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PRIME MINISTER

**TRANSCRIPT OF THE PRIME MINISTER, THE HON P J KEATING MP
PRESS CONFERENCE, PARLIAMENT HOUSE, CANBERRA
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PM: I would like to begin by saying that the High Court decision is an historic decision - a great decision - for the Aboriginal community of this country, and a huge endorsement of the policies of this Labor Government, in respect of the Native Title Act. It means that, as a consequence of this matter being decided once and for all that, as a consequence of this Government's legislation, more will have been done in the last two years than was done in the last 200 years to guarantee justice for Aboriginal people in terms of their access to land, with land coming to them as an inherent right, rather than simply a statute right delivered by some Parliament. It also endorsed fully the Commonwealth approach to protecting Native Title - recognising it, protecting it and ensuring that workable process exists for land management across every State and territory. It found that the whole of the West Australian Act was inoperative and inconsistent with the Racial Discrimination Act, and thereby invalid. The West Australian Act failed because it was racially discriminatory, that is, it failed because it was inconsistent with the Racial Discrimination Act. The West Australian Government has no choice now but to fall into line with the High Court decision, and again I remind people that as I did in Western Australia a couple of weeks ago, that there has now been some 8000 grants of interest in land been issued by the Western Australian Government, a large proportion of which are probably invalid. I have pointed that out - I wrote to the Premier 18 months ago - thereabouts - telling him that a continuation of grants of interest in this way was probably invalid, and now that has been proven to be the case. The only thing I would say is, the Commonwealth is, nevertheless, prepared to work with Western Australia to ensure that issues arising from this decision are addressed cooperatively, and already we have had preliminary talks at Ministerial level with the Court Government.

But can I say that this leaves a real question for the Federal Coalition - It is impossible for the Federal Coalition to maintain its stated opposition to a

balanced approach to the Native Title Legislation. Now you know the Government has got now two pieces of law into place - the Native Title Act and the Land Fund. The Native Title Act gives Aboriginal people the right to access to land where they can establish a traditional connection with the land - a right which has existed before European settlement. Where those rights have been extinguished, and where Aboriginal people are desirous of re-establishing that connection with the land, the Land Fund gives them the possibility of buying that land and making it. These are always the two parts of the Act, and again I just make the point that I have made to you often - we get progress in this country by victories, by wins. The Native Title Act, and the Government's insistence upon it in the Parliament against the intransigencies of the Senate, was a victory for the Aboriginal people and for the Government, and so too was the case with the Land Fund which was, upon its return to the House of Representatives, an unacceptable piece of proposed legislation. And the Government then introduced it again for the second time, and the Coalition decided they could not obstruct any further. It's because of our insistence that the Aboriginal people have now got these two pieces of legislation into place, but the stated policy of the Federal Opposition at this point - articulated last by Mr Downer - is that he would consider the repeal of the Native Title Act upon coming to Government. Now John Howard has made it very clear that he will repeal the Land Fund provisions when he comes to Government. He now must say where he stands on the Native Title Act. Do they continue to take the view - the wrong and misguided view - that a right of Aboriginal people inherent in the Common Law, a right which has existed now since before European settlement - should be denied them, and we go back to some sort of statutory provision for the basis of land? Because what the High Court made very clear, was that the Western Australian legislation took away these inherent rights, and substituted a very minimum statutory right, and the taking away of these inherent rights and the replacement with a minimum statutory right, was not only contrary to the Racial Discrimination Act, but morally was bankrupt, and now is the case for John Howard to say where he stands. Is he going to repeal the Native Title Act, as he says he will repeal the Land Fund Act, or change it beyond recognition? Or are they finally going to say there ought to be some justice for Aboriginal people - that they are entitled to land which was theirs - as the High Court has said - since before European settlement? Are they finally going to come to terms with the oldest Australians - the people who inhabited this continent before any of the rest of us arrived, and desist from this sort of view they have that seems to permeate all of their attitudes, and that is that any inherent right to land for Aboriginal people, runs against their grain? This is the test for them - a test of principle.

I might just complete my remarks by saying that the High Court found 7 to 0 - 7-nil - that the West Australian Act failed because it was inconsistent with the racial Discrimination Act. It has not only endorsed the Law, it has endorsed the policy adopted by the Government, and as a consequence, for the first time in the history of European settlement of this country, Aboriginal people have now got an inherent right to land in this country.

- J: Prime Minister, are you prepared to talk to the Court Government on the basis of your original offer - that is, including compensation etc - even though the deadline passed in December?
- PM: The original offer - which we made for compensation and carrying the costs - stands. But it doesn't stand for grants of interest made after the cut-off date - the ones which were done against the Commonwealth law, and against advice from me.
- J: When is that date?
- PM: Well you go and look that up - I haven't got it in my head right now.
- J: Is it still possible...would it still be possible for the West Australian Government to attempt to obstruct the workings of the Native Title Tribunals in some way, and if you think it is, is there anything the Commonwealth Government can do about it?
- PM: It would be very wilful obstruction. It's obstructing against the operation of a piece of law firstly agreed by both houses of the Commonwealth parliament, adopted by all of the States of Australia - bar Western Australia, against now an express decision of the High Court, and a very clear one: 7 to zero, 7 to nothing. At what point does the Western Australian Government feel it has any legitimacy in its view, and capitulate to what is very clear national sentiment of this issue?
- J: So, back to the cut-off date you were just talking about - would you...the Western Australians might be disadvantaged because of that...
- PM: Only by Richard Court...
- J: ...is it fair to disadvantage them because of the actions of their Premier?
- PM: This is the advice I gave Richard Court - I said on 6PR on Perth, so I am telling you, "there is a lot of villainy here on the part of the West Australian Government, and a lot of wilful villainy putting the interests of Western Australians, and Western Australian businesses, at risk by granting interest in land which is *ultra vires* of the Commonwealth Act of Parliament, agreed to by every other state bar Western Australia". Now, the Western Australian Government - the Premier - went out of his way to issue these grants of interest against the Commonwealth Act under the shadow of what he thought would be a successful appeal. But against the advice of my letter to him - I wrote to him, saying don't do this. You must start thinking of the private interests of Western Australians and not your interests.
- J: Isn't he entitled to have his day in court?
- PM: He's had his day in court, and lost. But, while he was having it, he was issuing grants of interest, against the law. And, he was told so.

- J: So, you're own legislation, the Brandy case which was handed down by the High Court recently, means that the Native Tribunal can't actually make binding decisions. Are you going to fix that?
- PM: Well, look, at some point, some of the procedural issues in the law, the Commonwealth will look at - but not to the principles. Some of the procedural issues, but not to the principles.
- J: Will that be done this year?
- PM: I don't know. I think we need more time to see how the Act is working.
- J: Mr Keating, Jeff Kennett today challenged you to adopt the German presidential system. Would you like to see....
- PM: Jeff's becoming a republican is he?
- J: ...No, he said he was still a monarchist but, he said he would favour the German system.
- PM: He's confused isn't he, poor old Jeffrey.
- J: Would you like to see a system where he got a say in who was head of state?
- PM: Let him put his hand up as an Australian and say the Australian head of state should be an Australian person - when he says that he can have a conversation with me, but, if he wanders around with some sort of attitude which says that we should still be borrowing the monarchy of another country but, then, want to be taken seriously in the debate.... no, thank you.
- J: He said aspects of the German system appeal to him. He's obviously shifting ground...
- PM: Is he, well, like the rest of us, let him make a shift and we'll see how far he's shifted.
- J: Are you attracted to Sir Zelman Cowan's suggestion of using the selection of the next Governor General as a test case...?
- PM: I haven't thought about the next Governor General, the next Governor General's position, but, it does make one very clear point; I thought Sir Zelman's remarks made one very clear point, at the moment, the prerogative to appoint the Governor General rests with the Government and, fairly exclusively, with the Prime Minister. And, that's never been the case under any other option discussed by me, that is, in the future. In other words, at the moment, the Prime Minister has the right to propose to Her Majesty who the next person should be. So, all of these people going around saying, well, the

Prime Minister wants to hang on to this.... In fact, the Prime Minister is giving this away, obviously.

J: How fast do you think the economy is slowing, has the need for tighter Budget and interest rate policy eased since the end of last year...?

PM: I think the economy has slowed somewhat, I'm not sure how much. I don't think that diminishes the case for being vigilant on policy.

J: Has the case for tightening before the Budget diminished from the point of view of those who are arguing that it is still over heating?

PM: Well, the Government has made it.. The Treasurer spoke, I thought, eloquently, at the time, about the need for an appropriate stance on fiscal and monetary policy and I don't see anything that has happened since that should change that.

J: Is the Government indulgent and complacent?

PM: I don't think it is, but, again, if Gary Gray had issued those things in a press statement it wouldn't have even been reported in the Sydney Morning Herald. The fact that it gets front page lead is a commentary about the news judgement of the Herald.

J: Prime Minister, John Howard, from what he is saying, is obviously not going to tell Mr McLachlan to give back the documents, they're just going to leave it to McLachlan and his legal team, apparently. What does this say about....?

PM: Well, I thought his interview, this morning, on John Laws, was extraordinary. It demonstrates a completely dishonest approach, it says he was party to the whole tactic in the House. He, as you say, hasn't returned the documents, the question is, why does he wish to hang on to the documents. He, I would have thought, had a duty to give us a full list of the recipients of the documents and a categorical assurance that only one copy was made of the so called 'womens' document'. He has done none of these things.

But, some of the pieces of the transcript, I thought, were unbelievable. He says - and this is the blatant approach, the glibness, the belief that glib remarks dressed up in long sentences can somehow obscure what he is saying - such things as:

"Did you go to the Opposition parliamentary tactics committee about it?

(JH) - Oh, it was discussed among a number of us, yes.

And, did they agree at that meeting, that it should be used?

(JH) - Oh, Ian had the authority to ask questions, there's no argument about that.

And, then he goes on to say:

(JH) - "But, I don't feel at least, a bit apologetic about that.

Now, understand what he is saying, there. He's saying: "we discussed the parliamentary tactic, I understood that Ian McLachlan was intending to mislead the House of Representatives, and I was party to its misleading". This is my point, Ian McLachlan resigned because he misled the House, John Howard knew he was going to mislead the House and was party to it, therefore, it follows, logically, doesn't it, that he should resign, too. And, I include the tactic, agreed also, was the throwing of the womens' document across the Chamber - which must have been discussed in the tactics committee - which he agreed to, as well. And then he says, of course, he's completely sensitive to Aboriginal people. He goes on to say - and I thought that this was exceptionally breathtaking:

(JH) - "No, I think there is enormous difference between a gratuitous invasion of privacy of a third party and coming upon some documents which are involved in a highly controversial dispute."

This is not a highly controversial dispute, this is a legal case. This is a legal case, these are legal documents. But, he's saying that because they are disputed, it is a free-for-all. And, then, Laws is saying:

"I wouldn't use it"

and Howard says:

"You wouldn't use it?"

and he (Laws) said:

"Well, I'd have to work it out but I think it is a very bad thing."

"So you say you wouldn't use it", says Howard.

(JH) "Well, let's not be too moralistic about it."

No let's not John (Howard), let's not be moralistic at all. It's incredible, this stuff. And, then he said:

(JH) - "I think Ian McLachlan behaved correctly and I defend him."

Can you believe that? I mean, the gall of it.

(L) - "So, you endorse the actions?"

(JH) - Well, yes, I do."

In other words, he endorsed the misleading of Parliament.

J: (inaudible)

PM: That Robert Tickner was not the photocopier and the source of dissemination of the information. He knew that, at the time, when the questions were being asked. And, he's going on today, this day:

(JH) - "I think Ian McLachlan behaved correctly and I defend him.

(L) - So, you endorse his actions?"

(JH) - Well, yes, I do."

J: Mr Keating, going back to the native title...

PM: Can I just make a couple of other points before I do. He said:

(JH) - "There were questions asked about it but the nature of these discussions about any of these questions is, you always have to-ing and fro-ing and then the decision is made. I accept the fact, and I have never disputed it, that I authorised the asking of those questions.

I believe he told some of you that he wasn't involved in the tactics committee.

(JH) - "... And I have never disputed it".

You see, the glib... Is it any wonder Bill O'Reilly, the former tax commissioner, had trouble with him? Is it any wonder, when I lined up as Treasurer in 1983, desperate for some decent law, desperate for some integrity in the law, they looked to this government to clean up the tax system. Then he says:

(JH) "...And I have never disputed that I authorised the asking of those questions, I don't try and shift the responsibility of the blame on to anybody else."

In other words, he's now virtuous, you see. He is now virtuous. And let me just make a couple of other points I made abroad. He talks about the right of parliamentarians to represent a constituent. But, Mr McLachlan's obligations were to his Aboriginal constituents as well as what he might have seen to be the obligations to the constituent involved in the Hindmarsh court case. How

come his obligations to a constituent were only an obligation to the protagonist in the Hindmarsh Bridge case. And then, I made the point, and I make it again, here, neither Mr Howard nor Mr McLachlan were solicitors for the protagonists in the Hindmarsh Bridge case. They had no obligations to give them documents. None. Not as a legal obligation, not as their legal representatives. And, as their constituents, the protagonists had no more right to support from them than the Aboriginal people had right to protection from them. So, I think Mr Howard should be returning the documents, giving us these assurances about who received the documents and, remember, we are now having a discussion about an envelope which was in another envelope which was in a box. There are eight kilos of documents.

J: Mr Keating, would you support Mr Tickner's letter to the Aboriginal communities call for them to jump into the debate?

PM: Well, I was abroad when he wrote it but, the thing is, what he has said I don't have it with me is that - and he wrote it before Ian McLachlan resigned

J: Do you support Mr Tickner's letter to the Aboriginal communities calling for them to jump into the dilemma?

PM: Well, I was abroad when he wrote it. But the thing is what he said - I don't have it with me - what he said was and he wrote it before Ian McLachlan resigned, remember this, this was when at the height of their dishonour they had these documents and had opened them and disseminated them, he wrote to the Aboriginal communities telling them and saying that they should take whatever action they think is appropriate with the Coalition. Hardly an outrageous thing to do. But you see, our friend the wordsmith, Mr Howard, is out there and he thinks this is something you can jump on to but you always know with Howard, let him talk and he will dig himself into a deeper hole like he has done again today on John Laws.

J: Mr Keating, near the end of the judgment today, the Justices conceded that there was practical difficulty in administering the legislation of Western Australia because of its size and, I guess, the amount of unalienated Crown Land. Just wondering, are you prepared to sort of accept with Western Australia there might be some special circumstances which the Commonwealth would take into account when negotiating with Western Australia in applying the Federal Act?

PM: I have said that we will deal cooperatively with Western Australia and I have said that now for 18 months and we have already had preliminary talks at ministerial level. I don't want to give you a line which makes it other than completely clear that the Western Australian Act is held to be wholly invalid and inoperative because it was racially discriminatory and counter to the Racial Discrimination Act. That is the key news point. The associated news point is at last Aboriginal people have had justice in respect of land. The

ancillary point is that we will cooperate with Western Australia but we will not excuse Western Australia for wilful breeches of the Commonwealth law.

J: Do you think there are any grounds for Western Australia claiming some special circumstances that make it distinct from ..?

PM: No. Other than to try and make it work. But not special in terms of the way the law applies.

J: Prime Minister, are you saying that with Ian McLachlan giving the documents to his white constituents and not to his black constituents that that is a racist act?

PM: No, you are saying that. What I am saying is that the notion that he felt an obligation to...Mr Howard would argue that MP's are all the time called upon to look after their constituent's interests. This is one of the weak and unprincipled areas of defence that Mr Howard had out last week. I am just making the point. How do they distinguish between their obligations to the Aboriginal constituents and to the protagonists of the Hindmarsh bridge case. If it is an obligation to a constituent, to which constituent? If not an obligation to all constituents.

J: Well, they say, of course, that the protagonists in this case was the Commonwealth not the Aboriginal....

PM: And they are Commonwealth Members of Parliament. As well you would have thought there would have been some identification with the interests of the Commonwealth seeing as they are desperate to become the Government of the Commonwealth, you would have thought at least the justice of the Commonwealth position in this. These were the documents of a court case being returned to the Commonwealth. This argument that Howard goes on with talking about the matter being a matter of dispute therefore, if it is a matter of dispute you can throw anyone's documents around. The fact that it is a legal matter and that now these documents have been published to other people who can now mount another appeal with these documents means that the rights of Aboriginal people have been transgressed here.

J: (inaudible)...inclined to use legal action to get the documents back?

PM: There is no reason why Mr Howard should keep the documents. What is he doing hanging on to the documents? What is the game plan? Are there things there that he thinks the rest of the world should not see or we should not know about? Why does he not return the documents?

J: Mr Keating, at what point will you make good the threat of legal action? How long does he have to hold on to them?

PM: There was no threat of a legal action, as far as I know.

J: Is there any legal recourse open to the Government, Mr Keating?

PM: There may well be but I have had no advice of it. There is a simple point here. Mr Howard should give the documents back. But the greater point is, of course, what he has done today is to admit out of his own mouth that he knew Ian McLachlan was going to mislead the Parliament and he was party to the misleading.

J: You have been hammering Mr Howard and yet his poll rate keeps going up?

PM: Well, he has had a reasonable run for the period he has been leader but so did Mr Downer and so did [Dr Hewson]. Last night my Press Secretary, Tony Melville, was at the airport and he was telling me that journalists waiting for me to land were talking about Howard and someone said, jocularly, there was no point asking Howard any questions, he has got no policy positions. Everyone sort of nodded in agreement. But that is right, isn't it? Here we are today, I am here announcing a decision by the High Court of Australia endorsing 7 to 0, a piece of legislation, probably one of the most far-reaching pieces of legislation acted since Federation. The week before I left to go abroad we had a huge victory in the Coalition's capitulation on the Land Fund. I can go around Europe talking about 6 per cent GDP growth and 2 per cent inflation and 4 per cent productivity growth and 3 3/4 per cent employment growth, no other Head of Government in the western world and the OECD area can do the same. The Government stands for things. The Government represents things. John Howard's policy is to make himself so small a target as to be not noticed but then to be lauded as some sort of new-age person. I am only repeating now lines I have been through here before. He left Australia as an industrial graveyard in 1983. He left it to me amongst others to clean it up and make it into the modern, sophisticated, externally oriented country it now is. He should have been drummed out of the regiment, out of public life after 1982. The fact that he is the only leader they have after they twice passed over him with Hewson and then Downer, ought to be ringing bells in people's minds. But the media always wants a contest and are prepared to give him the benefit of the doubt. I have told you a week or so ago he would not change. I used the analogy of being in the calypso shirt saying "It's not me, it's not really me, I am not the same one" and he is doing it again today. And you have got to understand this about him. He never represented anything, he was always completely indecisive and I know, as I did as Treasurer, go back through the economy and the tax system, where his integrity stood. This is only further confirmation of it, this shabby affair of a week or two ago. So, the Australian people will come to acknowledge these things but winning elections in this country is never easy. One of the good things of Australian public life is you have always got to go out and earn it and I think we will earn it. But there should not be free rides for him either from anywhere, including, of course and most especially, the Sydney Morning Herald.

Ends