

ACCEPTED VERSION

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From protectorate to protection, 1836-1911, in Brock, P., Gara, T. (eds.)

Colonialism and its aftermath: an Aboriginal history of South Australia, 2017, Wakefield Press.

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29th November 2018

<http://hdl.handle.net/2440/116360>

This is an accepted manuscript by Robert Foster (University of Adelaide) and Amanda Nettelbeck (University of Adelaide), published in Penny Brock and Tom Gara, eds., *Colonialism and its Aftermath: A History of Aboriginal South Australia* (Wakefield Press, 2017), ISBN: 978 1 74305 499 4:

<https://www.wakefieldpress.com.au/product.php?productid=1385>

‘From Protectorate to Protection, 1836-1911’

Robert Foster and Amanda Nettelbeck

South Australia was the only Australian colony to address the question of Aboriginal welfare and protection at its very foundation. While these were not issues that especially troubled the colony's entrepreneurial founders, they were issues of growing concern to the British Colonial Office. Evangelicals in parliament, fresh from their victories against slavery, were concerned about the welfare of Indigenous peoples in British colonies and in 1835 instituted an inquiry into their ‘state and condition’.¹ Even as the inquiry was taking evidence, the Colonization Commissioners for South Australia, charged with overseeing the establishment of the colony, were in constant negotiation with the Colonial Office, and the fate of Indigenous people was a central concern. The Under-Secretary, Sir George Grey, pointed out to the commissioners that the territory they were laying claim to might ‘embrace in its range numerous Tribes of People whose proprietary Title to the Soil, we have not the slightest ground for disputing’.² The Colonial Office recommended that the founding Act be amended to include a recognition of prior Aboriginal occupancy. While those amendments were not made to the Act prior to settlement, they were incorporated into the colony's Letters Patent and Order-in-Council, the legal instruments authorising the colony's establishment.³

The final Report of the Select Committee on Aborigines (British Settlements) was tabled in early 1837, just months after settlers started arriving on the shores of Holdfast Bay. After noting the disastrous impact of British settlement on Aboriginal people, it recommended that British policy be informed by two considerations: the British ability to confer the blessings of civilisation upon the ‘uncivilized’, and the inability of the ‘uncivilized’ to resist their encroachments.⁴ The policy of ‘protection’ implicit in this formulation was to be pursued through a range of recommended measures, the most significant of which were the spread of ‘Christianity and civilisation’, the

establishment of Protectors to oversee Aboriginal welfare, and the treatment of Aboriginal people as British subjects, protected by the rule of law.⁵ This policy of ‘protection’ essentially envisaged the eventual amalgamation of Aboriginal people into the body of the colonial state. Governor Hindmarsh’s Proclamation, read out at Glenelg on 28 January 1836, captures the essence of this policy. The colonists were informed of his ‘resolution, to take every lawful means for extending the same protection to the NATIVE POPULATION, as to the rest of His Majesty’s Subjects’ and that Aboriginal people were ‘equally entitled to the privileges of British Subjects’. Furthermore, they were enjoined to assist him in fulfilling ‘His Majesty’s most gracious and benevolent intentions toward them, by promoting their advancement in civilisation, and ultimately, under the blessing of Divine Providence, their conversion to the Christian Faith’.⁶

One of the most contentious issues that the colonists had to deal with was the question of Aboriginal rights to land. The Colonization Commissioners in their first annual report in 1836 gave undertakings that they would respect Aboriginal proprietary rights ‘wherever such rights were found to exist’.⁷ If land was voluntarily ceded, the original owners were to be ‘permanently supplied with subsistence, and with moral and religious instruction’. Finally, they proposed reserving land for the ‘use of Aborigines’, and the income generated by the leasing of those reserves was to ‘constitute a permanent fund for the endowment of schools and establishments for the benefit of the Aborigines’.⁸ While the plan sounded generous in principle, at least in comparison to existing colonial policy, in practice it was easily circumvented. Protector Wyatt’s instructions, for instance, required him to protect Aboriginal people ‘in the undisturbed enjoyment of their proprietary rights to such land as may be occupied by them in any especial manner’.⁹ The ‘especial manner’ was then defined as ‘land for cultivation’, or ‘fixed residences’, neither of which the settlers were willing to acknowledge on the basis of their understanding of Aboriginal land use.

The question of whether Aboriginal land ownership would be recognised was effectively settled in a dispute between Governor Gawler and colonists in July 1840. Before a number of newly surveyed districts were offered to colonists for selection, Protector Moorhouse, at the Governor’s direction, reserved sections of land for the benefit of Aboriginal people. Settlers holding preliminary land orders, and believing they had the right to first choice of this land, were outraged at this action and protested to the Governor. Gawler, in defending his actions, reminded them of the principles articulated in the Colonization Commissioner’s first report, and the Royal Instructions he had received: that Aboriginal people ‘shall be protected in the free enjoyment of their possessions’, and that all measures necessary ‘shall be taken for their advancement in civilization’. However, he conceded that he would not enter into ‘treaties or bargains’ with Aboriginal people on the grounds

of 'the degree of knowledge to which they have attained', preferring instead to reserve land for their 'future use, support, and advancement in civilization'.¹⁰ What followed from this, and it was confirmed by Imperial Statute in 1842, was a 'grace and favour' approach to the granting of reserve lands to Aboriginal people, essentially leaving the power in discretion of the Crown.¹¹ Over the course of the nineteenth century, grants of land were generally only made to Aboriginal people on the understanding that they farmed it, or to philanthropic groups to aid the 'civilization and Christianisation' of Aboriginal people.

The task of overseeing the welfare of Aboriginal people was primarily the responsibility of a Protector of Aborigines. Unfortunately, the formal appointment of the first Protector of Aborigines was delayed and a number of ad hoc appointments were made in the interim. Hindmarsh's Private Secretary, George Stevenson, briefly held the post until it was given to colonist Walter Bromley. With previous experience among the Aboriginal people of Nova Scotia, it appeared he would be an ideal candidate. Bromley, however, was elderly, failed to gain the confidence of the Aboriginal people he worked with, and was eventually dismissed on grounds of 'physical and mental imbecility'. Dr William Wyatt, the next appointment, worked more actively among the Aboriginal people of the Adelaide region.¹² The Crown appointee, Matthew Moorhouse, a medical doctor, eventually arrived in the colony in 1839. As articulated in the recommendations of the 1837 Select Committee, the Protector was ideally to stand aloof from the partisan self-interest of colonists and exercise a general supervision over the welfare of Aboriginal people. Moorhouse's specific instructions directed him to promote their advancement in civilization and Christianity, to prevent them from falling into destitution, and to investigate acts of violence and injustice against them.¹³ To aid Moorhouse in this daunting task, Sub-Protectors were occasionally appointed. The explorer Edward Eyre was appointed Sub-Protector at Moorundie in 1843, and while he departed the colony a few years later, the post was maintained until the 1850s. The Lutheran missionary Clamor Schurmann was appointed 'Deputy' Protector at Port Lincoln, but soon resigned because he thought the work compromised his evangelical role. George Mason, a policeman, served as Sub-Protector at Wellington on the Lower River Murray from 1849.¹⁴ Sub-Protectors were also appointed in the northern districts: Samuel Buttfield, who was appointed Sub-Protector at Port Augusta in the 1850s, wrote that he found the 'magnitude of the task appalling'.

Early efforts at promoting the 'civilization and Christianisation' of Aboriginal people were concentrated at a place in the Adelaide parklands known as the 'Aborigines Location', or *Piltawodli* to the Kaurna. Established by William Wyatt in 1837, it contained a number of houses for the administrators and huts built for the Aboriginal people. Matthew Moorhouse, hoped to teach 'habits

of useful industry' to the adults by establishing a garden and getting them to help build houses and fences. Two German Lutheran missionaries, Clamor Schurmann and Christian Teichelmann, who had arrived in the previous year, assisted him and also began proselytizing to the Aborigines. Very quickly the 'civilising' focus shifted to the children. By December 1839 a school was established at the location. In the first few years the average number of children attending was only about 10, but attendance gradually improved as the day school was converted into a boarding school. A second school operated briefly at Walkerville, but by 1846 both had closed, replaced by a boarding school, known as the Native School Establishment, in Kintore avenue.¹⁵

According to the Protector, mornings at the School were devoted to 'reading, writing, arithmetic, geography and other mental exercises', while the afternoons were devoted to manual skills like gardening for the boys and dress making for the girls.¹⁶ By the early 1850s, the average attendance at the school was 50 to 60 in winter and half that number in summer. The school was regarded as reasonably successful, but Moorhouse was concerned that many of the graduates from the school, rather than pursuing European occupations, returned to their families and the bush, seemingly defeating the purpose of their 'civilizing' efforts. An apparent solution came in 1850 when the Anglican Archdeacon, Matthew Hale, proposed setting up a Training Institution at Port Lincoln. Poonindie, as it came to be known, was imagined as a destination for young adults from the Adelaide school who would be married off and despatched to the Institution, where they would live free from the influence of their kin, and apart from the potentially degrading influences of white society.¹⁷ This 'system', however, proved to be self-defeating. After the initial intake of 22 students from the Native School Establishment, parents became unwilling to permit their children to attend, and risk being snatched, and attendance sharply declined.¹⁸ The Adelaide school was eventually closed in 1853, although Poonindie continued to grow by taking in people from the surrounding district.¹⁹ With the close of the Native School Establishment, the Protector's Office ceased taking a direct role in the 'civilising mission' - leaving the task to private philanthropic groups - and focused more directly on the physical welfare of Aboriginal people.

By the late 1830s, as settlement spread from Adelaide into the interior of the colony, conflict between Aboriginal people and settlers inevitably increased. Besides the use of police, and sometimes the military, to suppress frontier conflict, the government sought more benign strategies to facilitate the dispossession of Aboriginal people. The government well understood that European occupation of Aboriginal lands, besides precipitating violent conflicts, deprived them of their usual means of support, and drove whole communities into destitution. In the winter of 1841 there were a series of clashes between Aboriginal people and overlanders driving sheep and cattle

down the River Murray to Adelaide. The events culminated in a battle at Rufus River in which more than thirty Aboriginal people were killed.²⁰ In the aftermath, Governor Grey appointed Edward Eyre as a Sub-Protector of Aborigines and directed him to take up a post at Moorundie on the River Murray. He was instructed to suppress 'outrages' against the overlanders and to bring 'into operation a system of periodical distributions of flour to the natives'.²¹ The systematic distribution of rations would become one of the most significant features of Aboriginal administration in the nineteenth century. In 1847, impressed by the apparent success of Eyre's monthly distribution of flour at Moorundie, Governor Robe added another seven 'feeding stations' throughout the colony. By 1860 there were about a dozen sites, under the supervision of Sub-Protectors or police.²² The rations were seen as a form of compensation, providing subsistence to Aboriginal groups who were increasingly being denied access to their territories, and theoretically reducing the incidence of Aboriginal raids on European stock. It was also understood that they facilitated surveillance by bringing local Aboriginal groups into regular contact with European authorities.²³ The logic of this was well articulated by Matthew Moorhouse when he explained the role of the newly appointed northern Sub-Protector, Henry Minchin, in 1853: 'His aim will be to induce the wild natives from the hills to live at his station, and by keeping them some time in contact with himself and police, so far civilise them, as to render them not only harmless but useful to the settlers'.²⁴

By the beginning of the 1850s, a commitment to dedicated programs of Aboriginal protection was on the wane in colonial Australia. This was apparent both in the shifting policies of local colonial governments, most of which were now anticipating a political climate of self-government, and in the mood of the Colonial Office itself, which by this time was no longer driven by the strongly evangelical humanitarian politics that twenty years earlier had generated the Select Committee inquiry into the condition of Aboriginal peoples around the Empire. In 1849, the much-scrutinised experimental Aboriginal protectorate was abandoned in New South Wales' district of Port Phillip (soon to become the separate colony of Victoria), and South Australia would shortly follow suit. In 1856, on the eve of South Australia becoming a self-governing colony, Matthew Moorhouse retired from the position of Protector that he had held for 17 years, and his role was allowed to lapse without replacement. Hereafter, in the age of self-government, the concept of Aboriginal protection in colonial South Australia would shift from a foundational promise to extend the rights of British subjecthood to Aboriginal people, to a simpler and less resourced model of Aboriginal administration based on providing minimal welfare to the 'destitute'.

Even so, South Australian authorities - always conscious of the colony's foundational commitment to humanitarian principles - remained aware that the government needed to implement some

continuing framework of Aboriginal governance, particularly in light of the fact that pastoral settlement and its accompanying problems of contestation over land were only just beginning to unfold in the colony's northern regions.²⁵ In Victoria, where the rapid intensity of settlement had had a devastating impact on Aboriginal populations, the arrival of self-government in 1856 was followed by a Select Committee Inquiry into the future of the colony's 'remnant' tribes; its 1859 report led to the establishment of a centralized board for Aboriginal management and the introduction of a widespread system of government-run reserves and missions.²⁶ In South Australia, a similar Select Committee Inquiry was held in 1860 to determine the future direction of Aboriginal policy in the era of self-government. As in Victoria, South Australia's 1860 report focused on mitigating the impact of colonisation on Aboriginal people.²⁷ The commissioners acknowledged that in South Australia, Aboriginal people had 'lost much, and gained little or nothing' through the processes of colonisation, and that recent efforts towards their 'amelioration' were inadequate; there was now, they determined, an 'almost entire absence of any system for [their] protection and support'.²⁸

In Victoria, the Select Commitment recommendations on future Aboriginal policy centred on expanding a government-administered reserve system where 'the Aborigine can rest his weary feet'.²⁹ However, in the much larger colony of South Australia, where settlement was not as concentrated and where large populations of Aboriginal people remained disperse and mobile on the still-evolving northern frontiers, a centralized system of reserved was hardly feasible. The implementation of a system of government mission stations from the 1860s in Victoria certainly granted the colonial government stronger powers of supervision and control over Aboriginal people, but it also arguably enabled Aboriginal people to develop dedicated communities where, even though they were required to adapt to European ways, they could continue traditional cultural affiliations and practices, and grow a culture of political agency.³⁰ In contrast, the plan for future Aboriginal policy to emerge from South Australia's 1860 Select Committee report centred on reviving of the position of Protector of Aborigines as a channel for Aboriginal management and, accompanying that role, on extending the system of rations distributions as a form of Aboriginal welfare.

In many ways, the position of Protector that was recommended for revival by South Australia's 1860 Select Committee report was similar to the original role of 'Protector of Natives' that had been envisioned in the 1837 House of Commons Select Committee report. In this renewed position, the Protector would 'itinerate' to communicate with Aboriginal people in outlying districts, 'watch over' their interests, mediate for them with the government, take population censuses, and use his

judicial powers to ‘dispense justice’ on their behalf. There were however some important differences between the earlier conception of the Crown-appointed Protector’s role and this locally-revived position. Firstly, the Protector would hold expanded powers of summary jurisdiction so that he could adjudicate disputes ‘on the spot’, and in doing so, his attention would not only be on cases that arose between Aborigines and settlers but also on disputes that arose amongst Aborigines themselves. In effect, by allowing the Protector greater summary power to intervene in *inter se* matters, the Protector’s role was more strongly imagined as one that would help bring Aboriginal people within the effective jurisdiction of the state. Secondly, the focus of the renewed Protector role was less centred on the task of ‘civilising and Christianising’ Aboriginal people, as it had been during the late 1830s and 1840s, and more firmly centred on the alleviation of want, most especially amongst ‘the aged, the sick, and the infirm’.³¹

To this end, a core outcome of the 1860 Select Committee Inquiry was the expansion of South Australia’s system of rations depots, over which it was envisaged that the revived office of Protector would have general oversight. In line with the Select Committee report recommendations, rations would be generally be restricted to the elderly, sick or destitute, except in exceptional circumstances such as drought: able-bodied people were expected to provide for themselves by finding work or otherwise obtaining subsistence by fishing or hunting.³² In addition to a standard issue of flour, sugar, tea and rice, provisions could include clothing, blankets, medicines, and useful implements such as axes, needles, fishing hooks and nets. It was still assumed that meat would be found in local game, and tobacco was considered a luxury that could be given as a reward or ‘by way of payment for service rendered’.³³

While at the end of the 1850s there were little more than a dozen ration depots scattered across the colony, by the end of the 1860s this figure had grown four-fold. By 1870, almost 60 rations depots were in operation: as far west as Fowler’s Bay on the Eyre Peninsula, as far south as McDonnell Bay, as far north as Kooperamanna on Cooper’s Creek, and at various points to the east along the South Australian-Victorian border.³⁴ In the southern regions, rations might still distributed from police stations or, in some cases, by magistrates or justices of the peace, but as time passed and the pastoral frontier moved north, the distribution of rations was increasingly outsourced to pastoral stations, where they served as a means both to attract and to keep Aboriginal labour.³⁵

The rations system was frugal, but its increasing privatization over the 1850s and 1860s encouraged the movement of Aboriginal people into the pastoral economy and, importantly, enabled them to retain close ties to their own country. Even so, the government strategy of providing minimal

rations as a form of welfare did nothing to address the core problem of dispossession and loss of land. By the time South Australia achieved self-government in 1856, most of the small pockets of reserve lands set aside for Aboriginal people by Protector Moorhouse had been leased to settlers. In lieu of any dedicated government-administered system, the handful of missions that operated across the colony remained the responsibility of church-based missionary organisations and other philanthropic bodies like the Aborigines' Friends' Association, which leased Crown lands from the government.

In its 1860 report, the Select Committee on Aborigines went so far as to recognize the advantages of leasing more Crown lands for the benefit of Aboriginal people, and it envisaged that the income generated from reserves could be fed back to the Aborigines Department, thus subsidizing the rations system and creating a cycle of self-sufficiency that might minimize the financial burden on the government. Tellingly, the commissioners also anticipated that such an arrangement would likely only be temporary, since 'the race is doomed to become extinct, and it would only be a question of time when these reserves would again revert to the Crown'.³⁶ In the end, however, the prospect of introducing an expansive reserve network on the Victorian model was neither economical nor practicable for South Australia, and it was not seriously contemplated at this stage. Instead, through the latter half of the nineteenth century, the central plank of Aboriginal policy remained the distribution of rations and blankets to the needy, while the broader educative and 'moral' aspects of an earlier era of protection were left to privately-run missions.

An example of the uncertain and insecure climate in which South Australia's privately-run missions operated through the second half of the nineteenth century was the Point McLeay mission, established in 1859 in the lower Murray Lakes district. The mission was founded through the efforts of the Aborigines' Friends' Association, which itself had only recently formed under the mandate to improve 'the moral, spiritual and physical well-being of the natives'.³⁷ The Association appointed the Congregationist missionary George Taplin as the mission's first superintendent, and over the next twenty years until his death, he worked energetically to transform Ngarrindjeri people at Point McLeay into a self-supporting Christian community modelled on the idea of a European village.³⁸ After Taplin's death in 1879, the mission entered a protracted period of unrest under two unpopular superintendents, followed by a period of rejuvenated cooperation between Ngarrindjeri leaders and the managerial body, but it always struggled to achieve viability as a self-sustaining community: its land holding was too limited to provide consistent employment and sustenance for its population base, and the Aborigines' Friends' Association had limited means to supplement its support.³⁹ Although the government supported the colony's missions with the provision of some rations and

small grants, its degree of subsidy remained minimal, effectively compelling philanthropic organisations to provide the most significant investment in Aboriginal services. In his annual report to the Aborigines' Friends' Association in 1888, for instance, Point McLeay's then-superintendent Fred Taplin complained that while the Victorian government spent an annual allowance of £21 per head on Aboriginal welfare, the South Australian government spent the equivalent of 17 shillings.⁴⁰

The government's sparing and *ad hoc* approach to Aboriginal affairs from the 1860s until the end of the nineteenth century was also reflected in its wavering commitment to the office of a Protector of Aborigines. On the strength of the 1860 Select Committee recommendation, John Walker – a medical practitioner like his predecessor Matthew Moorhouse – was appointed in 1861 as Protector of Aborigines, reviving the role that had lapsed in 1856. Through the next five years, Walker reported on the distribution of rations, the problems of sickness and disease that afflicted Aboriginal people around the colony, and the continuing problems of frontier conflict with settlers in the moving frontiers of the north. There was little to indicate that his role as Protector had a significant impact on Aboriginal people or on alleviating their desperate condition, however.⁴¹ Indeed, he came under considerable public criticism as an official who spent most of his time 'mending quills in [his] office in Adelaide' rather than advocating for the people whose welfare he was meant to represent.⁴²

Regardless of the energy shown by the incumbent, there was little appreciation in such criticisms of the difficulties in meeting the responsibilities of the office of Protector in a colony as large as South Australia, supported by a bare minimum of financial resources. Walker's task was somewhat eased by the appointment in 1866 of the Reverend John Parker Buttfield as Sub-Protector of Aborigines at Blinman in the northern Flinders Ranges. Buttfield's appointment as Sub-Protector relieved Walker of the country north of Mount Remarkable but, like Walker, Buttfield faced no small task in attempting to fulfil instructions to tour all the depots of the region, endeavor to alleviate the sufferings he observed by supplying medicines and provisions to Aboriginal people, and bring about the prosecution of offences against them.⁴³ He complained to Walker that his district and his tasks were too extensive for him to be able to perform his duties effectively.⁴⁴

Even when operating under limited manpower and resources, the Protector's office was still insecure. In late 1866, Walker took a leave of absence for his health, leaving Edward Bate Scott – former Sub-Protector at Moorundie – in the role of Acting Protector of Aborigines. In 1868, soon after his return to the position, Walker died, and the office of Protector once again lapsed. It would not be replaced again until 1880, with the appointment of Edward Hamilton. As an advocate for Aboriginal people, Hamilton proved to be an indifferent protector at best.⁴⁵ As the incumbent of the

Office of Protector for the remainder of the nineteenth century, he appeared to be less concerned with the protection of Aboriginal people's rights than he was with monitoring them for public order offences, such as drunk and disorderly behavior, and ensuring that they did not 'loiter' in towns where their risk of moral degradation might be increased.⁴⁶

However, the significant turning point that occurred during Hamilton's tenure was a shift in Australia's colonies towards the perceived need for legislation to improve the protection and management of Aboriginal people. By the end of the 1890s, driven in good part by the rise of government concern about how to manage an increasing future generation of 'mixed race' people, Victoria, Western Australia, New South Wales and Queensland all had in place various Acts designed for the better 'protection' and governance of Aboriginal people. In South Australia, in contrast, no statutory model of protection yet existed, and indeed there had been no legislation designed solely for Aboriginal people since the 1840s.⁴⁷ In the early 1890s, Hamilton made a number of unsuccessful efforts to draft a bill that would introduce an Act in South Australia along the lines that already existed in several other Australian colonies.

It was not until 1899 that a bill was finally brought before parliament. Drafted by Charles Dashwood, the Government Resident in the Northern Territory, it was modelled on Queensland's Aborigines Protection Act, 1897.⁴⁸ Some critics of the Bill suggested that it focused too much on the 'frontier' issues of the Territory, and neglected concerns of the settled districts. The bill was sufficiently controversial to be sent to a Select Committee for consideration. Many witnesses were especially critical of clause 9, which required employers to obtain a permit to employ 'Aborigines and half-castes', and clause 11, which would make it an offence to have Aboriginal people on one's 'premises' without a permit. Witnesses argued that this would make it too difficult to employ Aboriginal people and that they would be driven out of the industry. The bill was eventually rejected on the grounds that it 'would be inoperative for any beneficial purpose, and, in some respects, might be injurious to the Aborigines'.⁴⁹ The committee suggested some amendments, but interest in the matter waned.

In 1901, when the new Commonwealth of Australia came into existence, the responsibility for Aboriginal welfare was left with the States, and South Australia was the only State without an Aborigines Protection Act. When Hamilton finally retired as Protector in 1908 he was replaced by William Garnett South, who had previously worked as a mounted policeman in the Northern Territory. South believed that there should be separate Acts for South Australia and the Northern Territory, since in South Australia, he wrote, 'the chief problem is the half-caste'. He believed that

the ‘full-blood’ population would soon die out, and was concerned about the ‘half-caste’ population which was ‘yearly increasing’. He hoped the Act would give him the power to remove mixed race children from what he regarded as the corrupting influence of Aboriginal camps, so that they could be eventually ‘merged into the general population’.⁵⁰ A Northern Territory Aborigines Act was passed by the South Australian Parliament in 1910, just a year before control of the Territory was passed to the Commonwealth Government. The South Australian Act was considered by parliament shortly afterwards. When Labor Premier John Verran introduced the Bill in 1910, he highlighted its paternalistic and intrusive nature:

It is proposed to legislate not only for the protection and care of those people, but also for their control. It was becoming more and more urgently necessary, for their own sakes, that legal power should be given to keep them away from towns, and where and when it was found expedient – again for their own benefit – to require them to live in their own localities, and on special reservations . . .⁵¹

An Act to make provision for the better Protection and Control of the Aboriginal and Half-caste Inhabitants of the State of South Australia, became law on 7 December 1911.

The Act created an Aborigines Department under the control of a Chief Protector, who was given extraordinary powers over the lives of Aboriginal people. He was legal guardian of every Aboriginal and half-caste child under the age of eighteen, regardless of whether they had living parents or relatives. Aboriginal people’s freedom of movement was now strictly controlled. The Chief Protector could restrict Aboriginal people to reserves or institutions, or else have them removed. It was made illegal for a non-Aboriginal person to be on a reserve without permission. He could direct any Aboriginal people camped near towns or municipalities to be removed, and he could declare any town or municipality a prohibited area. Offences against the Act could be punished with fines of up to £50 or six month’s imprisonment with hard labour.⁵² Provisions controlling the employment of Aboriginal people, which had caused such controversy in 1899, were largely removed, something which historian C.D. Rowley saw as a victory of vested interests, especially the pastoral industry.⁵³ There was some opposition to the intrusive authority of the Aborigines Act. MHA Donald Campbell questioned the wide powers given to the protector, describing them ‘as arbitrary as those given to any Russian in the most blood curdling novel of the century...’⁵⁴ On the whole, however, the Act received general support, and it placed Aboriginal people in South Australia under the same model of statutory surveillance that by now existed around the rest of the country.

When South Australia had been founded in 1836, it was imagined that a policy of Aboriginal protection, embodied in the role of a Protector of Aborigines and grounded in the extension of legal rights to Aboriginal people, would prevent the same kind of unregulated violence that had occurred on Australia's earlier frontiers, and offer them the opportunity to be 'amalgamated' into the colonial state. Over the coming years, the intermittent presence of Protectors of Aborigines proved unable either to check frontier violence or to alleviate the consequences of dispossession. Instead, from the arrival of colonial self-government onwards, the framework of protection inexorably shifted to become less about the legal rights of Aboriginal people, and more about their control and management. The ideal of assimilation remained but it was pursued under a more coercive regime of state control.

¹ *House of Commons, Parliamentary Debates*, 1 July 1834, p. 1061

² CO 13/3, Grey to Torrens, 15 December 1835.

³ Henry Reynolds, *The Law of the Land*, Melbourne, Penguin Books, 1992, pp. 103-24.

⁴ Report of the Select Committee on Aborigines (British Settlements), *House of Commons, Sessional Papers*, 1837, 7, no. 425, pp. 3-5.

⁵ Report of the Select Committee, 1837, pp. 83-86.

⁶ Governor Hindmarsh, first proclamation, 28 December 1836, reproduced in Brian Dickey and Peter Howell (eds), *South Australia's Foundation: Select Documents*, Adelaide: Wakefield Press, 1986, p. 77.

⁷ First Annual Report of the Colonization Commissioners for South Australia, *House of Commons, Sessional Papers*, 1836, 39, no. 426, p. 8.

⁸ First Annual Report of the Colonisation Commissioners, 1836, p. 9.

⁹ Protector's instructions, published in the *South Australian Register*, 12 August 1837.

¹⁰ Correspondence published in the *Southern Australian*, 28 July 1840.

¹¹ Reynolds, *The Law of the Land*, p. 141.

¹² Robert Foster, 'The Aborigines Location in Adelaide: South Australia's First "Mission" to the Aborigines', in *Journal of the Anthropological Society of South Australia*, Vol 28, no. 1, 1990, pp. 12-13.

¹³ Judith Raftery, *Not Part of the Public: Non-indigenous policies and practices and the health of indigenous South Australians, 1836-1973*, Adelaide: Wakefield Press, 2006, p. 53.

¹⁴ Raftery, *Not Part Of The Public*, p. 59.

¹⁵ Foster, 'The Aborigines Location', pp. 23-27.

¹⁶ Protector's Letterbook GRG 52/7, 10 May 1849.

¹⁷ Peggy Brock and Doreen Kartinyeri, *Poonindie: The Rise and Destruction of an Aboriginal Agricultural Community*, Adelaide: Aboriginal Heritage branch of the Department of Environment and Planning and the SA Government Printer, p. 4.

¹⁸ Protector's Report, 24 May 1853, *South Australian Government Gazette*, 2 June 1853, p. 363.

¹⁹ Brock and Kartinyeri, *Poonindie*, pp. 15-16.

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- ²⁰ Robert Foster, 'Feasts of the Full-Moon: the Distribution of Rations to Aborigines in South Australia: 1836-1861', *Aboriginal History*, Vol. 13 no. 2, 1989, pp. 67-68.
- ²¹ Governor Grey to Lord John Russell, Governor's Despatches, State Records of SA GRG 2/5/1841/52.
- ²² Foster, 'Feasts of the Full Moon', pp. 69-73.
- ²³ Foster, 'Feasts of the Full-Moon', pp. 73-74.
- ²⁴ Protector's Report, *South Australian Government Gazette*, 2 June 1853, p. 362.
- ²⁵ Jessie Mitchell and Ann Curthoys, 'How Different was Victoria? Aboriginal 'Protection' in a Comparative Context' in Leigh Boucher and Lynette Russell, eds. *Settler Colonial Governance in Nineteenth Century Victoria* (Canberra: ANU Press, 2015), p. 187.
- ²⁶ *Report of the Select Committee of the Legislative Council on the Aborigines* (Melbourne: Government Printer, 1859). See also for instance, Michael Christie, *Aborigines in Colonial Victoria 1835-1886* (Sydney: Sydney University Press, 1979); Richard Broome, *Aboriginal Victorians: A History since 1800* (Sydney: Allen and Unwin, 2005).
- ²⁷ *Report of the Select Committee of the Legislative Council upon the Aborigines* (Adelaide: Government Printer, 1860), pp. 5-6.
- ²⁸ Select Committee Report, SA (1860), p. 3.
- ²⁹ Select Committee Report, Victoria (1959), p. iv.
- ³⁰ For instance D. J. Mulvaney, *Encounters in Place: Outsiders and Aboriginal Australians, 1606-1985* (St Lucia: University of Queensland Press, 1989), pp. 147-152; Diane Barwick, *Rebellion at Coranderrk* (Canberra: Aboriginal History Monograph 5, 1998); Bain Attwood, *Rights for Aborigines* (Sydney: Allen & Unwin, 2003), p. 28.
- ³¹ Select Committee Report, SA (1860), p. 4.
- ³² *Ibid*, Appendix, p. ii.
- ³³ *Ibid*.
- ³⁴ Joe Lane, 'Maps of Depots, 1840-1906', Firstsources.info, <http://firstsources.info/maps-of-ration-depots-1840-1906.html>.
- ³⁵ Robert Foster, 'Rations, co-existence and the colonization of Aboriginal labour in the South Australian pastoral industry 1860-1911', *Aboriginal History* 24 (2000): 1-26; Amanda Nettelbeck and Robert Foster, 'Food and governance on the frontiers of colonial Australia and Canada's North West Territories', *Aboriginal History* 36 (2013): 21-41.
- ³⁶ Select Committee Report, SA (1860), 5.
- ³⁷ Graham Jenkin, 'Aborigines' Friends' Association', *The Wakefield Companion to South Australian History* (Adelaide: Wakefield Press, 2001), p. 19.
- ³⁸ Graham Jenkin, *Conquest of the Ngarrindjeri* (Adelaide: Rigby, 1979).
- ³⁹ *Ibid*, 180-114
- ⁴⁰ *Ibid*, 180.
- ⁴¹ Suzanne Layton, 'The Protectorship of John Walker', *Journal of the Anthropological Society of South Australia*, 31. 1-2 (1993): 75.
- ⁴² *Kapunda Herald and Northern Intelligence*, Friday 3 July 1868, p. 3.
- ⁴³ Instructions to Sub-Protector J.P. Butfield, 18 May 1866, Protector's Letterbook, GRG 52/7, SRSA.
- ⁴⁴ Layton, p. 79.
- ⁴⁵ Judith Raftery, *Not Part of the Public; Non-indigenous Policies and Practices and the Health of Indigenous South Australians 1836-1973* (Adelaide: Wakefield Press, 2006), pp.100-120; Michael Harding, 'Parsimonious "Protection":

Government Indifference and Aboriginal Affairs Policy during the Protectorship of Edward Hamilton, 1873-1908', Honours dissertation, History Department, University of Adelaide, 2010.

⁴⁶ For instance, Hamilton to the Commissioner of Crown Lands, 26 February 1875, Protector's letterbook GRG 52/7, SRSA.

⁴⁷ Ordinance No. 12 of 1844, *Ordinance to provide for the Protection, Maintenance and Upbringing of Orphans and other Destitute Children of the Aborigines*.

⁴⁸ Report of the Select Committee of the Legislative Council on the Aborigines Bill, p. 4, in *South Australian Parliamentary Papers*, 1899, 2, No. 77a,

⁴⁹ Report of the Select Committee of the Legislative Council on the Aborigines Bill, p. 5.

⁵⁰ *Protector's Report for the year ending, 30 June 1908*, Adelaide, 1908, p. 3.

⁵¹ *South Australian Parliamentary Debates*, 28 September 1910, p. 617.

⁵² An Act to make better provision for the better Protection and Control of the Aboriginal and Half-cast Inhabitants of the State of South Australia, No. 1048 of 1911, paras 12-23.

⁵³ C.D. Rowley, *The Destruction of Aboriginal Society*, Canberra: Penguin, 1970, p. 221.

⁵⁴ *South Australian Parliamentary Debates*, 6 October 1910, p. 969.