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Abstract

It is generally assumed that the Robertson Land Acts failed because they did not produce a closely settled rural population of small farming freeholders. In this sense it is undoubtedly true that land reform in New South Wales "failed", but this assumption presupposes that Robertson's Land Acts were formulated and passed primarily and fundamentally for the specific purpose which they failed to meet. It is suggested in this essay that behind the purported objective of 'unlocking the lands' for the benefit of the small farmer might be found aspects which alter the significance of the Land Acts, and give emphasis to the political, rather than social motivations of Sir John Robertson and his followers.

ROBERTSON'S LAND ACTS -

Success or Failure ?

by Ruby Makula

It is generally assumed that the Robertson Land Acts failed because they did not produce a closely settled rural population of small farming freeholders. In this sense it is undoubtedly true that land reform in New South Wales "failed", but this assumption presupposes that Robertson's Land Acts were formulated and passed primarily and fundamentally for the specific purpose which they failed to meet.

It is suggested in this essay that behind the purported objective of "unlocking the lands" for the benefit of the small farmer might be found aspects which alter the significance of the Land Acts, and give emphasis to the political, rather than social motivations of Sir John Robertson and his followers

The traditional interpretation of the Robertson Land Acts - The Crown Lands Alienation Act and the Crown Lands

Occupation Act of 1861 - usually explain the purpose of the Acts in terms of their acknowledged social 'failure'.

More recently, and particularly since L...A. Baker's article "The Origins of Robertson's Land Acts" it has been realised that the orthodox view is oversimplified. It has, nevertheless, exerted considerable influence over historians. The tenacity of historiographic precedent is neatly illustrated by Baker in his article and his quotations bear repetition because they demonstrate the authority of tradition over a period of fifty years.

Coghlan in 1903 states categorically that -

"The new agrarian legislation was intended to benefit the men of small means, and its authors talked very confidently about the yeoman population, who would possess the bulk of the land".

Scott, in 1937, writes -

"Broadly speaking, the aim of Governments since the era of responsible government was that of settling a yeomanry. John Robertson's 'free selection before survey' policy in New South Wales... has this aim in view".

and -

"New South Wales was to become a country of peasant proprietors".

"The Selection Acts were primarily intended to put the small man on the land".

In general, "orthodox", terms, it is suggested that the need to create an independent yeomanry was a response to the socio/economic changes generated by the discovery of gold. Immigrants poured into Australia, attracted by the prospect of wealth and independence. The population increased from 405,000 in 1850 to 1,145,000 in 1860. When the goldrushes subsided, a huge unemployed surplus began a demand for land. Many ex-diggers had capital which they wished to invest in agricultural pursuits but were unable to do so because the land was firmly locked in huge pastoral leases. Closer settlement of the land by small farmers was socially desirable and justifiable in sound utilitarian terms as a means of combating urban unemployment, preventing radical insurgence and increasing the production of food for home consumption. And so, in answer to popular demand, responsive legislators passed land reform acts in order that small farmers might obtain freehold farms. A.G.L. Shaw, continuing the tradition, goes so far as to state that -

"Depression and unemployment plus popular agitation backed by universal suffrage, forced the governments' hands, and after much controversy land acts were passed in all the colonies".

In New South Wales the Crown Lands Alienation Act and the Crown Lands Occupation Act were operative from the 1st January, 1862. Anyone prepared to reside on the land, and to make improvements had the right to select

from forty to three hundred and twenty acres anywhere (with certain exceptions) in the settled or intermediate districts. The land was selected before survey (Clause 16, Alienation Act). The selector paid one quarter of the purchase price of £1 per acre as a deposit, and the remaining fifteen shillings over a period of three years (Clause 13, Alienation Act). Before receiving his freehold title, the purchaser (or his alienee) had to live on the selection for one year and make improvements to the value of at least £1 per acre (Clause 18). All leases taken out or renewed in New South Wales since 1857 were reduced to a year's currency if within settled districts, and to five years if beyond (Clause 11, Occupation Act). (This was ostensibly to allow small selectors to take up land wherever they wished within the leasehold areas; in practice there were many barriers to this). Special provisions gave the established squatter the prior right to buy 1/25 of his run; he was also allowed to buy certain lands which he had improved. In either case, such purchases carried grazing rights over three times the freehold area (Clause 12, Occupation Act), under a pre-lease system. This meant that the selector of 320 acres could claim the adjoining 960 acres of Crown Land. The practice of sale by public auction of land not subjected to conditions of residence and improvements was to continue (Clause 23, Alienation Act).

If the basic principle of the Acts was that of ensuring a fair and equal opportunity of access to freehold land for all sections of the community, then the manner in which the provisions of the Acts were formulated amply safeguarded the established squatter. In his speech moving the second reading of the Alienation Bill, Robertson recognised and acknowledged the "existing pastoral interest". His indication to the assembly that, because they "had not a clean sheet upon which to legislate...they ought to be prepared to accept such a moderate and practical solution of the land question as should...not injure materially the great pastoral interest", while at the same time affording "opportunities to the mass of the people to make homes for themselves, and settle down on the land..." must have given in the Assembly as much quiet satisfaction to squatters, such as Clark Irving with a reputed thirty-four runs scattered over New South Wales, as it did to urban based land reforming idealists like William Love.

In March, 1861, a conservative Camden pastoralist James Chisholm was able to write to his friend James Macarthur in England -

"The Land Bill has just passed the Lower House and confirms the popular principles of "Free Selection Before Survey", Deferred Payments, and a uniform price at £1 per acre. The Free Selector fortunately

is saddled with so many conditions and restrictions, that I do not apprehend such great inconvenience to the squatter as is clearly anticipated. A small quantity of land thrown open to purchase will satisfy any demand for agricultural purposes we are likely to have for the next few years...."

It would seem that James Chisholm's complacency was well grounded. The Morris-Ranken committee of inquiry, which reported in 1883, found that from the beginning of 1862, no less than 170,242 applications for selections under the Act were made, but that "In all probability the selections held as homesteads according to the intent of the law do not equal 20,000 or indeed 18,000". The area under crop in the same period, 1862-1882, increased, but only from 246,143 acres to 583,868 acres whereas the number of sheep increased from 5,616,054 to 36,114,814. Obviously, the pastoral industry made great progress under the Free Selection Acts. Extensive acres of Crown Lands passed into sheepmen's hands as leaseholds were converted into freeholds, by effective, if irregular means.

Reasons why the Land Acts couldn't work to open up the land to small farmers seem fairly obvious today, but they must also have been recognised by Robertson and other wealthy landowners who supported him, in the land reform campaign. The practical problems of agriculture could not be overcome

by enthusiasm and determination, without capital, even if these qualities could be maintained in the face of environmental hardships, so alien to the English experience. Vegetation, climate and water resources were all different from those of England. Traditional farming methods had to be adapted to Australian conditions and new ones learned from experience which takes time and needs capital to tide over the bad periods. John Robertson could afford crop failures -

The Attorney General Mr. Cowper to Mr. Robertson.

In what year did your crop fail? My crop failed two years; one at Jerry's Plains and one at Scone. At Jerry's Plains the failure was twelve or thirteen years ago. (17) select Committee on the State of Agriculture. 31st August, 1855).

He could afford to experiment in the agricultural practice he promulgates to his Appendix to the Evidence given to the Select Committee on agriculture -

"Hot winds - the great enemy of the wheat grower are most injurious to a crop at the stage immediately preceding the bursting forth of the ear; therefore, as it is impossible to tell when they will come, it is only prudent to avoid risking on one chance all hope of grain for the year, by providing that all should not be in that stage at the same time. For example, in 1849, my wheat sown on the 1st April yielded upwards of 40 bushels per acre, that sown in

May and June 18 bushels, and that in July 6 bushels...
The season was different in 1861; the wheat sown in
April yielded but five or six bushels to the acre;
that sown in May and June 12 bushels to the acre,
and that in July upwards of 42 bushels to the acre..."

It is unlikely that the small selector, struggling to
clear his land and build some kind of a home -

"...it will cost him £4 an acre for clearing,
besides the expense of a house..It costs £4 an
acre to clear an apple-tree flat, which is the
best for agriculture; and then it requires fencing
which cannot be done under 5/- a rod".

John Robertson (36.37.S.C. On A)

would have the resources necessary to follow Robertson's
advice -

"If for a few nights before building a stack
precaution is taken to hurdle a flock of sheep
on its intended site,....there will be no danger
of weevil or fly".

Another point worth mentioning in Robertson's evidence is
the attention given to "Lien on Wool Act" which he sees as
unfairly promoting the Pastoral interest at the expense of
the agriculturalist, His words are interesting, particul-
arly when considered in relation to the complete absence
of any provision in the Free Selection Act for capital

assistance to the small selector. Robertson, in the Appendix, writes -

"...the main difficulty to (the farmer's) success.. is how shall I find means to carry me through the reaping, housing, thrashing and conveying of them to market? ... He dare not invest all, or nearly all, his capital in his first operation, but must reserve at least two-thirds of it, to enable him to secure his crops after they are grown".

and showing his understanding of the inability of the little farmer of "small means" to compete with the financial resources of the pastoralists -

"I will mention a case, among many that have lately come under my observation. A tenant farmer in this district in order to raise money to pay for gathering and bringing his wheat to market, actually submitted to a loss of 50% for the accommodation of a cash advance....."

Robertson could not have been unaware of the practical impediments to the successful implementation of the Acts which were "designed to settle the small man on the land".

Parkes, who instigated the Committee of Enquiry into the State of Agriculture, reprinted Robertson's evidence, unbridged, in his Fifty Years in the Making of Australian History. It is difficult, even allowing for an element of partismanship in Parkes' attitude, to miss the irony in his reference to Robertson -

"...the enquiry was made more than usually interesting by the evidence of one witness who was afterwards elected to the first free Parliament, and who became the popular land reformer of 1861, Mr. Robertson...was well known as a vigorous writer in the newspapers, and a gentleman who held what were 'strong Radical opinions'; he had for years resided in the country and seldom came to Sydney. His knowledge of the operation of the Orders in Council, the abuses of the squatting system, and the hardships imposed upon the class of small settlers, and the character of the soil in different districts, was that of a singularly quick, observant mind, and it was derived from an extensive, practical experience. In the light of his great moulding, influence on the land question in later years, and his high public standing at the present time, Sir John Robertson's evidence, given more than a generation ago, possesses curious and instructive interest for the student of land legislation".

The Enquiry into Agriculture was instituted, significantly enough, by the liberal Parkes, in the year preceding the inauguration of responsible government in New South Wales (1856). The Enquiry not only gave Robertson a "strong

liberal" (in his first election address, Robertson advocated manhood suffrage, vote by ballot, equal distribution of seats, a national system of education, as well as free selection) a platform for his views, but it was opportunely timed to draw attention and make explicit the existing land anomalies which violated liberal laissez-faire philosophy.

This provided a means of drawing together and focusing heterogeneous liberal sympathies into a unifying practical "issue" with which they might align. Wealthy landowners like Robertson and Cowper; speculators like Ben Boyd's man Augustus Morris, incorruptible liberal lawyers like William Charles Windeyer, middle class merchants like James Byrnes, naive idealists, and honest do-gooders could all sit under the big liberal umbrella of Land Reform.

At a time when socialism was unorganised and class consciousness as yet undeveloped, tacit support for liberal principles could be expected from the working class. Provided, that is, that these abstract principles were demonstrated in some tangible policy relevant to the interest, aspiration or emotions of the people. After the Electoral Act of 1858, land reform was to be an important factor in rallying city working class support for the return of liberal members, as the December, 1860 elections bear witness.

The political attention and the emotive appeal of a land reform platform must have been recognisable to all thinking liberal politicians, and the whole question of land legislation in New South Wales should be considered in a much wider context than the squatter versus agriculturalist contest. More emphasis might be placed on the function of "land reform", so vigorously adopted and advocated by Robertson, as a means of working out a fundamental power struggle between two opposing concepts.

To describe this as an ideological conflict is perhaps an exaggeration but it is fairly safe to suggest that in the fifties conservative reaction symbolised in the squattocracy for so long the apex of the socio/economic pyramid, was being threatened by the "progressive" ideas of middle class, and sometimes wealthy liberals.

The ever widening gulf between the underlying assumptions of the hardening political attitudes is illustrated by the following examples. Robertson, writing to J. D. Lang in 1852, talks about -

"...the iniquity of Wentworth's attempt to saddle us with a hereditary Upper House of Legislators, and all the paraphernalia of attendant rascalities with which he surrounded it".

James Antill, a large landowner at Picton, has -

".....a very (limited ?) opinion of 'His Majesty' the people I pity them because they are ignorant and humour them because I think their dispositions

... really good and because by management I think a great deal can be done with them".

The extent to which individual liberals in professional or mercantile occupations sympathized in a personal rather than an ideological sense with the disadvantages suffered by wealthy landowners like Robertson and Cowper is difficult to assess. The privileged position of the squatter relative to the "pastoralist" could well have been regarded by many as an abuse of principle rather than practice, for in fact many landowners espousing land reform were themselves squatters. It might be considered that some of Baker's "wealthy landowners" like Robertson and Cowper having a foot in both freehold and squatting camps, could have become landowners by exercising pre-emptive rights of purchase on areas which they already occupied as squatters. This right was exercised by at least three members returned to the Reform parliament of 1861 - John Douglas in 1858, William Cummings in 1856, and Clark Irving in 1857 and 1858, who acquired 355,320 and 9,439 acres respectively, and there is no reason to think that these were isolated cases. Nevertheless, the inequity of favourable sanctions for the pastoralist interest could be used effectively to separate and polarize the political affiliations or attitudes of the land occupying class as a whole.

Just as support for land reform identified those of a more liberal persuasion, so did opposition to land reform serve to segregate the conservative element in society into a neat identifiable bloc.

In this way the difference which existed in Australian society, and which had been accentuated by the Constitutional debates in the early fifties, were brought to a head in New South Wales.

This is not to imply that the whole concept of land reform was a cynical and organised conspiracy on the part of all liberals. Many supporters of the movement were genuinely convinced of the value of land reform as a means of improving the social and moral conditions of the people. John Garrod White, engineer, giving evidence before a select committee on the Condition of the Working Classes accounts for the ".....dearth of employment in a country where everything is to be recovered from a state of nature" by ill-advised immigration and "...still worse, the conduct of a government, which, having brought labour here, withholds the country from settlement after it has brought the means of settling it". Mr. White also sees settlement as benefitting the community as a whole -

"It is not that there is no good land in the colony.

If I could have 100 acres, I could find plenty on the banks of the Macleay, the Richmond and the Clarence where might be grown more wheat than would feed the whole population of the community".

Mr. Nathaniel Pidgeon, a city missionary, examined 19th October, 1859, was concerned with drunkenness and immorality which he connected with the concentration of population in the city. His opinion is interesting, as an illustration of the extremely broad basis of popular support on which Robertson could rely. It is also indicative of the incredible naivety of urban utopianism, especially when aligned to moral righteousness. Mr. Pidgeon -

"I think if there were some way of driving out people who have families, agriculturalists and farm labourers and farm labourers with small capital into the country, in the place of their looking for a days work in the city it would be a great advantage. If they were to settle on land they would be induced to labour and things would be more healthy - a man on a farm would be able to produce as much as his own family would require; it would be a poor farm if he could not - and a little to sell to get clothing - then when the country was opened up a little, and villages rise up, farmers would settle on the land and then would spring up here and there; and then the railroads would facilitate the bringing of produce to the town and things would be improved...."

The report issued by the Select Committee on the conditions of the Working Classes of the Metropolis recommended, as might be expected, urgent attention be given by the Assembly to the

question of the "settlement of industrious families on the land". The men who made up the Committee were Henry Parkes, J. Pemell, an active member of the Land League; W. H. Walsh, landowner/squatter who himself was a pro-land reform witness in the Enquiry; J. H. Plunkett, conservative, Attorney General in 1856; J. Hay, barrister and pastoralist; Rev. D. Lang, radical republican; W. Windeyer, then a young liberal lawyer in the "Radical stage of his career"; J. Hoskins, a Cowper supporter; and Messrs. Loder and Lyons, Published in April, 1860, the findings of this not altogether impartial committee justified and reinforced the case for land reform legislation in terms intelligible to the experience of the city based middle and working classes, familiar with the problem of relatively large scale unemployment.

The Committee -

"...entirely concurred in the opinion that a wise and comprehensive system for promoting the settlement of industrious families on the public lands - the increase of producing power and not the augmentation of current revenue to the treasury being the principle object - would be to a great extent a remedy for such a state of things as they have the painful duty to investigate. Without regard to the ultimate advantages to arise from any such measure, and solely in reference to the immediate subject of their enquiry, they respectfully recommend to your Honourable House the consideration of this question as early as possible".

In effect, the committee rubber-stamped the determined intent of anti-conservatives to enact land legislation. Robertson took office as Premier after Forster's fall in March, 1860 and immediately introduced his land bill. An amendment in the Assembly removing the free selection clause, the central reform in Robertson's scheme, led to a dissolution and new elections in December.

The December Elections were contested almost entirely on the land Reform issue. Popular support for candidates pledged to Reform was overwhelming. The enthusiasm with which the issue was adopted reflects the attitude of working class voters - Mr. Chester, candidate for West Maitland, addressing a meeting, (not inaccurately) reported in the Sydney Morning Herald as a "burlesque" expounds his views -

"What were the squatters before the population came?

The population raised the gentleman squatters - the Upper House - do away with it altogether!"

In an Assembly subsequently elected by manhood suffrage, twenty three of those who had supported Robertson in the third Parliament were returned to the fourth for the loss of seven, while the late opposition retained only eleven. Forty percent of the members returned were new to parliament, and the worst fears of the conservative "aristocracy" were at last realised. This democratic intrusion into public life was abhorrant to men like Charles Nicholson, George Rusden, and James Chisholm who typified the attitudes of upholders of the old, static, social heirarchy epitomized in pre-industrial England and

which the more extreme wished to see established and perpetuated in Australia. To James Macarthur, safe from contamination in England, Charles Nicholson wrote -

"....As for Colonial Politics it is sickening to think of them....How the new Assembly will get on God knows. There is scarcely a man of mark in it, of those played formerly, a most conspicuous part in public life. Publicans, expirree convicts, journeymen mechanics, - Wesleyan lay preachers, form not inconsiderable proportion of the present members...."

(In actual fact, the largest single grouping in the 1861 Assembly had connections with the land; there were at least 28 members who occupied land either as owners or lessees or as both). Similar sentiments were echoed by James Chisholm -

...Universal suffrage and vote by ballot have deposited the governing power in the hands of the ignorant and unthinking multitude who merely value their privileges in proportion as they subserve their own aggrandisement and in levelling all superior influences. The recent election for this country illustrated....the pernicious operation of the ballot, the effect of which was to transfer the labouring influence, and place them under the direction of a clique... There can be no doubt that the real question at issue during the late elections was that of democracy which could only

account for the rejection of nearly all those candidates who had the reputation of being gentlemen and in which in the opinion of many of the constituencies was a sufficient reason for their exclusion from the Assembly".

While Robertson might have rejected the tone of Chisholm's comment, he probably would have felt a great deal of satisfaction in being able to agree with its substance. Popular support for land legislation gave Robertson a solid basis in the Assembly from which to re-introduce his land bills. The vigour with which he steered the Land Bills through the Lower House is matched only by his tenacity in pursuing them through the Legislative Council. That he was less concerned with the actual details of the provisions of the various clauses than with actually getting the Bills passed is the impression gained from an examination of the weekly division lists. Robertson appears quite amenable to amendments which might be construed as advantageous to the pastoral interest but positively against any adjournment of debate. Motions moving that way are firmly negatived except on the instance initiated by Robertson, himself in the early hours of February, 14th, 1860.

The repeated obstruction and recalcitrant attitude of the Upper House which continued to reject the Land Bills as received from the Assembly was a tantamount to an assertion of the dominance of the Legislative Council over the will of the people as represented by the Assembly. But

this confidence was to be dissipated through the astute manipulation of the very provisos incorporated into the Constitution to preserve its character as a conservative check on the democratically inspired legislation, which was expected to issue from the elected Lower House.

The Constitution of 1856 allowed for an Upper House of not less than twenty-one members, initially appointed in May 1856 for a period of five years, after which, new members were to be appointed for life. The appointments were made by the governor acting with the advice of the ministry of the day. The Conservatives had hoped to preserve in the Council the privileges traditionally associated with aristocratic status and social pre-eminence. W. C. Wentworth even went as far as to convene a committee to propose the creation of a colonial peerage but his proposals were generally ridiculed into abandonment. In drafting the Constitution, Wentworth and his associates were primarily concerned with the social distribution of power. They failed to see that in providing for a nominated Upper House, there could be no guarantee that the Ministry in the Lower House could be relied upon to advise "suitable" appointments. This was the weakness which Robertson, with the popular support on land legislation, was able to exploit. The Council's repeated rejection of the Land bills was the perfect opportunity to demonstrate the Conservative, class conscious nature of a House which repeatedly thwarted the legitimate mandate of the Assembly to legislate on land reform. It gave both the circumstance and the justification for a swamping of the

Council by the appointment of twenty new Members recommended by Robertson.

The Legislative Council, a symbol of the conservative concepts to which Robertson, a "consistent liberal", had always opposed, was thus to a large extent emasculated. Robertson's Land Acts performed the operation.

As the Governor, Sir John Young stated, the Upper and Lower Houses "...were at variance on general policy and on many points of detail... They represent classes who have long been struggling for power in the colony". Robertson's achievement was to resolve that struggle.

'Land Reform' was an outward symbol of liberal "equality of opportunity". It was a tangible issue through which promulgators of liberal principles could gather the support of the enfranchised working classes deluded by the agrarian myth and the prospect of "getting even with the squatter". It served its purpose by crystallizing the conflict between entrenched conservative and aspiring liberal power. Robertson's grasp of the significance of 'land reform' and his skilful leadership ensured his own standing as a man to be reckoned with in New South Wales politics, as the comparative length of his ministry testifies. In this sense, the Robertson Land Acts were an outstanding success.

As social legislation the Acts were an utter failure. But then there is very little convincing evidence to suggest that Robertson was overly concerned about this aspect of the legislation which bears his name.

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