

## **Robert Atkin: founding father of social justice**

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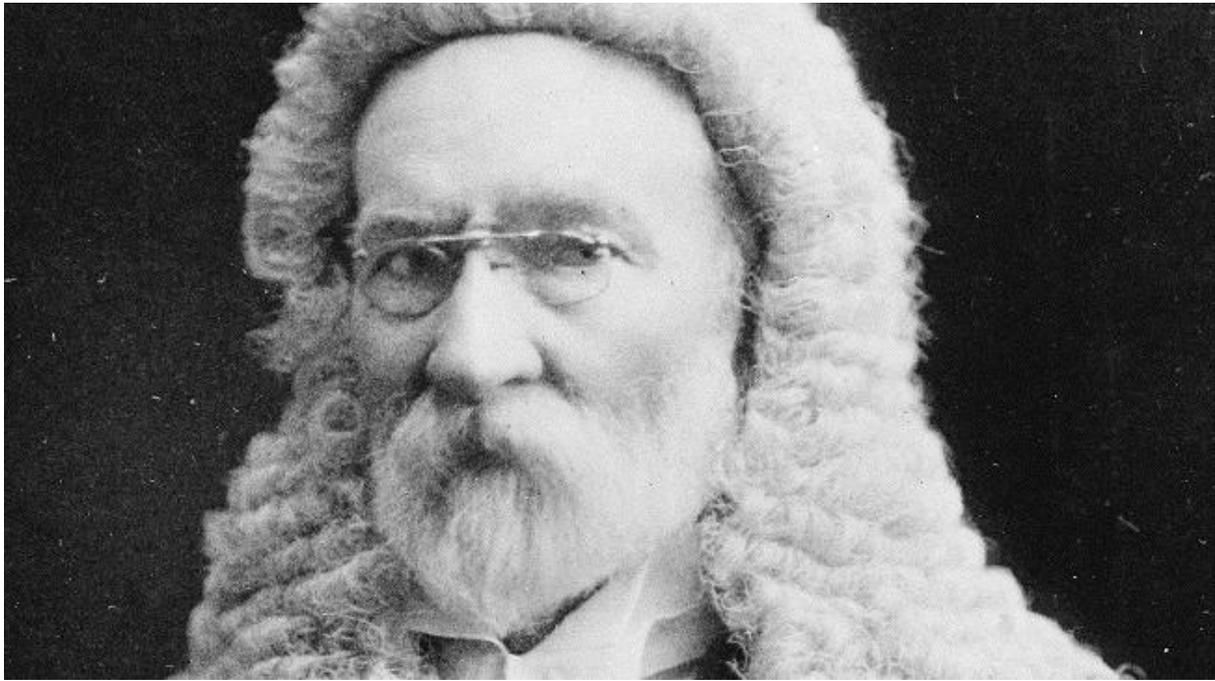


Robert Travers Atkin.

**Hidden in a backyard in Sandgate, Brisbane, is a sandstone monument to a man who died in 1872 after a short career as a journalist and politician. Robert Atkin was only 30 when he died. The broken column on the monument is said to symbolise “the irreparable loss of a man who well represented some of the finest characteristics of the Celtic race — its rich humour and subtle wit, its fervid passion and genial warmth of heart”.**

The neglected monument records that Robert Atkin’s “rare abilities were especially devoted to the promotion of a patriotic union among his countrymen, irrespective of class or creed, combined with a loyal allegiance to the land of their adoption”.

Atkin’s resignation from parliament paved the way for Samuel Griffith to enter politics and to advocate the same causes as Atkin: liberal democracy and opposition to the power of the “squattocracy”. Griffith had a brilliant parliamentary career. He served as premier and later chief justice of Queensland before becoming Australia’s first chief justice. He helped draft our nation’s Constitution.



Samuel Griffiths, the first chief justice of Australia.

Atkin's tragic demise meant that his eldest son, Dick, grew up in Wales rather than Australia. Dick became one of the greatest judges of the 20th century. His brilliant judgments still govern the law in Australia and other parts of the common law world. Late in his life, Lord Atkin described his father as "a man of exceptional gifts".

Who was Robert Atkin? What values did he champion and what is his legacy to a multicultural Australia in 2016?

### **The new Australian**

Robert Atkin came from County Cork. In 1864, he and his Welsh wife arrived in Australia. Members of the Atkin family had died from consumption and the remaining members sought a warmer climate. The Atkins settled near Rockhampton. Robert built a house on a selection (land not yet surveyed), but conditions were harsh and the colony was in the grip of a depression. The family was beset by oppressive heat, the high cost of food, mosquitoes and a bushranger dubbed the Wild Scotchman.

In 1865, Atkin seriously injured his chest when he fell from his horse. The Atkins decided to move to Brisbane and for Robert to become a barrister. He became a law student but never finished those studies because of his work and political commitments. He worked as a journalist and newspaper editor. His coverage of Queensland politics led to a short parliamentary career.

Atkin was a leader of the liberal cause, supported land reform and opposed the power of the squatters. He joined former premier Charles Lilley and others in an extra-parliamentary group, the Queensland Defence League, to oppose premier Arthur Palmer's electoral redistribution bill, which would have reduced the number of seats for Brisbane and its suburbs.

During this time, fears of an uprising by Fenians (Irish republicans) ran high, following the attempted assassination of Prince Alfred at Clontarf Beach in Sydney in 1868. In 1871, the Protestant Atkin co-founded the non-sectarian Hibernian Society of Queensland with his friend and Irish patriot Kevin O'Doherty. O'Doherty had been transported to Tasmania as a leader of the Irish rebellion of 1848. He settled in Queensland, and as a leader of the medical profession pursued public health reform.

Atkin's support for the creation of the Hibernian Society was intended to allay suspicions of an Irish Catholic conspiracy. The hand of friendship he extended across the sectarian divide was consistent with the values his newspapers advocated. *The Queensland Express*, which he launched in 1869, advocated "the rights of the people without distinction of sect or creed".

By 1871, Atkin's health was in decline. Still, he continued to champion progressive causes in speeches and newspaper articles. The newspapers he edited exposed corruption. Atkin campaigned against the sectional interests of the squatters and gerrymandered electorates.

He advocated new agricultural industries of sugar and cotton growing, the extension of railways and the enfranchisement of goldminers. According to Atkin, the Polynesian Labourers Act was a legalised system of kidnapping.

Atkin resigned as the member for East Moreton in March 1872 on the basis that Griffith could be persuaded to stand for the seat. Griffith did so and was elected.

Atkin died from consumption on May 25, 1872.

He was buried at Sandgate, mourned by community leaders including Griffith and a large number of citizens who travelled the long distance from Brisbane to pay their respects.



The Diane Watson monument to Robert Atkin in Sandgate, Brisbane.

Due to the illness of their third child, Mary Atkin had returned with the Atkins' three sons to the UK in 1870.

She returned to Brisbane in April 1872, and her arrival is said to have been a severe disappointment to Robert, who yearned to see his sons.

A few weeks after Robert's death, Mary Atkin wrote to her sons and explained their father's passing to heaven and the love which he sent to them. She assured her sons that she would return to them soon. She wrote: "Perhaps some day when you are big men, we shall come out to Brisbane, and you shall finish the work that Papa had only time to begin."

### **The son**

Rather than follow his father into liberal politics in Australia or Griffith to the Queensland Bar, Dick Atkin's life became that of a Welshman. His formative years were spent in the Welsh countryside, influenced by strong women. He excelled as a student and won a scholarship to Oxford. He went to the Bar in London but, lacking connections or wealth, nearly left it to become a teacher.

Good fortune came in the form of William Hemmant who, after a career in politics in Queensland, had become resident partner of his mercantile firm in London.

During the final years of his life Robert Atkin had enjoyed the unremitting care of Hemmant. The latter introduced Dick Atkin to a solicitor who promised to brief him. In 1893, Atkin married Hemmant's daughter Lizzie — who had been born 12 days before Atkin, also at North Quay, Brisbane.

Dick Atkin excelled at the Bar and became a judge in 1919. His judgments showed an understanding of the circumstances of ordinary citizens and the conditions in which they lived and worked. In developing the law, he believed in the potential of law to improve society. Humanity and compassion, coupled with an uncompromising spirit, characterised his life and his judgments. He searched for principles that he expected to be embodied in the law. His view was that law should reflect many, but not all, public sentiments about what is moral in our dealings with others.

Atkin toiled for decades as a master craftsman of law and language. He is best known for his 1932 judgment in *Donoghue v Stevenson*, in which he invoked the parable of the Good Samaritan to establish the "neighbour principle" and a duty of care owed by manufacturers to consumers. Former High Court chief justice Murray Gleeson described Atkin's formulation of a unifying principle for liability in negligence as "a brilliant achievement".

In 1941, in failing physical health, Atkin stood alone in the executive detention case of *Liversidge v Anderson* in defence of liberty and the integrity of the English language. In late 1943, as Australia's representative on the War Crimes Commission, Atkin advocated for war criminals to be brought to justice before international tribunals. The victims of crimes against humanity were owed nothing less.

Dick Atkin's uncompromising stand on the process to punish the barbarians who committed crimes against humanity was consistent with the sympathetic and welcoming attitude he displayed to victims of oppression, including leading German lawyers who sought refuge in England in 1940.

In extending the hand of friendship to refugees of a different ethnicity and religion to his own, Dick Atkin was being a Good Samaritan.

### **The inheritance**

The humane and progressive instincts that Dick Atkin displayed were not developed late in his life. They were inherited from a father who died tragically young after upholding similar values in the press and in politics.

History records the achievements of Robert Atkin's famous son Dick and of Griffith, Robert's successor in politics.

Their careers were long and far more illustrious than that of Robert Atkin. Yet the latter's short public life in colonial Queensland is worth celebrating in 2016. His non-sectarian commitment to his adopted country, to social justice and to the shared progress of his fellow citizens under a liberal democracy sets an example for all Australians to follow.

*Peter Applegarth is a judge of the Supreme Court of Queensland. For more on Lord Atkin and his Australian origins, visit: [legalheritage.sclqld.org.au/lecture-five-lord-atkin](http://legalheritage.sclqld.org.au/lecture-five-lord-atkin)*