SELF GOVERNMENT FOR THE AUSTRALIAN

CAPITAL TERRITORY

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THE GOVERNMENT OF FEDERAL CAPITALS

"There are local interests peculiar to every town, whether great or small, and common to all its inhabitants: every town, therefore, without distinction of size, ought to have its municipal council."

"Your Excellencies are about to perform an act of deep significance to Australia, for we may all be confident that the city you are about to name will be prepared with due activity for its great future as the Seat of Government, where Australia will be mistress in her own home, and there will be no room for complaint of provincial influences in the pursuit of national aims."

These statements, the one made by John Stuart Mill in his Considerations on Representative Government, the other by Sir Edmund Barton, Australia's first Prime Minister, in a message to Lord and Lady Denman on the occasion of the naming of Australia's federal capital admirably present the two basic considerations to be studied by anyone seeking to evaluate the administrative system of the Australian Capital Territory. It is my aim to show, in this thesis, that these requirements are not altogether conflicting ones; that the establishment of some form of local representative government for the Territory is not only in the interest of the local populace but is also reconcilable with, and, to some extent, identifiable with the national interest.

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However, whilst this work is primarily intended as a study of the government of the Australian Capital Territory and its problems, it should be viewed within a much broader context. For although some of Canberra's problems are unique, resulting as they do from peculiar local conditions,

many of the problems involved in its government are common to national capitals throughout the world. In particular, this exercise will facilitate the study of those problems of government which are unique to the national capitals of federal states.

The parliaments of countries, such as France and the United Kingdom, with centralized political systems, enjoy exclusive legislative power throughout their countries, and so over all cities including their national capitals. But in countries with federal constitutions, of course, the national parliament shares the right to legislate with the parliaments of the federation's constituent provinces and, generally, the provincial parliaments enjoy the exclusive right to legislate for local government. The framers of the U.S. constitution realised that this could cause considerable embarrassment for the federal government for as one of them pointed out, "The indispensable necessity of complete authority at the Seat of Government, carries its own evidence with it. It is a power exercised by every Legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it, not only the public authority might be insulted and its proceedings be interrupted with impunity; but a dependence of the members of the General Government on the State comprehending the Seat of the Government, for protection in the exercise of their duty, might bring on the National Councils an imputation of awe or influence, equally dishonorable to the Government and dissatisfactory to the other members of the Confederacy. This consideration has the more weight, as the gradual accumulation of public improvements at the stationary residence of the Government, would be both too great a public pledge to be left in the hands of a single State, and would create

so many obstacles to a removal of the Government, as still further to abridge its necessary independence." ¹They, therefore, provide for the creation of a special federal district within which the federal legislature would exercise exclusive legislation, just as the legislatures of the constituent states of the federation or of centralized political systems exercise exclusive legislation over their capitals. The American example has subsequently been followed by a number of other federations Australia included.

The creation of a separate federal district has not been universally accepted as the solution of the problem, however. South Africa, for instance, has chosen the novel solution of creating two capitals : Pretoria (Transvaal) as its administrative capital, and Cape Town (Cape Province) as its legislative capital; "..... a compromise to satisfy the prestige of the two provinces, but it is troublesome in every other respect."²

In Ottawa, Canada has retained the existing framework of provincial and local government. Arrangements for administering the metropolitan area differ little from arrangements for administering other Canadian metropolitan areas.³ It is true that the conurbation straddles the Ontario - Quebec boundary, but this is merely the result of historical accident, and apart from complicating the situation, does not materially affect the relationship between the Dominion government and the city. It is obviously true, also, that as the national capital, Ottawa is of very special interest to the Dominion government. The Dominion owns a large amount of property in the city, and it has established a planning authority to ensure the development (and redevelopment) of the city to a

standard worthy of its place as the national capital. Yet, constitutionally, the Dominion enjoys only the same authority over the local government of Ottawa as it has over the local government of any other Canadian city. Indeed, "Neither the federal government nor its agencies possess any direct authority over any of these municipalities which make up the metropolitan area. They are exclusively subject to their own provincial governments, under Section 92 of the British North America Act."⁴

It would be of little value, for the purposes of this study, to make a detailed analysis of the system of local government. Suffice it to say that in accordance with the constitutional provision which gives them exclusive power to legislate in matters of local government, the provinces of Quebec and Ontario, have, within their own jurisdictions, made comprehensive arrangements for the region, with due provision for local representation. But it is a most complicated situation, "Something of its complexity can be seen in the fact that the present area within the National Capital Region (1,800 square miles) takes in all or part of 66 municipalities."⁵

It is obvious that the Canadians have not found an effective solution to the difficulties inherent in the administration of the national capital of a federation. Whilst by granting local self-government, they have, to a large extent, provided for the interest of the local community the national interest has been virtually overlooked. The Father of Canadian Confederation, John Hamilton Gray was well aware of the national interest in the capital, however, for he pointed out that, "That which was destined to be the capital of the Confederation might fairly

rest its claim for support upon the people of the Dominion,"⁶ It is interesting to note that in stating his case for the exclusive control of the American national capital by the federal government, Madison was anxious to ensure the independence of the federal government, Gray went somewhat further for he considered that the capital's "order, well-being, sanitary arrangements, police regulations, adornments, and improvements are essential to the comfort and security not only of the representatives who attend Parliament, but of all those who are compelled to resort to the capital of the country in the discharge of the various duties attendant upon the administration of public affairs. Its reputation should be national, not provincial. It belongs no more to Ontario, than it does to New Brunswick, Nova Scotia, Quebec, or to any of the Provinces constituting the Confederation." ⁶ But even Gray stated only part of the case. A nation's capital must not only be secure and comfortable for those who transact the nation's business there, it must be much more. The capital is the symbol of a nation. It represents the national image not only to the nation itself but to other nations. For this reason, everything about it is of national concern; its security, its appearance, and, indeed, its general administration. Some of these things of course are of more importance than others; the capital's appearance, security and independence of the federal government being of prime concern.

The Canadian government is well aware of the symbolism of its capital, and for this reason, has been preoccupied, above all, in ensuring that Ottawa's appearance should be worthy of the role which it has to play. However, because it has not had mastery of its own house, the Dominion government has had considerable difficulty in effecting this.

Unlike Canberra or Brasilia, Ottawa was not begotten as

a planned city. It began life as an industrial town, and despite its choice as the seat of the federal Government it has remained an important industrial and railway centre. With this industry, Ottawa has inherited great ugliness from the past. Thus, "Across the river from the stately buildings of the nation are piles of unsightly and disorderly industrial materials, factories, railway sidings, warehouses and chimney stacks spreading soot, smell and smoke."⁷ Although there have been several attempts to give Ottawa a town plan, none were successful until the publication of the Greber Master Plan in 1950. However, "Realization of the Master Plan, even under ideal circumstances, would have been an engineering and town planning project of great magnitude."⁷ But circumstances were the very reverse of ideal. The Dominion planning agency, the National Capital Commission,⁸ and its predecessor the Federal District Commission, "..... had power to buy and develop land, but the zoning power was still vested in the separate municipalities. Some of these, heavily weighted by the nature of their composition and franchise in favour of the land owning interests, refused to use their powers to implement the policy of the Commission in safeguarding the Green Belt. The Commission was forced to employ the expensive procedure of purchasing the land, instead of relying on restrictive controls, and there has been repeated friction between it and the municipalities."⁹ This is not to say that the Commissions' advice and persuasion, were completely ineffective, but their mainstay was compulsory purchase. Of course, Ottawa is not the only conurbation in which problems of jurisdiction have hampered effective town planning. This is a commonplace problem of conurbations throughout the world. However, it is not such an acute one for centralized states, or for provinces. They can solve the problem fairly easily. They have

the legislative power to create an authority to control the whole conurbation. This, of course, is what the English did with the creation of the Council of Greater London and the Queensland Parliament with the creation of the Brisbane City Council. For the Canadian government this solution was not available. Hence between 1947 and 1963 it was forced to spend some \$55 million¹⁰ on the acquisition of land.

The expenditure of vast sums has, for the most part enabled the Canadian government to overcome the problem posed by its lack of jurisdiction in the Ottawa region, with regard to the planning and redevelopment of the area. But, even so, it is forced to depend on the co-operation of provincial and local authorities to some extent in augmenting its plans. The fact that the Dominion has no control over the general administration of Ottawa means that it must depend on these bodies for the provision of adequate water supplies, sewerage disposal, and other utility services necessary for the efficient operation of the city. It is reliant on local authorities for police protection. What is more, the existence of so many provincial and local authorities in the area, considerably complicates the co-ordination of planning and development. And "it is clear that with the growth of Canada and the corresponding expansion of its governmental activities, the administrative problems arising between the City of Ottawa and the Federal Government will become more complex and more difficult of settlement than they are now. As an indication of that prospect we would merely stress the inevitable difficulty that will arise in connection with the present reckless system of sewage disposal into the Ottawa River, the both banks of which within the most directly affected area, are the property of the Dominion of Canada."¹¹ It is not surprising that one observer has pointed out that "a considerable part of the history of the

first 15 years of the National Capital Plan is concerned with constitutional problems."¹²

Canadian experience also illustrates the complicated nature of the financial considerations arising from municipal administration of the national capital. The presence of the federal government in Ottawa, "imposes upon the municipality concerned the burden of additional services or the building of works of greater magnitude than the municipality alone might undertake."¹³ From early on the federal government recognised this, and, in the past, has made payments to the municipalities (chiefly the City of Ottawa) for specific services. But the municipal authorities (probably rightly) were never satisfied that they were being properly re-inbursed for the extra expenditure which they were being forced to undertake. And, what is more, federal property in Canada is not taxable, and so, as the expansion of its activities, has obliged the federal government to expropriate more and more city properties, it has deprived the municipalities involved of large portions of their tax revenue. It has also been contended (again probably, with truth,) that this expropriation has further depleted tax revenue by blighting surrounding areas. Inevitably the issue has been a source of great contention. Whilst it has been admitted that the presence of the federal government has brought quite substantial and growing benefits to the city, it was pointed out that, "It is exceedingly unfair to ask the tax-payers of Ottawa to supply services necessitating large expenditures of money and suggest that this outlay should be offset by a park, a driveway or other developments that are considered by the government proper for a Capital City. It is obvious that under ordinary policies these extensive improvements would be uneconomical and considered a luxury." ¹⁴It is true that for some time

the government has made an annual grant to the city, but this was small and insignificant compared with the expenditure and loss of revenue which the government's presence involved. To-day, the municipalities concerned receive substantial annual grants, but this is only after considerable controversy, including demands that the government should submit itself to ordinary tax assessment as if it were a private corporation.

In the national capital of the U.S.A., where the Constitution has empowered Congress, "to exercise exclusive legislation in all cases whatsoever,"¹⁵ one might have expected the United States government to have been in full command of the situation, administering the capital in accordance with the national interest. But even a cursory examination of the District of Columbia reveals that lack of responsibility to the local community, combined with constitutional limitations has thrown up an array of administering bodies, whose multiplicity and confusion bedevils the good government of the city, whether the national or local interest is uppermost in mind.

Certainly little regard has been paid to the interests of the inhabitants of the District, for they are disenfranchised at all levels; municipal, state, and federal. In fact, the District "..... is unique in that it is the only political subdivision in the United States in which all the powers of government are vested in the United States. In this one unit are combined all the powers and functions of government which elsewhere are divided between the United States, the states, the county, the municipality, and various other civil divisions."¹⁶

While Congress and the President retain ultimate control over

the District's government, the executive functions of government are divided among a multitude of agencies, some of which are concerned exclusively with District affairs, other which deal with them only in part.

Of the former, the most important is undoubtedly the Board of Commissioners, which, because of the range of its functions, has more right to claim itself the District's municipal government than any other body. The Board's three members are all appointed by the President; two from civilian life for a period of three years, and one from the Army Corps of Engineers. (usually for three years also). The Board is primarily an administrative authority, but it has some ordinance making powers as delegated by specific acts of Congress. In addition, the Congressional standing committees generally consult the Board about draft legislation concerning the District (although they do not always accept their recommendations), and "Frequently the District Commissioners transmit drafts of bills to the chairman of the two District Committees which the chairman or any member may introduce if he sees fit."¹⁷ The Board's functions, are organized on a departmental basis; each Commissioner, individually, being entrusted with a number of departments. The Commissioner of Public Safety, for example, is responsible for the Fire Department, the Metropolitan Police Department, the Office of Civil Defence, and the Office of the Recorder of Deeds. The actions of each Commissioner are directed by the Board of Commissioners as a whole.

Although the Board is responsible for most branches of District administration there are a number of important functions which it does not control. Congress has at various times created numerous ad hoc committees to control such major functions as education, public utilities,

the public library, and town planning. The Commissioners exercise general control over the several boards and commissions by virtue of their power to revise budgetary estimates. Apart from this provision, however, the Commissioners' control varies considerably from commission to commission. All three members of the Board of Education, for example, are appointed by the Judges of the Supreme Court of the District. The Board has entire responsibility for the educational affairs of the public school system of the District, including staffing and general policy.

"On matters of legislation the Board makes recommendations directly to the Committees of Congress."¹⁸ Yet the Commissioners virtually control the business operations of the system. This control applies to practically all of the purely municipal authorities. The importance of this should not be overemphasized, however, for even when the Commissioners appoint all or most of their members, boards often retain considerable control of detailed matters of administration.

The situation is further complicated by the operation of a large number of Federal agencies with only a partial interest in District affairs. Particularly worthy of mention are the Treasurer and the Bureau of the Budget. "The monies of the District of Columbia are treated as monies of the United States, all collections on account of the District government being paid into the Treasury of the United States and disbursement being made by the Treasury through advances to disbursing officers in the same manner as in the Federal departments."¹⁹ All estimates of appropriation made by District authorities are submitted to the Bureau of the Budget for vetting before they are presented to Congress. The Bureau also examines all legislation proposed by the Commissioners for the consideration of Congress in order to determine

whether it conflicts with the President's fiscal policy. The Comptroller-General is responsible for the final audit of all payment from Congressional appropriations. The Civil Service Commission examines potential recruits to the Police and Fire Brigade. The Architect of the Capitol, in addition to being an ex-officio member of the Zoning Commission, has charge of work on several major District buildings. The Bureau of Agricultural Economics operates the District's Center Market. And this by no means exhausts the list.²⁰

The District's administrative system also boasts almost innumerable advisory committees. While the citizens of the national capital have no suffrage, their views, are consulted in an advisory capacity. The most important of these advisory bodies is the Citizens Advisory Council which was established in 1925 to assist the Commissioners in considering legislation affecting the District. But even this is not completely representative of the District's citizens. Other important advisory bodies include the Public Health Advisory Council, the Public Welfare Advisory Council, the Commissioners' Planning Advisory Council, and the Citizens' Traffic Board, to mention just a few.

The effect of this fragmentation of functions and powers is perhaps best seen in the field of city development. The Americans are exceedingly unfortunate in that the District of Columbia forms only part of the city of Washington. In 1960 the District composed less than 20% of the area of metropolitan Washington (61.4 square miles out of 341) and its population of 764,000 was only 42% of the city's total of 1,808,000. The Federal Government and its various agencies shares jurisdiction over the city with the state governments of Maryland and Virginia, and their agencies. This, of course, results from historical accident. No one

foresaw the capital's tremendous expansion. Indeed, in 1846 part of the area of the District was even retroceded to the state of Virginia. However, historical accident or no, the result of the jurisdictional problems which have resulted have had a disastrous effect on the planning and development of the region. "Transportation in the Washington metropolitan area has been growing increasingly snarled ever since World War II; downtown Washington's sewage is one of the chief causes of pollution of the Potomac River; the area's airport facilities are rapidly becoming inadequate for the air traffic the growing metropolitan region requires; the number of houses deteriorating into slums increases steadily, and urban renewal has only begun."²¹ Congress has established a number of authorities specifically to deal with the region. The National Capital Regional Planning Council is "authorized to adopt and amend a general plan for the development of the region, to serve which each part of the region may be more precisely planned by the appropriate planning agencies."²² The National Capital Transportation Agency was established in 1960 "to prepare a comprehensive program for improved transportation in the National Capital region."²³ "To be sure congressional efforts to deal with the problem of the Washington area as a whole are handicapped by the fact that the area encompasses parts of Virginia and Maryland. Both states however have long insisted on independence in matters concerning the areas adjoining the District, and indeed have protested against any attempt on the part of the federal government to "encroach" on their powers in these areas."²⁴ Furthermore it is only fairly recently that Congress has realized that a regional problem exists, and even so it has been sparing in its financial assistance.²⁵

The situation in the District is just as confusing. The National

Capital Planning Commission is probably the most important authority in this connexion. Established in 1952 under the same act which set up the National Capital Regional Planning Commission, the National Planning Commission consists of twelve members, five citizen members, appointed by the President and seven ex-officio members representing federal agencies and Congress. The Commission "As the central planning agency for the Federal and District of Columbia Government, plans the appropriate and orderly development and redevelopment of the National Capital and the conservation of the important natural and historical features thereof."²⁶

"But the National Capital Commission's most persistent problem is external, and involves us again in Washington's tangled web of diffuse strands of authority. Here the planners' arts of persuasion must be spread thin over the maze of agencies, many of whom have as much or more power as they do."²⁷ The District of Columbia Redevelopment Land Agency, is responsible "for the re-planning, rebuilding, and re-habilitating of slum, blighted, and other areas"²⁸ of the District. The National Capital Housing Authority's duty "is to assure an adequate supply of proper dwellings for low-income families."²⁹ "The National Park Service is a creature of the federal executive, administering Washington's 7,000 acres of parkland as a part-time adjunct to its national concerns. The General Services Administration, another executive agency, oversees design and construction of all federal buildings in Washington (and throughout the country) - except for those on the imprecisely defined "Capitol grounds", which are the responsibility of the so-called Architect of the Capitol, who is an agent of Congress but appointed by the President"³⁰ The Commissioner of Public Buildings, a Federal Government

office is carrying out a new public buildings programme prepared by the General Services Administration. Then there are the Zoning Commission, the Board of Commissioners, the Fine Arts Commission. These are just the more important, but by no means all of the bodies concerned with the planning and development of the District.

It is all too obvious then that the District's administrative arrangements have evolved without any rational direction, in a manner basically opposed to the most fundamental precepts of public administration. The end product has been confusion. In fact, one commentator has gone so far as to say that, "there is no general government as such in the federal city This "ungovernment" unparalleled in any other major city, has no common root or base of political power or legislative authority."³¹ The problem is basically constitutional deriving from the doctrine of the separation of powers. Whereas in countries with parliamentary systems of government the executive instigates most legislation, and has considerable control over the day to day business of legislating this is certainly not the case in the United States. All bills are introduced into Congress by private members, and although the President may sponsor bills by use of patronage, logrolling and so on, his influence is limited to legislation for which he has "paid" (and even then it is limited.) The standing committees of the two chambers are of crucial importance to the success or failure of a bill. Practically all of the bills introduced into Congress are referred to a standing committee for study and recommendation and if the committee fails to report back on a bill the bill is virtually certain to die. (This is the fate of about three quarters of the bills introduced). Most bills affecting the District of Columbia, which follow this same

legislative process, of course, are dealt with by the standing committees on the District. However, they do not have sole responsibility for the District. The committees on Appropriations also have a major interest, and the committees on Judiciary, Public Buildings and Grounds, and Civil Service are, also to some extent, concerned with District affairs. "Thus the responsibility the Constitution vests in Congress is diffused at the outset and is often lost altogether in the political shuffling which constantly goes on."³² This lack of direction has manifested itself in the "wholly inadequate form of government, lacking an effective executive and unduly cumbersome in its operations,"³³ which it has provided for the District. "It has created a municipal corporation, of which the Commissioners of the District of Columbia are the officers, but that municipal corporation does not have all the power commonly exercised by a municipality."³⁴ and "by patchwork interference Congress has authorized more than a score of federal agencies and local boards and commissions to operate independently of the Commissioners. all told some seventy government agencies have a finger in running Washington. Moreover, Congress frequently interferes by enacting detailed legislation in the very field in which it has empowered the Commissioners or one of the agencies or boards to act for it."³⁵

To some extent, the administrative problems that beset the District, result from the fact that none of the authorities governing the city are accountable to its citizens. This is, perhaps, best illustrated in regard to the irresponsibility of the Congressional standing committees. Because of their importance the various standing committees are strongholds for pressure groups and sectional interests. "Fundamentally, a congressman

takes his voting cues from pressure groups. He chooses whom to follow in the chamber primarily by deciding who are the most effective spokesmen for those interests which he favours or wants to placate. Naturally, the pressure groups that exert the greatest pressure on him are those important in his district."³⁶ But unfortunately, the District of Columbia is not represented in Congress. Representatives of the adjacent districts in Maryland and Virginia, however, "sit on the Committee to see that Washington is not allowed to do anything that would harm their suburban constituents (e.g. institute a sales tax)."³⁷ Other congressmen from the Deep South find the committee a wonderful source of campaign material "for this reason the actions of the House District Committee can never be considered separately from the fact that Washington is the only major American city with a Negro majority. Back home those boys get a lot of mileage out of kicking the big black city around,"³⁸ This may at least partly account for the fact that, "Five times since 1949, the Senate has passed legislation to give Washington some form of home rule. Five times the bills have died in the House District Committee."³⁹ What is more, membership of the District committees is not considered to be very desirable. It is not surprising, then, that little thought is directed towards solving the District's problems and that often the District's administration is hamstrung by the delay or rejection of draft legislation (particularly that involving expenditure) by the various standing committees.

"Only one office can exercise sufficient leadership to counteract the dead hand of Congress on Washington's development. That office is the White House."⁴⁰ The President is able to exercise control over the District's government in a number of ways. The power of appointing and

(sic) removing members of some of the more important committees and boards, give him control over broad policy issues. ~~However, to some extent,~~ However, to some extent, Congress has limited this control, when creating new bodies, by providing that their members (or the majority of them) shall be appointed otherwise than by the President. This of course is what was provided in the case of the Board of Education, and the National Capital Planning Commission. The presence of numerous federal executive agencies with a partial interest in the District, also gives the President a large potential say in the District's government (Although some of them such as the Civil Service Commission are autonomous.) In particular, the Bureau of the Budget's vetting of the financial programmes of District authorities has been used to advantage. But even here it must be remembered that the ultimate say belongs to Congress; much of it being exercised by the standing committees on appropriations who in the past have shown little reluctance in reducing financial allocations to the District.

Unfortunately, however, with no politically responsible colleagues to aid him, the President has little enough time for the major national and international problems which beset his administration to be able to spare much thought for Washington. It is not surprising then that one observer has claimed that, "There is neither top nor bottom to the structure of government in the District of Columbia Authority does not come to a peak, in a single individual or agency, nor does it rest on the broad foundation of a voting public. It is distributed not vertically, but horizontally"⁴¹ Others have pointed out that, "The result of all this is that no coherent policy on any subject can easily be developed for the District, much less a single comprehensive plan for metropolitan area government."⁴²

NOTES:

1. James Madison in "The Federalist". Page 701 (Everyman edition)
2. J.C. Smuts, Jan Christian Smuts, Page 279. South Africa has three capitals if we include Bloemfontain (judicial).
3. I am using "Ottawa" loosely to describe the whole conurbation. The city of Ottawa, of course, is a municipality within this conurbation.
4. W. Eggleston : The Queen's Choice, Page 200.
5. Ibid.
6. J.H. Gray, Confederation of Canada (cited by W. Eggleston in The Queen's Choice.)
7. Plan for the National Capital, General Report, Page 123.
8. The Commission, of twenty members appointed by the Governor in Council, contains members of the ten Canadian provinces, the cities of Ottawa and Hull, and one other local municipality in Ontario and one in Quebec.
~~For an organization chart of Ottawa's government see Appendix 1~~
9. B. Keith-Lucas, Metropolitan Local Government in Canada. Public Administration, Volume 39, 1961.
10. See National Capital Commission, 63rd Annual Report, 1962-63, Part 2.
11. F.E. Bronson (cited W. Eggleston).
12. W. Eggleston, The Queen's Choice, Page 201.
13. Report of the Joint Committee on the Federal District Commission, Page 1050.
14. C.E. Pickering (cited by W. Eggleston).
15. Section 8. Article 1.
16. L.F. Schmekebier, The District of Columbia, its Government and Administration. Page 3.
17. Ibid. Page 137.
18. Ibid. Page 554.
19. Ibid. Page 66.
20. See Appendix 1
21. R.H. Connery and R.H. Leach. The Federal Government and the Metropolitan Area. Page 105.
22. The United States Government Organization Manual, 1963-64, Page 549.
23. Ibid. Page 550.
24. R.H. Connery and R.H. Leach. The Federal Government and the Metropolitan Areas. Page 105.
25. A number of co-ordinating bodies have been established to get some order out of the chaos. They include the Metropolitan Council of Governments, the Tri State Transportation Commission, The Metropolitan Area Traffic Council.
26. The United States Government Organization Manual, 1963-64 Page 549.
27. Architectural Forum, January 1963, Page 53.
28. The United States Government Organization Manual, 1963-64. Page 546.
29. Ibid. Page 549.
30. Architectural Forum, January 1963, Page 50.
31. R. Hanson, The Process of Governing Metropolitan Washington, Dissertation, quoted in Architectural Forum, January, 1963.
32. R.H. Connery and R.H. Leach. The Federal Government and the Metropolitan Areas. Page 103.

NOTES: (Continued)

33. Ibid.
34. R. Hanson : The Process of Governing Metropolitan Washington.
Quoted in Architectural Forum, January, 1963.
35. R.H. Connery and R.H. Leach : Federal Government and Metropolitan
Areas. Page 103.
36. A.M. Potter. American Government and Politics, Page 169.
37. Architectural Forum, January, 1963, Page 55.
38. Ibid. Page 56.
39. Ibid.
40. Ibid.
41. M. Derthick. City Politics in Washington, D.C. quoted in
Architectural Forum, January, 1963.
42. R.H. Connery and R.H. Leach. Federal Government and Metropolitan
Areas. Page 104.

EARLY HISTORY

Our main concern with the Limestone Plains¹ dates from 1st January, 1901 with the inauguration of the Commonwealth of Australia by the Commonwealth of Australia Constitution Act, Section 125 of which required that:-

"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 meet at the seat of Government."

A major source of disagreement at the Conventions of 1891, 1897, and 1898, the location of the seat of government was finally determined as the result of a compromise between the premiers of Victoria and N.S.W. For although in 1899 it was decided that the new capital should be located within N.S.W., on the insistence of the Victorian premier, it was provided that the Commonwealth Parliament should sit at Melbourne until such time as it met at the seat of Government, - "a move which secured the Parliament to that city for twenty-seven of the most formative years of the Australian Commonwealth, giving the Parliament a Victorian outlook and background which it even yet has not lost."² Although Sir George Turner could not have foreseen that Melbourne would be

the de facto seat of Government for so long a period he may have contrived at some such effect by requiring, as a second condition that the capital should be at least one hundred miles from Sydney. For not only did this prevent the capital from becoming a satellite of Sydney, but also it created among members of the Commonwealth Parliament (or for that matter, among Commonwealth Public Servants) considerable opposition to the transfer of the Seat of Government from Melbourne. The provision by precluding the establishment of the capital near to New South Wales' only large centre of population, in effect, deprived members of the Commonwealth Parliament of many of the conveniences of life.

Opposition to the capital was perhaps most strongly expressed by public servants. In 1916 an official of the Department of Home Affairs, "stated before the royal commissioner that he never had any desire to assist in building Canberra"³ and that he would like to see the federal capital strangled for a hundred years. The lack of enthusiasm for Canberra remained long after its adoption as the national capital. In 1924 G.E. Yates said of Canberra, "The sooner we get the taxpayers to realize the waste of money that is taking place, and wake them up to the fact that they are tied down by enactments made years ago, which are not justified to-day, and set about revoking what has been done, the better it will be for all."⁴ Not until quite recently have the majority of members of parliament begun to take an interest in the capital.⁵

During the ten year period from the passing of the Commonwealth of Australia Constitution Act to 1st January, 1911, the date when the Federal Capital Territory passed into Commonwealth possession, the Commonwealth Parliament was more or less intermittently occupied in searching for a site

for the national capital. Rather earlier, a New South Wales Royal Commission had selected three sites:- Southern Monaro, Canobolas, and the "Yass extended site" (which included much of the present Australian Capital Territory). Subsequently these sites were offered to the Commonwealth Government. Nothing came of this, nor of recommendations of a Royal Commission set up in 1903 by the Commonwealth Government. Early in 1904 the Minister for Home Affairs, Sir John Forrest, personally inspected several sites, and decided in favour of Dalgety. His report, supported by that of the Director General of Works, P.T. Owen, appears to have persuaded Parliament. For in August, 1904 both Houses assented to a bill which named the Dalgety site as the seat of Government. However, the New South Wales Parliament considered the proposed area of the Dalgety site as excessive. A period of stalemate ensued which lasted until 1908 - the two sides basing their arguments on differing interpretations of section 125 of the Commonwealth of Australia Constitution Act. Late in 1908 another Seat of Government Bill was introduced in the federal Parliament, and although there was still a considerable advocacy of Dalgety, Yass - Canberra, the site which was supported by the state Parliament, and which was receiving growing favour among members of the federal Parliament, was chosen in preference. The bill lapsed owing to a change of Ministry. But in December 1908 a Seat of Government Act electing Yass-Canberra as the site for the capital was passed by both Houses. Thus the Commonwealth Parliament realizing that the state Parliament supported by its electorate, would not compromise on the question of Dalgety, had made the compromise, itself.. In 1909 the site was surveyed by C.R. Scrivener and he selected Canberra as the best site for the capital city. This choice was later

supported by a special advisory board. Late in 1909 the New South Wales Parliament passed the Seat of Government Surrender Act, whereby the site (with modifications agreed to by the Commonwealth Government) was yielded to the Commonwealth. This act was closely followed by the passing of the Seat of Government Acceptance Act, 1909, by the Commonwealth Parliament. The Commonwealth took possession of the site on 1st January, 1911.

From 1911 to 1916 the Federal Capital Territory was administered by the Department of Home Affairs. Arrangements for the provisional government of the Territory had been made by the Seat of Government Acceptance Act, 1909, which had established that all the State laws which had been in operation in the Territory prior to its acquisition by the Commonwealth should remain operative after its acquisition and should be administered by the state authorities. This arrangement was confirmed by the Seat of Government Administration Act 1910, except that special arrangements were made for the Territory's finances; the Governor-General was authorized to make ordinances having the force of law in the Territory; and certain Commonwealth Acts were to apply within the Territory. This Act came into effect on 1st January, 1911. An agreement was also made that the New South Wales Department of Public Instruction should operate the Territory's educational service. These arrangements were convenient and economical and ensured a continuous administration. There was no necessity for an elaborate administrative system. The population of the Territory was small⁶ and the first years of Commonwealth control saw preoccupation with survey work, planning and the provision of initial engineering services. "During the year 1911, the territory was virtually under the control of P.T. Owen as director of general works and C.R. Scrivener as director of lands and

survey for the department of home affairs, subject to the secretary and minister of the department."⁷ In August, 1912 D. Miller as resident administrator was given control of the Territory and was responsible to the Minister only,⁸ "Virtually a sub-department of the department of home affairs with an independent chief was established at Canberra."⁹

In April 1911, a world-wide competition was announced for the design of the capital. In March, 1912 a Federal Capital Design Board was appointed. The board's three members were split on their choice of the three best designs but the Minister for Home Affairs, King O'Malley awarded premiums to the three designs favoured by the majority of the board - the first premium going to the Chicago architect W.B. Griffin. O'Malley now proceeded to refer these designs to a departmental committee. However the committee approved none of them but "..... prepared another plan, known as the Departmental Board's plan, which embodied features of the several designs, but was mainly based on Griffin's plan. Its object was to meet the criticisms that had been made about the extravagant cost involved in Griffin's plan ..."¹⁰ In November 1912 O'Malley approved the board's plan, and he later ordered the commencement of the city's development in accordance with it.

Shortly after the official naming of Canberra in March 1913 there was a change of administration, and W.H. Kelly as honorary Minister for Home Affairs, rejected the Departmental Board's plan and adopted Griffin's plan. The Departmental Board was disbanded, and Griffin, now in Australia, was appointed Federal Capital Director of Design and Construction for three years. However from the time of Griffin's appointment to the end of 1915 there was practically no construction work done in Canberra. "During the

years 1914 and 1915 there was general dissatisfaction with the methods of administration at Canberra. This dissatisfaction was evident in ministerial circles, within and without parliament, and amongst the departmental officials, and virtually inhibited any progress in the construction of the city."¹¹ In June 1916 a Royal Commission found that this lack of progress was due to opposition to Griffin by not only officials of the Department of Home Affairs but also by the new Minister, W.O. Archibald.

From 1916 to 1925 the Territory was jointly controlled by the newly created Departments of Home and Territories (administration) and Works and Railways (all works). Owing to the First World War, however, all construction was suspended until 1920.

The Federal Capital Advisory Committee was appointed by the Governor-General in Council in January, 1921, "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 the lay-out of the Federal Capital City by Mr. W.B. Griffin)."¹² Responsible to the Minister of Works and Railways, its main instructions were to inquire into and advise on the progress of works in the city to date, on a scheme for the development of the city's buildings and on other constructional matters. The chairman of the committee was Sir John Sulman, consulting architect and town planner. Of the other members, three were public servants expert in engineering or surveying, and one a private architect.

The achievements of the Advisory Committee have been eclipsed by those of its successor, the Federal Capital Commission, but its importance should not be completely discounted. Strictly speaking, the committee was merely advisory, with no power to compel the adoption of

its advice; it had no executive power and no say in the administration of the capital; in fact, it could be argued that it was little more than a committee of experts appointed to advise the Minister of Works and Railways on the planning and construction of a city. Yet if it merely gave advice, the committee's advice was generally accepted. It had the ready ear of the Minister. The general principles of its scheme for the development and construction of the capital were approved by the federal cabinet (December, 1921). As P.G. Stewart, the Minister for Works and Railways, himself, said in April, 1924,¹³ The Scheme "..... has been the basis of all work that has been carried out during the past three years and in dealing with Federal Capital matters the Government has largely relied upon its advice and its recommendations." Its term of office saw the planning and execution of many of the city's major engineering and construction works, despite considerable difficulties. The Committee experienced flooding, four changes of minister,¹⁴ shortage of finance, and public and parliamentary opposition. Although the committee itself had no executive powers, two of its members, P.T. Owen as Director-General of Works (Department of Works and Railways) and J.T.H. Goodwin as Commonwealth Surveyor-General (Department of Home and Territories) had general charge of all construction and survey work in the Territory. In 1923 P.T. Owen, at the Committee's suggestion was made responsible directly to the Minister for his charge of the separate and independent works department which was then created in Canberra to speed up and maintain continuous construction. The establishment of this department was, in itself, a most important achievement. The Committee's secretary, C.S. Daley, was for four year's the secretary of a subcommittee

of the cabinet,¹⁵ which was set up in 1921 to deal with Canberra matters; and on occasions attended cabinet meetings. To quote Daley's own words, "that was an unusual arrangement"¹⁶ but it helps to illustrate the importance of the Advisory Committee. It is true that the Committee had no say in the day-to-day administration of the Territory, but even in June 1924, the community was only a small one (with a population of 2,600) and construction was the major task of the Territory's administrators.

The argument should not be taken too far, however. There can be no doubt, whatsoever, that the achievements of the Federal Capital Advisory Committee were eclipsed. The Committee, itself soon recognised the desirability of establishing some such body as the Federal Capital Commission to unify the constructional and general administration of the territory. In fact, the main achievement of the Committee, was, perhaps, that it demonstrated the need for a construction commission.

NOTES:

1. Thus was the site of the Australian Capital Territory named by Joseph Wild in 1820.
2. W. Denning : "Capital City" : Page 9.
3. F. Watson : "History of Canberra" Page 177.
4. Speaking in the debate on the Second Reading of the Seat of Government Administration Act, 1924.
5. See statement of W.A. McLaren and the Chairman : Evidence submitted to the Senate Select Committee on Canberra 1955. Page 30.
6. 1714 (1911 Census).
7. F. Watson : "History of Canberra," Page 157.
8. He retired in 1917.
9. F. Watson : "History of Canberra," Page 164.
10. C.S. Daley : Evidence submitted to the Senate Select Committee on Canberra, 1955 Page 530.

NOTES (Continued)

11. F. Watson : "History of Canberra." Page 175.
12. The Final Report of the Federal Capital Advisory Committee.
13. Moving that the Seat of Government Administration Act, 1924 be read a second time.
14. L.E. Groom, R.W. Foster, P.G. Stewart, W.C. Hill.
15. Consisting of the Treasurer, Attorney-General, and Ministers of Home and Territories, and Works and Railways. (Minutes of 22nd Meeting of the Federal Capital Advisory Committee, March 1923).
16. Evidence submitted to Senate Committee on Canberra, 1955 : Page 541.

THE FEDERAL CAPITAL COMMISSION

The Federal Capital Commission, which was set up by the Seat of Government Administration Act, 1924, played a very important part in the development of the national capital. Of the various systems which governed the capital before the 2nd World War the Commission undoubtedly presents the most worthwhile study for those seeking to evaluate the adequacy of the present system of administration. For this reason, I have dwelt rather longer upon the Commission and its problems than a merely introductory sketch of Canberra's administrative history would justify.

The Commission, which assumed its duties on 1st January, 1925,¹ and was abolished on 30th April, 1930 consisted of three members nominated by the Government. The chairman was appointed with full time duties for a period of five years. The other two members were part-time appointees, one holding office for four years, the other for three. Only the chairman was required to reside permanently in Canberra, and on account of this the Commission found it convenient to authorize its first chairman, J.H. Butters to "exercise the powers and carry on the functions of the commission in regard to the general policy to be observed"² The functions of the Commission as laid down by the Seat of Government Administration Act, 1924, were principally the management of Crown lands, the construction of works and buildings and the general administration within the Territory.

The decision of the Bruce - Page Government to supersede the Departmental administration and the Advisory Committee by the Federal Capital Commission, appears to have been prompted by several considerations. Some of the disadvantages of the existing system were mentioned

by the Advisory Committee in its Final Report. The Committee did not enjoy a continuity of policy it stated, and, "Owing to the uncertainty and delay in regard to the provision of funds, and the fact that the project was affected by influences of a political character exerted by opponents of the Federal Capital Scheme,³ the realization of the three year's programme became an impossibility." Furthermore successive Governments had recognised the weakness of a situation which divided responsibility for the administration of the capital among several Ministers, and it was manifestly desirable that Parliament should be freed of the necessity to involve itself in the trivial details of local government.

Early in 1914 the Commonwealth Government had discussed the possibility of introducing a commission to overcome the weaknesses of Departmental rule. Undoubtedly the Bruce - Page Government had in mind the inefficiency of an administration divided between two Departments when it set up the Commission in 1924. In the debate on the Second Reading of the Seat of Government Administration Act 1924, P.G. Stewart, stated :-

"Whilst the work done up to the present had been fairly satisfactory, it is not considered wise to continue further a system under which two Ministers exercise control over the Territory." This veiled admission by the Minister of Works and Railways of poor co-ordination between his Department and the Department of Home and Territories was supported by the action of the Commission in creating its own works branch".....

"The Seat of Government Act laid down that the Commission was to utilise, to the extent practicable, the services of the existing Works' Department for designing buildings. At that time there was the greatest goodwill between the Commission and the Works Department, but the Department was in Melbourne, and with the best intentions in the world, the system did

not work and the Commission had finally to engage a complete engineering and architectural staff which could study the problems on the spot, do what they were told immediately and keep up the designs ahead of the development."⁴ The Minister of Home and Territories, G.F. Pearce, in introducing the Second Reading of the Act into the Senate, repeated Stewart's argument about "the disability of administration by two Departments." He went on to say that "The present arrangement caused a great strain particularly on the resources of the Works Department, and the detailing of highly - skilled officers for special services at Canberra has interfered with the Department's arrangements for designing and executing works in other parts of the Commonwealth In fact opinions of these officers [concerned] are that some form of control such as that suggested, is essential to avoid a break-down With the advent of private enterprise, many new problems will be introduced which are outside the scope and experience of the present Administration, and it will be difficult, and almost impossible for many of these to be satisfactorily dealt with by the ordinary departmental system of Ministerial control from Melbourne." The Departmental administration of Canberra, then, hindered the efficient government of not only the Capital but also the Commonwealth.

The work of the Advisory Committee had been hindered by inadequate financial arrangements. Its shortage of funds ⁵ was considerably aggravated by the fact that they were only voted by Parliament after it had considered the annual Estimates. Thus it was not known until quite late in each year, what amount of money would be available for spending that year. This shortage, delay, and uncertainty in the financial arrangements considerably hampered the committee's work, making it difficult to recruit a sufficient force of skilled workers, and throwing out of balance its

carefully geared three year construction programme. The inadequacy of these arrangements prompted the Minister of Works and Railways to ask in February 1923, "What in the opinion of the Committee, taking into consideration all the circumstances in relation to the possibility of borrowing and administration by an independent body, should be recommended as the best system for obtaining the necessary money and its expenditure, having regard also to Parliamentary methods?"⁶ In a meeting with the Minister of Works and Railways⁷ in March 1923, the Advisory Committee agreed that the time had arrived for the creation of a commission. "Col. Owen explained the difficulty in carrying on departmentally under the present conditions."⁸ In a memorandum to the Minister the Committee recommended the establishment of a construction Commission (with administrative powers) at the completion of the first stage of the development plan. Later in March, the Prime Minister announced that the Government had decided to establish a commission in Canberra on the basis of the Washington Commission.

One of the greatest single factors contributing to the lack of progress in the construction of Canberra up to 1925 was the lack of continuity of policy with regard to the city. The desirability of proceeding with the development of the capital was by no means universally accepted by Ministers. Even as late as February, 1923, when the Bruce-Page Government came into office, it was "considering the alternative proposals of abandoning the whole project, or allowing progress to continue in slow stages and in a more or less indefinite manner."⁹ Some Ministers notably W.O. Archibald did not conceal their opposition to the scheme. It is likely that others, deliberately delayed the city's progress by

changing the pattern and direction of its development. Still others unintentionally caused delay of this kind. The "Battle of the Plans" is a good example of this. When King O'Malley accepted the Departmental Board Plan in 1913, he genuinely thought that he was doing the right thing. Later, however, his decision was reversed by W.H. Kelly who also, no doubt, had the national interest at heart when he reinstated Griffin's plan. Yet these policy changes did great harm to the city's cause, not only because of the cost in time, and money which they involved but also because they helped to sap the morale of the public servants working on the scheme.¹⁰ In its Final Report, the Advisory Committee complained that during its four years of office, there were four different Ministers of Works and Railways. During the fourteen years from 1911 when the Commonwealth took possession of the site until the Commission took up its duties in 1925 the Department of Home Affairs¹¹ had eight changes of Minister.¹² It was scarcely surprising, therefore, that Canberra's early development suffered. For the Government, then, the most important aspect of the establishment of a commission was that it would secure to Canberra that continuity of policy which alone would lead to the economical and efficient development of the city. Quoting the success of the Murray Waters Commission to illustrate the advantages of the commission form of government the Minister for Home and Territories stated that, "it is economically necessary that the policy under which that Capital is constructed and managed shall be continuous and independent of party politics and not varied by the fluctuating whims of Ministers or Governments as they come and go. We believe that the appointment of this Commission will effect that purpose."¹³

One of the attractions of the Washington Commission was its

freedom from political interference¹⁴ such as that to which the Advisory Committee partly attributed its failure.

An evaluation of the Federal Capital Commission's success in fulfilling the functions ascribed to it as the body responsible for the development and general administration of the Territory must be split into two historical periods with May, 1927 as the approximate point of division.

During the first period the Commission had remarkable success, but this was success which derived mainly from its efficiency as a construction authority. Despite the Government's decision in November, 1925, that it would be necessary, to enable Parliament to meet in Canberra, to transfer some 1,000 public servants, instead of the 200 or so as planned in the Secretariat Scheme,¹⁵ the Commission completed its task only one year later than originally intended. This in itself would have been a considerable task, involving as it did the quadrupling of the living and office accommodation and associated engineering and social services to be provided, but following criticism by the Public Works Committee, it was decided to build permanent office blocks and not temporary structures as planned by the Advisory Committee. Nevertheless "At the end of 1927 the Commission had achieved a monumental task of having housed in Canberra Parliament and an essential group of Commonwealth Departments so that the administration of the Commonwealth was possible at the Federal Capital."¹⁶

The Commission's success in speeding up the construction of the capital was partly due to the special powers granted by the Seat of Government Administration Act, 1924. In accordance with the expressed

need to have one authority responsible for all aspects of the capital's development and administration, the Commission was invested with very wide powers. Its functions were equivalent to those of both a municipal and state authority. Its responsibilities ranged from such things as garbage collection to the conducting of public transport¹⁷ and educational services.¹⁷ In some matters such as the design and construction of Parliamentary buildings it exercised functions customarily exercised by Commonwealth Departments. The Act empowered the Commission to make bye laws and gave it special powers with regard to revenue raisings. Upon the establishment of its own works branch the Commission became "a complete administration in every respect."¹⁸ For the first time Canberra had one body solely responsible for its development and administration. The friction which had existed during the period of Departmental administration disappeared." Policy had become well-defined and co-ordinated; quick decisions could be obtained on matters which otherwise might cause delay."¹⁹ This co-ordination of policy C.S. Daley described as "the most important advantage of the Commission," for "There was only one policy. Everyone knew where he stood, and you got a direction on policy immediately you wanted it."²⁰ Certainly this co-ordination of policy was a major cause of the Commission's success in managing to construct a capital ready for Parliamentary occupation more quickly than would have been possible under the Departmental administration.

It would be wrong, to give the impression that the Commission was an autonomous body with no responsibility for its actions. The Commission was responsible to the Minister of Home and Territories, to whom it was obliged to provide information on any matter when so required;

quarterly reports on finance, the general conditions of works and staffing questions; and annual reports (which were also laid before Parliament) giving account of its control and management of the affairs of the Territory. Bye-laws²¹ could be disallowed by either House (before which they had to be laid within thirty sitting days). The Commission was also required each year to submit estimates of its receipts and expenditure for the Minister's approval. (Without this no expenditure would have been permitted). Permission to raise loans was only granted after the amount and terms had been determined by the Treasurer and purpose approved by the Minister. The Commission's accounts were subject to investigation by the Public Accounts Committee, and audit by the Auditor-General. The Commissioners were obliged to carry out the provisions of the Act or regulations made under the Act, under penalty of suspension.

Yet, the Seat of Government Administration Act of 1924 allowed the Commission a much greater measure of freedom than had been enjoyed by the bodies which had previously administered the capital. The special freedom which the Commission enjoyed gave it untold advantages in its role as construction authority. Enabled to streamline its administrative practices and to act ruthlessly when required, the Commission was able to complete the first stage of the transfer more rapidly and cheaply than would have been possible under Departmental administration. Although it benefited by its freedom from the detailed day-to-day scrutiny by Parliament, the special provisions of the Act were particularly advantageous. Not being subject to Treasury regulations the Commission was enabled to cut costs by simplifying its internal organisation and accounting procedures. For example, by guaranteeing

to pay any creditor within three days of incurring a debt, it was able to obtain substantial discounts. The framers of the 1924 Act had realized, as the English New Towns Committee did much later, that "..... such detail as the estimates of government departments provide for the purpose of financial and parliamentary control, would not be appropriate"²² to city construction. They realized that the efficient and economical completion of major construction projects would be hindered by the allocation of funds through annual Parliamentary Estimates, and so the Commission was made independent of Parliament for its revenue (this was principally obtained by loan raisings, service charges, rates, rent on leasehold land, all of which had to be paid to the credit of the "Seat of Government Fund".) This enabled the Commission to plan ahead over several years, and this had the effect of yielding it economies of both time and money. The stability generated by this longterm planning permitted the Commission to "..... make better business arrangements with builders. When a builder can have long term arrangement to cover three or four years he can incur with confidence more overhead expenditure than he could incur, if you gave him only a short term arrangements. The activities were not compartmented into financial years....."²³ Wages in Canberra were high, but prospects of stable employment under the Commission also encouraged workers to come to Canberra. "The number of workmen employed was increased largely. On the 30th June, 1924 the population of the territory was 2,998; nine months later it was 4,445, and nine months later still 4,927."²⁴

During the earlier period, too, the Commission was comparatively

fortunate. The political pressures which beset it later were in comparison almost non-existent. The problems involved in the municipal administration of the Territory were, in the main, fairly simple and ones with which the Commissioners were familiar. Until mid-1927, Canberra was little more than a giant construction camp, with workmen composing by far the largest section of the population. (For ten years before his appointment as Commissioner, Butters had been Chief Engineer and General Manager of Tasmania's Hydro-Electric Department. He was, therefore, quite familiar with the administration of construction camps.) Money for the development of Canberra was liberally voted by Parliament. During the two and half years from January, 1925 to June, 1927, a sum of £4,683,038 was spent on the construction of Canberra, compared with £2,769,032 during the fourteen and a half years from June, 1910 to January 1925.

The Commission's good fortune during the first period of its administration was thrown into relief by its lack of good fortune during the second period. This was associated with two main events: the Depression and the transfer of Parliament. Contemporary economics required considerable reduction of public spending during the Depression. The embryonic capital was not spared. During the financial year 1927-28 the Commission's expenditure was almost £500,000 less than in the previous year; during the following year spending was down a further £850,000.²⁵ Naturally, the Commission's development programme was drastically curtailed. The Depression also brought with it a close scrutiny of public expenditure. Accusations of extravagance were the order of the day and the Commission's reputation did not go unscathed. In truth, these accusations were by no means groundless. Construction costs were

higher in Canberra than in the state capitals. The reason for this was partly due to administrative inefficiency, no doubt, but the greater part of the blame was attributable to factors which were beyond the control of the Commission. The building of a new city on a greenfield site far from the large centres of population was bound to involve greater costs than the construction of buildings in an old established city. High freight costs and the urgency of the project contributed to the expense. Furthermore, the construction took place during a period of full employment and high costs.²⁶ Only by paying high wages could the Commission attract labour from the state capitals (and the labour so attracted was not always the most efficient).²⁷ Equally serious for the Commission was the criticism levelled at it by its new citizens.

"When Sir John Butters was virtually governing Canberra, complaints were heard on every side. As a member of the Public Accounts Committee which inquired into various matters effecting the Capital, I found that the place was seething with discontent."²⁸ It was quite natural that the public servants and their families who had been transferred from Melbourne, should be upset at having to leave behind their friends and relations, and all the conveniences of big city life for what was nothing more than a small badly equipped country-town. It was quite natural that they should seek a whipping-boy to bear the brunt of their resentment. Unfortunately for the Commission this role appeared to belong to it quite naturally, for it was the administrative authority which was everywhere apparent. Landlord, transport operator, inn-keeper, the Commission entered every corner of the citizens' lives. To this extent the Commission was unfortunate. However, it was never a merely passive bystander, the unhappy victim of events. Its omnipresence in

the capital's administration forbade this. From the outset the new residents of Canberra came to resent the Commission, for itself, its administrative actions were frequently high handed and mismanaged. Too often it assumed the role of censor and dictator. Examples of the Commission's bungling ineptitude were many. The spectacle of the Commission's having two Ministers of the Crown arrested at Gorman House²⁹ (a women's hostel) would be Gilbertian in its humour were it not an example of the censorship under which Canberra's residents were forced to live. Instances of unnecessary interference by the Commission in the everyday lives of the citizens of Canberra were too many to enumerate. "People could not even obtain board at a private place, as the Commission, in order to compel residents to go to hostels, forbade householders to take in boarders it was not possible to sell refreshments at the Cotter River Dam, or to keep a few fowls in one's back yard. Those were the kind of things that got on the nerves of the people, and it is not to be wondered at that they became discontented."³⁰ King O'Malley first prohibited the sale of liquor in the Territory's construction camp era, but his measure was retained for several years against popular demand. When the Government finally abolished this anomaly, the Commission, much to the annoyance of the capital's inhabitants, insisted that liquor should be retailed only at its own hotels. The only alternative to this, it had suggested in its Second Report, was complete prohibition. For King O'Malley's ordinance had only prohibited the sale not the consumption of liquor in the Territory. Intemperance had resulted, it argued. At times, the Commission's attitude even to Parliament, itself was irresponsible. For example at one stage several Canberra residents were ordered to pay rates (retrospectively) for street lighting. After vainly protesting to the

Commission that there were no street lighting in their area during the period alluded to, they eventually managed to get the matter referred to Parliament. Although the Commission informed the Minister of Works and Railways that there were lights at the time after close investigation the Minister discovered that this was not true. In short, although the Commission suffered, in part, as scapegoat for the natural resentment of public servants uprooted from their accustomed way of life, much of the criticism which was levelled at it was directly attributable to its own highhanded conduct and gaucherie. The Commissioners, able technicians though they may have been, proved themselves to be novices in the art of politics.

The affair of the administrative buildings foundations did not improve the Commission's reputation. In 1927 when work on the foundations was practically complete, the Commission discovered, by accident, that only two-thirds of the 1800 tons of cement specified for use in the foundations had in fact been used. Work on the building was suspended. In September 1928, a Committee of Experts reported that although a weak mixture had been used for the concrete of the foundations, age had strengthened it sufficiently to bear the weight of the building. In 1947, however, the Public Works Committee stated that "..... subsequent tests carried out thoroughly in a great number of positions, indicates that grave doubt exists as to the possibility of using them with safety."³¹ As it happened, the Government decided to build a larger building in place of the one originally planned and the old foundations were removed. However, the mistake was an expensive one. Not only was the expenditure on the foundations all wasted, and their removal costly, but the completion of the administrative building was delayed for more than thirty years.

What is more the episode throws great doubt on the acumen of the various Commissioners involved. The Commission had entrusted private architects with the responsibility for supervision of the work, the contract for which had been let to a private firm of builders. The Committee of Experts found, however, that "..... none of the tests of the concrete provided for in the specification were made during the construction of the foundations."³² Although the blame for this must primarily rest with the architects and contractors, the Commission's reputation by no means escapes untarnished. It is quite remarkable that in an undertaking as large as the administrative building that the Commission did not arm itself against such exigencies either by directly carrying out the construction work itself or by ensuring that the tests specified in the contract were in fact satisfactorily performed.

The Bruce-Page Government made some very basic mistakes in providing for the administration of the capital. The first was its apparent assumption that the Commission's role as construction authority was of much greater importance than its administrative functions. This would account for the attitude of the Attorney-General, L.E. Groom, who told the Advisory Committee that he thought the Government would delegate administrative powers to a Canberra commission but would not even consider giving it authority for the city's development.³³ Certainly administration was of minor importance until mid-1927 but "eventually, as questions of administration came to dominate engineering and construction questions, the system practically broke down; certainly it completely failed to obtain the approval of the citizens who were compelled to live under it."³⁴

The Government's second mistake was in giving technicians

like Butters and Harrison political powers which they were not equipped to handle. Of the seven persons who were appointed Commissioner by the Government only three had had any considerable administrative experience.³⁵ Of these three only R.C. Goold who was seconded from his post as Town Clerk of Melbourne, had had the right kind of administrative experience, but he was not appointed until 1929 and then only for ten months. The other two A.J. Christie, (formerly Deputy Director of Posts and Telegraphs, Brisbane) and J.S. Murdock, (a former Commonwealth Director of Works) had no experience in administering political affairs, and even they were not appointed until November 1929, and January 1930 respectively.

It also seems very surprising that the Government gave the transferred public servants absolutely no say in their own government. One would have expected some constitutional provision for the expression of grievances at least in a community where all the major (and many of the minor) services were operated by the Government, especially, when one considers that a large proportion of that community was seeking a scapegoat. Yet the Government believing that Canberra's problems were almost the same as commission-governed Washington, left the autocratic Commission in full control of the Territory's municipal administration despite the fact that Sir John Sulman had reported from Washington³⁶ that even there a commission was only acceptable because of the political problems set by the preponderance of negroes in that city. Not only then were the citizens of Canberra given sufficient causes for complaint but they were also deprived of satisfactory means of expressing them. As W. Denning put it, "If in the past the right to vote had not meant much to them at least it was a symbol of their political independence. They

had a voice in the civic affairs of their local municipal council. If local disabilities arose, there were means by which they might be ventilated: if persisted in, they could be fought. Here there was no voice, no outlet. Impotently they raged against a situation which it seemed they could not alter. They were not consulted as to the personnel of the Commission."³⁷ The Government did make an eleventh-hour attempt to save the situation, but even this appears to have been a half-hearted effort made to placate the Canberra mob. Following a considerable amount of political pressure the Seat of Government (Administration) Act, 1928 was passed to provide for the election of the third Commissioner. The Act, however, was ineffective. The popularly elected³⁸ Commissioner was not granted executive powers. The first man to be elected, J.F. Watson, resigned in March, 1929 a little more than a month after his election: Relations between Watson and the other two Commissioners were far from cordial. Exchanges between Watson and the Chief Commissioner Butters were particularly heated. It is perhaps significant that all of the six motions introduced by Watson but deferred on his resignation were struck off the Commission's agenda. R.M. Alcorn, who was elected in April, 1929 to succeed Watson had similar conflicts with the other Commissioners. Only with difficulty, it seems, did he restrain himself from resigning, too. Part of the problem was, of course, his intransigency towards the Commission form of Government. But this was the attitude of Watson, too, for even in his short term of office he found frequent opportunities to express his displeasure at the Territory's administrative system. The Commission's minutes contain several entries such as "Mr. Commissioner Watson stated that, in view of the possibility of the early introduction

into Parliament of a new Bill relating to the government of the Territory all figures required for that Bill should be available".³⁹ No doubt this displeasure also reflected that of the electorate.

The Federal Capital Commission was abolished on April 30th, 1930 by the Labour Government in accordance with its avowed dislike of Commissions. The five years of its existence saw outstanding progress in the construction and development of the capital city. In fact, the physical achievements of the Commission have not been paralleled until very recent times. However, this success was not complete. The Commission contributed practically nothing of architectural merit to the city. The best that can be said is that it planted enough trees to hide most of what was erected during its era; the worst, that it will take years before some of its temporary structures such as the Causeway houses will be removed from the landscape. It is impossible to say how long East and West Blocks "which were built in an inconspicuous style so that later they would not detract from the appearance of the monumental buildings to be erected by future generations",⁴⁰ will remain. What is more, the Commission was on several occasions accused of extravagance and the episode of the administrative building's foundations leaves a justifiable doubt as to the absoluteness of the Commission's efficiency. But the success of the Commission in this sphere was sufficient to contrast sharply with its failure in the other field of its work. For there can be no doubt that the Commission was a fiasco in its role as municipal administrator. In this respect the immediate objects of its establishment were by no means attained.

It must have appeared to members of Parliament that far from being saved from discussions of Canberra's problems⁴¹ following the appointment of the Commission both the House and Senate became even more concerned with the petty details of the city's administration. The political neutrality which the Washington Commission apparently enjoyed, must have seemed to Butters an Eldorado never to be reached. Frustration in this regard no doubt motivated Butters' suggestion⁴² that the Commission's two main functions should be separated by the establishment of a municipal council to administer the Territory. The fact that the Federal Capital Commission failed as an administrative authority, however, does not prove that the commission form of government, combining authority for both construction and administration, was unsuitable for the needs of the Canberra of that day. Far from it, the Commission was a proven failure in administration it is true, but its success could have been assured, had its form been only slightly modified so as to give the people of Canberra more effective representation, and had it been chaired by an able administrator rather than a technician.

NOTES:

1. To give the Commission an opportunity to acquaint itself with the situation in Canberra the Advisory Committee remained in existence until 30th June, 1926.
2. Minute of Federal Capital Commission 1st Meeting.
3. According to W. Denning ("Capital City". Page 32) "The Government also desired to raise a "buffer" between itself and the critics of the construction of the capital.
4. C.S. Daley : Evidence submitted to the Senate Select Committee on Canberra, 1955. Page 567.
5. Parliament voted only £967,043 of the £1,799,000 which the Committee had proposed to spend on the first three years of its development plan.

NOTES:

6. Minutes of Federal Capital Advisory Committee : 46th Meeting : 28th February, 1923.
7. The Attorney-General, and Minister for Home and Territories also attended.
8. Minutes of Federal Capital Advisory Committee : 46th Meeting.
9. G.F. Pearce : 2nd Reading of Seat of Government Administration Act, 1924.
10. See F. Watson : "History of Canberra". Page 175.
11. Department of Home and Territories from 1916.
12. K. O'Malley (April, 1910 - October, 1913)
J. Cook (October, 1913 - September 1914),
W. O. Archibald (September 1914 - October, 1915),
K. O'Malley (October, 1915 - November 1916),
F.W. Bamford, (November, 1916 - February, 1917).
P. McMahon Glynn, (February, 1917 - February, 1920)
A. Poynton, (February, 1920 - December, 1921)
G.F. Pearce, (December, 1921 -
13. 2nd Reading of Seat of Government Administration Act, 1924.
14. See C.S. Daley : "Canberra : A Nation's Capital (ed. H.L. White) Page 48.
15. This scheme provided that each Department should transfer a mere skeleton staff to attend its Minister during Parliamentary sessions.
16. "The Canberra Times" : 12th March, 1963.
17. Authorized by the Seat of Government Administration Act, 1926.
18. A.T. Shakespeare : Evidence submitted to the Senate Select Committee on Canberra, 1955. Page 144.
19. L. Wigmore : "The Long View". Page 114.
20. Evidence submitted to the Senate Select Committee on Canberra 1955. Page 567.
21. Such byelaws had to be consistent with the Act, regulations made under the Act and, or any ordinances made in pursuit of the Seat of Government Administration Act, 1910.
22. Second Interim Report.
23. C.S. Daley : Evidence submitted to the Senate Select Committee on Canberra, 1955, Page 566.
24. F. Watson : "History of Canberra", Page 216.
25. Actual expenditure was £2,437,607 (1926-7) £1,953,467 (1927-8), £1104,373 (1928-9).
26. However, it is true that in August 1928, the Standing Committee on Public Works criticised the Commission, claiming that its policy on letting small house building contracts to large rather than small organizations was expensive.
27. See W. Denning "Capital City". Page 33 and L. Wigmore : "The Long View" Page 108.
28. Senator Hoare : 2nd Reading, Seat of Government Administration Act, 1930.
29. See W. Denning : "Capital City" Page 33.
30. Senator Ogden 2nd Reading Seat of Government Administration Act, 1930.

NOTES: (continued)

31. Page 7, "Report relating to the proposed Permanent Administrative Offices, Canberra, " Public Works Committee, September, 1947.
32. Final Report of the Committee of Inquiry by Committee of Experts, February, 1929.
33. Reported in the Minutes of the Federal Capital Advisory Committee 46th Meeting 28th February, 1923.
34. A. Blakeley : 2nd Reading of Seat of Government Administration Act 1930.
35. Of the other four Sir John Butters was a civil engineer; Sir John Harrison a builder; Colonel T. J. Thomas, Finance member of the Military Board in the Department of Defence; and Gorman, and expert in real estate. See Appendix 2.
36. See his letter of 25th November 1924 among Papers of the Federal Capital Advisory Committee, 1921-25. C.P. 403S.1.
37. W. Denning "Capital City", Page 36.
38. There was a small property qualification for the suffrage.
39. Minutes of the Federal Capital Commission 135rd Meeting : 22nd February, 1929.
40. Report of the Senate Select Committee on Canberra, 1955. Page 17.
41. See G.F. Pearce's speech in 2nd Reading of Seat of Government Administration Act 1924.
42. Review submitted by Butters to Minister of Home Affairs. 2nd November, 1929.

THE DEPARTMENTAL ADMINISTRATION
AND THE SENATE SELECT COMMITTEE

Following the abolition of the Federal Capital Commission the administration of the Territory reverted to the departmental system. In 1955 A.T. Shakespeare commented rather caustically on this change. "For a little while it [administration of the Territory] was carried on as the Federal Capital Territory Branch and then there was a scramble and it was grabbed by this Department and that Department. Administratively the Capital has suffered ever since."¹ Responsibility for the government of Canberra was farmed out to four Ministers. The Department of Home Affairs was made responsible for general administration while specialist functions were allocated to the Attorney-General's Department (the courts, police, probate and so on), the Department of Health (public health) and the Department of Works (engineering and construction). In addition an Ordinance of 1st May, 1930 made under the Seat of Government (Administration) Act, 1930, established an Advisory Council to advise the Minister on matters of local concern. The Ordinance provided that three members of the Council should be residents of the Territory elected for twelve months under a system of adult suffrage and that the other four members² should be ex-officio. The Civic Administrator³ was responsible for a branch of the Department of Home Affairs which was set up to deal with Canberra matters.

Such a profusion of authorities was bound to lead to a lack of co-ordination. This had been the opinion of the Bruce-Page Government when it set up the Federal Capital Commission. To over-come this weakness had been one of the main purposes of its creation. The situation

improved slightly in 1932, when the Scullin Government was replaced by one led by J.A. Lyons. The Department of Works and Home Affairs were abolished and their functions and powers were taken over by a newly-created Department of Interior. This undoubtedly brought advantages to the administration of Canberra. The combining of responsibility for general administration and constructional and engineering works was bound to be advantageous. However, the Department of Health and Attorney-General's Department retained their specialist responsibilities. At the same time the office of Civic Administrator was abolished and provision was made to allow the Advisory Council to elect its own chairman. In addition the composition of the Council was changed.⁴

In truth the high pitch of activity that was reached under the Commission was not attained again until the post-war era. However, apart from the five years from 1934-1939 the economic climate of the period was never really favourable to city development. Even the work of a Commission would have been circumscribed by the stringent Government policies of the Depression and Second World War. Indeed the period 1930 to 1933-4 merely saw a continuation of the penny-pinching policy which the Commission itself had endured towards the end of its existence. The one important work, which, was completed in 1931, namely the Federal Highway, helped to occupy the Territory's unemployed. It was to absorb the unemployed, too, that the decision was taken in 1932 to double the afforestation programme. Apart from these expenditures even votes for essential maintenance works were grudgingly allowed. The outbreak of the war, too, saw almost total suspension of development. What construction there was, was motivated by reasons of military expediency. The Community

Hospital was completed chiefly because of its importance as an American army hospital. The extension of Canberra Technical College was due to its significance for the war effort. And the transfer programme was in the main suspended, as it had been during the Depression.

If the Departmental Administration can be criticised for its lethargy it is during the years 1933-4 to 1939. This was a period of prosperity. The economic situation had improved so much by January 1934 that the Government approved the resumption of the transfer programme. (In 1933 the transfer of the Patent Office, and the Taxation Branch of Treasury, originally planned for 1930, was finally effected). Thus by 1939 the Territory's population of 10,800 was more than fifty per cent. greater than the 1932 figure (7030). In 1934 work on several major building projects was commenced. Special attention was paid to housing and several suburbs were completed during this period. A new fire station, two schools and the first sections of the National Library and War Memorial were among the buildings completed. Although it never ~~the~~ reached the same peak that had been reached under the Commission, expenditure⁵ was maintained at a high level. (Peak expenditure under the Departmental system of £2,113,330 for 1938-39 compared with a peak £2,437,607 for 1926-27 under the Commission). However, with the abolition of the Commission, the Territory's finances once more became dependent on annual parliamentary appropriation. Delays naturally occurred. "Some of the disabilities attendant upon the pre-Commission form of procedure have been lessened, and there has been an attempt to adopt a programme of development covering a term of years. But

the annual review of financial policy has led to the continued postponement of important works, and the maintenance of a balanced programme, based upon a co-ordinated scheme has been impracticable."⁶ Unnecessary delays of this kind occurred in the construction of several major works - notably the Community Hospital and Administrative Building. This was also, in part, due to the fact that Departmental administration did not have the same forcefulness and ability to get a job done quickly, that the Commission had had. Despite the urgent need for a new hospital⁷ its construction was delayed for several years mainly due to the administration's inability to stick to a decision :

"The question of a new hospital has been before the Government and, particularly the Minister for Health for two or three years. When plans were first drawn the project was deferred, and towards the end of the last parliamentary session it was decided to refer the plans to this committee. Three plans have been drawn up."⁸ The first plan was designed by the Works and Services Branch of the Department of Interior. Then the Minister of Health decided that hospital architecture was highly specialized and an architect experienced in this type of work was commissioned. Subsequently the Hospital Board decided that this second plan did not provide sufficient accommodation, and so a second architect was commissioned to do another plan.

Unco-ordinated decision making of this kind caused the Standing Committee on Public Works to state that : "Throughout the Committee's investigations it was apparent that there had been a lamentable lack of collaboration between the architect called upon to design the building and those responsible for the control and management of the hospital

Before a new plan is drawn it is suggested that there be consultation between the designing architect, the Director-General of Health, the Superintendent of the Hospital Board and the Commonwealth Architect." It is little wonder that in 1955 C.S. Daley said that "..... actually for five years the Commission had control of this Territory, and so far as development and construction and policy was concerned that period was Canberra's golden age."⁹

.....

In 1954 the most outstanding era in the physical development of the national capital was heralded by the appointment of a Select Committee of the Senate "to inquire into and report upon the development of Canberra in relation to the original plan and subsequent modifications and matters incidental thereto." The Committee's report of September, 1955 was a damning criticism of the Departmental administration. Provisions for the administration of the capital had changed very little in the immediate postwar period. Responsibility for the development of the city was divided between the Minister for the Interior (planning) and the Minister for Works (building and construction). General administration remained the province of the Minister for the Interior, also, while the Minister for Health and the Attorney-General each retained their specialist responsibilities. The two advisory bodies associated with the administration of the Territory, the National Planning and Development Committee¹⁰ and the A.C.T. Advisory Council still functioned. In other words, arrangements for the post war administration of the Territory were practically the same as those which had proved so ineffective before the War. It is not surprising, then, that the Select Committee should have found the Departmental administration

guilty of the same kind of procrastinisation and lack of direction in the development of the city, which it had demonstrated before the war. "The Committee concludes that there is no positive determination to complete the National Capital, but merely a policy of living from hand to mouth. The Committee believes that this policy which has characterized all Governments and all Departments since 1929, must cease, and that a clear programme for the transfer of Central Departments to Canberra should be drawn up, affirmed, and carried out within a measurable period."¹¹ The truth of the matter was that the Government had just not heeded the lessons of the past. The pre-Federal Capital Commission days had amply shown that the Departmental system of administration was completely unsuited to the development of a fine city. The successful developmental work of the Commission had amply shown, too, what could be done with a different kind of organization (and with the enthusiastic support of the Government). Reinforcement of the argument (as if it were necessary) came with the fiasco of the Departmental administration of the late 1930's. Certainly the Select Committee found sufficient evidence to justify its principal conclusions "That Canberra has failed to develop as the administrative centre of the Commonwealth. That the present form of administration is unsatisfactory for the task required of it. The blame for this does not lie with the officers of the various Departments but with the type of organization."¹² It is difficult to believe that the Chifley and Menzies Governments had overlooked this evidence and even more difficult to believe that they were not enthusiastic about the further development of Canberra.

Yet it was the Public Service Board which made the first move to resume the transfer of the whole central public service to Canberra.

The difficulties of carrying on the wartime government of Australia from three separate cities had obviously had an adverse effect on the efficiency of the Service. In 1947, therefore, in its anxiety, the Board urged the Minister for the Interior to review the whole question. The interdepartmental committee (consisting of representatives of the Treasury, the Department of Works and Housing, the Department of the Interior, and the Public Service Board) which he set up, submitted its report to the Government in February, 1948. Cabinet accepted the committee's ten year programme,¹³ and then buried it. Six years later the Public Service Board repeated the complaint which it had made every year since the publication of this programme:- "There has been no marked change in Canberra's administration during the year and no new department or sections of departments of any importance have been moved to Canberra." In drawing up its programme the interdepartmental committee had realised that "the shortage of labour and materials, and the urgency of providing housing and boarding accommodation, would operate against any rapid expansion during the next two or three years;"¹⁴ and accordingly it had planned practically no transfers during the first three years. Instead it had allowed for a growth in Canberra Departments of 882 officers. However during the six year period ended 30th June, 1954 no Central Departments were transferred to Canberra and the net increase in total Public Service staff at Canberra was only 1115. This fell a long way short of the proposed increase of 2585 scheduled for the first five years. (And for two of these five years, this figure did not take account of growth of staffs of Departments already resident in the capital).

The crux of the whole problem was the acute shortage of

accommodation in the city. As the Select Committee put it, "It soon became apparent that the programme for 1948 for the transfer of public servants to Canberra had failed. The major obstacle was the lack of houses."¹⁵ In all fairness it must be admitted that the Wartime shortage of accommodation was made worse by the considerable growth of population. (The estimated population of the Territory more than doubled during the period 1945 (13,250) to 1954 (28,277)). Yet the Public Service Board pointed out that "The key to the planned transfer is balanced construction of office accommodation, housing and amenities at a rate which will do better than take care of the natural growth of Canberra as it is at present organized and leave a substantial proportion over which can be used for expansion."¹⁶ In fact the Departmental administration did not even provide for this "natural growth". The number of persons on the Department of the Interior's housing list grew from 1445 in 1947 to 3091 in 1955. In his evidence given to the Select Committee Mr. W.E. Dunk, Chairman of the Public Service Board stated that to facilitate transfers at least 1,000 houses a year would have to be constructed. Even in the peak year of construction 1951-52 only 635 housing units were completed. In 1954-55 the number completed was only 320. Moreover, the comparatively high rate of house construction of 1951-52 was achieved only at a price. For the Government has to concentrate on providing Canberra with housing almost to the exclusion of all other forms of building.

As a result, the shortage of office space which had always existed in Canberra now became acute. Here, too, delay and lack of direction became a very real stumbling block to the development of the

city. In May 1947, Parliament had referred a proposal to resume the construction of the Administrative Building to the Public Works Committee. Recognising the urgent need for office accommodation, the Committee had suggested that the building could be completed in four years. Due to the most unpardonable delay, however, the first of the Building's three stages was not completed until 1956, over seven years after this report, and the final stage towards the end of 1957 (ten years after the report). It is impossible to find arguments to justify this delay.

The Departmental administration was forced into impasse after impasse. Unable to cope with the backlog of the housing shortage, it had felt compelled to concentrate most of its resources on solving this problem. Although unable to solve the problem, partly as a result of its attempt to do so, it found itself face to face with an acute shortage of office space. Unfortunately its solution was to add to Canberra's already ugly sea of temporary buildings. Far from enhancing the aesthetic standards of the capital's buildings, it chose to dispoil some of the city's most conspicuous locations. Temporary buildings were erected at Parkes (National Library Annexe), Barton (Riverside Huts, Barton Offices), Capital Hill (Capital Hill Hostels 1 and 2), Turner (Turner Hostel) and Reid (Mulwala House, Reid House, Narellan House). The Departmental administration erected more temporary buildings during this period than there had been erected at any other time in the city's history. In so doing it added even more to the slum clearance problem which faces the capital, to-day. Unfortunately, Canberra's temporary buildings are of a more permanent construction than either their name or appearance would imply. All of the temporary buildings erected at this time are still standing, and although the uses, to which some of them are put, have

changed, they show every sign of standing for many years to come.

The architectural standards of even the permanent buildings erected during this period were often extremely low, and the Select Committee did not hesitate to point out some examples : "The Telephone Exchange at Barton is a building devoid of any architectural merit, has all the hallmarks of a temporary building, but, notwithstanding that, is sited most inappropriately on one of the best areas in Canberra, intended for first class permanent structures it will for many years be prominent; a memorial to divided administrative control and architectural anarchy; the unwanted child of negotiations between the Postmaster-General's Department, the Department of the Interior, the Department of Works and the National Capital Planning and Development Committee, none of which appear anxious to accept responsibility for it.

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"A correspondent of the "Sydney Morning Herald", was no less scathing in his remarks : "There must be debited against the Menzies Government some of the ghastliest housing blunders in the city's history. One of these, the Narrabundah "henhouses" spoiled a magnificent area of elevated land by cramming on to it weatherboard skillion-roofed houses (perhaps fair in themselves), cheek-by-jowl in rows of 45 feet frontages. The sighting of this blot by a horrified Menzies one day in 1955 is alleged to have been responsible for the coup-de-grace to the Cabinet career of Sir Wilfred Kent Hughes."¹⁸

As the Select Committee observed the situation before its appointment was very similar to that before 1925, before the establishment of the Federal Capital Commission. Division of responsibility for the planning and construction of the city had drastically affected its

development. "That there was a lack of departmental co-ordination in respect to the programme was clearly demonstrated by evidence given to the Committee on numerous occasions. agreement was general that some alteration of the present administration was desirable, and that an active, unified and co-ordinated directive was essential for the success of any programme."¹⁹ Responsibility for the planning and development of Canberra rested with the Department of the Interior, but it was only one of that Department's functions. As Mr. McLaren, the Secretary of the Department, himself, said "The responsibility for everything in Canberra is mine under the Public Service Act" but "..... It would be quite impossible to oversee the work of all these Branches except on major policy. There are more than 4,000 employees in the Department of the Interior and we have many other functions besides looking after Canberra."²⁰ Even within the Department there was no one authority solely responsible for the planning and development of the capital. The Department of Works undertook all Commonwealth construction in the Territory with the Department of the Interior as the principal client. (Money for this construction work was voted to the Department of Works.) However, the Department of the Interior was not the only client even in Canberra, and naturally a project high on the Department of the Interior's priority list was not always given the same priority by the Department of Works. Thus in 1950, "An interdepartmental Committee convened to consider the building programme stated that a major cause of delay was the absence of a single authority. There were ten client Departments all making separate requisitions to the Department of Works and each pressing the urgency of its own claim."²¹ (Two co-ordinating and

planning committees, a Departmental Development Committee, and Priorities Committee which had been established for this purpose had very soon become inoperative). To make matters worse the head office of the Department of Works was located in Melbourne. At least one witness²² felt that the transfer of the head office to Canberra "..... would tend towards a more active development of this city generally." One other Mr. R.M. Taylor (Director of Works) implied that the shortage of materials which was holding up building in the capital was at least partly due to this fact. "As far as remedying general shortages is concerned, that is the responsibility of the Chief Comptroller of Stores in my head office who has the right to purchase overseas. I have not that right."²³

"Witness after witness stressed that the first essential of any proposed development must be a guaranteed works programme with an assured allocation of funds over a period of years. Project budgeting, as it has been called, was advanced as the only satisfactory method of construction finance."²⁴ The Government, of course, was the main source of building activity in the Territory. Thus any uncertainty in the annual parliamentary appropriations for the development of Canberra could have had (and can still only have) an adverse effect on the availability of labour and contractors to Canberra's building industry. To attract workmen to Canberra (and to keep those who were already here) it was essential that they should be guaranteed stable employment. Without this a large scale exodus was only to be expected. This is what happened in 1952-53 following the Government's credit squeeze, (when Canberra's building workers lost their country allowance and overtime work, and the

Departments were discouraged from making new contracts). An indication of the loss of the building workforce which resulted can be obtained from the fact that at 30th June, 1953 only 788 workmen were engaged on house construction, compared with 1,109 a year earlier. The same is true of building contractors. Architect, E.J. Scollay observed that immediately after the War when there had been enough work to keep them busy, the Department of Works had had quite a number of large firms of contractors working in Canberra "..... but gradually some of those firms have begun to drift away, particularly engineering contractors. In my opinion, I am sure that the cause of that is the lack of certainty that the contractors will be able to get work in Canberra."²⁵ Once Canberra had lost workmen and contractors it was difficult to get them back. (Thus it was not until 1954-5 that there was any increase in the number of workmen engaged on housing. But the figure for June 30th, 1955 (693) was almost half that of 30th June, 1952). It is not suprising, then, that in giving evidence to the Select Committee, Treasury officials were able to claim, "That no criticism could be directed at the Treasury over recent years for lack of funds for the developmental programme. Expenditure on civil works under the control of the Department of Works since 1950-51 had ranged between £3 - 4 million annually and, in recent years particularly, the expenditure had fallen considerably short of the amount voted."²⁶ (Thus of an amount of £4,300,000 voted for A.C.T. Capital Works and Services for the financial year 1954-5 only £3,340,000 was actually spent.) There was something that the Treasury officials omitted to say, however. The fact that Canberra had difficulty in gaining and retaining building workers and contractors because of the system of

financing its development was a major contributing factor to the Departmental administration's inability to spend the whole of its vote. Apart from this ".... the system of annual appropriation delayed the commencement of new projects and then caused a rush to spend money before the end of the financial year, resulting in unevenness and uncertainty in planning and in uneconomical use of moneys." Several witnesses observed that this system of financing set up artificial barriers to building. When it is forecast that a building will take two years, to complete, this is only an estimate. It may, in fact, prove possible to complete the building in much less than two years. Annual appropriations prevent this type of time saving. A Department is voted a fixed sum to be spent on a building project within the financial year, when that sum is spent, even if the year has not yet ended, work must cease until money is voted for the next year. Similarly, just before the end of the financial year, a Department often finds that it has money left over. Rather than leave the money unspent and take the risk that it will be revoked in the following year, the Department rushes to have the money committed to a project before the end of the year. Building of this kind is almost bound to be expensive. Generally the rush contracts for such projects are badly worked out and subsequent modifications have to be made, which cause delay and force up the final cost of the building.

It is not surprising then, that the Select Committee went on to recommend : "That the development of Canberra to permit of the full transfer of administrative Departments should be given to a centralized Authority with powers similar to those of the Snowy Mountains Hydro-electric Authority. That the Authority should be controlled by a

single Commissioner with full executive powers under a Minister of State holding a separate portfolio for Canberra Development. That those branches of the Department of the Interior and the Department of Works which deal solely with Canberra's activities should be taken from their respective Departments, and unified in this Authority. That the Authority should be guaranteed, by an appropriate provision in the enabling Act, sufficient finance to permit it to carry out a large-scale balanced programme over a period years."²⁷

NOTES:

1. Evidence submitted to the Senate Select Committee on Canberra, 1955. Page 144.
2. The Secretary, Department of Home Affairs; the Secretary, Department of Works; the Director - General of Health; and the Civic Administrator (chairman).
3. Established under the same ordinance.
4. The four ex-officio members of the Council now consisted of the Director-General of Health and the chief officers of these three branches of the Department of the Interior which were set up to deal with Canberra affairs i.e. - the Assistant Secretary (Works and Services Branch); the Assistant Secretary (Civic Representation Branch); and the Surveyor and the Chief Property Officer (Lands and Surveys Branch).
5. The figures for 1933-4, 1934-5, 1935-6, 1936-7, and 1937-8, are £955,434; £1,054,134, £1,158,977, £1,579,147 and £1,754,526 respectively.
6. C.S. Daley : "Handbook for Canberra" : (general editor, K. Binns) Page 45.
7. "..... the existing buildings are noisy, scattered, and inadequate. Further evidence placed before the Committee was to the effect that the present structure is of a temporary nature only, constitutes a serious fire risk, and that Canberra definitely needs better hospital facilities." Report of Standing Committee of Public Works on the proposed erection of a Community Hospital in Canberra, June 1938, Page 4.

8. The Director-General of Health. Ibid Page 12.
9. Evidence submitted to the Senate Select Committee on Canberra, Page 542.
10. This Committee of independent experts which was purely advisory was set up in 1938 to give advice and criticism to the Minister of the Interior on any questions arising in relation to the approved plan of Canberra and on designs put forward for the more important official and private buildings and works. It was disbanded in 1957 following the finding of the Senate Select Committee that "..... the oversight of standards by the National Capital Planning and Development is ineffective."
11. The report of the Senate Select Committee on Canberra, 1955. Page 17.
12. Ibid. Page 23.
13. See Appendix 3.
14. Page 6. Thirtieth Annual Report of the Public Service Board, 1954.
15. The Report of the Senate Select Committee on Canberra 1955. Page 16.
16. Page 7. Twenty-eight Annual Report of the Public Service Board 1952.
17. The Report of the Senate Select Committee on Canberra 1955. Page 29.
18. 14th July, 1959.
19. Report of the Senate Select Committee on Canberra, 1955. Page 22.
20. Evidence submitted to the Senate Select Committee on Canberra, 1955. Page 20.
21. Ibid. Page 14.
22. Mr. J.N.C. Rogers, Assistant Secretary and Surveyor-General, Department of the Interior.
23. Quoted Report of the Senate Select Committee on Canberra, Page 21.
24. Ibid. Page 18.
25. Evidence submitted to the Senate Select Committee on Canberra, 1955. Page 358.
26. Report of the Senate Select Committee on Canberra 1955. Page 18.
27. Ibid. Page 23.

THE NATIONAL CAPITAL DEVELOPMENT COMMISSION

Two years after the publication of the Senate Select Committee's report, most of its principal recommendations for the development of Canberra were put into effect. The National Capital Development Commission Act, 1957 assented to on 12th September, 1957, created the National Capital Development Commission, consisting of a Commissioner and two Associate Commissioners. The Commission came into operation on 1st March, 1958 with the appointment of J.W. Overall as Commissioner. A month later Associate Commissioners, W.C. Andrews and G. Rudduck, were appointed.

A "body corporate with perpetual succession" the Commission is primarily a development authority and any powers which it has in the field of municipal administration are incidental to this role. "The functions of the Commission are to undertake and carry out the planning, development, and construction of the City of Canberra as the National Capital of the Commonwealth" with power "..... to provide, or arrange for the provision of, within the Australian Capital Territory, buildings, roads, bridges, works for the supply of water or electricity, sewerage, or drainage works and other matters and things for, or incidental to, that purpose" and to manage any Commonwealth lands in the Territory which the Minister for the Interior may place under its control. Empowered to delegate its powers, the Commission was also given the power "..... to do all things necessary or convenient to be done for or in connexion with, or incidental to, the performance of its functions and the exercise of its powers."

"The immediate stimulus on the construction side [for the establishment of the Commission] comes from the Government's decision to transfer the policy - making core of the defence services from Melbourne, during 1959"² The first five years of the Commission saw the successful completion of the first stage of the transfer programme formulated in 1958. In the five years ended 30th June, 1963, approximately 2,400 public servant positions were moved to Canberra, as planned. The Commission was not the only authority responsible for the success of these transfers. In 1958 the Public Service Board reported "Continuous planning is necessary in a big operation of this kind and the Government, on the Board's recommendation, has appointed a Co-ordinating and Steering Committee comprising :- The Chairman of the Public Service Board; The Commissioner of the National Capital Development Commission, The Secretary, Department of the Interior, Permanent Heads of departments involved in a transfer, to ensure effective overall planning and co-ordination."³ But past experience has shown that without efficient development work in Canberra even the best laid transfer programmes have gone astray. The Commission's office accommodation programme received a great boost with the completion of the final stage of the Administrative Building at Parkes, and this, of course, was able to accommodate many of those transferred from Melbourne. But much more was involved than this. Office space was needed for the balance of the transferees, and for the increase of staff which had taken place throughout the Service. New suburbs had to be planned, developed and serviced; houses, flats, and hostels built, more schools, shops were needed, and all the time plans had to be made for the future.

The development of Canberra under the National Capital Development Commission has no parallel in the city's history. Apart from the brief glory of the Federal Commission, determination to complete the city has never been so concretely expressed. The population of the Territory has almost doubled in the five years or so since the Commission came into operation. Four months after Mr. J.W. Overall's appointment as Commissioner a population count conducted by the Bureau of Census and Statistics revealed a population of 39,061. By July 1st, 1963 the population had increased by 31,714 to 70,775. Currently it is increasing by approximately 11.8 per cent. annually. Growth of this kind has naturally made tremendous demands on the city's resources. For the most part, they have been adequate to meet these demands. The five years of the Commission's existence have seen a considerable increase in Government office accommodation. Major Government office blocks completed have been : the Civic Offices, the Tariff Board Building, Russell Hill Offices (6 blocks). In addition, the A.C.T. Law Courts and Government Printing Office have been completed, and five other major Government buildings are at an advanced stage of construction. Suburbs in the older part of the city have been substantially built on, and development of the new residential area of Woden has commenced. All this has involved the construction of new roads, and the extension of storm-water drains, sewerage, and water supply. In 1961 Canberra's water supply was almost quadrupled by the completion of the Bendora Dam with its capacity of almost 2,500, million gallons. Currently the Commission is investigating sites for another dam. Educational building has made

especially strong demands on the Commission. "School enrolments to-day total 16,00 or 24 per cent. of the population With the rapid migration of families to Canberra, secondary school enrolments are increasing faster than the population growth."⁴ Since 1958 the Commission has built ten schools (and made considerable additions to a number of others), several important buildings have been added to the Technical College, and the number of new buildings added to the Australian National University is very impressive.

The Commission's achievements in two fields are of particular importance. It has been responsible for the completion of the Canberra Lakes Scheme. When Sir William Holford visited Canberra in 1957 he saw it as "..... a divided city, with the flood plain of the Molonglo as an open wedge between the federal town on the south bank and the municipality on the north."⁵ He sympathized when he ".... watched the arrival (by car) of an Australian family on top of the Lookout on Mount Pleasant. They drank in the view, and then one of them said "Which is Canberra?"⁶ He strongly recommended the creation of the Lake, as the only means of unifying the city. The Commission later endorsed this recommendation. To-day work on the Lake and its dam is complete. In March 1964 the Lake became a reality. The Commission can claim, with pride, that it has completed an essential feature of Griffin's plan, even though this feature has seemed, for fifty years, almost an impractical dream. Much development has taken place of works associated with the Lakes Scheme. The Commission has more clearly defined the Parliamentary Triangle, and it has been responsible for the construction of the series of road connections, and the two fine bridges

which now span the Molonglo. "From the outset of its operations the Commission made it clear that the full development of the National Capital called for an increased participation by private enterprise."⁷

"If development is to proceed without hindrance, the substitution of private enterprise investment for the Government programme, wherever possible, must be encouraged."⁸ In 1958-59 "the proportion of private investment relative to that of the Government was much the same as in earlier years. Only one-third of the total originated from private sources due to the relatively small contribution by private enterprise in home building."⁹ In 1962-63, however, private expenditure on building (£10,200,000) exceeded that of the Government (£9,800,000) for the first time in Canberra's history as the national capital. Private enterprise has developed large new shopping centres, including the £2,000,000 Monaro Mall. It has considerably increased office accommodation in the city with the building of the Hobart Place group and extensions to the MLC and other buildings. In addition of course there has been a great increase in private house construction. But the list of private building is far too long to recite.

Yet, if the Commission has been obligated to private investors for their assistance in developing Canberra, it also has certain obligations to them. Most of the private investment in the city, has been attracted by the prosperity induced by its steady development. The Commission must do all that it can to ensure that this steady development continues, always recognizing that, ultimately, the Commonwealth Government has the power to halt this development as it has done on many occasions. The Commission has one very important function, which if

mishandled, can very effectively inhibit the development of the city :

"There is no freehold land in Canberra, but blocks may be leased for residential purposes for a term of 99 years at a rental of 5 per cent. per annum of the unimproved value. The rental is subject to re-appraisal in each twentieth year of the lease.

Land for lease is either auctioned or advertised for lease by application.

Before leasing any land the Department of the Interior publishes full details of the available land showing the reserve value placed on each block (i.e. the unimproved value) and the minimum cost of the building to be erected on the block. The reserve value must be reached before the bidder or applicant is entitled to secure a lease. Before being granted a lease, the successful bidder (or applicant) has to pay a sum equal to the difference (if any) between the reserve value of the block and the value as bid (or stated) by him."¹⁰ Although all residential leases are sold by the Department of the Interior (in the last few years, this has been almost without exception, by auction) the Commission sets the upward limit to the number of leases offered for sale. For the Commission is responsible for the development and servicing of these blocks. So effective is this power, as a means of restraining Canberra's growth, that the Commission has, frequently, been accused, either singly or in collusion with the Department of the Interior, of deliberately creating a land famine in the city.

The following statement made by the Commission in its report for 1962-63 indicates the extent to which land prices have in fact risen.

"The average land premiums offered at auction for residential blocks showed considerable stability for a period of years up to early 1962. During

those years it was not uncommon for fully serviced residential blocks located conveniently to all community services to be leased for no cash premium at all or a very small premium

Since early 1962, average cash premiums offered at auction for residential land have shown a considerable increase. The average of £437 in January, 1962, has become £1,500 in June, 1963."¹¹ Since the publication of this statement, prices have fallen considerably. The average price paid for 171 blocks auctioned in December, 1963 was only £910. It seems probable that "this is attributable to the official announcements of increases in future offerings."¹² But whatever the reason for this fall, and whether, or not it will continue, it is certain that there has been a land famine in Canberra. The blame for this famine must be borne mainly by the Commission, although its creation does not appear to have been a deliberate policy on the Commission's part.

The Commission's success in the field of architecture and town planning has been mixed. "Starting with about £10 millions and now £14 millions to spend annually, and hosts of eminent consultants, the Commission could hardly have failed to make an impression on the national features of the city : the lakes, the bridges spanning it and some highway engineering to cope with increased traffic flow. Apart from these works, most of them impressive there is very little it has managed which can be said to be of striking quality."¹³ Although perhaps a little harsh in underestimating the Commission's achievements, on the whole, this is a fair comment by the "Nation".

The Commission has shown little enterprise in its town planning. It is aware of the noise, inconvenience, and danger which besets the town dweller in this motor

age. Yet whilst paying lip service to the need to insulate residential areas from the close association with motor traffic which exists in conventional towns, and acknowledging the virtues of the Radburn and footpath access methods of town planning for this purpose, the Commission has hitherto, made negligible use of these principles in planning Canberra. The standard of major buildings erected under the Commission's auspices has been disappointing. In some cases the Government buildings erected have been completely lacking in imagination. The Commission has let slip what was, perhaps, its finest opportunity to bequeath buildings of a high architectural standard to the city. Russell Hill is, with Capital Hill and City Hill, one of the principal focal points of Canberra's town plan. When, for various reasons, it became impracticable to locate a market centre there as Griffin had planned, it was decided that a group of major office blocks, to house the Defence Departments, should be built there instead. A substantial number of these offices has already been created, but the quality of their architecture is completely lacking in attraction. The buildings are sombre, grey, and uninviting. Indeed when announcing the plan for the area's development, the Minister for the Interior indicated that "They would not be elaborate or monumental structures."¹⁴ Yet no where else in Canberra was there a greater need to build well. As it is, it appears that the buildings on Russell Hill will not be sufficiently impressive to balance the great bulk of City Hill backed as it is by the city's civic and commercial centre.

In the field of street architecture, the Commission's success has been limited. In 1954 the Senate Select Committee praised Canberra's

pastoral atmosphere. And, to-day although the town is much larger than in 1954, and although the pastures which then cut the city in half are now drowned by Lake Burley Griffin that atmosphere, to a large extent, persists. Canberra's major avenues, however, should be something more than bucolic - highly commendable though garden cities may be - they should be commanding, inspiring and, indeed, elegant. Unfortunately, however, they are typically suburban, and in no way are they befitting for a metropolis. With few exceptions, domestic street architecture in Canberra consists of single storey bungalow type dwellings designed as isolated buildings, with the architectural unity of the street ignored,¹⁵ The typical street lacks both interest and unity. It has nothing to compare with the regal terraces of Bath, London, or Paris. The Commission is obviously aware of the problem, but because of its timidity it has failed to make any real effort to tackle it. As Associate Commissioner, G. Rudduck put it, "The public seem to like detached houses in large plots on wide streets, and they prefer each house to be different and for each to have at least one special feature. There may be a market for multi-unit dwellings of a repetitive character, but this is very small indeed. There is very little chance of selling Government houses if they are in what we call an architecturally designed street in which there is a high degree of standardisation of individual units if they are mixed up with privately built ones."¹⁶ The Commission has made some effort to add interest to house architecture by varying the height of buildings somewhat. And although its confidence has been badly shaken, because "one of its ambitious attempts at aesthetic achievement, the idea of "dignifying" the main road entrance to Canberra with flats has turned out to be a bad

failure,"¹⁷ it was, at least beginning to think along the right lines. Instead of pursuing this line of thinking, however, the Commission's answer to the need for higher density development of the city was to continue the timid and unimaginative policy, begun by the earlier Departmental administration, of reducing the size of residential blocks "in some cases to appalling pocket handkerchiefs." Now a reduction in block sizes was highly desirable in order to curtail the excessive and costly sprawling foreshadowed by the huge blocks of Forrest. But against the background of current street architecture the move has merely tended to heighten the drabness of its commonplace nonconformity.

The Commission, is by no means solely to blame for the standard of architecture in Canberra. It has inherited many problems from the past. Nowhere is this more the case than with street architecture and temporary buildings. When the Commission came into office large parts of the central areas such as Anzac Park and those parts of Braddon and Reid near to Civic Centre where dignified street architecture was particularly desirable, had already been built on and there were a phenomenal number of temporary buildings existent in the central areas. A popular disapproval of terracing opposes any efforts the Commission might consider to dignify the city by this technique. And the success of the Commission in enticing private enterprise investors to participate in Canberra's development is a two edged sword. But the disrepute, in which the terraced house is held in Australia seems to have cowed the Commission into too ready a submission. And although domestic architecture in the central areas may be a legacy from the past, when the possibility of the population ever exceeding 30,000 to 40,000 was never seriously entertained,

the Commission has published no positive plans for redevelopment of the areas to befit them for a city which is expected to have 150,000 inhabitants within a decade and 250,000 within the not too distant future. Indeed, the Commission far from being the shaper of events in this matter has found itself playing the role of a dumb victim. In its Sixth Annual Report it noted that :

"A case before the Supreme Court in Canberra in June, 1963, raises in a new way a particular issue in Canberra's growth. This case concerned applications under the City Areas Leases Ordinance for a change in the Purpose Clause of particular leases to permit the construction of motels on what are now residential blocks.

Up to this time, motel development and indeed development of a commercial nature has been undertaken generally on undeveloped land made available in the normal way by the Department of the Interior. The matter is one which the Commission regards as important in the future growth of the National Capital."¹⁸ Now it may be highly desirable that a motel should be built on this particular land in Northbourne Avenue. That is not the real point. The Commission has been slow to realise the importance of redeveloping the central areas. If it does not quickly work out an answer to this question, it may find that the Law Courts, with a precedent to follow will vary the Purpose Clauses of more leases, thus sanctioning undesirable development; and thus permit precisely what the Commission was set up to prevent.

But this has already happened as the Commission, itself, has stated in its latest Report: "An application of particular interest was made to the Court in June, 1964, seeking a change in lease conditions on a block used for industrial purposes in the Braddon industrial area. Up till this time, the conditions for all but two leased blocks in this area

had an upper limit of 25 employees per block. This application sought an increase to 70 employees equivalent to 130 employees per acre, and was approved by the Court. The Commission presented to the Court the consequences to the area which could arise from the application being regarded as precedent. A substantial increase in the density of working population throughout the Braddon industrial area would pose major traffic and parking problems, which might then involve comprehensive re-planning. Before that could happen the amenity of adjoining residential areas would be substantially prejudiced and the essential purpose of a service area close to the city centre would be impaired."

It is true that the Commission has now clarified its position on Northbourne Avenue redevelopment, but it still does not appear to have formulated a detailed scheme for the redevelopment of other central areas. Moreover, even though the Commission may approve redevelopment of a particular area, in principle, and can exercise a tight control over the standards of new buildings erected, this does not make piecemeal redevelopment desirable. Market factors are not necessarily conducive to good civic design as Northbourne Avenue experience shows. For there the effect of the two motels being built on redeveloped land is quite spoiled by the continued existence of a squat suburban bungalow, which separates them. Furthermore the huge capital gains made by the former lessees of the redeveloped land is quite contrary to the rationale of the leasehold system; one of the purposes of which is to prevent land speculation.

Furthermore, throughout the central areas countless temporary buildings continue to exist as eyesores and unpleasant reminders that the Commission has made no comprehensive proposals to remove them and replace

them by structures worthy of the National Capital. It must be emphasised that these temporary buildings cover many prominent sites. The Census Office is in the very heart of Civic Centre, Capital Hill and Hillside Hostels stand like concentration camps on Capital Hill. One group of structures, the Riverside huts, which house many of the city's cultural societies, are worthy of particular mention. They are more to be associated with the makeshift hovels of a shantytown than the Australian National Capital.

The Commission's success in persuading private investment to invest in Canberra is not completely to the advantage of the city's development.¹⁹ In the English New Towns practically all building work is sponsored by the New Town Corporations, themselves. And for a very good reason; for (to quote G. Rudduck again) "..... how can you secure harmony of design which is consistent with some overall civic theme when half a dozen architects are expressing their ego, on behalf of their clients of course, on adjoining blocks. Everyone will agree with the objectives, but few architects willingly subordinate their own ideas to the interest of the composition as a whole."²⁰ One solution to the problem Rudduck suggested "..... is to prepare the design for the street or section as a whole and impose this as a lease condition on the individual units concerned. This is the way that the first business blocks at Civic were built and it was very successful."²¹ Yet if the Commission recognized this as a satisfactory solution why does Rudduck go on to say, "What we have done in recent cases is to impose rather generalized conditions and seek to achieve the desired harmony by retaining the power of veto, so-to-speak, if the parties refuse to co-

operate," when he has already implied that despite the Commission's power to regulate, this will make "..... few architects subordinate their own ideas to the interest of the composition as a whole?"

Associated with the reduction in the size of housing blocks has been a reduction in the size and standards of government houses and in the number completed. Associate Commissioner, G. Rudduck expressed the Commission's policy when he stated that "Government-built houses in Canberra were too big, and too costly, constituting a serious economic problem However, the average price of houses in Canberra was £4,500 - about £1,000 more than most occupants could afford. Since this reduction could not be achieved through more economical methods alone, standards must be reduced by introducing the less well-equipped, smaller, houses."²² However, this reduction in the size of houses has elicited considerable criticism. "Advisory Council members criticised the size of houses being built at Hughes by the National Capital Development Commission. Mr. R.P. Greenish described the houses as "box-like structures." He said the Commission was creating slum areas in a new suburb. The chairman of the council, Mr. W.I. Byrne, said insufficient Government houses were big enough for large families."²³ What is more the number of Government houses and flats completed by the Commission has continued to fall despite the ever increasing size of Canberra's population influx. After reaching a high of 1,330 in 1958-9 the number of housing unit completions has fallen to 850 by 1962-3.²⁴

To understand the Commission's shortcomings, it is necessary to make a closer study of the Commission's powers and organization. The Commission's powers, as laid down by National Capital Development

Commission Act, 1957, are, by no means, as wide as those which were enjoyed by the Federal Capital Commission. This is particularly so with regard to financial provisions. Arrangements for the financing of the Commission are far from satisfactory. The National Capital Development Commission Act, 1957, provided for less scrutiny and control of the Commission's finances, by Parliament and the executive, than is customarily exercised in respect of Government Departments. The Commission is required : to maintain proper accounts which are subject to audit by the Auditor-General; to submit annually details of proposed expenditure for the coming year; to set out, in its annual and quarterly reports to the Minister, details of its receipts and expenditure during the preceeding year or quarter; and not to "..... expend any of its moneys except in accordance with particulars of proposed expenditure approved by the Minister." But because the Commission is a statutory authority, works under its control are not subject to the Public Works Committee Act. However, in making its recommendation, "That the Authority should be guaranteed, by an appropriate provision in the enabling Act, sufficient finance to permit it to carry out a large scale, balanced programme over a period of years,"²⁵ the Senate Select Committee doubtless had in mind the financial arrangements enjoyed by the Federal Capital Commission. Yet the essential features of the two commissions' financial provisions are very different. The Federal Capital Commission paid all of its revenue into a special "Seat of Government Fund" and much of its revenue was obtained from its loan raisings. The National Capital Development Commission, however is dependent for its revenue on annual Parliamentary appropriations. All of its receipts are paid into Consolidated Revenue.

The Select Committee had been impressed by the argument that in the past the system of financing the development of Canberra by annual Parliamentary appropriations had contributed to the delay and expense of the city's development. The Commission, too has recognised the importance of reliable financing, and has pointed out that "The only efficient form of city development is that based on continuity of operations in planning, design and construction. Not only is it necessary to implant confidence in the minds of commercial enterprise so that the city receives the full benefit of confident operations, but there is as well a direct financial gain flowing from continuity of operations

The fact remains that without a general assurance of continuity and such straightforward devices as long-term contracts with assurances of work for the contractor and his work force, the benefits of competent and stable pricing to the Commission would not be possible."²⁶

For the present many of the disadvantages of annual appropriations have been obviated by Government assurances that finance will be made available for the Commission's long term projects. (Apparently this takes the form of the Government's giving its approval, in principle, to the Commission's five year plans.) And, in fact, since 1958 the Government has made large sums of money available to the Commission. The Commission's expenditure since 1958 has averaged a fairly constant £11 million.²⁷ As a result, "At present in Canberra resources ^{all} of kinds are freely available. Manpower is adequate and supplies of materials can be economically maintained and increased,"²⁸ and private enterprise is currently responsible for rather more than half of the

total building work being undertaken.²⁹

But this method of financing is certainly not entirely satisfactory. The funds have only been sufficient to finance the more essential services. According to Associate Commissioner G. Rudduck, "So far funds have proved adequate but they are certainly not adequate for all the things which, in the opinion of the Commission, are importantly pressing for the needs of a balanced community life."³⁰ In its 1959-60 Report³¹ the Commission clearly focuses attention on its financial difficulties by pointing out that, "A substantial proportion of the Commission's funds in 1960-61 is ear-marked for the servicing of land for public disposal, so that private enterprise can play an increasing part. This is made the more necessary since an increasing attention to the provision of National Capital features in future annual construction operations must be expected.

The Commission does not believe that continuing competition for funds - and this is what it amounts to - between such varied classes of works as practical needs and National Capital features, within the one vote, is the most efficient basis on which to achieve the balanced growth desired." It then goes on to say that, "The Commission, as the agent for the Crown, is undertaking major estate development and the question properly arises as to the validity of a funding approach which requires priority decisions between promotional estate works and works of distinctly National Capital character. What might be termed municipal assets, as distinct from National Capital assets, do furnish revenues in various forms and might be expected over the

period ahead to provide increasing returns in this way. In normal circumstances, this income would be set against capital expenditure and would reduce the demands for new capital funds to that extent. The extent of these revenues would be considerable." The rejection of the Commission's existing financial arrangements, and a plea for the setting up of some such fund as the Federal Capital Commission's "Seat of Government Fund" is here implicit. Unfortunately, too, the present system of finance gives no assurance that this situation will continue. The gentleman's agreement made by the Government is obviously not as reliable a guarantee of long term finance as independent loan raising powers. And as Canberra ceases to be less of an infant prodigy, so will the Government feel less and less justified in insulating the city from its credit squeezes as it did in 1960-61. Indeed as Canberra comes more and more to rely on private enterprise to finance its buildings, we can expect its building industry to become less and less insulated from economic crises and, unless the Commission can compensate for any loss of momentum in the private sector by increasing its own spending, it is likely that at such times, with little or no prospects of employment in other industries, many of the city's building workers will go elsewhere in search of work.

It is apparent that the present system of financing is not sufficiently flexible to permit such compensations. Flexibility of financial arrangements is of the greatest importance for the development of Canberra. Forward planning of services is probably the biggest problem facing Canberra town planners. Without powers of precognition it is impossible to accurately predict what the city's population will be

in ten or even five year's time. It is possible to make only approximate estimates of the city's population based on past demographic trends. "All recent projections of growth of Canberra have proved to be underestimates. The first 1958 projection predicted a population of 82,000 for 1970; the second 1959 projection forecast 104,000 for 1970; Professor Borrie's latest population projection suggests 111,000 for 1969."³² Each successive annual report of the Commission, practically, has assumed that the city's population will reach 100,000 earlier than the previous report did. This almost continuous upward revision of population projections is not a cause for criticising the Commission. In fact, Sir William Holford has actually pointed out that one of the problems of successful town planning is that it often encourages an unexpected (i.e. unplanned for) increase of population. However, it does make a very good case for a more flexible method of financing the Commission. Unless funds are available to provide services - particularly residential land for this unplanned population growth the city's development will be inhibited. The Commission's statement that "..... a proposal considered some three years ago for bringing forward areas of land for development by private major enterprises is being revived in order to examine the legislative, administrative and development implications of such a step,"³³ seems to imply that the Commission has either already suffered embarrassment from inflexible funding or else that it is seeking means of avoiding such embarrassment in the future. The high prices recently paid for residential leases suggests that up to now demand for reasonably priced leases has outstripped demand; they also suggest a source of revenue, which the Commission could use

to pay for the servicing of additional blocks when these are required. But, under the present arrangements whereby all the Commission receipts have to be paid into Consolidated Revenue such a self-adjusting arrangement is impossible.

Unlike its predecessor, the National Capital Development Commission has no formal powers as a municipal administrator. In the main, the Federal Capital Commission had been a success as a development authority, but chiefly because of the unpopularity of its autocratic methods it had been a failure in its role as municipal administrator. No doubt impressed by this, the Menzies Government ensured that the National Capital Development Commission should be concerned solely with the development function. But, of course, it is impossible to separate the development and municipal administration functions completely. Indeed, most of the development work undertaken by the Commission is work, which elsewhere in Australia is undertaken by state and municipal governments or their agencies. In 1961-62 over one third of the Commission's budget was spent on the construction of houses, flats, and educational building alone,³⁴ and in 1962-63 well over two thirds of its budget was spent under the three heads "Territory Works, City Works, Land Development."³⁵ "However, unless he is concerned with building a house, in which case he must come to terms with the Commission, on the suitability of its appearance, the ordinary resident (the term "citizen" is inappropriate in Canberra) is unlikely to have direct contact with the new body. Those more closely concerned with the Commission, however, are coming to realize the non-responsible authority, is always liable to strike popular objections to its activities. A

new boom, in the manner of the Chinese dynasties that infused life into Oriental society after periods of order, the Commission is fated to receive criticisms for many of its actions."³⁶

There is strong evidence to suggest that the present structure of the Commission is inadequate. There is a good case for giving the local community representation on the Commission. Unfortunately, at present there are no direct channels through which the public or its representatives can communicate their views and needs, nor has the Commission been sufficiently informative on many matters which affect the public closely. It is bad policy, in general, for a government not to keep its citizens informed of its deliberations and decisions; "..... failure to be frank with the people affected by the decisions is always in the end, bad policy and very bad public relations. The public naturally becomes suspicious and distrustful of an administration which imposes its will without consultation or information and never explains its mistakes."³⁷ This point is perhaps best illustrated by reference to the land controversy which has been raging in Canberra for several years. The Commission has frequently been accused of providing too few housing blocks. Now these past land shortages have apparently resulted from a combination of two factors : ignorance of the demand for land and an inflexibility of supply. It is difficult to see how the Commission could have an accurate appreciation of the demand for land, in view of its continued need to make upward revisions of its population projections. This view is reinforced by the Commission's statement that, "to encourage private home building the Commission in 1961-62, prepared 889 building blocks for disposal at public auction by the Department of the Interior.

The premiums for these blocks ranged from £80 to £2,900 and averaged £577. These results suggest that a faster rate of release of serviced land may be needed and the Commission is reviewing the possibility of this."³⁸ It appears that this ignorance of demand is aggravated by the comparative inflexibility of supply.³⁹ In September, 1963 Associate Commissioner, W.C. Andrews, told the Advisory Council that "The initial action to produce the 2,000 blocks serviced this year had to be taken between three and four years ago. No action being taken at this moment would produce significantly more blocks until a similar lapse of time had occurred. This reflects the broad assessment which was made, looking at the requirements and needs for the city, at this period, some three or four years ago."⁴⁰ Now this is a remarkably long time and undoubtedly the Commission deserved to be censured for its slowness and the resultant inflexibility is probably one reason why the Commission is thinking of allowing private enterprise to enter the field of land development. But at any rate its willingness to increase the supply of residential blocks indicates that it has not purposely created a land shortage. In 1961-62 1,418 residential leases were granted by the Department of the Interior, compared with only 408⁴¹ in 1957-58. Indeed, the Commission's recent announcement that 2,000⁴¹ blocks would be serviced during 1963-64 appears, prima facie, to have swamped the market, at least temporarily. Yet the public can be forgiven if they have accused the Commission of deliberately creating a land famine. The true position has never been explained to them. Mr. J. Fraser seems to think that the reason for this shortage was the Commission's fear that unless some restraint was put on population growth, servicing would be greatly strained. But at one stage, (in its

5th Report) the Commission itself seems to imply that the shortage was being created for Government profit. "..... the level of cash premiums does provide an interesting commentary on the value of Canberra as a Crown investment. The immediate cash return for the development works carried out with Government funds is substantial As well as the premiums paid, the lease conditions require payment of land rent annually to the extent of 5 per cent. of the unimproved capital value

Taking these two aspects of returns, as related to the original cost of providing engineering services, it is clear that the land development being carried out in Canberra is a profitable investment to the Crown, and through it, to the community." Yet if it is important that government authorities should keep the public informed of its decisions, this is even more important when the authority is responsible for town planning and development. For a town planning body not to keep the public fully informed of its intentions can only lead to difficulties.

It is desirable that a representative of the local community should be present at the planning stage, so that the citizen's view point can be given before any definite plans have been drawn up. It is useless for the Commission to inform the public of its schemes, when it is too late to change them. Thus in June 1962, "More than 300 Downer residents opposed the proposed shopping centre opposite the Downer Primary School, Downer people believed the shops would create a traffic menace to their children. They had signed a petition to the Minister for the Interior, Mr. Freeth, to scrap the plan in favour of an earlier start on the Dickson shopping centre. However, the Department and the National Capital Development Commission seem determined to go ahead in

the teeth of their protests"⁴² By then, of course, it was too late the School was already built, and the Commission was ready to proceed with its plans to convert the nearby C.S.I.R.O. sheds into a shopping centre. Had the public been informed of the scheme at the planning stage, then it is unlikely that the Commission could have raised very strong objections to separating the two buildings. Of course, this in itself pinpoints another problem. At the planning stage, there would have been no Downer, and so no residents to protest. This problem would be partly solved if a delegate from the local representative body (at present the Advisory Council, of course) were allowed to take part in the Commission's planning meetings.

The Menzies Government made a basic mistake in appointing only specialists to the Commission. Now all three members of the Commission are men of wide specialist experience. In fact they are just the kind of men who should be included in the Commission. J.W. Overall is an architect and town planner of wide experience, and among other things "He was chief architect for the South Australian Housing Trust in what Mr. Fairhall described as the formative post-war years 1946-9"⁴³ and was formerly Director of Architecture, in the Department of Works. Associate Commissioner, W.C. Andrews was formerly City Engineer and Town Planner for the City of Parramatta. And Associate Commissioner, G. Rudduck, in addition to experience in private practise, had been town planning adviser under a United Nations projects in Kuala Lumpur, and to the Pakistani Government. Yet none of them have the right kind of administrative experience to head a Commission of this type. They all have administrative experience it is true but it is a narrow administrative experience

incidental to their specialist experience. The post of Commissioner calls for a person with a broad administrative experience.

There are several very sound reasons why an administrator rather than a specialist should have been chosen to head the Commission. Fundamentally the problems faced by the Commission are administrative ones. As Associate Commissioner, G. Rudduck, himself indicated "The most difficult problems faced by the Commission are of an administrative and managerial kind in such fields as programming financing, and the reconciliation of technical and administrative points of view."⁴⁴ Furthermore, there is a very great danger when a specialist is chosen to head an organisation of this kind that he will be "unable to see the wood for the trees." It is all too easy for the specialist to get so bogged down in his specialist interests that he overlooks more important questions in unfamiliar fields. There is evidence that this has in fact happened with the Commission. Certainly, the Commission has shown itself reluctant to employ itself further than in its immediate field of town planning. It has stated that its "..... policy of remaining essentially a co-ordinating authority has been maintained."⁴⁵ and that, "The Commission is making full use of agencies. Architectural and engineering consultants and the Department of Works are being used over the entire range of the Commission's construction programme."⁴⁶ It has kept the size of its staff to a minimum and in its first annual report it was only able to say that "Arrangements were made with the Department of the Interior for the transfer of the Town Planning Section and a portion of the Policy Co-ordination and Development staff." No bulk transfers have been effected from the Department of Works, although in 1957, Mr.

Fairhall, Minister for the Interior and Minister for Works, had pointed out that the Commission had been given the ".....power to take over those branches of the Department of Works which deal solely with the planning, development and construction of Canberra"⁴⁷ This policy of keeping the Commission small and flexible would have been justifiable had it been set up merely as a co-ordinating body. In fact, it was intended to be much more. In introducing the Second Reading of the Act, Mr. Fairhall, expressed his agreement with the general recommendation of the Senate Select Committee "..... that the development of Canberra to permit the full transfer of administrative departments should be given over to a centralized authority"⁴⁸ and he pointed out that "..... The Report of the Senate Select Committee stressed the need for unifying all of the activities in the development of the National Capital."⁴⁹ Yet today there are more decision making bodies concerned with the development of the city than ever before. In addition to the Commission, both the Department of Interior and the Department of Works retain authority as development agencies. The Department of the Interior still retains control of some important development functions such as the development of parks and gardens. In particular it has a finger in two very important pies: it supervises private enterprise building in the A.C.T.; and it arranges the disposal of A.C.T. land leases. The Department of Works at present employs almost 1,500 persons in its A.C.T. Branch; most of them on development work. Apart from the work which the Department has done under contract to the Commission, the Department has also done work for several semi-governmental authorities. For example it has provided

architectural and engineering services for the Australian National University. Recently, it constructed the Government Printing Office, a very important project. At present it is building important extensions to the Canberra Community Hospital. In each of these last two cases, the Department was the authority directly responsible for construction, it was not acting under contract from the Commission. In other words, the Commission in its reluctance to go beyond the narrow confines of town planning has permitted the continuance of a situation, which it was set up to abolish. It is obvious that the existence of several bodies each with some responsibility for developing the city must complicate the situation and make co-ordination of development functions, exceedingly difficult. Indeed even the Commission has drawn attention to the problems which this situation involves. In its Report for 1958-9 it stated that, "Problems of priorities arise also because the Commission has not absorbed into its vote the separate expenditures of other Commonwealth departments and instrumentalities. While the total in 1958-59 was not great, nevertheless the timing of construction works because of the problems of stability must be watched. In future years the need for a co-ordinated programme will become apparent when major expenditures by Departments will be incurred on such projects as the Canberra Community Hospital and the Government Printing Works."⁵⁰

The Commission's apparent reluctance to make full use of its powers is illustrated in another way. The Act commands that, "The Commission shall keep the Minister informed of the decisions of the Commission with respect to matters of policy in relation to the performance of its functions. In the event of a difference of opinion between the

Minister and the Commission as to the policy which should be followed by the Commission in relation to any matter, the Minister and the Commission shall endeavour to reach agreement. If the Minister and the Commission are unable to reach agreement, the Governor-General may, by order, determine the policy to be adopted by the Commission in relation to the matter. The Commission shall thereupon give effect to the policy determined by the order and shall, if the order so requires, continue to give effect to that policy while the order remains in operation." But in fact, there appears never to have been a serious disagreement between the Minister and the Commission, for the Governor-General has not had to make a determining order. Even if we do not agree with the Sydney Morning Herald Leader's statement that "..... although in fairness the commission is not yet a year old, there is evidence that it meekly accepted Ministerial quashing of some of its ideas by Mr. Fairhall,"⁵¹ it certainly appears that it has not hotly contested its powers.

The Commission's success, then, has been mixed. To improve its chances of success in the future several fairly simple measures are necessary. In the first place the membership of the Commission should be increased. A delegate from the local representative body should be appointed to the Commission, and an able administrator should be chosen to head it. The Commission should take over all of the development functions at present exercised by the Department of Works and the Interior (including the disposal of the A.C.T. land leases). Finally, special arrangements should be made to finance the Commission; a special fund similar to the former "Seat of Government Fund" should be set up; the Commission should be given independent loan raising powers; and because

the availability of serviced land has a particular significance for the capital's growth, special arrangements should be made to enable the Commission to recover the costs of servicing land from the proceeds of land sales.

NOTES:

1. The same Act also established a National Capital Planning Committee of nine members, including the Commissioner, ex-officio, as chairman. The other eight members, all appointed by the Governor-General, comprise two architects, two town planners, two engineers, and two other persons with special artistic or cultural knowledge. The Committee's function "is to advise the Commission as to the planning, development and construction of the City of Canberra".
2. The Sydney Morning Herald, 30th January, 1958.
3. Page 6. Thirty-Fourth Annual Report of the Public Service Board. 1958.
4. Commonwealth Year Book, No. 49, 1963. Page 130.
5. Observations on the Future Development of Canberra, A.C.T. Page 6.
6. Ibid. Page 5.
7. National Capital Development Commission, Third Annual Report, 1959-60. Page 21.
8. National Capital Development Commission, Second Annual Report, 1958-59. Page 15.
9. Ibid.
10. Handbook of Services : Page 31.
11. Page 28.
12. The Canberra Times. 13th December, 1963.
13. The Nation. 7th September, 1963.
14. The Sydney Morning Herald: 27th August, 1958.
15. "Mr. Harris, a former member, of the National Capital Planning and Development Committee, thought that far more use could be made of two-storied buildings and group two-storied buildings, not only for the saving of land involved, but for effect. He pointed out that in Washington there were groups of two-storied buildings not "just strung along a main street", but ~~in little~~ in little courtyards, and he felt that Canberra was missing an opportunity in not planning for such development," (Report of the Senate Select Committee on Canberra, Page 27.)
This point was also made by Professor L. Wilkinson Quoted in the Canberra Times 7, May, 1964.
16. Article entitled "Developing a National Capital" in the Journal of Australian Planning Institute". September, 1961.

17. The Nation. 7th September, 1963.
18. Page 11.
19. Nor does the Commission necessarily desire it. The quotation referred to in note 3 Page 18 indicates that it is at least partly the result of financial necessity.
20. Article entitled "Developing a National Capital" in the Journal of the Australian Planning Institute, September 1961.
21. Ibid.
22. Reported by the Canberra Times, 13th March, 1959.
23. Reported Ibid. 14th March, 1959.
24. For details of the annual completion of dwellings (1956-7 to 1962-3) see Appendix 4 Table 2.
25. Report of the Senate Select Committee on Canberra 1955. Page 23.
26. N.C.D.C. A report on the Development of Canberra for the Five Year Period, July, 1962 - June, 1967. Page 27.
27. See Appendix 4 Table 2.
28. N.C.D.C. A report on the Development of Canberra for the Five Year Period, July, 1962 - June, 1967. Page 27.
29. In 1962-63 Private Investment in Building was £10,200,00 compared with Government Investment of £9,800,000.
30. Article entitled, "Developing a National Capital" in The Journal of the Australian Planning Institute" : September, 1961.
31. Page 8 and 9.
32. H.W. Arndt : "Economics of Canberra Development" : Article in "Canberra The Next Decade".
33. National Capital Development Commission Sixth Annual Report, 1962-63. Page 28.
34. £4,351,000 out of a total expenditure of £11,011,000.
35. £8,564,624 out of £12,183,403.
36. ~~"The Field of Government,"~~ ^{Canberra, 1959} in the Current Affairs Bulletin. 1959.
37. The Canberra Times. 5th February, 1959.
38. Page 23.
39. I include shortage of funds as a causal factor of this inflexible supply.
40. There seems to be some uncertainty even in the Commission itself as to how long this process takes. In its 1959-60 Report (Page 22) the Commission stated that "..... it may take up to two years after initial decision concerning the use of the land has been made to complete the planning, surveys, design and construction of roads, water supply, sewerage and other services." At least it is difficult to believe that "the initial decision concerning the use of the land" takes two years to reach.
41. These figures include blocks used for Government housing. For full details of blocks released see Table 4 Appendix 4.
42. Reported by the Canberra Times, 19th June, 1962.
43. Ibid. 30th January, 1958.
44. Article entitled "Developing a National Capital" in the Journal of the Australian Planning Institute, September 1961.
45. Total staff employed at 30th June, 1963 was 122.

46. The National Capital Development Commission Second Annual Report 1958-59 Page 17.
47. Debate on the Second Reading of the National Capital Development Commission Bill, 1957.
48. Ibid.
49. The situation was further complicated in 1962 by the creation of the A.C.T. Electricity Authority.
50. Page 10.
51. The Sydney Morning Herald : 16th February, 1959.

THE ADMINISTRATIVE AND LEGISLATIVE SYSTEMS

The administration of the A.C.T. is divided among a profusion of bodies ranging from Commonwealth to state departments, and from statutory authorities to voluntary organizations.

The Department of the Interior is responsible for the administration of the Territory with the exception of health, justice and one or two minor matters. However, the Department is not solely occupied with the affairs of the Territory.¹ In fact only eight of its fourteen branches and less than half of its four thousand or so employees are concerned with the administration of the Territory at the municipal and state levels.² The Department also provides important "house-keeping" services for the Commonwealth; namely the provision and management of office accommodation for Commonwealth Departments, and the acquisition and management of other Commonwealth property including lands and forests; and it is also responsible for elections and franchise; publicity; civil defence; war graves; national memorials; and meteorology. In other words the Department's other functions, form a "hotchpotch" of responsibilities few of which have any direct bearing on the administration of the A.C.T. This fact can only make the co-ordination of A.C.T. administration more difficult than it would be if the Territory were controlled by a Department specializing in A.C.T. matters only. Furthermore, there is no one division or branch of the Department which centralizes its A.C.T. functions, and only two branches (A.C.T. Police and Housing Branch) are solely occupied with the Territory. Even the so-called A.C.T. Policy Co-ordination - and Establishment Branch

and A.C.T. Services Branch³ have non-Territory functions, too. Of the former branches' five sections, for example, only three are concerned with the Territory, but all three are also, to some extent, concerned with non-Territory matters. Thus : the Policy Co-ordination Section not only advises the Permanent Head on policy, legislation and practice relating to the administration of the A.C.T. but also investigates new works proposals submitted by Branches for inclusion in the Department's work programme; and the other two sections deal with staffing matters of concern to the whole Department. Only three of the seven sections which comprise the A.C.T. Services Branch, are concerned wholly with the A.C.T. Between them these sections administer Territory education and provide tourist, information and general services. The other four sections, include Legislation Section (the principal task of which is to review proposals for all Ordinances and Regulation administered by the Department and to promulgate new legislation); the Transport Section (which operates Canberra's bus services, and also provides local and interstate passenger and goods transport for Parliament and Commonwealth Departments,) and Registries and Administration Sections. Administration, Survey, Branches and the Forestry and Timber Bureau are only to a small extent concerned with A.C.T. administration.⁴

Canberra's administrative system, appears to have developed neither as the result of conscious design nor with an awareness of those principles of good public administration, which deprecate the unnecessary proliferation of administrative authorities. For in addition to the Department of the Interior and the various development authorities there

are some thirty other bodies concerned with the government of the Territory.⁵ These comprise five Commonwealth Departments⁶ (Health, Prime Minister's, Attorney General's, Treasury, and Works); seven instrumentalities of the New South Wales Government (the Department of Health, Child Welfare and Social Welfare, Education, Technical Education, and Prisons, and the Aborigines' Welfare Board and the Board of Fire Commissioners); seven advisory committees (the Advisory Council, Advisory Council on Tourism, Canberra Technical Education Committee, Canberra Pre School Advisory Committee, the Child Welfare Committee, the Committee on Cultural Development in the A.C.T., and the Third Party Advisory Committee); and fourteen other bodies with executive powers⁷ (Canberra Community Hospital Board, A.C.T. Electricity Authority, Canberra Public Cemetery Trust, the Bush Fire Council, Road Safety Council of the A.C.T., Canberra Mothercraft Society, the National Council of Women, and the Apprenticeship, Architects' Registration, Dental, Medical, Nurses' Registration, Optometrists', and Pharmacy Boards).

This pluralism is one of the most disturbing features of the A.C.T. governmental system. Unfortunately, the tendency to proliferate is a continuing one as a quick glance at the Territory's history since 1958 shows. For since then no less than five additional authorities have been brought into the system. In 1958 both the National Capital Development Commission and the National Capital Planning Committee were established, and the Department of the Interior transferred its hostels for public servants to Commonwealth Hostels Ltd., and its responsibility for the staffing of the Canberra Fire Brigade to the N.S.W.

Board of Fire Commissioners. In 1962 the A.C.T. Electricity Authority was set up. And, under current legislative proposals two additional bodies (the Canberra Building Review Committee and the Design and Siting Review Committee) are to be created. Furthermore, from time to time the creation of both a Housing Commission and a Water and Sewerage Board has been mooted. Ideally, of course, the A.C.T. should be administered by a single all-purpose authority, and although this is not completely possible, because of the economics of operating some services and because of the technical nature of others the number of A.C.T. authorities could be considerably reduced.

Most of the A.C.T. functions of the Attorney-General's Department are of a highly specialized kind which could only with difficulty and considerable loss of efficiency be taken over by a centralized A.C.T. administrative authority. The Department is responsible for the drafting of all bills and statutory instruments, and legal agreements sponsored by Commonwealth Departments; litigation in which the Commonwealth is a party and giving legal advice to Departments and instrumentalities of the Commonwealth. In as much as the Department provides legal services for those Departments which administer the Territory at the municipal or state levels, it is performing a Territory function. But, of course, it is not always so easy to determine the exact line of demarcation between what is a federal function and what a Territory function. There are strong political reasons, too, why the control of the judiciary should remain the responsibility of the Attorney-General's Department and so be separated from the principal executive authority concerned with the Territory.⁸

Of the twenty or so boards and committees which also have a

say in the government of the A.C.T. there are a number, with specialized functions which could not suitably be dealt with by a small purpose authority. These consist of: the Third Party Insurance Advisory Committee, which was set up at the request of Minister for the Interior to give him (technical) advice on all matters connected with Third Party Insurance (except premiums); the Canberra Public Cemetery Trust set up under the Cemeteries Ordinance, 1933-1961; the Apprenticeship Board, which was established under the Apprenticeship Ordinance, 1936-1959 to control apprenticeship in the Territory; and various professional boards. The Architects' Board which was set up by the Department of the Interior under the Architects' Ordinance, 1959 is responsible for registering persons engaged in the practice of architecture and for controlling architectural practice. Similarly the other five boards (set up by the Department of Health) concern the regulation of professional practice and registration of members of the various medical professions. (The Pharmacy Board also administers the Poisons and Dangerous Drugs Ordinance, 1933-54 which is concerned with the control, sale, and use of poisons, narcotics and so on). Now whilst it may be desirable that the control of professional practice should be an independent function, the work performed by the last five committees could be quite easily (and with advantage) performed by one medical professions board.⁹ The Canberra Public Cemetery Trust, which administers Canberra cemetery is a special case. Portions of the cemetery have been set aside for various religious denominations and each denomination nominates a member of the Trust. In view of the desirability of these religious denominations continuing to have a say in

the administration of the cemetery, it is necessary that the Trust should continue to exist.

As yet the Territory's population is too small to permit the efficient organization of several major government services. This accounts for the fact that, despite the passage of over fifty years since its surrender of the Territory to the Commonwealth, the New South Wales government continues to have an important say in A.C.T. administration. At present no less than seven N.S.W. departments and instrumentalities have some A.C.T. responsibility. In particular, under a longstanding agreement with the Department of the Interior, the N.S.W. Department of Education arranges the teaching programme for A.C.T. schools, in accordance with its own curriculum, and provides the teaching staff. The N.S.W. Department of Technical Education, provides similar services to the Canberra Technical College. The N.S.W. Department of Child Welfare and Social Welfare, too, administers the Child Welfare Ordinance, 1957, on behalf of the Department of the Interior. Similarly, a person who is sentenced to prison by an A.C.T. law court is committed to the charge of the N.S.W. Prisons Department, and an A.C.T. resident who is certified as insane is committed to a mental hospital or institution maintained by the N.S.W. Department of Health. The Wreck Bay Aborigine Settlement is operated, on behalf of the Department of the Interior, by the N.S.W. Aborigines' Welfare Board. Canberra's Fire Brigade is manned by employees of the N.S.W. Board of Fire Commissioners.

In some cases the need for outside assistance in the government of the A.C.T. is quite clear-cut. Questions of economy prevent the establishment of a complete system of remand homes and children's shelters

in the A.C.T. Until such a time as Canberra is sufficiently large to support a complete system, it is desirable that the present arrangement whereby children committed to an institution by the Canberra Children's Court are transferred to institutions established by the N.S.W. government, should continue. Similarly, it will be some time before the A.C.T. will be able to support a complete system of prisons and mental institutions. But the need for outside assistance (at least, on the present scale) is, by no means, so obvious so far as education, aboriginal welfare, and the fire brigade are concerned. The main argument advanced in support of the present arrangement for the administration of the A.C.T. school system concerns the problem of staffing. A small education authority such as might be established in the Territory, it is argued, would have difficulty in attracting high calibre teachers because of the comparative lack of promotion opportunities. Its teachers would not obtain the breadth of experience such as can be obtained by the employees of large authorities. In a small authority there is a danger of inbreeding. With these considerations in mind Mr. G. Meckiff¹⁰ suggests that the Territory may be able to support its own education authority, at a reasonably efficient standard when its population reaches 100-120 thousand.¹¹ He emphasizes, however, that this is the very minimum requirement.

The farming out of responsibility to the N.S.W. Government is not without its disadvantages. This was amply illustrated, recently, when Senator J.G. Gorton, the Minister assisting the Prime Minister in education and research, reversed his statement that Canberra schools were highly unlikely to adopt a controversial new religious syllabus for N.S.W. primary schools. For, he admitted, "the true position is that as the present agreement stands it would be quite possible for the Government of N.S.W.

to enforce on the children of the A.C.T. any type of religious syllabus which appeared adequate to that Government."

In addition there are a number of committees whose existence is only necessary because the A.C.T. is administered by a number of Commonwealth Departments. Most of the advisory committees fall into this category. These advisory committees appear to have been set up partly to give the citizens of the A.C.T. some say in their own government, and partly, to obtain the assistance of outside experts. The Advisory Council,¹² of course, is the only one of these committees which has members directly elected by the A.C.T. electorate, but the Minister for the Interior has in general appointed members of the other committees from representative local bodies. If Canberra had some form of local self-government the expert advice provided by these committees could be quite easily obtained by co-opting outside experts onto the relevant sub-committees, which is the method adopted by English local government authorities. In some cases even this would not be necessary for all of the experts serving on some of these advisory committees are officials of one or other of the bodies which administer the A.C.T. If A.C.T. administration were centralized they would all be employed by the one authority anyway. Until 1962 the reticulation and provision of electricity in the Territory was the responsibility of the Canberra Electric Supply, part of the Department of the Interior. The Australian Capital Territory Electricity Supply Act, 1962, however, created the independent Australian Capital Territory Electricity Authority. In introducing the Second Reading of the bill the Minister made it obvious why he had decided that it was necessary to create

the authority when he said: "I join with the honorable member for the Australian Capital Territory in commending the efficiency of the authority. I am delighted that the honorable member for the Australian Capital Territory has paid a tribute to the work done by the Canberra Electricity Supply under quite substantial difficulties, not the least of which is the fact that the authority is tied to fully departmentalized procedures both in relation to staff recruiting and accounting, and also in relation to all the other things which are commonly known as government red tape." The A.C.T. electorate elects five of the eight members of the Canberra Community Hospital Board. In fact, hospital administration is the only field of administration in which the people of the Territory can be said to have a direct say in local government. This appears to be the only justification for the existence of the Board. Certainly its function could quite easily be performed by the health department of an all purpose authority.

All of the A.C.T. functions performed by the other Departments and committees which provide specialized services for the Territory could be taken over by the Department of the Interior (or some other form of centralised authority) without difficulty. There is certainly no justification for continuing to entrust the performance of these functions to authorities other than the central one.

Whether the division of A.C.T. administrative functions among the six Commonwealth Departments resulted from a mad scramble following the abolition of the Federal Capital Commission, as A.T. Shakespeare has said,¹³ whether from an overzealous regard for the niceties of Departmental jurisdiction or whether from a conviction that the field of

administration is so technical that it has to be divided among highly specialized arts is not clear. But it certainly did not result from necessity. Of the four "specialist" Departments administering Canberra, only the Attorney-General's, in fact, can claim that its A.C.T. functions are highly specialized. Most of the A.C.T. services provided by the other "specialist" Departments are elsewhere provided by municipal councils. Certainly a centralized A.C.T. authority could provide the municipal library facilities which the Prime Minister's Department at present provides through the National Library's Extension Division. (This Department, of course, is concerned with the staffing of the A.C.T. administration, through the Public Service Board, and also provides university facilities through the A.N.U.) This also applies to the administration functions at present undertaken by the A.C.T. Branch of the Department of Works. (The Branch is responsible for the repair and maintenance of all Government buildings in the A.C.T. including houses and schools, and water supply and sewerage disposal). "The administration of Canberra and the Australian Capital Territory is the direct responsibility in the case of health services, of the Minister for Health".¹⁴ The Department of Health provides the usual municipal health services for the Territory: school medical and dental services; public health inspection; district nursing services; operation of the Canberra Community Hospital; control of the abattoir; and provision of veterinary services. Indeed the Department draws attention to the fact that, "Due to the unusual system of local government in Canberra, the Department of Health is called upon to assume certain responsibilities which would normally be functions of a local municipal

council".¹⁵ The allocation of these functions to the Department of Health, then, was unnecessary. There is no reason why the Department of the Interior should not have been entrusted with them instead.

There is no apparent reason why the work of the A.C.T. Bush Fire Council should not be taken over by the Canberra Fire Brigade nor indeed, why the present arrangement (begun in 1958) whereby the Fire Brigade is manned by employees of the N.S.W. Board of Fire Commissioners should continue. It is quite remarkable, too, that the Canberra Mothercraft Society, a voluntary organization which has no responsibility directly or indirectly to the A.C.T. electorate, should continue to provide health and welfare services in Canberra which elsewhere in Australia are provided by state and municipal authorities. Indeed the Society, financed mainly by the Department of Health, has continued to increase its authority in these fields. It now operates on behalf of the Department of Health: 25 Mothercraft and Baby Health Centres, providing pre and post natal care and mothercraft teaching; the recently established Queen Elizabeth II Home, (a small approved hospital), which provides for difficult post-natal cases; and on behalf of the Department of the Interior: two occasional care centres. Indeed it is difficult to justify this situation (or in fact the operation of the Emergency Housekeeper Service, by the National Council of Women Inc. of the A.C.T.). Part-time administration is manifestly erratic, and both Departments already operate comparable services. Furthermore, the Government continues to deny local self-government to the residents of the Territory and yet it has the temerity to farm out the administration of these services to voluntary organizations.

The Senate Select Committee, impressed by the lack of co-ordination

which existed in 1954 between the various authorities concerned with the development of Canberra, made recommendations which led to the establishment of the National Capital Development Commission. Intrigued by the dramatic effects of the lack of co-ordination in the field of development, the Committee paid little attention to the problem as it existed in the field of municipal administration; where the effects were by no means so obvious. Yet, the division of administrative functions, which continues to exist, is bound to have a detrimental effect on the development function. The Development Commission does not operate in a vacuum. To be really effective it must work hand in hand with the authorities which administer the Territory. It must consult the authorities about their special requirements with regard to buildings and works. It must keep them informed of its planning decisions, and operations, so that they, too, may adapt and expand their services accordingly. Frequently too, it must seek the assistance of authorities which operate in associated fields.¹⁶

"The various elements of development must be implemented quickly and positively to achieve balanced progress. This can only be done when the lines of communication are short and the points of decision are few."¹⁷ This applies as much to administrative as to development functions. The "various elements" of Canberra's administrative system are closely related. Very little can happen in one branch of the administration which does not have its repercussions on the decisions and actions of other branches. Professor Zelman Cowen has indicated the nature of the difficulty which is involved when an administrative action affects only a few departments.

"Often there is no one person or body below. Cabinet itself, which is in a position to formulate policy, even on comparatively minor administrative matters which involve two or more departments. The variety of co-ordinate authorities whose approval must often be obtained for a proposed course of action leaves great room for lengthy discussion, delay, overlapping efforts and sheer inactivity; nor is it usual for a compromise decision of this nature to be the best possible one."¹⁸

But, unfortunately, the more diffused the administrative responsibility, the more the "points of decision", the more difficult it is to have a given administrative programme approved. The Canberra administrative system has some thirty or so "points of decision". Each of these points has some power to resist the decisions and actions of some or all of the others.¹⁹ Apart from this question of resistance the existence of so many "decision-making" bodies, in itself, is a drawback to efficient administration. It increases the communication problems of the system, and leads to confusion both for the administrator²⁰ and the citizen.

The efficient operation of any administrative organization demands an efficient intelligence service. Without knowledge of the decisions of the other branches of administration the administrator is likely to take actions which unintentionally duplicate,²¹ thwart or confuse work done elsewhere in the administrative system. The more complex the system, the more numerous its authorities; the more difficult it is to keep everyone fully informed. Furthermore where the work of several authorities (or several branches of the one authority) is closely related, administrators are frequently uncertain of the exact limits of their

jurisdiction. The result may be duplication, or, perhaps, the creation of an administrative "no man's land" for which no one will admit responsibility. An example of this was cited by the "Canberra Times" in December, 1962. In this instance the responsibility concerned the carcass of a dead pig, and the no-man's land, an island in the Molonglo River. The carcass "....." was washed up on the island about November 2 and lay half submerged and rotting while local residents tried to find which Department was responsible for shifting it. The Department of Health told them the Department of the Interior was responsible. The Department of the Interior did not know whether it was responsible. Inquiries were referred to a number of different officials - including the dog inspector. The Department still would not say yesterday whether it was responsible. A spokesman said departmental workmen had buried the pig, but he could not say whether the Department was responsible under any Ordinance for such work." Situations such as this facilitate "buck passing". No one knows who is responsible and no one is concerned to find out.

The existence of so many different bodies concerned with the administration is just as confusing to the citizen as it is to the administrator. "The public did not know to whom to turn. There are few things more discouraging or infuriating than being sent on from one office to another. This may of course happen when the general purpose authority for it may be hard for parents, for instance, to be clear whether some matters affecting their children come under the Education Department or the Health Service, or some other department of the council. Where, however, there is a general purpose authority, these troubles can be sorted

out and pressure of opinion can ensure that the citizen is not kept going from one office to another."²² In the A.C.T. there are fourteen bodies concerned with the fields of education and child welfare alone. They include two Commonwealth Departments: the Department of Interior and Health; three N.S.W. Departments: the Department of Education, the Department of Technical Education, and the Department of Child Welfare and Social Welfare; and nine other authorities; Canberra Technical Education Committee, the Australian National University, Canberra Pre-School Advisory Committee, the Apprenticeship Board, the Child Welfare Committee, the Canberra Mothercraft Society; the National Fitness Advisory Committee of the A.C.T., the Associated Youth Committee and Corroboree Park Youth Centre Council. Geographically, the administration of the A.C.T. is even more widely diffused.

As might be expected, too, this fragmentation of responsibility and the haphazard development of the administration, has, to some extent, deprived the residents of the A.C.T. of services which are provided in other large cities. This is particularly so with regard to health services. Although the Canberra Community Hospital Ordinance 1938-1963 provides that, "The Board shall, subject to the directions of the Minister, determine matters concerning the general policy to be adopted by the Medical Superintendent in the administration of the Hospital;" it has been the practice of the Minister and his Department to limit this say to the less important administrative detail. All changes of policy have to be approved by the Minister and the inertia which has typified the treatment of communications from the Board to the Department has resulted in a stubborn conservatism which has in effect deprived Canberra residents of services

which are enjoyed in comparable hospitals elsewhere in Australia. Thus, for example, the Community Hospital only recently established a geriatric unit, although this is a service which has been provided in most other parts of Australia for a number of years. Similarly, the provision of a superannuation scheme for the Hospital's nursing staff has been under discussion by the Board, the Department of Health, and the Treasury for a number of years, but the Hospital still has the doubtful honour of being the only hospital in Australia which does not provide superannuation for its nurses. Administrative inefficiency, too, is apparent in the treatment of necessitous patients. The Community Hospital, unlike major hospitals in other cities has no public wards and whilst provision is made under the Ordinance²³ for the free treatment of necessitous patients, information about this free treatment is so obscure that knowledge of it was hitherto limited to a few of the Hospital's administrators. What is more its operation is cumbersome. It can only be applied to persons who first enter the Hospital as Outpatients. Moreover, this free treatment is only afforded to patients whose weekly incomes are so low that a large proportion of necessitous cases are virtually excluded at once.²⁴ The situation was such that in March, 1964, the Board is reported to have decided, "to more clearly establish and publish a system of free medical attention to necessitous patients."²⁵

The administrative system itself has proved very resistant to change. Arrangements for the treatment of patients at the Hospital have not materially changed since 1911 when it was established with only ten beds. Although the Hospital has a few resident medical officers, most treatment there is provided by visiting doctors. Any medical practitioners who is

registered in the Territory, may apply to become a Visiting Medical Officer²⁶ and in practice such applications are rarely, if ever, refused. This arrangement may have been a satisfactory one when the Hospital was small with few beds and could not afford a large full time medical staff, but now that it is a large and busy hospital, with 258 beds,²⁷ the arrangement is not only inconvenient and cumbersome, but quite unnecessary. The difficulties involved, for example, in ensuring that each of the 60 to 70 private doctors, in part-time attendance only, correctly completes his patients' medical records, alone, must be quite considerable. The inconvenience which is suffered by both the patient and Hospital, alike, however, is perhaps best illustrated by what happens when a patient suffers a relapse. Because of the outdated practice which prevents the resident medical staff from undertaking general duties around the hospital, and limits them to work in the casualty and out-patient sections, whenever a patient suffers a relapse, (whether at day or night) his private doctor must be contacted to prescribe his special treatment. Presumably this sometimes involves quite lengthy delays. Some of these disadvantages were indicated recently by Mr. A. Fraser, an elected member of the Board, when he (among other things) urged, "That a sufficient number of resident medical officers be appointed, to work under the medical direction of the senior staff, and under the administrative direction of the Superintendent. That the responsibility for a 24 hour medical coverage be recognised, realizing that the stage has now been reached where this can no longer be provided by the visiting medical staff unaided, and that it be provided either by resident medical officers or by the employment of full time medical specialists. That medical staff classification is essential..... That medical appointments to this hospital be made on an annual basis,

and that it be a disqualification for re-appointment if necessary methods of ordering treatment, recording its administration and generally contributing to medical records of the hospital have not been followed and observed. That a new endeavour be made to establish means of medical accounting and medical auditing."²⁸ The implications of this motion (which the Board accepted in principle) are only too clear. Similarly the Medical Superintendent has hitherto been responsible both for the detailed administration of the Hospital (under the Board's direction) and the supervision of medical services. Only recently have the disadvantages of this arrangement for a large hospital been recognized and separate Clinical^{and} General Superintendents have now been appointed.

To some extent, the administration of Canberra's hospital has suffered from being entrusted to part time administrators. It is unfortunate that hospital administration, in particular, should have been sorted out as the only field in which any substantial degree of self-government has in the past been granted.²⁹ As long ago as 1938, it was provided that all five members of the Hospital Board should be popularly elected. The reason for this was apparently the fact that, at this time, the bulk of the Hospital's revenue was obtained from a "hospital tax" levied on all wage earners employed in the Territory. The arrangement was also apparently introduced to bring the administration of Canberra's hospital into line with N.S.W. practice. But although N.S.W. hospital boards are for the most part representative, they have long relied on the state Hospital Commission for direction, and assistance with the more technical aspects of hospital administration. The Department of Health, however, must have discovered the disadvantages of the 1938 situation, for since that time, although the number of elected

members of the Board has been fixed at five, provision has been made for the appointment of three official members.

The present arrangements for the administration of the Territory, then, are unnecessarily complicated by the presence of a multitude of authorities, and this has resulted in inefficiency and confusion. However, the situation can be easily and quickly improved by a rationalized reduction in the number of these administering authorities.

Arrangements for the making of law for the Territory remain the same as those which were laid down when the Territory was transferred to the Commonwealth in 1911. Apart from Commonwealth law which applies throughout Australia, there are three sources of law in the A.C.T. Firstly, there is law made by the Commonwealth Parliament, by virtue of the Constitutional provision that, "The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to the seat of government of the Commonwealth and all places acquired by the Commonwealth for public purposes....." (Section 52) and, "The Parliament may make the laws for the government of any territory surrendered by any State and accepted by the Commonwealth....." (Section 122). Secondly, the Seat of Government Acceptance Act, 1909, provides that some N.S.W. laws in force on 1st January,

1911, are applicable to the A.C.T. (except insofar as they are later amended). By the Seat of Government (Administration) Act, 1910,³⁰ the Governor-General in Council is empowered to make ordinances having the force of law in the Territory.

But whilst the Constitution gives the Commonwealth Parliament exclusive power to legislate for the Territory, Parliament has not guarded this power as zealously as might have been expected. Indeed, apart from one or two notable exceptions such as the National Capital Development Commission Act, 1957-1960, and the Australian Capital Territory Electricity Supply Act, 1962, new laws are made under the powers delegated to the Governor-General by the Seat of Government (Administration) Act, 1910. "The number of current separate ordinances made by the Governor-General is now in the vicinity of 200, but even so there are no fewer than 170 New South Wales Acts which operate either in full or in part as laws of the Territory."³¹

The situation is unsatisfactory in every respect. In particular, the fact that so many pre - 1911 New South Wales laws apply to the Territory, is a source of considerable difficulty. "On many matters there has been little or no amendment since 1911, with the result that the A.C.T. has a uniquely antiquated set of laws."³² In quite a number of cases, New South Wales laws remain in force in the A.C.T. even though the original acts have been repealed or substantially modified, in New South Wales itself, to meet the changed circumstances of modern times. What is more there is great uncertainty as to what New South Wales laws still apply in the Territory; no comprehensive list of these N.S.W. Acts has ever been published in the A.C.T.

Just how antiquated many of the Territory's laws are was indicated recently by Advisory Councillor, Mr. R.P. Greenish when he stated, "In regard to the penal code, this has already been pointed out in other places to be the most archaic in Australia, and seems to take over not from 1911, but the First Fleet, because so far as I can see here: "The forging of an East Indian bond qualified for a fourteen years' gaol sentence, "although the offence may be thought to be seldom practised here today. The killing or the maiming of stock rates ten years gaol sentence, unless a pig or goat is the victim."

Another disadvantage of the present system is the inordinate length of time involved in the making of A.C.T. laws. This is due primarily to a shortage of legal officers in the Parliamentary Draftsman's Division of the Attorney General's Department. But the designation of most A.C.T. laws as secondary legislation does not help matters, as a spokesman of the Department of the Interior (Mr. Barrenger) admitted to the Advisory Council, in March, 1964:- "The major part of A.C.T. legislation is in the form of Ordinances made pursuant to the Seat of Government (Administration) Act 1910-1963, and Regulations made pursuant to the Ordinances. Legislation of this nature is classified as subordinate legislation and is not accorded the same priority as the drafting of Commonwealth Acts." This in itself is a major causative factor of the chaotic state of the Territory's laws. And until some such step, as the creation of a special A.C.T. drafting section within the Attorney-General's Department, is taken, no satisfactory progress towards the amelioration of this situation is likely to be made.

In practice, then, law making for the Territory is the province of the executive branch of the Commonwealth Government, especially the Minister for the Interior and the public servants under him. Drafting of ordinances is done by the Parliamentary Draftsman's Division of the Attorney-General's Department.

The dangers inherent in the use of delegated legislation are widely known. The iniquity of a system which permits the law maker not only to administer his own law, but also to convict and punish its transgressors is readily admitted. It is also readily admitted that hole-in-the-corner methods of legislating threaten the liberty of the individual, the best safeguard for which is the close scrutiny of the Parliamentary watchdog, in full public view and for full public comment. Of course, delegated legislation enjoys rather more favour, to-day, than it did in the early days following the publication of "The New Despotism". It is recognized that it has its advantages as well as its dangers. The details of much administration is so technical and voluminous, that it cannot suitably be dealt with by Parliament, and, in some matters, the paramount importance of flexibility makes primary legislation of little value. But the inherent danger is always there, and reports such as that of the Donoughmore Committee have stressed the need for caution and economy in its use, and have emphasized that "The precise limits of the law-making power which Parliament intends to confer on a Minister should always be expressly defined in clear language by the statute which confers it"³³ and exclusion of the jurisdiction of the Courts should be exceptional.

Yet virtually all new "law" made for the Territory, is delegated legislation. Indeed, many A.C.T. administrative bodies such as the

Apprenticeship Board, the Advisory Council, the Community Hospital Board were set up by virtue of ordinances. In fact, ordinances made by the Governor-General cover practically every aspect of Teritorial administration, so broad were the powers delegated by the Seat of Government Administration Act. There are no technical reasons for justifying the use of subordinate legislation in most fields, for little of the administrative detail covered is of a technical nature, or where it is, considerable use is made of tertiary legislation. Indeed, this in itself, is a most disturbing feature of the arrangement. Detailed and technical provisions necessary for administration are in many cases enacted by virtue of regulation making powers granted by ordinances of the Governor-General. (Like ordinances these regulations also have to be laid before Parliament for its scrutiny.) The disadvantages of this system were illustrated by Professor J.E. Richardson by reference to the Motor Traffic Ordinance. "This Ordinances provides for the registration of motor vehicles and the issue of driving licences. To deal with these matters a Registrar of Motor Vehicles is vested with exceedingly wide powers. The fact that the present incumbent of the office performs his duties efficiently and with understanding is beside the point. "He may, for example, require an applicant for a driving licence to submit himself for medical examination before a licence is granted. The power is expressed completely without qualification and could be exercised in relation to applicant for a licence who shows no signs of medical unfitness.

"With registration, the fourth schedule to the Ordinance specifies the conditions which have to be satisfied before a motor vehicle will be registered. In short, the conditions relate to roadworthiness, for example,

by requiring a vehicle to have an efficient braking system. In principle, the law is quite unexceptionable. Supposing, however, that a zealous inspector should reject a vehicle on grounds which do not relate to road-worthiness, The only remedy which the owner has is to appeal from the Registrar's decision to the Minister for the Interior. This is surely an appeal from Caesar to Caesar yet the Ordinance states that the decision of the Minister on such an appeal "shall be final and conclusive." ⁵⁴

It is true that all ordinances have to be laid before both Houses of Parliament for a period of 15 sitting days, and that during this time, they may be disallowed, but it is unfortunately true also that Parliamentarians have little time to examine ordinances in detail and "They only come under debate when a member or senator moves for the disallowance of an ordinance. This means that many laws pass into effect without having been scrutinised by the Parliament." ⁵⁵

Not only does this situation impinge on the personal liberty of the citizens of the Territory, but it also involves an abandonment by Parliament of its legislative function with regard to the Territory - a function of which the framers of the Constitution thought so highly, that they provided for it to be exclusive to Parliament.

NOTES:

1. See Table 2 Appendix 5.

Since I wrote this section, the Department has announced plans to reorganise. The new arrangements provide for the establishment of three divisions. A.C.T. Division will consist of a Housing Branch, and a Facilities Branch. (This latter branch will administer most municipal functions in the A.C.T. including education, welfare work, traffic, lakes administration, tourist section, and parliamentary, government, and public transport).

NOTES: (continued)

- Lands and Policy Division consisting of a Lands Branch (with functions similar to the N.S.W. Department of Lands) a Planning Branch (dealing with general administration, planning, and legislation) and the State Branches. Specialized Elements Division will consist of the Electoral Office, the Meteorological Bureau, The Australian War Memorial, the Forestry and Timber Bureau, the Forestry Research Institute, Civil Defence Directorate, the Official War Historian, and the News and Information Bureau.
2. At 30th June, 1961 1,814 of its 3,824 employees were located in the A.C.T. By no means, all of these, of course were employed on Territory administration.
In addition to the 14 branches, there are 6 other "offices" i.e. Bureau of Meteorology, News and Information Bureau, Forestry and Timber Bureau, Directorate of Civil Defence, Australian War Memorial, and Office of the Official War Historian.
 3. See Table 3. Appendix 5.
 4. Survey Branch and Lands Branch, of course, have important development functions. In particular, Lands Branch is responsible for the Administration of the A.C.T. Leasing Ordinances; Parks and Gardens; the supervision of private building; and formalities prescribed for altering the City Plan. The Branch also deals with A.C.T. agricultural matters.
 5. I do not include the N.C.D.C. in this total, although some of the Commission's functions can be regarded as administrative. Table 1, Appendix 5, is an organization chart showing the lines of responsibility and functions of the bodies concerned in A.C.T. administration. The three red "boxes" indicate that the organizations contained in them are outside bodies with no responsibility either directly or indirectly to the A.C.T. electorate, except for the particular services which they provide on behalf of the Departments of Health and the Interior.
 6. This figure includes Treasury which, of course, serves as the A.C.T. budgetary authority. It does not include the Department of Civil Aviation which operates the Canberra airport nor the Department of Labour and National Service, which through its agency Commonwealth Hostels Ltd., provides accommodation for a large number of Canberra's public servants. I have regarded this as a "federal" function, although a good case, too, can be made for regarding it as a Territory function.
 7. See Tables 4 and 5, Appendix 5.
 8. "Again there is no liberty if the judiciary power be not separated from the legislative and executive Where it is joined to the executive, the judge might behave with violence and oppression." Montesquieu, L'Esprit des Lois, Book XI Chapter 7.
 9. As it is the Director-General of Health is the chairman of all five committees.
 10. A N.S.W. Education Inspector attached to the A.C.T.

11. Mr. G. Wynn of the Department of the Interior gives a population of 150,000 as the lower limit, for the same reasons. However, I feel that this argument may have been over-emphasized. It is hard to conceive, under present conditions that Canberra would have difficulty in recruiting staff. Mr. Meckiff, admits that, as the national capital, Canberra is very attractive to teachers, and that, each year, he receives a considerable number of applications from inter-state teachers. What is more, rapid population growth not only offers great scope for new recruits but it also, one feels, would counteract any inbreeding which the smallness of the system might otherwise bring with it. Furthermore, these arguments are apparently based on the assumptions that the A.C.T. education authority would have to be self-reliant for staffing purposes, as the states at present are. There is little movement of teaching staff between the state authorities, for the states, having trained most of their own teachers secure the services of these teachers for the first few years of their careers, by placing them under bond, and teachers are generally reluctant to go to work for other states, because, in so doing, they lose seniority, and so promotion prospects. In New Zealand and the United Kingdom, where teacher training is organized on a national basis, and with no comparable limitations of promotion opportunities, there is free movement of staff between authorities. This permits the existence of much smaller education authorities. In New Zealand education is administered by more or less independent school boards, and in the United Kingdom, "Where any non-county borough or urban district has either a population of 60,000 or an elementary school role of 7,000, the borough or district council may ask that their area may be an "excepted district" exempted from the county council's divisional arrangements." There is no reason why education in the A.C.T. should not be entirely administered by the Department of the Interior, especially if arrangements could be made with New South Wales and other states to permit the free movement between the state/or states and the A.C.T. One feels, however, that even if the small size of a possible education authority would bring some disadvantages, with the rapid population growth these disadvantages would be shortlived, and they would be more than compensated for by the advantages of education being controlled directly from Canberra and not Sydney.
12. I deal with the Advisory Council more fully in next chapter.
13. Evidence submitted to Senate Select Committee Page 44.
14. The Report of the Director-General of Health, 1958-1960, Page 97.
15. Ibid (My emphasis).
16. The N.C.D.C. ".... was also assisted by the Survey Section, Department of the Interior, and by the Traffic Co-ordination Committee with which the Commission's traffic engineers kept in close touch." Dept. of the Interior Annual Report 1959-60 on Canberra and the A.C.T. Page 3.

17. N.C.D.C. Fifth Annual Report, 1960-61, Page 11.
18. Report to the Advisory Council on A.C.T. Government and Administration. Page 7.
19. The "resistance - potential" of these "decision points" varies considerably, of course.
20. Thus in November, 1963 the Canberra Times stated that "Confusion exists at official level at the part A.C.T. police should play in interpreting the new traffic regulations."
In his "Report to the Advisory Council on A.C.T. Government and Administration", Page 6, Professor Zelman Cowen stated that; "I have found an almost unanimous opinion in Canberra - including that of civil servants in the departments concerned - that this division of control is inefficient, wasteful and frustrating. I entirely agree with this."
21. Diseconomies also result from the division of authority among numerous administrative entities. The large organization may reap the benefits of the division of labour. In some cases it is true, some of the disadvantages which may accompany the proliferation of administrative authorities have been avoided by the use of the Departmental personnel to staff various committees but this, does not apply to all committees. It is difficult to see how the fact that both the Canberra Mothercraft Society, and the Department of Health, for example, employ their ^{own} nursing staff, could be the most economical arrangement possible.
22. R.M. Jackson : The Machinery of Local Government. Page 9.
23. And under the Hospital Byelaws but both provisions are obscure.
24. The upper limit is the basic wage less ten per cent. for single person (i.e. £13. as at 30th June, 1961) and the basic wage plus ten per cent. for a married person, and £1.0.0. for each child.
25. The Canberra Times 24th March, 1964.
26. Or a Visiting Medical Officer to be an Honorary Medical Officer.
27. As at 30th June, 1961.
28. Reported in the Canberra Times, 24th March, 1964.
29. The disadvantages of the system of purchasing supplies and equipment for the Hospital should also be mentioned. Under the Ordinance this is, subject to Ministerial directions, the responsibility of the Board. The disadvantage of entrusting what is essentially a technical and professional matter to part-time administrators, albeit a majority of them is democratically elected is only too apparent.
30. The Seat of Government (Administration) Act, 1910 was of course made by virtue of Section 52 of the Constitution, and the Seat of Government Acceptance Act, 1909.

31. Professor J.E. Richardson, in his article, "Where Confusion Regins Supreme, A.C.T. Law in Urgent Need of Reform." which appeared in the Canberra Times. 7th May, 1964.
32. Professor Z. Cowen, Report to Advisory Council on A.C.T. Government and Administration. Page 9,
33. Report of the Committee on Ministers' Powers. Page 65.
34. Professor J.E. Richardson, "Where Confusion Reigns Supreme, A.C.T. Law in Urgent Need of Reform."
35. J.R. Fraser, M.P. quoted by the Canberra Times 8th May, 1964.

THE NEED FOR LOCAL SELF-GOVERNMENT

In 1955, the Select Committee attempted to persuade Parliament to assume some of its responsibility when it recommended, "That parliamentary oversight be exercised by a Senate Standing Committee on the Development of Canberra, consisting of seven senators with power to call for persons, papers, and records."¹ Parliament decided in favour of a Joint Committee of the two Houses, to examine and report on all proposals for the variation of the plan of layout of Canberra, and all such other matters relating to the Australian Capital Territory, which were referred to it by the Minister for the Interior."² Established in 1957, the Joint Committee consists of seven members (two appointed by the Prime Minister, two by the Leader of the Opposition, three Senators appointed by the Leader of the Government in the Senate, and two by the Leader of the Opposition in the Senate). But its activities have been restricted to an examination of Canberra's development, and the fact that it can only inquire into matters referred to it by the Minister, severely limits its value.

Whereas citizens of other Australian towns are represented in the Federal and State Parliaments, as well as at the local level, citizens of Canberra are virtually disenfranchised. Certainly, they are represented in the House, but while their representative is permitted to speak on any matter he can only vote on matters which concern the A.C.T. Canberra inhabitants are not represented in the Commonwealth Senate and apart from representation on the Community Hospital Board and the Advisory Council, they have no say in their government at the state and local levels.

The Advisory Council is a most unsatisfactory substitute for local self-government. The Advisory Council Ordinance, 1936-1962, which established the Council provided that its functions should be purely advisory. It can in fact advise the Minister for the Interior in relation to any matter affecting the Territory, and the Minister can refer to it any matter on which he desires advice. But the Minister is, in no way, obliged to accept this advice. Just, how much notice the Minister does take of the Council's recommendations, it is difficult to say. No recent statistics are available to indicate what proportion of the Council's resolutions are given effect to.³ Even if figures were available, their value would be doubtful, owing to the varying importance of the resolutions made. Suffice it to say the Government has accepted some important recommendations made by the Council. For example, the investigation by the Standing Committee on Public Works of proposals to build a new hospital at Canberra followed a recommendation of the Advisory Council, and more recently the Government accepted the Council's recommendation that the city's water supply should be fluoridated. However, the elected members of the Council frequently complain that their proposals fall on deaf ears. Unfortunately, too, the Council does not have its own staff, and the staff provided by the Department of the Interior is not adequate to enable the Council satisfactorily to scrutinize new ordinances made for the Territory, which is probably the most worthwhile task that the Council could perform, as it is at present constituted.

During 1961-62, "the Council met on sixteen occasions and submitted 50 resolutions to the Minister for the Interior. The resolutions covered such matters as graded speed limits, housing, housing

loans, water supply - fluoridation and filtration, care of the aged, garbage service, apprenticeship, level crossings, street lighting, secondary school curriculum, residential leases, traffic lights, electrical wiremen's licences, exhibition gallery, television insurance, legislative council, transport, fireworks and equal pay for women."⁴

Four of the Council's twelve members are ex-officio, representing as they do the Departments of the Interior, Health, and Works, and so, in fact, the Council's views cannot even be regarded as entirely representative of the local community. The other eight members of the Council are elected for a term of three years by universal adult suffrage. (Ironically, voting is compulsory, as for Hospital Board elections too). The fact that the Advisory Council has any official members, at all, is quite ridiculous, and serves as yet another example of the Government's failure to think constructively on this question. Nothing is gained by the presence of the official members on the Council. For the advice of these members (in their capacity as public servants) is available to the Minister for the Interior, anyway. Indeed, it almost appears as if the Government believes that the elected members cannot be trusted even to give advice unaided. It is even more remarkable when one remembers that it was not until 1952, when the number of elected members was increased to five, that they first formed a majority over the nominated members. (The number of elected members was increased to eight in 1959). Another indication of the haphazard development of the Territory's political institutions is to be seen in the fact that, while the Department of Works continues to send a representative to the Council, the National Capital Development Commission, which has taken over most of the Department's A.C.T. functions is not formally represented on the Council. (Since 1958

however, the Commission has adopted the practice of sending a spokesman to appropriate meetings of the Council, making reports on the progress of developmental work, and answering Council members' queries.)

The Council's functions, until quite recently, were purely advisory, but in 1962 the Australian Capital Territory Electricity Supply Act provided that of the A.C.T. Electricity Authority's three members, "One member shall be a member of the Advisory Council elected by the members of the Council as a member of the Authority and shall, subject to this Act, hold office during the pleasure of the Council." This is a very significant development. It is significant not only because it gives the people of Canberra a say in an important branch of government activity and is a step towards local self-government, but because it, too, clearly demonstrates the lack of design in the Government's attitude towards local self-government for the Territory. Few people would deny the right of A.C.T. residents to have some say in the administration of the Territory's electricity supply, and few would deny that their representatives are equipped to handle this work. But, there is no reason whatsoever for believing that the citizens of the Territory have less right, or are any less fitted, to have a say in the organization of many other services, such as motor registration, garbage collection and the like.

Indeed, hitherto, the Government has unjustifiably, preferred to give responsibility to interest groups which, at the most, represent only a limited cross section of the community rather than to the Advisory Council, which is representative of the community as a whole. Of the 18 members of the Road Safety Council of the A.C.T. no less than ten

represent interest groups - ranging from the Progress and Welfare Association, the National Council of Women and the R.S.L. to the Rotary Club of Canberra and the Sporting Car Club. In addition to the Road Safety Council, the National Council of Women for example is also represented on the Advisory Committee for Tourism and the Technical Education Committee; the Chamber of Commerce is represented on three others (including four representatives on the Advisory Committee on Tourism). While the representation of these interest groups is of some value, the representation of the whole community should certainly have prior claim. (The Advisory Council is represented on some, although by no means all, of these committees). The reason why some social welfare services, are at present administered by voluntary organisations is apparently historical. The Canberra Mothercraft Society set up an Infant Health Centre in Canberra in the late 1920's, long before the state had entered the field of social welfare. It is easy to understand, therefore, why the Department of Health should have handed over the management of its centres to the Mothercraft Society when it did enter the field. But this does not mean that the Department's action in farming out responsibility to a voluntary organization instead of the local representative body, can be justified, particularly, as in other parts of Australia this function is regarded as a local government one.

Indeed the propensity of the Department of the Interior to create ad hoc committees to assist it in governing the A.C.T. almost parallels its reluctance to mete out even the most trivial of responsibilities to the A.C.T. electorate. (This propensity, incidentally, seems to be shared by its counterparts in Washington D.C.). Not content with creating an Advisory Council "to advise the Minister in relation to any

matter affecting the Territory", the Department has, with the same inscrutable reasoning which justifies the presence of the official members on the Advisory Council, created six other advisory committees to give advice on specific matters affecting A.C.T. government. The existence of such bodies as the Advisory Committee on Tourism, the Pre-School Advisory Committee, the Child Welfare Committee, and the Committee on Cultural Development in the A.C.T., as well as the Advisory Council, is quite fatuous. The Advisory Council might have been requested to establish subcommittees on these matters, and have been empowered to co-opt outside experts to assist its deliberations. Of course there is nothing to prevent the Council from doing just this, anyway. That it has not done so, even if only to focus attention on the absurdity of the present arrangement, reflects rather adversely on the Council's spirit.

However, it does not appear that the representation of A.C.T. interest groups has been entirely successful as a sop for self-government. For over the last few years agitation for reform has become increasingly vociferous. In the recent Hospital Board and Advisory Council elections it formed an important part of the A.L.P. platform, and, a few months before, the Liberal Party held a seminar on the question. No doubt, the huge influx of immigrants from other parts of Australia, which has occurred in the last few years, has served to revitalize the issue, but the struggle for self-government is by no means a new one.

At various stages in the past there has been considerable demand for the representation of the Territory. In 1928 the Representation League presented a petition of some 3,000 persons for parliamentary representation, without success. A similar petition presented in the same year seeking local representation on the Federal Capital Commission

was more successful, for in 1929 provision was made for the popular election of one of the three members of the Commission. In November, 1934 a deputation of nine presented the Minister for the Interior with the resolutions of a public meeting requesting that the Territory's residents be given full parliamentary representation and that a legislative council should be created for the Territory. Nothing came of either resolution. In 1948, following the formation of the Citizens' Rights League, the Territory gained limited parliamentary representation. But despite agitation by the Advisory Council and other bodies, the Senate Select Committee's recommendations, and several major studies of the question, A.C.T. inhabitants remain disenfranchised at the local level.

Yet on several occasions, the Government has made both explicit and implicit promises of local self-government. For example, in 1930, the Minister for Home Affairs stated that, "the Civic Administrator's term of appointment will be for twelve months. The reason why that term is fixed is the government hopes that, at the expiration of that period, it may be possible to give the citizens of Canberra a greater degree of self-government."⁵

The fact that the Territorial government is not accountable to the local community then has led to serious anomalies. Yet the principle that a local government should be accountable to the community which it governs, is a sound one. As John Stuart Mill has pointed out, "There are local interests peculiar to every town, whether great or small, and common to all of its inhabitants : every town, therefore, without distinction of size ought to have its municipal council."⁶ Because these interests are peculiarly local they are best understood by local

inhabitants and best catered for by local self-government, which permits its representatives to keep themselves constantly informed of local needs. As Professor Richardson has said in respect of A.C.T. legislation, "One trouble about laws being made entirely by administrative officials as in Canberra is that official or departmental interests tend to gain the upper hand because they are better understood than the interests of the private citizen. There are many examples of Canberra laws which intrude unnecessarily on private rights or else give the administrators excessive powers at the expense of the individual citizen."⁷

What Mill had to say about his belief in the educational value of local self-government is very pertinent to the situation in the A.C.T. :

"..... I have dwelt in strong language - hardly any language is strong enough to express the strength of my conviction - on the importance of that portion of the operation of free institutions which may be called the public education of its citizens. Now of this operation the local administrative institutions are the chief instrument. Except by the part they may take as jurymen in the administration of justice, the mass of the population have very little opportunity of sharing personally in the conduct of the general affairs of the community. Reading newspapers, and perhaps writing to them, public meetings, and solicitations of different sorts addressed to the political authorities, are the extent of the participation of private citizens in general politics during the interval between one parliamentary election and another. Though it is impossible to exaggerate the importance of these various liberties, both as securities for freedom and as a means of general cultivation, the practice which they give is more in thinking than in action; and in

thinking without the responsibilities of action; which with most people amounts to little more than passively receiving the thoughts of someone else. But in the case of local bodies, besides the function of electing, many citizens in turn have the chance of being elected, and many, either by selection or rotation, fill one or other of the numerous local executive offices. In these positions they have to act for public interests, as well as to think and to speak, and the thinking cannot all be done by proxy." ⁸ For Mill local self-government is conducive to "the nourishment of public spirit and the development of intelligence"; the importance of which could not too much be emphasized, for Mill believed that representative government can only work "... where the officers of government are surrounded by the atmosphere of a virtuous and enlightened public opinion." ⁹ Just how important this atmosphere is, was pointed out by W.A. Robson with reference to local government in Germany : "The efficiency of German local government in the past has been high, especially in the larger cities; but its efficiency was mostly achieved at the expense of democracy. It was therefore of a kind which inculcated in the German people that appalling absence of any sense of political responsibility which proved so fatal to their own interests, and which made them utterly indifferent to the rights of others, and which eventually had such disastrous consequences to the peace and welfare of the whole world."¹⁰

The present situation in the A.C.T., of course, is different from that which existed in pre-war Germany. A large proportion of the Territory's inhabitants, as comparatively recent migrants from other parts of Australia, and the United Kingdom, are versed in the practice of

local self-government. But even this brings its problems, for "..... people who have had experience of being free to manage their private affairs fret under a regime, no matter how efficient or generous it is, which dispossesses them of their freedom. Loss of the right to decide things for themselves ultimately makes them begin to doubt their capacity to decide, and breeds a sense of social insecurity which finds its outlet in distrust and dislike of the despotism responsible."¹¹ But

"Of course, when a new generation of Public Servants, born and bred in Canberra arises, it may accept the situation quite passively, not having experienced anything else."¹²

Yet if it is important that every town should have local self-government there are several special reasons, why it should not be denied to Canberra of all places. In the past the need to build Canberra as a worthy national capital has been emphasized time and again. It was realized (although rather late, it is true) that in building Canberra, the nation was building not just a city to house its government and parliament, but a symbol of its parliamentary democracy and the Australian way of life. The N.C.D.C. has expressed this in its latest Planning Report.

"The National Capital must become a symbol, a rallying point, a matter of national pride. Canberra as the Seat of Government, must represent the federation of the States and reflect what Australia stands for as a nation. To achieve these ideals is not easy. The concept of a national capital is an idea, the understanding of which depends on an attitude of mind."¹³ But if the "concept of a national capital is an idea" the Commonwealth Government through its agency, the N.C.D.C. has been eager to express the idea more tangibly. This, of course, is obviously

necessary. But to express the national image in terms of bricks and mortar, lakes and bridges, parks and monuments is to express only a half-formed idea. The concept in all its maturity would represent the national image in the spirit of the capital's culture, political institutions, and everyday life. Yet Canberra can never be said to reflect this image, so long as spectators can observe that, "It is the voice of a democracy yet it is denied local self-government;"¹⁴ nor can a nation which professes belief in the desirability of the principle of local self-government be proud of its capital wherein the principle is denied.

There is an inherent danger in the denial of local self-government to Canberra. For although, on the one hand, the city's residents are denied self-government at the local level, on the other hand, they include in their midst, persons, who, as Commonwealth Public Servants, wield tremendous political power at the federal level. Responsibility for the administration of the Commonwealth rests with the various Ministers of the Crown, of course. But the great volume of detail involved in the administration of a Commonwealth Department makes it possible for the Minister to be personally associated with only the more important decisions which his Department takes. Nor, of course would it be desirable for the Minister unaided to take all of these decisions, even if it were possible. For many of them are of a highly technical nature, which the Minister would be unqualified to deal with. Even the decisions which he does take are usually only taken after he has received the advice of his Department's senior public servants.

Naturally, a Minister if he is intelligent, will carefully consider this advice, for, after all, it is given by professional administrators to an amateur. The entry of the state into that field of political activity which is called "welfare economics" then, has made it necessary for public servants to make more and more decisions affecting the everyday lives of the individual. Occasionally there occurs a Crichton Down and public servants are accused of flouting the liberty of the individual, but, in all truth, it must be admitted that the best protection which an individual can enjoy against the ravages of bureaucracy is the knowledge that the public servants who govern his life are mindful of the principles of parliamentary democracy. It is, therefore, of the utmost importance that Public Servants should be educated in these principles. If we agree with J.H. Warren¹⁵ that "To leave out the local level would be to leave out the level most accessible and the level which lends itself most easily to both participation and education" then local self-government for Canberra is the easiest way to this end. There is danger in denying this education to those very persons whom society has, in many ways, set up as the "Guardians" of its individual liberty, especially when, the need for impartiality, in fact and appearance, and the peculiar circumstances of Canberra's representation in the federal Parliament preclude Central Office Public Servants from playing a very active part in national politics. At the same time the present form of A.C.T. government is giving some public servants the wrong sort of education. Canberra, of course, is itself governed to a large extent by public servants. Now

the fact that Commonwealth public servants do not, in general at least, abuse the great powers with which they are entrusted is, to some extent, due to the existence of countervailing political forces which jealously guard their own interests. No doubt there would be more abuses in Australia were it not for :

"Some little village-Hamden that with dauntless breast

The little tyrant of his fields withstood."

But the public servant residents of Canberra are forbidden from criticising the Government too overtly, and it is difficult not to foresee with the correspondent of the "Sydney Morning Herald"¹⁶ the national danger which may arise in Canberra. "Because the head administrators preside over a community which is so greatly subservient to their will in one form or another, they lack the atmosphere of challenge and contention which teaches respect for the other person's judgement and moderation in one's own. It encourages them to feel that politicians are fools without whom they could run the country even better than now, and that anyone who disputes their views is also a fool". Or to agree with Alexis de Tocqueville when he wrote that "A nation may establish a system of free government, but without the spirit of municipal institutions it cannot have the spirit of liberty. The transient passions and interests of an hour, or the chance of circumstances may have created the external forms of independence; but the despotic tendency which has been repelled will, sooner or later, inevitably reappear on the surface."¹⁷

On several occasions it has been suggested that to give the people of Canberra a say in their government at the Territorial level,

would be to endanger the political neutrality of the Public Service. Recently the Minister for the Interior, Mr. G. Freeth, used the same argument to oppose a private member's bill to extend full voting rights to the A.C.T. Representative. "I think there is a very good reason for drawing a distinction in our national capital, where 33 per cent. of the work force of the Australian Capital Territory - I imagine that would approximate 33 per cent. of the adult population (sic) - comprises white-collar workers or public servants in the accepted sense of the word. Many other people are employed in other fields by the Government and are quasi public servants. This is the administration. Parliament is supposed to protect the people against a tyrannical administration, but we are asked at this time to give control of Parliament to a member who is directly controlled in his election by the public servants themselves. Is that a reasonable and valid proposition to put to the rest of the electors? I would not deny public servants a role. Where they are scattered amongst other electors, they cannot control Parliament, which in essence is set up to prevent a tyrannical administration from disregarding the wishes of the people."¹⁹ This stand, of course, was quite inconsistent with enlightened Australian thinking and practice on the subject of public servants' political rights. V. Subramanian has pointed out that : "The only lesson to be drawn from the Australian practice is that, given certain conditions, (which one may call typically Australian), such as an egalitarian non-traditional atmosphere, comparatively responsible trade unionism, institutional guarantees against political patronage, good sense and good political sense, lack of restriction on political activity of public

servants does not produce all the evils painted by political theorists of a certain sort."²⁰ But then it is to ^{be} noted that this bill was introduced at a time when the Menzies Government had an effective majority of only one in the House, and the Minister for the Interior's feelings on the matter appear to have been more concerned with the loss of this majority which the passage of this bill would have caused, than with the denial of political rights to public servants, as such.

Even in England, which has hitherto been fairly conservative in granting political rights to its civil servants, an exception has been made in respect of local government activities, and that despite the fact that English local government elections are becoming increasingly based on party lines. For as the Masterman Committee observed "arrangements which have existed for the last 40 years have permitted a number of civil servants to engage in local government, and although the total is not great in comparison with the size of the Civil Service as a whole, it is not negligible. Witnesses have told us that civil servants can make a valuable contribution to the work of local Councils without causing any loss of confidence in the impartiality of the Service civil servants, by their experience and educational qualifications, are well equipped to contribute to local administration, and it would be a loss to the country if local authorities were deprived of the skilled assistance of those few civil servants who can give the time necessary for the work civil servants have said in evidence that their official work has benefited from the experience which they have acquired in local administration."²¹ And, in the field of A.C.T. politics the Government's attitude towards the exercise of public servants' political

rights is apparently no less liberal. Indeed, in one instance it has been argued that the Government's attitude is too liberal. Dr. T.H. Harrison who is an elected member of both the Advisory Council and Community Hospital Board (of which he was the chairman) is also an Assistant Director-General of Health, and as such is a member of the Second Division and so is obliged, as part of his duties, to give policy advice to the Minister for Health. "The question that must be asked is whether a senior Public Servant so situated can really be free to vote against the declared policy of his own department."²² Some local politicians apparently consider that he cannot. Mr. J.R. Fraser is reported to have commented upon the interesting situation on the Advisory Council where "one elected member was a very senior officer of one of the Government departments also represented by an appointed member. Both men had full voting rights and Mr. Fraser asked whether the elected man would vote against his department's official representative and whether the department's appointed member would vote against the elected member who was departmentally very much his senior."²³

The situation is a vexed one, and even V. Subramaniam is doubtful that it is quite so clear cut as his statement quoted above would appear to indicate :- "The Burton story may seem to render the foregoing answers less satisfactory," he states, and cites enough evidence to support this doubt. He pointed out, for example, that "It is evident from his (Sir Robert Menzies') remarks in 1948, that he was in particular opposed to top civil servants openly flaunting their political allegiance. In the long run it is also true that this might

lead to change of Permanent (!) Heads with each change of Ministry (unless there were a definite understanding to the contrary between the major political parties)."²⁴ And Mr. J.R. Fraser is reported to have pointed out that, although the Public Servant is technically free to stand for election to devote himself to public interests and to freely state his opinions, he knew, from his own experience, that "Public Service members of the Advisory Council and the Hospital Board have been warned, perhaps gently but nonetheless forcibly, that community public activity of a political nature would jeopardise their departmental progress."²⁵ The case of Dr. Harrison, who was actually promoted within his Department whilst he was an elected member of both the Advisory Council and the Hospital Board, may be deceptive. For his Department's interest in A.C.T. affairs is comparatively minor, and some observers (although not disinterested ones it should be noted) apparently believe that "Dr. Harrison's record on the council and the board has been one of remarkable coincidence between his views and those of his Minister and department."²⁶

The distinction which Mr. Freeth draws between granting a vote to public servants who are scattered amongst other electors and giving one to Canberra's public servants is not without its relevance to the question of A.C.T. self-government. For whilst he purposely over emphasizes the dangers involved in this situation, this does not mean that danger is non-existent. It seems very likely, for example, that the policies of an A.C.T. Council would tend to be associated in the nation's mind with the views of the Commonwealth Public Service.

For after all Canberra is predominantly a city of public servants, and although, with the rise of industry and commerce as a major employer the proportion of public servants to the rest of the population is declining somewhat, public servants will always form a substantial proportion of the city's inhabitants. Of course, by no means all of Canberra's public servants are concerned with Government policy making - even remotely. Many are what the Masterman Committee called industrial civil servants; process workers at the Mint and the Government Printing Office, for example. Others are employed by such research and service organizations as the Bureau of Census and Statistics, and the National Library. But it is unlikely that the public in general is able to draw such fine distinctions. Perhaps, anyway, such distinctions are not entirely justifiable in an egalitarian Service, where today's chief Government advisor on economic policy, may, a year or so ago, have been a mere statistical clerk. But, certainly the danger that political activity on the part of A.C.T. Public Servants might destroy the impartial non-political nature of the Service and so lead to Ministerial patronage is not so great that it should prevent the granting of self-government to the Territory.

Nor will there necessarily be a shortage of able aspirants for office on an A.C.T. Council. If hitherto Public Servants have been reluctant to take part in local politics, it may have been because, "the fact that it is unlikely to make much practical difference creates a positive premium on not sticking out one's neck." Anyway if responsibility for the government of the A.C.T. were centralized in one authority "it would only be necessary to restrict those actually working in it from becoming members of elected authorities."²⁷

NOTES:

1. Report of the Senate Select Committee on Canberra, 1955 Page 72.
2. L. Wigmore. The Long View. Page 189.
3. In June 1933, the following questions upon notice were put to the Minister for the Interior, Sir George Pearson. "How many resolutions of the Canberra Advisory Council have been transmitted to the Government?" and "How many of such resolutions have been given effect to?" After stating that a total of 308 resolutions had been put he went on to say "Recommendations - many of which request consideration of proposals in distinction to actual execution thereof - have been given effect in 199 instances. In numerous cases suggestions falling within the former category have been given partial effect. In regard to the remaining resolutions, consideration is still proceeding in respect of 35." A more recent estimate of my own indicates that of 38 recommendations made to the Minister during the year ended 30th September, 1961 only 12 were given effect to. This is only an estimate, however.
4. Department of the Interior, Annual Report 1961-62, on Canberra and the Australian Capital Territory.
5. Second Reading of the Seat of Government Administration Act, 1930.
6. Considerations on Representative Government, Page 350 (Everyman edition).
7. Where Confusion Reigns Supreme, A.C.T. Law in Urgent Need of Reform. Article in Canberra Times of May 7, 1964.
8. Considerations of Representative Government, Page 347-8. Virtually the same arguments were expressed by J.H. Warren in "Local Self-Government : The Basis of a Democratic State" in the Journal of Public Administration 1950 : "..... it is the local level which lends itself most easily to both participation and education, through the very nature of the work which is there appropriate the nature of modern industrial societies is such that, so far as central government is concerned, the vast majority of citizens, except at General Elections, are, as one English writer has said, more the patients than the agents of its political activity."
9. Ibid.
10. Quoted by M. Hookham in "A Plea for Local Government" Political Science Quarterly : Volume 19; 1948.
11. Sydney Morning Herald, 3rd February, 1961.
12. Ibid. 2nd February, 1961.
13. Page 9.
14. Sydney Morning Herald. 2nd February, 1961.
15. Public Administration. Vol. 28. 1950. "Local Government. The Basis of a Democratic State."
16. 6th February 1961.
17. Democracy in America. Chapter 5.
18. For a fuller description of this question, see

NOTES(continued)

19. Second Reading of the Australian Capital Territory Representation Bill. 10th May, 1962.
20. Political Rights of Commonwealth Public Servants. Public Administration (Australia) 1958.
21. Report of the (Masterman) Committee on Political Activities of Civil Servants. Page 28.
22. Mr. J.R. Fraser. Cited in the "Canberra Times", 12th September, 1964.
23. "Canberra Times", 12th September, 1964.
24. V. Subramaniam op.cit.
25. Cited in the "Canberra Times", 12th September, 1964.
26. R.R.O'Keefe and R.Inall (joint statement) cited in the "Canberra Times", 10th September, 1964.
27. Dr. S. Encel. Canberra Times, 29th October, 1964.

CANBERRA'S SPECIAL PROBLEMS.

Neither Canada nor the U.S.A. have satisfactorily solved the problem of administering their capital cities. In the U.S.A. the federal government has retained exclusive control over the District of Columbia, but because it has failed to make satisfactory administrative arrangements and, to some extent, because the citizens of the District are disenfranchised, an effective policy for the administration and development of the city is virtually impossible. In Canada where no special arrangements have been made for the government of the national capital and where inhabitants of the capital enjoy the same rights of representation as inhabitants of other Canadian cities, the Dominion government's plans for the development and redevelopment of the city have been considerably hindered, and the government has no say whatsoever over the administration of the city.

Whilst both these countries have problems peculiar to their own special circumstances, their experience does pinpoint some of the administrative problems which are common to federal capitals. It indicates the special interest of the nation in matters pertaining to the capital's role as the national symbol. Indeed it reinforces Canberra's own experience as to the disadvantages which almost inevitably result from failure to establish one body with authority to ensure that the capital is developed in a manner which befits this role. American experience serves as an illustration of the problems consequent upon the proliferation of administrative authorities and, in a negative way, of the advantages of responsible local government.

One particular problem which Ottawa's history clearly

illustrates is the delicate nature of financial relations between the federal and city governments. And, indeed, of all aspects of the Canberra problem, the question of finance is probably the most involved. Certainly it is a question about which there is little understanding. As Professor H.W. Arndt has pointed out, "there is the view almost universal outside Canberra that Canberra and its citizens are pampered at the expense of taxpayers in the States." and, "Oddly enough, the notion that Canberra government services are heavily subsidised is widely entertained even in Canberra and lies behind much local opposition to self-government for fear that this would mean higher rates."¹ Oddly enough, too, the complicated problems involved in financing Canberra have been used by the Government as arguments for not granting local self-government to the city. In 1954, Mr. W.A. McLaren, Secretary of the Department of the Interior, told the Senate Select Committee, "In establishing a municipal authority which, normally, would construct roads, kerbing and guttering, and provide ordinary municipal services, it would be necessary to decide to what extent that authority should be responsible for collecting taxation from the local people in order to pay for those services. That is a difficult matter to determine. We have been influenced by experience in Washington. There local government² was abandoned after some years and the city reverted to the District Commissioner System" and "I think that finance would be the main obstacle to the provision of local government for Canberra."³ However, the financial problem is not so involved that a solution cannot be worked out which is equitable to both the local community and the nation.

There are three aspects of this problem. In the first place, no attempt has ever been made to devise a separate balance sheet for the Territory's account. Whereas in other parts of the Commonwealth, government expenditure and receipts are not only clearly divided into federal, state and local, but must also be balanced at each level, in the A.C.T. all monies are considered as part of the federal governments account, and it has never been thought necessary to balance revenue and expenditure at the "state" or local levels. With few exceptions, all government expenditure in the A.C.T. comes from Consolidated Revenue by means of annual Parliamentary appropriation, most current expenditure being paid from the Department of the Interior's vote, and most capital expenditure from the vote of the National Capital Development Commission. With few exceptions, again, all government revenue, whether it is of a capital or current nature is paid into Consolidated Revenue, too. It is difficult to say, therefore, whether or not the Territory's administration is heavily subsidized. Professor H.W. Arndt has gone to quite considerable lengths to prove that it is no more subsidized than the administration of the several states. But he admits that there are innumerable difficulties to confound the compilation of an accurate account.

At first sight, it would appear that there is some justification in the argument about subsidization. Certainly several taxes which are levied in the states have no equivalent in the A.C.T. Stamp duties, and "state" death duties, are not levied in the Territory, and the annual recovery of water and general rates per capita of population for Canberra is considerably lower than for comparable towns elsewhere.

But whether or not the Territory is self-supporting or not at the "state" and local levels, of course, is subsidiary to the main arguments for local self-government. If A.C.T. residents are not paying an equitable share of the costs of the Territory's government, then, quite regardless of the question of local self-government, provision should be made for them to do so. Certainly the compilation of accounts for the Territory, which clearly distinguish the financial responsibilities of the federal government and the Territory's inhabitants, is desirable if only for the fact that the present arrangement leaves the whole question of financial responsibility in doubt, and so, open for controversy. However, if the A.C.T. is to have effective local self-government, it is apparent that accounts of this nature are not only desirable but inevitable.

The question of whether or not the government of the Territory is subsidized, however, does bring us to the second aspect of the financial problem. An equitable solution to the financing of the Territory will involve large payments to the Territorial government by the Commonwealth. During the Second World War the Commonwealth ousted the states from the field of direct taxation but since then, whilst retaining its monopoly^o, it has compensated the states with annual grants for the loss of revenue incurred. Indeed in 1962-63, Commonwealth grants to state and local government authorities amounted to £300.2 million. Inasmuch as the proposed Territorial government would take over state and local government functions it should receive equivalent compensation. The £300.2 million granted to the states in 1962-63, included, of course, amounts "such as the small Grants Commission grants to the mendicant

States and the much larger special purpose grants, which are made to states with special difficulties⁴ The tremendous pressures placed on the Territory by the very rapid growth of Canberra, which results, to a great extent, from the transfer of public servants from Melbourne, and the expansion of Commonwealth Departments, the C.S.I.R.O. and the National University, certainly qualifies the Territory for a special grant of this nature. H.J.R. Cole has gone so far as to suggest that, "As the high cost is an unavoidable consequence of the creation of a separate Federal Capital "in the wilderness", then it must be met by those who decided to have a separate capital - the Australian people."⁵ In truth, the choice of Canberra as the site of the national capital was made with little or no consideration for the cost of building and servicing the city. The building of a new city on a green field site is bound to be expensive, but especially so when it is so far removed from the main sources of labour, building materials, and the necessities of life. Perhaps as Cole has suggested, the proposed "municipal authority" should receive some special financial consideration for this. I feel that this might be taking things a little too far, but there is no good reason why an A.C.T. Council should agree with me.

However, this, by no means completes the Commonwealth financial responsibility to the Territory. Unlike private property, property belonging to the Commonwealth Government is not taxable. To the average Australian city this brings little hardship, as apart from the state capitals and a few other exceptions, none contain large Commonwealth holdings. Even in the state capitals, Commonwealth property is

insignificant in comparison with the size of the cities. In Canberra, however, the position is completely different. A very substantial proportion of the national capital is composed of Commonwealth property, whether in the form of national buildings and monuments such as Parliament House and the Australian War Memorial; national parklands and reserves; Commonwealth Government Offices; property belonging to Commonwealth agencies, such as the A.N.U., and the C.S.I.R.O.; or Commonwealth trading organizations, such as Commonwealth Hostels Ltd., Canberra Brickworks, and so on. Thus unless the Commonwealth Government decides to make some special provision to compensate for this substantial loss of tax income, the proposed Territorial government can expect to raise considerably less revenue from rates and other "State" and local government taxes than it would if it were an ordinary municipality containing little or no Commonwealth property. Certainly it would be unjust not to compensate the Territorial government for services provided.

What the form and amount of this compensation should be, however, is problematic. The easiest solution, no doubt, would be to make Commonwealth property taxable. In the case of trading organizations, such as Commonwealth Hostels Ltd. and the Banks, there could be no strong objection to this. Otherwise an anomalous situation arises. For by freeing such Commonwealth organizations of the need to pay "state" and local taxes, the present arrangement gives them an unfair trading advantage over the private enterprise undertakings with which they are in direct competition. There is however a very good reason for not making the property of most Commonwealth authorities taxable. For this would place the Government in a most embarrassing, and, indeed, invidious

position. In the first place, it would virtually enable the Territorial authority to hold the Commonwealth Government to ransom. In the second place, it would serve as a precedent for every other town containing Commonwealth property to claim taxation, too. Faced with the same situation in Ottawa, the Canadian Government solved the problem by making a quite substantial annual grant to the city, but "the federal government found soon afterwards that other cities in Canada could not in equity be denied a general scheme of compensation for tax-exempt properties and for services to government buildings. The Municipal Grant Act of 1949 was the outcome,"⁶ Under which annual grants comparable to the one made to Ottawa were paid to other Canadian cities containing federal property. Of course, it might be only equitable, that the Commonwealth Government should do the same in Australia, quite apart from Canberra considerations.

Finally we come to what is probably the most complicated part of the whole financial problem. In distinguishing the financial responsibility of the Territory it is obvious that some expenditure can be easily allocated to the federal and Territorial accounts. It is apparent that the Australian War Memorial, for example, is a federal concern, and the school system a Territorial one. But there is an area, and quite a large one, where responsibilities are very confused. This confusion arises simply because Canberra is being developed, as befits a national capital, at a standard substantially higher than that of the average Australian town, with a city plan and broad dimensions. Indeed, Walter Burley Griffin's plan for Canberra is ambitious even by national capital standards. For "Canberra's main avenues surpass even the

vastness and grandeur of Paris with its enormous vistas."⁷ As a result the cost of the city's administration as well as its development is considerably higher than it would be if Canberra were an ordinary municipality. Many items of government expenditure in Canberra include an element resulting from the city's role as the national capital. Some of these items, especially those which derive from the grand design of Griffin's plan - the great mileage and width of its avenues, Lake Burley Griffin, and the vast areas of park-land, for instance, - are easily discernible. A comparison of the expenditure on the maintenance of parks and gardens in Canberra and other towns indicates just how expensive this national element can be. In 1962-63 the Department of the Interior spent £607,531 on this item in Canberra whilst Toowoomba with a population of only 20,000 less than the capital spent only £28,796, during 1961-62. Even Brisbane with eight times Canberra's population spent only £215,300 or one third as much as Canberra on parks and gardens maintenance during the same year. The cost of other national capital items, though not so apparent is by no means negligible. The huge dimensions of the plan and the existence of a "dead centre" in the heart of the city inflate the cost of providing other services too, including many ordinary municipal services. Thus "Passenger buses have to travel many "dead" miles because of the scattered population."⁸ and many additional miles of water and sewerage pipes, telephone and electrical cables have to be installed. What is more, for national capital reasons, standards of suburban development are much higher, than in the average Australian city, where new sub-divisions are often made before streets have been

properly paved, and, indeed, in some cases, before the areas have been connected to water supply, or sewerage. In Canberra all inhabited dwellings are sewered, whereas it is estimated that this is true for only 36% of the Brisbane metropolitan area and for only 73% of the Melbourne metropolitan area. Canberra can also boast that its roads are kept in a higher state of repair than the roads of other Australian cities, most of them are guttered and all are very well planted with trees..

If we are to work out a formula to distinguish national capital from territorial expenditure, and it is apparent that such a formula is not only desirable but inevitable if effective local self-government is to be made possible - then quite a number of arbitrary decisions must be made. For it is by no means clear where the financial responsibility of the nation ends and where that of the Territory's inhabitants begins, with regard to some of these items. The obvious solution is for the people of the A.C.T. to pay as much for these services as they would if Canberra were a normal municipality; all expenditure above this can be regarded as being of a national capital nature and so being a province of the Commonwealth Government. Consider for example, the case of parks and gardens maintenance. It would be ridiculous, of course, to expect the A.C.T. residents to pay the whole £600,000 or so which this item costs each year. On the other hand, they should not get off scot free. They certainly should pay at least as much as they would if Canberra were an ordinary town. But then again they should pay no more. For although they do enjoy the better facilities which the national capital provides, this is not the

result of choice on their part. If, like the citizens of other towns, they were able, through their representatives, to determine the standards of parks and gardens maintenance, simply by rating themselves more or less for this item, it is most unlikely that they would be willing to pay any more than other towns. Probably the most reasonable method of determining the size of Canberra's contribution for each service would be to strike an average of the expenditure, both by state and local authorities, on that service, in a number of comparable cities elsewhere. The task of collecting and compiling this information could be entrusted to the Commonwealth Statistician.⁹

In addition to problems which are common to other federal capital cities, Canberra, of course, has difficulties which are uniquely its own. The controversy which surrounds the system of leasehold land tenure which pertains in the city area, and much of rural A.C.T. is such that a careful examination of the whole question is desirable, before self-government is granted to the people of the Territory. The present arrangement, whereby the freehold of all city land is vested in the Commonwealth, is apparently justified on the ground that it facilitates the planning and development of the capital,¹⁰ and that it curbs private speculation in land, and because it is felt that any profit resulting from the city's growth should accrue to the Commonwealth.¹¹ However, the importance of several recent judicial decisions sanctioning the variation of the purpose clauses of several residential leases,¹² should not go unnoticed. "Reflection upon the circumstances of these cases gives food for thought to those of us who imagined that the system of land tenure in Canberra effectively

prevented speculation. In the instance of each of the five house lots here considered there was a difference of from £10,000 to £20,000 between the market value of the land with the house upon it and the price offered by the motel company which intended to develop and the land with benefit of lease variation."¹³ In practice the amount of revenue accruing to the Commonwealth from this source, has in recent years been quite considerable.¹⁴ Hence the accusations of profiteering. Certainly the Government, through the Department of the Interior and the N.C.D.C., determine the number of residential leases offered for sale each year, and certainly the Department of the Interior through its auction system exacts the highest price that the market will pay.¹⁵ There is no doubt, too, that on economic grounds the Government is justified in exacting the highest price, for after all if private entrepreneurs were permitted to develop the residential land, they would do the same. However, on moral and political grounds justification is not so easy. In a way this arrangement can be compared with the truck system of the Industrial Revolution. Through its plenary legislative power, the Commonwealth has established for itself a position as a monopolist in land. The Canberra citizen, if he wishes to obtain land in Canberra, has no alternative but to lease it from the Commonwealth. He deserves to be protected against the abuse of the Commonwealth's monopolistic position, but it is difficult to see how this protection can be arranged under the present system. Moreover, so long as the Commonwealth retains its monopoly, friction between the Commonwealth and the local community appears inevitable, with the familiar arguments about profiteering and the restriction of the city's

development being the order of the day. Because of this, Professor Arndt's suggestion, that the Commonwealth Government might vest its equity in A.C.T. land in the government of the Territory, is an attractive one. Under this proposal the Commonwealth would retain control over land use and planning. The National Capital Development Commission, or its successor, might continue to undertake subdivision, and indeed, I suggest, it might conduct the land sales, recouping from the proceeds the cost of subdivision.

Unlike Ottawa and Washington, Canberra is still in its infancy. With the expansion of Commonwealth Departments and agencies, and the transfer of public servants from Melbourne it is expected to continue to grow for many years to come. Any proposed solution to Canberra's administrative problem must take this expected growth into account, not only by providing for planned and orderly development and the high financial outlays which this development will necessitate, but also by allowing for the expansion of the number and complexity of functions entrusted to the Territorial government in keeping with this expansion of population. It is an accepted principle of local government organization, especially in France and England, that the amount of responsibility given to local councils should be graduated according to the population size of the area covered. To a large extent, of course, this is determined by the economics of providing a particular service. Whilst a large city might satisfactorily employ its own education system, for example, it would be quite ridiculous for a separate system to be established for a small village, say. As we have seen,¹⁶ under present conditions, it is estimated that the A.C.T. will not be able to support its own education

system until its population reaches 100 to 150 thousand. Of course, there are other good reasons for this graduation of responsibility. It is argued, and with good reason, that the larger the city, the better it is able to provide representatives with the ability to deal with the more complex administrative problems. The phased allocation of functions to the proposed A.C.T. Council will also give the representatives time, not only to prove themselves, but also to gain valuable administrative experience.

Hitherto, in referring to the need for local self-government for the A.C.T., I have disregarded the danger, that in so talking, I might give the impression that, I was referring to local government as known elsewhere in Australia. However, it is quite clear that local government as it is known elsewhere in Australia cannot be satisfactorily adopted for use in Canberra. Quite apart from Canberra's special requirements as the national capital, there is a fundamental argument against it. Local government in the six Australian states, is part of a three level system. Above it come both the federal and state authorities. The obvious solution for the A.C.T., however, is the creation of a two-tier system of government, consisting of the federal government and a municipal or territorial body with jurisdiction for the whole of the A.C.T. Local government elsewhere in Australia is itself the creation of the various state legislatures, which determine its constitution and delegate its powers. The Commonwealth Parliament has no constitutional jurisdiction over local government in the states. In the A.C.T. however the situation is quite different. Any local authority which might be set up in the Territory would be set up by the Commonwealth Parliament,

which, of course, under Sections 52 and 122 of the Constitution is alone empowered to legislate for the Territory, and so enjoys within the Territory in addition to its federal powers, powers which elsewhere are exercised by the state legislatures.

National capital reasons (and the Constitution) preclude the granting of statehood to the A.C.T. For it is essential that the Commonwealth Government should retain control of not only these functions which impinge on its own security but also those which relate to Canberra's status as the symbol of the nation. Indeed it can be argued that since special attention is focussed on Canberra, as the national image, it is in the national interest that all government activities should be well conducted. However, it would be quite irrational, and inequitable, to deny self-government to the people of the Territory on these grounds. On the other hand, even if the A.C.T. were not the Seat of Government its comparatively small population, would make the granting of full state powers unsuitable.

Whilst protecting the interests of the nation the Territory's inhabitants should be compensated for their loss of representation at the state level, by being granted, as far as possible, local self-government in matters which elsewhere are the province of the state. Indeed, there is a danger in thinking of local government in terms of the familiar Australian pattern, with its fairly narrow range of functions. For state governments in Australia are responsible for many functions, such as education and police which in other countries such as England and the U.S.A. are, to a large extent, considered to be the responsibility of local government.

The idea of establishing a third level of government below the Territorial government can be quickly dismissed. There obviously would be no practical value, whatsoever, in creating a third tier of government with a jurisdiction geographically contiguous with that of the Territorial government. Nor is there any merit in either of the two alternatives which remain. The subdivision of the urban areas into numerous cells of responsibility would be quite fatuous. Both Australian and overseas experience speaks out strongly against it. The creation of two local authorities, one with jurisdiction for rural areas in the A.C.T. and one for the urban area has some merit, in that it would afford separate representation to the minority interests of the country residents. However, compared with the number of urban dwellers, the number of country dwellers is very small, and will become even smaller with the rapid growth of the city's population. Furthermore, such a division of responsibilities would involve the rather complicated problem of the city's boundaries. Unless frequent boundary adjustments between the two authorities were to be made (which would almost certainly create difficulties from an administrative point of view) the rapid expansion of the city into the rural areas would, in view of the smallness of the rural population, be sufficient to confuse the concept of separate authorities based on a clear distinction between rural and city dwellers. Provided the interests of the rural population are protected, then, self-government for the people of the A.C.T. will be best catered for by the creation of an authority with powers somewhat in between those of a state government and those of a municipal council elsewhere in Australia; its relationship with the federal government being somewhat akin to the relationship between the county or municipal

borough council in England, or the conseil municipal in France, and the central government. The Territorial government would be given most of the functions elsewhere exercised by a municipal council, and some of the functions of a state government.

Indeed the slavish adoption of local government as it is known in the states would not be desirable anyway. The municipal council, which is the basic urban local government unit, is sadly lacking in prestige - as witnessed by its lack of support at the polls. This cinderella Status of local government is common throughout Australia. For, "Even though each State has its own system of local government the uniformity of style throughout Australia is noticable. In each case the State Government directs and controls local authorities in a most detailed way, e.g. through the Department of Local Government in New South Wales. What they may or must do does not vary strikingly from State to State. The practical possibilities involve the same fairly narrow range of essential housekeeping tasks, roads, sanitation, garbage, street lighting, protection of food supplies, and much the same possible excursions into welfare and cultural activities. Money is raised in much the same ways in all States, and the same financial difficulties and general problems appear."¹⁷ As a result, "It cannot be denied that the New South Wales system lacks the prestige and importance of English and American local government."¹⁸ This applies to all states for, "the functions entrusted to councils, from the first of a narrow and petty order, have clearly failed to engage the interest of more than a small minority, and over the years the councils have been progressively stripped of powers even within this circumscribed range."¹⁹

Nor has local government in Australia been adapted to suit

the needs of the modern metropolis. With the exception of Brisbane, none of the state capitals has a central municipal authority. This fragmentation of responsibility for what is essentially a single urban unit is a problem which is lamented from Hobart upwards. But, of course, it is most acute in Melbourne and Sydney. Metropolitan Melbourne is composed, "of a single-level network of some thirty local government bodies of uniform design and predominantly inadequate financial resources."²⁰ If anything the situation in the metropolitan area of Sydney is even worse; it is governed by 39 municipal councils. The difficulties of this arrangement have prompted numerous proposals for reform in both cities. But none has been successful. What is more, in Melbourne, "After each wave of pressure for the central body, one of its proposed functions, which was causing really obvious concern would be separately settled with its own special authority - thus the Board of Works, the Fire Brigades Board, the Tramways Board, the State Electricity Commission, the Housing Commission, the Gas Company and later Corporation, and the more minor and sometimes fugitive bodies for building and traffic regulations, town planning, and weights and measure."²¹ Sydney, too, has its ad hoc authorities. The Cumberland County Council, for example, was established in 1945 for town planning and zoning purposes. Then there are the Metropolitan Water and Sewerage Board, the Electricity Commission and so on. It is not surprising, then, that local government in Australia has failed to deal with the major problems of the twentieth century metropolis. Town planning where it exists has failed to contain the urban sprawl, large proportions of the metropolitan areas are unsewered; the traffic problem grows apace, and no determined efforts have been made to solve it.

NOTES:

1. Professor H.W. Arndt : The Costs of Canberra:
A paper presented in a Symposium on Canberra - Development and Problems. (A.N.Z.A.A.S. Conference, January 1964, Canberra).
2. No doubt, Mr. McLaren was referring to the Territorial Government of 1871-1874, which consisted of a Governor appointed by the President and a Legislative Assembly, comprising a Council of eleven members appointed by the President with the advice and consent of the Senate, and a House of Delegates which was made up of twenty-two elected members. This arrangement was abolished following alleged corruption. See L.F. Schmeckebier, op.cit. Page 31.
3. W.A. McLaren. Page 65, Evidence submitted to the Senate Select Committee on Canberra. Mr. McLaren did say, however, that he supported the principle of local self-government.
4. H.W. Arndt. "Economics of Canberra Development", "Canberra the Next Decade".
5. Report on Civil Administration with a Recommendation for a City Council for Canberra (Australian Capital Territory), Page 46.
6. W. Eggleston, op.cit. Page 181.
7. Dr. K. Langer cited in the Report of the Senate Select Committee on Canberra, Page 25.
8. H.J.R. Cole, op.cit. Page 46.
9. But even this would not be a perfect solution. Among other things, as Canberra's population continues its rapid growth, there will be fewer and fewer Australian towns of comparable size.
10. "Control of land-use in the City District of Canberra is operated by means of covenants which specify the purposes for which land may be used, where the land is leased for residential or business purposes." I. Boileau "Variation of Crown Leases in Canberra", Australian Planning Institute Journal, April 1964).
11. C.S. Daley. The Growth of a City, in "Canberra, A Nation's Capital".
12. This could lead to a rather delicate situation. Several of the Northbourne Avenue residential leases will shortly be due for their first 20 year revaluation. If the Department of the Interior's valuers increase the annual rentals of these leases, in keeping with their considerably increased commercial value, which is only to be expected, it seems very likely that many of the present lessees will be forced to sell. What will happen, one wonders, if some of them are unable to find purchasers? Certainly, this might place both the Department and the N.C.D.C. in a most embarrassing position. Of course, this would be avoided, if the Commission resumed this land (and perhaps other land in the vicinity of Civic).
13. I. Boileau. op.cit.

NOTES: (Continued)

14. Revenue from land rent and premiums on lease sale during 1962-63 was £336,568 and £1,439,916 respectively.
15. That is if one disregards the question of the Restricted Auctions of residential land which the Department conducts from time to time. Land so auctioned, however, rarely (if ever) includes ^{the} most select blocks.
16. See supra Page 103.
17. Ruth Atkins Local Government. Page 157 in Public Administration (edited by R.N. Spann).
18. F.A. Larcombe. The Development of Local Government in New South Wales. Page 93.
19. A.F. Davies. Local Government in Melbourne. Public Administration. Volume 14. 1955. Page 65.
20. Ibid. Page 65.
21. Ibid. Page 66.

A RECOMMENDED SOLUTION

There is no perfect solution to the problem of governing the Australian Capital Territory. There is no one institution nor system of institutions which ^{will} adequately satisfy all of the special needs of the National Capital. Nor, for that matter, is the solution which will best cater for the Territory's present needs, necessarily the one which will best meet all of its future requirements. It is certain, however, that given a willingness to compromise, we can find a solution which will satisfy most of these requirements, both present and future. The task, however, is a complex one.

I have carefully examined all of the various proposals which from time to time have been put forward by would be reformers, and have come to the conclusion, that the answer lies in the creation of a representative A.C.T. Council with broad although limited administrative and legislative powers, together with the retention of the present Development Commission (although in a somewhat modified form). These two organizations would work alongside each other under the aegis of a Minister of the Commonwealth Government with a separate portfolio for A.C.T. Affairs, who, with a small department would continue to operate (at least for a time) a number of the more important Territory services at present operated by the Minister for the Interior.

Since the Second World War at least eight proposals for reform have been put forward. The first proposal - that of Mr. H.J.R. Cole which was prepared in 1949 for the Minister for the Interior following renewed local pressure for self-government - was the only one to suggest that self-government should be given in administrative functions only.

Essentially, Cole's scheme for a "Canberra City Council" recommended the adaption of local government as known elsewhere in Australia, for Canberra's purposes.

In other words, "such a Council could function on the same major principles as apply to any other local authority, i.e.

- (a) Responsibility for administering the duties imposed upon it by an Act of Parliament.
- (b) Rating for local services.
- (c) Responsibility for balancing its budget annually.
- (d) Power to make by-laws within predetermined limits, subject in each case to approval.
- (e) Expenditure of Government subsidy as directed.
- (f) Accounts subject to audit by Auditor-General."¹

Responsibility would be ^{to}_A a federal Minister (or number of Ministers).

Cole recognized that there would be differences between his proposed Canberra City Council, and municipal councils elsewhere, but these differences would be mainly a question of degree only. For example, "The Council at Canberra will probably be entrusted with some duties which, in the States, are handled by State departments." On the other hand the Council would not be responsible for other functions (such as town planning) which elsewhere are the province of the municipal council. However, Mr. Cole failed to make a holistic survey of Canberra's administrative needs; interpreted his terms of reference narrowly; in the main disregarded the problem of "state" and federal functions which must be catered for by any watertight solution to the question; and limited his concern to the needs of Canberra and overlooked the problem of rural A.C.T.

The other seven proposals, all recommended the establishment of

a Legislative Council for the A.C.T. Four of these (those of the Senate Select Committee, 1955; Professor Zelman Cowen (1953); the Advisory Council (1955); and Mr. A.T. Shakespeare 1963) favoured the creation of a council, with legislative powers only, on which Government nominees would compose the majority. Two of the proposals (Professor Cowen's and Mr. Shakespeare's) recommended the appointment (by the Commonwealth Government) of an Administrator. Mr. Shakespeare also envisaged his Administrator sharing responsibility for the Territory's administration with the N.C.D.C. The Senate Select Committee recommended that responsibility for both the development and general administration of the Territory should be entrusted to a Government appointed "Canberra Authority". It also foresaw the possible eventual establishment of municipal and shire councils in the Territory. The Advisory Council's proposal preferred the creation of ad hoc administrative authorities.²

Professor H.W. Arndt (1962), the Royal Institute of Public Administration's A.C.T. Study Group (1957), and Professor J.D.B. Miller (1964), all supported the establishment of a fully elected council with both administrative and legislative functions. Professor Arndt, foresaw the gradual accretion of powers by his Legislative Council, but made no recommendation as to who should be responsible for those functions not assumed by the Council. Both the Study Group and Professor Miller made special provision in their schemes for the National Capital's planning and development. Professor Miller by the retention of the N.C.D.C. and the Study Group by the creation of an Aesthetic Standards Committee.³

If we add to this list, the various other schemes, including

the commission-form⁴ of government, which have been advocated, in a less formal way, from time to time, we are left with a not inconsiderable selection to choose from. However, rather than evaluate all of these particular schemes, separately, I have determined first to examine the broad issues which confront us in the choice of a new system of government for the A.C.T. This necessitates the taking of two major decisions; the one concerns the actual structure of government, and the representation of the national and local interests in this structure; the other involves the allocation of administrative and legislative functions within this structure. (The two decisions closely affect each other, of course.)

(a) The Structure of the new system.

Our purpose in drawing up a new scheme of government for the A.C.T. is to remedy the present anomalous situation both by centralizing, as far as possible, the various arms of government and by granting self-government to the people of the Territory insofar as this accords with the interest of the nation. Given this intention and recognizing, as most of the reformers have done, that the answer must be a compromise between the desirability of giving self-government and the need to protect the national interest in the Territory's government and development, then we are faced with two alternatives. In the first case, we can give the people's representatives partial responsibility for all functions which would elsewhere fall within the jurisdiction of the State government and municipal council (including responsibility for the planning and development of Canberra). In the second case, we can give the representative full responsibility for a limited number of functions. In other words, as Professor Zelman Cowen has pointed out⁵

the solution involves a choice between function and composition. It is impossible, if the national interest is to be safeguarded, to give the people of the A.C.T. full control of the Territory's affairs. Either of these two alternatives will ensure this protection of the national interest, the one by giving the Commonwealth Government a majority membership in the new system of government, the other by providing for the Commonwealth Government to retain full control of those functions in which it has a special interest.

The great advantage of the former alternative, from a public administration point of view is that it would make it possible to bring everything within the ambit of a single all purpose authority. It would also be "a means whereby men of great experience and ability, whether living inside or outside the Territory, may contribute to the solution of its complex problems."⁶ It would be an arrangement, too, which would enable the people of the Territory to have some say in every aspect of their government.⁷ Just how effective this say would be, however, with Government nominees composing the majority of the new authority's members is quite a different question. That it would be merely an illusion of self-government is suggested by statements made by (amongst others) observers of similar arrangements in Northern Territory and the Territory of Papua and New Guinea. "All that it does is to provide for legislative⁸ authority to be given to public servants to make such decisions as they care to make in public in the presence of half a dozen civilians, who will be elected merely to listen to them. Why should it not be termed an advisory council instead of a legislative council, seeing that its functions will be merely advisory?"⁹ and, "More and more, as time goes on, I regret to say that I am convinced that the

role of the Non-Official Member of this Council is not that of a legislator, but merely a critic of Administration policy - pre-determined policy. In fact I am forced to the conclusion that Non-Official Members of the Council, as at present constituted, cannot achieve on behalf of the Territory, any more than they could as Members of a Government supported debating society. I can think of no amendment of legislation proposed by a Non-Official Member of this Council, other than of a very minor nature, accepted by the Government or, if it was accepted, not disallowed by the Minister."¹⁰ However, the experience of Northern Territory, and the Territory of Papua and New Guinea, must be discounted somewhat, for the circumstances there are in many respects quite different from the situation which pertains in the A.C.T. It may be that, because of the greater political maturity of A.C.T. residents that the Commonwealth Government would give greater weight to the opinions of their representatives than it appears to have given to the opinions of the representatives of Northern Territory, Papua and New Guinea. Furthermore it is true that conditions in the Canberra have changed considerably since 1929 when the local representative on the Federal Capital Commission was consistently overruled by the two Government appointees. However, it still seems likely, where a mixed Council of this kind is established, that there will tend to be an alignment of the Government nominees against the local representatives, and that the Government will certainly not be reluctant to make effective use of its majority membership. But it is certain also that the local residents will neither be deluded into believing this to be, nor satisfied to accept this as, self-government. The problem of

frustration amongst the non-official members was referred to recently by Professor Miller when he pointed out that such a council "..... of elected and nominated members, is like a mixture of school boys and schoolteachers. The elected members are encouraged to be naughty because they lack responsibility; the officials are secure and inclined to pontificate. I see the considerable disadvantage that it makes things look as if the citizens of Canberra are being treated as potentially naughty children."¹¹

Whilst the mixed council form of government, then, by unifying the administration, would satisfy one of my criteria, I am convinced that it would not satisfy the local community's need for self-government. This overriding weakness has, therefore, persuaded me to reject this type of institutional arrangement. the alternative would provide for the creation of a wholly elected council (which I shall proceed to call the A.C.T. Council) with broad, although limited functions, sharing the government of the A.C.T. with one or more agencies of the Commonwealth. (I shall go on to suggest that these agencies should comprise a Minister with a separate portfolio for A.C.T. Affairs plus a small department, and a slightly reconstituted Development Commission). This arrangement, whilst not a perfect one, has the great advantage that it will secure both to the Commonwealth and the people of the Territory control over those functions of A.C.T. government in which they are most interested. It will allow a gradual accretion of powers by the A.C.T. Council to accord with its increase in experience and the growth of the Territory's population. It will also permit the Minister for A.C.T. Affairs to retain a watching brief over the whole range of the Territory's government.

This proposal more or less corresponds with that recently put forward by Professor J.D.B. Miller. The proposal, as outlined, and that of Professor Miller, gives the citizens of Canberra no say in the developmental work of the N.C.D.C. And, after all, a large proportion of the work of the Commission is of direct concern to A.C.T. residents. Whilst the national interest must be given predominant consideration in most aspects of development there is no reason why the local view point should not be heard, too. Minority representation of the residents on the Commission would ensure this. The choice of a senior council member (or members) would give the A.C.T. representative on the Commission added status vis-a-vis the other Commissioners, and at the same time, would serve to keep both the Council and Commission informed of each others views and activities.

All of the reform proposals have recommended (although in several cases implicitly) that final authority for the government of the Territory should rest with a Commonwealth Minister. The wisdom of such a provision (even if it were decided to establish a mixed council) is clear, for, as we have seen, the Commonwealth has an interest in all aspects of the Territory's administration and development, and whilst it is unnecessary, (and indeed undesirable) for the Commonwealth to retain direct control over all governmental functions, ultimate control must remain with the Commonwealth Parliament. And, of course, given the principle of ministerial responsibility, this control can best be exercised by a Minister with a separate portfolio for A.C.T. Affairs. The need to ensure that responsibility for the A.C.T. is exercised by a single Minister with a portfolio which is limited to A.C.T. matters

is proven. Thus, in addition to retaining the general supervision of the Development Commission, which is at present exercised by the Minister for the Interior (subject to appeals to Cabinet on policy disputes), the Minister for A.C.T. Affairs would also administer certain services, such as education, which the community is not yet large nor mature enough to handle, and in addition would exercise tutelary powers over all services within the jurisdiction of the A.C.T. Council, to ensure not only that they were being operated efficiently but also that the national interest was being protected. Responsibility for ensuring that relations between the Council and Development Commission are smooth, and, if not, acting as arbiter in any disputes which might arise would also be the Minister's. The Minister, too, quite regardless of whether or not the Council is given broad ordinance making powers, will have an important function in this connection. For if the Council is given legislative power, scrutiny of its draft ordinances could best be undertaken by him, and, if it is decided not to entrust the Council with the task of law making, then the Minister will be responsible for preparing draft legislation for the Commonwealth Parliament.

The wisdom of retaining the National Capital Development Commission or a similarly constituted body, within the framework of the new governmental system, is quite clear too. I agree with Professor Miller that "..... basically the look and shape and physical installations of the National Capital are a national concern."¹² Development then is a function which is best kept outside the jurisdiction of the A.C.T. Council. It might be argued, that, even if the Council were given responsibility for the city's planning and development, the fact that all changes to the city plan must be gazetted

and laid before both Houses for disallowance, would protect the national interest against any possible abuse of power by the Council. However, this is an oversimplification of the position. The Gazetted Plan does not lay down a detailed scheme of land uses for the city. It is basically a broad outline plan, doing little more than lay out the city's road system. Within this framework there is great scope for mismanagement. The experience of other cities, such as Sydney, Washington and Ottawa leads me to believe that a locally elected council of this sort would be much more susceptible than the Development Commission or a Commonwealth Department to the type of political pressure which leads to the negation of sound town planning. Already there are signs - in the application for change of purpose clauses, which have recently been made in respect of residential leases in Northbourne Avenue - that business interests, for so long dormant, are awakening to the realization that legal and political pressures can be used to vary planning decisions in their favour. Furthermore it is not just a question of observing a static plan. Town planning is essentially a dynamic process (despite the fact that Canberra's town plan is laid down in the statute books), and must account for ever changing circumstances. On the other hand, the evidence of Canberra's own history is sufficient to show that the task of planning and development cannot satisfactorily be performed by a Commonwealth Department. The need for flexibility in the development authority's staffing and decision making arrangements, and the need for a special system of financing cannot be satisfied by an organization which is compelled to observe the rigid practices laid

down for Commonwealth Departments. Thus, whilst I do not entirely agree with Professor Miller's point, "that the N.C.D.C. is a successful going ¹² concern, set up recently to do a specific job which it does well," I am convinced that some such organization must be incorporated into the new scheme of government.

This then is the broad outline of the structure of government, which I feel would best suit the National Capital's special needs. There is still quite a lot of important detail to be worked out with regard to this scheme, but I will return to that shortly. For the moment a more pressing decision awaits. How is the business of government to be allocated amongst these institutions? Should the A.C.T. Council be given the role of law maker? And, if not, who should exercise this law making power.

(b) Legislative and administrative functions.

Of the eight post war reform proposals, four recommended that the people of the A.C.T. should be given self-government in legislative matters only, one recommended self-government in administrative matters only, and three proposed that self-government should be given in both legislative and administrative functions. After careful consideration I have come to the conclusion that the proposed A.C.T. Council should be given both legislative and administrative powers.

A strong prima facie case can be made for giving the A.C.T. Council some legislative responsibilities for the making of law, for the Territory has been woefully neglected in the past; instead of the Commonwealth Parliament's exercising its plenary power to legislate for the Territory it has, through disinterest, delegated the substance of

this power to the executive arm of the Government, which has apparently had almost as little regard for the task. Quite apart from the fact that the law making process is unnecessarily slow, and affords virtually no opportunity for the representations of the local community, present-day laws in the Territory are in some instances quite anomalous and in many other instances remarkably archaic.¹³

But four of the proposals put forward since the Second World War, not content with suggesting that the A.C.T. Council should have legislative powers, also insist that it should not be given administrative powers. The reason for this stipulation is in all cases, except that of the McCallum Committee, financial. The McCallum Committee's support for a Legislative Council must be viewed in the light of its preoccupation with the problems of Canberra's development. Impressed by the chaotic effect which the division of responsibility for A.C.T. development and administration among several Commonwealth Departments, had caused, the Committee firmly recommended the establishment of a centralized authority with full responsibility for administration and development.¹⁴ But even the McCallum Committee insisted that its Legislative Council should not be allowed to legislate on financial matters.

In the other three proposals (those of the Advisory Council,¹⁵ Professor Zelman Cowen, and Mr. A.T. Shakespeare) support of the Legislative Council apparently derives from the belief that an advance towards self-government is possible without raising the difficult financial problems which would certainly be raised if self-government were given in administrative matters.

Mr. A.T. Shakespeare admits that his proposal for a Legislative

Council (and one with a majority of Government nominees, at that,) was drawn up in the realization that, "the essential prerequisite for a Territory government was the establishment of conditions on which a Territory budget could be framed in which both the national and local interest could be maintained.

The purpose of this was to ensure that Territory government would not lower the standards which national purposes demanded and had provided, and also that the Commonwealth would not abandon the citizens of the Territory by failing to join in an equitable financial provision."¹⁶ But it is quite obvious that Mr. Shakespeare is more concerned, in his proposal, to ensure that the local interest rather than the national interest is safeguarded.

For, although there is a possibility that, if an A.C.T. Council were given financial responsibility (the necessary adjunct of administrative responsibility) a lowering of national capital standards would follow, it is most unlikely that this would be allowed to happen. Of course there is a strong likelihood (I would not go so far as to say that it would be inevitable, however) that even a heavily subsidized A.C.T. Council would tend to lower national capital standards, - that is if it were allowed full licence to do so. Even an authority which was comparatively well endowed with finances would still have an economic problem; limited resources and unlimited uses to which they could be put. No doubt, therefore, it would be tempted to construct new works and maintain old ones at a standard more in keeping with those which are found elsewhere in Australia, and to use the Commonwealth's "national capital subsidy" to pay for additional municipal services, or, what is more likely,

to keep local taxation at a fairly low level. The temptation for an authority, which received little or no subsidy, to skimp would be that much more, especially as it could use the high cost of the national capital element as an argument to justify its not maintaining high standards, or indeed, for not providing services which it could, under normal Australian conditions, be expected to provide.

In practice, there is little likelihood of a fall in national capital standards resulting. Standards of both new construction and of maintenance will depend upon the attitude of the Commonwealth. If it requires a higher standard of maintenance than is normal in Australian cities then it must pay the extra costs incurred. What Gray said of Ottawa applies equally to Canberra. "The expenses incident to its civic control must necessarily be far greater than would devolve upon it if it were an ordinary municipality. It is no answer to say that the increased value in property is sufficient consideration for the increased burden put upon the inhabitants. That does not answer the question. They may not choose to accept the responsibility."¹⁷ By using such techniques as the grant-in-aid the Commonwealth Government could firmly tie contributions to their intended purpose.

Provided some such organization as the N.C.D.C. is retained no lowering of new building standards would result. For the Commission would continue to be responsible for ensuring that all building designs and proposals were up to national capital standards, and regardless of whether or not the work was being undertaken by the Council or some other body a lowering of these standards would not be permitted.

There is a greater possibility, however, that, where a lowering of national capital standards is not involved, the Commonwealth will not adequately compensate an A.C.T. Council for the high national capital element. Take as an example the city's bus

service . At present this service is being subsidized out of Consolidated Revenue at an annual rate of more than £60,000. At least part of this subsidy (perhaps a substantial part) can be justified as a contribution by the Commonwealth towards the national capital element involved in its operation costs. Yet it is possible that the Commonwealth would cease to pay any contribution to the service's operation costs, if responsibility for public transport were handed over to the Council. A fall in standard of the public transport system might result, or perhaps an increase in the cost of the service to its users and/or the local taxpayers, but a fall in national capital standards as they are commonly known, would certainly not be involved.

Indeed it is the fear that the granting of self-government would lead to an increase in A.C.T. taxation and/or a falling in the standard of A.C.T. services which is behind much of the opposition to self-government. For even if the Commonwealth Government were to contribute an equitable amount towards the costs of A.C.T. government following the grant of self-government, it is widely felt that the new situation would redound to the disadvantage of the Canberra taxpayers. For the belief is common in the A.C.T. that local residents do not, at present, pay an equitable share of the costs of the Territory's government. Many A.C.T. residents look at the prospect of self-government with some anxiety; with no doubt, the experience of the neighbouring New South Wales town of Queanbeyan, (as well as their purses) in mind. For whilst Queanbeyan residents are represented at the state and local levels, they not only pay higher rates and taxes than citizens of the A.C.T., but also get, in general, a lower standard of both "state"

and local services, into the bargain. The Legislative Council proposal has been put forward not only as a means of avoiding the complicated problems, which would be involved in any attempt to work out an equitable formula for the allocation of the financial responsibility for the management of the Territory between the Commonwealth and local residents, but also, in some cases at least, as a means of continuing the present financial arrangements whilst providing for some degree of self-government; in other words a means whereby the A.C.T. residents could both have their cake and eat it.

The argument for the Legislative Council largely devolves upon the belief that whereas the granting of administrative responsibility to an A.C.T. Council, involving as it would a granting of financial responsibility also, would necessitate a review of existing financial arrangements, the granting of legislative responsibility only would not, for under such a provision the Commonwealth could retain responsibility for A.C.T. finances. Whilst it has been suggested by the A.C.T. Study Group amongst others, that there is no cogent reason to prevent the Commonwealth from continuing to subsidize A.C.T. government at the present rate after some form of home-rule has been granted, this is considered to be most unlikely if an A.C.T. Council were given even minimal administrative powers.

For at present the Commonwealth Government, is ignorant, perhaps blissfully so, of the details of its financial involvement in the A.C.T. It knows, of course, what is spent on the operation of most A.C.T. services. Yet, mainly because of the complicated national capital element which is present in most A.C.T. expenditure, it does not know

what proportion of this expenditure A.C.T. residents can equitably be expected to pay. Nor does it know what proportion of this expenditure is at present borne by A.C.T. taxpayers; it is ignorant of total A.C.T. tax revenue, for all A.C.T. monies whether they be tax receipts such as general rates, "state" death duties,¹⁸ and licence fees or non-tax receipts such as cottage rents, land rents and premiums, are paid directly into Consolidated Revenue, and in some cases no attempt has been made to distinguish them. And, of course, no comprehensive effort has ever been made to balance receipts against expenditure on individual services. Thus, in general, it is not known what amount of subsidy the Commonwealth Government contributes towards the operation of each service. If the A.C.T. Council, however, were given responsibility for administration, it would be necessary to keep detailed A.C.T. accounts and the Commonwealth contribution to the costs of A.C.T. government would, for the first time, be clearly shown. In such circumstances, "I cannot avoid a suspicion that Parliament might scrutinize any such overt subsidy more narrowly than is at present the case."¹⁹

So long as the Commonwealth Government retained sole responsibility for the Territory's finances, no review of the complicated question of the Commonwealth - A.C.T. financial relationship would be necessary, it is held. It may be, in view of the complex nature of the task and inertia on the part of the ~~on the part of the~~ Department, that this prognosis is a valid one. Certainly, the fact that A.C.T. accounts have never been compiled must be ascribed to inertia (if not inefficiency) on the part of the Department of the Interior. The Auditor-General's annual reports contain frequent criticisms of various aspects of the

Department's accounting system. In 1958, for example, the Auditor-General's report contained criticisms of weaknesses in the Department's internal auditing system, as well as of accounting practices employed by the Department with regard to its Housing, Brickworks, Electricity Supply, and Forestry undertakings. The criticism of the Housing operations are particularly worthy of mention: "The only financial statement currently prepared by the Department of the Interior in connexion with these Housing activities is a statement of ledger balances of the Australian Capital Territory Housing Trust Account, This statement is not designed to show the operating profit or loss of the scheme.

The Department was informed that additional accounting was necessary to enable competent authority to have accurate information regarding profit or loss involved in various categories when rental, sale and advances policy is being reviewed, and that complete audited statements are desirable in the interest of public accountability.

The Department replied that for the purposes of departmental management additional financial statements are not required.

In view of the unsatisfactory nature of the reply, the matter has now been referred to the Department of the Treasury."²⁰ Subsequent reports, however, have revealed that some progress is now being made in this regard. And, in fact, it seems likely that, under its new management,²¹ and with the Attorney-General to goad it, the Department will eventually produce more comprehensive information about its A.C.T. finances anyway.

This, however, is not the whole story; a hint of the other

part of it was given by Mr. G. Freeth in 1962, when he opposed the Australian Capital Territory Representation Bill. He stated that, "The approach should be through some form of local government; some form of municipal authority, if you like, or some form of government between a state legislature and a municipal authority. But when this is proposed many citizens shy like a startled horse, because that raises the implication of where the funds for this local legislature are to come from. Are they to be a contribution by the taxpayers, including the taxpayers of the Australian Capital Territory, from all over Australia, or are they to be a contribution by the citizens of the Australian Capital Territory for their own local purposes? That is a very interesting point. I think that the people of the Australian Capital Territory have very different views from people in the rest of Australia on this matter.

As I have said, they tend to shy like startled horses when this form of responsible government is suggested to them. It is a problem. They live here under conditions, at times, of certain difficulties, and those difficulties have been recognized by the government of the day. We have no tax which corresponds to State probate duty. That makes the Australian Capital Territory a place which is sought after by companies and individuals. We have here no tax which corresponds to stamp duty in the States..... There is no stamp duty on receipts in the Australian Capital Territory, and that is a tax which is a constant source of irritation in the States."²²

Of course the Government is not unaware of the fact that the residents of the A.C.T. at present enjoy a privileged tax position

compared with residents of the states! If in the past such taxes as "state" death duties, and stamp duties on receipts and cheques have never been introduced in the Territory, the reason has not been the Government's ignorance but that these concessions, like the free hedge cutting service of the Federal Capital Commission, have been used as sops to placate public servants transferred to the wilderness, which Canberra was in its early days, and for their being deprived of self-government. The first of these reasons has now disappeared with the development of the city, and the second is likely to disappear, too, if Canberra's citizens are given self-government even if in legislative matters only.

Of course, the fact that the introduction of self-government may lead to an increase in local taxation does not invalidate its desirability. And even were it possible to devise a system of government that permitted A.C.T. residents to have some form of home rule and at the same time to continue to enjoy their present privileged financial position, then the introduction of such a system would be undesirable. It would be just as inequitable to expect taxpayers throughout Australia, to pay an excessive contribution towards the government of the A.C.T. at the "state" and local levels as it would be to expect A.C.T. taxpayers to carry the brunt of the cost of developing the national capital.

Furthermore, the experience of Washington D.C. indicates that even if A.C.T. residents do not win self-government (or have it thrust upon them), this does not imply that the financial sops, which they at present receive, will continue to be thrown. Despite the fact that the

residents of the District of Columbia have no self-government, whatsoever, they receive little or no aid from the federal government in the running of their affairs. And, indeed, the actions of Congress in refusing the District authorities the right to spend monies collected in the District have on occasions stultified major administrative programmes. An example from the Washington Post may be quoted: "A group of House and Senate conferees in a hurry to get home, not primarily interested in the District of Columbia anyway, and without any particular competence in education, decreed the other day that the children in Washington's elementary schools should get along for another year without school libraries..... There is no appeal from this casual, careless verdict.... It affords a fresh demonstration of why taxation without representation is always tyranny."²³

In Canada, where the Dominion Government does not have control of the municipal and provincial government of its national capital the Dominion has been generous in its contributions towards the city's upkeep and operation, perhaps more so than might otherwise have been the case. Thus the Dominion makes substantial grants in lieu of rates and municipal taxes to local government authorities in the National Capital Region, it also pays for specific services, such as water supply, and has on occasions in the past taken over financial responsibility for specific items, such as the maintenance of bridges and roads of special importance. There is also an arrangement whereby it reimburses local authorities for national capital elements involved in the cost of new projects. For, "it was realized that the Master plan could not succeed if it required Ottawa, Hull and the other

municipalities in the National Capital District, to carry out, or to participate in projects beyond their requirements or resources as ordinary municipalities.

The terms of reference of the National Capital Fund therefore authorized its use by the Commission to assist in projects of a nature beyond ordinary municipal improvements."²⁴ The Dominion Government has little or no coercive powers over the city's governing bodies. Its grants and subsidies, although something more than a quid pro quo for the co-operation, of these local authorities, would, one suspects, be smaller were it not for the fact that this co-operation is essential for the improvement of the Canadian capital.

Of course, it may be that the Commonwealth Government would pay an equitable share of the costs of governing the A.C.T., but to safeguard the local interest, some provision should be made in the Acts setting up representative government, for a clearly determined formula under which the Commonwealth would remit the cost of the national capital element. So far as new works are concerned I agree with Professor Miller that the retention of the N.C.D.C. would be of value. For, "having been set up to do a specific job for which it has been decreed money will be found, the N.C.D.C. is far more likely to get the money for development out of Treasury than is the Council, since the Council will be engaged in a constant hard fight to get the money for its current expenditure".²⁵

On the other hand, a strong case can be made for giving the A.C.T. Council administrative functions only. Municipal government in Australia, the United Kingdom, the U.S.A., and France are traditionally

concerned with administration; in Washington, the functions of the Board of Commissioners are principally administrative too.

Furthermore it has been argued that to give an A.C.T. Council the power to legislate would facilitate the staging of constitutional crises by its elected members, by the blocking of legislation, or indeed by a refusal to introduce the legislation necessary for government. This means of goading the "mother" government into granting a greater degree of self-government was a frequent recourse of the Legislative Councils of British Colonial territories. To a lesser extent it has been used in the Northern Territory. Of course, there is nothing to prevent the Commonwealth Government from providing for such exigencies in the enabling legislation, nor to prevent it from going so far as to abolish the Council if it should use such tactics. For the "Council would always be a subordinate body, since it would exist by virtue of Federal law, would have no guaranteed existence under the constitution."²⁶ But quite apart from the possibility of the Government's using drastic action of this kind, there is a danger in assuming that the behaviour of an A.C.T. Legislative Council would necessarily conform with that of colonial Legislative Councils of the past. It is all very well to draw analogies between what has happened in colonial territories, and what may happen in the A.C.T., if a Legislative Council is established. But in most ways the situation is quite different, and the reactions of the people of the A.C.T. to such an arrangement might be expected to be quite different, too. Certainly the questions of nationalism, distance, racial and religious intolerance, ignorance and illiteracy, so often involved in

the motivation of Colonial Legislative Councils are non-existent on the Canberra scene. The "mother" government in Canberra is not that of a foreign, imperial nation, and an A.C.T. Legislative Council would not be separated by great distances from the seat of the "mother" government. No acute racial or religious problems are involved, and the people of Canberra are highly educated even by Australian standards, and have behind them centuries of Australian and British political experience.

However, this is, by no means, the only objection which has been raised against proposals to establish a Legislative Council for the A.C.T.

Apparently there is anxiety in some quarters, concerning the relations of such a Legislative Council with the other elements of the Territory's governmental system. For it is feared that many of the legislative proposals of such a council would be applicable to the Development Commission's activities. Not only would this prove most embarrassing for the Commission, but it would also be contrary to the rationale behind the proposed governmental system, it is held. For one of the chief advantages of establishing a two authority system for the government of the Territory, is that this arrangement would afford the broad allocation of functions along the lines of the special interests of the nation and local community. This provision would be worthless, however, if the A.C.T. Council were able to make laws controlling the Development Commission's actions.

Of course, few people, if any, have seriously considered that a fully elected A.C.T. Council, should be given sole responsibility for the making of A.C.T. law. All would-be reformers have recognized the

need for the Commonwealth to retain ultimate control of the Territory's government. All of the seven post war Legislative Council proposals have provided for some form of veto or power of disallowance to be exercised by the Government and Parliament over the draft ordinances of a representative council. And, although, subject to this limitation, three²⁷ of these proposals have recommended the establishment of a fully representative A.C.T. Council with legislative functions, we can dismiss two of these right away. For quite obviously the problem of conflict between the N.C.D.C. and A.C.T. Council can only arise in those proposals which have provided for the creation of both of these bodies. The Study Group's scheme proposes that all powers of government at the "state" and local levels should be entrusted to its National Capital Council. Professor Arndt's proposal is quite summary, and does not even discuss the question of whether or not other bodies besides the Legislative Council should be given responsibility for the government and development of the A.C.T. Of course, it should be pointed out that he is more concerned to disprove a suggestion made by Mr. G. Freeth, as Minister for the Interior that the people of the Territory did not want (or at least were not prepared to pay for) self-government. Professor Miller does not explicitly recommend that his Australian Capital Council should be the sole source of A.C.T. law, and as he does suggest that N.C.D.C. should be retained as part of the A.C.T. governmental system, and questions whether certain administrative functions should be taken over by his Council, it is difficult to see how we can assume that he does intend the Council to be the sole source of A.C.T. law.

Several reform proposals, including that of the McCallum Committee have suggested that the scope of the Council's legislative powers should be limited somewhat. Indeed, there appears to be no good reason why A.C.T. Council's legislative powers should not be limited to ensure that they do not encroach into the field of town planning and development. Of course, a complete separation of legislative jurisdiction is impossible, so closely interwoven are the interests of the nation and the local community. For example, to give the Council responsibility for legislating on the sale and consumption of liquor in the Territory (this is one of the fields which the McCallum Committee considered might be made the Legislative Council's responsibility) would impinge on the Development Commission's present responsibilities. For at present it determines where new hotels shall be located. But care in the enumeration of the Council's powers should make it possible to limit such cases of overlapping to ones which are of only marginal interest to the Development Commission and the national interest.

But even if some friction between the Commission and Council does arise because of this overlapping of responsibility, this is not sufficient cause to deny A.C.T. residents a say in the making of their own laws. The existence of a representative body with legislative power might not be altogether a bad thing so far as the planning and development of the national capital is concerned, anyway. The Development Commission has, in the past, been accused of "riding a high horse in this community" and of using autocratic methods. And, although these accusations are somewhat exaggerated, a limited amount of competition would doubtless be of some value, especially if it caused the Commission more satisfactorily to explain those of its actions which closely affect the local community. Besides, there is a danger in overstating the

difficulties which the Commission would encounter as a result of the establishment of a Legislative Council. Provided planning and development were withheld from the Council's jurisdiction, no great problems would arise for the Commission. And even so, the Minister and Parliament would retain the right to disallow any such legislative proposals.

There is a tendency when the question of self-government comes up in some circles, for people to wave a warning finger and to point to the Canadian capital, as an illustration of what can happen when legislative responsibility for the government of a federal capital does not rest with the federal government. It is true that this factor has caused considerable difficulty in Ottawa in the past especially with regard to the planning and redevelopment of Ottawa, but such a comparison of the A.C.T. with Ottawa is not entirely valid. In the A.C.T. planning legislation will, it is proposed, remain firmly in the hands of the Commonwealth, and anyway the Commonwealth will retain ultimate authority over A.C.T. legislation, and responsibility for the government of the Territory will be vested in two or three bodies, at the most, as compared with the 60 or so bodies which are concerned with the government of the Canadian capital. Furthermore, although the political and jurisdictional problems which face the National Capital Commission are considerable, they have not prevented the Commission from advancing some way towards its goal. It should be remembered, too, that whilst the Dominion government has had to expend large sums to enable it to redevelop parts of Ottawa, much of this expenditure has been necessary to put right the ravages of past

neglect.

A frequent objection, which is raised against the granting of legislative powers to representative A.C.T. Council, concerns the question of neutrality. It is argued that the most obvious steps that can be taken to ensure the continued neutrality of the national capital, are to make certain that the amount of friction between the Commonwealth Government and an A.C.T. Council is kept to a minimum, and that, where friction does occur, it is not given undue publicity. It could be said that giving the Council power to make ordinances subject to the approval of the Minister and Parliament could hardly be less designed for preventing friction; every draft ordinance being a potential source of controversy. It is inevitable that the various elements of the A.C.T. government, the Minister, Council, and Development Commission will have their disagreements. One disadvantage which would be consequent upon the granting of ordinance making powers to the Council, would be that it would bring any such disagreements sharply out into the open. Whereas, if the Council's powers were limited more or less to administrative ones, not only would opportunities for disagreement be fewer, but there would also be better opportunities for settling disagreements by negotiation around the conference table, it is argued. Furthermore this arrangement would encourage opportunist members of the Council to make political capital out of the publicity resulting from the disallowance of an ordinance.

However, the case has been overemphasized. There is no reason to believe that the granting of legislative powers to an A.C.T. Council would cause any more friction between it and the Commonwealth Government, than if it were given administrative powers. Indeed, if finance is as

great a source of controversy as some predict it will be, the granting of administrative responsibilities might be an even greater source of wrangling. Anyway, conflict between the Commonwealth and an A.C.T. Council over a disallowed law or over finances for that matter, does not constitute a loss of neutrality by the Commonwealth. Certainly this would not constitute the physical coercion of which James Madison was afraid, and upon which he bases his case for the federal government's assuming complete authority at the seat of government: "Without it, not only the public authority might be insulted and its proceedings be interrupted with impunity; but a dependence of the members of the General Government on the State comprehending the Seat of Government, for protection in the exercise of their duty might bring on the National Councils an imputation of awe or influence, equally dishonourable to the Government and dissatisfactory to the other members of the Confederacy."²⁸ There is no question of the Commonwealth Government's hand being forced, in this way, if an A.C.T. Council is given legislative authority, or administrative authority, for that matter. The Commonwealth will always retain the final say as to whether or not a particular legislative proposal shall become law. This alone should ensure that the Commonwealth Government's neutrality is never physically violated at the seat of government. But special safeguards can be provided, if it is thought desirable. The Minister for A.C.T. Affairs can for example be given the power to take over control of the A.C.T. police force if circumstances ever warrant it.

Of course, it is possible that the political action of an A.C.T. Council could force the Commonwealth Government's hand. But it is difficult

to see how this can seriously compromise a Government that holds all the trump cards, anyway. The fear that the granting of self-government to the A.C.T. might lead to a situation in which the Commonwealth Government might be accused of showing favour to the A.C.T., is no more a sound reason for not giving self-government, than fear that the Commonwealth's giving a special subsidy to assist a state with a special financial problem may lead ^{to} similar accusations, is a good reason for not giving the subsidy.

But if the neutrality of Commonwealth Government would not be unduly endangered by this step, what of the neutrality of its Public Service? If what Mr. Subramaniam has said about the political activities of Commonwealth public servants is true, it would take much more than an occasional altercation between an A.C.T. Council and a Minister for A.C.T. Affairs over a disallowed A.C.T. ordinance to shake public confidence in the impartiality of the Service. In view of Dr. Harrison's experience on the Advisory Council and Hospital Board, it might be that some Ministers, at least, are not unfriendly even towards senior public servants who show an interest in local politics. As in the past, however, the choice will, no doubt, rest with the individual public servant as to whether he is to take an active part in A.C.T. politics or to risk his career in the Service. But for the public servant who does take an active part on the A.C.T. political scene the fact that he will be concerned with "state" matters and not questions which generally come within the competence of a Commonwealth department will, one expects, account for a greater degree of tolerance on the part of his department than if he were active in federal politics. Even so some reticence among the ambitious as well as the more senior public

servants may be expected. However, it is most unlikely that there will be any shortage of able aspirants for office on an A.C.T. Council, especially as with the growth of Canberra, the number of non public servant residents and the number of "quasi - public servant" residents of the city has increased quite considerably."²⁹

Other observers see in the fact that the Commonwealth Parliament is empowered by the Constitution to make laws for the A.C.T. not only at the federal level but also in matters which elsewhere in Australia fall within the jurisdiction of state legislatures, an opportunity which is too good to miss. The Commonwealth's responsibility for the Territory of Papua and New Guinea, Northern Territory, and other less advanced Territories certainly makes the establishment of a centre for model laws desirable. And in fact, the production of exemplary legislation for the A.C.T. might be of value throughout the Commonwealth, too. In some fields of government urgent problems exist, for which none of the Australian States have found a satisfactory solution. The Commonwealth could use A.C.T. legislation to give a lead on these questions. The A.C.T. could be of particular value in aiding the production of uniform legislation throughout Australia. And, indeed, some indication of this latter possibility was given by the Attorney-General, Mr. Snedden, quite recently, when he said that the Government had, "asked the Law Society of Australia whether it would set up a committee of experts to formulate a criminal code that could in the future be enacted for the Australian Capital Territory and other Commonwealth Territories, and for that matter, possibly be adopted as a uniform criminal code throughout Australia."³⁰ However as Professor Richardson has pointed out, "The idea of a uniform criminal code through-

out Australia is commendable, but when it is remembered that negotiations with the States to achieve a uniform company law extended over 40 years, the prospect is not particularly good for an early reform of A.C.T. criminal code suitable for adoption by the States."³¹

Of course, it is true that the granting of ordinance making powers to an A.C.T. Council would effectively preclude the Commonwealth Parliament from producing model "state" laws³² to any considerable extent. But the fact that some people believe that the A.C.T. could be a centre for model legislation is scarcely sufficient reason for denying the people of the A.C.T. the right to make their own laws. Besides, it is doubtful whether A.C.T. residents would be willing to forgo this right so that the Commonwealth Parliament could produce legislation for the benefit of the Commonwealth as a whole, or its developing Territories. At any rate they might be excused for thinking that this would be taking altruism too far especially as the chance that Parliament would seize this "golden opportunity" seems very slim. For, in the past, of course, Parliament has not only failed to produce model A.C.T. laws, but has also, itself produced very few A.C.T. laws, at all. Instead it has allowed most of its A.C.T. powers to be delegated to the executive.

And, indeed, despite criticisms of the suggestion that the A.C.T. Council should be given legislative powers, the fact remains that some reform of law making for the A.C.T. is imperative. It would be reassuring if we could believe that the reorganization of the A.C.T. governmental system with the provision of a separate portfolio for A.C.T. Affairs would serve to revitalize Parliament's attitude to the

national capital's business. Unfortunately, however, there is no evidence whatsoever to suggest that it will. The McCallum Committee, which in 1955 concluded that, "Parliament in the past has shown a most regrettable lack of interest in Canberra's development, and the Committee feels that the charge of neglect should not again be directed at members,"³³ made no mention of the chaotic state of the Territory's laws, but had it done so it could have produced ample evidence to corroborate a similar conclusion in regard to Parliament's lack of interest in A.C.T. law making, or, in fact, in A.C.T. government in general. And, whereas Parliament, through the Joint Standing Committee on the A.C.T. has since 1957 demonstrated a renewed interest in the Canberra's development, accusations of neglect, so far as legislation and government, are concerned, are just as much in order to-day as they were in 1955. Certainly Parliament makes little use of its plenary power to legislate for the Territory, as provided under Sections 52 and 122 of the Constitution. Symptomatic of this disinterest is the fact that the Territory's laws are still being made under an arrangement which was intended to be a temporary one only. For the Act of 1910 which empowered the Governor-General to make ordinances having the force of law in the Territory specified that this arrangement would continue only, "Until other provision for the government of the territory" (was made). The result has been that the A.C.T. has become what Professor Richardson recently described as a "legal cinderella".

I have concluded therefore that the A.C.T. Council should be given legislative powers, although they should be limited, I feel, so as to exclude planning and development matters. I have also concluded that

the Council should be given administrative powers more or less commensurate with its legislative responsibility. The powers of the A.C.T. Council should, ultimately, be as broad as possible. For no matter how broad they are, the citizen of the A.C.T. will never have as much say in his own government as a citizen of New South Wales, or of any other Australian State, for that matter. For the powers of the A.C.T. Council unlike those of a state legislative will always be limited by the fact that they are not guaranteed by the Constitution. It will always be a subordinate body deriving its existence and authority from the Commonwealth Parliament; and its authority and existence will always be thus dependent. For the Commonwealth Parliament will always be able to abolish it, as it has in the past abolished other A.C.T. authorities (such as the Federal Capital Commission, for example) or to modify its powers or composition, simply by repealing or amending the Commonwealth legislation by which it was set up. Moreover, its legislative proposals will always be subject to the approval or disapproval of the Commonwealth Parliament; its administrative actions, in some cases, too will be subject to the veto of the Minister and it will be dependent, for a substantial part of its finances, on the Commonwealth's benevolence.

Furthermore, I feel that responsibility for the making of law, and administrative and executive responsibility should go hand in hand. The experience of Colonial Legislative Councils indicates that in certain circumstances, at least, the separation of the legislative and executive functions tends to produce irresponsibility on the part of the

legislature. In 1928 the Donoughmore Committee reported on the situation in Ceylon where the elected members formed a majority on the Legislative Council but had no say in the country's administration: "Thus in an atmosphere of uncertainty and instability the only constant factor was the general desire (among the elected members) to make political capital out of the shortcomings of the Government and to add to its embarrassment. Denied all prospects of office, the unofficial members were in no danger of being called upon to translate their criticisms into action and to execute in practice the measures which they advocated. They were free therefore from the deterrent which is usually present to the Opposition in countries where parliamentary government obtains It is then no matter for surprise that the launching of continuous and irresponsible attacks on the members of the Government collectively and individually became the distinctive feature of their policy."³⁴ Of course, there are considerable differences between colonial Ceylon and the Australian National Capital but other evidence tends to confirm the danger of the separation of the executive and legislative powers. The District of Columbia's government, for example, has suffered as much from this as from any other single factor; the irresponsible actions of Congress being the source of much of the District's difficulty.³⁵

So far I have broadly allocated responsibility for the government of the Territory between the A.C.T. Council, the N.C.D.C. and the Minister for A.C.T. Affairs. It is now necessary to divide these functions in a more detailed fashion between the three elements of the new governmental system.

There are several sound practical reasons why in the short run

the number of functions entrusted to the Council should be limited, somewhat. (Not the least of these reasons being the fact that as the A.C.T. has no history of self-government, it will be necessary to phase the allocation of functions to the Council, in order to enable its members to acquire some of the arts of government). However, I can see no substantial reason why the A.C.T. Council should not, ultimately be given responsibility for the administration of most functions which elsewhere in Australia fall within the province of state and local governments. This arrangement will go some considerable way towards compensating for the loss of representation at the "state" level, from which the people of Territory, at present suffer.

The functions to be excluded from the jurisdiction of the Council will all be ones for which it is necessary, for national capital reasons, to maintain higher than average standards. Responsibility for planning and development, of course, would remain with the Development Commission. Responsibility for the control of building standards would be transferred to the Commission from the Department of the Interior; as would that Department's Parks and Gardens Section. Much of the work of this section is of a developmental nature, and whilst it cannot suitably be handled by a Commonwealth department, it should not be entrusted to the A.C.T. Council, either. High national capital standards and the Commonwealth's overwhelming financial interest in this matter dictates that it should remain under Commonwealth control. (This would give the Commission a management function similar to those of the National Capital Commission in Ottawa.)

Some of the municipal development responsibilities currently

exercised by the Commission should ultimately be taken over by the A.C.T. Council. I see no reason why the provision of government housing, (at present the responsibility of the Commission in conjunction with the Department of the Interior's Housing Branch) should not ultimately be taken over by the Council for example. There are very real difficulties in the short run, however, which have persuaded me to recommend that this changeover should be delayed for a few years. At the moment, the successful transfer of central office public servants from Melbourne depends upon the Commonwealth Government's ability to commandeer large numbers of Government houses and to give them to transferees in priority to local residents. Needless to say this is a highly controversial subject, and so long as it is necessary to give such large numbers of newcomers priority over established residents, it seems that giving this responsibility to the A.C.T. Council could only lead to trouble both for it and the transfer programme. Furthermore, in view of the rapid growth of Canberra, and its inflated building costs, to give such a responsibility to the Council might be to impose too great a financial burden on it, too soon.

All of the municipal functions at present exercised by the Department of Works, the maintenance and operation of water supply and sewerage, the repair of roads and bridges - should be taken over by the A.C.T. Council (subject to its being reimbursed for the national capital cost element involved). The rest of the Department's A.C.T. activities, including the maintenance of Commonwealth buildings, should become the responsibility of the Commission. The functions of the A.C.T.

Electricity Authority (the only other authority with substantial development functions) should also be assumed by the Council. The work involved does not appear to be particularly complex, and no particular difficulty of developmental co-ordination seem likely to arise.

The transfer of the A.C.T. functions administered by the Department of Health will provide no problems; elsewhere in Australia these functions (including the operation of abattoirs) would usually come within the province of local authorities. The question of hospital administration, however, is a difficult one. The rapid growth of hospital facilities which will be necessary over the next few years is likely to create some rather complicated problems. I, therefore, consider that for a number of years at least it would be unwise to give a greater degree of self-government in this field. Responsibility currently exercised by the Hospital Board could conveniently be handed to the Council.

The treatment of other services now provided by authorities other than Commonwealth departments deserves special consideration. With the one or two exceptions already mentioned, all of the functions at present administered by the various ad hoc boards and committees, which were set up by the Minister for the Interior and Health, could be transferred to the A.C.T. Council, at once. This would include the full list of advisory committees and most of those with executive powers, such as the Apprenticeship Board, the Road Safety Council of the A.C.T. and the Bushfire Council.

The remaining "outside" services are provided both by voluntary

organizations and by various agencies of the N.S.W. government. Services provided by the voluntary organizations present no problem, and responsibility for their operation should be assumed by the A.C.T. Council, immediately. The services provided by the N.S.W. government, however, present a rather different picture; most of them being of type which the A.C.T. is as yet too small to handle. Of these the most important is undoubtedly education. In four or five years time, assuming that the projections of the N.C.D.C. are correct, Canberra's population will have reached 120-130 thousand. By then the Territory should be able to operate its own education system. Until that time there seems to be little advantage to be served in transferring what would anyway be merely vestigial responsibilities. This would give the Minister a fairly clear field to work out the rather complex problems which will no doubt arise when responsibility is transferred from the N.S.W. Department of Education.

I have carefully considered whether or not the Council should be given police powers. Although James Madison decried a situation involving the "dependence of the members of the General Government on the State comprehending the Seat of the Government, for protection in the exercise of their duty," I feel that responsibility for the A.C.T. police could be taken over by the Council more or less immediately. There is no question of the security of the Government being threatened in view of the fact that the Minister for A.C.T. Affairs will have a watching brief and will be able to secure adequate standards by means of legislation, inspection and so on.

To summarize my recommendations, then, I point out that

ultimately all "state" and "local" functions, development and planning excepted, at present administered by a mixed array of Commonwealth and State departments, advisory and executive committees, and voluntary organizations, which make up the Territory's present system of government, should be brought under the authority of a single all purpose A.C.T. Council. In the short run, however, the special circumstances of each function must be considered, and a number of these functions notably Housing, Education, and Hospital administration should come within the jurisdiction of the Department of A.C.T. Affairs.

Control of the A.C.T. Council will operate in several ways. The legislation establishing the Council will set out in detail the precise limits of the Council's powers and duties (I contemplate legislation as detailed as the N.S.W. and Victorian Local Government Acts). The Council will, of course, be legally responsible for action ultra vires and failure to perform obligatory functions. In addition the Minister will exercise financial control over the expenditure of federal grants-in-aid. Several functions, especially those which like police administration are of a special national interest, affecting as they do the security of the Commonwealth Government, will be subject to inspection by the Minister. All draft ordinances of the Council will have to be laid, for a statutory period of fifteen days before both Houses of Parliament, by whom they will be disallowable. The legislative proposals will of course be submitted through the Minister.

To secure a certain continuity of operations, I feel that, rather than create an entirely new body, the Advisory Council should be redesignated and reconstituted and should have the functions of the

proposed Council transferred to it. (This, of course, has already been proposed both by the Advisory Council and other bodies). In this way, the new authority would inherit at least some knowledge of Canberra and its problems.

As to the internal organization of the proposed A.C.T. Council, I admit that I am enamoured with the committee system rather than with a departmental head arrangement. The use of administrative committees in English local government works well, and if my proposed A.C.T. Council can be compared with any form of government, in terms of its powers and relationship with the central government, it will be with the English local authority. ³⁶ Without going too deeply into the question of the merits of the committee versus the departmental head system of administration, I am convinced that the committee system will not only foster the education of Council members in their particular administrative interests, but will permit this experience to be used to better advantage. If the Council were to appoint single departmental heads, then whilst this would certainly facilitate the education of those appointed, this education would be more limited than if they were members of several committees. Furthermore this arrangement would not provide the same fund of experience from year to year. For, when a departmental head leaves the Council, the chances are that there will be no one with experience to replace him. When a committee chairman resigns, however, there would usually be one or two members who have had experience of the working of his committee and would be able to replace him. But even when no-one with experience of this particular committee is available, there is always someone who has had experience of administration as a member

of other committees.

Without active participation in the administration of the Council's activities, I am convinced that Council members will not obtain that education which is necessary for the intelligent representation of local interests. This is the main disadvantage of the town manager system of government. And whilst it may be that such a system would provide a more efficient administration it is by no means obvious that this administration would be as sympathetic to the needs of the local community.

Of course each committee would have its own department, staffed by permanent officers, to carry out its orders. The head of each department, amongst other things, would be responsible for advising his committee, and of keeping it informed of its statutory obligations. One feature of the English local government committees, the co-opting of outside experts, could be usefully adopted by the A.C.T. Council. Indeed this arrangement which would enable the Council to obtain advice from the great wealth of outside experts both in the Public Service and academic life, might prove to be of considerable advantage to the A.C.T.

I have suggested that where it is practicable, those sections of the Department of the Interior and the other bodies which deal with A.C.T. matters should be transferred wholesale to the new institutions. This would mean that initially at least the A.C.T. Council staff would consist to a large extent of Commonwealth Public Servants. I see no real objection to this. Indeed it would put the Council in the same position with regard to staffing as the N.C.D.C. or any of the other statutory bodies. This arrangement would also facilitate a

continuity of administration.

Eventually however it may be desirable for the A.C.T. Council to establish its own Public Service. This would certainly be made easier if some arrangement to permit the easy movement of personnel between Commonwealth State and local authorities were adopted. I have already noted that such an arrangement for the exchange of teachers would make it possible to establish an independent education system for the A.C.T. much sooner than would otherwise be possible. Indeed as Professor Miller has pointed out, "It would be highly desirable if, in setting up the conditions for the employment of staff in an integrated Canberra administration, the Federal Government could adopt some of Dr. Coomb's ideas about making different forms of superannuation interchangeable, so that men (and women too, I hope) could move easily between Federal, State, local and statutory corporation services, and to those from universities and private business. A genuine reform in this sphere might have more effect upon the character of Australian government than almost anything else; Canberra might be a bellwether".³⁷

NOTES:

1. H.J.R. Cole : Report on Civic Administration. Page 3.
2. The Advisory Council also, apparently, recommended the retention of the existing Departmental administration.
3. The Study Group also recommended however, that the Department of Works and the Legislative Council should be responsible for development; the Aesthetic Standards Committee serving as the watchdog. Thus despite the fact that it had the advantage of having the comparatively recent report of the Senate Select Committee to give a lead, and despite the fact that its own report was issued whilst the National Capital Development Commission was in the process of being established, the study group, otherwise quite thorough, overlooked the proven need for the unified control of the city's development.

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4. The terms "commission" appears to have been used to cover a variety of forms of government. A commission on the lines of the Federal Capital Commission (post 1929) where decisions were made by majority vote would have all the disadvantages of the mixed council. For to ensure that the national interest prevailed, the Commonwealth Government would be bound to require that its nominees formed a majority of the members. In Washington, whilst decisions are also made on a majority vote, each of the Commissioners is made responsible for a number of departments. I have toyed with the idea of adapting this arrangement somewhat for A.C.T. purposes to provide a means whereby the interests of nation and local community might be resolved. Self-government for the Territory's inhabitants would be catered for by the creation of a department concerned with those functions which would otherwise be entrusted to a fully elected A.C.T. council. This "A.C.T. Affairs Department" would be made the sole responsibility of the elected Commissioners. Similarly a department concerned with national works would be the responsibility of a Government nominated Commissioner. Those national capital functions of concern to both the local community and the nation would nominally be the responsibility of the Government appointed Chief Commissioner, although the policy of this department would be determined by a majority of the three Commissioners. Attractive as this solution is, however, it has one overriding weakness. Whilst the two Government appointees might, and indeed, should be selected for their administrative ability and experience, the chances of a single person being elected with the same qualities are limited. What is more, such an arrangement would prevent the public exchange of views on the Territory's affairs; rather would the elected commissioners' decisions be like pronouncements ex cathedra with all that that involves.
5. Page 16. Report to the Advisory Council on A.C.T. Government and Administration.
6. Ibid. Page 33.
7. Cowen suggests that the people of the A.C.T. can have either "a real, though not decisive, voice in all matters, by being represented on a body which controls all affairs, or they can have absolute control, but only of comparatively trivial matters. I would think that to choose the latter would be to prefer the shadow to the substance, and that the former would give far more real self-government." Ibid. Page 20.
8. Although both this quotation and the following one refer to legislative councils, the point at issue concerns the composition of the councils rather than their functions.
9. Mr. Blair (Member for the Northern Territory) in the Debate on the 2nd Reading of the Northern Territory (Administration) Bill, 1947.
10. Mr. James : Papua - New Guinea Legislative Council Debates, 16th November 1953. Cited by C.A. Hughes in "the Legislative Councils of Papua - New Guinea". (Parliamentary Affairs Volume 12 1958-9).

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11. "The Government of Canberra" : Paper presented at the Symposium, "Canberra to-day and Tomorrow".
12. Ibid.
13. See supra page 116
14. However the Committee also suggested that municipal and shire councils might eventually be established in the Territory.
15. The Advisory Council has, actually, made several post war reform proposals - i.e. in 1946, 1947, 1955. These proposals, however, were substantially the same. I have therefore treated them as one proposal only.
16. Quoted in the Canberra Times of 29th November, 1963.
17. Cited by W. Eggleston op.cit. page 146.
18. Actually there is no "state" death duty as such in the A.C.T. But for a given sized estate, deceased residents of the A.C.T. pay a higher amount of Commonwealth Estate duty than do interstate residents. For the purpose of Commonwealth Estate Duty assessment, State Death Duties are considered to be a debt deductible from the estate. This is best illustrated by the hypothetical case (a greatly oversimplified one, however) of two deceased persons, one normally resident in the A.C.T. before his death and one normally resident interstate, who both leave estates of £100,000. The interstate resident pays State Death Duties of let us say, £20,000, which leaves an estate of £80,000 which is assessable for Commonwealth Estate Duties. The A.C.T. resident (or rather the executors of his estate) must pay Commonwealth Estate Duty on the whole £100,000. I have treated the extra payment of Commonwealth Estate Duty by the A.C.T. resident as payment in lieu of State Death Duty.
19. Professor Zelman Cowen op.cit. Page 22.
20. Auditor-General's Report for 1957-8. Page 37.
21. Mr. G. Freeth was recently replaced by Mr. J.D. Anthony as Minister for the Interior, and Mr. W.A. MacLaren by Mr. R. Kingsland as Secretary for the Department.
22. Australian Capital Territory Representation Bill, Second Reading debate, 10th May, 1962.
23. Architectural Forum. op.cit.
24. Joint Committee of the Senate and House of Commons on the Federal District Commission : Minutes of Proceedings and Evidence, No. 1. Page 47.
25. Professor J.D.B. Miller op.cit. Page 8.
26. Ibid. Page 15.
27. The other four Legislative Council proposals, were, of course, those of the MacCallum Committee, Mr. A.T. Shakespeare, the Advisory Council, and Professor Z. Cowen, all of whom recommended a mixed council.

28. Op. cit.
29. Approximately one third of Canberra's workforce consists of Commonwealth public servants, proper. However a substantial proportion of this number consists of officers of non policy organizations such as the National Library, the Bureau of Census and Statistics, and the Superannuation Board.
30. Parliamentary Debates. House of Representatives, 18th March, 1964.
31. Op. cit.
32. It is true, of course, that under Section 122 of the Constitution, the Commonwealth Parliament alone has the prerogative to legislate for all of its Territories, but in the case of the Territory of Papua and New Guinea, and Northern Territory, this right to legislate has already, to some extent, been compromised. And, of course, it is scarcely conceivable that these areas will remain in the status of Territories in perpetuity.
33. Report of the Senate Select Committee on Canberra Page 72.
34. Page 21.
35. See supra page. 16 ^{authorities}
36. English local government^x, of course, do not have legislative responsibilities.
37. Op.cit.

CONCLUSION

The decision to establish a separate federal district to serve as the seat of the Australian government, was taken by the fathers of our Constitution, partly because of their acquaintance with the persuasive arguments of James Madison and the other American constitution makers on the subject, and partly to appease the jealousies of Victoria and New South Wales (which in themselves strengthened our Constitution makers' belief in the sagacity of Madison's reasoning.) But was it such a wise decision? Had the national capital been built in New South Wales with no provision for a special federal district, then the laws affecting its everyday administration would now be made by the sovereign legislature of that state. The Commonwealth constitutional position vis-a-vis Canberra, would be the same as its position towards Melbourne, Sydney, or any other city in the six states. Thus the security of the Commonwealth Government, its freedom of action, and its ability to shape the national capital as a worthy symbol of the nation would all be dependent on the benevolence of an independent, self-willed legislature. Furthermore even the choice of New South Wales as the seat of the national government (without making such special provision) would have been taken as an admission of partiality towards that state. (Unless some means such as that used in the case of Canada - having Queen Victoria make the choice - was used.) In the field of town planning and development, alone, the problems created would have been tremendous, even supposing the Commonwealth retained the freehold of all land in the capital. Building standards, and design, for example, would have to be regulated by other means than legislation which is the present method of regulation. Indeed these standards would probably have

to be written into the covenant of every lease granted - that is provided the state government had approved this in its laws. Even the town plan itself would be subject to the approval of the state government. In the event, the fact that the Australian national capital has been made a special district appears to have secured for it a far more orderly development than has occurred in Ottawa, which has no special district. Of course it is true that Ottawa started its life as an industrial town, but it became national capital as long ago as 1867 and it was not until very much later that any very serious efforts were made to improve its appearance and layout. It is true too that Canada is now making good progress towards the beautification of its national capital but only in round about ways after great expense both in time, money, and energy on the part of the Dominion Government. Furthermore even Ottawa's comparative success in town planning is subject to the benevolence of the Quebec and Ontario legislatures. And, of course, the Dominion government is powerless to act on such vital matters as sewerage disposal, river pollution and water supply.

Had no special federal district been established, to contain the national capital, then, the problems besetting the Commonwealth Government would have been substantial. But the establishment of a special district has in itself created problems of a different kind. The most important of these problems, of course, is the question of the government of the district. Having taken over the area from the state of N.S.W. it was necessary for the Commonwealth to work out a new system of government to replace the one already in operation. Indeed it might be argued that since the Commonwealth Government has taken away from the

citizens of the territory the right to self-government at the local level and a say in the government of the state, which they would have enjoyed had a special federal district not been set up, it was morally obliged to devise some form of self-government as a substitute. But apart from the brief interlude during which they elected one of the three members of the Federal Capital Commission, the people of the Territory have had virtually no say in their own government, (unless representation on the management board of the local hospital, and on one or two advisory committees can be considered as self-government.)

There are signs that the Commonwealth Government is at last beginning to act on the question of self-government. The Minister for the Interior has given several indications that he favours such a move, In August, 1964, he stated in a letter to the Advisory Council, "Those who know something about government will recognize that no form of self-government for Canberra could be introduced in a matter of months, or by some government directive that it is to be. Self-government in any form would require to be introduced on sound foundations and only after intensive study." He admitted, however, that the Government has not yet formulated any deliberate policy leading towards self-government for the A.C.T. Since the Minister's statement the Department has set up a new post, the duties of which will be to examine the complex financial problems which the question of self-government involves.

This development is gratifying, not only because self-government is desirable but also because it indicates that the Department of the Interior does not intend to be rushed into granting self-government without first thoroughly investigating the many problems which this step

would involve. These problems are such as to make any scheme for self-government, which has been drawn up without careful consideration, quite unworkable, in practice. Yet, complex as its finances are, the Territory's problems are not financial ones only, and there is an urgent need of a much broader investigation than either this one position or the Department of the Interior could instigate. In view of the fact that so many Commonwealth Departments and agencies are involved, a thorough investigation of the situation by a Parliamentary Commission of Enquiry is called for. A body of less stature would not have sufficient standing to call for the evidence required. Undoubtedly such an enquiry would also focus attention on the other major weakness of the Territory's system of government - this fragmentation of responsibility, itself. Quite apart from the question of self-government, some reform of the Territory's government is desirable if only to counteract this tendency towards fragmentation - a tendency, which incidentally is continuing. (In 1961 a proposal for the creation of a separate Housing Commission was thwarted, but in the following year a separate Electricity Authority was established. More recently the creation of an ad hoc authority with duties similar to those of Sydney's Metropolitan Water and Sewerage Board has been mooted.)

But the solution to these difficulties rests with the Commonwealth Government. Indeed, "It would be presumption in me to do more than to make a case. Many things occur. But as they, like all political measures, depend on dispositions, tempers, means, and external circumstances, for all their effect, not being well assured of these, I do not know how to let loose any speculations of mine on the subject. The evil is stated, in my opinion, as it exists. The remedy must be

where power, wisdom, and information, I hope, are more united with good intentions than they can be with me."²

NOTES:

1. Canberra Times, 18th August, 1964.
2. Edmund Burke, Thoughts on French Affairs
Page 330 (Everyman Edition).

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APPENDIX 1 ~~TABLE 2~~

DISTRICT OF COLUMBIA GOVERNMENT

APPENDIX 2

MEMBERS OF THE FEDERAL CAPITAL COMMISSION

Chairman	Second Commissioner	Third Commissioner - (elective office from February, 1929)
<p>January 1925 - November, 1929 Sir John Butters (civil engineer)</p> <p>November, 1929 - April 1930 Mr. A.J. Christie (formerly Deputy Director of Posts and Telegraphs, Brisbane).</p>	<p>January, 1925 - January, 1929 Sir John Harrison (master builder)</p> <p>January 1929 - November, 1929 Mr. R. Crosbie Gould (Town Clerk of Melbourne)</p> <p>January 1930 - April, 1930. J. S. Murdock (formerly Commonwealth Director General of Works)</p>	<p>January, 1925 - January, 1927. Mr. Clarence Gorman (expert in real estate)</p> <p>January 1927 - January, 1929 Col. T.J. Thomas (Finance member of the Military Board. Dept. of Defence).</p> <p>February 1929 - March, 1929 Dr. J.F.W. Watson (elected)</p> <p>April 1929 - April 1930 Mr. R.M. Alcorn (elected)</p>

APPENDIX 3

THE 1948 TRANSFER PROGRAMME

No of officers.

1st Stage (1-3 years)

Growth in Canberra Depts. (including

Marketing Division, Commerce

(temporarily in Melbourne)

882

Second Stage (3-5 years)

Repatriation

Social Services

Labour and Nat. Service

Civil Aviation

Works

Housing

Shipping and Transport

Minor Sections of Depts.

1,703

Third Stage (5-7 years)

Postmaster General's Department

+ minor sections of other departments

772

Fourth Stage (7-10 years)

Defence Group

3,670

Total no. of officers involved

7,027

APPENDIX 4 TABLE 1

NUMBER OF NEW HOUSING UNITS COMPLETED

	Year ended 30.6.1957		Year ended 30.6.1958		Year ended 30.6.1959		Year ended 30.6.1960		Year ended 30.6.1961		Year ended 30.6.1962		Year ended 30.6.1963	
	Govt.	Private	Govt.	Private	Govt.	Private	Govt.	Private	Govt.	Private	Govt.	Private	Govt.	Private
Houses	390	171	522	176	976	269	702	443	729	544	812	703	721	962
Flats	248	16	56	-	354	4	474	-	139	35	256	13	129	33
Total Housing Units	638	187	578	176	1330	273	1176	443	868	579	1068	716	850	995
Total Govt. and Private	825		754		1603		1619		1447		1784		1845	

Source: Bureau of Census and Statistics, Canberra.

NATIONAL CAPITAL DEVELOPMENT COMMISSIONANNUAL EXPENDITURE 1958-1962

TABLE 2

Year	1958-59	1959-60	1960-61	1961-62	1962-63
Expenditure	£10,000,088	£11,046,438	£10,987,648	£11,011,203	£12,183,403

Source: N.C.D.C. Annual Reports.

TABLE 3

NUMBER OF RESIDENTIAL BLOCKS SERVICED AND

AUCTIONED, 1957-1963

	Year ended 30th June, 1957	Year ended 30th June, 1958	Year ended 30th June, 1959	Year ended 30th June, 1960	Year ended 30th June, 1961	Year ended 30th June, 1962	Year ended 30th June, 1963
No. of blocks Auctioned	250	241	411	470	852	888	823
No. of blocks Serviced	(a)	(a)	1100	1570	1700(b)	1556	1718

(a) Not available (b) Approximate figure.

TABLE 4

NUMBER OF LEASES GRANTED

1957-1962

	57-8	58-9	59-60	60-1	61-2
Residential	408	597	735	1,150	1,418
Business	17	8	73	55	26
Special Purpose	4	12	6	10	2
TOTAL	429	617	814	1215	1,446

Source : Department of the Interior's Annual Reports on the A.C.T.

ORGANISATION CHART SHOWING AUTHORITIES RESPONSIBLE FOR THE ADMINISTRATION OF THE A.C.T.

ORGANIZATION CHART OF THE DEPARTMENT OF THE INTERIOR SHOWING THE
PRINCIPAL A.C.T. FUNCTIONS

APPENDIX 5 TABLE 5

AUSTRALIAN CAPITAL TERRITORY SERVICES BRANCH

ASSISTANT SECRETARY

PUBLIC INFORMATION AND
GENERAL SERVICES

ocial & Child Welfare.
rbage collection
nd disposal.
nitiation.
imming Pools.
reet cleaning.
blic halls.
ty band.
ights & measures.
C.T. Publicity.
formation and
elfare bureau.
ecretarial to
visory Council,
nberra Cemetery.
c.

REGISTRIES

Fish protection.
Driver's licenses.
A.C.T. Road Safety.
Auctioneers licenses.
Hawkers licenses.
Gun licenses.
Dog licenses.
Vehicle Registration
A.C.T. Regist'n
Motor of all
Vehicles Comwlth
Regist'n vehicles
in Australia

LEGISLATION

Preparation of
A.C.T. Ordinances
and Regulations
as administered
by Interior; also
instruments of
delegation and
appointments
thereunder,
stocking and
distribution.
Examination of
legal aspects of
Branch's functions.
Mining. City of
Canberra Arms.
Bank holidays.
Guardianship of
Migrant Children.

TRANSPORT

Public transport
Conveyance of
M.P's Senators etc.
Conveyance of
goods & furniture
and effects.

ADMINISTRATION

General branch
administration.
Typing, messegerial.
Prepare's branch
estimates.

EDUCATION

Pre-school,
Infants, Primary,
Secondary Schools,
Apprenticeship.
Technical College
Truancy.

TOURIST
BUREAU

COMMITTEES WITH EXECUTIVE POWERS

DIX 5

TABLE 4

NAME OF BODY SOURCE OF AUTHORITY	PRINCIPAL FUNCTIONS	CONSTITUTION
<u>Canberra Community Hospital Board (3)</u> (b) (c) Canberra Community Hospital Ordinance, 1938-1963	To "determine matters concerning the general policy to be adopted by the Medical Superintendent of the Hospital; and arrange for the purchase of supplies; equipment and other things necessary for the efficient operation of the hospital".	3 members appointed by Minister for 5 members elected by residents of the
<u>Australian Capital Territory Electricity Authority (3)</u> (a) (c) Australian Capital Territory Electricity Supply Act, 1962	"To supply electricity in the Territory; and to promote the use of electricity in the Territory."	Chairman appointed by Governor-General. 1 member elected from the Advisory Council, 1 member from the Department of Interior, appointed by the Governor-General.
<u>Canberra Public Cemetery Trust</u> (1) (a) (c) Cemeteries Ordinance, 1933-1961.	To administer the Canberra public Cemetery.	Chairman appointed by Minister for the Interior from the Department. 8 trustees (1 nominated by each religious denomination, which has been allotted portions of the cemetery) 1 trustee nominated by A.C.T. branch of R.S.S.A.I.L.A.

	NAME OF BODY SOURCE OF AUTHORITY	PRINCIPAL FUNCTIONS	CONSTITUTION
	<u>Bush Fire Council</u> (2) (a) (c) Careless Use of Fire Ordinance, 1936-1959	"To prevent the outbreak of fire and to protect there- from life and property in any part of the Territory other than a part which is a built-up area, and may in particular, acquire fire- fighting equipment, employ workmen, organize fire prevention associations and distribute literature relating to fire prevention."	Members appointed by the Minister for the Interior.
	<u>Apprenticeship Board</u> (1) (a) Apprenticeship Ordinance, 1936- 1959.	To advise the Minister of the Interior on apprenticeship matters; to determine the scope and character of, and to supervise apprenticeship training; to examine and inspect apprentices etc.	Chairman appointed by the Minister of the Interior, 1 represent- ative of the Common- wealth appointed by the Minister. 1 representative, private employers in apprentice-trade. 2 representatives, employees in the apprenticeship trades.
	<u>Architects' Regis- tration Board</u> (1) (a) Architects' Ordinance, 1959.	"To provide for the Reg- istration of Persons engaged in the practice of architecture and to control architectural practice."	5 members appointed by the Minister for the Interior.
	<u>Road Safety Council of the A.C.T.</u> (2) (a) Set up at the re- quest of the Minister of the Interior.	To promote road safety in the A.C.T. by disseminating propaganda, undertaking in- vestigations, and making "rep- resentations to appropriate authorities for the conduct of investigations, the ex- ecution of works or the im- plementation of policy or administrative changes con- sidered necessary in the interests of road safety."	18 members appointed by the Minister. (In- cluding 1 representat- ive from each of: Can- berra Chamber of Comm- erce, Advisory Council N.C.D.C., A.C.T. Polic Nat. Council of Women, Insurance Companies, R.S.L., Progress and Welfare Council, Sport- ing Car Club, Rotary

NAME OF BODY SOURCE OF AUTHORITY	PRINCIPAL FUNCTIONS	CONSTITUTION
		Club of Canberra, Department of the Interior, Council of P. & C. Associations, N.R.M.A., Transport Workers' Union.)
<u>Dental Board (1) (b)</u> Dentists' Registration Ordinance, 1931-1959.	"To provide for the regist- ration of persons engaged in Dental Practice."	Director-General of Health, 2-5 members appointed by the Minister for Health.
<u>Medical Board (1) (b)</u> Medical Practitioners' Registration Ordinance, 1930-1958.	"To provide for the regist- ration of persons engaged in medical practice."	Director-General of Health, 2-5 members appointed by the Governor-General.
<u>Nurses' Registration Board (1) (b)</u> Nurses' Registration Ordinance, 1933-1959.	"To provide for the regist- ration of Nurses, and enrol- ment of nursing aids, and other purposes."	Director-General of Health, 2-7 members appointed by the Minister for Health.
<u>Optometrists' Board (1) (b)</u> Optometrists' Ordin- ance, 1956-1958.	"To provide for the regist- ration of persons engaged in the practice of Optometry, and to control Optometrical practice."	Director-General of Health, and 2 members, Appointed by the Minister for Health.
<u>Pharmacy Board (1) (b)</u> Pharmacy Ordinance, 1931-1959. Poisons and Danger- ous Drugs Ordinance, 1933-1954.	"To provide for the regist- ration of Pharmacists and to control the practice of Pharmacy," and to control the sale and use of poisons, narcotic drugs, etc.	Director-General of Health, 2-5 members appointed by the Minister for Health.
		.../4

	NAME OF BODY SOURCE OF AUTHORITY	PRINCIPAL FUNCTIONS	CONSTITUTION
	<u>Canberra Mother-Craft Society</u> (2) (a) (b) Voluntary Organization with duties delegated (and financed) by the Departments of Health and Interior.	Operation of Child and Mothercraft Centres, and Queen Elizabeth II Home (for Department of Health), and Occasional Care Centres (for the Department of the Interior).	_____
	<u>National Council of Women (A.C.T. Branch)</u> (2) (a) Voluntary organization with duties delegated (and financed) by the Department of the Interior.	Operation of Canberra Emergency Housekeeper Service.	_____

NOTES :

- (1) Committees whose functions should continue to be performed separately.
- (2) Committees whose functions could be performed by the existing central authority.
- (3) Committees whose functions could be performed by the central authority were it not a Government Department.
 - (a) Committees responsible for the Minister for the Interior.
 - (b) Committees responsible to the Minister for Health.
 - (c) "A body corporate with perpetual succession" and a common seal; which ".... may acquire, hold and dispose of real and personal property and shall be capable of suing and being sued in its corporate name."

I have excluded two committees from the above list : Corroborree Park Youth Centre Council (because it is not of sufficient importance) ; and the A.C.T. Associated Youth Committee (its functions are federal rather than Territorial)

ADVISORY BODIES CONCERNED WITH A.C.T. ADMINISTRATION (a)

ENDIX 5 TABLE 5

	NAME OF BODY ORIGIN	FUNCTIONS	COMPOSITION
	<u>Advisory Council</u> (2). Advisory Council Ordinance, 1936- 1962	To advise the Minister in relation to any matter affecting the A.C.T.	2 representatives, Department of the Interior, 1 representative, Department of Health 1 representative, Department of Works, 8 members elected by residents of the A.C.T.
	<u>A.C.T. Advisory Committee on Tourism</u> (2) Set up at the Minister's request	To advise the Minister on Tourism.	1 representative, Department of the Interior, The manager, Canberra Tourist Bureau, The manager, Commonwealth Hostels Ltd. 4 representatives, Canberra Chamber of Commerce, 1 representative, National Council of Women. 1 representative, Advisory Council.
	<u>Canberra Technical Education Committee</u> (2) Set up at the Minister's request.	"To advise the Minister with respect to the provision of technical education in the A.C.T. in accordance with the needs of the community industry and commerce."	16 members appointed by the Minister, including representatives of A.N.U.; A.C.T. Employer's Assocn.; Canberra Chamber of Commerce; Supervisors, Overseers Assocn.; R.A.I.A.; N.S.W. Education Department; Department of the Interior; Assocn. of Architects, Engineers, Surveyors, and Draughtsmen of Aust.; Master Builders Assocn.; (1 each) and Canberra Technical College; Nat. Council of Women;

NAME OF BODY ORIGIN	FUNCTIONS	COMPOSITION
		A.C.T. Trades and Labour Council (2 each)
<p><u>Canberra Pre-School Advisory Committee (2)</u></p> <p>Set up at the Minister's request</p>	<p>To advise the Minister on matters associated with Pre-schools.</p>	<p>1 representative, Dept of the Interior. 1 representative, Dept of Health. Pre-school officer. 1 representative, Canberra Mothercraft Society 1 representative, pre-school teachers. 3 representatives, Canberra Pre-school Society.</p>
<p><u>Child Welfare Committee (2)</u></p> <p>Child Welfare Ordinance, 1957.</p>	<p>To "report to the Minister upon such matters relating to child welfare as he refers to the Committee and to advise the Minister on matters connected with child welfare in the Territory".</p>	<p>Members appointed by the Minister. (including representative of Advisory Council)</p>
<p><u>Committee on Cultural Development in the A.C.T. (2)</u></p> <p>Set up at the Minister's request.</p>	<p>To advise the Minister on the allocation of grants to A.C.T. cultural bodies.</p>	<p>1 representative, Dept. of the Interior. 5 members appointed by the Minister.</p>
<p><u>Third Party Advisory Committee (1)</u></p> <p>Set up at the Minister's request.</p>	<p>To advise the Minister on all matters concerning third party insurance (except premiums).</p>	<p>Registrar of Motor Vehicles (Dept. of the Interior- Commonwealth Actuary and Commissioner. 1 representative, Insurance companies. 1 representative, private motorists (nominated by A.C.T. Advisory Council). 1 representative of commercial motorists. (Nominated by Canberra Chamber of Commerce.</p>

NOTES :

- (a) All of these advisory committees are responsible to the Minister for the Interior.
- (1) Committees whose functions, should continue to be performed separately.
 - (2) Committees whose functions could be performed by the central authority were it a representative body.
-

I have excluded from the above list three committees : A.C.T. National Fitness Advisory Committee (its functions are federal rather than Territory); and the Nominal Defendant Advisory Committee, and Nominal Insurer Advisory Committee (these have commercial rather than Government functions).