



# Gary Punch

Minister for the Arts and Territories

## ACT SELF GOVERNMENT

Gary Punch, the Minister for the Arts and Territories announced today that he had prepared a draft proposal for ACT self government which he hoped would prove acceptable to the Opposition and Democrats. It is the most significant transfer of power on a population basis by the Federal Government since independence was granted to Papua New Guinea by the Whitlam Government in 1972.

"The ACT is well and truly ready for self government. In organisational terms we have an ACT Administration with its own budget and fiscus that is ready to hand over to the elected representatives of the people of Canberra.

"The electoral system I am proposing will ensure majority government and at the same time emphasis stability. It is based on the European d'hondt system which is used widely throughout Western Europe," Mr Punch said.

The electoral system suggested provides for 17 members to be elected by proportional representation from a single electorate. Four of these members will be full-time Ministers.

"There is no reason why self government should cost ACT citizens more than the current system. I am confident that the Commonwealth will meet establishment costs as it did for the people of the Northern Territory and Norfolk Island. The recurrent cost of running the new ACT Assembly will be of the order of 0.077% of the total of ACT budget.

"In terms of giving the people of Canberra a proper say in controlling their own affairs, this is a bargain," Mr Punch added.

Transitional financial arrangements that will apply over a number of years will be introduced to ensure an orderly and smooth transition of power.

The Commonwealth Grants Commission will decide the Commonwealth's grant to the ACT after that in the same way as it does for the States and the Northern Territory, taking into account the additional costs that arise from Canberra being the national's capital.

"My current proposal provides for a more comprehensive system of Government than the one contained in the Bill introduced by my predecessor in March 1986 and I believe it will attract a high level of support from the people of Canberra," Mr Punch said.

ArchivesACT

.../2



-2-°

A discussion paper which compares the 1986 proposal with the current proposal is attached.

In the development of this proposal I have been advised by my colleagues Mrs Kelly, Mr Langmore and Senator McMullan. I have had most productive talks with Senators Vanstone, Reid and Jenkins and I am hopeful that a tripartite approach will eventuate and give the people of Canberra the opportunity to achieve self government.

Media contact: Gary Whitley 062 - 672223  
Paul Whalan 062 - 726151

13 April 1988

## A POSSIBLE MODEL FOR ACT SELF GOVERNMENT

### A DISCUSSION PAPER

#### A. POWERS OF THE ACT LEGISLATIVE ASSEMBLY

##### (a) Power of Assembly to Make Laws

###### 1986 Proposal

Assembly power to make laws for the peace, order and good government of the Territory with respect to a limited range of prescribed matters, comprising a list of functions and ordinances.

###### 1988 Proposal

An ACT Legislative Assembly (the Assembly) shall be established. It shall have a general power to make laws for the peace, order and good government of the Territory.

The following matters are to be excluded from the Assembly's power:

- . courts;
- . Australian Federal Police matters;
- . legal profession;
- . customs and excise;
- . companies; and
- . the subject matter of ACT criminal law legislation administered by the Attorney-General's Department (eg crimes against the person).

These matters may be subsequently transferred to the Assembly by regulation.

##### (b) Powers, Privileges and Immunities of Legislative Assembly

###### 1986 Proposal

Detailed reference in the Bill to the Assembly's limited privileges and immunities.

###### 1988 Proposal

The Assembly shall make laws with respect to its powers, privileges and immunities that do not exceed the powers, privileges and immunities for the time being of the House of Representatives.

The ACT courts shall decide the application of Assembly law to a person for an offence against the Assembly.

(c) Disallowance of Assembly Laws and By-Laws

**1986 and 1988 Proposals**

The Governor-General may disallow an Assembly law within 6 months of the law being made (ie The Northern Territory provision).

**B. CONSTITUTION AND MEMBERSHIP OF LEGISLATIVE ASSEMBLY**

(a) Legislative Assembly

**1986 Proposal**

The Assembly was to consist of 10 District members (single districts) and 9 non-District members (whole ACT), with provision for the number of members to be varied by regulation.

**1988 Proposal**

The Assembly shall consist of 17 members, with provision for the number of members to be varied by regulation.

The Commonwealth may only regulate to vary the number of members following the passage by the Assembly of a resolution seeking such variation.

(b) Oath or Affirmation

**1986 Proposal**

No oath or affirmation.

**1988 Proposal**

All members of the Assembly will make and subscribe an oath or affirmation of allegiance before a judge of the ACT Supreme Court.

(c) Election of Members

**1986 Proposal**

(i) Electoral arrangements consistent with Commonwealth Electoral Act 1918.

(ii) Members elected for a four year fixed term at an ordinary election.

(iii) Optional preferential voting for the 10 District members and preferential proportional representational voting for the 9 non-District members.

**1988 Proposal**

(i) Electoral arrangements shall be introduced, consistent with the Commonwealth Electoral Act 1918 (ie, in matters such as rolls, qualifications of electors,



qualifications of candidates, voting principles, election funding, electoral distribution processes etc).

(ii) Members of the Assembly will be elected for a four year fixed term at an ordinary election.

(iii) The Territory shall consist of one single electorate.

(iv) Voting arrangements shall be as follows:

- . the names of candidates will appear on the ballot paper in the order in which Parties wish them to be elected;
- . a person shall not vote more than once at an election; and
- . an elector shall express a preference for one Party or one independent candidate only.

(v) The procedures for the counting of votes shall be as follows:

- . the total number of votes received by each Party/independent candidate is divided by one and therefore successively by increment of one until all seats are filled;
- . seats are allocated sequentially according to the highest quotient of votes determined by the formula above;
- . parties are allocated seats in the order in which they appeared on the ballot paper; and
- . no grouping of parties will be allowed for the purpose of the allocation of seats. However, coalition of Parties will be allowed after seats have been allocated.

(d) Disqualification of Members

1986 and 1988 Proposals

A Member is disqualified if the Member:

- . is no longer qualified to be a candidate;
- . is absent from 4 consecutive meetings without permission;
- . accepts payment for a service rendered in the Assembly;
- . becomes a staff member or statutory office holder of Assembly.

**C. PROCEDURE OF LEGISLATIVE ASSEMBLY****(a) Meetings of Legislative Assembly****1986 Proposal**

No reference to meeting of the Assembly.

**1988 Proposal**

The Assembly shall meet at least once every 2 months. The Commonwealth Minister shall convene the first meeting of the Assembly after the first general election of the Assembly within 30 days of the declaration of the poll of the general election.

The first meeting after subsequent general elections shall be convened within 7 days of the declaration of the poll.

**(b) President of Legislative Assembly****1986 Proposal**

No reference to election of President.

**1988 Proposal**

The Assembly shall elect a President to preside over the business of the Assembly.

The President is not eligible for election by the Assembly to the office of Chief Minister and should not be able to be appointed by the Chief Minister as Minister.

**(c) Procedure at Meetings****1986 and 1988 Proposals**

There shall be a quorum of 9 members and matters shall be decided by a majority vote with the Presiding member having a deliberative vote (in 1986 - quorum of 10 members).

**(d) Minutes of Meetings****1986 and 1988 Proposals**

The Assembly shall keep minutes of its meetings and publish them.

**(e) Standing Rules and Orders****1986 Proposal**

Limited powers to make standing rules and orders.

**1988 Proposal**

The Assembly shall make its own standing rules and orders for the conduct of its meetings.



## D. DISSOLUTION OF THE ASSEMBLY

### 1986 and 1988 Proposals

#### (a) Resolution of Lack of Confidence

The Assembly may pass a motion of no confidence in the Chief Minister and appoint a new Chief Minister. The Commonwealth Minister can call for a special election if a new Chief Minister is not elected within 30 days. Such elections do not affect the timing of the next ordinary election.

#### (b) Dismissal of Assembly by Governor-General

The Governor-General may dismiss the Assembly if it is:

- . incapable of effectively performing its function; or
- . conducting its affairs in a grossly improper manner.

The Governor-General may appoint a Commissioner who will exercise executive power in accordance with Assembly law, until a new Assembly is in place.

The Governor-General shall order a special election for a new Assembly. Such elections do not affect the timing of the next ordinary election unless held within 6 months before an ordinary election is due, when the next Assembly will serve the remainder of the term of the old Assembly together with the following four year term.

## E. LAWS OF THE LEGISLATIVE ASSEMBLY

### 1986 and 1988 Proposals

The Assembly shall have a general power to make laws for the peace, order and good government of the Territory, except over excluded matters - in 1986, only over prescribed matters. Its laws shall be called 'Laws of the Australian Capital Territory Legislative Assembly'. All relevant existing law will continue in force as Assembly law.

Assembly law takes effect upon notification or as provided in the law.

#### (a) Notification of Assembly Law

Notification of Assembly Law and By-Laws shall be in the ACT Government Gazette (in 1986 - in the Commonwealth Gazette).

#### (b) Penalties

Assembly law may prescribe penalties.

(c) Crown may be Bound

Assembly law does not bind the Crown in right of the Commonwealth - except as provided by regulations.

(d) Inconsistency with other Laws

Assembly law is subordinate to Commonwealth law.

(e) Powers of Governor-General to make Ordinances

The Governor-General continues to have the power to make laws in respect of matters for which the Assembly has legislative power.

F. THE ACT EXECUTIVE

(a) The Executive Power

**1986 Proposal**

No separate legal Executive entity. One chairperson and Deputy chairperson elected by the Assembly, who were subject to the direction of the Assembly. No oath or affirmation

**1988 Proposal**

The ACT Executive is to be charged with responsibility for the government of the Territory in respect of those matters specified in a Schedule to the ACT Self Government Act (the same approach as Northern Territory legislation).

(b) The ACT Executive

A legal entity known as the 'Australian Capital Territory Executive' (the Executive) will have perpetual succession and a common seal and be capable of:

- . acquiring, holding and disposing of real and personal property;
- . suing and being sued in its own name; and
- . entering into contracts.

The Executive is to be constituted by the Chief Minister and the other ministers who will make and subscribe an oath or affirmation of allegiance before a Judge of the ACT Supreme Court.

(c) Appointment of Chief Minister

The Chief Minister for the ACT is to be appointed by the Assembly.

(d) Appointment of Deputy Chief Minister

The Chief Minister shall appoint a Minister to be Deputy Chief Minister to exercise the powers, functions, duties and



responsibilities of the Chief Minister when the Chief Minister is absent from duty or from Australia.

(e) Appointment of Ministers

There shall be 3 Ministers (other than the Chief Minister) who are to be appointed by the Chief Minister from members of the Assembly.

The Commonwealth may vary by regulation the number of Ministers following the passage by the Assembly of a resolution seeking such variation.

The Ministers may be dismissed from office by the Chief Minister.

G. ADMINISTRATION AND STAFF

1986 and 1988 Proposal

(a) Head of Administration

The Head of Administration shall be appointed by the Chief Minister (in 1986 - appointed by the Assembly).

(b) Functions of Head of Administration

The Head of Administration should, under the Chief Minister, be responsible to:

- . provide all administrative support and staffing to the Executive and Assembly;
- . implement the policies and decisions of the Executive; and
- . perform functions as required by Assembly Law.

(c) Tenure of Head of Administration

The Head of Administration shall be appointed for up to 5 years, on such terms and conditions as are determined by the Chief Minister in accordance with Assembly Law (in 1986 - up to 7 years).

(d) Delegation of Powers

The Head of Administration should be able, in accordance with Assembly Law, to delegate any of his functions under the Act.

(e) Staff

The Head of Administration may employ persons, on behalf of the Executive, in accordance with Assembly law for the purpose of assisting the Head of Administration to carry out his responsibilities.

**H FINANCE****1986 and 1988 Proposals**

(a) The Assembly and the Executive shall exercise the same general legislative and executive control over ACT municipal and territorial monies as do State governments and the Northern Territory.

- (i) The Minister for Finance may lend money to the Assembly.
- (ii) The Assembly can borrow money from other sources with the Treasurer's approval and the Treasurer's guarantee.
- (iii) The Assembly can guarantee borrowings by other organisations with the Treasurer's approval.
- (iv) The Commonwealth Auditor-General shall be the Assembly's Auditor-General.

**1988 Proposal (no 1986 Proposal)**

(b) The principle shall be enshrined within the legislation that the ACT shall be treated in terms of Commonwealth/State financial relations as an equal partner with the States and the Northern Territory with respect to Territorial and municipal functions transferred to the Assembly.

**1988 Proposal (no 1986 Proposal)**

(c) The Commonwealth Grants Commission Act 1973, will be amended to guarantee access by the ACT Assembly to the Commission at the Assembly's request. Also to ensure that the terms of reference provided to the Commonwealth Grants Commission by the Commonwealth in relation to ACT matters shall be:

- (i) consistent with those for State inquiries; and
- (ii) require account to be made of those matters which are peculiar to the ACT because of its position as National Capital.

**1988 Proposal (no 1986 Proposal)**

(d) Any municipal/territorial functions retained by the Commonwealth will be fully funded by the Commonwealth. The Commonwealth would increase its general revenue assistance to the ACT Budget by the nett cost of these functions if they are subsequently transferred to the Assembly.

**1988 Proposal (no 1986 Proposal)**

(e) The additional recurrent costs of maintaining the ACT Assembly, the Executive and associated staff will be included in Commonwealth assistance to the ACT Budget.



## 1986 AND 1988 PROPOSAL

(f) The Commonwealth will provide special 5 year financial arrangements to smooth the transition to Commonwealth/State/municipal financial arrangements.

NOTE: Items (d) to (f) to be included in the second reading speech.

## I PLANNING AND DEVELOPMENT

To be decided in the light of the Block Report.

## J MISCELLANEOUS

## 1986 and 1988 PROPOSALS

(a) Trade and Commerce to be free.

(b) Remuneration and allowances to be determined by Remuneration Tribunal for members, ministers, Head of Administration and statutory office holders.

(c) Assembly and Commonwealth to consult, as agreed, on public sector industrial relations matters.

(d) There shall be interim staffing arrangements to allow Commonwealth public servants to service the assembly until its own staffing laws are in place.

(e) The Commonwealth and Assembly will consult the relevant peak unions regarding the initial terms and conditions for staff to be consolidated in Assembly law.

(f) The power to make laws for the acquisition of property are to be on just terms.