

Dinner Address

Why Canberra ?

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Some of you may have wondered, on seeing the title for my talk this evening - *Why Canberra?* - what I had in mind.

This is the first occasion on which the Society has met in Canberra since its formation just over five years ago. For such an avowedly federalist body that seems appropriate.

So much so, indeed, that some of you, on learning of the Board's decision to hold our eighth Conference here, might well have said: Why Canberra?

I shall not respond tonight to that particular query, but rather address some more significant issues which developments in Canberra over the past 20 years or so have begun to provoke, namely:

- The increasing significance of the Australian Capital Territory (ACT) as a political entity within the federal Parliament, and the questions, to which that development gives rise, as to whether that is appropriate within the framework of our federal constitutional arrangements.
- The conferring of self-government upon the ACT in 1988 - in the face, incidentally, of the clear wishes of its people twice expressed at referendums on the matter - and the questions which the behaviour of its resulting Legislative Assembly is beginning to raise.
- Associated with that self-government issue, but distinguishable from it, there is also the issue of the ACT's finances - most notably, the clear refusal to date of both sides of ACT politics to face up to the need to cut their coat in accordance with the financial cloth available.

Let me now consider (in reverse order) each of those issues in turn.

On the ACT's finances, I shall be brief; that issue is not so much a matter of principle as of (political) practice.

In principle, all parties purport to accept the view that along with self-government goes the need for the ACT administration to pay its own way, subject to the Commonwealth Grants Commission's judgments on the adequacy of the Territory's taxation effort relative to the standard of services it is providing to its citizens (and with the Commonwealth meeting the costs of providing certain services which are singular to the national capital).

In practice, as the "special" Commonwealth payments to the ACT provided for under the "transitional arrangements" have diminished, clear signs have emerged of a complete unwillingness on both sides of ACT politics to face up to the practical financial consequences of that, in principle, purportedly accepted view.

Thus, although the ACT was launched into self-government with relatively little debt (compared with the States and the Northern Territory), there are already signs that borrowings - including, worse still, disguised ones such as the leasing arrangements for the ACTION bus fleet, so reminiscent of the Kirner Government's financial stratagems - are on the rise. In turn, those borrowings stem from an unwillingness to accept that the luxurious standard of services to which ACT residents have become accustomed simply cannot be afforded.

Much more could be said on this topic; but since it is more a symptom of a bigger problem - that of ACT self-government itself - than an issue in its own right, I shall leave it there.

Secondly, then, let us consider that ACT self-government issue.

The *Australian Capital Territory (Self-Government) Act* 1988,¹ most of the provisions of which came into force by proclamation on 11 May, 1989, was the product of a number of developments, of which three are most relevant to my theme tonight:

- The achievement of self-government by the Northern Territory in 1978² had of course given rise to questions whether the same status should be accorded to the ACT, as the other significant Territory of the Commonwealth.
- The luxurious services enjoyed by ACT residents had led many observers to conclude that the only way in which those residents could be made to face up to financial disciplines was to impose self-government upon them and "cut them loose" financially from the Commonwealth's bottomless purse (subject to appropriate transitional arrangements to cushion the shock).
- The population of the ACT, which had long since outstripped that of the Northern Territory, was continuing to rise the faster of the two; at the 1986 Census it was 258,900, compared with only 154,400 for the Northern Territory. This fact alone tended to give rise to the view that, if self-government was appropriate for 154,400 people in the Northern Territory, it must be equally appropriate for 104,000 more than that in the ACT. Although this view ignored the fact that the ACT is not just any "other" Territory, but the Seat of Government for the federation, it nevertheless appealed strongly to the simple-minded.

Self-government has therefore now been operating in the ACT for almost eight years, and the cracks are showing.

In saying that, I am not referring merely to the more bizarre goings-on of the 17 elected "representatives" of the people of the ACT, which from time to time make headlines even in real Australia, or to the shifting coalitions in which they align and realign themselves.

I am rather referring to problems of the kind which, quite coincidentally, were well summed-up only last month by an ACT departmental chief executive in his retirement speech. As reported next day, Mr John Turner told a farewell gathering that "the system of government adopted in the ACT was not working", and that "the Legislative Assembly system was expensive and encouraged aggressive behaviour".

"In retrospect", Mr Turner said, "I believe setting up a State-type political system has not worked". By comparison, "a system like that of Brisbane's City Council would operate more effectively". In particular, "we have not yet convinced many in the ACT community that financial sustainability and planned economic development are essential to maintaining our quality of life ..." ³

I rest (that part of) my case.

I now come to my first issue, namely the growing significance of the ACT as a political entity within the federal Parliament, and whether that is appropriate within the framework of our federal constitutional arrangements - the aspect principally germane to the concerns of this Society.

Just as, in the 1980s, the conferring of self-government upon the ACT owed much to the facts that: (a) the Northern Territory already enjoyed self-government; and (b) the population of the ACT already far outstripped that of the Northern Territory, so we shall face in future arguments along precisely the same lines about Statehood.

Over a decade ago the Legislative Assembly of the Northern Territory began a serious quest for Statehood.⁴

Now it may be said that proposals for Statehood for the Northern Territory partake a little of the same quality as proposals, chiefly from much the same sources, for the Alice Springs to Darwin railway.

Indeed, the two proposals do have this in common: when the day comes when it truly is economically sensible to build a railway from Alice Springs to Darwin, there is a fair chance that the economic and associated population development of the Northern Territory will truly have become such as to warrant a realistic appraisal of the case for Statehood for that Territory.

Note however that, while in my respectful opinion such a development in the near future would be highly premature, I would not seriously question that, at some future time, it will be appropriate for the Northern Territory to become the seventh State of the Commonwealth.

The problem then will be this: if the Northern Territory (which at 30 June last had a population of about 177,700) can become a State, and possibly qualify for even more Senators than the two (too many) it enjoys at present, why should not the ACT (with a population at the same date of about 307,500) do likewise?

Indeed, in an editorial last June, *The Australian* newspaper argued that, despite some problems which it enumerated, "it still seems likely that once the ACT's population exceeds that of Tasmania" (473,400 last June) "pressure for it to become a State will increase".⁵

Now it is one thing for the Northern Territory to aspire to Statehood; it is, I submit, quite a different thing for the ACT to do so. For one thing, unlike the ACT, which partakes of that quality which I understand is described today as "virtual reality", the Northern Territory is, after all, a real place.

More importantly than that from a purely constitutional viewpoint, Statehood for the ACT would mean that the federal Seat of Government, which the drafters of our Constitution clearly saw as merely a piece of federal territory situated geographically within an Original State, would become a State in its own right.

As an aside, I note that some of the problems to which this would give rise can already be seen in microcosm as a result of including the ACT within the Council of Australian Governments (COAG). Whereas that body was constituted by the State Premiers as a forum for discussion of State interests (including for that purpose the largely similar interests of the Northern Territory), the inclusion of the ACT involves the presence of an invariably centralist entity whose interests tend to line up with those of the Commonwealth. This is a point which, I suggest, State Premiers should seriously consider.

That point aside, however, there is also the matter of the effect upon the federal Parliament itself of such a development.

Section 121 of the Constitution states that:

"The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit."

Let us briefly consider then what the extent of that "representation in either House of the Parliament" might be. In doing so, bear in mind that, as a result of a whole sequence of events which I do not have time to go into here tonight, the *Commonwealth Electoral Act* now provides that:

- the ACT and the Northern Territory are to be represented in the House of Representatives "in proportion to their populations, population quotas being determined in the same

manner as for the original States under s.48 of the Act, subject to the proviso that they each have at least one Member".⁶

- Commonwealth Territories are to be represented in the Senate "on the basis of one Senator for every two Members of the House of Representatives to which they are entitled, subject to the proviso that the ACT and the Northern Territory each have at least two Senators".⁷

As noted earlier, on the basis of the Statistician's preliminary estimates of population figures for the States and Territories at 30 June last, the Northern Territory had a population of 177,700 and the ACT a population of 307,500. At the same date the population of Tasmania, which as an Original State of the Commonwealth has today 12 Senators and (by virtue of s.24 of the Constitution) 5 Members of the House of Representatives, was 473,400.⁸

We have already in the 1996 election seen the ACT acquiring a third member of the House of Representatives; and although I understand that the next electoral redistribution will result in it losing that third seat again (to Queensland), experience over the past 40 years or so suggests that, in due course, not only will that third seat be regained, but a fourth, and a fifth, and a sixth will in due time be acquired, as the "great wen" of Canberra continues its bloated expansion. With a sixth House of Representatives member will come a third Senator. By that time (or more likely, in advance of that time, depending upon the progress of the Northern Territory's claim for Statehood) we shall see those demands for full Statehood to which I referred earlier.

Let me therefore be blunt: from a federalist viewpoint, it is simply not acceptable that the ACT should become a State, on all fours either with the Original States of the Federation, or with such a new State (in due course) as the Northern Territory. Such an outcome would be akin to half a dozen federalist larks (say) not merely rearing a centralist cuckoo in some kind of communal COAG nest, but then also devolving full lark status upon the overgrown intruder.

The unacceptability of such an outcome leads in turn to the question, what can be done to prevent it? And *that* is what has led me to my title, *Why Canberra?*

In addressing that question I recall the famous words of John Dunning's motion, passed in the House of Commons in 1780, that "the influence of the Crown" (he was referring to George III) "has increased, is increasing, and ought to be diminished".

In the same way - and for not wholly dissimilar reasons - it could also be said of the population of the ACT that it too "has increased, is increasing" (to the point where it is already beginning to give rise to the question I have referred to), "and ought to be diminished".

Now clearly, we cannot have some sort of St Bartholomew's Eve massacre to "diminish" the ACT population, attractive as that thought might be in some quarters outside Canberra.

No, the solution is not to be found in shrinking the population of the present Australian Capital Territory: it is rather to be found in *shrinking the present Australian Capital Territory*, so that most present ACT residents would simply become, overnight, new residents of New South Wales.

So my question, *Why Canberra?*, really becomes three questions. First, is there any constitutional impediment to "shrinking" the present ACT?

Secondly, does the federal Seat of Government require an area the size of the present ACT to accommodate it?

Thirdly, if, as I hope to show, it does not, can we suggest a sensible "redefinition" of the ACT by diminishing its present boundaries, thereby removing the problem which will otherwise loom for the Federation at some time in the future?

I shall now focus upon those questions. To start at the beginning, s.125 of our Constitution reads, in part, as follows:

"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,"

Given that constitutional requirement, I shall not question the choice of Canberra, *per se*, as the site of the national capital. All of you would be generally familiar with the painstaking investigation which, after the birth of the Federation, was put in hand to choose a site; and while I have many criticisms of Canberra as it has evolved today, they do not extend to the location itself. On the contrary, in a newspaper column some years ago I said of it that it conformed perfectly to the words of Bishop Heber's famous hymn, as a place where "every prospect pleases, and only Man is vile".

I do note, however, that even so early as 1908 the then Commonwealth Government was already displaying in this area those megalomaniacal tendencies which, over the years, have so burgeoned.

Although s.125 envisages that what we now call the Australian Capital Territory "shall contain an area of not less than one hundred square miles", the *Seat of Government Act* 1908 provided in s.4 as follows:

"The territory to be granted to or acquired by the Commonwealth for the Seat of Government shall contain an area not less than nine hundred square miles, and have access to the sea."

In the end, the area of the ACT (including the Jervis Bay area, which provided that "access to the sea") was finally determined at 937 square miles; or, in today's nomenclature, at 2,428 square kilometres: in short, more than nine times the minimum size envisaged by the framers of our Constitution.

So the answer to my first question, then, is this: nothing in the Constitution would prevent us "shrinking" the ACT, so long as the "diminished" Territory still exceeded 100 square miles (almost 259 square kilometres) in area.

Now to my next question, namely: does the Seat of Government require an area the size of the present ACT to accommodate it?

To address that question we might ask ourselves what we would define, in Canberra today, as "essentials" of the Seat of Government? Let me suggest the following list:

- Government House at Yarralumla;
- the Parliament;
- for heritage reasons, presumably also the old (temporary) Parliament;
- the Prime Minister's Lodge (even though, quite rightly, Mr John Howard has ceased to occupy it on a permanent basis);
- the area where at least most (and preferably all) foreign Embassies and High Commissions are located;
- and in truth, if we define "essentials" strictly, not much else.

If now we relax somewhat the strictness of that definition, we might also include some or all of the following:

- the Australian War Memorial (and Anzac Parade leading up to it);

- the American-Australian War Memorial at Russell Hill;
- the Defence complex in the same vicinity;
- the Royal Military College at Duntroon;
- the Australian Defence Force Academy in the same vicinity;
- Lake Burley Griffin and its immediate foreshores;
- possibly, the Canberra Railway Station at Kingston;
- possibly, Canberra Airport;
- possibly, Fairbairn RAAF base in the same vicinity;
- possibly also, because of their association with air traffic control into those latter, the areas of Mount Ainslie, Mount Majura and Russell Hill, whose summits all carry air navigation beacons;
- possibly again, as the other "summit" in the area, Black Mountain, with its major telecommunications tower; and
- arguably, the Australian National University where we are meeting tonight.

If only as a kind of "reality check" - incongruous though that phrase may sound in Canberra - it may be worth comparing the Canberra situation in these regards to that in Washington, DC, where I once worked for four years. (Significantly, my family and I did not live in the District of Columbia, but in the adjoining State of Maryland.)

In Washington, DC the White House, the Capitol Building which houses the Congress, the various foreign Embassies, and a good many of the major federal government offices are located in the District of Columbia - rather like my list of "strictly essentials" enumerated earlier.

As to my further list of "not-so-strictly essentials", Arlington National Cemetery (perhaps the nearest thing the US has to our National War Memorial) is across the Potomac in the State of Virginia, as is the Pentagon. Union Station is in the District. Both National Airport and Dulles International Airport are also across the Potomac, in what would otherwise be Virginia, but both, I understand, are now included in areas specifically ceded to the District of Columbia. By contrast, Andrews Air Force Base, from which the President departs in Air Force One, is in the State of Maryland. West Point Military Academy is some 230 miles away in the State of New York. Moreover, although the Treasury, the State Department, the Supreme Court and the Federal Reserve buildings are all located in the District of Columbia, many other very significant federal government offices are located outside it, including not only the Pentagon but also the Central Intelligence Agency (at Langley, Virginia). The University of Georgetown is in the District, and so is (just) the American University; but the nearest University to Washington of real distinction, Johns Hopkins University, is in Baltimore, Maryland. ⁹

In short, the Washington, DC comparison bears convincing testimony to the view that in by far the greatest federation in the world it has *not* been found necessary to enclose all the activity associated with the Seat of Government within federal territory.

Incidentally, in laying down the appropriate size of the Seat of Government as "not less than one hundred square miles", our constitutional founding fathers (who in so many other respects certainly drew heavily on the U.S. constitutional model) may well have had in mind the fact that, when initially laid out in 1791, the District of Columbia was exactly 10 miles square - that is, 100 square miles.

However, instead of expanding to over nine times the size originally envisaged, the District of Columbia today is actually *smaller* than initially designated - some 69 square miles. ¹⁰

There is, finally, one other aspect of this "reality check" against the District of Columbia. At the 1995 Census, the resident population of the District was some 0.21 per cent of the total U.S.

population at that time. ¹¹ By contrast, the estimated resident population of the ACT at 30 June, 1995 was some 1.68 per cent of the estimated resident population of Australia at that time ¹² - some eight times the comparable District of Columbia proportion.

So the answer to my second question - does the Seat of Government require an area the size of the present ACT to accommodate it? - is clearly and overwhelmingly in the negative.

Moreover, and in general anticipation of detail which I shall come to shortly, it will already be clear that everything which I have listed both as "strictly essential" and as "not-so-strictly essential" could be easily accommodated within an Australian Capital Territory of no more than the 100 square miles (say 260 square kilometres) which the Constitution requires.

So that brings me to my third question: can we suggest a sensible "redefinition" of the ACT, diminishing its present boundaries to something more nearly approaching that 260 square kilometre area, while retaining all those strictly, and not-so-strictly essential elements?

Before stating my detailed proposals, let us briefly explore how, if one were to embark on that process, one would do so.

The relevant section of the Constitution is s.123 (Alteration of Limits of States); clearly, any diminution in the present area of the ACT would involve a small increase in the present area of New South Wales. Section 123 is as follows:

"The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected".

In short, there is clearly no constitutional hindrance to prevent the restoration to New South Wales of most of that territory (including the Jervis Bay area) which it originally agreed to cede to the Commonwealth.

My detailed proposals, then, are roughly indicated on the small map at page xxviii, namely:

- Some 7 suburbs only (Barton, Deakin, Forrest, Griffith, Parkes, Red Hill and Yarralumla) would in fact include everything (except, possibly, one or two of the smaller Embassies) enumerated on my "strictly essential" list.
- Those suburbs, together with 8 others (Acton, Campbell, City, Duntroon, Kingston, Majura, Reid and Russell) would in fact include everything (except Black Mountain) enumerated on both my "strictly essential" and "not-so-strictly essential" lists.
- Including Lake Burley Griffin, they would cover an area of almost 129 square kilometres, of which Majura accounts for over 70 per cent (see Table 1).
- In order to ensure that the "new ACT" was not less than 100 square miles in area, there would be a need to "throw in" another 130 square kilometres to "make weight":
- The inclusion of the Black Mountain Nature Reserve area (including the telecommunications tower) and the adjoining area (north of the Molonglo River) bounded by William Hovell Drive and Coppins Crossing Road would complete my list of "not-so-strictly essentials". To this we might also add the small area to the west of Yarralumla, between the Cotter Road and the Molonglo River, and bounded to the west by Coppins Crossing Road and Uriarra Road.
- Extension of the resulting area east to the ACT/NSW border, and, so to speak, "filling in the gaps", would result in the addition of a further 8 suburbs (Fyshwick, Harman,

Jerrabomberra, Kowen, Narrabundah, Oaks Estate, Pialligo and Symonston) and would raise the total area to above the 260 square kilometres mark (see Tables 1 and 2).

- As at 30 June, 1995 the resident population of this "new ACT" was approximately 31,300, and as at 26 May, 1994 (the date of the last ACT electoral redistribution) there were only 20,330 persons enrolled in the area. ¹³
- The remaining 276,200 people resident in the ACT at 30 June, 1995 would become, overnight, proud new citizens of our self-designated Premier State, New South Wales.
- They would, of course, need to be constituted by that State into appropriate local authority areas, including (as necessary) new ones. I do not explore that point of detail further.
- So far as federal Parliamentary representation is concerned, the status of the "new ACT" would revert to that which obtained when my wife and I first came to Canberra. It would have no Senators, and a single member in the House of Representatives who could vote only on issues directly affecting the Territory. ¹⁴
- As a result of its overnight gain in population, N.S.W. would gain an extra two members in the House of Representatives.

Now that really *is* a worthwhile topic for discussion at the proposed 1997 Constitutional Convention.

Table 1

Statistical Suburb Area Population Current No. of Electors ¹³

Local Name (Sq.Kms) at Enrolled Projected

Area Equivalent 30.6.95 26.5.94 31.3.98

0089 Acton 2.91 1750 363 429

0369 Barton 1.19 645 411 404

0909 Campbell 3.10 3054 2401 2405

1449 City 1.40 365 46 50

1809 Deakin 3.60 2659 1936 1909

2169 Duntroon 2.40 1950 1385 1685

2789 Forrest 1.57 1204 821 799

2979 Fyshwick 9.81 75 37 35

3429 Griffith 2.76 3292 2232 2411

3789 Harman 0.91 232 155 160

4589 Jerrabomberra 17.56 38 20 5

4959 Kingston 1.35 1621 879 1047

5769 Majura 93.11 349 157 162

6219 Narrabundah 4.11 5361 3453 3321

6309 Oaks Estate 0.40 340 210 213

6759 Parkes 1.81 27 4 8

7029 Pialligo 2.32 128 128 97

7119 Red Hill 4.81 3150 2178 2193

7209 Reid 0.96 1663 998 958

7479 Russell 0.54 5 0 0

7929 Symonston 9.81 458 336 401

8919 Yarralumla 7.21 2845 2149 2127

173.64 31,211 20,299 20,819

ACT Totals (a) 304,125 192,096 210,538

Proportions(%) 10.26 10.57 9.89

(a) Excluding Jarvis Bay

Table 2

Locality Area (Sq.Kms) Population at 30.6.95

(1) 22 Suburbs (Table 1) 173.64 31,211

(2) Balance of Weston Creek

Statistical Sub-Division (a) 8.05 36

(3) Black Mountain and

adjoining area to be

designated (b) (c) (d)

(4) Kowen 78.04 47

259.73 (e) 31,294

(a) Statistical Local Area (SLA) 8829. This is the area adjoining Yarralumla and extending west, between the Cotter Road and the Molonglo River, until bounded by Uriarra Road and Coppins Crossing Road.

(b) Part of Statistical Local Area 0549 (Balance of Belconnen Statistical Sub-Division), including Black Mountain Reserve (and the telecommunications tower), and the adjoining area (north of the Molonglo River) which is bounded by William Hovell Drive and Coppins Crossing Road. (To the south, this adjoins SLA 8829 - see (a) above.) The total area of SLA 0549 is 75.34 sq.kms and its total resident population at 30 June, 1995 was 73.

(c) See (b) above.

(d) Negligible.

(e) Plus Black Mountain Nature Reserve and adjoining area - see (b) above.

1 . Act No. 106 of 1988.

2 . By the *Northern Territory (Self-Government) Act 1978*.

3 . *The Canberra Times* , 4 February, 1997.

4 . "On 28 August 1985, the Legislative Assembly of the Northern Territory of Australia established the Select Committee on Constitutional Development The original resolutions were passed in conjunction with proposals then being developed in the Northern Territory for a grant of Statehood to the Territory within the Australian federal system": Introduction to the *Final Draft Constitution for the Northern Territory* : Sessional Committee on Constitutional Development, Legislative Assembly of the Northern Territory, August, 1996.

5 . *The Australian* , 6 June, 1996.

6 . *House of Representatives Practice* , 2nd Edition, 1989, p.169.

7 . *Ibid.*

8 . *Estimated Resident Population by Sex and Age: States and Territories of Australia* ; ABS Catalogue No.3201.0.

9 . I am indebted for many of these facts to the U.S. Information Service Research Centre, Canberra, whose courteous assistance is gratefully acknowledged.

10 . "Initially laid out as a 10 mile square, the District extended across the Potomac, occupying lands ceded in 1791 by Virginia and Maryland. In 1846 the portion given by Virginia Ä

including the city of Alexandria and what is now the urban county of Arlington "was returned to the State, and the District thereafter comprised only the former Maryland territory on the north bank of the river." *Encyclopaedia Americana* , International Edition (1994), pp.192-3.

[1](#) . U.S. Information Service Research Centre.

[1](#)
[2](#) . ABS Catalogue No. 3201.0, *op. cit.*.

[1](#)
[3](#) . Australian Electoral Commission: *Redistribution of the Australian Capital Territory into Electoral Divisions* (1994): AGPS, Canberra, pp. 18-21. According to the projections supplied to the Electoral Commission by the Australian Bureau of Statistics in connection with the 1994 ACT redistribution, the number of electors in the area at 31 March, 1998 would be only 20,860 (see Table 1 of text).

. This was the role performed for many years by the then Member for Canberra, the late Jim Fraser, after whom the current ACT seat of Fraser is named.

[1](#)
[4](#)