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Mr Robert Oakeshott, MP
Chairman
Joint Committee of Public Accounts and Audit

SUPPLEMENTARY SUBMISSION NO. 15.2
Inquiry into National Funding Agreements

Dear Mr Oakeshott,

*Joint Committee of Public Accounts and Audit
Inquiry into National Funding Agreements*

From the questions asked by the Committee last Friday and my reading of the *Public Accounts and Audit Committee Act 1951* (Cth), (the Act), it occurred to me that an independent Constitutional Censor could be usefully appointed. The role of this person would be to give an opinion to Parliament on the constitutional validity of inter-governmental agreements and their funding through the payment of funds from the COAG Reform Fund Account.

Similarly this type of examination might also be done for Bills. Like the way the Auditor-General is authorised to report to Parliament at any time; c.f., s. 25 of the *Auditor-General Act 1997* (Cth).

Alternatively, if the appointment of a Constitutional Censor is not favoured, then it seems that independent counsel from the Bar might be retained to advise the Committee. Because the Solicitor-General is charged with the task of advising the Commonwealth Executive he would seem to have a conflict of interest if his opinion were to be sought.

In carrying out its duties under s.8 (1) of the Act, the Committee has a difficult, if not impossible task, if it has received no advice as to whether the expenditure being examined satisfies the provisions of the Constitution. For example any expenditure under an Act which previously relied upon s. 81 of the Constitution would now be held as invalid. The case in point being payments to local councils to carry out road works, including bicycle paths.

Hopefully the Committee might find what I have suggested is of some help.

Yours sincerely,

Bryan Pape