a map which in different colours indicates the areas that are national, municipal or territorial.

186. The Municipal Accounts generally reflect the traditional practices followed by local government authorities in Australia, being based on the concept that municipal facilities and services, including water supply and sewerage facilities, should be paid for mainly by property holders through rates and service charges. Functions are accordingly grouped for the purposes of the accounts on this basis.

187. The Territorial Account shows the costs and revenues of State government-type facilities and services provided in those areas of Canberra and the Territory designated as territorial on the map referred to earlier.

188. A number of State government-type activities such as public housing, electricity supply and forestry are not included in the account, being regarded as financially self-supporting activities.

#### Deficits disclosed by the Accounts

189. In both accounts, the annual deficit is not carried forward to the next year but deemed to have been met by the Australian Government.

#### Criticisms of these Accounts

190. Witnesses were reluctant to accept the accuracy of the deficits disclosed by the Municipal and Territorial Accounts. A number of suggestions were made.

#### Level of notional financial assistance and grants

191. It was submitted that higher levels of grants should be included to account for special disabilities suffered by the A.C.T. in that:

- The Territory's inland location increased the cost of sewerage treatment.
- The decision that Canberra be a *Garden City* increased the necessity for, and hence the cost of, providing water storage and the associated headworks.
- The Australian Government as the biggest employer and biggest land owner in the A.C.T. was exempt from rates and does not pay taxes like pay-roll tax.
- National capital requirements increased the cost of city maintenance and the cost of maintenance of parks and gardens, street lighting and roads.
- Insufficient account was taken of the burden on the ratepayer of supporting capital facilities designed to accommodate a much larger population.

192. However, it was submitted by others that residents of the A.C.T. obtained advantages from Australian Government expenditure in the A.C.T. on the national capital.

#### Items that should not be included in the Accounts

193. The N.C.D.C. submitted in the context of its proposal for a Comprehensive Land Development Account that historical debts incurred up to 1970 should be written off. Costs of sewerage and water storage headworks should be a charge against the proposed Comprehensive Land Development Account financed from revenues derived from land sales. A number of other witnesses submitted that past development costs be written off because they were incurred at times of slow growth and could not now be equitably recovered.

194. It was submitted by a number of witnesses that the Municipal and Territorial Accounts were not adequate for the purposes of the Inquiry, fundamental issue was taken with the assumptions underlying their construction. Alternative approaches were recommended.

195. Until decisions are made as to an appropriate method of accounting there can be no agreement about the level of deficits disclosed by any particular set of accounts. In the case of the A.C.T., there are a number of matters that must be resolved before acceptable accounts can be constructed.

#### Matters to be Resolved

##### Level of Australian Government financial assistance

196. In evidence the Treasury said:

*The most important point which we wish to make about the accounts is that they incorporate assumptions about the appropriate amounts of Commonwealth general revenue and capital grants which are entirely arbitrary. In both cases, the Department [sic.] has assumed grants equivalent to the per capita average of grants made to the six States. The Department has acknowledged that these averages may not be considered appropriate but has gone on to suggest that they provide a useful starting point for informed discussion.*

*The factors which would have to be taken into account in determining the appropriate amounts of Commonwealth assistance are varied and complex and any attempt to determine these amounts would be difficult and time consuming. However, even if such an exercise were carried out, its conclusions could not be expected to be precise or definitive.*

*We have not attempted such an exercise, but wish to emphasise that the assumptions made by the Department could prove incorrect, even as to order of magnitude. Beyond saying that, we would not care to predict the results of a detailed examination of the matter.*

197. The extent to which a self-governing A.C.T. would be eligible to receive financial assistance from the Australian Government is a crucial question to determine before the Assembly can begin to function as an independent and financially responsible legislative body.

198. Witnesses submitted that a self-governing A.C.T. might be eligible to receive:

- *Special National Capital-type Grants*, to subsidise the A.C.T. community to enable it to maintain standards befitting a national capital and which it would not be equitable for that community to bear. The level of these would of course depend on the functions controlled and financed at the territorial level and the extent to which the Government was directly financing community facilities in the A.C.T. as part of its expenditure on the national capital.
- *Financial Assistance Grants*, similar to those now paid by the Australian Government to the States and which represent the States' share of the national revenues. Grants are made to the States according to formulas arrived at after negotiation between the Australian and State Governments. This has been the case since World War II when the States agreed to forego the power to collect income tax and the Federal Government became (and is still) the tax gathering agent for the States. Under the system of uniform taxation the bulk of State finances are now derived from this source.

- **Special Disability Grants.** A number of witnesses stated that the A.C.T. should be entitled to apply to the Grants Commission for special disability grants on a similar basis to applications made by some States. These were described for the Committee by the Treasury:

*The special grants are paid by the Commonwealth to financially weaker States on the recommendations of the Commonwealth Grants Commission to compensate them for such factors as lower capacity to raise revenue and higher costs than in the financially stronger States. When special grants were first paid they were the only regular form of general revenue assistance paid to the financially weaker States for this purpose. The main way in which special compensatory assistance is now provided is through the financial assistance grants; the four less populous States get larger financial assistance grants per capita than New South Wales and Victoria. The financial assistance grants are the main general revenue grants to the States and the special grants may, therefore, be regarded as supplementing the financial assistance grants, but as having the special characteristic of being independently and expertly assessed by the Grants Commission.*

- 199. For the A.C.T. to qualify for special disability grants it would be necessary:
  - For the *Grants Commission Act 1973*<sup>1</sup> to be amended to enable the Grants Commission to determine a grant for a Territory as well as a State.
  - For the A.C.T. to establish that it had disabilities which the Grants Commission could accept as justifying compensation. For many years the Commission has based its recommendations on what it refers to as *the principle of financial need* which it expressed in 1936 as follows:

*Special grants are justified when a State through financial stress from any cause is unable efficiently to discharge its functions as a member of the federation and should be determined by the amount of help found necessary to make it possible for that State by reasonable effort to function at a standard not appreciably below that of other States.<sup>2</sup>*

- 200. In determining the level of special grants the Grants Commission nominates standard States for the purpose and compares their average budgetary experience with that of the applicant.

201. Once self-government is established the A.C.T. might also qualify for various forms of capital grant of a non-recurrent nature and also for specific purpose grants.

202. There are recent developments in Commonwealth-State financial relations which could be significant in the long term for A.C.T. finances. The *Grants Commission Act 1973* extended the scope of the Grants Commission by providing that it also determine grants for local government bodies, *these grants to be given to bodies in order to enable them to function by reasonable effort, at standards not appreciably below the standards of other local governing-bodies.* The Commission recommended grants to be paid in the 1974-75 financial year and published a report indicating the principles it has followed in determining these grants. But it indicated that it had yet to finalise these principles.<sup>3</sup>

203. The Committee recommends that the Grants Commission should examine how a self-governing A.C.T. could be integrated into the existing system of Federal-State financial arrangements so that it could qualify for financial assistance on an equivalent basis to the States. The Commission should recommend initial grants and determine whether grants should be

<sup>1</sup> No. 54 of 1973.

<sup>2</sup> Australia Parliament, *Third Report of the Commonwealth Grants Commission*, Parl. Paper 148, 1934-37 (Canberra, 1936), p. 75.

<sup>3</sup> Grants Commission, *First Report 1971 on Financial Assistance for Local Government*, (A.G.P.S., Canberra, 1974).

made for expenditure disabilities incurred by a self-governing A.C.T. arising solely out of seat of Government and national capital considerations.

## Revenues from Land

204. The Australian Government is the principal developer, vendor and user of land in the A.C.T. In the past substantial profits have been made from the sale of leases for residential, commercial and industrial purposes. The actual level of these has tended to fluctuate at different times due to economic circumstances and the prevailing pricing and allocation policy of the Government. This profit is not included as revenue in the *notional* accounts, although the Department of the Capital Territory issues an alternative account as discussed in paras 181-182.

205. There was no agreement as to the treatment of land revenues. At one extreme it is submitted that the Australian Government holds the land in the A.C.T. in trust for the Australian people and that any revenues should be credited to Consolidated Revenue (this is what actually happens) and defrayed against the cost incurred by developing the national capital. On the other hand, it was submitted by others that as the sale of Crown land elsewhere is treated as a State matter these profits could accrue to the credit of a self-governing A.C.T.

206. The Committee has already stated in para. 112 that it is firm in its recommendation that the land administration function should not pass to Territorial control and that all aspects of the planning and development, construction and land administration should remain national responsibilities integrated and placed under the administration of a single authority. It is also necessary to consider submissions as to how to account for profits arising from lease sales.

## Comprehensive Land Development Account

207. The N.C.D.C. in its submission stressed that the Australian Government should operate a Comprehensive Land Development Account to relate land development to the revenues derived from land. It submitted that all aspects of land administration should be integrated and managed by a Development Corporation. The Committee accepted this argument (see para. 112) but has yet to consider the full implications of the proposed land development account.

## Simple Land Development Account contrasted

208. In considering the N.C.D.C.'s proposal it is necessary to distinguish the Comprehensive Land Development Account from the more simple Land Development Account currently operated on a "notional" basis by the Department of the Capital Territory. That account is similar to that which a private developer would keep — a sub-division land development and management account which includes all revenues from the disposal of commercial, industrial and residential leases and all expenditure incurred in the simple sub-division of land. But it only accounts for land leased to the private sector and not for land used for government administration and similar public uses. It links in with the "notional" accounts already developed by the Department.

209. The Comprehensive Land Development Account would include assessed revenues from public land use and would bring together all land development costs and



Land Development — preparation of serviced blocks for Canberra's new town of Tuggeranong.

revenues including those of designing and constructing major roads, water and sewerage headworks. It also includes the costs of re-development, lease administration and provide for a reasonable return to the Australian Government on its investment in raw land. In addition a reasonable rate of interest on costs of land acquisition, development and management is included. An essential feature of the proposal is what the N.C.D.C. calls its positive pricing policy. All costs of the system would be recovered through a reserve price for land (rather than simple sub-divisional costs). The value of land used by the Australian Government in the A.C.T. would also be credited to the Land Development Account.

210. Land development accounting practice was developed and employed by the New Town development corporations in the United Kingdom. It is a new concept in Australia and studies are in progress to test its suitability for the proposed Australian New Town developments. This is one of the matters referred to the Commission of Inquiry into Land Tenures and on which that Commission is expected to report in the near future.

211. In support of the case for a Comprehensive Land Development Account it was submitted by the N.C.D.C that this would:

- Facilitate forward planning and business-like operations by providing an indication of future expenditure (unlike the present dependence on annually determined appropriations from the Consolidated Revenue Fund).
- Relate income and expenditure to the specific function of land development, thus allowing proper assessment of performance by the administering authority.
- Allow accurate comparisons with other development projects in the New Towns and, where possible, older cities.
- Facilitate judgments on who bears specific land development costs or receives certain revenues.

It was submitted that the approach adopted in the proposal of recovering costs of major works through land sales and an appropriate charge was one that could be adopted profitably in other New Town developments and possibly within existing urban centres.

212. Introduction of a system of Comprehensive Land Development Accounting was complicated by the decision of the Government in 1970 to forgo collection of land rent. In the view of N.C.D.C. that decision has meant that development costs incurred previous to that decision can not now be equitably recovered. If it is desired that the land development account break even in the long run, development costs not recovered before the decision was taken should be written off. Despite the abolition of land rent, however, the N.C.D.C. maintain that the account could still be operated effectively through a positive pricing policy for land and the levy of an annual charge on land users. A positive pricing policy means that the development costs of land would be recovered through a lump sum from the lessee as a premium to obtain a lease. Other costs such as administration and redevelopment not recoverable through the reserve price could be recouped through an annual charge.

213. The Treasury pointed out a serious objection to the proposal. The purchaser would have to borrow at high interest to obtain the lump sum for the reserve price thus shifting the burden of financing headworks covered by the reserve price from a public authority with access to public loan funds to private individuals who could not borrow so cheaply.

214. The need to levy additional charges could create problems where the collecting authority is not accountable electorally to the community that is taxed as would be the case if the Australian Government levied an annual charge. For instance, the

effect of such a charge on the capacity of the Assembly to levy rates and taxes would need to be considered. However, citizens could expect to obtain benefits from the implementation of the Land Development Account by the removal of certain burdens from the municipal rates and this might counteract the effect of the annual charge.

215. The Committee considers that the Comprehensive Land Development Account proposal merits consideration. It notes however, that the Commission on Land Tenures is examining aspects of the concept in the context of its inquiry and recommends that a final decision should await the results of that inquiry's examination of the matter.

### Standards of Development

216. The Treasury submitted that the Notional Accounts did not provide an adequate basis to determine the question originally put to the Committee. Pending a thorough analysis of the financial information and the construction of a new set of accounts the question of the proportion of costs that the local community should meet should be dealt with on an interim basis. The most equitable basis in Treasury's submission was to place residents of the A.C.T. in an equivalent position to residents of the States as far as taxes and charges were concerned. For the purposes of its submission it was assumed that standards of development and of facilities and services provided by government in the A.C.T. were at least as high as those provided by governments elsewhere in Australia. The Treasury proposed that taxes and charges levied in the A.C.T. should be set on a level comparable to the average charges met by the residents of the States.

217. However it went further and proposed that once this threshold had been established a vigorous examination of standards of services should be undertaken comparing standards in the A.C.T. with those enjoyed elsewhere. Taxes and charges in the A.C.T. should then be adjusted to take account of higher or lower standards.

218. The Committee does not attach the same importance as does the Treasury to the comparison of standards in the A.C.T. with those elsewhere. It foresees difficulty in establishing acceptable criteria on which to base such an exercise. Nor does it accept the argument that higher standards must necessarily imply higher costs of development given that there may have been economies resulting from the planned orderly development of the A.C.T. The N.C.D.C. argued very strongly that extravagant standards had not been adopted in developing residential and urban facilities in the A.C.T. The Committee accepted the sincerity of the argument and did not think that the advantages of the excellent standards achieved in Canberra should be debited to the local community simply on the basis of their apparent superiority to those achieved elsewhere in Australia in very different circumstances.

### Recovery of Past Development Costs

219. Until 1970 citizens of Canberra paid land rent in respect of their holdings, on the theory that the costs of development could be recovered gradually from land users over a period of time. The decision to forgo the collection of land rent in 1970 was accompanied by a statement of intention by the government to recover the past development costs, as an element of the municipal rates. In preparing the "notional" accounts for the A.C.T. entries were included representing historical costs. In theory municipal rate payers have, since 1970, been paying past development costs. However, it should be noted that the Municipal Account is not the sole criterion used

by the Minister for the Capital Territory when striking a rate for the A.C.T. In each year since their inception there has been a deficit on the accounts that has been written off. In these circumstances it is difficult to determine to what extent ratepayers have contributed to past development costs.

220. As already noted it was recommended by the N.C.D.C. that historical costs incurred before 1970 should be written off, being no longer capable of recovery in an equitable manner. It was supported in this by other witnesses. The Treasury opposed the suggestion that historical costs should be waived.

221. It would not now seem possible for all past development costs to be recovered from existing leaseholders in the A.C.T. At the same time the Committee is reluctant to recommend that past costs be simply written off. It recommends that the matter should be considered further by the Australian Government and the Assembly (when that body is established). An appropriate context in which to consider the matter might be in the course of negotiations to determine the basis upon which existing assets are to be transferred to the Assembly under self government, the level of any annual charge to be levied by the National Capital Development Corporation, or the level of any special national capital grant that might be paid by the Australian Government to the Assembly.

### CONCLUSION

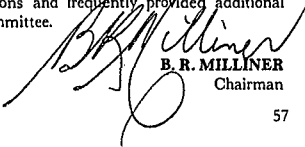
222. On the question of finance, therefore, it is concluded that a new set of accounts will need to be constructed. The Committee recommends that the Treasury construct a set of public accounts for the A.C.T. based on the functions it is proposed should be administered by the A.C.T. Legislative Assembly. These accounts should be devised to suit the special needs of the Territory's government. Traditional allocation of functions between local government-type and state-type functions need not necessarily be followed. Given the special characteristics of the A.C.T. there may be room for innovations in accounting practice. There could also be room for innovations in financing community services, including the raising of revenue from sources alternative to rates.

### Acknowledgments

223. The Committee places on record its appreciation of the contribution made to the Inquiry by members of previous Committees on the A.C.T. The Committee also wishes to thank the staff of the Committee Office of the House of Representatives for providing secretarial and clerical support.

224. The Committee gratefully acknowledges the assistance given to it throughout this inquiry by all witnesses and by the various Ministers who made officers available to assist the Committee. Special thanks are due to the National Capital Development Commission and the Department of the Capital Territory whose officers appeared before the Committee on several occasions and frequently provided additional documentary material to assist the Committee.

December 1974

  
B. R. MILLINER  
Chairman

## Dissent by Mr K. L. Fry, M.P.

Whilst I am in general agreement with the report of the Committee, there is one important part of the report with which I cannot concur.

This concerns that part of the report which deals with the division of electorates and the number of members to be elected to the proposed A.C.T. Legislative Assembly.

In my opinion the recommendations of the Committee do not give due regard to the fact that an A.C.T. Legislative Assembly has already been elected and that significant increases in population can be expected to take place before there is another election, possibly in 1977.

In the 1974 Legislative Assembly election for members the population of the A.C.T. was about 190,000. Forward projections for 1977 indicate a population of about 230,000.

I also consider that the recommendation to regard each Federal Electorate as a single electorate for the purpose of A.C.T. Legislative Assembly elections to have a number of basic weaknesses which could seriously prejudice the effective functioning of the Assembly.

By creating a nexus between the number of electorates and the number of A.C.T. seats in the House of Representatives, as suggested in para. 156 and 158 the situation could arise where a rapid increase in population in a particular area such as Tuggeranong, could not be provided for by a new electorate or as part of a new electorate, unless further representation was granted in the House of Representatives.

To continue to incorporate new growth areas into the already large single electorates of Canberra and Fraser could also lead to the possibility that large new geographic areas of population may not in fact gain representation on the Assembly.

Consideration should also be given to the fact that to elect a large number of members to each electorate, under the proportional representation system of election, tends to favour independent candidates or go against candidates of established political parties.

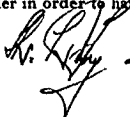
Whilst I agree that independent candidates should have representation on the Assembly, to carry such representation too far results in a proliferation of power over a wide range of conflicting interests which tends to weaken the power of the Assembly to make effective positive decisions. It is therefore important that if the Assembly is to operate on traditional parliamentary lines which has been suggested by the Committee there would need to be a balance between independent candidates and political party candidates which reflects their relative support within the community. I suggest that electorates returning five or six representatives would reflect this support more accurately than electorates of nine or ten representatives.

In order to overcome all of the above objections I would like to submit the following recommendation:

**That for the next election of the A.C.T. Legislative Assembly the Federal electorates of Canberra and Fraser should each be divided into two wards. Each ward should return five or six representatives, depending on the actual population in each ward area, and the larger of the two electorates should return one more representative than the smaller in order to have an uneven number of members in the Assembly.**

December 1974.

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 K. L. FRY

## APPENDIX 1

### SUBMISSIONS AND EXHIBITS

#### (a) Submissions

One or more submissions were received from the following organisations and individuals:

A.C.T. Advisory Council.  
A.C.T. Branch, Administrative and Clerical Officers' Association.  
A.C.T. Branch, Australian Labor Party.  
A.C.T. Branch, Australia Party.  
A.C.T. Division, Association of Architects, Engineers, Surveyors and Draftsmen of Australia.  
A.C.T. Rural Lessees Association.  
Alexander, Mr G. R.  
Atkins, Professor R.  
Australian National Travel Association.  
Brennan, Mr F.  
Budd, Mr R. A.  
Canberra and District Historical Society.  
Canberra South Branch of the Australian Labor Party.  
Connor, Mr K. A. J.  
Council of Social Service of the A.C.T.  
Dalgarno, Mrs A. P., Councillor, A.C.T. Advisory Council.  
Department of the Attorney-General.  
Department of the Capital Territory (formerly the Department of the Interior)  
Department of Education (formerly the Department of Education and Science)  
Department of Health.  
Department of Housing and Construction (formerly the Department of Works)  
Department of the Treasury.  
Department of Urban and Regional Development.  
Federal Electorate Conference of the Liberal Party in the A.C.T.  
Gungahlin Seminar Group.  
Henderson, Dr J. Y.  
Law Society of the A.C.T.  
Lions Club of Canberra Belconnen.  
National Capital Development Commission.  
National Library of Australia.  
Neutze, Dr G. M.  
Nichols, Mr D. B.  
Parker, Professor R. S.  
Postmaster-General's Department.  
Public Service Board.  
Shehadie, Alderman N., O.B.E., The Rt Hon. The Lord Mayor of Sydney.  
Slaughter, Mr J. C., C.M.G.  
Steering Committee, Ratepayers and Residents Association of the A.C.T.  
Turner Progress Association.  
Webb, Professor M. J.  
Wettenhall, Dr R. L. and Power, Dr J. M., College of Advanced Education.

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(b) Exhibits

The following exhibits were presented as evidence:

- Department of the Interior — map of Canberra indicating areas designated as National, Territorial and Municipal for the purposes of allocation of expenditure.
- Department of the Interior — *Canberra's Municipal Accounts 1969-1970*.
- Department of the Interior — *Canberra's Municipal Accounts 1970-1971*.
- Department of the Interior — City of Canberra Municipal Services — Estimates of Income and Expenditure, 1971-1972, 1972-1973.
- Department of Health — *Discussion Paper on the Proposed Health Commission for the Australian Capital Territory*, (Canberra, 1973).
- Department of Health — *Public and Private Hospitals, Statistical Summary 1970-1971*, (Canberra, 1972).
- Department of the Capital Territory — *Canberra General Rate Outgoings — Frequency Distribution at 1973-1974 Rate Levels*.
- Department of the Capital Territory — *Information on Rating Trends and Comparisons — Explanatory Note*.
- Department of the Capital Territory — *Possible New Forms of Taxation for the A.C.T.*
- Dr. R. L. Wettenhall — *Notes on the Place of Independent Statutory Authorities in the Government of the A.C.T.*
- Dr R. L. Wettenhall — *Administrative Organisation for Self-Government in the A.C.T.*
- Department of the Capital Territory — *Survey on A.C.T. Self-government by the Canberra College of Advanced Education Politics Society*.

APPENDIX 2

LIST OF WITNESSES

|                         |   |
|-------------------------|---|
| ARCHER, Mr R. W.        | Assistant Secretary,<br>National Capital<br>Development Commission  |
| ATKINS, Professor R. E. | Associate Professor,<br>Political Science,<br>University of New South Wales                                 |
| BARNETT, Mr H. S.       | Chairman, Sub-Committee,<br>A.C.T. Rural Lessees Association  |
| BOWLER, Mr P. J.        | Director, General Policy Section,<br>Department of Education  |
| BRENNAN, Mr F.          | Private citizen   |
| BRIDGE, Mr G. D.        | Assistant Secretary,<br>Urban Economics and<br>Policy Branch,<br>National Capital<br>Development Commission |
| BRIGG, Mr J. S.         | Vice-President, Council of<br>Social Service of the A.C.T.  |

|                     |   |
|---------------------|---|
| BUDD, Mr R. A.      | Private citizen   |
| BUTLER, Mr N. H. C. | Member, Administrative and<br>Clerical Officers'<br>Association   |
| CLARK, Mr G. E.     | Director, Management Services<br>National Library of Australia  |
| CONNOR, Mr K. A. J. | Private citizen   |
| CRAIG, Mr G. F.     | Chairman, Albury-Wodonga<br>Development Corporation   |
| CRAWFORD, Mr M. A.  | A.C.T. Federal Electorate<br>Conference of the Liberal<br>Party   |
| CROTTY, Mr K. M.    | Assistant Secretary,<br>Executive Services Branch,<br>Management and Executive<br>Services Division,<br>Department of the<br>Attorney-General             |
| CUMPSTON, Dr J. S.  | President, Canberra and<br>District Historical<br>Society   |
| CURTIS, Mr K. J.    | Assistant Secretary<br>(Programming),<br>National Capital Development<br>Commission   |
| CURTIS, Mr L. J.    | First Assistant Secretary,<br>Federal Courts, Intellectual<br>Property, Territories and<br>Law Reform Division,<br>Department of the Attorney-<br>General |
| DALGARNO, Mrs A. P. | Elected member, A.C.T.<br>Advisory Council  |
| DANDO, Mr M. F.     | Member of the Gungahlin<br>Seminar Group  |
| DAVEY, Dr N. W.     | Assistant Secretary,<br>State Finances Branch,<br>The Treasury  |
| DAVIES, Mr D. R. L. | Member of the Gungahlin<br>Seminar Group  |
| DAVIS, Mr C. H. C.  | First Assistant Secretary,<br>Lands and Transport Division,<br>Department of the Capital<br>Territory   |
| EASTMEAD, Mr B. P.  | Member, Steering Committee,<br>Ratepayers and Residents<br>Association of the A.C.T.  |



|                       |  |                    |   |
|-----------------------|--|--------------------|---|
| ENGLEDOW, Mr L. W. B. | First Assistant Secretary (Government) and Acting City Manager, Department of the Capital Territory  | KELLOWAY, Mr A. J. | Branch Councillor, A.C.T. Branch, Administrative and Clerical Officers' Association   |
| EYLES, Mr D. R.       | Director (Transportation and Roads), National Capital Development Commission   | KENT, Mr G. W. R.  | President, Turner Progress Association  |
| FOSKETT, Mr R. A.     | First Assistant Secretary, Territorial and Facilities Division, Department of Education  | KETLEY, Mr A. L.   | Canberra Public Librarian, Central Library, Kingston  |
| FRY, Mr. K. L.        | Elected member, A.C.T. Advisory Council  | LANE, Mr L. W.     | Assistant Director-General, Establishment and Finance Branch, Management and Services Division, Department of Health                            |
| GLEESON, Mr B. J.     | Australian National Travel Association   | LANSDOWN, Mr R. B. | Firstly as Associate Commissioner, National Capital Development Commission and later as Secretary, Department of Urban and Regional Development |
| GOLLAN, Mrs D. E.     | Vice-President, Turner Progress Association  | LAWRENCE, Mr W. E. | Assistant Secretary, Public Finance Branch, Department of the Capital Territory   |
| GRIFFIN, Mr P. R.     | Acting Director, Finance, Management Services Division, Department of Health   | LEEDMAN, Mr J. W.  | A.C.T. Federal Electorate Conference of the Liberal Party   |
| HARRIS, Colonel N. J. | Lions Club of Canberra-Belconnen   | LIBBY, Mr W. D.    | Director, Department of Urban and Regional Development  |
| HENDERSON, Dr J. Y.   | Senior Lecturer in Accounting, Australian National University  | MAHONEY, Mr T. G.  | Federal Secretary, Federated Liquor and Allied Industries Employees Union of Australia  |
| HIGGINS, Mr T. J.     | Senior Vice-President, A.C.T. Branch of the Australian Labor Party   | MANT, Mr J. H.     | Assistant Secretary, Department of Urban and Regional Development   |
| HIGGINS, Mr W. L.     | Director (Hydraulics and General), National Capital Development Commission   | MARSHALL, Mr J. H. | City Manager, Department of the Capital Territory   |
| HUGHES, Dr P. D.      | Member, Steering Committee, Ratepayers and Residents Association of the A.C.T., and President, A.C.T. Federal Electorate Conference of the Liberal Party | McDONALD, Mr C. W. | Divisional Secretary, A.C.T. Division, Association of Architects, Engineers, Surveyors and Draftsmen of Australia                               |
| IANSON, Mr B. M.      | Branch President, A.C.T. Branch, Administrative and Clerical Officers' Association   | McGRATH, Mr E. H.  | First Assistant Secretary, A.C.T. Government Division, Department of the Capital Territory  |
| KANE, Mr V. J.        | Assistant Secretary (Community and Government Branch), National Capital Development Commission   | McKAY, Mr B. V.    | Assistant Director, Planning and Executive Services Branch, A.C.T. Office, Department of Health   |

McINTYRE, Mr A. R. Director of Housing Construction in the A.C.T., Department of Housing and Construction

MOREY, Mr J. W. Assistant Director, A.C.T. Territorial Education, Department of Education

MORGAN, Mr R. Finance Officer, A.C.T. Health Services, Department of Health

NEUTZE, Dr. G. M. Urban Research Unit, Research School of Social Sciences, Australian National University

NICHOLS, Mr D. B. Private citizen

O'DEA, Mr A. R. President, Steering Committee, Ratepayers and Residents Association of the A.C.T.

PAIN, Mr G. D. W. Assistant Commissioner (Development), National Capital Development Commission

PECK, Mr B. P. Acting Assistant Secretary, A.C.T. Education Services Branch, Department of Education

PEAD, Mr J. H. Elected member and Chairman, A.C.T. Advisory Council

POWELL, Mr A. J. W. Commissioner, National Capital Development Commission

POWER, Dr. J. M. College Fellow in Administration, Canberra College of Advanced Education

PYE, Mr T. W. W. Member, Steering Committee, Ratepayers and Residents Association of the A.C.T.

QUINN, Mr N. J. Assistant Commissioner, Public Service Board

REEVES, Mr F. L. Australian National Travel Association

RICHARDS, Mr A. S. Director (Development), National Capital Development Commission

RICHARDSON, Mr W. D. Assistant National Librarian, National Library of Australia

SEXTON, Miss M. Vice-President, Canberra and District Historical Society

SHANNON, Mr G. C. Acting Associate Commissioner, National Capital Development Commission

SLAUGHTER, Mr J. C., C.M.G. Private citizen

SMITH, Dr J. B. Chairman, A.C.T. Branch of the Australia Party

STEVENSON, Mr A. J. First Assistant Secretary (Management), Operational Headquarters, Department of Housing and Construction

STOKES, Mr J. B. Assistant Secretary, Works and Mainland Territories Branch, The Treasury

SUTHERLAND, Mr L. A. J. Branch Councillor, A.C.T. Branch, Administrative and Clerical Officers' Association

TOPFER, Mr R. B. Member, Law Society of the A.C.T.

TAYLOR, Mr G. W. Branch Secretary, A.C.T. Branch Administrative and Clerical Officers' Association

TUCKER, Mr G. W. L. Executive Director, Australian National Travel Association

VAN VUGT, Mr A. Senior Project Officer, Urban Economics and Policy Branch, National Capital Development Commission

VIVIAN, Mr I. F. Elected member, A.C.T. Advisory Council, and Committee member, A.C.T. Branch of the Australia Party

WALSH, Mr G. J. Australian Labor Party

WATSON, Mr A. R. M. Acting First Assistant Secretary, Justice and Family Law Division, Department of the Attorney-General

WATT, Reverend A. J. Council of Social Service of the A.C.T.

WEBB, Professor M. J. Professor of Geography, University of Western Australia

|   |   |
|---|---|
| WELLS, Dr R. H. C.  | Chairman, Interim Committee of the Capital Territory Health Commission,<br>Chairman,<br>Canberra Hospitals Management Board,<br>Department of Health,<br>Canberra |
| WENSING, Mr E. G.   | Member of the Gungahlin Seminar Group   |
| WEST, Mr H.   | Acting First Assistant Director-General,<br>Management Services Division,<br>Central Office,<br>Department of Health  |
| WESTERMAN, Mr H. L.   | Associate Commissioner,<br>National Capital Development Commission  |
| WETTENHALL, Dr R. L.  | Head of the School of Administrative Studies,<br>Canberra College of Advanced Education   |
| YOUNG, Mr R. J.   | Deputy Commissioner,<br>Public Service Board  |
| The Public Service designation of witnesses was that at the time they gave evidence before the Committee. |   |

#### APPENDIX 3

#### RESOLUTION OF APPOINTMENT OF THE JOINT COMMITTEE ON THE A.C.T.

- (1) That a joint Committee be appointed to:
  - (a) examine and report on all proposals for modifications or variations of the plan of lay-out of the City of Canberra and its environs published in the *Commonwealth of Australia Gazette* on the nineteenth day of November 1925, as previously modified or varied, which are referred to the Committee by the Minister for the Capital Territory; and
  - (b) examine and report on such other matters relating to the Australian Capital Territory as may be referred to the Committee:
    - (i) by the Minister for the Capital Territory; or
    - (ii) by resolution of either House of the Parliament.
- (2) That the Committee consist of three Members of the House of Representatives nominated by the Prime Minister, one Member of the House of Representatives nominated by the Leader of the Opposition in the House of Representatives, one Member of the House of Representatives nominated by the Leader of the Australian Country Party in the House of Representatives, two Senators nominated by the Leader of the Government in the Senate and two

- Senators nominated by the Leader of the Opposition in the Senate.
- (3) That every nomination of a member of the Committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.
- (4) That the members of the Committee hold office as a joint committee until the House of Representatives expires by dissolution or effluxion of time.
- (5) That the Committee elect as Chairman of the Committee one of the Members nominated by the Prime Minister or by the Leader of the Government in the Senate.
- (6) That the Chairman of the Committee may, from time to time, appoint another member of the Committee to be the Deputy Chairman of the Committee, and that the member so appointed act as Chairman of the Committee at any time when the Chairman is not present at a meeting of the Committee.
- (7) That the Committee have power to appoint sub-committees consisting of three or more of its members and to refer to any such sub-committee any of the matters which the Committee is empowered to examine.
- (8) That the Committee have power to send for persons, papers and records.
- (9) That the Committee or any sub-committee have power to move from place to place, and to sit during any recess.
- (10) That the Committee or any sub-committee have power to authorise publication of any evidence given before it and any document presented to it.
- (11) That the Committee have leave to report from time to time and that any member of the Committee have power to add a protest or dissent to any report.
- (12) That five members of the Committee constitute a quorum of the Committee, and a majority of the members of a sub-committee constitutes a quorum of that sub-committee.
- (13) That in matters of procedure the Chairman or Deputy Chairman presiding at the meeting have a deliberative vote and in the event of an equality of voting, have a casting vote, and that, in other matters, the Chairman or Deputy Chairman have a deliberative vote only.
- (14) That the Committee have power to consider and make use of the evidence and records of the Joint Committees on the Australian Capital Territory, appointed in previous Parliaments, relating to any matters which are again referred to the Committee.
- (15) That the Committee may proceed to the dispatch of business notwithstanding that all members of the Committee have not been appointed and notwithstanding any vacancy on the Committee.
- (16) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.
- (17) That a message be sent to the Senate acquainting it of this resolution and requesting that it concur and take action accordingly.

#### APPENDIX 4

### FEATURES OF THE PROPOSED A.C.T. SCHOOLS AUTHORITY<sup>1</sup>

- The authority will be known as the A.C.T. Schools Authority and it will be responsible to the Minister for Education for the administration of government pre-schools, primary and secondary schools, and evening colleges in the Australian Capital Territory.
- Overall responsibility for the operation of the system will be vested in a Council of ten, comprising nine part-time members nominated by: the A.C.T. Commonwealth Teachers' Federation (3), the A.C.T. Council of P & C Associations (2), the Canberra Pre-school Society (1), the A.C.T. Advisory Council (1), and the Minister for Education (2); and one full-time member who will be the chief professional officer of the system. The Council will elect a Chairman from its part-time members.
- The Authority will have its own staff to provide advice to the Council and professional and administrative services for the system.
- Each primary and secondary school in the Australian Capital Territory will have a board comprising the school principal and members nominated by teachers, parents, the Schools Authority, and, in some cases, students. Powers will be delegated to these boards by the Authority to enable them to take responsibility for the policies and administration of schools.
- The staffing of schools will be arranged in accordance with the provisions of the Commonwealth Teaching Service Act and school boards' activities in this area will be within this framework.
- Pre-schools will operate with a parents' committee working in conjunction with the teacher and the Authority's pre-school staff.

<sup>1</sup> As summarised in evidence by the Department of Education.

#### APPENDIX 5

### FEATURES OF THE PROPOSED CAPITAL TERRITORY HEALTH COMMISSION<sup>1</sup>

- The Commission will be established by A.C.T. Ordinance and will be supported by such Act or Acts of Parliament as are deemed necessary to preserve the rights of staff, etc.
- The composition of the Commission will be a Chairman and Deputy Chairman, who will both be full-time members with one having medical qualifications registrable in the A.C.T.; and four part-time members. One part-time member will be appointed by the Hospitals and Health Services Commission, one part-time member will be elected by employees of the Commission and the other two part-time members will be elected A.C.T. Advisory Councillors nominated by the A.C.T. Advisory Council.

<sup>1</sup> As summarised in evidence by the Department of Health.

- The legislation establishing the Commission will make the Commission responsible to the Minister for Health and he will have the power both to direct policy and to oversee the operations of the Commission. The Minister will, however, have extensive powers of delegation especially in relation to the day-to-day administration of the Commission.
- The Commission will be responsible for the provision of public health services and the administration of all local health legislation in the A.C.T. (including Jervis Bay). The Commission will also develop and operate all government hospitals and health services including public, community and environmental health services, nursing homes, health hostels and their allied services.

#### APPENDIX 6

### FUNCTIONS OF THE DEPARTMENT OF THE CAPITAL TERRITORY TO BE TRANSFERRED

#### Prices and commercial practices

##### Prices (policy, legislation and operations):

- The formulation and implementation of policies.
- Review of the legislative provisions necessary to operate the scheme.
- Analysis and investigation of price structures or specific items or groups of commodities and services.
- Preparation of reports and recommendations on the measures necessary to hold prices and charges at a reasonable level and operational actions to implement the measures determined.
- The maintenance of close contact and liaison with other departments, State governments, instrumentalities and organisations engaged in, or connected with, associated activities.
- Administer legislation and practices concerning weights and measures, packaging and labelling, residential rent controls and the general protection of consumers; formulate policies, practices and administrative procedures for the enforcement of these measures.

##### Commercial Practices:

- Consumer protection
- Weights and measures
- Metrication
- Packaging and labelling
- Rent control

##### Marketing:

- Retail marketing practices in the A.C.T.
- Natural gas
- Fruit and vegetable marketing studies
- Marketing potential in the Territory

##### Engineering services

- The provision of engineering and workshop services to Public Transport Operations.

### Traffic

- Traffic administration
- Registration of vehicles
- Licensing of drivers
- Taxis and hire car licensing
- Safety and driver training
- Traffic management design, equipment
- Parking enforcement, policies and facilities

### Building regulation

- Supervision of private enterprise building to ensure compliance with the Canberra Building Regulations in force under the *Building Ordinance 1964-67* and the examination of plans and specifications for compliance with such Regulations.
- Issue of Builder's Licences, Builder's Special Licences and Building Permits.

### Social controls

Develop and exercise controls over:

- Racing
- Liquor licensing
- Betting and gambling
- Objectionable publications
- Lotteries
- Charities
- Registry of co-operatives and agents, administering of legislation relating to co-operative activity in the A.C.T.
- Dogs
- Cemeteries and crematoria
- Workmen's compensation
- Hawkers
- Street collections
- Printing and newspapers

### Fire Brigade

### Tourism

### Recreation

### Transport

### Welfare

- Determine and review policies and legislation relating to Social Welfare.
- Provision of a Child Welfare Service including:
  - family counselling services
  - foster care of children.
  - day nurseries and children's homes
  - oversee school attendance and supervise migrant children
- Provision of an adoption service.
- Provision of social welfare services to the A.C.T. Courts.

- Provision of services and Occasional Care Centres.
- Provision of a general social work service for residents of the A.C.T.
- Provision of discretionary social welfare benefits and secondary assistance to people in necessitous circumstances.
- Establishment and administration of centres for the reception and remand of juveniles and adults.
- Liaison and co-operation with voluntary organisations and the community generally in planning and providing social welfare services including the provision of financial assistance and grants.
- Prisons

## APPENDIX 7

### FILLING OF VACANCIES — TASMANIAN HOUSE OF ASSEMBLY

The following is a description of the system used for filling vacancies in the Tasmanian House of Assembly:<sup>1</sup>

*In the case of a vacancy occurring in the House of Assembly, there is provision for the Chief Electoral Officer to publicly invite nominations from candidates who were unsuccessful at the last general election in the constituency which elected the vacating member. If one nomination only is received, then the Chief Electoral Officer declares the consenting candidate elected and notifies the Governor to this effect.*

*If more than one such nomination is received, the Chief Electoral Officer is required to examine the voting papers counted for the vacating member at the last general election. In the simple case — where the vacating member obtained a surplus above the quota — this can be confined to voting papers expressing first choices. In the more difficult case — where the vacating member did not obtain a quota on first choices — it is necessary to take into account not only original first-choice papers but also all voting papers representing votes transferred to the vacating member.*

*The vacating member's voting papers, as defined above, are examined and all his votes are transferred to the consenting candidates according to the preferences expressed thereon. Second preferences derived from first choice votes of the vacating member have a transfer value of one, but from votes he obtained by transfer, only the value at which he obtained them. For the purpose of the count, first-choice votes received by the consenting candidates at the general election are not relevant — the selection is based on preferences as revealed by the voting papers of the vacating member.*

*When the number of votes in favour of each consenting candidate has been ascertained, the final selection is by the method of the absolute majority through the alternative vote.*

*If no nominations are received from candidates unsuccessful at the last general election, then an election is held to fill the vacancy.*

<sup>1</sup> Australian Bureau of Statistics, Tasmanian Office, *Tasmanian Year Book No. 8, 1974*, (Hobart 1974), p. 79.

Mr President,

It is with pleasure I bring up the Committee's Report on Self-Government and Public Finance for the A.C.T. The member for Fraser Mr K.L. Fry has added a dissent to one of the Committee's recommendations but in all other respects this is a unanimous Report of the Committee. Initially the Inquiry began as an examination of the financial affairs of the A.C.T. The first evidence was taken during the 27th Parliament in June 1972, when Senator Withers was Chairman. When the present Government came to power, the question of the Proportion of State and Municipal Costs and Revenues that should be met by the residents of the A.C.T. was again referred to the re-constituted Committee. In August 1973, the scope of the Inquiry was enlarged to include the whole question of Self-Government for the A.C.T. and the Committee was asked to consider conjointly that matter and the question of State and Municipal Costs. The Inquiry has had to face some peculiar difficulties. It has been interrupted twice for federal elections. Honourable Senators will see, if they look at the Section of the Report headed "Personnel of the Committee" that no fewer than 19 different Members of Parliament have been members of the Committee at different stages of the Inquiry. Of the original Committee which began taking evidence in June 1972, only Senator Devitt and myself sat to consider the final Report. There have also been changes to the Committee Secretariat during this period. This lack of continuity of

membership has presented problems for the Committee, the Secretariat and the witnesses - many of whom have given evidence on more than three occasions.

The Inquiry has also been faced with a problem of a different kind. There have been important institutional changes in the A.C.T. during the period of the Inquiry. Some of these changes were brought about by Government. After the 1972 election a portfolio for the A.C.T. was created and a new department, the Department of the Capital Territory was formed to undertake functions relating to the A.C.T. previously managed by the disbanded Department of Interior. Likewise the creation of new departments such as the Department of Urban and Regional Development have had consequences in A.C.T. Government as the N.C.D.C. now reports to that Minister rather than to the Minister for the Capital Territory. There have been many changes in the management of functions of Government for the A.C.T. with new departures envisaged for the management of Health and Education. The Advisory Council, which until September of last year was a small body consisting of persons elected by the community and nominees of departments, was replaced by a chamber of 18 members all elected on an adult franchise. An election was held in September 1974 and the new institution designated a Legislative Assembly, although it had no legislative functions, has been meeting and conducting business. The Committee's Report is designed to define the nature of its powers and its place in A.C.T. Government. To date, the situation may be likened to a case of six characters in search of an author and eighteen characters in search of a role.

### 3.

During the period encompassed by our Inquiry there has continued to be rapid growth in the A.C.T. The population, now assessed at 180,000 is expected to reach 300,000 during the next decade. Honourable Senators will be aware of the pace of development in Canberra.

Against this background of change and vital growth the Joint Committee on the A.C.T. has been considering the related questions of -

- . The most appropriate form of self-government for the A.C.T. and,
- . The proportion of the costs of government of the A.C.T. that should be met by the A.C.T. community and the Australian Government respectively.

As stated earlier, the Inquiry began with the reference on "costs" as an examination of the public finances of the A.C.T. The Committee found it difficult to isolate the question of "costs" from the more general issues raised by self-government and so it welcomed the extension of the reference to include the question of Self-Government. From the recommendations of the Report it will be seen we have recommended that self-government should be granted to the A.C.T. in wide terms consistent with the national interests. But we have also stressed in our Report that self-government means financially responsible government and although the Territory should be eligible to receive grants from the



Australian Government on a similar basis to those now paid by the Commonwealth to the States the remaining "costs" should be met by taxes and charges raised locally. We discuss in some detail in the Report the need to establish a set of public accounts for the A.C.T. to replace the existing Municipal and Territorial Accounts. This is an exercise that can only really begin once the powers of the Legislative Assembly and the range of functions to come under its control has been determined. A very important issue considered by the Committee was the basis upon which grants should be paid to a territorial government once established, by the Government of Australia. We have recommended that this question should be submitted to the Grants Commission for examination and report. Until the likely level of Australian Government grants has been accurately determined, it is impossible to obtain a clear picture of the remaining costs that will have to be met by taxes and charges imposed on the local community.

Apart from the question of finance the two most important issues the Committee had to determine were the question of institutions, that is, the most appropriate form of self-government and the institutional arrangements to support it, and the question of which functions of Government should be placed under self-government and those which should remain a national responsibility.

It was necessary to begin by looking at the question of functions. Once the likely extent of self-government was clear then appropriate institutional arrangement could be considered. The Committee has taken the broad view that unless the national interest dictates that the Australian Government should retain control of a function of government, there should be a presumption in favour of the eventual transfer of that function to local control. It was established to our satisfaction that any transfer from national to local control does not and cannot involve any final and irrevocable loss of ultimate power to the Commonwealth. Under Section 122 of the Constitution, the Parliament is given legislation power in relation to territories. The exercise of legislative power by a Legislative Assembly for the A.C.T. would therefore be and remain the exercise of a delegated or sub-ordinate power.

It follows from the Constitutional position, as we understand it, that <sup>it</sup> is rather for the National Government to retain powers unto itself than to prescribe a series of functions to be transferred to local control. Our approach has therefore been to determine the powers that the Commonwealth should retain rather than the powers the local assembly should have. It is our conviction that in one area at least the Australian Government should retain full power, that being the area of Planning development land management and leasehold administration. We recommend the establishment of a National Capital Development Corporation to absorb the existing N.C.D.C. and those sections of the Department of A.C.T. administering

functions related to land. We are opposed to the fragmentation of this function between different authorities and consider they should all be placed under one authority responsible to a Minister of the Australian Government. For reasons given at length in the Report, we consider that the Planning and land management function is so closely tied to the concept of Canberra as the National Capital and the Seat of Government that it must always remain under national management.

In regard to other important functions such as Health and Education (the responsibility elsewhere of State Government), we see no reason why they should not pass eventually to local control. It is stressed in our Report that self-government should not all come at once and that there should be a period of transition during which the institutions of self-government are developed to the point where substantial local responsibility can be accepted. It is also important to observe that the local community accept the management of their affairs at the local level. This confidence will only be inspired if the Assembly can show itself capable, in the first instance, of managing comparatively simple but not unimportant aspects of the Territory's affairs whilst at the same time developing the institutions which will be necessary under self-government.

In view of the range and breadth of functions which we see as ultimately becoming the responsibility of the local community and the legislative role this will entail, the Committee considers that a parliamentary form of Government is the most appropriate form of Government for the A.C.T.

It is our recommendation that there should be a uni-cameral Assembly to be called the Legislative Assembly consisting of 19 elected M.L.A.'s who should be regarded as employed full-time on their parliamentary duties and paid accordingly. We make no recommendations as to the level of their remuneration or other emoluments but suggest the appointment of a Tribunal to consider the matter and make an initial recommendation.

We envisage that the Assembly although it will have a limited and subordinate legislative role will function in the Westminster tradition like other Parliaments in Australia and overseas.

The Government of the Territory should be formed from within the Assembly. We see this as happening in either of two ways. If there is a majority party capable of supporting a Ministry in the Assembly, then a small Executive could be formed from the members of the majority party accountable to the Assembly. Alternatively a committee system could operate with the Chairman of each committee as the Chief Spokesman and accountable person for the particular area of Government.

The Committee sees the Assembly functioning on broad Parliamentary lines. It should develop its own executive system, rules of procedures and practices in the light of Parliamentary experience in Australia.

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There would be two methods whereby laws would be made for the A.C.T. under this proposal. The Australian Government as the paramount legislature could make laws on any matter.

It could exclude the authority of the Assembly by simply legislating on a subject whether or not the Assembly had legislated in that area or not. All other laws would be made by the Assembly in the form of Ordinances. The Ordinances of the Assembly would be subject to disallowance of the Senate or the House of Representatives but would not be subject to the veto of the Government of the day other than through its Parliamentary majority. In our proposal there would be no Ministry for or Department of the Capital Territory once self-government was fully established.

The Committee considers that the proposal put forward in the Report is a workable basis for establishing self-government in the A.C.T. We have been aware throughout the Inquiry that self-government is not universally welcomed. To a large extent we consider this is because its implications are not fully understood. We emphasise that self-government in its entirety should not come at once but we do suggest that the movement towards it should begin at once. There has been no suggestion during this Inquiry that Canberra is not at present managed well and fairly by the Departmental officials responsible, but we do consider that the residents of Canberra like other Australians should have the right to determine their own affairs. I commend the Report to the Senate.

5 MARCH 1975

B.R. MILLINER