



Book Review

J M Bennett AM, *Sir Charles Lilley, Premier and Chief Justice of Queensland*, Federation Press, 2014, ISBN 978 1 86287 954 6 (hbk); xvii, 365 pages, including Foreword by the Honourable Paul de Jersey, AC, Chief Justice of Queensland 1998–2014, Governor of Queensland 2014. Volume 14 of the *Lives of the Australian Chief Justices Series*.

Dr John Bennett's biography of Sir Charles Lilley is a magnificent achievement and a stimulating addition — remarkably, the fourteenth — to the *Lives of the Australian Chief Justices Series*. Lilley was a towering figure in the politics and legal profession of colonial Queensland and although Lilley's contribution to the legal profession and judiciary was significant, this book is much more than a legal history; it is the insight that it provides into early colonial Queensland politics that makes it particularly interesting. Lilley was variously a Member of Parliament, Attorney-General, Leader of the Opposition and an advocate of what were at the time, democratic, reformist and sometimes radical causes. It was in those capacities that Lilley made perhaps the most significant and lasting impression on Queensland's politics. As Bennett highlights, however, Lilley's relatively brief period as Premier from 1868–70, which on some assessments was disappointing, was a milestone in Queensland's maturation as a democracy. Lilley's achievements and reputation were distorted by his adversaries and have been much tarnished in subsequent accounts. This book corrects the record, highlights Lilley's many achievements, and provides a balanced and fascinating account of a talented, albeit flawed, man. It is a product of pain-staking research and exemplary attention to detail.

Sir Charles Lilley was born in 1827 in Newcastle, England, where he was also articulated as a teenager to a respected solicitor. After he was sent to assist in his employer's new second office in London, Lilley's work as a clerk was interspersed with a relatively brief period of youthful 'waywardness' and 'wantonness'. Lilley managed, however, to find the strength to 'turn back from the brink of debauchery' (p 7). Significantly, this period would resurface in a 'report' prepared to discredit Lilley much later in life. The report, a 'dirt file' in modern parlance, a 'tissue of malicious nonsense' in Bennett's words (p 268), was almost certainly a factor in successful efforts to tarnish Lilley's reputation.

Lilley migrated to Australia, arriving in Brisbane in 1856, only a few years before Queensland's establishment as a separate colony. Lilley commenced work as a solicitor and quickly distinguished himself. He became active in local political life, initially as editor of a newspaper and in local political organisations, all the while maintaining an expanding legal practice and meeting the demands of a growing family (he had 13 children in all). He entered the Queensland Parliament as the member for Fortitude Valley, winning his first election by three votes. As a dedicated reformer and democrat, Lilley initially made little headway in a Parliament dominated by squatters determined to protect their interests. As it has been noted by another commentator, Lilley 'suffered from the great drawback that he had been born

about 30 years too soon. For Lilley was saturated in democratic instinct' (p 57).

Indeed, in many ways, Lilley's views were enlightened by the standards of the day, even if not always consistently applied. Lilley was a champion of universal suffrage, advocating electoral reform such as an elected upper house and fair and representative electoral districts. He championed women's suffrage at a time when this was still a polarising issue. Lilley was a strong supporter of free, universal public education and its introduction in Queensland ranks as one of his great political achievements, a 'momentous step, secured by political acumen and courage' (p 289). It was finally achieved after Lilley's stint as Premier, the result of his principled persistence. Also noteworthy is Lilley's view that Aboriginals and Pacific Islanders deserved to be treated with dignity and equality before the law, a view he steadfastly maintained when Chief Justice, sentencing a number of whites to death for the murder of 'blackbirded' Pacific Islanders. That his attitudes were strongly at odds with the prevailing racism of the time is reflected by the public outrage such decisions caused. Late in his life, Lilley continued publicly to champion republican ideals (despite having accepted a knighthood), a position that still today would mark him as a reformer!

After the unravelling of Premier Mackenzie's Ministry in 1868 and in a fractured Legislative Assembly, Lilley was asked to form a government and became Premier, holding that office from November 1868 until May 1870. From the outset, Lilley faced considerable odds. Although his was the first government not dominated by squatting interests, his government lacked solidarity and one commentator has suggested that it 'achieved singularly little . . . his Cabinet of pseudo-Liberals was without a consistent policy . . . [such that] the ineffectiveness of his Liberal government is not to be wondered at' (p 107). Despite the fact that the squatting interests vehemently pursued an agenda of opposition for opposition's sake, Lilley had some legislative success during his period as Premier, including the passage of a Pastoral Leases Bill. His real contribution as Premier, however, can only be assessed from a broader perspective, and in the context of his career as a whole. Bennett rightly highlights that Lilley's political achievements were not limited to the introduction of free schooling; more significantly, his 'true crowning achievement' as Premier 'was his striking, almost single-handedly, the first blows against his — mainly "squatter" — opponents whereby their parliamentary monopoly was so fractured that, ultimately, democracy was brought to Queensland' (p 295). If Lilley is rightly one of the fathers of democracy in Queensland, it is high time that his role is appropriately acknowledged!

Throughout his political career, Lilley maintained his legal practice. His 'compelling advocacy', forensic skills and 'incisive approach' to, and great command of, the law (pp 299–300) meant he was always in demand as a lawyer and had much success. Lilley's successful stints as Attorney-General earned him the respect of many in the colony, including some of his opponents. He was an obvious choice to be appointed to the Supreme Court in 1874 and as Chief Justice in 1879.

Lilley as Chief Justice was initially widely respected and his decisions demonstrated all of his skills as a lawyer. His opponents attempted to

embarrass him, for example, by highlighting the numerous times that his son appeared before him — understandable given the small legal profession — including in chambers, with unsubstantiated suggestions of favouritism. But despite such attempts, the Full Court in his time ‘was remarkably harmonious and like-minded in judgment’ and his colleagues held him in high esteem, which ‘was publicly declared with a genuineness that was obvious’ (p 300). Lilley’s career was one of rigorous application of the law, yet as a judge who was ‘always desirous of doing substantial justice’ (p 299). Nonetheless, his period as Chief Justice was overshadowed by serious errors of judgment in the case of *Queensland Investment and Land Mortgage Company Ltd v Grimley*,¹ in which one of the defendants was a long-term political opponent of Lilley, Sir Thomas McIlwraith, a Minister during the proceedings and later Premier when the decision was appealed. A number of Lilley’s decisions during the course of the trial can fairly be interpreted as suggesting some bias against the defendants, and were questionable in law. Lilley’s judgment for the plaintiff was publicly decried. Not surprisingly, Lilley’s decision as trial judge was overturned on appeal by an especially constituted court consisting of the northern circuit judges and a NSW Supreme Court judge (after Samuel Griffith, Premier and Attorney-General at the time had hurriedly amended the law to so allow and to preclude Lilley from sitting on the appeal of his own decision (p 260)).

Lilley’s standing in the community was further debased by his insistence, particularly late in his term, on making strongly worded public speeches on polarising political topics such as women’s suffrage and labour relations. His heavy consumption of alcohol led to one particular incidence of ‘riotous’ conduct and public drunkenness in the Queensland Club which did much to further taint his reputation. His vacillation as to whether to accept a knighthood was embarrassing to many and also did not do Lilley credit.

Sir Charles Lilley retired in 1893 as a result of worsening ill-health and the toll taken by the *Grimley* case. He died in 1897, aged 70, and the vast funeral procession, extending over 1 mile, reflected the widespread esteem in which he was still held by the community. Nonetheless, as a result of many factors, including the *Grimley* case and Lilley’s own, at times, indecorous behaviour, Lilley’s many political opponents had enough ammunition to diminish his many achievements and public standing.

This is an important book about an intriguing man. For those who might consider that legal historical biography is dry, Bennett’s Lilley is the perfect antidote. It is doubtful whether any other historian has contributed as much to our understanding of Australian colonial legal history as John Bennett. With such an interesting, multi-talented, controversial, but flawed, man of integrity as a subject matter, Bennett’s skilled hands weave a fascinating story. It is the story of a man who is one of the most important figures in early Queensland’s

¹ (1893) 4 QLJ 224.

political and legal landscape. The reviewer can only hope that Bennett's account will go a long way to addressing Lilley's tainted reputation and will firmly re-establish him as a champion of the rule of law, the legal profession, and democracy.

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