

Frustration, fear and the tragic case of R v IAN ROBERT TURNBULL.

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Abstract:

In 2014 a NSW public servant was killed in a confrontation that was grounded in a historical conflict over illegal land clearing. The perpetrator was a land holder with a long history of non-compliance with the requirements of the NSW Native Vegetation Act 2003 and had been subject to a series of prosecutions in the NSW Land and Environment Court. The resulting murder trial of R v IAN ROBERT TURNBULL in the NSW Supreme Court saw the defence enter a plea of not guilty to murder, arguing that the stress caused by the ongoing compliance matters had caused the landholder severe mental distress, reducing his liability to the charge and appealing to the jury to accept a plea of manslaughter. The jury disagreed and on the 27th May 2016 found the land holder guilty of murder. The accused has been sentenced to 35 years jail.

At the same time as this case has progressed through the NSW Supreme Court, the current NSW Government has committed to repeal the NSW Native Vegetation Act 2003 as part of the biodiversity legislation review process. Compliance functions have been significantly reduced under the Native Vegetation Regulation 2013, which transfers responsibility to landholders to notify the regulator of instances of land clearing under a self-assessment code. Non-compliance with these codes may result in a maximum penalty of \$5500.

The suggestion that the crime was somehow justified by 'bad legislation' (Coffs Harbour MP Andrew Fraser) and was the explosive expression of a long-standing 'sore point' (Nationals leader Andrew Stoner) suggests that farming communities are risky environments for public servants who seek to enforce compliance orders.

This case illustrates the on-going conflict between productivity and biodiversity land uses in contested rural landscapes. This paper suggests that this tragic case highlights an urgent need to examine how rural communities respond to regulation; the implications of this rural response for future compliance regimes; and the impact the case may have for environmental protection in rural areas.

Keywords: compliance, land-clearing, rural community, stress.

BIOGRAPHY

Tanya Howard is a Post-doctoral researcher at the University of New England, working on the Invasive Animals Cooperative Research Centre project 'Facilitating Effective Community Action'. Tanya's doctoral thesis explored participatory processes in the environmental governance of rural landscapes and capacity building in rural communities. Tanya's research applies socio-legal methods to explore how community voices are brought into environmental governance. Her non-academic experience includes working with communities to develop and deliver quality natural resource management outcomes. Tanya is passionate about the role of authentic and honest communication, deliberative practices and community participation in the pursuit of environmental and social justice.