

**CASE CONCERNING SOVEREIGNTY OVER PEDRA BRANCA/  
PULAU BATU PUTEH, MIDDLE ROCKS AND SOUTH LEDGE  
(MALAYSIA/SINGAPORE)**

**RESPONSE OF SINGAPORE TO THE QUESTION POSED BY  
JUDGE KEITH TO BOTH PARTIES ON 16 NOVEMBER 2007**

**Question**

The appeal to the Judicial Committee of the Privy Council from the decision of the Pitcairn Court of Appeal, referred to by the Parties, was dismissed on 30 October 2006. The reference is *Christian & ors v. The Queen* [2007] 2 WLR 120, [2006] UKPC 47.

The question for each Party is as follows: is there anything in the judgments of the Judicial Committee of significance for the present case?

**Response**

1. Singapore's answer to the question is that the judgments of the Judicial Committee of the Privy Council are significant in that they did not seek to disturb the statement of the law on British practice on the acquisition of territory made by the Pitcairn Court of Appeal (and cited by Singapore during the oral proceedings<sup>1</sup>). The authority of the Court of Appeal's statement on this matter therefore stands.

2. The Court of Appeal had, after a detailed examination of "the substantial volume of documentary material presented to the Court resulting from the industry of counsel,"<sup>2</sup> on "the historical basis relating to the United Kingdom claim of sovereignty over Pitcairn Island and its status as a British settlement,

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<sup>1</sup> CR 2007/21, 7 November 2007, p. 47, paras. 60-61 (Brownlie); CR 2007/23, 9 November 2007, p. 59, para. 19 (Jayakumar); CR 2007/28, 19 November 2007, p. 61, para. 50 (Brownlie).

<sup>2</sup> 127 ILR 232, p. 291, para. 34.

insofar as that can be done from the material”<sup>3</sup>, made the following statement of law on British practice at para 46:

“It is not necessary to define with accuracy the time at which Pitcairn Island did become a British possession. Sometimes there may be a gradual extension of jurisdiction over a territory, as was recognised in *Attorney General for British Honduras v, Bristowe* (1880) 6 App Cas 143. British Honduras was formally annexed in 1862, but there were grants of land by the Crown made as early as 1817. The Privy Council held that sovereignty was acquired on or before that earlier year. Similarly, *a formal act of acquisition is not required. It is the intention of the Crown, gathered from its own acts and surrounding circumstances, that determines whether a territory has been acquired for English law purposes. The same principle applies in the resolution of international disputes as to sovereignty.*”<sup>4</sup> [Emphasis added]

3. This statement of the law was not necessary to the disposal of the appeal. Nonetheless, the statement was a fully considered determination after an extensive examination of the law and the facts in that case and after hearing full arguments. The statement therefore stands as an authoritative statement of English law by the Court of Appeal.

4. The following observations may be made about the statement of the law pronounced by the Court of Appeal:

- It is a fully considered, authoritative statement of the law on British practice.
- It supports Singapore’s position that a formal act of acquisition is not required both in British practice and in public international law.

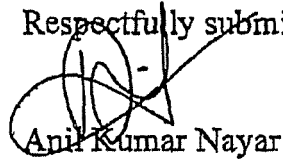
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<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*, pp. 294-295, para. 46 (emphasis added).

- The statement by the Court of Appeal that “it is not necessary to define with accuracy the time at which Pitcairn Island did become a British possession” supports Singapore’s position.
- The statement is of general application, and is not confined to any specific situation. As such, it is applicable to the situation of Pedra Branca.
- The test laid down in this statement is “*the intention of the Crown, gathered from its own acts and surrounding circumstances*”. Singapore has satisfied this test in the present case, as was explained in Singapore’s written pleadings and by Mr Brownlie on behalf of Singapore during the oral proceedings.<sup>5</sup>

Respectfully submitted,



Anil Kumar Nayar  
Co-Agent of the Republic of Singapore

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<sup>5</sup> MS, pp. 29-87, paras. 5.1-5.113; CMS, pp. 73-128, paras. 5.1-5.139; RS, pp. 35-94, paras. 3.1-3.134; CR 2007/21, 7 November 2007, pp. 36-69, paras. 12-154 (Brownlie); CR 2007/28, 19 November 2007, pp. 52-61, paras. 8-49 (Brownlie).