

Gareth Knapman

Looting on the Frontier

Colonial Police and the Taking of Aboriginal Property

Abstract: Police played an important role in the collecting of Aboriginal objects for colonial and imperial museums. Although ostensibly in a policing role, after 1835 the colonial police acted as a paramilitary force in frontier colonies, enabling colonisation. Although most scholars have noted the unequal power relationship that occurred when police 'collected' Aboriginal objects on the frontier, scholarship has not previously explored the 'authority' of the police to collect objects. Recent research by Knapman and Boonstra has demonstrated that colonial plunder, far from being an unregulated activity – as previous scholarship has assumed – was actually highly regulated by Western law, although rarely enforced. This article examines three police collections to investigate the formal powers that police had to abide by in order to collect objects at the time. The article examines the collecting activities of three colonial police constables: Harry Ord (who sent Aboriginal cultural material to the British Museum), Ernest Cowle (whose collections are in the South Australian Museum and Museum Victoria) and William Willshire (whose large collection has disappeared but some objects were purchased at an auction by the South Australian Museum in the 1990s). The article argues that in best case scenarios, police collecting may have represented an unequal exchange, but more than likely police collecting was illegal under Western law and can be better described as illegal plunder. The taking of Aboriginal objects was theft under Western law and unsupported by any colonial legal regimes.

Colonial police were a key collecting agent of Aboriginal cultural material for Australian and international museums. Police played an important role as intermediaries between the colonial state, the settlers, and Aboriginal people on the colonial frontier. Although ostensibly in a policing role, their task was to enable the colonial grazier industry to occupy new lands. As a force to enable grazier colonisation, the police took on a paramilitary structure and increasingly saw themselves as fighting a war with Aboriginal cattle killers.¹ With this paramilitary structure in mind, to what extent are police-acquired collections of Aboriginal material a consequence of plunder and loot, by which I mean the taking of property unlawfully by force, not dissimilar to military forces plundering property in the context of war?

The strongest examination of colonial police and collecting has concerned their role in the taking of Ancestral Remains. Paul Turnbull, Cressida Fforde and Gareth Knapman have all examined the central role colonial police and coroners played in supporting the collecting of ancestral remains for comparative museum collections in Australia.² In many instances, curators would scour the morning newspapers and look for notifications of the discovery of Aboriginal remains and then write a letter to the police station asking for the remains.³ The

1 Cf. Chris Owen: *Every Mother's Son is Guilty*, pp. 16, 165 ff.

2 Cf. Paul Turnbull: *Science, Museums and Collecting the Indigenous Dead in Colonial Australia*; Gareth Knapman, Cressida Fforde: *Profit and Loss*, p. 357; Gareth Knapman, Paul Turnbull, Cressida Fforde: *Provenance Research and Historical Sources for Understanding Nineteenth-Century Scientific Interest in Indigenous Human Remains*, p. 570; Cressida Fforde, June Osca: *Australian Aborigine skulls in a loft in Birmingham, it seems a weird thing*.

3 Cf. Gareth Knapman, Cressida Fforde: *Profit and Loss*, p. 375.

museums also created standing relationships with Commissioners of Police to send any remains directly to the museums. Turnbull has argued that some of the remains in Australian museums more than likely were a consequence of police killings. Certainly, Queensland and Australian museums actively procured Ancestral remains from officers associated with the Queensland Native Police.⁴

Surprisingly, considering the central role of the police in frontier violence, there has been very little attention on the role of police in the collecting of Aboriginal objects. In the text 'The Makers and Making of Indigenous Australian Museum Collections', edited by Nicolas Peterson, Lindy Allen and Louise Hamby, the police are a continual reference point for contributing authors.⁵ For example, the chapter on E.H. Roth – who gained his position in the colonial administration as Protector from the Commissioner of Police – mentions the word 'police' 39 times.⁶ However, in each of the contributing chapters, the police are never a central focus. In his recent book on Ethnographic collections and source communities, Howard Morphy noted that "the making of collections has always been entangled with the politics of the frontier" and that there is "considerable evidence that some objects in museum collections are there as a consequence of frontier violence".⁷ To illustrate the point, Morphy quoted the letter from Mounted Constable Harry Ord to the British Museum, discussed below. Morphy however maintained (without referencing any statistical evidence, other than his extensive experience with museum collection) that "the people who contributed most significantly to museum collections in the latter part of the 19th century were missionaries, pastoralists, government officials, and professional people employed in the regions after they had been 'settled'".⁸ In this regard, Morphy is emphasising a relatively benign view of collecting practices. However, none of the ethnographic databases from Australian museums are openly available. Therefore, it is difficult to provide the kind of quantitative evidence required to determine the relative frequency and number of donations/accessions provided by different types of people.

Morphy's career has focused on key anthropological collections such as Baldwin Spencer, Francis Gillen and Donald Thompson. Yet Spence, Gillen and Thompspon all conducted their research with the support of police. Police officers actively collected for them at different times. We also do not know the extent of the police as a source of objects being sold in the curiosity shops that eventually made their way to the museums or the private collecting market. The objects Ord donated to the British Museum were those left over from the auction of his possessions.⁹ Therefore many items in Ord's possession or collection were presumably sold into the ethnographic market and therefore largely lost their provenance

4 Cf. Paul Turnbull: *Ramsay's Regime*, pp. 108-121.

5 Cf. Nicolas Peterson, Lindy Allen, Louise Hamby: *The Makers and Making of Indigenous Australian Museum Collections*.

6 Cf. Kate Kahn: *The Man Who Collected Everything*, pp. 163-189.

7 Howard Morphy: *Museums, Infinity and the Culture of Protocols Ethnographic Collections and Source Communities*, p. 26.

8 *Ibid.*, p. 27.

9 Cf. Harry Ord: M. & LA in letters 1899-1902.

in police acquisition. The extent and nature of police collecting is still therefore a significantly under-researched topic.

An exception is the work of Ian Coates. Coates' focus on police collecting in Western Australia bookends his career. It began with his 1989 honours thesis and concludes with a recent chapter co-authored with Peter Yu.¹⁰ In 1989, Coates examined the Forrest Collection of Aboriginal artefacts from Western Australia held by the Museum of Victoria. The collection was organised by John Forrest, explorer and government Lands Commissioner and eventual Premier of West Australia. In 1898, the museum had approached Forrest to procure the collection for £100. Forrest negotiated with the Western Australian Police Commissioner and came up with a cost breakdown of: "total cost of the weapons etc was £33/12/6 and the cost of collecting has been fixed at the balance of £66/7/6". The money was "distributed amongst the constables in the respective districts within which the weapons etc. were collected at the rate of about £2 to each constable".¹¹ The breakdown means approximately 33 constables were involved in the collecting. Coates concluded from two examples (which he was able to find in Parliamentary papers) that the 'acquisition' was a result of 'opportunistic episodes' from police operations against Aboriginal camps. Such banal terminology hides the frequency of these raids and also the systematic violence they represented. Reflecting 30 years later, Coates wrote many objects were "taken explicitly as a method of punishment and retribution [...] objects were confiscated on raids to rob Aboriginal people of their tools and weapons, giving them an 'object lesson' in European law and morality".¹² While Coates explicitly identifies confiscation as the type of acquisition used by police, his work does not explore how confiscation was regulated (see below).

In 2000, John Mulvaney with the assistance of Alison Petch and Howard Morphy, published 'From the Frontier: Outback Letters to Baldwin Spencer', in which many of the surviving letters from Ernest Cowle were transcribed. Mulvaney had previously noted that "Spencer's interest prompted Cowle to collect ethnographic objects including large numbers of ceremonial items".¹³ In total Cowle provided the National Museum of Victoria with 367 objects.¹⁴ Mulvaney et al. note that Cowle responded to Spencer's requests with "zest" but used "unorthodox methods" such as forcing "neck-chained" prisoners to carry objects for Spencer.¹⁵ They concluded that the cultural material sent to the "South Australian Museum and the National Museum of Victoria represent significant collections".¹⁶ Mulvaney documented the connection between violence and collecting, however, he labelled inquiries into the ethics of collecting as "the intellectual fashions of post-colonialism and post-modernism" and that people like Spencer

10 Cf. Ian Coates: *The Social Construction of the John Forrest Australian Aboriginal Ethnographic Collection*; Ian Coates, Peter Yu: *Rough Justice on the Kimberly Frontier*, pp. 183-195.

11 Ian Coates: *The Social Construction of the John Forrest Australian Aboriginal Ethnographic Collection*, p. 17.

12 Ian Coates, Peter Yu: *Rough Justice on the Kimberly Frontier*, p. 183.

13 D. John Mulvaney, John H. Calaby: *So Much That is New*, p. 127.

14 Cf. Nancy Ladas, Manager: Data Supply Letter to Gareth Knapman.

15 D. John Mulvaney, Alison Petch, Howard Morphy: *From the Frontier*, p. 37.

16 *Ibid.*, p. 53.

and Cowle “should be assessed within the conceptual space-time of his field-work, not only from post-modern vantage points”.¹⁷

The research of Coates and Mulvaney points to an unequal relationship of exchange that occurred when police ‘collected’ Aboriginal objects on the frontier. However, neither author investigates the legality of police action. Heritage literature, as well as popular understanding, has failed to investigate the legitimacy of police activities under Western law, largely because the taking of material by colonial forces appears generally thought of as opportunistic, chaotic, unregulated, and normal. Such views assume that looting by the military and the police was acceptable in the 19th century because there were no laws to say otherwise.¹⁸ Recent research by Knapman and Boonstra has demonstrated that colonial military looting, far from being an unfettered activity, was actually highly regulated although rarely enforced.¹⁹

This article extends the enquiry by Knapman and Boonstra by using the case studies of South Australia and Western Australia to investigate the regulations associated with police collecting and whether or not they were followed, a topic that has been hitherto unresearched. The article is limited to the collecting activities of three police officers: William Willshire, Earnest Cowle and Harry Ord. Willshire and Cowle were members of the South Australian Mounted Police and operated in the Northern Territory, while Ord was a member of the West Australian Mounted Police and operated in the East Kimberley. These three police officers were known to have engaged in paramilitary (meaning they conducted military-like operations outside of standard legal procedures) activity and also acquired substantial collections of Aboriginal objects. However, before turning to the activities of these police officers, I first examine the legal powers and/or legal instruments that police had to abide by in order to legally acquire objects or movable property of colonial subjects (which included all people living in the colony). I then examine the collecting practices of the three men in detail. In best-case scenarios, police collecting may have represented an unequal exchange, but in many instances, police collecting represented the unlawful stealing of Aboriginal property for personal gain by officers charged with upholding property rights.

Common Law, Legislation and Legal Instruments Enabling Police to Seize Weapons in South Australia and Western Australia

British law focuses on rights, in particular rights to property or rights to use property. Consequently, the protection of property is at the centre of British law. Property in the early 19th century was divided into unmovable and movable goods. An example of unmovable property was a building, construction or

17 D. John Mulvaney: *Annexing All that I Can Lay Hands on*, p. 155.

18 Cf. Ana Filipa Vrdoljak: *International Law, Museums and the Return of Cultural Objects*, p. 67; Irini A. Stamatoudi: *Cultural Property Law and Restitution*, p. 236; Janet Blake: *International Cultural Heritage Law*, pp. 18 ff.; Tiffany Jenkins: *Keeping Their Marbles*, p. 126; Zareer Masani: *The Elgin Marbles and the Rot of ‘Decolonisation’*.

19 Gareth Knapman, Sadiyah Boonstra: *Plunder and Prize in 1812 Java*.

land that could not be moved. Movable property corresponds to what can now be described as material culture. Movable objects included everything from a piece of rope, a horse, a spear, or a Renaissance painting – all these objects were property that somebody possessed. Property and control over property therefore framed the understanding of British law.

Graziers on the frontier continually complained that their movable property (cattle) was killed by Aboriginal people. The colonial police had the task of prosecuting transgressions of graziers property – or stopping the killing of cattle by violent force.²⁰ In 1899, Ernst Cowle explained the graziers (squatters) predicament to early anthropologist Walter Baldwin Spencer:

A stock phrase of the cult is 'Put yourself in the Blackfellow's Place'. Well, suppose you and Gillen put yourselves for a while in the 'Squatter's Place'. You rent the Country and if the Government does not prevent the blacks from destroying your property wholesale, do you not think you would feel inclined to do so?²¹

Settlers and the colonial governments argued that Aboriginal people needed to abide by colonial British law. The role of Police and Protectors was to tell Aboriginal people this colonial decision and enforce this colonial policy. Cowle noted the importance of Aboriginal people obeying colonial law in exchange for their protection, writing in his correspondence to Spencer that "if they (Aboriginal people) have the protection of our laws, they also must conform to the others".²² However, did the colonial authorities recognise the private property of Aboriginal subjects?

From 1835 onwards, colonial governments recognised Aboriginal people as being subjects of the colonial state, who as subjects had theoretically equal legal protection as the colonial settlers.²³ Colonial authorities limited their understanding of Aboriginal property to movable items. One of the first legal cases that involved Aboriginal people in the colony of South Australia was when two colonial settlers "named Moon and Hoare" were "charged with stealing spears and waddies from certain natives".²⁴ The case was heard in the Court of General Gaol on 8 July 1837, the report noted that "the proof of the theft was not conclusive" and that "the judge ordered the prisoners to be discharged on recognizance" with "the property to be restored to the natives". The Judge spoke to the Aboriginal men through an interpreter called 'Cooper' and "assured them [the Aboriginal victims] that their persons and property should be held inviolate". He went on to explain to the Aboriginal men "the nature of property, and pointed out to them that as their own property would be held sacred, they must in their turn respect the property of others".²⁵

As the above case demonstrates, Western law recognised Aboriginal objects as the property of their Aboriginal owners. Movable objects such as sacred artefacts,

20 Cf. Chris Owen: *Every Mother's Son is Guilty*.

21 Ernest C. Cowle: 10 June 1899, p. 129. Francis Gillen (1855-1912), Postmaster at Alice Springs post office, special magistrate, Aboriginal sub-protector in Alice Springs and pioneering ethnologist. See below for further information.

22 Ernest C. Cowle, 17 April 1898, p. 109.

23 Cf. Alan Pope: *One Law For All*.

24 *South Australian Gazette and Colonial Register: The Natives*, p. 4.

25 *Ibid.*

weapons, spearthrowers, baskets, pitchers and other tools, as well as clothing or movable physical ornaments, were all considered private property and therefore protected by British law. However, although private property was protected under British colonial law, the police and the government had the power to seize or take possession of movable private property under certain circumstances. Those legal powers to seize private property are divided into common law powers and legislated powers. In both cases, these powers are limited to specific conditions and require oversight of either Justices of the Peace or Magistrates. In both cases, the police were not entitled to take seized property for themselves.

Common Law Powers

Common law powers to seize property predate the existence of the police and these common law powers reflect the feudal relationship between the king and subject, whereby in most instances the King had the right to seize movable property. In 1720, the legal scholar Thomas Wood published 'The Institute of the Laws of England Or, The Laws of England in Their Natural Order, According to Common Use', in which he listed eight categories under which common law allowed for the seizing of movable property.²⁶ Wood listed these six categories as the "Liberties of Seising [sic] Goods and Chattels of Felons, Fugitives, and of those put in the Exigent. Also Liberties of Seising [sic] Deodands, Treasure-Trove, Waifs, Estrayes, and Wreck of the Sea".²⁷ The first three powers (or liberties in Woods' 18th-century language) relate to what would constitute police activities, while the other activities relate to how subjects could claim abandoned property.

In Wood's account, the chattels of felons and fugitives could be seized by the state in the name of the King. Felons could have their property "forfeited by conviction, and sometimes without conviction".²⁸ However, the seizing of property needed to be recorded by a court. Fugitives from the law could also have their property seized but only by legal officers (the Lord of the franchise), "when the flight is found of record".²⁹ The final area of seizure was when a person was charged with a felony but had evaded trial and become an outlaw. This category of seizure was termed 'exigent', whereby goods could be seized while was an outlaw. In each of these instances, the taking of property was regulated and overseen by courts.

By the late 19th century, the common law on police powers had not changed. Barrister R. S. Wright wrote in 1888 that although the law could seize, "possession remains in the owner of the things, who is merely restrained as to the use of them and maintain trespass or trover against a stranger who takes them out the pound".³⁰ Therefore, officers taking on the role of police could not seize the property of felons, fugitives or outlaws for their personal use, instead, the property

26 Cf. Thomas Wood: *The Institute of the Laws of England*.

27 *Ibid.*, p. 224.

28 *Ibid.*, p. 224.

29 *Ibid.*, p. 224.

30 Frederick Pollock, Robert S. Wright: *An Essay on Possession in the Common Law*, pp. 202 f.

went on record by the court and was taken by the King and disposed of by the King's pleasure.

Legislated Powers Specific to the Police

By the 19th century, colonial jurisdictions were not just relying on common law inherited from the Middle Ages. The colonial parliaments in Australia were legislated and defined police powers with various Police Acts. New South Wales enacted the 1830 Robbers and Housebreakers Act, which empowered "Constables" who had "reasonable cause for suspecting" a person to "be a robber or housebreaker and to seize and to secure all fire-arms and other arms or instruments of a violent nature and all goods and chattels which such Constable or Constables shall have reasonable ground for suspecting and believing to be stolen" and take "all persons arms goods and chattels so found seized and apprehended" to a "Justice of the Peace for examination and to be further dealt with according to law".³¹ In 1833, the Sydney Police Act was passed. It gave further powers to seize property in the form of unauthorised street stalls. When perishable goods were seized as part of the street stall, they were to be handed over to the "superintendent of the Benevolent Asylum" for distribution with the "inmates of the said Asylum" while non-perishable goods were to be held until the owner "paid the penalty" if "convicted".³²

In 1851, the Port Phillip District separated from New South Wales and became the colony of Victoria. In 1854, the colony legislated the Town and Country Police Act, which enabled Police to seize any "articles which shall have been unlawfully taken".³³ Stalls erected outside of shops could also be seized, but only upon "conviction". In each instance, the powers in New South Wales and Victoria only granted police the right to seize movable property and had it over to another authority recognised by the court.

Western Australia introduced a specific Police Act in 1861, while South Australia did so two years later in 1863.³⁴ Both of these Acts gave further powers to the police to seize objects. The clause relating to "idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue" provided the most extensive authority to police to seize objects.³⁵ The wording of the clause relating to vagabonds in the South Australian act is identical to that in the West Australian act. The Acts gave the power of the police to search the possession of any person they believed was an "idle and disorderly person, or a rogue and vagabond, or an incorrigible rogue" and seize those possessions. Their possessions can then be sold to cover the cost of their arrest and detention. Police actions needed to be ordered and overseen by the Justice of the Peace or Court. Before the police

31 New South Wales Acts: Robbers and Housebreakers Act 1830 No 11a, pp. 223 f.

32 New South Wales Acts: The Sydney Police Act 1833, p. 426.

33 Victorian Historical Acts: Town and Country Police Act 1854, p. 63.

34 Cf. South Australia Numbered Acts: Police Act (No. 10 of 26 and 27 Vic, 1863); Western Australian Legislation: Police Act 1982.

35 Ibid.

could take the money or property to cover costs, the police needed to 'apply' to the Court or Justice of the Peace and surplus money to, "be returned to the said offender". Consequently, the police could not take objects and make them their personal possessions.³⁶

The legislative acts required police to go through an orderly process of searching and recording property, largely following the traditional common law processes. For both common law and under legislated powers, individual police were not allowed to take objects for their own possession. The objects could be seized and made public property (in order to defray the costs of the police), but the police were not allowed to commandeer property for their own personal use. Western Australia and South Australia also legislated specific acts relating to Aboriginal persons. These acts however did not mention their movable property and gave police no powers to seize Aboriginal property.

Mounted Constable Craven Harry Ord

Inspector Craven Harry Ord (Harry Ord) entered the Western Australian Mounted Police on 15 December 1893 at the rank of sergeant. He had previously been an Associate Judge in Malaya and had held the rank of inspector in charge of the Sikh Police unit in Singapore. His uncle was Major-General Sir Harry George Ord, who had served as Governor of the Straits Settlements (Malaya and Singapore) from 1867-1873 and Governor of Western Australia from 1877-1880, and these connections were probably the basis of Harry Ord gaining posts in Straits Settlements and Western Australia.³⁷

On 1 August 1895, Ord was promoted to the rank of sub-inspector and was placed in command of the West Kimberley Police District, headquartered at Derby. During this time, Ord directed operations against Jandamarra, Bunuba resistance fight and former 'Black tracker' whom the police called an outlaw.³⁸ Ord's time in the Kimberley coincided with a period of open warfare between the settlers and Bunuba and other First Nations in the Kimberley. The police pursued a policy of what they termed 'dispersing' Aboriginal people. In practice, this meant punitive raids against Aboriginal camps and hunting down perceived cattle killers. The language of 'dispersal' was also used by the South Australian mounted police as a euphemism for raiding.

In 1899, Ord donated a collection of 92 Aboriginal objects to the British Museum. The collection included weapons, tools and clothing. He initially sent the collection to the museum without any context with the listing appearing like an invoice. The curator Charles H. Read wrote to Ord asking if he expected payment or was the collection a gift. Ord responded that the collection was intended as a gift to the museum, that the objects were from his personal collection which he had been auctioning off and he had selected some from the auction to send

36 Western Australian Legislation: Police Act 1892.

37 Cf. Chris Owen: *Every Mother's Son is Guilty*, pp. 289 f.

38 Cf. Howard Pedersen, *Banjo Woorunmurra: Jandamarra and the Bunuba Resistance*.

to the museum, writing: "The lot I sent you was a mixed one put together at my auction and I do not remember of what it consisted of".³⁹

Ord went on to provide some additional details to the context of the collection. He wrote that it had been created during a period of bitter conflict between Aboriginal tribes, the settlers and the police:

I had been stationed in the Far Nor [sic] West on the arduous and unpleasant duty of arresting or dispersing the blacks out back from Derby who were responsible for a number of murders of whites who were opening out new Country.⁴⁰

The collection was assembled in the context of Ord's operation as part of police 'dispersals' which meant raiding of Aboriginal camps and the shooting of people who presented any form of resistance, including running away. Ord added that 'the weapons are genuine native weapons of the day taken by the police from native camps'. In no part of the correspondence did Ord suggest that the objects derived in his possession from any other means, we only have references to violence to demonstrate the context of how the objects were collected.

The West Australian police used easily transparent euphemisms, such as dispersal, to enable the murder of Aboriginal people.⁴¹ The fact that they got away with murder demonstrates nobody was going to object to the stealing of Aboriginal property by the police. However, Ord did not have the authority to take Aboriginal property and make it his own. The West Australian Police Act did not authorise him to take objects and make them private possessions. Any objects he took as part of his dispersal raids should have passed through to the Western Australian Justice system as evidence. Ord was thus acting in contradiction to the police act, and his taking of these objects, particularly for his personal financial and social benefit, was illegal.

Mounted Constable Willshire

Mounted Constable William Henry Willshire (1852-1925) commanded a corps of Native Police in Central Australia during the 1880s. He was notorious for tracking down cattle killers and brutally enforcing colonial authority.⁴² He had joined the South Australian Police Force in 1878 when he was 26 years old. In 1882, he was posted to Alice Springs and the following year was promoted to first-class mounted constable. Late in 1884, he took command of a native-police detachment of six armed men. Willshire was transferred temporarily to the Daly River where his troop 'pacified' that region.⁴³ Returning to Alice Springs, in 1886, he established the police station at Heavitree Gap, building an outpost at Boggy Hole on the Finke River downstream from Hermannsburg. He produced three books

39 Harry Ord to Charles Reed: M. & LA in letters 1899-1902.

40 Ibid.

41 Cf. David Marr (Killing For Country, p. 246) gives the account of evidence in an 1861 select committee inquiry into the Native Police force in Queensland. The colonial Treasury asked Lieutenant Frederick Wheeler: "What do you mean by dispersing?"; Wheeler answered "Firing at them".

42 Cf. Amanda Nettelbeck, Robert Foster: In the Name of the Law.

43 Cf. D. John Mulvaney: Willshire, William Henry (1852-1925).

on Central Australia.⁴⁴ Willshire saw himself as an adventurer providing ethnographic details stating that his purpose for writing his first two books was to supply Sir James Frazer at Cambridge with “information regarding ‘uncivilized or semi-civilized peoples’.”⁴⁵ While he was a police employee, Willshire actively collected Aboriginal objects for himself and for the Australian Natives Association and the South Australian Geographical Society.⁴⁶

Today there are only eight items of Willshire’s Aboriginal collections known to exist. The objects had been in the Willshire family’s possession until the 1990s, when they were purchased by the South Australian Museum via an Adelaide auction house.⁴⁷ However, Willshire exhibited a large collection in November 1895 that merited an expansive article in the ‘South Australian Register’.⁴⁸ The exhibition of Willshire’s collection was part of a display organised by the literary and scientific societies in South Australia to welcome the arrival of the new Governor, Thomas Fowell Buxton. Willshire displayed his collection as part of the Royal Geographical Society of South Australia stall within the exhibition at the Jubilee Exhibition Building. The ‘South Australian Register’ published an account of Willshire’s considerable collection.

We have been shown a most interesting collection of native weapons obtained from some of the wild tribes on the Victoria River – principally from the Peltenurra tribe. These were brought down by Mounted-constable W.H. Wiltshire, who was stationed at Gordon Greek, Victoria River, 1700 miles north from Adelaide. The specimens consist of spears, mulla mullas [nulla nullas], stone and iron tomahawks, message sticks, necklaces, ornaments, and other native nic-nacs.⁴⁹

The question that concerns us is: How did Willshire construct this collection? Was it through trade and gifts (in the context of his power as a coercive police officer), or was it direct theft related to Willshire’s punitive raids? In the two accounts Willshire published in 1895 and 1896 (after his trial for murdering two Aboriginal men), he avoided describing his personal looting always preferring to describe Aboriginal desecration of the whiteman’s property.

In his semi-fictionalised book, ‘The Wilds of Australia’, published in 1895, Willshire maintained objects were given to him as “present[s]”.⁵⁰ Willshire told his readers that the aim of these presents was to win the whiteman’s favour or distract the whiteman with the aim of killing him and looting “his property”.⁵¹ At Uluru (Ayers Rock) he was given “two hundred-weight of native weapons of all sorts”, as a bribe.⁵² On another occasion he recounted a fictionalised story in which Oleara (the fictionalised white hero of the story) was offered “presents of spears and emu eggs” by a group of Aboriginal males who entered his camp.

44 Cf. William Henry Willshire: *The Aborigines of Central Australia*; id.: *The Land of the Dawning*.

45 William Henry Willshire: *The Land of the Dawning*, p. 3.

46 Ibid.; *South Australian Register*, 23 November 1895, p. 6 (Welcome to the Governor: A Grand Conversation, A unique Spectacle).

47 The items were purchased from Theodore Bruce Auctions in 1996. Alice Beale, personal email communication.

48 Cf. *South Australian Register*, 15 November 1895, p. 5 (Native Weapons).

49 Ibid.

50 William Henry Willshire: *A Thrilling Tale* pp. 21, 39.

51 Ibid. p. 21.

52 Ibid. p. 39.

Willshire narrated that such gestures were “generally a bad sign”. He attributed the motives of these men to trying to “obtain knives, tomahawks, blankets, etc” and after “prowling about with the intention of making an attack, and murdering Oleara, and confiscating his property”.⁵³ In his other semi-fictionalised book ‘The Land of the Dawning’, ‘Being Fact Gleaned from Cannibals in the Australian Stone Age’ published in 1896 he wrote a story of launching a revenge attack on an Aboriginal camp, in which he failed to find the Aboriginal Camp but did shoot a lone warrior who belonged to a tribe that Willshire called the ‘Crimson Cuirassiers’. The killing was in Willshire’s narrative self-defence. After the encounter, he retired to his camp, then writing that “some of my lads came home the following day with a fine collection of spears and boomerangs – they had evidently been amongst them”.⁵⁴

To understand the circumstances and veracity of Willshire’s innocuous claims that his collecting was a result of gifts or bribes, we need to examine Willshire’s notorious history of violence and fabrication of evidence. Willshire was one of the few police officers charged with murdering Aboriginal people in the colonial period. In 1891, Willshire’s men attacked a group of Aboriginal men and their wives camped at Tempe Downs station. Willshire had claimed they had killed a bullock and were resisting arrest and attempted to assault Willshire. Therefore in self-defence, Willshire shot two Aboriginal men named Donkey⁵⁵ and Yaraminta (Roger). Willshire and his native police then cremated bodies which prevented further examination by the coroner or Justice of the Peace.

On 11 April 1891, Willshire chose to publish his account of the killings in the *Adelaide Observer*.⁵⁶ The publication was part of a long complaint about “the depredations made by the blacks” in Central Australia and stated that the deceased, Donkey and Yaraminta (Roger), along with two other men, Dick and Chookey Chook, had previously “murdered Naimi, the father of a black tracker named Larry”, who was one of Willshire’s men. Willshire went on to state he had requested Warrant on 4 March for the arrest of Dick and Chookey Chook for the murder as well as warrants for “Aribi, Peter, and Racehorse for cattle-stealing at Tempe Downs on January 19, 1891”. The Attorney-General, Robert Homberg, responded that a warrant is “not needed by Willshire to enable him to arrest the natives”. A rival newspaper, *Evening Journal*, thought Willshire’s account strange and opened their report: “[I]t is to be hoped that full enquire will be made by the Government into the circumstances attending the death of two natives named Donkey and Roger [Yaraminta]”.⁵⁷ Homberg’s suspicion was also raised and he requested an inquest into the deaths of the two men. Homberg also asked Francis J. Gillen the Postmaster in Alice Springs and sub-protector of Aborigine to undertake a second investigation.

The evidence Gillen took pointed to Willshire fabricating stories and lying about warrants. The story that Willshire presented was initially corroborated by

53 *Ibid.*, p. 21.

54 William Henry Willshire: *Land of the Dawning*, p. 21.

55 Only his pejorative name appears in the historical record.

56 Cf. *Adelaide Observer*, 11 April 1891, p. 32 (*Trouble with the Natives*).

57 *Ibid.*

his native police trackers. His problem, however, was the question of the warrant – which had raised Homberg’s suspicions. Willshire maintained Charles Gall, the Station Manager and Justice of the Peace at Owen Springs, had issued a warrant for the arrest of Donkey and Roger [Yaraminta]. Gall denied he had issued a warrant when interviewed by Gillen. More damning was that Gall rejected ever issuing a warrant to Willshire or to the police for the arrest of any Aboriginal people in the previous 16 months:

I have not since the first of last year⁵⁸ issued any warrants for the arrest of Natives. I have never issued a Warrant for the arrest of Donkey or Roger [Yaraminta]. The Police have never applied, for a Warrant for their arrest, to me. Mounted Constable Willshire has never applied to me for a warrant for Donkey or Roger [Yaraminta], or any other Natives.⁵⁹

Willshire must not have known of the extent of Gall’s rejection of Willshire’s use of due process. When Gillen reinterviewed Willshire over the warrant, he changed his story stating:

I was under impression that the warrant was signed by Mr Gall JP but since I have discovered that the warrant was not signed [...]. I went into Owen Springs for loading and intended to get it and another signed, but being busy with the loading I forgot it and came away under the impression they were signed, hence the mistake.⁶⁰

Willshire’s correction would have been acceptable under normal circumstances, but Gall had demonstrated that Willshire had never asked him for any warrants. Gillen then interviewed Teegwa (known as Native Constable Thomas) who had not previously been examined. Thomas gave new evidence that pointed to a Willshire lying about the cattle killings and pointed to a conspiracy to kill Donkey and Yaraminta [Roger] as payback:

I did not see any dead cattle on the way out. I did not see any cattle speared [...] Mr Willshire been yabber along road he look out for Donkey and Roger them been kill old man ‘Naiuai’ [...] Mr Willshire send Jack and myself to Roger’s Camp. Mr Willshire been yabber supposed Roger run away you shoot him. Neither jack nor I had handcuffs.⁶¹

The fact that Willshire had lied about the warrant, followed by Teegwa’s evidence and other discrepancies in the stories, Gillen sent a telegram to Homburg: “Case most serious and revolting, police should be instructed arrest Willshire who is here at once”.⁶²

Gillen made further interviews. The biggest challenge to Willshire’s story was the evidence from Yaraminta’s [Roger’s] wife who stated:

I am Roger’s Lubra, his native name was Yaraminta. I slept with him at Kempe Downs on the night before he and Donkey were shot. At daylight I hear shots fired. And Roger jumped up and started to run, and was shot by Tracker Thomas – I saw Thomas shoot. Before he was shot he sang out to me get up. Get up policeman are

58 Therefore 16 months from April, when Francis Gillen conducted an inquiry on 20 April 1891.

59 William Willshire Inquiry, p. 9, repeated p. 63.

60 Ibid., p. 63.

61 Ibid., p. 11.

62 Gillen to Homburg, 27 April 1891.

shooting. Roger had no spears nor boomerangs. Thomas did not speak to Roger before firing. I ran away to lubra's camp.⁶³

Gillen then began re-examining the Native Constables. Coognalthika (Archie) was first to change his story:

In my previous evidence I did not tell the truth Mr Willshire having told me what to say what I did. I will now tell the truth. I went to Tempe Downs with Mr Willshire where Donkey and Roger were shot. There were no dead Cattle on road and we did not see blackfellows tracks going out. [...] Willshire stopped close to the station Larry went to Donkey's Camp and shot him while he was asleep, he did not see Larry before he was shot. Another Blackfellows was with Donkey, he got away. I was a little way off and did not fire we took no handcuffs or neck chains. Mr Willshire did not tell us to Catch Donkey. I heard Mr Willshire tell Thomas and Jack to go to Roger's Camp and shoot him. Did not see Thomas shoot Roger but saw him after death. I heard three shots in direction of Roger's Camp. Willshire said he wanted to shoot Donkey and Roger because they killed a black-fellow at his Camp [...]. Mr Willshire Billy Abbott, Jack and I took the bodies away on a Camell to different spots and burnt them, took Donkey first.⁶⁴

Each of the native constables corrected their story. They now stated that there were no cattle killings and that Willshire had told them to kill Donkey and Yaraminta (Roger). The last of the native constables to be re-examined was Raemalla (Larry), who gave his testimony to Gillen assistant, Mounted Constable South. Raemalla concluded: "all us Trackers were afraid Mr Willshire would shoot us if we did not obey him".⁶⁵ South was so disturbed, that he sent a telegram to the Commissioner of Police saying: "Evidence against Willshire appalling, shews he went into Donkey and Yaraminta's (Roger's) camp at Tempe Downs at Daybreak with trackers Archie, Jack Larry and Joe. Donkey shot while asleep, Roger whilst running away". South then arrested Willshire for wilful murder.

To defend Willshire, the pastoralists hired John Downer, who was a Queen's Council and an opposition MP and had previously been the Premier and Attorney-General of South Australia. Willshire stood trial on 23 July 1891, he was acquitted on the same day after both Downer, as Defence Council, and the Crown Prosecutor argued Aboriginal evidence could not be relied on.⁶⁶ The jury deliberated for 10 minutes and found Willshire not guilty.

In light of Willshire's fabrications and wanton violence, it is hard to believe his collections were a product of mere gift-giving or exchange. We know that Willshire concocted stories to present his innocence in the murder of Aboriginal people. We also know that he raided Aboriginal camps. There is also some evidence from his own words and reports in newspapers pointing to Willshire plundering Aboriginal property.

The 1895 'The South Australian Register' article on his collection exhibited to honour the arrival of Governor Buxton indicates that Willshire raided Aboriginal camps and took objects: "Some of the most curious articles were found by Mr. Willshire while searching for the body of a man killed by the blacks on the

63 William Willshire Inquiry, p. 78: Yaraminta could not speak English and her testimony was translated by Reverend Kempe at the Hermannsburg mission.

64 Ibid., p. 80.

65 Ibid., p. 87.

66 Cf. Amanda Nettelbeck, Robert Foster: In the Name of the Law.

Lower Victoria. They were left in the camp by the blacks in their flight".⁶⁷ The use of Fear of, and actual violence to enable the collection of weapons is a theme that Willshire also directly wrote about. In his 1891 book, 'The Aborigines of Central Australia', Willshire noted that

the natives generally throw away their weapons if hard pressed; sometimes they retain their spears and boomerangs, but not often; and it is only after one of these chases that there is a chance of collecting native weapons, by going back over the ground when the scrimmage is over.⁶⁸

The account frames the interaction that the objects were left, with the implication that they were abandoned, but this was clearly not the case – they were only abandoned because Willshire was pursuing their owners on a punitive raid. Consequently, Willshire took the opportunity to take the Aboriginal possessions after frightening them away.

Mounted Constable Ernest Cowle

In 1894, Mounted Constable Ernest Cowle escorted the Horne scientific Expedition, where he met Walter Baldwin Spencer, Professor of Biology at the University of Melbourne and soon to become a pioneering anthropologist and Director of the National Museum of Victoria, as well as Edward Sterling, the director of the South Australian Museum. Cowle would become a collector of natural history and ethnographic specimens for both men. Cowle's accounts of life as a Mounted Constable on the frontier survive in the archive collections left by Spencer and Sterling.⁶⁹ Cowle provided three instalments of objects to Spencer at the National Museum of Victoria. The first was a donation of a spear in October 1899; followed by 228 objects in February 1901 and a further 138 objects in February 1903. The second two instalments were listed as "field collection" and therefore Cowle possibly received payment or reimbursement of costs for those larger collections.⁷⁰

Cowle joined the South Australian Police on 1 February 1889 and was immediately deployed to Alice Springs, rather than undertaking the normal entry training in Adelaide. His prior education was at a school for the Adelaide elite and he had close to 10 years working as a stockman in Northern Victoria, and northern parts of South Australia and the Northern Territory is a possible reason why he did not undertake preliminary training.⁷¹ Not long after Cowle reached Alice Springs, Willshire was sent to establish a remote police post on the Finke River from which he launched his notorious raids resulting in his arrest in 1891. Cowle first met Sterling, when the Earl of Kintore (the Governor of South Australia) ventured to Alice Springs in May 1891. Sterling's diary notes that he went with

67 South Australian Register, 15 November 1895, p. 5 (Native Weapons).

68 William Henry Willshire: *The Aborigines of Central Australia*, p. 19.

69 Cf. Cowle Correspondence: Baldwin Spencer Papers; The Sir Edward Charles Stirling Papers.

70 Nancy Ladas: Data Supply Letter to Gareth Knapman, 31 August 2023.

71 Cf. D. John Mulvaney, Alison Petch, Howard Morphy: *From the Frontier*, pp. 23, 26.

Cowle and Mounted Constable South to Willshire's camp to see a witness. By this time, Willshire was already under arrest facing trial in Adelaide.⁷²

After the closure of Willshire's police camp, Cowle was sent to a new camp at Illamurta Springs, 150 kilometres southeast of Alice Springs, in the southern foothills of the James Range on Illpilla Creek. He was under the command of Mounted Constable Tom Dear, who introduced a policy of whipping suspects rather than arresting them and sending them to Port Augusta to face trial, or following the Willshire-like policy of dispersal – which meant killing. This policy of corporal punishment was declared illegal by the Attorney-General in October 1894. Consequently, Cowle pursued a practice of capturing and making prisoners fear they were about to be executed before releasing them with flour and a warning.⁷³

Similar to other mounted police, Cowle saw his role as defending the property rights of settlers. Although the correspondence record is one-sided (we do not have copies of Spencer's letters to Cowle), we can infer from Cowle's correspondence that he and Spencer appear to have engaged in a continual debate on the ethics of enforcing property laws on Aboriginal subjects. Spencer appears to have argued something like: it is Aboriginal land and with the transformation of traditional land practices by settler farming, the Aboriginal people saw it as their right to kill cattle for food. Cowle responded to Spencer:

I am not advocating shooting, for a moment, in the so called good old style, but they should be made to respect the law of the Land that has been taken from them, and it would be better for them – as for whites killing their emus and kangaros etc.⁷⁴

Cowle's insistence on the need for Aboriginal people to respect British property law was a continuing theme. On 10 June 1899, he appeared to respond to a letter from Spencer, by summarising Spencer's approach as "[a] stock phrase of the cult is 'Put yourself in the Blackfellow's Place'". To which Cowle then answered emphasising the hardships of the squatters and the need for the protection of their property: "Well, suppose you and Gillen put yourselves for a while in the 'Squatter's Place'. You rent the Country and if the Government does not prevent the blacks destroying your property wholesale, do you not think you would feel inclined to do so".⁷⁵

Cowle's approach to property laws emphasised the protection of capital. His father had been a mid-level banker in the Bank of New South Wales and in 1878 managed the Adelaide head office of the English, Scottish and Australasian Chartered Bank and in 1880 was elected a member of the Bankers' Institute of Australia.⁷⁶ As a police officer, he invested his spare capital in the stock exchange and other members of his family continued to work in the banking sector.⁷⁷ His sister's husband was Josiah Symon, a prominent South Australian lawyer, politician and advocate of Federation and future commonwealth Attorney-General.⁷⁸

72 Cf. *Ibid.*, p. 29.

73 Cf. *Ibid.*, p. 36.

74 *Ibid.*, p. 128 (Cowle to Spencer 10th June 1899).

75 *Ibid.*, p. 129.

76 Cf. *ibid.*, p. 23.

77 Cf. *ibid.*, p. 142.

78 Cf. *ibid.*, p. 24.

Considering Cowle's social background in the Adelaide elite and his family's promotion of colonial capitalism it is not surprising he believed anything that threatened the profits of capital investment should be crushed. Cowle maintained hard measures needed to be taken against Aboriginal cattle killing, writing to Spencer: "No, Professor, I do not like severe measures myself, unless driven to it, but I recon these blacks want one real drastic lesson". Cowle then went on to liken cattle killing to the growing union movement stating "in the same way that Strikes etc should be treated, and taught that, if they have the protection of our laws, they also *must* conform to the others".⁷⁹ Despite Cowle's belief in the sanctity of property rights deriving from capital, he did not see Aboriginal property rights as sacrosanct, with some of his collecting practices being indistinguishable from theft.

In June 1894, Cowle escorted the Horn Expedition at Tempe Downs from Lake Amadeus to Ayers Rock and then returned with them to Glen Helen. Cowle began corresponding with Spencer about biological specimens soon after the expedition. Cowle would pay Aboriginal people to collect animals, reptiles and insects to send to Spencer and Sterling. This soon turned to ethnographic objects, which Mulvaney, Morphy and Petch note were "unorthodox methods".⁸⁰

Cowle would go on to collect a large number of objects for both the National Museum of Victoria and the South Australian Museum, with other British-based museums contacting him to make similar collections.⁸¹ He initially focussed on collecting Churinga, which were sacred objects in the form of engraved flat stone or wood panels. These sacred objects became an obsession of early Australian anthropologists. Cowle soon became aware that Churinga was extremely important to Aboriginal people. He knew that taking them was a sensitive activity, on 5 October 1895, Cowle wrote to Spencer noting that collecting required duplicity, which presented a moral problem for a police officer:

I got a few very poor stones the other day and a nice lot of wooden ones which I have written to him about - Posing as an upright youth before both Black and White is annoying at times - for instance, I promised not to let any other Blacks know that I had been shown their Plant and in consequence could only carry away the Sticks I could jam into a pair of Pack Bags and had to leave upwards of 80 hieroglyphical sticks running from about 2 ft to 5 ft in length behind. [...] I would never have got through the Blacks unseen which meant hell for my guide - I am only afraid they will find out their loss before I go there again and if so they will shift everything.⁸²

Cowle acquired some sacred objects with an aspect of consent - in the sense, that people showed him where the objects were and in some instances, he paid for them in rum and flour. Payment or exchange was not a transaction of equals. We have Cowle's description that a payment was made, however, he was a very powerful figure he gave them rum and flour and called it an exchange.

79 Ibid., p. 109 (Cowle to Spencer, 17 April 1898), original emphasis.

80 Ibid., p. 37.

81 Cf. *ibid.*, p. 121 (Cowle to Spencer, 18 March 1899).

82 Ibid., p. 72 (Cowle to Spencer, 5 Oct 1895).

Cowle was also stealing the churinga by his own admission.⁸³ Cowle would use the knowledge of their secret location, then return to the keeping place and raid it when nobody was looking. Cowle used this approach for other objects as well, writing to Sterling on 6th November 1894:

I came across a little curio the other day (the owner was absent) which I have kept in hopes of being able to ascertain its uses but every blackfellow I have shewn it to is ignorant of it except that 'him come up long way' I am posting it to you in a separate cover exactly as I got it.⁸⁴

Such an activity was theft although Cowle found it hard to understand his own actions as no different from a cattle thief. After describing his own hypocrisy as "posing as an upright youth before both Black and White" while taking scared objects, Cowle followed his narrative by describing how he was busy in pursuit of "damned horsethieves" without any acknowledgement of the irony.⁸⁵

By the mid-1890s Cowle was aware of the consequences of stealing Churinga. He called Gillen a hypocrite for knowingly stealing churinga, while also holding the position of Protector of Aborigines: "Gillen talks of how much they value these stones and of their great antiquity yet he gets these niggers round him to obtain them by any means they can".⁸⁶ In March 1899, he wrote Spencer, complaining that Richard Maurice had been taking Churinga, and noted that Maurice had taken Churinga after Cowle "gave them back".⁸⁷

Cowle also acquired objects through violence. He wrote to Spencer that he received letters that the "Blacks [...] were killing [cattle] wholesale out a Reedy Hole". Cowle had despatched another officer to respond, but noted to Spencer that such actions enabled the taking of Aboriginal property:

[I] would have liked to have gone myself as a lot like that should have some curios but [...] I got a few wommeras as I came home and told Nat and Kean to look out for your rat-tails and chignons etc.⁸⁸

The description is reminiscent of Willshire's description of taking Aboriginal objects as part of his dispersal activities.

On 31 August 1900, Cowle describes the objects he took as "loot" and a consequence of his "war dance". He also mentioned that he forced the prisoners to carry the loot for him. Presumably, the loot had been previously in the possession of the prisoners:

I did a war dance at one camp but got no loot except an odd girdle or two of human hair, one of the domestic cat gone wild (much esteemed), and a couple of pitchis, there were any quantity of the latter and I could have fully stocked you if I could have carried them home but I could only give the prisoners one each to look after, I also got four or five of their curved adzes but all had iron tips which I am getting replaced with flints.⁸⁹

83 Cf. *Ibid.*, p. 136 (Cowle to Spencer, 13 April 1900).

84 *Ibid.*, p. 260 (Cowle to Spencer, 6 November 1894).

85 *Ibid.*, p. 72 (Cowle to Spencer, 5 Oct 1895).

86 *Ibid.*, p. 70 (Cowle to Spencer, 23 July 1895).

87 *Ibid.*, p. 121 (Cowle to Spencer, 18 March 1899).

88 *Ibid.*, p. 96 (Cowle to Spencer, 9 February 1897).

89 *Ibid.*, p. 146 (Cowle to Spencer, 31 Aug 1900).

Cowle used a range of practices for gaining Aboriginal objects. At best he used his power as a police officer to purchase objects as an unequal exchange. As a police officer he gained knowledge of where sacred objects were held and then took them when nobody was watching. The consequence for some of his informants was death for revealing information they should not have revealed. Such activities were stealing, and Cowle understood his activities as stealing. In other instances, Cowle plundered objects as part of punitive raids even forcing the previous owners of the objects to carry them as war booty – an act that was unlawful for police officers.

Conclusion

Colonial police played a central role in enforcing settler authority on the frontier. The taking of objects appears to have been a more significant part of their activities than previously realised, in the sense that dispossessing Aboriginal people of weapons through either destroying weapons or taking them as trophies followed on from their para-military activities. The three case studies examined all share a common theme in that each of these police officers admitted to taking objects. In some instances, the officers did engage in some form of exchange or trade, however there are clear statements but each of the three figures that on other occasions, they took objects as part of a display of force.

Although Ord, Willshire and Cowle clearly believed they were entitled to take objects, none had the legal power to do so for their personal use. Any objects they took were evidence and should have been treated as such. Police did not have the authority to take personal property. Under certain circumstances, property could be confiscated and sold – but confiscation was limited to objects that the police could prove the convicted party had stolen from others or had been illegally sold in the first place. Nevertheless, the proceeds of the sale of objects were meant to support benevolent funds, not the private pockets of police officers. In this respect, the collections that survive in colonial-era museums are proceeds from theft by police, tantamount to plunder.

The true extent of police collections is unknown in Australia. Museum catalogues are not openly displayed for research. Consequently, it is hard to estimate the totality of the problem. Nevertheless, the number of objects would at least amount to over 500, but probably many more. Understanding the history of plunder and the violence behind collections is an important part of decolonizing the colonial-era museum. The default assumption that the colonial police had the authority to take objects is not supported by evidence. Further research into museum collections in Australia will demonstrate the pervasive role of police looting or theft in the original acquisition of collections. More research needs to be done, but the future management of collections should not assume that objects taken by police were acquired legitimately under Western law.

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