

THE YEARS OF DELAY

The Territory for the Seat of Government which was vested in the Commonwealth as from 1 January, 1911 consisted of an area of 576,000 acres¹, approximately 250,350 acres being Crown lands which were, in accordance with Section 125 of the Constitution Act, granted to the Commonwealth without any payment. The Commonwealth therefore commenced its jurisdiction in the territory as the absolute owner of over 44 per cent of the land. The rest of the territory was made up of freehold estates or one or other of the varied assortment of tenures which originated with the Crown Lands legislation of nineteenth century New South Wales. The most frequent of these tenures in the territory was undoubtedly the Conditional Purchase, a form of instalment purchase from the Crown for which a fee simple title issues after all conditions, including payment of purchase money, have been fulfilled. The rights which had accrued and would accrue to these Purchasers were acknowledged in the legislation relating to the acceptance and administration of the territory. Section 7 of the Seat of Government Acceptance Act 1909 provides:

7. All estates and interests in any land in the Territory which are held by any person from the State immediately before the proclaimed day shall, subject to any law of the Commonwealth, continue to be held from the Commonwealth on the same terms and conditions as they were held from the State.

Section 9 of the Seat of Government (Administration) Act 1910 provides:

9. No Crown lands in the territory shall be sold or disposed of for any estate of freehold, except in pursuance of some contract entered into before the commencement of this Act.

The proclamation vesting the territory in the Commonwealth as from 1 January, 1911 has perhaps more legal than historical significance. The fact is that Commonwealth officers had actually been working in the area some months earlier. From January to June, 1910 all officers engaged within the territory lived and worked in calico tents. Office accommodation in the shape of a malthoid and wooden building was then provided, it being necessary as shelter in which work on the contour maps could proceed. But it was not until January, 1912 that the first house was available and Quarters for the officers were not completed until later in that year. These Quarters, which were by the 1920's known as the Bachelor Quarters, later became known as Acton Guest House and later still they became the temporary location of John XXIII University College.

The Seat of Government Acceptance Act 1909 provided that all laws in force in the territory immediately before the proclaimed day would, so far as applicable, continue in force until other provision was made and the Seat of Government (Administration) Act 1910 laid down the method of law making in the territory. Section 12 provided:

12(1) Until the Parliament makes other provision for the Government of the Territory, the Governor-General may make Ordinances having the force of law in the Territory . . .

The administration of these Ordinances and of Regulations made thereunder and of the two Acts last mentioned and the Seat of Government Act 1908 was the responsibility of the Minister of State for Home Affairs. Other Ministers were later to become responsible for the operation of certain Ordinances but in the beginning the Minister for Home Affairs was the sole authority. In 1916 the Ministry's title was changed to Home and Territories and the Department of Works and Railways was created to assume responsibility for all matters connected with construction. This joint administration continued until the end of 1924.

The actual management of the Territory was the responsibility of Colonel David Miller as Secretary, Home Affairs Department until August, 1912 when the Minister appointed him Administrator of the Territory.²

The Government's intention before the territory was vested in the Commonwealth was that the capital city should certainly be constructed and probably designed by the officers of the Home Affairs Department. In April, 1911 however the Government, on Secretary Miller's recommendation invited competitive designs for laying out the city. One Hundred and thirty seven designs were received and the first prize of £1750 was awarded to Walter Burley Griffin of Chicago, U.S.A. King O'Malley, Minister for Home Affairs, appointed a Board of officers to investigate and report as to the suitability of the designs for adoption for the purpose of the lay-out of the City. This Board, which became known as the Departmental Board, consisted of:

Colonel David Miller, Secretary, Department of Home Affairs,
Colonel Perty T. Owen, Director-General of Works,
Charles Robert Scrivener, Director of Commonwealth Lands and Survey,
Geo. J. Oakeshott, Works Director, New South Wales,
J. S. Murdoch, Architect, Department of Home Affairs and
Thomas Hill, Works Director, Victoria.

The Board reported on 25 November, 1912 that it was unable to recommend the adoption of any of the designs submitted and advised that a plan prepared by the Board itself should be approved. The Minister *reluctantly* accepted this advice, mostly it seems because of the Board's reports on the *great and prohibitive* cost of carrying Griffin's design into effect. The Board's plan was said to be one concocted on *the combination salad principle*³ containing a bit of attraction for everyone, even including those who begrudged

Canberra an existence. The plan differed radically from Griffin's particularly in respect of residential areas, the ornamental lake and the position of the Central Railway Station. The plan was published and Griffin wrote from Chicago to the Minister suggesting that he should visit Australia to be *on the ground in consultation with your Board about the revised plan*⁴.

The Board Chairman, Colonel Miller, advised O'Malley strongly against any such consultation. *The responsible officers of the Department are seized of all the facts: ... they are thoroughly competent to carry out the scheme ... it would be most unwise to interfere with them.*⁵ The Government accepted the advice.⁶

It is interesting to speculate that if the Labor Government had been returned at the elections held on 31 May, 1913 Canberra would have been erected or developed in accordance with the plan prepared by the Departmental Board and Walter Burley Griffin's association with the construction of the capital city would not have even commenced. But this belongs to the limitless world of what might have been but wasn't. The Labor Party lost the elections by a narrow margin and the Fusion Party under the leadership of Joseph Cook took office. The Fusion Party was so called because it was a fusion of Freetraders and Protectionists. The unexpected growth and electoral success of the Labor Party made this union of opposites inevitable. By 1913 the title *Liberal Party* was coming into use to describe the Fusion but as the party underwent numerous changes of name it will be safer to refer to it as the non-Labor Party and to its members, in the absence of any special circumstances, as non-Labor members.

The Cook Government was sworn in on 24 June, 1913. The Prime Minister was also Minister for Home Affairs but the Assistant Minister, William H. Kelly handled the federal territory.

Meanwhile the Board's plan for the lay-out of the capital city was being greeted with derision. In London, Patrick Abercrombie, a leading English Town Planner, said of it: *The new plan is evidently the product of a Department whose personnel is utterly untrained in the elements of architectural composition, whose mind is a turmoil of confusion ... Indeed, the whole lay-out is entirely outside the pale of serious criticism ... (and) reminds us of a third-rate Luna Park.*⁷

From Sydney the plan was denounced as *the work of an amateur who had yet to learn the elementary principles of laying out a town.*⁸

Engineers and architects around Australia began to petition for a Royal Commission to examine the Board's plan, but Kelly, who maintained that such an event would give objectors to the federal capital an excellent opportunity to delay the progress of work at Canberra, advised Prime Minister Cook in a minute dated 10 July, 1913 against the granting of the petition.⁹ Kelly expressed his *high admiration* for the officers who had been dealing with Canberra but he insisted that as *the new science of town planning* was not

their speciality it was essential that the services of Griffin, a specialist in the field, should be obtained.¹⁰

The Departmental Board's objections to the Government decision to invite Griffin to Australia were over-ruled and Board members were informed by Kelly that he expected absolute loyalty in carrying out the decision. But the expectations were never realised. Loyalty was not forthcoming and Kelly disbanded the Board on 18 October, 1913 and appointed Walter Burley Griffin as Director of Federal Capital Design for a three year term on an annual salary of £1050. The Assistant Minister's enthusiasm about the appointment was evident when he informed the House that: . . . *since we have seen Mr. Griffin we have realised that in him we have an authority in town planning such as we certainly have never seen before in Australia.*¹¹ This Ministerial faith in Griffin was naturally not shared by the Departmental officers who had rejected his plan and objected to his appointment. It is possible that all may have gone well for Griffin and his plan had Kelly remained at Home Affairs. But this is only possible. There is plenty of evidence that Griffin was being ignored and frustrated even in Kelly's time as Assistant Minister. Griffin found that P. T. Owen, as Director-General of Works, considered construction work going on at the Federal Capital was none of Griffin's business. In addition, Owen informed Griffin and the Minister that Griffin's city plan violated essential principles. The Cook Government considered the appointment of a Commission as a way of overcoming the difficulties which had arisen and in March, 1914 Kelly asked Administrator Miller to submit proposals. Miller suggested that Canberra and the Federal Territory generally be financed wholly by revenue from its land, the Government to pay rent at the same rates as would be charged to individuals. Thus the Government would no longer need to face charges of extravagance in voting public funds for Canberra. Miller also recommended establishment of a Commission possessing almost absolute powers, with himself as Chief Commissioner, Owen and T. Hill, Victoria's Director of Works, as fellow-Commissioners, and Griffin merely as consultant.¹² The Government had not finally decided what to do when it faced the electors. The result of the election held on 5 September, 1914 was that the Cook Government was defeated and Andrew Fisher formed his third Labor Government. William Oliver Archibald (S.A.) became Minister for Home Affairs. Archibald, who regarded Griffin's appointment as a grave mistake and referred to him as *the yankee bounder* declared himself to be *suspicious of Jack of all trades who took up time with grand theorising, moonshine and dreaming.*¹³

The continuing trouble at Canberra between Burley Griffin and the Departmental officers caused the appointment of a Royal Commission in 1915. The Commission examined a battlefield strewn with wounded pride, pettiness, convenient lapses of memory, Ministerial prejudice, false reports and charges. The Commission found that Griffin's powers were usurped by certain officers, that necessary information and assistance were withheld from

him, that his office was ignored, that his rights and duties under his contract were denied, that false charges of default were made against him, that the Minister and members of the former Board endeavoured to set aside his design and that in the Department there was a combination (including the Minister) hostile to Griffin and to his design for the capital city. The Commission concluded that the Minister should have either cancelled Griffin's contract or allowed him to carry it out.¹⁴

Andrew Fisher resigned as Prime Minister on 27 October, 1915 and a new Labor Ministry under the leadership of W. M. Hughes was sworn in. O'Malley was back at Home Affairs and he immediately reinstated Griffin in a position of authority. Departmental officers were instructed to obtain Griffin's advice before initiating any operation or matters in connection with the proposed federal city and to be readily responsive to instructions issued by Griffin. Thus for the next four years Griffin was in control of construction but in those years he was allowed only £8,744 for permanent work.

King O'Malley, one of the more colourful of the early federal politicians, often maintained that it was only the fact of his birth 40 yards inside the Canadian border which prevented him from being President of the United States of America. O'Malley however made the original mistake of referring the designs to laymen for examination. He lost and never regained his earlier popularity with Departmental officers when he sided with Griffin in the dispute which followed. Often referred to as *the Yankee*, O'Malley excused his creation of and deference to the Departmental Board with a claim that any invitation by him to Griffin, *another Yankee*, to come to Australia to lay-out the Federal Capital City would have been further fuel for the anti-Canberra brigade and likely to be the cause of a public outcry. But Sydney born W. H. Kelly's invitation to and contract with Griffin settled the matter and O'Malley began to express his *real feelings*. He considered town planning a *comparatively recent innovation* which architects were inclined to confuse with planning construction. He criticised Archibald for having sought the advice of a railway engineer on Griffin's proposal to construct a railway line to near the centre of the city site,

*... a very able engineer, whom I appointed, but he knows as much about town planning as a bandicoot knows about the crucifixion.*¹⁵

The proposed railway station in or near the vicinity of the present Lonsdale Street was one of the many points of dispute. The Departmental officers considered it unnecessary, the railway engineer advised against it but Griffin, in one of his brief hours of authority, purchased the materials for its construction. He was still being criticised years later for having done so.¹⁶ A permanent railway line was never built but for some years a narrow gauge service line was in existence and use.

The members of the Departmental Board had believed, and not without sound reasons, that they and they alone would design the capital city. The

appointment of an outsider to perform the immense task and thus obtain the prestige and enduring fame which it would bring shattered their hopes.¹⁷ The usual charges were made against Griffin — he had a chip on the shoulder, he was impractical, disloyal etc. The simple fact is that Griffin's personality or whether or not he had more saintly or endearing qualities than were recognised by his accusers is very largely immaterial. Walter Burley Griffin was an outsider and the reaction was inevitable.¹⁸ Assistant Minister Kelly was well aware of the emotions aroused —

*I do not know of anything that has happened in any Department that has given rise to more friction or personal feeling than the rejection of the plan of the Departmental Board.*¹⁹

The Department's Chief Architect J. S. Murdoch's evidence before the Royal Commission is an indication of the intensity of the feeling against Burley Griffin and his plan. Murdoch said in evidence that he never had any desire to assist in building Canberra and would *like to see the Federal Capital strangled for a hundred years.*

The building of a city in virgin country necessitates the completion of initial works such as the supply of water and sewerage before the erection of permanent buildings could begin. An area of about 12 square miles was set apart for the purpose of the City site. Henceforth the term *the City Area* comes into use. A few years later the term obtains a legal meaning and the area is clearly defined. But in the early years it was a reference to the undefined area of land whereon the federal capital city was to be erected. Plans were made to acquire all the privately owned land within a radius of 7 miles from the centre. In addition, other properties upon which constructional works such as bridges, reservoirs, weirs, pipe lines and a temporary railway from Queanbeyan were to be erected were also listed for acquisition.

The expenditure of £350,000 to effect the above works programme was grudgingly approved by Parliament. The expenditure was denounced as being *almost sinful*, a thing to be resisted by all with the true interests of Australia of heart.²⁰ The bitter feelings stirred by the abandonment of Dalgety and by the methods used to select Canberra had not abated by 1911. They were always evident, one member declaring Canberra to be *this miserable Capital site, which was never wanted and never will be.*²¹

William Lyne (Non-Lab. N.S.W.) described Canberra as *an absolute abortion . . . on a muddy stream . . . selected only because of pressure by a Sydney clique.*²² (The Canberra suburb of Lyneham derives its name from William Lyne, opponent of Federation and one time Premier of New South Wales). Years later the story was told of how the two Houses of the Federal Parliament were eventually brought to agree on the site (then known as the Yass-Canberra district) for the capital city.²³ The change in the Senate was said to have been brought about by a Senator who had been a wheat farmer. He changed his vote from Dalgety because he thought wheat would grow better at Canberra!

The attempts to picture Canberra as a second Washington having no resources, yielding no revenue and certain to be a constant financial drain on the States were rebutted by a reminder that the real trouble in Washington was that *they never owned the land, we shall.*²⁴ There was however in addition to the *do nothing* or *abandon Canberra* groups yet another group — the men of caution. They warned the Government to hasten slowly and not make Canberra a great burden on the taxpayers by acquiring land which was not immediately required.²⁵

The Loan Act 1911 authorised the Commonwealth Treasurer to borrow up to £600,000 to pay for land in the federal territory. Prime Minister Fisher informed Parliament that £600,000 would pay for *nearly all* the privately owned land *it being the policy of the Government to acquire all such lands.*²⁶

The Fisher Government was a Labor Government but on the question of the Commonwealth ownership of land in the federal territory that has not the slightest significance. Certainly some Labor members were more optimistic than some non-Labor members about the benefits to be obtained from the experiment in land nationalisation.²⁷ And certainly there were some non-Labor members who deplored what seemed to them to be a *rapid advance towards socialism.*²⁸ But the general policy that the Commonwealth should own every square inch of land in the federal territory was not in dispute. It was universally accepted as necessary and desirable and almost as universally demanded as the only satisfactory policy.²⁹ In the words of one non-Labor member *there were not two opinions on the question.*³⁰

But unfortunately for Canberra there were many opinions as to whether a capital city was really necessary. Canberra had few friends in either party. Labor members were often in a quandary. Speaking on the Loan Bill of 1911 one such member congratulated the Government for its declared policy of acquiring all privately owned land in the territory and then announced his intention of voting against the Bill because of his opposition to spending public money on any federal capital, particularly Canberra.³¹ A few short years later the member, F. W. Bamford, was Minister for Home and Territories in the Hughes non-Labor Government.

The reception given the Loan Bill in the Senate was more favourable. The emphasis was on the revenue to be obtained. Opposition Leader Millen had urged the Government to adopt *a bold policy* of land acquisition and avail itself of the revenue which would assist in the cost of building the Capital City.³² Government leader McGregor commended the expenditure of £600,000 as a *reproductive investment* in the interests of the people, the Commonwealth receiving in return the benefits from the continually increasing land values within its territory.³³

The Governor-General, Lord Denman, in his address at the commencement ceremony held at Canberra on 12 March, 1913 apparently considered that he should not ignore the fact that the building of a Capital City was, and

had been for years, a subject of bitter controversy. Once again Commonwealth ownership of the land within the territory was advanced as an answer to the critics. Lord Denman said:

*... people say that this federal capital is too costly an undertaking. It is certainly not nearly so costly as it would have been to excise even a few acres for federal territory out of one of the great cities of Australia. And I believe that the Ministers contend not without some force, that owing to the improvement of land values in the federal territory this is not likely to prove such a costly undertaking.*³⁴

The first Commonwealth acquisition of land in the territory was effected on 25 February, 1911 when the 2018 acres known as the Acton Estate was taken over for *administrative purposes*. The area acquired in each year to 1920 was:

<i>Year</i>	<i>Area Acquired (in acres)</i>
1911	2,018
1912	86,625
1913	11,227
1914	12,514
1915	67,994
1916	24,414
1917	6,595
1918	Nil
1919	Nil
1920	1,040

The basic land problem facing the Government in the earliest years of Commonwealth jurisdiction in the territory was one of valuation and compensation.³⁵ What amount should be paid by way of compensation to each dispossessed land owner? The provision in the Seat of Government Act that the amount of compensation to be paid was not to exceed the value of the land on 8 October, 1908 could not resolve disputes. But it could and did create disputes as to what was the value of the land in 1908.

By 1912 the land owners in the Territory had set up a Vigilance Committee to negotiate with the Government on compensation. O'Malley denounced the Committee, accusing it of attempting to take over the Government's task and settle compensation at its own figures. He insisted that no Government could become a *philanthropic institution* ready and willing to pay whatever amount the Committee determined.³⁶

The Estates, Homesteads, and Stations known as Acton, Glebe, Duntroon and Yarralumla plus a small portion of Sullivan's lands were all situated within what was the undefined city area from the earliest days. Glebe was

only a small area around St. John the Baptist Church but a good building erected thereon, the Rectory, gave the land extra value and it was purchased for £27.9.0 per acre. (The Rectory was soon being rented at about £56 per annum this being a five per cent return on cost price). The very much larger Duntroon Estate and Yarralumla Homestead were purchased for £4.16.0 and £3.14.0 an acre respectively. The smaller Acton Estate was acquired for £5.9.0 an acre. By 1920 the Commonwealth had acquired over 200,000 acres of freehold at an average price of £3.15.0 per acre.

O'Malley's handling of the land acquisition programme (or indeed of any programme) did not escape criticism. In this instance the most regular critic was Austin Chapman (Non-Labor) whose electorate of Eden Monaro adjoined the Territory. Chapman opposed the selection of Canberra as the site for the capital city. But once the selection was made he became one of the few members who consistently advocated development works in and occupation of the territory. On the question of land valuation Chapman accused O'Malley of being a *regular czar* who shackled his officers, deprived them of any real power and determined valuations himself.³⁷ The Minister responded that as he had as much experience with land valuations as most men he was not going to be a *rubber stamp* and pay whatever price was asked. The prices which were being paid were seen by the Minister as likely to govern all future transactions in the territory.³⁸ He advised land owners to agree to the Departmental valuation or go on appeal to the High Court, *the cheapest Court in the world*. Chapman objected. He maintained that men of money could fight the Minister's valuations but the poor man could not. In his view to advise a poor man to go to the High Court was to invite him to ruin himself financially. Chapman never let up on the valuation problem. In 1915 he appealed to the then Minister Archibald to have a *little backbone* on the question of land valuation and provide a Land Act with some simple method of arbitration.³⁹ He related the instance of how three small landowners were forced into ruinous litigation in connection with the acquisition of their land. But Archibald was not impressed. He assured the House that conferences between land owners and Departmental officers were held frequently and recourse to law only occurred when compensation claims were considered unreasonable in the light of all the information which the Department had gathered as to land values in the area. The Minister referred to an appeal where the High Court awarded a land owner as many hundreds of pounds compensation as he claimed thousands.⁴⁰

The land owners naturally enough did not share the Government's faith that all was well — that justice was being done without favour. Their feelings on the valuation question and on the acquisition of their land are recorded:

... the price paid to landowners at the time may be said to have been decided by the well-being and benevolence felt by one man following a good meal in congenial company. The one law for the big man and another for the small man now operated. Frederick Campbell, by threat-

ening legal action, did force the Government to raise its price, but the small man could not challenge the Government in this manner. Thus it was that Springvale was sold for £1 an acre less than had been offered in 1908, when the rabbit plague was at its height and before improvements such as netting, dam sinking and scrub had been completed. The resumption of their land by the Federal Government came as a profound shock to the older farmers. That they could stay on as tenants made no difference to their way of thinking. From the day of selection they had been free men on their own holding. With their own hands they had cleared and ploughed the virgin soil, built their houses, dug dams and in general moulded the selection to their heart's desire. Here they married, experienced joy and sorrow in raising their family and to have their own "vine and fig tree" was no empty phrase. Now all this was changed! They would be under the control of an outsider. They couldn't even cut down a tree without permission – they whose whole life had been a battle against the scrub! They viewed the situation in the way the old Boers viewed the coming of the British to Cape Colony, and like the Boers they trekked.⁴¹

The trials and tribulations of those whose land had been acquired attracted little attention (Chapman excepted) in a Parliament where it was being argued that nearly every public work in the Commonwealth ought to have precedence over the work at *that spot*.⁴² A delay of 50 years in the building of the capital city was spoken of as *a mere nothing as we shall all be dead fifty years hence*.⁴³

The widespread belief that the financial returns to be obtained by the Commonwealth from its land ownership would provide the whole or a substantial part of the money needed to build the capital city⁴⁴ very naturally inspired a further belief that all privately owned land should be acquired as quickly as possible *so that the values which accrue to the land . . . shall as soon as possible become public property*.⁴⁵

A complete and prompt land acquisition programme was indeed the original intention.⁴⁶ Owners of land within the Territory were prevented from selling their land to speculators for the purpose of working up big prices against the Commonwealth.⁴⁷ But Governmental intentions are no more static than is legislation. The Seat of Government (Administration) Act 1910 amended the Seat of Government Acceptance Act 1909 to allow for payment for improvements on the land. The 1910 Act provided that in determining the compensation to which the owner was entitled the value was to be taken not to exceed the unimproved value of the land on 8 October, 1908 together with the value of the owner's interest in the improvements on the land at the date of the acquisition of the land. No time limit was put on the Government in effecting the acquisitions simply because none was considered necessary.

It has never been assumed that the Government are going to leave the freeholds in the hands of the present owners for the next half century and

then resume them. The idea is the Government will acquire them as quickly as possible.⁴⁸

But the constant question in Parliament was *When is the Government going to acquire all the land in the Territory?* Fears were expressed that owners might be left in a prolonged state of uncertainty. The evasive reply that the Government would acquire all of the land at its 1908 value in due course was unsatisfactory to most questioners.

It was argued in support of immediate acquisition that if land which was valued in 1908 was not acquired until say 1920 the cash compensation paid then would very likely be worth only half of what it would have been worth in 1908. This was said to pose a question as to whether the Government, by reserving to itself the right to acquire land whenever it pleased at its 1908 valuation, was under a moral obligation to the land owner to make a final assessment of value. *And give them the unearned increment?* interjected Minister Hugh Mahon.⁴⁹ Undoubtedly this was the majority Labor opinion on the subject. But Opposition Leader Cook urged the Government to acquire all the land in the Territory at the earliest possible moment and obtain the unearned increment itself. Cook warned the Government that Canberra would prove *a veritable sink* for Commonwealth money if all the land was not acquired and put to the best possible use⁵⁰ under the control of someone responsible for seeing that it gave an adequate return.⁵⁰

The first Ordinance made by the Governor-General was the Provisional Government Ordinance, 1911 a machinery provision soon followed by the Rates Ordinance, 1911 the first of the revenue producing enactments. The Rates Ordinance defined *the owner* in relation to land as including *the occupier, lessee, tenant or holder of the land*. All land in the territory was declared rateable excepting land belonging to any occupied by or on behalf of the Commonwealth. Rates were and are payable apart from land rent. Also of interest was the declaration in the Ordinance that the unimproved value of the Crown land held under lease was deemed to be a sum equal to 20 times the yearly rent payable to the Crown under the lease or licence at the time when the assessment was made. The five per cent return was gaining legislative recognition.

By 1912 the Government had spent £84,000 on the capital site and in return was receiving £4,800 a year in rents, rates and licences. O'Malley invited members to *tot up their figures* and note that the Commonwealth was earning five per cent on its investment.⁵¹ But not all members were comforted with this information. Austin Chapman was one of them. He had begun his ten year campaign for the appointment of a three man Commission *as in Washington* to develop and control the capital city. He objected to the remote control of the Territory from Melbourne and called for *Home Rule* in Canberra.⁵² But the very connotation of Home Rule was anathema in the Australia of those years. Chapman charged the Government with *messing about* in Canberra, with having no definite land policy. To him it was essential

that it should be made known to those holding land whether they were to have perpetual leases, 99 year leases or 21 year leases and whether there was to be any periodical valuation of the land.⁵³ He attacked what he considered the lack of any proper system of land administration and referred to the many complaints of mal-administration in particular those caused by the grant of leases to officers of the Lands Branch in Canberra and to their relatives. And then he told the story of the *unfortunate mailman* who asked for permission to pitch a tent for shelter when he went into the Territory on his run and of O'Malley's curt reply that no such temporary occupation would be allowed. He decried as an *act of sacrilege* the resumption of an *old fashioned Church with God's acre surrounding* and warned against any further desecration such as a disturbance of the Churchyard graves. Once again O'Malley's handling of the land valuation problem came under critical review. Chapman threatened to move a Parliamentary censure motion against O'Malley if the Minister went ahead with his proposal that the federal capital city be named Captain Cook or Shakespeare.

In reply O'Malley rejected criticism of his administration. Claiming to be a keen business man⁵⁴ the Minister insisted he was not going to have any *rooster* dictating land values to him. He did agree however to allow the mailman to pitch his tent provided he signed an agreement to shift when required and to claim no vested interests.⁵⁵

On the Church acquisition O'Malley said: . . . *we have resumed the Church, not that we are going to do anything with it, but so that in the natural order of things it will be on the same basis as everything else in the Territory. We will not interfere with the Church in any way, we shall let her operate in the future as she has in the past until perhaps, centuries hence, something else may happen.*⁵⁶

The Labor Government obtained approval for the expenditure of £137,260 in the territory during the financial year 1912-1913. The amount became somewhat inflated during the 1913 election, Fusion candidates in South Australia campaigning on *the gross extravagance* of the Labor Party in spending *millions* on the capital site.⁵⁷ The years 1912-1913 were years of many anti-Canberra motions. All around Australia Women's Leagues and City Councils, Shire Councils and Borough Councils passed motions condemning the Labor Government for spending £137,000 on Canberra. The worthy local government bodies wherein there is said to be no place for party politics remained silent when a non-Labor Government seized its first opportunity to almost double the expenditure!⁵⁸ The Fusion Party won the 1913 election and the Government sought and obtained parliamentary approval for the expenditure of £285,000 for the 1913-1914 financial year. Such is politics! Parliament was not unanimous in approving the expenditure. The Government was criticised for expenditure on a *bush capital* which could never be made a paying proposition. But once again the Commonwealth ownership of land was seen as the answer. Reference was made to the land in Pennsylvania Avenue,

Washington. Locked up in private hands for a hundred years it was said to have increased in value by hundreds of millions of dollars through the unearned increment. The House was informed of the words of a *Yankee financier* who was present at the opening ceremony at Canberra: *Lord, if we had only kept the ground at Washington.*⁵⁹ Some members saw sufficient annual income from land rent within 15 or 20 years to pay interest on the cost of the construction of the federal capital city. Others were much more optimistic. They considered that *the taking of the unearned increment for the people* would make the capital city a payable proposition within a few years of its commencement. Most members found comfort in the simple belief that *the great bulk* of Commonwealth expenditure in the Territory could be financed by land rent.⁶⁰ One member believed but urged caution. He predicted that the passing of 60 years would be the time when the income from land rent would *almost certainly* overtake the expenditure.⁶¹

By 1913, 650 men were employed in the territory on basic construction works and certainly hundreds and most probably thousands more men were walking the countryside looking for work. The Government was being called upon to employ some of these men to build a Canberra-Yass railway.⁶² But the Government had no money. In any event Governmental responsibility for employment or for an economy which fostered full employment was a revolutionary dream of the future. The economy was controlled by private banking institutions and on the best economic advice a pool of unemployed was considered healthy economics.

The Government's decision in 1914 to set aside £40,000 for land purchase in the territory met with strong criticism. Cook chided Prime Minister Fisher for the apparent change of policy and pointed out that only about 60 per cent of the amount voted for that purpose in 1913 had actually been spent. Fisher denied any policy change. He claimed that whilst *the eventual acquisition of all land in the territory was a desirable thing* the Government did not consider there was any urgency on the matter.

The whole concept of a national capital city now diminished in importance, and in public interest.⁶³ Australia was at war and although land acquisitions did not come to an abrupt halt 1916 was the last year of large scale acquisition. By 1918 the programme had ceased, the war held supremacy over everything else in Government expenditure and in order to exercise economy no more land purchases were being authorised or effected.⁶⁴ The end of hostilities did not suddenly revive public or Government interest in the proposed capital city. The Australian people were then being regaled with the claim that their country had emerged from the 1914-1918 conflict as a nation. The idea was heady enough to ensure that most people actually believed it. Thus a national capital city was seen as an unnecessary expense, as something superfluous. Australia was already a nation — her leaders had told her so — and a nationhood born on the battlefield is more solidly established than one which relies upon the erection of some specially planned capital city, a *bush*

capital, to prove its existence. In addition, the Government was calling for *absolute economy* to pay war debts, the monetary cost of Australia's alleged new status. Most of this money was owed to the British Government, which had, by arrangement, paid Australian soldiers serving overseas. The time for repayment had arrived.

The demand that all the land in the territory should be acquired, that the promise made years earlier should be redeemed, did not cease during the 1914-1918 war. From time to time members and even Ministers lamented the lack of effort in building the capital city and the difficulties of acquiring all privately owned land. The estimated cost of the unacquired land in 1917 was £328,000 but the Government did not have the money. It had by that time already spent about £760,000 on land acquisition in the territory and no more money was available. The demands became stronger after the War ended but even when they were being made by ex-Ministers, Ministers and future Ministers who claimed *the promise was becoming more costly to redeem with every day's delay* they attracted scant attention.⁶⁵ War debts had priority. The Seat of Government Act 1908 provided that the amount of the compensation to be paid by the Commonwealth for any land acquired within the Territory was not to exceed the value of the land on the 8th day of October, 1908. But the Seat of Government (Administration) Act 1910 made provision for improvements on the land. The landowner was to be paid the 1908 value of the land plus the value of his interest in the improvements on the land at the date of the acquisition of the land. The claim being made before and during and after 1920 that any delay in acquiring the land would increase the eventual cost to the Commonwealth may have been based on the increased compensation which would be payable for improvements. On the other hand it may have been a realisation that one day the pegged or fixed 1908 price would be ignored or forgotten and compensation paid at what were considered at the time of the acquisition to be prevailing market values for freehold. In any event it became the established practice to ignore the statutory limit on compensation years before its repeal in 1955. But there is no evidence that the pegged price was being ignored as early as 1920. The practice seems to have developed some years later.

The territory for which the Commonwealth assumed control in 1911 was for the most part a rabbit infested area. As it was obvious that much of the land being acquired in the early years was land the immediate possession of which was not required by the Commonwealth the Government decided to make it available on short term leases to rabbiters. In announcing the decision the Minister stated there would be no long term leases in these areas and warned that lease conditions would be rigidly enforced.⁶⁶ These early leases were disposed of by public tender to the highest bidder. The result was that the rentals for these early leases ranged from 3 pence to 9 pence per acre. The leases were for one year and each contained a clause prohibiting the erection of any permanent building on the land.

By December, 1914 the Government had acquired 112,384 acres, of which 43,940 acres were let on short term leases. In a few cases the term was for 10 years. The Commonwealth power to grant these leases was found in the Lands Acquisition Act 1906.^{6 7} Section 63 of the Act was an enabling provision only. It empowered the Crown to grant leases but did not specify terms or any other detail. It may be assumed however that each lease contained covenants by the lessee relating to fencing and the extermination of rabbits and noxious weeds.

The Leases Ordinance 1918, the first territory legislation dealing specifically with the use of Commonwealth owned land, was an understandable development. The Government had been granting leases for some years and it was obviously desirable to have legislation to regulate the practice and achieve some uniformity. To this extent the 1918 Ordinance was inevitable. Other influences however cannot be ignored in considering the intention of the Ordinance. It is not without significance that the first permanent subdivisions were made soon after.

The colonial tradition in Australian society was very strong. In addition Australia's strongest economic ties were with Britain. The early generations still thought and spoke of themselves as *colonists* and habitually thought of and spoke of the British Isles as *home*. The growth of a sense of national identity was slow. It hampered acceptance of the concept of Federation and it prolonged the birth pangs of the Federal Capital Territory. To the Australian of 1914 Britain was the motherland. Federated Australia had inherited the colonial tradition that its external relations were automatically regulated by the decisions of the British Government. When Britain declared war on Germany in August, 1914 the Australian response was inevitable and immediate. The 1914-1918 war had a profound and long lasting effect on Australian social and political thought. It conditioned the policies and actions of Governments for decades after the war had finished. The Labor Party division over the 1916 proposal to conscript men into the army for war service should not obscure the central fact that both political parties as such supported Australia's involvement in the 1914-1918 war. Future Australian historians may question this involvement and dismiss the supporting reasons as unconvincing. This may happen years hence but nearly all Australian politicians and the great majority of Australians in 1914-1918 had no doubts. Both political parties supported the recruitment campaigns and both were pledged to redeem the promises made to induce enlistment when appeals to duty failed to enthuse. Preference in obtaining employment and preference in any promotion once employment was obtained. The Commonwealth Public Service was to be a closed shop — only those who had been on war service were to obtain entry. The assistance was to be by way of housing loans and assistance to settle on the land.

When the time to redeem these promises had arrived the Commonwealth Government had no excuses for inaction as far as its own Territory was con-

cerned. There were no State Governments, local governing bodies or property franchise elected Houses of Review to frustrate Commonwealth plans. In short, the Commonwealth Government's jurisdiction in its own territory was supreme. The Leases Ordinance 1918 may not have been the first of that Commonwealth and State legislation which, in conformity with public opinion, bestowed on those men who did not go to the War the status of second class citizens. Nevertheless the provision in the Ordinance authorising the Minister to make regulations prescribing the persons to whom leases could be granted was an opening the significance of which became obvious the following year. In this year it became established policy that rural leases would in practice be restricted to returned soldiers.

The Leases Ordinance 1918 provided for leases of up to 25 years subject to such conditions as to rent and otherwise as prescribed. The Ordinance itself was brief. It left much unanswered. But the Leases Regulations 1919 made under the Ordinance provided a more comprehensive coverage. Under the Regulations the Minister was empowered to lease any land in the territory the immediate possession of which was not, in his opinion, required by the Commonwealth. The land available for leasing was to be notified in the Gazette and applications invited in such form as the Minister directed. The purposes for which leases were to be granted were grazing, horticultural, agricultural, residential or business purposes or any other purpose approved by the Minister. Annual rent was to be equal to 5 per cent of the assessed value of the land, including improvements owned by the Commonwealth, plus the amount of the rates per annum. No person was to hold under lease land of a greater assessed value than £6,000 (exclusive of the value of buildings and fences). The Minister was authorised to grant leases (without inviting applications) to persons who had previously owned the land being leased, to former lessees and to returned soldiers. *Returned soldier* was defined as a person who was or had been a member of the Australian Naval or Military Forces and who had returned from naval or military service outside Australia. The Commonwealth was in the business of obtaining the maximum revenue possible from its land ownership. The practice of inviting applications for leases in the form of tenders was retained. The tenderer was to state the amount of the rental being offered. This way there was always a possibility that a rental higher than 5 per cent of the assessed value of the land would be obtained. If no application at the upset rental was received the Minister was empowered to lease the land at such rental as he deemed reasonable. *Upset Rental* was defined as such annual rent as was equal to 5 per cent of the assessed value of the land, including improvements, after making allowance for improvements to be made by the lessee under the lease, plus the amount of rates payable per annum in respect of the land.

Subletting, assignment or parting with possession of a lease was not permitted without the previous consent of the Minister in writing.

The Regulations empowered the Minister to restrict his invitations to apply for a lease to returned soldiers only but they did not oblige him to grant a lease to anyone. After making any enquiries he considered advisable the Minister could then decide whether an applicant was eligible to become a lessee having regard to the following considerations:-

- (a) the ability of the applicant to carry out the conditions of the lease;
- (b) other lands owned, leased or managed by the applicant;
- (c) whether the applicant resided or intended to reside in the territory; and
- (d) whether the applicant was a returned soldier.

Whilst these provisions as to eligibility were not restrictive their application was. Whether or not an applicant for a lease was a returned soldier became the only consideration. The Government felt it had a special duty to the soldier being discharged from the army into civilian life. The federal territory where land was readily available seemed ideally adapted to a scheme of Soldier Settlement. Those whose short term rural leases expired did not, except in some special cases, obtain renewals. Rural land in the territory was to be available to returned soldiers only. The Government's policy that all land in the territory would be made available only to returned soldiers had changed by 1920. The difficulty of establishing and administering a system of leasehold whereby residential and business leases in the city area would be granted solely to returned soldiers was apparent. But rural land was different. Thus it was that with the completion of the subdivisions of 1919-1920 the Minister announced the grant of over 40,000 acres on lease to returned soldiers for periods varying from one year to 25 years. The Territory for the Seat of Government now achieved (even if for only one day) the seemingly impossible — it became *a very interesting experiment*⁶⁸ to one of its most vociferous newspaper denigrators.

The Leases Ordinance provided for leases for up to 25 years but in practice such long term leases were seldom granted. The majority were short term leases. In general the nearer the property was to the city area the shorter the term of the lease.⁶⁹

The Leases Regulations 1919 reserved to the Commonwealth a right to resume any leased land which was required for any public purposes of the Commonwealth. In this event compensation was payable to the lessee for improvements he had made on the land but no other compensation was payable.

The practice of rendering a receipts and expenditure account for the territory was established in 1912 but in 1917 Home and Territories Minister McMahon Glynn warned that a good return from the territory could not be expected until the capital city was built and population settled there. The inability of the Government to acquire the balance of the privately owned land was lamented but the Minister considered a fair return was being obtained on

the Government outlay for land purchased to date, the average return being almost 5 per cent.⁷⁰ The annual return of £4,800 in 1912 had by 1918 increased to £42,310, the revenue coming from rents, inspection fees, sale of plans, general rates (£735) and the sale of material purchased elsewhere and not needed. The total expenditure for 1918 was £90,367.⁷¹

The Parliamentary warrant for restarting any work at all at Canberra after the War was obtained when support came from some South Australian members in return for a promised Adelaide-Darwin Railway.⁷²

The necessity for economy to pay the war debt was the reply given to the many Federal Capital Leagues formed, particularly in New South Wales, to advocate support for the construction of Canberra as the Federal capital city and to urge an early transfer of Parliament.⁷³

The Queanbeyan Federal Capital League President, George Fitzpatrick, proposed the formation of syndicates to erect the whole of the public buildings at Canberra and present them to the Commonwealth Government free of cost providing a lease of adjoining lands was given.⁷⁴ But the Government had enough critics on its efforts or its lack of efforts at Canberra without inviting the storm of protest any acceptance of this proposal would have attracted. Fitzpatrick's proposal was turned down. The call for action now shifted to Parliament where the Government was being urged to do the *sane and proper* thing and sell the freehold of its land in the territory and thus obtain all the money required to construct the Capital City.⁷⁵ But the appeal was too late. The matter had been settled ten or twenty years earlier and few were disposed to re-open it. Nor was much attention given to the call for an immediate transfer to Canberra to avoid the payment of high rents for the buildings the Commonwealth occupied in Melbourne. And yet this particular call was so insistent it could not be ignored indefinitely. Nor could the increasing questioning and criticism of the Government for its failure to make leases in the city area of the territory available for residential and business purposes. On the other hand the agitation against any construction work had not ceased or even diminished!⁷⁶ Undeterred by the outcry which it knew any renewed Commonwealth interest in or activity at Canberra would bring the Government decided to act. It announced the appointment of a specially selected Committee to investigate the whole question of construction and advise the Government on the work which would be necessary to allow an early transfer to Canberra.

NOTES ON CHAPTER 3

1. *Seat of Government Acceptance Act 1922* but see also *Report On Australian Capital Territory Freehold Lands Inquiry* by the Parliamentary Joint Committee on the Australian Capital Territory 1968.

2. P.D. 71:2096
3. Wigmore, L., *The Long View*, Melbourne, Cheshire, 1963
4. Parliamentary Papers: *Documents Necessary to Complete Parliamentary Paper 153 of Session 1914-1915-1916*, p.7.
5. *Ibid.* p.7
6. P.D. 77:4366
7. *Town Planning Review*, London, 1913
8. *Building*, 12 June, 1913; see article by W. Vernon, New South Wales Government Architect.
9. Parliamentary Paper 153 of Session 1914-1915-1916, Op. cit.
10. P.D. 71:2124
11. P.D. 71:2124
12. Wigmore, L., *Op. cit.* p.74-5
13. see *Royal Commission on Issues Relating to Mr. Griffin 1916-1917*
14. *Ibid*
15. P.D. 77:4366
16. P.D. 82:1393-4
17. P.D. 77:3991
18. P.D. 79:7695
19. P.D. 77:4364
20. P.D. 63:4518
21. P.D. 61:2283
- 22.1 P.D. 63:4526
23. *Sydney Morning Herald*, 9 May, 1927; see report of speech by Senator George Pearce.
24. P.D. 61:2266; 71:2118
25. P.D. 61:2111
26. P.D. 62:4506
27. P.D. 48:1896
28. P.D. 63:4518
29. P.D. 63:4509
30. P.D. 63:4509
31. P.D. 63:4517
32. P.D. 61:2406
33. P.D. 63:4558
34. see *Sydney Morning Herald*, 13 March, 1913
35. P.D. 77:4017
36. P.D. 69:6963
37. P.D. 69:6964
38. P.D. 61:2261

39. P.D. 77:4055
40. P.D. 76:3211
41. Schumack, Samuel., *An Autobiography or Tales & Legends of Canberra Pioneers* p.165-6 Canberra, A.N.U. 1967.
42. P.D. 65:1692
43. P.D. 76:2266
44. P.D. 71:2699
45. P.D. 59:6296; 75:1430
46. P.D. 62:4507
47. P.D. 59:5824
48. P.D. 59:5824
49. P.D. 75:1430
50. *Ibid*
51. P.D. 65:1938
52. P.D. 71:2191
53. P.D. 69:6961
54. P.D. 69:6963; 71:2217; 81:11096
55. P.D. 69:6964
56. P.D. 69:6680
57. P.D. 71:1985
58. P.D. 71:2202
59. P.D. 71:2118; 71:2190; 71:2123
60. P.D. 71:2699
61. *Ibid*
62. P.D. 77:4055
63. P.D. 76:2888
64. P.D. 86:7055
65. P.D. 93:5243
66. *The Argus*, Melbourne 15 March, 1913
67. P.D. 75:1244
68. *The Argus*, 16 November, 1920
69. P.D. 85:5775
70. P.D. 86:7055
71. P.D. 87:8732
72. *Sydney Morning Herald*, 3 May, 1927 see reported address by Charles Marr. M.P.
73. P.D. 86:7055
74. *The Daily Telegraph*, Sydney, 4 August, 1919
75. P.D. 92:3167
76. *The Argus*, 20 September, 1920.