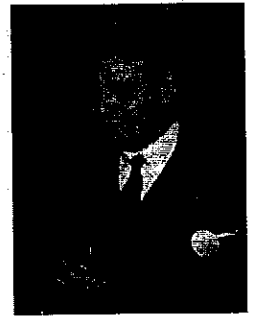


Geoists in History

Rae Else-Mitchell (1914-2006) *By Karl Williams*



"Land policy must be directed to ensuring that landowners are restricted to gains from the development or use of land and are excluded from gains associated merely with the passive holding of land".

"The keystone of government policy must be a recognition that land is both a basic national resource of limited or finite extent and a necessity of life for all Australians"

"Land made available for income-producing purposes should be disposed of in such a way as to retain for the Crown the capitalized benefits derived from location"

When a man has a list of extraordinarily diverse achievements as long as your arm, how does one begin to encapsulate his life?

Rae Else-Mitchell was a jurist, royal commissioner, historian and legal scholar. He was an active member and office bearer in a number of community organisations concerned with history, the arts, libraries, medicine, education, financial & public administration, and town planning. His obituary in *The Times of London* described him as being "among Australia's cleverest postwar judges and administrators, accomplishing two distinguished careers of almost equal length."

It was written in the stars that young Rae, having both means and genes, would leave his mark on the world. His parents ensured he had a fine education and his grandfather had captained Australia in the first Australia-England cricket match in 1877.

He was first schooled at Sydney's Artarmon Public School before moving on to the prestigious Melbourne High School. Soon afterwards he relocated back to Sydney where he would settle, attending the University of Sydney. He could have studied and excelled at almost anything but chose law at which,

in 1936, he graduated with first class honors and took the top student prize in a year of great talent.

Running against the grain of nationalistic chest-thumping, when the war came he refused to join the AIF on the grounds of pacifist beliefs. However his already brilliant organizational skills enabled him to perform important non-combatant duties as secretary to the Rationing Commission.

When the war ended, he reapplied himself to law and had a meteoric career. First specialising in constitutional law, commercial law and equity, he became editor of the *Australian Law Journal* from 1946 to 1958. He was appointed a Queen's Counsel in 1955 and made a name for himself in important cases in the High Court and the Privy Council. As a legal academic, he distinguished himself as lecturer in Constitutional Law at the University of Sydney from 1951 until 1958 when he was appointed a judge of the NSW Supreme Court.

Few, if any, lawyers in the Commonwealth have had such an extraordinary and varied career. From a consummate barrister to a gifted if temperamental judge, he reinvented himself repeatedly in work that was worthy of his high capacity and prodigious memory and energy. When a complicated inquiry had to be launched, his was a safe pair of hands. He brooked no nonsense from lawyers or others who had to deal with him. His testiness was legendary, but so was his ability.

Rae was brilliant, combative, proud and able with a palpable radiating energy which often rubbed others the wrong way. Accounts of his striking appearance makes one wonder if James Bond was modeled on Rae. He was a tall, tanned, athletic figure with a distinctive purposeful stride. This physical and intellectual vigor was retained late into his long life. He had a reputation as a trial judge as being clever, brusque and sometimes rude to legal practitioners whom he regarded as below par.

His restless and razor-sharp mind began to scan other intellectual challenges mid-life, but he still kept a hand in the legal profession. In 1980, he was appointed chairman of the Commonwealth Legal Aid Commission and also director of the Australian Bicentennial Authority. In 1981, he became chairman of the newly formed Commonwealth Legal Aid Council.

When a brilliant man looks like achieving too much too soon, Fate often intervenes for his own sake. Tragedy struck when his son, Francis, 17, was found dead in an interview room of an ACT police station. Police had picked him up when he was drinking, intending to caution him. Left alone in the station for only 20 minutes, he managed to asphyxiate himself with a scarf. The ACT Coroner's Court ruled out suicide, saying it had been "a grand gesture of remorse" that went wrong.

But there can be no more insurmountable challenge than implementing the most desperately-needed economic reform in a world in which no-one seems to be listening. Yes, Rae was a geoist.

He was living in a time and a place which enjoyed a good measure of geoist measures which had been laid down soon after Henry George's visit to Australia in 1890. Both local and NSW governments collected a good measure of the rent from land which required, for proper functioning, judicial oversight. Rae was appointed to a number of those overseeing positions and was far too clever not to catch on to the enormity of its importance.

His first major appointment occurred in 1962 when he was appointed a judge of the Land and Valuation Court which he held until 1974. There he took a controversial stand when he recommended to the federal government that no individual be allowed to profit from rezoning of land. Angering landowners, he caused further angst to local councils when he recommended that control powers on development be given to government.

In 1965, he was appointed chairman of the NSW Royal Commission into Local Government Land Valuation and Rating Systems.

In 1973 a Federal Commission of Enquiry into Land Tenures was established and Rae was appointed its chairperson by the Whitlam government. The enquiry recommended that all development rights be vested in the Crown, and that statutory corporations oversee the entire development process to further strengthen the whole system. Working within a complicated and somewhat compromised

set of parameters, the enquiry also recommended that commercial and industrial land should ideally be held under leasehold tenure from the Crown. Residential land should remain as freehold tenure, but with its future development value reserved to the Crown – that is, the owner had no right to increments in land rents.

In 1978, his work in the Land and Valuation Court was recognised when he was awarded the Sidney Luker Memorial Medal from the Royal Australian Planning Institute.

Following on from an earlier book on land tax law, in 1988 Rae stressed how the original geoist plans for Canberra had been corrupted in his book "*Canberra; a people's capital?*"

As Rae avoided the compromises (and, oftentimes, corruption) of political life, he was not hamstrung by party policies and so could openly voice his opinions on geoist sanity. Older Melbournians fondly remember his keynote address to the International Union conference in Melbourne in 1994.

Sadly, his restless energy was ill-suited for a fully committed geoist advocacy role where efforts gained little apparent traction, so he was inevitably drawn to other interests. One of his most notable roles was a position reappointed by prime ministers from both sides - chairman of the Commonwealth Grants Commission (overseeing the apportionment of state funding) from 1974 to 1989.

Across his long life, the number and variety of other prominent positions he held is nothing short of



breathhtaking. At various times he has been President or Chairman of the Library Council of New South Wales, the Royal Australian Historical Society, the Federation of Australian Historical Societies, the Royal Australian Institute of Public Administration, the Australian Institute of Urban Studies, the New South Wales Medico-Legal Society, St Vincent's Hospital Board and the ACT Library Service. He was the first Deputy Chancellor of Macquarie University and a member of the Councils of the Canberra College of Advanced Education, the National Library of Australia, the National Trust of Australia, the Centre for Research on Federal Financial Relations at the Australian National University and the Australian Bicentennial Authority.

Let's take a deep breath and push on. He was elected president of the NSW division of the Arts Council of Australia. He was a member of the Archives Authority of NSW, a committee member of the NSW Historic Buildings and Sites Committee. Other organisations in which he held prominent offices included the Captain Cook Bicentenary Arts and Historical Committee, the Australian Bicentennial Authority, the NSW Association for Mental Health, and the Royal Australian Planning Institute. He was also Chairman of the Committee of Inquiry into Assets and Public Debt (ACT), the National Local Approvals Committee, and the ACT Casino Surveillance Authority.

Squeezed between these activities, Rae wrote countless books and articles on Australian history, law, public administration, planning, public finance and land valuation.

With his preference being for honorary civic roles rather than corporate board seats, Rae's payoff was community recognition, not bonuses. Amongst the awards and degrees for his community work were being made a Companion of the Order of St Michael and St George (CMG) in 1977 for his services to the State and to historical research. He

received an honorary Doctorate of Letters from Sydney University in 1984 for his influence on the writing of Australian history and the development of library services in Australia as well as an honorary Doctorate of Letters from Macquarie University in 1987. In 1986 the Australian Library and Information Association gave him the Redmond Barry Award for Library Promotion.

As he suspected, the politicians whom he often scorned undid much of his dedicated work, especially concerning the vital Federal Commission of Enquiry into Land Tenures. Prime Minister Whitlam initially reacted positively, no doubt influenced by dedicated geoist and cabinet member, Clyde Cameron. Whitlam announced that the Australian Government supported the report's recommendations that any future capital profits arising from a change of land use should be retained by public authorities rather than individuals. Such a policy could be promoted into the State arena via tied grants.

Following distribution of 7000 copies of the First Report, various conferences and 103 further submissions, its recommendations were modified for the Final Report. The proposal was attacked as promoting excessive bureaucracy and land nationalization, and was stymied when the Whitlam government was dismissed, destroying an important plank of the Australian momentum towards geoist reforms.

No-one could blame Rae for retreating into bitter cynicism, yet he lived out his long life productively. He never again threw himself wholly into the geoist cause, perhaps acquiescing that vested interests held all the cards. But we'll remember and salute you, Rae, and we'll build on the remarkable foundations you built as your legacy for The Cause.

Next issue: the New Age icon of indigenous wisdom, Chief Seattle