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PRIME MINISTER

23 January 1997

TRANSCRIPT OF THE PRIME MINISTER THE HON. JOHN HOWARD MP RADIO INTERVIEW WITH ALAN JONES - RADIO 2 UE

E & OE.....

JONES:

Prime Minister, good morning.

PRIME MINISTER:

Good morning Alan.

JONES:

Happy new year to you.

PRIME MINISTER:

And to you too.

JONES:

It's going to be a tough year, isn't it?

PRIME MINISTER:

Yes but that's what's involved in this kind of job and this native title issue is one of the most difficult any government is likely to face. There are many groups in the community, the Aborigines, the farmers and the miners and the broader Australian community who have all got legitimate concerns and interests and it's not an issue that is going to be solved by any party grandstanding or any individuals in the community

who are not affected and who don't have any authority to take decisions giving sort of unctuous moral lectures about what ought to happen.

JONES:

Who has been doing that?

PRIME MINISTER:

I think there's a tendency for some in the community to sort of say to the Government, well, you know, if you do this the world will come to an end. Let me make it very clear that we have taken no decision on this. I consulted the State governments yesterday. I will consult and negotiate with the Aboriginal leaders and also with the farming and mining leaders and after that process has been finished, the Government will then examine what it is going to do and..

JONES:

How long will that process last, do you think?

PRIME MINISTER:

I hope it will only be a matter of a few weeks. People want certainty...

JONES:

I was just going to ask you that.

PRIME MINISTER:

Can I say your introductory remark put the finger right on it. We have this problem because the former Government legislated on the basis that the grant of a pastoral lease extinguished native title. The recital to the *Native Title Act* contained that clear, unambiguous statement. Now that's the reason we've got a problem and that's why the option of doing nothing is simply not available.

JONES:

What then do you say in simple language to Australians today who know that your predecessor, and I am sure in all sincerity in order to secure "certainty" said validated, freehold grants, residential, commercial and pastoral or agricultural leases will extinguish native title. Won't they expect that to be honoured?

PRIME MINISTER:

I would understand if people did want that honoured and let me answer it another way, the fact that that has now been thrown into doubt, or not only thrown into doubt, further than that, in fact has been in part repudiated by the High Court in the Wik decision, it does create an entirely new situation. Not a new situation in the sense of

us revising the original High Court decision which abolished the doctrine of Terra Nullius. I do accept and my Government accepts that there is such a thing as native title and we respect that but what we are concerned about and what we must address is that native title is now a different thing, a bigger thing, a potentially more expansive thing than the Australian people were told it was by the then Prime Minister in 1993.

JONES:

And that's because we have a bigger problem than even the one you've outlined, don't we. The public are wondering who runs the country, the Government or the High Court.

PRIME MINISTER:

Well the answer to that is very simple. The Government runs the country, or let me say, the people through the Government run the country. I don't run... the Australian people elect me. I am beholden to them. I am not a law unto myself. The High Court of Australia has a responsibility of interpreting the law. We have the responsibility to make it and if the interpretation, the current interpretation of the law is believed by the Government of the day to be contrary to the public interest, then in accordance with the Constitution, that Government has a perfect right, indeed an obligation to change that law.

JONES:

Many decisions would have been made, wouldn't they, on the basis of the categorical assurance that Prime Minister Keating gave the Australian nation?

PRIME MINISTER:

Oh yes, oh yes.

JONES:

Now let me put it another way. What Prime Minister...

PRIME MINISTER:

Many, many, many leases...

JONES:

I beg your pardon?

PRIME MINISTER:

...including many leases which have been granted since the first of January 1994.

JONES:

So isn't it then encumbered upon you to honour your predecessor's assurance in legislation?

PRIME MINISTER:

Well Alan I don't want to because I haven't finally decided what I am going to do and the Government hasn't addressed it as a Government, I don't want to sort of make firm, clear definitive statements until I have talked to everybody. I would be accused by some people of bad faith if I ...

JONES:

Sure, I understand that. Well let me put it to you another way...

PRIME MINISTER:

... what the Aboriginal community has got to say. They are entitled to be heard. They indeed, some of them are entitled to say that the *Native Title Act* so far hasn't worked to help them very much.

JONES:

Sure.

PRIME MINISTER:

There's only been one claim determined. There are hundreds outstanding and the Act has been in existence now for over three years.

JONES:

Yes and indeed, we had a native title grant, a native title decision in relation to a property in New South Wales...

PRIME MINISTER:

...accused by some people of bad faith.

JONES:

Right, sure I understand that. Let me put it to you another way.

PRIME MINISTER:

I do want to hear what the Aboriginal community has got to say. They are entitled to be heard. They indeed, some of them are entitled to say that the *Native Title Act* so far hasn't worked to help them...

JONES:

Yeah, sure.

PRIME MINISTER:

There's only been one claim determined. There are hundreds outstanding and the Act has been in existence now for over three years.

JONES:

Yes, and indeed we had a native title grant, a native title decision, in relation to a property in New South Wales at Crescent Head.

PRIME MINISTER:

That's right.

JONES:

When that native title decision was made and title was granted by the courts we then found that that was actually sold. So they'd established that they had an inalienable right to the land but that right actually could be bought by the Government if you paid the right price. Does this raise some suspicions as to whether we're in it for spiritual reasons or for money?

PRIME MINISTER:

Oh, well I don't want to make a broad, rash judgement. I suppose it depends upon the individual. There would be some people who would be concerned entirely about the economics of it, there'd be people who'd be concerned about the economics of something else, but I suppose in that sense they're no different from other sections of the Australian community...

JONES:

As I said to you before...

PRIME MINISTER:

...that land as an economic asset as well as giving them some kind of security. Now that applies to all of us I guess.

JONES:

But as I said to you before, you see, there are many Australians who are going to die with never having had title to anything because on \$350 a week they can't afford a house and they can't afford a car.

PRIME MINISTER:

That's right.

JONES:

They get public transport and they rent. They now find though that some people can, in fact, be awarded native title and then sell it for \$800,000. Now a caller to the programme early this morning said 'aren't these sorts of developments fostering a kind of sense of discrimination that we're trying to remove?'

PRIME MINISTER:

Well, Alan, I can understand people having all sorts of feelings because of the confusion that has been created in this whole area. I mean, native title itself was a very unusual concept because for almost 200 years we'd operated on the basis that there was no such thing as native title and in good faith people had been granted leasehold estates. We were told that they were unaffected, we are now told that leaseholders who acquired leases in good faith, perhaps their grandparents in the last century acquire leasehold estates in good faith, now find that they may have to do co-exist on those leasehold estates with other people. It is a very confusing situation...

JONES:

Can I just, can we just...

PRIME MINISTER:

...What I'm trying to do is calmly...

JONES:

Yes.

PRIME MINISTER:

...and with justice to all parties reach an understanding and determine the direction in which I'm going to take.

JONES:

Yeah, and the tone of your remarks this morning, might I say, confirms that. Could I just end this then, Prime Minister, in another way perhaps - because what Prime Ministers say to the nation is virtually a prospectus. It sets out in the public's mind the truth about a given issue. Now if a company misleads or erroneously States or deceives or distorts the truth they're taken to the cleaners, directors can be jailed. Now I come back to the point, and you've answered this in one way but I'd just like you to make a final comment about it, in all sincerity Mr Keating sought the passage of

the *Mabo* Legislation by issuing is prospectus to the nation and it contained the assurance that pastoral leases extinguished native title. Can there be any resiling from that position?

PRIME MINISTER:

Well I'll answer that in another way, as I did before, the Australian people having now been told that that representation is wrong and having been told that by the High Court of Australia, they are entitled to say to their Government - 'will you go back to the drawing board and sort this out and give us a set of laws which are fair to everybody but deliver us certainty'. In other words, our responsibility now is to look at this thing afresh recognising, as I said a moment ago, that there is an element in our law now called native title, we're not going back on that but it's the extent of that native title and the aptitude of that native title which is now at issue. We did believe that a pastoral lease superseded it. Everything you said about the prospectus is right. That was the whole basis of the Keating legislation. We now find that is not the case and we owe it to the Australian people...

JONES:

And you'll try to resolve it in some weeks?

PRIME MINISTER:

...In a way that is fair to the Aboriginal people, but also in a way that is fair to the farmers and miners and is also, by delivering economic certainty and therefore the potential for creating jobs, fair to all of the Australian people.

JONES:

Good. One final thing, nothing to do with Mabo. HMAS Voyager was cut in two after a collision with the aircraft carrier Melbourne and that was way back in 1964 - 82 were killed. Governments paid damages to all survivors on board the Voyager. It was our worst peace time, maritime disaster. We've got a 57-year-old William Maclean has throat cancer that he attributes to excessive drinking and smoking to overcome the post-traumatic stress of the Voyager disaster. He actually was awarded after a trial, a six week trial, \$1.7 million in damages. Your Government is appealing the damages and have forced a retrial. Is that the compassionate thing to be doing?

PRIME MINISTER:

It is a matter before the courts. Let me say two things, I think the appeal was actually commenced before the change of Government, I'm not saying that in any critical fashion, I may be wrong about that but I think it possibly was. I will be examining that matter. I don't...

JONES:

He's got a tracheostomy, he can't even speak.

PRIME MINISTER:

Alan, Alan, I will be examining the matter. I can't say any more than that.

JONES:

Okay.

PRIME MINISTER:

For reasons I hope you'll understand.

JONES:

I do.

PRIME MINISTER:

Okay.

JONES:

I hope you're not out to kill him.

PRIME MINISTER:

I will be examining the matter Alan.

JONES:

Okay, get back to you. Thank you for your time.

PRIME MINISTER:

Thank you, bye.

ends