



[A Closer Look at the First Crofters' Act]

Following the publication of the report of the Napier Royal Commission of Enquiry into Crofting in 1884, a Crofters Bill was introduced to the House of Commons in February 1886. The last quarter of the 19th century was a period of unrest throughout Britain, and the Highlands and Islands were no exception. The General Election of 1885 resulted in the Salisbury Conservative caretaker administration giving way to the third, short lived, Gladstone Liberal administration that only lasted about six months.

It was during that short Liberal administration that the Crofters Bill was debated in Parliament. Radical politicians were active everywhere. Both Irish and Scottish Home Rule were prominent political questions, which caused concern in Government circles. Also, the Irish land question, which culminated in a successful Irish Land Act in 1881, was duly noted in the Highlands and Islands of Scotland, as West Highland and Island fishermen visited Irish fishing ports, and in that way the Irish land struggle influenced the struggle for land law reform in Scotland.

Then there was the Franchise Act of 1884, which gave crofters the vote for the first time. That resulted in a marked increase in crofter political agitation because the crofters saw, in the extension of the franchise, the opportunity to secure a remedy for their grievance by legislation. In the General Election of 1885 the crofters flexed their muscles by returning four pro-crofter M.P.s for the Highlands for the first time ever. The 1884 Franchise Act increased the Ross-shire voters (including Lewis) from 1,720 to 10,265 voters at the time of the General Election of 1885. (The Western Isles did not become a Parliamentary Constituency until 1918).

Before the 1884 Franchise Act the crofting areas were invariably represented in Parliament by the landlord class. James A. S. Mackenzie of Seaforth represented Ross and Cromarty from 1830 to 1837 when he became the Governor of Ceylon. Members of the Matheson family of Lewis landlords represented Ross and Cromarty from 1847 to 1884.

Mr. Gladstone, the Prime Minister, who regarded himself as a full-blooded Scotsman, took a close interest in the Crofters Bill and responded to the crofters' wishes, by ensuring that the Bill was based largely on the Irish Act of 1881, including the three Irish 'Fs': Fixity of tenure, Fair rents, and Free sale of croft improvements.

There was, however, widespread criticism of the Crofters' Bill when it was first published and during its passage through Parliament. Various amendments were moved, but very few of them were successful. An attempt was made to include cottars within the scope of the Bill, but that was also unsuccessful. Also, the Bill did not make any provision for the restoration of the lost lands from which the crofters were forcibly removed, and that was a very controversial subject.

The first Crofters Act of 1886 finally became law when it received Royal Assent on 25th June 1886, the very last day of the parliamentary session, just before Parliament was prorogued. That was a day to be remembered in the crofting calendar. We may well ask ourselves what would have been our history if that Act had failed to pass at that time? In its final form, the 1886 Crofters Act was totally different from that envisaged by the Napier Commission. The House of Commons was influenced by a combination of factors, such as the continuing and deteriorating serious state of unrest in the crofting areas bordering on a state of open rebellion. The presence of several new pro-crofter M.P.s and their friends as well as the support of a large sympathetic group of 86 Irish Nationalist M.P.s in the House of Commons at that time. Also, by the mid-1880s it had become fairly clear to every thinking observer, including the Gladstone Government, that the crofting land question would have to be faced realistically and that the Napier Commission Report fell far short of doing just that. On the other hand, the landlord lobby was also unhappy because it felt that the Napier Report and the Crofters Bill conceded far too much to the crofter community.

While the 1886 Crofters Act secured the crofters in possession of the land they already occupied, it failed to give anything to the numerous landless families throughout the Highlands and Islands. Their lost lands continued under sheep and sporting deer forests. The 1886 Crofters Act, with all its faults, was, however, a watershed in crofting history and in due course it came to be regarded as the Crofters Charter. The main features of the 1886 Crofters Act are:

1. Security of tenure, for all crofts, irrespective of size of holding.
2. A fair rent for the croft. Either the crofter or the landlord could apply to the Crofters Commission, which was also a Land Court, set up under the 1886 Act, to fix a fair rent. The Crofters Commission was also directed to take account of arrears of rent due by the crofters and authorised to cancel such arrears in

whole or in part at their discretion. Once the landlord fixed a crofter's rent it would stand for seven years unless altered by mutual agreement between the crofter and the landlord.

3. The right to claim compensation from the landlord. The permanent improvements which were suitable to the croft and which were executed and paid for by the crofter or his family and predecessors could be claimed for in the event of the crofter's removal from the croft, or the crofter renouncing his croft.
4. The First Crofters Commission was established to administer the Act. The Commission consisted of a chairman and two commissioners of which at least one had to be Gaelic speaking. The Commission was also a judicial or quasi-judicial Land Court.
5. Enlargements of crofts. Wherever there was land available, any five or more crofters could apply to the Commission for an enlargement.
6. Bequeath. The Act also conferred on the crofter the right to bequeath his croft to a member of his family. Cut Peats. The Act gave crofters the right to cut peats and gather seaweed.

The areas covered by the act are the following seven crofting counties: Argyll-shire, Inverness-shire, Ross and Cromarty, Caithness, Sutherland, Orkney and Shetland in the North of Scotland.

A 'crofter' was defined in the Act as a tenant of a holding, the rent of which did not exceed £30 in money and which was situated in a crofting parish. The combination of security of tenure and fair rents removed serious causes for discontent and imparted a new spirit to crofters. One conspicuous result was a considerable improvement in dwelling houses and steadings.

In the absence of security of tenure, it was not possible for crofter families, far less for landless cottars, to build permanent substantial houses for themselves because they might be moved at short notice, at any time, at the whim of the landlord or his tyrannical factor. Once the Crofters Act of 1886 was passed and the crofters realised that they had security of tenure, there was a rush to build substantial new white houses or refurbish their thatched homes by removing the thatch and old timbers and building up the walls higher and re-roofing the house with new timber.

In the fishing areas they very often used old canvas sails as a substitute for roofing felt and an annual coat of coal tar was applied to the canvas roof covering. Very often the new timber was taken 'home with them from the Caithness fishing on their fishing boats at the end of the herring fishing season, 'lasgach Gallamh'. Some of these old refurbished houses are still in use although extensively modernised in more recent times. Until the passing of the first Crofters Act in 1886 there was no separate body of crofting law and therefore the basic principles of crofting law originated in the 1886 Crofters Act. Therefore the 1886 Crofting Act divides crofting history into two periods. The long, dark and distressing period of about 130 years from the rise of landlordism to the passing of the first Crofters Act in 1886 when the crofting community had no legal standing or protection, and the more enlightened period of about 112 years since the passing of the 1886 Crofters Act.

[ends]

AN ARCHIVE RECORD FROM THE ANGUS MACLEOD ARCHIVE www.angusmacleodarchive.org.uk

Author: Angus Macleod

Date:

Original document title: The First Crofting Act of 1886

Location in physical archive: Series A, File 1, Section 9

NRAS reference: NRAS 4336/1/1/12

© Angus Macleod Archive