Dear Secretary

Please find attached my submission on the above inquiry. My background comes from over 50 years farming. During that time I have been constantly involved in Agro Politics and currently Chair the Gingin Private Property Rights Group, set up to fight Government erosion of property rights.

I have served eight years in the State Legislative Council, representing the Agricultural Region, with over 60 rural shires in Western Australia. As Chairman of a Standing Committee that produced 59 reports and having started the inquiry that led to the House Report I have a good understanding of the concerns raised in your inquiry.

I would welcome the opportunity to provide further evidence and to present an oral submission.

Yours sincerely,

MURRAY NIXON

Submission to the Senate Finance and Public Administration References Committee

Inquiry into Nature Vegetation Laws, Green House Gas Abatement and Climate Change Measures.

Reference (1)

The broad subject of this inquiry has been already covered by a Productivity Commission Report (Number 29) - Impacts of Nature Vegetation and Biodiversity Regulation.

Also, a Western Australian Legislative Council Report (the House Report) in relation to: The impact of State Government Actions and Processes on the Use and Enjoyment of Freehold and Leasehold Land in Western Australia.

This document outlines examples of landowners suffering huge financial loss and mental stress when their plans were completely destroyed in the name of environmental protection.

This sad situation has come about by a mind set in the bureaucracy at both State and Federal level that a natural resource is a public resource.

This mind set believes that natural vegetation and wet lands can be quarantined for the "common good" without compensation.

The situation is compounded by our Federal structure. Land management is constitutionally a State responsibility. The sovereign States that agreed to the Federation wished decisions to be made close to the people and the situation.

The External Affairs powers ceded to the Commonwealth were never intended to interfere with the State control of resources. Certainly where there is a likelihood of this happening the State or States likely to be affected should be consulted.

The Tasmanian Dams case was the turning point. Particularly since that time, it became the practice for international agreements to be signed without consultation with the Federal Parliament or individual States concerned.

Where a parcel of privately owned land is acquired for public purposes either by the Federal Government or the States there is legislation to ensure some degree of compensation on just terms.

Property rights pertaining to land are a bundle of rights. This was recognised in the title of the House Report, (the Use and Enjoyment of Freehold and Leasehold Land in Western Australia).

The biggest problem is when the right to use the land is eroded and a good example of this was the Native Title Vegetation Laws.

The first that I became aware of restrictions on the clearing of nature vegetation was the COAG agreement - The National Strategy for the Conservation of Australia's Biological Diversity.

This was ratified by Australia on the 18th June, 1993. It was agreed to by all State and Territory Premiers, Chief Ministers and Prime Minister Keating.

In Western Australia, only 7% of the State is held freehold. Only 6% of the land mass has been cleared. One would therefore think that few land owners would be affected!

Firstly, the state introduced a permit system where a property with more than 10% natural vegetation in a shire with more than 10% natural vegetation could apply for a permit.

A Memorandum of Understanding between several State and Government agencies was issued, falsely claiming to reflect a Cabinet Minute. (Evidence can be produced if required.)

From this point clearing became very difficult. Whilst the objective was to protect a percentage of species that were present at British Settlement, the preservation of a variety of plants was also taken into account.

As every hectare is different to every other it was argued that each was special and could not be cleared.

On page 11 of the COAG document, Actions 1.5.1, incentives for conservation are outlined. It clearly states; "…appropriate market instruments and appropriate economic adjustments for owners and managers, such as fair adjustment measures for those whose property rights are affected when areas of significance to biological diversity are protected."

In reality, this has not been the case. I know of only a few cases where land was purchased but I am not aware of any compensation to the majority of land owners who could not clear.

In reality, the objective was to establish a multitude of National Parks on private land with no compensation to the land owner.

In December 2004, the Western Australian government issued a suitably glossy document entitled "Towards a Biodiversity Conservation Strategy for Western Australia".

Page 23 of this document makes it clear that the State is bound by a number of International agreements. Strangely, there is no mention of the Kyoto Agreement.

In March 2007, another draft – a 100 year Biodiversity Conservation Strategy for Western Australia was published. Once again there was no mention of Kyoto.

It would appear that a Federal Government department realised that the clearing restrictions (that the states had been required to introduce) could be used to meet Australia's Kyoto targets.

I think it highly unlikely that the idea originated in either political party room or Minister's Office! A Freedom of Information enquiry would be an interesting inclusion in this Committee Report.

The first that many knew of the role of clearing bans in the Kyoto target was an excellent paper by Mick Keogh.

It also brought into question the science of the Greenhouse Effect. Kyoto completely overlooked the carbon cycle of pasture and only accounted for trees over two metres.

In more recent times, Climate-gate and other disclosures of fraud have created a need to reassess the whole science behind anthropogenic climate change.

How this could be done with such polarisation of ideas is difficult. A Royal Commission with a highly respected judge could be the best solution.

As the recent Peter Spencer case has demonstrated, there has been no compensation for land owners who have lost property rights for the common good.

The problem has been compounded by a view that only the Commonwealth is bound by just terms compensation (Section 51 31). A paper given to the 2009 Constitutional Law Conference by the Federal Attorney General makes it clear that this stems from Magna Carta.

The States have simple constitutions as they inherited the British Constitution and Common Law. This includes the Magna Carta and the Bill of Rights.

The States are bound to "just terms" compensation.

Clearly Kyoto has already had a disastrous effect on many land owners. Any endeavours to reduce carbon dioxide emissions will impact on the rural regions responsible for most of Australia's exports. Any tax will be passed down the line and the cost borne by export industries that can not pass on costs.

Before any measures are taken to reduce Greenhouse emissions, particularly CO^2 (an essential element in plant growth) the science of climate change must be reassessed.