

MURDER AND 'THE EXECUTION OF THE LAW' ON THE NULLARBOR

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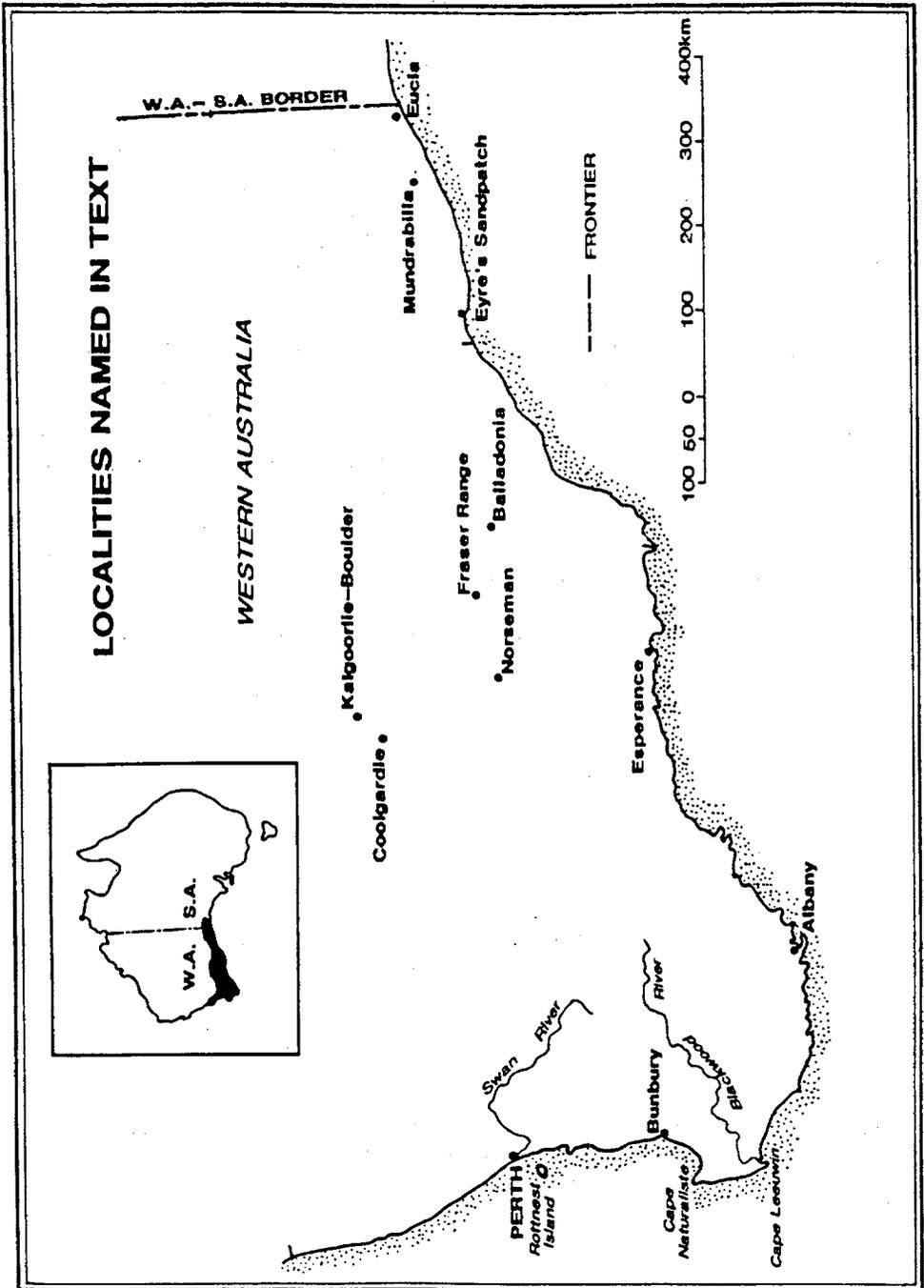
On 7 July 1881, after a 'very arduous' 1600 kilometre round trip on horseback from his base at Esperance Bay to the Eucla district near the South Australian border,¹ Constable George Truslove of the Western Australian Police made a written report which went first to his Inspector at Albany, then immediately to the Superintendent of Police in Perth - at that time actually in command of all police in the colony. The Superintendent, Captain Matthew Skinner Smith, in turn thought the report of sufficient importance to justify passing it on to the Colonial Secretary, Lord Gifford, from whom it went in due course to the Governor, Sir William Robinson, who expressed the hope that 'Captain Smith will not lose sight of this case.'² Ultimately, however, that is precisely what happened - even though the matter was raised again seven years later. Robinson became Governor for a third term in 1890, but by then official interest had lapsed forever. Truslove had been sent to the Eucla district, on the southern fringes of the Nullarbor plain, to distribute and collect papers for the census of 1881. While there (but not, apparently, as a first priority), he was to investigate claims that William Stuart McGill and his partners Thomas and William Kennedy had been mistreating 'natives' on their Mondra Bellae (now Mundrabilla) sheep run, 100 kilometres west of the Eucla Overland Telegraph station. Truslove's report effectively accused McGill and the Kennedys of multiple murder. Its contents were mostly hearsay, which then as now was not admissible in a court of law. Yet as an experienced police officer he must have been aware of the gravity of such allegations, which would be seen at high governmental levels, and he cannot therefore have made them lightly. As will be seen, they were supported overwhelmingly by statements from the Overland Telegraph stationmasters at Eyre's Sandpatch and Eucla nearly eight years later, but not acted on either in terms of criminal prosecution, even though both men were known to be of good repute.

What will be attempted here is an examination of the reasons behind such official inaction; to try to establish why a police officer's report, obtained in difficult circumstances and even at some personal risk (from the elements, if not from the pastoralists) should have been allowed to slide into official oblivion. Likewise the statements from the stationmasters, William Graham (Eyre) and his son-in-law G. P. Stevens (Eucla), if taken seriously, should have been even more damning of McGill and his partners than Truslove's original comments. This will necessarily involve some discussion of the wider political contexts of Aboriginal/European relations in Western Australia during the period concerned. Since Truslove's report is central to much of what is to be discussed here, it should be quoted in detail. After his official preamble, Truslove stated that he:

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¹ Smith to Gifford, 8 August 1881. CSO 527, No. 266/1880.

² Comment by Robinson in *ibid.*



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was told by a native named Pady [sic] that Mr McGill about two years ago gave two natives some Pudding. One a man named Charley the other [a] woman named Jenny he believed there was Poison in it as both died [a] Couple of hours after eating it. A woman named Lucy says that her and another woman once found a bag with Sugar in it. They eat [sic] some of it made them very bad. They went to Mr Williams Station Master at Eucla and he gave them some medicine and cured them. Mr Williams says that these two women did go to him very bad he believed that they had been poisoned. He gave them some medicine and they got all right again. A native named Chinaman says that Mr McGill once shot two natives for stealing rations he did not see it done. A native Buckley saw it. Buckley is in the bush now. Also that McGill cut the throat of a native named Chadulbar. At the same time he shot a native named Yarrey with a Revolver. This native Yarrey saw McGill cut the natives [sic] throat and in making his escape from McGill he was shot in the side with the revolver - but he got away and recovered from the shot wound. This native is in the bush about 40 miles from Kenedy [sic] and McGill's station. I was unable to see him. A shepherd named William Bufton once shot a little girl. A native Geordie who is in Kenedy and McGill's employ saw it done and ran away. Bufton is supposed to be in Adelaide now. There was plenty of others shot and poisoned but those who were witness to the fact are dead. Most of these cases seem to have happened about 1878 or 1879 and some since. The natives that I saw say that McGill treats the natives very badly giving them nothing to eat scarcely and no clothing. They are frightened to run away for fear of being followed up and shot. A man named John Oliver ... says that he has often heard of McGill ill-treating natives and that he wrote to Mr Hare the late Govt. Resident [at Albany] but no notice was taken of it. I did not have time to look for these natives in consequence of having to return to Albany with census papers.³

That the census did indeed take preference is indicated not just by Truslove's comment but by a telegram sent to him in Eucla in April 1881 from his superiors in Albany, instructing him to 'collect census make inquiries ordered in reference to treatment of natives and return as soon as possible.'⁴ This is part of a pattern in respect of Aboriginal-related matters which marked the actions of many of those in positions of high authority in Western Australia during the 1880s. The argument is simply that despite constant protestations - particularly on the part of the colonial governors Robinson and Broome - of respect for the rule of British law and the protection it nominally afforded Aboriginal people, such protection was often not forthcoming or took a poor second place to other, more pressing matters such as the need to protect property or to gather accurate census figures (which did not involve Aboriginal people). This view is not new; Paul Hasluck wrote in 1942 that 'The defect here was not in the law but in its execution.' Hasluck claimed, with some justification, that one of the main problems in obtaining convictions against white men for alleged wrong to natives was the difficulty involved in getting reliable evidence in court from Aboriginal witnesses - particularly under cross examination, when they tended to agree with contradictory suggestions put to them by defence counsel through lack of understanding of what was involved, and to avoid giving offence.⁵ But even when this factor is taken into account, it will be shown that the Mirning people of the

³ Truslove to Smith, 7 July 1881, 266/80.

⁴ Sgt P. Furlong to Truslove, 16 April 1881, 266/80.

⁵ Hasluck 1942, pp.143-4.

southern Nullarbor were still denied anything resembling natural justice, since neither they nor credible European witnesses including Graham, Stevens and Stevens's predecessor as station master at Eucla, W. Williams, were ever called upon to substantiate their charges against McGill and the Kennedys in a court of law.

In the case of the Mirning, whose land had been appropriated by McGill and the Kennedys in the early 1870s,⁶ this lack of legal protection enabled McGill and William Kennedy eventually to retire from their station into the prosperous and respectable comfort of suburban obscurity in Melbourne. (Thomas Kennedy had died accidentally in 1896.)⁷ The Mirning, meanwhile, who never numbered more than a few hundred because of the harsh environment and scarcity of water on their land,⁸ had been reduced in numbers to such an extent that very few of the full descent are now still alive in Western Australia,⁹ with all the accompanying cultural and other loss that such depopulation entails. The reasons for this depopulation appear thus: in the initial stages of colonisation, before expensive deep wells were sunk, the need to preserve non-permanent rockhole water for stock apparently outweighed any desire by McGill and the Kennedys to recruit the Mirning as shepherds, while the Mirning almost certainly brought retribution on themselves when they speared sheep to eat as their own natural food resources began to disappear.¹⁰ When, a few years later, the value of the Mirning as labourers became apparent, some were probably killed for attempting to escape what amounted to slavery. The evidence will also indicate that McGill in particular was a violently abusive, quarrelsome man made worse by alcohol consumption, who may have delighted in cruelty for its own sake. At all events few details are now known by living Aboriginal people of Mirning sites and Dreaming stories in Western Australia, as I realised when undertaking field work in the region on behalf of the W. A. Museum's Department of Aboriginal Sites in October 1993 and January-February 1994. I was accompanied on both occasions by Arthur Dimer, now aged about 70, who is of Mirning descent on his mother's side and of Ngadju (or Mulba, the Mirnings' western neighbours) on his father's, with a German-born station owner and a mounted policeman making up the European part of his ancestry. Arthur Dimer speaks both the Mirning and Ngadju languages, and while his experience of Mirning traditional culture was limited for various reasons to his childhood, he remembers clearly as a child seeing the same Geordie - by then an old man - to whom Constable Truslove referred in his report. In particular, Dimer remembers seeing a bullet wound on Geordie's abdomen, which he (the young boy) was told had been inflicted by McGill:

This bloke by the name of McGill, he had Mundrabilla station and he had a Noongar bloke, Fred McGill.¹¹ They was shooting blackfellows and

⁶ Erickson 1978: 124, 126; see also the *Western Mail*, Perth, 7 March 1903, p. 15.

⁷ Ibid.; also A.E. Crocker, private notebooks.

⁸ An observation first made by Eyre, 1845; see also Graham and Williams in Curr 1886-7 (4): 367-8, 400-404; J. Forrest, in Kimberly 1897, p. 252 and Crowley 1971, pp. 41-6; Bates (ed. White) 1985, pp.40-6; Tindale 1974, pp. 248-9.

⁹ The Mirning lived (and still do) on both sides of the WA-SA border; this paper, however, is concerned solely with events in Western Australia. The only full-descent Mirning still alive in WA now live in a close-knit coastal community near Geraldton, far from their traditional lands.

¹⁰ McGill actually described the 'blacks' as 'troublesome' during this period. *Western Mail*, 7 March 1903, p. 15.

¹¹ Fred McGill, or McGill's Fred, was a Noongar of the full descent, brought from the Esperance region by W.S. McGill when he and the Kennedys first settled in the Eucla district. The spelling 'Noongar', rather than 'Nyoongar' or 'Nyungar', is that currently used by Aboriginal people from the south-west of WA with whom the author worked in 1993-94.

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poisoning them and all. ... I seen old Policeman Geordie, he was shot through the guts, the big bullet mark there where they shot at him. ... He run away to the - they were trying to find him - he run away in the bush and hid himself. He was a wild bushman, old Policeman Geordie. He lit a fire then, after, and rubbed ashes into the wound, and he walked and walked, and he got over it. He found his mob.¹²

It was as a result of this conversation with Arthur Dimer in February that a search was made by me on my return to Perth of Western Australian State Archives files, which turned up both Constable Truslove's statement and those of William Graham and G. P. Stevens nearly eight years later. Dimer says he did not know any of these men, although he was friendly with Graham's eldest son John, of whom more later. Dimer, incidentally, maintains he has never been in the Western Australian archives, which makes the following account by Stevens even more remarkable:

I have at the present time a native named 'Geordie' serving here as assistant linesman, who has repeatedly told me an unvarnished tale, without prejudice or the least display of vindictiveness, of how his brother's throat was cut by these 'friendly pioneers', and how McGill crept up on their camp at night while they were asleep and discharged his revolver among a group of them, firing right and left while his ammunition lasted. On this occasion poor Geordie was brought very near to his end; he describes with unfeigned horror, his sensations when he started up from his sleep to receive a revolver bullet in his abdomen; how, terrified and bewildered he ran, till he dropped from sheer exhaustion; then, his realisation of his danger and his subsequent efforts to reach a rockhole to obtain water, and possibly find friends; how he eventually succeeded in reaching this spot only to be deserted by his comrades, who, believing him to be dying, abandoned him to his fate, as is their custom. But chance brought one of a bolder nature, who subtracted the bullet from his back, and he ultimately recovered. The places where the bullet entered his his abdomen and was extracted from his back are plainly to be seen.¹³

Graham also mentioned Geordie, although not by name, saying Geordie's ordeal had been made known to police, and that Constable Truslove had

visited the graves of 16 natives who had all come to violent ends at their [McGill's and the Kennedys'] hands or their servants. Mr McG. himself told me a native he had called Freddy McGill murdered a native whom I much valued named 'Pompey', & that he himself heard the row and the man's groans when stabbed but he w[oul]d not interfere as the black b--gers were better out of the way.¹⁴

Stevens's account, as well, had the Noongar Freddy McGill joining in the violence readily enough; being a stranger to the area and from a different linguistic and cultural background, self-preservation apart from any other consideration would almost certainly have motivated him to carry out the orders of his employers. As Arthur Dimer puts it, Fred McGill had a rifle and the Mirning didn't, and the Noongars and Mirning had always hated each other anyway. Whether the Mirning attempted to revenge themselves on Fred McGill is likely according to Dimer but not known definitely.¹⁵ Nor are the names and personal

¹² Interview, 3 February 1994.

¹³ Stevens to R.C. Loftie, 23 February 1889. CSO 527, No. 2827/1888.

¹⁴ Graham to F. Hare, 13 February 1889, 2827/88.

¹⁵ Conversation with P. Gifford, 27 June 1994.

details of most of those who died in the violence instigated by McGill and his partners. Such details were not recorded at the time, simply because the only European witnesses seem to have been the murderers themselves. As to resistance, inter-group Aboriginal solidarity leading to physical counter-attacks in such situations was not necessarily general then anywhere in Australia if it ever has been, given the European derivation of the concept.¹⁶ Dimer recalls the various Mirning groups as being well-disposed to one another, but an earlier observer, Daisy Bates, did not.¹⁷ By the same token, however, Stevens believed that both Freddy McGill and an alleged white accomplice named David Sullivan might well have told the truth about events at Mundrabilla if given the chance, and legal protection against prosecution.¹⁸ (Sullivan in fact was charged in 1885 with shooting an 'Aboriginal native' with intent to do him grievous bodily harm at or near Eucla and was committed to the Albany Quarter Sessions for trial, but the case was dismissed.¹⁹) It is ironic that, from a current European perspective, but not necessarily a 19th century Aboriginal one, Freddy McGill seems to have been seen a few years later as a leader among his own people, in newspaper articles in the then new Goldfields centre of Coolgardie. There may also be some irony in the journalist's description of the 'exemplary darkie' Fred McGill [sic] keeping the Esperance 'blacks...in complete subjection' at a social function in Coolgardie, the Noongars almost certainly well aware of Fred McGill's fearsome reputation out at Mundrabilla and the journalist almost certainly not.²⁰ The irony is complemented by the fact that McGill the station owner had by now (1896) become a Justice of the Peace and local magistrate, and complained the following year to the Premier about being forced legally under the Masters and Servants Act to imprison an Aboriginal man for absconding from his master. McGill maintained that the Aboriginal man in question was deserving of leniency; he had run away only because his woman had been taken by a white man and he was pursuing them.²¹

McGill, it would seem, had a preoccupation with miscegenation, although his apparent disapproval of the practice may not have extended to his partners. Thomas Kennedy, by McGill's own account, 'was speared in three places' soon after the three men arrived in the Eucla district in 1872,²² while his brother William allegedly grasped a native woman by the ears and flung her to the ground in 1887, then beat her to death with a stick in July the following year.²³ As elsewhere in Aboriginal Australia, spearing appears to have been a punishment among the Mirning for sexual transgressions,²⁴ while the allegation (by Stevens) that the same woman was beaten more than once by William Kennedy, and on the first occasion was saved by the intercession of her Aboriginal partner, probably speaks for itself.²⁵ As for McGill, on each occasion when white men lodged complaints about his

16 See Reece 1987, partic. pp. 14-18.

17 Dimer 27 June 1994; Bates 1966, pp. 119-121.

18 Stevens to Loftie, 23 February 1889.

19 Esperance Police Station occurrence books 1879-1885, notes 17 and 27 November 1885. AN 5, Acc. 781.

20 *Coolgardie Miner*, 28-29 December 1896. The fact that Arthur Dimer knew of Fred McGill's reputation a century later speaks for itself in terms of Aboriginal knowledge and oral tradition.

21 McGill to J. Forrest, 12 December 1896. CSO 527, No. 96/1897.

22 *Western Mail*, 7 March 1903, p. 15.

23 Stevens to Loftie, 23 February 1889; see also Esperance PS occ. books, 1888-1890, notes July-August 1888.

24 Bates 1985, pp. 128-132.

25 Stevens to Loftie, 23 February 1889. Stevens does not, however, make any direct reference to the possibility of a sexual relationship between William Kennedy and the woman.

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treatment of Aboriginal people, they were replying in part to apparently slanderous allegations made by him,²⁶ at the highest level in the colony, about their supposed moral standards in respect of those same Aboriginal people. For example, Williams, Stevens's predecessor at Eucla, was described more than once by McGill as a 'larrikin'²⁷ - a type portrayed in Henry Lawson's doggerel poem 'The Bastard from the Bush' as basically criminal and content to live off the immoral earnings of women.²⁸ It was at least partly in response to Williams's enraged reaction that Constable Truslove made his 1881 visit to Eucla - the first by a Western Australian policeman to the area.²⁹

In Graham's case, McGill went even further, accusing him of using his ex-officio position as Protector of Aborigines to sign over Aboriginal people to his alleged business partners in kangaroo hunting, 'men of the most worthless description whose whole idea seems to be to get what money they can for drink and keep native women for prostitution.'³⁰ Graham's own description of some of these men as ex-British army officers and old Etonians may simply have disguised their actual status as remittance men,³¹ although kangaroo hunting with its attendant hard work would seem to have been an odd occupation for upper-class loafers from the Old Country. Stevens made precisely this point in his defence of them.³² But the inclusion by McGill of Graham's eldest son John as one of the 'worthless' types might well have proved expensive to McGill had John Graham been able to sue for libel in a late 20th century Australian court. John Graham, who died in 1941, the same year as his brother-in-law G.P. Stevens, still has a reputation among old European Nullarbor residents as having been an eccentric but hard-working, kind-hearted and essentially decent man. His so-called eccentricity seems to have derived from the unusual and isolated circumstances of his childhood; he grew up speaking fluent Mirning and - according to Arthur Dimer - was free of any taint of racism. While John Graham may have enjoyed the favours of Aboriginal women, they were freely given, according to Dimer, and Graham ultimately married an Aboriginal woman and legitimised her son by a member of a prominent grazing family on the Nullarbor's western fringe. The Mirning, from Dimer's account, held John Graham in higher regard than any other European man before or, probably, since.³³ His bush survival skills were equal to theirs, which meant a fair division of labour in the actual business of kangaroo hunting, and he seems also to have treated them generously in terms of payment for their efforts³⁴ - something extremely rare in European-Aboriginal labor relations at the time. Small wonder then that the Mirning preferred if at all possible to work for him, rather than be driven by the McGill-Kennedy partnership and starved, beaten and even murdered if they showed any resistance. Before young Graham had offered them an option, the Mirning had by Stevens's account been

²⁶ McGill's language is frequently intemperate, and his allegations are not supported by any archival or oral evidence.

²⁷ See, for example, McGill to CS (Gifford) 12 May and 1 October 1881, 266/80.

²⁸ Lawson, March 1892, in Roderick (ed), 1979, pp. 69-71. Lawson was actually working with larrikins in the slums of Sydney during the 1880s. At that time the larrikin as personified by Ginger Mick was still at least 30 years away from being redeemed by C.J. Dennis.

²⁹ See addendum, Graham to Hare, 13 February 1889 (a copy of an 1881 report from Williams to A. Helmich, Supt. of Telegraphs).

³⁰ McGill to Broome [Governor], 1 September 1888, 2827/88.

³¹ Graham to Hare, 13 February 1889.

³² Stevens to Loftie, 23 February 1889.

³³ Interviews, 6 and 8 October 1993; Crocker, private notebooks; interviews with Mr and Mrs J. Crocker, 1 February 1994, and Mr M. Harslett, 28 January 1994.

³⁴ Dimer interview, 8 October 1993; see also Stevens to Loftie, 23 February 1889.

terrorised 'to such an extent that they (the natives) were glad to work for them ... rather than be hunted about the country and shot down like dogs.'³⁵

Alleged poaching of Aboriginal labour was certainly one of McGill's complaints. Graham senior maintained he had 'absolute proof that McGill wrote to a mutual friend: "this is a new dodge of Graham's signing over other people's niggers"'.³⁶ But Stevens probably reached the core of the matter in stating that McGill's 'chief grievance' was that he objects to officialism [sic] in any form, and he would be pleased to root it out, and take the natives under his own protecting wing, possibly to mete out kindnesses to them in the manner aforesaid, when officialism was not known at Eucla. You [Government Resident, Albany] are probably aware that both Mr Farrant & Mr Williams my predecessors have received somewhat similar treatment at the hands of Mr McGill to that which Mr Graham and myself are now undergoing.³⁷

Put another way, McGill and the Kennedys had things all their own way in the remote Eucla area until the completion of the Overland Telegraph line between Perth and Adelaide in 1877, when telegraphists arrived who - as resident civil servants - could also fulfil other duties such as being Protectors of Aborigines. One indication of how seriously they took these extra duties is indicated by the fact that Williams and Graham senior were E. M. Curr's acknowledged principal informants on the Mirning for Curr's four-volume anthropological work, *The Australian Race*, published in 1886-7.³⁸ Any reading by McGill and the Kennedys about the Mirning and their country was probably limited, however, to John Forrest's reports of his exploratory trip through the region in 1870, after being instructed by Governor Frederick Weld to make accurate observations with a view to 'extending the area of pastoral enterprise.'³⁹

McGill, originally from Scotland, and the Kennedys, from Ulster, had come to the Albany district from South Australia in the mid 1860s. Being without much capital, they were attracted to the Eucla region by the government's offer of free land in exchange for 'opening up' this arid country.⁴⁰ They made the arduous and dangerous journey overland from Albany in 1872 with a team of bullocks, a waggon, eight horses and 1,500 merino sheep, taking up 200,000 acres and shipping their woolclip from a beach 30 kilometres south of the station homestead. One reason for McGill's general rancour against authority was the government's failure to provide him with free land; while others did obtain such grants, his 200,000 acres was leasehold. It was not, moreover, until the goldfields of Coolgardie, Norseman-Dundas and Kalgoorlie were opened up in the 1890s that he and his partners really began to prosper, through the sale of mutton and beef to the miners.⁴¹ John Forrest had described the Mundrabilla area as 'grassy splendid feeding country extending in every direction.'⁴² The explorer's description was coloured by the fact that he passed through the area in June and July, the wettest months of the year; he realised nonetheless that the abundant water in the rockholes was seasonal only. McGill and the Kennedys would have noted that, in terms of its implications for running stock, but must also have

³⁵ Stevens to Loftie, 23 February 1889.

³⁶ Graham to Hare, 13 February 1889.

³⁷ Stevens to Loftie, 23 February 1889.

³⁸ They were not, incidentally, responsible for Curr's apparent confusion of the Nullarbor Mirning with another group inhabiting an area around King George's Sound.

³⁹ Weld to Lord Granville, 3 March 1870, in V. and P., L.C., 1870-71, Appendix.

⁴⁰ *Western Mail*, 3 March 1903, p. 15; also *Eucla Recorder*, 21 July, 18 August 1900.

⁴¹ *Ibid.*

⁴² Forrest 1875, pp. 75, 106, 110, 114-118.

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been influenced by Forrest's description of the Mirning as 'miserable specimens' who 'resembled pigs more than human beings'.⁴³ This is not to say that the future Premier and Baron of Bunbury was advocating wholesale slaughter of the 'grossly uncivilized'⁴⁴ Eucla people, but Eucla in 1872 was one of the most isolated settlements in Australia, and McGill and the Kennedys may well have succumbed to the sense of absolute power which their superior weapons and ready availability of food, strychnine (officially for poisoning dingoes) and liquor would have afforded them in such a remote place. The *Eucla Recorder*, a newspaper published by and for telegraph staff, was not merely moralising when it claimed in 1899 that:

Perhaps the greatest evil is to be found in the peculiar tendency of bush life to take all the energy out of a man, leaving him in many cases with almost not an atom of determination wherewith to resist other evil influences. ... Only a bushman, of a few years' experience, can describe how irresistible an offer of drink becomes. Space would allow us to enumerate the many other undesirable habits that a great number of bushmen assume; but some of our readers may possibly heed our warning to be very careful should they ever be compelled to adopt a bushman's life.⁴⁵

There are, perhaps, unconscious echoes here of Joseph Conrad's *Heart of Darkness*; although any resemblance between Kurtz and the tough but otherwise unheroic McGill is slight, their circumstances do have something in common. It was the great age of European imperialism and colonialism, with all their attendant racist brutality - in Australia just as much, proportionally, as in Africa. The novella was written in 1899, but is part of the 'twenty years of tales to tell'⁴⁶ which Conrad had accumulated during his years at sea around the world. And the warning by the *Eucla Recorder* is not just about succumbing to drink, but is about the dangers inherent for 'white' men in isolated places where 'civilised' standards no longer apply - a situation encountered just as much by McGill as by Kurtz. That McGill at any rate was violent in liquor is apparent from Stevens's statement, in which he allegedly witnessed McGill attempting while drunk to shoot a European well-sinker - a 'steady, hardworking young fellow' - with whom McGill had argued.⁴⁷

Stevens himself was a conscientious and able man who rose to become Perth manager of the colonial telegraph department before its amalgamation into the Commonwealth service in 1901, and who was for many years secretary of the W. A. Civil Service Association. He later became a founding member of the Royal Western Australian Historical Society and wrote several articles for its journal, *Early Days*; it is significant in view of his experience of official inaction in the McGill case that although some of these dealt with the Overland Telegraph, he nowhere mentioned the Aboriginal people of the Nullarbor.⁴⁸ Aboriginal-related historical matters, when discussed at all in Western Australian historical circles at this time, were usually dealt with by the Chief Protector of Aborigines, A. O. Neville. Paul Hasluck was active in the Historical Society during the 1930s, but his MA thesis, published as *Black Australians* and a genuinely pioneering work in terms of recognition of the realities of Aboriginal/European relations in his home state, did not appear until a year after Stevens's death. Neville's interpretations, however, as published by *Early Days* in 1936 - even allowing for the very different historical

⁴³ Ibid., pp. 75, 108-9; also Kimberly 1897, p. 252.

⁴⁴ Crowley, Vol. I, 1971, p. 46.

⁴⁵ *Eucla Recorder*, 27 May 1899, p. 5.

⁴⁶ John Galsworthy, quoted in introduction to Conrad, *Three Short Novels*, 1963, p. x.

⁴⁷ Stevens to Loftie, 23 February 1889.

⁴⁸ Obit., *Early Days*, December 1941, P. 47; also Stevens 1933, 1936, 1938, 1939, in *ibid.*

perceptions of the 1930s - are little more than a hagiography of the so-called European 'pioneers' of Western Australia. Some of these such as the young Maitland Brown, avenging three white men speared to death in the Kimberley in 1865, were no better than mass murderers, but their deeds (and this punitive expedition in particular) were described by Neville as 'inevitable in these days of the march of civilisation.'⁴⁹ Neville as a civil servant had to be circumspect about criticising such people, but the fact that Brown could become an apparently revered Resident Magistrate and political leader says much about the state of the Aboriginal/European relationship in Western Australia both in late colonial times and after Federation.

Brown was also the brother-in-law of Rowley Crozier Loftie,⁵⁰ Government Resident at Albany virtually throughout the period under discussion here. Albany, according to the then Governor in 1881, Sir William Robinson, was the sort of place 'where above all a gentleman is required' as Resident, and it was for this reason that Loftie gained the appointment.⁵¹ Superior social status in this colonial society was no guarantee, however, that the law would be administered impartially. Loftie did not hesitate, for example, to impose sentence of death on an Aboriginal man named Toppy, convicted of the murder of his own brother, Jack Shepherd, on one of the Dempster family stations north of Esperance in June 1889. (He was later reprieved - a course which could effectively have been carried out by Loftie himself had he directed that the man be convicted only of manslaughter).⁵² Yet although the Mirning man, Geordie, was actually brought to Esperance by Constable Truslove as part of his 1600-kilometre ride to Eucla and back in 1881,⁵³ there is no record of anyone apart from G. P. Stevens ever taking anything resembling an official deposition from him. Geordie had a gaping wound in his abdomen, after all, and can have been in no doubt as to who inflicted it. Even when the difficulties associated with taking evidence from Aboriginal witnesses are taken into consideration, the fact remains that Stevens was able to obtain a clear account of the incident upwards of seven years later - and Geordie was still relating it to Mirning audiences including the child Arthur Dimer at least 40 years after that.

Given that both the Governor, Sir William Robinson, and Colonial Secretary, Lord Gifford, were interested in the case, it seems strange that a newly-appointed Resident would not have become aware of it, and - if at all energetic - have done something about ensuring that the prosecution proceeded. Not only did Loftie allow the matter to lapse, however, he also failed to act on his own behalf when it was raised again by Graham and Stevens in 1888-89 - even though he had apparently no qualms about sentencing Hoppy to death for the murder of another native a few months later.⁵⁴ That Loftie was eventually fully cognisant of the accusations against McGill and the Kennedys there can be no doubt, since Stevens's complaint was addressed to him and was passed on in due course, along with that of Graham, to the Colonial Secretary and Governor. It could be argued that Loftie had

⁴⁹ Neville 1936, p. 43. In Cowan 1988, pp. 87, 95, the most recent account sympathetic to Brown, it is acknowledged that 'in self defence' Brown and his companions killed or wounded 18 Aboriginal people in 'the first lesson taught the natives of this district of the superiority of civilised man and weapons over savage ...'

⁵⁰ *Ibid.*, p. 24.

⁵¹ Robinson to Lord Kimberley, 9 April 1881. Governor's confidential despatches, 1869-85, AN 395/1, Acc. 390, No.47.

⁵² Esperance PS occ. books 1888-1890, notes 30 June, 3-4 July, 20 September 1889; also Purdue 1993, p. 69.

⁵³ Esperance PS occ. books 1879-1885, notes 15, 17 August, 16,17, 26 October 1882.

⁵⁴ He was sentenced on 6 September 1889. Purdue 1993, p. 69.

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fulfilled his duty merely by passing the letter on to a higher authority; against that, however, is the fact that he was officially Protector of Aborigines by virtue of being Government Resident. Simply passing on a letter (and probably that of Graham as well) does not excuse his inaction for the previous seven years over what were, in effect, accusations of multiple murder of Aboriginal people. While his official role was separate to some extent from that of the police, it is hard to credit that they would have ignored any request from him as either magistrate or Chief Protector of Aborigines in the district to act diligently in following through such an investigation.

Loftie, at any rate, had nothing to do with the decision to send Constable Truslove to Eucla a second time to follow up his initial report on the Mirning murder allegations. It was on direct instructions from the Superintendent of Police in Perth that Truslove set off on 15 November 1882, to arrest McGill and, if necessary, the Kennedys and Freddy McGill. Truslove, however, was sick when he set out and became worse along the track; so much so that he had to be brought back by cart to Esperance and then taken by ship to Albany for medical treatment. But Geordie did not, apparently, accompany him to Albany, and what Truslove may have discussed or been told there in respect of McGill and the Kennedys is not known.⁵⁵ At all events Truslove made no other official journeys to the Eucla region, and Esperance police records contain no further mention of allegations against any of the proprietors of Mundrabilla until 10 July 1888, when Truslove's successor at Esperance, Lance Corporal John McGlade, was ordered to go to Eucla to investigate reports that a native woman had died as the result of a severe beating from one of the Kennedys. This incident, the same one to which Stevens referred above, did not result in a prosecution, partly because 'natives [sic] statements cannot be relied upon' and partly also because McGlade claimed to have been told by 'four white persons who [were] there' that the woman had not been ill-treated by Kennedy.⁵⁶ Whether McGlade knew of McGill's and the Kennedys' reputation is not clear from the Esperance police records, but it is hard to credit that he was entirely ignorant of what had gone on at Eucla before his transfer to Esperance.

It cannot be said, however, that either Truslove or McGlade was entirely or even mostly responsible for the failure to enforce the law impartially as far as McGill and the Kennedys were concerned. Truslove's initial report, after all, showed how things were at Mundrabilla. And if he made no arrests on that initial occasion, he seems to have had genuine difficulties in obtaining other than hearsay evidence. To arrest a white man of property for capital offences against natives was no small matter; Truslove may well have wanted to test the reaction among his superiors before proceeding with what would have been - among a certain section of colonial society - a highly unpopular prosecution. Likewise, McGlade may have decided to concern himself only with the here and now in his investigation of the beating allegation against William Kennedy; certainly he had no written or telegraphed instructions to do otherwise. McGlade may even have felt himself vindicated after taking part, on his return from Eucla, in the hunt for a white shepherd named Michael Griffin. This man, who had a record of violence toward Aboriginal people,⁵⁷ took to the bush after allegedly murdering an Aboriginal man named Marabool while droving sheep to Fraser Range station. Griffin was duly captured, tried and discharged for lack of evidence, after which he returned to his old employment with the Dempsters.⁵⁸ If a mere shepherd could get off in such a fashion, then what chance was there of

⁵⁵ *Ibid.*, 1879-1885, notes 15 August - 18 December 1882.

⁵⁶ *Ibid.*, 1888-1890, notes 1, 4, 10, 20 July, 20 August, 7 September 1888.

⁵⁷ For aggravated assault. *Ibid.*, notes 11 April, 4 June, 1 July 1885.

⁵⁸ *Ibid.*, notes 9, 13, 14 October, 17 November 1888, 22 February 1890; also GR Albany, 'Murder of Native by Michael Griffin', CSO 527, 2937/1888.

successfully prosecuting a squatter - a 'tough customer' as McGill was known to be⁵⁹ - and all this after a 1600 km. round trip on horseback through waterless country? What was wanting was the will, at higher levels in the administration of justice, to devote sufficient energy and resources both to the investigation itself and to ensuring that it would succeed.

That will was never forthcoming, even though Aboriginal people in breach of the law received little compassion or understanding in what had been a convict settlement for almost 20 years and was still trying to come to terms with the presence of relatively large numbers of ex-convicts. Of 10,300 white males over the age of 21 in Western Australia in 1884, about 2,600 were ex-convicts and a further 560 actual convicts and ticket-of-leave holders.⁶⁰ In other words, a class-based jail (and jailer) mentality persisted throughout the colony for years after transportation from Britain ended; while transportation to Rottnest Island remained a fact of life (and death) for Aboriginal people, again throughout the colony, until the 20th century.⁶¹ In the early 1880s the Governor, Robinson, rejected a bill introduced by Maitland Brown to give settler magistrates (Justices of the Peace) the power to sentence summary offenders to terms of imprisonment for up to three years.⁶² As it was, Aboriginal men who speared even a single sheep belonging to a man such as the squatter Andrew Dempster could be - and often were - sentenced by Dempster in his role as Justice of the Peace at Esperance to 12 months on Rottnest, from where some never returned. To be fair to Dempster, he does not seem to have used his legal powers to have Aboriginal offenders flogged as additional punishment, as happened elsewhere in Western Australia during this period. But protection of property was paramount, as the police well knew. Indeed, for long periods in the 1880s and early 1890s, the Esperance police charge book records show that sheep stealing by Aboriginal people - Noongars, Ngadju and, occasionally, Mirning - was virtually the only 'crime' to come before the Esperance magistrates. A few examples: 'Paddy', aged 19, (a Ngadju or Noongar man), sentenced on 3 May 1889 by Dempster to 12 months on Rottnest for stealing one sheep, the property of George Scott, at Pine Hill; 'George', aged 45, (Ngadju), sentenced by Dempster on 27 May 1889 and 1 June 1889 to a total 12 months hard labour on Rottnest for stealing one sheep and one double-barrelled gun, at Fraser Range (a Dempster station; the 'hard labour' probably related to the stealing of the gun); and 'Dakin', aged 25, (Ngadju), sentenced by G. H. Bostock, JP, on 31 July 1892 to 18 months hard labour on Rottnest for stealing three sheep at Fraser Range.⁶³ The hard labour actually began long before they reached Rottnest, as 'Benjamin', a Mirning man convicted of sheep stealing, told the 1883 Royal Commission into the treatment of Aboriginal prisoners of the Crown:

I walked from Eyre Sand Patch to Albany [about 1,000 km.] naked, with a chain on my neck. My neck was sore from chain. I knocked up from the long walk. Policeman Truslove no good. He hit me for knocking up. ... I came with a bullock chain around my neck from Eyre Sand Patch to Albany. When it rained my neck was very sore from the chain. ... I had no clothes given to me from Eyre Sand Patch to Albany.⁶⁴

The police were well aware why such breaches of the law occurred. Constable James Sherry reported in 1892 that 'in this district [i.e Esperance, north to Fraser Range and east

⁵⁹ G. Phillips (acting CS) to Robinson, 18 September 1880, 266/80.

⁶⁰ Broome to Lord Derby, 8 August 1884. Governor's c.d., 1869-85.

⁶¹ See, for example, Hasluck 1942: 80-86; and Thomas 1981, pp. 646-9.

⁶² H. Wrenfordsley (CJ) to Derby, 23 April 1883. Governor's c.d., 1869-85.

⁶³ Esperance PS charge book 1889-1897.

⁶⁴ Appendix I, RC report, 1883. AN 1/1, Acc. 495, Box 1.

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to the S. A. border] they are mostly driven to sheep stealing from starvation',⁶⁵ while McGlade had informed Inspector Rowe in Albany the previous year that:

it would be almost impossible for them ['bush' natives] to subsist owing to the absence of game & the scarcity of kangaroos which are being fast exterminated [sic] in this locality.... In the near future their poverty will increase as the domestic cat has gone wild & spread for hundreds of miles over the district, killing all the small marsupials and birds, that formed the daily subsistence of the natives. Mr Ponton [Balladonia station] told me he believed that some of the natives were reduced by hunger to kill an occasional sheep.⁶⁶

As for the police, they could claim with some justification that the well-being of Aboriginal people was not their problem but that of the government, which meant specifically after 1886, the Aborigines Protection Board. This organisation - bitterly resented by colonial landholders and their political representatives - was responsible through the Governor to the British Government and remained so even after representative self-government came into effect in Western Australia in 1890, until abolished by Sir John Forrest's administration in 1897. The colonists saw it, correctly, as a reflection on their ability to ensure the welfare of the Aboriginal people of Western Australia and, by extension, to govern themselves. That their actual record in terms of humane Aboriginal administration left much to be desired, they either hotly denied or ignored as irrelevant.⁶⁷ The Board had been set up in the wake of the Gribble affair, in which the Revd. J.B. Gribble, an Anglican clergyman and missionary, had denounced the behaviour of settlers in the Gascoyne and Pilbara regions towards their Aboriginal inhabitants. Failing to get official backing (or even that of his Church) in Perth for his accusations Gribble published a booklet entitled *Dark Deeds In A Sunny Land*, and repeated his allegations in the eastern colonies newspapers. He subsequently sued for libel when the *West Australian* newspaper described him as 'a lying, canting humbug', but lost the case.⁶⁸ As the judgement of the Chief Justice, Alexander Onslow, made clear, Gribble had not in fact been 'treated with the consideration which he had every right to expect', nor had he 'been granted a fair and patient hearing'⁶⁹ in Western Australia. In this the Chief Justice was at one with David Carly, one of Gribble's principal informants, who claimed in a letter to a Melbourne newspaper that:

as an old hand at the North-West, ... no language can be too strong in exposing the fearful atrocities which I have seen, opposed, and reported to magistrates, judges, Governor Robinson and others. No notice was taken, except to draw down on myself silent vengeance. The Rev. J.B. Gribble is now bravely fighting on behalf of the natives, and I hope he will be well supported, as he richly deserves it.⁷⁰

But to go public, and especially in 'monstrous dimension'⁷¹ among the 't'other sidars' of Melbourne and Sydney was to place himself beyond the pale. Exactly how monstrous

⁶⁵ Sherry to Sgt J. Farley, 16 August 1892, Esperance PS letter and report books 1879-1893.

⁶⁶ McGlade to Insp. T. Rowe, ? February 1892, *ibid.*

⁶⁷ See, for example, J. Forrest to Robinson, 22 November 1892, APB misc. reports, corresp., 1891-1897. AN 1/1, Acc. 495, box 1; also A. Forrest, V & P, LA, 7 September 1893; Crowley 1971, pp. 209-10; Batty 1924, pp. 395, 403.

⁶⁸ Green 1981, pp. 87, 101-6, 109-110; *West Australian*, 24 August 1886.

⁶⁹ Full transcripts of judgements in *Gribble v Harper and Hackett* are in AN 1/1, Acc. 388, Box 2.

⁷⁰ Melbourne *Telegraph*, 3 May 1886, clipping in *ibid.*

⁷¹ Transcript in *ibid.*

the dimension was, or what form Gribble's 'disregard for the truth'⁷² had taken, Onslow CJ's judgement did not reveal, but the judgement was for the defendants. Gribble might well have been tempted to appeal to the Privy Council had he known that the previous Governor, Robinson, had described Onslow (then Attorney General) in a confidential despatch to the Colonial Office as a man who

takes up such strong views on most questions that his better judgment is too frequently obscured, and as he is hot tempered and dictatorial and is offensive to everyone who differs from him, I am sorry to say that he has failed to inspire me with that confidence in his impartiality and discretion which a Governor ought to be able to place in his Chief Legal Adviser.⁷³

In any event Onslow's efforts were not appreciated by the West Australian-pastoralist alliance, which felt that although he had found for them, his judgement was morally in favour of Gribble; accordingly, they attempted to have the Chief Justice officially censured.⁷⁴ Fifty years later, A.O. Neville was still taking the same line, referring to Gribble's 'notorious assertions' and maintaining that they were 'thoroughly sifted and for the most part unsubstantiated.'⁷⁵ In fact, Gribble's allegations were all the subject of an investigation ordered by the current Governor, Sir Frederick Napier Broome; the allegations were put to those policemen who had been stationed in the areas concerned in each case. They were solemnly denied, London was informed accordingly and that was that.⁷⁶ Broome was no fool, but neither was he able to achieve the impossible. Without reliable witnesses independent of Gribble and his supporters, and particularly with the police off side, there was nothing to be gained in pursuing the matter.

Broome, a former journalist, had taken over from Robinson in 1883, by which time official interest in the McGill allegations raised in Constable Truslove's report had apparently subsided. There is no indication in Broome's regular despatches to the Colonial Office in London that he knew anything of the allegations against McGill before 1889. Given that he sent regular, detailed reports on important matters brought to his attention concerning Aboriginal people throughout his term, this would seem to indicate that the McGill case had been shelved before his arrival. He was aware, for example, of the case of Michael Griffin:

It seems one Griffin murdered a native, and fled to the bush. ... A party of police has been dispatched. ... This case seems an outrage of an ordinary criminal character, which may be adequately dealt with by the law.⁷⁷

In fact, of course, it was not. Hasluck's axiom applied again: the defect here was not in the law but in its execution. As to the shelving of the McGill case, this may have been through an oversight, itself brought on by the fact that Robinson had had problems with his Colonial Secretary, Lord Gifford, which were serious enough to warrant official complaints being sent to London. Gifford was both inexperienced in administration and, according to Robinson, prone to wilful, headstrong actions which had led him to associate with a group of 'political malcontents' led by the editor of the *West Australian*.⁷⁸ As

⁷² Ibid.

⁷³ Robinson to Kimberley, 30 September 1881. Governor's c.d., 1869-1885.

⁷⁴ Battye 1924, pp. 348, 350-1.

⁷⁵ Neville 1936, p. 44.

⁷⁶ Transcripts in AN 1/1, Acc. 388, Box 2.

⁷⁷ Broome to Lord Knutsford 12 November 1888. Governor's despatches 1886-1889. AN 395/1, Acc. 390, No. 16.

⁷⁸ Robinson to Kimberley 21 April, 19 June, 19 August 1881. Governor's c.d., 1869-1885; also Gibbney and Smith (1) 1987.

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anyone who has worked in a bureaucracy can attest, lack of trust between people in responsible positions can and often does bring about a marked decrease in administrative efficiency - the more so when any of the parties is inexperienced or inefficient to begin with. Gifford's eventual departure for Gibraltar virtually coincided with the aborted second visit by Constable Truslove to Eucla. In such circumstances, the potential existed for an inconvenient investigation simply to be placed to one side in the confusion surrounding the changeover, and then forgotten. It is significant also that Robinson's term as governor (the second of his three such Western Australian appointments) expired only a few months later, in 1883.⁷⁹

As far as the Aborigines Protection Board is concerned, it may have been independent of the colonial politicians who would form the first representative government in 1890, but it was constantly under attack from its inception until 1897, when the colonial government assumed control of Aboriginal affairs. As Leslie Marchant has noted, the opposition was most virulent during Broome's term of office, during which he pursued a policy of 'general toleration' for Aboriginal customs; by 1892 the Board had become much more conscious of the pastoralists' point of view.⁸⁰ The Board was derided, with some accuracy, as a mere distributor of blankets,⁸¹ even though its officials were also empowered 'to institute, carry on or defend any court proceeding and to enforce any order or judgment of any court on behalf of any aboriginal.'⁸² It had been established, at least in part, to address complaints such as that of the Chief Justice, Henry Wrenfordsley, in 1883, that:

It is difficult for the legislator in England to realize the result of the vast distances which separate the several [sic] communities of this Colony. A Resident Magistrate may be 150 or 200 miles from the place of innstigation [sic] and a failure of justice must take place unless some legal machinery is provided.⁸³

In the case of Eucla, the distance involved was 800 km. But the actual setting up of the Board, far from addressing the genuine problems involved, was what would be seen in today's terms as a public relations exercise.⁸⁴ (Broome, as a former journalist, must have been aware of the value of at least being seen to be doing something, as far as his masters in London were concerned.) Resources were at best limited in a sparsely-populated colony which was only just starting to realise its huge mineral assets, and there were massive logistical problems involved in effectively policing such a vast area where roads were bad and railways still in their infancy. The Board was forced to rely to a large extent on the services of police, local magistrates and civil servants such as William Graham and G.P. Stevens because they were frequently the only people available in remote areas to act as Protectors.⁸⁵ Its own resources simply did not extend to hiring its own staff in the numbers required to carry out protection as intended under the legislation of 1886. It was suggested that the annual grant of 5,000 pounds which the Board had available to it would have been sufficient to appoint at least one such person, but as the Revd. C.G. Nicolay, a member of the Board, pointed out in 1892:

79 Robinson to Kimberley, 21 December 1882, 20 January 1883. Governor's c.d., 1869-1885.

80 Marchant 1981, p. 9.

81 See, for example, Hasluck 1942, pp. 108-111, 118-121; Green 1981, p. 110.

82 Hasluck 1942, p. 111.

83 Wrenfordsley to Derby, 23 April 1883. Governor's c.d., 1869-1885.

84 This view is supported by the contemporary Roman Catholic newspaper, the *WA Record*, 13 October 1892. Cutting in AN 1/1, Acc. 495, Box 1, "reports on Aborigines".

85 See Hasluck 1942, p. 111.

he could do very little towards giving us knowledge of things as they really are. He would, of course, go to the stations. ... The objects of his visit would be known, and those who had anything to conceal would take care to put it out of his way. ... As to the natives, they ... would interpret it to their own advantage, and thus an additional difficulty would be interposed between them and the settlers, and if he were not familiar with their habits he would be as easily deceived by them as by the settlers, even if he had anyone with him who could interpret what they said.⁸⁶

Whether Nicolay had ever preached on the subject of Pontius Pilate is not known, but in this instance his own solution was to leave matters in the hands of the police rather than lobby energetically for sufficient resources to bring about a genuine improvement.⁸⁷ It is little wonder then that Broome was at pains to mention to London that he had managed to provide 48 extra police in the Kimberley in early 1889, 'without additional expense',⁸⁸ after complaining only three months earlier in the wake of the shootings of 'several' Aboriginal people at Goose Hill in the east Kimberley, that:

want of funds prevents an increased police force being maintained in the [Kimberley] district. The Aboriginal natives here are determined savages, hostile and warlike ... I fear there will be more bloodshed in this district ... All this is very regrettable. I shall continue to issue orders of a restraining character, and to do all in my power to improve the state of things now existing. Any unjustifiable outrage upon natives will of course be severely dealt with.⁸⁹

Broome was of course writing in a Kimberley context, and it is fair to surmise that it was his major concern as far as Aboriginal-related matters went at the time. Certainly this was so in relation to his reports to the Colonial Office. But in fact McGill's letter of complaint about Graham and Stevens had been placed in Broome's hands at least a month before he made that initial Kimberley statement to London.⁹⁰ Regarding McGill's letter, Broome ordered the Colonial Secretary, Sir Malcolm Fraser, who was also chairman of the Aborigines Protection Board, to have the Board consider it carefully and take 'prompt & effective action.'⁹¹ The Board did consider the letter, along with the replies cited above which it requested from Graham and Stevens, who it found had 'successfully vindicated their conduct from the aspersions of Mr McGill.'⁹²

All that happened subsequently, however, was that Graham and Stevens were confirmed in their positions as Protectors and no further investigation was ordered into their counter-allegations against McGill and the Kennedys.⁹³ The presence of 48 extra police in the Kimberley almost certainly meant that other areas were short of police as a result, particularly to undertake long and time-consuming journeys to investigate alleged crimes now years old. For their part, neither Graham nor Stevens seems to have raised the McGill matters again officially. But they were civil servants, after all, and had already done their duty in a manner which had required some consideration and even courage. They must have been well aware of what had happened to Gribble (and to a lesser extent Carly) only a little

86 A.P.B. correspondence 1892, enclosure 5. AN 1/1, Acc. 495, Box 1.

87 Ibid.

88 Broome to Knutsford, 21 February 1889. Governor's despatches 1886-1889.

89 Broome to Knutsford, 12 November 1888. Ibid.

90 See Broome to Fraser, 2 October 1888, 2827/88.

91 Ibid.

92 R. Habgood (sec. APB) to Fraser, 8 April 1889, 2827/88.

93 Ibid; see also Fraser to Broome and Broome to Fraser, 8 April 1889.

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more than three years previously, and it should not have been up to them anyway to take the matter further. Thus, even when all the difficulties facing the Board and the Governor are taken into account, the very fact that they expressed confidence in Graham and Stevens - steady, upright men of known good character - should have been sufficient reason to re-open the case against McGill and the Kennedys, there being then as now no statute of limitation for murder prosecutions. As Stevens had made perfectly plain, not only was the principal Aboriginal witness - Geordie - still available, but his memory of the attempt on his life by McGill was clear.

But the beleaguered Board - its members also conscious of what happened to those such as Gribble who genuinely attempted to protect Aboriginal people under the law - did not act beyond vindicating its officers, nor did it recommend that the Governor take further action. For his part, Broome did not inform London about the nature of the Nullarbor material placed in his hands. This may have been due to an oversight on his part; the statements of Graham and Stevens were among the McGill documents put before him on 8 April 1889, and he endorsed the Board's decision the same day.⁹⁴ Given that both Graham's and Stevens's statements were of considerable length, he may not have bothered to read them thoroughly or at all. He had certainly read McGill's original letter, but it gave no hint that allegations of murder would be raised as part of any replies. Nor, indeed, did any of the subsequent comments by the investigating Board members. It had been six months since the McGill letter had first been drawn to Broome's attention, with the delay being, as Fraser put it, '... unavoidable owing to the infrequency of communication with the Eucla district.'⁹⁵ It could have been that Broome, also, was anxious to avoid unnecessary Aboriginal-related problems in the wake of his Gribble experiences and his continuing problems in the Kimberley. But Broome's other despatches on the subject of Aboriginal affairs during his time in Western Australia do not show him as faint-hearted or lazy, and it is at least likely that he would have done something more about the Graham and Stevens allegations had he not been in such obvious haste to resolve the matter. In simply forwarding those documents to him, however, without giving the slightest indication as to their contents, it is quite possible that the Board effectively 'snowed' him to avoid drawing down more attacks on its members by the pastoralist lobby. In other words, no lies were told but neither was the whole truth, in the Board's findings and recommendations to the governor, who in turn failed in his duty - at the very least - by not reading all the documents thoroughly. This may have come about because Broome trusted Fraser; he was apparently one of relatively few senior colonial officials with whom Broome had not quarrelled, and with whom he enjoyed a good working relationship.⁹⁶ Fraser, moreover, would have been well aware of Broome's desire to clear up all unfinished business quickly. The governor was intending to cut short his commission to enable him to appear before a Select Committee in London the same year, and Fraser was to be administrator during the inter-regnum.⁹⁷ At any rate, not only was McGill never prosecuted, he was seen later as a fit person to be appointed a Justice of the Peace, with power to order imprisonment. In a despatch to the Colonial Office in 1890, when self-government was imminent, Fraser maintained that:

my endeavour will be to continue in the same course as the Government has followed in the past, so far as my personal knowledge goes, and that is for nearly twenty years back, which has been to carefully watch and guard the

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Ibid; also de Garis 1981, p. 329.

⁹⁷ Ibid, 336; Battye 1924, p. 299

aboriginal population against aggression, and there is evidence, I think, of this in every statute affecting the natives which has become law, and the Government has not failed to use every exertion in upholding the law.⁹⁸

The Revd. J.B. Gribble had by then left Western Australia for good, but had he seen that statement, he might well have had cause to ponder what really constituted humbug under the law. So indeed might Graham father and son, Stevens, and not least the Mirning. These Aboriginal people had probably, after all, been rather more than decimated by McGill and were still on the receiving end from him and the Kennedys. The Mirning may not have known of Gribble, or of the expression 'humbug', but the situation for them had long involved their actual survival, and continued to confront them as (in the case of the man charged in 1896 under the Masters and Servants Act) they witnessed the execution of the law, in all its grandeur and solemnity, by Mr William Stuart McGill, JP.

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