



Ivan Saxton B Agr Sci (Melb)

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To the Committee Secretary,

At the end of 2005, I stood for election to Baw Baw Shire Council; and I was elected by the people of Bloomfield Ward to represent them. I offered my efforts on their behalf because I had seen people treated with contempt by some in the shire bureaucracy in ways that should never happen, and because my past education and even broader experience might have protected the peoples' rights under the Constitution and the Rule of Law. That ward was mostly rural but with some town areas. Naturally, if I was to represent people it was important to be available to meet and converse with them, so I walked or drove to knock on every front door possible. Where no-one was home, I left my page of self-introduction and important problem issues; marked with highlighter so people I missed could call me if they had matters of concern.

I offer you this presentment of what I have learned, first as a councillor, and since then of the Constitution and the Rule of Law. I write with absolute respect for you as the elected Representatives of the Sovereign Subjects of the Commonwealth. I shall be forthright where I feel I need to be, and I may use bush idiom where it emphasises meaning. I hope you will see that there is absolute sincerity in what I write. I apologise that the issue is so complex. It is almost impossible to simplify a matter with so many considerations.

When I had responsibility as a councillor, it was easy to perceive that all was not well. One most experienced councillor obviously had his own copy of the Local Government Act, from which he could quote from memory. One senior member of the bureaucracy also thought that was the only Act that mattered; yet he knew as much about the Commonwealth Constitution, the foundation law from before Federation, Commonwealth law, and overriding State laws, as a pig might know about Sunday School.

As a new councillor, there was no encouragement to obtain copies of Commonwealth or State Constitutions which define and limit what the peoples' representatives should do or should not do on their behalf. Induction courses conducted by the Municipal Association of Victoria really addressed little of this either.

And it was clear that the CEO and senior staff felt that, rather than having responsibility to councilors and to report and discuss issues with them as requested, that they needed to keep Council preoccupied with trivial matters, and manipulate their perceptions of all else.

Their only understanding of Fee Simple, (which as you know is part of protected Foundation Law since Federation, and therefore consistently upheld by the High Court), would seem to be that of the Simple, who

would only see importance in what Fee they might levy on any land title.

And that is very much central to the problem with Local Government. The ordinary people in the organisation I found excellent; but it was Orwell's "Animal Farm". To the "Most Equal", (that is, the management,) the level and quality of what they had in their trough was paramount.

Apart from initial appointment of a CEO, (which we found the outgoing CEO and senior staff tried to control or manipulate,) Council had virtually no influence on appointments, remuneration, or special benefits. Appropriate higher education seemed to be very much an irrelevant qualification for appointment and reward. Former councillor Jack Davis of Victorian Ratepayers Association assured me that in many councils, and not only Baw Baw Shire, compliance with what you might term "lower education" was a vital criterion for appointment and promotion. One person used this without discrimination, that is, male or female; (according to information volunteered by trustworthy staff after he was appointed by another shire). Private use of computers, mobile phones and cars were likely not controlled; and if they were, they were deliberately hidden in other budget figures.

Two extreme abuses are of note. One senior hero moved into a new turbo diesel top line four wheel drive with a tow bar took his caravan and family to the Northern Territory, around it, and back on his long service leave; no doubt blessing ratepayers for use of his fuel card. We had a pajero driving a Pajero. (Please check the Spanish translation.) And a lady in middle level management retained full private use of her car while on extended maternity leave. I believe that motor vehicles held by public bodies should be strictly according to the work needs.

At the end of my term Ratepayers owned approximately \$2.5million worth of motor vehicles, the majority allocated to heroes of the bureaucracy for Full Private Use, with registration, insurance, servicing, fuel, and regular replacement at low mileage. Many were driven to and from work with travel times exceeding one hour each way. Employees of State Government departments are not allowed this extravagance and privilege except at top executive level. The fenced car park at the State Offices in Warragul is always full of red plate vehicles at night and weekend. They say that car use through salary package is normal "Corporate" practice. However Corporations whose income is derived from competition in a free market may reward their employees and diminish their own competitiveness according to their own wisdom.

But Local Government corporations in Victoria demand (ever increasing) "Rates" from property owners on the basis of the Victorian Local Government Act (1989), in contempt and contradiction of superior State Law, of the Victorian State Constitution, and of such Commonwealth Foundation Law as Fee Simple, the Australian Courts Act (1828). Section 20 of this authorizes Local Government to charge people for rendered goods and services.

There can be no dispute but that the Primary and Essential Purpose and Responsibility of whatever municipal organisation might exist MUST be the needs of the community. But the lavish provision of personal cars is high income welfare part funded by compulsory financial sacrifice of people who may never own a new car.

By definition transcribed from Black's Law Dictionary, council management's personal use of motor vehicles, and computer and telephone services is described.

"CORRUPTION:

'Any act done with an intent to give some advantage inconsistent with official duty and the rights of others. Johnson v US., C.C.A.Alaska, 260 F. 783,786.

The act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or another person, contrary to duty and the rights of others. U.S.v Johnson, C.C.Ga.,26 F. 682: Worsham V Murchison, 66 Ga 719; U.S.v Edwards, C.C.Ala 43 F. 67.

It is reported that a barrister representing a number of unhappy ratepayers was present at the last meeting of the Latrobe Shire Council. In questions, the CEO was asked to produce his authority to compel landowners to pay council rates. After an interval he returned with the answer that there was no authority.

That was extraordinarily quick for the CEO to have read:

1) Fee Simple

2) s20 of the Australian Courts Act,

3) section 162 [Assertion of right to payment for unsolicited goods or services] from Schedule 2, Chapter 4 of the Commonwealth Competition and Consumer Act (2010)

4) section 168 [Harassment and Coercion] from the above act,

5) Property Law Act 1958 (Vic) S18A "Land may be assured in fee simple. Land held of the Crown in fee simple may be assured in fee simple without licence and without fine and the person taking the assurance shall hold the land of the Crown in the same manner as the land was held before the assurance took effect".

6)The Victorian Constitution 1855 Section XV (15)

"No public Tax, Rate, or Charge shall be deemed to be any Charge or Incumbrance on lands within the Meaning of this Act".

The CEO would have consulted section 108 of the Commonwealth Constitution "Saving of State Laws" in relation to Fee Simple, the Australian Courts Act, and the Victorian Constitution (1855).

And Section 109 of the Commonwealth Constitution is the authority whereby the supposed authority through the Victorian Local Government Act for councils to charge rates on property is further invalidated.

"109 Inconsistency of Laws

When a law of a state is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid".

Further to this, however, the rejection of the third referendum question of 1988 by a margin of two to one meant that Australians did not consent to any third tier of government. The wording of the question is important.

"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 make by-laws for, their respective areas in accordance with the laws of the State'."

The Victorian Parliament had no authority to enact its Local Government Act in 1989. That suppose law is therefore No Law At All.

Transcribed definition of FRAUD from Black's Law Dictionary as follows:

"An intentional perversion of truth for the purpose of inducing another in reliance of it to part with some valuable thing belonging to him or to surrender a legal right: a false representation of a matter of fact. Whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives or is intended to deceive another so that he shall act on it to his legal injury.
Any kind of artifice employed by one person to deceive another.
A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated.'

The problems with which present Local Government burdens the community can only be magnified by decorating it with Constitutional Authority. For, as Baron Acton said, "Power corrupts. Absolute power corrupts absolutely". Local government with constitutional authority would have opportunity and intent to financially enslave people as prohibited by Section 268.10 of the Commonwealth Criminal Code Act (1995). Present local government entities are corporations; and corporate responsibilities, needs, and behaviour are incompatible with the responsibilities of democratic government.

Last time the supreme sovereign authority in Australia, We the People, refused to grant power to local government by altering the Constitution in 1988, local government was massively less unpopular than it is now. Is it really worth the wasted cost and effort to try to (metaphorically) quench Hell with icebergs?
Please remember that every referendum not only decides either to accept or reject a particular proposed alteration, but also serially re-affirms the rest of the Constitution. There have been only six approved alterations to the Constitution since Federation because many people do not fully trust those who are supposed to be their elected Representatives.

It is MY WILL that Parliament shall not attempt to alter the present Recognition of Local Government in the Constitution.

It is and always has been appropriately recognised. The Recognition shows how the problems caused by present misbehaviour and exploitation against the people can be corrected.

Under Section 107 of the Constitution, "Saving Power of State Parliaments": Transcribed the relevant parts of the Annotated Constitution of the Australian Commonwealth, from pages 935&936 of Quick and Garran.....

Residuary Legislative Powers---- The residuary authority left to the Parliament of each State, after the exclusive and concurrent grants to the Federal Parliament, embraces a large mass of constitutional, territorial, Municipal, and social powers, including control over:

(Relevant sections only transcribed)

Departments of State Governments --- regulation of

Municipal institutions and local government.....
There it is. There is no authority in the Constitution to create a

Third Tier of Government. The States are responsible for local government and have not satisfied that responsibility.

All State "Local Government Acts" should be repealed because they are without authority and in Contempt of the 1988 Referendum

States should establish Departments of Municipal Infrastructure and Services, providing minimal management staff for each municipality, to ensure freedom from corruption and fraud, respect for Fee Simple, and that the function of the entity must primarily benefit the community. Elections for local representative committees should be elected democratically, according to ancient Law from Imperial Acts Application Act . Note that elections must be free. And there should be no opportunity for fraudulent misrepresentation in elections as happens now.

There must be opportunity for the community to recognise needs, and to plan, and build/establish infrastructure to satisfy those community needs. Nearly 60 years ago, the community of Warragul in Baw Baw Shire raise the necessary funds and built the original outdoor swimming pool. Eventually it became totally out-dated, expensive to maintain and operate, and had restricted seasonal usefulness. You can no longer build facilities where young people will bake in the sun. For every person who paid for entry to swim, ratepayers contributed another \$30. There was little patronage, and because it was unattractive for people to use, it then became attractive to a different demographic whose behaviour made it much more unattractive to the others.

The swimming club has prominent builders and contractors, has had for 5 years firm cost figures for community construction on an existing ideal site (already owned) of a 50m pool of international competition standard. This includes a structure with solar water heating and soft sides for shade and wind abatement. The council wants a multi-multi million dollar palace instead which no government will ever fund . Nor should they. The community does not need any of those expensive bureaucrats that obstruct the creation of facilities the community needs and can afford. As Dorothy Parker famously said, "You can lead a whore to culture but you cannot make her think".

That is enough illustration without more chapter and verse on this example of why local government must be slashed and reformed as indicated above. The people care for their community and will work for it. They do not want the expensive pajeros who exercise Parkinson's Laws of bureaucratic inefficiency and self-service.

Please whenever possible pay respects in person to the Constitution and displayed beside it in the original Parliament House, the authentic copy of the Great Charter of June 15, 1215. Few read Latin now, but we need to remember that one Latin word in section xx carries the double meaning in our modern language of "Fine", and "Tax". In the explanatory translation of the great historian of England, Sir Arthur Bryant, Section 20 says that "No free(person) shall be Unreasonably taxed (or fined), or taxed to ruin, and tools of trade, and means of earning a living, their merchant's stock, and "husbandman's tillage" (ie land for producing food) shall not be amerced.

You need to always have most consideration with people at lower levels of the socio-economic scale so they will never be treated Unreasonably.

The Laws of England, derived from biblical principle are the derivative

base of our Constitution, and were protected as our Foundation Law by the Constitution at Federation. Perhaps the most important feature of the Constitution and Foundation Law is Reasonableness.

With greatest respect and apology for any remaining typographical errors:

Ivan Saxton

(Sovereign subject of the Commonwealth and Rule of Law)