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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN CAPITAL TERRITORY (SELF-GOVERNMENT) BILL 1988

SECOND READING SPEECH

By

the Hon Clyde Holding MP

Minister for the Arts and Territories

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I move -

that this Bill be now read a second time.

Madam Speaker, for fifty eight years self-government for the Australian Capital Territory has been an issue which has inspired considerable debate. The Australian Capital Territory (Self-Government) Bill 1988 now before the House will establish the A.C.T. as a body politic, with the legislative and executive powers and responsibilities of the States and the Northern Territory. This Bill represents the most significant transfer of power, on a population basis, since Papua New Guinea became independent. It will allow 270,000 people the same democratic rights and social responsibilities as their fellow Australians.

The A.C.T. and the City of Canberra have well and truly come of age. Canberra is the nation's capital - it is the home of many of the symbols of our nationhood - the National Gallery, the High Court, the National Library and of course this magnificent building - the home of the nation's Parliament. But, and this is often overlooked, it is also home for 270,000 people.

270,000 people live in the Australian Capital Territory. They go about the day-to-day business of their lives, working at their jobs, paying their taxes, making decisions about which school their children will go to, which doctor or hospital will care for them when they are ill - just like every other Australian.

However, unlike every other person in this country - where 'a fair go' is the creed by which we live - they cannot elect a member of their own community to their own government. They have no say in the decisions which affect their everyday lives.

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What an extraordinary admission in a country so committed to democratic ideals, and why? Are these people somehow different from other Australians? Are they second-class citizens in some way? Do they not understand, or have opinions on, the issues that confront them daily? Can they not be trusted with their own destiny? The answer to all these questions is very simple - the only difference between these people and the rest of Australia is that they live in the Australian Capital Territory!

Is it not something of an irony, that because this is the 'National Capital', the symbol of Australian democracy, it has proven too hard for us to grant its citizens that most fundamental of democratic rights - the right to look after their own affairs?

Canberra has long been regarded as a company town, with its economy inextricably tied to the public sector. Times have changed and the Territory has grown. It is now a mature City/State which can no longer look to the Commonwealth alone for the economic security of its citizens.

The development of Canberra as the national capital is now virtually complete. The development of a diversified economy, incorporating a vibrant private sector is this community's right and need.

The basis is there. Canberra already has a burgeoning tourism industry with the potential for bigger and better things. There

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is in place a tertiary education sector ready to make Canberra a centre of intellectual excellence and to support the development of modern, high technology industries. The ideas and the drive for Canberra's future should come from the people of this Territory. They need their own elected government to make the laws, establish the framework and provide the creative spark that will change the focus of Canberra's development to make sure that the future needs of the community are best met.

This Bill is the logical and inevitable political conclusion to the process of economic and administrative evolution which has taken place.

The administration of the Territory has been radically altered since the first serious attempts to achieve self-government a few years ago. There are no longer twelve Commonwealth departments involved in territorial matters. Functions have been consolidated in a single Administration complete with a stand-alone A.C.T. Budget.

These changes were introduced to ensure the smooth and orderly transition to self-government. The management of the Territory has now been arranged into a system that can and should be handed over to local political representatives.

The Territory is unique, virtually all its residents live in the one city - Canberra. It needs a form of government that acknowledges its unique nature and this is what is being proposed - one level of government appropriate to the City/State

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of the A.C.T. It needs a form of government that also recognises its situation as the nation's capital. This proposal has been designed to ensure that the Commonwealth will look after the national aspects and the A.C.T. the territorial and local aspects - in a manner that protects the interests of both.

In establishing an A.C.T. government, the Australian Capital Territory will be a body politic under the Crown. It will consist of a legislative arm and an executive arm to exercise powers as set out in the Bill.

The dual nature of the Territory - home to both its residents and the nation's capital - will be reflected in the financial arrangements put in place by this Bill.

The A.C.T. will have the same legislative and executive powers and responsibilities over finances as the States and the Northern Territory.

The A.C.T. will be treated by the Commonwealth on the same financial basis as the States and the Northern Territory - fairness and equity will be assured. The A.C.T. will be given protections consistent with those given the States and the Northern Territory, whilst the impact of the location of the nation's capital within its boundaries will be recognised.

The Commonwealth Grants Commission Act 1973 will be amended to recognise the A.C.T.'s financial autonomy and national capital aspects, as well as to allow for direct access by the A.C.T. to the Grants Commission, at the A.C.T.'s request.

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Commonwealth funding to the A.C.T. will fully recognise the effects of Canberra's role as the national capital and seat of Commonwealth government on such things as the standards and costs of works and services. This Bill explicitly provides that these special circumstances be taken into account.

The Commonwealth will retain responsibility for financing its functions within the Territory and the Bill provides that the A.C.T. will not be liable for the cost of administering any function retained by the Commonwealth. The Commonwealth will provide additional assistance to the A.C.T. for any further functions transferred from the Commonwealth in future years.

The Government is concerned to see that the transfer of financial power from the Commonwealth to the A.C.T., and the transition to Commonwealth, State and local government financial arrangements, is smooth, non-disruptive and fair. Commonwealth funding to the A.C.T. will be guaranteed in real terms for the first two years of self-government. This guarantee also applied to the 1988-89 A.C.T. Budget to protect the A.C.T. from the funding reductions felt by the States and the Northern Territory and to maintain the base level of funding in the lead up to self-government.

Funding has also been provided in this year's Budget to cover the additional recurrent costs to run the A.C.T. government, as well as the first Assembly election. As was done in the Northern Territory, the Government will also consider a grant to cover necessary establishment costs - such as those needed for a

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parliamentary library, a Treasury computer system and a building to house the Assembly and Executive.

After the guarantee period, funding will be the subject of negotiation with the Executive to smooth the transition to processes consistent with Commonwealth, State and local government financial arrangements.

These arrangements will complete the ongoing process of bringing A.C.T. finances into line with the rest of Australia - a process which began in 1985-86. Throughout, the Government has taken into account the reports of the Commonwealth Grants Commission into A.C.T. finances.

In terms of the financial impact on the Commonwealth, the Bill will not involve additional Commonwealth expenditures other than the one-off establishment assistance. Savings will accrue to the Commonwealth through separation of responsibilities of A.C.T. administration from the Commonwealth system. In the longer term, the arrangements will allow Commonwealth funding to the A.C.T. on a basis more directly comparable to that to the States.

I will now address individual parts of the Bill.

Part I provides for the usual preliminary matters of commencement and interpretation. Jervis Bay Territory is a separate Commonwealth Territory and is not affected by this Bill.

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Part II establishes the Legislative Assembly and covers the range of procedural matters necessary for the conduct of the Assembly's business. The Assembly will consist of 17 members elected at large for a fixed term of four years. The number of members may be varied by regulation at the request of the Assembly.

At its first meeting, the Assembly will elect a Presiding Officer and a Chief Minister. The Chief Minister will appoint three other Ministers and these four people will form the Australian Capital Territory Executive. The function of the Executive will be to govern the Territory with respect to the matters outlined in Schedule 4 of the Bill.

Schedule 4 gives the Executive power over virtually all matters affecting the Territory. The Commonwealth will, until 1 July 1990, retain within the Attorney-General's portfolio the establishment of courts, the provision of police services and the control of legal practitioners, companies and securities. This arrangement will allow the A.C.T. a settling-in period before assuming responsibilities which are currently outside the province of the A.C.T. Administration.

The Government is disposed to have the Executive enter into an agency arrangement with the Australian Federal Police to provide police services to the Territory. The Government will decide by 1 July 1990 whether courts will transfer to the A.C.T. The national function of classifying materials for censorship purposes will be retained by the Commonwealth.

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As I have said before, the Territory is home to the nation's capital - this fact cannot be ignored. The Commonwealth will continue to have the ultimate responsibility for ensuring the Territory's good government. Consequently, this Part includes a provision for the Governor-General to dissolve the Assembly and appoint a Commissioner if the Assembly is incapable of performing its functions, or is conducting its affairs in a grossly improper manner. In this eventuality, a general election must be held within 90 days.

Part III details the powers of the Assembly.

The Assembly will have the power to make laws for the peace, order and good government of the Territory. Most Ordinance law in place in the Territory will become Assembly law on commencing day. The Governor-General will, as occurs in the Northern Territory, have the power to disallow any Assembly law within six months of the law being made. Commonwealth law will prevail over Assembly law.

Protections such as these are essential in the national capital. They are, of course, instruments of last resort and it is the Government's intention to resolve any potential conflict with the A.C.T. by consultation and negotiation.

In addition to the powers and functions I described previously, the Assembly will have the power to entrench the manner and form of making particular laws by submitting an entrenching law to a referendum. Its purpose is to extend to the people of the

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Territory, who are not party to the Australia Act, the general provisions of that Act, which allow the States to entrench laws relating to the constitution, powers and procedures of their Parliaments.

Part IV details the role and functions of the Executive. As I indicated earlier, the Chief Minister will appoint three Ministers. As with the number of members, the number of Ministers may be varied by regulation at the request of the Assembly.

Part IV also provides for a general election if a resolution of no confidence in the Chief Minister is passed and a new Chief Minister is not elected within 30 days.

Part V will permit the A.C.T. to implement its own administration, management and staffing arrangements. The Chief Minister will appoint a Head of Administration who will be the principal advisor to the Executive and generally have prime responsibility, under the Chief Minister, for the administrative functions of the body politic. The Chief Minister may also appoint Associate Heads of Administration as necessary to support the other Ministers in the exercise of their responsibilities.

The Assembly will have the power to enact its own staffing laws and the Head of Administration may employ staff in accordance with such legislation.

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Financial provisions are covered in Part VI. The A.C.T. will have an autonomous Treasury. As I explained earlier, the A.C.T. will be treated on the same basis as the States and the Northern Territory in terms of its financial relationship with the Commonwealth. However, the special circumstances arising from the existence within the Territory of the national capital and the seat of government of the Commonwealth will be taken into account.

The Commonwealth may lend money to the A.C.T. or to a Territory authority. The A.C.T. may, with the approval of the Commonwealth Treasurer, borrow money from agencies other than the Commonwealth. Any such borrowings may be guaranteed by the Commonwealth and the A.C.T. may use its assets as security.

Part VII allows for members of the Assembly to be elected under the provisions of the Australian Capital Territory (Electoral) Bill 1988. Part VII also sets out the necessary qualifications of candidates and the processes for filling casual vacancies.

Part VIII attends to miscellaneous provisions and constitutional guarantees. The A.C.T. will be brought into line with the States and the Northern Territory by applying provisions similar to section 92 of the Constitution, guaranteeing free trade. This will not bind the Commonwealth.

Transitional provisions will be included in consequential legislation to ensure the smooth transfer of powers and functions to the incoming government. Until the A.C.T. enacts its own

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staffing law, the consequential legislation will provide for staff of the A.C.T. Administration to be employed under the Public Service Act 1922 and other relevant Commonwealth legislation and awards. It will also provide for consultation to take place between the Executive, the Commonwealth and Peak Union Councils before the terms and conditions of employment of staff who are to be employed under the A.C.T.'s own staffing law are determined.

In addition to the consultative processes to be provided for in the consequential legislation, Part VIII of this, the Self-Government Bill, provides for consultations to occur on an ongoing basis between the Commonwealth and the A.C.T. on public sector industrial and staffing matters. These provisions are designed to protect the rights and entitlements of Administration staff and also to ensure that the A.C.T. will take account of the effect of its decisions on the Commonwealth's interests as the major employer in the Territory.

Part VIII also allows for the Remuneration Tribunal to determine the salaries and allowances of Assembly members, Ministers, the Presiding Officer, the Head of Administration and any Associate Heads of Administration.

The consequential legislation which will address the technical aspects necessary to give effect to A.C.T. self-government, is not yet ready for introduction to the House. It will therefore be introduced to the Senate co-incidentally with the transmission of these three Bills to the Senate.

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It will be clear that this legislation is both comprehensive and well-conceived. It provides for fully responsible government for the people of the Territory, in its most democratic, practical and economic form.

It safeguards the Commonwealth's interests in the national capital.

It provides for an efficient and effective administration.

It puts the A.C.T. on a proper financial basis.

It ensures that the residents of the Territory will be properly and effectively represented in the management of their affairs. It is a milestone in the democratic processes of this country.

I present the explanatory memorandum to this Bill and commend the Bill to the House.