The adoption of Information Technology as a source of individual and community empowerment, has allowed Kooris to gain access to information that was otherwise inaccessible—an opportunity that I'm sure our forebears would have equally enjoyed. With the flick of a key we can access the Hansard records on Indigenous matters and gain some insight into into the mind set of parliamentarians. We can analyse the views that politicians express under parliamentary privilege, by comparison with what they say in their own constituencies. To have a document sitting in front of you that contains views about your inerrant rights that arise from your ancestors' prior occupation is a rather daunting experience. When the document you are confronted with however is about the extinguishment of those rights that have been passed on to you to hold in trust, for future generations, it sends out messages of magnitude proportions.

New ways of communicating seem to have made little difference to the views of some members of the Victorian Government though. I was shocked to read the member for Rodney's speech in support of what is arguably one of the most racist pieces of legislation to be introduced into the Victorian Parliament since the infamous Aborigines Protection Acts of the 1860's (The Land Titles Validation Amendment Bill (Vic) 1998). No way would the same access to the parliamentary debates be available to Kooris back then, because they were excluded from the general population on mission stations and reserves. Looking back at past laws it is even more startling to read Mr Maughan's views on Kooris today. While he pays lip service to the 'existence of native title' and the spiritual affinity that Aboriginal people have with the land he had great difficulty in conceptualising the meaning and importance of the land to Kooris today. Physical and spiritual connection is the essence of Indigenous culture and land relationships. It is this connection in accordance with "traditional laws, customs and usages" which is the source of native title. The High Court in Mabo (No 2) recognised that traditional connections change and evolve, but what is significant and what must not be denied is the "general nature" of the connection between the people and the land (see Bartlett, 1993:19; Native Title Act, 1993 s223.(1) and Division 2 of Native Title Amendment Act 1998).

Mr Maughan uses parliamentary privilege to allege that some of those involved in land rights claims are not attracted by the spiritual association or affinity with the land, but by the "mercenary aspects of their claims" and that a "number of members of the Aboriginal
community are of mercenary character".

While he does not identify the so called "mercenaries" such allegations have serious implications for his representative constituency many of which are Koori people and indeed native title holders.

The Oxford term for mercenary has two meanings; one is a person who "works or is hired merely for money or other reward" and the other is one who is "hired as a soldier in foreign service" similar in nature to the sand liner fiasco we witnessed in Papua New Guinea (Oxford, 1979:683). The concept of mercenary is a rather sinister image that is associated with native title claims and members of the Aboriginal community.

Interestingly Mr Maughan tries to cover his back by suggesting that "many members of the Aboriginal community have genuine claims which he respects including the Yorta Yorta claim". This would seem to be totally at variance with the government of which he is a member, which has spent huge sums of taxpayers money opposing the Yorta Yorta claim over the last three years.

While paying lip service to a poorly understood notion of the importance of land to Indigenous people, politicians like Mr Maughan ignore the right of Indigenous people to have a say in what happens to their land and water. Kooris want to be involved in its future care and management not as token gestures but as rightful participants enjoying those inalienable rights that have been passed on from their ancestors.

Native title has been recognised as an integral part of government policy and of the common law in the United States, Canada and New Zealand for over a century. A primary aspect of the pattern adopted to provide for native title in those jurisdictions is that of negotiation towards agreements providing a regime affording certainty of land titles, and Aboriginal rights of land ownership and participation in resource development. The potential of the land to provide employment, economic security and cultural continuity, for Koori people whose unemployment rate is nearly four times that of the general community are simply overlooked in the current debate.

More importantly most of the defining and interpretation of Koori land relationships are mediated by non Kooris to the exclusion of native title holders. A prime example is there are no Koori voices on the land debate in the Hansard record, because they were left out of the
process and the articulation of their ideas were mediated by people like Mr Maughan and others (Victorian Government Hansard, 12 November 1998:10-25).

Having failed to fully grasp Aboriginal land relationships Mr Maughan then reverts to some of the old paternalistic adages about the "large amounts of money" being spent in Aboriginal Affairs that are "not well targeted" and that the real panacea for Aboriginal progress is "education". He is obviously unaware that many of the reports on such matters, including the Deaths in Custody Royal Commission and the Stolen Children Inquiry, identified the loss and alienation from land as the causes of current day problems.

Moreover "education" can only ever be part of the answer. Many Kooris who have gained higher education are being excluded from employment opportunities because their affairs are being dominated by non-Aborigines and those that manage to gain employment in the public sector are subordinate to non Aboriginal interests (Age, 13 May 1998; Deaths in Custody Royal Commission Report 1992: 5; Australian Bureau of Statistics Report on the Health and Welfare of Australia's Aboriginal and Torres Strait Islander People, 1997:4; National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children Bringing Them Home Report 1997; Australian National Audit Report on Aboriginal and Torres Strait Islander Health, 98-99:11-18; Council for Aboriginal Reconciliation Report, 1995).

Mr Maughan then turns his attention to the legacy of past wrongs and rationalises his position for not apologising by equating Aboriginal dispossession, discrimination, and mistreatment with the treatment of convicts, prisoners, and orphans under the same oppressive mindset of anglo polices and practices. He uses this as a justification to distance himself from the legacy of those past events under the rather naive assumption that they were done 'with the best will in the world' and then makes the rather fatal and absurd generalisation that such 'actions were supported by the community'. The community that Mr Maughan refers to was certainly not the Aboriginal community who had no say in the matter. Furthermore I dont know of anyone in my lifetime and particular those that are aware of the "deep scars" that Sir Ronald Wilson found were still firmly embedded in the souls of every family affected, that would have ever supported such inhuman practices. Moreover such actions were not put to the community for approval they were pushed through parliament by racist government officials of the time and it is important to remember that Victoria was one of the first states to introduce such laws. The 1869 and 1886 Victorian "Aborigines Protection Acts" are the origins of the stolen children polices that were duplicated in all other states. Mr Maughan would gain some enlightenment if he was to go to the Parliamentary Library and look up the statute books and then read the other reports on the
subject matter. History has a funny way of revisiting its makers.

It is true as Mr Maughan suggests that we 'need to look forward to the future and try to redress those wrongs'. If saying sorry is a means by which those scars can be healed then surely it is really not as difficult as it has been made out to be. Once that crucial step is made then the future can certainly be approached in a much better light. It would be true to say that many people have made such a step and have moved forward.

Mr Maughan refers to the Yorta Yorta peoples attempts to reclaim some of the lands that were taken without any recognition of their pre-existing native title rights. He is concerned that others with interests in the land and waters might not be given the same procedural rights as native title holders and asserts that projects have been held up.

He then makes the outrageous claim that "the main street of Cohuna was under claim"- a quantum leap from "backyards" to "main" streets is thus made. This is simply untrue as the claim never extended to land that was unclaimable. Mr Maughan's views are a good example of how politicians exploit parliamentary privilege to peddle misinformation which ultimately becomes the body of white "myth" that native title holders have to deal with. Under both the Commonwealth Native Title Act and the confirmation provisions of the Victorian Land Titles Validation Act, as amended, roads are "deemed" to have extinguished native title.

Mr Maughan’s information does not come from the evidence presented to the court but from a newspaper article which he then uses to add further misinformation to the debate by claiming that the Yorta Yorta would "develop a plan for the land and water they seek to control under the claim." The policy document he refers to is a working document that is now before the federal court. It sets out land management strategies that are no different to those models operating in Australia today at, Kakadu, Uluru, Katherine Gorge, and more recently at Mootwingee in New South Wales, where joint management arrangements have been successfully negotiated between traditional owners and other interest groups.

The policy document discusses the need to protect and have control over heritage places and provides proposals for the continuation of those native title rights and interests that the Yorta Yorta have inherited from their ancestors prior occupation use and enjoyment of the lands and waters. If Mr Maughan really believes that we are all equal, why should inherited Yorta Yorta rights be any less than those that Mr Maughan no doubt enjoys to the fullest extent on his land. He has the right to exclude others, can exercise control over the land he holds and would also
have to take into consideration other interests in the land such as restrictive covenants, easements, mining interests, and other statutory interests that are all capable of co-existing with his land rights.

The extent of equivalent rights that the Yorta Yorta can exercise and enjoy are matters that are now before the Federal Court for determination. Mr Maughan takes technical and legal propositions out of their context and uses newspaper reports on the draft policy document to distort and misconstrue the potential native title rights and interests that are achievable under the common law and the Native Title process. It would again do him good to go to the original transcript rather than rely on outdated newspaper articles to understand the nature and extent of those rather complex matters being dealt with by the courts under the Native Title Act. Those activities that Mr Maughan refers to as being of concern to parties have been presented to the same court under the same procedures as native title interests and are included in the evidence now before the court and in the transcript which is accessible to the public.

At the end of his speech on the Validation Bill, Mr Maughan concludes by saying that he "respects the Aboriginal people as equals". He acknowledges that our health, education and employment opportunities should be improved and says that he "respects the claims for native title but wants an all-inclusive society." His comments are best described by Mr Hulls MLA for Niddrie who is quick to take up the notion of "equals" by saying that "such a statement seems extraordinary" when on the one hand Mr Maughan is willing to "treat people as equals" and on the other he is "prepared to support legislation that retrospectively takes away their native title rights".

By supporting the Land Titles Validation Amendment Bill, 1998, which extinguishes pre-existing Indigenous rights to areas of land in Victoria and legitimises the further dispossessions, and marginalisation of Indigenous Victorians, Mr Maughan and others by their very actions are complicit in acts of discrimination. Victorian Koori's property rights have been singled out and treated different to normal property holders. It is grossly hypocritical to have Parliamentarians advocating on the one hand "reconciliation" and respect for the "equality" of Victorian Kooris, and on the other taking away what are fundamental human rights. The manner in which this racist legislation has been prematurely bulldozed through the parliament without allowing due process to native title holders and without waiting for the outcome of the Yorta Yorta Native Title case, goes against the whole grain of the governments "commitments to reconciliation and multiculturalism".
Such actions have undermined the principle of reconciliation and put Koori and non-Koori relations in this state back to the days of the oppressive reserve system. Victorian Kooris currently control one hundredth of one percent of their traditional land base which is minuscule when compared with the degree of land theft that has taken place since colonisation. To validate and extinguish surviving native title interests on areas of claimable land is a shame job on any government. Not to deal with the matter in a fair and just manner is even more shameful, and a mind set that is very hard to reconcile with what is reputed to be one of Australia's most prosperous states. Compensation will never repay for the loss of native title rights or replace what are regarded as the oldest form of property rights known to humankind.

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