# INVESTIGATION ONE

## A 'MOST FURIOUS ATTACK' AT BROKEN RIVER, 1838-39, RESISTANCE AND REPRISALS

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On 11 April 1838 a party of about twenty First Nations warriors attacked a party of overlanders at Broken River. They killed eight men. Captain William Lonsdale, the Port Phillip Police Magistrate and Commandant, ordered Lieutenant Geoge B Smyth to investigate. Smyth arrived with a small party of four mounted policemen on 22 April and took survivor witness statements. He made no arrests. but did report encountering a large group of generally belligerent First Nations Peoples making their way to the Murrumbidgee. Smyth also reported his concern that a large party of armed settlers were approaching the place, 'should they encounter the natives I much fear there will be great slaughter.'[1]

In Sydney, Governor George Gipps ordered George Stewart, a Goulburn Magistrate, and Lieutenant Richard Waddy, officer in charge of the Goulburn-based mounted police, to investigate further. Stewart unsuccessfully scoured the countryside for suspects over 41 days. He formed the impression that the attack had been 'motivated by plunder.'[2]

Extracts from contemporary newspapers reports, memory pieces and official investigations records relating to the attack and the reprisals are made accessible for interrogation:

**LEAD QUESTIONS**

QUESTION 1: Why did contemporaries think the attack at Broken River was more important than other violent encounters?

QUESTION 2: How did squatters and stockmen remember the ways they dealt with resistance at Broken River?

QUESTION 3: What part do peoples' published memories play in reaching understandings of the past?

QUESTION 4: Why did the Yoorrook Justice Commission think that reprisals and the introduction of policing after the attack at Broken River were significant?

QUESTION 5: In what ways do accounts of the consequences of the 'most furious attack' at Broken River remain contestable?

**INTRODUCTORY READING**

https://en.wikipedia.org/wiki/Battle_of_Broken_River

**SOURCE 1: Newspaper report**

*Sydney Gazette* published its comments and a report from *The Herald* (Melbourne) of an attack at Broken River on 22 May 1838.

Port Phillip

A gentleman who arrived overland from Port Phillip the other day, informs us that the intelligence of the murder of so many of Mr Faithfull's men by the blacks on their route to Port Phillip **has spread great consternation** over the settlement, where it is looked on as amounting to an **actual prohibition of all intercourse by land with the parent Colony**.

A party of the Mounted Police, under the command of Lieutenant Smyth, who had been dispatched in search of the murderers, had returned unsuccessful, **their orders being not to fire on the blacks unless for self-preservation**.

They had stumbled upon a party of **nearly 300 natives, well-armed**, surrounding an immense fire, on which a bullock, or some similarly large animal (it was impossible to discover what), was being roasted. On discovering the police, the blacks started up and brandished their spears, which no persuasion would induce them to lay aside, the [mounted police] party was consequently compelled to retreat without accomplishing their object.

The survivors of Mr Faithfull's party strenuously persist in denying that any act on their part provoked the commission of the outrage; indeed, from their statements, it would appear to have been **a deliberately formed scheme, which had been in contemplation for some time previously.** It may be that their statement is true, but we feel assured from our own observation of the manners and customs of the Aborigines, that **some aggression on the part of the whites**, if not of Mr Faithfull's party, probably of some party that preceded his, must have excited the blacks to the commission of so horrible an outrage.

To protect the travellers by land to and from Port Phillip, it has now become a matter of absolute necessity, that **stockades, manned by an adequate military force, should be stationed at regular distances along the route**; until that is done there can be no safety for the traveller, and all communication by land must necessarily cease …

The following account of the massacre of Mr Faithfull's men, we extract from *The Herald* of yesterday:

The murder of Mr Faithfull's servants, by the blacks, having created a **more than ordinary sensation** among the settlers in the interior, we have obtained the following authentic particulars of that desperate outrage. It appears that on the morning of the 11th ultimo [current month], a party of men in charge of Mr Faithfull's sheep, on the route to Port Phillip, were preparing to proceed from the Winding Swamp, [Broken River] about thirty miles beyond the Ovens River, on their way to the Goulburn, where it was understood that good sheep stations might be had; and while the bullocks were being yoked, the men with the drays heard the shouts of the shepherds crying out for help.

These men, who were at a short distance from the encampment collecting their sheep, were presently seen running with great speed towards the dray, pursued by a body of blacks throwing spears after them. Their companions near the encampment, three of whom were armed with guns, immediately ran to their assistance, and, if possible, to drive off the blacks, who by that time were within three or four hundred yards of the camp. One of these men, named Bentley, fired his gun in the air, thinking that such a display would intimidate them – but it had no effect.

The blacks still came forward, cautiously sheltering themselves behind the trees in their path, until, when within near approach of the adverse party, one came forward and was in the act of deliberately poising his spear, when Bentley shot him dead, and was himself, immediately after, pierced with three

spears. This unfortunate man [Bentley] was last seen desperately fighting with the butt end of his musket.

The combat now became general; **spears flew in all directions, and several shots were fired without effect,** owing to the caution exercised by the blacks of interposing the trees between themselves and the defensive party, but still gradually closing upon the latter. It was now seen that further resistance would be of no avail, and that in flight lay the only chance of safety as the blacks continued to increase in numbers as they advanced.

There were fifteen in all of Mr Faithfull's servants, out of which number seven were killed by the blacks, and one other so severely wounded that his recovery is considered hopeless. When attempting to make their escape, a line was opened by the blacks, consisting of about one hundred and fifty in number, who thus speared at the fugitives right and left as they passed. At about a hundred yards distance from the scene of this outrage, another strong party of armed blacks were drawn up, doubtless as a reserve, but they took no part in the contest. There could not, we are assured, have been fewer than three hundred fighting men present – not an old man was seen among them.

The party in charge of the sheep and cattle had remained at this particular place from the Saturday previous, waiting the arrival of Mr George Faithfull, who was only a day's stage behind, and was then momentarily expected. During their stay, every precaution was taken by the overseer and the rest to **keep on friendly terms** with the natives, who constantly hovered about the encampment in groups of ten or twenty at a time. So friendly did they appear that neither the overseer nor any of the men, save Bentley, anticipated any hostile intention; but his suspicion was excited by the fact of **no women** appearing at any time among the blacks, and by finding, while going his rounds as guard the night preceding the attack, **a large number of spears** at a short distance from the camp, which he concealed.

All the sheep, except a hundred and thirty, we understand, have been recovered, and some of the cattle; the remainder, it is expected, may also be recovered **when a party sufficiently strong to protect themselves from the blacks** can be formed to go in search of them.

QUESTION 1: Why did Lieutenant Smyth fail to make any arrests?
QUESTION 2: Why might the survivors insist this was a 'deliberately formed scheme which had been in contemplation for some time previously'?
QUESTION 3: Why does the reporter insist that the attackers used clever tactics to overcome the overlanders?
QUESTION 4: How do the two newspapers explain the hostility of the attackers?
QUESTION 5: How does the *Sydney Gazette* think the route could be make safe to travel?

## SQUATTERS AND STOCKMEN REMEMBER THEIR RESPONSES

In retirement, Superintendent C J La Trobe proposed to write a history of his time at Port Phillip. He wrote to early colonists in 1853 asking them to recall their first years in the colony. La Trobe specifically asked for information about Aboriginal people.[3] Dr George Edward Mackay, George Faithfull and Peter Snodgrass were among the fifty who responded to La Trobe's invitation and told him of their experiences, focusing on the difficulties they had overcome as La Trobe had requested. Overall, they seemed intent on telling La Trobe that they did not feel supported in their pastoral endeavours by government. All three were directly affected by the attack at Broken River when Faithfull's men were attacked. Mackay was forced to abandon his run as his men panicked and left the place. Snodgrass organised a punitive party of armed squatters and their men at Albury 'to birch the blacks' with indiscriminate killings at King River about ten days after the attack. [4]

**SOURCE 2:** ***Dr George Edward Mackay recollections*** [5]

Dr George Edward Mackay had arrived in Australia as a ship surgeon in 1836. He ventured south in 1838 and took up a run at Myrrhee, on the King River, near Greta. Mackay abandoned the run because of the attacks at Broken River scared off his workers. He returned shortly afterwards to take up a property he called 'Warouley,' opposite George Faithfull's run on the Oxley Plains. His first run at Myrrhee was later owned by John Chisholm.

**A panic seized the servants and they deserted their employers**. Bowman, Faithfull and White, **abandoned their cattle on the runs**, and I was left alone with three assigned servants, my freemen having absconded. In a few days these assigned men told me they would stay no longer but offered to assist me back to the settled districts with the stock. I was thus **compelled to leave** the Ovens.

I took my stock back to the Hume river. On my return to the Ovens in about six months' time, I found that Chisholm had taken possession of Myrrhee and I settled at Waraley [Whorouly], which I still hold…

I may mention as specimen of the **fatigue** undergone by the earlier squatters that for six days and nights before I left the Ovens I never lay down, being engaged all day in herding the cattle and all night in walking around them. I was alone − one of the men being similarly employed with my sheep, and the other two in removing and guarding the stores. As soon as the necessary exertion ceased, I was seized with oedematous swelling [buildup of fluids] of the legs and eyelids I could neither see nor walk and was carried back to the Hume on a dray.

**SOURCE 3:** ***George Faithfull recollections***[6]

George Faithfull had ventured south in 1838. Overlanders moving stock for George and his brother William were attacked and eight killed at Broken River. Consequently, the Faithfulls abandoned a run they had taken up at Bontherambo, which was then taken up by Rev Joseph Docker. William Faithfull returned to Springfield near Goulburn and George took up a property on the Oxley Plains, near Wangaratta.

The country was left to us for some years in consequence of **the hostility of the blacks**, which became so unbearable that I **could not keep shepherds, although well-armed**, without employing a horseman in addition to myself to keep continually perambulating the woods lest the natives might cut them off. During my employment in this way my cattle were destroyed in numbers within the short distance of only six miles [10 km] from my hut … I and my men were kept for years in **a perpetual state of alarm**. We dared not move to supply our huts with wood or water without a gun, and many of my men abandoned from my service …

At last, it so happened that I was the means of putting an end to the **warfare**. [He described an incident in which his party were attacked by 'hundreds of painted warriors.'] It was my time now to endeavour to repel them. I fired my double barrel right and left, and two of the most forward fell; this stopped the impetuosity of their career. I had time to reload, and the war thus begun continued from about ten o'clock in the morning until four in the afternoon. We were slow to fire which prolonged the battle and 60 rounds were fired and I trust and believe that many of the bravest of the savage warriors bit the dust … The fight I have described gave them a notion of what sort of stuff the white man was made, and **my name was a terror to them ever after**.

I picked up a boy form under a log, took him home and tamed him and he became very useful to me, and I think was the means of deterring his tribe from committing further wanton depredations upon my property; my neighbours, however, suffered much long after this.

**SOURCE 4: Peter Snodgrass' recollections**

Peter Snodgrass, the native-born son of a soldier, moved overland in 1838 to take up a property at Muddy Creek on the Goulburn, near Yea. After the attack at Broken River, he organised and led a group of vigilantes seeking revenge. After the attack on Whorouly, he was successful in bringing charges against the group who had attacked his station at Yea in March 1840.

The number of aborigines on the Goulburn and its tributaries at the time of my settling there was probably about five or six hundred. They were generally scattered about in small tribes in various parts of the rivers and creeks but occasionally collected in large numbers. At first they killed several of the men in the employment of the settlers, and some of their sheep and cattle. But by using **conciliatory measures**, they gradually became **well disposed** toward the white inhabitants. From the statement of the natives themselves, they seem to have been more numerous some years before our arrival amongst them, but they suffered severely from the smallpox, of which disease many of them bore evident marks … From their first acquaintance with the white population, **their numbers have diminished from disease and other causes**, until they are perhaps scarcely one-fifth of the number above stated, and it seems probable in a few years they will become **extinct**.[7]

QUESTION 1: Why was Dr Mackay compelled to leave his run?
QUESTION 2: Why did he feel stressed?
QUESTION 3: How did Dr Mackay and George Faithfull emphasise the unease of the time?
QUESTION 4: Why did George Faithfull boast of his name becoming 'a terror to them ever after'?
QUESTION 5: Robinson noted that First Nations warriors had speared more of the stock belonging to Faithful than that belonging to his neighbours. Why? (Robinson, *Journal* 24 November1843}.
QUESTION 5: Why did Peter Snodgrass not draw attention to his part in retaliating against the attackers at Broken River?
QUESTION 5: What 'conciliatory measures' might have won First Nations Peoples to be 'well disposed'?
QUESTION 6: How might the notion that the First Nations Peoples were becoming extinct have affected the ways pastoralists chose to live with them?

**SOURCE 5: Remembering reprisals (1875)**

On the eve of the centenary of the American Civil War, the Colonial Secretary requested Australian newspapers to prepare articles to help Americans 'get a picture of life in Australia.' The articles would be sent to the International Exhibition at Philadelphia.[8] The *Border Post* published its contribution on 7 August 1875.

The newspaper historian gave an account of the development the border district, explaining the importance of Hume and Hovell and Robert Brown in founding Albury. He traced the beginnings of the agricultural, pastoral and mining industries, the separation of Victoria and subsequent inter-colonial trade wars. He made special mention of the first settlers, the first townspeople and the first public buildings. He showed American and local readers something of the progress of the town and district.

He included a section headed 'Blacks' which explained that pastoralists and farmers found Aborigines an impediment to settlement. His account included Bill Thomas's recollection of his early encounters.

'[By the end of the 1830s] the district resounded with the crack of the stockwhip' as pastoralists ventured into and through the district. Their journeys were dangerous as shown with the 'dreadful news' of the attack on Faithfull's men at Broken River …

The blacks in those days were very numerous and treacherous, so much so we were obliged to carry arms for protection. Not only were our cattle and horses maimed and slaughtered, but our lives were in danger …

[Bill Thomas told stories of violent encounters within three months of each other. Thomas was introduced as] 'Dr Mackay's stockman, a good bushman and able tracker.'[But more importantly] 'Thomas was a most diabolic fellow – a perfect tiger – who determined to have his revenge on the natives. He was not alone, indeed, there were others amongst us who thirsted for satisfaction.'
[First, Thomas told of his escape from a group of fifty natives] all bedaubed with war-paint and bent on slaughtering us if not feasting on our bodies.
[Second, he told how he helped capture a group of sixteen] headed by then celebrated, much-feared, and diabolical cannibals, "Harlequin" and Merriman." He detailed a grisly reprisal attack against 16 men and their two leaders:]

We hemmed them in, bound them, and marched them prisoners to an old hut on Mr George Faithfull's run. The bullock driver was directed to fetch a few loads of firewood, for I assure you, it was our intention **to burn them alive !**

We stood guarding the hut until the last load of wood was carted, when lo! who should gallop up on the [chance] but **Major Nunn and Captain Christie, followed by six mounted troopers**. It was our turn to look dismayed. The whole of us were placed under arrest. The officers and soldiers could perceive what our intentions were. The blacks were at once liberated, and to see the agility with which they cleared the piles of firewood and bounded over the country and out of sight was one of the most marvellous sights I ever witnessed.

Had **the 'coves'** not been with us on this occasion and taken part in the proceedings, it is highly probable that the whole of us would have been marched to Melbourne, tried, and probably hanged…

[The newspaper historian added comments after Bill Thomas' tale:]

The blacks, no doubt, were **numerous and savage** in those days. They were mercilessly shot down, and **to the disgrace of humanity**, be it said, many were shot for mere pastime. Albury in the present day – 1875 − does **not boast of a single Aboriginal**. Intertribal wars, the rifle of the Europeans, whisky, tobacco, and contagious diseases have combined to wipe them off the plains of the Murrumbidgee, and those who for years roamed in all the freedom of the savage through the Riverina district are gone, and nothing left of their [indecipherable, presence?].

QUESTION 1: Why did the newspaper historian consider it important to trace early encounters with First Nations Peoples in a history of the district?
QUESTION 2: Commissioner Henry Bingham named Thomas as one of four white stockmen who First Nations Peoples did not like: First Nations women sang a song against him: "William Thomas as a saucy fellow set his Dogs at poor Black fellow and one of them fastened on him and the black native speared the dog and rejoiced" (See page 52).
Was Bill Thomas a credible informant?
QUESTION 3: What does the tale Thomas told in this newspaper story add to his reputation?
QUESTION 4: Roger Milliss noted that, after proclaiming the success his party of mounted policemen had in dealing with bushrangers near Yass, Major Nunn became silent about the rest of his trip south. However, the context of Thomas' story suggests he may have mistaken Major Lettsom for Major Nunn. Why did Major Nunn (or Major Lettsom) not report the violence he and his men interrupted?
QUESTION 5: Who might 'the coves' have been? Why might they have been successful in stopping report of the incident?
QUESTION 6: Why does the newspaper historian conclude with (i) an assertion of the extermination of local First Nations Peoples and (ii) bemoan the lack of humanity revealed in stories like that just paraded?
QUESTION 7: Is the newspaper historian more intent on conveying a sense of fear and excitement in the 'stirring times' or on admonishing those involved in murderous activities?

**SOURCE 6: Remembering reprisals (1883)**

Eight years after that stockman's memory appeared, another was reported. James Howard told a group of visitors about the King River massacre.[9]

The King River takes its rise in the Wombat Ranges near Mansfield, and flows almost directly north to Wangaratta where it joins the Ovens …

After lunch, one of the oldest men about the place made his appearance. He was a shepherd, named James Howard, aged 83 years – a stout, weather beaten, rather grizzly looking old man. He was a shepherd on Faithfull's run, Oxley Plains, when **a terrible slaughter of the blacks took place about 42 years ago.** Faithfull had crossed over from the Sydney side and had taken up land about Euroa and Oxley.

Four of his stockmen were murdered by the blacks near Euroa – just on the spot on Faithfull's Creek where the station which was stuck up by the Kelly gang now stands. The blacks then crossed over to the Oxley or King River plains and played sad havoc with Faithfull's cattle and sheep there, where upon the **stockmen, shepherds, and hutkeepers** turned out, mounted and armed, to the number of about **18**, fell upon the blacks in camp on the bank of the King above Oxley, and **massacred them.**

**About 200 were killed on the spot, and the others were pursued for miles up the river, until all, with one or two exceptions, were exterminated.** Howard is extremely reticent as to who were actually engaged in the slaughter, and when first questioned on the subject said, "Don't you know there were seven men hanged in Sydney for killing a gin? **It is not for me to say who was there**." He, however, vouchsafed the following summary of the proceedings:

"**In 1841 the blacks here were very bad**. They were spearing the cattle on the plains, and the poor beasts were running about by the score with spears sticking in them. They also rounded 400 or 500 sheep up, and rushed them into the King River, and walked over them as on a bridge. Faithfull's men had then to go out to protect the stock and the shepherds.

Of course, a slaughter followed. There were some 300 blacks, and we came upon them on the Oxley Plains. We followed them up the river, and only three of them escaped. **The dead bodies were left for the crows to pick**."

QUESTION 1: How might it be ascertained if James Howard was credible informant?
QUESTION 2: Why was he 'extremely reticent'?
QUESTION 3: What prompted the reprisal?
QUESTION 4: What weight should be given to an old man's yarn to a group of visitors?

**SOURCE 7: The Yoorrook Justice Commission remembered Broken River**

The Yoorrook Justice Commission's report *Truth Be Told* in 2025 was intended 'to reclaim Victoria's history by presenting a new perspective that privileges voices and stories previously overlooked or deliberately suppressed.' The report gives special attention to the reprisals on Oxley Plains, George Faithfull's property.[10]

THE KILLINGS ON THE OXLEY PLAINS, SOUTH OF WANGARATTA, REMAIN ONE OF THE BLOODIEST CHAPTERS IN VICTORIA'S HISTORY—BUT ALSO AMONG THE LEAST-KNOWN. Today, its site is **bereft of markers and monuments**. There is scant acknowledgement of the event among the historical societies of Benalla and Wangaratta. At the site of coordinates –36.52,146.391, you will find **no memorial** to what happened by the river. Perhaps what happened on the Oxley Plains brings **too much shame.** Anywhere between 150 and 300 Aboriginal lives were taken in the years that followed, part of an ongoing cycle of reprisal for alleged cattle and sheep theft – and in retaliation for what became known as the Faithfull Massacre, which occurred just days after

first contact in the region in April 1838. It remains the only recorded massacre of white settlers in Victoria at the hands of Aboriginal people.

Ten stockmen were overlanding cattle for William and George Faithfull when they camped at Broken River, unaware that they had made their fire on a significant Yorta Yorta meeting place. A few days later, nine more of the Faithfulls' shepherds arrived with 4,000 sheep, reportedly harassed Yorta Yorta women, and later claimed that sheep were missing.

At dawn on 11 April, as the stockmen prepared to leave, around twenty Yorta Yorta warriors launched a coordinated attack, killing eight shepherds while several others escaped. It was not a random act of violence. It was a ritual act of justice – likely in response to earlier killings of Yorta Yorta people by settlers along the Ovens River.

What followed, however, was not justice, but slaughter: **punitive expeditions sanctioned by the settler colony,** in which dozens – and by some accounts, hundreds – of Aboriginal people were hunted and killed in reprisal, their deaths largely unrecorded, their names erased. We will never know their identities or their number. The events served as a clarion call to all the invaders to follow.

When it comes to the blood drenched Oxley Plains, though, the cloak is once again lowered and **memory is shrouded**. But the river remembers. It carries the weight of what was done there, whispering its grief through the reeds. The Oxley Plains had been a battleground long before the rifles and horses returned that day; long before the settlers scrawled their names across Country they would never understand. The people of the Waveroo/Waywurru had pushed back again and again, standing firm against those who demanded what was not theirs.

The Waveroo/Waywurru people fought with knowledge passed down through time itself, reading the land, moving unseen through the trees, striking where they could. They **refused to surrender to the hunger of empire.** For years the settlers had tried to break them. Poison in the flour, ambushes in the night, burning camps while the people slept. But still, they endured. Dawn on the day of the massacre probably broke like any other – soft, golden, the air alive with birdsong of cormorants overhead. But the stillness did not last. A band of settlers, hutkeepers, shepherds and stockmen, armed and on horseback, swept through like a storm, the gallop of the beasts rumbling the ground, their masters' rifles piercing flesh and air alike. There was nowhere to run. The river, once a place of refuge, turned to a graveyard. **Men, women, children: none were spared**. The earth swallowed the dead. The trees bore silent witness.

And when the killing was done, the land itself seemed to hold its breath. The settlers would call it victory, would tell themselves the land was now theirs: emptied, tamed. But the river knows better. It knows that **this was not conquest, only cruelty**. That the fight did not die with those who fell but was carried on **in memory and story**.

The Oxley Plains massacre was not an ending. It was the breaking point of a war waged in the shadows of empire—a war that has never truly ended. The cycle of retribution sparked by the killings of settlers was utterly **out of proportion** to the original event. The ensuing violence swept through the region for years, indiscriminate and unrelenting. Aboriginal men, women and children were hunted down, shot, poisoned; their communities fractured and scattered. These were not isolated bursts of frontier panic. They were **calculated acts of terror designed to clear the land for settler occupation.** Reprisals became a language of control, teaching any who remained the cost of resistance. **Loss of stock was answered with loss of human lif**e. And with each new killing, the settler hold on the land tightened, while the truths of what occurred were buried deeper **beneath the myth of peaceful settlement**. Today, we write this **not just as history, but as truth-telling; as reckoning**. To remind those who have forgotten – or who never knew – that the land has not

forgotten. That the resistance did not vanish with the dead. That their voices still echo and have made their way through time to reach these pages.

QUESTION 1: Why remark on the lack of a place memorial?
QUESTION 2: How does this account of the attack at Broken River parallel but differ from other accounts?
QUESTION 3: In what ways were the reprisals disproportionate?
QUESTION 4: What is meant by 'not a conquest, only cruelty'?
QUESTION 5: For what purpose was this account written? How does that purpose shape it?

**SOURCE 8: The political aftermath: a list of complaints, a proposal and threat made to Governor Gipps in June 1838**

Stephen Gapps, an historian, has speculated on the political aftermath of the attack among First Nations Peoples.[11] His speculations are well grounded with documentary evidence. Here we focus on the political aftermath for colonists.

News of the attack at Broken River reached Governor Gipps as he was explaining to Lord Glenelg, his superior officer in London, how he intended to deal with the aftermath of the Waterloo Creek massacre, which had involved mounted police under Major Nunn. The Imperial Government and the newly appointed Governor were insistent that Aboriginal people were British subjects and not aliens against whom war might be raged. Gipps intended to ensure that happened by issuing a Government Notice insisting on inquests into violent deaths of Aboriginal people involving whites. Further, the Commissioners of Crown Lands were to act as Protectors of Aborigines. [12] However, colonists responded furiously to the reports from Broken River, and elsewhere. They pointed out that the lives of people, their herds and flocks were jeopardised. Gipps decided it was politic to postpose his intended notice and it was not made until 21 May 1838.

In June 1838, Governor George Gipps was angry. Very angry. A group of 83 people influential people, including large landowners and wealthy merchants, had petitioned the Governor to wage war against the Aboriginal people in the colony – and, if he did not act, they would take things into their own hands. The exchanges Gipps had with the lead petitioner showed him to be determined to prosecute colonists who engaged in indiscriminate killing. This response foreshadowed the actions he did take, when he brought murderers at Myall Creek to trial and carried out their death sentences, before the year was out.

The Memorial [Petition]
That your memorialists **having a deep interest in the welfare and prosperity of the new settlement at Port Phillip**, and in the **peace and good government of this Colony** generally, conceive it incumbent on them to bring under the notice of your excellency and Honourable Council the state of that part of the country, arising from the hostility of the Aborigines.

That your memorialists have learnt with feelings of regret and alarm that certain tribes on the road to and in the neighbourhood of Port Phillip have **lately assumed a hostile attitude towards the sellers**, and have committed many murders and other outrages upon them; that they are assembled in large numbers, armed, and attacking such persons as are more unprotected and withing their reach, so that **many have been obliged to abandon their stations**, leaving, in some cases, their flocks and herds at the mercy of the hostile tribes; and that the intercourse by land between this part of the territory and Port Phillip, if it has not already ceased, has become one of imminent danger to life and property.

That your memorialists are **not aware of any aggression on the part of Her Majesty's white subjects** which would have excited the blacks to commit the excesses and barbarities, if fresh instances which almost every post brings the account, but believe the natives, unrestrained by moral principles, and placing little or no value on human life, have been stimulated by their naturel cupidity and ferocity in perpetuating the outrages of which they have lately been guilty …

That your memorialists are of opinion, that these untutored savages, not comprehending or appreciating the motives which activate us, **attribute forbearance** on our part solely to impotence or fear and are thus rendered only more bold and sanguinary …

It is only when they have become experimentally acquainted with **our power and determination to punish their aggressions that they have become orderly, peaceable and have been brought within the reach of civilization.**

That your memorialists fear, that if adequate protection be not afforded by the Government, the settlers **will undoubtedly take measures to protect themselves**, as it not to be supposed they will remain quietly looking on whilst their property is being destroyed, and their servants murdered, and your memorialists need hardly observe, that such a mode of proceeding would inevitably be attended with consequences of the more painful nature.

That your memorialists, in conclusion, respectfully entreat your Excellency and Honourable Council to take such energetic and effectual steps as will for the present repress, and for the future prevent, the aggressions of these hostile tribes, and protect the lives and property of Her Majesty's subjects who are engaged in the **laudable and enterprising pursuit of a pastoral life in the interior and the pioneers of civilization**, your memorialists being convinced the such a course will eventually prove to be the more humane and merciful.

82 signatures, 8 Jun 1838. [13]

QUESTION 1: How were the petitioners complaining about?
QUESTION 2: What did they propose?
QUESTION 3: What threat did they make?
QUESTION 4: How did the petitioners try to establish their own importance?
QUESTION 5: What were their attitudes to First Nations Peoples?

**SOURCE 9: Reporting Governor Gipps' response to the complaints, proposal and threat (1)**
*The Australian* newspaper reported Gipps responding angrily to the lead petitioner who submitted the memorial.

The following dialogue between his Excellency, Sir George Gipps and a wealthy grazier who waited on him for the purpose of requesting some measures might be taken **to put down by force, the aggressions of the blacks** in the southern districts may serve to enlighten …

Settler, – I have called upon your Excellency for the purpose of representing the dreadful state of the southern districts in consequence of the repeated aggressions of the aborigines

Sir George, – What do you require? The aborigines are subject to the laws of the country, which I apprehend are sufficient to protect everyone, both whites and blacks.

Settler, – It is impossible to apprehend the natives; and when they are apprehended they cannot be tried for their offences in as much as no person can interpret their language. **An armed force is the only remedy** that can effectually protect our interests,

Sir George, – It is a question of great difficulty. It cannot be expected that **every person who wanders into the interior** is search of pasture for his flocks and herds is to be protected by an armed force. The government cannot interfere, Sir, in the way you require.

Settler, – Then your Excellency, although I for one shall regret the result, still for our own protection, and for the protection of the lives of our servants, and flocks and herds, **we must take the law into our own hands.**

Sir George, – Very well, Sir, you can do as you like, but you will remember that if either you or your servants commit any murders upon the aborigines, or if you abet them in doing so, and either you or they are tried for it and found guilty, so sure as my name is GEORGE GIPPS, so sure shall you or they **be hanged!**

Correspondent, – We received the above from a respectable correspondent, who pledged himself that that is the substance of a conversation which took place between the Governor and a gentleman of large possessions in the southern country. Editor. [14]

QUESTION 1: Why was Gipps angry?
QUESTION 2: Why was this exchange made public?

**SOURCE 10: Reporting Governor Gipps' response to the complaints, proposal and threat (2)**

The Sydney Herald published an editorial repeating the complaints by the influential settlers and endorsing their proposal to take vigilante action. [15]

It is stated that some gentlemen having recently called upon the Governor, requesting that **prompt measures would be taken, by means of despatching a sufficient armed force, for the protection of the Southern parts of the colony against the increasing aggressions of the blacks; His Excellency replied that the aboriginal natives are British subjects, and can only be dealt with in the usual course of law.**

We confess, that when we first heard this statement, we did not very well understand it; but as it has gone the round of all the Sydney newspapers uncontradicted, we presume that it is, at all events, substantially correct. Assuming, then, that it is so – let us see how the case really stands.

Sir George Gipps says **the aboriginal natives are British subjects**; and that any violation of the law by them can only be taken cognizance of in the ordinary course. Very well. Suppose an organised gang of white British subjects were to make their appearance in the Southern Districts of the Colony, committing murder and every other description of depredation – and who might be, moreover, so well acquainted with the intricacies and fastnesses of the surrounding forests, as to render it next to impossible that any ordinary diligence or exertion could succeed in checking their criminal practices; supposing, we say, the existence of such a banditti as this, and that the Governor were applied to for an armed force sufficiently numerous to hold out some prospect of capturing or destroying the ruffians, would His Excellency reply, in such a case – "I cannot assist you; **the bushrangers are British subjects. Catch them if you can, and then they shall be dealt with in due course of law"!!**

Admitting the right of the aboriginal natives **to be considered as British subjects, under the protection of British laws, they must also be considered as amenable to those laws.** Then, we ask, what has been their conduct in the Southern Districts of this Colony? Have they not waged **unprovoked war** against their fellow subjects, and by so doing **have they not violated the law?** Have they not assembled in large masses, and in arms, assuming a **hostile** attitude against other British subjects? And are we to be told that this is not sufficient for the Government to interfere, even so far as declaring military law in those parts of the country where outrages of the deepest dye have already been committed, and where the disposition to persevere in outrage has been so unequivocally manifested? Let us suppose that, after the government has **declined interfering to put down an**

**insurrection of savages, a strong-armed corps of settlers were to take the matter into their own hands – would the government then interpose?**

We think it would; we think we should then hear a great deal, indeed, about the **"poor blacks,"** and if we be told that, in such a case, the government would interfere – why, then our case is proved, which is, that, **among the "liberals," there is one law for black and another for white British subjects**. The fact is it will come to this – that the settlers, unless they witness a disposition to protect them (and that efficiently) against the aggressions of black British subjects, **will take the matter into their own hands, and pursue savage robbers and murderers as they would the wild beasts of the forest**. And if any such calamity should unhappily come to pass, **the enterprising settlers who have braved the dangers of the Australian wilds**, will appeal to posterity, that they were driven to extremities by **the supineness or impotence of "liberal" governments**, whose sympathies and charities were exclusively excited by the possessors of an Ethiopian visage.

QUESTION 1: Why might enterprising settlers pursue hostile natives 'like the wild beast of the forest'?

QUESTION 2: Why did it seem to the editor that there was one law for the black and another for white British subjects?

**SOURCE 11: The proposed military posts**

The siting of military posts required careful consideration. Advice was sought from George Stewart, the investigating magistrate and Lieutenant Richard Waddy of the Mounted Police, but Gipps settled on the locations recommended by Samuel Augustus Perry, the Deputy Surveyor-General.[16]

Gipps told his superiors in London:

Your Lordship will not fail to observe, that of the outrages enumerated in the accompanying list, some took place 200 or 300 miles [322 or 483 km] to the north of Sydney, others at more than 500 miles [807 km] to the south, and some [at Geelong, the western limit of Port Phillip] at a still greater distance.

In order to keep open the communication between-Sydney and Port Phillip, it is my intention, with the concurrence of the officer in command of Her Majesty's troops, to establish **military posts on the road**; and I forward a sketch, on which the places of these proposed posts are marked, they being, as your Lordship will perceive, the places where the road crosses the following streams on the way, viz. the Murray, the Ovens, the Violet Creek, and the Goulburn.

It was between the Violet Creek and the Ovens, and at a distance of 400 miles [644 km] from Sydney, that the attack was made on Mr Faithfull's convoy of sheep and cattle, on the 11 April last, in which seven of his men were killed, and all the rest dispersed. These men (who were chiefly convicts) **did not defend themselves**, but ran at the first appearance of their assailants, though, as there were 15 of them, with firearms in their hands, they ought to have beaten off any numbers, however great, of naked savages.

As soon as information reached me of this aggression, I sent **a magistrate with a party of the mounted police**, under an officer, to the spot; but, after a fruitless search of 41 days, they returned without having seen a single native. I thought it right that a civil magistrate should accompany the party, and I have the honour to enclose to your Lordship a copy of the instructions with which I furnished him.

The third outrage enumerated in the list which I lay before your Lordship, is one, I lament to say, **committed not by the blacks, but on them** [at Myall Creek in the north]. As yet I have received no

official report of the circumstances of the case, though I have, in like manner as in the one just mentioned, sent a civil magistrate and a party of mounted police to inquire into it and collect evidence, and to bring, if possible, the offenders to justice. There is too much reason to fear in this case 22 human beings, including several women and children, have been **deliberately put to death by a party of white men**; and this occurrence happened, not in the neighbourhood of the spot where the attack on Mr Faithfull's men was made, but at a distance perhaps of 500 miles [805 km] to the north of it.

[Gipps attached a detailed 'sketch map' that showed the huge distances and the sites of the two affrays. See Mapping Dispossession.] [17]

QUESTION 1: Why did Gipps feel the need to impress London with the huge distances involved?
QUESTION 2: What might Gipps have expected to be the impact of coupling his report of his actions after the attack at Broken river with the news of a massacre at Myall Creek?
QUESTION 3: What were the proposed military outposts expected to do?
QUESTION 4: Why were major river crossings considered good vantage points?

**SOURCE 12: The proposed settlement towns**

Gipps adopted the well-worn military strategy of securing occupation of new territory with the development of settlements that fortified the new holding. He ordered towns to be established at the military post sites.

The new mounted police posts along the route from Yass to Port Phillip will provide 'for the **protection of Colonists** frequenting the route and to provide for the **apprehension of [*convict*] runaways** … [and] **open the new country** for settlement beyond the limits of location.'

[Gipps endorsed the Deputy Surveyor General's proposal to establish townships near all the huts as] 'regular halting places or posts of protection' with 'post houses and houses of public entertainment' at the principal crossing places – the Murrumbidgee, the Murray, Ovens, Broken and Goulburn Rivers and Violet Creek.[18]

A survey in July-August 1838 fixed the site for a police hut and town at a crossing place called Bungambrawatha on the Murray River. The hut was built on what was called Deer.re.mer hill in October 1838, shortly before another was built at Broken River. The building of a third hut at the Goulburn River was managed from Melbourne about the same time. The survey was approved and the town was called 'Albury' in April 1839.

QUESTION 1: Why would settlement towns help secure the route and fortify colonial possession of disputed territory?
QUESTION 2: How would colonists be attracted to move to the towns and live in them?
QUESTION 3: How might the new settlement towns affect the way First Nations Peoples lived?

**SOURCE 13: The Yoorrook Justice Commission reflected on the introduction of British law and order.**

In 2025, the Yoorrook Justice Commission advanced argument on the importance of remembering how policing was introduced in the Port Phillip district.[19]

To understand the roots of injustice in Victoria, we must return to the point where law and violence first converged on this land—when the apparatus of the State was **not designed to protect First Peoples, but to pacify and contain them**. From the earliest years of invasion, policing in Victoria was informed by the needs of a settler colony intent on taking land and crushing resistance.

As Dr Bill Pascoe [University of Newcastle] told Yoorrook, these were not chaotic or accidental clashes resulting from frontier panic—they were killings by design. The colonial authorities, he explained, **made a deliberate choice in the creation of their police forces**. 'The role of the police in this is quite important,' Pascoe explains. 'At the time, there were two models for the police to be based on. One was the London Bobbies [...] the other model was the Irish mounted police.' The latter—a force specifically trained for **repression and restraint**—was the archetype chosen for the colonies. In Australia, 'the main risks that they saw at the time were convict insurrection, bush ranging [...] and Indigenous insurgents,' Dr Pascoe testified. These were not urban populations **to be protected**, but rural populations **to be subdued**. 'So clearly the model they were following was the Irish mounted police, designed to suppress.' In other words, **the task was not to uphold peace but to enforce dispossession**.

**Aboriginal people were not seen as citizens to be protected, but as obstacles to be subdued.** From the reprisals at Broken River to the widespread operations of the Native Police Corps, policing in Victoria emerged as a martial structure. This was not the failure of an otherwise fair system. It was the system, **right from the start. Its legacy would ripple through generations**. From the very beginning of invasion, then, the policing of Aboriginal people in Victoria was never neutral. It was martial in form and colonial in function, trained to **extinguish resistance. That legacy would echo well beyond the reprisals at Broken River.**

QUESTION: Why do such perspectives on the introduction of policing matter?

REVIEWING THE LEAD QUESTIONS: In what ways do accounts of the 'most furious attack' at Broken River and its aftermath remain contestable? What questions remain unanswered? How do you suggest they be approached?

**FURTHER READING**

Hamish McPherson, '"Original Rights": Colonial invasion and Aboriginal resistance in Benalla and northern Victoria, 1838-1858,' 2023, pp.18-19.

Stephen Gapps, *Uprising: War in the colony of New South Wales*, 1838-1844, NSW Press, Sydney 2025, pp. 1-16; pp. 170-184.

Roger Milliss, *Waterloo Creek: The Australia Day Massacre of 1838, Governor Gipps and the British Conquest of New South Wales*, McPhee Gribble, Penguin, Melbourne 1992, pp. 246-255; p. 262 and pp. 271-273.

**ENDNOTES – INVESTIGATION ONE: A 'MOST FURIOUS ATTACK' AT BROKEN RIVER, 1838-39, RESISTANCE AND REPRISALS**

[1] Smyth to Lonsdale, 22 April 1838, Michael Cannon ed, *Historical Records of Victoria,* vol 2A, *The Aborigines of Port Phillip, 1835-1839*, Victorain Government Printing Office, Melbourne, 1982, p 321.
[2] Stewart to Colonial Secretary, 20 June 1838, *Historical Records of Victoria*, 2A, pp 332-334, Cited in Gapps*, Uprising*, pp 171-172.
[3] Dianne Reilly,' Letters from Victorian Pioneers to Governor La Trove, 1853,' *Journal of the La Trobe Society,* vol. 17, no 1, 2018, p 40.
[4] John Conway Bourke, *Letters*, RHS of Victoria, Melbourne, cited in McPherson, *Original Rights*, pp 14-16.
[5] 'George Edward Mackay,' T F Bride ed. *Letters from Victorian Pioneers*, Public Library, Melbourne, 1898/1969, pp 211-212.
[6] 'George Faithfull,' Bride, *Letters,* pp 217-221.
[7] 'Peter Snodgrass,' Bride, *Letters*, p 213- 216.
[8] Mark McKenna, *Looking for Blackfella's Point*, UNSW Press, Sydney, 2002.
[9] 'Settlement in Kelly Country,' *Argus*, 13 September 1883.
[10] Yoorrook Justice Commission, *Truth Be Told,* 2025: https://cdn.craft.cloud/06ad3276-b3d9-4912-bcbb-37795aade9a8/assets/documents/Yoorrook_Official-Public-Record_Accessible.pdf, pp.54-55 (image 29-30).
[11] Gapps, *Uprising*, pp 10-16.
[12] Gipps to Glenelg, 27 April 1838, *Historical Records of Australia,* XIX, pp 897-899. See also *Historical Records of Victoria,* 6, pp 355-376.
[13] King et al to Gipps,*Historical Records of Victoria, 2A,* pp 349-351.
[14] *Australian,* 22 November 1838.
[15] 'The Blacks,' *Sydney Herald*, 21 June 1838.
[16] *Historical Records of Victoria*, vol 6, p 208.
[17] Gipps to Glenelg, 21 July 1838, *Historical Records of Australia*, Series I, XIX , p 510.
[18] Gipps to Acting Secretary, 3 June 1838, 4/2476.1, *Colonial Secretary In letters*, ML.
[19] Yoorrook Justice Commission, *Truth be Told,* p 56, citing https://www.yoorrook.org.au/submissions/submission-dr-william-bill-pascoe