

# Land Rights Queensland Style

## The Struggle for Self-Management

by Frank Brennan; University of  
Queensland Press, 1992; 182 pp;  
paperback, \$29.95.

'In the last decade, the Queensland Parliament has passed more laws regarding Aboriginal land title and local government than any other Parliament in Australia' (p.4). If any lawyer is in a position to write the history of this process, it is Frank Brennan. Brennan is a lawyer and priest, who for some years has been an adviser to the Catholic Church on Aboriginal affairs. He has also advised a number of Queensland Aboriginal organisations on land rights issues. He was a persistent and effective critic of the Bjelke-Petersen Government's policies, and has been intimately involved in the development of the Bjelke-Petersen and Goss Governments' land rights policies in the past ten years.

*Land Rights Queensland Style* focuses on the Queensland politics of consultation processes and the Queensland laws which catalogue the outcomes (p.7). It details the formal channels of consultation which Queensland govern-

ments have pursued over the last decade, and the main features of each piece of legislation during this time. In this social history '[t]here is something to celebrate, much to learn and more to be done' (p.7). The most important thing to celebrate is the dignity and strength of the Murri struggle for justice. Brennan dedicates the book to John Koowarta (the plaintiff in *Koowarta v Bjelke-Petersen* (1982) 39 ALR 417):

and others like him who have devoted themselves to retrieving their land and their culture in the most adverse circumstances . . . I was privileged to witness their sustained and reasoned stand for land rights when they were starved of resources, media interest and parliamentary access. [p.2]

The book is at its strongest and most interesting when it details this struggle. Brennan describes the 'Bamaga showdown' in 1982. Here the Aboriginal Advisory Council (AAC, made up of two representatives from each Queensland reserve) refused to accept the proposed Deeds of Grant in Trust (DOGIT) legislation until further investigation of alternative forms of land tenure occurred. Until then, the Government had largely been able to deflect the claims for land rights made by urban Murris by asserting that it had the support of 'real Aborigines', expressed through the AAC, for its policies. Although a modified DOGIT title was eventually introduced for reserve lands, Brennan observes that:

Bamaga, July 1982, was a turning point in government-Aboriginal power relations in Queensland. The Aborigines effected a change in government policy which was more than the fine print of land tenure. They also effected a change in style in the National Party Government's dealing with them . . . Though there were still to be many abuses of the consultation processes, never again could government divide reserve residents and their leaders from vocal urban Aborigines and their supporters. Never again could government insist on exclusive access to people on the reserves. Never again could government brazenly misrepresent to the public what were Aboriginal aspirations and demands.

Brennan's discussion of the Goss Government's 'consultation' process, which he labels as a 'farce' and a 'sham', is also telling. Brennan details how the Government determined its policy, then went through a cynical exercise of truncated and irrelevant consultation with Murris. He points out that mining, farming and even conservation interests

were consulted to a greater extent than Murris.

As well as providing important information about government-Aboriginal consultation processes, the book summarises (in a reasonably accessible and non-legalistic way) each major piece of legislation enacted in the last decade. There is some value in these summaries, particularly for people seeking such information who are not confident in reading an Act of Parliament. This is especially true of the chapter detailing the *Aboriginal Land Act* 1991. However, these summarising passages are somewhat boring and sometimes difficult to read. The book is also repetitive at times.

Disappointingly, the level of analysis throughout the book is not high. The book is essentially a descriptive history of the 'first this happened, then that happened' variety. Readers looking for a more thorough political analysis may be disappointed. Brennan does not locate the consultation processes in a wider context of political struggle. He recognises that political protest is important to Murris because of their historical marginalisation from the mainstream political process. However, he provides no detail of this. He mentions Commonwealth Government and State Government desires to 'keep peace' at the Commonwealth Games (and 'Libyan-trained terrorists'), but a reader unfamiliar with Queensland history could attribute the political gains made by Murris in this period solely to the Bamaga showdown. Such a reader might not place that event in the context of a growing Black political consciousness focused on protests organised around the Commonwealth Games. The further development and expression of Black consciousness focused on Expo '88 in Brisbane is not mentioned at all. These times of intense political struggle can legitimately claim to be integral parts of 'Land Rights Queensland Style'. The consultation processes which Brennan focuses on were not occurring in a vacuum, and the protest movement could usefully be given more attention.

Brennan mentions the protests that met the passage of the Goss Government's *Aboriginal Land Act*, and that the Government then 'preached to Aborigines about the dangers of violent demonstrations' (p.155). Goss is quoted as saying, 'people who behave in this

### TO SUBSCRIBE

#### Alternative Law Journal

(Includes Aboriginal Law Bulletin)

Concession \$33

(full-time students, unemployed)

Individual \$44

Institutions \$57

(offices, schools, libraries etc.)

Cheque enclosed \$ .....

or please charge my

Bankcard/Mastercard/Visa

No .....

Signature .....

Expiry date .....

Return to: LSB Co-op., C/- Law Faculty,

Monash University, Clayton 3168

Tel. (03) 544 0974 Fax (03) 565 5305

Name .....

Address .....

..... Pcode .....

Occupation .....

fashion can forget about negotiation, they can forget about consultation'. But the book does not fully explore how and why the Goss Government acted as it did over land rights. Brennan contrasts the Government's actions on land rights unfavourably with the Fraser Island inquiry, and says:

The mode of consultation and introduction of this legislation marked the Goss Government's formal abandonment, or at least selective use from now on, of the Fitzgerald processes of public consultation, discussion and accountability. [p.153]

Brennan suggests that the reason for this is to be found in the racism of the Queensland electorate, which made Goss' strategy understandable, if not right. Although critical of the Government's failure to properly consult with Murriss, Brennan seems fundamentally ambivalent about the whole exercise.

Brennan records Government attempts to justify rushing the consultation and legislative processes on the 'principled' basis that a lengthy, public consultation process might have produced legislation less favourable to Murriss than that which was enacted because the mining and pastoral industries would have been able to mobilise public opinion against it. He seems to

accept this attempted justification as genuine, and to suggest that the Government's real failure lay in not obtaining agreement from Murriss that a truncated process was the most politically expedient way to pursue their interests. He does not explore the possibility that the process may have been adopted out of contempt for, rather than a desire to protect, those interests. The book never directly confronts the possibility that the Goss Government adopted the process it did because of racism in the Government itself as well as in the electorate.

Marcia Langton, employed by Goss as a consultant to develop land rights policies, wrote an article in Brisbane's *Courier-Mail* under the headline 'My Nasty Little Racist War' (7.9.91), after she resigned in protest at the Government's handling of land rights. In her article she describes how she was confronted by racists within the Queensland Government. She states her belief that Goss 'acted on terribly bad advice' and that he failed effectively to deal with the 'guttersnipe racism of his colleagues'.

There are possible links between the racism described by Langton and the wider problems in the Government's handling of land rights. The available

evidence suggests a form of institutionalised racism within the Queensland Government and throws into question the Government's claim to have been interested in protecting Murri interests. It is a shame that, although Brennan refers to Langton's article (p.128), the book does not explore this issue more fully. I would have liked Brennan to provide the greater insight into the political processes which he surely has developed during his long involvement with 'Land Rights Queensland Style'.

Nevertheless, this is an important book with important things to say, particularly about the Bamaga showdown and the Goss Government's consultation process. Despite some problems in structure and style, the book is generally informative and easy to read. It will be of particular use to any person seeking to understand the recent history of the Queensland Government's land rights policies prior to *Mabo*.<sup>1</sup>

GEOFF AIRO-FARULLA

*Geoff Airo-Farulla teaches law at Griffith University.*

#### Reference

1. *Mabo v Queensland* (1992) 66 ALJR 408. For details on this case and why it is important, see (1992) 17(4) *AltLJ*. 157-165.

## L<sup>etter</sup>

Dear Editor,

Rosita Henry presented a very eloquent argument connecting the *Mabo* decision with the movement of the Torres Strait Islanders for self-determination (*Towards Autonomy*, (1993) 18(1) *AltLJ* 12).

I find it regrettable, however, that she failed to discuss what can be done by non-Aborigines to further the struggle of the Aboriginal communities for freedom during this, the International Year of Indigenous People. I find it really quite amazing that in a year when so much world attention could be focused on the

Aboriginal tragedy in Australia, so little is actually happening.

One cause which I believe strongly is worthy of our support is the Aboriginal Deaths in Custody Watch Committee. In addition to bringing the ongoing problem of Aboriginal deaths in custody to the attention of the Amnesty International delegation investigating abuses of human rights in Australia, the Committee continues to pressure the Fahey Government to implement the 339 recommendations of the Royal Commission into Aboriginal Deaths in Custody, and seeks funding from ATSIC.

The application to ATSIC has, however, been denied, and the Committee is only able to continue its important work on the basis of private contributions. Please join the Watch Committee, and send in a generous contribution to support their struggle for Koori freedom.

Write:

Aboriginal Deaths in Custody Watch Committee  
Box 65, Broadway, NSW 2007  
tel. (02) 660 7513, Fax (02) 630 8717

Stuart Russell  
Sydney