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Secret White Men's Business

This program reveals an elaborate campaign to undermine native title in Western Australia.

Stephen McDonell:

In Western Australia, there's a strange new chapter of an old story: a story of white people, black people and land. This time it involves big money, awkward bedfellows and communities pitted against one another.

Peter Dowding, Lawyer:

There's some very, very powerful and wealthy interests that are - that believe they're threatened by Native Title, and I believe that they're working very hard against it.

Stephen McDonell:

All sorts of people are muddying the waters.

Graeme Campbell, Labor member for seat of Kalgoorlie:

Basically the more tribal the Aborigines are, the less trouble you're likely to have. The problem is, really is, greedy half-castes and greedy lawyers.

Stephen McDonell:

Others see tantalising opportunities.

Neil Phillips:

It's sitting down with mining companies and working out how much exploration money have they got and you've got to be quick on the take.

Stephen McDonell:

Tonight on Four Corners, the mysterious funding of native title claims in remote parts of Western Australia where some of the loudest critics of native title are actually setting up native title claims.

Title: SECRET WHITE MEN'S BUSINESS.

Stephen McDonell:

This is a story with a deep history. It begins back in 1868 at this windswept place in the Pilbara. These standing stones were erected by Aborigines as a memorial to a massacre. Here two teams of white men slaughtered almost an tribe of Aborigines.

In a planned attack, at least 60 men, women and children from the Yaburara tribe were murdered in one day. The skulls of children with bullet holes in them were left behind. The massacre is part of a colonial history in the West that saw thousands of Aborigines killed in a controlled and organised fashion.

These killings at the Burrup Peninsula became known as the Flying Foam Massacre: An act which completely destroyed a language, a culture, a people. As for the masterminds of the massacre.

Trevor Solomon:

They always been remembered as the great heroes of this area, the Pilbara. You know, they came and tamed the land, shot the blackfella and got him out of the road, and kept on going. That's how they are remembered in history, and some of them got names - that town over there, [REDACTED] instance - he's got a street named after him, he's got a bay named after him down in the Burrup Peninsula, [REDACTED]

Stephen McDonell:

Things didn't get a whole lot better for the Aborigines of the Pilbara.

Over the next few decades, a pearling industry was created using Aboriginal slaves. A gaol block was built in the area, to house Aboriginal prisoners, many who were guilty of nothing more than trying to run away.

When the pastoral industry was built in Western Australia, Aborigines may have worked only for rations but at least they could stay on their traditional lands. Then in the 1960's, this link was broken when most pastoralists kicked them off the stations rather than pay basic wages.

Ron Mills was born at Mulga Downs station, then owned by the mining magnate Lang Hancock. Like hundreds of others, his Dad worked for years, 7 days a week, 12 months of the year.

Ron Mills:

I asked my old man one day - Why do you live on a place like this when you're not getting paid for all the work you're doing? And he said to me, I can't leave here son. This is my traditional land. This is where my law is, I gotta stop here to look after the country.

Stephen McDonell:

Robert Boona was born on a local station where his father worked - also for no pay - for almost 40 years.

Robert Boona:

My Dad used to say Well, you know this is our country, but don't you tell the white man - he own it now. But this is really our country.

Q: Why would it be dangerous though, to tell a white man this is your spirit country?

A: At that particular time, oh those days my dad never got any money - never got paid. There was food rations. If you talked out, if you rebelled, certain things will start going missing out of your rations you're supposed to be getting every week.

Val Holborow:

My Father worked on Karratha Station, and he lived there with his wife and his children; and he worked very hard on the station. They were slaves, they were - that's who they believed they were - they were slaves, and even as a child with my father working on the station, I still believed that that's what he was.

Stephen McDonell:

In the 1970's, new threats to Aboriginal heritage came with the West Australian resources boom. The resource-mega-rich Burrup Peninsula was particularly effected.

"Harry Butler's Burrup", January 1980:

In the 80's Woodside Energy build the massive North West Shelf gas project on the Peninsula. By now white people at least wanted to be seen to be doing the right thing and preserving Aboriginal heritage.

Stephen McDonell:

Woodside employed a popular television naturalist to do some of its talking and the ABC made a film about it.

"Harry Butler's Burrup", January 1980:

When Woodside began this project, the information we had on Aboriginal sites in this place was very sparse. But when the EIS came up and the studies began and now the monitoring, we found thousands of places like this. I've been right around this country. I've been in North America and South America - this is not a brag, and I've seen stone art work and that's what this is - its called a petroglyph, and its pecked in the rock by Aboriginal men; and this is the most fantastic block that I've ever seen. Beautiful stuff. In time to come this is going to be one of the great art galleries of Australia, an outdoor living place - and they're all being guarded with notices like that.

Stephen McDonell:

These world-famous rock carvings were done by the Yaburara - the same tribe virtually wiped out at the Flying Foam Massacre. But today many aren't sitting in their natural state and protected by signs.

Stephen McDonell:

In this deserted valley on the Burrup peninsula, we've come across an eerie graveyard of Aboriginal carvings. There could be around 2,000 of them, they're all numbered and many are lying face down in the dirt. It seems a sad, final resting place for these works of art, that represent the life and culture as it used to be around here.

These rock carvings were smashed out of the ground when Woodside built its natural gas plant and left in this compound for 19 years. The State Government, recorded and catalogued the

carvings but most of the records have since been lost.

Trevor Solomon:

You know our country is being moved around all the time - not only the people but rock carvings and stuff like that too.

Q: So how do you feel seeing these rock carvings here today?

A: Oh I feel no good I feel upset that they're just laying there wasting away.

Stephen McDonell:

As for Harry Butler's suggestion that all the Burrup rock carvings were safely being guarded... Woodside would not be interviewed for this programme but in a written statement confirmed that "sites and engravings that could not be moved were recorded and then destroyed." A company spokesperson said some carvings were probably used as base for the plant - ie the bedrock.

Our story next shifts to the city. By the late 1980s - Aborigines had decided to take a radical stand on questions of heritage. Perth Aborigines opposed the redevelopment of the city's old Swan Brewery, claiming it was on a sacred site - the home of a Dreamtime serpent, the wagyl. This long and bitter fight was also the birthplace of an intriguing counter-movement, featuring a cast of characters who'll recur throughout this story.

At a crucial point in the Brewery conflict, a second group of Aborigines arrived from the bush to, support the development.

This wasn't spontaneous. Masterminding the operation was a white man - the then Labor member for the seat of Kalgoorlie, Graeme Campbell.

Graeme Campbell, Labour member for seat of Kalgoorlie:
And, as I say, a lot of Aboriginal people know that this is absolute unmitigated bullshit.

Stephen McDonell:

Mr Campbell - a vocal opponent of land rights, raised \$10,000 from developers to bus in and pay protesters. Bopo Simpson's brother was one of them.

Bopo Simpson:

About 50 to 60 went down from here.

Q: And do you think they were all paid?

A: Yeah. Where the money come from - well who knows?

Q: And what did they think they were protesting about? Did they know what they were doing in your opinion?

A: In my opinion no. No I don't think they knew what they was doing.

Q: What do they know about the wagyl for example, that legend?

A: Absolutely nothing. Absolutely not a thing about the wagyl. They don't even know if the wagyl exists you know, so they had no right going down there.

Stephen McDonell:

There was another interesting white man amongst the pro-development marchers: . controversial anthropologist Rory O'Connor. Mr O'Connor does a lot of work for resource companies. He was excluded from the state's anthropological society for lack of post-graduate qualifications, and so with a group of others formed his own society. He's seen as a maverick.

Rory O'Connor:

I'm a bit of a gun for hire for Aboriginal people that have been shot down by the machinery and make no mistake about this -

Q: What do you mean by the machinery?

A: The machinery of the bureaucracy and of the land councils etc.

Stephen McDonell:

Perth Aborigines lost their fight - the Brewery was redeveloped but debate continues over its heritage value. But that wasn't the end of anti-land rights agitation for Mr Campbell and his friends. Following the long campaign of the late Eddie Mabo, the High Court of Australia recognised that Aboriginal native land title could legally survive.

It was not a result which appealed to Graeme Campbell.

Graeme Campbell, Labor member for seat of Kalgoorlie:

This idea of land being absolutely germane to Aborigines - it's just nonsense. I know in Derby in off-pay week, off-pension week - they'd sell their land for a corned beef sandwich, and absolutely no doubt about that. They - there's no great commitment to the land.

Stephen McDonell:

The advent of Native Title takes us back to the Burrup Peninsula. Here there's a case study not only in Aboriginal land claims but also in the activities of Mr Campbell, Mr O'Connor and others.

The Burrup juts out into the ocean from Karratha and the area is rich in Iron, Salt and Natural Gas. Here native title can provide windfalls for Aborigines who're able to negotiate compensation deals with resource companies. But determining the rightful native title holders has become messy here.

Initially there was only one, broad, claim. But this was to change. This woman claims her ancestors escaped the Flying Foam Massacre. Four years ago, she and others formed a splinter group to lodge their own native title claim under the name of the Yaburara. They had an unusual backer.

Val Holborow:

At that time I didn't think anything - why or what he was you know - why he wanted to help the family out there. As far as I was concerned, all I was quite happy about was just going and lodging the family's claim and grateful that we had someone there getting the fam(?) off and running.

Stephen McDonell:

Their backer was Nik Zuks, the Managing Director of Kingstream Steel - a potentially massive iron and steel venture, with no apparent interest to this point in the Burrup. Kingstream kicked in the seed money to get the Yaburara claim off the ground.

But intriguingly, the man who first met Valerie and her brother when they arrived in Perth, met Nik Zuks and lodged their claim, was the controversial anthropologist Rory O'Connor.

Val Holborow:

Rory O'Connor picked us up from the motel and we were taken to Nik Zuks' office, and that's how I met Nik Zuks for the first time.

Rory O'Connor:

No I met them at the airport and took them to a hotel.

Q: And then later to Nick Zuks office?

A: I don't recall that.

Q: You'd be aware though that Nik Zuks was involved with setting up the claim?

A: I recall Nik being there at times, yeah.

Q: Why was he there?

A: No idea.

Q: What? You don't know why Nik Zuks was there?

A: No, no. You'd have to ask him that.

Stephen McDonell:

Whatever Mr Zuks' motives, his company kicked in \$28,000 in two instalments, according to the Yaburara trust account - tabled in the Supreme Court. Without Kingstream's financial backing, it's doubtful the Yaburara could've ever launched their claim.

Lawyer for the original claimant group was ex-Premier Peter Dowding.

Peter Dowding, Lawyer:

I can't think of any reason why Kingstream would have an interest in doing that. I think that that's extraordinary.

George Savell, Assoc. Of Mining - Exploration Companies:

Well I find it rather curious, but not having any access to the details I really can't comment. I don't know.

Q: But just as a - I mean why would you think they might do it.?

A: I have no Idea. It's really a new approach so you might have a pearl of wisdom there.

Peter Dowding, Lawyer:

I can't - I can't conceive of any commercial interest that would justify a public company funding one of the claimants, and a very small group of claimants at that, in what is probably the second most important claim in Western Australia.

Stephen McDonell:

One of Kingstream's key competitors is Austeel. It's chairman Clive Palmer, also wants to know what Mr Zuks' company is doing funding a claim which covers his operation. He says the Kingstream-funded claim could cost his company dearly.

Clive Palmer, Chairman, Austeel:

Our project's got a net profit of over 300 million dollars a year, projected, and if we find the project's been delayed for 6 months or 12 months because of these things which we'll have to investigate, um, well that could be a cost of 300 million dollars to the shareholders of the company. So it could be quite enormous really and it can create a cloud where there doesn't need to be one.

Stephen McDonell:

The Yaburara claimants had some more strange bedfellows. Where there was anthropologist Rory O'Connor, it's perhaps not surprising to find there was also then federal member for Kalgoorlie, Graeme Campbell.

Rory O'Connor:

I understand you're talking to Graeme Campbell for example, at that stage I think he was still the member for their area and I arranged an interview with Graeme for them.

Q: What did Graeme do to help them?

A: As far as I know he interceded on their behalf with state government personnel.

Q: And lobbied on behalf of the Yaburara people?

A: Yes.

Graeme Campbell, Labor member for seat of Kalgoorlie:

Q: Should we though support ANY native title claims, for example, have YOU supported any native title claims?

A: No I don't believe in the concept.

Peter Dowding, Lawyer:

I rang Graeme Campbell and said Why are you assisting in this campaign? He agreed that he was, and he'd helped put out a press release; and he said words to the effect that this was a method of bringing the native title into discredit - that it would demonstrate that Native Title was unworkable.

Graeme Campbell, Labor member for seat of Kalgoorlie:

Q: Have you never though supported any Aboriginal claims? Peter Dowding told us that you were one of the people supporting the Yaburara claim?

A: That's not true.

Stephen McDonell:

But the week after we interviewed Mr Campbell he said he now remembered his involvement with the Yaburara claim. He agreed he had a vested interest to "create confusion on your houses". "There's some fertile ground there," he said; and that everything would become apparent if Aborigines are fighting each other. He declined our invitation for a second filmed interview to clarify all this.

There were yet more players in the Yaburara claim and further puzzles. Native Title requires costly legal work. For this task, the Yaburara ended up with the services of law firm Macdonald Rudder.

One of this firm's senior solicitors is the State President of the Liberal Party, David Johnston and he was presented to the Yaburara as their lawyer.

There are two elements to native title: the first requires preparation for the Federal Court case that ultimately determines if title is to be granted. The second involves negotiating land compensation payments from development companies.

In dealing with resource companies, Macdonald Rudder did its job extremely well, raising almost \$1.8 million which went into the Yaburara Trust Account. According to the affidavit by the Yaburara's accountant, the lawyers kept more than a million dollars for their fees and disbursements. One of these disbursements was - according to the Trust Accounts - to Nik Zuks of Kingstream, who was personally paid \$90 thousand.

Four Corners was curious to know why it was that, while Mr Zuks' company paid \$28,000 in seed money for the Yaburara claim, he seems to have personally received \$90,000 back.

Nik Zuks refused an interview. The Chairman of Kingstream is the West Australian Premier's brother Ken Court. He also was unavailable.

As for the Yaburara claimants, they received \$768,000 of the money their lawyers had raised.

Valerie Holborow questioned why the legal bills ate up so much of the money raised and she asked her accountant to have a look at the Trust's books.

Val Holborow:

I had no intentions of getting rid of McDonald Rudder, no, no - no intentions at all. I just wanted an accountant to go in and audit my accounts.

Stephen McDonell:

Her accountant though received a hostile response.

David Thompson, Accountant:

It was just a blanket, if you want to look at the files, you sack us. There was no alternative, no discussion. When I relayed that to the claimants they were just absolutely stunned.

Stephen McDonell:

So the Yaburara did sack their lawyer David Johnston and hired solicitor Paul Williams in his place. He asked Macdonald Rudder to now hand on all the Yaburara documents to him.

Paul Williams, Yaburara Lawyer

So there was a lot of bugging around before I finally got the documents. I was finally allowed to ..

Q: Would it be fair to say that McDonald Rudder resisted giving you the documents?

A: I gained that distinct impression.

David Thompson, Accountant:

Since that period they have been, in my view, in my opinion - have done their best to frustrate us to access any records that they had.

Stephen McDonell:

And when they did get the papers, Paul Williams was surprised at what he found and, more importantly, what he didn't find.

Paul Williams, Yaburara Lawyer:

As we went through these boxes and realised there was nothing of relevance to the Federal Court proceed.or directly relevant to the Federal Court proceedings, I started to almost panic, and in fact I was so concerned, I believe we'd left boxes behind. I rang the courier company and asked the courier company and asked them to go back to McDonald Rudder's office and see were there any boxes left, and they called me and said, No we've collected everything.

David Thompson, Accountant:

And the people cannot get their heads around that. They cannot understand that level of expenditure for - and not being prepared; and we're not talking a small time frame. We're talking at least a two year time frame. They're just blown by it - stunned.

Paul Williams, Yaburara Lawyer:

I'd certainly expect my case to be ready to go to trial.

Q: And was this one ready to go to trial?

A: No.

Stephen McDonell:

One of the key things missing from the Yaburara's case was an anthropologists report; which raises the question - what exactly was Rory O'Connor's involvement?

Paul Williams, Yaburara Lawyer:

We've been told by third parties and by people who claim to know what went on, that O'Connor was to produce an anthropological report for my clients. That report doesn't exist, and we've certainly been unable to get a response from O'Connor in that regard.

Q: Have you tried to make contact with Mr O'Connor?

A: Yes, yes we've written to him.

Q: And what has he said to you?

A: Well, we don't know. Well, he's not responded.

Rory O'Connor:

Q: The people from the Yaburara claim group have said to us they thought you were doing the anthropological work for them, and that you were paid for it, but that you never did a report for them.

A: No, no, no. McDonald Rudder are the - or is it Jackson McDonald? It's one of those two legal firms, they're doing that work.

Q: But were you paid at all by the Yaburara people?

A: Oh yes. I did work for them.

Q: But what work was that?

A: In the early days I put their claim in, as I said to you.

Q Can you just clear that up for us? What work do you mean?

A: I was given an application form and I filled it in and lodged it for them.

Stephen McDonell:

For that task, Rory O'Connor was paid at least \$15,000 dollars, according to court documents.

Whether Rory O'Connor started an anthropologists report is unknown but he's now popped up involved with a third claimant group - an even smaller one - also overlapping the Burrup Peninsula.

Eventually, Macdonald Rudder engaged another Anthropologist.

Ron Parker, Anthropologist:

Q: From the time you became involved until the court date, was it possible for you to assemble anthropological information to give your clients a reasonable showing in court?

A: No, no. That would take many, many months - many months; and it still hasn't been done today.

Stephen McDonell:

The Yaburara say that David Johnston has never adequately explained how he spent their money; and now they've taken his firm to the Supreme Court.

Paul Williams, Yaburara Lawyer:

We've asked for orders, that Mcdonald Rudder explain what monies they received on behalf of my clients, where they banked it to, and how they disbursed it.

Stephen McDonell:

According to Mr Williams' affidavit supporting this court action, Macdonald Rudder failed to prepare historical, archaeological, linguistic and genealogical reports. There was no evidence counsel had been briefed and no witness lists.

Paul Williams, Yaburara Lawyer:

We've still yet to find any witness proofs - even though we've found, we've discovered that Mcdonald Rudder have charged my clients for the preparation of those witness proofs. As far as we can tell they don't exist. We've certainly been unable to locate them.

Stephen McDonell:

Mcdonald Rudder told the Federal Court, that - immediately prior to being dismissed - it was, in fact, in the process of taking witness proofs.

In court Government lawyers suggested that maybe Macdonald Rudder wasn't ready for trial because it's clients instructed the firm to win maximum compensation from developers and put little effort into the court case itself.

David Johnston refused Four Corners' requests for an interview.

Both the Yaburara's native title hearing and their action against Mcdonald Rudder in the Supreme Court continue this week.

Kingstream's involvement in native title doesn't end at the Burrup Peninsula. More than a thousand kilometres down the north west coastal highway is a one-man land claim belonging Neil Phillips. Native Title has been financially rewarding for this Aboriginal man who has a keen eye for an opportunity, especially when it comes to mining companies.

Neil Phillips:

If it becomes Normandy or someone like that, I rub my hands together and I say I'm gonna get these suckers.

Stephen McDonell:

In 1996, Mr Phillips lodged a massive land claim, overlapping 33 other native title claims and covering 3536 mining tenements, including two of Kingstream's proposed mine sites.

Kingstream - the company that backed the Yaburara - was also generous enough to pay the application fee for this claim.

Neil Phillips:

Q: When you first put your claim in, that was paid for by Kingstream Steel, wasn't it?

A: What's Kingstream got to do with me?

Q: I don't know.

A: Well, they haven't got nothing to do with it.

Q: I thought they'd paid for your, for you to lodge your claim?

A: Well, whether they did or not I don't know, or I can't remember. Point is we're talking about my claim - we're not talking about Kingstream, and I don't want to talk about Kingstream unless it's important, and I don't feel it is.

Stephen McDonell:

The year before Neil Phillips lodged his native title claim, he pleaded guilty to fraud. Then in 1998 Mr Phillips went to gaol for stealing \$52,937 from the Aboriginal Advancement Corporation of WA. He says his association with Nik Zuks is based on friendship not business.

Neil Phillips:

Everybody's got the wrong opinion of the association between Neil Phillips and Nik Zuks. Nik for Christ's sake, is a big Director of a big mining company, and I'm on an invalid pension - can't afford to go anywhere or do anything because I'm a poor little blackfellow. There you go, see that's my excuse - I'm a poor little blackfellow. I just hope that people would leave Kingstream out of it, because I don't think Kingstream's done anything wrong. You know, they're making a mountain out of a mole hill, you know. All right, Nik Zuks helped me. He lent me money. I appreciate it, because I never had any money. I appreciate what other non-Aboriginal people have done and helped me with.

Q: But was it his money, or the company's money?

A: I really don't know, but I presume...

Q: Did he?

A: ..presume it was his own money.

Stephen McDonell:

In fact it was the company's money - Mr Phillips paid his application fee with a cheque marked Kingstream Resources.

Neil Phillips:

You go to major towns and you talk to Aboriginal people, 'Oh, Nicky Zuks.' 'Oh, Nicky' - It's not Nik Zuks, it's Nicky Zuks, and I feel quite honestly privileged to know Nik. Now Nik has helped a lot of Aboriginals, and I wish that they'd leave him alone to be truthful.

Stephen McDonell:

Yet Nik Zuks - the man who's company has seeded at least two land claims, has been reported in the press describing native title as "effectively legal extortion" which is the result of "stupid legislation" given to Aborigines by politicians.

Meanwhile, the new registration test has been introduced as a basic pre-requisite for native title negotiations. Mr Phillips' one-man claim has twice failed the test. In the end, Kingstream decided to build its mine outside Mr Phillips claim area.

Kingstream turned its attention to Tallering Peak: a massive land form that juts out of a flat, dry landscape. It's sacred for Aboriginal people for its cave paintings and ceremonial grounds, and the Dreamtime legends that come from here are told by Aborigines hundreds of kilometres away.

But here there's a sometimes vicious fight going on between local Aborigines, with overlapping claims, disputed cultural credentials and allegations of intimidation and favouritism. At the centre of the dispute, once again, is Nik Zuks, for it's here he hopes to build his huge, iron ore mine. The Aboriginal community is divided over whether the mine should go ahead. In 1992 there was a heated public meeting in the local town hall.

At that meeting Eric Papertalk - elder in favour of the mine - accused Aborigines questioning the mine of being blow-ins.

Eric Papertalk:

I was born here. I have been in Mullewa here for the last 50 years. A lot of you people here today are only just blow ins. You live in flash houses. You run around on government grants - money that should be going to dark people. You've got good jobs and you call yourself Mullewa people. Why don't you come back and help the Mullewa people? All these people here are living in the dust. People like you - I would be ashamed to spit on your grave.

Stephen McDonell:

And Mr Papertalk is accustomed to taking on other Aborigines who don't see the benefits of development. Back in 1989 he was leading from the front when those pro-Brewery demonstrators descended on Perth.

Eric Papertalk (archival footage, 1989):

"It's about time that we pulled ourselves together now and realise if we don't work together we will never get along together".

Stephen McDonell:

Back at the Town Hall, Mr Papertalk was joined up the front by a familiar face. Rory O'Connor told the meeting how he was involved from start to finish in the process that led to the elders signing over permission for the mine to go ahead.

Rory O'Connor:

With the group of elders I drove the next day to Tallering Peak itself.

Stephen McDonell:

Also up the front was Nik Zucks, fielding questions about how many Aborigines would work in his mine.

Woman in crowd:

"We would like to see a written agreement, saying what the percentage of Aboriginal people will be getting jobs."

Nik Zucks:

"There'll be roughly another two to two thousand four hundred jobs. There are - hang on - there are roughly 200 people involved."

Stephen McDonell:

At the end of the meeting he was cornered and questioned about Rory O'Connor.

Aboriginal:

"What has the mining company employed Rory as?"

Nik Zucks:

"The anthropologist."

Aboriginal:

"To do what?"

Nik Zucks:

"To do the report on the area for us."

Aboriginal:

"Well why is he involved today? Why has he been involved all the way along."

Nik Zucks:

"Because he's the anthropologist."

Aboriginal:

"Well he should have done that and it should have been the finish of it."

Nik Zucks:

"There are a lot..hey."

Aboriginal:

"But he has been involved all the way. All the way."

Nik Zucks:

"There's nothing wrong with that."

2nd Aboriginal:

"Do I get paid to come here."

Nik Zucks:

"Sorry. I've gotta go any way."

2nd Aboriginal:

"Listen. Listen. Listen."

Stephen McDonell:

Around the same time, Rory O'Connor attended a demonstration in Geraldton, in favour of Mr Zucks' mine.

Rory O'Connor:

Q: Critics of yours once again would say well what's an anthropologist doing at a pro-mine demonstration?

A: That is part of the anthropological endeavour. Now if I am an anthropologist, and I thank my critics for allowing that, then I would see that attending all facets of Aboriginal community life is part of my work for heaven's sakes.

Q: Not to support the mine development?

A: If Aboriginal people have asked me in the past - I'm not saying they have, in fact I don't think they have, but if they had asked me in the past to attend a demonstration for that purpose, it's quite likely that I would. However, your question is if Joe Bloggs mining said "Here we've got a demonstration come and man the barricades" I think there'd be a fairly rapid "No" reply to that one.

Stephen McDonell:

Also at the Geraldton protest was a very good friend of Mr O'Connor's - Aboriginal elder Arnold Franks.

Arnold Franks:

There's only one good anthropologist that does things for tribal people and his name is Rory O'Connor.

Q: Why is he good?

A: Well, he's fair dinkum with you. He tries to get you more money, number one - the money. Everyone wants the money now - Aborigines and the white fella. Well, he tries to get the right money for you.

Stephen McDonell:

And like Rory O'Connor, Mr Franks has been to a few protests. He even drove one of the buses that carried the pro-Swan Brewery demonstrators down from the bush.

Arnold Franks (archival footage 1989):

"I've been every inch of this ground. Every inch, day after day after day, when I came down from Yackabindie and before that, we can't find any sacred."

Stephen McDonell:

Nor did talk of sacred sites get in the way 3 years later at Tallering Peak, when Rory O'Connor - with Mr Franks as his assistant, prepared the anthropologists report which cleared the way for the mine to proceed.

Arnold Franks:

He worked for Tallering Peak - Rory O'Connor. He wouldn't be against it, if I'm just telling you he's fair dinkum, would he? I'd be mad to say a thing like that.

Q: So how did he work for it?

A: Well, he cleared it. We helped him clear it. There's no sacred here, nothing here, nothing there.

Stephen McDonell:

A group of elders, including Arnold Franks, signed a paper, in Mr O'Connor's presence, saying the ceremonial grounds at Tallering Peak had not been used for traditional religious purposes for 50 years and agreeing that the mine go ahead.

Elder Ike Simpson signed that document, but today regrets it, saying he felt pressured to sign. Now he says he's opposed to the mine.

Ike Simpson:

Q: How do you feel now that the mine is going ahead at Tallering Peak?

A: No good. We don't know what to do. But still, I'll fight against it though - see how it's gonna go.

Q: Why do you feel bad?

A: Well, if the mining company flatten the hill down, what we're gonna do then? We'll have nothing to look at, things like that. No remembering there. It's got great remembering there, yeah and that's what I look at myself too.

Q: And how do you feel now knowing that you signed one of the papers that has helped the mine go ahead?

A: Not only now, I've been, I've been no good the whole of - since I did it myself. Since still not too good, you know - feel, you know, a bit a sorry about it now, that what I did. Before I didn't know what I was doing at the time.

Stephen McDonell:

Also opposed to Kingstream's mine is Lena Merritt who grew up on a station at Tallering Peak. Her family put in a native title claim over the area. Ms Merritt and her family did an interview with Four Corners but later requested that it not be broadcast, fearing reprisals. She told us though about the time she hid in the bedroom when elders Eric Papertalk, Arnold Franks and others came to the house to convince her to withdraw her opposition to the mine.

Arnold Franks:

We asked to speak to her, at her house in a suburb somewhere in Perth, but they wouldn't come out of the house and talk to us. We wanted to discuss things with her, but she wouldn't come out.

Stephen McDonell:

As a woman she was told she couldn't be a custodian of Tallering Peak and faced retribution.

Arnold Franks:

She's got nothing to do with tribal things. She - the women can't poke their nose in tribal what's wrong and right. So, if Mr Papertalk was correct a man, every tribal person up - even if he was opposed it, against it, he can't say that, see? That ladies no rights to put, poke their nose in. They can get a punishment.

Q: What punishment's that?

A: Well, they can get a spear. They can get into trouble. They can get a song.

Q: Did someone try and point that out to her?

A: She already knows a lot of that.

Stephen McDonell:

Lena Merritt took out a restraining order against, Eric Papertalk, arguing he threatened to cause her personal injury. It was he who said he wouldn't spit on the grave of those who opposed Kingstream's plans.

Arnold Franks:

Q: When you and Eric Papertalk went to speak to Lena Merritt, is that because Nik Zuks asked you to?

A: No, no. Nik Zuks - that was our business - tribal. Nick can't poke his nose in tribal things.

Stephen McDonell:

But as part of this tribal business, Eric Papertalk wrote to Lena Merritt. He said, "I have a temporary office in Perth and now require you to telephone me there at 325 4133 as soon as you receive this letter." The 1995 Perth phone book shows that number to be none other than Kingstream Resources.

We asked Eric Papertalk why he was once operating out of Kingstream's headquarters and what he meant when he said to Lena Merritt that he'd be powerless to protect her from any sanctions by the elders if she did not withdraw her native title claim; but Mr Papertalk refused to be interviewed. Eric Papertalk, by the way, heads up a native title claim over the area. But, again, it's subject to overlapping claims.

Meanwhile Kingstream's continues exploration for a mine which seems set to go ahead.

Both here and on the Burrup Peninsula, there's now bitterness and division amongst Aborigines. There are competing claims, some with powerful backers, some without. And all this bolsters the view, that's already gained wide currency in the West, that native title is an unworkable mess.

Graeme Campbell, Labor member for seat of Kalgoorlie:

It's certainly provided no benefit for Aboriginals, it's caused a lot of turmoil - break up of families; and the main beneficiaries have been the lawyers, the pubs and the TAB.

Peter Dowding, Lawyer:

There are some groups in the community with a lot of money that are very opposed to it, and will use their money and their influence to try and destroy the rights and entitlements of Aboriginal people.

Stephen McDonell:

Even the most forthright supporters of native title know it's not a perfect solution. But, if there are those involved only for personal gain or to achieve a destructive political result; if the system isn't even given a chance in the first place - how could native title ever be expected to work?

Trevor Solomon:

(Trevor's message in Aboriginal language.)

I'm telling them not to fight each other. Lets get together. Lets fight this thing and lets get our land back.

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