

The Formation of the Principality of Hutt River

The Cause

The Casley family had been farming for more than twenty years when, having recently purchased the land that was to become the Principality of Hutt River, in November 1969 they received a Wheat Quota of 1647 bushels for the 18,500 acre property. Under this new Quota it would have taken five hundred years to crop the same average amount of wheat that had been harvested in the previous twenty years.

The gross proceeds would not have even paid the interest on the hire purchase on two four-wheel drive tractors that were in use. This did not allow any return for maintenance of their homes and families, no income on which to survive let alone profit..

Naturally this was considered an intolerable situation in which to be placed. The matter of an appeal to remedy this situation was immediately considered.

It was found that the Western Australian Government had in fact no legislation to judicially validate their action. However there was a Wheat Quota Bill before Parliament being discussed. The bill contained two clauses which were of grave concern:

- 1.No appeals would be allowed against the quotas granted: and:
2. No compensation would be allowed for any losses suffered as a result of quotas.

These clauses strongly clashed with the law stating that "Her Majesty is liable in Tort as a master to a servant" and were considered as an attempt to deny a certain section of the public its rights in law, making it imperative to lodge a strong protest against the wheat quota prior to the bill becoming law, for if this were to be applied against them in the letter of the law, no protest would have been allowed.

A protest was therefore lodged with the Wheat Quota Board, the Premier of Western Australia and the Governor of Western Australia, Sir Douglas Kendrew. No reply was received from the Wheat Quota Board or the Premier of Western Australia. However, the Governor took the matter up, calling for Ministerial advice.

The Governor duly passed down the Ministerial advice that no alteration whatsoever would be allowed to the Casley's Western Australian State Government wheat quota.

The principal in law of "Unjust Enrichment" was now applicable to this situation. It states "If something is unjustly taken, compensation must be made" and Her Majesty's law of Tort now fully applied.

How to effect a reversal of the Governor's decision was a tough question. The necessity to do so was imperative. Therefore it was decided to appeal to Her Majesty

with a call for Independence. This would draw attention to the actual gravity of the situation. Further, a claim under the Unjust Enrichment would add further weight.

The wheat quota ratio was used to calculate the damage. Under this quota it would be necessary to purchase an additional 1,800,000 acres of land to be able to crop wheat to the total acreage that could otherwise have been done without the quota. This additional vast acreage would have cost approximately \$52,000,000.

As the purpose of the Claim was not to obtain money, it was done as a "Territorial Compensation Claim" which was in addition to the appeal for independence. This was duly lodged with the State Governor Sir Douglas Kendrew, who accepted the claim.

The day after the claim was lodged there were Ministerial moves. Two weeks later a bill was introduced into Parliament whereby the Government would have the power to resume any rural lands. The exercising of such power to resume any rural lands by the Western Australian Government upon the Casley families, should the bill have become law, may well have been an easy answer to the claim on the West Australian Government.

By this time they were not only annoyed and gravely concerned, but were also frightened. A family meeting was called to consider the gravity of the situation.

At this meeting a law was discussed which states that if the economy has been taken and a threat to the loss of the lands exists, a self-preservation Government may be formed. It was decided to exercise this entitlement and serve a formal secession notice. This would effect a judicial block against any resumption of their lands under Western Australian administrative law, as the law states that all administrative laws existing cease immediately upon secession and must be re-legislated.

The Secession

So on the twenty-first day of April 1970, formal notice of secession was duly served on the Western Australian State Premier Sir David Brand, the State Governor Sir Douglas Kendrew, the Acting Prime Minister of Australia Mr John McEwen, and the Governor General of Australia, Sir Paul Hasluck.

The formal secession document contained two parts: Firstly the secession and secondly the offering of Sovereignty to Her Majesty. The latter is now by judicial law invested with the Government in occupancy.

The Queen could have accepted under a Royal Prerogative absolute. The Queen did not have to take Ministerial advice. This is one of the very few such prerogatives left to Her Majesty, Queen Elizabeth II.

The Governor of Western Australia immediately convened a meeting between his Secretary and The Administrator of the Hutt River Province Mr Leonard Casley. The matter for discussion was the potential of this small land locked country.

Sir Paul Hasluck wrote asking to do nothing further until they had heard from the Commonwealth of Australia Government. To this they cordially agreed. Subsequently

the Acting Prime Minister of Australia wrote that he could not intervene. A copy of this letter was sent to Sir Paul Hasluck. In reply he wrote that it was unconstitutional for the Commonwealth to intervene in this secession.

The Casleys replied that upon this commitment the law of estoppel was now considered to be in full application. Section 9(1.2.43.) of the Westminster Statute in conjunction with Section 61 of the Western Australian Constitution were relative, as was the Section of the Commonwealth Constitution which allowed the Commonwealth to waive any constitutional powers it may have to allow a problem to be proceeded with. This authority to proceed had in effect been granted by the referenced letter if any constitutional powers were to be argued at a latter stage.

Discussions in correspondence with Sir Paul Hasluck, after being raised by Sir Douglas Kendrew, suggested that the passing of an Imperial Statute and issuance of a confirmatory document were not necessary for the validity of the secession; that in this case validity came from the Entitlement duly exercised.

The Formation

Having seceded from the Commonwealth of Australia and the State of Western Australia required that the people of the Province elect a Government. A Board of four Administrators with Leonard George Casley as the Administrator was duly elected to govern the seceded area which the Board named the HUTT RIVER PROVINCE. Adoption of a Provincial Flag was also a judicial requirement with which the Board duly complied.

Then the British Diplomatic Laws of recognition of a new foreign Government were followed. Firstly it is a Royal Prerogative to recognise a new foreign Government; and secondly in the Principle in Law when it is under consideration to give such recognition it is specified that validity is not the question, and that the right of the Government to speak for the people it represents is to be considered.

The Government of the Hutt River Province was the only Government speaking for the people of its Territories and it had emerged as a self-preservation Government. Two exchanges of correspondence were made with the Governor General's Department with the data as required. Following the second exchange Mr. Leonard Casley was then cordially addressed as the Administrator of the Hutt River Province. The Royal Prerogative states that once this recognition is given it is binding on all Courts.

Laws upon Royal Prerogative state that no court may inquire into the whys and wherefores of any Royal Prerogative exercised. Precedent case listings also rule that if any recognition is given by the person authorised to do the business of the day who should otherwise have obtained some other authority, firstly, having failed to do so does not invalidate his recognition so given. The Limitations Act also states that once any recognition is given to a person entitled then the Statute runs from that fact.

Thus the new Government, the Administration Board of the Hutt River Province was in fact the de jure Government. No further formalising of the Act of Secession was essential.

However, the Act of Secession was not, in a true sense, a unilateral act, for following the submission of the formal secession document an offer was made to Sir Douglas Kendrew to submit to an arbitrator regarding this dispute. This offer was not taken up by the Governor or the Premier of Western Australia.

Not long after the secession there was a change of Australian Prime Minister. Upon taking office, the new Prime Minister let little time elapse before advising the press that he did not recognise the secession or the Government of The Hutt River Province. Faced with this formidable opposition the people of the Province sought an answer within the framework of the British sources of protection.

A meeting of Hutt River Province was duly called to discuss the status of a law which holds that anyone assisting a defacto Prince attain his office cannot be charged with treason. This law goes on further to say that anyone hindering a defacto Prince in the discharge of his Princely duties may be charged with treason. Therefore they adopted the status of a Principality and bestowed the title of Prince upon The Administrator, thereby gaining further protection than they otherwise had.

Thus the Administrator of the Hutt River Province became H.R.H. Prince Leonard George Casley.

The Hutt River Province became the Principality of Hutt River.