Watershed or Water Shared?

An Inquiry into the Politics of Rural Water Allocations in Victoria

Submitted in fulfillment of the requirement of the degree of

Doctor of Philosophy

By

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Well, you see Willard ... In this war, things get confused out there - power, ideals, the old morality and practical military necessity. Out there with these natives it must be a temptation to be good because there's a conflict in every human heart between the rational and the irrational, between good and evil. The good does not always triumph. Sometimes the dark side overcomes what Lincoln called the better angels of our nature. Every man has got a breaking point – both you and I have. Walter Kurtz has reached his. And very obviously, he has gone insane (Apocalypse Now).
Abstract

This thesis explores the politics associated with rural water reform in Victoria. The specific focus of the thesis is on the period from 1980 through to the time of submission in May 2010. During this period, the rural water sector has undergone radical reform in Victoria. Initially, reforms were driven by a desire to improve the operational efficiency of the State’s rural water sector. With the growing realisation that water extractions were pressing against the limits of sustainable yield, the focus of the reform agenda shifted to increasing the economic efficiency derived from every megalitre of water. By early 2000, the focus of the rural water reform changed as prolonged drought impacted on the reliability of water supply for the irrigation community. The objective of the latest round of reforms was to improve the efficiency of water usage as the scarcity became more acute. To deal with many of the intractable problems confronting the rural water sector over this period government turned to the neoclassical economic paradigm. The gradual application of market principles throughout all levels of the rural water sector to drive efficiency is giving rise to growing discontent amongst rural water users. This has provoked increasing resentment over the intrusion of the “market” into seemingly every element of rural life. As the water market drives structural reform across the once heavily protected rural sector, farmers have looked to their peak representative body, the Victorian Farmers Federation, to defend established patterns of resource usage. As governments responded to concerns about the environment, the Victorian Farmers Federation was forced to make a number of compromises to protect the security of its members’ water rights. Many members found the compromises unpalatable and became less loyal to the VFF. At the same time the robust political allegiance between the VFF and National Farmers Federation was severely tested by the Council of Australian
Governments’ broader rural water reform agenda. In addition to the obvious self interest that rural water users have in this policy process, there were underlying issues at work.
Acknowledgements

There are so many people who have contributed to the development of this thesis. Some of the contributions have been made indirectly by people who freely expressed their opinions at many of the meetings I attended whilst at the Victorian Farmers Federation. As a result of attending these meeting I was able to fill several notebooks with valuable insights I’d gained from farmers about my chosen research topic. This thesis is my attempt to give a voice to the underlying issues raised by farmers. Of course the issues I explore within this thesis reflect my interpretation and, as such, are open to be challenged by other individuals who may view the issues differently. By far, the most important relationship one develops over the long journey which a PhD thesis encompasses is that with the supervisor. I’m forever grateful for the support, patients and persistence shown by Dr. Peter Love towards me as I grappled with my research topic. His support extended well beyond that of academic and student. Despite his busy schedule, he was always available to point me in the right direction when confronting the many challenges associated with having elderly parents and personal career failures. Any short fall with this thesis rests solely with the student and not the supervisor. There were several other individuals who require acknowledgement as having made important contributions to this thesis. First and foremost is Mr. Gordon Weller who so generously made available to me the vast array of papers he’d collected over the decades he was involved in representing the interests of farmers within then Victorian Farmers Union and its many identities and on various government committees. The many drives we took together around the Lockington irrigation district have been highly insightful and enjoyable. Gordon proved to be a reliable sounding board as I grappled with my technical understanding of the rural water system. Mr. John McNeil was another individual who generously gave his time to
read various work in progress draft chapters and shared valuable personal insights which increased my understanding of how farmers define their happiness and sense of self worth. Alistair Watson also kindly made himself available to read various draft chapters as they were evolving. One can always rely on Alistair’s feedback being straight to the point. Finally, there have been many others who have supported me during this long journey from beginning to completion of the thesis. These people know who they are and will be personally thanked in due course once the dust settles and I’m able to pry myself out of the foetal position and stop rocking backwards and forwards whilst sucking my thumb! Has it all been worth it? Regardless of the final outcome, yes!
Declaration

This thesis is my own work. It contains no material which has been accepted for the
award of any other degree or diploma, except where due reference is made in the text. To
the best of my knowledge, this thesis contains no material previously published or written
by another person except where due reference is made in the text.

Signed: Barry Hrech Date: 07/05/2010
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Preface

I was born and raised in the small country town of Cohuna in northern Victoria. Like so many other small towns in northern Victoria the economic and social prosperity of Cohuna remained intimately linked to the surrounding agricultural enterprises. The art of agricultural production in the northern plains of Victoria was sustained by the snaking network of man made channels that supplied the water required for irrigation over the dry summer months and for providing essential all year round supplies of stock and domestic water.

During my childhood, the man made channels provided me with, along with my brother and sisters, countless hours where we searched for hidden treasures as the channels were lowered for the duration of the winter months.

This is a picture of Sandy Bottom during the winter months when water in the irrigation channels were lowered as they were not required to provide water for irrigation. Sandy Bottom is about 100 meters from my parent’s home in Cohuna. **Photo:** Barry Hancock

While we would wander for miles along the bottom of the channels the muddy clothes we arrived home with would prove to be an ongoing frustration for mum.
The summer months were filled with endless hours where we could be found swimming at our favorite place “Sandy Bottom”. The endless hours were filled with mud fights and playing underwater brandy with other children from around the neighborhood.

Our favorite swimming hole “Sandy Bottom” in full flow during the irrigation season. The stump protruding from the right side of channel bank is all that remains of the giant gum tree which spread its branches across the channel enabling us to prefect the art of dive bombing. **Photo: Barry Hancock**

As we grew older our childhood games were replaced with sharing many fun filled moments water skiing; a hobby which my sisters would introduce to their own children. They regularly make the trip up from their home in Melbourne on the many weekends over the summer months to put their boat in and spend the hours skiing on the Gunbower Creek.
During my childhood, little consideration was given to the significance of the snaking network of irrigation channels, or, to the fact that every drop of water had already been allocated for use. For us children, it just seemed the channel system was simply there for our enjoyment!

Little did I know that later in life I would become involved in one of the most contentious areas of public policy which would have intimate links to my upbringing!

In June of 2000, I became the Victorian Farmers Federation’s water resources policy officer; a position which I occupied for over three and a half years.

While having grown up in an irrigation dependent rural community in northern Victoria, my upbringing was not sufficient for preparing me for the world of rural water politics. As I would soon discover, I was very much “wet behind the ears” when it came to the politics of rural water.
This thesis is my attempt at making sense of the many experiences I'd encountered representing the “interests” of farmers in the highly contentious area of rural water politics.
Chapter 1

Watershed or Water Farce?
An inquiry into the politics of rural water allocations in Victoria

Hegel says somewhere that all great historic facts and personages recur twice. He forgot to add: “Once as tragedy, and again as farce”.

This research thesis

The aim of this thesis is to explore the politics associated with rural water reform in Victoria. While it contains the usual historical overview of the topic, the research specifically focuses on the period from 1980 through to the time the thesis was submitted. The decision to not to focus on the rural water sector in Victoria was made for the reason that the colourful history which preceded the 1980s had already been adequately covered by Powell in *Watering the Garden State: Water, Land and Community in Victoria 1834-1988* (1989).

This thesis also limits its analysis to the irrigation areas in northern Victoria (See Illustration 1). It is here where the majority of irrigation farms have been established and the complexity of the problems confronting the sustainability of the irrigation dependent farm sector is the greatest.

While irrigation occurs in the Macalister Irrigation District in Gippsland, this region of the state is removed from the complexity of sharing water resources across state boundaries. This, however, should not be taken to imply the challenges facing the sustainability of the irrigation dependent community in the Macalister Irrigation District are no less important and, thus not worthy of analysis.

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The role of this thesis is not to come up with the “answer”, nor is it to offer a solution to the issues at the core of the politics of rural water reform in Victoria. This thesis simply seeks to provide an analysis of the anxiety that has arisen within rural society as governments set about implementing the Council of Australian Governments’ strategic water reform agenda. Such an analysis is a necessary first step in providing a sound foundation from which governments can, if they choose to do so, attempt to address these anxieties. As Robert Michels had previously put it, a ‘precise diagnosis is the logical and indispensible preliminary to any
possible prognosis.¹² In essence, this thesis is an attempt to “diagnose” the nature and the cause of the underlying issues at the core of the politics of rural water allocations in Victoria.

From 1980, successive governments have set about reforming the rural water sector in Victoria with the aim of improving its operational efficiency. By the early 1990s, Australia had become a mature water economy with water extractions pressing against what was deemed to be the sustainable water yield. In 1994, concerns for water quality throughout the Murray-Darling Basin (Basin) resulted in the Murray-Darling Basin Ministerial Council introducing a cap to limit the volume of water extracted from the Basin’s river systems.

While environmental concerns impelled the Murray Darling Basin Ministerial Council to impose the ‘cap’, the importance of water as an ‘input’ to rural production placed it within the purview of National Competition Policy.³ The focus of government water reforms thus shifted to increasing the economic efficiency of water usage. Improving the economic efficiency of water required government to implement a range of policies designed to enable a greater return to be generated per megalitref of water used. This objective would be achieved by creating a fully functional water market.

This narrow focus on improving the economic contribution made by water to the national economy has, however, blinded governments to the social consequences associated with water leaving rural communities and irrigation districts. How have governments responded to the social consequences of their water reform agenda? The central premise of this thesis is

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⁴ A megalitre is the standard unit of measure for supplying water to irrigators. A megalitre of water represents 1 million litres which is enough to fill a single 50 metre size swimming pool.
simply that governments have responded poorly to community concerns. This response is a reflection of the poor understanding by governments of community concerns relating to the social consequences of their strategic water reform agenda.

This poor understanding is symbolic of government’s uncritical acceptance of the neoclassical economic assumptions which radically redefine society, man and, the role of government. As governments set about systematically applying market ideals to the reallocation of finite water resources, many rural communities and individuals are experiencing a heightened sense of insecurity about their future. The political dynamics arising from this heightened sense of insecurity are the focus of this thesis.

**Researching the topic**

This thesis evolved from the experiences the researcher encountered whilst involved in the area of rural water politics. As such, it draws heavily on the insights gained from participating in many discussions with the bureaucracy, government, and from attending a multitude of meetings to brief Victorian Farmers Federation (VFF) members and seek their input relating to how their organisation should respond to a number of highly contentious water reform initiatives proposed by government.

The thesis thus walks a fine line when reporting on the insights gained from participating in many back room discussions with the various parties involved in rural water reform. For ethical reasons, not all of the insights can be reported. However, as far as the ethical constraints allow, this thesis will shed light on the political dynamics operating whilst reforms were implemented within the rural water sector in Victoria.
The research draws on a variety of sources ranging from primary academic texts, journal articles, public submissions, and statewide, regional and rural newspapers, as well as, various sources electronic media. It also draws on the personal observations recorded in several notebooks during the researcher’s time as the water resources policy officer with the VFF.

The approach employed in researching the topic is akin to a modern day version of William Cobbett. It is an approach which focuses on highlighting the plight of the rural populace confronting the every increasing encroachment of the market into the domain of the State’s rural water sector.

**Preliminary Research Questions**

In April 2000, the Bracks Labor Government released a policy document highlighting concerns about the unregulated construction of large irrigation farm dams throughout the upper catchment regions of the state. The release of this document followed three previous attempts to find a solution to the problems which had arisen around the construction of large irrigation farm dams.

Upper catchment farmers were bitterly opposed to any attempt by government to regulate their “traditional right” to use the rain which fell on their property. Any regulation of their traditional right and require them to pay for the use of the very rain which fell freely on their property was seen as government attempting to impose a tax on rain.⁵

A gruelling round of workshop was held by the VFF as the organisation sought to respond to the challenges this issue presented for its members. My role as the VFF’s water resources

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⁵ Kate Ashley –Griffiths, ‘Pay for your own rain’, *Herald-Sun*, 30 April 2000.
policy officer was to be present at these workshops. At these workshops it became clear farmers felt their traditional rights were continually being eroded by the actions of government. What farmers actually meant by their “traditional rights” was, however, unclear.

This thesis thus began exploring the following question: What do farmers really mean when they say their traditional rights are being eroded? If we accept the claim made by farmers how are they indeed being eroded? This thesis evolved from exploring these seemingly straight forward questions. However, it soon became clear that what farmers were meaning when saying their traditional rights are being eroded was a lot more complex than the simple restriction of their long established customary practice of freely using the rain that fell on their land.

Structure of this thesis

This thesis is structured around four sections. The first section contains chapters 1 through to chapter 3. Chapter 1 provides an overview of the main structure of the thesis and outlines its themes.

Chapter 2 explores the principles underpinning the development of the customs and laws governing the management of water resources. The central premise of this chapter is that throughout history water resources have been managed as an important public resource which could not be subject to the rights of private ownership.

Chapter 3 outlines the philosophical foundations underpinning the policy objectives which informed the social and economic development of Australia throughout the 19th and much of the 20th century. During this period, the development of public policy was informed by an
organic conception of society in which the state was to play a powerful role. At the core of
what came to be know as the “Australian Settlement” was a strong political commitment to
equality, justice and providing a fair go for all.

The second section of the thesis covers chapters 4 through to chapter 6. Chapter 4 outlines
the arguments advanced for reforming the Australian economy during the latter decades of the
20th century. From the early 1980s, achieving greater economic efficiency was to become the
scared goal pursued by government. The development of public policy in Australia with its
focus on economic efficiency and how to achieve this objective has been created around an
alternative view of man, society, the role of the state and, its public institutions.

Chapter 5 explores the rationale for the reforms implemented to the rural water sector in
Victoria which emerged from the Public Bodies Review Committee (PBRC) established by
the Victorian parliament in the early 1980s. The reforms advanced by the PBRC were
grounded in neoclassical economics and designed to ensure the rural water sector operated
along the lines of a privately owned company.

Chapter 6 focuses the expectations created concerning the market’s ability to address many
of the environmental, economic and social challenges confronting the rural water sector.

The third section of this thesis contains chapters 7 through to chapter 10 and explores the
politics at the centre of reforming the rural water sector in Victoria. Chapter 7 argues that
the reforms being implemented to create a level playing field between the states in terms of
water trading, is, in fact, creating an environment akin to an economic state of nature.
Chapter 8 examines the challenges facing the VFF as it seeks to represent the interests of its members concerning rural water reform. With the rapidly changing community values and expectations relating to the rights of the environment and the decreasing number of farmers, the farm lobby has entered a period of history where its political influence has diminished.

Chapter 9 focuses on the policy compromises required of the VFF with its declining political clout and the political costs incurred as cleavages emerge within its membership.

Chapter 10 traces the often bitter struggle between the various lobby groups purporting to represent the interests of irrigators in northern Victoria. As the rival lobby groups seek to position themselves as “the group” government should negotiate with, they lost sight of the fundamental issues of concern to those individuals they purport to represent.

Chapter 11 focuses on the increasing militancy within the farming community in response to the rural water reforms that were laid out in the Victorian Government’s Our Water Our Future white paper.

The fourth and final section covers chapters 12 to 14 and draws out the issues at the core of the rural communities’ response to the water reform agenda pursued by governments.

Chapter 12 argues the rise in political tension concerning rural water reform can be explained in terms of declining influence which the small family farm model is having on a government whose policy formation supports the establishment of a larger agribusiness model of farming.
Chapter 13 highlights the cultural cleavage which has emerged between, the rural society, government and, broader society.

Chapter 14 brings the thesis to a conclusion and argues that at the centre of the politics of rural water is allocations in Victoria is a growing resentment about the loss of the privileged position the farm sector and rural communities occupied in the cultural, economic and political fabric of the nation.

A final observation …

With the advantage of hindsight, the development of irrigation in Victoria has been routinely criticised for its lack of economic efficiency and its environmental consequences. As Watson states, ‘irrigation was developed carelessly in Australia for mainly social reasons with the emphasis on settlement rather than thinking through the consequences of Australia’s unique hydrology for the economics of irrigation.’6 The current reform agenda pursued by government with its focus on improving the economic efficiency of water usage may, in the future, itself come to be harshly criticised for its neglect of the social consequences associated with rural water reform in Victoria.

Returning to the quote at the top of this chapter, the confused, misguided and often contradictory nature of governments’ current water reform agenda of may, in the future, be viewed as a farce and their impacts a tragedy!

Chapter 2

A Public Good:
The moral and ethical dimensions of managing water

*Water is not a commodity. Water is your soul, it is spirit, and it has memory. Water sings its own song, as the Hopis say.*

**Introduction**

The first urban based civilisations began to be established in regions where large river basins contained sufficient water and semi-arid landscapes for the cultivation of crops. The ancient Mesopotamians were the first people to use water for irrigated agricultural production over 6,000 years ago. The fertile oasis created in the barren plains by irrigation provided the foundation of untold wealth and luxury with the fields of waving grains providing a source of taxable wealth for many ancient civilisations. Man’s ability to harness water resources would prove vital for the social and economic advancement of civilisation.

Since the beginning of civilisation, when mankind left the state of nature and began creating civil society, the management of water would be informed by moral and ethical considerations. At the core of such moral and ethical considerations was a strong commitment to treating water as a resource that could not be subject to claims of private ownership. Looking back across history, the laws governing the management of water resources evolved from ancient legal codes such as Roman law, feudal tradition, common law, to contemporary statute law. These traditions are united by a fundamental principle which is: water shall be treated as a public good!

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Irrigation – the distant past

‘The antiquity of irrigation’, wrote Alfred Deakin, ‘is manifest since it is found in operation among the first nations of whom any record survives.’\(^4\) Irrigation was the cradle of ancient civilizations in Egypt, China, Mesopotamia, India, Mesoamerica and the Central Andes region of South America (See Illustration 2).

Illustration 2

![Map of the world showing regions where irrigation was practiced.](image_url)


The development of irrigation brought about changes in living habits and enabled civilisation to evolve from its primitive hunting and gathering style of subsistence. According to Hassan, it was ‘settled farming, especially in river basins, that set the stage of greater and spectacular developments in the next phase of humanity.’ As Hassan explains it, ‘farming in the

floodplains of great rivers provided the essential ingredients for sustainable farming, as well as the potential for economic and population expansion.¹⁵

Providing food security for all would remain a high moral imperative for the rulers of many ancient civilisations. The richness of the alluvial plains of the southern sections of Euphrates and Tigris Rivers allowed for a greater density of settlement. In fact, the first city-states were created by the ancient Sumerians in the southern region of Iraq and were held together by irrigated agriculturally based economic enterprise (see Illustration 3).

Illustration 3

![Map of Mesopotamia and the rise of city-states](http://history-world.org/Sumer-Akkad.jpg) (4 April 2009)

The development of irrigated agriculture not only enabled the establishment of permanent settlements but also the forging of cooperative communities of large numbers of people. The

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construction of canals and dikes to harness seasonal flood water, the clearing and levelling of land, would not have been possible without the cooperation of hundreds of men and women.

The art of irrigation came to embody so much more than a means for ensuring and increasing agricultural production. According to Kelly, ‘irrigation is more than an act of hydraulic engineering.’ Irrigation became a source of economic, political and social importance and a source of power and leverage in many ancient civilisations. The establishment of irrigation provided the stability necessary for the unification of Egypt and China during the third millennium BC. The unification of Egypt and China allowed for the establishment of highly organised societies. Hassan argues such ‘unification and integration was often achieved in early civilisations by the help of religion.’ Caponera argued that ‘the earliest water control systems have been closely associated with religious beliefs.’

For many ancient hydraulic societies water was believed to be a gift from God and possessed divine healing qualities. In many ancient civilisations the division of irrigable lands, the allocation of water and the distribution of crops was the responsibility of the temple priest. Yoffee argued competition for land and water resources gave rise to the need for a theocratic ruling class. Over time, the influence of theocratic rule extended to other smaller city-states

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9 Hassan, *op.cit*, p43.


and laid the foundation for the evolution of multicommunity states. As Hassan explains it, ‘agriculture in the broad river valleys encouraged not only permanent settlements, but also the emergence of cooperative communities of large numbers.’

In China, the requirement for collective effort to manage water for irrigation and to sustain life itself provided the ‘bond that transformed individuals and families into social groups’, which Benvenisti argues, where held together by ‘local social norms, shared culture and even religion.’ According to Cicero, social agreement and partnership, and the bonds of justice, were the foundation of community. Justice embodied ethical principles such as the equitable sharing of water resources. ‘Communities’, argued Hassan, generally ‘developed agreements for mutual aid and help, extending the ethos of sharing –common among their hunting-foraging-within-bands ancestors –to their new situation applying it to sharing between communities.’ In Andean society, the equitable sharing of water was a fundamental tradition sustaining village life. Trawick argues ‘this tradition forms the “core” of [Andean] societies in an ecological and economic sense, as well as a moral one.’

In northern Thailand, water supplies were managed in accordance with customs grounded in morality and the principle of fairness. The primary aim of the customs governing the management of water was to ensure the survival of both upstream and downstream villagers.

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13 Hassan, *op.cit*, p42.


16 Hassan, *op.cit*, 42.

and smaller scale farmers. This concern for others is a recognition that their existence and welfare was dependent upon others who, in turn, should be accorded the same rights. ‘By the first millennium AD’, argues Hassan, ‘humanity ha[d] developed principles of social justice and equity for all. The masses could and did appeal to these principles that were passed from one generation to the next as the moral legacy of humankind.’ According to Hassan, ‘the advent of agriculture created unprecedented social conditions, and was hence critical in the formation of human moral values that have endured until the advent of mechanised industry during the last 200 years.’ As Dahl sees it, ‘to survive in small groups human beings had to be endowed with capacities for sympathy, empathy, trust, reciprocity, and making judgements about whether and how much to adhere to the rules and norms regulating the behaviour of members of the group.’

**Historical overview of the principles of water law**

The recognition of the importance of water to all aspects of human activity resulted in the development of regulations and laws governing individual and collective rights to this most fundamental resource sustaining life. Hardberger argues the ‘early proponents of the right to water sought to include it as naturally implicit in the right to life.’ The first legal records governing duties concerning water were those enacted by the sixth king of the Babylonian Dynasty, Hammurabi. With irrigation being vital for the survival of Babylon, the Code of Hammurabi (c.1790 BC) established a strong managerial system of laws and obligations. The

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19 Hassan, *op. cit*, p46.

20 Hassan, *op. cit*, p42.


Code of Hammurabi embodied a desire to maintain cooperation amongst farmers in the management and maintenance of the irrigation system and to ensure a fair distribution of water.\(^\text{23}\)

The Code of Hammurabi is the oldest surviving laws that sought to establish a coherent set of principles pertaining to the management of water. The ancient Romans were, however, the first civilisation that viewed law as a science and, under the Roman Emperor Justinian all existing Roman laws were codified into what was known as the *Corpus Juris Civilis*.\(^\text{24}\) Under ancient Roman law, water was classified as falling into three categories—waters common to everybody, public waters and, private water. Waters that were common to everyone were classified as *res communes*. By its very nature, running water was common to all mankind and could not become the private property of any individual.\(^\text{25}\) It was believed all enjoyed a natural right to running water. Water classified as *res publicae* belonged to the state and as citizens of the state individuals had a common right to the use of this water.\(^\text{26}\) Under ancient Roman law, rivers fell within the category of a public resource. Waters that were contained within the less important seasonal water bodies were not viewed under Roman law as *publici juris*.\(^\text{27}\) As such, these waters could be susceptible to claims of falling within the patrimony of the individual landowner as a private right.


The principles set down in Roman law provided the foundation for many other civil laws concerning the management of water. Under medieval Spanish law enacted by the king of Castile, water belonged to the Royal Crown with private ownership only existing through special grant of the sovereign crown. Like the Roman law, individuals were free to use natural rainfall or other sources of diffuse flowing water which had not been caused by human intervention.\(^{28}\) When the Spaniards first arrived in the new world they discovered the existence of an elaborate artificial system of ditches and canals for supplying water for the irrigation of crops. Upon their arrival in Mexico, the Spaniards discovered that irrigation was well established and operated on the notion of communal ownership of water. Before the arrival of the Spanish, the Montezumas had created their own system of laws designed to protect the broader public interest in water. As Deakin was to point out ‘under the Montezumas water was the property of the commune; under the Spaniards it became the property of the king. In both the public interest was thus permanently recognised.’\(^{29}\)

The foundation of ancient Chinese legal doctrine, as it pertained to the control and management of water, also, acknowledged the supremacy of the public interest. According to Caponera, ‘under Chinese water law principles the concept of private water ownership never appeared.’\(^{30}\) In ancient India, water law evolved from the established customs, religion and written codes. Following the arrival of the Mughals, who ruled much of northern India until the European colonialist were to take power, the management of water came to reflect the principles established by Islamic law. Under Islamic law, water was held to be a gift from God and, as such, no individual or ruler could lay claim to owning this resource. Islamic law

\(^{28}\) Cech, \textit{op.cit}, p252.
protected the right of everyone to access water. Through the process of colonising India, the British were able to gradually introduce common law principles which were used to regulate rights to water and to bring the control of water within the British legal system.31

The principles of common law evolved from the time honoured customs and traditions of the English realm. Its purpose was to generally protect the landholder’s untroubled use and enjoyment of the economic benefits derived from his land.32 As with Roman law, English common law classified running water as *res commune* and rivers as *res publicae*. To common law theorists ‘water is a moveable, wandering thing, and must of necessity continue common by the law of nature.’33 Water belonged to the species of things, such as, air, fire and light, which are naturally for everybody to enjoy.34 According to Blackstone, the vague and fugitive nature of water meant no man could have an absolute permanent property in the resource. As Getzler explains it ‘a running stream cannot be appropriated or possessed in the way that land as a stable, immutable object of property is capable of possession.’35 At best, an individual could only ever acquire a usufructuary right of property in water.36 Under English common law, water was viewed as a species of land and an individual’s right to use water were derived from the ownership of land. The link between land and water formed to basis of the English common law riparian rights doctrine.

34 Getzler, *op.cit*, p67.
35 Getzler, *op.cit*, p43.
The riparian rights doctrine

For many leading political and common law theorists “freedom” and “liberty” was personified in the Englishman’s right of property. In a narrow sense, the common law conception of property essentially meant property in “land”. Under English common law, the owner of riparian land that came in contact with water flowing in a natural watercourse was believed to have ownership of the land to the centre of the watercourse. As a result of owning the land to the centre of the watercourse each riparian landholder had a natural right to the use and enjoyment of the water which flowed in the watercourse.

This natural right, however, lasted as long as it did not prejudice the natural rights of other riparian landowners.37 The natural right enjoyed by each riparian tenant was, thus, not an unfettered natural right but a right which embodied certain obligations. Each riparian landowner had a right, to have the water come to their property undiminished in quality and quantity. Riparian land owners also had the right to use water for ordinary purposes associated with the watering of cattle and for domestic purposes. They could also extract water for use for “extra” ordinary purposes, such as, irrigation of a meadow as long as the use was “reasonable”. Also, the riparian land owner was required to ensure the water extracted was returned to the “ancient bed” of the watercourse before it came into contact with another riparian tenant.38 This natural right to the use of water for extra ordinary purposes was limited to the riparian land and did not allow for water to be used on land which did not front a watercourse.39 A riparian landowner could not divert excessive volumes of water which would prejudice the rights of a lower riparian landowner, nor, could he impede the natural

flow of water so that it would inundate and damage the land of an upper riparian landowner.  

If either of these situations should occur the affected riparian landowner could take legal action to restore the world to its natural order.

The early forms of action involved an assertion of the individual’s rights followed by an action to correct some past wrong which impacted upon the economic or other interest of the individual concerned.  

Under English common law, the power vested in the king, who was believed to sit upon God’s earthly throne, was subordinate to the common law. ‘The law of England’, affirmed Coke, ‘is divided into three parts: Common Law, Statute Law, and Custom; but the king’s Proclamation is none of them.’  

In effect, the Crown could not proclaim to have a superior right to manage water in the interests of its subjects. The common law riparian rights doctrine would only allow the Crown the same rights to water as other riparian tenants. This would prove to be a sticking point when the English common law was transported to Australia with the arrival of the first fleet. It was ‘not until 1886, with Alfred Deakin’s Irrigation Act’, writes Scott and Coustalin, that ‘the right to the use of all water was vested in the Crown, new riparian right forestalled, and the possibility of obtaining permanent water rights by prescription removed.’

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41 Getzler, op.cit, pp47-49.


43 Scott & Coustalin, op.cit, 931.
Deakin’s Irrigation Act of 1886

After a series of good rainfall years, drought again returned during the latter part of the 1870s devastating many new settlers in the northern plains region of Victoria. As the dry years began to intensify the water question became alive with water for the north becoming the rallying catch cry. Irrigation was seen as ‘the splendid dream, the cure-all, which would make the north “blossom as a rose”.’ By the beginning of the 1880s, irrigation had become a major political issue in Victoria. Both inside and outside of parliament pressure began to mount for government to conserve water and provide it for irrigation. According to Churchyard, much of the support for irrigation ‘was based on newspaper cuttings and non-scientific reports of irrigation overseas.’ While there were a few pioneers of irrigation, the art of irrigation was practically unknown in Victoria.

In December 1884, the Victorian Government headed by James Service established a Royal Commission ‘to inquire into the question of Water Supply, and into other matters relating thereto.’ Alfred Deakin was appointed chair of the Royal Commission and left Australia in December 1884 to investigate first-hand the practice of irrigation in America. The time Deakin spent in the arid regions of western America would significantly influence his views concerning the development of water for irrigation in Victoria. Visiting the western states of

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California, New Mexico and Arizona, Deakin gained important insights into the difficulties confronting authorities managing water in these states. In New Mexico and Arizona, rights to water were governed by the prior appropriation doctrine.

At the core of this doctrine was the recognition of the superior rights of one appropriator over that of another in order of their history of use. In effect, an individual whose appropriation was “first-in-time” had a superior right to the use of water in a stream. This superior right lasted as long as they were putting the water to a “beneficial use”. Unlike the riparian rights doctrine, the prior appropriation doctrine did not confine the use of the water to the land adjacent to the watercourse and, the holder of the superior right was also under no obligation to share water during times of drought. In essence, this doctrine meant the most senior right had a right to use the water in the stream to satisfy their requirements without having regard for the needs of others. Under the prior appropriation doctrine an individual’s right to water were often contested in the courts. This point was not lost on Deakin.

Deakin paid particular attention to the water rights conflicts which existed in California between supporters of the prior appropriation doctrine and the riparian rights doctrine which came into operation as a result of the state adopting English common law. As Powell remarked Deakin ‘wanted to avoid the messy confrontation over “water rights” that had divided California into warring factions.’ According to Deakin, the problems encountered in California had occurred because no constitutional or statutory provision had been enacted in the state to declare water a public resource. As Deakin saw it, the failure of the civil code of California to classify water a public resource meant the state would be consumed by ‘a cloud

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of litigation.’52 The solution to the problem of litigation Deakin believed could be overcome by following the approach adopted in Colorado.

The State of Colorado had enacted legislation which declared the streams that existed within its borders to be public property. ‘By this one declaration’, wrote Deakin, ‘a thousand and one sources of contention as to riparian rights were altogether closed.’53 Deakin’s progress report containing his insights into irrigation in Western America went as far as to recommend that for irrigation to be successful in Victoria: ‘it is essential that the State should exercise the supreme control of ownership over all rivers, lakes, streams and sources of water supply, except springs rising upon private land.’54 Achieving this objective required the state to abolish common law riparian rights and “nationalise” rights to the use of surface water.55 This principle became a pivotal foundation in the development of the Irrigation Act 1886.

The Irrigation Act 1886 stated that ‘the right to the use of all water at any time in any river, stream, watercourse, lake, lagoon, swamp or marsh shall … be deemed to be vested in the Crown.’56 From the date when the Irrigation Act 1886 received Royal Assent, ‘the ownership of land adjoining a river did not convey any right to the water of the river, and land owners could not take legal action to require that the water should come to their properties in their natural state in flow, quality or quantity, as was, and still is, the position under the Common Law of England.’57 Ronald East believed that through this ‘very far sighted, although

52 Deakin, op.cit, p8.
54 Ibid, p54
56 Irrigation Act 1886, 16 December 1886, p176.
57 East, op.cit.
revolutionary, provision of the Irrigation Act 1886, Victoria had been spared the costly ligation that has handicapped irrigation in many other parts of the world.'58

According La Nauze, ‘the Irrigation Act ... attempted to combine some necessary exercise of state power and resources with local responsibility in the provision of water for irrigation.'59

The issue of the use of state power to achieve the aims of developing irrigation proved to be a point of contention. Deakin had previously indicated that ‘whether we should cast upon the State the responsibility of the construction of head-works for irrigation is a question upon which American experience gives no answer.'60 Deakin, however, did express reservations about allowing the control of water to fall into the hands of private persons or private companies as a result of constructing and managing head-works, such as, weirs. As Deakin saw it, ‘the one motive of the private person or company, in controlling the supply, would be to obtain the largest profit or dividends.'61

By the time the Irrigation Act 1886 was introduced into the Victorian Parliament Deakin had concluded ‘that Government action was in many cases necessary, and in some unavoidable.'62 Deakin informed his parliamentary colleagues that ‘it would seem that the supreme power and responsibility in connexion with the care and custody of water and, in certain cases, in the construction and management of works, can be vested nowhere else than in the State itself.'63

The Irrigation Act 1886, enabled for head-works to be constructed as “national works” by the

58 Ibid.
60 Deakin, op.cit, p56.
61 Ibid.
62 Alfred Deakin, ‘Water supply and irrigation. Speech of the Honourable A. Deakin, Chief Secretary of Victoria, In submitting to the Legislative Assembly a Bill to make better provisions for the supply of water for irrigation, and also for mining, manufacturing, and for other purposes’, June 24th, 1886, John Ferres, Government Printer Melbourne, p29.
State and thus remaining ‘under the direct control of the State.’\textsuperscript{64} However, in accordance with the principle of self help ‘irrigation works were to be constructed by local Trusts with the aid of State loans, repayable from rates which the Trusts were empowered to levy.’\textsuperscript{65} This was a reflection of the broader belief in the notion that the provision of state aid was necessary to provide the foundation for individual success.

An important principle that guided the development of irrigation in Victoria was the indivisibility of land and water. That is to say, water rights were to be assigned to the land that is to be irrigated and sold with the land. This would mean the owner of the land would enjoy a right in perpetuity to the use of water required for the irrigation of their land. According to Powell, ‘the assignment of a fixed quantity of water to each allotment of land would at least forbid the transfer of water rights independently of land sales, thus preventing a monopolisation of water rights.’\textsuperscript{66} Deakin was fearful that if water could be owned by individuals who had no propriety interests in the land it would leave farmers at the mercy of the capitalists.\textsuperscript{67} The process of tying water rights to land title was also part of the aim of Government to allocate water in accordance with the principle of equity.\textsuperscript{68}

The \textit{Irrigation Act 1886} contained many revolutionary features with ‘provisions concerning the “nationalisation” of water use rights, licensing of private diversions, the easement of aqueduct, and state construction of irrigation facilities provided models which were followed in the irrigation legislation of the 1900s in New South Wales, South Australia, and other

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\textsuperscript{64} \textit{Irrigation Act 1886}, 16 December 1886, p176.
\textsuperscript{65} La Nauze, \textit{op.cit}, p86.
\textsuperscript{66} Powell, \textit{op.cit}, p107.
\textsuperscript{67} Deakin, \textit{op.cit}, pp46-47.
\textsuperscript{68} Deakin, \textit{op.cit}, 24 June 1886, p46.
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states. These features have had a profound impact on and had become the mainstay of irrigation public policy in Australia.

**Conclusion**

During the 1880s, irrigation was seen as a means for settling an independent yeomanry farming class upon the land in Victoria. According to Bellanta, ‘the idea that irrigation could transform the country to a fertile oasis, giving a massive boost to its economy and population, was on a par with the febrile growth taking place in Victoria during this period.’ To Harris, the fervour surrounding irrigation both in and outside the parliament would see irrigation become ‘the cornerstone of the two dominant social and economic philosophies of the time: the creation of a class of yeoman farmers and the attempt to make the desert bloom.’ Tyrrell argues the allure of irrigation also reflected government and society’s ‘preference for a broader and more equitable distribution of wealth [and] the shoring up of rural communities against the attractions of the city.’ To Bellanta, ‘the ideal irrigationists was not only male and white –he was also petit-bourgeois’ and that irrigation was seen as a means for ‘bring[ing] security and decency to many, drawing the bulk of the population into a middle-class embrace.’ In essence, the development of irrigation should be viewed against the much broader political context concerning the nature of society which government and those who they governed wished to create. This issue will be explored in greater depth in the following chapter.

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69 Davis, *op.cit*, p356.


Chapter 3

The Australian Settlement:  
The State, the individual and active citizenship

One of the greatest of all illusions is that the old economic order encourages individual initiative and strengthens character.¹

Introduction

The Australian nation-state emerged from the political process which saw the coming together of established self-governing colonies. It gave rise to a political structure which embodied the ‘emerging cultural nationhood of the people.’² The deliberate political process of forging an Australian nation-state, through consensus building and active political participation, fostered the creation of ‘a popular culture of Australian nationalism and a thickening of civil society on a national scale.’³ Together, these processes served to forge a democratic citizenship and a political culture which epitomized a ‘social contract’ between citizens and the state. Such a social contract came to embody mutual expectations concerning the role of the state. This chapter explores the ideals which came to be known as the ‘Australian Settlement’ and the unique political institutions which evolved from such ideals. At the core of the Australian Settlement remained a strong political commitment to equality, justice and providing a fair go for all.⁴

The ideals of the Australian Settlement

Australian democracy was grounded on a widespread belief that state activity was essential to facilitate the establishment of economic and social relations required for the advancement of

³ Ibid, p62.
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society. The ideals underpinning Australian democracy sought to place limitations on the operation of the market and encourage government to nurture a nation-building social harmony that promoted ‘equity and efficiency in a prosperous and true commonwealth.’ Frederic Eggleston held state activity to be the defining character of Australian politics. According to Eggleston, the authority of the state was used to check the ‘undesirable results of the operation of pure economic or individualistic forces.’ The overall objective of state activity was to maintain a fairer balance between power relations in society to ensure the power of one class would not be used to restrict the activity of others. To Eggleston, state activity also promoted a higher degree of citizenship and the moral advancement of the individual in society.

Through the state, all individuals in society were to be provided with an equal opportunity for self realisation. To the Australian citizen, “equal opportunity” came to be interpreted as meaning a “fair go for all”. This notion of a fair go for all, says Marian Sawer, ‘came to be regarded as a core value shared by those on both the left and right of politics’ in Australia. To Sawer, the ideal of the state providing an equal opportunity for all gave rise to the notion of an “ethical state” which intervened in the affairs of its citizens when their freedom threatened to erode their rights. As Keith Hancock saw it, the state in Australia came to represent the use of ‘collective power at the service of individualistic “rights”.’ For the Australian citizen, the collective powers of the state were to be used to protect and advance an individual’s right to work, their claim to a fair and reasonable standard of living and their

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6 Eggleston, op.cit, p348.
7 Ibid, p349.
8 Sawer, op.cit, p36.
9 Ibid, p166.
right to be happy.\textsuperscript{11} ‘The prevailing ideology of Australian democracy’, believed Hancock, embodied ‘the sentiment of justice, the claim of right, the conception of equality, and the appeal to government as the instrument of self-realisation.’\textsuperscript{12}

Such principles formed the foundation of Australian legislation. According to Currey, the principles of Australian legislation embodied ‘a steady determination to improve the position of those, who under modern industrial conditions need the active support of the state.’\textsuperscript{13} To Currey, the increasing amount of industrial legislation enacted in Australia was developed to secure ‘the worker a measure of protection and economic security’ and to improve ‘the economic position of those on the lowest rungs of the industrial ladder.’\textsuperscript{14} Such a view, believed Murphy, reflected a growing sense of community obligation and it was held to be a community responsibility to provide assistance to improve the living standards of those less fortunate in society. Australia’s social security program embodied notions of social justice and social welfare which ‘have been strong planks in the platform of every Federal and State government since 1901.’\textsuperscript{15} Brady also saw Australia’s industrial legislation as embodying notions of social justice which reflected a desire to transfer ‘in one form or another funds from the more fortunate to the less fortunate with direct and conscious attempts to preserve or to elevate standards of living.’\textsuperscript{16}

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\textsuperscript{11} Ibid.
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\textsuperscript{12} Ibid, p57.
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\textsuperscript{14} Ibid.
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\textsuperscript{15} Viva Murphy, ‘Social Services in Australia’, Marriage and Family Living, Vol.17, No.3, August 1955, p205.
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This would occur through Australia’s system of industrial arbitration which fixed wages that were deemed to be “fair and reasonable” to sustain a “normal and civilised” standard of living.\(^\text{17}\) Through the regulation of wages the state guaranteed a “living wage” sufficient to support a worker and his family. In essence, the state restricted individuals’ “freedom of contract” to bargain with their employer over wages and working conditions. To Higgins, “this living wage is a thing sacrosanct beyond the reach of bargaining.”\(^\text{18}\) For Brady, “wage-fixing became closely interlaced with the other elements of Australian social democracy.”\(^\text{19}\) Social democracy, according to Brady, was intimately linked to protectionism, extensive fiscal protection, immigration laws designed to forbid cheap labour, and state ownership of public utilities to assist colonization of the continent.\(^\text{20}\) State ownership was required to ensure the provision of a basic level of service to all inhabitants of such a large and sparsely populated continent. The state regulation of the public utilities was also driven by the desire to make certain vital public utilities could not be managed in a manner contrary to the common good. ‘If they’, wrote Eggleston, ‘are occupied by individuals with a desire to make profits they can be turned against the community.’\(^\text{21}\)

To the Australian politician, the primary aim of public institutions and public utilities were to assist with the development of the country and ‘were to be used in a “dirigist” manner to expand private opportunities.’\(^\text{22}\) The Australian politician, noted Gregory, was more than content to look for returns a generation ahead on the public investments made to establish


\(^{19}\) Brady, *op.cit*, p308.

\(^{20}\) *Ibid*.

\(^{21}\) Eggleston, *op.cit*, p352.

railways, country schools and activities undertaken as part of their land settlement policy. In Australia, state sponsored activity meant the provision of risk-averse development opportunities for the private individual. It provided the foundation from which the individual could seek to reach his or her highest potential. To Gregory, ‘the fundamental plank in the democratic programme of Australia is the belief that a high average of character is the most important of national assets.’ For the Australian citizen, achieving this objective was the highest duty that could be attributed to the Australian statesmen.

The national aspirations of Australians came to reflect shared collective ideals that evolved from the product of circumstance. ‘Every community’, noted Eggleston, ‘that attains political organisation and consciousness has a way of life, a cultural heritage, an ethos, built up from its common experiences and education which, in turn, determines its operative ideas, its emotions and its policy.’ The development of Australia was taken to be shaped by spontaneous and instinctive elements, rather than, guided by a rationalistic or theoretical approach. Such an approach placed the state at the centre of Australia’s social and economic development. The role of the state, thus, came to be looked upon as a means for rendering ‘assistance to its people where they are subjected to unfair competition, and to provide them an opportunity of expansion to the maximum of their enterprise and ability.’ At the core of Australia’s version of liberalism which emerged during the 19th and 20th century is the ideal of creating a social environment of active citizenship.


24 Ibid, p238.

25 Ibid.


The duty of “citizenship”

According to Stokes, Australia’s early political leaders held ‘an organic conception of the nation and of society … in which the state was to play a powerful role.’ However, to achieve the desired social and economic objectives of the Australian Settlement required more than the state playing a powerful role in the lives of its citizens. It required the individual to be committed to giving service to the nation and set aside the pursuit of self-interest for the broader common good. Such beliefs were to remain at the core of the Deakin inspired liberalism and its notion of “citizenship” which dominated political discourse in Australia up until the closing decades of the 20th century. As Brett saw it, citizenship embodied notions of duty and obligation built around shared principles which served to inform individuals of their common destiny as citizens of the nation. To Brett, citizenship served to create an imaginary link between citizen and state and fostered a belief that the state had been formed from the actions and decisions made by its citizens. As such, the state came to be viewed as embodying an outward expression of the inward desires and aspirations of its citizens. This served to enmesh the state firmly within the tightly woven fabric of community.

At the core of this “fabric of community” remained a complex web of obligations and expectations. It embodied an expectation held by the state that the citizen would provide service to the community and a reciprocal expectation held by the citizens that the state would fulfil its obligations. Such a web of mutual obligations and expectations brought the self directed actions of the individual and that of the state within a framework of giving service to

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the community.\textsuperscript{31} To Hearn, this reflected Deakin’s ideal of encouraging self-fulfilment through providing service to the nation.\textsuperscript{32} This principle of promoting active community service was derived from the broader social liberal theory of active citizenship advanced in England by Thomas Hill Green (1836-1882).\textsuperscript{33} Green’s ‘active citizenship’, wrote Sawer, ‘meant engaging in the life of the community to promote the common interest, at any level from the local to the national.’\textsuperscript{34} For Green, the common interest to be promoted was the advancement of human perfection which personified a higher morality of character governed by disinterested motives directed towards attaining the common good.\textsuperscript{35}

According to Brett, Australian liberalism sought to make ‘the moral qualities of the individual the basis of the nation’s identity.’\textsuperscript{36} Brett also argues that ‘it was on virtues rather than values that Australian liberalism was based.’\textsuperscript{37} As Brett saw it, ‘“virtues” are constitutive of the self, part of its character or very nature, and immune from the relativising morality inherent in the concept of value.’\textsuperscript{38} The role of Australian liberalism was one of cultivating private virtue to advance the collective public virtue. Such private virtues as self-discipline, prudence, and obedience were held to be the foundation of public virtues such as civic pride, civic duty and giving service to one’s community.\textsuperscript{39} Underlying both the social liberalism of Green and the

\textsuperscript{31} Brett, \textit{op.cit}, p173.


\textsuperscript{33} Sawer, \textit{op.cit}, 2003, p78.

\textsuperscript{34} \textit{Ibid}, p10.


\textsuperscript{36} Brett, \textit{op.cit}, p8.

\textsuperscript{37} \textit{Ibid}, p9.

\textsuperscript{38} \textit{Ibid}, pp9-10.

Australian version of liberalism was a much deeper theological cause. For Green, the perfection of the human spirit through active citizenship was a reflection of the purpose God had set for human life and this could only be achieved within society. According to Green, ‘only so far as this development and direction of personality is obtained for all who are capable of it …that human society, either in its widest comprehension or in any of its particular groups, can be held to fulfil its function, to realise its idea as it is in God.’

The evolution of liberalism in Australia was also strongly shaped by the social religious influences which dominated society leading up to and for the first half of the 20th century. Such social religious influences reflected historical links to Protestantism in which actions of this world were given greater positive spiritual and moral meaning. To Brett, ‘Protestantism helped to link Australian liberals’ political symbols with the deepest layers of people’s experience of themselves.’ It provided the means whereby the productive efforts of the individual citizen could be linked through providing service to the community and nation with serving the will of a higher being. In Australia, liberalism served to ground citizenship firmly within the cultural foundation of the nation. The early Australian liberals’ notion of citizenship served to advance their nation building objectives through creating a sense of unity and a sense of having a shared collective sense of purpose. These principles informed the agrarian application of the Australian Settlement to building a nation founded on rural settlement.

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42 Brett, op.cit, p57.
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The agrarian foundation of the Australian Settlement

During his “The Forgotten People” address to the nation in 1942, Robert Menzies argued that it was ‘the middle class who, properly regarded, represent the backbone of this country.’ To Menzies, the middle class were the ‘salary earners, shopkeepers, skilled artisans, professional men and women, farmer, and so on.’ As Menzies saw it, ‘the middle class, more than any other, provides the intelligent ambition which is the motive power of human progress.’ They were the people who provided ‘the whole foundation of a really active and developing national life.’ Menzies’s hopes and aspirations for the forgotten middle class is reflective of a vision advanced by previous generations of political leaders who believed the fount of human virtues and traits most conducive to self-government were those of the independent yeoman farmer.

According to Deakin, the yeoman farmer who settled the Northern Plains of Victoria are ‘in many respects, among the very best class of our population.’ While Menzies believed the middle class were the backbone, the individuals who settled on the land, viewed themselves and their vocation, as the heart of the nation’s economic prosperity. As Graham puts it, ‘the Australian farmer saw his industry as the basis of the nation’s economy.’ The farmer believed the primary industries were the roots of the economy from which the rest of society

44 Ibid.
45 The Labor side of politics also had a popular idealised view of the role of the yeoman farmer. See Frank Anstey’s Monopoly and Democracy: The Land Question of Victoria, Melbourne, Labor Call Print, 1906.
46 Alfred Deakin, ‘Water supply and irrigation. Speech of the Honorable A. Deakin, Chief Secretary of Victoria, In submitting to the Legislative Assembly a Bill to make better provisions for the supply of water for irrigation, and also for mining, manufacturing, and for other purposes’, June 24th, 1886, John Ferres, Government Printer Melbourne, p25.
drew its vitality. As the roots, it was the primary industries and the farming community which brought life to the rest of society. Such a view was informed by a much deeper understanding that ‘civilisation begins and ends with the plough.’\textsuperscript{48} At the core of the farmers’ belief system was an agrarian notion which advanced the existence of an inextricable bond between the economic independence of the family farm and the progress of democracy. The advancement of ‘political democracy requires a foundation of independent land-holding farm operators’ wrote Goldschmidt.\textsuperscript{49} Much more was being expressed than simple economic doctrine. As Graham notes, ‘with economic primacy goes social primacy, with industrial vitality goes moral vitality.’\textsuperscript{50} It was through life in the country, the virtues of hard work, honest toil, self-sufficiency, independence, rugged individualism, and the daily contact with nature which forged the development of the morally advanced character of the farmer and country people.\textsuperscript{51}

According to Aitkin, country people believed rural pursuits, grazing and farming were virtuous, ennobling and co-operative activities which brought out the best in people. To country people the virility of rural life was the spring from which the metropolis drew its strength to overcome the competitive, nasty and parasitical behaviour seen as being characteristic of city life.\textsuperscript{52} To the agrarian farmer, the concentration of increasing numbers of people in large urban centres presented a threat to the quality and strength of citizenship and the character of the nation. The nation’s uneven development, noted Eggleston, had been


\textsuperscript{50} Graham, \textit{op.cit}, p39.

\textsuperscript{51} \textit{Ibid}.

strongly criticised by a foreign observer who held ‘that by reason of the underdevelopment of
country life, the Australian community is unbalanced and can never be healthy.’ John Quick (1852-1932) suggested the unhealthy state of English society had its origins in the majority of its citizens being dispossessed of their land. ‘The pauperism, misery, drunkenness and crime’, wrote Quick, ‘which abounds in England is traceable to the despotism of land monopoly, and the appropriation by landlords of land, which in former times belonged to the labouring classes.’

The struggle for land shaped the politics for much of the 19th century in Australia. As Hancock put it, ‘the dominant theme in Australia’s political history is the lament of an unsatisfied land-hunger.’ To help the man of small means achieve his dream of land ownership, and create a more equitable and healthy society required the active intervention of the state. As Murray, the Minister for Lands in the Bent Government (February 1904 – January 1909) understood it, ‘the great majority of men in this country are deserving men.’ But ‘the great majority of those deserving men who desire to get upon the land are unable to get there unless they are aided by the state.’ To Brown, the Attorney General in the Watt Government (May 1912 – December 1913), ‘there could be no greater public purpose than that of seeing the lands of Australia peopled and cultivated by an industrious rural population.’ Accordingly, Brown held that ‘wherever you found opportunities given to the

54 John Quick, *The History of Land Tenure in the Colony of Victoria*, Melbourne: Samuel Mullen, Collins St, East, 1883, p104.
55 Hancock, *op.cit*, p71.
industrious men to go on the land, and in the course of time get freehold of their land, there you would find the foundation had been laid for substantial progress’ of a nation.\textsuperscript{58}

Such a view reflected a deeper understanding that progress of the nation required more than government simply making land available. It also required a commitment by those who were placed upon the land to make use of the resource provided to them by the state. Deakin had previously acknowledged this when informing the Victorian Parliament of his vision for state sponsored irrigation in northern Victoria. ‘No Government of itself’, argued Deakin, ‘can begin to make irrigation a success.’ As Deakin saw it, ‘[g]overnments can offer the means by which local effort can make irrigation a success, but that is the utmost they can do.’ For Deakin, ‘the basis of successful irrigation must be that of individual energy and that joint action on part of the farmers themselves which no State can possibly supply.’\textsuperscript{59}

**The Australian Settlement, citizenship and rural development**

For much of the 19\textsuperscript{th} and the 20\textsuperscript{th} century the policies and actions of Australian governments were designed to allocate both the economic and physical resources required to facilitate rural expansion and increase the nation’s rural export earnings.\textsuperscript{60} As Tonts and Jones saw it, ‘the rural policies of Australian state and federal governments were directed not only at developing the agricultural economy, but also, meeting and even anticipating the human needs of the population moving onto the land.’\textsuperscript{61} According to Jones and Tonts, the actions of

\textsuperscript{58} Ibid, p1823.

\textsuperscript{59} Deakin, *op.cit*, p28.


government were guided by an understanding that ‘equitable provision of access to basic services … [was] … one of the components of social sustainability’ of rural Australia.\textsuperscript{62}

Brett has also argued that during ‘the first half of the twentieth century there was a policy settlement between country and city … [that reflected] … an agreed understanding of their interdependence, which included that country people should be compensated for the costs of living outside the metropolitan centres.’\textsuperscript{63} To support the man on the land required considerable growth in the size and number of public institutions. ‘Over the first half of the twentieth century’, wrote Davison, the state established ‘vast apparatus of boards and commissions, departments and funds, charged with the task of supplying rural Victorians with roads, railways, dams and irrigation channels, schools and hospitals.’\textsuperscript{64}

Public instrumentalities also served as redistributive mechanisms which governments used to off-set the cost of living in the country.\textsuperscript{65} The cross-subsidisation of country residents and rural industry was a reflection of governments’ adherence to the principle of equality, as well as, their broader commitment to policy objectives associated with decentralisation. As Brett sees it, ‘since federation an important part of the Australian commitment to equality has been a commitment to regional equality, to keep Australians’ living standards relatively equal across the country, in order to prevent the development of very poor and very rich regions.’\textsuperscript{66}


For over three quarters of a century, governments in Victoria remained committed to setting uniform prices for basic essential utilities such as water, electricity and gas to ensure equality between country and the city. According to the *Bendigo Advertiser*, this occurred because ‘good societies organise themselves in such a way that essential services are delivered free of cost discrepancies caused by the tyranny of distance.’67 The principle of equality can also be found underpinning the allocation of water entitlements within publicly funded irrigation districts. ‘The guiding principle behind our existing irrigation development’, wrote the Rural Water Commission, was ‘the desire of past governments and the irrigation community to provide an equitable distribution of available water resources between holdings.’68

Such a view reflected an acknowledgement that ‘water allocation[s] are based on the assumption that water is a public resource, provided as a publicly operated service in irrigation districts, and to be allocated on as equitable a basis as possible, with all landholders entitled to a share of the resource.’69 As far as possible, water rights were to be apportioned to individual farm holdings that were deemed suitable for irrigation. Apportioning water rights to land can be seen as a reflection of the broader desire of the community and government to provide individuals with their own piece of land where they would be able to generate a reasonable income for their hard work.

At another level, the apportionment of water rights to individual farms embodied certain obligations, the main one being that farmers were required to use the water which had been provided to them at great cost to the state through publicly funded irrigation works. To

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67 Comment attributed to the *Bendigo Advertiser* by Hon. T. C. Theophanous during parliamentary debate ‘Electricity Charges’, *Victorian Legislative Council Hansard*, 7 September 1994, p54.
ensure farmers were reminded of this obligation government levied a compulsory annual charge, in part, to recover the cost incurred with the provision of water to irrigators. In Victoria, an independent statutory body, the State Rivers and Water Supply Commission ("SRWS Commission"), was established with the specific aims of planning for the storage, management and utilisation of water for irrigation, industrial and urban purposes. Reflecting the dominance of state paternalism, the SRWS Commission was also responsible for the ‘instruction and supervision of settlers in matters pertaining to irrigation; and, generally to provide for the welfare of settlers in irrigation and water supply areas.’

Providing for the welfare of irrigators often meant withholding rate rises during times of down turn in the rural economy. Such decisions made to hold down water rates were often political decisions made by government which had the responsibility for regulating water charges. This enabled government to ease pressure upon irrigation farmers during times of severe downturn in rural incomes and sharply rising farm costs. It also provided a means for government to maintain political stability in rural areas of the State. However, withholding rate rises required the debt associated with operating the irrigation supply system to be borne by the state.

This followed the well established tradition where the cost associated with important public works were funded from general revenue. According to East, ‘the State has long since abandoned the principle that the cost of public works should be met by those directly

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benefitting there from, and has by its limitations on water rates, rail freight and other charges frankly transferred portion of the burden on to the general tax payer.72

The paternalist nature of previous governments towards rural society and man on the land resulted in the establishment of a variety of statutory marketing boards for agricultural produce in ‘an attempt to equalize returns and to minimise losses associated with “weak sellers facing strong buyers”.’73 The Vernon Committee indicated government’s willingness to accede to farmers request for establishing income and price support mechanisms was underpinned by a belief that apart from the issue of social justice, it would provide greater stability in their efforts to manage the economy.74

**Conclusion**

In Australia, nation building came to embody strong pioneering and agrarian overtones of the small scale yeoman farmer ideal. Such strong overtones were to remain etched in popular imagination until the end of the 1970s when the image of the farmer as the “typical Australian” began to wain. While the cultural importance of the farmer has gradually been eroded from popular culture, rural society still remains strongly wedded to the once cherished place which the farmer and the nation’s primary industries held in the collective consciousness of Australians.

At the foundation of farmers’ value systems can be found deeply engrained conservative ideals which make them highly resistant to change.75 Bound by tradition, farmers tend to view

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72 East, *op.cit*., p12.


74 *Ibid*.

75 Margaret Alston, ‘Socio-cultural factors and family farming’, in *A Legacy Under Threat? Family Farming in*
themselves as the true guardian of the nation’s cultural heritage. It was a cultural heritage which valued a high standard of citizenship and the full development of the human personality. As Eggleston explained it, ‘success … depends upon a high standard of citizenship, and a community will deteriorate if this fails.’

During the latter decades of the 20th century, the relationship between the state, economy and society began to be seriously debated within policy making circles as the nation confronted new challenges associated with the emergence of globalisation. According to Catley, ‘during the 1980s the national political elite reached a broad consensus that Australia would need to open or internationalise its economy in order to meet the unavoidable challenge of globalisation.’ Australians were continually informed ‘the only realistic strategy for Australia is to go with the flow of globalisation, revamping society and social institutions in the cause of global competitiveness.’

The next chapter explores the arguments advanced for the need to reform the nation’s economy which has seen the individual transformed from an active citizen into a passive consumer as governments set about implementing reforms designed to increase the competitiveness of the Australian economy.

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76 Eggleston, op.cit., 1953, p5.
Market Society:  
The rational pursuit of “Efficiency”

The very size of the problem, as revealed when we took office, makes all the more urgent and relevant our call for new directions, new attitudes and new policies— as encapsulated in our theme of national reconciliation, national recovery and national reconstruction.¹

Introduction

Traditionally, Australians have enjoyed a high standard of living sustained by a strong rate of economic growth. By the 1980s the nation’s low unemployment and low inflation had given way to ‘conditions of high unemployment, high inflation and recessed, even negative, growth.’² It was argued that to overcome Australia’s economic lethargy required governments to adopt a whole new attitude towards addressing the nation’s economic difficulties. A new mode of political discourse would also be required to advance the reforms deemed necessary to redress Australia’s economic malaise.

During the 1980s, achieving greater efficiency was to become the sacred goal of governments. Increasing competition across all sectors of the economy via the introduction of market forces was seen as the key means to achieving this sacred goal.³ This chapter draws out the underlying assumptions embedded within the new economic orthodoxy which has come to dominate public policy development in Australia since the 1980s. “Economic rationalism” draws from the realm of social and political philosophy to radically redefine the role of government and its relationship to the individual.

¹ Robert Hawke, Address by the Prime Minister, Hon. R. J. Hawke, AC, MP to the National Press Club, Canberra, 27 June 1983, p4.
The rise of the neoclassical economic policy agenda

As noted in the previous chapter, up until the latter part of the 20th century, governments in Australia were to remain dominant actors in the economy. ‘In development terms’, wrote Butlin, Barnard and Pincus, ‘the direct actions of government made them important … contributors to the process of economic expansion and growth.’4 As Capling, Considine and Crozier saw it, ‘farmers, trade unions, business groups and households built their futures upon a mixed economy of private effort and public infrastructure.’5 By the 1970s, the Keynesian interventionist approach employed by governments to manage the domestic economy began to breakdown. The use of monetary and fiscal stimulus to smooth out the boom-bust cycle of capitalism was proving ineffective against the backdrop of global economic downturn, escalating unemployment and rising inflation of the 1970s. As the Keynesian consensus began to erode it came under ideological assault from the “dries” within the political elite and the privately funded neo-liberal policy think tanks. As Galligan, Roberts and Trifiletti saw it, ‘the role of government was seriously questioned by a resurgent neo-liberal ethos that championed economic rather than government solutions and endorsed private enterprise strategies for running the democratic state.’6

According to Whitwell, the Commonwealth Treasury believed the interventionist actions of government, designed to achieve particular policy objectives of the Australian Settlement, had been informed by ‘an unwarranted belief in the controllability of the economy.’7 At the centre

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of the Commonwealth Treasury’s objection to economic planning by government was a strong philosophical belief in the sanctity of the market. Whitwell also believed the Commonwealth Treasury held a view that ‘a major problem with government interference was that it weakened the capitalist spirit of enterprise.’ As Whitwell notes such a view reflects a belief held by the Commonwealth Treasury that ‘the source of capitalist drive, the inherent vitality of the capitalist system, resides in the private sector.’ The private sector is seen to be inherently more efficient than the public sector because it is exposed to the competitive forces of the market which directs capital to more efficient uses. The public sector, on the other hand, enjoyed monopoly privileges protected by legislation that was designed to shield the public sector from the competitive pressures of the market.

According to Kemp, the culture of administrative rules and regulations and, the bureaucracy’s reliance on overly prescriptive, outdated and highly centralised legislative frameworks, meant the costs associated with the provision of many government services were deemed to be high. The inherent inefficiencies in the public sector were also held to be a result of “government failure” and the “rent seeking” behaviour of interest groups looking to gain special privileges from government such as tariff protection or import quota restrictions. This meant the benefits obtained by interest groups were not accrued through increased productivity but by the skill of the industry sector at lobbying government. As Moore put it, ‘governments … tend to make decisions in the interests of lobby groups rather than the

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8 Ibid, p132.
community as a whole. The outcome of such rent seeking behaviour is that the broader community is required to bear the burden of the costs in the form of increased taxes and or higher prices to support the industry sector granted special privileges by government.

The growth in the size of government that has occurred since the 1960s is also reported to be related to the transfer of government subsidies to the welfare state. To sustain the welfare state requires government to spend and raise the required capital to sustain increased spending through increases in taxation. However, Keating suggests the perceived political resistance of citizens to increases in taxation has prevented governments from increasing its taxation revenue to adequately offset spending. Such action has resulted in government carrying large budget deficits and increased foreign debt which gave rise to inflationary pressure fuelled by public sector borrowing to sustain living standards.

According to Milton Friedman, this has occurred, in the decades following the end of the Second World War, when ‘welfare rather than freedom became the dominant note in democratic countries.’ To Friedman, ‘full employment and economic growth have … become primary excuses for widening the extent of government intervention in economic affairs.’ This has resulted in the “crowding-out” of what was believed to be the more efficient private sector and was seen as creating a relationship of dependency between the

13 Kemp, op.cit, p1.
17 Ibid, p37.
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individual, inefficient businesses and government. Implicit in such a view is a belief that ‘good government is small government.’ Such an assumption also reflects a much deeper philosophical belief that the only true freedom is freedom from government. This assumption embodies a right wing neoliberal view of a decentralised economy built around property rights, free trade and free markets. It advocates economic freedom of the individual. This signals a rejection of the social liberal notion that the individuals’ freedom is enhanced through government. The origins of social liberalism can be traced to the left wing political philosophy which advances creating an egalitarian society through government intervention in the economy centralised planning for the economy.

**Increasing the efficiency of the national economy**

When coming to office in 1983, the newly elected Labor Government argued it was facing ‘the worst economic crisis since the Great Depression.’ According to Prime Minister Hawke, his government had inherited an economy that was constrained by long term and inherent structural problems which restricted the nation’s economic growth over the previous decade. As Hawke saw it, Australia’s poor economic performance was a result of having ‘an over-valued and unresponsive exchange rate, an ossified financial system, an over-protected and inward-looking manufacturing sector, an excess of burdensome industry regulation, [and] government business enterprises hamstrung by their guidelines and unresponsive to their customers.’ In an endeavour to redress the problem of having an

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unresponsive exchange rate and oppressive financial system the Labor Government deregulated the financial system and floated the Australian dollar.

The objective behind such action was to improve the competitiveness of the nation’s rural and resource based export sectors. This was to be an important objective as ‘the mainstay of Australia’s export effort will remain its primary producing and resources based industries for decades to come’, acknowledged Prime Minister Hawke. The previous policy practice of regulating the Australian financial market resulted in overvaluing the Australian dollar which eroded the competitiveness of the nation’s export sectors. According to Hawke, the decision to deregulate the financial system had ‘substantially boosted the competitiveness of our rural exports.’ Following the initial reforms, the Labor Government’s focus shifted towards gradually reducing tariff protection provided by government to various industry sectors. The Labor Government also set about winding back artificial price supports available to the rural sector and removing statutory marketing arrangements available for select rural products. It was argued the gains achieved through the initial reforms would only be short term as the domestic cost structure of vital inputs to the production process were deemed to be high. ‘The high cost of nontraded goods, of which the state was the largest provider’, argued Schwartz, ‘made them uncompetitive by boosting input costs.’

With the public sector responsible for the provision and regulation of many of the vital inputs the government’s attention shifted to improving the efficiency of the public sector. As Hawke

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25 Robert Hawke, *Australian Rural Adjustment Unit Speech by the Prime Minister*, Canberra, 30 October 1984, p3.
explains it, ‘the public sector is an important feature of the Australian economy [and] that the efficiency of its own operations has significant implications for our overall economic performance.’ This signalled a shift in the Labor Government’s economic reform agenda to the implementation of micro economic policies focused on improving public sector efficiency. The reforms implemented by the Labor Government represented a bundle of policy initiatives grouped under the banner of “economic rationalism”. Broadly speaking, the bundle of policy initiatives included managerialism, corporatisation, privatisation, outsourcing, and competition policy, which were informed by ideals of small government and a desire to integrate the nation’s economy into the global economy. The combined goal of these approaches to public administration was the marketisation of the public sector.

The managerialist philosophy of public administration advocated the adoption of more flexible and innovative approaches to allow managers to manage. Enabling this to take place required the devolution of power from highly centralised bureaucracy to managers who were then required to manage their resources for results. In essence, attention shifted away from a focus on “inputs” towards one of “outcomes” and “results”. Schwartz indicates “the (sometimes limited) introduction of “user-pays” principles encouraged managers to recover and retain at least part of the cost of production.” To achieve these managerial objectives required changes to the machinery of government to be implemented so that the old public sector model reflected the flatter private sector “corporation” model. According to Argy, the ultimate objective of implementing the managerial model within the public sector is for this

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sector to be ‘operating on the model of a lean, cost minimising and (where possible) aggressively competitive modern corporation.’

Establishing the environment of such a modern corporation requires restructuring, of what were seen as “monolithic” and “monopolistic” public agencies, along corporatist business modes of operation. ‘Corporatisation’, remarks James, ‘involves the restructuring of a government entity into some type of pseudo business enterprise where the entity operates on a commercial basis within a competitive environment.’ To Farrar, ‘corporatisation is part of a policy of commercialisation which in its turn is part of a policy of liberalisation or deregulation of the economy.’ Government owned entities are restructured so they become statutory authorities, which, in theory, provides the authority with greater independence from government. While government still remains the owner of such an entity, the operation of the corporatised entity is devolved to an independent board of management. Such action allows for the separation of policy planning functions which government is responsible from the implementation of the policy which is in the domain of the corporatised entity. The ‘strategic decision making’, argues Schwartz, ‘including the allocation of investment resources, becomes concentrated in small policy teams.’

The role of policy making thus became highly centralised within the hands of a small number of ministerial advisors and staffers. Such an outcome was seen as allowing government to provide strategic direction relating to the provision of services which, desirably, would be

32 James, op.cit, p102.
35 Schwartz, op.cit, 1994a, p50.
provided by the private sector. To many, this is preferable because government is seen to be ‘steering, not rowing’ in the market. The overall objective of corporatizing public entities is purported to create ‘a “level playing field”, vis-à-vis the private sector, by removing special advantages and disadvantages that apply to public corporations by virtue of government ownership.’ Competitive market pressure occurring on a level playing field is believed to result in the efficient allocation of public provided goods within the economy.

However, corporatisation also establishes a framework which enables for future privatisation of the entity. As Sheil sees it, ‘if an organisation can be completely restructured along private lines, the final legal fact of ownership can be destroyed when a political opportunity presents itself, or, if necessary, the deed can be done by a future government.’ To Sheil, ‘what distinguishes corporatisation … is not its commitment to efficiency and effectiveness, but its conceptual link with privatisation.’ In effect, ‘it is the final public station along the line to privatisation.’ The first step in achieving the end result of privatisation, however, requires government to increase the commercial value of public assets through ensuring they deliver a rate-of-return by either increasing the revenue stream of the public asset or decreasing the expenses associated with performing its tasks.

The focus on achieving a rate of return signals a fundamental shift in the thinking concerning the role of public enterprises in Australia. Historically, public enterprises in Australia were

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empowered with a wide variety of objectives and governments rejected profit maximisation or cost minimisation as being their core objectives. As Quiggin sees it, ‘a central feature of public sector reform in Australia has been the attempt to replace the diffuse objectives of traditional public enterprises with an objective of profit maximisation subject to the satisfaction of clearly defined community service obligations.’\textsuperscript{41} The reforms have also fundamentally changed the way society is viewed by government.

\textbf{From citizen to consumer}

The reforms implemented to improve Australia’s economic performance have gradually replaced the centralised bureaucratic delivery of public goods and services with quasi-markets. According to Kemp, ‘the existence of alternative suppliers gives people freedom of provider choice, a choice which should offer better services.’\textsuperscript{42} In essence, the economy is being restructured to enable the market to meet the wants of the individual as opposed to government. As Gray and Jenkins see it, ‘the traditional perception that citizens are mere recipients of state services is slowly being replaced by the concept that citizens are customers with rights to demand quality services.’\textsuperscript{43} To Lowery, consumer sovereignty has now come to imply the performance of a nation’s economy can be evaluated in terms of the degree to which it fulfils the desires and wants of the consumer.\textsuperscript{44} Such a view reflects a methodological individualism underlying the economic analysis of various public policies and the functioning of public institutions. It embodies the neoliberal view advanced by Margaret


\textsuperscript{42} Kemp, \textit{op.cit}, p3.


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Thatcher which holds that ‘there is no such thing as society.’ There are simply individual men and women.

For public choice theorists, these individual men and women are rational utility maximisers who interact through the exchange of goods and services in the market place. As Buchanan and Tullock see it, ‘the individual enters into an exchange relationship in which he furthers his own interests by providing some product or service that is of direct benefit to the individual on the other side of the transaction.’ The theory of the market also holds that in such situations the interest of the other person in the exchange relationship is excluded from consideration. That is to say, market theory postulates that the individual is only concerned with their own self interest, and, as such, self interest is seen as a strong force which motivates all human behaviour. Such a view is a stark contrast to the understanding of man Adam Smith advanced in his *Theory of Moral Sentiments*.

According to Smith, humans have an innate natural tendency to care about, and, be concerned for, the wellbeing of others. This concern provides the foundation of one’s civic character. As Matheson argues, ‘the foundation of a sound polity is character, and by character, as Greek and Roman saw, will a state in the long run be judged …’. To the Greeks and Romans, civic character was the critical element in fostering active participation in the affairs of a self-governing community and the city-state. It is the foundation of one’s citizenship and their membership of a political community which embody not only rights, but, also, obligations,


duties, ideals of inclusion, solidarity and, underpins the ethic of community involvement.\textsuperscript{50}

By today’s standard, however, citizenship has come to mean something quite different. It has Brett argues, come to refer ‘almost exclusively to the individual’s formal relationship to the state, and emphasises rights and entitlements conferred by the state rather than the duties and obligations of individuals to their political community.’\textsuperscript{51}

Ryan argues the contemporary tendency to view citizens as consumers or customers is detrimental to modern approaches of governance which emphasis partnerships and cooperation.\textsuperscript{52} In essence, viewing the citizen as simply being a customer actually serves to redefine ‘the relationship between government and the public as a passive commercial transaction, rather than an interactive political engagement.’\textsuperscript{53} According to Ryan, ‘the relation between government and citizens is much more complex than is conceded in market constructions of this association.’\textsuperscript{54} As Walsh sees it, ‘consumer sovereignty does not express the fullness of citizenship, with its basis in community as well as individual rights.’\textsuperscript{55} Walsh also notes the current tendency of governments to rely on marketing processes further undermines the public realm because they are being used to replace political dialogue which should occur between the state and its citizens.\textsuperscript{56}


\textsuperscript{51} Judith Brett, \textit{Australian Liberals and the Moral Middle Class: From Alfred Deakin to John Howard}, Cambridge University Press, United Kingdom, 2003, p58.


\textsuperscript{53} Ibid, p105.

\textsuperscript{54} Ibid, p106.


\textsuperscript{56} Ibid, pp66-67.
The current market model of government and service delivery, notes Ryan, has reconstructed citizens as mere consumers of public goods rather than as being active participants in the processes associated with developing public policy.\(^{57}\) To Aberbach and Christensen, ‘a major defect of the customer service orientation is that it glosses over some of the most fundamental issues in politics, issues with implications for the distribution of power and benefits in society and for related questions of social justice, replacing them with a simple slogan such as putting the customer first.’\(^{58}\) As Aberbach and Christensen see it, ‘much is lost from public life when the state is seen primarily as a service provider and citizens are seen to function mainly as individuals.’\(^{59}\) What is lost, notes Connolly and Terry, is an understanding of citizenship which advances that all people are equal members of a political community and, are permitted to be actively involved in the public decision making processes and, are entitled to participate in the affairs of the state.\(^{60}\)

The current political discourse, focusing on consumerism with its emphasis on greater choice, is seen as operating to constrain debate about the role of government and that of the citizen to the narrow context of the market. As Sanderson argues, ‘consumerist discourse effectively denies the relevance of … collective interests to debate about the role, scope and form of public services.’\(^{61}\) For Sanderson, instrumental rationality places consumerism at an ideological level and ‘presents choice as an end in itself rather than as a means to politically negotiated ends.’\(^{62}\) In effect, ‘the instrumental rationality of ideological discourses in placing

\(^{57}\) Ryan, *op.cit*, p104.


\(^{62}\) *Ibid*. 
ends beyond the realm of rational discussion [and] serves to legitimise existing social and institutional structures and power relations as the natural, immutable state of affairs.’ It simply seeks to promote ‘market relations as an unquestioned reality and legitimising the minimal State.’ Against this background, the objective of public policy is confined to improving the efficiency of the market.

**Serving the public interest!**

The development of public policy is being informed by a view of the citizen as a consumer whose primary role in economic, social and political life is defined in terms of their participation in economic markets. Accordingly, it is argued the role of government should be confined to implementing reforms which enhance the efficiency of markets. This view embodies an underlying assumption which is being used to justify fostering competition across all sectors of the economy. ‘The pervasive assumption’, argues Stillwell, ‘is that competition is universally conducive to efficiency.’ In Australia, Edwards argues, “economic efficiency” has become equated with “competition” which in turn has been equated with “public interest”. To protect the public interest, governments are now required to clearly demonstrate that any regulatory restrictions which limit competition are held to be in the public interest. This could be a difficult task as Hilmer, the key architect of Australia’s national competition policy framework, indicates the recommendations underpinning the nation’s competition policy have ‘a presumption in favour of competition.’

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63 *Ibid., p98.*
64 *Ibid., p96.*
68 Frederick G. Hilmer, ‘The Bases and Impacts of Competition Policy’, *Economic Analysis & Policy*, Vol.25,
To Hilmer ‘competition is the positive force that assists economic growth and job creation.’

Similarly, Scales argues ‘competition is an important way of improving the performance of
individuals, firms, organisations, governments and nations.’ Combined, these views link the
public interest to ideals of maximising the welfare of the community through increasing
productivity which is seen as the best means for improving living standards. However,
Edwards argues this view, founded on a belief that competition and maximising economic
efficiency is a means for improving living standards, embodies a number of errors of
assumption. The biggest error is that they confine policy analysts’ understanding of welfare
to measures of consumption and simply assume that maximising the consumption of the
consumer is the same as improving their well-being. The next error, Edwards suggests, is that
policy analysts believe maximising the interests of the consumer equates to reducing costs for
the consumer. The final error made by policy analysts, holds Edwards, is that they simply
‘assume that the best way to reduce costs is to introduce competition.’

As Gear, the minister
delivering the second reading of the Competition Policy Reform Bill in the commonwealth
parliament put it, ‘it is not a radical notion that consumers generally benefit from greater
competition and that, where possible, greater competition should be encouraged.’

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72 Edwards, op.cit, p33.
essence, it is now widely accepted that ‘the engine which drives efficiency is free and open competition.’

According to Freebairn, ‘competition assists in the generation of higher living standards by facilitating higher levels of mutually beneficial exchanges between factor owners and producers, and between producers and consumers.’ While competitive markets are held to be in the public interest, there is little consensus as to what constitutes the “public interest.” Since economic rationalism rose to prominence in the 1980s’, wrote Edwards, ‘governments have allowed markets to determine what is the public interest and have neglected other standards such as ethics, the wisdom of the ages, the deliberation of a non-partisan public service, international treaties and biophysical limits to economic growth.’ To Edwards, decisions relating to what constitutes the public interest and how best to serve it often reflect the ideological leanings and values of those individuals who are charged with making such decisions. For Edwards, ‘the imperative of time means that the more powerful people become, the more important ideology and values are in their decision making.’ Similarly, Henning acknowledges ‘the role of individual values and biases in interpreting and recommending policy decisions for the public interest.’

But, as Gallop argues relying on ideology alone to make assessments of the public interest are problematic. To Gallop, policy recommendations about the public interest that are ‘based on

74 Paul J Keating MP, One Nation - Statement by the Prime Minister, 26 February 1992, p15.
76 Geoffrey Edwards, Defining the Public Interest, PhD dissertation. Department of Politics and Public Policy, Griffith University, Queensland, Australia, June 2007, p1.
ideology are fraught with risk and often fall foul of context and circumstance.'79 Simply relying on ideology and the values held by such highly influential individuals could give rise to the false assumption that the values they hold are also those held by the broader population. Accepting such a view would see ideals of democracy replaced with elitist ideals of the public interest and which policy they believe best serve it. As Bourdreau reminds us, ‘the objective of public policy must correspond fairly well with public views concerning the proper functions which should belong to governmental activity.’80 Accordingly, it is held that decisions relating to the public interest are best pursued through the political process. As Boudreau sees it, the ‘public interest must necessarily represent a working compromise and be subject to continuous redefinition, as need arises, in the process of achieving an often delicate balance among conflicting interests.’81 To Mulgan, ‘assessments of the public interest are … always political assessments, whether taken by politicians, public servants, courts, advisory councils or any other citizens.’82 It often involves a political judgment to balance competing values held by various sections of the community. ‘Decisions that involve assessment of values’, argued Mulgan, ‘should be seen as political rather than technical in nature, involving deliberation and negotiation rather than straightforward calculation.’83 As Benditt argues, ‘the public interest is just one consideration among many that go into deciding what to do.’ For Benditt, ‘considerations such as fairness, equality, and others compete with considerations of the public interest.’84 Such considerations

81 Boudreau, op.cit, p371.
83 Ibid.
concerning the public interest are now also being framed in terms of including the rights of future generations.

Gallop believes ‘the “future” is now well and truly part of the “present” as governments grapple with investment and infrastructure provision … intergenerational equity and national resource management in a new era of pressure and scarcity.’ Regarding perhaps, more than ever, governments are finding that they are now being required to work through ‘the inescapable tensions between current uses and future needs and between private interests and mutual interests.’

Conclusion

According to Frederickson, ‘public policy is a world of creative problem solving.’ In Australia, the public sector has been at the forefront of developing creative public policy initiatives to overcome many challenges associated with the nation’s development. As Stillwell puts it, ‘the public sector has been a seedbed of economic growth … [through] providing infrastructure which the private sector would not have had the capacity nor the inclination to provide.’ During the closing decades of the 20th century, the traditional view of government as being responsible for the provision of infrastructure and the mediator of economic forces changed as neoliberal ideals began to take hold within public and private institutions. The state was no longer viewed as a vehicle for intervening in the economy to secure developmental objectives. Instead, the role of the state was limited to creating competitive markets across both public and private spheres of society. The competitive

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85 Gallop, *op.cit*, p46.
pressures of the market were held to result in the more efficient use of scarce resources and thus improve Australia’s standard of living. The creation of markets was viewed as vital tool for addressing concerns with the over allocation of the nation’s finite water resources which remain critical to all economic activity. The next chapter focuses upon the application of the neoliberal policy agenda to the rural water sector in Victoria.
The Neoliberal Agenda:  
Reforming Victoria’s rural water sector

Like all Government reform, the primary objective is for long term public benefit. The changes in the water industry are designed to open up prospects of choice for customers, introduce competition wherever it is beneficial, drive efficiency and improve standards.¹

Introduction

Prior to the “dry” economic mood which gripped the nation during the 1980s the management of the economy was firmly embedded within the social fabric. Government generally viewed economic policy as an instrument which could be used to achieve social ends. The economic and social objectives of government thus went hand in hand.² From the 1980s onwards, government reforms were designed to free the management of the economy from the control of the sovereignty of the community. The role of the economy became narrowly targeted towards serving purely economic ends; that of increased efficiency and economic growth. The “market” has now become the dominant means for integrating the entirety of society. The pervasiveness of the market’s reach can be seen by the extent of society’s commodification of a range of public goods which have now become the subject of commercial imperatives.³ The reforms implemented to Victoria’s rural water sector from the 1980s onwards can be seen as a reflection of the extent to which the neoliberal paradigm has come to dominate public policy in this state.

A rationale for reforming the rural water sector

The development of water resources in Victoria was driven by a desire of government to provide new opportunities for economic and social development through establishing an independent yeoman class of irrigators in the more arid regions of the state. After the failure of the network of irrigation trusts on the verge of the 20th century, which devolved development and management of the rural water supply systems to 90 localised bodies, government enacted legislation in 1905 to create the State Rivers and Water Supply Commission (SRWS Commission). As an independent statutory body, the SRWS Commission was charged with the responsibility for surveying Victoria’s water resources and planning for their storage and development for irrigation, industrial and urban uses. The overarching principle guiding the actions of the SRWS Commission was understood to be ‘to develop and manage the water resources of the State to meet the perceived needs of the total community efficiently, effectively and equitably.’

Headed by three commissioners, the SRWS Commission was empowered to operate with ‘the authority of government and the initiative of private enterprise.’ Vested with significant responsibility, the commissioners were required to operate free from the political influence of the government of the day and in accordance with specific directions from the Victorian Parliament. Remaining free from political influence was however to prove a challenge! With the SRWS Commission’s funds being allocated from treasury there was always opportunity for political influence to be exercised. According to Bromfield –one of the SRWS Commission chairmen– ‘members of parliament of all parties in electorates in which

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there is extensive irrigation development have always taken a close interest in irrigation and water supply matters. Many are, or have been, irrigators themselves. They play an important role in ensuring access to Ministers or Heads of Departments. … More importantly they are in a position in Parliament to influence legislation on water matters and on financing of water projects.7

As the importance of the irrigation sector’s contribution to the Victorian economy increased so did the stature and influence of the SRWS Commission. Over time, the role of the SRWS Commission had become one of being a ‘part retailer of water services, part wholesaler, part constructing authority, part irrigation commission and part policy and priority adviser to government.’8 Being part policy and priority adviser to government placed the SRWS Commission in a unique position as the direction and nature of government policy was typically the responsibility of the executive branch of the government of the day. As such, the SRWS Commission was able to wield considerable influence over the shaping and development of government policy for almost eight decades.9 During the reign of Victorian Premier Bolte (June 1955 –August 1972) the power and prestige of SRWS Commission increased substantially.

The SRWS Commission was able to successfully exploit Bolte’s sympathy for rural affairs to secure significant recurrent funding for their dam-building program.10 This occurred at a time

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10 Department of Conservation and Environment –Victoria, Water Victoria: The Next 100 Years, State of
when the dominant view within government was held to be irrigation was good but more irrigation was better. As Watson put it, ‘irrigation had a special place in the Victorian political psyche from Alfred Deakin to Henry Bolte.’ In an effort to limit the influence of the SRWS Commission, the Hamer Government (August 1972-June 1981) introduced legislation into the Victorian parliament in September 1974 to establish the ministry of water resources and water supply. The newly created ministry was to function as a co-ordinating body for assessing the State’s water resources. It was also required to be an independent source of policy advice for government concerning the future development of Victoria’s water resources. The Hamer Government’s attempt to limit the power of the SRWS Commission by establishing an independent ministry proved less than successful.

The newly created ministry was under staffed, lacked depth of technical knowledge and, was easily over shadowed -both in technical and political terms- by the more skilled SRWS Commission. This created a situation where the minister would often by-pass the ministry and seek policy advice directly from the SRWS Commission. By the 1980s, the influence which the SRWS Commission was able to bring to bear over government policy became a cause for concern. There was a growing acknowledgement that without clearly defined ministerial oversight the interests of the SRWS Commission could be pursued counter to the long term “public interest”. As Watson explains it, ‘the interests of employees or interest


groups have often outweighed the wider public interest in the management and control of public enterprises.\textsuperscript{14}

The SRWS Commission had been established it operated without any clearly defined legislative protocol for ministerial oversight. In effect, the Minister only had the authority to request the SRWS Commission prepare policy advice relating to the development and management of irrigation schemes. The power to grant the expenditure required for the construction of such schemes remained the jurisdiction of the Parliament, with the Governor-in-Council setting the terms and conditions upon which water would be supplied to irrigators and the actual construction of works being the responsibility of the Board of Land and Works.\textsuperscript{15} Similarly, the legislative basis governing the administration of water management in Victoria was spread across some 15 separate Acts of parliament. As Clark was to note the ability to be guided by any rationally consistent set of underlying principles were often lost or confused by the numerous enactments and periodic amendments made to legislation governing the administration of the state’s water resources.\textsuperscript{16}

According to Simpson, Minster for Labour and Industry in the Cain Labor Government (April 1982-August 1990), there was a problem of accountability within Victoria’s water sector. Simpson went on to inform his parliamentary colleagues that the information required for proper scrutiny of Victoria’s water sector was not readily available to the parliament or to the minister of the day. This made it difficult for the government to set a strategic direction for the management of Victoria’s water resources.\textsuperscript{17} As Neilson Associates argued in their report

\textsuperscript{14} Watson, \textit{op.cit}, p26.

\textsuperscript{15} Public Bodies Review Committee, \textit{op.cit}, November 1984, p65.


\textsuperscript{17} John Simpson -Minister for Labour and Industry, ‘Water (Central Management Restructuring) Bill’, \textit{Victoria}. 
to the Public Bodies Review Committee (PBRC\textsuperscript{18}), the information that was available from
the SRWS Commission was ‘backward looking or historical, rather than forward looking,
indentifying future problems.’\textsuperscript{19} Accordingly, the PBRC accepted this view arguing in their
report to the parliament that ‘the present nature and style of reporting to Parliament and to the
people of Victoria on the use being made of the State’s water resources is quite inadequate.’\textsuperscript{20}

Overall, the SRWS Commission was seen to be highly skilled operators of the irrigation
system. However, the SRWS Commission management of public finances and irrigator funds
was held to be poor. As Neilson Associates understood it, ‘the Commission’s history as a
water delivery agency (rather than a self-sustaining public utility) has resulted in an
overemphasis in its organisation, its activities and its measures of achievement, on efficiency
in operating the irrigation system, rather than efficiency in the use of public capital and
irrigator’s funds.’\textsuperscript{21} To Langford, Forster and Malcolm, the operators of the irrigation
system’s lack of concern with efficiency in the use of public funds had arisen because
‘irrigation businesses were considered as providers of a public service, not commercial
businesses that need to be financially viable.’\textsuperscript{22}

\textsuperscript{18} The Public Bodies Review Committee was established by the Victorian Parliament in March 1980. It was an
eight member all party Parliamentary Committee responsive to direction from both Houses of the Parliament
to address the issues of purpose, independence and authority of public bodies in Victoria.

\textsuperscript{19} Public Bodies Review Committee, \textit{Irrigation Management in Victoria. A Report to the Public Bodies Review

\textsuperscript{20} Public Bodies Review Committee, \textit{op.cit}, November 1984, p183.


\textsuperscript{22} John K Langford, Christine L Forster, & Duncan M Malcolm, \textit{Towards a Financially Sustainable Irrigation
According to Paterson, this created an environment where public investments were often made with little regard for the real economic cost to the nation.\(^2\) As the SRWS Commission’s dependency on subsidies from general revenue increased it gave rise to a perception of a bureaucracy out of control and spending public money without adequate supervision by government, irrigators and the broader community. To Clark, this presented public sector theorists and politicians with an opportunity to implement significant reforms and they seized it.\(^3\)

**Creating greater accountability**

Victoria’s rural water sector began a period of rapid adjustment during the 1980s. As noted above, there was a growing desire in government circles to implement structural reforms within the rural water sector. Contrary to the recommendation of the Public Bodies Review Committee, which sought to have the SRWS Commission installed as the ‘central agency’ for the water sector, the Cain Government enacted the *Water (Central Management Restructuring) Act* to abolish the SRWS Commission and established the Rural Water Commission.\(^5\) Unlike the SRWS Commission, which was headed by three career bureaucrats who were groomed to become commissioners from within the SRWS Commission, the Rural Water Commission was headed by a board of management consisting of eight individuals who were directly appointed by the minister. Further, five members of the board of management were appointed from various interest groups to ensure a broader cross section of community views were reflected in the management of the State’s water resources. This was an attempt by government to respond to the increasing pressure being placed on it to ensure

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\(^3\) Clark, *op.cit*, p3.

the State’s water resource managers were responsive to the changing social goals concerning the recreational, aesthetic and environmental use of the State’s water resources.26

The *Water (Central Management Restructuring) Act* provided for the establishment of the Department of Water Resources and empowered it with the responsibility for addressing strategic State-wide water resource management issues. Previously, this function was the domain of the SRWS Commission. But, unlike its predecessor, the Rural Water Authority would only have a limited role which was restricted to specific functions prescribed in the Act. The *Water (Central Management Restructuring) Act* also embodied clearly defined operational objectives to guide the management of the Rural Water Commission. The aim of the operational objectives was to properly define the respective executive and political roles and responsibilities of the Rural Water Commission and that of the minister.27 As Simpson put it, the *Water (Central Management Restructuring) Act* provides ‘for strong and unambiguous links between Government and the Rural Water Commission.’28

The initial reforms implemented by the Cain Government saw the Rural Water Commission remain within the inner budget sector of government. As such, funds required by the Rural Water Commission were provided from general revenue via government appropriation. The revenue obtained from rate charges by the Rural Water Commission were also required to be paid into consolidated revenue.29 This approach to funding has been established by previous

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28 Simpson, *op.cit*, p3187.

governments in their dealings with the SRWS Commission. According to Ronald East, ‘the Commission’s revenue have been paid into consolidated revenue and the Commission has been granted annually from consolidated revenue such amounts as the Treasury thought fit … in the Budget for the maintenance and operation of its works.’ Unlike its predecessor, the SRWS Commission, the operation of the Rural Water Commission were limited to budgets, policies and programmes to be approved by the government of the day.

The requirement to have budgets, policies and programmes approved provided government with significant leverage over the Rural Water Commission. In effect, the reforms placed government in the position of being responsible for setting the policy framework which the Rural Water Commission was required to comply with to ensure the State’s water resources are managed for the benefit of all Victorians. Government also set the economic and financial policies to govern the charges set by the Rural Water Commission for supplying water to its customers. The overall aim of government policy was to provide ‘an improved organisational and administrative framework for the management of resources and the provision of services’ by the Rural Water Commission. In essence, Victoria’s rural water sector went from being under the control of the previously independent statutory authority, operating in a highly complex web of inter agency and legislative interactions, to a decentralised entity under the increasing control of government.

31 Simpson, op.cit, p3185.
32 See Section 19A Clauses (a), (b) & (e) of the Water (Central Management Restructuring) Act 1984.
33 Gutteridge Haskins & Davey, Future Management Review: Rural Water Commission. Final Report to the Steering Committee, 15 January 1992, p1. This document is commonly referred to throughout the water industry as the “McDonald Report” as the committee heading up the review was chaired by Stuart McDonald. As such, the McDonald Report will be used in making reference to this document in future footnotes.
The reforms were designed to reflect an intellectual model of public sector management which began to take hold during the early 1980s. As Paterson put it, the reforms to the water sector in Victoria were undertaken against the backdrop of radical reforms to the machinery of government. Such wide sweeping reforms created an environment where the machinery of government were being modelled on the ‘classic model of decentralised corporation.’ The term “decentralised”, however, took on a new meaning under the classic model of the corporation. To the SRWS Commission, the notion of decentralised management meant empowering the end users of water to have direct input into its activities and programmes. As Neilson Associates saw it, ‘District Engineers and their Advisory Boards have a considerable influence on works programmes and priorities, although these are subject to review and approval at head office.’ However, the decentralised corporate model reflected in the legislative changes placed the Rural Water Commission on the level of a “branch office” whilst the minister through the Department of Water Resources operated as the head of the corporation. In essence, the decentralised corporate model embodied a top-down approach as opposed to the previous bottom-up approach to the management of the State’s rural water sector.

For government, ‘the intention is to develop modern management organisations capable of operating with multiple goals in an environment of competing and often conflicting community objectives.’ The above highlights an increasing tension between the desire to devolve operational responsibility to the entity operating the rural water system whilst at the same time the development of policy was becoming increasingly highly centralised within government. In effect, what is emerging is a culture of “instructing” rather than “engaging”

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36 Simpson, *op.cit*, p3186.
with the rural water authorities and irrigators. As the chairman of Goulburn-Murray Water (G-MW) has explained it, ‘water policies that will define the future for irrigated agriculture across northern Victoria are increasingly determined outside of G-MW and even outside Victoria.’

The economic viability of the rural water sector

The structural reforms implemented to the rural water sector by government were designed to ensure the Rural Water Commission operated along the lines of a private sector company. To achieve this objective would require fostering the creation of a corporate sector philosophy within the Rural Water Commission. Adopting such a philosophy would ensure the Rural Water Commission was more responsive to the needs of their “customers” and eventually become financially self-sustaining. The aim of government was to reduce the rural water sector’s historical dependency ‘on subsidies from general revenue.’ Ultimately, this would require irrigators covering the full costs associated with maintaining and operating the irrigation system and any future capital works. While various water acts had empowered government to recover the capital costs of works from irrigators such costs were generally borne by the state. As the SRWS Commission understood it, government adopted this policy ‘on the grounds that the benefits from the general economic activity which is stimulated by the development flow to the community generally and the community at large has the opportunity for enjoyment of some of these assets’ such as for recreation and tourism.

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The costs incurred with operating and maintenance of the system was to be borne by irrigators as an annual charge levied against their water right. However, water prices generally failed to reflect the actual costs incurred to operate as well as maintain the irrigation system. Irrigators often argued successfully that their ability to provide an assured ‘food supply at reasonable costs to the community even in times of drought’ and their contribution to ‘the external trade balance by making available products for export’\textsuperscript{41} entitled them to the active support from the state. Often, such support would come in the form of government subsidising the cost associated with operating and maintaining the irrigation system during difficult economic times.

The difficulties encountered by irrigators during the depression of the 1930s resulted in a Royal Commission determining ‘irrigators could not be expected to meet all capital charges and recommended that 85 per cent of capital be transferred to the State Account.’\textsuperscript{42} In 1944, it became the policy of the Victorian Government ‘that irrigation districts should be relieved of interest charges on the costs of works, not only headworks and main channels but also of distributary works, so that the whole cost of irrigation undertakings would be nationalised.’\textsuperscript{43} The setting of water prices was thus heavily influenced by government’s perception of irrigator’s ability to absorb such increases. Typically, if economic returns to irrigators were favourable, the price of water was generally increased and, price increases restrained during times of unfavourable economic conditions.\textsuperscript{44} The issue of water pricing would remain a highly contentious political topic. Attempts by government to increase the price of water to,


\textsuperscript{43} J. G. B. McDonald –Minister for Water Supply, ‘Water Bill’, Victorian Parliamentary Debates Session, 944 No.6, (Second Reading Speech), 22 August 1944, p520.

\textsuperscript{44} Ierino & Huddle, op.cit, p2.
at least, cover the costs incurred with its delivery to irrigators and, ensure an adequate standard of service, were often countered by the politics of irrigators seeking to keep prices down.

The politics of water prices was brought to a head with the “rates strike” which occurred in 1991 in response to the application of commercial accounting practices across the public sector by the Victorian Government. This approach required public utilities to develop business plans with forward looking price estimates which were reflective of the “real” costs associated with the provision of public goods and services. Previously, the ability of the Rural Water Commission to develop forward price estimates was difficult. As indicated in the preceding section, the funds raised by the Rural Water Commission and its predecessor were paid into consolidated revenue from which they received an annual operating budget allocated by government. ‘Although the Rural Water Commission [was] a public business authority it [was] unique amongst Government public business authorities in that it [did] not have its own bank account like the SEC, Gas and Fuel Corporation or the MMBW.’45 In July 1990, the Victorian Government endorsed a business plan developed by the Rural Water Commission to replace the previous ad hoc year to year approach to water pricing with a five year plan to increase water prices. Under the business plan, the Rural Water Commission was also expected to increase its maintenance and renewals expenditure, implement a commercial approach to water pricing and, deliver a real rate of return on costs and investment.46

The business plan budgeted for water prices to increase by 2.8 per cent per annum. However, the release of the business plan coincided with a severe economic downturn affecting returns

46 McDonald Report, *op.cit*, p2.
to the agricultural sector were made worse by rising inflation.\textsuperscript{47} The effects of high inflation resulted in an 11 per cent nominal increase in water prices for the 1990/91 irrigation season.\textsuperscript{48} Such a significant increase in water prices gave rise to a series of protest rallies organised by the Victorian Farmers Federation and eventually resulted in over 400 farmers blockading employees from entering the Rural Water Commission’s head office in Melbourne. Farmers also protested outside the Rural Water Commission’s regional office in Tatura.

\textbf{Source:} Northern Times, 16 April 1991.

For many of the protestors the cause of their problem was simple: ‘the country is being destroyed by bureaucrats.’\textsuperscript{49} To place pressure on the Victorian Government farmers resolved to withhold payment of around $30 million in water rate charges. As Victorian Farmers Federation President, Alex Arbuthnot explained it, ‘farmers are not prepared to continue to


\textsuperscript{49} Cr. John Smith quoted by Julie Grant in “‘We Won’t Pay’ –Protestors Pledge’, Northern Times, 16 April 1991, p1.
pay for an inefficient water delivery system, costs which are a Government responsibility and, charges well in excess of the Consumer Price Index, every year for the next fifteen years.50

Source: Northern Times, 16 April 1991.

Under increasing political pressure, the Kirner Government (August 1990-October 1992) conceded to an independent review of the operational and management practices applying to the State’s rural water sector.

Water stalemate

Kirner’s terms are rejected

A GOVERNMENT back-down in the long-running rural water price debate has failed to quell farmers’ anger over the massive increases in Rural Water Commission water charges.

Farmers across Victoria will continue to boycott their water payments until the Government agrees to review the Victorian Farmer Federation demands for fairer water pricing.

Source: Northern Times, 16 April 1991.

Chapter 5

The McDonald Review made a series of recommendations to improve the operational effectiveness and efficiency concerning the management of the State’s rural water sector. The review also identified that a shortfall of some $45 million existed between the revenue raised from irrigators and the actual total operating costs incurred by the Rural Water Commission to deliver water to its customers, thus resulting in the deterioration of the water supply infrastructure.51 The review committee recommended government adopt a two phase approach to reforming the rural water sector. The first phase would see the rural water sector moved to the outer budget sector of government, provided with greater clarity concerning its functions and duties and, result in the establishment of discrete geographic regions operating under new skills based regional management boards.

According to the Minister for Water Resources, ‘the new corporation will have improved customer service as its primary focus, and its creation is consistent with the government’s vision for the water industry.’ This vision encompasses ‘service companies providing technical, management and other services to the corporation, the regional management boards and to the water sector on a commercial, fee-for-service basis.’52 The Water (Rural Water Corporation) Bill also required for ‘important changes to the Water Act to require some water authorities to pay for their bulk water supplies for the first time.’53 The second phase was to result in each of the newly created five regions to assume responsibility for running their own business in accordance with their own circumstances as they worked towards achieving financial viability.54 However, the Kirner Government was defeated by the Liberal-National

51 McDonald Report, *op.cit*, p23.
54 McDonald Report, *op.cit*, piii.
coalition before the second phase of the McDonald reform agenda could be fully implemented.

**A competitive rural water sector**

Upon coming to office the Liberal-National coalition set about dealing with the unfinished business of reforming the rural water sector advanced by the McDonald Review Committee. In May 1994, the coalition introduced the *Water (Further Amendment) Bill* into the Victorian Parliament to transform the Rural Water Corporation’s five regional management boards into separate authorities. ‘The proposed amendments’, Coleman informed his parliamentary colleagues, ‘will enable the regional management boards to be constituted as authorities in their own right.’ According to Coleman, ‘this will deliver substantial long-term benefits through enhanced local management, reduced central office overheads, improved local cost control, further pressure to improve services and more direct signalling of the cost of doing so.’

Accepting the McDonald Review Committee position that the major flow on benefits to other sectors of the economy which occur from irrigated agriculture ‘do not, in themselves, justify the wider community contributing to the cost of rural water systems’ the coalition government indicated that it would be ‘in the best interests of the Victorian community that users of the … rural water systems pay the economic costs of operating, maintaining, administering and renewing these systems.’

To ensure the newly created rural water authorities remained focused on their core business, they were also relieved of the residual regulatory, community service functions and statewide

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56 McDonald Report, *op.cit*, pv.

57 Office of State Owned Enterprises, Department of the Treasury, *op.cit*, p18.
policy role that was previously undertaken by the Rural Water Corporation. The bill officially transferred these functions to the Department of Conservation and Natural Resources.\textsuperscript{58} The McDonald Review Committee also believed there should be greater involvement of rural water customer groups in determining the level of service and the price associated with the delivery of water. The Rural Water Corporation indicated the real challenge will be to overcome the perception that the existing Advisory Committees had become an ‘extension of the Corporation.’\textsuperscript{59} Ideally, the McDonald Review Committee argued ‘Customer Groups should be encouraged to take increasing responsibility, up to and including the full operation and maintenance of their part of the system.’\textsuperscript{60}

During the second reading speech outlining the intent of the \textit{Water (Further Amendment) Bill 1995}, the Minister for Natural Resources indicated the rural water advisory committees would be empowered to set water prices and tariffs. As Coleman understood it, the ‘scope to delegate price-setting will enable greater customer involvement in the management of irrigation distribution networks.’\textsuperscript{61} It was envisaged the rural water advisory committees would ‘play an important role in negotiating and agreeing to price and service level trade-offs and provide a communication link between authorities and their customers.’\textsuperscript{62} Achieving this objective would require the Rural Water Corporation to overcome the problem of engaging with irrigators. As the Rural Water Corporation had reported ‘communication to “grass

\textsuperscript{58} Coleman, \textit{op.cit}, p1620.

\textsuperscript{59} Rural Water Corporation, \textit{Notes from meeting of the Regional Council Sub-Committee concerning options for future advisory structures}, 15 July 1992, p2. Meeting held at Rural Water Corporation’s Tongala Offices.

\textsuperscript{60} McDonald Report, \textit{op.cit}, p72.


\textsuperscript{62} National Competition Council, \textit{Assessment of Governments’ Progress in Implementing the National Competition Policy and Related Reforms: Victorian Water Reform}, AusInfo, Canberra, June 2001, p62.
roots” customers appears to be the basic problem. 63 While creating the illusion of empowerment, the ability of rural water advisory committees to set prices would in fact be limited. ‘Any delegation’, remarked Coleman, ‘is subject to conditions set by the delegating authority, so a committee will have to exercise price-setting powers within a financial framework established by the water authority’.64

The Rural Water Corporation’s financial framework would itself be subject to the policy parameters determined by the coalition government which held a strong policy commitment to ‘pricing regimes based on the principles of consumption-based pricing, full-cost recovery and … the removal of cross-subsidies which are not consistent with efficient and effective service, use and provision.’65 Such principles mirrored the pricing principles set out in the strategic water reform framework being advanced by the Council of Australian Governments and then ratified in the national competition policy agreements. The pricing principles set out in the strategic water reform framework were to ensure water prices would generate sufficient returns for water businesses to remain commercially viable. Policy makers indicated this would require water prices ‘to recover at most the operational, maintenance and administrative costs, externalities, taxes or tax equivalent regimes, provision for cost of asset consumption and cost of capital.’ The price of water was also to ‘make provision for future asset refurbishment/replacement.’66 Under the national competition policy agreement water charges were to achieve “full-cost” recovery by 2001.67

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64 Coleman, op.cit, 1995, p671.
66 National Competition Council, op.cit, p42.
The coalition introduced the *Water Acts (Further Amendment) Bill* into the Victorian Parliament in October 1997 to ‘give authorities the ability to set fees at a level to recoup their administrative costs in providing various services.’ As the Victorian Treasurer understood it, ‘statewide fees are set by regulation with no regard to an authority’s business cost structure.’\(^{68}\) This view reflected the government’s commitment to establishing ‘a more transparent tariff structure that is commercially focused and fully reflects the level of service and risk management.’\(^{69}\) It was embedded in the government’s reform agenda that was being designed to ensure state-owned enterprises preformed their functions for the benefit of the broader public good. According to Hallam, Minister for Regional Development, attaining public benefit requires state-owned enterprises ‘operating [their] business or pursuing [their] undertaking as efficiently as possible consistent with prudent commercial practice.’ Such practices would see state-own enterprises ‘maximising [their] contribution to the economy and the well-being of the State.’\(^{70}\) The next step would be to enhance the well-being of the State through encouraging the more efficient use of the State’s water resources. That is to say, implement policy that to enable greater economic returns to be generated from the State’s water resources. For policy makers, this could be achieved through creating a fully functional water market.

The water market became the most preferred option than government reallocating water resources to alternative uses. As Cooper informed his parliamentary colleagues when

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\(^{68}\) Alan Stockdale –Victorian Treasurer, ‘Water Acts (Further Amendment) Bill, *Victorian Parliamentary Hansard*, (Legislative Assembly), (Second Reading Speech), 30 October 1997, p918.


introducing the *Water Acts (Amendment) Bill 1999* into the Victorian parliament that, ‘the Government has strongly promoted the development of water markets [which] … widen the opportunities for individuals to transfer water into high-value adding enterprises.’

According to Coleman, the water market ‘will facilitate transfers of water in northern Victoria where demand is high.’ For policy makers, the water market, combined with other policy instruments such as full cost recovery, would enable this demand to be met by using pricing signals to encourage irrigators ‘who were unable to make the necessary adjustments to stop irrigating and sell their water to those who can.’

For government, water trading will result in facilitating new developments ‘without the construction of costly new dams.’ Conceptually, the water market was advanced as being a mechanism that would enable voluntary trading of water entitlements between buyers and sellers. However, before water entitlements could become fully tradeable government was required to create a ‘system of water allocations or entitlements backed by the separation of water property rights from land title and clear specification of entitlements in terms of ownership, volume, reliability, transferability and, if applicable, quality.’ To achieve this objective would require legislative amendments to be enacted to break with the century long administrative practice of tying water rights to land title.

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Conclusion

The reforms implemented to the rural water sector in Victoria occurred against a backdrop of increasing pressure on successive State governments to live within their means. To move towards achieving this objective required improving the performance of the public sector and reducing public sector debt. Inevitably, government sought to minimise its exposure to future public sector debt by undertaking to privatise and or commercialise many public sector utilities and by injecting corporate ideals into the public sector. In terms of the rural water sector in Victoria government reforms served to shift the burden of maintaining the system and exposure to any future risk away from the public sector to individual users. This was done whilst seeking to ensure water authorities remain publicly owned entities. Although water remained a public resource which governments were to manage for the broader public good, the policy reforms which government embarked upon began to create expectations amongst irrigators about the nature of their rights to water. The overly positive view of the water market held by policy makers has created the belief that many of the economic, environmental and social challenges can be overcome by simply removing impediments to the liberating magic of the market.

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77 Steve Bracks –Premier of Victoria, ‘Constitution (Water Authorities) Bill’, *Victorian Parliamentary Hansard (Legislative Assembly)*, (Second Reading Speech), 10 April 2003, p976.
Great Expectations: 
Property rights, water markets and competition

(Journalist) How did you find the water discussion?

(Prime Minster) Well it was very interesting. This is one of the really big long term challenges Australia has. There’s no one simple solution. Clearly we need to allow the impact of market mechanisms to work more freely and effectively.¹

Introduction

From the mid 1990s, governments throughout Australia embarked on an ambitious national micro-economic reform program to increase the efficiency of resource allocation within the economy. The national micro-economic reform program was celebrated as signalling a new era of ‘intergovernmental cooperation to overcome barriers to reform arising from the federal structure of government.’² This new era of intergovernmental cooperation received formal recognition through the National Competition Policy agreement endorsed by state, territory and Commonwealth governments in April 1995. The agreement provided for competition payments to be made by the commonwealth to state and territory governments for implementing specific reforms advanced in the Council of Australian Governments strategic water reform framework. The overarching objective of the strategic water reform framework was to establish a consistent and integrated approach to managing the nation’s finite water resources. This chapter focuses on exploring the assumptions which underpin the development of the Council of Australian Government’s strategic water reform framework.

¹ John Howard –Prime Minister, Transcript of Doorstop Interview, (Subject) Water, Brisbane, 5 November 2002.
The environmental imperative for reform

Historically, water resource management in Australia had been the sole responsibility of each individual state. ‘With the exception of the Snowy Mountain Scheme’, wrote Clark, ‘the Commonwealth … has not, except through its financial powers, attempted to influence the development of water resources by invoking superior legislative powers.’\(^3\) Section 100 of the Australian Constitution placed the responsibility for the management of water resources firmly with the states and prohibits ‘the Commonwealth … by any law or regulation for trade or commerce [from] abridge[ing] the right of a State or the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.’ This would see the management of water resources being subject to laws of each state which were being framed to support differing development objectives. ‘Over time, the framework for water resource management in the states gradually diverged, as successive governments took varying approaches to promoting development.’\(^4\)

Accordingly, the management of the nation’s water resources now occurs ‘within a highly fragmented legislative, regulatory, institutional, informational, policy and social climates.’\(^5\) In addition to this complexity, the development of the nation’s finite water resources has also proven to be a highly contestable area of public policy between the states. During recent decades, however, the political debate has shifted away from the issue of developing water resources for irrigation to focusing on the environmental consequences arising from previous water resource development and management practices. As Watson explains it, ‘the focus of


political interest in irrigation has shifted one hundred and eighty degrees with increased emphasis on water quality and other environmental aspects of irrigation.'\(^6\)

According to Munro, this is a reflection that ‘as a society we have become increasingly concerned by evidence of environmental degradation as a result of the ways in which we use water.'\(^7\) By the early 1980s, algal blooms, declining water quality and increasing land salinity were becoming a common feature of the Murray Darling Basin (“the Basin”) which stretches across four states covering approximately 1.06 million square kilometres (see Illustration 4).\(^8\)

**Illustration 4**

![Illustration of the Murray Darling Basin]


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\(^7\) Munro, *ibid*, p17.

As water resources continued to be developed within the Basin, particularly during the decades following the end of the Second World War, the flow regimes of the Basin’s rivers became highly modified (See Figure 1). By the early 1990s, only 21 per cent of the median annual flow, which would have occurred under natural conditions, was reaching the sea.9

Figure 1


With the growing realisation that many of the environmental challenges facing the sustainability of the Basin required a coordinated approach that transcends state borders, the Governments of South Australia, Victoria, New South Wales and Queensland, along with the

Commonwealth and Australian Capital Territory, agreed to form the Murray Darling Basin Ministerial Council ("the Ministerial Council").

Formed in 1985, the Ministerial Council was made up of the land, water and environment ministers from each of the state and territory governments located throughout the Basin. The Ministerial Council would be chaired by the commonwealth minister appointed as chair by the prime minister. The Murray Darling Basin Agreement is the formal mechanism that was enacted to foster intergovernmental cooperation on matters concerning the future sustainability of the Basin. The purpose of the agreement was ‘to promote and co-ordinate effective planning and management for the equitable efficient and sustainable use of the water, land and other environmental resources of the Murray-Darling Basin.’

To policy makers, the Ministerial Council was held up as representing ‘the highest forum for interstate cooperation.’ Through the Murray Darling Basin Agreement, the Ministerial Council was empowered to make policy decisions for the good of the whole Basin. However, making such decisions would require obtaining unanimous agreement amongst members of the Ministerial Council before any policy recommendation could become Basin-wide policy. As Mercer, Christesen and Buxton note, reaching such an agreement on large scale issues affecting the whole of the Basin can be quite difficult. While reaching broad consensus around the Ministerial Council table, Governments, often manipulated by key individuals within their bureaucracy wishing to protect the water management system which they had

10 Pye, op.cit, p133.


12 Close and McLeod, op.cit, p2 & p3.

been intimately involved in developing over their career, have a tendency to return to their state and play obstructionists politics.

By the early 1990s, there was a growing realisation that a balance needed to be struck between in-stream and consumptive use of the Basin’s water resources. In June 1993, the South Australian Minister raised concerns relating to the future sustainability of the Basin’s surface water resources. During his address to the Ministerial Council, the South Australian Minister argued that no further diversions or regulation of water should be allowed to take place if it would impact on the already deteriorating flow regimes of the Basin’s rivers. The Ministerial Council responded by calling for an audit to be undertaken on the level of water diversions taking place within the Basin. The audit noted that by 1994 approximately 11,000 gigalitres of water were being consumed annually within the Basin. Alarmingly, the audit concluded ‘that average diversions could increase by a further 14.5 per cent if expansion under 1993/94 management rules was unrestricted.’ It was generally accepted that if further diversions were allowed it would not only threaten the health of the Basin’s river systems, but, also, the security of supply to existing water users.

In June 1995, an agreement was reached by the Ministerial Council to introduce an interim Cap to restrict any further net growth in water diversions occurring within the Basin. The Cap served to limit the volume of water which could be diverted from the Basin’s rivers to that which occurred at 1993/94 level of development. According to Pye, ‘the Cap was intended to both protect existing environmental flows, and to promote the sustainable

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16 *Ibid*. 
management and development of “Basin water resources to meet ecological, commercial and social needs”.

In a policy sense, ‘the introduction of the Cap was seen as an essential first step in establishing management systems to achieve healthy rivers and sustainable consumptive uses’ of water. However, according to Nelson, ‘despite the Cap’s overall positive environmental impact it has significant flaws.’ As acknowledged by the Independent Audit Group ‘the potential threat to the effectiveness of the Cap is … the availability of large levels of unused allocations across the Basin which would be activated by the opportunity to trade …’ these entitlements.

Mercer, Christesen and Buxton also argue that ‘despite the introduction of a Cap on surface water extractions, groundwater use had not been considered in any significant detail.’ As such, the increasing use of groundwater as a replacement of surface water ‘has the potential to significantly offset the benefits of any increase in environmental flows.’ That is to say, due to the connectivity between groundwater aquifers, rivers and streams the extraction of significant volumes of groundwater can potentially reduce the base flow in rivers and streams.

While the Cap was introduced to limit the extraction of water from the Basin’s rivers and streams no such cap was introduced to limit groundwater extractions. With access to surface water being restricted farmers turned to pumping groundwater. From 1999/00 to 2004/05, groundwater extractions increased by 38 per cent within the Basin. ‘The Cap’, as Nelson perceives it, ‘does not remedy past degradation and its arbitrary level does not guarantee

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17 Pye, op.cit, p134.
21 Mercer, Christesen & Buxton, op.cit, p280.
sustainability.’ In 1994, the Council of Australian Governments agreed to implement a range of reforms to address many of the economic, social and environmental implications derived from previous water uses.

Creating property rights in water

According to Quiggin, ‘the development of policy with respect to the Murray-Darling Basin has been significantly affected by agreements reached by the Council of Australian Governments, including the National Competition Agreement.’ Parker and Oczkowski argue ‘the COAG process seeks to impose market-based solutions to water related environmental problems.’ In theory, state Mercer, Christesen and Buxton, the COAG water reform agenda promises to create a future ‘where water use in Australia is sustainable.’ Yet, despite there being agreement by policy makers about the nature and direction of the strategic water reform framework, ‘the natural resource and environmental aspirations of the COAG agenda are far from being realised.’ The House of Representative Standing Committee has also stated that ‘the water reform process has now been in train for nearly a decade, but, on the whole, the results have been less than ideal.’

23 Nelson, op.cit, p111.
26 Mercer, Christesen & Buxton, op.cit, p282.
27 Thomas quoted in Riding the Waves of Change - A report of the Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy, Commonwealth of Australia, February 2000, p106.
‘By 2002,’ argued Munro, ‘COAG observed that several impediments remained to [the] full achievement of its 1994 reform objectives.’29 For COAG, one of the key policy objectives critical to the success of the reform agenda ‘has been the development of a system of water property rights on a jurisdiction by jurisdiction basis.’30 Under the 1994 COAG agreement, state and territory governments had agreed to create a ‘system of water allocations or entitlements backed by the separation of water property rights from land title and clear specification of entitlements in terms of ownership, volume, reliability, transferability and, if applicable, quality.’31 Achieving this objective would prove challenging. It would require a shift from the fundamental principle that has guided the management of water resources throughout history. As Justice Gummow of the High Court of Australia has indicated that ‘at common law there can be no “absolute property” … in fire, light, air, water and wild animals.’32

Creating water property rights would also require policy makers to overcome a number of major practical and institutional difficulties. For over a century, water rights were defined in Australia with specific reference to land title. In Victoria, successive water acts since 1909 and, their associated by-laws, have made explicit reference to water rights in terms of the ‘lands … to which water rights have been apportioned …’33, or as, ‘ … water rights apportioned to any lands … ’34 As Goesch and Beare see it ‘the link between water entitlements and land ownership has shaped the definition of water property rights in

29 Munro, op.cit, p17.
33 Sections 24 of the Victorian Water Act 1909, No.2226, p347.
34 By-Law No.5229 Clause 6, Victorian Gazette, No.72, p2529, July 30, 1958.
Australia in that entitlements are still defined at the point of delivery. To achieve the stated policy objective of creating water property rights requires governments’ to turn their back on long established legal principles which have informed the development of statutory water law in Australia.

The second, perhaps more challenging issue to overcome, remains the politics associated with individual states and territory governments having developed their own complex system of water rights. Within the states of New South Wales, South Australia and Victoria, there exists 22 separate water entitlements which range in tenure and reliability. The then Deputy Prime Minister John Anderson alludes to the difficulties confronting governments and policy makers seeking to create a compatible system of water property rights. As Anderson explained it ‘we agree that property rights are a difficult area to work through. We’ve got State and Federal jurisdictions and ultimately they all have to play a part.’

The COAG water reform framework requires governments to create a system of water property rights that were separate from land title. The objective behind separating water property rights from land title was to ensure ‘individual water users –not institutions– hold the property rights to shares in natural resources.’ To policy makers, ‘individual autonomy over


the access, use and trade of entitlements is a fundamental characteristic of strong property rights. Conceptually, a property right is made up of a bundle of rights which define in terms of water—an individual’s right to a specific volume, the reliability of supply, the transferability of the resource, and the parameters of ownership. To Libecap, ‘property rights refer to the sanctioned behavioural relations among economic agents in the use of valuable resources.’

Describing what had traditionally been known as water rights or water entitlements linked to land as a water “property” right separate from land and subject to “ownership” have created false expectations about the nature of their water right amongst irrigators. As Blackstone reminded us all those years ago “there is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property.”

According to Connor and Dovers, the politics consuming water property rights is a reflection of the ‘confusion in concepts and terminology [that] is endemic in the discussion of property rights and natural resource use.’ The Chief Executive Officers’ Group on Water (“CEOGW”) have also acknowledged that many of the difficulties encountered when seeking to create water property rights have arisen from ‘misconceptions about water access entitlements.’ To the CEOGW, the main point of contention is that ‘many people hold the

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view that water is like land, and by analogy, changes to water entitlements must by law always be compensable as are dispossessions of land.44 Implicit in such a view is the belief that the erosion of water property rights must be ‘underpinned by compensation (or Just Terms Acquisition).’45 To Warne, water rights should be seen as the same as land title, and, as such, should be subject to ‘just terms acquisition.’46 The Victorian National Party had expressed it in the following manner: ‘if a city shopkeeper had half his store taken away by the government for the greater good, he would be compensated and that is the way it should be.’47 These views have given rise to a belief amongst some irrigators that water property rights are ‘akin to the “general vibe of the Australian Constitution” (to quote from The Castle).’48

The then Australian Prime Minister John Howard had expressed some sympathy for this view. ‘Water rights long enjoyed’ argued Howard ‘are property rights in the sense that we understand that term and the notion that we would allow those rights to be arbitrarily cancelled and taken away is something that I don’t accept.’49 Such a view only serves to


45 Southern Riverina Irrigation Districts Council, Submission to Inquiry into Future Water Supplies for Australia’s Rural Industries and Communities, House of Representatives Standing Committee on Agriculture, Fisheries and Forestry, Submission No.106, October 2002, 5.

46 George Warne, General Manager, Murray Irrigation Limited, cited in House of Representatives Standing Committee on Agriculture, Fisheries and Forestry, op.cit, p73.


48 Michelle Ward –Executive Officer, Submission from Macquarie River Food and Fibre to Inquiry into Future Water Supplies for Australia’s Rural Industries and Communities, House of Representatives Standing Committee on Agriculture, Fisheries and Forestry, Submission No.78, 19 December 2002, p2.


further entrench the belief amongst irrigators that water is indeed a resource which can be subject to rights of private ownership.

This belief is contrary to the legal principles underpinning the laws which have governed water resource management since the time of the *Institutes of Justinian* (c. 533 A.D.). As indicated in Chapter 2, the *Institutes of Justinian* held that running water was by the law of nature common to all mankind and that all rivers belonged to the public and thus could not fall within the patrimony of any single individual.\(^{50}\) Similarly, common law classified water as a *res commune* which could only be the subject of a qualified right of property.\(^{51}\) At common law, this qualified right of property was naturally incident to the ownership of land.\(^{52}\) In Victoria, legislation enacted in 1886 entrenched water as a public resource by stipulating that ‘the right to the use of all water at any time in any river stream watercourse lake lagoon swamp or marsh … be vested in the Crown.’\(^{53}\) This legislation embodied the notion that ‘water, like air, is in an important sense a public community resource which ought not be susceptible to private ownership or domination in the same way as other forms of private property.’\(^{54}\) As governments set about creating water property rights in accordance with the COAG strategic water reform framework an underlying tension has emerged around the issue of water as a public good versus water as a private resource. With the advent of the water market this tension is likely to intensify!


\(^{53}\) *The Irrigation Act 1886*, No.DCCCXCVIII, 16 December 1886, Part I, Clause 4, p176.

The liberating magic of the market

According to Rochford, ‘the underlying political rationality in all the recent proposals for water reform is manifested in the development of a national market for water.’\(^{55}\) As acknowledged by the National Water Commission, ‘water trading is a centre piece of national water reform.’\(^ {56}\) In a theoretical sense, the water market is construed as an institution in which the free trade of water entitlements enables all concerned to be better off. All that is required is for government to establish the institutional settings which complement the natural efficiency of the market. For policy makers, ‘water trading enables wealth creation and [provides] risk management options for irrigators that were previously not available.’\(^ {57}\)

According to neoclassical economic theory, the water market is the embodiment of freedom which provides individuals with greater choice and opportunities to realise the real value of their newly created asset ~ their water property right. As Jacob portrays it, ‘farmers who are involved in the trading are rational, economic decision makers … [who] will trade in entitlements only when both parties believe that they will generate additional income or additional wealth out of the transaction.’\(^ {58}\) Such a view reflects the neoclassical economic notion that man is a self-interested individual whose primary motivation is the pursuit of material well-being through the application of full knowledge to predetermined goals. In essence, the decisions made by man is theorised to be driven solely by the consideration for his own personal utility.


\(^{58}\) P. Jacob (ACIL Australia Pty Ltd) cited in *Salinity Committee Water Allocation Inquiry: Minutes of Evidence*, Melbourne, Monday 24 September 1984, p186.
Edwards argues that at the core of such a belief is an understanding that the economy functions best when it is driven by the choices individuals make for themselves.\textsuperscript{59} According to Lyster, this assumption reflects the rejection by policy makers of the previous command and control approach employed by governments for regulating access and use of natural resources.\textsuperscript{60} In 2003, the Deputy Prime Minister John Anderson also adhered to such a view. According to Anderson, water ‘trading systems will work out where water should go and [to] which industries on a far better and more economically sustainable basis than a bunch of officials trying to double guess.’\textsuperscript{61} That is to say, the water market will allow for the ‘re-allocation of water in a way that government agencies could not.’\textsuperscript{62} A representative from the Department of Agriculture, Fisheries and Forestry also rejects the previous command and control approach to water management when arguing, I ‘do not think governments should say, “we don’t have this industry; we don’t have that one.” Water will move from here to there from on top.’\textsuperscript{63} To policy makers, the role of governments is not to “pick winners” but to allow the market to work its magic and through the pressures of competition enable greater economic efficiency to be derived from scarce water resources. Achieving greater economic efficiency will result in water resources maximising their contribution to the national income and overall welfare of the nation.\textsuperscript{64}


\textsuperscript{63} Ian Thompson cited in House of Representatives Standing Committee, \textit{op.cit}, p78.

As policy makers perceive it, ‘water trading offer practical opportunities to realise substantial benefits for the economy and individual water users.’\textsuperscript{65} The benefits derived from the water market are believed to extend beyond economic efficiency to also include environmental remedies. ‘A central rationale for introducing markets in permanent water rights’, acknowledges Bjornlund, ‘was to facilitate a move of water from low-value producing, inefficient irrigators, on unsuitable soils, to high-value producing, efficient irrigators, on more suitable soils.’\textsuperscript{66} Similarly, the Industry Commission had previously advanced the view that ‘the lack of permanent transferability in many States … reduces the opportunity for transferring water from highly saline or waterlogged soils to less degraded and therefore more productive soils.’\textsuperscript{67}

According to Isaac, such a view embodies an assumption ‘that the most economically efficient use of water will also be the most environmentally effective.’\textsuperscript{68} This assumption is now beginning to be seriously questioned. Pye has argued that ‘while water trading may be a very effective mechanism for transferring water to higher value use, it has had none of the positive environmental outcomes initially claimed.’\textsuperscript{69} As indicated above, policy makers hold a belief that the water market will enable water to be traded away from areas which have been afflicted by rising saline groundwater.\textsuperscript{70} Yet, as Young, McDonald, Stringer and Bjornlund saw it, ‘from a salinity perspective and in the long run, interstate [water] trading can be

\textsuperscript{68} May Isaac, ‘The political economy of water reform feasibility in Australia’, School of Political Science and International Studies, University of Queensland, Australia, 2001, p4.
\textsuperscript{69} Pye, \textit{op.cit}, p131.
expected to have a negative impact on river salinity.’71 In terms of river hydrology, Tisdell suggests water markets may also give rise to considerable environmental externalities. Tisdell had argued that ‘water markets are likely to limit the effectiveness of water policies aimed at restoring natural flow regimes.’ Furthermore, ‘trade in water entitlements is likely to increase the differential between extractive demand and historical flow regimes as extractive water use concentrates on the most profitable crops.’72 Similarly, Jones argues that ‘many people in and around the water industry seem to have assumed that water trading will be either good for the river environment or, at worst benign.’ As Jones understands it, ‘significant water trading up or down a river, or from one river valley to another, may change a river’s flow regime. In some cases these changes could be ecologically beneficial; in other cases they may be adverse.’73

The General Manager of Murray Irrigation Limited also argues this point stating that ‘I don’t see how lots of trade can necessarily mean a good environmental outcome’ especially if ‘all the water’s going to be traded from upstream to downstream.’ The water being traded downstream ‘will probably be used on a high value vineyard somewhere in January, February and March and they’re the very months that the environmentalists will tell you that the river was originally low, so are we creating an environmental flow or are we creating an environmental hazard, and that’s one of the really difficult things about trade.’74 According to Tan, ‘river flows have been drastically affected by irrigation use [of water]. Natural flow patterns have been reversed. Instead of the river flowing at its peak in winter, rainfall during

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74 Warne, *op.cit.*
this period is now stored in large dams for release in summer months.’75 Furthermore, Arthur argues that ‘one of the things we are finding is that all the development downstream is all dependent on high summer flows and just the sheer physical constraint of getting water down there is something that is rarely recognised when we talk about shifting water to other regions.’76 The Barmah Choke, a narrowing of the River Murray formed by a geological fault running north-south from Deniliquin to Echuca over 25,000 years ago, is one such physical constraint. In effect, the operating rules governing the Murray River restricts the volume of water which can pass through the choke to 8,500 megalitres per day.77 Such a restriction has made it difficult to supply the additional volumes of water which had been traded into the Sunraysia region during periods of peak irrigation demand.

To overcome this naturally occurring constraint, the Victorian government announced it will explore the possibility of building a by-pass canal.78 Pye argues that ‘since all State governments have allowed trading in “sleepers”79 to occur … water which was previously unofficial environmental flows is now being taken out of the river by irrigators.’80


76 Laurie Arthur, Evidence presented in Deniliquin on Thursday 31 July 2003 to the House of Representative Standing Committee on Agriculture, Fisheries and Forestry. Reference: Future water supplies for Australia’s rural industries and communities, Official Committee Hansard, Commonwealth of Australia, p505.


78 In October 2002, the Victorian Minister for Environment and Conservation announced the government was undertaking a scooping study to examine the possibility of building a canal to by-pass the Barmah Choke. It was advanced the canal would deliver environmental and economic benefits and ‘would also broaden the water market in Victoria by allowing substantial volumes of water to trade from the Murray to the Goulburn System.’ Sherryl Garbutt, Minister for Environment and Conservation, ‘Murray Goulburn Interconnector to be Investigated’, Press Release, 31 October 2002. In January 2007, the Commonwealth government signalled its support for building the canal. See Ellen Whinnett and Gerard McManus ‘Murray diversion to bypass bottleneck’, Herald-Sun, 26 January 2007.

79 “Sleeper” is a common terminology used to describe statutory water rights which had historically been attached to land but were never used by the landholder. The term “dozer” is used when referring to water rights attached to land which are only infrequently used by the landholder.

80 Pye, op.cit, p137.
Hetherington, chair of Murray Irrigation Limited also raised this point whilst addressing a House of Representatives parliamentary inquiry. ‘Trade’, argued Hetherington, ‘has worsened the position were are in right now because sleeper and dozer licences have all been taken up and traded. [This has] meant more use of water which means less water for what you are looking at –river health.’

That is to say, water trading has increased the value of the unused water entitlement thus activating the sleeper and dozer licenses. In Victoria, research undertaken by the Department of Sustainability and Environment concluded that ‘approximately 40% of the sales in absolute water were from sleeper licences on river systems.’

An analysis of a two year interstate water trading pilot project also acknowledged that the water market has a significant impact on activating previously unused water entitlements. The report concluded that ‘virtually all the water traded has involved previously unused water and the direction [of the trade] has been downstream’ into South Australia.

The report’s authors have acknowledged that ‘South Australia has been put on public notice that, as far as inter-state [water] trade is concerned, it may not be living up to its obligation to have a neutral river salinity impact.’ Yet, ‘from an economic impact perspective’, they argued, ‘and before any account is taken of environmental or social considerations our conclusion is an unequivocal one. Interstate trading is increasing the value of water use in the Murray-Darling Basin.’ But, as Lyster reminds us ‘while previous allocations by a government agency did not prevent environmental degradation, there is no guarantee that

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81 Bill Hetherington, Evidence presented in Deniliquin on Thursday 31 July 2003 to the House of Representative Standing Committee on Agriculture, Fisheries and Forestry. Reference: Future water supplies for Australia’s rural industries and communities, Official Committee Hansard, Commonwealth of Australia, p479.
82 Department of Sustainability and Environment, op.cit, October 2007, pxiii.
83 Young, Hatton, MacDonald, Stringer and Bjornlund, op.cit, p25.
84 Ibid, p43.
85 Ibid, p3.
market principles will automatically redress this difficulty.\textsuperscript{86} It is becoming increasingly clear that to redress many of the environmental issues confronting the sustainability of the Basin will require government/s to become a player in the water market.

**The politics of competitive parochialism**

Initially, the Council of Australian Government’s 1994 water reform agenda stipulated that water trading should take place ‘within the social, physical and ecological constraints of catchments.’\textsuperscript{87} However, in less than a decade, the Council of Australian Governments began arguing that ‘current arrangements are preventing [water] markets from delivering their full potential.’\textsuperscript{88} This problem could be overcome by establishing a more comprehensive water market with the broadest possible geographical scope.\textsuperscript{89} Achieving this objective would require governments to set about removing the regulatory impediments which operate to limit water trading to the confines of catchment areas. Originally, water markets were perceived ‘as a mechanism for identifying the true value of water and encouraging allocation of water to its most valuable use.’\textsuperscript{90} By 2003, the Council of Australian Governments were viewing the water market as an instrument which would enable governments to cost effectively acquire the water necessary to meet their environmental flow commitments.

\textsuperscript{86} Lyster, *op.cit*, pp55-56.


\textsuperscript{88} Council of Australian Governments’, *Communiqué*, 29 August 2003, p1.


Previously, the Victorian Government had given a firm assurance that ‘it had absolutely no intention of buying irrigation water to increase environmental flows.’ As the then Minister for Environment and Conservation forcefully put it ‘the Victorian Government is not planning to buy irrigation water to improve environmental flows to send down the Snowy and Murray Rivers. Full stop.’ According to the Minister, ‘water efficiency projects in Southern NSW and Northern Victoria are to be the primary source of water savings for Snowy and Murray environmental flows.’

The Minister’s promise to acquire water to fulfil environmental flow commitments through upgrading aging water supply infrastructure was endorsed by the broader irrigation community. ‘Victorian farmers’, argued the VFF president, ‘have had a long held view that in the first instance water given for environmental use should be taken out of savings from the upgrading of ageing infrastructure.’ The NFF also argued that ‘governments in conjunction with local water users should prioritise strategic investments to improve efficiency of water delivery infrastructure.’ ‘In all practicality’, believed the NFF, ‘this is the area that can actually deliver rapid improvements for environmental flows, while sustaining food production in the Murray-Darling Basin.’ Although the Heads of Agreement 2000, developed from the Snowy River inquiry and, the Council of Australian Governments Intergovernmental Agreement on a National Water Initiative 2004, stipulated that water would primarily be acquired through investing in water savings projects, these agreements

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94 Laurie Arthur – Chair of the National Farmers Federation Water Taskforce, ‘Voluntary buyouts ok, but be aware … there is no water’, Press Release, 15 August 2008.
allowed for governments to acquire water via the water market.\textsuperscript{95} Both agreements placed an emphasis on the “least cost” and “cost-effectiveness” of water recovery measures. This would be a challenge which governments would continually confront. As Connell and Grafton explain it, ‘the key for decision makers is to ensure that when intervention is required, such as when investments are made in water efficiency improvements, that the public expenditure generates the highest possible net benefits.’\textsuperscript{96}

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In terms of water recovery options governments are required to balance the cost of water recovery projects through public investment to improve the efficiency of water delivery infrastructure versus purchasing water through the market.

\textsuperscript{95} See Clauses 1.7, 2.2 & 3.1 pages 3 & 5 of the \textit{Heads of Agreement. The Agreed Outcome from the Snowy Water Inquiry}, 6 December 2000: Clause 79 (ii)(a) p17 of the Intergovernmental Agreement on a National Water Initiative: Between the Commonwealth of Australia and the Governments of New South Wales, Victoria, Queensland, South Australia, the Australian Capital Territory and the Northern Territory, 25 June 2004.

According to the Murray-Darling Basin Commission, ‘the estimated cost of water recovery through infrastructure projects typically exceeds $2000 per megalitre, which is generally more expensive than market-based measures.’\textsuperscript{97} By the end of 2006, the political imperative to advance the water reform agenda began to mount against the background of escalating drought, an emerging federal election and, increasing frustration with the lack of real progress in acquiring water for environmental flows. During an address to the National Press Club in Canberra in January 2007, Prime Minister Howard released his $10 billion \textit{National Plan for Water Security}. The stated objective of the plan was ‘to improve water efficiency and to address the over-allocation of water in rural Australia, particularly in the Murray-Darling Basin.’\textsuperscript{98} It is now time, Howard argued, that ‘all parties … recognise that the old way of managing the Murray-Darling Basin has reached its use-by date [and that] the tyranny of incrementalism and the lowest common denominator must end.’ As Howard saw it, this ‘requires an end to the parochial pursuits of state interests.’\textsuperscript{99}

At the centre of the 10 point plan advanced by Howard was the establishment of ‘a new set of governance arrangements for the Murray-Darling Basin.’\textsuperscript{100} To achieve this objective would require ‘the referral of state and territory powers to [the Commonwealth Government] to enable it to manage the MDB in the national interest.’\textsuperscript{101} According to Lewis, ‘the plan to take control of the river system reflects growing frustration in Canberra over the pace of previous


\textsuperscript{99} Ibid.


\textsuperscript{101} Ibid, p13.
national reforms.'102 Malcolm Turnbull, who was appointed minister by Howard to oversee
the newly created water ministry, was given the challenging task of consulting with the states
and winning over irrigator support for the Commonwealth Government’s $10 billion water
plan. Victoria’s response to $10 billion plan was to reject it on the grounds that ‘it is a bad
deal for irrigators, a bad deal for the environment, and a bad deal for Victoria.’103


According to Bracks, ‘the Commonwealth’s plan is a recipe for disaster –more complex
governance, increased red tape, and delayed reform.’ In essence, the Commonwealth
Government was asking state and territory governments to sign up to the plan before any of
the detail was finalised. The failure of the Commonwealth to provide detail on over 40
questions of detail ‘left Victoria no choice but to reject it’ argued Bracks.104

103 Steve Bracks- Premier of Victoria, ‘A New Way Forward for National Water Plan’, Press Release,
104 Ibid.
As Bracks understood it, ‘land management, water prices, water entitlements, anything you want to construct or do … would now become the province of the Federal Government.’

This would see Victoria ‘handing full water management powers to a government inexperienced in water management.’ For Victoria, an equally important issue which the plan for national water security failed to shed light on was the Commonwealth Government’s position in relation to opening ‘up trade beyond a 4% annual limit out of irrigation districts.’ In addition, the failure of the Commonwealth to provide detail in relation to how future market rules would be determined was a cause for alarm. ‘This creates significant uncertainty for State Governments as well as irrigators.’ As Victoria saw it, ‘it leaves open the possibility that the Commonwealth could unilaterally change the market rules to the disadvantage of market participants and State/Territory economic interests.’ This issue of the 4 per cent limitation on the amount of water that is able to be traded out of an irrigation

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district in any one year will prove to be a big sticking point to the advancement of the water reform agenda.

Conclusion

Following established practice, governments and policy makers have looked to the neoclassical economic paradigm for the public policy tools that would enable them to address the problems of efficiency and conservation in rural water allocation. The importance of water as an ‘input’ to rural production was to result in the nation’s rural water sector being brought within the purview of National Competition Policy.\textsuperscript{109} Accordingly, water became viewed as just another tradeable commodity in an economy where public policy is designed within the neoclassical economic paradigm. The reform agenda pursued by governments was being informed by the simplistic assumption that ‘by breaking the nexus between land and water, efficiency will be achieved and allow water to move under the influence of market forces to other parcels of land where productivity is higher.’\textsuperscript{110} However, the politics of the States has made achieving this objective more problematic.

\textsuperscript{109} High Level Steering Group on Water, \textit{op. cit.}, p.11.

\textsuperscript{110} P. Jacob (ACIL Australia Pty Ltd) cited in \textit{Salinity Committee Water Allocation Inquiry: Minutes of Evidence}, Melbourne, Monday 24 September 1984, p151.
A level playing field:
Or creating an economic state of nature

By removing barriers to trade in water, we will allow markets to operate much more effectively in allocating water between competing uses, improving water use efficiency, and delivering water to its highest value uses. These benefits flow right through to the supermarket shelf.1

Introduction

Under the National Water Initiative Intergovernmental Agreement of 2004, state governments had agreed to progressively remove barriers to the permanent trading of water entitlements from within and across state borders. To policy makers, such action is a necessary prerequisite to the broadening and deepening of the permanent water market.

However, the politics of the states in relation to broadening the permanent water market is proving to be a source of frustration for the Commonwealth Government. Several attempts made by the Commonwealth to enhance the operation of the permanent water market, through having the volume of water which can be permanently traded out of an irrigation area in any single year increased, are being rejected by Victoria.

While the actions of Victoria can be interpreted as placing state interest over the national interest, the push to expand the market by the Commonwealth can be seen as being informed by a misguided belief that if they get the economic fundamentals right the rest will look after itself. However, as Quiggin suggests such a ‘naïve faith in markets hasn’t served us well.’2

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This chapter explores the issues at the centre of Victoria’s opposition to the Commonwealth Government’s efforts to expand the permanent water market.

**Evolution of the water market in Victoria**

For policy analysts, the goal of improving the economic benefits derived from water use could be made easier if all unnecessary administrative interventions and restrictions on the water market were avoided. Accordingly, they argue that the ‘development of a practical market for water entitlements should proceed on the basis of a “free market” as the starting point, with restrictions only being imposed after their need has been clearly established.’ In Victoria, the Cain Labor Government (1982-1990) pursued a cautious approach to establishing a market for water entitlements. The caution displayed reflected the Cain Government’s attempt to defend Keynesian policy ideals against the state bureaucracy and commonwealth government which had embraced the neoclassical economic paradigm.

In April 1987, the Cain Government passed a legislative amendment in the Victorian Parliament to allow for temporary transfer of water entitlements. Such transfers, however, could only occur between irrigators within the same prescribed irrigation district. The restrictive nature of the amendment did not allow for the permanent transfer of water entitlements between irrigators within and outside of irrigation districts. The cautious approach to establishing a water market by the Cain Government placed it at loggerheads with the state bureaucracy who favoured a freer and open water market. To achieve their objective the state bureaucracy needed to enlist the support of farmer groups to pressure government into changing its position. According to Clark, a careful marketing campaign was then

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implemented by the state bureaucracy in an endeavour to ensure the farming community were supportive of further developing the market for transferable water entitlements, which was to be a key plank in a new Water Act for Victoria.\(^5\)

While irrigators understood the potential benefits derived from allowing water entitlements to be tradeable, they also held reservations about establishing a water market that would allow water entitlements to become permanently transferable. As Bill Baxter MLC recalls, the introduction of water trading ‘was met with a good deal of resistance, because water entitlements have traditionally been attached to land and many farmers –indeed the wider community –believed that, if there were a capacity to trade away that water, some detriment would result for that community both economically and socially.’\(^6\) Such reservations were to result in irrigators indicating their support for transferable water entitlements would be conditional. In essence, irrigators wanted an assurance that a ‘proportion of water per hectare [was] to remain on every property (i.e. not transferable) for social structure and environmental protection’; that ‘the family farm must be protected against speculators forcing [the] price of water up’; that ‘farmers should be closely consulted on the determination of local rules and evaluation/review of Transferable Water Entitlements’; and that, ‘transfers out of districts [such as] Pyramid Hill, Kerang, Cohuna and Calival, to be limited for social structure and environmental protection.’\(^7\)


\(^7\) Department of Water Resources Victoria, Water Law Review. Consultation Newsletter No.2, January 1987, Table 2, p10.
To ease irrigator concerns the then Minister for Water in the Cain Government, Andrew McCutcheon (March 1985-December 1987), indicated ‘that permanent transfers of water entitlements would not be instituted until there had been a chance to assess the operation of temporary transfers so that any difficulty could be dealt with.’

Policy analysts, however, believed irrigators ‘fears that Transferable Water Entitlements may cause a patchwork land use effect within intensive irrigation areas [were] unwarranted.’ As Jacob saw it, ‘the impact on regions is unlikely to be all that significant.’ Despite the desire of policy analysts to see a market established for the permanent trading of water entitlements in Victoria the Cain Government was aware of the division which remained in the irrigation community concerning this issue. As the new Minister for Water Resources “Bunna” Walsh (October 1988- April 1990) informed the parliament ‘a proposal for permanent transfers was canvassed but was opposed by half the submissions received about [such] transfers.’ The Minister therefore indicated that the new water ‘Bill will not provide for permanent transfers’ of water entitlements.

This was, Clark suggests, an attempt by the Minister to appease concerns held by the left wing faction of the Labor Party ‘who thought it was offensive to socialist principles that water, as a “State” resource, should be used to generate windfall gains, mainly to landed farmers.’ Instead, Walsh indicated the new water bill would allow for ‘longer temporary transfers … for

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13 Clark, *op.cit*, p18.
up to five years with renewable options negotiable between parties.”14 This compromised option was firmly rejected by the VFF. The VFF was ‘emphatic that transferable water entitlements hold the key to greater efficiency in the industry, and the opportunity for enhanced security for those who require it.’15 After being lobbied by the VFF the opposition parties used their numbers in the upper house to amend the water bill to have several clauses inserted to allow for the permanent transfer of water entitlements to take place in Victoria. According to Clark, ‘the bureaucratically-driven policy became law, against the will of the government, with the blessing and support of the Opposition.’16 This was despite the minister informing the parliament that ‘for the time being … we will hasten slowly with transferable rural water entitlements.’17 However, the water bill was passed by both houses of the Victorian parliament and received Royal Assent on 5th of December 1989 to become the Water Act 1989.

Under this Act, permanent transfers of water entitlements were allowed to take place under certain conditions. ‘The Act’, wrote the Department of Water Resources, ‘now provides for the permanent transfer of water [entitlements] from the owner of a holding within a prescribed irrigation [area] to an “authority” or to the owner or occupier of other lands.’18 In effect, such conditions served to ensure water entitlements could not be temporarily or permanently transferred interstate. This appeased irrigators who had ‘grave concerns about the trading of

14 Walsh, *op.cit*, p2229.
15 Quote taken from a letter (22 September 1989) from Tom Copping, Director –Multi Commodity Group of the VFF to Barry Steggall, National Party Opposition Spokesperson on Water Resource instructing Steggall to move an amendment to draft water bill ‘to remove the 5 year limit on permanent transfer’ of water entitlements. Letter provided in a collection of personnel papers that were made available for this research by Mr. Gordon Weller of Lockington. Gordon was actively involved in the Victorian Farmers Federation’s Water Resources Committee.
16 Clark, *op.cit*, p18.
17 Walsh, *op.cit*, p2230.
water from Victoria to New South Wales.’ In October 1992, the Kennett led Liberal-National coalition came to office ‘committed to widening the scope for trading of water entitlements.’ As the Minister for Natural Resources, Geoff Coleman (October 1992- April 1996) informed the Victorian parliament ‘at the Council of Australian Governments Victoria agreed to facilitate interstate trade where this is socially, physically and ecologically sustainable. This situation does not exit at present.’

According to Coleman, ‘Victoria would not be rushed into unrestricted trading because … unrestricted trading could attract normally unused entitlements’ thus giving rise to ‘steady increases in water use in the Murray Darling basin.’ Furthermore, ‘New South Wales irrigation [water] prices are heavily subsidised’ which could create a situation whereby water is traded out of Victoria. Until these issues were addressed, and to comply with the commitment given at the Council of Australian Governments, the minister informed the parliament, that Victoria will ‘provide initially only for temporary –that is, one year only – transfers of water rights’ to occur with New South Wales. In October 1997, the then Victorian Treasurer, Alan Stockdale (October 1992-October 1999), introduced the Water Acts (Further Amendment) Bill into Parliament which was drafted in response to a decision made ‘by the Murray-Darling Basin Ministerial Council to develop a pilot scheme for permanent interstate [water] trade.’ The pilot water trading scheme would allow for water entitlements to be permanently traded ‘across state boundaries between users in the Mallee region of Victoria, New South Wales and South Australia.’ However, ‘the pilot scheme will not be

21 Coleman, ibid, p1452.
22 Ibid.
extended to users in irrigation districts until a level playing field has been established for pricing.'

As the efforts of governments to facilitate permanent water trading increased so did the level of anxiety amongst irrigators and rural communities concerning the potential social and economic impacts that may arise from the movement of water from their local area. To slow the rate at which water could be permanently traded out of an irrigation area government agreed to impose a 2% Rule to restrain the volume of water leaving an irrigation district in any one year. The policy was instigated by Goulburn-Murray Water which believed that water rapidly trading out of an irrigation area would reduce its revenue base and erode the financial viability of the area. As Goulburn-Murray Water saw it, ‘there would … be an immediate impact on [the] Area business viability, resulting in immediate price increases for remaining customers.’ Accordingly, there was a risk that a ‘price rise could encourage others to sell off their water rights, increasing the price further, and causing a downward spiral in the Area’s financial viability.’ In essence, the aim of the 2% rule was ‘to allow G-MW and its customers to develop strategies to limit the impact of the transfers on the annual water prices for customers continuing to be supplied in that Area.’ Under the National Water Initiative Intergovernmental Agreement the figure of 2% was increased to 4% and is due for further review in 2009, but by 2010, the Victorian Government was selectively applying the 4% restriction within northern Victoria.


Water trading – It’s all down hill

‘Too few people’, Bill Baxter informed his Legislative Council colleagues, ‘understand the great benefits that the water trading market will bring to agriculture and, through that, to the state as a whole in getting better efficiencies from water use in Victoria.’ As Coleman had previously explained it, ‘trade frees up water required for expansion of high value-adding enterprises, such as the wine industry, which has plans to double its multi-billion dollar export business.’ Furthermore, ‘much of the water is expected to come off some very salinated farmland, and removal of irrigation from the worst of these areas will ameliorate environmental problems.’ Water began to move permanently away from the low value return mixed farming and grain growing areas of northern Victoria affected by high saline groundwater tables upstream to higher value uses within the dairying and horticultural sectors in the Goulburn Murray Water Irrigation Area (See illustration 5).

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28 Coleman, ibid, p1450.

29 There is a tendency for policy makers to point to movement of water out of the Kerang-Pyramid Hill area of northern Victoria as evidence that the water market is achieving its environmental objectives of moving water from saline soils. However, a significant effort had been undertaken by the Victorian Government during the mid-1980s to encourage farmers to cease irrigating saline soils and move water to lower salinity soils. For example, see Neil F. Barr’s Salinity Control, Water Reform and Structural Adjustment: The Tragowel Plains Irrigation District, PhD Thesis, University of Melbourne, June 1999. Also, see the Tragowel Plains Draft Land and Water Management Plan, August 1989. Contrary to popular belief, the limiting factor to further development of the Tragowel Plains area was not a lack of suitable soils but a lack of water. Personal Communication with Craig Dyson, Project Manager, North Central Irrigation and Echuca Centre Leader, Department of Primary Industries, 21 January 2009.
Illustration 5


Water entitlements were also beginning to be permanently traded downstream to the Greenfield horticultural developments occurring in the Sunraysia region of the state.30

However, ‘the pattern of trading has changed since the 1990s, when most trades was within regions, [with] dairy farmers [doing] much of the buying, and the rate of change was moderate.’31 As Figure 2 indicates permanent water trading was initially slow to take off.

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According to Bjornlund, permanent trading of water entitlements began relatively slowly with low volumes of water being traded in the first five to six years to 1997.  

‘The market for temporary water’, argued Bjornlund, ‘has been adopted far more widely than the market for permanent water, moving about 10 times as much water annually.’ The large volume of water temporarily traded in the market is seen as reflecting seasonal pressures which require irrigators to temporarily acquire additional water to protect production during periods of stress.

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33 *Ibid*, p64.

34 Department of Sustainability and Environment, *op.cit*, p50.
By 2000, however, the trade in permanent water entitlements began to increase as irrigators encountered a prolong drought resulting in an unprecedented number of years of below normal annual water allocations for irrigators.\textsuperscript{35} The impacts of low water allocations were also compounded by a downturn in the export price of dairy produce. Since 2003, the permanent trade of water entitlements out of gravity irrigation districts began to surge and it became a common occurrence for a majority of the gravity irrigation areas within the greater Goulburn Murray irrigation region to reach the annual 2\% permanent water trading limit, relatively quickly.\textsuperscript{36}

In particular, a great majority of the water entitlements that were permanently traded was being acquired by the Managed Investment Schemes that were establishing large scale almond plantations in the Sunraysia region of the State (See Illustration 6). By February 2007, the Managed Investment Schemes, who are eligible to claim upfront tax deductions not available to ordinary farmers, had purchased 70\% of the water that was available for permanent trade in the Goulburn Murray irrigation system since the 2003/04 irrigation season.\textsuperscript{37}

\textsuperscript{35} For example, for the 2002/03 irrigation season water allocations reached on 57\% on the Goulburn System. As Goulburn Murray Water reports: ‘This is the first time that the allocation has been less than 100\% of Water Right and follows four consecutive seasons with a zero Sales allocations.’ On the Murray System, the irrigation season opened with a 100\% allocation plus 29\% sales water. Goulburn Murray Water, \textit{Annual Report} 2002-03, p18.

\textsuperscript{36} Department of Sustainability and Environment, \textit{op.cit}, June 2004, p79.

As the cumulative volume of water permanently traded increased some areas within an irrigation district were to experience a significant loss of water thus ‘making it uneconomic for water authorities to continue to supply’ water entitlements to those who remained. The Department of Sustainability and Environment now acknowledges that, ‘one of trading’s clearest downsides is the stranding of distribution assets with too few customers.’ In accordance with the neoclassical economic paradigm the focus concerning water trading is limited to the stranding of irrigation assets. The neoclassical economic discourse

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dehumanises the fact that it is farmers and their families who are also stranded as water is traded away thus effecting their future.

While supplying these customers was deemed “uneconomic”, under the Water Act 1989, water authorities were legally required to continue to supply the remaining customers. ‘At present’, wrote the Department of Sustainability and Environment, ‘an authority has a [legislative] duty to supply all properties in its irrigation districts that hold water rights or domestic and stock rights.’ Even if all water rights were traded out of an irrigation area the water authority was still obligated to provide water for domestic and stock purposes. Unlike water entitlements, domestic and stock entitlements remained firmly attached to the land and thus were not tradeable. To address this issue, the Government proposed in its Our Water Our Future Green Paper to provide water authorities with the ‘power to acquire rights compulsorily’ or establish ‘some other way of authorities being relieved of the duty of supply, in defined circumstances.’ To assist with rationalisation of irrigation infrastructure the Government also proposed that domestic and stock entitlement be bundled with water entitlements and thus making them tradeable. As the Government saw it, ‘as long as these rights are barred from being tradeable, the farmer is denied choices about what minimum volume of water to hold, and rationalisation of irrigation supply channels is more difficult.’

The VFF remained uncertain about the value of allowing domestic and stock water to be permanently tradeable. ‘In general’, the Government was informed, ‘VFF members are opposed to stock and domestic water entitlements being permanently tradeable.’ However, they were ‘supportive of allowing stock and domestic water entitlements to be traded on a

40 Ibid, p62.
41 Ibid.
42 Department of Sustainability and Environment, op.cit, June 2004, p85.
temporary basis.’ In essence, the VFF supported the notion of temporarily trading of stock and domestic water entitlements during times of drought. The VFF went on to argue that ‘access to stock and domestic water is integral to maintaining a viable farming sector [and] without stock and domestic water it will be near impossible for farming land to remain in production.’ Rodwells & Co, a prominent rural merchandise supply chain and stock and station agent, also argued ‘the trading of Stock and Domestic water would have a huge impact on land values and land without water could become unproductive. In extreme cases the land could be unsaleable.’ As the VFF understood it, ‘the removal of stock and domestic water will also erode the social base of farming communities.’

With water entitlements continuing to be permanently traded to the Sunraysia from the Goulburn Murray irrigation region (See Illustration 7), the government announced in its Securing Our Future Together White Paper, that it will enable rural water authorities to introduce land-tied charges to cover the cost of maintaining the water supply delivery infrastructure, and, thus, alleviate the price pressures on those who remain.

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‘This would mean landowners would have to keep paying the charges [to maintain the irrigation system] even after they sold off their water.’ In essence, the Bracks Government argued irrigators who had sold their water entitlements ‘should not be free to escape from costly communal supply systems.’ Inevitably, the Bracks Government acknowledged that at some stage in the future, as parts of the irrigation distribution system become unviable and or inefficient, ‘consideration must be given to phasing them out.’ Or at least, there must be some mechanism in place to reconfigure water supply systems, so that those irrigators who remain are provided with certainty. In effect, this will mean closing some sections whilst upgrading other sections of the water supply distribution system. From 2005, the Victorian Government commenced making significant capital investments to improve the efficiency of

46 Department of Sustainability and Environment, *op.cit*, June 2004, p79
47 *Ibid*, p82.
the state’s irrigation systems. However, Victoria’s efforts to improve the efficiency of the state’s irrigation systems are being threatened by the mounting pressure on governments to deliver on their environmental flow commitments.

“Freedom” is just another word for …

According to the *Australian Financial Review* Economics Editor Alan Mitchell, ‘the best way to improve the efficiency of irrigation in the [Murray Darling] [B]asin is to allow free trade, so that the water is put to the highest value uses, including environmental flows and urban consumption.’ For the Council of Australian Governments, the permanent water market is seen, in part, as providing for the ‘more effective and flexible recovery of water to achieve environmental outcomes.’ The notion of government entering the water market, while it might be the most efficient way of acquiring water necessary for meeting environmental flow commitments, is proving to be a problematic option. As Young states, ‘the largest amount of permanent water entitlements ever traded in one year is less than 100 gigalitres.’ Based on the average volume of water permanently traded on an annual basis since 2003/04 (See Table 1), a water broking company, Water Find has argued that ‘government would need to acquire 100% of the Murray connected entitlement market for 14 years to achieve a 1.5 million megalitre (1500 GL) water return target’ to improve the health of the River Murray.

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### Table 1

<table>
<thead>
<tr>
<th>State</th>
<th>2003/04</th>
<th>2004/05</th>
<th>2005/06</th>
<th>2006/07</th>
<th>2007/08</th>
<th>Total 5 Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victoria</td>
<td>51,335</td>
<td>44,302</td>
<td>48,914</td>
<td>73,275</td>
<td>88,953</td>
<td>306,779</td>
</tr>
<tr>
<td>South Australia</td>
<td>41,909</td>
<td>19,289</td>
<td>30,721</td>
<td>16,528</td>
<td>11,552</td>
<td>119,999</td>
</tr>
<tr>
<td>New South Wales</td>
<td>3,500</td>
<td>3,455</td>
<td>38,249</td>
<td>32,268</td>
<td>26,295</td>
<td>103,767</td>
</tr>
<tr>
<td>System Total</td>
<td>96,744</td>
<td>67,046</td>
<td>117,884</td>
<td>122,071</td>
<td>126,800</td>
<td>530,545</td>
</tr>
</tbody>
</table>

**Average Entitlement Trade -Murray Connected**

106,109 ML Per Annum


Accordingly, Water Find argues that ‘unless the market can be deepened by several orders of magnitude it will be impossible for many entitlement holders to operate in the market.’53 That is to say, the permanent water market would become massively distorted by the presence of one large buyer competing with many other buyers. In essence, ‘government entering the water market’, argues the VFF, ‘will produce a crowding out effect whereby farmers will find themselves unable to compete in the market place on an equal footing with governments.’54

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To deepen the water market, and thus, overcome this distorting effect, Water Find argues, will require ‘major barriers to trade to be removed to increase the entitlement market size.’\(^{55}\) In particular, governments would be required to remove, or at least, increase the 4% interim cap which limits the volume of water which can be permanently traded out of irrigation districts across the Southern area of the Murray Darling Basin. As the Working Group on Climate Change and Water see it, ‘evidence suggests that the cap is impeding structural adjustment in the agricultural sector and making it more difficult for those who can most productively use water to buy it.’ Moreover, ‘the four per cent cap is also proving to be a major constraint for environmental water purchases.’\(^{56}\) According to Water for Rivers\(^{57}\), ‘the 4% external permanent trade [cap] is a genuine barrier and does affect purchases for the environment in Victoria.’ Water for Rivers have indicated they have ‘not been prevented from completing trades in NSW … due to the 4% cap on external permanent trades.’ This is because ‘the practice in NSW is that the 4% cap is applied to the whole of the bulk entitlement of the irrigation corporations.’ However, ‘in Victoria the 4% external permanent trading cap has been applied in Goulburn Murray Water in each of its six separate zones’\(^{58}\) (See Illustration 8).

\(^{55}\) Water Find Pty Ltd, \textit{op.cit}, p1.


\(^{57}\) Water for Rivers was ‘established by three member Governments (New South Wales, Victoria and the Commonwealth), with a charter to achieve specified targets of water savings by way of water efficiency infrastructure projects, innovation and technology and where appropriate, by acquisition of water entitlements, all of which will in turn enable those savings to provide increased environmental flows to the Snowy River and River Murray systems.’ See \url{http://www.waterforrivers.org.au}

The Working Group on Climate Change and Water believed this issue could be addressed through bringing forward the review of the 4% limit, which under the National Water Initiative Intergovernmental Agreement would occur in 2009, and conduct the review in 2008. It was expected that the outcome of such a review would result in an increase in the volume of water which can be permanently traded annually from Victoria. By early 2008, the Commonwealth had entered into dialogue with Victoria in an endeavour to seek an early lifting of the 4% permanent water trading limit. Getting Victoria to lift the 4% limit was critical for the Commonwealth Government to be seen to be responding to the political pressure mounting in South Australia over the deteriorating health of the lower lakes of the River Murray. In March 2008, the Minister for Climate Change and Water, Penny Wong,

59 Working Group on Climate Change and Water, op.cit, p51.
who is also a South Australian Senator, announced the Commonwealth has ‘… put down $50 million to return water to the river, and we are attempting to resolve this as soon as we are able.’ But, the Minister had also previously warned ‘this requires cooperation from all States.’ However, the Commonwealth’s plan to revive the River Murray and the lower lakes by spending $50 million to purchase water entitlements from willing sellers had run aground by June 2008. As Oakes perceived it, Victoria had scuttled the Commonwealth’s plan ‘to lift the cap on water trades to boost flows in the Murray.’

Photo: Barry Hancock


The Victorian Government had been under considerable pressure from the rural press and the VFF not to concede to any pressure from the Commonwealth Government to lift the 4% permanent water trading cap. An editorial in the *Weekly Times* argued the ‘Federal Government moves to scrap the cap on water trading is economic vandalism of the worst kind.’\(^63\) Similarly, the editorial in the *Stock & Land* argued ‘the greatest danger of current water buyback plans is that they may rip the –in some cases already frail– heart out of regional communities.’\(^64\) Simon Ramsay, President of the VFF, publicly argued that ‘the 4 per cent cap is necessary to allow rural communities to adjust to the loss of economic activity that occurs when water is traded out of districts.’ As Ramsay understood it, ‘the intent of this rule has always been to help rural communities to manage concerns about the adjustment of regions to water trade whilst also monitoring socio-economic impacts.’\(^65\) By September, the 4% cap was again being raised as an issue by the National Party in the Victorian Parliament who were urging ‘the Brumby Labor government [to] stand up for the rights of Victorian irrigators and regional communities and refuse to agree to the removal of the 4 per cent cap on permanent water entitlements that can be traded out of irrigation areas in the southern Murray-Darling Basin.’\(^66\)

It had long been a fear of irrigators, as well as the bureaucracy in Victoria, that the state’s previous water allocation policies, which had resulted in a system of secure and reliable water allocation policies, which had resulted in a system of secure and reliable water

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entitlements would see other governments target Victoria’s water market to acquire water for environmental flows. By late 2008, the South Australian Government had began buying water entitlements to help secure the volume of water necessary to protect permanent plantings established in the state. The South Australian Government had been under increasing pressure from irrigators in the Riverland whose water allocation had been restricted to 15 per cent of their normal allocation for the 2008 irrigation season due to drought.

In effect, the South Australian Government had set aside $67 million to buy water via the temporary water market to keep permanent plantings alive in the state’s Riverland.67

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The Department of Sustainability and Environment has long argued that the well defined nature of Victoria’s water entitlements has enabled irrigators to achieve greater economic output from water used compared to New South Wales (See Figure 3).68

**Figure 3**

![Chart showing water use and output for Victoria and NSW](chart.png)

*Source:* Department of Sustainability and Environment, PowerPoint presentation, 18 February 2003.

To the VFF, the biggest challenge it confronted was ensuring ‘governments adhere to the principles of equity when determining how water will be acquired’ for the environment. That is to say, ‘in an endeavour to source water to increase environmental flows to the Murray River, governments must not target Victoria’s water market.’69 Grafton, however, argued that if the Commonwealth brought water entitlements in the states where water is overallocated they ‘could end up buying pieces of paper that don’t generate increased water flows and that’s

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what I call “dry water”. Yet, even if the Commonwealth were to buy water entitlements from states that were not overallocated, the run of years with record low inflows on the Murray system (See Figure 4) would not result in any real water being returned for environmental flows.

Figure 4


Arguably, under such circumstances, the debate about lifting the 4% cap has become a bit of a fruitless exercise.

As the Commonwealth Minister for Climate Change and Water had come to understand that ‘the Government, when we purchase, we purchase for the river, we stand in the same shoes as all those irrigators who are getting very low allocation at the moment. Because State governments cannot allocate water that is simply isn’t there.’

The politics of the “level playing field”

The water reforms implemented thus far by governments have been driven by a desire to create the ideal level playing field between the states in terms of water trading. Such reforms are deemed necessary to enable scarce water resources to be reallocated to higher value uses. Achieving this objective requires governments to remove regulatory impediments which restrict the liberating magic of market forces. Creating a competitively neutral water market, where voluntary transactions take place between rational individuals, will result in the realisation of substantial benefits for the wider economy and individual water users. For

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policy makers, the reforms are deemed “rational” and “intelligent” with water trading providing a “win-win” opportunity for all. ‘On the surface’, notes Mercer, Christensen and Buxton, ‘the COAG reforms appear to offer a relatively painless solution to Australia’s water problems.’ However, despite a decade and a half of COAG reform, significant impediments to the free flow of water across state borders still remain. The Commonwealth suggests, ‘it is likely that some of the remaining barriers to trade are not institutional in nature, but simply due to inertia or cautiousness in State administrations which mitigate against the expansion of trading opportunities.’ As Clark has previously acknowledged, ‘the States, quite justifiably in some cases, view their existing technical and administrative structures as having long and well-proven experience in matters of water supply.’

The institutional and administrative differences which exit between the states, however, are proving to be a point of contention as the Commonwealth seeks to extend the water market to the broadest possible geographical reach. According to the Chief Executive of New South Wales Irrigators’ Council, ‘the battlelines remain fixed, largely along parochial State lines, with New South Wales often being targeted by Federal Ministers and bureaucrats and the NWC [National Water Commission], as the recalcitrant, bastard child of water reform.’ More recently, the Australian Conservation Foundation suggests that ‘Victoria has been absolutely recalcitrant through this whole process … which in the short term will increase the

stress on [small scale] irrigators. The Victorian Government have previously dismissed such assertions arguing that ‘we want to ensure our irrigators are properly protected and ensure that there’s a fair market across the whole basin, rather than have a system where all the water comes out of one place.’

According to the then Minister for Water John Thwaites, Victoria remains supportive of establishing a national water market but ‘it has to be a national water market based on fairness, so that irrigators in Victoria will not be giving up water beyond the cap if New South Wales irrigators do not also agree to be part of the market.’ At the time when this statement was being made, Victoria was in a political stoush with New South Wales about removing impediments to water entitlements being traded out of their state. ‘We can’t have’, argued Thwaites, ‘trade that is just one-way – this would be economically and environmentally damaging for Victoria and the wider (Murray Darling) Basin.’ In essence, Victoria believed the privatised nature of New South Wales irrigation corporations and their trading rules have a distorting effect in the water market. As such, Thwaites indicated that ‘unless there is a clear timeline for the privatised NSW water companies to open the market, Victoria is likely to have a moratorium on water trade out of the state.’ According to the chair of Murray Irrigation Limited, Bill Hetherington, ‘Murray Irrigation Limited allows permanent trade provided there is not a net trade of water out of our area.’ The no net trade policy of Murray

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76 Arlene Buchan quoted by Peter Ker in ‘Victoria holds out on water trading’, The Age, 5 November 2008.
80 Ibid.
Irrigation Limited was enacted to protect the financial viability of the irrigation company. ‘If our system’, Barlow informed the House of Representatives Parliamentary Committee inquiry, ‘has water traded out of it, we get to the stage where we are uneconomical and the whole system would collapse.’

By April 2006, the Victorian Government was accusing New South Wales irrigation companies of setting high exit fees and unrealistic exchange rates for their general security water entitlements which operated to constrain interstate water trading, in particular, water being permanently traded from New South Wales. In essence, Murray Irrigation Limited had established an internal exchange rate which required two megalitres of general-security water to be converted into 1.2 megalitres of high-security water before it could be sold to irrigators in Victoria. Murray Irrigation Limited had also imposed an exit fee of $474 per megalitre on individuals wishing to permanently trade general security water entitlement out of the district. As the chairman of Murray Irrigation Limited explained it, ‘we believe exit fees are a far less traumatic and more equitable method of limiting the adverse impacts of permanent water trade than the alternative access or land-based fees being imposed in Victoria.’ But Victoria remained ‘concerned that exit fees and other institutional arrangements proposed by NSW irrigation companies are so high that water could not practically be purchased from NSW.’

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82 Michael Barlow, Evidence presented at the House of Representatives Standing Committee on Agriculture, Fisheries and Forestry inquiry ‘Future water supplies for Australia’s rural industries and communities’, Deniliquin, Official Committee Hansard, 31 July 2003, pp483-484.


By mid 2006, the Australian Competition and Consumer Commission became involved in an
endeavour to ‘develop a consistent framework for the application of exit fees and access
fees.’87 The Australian Competition and Consumer Commission held ‘the application of “exit
fees, access fees and other jurisdictional arrangements on a competitively neutral basis”
remains a key outstanding issue for the three state governments to agree on expanding
interstate water trade in the southern Murray-Darling Basin.’88 According to the Australian
Competition and Consumer Commission, ‘exit fees have been calculated to collect the net
present value of future revenue that the infrastructure operator would have received to cover
fixed costs, had that water continued to be delivered within its network.’89 In terms of
economic efficiency, however, the Australian Competition and Consumer Commission
believed ‘exit fees are a barrier to the trade of water from relatively lower to higher value
uses.’ Accordingly, ‘this results in a loss of economic welfare, since the full potential gains
from trade are not realised.’ Furthermore, ‘exit fees dampen the signal to infrastructure
operators that rationalisation of the network may be warranted, since some irrigators will sub-
optimally remain in the network.’90 As such, the Australian Competition and Consumer
Commission ruled that all exit fees that were payable when water entitlements were
permanently traded from New South Wales be removed to free up water trading and to create
a perfect level playing field between the states. However, it appears, as Joan Robinson had
previously stated, that ‘the economists, misled by the logical priority of perfect competition in

88 Australian Competition and Consumer Commission, A regime for the calculation and implementation of exit,
access and termination fees charged by irrigation water delivery businesses in the southern Murray-Darling
Basin, 6 November 2006, pv.
89 Ibid, pvi.
90 Ibid.
their scheme, were somehow trapped into thinking that it must be of equal importance in the real world.'\(^91\)

**Conclusion**

A necessary prerequisite for the efficient operation of the water market requires all water use to be brought within a fully cap and trade water allocation framework. Any water use that occurs outside of a cap and trade framework is seen as undermining the integrity of the water market. Unregulated extractions also diminish the water available to sustain vital environmental processes. In Victoria, the construction of large scale irrigation farm dams throughout the upper catchment regions of the State presented a threat to both the environment and the integrity of the water market. This issue was not lost on the National Competition Council and potentially threatened future competition payments that were to be made to Victoria. As the National Competition Council acknowledged in its June 2001 assessment report ‘for the 2002 NCP assessment, the Council will look for the Victorian Government to have made progress on ... the 2001 Farm Dams Review’ recommendations.\(^92\)

To bring the unregulated extractions within the State’s water regulatory framework would require the Victorian Government to restrict landholder’s rights to harvest the rain which fell on their property. Any attempt by government to restrict or remove, what landholders viewed as an “inalienable” right, would inevitably and unavoidably become a highly political and politically damaging issue. The next chapter examines the politics concerning the Bracks Government’s policy initiative regulate the rights of landholders to construct large scale irrigation farm dams throughout the upper catchment regions of Victoria.

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Chapter 8

The politics of farm dams: Contentious, divisive, spiteful and destructive

I am a little sad about the venom that has been generated ... but being a person who has been involved in water debates for a long time in this place I understand just how much venom can be generated out of water debates.¹

Introduction

The development of public policy involves the interaction of competing values and interests that are mediated by the political process, which can sometimes be tempestuous. The Bracks Government’s policy commitment to close the loophole within Victoria’s water allocation framework allowing for the unregulated development of large scale irrigation farm dams proved to be politically challenging for all involved. It would polarise the farming community, create divisions within the conservative opposition political parties and become an extremely difficult issue for the Victorian Farmers Federation to manage. By the time the Water (Irrigation Farm Dams) Bill became law the divisive, spiteful and destructive issue left the Victorian Farmers Federation battered and bruised, suffering a creditability problem amongst its upper catchment constituency with members threatening, and indeed, walking away from their peak farm representative body.

A necessary reform initiative

The loophole in Victoria’s water allocation framework was giving rise to a number of difficult challenges for the Victorian Government, the rural water sector, landholders throughout the upper catchment regions of the State and the Victorian Farmers Federation. For the Victorian Government, the loophole would allow landholders to harvest large volumes of rainfall runoff which occurred on their property in large dams for irrigation purposes. With economic pressures forcing upper catchment farmers to shift from traditional low value farming

practices such as grazing to higher value viticulture and horticultural activities, the amount of water that was and, potentially could be harvested, threatened to undermine Victoria’s ability to comply with the Murray-Darling Basin Commission Cap (Cap).

This had become a concern for the Department of Natural Resources and Environment (the Department). According to the Department, ‘Victoria’s water allocation framework is incomplete. This could ultimately impact on compliance with the Cap in northern Victoria and fall short of the need to manage scarce water resources in Southern Victoria.’ The Department saw it, currently water can be harvested without regards to the effects on neighbours, downstream water entitlement holders, environmental values and, State obligations to comply with agreements such as the MDPC Cap. ‘The issue of building farm dams for irrigation’, the Victorian Minister for Environment and Conservation informed delegates at the Institute of Water Administration Conference in Melbourne, ‘has been the subject of intense community debate particularly in North East of Victoria and the upper Wimmera catchments.’ For the State’s rural water authorities, who are charged with the responsibility of administering the Water Act 1989, their concern was not only one of Cap compliance in northern Victoria, but also extended to the highly problematic issue of interpreting and applying the waterway definition contained in the Act out in the field.

In Victoria, the Water Act 1989 extended the Crown’s control over the State’s water resources beyond the traditional common law notion of a watercourse. At common law, a watercourse was defined as a river, creek and stream, all of which were distinguishable by clearly defined

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2 Department of Natural Resources and Environment, Sustainable Water Resources Management and Farm Dams (Discussion Paper), State of Victoria, April 2000, p2.
3 Ibid, p2.
bed and banks, in which the flow of water was generally continuous. The presence of a
continuous flow, however, was not a prerequisite for determining a watercourse.5 A
waterway, as defined in the Water Act 1989, extended the definition to also include a ‘natural
channel in which water regularly flows, whether or not the flow is continuous.’6 To Adams
and Barlow, the new definition ‘incorporates the common law definition of a watercourse
[and] extends it to include artificial alterations to the course of a river, land on which, as a
result of works to a watercourse, water collects regularly, and the land which forms part of a
slope rising from the waterway to a define lip.’7

Under the Water Act 1989, a landholder was able construct an irrigation farm dam without
requiring a licence to build the dam or for the water it would contain. If the site of a proposed
dam was deemed to be on a waterway landholders were required to obtain two separate
licences under the Water Act 1989. They were required to obtain a Section 67 licence to
enable the landholder to undertake works on a waterway, and a Section 51 licence to take and
use water from the waterway. Determining what was a waterway was impeded by growing
disagreements between landholders and the rural water authorities over what constitutes a
“natural channel”. To ensure the volume of water extracted in northern Victoria remained
within the Cap rural water authorities began adopting a more stringent interpretation of what
constituted a waterway in an attempt to restrict the development of large irrigation dams.
According to the member for Benambra, ‘Goulburn Murray Water has made a deliberate and
concerted effort on behalf of the government to try to ensure that happens.’8 Upper catchment

6 Ibid, Part 1, Section 3-Definitions, p14.
p715.
8 Tony Plowman, ‘Water (Irrigation Farm Dams) Bill’, Parliamentary Debates (Hansard). Legislative
Assembly, Fifty-Fourth Parliament (First Session), 21 March 2002, p449. Also, see the Victorian Farmers
Federation’s Yackandandah Branch response to the Victorian Government’s Sustainable Water Resources
Management and Farm Dams discussion paper, April 2000 (Submission No.72).
landowner, Michael Murtagh, also felt that ‘Goulburn Murray Water is now using the
definition of a waterway to restrict dam building.’

To many upper catchment landholders, the more stringent interpretation of a waterway was being pursued to protect the interests of gravity irrigators in the lower catchment regions of the State.

‘As time progressed’, argued McGowan, ‘both the irrigation lobby and the water authorities pushed to secure all the water under the Cap for sale to their customers as the criteria for waterway determinations had gradually tightened.’ In 1997, the conservative coalition government in Victoria established the Northern Victoria Water Consultative Committee (“Baxter Committee”) that was chaired by the National Party’s Upper House member for North Eastern Province, Bill Baxter, ‘to advise [the Minister for Agriculture and Resources] on various issues regarding the management of water resources north of the divide.’ The Baxter Committee consisted of local farm representatives who were selected for their knowledge of and involvement in water management from within the upper catchment and lower catchment gravity irrigation region of northern Victoria. After meeting for over seven months, a report was handed to the minister indicating the Baxter Committee ‘was unable to devise a better definition of a waterway than that already existing in the 1989 Water Act without risking the introduction of [further] ambiguity and uncertainty.’

To overcome the issue concerning Victoria’s obligation to the Cap, the Baxter Committee recommended that 10,000 megalitres of water could be set aside for upper catchment

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9 Michael Murtagh, Personal submission to the Sustainable Water Resources Management and Farm Dams Review, August 2000 (Submission No.73).
10 Paul McGowan – High Catchment Committee Member, Personal submission to the Sustainable Water Resources Management and Farm Dams Review, 27 July 2000, pp1-17, p9 (Submission No.40).
12 Ibid, p5.
landholders to access when building an irrigation dam. The water would come from efficiency savings made throughout the irrigation districts in northern Victoria. This, however, failed to eventuate as divisions emerged within the Baxter Committee. After initially supporting the recommendation divisions emerged within the Baxter Committee. Gravity irrigator representatives began saying 10,000 megalitres to be set aside for upper catchment farmers in northern Victoria was too generous whilst the upper catchment farmer representatives felt it did not go far enough. With the Baxter Committee members polarised between gravity irrigators and upper catchment farmer representatives it became impossible to commence the necessary works to deliver on the recommendation to find 10,000 megalitres for upper catchment farmers.

Delivering on the report’s recommendation to provide 10,000 megalitres for upper catchment farmers became even more problematic. The report was criticised by the federal Member for Murray who argued gravity irrigators would become sitting ducks for water grabs which she would not allow that to happen. The report would continue to be the source of frustration for the Victorian Government as the Member for Murray continued to use it to consolidate her profile the electorate of Murray. Irrigation was an important economic driver within her electorate.

Disputes involving waterway determinations also became a problem in the upper catchment region of the Wimmera Mallee of Victoria. The Wimmera Mallee Review Panel (Review


Panel) was established to work through this issue with the four landholders who were disputing the rulings that were made by Wimmera Mallee Water.

According to Wimmera Mallee Water, ‘a natural channel occurred at the particular sites’ where the four landholders wished to build large scale irrigation dams, and as such, the dams would require to be licensed under the Water Act 1989.16

Source: Herald Sun, 30 April 2000.

Like the Baxter Committee before it, the Review Panel was unable to find a successful resolution to the challenges associated with waterway determinations. As the Review Panel saw it, ‘the key role for Government is to deliver a water resource allocation policy that is fair to all, speedy in its application and easily communicated and understood.’ The Review Panel indicated the current ‘process of waterway determinations fails to meet these criteria.’ Furthermore, ‘under the current arrangements uncertainty and frustration will be experienced not only by new developers but also existing users.’

Just prior to losing office, the conservative coalition government established the Goulburn-North East Regional Water Coordinating Committee (Coordinating Committee) in an endeavour to find a solution to the ongoing difficulties concerning waterway determinations throughout the Goulburn and North East regions of Victoria. Like the Review Panel, the Coordinating Committee acknowledged there was increasing ambiguity surrounding what constitutes a waterway as defined in the Water Act 1989 and this ‘introduces uncertainty in investment decisions [and] ... is impeding development in some areas.’ The downfall of the Coordinating Committee was that it failed to deal directly with the issue of what is a waterway by seeking to replace landholder’s private right to harvest rain with a financial credit, based on a calculation of the recognised rainfall and land area of their property. This would thus allow them to enter the water market to buy the water necessary to for their dam. Following three separate reviews, the new Labor Minister for Environment and Conservation

17 Ibid, p15.
18 Ibid.
acknowledged that ‘the major conclusion from the work done to date is that the definition of a waterway within the Water Act 1989 is not workable and a solution is urgently needed.’

Providing landholders with certainty

The failure of the previous committees to find a suitable solution to the difficulties encountered with defining a waterway meant the problem would remain an ongoing source of frustration for all concerned. For government, the failure to find a solution would see the ongoing uncertainty continuing to impact on development in the upper catchment regions of the State. It would continue to see landholders disputing waterway determinations made by the rural water authorities and give rise to conflict between neighbouring landholders. With landholders using the loophole in the Water Act 1989 to build large irrigation dams the government had no authority to intervene in an attempt to settle such disputes, particularly when the dam impacted on the neighbouring landholder’s water supply. Under the Water Act 1989, the landholder who built the dam was quite simply exercising his or her private right to harvest rain fall. Such disputes would also continue to place a drain on the limited resources and personnel within the Victorian Farmers Federation. On the 31st of April 2000, the Minister for Environment and Conservation released the Victorian Government’s discussion paper Sustainable Water Resources and Farm Dams. The Minister also announced the Victorian Government would be establishing an independent Victorian Farm Dams (Irrigation) Review Committee chaired by the Chief Executive Officer of the Murray Darling Commission, Don Blackmore (Blackmore Committee), who would be responsible for

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20 Garbutt, op.cit, p11.

21 The Water Resources Committee of the Victorian Farmers Federation was supported by a single executive officer whose time was required to be split between supporting the Water Resources Committee and the Victorian Farmers Federation’s Economics Committee. The Water Resources Committee was made up of 10 farmers who were elected to represent the interests of farmers within geographically defined regions across Victoria.
conducting the public consultation concerning the discussion paper and formulating a series of policy recommendations.22

With the release of the discussion paper, the Victorian Farmers Federation’s Water Resources Committee produced a set of principles to form the basis of the consultation process with farmers. The principles were presented to delegates for endorsement at the Victorian Farmers Federation’s Annual Conference in June 2000. During the debate over the principles, a procedural motion was moved by a Sunraysia irrigator and endorsed by the majority of delegates to cease debating the remaining nine related resolutions that had been placed on the conference agenda by various branches from across the upper catchment regions of the State. The argument advanced by the mover of the procedural motion was that the points raised by the remaining nine resolutions were already covered in the principles developed by the Water Resources Committee and endorsed by the majority of conference delegates. Upper catchment farmer delegates, however, responded with anger and stormed out of the Conference auditorium.23 The Water Resources Committee chairman explained the actions of the upper catchment farmer delegates in terms that they felt ‘threatened by some of the suggestions in Minister Garbutt’s discussion paper that may lessen their private rights to water.’24

Over a two week period, the Victorian Farmers Federation held 15 workshops throughout the State to provide its members with the opportunity to shape the organisation’s farm dams

policy statement.\textsuperscript{25} A conscious decision was taken by the leadership of the Victorian Farmers Federation to ensure both upper catchment farmers and gravity irrigators were provided with an opportunity to have input into shaping the organisation’s policy statement. This was seen as being critical to ensure the issue did not split the organisation. As the General Manager of Policy was to state: ‘it is critically important the farm sector responds to the Government’s discussion paper with a united voice. Continuing conflict between farmers on this issue will result in an outcome which will be unacceptable to all.’\textsuperscript{26} The ability of the Victorian Farmers Federation to maintain unity amongst upper catchment and lower catchment gravity irrigators would remain an ongoing challenge for the organisation’s leadership. Upper catchment farmers viewed gravity irrigators with suspicion and believed they had always been the beneficiaries of large public investment that had been made to develop the irrigation system. As upper catchment farmers saw it, they had not been able to receive the same level of benefit to develop water infrastructure on farm. In essence, they were required to completely fund all costs associated with building their own irrigation dams on farm.

A further factor contributing to the growing distrust amongst upper catchment farmers of the Victorian Farmers Federation was that the president of the organisation, Peter Walsh, was a lower catchment gravity farmer. They believed that when push comes to shove he would support the interests of lower gravity irrigators over farmers in the upper catchment. Similarly, they also saw the Water Resources Committee as being dominated by gravity irrigators and, as such, their concerns would not be taken seriously. To ensure the interests of upper catchment farmers were fully represented upper catchment farmers began to throw their


support behind the High Catchment Committee\textsuperscript{27} which had been very active during the
Baxter Committee inquiry. Following the period of intensive consultation with members, the
Victorian Farmers Federation’s farm dams policy statement was presented to, and endorsed
by, the organisation’s peak policy council.\textsuperscript{28}

The Victorian Farmers Federation’s policy statement argued that ‘landowners have a right to
catch run-off from their properties in catchment dams off waterways’, and that, ‘this right had
existed since land titles were first granted.’ The Victorian Farmers Federation’s position was
that ‘except in specifically defined circumstances (for example, where no more water can be
harvested without seriously impacting on the rights of other water users within the catchment
or unacceptable environmental damage) the VFF is opposed to the removal of this right.’ The
Victorian Farmers Federation policy, however, did indicate if this right was to be removed
they would expect farmers’ private right being replaced by ‘a non transferable right to harvest
water in dams anywhere on the property ... up to a maximum volume related to the
theoretically calculated runoff [generated] from the property.’\textsuperscript{29} While the Victorian Farmers
Federation was going through the process of developing its policy statement, the Blackmore
Committee (of which the president of the Victorian Farmers Federation was a member) had
begun reviewing the 381 submissions received and formulating a series of recommendations
to be released for further public comment on the 14\textsuperscript{th} of December 2000.\textsuperscript{30}

\textsuperscript{27} The High Catchment Committee water formed in 1999 by a group of community leaders from throughout the
upper catchment region of north east Victoria under the auspices of the Victorian Farmers Federation’s
Wodonga Pastoral District Council.

\textsuperscript{28} Victorian Farmers Federation, \textit{Minutes}, Ninety-Fourth Meeting of General Council, 13-14 September 2000.


\textsuperscript{30} Hon. Sherryl Garbutt, Minister for Environment and Conservation, ‘Have further say on farm dams issue-
The Victorian Farmers Federation response to the release of the draft report was to argue the recommendations it outlined were unacceptable as the compensation package offered for the removal of landholder’s private right to harvest the rain which fell on their property failed the test of equity. The compensation package was only available to landholders in the northern part of the State and not available to landholders south of the Great Divide. The Victorian Farmers Federation’s response can be seen in two lights. The first was that the compensation package was indeed unacceptable. The second was that it was part of the process of positioning the organisation for the forthcoming phase of negotiating with the Victorian Government to increase the compensation package.


According to the Victorian Farmers Federation, the policy debate extended further than the issue of farm dams. As indicated in the organisation’s journal the, Victorian Farmer, it ‘is not simply an issue of upper catchment farmers’ rights to water. It is ultimately an issue of protecting the rights to water of all farmers.’ However, achieving this task was becoming increasingly difficult as the Victorian Farmers Federation was constantly struggling with

32 Ibid.
managing the politics of the High Catchment Committee who did not trust the leadership of the organisation. As the High Catchment Committee saw it, the State Government and the irrigation lobby simply wanted to use the upper catchment region, in particular, in north east Victoria, as a giant tin roof to run off water to supply the water entitlements already allocated to gravity irrigators. To one upper catchment landowner, the ‘downstream irrigators who are exerting strong pressure to increase their existing rights should not be allowed to do so at the expense of upper catchment irrigators. Our equity must be preserved.’

To reinforce the importance of this issue to the Blackmore Committee, the Victorian Government, the Victorian Farmers Federation and the High Catchment Committee organised a public meeting to be held at the Tallangatta Town Hall in February 2001.


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33 See McGowan’s submission to the Blackmore Committee, op.cit.

The public meeting was addressed by the Victorian Farmers Federation’s general manager of policy who took a particularly hard stance when criticising the recommendations contained in the Blackmore Committee’s draft report. ‘In their current form’, stated the general manager of policy, ‘the recommendations contained in the draft report are unacceptable to the VFF.’

At the public meeting, the Victorian Farmers Federation’s Wodonga Pastoral District Council moved that: ‘farmers reject as totally unacceptable [the notion] that a financial package can compensate for the loss of their right to use the water that falls on their farms.’ In his report to the Victorian Farmers Federation’s peak policy body, General Council, the general manager of policy, informed General Councillors that members at ‘the Tallangatta meeting rejected the concept of financial compensation.’ He then went on to inform the General Councillors that ‘I don’t believe the VFF can afford to do this.’

The Tallangatta public meeting placed the Victorian Farmers Federation in the unenviable position of trying to balance the realities of the situation with the expectations of upper catchment farmers. ‘The water debate’, general manager of policy informed the Victorian Farmers Federation’s General Councillors, ‘is a difficult one for us to manage. On the one hand, we have farmers who are keen to “protect the resource base” and, on the other, those who have very high expectations of what can be achieved in terms of guaranteeing, or extending their existing rights.’ With the Victorian Farmers Federation receiving no support from the opposition political parties in the Victorian Parliament for the organisation’s “run-

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36 Pamphlet, Motion: Recommended by the Wodonga VFF Pastoral District Council Executive in Response to the Farm Dams Report, 6 February 2001.


38 Ibid.
The “off” approach to replacing landowners private rights the organisation was confronting a difficult challenge. The Blackmore Committee released its final report in April which recommended the Victorian Government provide upper catchment landowners with a financial transition package to compensate them for the loss of their private right to build a dam off a waterway. The compensation package, however, would only be available for a short period of time and only those landowners actually building a dam would be eligible for the recommended one off $26,000 grant. $20,000 of the total package was made available to offset the cost incurred by farmers who were now required to enter the water market to purchase the volume of water to fill their dam.\(^{39}\)

By September 2001, after the release of the Blackmore Committee’s final report, the Victorian Farmers Federation was confronting a crisis. The general manager of policy informed General Councillors that ‘the [Blackmore Committee] Report and the Government’s response has clearly disappointed some members particularly those in the North East of the State.’ According to the general manager of policy, ‘while it is not the VFF’s report there will be some criticism of the organisation because the President was on the [Blackmore] Committee and because the organisation has not been strongly critical.’\(^{40}\) Criticism of the Victorian Farmers Federation would come thick and fast both from within and outside the Victorian Parliament once the Victorian Government introduced its Water (Irrigation Farm Dams) Bill which would also see the Liberal Party use the issue to further their own broader political agenda and to settle some old scores with their National Party colleagues.


Conflict within the Victorian Parliament

The Water (Irrigation Farm Dams) Bill was tabled in the Victorian Parliament by the Minister for Environment and Conservation on the 26th of September 2001. The minister indicated that prior to tabling the Bill ‘discussion[s] had been held with members of the Liberal and National Parties [and] consensus had now been reached on many major points of concern.’ The shadow spokesperson for water resources, Steve McArthur, said: ‘let me state clearly from the outset the intent and direction of the legislation is supported by the Liberal Party.’ According to McArthur, ‘Liberal Party members think the aims the government is trying to achieve are worthy and worth while.’

The National Party supported the Bill because it was seen as ‘providing security for existing users and opportunity for future investment in irrigation development in the upper catchments.’ While the opposition parties gave the impression of supporting the Bill, the Liberal Party remained bitterly opposed to the government’s deliberate move to abolish landholders existing statutory right to harvest rain which fell on their property. The Liberal Party’s opposition to the removal of this statutory right and, the National Party supporting the Bill before the parliament, set the scene for what the Member for Forrest Hill saw as ‘a good old-fashioned Liberal –Country Party stoush’ in the parliament.


The public “stoush” between the two conservative parties mirrored the struggle taking place behind the scene in the parliamentary Liberal Party as several members began to use the Bill to secure their own position within the party and the broader electorate. Three members of the parliamentary Liberal Party, the then leader Denis Napthine, Terry Mulder and John Vogels, whose electorates covered the south western region of Victoria, were facing uncertainty concerning their seats as a result of an electoral redistribution. Napthine’s seat of Portland, which he’d held since 1988, was being abolished, along with Vogels Lower House seat of Warrnambool, leaving them without a seat.

To remain in parliament and, thus, the leader of the Liberal Party, Napthine needed to prevail in the internal Liberal Party preselection process and then, win the newly created seat of South West Coast. Apparently, a deal had been reached that would see Vogels step aside and allow Napthine to contest the newly created seat of South West Coast and, in return, Vogels would be guaranteed preselection for the Upper House seat of Western Province which was being vacated by the Liberal Party’s long term sitting member Bruce Chamberlain. The Herald-Sun state political reporter, John Ferguson, had indicated ‘the deal was stitched up months ago under the unspoken rule that political leaders must have a seat in order to win the next election.’

Rumours, however, had been circulating around the parliament that Vogels may, in fact, go head to head with Napthine for the lower house seat, rather than, step aside as arranged. If this was to occur, an alternative option available for Napthine would be to challenge the Liberal Party member for Polwarth for his seat in a preselection battle. As the above tensions

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47 Notes recorded in personal dairy on 27 November 2001.
were being worked through, Naphthine was also coming under increasing pressure from within
the Liberal Party over his leadership style.\textsuperscript{48}

Adding to this pressure, Naphthine was being required ‘to balance demands from south-west
and north-east Liberals who [were] demanding amendments to the legislation’ before the
parliament.\textsuperscript{49} The Minister for Environment and Conservation began to wonder: ‘are the
Liberals a political party or just a loose collection of individual politicians jockeying for
prominence?’\textsuperscript{50} The individuals to whom the minister was referring were the Liberal Party
members Vogels and Mulder from the south west and the Liberal Party’s’ north east
representative, Tony Plowman. Increasingly, the Liberal Party’s parliamentary tactics came
to be dominated by the views of the party’s rural members within the south-west and north-
east of the state.

Apparently, the city based Liberal Party members had begun deferring to their rural based
parliamentary colleagues who they believed had a better understanding of the issue and its
impacts on farmers.\textsuperscript{51} As pressure began to mount around Naphthine’s leadership, Plowman,
the Liberal Party member for Benambra in north east Victoria, advanced an argument in the
party room that farmers should be allowed to harvest 3 per cent of the rain which fell on their
property.\textsuperscript{52}


\textsuperscript{51} Note recorded in personal diary of a conversation which took place in the foyer of the Victorian Parliament
between the Victorian Farmers Federation president, myself and Denis Naphthine relating to the tactics being
pursued by the Liberal Party concerning the \textit{Water (Irrigation Farm Dams) Bill} before the parliament.

\textsuperscript{52} This amendment was strongly supported by the highly influential High Catchment Committee which consisted
of prominent local landholders established throughout the upper catchment region of north east Victoria. The
High Catchment Committee was formed in response to the initial difficulties associated with waterway
determinations. The High Catchment Committee was, in effect, a group formed from disaffected branches of
After fierce debate within the party room, it was agreed the Liberal Party would pursue the 3 per cent amendment which had the support of Napthine. This placed the leader at odds with the position advanced by the Liberal Party’s shadow water spokesperson, Steve McArthur. According to media reports, McArthur argued adopting the position advanced by Plowman would result in Victoria breaching the Cap on extractions imposed by the Murray-Darling Basin Ministerial Council across northern Victoria.

As McArthur saw it, the amendment advanced by Plowman and, supported by the party was unworkable. Unlike his city parliamentary colleagues, McArthur was well aware the amendment to the Bill being advance by the Liberal Party did not address the fundamental problem concerning the ambiguity surrounding defining a waterway. According to Weekly Times reporter, Peter Hunt, the position adopted by Napthine was responsible for ‘poisoning his relationship with Mr. McArthur and his allies.’ It caused a rift within the parliamentary wing of the Liberal Party.

The Liberal Party’s Upper House member for Gippsland Province, Phil Davis, would resign his shadow ministry portfolio in protest over ‘the treatment of close friend and colleague,

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the Victorian Farmers Federation located within the north east region of the state who believed their organisation was dominated by the interests of lower catchment gravity irrigators. The role of the High Catchment Committee was to represent the interest of upper catchment farmers concerning water reform.


54 Note record during a discussion concerning Liberal Party tactics relating to the amendment to the Bill being pursued by the party between the Victorian Farmers Federation’s President, Peter Walsh, General Manager of Policy, Clay Manners, myself and the Liberal Party’s shadow spokesperson for water Steve McArthur. VFF Meeting room, Level 5, Farrer House, Collins Street, 2.30pm, 26 November 2001.

55 Ibid.
Liberal water spokesman, Steve McArthur, who lost the backing of the party room in the parliamentary debate on the controversial Farm Irrigation Dams Bill.\textsuperscript{56}

Having both McArthur and Davis off side put Napthine in somewhat of a precarious position within the Liberal Party. \textit{As Weekly Times} reporter Peter Hunt wrote: ‘Mr Davis and Mr McArthur are supporters of the Kennett faction which put Mr Napthine in power’ as party leader.\textsuperscript{57}

During a discussion in the foyer of the Victorian Parliament House, the Liberal Party leader, Napthine, indicated that it was, in fact, McArthur’s handling of the farm dams issue within the party room that had put some of his parliamentary colleagues off side. Napthine suggested McArthur had been somewhat belligerent when dealing with the level of ignorance most city members had concerning the issue.\textsuperscript{58}

This only served to enhance the influence of the three main rural Liberal Party members, Vogels, Mulder and Plowman, who had taken to push the 3 per cent amendment in the parliament. According to Steggall, ‘the current Liberal plan is the fourth position Liberal MPs have taken up in the last five weeks’\textsuperscript{59} The Minister argued ‘the Liberal Party is out of


\textsuperscript{57} Hunt, \textit{op.cit}, 19 December 2001, p4. Napthine would eventually loose the leadership of the Liberal Party in August 2002 after a challenge was mounted by Robert Doyle who had the backing of the Kroger faction within the party. Phil Davis played an important role acting as Doyle’s numbers man behind the scene. See Ewin Hannan’s article ‘How MP plotted Napthine’s demise’, \textit{The Age}, 21 August 2002.

\textsuperscript{58} Note recorded in personal diary of a conversation which took place in the foyer of the Victorian Parliament between the Victorian Farmers Federation president, myself and Denis Napthine relating to the tactics being pursued by the Liberal Party concerning the \textit{Water (Irrigation Farm Dams) Bill} before the parliament. 29 November 2001.

touch with country issues and that the party machine has been hoodwinked by a couple of ill-informed backbenchers.\textsuperscript{60}

\textbf{The strategy amongst the confusion}

From the outside, it may seem as the minister suggests, that the Liberal Party had, indeed, been “hoodwinked” by rural backbenchers who failed to fully understand the detail of the legislation before the parliament. However, the last minute amendment to the Bill pursued by the Liberal Party, to allow farmers to harvest 3 per cent of the rain which fell on their land, was being driven not by a principled commitment to the amendment, but, by the broader aim of securing electoral advantage in the north east federal seat of Indi.

The Liberal Party sitting member for the seat of Indi, Lou Lieberman, was retiring at the November 2001 federal election. Under the coalition agreement, the National Party had been unable to contest the seat. However, when a sitting member from either political party retires the seat can be contested by the party excluded under the terms of the coalition agreement. With the sitting member retiring, the seat of Indi would become a three cornered contest between the Liberal, National and Labor parties at the 2001 federal election. The Liberal Party had endorsed Sophie Panopoulos, who was classified as a non local candidate for the seat of Indi whilst the National Party endorsed, Don Chambers, a long term local resident, businessman, and shire councillor who was well connected within the region.

In the week leading up to the federal election, Panopoulos, the Liberal Party endorsed candidate, began accusing both the Labor and National Parties of selling out farmers on the

farm dams Bill before the Victorian Parliament. According to Panopoulos, ‘the Liberal Party tried to amend [in the state parliament] the farm dams legislation to allow farmers to harvest a meagre 3 per cent of the water that falls on their land.’

The Victorian Minister for Environment and Conservation response was to suggest the 3 per cent amendment pursued by the Liberal Party in the parliament was nothing more than ‘an attempt to shore up Liberal Party support in the Federal seat of Indi less than two weeks out from an election.’ The “meagre 3 per cent” did not seem to be a significant volume of water. But, in reality the Liberal Party’s position, if successful, would result in some 450,000 megalitres of water being harvested annually throughout the upper catchments.

The amendment was defeated in the Legislative Assembly with the National Party voting with Labor. ‘By standing with the Labor Party’, Panopoulos informed the Indi electorate, ‘the National Party has abandoned the farmers in our region.’ The National Party Upper House member for North East Province, Bill Baxter, responded in the same manner as the Minster, stating that the position adopted by the Liberal Party was nothing more than a cheap political trick to build support for the party’s candidate in the seat of Indi.

To Baxter, ‘the test of the Liberal Party’s sincerity on pushing for the figure of 3 per cent rain fall harvest would be whether it moved the amendment in the Upper House where it had the numbers.’ As Baxter was to put it, ‘I suspect they will not persist with it in the legislative

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63 Ibid.

council [as] they know it is unworkable and by then the federal election will have been and gone.’\textsuperscript{65} During the debate on the Bill in the Legislative Council following the November federal election Baxter questioned: ‘Was my prophecy borne out?’ To this he replied ‘Yes, it was.’\textsuperscript{66}

According to Baxter, ‘my prophecy was borne out because even though the amendments we have today are the fifth set of amendments from the Liberal Party in four weeks, the 3 per cent has disappeared into the ether.’\textsuperscript{67} The Liberal Party response to such criticism about not pursuing the 3 per cent amendment in the Legislative Council was to simply state that ‘in order to allow the debate to proceed in a positive manner, we have decided not to pursue the 3 per cent option.’\textsuperscript{68}

By mid November, the 3 per cent amendment had clearly served its purpose and was dropped by the Liberal Party. The Liberal Party endorsed candidate retained the seat of Indi despite a 10.79 per cent swing against her on first preference votes and a 12.29 per cent swing towards the National Party.\textsuperscript{69}

The debate within the Victorian Parliament about validity and impacts of pursuing the amendment during the lead up to the federal election provided Phil Davis with the opportunity to launch an attack on the President of the Victorian Farmers Federation, Peter Walsh. ‘I am’,

\textsuperscript{65} Ibid.


\textsuperscript{67} Ibid.


Davis informed his parliamentary colleagues, ‘extremely disappointed with the approach the leadership of the VFF has taken.’

According to Davis, the Victorian Farmers Federation had developed a clear policy position that was similar to policy which existed in New South Wales. The Victorian Farmers Federation’s position was that landholders should be able to retain a private right to harvest 10 per cent of the rain induced run-off occurring on their property. As Davis saw it, ‘the VFF’s policy position was set out 18 months ago, and that is the position it has had responsibility to advocate.’ But to Davis, ‘the VFF leadership has taken a position at variance with the policy adopted by members of the VFF. It is a terrible shame.’

Sitting in the Legislative Council gallery listening to Davis address the parliament on the Water (Irrigation Farm Dams) Bill left a strong impression that a portion of his speech was as much about doing a number on the President of the Victorian Farmers Federation as the Bill itself. When the Bill was being debated in the parliament, Barry Steggall, the National Party’s sitting member for Swan Hill had indicated his desire to retire at the 2002 state election. This would expose the National Party to a three corner contest for the seat. The Victorian Farmers Federation’s President was rumoured to be considering National Party preselection for the seat of Swan Hill.

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70 Ibid, p1357.
71 Ibid.
72 This was the impression I recorded in my personal dairy late in the evening of the 27th of November 2001. A reading of the parliamentary Hansard of the debate on that day does not convey fully the intensity of the spoken word. As the Victorian Farmers Federation’s water resource policy officer my role was to haunt the parliament when important water legislation was being debated. If required, the Victorian Farmers Federation’s president, general manager of policy and water resources committee chairman could be briefed on issues as they unfolded and the appropriate ministers and members of parliament could be briefed on how such proposed amendments moved to the initial legislation would impact on farmers.
73 Peter Walsh would eventually win the seat of Swan Hill for the National Party at the November 2002 state election.
The motivation behind Davis’s verbal tirade against the actions of the Victorian Farmers Federation and, particularly, its president, can be viewed as an attempt to discredit his leadership in an endeavour to gain electoral advantage for the Liberal Party. Despite such often bitter attacks against the Victorian Farmers Federation and its President, the leadership of the organisation was still required to engage with the parliamentary wing of the Liberal Party whilst, at the same time, working out strategies with the Minister for Environment and Conservation to break the deadlock over its farm dams bill before the parliament.

Conclusion

Eventually, the *Water (Irrigation Farm Dams) Bill* was passed by both Houses of the Victorian Parliament to receive Royal Assent in April 2002. The Victorian Farmers Federation’s support for the legislation created a huge gulf between the organisation and its upper catchment members. According to the leadership of the Victorian Farmers Federation, farmers will now have ‘greater security of access to water.’ Further, the legislation proved landholders with a tradeable water property right. However, upper catchment farmers viewed the *Water (Irrigation Farm Dams) Act* as removing an inalienable right to the use the rain which fell on their property. In essence, they were now required to enter the water market and buy an entitlement to access the water which fell on their property and had previously been able to use free of charge. The gulf between the Victorian Farmers Federation and upper catchment farmers grew even wider when the organisation failed to support disgruntled members who launched legal action against the legislation. While the Victorian Farmers Federation’s conclusion is not explicitly stated, it is clear from the context that the legislation was contentious and sparked significant opposition.

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74 Peter Walsh, President-Victorian Farmers Federation, ‘Farm dams agreement at last’, *Media Release*, 21 March 2002.

Federation was trying to minimise the fallout from the farm dams issue, the organisation was coming under increasing pressure to protect the rights of the irrigation community against the growing call for water for the environment.
Eroding Alliances:
The conflicting interests of farmer organisations

Water management is a very difficult issue for governments -and farmer organisations, I might add- to handle. Water is a very emotional issue.¹

Introduction

The development of public policy is shaped by the interplay between competing values of sectional interests and the broader “public” interest of society. As far as possible, the outcome of public policy reflects a working compromise between the values and interests of all concerned. As highlighted in the previous chapter, achieving the necessary compromise is often very difficult especially when the self interest of certain sections of society are threatened. With the broader value change occurring within society giving rise to greater emphasis on environmental concerns traditional political allegiances between national and state farmer organisations would become strained. The agreement made by the Murray Darling Basin Ministerial Council on the 12th of April 2002 to improve the health of the Murray River² presented a threat to the water security of farmers throughout the Murray Darling Basin. As the Murray Darling Basin Commission embarked on the Living Murray Initiative, the previous robust political allegiance that existed between the Victorian Farmers Federation (VFF”) and the National Farmers Federation (NFF) came under increasing pressure, and threatened to fracture solidarity between the two farm organisation representative bodies. The aim of this chapter is to examine the political conflict which had emerged between the Victorian Farmers Federation and the National Farmers Federation as they both scrambled to secure farmers rights to water.

¹ Clay Manners, General Manager, Policy, Victorian Farmers Federation cited in House of Representatives Standing Committee on Agriculture, Fisheries and Forestry, Transcript of Evidence Presented to the Committee’s Inquiry into Future Water Supplies for Australia’s Rural Industries and Communities, Melbourne, 8 April 2003, p255.

**Shifting political imperatives**

In Australia, the state has preformed a vital and necessary role in encouraging the economic development and the creation of civil order and social cohesion throughout society. To maintain the civil order and social cohesion necessary for the economy to function required the state to defend the established pattern of economic relations and interests of those controlling the economic resources within society.¹ For well over a century, the state in Australia was primarily responsible for the development and allocation of economic resources, such as, land and water, to individuals wishing to have their own piece of the “Australia Felix”. Over time, there became a need to protect the economic interests of the holders of such resources from encroachment by other individuals and government. This need gave rise to the formation of various interest groups focused on protecting the rights of the individual to the unfretted enjoyment of the economic resources that had been granted to them by the state.

The success enjoyed by the various interest groups established to protect the rights of farmers can be seen as a reflection of the importance of the contribution the farming community made to the broader welfare of society. The success enjoyed by the farm lobby can also been seen as an acknowledgement that the broader aims and aspirations of the farm community are supported by the larger citizenry because in some way they see their own values and interests as being similar to that of the farming community. Until the advent of National Competition Policy, there was a strong policy emphasis within government on supporting those individuals who went onto the land and the people who settled in rural communities. Such action was driven by an understanding of the strong interdependency that existed between rural and city

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communities. As Brett reminds us ‘much of the economic activity and hence wealth of the cities came from the link they provided between the rural industries and the world.’

But, by the close of the 20th century argues Brett, a range of economic, social and cultural changes had taken place within Australian society which served to disconnect the city from the country. The well established pattern of rural to city migration, and the increasing urbanisation of Australian society, and the declining importance of agriculture to the nation’s terms of trade, has resulted in the erosion of the once strong links held by urban dwellers to the country. As such, writes Brett, ‘arguments about the economic importance of agriculture thus no longer flow easily and naturally into arguments about the social and cultural importance of country people and their way of life.’ The cultural foundation of rural Australia that pitted man against nature, and the complex social relations and interdependency of country people, are being further threatened by the rise of alternative values which have risen to dominance within broader society.

The rise of Postmaterialist values with their specific emphasis on ‘nonphysiological needs, such as those for esteem, self-expression, and aesthetic satisfaction’ has given rise to new social values and alternative social movements. To Inglehart, ‘Postmaterialist values underlie many of the new social movements ... [that] emphasize fundamentally different value priorities from those that dominated industrial society for many decades.’ As Inglehart sees

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9 Ibid, p373.
it, ‘the rise of Postmaterialist issues ... tends to neutralise political polarisation based on social
class’\textsuperscript{10} allowing for the rise of new interest groups concerned with quality of life and the
health of the natural environment. According to Inglehart’s thesis, ‘with the environmental
movement holding that economic growth does not always justify the impact it makes on the
environment ... pits Materialist priorities squarely against Postmaterialist ones.’\textsuperscript{11} The rise of
environmental values and, the establishment of the environmental movement, is threatening
the Materialist values which have sustained and provided the man on the land with a sense of
purpose and a sense of belonging within broader society. Brett argues environmentalism has
a tendency to view agricultural activities in terms of what has been and, is continuing to be,
destroyed by agricultural activities, rather than, what is produced from and supported by the
activities pursued by agriculture.\textsuperscript{12}

Changing public attitudes to the environmental consequences of agriculture and, how best to
redress the consequences of the previous practices of land clearing and government water
allocation practices, have come to dominate the political discourse of the closing decade of
the 20\textsuperscript{th} century and for much of the first decade on the 21\textsuperscript{st} century. The ability of the farm
lobby to respond to the challenges they confront concerning the rise of environmentalism is
being compounded by the political struggles occurring within the farmer organisations over
the most appropriate tactics to be adopted to counter the rise of environmentalism.

\textbf{The growing call to provide water for the environment}

After years of lobbying government, the 1999 state election presented the opportunity for the
Snowy River Alliance to achieve its stated objective of obtaining a dedicated environmental

\textsuperscript{10} Ibid, p259.
\textsuperscript{11} Ibid, p267.
\textsuperscript{12} Brett, \textit{op.cit}, p11.
flow for the Snowy River.  According to Jones, ‘while much of the credit for the Snowy win must go to the years of campaigning by the Australian Conservation Foundation and others, in the end it came down to the fickle winds of political change.’ The Labor Party were able to form government in Victoria after gaining the support of Gippsland East independent MP Craig Ingram after promising to improve environmental flows in the Snowy River. In December 2000, the Commonwealth, Victorian and New South Wales Governments signed an historic agreement to enhance flows in the Snowy River by 28% of its natural flow. Under the agreement, governments were to make available $375 million for investing in the irrigation system to improve its efficiency. According to the Victorian Premier, the water saved through water savings projects would deliver the water necessary to improve environmental flows in the Snowy River. The Premier also believed water savings projects would safeguard the interests of irrigators. The irrigation community in northern Victoria were very concerned the Victorian Government would just enter the water market and purchase the water they required to meet its Snowy Commitment.

In August 2002, the Victorian and New South Wales Premiers released the first flows down the Mowamba creek which would run into the Snowy River. The release of the 38,000 megalitres of water for the Snowy River occurred despite irrigators from both Victoria and News South Wales arguing the water would be put to better use by drought stricken farmers.

16 Gerard Callinan, ‘Snowy Flows Again’, ABC~ Victorian Country Hour, 28 August 2002. Retrieved http://www.abc.net.au/rural/vic/stories/s661014.htm (27 April 2010). The 38,000 megalitres of water released to the Snowy was borrowed from water normally released for use by irrigators on the Murray system and is to be paid back via water savings generated through the upgrading of aging irrigation infrastructure. See Transcript of Ben Knight’s ‘Snowy River gets more water’, The World Today, 28 August 2002. The prime motivation for releasing the water was to gain political mileage amongst the urban green vote for the Bracks Government in the lead up to the November 2002 state election.
While the irrigation community were focused on the Snowy, an independent panel of scientists had been preparing a confidential report on the health of the Murray River. The confidential report had been presented to the Murray Darling Basin Ministerial Council (Ministerial Council) during its 12 April 2002 meeting. It would later be revealed the report indicates that to improve the declining health of the Murray River would require 4,000 gigalitres of water to be returned to the river and changes made in the way the river is managed. The Ministerial Council instructed the Murray Darling Basin Commission to examine the possible social and economic impacts associated with recovering three separate volumes of water ~350, 750 and 1,500 gigalitres~ of water to be returned to the Murray River.

The Ministerial Council stipulated ‘these amounts will be used as reference points for further analysis and community consultation, and include the 70 GL to become available from the Snowy River environmental flows process.’\(^{19}\) However, the irrigation community were concerned that once the reference figures were released for the public consultation process the various interests groups would become polarised around the volumes of water. The VFF were worried the acknowledgement that 1,500 gigalitres would only provide a moderate chance of improving the ecological health of the Murray River\(^{20}\) would create a situation whereby the South Australian Government and environmental lobby would begin lobbying for a larger volume of water. As the VFF’s general manager of policy would later inform the House of Representatives Standing Committee inquiry that ‘the South Australian government has [been making] statements about 1,500 being the minimum required [and] environmental groups are, in fact, bidding that 1,500 up to even higher levels.’\(^{21}\)

At a briefing of Victoria’s rural federal members of parliament the VFF made it clear that it ‘will reject any simplistic political “quick fix solution” based on an arbitrary increase in environmental flows.’\(^{22}\) That is to say, ‘the Victorian Farmers Federation sees little benefit in just returning water to the environment without putting in place an appropriate environmental management assessment program.’\(^{23}\) As Weller, the VFF’s president was to point out, ‘to date, there has been no clear articulation of how returning water to the Murray River will

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\(^{21}\) Manners, *op.cit*, p254.


actually improve the health of the river. With around 85 per cent of the water in northern Victoria available for use by the rural sector, the environmental lobby pushing for 1,500 gigalitres and, the South Australian government’s desire for 1,600 gigalitres of water to be returned to the Murray River, irrigators in northern Victoria were feeling increasingly anxious about their future. To illustrate the potential magnitude of the impact associated with water recovery, the VFF’s general manager of policy informed a Standing Committee inquiry that ‘the Living Murray Process is talking about 1,500 gigalitres of water, which is an enormous amount of water … to obtain that amount of water … is not much short of the Goulburn Murray water right.’

In 2003/04, the total water entitlement managed by the rural water authority Goulburn-Murray Water on behalf of irrigators in the Goulburn Murray Irrigation District was 1,767 gigalitres. Across the Murray River in New South Wales, the total volume of water managed by the privatised entity Murray Irrigation was 1,479 gigalitres. The VFF’s water resources committee chairman, John O’Brien, went on to inform the Standing Committee inquiry that removing 1,500 gigalitres ‘… would have horrific implications for those regions and industries.’ After intense lobbying by Victorian and New South Wales irrigator

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27 Manners, op.cit, p254.
representatives and politicians representing irrigation areas in both states\textsuperscript{30} the Ministerial Council finally announced that 500 gigalitres of water will be returned to the Murray River during its November 2003 meeting.\textsuperscript{31} However, this figure was acknowledged as being the “first step” in the \textit{Living Murray Initiative} thus signalling further action may be undertaken at a later date.

\textbf{Politics of the farm lobby}

According to Watson, ‘environmentalism is a potent political force in Australia.’\textsuperscript{32} In effect, the environmental lobby has been very successful in lifting the profile of the state of the nation’s rivers. Since the beginning of 2000, the environmental lobby has been lobbying both state and commonwealth governments on the need to address the declining health of the Murray and Snowy Rivers. Through the mainstream media, the environmental lobby have captured the popular imagination by depicting the once mighty Murray River as a river dying of thirst.\textsuperscript{33}


\textsuperscript{32} Alistair Watson, ‘Money and the Environment’, \textit{Agenda}, Vol.8, No.1, 2001, p86.

\textsuperscript{33} See Melissa Fyfe’s ‘Dying of thirst’, \textit{The Age}, 21 April 2003.
The Snowy River is also depicted as a river that has been reduced to just a trickle as a result of too much water being extracted to sustain irrigated agriculture throughout the Murray Darling Basin.\(^{34}\)

\(^{34}\) See T. Bonyhady’s ‘Old Man Icon’, *Sydney Morning Herald*, 20 May 2000.
According to *Weekly Times* reporter, Peter Hunt, the rise of environmentalism has presented the farm lobby with an opportunity to capitalise on the threat to the economic interests of the farm community. Hunt argues ‘calls from conservationists, politicians and scientists to deliver 1.5 million megalitres in environmental flows to the Murray River should galvanise farmer groups into action.’ But, ‘instead of a united front’, Hunt argues, ‘the issue has fragmented the nation’s peak farmer bodies.’ Hunt’s opinion piece in the *Weekly Times* shone light on the tension that had emerged between the VFF and the NFF over how to respond to the threat posed by the *Living Murray Initiative*. This tension had been simmering since the NFF, driven by the New South Wales and Queensland lobby embarked on a political campaign to secure the property rights of Australian farmers. In terms of land clearing and water rights, the interest of New South Wales and Queensland had nothing to loose and all to gain by the NFF’s property rights campaign.

Unlike farmers in the State of New South Wales and Queensland, legislative restrictions on large scale land clearing practices ceased to be a major issue of concern for farmers in

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Victoria. However, farmers and their State farmer representative body, the VFF, were concerned, due to the New South Wales and Queensland dominance on the executive and commodity council\(^{37}\) of the NFF, about the ability of the national body to adequately represent their interests when pushing to secure the water property rights of farmers in other States. As the VFF’s general manager of policy informed a House of Representatives Standing Committee ("Standing Committee") inquiry that: ‘we are a little concerned in Victoria, at the VFF at least, that there is pressure for a national system of water rights, I guess there is apprehension within Victoria that a national system will in some way water down what we have developed and enjoyed in Victoria.’\(^{38}\)

The general manager of policy continued stating that: ‘there was some discussion earlier about the system in New South Wales, where there are 10-year water management plans’\(^{39}\) The Standing Committee was informed that: ‘we would not wear the water management plans that are happening in New South Wales.’ But, ‘our concern is that that approach might be acquired in Victoria.’\(^{40}\) According to the general manager of policy: ‘a system with a review of water rights every 10 years would not be seen very well in Victoria ... we would be very nervous about any system which implements an automatic 10-year or 15-year review of water rights in this State.’\(^{41}\)

\(^{37}\) The National Farmers Federation Annual Report 2001 highlights the National Farmers Federation executive Contained 3 individuals representing New South Wales and 2 individuals representing Queensland. Victoria was only represented by 2 individuals, the president of the Victorian Farmers Federation and the Treasurer (See p10). The National Farmers Federation structure contained NSW Farmers’ Association and AgForce Queensland and the commodity council also had three dominant groups whose industries were established throughout New South Wales and Queensland. The commodity groups were Australian Cane Growers’ Council Ltd, Cotton Australia Limited and Ricegrowers Association of Australia (See p11).

\(^{38}\) Manners, op.cit, p247.

\(^{39}\) Ibid, pp247-248.

\(^{40}\) Ibid, 257.

\(^{41}\) Ibid, p248.
Traditionally, in Victoria, under the Water Act 1989, water rights were treated as a perpetual right, with the minister only having limited powers under section 13 of the Act to qualify rights in times of water shortage. Thus, there was no formal legislative mechanism by which the minister could review water rights to readjust the balance between water for consumptive use and water for the environment. The VFF leadership were concerned that as a result of the NFF’s foray into the domain of water property rights the Commonwealth would through the COAG process create an opportunity to push for the States to adopt a uniform system of water property rights.

For the VFF, the debate about water property rights was primarily occurring between the NFF and Commonwealth bureaucrats within the confines of Canberra. This presented a tactical problem for the Victorian Farmers Federation. Over time, the VFF had developed ‘a very good relationship with successive state governments and with [the] bureaucracy in terms of managing the water system’ in Victoria.\(^{42}\) With water management being the sole domain of the States, the VFF had no previous need to foster similar working relationships with the bureaucracy in Canberra. Typically, the bureaucracy in Canberra had become accustom to working closely with the NFF as opposed to the State based farmer organisations. As the water property rights debate continued the VFF would find itself constrained by protocol which would require any concern the organisation had to be discussed within the confines of the NFF’s Water Task Force Committee. Although the president of the VFF was chair of the NFF’s Water Task Force Committee, he would find himself in a difficult position having to try and balance protecting the interests of Victoria’s farmers against the water property rights agenda being pursued by the NFF.

\(^{42}\) Manners, \textit{op.cit}, p247.
The simmering tension between the two organisations came to a head during a meeting of the NFF’s Water Task Force Committee in Canberra held on the 1st of October 2003. This meeting was also attended by the VFF’s general manager of policy who, with the VFF president, became embroiled in a heated debate, over what the NFF president believed were the increasingly recalcitrant views of the Victorian farm body concerning key environmentalists. In the months leading up to the meeting, the VFF had embarked on a confrontational approach to countering comments made by the environmental movement by writing a scathing critique of the Wentworth Group of Concerned Scientists’ *Blueprint for a National Water Plan*. This approach put the VFF offside with the NFF which had cultivated a strategic alliance with the Australian Conservation Foundation. Apparently, the NFF president criticised the approach being pursued by the VFF indicating the organisation’s stance was out of touch with the views of its members. The NFF leadership also indicated it would not be seeking to attack the Wentworth Group of Concerned Scientists which was publicly advocating for significant volumes of water to be returned to the Murray River.

After the meeting the VFF representatives returned to Melbourne quite disillusioned believing the NFF had “lost the plot”.

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43 With a lot of sole searching I’ve decided to draw on various notes I’d recorded in various notebooks which I’d used to record personal insights, observations and discussions which had occurred during my time at the Victorian Farmers Federation. The notes were taken in part knowing that they would be of beneficial use when writing this thesis and also as a means for trying to make sense of what was occurring around me in the area of rural water politics. The insights provided below came from the notes I’d recorded on the morning of the 3rd of October 2003 after the Victorian Farmers Federation’s president and general manager of policy had returned from battling with the National Farmers Federation in Canberra. The points are being made not in an endeavour to undermine those involved but simply to highlight the difficulties and complexities of this highly contentious area of public policy.


46 *op.cit* footnote 23.
Back in Victoria, the VFF would continue its tough stance towards environmentalists with the organisation’s leadership forming an alliance with the Institute of Public Affairs. The Institute of Public Affairs provided support to Jennifer Marohasy. Marohasy claimed to be an environmental campaign “whistle blower”. She was engaged by the Institute of Public Affairs to review and criticise the science that was presented showing the Murray River was in poor health. Similarly, the VFF would also form a strategic partnership, in an unofficial capacity, with key individuals within the Victorian water bureaucracy, in an endeavour to ensure Victoria did not carry a disproportionate share of water that would be required to improve environmental flows in the Murray River. Such a strategic partnership proved an important avenue for the “unofficial” views of the bureaucracy, or key personnel within the bureaucracy, to find formal expression. In essence, the bureaucracy often provides the bullets which are fired by others on their behalf.

Unlike in Victoria, the irrigation lobby in New South Wales did not enjoy the same close working relationship with the bureaucracy due to the disputes which occurred during the mid 1980s when the then State government sought to introduce more realistic water pricing. Another matter working against the irrigation lobby establishing positive working relationships was the number of competing farm lobby groups in New South Wales seeking

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47 The National Civic Council was also very active in the debate over water reform and the Living Murray Initiative. See http://www.newsweekly.com.au/cgi-bin/find.pl (30 July 2009). While the Victorian Farmers Federation’s Water Resource Committee chairman was also the National Civic Council’s water spokesperson, the leadership of the Victorian Farmers Federation went to great lengths to distance itself from the chairman. The leadership went as far as informing the Victorian Water Minister to deal directly with them on water issues rather than going through the water resources committee.


either to speak for all irrigators or for the interests of their specific commodity. Such a situation could allow, if required, the bureaucracy to drive a wedge between the groups in order to further their own reform agenda. Quite simply, the bureaucracy could argue the competing groups are unable to reach a consensus between themselves so will continue in the direction we think is best.

In Victoria, the VFF was in a privilege position having all major state based commodity groups within the auspices of the organisation thus presenting no real competing industry lobby group. ‘This power of unity enables the VFF to effectively lobby at all levels of government on a wide range of issues to retain equity for agriculture, rural and regional Victoria.’ The VFF’s privileged position, however, began to erode as the Victorian government embarked on its ambitious water reform agenda.

**The threat of reform**

In August 2003, the Victorian Government released its water reform green paper *Securing Our Water Future*. The key message in the green paper was that as a society ‘we need to use water more efficiently and develop a more sustainable approach to agriculture at the same time as restoring the health of the environment.’ The green paper proposed that this goal could be achieved through implementing a range of policy reforms relating to water pricing, enhancing water markets, rationalising irrigation infrastructure and, enacting a range of regulatory initiatives to mitigate environmental impacts associated with water use. The green

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50 The farm lobby in New South Wales consists of NSW Farmers Association, NSW Irrigators Council, Ricegrowers’ Association of Australia, Cotton Australia, Border Rivers Food and Fibre, Macquarie River Food & Fibre. There are also the privatised irrigation companies, such as, Murray Irrigation Limited, Murrumbidgee Private Irrigators Inc, Southern Rivers Irrigators. This is not a full list of groups.


paper also suggested that a number of changes could be made to existing water management practices without there being a significant burden to the taxpayer or with minimal “pain” to water users ~ mainly irrigators.

To limit the potential pain associated with clawing back water from irrigators the green paper put forward the proposition that water which spills from Victoria’s share of the water storages on the Murray River be part of the state’s contribution to environmental flows, rather than, transferring across to New South Wales portion of the water storages. There, however, was little prospect of the Victorian government pursuing this policy because it would require New South Wales approval and this was unlikely as irrigators in New South Wales had come to rely on receiving a portion of their general security water entitlement from the water that spilled from Victoria’s share of the water storages.

Another option set out in the green paper was the notion of establishing an environmental levy for water trades. However, the major negative associated with adopting this approach was that it would potentially allow for only a small amount of water to be recovered for the environment in any single year.
In addition to the environmental levy on water trades, the green paper also indicated water for environmental flows could be acquired through government abolishing irrigator’s rights to access “off-quota” water. Off-quota water is the portion of water which cannot be harvested during the spring months, and thus, simply flushes down regulated river system. Traditionally, irrigators were able to access off-quota water on top of their normal allocation of water right and sales water. However, the option most favoured by the key water bureaucrats responsible for drafting the green paper was to reduce the amount of “sales water” available to irrigators.

The green paper sought community comment on a proposal to establishing ‘a lower ceiling on seasonal allocations (say 130 per cent of base rights, instead of the current 200 per cent).’\textsuperscript{53} The VFF, after consulting extensively with its members on a raft of issues set out in the Victorian government’s water reform green paper were left with the clear understanding that its members did not support the proposal to reduce irrigators’ access to sales water.

Accordingly, the Victorian government was informed in the organisation’s green paper submission that ‘the VFF is strongly opposed to the proposal on page 80 of the Green Paper to introduce a ceiling on seasonal allocations (say 130% of base rights) as a mechanism to release additional water for the environment.’\textsuperscript{54} To the VFF, ‘changing the management of the sales pool to reduce average allocations [to] improve security is also a very inequitable mechanism to secure additional water for the environment.’ It was inequitable on the grounds that ‘some farmers rely heavily on the sales pool whereas others do not have access to sales water.’\textsuperscript{55}

The dairy industry in northern Victoria, which was an important commodity group within the VFF, was a large user of sales water. Thus, any reduction in the volume of water available in the sales pool would disproportionally impact on the profitability of the region’s dairy farmers. Murray Dairy commissioned a study which indicated that ‘a 30\% reduction in sales water (reduced access of approximately 15\%) results in a 30-40\% drop in accumulated business profit.’\textsuperscript{56} The chair of Murray Goulburn Co-operative indicated that ‘the most significant issue for farmers is to have certainty and security of water entitlements.’\textsuperscript{57}

\textsuperscript{53} Ibid, p80.


\textsuperscript{55} Ibid.


chair of the VFF’s water resources committee ‘any meddling in this area will cause a loss of
security to the individual and region.’ The VFF had been made fully aware that ‘an issue of
major concern to irrigators is the security of the so called “sales pool” that is allocated on a
less reliable basis.’ In essence, irrigators saw the sales pool as being an ‘integral component
of their water entitlement’ which should be honoured under reform initiative derived from the
Victorian government’s green paper process.

By mid-February 2004, a first draft of the irrigation chapter to be included in the Victorian
Government’s *Our Water Our Future* white paper had been completed. Despite still being a
draft which had not been before the cabinet, the VFF’s general manager of policy and water
resources policy officer were briefed on the major reform initiatives to be implemented within
the irrigation sector. The draft chapter indicated that water entitlements would be fully
separated from land title, that 10 per cent of water entitlements would be able to be owned by
non-irrigators, water entitlements will be reviewed every 15 years, and water users will also
be required to pay an environmental levy on their water bill. During the briefing, the general
manger of policy and water policy officer was informed of the policy makers’ desire to reform
to the sales pool. It was suggested by key representatives from within the Department of
Sustainability and Environment that the government would like to reduce the volume of the
water available to irrigators from the sales pool by 20 per cent which would provide on
average 120 gigalitres to offset their commitment under the Living Murray Intergovernmental
Agreement. In return, for agreeing to such a reduction irrigators would be provided with a
separate legal entitlement over the remaining 80 per cent of the water in the sales pool.

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60 The briefing occur at the Department of Sustainability and Environment building at 8 Nicholson Street, East
Melbourne at 12 noon on the 26th of February 2004.
The VFF was aware of the legal uncertainty surrounding irrigators “ownership” of the water contained in the sales pool. They were also concerned about the growing influence of the green movement within broader society and the influence key environmental lobby groups were having within the water minister’s office. Thus, there was an implicit acknowledgement that there was some merit in agreeing to the offer to reduce the volume of water in the sales pool for a more secure title over the remaining water to be granted to irrigators. The key departmental representatives providing the briefing were, however, informed that the VFF’s membership would be unlikely to agree to such a trade off. The challenge now facing the VFF was how to manage this issue given the organisation rejected such a compromise in its submission to the water reform green paper and members clearer views opposing the government’s initial proposal to reduce the volume of water available as a sales allocation.

The VFF could reject the proposal outright which would set it on the path of a public stoush with the Victorian government if it chose to go ahead with reducing the volume of water to irrigators in the sales pool. A stoush with the government would no doubt boost the VFF’s credibility in the eyes of its members. If the government believed the matter was not worth the political confrontation with the VFF the remaining option to acquire the volume of water necessary to fulfil its environmental flow obligations for the Murray River would be to stand in the water market. This would mean irrigators would not only have to compete with the large scale managed investment schemes in the water market but also government.

**Conclusion**

The VFF’s fears about peak national body’s property rights political campaign would result in the security of Victorian farmer’s water entitlements being undermined. The water reform agenda announced by the Victorian government exposed irrigators to a review of their water

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61 Ibid.
entitlements every 15 years. Under the National Water Initiative, irrigator’s water entitlements could also be reduced by 3% without government being required to provide compensation.\(^6^2\) The VFF’s leadership insistence on working through the NFF’s policy structure, rather than, going outside the organisation served to create the perception amongst members that their organisation was not protecting their interests. This perception increased when the VFF’s leadership withdrew from the newly formed lobby group, Irrigators Inc. As reported by the \textit{Weekly Times} ‘even the VFF’s own water resources committee has given up on the NFF and wants to join Irrigators Inc.’\(^6^3\) The internal divisions which had emerged within the VFF between the leadership of the organisation and its water resources committee began to reflect the cleavage widening the organisation and its irrigation members.

\(^{62}\) See National Water Initiative Intergovernmental Agreement, 25 June 2004, clause 49 i), p9 and clause 95 ii), p20. Any reduction above the amount of 3% would require compensation to be paid to irrigators by State, Territory and the Commonwealth Governments.

The challenge:
To be strategic or remain diehard

Farmer organisation like the VFF say they’re representing us, but they’re not. We’re concerned about the sales deal and the price of water. My water price has gone up by 45 per cent in the past two seasons.¹

Introduction

By 2003 the Victorian Farmers Federation (VFF) was coming under increasing pressure from forces both within and external to the organisation. Farmers within the upper catchment areas across the State felt betrayed by their peak farmer organisation’s support for the Victorian government’s legislation which restricted their rights to harvest the rain which fell on their property. The VFF’s support for the government’s legislation ultimately cost the organisation members.² While trying to deal with the fallout within the organisation over its support for the farm dam policy, the VFF’s position as the main voice of irrigators in matters of water reform began to unravel. With the drought intensifying, milk prices falling, increasing uncertainty concerning the Living Murray Initiative, rising water prices, the VFF was coming under increasing criticism from its members. As 2003 drew to a close, the creditability of the VFF amongst the irrigation community had decline significantly to the extent that it provided an opportunity for a disgruntled group of Murray Valley irrigators to form a rival lobby group.

The mounting pressure from within

As the beginning of the 2002/03 irrigation season drew near, irrigators on the Goulburn irrigation system were being informed the opening milk price was likely to be 28 per cent

¹ Dudley Bryant quoted by Peter Hunt in ‘Irrigators vent their anger on reforms’, Weekly Times, 8 September 2004, p3.
lower than the opening milk price for the previous season. To make matters worse, the Board of Goulburn-Murray Water had approved water price increases ranging from 12.5 per cent to as high as 25 per cent to take effect across the authority’s individual irrigation districts. Modelling of water inflows undertaken by Goulburn-Murray Water suggested irrigators on the Goulburn system could expect to receive only 48 per cent of their full water entitlement for the 2002/03 irrigation season. The irrigation season eventually closed with irrigators receiving 57 per cent of their full water entitlement after the Goulburn-Murray Water was able to supply an additional nine per cent to irrigators by pumping the “dead water” out of the Waranga Basin. With there being no sign of the drought breaking, the VFF was coming under increasing pressure from the United Dairy Farmers of Victoria (“UDV”) commodity group to engage with its members to understand the challenges dairy farmers were facing in northern Victoria.

Confronting another irrigation season of below average water allocations dairy farmers on the Goulburn system became increasingly angry over what they perceived to be a lack of action being taken on their behalf concerning the Victorian government’s cost recovery approach to water pricing. Embedded within the broader COAG water reform strategic policy framework, cost recovery water pricing required irrigators to pay the full cost associated with operating the irrigation system free from any government subsidy. This approach would mean irrigators

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4 Denis Flett, Chief Executive Goulburn-Murray Water, ‘Water Management for the Future: A Contentious Issue’. *Address to Rural Press Club of Victoria*, 29 May 2003, p7. The term “dead water” is used to refer to The water in a storage which is below the spillway which cannot be delivered by gravity.

5 As early as January 2002, the VFF policy section was being informed of the level of anxiety existing amongst dairy farmers and that the VFF should be indicating it was trying to understand the pressures the pressures dairy farmers were under. Notes taken of a discussion that occurred during a United Dairy Farmers Executive Board meeting held in the Victorian Farmers Federation’s Boardroom Level 6, 24 Collins Street on the 29th of January 2002 and was recorded in my personal notebook. I was present at this meeting with the VFF General Manager of Policy to brief the United Dairy Farmers Executive on the range of water resource management Challenges being addressed by the policy section of the organisation.
were required to pay for their full water allocation even if they did not receive their allocation in full. In October 2002, pressure from the UDV to address this issue was increasing and in an endeavour to defuse the situation the VFF arranged a meeting to take place involving the VFF’s general manager of policy, the water resources policy officer, the executive director of the UDV and the chair and chief executive of Goulburn-Murray Water.⁶ As the meeting unfolded it became clear that there were differences between the policy section of the VFF and UDV over the issue.

The position argued by the executive director of the UDV was that the VFF should publicly call for the Victorian government to cover the cost concerning the portion of water that could not be delivered to irrigators. Doing so would relieve the financial pressure on dairy farmers would were struggling under increasing cost of fodder and the sky rocketing price of water on the temporary water market.

![Image: The high cost of water]

**Source:** *Weekly Times*, 23 January 2002.

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⁶ This meeting took place in the Victorian Farmers Federation’s Level 5 meeting room on 25 October 2003. Those present at this meeting were myself, Clay Manners – General Manager of Policy, Ian Webb – Executive Director, United Dairy Farmers of Victoria, John Dainton – Chair, Goulburn Murray Water and Denis Flett – Chief Executive, Goulburn Murray Water.
It was estimated by the representatives of Goulburn-Murray Water present at the meeting that the total cost associated with the proportion of water that could not be delivered to irrigators was around $15 million. While acknowledging the challenges facing dairy farmers on the Goulburn system, the VFF policy group argued the efforts of the organisation would be put to more productive use lobbying the Victorian government on more strategic water matters. The general manager of policy believed obtaining a commitment to a 50/50 cost sharing arrangement from the Victorian government concerning Goulburn-Murray Water’s large dam safety improvement program would be in the longer term more beneficial for irrigators. When the discussion was taking place it was estimated the cost of bringing the Eildon dam wall up to contemporary safety standards would cost around $30m. The final cost estimate would see the figure blowing out to $52.5m.7 Just prior to the meeting taking place the Victorian government had only given a commitment to provide $11m to the project.8 The overall cost of bringing all large dams managed by Goulburn-Murray Water up to contemporary safety standards was estimated to be $152 million.

According to the Goulburn-Murray Water representatives, the cost impost on irrigators if the Victorian government could not be convinced to enter into a 50/50 funding arrangement with irrigators concerning improving the safety standards of large dams would be significantly greater than what they were asking for in terms of the government paying the $15m associated with the portion of water that could not be delivered to them during the 2002/03 irrigation season. There were a number of other factors which impeded the VFF’s ability to come out and argue for the Victorian government to cover the costs associated with the under delivered water. One of the main reasons was that for government to do so would mean they were


setting a precedent that would leave them exposed to future claims from irrigators. A further reason why the VFF was unable to publicly lobby the government on this issue was that it would contradict the stance the organisation had taken concerning Wimmera Mallee Water’s stock and domestic dam fill customers who had been lobbying the organisation to approach the government to cover the cost associated with paying for their full dam fill fees whilst only having a 1/3rd of their dams supplied with water. The VFF had been advising their members in the Wimmera Mallee region that they were required to pay their water rates in full. In short, it was not politically wise for the organisation to be seen to be favouring one section of their membership over another.

The final important factor which was at the back of the mind of the VFF policy section was the need to maintain the organisation’s credibility with the Victorian government. The VFF was mindful that the Victorian government had made a generous drought assistance package available to farmers in northern Victoria who were suffering from the effects of a one in 12.5 year decline in rainfall.9 In effect, eligible farmers would receive a one-off cash grant of up to $20,000 which could be used by them to purchase much needed fodder for stock or pay outstanding bills. The meeting concluded without any firm resolution as to what steps the VFF would pursue. With little direction coming from the VFF’s head office, local members were becoming increasingly agitated.

**The natives are restless!**

As the VFF struggled to manage the political fallout concerning its disenfranchised upper catchment farm members and the cleavage that had emerged between the State based organisation and its national peak body, there was a growing perception amongst its irrigation

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*Steve Bracks-Victorian Premier, “Premier announces $27.7 million drought relief package”, Media Release, 1 October 2002. Also, the release of the Drought Relief Package with the one in 12.5 year rainfall criteria can be seen as the Victorian Government having a crack at the Commonwealth Government’s one in 25 year rainfall criteria for exceptional circumstance drought assistance to be made available.*
members that their organisation was not doing enough to protect their interests. The VFF was informed by the UDV No.3 District Council that the organisation must be seen to be doing more for its members to combat the challenges irrigators were facing from the Living Murray Initiative. According to the District Council, the VFF and UDV were receiving considerable criticism in the local press about not doing enough for its members on this issue. A note accompanying a resolution forwarded to the organisation suggested that a series of meetings should be held to ‘give the VFF an opportunity to put our case forward, to advise the public of our position and to be seen to [be] taking action on behalf of the members.’

With financial pressure mounting, farmers from within the region organised a public rally to take place in Shepparton on the 22nd of November 2002. As reported by the ABC’s rural radio news service, organisers of the rally believed it was ‘the only way to get the government to sit up and listen.’ The public rally was scheduled to occur in the week before the State election to be held on 30 November 2002. The objective of the public rally was to place pressure on the local political candidates standing in the region to commit to addressing the concerns of irrigators if they were successful in their bid to win a seat at the November election. The flyer distributed for the rally (See Appendix A) highlighted four fundamental issues of concern to irrigators in the Goulburn Valley. Irrigators were seeking a commitment from candidates standing that if they won a seat they would work to get:

1. Government to commit funding to pay for water that is undelivered to irrigators;
2. Government to commit funding to upgrade rundown channel infrastructure on the Shepparton and Central Goulburn Irrigation Systems;

Notes accompanying a resolution from the United Dairy Farmer of Victoria District Council No.3 resolution that was sent to the President and the Board of the Victorian Farmers Federation on the 10th of June 2003 from the District Council’s Assistant Secretary Jon Barton. Emphasis in the original document.


Combined, the debt of these two irrigation districts was around $24 million dollars which was passed onto the customers in these irrigation districts when Goulburn Murray Water was established. In essence, the debt is a reflection of the ageing irrigation infrastructure in these districts and Goulburn Murray Water’s pricing.
3. Government to commit funding for the large water storage improvement program; and
4. Government to protect the security of farmers’ water rights.

All candidates standing in the region were invited to attend and address the rally. The only candidate who did not take up the offer was the Labor endorsed candidate. The rally flyer carried the VFF and UDV logos but the media made no report of the rally being addressed by presidents of the respective organisations who were present on the day.¹³ The rally was very much a locally organised initiative with local farmer identities performing a pivotal leadership role.

The rally was given commitments by the various party endorsed candidates present on the day to act on the issues which had given rise to the protest. The UDV president put out a media release indicating ‘we received commitments to partially or fully fund the shortfall by the Liberal and National parties and independent candidates.’¹⁴ No such commitment was obtained from the Labor party to paying for the portion of water that could not be delivered to irrigators. For the Labor party, irrigators would still be required to pay for their full water entitlement. It was reported by the local media in the week leading up to the public rally that the Victorian government believed the funds irrigators were requesting to cover the cost of water not delivered would be ‘better spent on water-savings infrastructure that would drought-proof farms.’¹⁵ To respond to growing pressure facing drought stricken irrigators on the structure which estimated revenue coming in to the authority from the sale of water right and the sales water. With low volumes of sales water being available for sale the estimated revenue of Goulburn Murray Water decreased substantially.

Central Goulburn, Shepparton and, the Rochester irrigation districts, as well as private diverters along the Loddon and Goulburn Rivers, the Board of Goulburn-Murray Water approved a deferral payment scheme. Such a scheme would enable irrigators to pay their water entitlement fees over three instalments beginning on the 16\textsuperscript{th} of December 2002.\textsuperscript{16} The deferral payment scheme had a catch. If irrigators were unable to make the scheduled payments, they were able to apply to Goulburn-Murray Water for an extension, however, this extension to their payment would incur interest at a rate of 12.5 per cent.

As Christmas approached, the anger simmering within irrigators over the issue of being required to pay for the water that could not be provided increased and they set their sights on the leadership of the VFF. In mid-December, the VFF president and Chief Executive Office attended a meeting arranged by local members in Kyabram. A few days after the meeting, reports began filtering back to the VFF’s water resources policy officer indicating the organisation’s president and Chief Executive Officer had received a hostile reception from members who were becoming increasingly unhappy about being required to pay for water which could not be delivered.\textsuperscript{17} As one struggling irrigator put it, ‘the money they are supposed to pay for the water they’re not getting could be putting food on the table for their families after Christmas.’\textsuperscript{18} Following the meeting, the VFF’s president made comments in the media saying government policy requiring irrigators to pay for water they would not be receiving was particularly unfair when the were facing a 1 in 100 year drought.\textsuperscript{19} The anger

\textsuperscript{17} Notes recorded in my personal notebook on the 20\textsuperscript{th} of December 2002.
surrounding this issue did not dissipate and would soon give rise to another meeting of irrigators early in the New Year.

As January 2003 drew to a close, 120 irrigators from the Central Goulburn irrigation district held a meeting in Tongala. By the end of the meeting irrigators had formulated the following motion: ‘that this meeting of irrigators strongly urge our government to make financial grants available to Goulburn Murray Water in lieu of payment of water not supplied, to assist irrigators to continue primary production for the benefit of all Victorians.’20 Despite the motion being endorsed by irrigators at the meeting little action was taken by the VFF. That is, no publicly reported action was undertaken that could have indicated to irrigators the organisation was indeed taking the issue seriously. The issue may have been raised privately with the water minister but this would have been of little help to counter the growing perception amongst irrigators that the VFF was falling down on the job. Following the November 2002 State election the balance of power had changed with the Bracks Government being returned to office with control of both houses in the parliament. As a result, the VFF was confronting a whole new political environment, one in which it could no longer rely on the opposition parties having control of the Legislative Council to move amendments to legislation that would impact negatively on its members. Furthermore, the organisation had to deal with a new water minister who happened to also be the deputy premier of Victoria. In a previous meeting, the VFF was informed the new water minister wanted to foster a working relationship where issues were not played out in the media. In June 2003, a member information meeting was held in Shepparton which enabled members to again raise the issue of paying for water that could not be delivered.

A journalist from *Country News* reported members who were present at the information meeting saying that if they faced another season where their full water entitlement could not be delivered to them they should withhold their payment. It was reported the VFF president who was present at the meeting urged members to display caution concerning this increasingly contentious issue. Apparently, the president reminded them that as the Bracks Government had control of both houses of parliament it could pass any piece of legislation it liked. The VFF president went on to argue that ‘if we are going to pick a fight with the government we should make sure it’s the one that matters most.’

The policy requirement for irrigators to pay for their full water entitlement whilst only receiving a portion of their entitlement would prove to be an ongoing challenge for the VFF to grapple with through the remained for 2003. By early 2004, this issue would be overtaken by the challenge the VFF faced concerning the organisation’s tacit agreement to allow the Victorian government to reduce the volume of water available in the sales pool.

**The politics of the 80/20 sales pool initiative**

As outlined in Chapter 9, the VFF had become acutely aware of the mounting pressure on governments to acquire water for the environment. While the VFF would adopt the position that water for the environment must come from improving the efficiency of the ageing irrigation delivery system in northern Victoria, the leadership were painfully aware the most cost effective water savings options had already been targeted for environmental flows in the Snowy River. Not wishing government to enter into the water market meant an alternative solution would be required, preferably one that did not impact on irrigators’ high security water entitlements. The logical option was to accept the proposal set out in a private briefing with key bureaucrats within water sector group of the Department of Sustainability and

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Environment. With members already annoyed with the VFF over its handling of the issue of paying for water not received, the organisation was already in an extremely vulnerable situation.

In the first week of March 2004, a meeting was held in the Boardroom of the VFF’s Head Office in Collins Street bringing together the primary architects of the sales pool proposal and the president of the organisation along with the general manager of policy, and the water resources policy officer. For support, the departmental representatives brought along the chief executive of Goulburn-Murray Water and a dairy industry representative who had spent considerable time on various government-appointed boards and natural resource policy committees. The purpose of the meeting was to brief the VFF president on the draft chapter setting out the government’s vision for the irrigation sector that was to be included in the government’s water reform white paper. This briefing was required as the president was unable to be at the initial “unofficial” briefing attended by the organisation’s general manager of policy and water resources policy officer. The majority of the meeting, however, was centred on the proposal to reduce the volume of water available in the sales pool by 20 per cent. It was argued quite forcefully by the VFF president that the water contained in the sales pool belonged to irrigators because it was part of the bulk water entitlement defined in Schedule 11 of the *Water Act 1989.*

The dairy industry representative urged the VFF president to carefully reconsider his position because the actual legality of irrigator’s rights over the sales pool was in fact uncertain.

Following considerable debate, the president begrudgingly acknowledged the uncertainty

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22 The bulk water entitlement represents the amalgam of all the water entitlements of irrigator and is managed on behalf of irrigators by Goulburn-Murray Water. Under the terms and conditions set out in the *Bulk Entitlement (River Murray –Goulburn- Murray Water) Conversion Order 1999* Goulburn-Murray Water was legally required to supply water to irrigators; including any additional water that may become available from time to time. This additional water is referred to as the sales component of an irrigator’s water entitlement.
which existed surrounding the sales pool. To settle the matter would involve a costly legal challenge. The very expensive legal bill which the VFF was required to cover on behalf of members, who launched a Supreme Court challenge concerning the Valuer-General of Victoria’s decision to include water entitlements in the valuation of rural land after the water had been permanently traded from farm, made the VFF leadership very nervous about pursuing further costly legal battles through the courts. The Supreme Court challenge consumed considerable financial resources for no real gain. The non-VFF representatives present at the meeting were informed that members would not take kindly to a reduction in the volume of water in the sales pool and, if this was to occur, the political cost to the organisation would be high.

To minimise the potential political fall out to the president, it was suggested that a number of irrigator representatives from the VFF’s water resources committee be invited to attend a special briefing in Melbourne. The briefing would serve as a sounding broad for the Victorian government’s vision for the irrigation sector and to gauge their response to the proposal to reduce the volume of water available to irrigators from the sales pool. The briefing would also allow for the blame to be shared around, rather than leaving it solely with the president, if things went haywire with the broader membership over this reform initiative. The meeting ended with a tacit agreement being reached between the VFF and the key bureaucrats that they would help with managing internal and external politics of the organisation around this issue. Apart from the VFF being briefed on the sales pool reform initiative the department bureaucrats were also briefing the water services committee chairs of

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25 Notes of discussion recorded in my personal yellow notebook on 2nd March 2004.
Goulburn-Murray Water independently of the VFF. This would eventually create a huge rift between the two competing groups.

By the end of March, tension between the two groups had escalated to the extent that quite personal and bitter attacks were being launched against individuals in each group. The relationship between the two groups deteriorated even further during a meeting with the Water Minister, the chairs of the rural water authority’s water services committees and, the president of the VFF. The meeting had been arranged to discuss with the minister the proposal to reduce the sale pool. During the meeting strong differences of opinion were being expressed by the competing groups with the water services committee chairs informing the VFF president that he was out of touch with his members. Shortly after the meeting had concluded the VFF’s water resources policy officer was informed of how the meeting was perceived by the minister. The clear message was that the minister viewed the water services committee chairs as being leaders in the industry. Relations between the VFF and the water services committee chairs of Goulburn-Murray Water had sunk to such a low level the chair of Goulburn-Murray Water had requested a meeting take place between the two groups. The chair of Goulburn-Murray Water was concerned that if the chairs of the water services committees and the VFF entered into a public conflict over the issue reducing the sales pool the VFF would receive greater support from farmers and, thus, cause a considerable creditability problem for the water services committee structure of the rural water authority.

A meeting was held in Echuca to bring the two groups together to work through their differences. It was also agreed the meeting should be facilitated by an independent party to help both groups work through unresolved tension that had be brought to the surface by the

26 Notes from discussion recorded in my personal yellow notebook on 26 March 2004.
Victorian government’s water reform objectives, primarily the sales pool proposal. At the centre of the tension between the two groups was the issue of the magnitude of the compensation package that should be available to irrigators for conceeding 20 per cent of the water in the sales pool to the environment. The chairs of the water services committees had previously entered into negotiations with the Minister for Water which resulted in an offer of $36 million to be invested by the Victorian government in upgrading ageing irrigation infrastructure. The VFF, however, believed the value of the volume of water to be concede to the environment was more in the realm of $100 million. According to an irrigator, ‘the current offer of $36 million “compensation” for 100,000 gigalitres of water is an insult to those whose livelihoods will be affected.

The meeting between the two groups concluded with an in-principle agreement that there was merit in reducing the volume of water available to irrigators in the sales pool in return for the remaining 80 per cent being turned into a medium security water entitlement which irrigators could trade in the water market. A letter outlining the in principle agreement reached between the two groups was sent to the Minister for Water. The letter indicated that although an in-principle agreement had been reached neither group would agree to any announcement relating to the proposal to reform the sales pool without their members being adequately consulted on the proposal. In the short period before the VFF was to commence consulting its

27 The meeting commenced at 1pm on the 5th of April 2004 and took place at the Fountain Motel, Echuca and was facilitated by Nigel McGuckian from RMCG Consultants for Business, Communities and Environment.
29 This letter to editor of the Weekly Times by Pauline Ford 28 April 2004, p17 was organised by the president of the VFF to exert pressure on the chairs of the water services committees not to agree to any proposal put by government. It was also designed to remind the chairs who was the more dominant of the two parties in negotiating with government.
30 The sales entitlement was attached to irrigators high security water entitlement. From July 1997, the then minister decided to ban trade in sales over 30% ... prompted by evidence that overall water use was growing, so the interim cap needed to be tightened.’ See Murray Water Entitlement Committee, Sharing the Murray. Proposal for Defining People’s Entitlements to Victoria’s Water from the Murray, October 1997, p38.
members on the proposal a period of intense negotiation continued with key bureaucrats acting as the water minister’s mediators. The VFF leadership was informed the minister was unlikely to agree to any proposal that would result in less than 20 per cent of the water in the sales pool being acquired for the environment. The leadership was also informed that the minister felt that $30 million would be the upper band of the funds which the government would make available.\textsuperscript{31}

Up until the first week in April 2004, negotiations over the sales pool proposal were still occurring within a select group, namely, the VFF and the chairs of water services committees of Goulburn-Murray Water. On April 7, however, the proposal was broken to the wider irrigation community in the \textit{Weekly Times} front page article: “Water Grab: Plan to Syphon off Entitlements”. The \textit{Weekly Times} reporter noted that ‘details of the reform were revealed by Cohuna irrigator and former dairy industry leader Max Fehring.’\textsuperscript{32} According to Fehring, ‘what is now taking place is a series of “in-house” meetings with limited people in our communities “sworn” to not communicating with the very people they are reported to represent.’ As Fehring saw it, ‘it appears the Victorian Government’s White Paper has already been written some time ago, and is now being refined or massaged to drop on the community as a take-or-leave it approach.’\textsuperscript{33} The minister’s office made no comment to the \textit{Weekly Times} on the issue indicating that the water reform white paper was yet to be finalised and would be released sometime before June 2004.

\textsuperscript{31} Notes from discussion recorded in my personal yellow notebook on 1 April 2004.


Consulting the members!

In an opinion piece written for the *Weekly Times*, the water minister argued the proposal to reduce the sales pool was not being imposed upon the irrigation community by the government. The government was simply looking to respond to a proposal that had been brought to it by the community. At another level, the minister’s article was also motivated by an underlying desire to ensure the political heat from any proposal would rest firmly with the VFF which had fallen out of favour with the minister. The VFF’s water resources policy officer had been informed through reliable networks that the VFF’s aggressive handling of the issue and, at times, its blunt dealing with the water services committees chairs had seen the organisation’s credibility decline in the eyes of the minister.

While the Minister was creating a perception that irrigators were not being placed under pressure, in reality, the negotiations were taking place with the knowledge of the less desirable options available to government. To acquire the water necessary to meet its environmental flow commitments the government could either stand directly in the water market and buy it from ‘willing sellers’ or, alternatively the government could reduce the amount of water available to irrigators. The restriction governing the trading of sales water mean irrigators were likely to loose the more valuable higher security water entitlements. As stated elsewhere in this thesis, the VFF were opposed to the idea of government entering the water market as it would undermine the integrity of the market. The VFF leadership would inform members that a benefit of the sales pool proposal was that it ‘avoids the need for

34 John Thwaites, Opinion piece ‘Water sales pool proposal has the potential for be … A win-win for all’, *Weekly Times*, 21 April 2004, p15.
35 Notes from discussion recorded in my personal yellow notebook on 16 April 2004.
36 Apparently, the minister walked into a meeting which had been arranged in Tatura with the chairs of the Goulburn-Murray Water’s customer representative committees and representatives of the Victorian Farmers Federation with the two parties in a heated dispute over how to progress the sales pool negotiations with government. A key bureaucrat who was present indicated what the minister had seen did not make the Victorian Farmers Federation look good! Notes record from discussion in my personal yellow notebook on 14 April 2004.
government to enter the water market with the consequent costs to irrigators, Goulburn-Murray Water and communities. To adequately engage and discuss with members the pros and cons of forgoing 20 per cent of the sales pool would, however, require time.

In the week prior to Easter, a letter requesting a two month consultation timeframe was emailed to the water minister’s office. Due to time constraints concerning the government’s own deadline for releasing its water reform white paper the minister would only agree to allow for a four week period of consultation. If no agreement could be reached and, no firm proposal developed by the end of the first week in May, it was pointed out the government would be forced to release its white paper without containing reference to the sales pool proposal. Meetings were arranged by the VFF to take place in Kerang, Shepparton and Moama on April 26-27. Engaging members of the draft sales pool proposal developed jointly between the VFF and the water services committee chairs of Goulburn-Murray Water would prove a challenge as anger amongst members was escalating as they were facing increasing water prices and falling milk prices. The Shepparton meeting was attended by 200 irrigators and was described by one irrigator as like ‘negotiating the terms of surrender.’

Another irrigator who attended the Moama meeting believed ‘the G-MW water services committee, as a willing agent of government, has once again proved it is not our friend.’ As this individual saw it, ‘the G-MW (Goulburn-Murray Water) water services committee proved

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38 The letter was emailed to the water minister’s ministerial advisor on the 8th April 2004 by the VFF’s general manager of policy.


once and for all that they are so institutionalised by the G-MW board and appear to be acting as their puppets in this ongoing saga.\textsuperscript{42} The general feeling of members at the Moama meeting was that they believed the VFF was simply supporting the government’s position and that they were trying to con members. The daughter of a prominent farm leader remarked how the VFF and its president were ‘coming on like big heavies – bully boys and are not or have not listened to them’ at the meeting.\textsuperscript{45}

With support amongst irrigators for the proposal shaky, two more meetings were arranged to take place later in May after further ongoing negotiations with government over the nature of the “compensation” package that would be available for giving up 20 per cent of the water contained in the sales pool. The risk with not being able to reach an agreement on a particular proposal is that it creates a situation whereby the issue can be used for political mileage or, another alternative proposal might come out of the woodwork. Before the next round of meetings could take place pressure began to mount for the elected representatives at the VFF to cease negotiating with government over the sales pool proposal. From within the VFF, upper catchment farmer members believed their interests should also be included in future negotiations with government. In particular, upper catchment farmers from North East Victoria felt they should be granted a portion of any medium security water right that may be created as part of the sales pool negotiation with government. As upper catchment farmers saw it, doing so would correct the violation of their natural rights which had occurred under the government’s irrigation farm dams policy and restore natural justice to the farmers in the upper catchment regions of the state.\textsuperscript{44}


\textsuperscript{43} Note of comment passed by Bill Hill’s daughter at the Moama sales pool meeting held on 27 April 2004 at the Moama Bowling Club at 11am. See large A4 personal notebook.

\textsuperscript{44} David Evans, ‘Don’t forget farmers up the river’- Letter to the Editor, \textit{Weekly Times}, 5 May 2004, p17.
According to the Victorian National Party’s spokesman for water, Peter Walsh, irrigators should not agree to forego any water from the sales pool until such a time when the National Water Initiative had been ratified which would enable irrigators to ‘receive just and fair compensation for their loss.’ By mid-May 2004, a different group of farmers from northern Victorian were trying to drum up support for an alternative proposal to the 80/20 sales pool proposal which the VFF and the chairs of Goulburn-Murray Water customer representative committees were advocating. The alternative proposal would see irrigators sacrificing about 10 per cent of their high reliability water right as well as a larger portion of the sales water attached to their water right. Unlike the VFF and water services committees proposal, the new proposal would result in irrigators being directly compensated as opposed to the funds going to rural water authority, Goulburn-Murray Water. Following two more meetings with irrigators in Kerang and Kyabram on the 20th and 21st of May a proposal to forgo 20 per cent of the sales pool for greater certainty over the remaining 80 per cent was finalised and forwarded to the water minister for consideration.

Conclusion

The proposal developed by the VFF and the chairs of water services committees of Goulburn-Murray Water requested that the government make available a transition package in the form of a capital contribution to the value of $86 million. The funds were to be proved to Goulburn-Murray Water to invest in improving ageing irrigator infrastructure with the

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45 Peter Walsh, ‘Don’t trade off sales pool-Walsh’, Media Release, 2 May 2004. At the time when the media release put out by Walsh the National Water Initiative had only been agreed to by COAG but not formally ratified by the respective parliaments of the parties to the agreement. In classic federal—state tensions, the Victorian Government was keen to release its water reform white paper before the official signing of the National Water Initiative Agreement. The Victorian water reform white paper was released on 23 June 2004 which was followed by the official signing of the National Water Initiative on 25 June 2004.

benefits flowing through to the irrigation community in the form of lower, or at least, more stable water prices. In addition to the capital investment, the proposal requested that irrigators be exempt from the environmental charge on their water bill for three years and, then they would be charged a reduced rate of 2 per cent as opposed to the 5 per cent. ‘The total value of this “concession” is estimated at $14.4 million over four years.’

The Victorian government agreed to the proposal which formed a key plank in its Our Water Our Future water reform plan. ‘Under the sales deal’, stated the Minster for Water, ‘the Government was providing $86 million in benefits to Goulburn Murray farmers and exemption from water price increases until 2007.’ The funds were broken down to new funding of $30 million to be used for dam improvement and safety upgrades, seed funding to the value of $6 million for planning for reconfiguration of irrigation channels to save water, and funds of $50 million to be made available over five years for implementing irrigation reconfiguration programs.

Irrigators would also receive an ‘exemption from the 2 per cent regional price increase.’

Despite the substantial package, the VFF leadership faced growing discontent in the irrigation community.

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Shit hits the fan: 
The rise of a new irrigator lobby group

We challenge the VFF to remember that they are representing farmers and not the Victorian Government.¹

Introduction

With the jointly developed sales pool proposal sitting with the water minister, growing opposition to the proposal began to emerge from a group of irrigators within the Murray Valley region of northern Victoria. Irrigators from within this region had become increasingly disillusioned with their peak farm representative body which they believed were representing the interests of government, rather than theirs. As these disgruntled irrigators perceived their concerns were being ignored by the VFF they began to form a rival lobby group. The rise of Northern Victorian Irrigators Inc (NVI) would present a real threat to the VFF’s claim to be the voice of irrigators. Within a short space of time, the creditability of NVI would itself come to be challenged by yet another rival lobby group who began accusing it of being too close to government. The rise of each new rival lobby group would bring with it an increasingly militant approach to dealing with the issues which gave rise to their formation.

The done deal and the growing resentment

Following the end of the sales pool reform consultation process with members, a disgruntled irrigator wrote in a letter to the Country News that ‘we feel the VFF is not doing enough for irrigation farmers who supply the country with the cheapest and highest quality goods, contributing millions to our economy.’ As this individual saw it, ‘the risk is that this 80/20 deal the VFF-State Government proposes exposes us to a 15-year review’ of water

entitlements.\textsuperscript{2} Despite the review of water entitlement clause proposed by the Victoria government being better than that put forward under the Commonwealth’s National Water Initiative (See the below illustration) the federal member for Murray, Sharman Stone, seized the political opportunity which the increasing resentment amongst irrigator presented to try and drive a wedge between irrigators, the VFF and Goulburn-Murray Water.

![Diagram: How the Reviews Compare]


In the first week of June 2004, Stone released a six page critique of the sales pool reform package stating that ‘it would seem the Victorian Government aims to claw back the water before adequate consultation, without socio-economic studies, and before their signing of the

\textsuperscript{2} \textit{Ibid.}
National Water Initiative, which aims to secure entitlements, and balance the rights of water users with the need to protect the environment.\(^3\)

The member for Murray also used the critique as an opportunity to try and drive a wedge between the president of the VFF and the organisation’s water resources committee. In an interview on ABC radio, the member for Murray set out to create a perception that a rift was developing between the leadership of the VFF and its water resources committee. She informed listeners that ‘we’ve had this situation where the VFF president, Paul Weller, had now endorsed this proposal that the government’s put up with some conditions. … While the VFF president’s endorsed the proposal, the VFF Water Resources Committee hasn’t endorsed it at all.’\(^4\) The member for Murray’s attack occurred at a time when the VFF’s president was out of the country. The VFF Deputy President responded briefly in a media release describing the ‘Federal Member for Murray, Sharman Stone’s, criticism of VFF President, Paul Weller, and her commentary on the State Government’s Sales Pool proposal as hypocritical and ill informed.’\(^5\) As the VFF saw it, ‘the “Honourable” member’s criticism of the Sales Pool proposal is nothing more than populist politics designed to divert attention from her involvement with the Living Murray Decision in the lead up to this year’s federal election.’\(^6\)

Despite attempting to counter the views advanced by the member for Murray, the VFF would continually be fighting on the back foot. By early July 2004, a group of irrigators from within


\(^{6}\) Victorian Farmers Federation, *VFF response to comments from Federal Member for Murray, Dr. Sharman Stone, on the Victorian Government’s plan to reduce irrigators’ sales water*, June 2004.
the Murray Valley region of northern Victoria began to organise a public meeting in Numurkah in opposition to the sales pool reform package outlined by the Victorian Government in its *Our Water Our Future* white paper. Organisers of the meeting were unhappy with the sales pool reform package that had been negotiated because they believed it would have no significant impact on future water prices for irrigators in the Murray Valley. As one of the organisers explained it, ‘farmers did not mind paying for running repairs to the [irrigation] infrastructure but did not want to pay for the replacement of a system that did not belong to them.’ The main issue of contention with water pricing was the “renewals annuity” approach applied by Goulburn-Murray Water. In July 2002, the authority’s Board approved a 30 year annuity policy which would result in water prices for some services increasing significantly in the short term.

According to Pugh, ‘if the [water] price escalates at the present rate and there is no offer of any compensation, the future of irrigation in the Murray Valley is threatened.’ The *Weekly Times* reported that over 600 people attended a public meeting held in the Numurkah Town Hall on the 14th of July 2004.

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Again, the member for Murray, Sharman Stone seized the political opportunity presented to attack the sales pool reform proposal and the water reform white paper that had been released by the Victorian government. She informed those present at the public meeting that ‘the show is definitely not over’ and that ‘this plan [the sales pool reform] has to be put to the other states and the Federal Government for approval. Before it can gain approval, the Bracks Government must prove it has support from stakeholders and a sound investment strategy. It has neither.’9 By August 2004, the leaders of the disgruntled Murray Valley irrigators had sufficient support to form a new lobby group, Northern Victorian Irrigators to represent the interests of irrigators. The aim of the new lobby group was to ‘send government and industry leaders the clear message that the people of northern Victoria are unhappy with the decisions being made on their behalf.’10

The leadership of the newly formed irrigator lobby group organised another public rally to be held in Shepparton to show the growing level of anger over the proposed reforms to the State’s rural water sector. ‘At the public meeting in Numurkah’, stated the rally notice, ‘we sent a clear message to the VFF, GM-W and Government that irrigators and their communities were unhappy with the decisions that were being made’ (See Appendix B which contains a scanned copy of the notice).11 The ABC Country Hour radio program reported that over 800 irrigators from across Northern Victoria attended the rally to protest against the water reforms proposed by the State Government and called for the sales pool reform deal to be rejected.12 By mid September 2004, the VFF’s president was calling for unity amongst all

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11 Northern Victorian Irrigators Inc, Not just another water meeting, Rally Notice. Notice circulated in the weeks before the scheduled 7 September 2004 Shepparton rally.
irrigators. In a letter-to-the-editor in the *Country News*, Weller argued that ‘the VFF had reviewed the long historical statutory nature of irrigators’ rights to access sales water and evidence indicates that for almost a century this right has only ever been discretionary in nature.’ Furthermore, ‘while this evidence could be argued in court, there is no guarantee irrigators would win the case. If irrigators did take this course of action, it could prove to be very costly.’

In an attempt to quell the unrest concerning the VFF’s involvement with negotiating the sales pool reform proposal the organisation’s water resources policy advisor, the water resources committee chair and, the chair of the VFF’s Goulburn-Murray Regional Water Council, were accompanied by the Department of Sustainability and Environment’s water sector executive director to an evening meeting in Strathmerton. The purpose of the meeting was to brief members in more detail on the evidence and reasoning behind the position which the VFF adopted in negotiating with government over its proposal to reduce the volume of sales water available to irrigators. To assist the VFF manage the political fall out from the sales pool reform proposal the executive director of the water sector group developed a presentation concerning the government’s water reform proposal. The executive director’s role was to play the “bad cop” during the meeting whilst VFF’s water policy adviser would bring to members’ attention the legal uncertainty surrounding irrigators “ownership” of the water contained in the sales pool. The water resources policy advisor developed a presentation to take members through the historical legalities of the sales water.

(23 August 2009).

They were informed the State Rivers and Water Supply Commission had the power under the *Water Act 1916* make available an ‘additional quantity of water for irrigation’ on top of that being supplied to meet the ‘water apportioned as water rights in the [each irrigation] district.’\(^{14}\) This power was, however, always a discretionary power. As stated in the *Water Act 1928*, ‘where water has been apportioned as a right pursuant to this section the Commission may enter into an agreement with the occupier or owner of such lands for the supply for any period not exceeding twelve months from the date of the agreement of an additional quantity of water out of any water assigned to the district.’\(^{15}\) The meeting was attended by a core group of NVI supporters, as well as, local members of parliament, including the federal Member for Murray. Despite good intentions, the influence of the newly formed lobby group and the politics played on the night by the member for Murray made it difficult to get the VFF’s message across.

**The struggle to represent the interest of irrigators**

In a letter published in the *Shepparton News* on the 1\(^{st}\) of September 2004, Lewis Pugh, the Vice President of NVI, set out to inform readers of the activities undertaken by the newly formed lobby group. As a result of a number of meetings, which had taken place with representatives from several groups of farmers from within the Goulburn Valley, Sunraysia and upper catchment, the leadership of NVI believed there was enough support for a public rally to be held in Shepparton on the 7\(^{th}\) of September 2004. According to Pugh, ‘we will send government and industry leaders the clear message that the people of Northern Victoria are unhappy with the decisions being made on their behalf.’\(^{16}\) At the public rally, Dudley

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\(^{15}\) *Water Act 1928*, No.3801, p1244, emphasis added .

\(^{16}\) Lewis Pugh, ‘Support irrigators’, *Shepparton News*, 1 September 2004.
Bryant, the NVI President informed those who gathered to protest against proposed water reforms that ‘we don’t believe they [Victorian Farmers Federation] have got the gloves on.’

The view expressed by Bryant reflected a growing perception amongst irrigators that they were not only being abandoned by government, but, also, their peak farm body, the VFF. A farmer had previously summed up the mood of Goulburn Valley irrigators when questioning: ‘why do irrigators always have to lose all the time? Rates are going up, milk prices are going down! Why is there no one fighting for us?’ Kathy Bowlen, *ABC Stateline* reporter, raised the issue of increasing dissatisfaction amongst farmers concerning the effectiveness of the VFF in an interview with the then president, Paul Weller. ‘Some of the farmers on the ground’, stated Bowlen, ‘have told ABC reporters that one of their criticisms is against the Victorian Farmers Federation that you’re not doing enough, that you’re not lobbying hard enough and that you’re not even getting the meetings you need with the minister to get the message across’ in terms of the dire situation farmers are facing due to the drought.

Weller’s response to such criticism was to inform Bowlen that ‘we’ve had meetings with the Minister for primary industries, Mr Cameron. We’ve also met with the Treasurer … Don’t blame us when the government won’t listen.’

As the Victorian government set about developing its regulatory and legislative agenda necessary for implementing the reforms

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18 Meeting arranged by the Victorian Farmers Federation to canvass views of members on the Victorian Government’s sales pool water reform package held in Shepparton, 27 April 2004 at the Victoria Hotel, Corner of Fryers St & Wyndham St.


20 Paul Weller, *ibid*. The working relationship between the VFF and government and, in particular, the primary industries minister, Bob Cameron had soured following the VFF’s attacks on Bob Cameron when he was the local government minister over the issue of local government rate which the VFF felt unfairly impacted upon farmers. The relationship between the president and minister sunk to such a low that the minister instructed senior bureaucrats from within the Department of Primary Industries not to attend the social functions which they had been invited to during the VFF annual conference.
outlined in the *Securing Our Water Future Together* white paper, the political influence of Northern Victorian Irrigators Inc. would be minimal.

For the leadership of the VFF, it was critical that the newly formed lobby group were excluded from any policy discussion with the Victorian Government. The president of the VFF went as far as requesting the executive director of the Water Sector Group within the Department of Sustainability and Environment to remind the water minister of the collaborative approach the organisation pursued in its dealings with the government throughout the development of the green and white paper water reform policy processes. The implicit message was that if the Victorian Government is going to engage with the more antagonistic NVI, which would come at a political cost to the VFF, then the organisation would be forced to adopt a more aggressive approach in its own dealings with the government. The president of the VFF was informed the approach which was being pursued by the government and the Department when dealing with the rival lobby group was to require them to put their concerns in writing to the water minister. Such an approach would see their concerns being addressed but only after they had been put through the bureaucratic process which could be used as a stalling mechanism.

Towards the end of May 2005, the leadership of NVI had become extremely frustrated with the lack of response to their concerns about the impact of the water reform agenda of the Victorian Government, they organised to confront the Minister for Water John Thwaites, who was due in Shepparton to make a funding announcement relating to the “Word of Mouth” program run by the Greater Shepparton City Council. In an attempt to avoid the 70 protestors who had assembled at the front of the Eastbank Centre, the water minister entered the building by the back door. The *Shepparton News* reported the Minister was pursued by
farmers ‘shouting “you’re not listening”’\textsuperscript{21} as he ascended the stairwell to the second floor where he was cornered by protestors.\textsuperscript{22}

The course of action pursued by the group of irrigators was explained as ‘we were just trying to get our point across.’\textsuperscript{23} According to Bryant, ‘we made it clear to him that we don’t believe he has been well enough advised on the impacts of taking … water out of the Goulburn Valley will have on the Goulburn Valley.’ To Pugh, ‘the reason we protested was the enabling legislation that is asking farmers to trust decision makers … [when] … there is a lack of trust.’\textsuperscript{24} When addressing protesting irrigators after the minister agreed to a brief meeting, the NVI president informed them that their attendance and willingness to protest was responsible for them getting a meeting with the minister. In the future stated Bryant ‘if we want to change the way water issues are being sold to us … we are going to have to rally big-time and more often.’\textsuperscript{25}


\textsuperscript{23} Barbara Duke quoted by Wood in \textit{ibid}.


By the end of October 2005, Northern Victorian Irrigators Inc. had organised a rally in Spring Street to protest against the Victorian Government’s new water bill that was being debated in the Parliament. *ABC Rural News* reporter Melanie Sim informed listeners that NVI had been threatening to protest over concerns regarding the enabling legislation about to be debated in the parliament. Further, Sim’s reported the lobby group were also protesting over the government’s poor approach to consultation which they believed would continue once the government’s new enabling legislation was passed by the parliament. According to Pugh, ‘“we now have to pressure the rule makers – Goulburn-Murray Water and the DSE [Department of Sustainability and Environment] to make sure we get a reasonable go out of this” … the regulations the law will enable.’ Throughout 2006, NVI continued to be involved in public rallies organised to protest against a range of issues, primarily, irrigators being required to pay for undelivered water, rural water pricing policies, water trading out of the region and, the Victorian Government’s decision to support the construction of the Ballarat stage of the Goldfields Superpipe. Two major rallies were organised to occur in the weeks leading up to the Victorian State Election scheduled to take place at the end of November 2006. One of the rallies was held in Shepparton in mid October 2006. Up until the rally, the Victorian Government remained opposed to providing irrigators with financial assistance to cover the cost of water which could not be delivered.

The government’s lack of action on this contentious issue was explained by the water minister as being ‘consistent with Council of Australian Government principles, that irrigators should


pay the costs of the water system.’ As the water minister had stated ‘the water system goes on having costs year after year, even in droughts.’\textsuperscript{29} In what can be seen as an attempt to appease increasingly disgruntled irrigators the Victorian Government made an announcement that it would be providing $5,000 to each irrigator to assist with paying for water which could not be delivered.\textsuperscript{30} But, in total, the amount that would be made available to irrigators was still short of the $35 million that was necessary to cover the total cost of the portion of water that would not be delivered. At the same time as announcing financial assistance for struggling irrigators, the Victorian premier indicated his government would be contributing $71 million towards the construction of the Bendigo to Ballarat section of the Goldfields Superpipe.\textsuperscript{31}

The timing of the government’s announcement that funding is available for the construction of the Bendigo to Ballarat section of the Goldfields Superpipe was seen as a ploy to divert media attention away from the protest rally taking place in Shepparton on the same day. As the endorsed Liberal Party candidate for Rodney and NVI member Neil Repacholi saw it ‘I’ve got no doubt it’s deliberate. It’s to distract attention from the rally.’\textsuperscript{32} The announcement was reportedly greeted by the VFF with outrage. As the president Simon Ramsay put it, ‘Goulburn irrigators are already hurting on record low water allocations and this announcement will impact on their confidence as they try and plan for the drought.’\textsuperscript{33} NVI President Bryant responded to the announcement stating ‘we don’t want cities to go without

\textsuperscript{31} Office of the Premier, ‘Ballarat’s future water supplies secured by major Bracks Government action plan’, \textit{Media Release}, 17 October 2006. The total cost of the pipeline was reported to be $180 million. The Victorian Government was contributing $71 million, customers of Central Highlands Water would be contributing $19 million through increased water charges and the Victorian Government was lobbying the Commonwealth Government to contribute the remaining $90 million.
\textsuperscript{32} Neil Repacholi quoted by Stephanie Ryan in ‘Funds “Ploy”’, \textit{Riverine Herald}, 18 October 2006.
[water], but it is a bit hurtful when governments can just come in and say “we’re taking it.”

The solution for overcoming many of the challenges threatening irrigation in the Goulburn Valley, according to Bryant, would require more pressure being placed on the Victorian Government in the lead up to the state election. Bryant also informed irrigators protesting at the Shepparton 17 October 2006 rally that ‘if we put pressure on, we can get what we want.’

Protestors inside Eastbank Centre auditorium, Shepparton.  
**Photo:** *SN Weekly*, 19 October 2006.

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35 Dudley Bryant quoted by Geoff Adams in ‘Community unites to send its message’ in the *Shepparton News*, 18 October 2006.
When interviewed in the days leading up to the rally Bryant indicated that ‘where we go from here will depend on the response, but I’m expecting we may have to go to Melbourne to make ourselves heard.’\textsuperscript{36} Within a month, irrigators were to again assemble this time in Melbourne to let the Victorian Government know they are becoming increasingly dissatisfied with their handling of a range of water reform issues. ‘Since we held our Shepparton rally’, stated Bryant, ‘we’ve had numerous conversations with government staff but the people who matter won’t speak to us.’\textsuperscript{37} As Bryant saw it, ‘communities across country Victoria need to stand united to let the state government and decision-makers know that we’re not satisfied.’\textsuperscript{38} The Melbourne rally brought together a range of groups, such as, the Push for the Bush, mountain cattlemen and, Justice for the Broken Valley, who believed their communities were suffering from the various reforms being implemented by government. As one individual at the Melbourne rally remarked ‘yes we are suffering from the drought, but we are suffering more from the decisions of the Bracks Government.’\textsuperscript{39}

\begin{figure}[h]
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\includegraphics[width=\textwidth]{disgruntled_protesters.jpg}
\caption{Disgruntled protesters on the way to and outside Parliament House, Melbourne. \textbf{Photos: Shepparton News, 21 November 2006.}}
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\textsuperscript{36} Dudley Bryant quoted by David Wood in ‘Rally gathers force’ in the \textit{Shepparton News}, 16 October 2006.
\textsuperscript{37} Dudley Bryant quoted by David Wood in ‘Pushing their point’ in the \textit{Shepparton News}, 15 November 2006.
\textsuperscript{38} \textit{Ibid.}
\end{flushright}
The *Campaspe News* reported the president of NVI being very satisfied with the Melbourne rally. According to Bryant, ‘it sent a powerful message that country people have had enough and if they (politicians) don’t start listening, they’ll find out on Saturday (in the state election).’ In the days prior to the state election the political priorities of the NVI president shifted to criticising the VFF, in particular, the ex-president Paul Weller, who was the National Party endorsed candidate for the seat of Rodney. It was clear from Bryant’s letter-to-the-editor published in the *Shepparton News* that NVI had thrown its support behind the endorsed Liberal Party candidate running against Weller.

According to Bryant, ‘the Liberal Party is the only party which can win and fulfil its promise of paying for undelivered water.’ Furthermore, he also informed readers that although the Liberal Party supports ‘the “knee jerk” pipe to Bendigo … at least the Liberals have said that all of the water must come from savings through investments in lining channels and other infrastructure improvements.’

**NVI and VFF under fire …**

By 2005, NVI was claiming 1,200 members from across the Goulburn and Murray irrigation districts. Seemingly, the membership of the new lobby group was increasing whilst the membership of the VFF was in decline. Bryant indicated the appeal of the new lobby group was that its focus is on representing the interests of irrigators. As Bryant saw it, ‘in the VFF only 20 per cent of the members are irrigators, so to get a decision you need to talk around the other 80 per cent. While they are supportive to the cause, they aren’t affected in the same

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The legitimacy of NVI as the voice of the irrigation community would, however, begin to be challenged by mid 2007. The rising tensions simmering within the irrigation community of northern Victoria particularly, following the Victorian government indicating its support for the Food Bowl Modernisation proposal, would gradually expose a chasm between the executive of NVI and its members. The proposal purportedly developed by local irrigators would see water being transferred south of the Great Dividing Range to secure Melbourne’s drought affected water storages.

The Victorian Government’s support for water being transferred over the Great Dividing Range broke the long standing convention established by Henry Bolte in April 1964. According to Bolte, his ‘Government would not allow “one drop” of water to be diverted from north of the ranges to the metropolitan area … .’⁴⁴ This position was still being upheld by the Bracks Labor Government as late as October 2005. ‘Government policy’, it was stated, ‘is not to consider major transfers of water from north of the Great Dividing Range to Melbourne –the government does not support Melbourne water retailers taking water from irrigators north of the divide.’⁴⁵ By June 2007, however, the Victorian Government broke with this convention when it announced the North-South pipeline as part of the Foodbowl Modernisation project. According to one individual, ‘the Bracks Government’s plan to pipe our water to Melbourne is another broken promise by Labor and it will rob our children of

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jobs in the future.’46 To the former mayor of the Moira Shire, the proposed north-south pipeline will simply ‘flush the future of the Goulburn Valley down the toilets of Melbourne.’47

Irrigators begun to question the involvement of NVI with the Foodbowl Unlimited Group responsible for developing and negotiating the Foodbowl Modernisation Project with the Victorian Government. According to the Campaspe News, the president of NVI Bryant was part of the Foodbowl Unlimited Group, who along with other members was, partly

responsible for endorsing the project before it was put before the community. As was later indicated by the Minister for Regional and Rural Development, the proposal that had been put before the government was supported by a number of backers of which NVI was listed in the minister’s media release as a backer of the Foodbowl project. To one individual, ‘the credibility of this support from N.V.I is very dubious.’ As this individual saw it, NVI leadership support for the Foodbowl Modernisation Project was being motivated by self-interest. ‘Mr. Brumby, Mr. McPherson and Mr. Corby (Food Bowl conveners) and other members and the executive of Northern Victorian Irrigators’, wrote this disgruntled individual, ‘should hold their heads in shame for their readiness to sacrifice the whole future of the Goulburn Valley region for purely their own vested interests and political aspirations.’

The Riverine Herald had previously indicated the leadership of NVI had ‘faced criticism for misrepresenting the irrigator body’ from within the broader irrigation community and its members over its support for the north-south pipeline. As the author of the above quoted submission was to question ‘why was a deal struck with Northern Victoria Irrigators executive before any consultation with N.V.I’s paid up members?’ To overcome such criticism, the executive of Northern Victorian Irrigators Inc. arranged for a meeting to be held in Shepparton on Monday 2nd of July where members would be able to vote on the Food Bowl Modernisation proposal. The Age reported a number of individuals indicating that the “pro”


Food Bowl Modernisation proposal leaning of the executive of Northern Victorian Irrigators Inc. would mean individuals who wished to speak against the proposal at the meeting would not be given an opportunity to do so. They would, however, be able to raise questions from the floor.\textsuperscript{53}

The meeting was attended by 700 people of whom only 166 were NVI member that were eligible to vote. Of those eligible to vote, 106 were reportedly in favour of the project. Apparently, their support was qualified in that NVI should only support ‘the Foodbowl plan provided there are guarantees that the savings are genuine, infrastructure upgrades are implemented and the funding is secure.’\textsuperscript{54} The Member for Rodney, Paul Weller, seized the opportunity to attack NVI in a media release which questioned the validity of the outcome of the vote held by the lobby group. According to Weller, ‘there were more than 13,000 irrigators on the Goulburn Murray system, and the NVI vote represented less than 1\% of those people.’\textsuperscript{55} Despite the question of whether or not the views of the leadership of NVI reflected that of the broader irrigation community, or, in deed, that of its members, the Victorian Premier announced that two members of the lobby group’s executive had been appointed to the Food Bowl Modernisation Project Steering Committee (Steering Committee).\textsuperscript{56} The make up of the Steering Committee was announced by the Victorian Premier just two days prior to the \textit{Stop the Pipeline to Melbourne Rally} scheduled to take place in Shepparton (5 July 2007).

\textsuperscript{53} Those opposed to the proposal indicated they would seek to move a motion that would allow the Member for Murray Sharman Stone to address those in attendance \textit{See The Age, 30 June 2007, op.cit.} However, there was no report of the Member for Murray addressing those who attended to meeting.


\textsuperscript{56} From the Office of the Premier, ‘Premier appoints Food Bowl Project Steering Committee’, \textit{Media Release}, 3 July 2007.
The Victorian Premier also appointed two representatives from the VFF to the Steering Committee. The premier’s appointment of VFF representatives to the Steering Committee can be seen as being politically motivated to bring the organisation, which had no behind the scene involvement in developing the Food Bowl Modernisation proposal into the fold.

During the Stop the Pipeline to Melbourne Rally held in Shepparton in early July 2007, Richard Anderson explained the VFF’s involvement with the Steering Committee as ‘the government has made it clear it is going ahead with the Foodbowl proposal so we have been trying to negotiate to make sure that it is at least as fair as possible.’

To address concerns about the VFF’s policy position being compromised by having representatives appointed as members of the Steering Committee by the Premier, Anderson publicly stated that ‘we have not changed our policy and we’re not part of the Foodbowl group.’

The policy to which Anderson referred was the VFF’s long held opposition to ‘water being moved from Northern Victoria to Southern Victoria.’ The appointment of representatives from the VFFF created a few waves within the irrigation community. At a public meeting

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58 Ibid.
held in Lockington in late July 2007 irrigators were critical of the VFF’s involvement in the Steering Committee. Anderson reportedly responded to the criticism stating that ‘we’re not in there (Food Bowl Modernisation Project steering committee) because we want to be in there.’ But, ‘if the pipeline goes ahead, we want to be able to have a say.’ The ability of the VFF and, indeed, NVI to claim they were speaking on behalf of their members had been eroded by a resolution that had been moved by Ken Pattison and endorsed at the Stop the Pipeline to Melbourne Rally in Shepparton. Pattison moved that ‘the Food Bowl Unlimited, the Northern Victorian Inc. and the VFF are not authorised to speak on behalf of Goulburn Murray system irrigators, businesses and the communities of Northern Victoria.’

Opposition towards the Victorian Government’s decision to support water being transferred from north to south of the divide continued to mount, cumulating in another protest rally being held in front of parliament house, Melbourne in early August 2007. The rally was reportedly attended by 1,000 people. According to VFF president Ramsay, ‘the Victorian Government can no longer be under any illusions as to the level of community opposition to this project.’ The rally in Melbourne was also supported by individuals opposed to the building of a desalination plant at Wonthaggi and people who were opposed to the draft report released by the Victorian Environment Assessment Council relating to the future management of red gum forests. The rally cumulated in a meeting taking place between the new Victorian Premier, the new water minister, several of the protest leaders and the president of the VFF. Andrew Leahy, one of the protest organisers at the meeting, informed the Riverine Herald the talks were unproductive. According to Leahy, ‘Mr. Brumby didn’t listen’ and just

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‘re-iterated the stance of going ahead with the pipeline and said people don’t always like what
governments do.’\textsuperscript{64} The Victorian Premier would also dismiss the VFF’s claims that it was
representing the views of irrigators throughout northern Victoria. According to Brumby, the
\textit{Food Bowl Unlimited Group} and NVI were the two main groups which government should
consult with as ‘they, in fact, represent the interests of more (irrigated) farmers than does the
VFF.’\textsuperscript{65}

\textbf{The rise of uncivil disobedience}

Following the Melbourne rally, a new lobby group was created by a group of farmers from
across northern Victoria to step up the anti north-south pipeline push. It was claimed that the
newly formed Plug the Pipe lobby group would be able to take a more aggressive stance in
lobbying government to stop the north-south pipeline than the VFF.\textsuperscript{66} The Plug the Pipe
lobby first strategic strike took place in Colbinabbin following an anonymous tip off that the
Victorian Premier would be visiting the town to officially switch on the pump that had been
constructed as part of the Goldfields Superpipe to transfer water from the Waranga Western
channel to Bendigo.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{pump_intake.png}
\caption{Pump intake on Waranga Western Channel and pumping station where Victorian Premier was surrounded by anti north-south pipeline protesters on 31 August 2007. \textbf{Photos:} Barry Hancock.}
\end{figure}

\textsuperscript{64} Andrew Leahy quoted by Christine Chudley, \textit{ibid}.


While Premier Brumby was inspecting the pump station, protestors launched their strike. As reported in the *Waranga News*, ‘about 80 people from all over the district … converged on the pump station site. Tractors and semi-trailers with anti pipeline slogans lined the road and blocked the entrance to the pump station shortly after the Premier was inside the gates.’

![Photo of anti north-south pipeline protestors outside pump station at Colbinabbin blockading Victorian Premier John Brumby inside the pump station. Source: Waranga News, 6 September 2007.](image)

The *Herald-Sun* reported ‘protestors, some carrying placards reading “irrigation feeds the nation”, screamed and interjected as the premier tried to reason with them over the merits of the plan.’ To Premier Brumby, ‘the Goldfields Superpipe is vital to the future growth of the Bendigo region.’ After barricading the Victorian Premier inside the pump station for over an hour protestor’s finally agreed to let the Premier leave the site. A prominent ALP member from within the region wrote to the *Country News* stating ‘their [protesters] threatening behaviour to the Premier was the sort you could expect from young radical protesters, not so-called mature citizens.’ This individual continued: ‘in our democratic society every citizen has the right to protest, however decent behaviour and common courtesy should be a given.’

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By mid September, the Plug the Pipe group was being accused of endorsing the use of violence and intimidation as part of their strategy to stop the construction of the north-south pipeline. It was reported on *ABC News* that ‘a document purported to be from the Plug the Pipe group outlines plans to vandalise the offices of Labor politicians and threaten construction workers.’ The Plug the Pipe group denied any knowledge of the document indicting the lobby group would not support any such action being undertaken by its members. According to Plug the Pipe member Mike Dalmau, any protest by the lobby group will be within the law. But, ‘the message is to Mr Brumby and his Government that the people out here are stressed and the idea of taking water out of our catchment to Melbourne is only adding to the stress.’

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**Photo:** Barry Hancock

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71 Mike Dalmau quoted by Erin Mathews, *ibid.*
On the 26th of September the paths of the Plug the Pipe group and the Victorian Premier would again cross, this time in Kerang where the Victorian Government was holding a community cabinet meeting. The Plug the Pipe group was also joined by opponents of the new national parks status to be given to the region’s red gums forests. The following day, *ABC News* reported that ‘about 400 protestors rallied outside the community Cabinet meeting in Kerang yesterday morning, but only about 100 people turned up to protest yesterday afternoon in Swan Hill.’ The *Riverine Herald* reported the ‘Premier John Brumby met a three person delegation from each of the protest groups to hear again their concerns about the possible social and economic impacts of the pipeline and VEAC recommendations.’

![Protesters rallying in Kerang during the Victorian Government’s community Cabinet meeting at the Gannawarra Shire Offices.](Photo: Riverine Herald, 28 September 2007.)

Buoyed by the growing support, the Plug the Pipe group set its sights on protesting outside the Foodbowl Unlimited Forum held in Shepparton on the 24th of September 2007. The

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Weekly Times reported that ‘organised by the Plug the Pipe group, the rally was the latest in a series of events to convey farmers’ anger at the prospect of water being sent across the Divide for use in Melbourne.’75 Country News reporter, Geoff Adams, wrote that ‘forum participants had to run the gauntlet of the placard waving crowd outside Eastbank, including Northern Victorian Irrigators executive officers who had organised their own protests at the same venue several years ago.’76

On the 2nd of October, the Foodbowl Modernisation Project Steering Committee (Steering Committee) released its draft report outlining how water will be saved through modernising the ageing irrigation infrastructure and, how the saved water will be shared between the environment, irrigators and Melbourne. The Steering Committee then embarked upon a public consultation process to inform irrigators of the recommendations outlined in the draft report. The Cohuna Farmers’ Weekly reported ‘farmers vented anger and frustration at public meetings at Kerang and Pyramid Hill [held] last week to hear details of the committee’s draft report.’77 According to local reporters, ‘irrigators … were concerned that the project was being forced on them without giving them the opportunity to respond and offer their own

opinion.”\textsuperscript{78} The timeframe for responding to the draft report was limited to three weeks which did little to appease the concerns of irrigators that the Steering Committee had already made up its mind concerning the recommendations to be included in the final report.

Shortly after the Steering Committee began its public consultation process an internal committee document produced by the Department of Sustainability and Environment outlining the potential need for Melbourne Water to enter the water market during times of low water availability was leaked to the public. The leaked document served to create further distrust of the Steering Committee by irrigators opposed to the construction of the north-south pipeline. As Pattison, a prominent Plug the Pipe member put it, ‘it is clear from these papers that the Foodbowl Modernisation Steering Committee has been less than up-front with the community.’\textsuperscript{79} Pattison was also highly critical of the timing of the draft report’s release which coincided with one of the busiest times of the year for the farming community.

According to Pattison, ‘people are cutting hay, trying to source water and have [been given] little more than a fortnight to respond to a document that canvasses a wide range of issues.’\textsuperscript{80} Pattison’s view was also expressed by the Greater Shepparton City Council. The Council’s Business Manager acknowledged ‘… there was only a limited amount of time allowed for consultation on the draft paper.’\textsuperscript{81}

This point was again raised in a joint submission developed for the Gannawarra, Loddon, Campaspe, Moira and Greater Shepparton City Councils. In their submission, the Councils ‘expressed concern about the tight timeframe given to the Steering Committee to adequately

\textsuperscript{78} \textit{Ibid.}

\textsuperscript{79} Ken Pattison quoted by Scott Bourne in ‘Pipe deceit claim’ in \textit{Northern Times}, 19 October 2007.


develop an in-depth … report, the lack of consultation time for the GMID community to respond to the Steering Committee’s consultation report, and the lack of time given to the Steering Committee to adequately consider public submissions.’ As these councils saw it, ‘the Steering Committee has only had time to produce a high-level “visionary” document that lacks the detail many irrigators desire to enable their concerns to be answered.’82 In their joint submission the above mentioned shires went as far as stating they ‘do not support water being transferred to Melbourne via the Sugarloaf [north-south] pipeline.’83 With local government expressing strong reservations about water leaving the Goulburn Valley the Victorian Treasurer informed local councils during his address at the Municipal Association of Victoria annual general meeting that ‘there will be no infrastructure upgrade without the pipeline … It’s basically all or nothing.’ As the Victorian Treasurer went on to explain it ‘we must govern for the whole State, and I want to make it clear that the Victorian Government would not authorise a $600 million payment to the Food Bowl project, without the pipeline and shared benefits.’84

According to the Victorian National Party, the actions of the Victorian Government were nothing more than a blatant attempt by the city to grab water from irrigators. The north-south pipeline is ‘nothing more than a giant garden hose to water the lawns of Melbournians at the expense of future economic growth for the Goulburn Valley community.’85 According to one individual, ‘any “new water” should stay in the valleys to help irrigators survive.’86

83 Ibid.
Chapter 11

Conclusion
Despite all the protesting, the north-south pipeline was constructed and commenced pumping on the 10th of February 2010 when the Victorian Premier and Minister for Water officially turned it on. By the time the pipeline was operational, relationships between all groups involved degenerated to such an extent the Minister for Water would come to describe country Victorians, particularly, the most vocal opponents of the north-south pipeline those individuals associated with the Plug the Pipe lobby, as being a ‘sorry bunch of people’ and ‘quasi-terrorists’. The Plug the Pipe lobby would be later described by the Australian as an ‘ultra-militant protest group’ willing to adopt militant ‘French-style farmer protest tactics’ after threatening to invade the Victorian premier’s farm in north central Victoria. In a short space of time, NVI would be accused of committing the very sins which it believed the VFF had made. The leadership of NVI was seen as having lost its way when it supported the Victorian Government endorsed north-south pipeline. This would result in the Plug the Pipe lobby making two unsuccessful attempts, amidst allegations of undemocratic practices, to take

over NVI during its annual general meeting in December 2007 and January 2009.\textsuperscript{90} The declining level of trust between the Victorian Government, Melbourne Water and, landholders along the route of the north-south pipeline, would see ‘a key north-south pipeline critic ... spied on, filmed, photographed and tailed while driving.’\textsuperscript{91} Water reform has become an intense “lightening rod” giving rise to strong emotions. The remaining chapters of this thesis offer an explanation of the issues underlying the strong emotions that have arisen over rural water policy in Victoria.


Rural discontent:
The declining cultural, social and economic foundation of the family farm

The farmers here, as everywhere else, complain most bitterly; but they hang on, like sailors to the masts or hull of a wreck.¹

Introduction
In Australia’s short history, the man on the land had occupied an important place in the nation’s economic and cultural development. Since man first went onto the land, the small family farm operation has remained foundation block of rural society in Australia. However, the viability of the small family farm has come under increasing pressure as a result of the long term compression in the terms of trade for agriculture. According to Barr, ‘the terms of trade pressures will ensure the number of farms will continue to decline.’ As Barr sees it ‘there are some obvious consequences that flow from this. The culture of farming will have less and less influence upon the creation of Australian social values [and] the political influence of the farm lobby will decline.’² This chapter argues the core issue that is central to understanding the political tension over water reform highlighted in the previous 4 chapters is a growing resentment over the declining influence of the small family farm model within government policy formulation.

From the family farm to an ideology of agribusiness
One of the important cultural foundations of rural society has been the family farm. Rural people see the family farm as the tangible expression of rugged independence where through hard work and self-reliance people can shape their own destiny. To McGauran, the Federal Minister for Agriculture in the Howard Government, farming and the family farm is not ‘a lifestyle, but a way of life. It’s something in your blood and under your fingernails.’³ In

³ Peter McGauran, ‘Rural commitment “empty and hollow”: MIS just a tax dodge’, Weekly Times,
Victoria, ‘the yeoman farming ideology was the basis for the development … of most of the irrigation settlements across northern Victoria.’⁴ According to Barr, ‘this ideology epitomised the belief in the moral desirability of farming as a livelihood, lifestyle and a life choice, and the desirability of small farms.’⁵

During the closing decades of the 20th century, there has been a decline in the salience of the yeoman farmer ideology and the rise of the farm business ideology.⁶ This has coincided with the rise to dominance of the neoclassical economic paradigm within public policy circles. In accordance with this ideology, argue Halpin and Guilfoyle, ‘farmers have been encouraged, sometimes quite forcefully, to conceptualise the farm as a business.’⁷ As Barr sees it, the push to adopt the farm business ideology has been happening for quite a while but is now accelerating and becoming more intense.⁸

The imposition of the model of business rationality by governments onto the nation’s agricultural sector has been informed by a staunch belief within public policy circles that, the solution to the many challenges confronting the viability of agriculture can be overcome through improving the business acumen of farmers. Lawrence argues such a view embodies an assumption that the solution to improving agricultural viability simply requires greater

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⁵ Ibid.
⁶ Ibid.
⁸ Barr, op.cit.
individual action, and that, the ‘farmer must become more efficient [and] productive or leave the industry.’

The starting point of the model of business rationality is that farmers are inherently inefficient and need to become more efficient. The way to become more efficient is to improve productivity through investing in new farm technology. Adopting new farm technology will increase on-farm productivity and the competitiveness of farmers. The non-competitive, inefficient farmers who are unable to make the necessary investments required to improve their productivity will be pushed out of the market. To policy analysts, creating competitive markets is a more efficient means for driving the structural reforms which governments’ are unable to pursue themselves for political reasons. In terms of the irrigation sector all that is required is for government to create the necessary institutional settings which complement the natural efficiency inherent in a water market.

Increasingly the small family farmer is finding they are required to compete in a policy environment that has created a less than level playing field between the family farm unit and the much larger managed investment agribusiness schemes. Originally, the managed investment agribusiness schemes were created as a viable means for establishing large scale forestry plantations in the rainfall dependent areas of the state. The model has since been applied to the large scale horticultural projects being developed within the Sunraysia region of the Murray River. The rise of managed investment agribusiness schemes is a highly contentious issue for the traditional farmer. Small family farm operators believe the tax status granted to the managed investment agribusiness schemes is providing them with an unfair

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10 National Farmers Union (Canada), *The Farm Crisis, Bigger Farms, and the Myths of “Competition” and “Efficiency”*, Saskatoon, Sask, November 2003, pp5-6.
advantage in land and water markets. The investment decisions of the larger agribusiness schemes are seen as being driven by tax incentives rather than being market driven. That is to say, they are being funded by individuals who are removed from agriculture wishing to minimise the amount of tax they pay. To ABC journalist Mark Colvin: ‘such investments [schemes] have become increasingly popular for high-income professionals who can plough in tens of thousands of dollars and get 100 per cent tax deduction up front.’ According to Murphy ‘the tax treatment available to members of a MIS has facilitated accelerated investment in large scale horticultural enterprises.’ Murphy believes ‘this increased investment is putting pressure on traditional sole trader and partnership based farmers that compete with the MIS for resources.’

The tax incentives available from the federal government create an environment which results in a misallocation of capital into the managed investment agribusiness schemes. As Belcher sees it ‘the industries who employ MIS ... become subsidized giants capable of out-competing alternative industries constrained by market and capital reality.’ A correspondent to the Weekly Times believes managed investments agribusiness schemes should ‘pay for their land and capital input with “after tax income” like everyone else.’ To the traditional family farmer, the new “cashed up” managed investment scheme form of farming is “immoral” and they are owned and operated by individuals who are “selfish” and “arrogant.”

13 See Mike Stephens –Director of Agribusiness Consultancy Mike Stephens and Associates, ‘Schemes are a big MIS-take’, Weekly Times, 29 March 2006.
16 See D. Silkmore and O. Guerrera’s ‘Beneath the dry blue skies, growers fear the worst, accusing governments,
very values and behaviours antitypical of those embedded in the agrarian myth of the small family farmer.

At the core of the agrarian myth is the notion of the existence of a natural harmony between the small family farm and stewardship of the nation’s natural resources. The man on the land works in natural harmony with nature. It was the small family farmer who cared for the land whilst transforming its resources for the betterment of society. The actions of the larger managed investment schemes are seen as exploitative and harmful to the natural environment. Stories of the Murray River running backwards when the larger investment schemes switch on their irrigation pumps are quite commonly found in the communities opposed to the managed investment agribusiness model of farming.

The behaviour of the owners and managers of the larger schemes are perceived as failing to embody the natural morality and ethical standards of the small family farmer reflected in the behaviour of irrigators in the Wimmera. With water supply in the Wimmera system sitting at nine percent of its total capacity irrigators voted against using the 1,800 megalitre allocation granted to them as one individual explained it because: ‘we think it is morally wrong to use water (for irrigation) under these circumstances.’

The tax arrangements which give rise to the creation of managed investment agribusiness schemes threaten the perceived natural morality embodied in the small family farm. They are seen as striking ‘at the very heart of the capacity of the traditional family farm to compete fairly for resources against other businesses.’ The unfair competition is seen as destroying

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18 Allan Burgess– President, Australian Dairy Farmers, ‘Family farms hurt by schemes’, *Weekly Times*.
the much cherished way of life. To one individual, the tax advantage available to the larger managed investment agribusinesses is resulting in ‘huge tracts of farming land [being] brought up by obscenely wealthy individuals – squeezing out family farms.’\textsuperscript{19} Another individual believes the unfair advantage provided to the larger agribusiness schemes is responsible for the loss of large volumes of water from the Goulburn-Murray irrigation areas upstream of the Sunraysia.\textsuperscript{20}

\begin{figure}
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\includegraphics[width=0.5\textwidth]{image.png}
\caption{Source: Weekly Times, 18 August 2004.}
\end{figure}

The Victorian Treasurer, however, is supportive of the managed investment agribusiness model because it is driving ‘significant economic development in regional Victoria [and] they have introduced leading-edge water efficient technologies that have improved productivity and efficiency.’\textsuperscript{21} It can also be argued that the Victorian Treasurer favours such schemes because they are privately owned, finance by private capital and, privately operated which shifts the risk away from government onto the private investor. The managed investment

\begin{footnotesize}
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\item \textsuperscript{19} Rokebrand, \textit{op.cit.}
\end{enumerate}
\end{footnotesize}
agribusiness scheme model however does have supporters amongst certain sections of rural communities. There are individuals who support them because they are seen as providing employment opportunities within their local community and offer a solution to farmers facing financial hardship.

As a correspondent to the Weekly Times explains it, ‘many of the people who sell to these companies have found hardship and nobody else would offer them the easy way out of their situations … [don’t] they realise that these companies employ the [previous] owners of these farms and their families to help develop and manage these investments, as well as supporting local businesses.’

\[\text{Source: Weekly Times, 18 June 2008.}\]

Such schemes may offer an easy way out for some farmers and provide them with employment. But, it comes at a cost of their independence and a loss of their cultural status as individuals who are masters of their own domain. They have become reduced to the status of an itinerant worker of the land they once owned. In deed, much of the work undertaken on

\[\text{22 Natalie Hancock, ‘Schemes keep towns afloat’, Weekly Times, 7 March 2007.}\]
the managed investment agribusiness schemes are done by a growing pool of itinerant workers who are seen as having no connection to the community. They come and go without participating in the social institutions of the community.

After strong lobbying from various farm representative organisations the Howard Government announced in December 2006 that it ‘will consider the issue of taxation arrangements for non-forestry agribusiness MIS in the New Year.’\(^{23}\) By February 2007, the Minister for Revenue and Assistant Treasurer in the Howard Government, Peter Dutton, indicated ‘the Government had decided it is not disposed to introduce a similar taxation arrangement for investments in non-forestry agribusiness MIS.’ As Dutton saw it, ‘the effect of the likely change in interpretation by the ATO will be to place investments in non-forestry agribusiness MIS on the same footing as other “passive” investments in agriculture.’\(^{24}\) The draft ruling made by the taxation office was challenged in the Federal Court\(^{25}\) which ruled that investors in registered managed investment agribusiness schemes were eligible to claim up front tax deductions.\(^{26}\) The National Farmers Federation’s vice president responded to the decision arguing ‘the Federal Court’s ruling has no bearing on the real issue, which is the MIS mechanism often does not promote sound investment decisions in regional Australia.’\(^{27}\)

\(^{23}\) Peter Dutton & Eric Abetz, ‘Review of the taxation of plantation forestry’. Joint media release from Minister for Revenue and Assistant Treasurer and Minister for Fisheries, Forestry and Conservation, 21 December 2006.


We give, give, give that’s all we do!
Increasingly, the small scale landholder is feeling disempowered. There is now a growing sense amongst these landholders that government policy ideals are not producing “equality of sacrifice”. More and more, the ideals upon which government policy is based is being viewed by individuals and rural communities as contributing to, rather than, alleviating their problems. As one individual sees it, ‘water policies have destroyed the irrigation areas, a monopoly and commensurately outrageous prices are condoned in the fertiliser industry, and imports are undercutting returns to those fortunate enough to be producing anything, as drought continues in southern areas.’ This individual questions ‘for how long are we going to accept the idealistic stupidity of our farm representatives and their belief that by taking a stance of assistance-free, sink-or-swim policy for Australian farmers, the world will see the merits and follow suit?’

Indefinitely, suggests another correspondent to the *Weekly Times* who believes ‘governments don’t care if our farmers have to compete against heavily subsidised overseas competitors.’

The promises made by government of the benefits to be gained from implementing its microeconomic reform agenda have not lived up to expectation. Irrigators view the reforms as being detrimental to their ongoing viability. The application of full cost recovery water pricing under the National Competition Policy reform framework across the rural water sector has given rise to sense of injustice amongst irrigators. Full cost recovery pricing requires irrigators to cover the total costs associated with maintaining the reservoirs and water supply system. This includes the costs associated with delivering such broader public benefit

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outcomes as the public’s use of ‘waterways, lakes, and storages for water sports, fishing, boating and other recreational activities.’ With the Bracks Government passing legislation to ‘keep Victorian water in safe hands – in public hands – forever’ the irrigation community believe such costs should be borne by the government.

According to Goulburn-Murray Water ‘the costs of providing access for recreation are increasing rapidly ….’ They will continue to increase because government policy does not set out a clearly defined process whereby the storage operator – that is Goulburn Murray Water – can charge the broader public for the use of such storages, waterways and lakes for recreation. Irrigators are particularly aggrieved that they will be required to pay for environmental outcomes demanded by broader society. During the Victorian Government’s water reform consultation process in 2003, the Shepparton Water Services Committee indicated they ‘… are not prepared to heavily subsidise the costs of environmental initiatives that benefit the greater community and all of Victoria.’ To irrigators, being required to pay for broader public benefit outcomes is only adding to the pricing pressures they are facing in terms of just maintaining the system. In February 2010, however, irrigators in northern Victoria were informed by Weekly Times reporter, Peter Hunt, that they will be bearing the brunt of the costs associated with storing of environmental water in irrigation reservoirs and

the cost incurred with supplying environmental water required to meet broader environmental objectives.\(^{36}\)

The VFF had previously argued unsuccessfully that ‘if additional environmental reserves are to be stored in existing irrigation storages the appropriate contribution to be made by the Government to the cost of managing and maintaining the storage must be addressed.’ To the VFF, ‘it is unreasonable to expect these costs to be met by existing water users.’\(^{37}\) A similar argument was advanced by Goulburn-Murray Water’s Murray Valley Irrigation Water Services Committee which argued that: ‘it would be inherently unfair to expect present day irrigators to pay for restoration of the environmental damage incurred whilst undertaking government and community supported activities that provide most of the agricultural wealth of the state.’\(^{38}\) Being a statutory body acts as a constraint on Goulburn Murray Water’s ability to lobby government on behalf of irrigators. However, Goulburn Murray Water acknowledged publicly that it does see merit in having the costs incurred with providing recreational amenities to the broader community being covered out of the revenue government raises from the four per cent rate of return charged for bulk water supplied to urban water authorities.\(^{39}\) This would help to alleviate pricing pressure on irrigators.

The VFF argued pricing pressures on irrigators could be reduced if the Victorian Government redirected some of the funds it received under the Council of Australian Government tranche payments agreement for reforming the state’s rural water sector. According to the VFF,


‘Victoria’s rural water sector has undertaken significant reform over the past 10 years. As a result Victoria has received financial benefits in the form of federal government tranche payments.’ The VFF believed ‘little, if any, of this money has been passed directly onto the rural water industry or its customers to assist them to adjust to the reform process.’ Rather than being used to alleviate the pain felt by irrigators ‘tranche payments that have been made to the state government have generally been “lost” in the Victorian Treasury.’ In the future, ‘the Federation would like to see a proportion of these funds earmarked to offset the adjustment costs incurred by the sectors and communities who, at times, have experienced considerable pain in complying with the CoAG rural water reform agenda.’

The VFF’s position did receive support from the conservative Howard-Anderson Coalition Government which argued the states have a “moral responsibility” to use the funds received from the tranche payments to assist irrigators when their rights are eroded as a result of the reforms applied across the rural water sector. The coalition’s position, however, should be seen as taking the opportunity to attack the states at a time when the states were struggling against an irrigator backlash over the uncertainty concerning the over allocation of water rights and the emerging policy debate about creating property rights in water. The coalition’s argument centring on moral grounds was a reflection of the fact that it had no legal authority to require the states to spend the funds in a particular way. As indicated by the acting Executive Director of the National Competition Council at a commonwealth parliamentary inquiry that ‘there is nothing [in the National Competition Policy Agreements] that say competition payments need to be spent by the states in any particular way.’

40 Correspondence from Victorian Farmers Federation’s General Manager, Policy, Clay Manners to Ed Willet, Executive Director, National Competition Council, Melbourne, 3 April 2002.


42 Deborah Cope, Transcript of Evidence Presented to the Committee’s Inquiry into Future Water Supplies for Australia’s Rural Industries and Communities, House of Representatives Standing Committee on Agriculture,
struggle around the issue of full cost recovery water pricing and, the reluctance of the Victorian Government to ensure transparency between the actual cost to irrigators and the costs they are being required to incur to deliver broader public benefit outcomes, mirrors the growing discontent around the impacts which the water market is having on the stability of the small family farm unit.

The fable of the water market
For policy makers, the water market is a place where decisions reached between rational individuals’ results in the efficient use of scarce resources. Through the policy paradigm all the water market does is enable change to occur and simply provides individual water users with greater freedom of choice and flexibility in how they manage their farm business. According to policy makers, individuals participate in the water market as willing sellers and willing buyers. The discourse of the willing seller is being employed to divorce governments from the consequences of the water market they created. Implicitly, the willing seller is construed as an individual who has entered into a transaction in the water market free from any form of coercion. Arguably, this means the individuals involved have a real choice amongst a variety of alternative options than simply being required to sell their water entitlement in the water market.

Since early 2000, the viability of the small scale irrigation farm has come under increasing pressure from a run of drought years which have resulted in low water allocations for irrigators. The impact of low water allocations has been further compounded by increasing fodder costs and declining returns which have resulted in many irrigators carrying significant levels of debt. With debt levels increasing, the volume of water being permanently traded in the water market has escalated. As stated by Goulburn Murray Water ‘the current demand for
permanent transfer of water entitlements is extremely high.43 In 2004, a conservative
member of the Upper House in the Victorian Parliament began questioning the validity of the
assumption that the rise the volume of water being permanently traded is a reflection of the
rational behaviour of the much theorised “willing seller”. The Upper House member, Bill
Baxter, informed his parliamentary colleagues that ‘there is some concern with permanent
water trading.’ To Baxter, the downside of trading water permanently from an area is that ‘it
is leading to a bit of a patchwork [of dry and irrigated farms] around the Katandra area in
particular where some people are selling their water permanently and resorting to dryland
farms.’ As Baxter saw it ‘that ought to be their right, I acknowledge that, but I am not sure
they are doing it as willing sellers.’

The above pictures on the left are of land which is still irrigated. The pictures on the right are of land where the
water entitlement has been sold off. The growth of weeds on the top right and the poor state of the land on the
bottom right pictures is an overt sign of the cultural decline of rural society. Photos: Barry Hancock.

Baxter’s understanding of the underlying reason for the rise in permanent water trades is that irrigators were being put under pressure by their financial institution. According to Baxter, ‘sometimes the banks have a bit of influence on this [permanent water trading]. Instead of saying, “we are not advancing you any more money. You will have to sell the farm”, they are now taking the easy way out by saying, “sell the water and repay the debt”.’

Rural financial counsellors have also previously indicated that farmers have been encouraged by their financial institution to ‘sell off their water entitlement to improve their position with the bank they deal with.’ With increasing debt levels and the banking sector tightening lending practices some farmers are finding themselves with very few options available to them to remain on the farm. The Age reporter Guerrera believes ‘drought-stricken farmers are selling their water entitlements for enough cash to survive this season and perhaps the next.’

As one irrigator has explained it ‘you sell water not to clear debts but to survive.’ Finding themselves under considerable financial pressure, irrigators have begun turning to the water market to permanently sell their water entitlements. However, it remains questionable that

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45 B. Williams, ‘“Sell water” pressure’, Northern Times, 9 September 2003.

46 O. Guerrera, ‘Farmers selling the future to pay for the present’, The Age, 26 December 2006.

47 Campbell quoted by M. Murphy in ‘Farmers fight tears over water plight’, The Age, 8 November 2006.
they are doing so as a welling seller. As *Weekly Times* reporter Peter Hunt wrote:

‘DESPERATE northern Victorian irrigators are being forced to sell their water rights in the face of a 40 per cent slump in milk and wine grape prices.’ According to Hunt, ‘Brokers and irrigation industry leaders say they have been inundated with calls from irrigators under pressure from banks to sell water entitlements to cut debt.’

Permanently selling one’s water entitlement may improve their financial situation with the bank. However, it does little for the long term financial viability of the farm. It does little to address the growing concern about the social and economic consequences associated with the increasing loss of water from irrigator dependent rural communities. Nor, does it shed light on the often deeply painful process an individual experiences when working through the decision concerning whether or not they will permanently sell their water entitlement. As highlighted during a discussion with a rural financial councillor that an individual often experiences feelings of guilt after they have permanently sold their water entitlement. Such guilt feelings reflect a deep sense of remorse at having participated in the erosion of trusting interpersonal relationships and the formal and informal networks that have sustained distinct rural social solidarities for generations.

To Brooke’s, such feelings of guilt is a reflection of an individual’s acceptance of the responsibility for ‘a breakdown in the relationship(s) between a person, or people’ which generally arises within ‘an interpersonal context of shared values.’ It can also be argued that feelings of guilt relating to the permanent sale of water entitlements reflects a deeper sense of failure relating to unattained aspirations and personal goals the individual may hold in relation to their family and their farm. This point is illustrated by French who states: ‘her 19-year-old

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son had wanted to be a farmer, but the zero water allocation and rising hay and grain costs had meant they had recently decided to sell off their water.’ To this individual, the sale of water meant ‘that’s our son’s future gone.’ For many farmers, the family farm is a reflection of their personal prosperity and the embodiment of their intergenerational aspirations. The intergenerational transfer of the family farm is also a symbolic reflection of man’s much deeper underlying search for immortality which Plato hypothesises is something that all men desire.

**Conclusion**

Within the farming community there is a deep sense of abandonment and growing resentment over the sacrifices which they are being required to make for the broader public good. The current policy paradigm is giving rise to a belief amongst the farming community that ‘governments just don’t want farmers.’ Or if they do they don’t want the small family farmer. Such a view is a reflection of a growing belief that government is “doing this to them” rather than seeking to support and protect the small family farm from uneven competition in the market. It is giving rise to a powerful sense of grievance particularly where it is believed the pain felt by individuals is a direct consequence of government action or inaction. Increasingly, farmers are feeling angry. According to Sutton, it is an ‘anger at not having their farms that were brought as viable units with their money. Anger at having their farm’s value destroyed by social engineering by government bureaucrats that receive paid salaries for outcomes achieved.’

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52 Comment made by disgruntled irrigator at the Katamatite United Dairyfarmers District Council No. 3 branch meeting held on the 24th of March 2004 in the Katamatite Hotel commencing at 7.30pm.

53 Personal correspondence received from Mr. Kevin Sutton of Stanhope, Northern Victoria, 3 August 2005.
Market externalities:
The erosion of trust in government

For self-determination to work, people must want to be self-determining, must believe they can be, and must find it rewarding. It helps if society values their efforts.¹

Introduction
Over decades much has been written about Australia’s national character. ‘Most writers’, argues Ward, ‘seem to have felt strongly that the “Australian spirit” is somehow intimately connected with the bush and that it derives from the common folk rather than from the more respectable and cultivated sections of society.’² The qualities attributed to the man on the land, however, have often been criticised as romanticised myths that were fashioned by an urban intelligentsia of writers and artists during much of the 19th century.³ Whether these qualities are factual or mythical they provide members of a particular group with a sense of belonging and a sense of importance within society. They also serve to provide a sense that there is a larger meaning to their work. The importance and, indeed, understanding of agrarian values in highly urbanised Australian society has now declined.

The shifting foundations of rural society
The economic efficiency and intergenerational stability of the family farm has come under increasing pressure from the integration of commodity production into national and globalised markets which has encouraged a shift towards, large capital-intensive agribusiness. The increasing dominance of the agribusiness sector over production inputs, processing, marketing and retailing of agricultural goods is contributing to the erosion of the symbolic “freedom”

personified in the family farm. The emergence of contract farming, where large agribusinesses retain “proprietary” rights in plant species, creates a situation whereby the farmer’s control over the growing, cultivation, packaging and marketing, is tightly controlled terms and conditions set down in the contract. Breaches of such terms and conditions give rise to legal action.\textsuperscript{4} The traditional image of the self-reliant farmer who “works” their own farm and is the master of their own destiny is being eroded.

The transformation of the economic foundations of rural society is also eroding the normative foundations that had sustained life on the land. Despite the image of the self reliant farmer, for the most part, life on the land required the existence of close knit formal and informal networks and trusting interpersonal relationships.\textsuperscript{5} Gray and Phillips argue ‘farming communities have specific cultural traits in the form of moral codes which impact on their social and economic characteristics.’ They embody ‘moral obligations to families and neighbours and informal systems of exchange [which] are common in many farming communities and can be vital to farm survival.’\textsuperscript{6} At the core of such moral obligations is an expectation that the actions of others should reflect the values and behaviours necessary for sustaining life on the land. To the family farm community there is a growing gap between the very rules by which they abide and those which they see displayed by government.

Increasingly, the actions of government and its bureaucratic departments—particularly the Department of Sustainability and Environment—are seen as an affront to the ideals of fair play and decency cherished by rural people. As one disgruntled individual has expressed this


affront ‘I’ve been fair all along and expect the same from government and their departments.”

The divisive and arrogant behaviour displayed by the Brumby Government over its major water projects is seen as ‘creating a culture of hate in the bush.” The premier calling individuals belonging to the Plug the Pipe group who publicly questioned the volume of water savings to be acquired through the Food Bowl Modernisation Project lairs has done little to quell the growing anger within rural people over their treatment.

To one individual, ‘the arrogant comment by Premier John Brumby that Victorians opposed to the Yea to Sugarloaf pipeline are liars is offensive and inaccurate.” Another individual wrote, ‘I travelled to Melbourne from Mildura in support of the protests against building the north-south pipeline and I’m highly insulted to be called a liar by Premier Brumby.” ‘What

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7 Comment made by individual landholder at a Victorian Farmers Federation Branch meeting organised in Bairnsdale to discuss the impacts on landholder resulting from the Victorian Government imposition of a moratorium on the issuing of groundwater licences to extract groundwater from an groundwater aquifer between Sale and Bairnsdale. Meeting held at Bairnsdale RSL Club, 23 March 2004 at 7.30pm.


right’, questions the Member for Swan Hill, ‘does the government have to think it is above the law of common decency?’

Similar themes of discontent concerning the treatment of country people by the Victorian Government have arisen as a result of the decision to decommission Lake Mokoan, near Benalla. As David Cook, a Justice for the Broken Valley committee member explains it, ‘the group [is] angered over what it perceives to be a string of promises which the Victorian Government has broken’ in relation to the decommissioning of Lake Mokoan.


In November 2002, the then Minister for Environment and Conservation wrote to the then VFF President, Peter Walsh, stating that ‘in commissioning the Lake Mokoan study the government has made a clear commitment that there will be no adverse impact on the security of irrigators’ existing water entitlements. Your federation has sought assurance that there will be no reduction in the security of water supply, and I am happy to repeat that assurance.’


This promise would later be broken with the irrigator’s reliability of water supply being reduced below what they had traditionally enjoyed.

According to Cook, ‘recent suggestions the government did not have to keep promises made by a water minister six years ago was “typical of the way the Bracks Government and their lackeys” were treating country Victoria.’13 Distrust of government also increased as a result of the sacking of irrigator advisory group by Goulburn-Murray Water.14 This escalating suspicion and hostility surfacing within rural communities is being driven by what they see as their increasing marginalisation and their contemptuous treatment at the hand of government and its departments. At the core of this suspicion and hostility is a growing disconnect between the aspirations of the small family farmer and policy aspirations of government. This disconnect is symbolic of the cleavage which has emerged between rural and urban society.

A growing divide
According to Buckland, ‘farmers and farm communities are vitally important to global society and economy.’ Yet, Buckland argues ‘farmers the world over are facing pressures that are eroding their livelihoods and their capacity to provide … goods and services.’15 As Buckland sees it, the erosion of farmers’ livelihoods is resulting in increasing levels of rural poverty, excessive rural to urban migration and dramatic farm community decline.16 The decline in the cultural importance of farming within Australian society is also threatening farmers’ self perception and their sense of purpose. For generations, farmers have perceived themselves as fine, hard working, decent people, who not only look after the land, but in doing so provided

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16 Ibid.
the nation with a reliable supply of cheap, high quality food. In fact, throughout much of the 20th century, a common perception was that Australia ‘rode to prosperity on the sheep’s back for generations.’

This perception is, however, no longer by many urbanised Australians. ‘Unfortunately’, writes a country individual, ‘most urban Australians see agriculture as a blight on the pristine landscape and only a quaint cultural adornment for the nation.’ The decline of the cultural importance of farming has occurred as a result of the loss of a much stronger connection that had previously existed between rural and urban society. According to the previously quoted country individual, ‘once just about everyone in the city had a “country cousin” and went to the country for school holidays where they got some taste for the realities of life in the country, but not anymore.’ At the time of federation, ‘61% of Australians lived in the bush on farms, in towns and in some regional cities.’ By 2007, this figure had declined to ‘less that 17% and it is forecast to decline further.’

This loss of connection is believed to be at the core of ‘the tragic divide in this state (and nation) which has arisen between city and country few city people nowadays have any connection with rural Australia, and thus have no understanding of the huge problems faced

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20 Ibid.

by rural communities, especially the lack of water.’22 For some city individuals the plight faced by the man on the land is a direct consequence of their own making. According one “city slicker”, ‘many farmers use water irresponsibly; they use methods passed down through generations of poor management. Many should not even be allowed to own land as they do not have the funds or knowledge to improve the fertility of their properties.’23 Similarly, another individual believes ‘farmers are compensated for almost everything they do wrong. Taxation shouldn’t be a never ending cash tin for these people who live off the land and sponge off the taxpayer every time the crop fails or the stock die.’24 To this urban individual they are just ‘typically whining farmers … they want everything but give nothing back.’25

Such views are often met with strong counter claims of the parasitic nature of urban society. As one country individual has put it ‘the chattering masses build up their energy and strength on some of the best food in the world and then get stuck into everything that they believe is wrong with farmers and the way they farm… [Once] they get a little tired they retreat for an organic latte in some leafy coastal suburb, proud of their work.’26 The rise of such an attitude amongst the “chattering masses” of urban people is believed to have been cultivated by the urban media. Urban people wrote one individual ‘are continuously misinformed about rural issues by a media industry that cultivates paranoia and paints honest, hard-working [rural] Australians as environmental terrorists.’27 As one rural individual sees it, the increasing

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22 Geoff of Werribee, *op.cit*, footnote 17.
27 Bushed *op.cit*, footnote 29.
power of the urban vote will see ‘governments want to sacrifice the farming community on the altar of the environment to grab a few votes from the ignorant city slickers in the so-called “great south-east”’. This will see governments ‘target those “marginal” agricultural areas where they will attempt to give the greens the pre-settlement nirvana they so desperately want.’

The changing values within urban society is giving rise to a situation where political parties are competing with one another to prove their green credentials in an endeavour to attract the growing green vote. Saving another river has now replaced the previous practice when political parties went to an election promising to build a new dam at election time. As Watson writes, ‘just as politicians once felt a dam coming on at election time, it seems that in the future they could make just as many ill-considered decisions about increased environmental flows.’

**A loss of happiness**

If we look beneath the overt signs of discontent it becomes clear there are deeper underlying issues driving the grievances of rural water users. In fact there are some similarities between the core issues driving the behaviour of the eighteenth century English Crowd described by E. P. Thompson and those of contemporary rural water users. As Thompson saw it, the behaviour of the English Crowd, whose spasmodic riots were in response to perceived moral injustices of the farmer, miller and baker, drew its legitimacy from a strongly held belief ‘that

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they were defending traditional rights or customs.’ Such legitimacy, believed Thompson, also derived its strength from the fact that the actions of the English Crowd ‘were supported by the wider consensus of the community.’31 Like the English Crowd, present day rural water users believe they are defending their traditional rights and cultural heritage from perceived injustices of the market and government policies. However, unlike the English Crowd, they are doing so on their own without the legitimising support of the wider community.

At the core of rural water users’ response to the perceived injustices is an affront to the violation of Rawls’s notion of justice as the embodiment of fairness. As Rawls sees it ‘fundamental to justice is the concept of fairness which relates to right dealing between persons who are cooperating with or competing against one another, as when one speaks of fair games, fair competition, and fair bargains.’32


Rawls states ‘the duty of fair play stands besides those of fidelity and gratitude as a fundamental moral notion; and like them it implies a constraint on self-interest in particular cases.’

To Rawls ‘the sense of justice helps to maintain schemes of co-operation just as the natural attitudes of friendship and trust do.’ As Zak and Knack argue ‘trust is higher in “fair” societies.’ Establishing appropriate levels of trust ensures the transaction costs associated with business and social interactions will be low.

Increasingly, however, the old traditional values and normative processes which underpinned social relations throughout rural society are giving way under pressure of the new contractual arrangements of market society. The associated structural changes occurring within rural society is resulting in the “old handshake” way of doing business being replaced with a more “contractual” business relationship. People who have always conducted their business on the

33 Ibid, p659.
basis of the old handshake method are finding this challenging. Zak argues that ‘a deal
sealed with a handshake between principals can only occur in a high-trust situation.’ But,
such trusting personal relationships are giving way due to the broader structural adjustment
pressures farmers are facing and resulting in the breaking down of inter-generational farm
transfers and water being traded away from farms and communities, which contribute to the
erosion of the much cherished values of rural society.

As new social relationships emerge modelled on the notion of man as rational utility
maximisers, whole value systems which underpinned the behaviour of the previous
homogeneous rural society are gradually replaced. According to Boldeman, the current
policy paradigm that limits human interaction to the pursuit of individual self interest is
inherently debasing. It has given rise to a radically different ideal of happiness which is
focused on the pursuit of material acquisition in the market place. For many farmers, their
sense happiness and self worth comes from ‘sowing something and watching it grow.’ That is
to say, it signifies ‘creating happiness through endeavour as opposed to buying happiness.’

Schwartz believes that ‘as social relations become commercialised … increasingly, people
feel the need to have things written down in contracts.’ More and more, contractual
interactions have come to replace the role of cultural norms and customs which had
previously governed behaviour. According to Schwartz, such ‘cultural traditions invest

36 Point raised in personal communications with Murray Dairy Drought Response Officer, Department of
Primary Industries Office, Kyabram, 4 September 2007.
38 Lee Boldeman, The Cult of the Market: Economic Fundamentalism and its Discontents, Australian National
39 Personal communication with John McNeil a dairy farmer from northern Victoria over coffee at the
Beechworth bakery, Bendigo, 21 May 2009.
p14.
certain practices with a great deal of moral significance … [and as such] … traditional
morality serves as a kind of preventive medicine, protecting people from themselves.41 But,
as Hirsch sees it ‘the more that is in contracts, the less can be expected without them; the
more you write it down the less is taken -or expected- on trust.’42

With the transition to a more market based view of the economy and of social relations the
level of trust in economic, social and political institutions has declined. For Parry, ‘a feeling
of trust prevents political disputes from turning into severe enmity.’43 To Uslaner ‘a less
trusting society [becomes] a less civil society.’44 This has implications for the neoclassical
economic model of growth. As Zak informs us ‘most economic exchange whether with
strangers or known individuals relies on character values such as honesty, trust, reliability and
fairness.’45 This erosion of trust is one of the casualties in the culture wars occasioned by the
neoclassical revolution in public ethics.

Conclusion
For rural society, the small family farm is the embodiment of higher order ideals which are
now less relevant to shaping the values of broader society. A sense of abandonment has now
emerged within rural society and has given rise to a powerful sense of grievance. At the core
of this grievance is a deep seated anger. It is not just the loss of status within Australian
society, nor is it the corrosion of the social bonds that gave rural communities their cultural

41 Barry Schwartz, ‘Self Determination: The tyranny of freedom’, American Psychologist, Vol.55, No.1, 2000,
p83.
42 Fred Hirsch, Social Limits to Growth, Harvard University Press, United States of America, 1999 [First
published in 1976], p88.
43 Geraint Parry, ‘Trust, distrust and consensus’, British Journal of Political Science, Vol.6, No.2, April 1976,
p129.
44 Eric M. Uslaner, ‘Producing and consuming trust’, Political Science Quarterly, Vol.115, No.4, Winter 2000-
2001, p569.
coherence. The imposition of economic transitions as the model for all social interactions
offends against customary ethical principles, against a deeply ingrained ‘moral economy’. If
public policy is to guide the inevitable adjustment to the global and national imperatives
bearing on rural Australia, governments would be well advised to hear and to heed the deeper
message embedded in rural resentment.
Beneath the surface:
Nature and causes of the politics of rural water allocations in Victoria

It is difficult to re-imagine the moral assumptions of another social configuration. It is not easy for us to conceive that there may have been a time, within a smaller and more integrated community, when it appeared to be “unnatural” that any man should profit from the necessities of others, and when it was assumed that, in times of dearth, prices of “necessities” should remain at a customary level, even though there might be less all round.¹

The overall aim of this thesis is to provide an analysis of the political dynamics arising from the reforms implemented within the rural water sector in Victoria. One may argue the response of irrigators and the rural community to these reforms is an unnecessary reaction to a rational public policy agenda that has the long-term sustainability of finite water resources as its goal. The response of irrigators and the rural community is, in fact, a predictable emotional reaction to the structural shift taking place within rural society which threatens the supremacy of the family farm as the foundation of rural communities. The structural shift that is occurring is a result of historical pressures which are driving change within rural society. The transition taking place is, however, never smooth. It ebbs and flows in response to the vagaries of climatic conditions which make change even more traumatic. How government/s respond to the many challenges facing life on the land and the sustainability of rural communities can also hasten or smooth the process of change. For the most part, the specific focus of this thesis has been on a period of time when long term structural pressures, government policy responses to emerging environmental challenges and climatic conditions

resulting in resource scarcity have combined to hasten the pace of change across the irrigation areas of northern Victoria.

These pressures have created fertile ground for political protest to rise amongst irrigators and rural communities who are experiencing the fall out of what is seen as an inevitable structural change taking place across the rural water sector. Can the politics of rural water allocations be explained as irrigators and rural communities simply wishing to stop change? The politics which has consumed the rural water sector in Victoria embodies a growing resentment concerning the change that is taking place. However, the reaction is not so much about change as such but the “process” and “pace” of change.

For the farming community, change has been a constant. To remain viable, farmers were required to innovate and embrace new technologies, all of which drive the need to embrace further change. The previous changes, however, were moderated by policy interventions designed to bring about an orderly and managed pace of change. If change is a constant, then there must be deeper underlying issues at the core of the politics of rural water allocations in Victoria. One of the main arguments developed throughout this thesis is that at the core of rural water politics is a very real anger over what is being lost as a result of change.

What has been lost is the once privileged position the farm sector and rural communities occupied in the cultural, economic and political fabric of the nation. The prominent role which farmers and rural society occupied in the national consciousness had been on a gradual decline within Australian society from the beginning the 1970s. Now, there is no longer an acceptance of the once universal view that rural Australians are important to the nation’s well
This previously accepted view was fashioned around a firm belief that the nation’s progress was intimately linked to the prosperity of the rural sector. It was also a reflection of the moral recognition which farmers felt they deserved for their profession which fed, clothed and earned export income for the nation. Embedded within this belief remained an implicit notion of the existence of a natural affinity between the farming community’s stewardship of the nation’s natural resources and the advancement of society. This inextricable bond between the farmer and his or her stewardship of the land and water resources is now being challenged by the rise of alternative values within society.

The rise of post materialist values challenges farmers’ view of themselves as people who took care of the nation’s natural resources. After being actively encouraged for generations by governments to “tame the land” the change in policy priorities now imply that the previous actions of the farming community were detrimental to the natural environment.

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The change in the broader political culture has left the current generation of farmers implicitly and, quite often explicitly, feeling that they alone are responsible for the environmental degradation resulting from the collective actions of past generations of farmers. Government policy that aims to achieve a sustainable balance between the exploitation and preservation of the nation’s natural resources is giving rise to the perception that they are being required to carry the whole burden of reform. Inevitably, the shift in public policy ideals to enhance the rights of the environment mean the long established “traditional” rights of the farming community are being restricted in the national interest.

The belief in the existence of traditional rights is a broader reflection of the cherished ideals of freedom and independence found within the farming community. Such ideals served to forge a staunch belief that through hard work and self reliance the man on the land could be truly free and master of his own destiny. The increasing integration of commodity production into national and globalised markets is eroding the economic efficiency and intergenerational sustainability of the family farm. Water markets, as part of this transition, are having profound effects on individual farmers and their communities. They are hastening the pace of change taking place within the irrigation areas of northern Victoria. As water is permanently traded from irrigation areas close knit bonds sustaining formal and informal networks are eroded. The loss of long established interpersonal relationships places further pressure on the rural social solidarities that have sustained life on the land. At the core of the politics of rural water allocations in Victoria is a deep sense of grief about the loss of what once was, and a heightened sense of insecurity about what will be the future of rural society.
The current policy environment, where there is universal application of the neoclassical economic paradigm to almost every element of social interaction, is unlikely to sustain distinctive rural social solidarities which have underpinned life on the land.
WATER PAYMENT RALLY
SHEPPARTON

WHEN: Friday 22nd November, 2002 at 11:30am.

WHERE: Assemble at Victoria Park Lake and walk along Wyndham Street to Eastbank Centre for public meeting.

Are you happy about paying for water that you know you’re not going to get?

A silly question that defies an intelligent answer.

The aim of the rally is to gain a commitment from all candidates standing for the State Election on November 30, 2002 on the following issues:

1. Government to commit funding to pay for water that is undelivered to irrigators.
2. Government to commit funding to upgrade rundown channel infrastructure on the Shepparton and Central Goulburn Irrigation Systems.
3. Government to commit funding for the large water storages improvement program, and;
4. Government to protect the security of farmers’ water rights.

This is an Open Rally and it is in the interest of all people who live and work in the Goulburn Valley to attend.

For further details, contact Rick Cross (Tatura UDV/President)
Ph: 5826-8292
NORTHERN VICTORIAN IRRIGATORS
NEWSLETTER AUGUST 2004

Since the last newsletter, the Murray Valley Irrigators held their
Inaugural Annual General Meeting. It was decided at the meeting to
make the official name NORTHERN VICTORIAN IRRIGATORS
INCORPORATED. This would then enable members from other parts of
Northern Victoria to join.

The new Executive were elected with Dudley Bryant, President; Lewis
Pugh, Vice-President; Jenny Pugh, Secretary; and Danny Bergamin,
Treasurer. The Committee members are Donna Bergamin, Barry Croke,
Gerard Fitzpatrick, Garry Duke, Joe Few, Heather DuVallon, Ian Fox,
Ben McCracken, Peter Hogan, Frank Mannion, Ron Baker, Hank Sanders
and Glen Miles.

Lewis informed the meeting about recent activities including
- Canberra Trip to meet with various politicians along with the
  9-Shire Alliance.
- Meeting with small group of GV irrigators with an aim to have large
  public meeting in Shepparton.
- Meeting with Steve Mills who has pledged his support for the
  group.
- Discussions with irrigators and water users in Upper Catchment,
  Sunraysia and Mokan areas with all areas to be represented at the
  public meeting
- Correspondence from Bill Baxter offering support and assistance.
- Discussions and subsequent article in Weekly Times from Peter
  Hunt.
- ABC Radio National, Sydney have interviewed Dudley and Lewis for
  a documentary on the Murray River to be aired on Wednesday, 1st
  September at 4pm.
- A meeting with Robert Doyle has been scheduled for Friday.
  They have met with representatives from Sunraysia and the Upper
  Catchment. They also met with several groups of Goulburn Valley
  farmers in the last couple of days and are impressed with the level
  of support they have had. The Goulburn Valley farmers have been
  busy spreading the word to their neighbours and we expect a good
  response to the public meeting next Tuesday.
NOT JUST ANOTHER WATER MEETING

In the past we have relied on our industry leaders to make the right decisions on our behalf— they have let us down badly.

At the public meeting in Numurkah, we sent a clear message to the VFF, GM-W and Government that irrigators and their communities were unhappy with the decisions that were being made.

WE NEED TO LET THEM KNOW THAT WE WILL NOT GO AWAY.

The Irrigators and Communities of Northern Victoria will all stand together to let them know that—
- we will not accept (on current policy) the escalating price per megalitre.
- we will not accept losing water with poor compensation;
- we will not accept Water Rights being reviewed.

WE CALL ON THE COMMUNITIES OF NORTHERN VICTORIA TO COME TOGETHER AT A PUBLIC MEETING TO BE HELD AT THE EASTBANK CONFERENCE CENTRE, WELSFD ST, SHEPPARTON ON TUESDAY, 7TH SEPTEMBER, 2004 AT 11AM.

We will be meeting for a "drive-slow" through Shepparton at 10am (Haueslers, Drive-In, Parkers Bros., Mooroopna Trotting Track). Please join in with protest signs on your cars! Let everyone know that we are concerned about our future and our community.

Community members from Sunnysio, Murray Valley, Upper Catchment, Lake Moama Area and the Goulburn Valley will unite as a show of strength.

If you are not already a member of Northern Victorian Irrigators Inc. (formerly Murray Valley Irrigators) then we urge you become a member as soon as possible. We need a large support base if we are to achieve any changes.

NAME

ADDRESS

PHONE

EMAIL

FAX

Please return this slip and enclose a cheque for $10 (payable to NVI) AS SOON AS POSSIBLE to The Secretary, NVI, RMB 2565, NUMURKAH VIC 3636. Email jipugh@uphsnet.com.au.
PIPE OFF POVERTY PIPELINE
North South pipeline

The GMW GID's (Central Goulburn, Pyramid Boort, Rochester, Shepparton, Tormoomba and Murray Valley) have a combined efficiency (that is water used to the water delivered) of 72%. The Melbourne Pipeline Plan (stage one) attempts to decrease the losses, by 9% thereby increasing average efficiencies to 81%. This would create 210 GL of new water to be shared equally between Melbourne, the environment and irrigators.

PRO's

* Infrastructure Investment
* Creates New Water for Melbourne, The Environment and Irrigators if the savings really exist
* Attracts water and investment back into GMW GID

CON's

* Irrigation prices rise.
* Melbourne sets its 75GL of water first.
  In year like 2007, a Melbourne Bulk Entitlement would cause Goulburn customers to receive a 5% lower allocation of water. This has a flow on affect to Murray and Lower Murray customers.
* Water savings don't always exist.
  In 2007 the total GMW irrigation usage was 900GL with losses of 540 GL giving an efficiency of 55%. With normal allocations efficiency is typically 72%. Irrigators will have to supply water savings from their own allocations.
* Limits Economic Potential of irrigated communities. The savings if they exist, will be unavailable for irrigation growth.
* Allows Melbourne to purchase irrigation water with the stroke of a pen at sometime in the future. The proposed 75 GL could possibly become 100 GL. Melbourne's annual water usage is 500GL.
* With carry over Melbourne may be able to accrue 150 GL of water in Eildon Dam. This will affect allocations on both Murray and Goulburn Systems.
* In savings of replacing Duthridge wheels. Testing 12 wheels does not mean 18000 wheels are wrong.

Public Protest
Monday 9th July opposite Murray Valley Resort
Kerang
11 am onwards

Food and drinks available.
Band and speakers.

Contacts
Andrew Leahy 54572368
John Keely 54564263
Guy Duncan 0437 092144
Colin Finnan 54576279
RAURAL SURVIVAL COALITION

A WAKE UP CALL ON THE LIVING MURRAY

JOHN CORBOY
Leading rural activist and Goulburn Valley fruit producer
WHAT DOES IT MEAN TO US

NEALE EAGLE
Leader on water issues and in the citrus industry
A HEALTHY WORKING RIVER IN THE CONTEXT OF "THE LIVING MURRAY"

TREVOR CLARK
Southern Riverina Irrigators District Council Chairman
RAISING THE AWARENESS OF THE PROCESS

MURRAY McDONALD
MAYOR OF THE CAMPASPE SHIRE

CHAIRMAN: DON OBERIN

ROCHESTER SHIRE HALL
MONDAY JULY 7 2003
7:00 PM

For more information contact Anthony Gray on (0354) 841 277,
Don Oberin (0354) 822 033, Brian Gledhill (0356) 596 257, Nell
Repacholi (0358) 590 661 or Tony Hoopell (0354) 841 766
Bibliography

Books


Cobett, W., Rural Rides -Vol.1, Cosimo Books, New York, 2005 [First published in 1832].


De Tocqueville, A., Democracy in America, Henry Reeve’s translation, revised and corrected, 1899 [First published in 1835].


Howitt, W., *Labour, Land and Gold: Or Two Years in Victorian with Visits to Sydney and Van Diemans Land*, Lowden Kilmore, Australia, 1972 [First published in 1855].


Chapters in Books


Green, T. H., ‘Lectures on the principles of political obligation (1885)’ in *Lectures on the Principles of Political Obligations and Other Writings*, Edited by Paul Harris and

Green, T. H., ‘Prolegomena to Ethics: Selections (1884)’ in Lectures on the Principles of Political Obligations and Other Writings, Edited by Paul Harris and John Morrow, Cambridge University Press, Oakleigh, Melbourne 1999 [First published in 1986],


Journal Articles


**Official Government Publications**


Australian Competition and Consumer Commission, *A regime for the calculation and implementation of exit, access and termination fees charged by irrigation water delivery businesses in the southern Murray-Darling Basin*, 6 November 2006.


*Intergovernmental Agreement on a National Water Initiative: Between the Commonwealth of Australia and the Governments of New South Wales, Victoria, Queensland, South Australia, the Australian Capital Territory and the Northern Territory*, 25 June 2004.


*Riding the Waves of Change - A report of the Senate Select Committee on the Socio-Economic Consequences of the National Competition Policy*, Commonwealth of Australia, February 2000.


Bibliography


Rural Water Corporation, *Notes from meeting of the Regional Council Sub-Committee concerning options for future advisory structures*, 15 July 1992, Meeting held at Rural Water Corporation’s Tongala Offices.


*The second report of the working group on water resource policy to the Council of Australian Governments*, February 1995.


*Victorian Year Book -1910-11*.


Legislation

Irrigation Act 1886, 16 December 1886

Water Act 1909, No.2226.

Water Act 1916, No.2852.

Water Act 1928, No.3801.

Water Act 1958, No.6413.

Water (Central Management Restructuring) Act 1984


Victorian Gazette, No.72, 30 July 1958.

Court Cases


Allen Ashworth and State of Victoria, No.CLD 7941, 31 April 2003;


Garter vs. Kidman [1962], High Court of Australia 27.

JC & NC Smith v. Gannawarra Shire Council & Valuer General, Supreme Court of Victoria, Common Law Division, August 2002.


The Supreme Court of Victoria, Common Law Division, Melbourne, 29 October 2002, No. 7941-02 (Writ).

Yanner v. Eaton, 7 October 1999, High Court of Australia

Zee Sweets Pty Ltd v Magnom Orchards Pty Ltd & Ors, [2003] VSC 486 (18 December 2003).

Parliamentary Hansard


Brown, D, J., Attorney General, ‘Closer land settlement Bill’, Victorian Parliamentary Debates Session 1912 (131), (Second Reading Speech), 8 October 1912.


Deakin, A., *Water supply and irrigation. Speech of the Honourable A. Deakin, Chief Secretary of Victoria, In submitting to the Legislative Assembly a Bill to make better provision for the supply of water for irrigation, and also mining, manufacturing and for other purposes*, June 24th, 1886, John Ferres, Government Printer, Melbourne, 1886.


Swinburne, G., Minister for Water Supply, ‘Water acts consolidation and amendment Bill’, *Victorian parliamentary debates session 1904*, (Second Reading Speech), Vol.CVIII.


Theophanous, T, C., ‘Electricity Charges’, *Victorian Legislative Council Hansard*,
7 September 1994.


Parliamentary Inquiry Transcripts


Cope, D., *Transcript of Evidence Presented to the Committee’s Inquiry into Future Water Supplies for Australia’s Rural Industries and Communities*, House of Representatives Standing Committee on Agriculture, Fisheries and Forestry, Public Hearing Melbourne, 8 April 2003.


Levy, S., Member for Farrer, ‘Transcript of evidence presented to the committee’s inquiry into future water supplies for Australia’s rural industries and communities’, *House of Representatives Standing Committee on Agriculture, Fisheries and Forestry*, Public Hearing in Melbourne, 8 April 2003.

Manners, C., General Manager, Policy, Victorian Farmers Federation, House of Representatives Standing Committee on Agriculture, Fisheries and Forestry, *Transcript of Evidence Presented to the Committee’s Inquiry into Future Water Supplies for Australia’s Rural Industries and Communities*, Melbourne, 8 April 2003.


Transcript of evidence presented to the Committee’s inquiry into future water supplies for Australia’s rural industries and communities, Public Hearing in Melbourne, Tuesday, 8 April 2003.


Water Reform Submissions & Briefing Notes


Essential Economics, Submission to the Food Bowl Modernisation Project Steering Committee in respect to the Steering Committee’s “Draft Report for Public Comment, 2 October 2007”.


Bibliography


Conference Papers


Yong, J., ‘China’s water policy and practice’. Key note address at the XIIth World Water Congress, New Delhi, 22 November 2005.

Papers/Reports


Gutterridge Haskins & Davey, ACIL Australia, Ernst & Young, Future management review: Rural Water Commission, Final report to the steering committee members, Stuart McDonald, Peter Bertolus, David Dole, Donald McGauchie and Don Swan, 15 January 1992.


National Farmers Union (Canada), The Farm Crisis, Bigger Farms, and the Myths of “Competition” and “Efficiency”, Saskatoon, Sask, November 2003.


Bibliography


Newspapers and Periodicals


*Bendigo Advertiser*, 2000 - 2010 (Various)

*Border Mail*, 1998 - 2010 (Various).


*Casterston News*, 2000 (Various).

*Cobram Courier*, September 2004 (Various).


*North East Farmer*, July 2004

*Northern Times*, 1991- 2010 (Various).


*Shepparton News*, 2000 - 2010 (Various)

*The Age*, 2002 -2010 (Various).

*SN Weekly*, October 2006 (Various).


*Warracknabeal Herald*, 2000 (Various).

Weekly Times, 2002 -2010 (Various).

Yarrawonga Chronicle, 2001 (Various)

Press Releases –Media Statements

Anderson, J., ‘Crean rips the heart our of country Australia’, Media Release, 16 May 2003.


Arthur, L., Chair of the National Farmers Federation Water Taskforce, ‘Voluntary buyouts ok, but be aware … there is no water’, Press Release, 15 August 2008.


Lush, J., President, South Australian Farmers Federation, ‘Mr. Costello, Mr. Latham, Mr. Howard. It’s time to take more than a shred of notice of National Competition Policy’, *News Release*, 8 September 2004.


NSW Irrigators Council, Cotton Australia & Rice Growers Association, ‘CoAG fails to deliver ...again!’ , Media Release, 6 December 2002.


Ramsay, S., President Victorian Farmers Federation, ‘Farmers bring the numbers in rally to Plug the Pipe’, Media Release, 9 August 2007.


River Murray Weekly Report, (Week ending 21 January 2009), Murray Darling Basin Authority, Canberra.


South Australian Farmers Federation & National Farmers Federation, ‘SAFF/NFF to highlight farmers’ rights during election’, Joint Media Release, 3 October 2001


Stone, S., Member for Murray, ‘Vote not a support for Melbourne Pipeline’, Media Release, 3 July 2007.


Truss, W., ‘States must meet responsibilities to water users’, 3 September 2002.


**Speeches and Statements**


Clayton, J., *Science and Society*, A speech prepared for the April 17\textsuperscript{th}, 1980, convocation of the Northwest Missouri State University as a part of its celebration of the 75\textsuperscript{th} anniversary of the founding of the university.


Hawke, R., *Australian Rural Adjustment Unit Speech by the Prime Minister*, Canberra, 30 October 1984.


Thatcher, M., ‘Extract. Interview for Women’s Own (“no such this as society”’), 23 September 1987.

Truss, W., Commonwealth Minister for Agriculture, Fisheries and Forestry, Official Opening address, Australian Citrus Growers’ 56th Annual Conference, Mildura Settlers, 19 April 2004.


Victorian Farmers Federation, VFF response to comments from Federal Member for Murray, Dr. Sharman Stone, on the Victorian Government’s plan to reduce irrigators’ sales water, June 2004.


Television and Radio Transcripts


‘Call for water trading to stop during Living Murray debate’, *ABC News*, 20 August 2003.


Edited Transcript of ABC interview of Professor Peter Cullen by Ticky Fullerton, 24 June 2003.

‘Farmers to rally over water payment’, *ABC News*, 16 October 2006.


Howard, J., Prime Minister, Transcript of Doorstop Interview, (Subject) Water, Brisbane, 5 November 2002.


Ley, S., Liberal Member for Farrer, ‘Caution urged over Murray River flows’, *ABC New Online*, 16 May 2003.

Mares, P., ‘South Australia heads to the High Court over Victorian water trading restrictions’, *National Interest*, ABC Radio, 4 December 2009.


Sim, M., ‘Northern irrigators take to the streets, again’, *Vic Country Hour Summary*, 8 September 2004.


*Sold down the river*, *Australian Broadcasting Corporation Four Corners*, Transcript, 14 July 2003.


Warne, G., General Manager, Murray Irrigation Limited (NSW), ABC Four Corners transcript of interview with George Warne by Reporter Ticky Fullerton, 21 June 2003, Barham NSW.


Wong, P., Transcript of interview with Mathew Abraham and David Bevan, Mornings, ABC 891 Adelaide, 13 March 2008.

Wong, P., Transcript of interview with Keith Conlon and Tony Pilkington, 5AA Radio, Adelaide, 6 February 2009.


Websites


Australian Conservation Foundation, The Snowy River.


http://history-world.org/Sumer-Akkad.jpg


Supreme Court of New South Wales, Scott v. Dight, 22 March 1839.


Voiceless-The Fund For Animals, Dairy Cows.
Water for Rivers http://www.waterforrivers.org.au


Theses


Pamphlets and Miscellaneous Material

Pamphlet, Motion: Recommended by the Wodonga VFF Pastoral District Council Executive in Response to the Farm Dams Report, 6 February 2001.

Victorian Farmers Federation Meeting Minutes

