

16th March 2011

Committee Secretary,
Senate Legal and Constitutional Committee,
Provisions of the Water Act 2007,
PO Box 6100, Parliament House,
Canberra ACT 2600,
Australia.

Thank you for the opportunity to make this submission to the inquiry into **Provisions of the Water Act 2007**. I note the terms of reference.

Studying these terms of reference I believe there is an overlap with the terms of reference for the **Senate Select Committee on the Reform of the Australian Federation**. This reform inquiry exposed the powers of the **Australian Constitution** and the contravention of this constitution by the Commonwealth Government development of Regional Development Committees to introduce regionalism. In submission No 28 to this reform inquiry I documented through Minutes of Wangaratta Rural City Council, Victoria, the Hume Regional Management Forum activity to introduce the Hume Region Sustainable Communities research program in the Murray Darling Basin.

I refer you to the social research of Neil Barr formerly of Department Primary Industry Victoria who published with Land & Water Australia (Halstead Press) a social history of rural land use. **The House on the Hill**, The transformation of Australia's Farming Communities, records the battle to survive on the land through generations with response to drought, flood, war, depression, with two major influences government promoted settlement schemes and the introduction of the contraceptive pill restricting unpaid family labor. This research based on experience and understanding is a contrast to large volumes of computer modeling and analysis.

Bryan Pape QC based at University of New England has connections to the Committee of the Australian Centre for Agriculture and Law; he has conducted research in America into the USA Constitution and has experience in taxation and corporate law. presenting opinion for increasing the number of States in Australia. His submission No 20 to the inquiry into the Reform of the Australian Federation includes copy of an Oration he gave to the Samuel Griffith Society on 27th August 2010 which gives legal opinion on the relationships of the Australian Constitution (trade, commerce, financial, social) between the Commonwealth and States governments.

The Samuel Griffith Society was formed in 1992 to ensure proposals to change the Australian Constitution will be subject to intense scrutiny.

On 25th January 2010 Paul Kildea and Professor George Williams from the Centre for Public Law UNSW presented a paper **“THE CONSTITUTION AND THE MANAGEMENT OF WATER IN AUSTRALIA’S RIVERS”** to the Supreme and Federal Court Judges’ Conference. The opening statement reads **“The management of water in Australia’s rivers has become, within little more than a decade, one of the most urgent public policy problems facing governments at every tier of the Australian Federation.”**

Page 10 of the paper in the section Coercive Powers there is this statement **“However, the status of local councils under s 51(xx) has recently been called into question, and it seems that certainty in this area can only follow a definitive statement by the High Court.”**

In submission 191 to the Senate Standing Committee in to the Management of the Murray-Darling Basin for the Centre for Public Law, UNSW Kildea and Williams exposed the Constitutional Basis of the Water Act and Basin Plan.

As owner of land under Victorian Government Freehold Land Title in the Murray – Darling Basin I have concern at the centralist, unauthorized interference of the Federal Government in State Rights. I have concern as to the legal status of the Murray-Darling Basin Authority and the affect of its actions on the value of my land. I do not understand what legal power there is to enforce the Murray Darling Basin Authority recommendations.

I welcome submission 2 by Professor John Briscoe to this inquiry into the **Provisions of the Water Act 2007** for the base of experience to his opinions. I share the opinion of a long time farmer Brian Fraser who wrote in N E Farmer February 2011 **“Building houses on flood plains is another example of young, highly qualified, highly paid, inexperienced planners and egotistical politicians ignoring local knowledge and experience.”** The Water Act 2007 should be rescinded.

Alison G Walpole.