

Canadian Academic Emphasises Global Importance of Mabo

By Katie Mitchell

'Why *Mabo* should be a 'household name' all over the world'

Professor Peter H. Russell opened his lecture at Monash, 'The Significance of Mabo for Australia and the World', by acknowledging the Kulin Nation as the continuing owners of the land on which he was speaking. He then took the audience back one hundred and seventy years to when the settler, John Batman, attempted to form a treaty with the Kulin Nation for use of their land. He invited us to imagine how Australia might be different had this treaty been given the life it deserved and not denied by Governor Bourke. Russell mused that had this treaty been upheld, his most recent book may not have even been written as Eddie Mabo would have had no need to go through 10 years of litigation to get formal recognition of the land which "he knew to be his from the beginning".

Professor Russell is Professor Emeritus in the Department of Political Science at the University of Toronto, Canada and his book *Recognising Native Title: The Mabo Case and Indigenous Resistance to English-Settler Colonialism* emerges from a long and personal association with Australia and Indigenous issues. In recent years he has chaired the research advisory committee to the Royal Commission on Aboriginal People in Canada, where he delivered a benchmark report for reform in 1996 and has played an active role in improving Indigenous-settler relations through his role as Ministerial Envoy in the De Cho comprehensive claim negotiations in the Northwest Territories.

One of Professor Russell's central aims in writing his recent book was to make the *Mabo* case known internationally. In the opening minutes of his talk, Professor Russell identified Eddie Mabo as one of the driving forces behind his desire to make the case a household name across the globe. He described Eddie as 'A great Australian hero...who acted from a sense of personal responsibility...reflecting the power of human agency...and who refused to surrender his and his people's interest to those of others.' Eddie's portrait graces the cover of Russell's book, reminding us that this landmark case was born from the courage and belief of one individual who "would not take no as an answer."

During his lecture, Professor Russell reflected on the dual lives of the *Mabo* case: its legal life and its political life. He identified the potential for change underlying the majority judgment in *Mabo*, which acknowledged that whatever the justification was for refusing to recognise indigenous rights and interest in land it was no longer aligned with the expectations of the international community or in accordance with contemporary values. Russell continued by commenting upon the subsequent and regrettable gap between this legal acknowledgement and the response of the Australian public. He described Justice Brennan as overly optimistic in his faith that Australia was moving away from these early unjust and discriminatory practices, recalling the tremendous political controversy that followed the decision and the subsequent betrayal and reduction of *Mabo* through legislation and the

election of the Howard Government. As judges "bent with political winds" and Howard promised "bucketloads of extinguishment", Indigenous People's ability to access justice and control their lands was again compromised.

However, one positive development observed by Russell was the emergence of prominent and articulate Indigenous leaders who "engaged in discussion and debate as never before." The Dodson brothers, Marcia Langton, Noel Pearson and Lowitja O'Donoghue were a few of the individuals noted by Russell, as he celebrated their contribution to mainstream Australian politics. These leaders gave a voice to Indigenous people and reflected a new era of political engagement between Indigenous and non Indigenous Australians.

Mabo created a "projectory to go the right way...a stone in the water to get the waves running" however Russell acknowledged that it will not be an "easy struggle to fulfill the promise of Mabo," noting three central barriers. The first is lingering racism, which he suggests reflects an unwillingness to accept the most fundamental principle of the UN Charter, equality of peoples. The second barrier is the difficulty of divisive internal politics within the Indigenous community as a challenge in moving forward with Indigenous relations. The government's either/or approach to policy in relation to Indigenous people was identified as the third barrier. Russell emphasised that only through a combination of a practical and rights-based approach can progress be achieved.

In closing, Professor Russell stressed that non Indigenous Australians now have a choice. This choice is whether to continue to struggle against the international movement to de-colonise Indigenous Peoples by attempting to force 'solutions' and policies onto their communities and peoples; or to recognise the inherent right of self determination, creating agreements founded on this fundamental principle, which reflect mutual consent and self interest, allowing the waves created by *Mabo* to carry us to a new era in Indigenous and non Indigenous relations.



(L-R) Castan Centre Acting Director, Melissa Castan, Professor Russell and Michael Schaefer of Holding Redlich (Professor Russell was at the