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THE UNIVERSITY OF
NOTRE DAME
A U S T R A L I A

School of Arts and Sciences, Fremantle

‘TOO WHITE TO BE REGARDED AS ABORIGINES’

**An historical analysis of policies for the protection of
Aborigines and the assimilation of Aborigines of mixed
descent, and the role of Chief Protectors of Aborigines
in the formulation and implementation of those policies,
in Western Australia from 1898 to 1940.**

**A thesis submitted for the degree of Doctor of Philosophy
at the University of Notre Dame Australia**

by Derrick Tomlinson BA MEd

MARCH 2008

THE TRUE BORN ENGLISHMAN

(excerpt)

Thus from a mixture of all kinds began,
That het'rogeous thing, an Englishman:
In eager rapes, and furious lust begot,
Betwixt a painted Britain and a Scot.
Whose gend'ring offspring quickly learned to
bow,
And yoke their heifers to the Roman plough:
From whence a mongrel half-bred race there
came,
With neither name, nor nation, speech nor
fame.
In whose hot veins new mixtures quickly ran,
Infus'd betwixt a Saxon and a Dane.
While their rank daughters, to their parents
just,
Receiv'd all nations with promiscuous lust.
This nauseous brood directly did contain
The well extracted blood of Englishmen.

Which medly canton'd in a heptarchy,
A rhapsody of nations to supply,
Among themselves maintain'd eternal wars,
And still the ladies lov'd the conquerors.

The western Angles all the rest subdu'd;
A bloody nation, barbarous and rude:
Who by the tenure of the sword possest
One part of Britain, and subdu'd the rest
And as great things dominate the small,
The conqu'ring part gave title to the whole.
The Scot, Pict, Britain, Roman, Dane,
submit,
And with the English-Saxon all unite:
And these mixture have so close pursu'd,
The very name and memory subdu'd:
No Roman now, no Britain does remain;
Wales strove to separate, but strove in vain:
The silent nations undistinguish'd fall,
And Englishman's the common name for all.

Fate jumbled them together, God knows
how;
What e'er they were they're true-born
English now

The wonder which remains is at our pride,
To value that which all wise men deride.
For Englishmen to boast of generation,
Cancels their knowledge, and lampoons a
nation.

A true-born Englishman's a contradiction,
In speech an irony, in fact a fiction.
A banter made to be a test of fools,
While those that use it justly ridicules.
A metaphor invented to express
A man a-kin to all the universe.

For as Scots, as learned men ha' said,
Throughout the world their wand'ring seed
ha' spread;
So open-handed England, 'tis believ'd,
Has all the gleanings of the world receiv'd.

Some think of England 'twas our Saviour
meant,
The Gospel should to all the world be sent:
Since, when the blessed sound did hither
reach,
They to all nations might be said to preach.

'Tis well that virtue gives nobility,
How shall we else the want of birth and
blood supply?
Since scarce one family is left alive,
Which does not from some foreigner derive

DANIEL DEFOE (1660-1731)

ABSTRACT

For much of the nineteenth and the first half of the twentieth centuries, public policies for Western Australia's Indigenous peoples were guided by beliefs that they were remnants of a race in terminal decline and that a public duty existed to protect and preserve them. If their extinction was unavoidable, the public duty was to ease their passing. The *Aborigines Act 1905* vested the Chief Protector of Aborigines (after 1936 the Commissioner for Native Affairs), with lawful responsibility for the pursuit of that duty. All Aborigines caught by the terms of the Act, in particular Aboriginal children under the age of 16, and after 1936 girls and women under the age of 21, were wards of the Chief Protector and the Act entrusted him with extensive powers for managing their lives.

The historical progression of public policies for the protection of Aborigines is analysed in this thesis. Particular attention is paid to developments guided by A.O. Neville, the third Chief Protector of Aborigines and first Commissioner for Native Affairs from 1915 to 1940. In that time, inadequacies in the law and its false assumptions about the destiny of the Aboriginal race were exposed. Those who framed the *Aborigines Act 1905* failed to address the possibility that the race might not be extinguished, but might be transformed by interaction with the dominant white community. They did not anticipate a need to manage an emergent, fertile, and anomic half-caste populace, too black for the mainstream white community to accept as equals, but too white to be regarded as Aborigines.

In the face of these and other challenges, public policy shifted under Neville's guidance from protecting the racial integrity of Aborigines by segregating them from contaminating influences of the white community, towards the absorption of Aborigines, in the first instance those of mixed racial descent, by the white population. Critics of the latter policy have condemned it as being directed towards sinister objectives of 'biological absorption', 'constructive miscegenation', or, at the extreme, 'genocide'.

It is argued in this thesis that public policy in Western Australia was directed towards none of those objectives. Breeding out the colour was never the intention. Public policy progressively after 1915 was guided by an aspiration that Aborigines might be elevated in public estimation to a level where they might be accepted by the white community. A.O. Neville believed that in the longer term inter-racial marriage might even become acceptable and that ultimately 'coloureds' might breed out, but not that public programs should be directed towards that purpose.

ACKNOWLEDGEMENTS

I believe that the serious study of history begins at the source. Most often, that is preserved in libraries and archives. I was fortunate to have been given the willing assistance of the librarians at the Western Australian Parliamentary Library and the Chamber Officers of the Papers and Procedures Office of the Legislative Council. They helped me to uncover essential, but infrequently referenced material.

Similarly, I am in debt to the librarians at the State Records Office and the J.S. Battye Library. The public financial resources granted them annually from Consolidated Revenue, as with similar government agencies, never are sufficient for their purposes, but their staff are professionally committed to collating, cataloguing and preserving the public record. I am grateful for the help they gave me, their interest in my project, and their always cheerful company.

Particular thanks must go to John Neville, the son of A.O. Neville. He shared with me his recollections of his father and some of his father's personal papers that are not available elsewhere. I hope, John, you are not disapproving of the outcome.

Arnold Franks wanted me to tell his story. One day I will complete its telling, but I am grateful, Arnold, that you allowed me to tell part of it here. Gerry Warber also shared part of his story, and the story of Sister Kate's, with me. Thank you Gerry for shaping my understanding.

Professor Tom O'Donoghue of the University of Western Australia read an advanced draft of this thesis and gave invaluable advice and encouragement. Thank you, Tom.

My final and special gratitude is to two women, one who was prepared to give me three years of intellectual guidance and friendship, the other who is my life's mentor. Dr Deborah Gare accepted the challenge of guiding a geriatric candidate through the joys and the frustrations of writing history. I came to her with enthusiastic ideas, but unschooled as an historian. Deborah showed me ways and means simply by asking me what every good teacher asks of her students, 'Have you thought about...?' Deborah, you're gorgeous.

Marnie lived the research and writing with me. She heard me change direction at least a dozen times and responded intelligently when I thought out loud. She read and commented upon progressive drafts, including the many which were 'recycled'. Most important, she gave me the space and the love that allowed me to do my thing. How does one say "Thank you"?

EXPLANATORY NOTE

In this thesis, the term ‘Aborigine’ is used to refer to Indigenous persons of Australia. The adjectival case ‘Aboriginal’ is used where grammatically appropriate, for example in ‘Aboriginal men’ and ‘Aboriginal women’, or in ‘half-caste Aboriginal children’.

That usage has been current since 1970. Previously the un-capitalised terms ‘aborigine’ and ‘aboriginal’ were used interchangeably as nouns to refer to Australian Aborigines. Where official documents, legislation and written statements that employ the pre-1970 usage are quoted in this thesis, the forms ‘aborigine’ and ‘aboriginal’, as in their original context, are used.

Terms like ‘full blood’, ‘half-caste’ and ‘quarter-caste’ have been eschewed from common usage and the lexicon of public policy. Many now regard such terms used to differentiate sub-groups on the basis of parentage as offensive. Since 1967 the all-inclusive denomination ‘Aborigine’ has applied to all persons of Aboriginal descent who so identify themselves and who are accepted as such by their peers.¹ No distinction among them is drawn on the basis of other ancestry. During the period of this study, however, the terms ‘half-caste’, ‘quarter-caste’ or ‘quadroon’ and ‘octoroon’ had common usage, were defined by statute, and were fundamental to prevailing attitudes towards race and to public policy for Aborigines.²

Under the *Aborigines Act 1905* ‘half-caste’ meant ‘any person being the offspring of an aboriginal mother and other than an aboriginal father’, except those who were deemed to be Aborigines under the Act. Quadroons or quarter-castes who over two generations had only one Aboriginal antecedent, meaning at law the maternal grandmother, were explicitly excluded from the definition of ‘half-caste’ and, consequently, exempted from all provisions of the Act. Octoroons were a further generation removed from that matrilineal descent and were not even contemplated by the Act.

Under the deeming provision of Section 3 the term ‘half-caste’ included ‘any person born of an aboriginal parent on either side, and the child of any such person’. Such half-castes were deemed to be Aborigines for the purposes of the Act if they lived with an Aborigine ‘as wife or husband’, habitually lived or associated with Aborigines ‘otherwise than as husband or wife’,

¹*Report on a Review of the Administration of the Working Definition of Aboriginal and Torres Strait Islander*, Constitutional Section, Department of Aboriginal Affairs, Canberra, 1981, p.7.

In September 1971 a working definition was adopted by administrative convention:

An Aboriginal is a person of Aboriginal descent who claims to be an Aboriginal and is accepted as such by the community with which he is associated.

In 1972, following representations from Torres Strait Islanders, it was revised:

An Aboriginal or Torres Strait Islander is a person of Aboriginal or Islander descent who identifies as an Aboriginal or Islander and is accepted as such by the community with which he is associated.

² The Concise Oxford Dictionary acknowledges the alternative spelling of ‘octoroon’ and ‘octoroon’. In this thesis the latter is used except in quotations that employ the alternative ‘octoroon’.

or if they did not appear to be older than sixteen years.³ Hence, for the purposes of the *Aborigines Act 1905*, persons born of Indigenous mothers and non-Indigenous fathers were classed as half-castes and Aborigines; children younger than seventeen born of one Indigenous or half-caste parent on either side and people older than sixteen who had one Indigenous or half-caste parent and who lived with or in the manner of their Indigenous forebears were deemed to be Aborigines; but all other persons who were at least two generations removed from their Indigenous ancestry were not Aborigines.

The 1936 Amendment Act replaced all references to 'Aboriginal' and 'Aborigines' with the term 'Native'. All references in the principal Act to 'half-caste' or 'half-castes' also were struck out, but a new definition, 'quadroon', was inserted in section 2:

'Quadroon' means a person who is descended from the full blood original inhabitants of Australia or their full blood descendants but who is only one fourth of the original full blood.

The new definition extended the reach of the Act to embrace people of Indigenous descent who previously were exempt from its provisions. Now, quadroons under 21 who habitually associated with Natives or who lived in the manner of Natives at law were Natives:

'Native' means—

- (a) any person of the full blood descended from the original inhabitants of Australia;
- (b) subject to the exceptions stated in this definition any person of less than full blood who is descended from the original inhabitants of Australia or from their full blood descendants, excepting any person who is—
 - i. a quadroon under twenty-one years of age who neither associates with or lives substantially after the manner of the class of persons mentioned in paragraph (a) in this definition unless such quadroon is ordered by magistrate to be classed as a native under this Act;
 - ii. a quadroon over twenty-one years of age, unless that person is by order of a magistrate ordered to be classed as a native under this Act; and
 - iii. a person of less than quadroon blood who was born prior to the 31st day of December, 1936, unless such person expressly applies to be brought under this Act and the Minister consents.

The term now in official and common usage is 'Indigenous', the department is the Department of Indigenous Affairs, and Indigenous people refer to themselves by terms that recognise their regional or former dialectical affiliations, such as Nyungar, Yamadji or Wonggai.⁴

³ *Aborigines Act 1905*, section. 3.

⁴ R.M. Berndt, 'Traditional Aboriginal Life in Western Australia: as it was and as it is', in R.M. Berndt and C.H. Berndt (eds), *Aborigines of the West, Their Past and Their Present*, University of Western Australia Press, Nedlands, 1979, p.7.

POSITION OF THE ABORIGINES DEPARTMENT **and of its successors in the Government structure of Western** **Australia, 1898-1954**

Year	Minister in Charge	Department
1898	Colonial Treasurer	Aborigines
1901	Premier	Aborigines
1902	Colonial Secretary	Aborigines
1905	Commerce and Labour	Aborigines
1908	Colonial Secretary	Aborigines
1909	Colonial Secretary	Aborigines and Fisheries
1915	Colonial Secretary	Aborigines, Fisheries and Immigration
1920	North-West	North-West
	Colonial Secretary	Fisheries
1926	Colonial Secretary	Aborigines
1936	Chief Secretary	Native Affairs
1939	North-West	Native Affairs
1947	Native Affairs	Native Affairs
1954	Native Affairs	Native Welfare

CHIEF PROTECTORS OF ABORIGINES, 1898-1940⁵

Henry Charles PRINSEP, 1898-1908

Prinsep, formerly Under-Secretary for Mines, was appointed as the first Chief Protector of Aborigines on 1 April 1898. This was done without legislative authorisation. The *Aborigines Act 1905* legalised the situation and Prinsep's appointment was gazetted on 4 May 1906.

Frederick Charles GALE, 1908-1915

Gale had been Chief Inspector of Fisheries since 1901. He was appointed Acting Chief Protector of Aborigines on 11 December 1907 during Prinsep's absence on leave, and became Chief Protector of Aborigines and Chief Inspector of Fisheries on 1 September 1908. The amalgamation of the two departments was partly the result of a recommendation by the Public Service Commissioner that the duties of the clerk in charge of the Chief Protector's office be combined with those of the clerk in charge of the Department of Fisheries. In 1911 Fred Aldrich was appointed Chief Inspector of Fisheries and Gale's duties were limited to those of Chief Protector of Aborigines. Gale was dismissed from office in 1915 at the age of 54, ostensibly as an 'excess officer'.

Auber Octavius NEVILLE, 1915-1940

Neville was Secretary of the Immigration Department from 1911. He served as Acting Chief Protector of Aborigines from 16 March 1915 and was confirmed in the position on 7 May 1915. He became Secretary of the North-West Department on 1 November 1920, combining his position with that of Chief Protector of Aborigines (north of the 25°S parallel). When the Aborigines Department was re-established on 30 June 1926, he became once again Chief Protector of Aborigines for the whole state. In 1936, when the Aborigines Department became the Department of Native Affairs, his title was changed to that of Commissioner for Native Affairs. At the same time he was appointed Assistant Under-Secretary in the Chief-Secretary's Department. He retired in 1940.

Fred ALDRICH, Deputy CPA 1920-1926

Aldrich was appointed Chief Inspector of Fisheries in 1908 and appointed Deputy Chief Protector of Aborigines on 24 December 1920, combining the two positions. He was responsible for all Aborigines living south of latitude 25°S. The office of Deputy Chief Protector of Aborigines was abolished when the Aborigines Department was re-established in 1926.

Francis Illingworth BRAY, 1940-1947

Bray was appointed Deputy Commissioner for Native Affairs on 1 September 1937 and succeeded Neville as Commissioner for Native Affairs on 12 November 1940.

⁵ 'Archival Notes', State Records Office of Western Australia.

ABBREVIATIONS

A	Aborigines Department
A&F	Department of Aborigines and Fisheries
AON	Auber Octavius Neville
BL	J.S. Battye Library of Western Australia
BMA	Berndt Museum of Anthropology, University of Western Australia
CNA	Commissioner for Native Affairs
CPA	Chief Protector of Aborigines
CSO	Colonial Secretary's Office
CSD	Colonial Secretary's Department
ChSD	Chief Secretary's Department
DN	<i>Daily News</i>
ED	Education Department
HREOC	Human Rights and Equal Opportunity Commission
NAA	National Archives of Australia, Canberra
NA	Department of Native Affairs
NW	Department of Native Welfare
N-W	Department of the North-West
P&C	Department of Premier and Cabinet
SRO	State Records Office of Western Australia, Perth
ST	<i>Sunday Times</i>
WAN	<i>West Australian</i>
WAPD	Western Australia Parliamentary Debates

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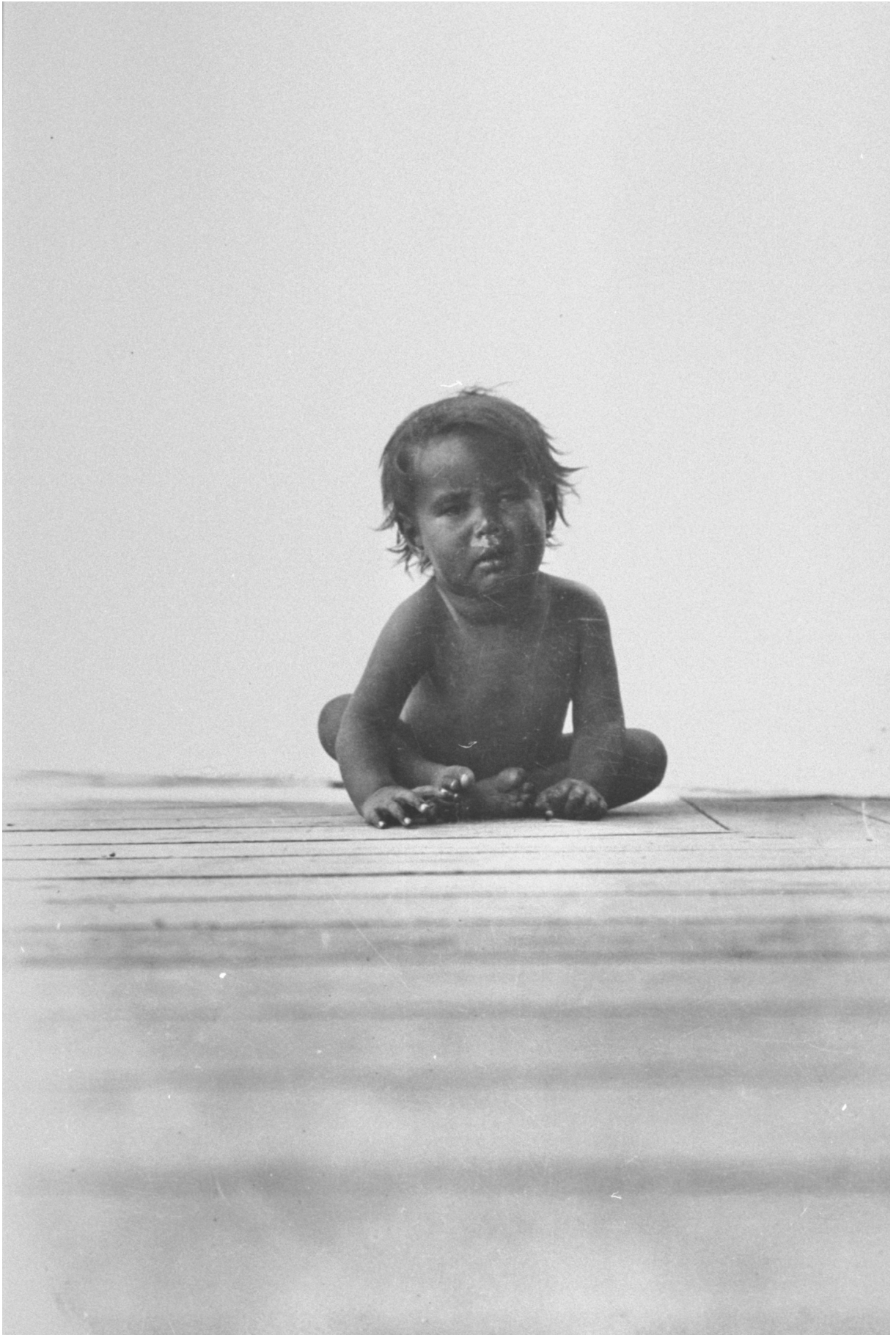
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Infant Born at Moore River Native Settlement, c. 1918. J.S. Battye Library, A.O. Neville Pictorial Collection, 72242P.

Introduction

Aborigines are the Indigenous inhabitants of Australia and their descendants. It is not known from whence they came or for how long before 1770 they had lived on the continent. They have Dreamtime stories of their beginnings, but Europeans are inclined towards scientific explanations. Early twentieth century anthropologists such as Herbert Basedow supported a then popular theory that tectonic change during the Triassic period separated the land masses which now form Asia and Australia and people who had migrated eastward across Gondwanaland through south-western Asia and India were isolated from the rest of the world. From that time until 1788 the Great Southern land remained the undisputed property of what Basedow called the ‘comparatively sparse progeny of the first primitive possessors’.¹ Another and more recent theory favoured by Norman Tindale and others suggested the separate entry into the Australian continent of three groups of people, two through a New Guinea corridor, amnoids, or southern types, and pygmoids who occupied the north-east, and a third who entered through the north-west from Timor and spread south and eastwards from there.² The truth probably is lost in geological time, but it is known that when the Swan River Colony was founded in June 1829 in what became the state of Western Australia (WA) Aborigines were well established and had occupied the territory for a considerably longer time than the Angles, Saxons and Danes had occupied Britain. A.O. Neville estimated their number in the South-West at the time of colonisation to have been 13,000; by 1901 they were reduced to 1,419, ‘of whom 45 percent were half-castes’.³

The origin of what became known as half-castes is more recent. There appears to have been none in 1829. By the 1850’s the number of half-caste Aborigines was on the rise. Some already were in the care of missions. The numbers attached to one Anglican mission established in 1853 illustrate their rate of increase. Seven children, natives and half-castes, were taken into care when Archdeacon Wollaston established a school ‘for the civilisation and Christian education of native children’ at Middleton Bay, Albany, in the extreme south of Western

¹ Herbert Basedow, *The Australian Aboriginal*, F.W. Preece and Sons, Adelaide, 1925, p.57.

² Norman Tindale, Journal, Harvard and Adelaide Universities Anthropological Expedition, 1938-39, South Australian Museum, AA338/1/15/2, p.897.

³ A.O. Neville, ‘Relations Between Settlers and Aborigines in Western Australia’, *Proceedings of the Western Australian Historical Society*, vol.20, 1936, p.36.

Australia.⁴ By 1856 the number had grown to 11.⁵ In 1862 Bishop Hale had the children relocated from Albany to the Swan Native and Half Caste Mission situated on a 2,000-acre land grant at Middle Swan. Hasluck recorded that there were 18 children, 'all but two or three of mixed parentage and some light enough in complexion to pass quite easily for Europeans'.⁶ In 1902, Henry Prinsep, the first Chief Protector of Aborigines, reported that 'in his travels' the Travelling Inspector came across 170 half-castes, '120 of whom were yet children under 14'.⁷

By 1929 there were an estimated 2,833 half-castes living in the state, of whom 1,800 resided in the South-West.⁸ In 1935, Royal Commissioner Moseley observed that 'the great problem confronting the community today is that of the half-caste'.⁹ In the south-west of the state they were 'multiplying rapidly'. Many, he said, were trapped in lives of indolence and lived in squalid camps, 'whole families of 9 or 10 being huddled together in abject squalor, with no beds to lie on, no cooking or eating utensils worth the name, no proper facilities for washing', and the care of half-caste children was 'hopelessly inefficient'.¹⁰ For Moseley, and for A.O. Neville, then the Chief Protector of Aborigines and subsequently Commissioner for Native Affairs, the solution to that problem was establishing settlements for the 'care, education and training of coloured children'. In his report to the Lieutenant-Governor, Sir James Mitchell, Moseley recommended the abolition of the native camps which, 'without exception are a disgrace':

and provide settlements where the grown-up members of those families may be housed according to their needs and be usefully occupied, either on the settlements or, at periods, at work on surrounding farms, and where the children may occupy quarters of their own, be taught such matters as hygiene and other elementary principles of civilised life, and where, although not altogether barred from seeing their parents, they may be gradually weaned from the aboriginal influence.¹¹

Paul Hasluck, who travelled with the Moseley Royal Commission when it visited the South-West, suggested that the resolution of the half-caste problem presented a choice between two options: 'pushing the half-caste back to the aborigines', or raising them to acceptability

⁴ Rev. John Wollaston, *The Wollaston Journals, Volume 3, 1845-56*, edited by Geoffrey Bolton and Helen Walker Mann, University of Western Australia Press, Crawley, 2006, p.248.

⁵ *ibid*, p.291.

⁶ Paul Hasluck, *Black Australians*, Melbourne University Press, Carlton, second edition 1970, p.95.

⁷ Aborigines Department, *Report for the Year Ending 30 June 1901*, p.2.

⁸ Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ended 30 June 1929*, laid on the Table of the Legislative Assembly by Hon. H. Millington, 12 December 1929. p. 1.

⁹ *Report of the Royal Commissioner appointed to Investigate, Report, and Advise upon matters in relation to the Condition and Treatment of Aborigines*, (H.D. Moseley, Royal Commissioner), Government Printer, Perth, 1935, p.3. Hereinafter the reference will be 'Moseley Royal Commission', or 'Moseley Royal Commission, Transcript of Evidence'.

¹⁰ *ibid*, p.8.

¹¹ *ibid*, p.8. See also p.23, recommendations 18 and 20.

within the white community:

Let them multiply in their wretched camps; let the rations bill grow bigger; let them remain useless and untaught; or, at best, let them keep out of sight in a fairly comfortable dumping ground. That is one way. The other is to give them a chance to rise, to be useful, to live in the community.¹²

Hasluck's use of the phrase 'pushing the half-caste back to the Aborigines' implies a regression in an hierarchy of racial worth where the white Europeans are at the top, the black Australians at the bottom, and the half-castes, half white and half-black, attached to neither, but supposedly somewhere in between.¹³ The alternative proposition that they might be 'raised up' and be accepted in white communities was an aspiration espoused by the 1837 House of Commons Select Committee into Aborigines in its recommendations for the appointment of Protectors of Aborigines. They were to be given the task of restoring to Aborigines a portion of their lands, ensuring that they were treated justly, supplying them with the means of employment and rendering 'every assistance' for the education of Aboriginal children.¹⁴ Those precepts were articulated frequently in nineteenth century British colonial policy.

In his treatise on the half-caste problem, *Australia's Coloured Minority*, Neville used a form of words similar to Hasluck's when he explained how the increasing numbers of 'near-white' children raised the question of whether they 'should be encouraged to go back to the black, or to be advanced to white status to be eventually assimilated into our race'.¹⁵ Neville's detractors have used his advocacy of a policy that Aborigines 'be eventually assimilated into our race' as an exemplar of his intention to breed out their colour by controlling whom Aborigines might marry.¹⁶ A more sympathetic interpretation might be that Neville's policy intention was not fundamentally different from that above suggested by Hasluck. Neville, like Hasluck, advocated that half-castes be given 'a chance to rise, to be useful, to live in the community', but in these terms:

Convinced that something better was needed for these coloured children if they

¹² 'Half-Caste Problem, Big Rise in Numbers, Camps Swarming with Children', *West Australian*, 23 July 1936, p.36; also published in, Native Welfare Council, *Our Southern Half-Caste Natives and Their Conditions*, J. Lyons and Sons, Perth, undated, pp.1-6.

¹³ For a discussion of 'The Comparative Worth of Different Races' which influenced late-nineteenth and early-twentieth century attitudes towards race see Francis Galton, *Hereditary Genius, An Inquiry into its Laws and Consequences*, MacMillan and Company, London, 1892.

¹⁴ *Report from the Select Committee on Aborigines (British Settlements) together with Minutes of Evidence*, ordered by the House of Commons to be printed, 26 June 1837, 'Duties of Protectors of Protector of Natives', p.26.

¹⁵ A.O. Neville, *Australia's Coloured Minority*, Currawong Publishing, Sydney, 1947, p.54.

¹⁶ For example see, Peter Biskup, *Not Slaves, Not Citizens*, University of Queensland Press, St Lucia, 1973, p.188; Anna Haebich, *For Their Own Good*, Fremantle Arts Centre Press, Fremantle, 1988, p. 316-321; Russell McGregor, *Imagined Destinies*, Melbourne University Press, Carlton, 1997, pp.178-179.

were to be saved from lives of prostitution, ignorance, and quasi-slavery in some cases, I urged the establishment of farm homes with schools, hospitals and training facilities to enable them to become decent, self-supporting members of society.¹⁷

It will be argued in this thesis that for Neville skin colour in the sense that the black should be diluted by cross breeding with the white until 'half-castes were sufficiently white in colour they would become like white people', was not the key issue.¹⁸ Neville respected Aboriginal people and most aspects of their culture, but not the manner in which they were compelled to live in the presence of white society. Nor did he condone what he described as 'the worst of the cruelties which are usually connected with tribal rites and ceremonies'.¹⁹ Neville believed that Indigenous cultures and traditional ways of living were doomed to extinction and so too was the Indigenous race if those cultural practices were allowed to continue. If left alone Aborigines would cease to exist; if brought into contact with white civilisation, their fate would be the same. Neville posed the question, 'What are we to do?' He answered, 'It seems apparent that our black brother cannot get along without our help'. The difficulty was to decide the form of help.²⁰

Neville's concern was to protect full-blooded Aborigines so that they might not, like their culture, become extinct. His policy proposition was that if Aborigines of the full blood were allowed to live in their accustomed manner on reserved lands of sufficient area to provide a least restrictive environment, protected from the detrimental consequences of white contact, but provided with supplementary food and health care, those direct descendants of Western Australia's Indigenous peoples might advance toward a higher state of civilisation. For such a policy to succeed, however, harmful cultural practices would have to be prohibited by law. For Neville, the justification of authoritative intervention in those aspects of Indigenous culture was the survival of the race; 'if we work on right things now it may be contended in days to come that the white man eventually saved the black man from entire extinction'.²¹

His concern for the conditions of half-castes, especially in the South-West, was different, but not less compassionate. Neville regarded the enforced congregation and mode of existence of half-castes in camps and on town reserves as undesirable and observed that their physical and social conditions were deteriorating. However, he attributed to them at least partial responsibility for their decline. 'It is remarkable,' he wrote in 1932, that the residents of these camps and

¹⁷ *ibid*, p.77.

¹⁸ , *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from the Families*, Human Rights and Equal Opportunity Commission, Sydney, 1997, p.108.

¹⁹ 'Problems of Aborigines. How can they be saved?' *West Australian*, Friday 24 January 1930, p.22.

²⁰ *ibid*.

²¹ *ibid*.

reserves had borne 'their privations uncomplainingly'. Yet, he added, this was due partly to their passive nature and 'apathy born of their fatalistic outlook, the outcome of inability to improve their position'.²²

Neville's main priority while Chief Protector of Aborigines was to improve the opportunities of those designated as half-castes—people whom some considered to be half black though whom he preferred to regard as half white—rather than provide significant reforms to the full-blood communities. Successive legislative amendments to the *Aborigines Act 1905* were therefore directed more at managing half-castes than protecting the integrity of the full blood Indigenous population; segregation was Neville's preferred means of achieving that. His policy objective for half-castes was to have them assimilated into the white community. The theoretical proposition underpinning that aspiration was that half-castes, and in particular those of mixed European and Aboriginal descent who lived at the fringe and had absorbed at least some of the values of white society, were socially redeemable. Half-caste children trained and educated at special Aboriginal settlements might achieve not only financial independence, but also acceptance within the white community. Neville sought, wherever possible, to relocate half-caste children to such settlements where they might be given opportunities for appropriate care, education and training.

That same proposition held that quadroons, generally too white of appearance to be regarded as Aborigines and being predominantly white in their biological inheritance and therefore much closer to white rather than black manner and custom, might even be acculturated into the white community. Whether Neville intended they should eventually be regarded as whites and, as the Human Rights and Equal Opportunity Commission proposed, lose their 'identification as Indigenous people', is contestable. That is one of a number of issues which will be returned to and discussed later in this thesis.

Rationale

The April 1997 report of the inquiry by the Human Rights and Equal Opportunity Commission into the separation of the Aboriginal and Torres Strait Islander children from their families, *Bringing Them Home*, condemned the reputation of A.O. Neville. He was characterised as the principal author of a program designed to 'breed out the colour':

In Neville's view, skin colour was the key to absorption. Children with lighter skin colour would automatically be accepted into non-Indigenous society and lose

²² Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ended 30 June, 1932*, p.3.

their Aboriginal identity.²³

Inherent in that representation of Neville's aspirations for the future of Aboriginal peoples are two assumptions that need to be tested. The first is that he was committed to a belief that Australia's Aborigines were remnants of a race in terminal decline. That assumption held that the demise of full-blooded Indigenous people was inevitable. The only public responsibility was to ease their passing or, in a common metaphor, 'to smooth the pillow of the dying race'. The second assumption is that Neville was convinced that over successive generations of crossing Aborigines with Europeans the Aboriginal physiognomy would breed out. Attendant upon that was a belief that there would be no atavism. The European eventually would absorb the Indigenous physiognomy and the progeny of successive blending would be indistinguishable from the European stock. There would be no throwbacks to Indigenous ancestry; the black would be absorbed by the white. More importantly, perhaps, the half-caste problem might be resolved by controlling whom people of mixed descent might marry to ensure that, over successive generations, the Aboriginal skin colour would breed out.

That theory of biological absorption was founded on a belief that Aborigines were not a race apart, but rather were remnants of an ancient Caucasian group. The belief generally accepted by the end of the nineteenth century was that Australian Aborigines were a sub-group of primitive Caucasians linked with other remnants of a Dravidian migration from southern India to the East Indies and Australia.²⁴ If the Aboriginal people were Caucasians, so the argument went, then they had the same ancestral background as the Europeans.²⁵

These theoretical propositions persisted well into the twentieth century. Anthropologists such as A.P. Elkin suggested that because the hair texture and facial features of Australian

²³ *ibid*, p.30.

²⁴ The related groups were Dravidian hill tribes in southern India, the Veddas of Ceylon and the Sakai of the Malay Peninsula; see A.P. Elkin, *The Australian Aborigines*, Angus and Robertson, Sydney, 1943, p.5; Herbert Basedow, *The Australian Aboriginal*, F.W. Preece and Sons, Adelaide, Second Impression 1929, pp.52-60; R.M. Crawford, *Australia*, Hutchison University Library, London, 1952, pp.20-22; J.W. Bleakley, *The Aborigines of Australia*, Jacaranda Press, Brisbane, 1961, pp.1-4. That theory of the origin of Australian Aborigines subsequently was replaced by another that they were an admixture of three groups, a Negrito people who were forced into Tasmania by Murrayians, related to the Ainu of Japan, who migrated from south-east Asia, and who in their turn were forced south when the Carpentarians moved into the northern portions of Australia. See, C.M.H. Clark, *A History of Australia*, vol.I, p.3; N. Tindale and J. Birdsell, 'Results of the Harvard-Adelaide Universities Anthropological Expedition 1938-39, Tasmanoid Tribes in North Queensland', *Records of the South Australian Museum*, vol.7, *Adelaide 1941-43*, Hassell Press, Adelaide; Joseph B. Birdsell, 'Preliminary Data on the Trihybrid Origin of the Australian Aborigines', *Oceania*, vol.2, 1967, pp.100-155.

²⁵ Marguerita Stephens, *White Without Soap, Philanthropy Caste and Exclusion in Colonial Victoria 1835-1888*, a thesis submitted for the degree of Doctor of Philosophy, Department of History, University of Melbourne; Russell McGregor, *Imagined Destinies*, Melbourne University Press, South Carlton, 1998; Russell McGregor, 'An Aboriginal Caucasian: Some Issues for Racial Kinship in Early Twentieth Century Australia', *Australian Aboriginal Studies*, no.1, 1996, pp.11-20. Warwick Anderson, *The Cultivation of Whiteness*, Melbourne University Press, Carlton South, 2002, pp.185-193; Richard Broome, *Aboriginal Victorians*, Allen and Unwin, Crows Nest, 2005. That theory was superseded by other indeterminate propositions about the ancestral background of Australian Aborigines; see, N.W.G. MacIntosh, 'The Physical Aspect of Man in Australia', in Ronald M. Berndt and Catherine H. Berndt (eds), *Aboriginal Man in Australia*, Angus and Robertson, Sydney, 1965, pp.29-70.

Aborigines were different from the Negroid and Mongoloid and similar to the European, then by a process of elimination Aborigines were a Caucasian type. According to notions of race at the time, there were only three racial divisions, and if Aborigines were neither Negroid nor Mongoloid, they must be Caucasian. Elkin acknowledged the probability that 'he is really a primitive European or Caucasian', but noted differences between the Aboriginal physiognomy and 'the other great divisions of mankind' and proposed the Australian Aborigines should be 'classified in a special group, the Australoid'.²⁶

In 1878 a French anthropologist, Paul Topinard, published an hypothesis that, since Dravidians, and therefore Australian Aborigines, were remnants of a primitive Caucasian race who had migrated first to India and thence to Australia, they might be genetically compatible with more advanced Europeans.²⁷ If this were so, and if people of the primitive Caucasian strain who had survived in geographic isolation in Australia were crossbred with modern Europeans, Topinard hypothesised their progeny would bridge the evolutionary gap. He calculated that the ancient physiognomy would recede over five continuous generations of crossing and by the fifth generation the descendants would have acquired the physical features of the advanced group. In other words, in five generations the racially fused offspring would not be recognisable as Aborigines.

That theory of Caucasian compatibility was taken up and promoted in Victoria by Robert Brough Smith, Chairman of the Central Board for the Protection of Aborigines, and others.²⁸ On the recommendation of the Board, the *Aboriginal Protection Act, 1869* (Victoria) was amended in 1886 to distinguish among Aboriginal half-castes who were licensed to live with Aborigines, and those who were not.²⁹ The latter were not Aborigines for the purposes of the Act and were beyond the reach of the Board. They were not licensed to live in places designated for Aborigines, were not subject to the protections of the Act, and were expected to make their own way in the Victorian community. According to Len Smith and others, the purpose of those discriminatory provisions was to hasten 'the natural historical process' of biological absorption.³⁰

No similar discriminatory purpose can be identified in Western Australia's *Aborigines Act 1905* and the *Native Administration Act, 1905-1936*, nor in the actions of the Chief Protector of Aborigines. The Western Australian Acts defined categories of Aborigines, half-castes and quarter castes. Unlike the Victorian legislation which excluded unlicensed half-castes from

²⁶ A.P. Elkin, *The Australian Aborigines*, pp.2-3.

²⁷ Marguerita Stephens, *White Without Soap*, pp.227-231; Crispin Bates, 'Race, Caste and Tribe in Central India: the Early Origins of Indian Anthropometry', *Edinburgh Papers in South Asian Studies*, Number 3, 1995, pp.3-9; Richard Broome, *Aboriginal Victorians*, pp.185-216.

²⁸ Richard Broome, *Aboriginal Victorians*, pp.185-199.

²⁹ *Aborigines Protection Act 1886* (50 Victoria, no.912), section 4.

³⁰ Len Smith, et al, 'Fractional Identities: The Political Arithmetic of Aboriginal Victorians', *Brownbag Seminar Series*, University of Melbourne, 10 May 2007, p.5.

treatment as Aborigines and was silent on the matter of quarter-castes, the embrace of the Western Australian Acts was inclusive rather than exclusive. By the terms of the 1905 Act all Aborigines and all first-generation half-castes under the age of sixteen and, after the 1936 amendment, all Aborigines, most half-castes of extended generations and most first-generation quarter-castes, were Aborigines for the purposes of the *Aborigines Act* and the subsequent *Native Administration Act*, and were subject to the jurisdiction of the Chief Protector or the Commissioner.

At the initial Conference of Commonwealth and State Aboriginal Authorities in April 1937, Neville signified his acceptance of the theory that Aborigines shared the same ancestral background as Europeans. He stated:

The West Australian law to which I have referred is based on the presumption that the aborigines of Australia sprang from the same stock as we did ourselves; that is to say, they are not Negroid, but give evidence of Caucasian origin.³¹

Other statements he made there have been interpreted as meaning he also agreed with the hypothesis that the physiological characteristics of Aborigines could be extinguished by successive generations of crossbreeding with Europeans. The extent of Neville's intellectual commitment is not clear, however. He was not entirely convinced that Aboriginal physiognomy would breed out. He was cautious about the probability of atavism, or throwback to Aboriginal skin colour and physical characteristics in some descendants of Indigenous families.³²

Commentators critical of Neville's position have interpreted his statements at the 1937 Conference, read together with the Conference resolution on the future of Aborigines of the mixed blood and his later reference in *Australia's Coloured Minority* to half-castes being 'advanced to white status to be eventually assimilated into our race', as affirming his commitment to a program of biological absorption. Pat Jacobs, for example, asserted there was a veiled assumption that 'ultimate absorption' meant 'miscegenation'; 'implicitly the ultimate intention of the policy was the disappearance of the Aboriginal race'.³³ Russell McGregor characterised Neville as 'the most uncompromising advocate of absorption' at the Conference. Neville, he claimed, had 'made it an article of that state's policy since the early 1930s'.³⁴ Toni Buti described the Conference proceedings as 'a rich source of historical evidence' that the views which prevailed under Neville's administration centred on the 'dying pillow' or 'dying race' concept. He

³¹ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, 21 to 23 April 1937, Commonwealth Government Printer, Canberra, 1937, p.10.

³² A.O. Neville, *Australia's Coloured Minority*, pp.58-63.

³³ Pat Jacobs, 'Science and veiled assumptions; miscegenation in W.A. 1930-37', *Australian Aboriginal Studies*, no.2, 1986, p.15.

³⁴ McGregor, *Imagined Destinies*, pp.178-179.

argued that ‘a legislative, policy and practical scheme of biological absorption that separated Aboriginal children from their parents’ was driven by eugenicist theories.³⁵

Buti offered a similar interpretation of policy in the submission of the Aboriginal Legal Service of Western Australia to the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families. That submission proposed that the removal of Aboriginal children was ‘driven by the government’s obsession with control of Aborigines’. The objective of policy was represented as ‘assimilating Aboriginal children into the dominant non-Aboriginal community’. The submission acknowledged, however, the different treatment of half-castes and full bloods:

The emphasis was on the assimilation of ‘half-caste’ Aboriginal children into the mainstream non-Aboriginal community and the segregation of ‘full-blooded’ Aborigines from ‘half-castes’ and the non-Aboriginal community.³⁶

The general understanding that at the 1937 Conference and on other occasions Neville expressed support for the absorption of the native population into the mainstream community cannot be refuted. He made his position clear. What is not clear is what Neville meant by ‘absorption’. Did he mean, as Jacobs claimed, ‘miscegenation’ to breed out the colour? Neither is it definite that Neville intended the agreed policy of absorption of natives by the people of the Commonwealth to include full bloods as well as half-castes. His support for the resolution was dependent upon the Conference finding ‘a term that will apply to people of mixed blood’.³⁷ The phrase adopted in the resolution was, ‘the natives of aboriginal origin, but not of the full blood’. A separate resolution was agreed for the supervision of full-blood natives and that focused upon preserving, ‘as far as possible the uncivilised native in his normal tribal state by the establishment of inviolable reserves’.³⁸ That meant segregation, not assimilation. Furthermore, did ‘the assimilation of ‘half-caste’ children’ as referred to in the Aboriginal Legal Service submission mean more than bringing them into the community where they might co-exist with white Australians?

The objective of national policy agreed to by the 1937 Conference delegates was the ultimate absorption of natives not of the full blood by the people of the Commonwealth, but matters raised in the Conference debate indicated no general consensus about the meaning of

³⁵ Antonio D. Buti, *Separated: Aboriginal Childhood and Guardianship Law*, Sydney Institute of Criminology Monograph Series No. 20, Sydney, 2004, p.116.

³⁶ *After the Removal: A submission by the Aboriginal Legal Service of Western Australia (Inc) to the National Inquiry into Separation of Aboriginal and Torres Strait Islander Children from their families*, Aboriginal Legal Service of Western Australia, Perth, 1996, p.8.

³⁷ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, p.21.

³⁸ *ibid*, p.34.

absorption. The representative of the Queensland Government and Chief Protector of Aborigines in that state, J.W. Bleakley, for example, advised the Conference that in Queensland the marriage of whites and blacks had been rigidly restricted and 'every encouragement has been given to marriage of crossbreed aboriginals amongst their own race'.³⁹

At home, after the Conference as well as before, Neville's legislated authority under the 1905 Act to disallow the marriage of Aborigines and non-Aborigines, and after 1936 the statutory requirement that the Commissioner's written approval be given before any natives could marry, were resisted by church authorities and missions. Church marriage of Indigenous people contravened Anglican canon law, for example, and only those who were baptised into the church could marry within it. On the recommendation of members of the clergy, Neville sought a suitable form of marriage for Aborigines, but could not get all clergy to agree.⁴⁰ There was dissension in the Anglican Church even as to whether a special form of marriage was at all necessary.⁴¹ Similarly, while missionaries encouraged monogamous Christian marriage of Aborigines to counter cultural practices such as promised brides and polygamy, they were reluctant to comply with regulations drafted under section 42 of the *Native Administration Act, 1905-1936*.⁴² At the same time as negotiations on those matters continued at official levels, Aborigines and half-castes who had not accepted the Christian faith, or even some who had, but who were accustomed to quite different conventions regarding marriage, took partners and raised children with little regard to the legal requirements of either the *Aborigines Act* or the *Marriage Act*.

In those circumstances, how might biological absorption be achieved? If indeed there was a veiled assumption that assimilation meant biological absorption, that controlled miscegenation to breed out the native colour was the best solution to the half-caste problem, how was that to be translated into operational policy if the state could not control whom half-caste Aborigines might take as conjugal partners? Under those circumstances, managed miscegenation to breed out the colour seems an impracticable proposition.

Controlling marriage among Aborigines was not Neville's only challenge if he wanted to pursue a policy of breeding out the half-caste colour. In his statutory role as Chief Protector he

³⁹ *ibid*, p.8.

⁴⁰ State Records Office, Native Affairs, Acc 993, Item 460/1939, Marriages – General Correspondence, Folios 38, 49, 86-88.

⁴¹ State Records Office, Native Affairs, Acc 993, Item 879/1942, Marriages Between Natives – Suitable Form of Service Instructions re, especially folios 3-5, Correspondence from the Bishop of Bunbury and the Archbishop of Perth.

⁴² State Records Office, Native Affairs, Acc 993, Item 243/30, 'Marriage Between Aboriginals or Half-Caste Couples & Other – Instruction to Missions Re', general correspondence between the Chief Protector/Commissioner and Forrest River, Drysdale River, Lombadina, Mt Margaret, Port George IV, Beagle Bay and Sunday Island Missions. See also, Acc 993, Item 460/1939, folios 131-132, correspondence between C.N.A. and Schenk, Mt Margaret Mission.

was influential in shaping Western Australian government policy for Aborigines, but he was not the sole arbiter of policy. Neither did he always have his way in how it was interpreted or applied. Countervailing influences in the political and social milieu such as church authorities invested with the pastoral care of Aborigines, conflicting interpretations by magistrates or the Crown Solicitor of what the law meant and how it might be applied, or about whom was an Aborigine, or delays in amending the law caused by competing priorities in government legislative programs, sometimes prevented Neville from pursuing programs he might otherwise have preferred. Some might even argue, as did the Member for Roebourne, Mr Teesdale, in Legislative Assembly debate on the 1929 Bill to amend the *Aborigines Act*, that ‘The worst that can be said of him is that he carried out the Act’.⁴³ Even then, he acted only as a servant of successive State Governments, each with different political agendas and priorities.

Neville was appointed Chief Protector in 1915. He presented to the Chief Secretary and his relevant minister of the day almost annually between 1919 and 1935 submissions for the drafting of bills to amend the *Aborigines Act 1905*. Cabinet considered his submissions on four occasions, but only once did it proceed as far as sponsoring a bill in Parliament. In October 1929 the Collier Government introduced a *Bill for an Act to amend the Aborigines Act* in the Legislative Council. After the Council had assented to it, the Bill was defeated in the Legislative Assembly. On each of the other occasions Neville’s submissions to amend the Act were considered by Cabinet, the decision was not to proceed. The Collier Cabinet in September 1925, the Mitchell Cabinet in November 1930 and the Mitchell Cabinet again in March 1932, declined to present amendments for Parliament’s consideration because matters relating to Aborigines were politically sensitive.⁴⁴ On other occasions, Neville’s submissions were not even passed on for Cabinet’s consideration. Sometimes the deferment was at the decision of his Minister or the Under Secretary and at other times at the decision of the Cabinet Secretary, usually on the pretext that other matters had more urgent priority.

For twenty of his twenty-five years as Chief Protector, Neville had to work within legislation which, substantially at least, had been enacted in 1905, but was drafted some eight years previously and reflected values of colonial administrators. When the *Aborigines Act* was amended after the Moseley Royal Commission reported in 1935, it would appear that, even though Neville had decisive influence in the wording of the amendments and of the Royal Commission recommendations, it was the force of Moseley’s report rather than the direct suasion of Neville that encouraged the Collier Ministry to action. In the meantime, successive interpretations of the law in decisions of magistrates or on advice of Solicitors General constrained the Chief

⁴³ Western Australia Parliamentary Debates, Legislative Assembly, 12 December 1929, p.2164.

⁴⁴ Department of Premier and Cabinet, *Cabinet Record*, 10 September 1925, p.388; 4 November 1930, p.589; 31 March 1932, p.29, not published.

Protector’s authority. Matters like prosecution for cohabitation, preventing marriage between half-castes and full bloods or between half-castes and persons of other races, and the removal of half-caste children from their families and communities were tested at law and ascribed more limited meanings than the Chief Protector might otherwise have preferred. Responsibility for public policy did not rest with him alone.

Research Propositions

The following propositions will be considered in this thesis:

- The belief that Aborigines were remnants of a race in terminal decline was attached to the Swan River Colony by the British Colonial Office and became lore in public policy for Aborigines;
- Neville recognised there was an increasing population of Aborigines, the majority of whom were alienated from the mainstream society, uneducated and unable to play a meaningful role within it. His policy intention was to provide opportunities for Aborigines, in the first instance half-castes and possibly at a later stage full bloods, to take their place in the white community, if not on an equal footing with whites, then not in social conflict with them;
- Neville intended that the Aboriginal settlements and Aboriginal cattle stations across the state would provide opportunities for the education and training of Aboriginal half-caste children to advance them toward employment and meaningful participation in mainstream society. Similarly, settlements and stations would offer full blood Aborigines opportunities for advancement if they so chose. Alternatively, if that was their unavoidable destiny, they might die-out in their homelands;
- While Neville did believe that the Aboriginal colour could ‘breed out in three generations’ and acknowledged that absorption of the Aboriginal race by the European could resolve community friction arising from colour prejudice, he never advocated active policies of ‘biological absorption’, meaning managed miscegenation to select against Aboriginal physiognomy;
- The process of assimilation envisaged by Neville was an ‘evolutionary’ rather than ‘revolutionary’ one that might be realised not in a single generation, or even three, but required a hiatus that might extend over several generations; and
- Neville’s policy intentions were frustrated by political resistance, the unwillingness of governments to allocate sufficient resources for Aboriginal purposes, and widely-held

racist values which condoned government inaction and which preferred segregation so that Aborigines were ‘out of sight and out of mind’.

Processes for the formulation and implementation of public policy to address what Neville and others called ‘the half-caste problem’ are scrutinised in this thesis. Neville was aware of theories that over three generations of crossing with Europeans the Aboriginal skin colour would breed out. Relevant assumptions and propositions were debated publicly in the *West Australian* and elaborated in submissions to the Moseley Royal Commission.⁴⁵ Neville even compiled his own photographic records of apparently recessive Aboriginal physiognomy.⁴⁶ In three generations of families, half-castes appeared to be paler than their Aboriginal mothers, their children paler than themselves, and their children’s children more identifiable as whites than as descendants of Indigenous great-grandparents. It is disputable, however, that, as was contended in the report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, and by others, Neville intended that public policy should effect the ‘breeding out’ of the Aboriginal peoples. Rather, his objective for assimilation may have been far less sinister, namely, that Aborigines might live and participate as equals in white Australian society. His own words in *Australia’s Coloured Minority* seem to suggest as much:

If, divorced from their antecedents, you can but bring yourselves to regard those coloured children as meriting equal care with your own, then the rest would be easy—nay it should be a pleasure to produce and watch over the result, this slow growth towards the total enlightenment of a people’.⁴⁷

Fundamental to the policies developed and pursued by Neville were notions of who was an Aborigine. Legislative actions and legal and administrative decisions progressively changed the meaning of ‘Aborigine’ for purposes of public policy. From the time of colonisation in June 1829 until the passage of the *Aborigines Protection Act 1886*, Aborigines were considered to be the Indigenous inhabitants of the colonised territory and their direct descendants. After 1886 Aboriginality was determined by prescribed arithmetic reckoning of Indigenous and non-Indigenous ancestry, or blood quantum, and judgments about manners of living. After 1905 the Aboriginal status of a person also could be decided by a magistrate or dispensed with by ministerial consent. In every instance, the status of Aborigine was ascribed to individuals either

⁴⁵ ‘The Half-Caste, Means of Disappearance’, *West Australian*, 22 July 1933, p.4; and Moseley Royal Commission, Transcript of Evidence, Dr C. P. Bryan, 22 March 1934, pp.346-379.

⁴⁶ ‘A.O. Neville’s album of photographs of Aboriginal Missions in Western Australia, 1900-1930’, J.S. Battye Library, Battye Pictorial, Vols 225, 226, 228 and 229; see also, Roslyn Poignant, ‘The Photographic Witness’, *Continuum: The Australian Journal of Media & Culture*, vol.6 (2), 1991, www.mcc.Murdoch.edu.au/ReadingRoom/6.2/Poignant.html (15 May, 2007.)

⁴⁷ A.O. Neville, *Australia’s Coloured Minority*, p.262.

by law or by judicial process. It was not until the 1936 amendment of the *Aborigines Act 1905* that selected individuals of Indigenous descent were allowed to elect to be Aborigines for purposes of the law.

Arbitrary indicators of Aboriginality such as blood quantum now are generally discredited. Indigenous status is largely a matter of personal election and peer acceptance. Notions of racial temperament and intellectual disposition that accompanied those earlier indicators of Aboriginality likewise have been rejected. For Neville and his contemporaries responsible for public policy for Aborigines in the first half of the twentieth century, however, those were matters for serious consideration and helped shape policy. Notions of race then prevailing were influenced strongly by theories of biological evolution. Adherents of Francis Galton's General Law of Heredity predominated in debates about the relative influences of nature and nurture in human temperament and the transmission of racial characteristics.⁴⁸ In that context Australia's Aborigines were regarded as a primitive race, described by Fry and Pulleine as 'a biological species which existed a long period apart from world competition,' which might be expected to exhibit 'anatomical and mental characteristics of a former era in the evolution of the more culturally developed human races of the present day'.⁴⁹ Their innate intelligence and their temperament, as reflected in their technology and manner of living, were assumed to be primitive.⁵⁰ Again, those sorts of judgments have been discredited, but there was general acceptance in the period under consideration here that Australian Aborigines ranked low in the hierarchy of races of man.

The same reasoning that assigned Aborigines to a primitive order of mankind and Europeans to the highest level of that evolutionary hierarchy and the belief that intelligence and temperament also were racially assigned and genetically transmitted helps explain the different treatment of full-blood, half-caste and quarter-caste Aborigines in public policy. Full-blooded Indigenous Australians were thought to be primitive peoples with restricted capacity for learning, adaptation and change. Their descendants might be redeemed, but only if protected over a long time. Half-castes on the other hand, although Aborigines at law, were, in fact, half white. Their intellectual capacities and temperament might be diluted by the inherited traits of their Indigenous ancestry, but they also inherited an equal proportion of the redeeming features of

⁴⁸ Francis Galton, 'The average contribution of each Ancestor to the total Heritage of the Offspring', *Proceedings of the Royal Society*, London, vol.62, 1898, pp.386-413. For examples of the debate on racial inheritance see W.E. Castle, 'Biological and Social Consequences of Race-Crossing', *American Journal of Physical Anthropology*, vol.9, April-June 1926, pp.145-156; Charles B. Davenport, 'Notes on Physical Anthropology of Australian Aborigines and Black-White Hybrids', *American Journal of Anthropology*, vol.8(1). 1925, pp.73-94; Karl Pearson, et al, 'The Law of Ancestral Heredity', *Biometrika*, vol.2, part 2, 1903, pp.211-236; G. Udny Yule, 'Mendel's Laws and their Probable Relations to Intra-Racial Heredity', *New Psychologist*, vol.1 (9), Nov 28 1902, pp.193-238.

⁴⁹ H.K. Fry and R.H. Pulleine, 'The Mentality of the Australian Aborigine', *Australian Journal of Experimental Biology and Medical Science*, vol.8(3), 1931, pp.153-167, at p. 153.

⁵⁰ H.K. Fry, 'Aboriginal Mentality', *The Medical Journal of Australia*, vol.1(12). 23 March 1935, pp.353-360.

their British forebears. It was believed they could master basic literacy and numeracy, be trained for useful manual occupations, and could learn to conduct themselves reasonably according to European manner and custom. Quarter-castes, being of three-quarters European heritage, and therefore inheriting at least three-quarters of European intellect and disposition, were more than trainable; they were educable and capable of taking a meaningful place in mainstream society. For people of mixed descent, the determining factor of how they might be treated in public policy was not their Aboriginality, but rather their degree of whiteness. Those closest to the black might be best left to live as blacks; those closest to the white might best be raised and educated to function as whites.

Neville's challenge in trying to resolve the half caste problem had two separate dimensions: first, how to meet the welfare needs of a rapidly growing population; and second, how to advance the standing of half-castes so that they might be merged with and come to live as Aborigines within the dominant white community. For full bloods, those dimensions were reversed: how to meet their needs without offering intrusive white welfare, and how to protect the separate existence of full bloods so that they might either experience demise within their traditional culture or be raised to a level where they might be integrated with the mainstream white society, however long those alternatives might take. Neville saw the separation from whites, of blacks and coloureds as fundamental in the care of both groups and as a necessary first step in resolving their futures.

How to Read this Thesis

The primary purpose of this thesis is to investigate public policy for Aborigines, and in particular half-caste Aborigines, in the period from 1898 to 1940. Relevant information is examined to establish how policy evolved in that time; to determine the purposes or particular policy initiatives; and to evaluate the intended and unintended outcomes of programs directed by those policies. The thesis is about political process and the relative power and authority of participants in that process, how conflicting values influenced the formulation of policy and how programs were implemented to convert policy into practice.

Understanding those processes involves evaluating the influence of the Chief Protector of Aborigines, and A.O. Neville in particular, in his role as head of the government department which then had principal public responsibility for Aborigines, as well as the impact of other public officers, members of successive governments and parliaments who established the legislative parameters and allocated annual public resources for Aboriginal purposes, the relevant managers or superintendents of native settlements, church authorities and missionaries,

newspaper journalists and editorialists, spokespersons for groups with altruistic purposes and lobbyists on behalf of vested interests. All brought personal values and opinions to the policy process, and since public policy determines the allocation of public resources among competing values, understanding them is essential. Policy exists in a political context.

Public policy also exists in an historical context. The policies pursued and implemented for the protection of Aborigines were founded in Western Australia's colonial past. For example, the legal parameters for the whole of Neville's term as Chief Protector were set by a 1905 law which reflected social and moral values of the Colonial Office in London as much as the not-always-compatible values of colonial law-makers. The principal expectation they shared was that the Indigenous inhabitants of Western Australia eventually would die out. The Colonial Office and colonial governments agreed, however, that if Aborigines could be preserved, Christianised and civilised, a public responsibility existed to protect them from persecution and undue exploitation. They disagreed about the sum of public financial resources that might be charged to that responsibility. As Chief Protector and principal public officer charged with protecting the well being of Aborigines, Neville had to work within the limited public resources provided by a political system which displayed little interest in the current condition or the long term future of the state's Indigenous people.

Finally, public policy exists at three levels of actuality that might be referred to as the ideational, the perceived, and the operational. There is not always consonance among the three. Ideational policy is a theoretical construct and belongs at conception in the minds of its sponsors. Policy begins as an idea that is shaped to meet the political, social or economic circumstances it is intended to address. Ideational policy is abstract, but in the course of public policy formulation it is transformed into tangible functions and procedures. Perceived policy is the interpretation of the idea, but not necessarily interpretation by those who conceived it. It might be the translation of a written policy instruction by parliamentary draftsmen into legislative form, which in turn is interpreted and sometimes amended by legislators; it might be legal interpretation by magistrates, judges or other officers appointed to adjudicate upon particular aspects of policy or program; or it might be interpretation of practicability by public officers tasked with implementing or enforcing programs which embody the policy. Operational policy is the practical application, with routine and procedure recorded in regulations, operations manuals, or management instructions. It is not uncommon that a functioning program has completely different manifestation than was anticipated in the idea from which it originated.

The thesis is developed around three episodes in the evolution of policy for Aborigines. The first is the establishment and continued operation of native cattle stations at Moola Bulla and Munja, and their satellite feeding depots, to manage the Indigenous people in the East and

West Kimberleys. The second is the establishment of native settlements at Carrolup River and Moore River to address the half-caste problem in the South-West. The third is the commencement of the Children's Cottage Home Queen's Park, or as it is usually called, by some affectionately and by others contemptuously, 'Sister Kate's'. Neville called it 'the home for quarter-caste children' and looked upon it as an experiment in the assimilation into the mainstream community of quarter-caste children 'too white to be regarded as Aborigines'. Sister Kate's home is of particular interest because it brought to focus Neville's aspirations for the future of Aborigines and offers the best guidance as to whether in advocating 'assimilation' he meant, to use Peter Biskup's terms, 'tutored assimilation' or 'breeding out of colour'.⁵¹

Two other chapters offer critical commentary on historical and political influences upon policy for Aborigines. Chapter 3 examines colonial attitudes towards the people found inhabiting the colonised territory and how the British Colonial Office shaped legislation to protect them. Understanding the influence of Britain and the antipathy of some colonial legislators towards the British sentiments then prevailing helps explain, in part, the directions of subsequent state policies for Aborigines. Chapter 6 examines the politics of legislative change in the several attempts by Neville to have the *Aborigines Act 1905* amended to meet the changing nature and needs of the Aboriginal population.

This thesis is not narrative history; it is forensic history. It does not set out to recount the story of how over forty-two years policy evolved to meet changing circumstances among Western Australia's Indigenous population. Rather, interrelated historical and political considerations and recurrent themes at the three levels of actualisation, from the ideas to their application, are examined in significant events. Multi-layered relationships are unravelled to try to understand the intentions and outcomes of public policy. That process of unravelling sometimes is likened to peeling the layers of an onion.

Most of the evidence examined comes from public documents or from public commentary in newspapers and similar sources. There is very little extant personal material available which might have allowed this researcher into A.O. Neville's mind, for example. His recorded public statements often were circumspect because of the sensitivity of his position as a senior public officer and confidant/adviser to successive Ministers, and his participation in public forums such as the inter-governmental conference in 1937 programmed to meet political purposes. It is apparent, however, that Neville's attitudes changed markedly from his appointment as Chief Protector of Aborigines in 7 May 1915 to his retirement as Commissioner of Aborigines on 23 March 1940. In 1915 he knew little about Aborigines, but by 1940 was an

⁵¹ Peter Biskup, *Not Slaves, Not Citizens*, University of Queensland Press, St Lucia, 1973, p.187.

acknowledged authority.⁵² Initially he was a disinterested segregationist following policies initiated by his predecessor, Charles Gale, or preferred by his Minister, Rufus Underwood. At the end of his career he was an advocate of assimilation whose position was described by his former Minister, W.H. Kitson, as sometimes 'that of a man trying to produce bricks without straw'.⁵³

Finally, public policy for Aborigines cannot be discussed without acknowledging the terrible consequences of dislocation and disaffection caused by the removal of children from their families because the Chief Protector thought that to be 'almost a necessity' for 'the future of the race'.⁵⁴ Much has been revealed about the enduring effects upon children forcibly removed from their mothers, upon their mothers and upon their extended families.⁵⁵ Even though the primary focus of this thesis is to examine the formulation and the purposes of public policy rather than its consequences, the process of dislocation is recounted in brief narratives to offer insights into the disassociation and alienation of Indigenous Australians and some personal consequences for individuals caught up by public policy and the actions of governments.

These narratives are presented as prologues to each of the chapters of critical commentary. The first three, 'His Majesty's Subjects', 'Fraitin la gadiya prapli' and 'Whitemen's Country Now', trace not only the confiscation by colonists and settlers of the lands and waters of the traditional owners, but also the destruction of their sources of food, the expropriation of their women and the naissance of a group of peoples whose biological inheritance belonged with Indigenous and European forebears, who were officially categorised as Aborigines, but who existed in a nether world at the fringes of both cultures. The story of the setting up of the Moola Bulla Native Cattle Station in 'Fraitin la gadyia prapli' tells of how the interests of the traditional Kija owners of the land were disregarded even though an ostensible purpose of the cattle station was to protect them. Similarly, 'Whitemen's Country Now' tells of the alienation of traditional lands and waters of the Ballardong, Wi:lmən, Kaneang, Ko:reng and Min:ang peoples, their loss of cultural identity through alien invasion, and the emergence of an Indigenous diaspora, the Nyungar people.

The 'Kitty' narrative tells of how Aboriginal children were innocent victims of government action. Ten children were exiled from their Indigenous roots for the sins of their

⁵² 'Neville Pioneered', *West Australian*, 16 April 1955.

⁵³ 'Native Girls, Mr. A.O. Neville farewelled', *West Australian*, 14 March 1940.

⁵⁴ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 14 March 1934, p.120, paras 170-1.

⁵⁵ For examples see, Sally Morgan, *My Place*, Fremantle Arts Centre Press, Fremantle, 1987; Peter Read, *The Lost Children*, Doubleday, Sydney, 1989; Stuart Rintoul, *The Wailing, A National Black Oral History*, William Heinemann Australia, Port Melbourne, 1993; Rosemary van den Berg, *No Option No Choice! The Moore River Experience*, Magabala Books, Broome, 1994; Doreen Mellor and Anna Haebich, *Many Voices, Reflections on experience of Indigenous child separation*, National Library of Australia, Canberra, 2002; Stephen Kinnane, *Shadow Lines*, Fremantle Arts Centre Press, Fremantle, 2003; Kim Scot and Hazel Brown, *Kayang and Me*, Fremantle Arts Centre Press, Fremantle, 2005; and Quentin Beresford, *Rob Riley: An Aboriginal Leader's Quest for Justice*, Aboriginal Studies Press, Canberra, 2006.

white father and by the inept response of public officials to the living circumstances of those children. Before official interference those children were happy in the care of their mothers and under the protection of their putative white father. Afterwards, the nine who survived dislocation were destitute wards of the state brought up in the unconscionable environs of the Moore River Native Settlement.

The final narratives, 'Sister Kate's Children' and 'Arnold', describe an attempt to assimilate quarter-caste children, children of Indigenous descent who were 'far too white to be regarded as Aborigines', treating them rather as though they were 'not quite white children' who might be brought up separated from their half-caste mothers eventually to be merged into the white community as its equal members. 'Arnold' gives the lie to that intention. Arnold's story is related very much in his words as told to the author of this thesis. He tells of his journey through dislocation, alcoholism, imprisonment and his eventual location as an Aboriginal man, thought of as a child to be too white, but accepted in adulthood as an initiated tribal member comfortable within both the white and the black worlds.



Aboriginal Men and Children, New Norcia, c.1865. Berndt Museum of Anthropology, University of Western Australia WU-P685.

Chapter One

LITERATURE REVIEW

A handbook issued to American servicemen stationed in Australia between 1942 and 1945 described the western and central parts of the Australian continent as, 'dry land, bare of people, except for the roaming tribes of 'Abos''.¹ Perth (population 224,800) was acknowledged as the capital of Western Australia.² Australians were described, 'except for the 70,000 or so primitive 'Abos' who roam the wastelands,' as, 'nearly 100 percent Anglo-Saxon stock—English, Irish, Scotch, and Welsh'.³ Contemporary Australian readers might then have excused that information as evidence of the prevailing American ignorance about Australia. It might also have reflected common geographic and demographic misconceptions held by many Australians at that time.

There was considerable ignorance of Indigenous Australians for much of the twentieth century. Academics had little interest in them and they were afforded little significance in secondary school or university curricula. Historians either ignored the Aborigines or dismissed them as a part of 'prehistory'.⁴ They seemed to believe that the real history of Australia began when Captain Cook took possession of the eastern half of the continent. The focus of Australian historical commentary was upon eminent persons and explorers and the social, political and economic progress of the several British settlements toward nationhood. Aborigines were not considered part of that history.

Anthropology was a relatively new discipline in Australian universities, but scientists such as Herbert Basedow, A.P. Elkin and J.W. Bleakley were assembling considerable material on the morphology of various Aboriginal groups, their languages, songs, beliefs, customs, clan structures, lore, and so on.⁵ In 1931, Elkin proposed a national policy to safeguard the future of Aborigines through health care, education and employment, a model based largely on practice in

¹ *Instructions for American Servicemen in Australia 1942*, reproduced from the original prepared by Special Services Division, Services of Supply, United States Army and issued by War and Navy Departments, Washington, D.C., republished by the Bodleian Library, 2006. This edition published by Penguin Group (Australia), 2006, pp.vi and 14. The term 'Abos' was explained as Australian slang for 'Aborigines', p.52.

² *ibid*, p.29. The total resident population of Perth at the National Census 2006 was 1,445,078 persons.

³ *ibid*, p.15.

⁴ For examples see, F.L.W. Wood, *A Concise History of Australia* (1935), Dymock's Book Arcade Ltd., Sydney, 1943; R.M. Crawford, *Australia* (1952), Huchison and Co, London, 1958; A.G.L. Shaw, *The Story of Australia* (1954), Faber and Faber, London, 1960; and Gordon Greenwood, *Australia, A Social and Political History* (1955), Angus and Robertson, Sydney, 1959.

⁵ For examples see, Herbert Basedow, *The Australian Aboriginal*, F.W. Preece and Sons, Adelaide, 1925; A.P. Elkin, *The Australian Aborigines, How to Understand Them*, Angus and Robertson, London, 1943; and J.W. Bleakley, *The Aborigines of Australia*, The Jacaranda Press, Brisbane, 1961.

Papua and New Guinea, but his interest was as much in preserving Aboriginal tradition as assuring their livelihood 'and a real share in the land which is their spiritual home as well as the source of their economic necessities'.⁶

The condition of urban Aborigines, and in particular of fringe dwellers suspended between traditional Aboriginal communities and mainstream urban society, was paid little heed. Anthropologists contributed little to the debate about the treatment of half-castes before the Harvard Adelaide Universities Expedition of 1938-39.⁷ Daisy Bates had collated and published information about urban Aborigines in the southern portion of Western Australia, though much of her work was later discredited, in large part because she was not an academically qualified ethnographer and, in the opinions of her critics, she did not apply experiential protocols to her observations.⁸

For much of the period relevant to this thesis, from 1898 to 1940, there was a dearth of intellectual analysis of public policy towards Aborigines in Western Australia. Public debate was conducted in daily newspapers through journalistic commentary or expressions of public opinion, some of it well informed, some of it not, but all of it subjective. Other critical analysis was presented in reports and proceedings of Royal Commissions established from time to time with particular terms of reference and for particular purposes. Historians tended to avoid Aborigines and their interaction with white society. J.S. Battye made only passing reference to the 'hostility of the natives in the North-West, and the murders committed by them, mainly in retaliation for real or fancied outrages upon their women folk'.⁹ Consistently with prevailing historiography, he focused on explorers and the economic value of places on which they reported, the emergence of pearling, mining and pastoral industries, the growth of towns and the genealogy of the pastoral ascendancy in the north. The consequences for the Aboriginal people whose lands and waters were invaded and annexed without consultation were of little consequence to Battye's historical record.

W.E.H. Stanner referred to this period of academic inattention to Australia's Aborigines, as 'the great Australian silence', a silence which lasted, he proposed, until late in the 1960's.¹⁰ During that time historians and social commentators, and, it would seem, public consciousness, paid little heed to Aborigines. In Stanner's judgement, that inattention to the presence and

⁶ A.P. Elkin, 'Anthropology and the Future of the Australian Aborigines', *Oceania*, vol.5(1), September 1931, pp.1-18, at p. 18.

⁷ Norman B. Tindale, *Survey on the Half-Caste Problem in South Australia*, reprinted from Proceedings of the Royal Geographical Society, South Australian Branch, Session 1940-41.

⁸ See, Daisy Bates, *The Passing of the Aborigines*, John Murray, London, 1944; P.J. Bridge (ed.), *Aboriginal Perth, Bibbulmun Biographies and Legends*, Hesperian Press, Carlisle, 1992.

⁹ J.S. Battye, *The History of the North West of Australia Embracing Kimberley, Gascoyne and Murchison Districts*, V. K. Jones and Co, Perth W.A., 1915, facsimile edition, Hesperian Press, Carlisle W.A., 1985, p.34.

¹⁰ W.E.H. Stanner, *After the Dreaming*, The 1968 Boyer Lectures, Australian Broadcasting Commission, Sydney, 1969, pp.18-29.

significance of Aborigines turned into 'a cult of forgetfulness practised on a grand scale'. 'We have been able for so long to disremember the aborigines,' he said, that it was difficult to 'keep them in mind'.¹¹ He proposed that there may have been some awakening or change of attitude in the 1930s, but it was confined to a small group of people who had 'special association with their care, administration or study'. There was very little impact outside that group, and inside 'it was a case of the faithful preaching to the converted about a 'revolution' which in fact had arrived only for them'.¹²

A.P. Elkin made a similar judgement about the emergence of public consciousness of Aborigines, and the concurrent emergence of Aboriginal self-awareness, from the late colonial period until, at least, the mid-twentieth century. He labelled that era as one of transition between what he called 'Intelligent Parasitism' and 'Intelligent Appreciation'. Elkin proposed that during the first of these phases of adaptation following initial tentative approaches towards the colonists and subsequent conflict and resistance, Aborigines succumbed to the European attitude of superiority and knowingly assumed a subservient role.

Being credited with only low intelligence, they are expected to be stupid and uninterested in their work. They play down to this expectation and so flatter the 'boss,' and incidentally 'justify' their lack of efficiency and the 'employment' of an unnecessarily large number.¹³

By thus allowing their selves to be reduced to intelligent parasites, said Elkin, Aborigines lost their Dreaming ('their mythological and ritual anchor and compass') and became dependent paupers suspended between their tribal identity and the dominant Eurocentric community.¹⁴ Traditional Aboriginal cultures survived only in small tribal remnants scattered through sparsely settled regions.

For their part, Elkin argued, non-Aboriginal Australians accepted the disappearance of the Aborigines as confirmation that they were unintelligent, unable to adapt, and doomed to extinction. Nothing, they believed, could be done, 'except to avoid unnecessary harshness and to 'smooth the dying pillow''.¹⁵ Policies of protection served only to ease the passing by providing rations for the indigent and infirm. Positive measures to advance Aborigines through education, employment, and the provision of housing and health services either were not thought of or

¹¹ *ibid*, p.25.

¹² *ibid*, p.21.

¹³ A.P. Elkin, 'Reaction and Interaction: A Food Gathering People and European Settlement in Australia', *American Anthropologist*, vol.53, 1951, pp.164-186, at p. 168.

¹⁴ *ibid*, p.171.

¹⁵ *ibid*, p.172.

were considered futile.¹⁶

Elkin’s subsequent phase, ‘Intelligent Appreciation’ would emerge only when Aborigines internalised an understanding of Western culture and the part they might play in it, and policies to ensure the well being and advancement of Aborigines were put in place. Like Stanner who saw a false dawn of awareness in the 1930s, Elkin detected the emergence of intelligent appreciation in the latter part of the decade, only to see it followed by listlessness and disillusionment in public policy after 1940.¹⁷ A brief phase of understanding and appreciation of Aborigines was replaced by community prejudice against mixed bloods and opposition to positive policies for Aboriginal advancement. Post-war advancement toward assimilation and citizenship was guarded. Progress was inexorable, but Elkin warned against resentment and ‘opportunities for demagogues’:

Unless the numbers of Aborigines of the darker castes increase very greatly, it will lose its impetus and leave dissatisfied and protesting groups of outcasts, loafing on society and gradually disappearing through miscegenation.¹⁸

Critical analysis of the Aboriginal condition in published literature followed phases similar to those of public consciousness and public policy identified by Stanner and Elkin. The ‘great Australian silence’ was not entirely devoid of informed comment about Aborigines, but that which was published addressed small interested audiences.¹⁹ In Western Australia intellectual interest awakened the first part of the 1930s, but academic interest outside the confines of anthropology, academic scrutiny of policies for Aborigines and historiography of the Aboriginal peoples was delayed until the early 1960’s when Aboriginal and non-Aboriginal Australians became aware of the need for political solutions to Indigenous disadvantage and began pressing the Commonwealth Government to assume a greater responsibility.²⁰

An Awakening

During the 1930s, the presence and social conditions of half-castes was brought to attention in

¹⁶ *ibid*, p.172.

¹⁷ *ibid*, p.183.

¹⁸ *ibid*, p.177.

¹⁹ For example, see Edward John Eyre, *Journals of Expeditions of Discovery into Central Australia and Overland from Adelaide to King George’s Sound, in the Years 1840-1* (1845), Australiana Facsimile editions No. 213, Friends of the State Library of South Australia, Adelaide, 1997; Augustus Oldfield, *On the Aborigines of Australia*, read February 9, 1864, originally published in the *Transactions of the Ethnological Society of London*, vol.3, 1865, pp.215-298, facsimile edition with an introduction By M. Helen Anderson, Hesperian Press, Carlisle, 2005; and Albert F. Calvert, *The Aborigines of Western Australia* (1892), Australiana Facsimile Editions No. 194, Libraries Board of South Australia, 1973.

²⁰ Sue Taffe, *Black and White Together, FCAATSI: The Federal Council for the Advancement of Aborigines and Torres Strait Islander 1958-1973*, University of Queensland Press, St Lucia, 2005, p.47.

Western Australia largely at the initiative of local newspapers. The *West Australian* and *Western Mail*, in particular, published contributed articles arguing various observations about the plight of Aborigines, especially of the highly visible half-castes camped on the fringes of urban and rural communities. Significant authors of such commentary included Muriel Chase, Mary Durack, Ernestine Hill and Paul Hasluck. A.O. Neville took part in the discourse with occasional articles contributed under the *nom de plume* 'A.O.N.'.

Hasluck was appointed by the *West Australian* to cover the Moseley Royal Commission at its hearings in the North and South-West of the State in June and July 1934. Two years later he followed up Moseley's recommendations in a series of articles published in the *West Australian*. Hasluck reported that even though the Royal Commission had asserted the problem of the half-caste was the great problem confronting the community, 'no action has been taken by the Government to improve their lot'.²¹ Later, the Native Welfare Council reprinted Hasluck's articles as a single volume and observed that 'conditions were substantially unchanged from those described in 1936'.²²

Hasluck expressed concern about the growing numbers of children 'swarming about the native camps without proper care', and criticised Government's unwillingness to provide resources to improve their living conditions.²³ He commented on the strength of affection in Indigenous families: 'They are devoted to their children, though in one or two cases it would seem that grown-up children are not always so devoted to their parents'. He observed also that, 'there is scarcely a legal marriage to be found in the camps':

When the camp marriage takes place the women change their name for that of their man and call themselves Mrs Brown or Mrs Robinson or so on, in the manner of white people. Incidentally, practically all these people bear European names—embarrassingly familiar ones sometimes—and they give their children Christian names. The fancy lies in strange directions. Lancelot, Vernon, Adelie, and Marguerite were some of those noticed.²⁴

Hasluck differentiated between half-castes and Aborigines. Options canvassed to resolve the so called 'half-caste problem' anticipated their development if separated from their full blood relations. Half-castes could continue living as outcasts of white society, or they could develop separately within it. Hasluck posed the question, 'Are they always going to be a separate caste,

²¹ *West Australian*, 23 July 1936, p.16.

²² The Native Welfare Council, *Our Southern Half-Caste Natives and Their Conditions*, J. Lyon and Sons, Victoria Park, undated, frontpiece. The original articles published in the *West Australian* were, 23 July 1936, 'Half-Caste Problem, Big Rise in Numbers'; 24 July 1936, 'The Huts They Live In, Rubbish Tips of Humanity'; 25 July 1936, 'People on Reserves, The Evils of Rations'; and 27 July 1936, 'Seeking a Solution, Farm Schools Suggested'.

²³ *ibid*, p.2.

²⁴ *ibid*, pp.16-17. See also, *West Australian*, 25 July 1936, p.21.

either living in neglect in their bush camps or shut off in comparative comfort in some settlement; or are they going to be assimilated by the rest of the population?'²⁵ He preferred the latter option, but the language he used to describe the process, 'we will lift them up instead of pushing them back to the black', reflects values not far removed from those of earlier generations.

Colour was important. Even when describing the children 'swarming about the native camps', Hasluck fixed his reader's eye upon their whiteness: 'Many of them—laughing, ragged urchins, keen in intelligence—are almost white and some of them are so very fair that, after a good wash, they would probably pass unnoticed in any band of whites'.²⁶ Hasluck acknowledged the 'blood relationship' between half-castes and whites and suggested that if it were acknowledged, 'we might lift them up instead of pushing them back to the black'.²⁷ In other words, if half-castes were seen as half-white rather than as half-black, the white community might offer them better opportunities. Neville wrote in similar terms in *Australia's Coloured Minority*:

It was the increasing numbers of near-white children which finally turned the scales in giving the deciding answer to the question as to whether the coloured should be encouraged to go back to the black, or be advanced to white status to be eventually assimilated into our race.²⁸

Neville has been accused of advocating biological absorption, or of 'breeding out the colour'. Hasluck has not, even though in 1936 he did not reject entirely the possibility:

In the long run that may prove to be the way out. But we must face the fact that in the Great Southern district today no such process is likely to go on. The coloured people are shut out from any white contacts that would lead to desirable unions of that kind'.²⁹

Some fifty years after his articles were published in the *West Australian* Hasluck recalled his dismissal of biological absorption as 'politically a certain loser'.³⁰ Assimilation, on the other hand, he saw as a practicable objective. In the interim, there had been considerable debate about public policies for assimilation, integration, or the segregation of Australia's white and black populations. In 1937 J.B. Cleland raised the future of South Australia's half-caste population as a

²⁵ *ibid*, p.21. See also, *West Australian*, 27 July 1936, p.16.

²⁶ The Native Welfare Council, *Our Southern Half-Caste Natives and Their Conditions*, p.2.

²⁷ *West Australian*, 25 July 1936, p.27.

²⁸ A.O. Neville, *Australia's Coloured Minority*, p.54.

²⁹ The Native Welfare Council, *Our Southern Half-Caste Natives and Their Conditions*, pp.5-6. See also *West Australian*, 23 July 1936, p.16.

³⁰ Paul Hasluck, *Shades of Darkness, Aboriginal Affairs 1925-1965*, Melbourne University Press, Carlton, 1988, p. 30.

matter for academic inquiry when he proposed that the University of Adelaide might be asked to report on their economic and social conditions.³¹ He was anxious that something should be done for them and suggested that the most suitable thing might be their 'absorption into the general community'.³² Cleland later elaborated upon his proposition:

I may say that the pure-blood natives should be left in their natural surroundings as long as this can be achieved; that recently detribalised natives should be engaged in work as far as possible on cattle stations on the fringe of civilisation; and that the more urban half-castes should be absorbed as quickly as possible into the general community by giving them an upbringing which will fit them to play their part in our social organisation.³³

Norman B. Tindale was among the first to collate comprehensive ethnographic information about half-castes and to relate it to contemporary public policies for their management and control.³⁴ His early work in Western Australia with Hackett, Stocker and Mountford gathered routine ethnographic information among tribes in the Warburton Range.³⁵ Some recent critics such as Anna Haebich, Warwick Anderson, Russell McGregor and Alan Charlton have attempted to argue that Tindale's later work with the joint Harvard and Adelaide Universities' anthropological expedition, 1938-39, and the theoretical propositions about racial typing of Australian Aborigines that encouraged those expeditions, influenced policies pursued by Cleland, Cecil Cook in the Northern Territory and Neville in Western Australia.³⁶ Certainly Cleland, on whose initiative the joint Harvard and Adelaide Universities Expeditions were organised and funded, took up Tindale's findings. Fieldwork for that project was undertaken in Western Australia with Neville's approval as Commissioner for Native Affairs, as was required by law. Even though he authorised the research, Neville seems not have given Tindale his

³¹ Professor J.B. Cleland was Marks Professor of Pathology at the University of Adelaide, Chairman of the Board for Anthropological Research, President of the Anthropological Society of South Australia, and Chairman of the Advisory Council for Aborigines in South Australia. He was a representative for South Australia at the National Conference of Commonwealth and State Aboriginal Authorities, Canberra, 1937.

³² J.B. Cleland, letter to Dr Clark Wisson, American Museum of Natural History, New York, 14 January 1937, Museum of South Australia, AA 60 Cleland, Box 1 Series 1. Copy held by the author.

³³ J.B. Cleland, *Introduction to a Discussion of Racial Problems between Europeans and Australian Aborigines*, Address delivered at the University of Adelaide on 15 May 1944 before the Anthropological Society of South Australia's sectional meeting of the Conference on 'The Planning of Science' arranged by the South Australian Division of the Australian Association of Scientific Workers, Museum of South Australia, AA 60 Cleland, Box 3 Series 3. Copy held by the author.

³⁴ Norman B. Tindale, *Survey of the Half-caste Problem in South Australia*, reprinted from Proceedings of the Royal Geographic Society, South Australian Branch, Session 1940-41.

³⁵ Norman B. Tindale, 'General report on the Anthropological expedition to the Warburton Range, Western Australia, July-September, 1935', *Oceania*. Vol. 6, 1935-36, pp.481-485.

³⁶ Anna Haebich, *For Their Own Good*, University of Western Australia Press, Nedlands, 1988; Warwick Anderson, *The Cultivation of Whiteness*, Melbourne University Press, Carlton, 2002. Russell McGregor, 'An Aboriginal Caucasian: Some uses of racial kinship in early twentieth century Australia', *Australian Aboriginal Studies*, No 1, 1996, pp.11-20; Alan Charlton, 'Conceptualising Aboriginality: reading A.O. Neville's *Australia's Coloured Minority*', *Australian Aboriginal Studies*, no.2, 2001, pp.47-60.

wholehearted support. There appears to have been little rapport between the two men.

The timing of the publication of Tindale's research findings and those of his Harvard colleague, Joseph Birdsell, is not pertinent for Neville's policy formulation. Tindale and Birdsell carried out fieldwork in Western Australia over a period of four months from March to July 1939. The first published findings of their research were not released in Australia until October 1941.³⁷ Tindale's comprehensive report on the half-caste problem in South Australia was completed in March 1941 and was in print at the time of his enlistment for service in the RAAF February 1942, but was not published until much later.³⁸ His seminal work, *Aboriginal Tribes of Australia*, was put aside for the duration of the war. It was completed and published in 1974.³⁹

Birdsell first published his findings in the United States of America in 1941.⁴⁰ Eight years later, he presented in qualitative form a broad reconstruction of the racial prehistory of the Australian continent.⁴¹ In 1972 he rejected the value of much of that earlier work: 'If major races can be convincingly identified by the uneducated eyes of travellers and explorers, and further subdivisions do not yield to say scientific method, the practice seems pointless'.⁴²

Neville had retired in March 1940. Under the circumstances, even though it is possible he may have had privileged preliminary information about the research outcomes, it is unlikely that Neville's policy formulation was influenced directly by Tindale's and Birdsell's research. On the contrary, Tindale was guarded about the trend he observed in the treatment of half-castes in the South-West of Western Australia, and offered little that Neville might have taken as complimentary or encouraging:

No endeavours seem to be made to provide housing for half-castes or aborigines, except in the settlement mentioned above, and half-castes, as well as aborigines, tend to live in the bush as nomads, or to erect scrap-iron huts of their own conniving in the vicinity of small towns. Illiteracy is extremely high, and adjustment to white life proportionately low; even persons who might in other circumstances pass as whites may be ill-clothed, uneducated nomads.⁴³

³⁷ Norman B Tindale and Joseph B. Birdsell, 'Results of the Harvard-Adelaide Universities Anthropological Expedition, 1938-39, Tasmanoid Tribes in North Queensland', *Records of the South Australian Museum*, vol.7(1), 27 October 1941.

³⁸ Norman B. Tindale, *Survey on the Half-Caste Problem in South Australia*.

³⁹ Norman B. Tindale, *Aboriginal Tribes of Australia, Their Terrain, Environmental Controls, Distribution, Limits and Proper Names*, Australian National University Press, Canberra, 1974.

⁴⁰ Joseph B. Birdsell, 'A preliminary report on the trihybrid origin of the Australian Aborigines', *American Journal of Physical Anthropology*, vol.28(3), Washington, 1941.

⁴¹ Joseph B. Birdsell, 'The Racial Origin of the Extinct Tasmanians', *Records of the Queen Victoria Museum*, Tasmania, no.2, 1949 pp.105-122.

⁴² Joseph B. Birdsell, 'The Problem of the Evolution of Human Races: Classification or Clines', *Biology*, vol.19(2), 1972, p.161.

⁴³ Norman B. Tindale, *Survey of the Half-caste Problem in South Australia*, p.131. The settlement Tindale referred to was the Moore River Native Settlement.

Tindale did not favour segregation. He believed it led to the development of ethnic pockets of 'variously diluted and altered aboriginal peoples' dependant or partly dependant upon government subsistence. Assimilation, on the other hand, 'may lead to the amalgamation of the aboriginal people with the predominantly white community of Australia'.⁴⁴ He did not advocate biological absorption through miscegenation managed through discriminatory and restrictive laws, but rather through dispersion and cultural amalgamation in a least restrictive legislative regime. In his model, assimilation was a gradual process in which the ethnic minority was subject to few cultural disabilities and little social ostracism. Intermarriage and interbreeding with the dominant community would have negligible effect on the character of the whole population:

Where the conditions are such that the ethnic stock, which is of lower cultural status, is present only as a small minority and is dispersed throughout the dominant community, the cultural and ultimately the physical effects may be such as to accelerate cultural development and cause absorption.⁴⁵

Those conditions did not prevail in Australia generally and certainly not, in Tindale's judgement, in Western Australia. At official levels the *Immigration Restriction Act 1901* and at social levels cultural intolerance discouraged the absorption of ethnic strains widely different from the west-European norm. Indigenous Australians, half-caste or otherwise, endured an increasingly intolerant attitude within the white community. They retreated to enclaves and tended to marry and reproduce within their own cohorts.

Critical Policy Analysis

The year 1963 might be said to mark a renewal of academic interest in Aborigines. The Social Science Research Council of Australia sponsored a major project, *Aborigines in Australian Society*, with the broad objectives of elucidating problems arising from contacts between Aborigines and non-Aborigines and formulating policies to resolve them.⁴⁶ It was seminal work, published in three volumes, but already outdated by the time it was published. In the gap between completion of the project in 1967 and publication in 1970, a national referendum endorsed an amendment of the Constitution of the Commonwealth of Australia to give the Federal Parliament full powers to make laws with respect of Aboriginal people.

The referendum was a watershed in Aboriginal affairs. It signalled what Elkin might have

⁴⁴ *ibid*, p.116.

⁴⁵ *ibid*, p.122.

⁴⁶ C.D. Rowley, *The Destruction of Aboriginal Society*, Aboriginal Policy and Practice, vol.I, Australian National University Press, Canberra, 1970; *Outcasts in White Australia*, Aboriginal Policy and Practice, vol.II, ANU Press, Canberra, 1971; and *The Remote Aborigines*, Aboriginal Policy and Practice, vol.III, ANU Press, Canberra, 1971.

acknowledged to be the commencement of intelligent appreciation. Certainly Stanner, in his 1968 Boyer lectures, spoke of 'a large swing from depreciation towards appreciation'.⁴⁷ Much of the impetus for change came from within the Indigenous community. Stanner observed the quickening of interest in Aboriginal affairs and remarked, 'Aboriginal men have become men of the headlines and I have a strong sense that what they say and do will much affect the future or causes that have come into a delicate poise'.⁴⁸ There was a perceptible shift away from policies for assimilation as agreed to by the Commonwealth and the states in 1961 which in effect meant the absorption of the Indigenous population by the mainstream, and the probable extermination of Aboriginality, towards a policy of assimilation which gave Aborigines greater independent control over their lives and the destiny of their race.

That shift was not without its hazards. Many Aborigines remained alienated, without hope, without power and confused by the rapid changes happening around them. Stanner observed that in 1968 the gap between the real conditions of Indigenous Australians and others was widening rather than narrowing: 'It follows that their conditions will have to improve faster than ours if they are to stay even at their present relative disadvantage'.⁴⁹ He warned against the possibility of conflict if something better for Aborigines were not devised. Within the previous decade, he noted, people who had been 'powerless, dependent and voiceless' found power and 'began to make an impact on history in their own right'.⁵⁰ Conflict could be avoided, he suggested, only if there were to be a grand effort to resolve the troubles between whites and people of Indigenous descent. He was pessimistic; 'the freshening flow from the great river of national imagination, private and corporate, into this little muddied stream is only a trickle'.⁵¹

In that context, Rowley's work was pertinent and timely. It excoriated the 'almost unique feature' of the treatment of Aborigines, the practice of confining Aborigines in managed institutions, 'not for having committed offences or being mentally deficient, but because they belonged to a particular racial minority'.⁵² He described the underlying assumption of segregation, the need to protect the dying race, as a solution to a passing problem. Similarly, he saw the assimilation of half-castes as a policy response to peoples in transition: 'they were regarded as no more than vestiges of the old cultures and languages'.⁵³

The population data Rowley collated from all states except Tasmania tended to give the lie to those policy assumptions. They indicated the rate of decline in the numbers of Aborigines

⁴⁷ W.E.H. Stanner, *After the Dreaming*, p.38

⁴⁸ *ibid*, p.39.

⁴⁹ *ibid*, p.58.

⁵⁰ *ibid*, p.51.

⁵¹ *ibid*, p.52.

⁵² C.D. Rowley, *Outcasts in White Australia*, p.2.

⁵³ *ibid*, p.1.

of the full blood slowed after 1900, reached its nadir in the mid-1930s and thereafter began to recover, albeit slowly. They showed also that after 1900 the rate of growth of the population of mixed Indigenous descent was rapid. Contrary to what those population statistics might point to, Rowley suggested that governments in states with large full blood populations, notably Western Australia and Queensland, regarded the extinction of full bloods as 'convenient'. He intimated also that in those states public policy involved 'the disappearance of part Aborigines through miscegenation'. Full bloods seemed to be dying out and 'part-Aborigines were to be placed in such situations that there would eventually be no trace of them'.⁵⁴

If Rowley's assumptions were valid, in those states marriage and reproduction would be discouraged among whites and Aboriginal women of the full blood, but encouraged among whites and women of mixed descent. In effect, public policy would impose prohibitions upon relations between whites and full bloods, but grant licence to relations between whites and half-castes. The latter was the case neither in law nor in prevailing social morés. Nor did restrictive legislation in matters of mixed marriage discriminate between full bloods and half-castes. In Western Australia the Chief Protector had to approve the marriage of a non-Aborigine to any woman classified as an Aborigine under the *Aborigines Act 1905*. If women were Aborigines under the Act, it was unlawful for a white man to cohabit with them. Aboriginal women might marry other than Aboriginal men, but only with the permission of the Chief Protector. The *Native Administration Act 1936* expunged all references to 'Aborigines' and 'half-castes' and replaced them with the inclusive term 'native'. All, including first generation quarter-castes, were subject to the same restrictive sanctions against cross-cultural cohabitation and sexual intercourse and had to comply with the same requirements for the Commissioner's approval of marriage.

It is logically inconsistent that contraposed policies might apply in favour of miscegenation for one part of an ethnic minority and in opposition for another if governments did not also provide inducements for the first and legal sanctions against the other. In fact, in Western Australia at least, one set of legal sanctions against miscegenation applied consistently to the whole population. Rowley described policies in both Queensland and Western Australia as government interference 'in the most intimate areas of human life, especially in attempting to limit miscegenation and to control marriage'.⁵⁵ Government interference it certainly was, but the legal sanctions were intended to avoid not promote miscegenation. That aside, Rowley's proposition that 'part-Aborigines were to be placed in such situations that there would eventually

⁵⁴ *ibid*, p.4. Policy and population trends in the separate states are summarised in pp. 5-29. Statistical information about the Aboriginal population, especially that used to create Fig. 5 p.9 and Fig. 2 p.19, must be treated cautiously since they are estimates by the separate states using by different statistical procedures and employing different demographic assumptions. Aborigines were not included in the national census until after 1967, and even then the population data were subject to reservation.

⁵⁵ *ibid*, p.21.

be no trace of them' became an article of faith in critical analysis of public policy for Aborigines.

Peter Biskup was among the first to analyse critically Western Australian public policy for Aborigines.⁵⁶ There had been Royal Commissions and public enquiries in the past, but inquisitions of that kind are disadvantaged by their unavoidable manipulation by contemporary vested interests. Biskup applied historical discipline to his analysis and exposed the persistent racism that directed public policy for the treatment of Aborigines. He described the period from 1906 to 1940, which spanned Neville's term as Chief Protector, as one of growing racial prejudice and increasingly oppressive legislative action against Aborigines.

The title of Biskup's treatise, 'Not Slaves Not Citizens', was first used for a pamphlet on the condition of Australian Aborigines in the Northern Territory.⁵⁷ The pamphlet drew attention to the declining numbers of Aborigines. It proposed four factors responsible for that decline: starvation when the usurpation of Aboriginal lands cut off sources of food supply; organised and desultory killing; infectious disease introduced by Europeans; and 'lastly, death due to loss of interest in life has proved the most potent factor of all'.⁵⁸ It proposed that, as late as the early 1950's, the process of extermination was continuing, but was indirect, 'for it involves economic pressures like exploitation, expropriation and neglect, but previously, direct extermination was the policy'.⁵⁹ No distinction was drawn between full bloods and half-castes in that judgement because definitions contained in *The Aborigines Ordinance 1918* as amended in 1947 meant that 'a 'half-caste' can mean a quarter-caste, an octoroon, or other fractional caste as understood by an anthropologist'.⁶⁰ The provisions of the Ordinance were similar in most respects to the Western Australian *Aborigines Act 1905*, particularly as amended in 1936. The recital of justified grievances might well have referred to Western Australia as well as the Northern Territory. The pamphlet cited the denial of civil rights, the oppressive powers of the Director of Native Affairs, the separation of children from their families, the lack of educational opportunity for Aboriginal children, the prevalence of leprosy, venereal disease, tuberculosis, scurvy and beri beri and the inadequate personnel and equipment to treat them, the poor housing, poor nutrition, social insecurity, and the untenable position of Aborigines in the criminal justice system.

Biskup's study demonstrated increasingly oppressive racism with outcomes for the Aboriginal people similar to those claimed in the Nicholls pamphlet. His review of the treatment of 'part-aborigines' after 1936 was damning. He characterised the framers of the *Native*

⁵⁶ Peter Biskup, *Native Administration and Welfare in Western Australia, 1877-1954*, Thesis presented for the degree of Doctor of Philosophy, University of Western Australia, 1965; and *Not Slaves, Not Citizens*, University of Queensland Press, St Lucia, Queensland, 1973.

⁵⁷ Yvonne Nicholls, *Not Slaves, Not Citizens, Condition of the Australian Aborigines in the Northern Territory*, The Australian Council for Civil Liberties, Melbourne, 1952.

⁵⁸ *ibid*, p.11.

⁵⁹ *ibid*, p.11.

⁶⁰ *ibid*, p.15.

Administration Act 1936, as having two precepts for the solution of the half-caste problem: 'tutored assimilation' and 'breeding out the colour'. The popular catch-phrase of the second precept, Biskup wrote, was 'black blood breeds out in three generations'.⁶¹ In Biskup's opinion, A.O. Neville was a leading protagonist of the idea.

That is significant. In this relatively early policy analysis, biological absorption is represented as a principal motivation of action against 'part-aborigines' and echoes Rowley's proposition that part-Aborigines were to be eradicated by miscegenation. Much of the argument Biskup presented in support of his position appears to be a retrospective deduction of history from propositions argued by Neville in his treatise *Australia's Coloured Minority*, itself published in 1947, seven years after Neville retired as Commissioner for Aborigines. Retrospective deduction is a superficially attractive manner of interpreting history. While there may be logic in such deductive reasoning and its conclusions quite defensible, its validity relies upon Biskup's perspicacity in interpreting Neville's intent. Close examination of contemporaneous evidence which helped shape Neville's opinion might offer an alternative interpretation, and therefore different appreciation of what he argued in *Australia's Coloured Minority*.

Biskup argued that biological assimilation failed. He offered several reasons, some of them inherent in the legislation and some driven by economic reality. The most important reason for its failure, Biskup proposed, was the growth of racial prejudice. Controlled marriage and the outlawing of inter-racial sexual intercourse held little appeal for white men and none at all for part-aboriginal males. The way of life of part-aboriginal women precluded the possibility of marriage to white men; 'So the coloured people turned back to their own; marriages between part-aborigines and full bloods increased; instead of being bred out, colour was being bred in'.⁶²

Biskup's was, in many respects, a pioneering study, but it is followed closely in importance by Anna Haebich's study of the relationship between Aborigines and government in the South-West.⁶³ Haebich's is more a social history than critical policy analysis, and, as such, offers a comprehensive view of the social and economic place of Aborigines in the southern agricultural region. The geographic location of the study is bounded by Geraldton in the north and Esperance in the east. The eastern extremity coincides roughly with the western extremity of the circumcision/sub-incision line that separated traditional Nyungar from Yamadgi and Wonggai areas. Haebich's study is a history of the Nyungar people. They felt the full force of the impact of European settlement. Some have argued that the last of the full blood Nyungars died

⁶¹ Peter Biskup, *Not Slaves, Not Citizens*, p.188.

⁶² *ibid*, p.193.

⁶³ Anna Haebich, *For Their Own Good, Aborigines and Government in the South West of Western Australia 1900-1940*, University of Western Australia Press, Nedlands, 1988.

early last century.⁶⁴ Haebich's study is, therefore, a history of Indigenous people of mixed descent, or as Neville would call them, 'coloureds'.

According to Haebich, attitudes towards Aborigines and the way in which the 1905 Act was implemented differed between 'full bloods' and 'half-castes' and between the north and south of the State. Her paradigm may have simplified the differences, but is important to understanding why policy evolved as it did. In the north, Haebich proposed, 'powerful white interests were demanding solutions to problems left outstanding by the previous administration'. By contrast, in the south there were few complaints apart from 'sporadic objections' to the presence of Aboriginal camps in coastal towns and 'occasional expressions of concern' about 'near white' children in those camps.⁶⁵

In fact, those matters which Haebich saw as provoking 'sporadic objections' and 'occasional expressions of concern' were a primary focus for Neville's policy initiatives, especially in the last decade of his administration. He saw the future of half-castes and 'near whites' as different from that of full bloods. The latter should be provided with physical comfort, but they should be allowed to remain as near as possible in their tribal state. In the long-term they might die out, or as Neville argued, be educated and placed 'in lucrative occupations, which will not bring them into economic or social conflict with the white community'.⁶⁶ Half-castes, on the other hand, because of their white heritage could be raised to be good citizens in less time, according to their readiness for assimilation. That belief directed the different treatment of 'full bloods' and 'coloureds' in public policy.

In the Nyungar country of Haebich's study the focus was on what Biskup called 'tutored assimilation'. According to Haebich, it acknowledged a need for welfare support through the distribution of rations, clothing and blankets, but the hope for the future was the development of a 'native settlement scheme'. Carrolup and Moore River were envisioned to become self-supporting agricultural settlements. People trained there would provide labour for the developing agricultural industry. To raise the standing of Aboriginals in the community, employers would be obliged to pay them a minimum wage, 'part of which was to be paid to government to cover the costs of relieving Aborigines throughout the State'.⁶⁷

The economic and social standing of Aborigines in the mainstream society also was to be advanced in the longer term, Haebich observed, by the separate development of their children. Coloured children were removed from their families and brought up to follow a 'European life

⁶⁴ For example see Daisy Bates, *The Passing of the Aborigines*, and A.O. Neville, 'Contributory Causes of Aboriginal Depopulation in Western Australia', *Mankind*, vol.4 (1), pp.3-13

⁶⁵ Daisy Bates, *The Passing of the Aborigines*, p.90.

⁶⁶ A.O. Neville, *Australia's Coloured Minority*, p.28.

⁶⁷ Anna Haebich, *For Their Own Good*, p.150.

style' on the government-run farming settlements.⁶⁸ Boys were trained to become farm labourers and girls, household domestics. They were then assigned to approved employers; 'Their ultimate fate was absorption into the wider community'.⁶⁹

Haebich documented the failure of that policy and proposed that by the late 1920's Neville's frustration led him 'to adopt an increasingly extreme position on the 'half-caste problem'; 'he began to advocate the breeding out of the 'coloured race' altogether'.⁷⁰ Thus the policy focus shifted from 'tutored assimilation' to 'biological absorption'. Like Biskup, Haebich saw in this the influence of people such as Dr Cilento, Norman Tindale and Professor Cleland, all of whom, she said, supported theories postulating common racial origins and genotypic racial characteristics for the Aboriginal and Caucasian races: 'Central to the policy was the theory that genetic atavism (throwbacks) would not occur in unions between Aboriginal and white races because of their distant common Caucasian origins'.⁷¹

An expectation in this proposal for 'breeding out the colour' was that Aboriginal women would marry and have children with white men. The possibility of Aboriginal men marrying white women was ignored.⁷² Hence, protecting young 'coloured' Aboriginal women against procreating within their own race was essential. Separating them from their communities as children and raising them to behave as 'whites' best achieved that.

Haebich identified Sister Kate's Children's Cottage Home as integral to that policy. Children of 'lighter colour' were transferred from Moore River settlement and quarter-caste children from Aboriginal camps were sent directly to Sister Kate's. The objective, Haebich claimed, 'was to provide for their assimilation into the community'.⁷³ She implied that Neville had primary responsibility for this initiative: 'Neville took the first steps in implementing this policy through his support for the establishment of Sister Kate's Children's Cottage Home in 1933'.⁷⁴

Jacobs is not as emphatic that Neville was the prime mover.⁷⁵ Decisions to assign children and to allocate financial support for Sister Kate's belonged to Neville. Only he as Chief Protector had the authority. Jacobs harboured no doubt about Neville's intention.⁷⁶ The first home at Buckland Hill 'was a small but satisfactory beginning of the programme of absorbing

⁶⁸ *ibid*, p.157.

⁶⁹ *ibid*, p.156.

⁷⁰ *ibid*, p.316.

⁷¹ *ibid*, p.316.

⁷² *ibid*, p.318.

⁷³ *ibid*, p.318.

⁷⁴ *ibid*, p.318.

⁷⁵ Pat Jacobs, *Mister Neville*, Fremantle Arts Centre Press, Fremantle, 1990.

⁷⁶ *ibid*, p.217.

the children into the community'.⁷⁷ It is clear from correspondence between Neville and Sister Kate, however, that Sister Kate took the first step in approaching Neville for help to establish a home for Aboriginal orphans. Neville acceded to Sister Kate's request, but selected only light-coloured children to be sent to her home. Thereafter, Sister Kate's role in the assimilation of those children into the social and economic mainstream of the Western Australian community is not clear.

In her biography of Neville, Jacobs portrays a complex man, insular in his public role, committed to family and to his religion, and with a seemingly restless interest in journeying to foreign and new places. He might have been described as a 'cerebral' man with a desire to know, understand and pursue 'truth'. The image developed by Jacobs contrasts with the two aspects of Neville's persona given by Haebich. On the one hand he is represented by Haebich as 'an ardent fighter for what he saw as the Aboriginal cause': on the other, according to Haebich, the Aborigines saw him as 'the symbol of the system of authoritarianism under which they were obliged to live'.⁷⁸ The more sympathetic portrait by Jacobs shows him as committed and compassionate; 'he was often upset at the injustice of the system which refused to confront the complacent exploitation entrenched in the relations between black and white in Australia'.⁷⁹

This was the man who dealt with Sister Kate, or Kate Clutterbuck, a woman who with a strong sense of conviction, and a firm belief in her own ability; 'She also had an uncanny knack of getting what she wanted'.⁸⁰ The difficulty for the historian is knowing just what she wanted. Sister Kate was, from all accounts, a private person who left little written information about herself or her work.

Jacobs relied heavily upon correspondence between Sister Kate and Neville to trace their respective roles in the establishment of the Queen's Park Home. That correspondence leaves no doubt that Sister Kate took the initiative on the matter. Regrettably, it leaves Sister Kate's expectations unclear. Jacobs accepts that 'the idea was to rescue the part-Aboriginal children and provide them with a home and an education which would bridge the gap between camp life and the white community'.⁸¹ This proposition, taken as a statement of social and economic assimilation, could hardly be exceptionable in the values prevailing at that time. Jacobs attributed to Neville a similar intention; 'Sister Kate's suggestion was a means of putting into practice his plan to prepare children to take their place in society'.⁸² Haebich, as discussed above, would offer a different view of Neville's intention. If she is correct, the question remains whether Sister Kate

⁷⁷ *ibid*, p.219.

⁷⁸ Anna Haebich, *For Their Own Good*, pp.155-66.

⁷⁹ Pat Jacobs, *Mr. Neville*, pp.165.

⁸⁰ *ibid*, p.217.

⁸¹ *ibid*, p.218.

⁸² *ibid*, p.218.

was complicit in what Haebich described as Neville's policy of biological absorption.

Both Haebich and Jacobs acknowledge the support given to Sister Kate by influential members of Perth society, Ruth Lefroy, Paul Hasluck, Mary Durack and Muriel Chase, as well as organisations like the Women's Service Guild and the Australian Aborigines Amelioration Association. This latter organisation is particularly interesting for its role. It accepted the popular notion that full blood Aborigines were a dying race and the public obligation was merely to ease their passing by maintaining them on permanently segregated reserves. The Association's position on half-castes was ambiguous. It was, in some respects, similar to Neville's policy, 'although members avoided mentioning its more controversial aspects presumably 'breeding out the colour'.⁸³

The report of the Human Rights and Equal Opportunity Commission, *Bringing Them Home*, repeated Jacobs' view that the initiative to implement the policy through the Queen's Park Home belonged to Neville; 'Neville took advantage of her to put his ideas into practice'.⁸⁴ Sister Kate, according to the Commission, had only beneficent motives. Subsequent publications have maintained that position. Sister Kate's biographer, Vera Whittington, suggested it was not possible to assess how she responded to Neville's policy. 'In what is available to research, only three times did she commit her innermost thoughts to paper, and each was a personal letter'.⁸⁵ Her confidantes were Paul Hasluck, Muriel Chase and Ruth Lefroy. She also corresponded with and had several meetings with Neville. Whittington proposed that Sister Kate's attitude probably coincided with those of the Women's Service Guild and that 'she would have been in full sympathy with Mary Montgomery Bennett', a strong opponent of Neville's policies of segregation and assimilation.⁸⁶ Rather than oppose Neville's policies, as some missionaries did, Sister Kate seems to have co-operated with Neville in advancing them.

In a later publication, Haebich did not share Whittington's compassion for Sister Kate, although she remained unwilling to affirm that the experiment at Queen's Park belonged to other than Neville.⁸⁷ She condemned the purpose of the home. In her judgement it was not the purpose of the Queen's Park Children's Cottage Home to groom and educate 'mixed race' leadership as in similar institutions in colonial Africa, Asia and India. Rather, Haebich proposed, 'the principal aim of Sister Kate's was to make the children white'.⁸⁸

Even with that damning judgement, Haebich, like Whittington, was unwilling to attribute

⁸³ Anna Haebich, *For Their Own Good*, p.319.

⁸⁴ Human Rights and Equal Opportunity Commission, *Bringing Them Home*, p.110.

⁸⁵ Vera Whittington, *Sister Kate, A Life Dedicated to Children in Need of Care*, University of Western Australia Press, Nedlands, 1999, p.304.

⁸⁶ *ibid*, p.304.

⁸⁷ Anna Haebich, *Broken Circles, Fragmenting Indigenous Families 1800-2000*, Fremantle Arts Centre Press, Fremantle, 2000.

⁸⁸ *ibid*, p.280.

responsibility for that policy to Sister Kate. Rather, she suggested that Sister Kate 'embarked on the new challenge of mission work with 'quarter-caste' children'. Haebich conceded that, 'She may also have been concerned about the future of the few 'quarter-caste' children, being raised as white children, at the Parkerville Home whose presence there was opposed by some of the Home officials'.⁸⁹ The concessions do not seem to be supported by historical fact, however. Sister Kate cut her ties when she left Parkerville. Quarter-caste children were transferred to Queen's Park from Moore River, not Parkerville. The consistent judgement offered by Haebich is that 'Neville grabbed at the offer' by Sister Kate of a home for Aboriginal children, 'seeing in it the opportunity to begin the biological absorption program'.⁹⁰ It certainly was an opportunity for the different treatment of light-skinned aboriginal children. Neville did refer to it in his notes for and in his presentations to the Moseley Royal Commission and the 1937 Canberra Conference as an 'interesting experiment', but what he meant by that remains unclear.

Nothing produced by researchers demonstrated that Neville harboured a secret agenda of eugenic population control, or that government or any others acquiesced in such a clandestine program. Neither was it demonstrated that the 'assimilation' Neville referred to at the Canberra Conference and subsequently was 'biological absorption' directed by relatively short-term controlled breeding. At the Conference, Neville himself referred to 'a long range plan'.⁹¹ Other participants seem to have conceived it simply as the social and economic integration of Aborigines of mixed blood with the mainstream 'white' population; 'lifting the half-castes to the standards of the whites'.⁹² What is irrefutable is that Neville, and prominent authorities in other Australian States, were aware of the possibility of biological absorption as a solution to the 'coloured problem'. Emerging scientific theories of race gave some credence to the proposition.

Warwick Anderson demonstrated a link between scientific research and public policy for the management of the Aboriginal population.⁹³ His review of medical and scientific theory and research about race and colour in Australia traced the history of white settlement and the effect of 'whiteness' on the national identity. It gives a challenging perspective upon racial displacement, the relocation of white Europeans to an essentially 'black' continent, and the adaptation of that alien racial type to what was seen to be an environment hostile to white habitation.

Anderson proposed that the scientific 'discovery of the half-caste' was a defining moment. For most of the nineteenth century and the first two decades of the twentieth, he

⁸⁹ *ibid*, pp.280-1.

⁹⁰ *ibid*, p.281.

⁹¹ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, p.10.

⁹² *ibid*, p.12 (Mr. Bailey, Victoria), p.13 (Dr Cook, Northern Territory), p.14 (Mr. Harkness, New South Wales).

⁹³ Warwick, Anderson, *The Cultivation of Whiteness, Science, Health and Racial Destiny in Australia*, Melbourne University Press, Carlton South, 2002.

argued, there was little scientific interest in ‘the rare Aboriginal-European ‘hybrid’’. Anecdotal opinion was that the hybrid offspring took on the physical features of the European father and the cultural qualities of the Aboriginal mother: ‘physically almost white, but mentally and morally almost black’.⁹⁴ By the 1920’s, when the much larger and more prominent population of half-castes ‘seemed destined to proliferate still more’, science took an interest and suggested a biological solution.⁹⁵

Interest in the Australian half-castes arose here and elsewhere, Anderson proposed, from the application of Mendelian principles to the mixing of races. The most popular speculation was that the Caucasian characteristics were dominant and the Aboriginal recessive. The offspring of European and Aboriginal breeding would, over three generations, result in the virtual absorption of the Aboriginal racial characteristics. Anderson cited the policy proposed by A. Grenfell Price. The policy, according to Anderson:

looks toward breeding the Aborigine white, instead of letting the half-castes become black. Blood tests appear to show that the Aborigine is akin to the white man. There are no records of throwbacks. The black strain breeds out comparatively quickly, and the slight evidence available indicates that the octoroon is a good type.⁹⁶

Anderson claimed that this interest in race crossing led to the joint Harvard-Adelaide University study undertaken by Joseph Birdsell and Norman Tindale discussed above. It involved gathering comprehensive information about ancestry, blood groups and genealogies of more than 1200 subjects in five Australian states including Western Australia. The first stage, covering Western Australia as far north as Warburton, and the south-western portion of South Australia was completed in 1939.

Anderson interpreted Tindale’s findings as meaning that race crossing in Australia supported hybrid assimilation.⁹⁷ The research performed had not revealed any half-caste degeneration. Absorption, not isolation, was therefore ‘the best scientific solution of the half-caste problem’.⁹⁸ The challenge for public policy was how absorption might be achieved. Tindale argued against the concentration of Aborigines into reserves and settlements, as was the practice in Western Australia and Queensland, and in favour of the Victorian experience. There, he argued, the dispersal of mixed bloods into the general community had enabled their cultural

⁹⁴ *ibid*, p.220.

⁹⁵ *ibid*, p.220.

⁹⁶ *ibid*, p.222.

⁹⁷ *ibid*, p.230.

⁹⁸ *ibid*, p.230.

absorption.⁹⁹

Dr Cecil Cook, the Chief Protector of Aborigines in the Northern Territory, was identified by Anderson as a principal enthusiast for the translation of Tindale's theories into public policy.¹⁰⁰ Contrary to Tindale's preferred position of dispersal, however, Cook's policy and the law guiding it supported segregation. His objective was characterised by Anderson as giving the half-caste an 'opportunity to evolve as a white man'.¹⁰¹ The issue was not what to do with Aborigines, but how to resolve the problem of the half-caste. That required state regulation of marriage, and through marriage, of reproduction. According to Anderson, Cook acknowledged that half-caste women would be more acceptable as partners to white men than for half-caste men as partners to white women, and proposed, therefore, that the focus should be upon half-caste women. Anderson characterised that resolution as 'state involvement as a racial salvage operation, saving half-caste girls from returning to perversely masculine full bloods or disreputable white men'.¹⁰²

Caution must again be urged in attributing to the work of the Harvard-Adelaide Universities' survey too much relevance in the policies developed by Neville and Cook. The Canberra Conference referred to by Biskup, Haebich and Anderson, the Initial Conference of Commonwealth and State Aboriginal Authorities, was held in April 1937. As discussed above, fieldwork for the first phase of the Harvard-Adelaide Universities Expedition 1938-39 was completed at the beginning of July 1939, and the first findings published in 1941. Neville commenced policy formulation, which Anderson, Haebich and others claim was influenced by Tindale's findings, at least as early as 1919. He had retired before Tindale and Birdsell published their findings. Cook also had been replaced as Chief Protector of Aborigines the Northern Territory and transferred to a position in the School of Public Health and Tropical Medicine in Sydney in 1939.¹⁰³

A fault in most commentators' analyses of Neville's policy is that, like Biskup, Haebich and Anderson, they rely heavily upon Neville's 1947 treatise *Australia's Coloured Minority*. It is an important source for understanding Neville's beliefs about how to resolve the issue of half-castes in the Australian community, but it must be appreciated in its historical context. Neville published it some seven years after he retired as Chief Protector and it should be read more as

⁹⁹ *ibid*, p.232.

¹⁰⁰ Dr Cecil E. Cook was the Chief Health Officer and Chief Protector of Aborigines in the Northern Territory from 1911 until 1939. His powers over the movement of Indigenous peoples, where they might live, what work they might do, and over the removal of children from their families were similar to those of A.O. Neville in Western Australia. See, Tony Austin, *I Can Picture the Old Place So Clearly, The Commonwealth and 'Half-Caste' Youth in the Northern Territory 1911-1939*, Aboriginal Studies Press, Canberra, 1993, p.205.

¹⁰¹ Warwick Anderson, *The Cultivation of Whiteness*, pp.235-6.

¹⁰² *ibid*, p.236.

¹⁰³ Tony Austin, *I Can Picture the Old Place So Clearly*, p.205.

his lament about what was not done after the 1937 Conference. His purpose was to bring to attention what could and should be done and not to document what was done.

Propositions advanced by Neville in *Australia's Coloured Minority* may have been misinterpreted or inappropriately applied to historical analysis of public policy. Biskup and Haebich appear to have used the propositions selectively and retrospectively to explain Neville's initiatives, particularly after the adoption of the *Aborigines Act Amendment Act, 1936*. Biskup identified Neville as a chief protagonist of the precept of 'assimilation by organised breeding'.¹⁰⁴ He substantiated that assessment by citing Neville's statement from *Australia's Coloured Minority* that it was the increasing numbers of near white children which finally answered question of 'whether the coloured children should be encouraged to go back to the black, or be advanced to white status to be eventually assimilated into our own race'.¹⁰⁵ The argument followed by Biskup was that to Neville 'assimilation' meant 'racial mixture' achieved either through interracial marriage or miscegenation without it. That process would continue until 'there are no more virile full bloods remaining alive'.¹⁰⁶ The translation of those statements into propositions of 'assimilation by organised breeding' can be supported only if other social and political values are excluded. Neville may have entertained alternative propositions; 'As I see it, what we have to do is elevate these people to our own plane, and if intermarriage between them and ourselves becomes more popular, then we shall be none the worse for it. That will solve the problem of itself'.¹⁰⁷

The essential concomitant of the proposition of controlled breeding was the widely-held belief that the Aborigines were a 'dying race', a theory referred to by Biskup and others as 'social Darwinism'. Haebich was more emphatic than Biskup in attributing to Neville a clear intention of 'breeding out the colour', or perhaps of 'breeding out the coloureds, since, according to 'the spreading dogma of Social Darwinism Aborigines 'were doomed to extinction'.¹⁰⁸ She described Neville's vision as weaving together 'strands of eugenic thought' and 'recent revisions of scientific and anthropological knowledge about Aborigines' into law and practice for the treatment of Aborigines; 'essentially Neville's vision was a program of racial and social engineering designed to erase all Aboriginal characteristics from a desired White Australia'.¹⁰⁹ Like Biskup, she used Neville's reference to 'whether coloured children should be encouraged back to the black' to lend verisimilitude to her opinion.

A proposition argued by Haebich was that Neville's increasing frustration with his

¹⁰⁴ Peter Biskup, *Not Slaves, Not Citizens*, p.188.

¹⁰⁵ A.O. Neville, *Australia's Coloured Minority*, p.56, cited in Peter Biskup, *Not Slaves, Not Citizens*, p.188.

¹⁰⁶ Peter Biskup, *Not Slaves, Not Citizens*, p.188.

¹⁰⁷ A.O. Neville, *Australia's Coloured Minority*, p.57.

¹⁰⁸ Anna Haebich, *Broken Circles*, p.272.

¹⁰⁹ *ibid*, p.273.

inability to resolve the problems of half-castes in the south of the State led him to the extreme position of ‘biological absorption’. It is true that Neville’s frustration about resolving problems in the South-West led him toward more stringent controls on a wider group of coloured people. The 1936 amendment of the *Aborigines Act 1905* introduced guardianship of quarter-castes as well as half-castes to the age of twenty-one, and not just Aboriginal children under the age of sixteen; outlawing inter-racial sexual intercourse; and denial of marriage between Aborigines or with persons of another race without the Chief Protector’s written consent. Those legislative changes invite interpretations of social engineering in public policies. It might be feasible also to discern in those policy shifts a predilection through controlled marriage toward miscegenation. Whether that means manipulating procreation among white males and coloured females to create a pale-skinned racial type, and whether these inferences together sustain a proposition that Neville ‘began to advocate the breeding out of the ‘coloured race’ altogether’ is contestable.¹¹⁰

Neville certainly was aware of the declining numbers of full bloods and the disproportionate rate of increase in the number of half-castes. He enumerated them annually in the reports of his office. In his Annual Report for 1918, three years after he was appointed Chief Protector, Neville estimated the number of ‘natives within the borders of civilisation’ at 15,767 and 327 half-castes ‘not deemed to be aboriginals within the meaning of Section 3 of the *Aborigines Act*’.¹¹¹ Seventeen years later the enumeration of half castes was 4,254, causing Neville to observe that the work of his department had changed since 1915. The half-caste question had assumed ‘formidable proportions’:

A new generation, differing from its forebears and demanding greater consideration at our hands, has attained manhood. The children of this generation are growing up mainly lacking those essential provisions for their welfare which we failed to provide for their parents.¹¹²

Neville also published articles describing the demographic change. In the paper he presented to the Western Australian Historical Society in June 1936 he compared the decline in the number of full bloods in the southern portion of Western Australia with their decimation in the first seventy years of Tasmania’s colonisation where ‘some 6,000 natives disappeared’.

Yet here in the South-West of our State, within an area about twice the size of Tasmania, between 1829 and 1901 (72 years) a people estimated to number 13,000 were reduced to 1,419, of whom 45 percent were half-caste.¹¹³

¹¹⁰ Anna Haebich, *For Their Own Good*, p.316.

¹¹¹ Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ending 30th June, 1918*, p.3.

¹¹² Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ending 30th June, 1935*, p.3.

¹¹³ A.O. Neville, ‘Relations Between Settlers and Aborigines in Western Australia’, *Proceedings of The Western Australian Historical Society*, vol.20, 1936, p.46, read before the Society, June 26, 1936..

The chief difference between the two states, he said, was one of cause: wanton cruelty in Tasmania and, in Western Australia, ‘unfathomable causes over which we had no control’.¹¹⁴ Some twelve years later, he attributed the demise of full bloods in the South-West to what he called ‘a concatenation of circumstances, a linking together of cause and effect’.¹¹⁵ Those circumstances included the displacement of Aborigines from their traditional lands, in particular their traditional watering places; the destruction of their social systems; incursion of hostile natives from the east and north-east; random killing by white settlers; and epidemic outbreaks of introduced diseases.

Neville’s ‘concatenation of circumstances’ resonates, even if only faintly and imperfectly, with Francis Galton’s ‘Observed Order of Events’:

Population decays under conditions that cannot be charged to the presence or absence of misery, in the common sense of the word. These exist when native races disappear before the presence of the incoming white man, when after making the fullest allowances for imported disease, for brandy drinking, and other assignable causes, there is always a residuum of effect not clearly accounted for.¹¹⁶

While propositions of that kind might offer convenient explanations for the extinction of racial groups, in this case the demise of ‘full blood’ Aborigines in some parts of Australia, they do not advance understanding of the policies and programs pursued by Neville and others to resolve what they saw as the ‘half-caste problem’. Neither does the notion of ‘Social Darwinism’ as used by Biskup, Haebich and Anderson. The term itself is quite misleading. Darwin’s theory of natural selection described a biological process and not a social philosophy.¹¹⁷ It may be more instructive to consider Herbert Spencer’s philosophical propositions regarding evolution, particularly the social and political dimensions he argued, or to consider Galton’s theories of eugenics, than to make use of notions of ‘the survival of the fittest’ to explain Neville’s belief that Western Australia’s full-blooded Aborigines were a dying race.¹¹⁸ Spencer’s and Galton’s philosophies did relate Darwin’s theory of natural selection to the evolution of human society, but it is insecure argument to assume that Neville’s policies were founded upon such theoretical propositions.

¹¹⁴ *ibid.*, p.46.

¹¹⁵ A.O. Neville, ‘Contributory Causes of Aboriginal Depopulation in Western Australia’, *Mankind*, vol.4, (1), p.4.

¹¹⁶ Francis Galton, *Inquiries into Human Faculty and its Development*, J. M. Dent and Sons Ltd, London (1883), reprinted from the edition of 1907, AMS Press Inc, New York, 1973, p.208.

¹¹⁷ J.A. Rogers, ‘Darwinism and Social Darwinism’, *Journal of the History of Ideas*, vol.33(2), April-June, 1972, p.268.

¹¹⁸ Herbert Spencer, *First Principles*, reprinted from the Fifth London Edition, unaltered and unabridged, A. L. Burt and Company, New York, 1880.

Towards Reconciliation?

After 1961, parallel strands of narrative about public policy for Aborigines emerged. The first was the continuing mainstream history of dominant white political and bureaucratic decision-makers formulating policies for and imposing programs upon Aborigines. The second was the previously unheard Indigenous history of dislocation, disaffection and reification.¹¹⁹ The latter was recorded in narratives told ingenuously by Indigenous peoples themselves, firstly within the counsel of their clans, but later to public audiences. Their accounts of interaction with white Australians did not necessarily follow chronological sequences familiar to Western historiography, but rather focused on events, episodes and places recollected from personal experience or recounted in stories transmitted through successive generations of oral tradition. Those narratives were not founded upon documented evidence. Neither did they always corroborate reputable dicta of mainstream history. They were nonetheless honest recollections. Their implications challenged the conventional wisdom about relations between black and white Australians.

Peter Read brought the parallel histories together and while doing so introduced a new catchphrase, 'the stolen generations', to the lexicon of Australian race relations. He also extended the concept of 'breeding out the colour' to a dimension of infamy not previously contemplated in the evaluation of public policy for Aborigines. His account of the forcible removal of Aboriginal children from their families in New South Wales, he said, was the story of 'the attempt to 'breed out' the Aboriginal race...the story of attempted genocide'.¹²⁰ Children were removed from their homes and families before they learned 'Aboriginal lifeways', to be brought up in the manners and customs of whites and 'to behave like white people'. They were to be absorbed into the mainstream white culture and their Aboriginal identities extinguished. 'Biological absorption' as an explanation of the intention of public policy was transmogrified into 'genocide'.

Read returned to the theme in subsequent publications.¹²¹ In *A Rape of the Soul So Profound*, published in 1999, he reiterated the propositions he first published in his 1981 pamphlet. He used the same montage of a notional Aboriginal family derived, he said, from

¹¹⁹ 'reification' – a sociological term meaning the explanation of a system of abstract concepts as though they were a unified, concrete reality. It is used, or perhaps misused, here in the sense of the reassembling devalued fragments of a distinctive Indigenous identity and reaffirming its worth within the Australian cultural milieu.

¹²⁰ Peter Read, *The Stolen Generations, the Removal of Aboriginal Children in New South Wales 1883 to 1969*, New South Wales Department of Aboriginal Affairs, Sydney, sixth reprint, 2007, p.3. 'Genocide does not simply mean the extermination of people by violence but may include any means at all. At the height of the policy of separating Aboriginal children from their parents the Aborigines Welfare Board meant to do just that'.

¹²¹ Coral Edwards and Peter Read, (eds.), *The Lost Children*, Doubleday, Sydney, reprinted 1997; Peter Read, *A Rape of the Soul So Profound, the Return of the Stolen Generations*, Allen and Unwin, St Leonards, 1999; Peter Read, *Belonging, Australians, Place and Aboriginal Ownership*, Cambridge University Press, Cambridge, 2000.

‘details taken from the case histories of a number of families’, to restate his proposition that the the Aborigines Welfare Board of New South Wales characterised people of Indigenous descent as a ‘positive menace to the State’ and that the solution was to make them white:

But legally, economically, and in values, Aborigines were not like whites, and most did not want to be. Those who wanted to be were not allowed to be. When it became obvious that Aborigines did not want them, or to be like them, the whites resorted to force.¹²²

That did not mean violently exterminating the race, but rather forcibly removing children from homes and families, raising them in institutions quarantined from their Indigenous antecedents, erasing any consciousness they might have of their Aboriginality and acculturating them into the mainstream.

When the Human Rights and Equal Opportunity Commission reported on its inquiry into the separation of Aboriginal and Torres Strait Islander children from their families it endorsed Read’s proposition that the forcible relocation of children on the basis of race was tantamount to genocide.¹²³ The Commission gave credence to that conclusion by founding the allegation upon a definition of genocide adopted in the 1949 United Nations Convention on the Prevention and Punishment of the Crime of Genocide.¹²⁴ The contention that the removal of children from their families amounted to a deliberate policy to destroy the Indigenous peoples of Australia relied upon sub-clause (e) of that definition, ‘Forcibly transferring children of the group to another group,’ and Australia’s ratification of the Genocide Convention in 1949. Like Read, the Commission argued that the immediate physical extermination of an ethnic or national group was not a necessary precondition of genocide. It cited Lemkin’s definition that genocide was ‘a coordinated plan of different actions aimed at the destruction of the essential foundations of the life of national groups with the aim of annihilating the groups themselves’ to argue that policies for the forcible relocation of Indigenous children so that they might be raised ignorant of their culture could properly be labelled ‘genocidal’.¹²⁵ The Commission concluded that such policy was ‘contrary to accepted legal principles’ and ‘from late 1946, constituted a crime against humanity’.¹²⁶

By retrospective application, policies pursued by Neville between 1915 and 1940 might also be described as ‘crimes against humanity’ and be labelled ‘genocidal’. The Commission

¹²² Peter Read, *The Stolen Generations*, p.6, and *A Rape of the Soul So Profound*, p.53.

¹²³ Human Rights and Equal Opportunity Commission, *Bringing Them Home*, pp.270-275.

¹²⁴ *ibid*, p.270, Article II, Convention on the Prevention and Punishment of Genocide, United Nations, 9 December 1948.

¹²⁵ *ibid*, p.271.

¹²⁶ *ibid*, p.275.

referred to Haebich’s citation from Neville’s *Australia’s Coloured Minority* to substantiate a proposition that while Neville believed he could ‘do nothing’ for the ‘full-bloods’, he could absorb the ‘half-castes’:

The native must be helped in spite of himself! Even if a measure of discipline is necessary it must be applied, but it can be applied in such a way as to appear to be gentle persuasion...the end in view will justify the means employed.¹²⁷

Colin Tatz argued that acts committed with ‘intent to destroy’ do not necessarily have to be committed in ‘bad faith’ or ‘with evil intent’ to satisfy the meaning of ‘genocide’ as defined in the United Nations Convention; ‘Nowhere does the Convention implicitly rule out intent with *bona fides*, good faith, ‘for their own good or ‘in their best interests’.¹²⁸ If actions taken with ostensibly good intentions ultimately caused the destruction of a group, those actions are genocidal. Neville, along with Bleakley in Queensland and Cook in the Northern Territory, Tatz argued, intended ‘the disappearance of the ‘part-Aboriginal’ population’. Neville’s three-point plan, said Tatz, was that full-bloods would die out; children of mixed blood would be removed from their mothers; and half-castes would be encouraged to marry whites. Their offspring would be non-Aboriginal. In this way, it would be possible to ‘eventually forget there ever were any Aborigines in Australia’.¹²⁹ Tatz interpreted Neville’s intent as ‘eugenicising’ the part-Aboriginal population, ‘a clearly articulated intent to commit what would come to be called genocide’.¹³⁰

Chris Cuneen agreed that the intent to destroy a particular group does not require malice;

¹²⁷ *ibid*, p.274, quoted Anna Haebich, *For Their Own Good*, p.156. The reference was to A.O. Neville’s, *Australia’s Coloured Minority*, pp.80-81. The complete reference which Haebich and the Commission truncated was as follows:

‘The native must be helped in spite of himself! Even if a measure of discipline is necessary it must be applied, but it can be applied in such a way as to appear to be gentle persuasion. Viscount Wavell has said that civilisation is founded upon discipline, yet the discipline we propose here is only akin to that which we usually impose upon ourselves. Let us try it for a generation or two, and we need not fear the outcome. But when I say try it, I mean that every agency now in force and to be employed for the betterment of the native people must look upon the pursuance of the accepted united policy as paramount. There must be complete and enthusiastic co-operation between those charged with its initiation and conduct without reservation, and no backsliding, changes or let-down behind Authority’s back must be permitted Political influence must be kept out. There will be difficulties and failures, but the end in view will justify the means employed – to wipe out forever an existing blot upon Australia’s escutcheon, and succeed in the ultimate elevation of a minority of our people to social equality with the majority and, what is equally important, to give them the ability to think for themselves.’

¹²⁸ Colin Tatz, ‘Confronting Australian’, *History*, vol.25, 2001, pp.16-36, at p. 26.

¹²⁹ *ibid*, p.25. Tatz’ unacknowledged quote is from Neville’s presentation to the Initial Conference of Commonwealth and State Aboriginal Authorities, Canberra, April 1937, p.11. Neville posed the question, ‘Are we going to have a population of 1,000,000 blacks in the Commonwealth, or are we going to merge them into our white community and eventually forget there ever were any aborigines in Australia?’

¹³⁰ *ibid*, p.25.

‘it may be misguidedly seen as “in the best interests” of the particular group’.¹³¹ Thus, the forcible relocation of children undertaken with the intent to destroy the half-caste population may be genocidal and ‘the beneficial intent may be irrelevant’.¹³² A proposition subsequently argued by David Markovich was that, even though governments expressed benevolent motives of improving the life chances of half-caste Aboriginal children, their actual intention of removing those children from their families was not to destroy them, but rather ‘to destroy the remaining part of the group, namely the remaining ‘full-blood’ members of the protected group’.¹³³ Successive governments of Western Australia since 1875, he argued, had exhibited in legislation affecting Aborigines ‘a clear pattern of behaviour that, it is suggested, would be repeated over and over again namely benevolent motives and malevolent intentions’.¹³⁴ As evidence of Neville’s distinction between benevolent motives and ‘the forcible means used to obtain intended results’, Markovich cited the same quotation above from *Australia’s Coloured Minority* as truncated by Haebich and repeated by the Human Rights and Equal Opportunity Commission. His proposition that policies officially described as the ‘absorption’ of half-castes by the non-Indigenous population were an application of ‘eugenic scientific theories’ was founded upon the rather tenuous comparison drawn by the Human Rights and Equal Opportunity Commission between Neville’s advocacy of ‘miscegenation’ and the ideology of racial purity ‘that emerged in Germany from eugenics’.¹³⁵ According to Markovich, policies for the forcible relocation of Aboriginal children, the prevention of birth by miscegenation and restricted marriages established a prima facie case that their intention was to ‘accelerate the process of destruction’ of the Aboriginal group.

In 2001, Robert Manne had published in *Quadrant* a more reasoned, but not less provocative essay on the stolen generations.¹³⁶ He acknowledged flaws in the methodology of the inquiry and the insecurity of historical assumptions in the Human Rights and Equal Opportunity Commission report, but he did not disparage it. He suggested it was best seen as ‘the first move in an attempt at understanding,’ but ‘definitely not the final word’.¹³⁷ Like Haebich, Tatz, Cuneen, Markovich, and the Human Rights and Equal Opportunity Commission, he contended

¹³¹ Chris Cuneen, ‘Criminology, Genocide and the Forced Removal of Indigenous Children from their Families’, *The Australian New Zealand Journal of Criminology*, vol.32(2), 1999, pp.124-138, at p. 131.

¹³² *ibid*, p.131.

¹³³ David Markovich, ‘Genocide, a Crime of Which No Anglo-Saxon Nation Could be Guilty’, *Murdoch University Electronic Journal of Law*, vol.10(3), September 2003, http://www.murdoch.edu.au/elaw/issues/v10n3/_markovich103nf.html (3/12/06) p. 14 of 64.

¹³⁴ *ibid*, p.30 of 64. The legislation in 1875 was the *Capital punishment Act 1871 Amendment Act 1875*, 39 Victoria No. 1, which at sections 2 and 3 allowed for the public execution of Aborigines.

¹³⁵ David Markovich, ‘Genocide, a Crime of Which No Anglo-Saxon Nation Could be Guilty’, p.11 of 64; and Human rights and Equal opportunity Commission, *Bringing Them Home*, p.108.

¹³⁶ Robert Manne, ‘In Denial, the Stolen Generations and the Right’, *Quadrant Essay*, no.1, 2001, published in Robert Manne, *Left Right Left, Political Essays 1977-2005*, Black Inc., Melbourne, 2005, pp.217-305.

¹³⁷ *ibid*, p.242.

that Neville's policies, and in particular the arguments he propounded at the 1937 Canberra conference, were founded upon the two beliefs that the extinction of full-blood Aborigines was inevitable and that the biological absorption of half-castes was desirable. Manne endorsed the eugenicist interpretation others had placed upon the question posed by Neville, whether Australia was to have 'a population of one million blacks' or were they to be merged with the white community and Australia to 'forget that there were any Aborigines in Australia'? At this moment in history, said Manne, 'genocidal thought and administrative practice touched'.¹³⁸

In a subsequent essay, Manne addressed what he had acknowledged in his 2001 *Quadrant* essay as a flaw in the Human Rights and Equal Opportunity report that 'it failed to distinguish with sufficient clarity between the pre-war eugenicist and post-war assimilationist chapters of child removal'.¹³⁹ In his essay *Stolen Generations*, Manne suggested three phases in the development of policy for the relocation of half-caste children.¹⁴⁰ In the first two decades of the twentieth century, the first phase of forcible removal policy was motivated, he said, by a racist but genuine assumption that permanently separating children of mixed descent from their families and communities and relocating them in institutions was in the long-term best interests of the children, 'whatever pain and temporary grief or pain they caused'. 'Policymakers and legislators' regarded half-castes as a pressing social problem which could be resolved by breaking the cultural connection between half-caste children and their Aboriginal families; 'drag the children out of the world of the native settlements and camps and prepare them for a place in

¹³⁸ *ibid*, p.250. Neville's question deserves consideration within the context of his complete statement:

'An important aspect of this policy is the cost. The different states are creating institutions for the welfare of the native race, and, as a result of this policy, the native population is increasing. What is to be the limit? Are we going to have a population of 1,000,000 blacks in the Commonwealth, or are we going to merge them into our white community and eventually forget that there were ever any aborigines in Australia? There are not many now, whereas not many generations ago there were a great many. When Western Australia was first settled in 1829 it is alleged that there was a population within the State of 55,000 natives. In the south-west portion of the State alone there were 13,000 natives. In 1901 the native population of the south-west was reduced to 1,419, of whom 45 per cent were half-castes. To-day there are nearly 6,000 natives in the same area, so I venture the opinion that in 25 years' time the native population in that district alone will have increased to 15,000. How can we keep them apart from the community? Our own population is not increasing at such a rapid rate as to lead us to expect that there will be a great many more white people in that area 25 years hence than there are at present. The aborigines have intermarried with our people. I know of some 80 white men who are married to native women, with whom they are living happy, contented lives, so I see no objection to the ultimate absorption into our own race of the whole existing native race. In order to do this we must guard the health of the natives in every possible way so that they may be, physically, as fit as possible. The children must be trained as we would train our own children. The stigma at present attaching to half-castes must be banished. In Western Australia half-caste boys and men take part in football, cricket and other games on a footing equal to their white clubmates, but are excluded from the social life of the community. They feel this deeply, as do their white companions in the sport. This state of affairs will have to disappear'. *Native Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, p.11.

¹³⁹ Robert Manne: 'In Denial: The Stolen Generations and the Right', p.241.

¹⁴⁰ Robert Manne, 'Stolen Generations', published in Peter Craven, (ed.), *The Best Australian Essays 1998*, Bookman Press, Melbourne, 1998, 23-36.

the lower strata of European society'.¹⁴¹ The second phase of policy, from the 1930s to the late 1960's, was motivated by similar concerns, but the solution, 'the policy of biological assimilation by absorption' or 'constructive miscegenation', Manne characterised as being driven by advocates of the science of eugenics. In the third phase from the late 1960's to the present, Manne suggested many Australians 'accept that the practice of child removal was wrong,' intimating, perhaps, that the nation had progressed towards more liberal attitudes. His optimism was qualified; 'Many, however, also think it wrong to condemn earlier generations for their role in this policy'.¹⁴²

Manne suggested that Dr Cecil Cook in the Northern Territory and A.O. Neville were the principal proponents of 'the eugenics program of constructive miscegenation' whose plans 'were not so much embraced as unresisted' by their respective ministers. Neville, he said, had the more ambitious blueprint and 'in 1936 he managed to convince his minister and the the West Australian parliament to pass legislation which allowed him to implement his breeding out policy'. That proposition will be tested in this thesis, but as evidence of Neville's authoritarian style, Manne referred to his evidence before Royal Commissioner Moseley in 1934 in which he 'informed a Royal Commission that Aborigines of mixed descent had 'to be protected against themselves whether they like it or not''.¹⁴³

The propositions advanced by these several authors, Read, Tatz, Cuneen, Markovich and Manne, and by the Human Rights and Equal Opportunity Commission, that policies involving the separation of Indigenous children of mixed descent from their Aboriginal antecedents and statutory authority to disallow marriages of Indigenous people or people of mixed descent on racial grounds, allegedly to prevent the 'return to the black' or at least to minimise the

¹⁴¹ *ibid*, pp.26-7.

¹⁴² *ibid*, p.35.

¹⁴³ *ibid*, p.32. Once again, Neville's words deserve consideration in context. Speaking of the estimated 3,000 half-castes living in the south-west of the state, Neville told Royal commissioner Moseley:

A large number of these people are not covered by existing legislation, yet they are living exactly as their forbears did. Indeed, their conditions in most respects are inferior to the conditions of the pure-blooded aborigine. They have very little in the way of education, but some of them have just enough to become defiant and unrestrained. Our difficulties as a department are, therefore, constantly increasing. They have abandoned all the good found in the tribal culture of their ancestors, except when they choose to use it as a means to an end. In the South at all events we have reached a stage where decisions must be made concerning the future welfare of those people who are at the parting of the ways. We have to decide whether we shall make them a good, law-abiding, self-respecting people, or leave them as an outcast race, rapidly increasing in number and constituting an incubus and danger to the community. These people in the South have suffered somewhat from the sympathy and pity of the community. They have been spoilt in many ways. They have suffered the good-humoured toleration of the whites, and have been allowed to live their own lives to their own detriment. Like other crossbred races, they have a dislike of institutionalism or authority. Yet, above all things they have to be protected against themselves, and cannot be allowed to remain as they are. The sore spot must be cut out for the good of the community as well as of the patient, and probably against the will of the patient.

Moseley Royal Commission, Transcript of Evidence of A.O. Neville, 18 March 1934, p.3.

reproduction of further generations of dark-skinned people of mixed descent, were tantamount to the crime of genocide rely upon contested readings of what was intended by those accountable for them, Dr Cook and A.O. Neville. The operant clause of Article II of the Convention on the Prevention and Punishment of the Crime of Genocide was, ‘any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such’. If the treatment of Indigenous Australians by these two Chief Protectors of Aborigines were to be established as crimes of genocide as argued, intent in both policy and practice had to be established, preferably beyond reasonable doubt, but certainly upon the balance of probabilities.

To establish Neville’s intent, malevolent or otherwise, these several authors relied upon interpretation of evidence given by Neville to the Moseley Royal Commission in 1934, his contributions to deliberations at the 1937 Conference of Commonwealth and State Aboriginal Authorities, and what he published in *Australia’s Coloured Minority*. Much of the other available documentary evidence and Neville’s other published works, which offer rich insights into what he intended and what it was possible for him to achieve, were either overlooked or not sought out. Instead, Neville’s most controversial *bon mots* were truncated or quoted selectively, recycled, subjected to value judgements not pertinent to historical time or circumstance, and re-interpreted to rationalise preconceived meanings of policy for Aborigines. Like Biskup, Haebich and Anderson above, none who proposed that Neville’s policies had a genocidal intent produced arguments founded upon factual information that his programs were directed towards ‘eugenic population control’, ‘biological absorption’, or ‘constructive miscegenation’, nor that government or any others acquiesced in such clandestine intentions. In fairness to the meaning of the public policies Neville advocated and administered, their arguments must be revisited.

Narrative

HIS MAJESTY'S SUBJECTS

When between 25 April and 8 June 1829 the *Challenger*, *Parmelia* and *Sulphur* sailed past Wadjemup¹ and the mouth of Derbal Yaragan² and straggled into Derbal Nara³ past Ngooloormayup⁴ and disembarked their passengers onto Meeandip⁵, it is highly likely they were observed from the mainland to the north of the river by Yellogonga's people, south of the river by Midgegooroo's and, further south again near Gilba⁶, by Banyowla's people. Captain Fremantle recorded in his journal of 2 May 1829 when he crossed to Walyalup⁷, proceeded up Derbal Yaragan and landed on a point he referred to as 'Heathcote', near where Dyarlgarro⁸ joined Derbal Yaragan, his party, 'saw and heard natives on both sides, who halloo'd to us very loud and appeared to cry out 'Warra, Warra,' which I supposed to mean 'go away'".⁹ The natives remonstrating on the right bank may have included Djar, Garb-bal, Yunjit, King-a-ma and Ki Ki from Yellogonga's tribe, and on the left bank Yoor-gan, Yoor-boon, Boonjan, Bun-yow-ella and Jin-dee-nung from Midgegooroo's.¹⁰

Those people did not refer to themselves as Aborigines, nor as natives. Indeed, they appear to have had no equivalent words in their lexicon. They were Boora, Mooro, Bargo, Beelo, Beeliar and Murray peoples,¹¹ loosely knit clans, each with its distinctive territory, but each speaking Yued, Ballardong, Whadjug, Bindjareb or Wilmen dialects.¹² Their allegiance was to the families of Waylo, Yellogonga, Wulbabong, Munday, Midgegooroo and Banyowla, the important men of their clans.

¹ Rottnest Island. After Robert Lyon, 'A Glance at the Manners, and Language of the Aboriginal Inhabitants of Western Australia; With a Short Vocabulary', *Perth Gazette and Western Australian Journal*, March/April 1833. See also, Green, Neville, *Nyungar – The People, Aboriginal Customs in the Southwest of Australia*, Mount Lawley College of Advanced Education, Mt Lawley, Western Australia, 1979, pp.148-180.

² Swan River. After Lyon.

³ Cockburn Sound. After Lyon.

⁴ Carnac Island. After Lyon.

⁵ Garden Island. After Lyon.

⁶ Mouth of the Murray River, Mandurah. After Lyon.

⁷ Fremantle. After Lyon.

⁸ Canning River. After Lyon.

⁹ Lord Cottesloe, C.B (ed.), *Diary and letters of Admiral Sir C.H. Fremantle, B.C.B. Relating to the Founding of the Colony of Western Australia 1829*, Fremantle Arts Centre Press, Fremantle, 1979, p.37.

¹⁰ Source: Bevan Carter, *Nyungar Lands, Records of Invasion and the Theft of Aboriginal Lands on the Swan River, 1829-1850*, Swan Valley Nyungar Community, Guildford, 2005, pp.12-15.

¹¹ As Yagan described them to Robert Lyon in 1832. *Perth Gazette*, 20 April 1833.

¹² After Norman B.Tindale, *Aboriginal Tribes of Australia*.

By the terms of Lieutenant-Governor Stirling’s proclamation of the Swan River Colony and ‘the Establishment of His Majesty’s Authority’, the members of these native tribes became ‘His Majesty’s Subjects’ entitled to the protection of the British laws which, ‘do herein immediately prevail’:

If any Person or Persons shall be convicted of behaving in a fraudulent (*sic*), cruel or felonious Manner towards the Aborigines of the Country, such Person or Persons will be liable to be prosecuted and tried for the Offence, as if the same had been committed against any other of His Majesty’s Subjects.¹³

Thus did Yelloogonga’s, Munday’s and Midgegooroo’s people, together with all other Aborigines on the west coast of New Holland, acquire the status and protection of subjects of the British Crown. They were the ‘Aborigines of the Country’, the Indigenous inhabitants naturally belonging to the territory of Western Australia and to whom the territory naturally belonged. By virtue of British occupation they were dispossessed of their entitlement to land, became tenants of an absentee landlord, and owed allegiance to a King George with whom they had never shared, nor ever would share, the meat of their kill. That probably was the first ‘fraudulent’ act committed against them.

Contrary to the probably sincere intent of Stirling’s proclamation endowing them with protections and privileges of British law, for the Indigenous tribes colonisation meant denial not only of what Blackstone had delineated little more than half a century previously as ‘the absolute rights of every Englishman’, but also of their customary privileges inherited over aeons of tradition.¹⁴ Their first loss was their land. Tribal property rights were not personal, but, by tradition, were communal, exclusive and inalienable. However, on 2 May 1929 Captain Fremantle took formal possession of the whole of the west coast of New Holland in the name of His Britannic Majesty, King George IV, and dispossessed the native tribes.

Derbal Yaragan was re-named the Swan River and within five years all the land adjoining it deemed useful for agriculture, and more that proved useless, was conveyed as grants in fee simple to Englishmen who had invested in the Swan River Company, ‘to descend to their

¹³ Lieutenant Governor Stirling’s Proclamation of the Colony, 18 June 1829, pp.1-2.

¹⁴ Blackstone, Sir William, *Commentaries on the Laws of England*. 1765. Founder’s Library. <http://www.founding.com/library/lbody.cfm?id>. Blackstone reduced the rights of the English people to three primary articles, ‘the right of personal security, the right of personal liberty, and the right of private property, page 5 of 13.



Aboriginal Men, Northwest, c.1919. J.S. Battye Library, A.O. Neville Pictorial Collection, 70919P.

assignees or heirs forever'.¹⁵ Munday's lands, called Beeloo, from the place where Derbal Yaragan and Mandoon¹⁶ flowed together to Moorda¹⁷ was granted to Governor Stirling. He renamed it 'Woodbridge'. Weep's lands to the north of Munday's were granted to Samuel Moore, George Fletcher Moore, William Brockman, William Tanner and others and renamed 'Oakover', 'Millendon', 'Herne Hill' and 'Baskerville'. Yellagonga's land between Derbal Yaragan and the coast, known as Mooro, was granted to Robert de Burgh, John Septimus Roe, Edward Barrett-Lennard, William Smithers, Captain Henry Irwin and Lieutenant Henry Bull, among others, and renamed 'Caversham', 'Sandalford', 'St Leonards', 'Albion Town', 'Henley Park' and 'Belhus'.

Thereafter, Aborigines were treated as trespassers. The customary right to tribal lands was extinguished and so too were their recently bestowed English common law rights of personal security and personal liberty. Custom prohibited their retreat into lands of their tribal neighbours, but if they remained on their own lands the settlers hunted them off. They were caught between traditional lore and custom and English common law and custom. The latter prevailed.

Despite the initial unsuspecting curiosity and hospitality of Midgegooroo, Munday and Yellagonga and their people, early British settlers of the Swan River Colony regarded them with caution. Whether their anxiety derived from tales about experiences elsewhere, for example, in

¹⁵ Durack, Mary, *To be Heirs Forever*. Constable and Co., London, 1976, Corgi Edition, 1995, p.21.

¹⁶ Helena River. Stirling's original grant extended from the confluence of the Swan and Helena Rivers at Guildford to the Darling Ranges (Escarpment).

¹⁷ The Darling Ranges (Escarpment). After Lyon.

parts of New South Wales where Aborigines offered hostile resistance to invasion of their tribal lands, or from more basic concerns about the character and motives of the barbarous occupants of the territory, is not known. Nevertheless, the Aborigines were feared and Stirling was authorised by Royal Commission to raise a militia against them if necessary.¹⁸ Such watchfulness was not conducive of harmonious relations.

Raising the hue and cry to apprehend Aborigines for offences against colonists, but more often their property, became a recurring experience during the first fifty years of colonisation. Settlers commandeered watering places and destroyed sources of native food, bi, wakurin, Yangu, dämmalák and manyt.¹⁹ The natives in their turn stole from settlers' storehouses and speared their livestock, pigs, sheep and cattle. Summary justice by settlers was countered by retaliation from the natives. It was an uneven, rolling contest. Every unjust act by either side met with retribution from the other, but the more lethal weapons belonged the colonists. Aborigines who refused to remove themselves peaceably from their traditional lands or who intruded upon the property rights of the new owners were declared outlaws, hunted and slain. Among them were Midgegooroo and his son Yagan. Midgegooroo was taken before Lieutenant Governor Irwin on charges of murder, and, without the exercise of either prosecution or defence, was sentenced to death. In May 1833 he was lashed to the door of the Perth Gaol and shot. In July of the same year Yagan was shot from ambush by a youth, William Keats, presumably for the £60 bounty, 'dead or alive', Irwin had placed upon his head.²⁰

Like the Indigenous tribes before the white man arrived, the colonists and the Aborigines lived as hostile neighbours.²¹ The occupation by each of the other's territory nurtured an uneasy co-dependence: each needed protection from the other, and each relied upon the other for their mutual existence. Colonists found some advantage in the 'blacks' as occasional, but poorly reimbursed agricultural labourers, shepherds and domestic servants.²² George Fletcher Moore offered the observation:

Black servants, I find, are very serviceable in this colony; on them we must

¹⁸ Lieutenant Governor Stirling's Proclamation of the Colony, 18 June, 1829, pp.3-4.

¹⁹ fish, waterfowl, kangaroos, parrots and cockatoos. After George Fletcher Moore, *Diary of Ten Years Eventful Life of an Early Settler in Western Australia and also a Descriptive Vocabulary of the Language of the Aborigines*, first published 1884, Facsimile edition, University of Western Australia Press, Nedlands, 1978, pp. 33-84.

²⁰ Neville Green, *Broken Spears*, Ch. 9 'Yagan and Midgegooroo', Focus Education Service, Perth, 1984, pp.79-98.

²¹ An early visitor to the Colony, Baron Charles von Hugel anticipated a continuing process of retribution: 'The customs of this tribe require that, whenever a man or woman is killed or dies, even a newly-born infant, the whole band sets out to spear a member of the neighbouring tribe. This law appears to be aimed at maintaining 'political' equilibrium between their 'states' and is to be found so generally among all the tribes of New Holland with which the British have made contact that the death of one old man on the Swan River may perhaps lead to the death of thousands over the whole continent, until the killing stops at the other coast'. Baron Charles Von Hugel, *New Holland Journal, November 1833- October 1834*, translated and edited by Dymphna Clark, Melbourne University Press, South Carlton, 1994. pp. 27-28. See also Bevan Carter, *Nyungar Land*, especially chapters 4-8.

²² George Fletcher Moore, *Diary of Ten Years Eventful Life of an Early Settler in Western Australia*, p.88.

eventually depend for labour, as we can never afford to pay English servants the high wages they expect, besides feeding them so well. The black fellows receive little more than rice—their simple diet.

Aborigines became mendicants upon the colonists, disadvantaged by their small and disconnected numbers and by their technological inferiority. After a half-century of European colonisation, traditional Aboriginal life and custom was supplanted by disaffected co-existence of white and black in the Home District of the Colony.²³ Beyond the frontier of European intrusion Aborigines lived according to traditional custom and practice, untrammelled by colonisation of their lands and disruption of their cultural heritage. Within the Home District their lands and waters were excised, their sources of food and water expropriated and their customs and lore debased.

So too were their women. The colonists, even though advantaged in other respects, suffered the inconvenience of gender imbalance in their numbers. There were fewer women than men. As settlers invaded tribal lands inland and northward from the Swan River Settlement, the gender distortion increased, to the extent that in some localities expropriated by white settlers the only resident females were Aborigines.²⁴ Hence a familiar means of intercourse among neighbours was readily negotiated, but not always welcomed by cuckolded Aboriginal men. Their hostile protestations were defied and their women taken, by force if necessary.

There is some dispute as to how readily Aboriginal men sanctioned or how willingly their women consummated the compact. Opinions of colonial observers and anthropological studies of Aboriginal marriage custom and practice might suggest behaviours conditional upon circumstance. In his recorded observations of the Aborigines of the colony in 1892, Calvert observed, 'Wife stealing is punished with the death of the seducer, or one of his relatives'.²⁵ Whatever the circumstance, if there were hostile protestations by displaced Aboriginal men they were defied. Men may have fought, and women may have resisted, but eventually they yielded.²⁶

The unintended progeny of the cross-cultural congress, 'half-castes', were neither white nor black, generally not acknowledged by their white progenitors, nor initiated into their tribes. White and black lore separately rejected them as bastard products of 'wrong way' relationships. A House of Commons Select Committee on Aborigines depicted them as products of iniquity and

²³ *Report of the Commission into the General Condition of the Aboriginal Race of the Colony* (John Forrest, Chairman), 11 September 1884, described the Home District as the area 'bounded on the North by the Murchison River, on the East by a line parallel to the coast and 60 to 100 miles from it, and on the South and West by the Sea, a great part of which has been occupied nearly fifty years.

²⁴ Emma Withnell, who with her husband John, established Mt Welcome Station near Roebourne in 1864, was the first white woman to settle in the North-West. See, Daphne Popham, (ed.), *Reflections: Profiles of 150 Women Who Helped Make Western Australian History*, Carroll's Pty Ltd Perth, 1978, pp.24-27.

²⁵ Albert F. Calvert, *The Aborigines of Western Australia*, (1892), Australiana Facsimile editions No. 194. Libraries Board of South Australia, Adelaide, 1973, p.24.

²⁶ Julian Huxley, A.C. Haddon, A.M. Carr-Saunders: *We Europeans*, Penguin Books, Hammondsworth, 1939: 'Different ethnic groups when they come in contact will often fight but they will invariably interbreed.'

expressed hopelessness about compensating for ‘the evil association’ colonists had inflicted upon the natives:

But even hopelessness of making reparation for what we have inflicted would not in any way lessen our obligation to stop, for as in us lies, the continuance of iniquity. ‘The evil’ said Mr Coates, ‘resulting from immoral intercourse between Europeans and Aborigines is so enormous it appears to my mind a moral obligation on the local Government to take any practicable measure in order to put an end to it’.²⁷

Putting an end to that mischief proved to be an enduring challenge for three Chief Protectors of Aborigines, Henry Prinsep, Charles Gale and Auber Octavius Neville, and its consequences a major pre-occupation of legislative action and the management of Aboriginal affairs for the greater part of the twentieth century.

²⁷ *Report of the Select Committee on Aborigines, 1837*, p. 12.

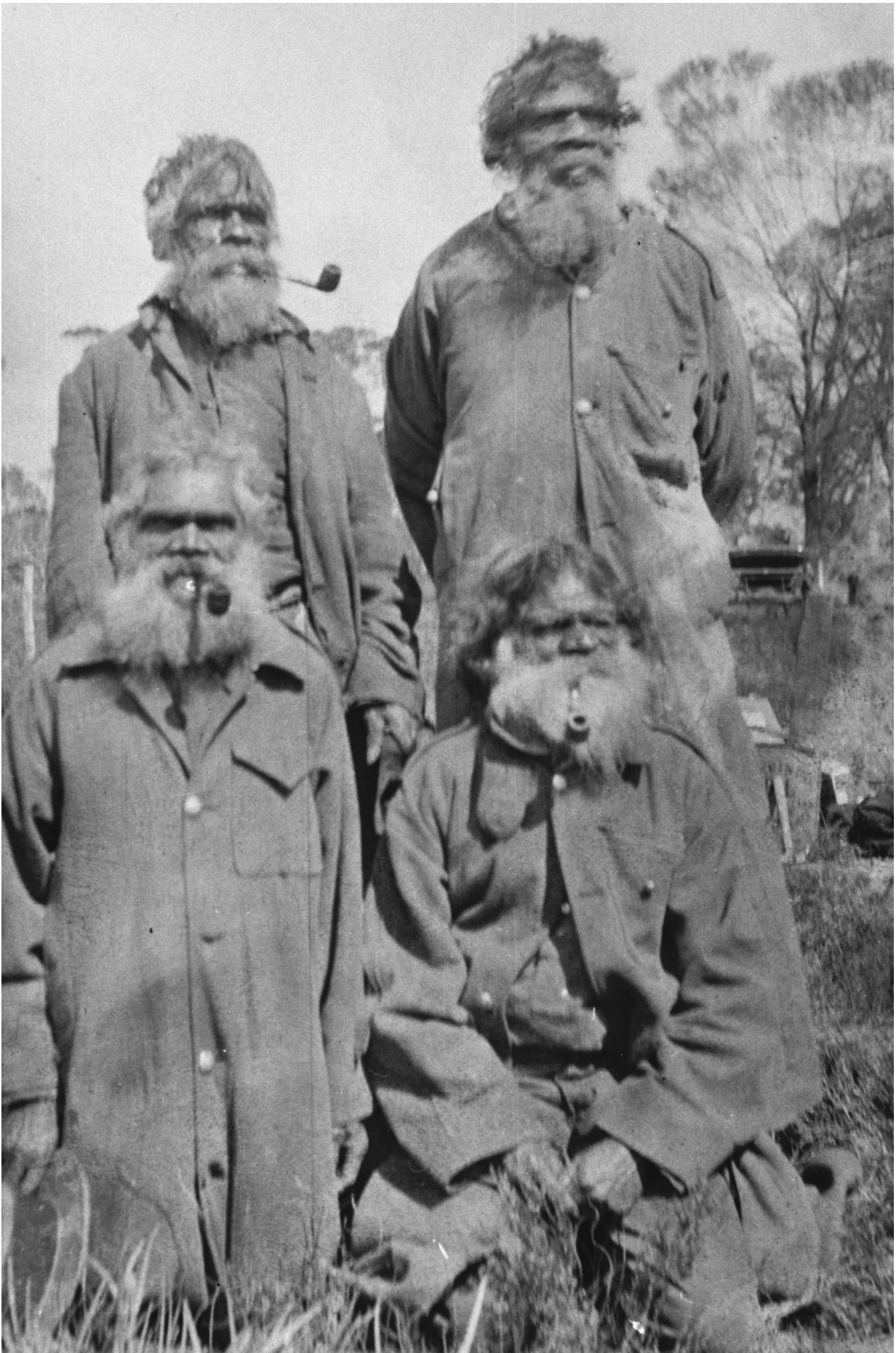
Chapter Two

WHO IS AN ABORIGINE? Legislative antecedents of policy for Aborigines

Early colonial legislation did not define who was an Aborigine. That was a self-evident monochromatic distinction of skin colour: Aborigines were black natives of the territory and white Europeans were the colonisers. Later legislation for the protection of Aborigines made different distinctions. Laws regulating the employment of Aborigines, protecting Aboriginal women from exploitation as sexual chattels, and for fair treatment of Aborigines in the justice system, described how Aborigines were to be treated differently from others. Consequently, it became necessary to decide at law who was an Aborigine. The black native – white coloniser dichotomy no longer was adequate. Definitions of Aboriginality that were revised progressively during the period considered in this thesis incorporated matrilineal descent, notions of blood quantum, habituation and cohort relationships to distinguish among Aborigines and non-Aborigines of Aboriginal descent. At each stage, the definition of who was an Aborigine was made more inclusive of people of mixed racial heritage. It was a process of exclusion by inclusion. With each change, more people of mixed descent were brought within the ambit of protective laws and excluded from legal protections which otherwise would have been theirs by common law right.

If their European rather than their Indigenous genealogy had been acknowledged in the relevant statutes, Aborigines might have had different opportunities. As Aborigines they were progressively denied rights to choose or to leave, at their own decision, their places of work; to move unhindered through any public locality; to choose their places of residence; to consume alcoholic beverages; to be educated in state schools; and to marry or to have sexual relations with partners of their choice. Common law rights gradually were extinguished for Aborigines and substituted with legal strictures intended, ostensibly at least, to protect and preserve their race.

This chapter will trace changes in how and upon whom the denomination ‘Aborigine’ was conferred during the colonial period and the early twentieth century up to and including the passage of the *Aborigines Act Amendment Act 1911*. The decision about who was an Aborigine was a legal construct modified by legislation and legal opinion from time to time to include some persons of Indigenous descent, but not all. Inconsistencies and inadequacies in the definition



Aboriginal Men, Carrolup, c.1917. J.S. Battye Library, A.O. Neville Pictorial Collection, 67047P.

decided in 1886 were addressed by legislative action in 1905 and again 1911, but while each amendment included more people as Aborigines, each also contained its own anomalies. At every stage the legal interpretation of who was an Aborigine proved deficient.

The starting point of this examination of the legislative concept of Aborigine is the *Report from the Select Committee on Aborigines (British Settlements)*, presented to the House of Commons in June 1837. The select committee depicted Aborigines in colonies, 'on the eastern, western and southern shores of New Holland' as 'probably the least instructed part of the human race in all parts of social life' who lacked 'even the rudest form of civil polity' and whose claims to land, 'whether as sovereigns or proprietors of the soil', had been disregarded.¹ Their land was taken from them 'without the assertion of any other title than that of superior force'. The committee proposed that as Crown subjects Aborigines were entitled to protection by the Crown of their rights to life and property. It will be argued here that those sentiments were at odds with the more pragmatic stance of some influential colonials unsympathetic to the human conditions of Aborigines. Nevertheless, commitments to the protection of Aborigines were translated into colonial and, later, state laws. It became increasingly necessary, therefore, to establish at law who was an Aborigine.

The Select Committee on Aborigines, 1837

British legislative authority prevailed in Western Australia from the proclamation of the Swan River Colony in June 1829 until the proclamation of the new constitution in 1890.² As the instrument of policy regarding Aborigines, it persisted for a further fifteen years until passage of the *Aborigines Act 1905* when the Imperial Government surrendered its reserve power over Aboriginal affairs. For much of that time policy for Aborigines in the Australian colonies reflected recommendations of the House of Commons select committee appointed in 1835 to consider measures necessary to protect the rights of 'Native inhabitants of Countries where British settlements are made' and to bring them to civilisation and Christianity.³ A first report was tabled in February 1836 and the second and final report in February 1837. The House of Commons adopted them and their recommendations became tenets of British colonial policy for the remainder of the nineteenth century.

The members of the committee included some of the most ardent domestic reformists

¹ *Report for the Select Committee on Aborigines*, 1837, p.82.

² In matters of international relations, British authority prevailed until the passage of the Statute of Westminster in 1932. Other statutes and common law prevailed until expressly repealed or replaced by relevant state and, after 1901, Commonwealth laws.

³ *Report from the Select Committee on Aborigines (British Settlements) Together with Minutes of Evidence*, Ordered by the House of Commons to be printed, 5 August 1836. Reports and papers; v. 438, Paper No. 538.

and advocates against slavery in the House of Commons and their recommendations echoed the evangelical ideals of the Anti-Slavery Society.⁴ Several of the principal witnesses before the committee were Anglican or Protestant clergy in or recently returned from colonial service in the Americas, Africa and New South Wales. Their most appealing sentiments and persuasive opinions were mirrored in the select committee's reports, even to the extent that principal witnesses from three missionary societies, Mr Coates, Secretary of the Church Mission Society, Mr Beecham, Secretary of the Wesleyan Missionary Society, and Rev. W. Ellis, Secretary of the of the London Missionary Society, not only gave evidence which was cited at length at different places in the report, but also were recalled to the committee to record their concurrence with its findings.⁵

Three propositions and their attendant recommendations pressed by the committee are pertinent to this thesis. The first was a conviction that Britain, and all British subjects, had a duty to treat the natives of colonised lands with compassionate protection, 'to do to the inhabitants of other lands, whether enlightened or not, as we should in similar circumstances desire to be done by'.⁶ That extended to acknowledging the incontrovertible right of natives to their own soil, 'a plain and sacred right', which the Committee observed 'seems not to have been understood' in the colonies.⁷ Colonists acknowledged it, the committee suggested, only in the abstract and disregarded it in material fact. They assumed proprietorial rights over lands they occupied and punished as aggressors any natives disposed to live in their own country, 'driven back into the interior as if they were dogs or kangaroos'.⁸

The second proposition gave authoritative voice to a then popularly-held presumption that when a superior peoples colonised territories inhabited by lesser peoples, or 'savages', the native inhabitants inevitably passed into decline or were absorbed by the invaders. Some thirty-five years previously, Malthus had essayed that émigrés who invaded territories exterminated those who opposed them. He posited the 'prodigious waste of human life occasioned by this perpetual struggle for room and food' as an unavoidable principle of population.⁹

The select committee was similarly fatalistic in its opinion of the future of Aborigines in the colonised territories. The evidence it reported suggested that, by usurping tribal lands and

⁴ The Anti-Slavery and Aborigines Protection Society was a Protestant coalition against slavery and the prejudicial treatment of Aboriginal peoples in British colonies. For a discussion of their influence in colonial law see: Smandych, R. 'Contemplating the Testimony of 'Others': James Stephen, the Colonial Office, and the fate of Australian Aboriginal Evidence Acts, Circa 1839-1849, *Australian Journal of Legal History*, vol.8, 2004, pp.1-45.

⁵, *Report from the Select Committee on Aborigines (British Settlements)*, 1837, p.74, paras 4329-4343.

⁶ *ibid*, p.3.

⁷ *ibid*, p.5.

⁸ *ibid*, p.6.

⁹ Thomas Malthus, *An Essay on the Principle of Population*, Printed for J. Johnson, in St Paul's Church-Yard, London, 1798, rendered into HTML format by Ed Stephan, 10 August 1997.

<http://www.ac.www.edu/~stephan/malthus/malthus.0.html> (26/10/2004)

denying natives access to their traditional homelands and sources of food and water ‘whereby we have despoiled them of their means of existence,’ European colonisers contributed to the demise of natives.¹⁰ The tendency was particularly evident in the Australian colonies. Witnesses before the committee suggested that wherever Aborigines met with Europeans they became demoralised, their numbers diminished and, inevitably, they died out. Archdeacon Broughton, for example, observed that ‘they do not so much retire as decay...they appear actually to vanish from the face of the earth.’¹¹ Dr Lang, minister of the Scotch Church in New South Wales, wrote in his submission that the number of Aborigines was ‘evidently and rapidly diminishing in all the older settlements of the colony’ and that Aborigines in the vicinity of Sydney ‘present merely a shadow of what were once numerous tribes’.¹²

The third proposition was inspired by an evangelical hope that if Christian morality could be revived in colonial governance and inculcated among Aborigines their extinction might be avoided. If Aborigines could be civilised, behave morally and be treated justly, practice sobriety, be educated and be brought voluntarily to Christianity, they might be redeemed and their racial integrity preserved. To achieve these things, the committee recommended that an office of Protector of Aborigines be established. It observed that in New South Wales the sale of land, which previously had been ‘the undisputed property of the Aborigines’, yielded 1,000,000 shillings in a single year. It suggested that a sufficient portion of those revenues should be allocated to educating and civilising Aborigines.¹³ Missionaries should continue their vocation of instructing the Aborigines and Protectors should be appointed ‘whose duty it shall be to defend them’.¹⁴ They were to advance the education of Aboriginal youth, but the portion of land revenue allocated for Aboriginal education was to be given to the charge of the clergy.

These three propositions were adopted by the House of Commons as principles of British colonial policy and subsequently were translated into Western Australian colonial law. The legal standing of Indigenous Australians changed. Whereas previously they had been referred to in generic terms as ‘natives’ or ‘savages’, now they became distinctive entities for purposes of law. They were Aborigines whom the Crown directed must be managed and protected. It was necessary, therefore, to define them and identify who was an Aborigine at law and, by exclusion, who was not.

¹⁰ *ibid*, p.6.

¹¹ *ibid*, p.10. See also, *Report from the Select Committee on Aborigines (British Settlements)*, evidence of Archdeacon Broughton, 3 August 1835, p.17.

¹² *ibid*, p.11.

¹³ *ibid*, p.83.

¹⁴ *ibid*, p.83.

Definition by Exclusion

Nowhere in its report did the select committee describe who was an Aborigine. Who they were was not an abstraction that required any legal construction; they were a tangible presence in the colonies. The committee’s reports assumed the same settler-native dichotomy as did Stirling’s proclamation of the Swan River Colony. That was axiomatic: the natives were the incumbents of the territory at the time of colonisation distinguishable by, if nothing else, the colour of their skin and their lack of civilised arts. Pairing between colonists and the colonised had not produced a sufficiently large racial amalgam to render further classification necessary. The select committee condemned half-caste children as manifestations of an immorality which it urged must be stamped out, but half-castes were not acknowledged in West Australian colonial laws until 1886.¹⁵

Early colonial laws did not define who was an Aborigine. In 1844, Governor Hutt enacted a law to prevent ‘Girls of the Aboriginal Race’ from being enticed away from school, but did not identify them other than by reference to ‘any girl of the aboriginal race’.¹⁶ Other laws focused on the punishment of Aboriginal offenders and conditions under which Aborigines might be employed, but did not say who they were.¹⁷ For example, a Bill ‘to enable the Magistrates to receive the Evidence of the Aborigines of Western Australia’ submitted by Governor Hutt for consideration by the Colonial Secretary in 1839 merely referred to ‘the aboriginal inhabitants of the territory’.¹⁸ Who they were apparently was assumed by Hutt to be self-evident. Similarly, *The Masters and Servants Act 1842* did not discriminate between Aborigines and non-Aborigines. All servants were liable to severe fines or imprisonment for breaches such as refusing or neglecting to work diligently or carefully or being absent ‘from lawful and usual service’.¹⁹ Punishment of Aborigines was nearly always by imprisonment and Governor Broome acknowledged that the Act was ‘manifestly ill-adapted to aboriginal natives in a savage or semi-civilised state’.²⁰ However, even when the Act was amended in 1847 to introduce a requirement

¹⁵ *ibid*, pp.11-12.

¹⁶ *An Act to prevent the enticing away of Girls of the Aboriginal race from School, or from any Service in which they are employed*, assented 10 August 1844.

¹⁷ For example, *An Act to constitute the Island of Rottnest a Legal Prison, 1841*; *An Act to allow Aboriginal Natives to give information and evidence without the sanction of an oath, 1841*; *Aboriginal Offenders Act, 1849* (*The Whipping Act*).

¹⁸ *Copies of Extracts from Despatches from the Governors of the Australian Colonies, with Reports of the Protectors of Aborigines, and any other Correspondence to illustrate the condition of the Aboriginal Population. From the Date of the last papers laid before Parliament. (Papers ordered by the House of Commons to be printed, 12 August 1839, No 256)*, Ordered by the House of Commons to be printed, 9 August 1844, no.43, Copy of a Despatch from Governor Hutt to Lord Glenelg, Perth, Western Australia, 3 May 1839, Enclosure No. 1, ‘Draft of a proposed Bill to enable the Magistrates to receive the Evidence of the Aborigines of Western Australia in certain cases’, p.366.

¹⁹ *ibid*, Preamble s.1.

²⁰ *Papers Respecting the Treatment of Aboriginal Natives in Western Australia*, Legislative Council, Western Australia, ‘Correspondence with the Bishop of Sydney respecting the treatment of Aboriginal Natives’, F. Napier Broome to the Right. Hon. Edward Stanhope, M.P., 28 August 1886, Paper No. 208, p.63.

for written contracts to protect Aborigines engaged in ‘the whale or other fisheries of or belonging to this Colony’, the ordinance made no specific reference to them nor did it offer any interpretation of whom they might be.²¹ Colonial law-makers still regarded that as axiomatic.

The first preferential distinction between Aborigines and others in employment was made in 1873. Claims of kidnapping and blackbirding of Aborigines, of forced labour and of Aboriginal concubines being kept aboard pearling vessels, led in 1871 to an Act to regulate the employment of Aboriginal natives in the pearl shell fishery, ‘and to prohibit the employment of Women therein’.²² That act was short-lived. It was repealed by *The Pearl Shell Fishery Regulation Act 1873*. Pearl fishing went from being an unregulated industry to one where Justices of the Peace, Police Officers or ‘persons duly appointed in that behalf by the Governor’ had oversight of the employment of Aborigines, including summary authority to board and search any vessel engaged in the pearl industry to observe how natives were employed and treated. ‘Aboriginal natives’ still were not defined, but provisions of the Act applied specifically to natives employed in the pearl shell fishery and any other industry ‘which shall necessitate the removal and conveyance of such aboriginal natives by sea to the scene of such industry’.²³

The Aborigines Protection Act 1886 extended the industrial provisions of *The Pearl Shell Fishery Regulation Act* to any service or employment of Aborigines and provided the first legislative interpretation of who was an Aborigine. Section 45 of the Act deemed ‘every Aboriginal Native of Australia, and every Aboriginal half-caste or child of a half-caste, such half-caste or child habitually associating and living with Aborigines’ to be an Aborigine. The Act answered the question of who was an Aborigine with a conundrum; Aborigines were Aborigines or their first-cross children and grandchildren who lived as Aborigines.²⁴

The Act represented the first attempt to provide a legislative framework for the protection of Aborigines, and acknowledged for the first time in Western Australian law the emergence of a new group of Aborigines, the ‘half-castes’.²⁵ Half-castes and their children who did not live as Aborigines were not Aborigines for the purposes of the Act. That did not mean necessarily that half-castes who lived according to the manners and customs of Europeans were to be treated as Europeans according to other laws. It merely meant they were excluded from any protections or obligations under the *Aborigines Protection Act*. If they associated or lived with

²¹ *An Ordinance to provide a Summary remedy for Breaches of Contract connected with the Fisheries of the Colony*, 10 Victoria, No 16, 2 September 1847.

²² *An Act to regulate the hiring and service of Aboriginal natives employed in the Pearl Shell Fishery; and to prohibit the employment of Women therein*, 1871. ‘Blackbirding’ was the practice of capturing natives and detaining them in forced labour. It was widely practiced in the Solomon Islands where islanders were captured and transported to Queensland to work on sugar plantations.

²³ *The Pearl Shell Fishery Regulation Act 1873*, 37 Victoria, No 11, s.13.

²⁴ *ibid*, s.45.

²⁵ The term ‘half-caste’ was not defined in the Act, but was assumed to mean persons born of an Aboriginal parent on either side and their children, provided that both parents of the second generation were half-castes.

Aborigines, they were deemed to be Aborigines. Previously, children, half-caste or otherwise, who bore physical characteristics of Aboriginality such as skin colour, facial features, and hair texture were regarded as Aborigines. Following the passage of the Act, lineage, habitation and association became legal indicators of Aboriginality. An Aborigine was a person who looked like and lived like an Aborigine. Even if hybrid characteristics such as straight nose, honey-coloured skin and straight fair or auburn hair, distinguished children from their habitual associates, provided that they lived with and as Aborigines, they were for the purposes of the Act, Aborigines. That definition created its own inconsistencies.

Definition by Inclusion

The *Aborigines Act 1905* attempted to address those inconsistencies, but in so doing introduced its own. The principle stated in the long title of the 1905 Act shifted the focus from the ‘better protection and management of the Aboriginal Natives of Western Australia’ of the *Aborigines Protection Act 1886*, to the ‘better protection and care of the Aboriginal inhabitants of Western Australia’.²⁶ When he introduced the Bill, the Minister for Commerce and Labour, Hon. John Hicks, represented it as, ‘promoting the welfare of the natives, for providing him with all medical comforts, for creating a condition that will prevent his extinction, and for providing for the education, etc., of the natives’.²⁷

Those provisions already were in place under the 1886 Act. The new provisions were the more instructive. Reserves were to be laid aside, ‘so that natives can be put on them and kept out of communication with whites’;²⁸ no native was to carry a gun, and no one was allowed to sell a gun to a native, unless the native was licensed;²⁹ and a new permit system for the employment of Aborigines was introduced so that, ‘before anyone will be allowed to employ natives he will need to receive permission to do so; in that way we shall be enabled to cut out undesirables from employing natives’.³⁰ Agreements between employers and employees were made optional. The general thrust of the Act was toward segregating Aborigines from whites and prohibiting Aborigines from enjoying the freedoms ordinarily enjoyed by citizens of Western Australia. Nearly every aspect of their lives was to be directed by a Protector rather than by the common law right of self-will.

²⁶ *ibid*, Long Title, ‘*An Act to make provision for the better protection and care of the Aboriginal inhabitants of Western Australia.*’

²⁷ Parliamentary Debates, Legislative Assembly, 12 December 1905, p.306.

²⁸ *ibid*, p.307, *Aborigines Act 1905*, s. 12.

²⁹ *ibid*, p.307, *Aborigines Act 1905*, s. 47.

³⁰ *ibid*, p.306, *Aborigines Act 1905*, s. 17. The ‘undesirables’ referred to were ‘Asiatics principally those in the Broome pearl fishing industry’, A notice to Protectors of Aborigines from the Acting Chief Protector, Charles Gale, published in the *Government Gazette* of 20 December 1907 at p. 4082 prohibited Asiatics from employing Aborigines.

A Chief Protector of Aborigines with extensive statutory powers to manage the lives of Aborigines was to be appointed by the Governor. All Aboriginal and half-caste children under the age of 16 were made wards of the Chief Protector.³¹ Children could be sent to and detained in Aboriginal institutions, industrial schools or orphanages.³² At the decision of the Chief Protector, adults and children could be removed from their homelands, sent to reserves distant from their 'country' and kept there. Any person who refused to be removed or who left a reserve without permission was liable to imprisonment for six months.³³ It was an offence for any person other than an Aboriginal to enter a reserve without lawful authority. If they caused, assisted, enticed, or persuaded an Aboriginal to leave a reserve, they were liable to imprisonment for six months.³⁴ Aborigines could be employed only with a Protector's permission or agreement.³⁵ If they refused to work, neglected their work or left their place of work without their employer's permission, again they were liable to six months' imprisonment,³⁶ although employers were obliged to grant Aborigines leave of absence for not less than fourteen days if their contract was for three to six months, and not less than thirty days if the contract exceeded six months.³⁷ Any municipal district or town could be declared a place where it was unlawful for Aborigines or half-castes not in lawful employment to be or remain.³⁸ Every Aboriginal or half-caste who entered or was found in a declared area committed an offence.³⁹

The Act formalised the first legal restraints in Western Australia upon interbreeding of Aborigines and non-Aborigines. It was defective, largely because of social sensibilities about differentiating between cohabitation and sexual intercourse as the agency of conception. Three provisions in the Bill were intended to discourage, or at least manage, interbreeding. First, fathers were liable to contribute to the support of their half-caste children;⁴⁰ second, no marriages of Aboriginal females to other than Aboriginal males could be celebrated without the permission of the Chief Protector of Aborigines;⁴¹ and third, it was unlawful for a non-Aboriginal person to habitually live with an Aboriginal female, and 'every male person other than an aboriginal who cohabits with any female aboriginal, not being his wife, shall be guilty of an offence against this

³¹ *The Aborigines Act 1905*, s. 8.

³² *ibid*, s.60.

³³ *ibid*, s.12.

³⁴ *ibid*, s.51.

³⁵ *ibid*, s.17.

³⁶ *ibid*, s.25.

³⁷ *ibid*, s.30.

³⁸ *ibid*, s.39.

³⁹ *ibid*, s.40.

⁴⁰ *ibid*, s.34.

⁴¹ *ibid*, s.42.

Act'.⁴² Offences against the Act were punishable by imprisonment, with or without hard labour, for periods not exceeding six months, or a fine not exceeding £50.

Half-castes were defined twice in the *Aborigines Act 1905*. Aboriginal inhabitants of Australia, that is Indigenous people of the full blood, retained their natural status as Aborigines at law. Under Section 2, half-castes were defined as the offspring of an Aboriginal mother and a non-Aboriginal father. Under conditions specified in section 3 they could be deemed Aborigines for the purposes of the Act. Half-castes over the age of 16 who lived with an Aborigine as husband or wife, or who otherwise habitually lived or associated with Aborigines, were deemed to be Aborigines.⁴³ For the purposes of section 3, a 'half-caste' included any person born of an Aboriginal parent on either side, and the child of any such person.⁴⁴ They might not be Aborigines for purposes of other laws, but if they met the provisions of section 3 of the *Aborigines Act* they were subject to its protections and its obligations.

The notion of mixed blood inherent in the definition of Aborigine in Section 2 relied upon matrilineal descent. A 'half-caste' born of an Aboriginal mother and a non-Aboriginal father had one-half Aboriginal ancestral inheritance and was an Aborigine, but another born of an Aboriginal father and a non-Aboriginal mother was not. A quarter-caste or 'quadroon' had one-quarter Aboriginal ancestral inheritance, or had only one Aboriginal antecedent over two generations who, by extension of the meaning given in Section 2 of the Act, was the Aboriginal maternal grandmother. For the purposes of the Act, quadroons were not Aborigines and were assumed to have the same legal privileges as if they were white, but might be deemed Aborigines under section 3 as children of half-castes. Other than where specified, the Act did not distinguish between full blood and half-caste Aborigines caught by its provisions. They were Aborigines at law and at law were treated the same. There were, however, differences in how they were regarded in policy and practice.

None of the uncertainties about the legal construct of 'half-caste' thrown up by the 1886 Act were resolved. The status of children of half-caste parents deemed to be Aborigines under Section 3 of the 1905 Act caused consternation for the Chief Protector. Their full blood maternal antecedents were a generation removed. Since by section 2 a half-caste was the child of an Aboriginal mother and a non-Aboriginal father, if under section 3 a half-caste mother were deemed to be an Aborigine, what was the standing of her children born of a non-Aboriginal father? Were they quarter-castes and therefore exempt from the Act or were they, along with their mother, deemed under section 3 to be Aborigines?

Questions of these kinds were referred to the Crown Solicitor for advice. For example, in

⁴² *ibid*, s.43.

⁴³ *ibid*, s.3.

⁴⁴ *ibid*, s.2.

1915 he was asked whether the daughter over 16 of a half-caste man and a full blooded Aboriginal woman who were living together as man and wife was a 'half-caste' within the meaning of section 2 of the *Aborigines Act 1905*. The Crown Solicitor's advice is instructive:

I assume that the girl is not living with an aboriginal and does not habitually live with or associate with other aborigines. A half-caste is defined as the offspring of an aboriginal mother and other than an aboriginal father; but does not include a person deemed to be an aboriginal under section 3. Now it is quite clear that the father is deemed to be an aboriginal under section 3. The question therefore is whether the daughter being the offspring of a woman who is in fact an aboriginal and a father who is deemed to be an aboriginal is herself considered to be an aboriginal. In my opinion she is not. Section 3 says that certain persons who are not aboriginal shall be deemed to be so. The object of that provision is to render such persons subject to the provisions of the Act as if they were aboriginals. It is intended to affect the status of those persons only, and not their offspring. This is made clear if one considers that the artificial status created by this section is merely temporary and ceases to exist when the conditions on which it depends come to an end.⁴⁵

In this instance the Crown Solicitor advised that the Chief Protector had no lawful authority over the child. In other instances, the ancestral heritage of children, while probably known and understood in Aboriginal communities, was uncertain for the purposes of the *Aborigines Act*. If the Chief Protector wished to take any action against any Aboriginal half-caste child, he was obliged to have the ancestral heritage of that child investigated. If a child's ancestry did not meet the requirements of the Act, the Chief Protector's authority did not apply.

Protection through Segregation

Tension emerged early between the Colonial Office and colonial administrators over the protection of Aborigines urged by the select committee. When in 1837 the House of Commons accepted the committee's protestation that 'we are at least bound to do to the inhabitants of other lands, whether enlightened or not, as we should in similar circumstances desire to be done by', relations between Aborigines and settlers in the Swan River Colony were fractious. Practical considerations disposed the colonists to more pragmatic attitudes. Colonists preoccupied with guarding against the resentment of the Indigenous inhabitants towards invasion of their lands and fending off their occasional and unpredictable belligerence were little inclined towards benevolence.

Nevertheless, the Imperial Government accepted and responded promptly to the select

⁴⁵ State Records Office, Aborigines and Fisheries, Acc 652, Item 368/1915, folio 2, memo, Crown Solicitor to Chief Protector of Aborigines, 19 February 1915.

committee's recommendations. In July 1839 two Protectors were appointed to the Swan River Colony and Governor Hutt, who had been appointed shortly after the select committee's report was presented and professed an early determination to follow its recommendations, assigned them to Perth and York respectively. In framing the Protectors' instructions, Hutt took as his guide 'the suggestions contained in the Report of the Select Committee of the House of Commons on Aboriginal tribes'.⁴⁶ Successive colonial governors after him did not pursue with similar enthusiasm the select committee's advice. The welfare of Indigenous peoples increasingly was regarded as a religious rather than a secular concern.⁴⁷

The select committee had anticipated that eventuality. It assumed that while the Imperial Government would commit itself to 'the duty of acting upon the principles of justice and humanity in the intercourse and relations of this country with the native inhabitants of its colonial settlements', colonial governments might not.⁴⁸ With that in mind, the committee urged that the protection of natives should repose with the Executive Government: 'This is not a trust which could conveniently be confided to the local legislature'.⁴⁹ Aborigines should be withdrawn from the control of colonials and legislation affecting them should be vested in the Governor, and through him the Colonial Secretary; 'no such law shall take effect until it has been expressly sanctioned by the Queen'.⁵⁰

Thus the Royal Prerogative was imposed upon legislation respecting Aborigines in Western Australia. It was entrenched in section 70 of the *Constitution Act 1889*, the only state constitution in which that reserve power was incorporated, and remained there until 1905. That action secured the nexus between the principles for the treatment of Aborigines advocated by the select committee in 1837, the obligations they urged upon the British Crown to protect the native subjects of Her colonies, and legislative actions that gave substance to those obligations in the governance of the colony. It caused ruction shortly after the colony was granted self-government in 1890.

The Colonial Office also had affirmed the nexus between the select committee principles and colonial administration in 1850 during Governor Fitzgerald's term. A direct initiative of the Secretary of State for the Colonies, Earl Grey, ensured that Aborigines retained their traditional rights on what were then designated Class B, or waste lands, of the colony. At Grey's insistence a provision that no pastoral lease should 'preclude natives from seeking their subsistence over the

⁴⁶ , *Copies of Extracts from Despatches from the Governors of the Australian Colonies*, 1844, no.6, Copy of a Despatch from Governor Hutt to the Marquis of Normanby, 11 Feb 1840, 371-373.

⁴⁷ Paul Hasluck, *Black Australians*, offers a useful overview of the work of Anglican, Catholic and Methodist clergy and missionaries for the care and education of Aborigines in the period to 1886.

⁴⁸ *Report from the Select Committee on Aborigines*, 1837, Address of the House of Commons to the King, July 1834, cited at p. 4.

⁴⁹ *Report from the Select Committee on Aborigines*, 1837, p.77.

⁵⁰ *ibid*, p.77.

run in the accustomed manner' was inserted into Orders in Council for the leasing of crown lands gazetted on 17 December 1850.⁵¹ That action was entirely consistent with the presumption of the select committee that 'the native inhabitants of any land have incontrovertible right to their own soil'.⁵² Its significance may not have been appreciated at the time; it achieved more than any of the recommendations of the select committee to protect Aborigines and preserve their culture. Pastoral lands were not alienated, native title rights endured and pastoralists and Aborigines coexisted on the land.⁵³ That was reaffirmed in the *Land Act 1898* and again in the *Land Act 1933* and the *Land Administration Act 1997*.⁵⁴

Dissonance between the sentiments of the Colonial office towards protecting Aborigines and pragmatic self-interests of settlers, especially pastoralists influential in the Legislative Council, was evident in the adoption of *The Aborigines Protection Act 1886*. The number of Aborigines for whom the government was obliged to provide food, care and medical treatment increased as settlers extended the frontier. In August 1883 Governor Broome advised the Colonial Secretary, the Earl of Derby, that the matter 'is now seriously forced upon notice'.⁵⁵ Churches were anxious to establish missions in the north, but no action had been taken. Broome advised that the Government 'has not yet done much' for Aborigines in the north, but observed that 'many of the sheep stations could not be worked without black labour'.⁵⁶

The Governor also was confronted by other pressing considerations. Thirty-seven Aboriginal prisoners among the 192 incarcerated on Rottnest Island had died in an epidemic of influenza. Broome doubted that Aborigines from the Northern Districts should be brought so far south as Rottnest, 'at all events in winter time'. Settlers also were agitating that Aboriginal prisoners be made to work on roads of districts in which their crimes were committed.⁵⁷ These

⁵¹ The Western Australian Government Gazette, Tuesday, December 17, 1850: Government Printer, Perth, Memorandum, Order in Council of Her Majesty, for the leasing of Crown Lands, p.4, ch. 5, cl. 7: See also Great Britain, House of Commons, *Sessional Papers, Colonial Office*, Grey to Fitzgerald, 23 May, 1850, AJCP, Colonial Office Records CO 397/9; Henry Reynolds, *The Law of the Land*, Camberwell, Penguin Books, new edition, 2003. Chapters 7 and 9 provide an insightful commentary on difference between Western Australia and other Australian colonies and the significance of this provision for the Mabo and Wik decisions on native title.

⁵² *Report from the Select Committee on Aborigines*, 1837, p.5.

⁵³ The full significance probably was not realised until the High Court ruled in the Wik judgment of 1996 that the rights of exclusive possession conferred upon the grantee of a pastoral lease did not necessarily extinguish all incidents of native title or possessory title of any traditional owners of the land. High Court of Australia, Matter No B8 of 1996, 'The Wik Peoples and the State of Queensland and Others', 23 December 1996.

⁵⁴ *Land Act 1898*, 62 Victoria, no.37, Twenty-fourth Schedule, Form of Pastoral Lease: 'and full right to the Aboriginal natives of said Colony at all times to enter upon any unenclosed or closed, but otherwise unimproved part of the said demised Premises for the purpose of seeking their subsistence therefrom in their accustomed manner'. That was reaffirmed in the Land Act 1933, and the Land Administration Act 1997 at s.104: 'Aboriginal persons may at all times enter upon any unenclosed and unimproved parts of the land under a pastoral lease to seek their sustenance in the accustomed manner'.

⁵⁵ *Papers Respecting the Treatment of Aboriginal Natives in Western Australia*, Despatch No. 65, F. Napier Broome to The Right Honourable Earl of Derby, 'Outbreak of Influenza at Rottnest Island Prison', 30 August 1883, p.1.

⁵⁶ *ibid*, p.2.

⁵⁷ *ibid*, pp.1-2.

matters motivated Broome to appoint a Commission of Inquiry chaired by Sir John Forrest and comprised of members of the Legislative Council, the Chief Justice, the Comptroller of Convicts and the Colonial Surgeon.⁵⁸ Broome's instruction to them emphasised they should advise upon the safe custody, treatment and employment of native prisoners in the colony, 'and particularly at the native prison on Rottnest Island'. Their inquiry into welfare matters was confined to the medical and poor relief 'of sick and infirm Aboriginal natives at different towns and seats of Magistracy'. The question put to the Commissioners did not invite them to evaluate need or the effectiveness of poor relief, but rather how it might be managed more efficiently and at what cost.⁵⁹

The Commissioners reported in September 1884. Their recommendations formed the basis of *The Aborigines Protection Act 1886*. Among other matters, they advised that government had a duty to see that 'the natives be kindly treated' and recommended the appointment of a Board 'for the management of all matters connected with the Aborigines, and to which all moneys to be expended on them should be entrusted'.⁶⁰ Resident Magistrates were to be made Native Protectors and funds were to be placed at their disposal to assist 'when natives were ill or in want'.

Aborigines incapable of employment or unable to maintain themselves in their traditional manner, the poor and needy treated by the Government as paupers, perplexed the Commissioners. They regarded such indigent natives of incapable of change: 'We are met at the outset with a difficulty that threatens to thwart any scheme that may be devised of assisting these people'.⁶¹ The difficulty was the assumed unwillingness of the Aborigines to change, the inevitable consequence of which being their extinction. Fifty years of settlement had seen a marked decline in their numbers. The Commissioners feared, 'this will continue, and that the forces that have been at work in the past will in like manner work in the future'.⁶² The conviction persisted that Aborigines were a dying race. In those terms the Board proposed by the Commissioners would have little more responsibility than palliative care.

⁵⁸ The members of the Commission were Sir John Forrest (Chairman), Hon. Edward Albert Stone, Judge of the Supreme Court, George Shenton MLC, Maitland Brown MLC, William Edward Marmion MLC, John Frederick Stone, Comptroller of Convicts, and A.R. Waylen, Colonial Surgeon. Hereinafter the Commission will be referred to as the Forrest Commission.

⁵⁹ *Papers Respecting the Treatment of Aboriginal Natives in Western Australia*, 1886, dispatch No, 194, F. Napier Broome to the Earl Of Derby, 'Transmitting the report of the Native Commission', 28 October 1884; Commission, Malcolm Fraser, Colonial Secretary, 'And to inquire into the existing method of medical and poor relief of sick and infirm natives at different towns and seats of Magistracy, to consider communications received from Magistrates or others on this subject and to suggest any improvement or extension of the system now pursued which may seem necessary, stating the cost of any proposal made', p.7.

⁶⁰ *Papers Respecting the Treatment of Aboriginal Natives in Western Australia*, Despatch No. 194, F. Napier Broome to the Earl of Derby, 'Transmitting the Report of the Native Commission', 28 October 1884, p.8.

⁶¹ *ibid*, p.8.

⁶² *ibid*, p.12.

Blaming Aborigines for their condition was a recurring theme. It extended as far as finding cause within the Aborigines themselves for the decline in their numbers. The Forrest Commission offered the fatalistic opinion that ‘whatever is done, it appears to be an impossibility to avert this downward course’.⁶³ Aborigines were a vagrant race, ‘a race of hunters’ who had ‘a great dislike to remain long in one place, or to live in any habitations than the rude huts to which they have become accustomed’.⁶⁴ In short, Aborigines were disinclined to rise above their nomadic subsistence custom. Even so, the Commissioners reaffirmed that, ‘Their usefulness to the pioneer settler can scarcely be over-estimated’.⁶⁵

The test of the hope expressed by the Forrest Commission in 1884 that some means might be found to ‘maintain, on the soil owned and trod by their forefathers, the descendants of the Aborigines of Australia’ came shortly after 1890. The Commission had suggested that a reasonable portion of the estimated £100,000 revenues then raised from the sale of lands ‘which were originally possessed by its native inhabitants’, should be devoted to ameliorating the condition of Aborigines.⁶⁶ That was translated by *The Aborigines Protection Act 1886* into an Aborigines Protection Board established to administer moneys voted by government for the benefit of Aborigines. Expenditure was at the discretion of the Board which was made accountable to the governor, not parliament, and through the governor to the Secretary of State for the Colonies. When the British Government insisted as a condition of the granting of responsible government that the Aborigines Protection Board be maintained and that a reserve power over legislating affecting Aborigines also be inserted at section 70 of the Constitution Act, the Western Australian government was rendered subordinate to Westminster. The new parliament could make laws on all domestic matters except those relating to Aborigines.

That offence against sentiments of self-government was compounded by the statutory requirement that the Aborigines Protection Board be funded annually out of Consolidated Revenue at a minimum sum of £5000, or, alternatively, one per cent of gross revenue. Section 70 hypothecated that sum to be expended on providing the ‘Aboriginal Natives’ with ‘food and clothing when they would otherwise be destitute, in promoting the education of Aboriginal children (including half-castes), and in assisting generally to promote the preservation and well being of the Aborigines’.⁶⁷ Those statutory impositions could be amended only with Royal Assent. Section 73 provided that any Bill approved by the colonial legislature which might interfere with the operation of section 70 must be reserved by the Governor ‘for the signification

⁶³ *ibid*, p.7.

⁶⁴ *ibid*, p. 7.

⁶⁵ *ibid*, p. 8.

⁶⁶ *ibid*, p.12.

⁶⁷ *The Constitution Act 1889*, s. 70.

of Her Majesty's pleasure thereon'.⁶⁸ Britain reserved to itself oversight of the treatment of Aborigines through oversight of the Aborigines Protection Board and its expenditure of hypothecated revenue. The implication was that if a colonial administration failed to protect the Aborigines the Royal Prerogative would.

John Forrest, by then the first Premier, objected and in 1892 insisted the Aborigines Protection Board be abolished. A Bill to that effect was passed on 10 September 1893, reserved by the Governor, but rejected by British imperial authorities. They had no confidence in the impartiality of the colonial parliament and did not want to leave to its discretion the annual allocation of funds for Aborigines.⁶⁹ A new Bill was presented. Forrest argued that while in 1889 the revenue of the Colony was about £4,000, by 1896 it had risen to £1,750,000 and the sum hypothecated to the Board was nearly £20,000. Forrest protested it was unreasonable to expect that 'such a state of affairs can meet with the approval of the people of this Colony'.⁷⁰

This time, the Imperial Government relented. *The Aborigines Act 1897* replaced the Board with a Chief Protector of Aborigines and an Aborigines Department accountable directly to the Colonial Government.⁷¹ As it turned out, the Bill was reserved for royal assent on 11 December 1897, but because the Act was not gazetted within two years, it lapsed. The 1905 Act, however, reaffirmed the principal provisions of the 1897 Bill and replaced the £5,000 or one percent of gross revenues hypothecated by Section 70 of the Constitution Act with a hypothecated sum of £10,000 and 'such further moneys as may be provided by the Parliament' for the purposes of the Aborigines Department.⁷² It was not until 1910 that the total revenues allocated to the Aborigines Department exceeded the amount of £20,000 that Forrest objected to in 1896, and then only because the lock hospitals at Bernier and Dorre Islands incurred new expenditure of £7,463. Otherwise, the increasing demand for support for Aborigines was not matched by allocation from Consolidated Revenue sufficient to meet that demand. Such insufficient annual financial allocation for Aboriginal purposes became an enduring difficulty for the Chief Protector of Aborigines.

⁶⁸ *The Constitution Act, 1889*, section 73.

⁶⁹ For a discussion of the dispute see L.R Marchant, *Aboriginal Administration in Western Australia, 1886-1905*. Australian Institute for Aboriginal Studies, Canberra, 1981, pp.18-24. See also, Western Australia Votes and Proceedings, 1896, vol.I, Paper 18, *Further Correspondence on the Subject of the Position of the Aborigines Protection Board in Western Australia*, transmitted to the Legislative Assembly as an Enclosure to Message No. 9 from His Excellency the Governor, Perth, 1896.

⁷⁰ Western Australia Votes and Proceedings, 1896, vol.I, paper 18. *Further Correspondence on the Subject of the Position of the Aborigines Protection Board in Western Australia*, p.7.

⁷¹ *The Aborigines Act 1897*, 61 Victoria No 5, s.6.

⁷² *The Aborigines Act 1905*, No 14 of 1905, s.5.

Removing Half-Caste Children

Henry Prinsep, the Chief Protector primarily responsible for drafting the *Aborigines Act*, identified a different kind of limitation upon his authority. He was indifferent to the future of the Indigenous people, but was concerned about the plight of half-caste children. His annual reports portrayed Aborigines as lethargic, immoral and dissolute. Vagrancy, he said, was ‘the natural custom of their race’.⁷³ As for the functions of the Aborigines Department, Prinsep limited them to distributing relief to aged, needy and destitute; rescuing and caring for waifs; and ensuring that, ‘the habits of natives are not rudely interfered with’.⁷⁴ He agreed with the general assumption that the race was in terminal decline.

When in 1901 the Travelling Inspector identified 120 half-caste children under 14 years in various parts of the state, many of them living in communities ‘whose influence is towards laziness and vice’, Prinsep offered the judgement that these children ‘whose blood is half British’ should not be allowed to grow up ‘as vagrants and outcasts as their mothers now are’.⁷⁵ The following year, he elaborated upon that concern. He regarded it undesirable for half-castes to be allowed to grow up uneducated, ‘and in all the wandering habits of their black mothers’. He feared they would become ‘not only a disgrace but a menace to our civilisation’.⁷⁶ He also was relatively powerless to do much about it. Even though under section 8 of the Act the Chief Protector was the legal guardian of every Aboriginal and half-caste child under the age of 16, his authority to order their removal from their mothers was constrained.

In an attempt to circumvent this restriction of his powers, Prinsep distributed a circular letter to resident magistrates to ascertain if any half-caste parents could be induced to send their children to one of the institutions ‘now existing in the State for their care and education’.⁷⁷ It elicited twenty-four responses. Very few Aboriginal mothers were willing to surrender their children. The characteristic response to the inquiry in all but two police districts, Carnarvon and Marble Bar, was that ‘their mothers under no circumstances would give them up’.⁷⁸ In his Annual Report for 1907, Prinsep advised, ‘Some little difficulty is experienced in getting the parents to part with these children; they cannot be forced, unless it is proved that the surroundings are likely to bring the children to lead vicious lives’.⁷⁹

An amendment to Section 8 of the Act was agreed to by Parliament on 3 February 1911.

⁷³ Aborigines Department, *Report for the Financial Year Ending 30 June 1901*, p.3.

⁷⁴ *ibid*, p.4.

⁷⁵ Aborigines Department, *Report for the Financial Year Ending 30 June 1901*, p.2.

⁷⁶ Aborigines Department, *Report for the Financial Year Ending 30 June 1902*, p.2.

⁷⁷ State Records Office, Aborigines, Acc 255 122/1902, folio 1, circular letter from CPA to Resident Magistrate (Ab: 122/02), 11 February 1902.

⁷⁸ *ibid*, folio 37, letter, Warden, Mt Margaret Goldfield to CPA, 23 April 1902.

⁷⁹ Aborigines Department, *Report for the Year Ending 30 June 1907*, p.8.

The words, 'to the exclusion of the rights of the mother of an illegitimate half-caste child' were included. In moving the second reading of the Bill, the Colonial Secretary, James Connolly, acknowledged that the amendment took away a mother's rights over her illegitimate half-caste child. He attempted to argue that the same applied to other mothers of illegitimate children: 'It is practically giving the same power under the *Aborigines Act* that we take under the *State Children Act*'.⁸⁰ When challenged to justify the amendment, Connolly explained that Government had adopted a policy of gathering all half-caste children, especially in the Kimberley, and handing them over to the missions. He repeated his claim that, 'After all it was only following with regard to the half-caste children the course which applied to *State Children*'.⁸¹

The circumstances applying in the *State Children Act, 1907* were quite dissimilar. Under Section 83 of the *State Children Act*, a child committed to care by a Children's Court could be given to the guardianship of a society or person, 'to the exclusion of the father and every other guardian' until the child attained the age of 18, if male, and in the case of female children, age 21. Similarly, if a parent committed his or her child to the care of any approved person or society, the guardianship conferred was 'to the exclusion of such father or mother, and every other guardian'. It was necessary first for the child to be declared by a Children's Court to be destitute, neglected or uncontrollable.⁸² Parents of *State children* also enjoyed a humane consideration that Aboriginal mothers did not. Even though the rights of parents of *state children* were forfeit, their visiting rights were protected under Section 87 of the Act. The *Aborigines Act* did not extend visiting rights to Aboriginal mothers.

The Chief Protector was not required to apply to a Children's Court to have an Aboriginal child declared destitute or neglected. The decision to place a child in care was his alone. He had, as the guardian appointed under the 1905 Act, legal authority over every Aboriginal and half-caste child under the age of 16. In the case of ex-nuptial half-caste children the Chief Protector's authority was unfettered. Before the 1911 amendment a mother's legal rights over her legitimate half-caste children prevailed even if she were an Aborigine under the Act. Confusion about who might be caught by the definition 'half-caste' was now further confused by considerations of 'legitimacy'. The Act as amended in 1911 was more inclusive of who might be caught by its provisions, but the interpretation of who was an Aborigine was rendered more complex.

The reason offered by the Colonial Secretary for the 1911 amendment was that if these children were allowed to remain in the bush 'a state of things will be brought about which would be highly undesirable'. In time there would be a number of 'practically white children living with

⁸⁰ Parliamentary Debates, Legislative Council, 8 November 1910, p.1325.

⁸¹ Parliamentary Debates, Legislative Council, 22 November 1910, p.1642.

⁸² *State Children Act 1907*, s. 4(6).

the aborigines.⁸³ Connolly's sentiment resonates strongly with a similar statement by Neville a quarter-century later to explain his concern about quarter-caste children who lived with Aborigines. Such children were 'too white to be regarded as Aborigines'. That will be discussed later in this thesis. Its significance here, apart from its use to justify supplanting the rights of mothers over the care of their children by the authority of the state, is its apprehension about racial contamination.

Aboriginal half-caste children were a source of embarrassment. If, as Prinsep and others proposed, to have half-castes grow up, 'in all the wandering habits of their black mothers', could only end up in their becoming, 'not only a disgrace but a menace to our civilisation', the avoidance of miscegenation was essential.⁸⁴ The offence under section 43 of cohabiting with an Aboriginal woman was inadequate. The actual mischief was 'promiscuous sexual intercourse'.⁸⁵ That behaviour contributed to mixed-blood bastardy, and, perhaps equally as important for Prinsep at that time, the contagion of venereal disease. Prinsep advised the Crown Law Department of need to amend section 43 to extend the offence of 'cohabitation' to include any sexual intercourse between whites and Aborigines, 'even though it may be on only one occasion'.⁸⁶ Such amendment might not only reduce miscegenation, but might also check the spread of venereal disease.

Prinsep made Aboriginal women culpable. The protection he intended was more for the white than the black population. After eighty-six years of British occupation, fear of Aborigines had shifted from anticipation of physical violence to apprehension of their supposed venality. Aborigines were a subjugated people, diminished in number, and not capable of sustained overt hostility, but their presence was regarded as a moral hazard. Military defence, as anticipated by the first settlers, was no longer necessary, and was replaced by legislative sanctions to remove the immediacy of an assumed Aboriginal menace to the social fabric.

Discussion

Definitions of Aboriginality written into the several Western Australian Acts considered above were legal constructs necessary only for the management of classes of people whom legislators believed should be treated differently from all others. They relied upon notions of racial lineage, either direct Indigenous heritage in the case of those referred to as full bloods or various arithmetic combinations of Indigenous and non-Indigenous heritage to distinguish among three-

⁸³ Parliamentary Debates, Legislative Council, 22 November 1910, p.1642.

⁸⁴ Aborigines Department, *Report for the Financial Year Ending 30 June 1902*, p.2.

⁸⁵ Aborigines Department, *Report for the Year Ending 30 June 1907*, p.4.

⁸⁶ *ibid.*

quarter-castes, half-castes, quarter-castes and so on. Further distinctions among half-castes to exclude some from the ambit of the *Aborigines Act 1905* relied upon habitual association and manner of living. If they lived with Aborigines in the manner of Aborigines and habitually associated with Aborigines, they were Aborigines. Resolving consequences of those combinations and permutations of racial mixture were matters for legal disputation.

The actual number of Aborigines in Western Australia at the time of settlement is unknown, but has been variously estimated at from 39,000 to 55,000.⁸⁷ The Annual Report of the Aborigines Department for 1901 estimated the population of Aborigines in the explored and settled districts at 13,000, with an unknown number in the unsettled interior.⁸⁸ Accurate numbers were not available until after 1917 when Neville began collating population statistics. Data presented in his annual report for that year estimated that the population of natives and half-castes within touch of civilisation was approximately 14,491. Of that number 12,888 were Aborigines under sections 2 and 3 of the Act. There were 1,256 children as against 11,630 adults; that is, fewer than one-in-ten Aborigines were children under the age of twelve.⁸⁹

By 1929 half-castes were in their third and fourth generation and their numbers were growing. The Aboriginal population as a whole did not appear to be decreasing as was usually supposed. The increasing half-caste population more than balanced the diminishing numbers of full bloods. Birth rates indicated accelerated growth. In 1935 the Aboriginal population was 26,442, one-in-five of whom was a half-caste. The number of full bloods enumerated continued to diminish, by 359 over the previous year, but there was an apparent small, but upward trend in their birth rate. Full blood children increased by 43 in that year. Even so, the birth rate of half-castes exceeded considerably that of the full bloods. The number of half-castes was estimated at 4,245, an increase of sixty per cent in six years.⁹⁰ They were not a homogeneous group of first-cross European males over Aboriginal women, or of Asian or Negro over Aborigine. Many were of second and third generation of a single racial crossing. Half-castes were turning to their own cohort for conjugal partners. As a whole, the Aboriginal population was of a much more polyglot nature.

Those numbers challenged the proposition that the Aboriginal race was in terminal decline. Half-castes were fecund and proliferating and the fertility of full bloods living at missions or on native cattle stations showed signs of revival. The ethnic heritage of the Aboriginal population was changing and so too was its culture. In many areas where there was regular interaction with the white community the belief systems, the language, the lore, the music

⁸⁷ Ronald M. Berndt and Catherine H. Berndt, *Aborigines of the West*, p.7.

⁸⁸ Aborigines Department, *Report for the Financial Year Ending 30 June 1901*, p.2: 'At the same time there were wide ranges of opinion as to the number in the unexplored interior'.

⁸⁹ Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ending 30 June 1917*, p.2.

⁹⁰ Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ending 30 June 1935*, p.6.

and dancing, the marriage rituals and the traditional proscriptions upon human interaction that distinguished Aboriginal cultural groups faded as custom was altered by adaptation. Aborigines moved between two cultures, their own and another imposed upon them by authority and circumstance.

The *Aborigines Act 1905*, drafted at the end of the previous century and conditioned by precepts of an Imperial Government intended to protect and preserve a dying race, proved to be an inappropriate instrument of law for the people it actually governed. They were a people in transition, but the law was drafted for people in notional decline. It prescribed limits upon their conduct and upon the conduct of others toward them in terms of prohibition intended as 'protection' interpreted to mean 'preservation'. The Chief Protector of Aborigines appointed to implement the Act and manage the lives of Aborigines was obliged to administer those prohibitions. To do otherwise would be unlawful. The Act not only imposed proscriptions upon Aborigines from common law rights, it also imposed proscriptions upon the administrative discretion of the Chief Protector. It defined the legal parameters of his powers. Even though he may have regarded it as bad or inadequate law, the Chief Protector was bound by it and was obliged to work within it.

Narrative

FRAITIN LA GADIYA PRAPLI¹

In 1879 Alexander Forrest led an Expedition into the Fitzroy area of the East Kimberley, journeying overland from Cossack to the telegraph line in the Northern Territory and thence Northward to Palmerston (now Darwin). Forrest's journal of the Expedition recorded several times his excitement about the pastoral opportunity apparent in the tropical savannah he traversed.² For example, on 20 July he enthused about the Nicholson plains, 'the most splendid grassy plain it has ever been my lot to see':

These plains, which are granitic in formation, comprise, according to my calculation, not less than 1,000,000 acres, and, judging from the richness of the herbage, would carry, I imagine, no less a number of sheep. This, in my estimation, is the finest part of Western Australia that I have seen, and I hope that before long it will be covered with flocks and herds.³

Again, on 28 July he was inspired by the open plains surrounding the Ord, 'spreading out as far as the eye could reach':

They put me in mind of the great plains to the North of Eucla on the South coast, the only difference being that this country is well watered as that is, unfortunately, the reverse. Being so well watered, and the soil so good, this district will support a very large number of sheep; it apparently does not suffer from the periodical floods which visit the lower parts of the Fitzroy.⁴

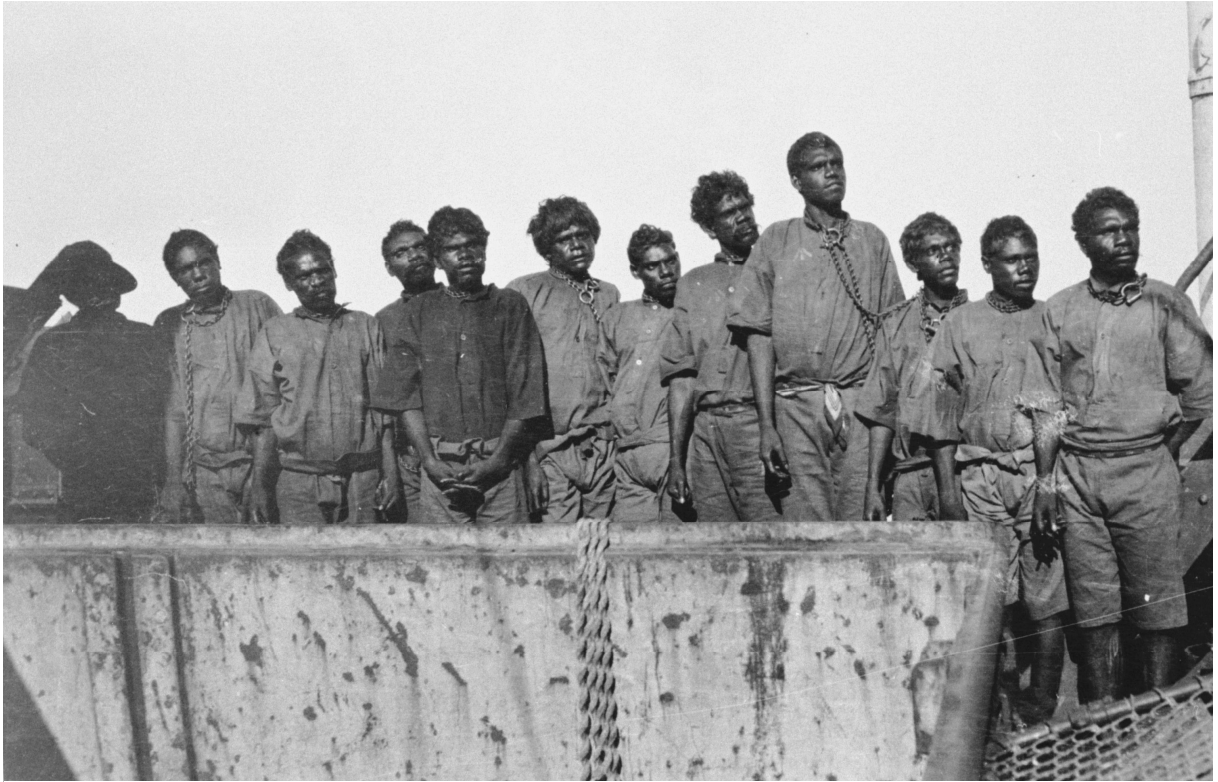
The plains described so enthusiastically by Alexander Forrest as sheep-grazing country were traditional lands of the Jaru, Kija and Miriwung. For them, this was not sheep country: it was their country. Occasionally, but briefly, warriors rattled spears and remonstrated against the intruders. Women screamed and fled. For the most part, however, the tribes remained concealed.

¹ Kimberley Kriol, 'Really frightened of white people', Source, Kaye Thies, *Aboriginal Viewpoints on Education, A Survey in the East Kimberley Region*, Research Series No. 5, National Centre for Research on Rural Education, University of Western Australia, 1987, p.19. 'Fraitin la Gadyi prapli. Dat da wai dei colln' git wi la skul; dei bin teigun as la bus olataim' – (trans) 'Really frightened of white people. That's why they didn't want us to go to school; they always took us out bush'.

² Alexander Forrest, *North-West Exploration, Journal of Expedition from De Grey to Port Darwin*, Government Printer, Perth, 1880, facsimile edition, Corkwood Press, Bundaberg, 1996.

³ *ibid*, p.25, Marked tree 145, located near Mt Barrett and the Elvire River near Halls Creek.

⁴ *ibid*, p.26, Marked tree 154, located on the Ord River near the border of Western Australia and the Northern Territory.



Aboriginal Prisoners on Board Steamer 'N-2', c.1919. J.S. Battye Library, A.O. Neville Pictorial Collection, 68174P.

Forrest acknowledged their presence, mainly because he observed their campfires, but was more bemused by their timidity than mindful he had intruded into their homelands. His journal recorded:

July 26th.—About twenty natives appeared during the afternoon on the opposite bank of the river, and about half a mile off, but as soon as they saw us they vanished. They did not seem, however, very much frightened which was curious, for they could not possibly have seen any white people before.⁵

Again, four days later:

July 30th.—Here we camped, and in the evening went down to the river to fish. We had not been so long employed when a small party of natives came up, evidently with the intention of camping. As soon as they saw us, however, they hastily crossed the river and made off, being evidently very much frightened.⁶

If first the Jaru, then the Kija and, a few days later, the Miriwung were affronted by Forrest's party crossing their lands unannounced and uninvited, their hurt, like them, was hidden. For his part, Forrest had not sought their approval. The Legislative Council had given that. The

⁵ *ibid*, p.26 Latitude of Camp, 17° 33' by meridian altitude of Vega.

⁶ *ibid*, p.27, Latitude 17° 17' meridian altitude of Vega.

land might have belonged to the Jaru, Kija and Miriwung by tribal custom, but it was Crown land by *force majeure*. As Forrest had demonstrated five weeks previously to members of a Wunambal tribe, gunpowder spoke louder than a protesting voice. A few miles south of Walcott Inlet, the party had been confronted by a group of about fifty warriors who vociferated against them. Their spokesman was given some sugar and damper and they left:

A little later, however, they returned again, coming this time close to us, and thinking that I had better show them the use to which firearms could be put, I fired my revolver at a tree. This frightened them off so effectually, that they cleared out at once.⁷

Thus were forged an immutable power relationship and inequitable terms of coexistence between traditional owners of the land and its new white proprietors.

Soon other gardiya invaded the East Kimberly, eager to graze their stock on the vast watered plains described in Forrest's journal.⁸ First came the Duracks, the Byrnes and the Kilfoyles from Victoria via Queensland and the Northern Territory. They brought with them not sheep, as Forrest had anticipated, but beef cattle. The Emanuels followed. Then came the diggers in search of more of the gold found by Charlie Hall and Jack Slattery at Elvire Creek. Only the pastoralists endured.⁹

The gardiya partitioned rivers, creeks and lagoons to water the cattle they had driven before them. Larger than jaji, but like jaji the beasts grazed the grasses and drank the waters of the hunting grounds of the Jaru, Kija and the Miriwung.¹⁰ As was the natural order of things, the traditional owners killed and ate the cattle. There was little other meat. Where once big mobs of jaji grazed besides the waterholes, now they and gurunungga, gimanji, gulyura and jarrambayi were getting harder to find.¹¹ The cattle which came with the white men ate the best grasses, but they were clumsy and easy for a group of hunters armed with spears and yingkalayiny to bring down.¹² A bullock provided plenty of meat and sometimes only the tongue, heart, tail, and a quarter of the carcass was taken.¹³ That was enough to feed the hunters and their families. A whole carcass could feed a big mob.

⁷ *ibid*, p.21, June 20th, Marked tree F 115.

⁸ 'gardiya' (kardiya) – non-Aboriginal person, white men, Kimberley Language Resource Centre: *Moola Bulla, in the Shadow of the Mountain*. Magabala Books, Broome, 1996, p.249.

⁹ The story of the pioneer pastoralists is told by Mary Durack, *Kings in Grass Castles*, Constable and Company, London, 1959, (reprinted several times); see also, Geoffrey Bolton, *A Survey of the Kimberley Pastoral Industry from 1895 to the Present*, thesis presented for the degree of Master of Arts, University of Western Australia, 1953.

¹⁰ 'jaji' (Jaru) - kangaroo. Kimberley Language Resource Centre, *Moola Bulla*, p.248.

¹¹ 'gurudunggu' – nail-tailed wallaby; 'gimanji' – echidna; 'gulyura' – bush fowl; 'jarrambayi' – goanna, *ibid*, pp.248-9.

¹² 'yingkalayiny' – stone tomahawk, *ibid*, p.250.

¹³ State Records Office, Colonial Secretary's Department, Acc 653, Item 95/1918, Folio 12, James Isdell to Chief Protector, 31 July 1930.

The Indigenous hunters probably were blissfully unaware that gardiya law protected their rights to food gathering in the traditional manner. They did only what ancestral custom allowed. The niceties of ‘orders in council’ issued from a place called Buckingham Palace and ‘proclamations’ by a man called Governor Fitzgerald in another place called Perth were gardiya vanities. Even if those laws said that nothing in any pastoral lease prevented them from ‘entering upon the lands comprised therein, and seeking their subsistence therefrom in the accustomed manner’, the words were as meaningless to the Jaru, Kija and Miriwung as was any concept of the beneficial ownership of animals.¹⁴ Even if the Indigenous hunters did understand that, who owned cleanskins?¹⁵

Those ironies may not have escaped gardiya pastoralists, but consistently with the practice established early by white settlers at the Swan River Colony, they retaliated against the spearing of their cattle by indiscriminately hunting and shooting Aborigines. The tribes, in their turn, were provoked to revenge killing. Retribution by the whites was brutal and indiscriminating. The numbers dealt with summarily by pastoralists and policemen was not recorded, other than in Aboriginal folklore.¹⁶

Years later an elderly Jaru man who had lived on Moola Bulla, George Nunkiarry, recalled for the Kimberley Language Resource Centre a story told by his people about one such incident. He talked of how Jaru mawun had killed four men on Ruby Plains Station.¹⁷ The first, a stockman, was speared while searching on foot for his horses; the second, a surveyor, was ‘speared by a bloke out looking for kangaroos’; the third, a miner, was speared by a group of Jaru who ‘crept up on him while he was reading a newspaper at McPhee Waterhole’; and the fourth ‘a Chinaman’ they found ‘at the same goldmine and speared him too, poor bloke’.¹⁸

Then Pilmer came. He rode a little buggy in which he used to carry all his bullets and tucker. He had a lot of bullets and a lot of horses. He hanged a mob of Jaru people at Rawungga. He said to them, ‘We’ll make big well here’. But there at Hangman’s Creek, between Wiliwili and Ruby Plains, he hanged people, using a

¹⁴ Memorandum, Colonial Secretary’s Office, Perth, December 13, 1850 *The Western Australian Government Gazette*, 263, Tuesday, 17 December 1850, p.4.

¹⁵ ‘cleanskins’ – cattle not marked with a brand.

¹⁶ *Report of the Royal Commission into the killing and burning of bodies of Aborigines in the East Kimberley and police methods when effecting arrests* (G.T. Wood: Commissioner), Western Australian Government Printer, 1927, offers some challenging insights into practices which are preserved in Aboriginal folklore.

¹⁷ ‘mawun’ (Jaru) – man, people, Kimberley Language Resource Centre, *Moola Bulla*, p.249.

¹⁸ George Nunkiarry, Jaru, ‘No Bell Ringing’, introduced by Stewart Morton, translation from Jaru and Kriol, Kimberley Language Resource Centre, *Moola Bulla*, pp.36-37. An endnote at p. 77 reads, ‘Sergeant Pilmer was in charge of the Fitzroy Crossing Police Station from 1894-1902. He carried out massacres in Bunuba country, near Fitzroy Crossing and along the Fitzroy River, but it is unlikely that he could have been responsible for the massacres in this story since he did not patrol this area’. However, in 1905 Pilmer was in charge of the Roebourne district ‘of gigantic proportions, extending from the Northwest Cape to Port Hedland, and eastward to the South Australian border [Northern Territory border after 1911]’, so it was not unlikely he was known to Aborigines in the East Kimberley. See, R.H. Pilmer, *Northern Patrol, an Australian Saga*, Hesperian Press, Carlisle, 1998, p.111.

rope and draft horse. He hanged them from a walarri tree. Then, when they were dead, he buried them in the hole they had dug. He threw them down the well. But it wasn't a well at all. It was their grave'.

The cycle of stealing, retribution, revenge killing and further retribution was familiar in the southern colony, but was not something the European social conscience could long tolerate. Recruits were despatched from Perth to the Kimberleys where they established remote police stations and staging posts and patrolled pastoral districts. Their presence was intended to discourage cattle killing by demonstrating that offenders who were caught would be punished according to gardiya law; myalls would be dragged off in chains possibly never to return to their homelands.¹⁹ The Jaru, Kija and Miriwung hunters continued their cattle killing undeterred.

A novel solution presented itself. Who first thought of it is uncertain, but Richard Henry Pilmer, Sergeant 93, of the Roebourne Police Station, claimed that honour.²⁰ On 29 August 1908 he submitted 'for the perusal and information of the Commissioner of Police' a 'scheme for the preservation and betterment of the Aboriginal Natives of Western Australia'.²¹

Pilmer, who may have been implicated in the massacre related by George Nunkiarry above, was born a Scot and had arrived at Albany in 1890 via a childhood and youth in Ballarat and New Zealand. Two years later, on his twenty-sixth birthday on 16 July 1892, he joined the Western Australian Police Force in Perth and four days later commenced his first patrol from Carnarvon along the Murchison, Gascoyne, Lyons and Thomas Rivers, 'to teach the wild Australian blackfellows the rights of property in the Great Unfenced', and 'carried plenty of warrants for the arrest of ringleaders'.²² Shortly afterwards, Pilmer was appointed to his first police station at the junction of the Thomas and Gascoyne Rivers on Yinnietharra Station.

In June 1894, Pilmer requested a transfer to the West Kimberley 'which was still a land of adventure, and of the conflict of the white and the black'.²³ He relocated to Derby where taking groups of Aborigines into custody for cattle killing became routine. In his autobiography, Pilmer described how Aborigines killed by driving spears into a beast until it dropped, camped near their kill and butchered, cooked and ate it. Pilmer's patrol, attracted by the cooking fire, would 'gallop toward the camp till the natives, alarmed, tried to scatter' only to be headed off and 'driven back like a mob of cattle to the fires'. The young men were charged and then 'put on the chain'. The old men, women and children were allowed to go their way, even though in Pilmer's opinion the

¹⁹ 'myall': a colloquial term used in the East Kimberley, often disparagingly, to refer to uncivilised or 'bush' natives. Kimberley Language Resource Centre, *Moola Bulla*, p.249. The term 'mayal' (kriol) refers to an ignorant, stupid or wild person.

²⁰ R. H. Pilmer, *Northern Patrol*, pp.157-158.

²¹ State Records Office, Colonial Secretary's Department, Acc 993, Item 186/1909, folio 3, R.H. Pilmer, Sgt 93 to Sub Insp^r Osborn, 19 August 1908.

²² R.H. Pilmer, *Northern Patrol*, pp.13-14.

²³ *ibid*, p.41.

older men often were as guilty as the young ones, ‘commanding the actual killing, not because they were hungry, but because they were hungry for beef’.²⁴

Pilmer seems to have had a poor opinion of the worth of Aborigines and they, in turn, feared him. Under those circumstances, the proposal he put to government for their protection is surprising. He suggested it would serve three purposes: change the way Aborigines were treated and ‘save a fast-decaying race’; make the Aborigines self-supporting; and save money for the State.²⁵ Aborigines represented a skilled and valuable pastoral workforce: fencers, well-sinkers, horse breakers, stockmen, and ‘in many cases blacksmiths’. Pilmer suggested all that was necessary was for government to resume a station, appoint a manager, and for the police to relocate natives from all stations of the district to work on the new native station:

By this means we would have concentration, and the fear of further contamination would be minimised to the lowest degree, and, instead of having (as at present) a decaying race, it would be a means of lifting the race to a pedestal of happiness and prosperity, and at the same time wholly self-supporting.²⁶

Shortly afterwards James Isdell lodged a similar submission with the Chief Protector of Aborigines.²⁷ Isdell had arrived in Western Australia in 1884 and managed Karratha Station near Roebourne. Later, he leased in partnership Lake Edah cattle station near Broome and subsequently, with different partners, purchased Croyden Station. He served as the Member of the Legislative Assembly for Pilbara from March 1903 to June 1906 and as Travelling Protector of Aborigines from 1906 to 1909. From 1910 to 1915 he was Protector of Aborigines at Turkey Creek (now Warmun).²⁸

Isdell’s contribution to the Legislative Assembly debate on the bill for the *Aborigines Act* in December 1905 is informative. He was disdainful of Dr Roth and his report on the condition of the natives, ‘he has done little good for this country, and less for himself as far as I can see,’ and did not agree with bill; ‘There are many clauses under which people can, without any wrongful intention, get into trouble, and there is no clause to show them how to get out of trouble’.²⁹ The tenor of his speech hinted that Isdell’s concern was for pastoralist employers who might get into trouble rather than for their Aboriginal servants.

²⁴ *ibid*, p.41.

²⁵ State Records Office, Colonial Secretary’s Department, Acc 652, Item 186/1909, folios 1-6, Sergeant Pilmer’s scheme for dealing with native question, 29 August 1908.

²⁶ *ibid*, folio 1.

²⁷ State Records Office, Colonial Secretary’s Department, Acc 653, Item 95/1918, Moola Bulla – original file dealing with the inception of, folios 1-10, J. Isdell – suggestions re provision for bush natives & minimising of cattle killing, 31 July, 1909.

²⁸ David Black and Geoffrey Bolton, *Biographical Register of Members of the Parliament of Western Australia*, Volume One 1870-1930, Western Australian Parliamentary History Project, Perth, 1990, p.105.

²⁹ Parliamentary Debates, Legislative Assembly, 13 December 1905, pp.427-429.

Among other things, Isdell opposed 'inter-marriages with aliens'; that is, the marriage of Aborigines and Asians prohibited from permanent residency under the white Australia policy: 'We are talking about a white Australia, and we are cultivating a piebald one'. Isdell expressed particular concern about half-caste children, but little for their Aboriginal mothers. He objected to the children living 'not on stations only, but in the bush' where they were brought up in 'degradation and immorality'. In his opinion, half-caste children should be removed from native camps and taken to places to where they could be 'trained as useful citizens':

There is a great deal of maudlin sentiment about taking away a child from the native mother; but the man who sees it done will lose all that sentiment; because when you take a child away from a native woman she forgets about it in 24 hours and, as a rule, is glad to get rid of it.³⁰

On 31 July 1909, when he was Travelling Protector of Aborigines, Isdell wrote a special report for the consideration of the Premier and the minister in charge of the Aborigines Department. Unlike Pilmer, Isdell did not suggest that his proposal was 'to save a fast decaying race'. Rather, he founded his propositions on pragmatic financial considerations, 'the unavoidable but heavy expenditure in relieving indigents' and the 'large expenditure in Police and prison charges for which no return is received'. Isdell's focal concerns were the prevalence of cattle killing, the numbers of Aborigines imprisoned for that offence, and 'the utter uselessness of that system of punishment as a deterrent'.³¹

The remedy Isdell suggested was to 'feed the natives their own meat and self-grown vegetables'.³² That might be done not by resuming pastoral leases and creating Aboriginal reserves, 'simply because there is nothing left on them to eat', but by purchasing and operating cattle stations for the benefit of the natives. To this end he identified two properties within eight miles of Hall's Creek, 'the station properties of Messrs Shepherd and Meinsen,' (Mary Downs and Nicholson Plains) of 397,000 acres and 256,200 acres respectively. Isdell judged them to have 'good country—the only good country about there—with several splendid springs, and magnificent garden sites of black soil alongside them'.³³ It was the same country as described in Forrest's journal of 18 July to 24 July 1879, an area he calculated at one million acres which 'judging from the richness of the herbage, would carry, I imagine, no less a number of sheep'.³⁴

³⁰ *ibid*, p.426.

³¹ State Records Office, Colonial Secretary's Department, Acc 653, Item 95/1918, folio 12, James Isdell to CPA, 31 July 1909.

³² *ibid*, folio 14.

³³ *ibid*, folio 16.

³⁴ Alexander Forrest, *North-West Exploration*, p.25. Forrest traversed from north to south the country which later became Moola Bulla Native Cattle Station. On July 18 he passed within 10 miles west of what became the site of the Moola Bulla homestead; 'I took a round of angles and observed a remarkable hill bearing E. by N. and about 20 miles distant, also a high range N. 35 E. The hill I named Mount Barrett, after Miss Barrett Lennard, of Beverley'.

Isdell recommended that government purchase Mary Downs and Nicholson Plains, ‘put a good man in charge, kill cattle—only old cows—for the natives and grow plenty of vegetables for them’.³⁵

A report prepared by Isdell and Arthur Haly, a stock inspector despatched by the Premier, Newton Moore, to assess the feasibility of Isdell’s proposition, was almost silent on the matter of Aborigines.³⁶ The only reference to them was in the context of commending the reliability of water sources. Isdell and Haly observed that on the Rocky and Sandy Rivers which ran through the leases there were ‘never-failing waterholes’ sufficient to ‘run the entire herd for some months should waters on other parts of the run fail’. The usefulness of the waterholes for Aborigines was an almost perfunctory afterthought:

In good years these rivers, when not required for stock, would be splendid places for aboriginals, as the waterholes abound with fish, the banks are lined with wild fig trees, & the hills are full of game.

Indeed the waterholes were splendid places for the Aborigines. The Kija had known of them, had gathered figs there, and had hunted in those hills for aeons, and not only in good seasons ‘when not required for stock’. Stan Brumby recited the hunting range of the ‘old people’. They hunted goannas there, he said, ‘and north to Banjo Bore’:

People used to live at the creek at Banjo Bore, all the way to Caroline Pool. At Ngunjuwa Rockhole to the south, and east downstream towards Old Town. South, downstream to Nyardni Rockhole and from Nyardni to Giwiny Rockhole. From Giwiny to Ngawurlu and Babadi. South to Manjarl and round Lamboo to Bindirri.³⁷

The Kija were not consulted about the use of their lands. Most of the official discussion subsequent to the receipt of Isdell and Haly’s report was about valuation of the stations, prices that might be paid for improvements and stock, the conditions of purchase and the economic viability of the project. When local members of Parliament, Hon Richard Pennefather MLC for the North Province, Arthur Male MLA for Kimberley and Henry Osborne MLA for Roebourne, were briefed on the proposal, no concerns appear to have been raised for Aborigines or the purposes of the proposal. Rather, discussion focused upon the financial viability of the cattle stations, the number of white employees needed, and the question of ‘introducing tick cattle into

³⁵ State Records Office, Colonial Secretary’s Department, Acc 653, Item 95/1918, folio 16, James Isdell to CPA, 31 July 1909.

³⁶ *ibid*, folio 23, James Isdell to Hon, N.J. Moore C.M.G. Premier, 7 August 1909.

³⁷ Stan Brumby, ‘Watching the Old People’, interviewed by Stewart Morton, translation from Jaru and Kriol, Kimberley Language Resource Centre, *Moola Bulla*, p.17.

clean country'.³⁸ The parasites, it might appear, were a more pressing concern than the welfare of Aborigines. As far as Isdell was concerned, care for the Aborigines was simply a matter of station management:

A storekeeper and bookkeeper is required, a man who has lived in the Kimberley and understands natives, as he would have to attend to the everyday killing of cattle, give the natives their allowance, superintend the garden besides keeping the books, names of natives and attend to the sick.³⁹

For Gale the most persuasive information seemed to be that police returns for 1909 showed that eleven Aborigines from the locality of the Shepherd and Meinsen properties had been convicted of cattle killing and the cost of rationing them in prison was estimated at £247-14-9. It followed 'as a matter of course' that if a native cattle station as proposed had been in existence, 'most of this money could have been saved'.⁴⁰ As for the Kija, Gale proposed that in the course of time, 'the native race will be a thing of the past':

When this happens the Government, by purchasing the above properties, will have the satisfaction of knowing that they have done their bit for the amelioration of a decadent race, and future governments will have a valuable asset to dispose of, when this state of things comes to pass.⁴¹

It would seem that the Kija traditional owners who lived on Moola Bulla's 1,749 square miles of land were never considered seriously. There was uncertainty even about their number. They were never counted and seldom did even half as many of Isdell's estimated number of six hundred camp near the homestead at any one time. Gale explained that by resort to the belief that Aborigines were an unsettled people:

The native race is of nomadic nature and they come and go at their own free will; one visiting division of a tribe will make the settlement their camp for some time and then break away and clear out, other divisions taking their place, and it is only on special occasions that any very large number remain together. Whether they will eventually depart from their usual customs remains to be proved.⁴²

The best answer to Gale's question probably is, 'not entirely'.

Where the name 'Moola Bulla' originated is uncertain. Neville gave the meaning of 'Moola

³⁸ State Records Office, Colonial Secretary's Department, Acc 653, Item 95/1918, folio 132A, 'Proposed Station for Natives at Kimberley'. Cattle ticks are blood sucking parasites that severely affect the condition of infested animals and are considered a serious pest in the pastoral industry.

³⁹ *ibid*, folio 161.

⁴⁰ *ibid*, folio 81.

⁴¹ *ibid*, folio 83.

⁴² Aborigines Department, *Extract from the Report of the Work of the Aborigines Department for the Year Ending 30 June 1911*, Votes and Proceedings, 1911, Paper No 8, p.4.

Bulla' as 'plenty meat...a hybrid name which is not derived from any of the Kimberley native dialects'.⁴³ Stan Brumby, an elderly Jaru resident of Moola Bulla told Stewart Morton that the locality of the 'old station' where there were 'lots of kangaroo, goannas, bush plums and konkerberries' was called 'Ngarrwarnji'. An old man, he said, gave the locality the same name as his own:

One old man named the place Ngarrwarnji. Moola Bulla. He said to himself, 'What's the name for this place?' and named it after himself. He named the cave and the whole place.

White people said, 'That man's name is the same as this rock, Ngarrwarnji'. White people called it Moola Bulla and built houses at the bottom of the rock. They made a cattle station. Then the government came there from the north.⁴⁴

Another elderly man, Toby of Kunja camp Near Hall's Creek, told Audrey Bolger the name was taken from an old Aboriginal resident of the locality:

Old man callim Boolabulla, kangaroo ibin cookim. Mr Haly bin come from old station, find im Boolabulla cookim kangaroo the end of the creek...Ibin ask im... 'What's your name?' 'Boolabulla'. Im bin call im Moola Bulla. Mr Haly bin say 'I'll call im Moola Bulla now this one country' he bin say.⁴⁵

Kija peoples continued to live on Moola Bulla for the whole time successive governments maintained it as a native cattle station and remained there after 1955 when it was sold to private interests. They certainly did not, as Gale and others anticipated, die out. Nor did the Kija language or culture. A creolised language evolved from the Kija, Jaru, Wlamajarri and Kukatja languages and colloquial English and standard Australian English spoken at Moola Bulla. Kriol became the *lingua franca* of the East Kimberley.

Over time the Indigenous cultures adapted to changed circumstances. A Kija man, Ben Duncan, described the process of how the 'old people', meaning his forebears, took on some of European custom. First, they got used to wearing clothes. Then they grew accustomed to covering themselves on cold nights, 'with a blanket or something':

They would think to themselves, 'Oh, this feels good, nice and warm. This gardiya

⁴³ State Records Office, Native Affairs, Acc 993, Item 332/1928, folios 92-4, Annual Estimates 1929-30, Legislative Assembly, 29 October 1929; Memo, CPA to the Under Secretary, 20 November 1929; letter, Kitson to Sir James Mitchell, 3 December 1929.

⁴⁴ Stan Brumby, Jaru, 'That Man's Name is the Same as this Place', interviewed by Stewart Morton, translation from Jaru and Kriol, Kimberley Language Resource Centre, *Moola Bulla*, pp.124-5.

⁴⁵ From a transcript of oral history taken by Audrey Bolger at Kunja Camp, near Hall's Creek, 20 March 1982, quoted in Hilary Rumley and Sandy Toussaint, 'For Their Own Benefit? A Critical Overview of Aboriginal Policy and Practice at Moola Bulla, East Kimberley, 1910-1955', *Aboriginal History* 1990, vol.14(1), p.86.

has lots of goods things. We’ll stay with him for good’. And the gardiya kept teaching them. They learned how to ride horses and donkeys. Those quiet little donkeys that they used to take when they went digging, or shooting people. And everyone learned how to work. The gardiya would say to them, ‘Okay, you do this, you do that easy job. You people understand now, you know how to work’. Some people would get water, and others would get wood and stack it up. Others would light the fire and put the billy on. The lot.⁴⁶

As for Moola Bulla being the home of the Indigenous inhabitants, it was theirs by native custom endorsed by gardiya law. Half-castes, as Isdell had so robustly advocated in 1905, were taken away. Some returned, however. In 1987, a Kija grandmother spoke to Kaye Thies of her recollections:

At Moolabulla now, outsiders that was roaming round here ina goldfield, they went to settle down now at Moolbulla, and I noticed that all the children that was—belong to white father you know, they took them away.

They said they couldn’t get no teacher to come up there. They sent bigger girls down to Derby then, you know, all those mob went to Derby; an’ when most of these girls come back from Derby, well 1940, ’41, wartime—I was already married and gone to ’nother station, we worked there—some of these girls come back with masbi child blangda white person, those da wan was taken off, I notice.⁴⁷

Many Indigenous mothers were suspicious of attempts by missionaries and the Aborigines Department to educate their children into European values and ways of living. The experience of too many had been that their children were taken away, lost their language and often did not return. A Miriwung speaker from the north-east Kimberley, then aged about 50, spoke in Kriol to Kaye Thies about their fear:

Our Granny didn know Gadiya. Imin frait la Gadiya. (*Our grandmother knew nothing of white people. She was afraid of white people.*)

Her brother, then aged 60, agreed and told of how they were taken away from the settlement to avoid capture:

Fraitin la Gadiya prapli. Dat da wai dei couldn’ git wi la skul; dei bin teigum as la bus olataim. (*Really frightened of white people. That’s why they didn’t want us to go to school; they always took us out bush.*)⁴⁸

Moola Bulla eventually comprised 1,119,000 acres run by five gardiya, the manager, an

⁴⁶ Ben Duncan, Kija, ‘Tasting it Slowly’, interviewed by Stewart Morton, translation from Kija and Kriol, Kimberley Language Resource Centre, *Moola Bulla*, pp.63-64.

⁴⁷ Kaye Thies, *Aboriginal Viewpoints on Education*, p.23.

⁴⁸ *ibid*, pp.18-19.

overseer and three ringers, an average of 30 Aboriginal station hands, mostly of Kija stock, and an uncertain number of Aboriginal women employed as cooks and domestics. Even the small numbers who were permanently employed preserved links with their Kija and Jaru cultures and during pinkeye reverted to Indigenous custom. For much of the time they bridged two cultures and enjoyed pride in both. Sam Butters, a Kija man, told of their pride as stockmen:

Well, the best horseman came out of the Kimberley, Sammy Long. Known as one of the best horsemen in the Kimberley, he came out of Moola Bulla. Learned there, taught. You could say that every one of us who came out of Moola Bulla, made a name for themselves somehow. People have always appreciated it. Thank goodness in those days there was no drink. One or two old people left today, two old men properly, they could help us Aboriginal way, and sometimes gardiya way, they all pensioned, all there, I want to say thanks to them too.⁴⁹

⁴⁹ Sam Butters, Kija, 'The Greatest Four I Ever Met', Kimberley Language Resource Centre, *Moola Bulla*, p.162.

Chapter Three

NATIVE CATTLE STATIONS Moola Bulla, Violet Valley and Munja

Questions about where the scheme for native cattle stations originated or who first suggested it are of no special significance, other than for reasons of fair dealing. Credit for successful public programs always is claimed separately and individually by the relevant minister and by the relevant head of department: failure devolves upon the opposition. That is an enduring political maxim. The more important question is what purpose was served. In this instance, since it was an initiative at least encouraged by the Chief Protector of Aborigines, the reason for establishing feeding stations in the East Kimberley is useful for understanding how policy for Aborigines evolved.

Two years after Moola Bulla was established, the Colonial Secretary, James Connolly, told the Legislative Council; 'It occurred to me that if they [the natives] were given their own home, allowed plenty of meat, allowed to come and go as they pleased, they would not spear the cattle belonging to owners up there', and thus minimise the probability of their being gaoled for the offence.¹ To demonstrate the success of the scheme, Connolly claimed it had reduced the incidence of cattle spearing and saved the gaols vote about £4,000 a year.

Gale made a similar claim for the success of Moola Bulla in evidence before a parliamentary select committee on 24 August 1915. He asserted the scheme saved the state £10,000 annually, including the cost of apprehending Aboriginal offenders and maintaining them in gaol; 'At the present time the native gaols are empty, and that has been brought about by the establishment of the native settlement'.² No evidence was cited of benefits to Aborigines, other than that they were fed and kept out of prison.

The treatment of Aborigines in the northern regions and the influence of the pastoral industry in the creation of Moola Bulla and Munja native cattle stations and feeding at Violet Valley, La Grange, Lombadina and at denominational missions will be examined in this chapter. It will be demonstrated that a primary motivation was to reduce the incidence of cattle killing by Aborigines. The stations also served to pacify the Indigenous population so that pastoralists might be attracted to relatively unsettled parts of the Kimberley. The belief was that such

¹ Parliamentary Debates, Legislative Council, 10 July 1912, p.245.

² *Report of the Select Committee of the Legislative Council on the Retirement of Mr. C.F. Gale from the Position of Chief Protector of Aborigines*, 12 October 1915, p.4.

measures, though necessary, were temporary because it was still held by many in official quarters that the Aboriginal race was in terminal decline. It will be shown in this chapter, however, that native cattle stations contributed not only to the protection of the Indigenous peoples, but also to preserving their culture. Aborigines learned to move between their Indigenous traditions and the behaviours required of them in the pastoral economy.

The creation of lock hospitals, first at Bernier and Dorre islands and later at Finucane Island, and the issue of wages for Aborigines, particularly in the pastoral industry, will also be examined to show how policy was founded not on concern to protect the well being of the Indigenous people, but rather to remove an assumed threat to the white population and to advance the vested financial interests of pastoralists.

White and Black in the Kimberleys

The invasion of Western Australia's North, and in particular the Kimberley Region, proceeded differently from the British colonisation in the South-West. The numbers of white settlers in the North always were fewer than the Aboriginal population. After 1862 intending pastoralist-settlers migrated northward from the southern colony and stocked the North-West and Pilbara with sheep. European incursion into the East Kimberley began after 1880 when Forrest's reports of favourable grazing lands were published. By 1885 when the discovery of gold at Elvire Creek saw a rapid, but brief influx of diggers, white settlement was confined to four enclaves, the Durack, Kilfoyle, Emmanuel and Byrne holdings, whose herds of beef cattle numbered collectively about 12,000. At the end of 1886, when Western Australia's non-Aboriginal population numbered 39,584, the number of diggers on the Kimberley goldfield had peaked at 2,000. It declined rapidly after the anticipated 'extensive goldfield of rich promise' was not realised and by the end of 1887 fewer than 600 diggers remained.³ By 1889 the rush was over and goldseekers had moved on to the Yilgarn and, subsequently, Coolgardie. For the next generation population growth was gradual and slow. By 1913, the non-Aboriginal population of the whole of the East Kimberley was less than 200.⁴ The population of Aborigines was not known, but appears to have remained relatively stable. While the numbers of full bloods diminished, their decline was neither as rapid nor as radical as in the south. The numbers of Aboriginal half-castes was proportionately fewer.

White settlers in the Kimberleys also had different motivation from the southern colonists. The Swan River Colony was established as a speculative land venture. Europe was at

³ J.S. Battye, *Western Australia, A History from its Discovery to the Inauguration of the Commonwealth* (1924), Historical Reprint Series, University of Western Australia Press, Nedlands, 1978, p.366. Battye stated that at the opening of the Legislative Council in June 1886, Governor Broome reported 'the discovery of an extensive goldfield of rich promise'.

⁴ E.R. Gribble, *Forty Years with the Aborigines*, Angus and Robertson, Sydney, 1930, p.172.



Moola Bulla Native Cattle Station, c. 1916. J.S. Battye Library, A.O. Neville Pictorial Collection, 68045P.

peace, the transportation of felons sat uncomfortably with initiatives for penal reform in England and, before 1826, the Imperial Government entertained little territorial interest in Australia's western half. Few of the venture capitalists in London who invested in the Swan River Company were farmers. Those colonists who had genuine aspirations to farm their allotments were soon disillusioned by adverse conditions of soil and climate and their inability to adapt English farming practices to land which previous to their attempts never had been tilled. Pioneer pastoralists in the North West and Kimberleys, on the other hand, had previous experience elsewhere in the colony or in Victoria, New South Wales or Queensland and sought fresh pastures to expand their enterprises. They adopted free-range animal husbandry. Provided they could engage plentiful and cheap labour during peak seasons of mustering, shearing and marketing, their wool and beef production generally was profitable.

Under the terms of the Order in Council for the leasing of Crown lands gazetted on December 17 1850 and the *Land Act 1898*, as discussed above, Aborigines could not be expelled from any of their traditional lands leased for pastoral purposes. In the south, where the alienation of Crown land by fee simple effectively extinguished native title, Aborigines either retreated from or were hunted off their homelands to become fringe dwellers of the white community. In the north they had lawful rights to live upon pastoral lands and to seek subsistence 'in their

accustomed manner'.⁵ Pastoralists were not compelled to encourage Aborigines to stay. Commissioner Roth observed that, as the law stood, pastoralists could not rid themselves of Aborigines on their runs:

On the other hand, natives may be offered no encouragement to remain; by depasturing the stock on all watered portions of the run; by destroying kangaroos; by dropping baits for the aborigines' hunting dogs; by limiting, in the way of fences, the areas throughout which the native game can be obtained; by taking proceedings against blacks for setting fire to grass, etc.⁶

They were the source of cheap labour essential to the financial profitability of the pastoral industry, however, and it was in the interests of pastoralists to maintain amicable relationships with Aborigines who shared their land. They provided blankets and clothing and supplemented Aboriginal bush tucker with beef, flour, sugar, tea and tobacco. Beef and damper with sugared tea became staples of Aboriginal diet. Tobacco often was reserved as a reward for good work.

Consequently, and unlike the Indigenous experience in the south, northern Aborigines were not as severely disaffected by colonisation. White settlers reaffirmed the power relationship demonstrated by Alexander Forrest that authority belongs to the person with superior weaponry. Initial localised resistance by tribal groups to the pastoral invasion of their tribal lands was persistent and brutal, causing the abandonment of some attempts to establish pastoral runs, but hostile confrontation was not strategically organised and sporadic uprisings either by individuals and small groups, or prolonged reckoning by bands organised against white incursion, such as the Bunuba resistance, were put down rapidly and brutally.⁷

Over time Aborigines came to accept the options of passive acceptance or avoidance. The latter was possible because pastoral interests sought out accessible, watered and well-grassed plains and avoided inhospitable uplands and deserts. Aborigines who lived in or moved to the less accessible locations endured little interference from Europeans. They remained 'wild blacks' or 'myalls'. Those who lived closer to pastoral stations tended to drift towards them for food and, in the case of some, employment. They adapted, acquired remarkable proficiency as stockmen or skilled station hands and became the integral workforce of the pastoral economy. Their culture, although modified, survived.

The Kimberley region continues to be characterised by extensive, even if diminishing, multilingualism. Tindale identified about 40 language groups and Akerman five cultural blocs in

⁵ The Western Australian Government Gazette, No 263, Memorandum, Chapter V, Clause 7.

⁶ *Report of the Royal Commission on the Condition of the Natives*, (Walter E. Roth Commissioner), Government Printer, Perth, 1905, p.9. Hereinafter the reference will be to the Roth Royal Commission.

⁷ See Howard Pederson and Banjo Woorunmurra: *Jandamarra and the Bunuba Resistance*. Broome, Magabala Books, 2000; and R.H. Pilmer, *Northern Patrol, An Australian Saga*, Hesperian Press, Carlisle, 1998.

which the predominant languages were Wunambul, Gadjerong-Miriwong, Djaru and Walmadjeri.⁸ Following European occupation the *lingua franca* of these groups became Kimberley English or Kimberley Creole, frequently referred to as 'Kriol', a dialect of recently evolved Aboriginal language which is the most understood and the most spoken.⁹ It may have evolved in the East Kimberley through cross-cultural interaction, mainly at Moola Bulla, Violet Valley and the Forrest River Mission.¹⁰

This blending of tongues to create a new language with a derivative but customised lexicon and distinctive grammatical structures in some respects characterised the metamorphosis of northern Aborigines through the merging of their traditional and the imposed cultures. The everyday lives and the cultural cycle of the Indigenous people were shaped by seasonal patterns in the growth of plants and animals they relied on for food.¹¹ For those Aborigines who attached themselves to pastoral stations as employees or as members of the extended families of station hands, or as in the case of Moola Bulla for rations, their cultural cycle was adapted to the pastoral seasons. During the wet season Aborigines reverted to the ways of the old people. From December to March they travelled to traditional places where they attended to matters of Aboriginal law and custom. It became seasonal practice in the pastoral industry that this was 'walkabout time' or 'pinkeye'. After the annual cattle muster before the summer rains ended the dry season, Aborigines took their mandated annual leave, divested themselves of their acquired cross-cultural accoutrements and reverted to tradition.¹² 'Pinkeye' was their time for gathering the mobs, corroboree, initiation and law.

Charlie Yeeda, interviewed by Eileen Cox, related how at Moola Bulla, traditional 'law time' and 'racing time' on the pastoral stations came together.¹³ 'Before any one come to this civilisation' they used to take law time, he said, 'about August month, they used to keep it till December months'. Rather than gathering for cultural ceremonies at about the middle of the dry season, station Aborigines delayed until the commencement of the racing season, an annual celebratory event in the pastoral calendar to mark the end of the muster and the commencement of the monsoonal 'wet'. At 'racing time' Aborigines at Moola Bulla and surrounding stations were free to take young people 'for the Law or something like that, you know':

⁸ Norman B. Tindale, *Aboriginal Tribes of Australia*, 'Tribal Boundaries in Aboriginal Australia'; and Kim Akerman, 'The Renascence of Aboriginal Law in the Kimberleys in R.M. Berndt, and C.D. Berndt (eds), *Aborigines of the West*, pp.234-242.

⁹ Kaye Thies, *Aboriginal Viewpoints on Education, A Survey of the East Kimberley Region*, p.12.

¹⁰ *ibid*, p.18.

¹¹ R.M. and C.H. Berndt, *The World of the First Australians*, p.108.

¹² Under provisions of section 30 the *Aborigines Act 1905*, employers were required to grant to Aborigines, at their request, leave of not less than fourteen days after three to six months employment and not less than thirty days after six months. That holiday time conventionally taken during the wet season was referred to as 'pinkeye'.

¹³ Charlie Yeeda (Kija), 'Place was Free to Go', interviewed by Eileen Cox (nee Walalgie), in Kimberley Language Resource Centre: *Moola Bulla*, pp.167-169.

They doesn't dress like people doing the Law this time, walking in shirt and tie, they used to have naga and really truly paint up, real tribal way, you know?¹⁴ They used to walk hundreds of mile, from Fossil Downs to here, from Billiluna to here, from Nicholson to here, from Melville Down to here, and that was good time, you know? And the people used to have big law place in Moola Bulla, that was the centre and the Law was running, Aboriginal Law was running real strict, you know, about six kilometres away from town, from the station. Law didn't break.

Aboriginal custom and European pastoral practice adapted each to the other. The industrial schedule of the imported European culture was met and Aboriginal heritage was conserved. That might have been due more to fortuitous circumstance or seasonal imperative than to deliberate policy intention, but the freedom of movement available to Aborigines and the seasonal release from station activities at Moola Bulla helped protect the Indigenous culture.

That was not a primary consideration when Gale encouraged government to establish native cattle stations. However, while he was strongly supportive of the policy of rationing depots or feeding stations to deter Aborigines from killing cattle, Gale also was respectful of Indigenous protocols. He argued for the need to maintain the separation of language and cultural groups. Aboriginal custom demanded that tribes maintain territorial separation, other than at times when they gathered for law and ceremonial tradition. Each respected the other's boundaries and uninvited intrusion by one into another's lands incurred uncompromising reprisal. Gale understood, even if only for logistical reasons, that to maintain harmony among neighbouring Aboriginal communities several native reserves similar to Moola Bulla might be needed in the Kimberley. Because in each magisterial district there were several Indigenous groups who spoke different dialects and maintained rigorous territorial separation and cultural strictures, any attempt to gather them against their will 'on to one reserve outside their own country must necessarily be unsuccessful'.¹⁵ Gale foresaw the need to establish self-supporting reserves in each tribal district. Furthermore, he argued, such reserves should be open; 'The native race is of nomadic nature and they come and go of their own free will'.¹⁶

The political motivation for native cattle stations was more financial than altruistic. A native station was less expensive than subsidising missions or paying contractors to provide relief. Scrutiny of Gale's annual reports on Moola Bulla and other reserves reveals a public officer more interested in the management of the native cattle station and opening up the north to pastoral enterprise than in protecting Aborigines. Gale did not neglect Aboriginal culture, heritage and identity, but they were secondary considerations. As far as Gale was concerned they also were a

¹⁴ 'naga' – loincloth or pubic covering.

¹⁵ Aborigines Department, *Report of the Chief Protector of Aborigines for the Year Ending 30 June 1908*, p.4.

¹⁶ Aborigines Department, *Extract from the Report on the Work of the Aborigines Department for the Year Ended 30 June 1911*, p.4.

passing consideration since he believed the race was doomed to extinction. His stewardship of the government's relationships with Aborigines was distinguished by his commitment to minimising expenditure for the welfare of Aborigines.

Two financial advantages from Moola Bulla directly benefited the Aborigines Department and therefore the state. The first was the financial return generated by the station. Gale reported that the settlement returned a profit of £3,489/8/10 for the financial year 1912-13.¹⁷ That was additional to the savings claimed to attach to the annual cost of maintaining gaols by reducing the number of Aborigines imprisoned for killing cattle.

The second benefit was that the native cattle station created a market for otherwise unsaleable stock; 'the balance sheet discloses that the settlement is credited with the sum of £2 for every beast killed to feed these unemployed natives'.¹⁸ However, the credit to Moola Bulla was a debit against annual budget of the Aborigines Department. The financial saving for government was more apparent than real. The notional savings in the Gaols portfolio of the cost of maintaining Aborigines in prison was cancelled by payments from the Aborigines Department to Moola Bulla for spayed cows slaughtered to feed Aborigines. Even then, in its first six years of operations to 31 March 1916, Moola Bulla ran at an accumulated loss of £1,025/17/5.¹⁹ Actual financial returns accrued only to the pastoralists in the East Kimberley who benefited from reduced depredation of their stock.

When Neville was appointed Chief Protector of Aborigines in May 1915, Moola Bulla and Violet Valley had been operating four full years and, as far as government was concerned, their intended purpose of deterring Aborigines from killing cattle had been achieved. Much of the cost of relief for indigent Aborigines also had been shifted to pastoralists. In October 1909 Gale had written to pastoralists pointing out the *Aborigines Act* gave him power to grant permits to employ native labour under any terms he thought fit, and 'unless I have very sufficient ground for doing otherwise,' the renewal of permits may be subject to conditions that the pastoralists provide sustenance for all indigent natives on their stations.²⁰ Previously, station owners could claim reimbursement for the relief of Aborigines not employed by them, but living on their leases as allowed by terms of the *Lands Act*. Some station owners absorbed the cost of provisioning such natives as an operating cost, but others did not and 'sent in a voucher to the Government for the feeding of indigent natives'.²¹ Gale was able to report a very liberal response to his implied threat to pastoralists to change the conditions of Aboriginal employment,

¹⁷ Aborigines Department, *Annual Report of the Aborigines Department for the Year Ending 30 June 1913*, p.5.

¹⁸ *Ibid.*

¹⁹ State Records Office, Colonial Secretary's Department, Acc 993, Item 58/1920, folio 18.

²⁰ *ibid.*, see also, Aborigines Department: *Report of the Chief Protector of Aborigines for the Year Ending 30 June 1910*, p.4.

²¹ Aborigines Department: *Report of the Chief Protector of Aborigines for the Year Ending 30 June 1910*, p.2.

‘resulting in a saving to the Government of £850 per annum in this direction alone’.²² In effect, responsibility for relief of indigent Aborigines was transferred from Government to private pastoral interests, causing Gale to claim; ‘I saved in that direction alone some £1,000’.

An Uneasy Transition

A.O. Neville inherited the native cattle stations program when he took over responsibility for the Aborigines Department. The department operated with financial stringency, but in the opinion of Rufus Underwood, the minister responsible for Neville’s appointment, it was characterised by administrative disorder and lacked leadership and managerial protocols. The first Chief Protector, Henry Prinsep, had demonstrated little respect for the Aborigines he was supposed to protect, and was unfamiliar with the country north of Geraldton where large numbers of them lived. The second, and Neville’s predecessor, Charles Gale, had practical experience and knowledge of Aborigines and was familiar with the northern pastoral industry. He spent six months of every year on tours of inspection of pastoral properties in the north and the management of his department and the affairs of Aborigines were left to his clerk. Gale maintained contact with his department and his minister by telegram.

Neville’s appointment as Chief Protector was controversial. He had not sought the position nor did he want it. His initial response was to decline.²³ Had his refusal been final, some probably would have applauded. Neville was not their man. Critics would have preferred that Charles Gale remain in the position. He had been a pioneering pastoralist in the Gascoyne district and was acclaimed by his supporters as someone who knew and understood the North and the Aborigines who lived there. Gale’s minister, Rufus Underwood, on the other hand, did not share that confidence and wanted to be rid of him.²⁴

The office of Chief Protector was a statutory position under the *Aborigines Act 1905*, however, and could be abolished only by amending the Act. When in 1915 Underwood contrived to remove Gale, he suggested amalgamating Aborigines with Immigration. For two months from March to May 1915, Neville retained his position as Secretary of Immigration and assumed additional responsibility as Chief Protector of Aborigines. In May Gale was rendered redundant and compelled to retire. The Public Service Commissioner, Martin Jull, offered

²² *ibid*, p.5.

²³ Pat Jacobs, *Mister Neville*, p.54. See also, Moseley Royal Commission, Evidence of A.O. Neville, 13 March 1934, p.87.

²⁴ At that time, the Aborigines Department functioned within the portfolio of the Colonial Secretary, Hon. John Michael Drew MLC. Underwood was an Honorary Minister or Minister without portfolio (now called a Parliamentary Secretary) who represented the Colonial Secretary in the Legislative Assembly. He signed for the Colonial Secretary in the Aborigines Department and the Charities Department and had direct oversight of the administration of those two Departments.

economy as a justification for the administrative reorganisation. It was desirable, 'owing to the need for economical working,' to abolish the Immigration Department as a separate entity, and to add its restricted functions to another Department. Jull testified to the select committee inquiring into Gale's retirement that when the Scaddan Government decided expertise in Aboriginal matters was not a requirement for the office of Chief Protector 'it opened up the possibility of an amalgamation on the ground of economy, and on the ground of dispensing with Mr Gale'.²⁵ Neville was appointed for his administrative expertise not for his knowledge of Aborigines.

Underwood had his way, but his stratagem produced political adversaries for Neville at the outset of his career as Chief Protector. A select committee of the Legislative Council was appointed 'to inquire into the circumstances attending the retirement of Mr C. F. Gale from the position of Chief Protector of Aborigines' on the motion of Gale's long-time friend, Walter Kingsmill.²⁶ The Committee reported adversely. It found that Gale's involuntary redundancy was, 'an ill-considered and injudicious step, illegally carried into effect', was not justified by financial savings and was not to 'the credit of the State nor to the efficient administration of the office in question'.²⁷ While the Committee did not publicly find so, neither did the manner of Gale's removal engender confidence in Neville. Some witnesses before the Select Committee presented guarded, but less than complimentary opinions about Neville's suitability. In answer to questions from the Chairman, Hon. J.J. Holmes, about the need for specialised knowledge about Aborigines, Joseph Campbell of the Colonial Secretary's Department, replied that if the man in charge lacked experience 'naturally both the department and the aborigines must suffer'.²⁸ The Under-Secretary of the department, Frederick Dudley North, offered a barbed response to a similar question from the Chairman about whether field experience was more important than office experience: 'The man who has had 21 years experience in field and office work is a better trained man than one who has been trained only in office work'.²⁹ Not only did Neville commence work with political adversaries, but also lacked credence amongst his colleagues.

The focus of the political challenge to Neville's fitness for the office of Chief Protector was Gale's practical experience in dealing with Aborigines and Neville's lack thereof. Francis Connor asked in the Legislative Council,

²⁵ *Report of the Select Committee of the Legislative Council on the Retirement of Mr. C. F. Gale from the Position of Chief Protector of Aborigines*, p.19.

²⁶ Parliamentary Debates, Legislative Council, 24 August 1915, pp.298-308.

²⁷ *Report of the Select Committee of the Legislative Council on the Retirement of Mr. C. F. Gale from the Position of Chief Protector of Aborigines*, p.iv.

²⁸ *ibid*, evidence of Mr. Joseph Robert Campbell, Accountant, Colonial Secretary's Department, p.14.

²⁹ *ibid*, evidence of Mr. Frederick Dudley North, Under Secretary, Colonial Secretary's Department and Comptroller General of Prisons, p.10.

How can Mr Neville know anything about the natives proper? How can he understand how to handle them and, above all, how to educate them? A more difficult proposition still is how will he handle the half-breed? I do not know, and I am sure he does not know.³⁰

Those rhetorical questions were intended to discredit Neville's fitness for the role of Chief Protector. In response, the Colonial Secretary, John Drew, admitted that Neville had no first-hand knowledge of Aborigines, but defended his appointment on the grounds that he was an able administrator. Drew offered the extraordinary proposition that,

It was never expected that Mr Neville was appointed to do all this work or that he had the necessary qualifications. Mr Underwood has a very thorough knowledge of the requirements of Aborigines, gained after a long period of residence in the North-West, and he expects, by reason of the fact that he will have a fair amount of leisure time, to save thousands of pounds to the department.³¹

It was the clear intention of the Minister who appointed him that Neville would not contribute to policy formulation. He was thought not to have the relevant experience to do so and was appointed to the position of Chief Protector solely to give administrative order to a previously ill-managed department. The Honorary Minister, Rufus Underwood was to be responsible for policy. As it turned out, within two years of his appointment as Chief Protector Neville became the principal source of policy for Aborigines. The very matters that were the focus of Connor's rhetorical attack upon him above became focal matters for the full extent of Neville's tenure in the role of Chief Protector of Aborigines. How well he handled them is a matter of historical judgement to be considered here. He made first significant foray into policy when he evaluated and reformed the policy of lock hospitals then situated on Bernier and Dorre Islands in Shark Bay.

Isolating Diseased Aborigines

Lock hospitals were mooted first at a conference presided over by the Principal Medical Officer convened on 11 June 1907 to consider how to treat large numbers of Aborigines said to be suffering from venereal disease. The then Chief Protector of Aborigines, Henry Prinsep, attended at the request of the Colonial Treasurer, Frank Wilson. The conference agreed that the most effectual strategy was to establish a hospital on an island or segregated compounds on the

³⁰ Parliamentary Debates, Legislative Council, 24 August, 1915, p.368.

³¹ *ibid*, p.373. Rufus Underwood MLA was a minister without portfolio in the Scaddan Ministry. He was given charge of the Aborigines portfolio, but was directly responsible to the Colonial Secretary, Hon. John Drew MLC.

mainland and to require police officers to send afflicted natives there for treatment. Barrow Island was nominated as a suitable location.

Prinsep supported the island proposal, principally on economic grounds. He suggested in his annual report for 1907 that a hospital facility on the island might prove beneficial because 'a considerable number of sheep might be grazed' there, thus saving cost of food and providing financial returns from the sale of wool. Furthermore, should a contract be let for digging phosphates, probably guano, on the island, employment might be found for 'any of the invalids who were able to do some work'. The contractor might also provide 'easy and cheap' communication with mainland.³² Prinsep seems to have overlooked the relative values of treating Aborigines in their homelands rather than on remote islands or the cultural consequences of removing and isolating diseased Aborigines from their communities.

The Colonial Treasurer received the report of the conference after Prinsep retired and Gale had been appointed to succeed him. In the interim, the lessee of Bernier Island, George Bastow, learned of the proposal and offered to sell his lease comprising 16,000 acres with improvements, including a house which he claimed 'cost me £1,000', to the government for the sum of £1,000.³³ Government accepted. The Colonial Treasurer, Frank Wilson, requested that the Premier and Minister for Lands, Newton Moore, 'secure Bernier Island, and to reserve Barrow Island' so that they may be proclaimed Aboriginal reserves under the *Aborigines Act*.³⁴

A decision on Barrow Island was deferred, but Bernier Island was resumed and reserved as a lock hospital for diseased Aboriginal women.³⁵ Police officers were instructed to report the names of women suffering from 'syphilis or other bad form of venereal disease' so that arrangements could be made to remove them to Bernier Island.³⁶ Gale reported in 1908 that, 'Already 58 native women suffering from venereal disease have been collected from Wyndham downwards, and have been sent across to the island'.³⁷ Barrow Island was rejected in favour of Dorre Island as the site of a hospital for men, principally because the proximity of Dorre to Bernier Island meant transportation of afflicted Aborigines would be cheaper.³⁸ Cabinet approved the Dorre Island site on 12 October and the island was proclaimed on 7 November

³² Aborigines Department, *Report for Year Ending 30 June 1907*, p.3.

³³ State Records Office, North-West, Acc 653, Item 119/1916, folio 1, George Bastow to F.D. North, 22 June 1907.

³⁴ *ibid*, folio 6, Colonial Treasurer to the Minister for Lands, 4 July 1907.

³⁵ *ibid*, folio 106, J. Connolly, Colonial Secretary. The Reserve on Bernier Island was proclaimed on 28 May 1908: 'that portion of Bernier Island lying between a West line from Wedge Point to the North, and a West line from Cleft Rock on the south containing two thousand (2,000) acres'.

³⁶ *ibid*, folio 101, CPA to Acting Commissioner of Police, 15 May 1908.

³⁷ Aborigines Department, *Report of the Chief Protector of Aborigines for the Year Ending 30 June 1908*, p.4.

³⁸ State Records Office, North-West, Acc 653, Item 119/1916, folio 180, CPA to the Under Secretary, 9 September 1908.

1908 as a Native Reserve, number 11603, for a hospital for male Aborigines.³⁹

Not everyone agreed that the numbers reported by Gale demonstrated success. Nor was the incidence of disease as severe as estimated. Gale himself was moved to observe on the basis of police returns: 'I am inclined to think that there are not as many Natives suffering from disease as was anticipated'.⁴⁰ In the Committee on Supply the following year, Underwood challenged the efficacy of the lock hospitals. He cited an article in the *Hedland Advocate* which alleged that afflicted Aborigines were not being sent to the hospitals. It questioned whether a police constable should perform 'a lock hospital examination on any sickly-looking gin he meets'.⁴¹ Underwood protested against the management of the scheme and suggested the appointment of a special medical officer. That was not done until some twenty-five years later, however.

Gale identified a different kind of problem. He suggested that under the existing law it was quite probable that the incidence of venereal disease amongst Aborigines would not be contained, 'if some drastic measures are not taken to stamp out the same disease among the males of other nationalities'.⁴² Plain speaking from a courageous man, but Gale did not say which other nationalities. Prinsep had intimated the European population was at fault; 'the seeds of the evil have been sewn by them in the first place'.⁴³ Popular opinion preferred to blame 'Asiatics' or 'Manilamen' for introducing venereal disease to the pearl fisheries. In 1875, there were 989 Malays and 493 Aborigines on the fifty-seven vessels licensed out of Cossack; in 1913 there were 1166 Japanese, 634 Malays, 92 Koepangers, 7 Chinese, and one South Sea Islander, but no Europeans employed in the pearling fleet.⁴⁴ If Gale reflected popular opinion, it was the 'Manilamen' who were the target of his proposition that it was 'a hopeless task trying to cleanse the aborigines, if fresh legislation in the above direction is not introduced'.⁴⁵

Neville shared Gale's opinion that venereal disease amongst Aborigines could not be managed unless it was 'stamped out from amongst the white men', but when in 1916 he reviewed the lock hospitals program, his approach was not so much concerned with blame as cost effectiveness.⁴⁶ In July of that year there were only 50 patients under treatment, 39 women at Bernier Island and 11 men on Dorre Island. When they were established in 1908, two complete and separate lock hospitals were built, each to accommodate an estimated 200 patients. Since their inception until 1916, 601 patients, 395 females and 206 males, had been treated, never more

³⁹ *ibid*, folio 230, R. Cecil Clifton, Under Secretary for Lands.

⁴⁰ *ibid*, folio 180, CPA to the Under Secretary, 9 September 1908.

⁴¹ Parliamentary Debates, Legislative Assembly, 2 February 1909, p.1848.

⁴² Aborigines Department, *Report of the Chief Protector of Aborigines for the Year Ending 30 June 1908*, p.5.

⁴³ Aborigines Department, *Report for Financial Year Ending 30 June 1907*, p.3.

⁴⁴ Hugh Edwards, *Port of Pearls*, Hugh Edwards, Swanbourne, 1984, pp.47 and 58.

⁴⁵ Aborigines Department, *Report of the Chief Protector of Aborigines for the Year Ending 30 June 1908*, p.5.

⁴⁶ State Records Office, Aborigines and Fisheries, Acc 652, Item 44/1919, attachment to folio 36, A.O. Neville, Report to the Under Secretary, 25 October 1917.

than 100 on both islands, at an average cost £70 per head for treatment alone. Only 149 women and 237 men had been deemed cured and 165 patients, 119 women and 46 men, had died. Forty-five per cent died within a week of arrival.⁴⁷ Those who stayed more than two years were chronically incurable and probably were doomed to quarantine on the islands until they died.

There was some doubt about which was the target disease when the lock hospitals were first proposed. There were no extant records of the original meeting in the Principal Medical Officer's office in 1907 when Neville undertook his review. The Principal Medical Officer subsequently had referred only to venereal disease, but did not specify any particular diseases. After reviewing available information, Neville determined that the disease amongst Aborigines intended to be treated at the lock hospitals was granuloma.⁴⁸ That was thought to be an affliction primarily of dark-skinned people. No infections among whites had been reported, although in 1917 the Principal Medical Officer, Dr Atkinson, offered the opinion that may be because 'it was characterised by very repulsive and visible lesions, which are likely to act as a deterrent to the white man'.⁴⁹

Even though granuloma was the target disease, Aborigines afflicted with all forms of venereal disease, notably syphilis and gonorrhoea as well as granuloma, were gathered from all parts of the state and from across a wide range of cultural groups, notably from north of Broome and the northern goldfields, many from well inland and sometimes walked to the nearest port on a chain. They were despatched to Carnarvon and from thence by lugger to the islands. There they were compelled to live in close proximity with little opportunity to remove themselves, despite language differences and cultural proscriptions against contact between peoples of different moieties. Isolated from their lands and their people, they had little to do other than to submit to intrusive medical examination and treatment and, between times, wander aimlessly in, for them, the confined spaces of the islands. They were in sight of the mainland, but an impossible distance removed from it. Prinsep's earlier hope that Angora goat farming might be established on the islands to defray costs and provide occupation for the patients was never realised. Neither was it practicable. Those Aborigines retained on the islands for extended periods were the hopeless cases, lethargic from disease and its treatment and from their dreadful alienation. Those discharged within a few months or even weeks, reported cured, probably should never have been

⁴⁷ State Records Office, Aborigines and Fisheries, Acc 653, Item 58/1920, folio 1, Principal Medical Officer, Medical Department to Secretary, Aborigines Department, 31 July 1916.

⁴⁸ Probably granuloma inguinale, also known as granuloma venereum or donovanosis: a chronic, mildly contagious STD caused by the bacterium *Calymatobacterium granulomatis*, which contaminates food and water. It produces thick, puffy, red sores on and around the genitals and anus and, occasionally, in nongenital areas. Urology Channel, <http://www.urologychannel.com/std/granuloma.html> (15 July 2006).

⁴⁹ State Records Office, Aborigines and Fisheries, Acc 652, Item 44/1919, attachment to folio 46; A.O. Neville, Report to the Under Secretary, 25 October 1917, and State Records Office, Aborigines and Fisheries, Acc 652, Item 44/1919, folio 78, CMO to Under Secretary, 5 November 1917.

sent there.

In his comprehensive report upon the program to the Under Secretary, Neville, in pointing out that the hospitals were established for the treatment of granuloma and not for other forms of venereal disease, demonstrated that the state had been put to unnecessary trouble and expense. The lock hospitals on the islands had been established, he said, 'to ensure the complete isolation of persons suffering from a disease which might have been equally well treated on the mainland without danger to the community'.⁵⁰ As for the need for separation of male and female patients on Bernier and Dorre Islands, Neville observed that, by tradition, Aborigines lived according to a rigid moral code. They had come to understand the nature of the malady from which they suffered, he said, 'and of their own free will deprecate any intercourse while they know they are in a diseased condition'.

Neville showed considerably more cultural sensitivity than had his two predecessors, Prinsep and Gale. Furthermore, he displayed notable political acumen. He demonstrated that the cost of the existing lock hospitals was prohibitive. The average annual expenditure on their upkeep since their establishment in 1908/9 had been £5,165. In the same time, £10,000 had been expended on the collection and transportation of diseased Aborigines for admission to the hospitals. The total cost of the hospitals, therefore, had been £5,600 per annum. Neville proposed that the same service 'can be rendered for approximately £2,000, in any case not more than £2,500'.⁵¹ He recommended the closure of the hospitals on Bernier and Dorre islands and their replacement with treatment facilities at Derby and Port Hedland, preferably on Finucane Island. Rather than separate medical establishments, treatment could be administered by district medical officers resident at these two localities in return for salary supplementation of £50 and £100, respectively, compared with the £400 supplementation paid to the Carnarvon district medical officer who visited Bernier and Dorre Islands thrice weekly.

The proposal had compelling appeal to government, especially after the Principal Medical Officer of the Health Department pointed out that Neville had over-estimated the cost. In fact, the cost to the State would be half his estimate. At that time district medical officers were remunerated for the treatment of all cases of venereal disease requiring free treatment and 'so long as the total expenditure does not exceed £4,000 per annum' the Commonwealth paid half.⁵²

The Lefroy Ministry agreed in Cabinet to Neville's scheme. The sites selected, the old residency, Derby and Finucane Island opposite Port Hedland were to be declared reserves under

⁵⁰ State Records Office, Aborigines and Fisheries, Acc 652, Item 44/1919, attachment to folio 46, A.O. Neville, Report to the Under Secretary, 25 October 1917.

⁵¹ *ibid*, A.O. Neville, Report to the Under Secretary, 25 October 1917.

⁵² *ibid*, folios 78-9, PMO to Under Secretary, 5 November 1917.

the *Aborigines Act*.⁵³ The man appointed Chief Protector of Aborigines for his administrative skills and not for his knowledge of Aborigines, and who had been expected not to have a pivotal role in policy formulation appears to have made his mark.

Neville had other reasons for locating the receiving depots closer to the homelands of the afflicted Aborigines. In one respect, those reasons were practical. The logistics of gathering and treating afflicted individuals were simpler and cheaper. In another, hospitals located closer to the homelands were more humane. Aborigines feared transportation to the islands; many who had been sent never returned. Neville observed they would sooner die than be sent there. People afflicted with granuloma hid their conditions as long as possible to avoid being sent away, 'the result being in many cases certain death, where a cure might have been effected'.⁵⁴ Neville found 'the method which has had to be adopted of bringing in the unfortunate sufferers on the chain' repugnant. An alternative, he argued, was local treatment that might instil confidence and encourage Aborigines to volunteer themselves for attention. Treating granuloma in the early stages was easy and rapid.⁵⁵

Neville also saw the establishment of facilities at Port Hedland and Derby as part of a larger plan which might help resolve an array of interrelated problems: pacifying Aborigines in yet unexploited districts of the West Kimberley, taking over from denominational missions the care and education of Aborigines in the North, and enabling more stringent discouragement of marriage between Asians and Aborigines. Gale had envisaged a chain of Native Cattle Stations across the East and West Kimberley. As a preliminary stage he had established rationing depots at Sunday Island and Lombadina Missions, and at La Grange in the West Kimberley. The objectives, as at Moola Bulla, were to reduce cattle killing in their vicinity and to reduce administrative costs of relief for indigent Aborigines by gathering them at the feeding stations.

Neville identified the opportunity to further Gale's proposal on the Dampier Peninsular. He proposed that a reserve for Aborigines be established on 750,000 acres of land situated between Broome and Derby. It would involve taking over the Beagle Bay, Sunday Island and Lombadina Missions and relocating Aborigines from there and the La Grange rationing depot. The land, including the mission reserves, might then be re-developed as a self-supporting native cattle station with rationing depots on the model of Moola Bulla and Violet Valley. A lock hospital replacing those at Bernier and Dorre Islands would be worked in conjunction with the

⁵³ *ibid*, folio not numbered, Cabinet submission from H.P. Colebatch, Colonial Secretary, to the Premier, 6 November 1916.

⁵⁴ *ibid*, attachment to folio 46, A.O. Neville, Report to the Under Secretary, 25 October 1917.

⁵⁵ *ibid*, folio not numbered, District Medical Officer, Port Hedland to CPA, 13 December 1917. Dr Dodwell Browne, the District Medical Officer, Port Hedland, had advised Neville, 'I am using a new antiseptic just obtained from home (at a fearful price) which goes by the name of FLAVINE which seems to hurry the healing process in the slowly granulating wounds'. (Flavine subsequently became an antiseptic solution kept in many household medicine chests for application on superficial skin wounds.)

station. The proposal won initial support, but brought Neville into direct conflict with the Roman Catholic Church.

Conflict with the Catholic Church

In a confidential submission dated 8 July 1916 to his minister, Rufus Underwood, Neville recommended that as a preliminary initiative government should discontinue all support for Sunday Island Mission and transfer the 21 indigent Aborigines and 59 children maintained there to a new settlement.⁵⁶ The mission enjoyed an estimated annual return of £400 from harvesting trochus shell and Neville saw no reason why government should provide bulk supplies for the indigent Aborigines and children as well as pay an annual subsidy, which in the financial years 1914-15 and 1915-16 had amounted to £376 and £626 respectively. La Grange, he said, was inefficient. An insufficient number of indigent Aborigines lived there to warrant keeping it open. He recommended that depot be closed also and the services of the departmental officer in charge be dispensed with. Similarly, Lombadina Mission was not favourably situated and Neville suggested that Aborigines located there could be maintained more cheaply and effectively elsewhere.⁵⁷

Underwood approved of the proposals and noted that the subsidy to Sunday Island Mission 'should be discontinued as soon as possible'.⁵⁸ He called for a detailed recommendation, but deferred further action pending a possible change of government. In the event, the Scaddan Ministry was replaced by the Wilson Ministry on 27 July 1916 and on 7 August Neville's proposal to discontinue the subsidy to the Sunday Island Mission was brought to the attention of Hal Colebatch, the new Colonial Secretary and Minister for Education. Colebatch called for further information about the financial returns of Moola Bulla and current admissions at Dorre and Bernier Islands, but no action was taken until Underwood returned to the Lefroy Ministry in November 1917.

Underwood took Neville's submission forward in January 1918. The land he proposed to be taken over comprised a little over one million acres, being the whole of the northern portion of the Dampier Peninsula, including Sunday Island, Beagle Bay and Lombadina Missions and the La Grange Aboriginal rationing depot. Cabinet blinked, however. On June 11, 1918 it decided that the proposal should stand over for a year. There was dissension about the possible future of the Beagle Bay Mission, whether it should be taken over or closed. Until that issue was resolved,

⁵⁶ State Records Office, Aborigines and Fisheries, Acc 653, Item 58/1920, folios 5 and 6, CPA to Hon. Minister, 8 July 1916.

⁵⁷ *ibid*, folios 4-10, CPA to Hon. Minister, 8 July 1916.

⁵⁸ *ibid*, Item 58/1920, folio 10, footnote R.H.U. 10/7/16.

the recommendation for a native settlement on the Dampier Peninsula could not progress. Before further action could be taken, on 17 April 1919 Hal Colebatch became Premier for one month and Underwood was not returned to the ministry. Sir James Mitchell replaced Colebatch as Premier on 17 May 1919 and Colebatch was appointed Minister for Public Health, Education and the North-West. He called for the papers on the Dampier Peninsula again in November of that year.

The emphasis of Neville's recommendations in December 1919 was, as before, the political economy of a native cattle station. Just as Gale had argued in support of establishing Moola Bulla, Neville emphasised the cost of bringing to justice and imprisoning Aborigines for cattle killing; 'At present all the cattle killing takes place in West Kimberley, and if we are to prevent it the natives must be supplied with meat, as in the east Kimberley'.⁵⁹ He also raised several new issues: the growing incidence of venereal disease; the increasing number of indigent Aborigines; the need for better care of young children; the opportunity of closer settlement of the Kimberley by returned soldiers; and the possibility of developing tropical agriculture. He favoured using the settlements already established on the Dampier Peninsula, but if that were unacceptable, he suggested as an alternative site for a native cattle station 'the aborigines reserve of 414,000 acres lying between Collier Bay and King Sound'.⁶⁰

Neville had an enduring concern that missions generally were not performing the useful work that might be expected of them. In particular, they were not creating employment for young Aborigines who were attracted to the missions by the prospect of a relatively easy existence. Neville believed they were growing up in idleness instead of being employed on pastoral stations. He may have overestimated the amount of employment available since for much of the year most pastoralists employed only a small portion of Aborigines who lived on their runs and subsidised the rest. Neville persisted with his concern that because missions had not developed their own reserves as viable properties to create employment and because they were reluctant to release their converts to work at pastoral stations elsewhere, children were growing up without any prospect of a future, 'being alienated from their old bush life, and rendered more or less useless for the condition of life being forced upon them'.⁶¹

The submission Underwood presented to Cabinet in January 1918 paid particular attention to the failure of missions to teach young Aboriginal people the value of work, 'attending almost solely to the religious side and neglecting the material'.⁶² Underwood was not even convinced that missions succeeded in their religious vocation; 'they have had missions for over

⁵⁹ *ibid*, folio not numbered, memo, CPA to the Under Secretary, 3 December 1919.

⁶⁰ *ibid*. That subsequently became part of Munja Native Cattle Station.

⁶¹ State Records Office, Aborigines and Fisheries, Acc 653, Item 58/1920, folio 6, CPA to Hon. Minister, 8 July 1916.

⁶² *ibid*, folio 40, T. H. Underwood to the Hon. Premier (In Cabinet), 16 January 1918.

half a century, and personally I have not come into contact with one Christianised aboriginal'. He was particularly cautious about the role of ordained missionaries whom he saw as unsuited by their very nature, 'even allowing for religious fervour', to the role of pioneering the north of the state. In his opinion they were 'fore-doomed to be impracticable in dealing with material questions'.⁶³

Beagle Bay Mission was especially problematic. It had been established in 1890 by Trappist monks, but was abandoned after a few years. The conflict between the contemplative vocation of the Trappists and the practical demands of establishing and maintaining a mission became insurmountable.⁶⁴ In 1903, Bishop Kelly of Geraldton negotiated an agreement with the Pallottine Pious Society of Missions for German Pallottines to take over the Mission. Funding was to be provided from Rome, the Pallottine Motherhouse at Limberg, and by Australian benefactors. The aim was that the mission eventually would be self-supporting. That expectation was never realised, local fundraising was difficult and Limberg was reluctant to provide continuing support.

In 1907 six sisters of the order of St John of God took charge of educating the children and training the girls. By 1910, the Mission ran 3,500 head of cattle on a pastoral lease of 80,000 acres and the adjoining Aboriginal Reserve of 750,000 acres, in total an area of approximately 830,000 acres. In addition, the Pallottine Fathers had a grant of 12,000 acres for Mission purposes. When Neville prepared his submission for the Minister, 831 Aborigines lived on the Mission.

Beagle Bay suffered particular privations during the Great War, 1914-18. Further financial support could not be received from Limberg and it was suggested that the Pallottine fathers should be interned along with other German aliens resident in Australia. The dissolution of the mission was considered, but averted by the intercession of Archbishop Clune and Bishop Gibney in Perth and Bishop Kelly in Geraldton. The mission was allowed to continue, restrictions were imposed upon the movements of the German missionaries, and a police officer was stationed at the mission to guarantee security.⁶⁵ The work of the mission was severely curtailed.

Contrasting reports by Gale after he visited the mission in 1910 and by Neville after a detailed inspection in October 1917 illustrate the extent of deterioration at Beagle Bay. Gale described a reception by 'the merriest and happiest looking native children from ten years of age that it has been my lot to see'.⁶⁶ There was a large area of ground under cultivation, with 'a

⁶³ *ibid*, folio 39.

⁶⁴ Mary Durack, *The Rock and the Sand*, Constable and Co. Ltd, London, 1969, pp.73-75.

⁶⁵ D.F. Bourke, *The History of the Catholic Church in Western Australia, 1829-1929*, Archdioceses of Perth, 1979, pp.219-220.

⁶⁶ State Records Office, Aborigines and Fisheries, Acc 653, Item 58/1920, folio 28, Gale to Under Secretary, 'Beagle Bay Mission', 30 December 1910.

plentiful supply of vegetables of all sorts being grown according to their season'. The cattle herd numbered only 3,500 and the annual financial yield from sales was small. Until a certain market for fat bullocks was obtained and the stock increased, 'the financial position of the Mission must be a source of anxiety to those in charge'. Even with that qualification, Gale was impressed by the dedication of the missionaries.

Neville was not complimentary; 'It seems to me that things have been going back instead of forward'.⁶⁷ Some of the older buildings were dilapidated and the general appearance of the surroundings was extremely dirty. Livestock, supposed to number 3,500, were in poor condition and had not increased since 1911. New blood had not been introduced for a very long time. The Mission garden, 'once the pride of the place', grew only enough vegetables to feed the staff. Children did not get proper food, though probably they got sufficient. Neville acknowledged that the system of supplying rations in bulk had proved a mistake. They were intended for indigent Aborigines, but at Beagle Bay and Lombadina the rationing system led to the concentration of too many able-bodied people at the mission stations, 'all being fed with food only intended for a limited number'.⁶⁸

Neville rated the teaching of the Sisters as excellent. Some of the boys were taught trades in the daily work of the institution, but any suggestion that they might leave the Mission to earn their living elsewhere was unacceptable to the management. Neville was critical; 'what is the good of this training if after growing up these young people are merely kept for the purpose of reproducing their species'?⁶⁹ He reaffirmed his recommendation that government take over the buildings and plant of the Beagle Bay Mission, subject to a sufficient sum being paid annually by the Aborigines Department by way of endowment for the establishment and upkeep of the school and the support of a missionary. Otherwise, he concluded, 'I cannot help thinking that now is the time for Government to step in and take over the whole concern'. A native cattle station established on the reserve would supply all requirements; 'there is nothing to prevent the station paying its way as at Moola Bulla'.⁷⁰ The subsidies of the other three missions (Beagle Bay, Lombadina and Sunday Island) would cease and indigent Aborigines could be gathered from as far as La Grange Bay and maintained near the homestead.

The Under Secretary endorsed Neville's new submission in December 1919. Moola Bulla had justified itself, he said; 'It is essentially a trading concern, but a philanthropic institution,

⁶⁷ *ibid*, folios 24-5, 'Condensed Summary of report on Beagle Bay Mission Submitted by the Chief Protector of Aborigines, dated 11 October 1917'.

⁶⁸ *ibid*, attachment to folio 46, A.O. Neville report to the Under Secretary, 25 October 1917; folio 24, 'Condensed Summary of Report on Beagle Bay Mission Submitted by the Chief Protector of Aborigines, dated 11 October 1917'. Note: the spelling changed from 'Lambadina' in earlier folios to 'Lombadina' in this and later folios.

⁶⁹ *ibid*, folio 23, 'Condensed Summary of Report on Beagle Bay Mission Submitted by the Chief Protector of Aborigines, dated 11 October 1917'.

⁷⁰ *ibid*, folio 23, A.O. Neville, 11 October 1917.

which, unlike most of them, more than pays its way'.⁷¹ The Colonial Secretary, Charles Hudson, took the submission forward, but before Cabinet could consider it Archbishop Clune learned of it. He made strong representations to the Premier Colebatch.⁷² As a result of his protest, the scheme was left in abeyance. As before, no action on the Dampier Peninsula could be taken until the future of Beagle Bay mission was settled.

A separate issue of marriage between Aborigines and other races also had to be resolved. The provision of the Act of 1905 relating to the marriage of female Aborigines again brought Neville into conflict with the churches. Under the terms of section 42, no marriage of 'a female aboriginal with any other person' could be celebrated without the written permission of the Chief Protector. Some missions, while grudgingly observing it, opposed that constraint. They encouraged Christian marriage as a means of combating what they saw as the evils of traditional Aboriginal marriage practice. For example, some missionaries were offended by the custom of older men having several and younger wives. To young Aboriginal men and women brought up under strict tribal *morê*s this meant promiscuity was not their custom. The moral dictum of the missionaries, on the other hand, was that polygamous marriage and promised wives, among other consequences, denied young men opportunities to marry and compelled them to enforced celibacy or resort to other means of procuring a consort or sexual gratification. For missionaries unsympathetic to traditional lore and custom, monogamous Christian marriage was an attractive instrument for detribalising the Aborigines.

Neville, on the other hand, respected tribal custom. He was aware that Christian marriages frequently contravened traditional matrimonial lore that a man must not take as his wife any woman of his own totemic moiety or a woman of the opposite moiety who was a certain blood relation to him. In his consideration of applications for marriage, Neville took account of the tribal status of the intended bride. If she was married or even promised according to custom, he considered that Christian marriage to another man would be improper. The marriage of half-caste women was a matter of particular concern. Neville would not interfere where traditional matrimonial law applied, for example where a half-caste woman was the tribal wife of a full blood.

A case in point was presented for Neville's decision while considerations about Beagle Bay were in progress. Permission was sought for the marriage of Antonio Peries, a Manilaman, and Mary Johanna, an Aboriginal. The prospective bride was known to the local protector as Jumballa, also known as Lucy, and believed to be the tribal wife of a man called Dingo, also

⁷¹ State Records Office, Aborigines and Fisheries, Acc 653, Item 58/1920, folio not numbered, Under Secretary to Colonial Secretary, 9 December 1919.

⁷² Mary Durack, *The Rock and the Sand*, p.209, and Margaret Zucker, *From Patrons to Partners and the Separated Children of the Kimberley*, A History of the Catholic Church in the Kimberley, WA, Second Edition, University of Notre Dame Press, Fremantle, 2005, pp.57-59.

known as Turkey. Neville rejected the application on grounds that Mary Johanna was already married according to native custom. Because the policy of the department was not to separate 'a native man and woman thus living together, I regret I cannot accede to the request that Antonio Peries should be allowed to marry the woman Lucy'.⁷³

The matter was complicated by local opinion about marriage or cohabitation of Aborigines and Manilamen. Police and Aboriginal protectors opposed such marriages on two grounds. The first was that Asians employed on the Broome pearl fisheries enjoyed exempt status under the *Immigration Restriction Act*. Contrary to the general prohibition under the Act, Asians indentured to pearlers were allowed to remain in Australia, but upon expiration of engagement they were repatriated. It was generally believed, and supported by Neville, that wives and offspring left behind inevitably became a burden on the community.

The other objection was transparent racial intolerance. It was alleged that mixed marriages led to prostitution and breaches of alcohol laws. The common prejudice was illustrated in the objection recorded by Inspector Drewry, Police District Officer of Broome, against the marriage of Peries and Mary Johanna:

The marriage of gins to Malays or Manilamen, or in fact any other coloured persons should be prohibited, it only means a useless half-caste population. Most of these men prostitute the gins amongst their own countrymen and it is a direct interference with the best interests of the aborigines. The marriage customs of the aborigines should not be interfered with, and the gins are required for the bucks.⁷⁴

Neville was cautious about mixed marriages between Aborigines and Asians, but appears not to have had a closed mind on the matter. Where applicants demonstrated good character and marriage did not conflict with Aboriginal custom, he approved, but such marriages were few. In the six years to December 1917 there had been six.⁷⁵ Neville's disagreement with missions was over Christian marriage being given precedence over Aboriginal marriage. The Act gave the Chief Protector authority to decide each case, but his powers were limited and the missionaries persistent. Neville believed that the separation of secular and religious authority in the care of Aborigines might protect Aboriginal custom. This instance of Antonio Peries and Mary Johanna served only to support his recommendation for government taking over Beagle Bay. The

⁷³ State Records Office, Aborigines and Fisheries, Acc 653, Item 58/1920, folio 31, Inspector O. Drewry, Inspector's Office, Broome to CPA, 20 February 1917.

⁷⁴ *ibid*,

⁷⁵ State Records Office, Aborigines and Fisheries, Acc 993, Item 58/1920, folios not numbered, Telegrams CPA to Inspector Drewry, Broome and reply, 28 and 29 December 1917. See also, State Records Office, Aborigines and Fisheries, Acc 653, Item 18/1917, 'Asking permission for Antonio Peres (Manilla Man) to Marry Johanna, an Aborigine'. For an example of approved marriage application see State Records Office, Aborigines, Acc 653, Item 39/1925, 'Marriage application by Apollonio Abayon (Manilaman) to Therese Santiago (father a Manilaman), Broome'.

recommendation failed, but for other reasons as discussed above, and the issue of marriage between Aborigines and Asians remained unresolved for the remainder of Neville's tenure in office.

Munja Native Cattle Station

In November 1920, Neville was appointed Secretary of the Department of the North-West. He continued as Chief Protector, but had direct responsibility only for those Aborigines living north of 25°S latitude, that is in coastal towns and inland regions northwards of Carnarvon. On the instruction of his minister, Hal Colebatch, his major focus was to be development of the north. It is unsurprising, therefore, that when a native cattle station finally was established in the West Kimberley, Neville emphasised the capability for tropical agriculture demonstrated there. Not only might this create employment opportunities for Aborigines, but also might indicate a new direction for economic development in the region.

Neville acted promptly and government agreed with unaccustomed alacrity when the opportunity arose to purchase Avon Valley Station at Walcott Inlet 136 miles north-west of Derby and approximately the same distance south of Port George IV Mission near Camden Harbour.⁷⁶ One of the owners of the station, Frederick Easton, died accidentally on December 21 1925. On January 8 1926 his brother and surviving partner in ownership of the station, William Robert Easton, offered to transfer the pastoral leases to the government.⁷⁷ The transfer was executed on January 9 and three days later the Solicitor General completed the transfer and assignment with the payment of £500 to Easton.⁷⁸

It would appear that the Under Secretary for Law, H.G. Hampton, had not been advised of the transfer and had misgivings about the manner of the transaction.⁷⁹ Neville may have contravened Treasury instructions in executing a mortgage of £500 on behalf of the Aborigines Department through the Soldier's Settlement Agricultural Bank. Neville dismissed the concern. He was interested only in acquiring the property without undue delay. The station was to be primarily for Aborigines, but he also anticipated, in his role of Secretary of the Department of the North-West, that 'a good deal of cotton will be grown there'.⁸⁰ Neville justified his actions in

⁷⁶ Port George IV Mission, subsequently renamed Kunmunya Mission, had been established in 1916.

⁷⁷ William Robert Easton, articled surveyor, from 1919 a pastoral inspector with the Department of Lands and Surveyors; 1921 leader of expedition to explore country between Isdell River and Napier Broome Bay, North Kimberley, wrote *Report on the North Kimberley Region of Western Australia*; 1922 took up Avon Valley Station with his brother Frederick; 1927 appointed Surveyor General of the Northern Territory. Battye Library, MN 5408.

⁷⁸ State Records Office, Native Affairs, Acc 993, Item 2/1926, folio 32, Solicitor General to the Under Treasurer, 12 January 1926.

⁷⁹ *ibid*, Under Secretary for Law to the Under Treasurer, 13 January 1926.

⁸⁰ State Records Office, Native Affairs, Acc 993, Item 2/1926, folio 37, A.O.N. to Actg. C. in C., 26 January 1926.

charging the cost of the purchase to a loan against his department, 'as the purchase of this station will certainly be the means of encouraging tropical agriculture in this part of the country'. For the sum of £500, the Aborigines Department purchased 300,000 acres of pastoral lease, all the cattle, estimated to number 5,000, horses and other livestock and all other goods and chattels thereon. In effect, the department bought a fully functioning cattle station. The number of Aborigines in the locality was uncertain, but three tribes inhabited the general area: the Ung árvín, Worora and Wunambal.⁸¹ Neville was advised at the time of the takeover that 'the natives are treacherous and indulge in cattle killing'.⁸² They were believed to have slain the previous owner, Easton, but evidence of the police investigation of the death indicated that Easton's Aboriginal companions actually had risked their own lives attempting to save his.⁸³

The station was renamed 'Munja', the Aboriginal name for the nearby Harding Ranges and a permanent manager, Harold Reid, took up his position on April 2 1926. Neville's instructions to Reid emphasised that the care of Aborigines was the primary object in establishing the station. He requested an early report on their condition and number in the vicinity of the station. Neville was particularly concerned about information he had received on several occasions about the incidence of disease, 'particularly venereal disease, and possibly leprosy,' and instructed that those Aborigines requiring treatment at the hands of the District Medical Officer be sent to Derby.⁸⁴

As at Moola Bulla, a feeding station was proposed to discourage cattle killing. In the West Kimberley the economic objective was not, as in the East Kimberley, to benefit existing pastoralists, but to encourage settlers to take up new country. Neville hoped that if the Aborigines could be pacified, it would 'be possible for the surrounding country to be taken up by white settlers in the near future'.⁸⁵ To that end, Neville instructed that, 'the natives must be taught not to help themselves to cattle', but, as at Moola Bulla and Violet Valley, to come to the station for meat.

Rumours about the prevalence of venereal disease appear to have been unfounded. Neville earlier had expressed some caution about the incidence, in particular the incidence of granuloma, among Aborigines. In his 1917 report on the lock hospitals, he expressed uncertainty about why so few patients had been treated there; 'Whether the disease was not so extensive as expected, or the methods adopted for the collection of diseased natives were wrong, I do not

⁸¹ *ibid*, folio 219, A.P. Elkin to Neville, 10 September 1926.

⁸² *ibid*, folio 22, Matthew Timothy Dept N-W, Broome to CPA, Perth, 9 January 1926.

⁸³ *ibid*, Item 2/1926, folio 44, J.C. de Lancourt to Mr. W. Easton, 25 December 1926.

⁸⁴ *ibid*, folio 63, CPA to Harold Reid, 4 March, 1926. Reid's description of 'venereal in mild form' would suggest the affliction was an early stage of granuloma infection.

⁸⁵ *ibid*.

know'.⁸⁶ Two expeditions though the North-West had found fewer than anticipated infected Aborigines. The first found only 47 and the second, in which 513 Aborigines were examined, located only 32 cases needing hospitalisation.⁸⁷ The experience at Munja tended to confirm that reports of disease among Aborigines were exaggerated. In the two years after the station was purchased only two cases of venereal disease were discovered, 'and one of those cases was brought in from a great distance away'.⁸⁸ The most common complaint among the Aborigines appeared to be 'sore eyes'.⁸⁹ They otherwise appeared to be 'healthy and physically fit in every way'. The males were described as 'tall and well set up', but there were disproportionately fewer females 'and a great scarcity of children'.

Contrary to their fearsome reputation, the Aborigines proved affable, but remained independent and far from subservient. Groups of varying sizes visited the homestead, initially perhaps out of curiosity, but increasingly for food and at times for medical attention. Reid estimated that more than six hundred had visited, but never more than half that number assembled at one time at the camp opposite the homestead.⁹⁰ They were not obliged to remain and most came and went as they pleased. Rather than forceful subjugation of the colonised by the colonisers, the early Munja experience was harmonious co-existence of pastoralists and Aborigines, each benefiting from the other's presence.

Munja was different from commercial pastoral stations in that it was public institution maintained for ostensibly beneficent purposes. It was intended to be self-supporting, but not a profitable trading enterprise. Without the good will and contributed labour of Aborigines Munja might not have been viable. The value of that labour was illustrated in Reid's report of December 1926. He estimated that, at contracts rates, the improvements he had erected since his arrival would have cost about £150. Instead, Reid was able to report that 'the expense has been very small, namely tools, food for the natives and my time'.⁹¹

In financial terms, however, the benefits favoured the pastoral enterprise rather than the Aborigines. The relationship had overtones of '*villeinage regardant*'.⁹² The principal difference was

⁸⁶ State Records Office, Aborigines and Fisheries, Acc 652, Item 44/1919, folio not numbered; A.O. Neville, Report to the Under Secretary, 25 October 1917.

⁸⁷ *ibid.*

⁸⁸ State Records Office, Native Affairs, Acc 993 Folio 2/1926, folio 215, memo CPA to the Under Secretary, 27 August 1928.

⁸⁹ *ibid.*, probably glaucoma which remains endemic among Aborigines in remote areas of Western Australia.

⁹⁰ *ibid.*, folio 179, H Reid, Avon Valley Station to CPA, Perth, 15 June 1927.

⁹¹ *ibid.*, folio 151, CPA the Under Secretary, C.S.D. Excerpt of letter from H. Reid, 17 December 1926.

⁹² Steven M. Wise, *Though Heavens May Fall*, Pimlico, Random House, London, 2006, p.15: 'There were two kinds, villeins *regardant*, who were attached to the land, and villeins *in gross*, who were joined to the persons of their lords.... Unlike a slave, whose hopes of freedom were limited either to voluntary manumission at the whim of his master or to escape, a villein might upgrade his legal status in numerous ways unavailable to black slaves, not just through manumission, but through his lord's conduct, residence in certain cities or boroughs for a year and a day without the lord's making claim, ordination, knighthood, marriage, and others'.

that Aborigines were not bound to the station other than by cultural ties to their land. They had freedom of movement, but over time Aborigines bartered their independence for beef, flour, sugar, tea and tobacco. The station, in turn, bartered food, clothing and blankets for labour. There was neither obligation nor expectation of other payment for services, and the Aborigines did not succumb easily. They were aggressively independent. Reid counselled Neville against complacency; 'as you know they are vain in their perceived prowess in defying authority & try to outdo one another'.⁹³ Reid saw the need to teach Aborigines 'to respect the white man's law'.

The importance of Aboriginal labour for the economic development of the Kimberley came to focus on the potential for tropical agriculture and horticulture. An assessment of possible land use in the Kimberley prepared for the Department of the North-West by William Easton in 1921 observed that, though the region was pre-eminently pastoral country, certain areas were suitable for the cultivation of 'many articles of commercial economic value'.⁹⁴ Neville had identified the possibility of tropical agriculture at Munja. Reid confirmed Neville's anticipation. He described the land in the river valley near the homestead as 'hundreds of acres of beautifully rich loamy land, a shade darker than chocolate soil'.⁹⁵ A variety of grains had been cultivated successfully at the Port George Mission which was self-sufficient in rice and cereals and Reid anticipated that 'there is no reason why the property should not be self-supporting from Agricultural pursuits alone'.⁹⁶

Neville saw an opportunity for regional development. In 1922, as Secretary for the North-West, he had compiled for his Department an information brochure that extolled the agricultural potential and claimed that, 'with the advent of settlers', the state would enjoy, 'through its own growing, the many tropical commodities now imported'.⁹⁷ Neville returned to that theme in a submission in which he argued that the success of crops at Munja warranted the appointment of an agriculturist to expand production: 'There is unlimited labour'.⁹⁸ The Director of Agriculture, George Sutton, was not so enthusiastic. Though it had been demonstrated that tropical crops grew luxuriantly, Sutton doubted whether 'under existing conditions' they offered a sufficient financial return. The situation at Munja was different; 'as I understand there is ample native

⁹³ State Records Office, Native Affairs, Acc 993, Item 2/1926, folio 129, H. Reid, Avon Valley to CPA, Perth, 20 July 1926.

⁹⁴ William R. Easton, *Report on the Kimberley District of Western Australia*, Department of the North-West, Perth. Publication No 3, March 1922, p.7.

⁹⁵ State Records Office, Native Affairs, Acc 993, Item 2/1926, folio 84, H. Reid, Avon Valley to CPA, Perth 4 May 1926.

⁹⁶ *ibid*, folio 83.

⁹⁷ Department of the North-West, *The North and North-West of Western Australia Its Wealth and its Possibilities*, Publication No. 2, March 1922, p.25.

⁹⁸ State Records Office, Native Affairs, Acc 993, Item 2/1926, folio 214, CPA to the Under Secretary, 27 August 1928.

labour available'.⁹⁹ That assumed Aboriginal labour would continue to be free. Agreements for employment of Aborigines under the 1905 Act stipulated that the employer must supply, 'substantial, good and sufficient rations, clothing, and blankets, and also medicines and medical attendance when practicable and necessary', but not wages.¹⁰⁰ Section 60(h) enabled regulations for wages payable under agreements, but no such regulations were promulgated. The payment of wages, living conditions and terms of employment were entirely at the discretion of the employer.

Wages for Aborigines

In his report of August 1905, Commissioner Roth recommended a minimum wage for Aborigines 'of five shillings per month on land and ten shillings per month on boats, exclusive of food, clothing and other necessities; the period of leave of absence to be also paid for'.¹⁰¹ That was not universally supported. The Resident Magistrate of Carnarvon, Charles Foss, suggested in his evidence to the Royal Commission that if wages were to be paid employers would 'let their native servants go, and they would become a burden to the state in more ways than one'.¹⁰²

Surprisingly, the matter was referred to only in passing in parliamentary debate on the Bill for the *Aborigines Act*.¹⁰³ In 1911, however, when the amending Bill was debated, wages for Aborigines was raised by the Labor Member for Guildford, William Johnson, who suggested that all agreements for employment should carry obligations of payment, not directly to the Aboriginal employee, but 'to the Aborigines Department and used for the care of the indigent, the sick, and the children'.¹⁰⁴ Arguments both for and against emphasised the ineptitude of Aborigines in financial matters or their intemperance; 'if we provide them with money or with the means to earn money, most...will be spent on drink, I am afraid'.¹⁰⁵

Gale opposed Aborigines receiving wages. Neville supported it. The difference between them was about who should be responsible for the welfare of Aborigines, the state or the individual employer. Gale argued that the then-existing system was an incentive for employers to look after the extended group of relatives of their employees. He had arranged the transfer of responsibility for the care of infirm and indigent relatives of pastoral employees from government to pastoralists, and argued against the imposition of wages on grounds that 'natives

⁹⁹ State Records Office, Native Affairs, Acc 993, Item, 2/1926, folio 220, Director of Agriculture to Minister for Agriculture, 18 October 1928.

¹⁰⁰ *Aborigines Act 1905*, Section 22(1)(e).

¹⁰¹ Roth Royal Commission, p.10.

¹⁰² Roth Royal Commission, Evidence of Charles D.V. Foss, Resident Magistrate Carnarvon, 18 September 1904, p.47.

¹⁰³ Parliamentary Debates, Legislative Council, 30 November 1905, p.139.

¹⁰⁴ Parliamentary Debates, Legislative Assembly, 24 January 1911, p.3244.

¹⁰⁵ Parliamentary Debates, Legislative Assembly, 24 January 1911, p.3251, Minister for Mines, Hon. Philip Collier.

are continued in employment and their wives and children fed because they and their forefathers were born on the country where the employers' stock are depasturing'.¹⁰⁶ A requirement that pastoralists pay individual wages also would, Gale argued, compel employers to favour the most useful and return to government responsibility for the welfare of the rest.

Neville argued for individual responsibility, but for public guardianship as a safety net to ensure that a portion of wages was devoted to the support of dependants. By 1916, it had become the custom in the South-West and in some places in the north to pay a weekly wage to Aborigines, but the Department was frequently obliged to assist families who should have been able to support themselves, 'by reason of the fact that the father is in constant, remunerative employment'.¹⁰⁷ Neville argued for a system where wages, or a part of wages, should be paid to the Department in trust for the maintenance of the wage earner's dependants.

The scheme Neville had in mind was the wages system implemented by Roth at the Cherbourg Settlement in Queensland. Twenty per cent of wages of Aboriginal workers recruited from Cherbourg was deducted as an offset against the keep of their families living on the settlement.¹⁰⁸ The levy accounted for 30 per cent of expenditure. In effect, Aboriginal workers were taxed for the unwanted privilege of living at Cherbourg. Even those who did not live there, but who were recruited for employment through the settlement paid the levy. It was a convenient way of generating revenue, but a general policy of wages was resisted by Western Australian pastoralists.

When Neville first raised the issue he was sympathetic to the pastoralists' position. It would be a mistake, he proposed, to compel the payment of wages to Aborigines employed in every district, but he suggested that his department should 'exercise greater control over the money earned by natives in wages'.¹⁰⁹ Few stations in the Kimberleys paid wages, but most supported the relatives of natives engaged on them: 'as many as 80 natives are continually supported'.¹¹⁰ In the North-West and other parts of the state the tendency was to pay wages to Aboriginal employees. Neville saw the need for better regulation to protect the industrial and financial interests of Aborigines.

In the first quarter of 1923, Neville surveyed the remuneration of Aboriginal workers in the northern magisterial districts. Responses ranged from, 'no payment is made to Aborigines in

¹⁰⁶ Aborigines Department, *Extract from the Report of the Work of the Aborigines Department for the Year Ending 30 June 1911*, p.5.

¹⁰⁷ Aborigines Department, *Report for the Year Ending 30 June 1916*, p.6.

¹⁰⁸ For a critical account of that system see Thom Blake, *A Dumping Ground. A History of the Cherbourg Settlement*, Queensland University Press, St Lucia, 2001, pp.138-149.

¹⁰⁹ State Records Office, Native Affairs, Acc 993, Item, 451/1933 folio 11, CPA to Under Secretary, 22 February 1917.

¹¹⁰ *ibid*, folio 12.

the West Kimberley, they receive food and clothing and in some cases not too much of either',¹¹¹ to 'payment in cash, at so much per month, according to the merits of the men. The highest wage paid here for an Aborigine is £8'.¹¹² Whether wages were paid and the amount of wages paid varied not only amongst magisterial districts, but also amongst individual employers within districts. Neville observed that those who framed the *Aborigines Act* had overlooked the possibility that Aborigines might some day be paid wages and assumed 'that they would work for their food, clothing, and medical attention only'.¹¹³ His 1923 survey demonstrated the facts of that assumption. Aborigines were sometimes paid wages, but in the majority of instances they received food and clothing only.

Neville recommended an inquiry into Western Australia adopting a version of the system then operating in Queensland. Local Protectors might approve wages and other benefits to be provided by individual employers as a condition of their permits to employ Aborigines. A system of safeguards to protect Aboriginal incomes would be necessary, but Neville was reluctant to offer suggestions until after thorough investigation. Such a system would have revolutionised Aboriginal employment. Neville anticipated considerable opposition. It is probable he anticipated the ministerial response, also. He was instructed to raise the matter again the following year, as indeed he did, but with similar success. Over his twenty-five years in office Neville made several submissions for legislative change to introduce wages for Aborigines, but never won Cabinet approval. His only successful implementation of a formal scheme of wages related to the employment of young men and women trained at the Moore River Native Settlement. In November 1941, Neville's successor, Frank Bray, was able to advise the Director of Native Affairs in the Northern Territory:

Wages conditions vary in the length and breadth of this State, from food only to various rates of wages with all found, and to weekly rates of wages comparable to those paid to white employees doing the same class of work.¹¹⁴

Discussion

Neville may have been appointed Chief Protector of Aborigines for his administrative skills rather than for his knowledge of Aborigines, but within a short time after his appointment not only had he identified shortcomings in the management of the department he inherited, but through systematic visits of inspection throughout the South-West, the Eastern and Northern

¹¹¹ *ibid*, folio not numbered, Protector, Derby, to CPA, 7 April 1923.

¹¹² *ibid*, folio 36, Protector, Shark Bay, to CPA, 17 April 1923.

¹¹³ *ibid*, folio 57, CPA to Minister for the North-West, 18 March 1926.

¹¹⁴ *ibid*, folio 88, CNA to Director of Native Affairs, Darwin, 11 November 1941.

Goldfields, the Murchison, the Gascoyne and the Kimberley districts, he also mastered a more than working knowledge of the Aboriginal people under his protection. His humane awareness is revealed in his early policy recommendations. Not all were implemented. Successive governments were reluctant to agree to other than administrative changes in the management of the department. Aborigines were not high in political priorities of any government for the first fifteen years of Neville's term as Chief Protector. New initiatives or revision of existing programs were approved only if they were cost neutral or promised a financial advantage to the public purse. Neville learned how to be politic in his submissions for reform.

In his first eighteen months as Chief Protector, Neville reorganised the management of the department and established methodical procedures for the collection and storage of information. A system of card records maintained at head office contained particulars of protectors appointed, relief at outstations, the issue of blankets and clothing, births deaths and marriages, the issue of gun licenses, breaches of the Act, crimes committed by and against Aborigines, and agreements and recognisances entered into. Personal records were maintained for each Aboriginal person who came to his department's attention.

Neville was instrumental in framing regulations regarding the employment of Aborigines, methods for issuing and renewing permits for employment, the control of reserves and stations, and the issue of gun licences. They were approved and gazetted in May 1916. The power for such regulations was granted by section 60 of the Act, but apart from incidental regulations disallowing the employment of Aborigines by Asians, authorising the pro-forma of official documents, enforcing the prohibition on the sale of alcohol to Aborigines and declaring prohibited areas, Neville's predecessors, Prinsep and Gale, had disregarded the regulatory governance of Aboriginal affairs.

The system of permits for employing Aborigines mandated by the 1905 Act had fallen into disuse, with the result that records regarding employed Aborigines and their employers were incomplete and inadequate for purposes of administration and law enforcement. Neville revised and reinvigorated it. Under his new system permits expired and were renewed annually so that police, local protectors and head office had current information. Neville's commitment was to the effective and efficient functioning of his department.

The Forrest government established the financial parameters of public policy for Aborigines. In 1884 Forrest, as a chairman of a select committee to inquire into the condition of Aborigines, had proposed that 'a portion of revenue raised from the sale and lease of lands' should be used to improve the condition of the natives.¹¹⁵ Twelve years later, as Premier, he

¹¹⁵ *Papers respecting the Treatment of Aboriginal natives in Western Australia*, 'Report of the Select Committee to Inquire into the General Condition of the Aboriginal Race of the Colony' (John Forrest, Chairman): 'Large revenues, nearly £100,000 a year, are now raised from the sale and lease of lands which were originally possessed by its native

argued strongly against the proposition that £20,000, equivalent to one per cent of the current revenue of the Colony, rather than £5,000 should be granted to the Aborigines Protection Board for the welfare of Aborigines.¹¹⁶ Subsequent state governments adopted as a first principle of policy that the Aboriginal race was destined for inevitable extinction and government was obliged under the *Aborigines Act 1905* to provide for their comfort; and second, that government must not be wasteful in that obligation.

Neville, as a public officer and head of the Aborigines Department, complied with the second principle, but not the entirety of the first. His policy recommendations were directed towards maintaining effective programs at minimal public cost and ensuring that essential programs such as the treatment of disease among Aborigines would return cost-effective social benefits, or that new initiatives such as the Munja Native Cattle station could be self-sustaining. However, he did not subscribe to the view that Aborigines were a dying race, the remnants of a race in terminal decline. He did not believe their Indigenous culture might survive in competition with the immigrant culture nor that in a few generations they might be raised up to the level of the Europeans, but neither did his policy initiatives indicate he believed they were necessarily beyond redemption as a distinctive race of peoples.

This was not contrariness on Neville's part. Nor was it unusual for a public officer of his standing to commit to the efficient administration of government programs, but disagree with the values sustaining them. In such circumstances public officers may argue alternatives, but are obliged to implement whatever decisions their governments make. Neville, consistently with Westminster conventions of public administration, complied with ministerial or Cabinet decisions, but did not necessarily surrender his principles. He made submissions to the Wilson and Lefroy Ministries for alternatives in programs for treating diseased Aborigines and prevailed, not by the persuasiveness of his compassion for Aborigines, but for the cost savings demonstrated by him and reaffirmed by his colleague in the Department of Health. Conversely, he demonstrated to the Colebatch Ministry the cost benefits of a native reserve on the Dampier Peninsula, but was defeated by the countervailing sway of the Catholic Church. When the Collier Ministry agreed to the purchase of Avon Valley Station, Neville oversaw its development as Munja Native Cattle Station for the publicly approved purposes of pacifying Aborigines and encouraging pastoral enterprise to the North-West and the West Kimberley. He did not object to that purpose. It was consistent with the commitment to closer settlement he argued in his role as Secretary of the Department of the North-West. At the same time, however, he served his

inhabitants; and therefore it seems but reasonable that some portion of this revenue should be devoted to the amelioration of their condition', p.12.

¹¹⁶ *Further Correspondence on the Subject of the Position of the Aborigines' Protection Board*, Government Printer, Perth, 1896, John Forrest, Premier to His Excellency the Governor, 13 April 1896, p.7.

statutory obligation to protect Aborigines. He sought balance between least intrusion into their racial integrity and merging them with the predominant European culture. Neville was neither subversive nor submissive to government policy in pursuing those separate and interrelated objectives.

On the occasions when governments supported initiatives proposed by Neville, frequently it was only because he demonstrated they could be done cheaply. When, for example, he proposed the closure of the Bernier and Dorre Islands Lock Hospitals he requested that the buildings be demolished and the materials be reserved for departmental uses elsewhere. The Colebatch Cabinet approved. The buildings from Dorre were removed to Finucane Island, and those from Bernier removed 'for re-erection at native settlements where practicable and necessary'.¹¹⁷ By scrounging building materials in this way, Neville managed to provide facilities, however unsatisfactory, at Carrolup River and Moore River Native Settlements for minimum capital outlay.

When he tackled the problem of venereal disease among Aborigines, Neville confronted an impulse more powerful than government authority. He exposed the raw nerve of prejudice. Popular opinion regarded Aborigines as dissolute and disease ridden. Neville at first was not sure that perception was valid, but was cautious about disputing it publicly without irrefutable evidence. He found no extant documents to explain which disease or diseases were targeted when the lock hospitals were established, but patients were admitted there suffering from 'venereal disease in various forms'.¹¹⁸ Two of the diseases, syphilis and gonorrhoea, were transmitted cyclically, principally between non-Indigenous men and Indigenous women, but the actual mischief for which the lock hospitals were established, granuloma, apparently was not transmitted to Europeans. The affliction also was easily and safely treated without need for quarantine. It was Aborigines, however, who were isolated in lock hospitals to protect the community from contagion. The experience at Munja convinced Neville that the incidence of the disease was smaller than popularly supposed. He proffered to his Under Secretary the judgement that 'the imputation levelled by the residents of Broome and others that disease was rampant in this area has not been substantiated in fact'.¹¹⁹

Prejudice against Aborigines, and the attendant belief that the proximity of diseased Aborigines threatened Europeans, impeded Neville's plan for the relocation of the lock hospitals. The treatment depot for Aborigines at Derby was not resisted strongly because the old Residency

¹¹⁷ State Records Office, Aborigines and Fisheries, Acc 652, Item 44/1919, folio not numbered, Cabinet Minute, 6 November 1917. The recommendation the Colonial Secretary, Hal Colebatch submitted to Cabinet included, '8. To remove the buildings from Bernier Island for re-erection at native settlements where practicable and necessary'.

¹¹⁸ Aborigines Department, *Extract from the report on the Work of the Aborigines Department for the Year Ending 30 June 1911*, p.6.

¹¹⁹ State Records Office, Native Affairs, Acc 993, Item 2/1926, folio 215, CPA to Under Secretary, 27 August 1926.

was located three kilometres from the town on a declared Aboriginal reserve. Local objections were raised at Port Hedland, however. The Road Board proposed a site, Finlay's Camp, on the coast some six kilometres from the town. Neville rejected it, but won Road Board approval for his preferred location, Finucane Island, separated from the town by a mangrove swamp more than a kilometre wide. Local authorities conceded both depots, at Derby and Port Hedland, only because they were relatively isolated. Residents of both towns objected to the presence of depots closer to town and insisted that they be protected from them. The role of the Chief Protector of Aborigines was recast as the Chief Protector against Aborigines.

Not only did Neville have to contend with public prejudice against Aborigines, but he also had to contend with the obduracy of church and missionary authorities. Neville objected to the manner in which Aborigines were treated by the missionaries at Beagle Bay, for example, noting that children are growing up without any prospect of a future. Neville attributed a malady of idleness to the missions: 'They do not teach the natives to work, attending almost solely to the religious side and neglecting the material'.¹²⁰ He did not acknowledge a similar problem existed at Moola Bulla and Munja native cattle stations or at Violet Valley or La Grange.

Station and domestic work was seasonal and even at peak seasons was available for only a relatively small number of capable men and women who visited the feeding depots or who camped near the homesteads. Most came increasingly reliant upon rations. They were fed beef to deter them from killing cattle, but where rations of beef, flour and tobacco were substituted for self-reliance through hunting and gathering, the 'free and independent people' whom Neville applauded gradually were reduced to a state akin to those 'born in servitude'.

Rationing was a process described by Tim Rowse as 'a social technology, or a technique of governance' which resulted in 'the unintended perpetuance of difference'.¹²¹ The intention of freely distributing beef to Aborigines at Moola Bulla and Munja and at the feeding depots was to assist the financial security of the pastoral industry by deterring Aboriginal depredation of pastoral stock. Pacifying Aborigines in this way also subordinated them to the will of the pastoral landowners. Aborigines learned their place in the power hierarchy and pastoralists, including the managers of Moola Bulla and Munja, by one means or another, ensured they stayed there. The method of doing so preferred by the manager of Munja, Harold Reid was by winning their confidence rather than by imposing his authority upon them.¹²²

The difference between the rationing policy as a 'technique of governance' and the

¹²⁰ State Records Office, Aborigines and Fisheries, Acc 653, Item 58/1920, folio 40, Underwood to Premier, 16 January 1918.

¹²¹ Tim Rowse, *White Flower, White Power, From Rationing to Citizenship in Central Australia*, Cambridge University Press, Cambridge, 1998, p.204.

¹²² State Records Office, Native Affairs, Acc 993, Item 2/1926, CPA to the Under Secretary C.S.D, 17 December 1926, extracts from letters by Mr. Reid.

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rationing policy in the Kimberley is that at Violet Valley and La Grange, as at Moola Bulla and Munja, it was not intended that the Aborigines should be confined. They were free to come and go at will, and they did. They moved at their convenience between Indigenous tradition and the comfort of the white man’s beef, flour and blankets.

Narrative

WHITEMEN'S COUNTRY NOW¹

The tribal lands of the Ballardong, Wi:lmən, Kaneang, Ko:reng and Min:ang² were invaded early in wadjella colonial history.³ John Septimus Roe and subsequently Alfred Hillman, while surveying prospective routes for a road to link Albany and Perth, and later a railway from Beverley to Albany, identified in the Plantagenet district lightly timbered country which held promise as grazing land or even for agriculture.⁴ Hospitable Ko:reng, Kaneang and Wi:lmən peoples, willing to share their traditional watering places with the visiting wadjella, guided them to water. Roe and Hillman, in turn, marked Narpun, Kôjônup, Warkelup, Yowangup, Eticup, and Martinup on their survey maps. Police barracks were established at the most promising of those watering places and construction gangs located there from time to time as the road progressed from Albany to Williams and thence to Perth. The Ko:reng, Kaneang and Wi:lmən were dispossessed of their water; now it belonged to the wadjella.

Within a single generation traditional hunting and foraging grounds adjoining the watering places were partitioned and allocated as sheep pasturage to people with Anglo-Saxon names like Norrish, Hassell, Quartermaine, Bayley and Monger. N-yonger⁵ competed with sheep which were husbanded and protected from dingoes by wadjella shepherds. Some of those shepherds, as well as landholders, soldiers, merchants and carters sought Aboriginal yoker⁶ for comfort in their isolation; others used kymra⁷ simply for sexual gratification. To supplement their

¹ Leonard (Jack) Williams, a Nyungar from the Great Southern Region, 'Now children,' Dad used to say, 'this is whitemen's country now, it is no longer ours and you can't go backwards, you have to go forward'. In Sally Morgan and Tjalamina Mia (eds), *Ngulay Ngarnk Nidja Boodja Our mother, this land*, Centre for Indigenous History and the Arts, University of Western Australia, Nedlands, 2000, p.24.

² After Norman B. Tindale, *Tribal Boundaries in Western Australia*, Department of National Development, Canberra, 1947. Today the whole of the south-western corner of the State, west of the traditional circumcision-sub-incision boundary line, is referred to as Nyungar (or alternatively Noongar or Nyungah) territory, the name 'Nyungar' being a portmanteau term describing all people of Aboriginal descent belonging to the south-west of the State. See, Ronald M. Berndt, and Catherine H. Berndt, (eds), *Aborigines of the West*, p.7.

³ 'wadjella' – white men.

⁴ Originally covering the regions now called the Southern and Great Southern sub-divided into Local Government Areas which included Albany, Plantagenet, Kendenup, Kojonup, Katanning and Woodanilling.

⁵ Kangaroo – after J.E. Hammond, *Winjan's People* (1933), Hesperian Press, Carlisle, 1980, pp.82-3. George Fletcher Moore, *Diary of Ten Years*, offers the names 'yangor' for kangaroo and 'kumal', 'ballâgar', 'madun' or 'ngora' for various species of opossum or possum.

⁶ wife, after Hammond.

⁷ woman, or sweetheart, after Hammond.

incomes, they hunted n-yonger and koomahl,⁸ but not for their meat, and not merely in sufficient number to feed themselves. Kangaroo and possum hides were harvested and sold to merchants in Albany for export and processing: carcasses were left to rot where animals were slaughtered.

Thus the Ko:reng, Kaneang and Wi:lmen, dispossessed not only of their water and their lands, but also of their women and their food, began ‘not so much to retire as to decay’.⁹ Malnourished, dispirited and alienated, many succumbed to, for them, exotic diseases like influenza and measles. Others died brutally. Some survived, adapted and made themselves useful as cheap farm labour, but they lived as exiles in makeshift humpies a respectable distance removed from wadjella homesteads.¹⁰

Another generation later some wadjella tenant holders in turn were dispossessed when the Great Southern Railway Company was granted crown land, including favourable pastoral lease holdings, at the rate of twelve thousand acres for every mile of railway completed along the line from Beverley to Albany. New settlements were established at railway sidings named Wagin Lake, Lime Lake, Woodanilling, Katanning, Broomehill, Pootenup and Cranbrook. Pastoral leases were cancelled and converted to small farm holdings. Native title was extinguished and by the fourth generation, the traditional Ko:reng, Kaneang and Wi:lmen were all but gone.

Norman Tindale recorded the changing nature of the Nyungars in the Great Southern Region. An Indigenous informant ‘who escaped schooling & hence retains interest in his old language and traditions’, Harry Farmer, described the traditional social organisation and tribal boundaries. Tindale’s diary recorded:

Min-anj’ means south & is the only name applied to the Albany people whose country extends from the Stirling Range S.W. to Nornalup. West of the divide running from Pootenup to Katanning is the country of the Kaneanj whose country extends to the S.W. over to Bunbury. E. of this divide is the Ko:renj folk, the people who live at & around Gnoiwngerup. Their country extends to Jerimandjup and Hood Point & S. to the mouth of the Pallingup River. Eastwards to Esperance along the coast slope is the Wudjari (called the W∞dj∞r∞ by someone else) & E. of Esperance is the Ba:dok language. North of Katanning are the Jab∞ru people at Wagin and running to Collie.¹¹

By 1939 those clear lines of territorial and language demarcation and accompanying social organisation were lost to all but a few elderly Nyungars. Tindale noted some confusion about the

⁸ opossum or possum, after Hammond.

⁹ *Report from the Select Committee on Aborigines (British Settlements)*, 1937, p.17.

¹⁰ ‘humpies’ – makeshift dwellings constructed of bush timber, branches and foliage from trees and discarded corrugated iron, flattened kerosene drums, hessian bags, or any other material which might offer shelter from sun and wind.

¹¹ South Australian Museum, AA338/1/15/2 *Harvard and Adelaide Universities Anthropological Expedition*, Journal Tindale, Monday 3 April 1939, p.861.



Anna Lock, Missionary, Carrolup, c. 1915. J.S. Battye Library, A.O. Neville Pictorial Collection, 67054P.

way people viewed social organisation, 'but it is because of half-knowledge & loss of the essentials; the old people who used it are gone'.¹² The physiological outcomes of racial blending were apparent among the twenty-two children Tindale examined at the Gnowangerup Mission. Most were quarter-castes, 'one of the whitest groups we have seen'.¹³ He identified a red-haired, second-generation half-caste family who sprang from an original Aboriginal-Scots crossing:

The red-haired F2 family is derived in both sides from red-haired Scotch white cousins and 5 of the 11 children have it, the other 6 being darker, but obviously of the same parentage. The F3 generation shows blonde hair & pale copper in the children & all with the most striking pink skin texture and appearance reminding one of the quarter-caste nomad type.¹⁴

By contrast, community groups surveyed at Albany and Mount Barker showed evidence of westward incursion by tribal members from the Eucla region, a territorial assault which before British colonisation would have been resisted fiercely and the interlopers slain. Tindale found

¹² *ibid*, Wednesday 12 April 1939, p.883.

¹³ *ibid*, Friday 31 March 1939, p.859.

¹⁴ *ibid*, Saturday 1 April 1939, p.861. Tindale used the abbreviations 'F1' to refer to first cross of 'first half-caste' and 'F2' to identify the progeny of two F1 individuals, or second generation half-castes. He referred to third generation crossings, 'F3', as fractions of quarters and eighths according to the numbers of crossings between whites, other races and Aborigines in the progenitors. See Norman B. Tindale, *Survey of the Half-Caste Problem in South Australia*, pp.83-86.

strong evidence 'of pygmoid or Tasmanoid influences, short stature & yellowish tone of the skin & very curly hair; also pygmoid nose'.¹⁵ These characteristics were pronounced in three full bloods in the Albany group who derived from the Esperance region some 500 kilometres east of Albany.

Aborigines of the full-blood may have disappeared from common view, but their race had not. The cultures which had identified and given order and coherence to the lives of the Indigenous peoples were dissipated. Only half-remembered fragments of the way of life of their Indigenous forebears survived the cauldron of social and cultural change. Those fragments melded over successive generations of blending with the imported culture into a Nyungar identity which gave coherence to what were, in fact, very diverse bands of people in the southern portion of the state. Custom adapted to changed circumstances and the Nyungar identity evolved and endured. Strong bonds of family and loyalties of kinship were maintained and new clans were formed.

Like their Indigenous forebears for whom 'a month would be a long stay,' the Nyungar seldom stayed long in one place.¹⁶ They moved according to season and the availability of employment. Initially, the pattern of their wandering followed routes familiar to those of their forebears, tracks linking places with the best water supplies, and seasonal supply of game and vegetable foods. Hammond described these tracks as 'pads of natives, like cattle pads, and just as plain' linking various parts of what is now the city of Perth to locations as far south as Nannup, Augusta, Denmark and Albany. One pad led south-eastwards from Perth to Pinjarra and 'from Pinjarra to Marrinup, the Williams River, Kojonup, Kendenup, the Porongorups, and the end of the South-West territory'. Another led from Pinjarra to 'Bunbury, Busselton, Margaret River, Blackwood River, Nannup, Augusta, Nornalup, Denmark, Albany and Ongerup'.¹⁷

Families and individuals identified with the places of their birth. It was the custom among members of the Indigenous tribes to visit places like Pinjarrup, Marrinup, Nannup, Kendenup, Kojonup, Tambellup and Ongerup, places of water, and stay 'as long as food conditions would allow them to do so'.¹⁸ Those with reliable food and water supplies attracted the largest groups of people and were the birthplaces of many.¹⁹ They also were significant because they were on routes through which message sticks were carried.

¹⁵ *ibid*, Thursday 30 March 1939, p.857. The reference to 'pygmoid' or 'Tasmanoid' features is to a primitive racial group believed by Tindale to have entered the continent through Cape York and migrated south. They were pushed further southwards by a subsequent migratory group. Tindale proposed that remnants of the distinctive racial group, the Tasmanoids, survived on the Atherton Tableland, and in southern Victoria and Tasmania.

¹⁶ J.E. Hammond, *Winjan's People*, (Paul Hasluck, ed., 1933), facsimile edition, Hesperian Press, Victoria Park, 1980, p.20.

¹⁷ *ibid*, p.19.

¹⁸ *ibid*, p.17.

¹⁹ *ibid*, p.17.

Even after the traditional significance had faded from the consciousness of many Nyungars, the towns established at those sites continued to be seasonal gathering places. Nyungars camped on town reserves or congregated at convenient sources of water near gazetted town boundaries. The wadjella townsfolk, who resentfully tolerated them and wished that they would move on, feared their presence: Nyungars threatened their moral and physical comfort. Descendants of the Ballardong, Wilmen, Kaneang, Ko:reng and Min:ang who had hospitably shared their food and water with wadjellas were not welcome at the whitemen's tables.

Some towns like Wagin (Wagunniup), Katanning (Ketannup), Kojonup, and Tambellup acquired a different significance for the Nyungars. They were open in daylight hours only to those who had legitimate business there and prohibited to all Nyungars after the evening curfew. The Nyungar thus lost their land, their language and their traditional social organisation. Unlike the Indigenous peoples in pastoral regions who maintained connection with tribal land and whose accustomed rights to the use of their land, to travel over it, to live on it and to hunt and forage on it, were preserved by statute, the Nyungar had no official recognition of traditional rights and little protection other than the strictures and obligations of the *Aborigines Act*. They were British subjects, but not citizens of Australia. They could not vote, and therefore were denied political power, nor could they own property and thereby acquire economic influence. Collectively, the Nyungar comprised a powerless, voiceless, impoverished Indigenous diaspora existing without purpose in gazetted enclaves estranged from the mainstream society. They belonged to the land they travelled and lived on, but the land no longer belonged to them, 'a race of people without a country'.²⁰

Few Nyungars enjoyed dwellings that met public health standards. Sometimes families camped in mia mias or wurlies on farms where they had occasional employment, but always that respectable distance removed from farm homesteads. At other times small groups camped where water was accessible. Between times they lived at designated Aboriginal reserves in humpies constructed of bush timber screened with hessian bags or wool bales, flattened kerosene drums or, occasionally, rusted or damaged and discarded corrugated iron. Paul Hasluck described such dwellings as, 'habitations rather worse than the poorer class of suburban fowlhouse' and the reserves on which they were situated as 'so many rubbish tips for humanity'.²¹

Living conditions in the Perth metropolitan area were not different. Two camps at Swanbourne inspected in March 1937 at the request of the Deputy Commissioner for Native Affairs were characteristic of others inspected at Daglish, Tuart Hill, Guildford, Caversham, Rivervale, Bayswater, Belmont and Lockridge, all located within 10 kilometres of the central

²⁰ Robert Bropho, *Fringedweller*, Alternative Publishing Co-operative Limited, Chippendale, 1980, p.14.

²¹ Native Welfare Council, *Our Southern Half-Caste Natives*, undated, pp.7 and 11.

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business district of the city. A half-caste couple and their six-month-old baby occupied the first camp:

The camp is comprised of old galvanised iron and bags. The surroundings are tidy and clean and there is a small vegetable garden set out. Sanitary arrangements are O.K. Health of all three apparently good. This young couple have lived here for some years, at least Mippy has and his wife since they were married last year. Mippy earns a few shillings collecting bottles etc. which I might suggest is a doubtful occupation for a native.

A half-caste man, his half-caste wife and five children aged from 11 years to 11 months occupied a second camp nearby. The three older children attended school:

This camp comprises old iron and bags, but with the surroundings, is tidy and clean. Tommy has lived on this site for about 5 years or more and earns a few shillings collecting bottles and doing casual work in the neighbourhood. The health of the natives at this camp is good and sanitary arrangements satisfactory.²²

The report was qualified:

It must be understood that when I say clean and tidy I am taking into consideration that these unfortunate people have little, if any material to keep a camp up to the standard of a white home, but under the circumstances they are doing their best. My comments on the conditions of such camps are based on native camps.

Those two families, like other Nyungar families camped in the vicinity, did not remain long in that location after the Inspector's report was received. Wadjella authorities moved them on. Their humpies were demolished and burned. The families were shunted from one reserve to another, from one rubbish tip for humanity to another, part of an impoverished, dispirited Indigenous diaspora. Their Indigenous heritage was protected, but they, as Nyungars, suspended between their Indigenous and European roots, were disdained for their colour.

²² State Records Office, Native Affairs, Acc 993, Item 105/1937, folio 2, C.D. Taylor (Inspector) to DCNA, 8 April 1937.

Chapter Four

NATIVE SETTLEMENTS

Carrolup and Moore River

Neville believed that a policy of least intrusiveness into the lives of Aborigines was best achieved at reserves, from which non-Aborigines other than authorised persons were excluded. He made considerable progress towards Gale's proposition that a chain of Native Cattle Stations stretching across the north was necessary to separate and protect the several language groups. By 1930, nearly nine million acres of reserves had been established from the Murchison northwards, 80 per cent of which were in the Kimberleys.¹ There can be little doubt those reserves, aided by their inaccessibility, helped protect the Aboriginal cultural identity in their localities, but they did little to advance the upward mobility of the people. Quite the contrary happened. Some Aborigines maintained traditional lifestyles, but native cattle stations, commercial cattle stations and the missions reduced Kimberley Aborigines from self-reliance to subservience.

In the south of the State where reserves, especially at Carrolup and Moore River, served similar, but different purposes, the processes which Neville called 'deterioration and demoralisation,' were too far advanced for the Indigenous culture to be redeemed. The opportunity for establishing the Carrolup River Native Settlement was created by residents of Beverley, Katanning, Quairading, Mt Barker and other towns along the Great Southern Railway complaining about the proximity of native reserves to their towns and, more particularly, against that attendance of Aboriginal children at their state schools. Their agitation against having their children sit in the same classroom and even of having Aborigines live on reserves within or near their town boundaries compelled government first to disallow Aboriginal children from attending state schools and then to relocate their families from town reserves.

Prejudice created the opportunity and Gale rose to it. The apparent financial success of Moola Bulla encouraged him to replicate it in the South-West. His publicly stated intention was to create a large, self-sufficient reserve near Katanning: 'providing a home for the natives and

¹ The Kimberley reserves were Moola Bulla (1,119,000 acres), Violet Valley (251,460 acres), Munja (706,000 acres), Forrest River (3,120,000 acres) and Central Kimberley (1,152,000 acres). In addition there were 1,843,000 acres of mission reserves: Beagle Bay, Roman Catholic (700,000 acres), George IV Presbyterian (245,000 acres), Drysdale River, Roman Catholic (115,000 acres) and Forrest River, Anglican (99,000 acres). The total of reserves for Aborigines throughout the State amounted to 23,385,550 acres or 36,540 square miles for an estimated total population of 26,766 Aborigines.

teaching the children, which is an obligation imposed by the *Aborigines Act*.² The segregation extended public control over the lives of Aborigines.

The task of establishing the Carrolup River Native Settlement fell to Neville. It became his model for a second settlement at Moore River. This chapter will examine how the settlements were established and how Neville shaped policy by making their focus the care, education and training of half-caste children forcibly removed from their parents. The native settlements and their failed attempts to provide reasonable accommodation and care, education and training exposes inconsistency between rhetoric and practice in advancing the life-chances of half-caste children. As Chief Protector, Neville had executive responsibility for the settlements, but failed in his duty of care. That apparent flaw in his administration is incompatible with the thoroughness that otherwise characterised his managerial style. It exposes also deep-seated hostility towards Aborigines which Neville confronted in the community, public agencies, the state Parliament, and in successive governments. Their unwillingness to allocate sufficient funds for Aboriginal purposes imposed resource limits upon what Neville could achieve. In all of his initiatives, he relied upon compromise and improvisation, with a result that services for Aborigines were spread thinly and were less than adequate.

Reserve 16370 Carrolup

In the south of the state, Nyungars had only tenuous rights to occupy reserves gazetted for their exclusive use. They certainly could not use them for traditional ceremonial purposes or for hunting and foraging. Usually not larger than four hectares, they were too small to sustain clans or even single families for much longer than a few months, and that was regarded by many wadjella townsfolk as too long. Only the old and indigent who could harm no one stayed longer, but they lived rough. Town reserves did not enjoy reticulated water supplies, ablutions or garbage disposal. Frequently they were sited alongside town refuse dumps a sanitary distance removed from white residences. The Aborigines Department and local government authorities were reluctant to improve them and even if they agreed that water and sanitation were needed, they could not agree about who was responsible. Besides, gazetted reserves could be cancelled at any time at the decision of the Executive Government and new ones located at other places.

One such reserve was located on Lots 500/504 Katanning, together comprising about two hectares situated two kilometres east of the town's railway station. Nyungars who made Katanning their home in between seasonal employment camped there occasionally. At most times the reserve was the permanent home of not more than 60 indigent Aborigines who lived in

² *Report of the Select Committee of the Legislative Council on the Retirement of Mr C.F. Gale from the Position of Chief Protector of Aborigines, 12th October, 1915*, p.5.

15 separate camps. It was a cold and bleak place in winter and in summer the Nyungars who camped there begged water from town residents. They were regarded as a nuisance and the reserve was reckoned to be too close to town. In June 1910 Corporal Purkiss of the Katanning police station recommended that a place known as Police Pools situated two-and-a-half miles from Katanning ‘would be a suitable place for a reserve’.³ It had a permanent water supply and residents of the town reserve could be relocated there. No action was taken. In April of the following year, Purkiss reported that approximately 70 people were camped at the town reserve. Some were employed in clearing farmland, ‘and when they have a cheque earned they come into town and are supplied with liquor and thus cause trouble with the full bloods’.⁴ Again, he emphasised that the reserve was too close to town and asked that another be found.

A convergence of circumstances caused the Katanning town reserve to become a focus of political attention and led to the establishment of the Carrolup Native Settlement. The order of events did not have discrete chronological sequence, but had an order of significance. First, townspeople objected to half-caste children attending the Katanning state school. The Aborigines Department and the Education Department responded by providing a native school,

The Camp, Carrolup, c.1917. J.S. Battye Library, A.O. Neville Pictorial Collection, 67053P.



³ State Records Office, Aborigines and Fisheries, Acc 652, Item 2922/1914, folio 7, extract from Corporal Purkiss' report dated (Katanning) 30 June 1910.

⁴ *ibid*, folio 7, Extract from report of Corporal Purkiss re extra assistance at Katanning Station, 12 April 1911.

similar to one established earlier at Beverley. At much the same time, a missionary, Anna Lock, sought permission and subsequently established a school for Aborigines on the town reserve. Nyungar families were attracted to Katanning so that their children might attend school and in 1912 the resident population of the reserve grew to about 200. Hostility toward the presence of so many Nyungars in the townsite, even though Katanning was a declared area from which Aborigines were excluded after daylight and could enter during daylight hours only if they had legitimate reasons, led ratepayers and residents of the town to petition the Road Board and the state government to have all Aborigines removed to a distant reserve. Charles Gale took the opportunity of the ensuing political ferment to propose to government that water reserve 9089 be vested in the Aborigines Department and a native settlement be established there. He suggested that not only would that relieve the position at Katanning, but it would address also similar complaints in adjacent towns, 'as native children attending school at Mt Barker and other places could be sent to the settlement'.⁵ The Scaddan Ministry prevaricated about Gale's suggestion and acted to remove Nyungars from Katanning and establish a native settlement at Carrolup only when the Education Department threatened the closure of the native school.

The living conditions on the Aboriginal reserve and intolerance of white parents of the presence of Nyungars at the local school were not peculiar to Katanning. They were replicated at towns throughout the South-West. Neither were those issues attended to with any haste, other than to disallow Nyungar children from enrolling at government schools. The Protector of Aborigines at Beverley reported in 1911 that parents opposed the admission of Nyungar children to the state school, 'as in nearly every case the native children are anything but clean', and threatened to remove their children and enrol them at a Catholic school.⁶ Similarly in Mt Barker in 1914, parents kept one hundred white children away from school until Nyungar children were refused attendance. In the same year, parents at Quairading petitioned the Minister of Education in forthright terms, 'we cannot endure their foul smelling bodies & dirty habits as an association for our own children any longer'.⁷

The impasse at Beverley in 1911 was resolved by the Education Department, grudgingly, providing a schoolhouse and the Aborigines Department paying the teacher's salary. A similar solution was proposed at Katanning, but there the issue was represented as an educational matter rather than as in Beverley a public health concern. In the first three months of 1912, 13

⁵ State Records Office, Aborigines and Fisheries, Acc 652, Item 1629/19, folios 4-5, Report, CPAS to Under Secretary Colonial Secretary's Department, 12 November 1913.

⁶ State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914, folio 10, Letter, Police Station, Beverley, to CPA, 21 December 1911.

⁷ State Records Office, Education Department, Acc 1497, Item 4259/1914, folio 19, petition to Minister for Education, 15 April 1914. See also State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914; and Aborigines and Fisheries, Acc 652, Item 1629/1919; Peter Biskup, *Not Slaves, Not Citizens*, pp.148-54; Anna Haebich, *For Their Own Good*, pp.136-51; and Neville Green, *European Education at Oombulgarri, an Aboriginal Settlement in Western Australia*, thesis submitted for the Degree of Master of Education, University of Western Australia, 1986.

Aboriginal and half-caste children had been admitted to the Katanning school. Many were aged from 10 to 14, but, because they had no previous schooling, could be taught only with the infants.⁸ This caused difficulties for the teachers. The Inspector General of Schools, proposed, therefore, that the Aborigines Department should establish a special school, 'in the same way as is being done at Beverley'.⁹ It was agreed that Education Department would provide a disused school building and a teacher. In June 1912, the Chief Inspector of Schools advised that 'arrangements have been made to provide separate instruction for the aboriginal and half-caste children attending the Katanning school'.¹⁰

Anna Lock earlier had sought the assistance of the Chief Protector of Aborigines to establish a school for Aboriginal children on the Katanning reserve. A request to turn over the abandoned Aboriginal hospital on town lots 398 and 399 for a mission school was refused, and instead Miss Lock established her school on the existing reserve, lots 500/504. Her initiative, combined with the government's native school made Katanning an attractive centre for Nyungars from adjoining localities. Families camped on the town reserve so their children could go to school.

On August 23 1912, Miss Lock wrote to Gale on behalf of the Australian Aborigines Mission seeking his assistance to secure a large area of land for an Aboriginal settlement. She estimated there were 130 natives in the southern district, '60 of them are children & about 70 half and quarter cast (*sic*)'.¹¹ The site Miss Lock proposed was Government Reserve 9089, located about 30 kilometres west of Katanning near the confluence of the Carrolup and Carlecatup Rivers.

A local council of the Australian Aborigines Mission was established at Katanning to support Miss Locke's proposition. They were advised, however, that there would be little encouragement to establishing a mission near any township and sought Gale's support to have a sufficient area of good agricultural land set aside as a native reserve. They intended it should eventually become self-supporting. The success of the venture depended upon, in the first instance, securing suitable land. Gale supported their request for Government Reserve 9089. It was available and Gale recommended that, if it met the requirements, it should be 'set apart for the welfare of the original owners of the soil'.¹²

A departmental officer, Napier, inspected the Katanning town reserve in November

⁸ The seven years of Primary schooling at that time were designated chronologically as infants and standards 1 to 6. In 2006 the equivalent chronological designation is Years 1 to 7. Infants would now be called Year 1.

⁹ State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914, folio 39, Cecil Andrews to Secretary, Aborigines Department, 25 April 1912.

¹⁰ *ibid*, folio 61, R. Hope Robertson to Acting Secretary, Aborigines Department, 5 June 1912.

¹¹ State Records Office, Aborigines and Fisheries, Acc 652, Item 1629/1919, folio 16, letter, Anna Lock to Mr Gale, 23 August 1912.

¹² *ibid*, folio 29, letter, CPA to W.J. Rae, District Surveyor, Albany, 16 January 1913.

1912. He recommended that a water tank be installed, four water closets be erected and more accommodation provided. Napier assessed the 'native question' in Katanning as 'somewhat serious' because 'so many were located there'. He advised that Aborigines had become, 'a perfect nuisance to the residents with their continual begging for food, clothing and water,' but was not persuaded that the solution was to remove them to the mission proposed by Miss Lock and the Australian Aborigines Mission.¹³ At first he questioned whether Nyungars wanted to go there or that they would remain, but was swayed by the opportunity for education that a mission would offer; 'It would appear that the natives are fairly well alive to the advantages of schooling for their children'. He also felt 'quite certain' the mission would receive 'splendid support from the people of Katanning'.¹⁴

The District Surveyor, W.J. Rae, rejected reserve 9089 as unsuitable for agriculture. The small area which might be fit for cultivation was 'not suitable for any cereals but oats'. Its redeeming features were the presence of pools of permanent water and its distance from towns. Local Road Boards would not object to a mission being established there and Rae did not know of any other suitable land with permanent water in 'a locality where there will not be any objection by local residents having the natives located near them'.¹⁵ It was not simply a matter of removing the Aboriginal presence from country towns; they had to be located where they would be out of sight and out of mind.

The matter was held in abeyance until it emerged as a political issue late in 1913. In October, the secretary of the Katanning Road Board wrote to the Under-Secretary of the Colonial Secretary's Department to report that a deputation had waited upon the Board at its previous meeting to urge the removal of Aborigines from their camps on the town reserve to water reserve 9089, 'some 17 or 18 miles distant from Katanning'. The request was made, he said, 'not only in the interests of the town generally, but of the natives themselves'. The close proximity of the camps to the townsite—'as a matter of fact it is within the townsite boundary'—had raised complaints 'so numerous that nothing short of the removal of the camp will effect a remedy'.¹⁶

Phil Collier, the Minister for Mines, was more forthcoming in representing the concerns of Katanning residents a month later. He too had met with a deputation when he visited the town and advised the Colonial Secretary that the Aborigines 'constitute a nuisance and a menace to the morals of the youth of Katanning'.¹⁷ At that time between 150 and 200 Nyungars were

¹³ *ibid*, folio 22, memo, C. Napier to Secretary, 4 November 1912.

¹⁴ *ibid*, folio 26.

¹⁵ *ibid*, folio 43, letter, W.J. Rae, District Surveyor to CPA, 10 March 1913.

¹⁶ State Record Office, Aborigines and Fisheries Acc 652, Item 753/1914, folio 81, letter, J.W. Hewson, Secretary, to The Under Secretary CSO, 6 October 1913.

¹⁷ *ibid*, folio 82, memo. P. Collier, Minister for Mines to the Colonial Secretary, 7 November 1913.

camped on the reserve. Many were there so that their 50 children, 33 of them aged over eight, might attend school. Nyungar families congregated at Katanning to give their children a chance at education and Katanning ratepayers agitated for their removal. That was the catalyst for political processes that led the Scaddan Ministry eventually to establish the Carrolup Native Settlement.

The ratepayers and the council of the Road Board supported the Australian Aborigines Mission and Miss Lock in their request. One prominent resident of the town, a lawyer and solicitor, advised the Chief Protector that Aborigines camped, 'not on the Reserve but on a piece of land within the Town Boundary close to my private residence'. His sentiments reflected a fear and loathing of the Aboriginal presence that reverberated in other submissions in favour of their removal from the town. 'To say these people are a nuisance,' he said, 'is to put it very mildly'. The chief danger, it appeared, was their begging habits; 'My wife is pestered by them for food and work every day'. The underlying hostility was different and difficult to substantiate. 'The presence of these people so near one's home, is highly objectionable from a sanitary point of view,' he wrote. 'They are dirty & appear to have neither water nor sanitary arrangements'.¹⁸

Indeed, they had neither, not even on the reserve provided for them by government, supervised by the local protector and the municipal health inspector, and serviced by the Katanning Road Board. Napier had reported that Aborigines camping at the town reserve got their water from a nearby creek into which 'a good deal of drainage of all sorts flows'. The quality of the water for drinking purposes was 'undoubtedly questionable'.¹⁹ While the ratepayers of Katanning might have found the presence of Aborigines 'highly objectionable from a sanitary point of view', the lack of sanitation and clean water in their camps and their consequent inability to wash their bodies or their skimpy clothing probably was more a threat to the health of the Nyungar themselves than to their disgruntled neighbours. However, their hygiene was used as a reason to exclude Nyungar children from the government school.

In July 1913, the local protector of Aborigines, Sergeant Buckland of the Katanning Police Station was instructed to have sanitary conveniences erected at the Katanning Reserve; 'the cost should not exceed 40/-, exclusive of pans'. He was further instructed to move from the reserve those Aborigines who could give no satisfactory reason for being there, 'to get them out of town and into the country', where they might earn their own living.²⁰ Almost a year later the secretary of the Australian Aborigines Society, Rev. Gilmour, advised that there was still no provision for water or sanitation on the reserve. In spite of promises made the previous year for

¹⁸ State Records Office, Aborigines and Fisheries, Acc 652, Item 1629/1919, folio 5, Letter, E. Sewell to CPA, 24 August 1912.

¹⁹ *ibid*, folio 21, memo, C, Napier to Secretary, 4 November 1912.

²⁰ *ibid*, folio 21, Secretary, Department of Aborigines to Sergeant Buckland, Katanning, 2 July 1913.

water closets to be erected and a ‘tank and water to be sent down so as to keep the natives out of town’, nothing had been done.²¹ Neither had residents been relocated from the town reserve. The Katanning, Kojonup and Woodanilling Roads Boards and the Lands Department had approved a native settlement on Reserve 9089, but Cabinet decided that ‘existing conditions could continue for a period’.²²

The first formal submission presented to the Colonial Secretary in September 1913 for water reserve 9089 to be given over for a native settlement and mission was rejected. The Colonial Secretary, Drew, requested another site be investigated. The issue of which department, Education or Aborigines, should be responsible for native schools had not been resolved. There was a native school at Katanning and Carrolup was too far away. Drew observed that ‘it would be too far from the school, even if it were possible to keep natives 13 miles away from their accustomed haunts’. In his opinion children should not be expected to walk more than two miles to school. Drew directed that Gale should visit Katanning to investigate ‘as soon as possible, as a deputation to me is shaping’.²³

The Education Department announced at the end of 1913 that it would no longer pay the salary of a teacher and the Katanning Native School would not reopen the following year. Gale requested that it be kept open, ‘until the school at Carrolup is available’. He then advised the Under Secretary that he faced similar problems at Beverley where families of children attending the native school camped on the reserve. He warned:

If nothing is done an epidemic of influenza or other similar diseases, to which the race is so subject, occur through the want of proper housing, the blame will deservedly rest with this department.²⁴

Cabinet was unmoved. The Minister for Education, Thomas Walker, continued to insist that the education of Aborigines was a duty of the Aborigines Department, not his, under provisions of the *Aborigines Act*. Gale agreed, as did the Colonial Secretary. Drew expressed the opinion, ‘I do not think that Aboriginal children should be allowed to attend the same schools as other children’, but he delayed making a decision about Carrolup; ‘no definite scheme has been placed before me by the C.P. of A’.²⁵ Cabinet also declined to act because ‘state of finances will not

²¹ State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914, folio 114, Wm. Gilmour, Baptist Manse, Katanning to CPA, 10 June 1914.

²² *ibid*, folio 117, CPA to Rev W. Gilmour, 29 June 1914.

²³ State Records Office, Aborigines and Fisheries, Acc 652, Item 1629/1919, folio 93, handwritten memo, Drew to Under Secretary, 11 October 1913.

²⁴ State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914, folios 90-91, Memo, CPA to Under Secretary, 15 December 1913.

²⁵ *ibid*, folio 96, file note, Chief Secretary to Under Secretary, 23 April 1914.

permit at this juncture'.²⁶

Gale submitted another recommendation in April 1914, but Drew again declined to consider what he called 'a vague, hazy proposition styled a scheme which might have run into a huge expenditure'.²⁷ It was not until the Minister for Education's decision of June 17 not to appoint another teacher for Aborigines at Katanning that Cabinet reversed its decision. Closure of the Katanning native school was deferred until after an alternative was available at Carrolup, but the Aborigines Department assumed financial responsibility for salaries and contingencies.²⁸

Finally, on 21 December 1914, the Minister instructed that all natives be removed from the Katanning Reserve. Police Superintendent Pinkis advised on Christmas Day, 1914, 'I have to report having informed all natives to proceed to Reserve No 9089 Carrolup'.²⁹ The actual reserve consisted of some 700 acres, only about 80 acres of which were fit for cultivation. It was situated 30 km from Katanning, 20 km from Kojonup and 19 km from Woodanilling at the conjunction of those three local government areas. It also was near the conjunction of the tribal lands of the old people, the Ko:reng, Kaneang and the Wi:men.

Gale was instructed that government was to be put to no expense in removing residents from the Katanning reserve to Carrolup, 'excepting, of course, the carting to the new Reserve such rations as are now being provided'.³⁰ That was done, and on 23 January 1915 Gale advised the Director of Education 'all natives have been removed from Katanning Reserve' and that 'nothing has yet been definitely decided on the question of establishing another school where the natives, with their children, are at present camped'.³¹

No further action was taken until Underwood inspected the reserve in March, decided it would make a 'very useful' rationing depot, approved the appointment of Mr Fryer as manager and requested that 'Mr Fryer goes down to Katanning as early as possible, so that he may report as to the requirements for the actual commencement of the settlement'.³² The Aborigines had not been left abandoned and destitute, however. Miss Lock accompanied them from Katanning to Carrolup and generally cared for them and distributed rations on behalf of the department until the arrival of the department's own manager. Fryer took up the position in June and his wife took over from Miss Lock as teacher. In the interim, Neville had replaced Gale as Chief Protector.

²⁶ *ibid*, folio 113, file note, J.S., 23 June 1914.

²⁷ *ibid*, folio 96, Under Secretary to the Colonial Secretary, 15 April 1914.

²⁸ *ibid*, folio 123, CPA to the Director of Education, 3 July 1914.

²⁹ State Records Office, Aborigines and Fisheries, Acc 752 Item 1290/1920, folio 13, file note, Sgt Pinkis to Sub Inspector Duncan, 25 December 1914.

³⁰ *ibid*, folio 13, Deputy CPA to OIC Police Station, Katanning, 21 December 1914.

³¹ State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914, folio 136, CPA to Director of Education, 23 January 1915.

³² State Records Office, Aborigines and Fisheries, Acc 652, Item 1629/1919, folio 180, Hon. Minister to CPA, 29 March 1915. See also folio 173, Sydney Goss to the Secretary, 9 January 1915. Mr. and Mrs. Fryer had been in charge of the Dulhi Gonyah Mission at Victoria Park.

Neville visited Carrolup in September 1915 and recommended substantial changes. Gale had proposed that even though only 80 of the 700 acres of Reserve 9089 were fit for intense agriculture the settlement could be made self-supporting by growing vegetables and raising poultry. Neville judged that the settlement would never be self-supporting if those were its only commercial products. Katanning was quite well supplied with vegetables, poultry and eggs, and the income generated, 'supposing we were able to sell the produce', would not sustain the Aboriginal community. Neville rejected Gale's proposition as unsatisfactory. It 'would hamper the Department considerably in the future concentration of the natives on the reserve and increase the expense'.³³ Instead, he argued for sufficient land to run 1,000 sheep.

Neville reasoned that because local Nyungars were experienced in the sheep industry they might be readily induced 'to work in this direction than in the more intensive cultivation of land to be devoted to vegetables, etc'.³⁴ He acknowledged the challenge of encouraging Aborigines to stay and work at Carrolup and of encouraging others from neighbouring localities to move there. He saw sheep farming not only as an incentive for Aborigines to work at the settlement, but also as offering the best chance of its becoming self-sustaining. Aborigines were the essential labour, but, as at Moola Bulla, they had to be free to come and go as they pleased.

The financial and administrative advantages of concentrating indigent Aborigines at one place had been demonstrated at Moola Bulla. Neville argued that, in the same way, government could save on the cost of relief by relocating indigent Aborigines from town reserves along the Great Southern Railway line to Carrolup. Relief payments amounted between £900 and £1000 annually amongst Kellerberrin, Quairading, Beverley and Gnowangerup, and Neville estimated 'perhaps half of this amount can be saved by concentrating the natives that have been receiving relief at these places at Carrolup'.³⁵ He did not, however, anticipate wholesale compulsory removal of all Aborigines.

Neville estimated that there were 14 persons at Gnowangerup, 30 at Beverley, and small numbers at Quairading and Kellerberrin who would be 'far better at Carrolup'.³⁶ At that time, the estimated population of Aborigines at those places was 70, 45, 52 and 20, respectively.³⁷ Those capable of earning their own living in those localities should continue do so if that was their choice. It was within the power of the Minister to relocate those who were Aborigines under the *Aborigines Act*, but it was Neville's preference 'to induce these natives to go Carrolup of their own

³³ *ibid*, folios 181 and 182, CPA to Under Secretary, 23 September 1915.

³⁴ *ibid*, folio 182.

³⁵ *ibid*, folio 184, CPA to Under Secretary, 23 September 1915.

³⁶ *ibid*, folio 185.

³⁷ Aborigines Department: *Report for the Financial Year Ending 30 June 1916*. Appendix, 'Summary of Police Reports'.

free will, as I feel that once they get there they may be satisfied and content to remain'.³⁸ Neville also was constrained by lack of administrative procedures in his department. It had statutory authority, but no regulatory mechanism. Section 12 of the *Aborigines Act* empowered the Minister to remove Aborigines from one reserve to another, but no regulations authorised by section 60 providing for the control of Aborigines residing on reserves had been framed or gazetted.

After his personal inspection in March 1915, the Honorary Minister for Aborigines, R. H. Underwood, signified his approval of 'the reserve at Katanning' which, he believed, could be developed as a 'very useful Receiving and Maintaining Depot for aborigines serving the whole of the Great Southern District between Narrogin and Albany'.³⁹ Subsequently on 19 April 1916, Reserve number 16370 comprising almost 11,000 acres was vested in the Colonial Secretary as an Aboriginal Settlement.

When the Carrolup River Native Settlement was officially opened in June 1917, the Colonial Secretary, Hal Colebatch, announced that in addition to providing a home for sick, aged and infirm Aborigines, the object of the settlement was to establish a State institution for waifs and strays, 'both aborigines and half-caste, thrown on the care of the Aborigines Department,' and to give them an opportunity for schooling. 'There is no intention,' he said, 'of allowing the children to go back to camp life, as has been suggested in certain quarters, but to train and educate them, in order to fit them to earn their living in after life'.⁴⁰

Neville's longer-term solution to the problem of providing education at Carrolup was to relocate the native school from Beverley. He estimated that if the Aborigines from Kellerberrin, Quairading, Beverley and Gnowangerup could be induced to relocate to Carrolup, places for a further forty children at the school would be needed, 'and be the means of educating those children that so far had no chance'.⁴¹ This could be achieved if the school at Beverley were closed and the teacher transferred to Carrolup. Neville proposed that his Department should pay the teacher's salary. That was approved. The native school was closed and most of the children enrolled there were transferred to Carrolup.

Reserve 16833 Moore River

When he was satisfied Carrolup was sufficiently advanced, Neville turned his attention to a second settlement, preferably somewhere in the Midland District. There were between

³⁸ State Records Office, Aborigines and Fisheries, Acc 652 Item 1629/1919, folio 185. CPA to Chief Secretary, 23 September 1915.

³⁹ *ibid*, folio 180.

⁴⁰ 'The Aborigines, Work at Carrolup, State Settlement Operations', *West Australian*, 6 June 1917.

⁴¹ State Records Office, Aborigines and Fisheries, Acc 652, Item 1629/1919, folio 185, CPA to Under Secretary, 23 September 1915.

Northampton and Gingin approximately 400 Aborigines, of whom 120 received indigent relief, and north of Geraldton and in the lower Murchison, 'hundreds more who would come within the influence of such a settlement in respect of half-caste children, or special cases requiring attention'.⁴² Neville anticipated a need to place children in government care:

I knew that as time went on there would be increasing demands upon the Department for the care of waifs, strays and indigents and that the theory that the natives were a dying race was not in fact correct, the position being that while the full bloods were gradually decreasing, the half-castes were rapidly increasing.⁴³

The choice of the Midland District took account of the distinctive Aboriginal groups living there. Neville identified three 'hordes'. Aborigines living between Perth and Albany formed one horde; those from Perth northwards to the proximity of Geraldton another; and Aborigines living inland to the east of the other two comprised the third.⁴⁴ Neville's estimation of the boundary of tribal districts, roughly the Perth-Kalgoorlie railway line, was his demarcation of the Carrolup and Moore River catchment areas. He argued that policy must respect Aboriginal attachment to their country. From time to time it was unavoidable, he said, but his policy acknowledged that 'it is cruel to remove a native from his own tribal district and place him in another'.⁴⁵ Aborigines located north of the railway line might be sent to Moore River and those in the south to Carrolup.

Underwood supported Neville's proposal for pragmatic reasons. Problems at Guildford, a suburb in the Perth metropolitan area, and Moora, 120 kms north of Perth, similar to those experienced at Beverley and Katanning were demanding political action. As early as 1905 the secretary of the West Guildford Local Board of Health had written to Prinsep advising that residents near the Success Hill Reserve complained that 'the Blacks' camp cause excreta and dead dogs to be deposited in the bush'.⁴⁶ The response was to remove those who had no justifiable reason for being there; 'the police can Act under sec 38 as far as any natives are concerned who have no reasonable excuse for being about town'.⁴⁷ Local authorities at Guildford shunted them on from time to time. At Moora, temporary relief had been found by locating Aborigines at the Karramarra reserve. At both localities residents and local authorities agitated for the removal of

⁴² State Records Office, Native Affairs, Acc 993, Item 266/1927, folio 2, CPA to Hon. Minister (Mr. Underwood), 25 November 1915. (Original on File A & F 2335/14. Deals with removal of natives from Moora).

⁴³ State Records Office: Native Affairs, Acc 993, File 325/1930, folio 6, CPA to Under Secretary, 9 February 1929.

⁴⁴ *ibid*, folio 7, CPA to the Under Secretary, 9 February 1929.

⁴⁵ *ibid*, folio 8, CPA to Under Secretary, 9 February 1929.

⁴⁶ State Records Office, Chief Protector of Aborigines, Acc 255, Item 156/1905, folio 1, Geo. T. Wood, Hon. Sec. West Guildford Local Board of Health to CPA, 29 March 1905.

⁴⁷ State Records Office, Chief Protector of Aborigines, Acc 255, Item 593/1906, memo, Henry Prinsep to Mr. Pechele, 12 July 1906.

Aborigines from their districts.

By March 1916 two lots, 2380 and 2440, together comprising about 5,000 acres with seven miles of Moore River frontage were identified and temporarily reserved. It was not good farming country. Only about 110 acres might be improved and cropped: 25 acres of fairly good first class land; 60 acres of medium to fair second class land that might produce medium crops; and about 50 acres of river flats which could be cropped with little fear of flooding. The Lands Department offered a negative assessment of its viability. The land was sand plain unsuited to agriculture and, in the judgement of Inspector J. Scaddan of the Lands Department, would 'probably run a sheep to about 10 acres', provided they were 'continually be shifted off into better country'.⁴⁸

Neville was confident that, even though the property could never be an agricultural concern, a settlement there could be made self-supporting. He requested a further 1001 acres of adjoining conditional purchase land be acquired from the deceased estate of one Maitland George Brown. That property combined with the land already reserved would provide in total 300 acres of fair agricultural land and nearly 6,000 acres of sand plain on which to run sheep. The purchase was approved and when the reserve was finally proclaimed in September 1916 it comprised about 9,600 acres. Its purposes were 'to dispose of natives who were becoming a nuisance at Moora and Guildford', and to accommodate natives 'under the care of the Department in districts between Northampton and Gingin'.⁴⁹

It was not until May 1918 that a limited number of people could be received. Nineteen arrived between 25 May and 5 June, 14 of them from Beverley. In July, five children aged from two to six years and seven adults ranging in ages from 25 to 65 years, all but one in receipt of indigent relief, were relocated from Guildford under Section 12 warrant.⁵⁰ Residents of the Karramarra reserve followed soon after. In October 1930, 39 adults and 70 children lived at the camp: 65 adults and 169 children lived in the compound.⁵¹ In 1935 Royal Commissioner Moseley suggested that the camp be 'removed to some other site immediately'.⁵² At that time the recorded total number of residents was 384.⁵³

⁴⁸ State Records Office, Native affairs, Acc 993, Item 266/1927, folios 19-20, J. Scaddan to Under Secretary CSD, 14 August 1916.

⁴⁹ State Records Office, Chief Secretary's Department, Acc 993, Item 393/1927, folio 7, Under Secretary to Hon. Mr. Broun, 6 June 1922.

⁵⁰ State Records Office, Aborigines and Fisheries, Acc 652, Item 817/1918, folio 32, Report of Constable Geo. H. Hulme relative to Indigent Aboriginal natives removed from Lockridge natives' camp at Guildford to Mogumber on 16 October 1918.

⁵¹ State Records Office, Colonial Secretary's Office, Acc 993, Item 459/1933, Moore River Native Settlement – Register of Inmates.

⁵² *Interim Report of the Royal Commissioner Appointed to Inquire into Matters in Relation to the Condition and Treatment of Aborigines*, 19 April 1934, p.7.

⁵³ *ibid*, p.7. For a detailed commentary on Moore River see Rosemary van den Berg, *No Options No Choice!* Magabala Books, Broome, 1994; and Susan Maushart, *Sort of a Place Like Home*, Fremantle Arts Centre Press, Fremantle, 2003.

It is uncertain how many Aborigines passed through the settlement. It may have been between 3,500 and 4,500 during Neville's term. When he nominated Moore River Neville claimed it was 'the ancient happy hunting ground of the aboriginal tribes of the Midland District...From time to time natives now visit the locality'.⁵⁴ That peripatetic tendency endured. The settlement had a fluctuating population. Some camp residents, mainly elderly indigents, stayed permanently. Adults and half-caste children sent to the settlement under warrant either absconded or remained at the Chief Protector's pleasure, or were sent out to employment, boys when they turned 14 and girls at age 16. A large number of itinerant Aborigines also visited the settlement, notably on a seasonal basis, staying for as long as suited them, some for a day and others for months.

Re-Opening Carrolup

In 1920, shortly after he was appointed Deputy Chief Protector of Aborigines and assumed responsibility for southern Aborigines, Fred Aldrich assessed the financial viability of Carrolup and Moore River. Their combined population numbered 280, more than half of whom were children. At Carrolup, only 250 acres of land was cleared, little more than half of which was in crop. It would be a long time before the property could generate any reasonable return and it was unlikely the settlement could be self-supporting. Moore River was worse. By June 1920, seven buildings had been erected, but no extensive fencing and little other improvement had been effected.⁵⁵

Aldrich judged that Carrolup had outlived its usefulness. Less than half of the residents were from the South-West and most of the indigents who had been gathered from surrounding localities had died. Carrolup was deemed an unsuitable locality for Aborigines from the dry and warmer part of the State, 'whereas Moore River is admirably suited for all natives'. Aldrich recommended Carrolup be closed. He did so without consulting Neville or the superintendent of Carrolup, Ernest Mitchell, but, 'in view of the urgent need for economy in every possible direction', recommended the discontinuance of Carrolup and the transfer of its residents to Moore River.⁵⁶

The principal concern, once again, was to save money. Expenditure at Carrolup for the financial year 1922-23 was estimated to be £7,184. If it were to close, the cost of shifting the residents and necessary capital works at Moore River would be £6,533, 'showing a saving of £615

⁵⁴ State Records Office, Native Affairs, Acc 993, Item 266/1927, folios 48-50, CPA to Under Secretary, C.S.D., 27 March 1917.

⁵⁵ State Records Office, Native affairs, Acc 993, Item 266/1927, folio 141, Deputy CPA to Acting Under Secretary, Colonial Secretary's Department, 11 June 1920.

⁵⁶ State Records Office, Chief Secretary's Department, Acc 993, Item 393/1927, folio 5, Deputy CPA to Under Secretary, 1 June 1922.

for the first year', and in the following year, expenditure might decrease by up to a further £1,600.⁵⁷ The Under Secretary of the Colonial Secretary's Department, Trethowan, anticipated also that if Carrolup were made available for sale as farmland it 'should have a value for that purpose of several thousands of pounds which would constitute a direct gain to Government'.⁵⁸

The Mitchell Cabinet approved the closure of Carrolup and the relocation of residents to Moore River with the specific instruction that 'the transport of the natives be very systematically organised throughout, so that no ground may arise for any public comment'.⁵⁹ Accordingly, Section 12 warrants were issued and on 30 June 1922 forty-six Aborigines were transported under police escort from Katanning to Mogumber. Descendants of the Ballardong, Wilmen, Kaneang, Ko:reng and Min:ang were expelled from the tribal lands of their ancestors. It was an action described by Ernest Mitchell as 'a stupid piece of cruelty, not wanton, but the misguided action of amateurs in the name of Economy'.⁶⁰

Proponents of the closure of Carrolup did not share Neville's concern for the separate placement of Aboriginal people from diverse localities belonging to different language and cultural groups. The Colonial Secretary, John Scaddan, dismissed it; 'There are already at both Settlements natives from all over the State and no trouble on this account has resulted'.⁶¹ Neville rejected that proposition. He described the closure as a breach of faith:

We broke faith with the natives by depriving them of the home which they had been promised in consideration of their leaving the vicinity of various country towns and undertaking that we should educate and train their children.⁶²

When in 1926 he resumed responsibility for Aborigines across the whole state, Neville made submissions for the re-opening of Carrolup. He met with influential support as well as with predictable resistance. There was political concern about the philosophy of separate development. It was controversial and governments favoured a less hazardous *laissez faire* option. Electoral opportunism also was a significant factor in delaying the process. Politicians jockeyed for advantage and successive Cabinets deferred decisions that might jeopardise their government's electoral chance. Most important, however, was the financial consideration. In the competition for diminishing government resources, especially as the economic downturn progressed toward depression, the Aborigines Department had low priority. When, in February,

⁵⁷ State Records Office, Chief Secretary's Department, Acc 993, Item 393/1927, folio 3, E. Copping, Secretary A & F to Deputy CPA, 30 May 1922.

⁵⁸ *ibid*, folio 8, Under Secretary to the Hon. Mr Broun [Colonial Secretary].

⁵⁹ *ibid*, folio 10, File note, Under Secretary to Deputy CPA, 10 June 1922.

⁶⁰ *ibid*, folio 97 Letter, Ernest Mitchell to Mr Angwin, 16 April 1924.

⁶¹ State Records Office, Chief Secretary's Department, Acc 993, Item 393/1927, folio 9, Colonial Secretary to the Deputy Premier (In Cabinet), 8 June 1922.

⁶² State Records Office, Aborigines, Acc 993, Item 65/1929, folio 16, CPA to the Under Secretary, 9 February 1929.

1929 Neville presented a formal submission for the reopening of Carrolup, 'or alternatively, that a second Native Settlement be established somewhere in the lower South-West',⁶³ it was rejected by the Chief Secretary, Hon. John Drew, even without reference to Cabinet; 'In view of the financial position, nothing can be done in this connection for the time being'.⁶⁴ Drew noted for it to be brought up at the commencement of the following financial year. In the interim a general election was held and government changed hands, but there was no change in the attitude towards Carrolup. On July 15, 1930 the Cabinet of the Mitchell Ministry considered and rejected Neville's submission.⁶⁵

Public opinion about Aboriginal reserves was divided. The Bunbury Diocesan Synod of the Anglican Church at its meeting on 23 September, 1930, supported the reopening of Carrolup and urged the establishment of native reserves 'wherever 50 Aborigines or half-castes are living'.⁶⁶ The Board of Missions regarded it as, 'not a matter of money, but of honour'. The Chief Secretary, Norbert Keenan, did not share the Synod's view; 'as we have not got the money this matter must stand over'.⁶⁷ The implication was Carrolup might be re-opened when finances allowed. In fact, there was dissension about the future of Carrolup among parliamentary members representing electorates in the Great Southern. Their lobbying and submissions from interest groups with conflicting opinions gave government convenient reasons to delay.

The Road Board Association supported the establishment of a series of reserves, including Carrolup. A deputation to the Chief Secretary, Norbert Keenan, in October 1930 argued the half-caste population was increasing at a rate which threatened, 'in fifty years there would be tens of thousands of them with no education and no means of earning a livelihood'. The state had a duty, they said, to ensure 'we do not have this menace of uncivilised natives growing up in our midst'.⁶⁸ The solution sought was segregation in secure settlements.⁶⁹

The Mitchell Cabinet was supportive, but cautious. It sought 'police reports on the position along the Great Southern'.⁷⁰ A summation by Inspector Barry in December 1930 confirmed that the half-caste population was growing and that the vast proportion of them were 'living under the same condition as the Full Blood natives'. He judged that the majority of them

⁶³ State Records Office, Aborigines, Acc 993, Item 325/1930, folios 1-10, submission, Chief Protector of Aborigines to Under Secretary, 9 February 1929.

⁶⁴ *ibid*, folio 10, handwritten footnote signed W.H.K. [William Henry Kitson MLC, Honorary Minister].

⁶⁵ Department of Premier and Cabinet, *Cabinet Record*, 15 July 1930. Present: Hon. Sir James Mitchell, J.A.L. Davy, N. Keenan, P. D. Ferguson, J. Lindsay, C.F. Baxter, C.S. Latham. (File, Aborigine 65/29), not published.

⁶⁶ 'Aborigines' Welfare, Bunbury Synod Discussion', *West Australian*, September 24 1930.

⁶⁷ State Records Office, Aborigines, Acc 993, Item 65/1929, folio 59, CPA to the Under Secretary, 30 September 1930. Handwritten footnote 1/10/30 NK.

⁶⁸ *ibid*, folios 67-70, Notes of Deputation of Road Board Association to the Chief Secretary on the Establishment of Depots for Aborigines.

⁶⁹ *ibid*, folio 68.

⁷⁰ Department of Premier and Cabinet, *Cabinet Record*, 21 October 1930. Present: Sir James Mitchell, C.G. Latham, T.A.L. Davy, J. Scaddan, J. Lindsay, N. Keenan, C.F. Baxter, P.D. Ferguson, (File, Aborigine 325/30), not published.

were in favour, ‘the married half-castes with children, who have desires for the future welfare of the youngsters’, and recommended in favour of re-opening Carrolup; ‘There is no question that Carrolup from its geographical position, and present facilities would be the place for selection’.⁷¹

Cabinet approved, but limited the expenditure for the purpose to £3,000 for twelve months at £250 a month.⁷² No longer-term commitment was intimated. The implementation of Cabinet’s decision was delayed by a campaign by landowners in the locality, the North Carlecatup Progress Association. Their action appears to have been motivated largely by self-interest and fear. Their claims were familiar. The first was depredation of stock. Mr Borstel, the secretary of the Association whose farm adjoined the settlement, wrote to the parliamentary member for Wagin, Sydney Stubbs:

I never actually caught them stealing, but my losses when they were here were rather severe—one would find sometimes a dead sheep in the back paddocks, which upon inspection contained no ribs or backbone—which sayeth much.⁷³

A second objection was that the land value of adjoining properties would be adversely affected. Another farmer with property in the vicinity of Carrolup, Mr Bennecke, even suggested that the settlers who purchased land since the mission was closed should receive compensation; ‘I would suggest cancellation of all land rents, and where the land has been made freehold reimbursed to that amount’.⁷⁴

A third objection raised was that the land on the reserve was unsuited to the purpose: ‘It is low lying, damp & sodden & in the winter the fog hangs around this site until late in the morning’.⁷⁵ Finally, the threat that Aborigines might inflict grievous harm, particularly upon women, was raised. Mrs Borstel wrote to the Premier, Sir James Mitchell:

I am not a nervous person, but as a woman who came from another land to settle here and who is doing her bit to develop and populate this State, I do enter an emphatic protest, in my own name and that of all women similarly situated in this neighbourhood, against having a number of irresponsible and in some cases dangerous natives and half-castes dumped at our doors.⁷⁶

⁷¹ State Records Office, Aborigines, Acc 993, Item 65/1929, folios 77-79, Memo, M.P. Barry, Inspector to the Commissioner of Police, 26 November 1930.

⁷² Department of Premier and Cabinet, *Cabinet Record*, 10 December 1930. Present: full attendance, (File, Aborigine 325/30), not published.

⁷³ State Records Office, Aborigines, Acc 993, Item 325/1930, folio 38, R. Borstel, Hon. Sec. North Carlecatup Progress Association, to s.Stubbs M.L.A., 22 June 1930.

⁷⁴ State Records Office, Aborigines, Acc 993, Item 65/1929, folio 8, B. J. Bennecke to A. E. Piesse M.L.A., 20 June 1931.

⁷⁵ State Records Office, Aborigines, Acc 993, Item 325/1930, folio 39, R. Borstel, Hon. Sec. North Carlecatup Progress Association, to s.Stubbs M.L.A., 22 June 1930.

⁷⁶ State Records Office, Aborigines, Acc 993, Item 65/1929, folios 95-99, Mrs Ida Borstel to the Premier, 22 January 1931.

Of all these claims, only one might have been substantiated, that the land was unsuited to the purpose. The reserve comprised third-class rural land and the site of the settlement was damp, low-lying land at the confluence of two rivers. Had the land been more attractive for cultivation an earlier government would have been pressed to alienate it for agriculture, or to open it to soldier settlement.

The least sustainable objection, at that time, was that the Aborigines posed a threat to the welfare of farmers, white women in particular. The public record repudiated that Aborigines posed that sort of threat. In the financial year ending 30 June, 1932, there were 112 convictions recorded State wide for misdemeanours by Aborigines: 42 were for cattle stealing or being in unlawful possession of beef in the North; 13 for being on a prohibited area; 11 for drunkenness or receiving liquor; one for murder of a white man; and four for assaults upon other Aborigines.⁷⁷ There were no police reports of Aborigines molesting white women, physically or sexually. Regardless of that truth, white fear of the black persisted.

In May 1931, the Minister for Health, Hon. Charles Latham, weighed in. He sought information about the number of Aborigines at several country centres. Latham advised he intended raising a strong protest against expenditure on reopening Carrolup, 'when many of our own people are in need of accommodation, especially in respect to maternity cases'.⁷⁸ It is assumed Latham meant by 'our people' those whose skin colour was similar to his own. Neville responded that there was no hospital accommodation for Aborigines outside the institutions, 'and the case of the expectant mothers is much worse than in the case of the whites'.⁷⁹ His minister, Keenan, supported him: 'I do not agree with the comparisons made but all the same the conditions of the natives and half castes are deplorable'. Latham retaliated, saying, 'I feel satisfied there are still some officers in the Service who are unaware of the present cash position of the Treasury'.⁸⁰ It would appear that Neville had little patience with some of his political masters, and they with him. Even after having served sixteen years as Chief Protector, he still engendered political enemies.

Government continued to prevaricate. Hon. Charles Baxter, who in 1931 had replaced Keenan as Chief Secretary, believed it was inadvisable that Carrolup be re-opened, but deflected its advocates with the excuse of financial stringency; 'the financial (*sic*) is too grave for me to give consideration to the establishment of a native settlement in the G. S. district, but I will be

⁷⁷ Chief Protector of Aborigines, *Annual Report for the Year Ending 30 June 1932*, pp.19-20.

⁷⁸ State Records Office, Aborigines, Acc 993, Item 65/1929, folio 178, Minister for Public Health to Chief Secretary, 21 May 1931.

⁷⁹ *ibid*, folios 179-80, file note, CPA, 22 May 1931.

⁸⁰ *ibid*, folio 80, footnote.

prepared to consider when conditions warrant'.⁸¹ Neville was directed to find an alternative area of virgin country that might be suitable for the purpose. Eleven sites, including Bremer Bay, Gnowangerup and Merredin, were evaluated and rejected, most vociferously by landowners who did not want a native settlement in their locality.

Advocates for the re-opening of Carrolup persisted. In October 1935 Mrs Billy Nelly, a Nyungar of Narrogin, wrote to Neville:

I hope you will open Carrolup for Narrogin this district as Narrogin children got no sense and no schooling. All what they do to be cheeky and fighting and running about with nothing on. Some time I will tell you more but next time when I get answer from you. Don't you tell on me as I will be your spy now until you get Carrolup it's no use, sir, it's better to have these native in settlement to learn their children well catered for and good scholar like my Dulcie.⁸²

It was not until 1939, near the end of Neville's term as Commissioner for Native Affairs that 4,597 acres of land alienated after the closure in 1922 was resumed, Reserve 21907 was gazetted and the Carrolup Native Settlement was re-opened.

Out of Harm's Way

In August 1915 Neville raised with the manager of Carrolup, Fryer, whether he could take charge of any orphaned half-caste children or house such children should the need arise; 'In the future, no doubt, we will have to provide for them'.⁸³ The following month after visiting towns along the Great Southern Line he reported that urgent consideration was necessary for the provision of facilities at Carrolup for the reception of 'aboriginal and half-caste children thrown on the care of the Department from time to time'.⁸⁴

In 1914, Gale had put at 343 the number of 'waifs and strays of the bush and camp life full blood and half-caste', cared for at missions. While he was generally satisfied with what the missions did, he had reservations about its worth:

Nomadic in their habits, and never having advanced above the stone age, it seems a hopeless task to try to christianise and bring them near our own standard of life. Those who are devoting their lives to this work are to be commended for their self-sacrifice, but those who have studied the bush native will very sensibly think

⁸¹ *ibid*, folio 228, memo, Under Secretary to the Hon. Chief Secretary, 9 September 1932.

⁸² *ibid*, folio 293, letter, Mrs Billy Nelly to Mr. Neville, 20 October 1935.

⁸³ State Records Office, Aborigines and Fisheries, Acc 652, Item 1271/1915, folio not numbered, Extract from minute by C.P.A. of 11 August 1915. (Original on file 1006/15).

⁸⁴ *ibid*, folio not numbered, CPA to Chief Secretary, 23 September 1915, p.3.

that it will be a case of 'Love's labour lost'.⁸⁵

Those 'waifs and strays of the bush and camp life' appear to have been of the same genre as Neville's 'orphan half-caste children' and 'aboriginal and half-caste children thrown on the care of the department from time to time'. Few were orphans, even fewer were 'waifs and strays', and many were half-caste children, bastards rather than orphans, taken to missions under section 12 warrants, or sent there at the behest of their white fathers.

Neville's concern was for the fate of such children. In September 1915 he expressed his disquiet in terms that would resonate throughout his tenure as Chief Protector:

In the various camps that I have visited during the week, there are numbers of half-caste children, some of whom are as white as any of our own children, who should be under proper care and receiving education.⁸⁶

He proposed a course of action that might enable that to be done. Aboriginal and half-caste children consigned to the care of the department instead of being sent to missions should be located at Carrolup. Neville anticipated that most families could be induced to relocate from Beverley, Quairading and Kellerberrin. Those from Katanning already had been relocated, although not quite voluntarily. Neville anticipated that families who refused to relocate and whose children were not being looked after properly, would have to be forcibly removed. He expected that this would apply 'mostly in the case of women who have lost their husbands, and have large families'.⁸⁷ The justification was the apparent neglect of children, but the real mischief that Neville identified was that the children were fair-skinned and their putative fathers had abandoned them.

Neville argued that state care in self-supporting settlements was a cheaper option than the 10 pence per capita daily subsidy paid to missions. He proposed erecting at Carrolup dormitories and a dining room for thirty or forty children. They were not intended to be salubrious; 'Such buildings can be constructed of bush timber, and there is sufficient iron on the reserve from the supply which we sent down from the old Welshpool settlement to roof the buildings'.⁸⁸ As it turned out, the walls of the dormitories were faced with lime-washed canvas with an open space of 30 cm between the roof and the top of the walls all around the building.⁸⁹ They may have been drier than humpies on town reserves, but not warmer during cold, wet winters.

⁸⁵ Aborigines Department, *Annual Report for the Financial Year Ending 30 June 1914*, p.8.

⁸⁶ *ibid*, folio not numbered, CPA to Chief Secretary, 23 September 1915, p.4.

⁸⁷ *ibid*, folio not numbered CPA to Chief Secretary, 23 September 1915, p.5.

⁸⁸ State Records Office, Aborigines and Fisheries, Acc 652, Item 1271/1915, folio not numbered, CPA to Chief Secretary, 23 September 1915, p.4.

⁸⁹ *ibid*, folio not numbered, CPA to W. J. Fryer, 7 October 1915.

Neville's early expectation was that relocating half-caste children from towns along the Great Southern Line to Carrolup would be 'the means of educating those children that so far have had no chance'.⁹⁰ Indeed, the education of half-caste children was the essential catalyst for the Scaddan Ministry's eventual approval of the Carrolup River Native Settlement. Gale had argued in his Annual report for 1914 that education was an obligation imposed upon his department by the *Aborigines Act*. 'It would not be unreasonable to argue,' he said, 'that an educational system for aboriginal children' should be debited against the £10,000 hypothecated revenue. Gale did not evince optimism of the outcome. He was aware that there were many who considered money spent on the education of Aborigines as wasted, 'because there are so few shining examples to the outcome'. He was convinced, however, that the state's failure to make adequate provision pointed more to 'our system being wrong than that the intellectual capacity of the race is wanting'.⁹¹

Neville supported Gale's view that there should be a separate system of Aboriginal schools, but for different reasons. He argued that Aborigines could not achieve to optimum levels in mainstream schools. He elaborated upon that position in his evidence to the Moseley Royal Commission. Aboriginal children, he said, displayed a different psychology from that of a white child; 'His inferiority complex is too self-evident and he suffers in consequence'.⁹² He was persuaded of the need for native schools, preferably on native settlements.

One of the justifications for establishing Carrolup had been the strong objection to Aboriginal children attending school with white children. Under Education Regulations gazetted in February 1907, teachers could temporarily suspend from attendance any child suffering from any contagious or infectious disease, 'or who is habitually of unclean habits'.⁹³ Many Aboriginal children were 'habitually unclean', not by choice, but because the circumstances of their lives made cleanliness difficult. Afflictions such as scabies, ringworm, head and body lice, diarrhoea and gastro-enteritis, conjunctivitis and blepharitis, and respiratory infection were endemic amongst the children. Each of these conditions was reason under Regulation 27 for a child to be 'sent home at once'. Consequently, even if Aboriginal parents wanted their children to attend school, many spent extended periods under suspension on general grounds that they were 'habitually unclean'. Education regulations and white prejudice combined to deny Aboriginal children an opportunity for primary schooling.

After the *Education Act* was revised in 1928, Regulation 85 still allowed that Aboriginal

⁹⁰ State Records Office, Aborigines and Fisheries, Acc 652, Item 1629/1919, folio 185, memo, CPA to Under Secretary C.S.D., 23 September 1915. See p. 186 above.

⁹¹ Aborigines Department, *Annual Report for the Financial Year Ending 30 June 1914*, 'Education of Native and Half-Caste Children', p.4.

⁹² Moseley Royal Commission, Evidence of A.O. Neville, 12 March 1934, p.15.

⁹³ Supplement to Government Gazette, Friday, February 8 1907, *Regulations, Education Department*, Regulation 112.

children could be excluded from state schools if white parents objected. In June 1933, the Parents and Citizens' Association objected to 14 half-caste children attending Wagin School. The head teacher at the school advised that, 'in some cases he found the half cast (*sic*) children kept in a cleaner condition than the white children', but the Chief Inspector of Schools instructed him to take the half-caste children off his books.⁹⁴ Two Aboriginal parents, Elijah Jones and F. Bolton, both of whom claimed their wives had more than half white blood, appealed.⁹⁵ Children of three other half-caste families were not excluded.

Premier Collier interceded and all the children were re-admitted. It is probable that the Jones and Bolton children were not Aborigines, even though their fathers may have been deemed Aborigines for the purposes of the *Aborigines Act*. If the children were not Aborigines at law, regardless of any physical attributes that might have given reason for others to categorise them as such, Education Regulation 85 did not apply to them. It applied only to 'Aborigines' and 'half-castes', both of which terms were defined in the *Aborigines Act*.

A question arose also whether exemption from the *Aborigines Act* extended to the children of an exempted half-caste and if so, whether such children of school age were compelled to attend school.⁹⁶ An earlier opinion by the Solicitor General held that exemption applied only to the named person, and only for the purposes of the Act. In this instance Neville advised that even though the wife and children of an exempted person were not included in the Certificate of Exemption they sometimes were exempted in addition; 'It is assumed the privileges extend to the wife and family so long as the children are under 16 years of age'. By extension of that proposition, the children were caught by the provisions of the Education Act:

The children of the exempted person would not be dealt with by the Aborigines Department in the matter of schooling, and therefore might naturally be expected to enjoy the usual educational facilities accorded by the state in the case of white children.⁹⁷

Not all children of exempt Aborigines enjoyed that privilege. Prejudice within particular school communities, officially sanctioned by Education Regulation 85, denied them the opportunity.

The dispute as to whether the Education or the Aborigines Department was responsible for the schooling of Aborigines initially related to sections 4 and 5 of the *Aborigines Act 1905*. Section 4 established the Aborigines Department and charged it with responsibility for, among

⁹⁴ State Records Office, Native Affairs, Acc 993 231/1933, folio 1, Protector at Wagin to CPA, 3 May 1933; and folio 7, Chief Inspector of schools to CPA, 16 June 1933.

⁹⁵ *ibid*, folio 15, Watts and Gee, Barristers and Solicitors to Director of Education, undated (Original on Education No. 1019/16).

⁹⁶ *ibid*, folios 42 and 43, Albert P. Davis to CPA, 22 September 1933.

⁹⁷ *Ibid*, folio 43, CPA to Dr A.P. Davis, 26 September 1933.

other things, 'the education of aboriginal children'. Section 5 hypothecated a sum of £10,000 for the purposes of the department. Because the latter provision substituted for the repealed financial obligation to the Aborigines Protection Board under section 70 of *The Constitution Act 1889*, the responsibility given to the Aborigines Department for 'the education of aboriginal children' was interpreted by some as a constitutional responsibility which took precedence over any general responsibility for the education of children under other legislation. That is unlikely since the hypothecation of £10,000 under s. 5 of the *Aborigines Act 1905* was a substitution for the sum of £5,000 hypothecated under s. 70 of the *Constitution Act 1898*. That section of the constitution was abolished by s. 65 of the *Aborigines Act 1905*. Any further constitutional obligation attaching to constitution section 70 ceased. The real question was the extent of the obligation for the education of Aboriginal children imposed upon the Aborigines Department. The Education Department had a general responsibility for the education of children and that was not necessarily cancelled by the responsibilities imposed by sections 4 and 5 of the *Aborigines Act 1905*.

Pressure was applied for the Aborigines Department to establish separate native schools. The issue was conceded at Beverley and Katanning, as discussed above. To extend the provision of native schools to all townships with a sufficient number of Nyungar children of school age would have been prohibitive for the strained financial capacity of the Aborigines Department. The Colonial Secretary, Drew had ventured the opinion in 1912 that the Aborigines Department should undertake the education of Aboriginal children, 'in view of the fact that the Hon Minister for Education will not consent to do so'.⁹⁸ He was advised that there were 13 towns where schools might be necessary and that the approximate annual cost of maintaining each 'would be £400 in the first year'.⁹⁹ The question of whether to proceed was one of policy. The Scaddan Ministry avoided confronting it, as did every succeeding ministry until 1940.¹⁰⁰

It was impossible for the Aborigines Department to respond to the educational needs of Aboriginal children without a substantial increase in its annual financial allocation. That was not forthcoming. Any obligation which might have attached to the Education Department to make special provision for Aboriginal children was contested. Intra-governmental finance, rather than educational considerations, it would appear, dictated whether and where Aboriginal half-caste children might attend school. In the words of the Under-Secretary of the Colonial Secretary's

⁹⁸ State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914, folio 16, handwritten footnote, J.M. Drew, 14 February 1912.

⁹⁹ *ibid*, folio 60, Acting Under secretary to Hon. Col. Secretary, 6 June 1912.

¹⁰⁰ In 1942 the Education Department accepted some responsibility and provided a teacher and teaching resources for the school at Moore River.

Department, 'The matter appears to be one of finance'.¹⁰¹ Resolving that financial problem by resort to the *Aborigines Act* and shifting responsibility away the Education portfolio to Aborigines exposed the more vexing question of who was an Aborigine.

The question of which children were not Aborigines and therefore entitled to the same educational privileges as white children had arisen in 1916 at Quairading where John Kickett, a half-caste, wrote to the Minister for Education, Hal Colebatch asking if his children could attend the state school:

Some time ago there was a few of them native children going and some were not Clean so the School Board put a stop to them. On my part, I have taken up 300 acres of land am living on Same. At Present my Children Have not Been to school yet....My Children wants to learn Something. I have been to School myself. This is my own handwriting am pleased to write to you. Probbely this is the only letter you ever got from a Half-Cast.¹⁰²

Parents of 25 of the 44 children attending the school did not oppose the attendance of the Kickett children. Neither did the school principal, Mr Courtney. He advised that one Aboriginal family attended the school, but they were 'extremely clean and well-behaved'. Courtney recommended that the Kickett children be permitted to enrol on condition that 'they be the same'. He cautioned that there would 'not be room with the present enrolment' for other Aboriginal families.¹⁰³

The Director General of Education was not inclined to approve the children's enrolment. He referred the matter to Neville who, in turn, recommended approval for the Kickett children; 'surely if the parents of the white children raise no objection, then the Education Department might refrain from doing so'.¹⁰⁴ Neville identified two issues. The first was that children excluded might not be Aborigines for the purposes of the Act. A few months previously the Education Department had attempted to exclude quarter-caste children from Mullewa School. Quarter-castes specifically were excluded from the provisions of the *Aborigines Act* and were entitled to be treated as whites.

At Quairading, however, the action to exclude half-caste children, including the Kickett children, was determined to be legitimate under Education Department regulations and was beyond Neville's jurisdiction. All that Neville could offer was for Mr Kickett to send his children

¹⁰¹ State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914, folio 96, Under Secretary to the Colonial Secretary, 15 April 1914.

¹⁰² State Records Office, Education Department, Acc 1497, Item 4259/1914, folio 61, John Kickett to Mr. Colebatch, 11 September 1916. Errors of grammar, spelling and syntax are as transcribed from the original letter.

¹⁰³ *ibid*, folio 71, letter, H.C. Courtney to Director of Education, 22 September 1917.

¹⁰⁴ *ibid*, folio 73, CPA to Under Secretary, 5 October 1917.

to the Carrolup Native settlement 'for the small sum of 4/- each per week'.¹⁰⁵ He proposed that the Education Department's policy would 'gradually but surely' exclude all half-castes from state schools 'wherever an opportunity arises'. That imposed pressure upon his Department to establish native schools; 'sooner or later we shall have to spend money in educating the children excluded'.¹⁰⁶ It was financially impractical to establish a native school wherever Aboriginal children were excluded. The solution, in Neville's opinion, lay in 'the system of establishing State settlements'.¹⁰⁷

Neville's second concern raised by the Kickett case was the assumption that Aborigines had limited intellectual capacity. When the question of Aboriginal children attending Katanning School was raised in 1911 it was contended, among other things, that because they were ineducable they were not the Education Department's responsibility. Neville raised the question in relation to the exclusion of the Kickett children. He did not know whether 'these half-caste children are not supposed to have the same standard of intelligence as the white children'. Nor did he know if that issue had anything to do with their exclusion. If the concern was that these half-caste children might lower the educational standard of the school generally their exclusion was, in Neville's opinion, discriminatory.¹⁰⁸

Reputable opinion held that Aborigines were intellectually inferior to whites. As psychometric testing gained in respectability the opinion of cognitive and social psychologists assumed credibility, but they could not agree whether Aborigines in general had limited intellectual capacity.¹⁰⁹ Popular opinion, however, was that the intelligence of Aborigines did not develop beyond that of a child of twelve to fourteen years of age, and that they were capable of mastering only basic literacy and numeracy. Evidence given by a former State Psychologist, Dr Ethel Stoneman, to the Moseley Royal Commission in 1934 reaffirmed that opinion. Dr Stoneman characterised the educability of Aborigines at three levels. On the basis of intelligence tests she applied to children at Moore River, she calculated that 31 per cent, about one third of those tested, could achieve at the same levels as white children. Forty-seven percent were educable up to the standard of dull whites, and the rest 'are educable only as feeble minded individuals'.¹¹⁰

That translated into a general expectation that Aborigines could be educated to standard

¹⁰⁵ *ibid*, folio 64, memo, CPA to Under Secretary C.S.D., 4 October 1916.

¹⁰⁶ *ibid*, folio 73.

¹⁰⁷ *ibid*, folio 64.

¹⁰⁸ *ibid*, folio 73, CPA to under Secretary, 5 October 1917.

¹⁰⁹ H.K. Fry, and, R.H. Pulleine. 'The Mentality of the Australian Aborigine', *Australian Journal of Experimental Biology and Medical Science*, vol.3(3), 1931, pp.153-167; H.K. Fry, 'Aboriginal Mentality *The Medical Journal of Australia*, vol.1(12), March 23, 1935, pp.353-360; S.D. Porteus, 'Mentality of Australian Aborigines', *Oceania*, vol.4(1), 1933, pp.30-36.

¹¹⁰ Moseley Royal Commission, Evidence of Ethel Turner Stoneman, M.A. Stanford University, California, M.A. University of Western Australia, Ph D. Medicine, Edinburgh, 23 March 1934, pp.386-7.

four level of schooling.¹¹¹ Dr Stoneman recommended that half their school hours should be dedicated to practical courses in elementary sanitation, motherhood and child care, elementary cooking, sewing, the use of tools, tree planting and the care of trees, elementary weaving and net making. She may have drawn, as she claimed, on her studies in California in describing such a curriculum, but she might equally have been describing the curriculum of the school at Moore River. There, the emphasis was on basic literacy and numeracy and practical training to fit girls for domestic service and boys for farm work. The value of that training, especially for boys, appears to have been minimal. Girls who showed promise at Moore River were transferred to the East Perth home for intensive training before they were sent out to employment.

As in other aspects of public policy for Aborigines, a powerful self-fulfilling prophecy operated. Expectations and resource inputs were low and educational outcomes matched the expectations. The District Inspector reported on the Katanning Native School in 1914 observed that the children did not achieve well in English and Arithmetic; 'the natural disinclination of the native child to put forth continuous mental effort has not been overcome'.¹¹²

In ensuing decades little changed in the attitudes of education professionals. The aims recommended for children at the Moore River Native settlement in 1940 included a working knowledge of English, the monetary system and weights and measures, habits of personal hygiene, developing 'correct attitudes in regard to themselves and their neighbours', and 'in general to make them better natives not...imitations of the whites'.¹¹³

The Acting Commissioner for Native Affairs, Frank Bray responded to criticism of the school, 'despite our disabilities we have achieved something'.¹¹⁴ Indeed, they had. At that time, more than three quarters of Aboriginal children had no formal education whatsoever. In 1939, 199 children were enrolled in schools at Moore River and the Moola Bulla Cattle Station, 383 at nine mission schools, but only 364 were enrolled at 83 state schools.¹¹⁵ Those numbers were an improvement on enrolments three years previously. In August 1936 only 793 Aboriginal children, approximately 20 per cent of the cohort aged twelve years or under, attended school. There were only 47 schools throughout the state to which Aboriginal, including half-caste children were

¹¹¹ Primary schools in Western Australia at that time were had seven age-related levels: Infants (for children entering school at the beginning of the year in which they turned six) and Standards One to Six. These are equivalent to current Years One to Seven. Children in Standard Four were aged about ten.

¹¹² State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914, folio 133, Katanning Native School; Report by District Inspector, 14 October 1914.

¹¹³ State Records Office, Native Affairs, Acc 993, Item 452/1940, folio 22, C.W. Radbourn, Inspector of Schools to Director of Education, 26 July, 1940.

¹¹⁴ *ibid*, folio 24, Acting CNA to Acting Director General Education, 12 August 1940.

¹¹⁵ State Records Office, Native Affairs, Acc 993, Item 231/1933, folios 105 and 120. 145 children were enrolled at Moore River, 54 at Moola Bulla, 68 at Beagle Bay Mission, 66 at New Norcia, and 59 at Mount Margaret Mission. The largest number enrolled at a state schools were 32 at Queen's Park (children from Sister Kate's), 19 at Port Hedland, 15 at Moora and 14 at Geraldton. Other State School enrolments ranged from one to 11, but few had more than 5 Aboriginal students.

admitted, two were at Moore River and Moola Bulla and nine were mission schools.¹¹⁶ Exclusion on grounds of race was discriminatory not only between Aborigines and whites, but also among members of the Aboriginal community.

The persistent attempts by Aboriginal parents to have their children attend school exposed a generic falsehood that Aborigines, of whatever mixture of racial heritage, had low aspirations for their children. For Aborigines, as for others, their willingness to locate where their children might have best access to appropriate schooling signifies commitment to their aspirations. Not all members of the white community shared their commitment. They disliked equally the presence of large numbers of Aborigines, half-caste or otherwise, in their towns. Many probably would have agreed with Phil Collier that 'they constitute a nuisance, and their presence is a menace to the morals of the youth'.¹¹⁷ It would appear there was concern among some residents that immorality, like ringworm and conjunctivitis, was infectious. In the face of such attitudes, Neville's aspiration that educated half-castes might be elevated in public estimation and social acceptability must appear to have been futile.

Discussion

The political motivation for government approval of the Carrolup River and Moore River Native Settlements was to appease community hostility towards Aboriginal people congregating at reserves in rural towns in the Great Southern and Midland districts. Removing Aborigines from those reserves and concentrating them at the settlements was politically attractive also because it promised cost saving in food and clothing relief. The settlements afforded greater public control over the lives of Aborigines, not for their protection, but for protection against their imagined moral and physical threats to the white community.

It is difficult to make judgements about the effectiveness of Carrolup Native Reserve in achieving Neville's aspiration that it might offer opportunities for educating and training half-caste children. It operated for less than seven years before it was closed and its residents transferred to Moore River. It certainly did not resolve agitation by the Katanning community against the presence of Aborigines in their town. Even though they had been directed to leave the town reserve, Nyungars continued to camp there and townspeople continued to complain. In response to their protests and political representations on their behalf, on 23 April 1915 Executive Council cancelled the Aboriginal Reserve No. 9622 and changed its use to Public

¹¹⁶ State Records Office, Aborigines, acc 993, Item 239/1936, folio 17, CPA to Rev. W. Morley, 26 August 1936. There were 2,011 full blood children and 1,985 half-caste children twelve years and under in the state.

¹¹⁷ State Records Office, Aborigines and Fisheries, Acc 652, Item 753/1914, folio 82, memo P. Collier, Minister for Mines, to the Colonial Secretary, 7 November 1913.

Utility. Neville subsequently advised the Officer in Charge of the Katanning Police Station that ‘you now have the power to order any aboriginal found loitering in the Katanning townsite forthwith to leave such town’.¹¹⁸

That had little effect. Nyungars continued to assemble at Katanning and since there was no reserve, they camped wherever there was a convenient water supply. In February 1922, Aldrich advised, ‘there are always a few natives camping in Katanning’.¹¹⁹ In some instances they were en-route to Carrolup, but the townspeople still regarded them as a nuisance. Aldrich recommended the establishment of a new reserve for Katanning. When Carrolup was closed in June 1922, Aldrich requested of the Commissioner of Police that his local officers ensure ‘that any natives making for Katanning are not allowed to hang about town’.¹²⁰

Again, Nyungars were not deterred. In October 1922 a Katanning resident wrote to the Secretary of the Katanning Road Board appealing for ‘an abatement of the Nigger nuisance about my home’, and threatened to send copy of his letter to the press.¹²¹ The letter was passed on to the local protector, Sergeant Purkiss of the Katanning Police Station, and eventually noted by the Commissioner of Police. He in turn requested that Aldrich arrange ‘for a small reserve on which aboriginals could camp, in this district’.¹²² The matter was expedited and a new reserve was gazetted. When Neville visited the Katanning reserve in 1930 he found ‘old Bob Egil and his wife the only occupants’. Other families were camped on private property and at the Showground. Neville observed, ‘conditions generally in Katanning are not good’.¹²³

Carrolup did not resolve racial intolerance in southern communities and it did not endure long enough to demonstrate it might have achieved other purposes. The Moore River Settlement did endure and it proved a human tragedy. It did little to advance the life opportunities of young people sent there under warrant so that they might be out of harms way. Many Aborigines avoided living there permanently, but those who did suffered impoverishment, humiliation and degradation. When he reported on the settlement, Royal Commissioner Moseley was scathing in his criticism; ‘it forms, in my view, a woeful spectacle’.¹²⁴

Moseley’s observation after spending some nine hours there and seeing everything appropriate to his purpose that ‘my firm impression is that the settlement leaves very much to be

¹¹⁸ State Records Office, Aborigines and Fisheries, Acc 652, Item 2922/1914, folio not numbered, CPA to OIC, Police Station, Katanning, 28 April 1915.

¹¹⁹ State Records Office, Native Affairs, Acc 993, Item 341/1928, folio 95, DCNA to Under Secretary for Lands, 17 February 1922.

¹²⁰ *ibid*, folio 99, Secretary, Department of Aborigines and Fisheries to Commissioner of Police, 27 June 1922.

¹²¹ *ibid*, folio 105, T.A. Carr to Secretary, Katanning Road Board, 30 October 1922.

¹²² *ibid*, folio 107, Commissioner of Police to DCNA, (original on Police File 7891/20), 14 November 1922.

¹²³ *ibid*, folio 177, file note, CPA, 24 March 1930.

¹²⁴ *Interim Report of the Commissioner Appointed to Inquire into Matters in Relation to the Condition and Treatment of Aborigines*, 19 April 1934, p.1.

desired' was masterful understatement. He recorded that the dormitories presented a dilapidated appearance, were far too crowded, and 'are vermin ridden to an extent which I suspect makes eradication impossible'.¹²⁵ The school was inadequate and the hospital, although a substantial building, needed two additional wards; 'There is no isolation ward and the one bath room is used as a surgery'.¹²⁶ Apart from the sewing room where girls made clothing, there was no vocational training because no equipment was provided. There was much room for improving the food; 'Powdered milk for children is obviously useless, but 56 cases are consumed in a month'.¹²⁷

Moseley was excoriating in his criticism of the punishment inflicted upon inmates of the compound. The 'boob' at Moore River was infamous. It was a small, detached, poorly ventilated, galvanized corrugated iron box with a sand floor, almost dark when closed, in which inmates were incarcerated for as long as fourteen days; 'barbarous treatment and the place should be pulled down'.¹²⁸ Moseley's criticism of the camp, however, was not for its disgusting condition, but rather for the threat it posed to children in the compound, 'a menace to the settlement':

The inmates of the Compound are admitted for protection and education, and I found them living within a few yards of a collection of useless, loafing natives, content to do nothing and always ready to entice the compound girls to the camp.¹²⁹

Moseley's condemnation of the Moore River Settlement is remarkable not least for its inclination to find fault in the Aborigines for the appalling condition of their lives.

Neville's part as the senior accountable officer responsible for the native settlements, as well as the general care of Aborigines, is perplexing. He challenged the fatalism attaching to the proposition that Aborigines were remnants of a race in terminal decline. His initiatives for schools at Carrolup and Moore River intimated an awareness of education as an investment in their future, particularly the future of half-caste children. He confronted deep-seated hostility and refusal of government agencies, such as education and health, to provide services for Aborigines, and sought to provide them within the constrained resources of his department. He appeared to take the side of the angels, and yet he exercised administrative oversight of Moore River, as well as reserves in other parts of the South-West, and could not have been ignorant of the evident deterioration of the circumstances under which Aborigines were compelled to live. Little effort was made to provide adequate housing and efforts to provide regular health and educational services were pitifully inadequate.

¹²⁵ *ibid*, p.3.

¹²⁶ *ibid*, p.5.

¹²⁷ *ibid*, p.6.

¹²⁸ *ibid*, p.6.

¹²⁹ *ibid*, p.7.

In his public utterances Neville seemed to turn his back on convention. He acknowledged that half-castes were Aborigines not merely in law, but also in fact, and that their number was increasing. He repeated his denial that Aborigines were a dying race in several forums. In his initial submission of 9 February, 1929 for the re-opening of Carrolup, Neville made clear that of the then nearly three thousand half-castes in the State, many were in the third generation; 'These are marrying amongst themselves and are usually most fecund'.¹³⁰ The strict Indigenous marriage laws preventing consanguinity had broken down, with the result, Neville opined, children were 'weedy and mentally deficient'. That observation might not have been defensible, but Neville recognised that, while the number of full bloods was diminishing, the Aboriginal population was growing. In September 1930 he advised the Chief Secretary that 'the members of family groups having the same surname is now increasing to such an extent that tribes are practically being re-formed'.¹³¹ The growing number of half-castes could not be attributed to miscegenation.

He reiterated that opinion in his evidence before Royal Commissioner Moseley. He argued that the 1905 Act was guided by conditions that obtained then, but were no longer so; 'For instance, in those days it was presumed that the natives represented a people rapidly dying out. On the contrary it is now known that the natives are on the increase'.¹³² Even the birth rate of full blood Aborigines was showing signs of recovery. With respect to the Aboriginal half-castes, Neville observed, 'Today there are still aborigines and half-castes but there are two or three generations of half-castes, and numerous cross-breeds, making a total coloured population which is not purely aboriginal 3891'.¹³³ The breeding of half-castes to the second and third generation indicated the strong tendency for these people to take partners and reproduce within their own group.

Neville looked upon mainstream society as a contaminating influence preventing the social progress of Aborigines, full blood and half-castes. This meant not only the need to segregate Aborigines from the white population, but also, if the half-caste or 'coloured' population were to advance toward white values and lifestyles, that they be quarantined from the Indigenous tradition. Half-castes, and in particular half-caste children, must be kept separate from both the white and the black. They must also be given the opportunity of education that had been denied them in Government schools since 1912, and which Neville saw as essential to their financial independence and their social and societal acceptability. He feared that if the half-caste population were to continue to grow, as it inevitably must unless checked by some biological cataclysm, and if that population were to continue as before an uneducated outcast

¹³⁰ State Records Office, Aborigines, Acc 993, Item 325/30, folio 8, CPA to Under Secretary, 9 February 1929.

¹³¹ State Records Office, Aborigines, Acc 993, Item 65/29, folio 59, memo, A.O. Neville to Under Secretary, 30 September 1930.

¹³² Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 13 March 1934, p.52.

¹³³ *ibid*, p.2.

minority, then the result would be a dysfunctional, alienated subgroup living beyond, and possibly hostile to, the norms of the mainstream society. The alternative was to educate them so they could be functional Aboriginal participants in the mainstream.

That was the option Neville attempted to address. He argued for integration through segregation: 'It is right that we should give those elders that still remain a home to die in, and the youngsters that are to grow up into men and women a chance to go out into life and fend for themselves in the future years'.¹³⁴ Segregating the older Aborigines, or those who preferred their traditional heritage, might serve to allow the race either to move toward extinction without white interference, or to advance toward European culture at their own pace and of their own choosing. For Aboriginal youths, especially the half-caste youths, segregation from both white and black might enable their advancement without the distraction of traditional culture.

Neville attempted to implement those principles at Carrolup and Moore River. In his long-term plan, they would be achieved most effectively in institutions where coloured children did not compete with their white peers. Carrolup was closed without his knowledge, and, in Neville's opinion, before it was allowed an opportunity to succeed. At Moore River failure was conspicuous.

The Moore River experience was an instance of the dissonance that frequently occurs between intention and reality in public policy. For the decisive majority of politicians and public alike, the native settlements were seen as useful only because for minimal cost they kept troublesome Aborigines out of sight and out of mind. There were never sufficient public resources allocated to them throughout Neville's 26-year tenure. Successive government made no special financial provisions for capital works, education, health services or general recurrent services that Neville regarded as essential to the advancement of half-caste children at Moore River. The conditions of financial stringency under which the settlement was compelled to function rendered the advancement of the half-caste children detained there a remote possibility.

¹³⁴ State Records Office, Aborigines, Acc 993, Item 325/30, folio 10, submission, A.O. Neville to the Under Secretary, 9 February 1929.

Narrative

KITTY

Kitty was the only child of Dolly Bidgiemia. Her father was Charlie Mortimer, a half-caste who had been raised, educated and trained as a blacksmith by the Benedictine monks at New Norcia. Bishop Salvado recommended him to John Fitzpatrick who, since 1877 had farmed 'Baramba' at Gingin, a selection of 500 acres from Robert Brockman's former Cowalla pastoral lease.¹ Mortimer, at the age of 22, travelled to the Gascoyne District with Fitzpatrick when he took up Dairy Creek Station in 1885.² Dolly was then about 15. She had been born on Bidgiemia Station and as a young girl worked on Dairy Creek, Dalgety Downs and Glenburgh, all owned and managed by members of the Fitzpatrick family. She gave birth to Kitty, it would appear, some ten or more years after Mortimer arrived at Dairy Creek.

Charlie was not Dollie's husband. Her 'old man' as she called him was Tommy.³ June Jackson, the missionary supervisor of Ingada Frail Aged Hostel at Carnarvon where Dolly, purportedly aged 121, died in 1991, told Bryan Clark:

That part of her life is a little confusing. She told me she used to go riding with the fellows, out mustering. It wasn't the right thing to do, she said, to go riding with the boys, but Mrs (Elizabeth) Collins turned a blind eye.⁴

Kitty, it would appear, might have been conceived when Mortimer and Dolly were mustering on Glenburgh or Dairy Creek Station. The year of her birth is not certain. Lois Tilbrook recorded it as approximately 1885.⁵ Bryan Clark says she died about 1970 aged 73 years, which would mean she was born about 1897.⁶ Little is recorded about her childhood. She first came to Neville's attention in 1923 when a Mr G.A. Barratt of Dalgety Downs Station wrote to him about what Neville called, 'an extraordinary state of affairs'.⁷ Barratt's letter was on behalf of a Mr F. Hedlen,

¹ W.J. de Burgh, *Neergabby*, Hesperian Press, Carlisle, 1976, p.55.

² Merton J. Fitzpatrick, *Daurie Creek*, Access Press, Bassendean, 2004, p.27.

³ Bryan Clark, *Yammatji*, Hesperian Press, Carlisle, 1992, p.2.

⁴ *ibid*, p.2. Elizabeth ('Lizzy') Collins was John Fitzpatrick's eldest daughter, Merton Fitzpatrick's eldest sister, who in 1889 married Charles Collins, the owner and manager of Glenburgh Station.

⁵ Lois Tilbrook, *Nyungar Tradition*, University of Western Australia Press, Nedlands, 1983, p.190.

⁶ Bryan Clark, *Yammatji*, p.2.

⁷ State Records Office, Aborigines, Acc 653, Item 342/1925, folio 4, CPA to Officer in Charge, Police Station, Gascoyne Junction, 16 November 1923.



Children, Moore River, c.1930s. Berndt Museum of Anthropology, Univeristy of Western Australia, WU-P6373.

a half-caste man who had fallen in love with a native girl. She had consented to marry him, but the owner of Dalgety Downs had frustrated their plans.

The station owner, a person named Merton Fitzpatrick has had four children by her, and the girl is roughly between 18 & 19 years of age at the time of writing so you can draw your own conclusions as to the nature of the man with whom we have to deal. Now after being definitely arranged that they should be married, he working for the station received orders he should go into the next station to bring in a herd of sheep and the next station Dairy Creek, being a day's ride away.

The station owner being away was sent information as to the state of affairs existing between Hedlen and the girl. He on hearing that he was away came by car & abducted this woman and drove to Carnarvon.

It appears that they had the intention of going to Perth by boat & he forcing her to go with him met a difficulty of an Officer of the law staying him.⁸

The girl who had consented to marry Hedlen was Kitty, Dolly Bidgiemia's daughter. Dolly did not want Kitty to marry Hedlen. She telegraphed Constable Slater at the Gascoyne Junction police station, 'Understand my daughter Kitty has consented to marry Frank Hedlen. Please protect her against this detractor for her sake and mine'.⁹

⁸ *ibid*, folios 1 and 2.

⁹ State Records Office, Aborigines, Acc 653, Item 342/1925, attachment to folio 6 (Copy Original on Police 406/23), Dolly Bidgiemia to Constable Slater, 23 December 1923.

An extraordinary state of affairs indeed, but Merton Fitzpatrick appears to have been an extraordinary man. He was the youngest son of John Fitzpatrick. Together with his brother James, he had established Dalgety Downs on land excised from the original Dairy Creek. At the time of this alleged incident he was a Justice of the Peace, Patron of the Landor Race Club and a member of the Roads Board. He was not quite the sort of man whom Barratt intimated he might be, although his son told that he had a penchant for rum.¹⁰ The Inspector of Aborigines, Ernest Mitchell, described him as 'liked as a good neighbour and a generous man...more weak than vicious'.¹¹

According to Hedlen's complaint, as related in Barratt's letter, Hedlen had been advised by police constable Slater at Gascoyne Junction there was no impediment to his marrying Kitty and that Fitzpatrick being a magistrate could perform the ceremony at Dalgety Downs. Fitzpatrick refused on the grounds that two J.P.'s were required to officiate.

About a half an hour later he left them & went into Mulawa (*sic*) by car & left orders that if he was to take the girl away he was (the Manager) to ring the police & inform them he was taking the woman out of the district, what was the man to do? Then to cap all he was ordered off the station & to leave the woman behind because she was signed on for 12 months.

Is there such a law permitting a single native woman to be signed on since she bore Fitzpatrick the first child?¹²

Barratt advised that his letter had been written, 'at the dictation of Mr Hedlen in the presence of the intended wife whom I have cross questioned & also the man & the facts are stated from both sides'. Neville called for a full report on the matter. His records indicted that Fitzpatrick held a general permit to employ natives for the previous year, but had not applied for renewal.

Constable Slater reported to Neville that Hedlen was deemed to be Aboriginal, was not of good character and 'does not remain in any job long'.¹³ Hedlen had called upon Slater, the Protector of Aborigines for the district, on or about 15 October 1923 and told him he wanted to marry a native woman named Kitty from Dalgety Downs. Slater had advised Hedlen that if he were to marry Kitty he would not be able to take her away from the district, 'as on two other occasions Hedlen got native women to leave their employment and then left them in the bush, one woman from Doorawarra Station and the other from Mooloo Downs Station'. Slater understood that Hedlen subsequently had taken Kitty to Byro Station on the Wooramel River.

¹⁰ Merton G.J. Fitzpatrick, *Daurie Creek*, p.47.

¹¹ State Records Office, Aborigines, Acc 653, Item 342/1925, folio 13, Inspector of Aborigines to CPA, 10 August 1925.

¹² *ibid*, folio 2. The reference to 'Mulawa' probably means 'Mullewa'.

¹³ *ibid*, folio 6, H.C. Slater, Const. 1234, to Inspector Simpson, 1 December, 1923.

Fitzpatrick had not complained to him 'regarding Hedlen taking the woman away'.

It was confirmed later that Fitzpatrick had been in Carnarvon with Kitty and had attempted to proceed south by coastal steamer. He told police sergeant Leen of the Carnarvon police station that he was taking Kitty to Cottesloe where she would be engaged as a household servant. When told by Sergeant Leen that he could not take Kitty away from the district, it was understood he returned with her to Dalgety Downs.¹⁴

The Inspector of Aborigines did not investigate Hedlen's complaint until two years later. When Ernest Mitchell eventually visited Dalgety Downs and reported in August 1925, he advised that Fitzpatrick kept three women, Kitty, Ivy and Rosie. Kitty was the mother of four half-caste children, then aged from six to two years, and Ivy then the mother of five half-caste children aged from eight years to 18 months.¹⁵ Ivy subsequently had a sixth child. Both women had tribal husbands, Willie and Isaac, but there is no record of their having had children with them. Rosie had no children. Mitchell described her as 'an exceptional smart woman who can handle a motor car very well'.¹⁶

Mitchell recommended that Rosie, Ivy and her five children and Kitty's four children 'be removed right out of the District & kept under sec 12 in the M.R.N. Settlement'. Kitty, he said,

is claimed by an intelligent native named Booree, working at Bijimia (*sic*) whose claim is based on Booree's contention that Kitty's mother gave her to him. Providing that Kitty's mother, who is working on Yinnetharra (*sic*) Station, verifies this, Kitty should be handed over to Booree—on the undertaking that the woman Kitty be not allowed to return to Dalgety Downs or the immediate neighbourhood under any circumstances.¹⁷

Neville referred the recommendation to the Minister for the North-West, John Drew:

These two women and nine children would have to become inmates of the Moore River Native Settlement, and apparently the condition of affairs has become such a scandal in the district that we shall be compelled to take this action as the only recourse we have against Fitzpatrick. This man is a Justice of the Peace.

Drew took no action.

¹⁴ *ibid*, folio 7 (Copy original on Police 406/24), Sgt M. Leen, 88, to Inspector Simpson, 26 December 1923.

¹⁵ *ibid*, folio 12, Inspector of Aborigines to CPA, 10 August 1925. Neville subsequently ascertained at Moore River that Kitty's four children were by two white fathers, neither of whom was alleged to be Merton Fitzpatrick. Ivy's six children were by six fathers, all of them white. According to Ivy, Fitzpatrick was the father of her second child. (Item 342/1925, folio 66) Fitzpatrick's son, Merton, G.J. Fitzpatrick, denied the claims of paternity made by Kitty and Ivy and insisted that all 10 children were sired by his father: 'This likely distortion of the truth by the two women was maybe prompted by a desire to protect their beloved Merton Fitzpatrick from prosecution, but it was an untruth, of that there can be little doubt and there can also be little doubt as to the identity of the children's father'. Merton G.J. Fitzpatrick, *Daurie Creek*, p.128.

¹⁶ *ibid*, folio 12. Inspector of Aborigines to CPA, 10 August 1925.

¹⁷ *ibid*, folio 13.

Mitchell visited Dalgety Downs on two further occasions. On 13 December he reported that Kitty wanted to marry a native named Willie who worked on Dairy Creek station. Booree had taken another woman, Dolly, as his wife and was satisfied that Kitty should marry Willie. Fitzpatrick said he would offer no opposition.

Mitchell could not prove that Kitty, Ivy and Rosie cohabited with Fitzpatrick:

The native women live in a galvanised house about 35 or 40 feet from the main building & in the same enclosure...the half-caste children are running around the houses alike. There is no doubt that the woman Ivy is Fitzpatrick's woman & the mother of his children.¹⁸

Once again, Mitchell recommended that Ivy and her children be removed under section 12 and placed in the Moore River Native Settlement.

The problem for Neville was how to respond. Even though circumstances suggested that Fitzpatrick cohabited with the three women, it could not be proved. Allegations of sexual intercourse, and paternity in at least one case, were generally held to be true, but neither was an offence against the law as it then stood.

In 1924 the literal meaning of 'cohabitation', living together as with husband and wife, had been given to section 43 of the *Aborigines Act*. It was alleged then that one P.C. Hunt, an overseer at Hamersley Station, was cohabiting with a native woman, Maggie.¹⁹ The matter was investigated and Hunt's permit to employ Aborigines was cancelled.²⁰ Neville recommended to the Under Secretary for Law that proceedings against Hunt be taken under section 43. The Solicitor General declined and offered the opinion, 'it is not as far as I am aware an offence to have intercourse with an aboriginal; and this does not seem to me to be a case of 'cohabitation'".²¹

The effect of that opinion and the lack of evidence other than hearsay about happenings at Dalgety Downs was that Fitzpatrick could not be prosecuted. With legal redress against Fitzpatrick not available, the alternative was to remove his women and children. Mitchell reasoned:

The removal of h/caste girls does not prevent the mothers from breeding further h/castes. We cannot, at present, & it will always be difficult, in the nature of things to punish the father, but the removal of the mother, as well as the child, will have that effect. We cannot do this wholesale.... This could be done, in approved cases, one or two in each district, & a warning given to natives that

¹⁸ *ibid*, folio 18, Inspector of Aborigines to CPA, 13 December 1925.

¹⁹ State Records Office, Aborigines, Acc 653, Item 195/1924, folio 1, Sworn Complaint, Cockle, 15 March 1925.

²⁰ *ibid*, folio not numbered, Circular No 59/24, CPA to all Protectors.

²¹ *ibid*, folio 41. Solicitor General to CPA, 3 July 1924.

breeding half-castes means the loss of the woman for all time.²²

Neville supported Mitchell's recommendation on the grounds that the only present remedy was 'to remove the 'cause''.²³ Removal under section 12 required the Minister's approval. In this instance the minister, the Chief Secretary, Hon. J.M.Drew, was reluctant. He regarded such removal as 'a form of banishment'.²⁴ No action was taken and Ivy, Kitty and their nine children continued to reside at the Dalgety Downs homestead.

Inspector Mitchell sought alternatives. Aboriginal elders organised that Kitty should go to her tribal husband, Willie at Dairy Creek Station, and that Ivy be given according to tribal rights to Young Noble of Bidgiemia.²⁵ Ivy's youngest child was to remain with her and the others removed to an institution:

Once this woman gives up the whiteman (*sic*) or is made to give him up, she will of her own will remain with her native man in preference to exile; will be quite happy and contented once she hardens up to the new conditions. Ivy is merely a self willed naughty child & will get over it—taking her away from Fitzpatrick & giving her to a young and handsome full blood who has a good job & has the approval of Ivy's cowerjuror, & the tribe is merely smacking her hands & telling her 'not to be silly'.²⁶

Ivy and Kitty declined those arrangements on their behalf and continued at Dalgety Downs.

Drew responded to Mitchell's recommendation for the removal of the women and children to Moore River that instead of exiling the women, remedy should be found in dealing with Fitzpatrick:

If 'everybody talks about his conduct, if every body knows about it' and if 'his fellow justices have discussed resigning in a body to express themselves', he is not a fit and proper person to be allowed to employ natives, unless the whole thing is a foul conspiracy to injure him. However, what the Inspector saw, as related in paragraph 3 of his report, and the behaviour of Fitzpatrick, afford pretty strong proof in support of what is stated to be the public view.²⁷

Drew recommended that Fitzpatrick be warned that if Kitty and Ivy continued to live on his premises consideration would be given to cancelling his permit to employ natives. That was done.

²² State Records Office, Aborigines, Acc 653, Item 342/1925, folio 21. Inspector of Aborigines to CPA, 'Preventing or minimising the breeding of halfcastes (*sic*)', 10 August 1925.

²³ *ibid*, folio 16, handwritten footnotes, A.O. Neville, 13 October 1925.

²⁴ *ibid*, folio 16, Minister for the North-West to the Secretary for the North-West, 12 October 1925.

²⁵ Booree had taken another wife, Dolly, and did not want Kitty; State Records Office, Aborigines, Acc 653, Item 342/1925, folio 17. Isaac had forfeited his right to Ivy. He was satisfied with the woman he had, named Mopey, State Records Office, Aborigines, Acc 652, Item 342/1925, folio 19.

²⁶ *ibid*, folio 20, Inspector of Aborigines to CPA, 14 December 1925.

²⁷ *ibid*, folio 24, J.M.Owen, Chief Secretary, to CPA, 26 January 1926.

A letter was addressed to Fitzpatrick on 1 March 1926, but Kitty, Ivy and their children remained at Dalgety Downs and lived at the homestead in the same manner as previously.

The matter was resolved only after Fitzpatrick sold the property in October 1926. The new owners, Dalgety Downs Pastoral Co. Ltd., resolved that all half-cast children on the station be sent away.²⁸ Fitzpatrick expressed a wish that the children be sent to New Norcia. The company agreed to pay £100 annually toward the maintenance of the children and the costs of relocating them to Moore River.

Neville agreed: ‘Time has solved this somewhat difficult problem’. He recommended the removal of the children and their mothers, Ivy and Kitty:

The mothers will have to accompany them until the younger children are old enough to be left. They can then return to the station. ...

Although he has no jurisdiction in the matter, Mr Merton Fitzpatrick has requested that New Norcia be the destination of these people, and I shall a little later endeavour to arrange for some of these children to be taken there, but in that event we shall have to pay a subsidy of £5 per annum for each.²⁹

In a handwritten addendum on the memo, Neville noted ‘New Norcia does not want children under school age’.

One week later, and five days before Christmas, the Honorary Minister for the Chief Secretary, Hon. James Hickey, signed the warrant. Separate warrants under section 12 of the *Aborigines Act 1905* were issued instructing the Commissioner of Police ‘forthwith to arrest and apprehend’ an Aboriginal woman ‘Kitty’ and her half-caste children Mick, Paddy, Ruby and Eva, and an Aboriginal woman ‘Ivy’ and her children Iris, Bob, Bessie, Johnny, Ralph and Dick, to remove them from Dalgety Downs Station and ‘safely convey within the boundaries of the Moore River Native Settlement and then safely to keep within such Reserve during the Minister’s pleasure’.³⁰ The warrant was executed and the women and their children were transported first overland to Carnarvon and then by coastal steamer to Fremantle where they arrived at the end of January 1927.

Smith’s Weekly sensationalised their story under the headline ‘Black Gins’ Grave Charge Against Nor-West Squatter’ and demanded ‘that the very fullest public inquiry be made into the case’:

Huddled together on the Steamer ‘Gascoyne’ on its arrival at Fremantle on Saturday morning was a pathetic group of two black gins and 10 little half-caste children, who had been sent down the coast by the Police Department, to be sent

²⁸ *ibid*, folio 37, R, Barr Goyder to CPA, 21 October, 1926.

²⁹ *ibid*, folio 41, CPA to the Under Secretary C.S.D, 13 December 1926.

³⁰ State Records Office North-West, Acc 653, Item 342/1925, Regulation 12A (Form 10) attached to folio 42.

to the Moore River Mission, the home for aborigines, some distance from Perth. One gin was Ivy, aged 21. She is the mother of six of the children whose ages range from 11 years to four months. The other gin was Kitty aged 20, mother of four young children.

Both gins, closely questioned by 'Smith's' representative, adhered to their original story that the father of the children was a station owner in the Gascoyne district in the North-West.³¹

It is more likely that Kitty was aged about 28 or 29 when she arrived at Fremantle. Hedlen's letter of complaint dated 26 October 1922 claimed Kitty was 'roughly between 18 & 19 years of age at the time of writing'.³² Bryan Clark's information indicates Kitty was born about 1897, which would mean she was aged about 25, not 18 or 19 when the original complaint was made.

The party were installed at Moore River on 24 January 1927. Neville visited them in late March and ascertained that Ivy had 'cohabited with Fitzpatrick' ever since she was a little girl. He made no comment about Kitty, other than to record that she stated Fitzpatrick was not the father of her children and named two other white men. Neville's comments about her father, Charlie Mortimer, and a request that Paddy and Ruby take his surname, indicates an inconsiderate attitude towards the naming of children removed to the settlement:

With regard to Charles Mortimer's interest in two of Kitty's children, these are Paddy and Ruby. Kitty says Mortimer brought them up, and she has no objection to their being called Mortimer in consequence though he is not their father. They might as well have Mortimer's name as any other to which they are not entitled.³³

Two years later he directed 'Kitty Dalgety will be called Kitty Wadaby, and her family will be Wadaby. This is Kitty's native name'.³⁴

Neville's authority over Kitty and Ivy was indisputable. Even though they were older than sixteen and therefore not wards of the Chief Protector, and even though, according to the evidence of Mitchell's report, they did not live with their tribal husbands, but cohabited with Fitzpatrick at the Dalgety Downs homestead, they could not escape the provisions of the *Aborigines Act 1905*. They were full-blooded Aborigines, and under section 3 were deemed lawfully to be Aboriginal within the meaning of the *Aborigines Act*.³⁵ Section 12 of the Act authorized the minister to remove any Aborigine to be 'kept within the boundaries of a reserve'.

³¹ *ibid*, folio 56, *Smith's Weekly*, 29 January 1927.

³² *ibid*, folio 1.

³³ State Records Office, Aborigines, Acc 653, Item 342/1925, folio 66, file note CPA, 5 April 1927.

³⁴ *ibid*, folio 91, file note CPA, 5 August 1929. The family continues under the surname 'Dalgety'.

³⁵ *ibid*, folio 12, Inspector of Aborigines to CPA, 10 August 1925. Kitty was less than full-blooded, but not half-caste. Her mother, Dolly, was full-blooded, but her father, Charlie Mortimer, was a half-caste. Kitty would have been categorised as 'three-quarter-caste', but under section 3(a) would have been regarded as 'an aboriginal inhabitant of Australia' for the purposes of the Act.

Moore River was a gazetted Aboriginal reserve and the law allowed that if the minister decided on Neville's advice that Kitty and Ivy should be removed from their Gascoyne homelands they could be detained there at the minister's pleasure.

The status of the children was less certain. Evidence presented by Inspector Mitchell after he visited Dalgety Downs indicated they lived at the homestead with their mothers and Fitzpatrick: 'the half-caste children go running around the houses alike'.³⁶ It might reasonably have been argued that they did not live or habitually associate with Aborigines other than their mothers and therefore did not meet the requirements of Aboriginality under section 3. If that were the case, Neville's actions in removing them to Moore River might have been unsafe at law. As it was, Kitty and Ivy were named in the warrants for seizure and removal only because Neville believed that the children were too young to be separated from their mothers. He intended that when the children were old enough Kitty and Ivy would leave the settlement and be returned to the Gascoyne district.

The circumstances which decided the removal of the children from Dalgety Downs suggest their welfare was not Neville's immediate concern. He did not intercede until five years after Hedlen's complaint was brought to his attention, in which time Ivy bore Fitzpatrick a sixth child. Merton Fitzpatrick had cared for all the children as his own and they enjoyed the additional care of their grandparents, Dolly Bidgiemia and Charlie Mortimer. It was reported that Fitzpatrick's relationships with Kitty, Ivy and Rosie caused discomfort among his neighbouring pastoralists, but even that did not persuade Neville or his minister to act. Neville acquiesced in the request of the Dalgety Downs Pastoral Company to remove the children because, 'it solved this somewhat difficult question'.³⁷ The children were banished from their country ostensibly for the sins of their father, but the 'somewhat difficult question' to which Neville referred already had been resolved. When Fitzpatrick sold Dalgety Downs, that is before the children were removed, he left the station and stayed at Carnarvon for a time before moving to Perth.³⁸

Ivy died on 30 May 1927 five months after she arrived at Moore River. Her baby Richard died at Moore River aged two in November 1929. Contrary to Fitzpatrick's wish that her children and Kitty's be sent to New Norcia and Neville's undertaking that he would try to arrange the transfer when they reached school age, all remained at Moore River for several years until Neville saw fit to send them out to employment. They lived in separate dormitories.

Kitty sought several times to be allowed to return to the Gascoyne. On 7 December 1928 she wrote to Neville:

³⁶ State Records Office, Aborigines, Acc 653, Item 342/25, folio 18, Inspector of Aborigines to CPA, 13 December 1925.

³⁷ *ibid*, folio 412, CPA to Under Secretary C.S.D. 13 December 1926.

³⁸ Merton G.J. Fitzpatrick, *Daurie Creek*, pp.54-55.

Would you be so kind to answer this question for me & well Sir my Mother is willing to let me. Get married to a boy name Caption Jones. And I thought I would ask you first. Now as I am Under you. And he stops with my Mother in Eionetharria [Yinatharra] and if they are not there well they might be in Dalgety Downs because they told me that they was going there in the Letter they Wrote to me. And Sir Would you Send for Caption Jones and my Mother and Father to come down to get Married please Sir have no more to say Sir.³⁹

Neville declined because Kitty already had a husband, Willie, but he did suggest that she might be returned to Dalgety Downs 'or wherever her tribal husband is now located'. Her children, however, would remain at the settlement:

Naturally I am not prepared to return Kitty if there is the slightest suspicion that the further procreation of half-caste children is to be brought about. If 'Willie' is unable to control his wife then it would be inadvisable to send her back. Kitty is a young, pre-possessing, full blood woman, and there have been many offers made to me by men desirous of marrying her.⁴⁰

Willie had been working on Dairy Creek Station, but in December 1929 Inspector Mitchell advised that his movements were uncertain; 'he is somewhere between Dalgety Downs and Byro'.⁴¹ The matter was resolved in April 1930 when the manager of Dalgety Downs wrote on behalf of Willie requesting that Kitty be allowed to marry him:

A native, Willie, supposed to have been born at Dairy Creek, having known Kitty for a long time, and having lost his wife Topsy through death, wished for her to come here and marry him. Willie has worked here on and off for some time and is dependent (*sic*) and reliable as far as can be said of a native. We have not heard of Kitty having married any native since she left here.⁴²

Neville approved, subject to Willie paying Kitty's fare and on condition that she 'did not consort with white men as in the past'. He would not allow her children to leave with her: 'there are four of them, and their fathers are alleged to be white men'.⁴³

Kitty returned to Dalgety Downs in May 1930 to be reunited with Willie. She did not remain long with him, however. They separated a few months after Kitty returned from Moore River. Willie took another wife and Kitty married Willie Noble whom she had met at Yinatharra Station. In March 1932, she and Willie were working on Moolloo Downs station. Kitty had

³⁹ *ibid*, folio 88, Kitty Delgety (*sic*) to AON, CSD Records, 7 December 1928.

⁴⁰ *ibid*, folio 94, CPA to Inspector of Aborigines, 31 October 1929.

⁴¹ *ibid*, folio 96, Ernest Mitchell, Inspector to CPA, 14 December 1929.

⁴² *ibid*, folio 102, P Macnish, Manager Dalgety Downs to CPA, 4 April 1930. The word intended probably was 'dependable'.

⁴³ *ibid*, folio 105, CPA to R. Macnish, Dalgety Downs Station, 7 May, 1930.

another half-caste baby. She named 'Allen the overseer at Dalgety Downs', as the father.⁴⁴

Neville was advised that Kitty apparently had breached the condition of her return from Moore River, but he declined to take further action. He wrote to Constable Donegan, the Protector of Aborigines at Gascoyne Junction:

It would be competent of me to instruct that the return of Kitty to the Settlement should be undertaken as a warrant is still in existence covering her internment therein, but if it can be avoided I do not desire to take such action. If, however, Kitty continues to consort with white men it may become necessary to do this, as she is a comparatively young woman.⁴⁵

Kitty's baby died in June. Constable Donegan advised:

Mr Scott [of Mooloo Downs Station] seems to think that the baby was taken out in the hot sun too much on the way to Mooloo Downs shortly after it was born.

Mrs Scott did all she could for the baby but they could not keep it alive.⁴⁶

Kitty and Willie Noble had four more children, Dawn, Betty, Herbert and Eric.

Merton Fitzpatrick died in a Perth suburban hospital in July 1944. At the time of his death he was an impoverished alcoholic.⁴⁷ When Kitty died at the age of 73 she was still in the Gascoyne. Her four children with Merton Fitzpatrick survived her. Mick, her eldest son, told Bryan Clark in 1986:

My parents were Merv Fitzpatrick, a white bloke, and my mother's name was Kitty. She was Dolly Bidgemia's daughter. Mr Neville, the Aboriginal Protector, came there [to Dalgety Downs] when I was young and took us away. We were taken down to the Moore River Native Settlement. We had to go to school there. They had to drag me away to get me educated. I stayed there a long time.⁴⁸

Mick lived at the Settlement for about eight years. He left in 1933 and eventually returned to the Gascoyne where he worked at Bidgiemia and Hill Springs Stations. He recollected his childhood:

Old Dolly Bidgemia is my granny. My granny used to take us on an old spring cart. We were little fellas then. We'd sit up the back end and watch the big wheels go round. We thought it was great. We would travel all day in the cart.⁴⁹

⁴⁴ *ibid*, folio 121, A.J. Donegan, Protector of Aborigines, to CPA, 25 June 1932.

⁴⁵ *ibid*, folio 119, CPA to Constable A.J. Donegan, 1 April 1932.

⁴⁶ *ibid*, folio 123. A.J. Donegan Const. 1504 to CPA, 14 July 1932.

⁴⁷ Merton G. J. Fitzpatrick, *Daurie Creek*, pp.54-55.

⁴⁸ Bryan Clark, *Yammatji*, p.101.

⁴⁹ *ibid*.

Ruby married Mowan Underwood, a Nyungar who had spent his early years in the Blackwood district around Bridgetown.⁵⁰ They did not settle long in one place and like many families moved to wherever work was available. Ruby bore Mowan a son, Snowy, before he died on the Egerton Warburton property 'Yerriminup' on the Frankland River near Manjimup. Ruby did not marry again, but had three more children, one of them, Lilly, to Rex Warburton while she was a domestic servant at 'Yerriminup'.⁵¹

⁵⁰ Eric Hedley Hayward, *No Free Kicks*, Fremantle Arts Centre Press, Fremantle, 2006, p.40.

⁵¹ *ibid*, pp.42-43; 'My mother's case was no different from that of a lot of other Noongar people. When there were few white women in the country, white men took Noongar women whether they were willing or not, and the result was the birth of more than a few fair Noongars. Mum had a few little mates in the camp who were fair like her, though her mother was a dark-skinned traditional woman and her sisters were dark too'.

Chapter Five

AMENDING THE ACT, 1919-1936

The rapid increase of the Aboriginal half-caste population and their tendency toward procreation within their own group created an Aboriginal population for whom the provisions of the 1905 Act were inappropriate. That Act was predicated on an assumption that Aborigines would be extinct within a few generations. They were not. They thrived and, as a group, became pluralistic and complex. The Act had attempted to prevent miscegenation by making cohabitation unlawful, but that proved futile. By 1935 it was irrelevant. Half-castes were in their third and fourth generations and were reproducing within their own cohort. As few as one-in-ten births were attributed to white fathers. There were half-castes who languished on the fringes, alienated, sustained by relief, sheltered in the discards of white society, and bound by the *Aborigines Act*; there were those granted exemption from the Act and those born outside its reach, independent and increasingly assertive; and there were those whose status was uncertain, the children of half-caste mothers and fathers, of quarter-caste mothers and Aboriginal fathers, of white mothers and Aboriginal fathers, of half-caste Aboriginal mothers and East Asian, Afghan or Negro fathers. A few prospered, most did not and only a small number stood as equals in white society. They were, collectively, 'the half-caste problem' not anticipated by the architects of the 1905 Act.

Legislation drafted at the end of the previous century which reflected false assumptions about the destiny of the Aboriginal race had to be revised to accommodate emergent realities of the new Aboriginal population. Principles of protection, or as has been argued here, management and control, which dominated colonial administration after 1837 persisted in public policy, but Neville saw a need for legislative reform to allow new directions for the absorption of Aborigines into the mainstream of Western Australian society. The process of change proved arduous. When the Act finally was amended in 1936, it heralded a substantial shift in Aboriginal affairs, but not to the advantage of Aboriginal people. The definition of who was an Aborigine was more inclusive and more people of mixed descent were caught by oppressive provisions of the Act and denied civil rights.

In this chapter the process of legislative change and the competing influences that retarded and advanced that process will be examined. One factor was the increasingly influential advocacy by pressure groups for better opportunities for Aborigines. The influence of emergent trends of these kinds will be discussed. Evidence presented to and the report of the Moseley

Royal Commission were important in government's decision to amend the *Aborigines Act*. More important to this thesis, however, was Neville's response. That will be examined closely.

Redefining Aboriginality

The first question to be addressed in amending the legislation was, 'Who is an Aborigine'? The 1905 prescription that an Aborigine was an Aborigine or any person who lived or habitually associated with Aborigines no longer was appropriate for the purposes of the law. The Crown Solicitor provided various opinions exposing complex legal contradictions. His answer in the negative to the question, 'Is the daughter over 16 of a half-caste man and a full blooded aboriginal woman who are living together as husband and wife a "half-caste" within the meaning of section 2 of the *Aborigines Act* 1905?' was referred to above. The implications of that opinion were compounded by successive other opinions: a father who was an Aborigine within the meaning of section 3 might be considered other than an Aboriginal father within the meaning of section 2; a half-caste deemed Aboriginal within the meaning of section 3 by reason of living or associating with Aborigines would cease to be an Aborigine on ceasing to associate or live with them; and a white man who took as his mistress an Aboriginal girl who had ceased to live and associate with Aborigines would commit no offence.¹

The implication of these successive interpretations was that, depending upon the circumstances of each individual, persons of Aboriginal descent were not necessarily Aborigines for the purposes of the Act. In 1918, Neville raised with the Solicitor General the status of people who described themselves as half-castes and had sought exemption from the *Aborigines Act* under section 63.² His enquires had shown their mothers were half-castes and their fathers white men. Neville asked whether they were quarter-castes, and therefore not caught by the Act, or were they, as the children of half-castes, Aborigines within the meaning of section 3 of the Act. The Solicitor General advised that the child of a half-caste woman by a white father was not a half-caste, other than under the deeming provisions.³ If the child married an Aborigine or lived or habitually associated with Aborigines, he or she would be deemed to be an Aborigine, but only as long as those conditions applied.

¹ State Records Office, *Aborigines and Fisheries*, Acc 652, Item 368/1915, folio 3, Crown Solicitor to CPA, 19 February 1915.

² State Records Office, *Native Welfare*, Acc 993, Item 461/1928, folios 17-18, CPA to Under Secretary, 16 May 1918.

³ *Aborigines Act* 1905, s. 3.



Aboriginal Girls, Moore River, c. 1930s. Berndt Museum of Anthropology, University of Western Australia
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That opinion did not explain the meaning of 'habitually associate'. A separate opinion on another case indicated a liberal interpretation might prevail. In 1921 Sir Henry Lefroy, a former Premier and Minister for Lands, objected to having to seek permits to employ two half-castes, Narrier and Burton, whom he claimed did not habitually associate with Aborigines. The Moora police challenged that. They claimed that while the two men did not associate with Aborigines in their employment, when in town they lived at the native camp, as Aborigines they paid no registration fee for their dogs, and they played football with an Aboriginal team. The Solicitor General agreed that the terms of section 3 applied. Lefroy was required to apply for permits to employ the two men deemed to be Aborigines.⁴

Legislative revision of whom the Act was intended to embrace as Aborigines was not addressed until 1929. In his early submissions for review of the Act Neville was more concerned to address administrative details rather than broad issues of principle. In 1920 he sought to address the half-caste problem by ensuring that his powers over Aborigines extended also to half-castes other than those deemed to be Aborigines under section 3. An amendment was drafted to include the words 'or half-caste' wherever there was reference to 'aboriginals' in relevant sections of the Act. For example, section 12 empowered the Minister to have Aborigines removed to

⁴ State Records Office, Native Welfare, Acc 993, Item 461/1928, folios 41-44, copies of memos among various public officers, 18 October 1920 to 14 February 1921.

reserves. Neville sought to have inserted the words ‘or half-castes’ after the word ‘aboriginal’. His reason was that only half-castes deemed to be Aborigines under section 3 could be removed forcibly and he sought to extend the authority of the Act to all: ‘there are half-castes claiming that they should not be classed as aboriginals who are unfortunately more suitable as subjects for removal than many of the aboriginals’.⁵ Similarly, Neville sought to extend the proscription against cohabitation so that it was an offence for a white man to live with a half-caste woman. Section 43 referred only to Aboriginal women and the Chief Protector was powerless to remove a half-caste woman or to prosecute the man. Neville saw the omission as a grievous error: ‘the half-caste girl is much more prone to fall than even the aboriginal woman, and even more rigid steps should be taken to protect her’.⁶

Such amendments might have clarified the intention of the particular provisions of the legislation, but they did not address the mischief which the Solicitor General’s advice had exposed. The definition of ‘Aborigine’ in the Act was a legal construct, limited by its own language, relevant only for the purposes of the Act, and given narrow meaning by successive Solicitors General. If Parliament wanted broad powers to apply to all persons of Aboriginal descent, then an open and inclusive meaning had to be given to who was an Aborigine. Neville’s recommendations did not alter the meaning prescribed in sections 2 and 3 of the 1905 Act, and therefore did not address its anomalies.

Other amendments which Neville previously had recommended in 1919 indicate his predilections for administrative clarity. Some had implications for actions already taken by his department. Section 64 of the *Aborigines Act* had given the Chief Protector independent financial authority over moneys allocated for the purposes of the Aborigines Department. Payments from Consolidated Revenue were deposited in a trust account operated by the Chief Protector or other officers delegated by the Minister. The practice had been that moneys collected for employment permits, receipts from Moola Bulla or the sequestered portions of wages of Aborigines were paid directly to the trust account. The Solicitor General ruled that all receipts must be paid directly to Treasury. Neville sought to have receipts payable to the trust account. His solution might have been administratively convenient, but it was constitutionally unsafe. Section 64 of the *Constitution Act 1889* required that all moneys payable to the Crown should form one Consolidated Fund. The trust account was a hangover from the 1868 Act which gave the Imperial Government oversight of funds for Aboriginal purposes. The pertinent section of the *Constitution Act 1889* was repealed by the *Aborigines Act 1905*, but the trust fund prevailed, principally, it would appear, to appease concerns of the Imperial Government that Aborigines might not be treated fairly in the

⁵ State Records Office, Aborigines, Acc 653, Item 100/1925, folio 25, Explanatory Notes for Proposed Legislation, section 12.

⁶ *ibid*, folio 27, Explanatory Notes for Proposed Legislation, section 43.

competition for public funds. As demonstrated above, experience vindicated that concern.

Doubts about the legality of removing diseased Aborigines to lock hospitals were to be resolved by extending the power of removal to reserves granted under section 12 to include removal to hospitals. Under the law as it stood there was no legal power to do so or even to examine Aborigines who refused. The practice since 1910 in those circumstances had been to allow them their liberty, even in the face of concern that they might spread infection. Neville sought an amendment to give police officers and protectors the power to compulsorily examine natives suspected of venereal disease.

None of these matters intimated a profound shift in policy. They were designed to rectify untidy legislative provisions and to establish consistency among complementary laws. They might have made administration easier, but would have had little impact on the lives of Aborigines. They did not proceed. The Mitchell Cabinet decided against introducing the legislation in the 1920 spring session.

Neville tried again in May 1921. The Minister for the North-West, Hon. Hal Colebatch, advised the Premier that some of the suggested amendments were very desirable and some highly controversial. He suggested that he be 'authorised to have the amending bill prepared for next session, to be submitted to cabinet during the recess'.⁷ That action was approved, but in the interim a man known as Sydney Wallam pleaded guilty in the Carnarvon Police Court to a charge of receiving liquor. Arthur Woolley, who supplied the liquor, was charged under section 45 of the *Aborigines Act* with supplying spirituous liquor to an Aborigine. Wallam gave evidence that he was a half-caste, but the Resident Magistrate took the view that as Wallam's parents were both half-castes, he was not an Aborigine within the meaning of the Act and dismissed the case. The Crown Solicitor agreed with the magistrate. Wallam was a half-caste within the ordinary meaning of the term, but he was not a half-caste as defined by section 2 of the *Aborigines Act*.⁸ Neville sought to have section 2 amended to extend its provision to second and third generations, to include the offspring of half-castes who were the children of an Aboriginal parent on either side, mother or father, or of half-caste parents. The Bill was withdrawn and returned to Crown Law for reconsideration. It foundered because the first question of who was an Aborigine had not been resolved.

Neville made further annual submissions for the Act to be amended, but political interest was not revived until the cases of Hunt at Hamersley Station and Fitzpatrick at Dalgety Downs came to attention. Government prevaricated before introducing a Bill late in the 1929 spring session of Parliament. That Bill included new interpretations for the terms 'Aboriginal' and 'half-

⁷ State Records Office, Aborigines, Acc 653, Item 100/1925, folio 42, Collier to Hon Premier (In Cabinet), 15 October 1921.

⁸ *ibid*, folio 55, Crown Solicitor to Under-Secretary for Law, 17 June 1922.

caste'. The new meaning restricted the application of the term 'Aboriginal' to persons of the full blood or not less than three-quarters blood and adult male half-castes whom the Chief Protector deemed incapable of managing their own affairs. That did not mean contraction of the number of persons to whom the Act might apply. The phrase, 'or half-caste' was inserted after the word 'aboriginal' in all pertinent sections of the Act.⁹ Those amendments, and others to extend provisions that had applied previously only to people deemed Aborigines under section 3 of the 1905 Act, were extended to embrace all first and second-generation half-castes. The reach of the proposed amended Act extended to a wider group of persons previously not caught by the *Aborigines Act 1905*.

The status intended for quarter castes is uncertain. As defined in the proposed bill, a half-caste was the offspring of an Aboriginal parent on either side and the offspring of that half-caste person. If both parents of second-generation offspring were half-castes, the children were half-castes. They had at least one Aboriginal grandparent and half-caste parents. Their children, that is the third generation, the great-grandchildren of Aboriginal progenitors, were not half-castes even if both parents were second-generation half-castes. The interpretation given to 'half-caste' extended only to the second generation, the offspring of first generation half-castes.

These new interpretations of 'Aboriginal' and 'half-caste' intended in the 1929 Bill were more inclusive, but still prescriptive and subject to seemingly perverse interpretation. The amending provisions might have meant the Act caught some half-castes and some quarter-castes, but not all. Had the Bill passed into law, the proposed new meanings might have created more problems than they solved. Parliament rejected them along with the rest of the Bill, but for reasons other than the legal complexity of the meaning of Aboriginality.

The Amendment Bill 1929

The complaint against Hunt was lodged in March 1923. An Aboriginal station hand named 'Cockle' made statutory declaration that Hunt, the overseer at Hamersley Station, 'is all the time taking my woman (Maggie) away from me. He sends me out on the run and then He sleeps with my woman'.¹⁰ Another complaint by a different employee, Ruse, was lodged the following year that Hunt, 'commits misconduct with this Gin at his pleasure'.¹¹ On May 7, Neville instructed the Protector for the Roebourne District, Dr Kenny, to investigate. Kenny confirmed Cockle's complaint and 'cancelled any agreements that Hunt may have to work natives and refused him

⁹ *Aborigines Act 1905*, sections 13, 14, 15, 16, 17, 18, 25, 26 and 42.

¹⁰ State Records Office, Aborigines, Acc 653, Item, 195/1924, folio 1, Complaint by Aboriginal Cockle, Hamersley Station, 15 March 1923.

¹¹ *ibid*, folio 14, W.A. Ruse to CPA, 22 May 1924.

permission to work natives in my district'.¹² Neville referred the report to the Under Secretary for Law with a recommendation that proceedings be taken against Hunt in accordance with section 43 of the *Aborigines Act*. The Solicitor General responded:

- (2) ...assuming that Hunt had intercourse with this woman Maggie that alone would not be an offence under section 43 of cohabitation.
- (3) It is not as far as I am aware an offence to have intercourse with an aboriginal; and this does not seem to me to be a case of 'cohabitation'.¹³

Neville informed the Minister for the North-West he felt the Solicitor general's opinion was contrary to the intention of the framers of the Act. It effectively prevented him from taking action against white men who had intercourse with Aboriginal women. Neville was of the opinion that action should be taken. He advised 'there is nothing for it but to recommend an amendment of the Act'.¹⁴ The Collier Cabinet considered his recommended amendments, but declined to proceed. In August 1924 Hunt was blacklisted from employing Aborigines anywhere in the State.

There is no extant evidence that those who framed the Act intended other than a literal meaning of cohabitation - living together, especially as husband and wife. The legislation was framed first in 1897 and was passed in 1905 in much of its original form, with some changes to accommodate recommendations of the Roth Royal Commission. As discussed above, after the Act had been operating for only two years, Prinsep recommended amending section 43 to include an offence of sexual intercourse with an Aboriginal woman. His concern was to check immorality and the spread of disease amongst Aborigines.

Crown Law was advised of Prinsep's proposed amendments, but they were not acted on. The Act was amended in 1911, but the change to section 43 was to include a new subsection to instruct that complaints under the section could be made only with the authority of the Chief Protector. An averment in the complaint made by the Chief Protector was deemed proved in the absence of proof to the contrary. That did not clarify that cohabitation should have other than its literal meaning. The onus of proof was reversed, but the offence continued as before, cohabitation. The meaning of section 43 intended when the Act was drafted remained a matter for interpretation.

Those who enacted the legislation in 1905 were silent on the issue. No comment was made upon section 43 in second reading debates or in committee of the Legislative Assembly or the Legislative Council. When the amendment in the 1929 Bill was debated the only comment

¹² *ibid*, folio 18, Protector Roebourne District to CPA, 1 June 1924.

¹³ *ibid*, folio 41, Solicitor General to CPA, 3 July 1924. Underlined in the original.

¹⁴ *ibid*, folio 42, CPA to Hon. Minister for the North-West, 9 July 1924.

offered was that of the Leader of the Opposition, Sir James Mitchell. He suggested that such a clause would not have appeared in the Bill had it been drafted by men younger than 30 years of age. Mitchell's observation that Parliament should 'not provide the opportunity to send a boy to prison for a matter of that sort, which may easily happen, and does happen', was no more illuminating than the silence of his parliamentary colleagues of an earlier generation.¹⁵ Nothing otherwise said in Parliamentary debate clarified the intention of the word 'cohabitation' and without evidence to the contrary the literal meaning stood.

Neville was of a different mind, but seemed to shift in his opinion whether the evil he opposed was an Aboriginal woman living with a white man or promiscuous sexual intercourse. His preparatory notes to the 1925 Bill suggest it was the first. He sought to have section 43 extended to include half-castes since he had no power to remove girls from compromising situations. He had 'come across a number of half-caste girls living in immorality with low-class white men', but could neither prosecute the man nor remove the girl because section 12 applied only to Aborigines.¹⁶ By 1929 his focus was clearly upon promiscuous sexual intercourse; 'In my view a man other than an aboriginal or half-caste who continues to practice sexual intercourse with native women should be punishable by law'.¹⁷ Certainly when the incident at Dalgety Downs had to be resolved, his preference was for punishing Fitzpatrick, but he was unable to do so because of the Solicitor General's ruling in the case of Hunt.

Neville's concern was not merely moral disapprobation, but embraced also unease about the vulnerability of Aboriginal women, 'the prey of any low-class white men able to seduce them'. He regarded half-caste girls as particularly vulnerable 'and it should be possible to punish the men responsible for their downfall'.¹⁸ As Chief Protector he had a particular duty of care for half-caste girls removed to Moore River and subsequently placed in employment as domestic servants. Too high a proportion of them were returning to the care of his department either pregnant or with babies. Neville put the number of girls in that situation at 200. Their children ultimately became a charge on the state: 'The procreation of half-caste and quarter-caste children on this account is rapidly increasing, and the Department has no redress'.¹⁹

The legislators who considered the 1929 Bill seemed not to share Neville's moral and social concerns. The debate in both Houses of Parliament was not enlightening. The principles of the Bill were not considered and argument focused upon the authority conferred upon the Chief Protector, the employment of Aboriginal youths, and the financial imposition upon the pastoral

¹⁵ Parliamentary Debates, Legislative Assembly, 11 December 1929, p.2102.

¹⁶ State Records Office, Aborigines, Acc 653, Item 100/1925, folio 27, 'Explanatory Notes Proposed Legislation, Section 43'.

¹⁷ *ibid*, folio 157, 'Notes the Hon Minister introducing the Bill in the Legislative Assembly: Section 43'.

¹⁸ *ibid*, folio 157.

¹⁹ *ibid*, folio 157.

industry for the medical treatment of Aboriginal employees.

The 1905 Act required agreements for the employment of Aborigines to stipulate, 'supply by the employer of the aboriginal...medicine and medical attendance when practicable and necessary'.²⁰ It was practice for pastoralists to provide rudimentary health care or transportation to the nearest medical facility in cases of serious industrial injury. If hospitalisation was necessary, that was a charge upon the State. The 1929 Bill included a clause that transferred that cost to the employer.²¹ The Crown Law Department previously had ruled that Aboriginal employees came within the scope of the Workers' Compensation Act.

Opposition to the new provision founded on propositions of discriminatory treatment and intrusive government authority in the pastoral industry was voiced in parliamentary debates. It was that argued Aborigines were unjustly favoured. Under the Workers' Compensation Act an injured white man had to contest his own claim upon the State Insurance Office, 'but under this Bill the Government will step in on the aboriginal's behalf and incur any expenses and charge them up to the employer'.²² Any advantage to Aborigines was seen as detrimental to pastoral interests, especially at that time when the industry was enduring a downturn in the price of wool. Government, it was claimed, was granting to the Chief Protector, 'such powers as will cause considerable financial inconvenience to pastoralists who are struggling to make their stations pay'.²³ Aborigines were denigrated for their inability to manage money—'Fancy the gin, being in possession of £600, finding herself anywhere near an hotel somewhere in the North!'²⁴—and their inefficiency as pastoral labourers—'aborigines and half-castes are of very little use except under the supervision of white overseers'.²⁵

Such apparently low regard of Aboriginal employees was contradicted by opposition to an assumed prohibition upon the employment of Aboriginal youths. Clause 9 sought to raise the age requirement for permission to employ half-caste boys. Previously, half-caste boys under the age of 14 could be employed only with a Protector's permission. The amendment raised the age to 21 so that a Protector could exercise supervisory authority over the employment conditions of half-caste youths. Opponents of the change interpreted the clause as prohibiting the employment of youths under 21; 'I do not know that an aboriginal child should wait until he becomes 21 before he engages in any employment'.²⁶ The extreme proposition opposed any interference; 'I think the day we started to be benevolent and sentimental towards the natives of the State, with a desire to

²⁰ *Aborigines Act 1905*, section 22(e).

²¹ *A Bill for an Act to amend the Aborigines Act 1905*. Clause 17.

²² Parliamentary Debates, Legislative Council, Hon. J. J. Holmes, 19 November 1929, p.1635.

²³ Parliamentary Debates, Legislative Council, Hon. C. H. Wittenoom, 27 November 1929, p.1835.

²⁴ Parliamentary Debates, Legislative Council, Hon. A. Lovekin, 14 November 1929, p.1580.

²⁵ Parliamentary Debates, Legislative Council, Hon. C. H. Wittenoom, 27 November 1929, pp.1835-6.

²⁶ Parliamentary Debates, Legislative Council, Hon. A. Lovekin, 14 November 1929, p.1579.

perpetuate the race, that was the time when we began the work of their extermination'.²⁷ Parliament was reluctant to extend the authority of the Chief Protector.

The new interpretation of 'Aboriginal' in the 1929 Bill which included as Aborigine 'a male half-caste whose age exceeds twenty-one years, and who in the opinion of the Chief Protector is incapable of managing his own affairs', occasioned hostile responses. Part of the objection raised in Parliamentary debate was to a perceived devolution of authority. The discretion granted to the Chief Protector met with the rejoinder, 'that is far reaching indeed. ...I do not know any other Act which would give one individual that power'.²⁸ Significantly, there also was objection to the notion that half-castes should be treated as Aborigines: 'I am not with the Honorary Minister...when he seeks to deal with all of them as if they were quite alike and equal'.²⁹

Successive speakers defended the many half-castes who were 'living decent clean lives';³⁰ 'some of these half-castes are well educated';³¹ 'many of the half-castes are excellent citizens, and the one thing they hate is to be classed as aborigines';³² and 'the half-castes working around Guildford are giving good service, obtaining the ruling rate of wage, and are particularly capable in the calling they are following'.³³ The respect was not unqualified. Distrust was expressed of 'officials' who had 'led the native to understand that he is the master of the situation' and often was 'a less desirable station servant than he used to be'.³⁴ The impulse to control Aborigines was never far below some white skin.

The implication seemed to be that Aborigines were subordinate and had to know their place, but half-castes were intermediate in the socio-cultural hierarchy and, unlike their Indigenous forebears, capable of improvement. Some demonstrated worth by absorbing white cultural values; 'living decent clean lives', 'well educated', 'giving good service', and 'capable in their calling'. Those people were, in the words of Paul Hasluck, but used with different contextual meaning, 'living right in the midst of the community, but not of it', absorbed, but not assimilated.³⁵ They were capable of managing their own affairs and, just as the opposition advocated, the terms of the Bill did not include them as Aborigines. However, first and second-generation half-castes were treated in the same manner as Aborigines for the purposes of the Act.

²⁷ Parliamentary Debates, Legislative Council, Hon. W.T. Glasheen, 27 November 1929, p.1873.

²⁸ Parliamentary Debates, Legislative Council, Hon. C. F. Baxter, 19 November 1929, p.1631.

²⁹ Parliamentary Debates, Legislative Assembly, Hon. Sir James Mitchell, 11 December 1929, p.2101

³⁰ *ibid*, Hon. Sir James Mitchell. p.2101.

³¹ Parliamentary Debates, Legislative Council, Hon C.F. Baxter, 19 November 1929, p.1634.

³² Parliamentary Debates, Legislative Council, Hon. V. Hamersley, 27 November 1929, p.1834.

³³ Parliamentary Debates, Legislative Assembly, Hon. W.D. Johnson, 12 December 1929, p.2165.

³⁴ Parliamentary Debates, Legislative Council, Hon. V. Hamersley, 27 November 1929, p.1833.

³⁵ 'Half-Caste Problem', *West Australian*, 23 July 1936. See also Native Welfare Council, *Our Southern Half-Caste Natives and their Conditions*, p.6.

Authority under section 3 to deem some half-castes to be Aborigines had reposed with the Chief Protector since 1905. Similarly, under section 63 the Minister could exempt any Aborigine or half-caste from the Act. The nomination of the Chief Protector rather than the Minister as the authorised person in the 1929 Bill was a matter of form. The significant change in 1929 was a shift of perception. In 1905 half-castes who lived with and as Aborigines could be deemed to be Aborigines. That was accepted without dissent in Parliament. A quarter-century later, however, if Parliamentary opinion reflects community opinion, some half-castes visible in the community as ‘decent citizens’ were not to be regarded as Aborigines. Community awareness judged Aboriginality not by skin colour alone, but by style of living. Parliamentary debates intimated that half-castes who continued to live as Aborigines were Aborigines; those who did not were not and should not be treated as though they were.

In spite of those arguments, the Bill passed the Committee stage of the Legislative Council with only two minor amendments and was agreed to without dissent at the third reading. In the Assembly the debate lasted two days and reiterated much the same argument as in the Council. The Bill was rejected at the second reading by a comfortable majority of Government and Opposition votes. Having come so far, Neville was frustrated once more.

The Moseley Royal Commission

An emerging community consciousness of the plight of Aborigines, and in particular of urban-dwelling Aborigines and half-castes, gave rise to new advocacy favouring segregation and separate development in one form or another. Conservative sectarian groups such as the Australian Aborigines Amelioration Association advanced policies re-affirming existing public programs, including the re-opening of the Carrolup River Native Settlement. Other organisations such as the Women’s Service Guilds, or League of Women Voters, committed to supporting ‘any movement to protect, defend and uplift humanity’, lobbied on behalf of Aboriginal causes that came to attention from time to time. The Guild expressed particular concern about the exploitation of Aboriginal women and lobbied for a national policy for Aborigines. At the extreme, the Aborigines Protection League advocated an Aboriginal State so that Aborigines may ‘work out their own salvation safeguarded from the envious eyes of encroaching white population’.³⁶ The Anti Slavery and Aborigines’ Protection Society in the United Kingdom, motivated by much the same evangelical values as the Select Committee of the House of Commons which in 1837 had advocated the protection of Australia’s Aborigines, appealed to the leaders of Christian churches in Australia to make a united effort to:

³⁶ Commonwealth of Australia, House of Representatives, Petition, ‘A Model Aboriginal State’, Clause 5.

Do all that is possible to sweep away all wrongs and injustices, to make generous reparations for the past, and to ensure not only protection, but also appropriate educational and moral uplift for the very considerable remnant of a race which is not only most ancient, but also endowed with remarkable and attractive qualities of mental and moral character.³⁷

Their call echoed the principle argued almost a century previously before the House of Commons:

It requires no argument to show that we owe the natives a debt, which will be but imperfectly paid by charging the Land Revenue of each of the Provinces with whatever expenditure is necessary for the instruction of the adults, the education of their youth, and the protection of them all.³⁸

Neville's summary of the conditions of Aborigines in his annual report for 1932 disclosed a dispiriting distance between aspiration and actuality. He judged that his department lacked the necessary means and facilities to prevent Aborigines from becoming 'a race of outcasts'.³⁹ The department had less to spend than before World War I, but demand had increased in volume and complexity. As the economic depression progressed, employment opportunities for Aborigines decreased and numbers on relief grew substantially. Their physical condition deteriorated, 'particularly the children, as the foodstuffs do not provide for the special requirements of children'. Rations were intended as supplements to bush foods, but had become, 'practically the sole diet of the people and it is inadequate'. Unsurprisingly, deaths due to treatable pulmonary diseases such as influenza increased steadily. Of the one-hundred-and three Aboriginal deaths reported in 1932, nearly half were ascribed to those causes, pointing 'clearly to the fact that undernourished and lacking sufficient bedding and clothing the people are less able to resist the inroads of disease when it attacks them'. The loss of child life was greater. There was insufficient hospital accommodation and many cases were *in extremis* before treatment was sought; 'At all times reluctant to enter hospital, the lack of such institutions specially for their needs deters many natives from making their condition known in time'.

Aboriginal children continued to be shut out of government schools. The school at the Carrolup River Native Settlement had lasted little more than seven years. The educational offering and the resources available at similar schools established at Moore River and Moola Bulla

³⁷ State Records Office, Native Affairs, Acc 993, Item 237/1933, folio 5, 'Australian Aborigines, an open letter addressed to the Archbishops, Bishops, Clergy, Ministers and members of the Christian Churches in Australia, from the Anti-Slavery and Aborigine's Protection Society, August 1932'. The appeal was repeated in *The Anti-Slavery Reporter and Aborigines' Friends*, Series V, vol.22, No 3, October 1932.

³⁸ *Report from the Select Committee on Aborigines*. 'VI. – Religious Instruction and Education to be provided', 1837, p.79.

³⁹ Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ended 30 June 1932*, p.3.

were far below the standard of even the lowliest placed state schools. Outside the native settlements, educational opportunities for Aborigines and half-castes were at the whim of the white community. The incident at Wagin State School in June 1933 discussed above exemplified the prejudice of many rural communities. A meeting of the Parents and Citizens Association after the fourteen half-caste children who had been excluded from the school were reinstated at Premier Collier's direction had a record attendance. The parents voiced strong objection, but emphasised, perhaps disingenuously, that their protest was not based on colour:

The objection to these children sitting alongside and mingling with the white children was that their mode of living in aborigines' camps was not conducive to a proper code of morals and cleanliness. Further, that such mingling of children at school was liable to contaminate the morals and health of white children.⁴⁰

The Chief Inspector of Schools placed the issue of educating Aboriginal and half-caste children in Neville's hands. There it rested until 1940 when the Education Department reluctantly assumed responsibility of Aboriginal children who lived within the prescribed distance for compulsory attendance, that is 3 miles from the nearest appropriate school. Only an estimated twenty per cent of Aboriginal children of compulsory school age regularly attended school in that year.

Those issues of social disadvantage and neglect did not precipitate the Moseley Royal Commission, however. Members of Parliament seem to have been indifferent to or wilfully unmindful of the condition of Aborigines. The catalyst for the inquisition was government's anxiety about its reputation and possible international censure. Adverse reports about the treatment of Aborigines publicised through the international network of the Anti Slavery and Aborigines' Protection Society prompted government support for a motion by the Member for Kimberley, Aubrey Coverley, for a Royal Commission to inquire into allegations of maltreatment of Aborigines, the *Aborigines Act* and the administration of the Aborigines Department.⁴¹ Neville's management of Aboriginal affairs was a target for public scrutiny.

The seemingly inconsequential *agent provocateurs* whose critical commentaries provoked support for a Royal Commission were Ralph Piddington and Mary Bennett. Piddington, a social psychologist of the University of Sydney and subsequently the University of Hawaii, conducted research among Aborigines in the Fitzroy District on two occasions in 1930 and 1931. His observations published in academic journals had intellectual respectability.⁴² Less measured opinions publicised in popular newspapers caused discomfort for Neville and the Mitchell

⁴⁰ 'Coloured Children, Tuition With White Pupils', *Western Mail*, 10 August 1933, p.22.

⁴¹ Parliamentary Debates, Legislative Assembly, 30 August 1933, pp.639-656 and 6 September 1933, pp.749-758.

⁴² Ralph Piddington, 'Psychological Aspects of Culture Contact', *Oceania* 3, 1932-33, pp.719-739.

Ministry. An article attributed to Piddington and published in the *World* newspaper described Western Australia as ‘a plague spot of European oppression of the native,’ and accused the state government of being ‘callously indifferent’. He charged that efforts to improve conditions for Aborigines were ‘hampered by insufficient funds and public apathy’.⁴³ The following week the same newspaper published further allegations of ‘slavery of natives, trafficking in lubras, and the murdering and flogging of aborigines by white men’, and an accusation that the Mitchell Government was ‘indifferent to the abuse of the native because natives have no votes’.⁴⁴ Other newspapers took up the story. One reported Piddington as having said that ‘the native is generally regarded as a dog, and is deemed unworthy to be regarded as a human being’.⁴⁵

Piddington’s observations were repeated in London in the newsletter of the Anti-Slavery and Aborigines’ Protection Society. A Western Australian correspondent to the *Anti-Slavery Reporter and Aborigines’ Friend*, most probably Mary Bennett, summarised Piddington’s opinions as reported in Melbourne in the *World* and the *Argus*, and in Sydney in the *Sydney Morning Herald*.⁴⁶ The newsletter repeated them as ‘a deplorable account of the treatment of the aborigines and their general treatment in that colony [Western Australia]’. Aborigines and half-castes were said to have neither human rights nor protection:

There was trafficking in lubras—native slavery was in operation and aborigines were murdered and flogged by white men. ...The West Australian Government was indifferent to abuses of the natives. The police were biased in favour of the station owners. ...Women were sold for liquor, and where husbands were unwilling to surrender their wives pressure was brought to compel them.⁴⁷

In Perth, the *West Australian*, *Daily News*, *Sunday Times* and *Mirror* were silent on Piddington’s accusations. The political preoccupations of those newspapers were Western Australia’s unfair treatment in federal fiscal equalisation, opposition to a gold tax, and secession

⁴³ Ralph Piddington, ‘Treatment of Aborigines, *World’s* Plea for better Conditions Receives Attention Abroad,’ *World*, 7 July 1932.

⁴⁴ ‘Aborigines on Cattle Stations are in Slavery. Anthropologist Piddington Backs *World’s* Probe,’ *World*, 14 July 1932.

⁴⁵ State Records Office, Native Affairs, Acc 993, Item 133/1930, folio 53, Travers Buxton Secretary, The Anti-Slavery and Aborigines Protection Society to CPA, 29 September 1932.

⁴⁶ Mary Montgomery Bennett was born and raised on a pastoral property in north-west Queensland. She finished her education in England before marrying and settling there. In 1927, after the death of her husband, she published a biography of her father, *Christison of Lammermoor*, and ‘Notes on the Dalleburra tribe of northern Queensland’ published in the *Journal of the Royal Anthropological Institute of Great Britain*, vol.57. In the same year she joined the Anti-Slavery and Aborigines’ Protection Society. She published articles on Aborigines in the *Manchester Guardian*, earning the soubriquet, ‘champion of the blacks’. When she returned to Australia in 1930 to investigate Aboriginal conditions, she spent some time as matron of the Forrest River Mission and then as a teacher at Rod and Mysie Schenk’s Mount Margaret Mission. See, Alison Holland, ‘Whatever her race, a woman is not a chattel, Mary Montgomery Bennett’, in Anna Cole, Victoria Haskins and Fiona Paisley (eds), *Uncommon Ground, White Women in Aboriginal History*, Aboriginal Studies Press, Canberra, 2005, pp.129-152.

⁴⁷ The Anti-Slavery Society and Aborigines Protection Society, *The Anti-Slavery Reporter and Aborigines’ Friend*. ‘The Aborigines of Western Australia’, Series V, vol.22(2), October 1932, pp.82-84.

from the Commonwealth. Neville, however, was offended by Piddington's allegations. He discussed the matter at length in his Annual Report for 1932. Piddington's research, he said, had been approved and assisted by the Aborigines Department, 'his research work taking him to the La Grange Bay area, yet his comments referred to deal mostly with areas he had never visited'.⁴⁸ Neville's more scathing comments were saved for disapproving commentators in local newspapers; 'Many of these contributors cloud the issue by repeated reference to misdeeds of the past, and so their case loses weight and force'. Neville's *bête noir* was Mary Montgomery Bennett who had established herself as a vociferous opponent of his policies.

Bennett took up the cudgels in a letter to the *A.B.M. Review* of May 1932.⁴⁹ Her claims about the treatment of Aborigines included some of those attributed to Piddington in the July edition of *Anti-Slavery Reporter*: that Aborigines and half-caste had no rights or protection; Aborigines were engaged in the pastoral industry in a system of slavery; prostitution was endemic among Aboriginal women; plurality of wives was common practice within Aboriginal communities; and that native reserves were inadequate.

Neville's detailed denial was published in full in the *West Australian*.⁵⁰ Subsequent, but not all, contributions to the public debate tended to support Mrs Bennett. Ernestine Hill did not. She wrote on 26 May that the Aboriginal race was doomed and that the payment of wages to pastoral workers, 'leaving the blacks to fend for themselves on untenanted tracts of country,' would only hasten their demise:

To pay the labourers in money would be even more to their detriment, for in the handling of money the native is a dupe and a fool. The only alternative is a generous provision of life's necessities, a protective and kindly interest, and, so far as is humane and practicable, for the rest an attitude of *laissez-faire*.⁵¹

Other correspondents rejected that approach as 'taking the line of least resistance'. They shifted the focus of the argument from general rights and the protection of all Aborigines to the rights of Aboriginal women; 'these dark sisters of ours have possibilities of development and are entitled to rights common to other women...the right of woman to the sanctity of her own person is denied to the native women of Australia'.⁵² The Women's Service Guild enlisted the support of other women's organisations: 'will you affirm the right of the aboriginal woman to the sanctity of

⁴⁸ Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ended, 30th June 1932*, p.10.

⁴⁹ 'A.B.M' – Australian Board of Missions.

⁵⁰ 'Whites and Natives, Mission Allegations, A Government Denial', *West Australian*, 19 May 1932.

⁵¹ Ernestine Hill, 'Whites and Natives, The Position in Kimberley', *West Australian*, 26 May 1932. Ernestine Hill (1899-1972), novelist; author of *Peter Pan Land and Other Poems* (1916), *Water into Gold* (1937), *The Great Australian Loneliness* (1937), and *The Territory* (1951).

⁵² Ada Bromham, 'The Native Problem', *West Australian*, 6 June 1932.

her person’?⁵³ Thereafter, feminist groups encouraged public censure of the sexual exploitation of Aboriginal women.

Mary Bennett, encouraged by Rod Schenk of the Mount Margaret Mission, promoted international concern through the offices of Anti-Slavery and the Aborigines Protection Society. The *Daily News* reported in detail a letter written by her and read to the British Commonwealth League Conference in London in June 1933. Ironically, perhaps, the theme of her paper drew attention to the status of women in tribal society, but placed blame upon pastoralists and public officers:

Aboriginal girls are bespoken in their infancy—sometimes before their birth—by the older men. The older men usually have other wives already. Thus the property status causes women and children to suffer the evils of infant betrothal, child marriage and polygamy.⁵⁴

Western Australia’s Agent General in London, former Premier Sir Hal Colebatch, advised that since the proceedings of the conference attracted a limited audience, ‘I have not deemed it advisable to enter into any controversy regarding it’, but requested that the article be referred to the Aborigines Department so that he may be advised ‘in the event of it becoming necessary to make further reference to it’.⁵⁵

Government already had acceded to the call for a Royal Commission. Coverley’s speech in support of his motion for a Royal Commission rehearsed in detail the contents of Mrs Bennett’s letter, as published in the *Daily News*, as well as presentations to the Conference by people such as Herbert Basedow and Rev. George Love, Superintendent of the Port George Mission.⁵⁶ Those presentations were particularly critical of the treatment of Aborigines in the North West and Kimberleys.⁵⁷ Coverley declared that, as the representative of the Kimberley electorate, ‘one of the districts inferentially referred to in the Press reports, I deem it my duty to provide an opportunity by which the allegations can be proved or disproved’.⁵⁸

The Premier, Phil Collier, supported Coverley’s motion. He regarded claims published in

⁵³ State Records Office, Aborigines, Acc 993, Item 166/1932, folio 13, Women’s Service Guild to Country Women’s Association, 18 February 1932.

⁵⁴ ‘Does Australia Maltreat Aborigines? Polygamy is the Principal Trouble, Full Text of Mrs. Bennett’s Paper’, *Daily News*, 4 June 1933, p.8.

⁵⁵ State Records Office, Native Affairs, Acc 993, Item 133/1930, folio 47, Hal Colebatch, Agent General, to the Premier, 18 June 1934.

⁵⁶ Herbert Basedow (1881-1933), anthropologist, geologist, explorer and medical practitioner. His obituary, published in *Nature* following his sudden death from peripheral venous thrombosis in June 1933, claimed that, ‘since the death of Sir Baldwin Spencer Dr Basedow has been generally recognised as the first authority on the aborigines of Australia’. His *Knights of the Boomerang* was published in 1935.

⁵⁷ ‘Whites’ Treatment of Aborigines, Serious Allegations Against Australia in London’, *Daily News*, 17 June 1933, p.1; and ‘Does Australia Maltreat Aborigines? Polygamy is the Principal trouble, Full text of Mrs Bennett’s Paper’, *Daily News*, 24 June 1933, p.8.

⁵⁸ Parliamentary Debates, Legislative Assembly, 30 August 1933, p.639.

the press about the treatment of Aborigines as exaggerated. Unfortunately the statements were broadcast and attracted a good deal of attention in Great Britain and other countries. ‘We cannot,’ proclaimed the Premier, ‘afford to have our good name besmirched in this manner’.⁵⁹

Forty-four witnesses gave evidence to the Royal Commission hearings in Perth. A further 101 appeared at country hearings. Mrs Bennett gave wide-ranging evidence over two full days. Some of her observations were supported by factual, or anecdotal evidence, others were unsupported opinion. She canvassed issues ranging from the property status of Aboriginal women to the administration of the Aborigines Department and included reference to the proximity of native camps to towns, the need for living areas for the sole use of Aborigines, the importance of education, disease among Aborigines, conditions of employment, and the trial of Aboriginal offenders.⁶⁰

Mrs Bennett did not object to the segregation of Aborigines from the white community. In fact she saw native settlements as ‘the heart of the whole matter’:

An adequate series of native settlements is the only solution, from their point of view. The surest way to destroy a race is to destroy its communities, and destruction is the effect—sometimes intended, sometimes unintended—of pastoral occupation of native territories.⁶¹

She estimated that at least 50 reserves were needed, ‘equitably spaced throughout the state in the natives’ own districts,’ and recommended that land in every district where there were natives to be resumed to establish homeland reserves.⁶² There is resonance in that request with a similar, but less ambitious, proposition advanced some twenty years previously by Charles Gale and later reaffirmed by his successor as Chief Protector, A.O. Neville.

The social and economic position of Aborigines, Mrs Bennett argued, was ‘caused and conditioned by the victimisation of aboriginal women’, and wanted government to proscribe traditional practices which, in her estimation, reduced women to property status.⁶³ Missionaries, she claimed, did not ask that the way of living of ‘the few wild uncontaminated tribes’ should be altered, or that men should give up their several wives:

They do ask that in the settled areas the property status of human beings with its attendant evils of infant betrothal, child-marriage, wife-lending and polygamy, shall be declared illegal; that there shall be one law of the land; that aboriginal and

⁵⁹ Parliamentary Debates, Legislative Assembly, 2 September 1933, p.749.

⁶⁰ Moseley Royal Commission, Transcript of Evidence, Mary Montgomery Bennett, Monday 19 March and Tuesday 20 March 1934, pp.213-317.

⁶¹ Moseley Royal Commission, Transcript of Evidence of Mary Montgomery Bennett, 19 March 1934, p.248.

⁶² *ibid*, 19 March 1934, p.253.

⁶³ *ibid*, 19 March 1934, p.213.

half-caste girls who need the protection of the law shall obtain it; and that all people shall be free to make their own lives within the law, and not handed over to claimants as property.⁶⁴

Neville did not reject entirely Mrs Bennett's recommendations regarding some tribal practices. There was no legal power to prevent them, but 'the department is seeking such powers'.⁶⁵ When the 1936 Bill to amend the Act was brought forward, it proposed a new section to 'minimise or stamp out' tribal practices that the Commissioner regarded as 'injurious to the natives or any section of the natives'.⁶⁶

Mrs Bennett was secure in her rationale for opposing the separation of children from their mothers, 'Departmentalism is no substitute for mother love', but her estimation of the numbers of forcible separations may not have been as well grounded. Children and families were 'mustered up like cattle', she said, and deported to Moore River:

there to drag out their days and years in exile, suffering all the miseries of transportation, for no fault but only because the white supplanters are too greedy and too mean to give them living areas in their own districts.⁶⁷

Neville rejected Mrs Bennett's claims about Aborigines forcibly removed from all parts of the State being incarcerated at Moore River. He produced evidence which showed that between January 1930 and 31 March 1933 there were almost as many departures as arrivals:

And there always have been. They are coming and going all the time, and it is nothing in the nature of a prison except in the case of those under warrant, 200 in the last three years, and those that may have been there before and the young children who are not allowed to go out while they are wards of the department.⁶⁸

The data contained in Registers of Inmates of Moore River tend to support Neville's position and refute the propositions of Mrs Bennett and others.⁶⁹ They do not answer the charge against the forcible removal of children, however. Neville defended it on grounds that the children removed lived in unsatisfactory surroundings. Infants, he said, were not taken from their mothers before they were aged six years, 'and generally not then. If we have to do what is unusual, viz., take a

⁶⁴ *ibid*, 19 March 1934, p.219.

⁶⁵ Moseley Royal Commission, Transcript of Evidence, A.O. Neville commenting on Mrs Bennett's evidence, 3 May 1934, p.603.

⁶⁶ *Aborigines Act Amendment Act, 1936*, s. 59G.

⁶⁷ Moseley Royal Commission, Transcript of Evidence, Mary Montgomery Bennett, 19 March 1934, p.225.

⁶⁸ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 3 May 1934, p.603-4. In that period, 1067 persons arrived and 1030 departed.

⁶⁹ State Records Office, Colonial Secretary's Office, Acc 1326, item 1108/1921; Acc 993, item 459/ 1933; and Acc 993, Item 170/1939.

child from its mother, it is because the mother is not fit to look after it'.⁷⁰

Dr. Cyril Phillips Bryan was the principal advocate before the Royal Commission of a policy favouring selective breeding against Aboriginal racial characteristics. He rejected the notion of the unavoidable extinction of Aborigines. Rather, he suggested they had weathered the storms of colonisation and dispossession and, 'just as captive and subdued blacks have done elsewhere in the history of the world...will now multiply with us side by side'.⁷¹ For Bryan, the problem was not the resurgence of the Aboriginal race, but the emergence through miscegenation of a 'coloured' one, the half-castes, 'scorned by both whites and blacks'.⁷² He recommended to the Royal Commission that steps be taken to breed out the half-caste, 'not in a moment, but in a few generations', by 'the application of the principles of the Mendelian law which we are ever ready and every day applying to animals and plants but have never bothered to apply to the human species'.⁷³

Commissioner Moseley was unsympathetic. Bryan had claimed he was not an advocate of miscegenation, defined as the mingling of blacks and whites by intermarriage, but he failed to explain how that differed from the 'scientific' application of Mendelian law to breeding out colour. In his Report, Moseley expressed relief that he was, 'not called upon to join issue with him'.⁷⁴ Even though he was cautious about the efficacy of such law, 'I am inclined to think more can be done by public opinion than by laws', Moseley recommended amending the *Aborigines Act* in the manner Neville advocated to render unlawful any sexual intercourse between non-Aborigines and Aborigines or half-castes. His objective was not to breed out half-castes, but to slow down their rate of increase.

That concession to legislative amendment was due more directly to Neville's influence than to Mary Bennett's representations for laws to protect Aboriginal women and girls. Moseley was dismissive of her submissions—'they...provided nothing specific into which I could inquire'—and was expressly critical of her role in agitating through the Anti-Slavery and Aborigines' Protection Society. He disparaged the article published in the *Daily News* under the heading 'Natives are Virtually Slaves' and Mrs Bennett's role in sending that information to London, 'to be discussed there by organisations, the members of which have little or no knowledge of the aboriginal natives of this country'. He suggested that 'greater good could be accomplished by people who protest that they have the interests of natives at heart' if they took their protests to

⁷⁰ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 3 May 1934, p.605.

⁷¹ Moseley Royal Commission, Transcript of Evidence, Dr Cyril Phillips Bryan, M.B., B. Ch., B.A.O., L.A.H., 22 March 1934, p.347.

⁷² *ibid*, p.356.

⁷³ *ibid*, p.357.

⁷⁴ Moseley Royal Commission, p.5.

the authorities whom they believed were ‘not alive to the conditions as they actually exist’.⁷⁵

Neville attended most sittings of the Royal Commission in Perth, cross-examined witnesses and offered detailed commentary on the evidence of crucial witness. His own presentation to the Royal Commission extended over three days. After the 1929 amending Bill was rejected by the Legislative Assembly, Neville had it redrafted by removing or modifying clauses which had caused offence in either House of Parliament, and submitted it as part of his evidence for Moseley’s consideration. The bulk of his presentation before the Commissioner elucidated successive clauses or offered contextual explanation of matters of detail. Moseley’s 26 recommendations appear to have drawn heavily upon Neville’s submission, but not entirely so.

Perhaps unsurprisingly, Neville was not displeased with Moseley’s report and advised his Minister, W.H. Kitson, that, ‘the views expressed by him as Royal Commissioner so nearly approach my own as generally tendered in evidence before him that so far as its general tenor is concerned it would seem superfluous on my part to traverse the entire report here’.⁷⁶ He differed with Moseley on three important matters: the treatment of Aborigines by northern pastoralists; a revised organisational structure for the Aborigines Department; and a definition of Aboriginality to decide who might be brought within the reach of the Act and, therefore, under the authority of the Chief Protector.

Moseley reported that Aborigines employed on pastoral stations in the Kimberley Division experienced conditions ‘which approached their natural life’. Their work was appropriate, ‘in the bush amongst stock’, and, apart from medical attention, in the main they wanted for nothing. In Moseley’s opinion they were well fed and clothed and the huts in which they lived were ‘suitable for their needs’. ‘Anything more elaborate,’ Moseley asserted, ‘would not be appreciated by them—indeed, they would not be used’.⁷⁷ Neville disagreed. He felt much had escaped Moseley’s notice. The Commissioner did not visit any of the more remote or less accessible pastoral stations where Aborigines lived in adverse conditions. Neville averred, ‘I would merely say in this regard that there are exceptions to the rule that station natives are living on velvet as the Commissioner would have us suppose’. He recommended the appointment of three Deputy Commissioners in order that the minority of pastoral employers might be dealt with according to local circumstances.⁷⁸ That difference between Neville and Moseley became part of the consideration of the organisational structure of the Department and, like the meaning of Aboriginality, was resolved by legislation.

⁷⁵ *ibid*, p.22.

⁷⁶ State Records Office, Native Affairs, Acc 993, item 333/1933, folio not numbered, Memo, Chief Protector to the Honorary Minister (Mr. Kitson), ‘Royal Commission on the Treatment of Aborigines 1934’, 13 March 1935.

⁷⁷ Moseley Royal Commission, p.4.

⁷⁸ State Records Office, Native Affairs, acc 993, Item 333/1933, folio not numbered, CPA to the Honorary Minister, ‘Royal Commission on the Treatment of Aborigines 1934’.

The Amendment Act 1936

In his evidence before Commissioner Moseley, Neville emphasised that the condition of Aborigines varied across different parts of the State.⁷⁹ In the Kimberleys where was little European settlement the Aborigines were 'a free and independent people, living in the wilds and safeguarded by tribal inhibitions and prohibitions'. In the South-West, he judged deterioration and demoralisation among the Nyungars as 'becoming acute'. He recommended, therefore, that the system of honorary protectors, the majority of whom were police officers or magistrates, be replaced by three Deputy Commissioners with 'direct responsibility for all actions necessary to protect Aborigines within their respective districts, but accountable to the Chief Protector.'

Moseley offered no comment on Neville's opinion of the conditions of Aborigines in the three regions of the State, or his proposal for deputy commissioners. He judged it impossible for Aboriginal affairs to be governed by one officer located in Perth, but did not accede to Neville's proposed organisational structure. Instead he recommended the appointment of three Divisional Protectors: one for the North or Kimberley Division; a second to be responsible for the area including the Ashburton, Gascoyne and Murchison Districts; and a third, the Chief Protector who was also to be the Secretary of the Aborigines Department, to be responsible for the remainder of the State, the Midlands, Goldfields and South-Western areas. Divisional Protectors, chosen for their knowledge of Aborigines, were to have equal authority within their respective districts and be accountable only to the Minister.

Neville advised against Moseley's recommendation. 'There already was power within the *Aborigines Act* for the appointment of Deputies to the Chief Protector. They could be called Divisional Protectors, but in Neville's view they must be ultimately be responsible to the Chief Protector. He argued that the Department should be styled the Department of Native Affairs, the Chief Protector should be called the Commissioner for Native Affairs, and there should be District Commissioners, but not with independent decentralised authority.

Neville's advice prevailed. He became the Commissioner for Native Affairs, his department was renamed the Department of Native Affairs, and section 7 of the Act was amended to allow the appointment of travelling inspectors. The number of travelling inspectors was not specified, but to be decided on need from time to time.⁸⁰

Neville was not as successful in having accepted his suggestions about who should be classed as an Aborigine. He submitted to Commissioner Moseley a definition of 'half-caste' broader than that contained in the 1929 Bill and extended government authority over half-caste

⁷⁹ Moseley Royal Commission: Transcript of Evidence, A.O. Neville, 12 March 1934, p.2.

⁸⁰ *Native Administration Act, 1905-1936*, section 7.

women:

‘Half-caste’ means (a) any person being the offspring of aboriginal parents on either side and (b) the half-blood descendants of such persons and any child one of whose parents is a half-caste as herein defined and which child is a female of any age and a male under 21 years.⁸¹

In effect, the meaning of half-caste was to be that used in the deeming section 3 of the 1905 Act and embraced patrilineal as well as matrilineal antecedents. It also extended the authority of the Act over successive generations beyond the second-generation limit prescribed in section 3 of the principal Act. The children of half-caste parents on both sides were to be classed as half-castes and therefore Aborigines for the purposes of the Act. Children of half-caste parents would continue to be half-castes over successive generations. The female children of half-caste parents on one side and other races on the other, technically quarter-castes, were also to be half-caste for the purposes of the Act, but only for a single generation and only until they reached age 21 years. The wardship of the Chief Protector was to be extended for male Aborigines and half-castes until they attained adulthood, but for females it would be indefinite, or would continue until they were granted exemption or citizenship.

That would have resolved for Neville the particular problem of half-caste girls being sent out to work from Moore River and returning pregnant. Many of the fathers were white men and the children born at Moore River were quadroons. Technically they were beyond Neville’s authority and questions about their future care and maintenance should have been referred to a Children’s Court under the *Child Welfare Act 1907-1927*. Under Neville’s proposal those children would be wards of the Chief Protector, as would be their mothers, and he might exercise independent authority to keep children with their mothers at Moore River or to send them elsewhere.

Moseley’s recommendation anticipated a definition of Aboriginality for the purposes of the Act over further extended generations of interbreeding. He proposed that the definition of ‘half-caste’ in Section 2 of the Act be amended to include ‘persons of aboriginal origin in a remote degree’.⁸² Under that definition, any person having any Aboriginal blood, other than full blood, would be categorised a half-caste. The status would be inherited indefinitely along matrilineal and patrilineal lines. Moseley suggested a juridical safeguard for persons of Aboriginal descent to be exempted from Act if they were ‘properly cared for’. Under Moseley’s proposal, before persons were to be categorised half-castes their circumstances would be considered by a magistrate ‘who would decide on the merits of the case whether or not such person should be

⁸¹ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 13 March 1934, p.55.

⁸² Moseley Royal Commission, p.19.

subject to the Act'.⁸³ The meaning of the phrase, 'properly cared for' would be at the decision of individual magistrates considering the merits of each case.

In practical terms the proposal also would have meant that a magistrate would be required to decide half-caste status at or before registration of birth. That may not have been what Moseley intended, but as he presented it in his report the question was not one of exclusion from status, and therefore exemption from the provisions of the Act, but rather one of inclusion. In either case, Moseley's proposal would remove authority to decide exemption from the Minister as provided in section 63 of the *Aborigines Act 1905* and give it over to a magistrate's court. That would have eroded the Chief Protector's influence significantly. Neville demurred from Moseley's recommendation on grounds that the definition 'goes much further than anything I have hitherto suggested, and much further than it need'.⁸⁴

The 1936 amendment of the Act eliminated the definition of half-caste and introduced a new definition, 'Native'. The Chief Secretary, Hon W.H. Kitson, explained that the change was not merely a convenience to define a class of people 'who range from almost full blood to near white', but also because 'the name [Aborigines] itself is repugnant to the coloured people, who look upon it as a term of degradation to which they ought not be subjected'.⁸⁵ He claimed further that the 'coloured people called themselves natives, and that is the term we propose to use when referring to them'. It was to apply to 'any person of the full blood descended from the original inhabitants of Australia', except quadroons under the age of 21 who did not live in the manner of natives and quadroons aged over 21. Persons of less than quadroom blood born before 31 December 1936 were granted entitlement to request Ministerial approval to be natives for the purposes of the Act, but consent continued to repose with the Minister.

This new definition meant that, for the purposes of the Act, Aboriginality continued through extended generations until there was a second crossing of Aboriginal and non-Aboriginal blood and qualifications of non-Aboriginal habitation applied. Hence the child of a full blood native parent and non-native parent was a native, and if that child's descendants continued to procreate with natives, the status of native for the purposes of the Act endured across successive generations. It terminated only when a child born of a parent of that lineal succession and a non-native parent did not live as a native or attained adulthood.

The revised definition of 'native' extended the reach of the Chief Protector, or as he was now called, the Commissioner for Native Affairs. New powers were legislated to authorise persons to examine natives for disease and to compel natives to submit for examination; to vest

⁸³ *ibid*, p.19.

⁸⁴ State Records Office, Native Affairs, Acc 993, Item 333/1933, folio not numbered, Chief Protector to Honorary Minister, 13 March 1935.

⁸⁵ Parliamentary Debates, Legislative Council, 22 September 1936, p.713.

in the Commissioner all properties of any deceased or missing native; to compel all employers of natives to contribute to a medical fund to defray the medical and hospital expenses of sick or diseased natives or those injured in the course of their employment; to clarify the powers of the Commissioner with respect to the marriage of natives; to render unlawful any extra-marital sexual intercourse between a native man or woman and another non-native person; to establish native courts for the trial of any offence committed by a native against another native; to empower the Commissioner to recover moneys owing to natives and to keep them in a trust fund; and to establish a fund for the general welfare and relief of natives and to require natives to contribute to that fund. Other amendments clarified which provisions of the Amendment Act were binding upon native persons who under the principal Act were half-castes, but not deemed Aborigines and therefore exempt from its provisions.

Many of the provisions of the Amendment Act validated or legitimised future acts which had been the accustomed, but not necessarily lawful practice of the Department and Chief Protector, or reaffirmed the intention of sections of the Act which had changed through usage, by decisions of the courts or through legal opinion. Others, such as the sections to establish the native courts and the medical fund, were initiatives originating from the Royal Commissioner's report, recommendations 21 and 26, respectively.

In the main, the effect of the 1936 amendment was to reaffirm authority over the lives of Aborigines which had been granted to the Chief Protector by the 1905 Act and to extend that authority to a group of persons who had not been anticipated in 1905, namely that amorphous group of people of Aboriginal descent who fell into the uncertain category called 'half-castes'. The amendments were to empower Neville to deal with the half-caste problem and, to a limited extent, manage the lives of quarter-castes. His authority was not untrammelled, however.

Actions taken unlawfully under the principal Act were not validated retrospectively by the 1936 Act. Quarter-caste children who before 1936 had been removed from the Moore River Native Settlement and detained at the Queen's Park Cottage Home, for example, may have been removed and detained unlawfully. They were outside the reach of the *Aborigines Act* and could be dealt with only within the jurisdiction of the State Children's Act, or after 1927, the Child Welfare Act. The 1936 Act did not retrospectively validate their forcible removal or detention. In fact, quadroons under the age of 21 who did not live in the manner of natives continued to be exempt from the provisions of the Act. Furthermore, it was not until 1937 that Sister Kate's was declared a Native Institution, and a place to which natives might be sent at the decision of the Commissioner.

These matters were not raised in debates on the amending Bill in either House of Parliament. The minister in charge of the Bill in the Legislative Council, Hon. W.H. Kitson,

merely rehearsed the argument that many people who in practical terms were half-castes and who lived as Aborigines were not caught by the 1905 Act: ‘We have, therefore, had to do many things which, strictly speaking, do not come within the scope of the *Aborigines Act*’.⁸⁶ Such actions were legally unsafe.

The Opposition spokesman, Hon. Les Craig, was less concerned about esoteric matters of law, and more about growing numbers of half-castes; ‘The breeding of half-castes constitutes a colossal menace to the State’. In his opinion the fault lay with Aboriginal girls, and the solution was to remove them from their mothers ‘when they reach a certain age and train them...because the native girl is a child of nature and is not sufficiently strong to withstand the urge of nature’.⁸⁷ White men, on the other hand, Craig proclaimed, were relatively blameless, doing ‘only what was natural in the circumstances’.

That theme and the harshness of penalties to be incurred by white men guilty of sexual intercourse with natives was subject of lively debate at the Committee stage of the Bill. The Committee reduced the minimum penalty from six to three months’ imprisonment, and subsequently removed the minimum altogether; ‘If there were extenuating circumstances the magistrate would inflict a fine, but if the case called for drastic punishment, imprisonment would be ordered’.⁸⁸ Opposition speakers expressed concern about the different treatment of white and Aboriginal women; ‘If a young man commits an indiscretion in the case of a girl belonging to the white race, he may not in certain circumstance suffer any penalty, but if the white girl is a native half-caste, he may be sentenced to three months’ imprisonment’.⁸⁹ Government defended its position less on the grounds of protecting Aboriginal women, but more out of consideration of its international reputation: ‘This is a bad advertisement for the State’.⁹⁰

Debate in the Legislative Assembly paid more attention to the meaning given to the term ‘native’, and in particular the inclusion of quarter-castes. Members objected to the inclusion of quadroons under the age of 21 as natives. The Minister argued that the term ‘half-caste’ in Section 3 of the principal Act included any person born of an Aboriginal parent on either side and the child of any such person, and therefore embraced quadroons. Other members rejected that proposition, notably Hon. Norbert Keenan. He observed that the only reference in the Act to quadroons was in the interpretation section, and only to make it clear that the term ‘half-caste’ did not include quadroons. In his opinion, the reason for excluding quadroons had been to advance opportunities for assimilation, ‘to leave the gate open for such amalgamation and

⁸⁶ Parliamentary Debates, Legislative Council, 22 September 1936, p.712.

⁸⁷ Parliamentary Debates, Legislative Council, 29 September 1936, p.822.

⁸⁸ Parliamentary Debates, Legislative Council, Hon. W.J. Mann, 14 October 1936, p.1110.

⁸⁹ Parliamentary Debates, Legislative Council, Hon. C.F. Baxter, 14 October 1936, p.1106.

⁹⁰ Parliamentary Debates, Legislative Council, The Chief Secretary, Hon. J.M. Drew, 14 October 1936, p.1106.

absorption’.⁹¹

Relevant clauses were amended in the Assembly, but when the Bill was returned to the Legislative Council the amendments were rejected. A conference of managers resolved the dispute with further amendments acceptable to both Houses. A new paragraph was added to clause 2 of the Bill to exempt some quarter-castes from the status ‘native’ and therefore from the provisions of the Act:

- I. A quadroon under twenty-one years of age who neither associates with or lives substantially after the manner of the class of persons mentioned in paragraph (a) in this definition unless such quadroon is ordered by a magistrate to be classed as a native under this Act.⁹²

The reference to ‘the class of persons’ in paragraph (a) was to full blood descendants of Indigenous Australians. This meant quarter-castes who did not live in the manner of Aborigines were not to be treated as Aborigines under the Act: those who did were. In effect, the Act created its own category of white Aborigines. It was to apply not only to quarter-castes living in native camps, but also to ‘those who are wards of the State, and in certain homes’. Hence, quarter-caste children living at the Queen’s Park Children’s Cottage Home and similar places and not living after the manner of natives were to be classed as natives. The quizzical explanation offered by the Minister was that this would ‘provide an opportunity to improve the conditions of quadroons’:

They will mostly be children of tender age, but for many reasons an endeavour will be made to uplift them, particularly those who are very light in colour—and there are some sad cases—who are wards of the State and are sent to homes and controlled.⁹³

The more likely explanation is political expediency. It gave an appearance of legitimacy to actions already taken in removing quarter-castes from Moore River and giving them over to the care of Sister Kate. The legitimacy was more illusory than real, however. The amendment gave lawful authority to the Commissioner for the future removal of children and their placement in care, but did not legitimise such past action as had occurred. The amending legislation was prospective not retrospective in its application.

The meaning of the terms ‘amalgamation’ and ‘absorption’ used in several places of the debates were not explained. The lead speaker for the Opposition in the Legislative Assembly, Charles Latham, for example, canvassed the proposition that full bloods were dying out, but that

⁹¹ Parliamentary Debates, Legislative Assembly, 9 December 1936, p.2549.

⁹² Parliamentary Debates, Legislative Council, 10 December 1936, p.2651

⁹³ Parliamentary Debates, Legislative Council, 10 December 1936, p.2653.

there was a ‘very big half-caste population’ who should be treated differently from natives; ‘our main objective should be to reach a point where we can absorb those people into the ordinary population’. The example used by Latham to illustrate his concern anticipated assimilation, but not biological absorption. He related a personal encounter with a half-caste who ‘spoke as well as I and was equally well educated’ and whom Latham reported as having said:

Under this legislation which is being introduced I am going to be forced to become a ward of the State because I am half-caste. I am going to be controlled by a man down here. I do not want to be controlled by him and I do not want him to control my children. I am living the life of an ordinary Englishman, living in a house with my wife and family. My girls go out to service. Now I am to be called a native and I shall have to go back to the native conditions again.⁹⁴

‘Surely’, Latham concluded, ‘what we want to do is not drive those people back in a retrograde manner but to lift them up’.

Latham’s colleague in the Legislative Council expressed a contrary view. While he was concerned about the proliferation of half-castes, Craig was more concerned that they might live with full bloods, ‘and in that way go back to the darker blood’. He supported segregating full bloods from other Aborigines, ‘so that the blending shall be towards the white’:

The colour must not be allowed to drift back to the black. If we can only segregate the half-castes from the full bloods we can go a long way towards breeding the dark blood out of these people.⁹⁵

Segregation for the purposes of breeding out the colour was not the policy of government. The point was made clear in the Legislative Assembly. When the Minister for Agriculture introduced the Bill and was explaining the amendment to section 43 and the penalty for sexual intercourse between blacks and whites, the member for Murchison interjected, ‘I thought the Chief Protector was in favour of getting rid of natives in that way’. The Minister for Agriculture, Frank Wise, responded, ‘I cannot answer for that. This is not the Chief Protector’s Bill. The Government desires to follow the lines of the Royal Commission in that respect’.⁹⁶

Technically, it was not Neville’s Bill; legislation is the province of Parliament. Neville, however, had nurtured the legislation through its gestation over many years and persuaded Commissioner Moseley of its merits. The 1936 Bill embodied the important features of the 1929 Bill as well as initiatives recommended by or arising from issues raised in the Royal Commissioner’s report. Moseley did not support miscegenation and neither did he favour cross-

⁹⁴ Parliamentary Debates, Legislative Assembly, 3 December 1936, p.2369.

⁹⁵ Parliamentary Debates, Legislative Council, 29 September 1936, p.823.

⁹⁶ Parliamentary Debates, Legislative Assembly, 20 October 1936, p.1207.

cultural sexual intercourse. He felt that the law ‘in its present form’ must be amended, and the amended law ‘administered with the greatest severity in order to minimise, if not eradicate this lamentable feature of the North’.⁹⁷

Moseley’s report reflected Neville’s submission on this matter. The Solicitor General’s opinion in the Hunt case in 1924 had prevented successful prosecution in complaints of cohabitation; ‘Since that ruling we have had 26 cases of the kind [cohabiting] in which we have taken action, but we have been able to get conviction in only five’.⁹⁸ Neville wanted half-castes to be included in the relevant section as a measure of protection for them; ‘We know that these men are constantly chasing the half-castes and yet we cannot protect the girls’. His policy intention was to minimise miscegenation by outlawing sexual intercourse: ‘A few examples in the court would put a stop to that sort of thing’.⁹⁹

In addition to his concern about the social cost of uncontrolled miscegenation, he was conscious there was also a public financial cost:

The offspring of Europeans and half-caste girls or women are increasing in numbers and the State has to support them because there are no means by which we can make the father pay maintenance. Very often the girls themselves do not know who the fathers are.¹⁰⁰

Discussion

The meaning and nature of the problem embodied in the oft-used phrase, ‘the half-caste problem’, was seldom made explicit, either in official documents or public discourse. Popular opinion regarded half-castes as inferior, ‘a psychological monstrosity’.¹⁰¹ They were looked upon as an alien, disaffected underclass, growing in numbers, for whom the state had a responsibility of care, but who did not have access to services which might help them rise above their economic and moral poverty, if indeed they could. Some saw that as impossible: ‘whether it be a half-caste or a full blooded black, so soon as they associate with white people they never or rarely take up any of the virtues of the whites but always acquire the vices’.¹⁰² Neville himself expressed disquiet that ‘their inherent weaknesses and taints will inevitably affect the whites as miscegenation proceeds’.¹⁰³ His vaguely articulated concern reflected a communal anxiety that

⁹⁷ Moseley Royal Commission, p.5.

⁹⁸ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 13 March 1934, p.67.

⁹⁹ *ibid*, p.69.

¹⁰⁰ *ibid*, p.68.

¹⁰¹ State Records Office, Aborigines, Acc 653, Item 342/1925, folio not numbered, Ernest Mitchell to CPA, ‘Preventing or minimising the breeding of half-castes’, 10 August 1925.

¹⁰² Parliamentary Debates, Legislative Assembly: 24 January 1911, p.3247.

¹⁰³ Aborigines Department: *Annual Report of the Chief Inspector of Aborigines for the Year Ended 30 June 1932*, p.3.

had been enunciated by Inspector Barry in his report regarding the re-opening of Carrolup:

The half-caste is increasing rapidly and is allowed—with one exception—all the facility of learning the white man’s vices, which he is not slow to avail himself of, but at the same time is debarred to a great extent, the chance of bettering himself by Education.¹⁰⁴

There were two exceptions, not one as indicated by Inspector Barry. Half-castes, like other Aborigines, were denied alcohol and they could not carry guns: ‘the most potent instruments for the subtle or violent destruction of human life, viz, Brandy and gunpowder’.¹⁰⁵ Before 1905 any Aborigine was allowed the use of firearms, but after 1905 only if he were licensed. Police objected; they believed no Aborigine should have a gun. The *Firearms and Guns Act 1931* (No 8 of 1931) repealed sections 47 to 51 of the *Aborigines Act*. Thereafter, an Aborigine could be refused a firearms license if a police constable objected. In spite of Neville’s protests that ‘the unfortunate natives have lost another of their few privileges’, the 1936 Amendment Act was silent on the matter of firearms.¹⁰⁶ Licensing remained a matter for police discretion.

Full blood Aborigines were segregated from whites to protect them from contaminating influences of the whites, and half-castes from full bloods and whites to protect them from contaminating influences of both. Paul Hasluck, writing as the *West Australian’s* ‘special representative’ in 1936, cautioned against social and economic costs of ‘pushing the half-castes back to the aborigines’:

Is there a place in our social planning for a totally different and inferior body of possibly 10,000 people living right in the midst of the community but not of it—a body which will not be able to earn its own living in competition with the whites but will be a growing charge upon the State; a body which, being untrained, will be of little economic use; a body which does not understand our ideas of religion, and has limited ideas and no religion of its own, one which will become more and more a nuisance, more and more an expense and more and more a misery to themselves? Shutting them off from the whites means that.¹⁰⁷

The solution, according to Hasluck and his like-minded peers such as A.O. Neville, was to isolate half-castes on government settlements, not to be segregated forever, but to be assimilated by the white community through the provision of schools where the children could be educated and

¹⁰⁴ State Records Office, Aborigines, Acc 993, Item 65/1929, folio 78, Inspector Barry, Narrogin, to Commissioner of Police, 26 November 1930.

¹⁰⁵ *Report from the Select Committee on Aborigines*, 1837, p.5.

¹⁰⁶ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 12 March 1934, p.47.

¹⁰⁷ ‘Half-Caste Problem’, *West Australian*, 23 July 1936. See also Native Welfare Council, *Our Southern Half-Caste Natives and their Conditions*, p.6.

trained as valuable workers; 'and in two generations there should be no half-caste problem'.¹⁰⁸

In spite of parliamentary protestation of endeavours 'to uplift them', there was little evidence after the passage of the *Aborigines Act 1905* that government supported positive action to do so: 'They have given no education to the children, no encouragement to the families to do better and have offered them no means of improving their living conditions'.¹⁰⁹ Nothing in the 1936 Amending Act indicated political will for change. The white community imposed upon half-castes the 'mode of existence' considered by Neville to be 'undesirable'.¹¹⁰ Housing of a reasonable community standard was beyond the financial means of most of them. Instead, state and local governments allocated living areas, or native reserves, without water or sanitation on the fringes of rural towns, usually located near liquid and putrescible waste sites, and itinerant Aborigines constructed shanties from bush timber and the discards of town and farm, 'so many rubbish tips for humanity'.

Country towns and the Perth central city area were prohibited areas from which Aborigines, including half-castes, not in lawful employment were banned.¹¹¹ A curfew operated after daylight hours. Camp natives from outlying suburbs were allowed to enter Perth for genuine business purposes, but were required to carry passes signed by police officers and were required to produce them when questioned by city police. Half-castes exempt from the Act were similarly required to carry and produce their citizenship cards, or as they called them, their 'dog licences'.

Where hospital care was available in country towns, it was in segregated Aboriginal wards, frequently on the verandas of public hospitals. Few pregnant half-caste women had medical care, or were delivered of their babies in hospitals. Infant mortality was high. In Perth, Aboriginal women, including half-castes, were barred from admittance to King Edward Memorial Hospital for Women, the state's premier public maternity hospital. Half-castes in need of other medical care frequently attended or were admitted to public hospitals usually only when *in extremis*.

Throughout his term as Chief Protector Neville complained of insufficient financial resources allocated to his department. His complaints were justified. In his Annual Report for 1935, Neville presented a comparison of spending for Aborigines among the States for the year ended 1934.¹¹² Western Australia compared unfavourably with the rest. The allocation of £1/10/2 per capita provided for little other than the distribution of clothing, blankets and food

¹⁰⁸ *ibid*, p.23.

¹⁰⁹ 'Half-Caste Problem, The Huts They Live In, 'Rubbish Tips of Humanity'', *West Australian*, 24 July 1936, p.26.

¹¹⁰ Aborigines Department, *Annual Report of the Chief Inspector of Aborigines for the Year Ended 30 June 1932*, p.3.

¹¹¹ The City of Perth was proclaimed and gazetted as a prohibited area on the 18 March 1927. The prohibited area was bounded by Newcastle St, Bennett St, the Swan River foreshore, and Milligan St; 'an area in which it shall be unlawful for natives, not in lawful employment, to be or to remain'.

¹¹² Aborigines Department: *Annual Report of the Chief Protector for Aborigines for the Year Ended 30 June 1935*, p.3.

rations to indigent Aborigines, the maintenance of the Moore River Native Settlement, subsidies for missions and the upkeep of feeding stations at Moola Bulla, Violet Valley, Munja and La Grange. An inference may be drawn that Aborigines had low priority in competing demands for public sector outlay.

There was some increased outlay after the Moseley Royal Commission and the proclamation of the *Native Administration Act 1905-1936*, but much of that was consumed in new initiatives for a medical officer in the north, a travelling inspector, native courts and other initiatives encouraged by the Royal Commission. Financial constraints and lack of political will militated against persistent requests by Neville and local government authorities for the reopening of the Carrolup Native Settlement. The only settlement in the southern half of the State providing rudimentary education for half-caste children and, after 1935, a native hospital, was Moore River, damned by Royal Commissioner Moseley as 'a woeful spectacle'. Improvement of the settlement languished for want of resources.

The *Native Administration Act 1905-1936* gave Neville, now as Commissioner for Native Affairs, statutory powers over a greater number of half-castes, but he was still constrained by financial incapacity to effect significant changes in their conditions. There certainly were too few funds available to launch what might have been an ambitious program to resolve the half-caste problem by controlled miscegenation, a program to 'breed-out the colour'. Even if that were a hidden agenda of public policy, the legislative amendments of 1936 imposed severe disincentives for cohabitation or sexual intercourse with any native. Both were offences against the Act with tariffs of imprisonment for not more than two years or a fine of not more than one hundred pounds. Marriage of half-castes and whites was stigmatised. Half-castes turned to their own and little of the increase in the number of children born to them, at least in the south of the state, was from miscegenation. Commissioner Moseley's belief that 'more can be done by public opinion than by laws' apparently was vindicated, but not necessarily in the direction he might have anticipated.

The amendment to the section 42 of the Act prohibiting mixed marriage without the Chief Protector's permission constrained the Commissioner's discretion. He could object to a marriage, but on relatively narrow grounds.¹¹³ It is difficult to construe from the law as it stood any intention other than Neville's often-repeated contention that, 'Half-caste females are in the care of the Department until they marry and it is surely right that the Chief Protector should see that they do not come to grief by making an undesirable alliance'.¹¹⁴ The effect of the new power for the Commissioner to object to any marriage of a native 'according to the laws of the State'

¹¹³ *Native Administration Act 1905-1936*, s. 42.

¹¹⁴ State Records Office, Aborigines, Acc 653 Item 100/1925, folios 156-157, 'Aborigine Act Amending Bill, Reasons for Suggested Amendments'.

was only to put Neville into further conflict with churches and missionaries.

Narrative

SISTER KATE'S CHILDREN

Sister Kate retired from Parkerville Children's Home on 21 August 1933. Her departure had not been of her choosing and she was deeply hurt by the decision of the Board of Control to replace her. Parkerville had been her life for the thirty years after she and the Kilburn Sisters had established it in 1903. In that time, and under her compassionate direction, Parkerville became 'one of the most important child welfare institutions in the State'.¹ At age 72, and cast adrift by Archbishop Le Fanu, she sought to continue her work for children.² Eight months before her enforced retirement she had written a personal letter, marked 'Private and Confidential' to the Chief Protector of Aborigines:

Dear Sir,

Will you please consider my letter entirely Confidential for your own private perusal.

I have always been keenly interested in Half-castes & Natives & I should very much like to work among them.³

Her timorous overture indicates Sister Kate's uncertainty about what she might do. Clearly, she had not contemplated caring for quarter-caste children. Rather, she expressed interest in working among 'half-castes and their children'. She hoped that, together with Ruth Lefroy, three of her long-term helpmates and other volunteers, she might be permitted to re-open Carrolup:

I can easily go to our Cottage by the Beach & have a few children & other work, but I was wondering if you think there is an opening for work for my friends & myself among the half-castes and their children. Would there be any hope of our opening Caralup (*sic*) for a Settlement?...If Caralup is not suitable we are willing to go to any place in the State.⁴

¹ 'Parkerville Home', *Western Mail*, 29 June 1933, p.32.

² Vera Whittington, *Sister Kate*, Chapter 11, pp.272-297 offers a comprehensive account of the Archbishop's manoeuvres to remove Sister Kate from Parkerville.

³ State Records Office, Native Affairs, Acc 993, Item 279/1933, folio 1, letter, Sister Kate to Mr Neville, 28 December 1932. Underlined by Sister Kate. The formality of the appellation suggests that Sister Kate had not previously worked with Neville. Her subsequent letters addressed him as Mr. Neville.

⁴ *ibid*, The cottage by the beach was 6 Beach St, Buckland Hill [Cottesloe] which was owned by Parkerville Children's Home and which Archbishop Le Fanu and the Board of Management had offered to Sister Kate for her use for as long as she chose.

There is little evidence to explain why Sister Kate nominated Carrolup. Circumstances suggest others may have encouraged her. In June and July 1930 Conferences of Clergy of the Church of England Archdeaconries of Albany and Bunbury had resolved separately to request government to re-open the Carrolup River Native Settlement. Neville also had been advised by the Bishop of Bunbury that his Diocese would assist in 'providing for the spiritual and educational welfare of the natives and half castes (*sic*)' at Carrolup.⁵ Hence, while Sister Kate was resisting moves of Archbishop Le Fanu to remove her from Parkerville, other Anglican clergy were lobbying for the re-opening of Carrolup. That may have prompted Sister Kate's approach, but she wrote in a footnote to her letter to Neville 'Mrs Chase is coming to see you about this proposal. She has worked with me for 30 years at Parkerville'.⁶

Muriel Chase was the well connected social editor of the daily newspaper the *West Australian* and the weekly *The Western Mail*.⁷ Her columns were published under the *nom-de-plume* 'Adrienne'. Mrs Chase had met Sister Katherine Mary Clutterbuck, Sister Kate, on board ship returning from London to Perth in 1902. Sister Kate and two other Kilburn Sisters were chaperoning 22 English orphans on the voyage and Mrs Chase volunteered to assist in their daily care. Afterwards she maintained a life-long friendship with Sister Kate. She was a dedicated supporter of the Parkerville Children's Home and after 1933 until her untimely death in February 1936 was a member of the Ladies Committee of the Children's Cottage Home Queen's Park.⁸

It is possible that Mrs Chase brought Sister Kate's attention to public conjecture about the future of Carrolup. In November 1933 the *Western Mail* published an article on what it termed the 'Problem of Half-Castes', citing a report of the Chief Protector that his department had neither the means nor the facilities to do 'what is patently and urgently necessary' to prevent these people from being turned into 'a race of outcasts, which they are rapidly becoming'.⁹ That was followed on December 22 by a further report on the desirability of re-opening Carrolup.¹⁰ It is reasonable to speculate that Mrs Chase discussed these matters with Sister Kate. Certainly, Sister Kate nominated Mrs Chase as her envoy to Neville.

Ruth Lefroy's biographer, William de Burgh, on the other hand, suggests she and Sister

⁵ State Records Office, Aborigines, Acc 993, Item 65/1929, folio 44, letter, Bishop of Bunbury to CPA, 5 July, 1930.

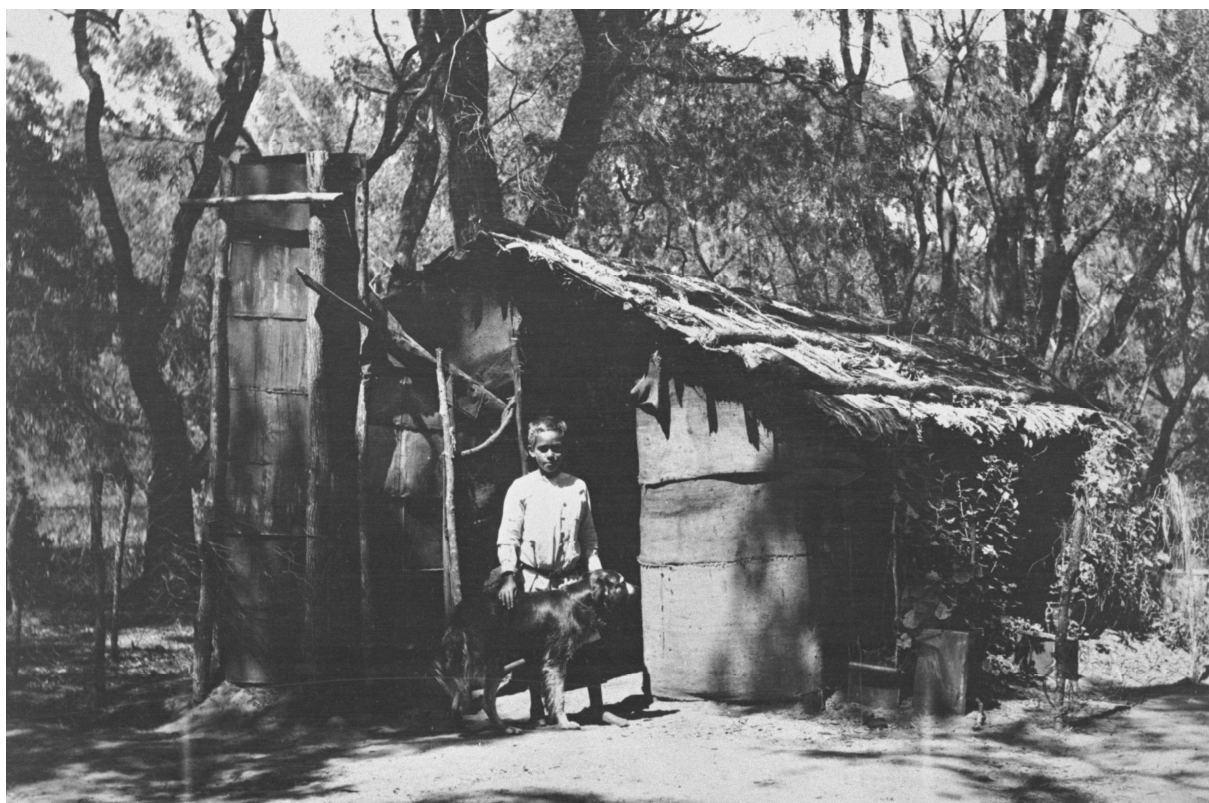
⁶ State Records Office, Native Affairs, Acc 993, Item 279/1933, folio 1, letter, Sister Kate to Mr. Neville, 28 December 1932. Note in the margin.

⁷ Her husband, Ernest Chase, was a member of the Government House staff, both as private secretary and *aide-de-camp* to the Governor. She also was connected to the 'first families' through her maternal great-grandfather, Marshall Waller Clifton of Australind.

⁸ Muriel Chase championed many charitable projects, but probably is best known for her initiative to establishing the Silver Chain Nursing Association. See Noel Stewart, *Little But Great, Saga of the Silver Chain (1905-1965)*, Silver Chain Nursing Association (Inc), Perth, 1965.

⁹ 'Care of Natives, Problem of Half-Castes, A Growing Population', *Western Mail*, 2 November 1933, p.8.

¹⁰ 'South West Half-Castes, Appalling Circumstances', *Western Mail*, 22 December 1933, p.21.



At Home, Bussleton, c.1930s. J.S. Battye Library, A.O. Neville Pictorial Collection, 67067P.

Kate were 'spurred on by Ruth's brother Charles'.¹¹ Archdeacon Charles Lefroy, a former Archdeacon of the Diocese of Perth, had been General Secretary of the Australian Board of Missions and in England was a member of the Anti-Slavery Society and the Aboriginal Protection Society. He was an ardent advocate for Aborigines and proposed the establishment of 'a large chain of large native reserves, with here and there a cattle station worked by the natives, across the whole of the northern part of the continent'.¹² Apart from the inspiration he may have given by example, however, there is no direct evidence of his involvement in establishing the Children's Cottage Home. As late as April 1933 Ruth Lefroy anticipated that Sister Kate would move to the cottage at Buckland Hill, 'taking a few of the very delicate and afflicted ones [children from Parkerville], and I hope to help her there'.¹³

Whatever the source of Sister Kate's idea that she and Ruth Lefroy might move to Carrolup after they left Parkerville, it is obvious she was considerably distressed by her conflict with Bishop Le Fanu. On 5 January 1933, Neville replied to Sister Kate's letter of 28 December, but she did not respond until 12 June. She offered the apology, 'I have been so unsettled in any

¹¹ W.J. de Burgh, 'Phoebe Ruth Lefroy: A woman of Determination', *Early Days*, Journal of the Royal WA Historical Society, vol.11, Part 2, 1996, p.189-90. See also de Burgh, W.J., *Phoebe Ruth Lefroy her Life and Letters*, unpublished, Copyright W.J. de Burgh, 1995.

¹² Rev. C.E.C. Lefroy, 'The Australian Aborigines: A Noble-Hearted Race', *Contemporary Review*, 135, Jan/June, 1929, p.224.

¹³ W.J. de Burgh, *Phoebe Ruth Lefroy her Life and Letters*, p.38.

plans that I hardly knew how to answer'.¹⁴ In spite of her earlier tentative proposal, Sister Kate did not express any settled thoughts about working with Aborigines. Neither had she actively pursued the matter. She advised Neville that she was to have 6 Beach St, Buckland Hill, 'a nice roomy cottage that would, if it was any help take about 12 native or Half caste (*sic*) children', but it would appear she spent little time there. After leaving Parkerville she lived at Neville Street Bayswater, a property bequeathed her by Edgar Bentley, one of her Parkerville old boys whom she had brought out from England and who had been killed in World War 1.¹⁵ Much of the work in readying the house at Buckland Hill to receive the children was done by Ruth Lefroy and three helpers, Julia Lloyd, May Holt, and Miss Gloster.

What Neville had proposed in his early reply to Sister Kate and what he discussed with Muriel Chase is not certain. When next he wrote on 25 July, in response to Sister Kate's letter of 12 June, Neville addressed himself to Miss Lefroy and made quite clear that the children to be given to Sister Kate's care were to be chosen for the colour of their skin:

When at Moore River I saw a number of children whom I should like to transfer elsewhere, because they are so very white, and should have the benefit of the doubt, so to speak.¹⁶

He then sought advice on what aged children Sister Kate was willing to receive. Sister Kate replied the following day: 'we do not mind what age the children are as long as they are not under 2 years'.¹⁷ In her letter of 12 June, Sister Kate had indicated she sought to care for orphans, 'the poorest and most neglected, not those who have mothers to love and care for them', but six weeks later she did not quibble about whether the children were orphans or that they were pale-skinned. Rather, she expressed delight and impatience to receive them:

We are quite ready to take the children you so kindly promised to send me & it seems a waste of some weeks to have beds empty & the staff prepared so that we can welcome their arrival when it is convenient for you to send them....Since seeing you we have had several offers of children who are needing a Home but we should much prefer to have the quarter caste (*sic*) or half caste (*sic*) child.¹⁸

Neville's intention was clear and so, it would appear, was Sister Kate's understanding. At her request, Neville met with Sister Kate on 21 June and told her he was looking for accommodation for quarter-caste children who should be removed from Moore River, 'and other

¹⁴ State Records Office, Native Affairs, Acc 993, Item 279/1933, folio 3, letter, Sister Kate to Mr. Neville, 12 June 1933.

¹⁵ W.J. de Burgh, *Phoebe Ruth Lefroy her Life and Letters*, p.39.

¹⁶ State Records Office, Native Affairs, Acc 993, Item 279/1933, folio 12, letter, CPA to Miss Lefroy, 25 July 1933.

¹⁷ *ibid*, folio 13, letter, Sister Kate to Mr. Neville, 26 July 1933.

¹⁸ *ibid*, folio 15, letter, Sister Kate to Mr. Neville, 18 August 1933.

unsuitable environments’. He felt that the quarter-caste children ‘should not be at the Settlement, though we have no funds with which to subsidise them at other existing institutions.’¹⁹

Sister Kate indicated that she was delighted to take them and that she should be quite satisfied with Neville’s suggestion that his Department might be able to allow her the amount being paid ‘for rations for these youngsters at Moore River Settlement’.²⁰ Even though she had earlier expressed a desire to care for orphans, there was only one among the first eight transferred to Buckland Hill from Moore River on 28 August 1933.

By July 1938 there were 68 children aged between one and sixteen years of age living at the Queen’s Park Home. They had diverse backgrounds and had come from several parts of the State. More than half of them, 37, had been removed from pastoral stations, principally in the Murchison and Gascoyne districts. Only one quarter, 19, had been born at Moore River, conceived of white fathers when their mothers were domestic servants on assignment from the settlement. Two others had been at Moore River after being placed there with destitute mothers who subsequently had died. One, a girl, was aged 12 when she was taken to Buckland Hill with the first group in August 1933: the other, a boy, was aged two-and-a-half when he arrived in October of the following year. The remaining children were sent to Queen’s Park from quite different directions. The Child Welfare Department placed five at the home and five were placed by their mothers, two on Neville’s advice and three without Neville having been consulted. Twenty-nine children were siblings from nine families, mainly from pastoral stations.²¹ Only sixteen white fathers paid maintenance for their 27 children.

The common factor among the children was that their mothers were half-castes. Under the definition of the *Aborigines Act* 1905 they had mothers who were Aboriginal and fathers who were not. The children in Sister Kate’s care were at least another generation removed in Aboriginal genealogy; they all had Aboriginal grandmothers, but white fathers. All were quarter-castes, the children whom Neville later described as being ‘too white to be regarded as Aborigines’.²² To each of them Sister Kate was ‘Gran’ and Ruth Lefroy was ‘Friend’. To each was given Sister Kate’s and Ruth Lefroy’s unconditional love.

Geoffrey Parfitt was four years old when he arrived at Queen’s Park in September 1936. His mother, a Moore River resident, had died of tuberculosis at the Wooroloo Sanatorium. When asked what it was like growing up at the home he replied:

¹⁹ *ibid*, folio 7, file note, A.O.N. CPA, 21 June 1933.

²⁰ *ibid*,

²¹ State Records Office, Native Affairs, Acc 993, Item 615/1938, folio not numbered, ‘The Inmates of Sister Kate’s Home’ as at 1 July 1938.

²² State Records Office Native Affairs, Acc 99, Item 333/1933, folio not numbered, Subject: Royal Commission on Treatment of Aborigines 1934 ‘Notes for Royal Commission’.

It's like it is, you were treated, brought up with love. Love in the morning, love at dinnertime and, you know, they loved you...Even if you went wrong they'd scold you, they'd send you over to Gran. Well that was alright because she'd go crook at you and then give you a lolly.²³

Ken Lindley confirmed that judgement. He had been born at Murgoo Station on the Murchison in 1937 and removed to Moore River with his mother. In 1940, possibly with his mother's approval, he was transferred to Queen's Park. He recalled that 'Granny she was just wonderful':

She was so kind, so loving, didn't matter, you know. Two kids were fighting and she would come up and hug us. Instead of going all crook at us she would just grab hold of us both and start hugging us, and she told us she loves us, you know.²⁴

In Ken Colbung's opinion, Sister Kate, 'acted more or less like a saint....I guess in the words of Christianity she would have been a saint. We revered her'.²⁵ Ken was a five-year-old when he arrived at Queen's Park on 15 September 1936. His mother also had died at Moore River.

Marjorie Van de Berg (nee Sara) was less effusive, but equally as sincere in her respect for Gran. Marjorie, aged 7, her sister Ethel aged 14 and brother Mervyn aged 10, had been removed to Queen's Park from the Pilbara. Their father was a stationhand and their mother had died early in Marjorie's life. Marjorie was never told why she was removed from her home and was able to recall little of her mother. Marjorie lived in Sister Kate's cottage from the time she arrived at Queen's Park and recalled her sense of fun:

Oh she was kindly. Actually, she was quite full of fun, you know, in her younger...well, she was seventy then. So, yes, she seemed, you know, quite full of fun with us, you know. She played the violin. She could cook.²⁶

Gerry Warber was remembered as Friend Lefroy's pet. Ken Colbung offered the judgement, 'she would look on him more as a son than the rest of us, because he was much fairer and she would tend to make a pet of him'.²⁷ Gerry did not disagree, 'Yes, I used to be called Friend's Pet', but he had enduring and deeply held respect for Sister Kate: 'Sister Kate was very loving and she...her

²³ National Library of Australia, *Bringing Them Home Oral History Project*, Geoffrey James Parfitt interviewed by John Bannister, 11 October 2000, TRC 5000/213, p.3.

²⁴ National Library of Australia, *Bringing Them Home Oral History Project*, Kenneth Keith Lindley interviewed by John Bannister, 27 November 1999, TRC 5000/72, pp.8-9.

²⁵ National Library of Australia, *Bringing Them Home Oral History Project*, Ken Colbung interviewed by Lily Kauler, 22 October 2001, Ken Colbung, TRC 5000/336, p.21.

²⁶ National Library of Australia, *Bringing Them Home Oral History Project*, Marjorie Van de Berg interviewed by John Bannister, 27 March 2000, TRC 5000/102, p.6.

²⁷ National Library of Australia, Ken Colbung, TRC 5000/336, p.18.

whole life was devoted to the children'.²⁸ He may have been Ruth Lefroy's favourite, but he appreciated that she and Sister Kate gave the children equal love: 'But love was the prime concern of her and Granny when we were there, and there was plenty of that'.²⁹

Gerry was a member of the second group sent to Buckland Hill on 10 October 1934. He was not quite 2 years old when his mother, Mary Warber, died of tuberculosis. Six months afterwards, Gerry and seven others, including Arnold Franks and Richard Wheeler, were removed from Moore River. Richard, aged 12, was sent to the home in response to Sister Kate's request for 'a boy from Mogumber or elsewhere over school age to help grow vegetables here, to help with the cow, chop wood, etc, & it is really necessary to have a boy'.³⁰ The two older children in the group, Richard and a girl aged 10, went to Queen's Park where Sister Kate was establishing the first cottage for school-age children. The younger ones stayed with Ruth Lefroy in the nursery and kindergarten at Buckland Hill. When a second cottage was built, they moved to Queen's Park. Gerry remained in Ruth Lefroy's care. He remembered her as 'a lady of great kindness':

She used to come into the dormitory, read us wonderful stories from the Bible or read us stories about 'Snugglepot and Cuddlepie' and different children's stories like that and it was always something we looked forward to. And there was always that, that great love that was always present there.³¹

The model of accommodation Sister Kate developed at Queen's Park was the one she pioneered at Parkerville, children's cottage homes where groups of youngsters lived together with a housemother. There were no separate dormitories for boys and girls. To Marjorie Van de Berg it felt rather like a family home:

We just played together, apart from the boys sleeping on the boys' veranda and stuff like that, you know, there was that. But we weren't segregated to the extent where, you know, you felt the boys were there.³²

The housemothers did what they could to make their cottages homely:

They did build, you know, different houses and one was a nursery, so all the little ones went to the nursery and they had lovely airy rooms and, you know, Miss Holt and Nurse would be painting the rooms. Miss Holt was very clever. She

²⁸ National Library of Australia, *Bringing Them Home Oral History Project*, Gerard Warber interviewed by Lily Kauler, 20 September 2001, TRC 5000/34, p.2; and interviewed by John Bannister, 26 March 2000, TRC 5000/101, p.9.

²⁹ National Library of Australia, Gerard Warber, TRC 5000/101, p.11.

³⁰ State Records Office, Acc 993, Item 279/33, folio 93, Sister Kate to Mr. Bray, 12 September 1934.

³¹ National Library of Australia, Gerry Warber, TRC 5000/101, p.10.

³² National Library of Australia, Marjorie Van de Berg, TRC 5000/102, p.10.

made the curtains and, you know, made it lovely.³³

As in many households of that day, children had assigned chores like making their beds, chopping firewood, milking the cows, or feeding the fowls and gathering eggs to attend to before and after school. They shared in laundry, dining room and kitchen duties, but also enjoyed considerable freedom and time to play. Marjorie Van de Berg recalled having a lot of time for play:

I mean, after you finished you chores you can go and play anywhere in the home. Christmas holidays we'd be allowed to stay up and we'd be playing chasey or there was a game called hip, you know, and somebody would catch somebody and then they'd have to join the catch. We'd run for miles, you know, playing these games in the night because there wasn't much else to do anyway.³⁴

Ken Colbung compared Queen's Park and Moore River:

It was a different situation to the old Moore River set up because in Moore River you were taken from your parents and you were locked up in a big steel shed and all the kids were together, boys and girls and everything ... It wasn't a good thing. But in Sister Kate's it was certainly a big difference, but once again because of our freedom that we enjoyed up in Moore River we just went off whenever we could, back to the bush, and it was lucky, there was a lot of bush around there then...even the airport that's out there now, that wasn't there, it was over in Maylands, the airport, and we were allowed to go right through. That was swampland, all the way through there.³⁵

Gerry Warber was an infant when he lived at Moore River and had no recollection of the living conditions there, but compared what he learned of other places with his experience of Queen's Park:

I've heard of places like Carrolup and Mogumber where they were really institutionalised with barbed wire, lockups and that sort of thing. But at Sister Kate's we have none of that. We were all happy kids, we didn't need to be locked up. There were no fences, no gates. You know, we roamed round the suburbs to our hearts' content.³⁶

Gerry had one deep regret about growing up at Queen's Park;

³³ *ibid*, p.9.

³⁴ *ibid*, p.10.

³⁵ National Library of Australia, Ken Colbung, TRC 5000/336, p.10. In fact, at Moore River there were separate dormitories for boys and girls, but children were locked in before sunset each night. The airport Ken referred to is the Perth International Airport.

³⁶ National Library of Australia, Gerard Warber, TRC 5000/101, p.6.

Being institutionalised you've got no one to give you a hug, you know, when you're in distress. Or if you feel somehow lonely and in need of comfort because you're sick or if you've hurt yourself, that no one ever gave you a hug.³⁷

The Aborigines Department knew that Gerry's father, Luke Warber, camped on the Hamersley property at Caversham.³⁸ He was generally well respected and tried several times unsuccessfully to visit Gerry at the home. Gerry was not told about Luke until after he died in 1945:

Although my mother died when I was two of tuberculosis, I did have Luke Warber who I believed tried to get to see me for eleven years before he died. But I think he was discouraged because of the big question mark over who my father really is. I didn't realise at the time he was out there and that he was trying to see me but this was never permitted. I'm not alone in this, there are lots of kids that I know who never ever had family visits and it was as simple as that. It's not the lies that were told to you, I think it was what wasn't told you that really mattered, what your real family status was.³⁹

The apparent discrimination over some children being allowed family visits and others not was the only aspect of Sister Kate's policies that Gerry was willing to condemn. Others of his friends from the home were uncertain as to whether there was a policy about family visits. Geoffrey Parfitt believed they were not encouraged to mix with Aborigines:

Oh well they'd hunt 'em away from the gates, the mothers and different things, when they'd come to see you. That used to happen. I'd seen 'em crying up there but I didn't know what they were crying about.⁴⁰

Ken Colbung was emphatic that contact with families 'wasn't sort of entertained':

Although on weekends you could go and meet them down the meadow, and if your family was able to get down there, they had to make their own way.⁴¹

Marjorie Van de Berg could recall 'some kids having visits from, you know, their father or their mother'. It never happened to her, but she did not know whether family visits were encouraged:

No, it wasn't encouraged. Oh, I don't know if it was discouraged to that extent either. But because our name was changed and I don't think that...I didn't know I

³⁷ *ibid*, p.5.

³⁸ State Records Office, Native affairs, Acc 993, Item 105/1937, Subject: Native Camps in the Metropolitan Area - Reports on Inspection by Head Office Inspector, folio 6.

³⁹ National Library of Australia, Gerard Warber, TRC 5000/334, p.10.

⁴⁰ National Library of Australia, Geoffrey James Parfitt, TRC 5000/213, p.12.

⁴¹ National Library of Australia, Ken Colbung, TRC 5000/336, p.14 .

had any relatives apart from my father and...well, we knew that he was supposedly alive, but as I grew up I felt he must've died, you know, because we hadn't heard anything from anybody.⁴²

Aboriginality was not discussed at the home, neither was it strong in the children's awareness. Geoffrey Parfitt, for example, recalled not feeling Aboriginal in any way:

No, not really, I think we were treated equal. I wasn't, I never heard...Well never, ever seen any Aboriginal. I never had anyone come visiting me. A lot of the mothers and that never ever come to see their kids again.⁴³

Gerry Warber didn't consider it important:

A lot of us, particularly like myself, didn't care too much about that, about our Aboriginality. We just grew up as kids, all very, very happy.⁴⁴

If Ken Lindley had any concern about skin colour as a child, it was only because he was too pale. He was aware that some of the other children had complexions darker than his own, but it wasn't a pressing issue other than his concern that he wanted to be more like them:

We were all just brothers and sisters, we didn't have a problem there. I can remember when one was really black, he may be arguing or something and he calls another who is really fair 'You black so and so'. So, there wasn't a hassle that way.

As a matter of fact I used to often when I was growing up wonder why I wasn't as dark as that one. I used to cry over it, 'cos he was different from me sort of thing, you know. We went through all those sort of moments.⁴⁵

Occasionally their classmates at the Queen's Park State School teased them about their skin colour, but that was dealt with summarily. Geoffrey Parfitt was a robust lad and inflicted his own retribution:

The kids at the school were a bit cruel, used to call you Nigger and all that, you know. But it didn't worry me because I was fairly light. But some of the others used to take...I had to chase 'em and give 'em a hiding, you know.⁴⁶

Others were protected by the group identity, a kind of *esprit de corps*, which bonded the children from the home. Gerry Warber, blonde-haired and blue-eyed with a very fair complexion, didn't

⁴² National Library of Australia, Marjorie Van de Berg, TRC 5000/102, p.12.

⁴³ National Library of Australia, Geoffrey James Parfitt, TRC 5000/213, p.12.

⁴⁴ National Library of Australia, Gerard Warber, TRC 5000/101, p.8.

⁴⁵ National Library of Australia, Kenneth Keith Lindley, TRC 5000/72, p.7.

⁴⁶ National Library of Australia, Geoffrey Parfitt, TRC 5000/213, p.13.

recall being the target of racist taunts at school, but knew the children from the home had an advantage of numbers:

I think to a large degree it was very handy having the school next door, the primary school. It was wonderful there because the word ‘racism’ never came up—I don’t know whether that was because there were about a hundred of us and we were quite equal in numbers to the others that were there, but it was a great upbringing.⁴⁷

Similarly, Marjorie Van de Berg was not made to feel different, but was aware of the security offered by group solidarity:

I felt I was accepted very well. But even if I wasn’t it didn’t bother me because I felt, ‘Well, if they don’t like me, they don’t like me’. It never worried me that much about that. But, you know, if they did call the kids names, you know, racist names, they’d all gang up on them anyway.⁴⁸

The children sent to the care of Sister Kate’s may have been quarter-castes, wards of the Chief Protector of Aborigines and after 1936 subject to the provisions of the *Aborigines Act*, but they were raised in the manner of white children without consciousness of their Aboriginal heritage. Gerry Warber called it ‘very much a British type of upbringing’:

One of the things about Queen’s Park was that both Ruth Lefroy and Sister Kate were of British stock and things English mattered very much to them. On the first Sunday of November each year there was a fete and...the girls were dressed up in white dresses, and there would be maypole dances and different things like that. There was a very British atmosphere in those days. Ruth Lefroy and Sister Kate obviously cherished these facets of the life there and they tried to relive them with the children there.⁴⁹

Attention was paid to the grooming and deportment of the girls. Ethel Dannatt was the principal of the prestigious Church of England School, St Mary’s Girls’ School, West Perth, and an inaugural member of the Ladies Committee of the Queen’s Park Children’s Cottage Home Inc. When she retired from St Mary’s in 1938 she joined Sister Kate as a housemother and had particular responsibility for the older girls. Marjorie Van de Berg recalled that ‘as we grew older we went and stayed with her and she taught us to be ladies’:

⁴⁷ National Library of Australia, Gerard Warber, TRC 5000/334, p.10.

⁴⁸ National Library of Australia, Marjorie Van de Berg, TRC 5000/102, p.14.

⁴⁹ National Library of Australia, Gerard Warber, TRC 5000/334, p.8.

Like how to set a table properly and how to behave properly, drink from cups and saucers and, you know, how to be ladies, because most of us were tomboys because we always played around the home with the boys. We'd play cricket and, you know, boys things.

In 1933 Sister Kate had expressed interest in working with 'half-castes and their children' and was delighted and impatient to receive the first group of quarter-castes. Within the home, children were not labelled according to mathematical apportionment of racial admixture; they were children and were raised in a manner as near as possible in an institutional setting similar to the conventional up-bringing of children in Perth suburban households. The colour of their skin was not an issue for Sister Kate's care of her children.

Ruth Lefroy certainly objected to the children being referred to as quarter-castes.⁵⁰ She also disagreed with Neville over whether the children should be regarded at law as whites or Aborigines and, when they left the home, expressed pride in observing how well they were accepted in white society. Her role in establishing and maintaining the Children's Cottage Home and her influence in its policies and management have not always been appreciated. It was she who prepared the cottage at Buckland Hill to receive the first eight children from Moore River and it was she who donated the first block of land for the home at Queen's Park. Her cousin, Jack Crossland, bought the third and was largely responsible for the construction of the second cottage and the chapel. The Lefroy family were major benefactors of the home and Ruth had the social contacts to encourage philanthropic contributions for its maintenance. As Sister Kate became increasingly frail, Ruth assumed increasing managerial responsibility, and after the death of Sister Kate in July 1946 continued to run the home until only a few months before she died on 1 July 1953.

After he retired as Commissioner for Aborigines, Neville made a small annual Christmas Cheer donation for the children at Queen's Park, and each year Ruth Lefroy wrote to him about the children he knew, many of them from among those he first selected to send to Sister Kate. In December 1950 she wrote:

Margaret Darby is training as a nurse in Merridin (*sic*) Hospital. She has been through Northam Hospital.

Marjory Sara has been training for 18 months in St. Andrew's Hospital at Midland Junction & now has been accepted as a Nurse at Fremantle Hospital.

Ivy Kilmurray is a fully qualified & clever Dressmaker.

Betty George is apprenticed to a Hair Dresser for 5 years.

⁵⁰ State Records Office, Native Affairs, Acc 993, Item 279/33, folio 92, file note, FGB [Frank Bray] D.C.P.A., 22 August 1933.

'Too White to be Regarded as Aborigines'

Rosemary George is a Sales woman in Coles. Brian Williams is a Clerk in a Commonwealth office.

Two boys are apprenticed to be motor mechanics. Gerald Thompson, Ken Colbung, Tom Hunt are in the Army, & several others are coming home to enlist. May Kilmurray has married a nice white man who is Head Gardener at Yanchep. He has 5 men under him. Tilly Anderson is happily married to a white man. Both these have their own car.

Daisy Ashwin is married to a very nice white farmer. Cecilia Turvey the same. Jessie Boddington is engaged to a very nice white man, an oxywelder by trade. They will be married as soon as they can find rooms or a cottage. Mary Corbett is engaged to one of my old Parkerville boys. He is working on a farm & they will be married in March.

Jim Ashwin married Ethel Sara. He works at the zoo. Mervyn Sara married Doris Howard. He has always worked for Dawson & Harrison, except when he was in the Army.

Douglas Lockyer has married a nice white girl. He works at Chamberlain's motor factory.

Dorothy Knight always seems able to secure a good job in one of the Perth shops.

Richard Wheeler married Nellie. Their marriage was unhappy.

Another boy is doing well with a big electric firm in Perth. And we often receive letters from employers thanking us for sending them such a good lad or lass.

Len Sutton suffers from epileptic fits & as he also has a violent temper, he is in Claremont Mental Hospital. Am taking him a Christmas Hamper tomorrow.

Our two failures are Nancy Narrier now with her mother, somewhere about Broome. And Pansy Coomer.⁵¹

Ruth Lefroy's judgements of success or failure appear to have been how well Sister Kate's children assimilated with the white community. Her letters might also have reflected what she knew of Neville's interest in the experiment at Queen's Park and provided the sorts of information he wanted to hear. She also may have not known about the personal conflicts many of the children coped with after they left Queen's Park. Each had different experiences, but each retained or sought some connection with their Aboriginality.

Geoffrey Parfitt admitted to some difficulties about 'being out in society', but was not bothered by discrimination. After leaving the home he worked on farms at Mukinbudin and other places before he joined a shearing team as rouseabout on stations in the Murchison, the

⁵¹ Berndt Museum of Anthropology, University of Western Australia, A.O. Neville Collection, letter, P.R. Lefroy to Mr. Neville, 22 December 1950, not catalogued.

Gascoyne and the Goldfields and learned to be a shearer. He subsequently worked on sheds throughout Australia and New Zealand, but always returned to Western Australia after periods of up to three years away. He became a gun shearer, consistently shearing in excess of 200 sheep a day, and was the ringer in sixteen sheds, including two seasons in succession at Rawlinna Station. Between seasons he worked as a fruit picker, a motor mechanic on the Nullabour, and as a labourer in a freezing works in New Zealand. He was forced to abandon shearing in 1982 when he became suddenly arthritic. In later years he managed his arthritis with bush medicine.

Geoffrey never married. His was the masculine world of shearing sheds, the open road and sleeping beside rivers. In his adventurous, knockabout life he occasionally was called 'a black so and so', but says he was 'big enough to look after meself'. He was not resentful and preferred to 'let bygones be bygones and be merry, you know':

I got used to it though because, you know, you were called names and that, and the few names that any farmers and that called me was nothing compared to what I got in the orphanage sometimes when we were at school. But we were all very good mates, those white kids too. You know, even now I can go down and stay at Greenbushes at different places, you know, I went to school with them. Bless their hearts, some of them have died off lately but...they loved the Home kids. We all got on well down there.⁵²

Gerry Warber lived at Queen's Park for fifteen years, and after a short period as a photographer's assistant at Geraldton, he spent twenty years doing military mapping in the army. He retired at the rank of warrant officer and served eleven years with the Department of Minerals and Energy, Perth. It was not until he was in his late teens that he learned that his mother was Aboriginal. He spoke of his desire to learn more about his roots:

I have an urgent sense of doing the genealogy to find out where my roots lay, who my parents were, whether I have kin out there in society and say, 'Hey, I'm a cousin' or something like that. A couple of people have contacted me and we've been in contact. But I think that, you know, blood relatives are important and this is what I've tried to do in later years.⁵³

After completing her nurse training at Fremantle Hospital, Marjory Van de Berg worked at Bunbury District Hospital and returned to St. Andrew's Hospital in Midland. She had wanted to study midwifery before she married and raised six children. Marjory made contact with her Aboriginal relations, but felt she belonged to neither culture, white or Aboriginal:

⁵² National Library of Australia, Geoffrey Parfitt, TRC 5000/213, pp.24 and 19.

⁵³ National Library of Australia, Gerard Warber, TRC 5000/101, p.17.

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I’ve felt I don’t belong to my original side very much because although they accept me to a certain extent, I can’t even speak the language. So in that way I feel more, you know, white. But then again you’re not accepted there either, you know.⁵⁴

⁵⁴ National Library of Australia, Marjory Van de Berg, TRC 5000/102, p.26.

Chapter Six

ABSORPTION OR ASSIMILATION?

Neville's decision to support Sister Kate and assign quarter-caste children to her care, first at Buckland Hill and then at Queen's Park, marked a seminal change of direction in the treatment of Aborigines. It was followed soon after by the appointment of the Moseley Royal Commission and the passage of the *Native Administration Act 1905-1936*. The Act was later interpreted by Neville as an acceptance of 'the view that ultimately the natives must be absorbed into the white population of Australia'.¹

What Neville meant by that is central to this thesis. Did he mean, as some have contended, biological absorption, or did he mean that Aborigines could be acculturated and educated to take their place as equals in the mainstream society, racially distinctive, but integrated members of the community? Assimilation interpreted as biological absorption meant that the characteristic Aboriginal physiognomy would, over generations of cross-cultural breeding, diminish and ultimately disappear. That might be achieved only by controlling the marriage and procreation of 'coloured' Australians. If marriage, and its usual concomitant procreation, of coloureds and full bloods and races other than Caucasian could be discouraged, or perhaps prohibited, and marriage and procreation between coloureds and Caucasians encouraged, the Aboriginal physiognomy might eventually breed out. Unintended miscegenation could be minimised only by rigidly enforced prohibition of extramarital sexual intercourse between Aborigines and whites or other races. Such courses of action were improbable in the Australian political ethos.

This chapter will examine the proposition that 'ultimately the natives must be absorbed into the white population of Australia' in the context of Neville's co-operation with Sister Kate and Ruth Lefroy at the Queen's Park Children's Cottage Home, his home for quarter-caste children; his participation in and the outcomes of the Conference of Commonwealth and State Aboriginal Authorities in 1937; and his attempts to establish a suitable form of marriage for Aborigines.

¹ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, 21 to 23 April 1937, p.10.

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In notes he prepared for his submission to the Moseley Royal Commission, Neville singled out the challenge confronting his department for the care and protection of quarter-caste children:

There are growing up in native camps and on stations a considerable class of people too white to be regarded as aborigines and who ought, in my opinion, to have the benefit of white education and training and complete separation from the natives after reaching mature years. That is to say, the Native Department should take such children from camps and other surroundings, house them in separate institutions for their kind, and finally place them out to employment as white children. We have begun this system already and the experiment will be watched with some interest. If we do not do this, we shall be breeding a race of white natives.²

When Neville appeared before the Commission he did not refer to placing the children ‘out in employment as white children’. Rather than describing the ‘special institutions’ for children ‘too white to be regarded as Aborigines’ as ‘the experiment’ to be ‘watched with some interest’, he spoke of ‘one small institution of this nature, and it is going along very nicely’.³

Neville did not expand upon the nature of his experiment, nor did he identify the ‘one small institution’. His proposition at the Royal Commission was that quarter-castes should not be treated as natives. After they turned 21 and were no longer state wards they should be compelled to dissociate themselves from their origins; ‘once declared not a native, such a person should be penalised for associating with natives’.⁴ The assumption appeared to be that quarter-caste children, ‘too white to be regarded as Aborigines’, separated from their Aboriginal roots and trained and educated after the same fashion as white children, could take their place as equals in mainstream society; that is, to be socially and economically assimilated as whites, but not culturally integrated as blacks. Any vestiges of Aboriginality or affinity with their Aboriginal heritage were to be eradicated.

By 1930, Neville had come to believe it was possible that over generations of cross-breeding of people of Aboriginal descent with people of Caucasian descent, European and Aboriginal features—skin colour, colour and texture of hair, and facial and cranial proportions—would be so fused that those with remote Aboriginal heritage would be indistinguishable from the white. Furthermore, he believed that the probability of atavism was small, but he was unwilling to say it was not possible.

Departmental policy in cases where half-caste girls were granted approval to marry white

² State Records Office, Native Affairs, Acc 993, Item 333/1933, folio not numbered, ‘Notes for Royal Commission’.

³ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 12 March 1934, p.4.

⁴ *ibid*, 12 March 1934, p.5.

men required that the couple be counselled about the possibility of throwbacks to Aboriginal racial features in their children. Neville questioned Dr Bryan about atavism when the latter gave evidence to the Moseley Royal Commission. Bryan's answers were non-committal, but did not dismiss the possibility. He recounted a cautionary anecdote about of a half-caste man who sought to marry a white girl and was first refused and told 'he should consider the girl first'. The couple eventually did marry. Bryan intimated he believed atavism was possible: 'She was a beautiful girl, and I hope she was told of the risk she was running'.⁵

The exchange between Neville and Bryan reflected notions of race common at the time, most of them based upon anecdotal information about race crossing elsewhere, or speculation that tended to reaffirm preconceived opinion. There was, in fact, very little empirical evidence that extended beyond Mendelian theory and the experience of selective hybridisation of plants and animals. Nothing in Bryan's evidence offered Neville any assurance that atavism was unlikely to occur after successive crossings of Aborigines and Europeans.

Aboriginal Couple, Moore River, c.1930s. J.S. Battye Library, A.O. Neville Pictorial Collection, 72249P.



⁵ Moseley Royal Commission, Transcript of Evidence, Dr C.P. Bryan, 23 March 1934, p.377.

Neville remained uncertain. He had arrived at his own opinions largely from personal observations across Western Australia, not from rigorous anthropological research. It is likely he was influenced by A.P. Elkin, with whom he established a congenial professional relationship when Elkin undertook anthropological research in the Fitzroy River district. Elkin became a proponent of a theory that he called 'intelligent assimilation'. He argued that if the white population achieved an informed appreciation of Aboriginal culture and their circumstances, they might be able to assist Aborigines to 'shed their parasitic position' and become independent members of the community with reciprocal rights and responsibilities, 'both native and white'.⁶ The alternatives for the Aborigines in Elkin's model of 'intelligent assimilation' were disillusion, antipathy and welfare pauperism; 'guarded assimilation' in which the prejudice of the white community harboured resentment toward them; or for small remnants to linger in a nether world, working for the white man and unable to return to the old way because they had lost their Dreaming. Elkin predicted that, because 'life's weaving has been lost' to these cultural remnants, their ultimate destiny was extinction.⁷

Elkin was silent on the matter of half-castes and the possibility of atavism after successive generations of crossbreeding. He saw the young and virile Aboriginal population living with non-Aborigines in towns, stations, mines and missions as eager for education and change. They were engaged in cultural diffusion, but Elkin did not consider the possibility of their total absorption by the white community. Tindale, on the other hand, who observed the process of cultural diffusion in the half-caste population, anticipated an eventual blending of half-castes and whites. His propositions about racial blending and atavism were based upon extensive ethnographic research involving 1,200 people of mixed blood across five Australian states, including Western Australia. Tindale was sceptical about the notion that 'the black blood breeds out in three generations', mainly because there was insufficient information about the degree of white and other racial admixture amongst individuals in the half-caste population, but was convinced there was little likelihood of 'throw-backs' or reversion towards the ancestral Aboriginal type after many generations of continued breeding with whites: 'there are not likely to be any markedly aberrant characteristics introduced by the low percentage of aboriginal blood that is being added to the predominantly North European ethnic strain of white Australians'.⁸

Joseph Birdsell, Tindale's colleague in the Harvard-Adelaide Universities Anthropological Expedition, was sufficiently confident about his tentative field conclusions to suggest that, 'there

⁶ A.P. Elkin, 'Reaction and Interaction: a Food Gathering People and European settlement in Australia', *American Anthropologist*, vol.53, 1951, pp.164-186, p.174. See also, A.P. Elkin, 'Anthropology and the Future of the Australian Aborigines', *Oceania*, vol.5(1), September 1934, pp.1-18.

⁷ *ibid*, p.171.

⁸ Norman B. Tindale, *Survey of the Half-Caste Problem in South Australia*, The University of Adelaide Collected papers No. 422, reprinted from the Proceedings of the Royal Geographical Society, South Australian Branch, Session 1940-41, p.91.

was no reason biologically why the absorption of the hybrid Australian into the white population should not occur'.⁹ That was met with some incredulity by members of the Adelaide community: 'All he has told us we had learned from our pioneers 90 years ago or more';¹⁰ 'Our forefathers told us all he has to say about our natives in the early 'eighties';¹¹ and 'What he has told us we learned at school 40 years ago'.¹²

Ten years previously, Neville had offered a similar prognosis, but, like Tindale, was guarded about previous racial crossing in the half-caste population. An article published in the *West Australian* of 18 April 1930 under the *nom-de-plume* A.O.N., was cautious. The author is generally acknowledged to be Auber Octavius Neville. In the article, he proposed that if a child of a half-caste man and a full blood woman were compared with a true half-caste child born of a full blood woman and a white man, differences in their skin colour would not reveal who were their respective parents. The inference was that after the first white crossing the Aboriginal colour receded and half-caste colour endured, even after reverse crossing with a full blood. Neville was guarded about atavism, however. It was 'not evident' in European-Aboriginal crossing, but if Negro or Asian strains were introduced, dark skin colour persisted:

Eliminate the full blood and permit the white admixture and eventually the race will become white, always providing the negro, Malay and other coloured races are rigidly excluded. The slightest trace of negro blood is readily observable and it would require the inclusion of but a comparative few to keep the race dark forever.¹³

The case presented was not to promote miscegenation as a way of resolving the half-caste problem, but rather to illustrate the consequences of miscegenation, the diversity of racial mixtures that comprised Western Australia's coloured population—'It is not unusual to find a family of brothers and sisters varying in pigmentation from dark chocolate to blond',—and the challenge to improve their life chances: 'Hundreds of children are today approaching adulthood. What is to become of them?' The question was posed not merely as one for government authorities, but rather one which might touch the lives of many, suggesting that readers may become intimately involved in something previously 'disregarded as of no consequence to you or your people'. The quadroon and octoroon, Neville argued, were scarcely indistinguishable from the white, 'beautiful, gentle mannered, soft voiced girls, speaking perfectly enunciated if

⁹ 'Views of American Anthropologist Back From Long Trip, 'Do not Isolate Them – Help Them'', *Mail*, 8 July 1939.

¹⁰ Shonnia Cruachan, 'Australian Aborigines', *Advertiser*, 11 July 1939.

¹¹ Patrick Murphy, 'Australian Aborigines', *Advertiser*, 11 July 1939.

¹² James Sullivan, 'Australian Aborigines', *Advertiser*, 12 July 1939.

¹³ A.O.N., 'Coloured Folk, Some Pitiful Cases', *West Australian*, 18 April 1930, p.9.

somewhat abbreviated English'. He asked, 'Is there to be a colour bar'?¹⁴

The rhetorical question was answered the following day. Neville described half-castes whose children were denied education, for whom medical treatment was often sought and provided too late, whose babies were born under 'awful conditions', and whose dwellings 'usually made of cornsacks or bagging sewn together and stretched over a framework of timber' were unhygienic, as 'human flotsam born upon the waters of ignorance, superstition and ignorance'. They were sick, but need not be. With appropriate legal powers to deal with issues according to need and 'the wherewithal to do the job properly', Neville argued, 'these people can be regenerated and drawn away from the hopeless attitude which conditions of life have forced upon them'.¹⁵

These articles authored by Neville, the most senior public officer with direct responsibility for the well being of Aborigines, and published four months after parliament had rejected amendment of the *Aborigines Act*, were a robust indictment of political indifference. They also indicated that Neville's understanding at that time was that quarter-castes were excluded from the provisions of the Act and therefore beyond his authority. He observed that the law offered no direction about the status of the offspring of half-castes and their descendants of the same blood:

The law likewise forgets to say how we should place the offspring of an aboriginal male and a half-caste female and vice versa; also the three-quarter aboriginal and the white, the white male and the half-caste female, and so on.¹⁶

Neville reaffirmed that awareness in evidence before Commissioner Moseley. He complained he was unable to take action in individual cases involving half-castes or quarter-castes because, 'owing to the admixture of blood' the law as it then stood did not cover them. Occasionally, however, he felt compelled to act outside the law 'for the good of the individuals, whether they liked it or not. Legally the position is that we ought not to act'.¹⁷ Earlier opinions of successive solicitors-general discussed above had held consistently that quarter-caste children were not Aborigines. After the 1936 Amendment Act was proclaimed, such children were wards of the Commissioner until they reached the age of twenty-one. In 1937 the Crown Solicitor offered the opinion that section 8 gave the Commissioner full powers over the children of a half-caste woman who was legally married to a quadroon, 'such children being natives in accordance with the definition of section 2 of the said Act'.¹⁸

¹⁴ *ibid.*

¹⁵ A.O.N., 'Our Coloured Folk, Remarkable Fecundity', *West Australian*, 19 April 1930. p.12.

¹⁶ *West Australian*, 18 April 1930, p.9.

¹⁷ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 12 March 1934, p.67.

¹⁸ State Records Office, North-West, Acc 993, Item 461/1928, folio 9, memo CNA, 11 February 1937.

The 1936 Amendment Act empowered Neville to manage the lives of quarter-caste children, but offered no direction as to what was to become of them. As Commissioner, Neville was their legal guardian; he was responsible for their education and training and their general well being; he could remove them from their mothers and detain them in native institutions in any part of the state; he could isolate them from Aborigines, whites, or persons of any other race; he could determine whether they might be employed and who might employ them; and, at the appropriate time he could approve whom they might marry. Few fathers exercised similar incontestable control over the lives of their children. The power to do those things at law belonged to the Commissioner, but his capacity to do any of them was limited by what was logistically possible and what was morally defensible. Neville had little control over the first; the allocation of public resources was a political decision. The second was a choice among competing options, and they were influenced by whether quarter-castes were considered as one-quarter Aboriginal or three-quarters white. Different values attached to that choice, the white being afforded more favourable treatment than the black. In 1936, public authorities, not individuals, made that choice and in the case of quarter-castes, white was given precedence. The determining factor was habitual manner of living. A quarter-caste living in an Aboriginal camp with other Aborigines was Aboriginal to be treated at law as an Aboriginal. A quarter-caste peer living in a house in the conventional manner of the white community was not Aboriginal and was to be treated at law as though white.

Neville's policy at Carrolup and Moore River was for segregation of half-caste children from the white community and partial separation from the black. Parents could and did accompany their children to the settlements, but lived apart from them, the children in compounds and their parents and extended families in camps a distance removed, in the case of Moore River 500 metres distant. Children moved between compound and camp and maintained links with Aboriginal tradition, even though in a severely impoverished form, and developed a unique blend of the traditional and the regulated culture of the compound.

Neville expected that the children eventually would return to and be absorbed by the white community, not as whites and not in economic competition with whites, but as half-caste Aborigines with useful roles in the social economy. Education was the key, 'an absolute necessity if those children are to hold their own in life at all'. Neville, however, held low expectations for half-castes; 'if we can bring these youngsters up to the third or fourth standard, we are satisfied'.¹⁹ The educational goal was functional literacy and the employment expectation unskilled labour.

His expectations for quarter castes were different. Initially he was undecided about what to expect and how treat them other than that 'the quarter-castes should not be treated as natives

¹⁹ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 12 March 1934, p.15

at all'.²⁰ That did not mean necessarily that quarter-caste children should be treated as whites. The amendment to the *Aborigines Act* that extended the interpretation of 'Aborigine', or as it turned out 'Native', in order to make quarter-caste children state wards until they reached the age of 21 was Neville's recommendation. He desired that they be natives for the purposes of the Act, but not that they be treated as natives. Before Sister Kate's tentative approach to him in December 1932, Neville gave no indication of how they should be treated other than 'differently'. Authorities in other Australian jurisdictions also were uncertain about how to treat them, but agreed that the ultimate destiny of quarter-castes was to be absorbed by the white community.

In the Northern Territory a review of policy on behalf of the Commonwealth Government by the Chief Protector of Aborigines in Queensland, J.W. Bleakley, evaluated the possibilities for Aborigines and half-castes. Bleakley's preferred treatment of quarter-caste children under 10 or 12 years was 'where such can be done without inflicting cruelty on the half-caste mother', to remove and place them in 'an European institution, where they can be given a reasonable chance of absorption into the white community where they belong'.²¹ He identified 64 such children living in the Half-Caste Bungalow, Alice Springs, and suggested that in the first instance about half of them should be removed to Adelaide and admitted to suitable orphanages run by the Salvation Army or similar denominational agencies. Because they were fair-skinned and predominantly Caucasian in appearance, the Aboriginal identity of quarter-castes should be eschewed by raising them from early age in absolute segregation from their Aboriginal roots. Their self-percept was to be white.

Bleakley's recommendations for half-caste children mirrored policies that applied in Western Australia after the opening of the Carrolup River Native Settlement. He proposed that illegitimate half-caste children living in camps attached to pastoral stations, the majority of whom 'are not even acknowledged by their fathers', should be 'rescued from the camps' and placed in institutions for their education and training. He did not advocate that, like quarter-castes, their segregation should be absolute, but rather that the half-caste should be given the opportunity of education and training 'in company with the young aboriginals of his own generation'.²² Bleakley's preference was that the transition of half-castes towards white society should be gradual, without the trauma of dislocation. The ultimate policy objective was to minimise the breeding of half-castes.²³

In Queensland the interpretation of 'Aboriginals' in the *Aboriginals Protection and Restriction of the Sale of Opium Act 1897* was similar to that contained in Western Australia's *Aborigines Act*

²⁰ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 12 March 1934, p.5.

²¹ *The Aborigines and Half-Castes of Central Australia and North Australia*, Report by J.W. Bleakley, Chief Protector of Aborigines, Queensland, Commonwealth Government Printer, 1928, p.17.

²² *ibid*, p.28.

²³ *ibid*, p.29.

1905, with the exception that the Queensland Act was silent on quarter-castes.²⁴ In October-November 1932, Dr Raphael Cilento, then the Chief Federal Quarantine Officer, undertook a medical survey of Aborigines in North Queensland. He categorised them in three groups. The first he described as ‘merely a hanger-on’, Aborigines living under traditional conditions, ‘rapidly declining tribal remnants’ restricted by encroaching white settlement to ‘some worthless area of ravine or creek bed’.²⁵ The second were Aborigines in settlements ‘under the care and attention’ of the Chief Protector of Aborigines. Cilento was optimistic about their future. ‘They were starting to thrive, and Cilento offered the opinion that ‘if a rational policy is pursued for a generation, the aboriginal problem can be dealt with in Queensland in a way that will redound to the credit of all Australia’. The third group, the coloured people, was problematic. They were outside the control of the Protector of Aborigines or any other public agency, and Cilento recommended that they be so. He suggested that ‘colored (*sic*) or partly colored blood living under native conditions, or under circumstances menacing to the community from the point of view of health, or in circumstances where they are likely to become a charge upon the community’ should be brought under the direct control of the Chief Protector of Aborigines and either absorbed into the community or segregated in Aboriginal settlements:

It is emphatically my opinion that the colored (*sic*) groups, both aboriginal and other, in the neighbourhood of towns, should be eliminated, either by absorption of the better elements into the general community, or by the transfer of the aboriginals to Aboriginal Settlements. Colored persons living as natives might be given the choice of transfer to Aboriginal Reserves or Settlements, passing thus voluntarily under the control of the Chief Protector, or otherwise dealt with in accordance with the laws relating to vagrancy and so forth.²⁶

It is important that in neither of these reports, the suggestions for the absorption of ‘the better elements into the general community’ in the case of Cilento, or of quadroons ‘into the white community where they rightly belong’ in Bleakley’s, was ‘absorption’ confused with ‘miscegenation’. Neither intimated that by a deliberate and continuous process of interbreeding the Aboriginal strain would be eliminated. The ‘colored’ or ‘quarter-caste’ children they respectively referred to were the products of miscegenation repeated over at least two previous generations who displayed racially fused, but distinctively Caucasian appearance, who lived with and as Aborigines, and whose extrinsic social and cultural orientation was Aboriginal. Their

²⁴ *The Aborigines Protection and Restriction of the Sale of Opium Act 1897*, (Queensland), s. 4.

²⁵ National Archives of Australia, AA: A 1928, 4/5 Section 1, *Interim Report on Aborigines – Survey 1*, by Ralph Cilento, M.D., B.S., D.T.M. & H., October-November 1932, folio 65. Also contained in, State Records Office, Aborigines, Acc 993, Item 437/1933, folios 4-13, ‘Report of a Partial Survey of Aboriginal Natives of North Queensland, October-November, 1932, R.W. Cilento, M.D., B.S., D.T. M. & H., p.1.

²⁶ *ibid*, folio 64, and State Records Office, Aborigines, Acc 993, Item 437/1933, folios 4-13, p.2.

orientation could be reversed, not by further miscegenation, but rather by acculturation. For Bleakley that meant the children should be 'removed from aboriginal associations at the earliest possible age and given all the advantages of education and vocational training possible to white children'.²⁷ Cilento's prescription was much more abstruse in its explanation. It involved isolating natives on reservations where they might participate in programs for their 'social and material betterment'; in short, educating them so that they might be economically competent and have their self-respect and free and independent outlook restored, so 'that moiety of the natives able to measure up to the accepted economic standards of the day would reach their adequate stature of development, with subsequent return to life among the white community'.²⁸

The assumption in both proposals was that public officers would make unilateral decisions about the futures of the children. Only Cilento conceded some right of coloureds to a Hobson's choice of voluntarily surrendering themselves to the authority of the Chief Protector of Aborigines or hazarding vagrancy laws. Bleakley and Cilento founded their proposals on the widespread assumption that Aborigines were an inferior race and that governments had a moral responsibility to raise half-castes up to white standards. The keys to their elevation and ultimate assimilation in the white community were segregation from the black and education.

Neville's 'experiment' at the home for quarter-caste children incorporated the essence of the Northern Territory and Queensland proposals, that is, segregating quarter-castes from other Aborigines and half-castes and educating them with a view to their ultimate absorption into the white community. They were already three-quarters white, 'too white to be regarded as Aborigines at all', and if they were raised with a European rather than an Aboriginal consciousness, they might be accepted into the white community.

Neville's immediate problem when Sister Kate approached him was the fair-skinned infants living with their half-caste mothers at Moore River, but who did not belong there. They were three-quarters white children who, by law as well as in Neville's moral precept, should neither be regarded nor treated as Aborigines. Some of their mothers were half-caste women who had been sent out to domestic service from Moore River and returned, in Neville's preferred term, *enceinte*, and others were the children of half-caste girls removed from pastoral stations to Moore River. All the children had white fathers. Neville's problem was what to do with them. Sister Kate's request that she might be allowed to re-open Carrolup or work among half-castes and natives in some other way offered a possible solution.

²⁷ *The Aborigines and Half-Castes of Central Australia and North Australia*, 1928, p.29.

²⁸ *Interim Report on Aborigines – Survey 1, October-November, 1932*, p.4.

Queen's Park Children's Cottage Home

Early in July 1933, Neville visited the Moore River Native Settlement and selected twenty children aged between 22 months and 12 years, including two pairs of sisters, who might be transferred to Buckland Hill. Eight children from that list were selected by the Superintendent of Moore River, A.J. Neal, and delivered to the care of Sister Kate on 26 August 1933. Two more were sent on 10 October. These were the children whom Neville described as being 'so very white' and who 'should have the benefit of the doubt, so to speak'. Their putative fathers were white; twelve were named, one being nominated as German and another as French Malay. The identities of the remaining six fathers were either not known or not divulged. Only one child was an orphan; the rest had at least one living parent. Their half-caste mothers, with the exception of two who were deceased, lived at the settlement. The children were classed as quarter-castes. All were of fair complexion.

When Neville visited the home at Buckland Hill on 24 November, he was satisfied with what he saw. The food was 'simple but suitable, and beautifully cooked'; the children were 'being well looked after physically' and they had regular tuition; 'there is a room specially fitted up as a kindergarten....One child goes to the State school'. Neville observed that all the children were well and happy, but most importantly, it might appear, even though they were sunburnt from playing on the beach, 'on inspection their skins were quite fair'.²⁹

The following month in a speech to open a fete in aid of the Children's Cottage Home, Neville referred to the unique character of the undertaking:

The inmates were entitled to different treatment from the natives in that they were quadroons, that is to say, three-quarters white, only their maternal grandmothers being black. Their fathers were white and their father's father and forbears of the same race as our own. It was not fitting that such children should be reared besides the natives or even the half-castes who so often slip back to the native ways.³⁰

Neville's only direct involvement in establishing the home, other than to approve the children to be sent there and to monitor their general well being was, at Sister Kate's request, to try to find a suitable property to accommodate more children. Several sites were nominated by the Department of Lands and Surveys and inspected by Neville, but none was satisfactory. The most promising was a school house at Victoria Park, but before she was scheduled to inspect it at the end of March 1934, Sister Kate wrote to Neville, 'we are seriously thinking of building a cottage

²⁹ State Records Office, Native Affairs, Acc 993, Item 279/1933, folio 42, Memo, A.O.N, 25 November 1934.

³⁰ *ibid*, folio 44, 'Opening up fete in Aid of Children's Cottage Home, Buckland Hill', 2 December 1933. See also 'Children in Native Camps, New Home at Buckland Hill', *West Australian*, 4 December 1933, p.12.

on a piece of land belonging to Miss Lefroy at Queen's Park'.³¹ Eight weeks later on Monday 28 May she wrote:

I was coming to your office to explain that I am going to Queen's Park with the School children leaving Miss Lefroy here with the kindergarten children & teachers & 2 elder girls....

We have put up part of the Cottage. The Block is next the State School block at Queen's Park so they will be quite close to school. We are leaving here Thursday & trust you will approve of our plan.³²

The tone of the letter was characteristic of Sister Kate's relationship with Neville. She advised him of her intention, hoped he would approve, and then acted as she intended. She brooked no opposition. Even if Neville disapproved, he was confronted with a *fait accompli*; Sister Kate and her charges were ensconced in the Queen's Park cottage before he had time to react.

At Sister Kate's request, another eight were assigned to her care on 10 October 1934.³³ The children of school age were lodged at Queen's Park and the younger ones with Ruth Lefroy at Buckland Hill. All had arrived from Moore River suffering from afflictions associated with poor hygiene and neglect – trachoma, chronic ear infections, tonsillitis, ringworms, scabies and head lice. They were treated at Princess Margaret Hospital for Children, some hospitalised for up to six weeks. Ruth Lefroy drew Neville's attention to their condition and observed; 'I may be prejudiced against Mogumber but I only draw conclusions from the children who come from there with ear trouble, eye trouble, throat trouble all from neglect'.³⁴ She requested that when children were selected they remain for a period at the settlement hospital to be cleaned of scabies. That became routine.

The Queen's Park Children's Cottage Home was a private incorporated body governed by a board of trustees. Sister Kate and Ruth Lefroy managed its operation and drove its growth. Friends and benefactors generously supported them. Capital for buildings and improvements was generated from donations or charitable grants, not from government. Government's only financial commitments were minimal subsidies to maintain the children and, through the Lotteries Commission, contributions to building funds. Neville's roles in the management of the home, other than those attaching to his legal obligations to the children whom he deemed his wards, were only to give advice when asked and to respond to Sister Kate's repeated requests for more children. For Neville the home was 'an experiment' he watched 'with much interest'.

³¹ *ibid*, folio 67, Sister Kate to Mr. Neville, 29 March 1934.

³² *ibid*, folio 79, Sister Kate to Mr. Neville, 28 May 1934.

³³ *ibid*, folio 93, Sister Kate to Bray, 12 September 1934.

³⁴ *ibid*, folio not numbered, Ruth Lefroy to CPA, 15 May 1935 (Original on Aborigines File 159/35). Underlined in the original.

Neville's only attempt at control was over the state wards accommodated at the Cottage Home: 'will you please bear in mind that the Chief Protector is the guardian of all such children, and let me know if at any time anybody places or desires to place children of this type with you'.³⁵ He was only partially successful. In August and October 1934 Sister Kate took in three half-caste children without consulting him. Neville's protest brought a sharp response from Ruth Lefroy:

Sister Kate took the (name withheld) children in, because Mrs (name withheld) who had the Mother & three of the children living with her for some weeks, said she could not afford to keep the two oldest children & it was impossible for the Mother to earn anything, and look after the children too.³⁶

The children remained at Sister Kate's. Neville was determined that would not happen again and was more successful in refusing a request to Sister Kate from Rev. Boxall, Protector of Aborigines Narrogin, to receive two quarter-caste girls aged 15 and 10. Sister Kate sought Neville's advice. He, in turn, informed Boxall that the accommodation at Queen's Park was fully taxed and 'it is not likely that [Sister Kate] will be able to accept these or any other similar children for some time'.³⁷ All further applications for a place at the home were referred for Neville's consideration. None were approved, but the real constraint upon Sister Kate was financial rather than legal. Neville had no authority to deny children a place. It was a private institution subsidised, but not controlled by his department. As far as Neville was concerned, however, the children given to Sister Kate's care were his charges. He advised Sister Kate that any future arrangement in regard to their employment and so on, 'must be carried out with the complete concurrence of this department'.³⁸ Sister Kate accepted that.³⁹

The law as it stood in September 1933, and as Neville understood it, did not support his claim that he was the guardian of the children in Sister Kate's care. The Amendment Act that changed the status of quarter-castes came three years later. Before then, quarter-castes were exempt from the *Aborigines Act 1905*. Regardless of the law, Neville removed 37 quarter-caste children from their mothers at Moore River and gave them over to Sister Kate's care. A further eight were removed in the intervening period between the passage and the proclamation of the Amending Act. Neville's actions were never challenged. Certainly he sought ministerial approval, but even that approval would indicate some indifference to what might be unlawful in the treatment of Aborigines.

Neville intimated that mothers at Moore River were consulted before their children were

³⁵ *ibid*, folio 83, CPA to Sister Kate, 3 July 1934.

³⁶ *ibid*, folios 106-108, P.R. Lefroy to Mr. Neville, 19 October 1934.

³⁷ *ibid*, folio 125, CPA to Rev. F.J. Boxall, 12 December 1934.

³⁸ State Records Office, Native Affairs, Acc 993, Item 279/1933, folio 24, letter, CPA to Sister Kate, 4 September 1933.

³⁹ *ibid*, folio 25, letter, Sister Kate to Mr. Neville, 6 September 1933.

removed to Queen's Park. In his annual report for 1936 he referred to the comfort of young mothers who felt 'that their children were out of place in a native settlement', but previously had no other place to send them. Those mothers initially were reluctant to surrender their children to the care of Sister Kate, but 'being allowed to visit the Home and witness the conditions themselves', they were less apprehensive.⁴⁰ Even so, the legality of Neville's initiative in sending the children to Queen's Park without direction by a Children's Court, as required under the *State Children Act*, was doubtful.

Tension arose between Neville and Sister Kate, or perhaps more correctly between Neville and Ruth Lefroy, over the status of the children. To Neville, they were quarter-caste children, but not white; to Sister Kate and Ruth Lefroy they were white. Ruth Lefroy met with Neville's Deputy, Frank Bray, in August 1934 and requested that when children were placed with Sister Kate they should simply be referred to by name in all correspondence. Bray noted as follows: 'Miss Lefroy does not like the use of the words 'quarter-caste or half-caste''.⁴¹ The matter caused disquiet when in December 1937 the Children's Cottage Home, Queen's Park was gazetted a native institution.⁴² The executive of the Home objected strongly; 'we desire to have the quarter-caste children treated like white girls and boys under similar circumstances'.⁴³

One part of the argument related to subsidies paid to Aboriginal and other institutions, another to differences in perception of the racial status of the children. When Sister Kate agreed to take quarter-caste children from Moore River, Neville was careful to explain the financial terms of the arrangement. Where maintenance was not paid by the father of the child, the department would pay £5 a year for each child; where maintenance was paid and both mother and child were under departmental care, Sister Kate would receive half the maintenance paid; and where only the child was in care, all maintenance received would be passed on to Sister Kate. Those terms were accepted; 'I quite understand the position in regard to our children that they are charges of the Aborigines Department; & that their future is in the hands of the Department'.⁴⁴

Within two years when she was caring for 25 children, 19 of whom were subsidised through the Aborigines Department, Sister Kate was agitating for native institutions being paid the same subsidy as institutions for white children. Neville conceded the point and recommended that the subsidy be increased from 2/9 a week for each child to 7/-: 'Sister Kate's children are

⁴⁰ Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ended 30 June 1936*, p.16.

⁴¹ State Records Office, Native Affairs, Acc 993, Item 279/33, folio 92, memo, GGB Deputy CPA, 22 August 1934.

⁴² Government Gazette, No 60, 24 December 1937.

⁴³ State Records Office, Native Affairs, Acc 993, Item 305/1938, folio 55, Sister Kate to unknown correspondent, 31 October 1938. The executive members were Sister Kate, Ruth Lefroy, Julia Lloyd and Claire Thomas.

⁴⁴ State Records Office, Native Affairs, Acc 993, Item 279/33, folio 24, Sister Kate to Mr. Neville, 6 September 1933.

brought up like any other children would be in a white institution, and there is every reason why the amount of the subsidy should be increased and brought into keeping with that paid to institutions receiving assistance from the Child Welfare Department'.⁴⁵

Because a subsidy of 7/- per week would have strained the resources of his department in that financial year, Neville suggested a staged introduction with an initial payment of 5/- weekly for each child rising to 7/- at a later date. The Minister approved, but Sister Kate was dissatisfied and continued a public campaign for parity of her charges with children in institutions subsidised by the Child Welfare Department. She insisted that her children were quarter-castes and therefore white. Sister Kate may have had a case, but she did not argue niceties of the law. It was not until after 1937 that the children Neville placed in her care were classed as natives at law.

The Children's Cottage Home was an incorporated association, but also was declared a native institution within the meaning of the *Native Administration Act 1905-1936*. Had it not been, Neville could not have directed departmental funds to subsidise Sister Kate's program, nor could he have placed quarter-caste children in her care. The 1936 Amendment Act had added 'district, institution, or hospital' to 'reserves' as places to which Aborigines could be moved and detained.⁴⁶ The purpose was to ensure the legality of removing Aborigines to missions, lock hospitals and institutions such as the Children's Cottage Home and the Native Girls' Home, East Perth.

Sister Kate's correspondence expressed indignation; 'After reading the regulations, which we should have done in 1936, we do object very much to being classed as a Native Institution'.⁴⁷ Neville responded in conciliatory voice. He offered that the Children's Cottage Home be declared an institution under the *Child Welfare Act* rather than the *Aborigines Act*:

My only interest is to see that the children I sent you are brought up as white children should be, so that when they attain mature years they may become citizens of the State in the same way as any other British residents would.⁴⁸

Sister Kate replied twice. In her first letter it appeared as though her mind was made up; 'Looking to the future of the Quarter caste Child (*sic*) we agree it might be for their good if they were classified 'white' under the Child Welfare Act'.⁴⁹ Under separate cover on the same day, a second letter addressed to Neville included her telephone number:

⁴⁵ State Records Office, Native Affairs, Acc 993, Item 240/1934, folio 45, CPA to Honorary Minister Kitson, 18 August 1936.

⁴⁶ *Aborigines Act Amendment Act 1936*: section 12 was amended by inserting after the word 'reserve' the words 'district, institution, or hospital'.

⁴⁷ State Records Office, Native Affairs, Acc 993, Item 305/1938, folio 56, Sister Kate to Mr. Neville, 6 November 1938.

⁴⁸ *ibid*, folio 56, CNA to Sister Kate, (undated), original on Aborigines 163/1935.

⁴⁹ *ibid*, folio 57, Sister Kate to Mr. Neville, re Child Welfare, 28 November 1938.

I have written what our Friend Miss Lefroy & Myself think is for the betterment of Quadroon Children. I think you know my personal feelings towards you & the Department of Native Affairs if it was a personal affair. I am well content as we are.⁵⁰

Neville believed it would not be in the best interests of the home to relinquish control and resolved to visit Sister Kate 'and discuss matters in order that she may be made aware of the Department's point of view'.⁵¹ Whatever the protagonists might have discussed privately, the matter seems to have been resolved in favour of the Department of Native Affairs. The Children's Cottage Home continued to be a native institution, continued to receive quarter-caste children, and continued to enjoy subsidy, however inadequate, through the Department of Native Affairs. Sister Kate and Ruth Lefroy might have wanted more, but compared with other native institutions their Home fared well. It received two-and-half times the subsidy paid to any other native institution.⁵²

Even though Neville intended that the children should have a segregated upbringing in a 'home for quarter-caste children', he was mindful of familial relationships and was not averse to mothers keeping in touch with their children. When the second group of children were sent to Buckland Hill they were accompanied from Moore River by 'two of the mothers who want to see their youngsters'.⁵³ Neville did not discourage parents from visiting their children, exchanging letters with them, or sending birthday gifts.

Neville was concerned, just the same, that they must be brought up in the manner of white children. They might maintain contact with their mothers and families, but Neville's aspiration was that their future lay in the white and not in the black community. When in November 1937 Sister Kate sought his advice as to whether children might be allowed to visit and stay with people who were their penfriends—'Some of these 'Friendship Pen Friends' are very good to us and give clothes etc for their special little friend'—Neville approved.⁵⁴ He left the matter to Sister Kate's judgement, but advised, 'as we are endeavouring to bring these children up as white children we should not unduly restrict them in this direction'.⁵⁵ His only reservation was, 'providing always that the children's own relatives are not able to contact them when they are away from your Home'. Parental contact was permitted, but only under supervision.

⁵⁰ *ibid*, folio 58, Sister Kate to Mr. Neville, re Child Welfare, 28 November 1938.

⁵¹ *ibid*, folio 64, Memo, CNA to Honorary Minister, 16 December 1938.

⁵² State Records Office, Native Affairs, Acc 993, Item 240/1934, folios 139-140, memo, CNA to Hon. Minister for the North-West, 15 June 1939.

⁵³ State Records Office, Native Affairs, Acc 993, Item 279/33, folio 95, CPA to Sister Kate or Miss Lefroy, 24 September 1934.

⁵⁴ State Records Office, Native Affairs, Acc 993, Item 305/1937, folio 8, Sister Kate to Mr. Neville, 13 November 1937.

⁵⁵ *ibid*, folio 9, CNA to Sister Kate, 16 November 1937.

Sister Kate and Ruth Lefroy preferred that the children believe they were orphans and shielded them from their Aboriginal identity. A regulation gazetted under the Native Administration Act directing that all letters to and from inmates of native institutions should pass through the superintendent or manager who had discretion to withhold them or to return them to the writer, was, along with nineteen others, disallowed by the Legislative Council on 30 November 1938, but gazetted again on 8 September 1939.⁵⁶ After Neville retired, withholding children's mail became firm policy at the Children's Cottage Home.

In April 1941, Sister Kate wrote to Neville's successor, Bray, for advice about girls writing to their relations, and asked whether there should be a rule that girls write only to their parents: 'I am afraid with the older girls & boys they will revert back to their relations but I think the younger ones have quietly forgotten them'.⁵⁷ Bray suggested all correspondence from 'bush or camp natives' should be discouraged, but some mothers, for instance those employed as domestics and 'accustomed to better ways of life' should be allowed to write to their children. He recommended that control should be exercised over all other correspondence; 'The children's interests are of paramount importance. They live as whites and their future lives will be along our own lines; therefore it seems to me that severance of ties is inevitable, especially from correspondents who live as natives'.⁵⁸

Sister Kate, Ruth Lefroy and Frank Bray shared similar views about denying children their racial identity. They believed the home, 'should be carried out as a 'white' Home & the Children go out as 'white''.⁵⁹ That was not difficult with the younger children; they simply were told they were orphans of unknown or deceased parents. The older ones were problematic. Their mothers and relations wrote to them, keeping the remembrance alive. Sister Kate saw that as a real difficulty; 'Will the girl in service like it when her brown mother or aunt comes to see her'? Bray agreed that contact with relatives was an obstacle; 'Remembrance is present in consequence; but we can co-operate and discourage it from the standpoint that it is detrimental to the welfare of the children, and the principle at stake; that is, that the children must go out as whites'.⁶⁰

Neville offered a possible alternative in his final report as Commissioner for Native Affairs. He did not address the problem of quarter-caste children, but referred to an 'absurd consequence' of Section 71 of the Native Administration Act by which the minister could issue a certificate of exemption from the Act. Crown Law had ruled in the case of an exempt native who

⁵⁶ Government Gazette: *Native Administration Regulations*, 1 November 1938, pp.1845-1860, Regulation 39. See also Parliamentary Debates: Legislative Council, 22 to 30 November 1938, pp.2241-2517.

⁵⁷ State Records Office, Native Affairs, Acc 993, Item 305/1938, folios 106-107, Sister Kate to Mr. Bray, 30 April 1941.

⁵⁸ *ibid*, folio 108, CNA to Sister Kate, 6 May 1941.

⁵⁹ *ibid*, folios 121-122, Sister Kate to Mr. Bray, 29 August 1941.

⁶⁰ *ibid*, folio 123, CNA to Sister Kate, 3 September 1941.

had been charged with an offence under section 46, cohabiting with a native, that exemption did not destroy native identity. In other words, the person was not a native for the purposes of the Act, but was a native in fact and therefore could not be charged with an offence under the Native Administration Act of cohabiting with a native who was not his wife. Neville objected that the interpretation devalued exemption. It was his opinion that exempt Aborigines were entitled to 'the rights enjoyed by any other person in the community who is not a native', and that in this case the man should be 'subject to the provisions of the Native Administration Act as though he were not a native'.⁶¹

When translated to quarter-castes whose exemption from the Act was conferred not by Ministerial decision, but by effluxion of time, it might mean at age 21 they were equal to non-Aborigines at law, but they remained quarter-caste Aborigines even though they may have been raised and educated in the manner of whites. If it was their wont they might choose to deny their Aboriginality and identify as whites; to identify as Aborigines outside the provisions of the Act and entitled to legal privileges available to non-Aboriginal members of the community; or, with the Minister's approval, voluntarily be classed Aborigines for the purposes of the Native Administration Act. The law allowed all options. In that sense, absorption would not necessarily mean assuming a white identity or eschewing an Aboriginal identity. It might mean one could maintain an Aboriginal consciousness without enduring the legal impositions of Aboriginality.

Another interpretation available was 'biological absorption'. Over extended time, and with continuous interbreeding of whites and coloured, the Aboriginal physiognomy would be extinguished. That might be possible only if choice of mate were denied or that all Aborigines preferred that their children be white. That was the proposition advanced by Dr Bryan and rejected by Royal Commissioner Moseley.⁶²

All three are valid interpretations of what was meant or intended by the policy of absorption. Each incurs different measures of government control over the lives of people. All are intrusive of individual liberty and all assume societal approbation of coercive law to manage the lives of a cultural minority. Alternative *laissez faire* policies to leave the Aborigines to their own resources were unacceptable in a community imbued with historical precepts of protection: Aborigines must be preserved. Neville's preference was that the white community absorb Aborigines of mixed descent. After 1937 it also was the endorsed policy of other State and Commonwealth authorities. It is contestable, however, whether Neville and his colleagues intended 'biological absorption' when they recommended 'that all efforts be directed to that end'.

⁶¹ Department of Native Affairs, *Annual Report of the Commissioner for Native Affairs for the Year Ended 30 June 1938*, p.5.

⁶² Moseley Royal Commission, Transcript of Evidence, Dr C.P. Bryan, 22 March 1934, p.357.

The Canberra Conference, April 1937

The initial conference of Commonwealth and State Aboriginal authorities held at Canberra in April 1937 adopted a series of resolutions, two of which are pertinent to this thesis. The first applied only to half-castes, quadroons and so on, and already was established policy in Western Australia:

That this Conference believes that the destiny of the natives of aboriginal origin, but not of the full blood, lies in their ultimate absorption by the people of the Commonwealth, and it therefore recommends that all efforts be directed to that end.⁶³

The other resolution on the supervision of full blood natives referred to three undefined categories: detribalised, semi-civilised and uncivilised natives. Children of people in the first category living near centres of white population were to be educated to white standard and subsequently placed in employment, but not in economic competition with whites. Semi-civilised natives were to be kept under benevolent supervision in small local reserves selected for tribal suitability. Unemployable natives might live there in as nearly as possible normal tribal life and natives in employment might stay there between jobs. Some ‘unobjectionable’ tribal ceremonies might be allowed. The ultimate destiny of these people was that they become detribalised. The third group, the uncivilised natives, were to be preserved as far as possible in their normal tribal state on ‘inviolable reserves’. Decision about whether missions should be allowed on the reserves was to be left to each State or Territory.

At the time of the Conference the total area of Aboriginal reserves in Western Australia was 24,722,317 acres (approximately 38,629 square miles).⁶⁴ The Central Desert Reserve bordering the Northern Territory and South Australia comprised 14,000,000 acres (21,875 square miles), and those in the Kimberley comprised much of the remaining area of reserves.⁶⁵ Elsewhere in the state reserves were relatively small and did not afford capacity for independent living according to Aboriginal tradition. None had statutory protection as a Class A reserve.⁶⁶ They were inviolable in the sense that entry by other than the Indigenous inhabitants was by permit only, but their reserve status could be removed by administrative fiat, as indeed it was

⁶³ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, p.3.

⁶⁴ Aborigines Department, *Annual Report of the Commissioner for Native Affairs for the Year Ended 30 June 1937*, p.5.

⁶⁵ The Central Desert reserve was contiguous with similarly large reserves in the Northern Territory and South Australia. The cooperative agreement among the two states and the Commonwealth in 1932 to reserve this large portion of central Australia for Aborigines was motivated by a belief that large numbers of Indigenous people survived there in their tribal condition.

⁶⁶ *The Land Act 1933*, s. 31(1): ‘the Governor may by notice of reservation published in the *Gazette* ... classify such lands as of Class A; and if so classified, such lands shall for ever remain dedicated to the purpose declared in such notice, until by an Act of Parliament in which such lands are specified it is otherwise enacted’.

from time to time.

Neville's position on the motion did not accord high priority to preserving Aborigines living in their traditional nomadic state. He appeared to differ from his colleagues with a prognosis that the extinction of Aborigines in their native state was inevitable and unavoidable; 'They are not, for the most part, getting enough food, and they are, in fact, being decimated by their own tribal practices. In my opinion, no matter what we do, they will die out'.⁶⁷ At Moola Bulla and Munja the number of full blooded children was increasing, 'because of the care the people get', but elsewhere the numbers of children were insufficient to sustain the race.

Neville's apparent difference from the other Conference delegates may have been of semantics, or perhaps it reflected differences in the respective political acuity of the delegates, differences of guile rather than differences of informed opinion. Those favouring the continuance of Aborigines living in their traditional manner spoke of protection, but intended preservation. For Harkness, a member of the Aborigines' Protection Board in New South Wales where the number of full blood Aborigines was critically low, full bloods were little more than a racial curiosity; 'There is an historical appeal in preserving a vanishing race, but I think we should seek to assimilate these people'.⁶⁸ Professor Cleland, himself a scientist of international standing, expressed concern that the Conference should create any suggestion that there was to be a deliberate attempt to 'hurry up' the detribalisation of full bloods: 'I am sure that very vigorous objections would be taken by scientists by any attempt to hasten the detribalisation of full blood aborigines, for they are unique and one of the wonders of the world'.⁶⁹

Cook appeared confused about the situation in the Northern Territory. At first he proposed that if a policy of *laissez faire* were to be followed, the 'wild, uncivilised blacks' would be 'extinct within fifty years....If we leave them alone they will die, and we shall have no problem, apart from dealing with those pangs of conscience which must attend the passing of a neglected race'.⁷⁰ After questioning from Professor Cleland, Cook offered the contrary view that full bloods living in their natural state in Arnhem Land and the Musgrave Ranges, 'due to the habits and mode of living of the Aborigines', would remain 'much the same as they have been for four or five centuries'. If they were brought into reservations where it might be attempted 'to eradicate their bad habits and give them white outlooks', Cook warned, 'we shall be raising another colour problem'.⁷¹

Even the most influential of the Conference delegates, Bleakley, spoke of an obligation

⁶⁷ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, p.16.

⁶⁸ *ibid*, p.14, Harkness speaking of conditions in New South Wales.

⁶⁹ *ibid*, p.21, Professor J. B. Cleland, Chairman of Advisory Council of Aborigines, South Australia.

⁷⁰ *ibid*, p.14. Cook speaking of conditions in the Northern Territory.

⁷¹ *ibid*, p.18.

accepted by the Queensland government for the preservation of 'primitive nomads' by reserving 'for their use sufficiently large tracts of their own country to ensure the undisturbed enjoyment of their own native life and means of subsistence and protection from abuses'.⁷² Protection meant enforcing the inviolability of the reserves to shield the natives 'not only from the trespasser, but also from the temptation calling at the gate, once they have tasted alien vices'. The ultimate goal was the gradual adaptation of the nomadic people to 'the settled life' of animal husbandry and agriculture rather than hunting and gathering.

Neville's position was clear. In his view, the problem of preserving full blood Aborigines would eventually solve itself: 'they will die out'.⁷³ However, he did not anticipate that all Aborigines would be extinguished, or that only their mixed race descendants might survive. Those living, in the terms of the Conference resolution, a 'semi-civilised' existence on Moola Bulla and Munja were increasing in number, but 'uncivilised natives' living in their normal state on pastoral leases and beyond white settlement were 'decreasing rapidly as the result of tribal practices'.⁷⁴ In Neville's view, they were doomed by their customs. Half-castes, on the other hand, were fertile and Neville argued, as he had consistently before the state government, the problem of the future 'will not be with the full bloods, but with the coloured people of various degrees'.⁷⁵

Data assembled by the Commonwealth Statistician tended to support Neville's contention. From 1921 to 1933, the total number of full blood Aborigines nationally did not vary by more than 5 per cent. The data for 1934 showed a marked decrease on the number recorded for 1933; in 1935 it declined again to a total of 54,378 persons; and again in 1936 to 53,698. Conversely, from 1921 to 1936 half-castes increased at an average annual rate of 4.1 per cent to a national total of 23,461. After 1901, when they numbered 7,370 persons, half-castes increased at a higher average rate than the white population, and at a growth rate considerably faster than the rate of decline in full bloods.⁷⁶

The disparities were largest in New South Wales and Victoria where the numbers of surviving full bloods, and of half-castes, were small.⁷⁷ According to spokespersons for those States respectively, A.C. Pettit and L.L. Chapman, the legal status, if not the social approval, of half-castes also was different.⁷⁸ Pettit advised that in New South Wales all Aborigines, full blood

⁷² *ibid*, p.6.

⁷³ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, p.16.

⁷⁴ *ibid*, p.16.

⁷⁵ *ibid*, p.16.

⁷⁶ Commonwealth Statistician (Roland Wilson), *Census of Aborigines – 30th June 1936*, P.N. 588, 20 April 1937, p.1.

⁷⁷ The data must be treated cautiously, however since the definition of Aborigine adopted in those states tended to minimise the numbers.

⁷⁸ A.C. Pettit, Secretary, Aborigines Protection Board, New South Wales; L.L. Chapman, Under-Secretary, Victoria, Vice-Chairman of the Board for the Protection of Aborigines.

or half-caste, were enfranchised and, except for the prohibition on alcohol on reserves, 'they enjoy all the rights and privileges of white people'.⁷⁹ In Victoria, only those Aborigines living at native reserves were subject to relevant legislation and, Chapman proposed, there would be public outcry 'if any effort were made to deal with them on lines in which it is proposed to deal with half-castes in Western Australia'.⁸⁰

Both agreed that the most urgent problem was the absorption of quadroons and octoroons into the white community, but agreed also that it was primarily a problem for the other states and the Commonwealth to resolve within their own jurisdictions. Pettit and Chapman may have gilded the lily in their representation of the conditions of Aborigines in their respective States, but they persisted with those positions both during and after the Conference.⁸¹ Victoria was reluctant to commit itself to participation in future conferences and suggested that they should continue between the Commonwealth and those states 'where there are common difficulties of administration to resolve'.⁸²

Western Australia, Queensland and the Northern Territory faced similar policy challenges regarding Aborigines of mixed descent, but their resolution differed among the three jurisdictions according to political and demographic circumstances. In the Northern Territory, Aborigines of the full blood numbered four times the white population. Dr Cook's expressed concern was about the possibility of racial conflict. It was untenable that half-castes could continue to be treated as inferior; 'it will create racial conflict which may be serious'.⁸³ The policy adopted by the Commonwealth Government, therefore, was to raise half-castes to equal status with whites: to educate half-caste children as whites and train them so that they might 'compete in the labour markets as whites'.

Bleakley entertained a different scenario in Queensland where, he said, half-castes belonged to two groups: those who were 'of half aboriginal blood, but wholly aboriginal in nature and leanings'; and a superior type 'with necessary intelligence and ambition for the higher civilised life'.⁸⁴ The inferior type could be given vocational and domestic training 'to take their part in the development of a self-contained native community'. Children of the superior type, Bleakley

⁷⁹ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, Pettit on Conditions in New South Wales, p.16.

⁸⁰ *ibid*, Chapman on Conditions in Victoria, p.17.

⁸¹ For an alternative evaluation of the condition of Aborigines in New South Wales see Peter Read, *A Hundred Years War*, Australian National University Press, Canberra, 1988. For an alternative evaluation of the condition of Aborigines in Victoria see Richard Broome, *Aboriginal Australians*, Allen and Unwin, St Leonards, second edition, 1994.

⁸² National Archives of Australia, Series A659/1, Item 1942/1/8104, *Conference of Commonwealth and State Aboriginal Authorities – Canberra, April 1937*, folio 271, Under Secretary, Chief Secretary's Office, Melbourne, to Secretary, Aboriginal Welfare Conference, Canberra, 20 May 1937.

⁸³ *ibid*, p.13.

⁸⁴ *ibid*, p.8.

argued, were entitled to assistance to make a place in the white community, but only if they were 'equipped with the vocational knowledge and the respectable home background to overcome the handicap of racial prejudice and inferiority complex'.⁸⁵

Only Neville seemed to take a different path, and that is discerned more by inference than by any explicit statement on his part. Several of his propositions may even have proven difficult for him to substantiate. For example, his assertion that in parliamentary debates on the Amendment Act 1936, most members 'expressed the view that sooner or later the native and the white populations of Australia must become merged' was a fanciful representation of the exchange in both Houses of the Parliament. There was diversity of views expressed in those debates, but most members spoke from uninformed personal opinion, much of it neither enlightened nor enlightening. Neville's further assertion that the Act was based upon the presumption that Aborigines in Australia 'sprang from the same stock as ourselves; that is to say, they are not Negroid, but give evidence of Caucasian origin',⁸⁶ was an esoteric proposition not considered in debates which seldom strayed beyond affirmation of prejudice; 'An aboriginal by any other name would smell no sweeter'.⁸⁷

Neville's rather bold pronouncement that Western Australia had advanced further than any other state in the development of long range policy 'by accepting the view that ultimately the natives must be absorbed into the white population of Australia', taken with his further statement, 'We have accepted [the] view in Western Australia', that 'there is no such thing as atavism in the aboriginal', invited an interpretation that Neville meant by propositions that 'ultimately the natives must be absorbed into the white population of Australia' and 'sooner or later the native and the white populations must become merged', biological absorption was authorised public policy. If that was a silent agenda of Neville's previous statements of policy, no government had sanctioned it. His propositions were rendered more intriguing by the manner of their presentation. They were left hanging without elaboration or elucidation and offered meaning through implication rather than by explication. For the greater part of his participation, Neville displayed thoughtful compassion, and relied upon information and example to develop a point of view. He was not a principal player in the Conference. Bleakley led the debate. Neville's role was remarkable for its intellectual infidelity.

Occasionally he manifested apparently willing suspension of disbelief and represented situations not as they were, but as he wanted them to be. He attributed to Aboriginal people character traits that conflicted with fundamental, and his own, understandings of the human condition. When describing the policy of institutionalisation, for example, he made the honest

⁸⁵ *ibid*, p.8.

⁸⁶ *ibid*, p.10.

⁸⁷ Parliamentary Debates, Legislative Council, 30 September 1936, p.880.

observation that Aborigines, 'have a tremendous affection for their children'. However, he explained, it was better to take half-caste children 'living in camps close to country towns under revolting conditions' from their mothers and place them in the care of institutions. Mothers were allowed access and, in Neville's opinion, 'after a few months are quite content to leave their children there'.⁸⁸

In the instance of the 'quarter-caste home' Neville admitted 'we had some trouble with the mothers', as they were greatly attached to their children and did not want to be parted from them. Neville explained that the practice had been adopted of allowing mothers to visit their children until they were satisfied themselves that they were properly looked after; 'The mothers were then usually content to leave them there, and some eventually forgot about them'.⁸⁹

Neville's portrayal of apparently callous indifference was unsupported by reality. Sister Kate's complaint was that mothers of children at the home would not forget:

L.S's mother sends to Foy's to give him expensive soccer boots another time a football. So that always in the girls (*sic*) and boys (*sic*) minds is the fact that they get presents, lollies, cakes, etc from their relations. Their relations write to them always keeping up the tie between them. I think this is a real difficulty.⁹⁰

Notwithstanding Neville's contribution, the Conference resolution on 'the destiny of the natives of aboriginal origin, but not of the full blood' was unequivocal. Neville suggested that details of administration were best left to the states, and the Conference resolved:

That, subject to the previous resolution, efforts of all State authorities should be directed towards the education of children of the mixed aboriginal blood at white standards, and their subsequent employment under the same conditions as whites with a view to their taking their place in the white community on an equal footing with whites.⁹¹

Western Australia was lacking in two aspects of that resolution. Half-castes could be denied enrolment at state schools. The Education Department persisted with its narrow legal interpretation that Sections 4, 5 and 6 of the *Aborigines Act 1905* meant that the education of Aborigines, including half-castes, was solely a responsibility of the Aborigines Department. The native schools at Moore River and Moola Bulla did not compare with state schools in resource allocation, the quality of their teaching and learning resources, nor in their educational outcomes. The average per capita cost of educating a child in a Western Australian state school in 1936 was

⁸⁸ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, p.17.

⁸⁹ *ibid*, p.17.

⁹⁰ State Records Office, Native Affairs, Acc 993, Item 305/1938, folio 121-122, Sister Kate to Mr. Bray, 29 August 1941. 'Foy's' – Foy and Gibson, a popular department store in Perth at that time.

⁹¹ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, p.21.

£10/10/- a year. The total annual per-capita allocation for Aborigines was £1/10/2 to cover rations, blankets, clothing, the maintenance of the Moore River settlement and cattle stations, subsidies to missions and general administration. The cost of educating half-caste children at Moore River was subsumed in the cost of running the settlement. Teachers were not qualified and usually were the wives of employees engaged for other purposes and paid a joint salary with their husbands.⁹²

Aborigines in employment did not always receive wages, especially in the pastoral industry. If they were paid, their rates were lower than whites for the same work and the Department of Native Affairs sequestered part of the wages. The terms of their employment permits specified an amount payable to the employee in cash and kind, and the amount to be transmitted to the Department for deposit in their trust or savings bank accounts.⁹³ The conditions of employment Aborigines endured were a distance removed from those enjoyed by their non-Aboriginal peers and governments and employers had demonstrated reluctance to change them.

The difference between the intention of the Conference resolutions and the reality of the actual practice of Aboriginal Affairs in Western Australia, and in the other Australian states, illustrated a significant failing in the approach to public policy with regard to Aborigines. Expressions of intent concealed an enduring tension between benevolence and malevolence in the attitudes of public officials. Each of the Conference participants presented the best-possible portrayal of policy and practice within their respective jurisdictions, but betrayed professed goodwill with a predilection to explain failure by reference to inherent faults in Aborigines rather than to flawed programs or processes. Their persistent complaint was that governments never allocated sufficient resources to enable them to do their jobs properly, the universal remedy for which was to shift guilt to the Commonwealth in order that the central government might be shamed into supplementing state resources:

There is to-day a vast body of public opinion in other parts of the world contending that we are not doing the right thing by our aborigines. I do not suggest that the feeling is entirely justified but where there is smoke there is fire, and without financial support from the Commonwealth the position will not be improved.⁹⁴

⁹² State Records Office, Aborigines, Acc 993, item 239/1936, folio 17, CPA to Hon. Sec. Association for the Protection of Native Races, 26 August 1936.

⁹³ In his evidence to the Moseley Royal Commission Neville advised that 173 separate individual trust accounts were maintained by his department on behalf of individual Aboriginal persons. Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 14 March 1934, p.131.

⁹⁴ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, pp.33-34.

Missions and Marriage Laws

Conference debate on government subsidies to missions was heard in camera.⁹⁵ In all states and the Northern Territory missions had an historical role in pastoral care and education. Governments subsidised them to carry out programs for the gradual adaptation of Aborigines, children in particular, to the manners and values of European culture. Their superintendents or managers generally were appointed as protectors of aborigines in order that they might have secular as well as spiritual authority over their Aboriginal charges. The office also bound them to public policy.

Neville was open about his disquiet over the activities of missions. His early attempt in 1916 to diminish the roles of La Grange, Lombadina, Beagle Bay and Sunday Island missions in the West Kimberley was discussed above. At the Canberra Conference he made his concerns clear: the policy of the missions was in direct contrast to his own. Missions encouraged Aborigines to marry and to multiply, but discouraged those born on their properties from leaving. Neville's policy pursued at the Moore River Native Settlement encouraged Aborigines to move into the general community and earn their own living.⁹⁶ Adults moved routinely between seasonal or occasional places of employment and the Moore River camp. Male wards at the compound were sent to employment in rural industries at age 14: girls were sent to domestic service after they turned sixteen. Only indigent Aborigines in regular receipt of rations were encouraged to remain.

Tension between Neville and the missions, in particular between Neville and Rod Schenk of the Mount Margaret Mission, came to a head over regulations formulated under the *Native Administration Act 1936*, and Neville's attempts to negotiate a suitable form of marriage for Aborigines. When on 22 November 1938 Hon. Harold Seddon moved to disallow twenty of the 156 regulations, he launched a damning attack upon Neville. The ideal, he claimed, was that the Commissioner was intended to be 'the friend and protector of the natives', but Neville had become an autocrat whose actions, if taken against white persons, 'would cast very serious reflections upon those guilty of those actions'.⁹⁷

Seddon's target was Neville's relationship with missions, Mount Margaret Mission in particular, and his principal source of information was Rod Schenk and his teaching assistant, Mary Bennett. Earlier that year, Mrs Bennett had written to Neville detailing specific cases in

⁹⁵ *ibid*, p.29.

⁹⁶ *ibid*, p.11.

⁹⁷ Parliamentary Debates, Legislative Council, 22 November 1938, p.2241.

which he had refused permission for Aborigines to marry.⁹⁸ She referred to the case of a half-caste man, Bobby Floyd, who had committed suicide at Erlistoun station in 1936, in Mrs Bennett's account, 'because he believed that his marriage to a half-caste girl was forbidden'. The *Daily News* received copy of the letter and published details of the case.⁹⁹

As it turned out, Bobby Floyd had never sought permission to marry and was not required to do so. He was aged 27 when he died, an adult half-caste 'quite able to manage his own affairs', and the Department had no contact with him other than in 1931 when he was 22 and voluntarily spent four months at Moore River.¹⁰⁰ Neville described Mrs Bennett's statements as 'so utterly outrageous, contrary to fact, and almost fanatical, that it is difficult to believe that anyone could give them credence'.¹⁰¹ Rod Schenk did and refused to deny them; 'I am ready either here at Mt Margaret or for the State to have any policy ventilated for the good of the natives'.¹⁰²

The debate on the disallowance motion focused upon government's desire to establish a regulatory regime for the establishment of missions and licensing of mission workers, appeals against the withholding of assent to marriage, the more effective oversight of conditions of employment; and the remuneration of Aborigines employed under permit. Allegations leveled against Neville's attitude towards missions caused the Chief Secretary, Hon. W.H. Kitson, to observe that the opposition to the regulations arose from one source; 'In effect, Mr Seddon took the Department to task for not co-operating with the Mt. Margaret Mission. He was giving, I think, the viewpoint of the mission authorities of that particular mission'.¹⁰³

There was considerable justification for that view. The bulk of the information presented by Seddon in support of his motion came from correspondence between Schenk and Neville and from newspaper articles reporting matters involving Aborigines linked in one way or another with the Mount Margaret Mission. The debate over four sitting days in the Legislative Council was really about the relationship of Neville and Schenk, both described by Seddon as 'strong-willed men' between whom 'there has been a fair amount of ill-feeling'.¹⁰⁴

Members of the Legislative Council were so alarmed about matters raised in the debate that they agreed to a motion calling for a Royal Commission to inquire into the relationship

⁹⁸ State Records Office, Aborigines, Acc 993, Item 166/1932, folios 69-75, Mary Bennett to Commissioner for Native Affairs, 14 February 1938.

⁹⁹ 'Half-Caste Suicides When Not Allowed to Marry', *Daily News*, 19 February 1938. See also State Records Office, Aborigines, Acc 993, Item 166/1932, folio 72.

¹⁰⁰ State Records Office, Aborigines, Acc 993, Item 166/1932, folios 78-79, CNA to Hon. Chief Secretary, 21 February 1938.

¹⁰¹ *ibid*, folio 79.

¹⁰² State Records Office, Aborigines, Acc 993, Item 166/1932, folio 83, R.S. Schenk to Mr A.O. Neville, 7 March 1938.

¹⁰³ Parliamentary Debates, Legislative Council: 23 November 1938, p.2340.

¹⁰⁴ *ibid*, 22 November 1938, p.2247.

between the Department of Native Affairs and all missions and missionaries, and allegations in regard to the administration and control of natives. The Legislative Assembly did not respond and a Royal Commission was not appointed.

Debate about the regulations regarding marriage focused not on the conflict between Christian principles and Neville's views regarding the value of Aboriginal tradition, but rather on the times specified in the regulations for processes of notification of and hearing of appeals. Three matters were objected to: the time allowed for the Commissioner to object to a marriage taking place; the process of lodging an appeal against such decision; and the period specified for magistrates to set times and places and give notice to appellants and protectors.¹⁰⁵ Seddon objected on the grounds that the Commissioner was allegedly tardy in acknowledging communications addressed to him; 'The Commissioner has ignored communications, and the native has been left high and dry'.¹⁰⁶ In fact, the regulations circumvented inordinate delay on the part of the Commissioner. If he did not provide notification of his objection within a month, the regulations provided that 'it can be assumed that the Commissioner does not object'.

The Act gave the Commissioner power to object to the marriage of natives in certain circumstances, but he could not prohibit them. If he objected, the parties had right of appeal to a magistrate. The grounds upon which the Commissioner might object were narrow: that the marriage contravened tribal custom, that one of the parties suffered communicable disease, that there was gross disparity in the ages of the parties, or that the marriage was inadvisable. The last had to be defensible under civil law: it had to be reasonable. The first was the most common source of dissension between Neville and missionaries, Catholic, Anglican, Presbyterian and non-denominational. In general, missionaries supported Christian marriage between Aborigines regardless of tribal law or the consequences under tribal law of wrong-way marriage. Neville's policy cut across the preferences of individual missioners or missions and antagonism arose. In some instances, missions refused to comply with departmental directives and 'on more than one occasion the Commissioner has had to take measures to try to prevent a marriage of that kind'.¹⁰⁷

The motion to disallow was agreed to, but government gazetted the disallowed regulations again on 8 September the following year.¹⁰⁸ They were not disallowed, but missioners, in particular those in evangelical Protestant missions, continued to object. They protested that requirements for licensing and ministerial approval before new missions could be established were intrusions upon freedom of worship. Their relations with government were strained and several co-operated with the Commissioner only to the limit that law obliged. Even the Catholic

¹⁰⁵ Regulations 112, 114 and 115.

¹⁰⁶ Parliamentary Debates, Legislative Council, 22 November 1938, p.2257.

¹⁰⁷ *ibid*, 23 November 1938, p.2333.

¹⁰⁸ Government Gazette, Western Australia, 8 September 1939, pp.1548-1558.

and Anglican churches resisted Neville's attempts to negotiate a suitable form of marriage for Aborigines.

Most Christian missionaries were familiar with traditional Aboriginal law regarding marriage and knew that infractions incurred severe punishment, including death. They also were conscious that traditional laws were contrary to Christian marriage traditions and were offended by them. Bishop Salvado was perhaps more aware, but more accepting than most. He related in his memoirs the custom of men having two wives, 'one aged between twenty and thirty, and the other a little girl from five to ten,' and the tribal courtesies of 'promised wives'.¹⁰⁹ He described also the alternative way of taking a wife, 'to carry her off from her father or husband', and the terrible consequence for the woman in the latter instance; 'the husband will kill her if he finds her'. Salvado offered no judgement, but indicated respect for tribal sensitivities regarding relations between men and women.¹¹⁰

Such awareness did not deter Salvado's Benedictine confreres at Kalumburu, nor missionaries of other denominations elsewhere, from attempting to enlighten Aborigines about perceived errors of their ways. The missionary endeavour was to bring the Aborigines to Christianity and they compromised as far as religious conscience would allow in accommodating traditional lore and custom and frequently confounding policies of government departments. Some whose Christian dogma was more pressing than Aboriginal custom, or the approval of the Chief Protector of Aborigines, were less compassionate and adaptable than others.

Neville was consistent in opposing marriages that contravened traditional law. He did not favour plurality of wives, but knew the costs, cultural and financial, of interfering. He told Commissioner Moseley, 'You can trace practically every native murder to that cause'.¹¹¹ Where traditional marriage custom was still the norm for local Aboriginal people Neville was unwilling to approve a marriage that contravened those laws. Missionaries disagreed; polygamy to them was an abhorrent evil they strove to eradicate. Neville was unwavering and missionaries undeterred.

In one instance, a missionary attempted to use the *Aborigines Act* to advantage. Several young boys aged between 16 and 30, some of whom were brought up at the Drysdale River Mission and described by Father Thomas Gil as 'very quiet and staying in the place,' apparently had little prospect of finding wives. Father Gil sought Neville's assistance; 'Could you help us in this matter and see whether you could send to Drysdale half a dozen decent full blood girls? You might have perhaps the opportunity of doing so with girls you might wish to take away from

¹⁰⁹ Dom Rosendo Salvado, S.J., *The Salvado Memoirs*, translated and edited by E.J. Stormon, S.J., University of Western Australia Press, Nedlands, 1977, p.139.

¹¹⁰ *ibid*, p.140.

¹¹¹ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 12 March 1934, p.49.

whites or for some other reasons'.¹¹²

Apart from Father Gil's apparently blissful disregard for Aboriginal territorial strictures, his letter attributed powers to the Chief Protector that successive interpretations of the *Aborigines Act* had denied. Neville's power to remove Aboriginal women because he suspected cohabitation or any other breach of the Act was constrained, and it was unlikely that a minister might issue a section 12 warrant to remove Aboriginal women to the Drysdale River Mission as promised brides. Neville preferred to leave such matters alone and allow men to find their own wives and, conversely, women to find their own husbands. He was determined, however that he be informed of any proposed marriage among Aborigines and that he receive written notification of all such marriages and the place and date they were celebrated. He sought also to find a suitable form of marriage that took account of tribal custom and satisfied requirements of civil union as well as the requirements of the several churches. He had not succeeded in that before he retired. Geographic and ethnic complexities, and confusing theological considerations thwarted his intention.

Regulations promulgated as subordinate legislation to the *Native Administration Act 1936* compelled official notification, but legislation to normalise social conventions like marriage remain always subordinate to the vagaries of the human condition. Dr Musso, the Medical Inspector at Derby, illustrated the problem in a memo to Neville's successor, Frank Bray:

Christian natives in Drysdale who are tribally straight do not see why they have to wait a considerable time for permission to be granted for marriage on Christian lines, which is to be registered on the civil register. What they can do is dash off into the bush and marry according to their own custom.¹¹³

Release from marriage bonds was equally as convenient among Aborigines, especially for the reserve and fringe dwellers of rural towns in the South-West. Their tribal structures and strictures had all but disintegrated and, provided they remained sober, servile, silent and unseen, their personal and familial relationships were of little interest to local authorities. Hasluck reported that while there was disposition in some places for half-castes to go through the religious or the civil form of marriage, 'most of the camp natives rely on the bond of mating':

Most of the unions made so simply in the camps seem to be lasting though unblest by any ceremony belonging to white or black. Now and again a young wife gets flighty and goes off to another man. Then there is a fight and the

¹¹² State Records Office, Native Affairs, Acc 993, Item 460/1939, folio 128a, Father Thomas Gil, Protector, to Deputy CPA, 18 August 1934.

¹¹³ State Records Office, Native Affairs, Acc 993, Item 460/1939, folio not numbered, Memo, L. Musso, Medical Inspector Derby to CNA 14 May 1944. 'Some Anthropological facts about marriages in the Drysdale region of the Kimberleys of W.A. in view of certain correspondence from H.O.'.

breaking of heads, and the police help them sort themselves out. Apparently sometimes the families arrange some sort of divorce or a change of husbands.¹¹⁴

Questions of theology and rites of the several Christian churches also were not matters resolved by secular law. In the Anglican Diocese of Bunbury, for example, clergy were disallowed from using 'the Prayer Book Service for the solemnisation of Holy Matrimony between persons who are confessedly pagan or in the case in which one or both of the parties have been divorced', but conceded that, 'the question of marriage of persons classed as aboriginals is a difficult one':

My own feeling about the whole matter is that either the local registrar of marriages or the Protector of Aborigines should legalise their unions and that later, if they desire to embrace the Christian Faith, they should come to Church, after instruction, and receive the blessing of their marriage.¹¹⁵

The local clergyman in some places was also the Protector of Aborigines, and if there was no local registrar, who then might officiate? Given the attitude of the churches, and their political influence, it is difficult to entertain any notion that Neville might seriously have attempted to use marriage for the social engineering of Aboriginal peoples of any complexion. He had little say in the mating habits of camp dwellers in the South-West, was averse to interfering in tribal custom in the north, could not countermand the authority of the Churches, and, if it were their wont, missionaries in remote and isolated communities could disregard him. Politics and social mores inhibited actions that offended the collective social conscience.

Discussion

Galton acknowledged that before eugenics might be accepted as science it would contend with the immense power of social influences of all kinds. Social conventions regarding marriage were only one part: 'The multitude of marriage restrictions that have proved prohibitive among civilised people would require a volume to describe'.¹¹⁶ Neville had restricted powers to control marriage among Aborigines. He could object on grounds of contrary tribal laws, disease, disparity of ages, or on reasonable grounds that a particular match was unsuitable. Opposing him were the authority of several Christian religious orthodoxies, cultural intolerance, and a target population whose own long-established cultural traditions and emergent sub-cultural practices were

¹¹⁴ 'Half-Caste Problem, People on Reserves, the Evils of Rations, no.3', *West Australian*, 25 July 1936, p.21. See also Native Welfare Council, *Our Southern Half-Caste Natives and Their Conditions*, p.17.

¹¹⁵ State Records Office, Native Affairs, Acc 993, Item 879/1942, folios 3-4. Bishop Leslie Bunbury, Bishop of the Diocese, to CNA, 7 October 1942.

¹¹⁶ Francis Galton, 'Eugenics: Its Definition, Scope, and Aims', *The American Journal of Sociology*, vol.10(1), July 1904, p.3.

indifferent to bureaucratic or ecclesiastic meddling.

The last alone of those influences was sufficient to frustrate any attempt to use marriage law as an instrument of cross-cultural population control. In the time between the Amendment Act was proclaimed and March 1938, twelve notifications of intention to marry were received. Nine were approved without objection. Of the three opposed, one was contested on appeal and the Commissioner lost the case.¹¹⁷ In financial year 1937-38, no objection was raised to thirty-seven marriages, twenty-nine of them native women to native men, one a native male to a quarter-caste, and seven of native women to white men. The Commissioner objected to one, a marriage between a native woman and a white man, but his objection was overturned on appeal.¹¹⁸

In the same financial year, the population of Aborigines of mixed descent increased from 4,209 to 4,602, a total five times more than there had been when Neville was appointed Chief Protector of Aborigines. The number in 1938 included 1,955 children.¹¹⁹ Many were born to couples, both of mixed blood, not married according to state law. Neville illustrated the fertility of such families by reference to a couple and their ten children admitted to Moore River twenty years previously. The grandchildren of the original couple numbered 'no less than thirty-five, and of the whole family none has died'.¹²⁰ The fecundity and vitality of the established population would suggest that attempting to reduce the rate of growth by controlling whom a few of them might marry would be futile.

By 1938 only about one-in-ten of babies of mixed blood was born of a white and a black parent. The parents of the other nine-in-ten babies were Aborigines of mixed blood. If biological absorption were indeed to be the long-term goal, that proportion would have to be reversed. Since extra-marital sexual intercourse between Aborigines and whites was unlawful, the incidence of cross-cultural marriage would have to be considerably higher. The alternatives were separate development or selective sterilisation of half-castes. The last was out of the question and the first had been rejected when the 1937 Conference had resolved that the future for people of mixed blood lay in assimilation. Bleakley also made clear at the Conference that, in Queensland at least, there was definite opposition to 'any scheme for the marriage of half-caste girls to white men' because:

(1) None but the lowest type of white man will be willing to marry a half-caste

¹¹⁷ State Records Office, Native Affairs, Acc 993, Item 460/1939, folio 62, CNA to Secretary, Department of the Interior, Canberra, 22 March 1938.

¹¹⁸ Department of Native Affairs, *Annual Report of the Commissioner for Native Affairs for the Year Ended 30 June 1938*, p.15.

¹¹⁹ *ibid*, p.6.

¹²⁰ *ibid*, p.6.

girl, and as the half-caste women married by the white men are likely to gravitate to aboriginal associations such marriages have very little chance of being successful; (2) there is the danger of blood transmission or “throw back”, as it is called, especially as the introduced blood, as in many Latin races, has already a taint of white blood; (3) such a scheme makes no provision for other wives of young men of the same breed.

It would be surprising, in the face of such myopic suasion, that any proposition for assimilation through marriage might succeed. Neville, however, was optimistic. He had contemplated the ultimate fate of the Aborigines in his Annual report for 1936. Several authorities supported the view, ‘which I share’ he said, that ‘coloured people’ must eventually merge into the white race. The answer he offered to the hypothetical question ‘Who would marry one of these coloured people?’ was intended to be positive, but, read with other information about Aboriginal population dynamics, might also suggest there were too few mixed marriages to change those dynamics: ‘It is within my knowledge that in this state there are at least 70 white men legally married to half-caste or aboriginal wives, there being 60 of the former and 10 of the latter, while the children of these unions number at least 209’.¹²¹ A demographic projection based on those numbers, and taking into account general community intolerance of mixed marriages, would suggest that biological absorption in three or four generations was not a practicable eventuality.

There can be little doubt Neville was curious about the possibility of biological absorption through cross-cultural breeding, but intellectual curiosity does not equate with public policy. Similarly, there can be little doubt that Neville also was committed to advancing coloureds towards the white and to reducing miscegenation. It also was true that he took a long-term view; ‘We should ask ourselves what will be the position, say, fifty years hence; it is not so much the position to-day that has to be considered’.¹²²

The position of the day probably was dispiriting for Neville. After four generations of miscegenation, public intolerance and government indifference, half-castes in the South-West endured an abject state of dislocation and disassociation, nomads on the fringes of rural towns or in secluded camps in suburban Perth, unwelcome in the alien culture and disciplined only by the half-remembered fragments of their own. In the north they were exploited in the labour-intensive free-range pastoral economy, black villeins to the white lords of the pastoral manors, but able to perpetuate their languages and cultures in the seasonal cycle of the rural economy. The quarter-castes gathered at Queen’s Park were children ‘too white to be regarded as aborigines at all’, the illegitimate progeny of three generations of miscegenation whose intended futures, as anticipated

¹²¹ Aborigines Department, *Annual Report of the Chief Protector of Aborigines for the Year Ended 30 June 1936*, p.3.

¹²² *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, p.10.

by Ruth Lefroy and others, did not countenance an Aboriginal identity.

If Neville’s vision was that in fifty years or more these people might be merged with the white race, and if, as some have argued, inter-marriage with the white community were to be his instrument of transformation, he had sequentially to neutralise and revolutionise government and community attitudes. He was too much a political pragmatist to entertain either as real possibilities. He knew also that assimilation did not involve merely waiting for the full bloods to die out, removing half-castes from their mothers, and, in time, marrying them off to whites.

The policies pursued by Neville evolved over the twenty-five years he was responsible for the protection of Aborigines in Western Australia, a little over one generation of population change. In that time, the interpretation of who was an Aborigine changed from ‘an Aboriginal inhabitant of Australia’ and ‘a half-caste who lives with an aboriginal as wife or husband’ or ‘habitually lives or associates with aborigines’, or a child whose age apparently does not exceed sixteen years,¹²³ to ‘Natives’, a term which at law embraced plural combinations of full blood Aborigines and descendants of Aborigines and their descendants of mixed blood. After the passage of the *Native Administration Act 1936*, Neville offered the following explanation to the staff of his Department:

The offspring of two persons of half-blood is not a quadroon. He is still a person of half-blood.

The offspring of an aboriginal and a negro or a person of one of the other coloured races of the earth would be a person of half-blood, just as would be the child of a European and an aboriginal, and for the purposes of this Act would of course be a native in law.

The offspring of a person of half-blood and a quadroon is still a native in law.

The offspring of persons of half-blood by other than natives, i.e., quadroons under 21 years of age living in camps or associating with natives, are natives under the Act, but (i) of (b) in the definition places such children *not living as or associating with natives* outside the Act unless ordered by a Magistrate to be classed as natives. If such children, and this would include those up to 21 years of age, in the opinion of those exercising the necessary authority in such matters are being illtreated, neglected, or left without someone to care for them, or are delinquents, then it will be necessary to appeal to a Magistrate with the object of securing an order to class them as natives under the Act so they may be dealt with.¹²⁴

The multiplicity of racial and mixed-race combinations deemed to be Natives, or Aborigines, were subject to the same provisions of the Act. They were, however, treated differently for

¹²³ *Aborigines Act 1905*, s. 3.

¹²⁴ Berndt Museum, University of Western Australia, A.O. Neville Collection, Circular letter, ‘Government of Western Australia, Department of Native Affairs, 11 March 1937’, not catalogued.

administrative purposes over time and according to their distance of generational removal from Aboriginal ancestry.

Initially full bloods were segregated from whites on inviolable reserves—native cattle stations and gazetted Aboriginal reserves. Neville inherited that policy with the role of Chief Protector. He refined it to focus upon the protection of full bloods, including the preservation of their languages and cultures. The native cattle stations afforded the additional opportunity of raising the economic status of Aborigines so that they might take a meaningful place, but not in competition with whites, in the mainstream economic culture.

The separation, but not the total segregation, of half-caste children from their Aboriginal forebears at Carrolup River and Moore River Native Settlements, were likewise built upon policies established by Neville's predecessors as Chief Protector of Aborigines, but modified by him to create opportunities for the education and training of half-white children so that they might ultimately establish financial and social independence in mainstream society. His intentions were frustrated by inadequate human and financial resources, lack of government and public support, and inept management, but it remained Neville's intention that his wards would, as Aborigines, move into white communities.

A third aspect of Neville's differential treatment of Aborigines was introduced when quarter-caste children were placed in the care of Sister Kate and Ruth Lefroy to be raised and educated in the manner of white children. Neville did not discourage contact between the children and their Aboriginal families. He may have considered them to have been too white to live as Aborigines, but he did not intend that their awareness of their Aboriginal identity should be erased. Sister Kate and Ruth Lefroy did. They insisted that quarter-caste children in their care were 'whites' and should go out from the Home as 'whites'.

Throughout his tenure as Chief Protector, Neville had authority to refuse marriage of Aboriginal women to other than Aboriginal men.¹²⁵ After 1936, as Commissioner, he had to be notified of every marriage of a native 'according to the laws of the state' and could object.¹²⁶ Most marriages were approved, except where they might have contravened tribal custom. Neville did not discourage marriage between Aborigines and whites. He disapproved of illicit cohabitation and promiscuous extra-marital sexual intercourse and prosecuted white male offenders. He also was committed to reducing the number of births of illegitimate half-caste children, but failed, partly because moral rather than legal sanction was the principal agent of discouraging white men from miscegenation, but largely because half-castes preferred to turn to their own for life partners. The larger proportion of half-caste births in the latter half of Neville's administration

¹²⁵ *Aborigines Act 1905*, s. 42.

¹²⁶ *Aborigines Act Amendment Act, 1936*, s. 25, (repealed and substituted s. 42 of the parent Act).

‘Too White to be Regarded as Aborigines’

was conceived within the half-caste cohort. There is little evidence that Neville used marriage as an instrument for social engineering or population control, but if he did, he failed. He could not, in Galton’s words, ‘contend with the immense power of social influences of all kinds’.

Narrative

ARNOLD

Arnold was born at the Moore River Native Settlement on 9 December 1930. His birth certificate names his mother as Topsy Franks, aged 20 years, born at Katanning. Her Aborigines Department file records different birthplaces. In July 1915 it was reported 'a half-caste female, about eight years of age, named Topsy' had been shipped from the Mundabullangana district, south of Port Hedland, to Dorre Island, slightly affected with disease, presumably Granuloma Venereum or Donovanosis, the disease most commonly afflicting Aborigines removed to the Lock Hospital from the West Kimberley region:¹

This child is an orphan, her mother died on the Yule River sometime ago; I would suggest that some steps be taken with a view to her future welfare. She is a bright little girl and it would be a pity to allow her to return to the mercy of both black and white.²

Subsequent investigation of Topsy's background by Police Constable Growden of Whim Creek indicated that her putative father was a man by the name of Sloan who had worked at Portree Station, but left the district some years previously:

The mother of the child was killed by a blow to the head, from the native woman 'Ten Oclock' (*sic*) who was sent to the Lock Hospital together with the child Topsy and others. The injuries to the child's (*sic*) parent did not prove immediately fatal, but appears to have been so severe that the unfortunate woman died from the effects of the blow some months after, in a state of insanity.³

Topsy was discharged from Dorre Island in March 1916 and taken to Perth where she was cared for in the Old Women's Home until Neville could arrange her transfer to Carrolup. She arrived there on 18 April 1916, aged about nine. In July, Fryer, the Superintendent at Carrolup, reported:

The half-caste girl Topsy is doing all right. She is certainly full of life and sometimes she puts up a few rounds with the other girls. She is not making much progress at school, although she seems happy and contented with the present

¹ If Topsy was 8 when taken to Dorre Island in 1915, she must have been born about 1907.

² Department of Indigenous Affairs, Aborigines, Item 588/1926, folio 1, extract from Report of P.C. Growden Relative to Collection of Diseased Natives, 1 July 1915.

³ *ibid*, folio 15, F. Growden, P.C. 735, Whim Creek, 1 June 1916, forwarded to CPA 6 July 1916.

order.⁴

There was some confusion between her and another Topsy at the Settlement. Three years after Topsy (file 1142/15) arrived, a retiring missionary, Edith Fisher, sought permission to adopt 'Topsy' and take her when she left Carrolup.⁵ Neville wrote a curt footnote on her letter, 'What "Topsy" does she refer to?' There were two. The Topsy (file 1142/15) from Mundabullangana who arrived at Carrolup in April 1916 seems not to have had a surname while she was there. The other Topsy (file 1578/17) had arrived at Carrolup on 5 July 1917 and was from Mebbian Station in the Peak Hill District. Neville decided Topsy (file 1142/15) was the girl requested and refused permission: '[Her] antecedents are such as to render it most desirable that she should continue under the Department's care for a long time to come'.⁶

Both Topsy were registered as entering the Moore River Native Settlement on 21 January 1920. Topsy (file 1142/15) became Number 192 (file 588/1926) and by 1924 had acquired the name Topsy Franks. The other became Number 190 and appears to have been named Topsy Tilly.⁷

In August 1924, the former Travelling Inspector of Aborigines and Superintendent of Moore River, Ernest Mitchell, visited the Settlement and chose Topsy Tilly (No. 190) for domestic service at his farm in Benjaberring. He received Topsy Franks (No. 192) instead. Mitchell judged Topsy Franks as unfit to be allowed out of the Settlement: 'In many ways she displays an utter lack of discipline and manners'.⁸ The Secretary of the Aborigines Department chastised the Superintendent of the Settlement: 'The Topsy you should have sent is No. 192, and came from Broome'.⁹ In fact, the Moore River Native Settlement inmate registered as No. 192 was Topsy Franks; the Topsy who came from Broome was No. 190, Topsy Tilly. Confusion continued. In 1927, a file minute by Neville recorded:

Topsy Franks. The Carrolup register shows that she was entered there, no.72, admitted, 1st July 1918, aged 10. Went out 28th June 1922, when she was transferred to the Moore River Native Settlement.¹⁰

⁴ *ibid* folio 18, W. Fryer, Superintendent, Native Settlement, Carrolup, to Secretary, Aborigines Department, 28 July 1916.

⁵ *ibid*, folio 20, Edith M. Fisher to CPA, 17 November 1919.

⁶ *ibid*, folio 22, CPA to Miss E.M. Fisher, Carrolup River Native Settlement, 25 November 1919.

⁷ State Records Office, Aborigines, Acc 1326, Item 1108/1921, folio 86, attachment, 'Moore River Native Settlement, Names of Inmates on 6 May, 1922'.

⁸ Department of Indigenous Affairs, Aborigines, Item 588/1926 folio 32, Ernest C. Mitchell to Deputy CPA, 14 August 1924.

⁹ *ibid*, folio 32, E.E. Copping to Superintendent, MRNS, 14 August 1924.

¹⁰ Department of Indigenous Affairs Aborigines, Item 588/1926, folio 121, File Note, CPA, 8 February 1927.



Children, Moore River, c.1930s. Berndt Museum of Anthropology, University of Western Australia, WU-P11297.

Topsy wrote to Neville three times during 1931, pleading to be allowed out of Moore River. In one letter she asked him to find her 'grandfather, up in Port Hedland':

Sir I would like you to try and find out where Mr & Mrs Battys from Port Hedland they was the ones that took me when my father died I stayed with them until I came down this way so please try & find out for me I would like to go there please Sir....I can find work myself if you will let me. And my child is no troublesome to send to a home. Suppose Neal's can't get rid of their black dog he wants to break up bones for he done with me.¹¹

At Neville's request, Topsy's history was reviewed. The summary report in February 1932 by the then Superintendent at Moore River, A. E. Bishop, indicated that Topsy had been in the care of Mr and Mrs Batty for the short time she was a patient at Dorre Island from July 1915 to March 1916. Bishop reaffirmed Topsy's identity. At about eight years of age she was, 'moved from the Mundabullangana District with a number of other natives and placed in the Lock Hospital'; her mother was 'a full blood aboriginal who died on the Yule River from a blow inflicted by another native woman'; and in April 1916 she was placed in Carrolup. Later, Topsy was removed to

¹¹ Departemtn of Indigenous Affairs, Native Welfare, Item 387/1933, folios 36 and 37, Topsy Franks to Mr. Neville, not dated.

Moore River 'and sent out to employment on several occasions but always proved unsuitable'.¹²

A report in July 1961 by the Protector of Natives at Collie on Topsy's application for a certificate of citizenship records her as a half-caste, born on 5 April 1907, the daughter of an unknown white man and Annie White, a full blood Aborigine. No place of birth is recorded. Topsy's Certificate of Citizenship was handed to her on 25 July 1961.

Arnold tells a different story. He says his grandmother was Annie Dann from Wooleen Station in the Murchison district:

Yeah, Annie—Wooleen - she was a 'alf-caste, old Benny Sharp's daughter.... Well he owned Wooleen. He's buried there....Well he's the father of my mother's mother, old Annie Dann. She was only a young girl then, a young lady, and in the shearing time seasons, some of them stations around Bullardy, Wooleen, Murgoo and all those, they borrowed...a woman or man, a woman to go in the 'ouse, work in the 'ouse or kitchen or something. Well, they borrowed her. And Boddington's bought Twin Peaks. She went to Twin Peaks, see. A nice-looking young 'alf-caste girl, well naturally, old Boddington's a bit of a run around, and he took her on and he was the father of my mother, see. He got her pregnant. She didn't tell anyone. She had to tell old Dann, 'cos she married old Aborigine bloke, after my mother was a girl, you see.¹³

Arnold's mother, Topsy Dann/Franks, told him she was taken from Wooleen as a young child and placed in the Moore River Native Settlement:

She was taken to Mogumber and they give her the name Topsy Franks. See, when they take 'em away, they don't worry about names; they give you a new name and all. Like Jackie Braeside, Jacky Nullagine, and all this, Bobby Dalgety, Ralph Dalgety, Micky Dalgety and all these sort of things, whatever station you come from. My mother never got Topsy Wooleen. They didn't know where they got her from. If they don't know where they got her from, they call you Topsy Franks.

Yeah, she got the name Franks. My father give her the name Franks. Old A.J. Neal, the Superintendent. Mr Neville and Mr Neal.¹⁴

Topsy had a rather turbulent employment history. The Superintendent of the Moore River Native Settlement, John Brodie, recorded in December 1924:

Topsy Franks has some peculiarities of temperament, but they are good rather than bad. She has strong likes and dislikes—is very human. If she takes to a person she will do anything for that person. She likes to please and be pleased. A little kindness and love goes a long way with Topsy. The reverse has a depressing

¹² *ibid*, folio 12, A.E.Bishop to CPA, 8 February 1932.

¹³ Transcript of Interview with Arnold Franks, 2006. Original held by the author.

¹⁴ Transcript of Interview with Arnold Franks, 2006. Original held by the author.

effect on her, and may lead to false impressions.¹⁵

In January 1925, contrary to Mitchell's earlier advice, Topsy was sent out to employment with the recommendation that she would make a very satisfactory domestic hand, 'with proper handling'. She lasted less than a fortnight. After sundry placements lasting between a few days and several months Topsy was assessed in 1925 as unsuited to domestic service. Nevertheless, in the following year she was sent out again, with unfortunate consequences. Topsy wrote to Neville in March 1927:

I am sick of my life. Everybody hates me. I don't know what I have done to them to talk about me for nothing. One of these days I will take something to get rid of myself & that's the best thing for me to do.¹⁶

The following week, Topsy consulted Dr Hall who told her she was pregnant. Police were called when Topsy 'obtained possession of a revolver and was threatening to shoot the person responsible and do away with herself'.¹⁷ She returned to Moore River on 28 March to be confined. She gave birth to a baby girl who lived only a few hours.

In 1929 Topsy was given another chance, but only after she convinced Neville she had reformed:

I have been Very good here since I been here and I know for myself I can control my temper now. I have been doing good work here now its time for me to go to work for myself Sir don't you think its better for me to work now.¹⁸

Neville agreed: 'She seems to have gained control of herself'.¹⁹ Topsy was sent out to service twice more, the first at Hollywood from 13 August to 2 November and the second in Nedlands from 13 November to 22 December. Her second placement ended when she was hospitalised suffering from severe tonsillitis. Topsy was discharged from Perth Public Hospital on 6 February and placed in the care of Nurse Mulvane at Maylands. She returned to Moore River under Section 12A warrant on 22 February 1930.

Topsy's personal file at the Aborigines Department is silent on the matter of Arnold's birth except for a single reference by Neville: 'In 1929 she was tried out at work again but the

¹⁵ Department of Indigenous Affairs, Native Welfare, Item 588/1926, folio 51, John Brodie, Superintendent, to Deputy CPA, 29 December 1924.

¹⁶ *ibid*, folios 129-130, Topsy Franks to CPA, not dated (Received 17 March 1927).

¹⁷ *ibid*, folio 157, file note CPA, 26 March 1927.

¹⁸ *ibid*, folios 168-169, Topsy Franks to CPA, 1 January 1929. Underlined in the original.

¹⁹ *ibid*, folio 171, file note CPA, 18 January 1929.

following year was returned to the Settlement and gave birth to a male child.²⁰

Syd Hart arrived at the settlement in September 1933, ‘for the purpose of marrying “Topsy Franks”’. Superintendent Neal advised Neville, ‘You permitted this marriage to take place’.²¹ Neville had no record of the proposed marriage, but did not suggest opposing it in any way. Arnold, however, was not to leave the settlement with her:

Eventually, being the child of a European, it may be transferred to the home at Buckland Hill. I do not think it should go with Topsy.²²

The marriage of Topsy and Syd Hart was solemnised at Mogumber on 5 October 1933 by the Rev Abbot of New Norcia. Topsy was not allowed to take Arnold away with her. Five months later she wrote to Neville from Williams:

Well Sir I am worrying about my Arnold up at the Settlement. They made me leave him when I went away. I wanted to take him with me only Matron told me that you said that to leave Arnold because he was going to Cottesloe after Xmas. You told me yourself that Arnold is going to Cottesloe. So I trusted you all. I thought you would send him to Cottesloe. But I see he is still up there and Xmas is gone waiting for another. But I am going up there as soon as Syd finish his work going to take him with me. I am not going to leave him any longer up there where he is sick worrying.²³

Neville reassured Topsy that, ‘When a vacancy occurs at the Home the question of the suitability of Arnold and the claims of other children for transfer will then be considered’.²⁴ Arnold was transferred to Buckland Hill on 10 October 1934. His father was identified as a German named Ernest Lenhart. Again, Arnold’s recollection is different. He insists that his father was, ‘Old A.J. Neal, the Superintendent’:

I can prove the other thing because every old peoples, everyone in the Settlement knows, see.²⁵ So when I come to life, I’s about three-and-a-half or something, they sent me, nearly four, they sent me to Bucklan’ ’ill....They too me to Bucklan’ ’ill and they took my mother to the East Perth Girls’ Home. They had all the girls there, all the ladies. A lot of them are dead now, but they went there to that Home

²⁰ Department of Indigenous Affairs, Aborigines, Item 387/1933, folio 3, CPA to Under Secretary, 16 November 1931.

²¹ *ibid*, folio 31, A. J. Neal, Superintendent to CPA, 21 September 1933.

²² *ibid*, Item 387/1933, folio 32, CPA to Superintendent MRNS, 27 September 1933.

²³ Department of Indigenous Affairs, Native Affairs, Item 365/1934, folios 2 and 3, Topsy Franks (Mrs Syd Hart) to CPA, undated (received Aborigines Department 7th March 1934).

²⁴ *ibid*, folio 4, CPA to Mrs Sidney Hart, 9 March 1934.

²⁵ See Hazel Anderson, Ernestine Little and Wondy Wolfe: *Nyoongar Yorgas Remember*, Yinnar, Green River Books, not dated, p.4.

right there.²⁶

Arnold celebrated his fourth birthday on 9 December 1934 in the Perth Children's Hospital:

This boy was admitted on 18th inst. to the Children's Hospital because he has something very infectious the matter with his eyes. I think it is glaucoma. All the other children with the exception of (name withheld) have it too, but not so badly, only Dr Seed says it is impossible for him to admit them all.²⁷

Arnold was discharged in February. He was back in hospital in August 1936 for a tonsillectomy, but was otherwise well. Topsy wrote to Neville on 18 September:

It was very kind of you to write & let me know about my little Arnold. Well Sir the only thing that worrys me about him being Ill. I hope he gets on all right. I wants to know how he's getting on with his schooling. Hope he's proving. That's all I want to know as long as he learning his lessons I feel the Lord will be with him.²⁸

Arnold was in good health and attended kindergarten. Sister Kate advised Neville, however, 'I think you know Arnold is not a normal child. I think he will gradually grow out of his nervous trouble'.²⁹ Three years later he was reported as 'backward and unteachable',³⁰ and the Acting Commissioner for Native Affairs, Frank Bray, requested that he be examined medically. Arnold was assessed as quite a normal lad to talk to, but 'unable to apply himself to learning':

On the other hand, he is quite capable of outdoor work, such as gardening to which he applies normal intelligence. ...

To this end I would recommend his transfer to Moore River Native Settlement where perhaps he could be usefully apprenticed at the farm when the time comes for him to be put to work. My impression is that Arnold is disinclined to learn and *inter alia* he possesses one of those stubborn natures in this direction which punishment would only aggravate.

Arnold admits he was not a scholar. His recollection of his experiences as a child and youth confirm his obdurate temperament:

I wasn't much of a school bloke. I'd jump out of the window; I'd go away on the

²⁶ Transcript of Interview with Arnold Franks, 2006. Original held by author.

²⁷ Department of Indigenous Affairs, Native Affairs, Item 365/1934, folio 6, P. R. Lefroy to CPA, 19 October 1934. Original on NA, 279/1933, folios 105-107.

²⁸ *ibid*, folio 27, Topsy Hart to CPA, 18 September 1936.

²⁹ *ibid*, folio 29, Sister Kate to CPA, received 31 March 1937. Extracted from file 370/36.

³⁰ *ibid*, folio 33, Albert Davis, Medical Officer to Acting CNA, 17 September 1940.

'orses. I liked 'orses, we had a couple of old 'orses; used to cut the wood. We used to go with Richard Wheeler. 'e was an older boy. 'e went to the Second World War: 'im an' Jim Ashwin....Sister Kate's...was a good Home. Sister Kate's was the best Home I went to. I run'd away from Mogumber and they put me in Roelands. I run'd away from Roelands and they put me in Carrolup. Beazley, 'e was the second boss at that time - old Neal was retired—and 'e sent me to Carrolup, out from Katanning, Wagin way. I was there one night and I run'd away from there.

Arnold was transferred from Sister Kate's to Moore River on 28 October, 1940. He was almost ten years of age. In March 1942, Topsy again requested that Arnold be returned to her. She wrote to Commissioner Bray, 'I went up to Moore River Native Settlement for Christmas to see him'. She asked the Superintendent, Mr Paget, if she could take Arnold home and was told that she could have him, 'if I would get a school for him to go to'.³¹ No action was taken.

Matron Sinclair noted that Arnold seemed a misfit at Moore River, yet noted:

He does not go to the camp, or swear & Mr Bandy sometimes takes him to the farm & speaks very highly of him. He has blue eyes & fair hair & I understand came here from Sister Kate's Home.³²

Roelands was suggested as an alternative placement. Given Arnold's 'past nervous condition' it was considered he should be placed where he would be happy and contented; 'that would be more important than the colour aspect in this instance'.³³ On 19 June, Arnold was transferred to Roelands on three month's trial. He and a companion absconded on 24 November, were apprehended on 12 December and were returned to Roelands where the supervisors declined to accept further responsibility for them. Arnold was detained at Bunbury Police Station and on 16 December was returned to Moore River under police escort. Once again, Topsy wrote requesting that Arnold be returned to her:

Would you Please be kind enough to let me have my son Arnold Franks out of the Moore River Settlement. I would like him to be with me now. He's been away from me quite long enough. I think its about time I should have him with me. I am his mother. He has nobody up at the Moore River Native Settlement.³⁴

The contentious issue for the Department of Native Affairs was Arnold's colour: fair hair, blue eyes and a light complexion. He looked white, but at Moore River lived as an Aborigine. The Protector of Natives at Pinjarra, Constable Rea, encapsulated the policy

³¹ Department of Indigenous Affairs, Native Affairs, Item 365/1934, folio 43, Mrs Syd Hart to CNA, 10 March 1942.

³² *ibid*, folio 46, Matron Sinclair, MRNS to CNA, 8 February 1943.

³³ *ibid*, folio 47, file note to DCNA, 22 February, 1943.

³⁴ *ibid*, folio 82, Mrs Topsy Hart to CNA, 1 March 1944.

conundrum of how to manage those regarded as ‘too white to be Aborigines’ when he advised against Arnold being reunited with Topsy and Syd. His report described their living conditions as ‘satisfactory’. Topsy drove their three children to school every day, waited for them until the end of the school day, and drove them home. Constable Rea had no doubt that, if Arnold were with Topsy, he would attend school and be well looked after. He believed, however that it would be inadvisable for Arnold to live with his parents:

They are still native in living, and Arnold being so fair, I think he would have a better chance if he was placed with whites—if possible—after he leaves school, than to return to the real native life, which he would do if he came here....I think he would always remain native if he came here.

The ‘real native life’ referred to by Constable Rea as the living conditions of Topsy and Syd’s family was described in other documents as ‘poor white’.

The Commissioner prevaricated. At Moore River Arnold was living as an Aborigine with other Aborigines. He was familiar with Aboriginal language, customs, beliefs and practices.

I knew all the stones an’ that, see. I learnt that off a coupla old blokes long time ago. They went through law up that way an’ they doin’ the law down ‘ere. They was the trackers Billy, Kingy and Bluey. They was full bloods. Billy was a ‘alf-caste. They were Wanggai mixed up from Wiluna side. Some were Wadjeri. They were sent to Moore River, Trackers an’ that, see. They took a coupla boys out; Darcy Lawford, ‘e’s one, Eric Lawford’s brother; Ernie Roberts; Jimmo Dempster an’ me. We was the first ones. We were in Moore River. The stories were told to us by those old fellas, blokes who believed in them. They took us out an’ kept us a coupla weeks. I was initiated as a young boy an’ I’m the last one. Them trackers, black trackers, Kingy, Bluey, Bill Lewis they were law men.³⁵

Other alternatives, Queen’s Park and Roelands, where Arnold may have been acculturated to the white had been tried and failed. If there was no other way of removing him from an Aboriginal milieu, keeping him away from his mother could not be justified. Topsy loved him and could offer satisfactory living conditions, probably with better food, hygiene and creature comforts than Arnold endured at Moore River.

Topsy, in characteristic forthright vernacular, enunciated the obverse of the dilemma confronting Commissioner Bray:

It seems to me that I have been begging for your son instead of my own son. hes (*sic*) done no murder or any crime for you peoples to keep him in that dirty old home away from his mother for years. he been there for years and years now. you peoples say that he under a white act But you got him in that dirty old home the

³⁵ Transcript of Interview with Arnold Franks, 2006. Original held by the author.

Native Settlement you call it. & If he can stay there he can come home to me. I am his own Mother. I had to suffer for him and no one else.³⁶

Bray relented. In May 1944 Arnold was thirteen years of age and Aboriginality was embedded in his character, 'a little too old to reclaim from these habits'.³⁷ Arnold was released to his mother's care for a trial period of twelve months, conditional upon his being of good behaviour and attending school until he turned fourteen.

On 12 October 1944 Arnold appeared to be 'alright'. Constable Rea reported he attended school regularly and behaved himself: 'He is living with his mother, Mrs Hart'.³⁸ Ten days later, Arnold was gone. 'He was last seen going towards the railway station in the afternoon, whilst two trains were standing at the station'.³⁹

Arnold later spoke of why he left:

She 'ad three other kids. She 'ad two boys an' one girl. One of the boys, 'e turned out a boxer, a boxer in show tents an' all that, you know. 'e coulda belted the ears off me a couple of years after. Well 'e did, a couple'f times.

Somethin' I didn't like was goin' to school. We 'ad to go in a buggy or walk in the rain. Or a sulky. Mum used to drive us in a sulky. She'd go to work for McLarty's. She done a lot of work roun' there for McLarty's. She'd take us in a sulky. If she knocked off early we 'ad to walk 'ome. 'ad to walk through the reserve out to Beecham's farm, connect to Beecham's farm. Beecham's; we were workin' on Beecham's. We 'ad to walk a good way. I got a bit sick of it.

I jumped out the window when they gave me the cane. I jumped out the window when 'e was canin' me. Never caught me. Over the fence and away I went. (laughs) Which was the stupidest thing in the world, I know now, but you didn't know them days, you know.

I had shanghai's. That's what got me into trouble. Always 'ad a shanghai in my belt for shootin' birds an' that, you know. 'cos I ate birds. We 'ad to eat birds. We 'ad to eat willywagtails or nothin'. If we got a bit of meat off it, we ate it. Mogumber. Moore River. You go for birds, anythin'. Fish, little fish that long, or fish that long, or a cobbler. You 'ad to eat it otherwise you wouldn't live. Lot of kids died. The kids that died there; 'undreds, 'undreds of kids died up there.

The old cemetery, I don't think I could find it now. It's down the elbow, the old cemetery. Big trees growin' over it. Not the cemetery where they got the memorial. That's a new cemetery. The old cemetery is right down. 'undreds of people died there before that. Bad times: after the depression years in my time. I can only talk about my time, depression years. In my years they died.

³⁶ Department of Indigenous Affairs, Native Affairs, Item 365/1934, folio 91, Mrs s.Hart, Pinjarra, to CNA, 15 May 1944.

³⁷ *ibid*, folio 93, DCNA to CNA, 19 May, 1944.

³⁸ *ibid*, folio 101, Constable Rea to CNA, 12 October 1944.

³⁹ *ibid*, folio 102, Protector, Pinjarra, to CNA, 23 October 1944.

If you couldn't go an' rob a bee'ive or get some food out of the river, you would starve and you'd die. You got flour an' a plug of tobacco, 'bout that square, a block. 'ard tobacco and you 'ad to use newspaper, or any paper. Or you chewed it. A lot of people chewed tobacco in them times, women an' all, they chewed it; put ashes on it and chewed it 'stead of smokin' it.

You got your sugar an' your tea together. You 'ad to yandy it to separate it. That's 'ow a blackfella is a good yandyer. (laughs). To separate the tea from the sugar. The yandy was just a bowl of bark, or wooden one if you take a long time to make a wooden one. Wooden yandy's all right, or you can make a tin one, but it slips a lot in the tin. They'd make it with anythin'. They 'ad to put up with anythin'. Milk tins or any sort of tin they used for billycan.

We'd go down when the slaughtermen killin' the sheep, an' 'ung 'roun' like you see all the crows 'roun' a carcass; we'd be like crows an' they'd chuck a lung out, take the heart off an' chuck the lung out an' we'd grab the lung with strings 'angin' off it; an' they'd chuck trotters, anything out; the guts, we'd grab the guts, open 'em up, go to the river, wash 'em an' cook 'em straight away. We'd grill 'em or boil 'em or somethin'. We'd be sittin' like crows. Mules they had to cart the wood with, they used to give them molasses; forty-four gallon drum molasses. We 'ad sticks in them molasses pullin' molasses out an' eatin' the molasses. We'd eat more than the 'orses.

Oh, you'd get into trouble if you get caught. You'd get locked up, a day or two in the boob. You seen that boob there? The boob there, you can't see yer 'and if you shut the doors. I spent some time in the boob there.

I learnt to survive. A lot of people died, a lot of kids died. I'd been used to gettin' tucker, see. So I run'd away.

They caught me in the south. They put me in Roelands, an' I run'd away from there. They put me into Carrolup, and I run'd away from there. After Carrolup I went to Cosmo Newberry.

On January 8 1945, the Department of Native Affairs placed Arnold in employment at Menangina Station. His wage was 10/- per week, half payable to him in cash and half payable to the Department to be held in trust. He seems to have made a good start and two weeks after his arrival wrote to the Commissioner requesting work clothes, trousers, shirts and boots: 'Well Mister Brea I wont you to send me two pers of gument trose and sume shirts and a pear of meletria boots'.⁴⁰ He decamped during a visit to Kalgoorlie. On 28 June, his employer advised Arnold was seen on the Kalgoorlie Express, presumably en-route to Perth.

Arnold later complained about his treatment at Menangina. He accused the manager of ill-treating him on a number of occasions, 'by slapping and kicking me and also by rubbing my face in stock manure about the place'.⁴¹ A dispute arose between Arnold and the manager about

⁴⁰ *ibid*, folio 107, Arnold Franks to CNA, 25 January 1945.

⁴¹ *ibid*, folios 146-147, Statutory Declaration by Arnold Franks witnessed by Sergeant J.A. Campbell, 2 April 1946.

his need to go to Kalgoorlie to get clothing from the Department of Native Affairs:

I had to 'ave break. I got to go to town. They sent me gov'ment clothes. They sent me wrong size clothes: too tight the shirt, or too big or somethin'. What they wore in Fremantle, we wore. What we had for shirt, woman 'ad pants in it. Stripty green, somethin' like this colour with a stripe in it.

Arnold left Menangina after he was punished for being late for dinner one day:

That's 'ow this fight started. We don't eat inside. We eat on the wood'eap. Them days you never come inside. They 'ave their's inside. Yous sit out there in the wood'eap. Cook bring your meal out an' give it to you; you gotta eat out there. They all eat inside in the dinin' room.

I was late. 'avin' a clean up I s'pose; getting' ready. I was workin' in the charcoal pit. Used to work burnin' coal. They 'ad gas producers in them times too. You could burn your own coal.

[The manager's stepson] told me off for bein' late. I decided I was off. I was off. I said, 'I'm walkin' out of 'ere'. I rolled up a coupla old Mogumber blankets, shirt, towel or somethin' an' took off. 'e jumped on a bike an' chased me. 'e caught me and I was gunna fight 'im. 'e wouldn't fight me. I said, 'Come on. I'll fight you, you bastard'. 'e went away up to 'is 'ouse an' brought the gun down. Well I was shittin' meself with that gun there. I was stoked with my own boiler. 'e brought me back with a gun pointed at me. Walked me all the way back again back with a 'andgun, a black 'andgun 'bout this long. 'e denies it though.

[The manager] wanted to flog me too. 'e brought the stockwhip out an' 'e was gunna flog me, but I got in me bedroom an' shut the door. I 'ad a bolt each side an' they bolted me from outside too. I was locked in if I opened my door or not. It 'ad no ceilin': I could kick the roof open. It 'ad no ceilin'. Shearer's quarters, that's all. Made of galvanized iron, roof, sides.

In his subsequent deposition to Sergeant Campbell, Arnold alleged serious breaches of the Native Administration Act.

[The manager] came to me in my room when back at the station, and gave me an aspro and a mixture of beer and brandy. He then ordered me to work. I refused and after some argument he dragged me outside. I picked up a stick to defend myself and was then attacked by [the manager] and his stepson and my hands tied behind me and I was locked in my room.⁴²

The following day Arnold was taken to Kalgoorlie. 'They thought it over. 'We'll give you a break if you promise you won't play up'. I said, 'Yeah, I wanna get some decent clothes', I said. He was given 5/- for tucker in Kalgoorlie and stayed there for a day and night. The next day at

⁴² *ibid*, folios 146-147, Statutory Declaration by Arnold Franks witnessed by Sgt J.A. Campbell, 2 April 1946.

about 4 p.m. he caught the express to Southern Cross:

I jumped the train and rode it to Southern Cross. I got into the toilets in the passenger train. I got in the toilet: didn't pay the fare. I got out after the train was goin but I seen a ticket bloke comin' up 'ere an' jumped back in the toilet.

Arnold left the train at Southern Cross. Aboriginal friends helped him get a job on a farm at Moorine Rock. The police caught up with him, but he refused to return to Kalgoorlie. The Protector of Natives at Southern Cross, Sergeant Tully, recommended he be allowed to remain in his job at Moorine Rock. 'The sergeant spoke up, 'e's a good bloke, an 'e says, 'Why not leave 'im? 'e's workin'. 'e's doin' all right: the boss likes 'im. 'e can put up a fence, 'e can look after a windmill, an' do everything else. Why don't we leave 'im alone?' So they left me alone'.

After three weeks, Arnold returned to Pinjarra. 'I got a bit low. I said, 'I'm off''. From there he went to Bruce Rock and stayed for two months: 'While at Bruce Rock this lad kept himself very respectable and was always keen to do any work available'.⁴³

Arnold then returned to Pinjarra where Topsy became concerned about the company he kept and his growing drinking habit:

I am writing to let you know that Arnold Franks is staying with (name withheld). (Name withheld) is making him a drunkard like himself. him (*sic*) and his family are all wine drinkers. ...

I went down from here last weekend to see him he wouldent (*sic*) come near me because I am always growling at him, because I tells him not to go on drinking he can earn his money and buy clothes for himself. but he is like an old man the way he goes on. Very thin and sore eyes.

Well Mr Bray I want you to get hold of him & send him right away on the further station as you can send him to. No doubt he's a good worker because his bosses says he works well for a boy his age.⁴⁴

Arnold was fifteen. In February 1946 he was arrested on a charge of breaking and entering at Collie, but was released when evidence was given that he knew nothing about the offence. Thereafter, he pursued an itinerant lifestyle, working for a while with Wirth's Circus, then as a farm labourer, then digging potatoes, then a labourer in a sawmill, never staying long in one place until, on 5 January 1947, he was returned to the Moore River Native Settlement. Seven days later he and a companion absconded and Arnold again became a directionless nomad.

⁴³ *ibid*, folio 128, Constable J. M. Lowry to CNA, 8 October 1945.

⁴⁴ *ibid*, Folio 131-132, Mrs Hart, Pinjarra, to CNA, 18 December 1945.

I cleared out from there and went to Bruce Rock. Then they caught me in Perth 'ere, Native Affairs, and got me to go to Cosmo Newberry. They put me back to the Settlement, then they took me to Cosmo Newberry, on the Warburton Road; me and a bloke called Jimmy Dungle Dungle. They got 'im out of gaol; 'e speared a bloke...speared somebody; I don't know who 'e speared; 'e speared someone; 'e was a full blood...An' we had a yarn about 'ow we were gunna get away. Donegan was the boss there; Donegan, 'e was from the Goldfields. 'e even belted his missus; 'e was a bad man, that bloke. A really bad-tempered man. So 'e'd chase you on a 'orse, an' 'e'd catch to stop you try an' get away. We planned it. I was in the workshop sharpenin' axes to cut wood. Well, I pinched a file, two files I pinched; I said I lost one and I got a slap on the ears for that. We only had little bars, little bars, there were a few little bars on the bottom of the gate, see. Mostly the wall were nettin' barbed wire nettin' all tangled up. So I sawed these little bars to get to the barbed wire nettin' and we walked.

We walked all night. Our plan was to go to Menzies. There was a railway line from Menzies in them days, there used to be a line: no line now. We were goin' to jump the train. We were goin' to go to the dump first in Laverton to get all the...a lot of the prospectors lived in tents and bough sheds, etc, and they'd chuck a lot of tucker away, see. That's what 'e's tellin' me. 'e come from that area; 'e come from the north when 'e were younger. We'd get this tucker and we were gunna go; we were gunna jump a train, or somethin'. Well, I see'd all this granite and ironstone along the road going to Warburton; and I said I'm going on the other side of that, going back toward where Leinster is. Leinster wasn't there then. And I come out at Leinster. I went that way and 'e went to Menzies. They caught 'im; they never caught me.

They never caught me no more. The caught 'im at Menzies. I went through the ironstone. I went through where they couldn't track you. They had blacktrackers them days on 'orses. But when you get to outside Cosmo, you got ironstone to Laverton. Ironstone track goin' that way, an' granite. They couldn't track you. I went that way right through to Leinster. Leinster wasn't there then. Went to Agnew.

I pulled a windlass for Rooney, Jack Rooney. An' they give me a bag of tucker an' a few shillin's. I think they give me nine shillin's, or ten bob, or somethin'. You could buy a loaf of bread for sixpence or threepence at that time. I pulled the windlass on Rooney's mine at Agnew.

After Agnew I walked to Albion Downs. Jack Jones was there. 'e'd never married Doris...Doris Dann, my cousin, old Ned Dann's oldest daughter.⁴⁵

Arnold returned to the South-West and settled into a pattern of binge drinking. He accumulated successive convictions, mainly for offences against the Liquor Licensing Act; attempting to procure liquor, entering licensed premises, supplying liquor to natives and so on. His crime card recorded on 28 May 1948, 'Although not yet 18 years Franks appears to have a

⁴⁵ Ned Dann was Grannie Annie's brother-in-law.

great liking for liquor'.⁴⁶ On 19 July 1948 at Narrogin he was convicted of two offences, stealing and receiving liquor, and was fined £1 with 7/- costs and sentenced to three months' imprisonment with hard labour. From Fremantle prison, he wrote to the Commissioner for Native Affairs: 'I don't think I will do a foolish thing again'.⁴⁷

He did, however. On 2 July 1949, Arnold was convicted and fined for disorderly conduct. On the twenty-sixth of the same month he was issued with a certificate confirming he was not an Aborigine for the purposes of the *Native Administration Act*.

Arnold Franks, according to the records of this Department, is a quadroon and does not come under the jurisdiction of the Native Administration Act.⁴⁸

He used that certificate to obtain liquor at hotels even though he was under the age of 21. In July 1950 he was back in Fremantle Prison. Then followed a series of convictions for entry to licensed premises, drunkenness, receiving liquor, assault, cohabiting with a native woman, until, once again in July 1954, he was convicted of supplying liquor to a native and sentenced to four months' imprisonment. After release, his picaresque lifestyle took him to the north of the State, the Northern Territory, Queensland, and to New South Wales.

Arnold had his last drink on 9 December 1962. He speaks with candour about his experience:

I am a alcoholic. I 'aven't 'ad a drink goin' on forty-four years....

Well, I got too sick. I got sick of bein' sick, and I got sick of makin' a nuisance of myself, sick of telling lies an bullshit, leavin' good jobs. You know, my money when I used to go out to work. I used to be a bender drinker; I wasn't a every-day drinker. I started was a bender drinker....

I'd go to the bush for six months, or twelve months. I been in the bush for fourteen months without a drink. When I come into town I'd piss myself. The pockets'd be 'angin out, pockets 'angin out. No money. Lookin' for me bankbook. ...

I'd drink in the park, I'd drink anywhere. I been hit by a couple of cars, and broken leg, and all that sort of thing. One lady hit me from behind. Three times I been hit. I've been hit walkin' twice. I fell off the truck.

With the support of Alcoholics Anonymous (AA), Arnold managed to beat alcohol, but not without major trauma and setbacks along the way:

⁴⁶ Department of Indigenous Affairs, Native Affairs, Item 130/1948, folio 11, Copy of Crime Card, J.P. Muntha P.C. 2020.

⁴⁷ *ibid*, folio 21 Arnold Franks, Fremantle Prison, to CNA, 12 August 1948.

⁴⁸ *ibid*, folio 28, F.W.G. Anderson, District Officer, 26 July 1949.

On 9th of December I'm forty-four years. I'm forty-three years, now. The bloke who helped me first to get sober, I was up North drovin'. I was fencin' for Ernie Dagin; post cuttin' around Charleville out from Blackall, Longreach an all them places. Stockyards, puttin' up stockyards. He was a contractor; he lived in Charleville. A good bloke. I was around there for a long time. I wouldn't go into town like they'd go into town every week or every month, or somethin' they'd go, but I wouldn't go. When I 'it the town, I 'it the police station too. Locked up. I was locked up for drunk, you know. Plain nuisance, you know, runnin' across the road, or walkin' across the road with pockets hangin' out, no money, lookin' for my bankbook, lookin' for my money.

While in Brisbane, 'avin' a bit of a 'oliday, doin' a bit of boozin' Arnold was involved in a motor vehicle accident and was hospitalised for an extended period. 'I used to cry for [a drug] to take all my pain away. It was bad...they had to rebuild my knee. I got a plastic knee there now'. After his release, still on crutches, he 'got back on the grog'. In an effort to dry himself out, he caught a taxi to the city outskirts and headed north. A passing motorist picked him up from the side of the road:

I was on crutches, but Frank...picked me up....crutches and my swag, which I couldn't lift. 'e got me, got the swag an' put me in the car. Big man 'e was, good bloke.

I was on the side of the road. I got a taxi out of Brisbane, goin north. 'e said, 'I'm goin' to Maryborough,' 'e said. 'That will be good for yer, yeah'. We got talkin me an 'im....'e bought me a little flask to stop my shakes. I had not quite 'alf 'an I threw it all up. 'Don't want any more,' I said. 'e was gunna put it away. I said, 'No, throw it away, I'm not drinkin' no more'. 'e said, 'You've said that a million times'. I said, 'Yeah, you can say that again'. I was just talkin' true....I said, 'I want to try and get sober'. ... I said, 'No, no I've 'ad it, I've 'ad it. I don't want to drink no more. I don't want to drink anythin especially alcohol'.

Frank was a member of AA. He found accommodation for Arnold in Maryborough, gave him a job, and was his sponsor in AA. The meetings were held at Frank's home. 'Most of them were businessmen, members of AA in Maryborough. They were all good to me.' Even with that support, Arnold's rehabilitation was gradual and painful. He endured at least one stay in hospital.

I went into 'ospital with drinkin'. I grabbed the tablets an' they put the pump on me. Pumped me stomach right out. Near my bed, another bloke 'ad all these tablets. I threw them down, chewed 'em, to make meself go off to sleep or somethin you know. I 'ad the dry 'orrors. You don't drink for three or four days, you can still go in those 'orrors.

With the support of AA, Arnold controlled his addiction and was sober for two years. 'I was off

it for over two years. A good two years'. He had a steady job, income, a home and a girlfriend. They saved money and, after a holiday in Sydney, moved to Armidale where Arnold found a job in the railways. When his girlfriend returned to Maryborough to visit her mother, Arnold returned to Perth. 'I come 'ome 'ere an' I busted'. He was involved in a serious industrial accident and again spent a long time in hospital.

I couldn't get to the bush. I couldn't get aroun' too good on this leg. I always 'ad pain. My pain was made bigger by my 'ead. Your 'ead can just about cure you if you thinkin' properly. Well I wasn't thinkin' properly....I went into Heathcoate an' 'ad electric shock treatment. Antiabuse treatment. I 'ad the shock treatment in Sydney, but I 'ad Antiabuse treatment 'ere. Antiabuse: you bring yer guts out of yer mouth. You bring everything out. They stopped it 'cos it kills you...I done it the 'ard way: very hard.

I got onto the AA and fixed me up...now it's been 43 years. I didn't count that time over there when I first got sober. That's not on it. 43 years since I 'ad a drink.

In his picaresque wandering, Arnold turned his hand to many things; stockman, drover, horse-breaker, miner and prospector:

Well, in the bush, you know, you break the leg, you can't ride any more, you go prospectin'. I went up to Andamooka first, for opal. I got the opal, and I wanted the gold, so I went with a bloke lookin' for gold. At the time we found some gold. Early time I used to be lucky, find gold, little pieces here and there. Alluvial gold. Then I found good packets of gold. I got robbed; they gimme so much and I just stopped. Can't say they robbed me; I robbed meself. They give me a heap of money for the ground, and I said, 'I got this. I'll go and get a motor-car. I'll find another one somewhere'. Well I done all those silly things, you know.

He also reaffirmed his Aboriginality. He went through Wanggai, Wanmulla, Dumatji and Pitjinjarra law:

I'm a law man. I can go Wanggai, Wanmulla, Yamadji, Bunaba, Pitjinjarra, I can go right through. ...

When you been through Pitjantjarra law, that's the hardest law in the whole of Australia. When you go with that law, every law will accept you, but you still gotta go through their boards—long boards, you might have eight, nine, ten.

When you get initiated with the Pitjantjarra law you got Wanggai, Wanmulla, Yamadji, not Yamadji, Wadjari.

If you go to different other law places and you go through that one man, you still a brother. I got brothers all over the place (laughs). Nullabulla they call them brothers. But I still got tribe. I'm the last survivor....I'm the last Dumatji.

At age 76, Arnold's hair is short, straight and white, his weathered skin is fair and his eyes still blue. He drives a Toyota one-tonner with a camp-oven, swag, and drum of diesel fuel on the back. Frequently, he goes out bush prospecting, gathering bush medicine, making contact with his numerous Aboriginal brothers, cousins and aunties and uncles, or attending funerals. When confident of his listener's trust, he sings in Aboriginal tongues fragments of songs he was taught in ceremonies. He is a proud Aborigine who aggressively asserts his white heritage: Grannie Annie was a half-caste, 'old Benny Sharp's daughter'; 'my mother's father's a white man, and old Dann married Grannie Annie'; and Arnold's the youngest in his white family:

I'm the youngest in the family, well as far as we know, I'm the youngest....Marie's younger than me on the black side, but on the white side, I'm the youngest in the white side....I know there's some more. I've been told there's some more kids, but I can't find 'em. They might have died; I don't know.⁴⁹

⁴⁹ Transcript of Interview with Arnold Franks. Original held by the author.

Conclusion

AUSTRALIA'S COLOURED MINORITY **REVISITED**

Don't get the idea I want to encourage inter-marriage between us and the aborigines—that's not it at all. I want the coloureds to get the same chance as ourselves and if they intermarry with us it won't matter.

I have tried to show how the coloureds should be treated to make them acceptable as a people not so very unlike us in many ways. Of course as they are now no one wants to mix with them—or very few—but the time will come when they will merge into the whites and be no longer a people apart as now. The aborigines, that is the full bloods, will either die out or reach a higher state of civilisation very like our own.

My book deals with the descendants of the aborigines, i.e. the coloured folk.

Letter from A.O. Neville to daughter Anne, 17 September 1947.¹

It has been argued in this thesis that even though as Chief Protector of Aborigines and subsequently as Commissioner for Native Affairs, A.O. Neville and his predecessors, Henry Prinsep and Charles Gale, exercised considerable power and authority over the lives of Aboriginal people in Western Australia, public policy and, in particular, the allocation of public resources for Aborigines were not decided at their dictate. Neville, in particular, was not the policy demagogue that writers such as Biskup, Haebich, Anderson, McGregor and Sir Ronald Wilson might suggest. Policy was controlled and shaped by multiple players and influences within the political, economic, social, and intellectual milieu in which he functioned. Those policies also had an historical context with embedded precedents which were built upon as each initiative for the treatment of Aborigines was endorsed by political procedures. Because policy for Aborigines was electorally sensitive, it also was exposed to circumstantial opportunism. New initiatives were endorsed by successive executive governments only when they judged it was electorally safe for them to act.

Neville came to the role of Chief Protector with little knowledge of Aborigines and even less enthusiasm. He was appointed for his acknowledged administrative competence. Policy was

¹ J.S. Battye Library, Western Australia, A.O. Neville Collection, Acc, 4691 A/3, Correspondence, C. Stitfold, Department of Native Affairs, to A.O. Neville, 17 August 1950 to 4 March 1953. Only this fragment of Neville's letter to his daughter is included in the collection.

not intended to be his concern; that belonged to his minister. Neville's task was to give administrative order to programs initiated by Charles Gale, namely, to ensure that Moola Bulla Native Cattle Station succeeded in reducing the incidence of cattle killing in the East Kimberley by containing tribal Aborigines; to set up the Carrolup River Native Settlement so that the half-caste presence might be removed from towns along the Great Southern Railway Line; and to better manage the distribution of rations, blankets and clothing among indigent Aborigines across the state. These things occupied the first phase of Neville's tenure from 1915 to 1920 and he succeeded. He also emerged as an important source of policy advice, but he could only advise. He understood the policy process and the power structures of government and put forward only those recommendations he thought might be accepted by the responsible minister and the Cabinet of the day. Even then he had to wait eighteen years for legislative reforms he first recommended in 1919 to be agreed to by Parliament, to be proclaimed and to commence, by which time Neville was in the twilight of his career.²

As a public servant honest to the conventions of public administration then prevailing, Neville did what relevant law required and, with few exceptions, what the law allowed. He may have preferred to do otherwise, as he exposed in *Australia's Coloured Minority*, or at the Initial

Boys Outside the Dormitory, Moore River, c.1930s. Berndt Museum of Anthropology, University of Western Australia, WU-P113



² The *Aborigines Act Amendment Act 1936* passed all stages of Parliament on 10 December 1936, was assented to on 11 December 1936, but did not commence until December 1937.

Conference of Commonwealth and State Authorities, but as Chief Protector of Aborigines he administered his department and ministered to the needs of Aborigines to the extent allowed by statute, responsive to political will and within the limits of the public resources allocated by governments from time to time. They never were adequate:

I remember the time when the dining tables at one institution having become insanitary, (*sic*) I sought for timber to replace them. This was refused because of the cost, but nice white timber was then being supplied for coffins. It was of the type suitable for table tops, and I instructed that there should be a substitution of one for the other. I often wondered if the apparent increase in burials was noted by the holders of the privy purse! To such subterfuges we were sometimes reduced. All these things which go towards the sum of the impossible conditions under which we had always to work.³

The damage to many Aboriginal people caused by government programs pursuant to principles embedded in the *Aborigines Act 1905* and its successor the *Native Administration Act 1936* was enduring and irreparable. Aborigines already were a damaged people before the first of those laws was enacted. In the north of the state some survived in their customary manner—bush blacks or myalls avoiding contact with white pastoralists, pursuing their nomadic traditions, cossetting their cultural values, and protecting themselves from white interference by retreating to inaccessible reserves north of the Leopold Ranges or to inhospitable country that offered no financial return for white pastoralists who might otherwise have partitioned it. Even many of those living on the native cattle stations at Moola Bulla and Munja retained their cultural identity, only occasionally approaching the settlements for beef and medical attention. Some, especially the relatively small number of half-castes, preferred the predictability of station life. Full bloods who adapted to living and working on cattle and stations in the East and West Kimberley and on sheep stations in the Pilbara observed native custom during their wet season pinkeye. For most of the year they lived in villeinage, camped beside the wood heap within hearing distance of the station homestead, bound to their land by tradition, but bound also to station owners or managers for their tucker. They surrendered custom for beef, flour, sugar, tea and tobacco and the patronage of the station overseer. They were regarded as useful, but only for as long as they were deferential to the boss and their cheap labour sustained the pastoral economy.

In the south Aborigines were dispossessed of their land, alienated from their traditional culture and unwelcome in the European which displaced their own. They were British subjects without rights of citizenship, and therefore without political significance, an anomic group not entrusted with power even over their own lives. Public opinion at the turn of the twentieth century assumed the demise of the distinctive full blooded Aboriginal race was inevitable. In large

³ A.O. Neville, *Australia's Coloured Minority*, p.85.

tracts of country, particularly in the South-West region, whole tribes of traditional Aborigines already had died out and those who remained elsewhere lived at the fringe. Family groups and clans were transformed by three generations of cross-cultural breeding. The white community rejected and feared mixed-race Aborigines for their supposed iniquity. The solution devised by public officials, notably the first two Chief Protectors of Aborigines, Henry Prinsep and Charles Gale, was to remove half-castes to reserves, native settlements, or missions where they might be watched over and be out of public sight and out of public mind.

The only hope entertained in that policy was that half-caste and quarter-caste children, separated and segregated from their parents and extended families, might be trained and educated to take a subordinate economic place as adults in the mainstream community, a useful but not competitive unskilled agricultural and domestic workforce. Under provisions of the *Aborigines Act 1905*, the Chief Protector of Aborigines had legal power to remove any Aboriginal or half-caste child under the age of sixteen from home and family to be detained in an Aboriginal institution for 'care, custody and education'.

That was the policy inherited by A.O. Neville when he reluctantly accepted the mantle of Chief Protector. He acknowledged the process of removing half-caste children from their families was cruel, commenting 'we try to avoid it, but no doubt for the future of the race it is a necessity'.⁴ The consequences for the future of the race were profound. Children lost their families, their Aboriginal heritage and their identities, and mothers lost their children. Aboriginal peoples were subjected to the will of the dominant white majority.

Policies of child removal and state wardship were consistent with attitudes then prevailing about the treatment of orphans, bastards, and destitute or neglected children. There were parallels between the *Aborigines Act 1905*, the *Bastardy Laws Act 1875*, and the *State Children Act 1907*. Because of a commonly agreed proposition that they had been conceived through illicit unions of degenerate Aboriginal women and amoral non-Aboriginal men, most half-castes were regarded as bastards and were treated as such both socially and in public process. There were, however, significant differences among the treatment of illegitimate and neglected half-caste, and illegitimate and neglected white children. The latter seized under bastardy laws or the *State Children Act*, and their parents, had protections of due process. Just cause had to be demonstrated to the satisfaction of a Children's Court. Parents had rights of appeal, statutory rights of access, and legal rights to apply to a Children's Court for the return of their children. The powers of the Chief Protector were constrained only by the authority of his Minister. Orders under section 12 of the Act for the apprehension and detention of Aboriginal children could be issued only on the signature of the Minister. Once issued the warrants were legal and binding and once executed the

⁴ Moseley Royal Commission, Transcript of Evidence, A.O. Neville, 14 March 1934, p.120.

guardianship of the Chief Protector was to the exclusion of all other rights of parents. Aborigines had no rights of redress; theirs was only to submit passively or hazard prosecution and imprisonment for disobedience. The discretion to recommend removal 'in the best interests of the child' reposed with Neville. Consequently, history has judged him, in too many respects perhaps unfairly, as responsible for many of the unintended and unanticipated consequences of the programs he administered.

The Policy Process

It is hazardous to attribute the origin of public policy in democratic systems to the writings of single philosophers or scholars or even of schools of thought. Policy formulation usually is a much more complicated and complex process than the mere conversion of ideas from political philosophy to public policy, from policy to program, and from public program to operational procedure. In liberal democracies public policy does not derive from discrete or unalloyed political philosophies or social theories, nor is it decided by individuals acting alone. It usually represents compromises of competing beliefs and values. Similarly, even though individuals such as ministers of state or designated public officers might be accountable for policy and practice and might occasionally claim personal credit, how policy is implemented or applied, the manner of translating policy from theory to practice, seldom is determined by them alone. Competing interests within pluralistic societies intrude at every stage of the process either to frustrate or modify their intent.

Political experience demonstrates that the more pluralistic the society a policy is intended to serve the greater is the diversity and variance of values within it. In that context, public policy tends to reflect negotiated agreements or various combinations and permutations of ideas and values. Hence, to say that policy for Aborigines in Western Australia in the first half of the twentieth century was derived from evolutionary theories or prognostications about eugenics derived originally from writings of the likes of Charles Darwin, Herbert Spencer or Francis Galton ignores political realities. They may have had some influence, but if so, it would have been more tangential than direct. Such theories were dynamic elements of intellectual endeavour and academic dialogue in Britain and elsewhere at the relevant time. They helped give direction to beliefs then emerging about man and his place in the cosmos, or at more mundane levels, reaffirmed British opinions about themselves and the 'savages' of the territories they colonised.

The influence of political philosophy is not in its direct manifestation as policy and practice, but rather through its capacity to shape the values by which societies define themselves. Particular philosophies are discernible in public policy not because they have irrefutable intrinsic

merit, but because they conveniently reaffirm prevailing beliefs of a society about itself. That is not surprising since popular philosophy and public attitudes derive from common intellectual traditions. They give eloquent voice to communal prejudices. Philosophies compatible with or complementary to those prejudices are manifested in public policy. If Darwin's or Galton's theories are read and understood as reaffirming beliefs that white Australians, in the early colonial period transplanted Englishmen, had about themselves or Aborigines at a given time, then they are useful in elucidating policies prevailing at the time. It must be acknowledged, however, that such theories and prognostications were only one of the many influences, some of them contraposed, that shaped communal opinion and public action.

Public policy is not static, resistant to change, immutable in its operation and unresponsive to emerging social conditions or altered circumstances. It is fluid and adaptable, at best responsive to need and always receptive to circumstances. Even its legislative articulation is subject to interpretation and sometimes given narrower or a more liberal meanings than might have been intended by those who legislated it. Just as public policy is not formulated by individuals acting alone, so too does it not belong to single individuals. It exists in a public domain and its meaning is hostage to the foibles and fallibilities of individual and collective intellects, value judgements and prejudices.

Public policy for Aborigines taken up by governments during Neville's tenure responded, albeit slowly and inadequately, to the evolving nature of the Aboriginal population. Two propositions were constant in Neville's schema. The first was that Aboriginal tradition, culture and custom were doomed to extinction, and with it the full-blooded Indigenous population would diminish, but the race itself, rather than being in terminal decline was changing and ultimately it would be absorbed into the mainstream culture. The second was that before Aborigines could be assimilated they had to be raised through education and training to economic and social acceptability to Australians of European stock.

Critics of Neville's policies castigate these propositions as his justification of what they called 'tutored assimilation' 'biological absorption' 'constructive miscegenation', or even in the estimation of the Human Rights and Equal Opportunity Commission of 1997, 'genocide'.⁵ Some of the information considered here might be construed to give credence to their position. For example, Neville might have appeared ambivalent about the proposition advanced by Dr Bryan in his submission to the Moseley Royal Commission, namely, that a deliberate program should be pursued to breed out the Aboriginal physiognomy. Neville, however, was never convinced that

⁵ See: Peter Biskup, *Not Slaves, Not Citizens*, 1973; Anna Haebich, *For Their Own Good*, 1988; Human Rights and Equal Opportunity Commission, *Bringing Them Home*, 1997; Robert Manne; 'The Stolen Generations', *Quadrant*, 1997; Colin Tatz, 'Confronting Australian Genocide', *Aboriginal History*, Vol 25, 2001; Warwick Anderson, *The Cultivation of Whiteness*, 2002; David Markovich, 'Genocide, a Crime of Which No Anglo-Saxon Could be Guilty', *Murdoch University Electronic Journal of Law*, Vol 10(3), September 2003.

atavism was not possible in the crossing of Aborigines and Europeans and was privately cautious about the feasibility of Bryan's proposition. He certainly could not have persuaded successive ministers or a majority of members of the several executive governments he served that policies directed toward 'biological absorption', or 'constructive miscegenation', or 'genocide' could be politically or morally acceptable. Successive Cabinets prevaricated over seemingly uncomplicated decisions such as to re-open the Carrolup Native Settlement, not because they disagreed with reasons advanced in Neville's submissions or advocated by others in public petitions, but merely because they were unwilling to hazard the political opprobrium of making the decision. Neville could only wait. It took him ten years, he said, to bring Carrolup to 'a state of usefulness', but the Mitchell Ministry closed it on Aldrich's advice in a matter of weeks:

It took me another ten years to restore it—that is, to get a decision to re-establish it—owing to political considerations! A generation lost the use of that place in consequence—twenty years out of the lives of the natives in that area lost to their children.⁶

Policies which might have entertained ethically profound, and therefore publicly divisive propositions such as controlling the breeding of Aboriginal people to select against skin colour or with a genocidal intent of extinguishing the race were never placed on the agenda for Cabinet consideration. They contradicted prevailing moral values and were therefore politically unacceptable. Even if Neville were intellectually attracted to any such propositions, public programs to achieve them were ethically unacceptable within the social and political milieu in which he functioned. Neville did not pursue public or covert programs to those ends. He did, however, settle on an expectation that, ultimately, Aborigines would be absorbed into the mainstream community. Whether that might also mean ultimately the Aboriginal colour would breed out would be demonstrated only by the effluxion of time. Neville was not prepared to suggest how long.

The Destiny of the Aboriginal Race

For purposes of public policy, Aborigines were legal artefacts created by legislation directed towards managing the lives of a group of people whom the British Imperial Government and later state governments believed should be protected. In 1886, under Imperial Statute, they included 'every Aboriginal Native of Australia, and every half-caste child and child of a half-caste,

⁶ A.O. Neville, *Australia's Coloured Minority*, pp.36-37.

such half-caste or child habitually associating and living with Aborigines'.⁷ Those half-castes and their children who did not live with and as Aborigines were excluded, except where a Justice or Justices decided otherwise for the purposes of the 1886 Act.

Under the *Aborigines Act 1905*, Aborigines included 'every aboriginal inhabitant of Australia', presumably Indigenous people of the full blood. Half-castes were 'the offspring of an aboriginal mother and other than an aboriginal father'.⁸ The law distinguished between Aborigines and half-castes, but specified conditions—half-castes living in conjugal relationships with Aborigines, half-castes habituating with Aborigines, and half-caste children who were younger than sixteen years—by which some half-castes born of Aboriginal parents on either side might be deemed to be Aborigines. Half-castes not so deemed under those provisions were, at law, not Aborigines. Exempt Aborigines ceased to be Aborigines as defined.⁹ In short, under the terms of the *Aborigines Act 1905*, not all people of Aboriginal descent, or Aborigines in fact, were Aborigines at law.

After 1936, there were neither Aborigines nor half-castes at law. The nomenclature changed. The full blood descendants of the Indigenous inhabitants of Australia and, subject to statutory exceptions, 'any person of less than full blood who is descended from the original inhabitants of Australia, or from their full blood descendants' no longer were 'Aborigines', but were 'natives'. The exceptions included quadroons over the age of twenty-one and quadroons under the age of twenty-one who did not live in the manner of natives. However, a Magistrate could order that quadroons who were not natives as defined, be natives for purposes of the Act. Hence, quarter-caste children who lived at The Children's Cottage Home, Queen's Park, and similar native institutions, were natives, but others living elsewhere and not in the manner of natives were not.

The mischief caused by the successive legislative attempts to redefine who was an Aborigine has been considered in this thesis. Here it is sufficient to note that at no time during A.O. Neville's administration of the Aborigines Department and the Department of Native Affairs did the law embrace all Aborigines or all descendants of Aborigines. Aborigines of the full blood and some half-castes were subject to Neville's authority, but until 1936, quarter-castes were not. After 1936, the legal status of quarter-castes was as confused as the status of half-castes had been after 1905. So too was the status of Aborigines granted certificates of exemption.

The justification for denying Aborigines the common law freedoms and privileges of subjects of the British Crown—a status conferred upon them by Governor Stirling's

⁷ *The Aborigines Protection Act 1886*, s. 45.

⁸ *Aborigines Act 1905*, s. 2.

⁹ *ibid.*, s. 3 (Persons deemed to be Aborigines) and section 63 (Power for the Minister to exempt certain Aborigines and half-castes from the Act).

Proclamation shortly after their territory was occupied and never revoked—lay, perversely, in the rule of conduct preferred by the British Parliament to:

Secure to the natives the due observance of justice and the protection of their rights, promote the spread of civilisation amongst them, and lead them to the peaceful and voluntary reception of the Christian religion.¹⁰

Protecting the rights of Aborigines meant denying them their individual will otherwise guaranteed by the laws of England; civilising meant imposing upon them British manners and custom; and leading them ‘to the peaceful and voluntary reception of the Christian religion’, obligated them to repudiate of the worth of their own. In successive legislative stages from 1886 to 1936 the individual will of Aborigines was substituted by the will of their guardian, the Chief Protector. The ‘absolute rights of man’ enunciated by Blackstone came to mean in the case of Aborigines the absolute rights of the Chief Protector.¹¹ In so far as they were ‘created and devised by human laws for the purposes of law and government’, Aborigines had a legal status equivalent to ‘artificial persons’.¹²

Half-castes represented a conundrum. Because they had appurtenances of Aboriginality, they were classed at law as Aborigines, equated with savages and denied civilised privileges. They were half black and the law required that they be protected as savages. They also were half white and British conscience supposed them to be capable of better. Neville’s peers, and he, believed they might be redeemed. With appropriate education and training removed from Aboriginal influences they might rise above their black antecedents to levels of acceptability within their European heritage. If ‘coloured persons’ were educated and trained to comply with the manners and customs of the mainstream, the rights and privileges as British subjects denied them because of their Aboriginality might be reinstated. The policy preoccupation during Neville’s administration of the Aborigines Department after 1926 when guardianship of Aborigines across Western Australia was returned to him, and the Department of Native Affairs after 1936, was not the ultimate fate of full blooded Aborigines, but rather how to resolve the problem of the half-castes, the people whom Neville preferred to call ‘the coloured folk’ or ‘Australia’s coloured minority’.

Neville was ambivalent about the destiny of full blooded Aboriginal peoples. Even

¹⁰ *Report from the Select Committee on Aborigines*, 1837, ‘Address of the House of Commons to the King’, July 1834. p.5.

¹¹ ‘The absolute rights of man, considered as a free agent, endowed with discernment to know good from evil, and the power of choosing those measures which appear to him to be most desirable, are usually summed up in one general appellation, and denominated the natural liberty of mankind. This natural liberty consists in a power properly of acting as one thinks fit, without any restraint or control, unless by the law of nature: being a right inherent in us by birth, and one of the gifts of God to man at his creation, when he endued him with the faculty of free will.’ William Blackstone, *Commentaries on the Laws of England, Book the First* (1765), Lonang Institute, 2005, (Copyright), p.76.

¹² *ibid*, pp.75-76.

though after 1917 he collated and published numerical evidence that their race was no longer in rapid decline and after 1936 that the numbers of full bloods appeared to be recovering, and even though he several times denied their race was in terminal decline, he believed that traditional Aboriginal life and culture were doomed. Australia's Indigenous peoples ultimately might not be extinguished, but Neville proposed that deleterious aspects of their culture, if left undisturbed, assured the demise of their traditional and distinctive identity: 'they are, in fact, being decimated by their own tribal practices. In my opinion, no matter what we do, they will die out'.¹³

Elsewhere, Neville explained the demise of full bloods in the South-West of the State as being due to, 'what I should like to call a concatenation of circumstances, a linking together of cause and effect'.¹⁴ Aborigines, he presumed, were never a prolific race. Before British colonisation they appear to have maintained what might be described as homeostatic relationships with their natural environments. In good seasons and in times of plenty they reproduced and their numbers increased, but at times of periodic drought or under adverse seasonal conditions when traditional watering places dried up and their natural food sources were decimated, they diminished. In a stable symbiotic relationship of man and environment, tribal practices of subincision, circumcision and infibulation, polygamy and promised marriage, abortion and infanticide might have contributed to population homeostasis. After colonisation when tribal watering places and traditional hunting and gathering grounds were excised and the traditional owners were hunted off or summarily executed, and when hundreds of Aborigines succumbed to introduced diseases like influenza and measles, customary marriage and childbearing practices that controlled fertility guaranteed that the decimated population would not recover. Neville was confident, however, that the fecundity of the derivative race, the half-castes, assured not only their survival, but also their proliferation. The challenge was to redeem their life chances so that they might be acceptable to and, ultimately, able to take an approved place in mainstream Western Australian society.

The tension between the ideational intent and the operational fact of the expectation that the lives of half-castes were redeemable, the abstract proposition and its concrete realisation, was exposed in the treatment of Aborigines exempted from the *Aborigines Act 1905* and the *Aborigines Act Amendment Act 1936* under Section 63. Neville believed such exemption should confer the same rights and privileges as enjoyed by white men, and the same responsibilities of conduct within the community. Legal opinion was of a different mind. Crown Law advised that while the purpose of exemption was to release natives from the obligations, restrictions and disabilities in

¹³ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, Neville in General Discussion, p.16.

¹⁴ Neville, A.O., 'Contributory Causes of Aboriginal Depopulation in Western Australia', *Mankind*, vol.4(1), September 1948, p.4.

relation to natives imposed by the Act, the granting of exemption did not impart benefits which other laws provided should not be enjoyed by natives.¹⁵ For as long as they showed evidence of Aboriginal descent they were treated as Aborigines according to other relevant laws. Exempt Aborigines were not enfranchised, for example. Exemption related only to the particular Act. Aborigines might not be natives for the purposes of the *Aborigines Act 1905* or the *Native Administration Act 1936*, but they remained Aborigines for the purposes of other Acts.

Legal anomalies relating to exemption persisted under the *Aborigines Act* and, subsequently, the *Native Administration Act*. It was an offence under those Acts for persons other than Aborigines to cohabit with Aboriginal women, but not for exempt Aborigines. They were not Aborigines at law, but were regarded as Aborigines in fact and might enjoy conjugal rights of their Aboriginality. Neither were they entirely free from the authority of the Commissioner. Their exemption could be rescinded at his decision at any time. Whether they continued to enjoy exemption rested with their conduct according to the expectations of the white community. If exempt Aborigines cohabited with Aborigines at law, they hazarded rescission of their exemption, a penalty for conduct otherwise deemed lawful.

Part of the problem of the half-castes was that they occupied a nether space, neither black nor white, and not fully acceptable to either. The widely held, but largely indefensible perception of half-castes, affirmed in official records, in Parliamentary debates and in relevant law, was that they were products of iniquity, the bastard offspring of low order white males and dissolute Aboriginal women, 'an eyesore and a comparative menace to the present generation, and constitute a graver menace to our children & their children through breeding, under certain circumstances, less pigmented children'.¹⁶ They were outcasts, neither black nor white and set apart from both, and imputed with the worst characteristics of their European and Aboriginal progenitors.¹⁷ Neville reflected that common perception in his evidence to Royal Commissioner Moseley when he described the half-castes of the South-West as 'a nameless, unclassified outcast race, increasing in numbers but decreasing in vitality and stamina, and largely unemployable', a group of people who had 'abandoned all the good found in the tribal culture of their ancestors, except when they choose to use it as a means to an end'.¹⁸

Their apparent offence was that they had European heritage, but had not taken on European values. They lived as Aborigines, but without the disciplines of Aboriginal culture.

¹⁵ State Records Office, Native Affairs, Acc 993, Item 593/1938, folio 17, Solicitor General's comments on proposed amendments to the Act, 15 September 1938.

¹⁶ State Records Office, Aborigines, Acc 653, Item 343/1925, folios 21 and 22, Ernest Mitchell, Inspector of Aborigines, to CPA, 10 August 1925.

¹⁷ Daisy M. Bates, 'Our Aborigines, Can They Be Preserved?' *The Register*, 14 May 1927.

¹⁸ Moseley Royal Commission, Transcripts of Evidence, A.O. Neville, 12 March 1934, pp.2-3.

However, they inherited 'the blood of a Gladstone, a Shakespeare, or a Kitchener',¹⁹ and the state and Commonwealth Aboriginal authorities at the Conference held at Canberra in 1937 accordingly agreed that half-castes, or at least what they saw as the better elements of them, namely, those equipped with education and vocational skills, should be merged with the general community: the ultimate destiny of 'the natives of aboriginal origin, but not of the full blood' lay in their absorption by the people of the Commonwealth.

Neville endorsed that resolution. Indeed, the qualifying phrase, 'but not of the full blood', was inserted at his request to find 'a term that will apply to people of mixed blood'.²⁰ By his admission he was late in coming to that position. Even though after he assumed responsibility for establishing the Carrolup River Native Settlement in 1915 he had advocated consistently that half-caste children should be educated and trained to take a useful place in the socio-economic order, he previously had not articulated the notion that they might be raised to equality with the white population. His early expectation was that Aborigines would not compete with whites in the economic system, but would remain at the levels of unskilled agricultural labourers or domestic servants, hewers of wood and drawers of water.

The proposition that half-castes might be raised to the standards of whites 'with a view to their absorption by the white race', was given official enunciation and endorsed as public policy, first in the Northern Territory by J.W. Bleakely.²¹ It subsequently was taken up on the recommendation of R.W. Cilento in Queensland.²² Neville arrived at the same conclusion some time later:

I must confess that it was only after many years of first-hand experience that I was able to come to a decision in the matter, and to express at Canberra the view that ultimately the natives must be absorbed into the white population of Australia.²³

The notion of absorption agreed to was one of gradualist assimilation. Four classes of Aborigines, categorised according to hierarchical levels in a progression toward European acculturation, were acknowledged in the deliberations of conference delegates. Coloured people who, presumably by biological inheritance had acquired intellectual and behavioural traits of their European forebears, occupied the highest level. They were ready to be trained and absorbed into the mainstream community. Next were the detribalised natives living near centres of white settlement. They showed some progress toward mainstream values and exhibited some proclivity

¹⁹ A.O. Neville, *Australia's Coloured Minority*, p.54.

²⁰ *ibid*, p.21.

²¹ Commonwealth of Australia, *The Aborigines and Half-Castes of Central Australia and North Australia*, 1928, p.28.

²² Commonwealth of Australia, *Survey of North Queensland Aborigines*, 1933, p.4.

²³ A.O. Neville, *Australia's Coloured Minority*, p.54.

towards education and employment, but only at lower levels of the socio-economic order. Over time they or their descendants might achieve the same level as coloureds and eventually progress toward the mainstream. Semi-civilised natives at the third level of that social developmental hierarchy demonstrated some capability for menial employment in mining, farming, pastoral or fishing occupations, but required benevolent supervision through employment, health and social services. Those not employed should live, as near as possible in their traditional manner, on small local reserves situated with consideration for tribal integrity. Employed, but semi-civilised natives might retreat to the reserves between seasonal employments.

At the lowest order were the 'uncivilised nomads'. The conference agreed these people had to be protected and the best way to do so was to quarantine them on secure reserves where whites were excluded. There they might live in their accustomed manner, but under 'benevolent supervision' of white authority empowered to 'enforce the inviolability of the reservations' while maintaining 'friendly contact and affording medical and other relief'.²⁴ The hope was that over time even the most traditional Aborigines would be acculturated toward the European, accepting European values and acquiring European manners of living, working and worshipping, 'the inevitable change to the settled life'.²⁵ Alternatively, they might die out.

Those four categories of progression towards the acquisition of European manners and customs reflected, in part, three precepts about the nature of race imported with colonists from Britain and reaffirmed by colonial experience. The first was that there was an hierarchy of races, with Europeans paramount and Australian Aborigines lowermost. Second, that there was inherited worth among individuals, the most valued and of highest social standing being also the most virtuous, and the lowest types lacking virtue or moral restraint. White people of lowest order were thought to overlap the standing of Aborigines of the highest order. Third, that even the lowest in society, regardless of colour, might be redeemed through education: the redemption of dark-skinned people might take longer, however.

The resolutions agreed to at the Canberra Conference about the destiny of the Aboriginal race and the supervision of the full blood natives were founded upon a proposition that Aborigines must change or be changed. Those full-blooded Aborigines who chose to live in their accustomed manner on inviolable reserves might be protected, but they could not be preserved. Their traditional culture could not withstand the encroachment of the industrial society and if Aborigines were unable or unwilling to adapt, they, like their culture, were doomed. If those people 'of aboriginal origin, but not of the full blood' were not to remain as and continue to be treated as outcasts, partly in and partly out of the mainstream, they must learn to live as whites.

²⁴ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, Bleakley speaking on conditions in Queensland, p.6.

²⁵ *ibid.*

That did not mean changing the colour of the Aboriginal skin from black to white, but rather that they must abandon the culture of their forbears and take on the manners and customs of the white. Half-castes, or at least their children, must adapt to white codes of conduct even if that meant, in Neville's terms, 'our coloured folk must be helped in spite of themselves'.²⁶

Australia's Coloured Minority Revisited

When A.O. Neville wrote *Australia's Coloured Minority* in 1944, four years after he had retired, he intended it not as a retrospective account of government policies and programs for the treatment of Aborigines in Western Australia during his term of administration, but rather as prospective view of what might be possible if the States were to transfer responsibility for Aboriginal Affairs to the central government so that a properly resourced national program might be pursued. He was critical of what had been done and the opportunities lost under colonial and state administration in the previous 150 years and characterised the outcomes in terms of suppression and estrangement of the Aboriginal people:

Our native people, though never slaves in the same sense as were the American Negroes, are in many respects much less emancipated, in that, unlike the negro, today they cannot enjoy all the things we enjoy; they are still a people apart. Even when legally free to do as they please, there are reasons why they cannot at present.²⁷

Neville's treatise is a confused and confusing text open to multiple interpretations. Although not written as a personal memoir of his term as Chief Protector and Commissioner it drew upon personal experience and offered private observations of attitudes towards Aborigines in government programs and public opinion to advance an argument for their assimilation into the community. Much of the content is unavoidably autobiographical and exposes Neville's multiform personality. At one level he was the senior public officer loyal to Westminster traditions of public administration, who exercised unrivalled statutory authority over the lives of persons caught by the *Aborigines Act* and the *Native Adminsitration Act*, but who never exercised unfettered power. His actions were subject always to the approval of the successive

²⁶ 'Our Coloured Folk', (By A.O.N.), *West Australian*, April 19 1930, p.10. A.P. Elkin in his Introduction to *Australia's Coloured Minority* offered some insight into what that might mean:

This means enforcing *through the same channels as in the case of our own white folk*, decent housing, cleanliness, regular school attendance in our schools (as at Alice Springs, for example), orderly behaviour and voting. At the same time, it means opening to them the door of opportunity through higher education, through training for professions (teaching, nursing, and other), through membership of trade unions (wherever that is barred), and in recreation and Church-life.

²⁷ A.O. Neville, *Australia's Coloured Minority*, p.22.

executive governments he served. He might advise, but his advice was never binding. ‘Such matters’, he wrote with retrospective candour:

are influenced by the effect its acceptance might have upon public finances, the good name of the Government or State and its people. Whether such and such would be good policy—from our point of view, mind you—whether a thing has been right as to the effect it might have upon the native people has, alas! not always been a deciding factor.²⁸

The second persona was the Chief Protector of Aborigines, efficient and dispassionate in executing his duty and applying the law, but conscious that whites and blacks were treated unequally; ‘white will not willingly condemn white in his relations with black’.²⁹ The third was the private man who could not resolve satisfactorily the question of whether the success of assimilation meant that ‘we must encourage approach to the white rather than the black through marriage’, that is, breed out the colour, or that ‘the coloured man’ should be ‘assisted to live beside us on a social plane similar to us in many ways’.³⁰ In *Australia’s Coloured Minority* Neville argued both positions as though they were not mutually exclusive, but rather were interdependent. He was persuaded that prejudice against the coloureds, people of mixed racial descent, was the main impediment to assimilation and that preserving racial purity was essential if assimilation were eventually to succeed. If intolerance of racial impurity was a major impediment to Aborigines achieving social equality, then coloureds must be eliminated. Blacks might eventually be acceptable, and might ultimately be treated equally, but in Neville’s estimation, that was not possible for the coloureds. If equality were not possible, then social acceptance must be the alternative.

The key to the acceptance of Aborigines of mixed descent was to regard them as whites. In the past, he said, little had been done for them principally because they were racially impure:

Let us forget for a moment that they are of native origin and regard them as poor whites, and you will at once appreciate how small is your measure of effort towards them, how hopeless these methods are in solving their difficulties—indeed, in some respects they are only adding to them.³¹

In Neville’s paradigm social acceptability was not the same as social equality. For him, social equality implied ‘admitting the coloured man to all those things enjoyed by ourselves’.³²

²⁸ *ibid*, p.24.

²⁹ *ibid*, p.50.

³⁰ *ibid*, p.68 and p. 74, respectively.

³¹ *ibid*, p.34.

³² *ibid*, p.69.

Aborigines, certainly in the first instance those with the palest hues of Aboriginal colour such as those he selected for his experiment at the Children's Cottage Home Queen's Park, those at least two generations removed from their Aboriginal ancestry, might achieve social parity, but, as far as Neville was concerned, social equality for Aborigines was a distant aspiration. He was not optimistic that in immediate post-war Western Australia, 'there could be found any Australian at present prepared to admit as his social equal a person of aboriginal ancestry and, at the same time, grant to him every right and facility which under the law he himself enjoys'.³³ Neither, Neville claimed, did the coloured people want it. Colour played too great a part in the scheme of things.

Assimilation was the goal, but Neville did not explain what he meant by the term. Three years after he published *Australia's Coloured Minority*, when addressing the Anthropological Society of Victoria, he defined 'assimilation or absorption', using the terms interchangeably; 'By assimilation is meant the complete social and cultural fusion of the lesser into the greater, therefore tending as the years go by the ultimate disappearance in this case, of the coloured people'.³⁴ Time, he said, was needed because progress would be gradual. Even though he used 'assimilation' and 'absorption' interchangeably, the concept of absorption as applied to coloured people as against Aborigines, that is, people of full-blooded Indigenous descent, extended beyond social and cultural fusion toward their eventual biological fusion. Over time, the coloureds would disappear. If possible, the racial purity of full-bloods was to be preserved even if their culture was not.

Neville's mutually dependent propositions that the Aboriginal physiognomy would breed out over successive generations of crossing with the white—'the children would be lighter than the mother, and later if they married whites and had children these would be lighter still, and that in the third and fourth generation no sign of native origin whatever will be apparent'—and that atavism was an unlikely probability if there had been no Asian or Negro contamination of the Aboriginal strain, were fundamental to the plan he propounded in *Australia's Coloured Minority* for the future of the race.³⁵ Marriage was of paramount importance. Apart from its conventional function in procreation, it served three purposes. Avoiding marriage between Aborigines and Asians or Negroes minimised the possibility of genetic contamination which imprinted the Aboriginal physiognomy and made it more difficult to breed out the Aboriginal racial strain. Discouraging marriage of lighter to darker hued Aborigines prevented reversion to the black. Encouraging marriage of Aborigines and whites hastened the process of absorption; 'we must

³³ *ibid*, p.69.

³⁴ Neville, A.O.: 'The Half-Caste in Australia', *Mankind*, Vol. 4(7), September 1951, p.286. The article originally was an address delivered before the Anthropological Society of Victoria on 12 April 1950.

³⁵ A.O. Neville, *Australia's Coloured Minority*, p. 59.

encourage approach towards the white rather than the black through marriage'.³⁶ Marriage between half-castes and whites was especially desirable because, 'like the half-empty glass the coloured people are already half-empty, and more in many cases, of aboriginal blood'.³⁷

That plan could succeed in the short term only if marriage of Aborigines could be regulated. Neville's experience over twenty-five years as Chief Protector and Commissioner demonstrated it could not. Under the terms of 1905 Act, non-Aboriginal males could not marry Aboriginal females without his permission. Confusion about who was an Aborigine for the purposes of the Act made it difficult for him to prevent the marriage of lighter and darker skinned Aborigines and he would not interfere with Aboriginal practice in marrying according to tribal law. After 1936 it was unlawful for authorised persons to celebrate marriages to which he as Commissioner objected, subject to aggrieved parties having right of appeal to a magistrate. Some missionaries refused to comply with the law and marriages not entirely in accordance with the approved form continued to be celebrated. Neville's lawful authority was constrained:

In the course of his official life a Public Servant is occasionally warned off the grass, so to speak, and given more or less direct hints to proceed in certain directions, however reasonable it might seem for him to do so in the interests of his duty or charges. In my early years of administration it was 'hands off the missions'.³⁸

Even if political direction were not given, relationships between missionaries and the Anti-Slavery Society and Aborigines' Protection Society in London and similar bodies such as the Australian Aborigines' Amelioration Association in Australia, made governments cautious. Western Australian authorities were reluctant to offend Britain and blemish the state's international reputation.

Aborigines also had little regard for Neville's authority over whom they might take as conjugal partners. Christian marriage and marriage according to state law held little thrall for other than those who embraced Christianity or who were acculturated to European traditions. The majority of unions outside the strictures of Aboriginal custom were not legalised according to state law and most of the offspring were born ex-nuptial.

The combined weight of circumstances might suggest that assimilation through regulating marriage was a remote possibility. Neville acknowledged that. A national plan of the sort he advocated also was rendered difficult by differences among entrenched policies of the independent states. Queensland, for example, discouraged inter-racial marriage. Neville's

³⁶ *ibid*, p.74.

³⁷ *ibid*, p.55.

³⁸ *ibid*, p.98.

proposal did not anticipate that assimilation would be achieved in the short term, in a single generation or even several. The hiatus might extend over two centuries of social transformation.³⁹

The first objective was to raise the social status of Aborigines:

But even if complete social acceptance is denied the coloured man who has been enabled to reach parity with us in all things else, there is nevertheless no reason why he and his kind should not be assisted to live beside us on a social plane similar to ours in every way.⁴⁰

The rest might follow. Once Aborigines achieved social acceptance, intermarriage might also become acceptable; 'then we shall be none the worse for it. That will solve our problem of itself'.⁴¹ Neville did not intimate a staged progression from Aboriginal advancement to social acceptance and then to assimilation defined as biological absorption of black by white Australians. The last was the ultimate destiny of the Aboriginal race, but the progression might be both generational and concurrent:

Assimilation might be achieved without parity, but parity is necessary if assimilation is to be successful. For a time, if we do the job properly, there will be two races pursuing a similar way of life side by side until a common degree of culture is attained. That must be the precedent to real assimilation.⁴²

Circumstances differed among individuals, families and groups and across different geographic locations. Neville expected some to be assimilated sooner than others:

In Western Australia we have full blooded aborigines, half-castes from de-tribalized blacks and half-castes producing their own children. In the south of the State we are approaching the stage where half-castes will be able to be assimilated. It will be perhaps 25 years before the same stage is reached in the middle north and 50 years in the far north. In any case there is no reason why we should not adopt a long-sighted policy.⁴³

In 1930 when the half-caste population of the state was estimated to be about 3,000, Neville calculated that 'three hundred or so,' about one-in-ten, lived in a manner more or less conforming to white standards. The majority, he said, lived in the manner of their Aboriginal forebears and 'more often than not have fallen away from grace and become degenerate in deed,

³⁹ *ibid*, p.42.

⁴⁰ *ibid*, p.74.

⁴¹ *ibid*, p.57.

⁴² A.O. Neville, 'The Half-Caste in Australia', *Mankind*, vol.4(7), September 1951, p.286.

⁴³ *Aboriginal Welfare, Initial Conference of Commonwealth and State Aboriginal Authorities*, Neville on conditions in Western Australia, p.11.

their last state being worse than their first'.⁴⁴ In 1944 when he wrote *Australia's Coloured Minority* Neville was mindful that, 'The position, in some vital respects, is not much better today than it was fifty years ago'.⁴⁵ Aborigines in general had not attained social or economic parity with other than the poorest whites. The purpose of his treatise was to suggest an alternative future:

I know there are people who will not agree with me. It may be that even some of the coloured people themselves will not concur in all that I have said, but nevertheless my conclusions result from half a lifetime's labour and experience amongst the natives and those whose duty it is to care for them, and therefore, unless I am grievously mistaken, should at least provide some food for thought.⁴⁶

Food for thought it certainly did provide and of disagreement there has been a surfeit, but it was never intended as an apology. It did not attempt to explain or vindicate policies or programs of the past. Rather, it proposed an alternative, and manifestly contentious, way forward. Neville drew upon the past to explain the present and to suggest different directions for the future. To use *Australia's Coloured Minority* to explain history is to misappropriate that intention.

⁴⁴ A.O.N., 'Our Coloured Folk', *West Australian*, April 19 1930, p.10.

⁴⁵ A.O. Neville, *Australia's Coloured Minority*, p.21.

⁴⁶ *ibid*, p.42.

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