

## ***National Memorials Ordinance 1928***

- 1.1 On 17 August 2011, the Minister for Regional Australia, Regional Development and Local Government, the Hon Simon Crean MP, requested that the Joint Standing Committee on the National Capital and External Territories conduct an inquiry into the administration of the *National Memorials Ordinance 1928*, which defines the membership and responsibilities of the Canberra National Memorials Committee (CNMC).
- 1.2 The inquiry arose out of public concern about the processes underpinning the work of the CNMC, expressed publicly and in direct correspondence with both the Minister and the Committee.
- 1.3 The Committee was tasked with examining the membership of the CNMC, its decision-making processes, its ability to seek independent expert advice, transparency of administration, parliamentary oversight, public participation, and, if changes to these were recommended, transition arrangements for current memorial proposals.
- 1.4 The Committee has taken the following approach to its task:
  - Chapter 2 identifies problems with the Ordinance.
  - Chapter 3 outlines the reforms to the Ordinance, and the membership and functions of the Canberra National Memorials Committee, that would be required if a minimalist approach to reform were adopted.
  - Chapter 4 proposes an alternative model for the assessment of proposals for National Memorials, based on the Washington model.
  - Chapter 5 briefly discusses transitional arrangements for current proposals.
- 1.5 Of the two models for reform examined in this report, the Committee is strongly of the view that the repeal of the *National Memorials Ordinance 1928*, the disbanding of the Canberra National Memorials Committee, and

the substitution of a more modern and robust process for assessing National Memorials is the preferred option. The Committee is strongly of the view that the evidence placed before it reveals that the Ordinance is very much a creature of its time, has long since become moribund, and that any attempt to reform it will prove overly-complicated and unsatisfactory. The Ordinance and the CNMC were designed to achieve particular outcomes at a particular time in Canberra's development. That time has passed, and new policies and processes are required for the modern day.

### **Recommendation 1**

- 1.6 **The JSCNCET recommends to the Minister for Regional Australia, Regional Development and Local Government that, rather than attempting to amend the *National Memorials Ordinance 1928*, the Ordinance be repealed and replaced with a new Commemorative Works Act, as proposed in Chapter 4 of this report.**

## **A brief history of the *National Memorials Ordinance 1928***

- 1.7 The Canberra National Memorials Committee was created in 1927 in response to a perceived need for high level parliamentary consideration of the nomenclature of Canberra. The Committee's role was extended to consideration of memorials and formalised in the *National Memorials Ordinance* in 1928. Speaking to the House of Representatives in December 1927, Prime Minister Bruce stated:

In view of the historic interest attaching to the street nomenclature of Canberra, it is proposed to issue an ordinance to govern the matter and to set up a permanent body to review the proposals of the Federal Capital Commission and determine all matters connected with national or historic memorials, whether in the form of street names or monuments...

It is proposed that thereafter no modifications or additions to the street nomenclature or historic memorials of the national capital shall be made except on the recommendation of the Federal

Capital Commission and with the endorsement of the Canberra National Memorials Committee.<sup>1</sup>

## Original provisions

- 1.8 The original Ordinance provided for the establishment of the Canberra National Memorials Committee, consisting of the Prime Minister, the Minister of State for Home and Territories, the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, the Leader of the Opposition in the House of Representatives, the Chief Commissioner (of the Federal Capital Commission), and 'two members to be appointed by the Governor-General from amongst persons who are recognized as authorities on Australian history'.
- 1.9 The CNMC was essentially an executive committee with bipartisan representation. Its relationship was with the government rather than the parliament, its deliberations and decisions a matter for the executive government rather than the parliament or the people.
- 1.10 The Prime Minister was Chair of the Committee and meetings were to be summoned by the Chief Commissioner. The quorum was three. The Commission was to 'consider all matters referred to it by the Committee...with regard to the nomenclature of divisions of, or of public places in, the City District, or the location or character of national memorials in the City District'.
- 1.11 The Committee might 'approve, without alterations, or subject to such alterations as the Committee thinks fit, any proposal or recommendation made by the Commission; or reject any such proposal or recommendation; or return the proposal or recommendation to the Commission for further consideration...'.
- 1.12 Determinations of the Commission with regard to nomenclature were disallowable instruments, but determinations with regard to memorials were not subject to direct parliamentary scrutiny.

## Changes to the Ordinance

- 1.13 The Ordinance was first amended in 1931 to reflect the abolition of the Federal Capital Commission in 1930. The Minister and his department rather than the Commissioner became responsible for the operation of the Ordinance, with the CNMC operating in conjunction with the Minister (as

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<sup>1</sup> *Commonwealth Parliamentary Debates*, 14 December 1927, p. 3173.

is the case today). The Secretary of the Department was appointed to the CNMC in place of the Chief Commissioner; and the Civic Administrator, a position created under the *Advisory Council Ordinance 1930–1931*, was also appointed to the CNMC. With the abolition of the post of Civic Administrator (1932), the additional place on the CNMC was designated to ‘an officer appointed by the Minister’ (1933).

- 1.14 In 1937, the Ordinance was amended to allow the Minister to make contracts for the design and execution of national memorials.
- 1.15 In 1952, the Ordinance was amended to allow the Minister to determine the nomenclature of ‘public places’, having regard to certain names, without reference to the CNMC.
- 1.16 In 1953, the Ordinance was changed to allow two ‘residents of the Australian Capital Territory’ to be appointed to the CNMC instead of two persons ‘recognized as authorities on Australian history’.
- 1.17 In 1959, the term ‘City District’ was updated in line with changes to the Districts Ordinance.
- 1.18 In 1972, the term ‘Canberra City District’ was omitted and ‘the Territory’ inserted.
- 1.19 In 1989, with the commencement of self government in the Australian Capital Territory, the Ordinance was amended to apply ‘only in relation to National Land’.

## **Career of the Committee**

- 1.20 The first report of the Canberra National Memorials Committee, tabled in March 1928, developed principles, established by the Federal Capital Advisory Committee in 1926 and largely still in operation today (but perhaps with some variation in interpretation), by which the nomenclature of Canberra has been determined. This initial report did not deal with the issue of memorials, although these were always intended to be part of the Ordinance.<sup>2</sup>
- 1.21 After its initial period of activity, the CNMC appears to have endured long periods of total inactivity. The CNMC was designed to work in close cooperation with the Federal Capital Commission, and the early work of the Committee reflects a joint political and planning concern with resolving the potentially thorny issue of public nomenclature. The

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2 Canberra National Memorials Committee, *Report in regard to the Naming of Canberra's Streets and Suburbs*, 29 March 1928 (Parliamentary Paper no. 187 of 1926–27–28).

abolition of the Commission, and the transfer of its role to the Minister and his Department, changed the dynamic under which the Committee operated. It is not clear what role, if any, the Committee played in the process of approving the handful of memorials extant by 1955. In its report, the Select Committee on the Development of Canberra (1955) noted:

There is a lack of monumental structures of a memorial nature. The fine Australian-American Memorial near Mt Pleasant has given a very necessary emphasis, with its high column, to the vista along King's-avenue from Capital Hill. The only other memorials are the King George V statue in front of Parliament House and the Robert Burns statue near Hotel Wellington. On Capital Hill is the uncompleted Commencement Column, which denotes the commencement of the city on the departmental plan and not the Griffin plan.<sup>3</sup>

- 1.22 The CNMC does not appear to have met at any time during the period of the Menzies Government and its successors, although it became active again under the Whitlam Government before once again lapsing into obscurity.<sup>4</sup>

### Recent developments

- 1.23 Renewed interest in the functions of the Canberra National Memorials Committee came from the renewed emphasis on the original intentions of the Griffin Plan. The Griffin Plan had an integral focus on 'deliberate and purposeful engagement with the potential meaning and symbolism of Australia's National Capital'.<sup>5</sup> In 2002, the National Capital Authority issued its *Guidelines for Commemorative Works in the National Capital*. These Guidelines provide a framework for positively addressing one of the central roles of the National Capital as 'a symbol of Australian national life and a location for memorials and national events'.<sup>6</sup>
- 1.24 The existence of the *National Memorials Ordinance* makes the Canberra National Memorials Committee central to any agenda focussed on

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3 Report from the Select Committee on the Development of Canberra, September 1955, p. 32 (Senate, 1954-55, vol. 1).

4 David Headon, *The Symbolic Role of the National Capital: from Colonial Argument to 21<sup>st</sup> Century Ideals*, National Capital Authority, Canberra, 2003, pp. 143-4.

5 David Headon, *The Symbolic Role of the National Capital*, p. 41.

6 National Capital Authority, *Guidelines for Commemorative Works in the National Capital*, August 2002, p. 3.

Canberra as a location for national memorials. Indeed, because of the Ordinance, the involvement of the Committee is a legal prerequisite.

- 1.25 This is the heart of the controversy over the way the Canberra National Memorials Committee has conducted its business. The Committee relies on the active involvement of its parliamentary members. In the absence of their active involvement, the decision-making process becomes dominated by bureaucrats, particularly those with a direct stake in the promotion of the proposals being put to the Committee. The result is that the Committee can be seen as a rubber stamp for the (legitimate) activities of the National Capital Authority in pursuit of its statutory responsibilities.