



FOR PRESS:

PM. NO. 74/1969

HIGH COURT JUDGMENT ON STAMP DUTY

EXCHANGE OF CORRESPONDENCE BETWEEN PRIME MINISTER

AND SIR HENRY BOLTE

Following are texts of the letters exchanged between the Prime Minister, Mr. John Gorton, and the Premier of Victoria, Sir Henry Bolte, in regard to the High Court judgment on stamp duty: -

28 September, 1969

"The Right Honourable John G. Gorton, M.P.,
Prime Minister of the Commonwealth.

Dear Mr. Gorton,

I write to you on behalf of all the State Premiers, who have met together in Melbourne today to consider the implications of the recent High Court decision in The State of Western Australia v Hamersley Iron Pty. Ltd.

We have had the benefit of a careful consideration of the judgments and their implications by our Solicitors-General and Under Treasurers and their advice to us in the light of that consideration.

This advice confirms our fears that the terms of the judgments are such that, if the decision prevails, the legislation in all States in relation to stamp duty on receipts must be considered to be beyond State legislative power, at least in respect of the receipt of money for the sale of goods. In practical terms this places at immediate risk revenue amounting to some 70 to 75 million dollars in a full year for all States, and this is at a time when all States are already experiencing acute budgetary problems.

The State of Western Australia is making application to the High Court of Australia for a certificate granting leave to appeal to the Privy Council in the Hamersley case. It is expected that this application will be heard in Melbourne on October 7th, 1969, or soon afterwards.

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" The States will all seek to appear on the application to intimate to the High Court that they support Western Australia and that, if a certificate is granted, they will seek leave to intervene in the Privy Council hearing.

On behalf of all the Premiers I now ask that you should, on behalf of your Government, authorise the Solicitor-General for Western Australia to intimate to the High Court that the Commonwealth also supports the application of Western Australia.

We have discussed the matter of subsequent action which may be necessary but it would be premature to raise this with you until the outcome of the application is known. However, the Premiers were gratified to know that you would be prepared to meet them at short notice to discuss the situation.

The immediate problem however is the application to the High Court and I would be glad to have your decision on the request we have put in the previous paragraph as a matter of urgency.

Yours sincerely,

HENRY BOLTE,
Premier and Treasurer. "

29th September, 1969

"Dear Sir Henry,

I refer to your letter of 28th September, written on behalf of all the State Premiers, about the recent High Court decision in the State of Western Australia v Hamersley Iron Pty. Ltd. The view taken by the Commonwealth Government in this matter is:-

1. The Commonwealth has abolished appeals from the High Court to the Privy Council in all Federal matters except "inter se" cases.
2. It is therefore still legally possible for the High Court to allow appeal to the Privy Council in "inter se" matters if it so desires. And the recent judgment of the High Court in the Stamp Duty case is an "inter se" matter.

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- " 3. The judgment raises questions of great importance to the States, and to their Budgets and capacity to raise taxation. For that reason it also raises matters of great importance to the Commonwealth.
4. The Commonwealth believes the question should be settled as quickly as possible so that the States may know exactly where they stand and so that discussions between the Commonwealth and the States - which will be necessary if the High Court's judgment prevails - may begin as soon as possible.
5. Every State Government is seeking leave to appeal, under the provisions of Section 74 of the Constitution and because of this, and because of the importance of this matter to all State Governments and the Commonwealth, we agree that it is proper for the States to make the application and will await the outcome with great interest.

Yours sincerely,

J.G. GORTON "

The Hon. Sir Henry Bolte, K.C.M.G., M.L.A.,
Premier of Victoria,
MELBOURNE, VIC. 3000 "

CANBERRA,
29 September 1969