COOPERATIVE FEDERALISM
GOOD POLICY AND GOOD GOVERNMENT

The Hon. John Bannon, MP
Premier of South Australia

No. 16 May 1992
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I am pleased to be able to address you on the States' proposals relating to agenda items arising from the Special Premiers' Conference (SPC) process. But before dealing with the case being developed by the States and Territories, I would first like to address the changes and the alliances which have all worked to help produce the current atmosphere of positive cooperation.

Federal–State relations have undergone great change over the past ten years. The decade began with the Fraser Government's so-called New Federalism which, crudely characterised, was an attempt by the Commonwealth, under the guise of supporting States' rights, to avoid the implications of the 1942 financial agreements. The Hawke Government did not pursue this agenda — indeed, in 1989 it passed the Income Tax Arrangements With The States Repeal Act, removing State taxation power.

In the early Hawke years, the maintenance of guaranteed real income in government grants and a range of specific programs went some way to stabilising the situation. The States were required to bear a large share of Commonwealth expenditure cuts and tension increased quite rapidly.

At the same time, a lot of attention began to be focused on the elimination of duplication of services between State and Commonwealth governments. In the Robert Garran oration of 1986, I summarised a number of submissions the States and Territories had made to the Commonwealth on this matter over the previous year. Prime Minister Hawke made a major statement on the matter and working parties were established to initiate the process. Unfortunately, results were very slow in coming and the process was withering when the imminence of the last decade of the century and the centenary of Federation looming on the horizon, the Prime Minister revived it in the much larger context of the Special Premiers' Conference process.

Following the re-election of the Hawke Government at the beginning of 1990, a unique political opportunity for major reform was presented. There were a number of factors which made this possible:

* A speech delivered to the Federalism Research Centre conference on 'New Federalism — The States' Perspective', Canberra, 21 February 1992.
the Federation centenary decade demanded a hard look at the way the
Commonwealth had evolved;
Prime Minister Hawke had his own sense of history and desire for a
landmark reform in his fourth term;
five State Labor governments acted as a balance to federal Labor's
centralist tendency;
Bjelke-Petersen left Queensland politics and the power of the
Queensland National Party was finally broken;
Nick Greiner's State agenda involved reduction of vertical fiscal
imbalance;
there was cooperation among a group of State and federal leaders who,
with the exception of Bob Hawke and me, had not been a part of the
old system and, as demonstrated by the breakdown of the 1990
Premiers' Conference, were impatient with that system and its
inadequacies;
the financial squeeze on the States from the Commonwealth became
unbearable as the recession cut into State revenues; and
no government was required to go to election before 1992 — a unique
'election-free zone' allowing time to develop new approaches. (On this
point I strongly criticised the calling of an early election in New
South Wales in 1991. This caused the cancellation of the scheduled
Premiers' Conference, a meeting which would have maintained the
October 1990 momentum. I still believe this was a major factor in
the problems experienced in late 1991.)

While it is vital to continue the process (and I deal with this in detail
later), those unique factors are changing. Time is running out as
leadership and governments change and State governments become
preoccupied with their own survival and domestic problems. This
emphasises the need for the process involved in the SPC reform agenda
to be formalised, which is why the States' proposal for a Council of the
Federation is so important.

My emphasis today will be primarily on those proposals advanced by
the Premiers and Chief Ministers in their meeting in Adelaide in
November last year — in particular those relating to tied grants, the
environment, road transport and regulatory reform.

While I in no way resile from the States' proposals regarding financial
relations, I would like to emphasise that the States-only meeting in
Adelaide was not intended as a direct snub to the Commonwealth. It
was held so that the reform process could continue. The States did not
rewrite the agenda or ignore previously negotiated positions which
considered the interests of the Commonwealth. In this sense, they were
proposals clearly designed to meet the national interest. The proposals
were put to the federal government following that meeting in a series of
letters from Premiers and Chief Ministers to the then Prime Minister, Bob Hawke.

They ranged across the broad reform agenda and represented a balancing of the individual priorities and interests of the States and Territories. The resultant proposals were agreed to by the Heads of Government, after intense but amicable debate which cut across parochial and party political concerns.

While changes to the federal leadership have delayed Commonwealth government responses on most of the issues raised, the opportunity now exists for all Heads of Government — including the Prime Minister — to get back to the broad reform agenda. Desirable reforms in individual areas where they can be agreed should not be allowed to lapse by failure to reach agreement on others.

All participants in the process need to be seen as equal partners in that process — true cooperative federalism cannot operate in an environment in which one partner believes it has the capacity unilaterally to change the agenda or dismiss the views of the majority.

A major outcome of the Adelaide meeting could arguably be said to be that the States and Territories unequivocally and tangibly proved once and for all that they are capable, given an appropriate forum for debate, of working together to serve the national interest. The SPC process provided that forum at a time when the traditional institutions of intergovernmental relations, the annual Premiers' Conference and Loan Council meetings, had become mechanisms for constraining debate. Increasingly, those gatherings were becoming confined to fundamental, but narrow, discussions of intergovernmental financial relations in an environment of self interest and conflict, rather than of cooperation.

The SPC process has demanded the concentrated attention of a number of officers, and the vision and pragmatism of Ministers and Heads of Government, to achieve a more rational and coherent service to the community. I believe that it is fair to say that the three levels of government (and I am pleased to note the participation and enthusiasm of Local government) have worked hard to achieve improved outcomes for their constituents.

I also believe that, at the State level at least, that work has involved the taking of the broader government view by both State Ministers and line agencies. This has given Premiers and Chief Ministers the opportunity to negotiate with their counterparts from a position of consensus and strength. In the context of getting things done, this is the meaning of leadership. Effective agencies, effective systems of public sector management, the emergence of innovative managers and cooperation between the different levels of government are all valuable ends in themselves, but they must be directed towards achieving the overall purpose of government — improved outcomes for the people they serve.
A key issue for the Federation in the first instance is identifying and gaining some consensus on what is the national interest. The Cooperative Federalism initiative was an attempt to create a process whereby the longer-term needs of the nation were considered to improve our national efficiency and international competitiveness, and to improve the delivery and quality of government services.

But there were impediments to achieving this national objective. Bureaucratic overlap in the delivery of services had to be considered as well as diverse standards in service provision, lack of uniformity or consistency in regulation, standards and licensing requirements and separate State and national strategies for what are ultimately global environmental issues.

National objectives and the national interest, be they in terms of macroeconomic management or of other policy areas, cannot be regarded solely as the province of the Commonwealth. The achievements of the States at the Adelaide meeting clearly indicate this.

Uniformity of purpose may be more clearly defined when it results from negotiation, rather than from imposition by one tier of government. This recognition of the legitimate role to be taken by the States and Territories in the national reform process should not be weakened by the incursion of the Commonwealth's sphere of influence into the States' jurisdictions.

A new mood appears to be emanating from Canberra — a new kind of 'centralist' licence, if you like, based possibly not on the dictates of Cabinet but on the second-guessing by any of a number of players, which can become self-fulfilling and can attain an organisational and political momentum of its own. This is currently evident in areas such as the new moves by the Australian Tax Office to extend sales tax on State authorities; in the Commonwealth's reported move to take over uniform credit law processes run by the States; and in its bid to bring some State Crown authorities and non-bank financial institutions under its new Corporations Law. It has occurred through the imposition of overly prescriptive requirements on the way in which Commonwealth grants are acquitted by the States.

This centralist squeeze has been occurring in a climate in which the Federal government's strategy to overcome balance of payments problems by fiscal retrenchment has resulted in real cuts in State funding. It should be noted that cuts in Commonwealth own-purpose outlays have not been of the same order. For example, in 1977 Commonwealth own-purpose outlays represented 62.7 per cent of its total expenditure, and its grants to the States 37.3 per cent. In 1989, these proportions had changed to 72.3 per cent 27.2 per cent respectively.

This is the real context of Commonwealth–State relations — the context in which the States are expected to continue to deliver high
levels and high standards of services. At the heart of this dynamic is a fundamental question: to whom do the tax dollars collected by the Commonwealth on behalf of the States actually belong? Whose money is it? It has become increasingly clear to the States and Territories throughout the SPC process that there is a deeply ingrained belief, or presumption, by Canberra that those dollars are the 'birthright' of the federal government and that the States' funding should remain dependent upon the largesse of the Commonwealth.

By 1990, the form in which the States were funded had changed so that over 50 per cent of that funding was in the form of specific purpose payments, or tied grants, which dictated where a large proportion of those reducing funds could be spent. I would like now to address the particular issues relating to tied grants as identified in the States' proposals to the Commonwealth.

**TIED GRANTS**

The Commonwealth's intent in funding programs by specific purpose payments is clearly to meet what it sees as national needs, through a system seen as meeting the added requirement of national equity. While the States may support the general policy directions of the Commonwealth in many instances, these do not always match the priorities of the States, or cater for regional differences. One may then ask why the States have accepted such grants. The answer lies largely in the misalignment between the States' revenue-raising powers and their spending responsibilities. As a result of this, a kind of 'beggars can't be choosers' mentality has tended to prevail in the States.

With real cuts in funding from the Commonwealth and limitations in the States' revenue bases, it has been impossible to respond properly to pressing community demands. In this climate, grants from the Commonwealth may seem irresistible, despite their shortcomings. In broader terms, the increase in the proportion of tied grants coming to the States has caused real problems by an increasing overlap and duplication in service delivery and administration between the tiers of government, lack of clear responsibility for service provision, and lack of transparency regarding relative financial commitments.

From the perspective of the States, the likelihood of achieving a real reduction in the proportion of tied grants has become pivotal in maintaining their commitment to addressing the broader reform agenda. It is an area in which not much progress has been made to date for a variety of reasons.

The most obvious relates to an apparently entrenched Commonwealth view that the States need to be coerced to meet Commonwealth policy and social justice objectives. The first flaw in this view is clearly that
the Commonwealth's objectives do not necessarily equate with national interests. 'Commonwealth' and 'national' are not interchangeable terms. The States have shown they are capable of putting aside differences in objectives and priorities to meet agreed national objectives. Further, we believe that tied grants and complex, detailed intergovernmental agreements *per se* do not work to meet the national objective in the longer term. Reflecting this belief, and the importance we place on the untying of them or of the easing of conditions, we agreed in Adelaide not to accept any grants for new programs which had special conditions attached.

The second flaw relates to the way which the Commonwealth has attempted to persuade the States to meet its objectives through the use of its considerable financial powers. In Adelaide, the Premiers and Chief Ministers yet again reiterated their concerns with the current intergovernmental financial relationship and in particular with what has become known as Vertical Fiscal Imbalance.

The relationship between VFI and tied grants should not be underestimated. However, the untying of some tied grants, or the reduction in conditions placed on them, is not premised on immediate resolution of this much larger issue.

The third point I wish to make relates to portfolio responsibilities of federal Ministers and their departments, and the fact that not all have been willing to broaden their view to a 'whole of government' perspective. This has meant that States have been forced, in some instances, to contend with attempts by federal Ministers and Commonwealth agencies to pre-empt the broader discussion of roles and responsibilities taking place at Heads of Government level through the SPC process.

In the conclusion to his largely autobiographical work, appropriately entitled *Prosper the Commonwealth*, Robert Garran, one of the framers of our Constitution, said:

> It ought not to be difficult to express in the text of the constitution the intention to devolve on the States part of the responsibility for the administration of Federal laws. It may be difficult to educate our federal administrators to a self-discipline which will counter their natural inclination to keep all the strings in their own hands. But I do not think that even that need be impossible.

I agree that it need not be impossible and I would add that it should be viewed as the intent of the Constitution. I am reassured that Paul Keating, in his October 1991 address to the National Press Club, recognises the validity of the States' arguments for the untying of some grants. He said:

> Generally it is better, I believe, for the Commonwealth to confine its interest to broad policy rather than detailed policy or administration of program delivery.
For this reason I have no objection at all to the States' demand that the proportion of tied grants be reduced within a few years. So far as I am concerned, grants should only be tied while the necessary bureaucratic structures are being set up and the policies being put in place at the State level to achieve agreed national goals.

I have already made the point that State and Territory governments have succeeded in carrying their line ministers and agencies with them to achieve the reforms thus far. To progress the untying of grants, this also needs to occur at the federal level. This logically takes me on to the issue of functional allocation between the levels of government.

**FUNCTIONAL ALLOCATIONS**

In an attempt to identify areas in which tied grants could be untied or their conditions reduced, attention was given to clarifying the appropriate roles and responsibilities of the tiers of government in general terms and of service delivery, administration and financial responsibility in specific terms. The result was a series of reviews based on what currently exists rather than what should more appropriately occur. For this reason, Premiers and Chief Ministers believe that we need to take a step back from the process of reviews undertaken. We believe that functional allocation should be underpinned by a set of principles. These will be outlined in more detail in this afternoon's session.

In his address to the National Press Club, Paul Keating clearly expressed his willingness to address the review of current functional allocation and responsibility: He said:

> I would be quite happy to see the States have more autonomy and more authority, and we should carefully review Commonwealth activities to make sure we have not drifted into some things the States can do better.

This view clearly does not preclude the option for a level of government to withdraw completely from areas most appropriately the province of others. I would like to add here that withdrawal from the service delivery and administration of an area does not necessarily mean a withdrawal from policy input into that area.

While not wishing to understate the difficulties in determining the appropriate roles and responsibilities of levels of governments, I believe that a lot of common ground exists between what the States are proposing, and what Prime Minister Keating has publicly stated.

**THE ENVIRONMENT**

In our endorsement of the Commonwealth government's economic reform agenda in Adelaide, Premiers and Chief Ministers gave support for
measures which would give greater certainty for government and business decision-making. The demand for that certainty to be contained in the Economic Statement is becoming increasingly vocal.

The cooperative nature of the negotiations between the levels of government in the SPC process, in which all levels were able to participate, resulted in the agreement by the States and Territories to work with the Commonwealth to develop the Intergovernmental Agreement on the Environment. The States and Territories, in endorsing the Agreement in Adelaide, have recognised the global and national interests of the Commonwealth. The Commonwealth is now showing more support for those principles identifying the legitimate interests of other tiers of government. The approach of the States has reflected a conscious attempt to remove this topic from the very political climate of vested interests in which it tends to be debated, to the less emotive sphere of good policy and good government. Now it is hoped that the Commonwealth will soon demonstrate the same level of commitment.

REGULATORY REFORM

Fundamental to improving economic efficiencies and productivity at a national level is a range of microeconomic reforms in which the States have a major part to play.

At the October 1990 SPC in Brisbane, Heads of Government agreed that fundamental regulatory reform was needed to enhance the flexibility and competitiveness of the Australian economy. For Australia to be an integrated and more internationally competitive national economy, it was seen as essential to overcome the inefficiencies caused by regulatory differences among Australian States and Territories. These differences were seen as needlessly inhibiting interstate trade and the mobility of labour. A policy of 'mutual recognition' of the standards and regulations of each State and Territory by other States and Territories was seen as the most achievable means of fostering the development of a national market for goods and services.

Mutual recognition will have a direct bearing on the economy, through the freeing up of interstate trade of goods and enabling better mobility of labour in the regulated occupational groups. Significantly, the States agreed to refer powers to the Commonwealth to pass a single Act to apply throughout Australia. Such legislation would automatically override any State or Territory legislation inconsistent with the principles.

Heads of Government are awaiting the Prime Minister's response to this approach. Failing Commonwealth agreement, the Heads of Government can be expected to proceed to legislate in each of their jurisdictions to implement the proposal from January 1, 1993. With
either form of implementation, mutual recognition would result in significant economic reforms for the national benefit and would make a significant contribution to any overall economic reform package.

ROAD TRANSPORT

At the July 1991 SPC, considerable progress was made in the area of road transport with the signing of an Agreement on Heavy Vehicles. At the Adelaide meeting, agreement was reached on areas where uniform national rules of the road would be developed as a priority by the National Road Transport Commission. These would encompass both heavy and light vehicles. Legislation would be needed to enable the Commission to be responsible directly and immediately for developing and maintaining uniform standards in the agreed areas. Further benefits could result from moving to national uniform standards and this warrants further examination. I believe that these worthwhile initiatives will result in substantial benefits for all road users and deserve Commonwealth support.

CONCLUSION

In less than a week, the Prime Minister will deliver an Economic Statement which it is generally believed will be one of the most important statements of policy and direction for our nation this decade. To be successful this statement must not only turn away from those policies of the past which have proved sterile, but also set the basis for new directions that will sustain our economy into the next century. The Statement comes after lengthy debate in Australia over the direction and effect of economic policy. Catch-cries such as soft landings versus hard landings, and technical argument about exactly what successive quarters of negative growth amounted to, are no longer relevant. There is no longer any argument about where we are — the debate now is about what we do about it.

There is, however, one aspect of that debate which remains relevant because it is directed towards the long-term reform of our national political and economic system. That debate concerns the nature and the future of our federal system in which the national economy operates. This debate has its origins in the disharmony of the 1990 Premiers' Conference and was fuelled by the pressures which the States were experiencing in part as a result of the Commonwealth's economic and fiscal policies. The economic slowdown throughout 1991 gave it urgency as the need for reform became more apparent, and the need for a truly national response became more imperative. That process was begun in 1991 with a clear demonstration by the States that the national
interest can prevail over regional ambitions. It is imperative that the
process continues. The reform of federalism must not take a back seat
while all efforts are directed towards economic revival. I contend that the
two have to move forward together.

While I can appreciate that the Prime Minister's immediate focus next
Wednesday will be on the economy, we must not allow cooperative
federalism and the development of a federal structure for the 21st century
to be forgotten. That would mean a return to the ad hoc and sterile round
of Premiers' Conferences concerned only with cutting up a shrinking
cake.

I, and other Premiers and Chief Ministers, have been prepared to take
on some of the vested interests in our own jurisdictions to achieve what
has been gained up to date. We are prepared to continue to do so, in the
firm belief that all Australians will benefit from better and more efficient
government.
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