

## Chapter Two

### The Social and Economic Realities of Mabo in the Federal Electorate of Kalgoorlie

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I have been asked to talk to you about the social and economic realities of Mabo as it will affect the federal electorate of Kalgoorlie. Although I am certainly as good an authority as any on this subject in as much as no one really knows, I cannot comment in detail until we have the legislation. However, I am quite prepared to make some general comments on the process to date.

What can be said with the utmost authority is this: any negative effect on Kalgoorlie will quickly affect the entire nation. The State of Western Australia earns in terms of export dollars twice as much as the State of Queensland, which is the next biggest net export dollar earner. The mining industry cannot operate in a climate of uncertainty. The mining industry has to know what the rules are and have secure title to land. It knows that the Federal Government cannot manage land. Even if some of my more emotional colleagues think that setting up a Commonwealth Lands Department in parallel to the States is an option, Paul Keating is well aware that it is not. It should be clearly understood that it is not the High Court decision itself, but the government response to the Mabo judgment, which is the crucial issue before us at present. As I say, we will have to wait for the legislation before we can comment in detail, but the impression given by the Government to date has hardly been encouraging.

There is anecdotal and specific evidence that on the basis of the pitiful and confused response so far, we have already lost opportunities for investment. I have been told that a \$10 million tourist project in Broome has had the finance pulled because of Swiss concerns about Mabo. I was talking recently to the Chairman of what must be one of Australia's most exciting new mining ventures. He advised me that on a recent trip to Europe, he was told that while they had the greatest respect for our technical expertise, they were concerned about the Mabo outcome.

It is interesting to note that one of the factors affecting the viability of the Kimberley cattle industry is the fall in productivity or cattle turn off in the area. This is due to the increasing number of stations coming under Aboriginal control. There is no reason why this should be so but it is. It could be remedied and God knows that the Aboriginal owners would like it remedied! There are lots of reasons for it and I won't burden you here with the mechanics of it all.

The government is talking about a land acquisition package as part of its response to Mabo. We do not know how big this package will be, but given the power of the guilt industry, it is likely to be substantial. In my view the money is likely to be administered through the Land Councils. If these generally unrepresentative bodies, driven by their legions of white lawyers and Aboriginal activists, do get control of this money, then you will see the buy-up of stations, but on an emotive, not on an economic basis.

The uneconomic buying up of stations will undermine hope of Aboriginal self-determination. The lowest common denominator will be the measure of productivity. We will be told by the New Class manipulators that community and social values are much more important than the mere economics of the properties.

High-sounding moral arguments will be put forward. White guilt will be manipulated to extract funds for schemes which had no hope of economic viability to begin with. The schemes will only

remain afloat by the injection of ever-more funds extracted from the long-suffering taxpayer. All this will be done in the name of reconciliation.

This of course will totally deny Aboriginal people any chance of self-respect, self-management or sense of achievement, which is absolutely necessary if their social and economic position is to be improved. It will keep them in the position of the eternal mendicant that I believe is exactly what the Aboriginal industry wants. They want a captive constituency which has to deal through them. People who are independently minded and who are economically viable would have no use for the industry.

This land acquisition package will also provide an excuse for a separate black state. As the non-viable ventures fail, the Aboriginal industry will claim that the reason has nothing to do with their management, but can be put down to 200 years of subjugation. Only breaking free of this subjugation by a form of sovereignty will free the Aborigines. So ironically – and as we have already seen if people are honest enough to look at the process – the more special treatment that is afforded, the more will be demanded. The complaints against white society will grow no matter what is given, until we reach this demand for what is effectively a separate black state. Let there be no doubt that under such a system, ruled over in effect by the Aboriginal industry and their white side-kicks, Aboriginal people will be far more repressed than ever.

They will cop it both ways, because the response of white public opinion to all this can be imagined.

Before you all get twitchy and think I am alarmist, I suggest that you think about it. This is a credible scenario. I personally am actually more optimistic and I do not think things will get that far, primarily because there are many Aboriginal people who see this scenario, fear this outcome and will resist it. If however, the endeavour of the majority is thwarted by bureaucratic action, aided by government ministers with bleeding hearts and small understandings, then society – or rather, long suffering middle and working class Australia – will make its voice heard. If that happens, things could become very messy.

I hope that the voice of reason, common sense and uniting force of shared objectives will triumph within the Aboriginal community. The voice of the majority of Aborigines is presently thwarted by government and ignored by the media, but these Aboriginal people are determined and I am happy to back them.

Well, that is the end of the speech on what I was asked to talk about, and this is the beginning of the new one on what I want to talk about. I take this liberty because, as I said at the outset, what happens in the Kalgoorlie electorate – which is, as you all know, the centre of the universe – will radiate to affect all of the nation.

I only did Latin for two terms of my first year in High School and I failed miserably. Mercifully I transferred to an agricultural high school in Adelaide and Latin was not on the curriculum. I wanted to be a pastoralist and own a big station, an ambition I achieved. Having achieved it, I found that it was not enough and I left it to a rather more determined brother who still perseveres.

In a life of regrets, I do regret that I did not persevere with Latin. I have found the little I did very useful and I am sure that more would have been better.

Terra Nullius, terra pertaining to land, nullius meaning nothing, void. No mention of no people. Yet we have seen Paul Keating, the Attorney General, Michael Lavarch and Minister Walker continually asserting that the High Court had overturned the outrageous fiction perpetrated by those unspeakable British that there was no one here before they came. In this they have been constantly abetted by a slothful, ignorant and sycophantic Canberra press gallery and of course by a High Court that, having caused the problem in the first place, seeks to walk away from it.

Terra Nullius means no use of the land. The American Supreme Court, the Canadian High Court, the Privy Council and until recently our own High Court have all held that occasional traversing of the land by nomadic people did not constitute use of the land.

The habit of the British was to seek treaties with the indigenous people wherever they went. This is why treaties were made in New Zealand, Fiji, India, Malaysia and North America. This is certainly the instruction given to Captain Phillip, and no amount of New Class revisionism can deny this as the instructions are available as historic records. The reason that neither Phillip nor subsequent governors made treaties was not because there were no people, but because there was no apparent leadership and cultural structure with which to conclude them. Even today we have recently had Paul Keating lamenting that he did not know whom to negotiate with. If he had to make a treaty with a representative Aboriginal leader, just which one would he choose?

The High Court was extremely presumptuous to believe that with two hundred years of hindsight, they could have done better than our first settlers.

Common Law is the essence of experience. It is not and should not be about so-called social justice. Common law is essentially a code for the good management of society. As such it should change only in an evolutionary way, not a revolutionary way, as has happened with Mabo. The majority of judges, in their emotional ardour, grabbed powers that the founding fathers of our Constitution, for very good reasons, denied them and simply turned two hundred years of established law on its head.

I have heard so many people from Keating down to newspaper editors, clergy and of course the Aboriginal industry, even people in the mining industry, say "the High Court has decided and we have to live with it." I disagree. The High Court has made itself a political court and now has to face the rough and tumble of politics like the rest of us. It cannot, as one commentator so rightly noted, commit a judicial coup d'etat and expect those of us who oppose its action to accept it quietly.

The elimination of appeal to the Privy Council, a decision of the Hawke Government with which I agreed at the time, has removed any need for intellectual rigour from our High Court and this is a circumstance that must be remedied.

It is my very strong view that the High Court has been mischievous or stupid. Either way, instead of leading us towards illumination, it has self indulgently created a gloomy cloud cover over our public affairs. To use the words of Dylan Thomas, we must "Rage, rage against the dying of the light".

How do we do this? Clearly we could get help from the government, but Keating has raised the Mabo decision to a matter of fundamental importance to all the true believers. He has made it the ultimate Social Justice issue. His speech of Redfern is held by some, but by no means all, of my colleagues to be a landmark in social justice.

It is of course nothing of the sort. It was the speech of somebody ignorant of the subject who fell back on outpourings of guilt and the most degrading national self abasement. Frankly I can see no reason to make such a speech to the lost tribes of Redfern. They are in the city because they voted with their feet and long ago left their tribal areas for what they perceived to be a better life. Historically it is this perception that caused large numbers of Aboriginal people to gravitate to our society or to the fringe of it. They, particularly the young men, made a decision that our way looked better than the very hard, unforgiving laws of their own cultures. This is not however accepted by the New Class, as it does not sit well with the development of the guilt industry.

Notwithstanding the present euphoria, I believe Keating's Redfern speech will come to be viewed as the emotive, but empty, rhetoric that it really is. Even Don Watson, the joke writer who manufactured the speech for Keating, was surprised that it was accepted in its entirety. He referred to it as an "ambit claim" – the ambit claim of a privileged individual who takes or bears

no responsibility for its consequences. Don Watson has a flight from responsibility which he should not be allowed to forget.

We cannot expect much from the Opposition leadership. After all, the present Federal coalition Aboriginal policy was cobbled together by a couple of public servants, seconded to Dr Wooldridge by the good grace of Robert Tickner.

In the ducking and weaving done by the High Court following its Mabo 2 judgment, the Chief Justice has sought to justify the court action with the following quote to the Australian Lawyer magazine, where Sir Anthony said: "In some circumstances, government and legislature prefer to leave the determination of controversial questions to the courts, rather than leave the question to be decided by the political process". Sir Anthony may well be right about the gutless nature of some legislators. What he is wrong about, what he is naive about is his belief that the Court can enter the political arena without becoming politicised itself.

The Court is simply not competent to enter what is clearly the political arena. The Court for its own short term aggrandisement should not pander to gutless politicians, and I am appalled to think we pay the Chief Justice \$191,550 for being so silly.

No, if we are to be saved, we must save ourselves, and the people must demand and use the power of the referendum. The High Court must be made to bear the censure of a higher court, the court of the people.

I am more convinced that it would be no bad thing to put a few questions to the people with every general election. Although I once opposed it, I am now quite prepared to countenance Citizens' Initiated Referenda, provided the percentage of people requesting a referendum on a particular issue is big enough to prevent vexatious abuse of the system by small groups of zealots.

Section 51 of the Constitution clearly needs looking at. The High Court is taking it where I am sure the founding fathers never intended. I would personally favour a new section making it clear that no government had the power to sign any foreign treaties or UN resolutions that in any way impugned our sovereignty without the mandate of an election or a constitutional referendum.

At this point, I should confess that I went into Parliament as a confirmed centralist. Thirteen years in Canberra have convinced me that I was wrong and I am now a convinced federalist. There is no doubt that a federal system can be clumsy and it can hold up good ideas, but if those ideas are sound and workable, it will not stop them. This occasional clumsiness is, I am convinced, a small price to pay for the checks and balances inherent in our present constitutional system.

I want now to address a solution.

Since native title has been extinguished over the largest part – in fact all – of inhabited Australia, the sensible thing, in the name of equity, would have been for the Commonwealth Government to legislate to do what we always thought had been the case, and extinguish native title and agree to pay compensation. Since the High Court has acknowledged that minerals should not form part of the compensation, the cost of compensation would in fact have been very little. If there was requirement to prove title under the terms outlined by the High Court, there would in fact be very few successful claimants.

Keating has talked about regional solutions. Western Australia is a region as well as a State and things are very different in WA from the rest of Australia. This is the State with the largest area of unalienated Crown land. It is all very well for Premier Kennett of Victoria to support the Federal government. This is not an issue that will impact much in Victoria. Kennett is obviously listening to the largely foreign-owned mining company boards in Collins Street. What they want is their present operations protected so that they can continue to use them as a milch cow to fund their offshore expansion.

I believe that Richard Court is right to fight for the differences in Western Australia. I think that the State Government should legislate to extinguish native title and pay compensation. Of course, to be consistent, the Premier should also remove from farmers the power of veto over mining foolishly given to them by a previous coalition government.

I set out these views in a letter I sent to The West Australian on 14 June, 1993. They of course did not publish it even though it would have given some sort of balance to their coverage.

I am told by my more learned parliamentary colleagues that the Premier cannot act as I suggest, as he will be stopped by section 8 of the Racial Discrimination Act. I do not see the conflict myself but in any case, the States' right to administer land stems from the Constitution and this must override an Act of the Federal Parliament. Of course if section 51 is invoked and upheld by the High Court, then all is lost because it will render the Constitution meaningless. Unless this could be redressed by a referendum, the High Court would entrench itself as the new dictatorship.

What of social justice? I am, in fact, a great advocate of social justice. I simply say that this is not the mechanism for applying it.

The Aboriginal industry in Australia today receives something like \$2 billion a year – \$1.25 billion from the Commonwealth and about \$0.75 billion from the States. There are, in round figures, something like 240,000 people of Aboriginal descent in Australia. On this basis, each man, woman and child receives about \$7,500. If you accept five people as being an average for the Aboriginal family, then every two or three years that Aboriginal family should receive enough money to buy a completely new house. Quite clearly, the money is not getting to Aboriginal people and Aboriginal people are aware of this. Obviously in the acquittal of these funds lies the greatest opportunity for social justice and this is what Aboriginal people are calling for.

Let me give you an illustration: in the Kimberley, there are about 60 Aboriginal children that we know of who have chronically perforated eardrums that require surgery. Without this surgery, they are doomed to a half-life. They will not be able to hear, they will not be able to learn, school will hold no interest for them, they are doomed to be alienated and unemployable. This could be easily remedied, the surgical technique is well known. If we are unable to get surgeons to go from Perth to the Kimberley to operate, then the Commonwealth should look at doing something useful. I suspect that within our military medical resources, the necessary surgical skills are available. A military medical exercise in the Kimberley would provide valuable medical and logistic training. The military would be doing something useful and the government would deserve and get kudos for a genuine social justice objective achieved. While the AMA is without doubt the most powerful union in Australia today, they would be unlikely to object in the face of such an obviously good, compassionate and cost effective exercise. Ask yourself the question, what is stopping us?

We should ask ourselves : "What is the extent of Aboriginal support for Mabo?"

Now, this is actually quite hard to determine because Aboriginal people have never been asked. We have been too busy consulting with the Aboriginal industry. But I do have a good rapport with a lot of Noongar people in the South of Western Australia. These people know that there is no native title for them – that was extinguished long ago in their case. They say there is nothing in Mabo for them except the backlash – a backlash which they believe has already started and which understandably they do not want.

Aborigines in communities I have spoken to have another point of view. It has been put to me that this legislation will pit black against black and black against white at the same time as the Aboriginal communities believe we should all be working together. These people say to me "We

are Australians. We don't want anything other Australians don't get". This is not a view one finds reflected in the mainly city-based media.

Aboriginal people and the wider community must realise that the continuation of the guilt industry is incompatible with Aboriginal advancement. The guilt industry needs victims. If Aboriginal people are advancing in mainstream Australia, where most of them want to be, there are no victims. I can assure you the Aboriginal industry will fight tenaciously to maintain the quota of victims.

Some months ago I was talking in my office to an Aboriginal elder who has in fact been inducted into three Aboriginal law systems – a man who has battled and overcome chronic alcoholism, a man who has travelled so widely there is scarcely a nook or cranny of Central Australia that he is not familiar with. While I was talking with him, I heard raised voices in my outer office. I went out to investigate, to find two young Aborigines harassing my secretary for money for a variety of reasons. I might add this is not an unusual occurrence. On this occasion, I said there was no money for them, they had in fact not repaid previous loans, and that it was my view that they would spend the money on grog.

One of the young men then said to me, "You owe us, you have taken our land". Now since he came from the Central Reserve area, where their land has never been taken, this was totally untrue. I set about to simply throw them out of the office when the elder emerged from my inner office and said, "What is this? What is this I hear?", and lined up the young blokes and said, "Now listen, you fellas, listen to me. Two hundred years ago", he said, "this was a big empty country, just a few black fellas like you and me running around the place. Sooner or later someone was going to come 'ere – you can thank your lucky stars it was this mob and not..." and he reeled off a whole list of other possible colonists. The fact that Australia was bound to be colonised by one group or another was obvious to this man. The fact that the British as colonisers have a better record than most was also clear, no matter what the New Class may insinuate.

Europeans themselves have been subject to colonisation and invasion. Consider the devastation of the Mongol invasions of Europe, the advance of the Turks through the old Empire of Byzantium and into Europe, and the advance of the Moors into Spain. This sort of thing is a constant in human history, and our own European forebears have been at the end of it. The Mongol atrocities for example put anything that happened in Australia well and truly in the shade.

But 200 years ago, due to the development of superior technology, Europeans were the leading colonisers, so it was always most likely to be either the British, French or Dutch for this continent. If the first two had both gained footholds we might have found ourselves today in the situation of Canada, in danger of breaking up as a nation. If the Dutch had colonised part of Australia they may well have shipped indentured labourers from the East Indies here. In time the ancestors of these labourers may even have been as numerous as, or even outnumbered, those of Dutch descent. In that case, when the East Indies gained independence, Indonesia would have made a strong claim for the Dutch controlled section of Australia.

We were fortunate to have only one coloniser, providing a solid base and a common culture and language from which the country could be unified. I strongly maintain that, at the time, only the British had the power to claim this entire continent. Other colonisations would have been piecemeal and would have led to inevitable conflict and division.

I can assure you that there are many Aborigines who accept that there is no conceivable way that they could have continued on as they did 200 years ago. Given the forces at work it is nonsense even to suggest it as a possibility, and yet the utopian New Class act as though, if it had not been for the nasty British, the Aborigines would still be living their traditional lifestyles all across the country.

As it stands, the descendants of the colonisers of this country are far and away the best bet of the Aboriginal people. I have heard the professional Aboriginal Eric Willmot virtually wishing for the day that Europeans are displaced and Australia becomes Asian. Would that help the Aboriginal people? Dr Willmot and others should take note of the comments of thoughtful Asians. The vice chancellor of Hong Kong university, Professor Wang Gung Wu, has stated for example, as reported in The Canberra Times of 8 July 1992, "where most Asians are concerned, the survival of Aboriginal peoples and cultures has never had any priority." For those who open their eyes this is obvious, but our elites always have us look at Asian countries through rose coloured glasses. Our extinction is something to be welcomed almost as some sort of divine release, and Aborigines are used for their guilt value to hasten the process. The logic involved is truly that of which, to paraphrase Orwell, only an intellectual would be capable: in order to survive in the region we have to conspire in our own demise.

Becoming an Asian nation, in the fashionable jargon of the elites, would mean that Aboriginal people would slide further and further back, rather than advance. I make it quite clear that I do care strongly about Aboriginal people and I do want to help them to advance. It is because I am so sure that Mabo is not the answer that I oppose it.

I can't now recall how many times Aboriginal people have said to me, "What's this reconciliation nonsense? Reconciliation is about the past. We can forget all about that. We've got to think about the future, and we will have to work together, otherwise no-one has got a future."

Aboriginal people tell me everywhere they want to be mainstreamed, but we continue to marginalise them in a system which wants them to be eternal mendicants. But there is no doubt that the Aboriginal industry is directed to failure. It is a big industry with its own bureaucracy, and there is nothing more tenacious than bureaucrats fighting for their survival, which would be threatened if Aboriginal people were to successfully integrate in mainstream Australia.

Contrary to the myths of the guilt industry, there is little evidence in our history of massed or planned genocide of Aboriginal people, if it exists at all. Of course there were individual instances of killings, often in revenge for the killing of stock. But even in Tasmania, the passing of the Aborigines was not a planned policy. Quite apart from the individual brutalities of convicts, who were themselves often brutalised, it was largely a case of misguided paternalism. Misguided paternalism in the shape of welfare is also the problem today. It is welfare that is killing Aboriginal people, and there are indeed people who recognise this, but believe that the solution is to increase the welfare even more. There is that twisted logic again. It's a logic I am not prepared to accept, and I do everything that I can to support the real and legitimate concerns of my large Aboriginal constituency.

Mabo will lead to a misallocation of resources with no benefit except to lawyers and the Aboriginal industry. Great hopes can be raised among some, only to be dashed, and the end results will be bitter.

The situation of Aboriginal people will not improve until they take responsibility for themselves. I am interested in hard headed measures which will assist them at the grass roots. I am not interested in enriching lawyers and promoting the status of members of a self appointed Aboriginal industry.

At this point I should consider what the Government's Aboriginal Affairs policy has been about. If it was to improve the lot of Aboriginal people, then it has been very expensive and only very marginally effective. If it was to placate urban white middle class guilt, it has been very successful, so successful that we are now at the backlash stage. The tragedy is that the Aboriginal people, the vast majority of whom do not deserve it, will be the recipients of the backlash. Those in the Aboriginal industry will simply move on, protected as many of them are by jobs funded by the Australian taxpayer.

Solutions:

I personally believe that it would be better to provide the present funds through the States or other federal government departments. ATSIC should be abolished. It has failed, for all the reasons that I told Gerry Hand it would when he set it up.

Overwhelmingly, Aboriginal people want to get rid of ATSIC. Returning it to the Department, fully answerable to a Minister, would meet with general approval. If the funds were disbursed by the States, all that would be needed would be a small overview monitoring department.

We should scrap the rubbish about guilt and address the basic issues: housing, health, education, training and employment. I think in that order, but all are interlinked, and if one element is missing, it cannot work.

We should listen much more to what Aboriginal people are saying. They are much more realistic, sensible and honest than the industry.

We must demand the same level of competence and accountability from Aboriginal bureaucrats as we demand from others.

In my electorate, I have some Aboriginal stations that are, in terms of cattle quality, land care and improvements, better managed than they ever were under the previous management. These properties are being hampered in their development because ATSIC appears unable to provide their allocated funds on the due date. Funds are often not paid until late in the year, forcing the properties to employ white contractors to get the work done and money acquitted before the end of the financial year.

This leads to depreciatory remarks in the wider community about "lazy black bastards", thereby entrenching the stereotype, feeding the prejudice and helping to guarantee the failure, thus ensuring the survival of the Aboriginal industry that requires a mendicant constituency.

To be fair, and notwithstanding my earlier comments, I believe the new State Manager of ATSIC is aware of this problem and is trying to rectify it.

We must stop treating Aboriginal people like children. They are able to and they want to enter into their own negotiations.

Somehow we must make the press more responsible, especially ABC TV. I have many experiences with ABC programs which have been little better than politically correct propaganda pieces.

In Western Australia, the ABC has point blank refused to give air time to Aboriginal people who want to complain about statements made in their name, but about which they have absolutely no input and with which they do not agree. I can give many instances of this.

People like Peter Yu of the Kimberley Land Council and Robert Riley of the Aboriginal Legal Service speak ad nauseam on television but the counter Aboriginal view never gets reported. This leads the wider society to think that all Aboriginal people are the same, and I know it is not the case. In fact, this week I have just returned from the Kimberley, where Aboriginal people are looking to change the constitutions of their communities to make sure they cannot be infiltrated or taken over by the Kimberley Land Council or other groups.

While you might think this contradicts views I have expressed earlier, this is not really the case. I am simultaneously acknowledging the way things are and the logical outcome of the continuation of this course, and the belief, maybe against all the odds, that the constructive Aboriginal voice, the voice of Aboriginal people who recognise they are Australian, that their future lies in a united Australia, will triumph. I hope for all of our sakes that I am right.