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**For Attention:**  
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**Febraury 18<sup>th</sup> 2013**

**The following is my submission as discussed on  
Friday 15<sup>th</sup> Feb 2013.**

**Please acknowledge by telephone receipt of the  
submission and ensure copies are given to members  
of the Committee and any other persons you consider  
may be interested and could help.**

**Bob**  
**Telephone**

## SUBMISSION

### RE: FUNDING & CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENT

Members of the Joint Select Committee  
 For Constitutional Recognition of Local Government  
 P O Box 6021 Parliament House  
 CANBERRA, ACT 2600  
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February 16<sup>th</sup> 2013

#### Law of Australia

*“The Commonwealth of Australia Constitution Act 1901 has properly been described as the ‘birth certificate of a nation’. It also provides the basic rules for the government of Australia. Indeed, the Constitution is the fundamental law of Australia binding on everybody including the Commonwealth Parliament and the Parliament of each State. Accordingly, even an Act passed by a Parliament is invalid if it is contrary to the Constitution”*

*The Commonwealth of Australia Constitution 1901 was conceived by Australians drafted by Australians and approved by Australians and is the People’s Law. The Constitution cannot be changed without a Federal Referendum achieving a majority vote in a majority of States. No ACT of a Parliament can change the Commonwealth Constitution 1901 without a Federal Referendum of the People giving their consent..*

#### Local Government/Municipal Institutions

*The Commonwealth of Australia Constitution 1901 only allows Local Government and Municipal Institutions to be a Department of the State Government. (refer The Annotated Constitution of the Australian Commonwealth by pages 935 & 936) 1988 Federal Referendum – Question 3*

*Quote: “A Proposed Law: To alter the Constitution to recognise local government. Do you approve of this proposed alteration?”*

#### (3) Constitution Alteration (Local Government) 1988

Local Government.

119A. Each State shall provide for the establishment and continuance of a system of local government, with local government bodies elected in accordance with the laws of the State and empowered to administer, and to make by-laws for the respective areas in accordance with the laws of the State”.

Result: This referendum was *not carried*. 67.65% of people voted NO in a majority of States.

**NB:** *Question 3* was designed by the unlawful Political Party Federal Government (*political parties government are not recognized in the Australian Constitution 1901*) and their elected and non-elected manipulators in an attempt –

1. To have Local Government lawfully recognized and accepted as a 3<sup>rd</sup> tier of government.
2. And allow the State Government to lawfully establish Local Government as a 3<sup>rd</sup> tier of Government empowered by the *invalid Local Government Act 1989 (Vic)* to downshift the State Government’s responsibilities and the associated costs into the 79 Shires (Vic) funded by double taxing the People with rates and charges. Each year the Federal Government gives the Victorian State Government grants from tax revenue in excess of \$20billion/year. The State Government with few exceptions keeps all this revenue. If the Federal Government gave each Shire it share of this tax revenue, there would be no need for rates and charges.

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### **Local Government/Shire Councils Unlawful**

Ignoring the *Will of the People (Democracy)* and the *Law of Australia, the Commonwealth Constitution 1901*, the State Government exceeded its *Commonwealth Constitutional authority* and *unlawfully established Local Government as a Government* empowered by the *invalid Local Government Act 1989 (Vic). Sec. 181 of this Act* unlawfully empowers Local Government to have the Registrar at the Lands Title Office to transfer (steal) privately owned property to Local Government free of all encumbrances (*mortgages and debts*) if *ever increasing rates and charges are not paid within 3 years*.

Contrary to the *Commonwealth Constitution 1901* Local Government (a body corporate *NOT* bound by the *Australian Corporation Act 2001*) and its employees *unlawfully create invalid by-laws (only the Parliaments can make valid laws)*, by *re-valuing and taxing private property to raise revenue*, and *charging interest on unpaid rates and charges at 10.5%*.

Local Governments and State Governments refuse to recognise the *People's Private Property Rights* granted by the *Monarchy* under the *Treaty of Estate in Fee Simple* that has been around since the beginning of legal history, confirmed as law by the *High Court of Australia ruling 33 CLR 1*. The *High Court of Australia* is bound by law to uphold *The Commonwealth of Australia Constitution 1901* and any decision by the *High Court of Australia* is *final and binding* on the Federal and State Governments and the lower courts.

Persons committing these unlawful offences against *The Commonwealth of Australia Constitution 1901*, the *Law of Australia* are liable for prosecution under the *Crimes Act 1958*.

### **Hardship**

Farmers in rural areas *receive no services*, have no guaranteed income because of *market prices, the weather (rainfall, drought and bushfires), unlawful rates and regulations restricting how they can sell their produce/milk and what they can do on and with their privately owned land*. Because of *unlawful Local and State Government laws and regulations*, some farmer who have worked hard all their lives to acquire their property and assets for their family and an inheritance for their children, commit suicide. Others who have hope for a better outcome have borrowed money and now have debts totalling *\$millions*. *Rates should not be based on what Governments determine is the market value of private property, but on a signed contract for an agreed service.*

Unlawful Local Governments as they exist are creating increasing *financial hardship* for millions of Australians; *poverty* the Australian Council of Social Services advised that as at October 2011, 2.2million Australians (11%) are living on or below the poverty line; *homeless* the Salvation Army advised there are 100,000 homeless in Australia and 10,000 children under the age of 12 years homeless. If this system of *feudal government* continues, Australia will become a third world country with the same civil unrest, violence and killings that are now being experienced in some European and Middle Eastern countries.

The resolution to eliminate these problems is *Modern Direct Democracy, Rule by the People for the People, the People the supreme authority*. This *Democratic system of Government* has existed in one economically successful European country since 1874 where no legislation becomes law unless approved by a *Referendum of the People* and because the *People are SOVEREIGN* over their governments this nation has not been involved in wars for hundreds of years. This includes world wars 1 & II.

Another resolution is acceptance by the People to amend *The Commonwealth of Australia Constitution Act 1901* to include *UN Universal Declaration of Human Rights 1948*.

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**Human Rights**

The violation of the *People's Law, The Commonwealth of Australia Constitution 1901* by State Parliaments, creating unlawful authorities and government structures without the consent of the people is resulting in *corruption abuses and violations of the People's Democratic and Human Rights* that governments refuse to recognise and uphold above any other law.

The 30 Articles contained in **The Universal Declaration of Human Rights** adopted by Resolution by 217 A (111) by the United Nation's General Assembly (Australia is a member) December 10<sup>th</sup> 1948, upholds ALL Human Rights. The State and Federal Governments refuse to adopt this Declaration of Human Rights because it conflicts with other *unconstitutional invalid* laws they have created. All Valid Acts of State and Federal parliaments must be amended to uphold and enforce **The Universal Declaration of Human Rights 1948** as the sovereign law of our Human Rights.

**Cost of Local Governments**

The Victorian Government's Department of Local Government advised the operating cost (wages, superannuation, cars and "perks" etc) of the 79 Local Governments in Victoria has increased to \$7.17billion/year.

Completely ignoring the *Will of the People (Democracy)* of the 200 people, including representatives of framers and small business rejecting any budget increase at a Council meeting to discuss the budget, the Local Government Shire Council in this area increased its budget for 2012/13 financial year by 11% to achieve a total of \$83,000,000. Of this 62% of this budget was to pay staff salaries and wages, cars and other "perks" for their current staff of 413 full and part time employees and 247.63 equivalent full time employees. The Local Government CEO advised that another 11 persons would be employed one to manage their 139 car fleet allegedly to be payed a salary of \$120,000/year.

Under the existing Local Government structure, elected councillors are required to sign an *Oath of Office "to uphold the Local Government Act 1989 (Vic) and any other Act of Parliament"* within 3 months or be dismissed by the State Government. This means Councillors cannot properly represent the *Will of the People (Democracy)* bound by the *Oath of Office* to effectively do as Local Government tells them.

It is proposed that unlawful Local Government is abolished and the invalid *Local Government Act 1989 (Vic)* repealed and the law of *The Commonwealth of Australia Constitution 1901* be applied with elected Councillors being bound by an *Oath of Allegiance* to uphold the *Will of the People (Democracy)* with the authority using the Internet to direct the State Minister for Local Government to instruct *the Local Government Department* to provide as directed by the Councillors, all the essential services, welfare, maintenance of roads, parks, Crown lands and works funded by the *Federal Government grants from tax revenue already paid by the People*. This will immediately eliminate the \$7.17billion cost of existing Local Government and eliminate the need for rates and charges.

**Proposed Federal Referendum**

*The Commonwealth of Australia Constitution Act 1901* is to be amended if the proposed laws are approved by a majority vote of enrolled citizens in a majority of States. The Commonwealth Parliament shall then present the amended *Commonwealth of Australia Constitution Act 1901* immediately to the Governor General for *Royal Assent by Queen Elizabeth II or her successor* and the *Commonwealth of Australia Act 1901* shall be so amended.

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**Question 1.****A Proposed Law: To include a law to allow a Citizen's Initiated Federal Referendums.****Add Section 129**

**"The People shall have a Citizens Initiated Federal Referendum on the presentation of a *People's Initiative* approved by 50,000 signatures of enrolled citizens to the Commonwealth Parliament to conduct a Federal Referendum within 100 days"**

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**Question 2.**

**A Proposed Law: To include *The Universal Declaration of Human Rights* adopted by the United Nation's General Assembly on December 10 1948.**

**Add Section 130.**

**"The Universal Declaration of Human Rights adopted by the United Nation's General Assembly shall be the sovereign law of Human Rights in Australia binding on everybody the Commonwealth Parliament, the Parliaments of the States and the Judiciary. Any law contrary to the Universal Declaration of Human Rights 1948 shall and no law at all and not enforceable by any Court"**

**Summary**

**Arthur A Chresby, research analyst in Constitutional Law for 53 years and former Federal Member for Griffiths in the House of Representatives (1958-61) and author of the document *Your Will Be Done* states –**

***"Parliament is only a machine to make laws in accordance with the written WILL of the people on the subject matter of law"***

***"A political party, in fact and in experience, is a device or mechanism designed to enable manipulators, either elected or non elected, to obtain and exercise direct control over the destiny of the people, cliches notwithstanding, in accordance with the will of the manipulators and controllers"***

**Franklin Delano Roosevelt, in his Second Inaugral Address to Congress –**

***"The test of our progress is not whether we add more to the abundance of those that have much; it is whether we provide enough for those who have little"***

**Abraham Lincoln, in his Speech at Gettysburg -**

***"That this nation, under God, shall have a new birth of freedom: and that government of the people, by the people, for the people, shall not perish from the earth"***

**It is time for a *Political Revolution* and as the People's democratically elected representative by adopting the recommendation in this submission and initiating a Federal Referendum to give the People the opportunity to amend *the Commonwealth of Australia Constitution Act 1901* to make law, the *Universal Declaration of Human Rights 1948* and the democratic right to have a *Citizen's Initiated Referendum* giving the People their *freedom and liberty to determine their own future and prosperity and that for their children.***

**In accepting the recommendadions in this submission, you will give Australia the chance be a role model for the rest of the world.**

**Bob  
Telephone**

# FEE SIMPLE

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HIGH COURT

[1920-1923.]

H. C. OF A.  
1920-1923.

THE  
COMMON-  
WEALTH  
v.  
NEW SOUTH  
WALES.  
18448 J.

estate in fee simple in the land, subject to any estate or interest which any person had in the land at the time of its acquisition by the Commonwealth." The words "estate in fee simple" in this subsection must not be misunderstood. It merely denotes the quantity of interest remaining in the State after carving out whatever interests the State has parted with. The word "fee" in this connection has no reference to "fee" denoting feudal tenure (see *Halsbury's Laws of England*, vol. XXIV., p. 164, note (c)). In the case of *Vigers v. Dean of St. Paul's* (1) Henry VIII. and Charles II., as well as other Sovereigns, were alleged to be seised of lands "as of fee." In *Challis's Real Property*, 3rd ed., p. 218, it is stated with perfect accuracy:—"In the language of the English law, the word fee signifies an estate of inheritance as distinguished from a less estate; not, as in the language of the feudists, a subject of tenure as distinguished from an allodium. Allodium being wholly unknown to English law, the latter distinction would in fact have no meaning. A fee simple is the most extensive in quantum, and the most absolute in respect to the rights which it confers, of all estates known to the law. It confers, and since the beginning of legal history it always has conferred, the lawful right to exercise over, upon, and in respect to, the land, every act of ownership which can enter into the imagination, including the right to commit unlimited waste; and, for all practical purposes of ownership, it differs from the absolute dominion of a chattel, in nothing except the physical indestructibility of its subject. Besides these rights of ownership, a fee simple at the present day confers an absolute right, both of alienation *inter vivos* and of devise by will." Sec. 27 of the Commonwealth Act also enacts by sub-sec. 3 that "the State shall not be entitled to compensation in respect of the loss of any rights of dominion, taxation, or revenue." Nothing could, we think, manifest more openly the intention of the Parliament that the Commonwealth acquisition of "land" should, if necessary, override any of the State's prerogative and other Government rights of property. The prerogative right to the royal metals is an incidental part of the "revenues" of the Crown (see per Lord Watson in the passage quoted *supra*). The Constitution, sec. 52, by sub-sec. 1., confers on the Commonwealth Parliament

(1) (1849) 14 Q.B., at pp. 910, 912.

## Annex

### The Universal Declaration of Human Rights

*Resolution 217 A (III) adopted by the United Nation's General Assembly on 10 December 1948.*

#### Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

#### Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

#### Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

**Article 3**

Everyone has the right to life, liberty and security of person.

**Article 4**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

**Article 5**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 6**

Everyone has the right to recognition everywhere as a person before the law.

**Article 7**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

**Article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

**Article 11**

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

**Article 12**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article 13**

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.



**Article 14**

- 1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- 2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

**Article 15**

- 1. Everyone has the right to a nationality.
- 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16**

- 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- 2. Marriage shall be entered into only with the free and full consent of the intending spouses.
- 3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article 17**

- 1. Everyone has the right to own property alone as well as in association with others.
- 2. No one shall be arbitrarily deprived of his property.

**Article 18**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

**Article 19**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20**

- 1. Everyone has the right to freedom of peaceful assembly and association.
- 2. No one may be compelled to belong to an association.

**Article 21**

- 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- 2. Everyone has the right to equal access to public service in his country.
- 3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**Article 22**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

### **Article 23**

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

### **Article 24**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

### **Article 25**

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

### **Article 26**

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

### **Article 27**

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

### **Article 28**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

### **Article 29**

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

**Article 30**

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Source: *United Nations Department of Public Information*

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