

## **'Under the Act' – An Overview**

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It was the design and action of the state government (both Labor and conservative), under the auspices of the Aboriginals Department that implemented the control of Indigenous Queenslanders. Local whites had little or no say in government policy. *The Aboriginal Protection and Restriction of the Sale of Opium Act of 1897* involved, as Genever notes:

...a series of alterations at the hand of politicians, the bureaucracy and the Queensland Police Force, [and] produced regulations that impinged on the Aborigine's right to marry [S.9,1901], to live with their children, to work and control their wages, savings and property [S.12&13,1901], to plead in a court of law and to travel. The act rendered them liable to indefinite incarceration without trial and if under sixteen years of age, to flogging for minor offences committed on a reserve or mission [Regulations of 1905]. The regulations proscribed certain religious and cultural practices that were considered inappropriate and they also encroached on the right to own animals and even on the burial of Aboriginal dead. On missions and reserves the regulations directed that their mail be censored [R19, 1904] and the decision as to whether it was ever delivered at all to the Aborigines rested with the superintendent.<sup>1</sup>

The number of Indigenous Queenslanders segregated on missions or reserves rose from 13-14% in 1914 to nearly 50% by the end of the 1930s.<sup>2</sup>

The old 1897 Act was replaced in 1939, by the *Aboriginals Preservation and Protection Act* and the *Torres Strait Islander Act*. Bleakley became Director of the Department of Native Affairs and segregationalist lines were now firmly established. Cornford has observed that "Under the new legislation Aborigines were subject to the virtual tyranny of a burgeoning bureaucracy, perhaps unaware that it was all, ostensibly, for their own benefit."<sup>3</sup>

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<sup>1</sup> G. Genever, "Black and Blue: Aboriginal - Police Relations in Early Far North Queensland", *HSC*, Bulletin 402, May 1994.

<sup>2</sup> J. Cornford, "The Queensland Aboriginals Department 1914-1939", Hons., *JCU*, Townsville, 1994, p.39.

<sup>3</sup> Cornford, *ibid.* p.111-12.

The regulations under the Act ran to eleven pages of the Queensland Government Gazette of 23 April 1945, and spelt out in great detail the provisions for running reserves. Willie Thaiday, who had been removed from Erub (Darnley Island in the Torres Strait) to Palm Island in 1932, observed of these regulations, that:

What began as an attempt to protect aboriginals against exploitation in employment gradually changed to total control of every facet of their lives on and off reserves; what began as strict provisions for wages and conditions finished under the 1939 Act with a situation where aboriginals could be forced to work for thirty-two hours a week without pay; what began as an attempt to enable aboriginals to participate with equality in the economic life of the nation finished with regulations fitting for prisons.<sup>4</sup>

The Director could remove Indigenous people to reserves, release them from reserves and remove them from one reserve to another [S.22, 1939]. Twenty-six years later in 1965, the 1939 Act (including the provisions for 'removal') were repealed and the *Aborigines and Torres Strait Islands Affairs Act* was introduced.

In 1984, the department kept the acronym D.A.I.A, although 'Advancement' now (in a cruel twist of irony) replaced 'Affairs', and then shortly afterwards the name, but little else, changed to the Department of Community Services (DCS), although the despotic control of Indigenous Queenslanders continued. Historian Rosalind Kidd has identified that

By the late 1970s and 1980s Aboriginal affairs became a matter of state, rather than departmental, resolution. [The Departmental Director] Killoran's close ideological affinity with premier Joh Bjelke-Petersen cemented a unified anti-federal stance as they rebuffed what they perceived were strategies to usurp state sovereignty and dictate state policies, particularly in issues such as land rights, self-management, and award wages...[and] evidence reveals that the assertive focus of governmentality worked actively against the well-being of Aboriginal communities.<sup>5</sup>

In 1981, Willie Thaiday, recalled that:

Under this Act the Protectorate was abolished and nearly all the provisions relating to people living off reserves repealed. In 1971 the Acts were divided

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<sup>4</sup> W. Thaiday, *Under the Act*, Townsville, 1981, p.7.

<sup>5</sup> R. Kidd, *The Way We Civilise*, UQP, St. Lucia, 1997, p.346-47. D. Craig, "The effect of State policy and Queensland's laws on an Aboriginal Reserve: A look at Yarrabah" in *AIAS*, No.11, March 1979, p.69. For a personal experience of the DAIA 'hindrance-mentality', see Rose Colless in J. Thomson (ed), *Reaching Back*, Canberra, 1989, pp.130-136.

again between aboriginals and islanders and now applied almost entirely to the administration and local government of reserves.....The reserves councils were gradually given more authority in the running of the reserves but they had neither the personnel nor resources to fulfil their purpose as local governing bodies.<sup>6</sup>

Extensive research of the files of the Department, at the Queensland State Archives demonstrate beyond any doubt, that records:

...reveal the willingness of state bureaucrats and politicians to manipulate the changing options of community management so as to sabotage 'opponents' and entrench existing controls. They reveal the horrendous price exacted on the communities as public officers charged as guardians of Aboriginal interests deliberately decimated workforces and infrastructure as wage rates lifted despite them. Queensland's Aboriginal communities are today struggling to overcome the legacy of nearly one hundred years of disgraceful management.<sup>7</sup>

When David Baker reviewed Kidd's book, *The Way We Civilise*, he acknowledged that Dr Kidd:

...tells a wearily familiar tale. A History of the subversion of well-meaning legislation by pastoral interests as well as the railroading through parliament, particularly during the Bjelke-Petersen era, of legislation that was clearly not in aboriginals' [sic] interests. A history of understaffing and inept management, of the unreliable commitment and integrity of state police, of profiteering from un(der)paid and unregulated labour pool A history of government feeding media "imaginative" versions of events, of "creative" funding, of self-interested local councils. It is finally, a history where the *raison d'être* of the department has been nothing other than to keep expenditure to a minimum and to avoid damaging publicity.<sup>8</sup>

It truly is astounding that the Act was promoted as helping Aboriginal Queenslanders, when it is patently obvious that it was an autocratic device that gave little or no opportunity for Indigenous development. It had the same de-humanising control as the apartheid system which was run by bureaucratic mandarins who should never have been allowed such power over other human beings. 'Under the Act' was indeed a shameful period in the history of Indigenous Queensland which cursed generations to lives of poverty for which they, in the cruelest twist of irony, were blamed.

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<sup>6</sup> W. Thaiday, *Under the Act*, Townsville, 1981, p.6-7.

<sup>7</sup> R. Kidd, *The Way We Civilise*, UQP, St. Lucia, 1997, p.344.

<sup>8</sup> D. Baker in *Queensland Review*, Vol.4, No. 2, October, 1997, p.89.