

## **Toward Regulatory Best Practice**

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Welcome to our Kalgoorlie Goldfields and Nickelfields. Your visit co-incides with a virile growth phase for this region.

Gentlemen you are an essential part of the production cycle and I'm the first to agree that without a sensibly administered set of guidelines our industry could not function.

Croesus Mining, the company I represent, enjoys an excellent relationship with the Mines Department staff in Kalgoorlie and Perth and Jim Boucat's engineering team in Kalgoorlie is very supportive of our industry.

Living and working together in a service centre such as Kalgoorlie creates an excellent working interface between miners, contractors and Mines Department staff.

I plead "guilty" tonight to a failing that is so evident in the media these days, and that is to focus on the 5% component where there is a problem and to generally ignore the 95% component where there is absolutely no problem.

It is easy to do this but I see a huge potential benefit to us all by working hard on that tiny sector from which all problems appear to flow.

I am also told that our Western Australian Mining Act is one of the best in the world and it seems to be a model for so many emerging countries.

This is what I repeatedly heard at the Global Emerging Markets Conference in London last month, where other countries have used our Mining Act in their efforts to develop competitive strategies to draw exploration dollars away from Australia.

Having now established my credentials as a great advocate of sensibly administered regulations, let me tell you two stories from other countries and then express some concern at recent local trends and then conclude by leaving you with a challenge to work together with the mining industry to ensure that regulations are directed toward enhancing safer and more efficient productive enterprises, in the hope that it will bring some of these disappearing exploration dollars back to Australia.

Let me briefly digress and mention two people, one a philosopher, John Hospers and one an economist, Henry Hazlitt, and the stories they tell to illustrate their points. Later we can see if these stories relate to "Australia 1995".

Before each story, just a few words about these people telling the stories.

Have you ever thought about the difference between "learning" from someone and being "influenced" by someone?

I know that I have learned from hundreds or thousands of people but have only been influenced by a handful, yes probably only about five.

One such person is a philosophy professor I first came in contact with through his text book, that was being used by the University of WA in 1961.

Since then I have spent some time with him in England and the USA and maintain a regular exchange of correspondence.

Dr John Hospers likes to draw on real-life analogies, to illustrate various points, in this case the "bureaucratic mentality".

He tells the story of an acquaintance from Wyoming telling him about a friend, the owner of a coal mine near Cheyenne. It was a very small operation owned and operated exclusively by the miner himself. One day the State Inspector of Mines, came around and said to the man "You're in violation of State laws. The State law says that any mine owner has to have a stretcher in case of an accident". The miner thought for a moment and said "Now why should I have a stretcher. Since I'm the sole employee, who would place me on the stretcher if I was injured?". That was something of a problem and the inspector left for a time.

But a few weeks later, he and a fellow inspector returned with another reminder "State Law says that any person who owns a mine within the State has to have equipment to fight gas that might escape the mine". The miner thought for a moment again. "But this is an open-pit mine" he said. "What use would it be for me to have equipment for escaping gas?". The inspector couldn't answer that one either, anymore than the first one, but this time he got not a reply but at least a rejoinder. "State law says that if you don't have this equipment within 30 days you can expect the worst". Well, our man being an independent soul, didn't want to pay for something that would be utterly useless to him, and perhaps he really couldn't believe that the whole enquiry was anything but frivolous, so he did nothing.

Next month the inspectors came back. What happened? You guessed it. They closed down his mine. He then joined the unemployed.

Well the inspector is an example, of what Hospers means by his phrase the "bureaucratic temperament". The opposite of what he regards as the "libertarian temperament".

Hospers goes on to say, "The bureaucrat is supposed to render a service, but sometimes he is a busy-body who renders no service at all but inhibits the production of goods and services by others, and very often he knows this but he has to keep doing the things that he does in order to retain his position and show his power, and the power that he yields is not like economic power, the power over nature. It is political power, power over the lives of other men. You are a pawn on the bureaucrats chessboard. As long as you know it and as long as you dance when he plays the tune, he will permit you to continue to exist, on his terms of course".

That's the end of John Hesper's story and his concern is really directed toward the mental processes that motivate the worst kind of bureaucrat. He even

acknowledges that some of them realise dimly that if present trends keep up, the incentive to work and produce will decline so far that everyone will end up in a state of poverty with nothing left for the distributors to distribute. Perhaps the bureaucrat really doesn't care about that either, as long as it comes after he has gone.

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Tonight's other little background story is about the Broken Window

Henry Hazlitt, the great economic writer, died two years ago at the age of 98.

Hazlitt over his long career was responsible for introducing thousands of people to classical liberal economics, which is in stark contrast to the Keynesian style of mixed economy, socialist economics taught at most universities.

Keynesian economics is largely responsible for the nonsense that is accepted today when we allow our so called political leaders to go unchallenged when they talk about "governments creating jobs", or when they talk about "stimulating the economy" by taxing the productive sector to encourage dependency, and why they spend money on things that taxpayers can see, but deprive the country of the things unseen, on which taxpayers would have spent their own money if it was left in their hands.

To illustrate this, Henry Hazlitt told the simple story of the Broken Window which has relevance to the rising tide of bureaucracy confronting our industry.

Hazlitt tells of the young hoodlum who heaves a brick through the window of the baker's shop.

Someone in the crowd comments that the baker's misfortune will be the good fortune of the glazier who will supply a replacement window for \$500.

This in turn would help someone else's business and so on. The smashed window would go on providing money and employment in ever-widening circles. Their logical extension for all this would be that the little hoodlum who threw the brick, far from being a public menace, was a public benefactor.

We see this same faulty analogy used every day to justify government expenditure on things like broken windows, things that are seen, whereas the things unseen are too subtle to grasp the imagination of the by-standers or the media.

In the case of the broken window, the thing unseen was the new suit that the baker was going to buy, but didn't.

That is a simple little story that we will come back to later.

Now let's go back to Croesus; Croesus Mining NL may have started its life as my personal *corporate child* but it has grown to healthy adulthood and now most certainly has a life of its own. I also have a vision for it to be something far greater than it is already.

To help us along this road we have recently brought in a new major shareholder, to replace me.

There was also another aspect helping me make my decision to reduce my own exposure.

This was my concern that the bureaucracy is running amok and doing untold damage to productive enterprises. I am not particularly talking about the Mines department. For some time now I have felt the desire to be outspoken about some of my concerns in this respect, but of course as you know, it is impossible to be outspoken about such matters when you are the Chief Executive of a company. The bureaucracy simply targets you and your company and makes life unbearable.

I have a list of specific examples to draw on, when I eventually become overwhelmed by the desire to be outspoken, however for tonight let me just mention three examples.

The first occurred in 1989 and was probably the trigger which set in motion my thoughts about being on a collision course.

**1.** The incident started with a Mines Department bureaucrat threatening to close down our operations, because he was not happy that we were discharging our tailings into our abandoned Hannan South pit.

I suppose to be politically correct we shouldn't call them "tailings" any more, perhaps we should describe tailings as "environmentally challenged waste".

Well, there was no doubt about it, said the bureaucrat, we just couldn't do that sort of thing, i.e. put tailings in an old pit.

Naturally I was concerned about the well-being of our employees and staff and shareholders if our operations were to be closed down. I wasn't worried about looking foolish. I knew who would look foolish when we announced why we had been closed down.

Fortunately a lengthy search through our filing cabinets located an earlier letter from the Mines Department responding to our request to use the pit for this purpose which stated "What a good idea I wish that other mining companies would use old pits in this fashion". That solved the problem and we went back to our business of producing gold. This incident stuck in my mind and although I didn't lose my cool, I knew that one day I may not be so docile.

That incident showed me that if we couldn't locate a three or four year old piece of paper in our filing cabinet, our livelihood could have been destroyed; as easily as that.

Everything that we had created could simply be turned off like a light-switch all at the whim of someone who may never have been part of a creative process.

It made me realise just how slim is our tenure, and our livelihood.

We didn't hear from the Mines Department bureaucracy again until recently when they galloped onto centre stage with all the zeal of the Romans throwing Christians to the lions. Coincidentally this also relates to our tailings disposal.

**2.** Our time for pumping our tailings into the old pit was coming to an end so we lodged a Notice of Intent to construct a new tailings facility to provide another

four years life. All very routine until the Mines Department changed the rules on the depth of clear water they require sitting on top of tailings in our old pit.

The new rule as we understand it, is to prevent any trespassing divers getting their heads stuck in the mud. We are also aware that this water is seven times saltier than sea water and the only way the trespassing divers could get down to the base of the prescribed five metres of clear water, is by strapping a car engine block around their waist.

Ho ho, here we go again, they wanted to close us down. The sheer joy on their faces was almost too much for me.

So we again explained the level of hardship that this would bring to all our mill workers (no good talking about the pain inflicted on our shareholders).

When dealing with politicians or bureaucrats the first and guiding principle should always be :

"Avoid paying them too much attention as it only encourages them".

The other guiding principle is to:

"Fight a bad philosophy with a good philosophy, but at all times be polite".

We asked "Is there any other alternative to closing us down?". "Is there anything else we could do to keep going?".

"Yes" they said, we could divert our staff's time and energy to the design and construction of an "interim, tailings facility" which incidentally will be entirely engulfed by the main facility when permission is eventually received to build it.

Let me explain, that this "interim tailings facility" consists of an old tailings dam and this sits in the middle of our proposed new facility and will ultimately be covered up by it.

On the very day we finished spending \$200,000 on the revamped old tails dam, they sent through their approval for us to proceed with our new surrounding tailings dam.

So \$200,000 poorer, let me relate back to the Hazlitt story of the Broken Window.

What you can **see** is this \$200,000 monument to "Bureaucracy Run Wild", but what you **don't see** is the 16,700oz of gold that would have been discovered by an equivalent exploration program. (This is based on our average discovery costs). These ounces will never be discovered because the funds have been diverted elsewhere and so have the permanent jobs that would have been created, and so has the \$10M of export earning income that our country desperately needs.

**3.** The third example is one where we were recently fined \$3000 for "breach of a mining tenement condition", in that we "failed to get written permission before using mechanical equipment to disturb the surface by conducting some unauthorised exploration drilling".

Sounds serious doesn't it?

Now, if you obtain the required permission for a particular tenement and then if that same ground is converted from a Prospecting Licence to a Mining Lease, wouldn't you think that permission continues? It is after all the same ground.

There may even be occasions where the drilling contractor is unaware of such change in tenement status.

The answer is that you must re-seek permission to do the same work on the same ground, every time a tenement changes its status.

This is all very tedious and distracting from our sincere desire to be productive.

It reminds me of the wise saying by the writer and philosopher, Ayn Rand "When producers need to seek permission to produce, from the non-producers; then the world is doomed".

Now I am not one for becoming emotional but in my office I have this super-sharp Ghurkha knife. It is what the Ghurkha guards use to silently de-capitate their enemy.

Perhaps next time one of these disruptive bureaucrats arrives; to once again tell me that he's going to close us down, what I'll do is swiftly perform a ceremonial castration.

My service to mankind will ensure that his bureaucratic genes are not passed on to future generations.

I don't like messy situations like this so I have "Scotch-guarded" our office carpet so we can quickly hose away any evidence.

Back to our corporate planning. These two last bureaucratic outbursts do relate to the story as they were in full flight during the due diligence process being carried out on us by our new major shareholder. Now, anything like this tends to send bad signals to due diligence investigators, and you can imagine my relief when their only comment was that "the Mines Department were not very good at replying to correspondence".

The press coverage we received by being fined was embarrassing for us as it is difficult to explain how the regulations are such that it is virtually impossible to conduct vigorous exploration without upsetting some of these watchful eyes, many of whom belong to competitors who would be happy to see us lose some tenements.

The press coverage has had an interesting side effect. Resulting in many calls from other mining companies experiencing similar difficulties with the environmental people at the Mines Department (let me stress that I am not referring to the Department of Environmental Protection or the Mines Department Registration Division with whom we have excellent relationships).

The difficulties experienced by other companies range from a 10 month delay in obtaining approval for a Notice of Intent, to one company whose drill rig had become bogged during the heavy rains. They brought in a crane and a bulldozer to de-bog the rig.

Being a responsible company they repaired the damage to the bog-site by borrowing some sand from the roadside and rehabilitated the area.

Can you believe that they are now facing prosecution and a fine for "illegal mining".

Yes, anything is possible in this age.

We have just lived through a remarkable month in Western Australia.

We have seen the trade union movement in the Eastern States carry-out a total blockade of our State, the Western third of Australia.

Like most irrational actions, the results will be the opposite to their intent.

Among the results are farmer groups and individuals deciding that they have had enough of the selfish cavalier attitude of our militant union leaders, so they have decided to fight back by never again purchasing an Australian made car or product assembled by an Australian unionist.

Perhaps that is not very rational, but then, neither is the Eastern States unionists attack on our State's economy, which they should know by now, is paying most of their bills; that support the lifestyle of those on their side of Australia.

Perhaps no more rational than our Prime Minister who goes around insulting the leaders of our powerful Asian trading neighbors.

The Prime Minister may be a great entertainer and a great politician but unfortunately he is not a great statesman.

We have greater statesmen in the West. People who prefer to be right, rather than popular.

On matters of Mabo and Industrial Workplace Reform they have shown great courage without much support from the press.

It's lonely out there in front leading as they are doing, and if they stop, Australia's competitive position will continue to deteriorate (full particulars in Fin Review Nov. 8 1995).

Some of you can remember the 1960's when there was general support for development and an awareness of the benefits that resulted.

We were lucky that such a favorable economic environment existed otherwise we may not have any mining industry at all.

Even more of you can remember the mid-seventies dark days of Gough Whitlam and Rex Connor, with the mass exodus of geologists overseas. Signs on office walls displayed the message "Will the last businessman leaving Australia, please turn off the lights".

We haven't yet recovered from that anti-development mindset. Sir Arvi Parbo concisely summed up Australia's business environment in an interview in October's *Director* magazine.

"Today when you do something you know that from the first day probably half of the country is working against you in some way or another. Half of the government is working against you. You will have departments in favour of what you are doing, and probably an even number of departments very much against it. They will want to hem you in and stop you from what you are doing, or at the very least, make sure that you can only do it in a restricted manner"

Now for people like you and I, to do nothing to remedy this situation, is for us to simply become part of the problem.

Throughout history, poverty is the normal condition of man. Advances which permit this norm to be exceeded, here and there, now and then, are the work of an extremely small minority, frequently despised, often condemned and almost always opposed by the regulators. Whenever this tiny minority is kept from creating, or producing, or is, as sometimes happens driven out of a society, the people then slip back into abject poverty.

Australia's relative economic decline is a sign that the regulators are grinding us to a halt. The Federal politicians may simply call it "bad luck", but it will only happen to us if we do nothing and simply let it happen to us.

The tide can be turned by each of us becoming part of a process that will cause changes to occur in the way that regulations will be legislated and evaluated in the future.

Let us think of this simply as applying best practice principles to the field of regulation.

Anyone running a business these days knows, that the existing regulatory policy doesn't work. All too often, too little attention has been paid to the purpose of regulation, whether those goals are worth trying to achieve and how best to accomplish them. The result is maddening inefficiency or worse, particularly for small companies, which often lack the technical staff needed to comply with the regulations.

Our company is a small one and we don't employ anyone specifically to take on the task of complying with regulations. Each one of our management team is totally responsible for his own area.

Increasingly, regulations cost more than they're worth. We must force bureaucrats to conduct a cost-benefit analysis on any new regulations and legislate that two existing regulations must be repealed for every new one introduced.

Currently, many regulations are enacted in response to perceived problems, brought to the public's attention by the press or by interest groups or by government bureaucrats.

Regulators who set the rules aren't required to consider what it will cost to comply with regulations.

Right now is a great time to be dismantling the labyrinth of regulation. Technology is on the producers' side as it outwits the regulators.

Telephone companies around the world have been charging more for voice connections than for data, but recently computer programmers have worked out how to transmit two-way voice conversations live over the Internet. Digital technology has obliterated the distinction between voice and data.

Much like the Berlin Wall, we will see regulations smashed and bulldozed as it is becoming obvious that the costs of maintaining these regulations are unnecessarily high; for instance you are aware of how highly regulated is the taxi industry, I'm not sure in whose interest this is but it is not in the interest of passengers as a recent Industry Commission study has shown that, on average, restrictive licensing of taxis adds about \$2 per taxi journey.

Many of these Regulatory Boards are simply revenue raising centres set up by various governments to siphon off the wealth that would otherwise accumulate in private hands. Private hands like your own.

Now, with direct competition between nations, the costs of such regulation are becoming exposed and we will see the old "Government vs Progress" tug of war again move toward progress.

Now in conclusion let me assure you that, it is not a numbers game. I can think of few important movements for reform in which success was won by any method other than an energetic minority presenting the indifferent majority with a fait accompli, which was then accepted.

This is the challenge I leave with you; become involved, get in there and give your support to those who favor more sensibly administered regulations. Ask yourself each time "What is this regulation supposed to achieve?" If it's not achieving anything positive, then flag it for removal from the system.

There is a war on, and it is important that you maintain your essential role in the production cycle and help the producers win this war. Future generations of Australians are depending on the way you handle this challenge.

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