

«Subjects of our most gracious Majesty». Constitutionalism and constitutionalisation in South Australia Colony: An Agenda for Future Research

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Introduction

In 1850, South Australian Governor Sir Henry Fox Young met with a group of German settlers in the colonial capital of Adelaide. The Germans had a favour to ask of Young: his assistance, or rather the assistance of the colonial treasury, in financing a German-language newspaper. The rationale behind the request was simple: South Australia was already host to nearly 8,000 Germans, most of whom had arrived only within the last two years and thus had variable proficiency in English. As «subjects of our most gracious Majesty»¹, the migrant Germans had both a right and a responsibility to be able to read legal notices in their native language. Young, a philanthropist as well as a political figure, who was also one of the inaugural founders of Adelaide's St. Peter's College, agreed, and soon the *Südaustralische Zeitung* was receiving government assistance.

On the face of it, Young's support of the *Südaustralische Zeitung* hardly seems noteworthy. In the early days of the South Australia Colony, as with most colonies in Australia and elsewhere, subsidies from the government for private enterprises were commonplace. But the issue is not the subsidy itself, rather the justification for it. Even at this early stage of colonial development in South Australia, both the Governor and a segment of his subject population — here, the Germans — saw a vital necessity in the communication of law in an accessible and understandable manner. Law was not a dark art to be hidden in court halls and signed off in the study of Government House, on North Terrace, but to be imparted and transmitted in a form that allowed and encouraged adherence.

This article acts as an introduction to an agenda for future studies into the role of so-called 'travelling constitutionalism' in a far-flung piece of European governmental real estate on the other side of the world. This challenge the notions that Australi-

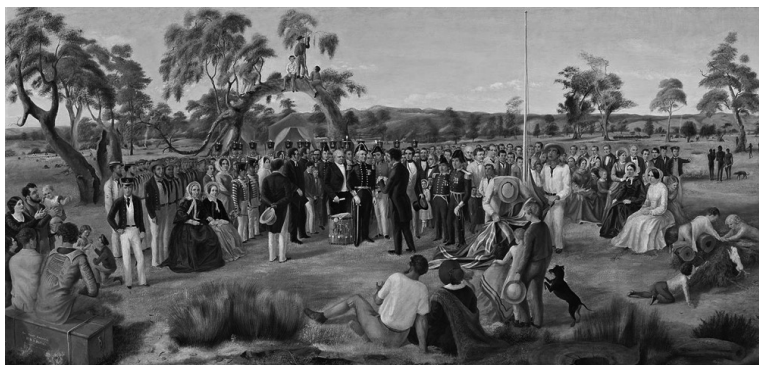
an constitutionalism effectively began and ended with the constitutional conventions starting in 1890 and concluding with the Federation of the Commonwealth of Australia in January 1901. In doing so, it calls into question the continued assumptions made by generations of Australian migration, political, and legal historians that the pre-federal years of Australian establishment were dominated solely by English conceptions of justice and law, and that the only other known exemplars of constitutionalism available to the framers of Australian federalism were the United States, Switzerland, and Canada. As a counterpoint to this, however, stands the constitutional history — or, perhaps, constitutional *prehistory* — of South Australia Colony.

1. *Theoretical Foundations*

The Australian Constitution 1901, as many scholars of Australian law enjoy pointing out, is «one of the oldest in the world», a «national treasure» that provides the framework for Australia's claim to be the world's oldest true democracy². However, it is also among the least understood by its own subjects. In results that constitutional law professor George Williams claimed demonstrated «an appalling lack of knowledge», surveys conducted in the late 1980s and early 1990s revealed that nearly half of the Australian population was unaware that the country has a written constitution, that fewer than one in five had a general concept of what a constitution is, that most young Australians are more familiar with the United States Constitution than the Australian Constitution, and that nearly two-thirds of

the population believe that Australia has a Bill of Rights to guarantee freedoms and liberties, where in fact it does not³. This point is, in fact, challenged by Rosalind Dixon, who argues that the Australian Constitution *does* contain a very limited form of a Bill of Rights; Dixon contends, moreover, that the public perception is the reverse of that identified by Williams: that Australia *does not have a Bill of Rights in any form*⁴. Williams' conclusions — and, indeed, those drawn by successive governments throughout the 1990s and early 2000s — were that Australians are shockingly ignorant of their own political and judicial systems⁵.

Perhaps as a response to this dearth of popular knowledge, recent years have seen many excellent studies — both popular and academic — on the constitution itself⁶. However, this drive to educate Australians about their constitutional history has largely (and possibly by necessity) followed a simplified path, which effectively begins with the first constitutional convention in Sydney in 1890, and ended with the proclamation of the Commonwealth in Melbourne in 1901. This has resulted in a narrow focus on the Constitution that eventuated, as well as the specific constitutional protagonists of the conventions — most notably the New South Wales premier Henry Parkes, the Queensland premier and future chief justice Sir Samuel Griffith, and the Victorian convention delegate and, later, first attorney-general and third prime minister of Australia Alfred Deakin. The National Archives of Australia, labelling the Constitution «the most important document for the modern democratic nation of Australia», insists that the constitutional process took exactly a decade, beginning in 1890 and ending in 1900.



The Proclamation of South Australia, 1836. Painting by Charles Hill, 1856

While this emphasis on the Constitution in and of itself is understandable and commendable, it has also had the effect that its prehistory has been largely overlooked, with the constitutional story of Australia limited to ten years and a handful of protagonists. As a result, while these ten years are covered exhaustively, preceding years and decades are not. Furthermore, the Constitution becomes a sort of self-fulfilling prophecy; since the eventual Constitution of 1901 included elements of the American Constitution as well as the Swiss system, for example, these are often painted as the *only* exemplars available to constitutional framers at the time. Regarding the union of the states, David Black argues that «in the 1890s only the United States of America, Switzerland and Canada provided any precedent for such a move»⁷.

Yet this narrative assumes a straightforward approach to constitutionalism at odds with the actual history of the country. For one, Australian constitutional history preceded the constitutional conventions by several decades; in 1855, New South Wales and Victoria, as part of the transfer to re-

sponsible colonial self-government, enacted constitutions of their own, followed by Tasmania and South Australia in 1856, Queensland in 1867, and Western Australia in 1890⁸. These constitutions, though handed down via Westminster, were shaped and crafted by their subjects, presenting unique solutions to Australian considerations. This meant that, while the colonies remained British territories, their constitutions were open to the influence of the populations of the colonies themselves. These were by no means homogeneously British, and included — among others — some tens of thousands of migrants from the German states, who began arriving in the 1830s before enjoying a wave of migration (chiefly to South Australia) in the aftermath of the failed 1848–9 revolutions in Europe. Large proportions of Irish and Scottish settlers, many descended from the original convicts of New South Wales, also heavily influenced the development of responsible government. Even those migrants arriving from England were predominantly drawn from the working class, with Australian destinations transforming

from prison settlements to «workers' paradises»; in spite of the national myth that the country's foundations are to be found in its rurality, and that it was «built on the sheep's back», even before Federation the Australian population was one of the most (if not *the* most) heavily urbanised in the world. This led to a general aversion to the 'English'-style governance characterised by Westminster and rooted in the concept of landed privilege. In the debates regarding the composition of the New South Wales Legislative Council, for example, the total application of the Westminster system was dismissed on the grounds of encouraging a «bunyip aristocracy», with Westminster as a literal system being seen as a perpetuator of the same socioeconomic inequalities that had led to the necessity of the penal settlement of New South Wales being founded in the first place⁹.

It is unquestionable that the period between the beginning of responsible government and the opening of the first constitutional convention was vital and formative to the history of Australia as a whole, and Australian constitutionalism in particular. The attention paid to it in scholarly circles, on the other hand, is remarkably thin, and limited in scope. Sometimes, this lack of attention is blatant. F.W. Mahler's brief sketch article of Australian constitutionalism devotes just two cursory paragraphs to mid-nineteenth century constitutional debate, before dismissing it as being of little relevance, as Federation was still half a century in the future — a curious position, given that the article itself purported to address the «background to Federation»¹⁰. More expansive works have continued the trend, if not as egregiously. Peter Cochrane's recent *Colonial Ambition*, for

instance, is emblematic of this shortfall. An engaging and fascinating work of scholarship, it promises in its subtitle to demonstrate the «foundations of Australian democracy», but its focus rests entirely on the aforementioned New South Wales constitutional debates, revolving around the figure of William Charles Wentworth¹¹. Territories west of the eastern seaboard have received far less attention, reflecting even modern complaints that 'Australia' is incidental to Sydney, Melbourne and, to a lesser extent, Brisbane. A clear example of this is Michael Roe's excellent *Quest for Authority* (1965), which correctly seeks to find both European and American intellectual origins in concepts of Australian governance of the nineteenth century¹². Even here, Roe's work is not without its pitfalls. Its scholarship is now half a century old. Furthermore, its geographical focus is limited entirely to the eastern seaboard (or, more accurately, to New South Wales and Tasmania), thereby ignoring developments within the cosmopolitan and 'free' colony of South Australia, or the unique environment of the Swan River Colony/Western Australia. Finally, Roe's timeframe, 1835–51, may provide the intellectual *origins* of the constitutional debates and constructions, but also precludes him from analysing the debates and constitutions themselves, since these postdate the arena of his study.

If Australian historiography has tended to ignore the timeframe of Australia's constitutional prehistory, as well as its more central and western arenas, then it has also tended to pay short shrift to the influences upon it. By and large, these are assumed to be 'British' (in broad strokes). The two most influential twentieth-century historians of Australia, Manning Clark and Geof-

frey Blainey, may have been ideological enemies, but they agreed on the settlement and legislative process of pre-Federation Australia as being British¹³. Cochrane's work on Wentworth, meanwhile, argues strongly in favour of the New South Wales constitutional debates being contested on the grounds of different concepts of Britishness.

This Anglocentric interpretation reveals a number of tensions. The first and perhaps most obvious is that it serves to distinguish two halves of nineteenth-century constitutional historiography, in which the few works focusing on pre-1890 constitutionalism argue for an overwhelming emphasis on Australia being established as 'England in the Pacific', while the more numerous Federation-based works insist that the constitutional conventions (and the eventual Constitution of 1901) resulted from an implicit (but not total) *rejection* of English constitutionalism in favour of the American model. Given the divide between the two areas of study, there is no existing position of interface, in which the ostensibly pro-British constitutionalism of the 1850s gave way to the apparent pro-American constitutionalism of the 1890s. This in itself demonstrates that there is a significant lack of understanding of the Australian constitutional process between these two periods; in the historiography as it stands, neither can be reconciled with the other.

The second salient point is that the term 'British' is misleading in two key ways. As noted above, the social and ethnic base of 'British' migrants to Australian colonies was skewed so as to be fundamentally different from that of the society they left. While, by the 1850s, Australia was no longer principally a penal settlement (this having

ended in New South Wales in 1840), its population was heavily slanted towards an urban proletariat and, while convicts were by now in the population minority, a large proportion of Australians born in the colonies (including, among others, Wentworth) descended from convicts. Coupled with the not inconsiderable number of Scottish and Irish settlers, this meant that the demographic of the Australian colonies — and thus, the demographic of those taking part in Australian constitutional discourse — was notably different from those taking part in constitutional discourse in England¹⁴. Even more importantly, the effect of other migrants on constitutionalism is not taken into account.

Of particular note here are the German migrants who, by and large, arrived in the aftermath of 1849. The insinuation of German settlers into these developing, distinct cultures left visible and indelible marks on their intellectual landscape, from place names (such as Klemzig, Lobethal, and Hahndorf, which have retained their names, or Germantown in Victoria and Heidelberg in Western Australia, which were renamed during the First World War to Grovedale and Bickley, respectively) to significant influence on the norms of the society (such as the campaign of the Dresden Lutheran missionaries in South Australia to revoke capital punishment for Indigenous prisoners sentenced by the colonial courts). It is on these migrants, and particularly their role in the development of South Australia Colony, that this article now focuses, in order to illustrate the potential — as yet untapped — vital influence that their experiences could filter into modern analyses (and re-analyses) of Australian constitutional history.

2. *South Australia as colonial-constitutional experiment*

In the history of European settlement in Australia, South Australia is quite unique. Founded in 1836, South Australia was planned from the outset to be a 'free' colony, and it remained without a convict population for the entirety of the colonial period. This set it apart from New South Wales and Van Diemen's Land (later Tasmania), which were planned as destinations for transported British convicts, as well as Victoria and Swan River Colony (later Western Australia), which began as free colonies but became convict destinations.

A salient point in the foundational story of the colony was its provenance. Indeed, it was not for nothing that one of the leading voices of South Australian colonisation, Edward Gibbon Wakefield, often referred to it as an «experiment»¹⁵. Since the mapping of the southern coastal regions by James Grant in 1800 and, more importantly, by Matthew Flinders and the crew of the *Investigator* between 1801 and 1802, some thought had been given to establishing further colonies. This, however, took time. There were transient white settlements in the Australian south. Soon after Flinders and the French explorer Nicolas Baudin charted Kangaroo Island, off the southwest coast of the Fleurieu Peninsula, for example, a series of communities were established there by both British and American sealers, taking advantage of the abundant population of sea lions around the south of the island. Other calling stations for sealers and whalers appeared on the coastline of what is now Victoria. However, the first permanent, official settlement in the south — a military camp that became Hobart, on

Van Diemen's Land — was erected in 1803 as a means of dissuading the French from landing on the island, while also providing a second destination for convicts. The permanence of the settlement was only assured some two decades later, when Van Diemen's Land was granted the status of a colony in its own right. On the south-eastern mainland, a small settlement was established in 1803 at Port Phillip, near modern-day Sorrento, but was abandoned only a few months later. The first permanent settlement, Melbourne, would only be founded more than thirty years later.

In the imperial centre, on the other hand, a strident movement developed with the aim of establishing an infrastructure in the south well beyond that of a few scattered sealing, trading, and army outposts. Key to this was the South Australian Company (later renamed the South Australia Association), a consortium made up of a number of members of Parliament as well as prominent businessmen. Wakefield was one, and intellectually he was the most influential, but he was hardly alone. Indeed, leading lights of the movement included the banker George Fife Angas, the economist, newspaper proprietor, and politician Colonel Robert Torrens, the historian George Grote, and the banker and politician Raikes Currie, among many others¹⁶. Of particular note was the fact that these figures, though prominent in English society, were also in many cases outsiders to the status quo. Robert Gouger, who became the first colonial secretary of South Australia upon its founding, was a committed constitutionalist who was closely associated with Robert Owen's utopian socialist movement, and in 1830 was one of a party of English radicals that visited France and Spain dur-

ing the revolutionary uprisings, in order to promote constitutionalism as a force of necessary political reform. His colleagues in the Company were hardly less active; Torrens was a vocal promoter of the reforms embodied in Wellington's *Great Reform Act*, Angas was a proponent of the freedom of religious belief, and Grote's *Essentials of Parliamentary Reform* (1831) became a classic treatise on the remaking of the levers of political power, influenced in some way by his close friendship with the philosopher John Stuart Mill¹⁷.

The importance of the liberal and, in some ways, radical background of the men advocating for South Australian settlement cannot be understated. From the beginning, it created a unique tension in the understanding of what a colony was and what it represented. The British crown was not averse to extending its reach, but what Wakefield's «experiment» proposed was a new type of colony, effectively a private or semi-private enterprise. In particular, he drew from the experience of the crown colony of Swan River, in what would be renamed Western Australia, where a combination of accidents, poor agricultural conditions, and a dearth of planning from the London-based colonial authorities had nearly led to the colony's premature demise. Wakefield's own analysis of the Swan River fiasco convinced him that the next colonial venture on such a scale in Australia had to be conducted according to the principle that «the capitalist should never suffer from an urgent want of labourers, and that labourers should never want [for] well-paid employment», whereas Swan River's failing came about because «a great mass of capital, of seeds, implements, and cattle, has perished for want of labourers to use

it, and [...] no settler has preserved much more capital than he can employ with his own hands»¹⁸. What this necessitated was a balance that would require prospective landowners to buy expropriated Australian land at a set price, from which the proceeds would be used to finance the migration of labourers, thus creating an artificial equilibrium of supply and demand in which the imperial authorities would effectively act only as facilitators.

Championed by the Company, this agenda for colonial development met with mixed success before the Commons, especially when the *South Australia Colonisation Bill* came up for debate in late July 1834. Wakefield's argument was persuasive, but it was also theoretical; there could be no guarantee that the balancing cycle he envisaged would prove more effective than the chaos that had nearly overtaken Swan River. The political inclinations of the South Australian proponents also caused some unease. The greatest opposition came from the Conservative member for Essex North, Alexander Baring, who declared the bill to be «the most extraordinary Bill that had ever been introduced into that House.» His opinion of the Company men was withering; South Australia, he contended, was little more than a vanity project intended to «realise the views of a set of gentlemen, whom he hoped he should not offend by calling experimental philosophers». He continued:

These philosophers were about to form a colony upon a principle which would throw all others in the shade. They were persons possessing great and varied powers of mind, and most enlarged understandings, but, as it too frequently happened, the schemes of these theoretical individuals were seldom so contrived as to meet the ordinary purposes of life. [...] Two of the greatest

generals who ever lived, Frederick of Prussia and Napoleon Buonaparte [sic.], used to say, if they wished to select a person unfit for government, they would seek for him among the theorists of the colleges. He was of the same opinion¹⁹.

Baring did not carry the day. Nor did Andrew Carew O'Dwyer, the erstwhile Dublin barrister, who questioned why manpower should be sent to faraway Australia when it could be used in Ireland²⁰. However, both Baring and O'Dwyer reflected Westminster's reticence in handing over the reins of colonial control to private concerns. What the «experimental philosophers» were proposing was, to Baring, much too dangerous; the British Empire was being asked to support and certify a colonial endeavour without safeguards to ensure its own investment. Worse, the experimental colony could succeed only if under the full colonial control of the crown because «it possessed the power to retrace its steps», but a colony patterned on the Wakefield principle and in the hands of Angus, Torrens, and the Company would result only in «the land [being] so locked up that it would be unavailable, and this country would have to redeem the mortgage» when the «gentlemen» inevitably «made a mistake, as he knew they would»²¹. Baring's concerns were largely economic; O'Dwyer, by contrast, saw political danger in the fact that patriots would «sever [themselves] from the land of [their] fathers», leading not only to these migrants «making a sacrifice» of their «own happiness» in doing so, but also having the result that migration «drew from the country the best and least indigent of the humbler classes, and left a residuum of the idle and the profligate»²². (O'Dwyer's conclusion that «the empire did not benefit by the process [of colonial

expansion]» seems not to have made much of an impact.) That being the case, for reasons already noted, direct controls were impractical. Its origins as a free colony also precluded its foundation on the same grounds as that of the first Australian colony, New South Wales, in 1788. New South Wales was, according to Jeremy Bentham, an inherently unconstitutional settlement, and even though his arguments to this effect made little impact at the time, there was no doubt that the basis on which New South Wales was founded was wholly unsuitable and unsustainable for a free colony such as that envisaged for South Australia²³. The *South Australia Act* of 1834 was therefore a compromise, in which Wakefield's principle aims were watered down (though not entirely abandoned), while Baring's desire for governmental controls were also partially met. Perhaps to assuage Baring's doubts, the colony would have to prove itself profitable before its foundation, specifically by the securing of some £20,000 in bonds and the sale of £35,000 worth of land at twelve shillings per acre. Its most innovative feature, however, was the clause that stipulated that «it shall and may be lawful for his majesty by and with the advice of his privy council to frame constitute and establish a constitution or constitutions of local government for any of the said provinces possessing a population of fifty thousand souls»²⁴.

In these regards, the South Australian colony already set itself apart in the colonial constellation as unique. Its profitability seemed assured when, within a year, the Company was able to secure the £55,000 total required by the *Act*. As a result, William IV issued his Letters Patent granting the formation of South Australia in Febru-

ary 1836. But the insistence in the *Act* that local government would follow upon the population reaching 50,000 also placed the colony in the position of being, if not independent, then certainly to some degree autonomous. Indeed, the legislation bringing South Australia into existence was geared almost entirely towards it being anything other than dependent upon the colonising power itself.

These beginnings, however, created a complicated legacy. On the one hand, within four years of its founding, South Australia declared bankruptcy, as a result of mismanagement by the colonial commissioners. This led to the *South Australia Act* of 1842 (officially, and more pointedly, titled *An Act to Provide for the Better Government of South Australia*), which founded a Legislative Council to replace the colonial commissioners. The 1842 *Act* repealed that of 1834 and, while it included explicit provisions for the Legislative Council to «convene a general assembly to be elected by freeholders and other inhabitants of the said colony [...] for that purpose appointed to make laws for the peace order and good government of the said colony», the promise of a local constitution once the population reached 50,000 now no longer appeared in text²⁵. Thus, for all its clarification, the 1842 *Act* remained ambiguous as to the colony's constitutional position.

Thus, South Australia faced major questions relating to the responsibility of its authorities. Simply put: to whom were the authorities of the South Australia Colony answerable? Who was subject to the constitution (if ever there would be one), and who would it serve? Representation, answerability, and legal legitimacy were also affected by the colony's varied population.

Two particular elements of this population are of note here. The first was the local Indigenous population. The second was the growing number of German migrants. The remainder of this essay addresses the latter²⁶.

3. *German settlement and responsible government*

When Henry Fox Young met with the editorial staff of the *Südaustralische Zeitung* in 1850, there were already 8,000 Germans resident in South Australia. This constituted a significant proportion of the population, which by the end of the same year stood at 63,700. In other words, some 12.5 percent of the colonial inhabitants were of German extraction, with this percentage remaining generally constant until Federation in 1901.

The majority of these Germans arrived in Australia in the context of upheavals in their political and social circumstances in their German homelands. Theodor Hebart notes that many German (and particularly Prussian) Lutherans sought passage to both America and Australia in the aftermath of the union between the Lutheran Church and the Reformed Church in the Hohenzollern kingdom, which placed intolerable spiritual burdens on the Lutheran faithful²⁷. Many more relocated after the failed 1848 revolutions. In spite of this, the established historiography generally paints them as essentially removed from the political business of colonial governance. In Jürgen Tampke's standard account of German migration, «the great majority [...] had little interest in politics»²⁸. Ian

Harmstorf, providing the 'official history' of German settlement in South Australia on behalf of the local German association, argues that German migrants were generally Lutheran, and the Lutheran Church in Australia remained self-consciously «firmly apolitical», a position repeated by Tampke²⁹. Peter Monteath's more recent excellent collection of essays dispels the «persistence of the myth [that] Germans came to escape religious persecution», but soon after argues that «the Germans came as what we might call in today's parlance — with its troubling pejorative undertone — 'economic refugees'»³⁰. Thus, in spite of these works' insistence that the Germans were diverse and non-homogenous, in their descriptions they build an artifice of homogeneity, in which German migrants were, in the main, pious Lutherans who sought their fortune and who kept themselves assiduously clear of government, political, and legislative affairs.

The existing narrative, however, is belied by the evidence. Indeed, Germans were closely tied to the development of the colony. In part, the narrative is predicated upon two false premises: that Lutherans remained aloof of politics, and that economic prosperity was not intrinsically linked. In fact, both ranking Lutherans and German-born businessmen alike were closely tied by their circumstances to the legal establishment of South Australian constitutionalism and the rule of law in the free colony. Key to this are two points: the role of Germans as agents of the state, and the role of Germans as subjects of the state. The following passage represents a limited case study of both examples.

3.1. *Agents of the state*

In 1838 — two years after the proclamation of South Australia, and two years before the colony was declared bankrupt — two Lutheran missionaries, Clamor Wilhelm Schürmann and Christian Gottlieb Teichelmann, arrived as representatives of the Lutheran Mission Society of Dresden, on the invitation of the merchant banker and colonial commissioner, George Fife Angas³¹. Both devout missionaries, Schürmann and Teichelmann were also scholars and anthropologists, and their establishment of a school for local Kurna Aborigines at Piltawodli served a dual purpose. Their aim was to preach the Gospel and convert the local Indigenous people to Christianity but, in order to do so, they also set about learning the language, so as to preach to potential converts and to translate Christian precepts into a language with which they were familiar. As one more recent linguist has argued, this work was ideally suited for native German speakers such as Schürmann and Teichelmann, as they were «unhindered by the etymologically transparent but transcriptionally disastrous conventions of English spelling»³². Within two years, they had published their first ethnography, *Outlines of a Grammar* (1840), which acted as the first formal lexicon for English-Kurna translations. Schürmann and Teichelmann, joined in 1840 by two more Lutheran missionaries from Dresden, Samuel Klose and Eduard Meyer, soon expanded their work, to include not just the Kurna language but also the Barngarla and Ngarrindjeri³³.

Schürmann and Teichelmann are often portrayed as well-meaning idealists, whose central concern was the respectful learning of local languages so as to assist in the busi-

ness of saving souls³⁴. This work inevitably brought them within the orbit of colonial law and justice, as incidental characters to the burning issue in the halls of power as to the relationship between English law and the Indigenous inhabitants of Australia best articulated by the Supreme Court Judge Charles Cooper during the *Maria* affair of 1840: «To bring [Indigenous people] within the pale [of British law], there must be some submission or acquiescence on their part, or at least, some intercourse between us and them»³⁵. This position prioritised and necessitated the communication of law — something that Schürmann and Teichelmann were uniquely placed to accomplish. As a result, their work, which had originally begun as exercises of ethnography and theology, soon took on more temporal dimensions: Schürmann was appointed Deputy Protector of Aborigines for Port Lincoln, while Teichelmann became the official court translator in Adelaide.

Neither viewed these appointments with any great degree of fondness; as Teichelmann noted, his work merely made it more possible for British colonial authorities to convict and execute Aborigines deemed criminals — a punishment they were far more willing to apply to Indigenous offenders than their white counterparts³⁶. Teichelmann's unease was well-founded; indeed, as he wrote, the law offered the Indigenous people no protection whatsoever³⁷. This was a stark contradiction of William IV's Letters Patent that established the colony, which «Provided Always that nothing in those our Letters Patent contained shall affect or be construed to affect the rights of any Aboriginal Natives of the said Province to the actual occupation or enjoyment in their own Persons or in the Persons of their Descendants

of any Lands therein now actually occupied or enjoyed by such Natives»³⁸. Nevertheless, from a legal-historical standpoint, this was a vital step in the establishment of a colonial conception of a rule of law within South Australia, in which *all* British subjects within the colony — willing or otherwise — would be answerable to and, on paper at least, protected by the law. Cooper's identification of a central 'problem' of legal governance was facilitated and resolved, and could only be resolved by, the unique circumstances of the Lutheran missionaries who became (accidental) agents of the state.

3.2. *Subjects of the state*

Judge Charles Cooper made clear in 1840 that Aboriginal South Australians existed in a sort of legal limbo as long as there was no effective communication of the law to them. At best, they could be 'protected' by the law as the equivalent of irresponsible wards of the state (though this, of course, contradicted the royal decree of 1836 that the extant rights of the Indigenous population should not be impeded at all). That argument caused Governor Gawler's administration to turn to the Dresden ethnographers. A decade later, the Germans who appealed to Governor Henry Fox Young coopted similar arguments on their own behalf. Germans *wanted* to be good citizens of the colony; they could only be so if they understood what being a good citizen *meant*. That, in turn, meant that the law had to be presented to them in an understandable manner. Teichelmann and Schürmann did this in the 1840s by translating British law into Kaurna, Barngarla and Ngarrindjeri.

From 1850, the *Südaustralische Zeitung* and its proprietors did so by translating British law into German, with the approval and support of the colonial government.

However, while the *transmission* of ideas might have been Young's motivation to support the paper, the intent of the German editors was more active. The editor in chief of the *Südaustralische Zeitung*, Carl Mücke (often anglicised as 'Muecke'), was a Prussian educator and former soldier who had been active in politics before his migration to Australia³⁹. He had been prosecuted and nearly imprisoned as a liberal critic of the authoritarian reign of Frederick William III and was one of the revolutionaries on the barricades in Berlin in March 1848. The apparent failure of the revolutions encouraged him to flee to the new colony on the other side of the world, arriving in Adelaide in August 1849. In less than a year, he was at the helm of his own newspaper⁴⁰.

Perhaps befitting its editor, the *Südaustralische Zeitung* soon gained a reputation for radicalism and liberal sentiment⁴¹. Far more than merely communicating the law as «subjects of our most gracious Majesty», Muecke's newspaper set its own political course. Sometime before early June 1850 — fewer than two months after its founding — and under the provocative title «The Right of Revolution», the paper argued:

Self-government is the great, inalienable boon, which every human being brings with him into the world; it may possibly be crippled in consequence of his education, or o [sic.] the circumstances in which he is placed during his lifetime, but he can never *under any circumstances* be robbed of it. Now as it is in the individual, so is it and always has been in nations, self-government, liberty, which has developed every creative power; which has distinguished truth from error, gold from dross⁴².

Muecke's plaintive cry of the inalienable virtue of self-governance appeared at an interesting time. Ostensibly it concerned «the risings of the people in Germany» — undoubtedly a topic close to Muecke's heart, as well as a number of other German migrants to South Australia. Yet, by June 1850, those uprisings had long passed; the next, occurring in Hesse-Kassel and resulting in the unpopular Elector Frederick William being deposed, was still several months in the future⁴³. Possibly Muecke was merely (and somewhat belatedly) expressing his own justifications for his activities in Berlin in 1848. However, events in the colony may also have guided his hand. One of the aims of the German revolutionaries during 1848 and 1849 had been the formation of a national constitution. Such, indeed, was attempted in Frankfurt, though it was abortive. South Australia had offered greener pastures for disenchanted revolutionaries such as Muecke, but by 1850 the colony still lacked a constitution of its own. Indeed, for all the promises engendered in South Australia's origins, its governmental system remained bound to the governor and an appointed Legislative Council. Muecke's article praised England for the fact that «it regained its crippled liberty, [and] treasured up, faithful [sic.] and unimpaired [sic.], its endangered, holiest right, the right of self-government», but if this was indeed the «holiest right», then it was one that England itself continued to deny its own client colony.

Muecke's competitors in the German-language press also rallied against the lack of South Australian constitutionalism. In 1851, the businessman Rudolf Reimer founded the *Adelaides Deutsche Zeitung* as a conservative response to the liberalism of

Muecke's *Südaustralische Zeitung*. Nevertheless, both mirrored each other in their focus on colonial politics and particularly the role of representation and responsibility. Characteristic of this was Reimer's article «Unsere neue Constitution» of 5 April 1851. The context in which the article appeared was the reorganisation of the Legislative Council through the auspices of the *Australian Constitutions Act* of 1850, which foresaw that the Legislative Council would no longer be merely appointed by the crown, but would be made up of a maximum twenty-four members, one-third of whom would be appointed, with the other two-thirds elected by a limited suffrage⁴⁴. This Legislative Council would thereupon work towards drafting a constitution for the colony.

For Reimer, this seemed not to go nearly far enough. To begin with, the constitution was belated. William IV had given assent to the colony adopting a constitution and responsible government of its own once it had reached a population of 50,000, but this had been achieved in 1849⁴⁵. More to the point, he was highly critical of the direction the framers of the new constitution were taking, as it seemed to betray «the extraordinary expectations and hopes, which were harboured by the colonists regarding the effects of this change in the colonial government»⁴⁶. Like Muecke a year earlier, Reimer also took the opportunity to meditate on liberal politics. «The core and measure of every constitution lies in the law governing elections», he wrote. «An assembly elected according to a liberal electoral law, even when its competences are on paper so limited, will practice a completely different and much more meaningful protection of the rights of the people than a

council whose composition is thanks to a law that, following so-called conservative principles, excludes a real representation of the people»⁴⁷.

Reimer seemed to have a keen eye for the unique problems of establishing representation in a newly-settled land, in which a large degree of the population was by definition transient. His next argument is worth quoting at length:

According to the [proposed] constitution, electors are those born or naturalised British citizens, who have been in the colony for at least six months and either own land to the value of 100 pounds, or who pay 10 pounds lease or rent annually. In the case of lease, the lease must run for 3 years, and for rent the renter must have been in the same house for six months. It has been said that everyone can easily meet these qualifications and any further latitude for the voting rights would not be desirable. Certainly, it is true that most people in the city pay more than 10 pounds yearly or 4 shillings weekly in rent, but how many live in boarding and lodging houses? How many have changed their address in the last six months? If someone through work and thriftiness comes to the conclusion that he can desire more comfort and therefore rents a better apartment, so he loses his right to vote⁴⁸.

Reimer continued in this vein, concluding in a manner we may find somewhat uncharacteristic of a conservative businessman: «The principle that has been consecrated in its many parts by our old Fatherland in recent years — that is, not to limit electoral law in any way — is *never* dangerous; people will become vagabonds, or elect criminals to be their representatives, only with difficulty»⁴⁹.

Reimer's impassioned pleas were demonstrably aimed at extending an electoral franchise to arriving Germans and, his romantic ideas of limitless German franchise notwithstanding, his attitude was in many

ways reminiscent of the American rejection of Westminster's rule, but from a positive angle: whereas the Americans rejected taxation without representation, the Germans took it as a given that they had a constructive role to play in South Australian society, for which they appealed to be represented. The key difference was that, whereas the Americans came up against an established system whereby their only recourse was to oppose it, the South Australian Germans encountered only embryonic governance; as Reimer pointed out, the South Australian constitution *should* have been drawn up and enacted by 1849, had the colony followed the guidelines for its own development that had been drawn up in the *South Australia Act* 1834, whereas in fact this would only happen in 1855, to be brought into force the following year.

Conclusions

The delayed beginning of South Australian constitutionalism gave Reimer, Muecke, and others a window of opportunity (however brief) to influence the law's shape and form. To this German organisations made vital contributions, and they were supported by Germanophiles within the colonial administration. The colony's first treasurer, Osmond Gilles, had been a prominent businessman in Hamburg before his migration to South Australia; after he left office, he enthusiastically supported seemingly any and every project that would promote German engagement. In 1850, one of those projects was the planned «Adelaide German Hospital» that was intended to take up the strain from the government's

Royal Adelaide Hospital; another was to finance a hall for the local *Liedertafel*⁵⁰. Also in 1850, partially to offset many of the concerns he would voice a year later, Rudolf Reimer formed the Deutsche Compagnie in the Hamburg Hotel in Adelaide, which was in part responsible for purchasing land in its own name and thus transferring land rights by proxy to its members (reported by Muecke in the *Südaustralische Zeitung* to be «principally our compatriots»)⁵¹. In 1851, Muecke's *Südaustralische Zeitung*, in a unique position in terms of politics since it was empowered by Young to provide official German translations of colonial law, was able to take advantage of this role by advocating for liberal candidates for South Australia's first partially-elected Legislative Council⁵². It was hardly a coincidence that George Fife Angas, the most ardent proponent of German migration to South Australia, was the first elected official for the largely German district of the Barossa. Even after responsible government, the finer details of constitutionalism were a work in progress. In 1857, Premier Robert Torrens passed the Real Property Act of land reform which, it has been argued, was based principally on similar, Prussian reforms, and was likely drafted by the attorney Ulrich Hübbe, who adapted the Hanseatic system of mortgages he had learnt in Hamburg to the Australian context⁵³. This further simplified land ownership, continuing a path to liberalisation of ownership and thus electoral franchise that Reimer had advocated as early as 1851.

Given all the above, what is there to be said in terms of answerability, responsibility, and the oversight of constitutional law? Again, it must be stressed that this is a tentative first foray into an as-yet overlooked

field of European constitutionalism as a whole, and Australian constitutionalism in particular. As such, there are many more avenues to be addressed that this essay certainly cannot.

Law, constitution, and order were clearly vital elements in the early history of the South Australia Colony. Even the basic geography of the capital city, Adelaide, demonstrates the prime position that these considerations had in the minds of the first colonial administrators and governors. Adelaide was designed in detail along a grid of streets and boulevards, with the central district bordered by four terraces — North, South, East, and West, each a mile long. These formed the square mile that is now known as the Adelaide central business district. This schematic planning of the city also allowed for metaphorical flourishes. Government House, the residence of the governor, was and is situated at the intersection of North Terrace and King William Street, which runs north-south directly through the middle of the square mile; it was not coincidence that Government House was placed as the figurative 'crown' atop not only the city but also the road bearing the name of the king, thus communicating the preponderant role of the governor as the king's representative. Victoria Square, in the exact centre of the mile, was bordered on one side by the South Australian Magistrates Court, and on the other by the Central Police Station. The Governor and Crown, as the lawmakers, were thus at the 'head' of the colony, while their instruments of law and justice — the courts and the police — were at its 'heart'.

But responsibility in the eyes of the law is not a single-track path. It could not simply be enforced *in media res*. This is

doubly the case for a newly-established settler community such as South Australia, in which the European arrivals had no extant claims to land and assets, no local customs, and no established norms from which to draw. From the beginning, it was vital to colonial interests that the rule of law be instigated but, as recognised by Judge Charles Cooper, while the judiciary had an inherent and assumed responsibility to all those people it brought under its umbrella of subjecthood, it could not expect the reverse to be the case unless and until there was an exchange of communication and positive understanding. Thus, a population theoretically protected by the law could not be adjudged responsible to that law if it did not first *understand* or have an *affirmative input* into that law. While Cooper applied this argument to the South Australian Indigenous population, it applied equally to the migrant German population. And, while existing historical narratives insist that the Germans were apolitical and, indeed, not interested in engaging in colonial politics, this article has begun to demonstrate that the opposite was the case. From the outset, Germans were aware of the process of constitutional shaping in the colony and they contributed to it in varied ways: Teichelmann, Schürmann and, later, Hübbe as assets working (willingly or otherwise) within the state structure, and Muecke and Reimer in particular exerting pressure from the outside in order to help shape that state structure. Through the reporting of the latter, German settlers became aware of the means by which they were potentially being excluded as subjects with no affirmative agency. They had varied ways of attempting to ameliorate this condition — not through protest or uprising but by becoming indis-

pensable to the very sociopolitical fabric of the colony.

In the middle of his consideration of the popular right to revolution, in 1850, Carl Muecke defined for his readers the true nature of a civic society. His was a design of the sort that he most likely wished for his German compatriots who had stayed in Europe after the revolutions, but undoubtedly wished for himself in his new adopted land:

[T]he people have gained the consciousness that the people are the state; that the people are the tax-payer; that the people have only to will it, and their will becomes law; that the people ought and [c]ould be something more than the 'miserable tax-paying mob;' that the people ought to know what becomes of the fruit of their industry, of the sweat of their brow; that the people ought to have laws and institutions, not to give full and free scope to the predominance and preponderance of aristocratical caste and arbitrary power, but to end such disorder; that the people have not alone pious wishes, and patience to wait till it might please its rulers to yield to their wishes

so far as bad times, a dangerous war or something of the kind might compel them to do, but that the people have a will, rights, a right to see that their taxes are used conscientiously to the weal of the whole community; a right to demand that an end might be made to the miserable condition in which everything against the people's will was done, and effected their danger and loss, and undermined their wellbeing⁵⁴.

Far from being disengaged from state and political formation, if an illustration is needed of the supremacy of constitutional thought as a basis of identity, and of the virtue made of the answerability not just of the law to the subject population, but of the subject population to the law, then the South Australian Germans tick all of the proverbial boxes.

¹ M. Bollen, *The Hospital that Never Was*, in P. Monteath (edited by), *Germans: Travelers, Settlers and their Descendants in South Australia*, Kent Town, Wakefield Press, 2011, p. 108.

² This, of course, largely depends on one's definition of «true democracy». R. Dixon, *An Australian (Partial) Bill of Rights*, «International Journal of Constitutional Law», n. 14/1, 2016, p. 96.

³ G. Williams, *A Guide to Our Constitution*, lecture at the National Archives of Australia, Canberra (10 July 2011), <<http://www.naa.gov.au/collection/publications/papers-and-podcasts/australian-constitution/professor-george-williams.aspx>>, accessed 7 December 2017.

⁴ Dixon, *An Australian (Partial) Bill of Rights* cit., p. 80.

⁵ See, for example, the national address by the then-Governor General of Australia, Major General Michael Jeffery, on Australia Day (26 January) 2005, in which he laments the «worrying trend of disengagement from our democratic process». M. Jeffery, *Address by His Excellency Major General Michael Jeffery AC CVO MC Governor-General of the Commonwealth of Australia on the Occasion of Australia Day Address 2005*, address at the Royal Exhibition Building, Melbourne (26 January 2005), <http://gg.gov.au/sites/default/files/media_files/s20050126324.pdf>, accessed 10 February 2019. See also L.K.

Weis, *Does Australia Need a Popular Constitutional Culture?*, in R. Levy, M. O'Brien, S. Rice, P. Ridge, M. Thornton (ed. by), *New Directions for Law in Australia: Essays in Contemporary Law Reform*, Canberra, ANU Press, 2017, pp. 377-386, wherein the author proceeds on the necessary assumption that a «distinctive feature» of the Australian political system and its interface with the public is «the absence (or near absence of popular constitutional culture».

⁶ In lieu of many, see N. Aroney, *The Constitution of a Federal Commonwealth: The Making and Meaning of the Australian Constitution*, Cambridge, Cambridge University Press, 2009.

⁷ D. Black, *Federation Issues*, Perth,

- Constitutional Centre of Western Australia, 1998, p. 1.
- ⁸ Respectively, see *New South Wales Constitution Act* 1855, 18 & 19 Vic. No. 183; *Victoria Constitution Act* 1855, 18 & 19 Vic. No. 184; *Constitution Act (Tas)* 1855, 18 Vic. No. 17; *Constitution Act (Qld)* 1867, 31 Vic. No. 38; *Western Australia Constitution Act* 1890, 53 & 54 Vic. No. 123. These constitutional acts are available online at *Museum of Australian Democracy*, <<https://www.foundingdocs.gov.au/>>, accessed 10 February 2019. The original assent to the *Constitution Act (SA)* 1856 is missing, save a single page in British records. The date for Queensland constitutionalism is often given as 1859. This is false; in that year, responsible government was granted, but a constitution only followed in 1867.
- ⁹ Ironically, the chief proponent of a Westminster-style house of hereditary lords was William Charles Wentworth, who was himself the son of convicts. G. Martin, *Bunyip Aristocracy: The New South Wales Constitution Debate of 1853 and Hereditary Institutions in British Colonies*, Sydney, Croom Helm, 1986.
- ¹⁰ F.W. Mahler, *Australia—Background to Federation*, «Caribbean Quarterly», n. 6, 1960, pp. 86–87.
- ¹¹ P. Cochrane, *Colonial Ambition: Foundations of Australian Democracy*, Carlton, University of Melbourne Press, 2006.
- ¹² M. Roe, *Quest for Authority in Eastern Australia, 1835–1851*, Parkville, Melbourne University Press, 1965.
- ¹³ Both Clark and Blainey often substitute 'European' for 'British', but in context they are referring specifically to British influence (English, Welsh, Scottish, and Irish) to the exclusion of others. Regarding settlement, Clark's *History of Australia* referred to British colonisation as the establishment of 'civilisation', a term which he later recanted.
- ¹⁴ This is demonstrated by Benjamin Wilkie's *The Scots in Australia: 1788–1938*, London, The Boydell Press, 2018. Wilkie's description of the Scottish diaspora in Australia notes that the Scots have a 'significant' but 'invisible presence' in Australian migration history.
- ¹⁵ E.G. Wakefield, *Letter X: From the Colonist*, in E.G. Wakefield, *A View of the Art of Colonisation, with Present Reference to the British Empire; in Letters Between a Statesman and a Colonist*, London, John W. Parker, 1849, p. 19.
- ¹⁶ J. Blacket, *The Early History of South Australia: A Romantic Experiment in Colonisation, 1836–1857*, Adelaide, Methodist Book Depot, 1907, pp. 28–31.
- ¹⁷ Grote's adherents in the House of Commons, who were only briefly prominent, were known as the «Philosophical Radicals» for this reason.
- ¹⁸ Blacket, *The Early History of South Australia* cit., 31; E.G. Wakefield, *England and America: A Comparison of the Social and Political State of Both Nations*, London, Richard Bentley, 1833, p. 5. Karl Marx took a dim view of Wakefield's analysis, arguing that he had discovered «not anything new about the Colonies, but to have discovered in the Colonies the truth as to the conditions of capitalist production in the mother country». Any true insight on Wakefield's part is dismissed in the same work as merely «few glimpses». K. Marx, *Capital*, vol. I: *The Process of Production of Capital*, Champaign, IL, M.B.P., 2018, p. 541.
- ¹⁹ HC Deb. 29 July 1834, cc. 700–701.
- ²⁰ Ivi, cc. 707–710.
- ²¹ Ivi, cc. 702–703.
- ²² Ivi, c. 709.
- ²³ Bentham's arguments were impassioned but largely failed to influence government policy. This was chiefly owing to his work concerning penal policy. Principally, Bentham was a proponent of the penitentiary, structured as a panopticon. Such a design would create the belief amongst prisoners that they *could* be observed at any time, thus forcing them to behave themselves. Transportation to faraway Australia, however, was to Bentham the very antithesis of this idea, removing prisoners *completely* from the oversight of the authorities. It was thus assumed that Bentham's criticism was motivated by his self-interest in penal reform, rather than from any true intellectual grounding. Nevertheless, he further argued that the basis of the colony as a prison settlement was thoroughly unconstitutional in the sense that the *entire* colony was itself a prison. Thus, when one finished serving his time, he was still, in effect, a prisoner, as he remained in New South Wales without easy means to return to England. This, he argued, was an intolerable breach of any number of English laws and customs, not least of which were the *Magna Carta*, the *Habeas Corpus Act*, and the *Bill of Rights*. The government's actions, he charged, were nothing less than the application of arbitrary prerogative. J. Bentham, *Panopticon versus New South Wales*, London [unknown printer] 1802; J. Bentham, *A Plea for the Constitution*, &c., in J. Bentham, J. Bowring (ed. by), *The Works of Jeremy Bentham, Now First Collected*, part III, Edinburgh, William Tait, 1838, pp. 25–284; R.V. Jackson, *Theory and Evidence: Bentham, Collins, and the New South Wales Penal Settlement*, «Australian Journal of Politics and History», n. 3/39, 1993, pp. 318–329; J. Semple, *Bentham's Prison: A Study of the Panopticon Penitentiary*, Oxford, Clarendon Press, 1993, pp. 235–236.
- ²⁴ *South Australia Act* 1834, 4 & 5 Will. IV c. 95.
- ²⁵ *An Act to Provide for the Better Government of South Australia (South Australia Act)* 1842, 5 & 6 Vict. c. 61.
- ²⁶ Although outside the purview of this article, the South Australian Indigenous population deserves

its own attention, especially as the Australian Aboriginal people as a whole have been shamefully neglected by the literature. Only in more recent times has this begun to be redressed in any meaningfully, objective fashion (where previous studies were often clouded by colonial biases). For recent studies of the establishment and application of the law in the early colonial period, special note must be made of the studies of Robert Foster, Amanda Nettelbeck, and Steven Anderson. A. Nettelbeck, R. Foster, *In the Name of the Law: William Willshire and the Policing of the Australian Frontier*, Kent Town, Wakefield Press, 2007; R. Foster, A. Nettelbeck, *Out of the Silence: The History and Memory of South Australia's Frontier Wars*, Kent Town, Wakefield Press, 2012; A. Nettelbeck, R.C. Smandych, L.A. Knafla, R. Foster, *Fragile Settlements: Aboriginal Peoples, Law, and Resistance in South-West Australia and Prairie Canada*, Vancouver, UBC Press, 2016; S. Anderson, «Death of a Spectacle: The Transition from Public to Private Executions in Colonial Australia», Ph.D. diss, University of Adelaide, 2016.

²⁷ T. Hebart, *The United Evangelical Lutheran Church in Australia (UELCA): Its History, Activities, and Characteristics, 1838-1938*, North Adelaide, Lutheran Book Depot, 1938, pp. 18-21.

²⁸ J. Tampke, *The Germans in Australia*, Cambridge, Cambridge University Press, 2006, p. 5.

²⁹ I. Harmstorf, «German History in South Australia», <<https://thegermanclub.com.au/about/german-history-sa/>>, accessed 20 February 2018; Tampke, *The Germans in Australia* cit., p. 115.

³⁰ P. Monteath, *Introduction*, in Monteath (ed. by), *Germans* cit., p. XIII.

³¹ Hebart, *The UELCA* cit., p. 53.

³² M. Clendon, *Clamor Schürmann's Barngarla Grammar: A Commentary on the First Section of A Vocabulary of the Parnkalla Language*,

Adelaide, University of Adelaide Press, 2015, p. 1.

³³ R. Amery, M.-A. Gale, *They Came, They Heard, They Documented: The Dresden Missionaries as Lexicographers*, in G. Zuckermann, J. Miller, J. Morley (ed. by), *Endangered Words: Signs of Revival*, Adelaide, AustralLex, 2014, pp. 1-19.

³⁴ C. Lockwood, *A Vision Frustrated: Lutheran Missionaries to the Aborigines of South Australia 1838-1853*, in Monteath (ed. by), *Germans* cit., p. 20.

³⁵ C. Cooper, *Address to the Grand Jury, Adelaide Supreme Court, 3 November 1840*, per «The Adelaide Chronicle», 4 November 1840. The *Maria* affair refers to an incident in July 1840, in which a ship bound for Port Adelaide had foundered on the coast of the Coorong region. Its surviving crew and passengers were allegedly murdered by the local Milmenrura Aboriginal people after they came ashore. Governor George Gawler planned to send a force of mounted police to the Coorong to exact revenge, whereupon Judge Cooper argued that this could not be legally justified as the presumed guilty parties — the Milmenrura — were neither aware of nor had consented to colonial law, and thus could not actually be guilty. In spite of Cooper's injunction, Gawler sent a force under the police commissioner, Major Thomas O'Halloran, who promptly captured two Milmenrura men presumed guilty because they looked like 'demons', summarily tried them, and hanged them. See S. Anderson, *Punishment as Pacification: The Role of Indigenous Executions on the South Australian Frontier, 1836-1862*, «Aboriginal History», n. 39, 2015, pp. 3-26.

³⁶ H. Kneebone, *Teichelmann, Christian Gottlieb (1807-1888)*, in C. Cunneen, J. Roe, B. Kingston, S. Garton (ed. by), *Australian Dictionary of Biography*, supplementary volume, Melbourne, Melbourne University Press, 2005, <[\[adb.anu.edu.au/biography/teichelmann-christian-gottlieb-13213\]\(http://adb.anu.edu.au/biography/teichelmann-christian-gottlieb-13213\)>, accessed 10 September 2018.](http://</p>
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³⁷ *Ibidem*.

³⁸ William IV, *Letters Patent under the Great Seal of the United Kingdom erecting and establishing the Province of South Australia and fixing the boundaries thereof*, 19 February 1836.

³⁹ P. Payne, *Richard Schomburgk: Explorer, Natural Scientist and Botanic Garden Director*, in Monteath (ed. by), *Germans* cit., p. 126.

⁴⁰ The Rev. Dr. Muecke, *Evening Journal*, 2 November 1869. Gilson and Zubrzycki place the first issue of the *Südaustralische Zeitung* as having been published in 1849. This is at odds with its official entry in the National Library of Australia catalogue, which places the first issue on 11 April 1850; the first extant edition in the National Library collection is issue 4, dating to 2 May 1850. Cf. M. Gilson and J. Zubrzycki, *The Foreign-Language Press in Australia*, Canberra, Australian National University Press, 1967, p. 9.

⁴¹ R.B. Walker, *German-Language Press and People in South Australia, 1848-1900*, «Journal of the Royal Australian Historical Society», n. 58/2, p. 123.

⁴² *The Right of Revolution (from the Südaustralische Zeitung)*, «South Australian», 4 June 1850, emphasis mine. The original appears not to have been preserved; the English translation of the original was produced by the editors of the English-language Adelaide newspaper *South Australian*.

⁴³ Cf. B.A. Ashton, *The Kingdom of Württemberg and the Making of Germany, 1815-1871*, London, Bloomsbury, 2017, pp. 87-90.

⁴⁴ B. Selway, *The Constitution of South Australia*, Sydney, Federation Press, 1997, p. 6.

⁴⁵ Here, Reimer ignores the fact that this part of the *South Australia Act 1834* had not been retained in the *Act of 1842*.

⁴⁶ *Unsere Neue Constitution*, «Ade-

Ashton

laider Deutsche Zeitung», 5 April 1851.

⁴⁷ *Ibidem.*

⁴⁸ *Ibidem.*

⁴⁹ *Ibidem.*

⁵⁰ M. Bollen, *The Hospital that Never Was* cit., p. 106.

⁵¹ *Colonielles*, «Südaustralische Zeitung», 15 September 1850.

⁵² See, for example, *Wahrer Liberalismus*, «Südaustralische Zeitung», 14 April 1851.

⁵³ Cf. H.K. Lücke, *The Man of the Law: Ulrich Hübbe*, in Monteath (ed. by), *Germans* cit., pp. 166–187.

⁵⁴ *The Right of Revolution* cit.