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**PRIME MINISTER**

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**TRANSCRIPT OF THE PRIME MINISTER  
THE HON JOHN HOWARD MP  
DOORSTOP - PHILLIP STREET  
SYDNEY**

E & OE .....

Ladies and gentlemen the decision of the High Court in the Wik case is disappointing. It has not resolved outstanding ambiguities concerning pastoral leases. I will seek urgent discussions with the State Premiers and Chief Ministers and also representatives of other interests, the Aboriginal community, miners and pastoralists.

It seems to the Government on a preliminary reading of the majority judgement that it has overturned certain assumptions on which our response to the native title issue had been based and certainly on which the approach of the Keating Government had been based. People will be aware that the preamble to the Native Title Act states that the grant of a pastoral lease extinguishes native title. The belief then being, and certainly the belief entertained by my Government, that it so extinguish native title because it created a right of exclusive possession. Now, those beliefs and assumptions have been changed by the decision, indeed overturned, by the new decision of the High Court and as a result I've sought urgent further legal advice from the Attorney-General and that is underway. It has created a new ball game and we need all of us to reflect very carefully as to the consequences of the decision and to recognise that there will need to be understanding and goodwill from all of the people involved so that the remaining significant ambiguities and problems can be intelligently addressed. They do need to be addressed. I don't think anybody greets with any enthusiasm the possibility of endless years of protracted and complicated litigation which is one of the scenarios that some of the people responding to the decision believe might occur. And all of us have a responsibility to ensure that that scenario is not realised.

**JOURNALIST:**

Will there be a Premiers' conference next month then to look at the issue?

**PRIME MINISTER:**

I'll talk to the Premiers. The question of how we take it beyond that is premature for me to talk about. I will certainly talk to all of the Premiers who are interested in this matter. I've had correspondence from some of them already. I understand their concern. They have very legitimate concerns. This is a difficult issue for the entire community and we have to handle it in a way that's fair to all parties. And it's not a question of taking sides, it's a question of getting a sensible resolution. But people have got to understand that we'd all operated on the belief, or in the belief, on the assumption that pastoral leases did extinguish native title. And the former government certainly represented to the pastoralists of Australia that that was the case. The Keating Government told the pastoralists time without number that they didn't have to worry. Now we find indeed that there is real doubt and ambiguity and the only way in which, according to the decision of the High Court, the status of individual pastoral leases can be resolved is not according to some general rule or principle, but on a case by case basis. Now, that only has to be said for people to realise that that could take years and years and years. And I can't think of anything worse to the future investment and development prospects of this country than to have endless years of litigation regarding the status of pastoral leases and the entitlements of the Aboriginal community as well as the entitlements of the mining industry and the pastoral industry. Those three sections of the Australian community have a joint interest in an intelligent response to this decision.

**JOURNALIST:**

Could new federal legislation be the key to solving this dilemma?

**PRIME MINISTER:**

I'm not going to, at this stage, pre-empt what the Government will do. I'm stating the reality and that is that we do have a new ball game as a result of this decision. I'm seeking further advice. I'm responding to a preliminary reading of the judgement. I'll talk to the Premiers. I'll talk to the Aboriginal community. I'll talk to the miners and the pastoralists. They all have an interest, a legitimate interest. I want to hear them all and I want to respond in a fair fashion. But the ball game has changed because of this decision and the community should understand that. And it may be necessary to have responses that are different from what were previously posed, but it is far too early for me to indicate what those different responses may be.

**JOURNALIST:**

Mr Howard, the Native Title Tribunal suggested that this now opens the way for more meaningful negotiations between the parties. Are you suggesting that that's not the way to go, that there should be some clearer legislation instead of negotiations as has been suggested?

**PRIME MINISTER:**

I'm suggesting that we have a new situation, we have a new ball game and that there has to be a response developed to the decision of the High Court. I'm not going to comment on what Mr Justice French said. He is not of course speaking with any authority other than his position as chairman of the Tribunal. His view on the matter does not necessarily carry any more or less weight than anybody else's.

**JOURNALIST:**

There's no secret that there will be some dissension between the judges, but were you surprised with the way it went?

**PRIME MINISTER:**

Oh look, for time in memorial courts have divided, there's nothing new about it. Let's understand something about the role of the Court in our system. It is the role of the High Court of Australia to interpret and declare the law as it is at the time of a particular case brought before it. It is the role of the Parliament of Australia to legislate and to make the law. I'm not going to comment in any kind of perjorative way on the decision of the High Court. I, like everybody else, am bound by a decision of the High Court. And let me make it clear, you won't have any undermining of the role of the High Court in the Government of this country by me or by any members of my Government. But I must also point out that it is the role of the Parliament if it thinks fit to change the law. And I noticed an implication in a comment made by the Opposition spokesman on Aboriginal Affairs that in some way the High Court's determination should be regarded as the last word on the matter. Now, the High Court's determination is the last word on the interpretation of the law as it now stands. But it's never been part of our system that the High Court makes the law, it's our system that Parliament makes the law and the High Court declares and interprets it.

**JOURNALIST:**

The CRA mining company says that the High Court decision is unlikely to have any impact on their projects. Doesn't that suggest that negotiated agreements are in fact the way to go? (Inaudible).

**PRIME MINISTER:**

I don't think you can read a general situation into the reaction of a particular company to that company's particular circumstances. Of course negotiation between parties is always preferable to litigation and that applies whether you're dealing with Aborigines and pastoralists or you're dealing with ordinary litigates. I mean, litigation is murderously expensive in this country. It delays things, it causes investors to lose interest. And I would always address a request to people to negotiate. The Century Zinc project has been the subject of protracted negotiation involving both my Government and the Queensland Government and I would like to see a negotiated settlement to that particular matter. Negotiation is always better than litigation. Litigation is rarely something that leaves people other than impoverished. And

although I am very proud of the fact that I'm still a solicitor of the Supreme Court of New South Wales, I don't want the winners out of native title to be the lawyers, I want the winners out of native title to be jointly the Aboriginal community, the pastoralists and the miners and the community generally of Australia. And we have to as a community, at a government and a non-government level, find a way around the ambiguities. But let's not kid ourselves. This decision has altered the ball game quite dramatically and has undercut certain assumptions, certainly on which our pre-election policy was based and certainly has undercut the assumptions of the former government. I mean, Mr Keating repeatedly assured the pastoralists of Australia that the grant of a pastoral lease extinguished native title because it gave a right of exclusive possession. Well, the High Court has now said, and I accepted it's a declaration of the law as it now stands, that that is not the case.

**JOURNALIST:**

Mr Howard, perhaps you'd like to share with us your Christmas message, your first one as Prime Minister?

**PRIME MINISTER:**

Well, I would very much like to do that. I'd like, on behalf of my wife and my children, to wish all Australians a merry Christmas. I hope it's, for all Australians, a safe Christmas. People should drive very carefully. I know it may sound trite, but it's not meant to be. Don't celebrate and drive at the same time. It really is a very unwise thing for people to do because I don't want the family and personal enjoyment of Christmas to be blinded for any Australians by tragedies on the road or elsewhere. Christmas is for most Australians a time of comfort and enjoyment and celebration. But for some of our fellow Australians it is a time of difficulty and sadness. And I would like all of those who can afford to do so to dig into their pockets and give generously to those tremendous organisations like the Salvation Army and the St Vincent De Paul Society who look after the less privileged people. And the other thing that I think we ought to do at a time like this is to remember the tremendous assets that we have as a nation; our tolerance and our decency towards each other and the fact that we have an enviable reputation around the world for being a very free and open and welcoming people. And of course finally and certainly not least importantly, Christmas is a time for many millions of Australians of spiritual renewal because the Christmas story is the source of a lot of the spiritual strength to many millions of Australians.

**JOURNALIST:**

Mr Howard, what's Santa bringing you for Christmas?

**PRIME MINISTER:**

Well, I'm very, very happy to spend it with my family and some friends. And I hope that all Australians who wish to do likewise can have an equally enjoyable time. Thank you.