



PRIME MINISTER

**TRANSCRIPT OF THE PRIME MINISTER, THE HON P J KEATING, MP
INTERVIEW WITH PAUL LYNEHAM, 7.30 REPORT, ABC
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PL: Prime Minister, welcome to the program.

PM: Thank you, Paul.

PL: I would like to try to get a run down in simple terms please, of what your so-called new deal for black and white Australia really means in practice. To start with how much of Australia do you think will end up in Aboriginal hands as Native Title land?

PM: Well, a substantial part of the unalienated crown land of the north western part of the country.

PL: Does that mean, as Richard Court says, up to 95 per cent of Western Australia?

PM: No, that is not right. That is not right. But the point is that freehold is protected in this. That is, anyone who holds a freehold title has extinguished Native Title, so that's all the backyards as they say. And most varieties of lease hold. I mean it can be the small lease hold of a bee keeper leasing a bit of land for bees or something. But, you know, all the commercial, pastoral, extinguished, so we are down to crown land where Aboriginal people are either living now, or can establish a traditional link. That is, what the High Court said. The High Court said that there is a Native Title in the Australian common law, flying from Aboriginal traditional custom and title, but what this package is about is putting flesh on those bones. That is, to develop a body of administrative law to hear claims for Native Title, to see who is entitled to them, to grant them, to protect Native Title, and at the same time do it in a way that keeps land management in Australia for mining, for farming, for tourism running smoothly.

PL: So, all those leases granted between 1788 and the 1975 Commonwealth Racial Discrimination Act, there is no question mark over them at all?

PM: No, they are all valid. A couple may be invalid by virtue of Native Title, or the interaction of other laws.

PL: Just a couple?

PM: Well it may be like, for instance, the famous one, the Wik one in Queensland, where there was an alleged breach of duty, fiduciary duty, by the State of Queensland. I mean, you will have some of those claims.

PL: Well what happens to those ones?

PM: Well, in that case that one is validated. But they will be validated under this legislation, they will become valid leases under this legislation.

PL: Can Aboriginal groups go back through the legal system and try to?

PM: What the Aboriginal groups decided last night was to give up the option of looking for any rights, which might be residual rights, in invalid leases, which in this process we're making valid. In other words, let me just sort of make this simple for people, if there is a grazing property and it is a pastoral lease, it is now invalid, we make it valid, but there could be some residual Native Title rights. That is the right to walk across the land, or to fish, or to hunt, or something like that. Last night the Aboriginal community gave up that thin sliver of uncertain rights to take from the Government a better proposal and that was to turn Aboriginal pastoral leases, not non-Aboriginal, but Aboriginal pastoral leases into a form of Native Title. So, to answer your question let me come at this way, Paul. If the Aboriginal community are not prepared, or interested in challenging residual rights on invalid leases, why would they bother with valid leases?

PL: Because the Opposition says there is still a lot of uncertainty.

PM: Yes, but that is the spoiling game that John Hewson and Peter Reith have played. Here we have a package which has the support of the Aboriginal community, which has today been given support by the States, most of them, by the pastoralists, by the miners, the only people out of step is the Federal Opposition. Because basically, their game is to spoil whatever game is on, whether it is the Budget game, or the Mabo game. And this is too important a matter, too great an opportunity, too historic a moment not to seize, to get that question of dispossession which is at the core of the problem of Australian reconciliation between Aboriginal and non-Aboriginal Australians, to

get that back into repossession on these areas where Native Title can be established.

PL: Then we have got leases between 1975 and the end of this year. Now, some of them may, when you look back now, be a bit dubious, a bit of a shadow over them.

PM: Yes.

PL: What happens to them?

PM: Well they will be validated under legislation. The problem was, the Commonwealth hasn't issued these, the States have, but the States can't validate them because of the problem of the Racial Discrimination Act, they can only be validated in a racially non-discriminatory way. They need Commonwealth legal protection to validate them, this package has that protection, it has been agreed with the Aboriginal community. So, all of those leases signed between 1975 and 1993 will now be validated.

PL: Pastoral leases, mining leases, tourist leases?

PM: Commercial leases, you know, small farming leases, all manner of leases.

PL: Yesterday, you were saying that pastoral leases should not extinguish Native Title. Last night you agreed that they should. Why the change, and what does it mean in effect.

PM: Well what I said to the Aboriginal people I negotiated with last week, look, I will take to Cabinet the notion that, there are two notions, that a pastoral lease extinguishes Native Title absolutely, or a pastoral lease extinguishes Native Title to the extent that it is inconsistent with Native Title. That's what they asked me to take to Cabinet. This did introduce for some pastoralists some uncertainty, although, in fact the primacy of their lease was 100 per cent protected. But to remove it, the Aboriginal people made a judgement, really how much is in this for us, how many of these thin sliver of rights, of uncertain rights, would we actually get? And given that the Government then last night gave them a different offer to turn many pastoral leases owned by them into a form of Native Title ..

PL: They chose that.

PM: They chose that.

PL: The advantage for them in that, is what? A lease can expire a Native Title can never expire?

PM: Well the title can be surrendered, and because it will be a Native Title equivalent, it won't be pure Native Title, it will be a Native Title equivalent. It could probably, technically be sold, but what it means is this - that as already many large pastoral leases say in the Kimberley of Western Australia or the Northern Territory or Queensland, if Aboriginal people buy new pastoral leases with some of the funding from this package, the land fund, then instead of simply having pastoral lease status, they go to a much more secure title and one which is based on the Mabo principles of a connection and a traditional association with the land. So, it was for them, I think, a win, win situation and by dropping off to the extent of the inconsistency point, it was a win for the pastoral industry.

PL: Are tax payers up for a big compensation bill for validating all these leases?

PM: Probably a moderately sized one, but over twenty years. It will be only payable when the leases are validated.

PL: Hundreds of millions of dollars?

PM: I would think at least that, but over a long period of time. Understand this Paul, these are for valid native title that was rendered invalid by this process. In other words, today many of these leases which were signed between 1975 and 1993 are sitting on valid native titles. If you wish to invalidate them you pay compensation - the same as if you wish to use a non-Aboriginal Australian's land for some other purpose by a government then you pay compensation - the same principle is there. The key point is, I think, what we sought to do here is to marry the twin demands of justice for Aboriginal people and an efficient system of land management and I think, the Bill achieves both of those objectives.

PL: What happens if on land that is proved to be native title land the Commonwealth wants to put a defence base or do something else in the national interest?

PM: Well, the Commonwealth can acquire or resume native title land the same as it can acquire or resume non-Aboriginal land.

PL: And if some major resource is discovered and it is decided in the national interest, this must be developed; say a giant gold mine or something?

PM: Right, well, what we have done there is all the economic use questions are reserved to the states. So, a state land manager, that is a state Mines Minister or a state Lands Minister can issue a grant of interest over native title land; there is a process of negotiation and a tribunal, but if the tribunal recommends against the economic interest a state

minister can override that tribunal in the state interest. That is a key part of the Bill, that protects the economic interests in the hands of that state. That is why you have got Premier Kennett today and Premier Goss today coming out saying it looks a fair package from our point of view.

PL: And what if there is say, a state forest or a national park or a beach on land that is found to be native title?

PM: On national parks, on beaches the Bill provides a right of access to beaches which the public now currently enjoy. So it allows the states to legislate to protect access to beaches as the current access would be there for say, you know, beaches which are in areas where a lot of Aboriginal people live. That would be maintained. For state forests there can be a native title claim over state forests, but in a sense that doesn't change the forest unless there is an economic land use application - in which case the state ministers decide that too. So the Bill has got all the right balances in it and that is why I think, the Aboriginal negotiators here said - What are our core interests? How do we advance the interest of our people? How do we repossess our formerly dispossessed land? But, how do we do it in a way that keeps the economic interests of Australia going? That is what our job was - to develop a Bill that satisfied all of these things. I do honestly think this is a very historic Bill and it will go a very long way to meeting the problem of dispossession and will advance materially the whole process of reconciliation.

PL: You have also done a deal with the minor parties in the Senate over the Budget, costing \$144 million by 1996-97. Does this mean now that all these tax measures go through?

PM: It will mean that the wholesale sales tax measures which are roughly around \$2 billion will pass. It really means the bulk of the Government's Budget will go through.

PL: When?

PM: Well, in the next week or so. It maybe in the course of this week Paul, but in the next week or so. That will mean that the Budget ... the Government's original intention will be to track the Budget down towards 1 per cent of GDP by 1996-97 and it will also mean that the tax cuts will be paid on time in November

PL: Why couldn't there have been a deal like this weeks ago - because the Treasurer was being too macho?

PM: No, I think that the Senators - that is the Green Senators - have only now decided close to the voting where their position is. We arrived at

a position with the Democrats some weeks ago as you remember and we have also had discussions with Senator Harradine.

PL: So it has been the Greens, not Labor? They've been intransigent?

PM: I originally said to them at the time we met the Democrats, could we sit down and negotiate the passage and I don't think they felt comfortable about it then. They are obviously more comfortable now, but the good news for the country is that the Budget will go through largely in terms of its funding and that in tracking down to a deficit of around 1 per cent of GDP, it will be about one third of the American deficit. Remember when Vice-President Al Gore cast his vote in the American Senate and there was a big cheering? They are going to be at 3 per cent of GDP deficit - we will be one third of that. So this is a very good budget for the medium term, particularly now as the recovery is starting to come through with some strength.

PL: Wouldn't it be a good idea in the future to start negotiations with these groups a heck of a lot earlier? Have you learnt anything from this yourself?

PM: Well, you can't do it earlier than the day you present the Budget. And, of course, you understand what the core problem is here - it takes 38 votes in the Senate to block the Budget, 36 of them are John Hewson's. So it is his opposition in the Senate are the villains in the piece. The two Greens are 36 votes short of being able to bale any of these measures up. The only reason they were able to do it is because John Hewson and the Liberal party broke the conventions of Australian politics in not passing the Government's Money Bills in the Senate. You might recall Paul, in the election campaign I said when it was not clear how the election would be resolved, I said a Labor opposition would pass a conservative government's Money Bills in the Senate including the GST. No such show of principle has come from the Liberals, they have just run the spoiling game on the Budget and they have run the spoiling game on Mabo and they have been now sidelined on the Budget and sidelined on Mabo and Premier Kennett's remarks today and Premier Goss' remarks today makes that very clear on Mabo and the Greens and Senator Harradine and the Democrats today make it very clear on the Budget too.

PL: Thanks for your time.

PM: Thank you Paul.

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