

Moira Swamp Massacre, 1843: Yorta Yorta Country

Submission to Yoorrook Justice Commission 6 May 2024

Please find detailed case study of the Moira Swamp Massacre in Yorta Yorta country, 1843. The submission is presented from my position as a Senior Yorta Yorta Elder, Traditional owner, and Fellow in the School of Social and Political Science, University of Melbourne. It is for the Yoorrook Justice Commission's Inquiry into "Historic Systemic injustice perpetrated by State and Non-State Entities against First Peoples since Colonisation." These include but are not limited to *massacres, wars, killing and genocide, or other acts of a similar gravity*" as specified in section 3. a) iv. of the Yoorrook Terms of Reference, 2021.

Background

Our ancestors may not have realised it in 1843, but they were on the frontier of an undeclared war. It was one that required resistance and defence of our sovereign territorial rights, and our community. The opponents were the invading pastoral colonists from a faraway land. They were the leaseholders in their homesteads employing shepherds who were dispersed around the property minding flocks of sheep and cattle de-pastured in Yorta Yorta country.

To assist the pastoralists, they were backed by a paramilitary force, the Border Police, and the treacherous Native Police force. In this encounter there was loss of life on both sides. The killing of white people however was very carefully documented, but the numbers of Aboriginal people killed in this war was covered up by the perpetrators. The tragic stories have only recently become a matter of more in-depth analysis. They are recorded in the 'Colonial Massacres Project 1788-1930, conducted by the University of Newcastle 2022.

Before invasion and colonisation, the Yorta Yorta population is estimated to be around 5,000 – 6,000. Colonisation and frontier violence had a major impact on river-based Indigenous populations. By the end of the first generation of contact (1835-1863), there was a shocking decline of 85% of the total Yorta Yorta population. Introduced diseases like the smallpox epidemics of 1789 and 1830 that spread along the river systems were the main killer. It

didn't stop there however, and mass deaths continued through Aboriginal resistance and frontier violence. The Victorian Aborigines Protection Board estimated that in 1863 there were only 365 Yorta Yorta survivors. If that trend continued at the time, the Yorta Yorta were certainly staring extinction in the eyes.

Victoria as a whole experienced the same decline. There were only 1,920 Kooris remaining out of an estimated pre-colonisation population of 15,000–20,000. Introduced diseases, settlers' guns, poison, and conflict over the ownership of land and resources were the main causes of the catastrophic population decline.

Yorta Yorta resistance was strong in the heartland around the Moira area where large numbers attacked Moira Station in 1843 with firebrands of spears, using bark canoes to retreat into the thick reed beds. The use of traditional knowledge and skills to defend country from white occupation were effective strategies. Indeed, the evidence suggests that at the height of resistance (1843–50), the Yorta Yorta were gaining the upper hand (Hagen, 1996:19; Christie, 1979:63; Cannon, 1993:141–42).

Moira Station became a refuge for local squatters. Henry Lewes reported:

Mr John Clark's people driven out by natives from their station down the Murray; A part of Messr's Gwynne's herd came here from the Edward's River driven out by natives; All Mr. Green's men came here having been driven out of his station down the Murray; Messrs Gwynne's again driven from station; Mr. Will's people came here for aid' (Lewes, 1883:7–8).

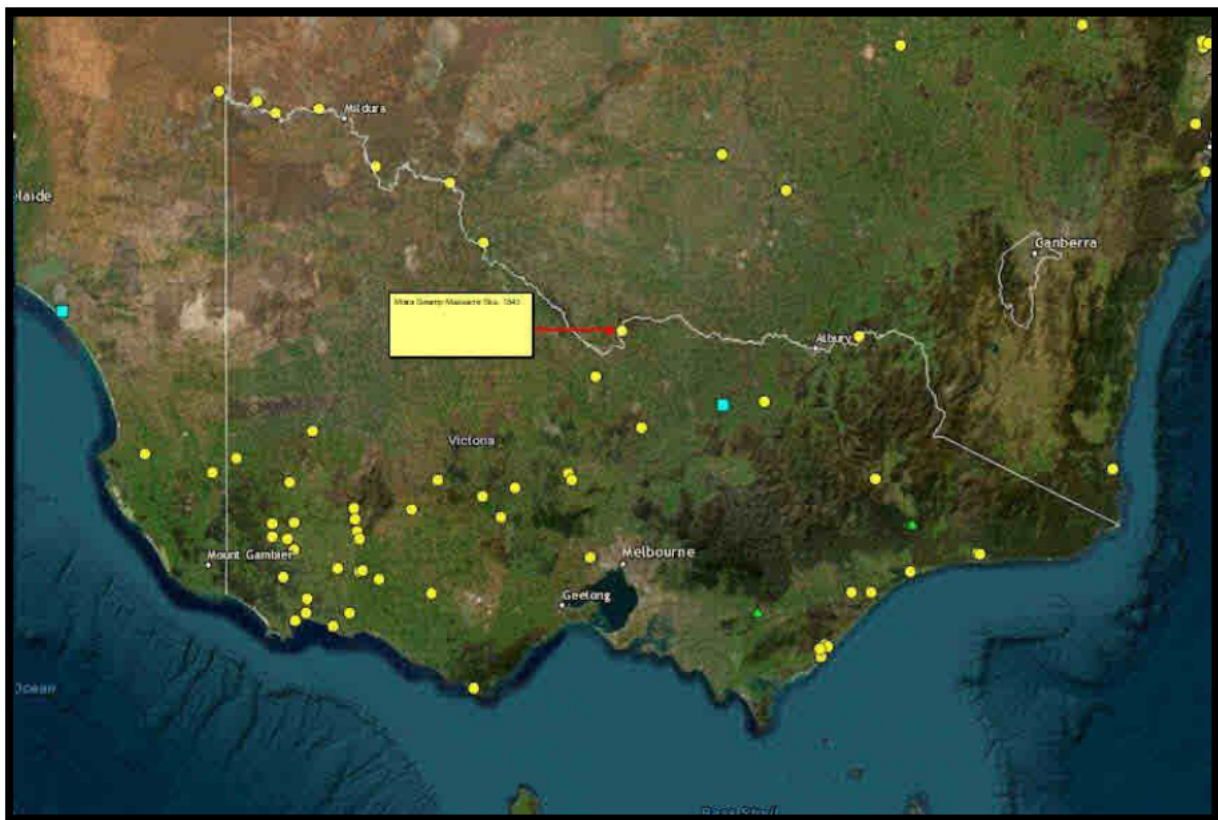
This was a clash of two opposing cultures and law systems. It was a head on battle over the ownership and control of land and resources. The clash between pre-existing and imposed laws inflamed the conflict. The invasion of imported stock into the delicate balance of the traditional lands and waters further intensified hostilities. The other cause of conflict arose from the violation of Aboriginal women, which led to attacks on the perpetrators for breaking tribal law.

We know that massacres did happen. Much research work has been done on the impact of colonisation by the University of Newcastle with the website

Colonial Frontier Massacres, 1780 to 1930 (Massacres Project). The project grew out the Aboriginal history wars in the late 1990s. The key questions included: What is a frontier massacre? Where is the evidence? Where did they take place? Were they widespread? Who were the perpetrators?

In the hearings of massacres in Victoria, Yoorrook Justice Commission heard evidence from University of Newcastle researcher Dr Bill Pascoe of the *Massacres Project*. Pascoe said there were 49 known massacres in Victoria. A massacre is defined as the killing of six people or more (Yoorrook Justice Commission Report, ABC News, 5 April 2024).

Moira Swamp Massacre, 1843



The University of Newcastle's map shows a large number of massacres during colonisation occurred in Victoria's. Location of the Moira Swamp Massacre is indicated with red arrow (ICPR, University of Newcastle).

One of the large-scale killings we know about in Yorta Yorta country is the Moira Swamp massacre of 1843. My great great grandmother Kitty was a young girl of about nine at the time, and her mother Maria was in her late 30s. Both would have known something about the massacre and may have been

directly affected. They were Moira people of the Yorta Yorta language group, all of whom gathered annually for ceremonial gatherings in the Moira at Algebonyah Plain and Maloga. Here important tribal business was discussed and marriages were arranged between traditional owner groups. The Moira forest wetlands and reed beds was the rich heartland of Yorta Yorta territory. It became a stronghold for Yorta Yorta survival and defence of their sovereign territorial rights.

The evidence about what happened on that day has been carefully re-examined by the *Colonial Frontier Massacres* project. The following account is based on information available from this research project as well as from Edmund Curr and Daniel Mathews' writings of the time.

On 15 December 1843, a violent encounter took place in the Moira Swamps between a pre-organised force of armed men and a group of Moira traditional owner families.

This was a top-level police and military operation.

Charles La Trobe, Superintendent of the Port Phillip District, ordered a reprisal expedition after squatters suffered the killing of two employees at Calimo Station on the Edwards River, and the loss of several hundred sheep at other stations along the River Murray. There was no evidence presented on the motivation for killing the two employees as Aboriginal evidence was not accepted in the Anglo court system of the time. The armed men were led by Henry Dana, commander of the Native Police Corps, and Henry Smythe, in charge of the Murray District Border Police. Each took a detachment of their mounted men to the Barmah and Moira Lakes. They were joined by a detachment of Henry Bingham's Murrumbidgee District Border Police. The invading party were accompanied by Henry Lewes, owner of Moira Station, his overseer John Oldbury Atkinson and Edward Hogg.

Yorta Yorta families, camping in the Moira as they had done for millennia, were confronted by the invasion of about 20 mounted men armed with 'Carbines and Swords' presumably led by the Native Police. The evidence about what happened was deliberately suppressed. The following details rely

on information from *Colonial Frontier Massacres*. Whether the Native Police played a part in the attack is unclear. They were certainly renowned for their traditional tracking skills and proved to be a 'brutally destructive instrument in the dispossession of Indigenous Australians. Armed with rifles, carbines and swords, they were also deployed to escort surveying groups, gold convoys and groups of pastoralists and prospectors' (Australian Native Police Wikipedia: Rowley, 1970).

The leader of the punitive party, Henry Dana, was quick to minimise any wrongdoing. Dana initially sent a brief report to his friend, Superintendent La Trobe 'saying that he had joined Smyth's party "on the Murray" and that his men had "behaved exceedingly well and were of the greatest use in the expedition" (Dana in Franklin 2021, p.45).

'However Assistant Protector William Thomas had already heard that several people were killed and confronted Dana about it. In response Dana "abused him...in a violent manner, damned and threatened to kick him" (Robinson 3 Jan 1844 in Clark 1998, p. 1). On 8 January 1844, the *Geelong Advertiser* reported that Thomas had charged Dana with "the murder of several natives" and that an investigation was under way.' Protectors were vested with the powers of Magistrates to report crimes and enforce the law in the colony.

Further evidence was presented to George Augustus Robinson, Chief Protector of Aborigines. 'On 4 January 1844, Dr James Allen, Robinson's son-in-law, and medical officer at Narre Warren Aboriginal station, met Robinson. Allen told Robinson that "the blacks had told him that a number of men also women were shot by Dana's party at the Murry [sic] and the children were knocked on the head with carrabines. They first sent a party to look for the natives and then went and planted themselves in a scrub and sent two or three troopers to round or drive them up like sheep to be large party carrelled; they then commenced firing and shot some of them in the river etc." Dana told Robinson that "he had had a brush with the natives. He went to the Murray by the Campaspe [Yakoa River] and returned said 20 men, one woman, five children were shot.'" (Robinson 5 January 1844 in Clark 1998, p.2) (*Colonial Frontier Massacres in Australia*).

The inquiry was a coverup. It exonerated Dana but did not record the number of people killed (*Port Phillip Gazette* 31 January 1844).

‘However, on 17 April 1844, former Sergeant Edward Broderick of Smythe’s mounted border police, wrote to La Trobe complaining of his recent dismissal from the force and that he had kept quiet about the illegal shootings of Aboriginal people at the Murray River on 15 December 1843. Smythe and his men had attacked an Aboriginal camp and shot men, women, and children ‘indiscriminately’ and that his evidence could be supported by the three settlers and Sgt James. (Broderick to La Trobe 17 April 1844 in Franklin 2021, pp. 46-49) La Trobe demanded an explanation from Smythe and the three settlers. However, they all said that they fired in self-defence and there was no indiscriminate firing. Smythe said that two Aboriginal men were killed and one woman was wounded in the wrist. Edward Hogg said that Broderick did most of the firing. (Smythe to La Trobe 26 April 1844; Statement by Edward Hogg, 5 June 1841 in Franklin 2021, pp. 54-9).

‘The inquiry came to an end in August 1844, when the Colonial Secretary in Sydney said that Governor Gipps could see ‘no reason to suppose that Mr Smythe encouraged or sanctioned the exercise of any unnecessary severity towards the Natives, on the unfortunate occasion of his collision with them in the Swamp called “Moirá” (Col Sec to La Trobe 16 August 1844 in Franklin 2021, p. 61). This incident is one of very few that led to two formal inquiries. In each case the ringleaders, Dana and Smythe, were exonerated.’

The conclusion reached by the *Massacres* project is that twenty-six Aboriginal victims were killed and no attackers were found guilty of murder. (*Colonial Frontier Massacres 1788-1930*).

The criminal intent of this incident illustrates ‘the profound misalignment between law and life’ that Henry Reynolds describes in his book *Truth Telling*. Governor Gipps in May 1839, issued a proclamation that the Aboriginal peoples were indeed subjects of the Queen and had an ‘equal right with people of European origins to the protection and assistance of the Law of England.’ Yet the governors themselves ordered punitive expeditions to strike

terror among insurgent bands. Enquiries were held, but no one was held accountable for Aboriginal murders. This failure of the law supported a community consensus that killing Aborigines was justified (Reynolds 2021:70-75).

Further to this violent attack, Edward Curr recorded an incident in which he was involved. He describes how 'the Blacks, who were to be taught manners' to punish them for feasting on a large number of sheep, were decoyed away from the river so they couldn't escape into the reed beds. The troopers now charged. Curr was one of the party and was armed with sword and pistols, but he dodged making any comment on what happened in the encounter.

Curr admitted that he didn't completely agree with the report prepared by the officer but was told that "civilians from first to last are ill fitted to describe collisions of the sort, being apt to blurt out statements more properly held in reserve" (Curr 1965:93,4). No deaths or injuries were reported. According to Curr most of the Yorta Yorta escaped into the river.

Curr further comments that 'those (Blacks) who firmly believed that unnumbered police troopers and officers in shell-jackets would be sent to the Moira to punish any undue indulgence in mutton on their part, became thenceforth quite reclaimed characters' (Curr 1965:97).

This murderous stage of colonial expansion is euphemistically called "pacification by force." Along the Murray the Yorta Yorta used their superior bushcraft to wage prolonged and effective guerrilla campaigns until they were finally overwhelmed by force of arms. Curr's propensity to make fun of his 'childlike sable friends' and minimise the seriousness of their illegal murder is hugely offensive to living descendants of the massacre.

One can only imagine how the massacre would have reverberated throughout Yorta Yorta minds and country. Attempts to accommodate the newcomers on their land were shattered. Now those white men who they thought were friendly, like Curr, had proved capable of extreme violence at the end of gun and sword.

The survivors would have been deeply impacted by the loss of 20 of their men, as well as women and children. Many of the women lost their husbands, their sons, their fathers. These men were not only a loss to their families but were the keepers of the law, knowledge and cultural traditions. These are the fine men that Curr first met and described in such glowing terms. He admired their physical mastery of canoe making which was used to cross the river and join him at his campfire. It was clearly an act of friendship to accommodate Curr as a newcomer to Yorta Yorta land and waters.

These same people are our ancestors who suffered the full brunt of Colonisation, invasion and crimes against humanity yet to be fully repaired. It goes direct to the question of 'how historical systemic injustice can be effectively and fairly acknowledged and redressed in a culturally appropriate way'. These are matters for investigation within the jurisdiction the Yoorrook Justice Royal Commission Inquiry, 2021-2025. Evidence already heard on these matters at truth justice hearings is alarming. Dr Bill Pascoe said that "Some of the things I've encountered in this research are the worst things I've ever heard of anyone ever doing to anyone in human history".

Twenty years after the Moira massacre Daniel Matthews was talking with old men at their camp on the Moira Lake. Matthews wrote in his diary how they shared an incident with him:

'At Maloga – early days (1840) – shepherd's tent – shepherd's gun - theft of flour etc. – vengeance – police – ran into the Lakes, shot down' (Cato 1976:51).

We will never know how many deadly encounters took place in Yorta Yorta country in the 1830s and 1840s. The repression of the truth is part of the fabric of forgetting which has characterised the colonists' way of coping with their shameful past. But the Yorta Yorta have not forgotten this traumatic period. This was only their first experience of brutality being used to control them. They may not have burdened their children with the details, they may have made fun of the white man and his sheep and guns in their stories and dances, but the scars remained. A distrust of the police and other white protagonists has never gone away. As for British law, there was no evidence that it would protect them or regard them as equal to the white man. Aboriginal law was based on clear justice principles, but where was justice when British law was enforced with such corrupt and double standards?

The survivors – Kitty and her children

After the massacres, women were abducted. Children worked as domestics on farms. People got sent to missions. Understanding this history makes it even more remarkable that Kitty's children, including William Cooper, Ada Cooper, and Pastor Eddie Atkinson, provided such strong and principled leadership. They took the best of the colonisers' values and forged them into tools of resistance.

Reparation Justice

Historians have re-examined the extent of frontier violence. Christie argues that between 15% and 25% of the Victorian Aborigines, died by the rifle alone. Historian Henry Reynolds claims that the number of Aboriginals killed by rifle in northern Australia was higher than the Australian lives lost in all the overseas wars.

The extent of violence over land is a tragic reflection of colonial race relations in Yorta Yorta country. Fortunately, the current Yorta Yorta population is about 5,000–6,000. The population recovery rate from near extinction is an extraordinary human achievement. A heroic example of human survival against the odds. Nonetheless, it is a sad reflection on the brutality of colonisation, not to mention the underlying human rights value of justice and equality before the law.

The award-winning documentary *Australian Wars* by Rachel Perkins is a chilling account of the injustices and crimes against humanity in Colonial Australia. On receiving the best Director award for the documentary at the Australian Academy of Cinema and Television Arts presentations Rachel said she hopes the series would change generations of Australians who are coming through schools. From the documentary 'they will learn a different story of this country's history' (Perkins, 2023).

Research, analysis, and First Peoples voices are all helpful for the emerging truth justice process in Victoria and Australia. The winds of change are blowing, and the tide of history has turned a full circle for this violent part of Australia's colonial history. These tragic events underpin our land struggle and remain indelibly embedded in the consciousness of Yorta Yorta people. Reparation for damage to culture and for acts of genocide are integral to our struggle for land justice.

References

- Atkinson, W.R. *Not One Iota: The Yorta Yorta Struggle for Land Justice*, PhD Thesis, School of Law, LaTrobe University, Melbourne, 2001: 94-108, 110-112).
- Barwick, D. 'Coranderrk and Cummeragunja: Pioneers and Policy', in *Opportunity and Response: Case Studies in Economic Development*, eds T.S Epstein & D.H. Penny, Hurst, London, 1972:15, 44.
- Cannon, M. *Black Land White Land*, Minerva, Melbourne, 1993: 12-14,104,165.
- Cato, Nancy. *Mister Maloga, St Lucia (Queensland)*, University of Queensland Press, 1976: 52.
- Christie, M.F. *Aborigines in Colonial Victoria 1835–36*, Sydney University Press, Sydney, 1979: 68-9,78-9.
- Cole, K. *The Aborigines of Victoria*, Keith Cole Publications, Bendigo, 1984:25.
- Curr, E.M. 1965, *Recollections of Squatting in Victoria: Then Called the Port Phillip District from 1841-1851*, 2nd edition, Melbourne University Press, Melbourne, 1965: 93-97.
- Hagen. R. *Report to the Yorta Yorta Clans Group on Yorta Yorta Associations with the Claim Area*, unpublished, 1996-1997:19.
- Lewes, H. *Report of inquiry into the Public Lands and the Operation of the Land Laws instituted 8 January (Extracts)*, Thomas Richardson, Government Printer, Sydney 1883:7-8.
- Perkins, Rachel, *Australian Wars*, SBS Television Program, 2023.
- Port Phillip Gazette* 31 January 1844.
- Rowley, C.D. *The Destruction of Aboriginal Society*, Australian National University Press Canberra 1970:71.
- Reynolds, H. *Truth-Telling*, University of New South Wales Press, Sydney, 2021:70-75.
- Ryan, Lyndall; Debenham, Jennifer; Pascoe, Bill; Smith, Robyn; Owen, Chris; Richards, Jonathan; Gilbert, Stephanie; Anders, Robert J; Usher, Kaine; Price, Daniel; Newley, Jack; Brown, Mark; Le, Le Hoang; Fairbairn, Hedy *Colonial Frontier Massacres in Australia 1788-1930* Newcastle: University of Newcastle, 2017-2022, <http://hdl.handle.net/1959.13/1340762> (accessed 08/04/2024).

University of Newcastle, Colonial Frontier Massacre Project. References cited in Moira Swamp Massacre 1843, Australia,1780-1930
<https://c21ch.newcastle.edu.au>

Wikipedia: The Australian Native Police
https://en.wikipedia.org/wiki/Australian_native_police

Yoorook Justice Commission Report, ABC News, 5 April 2024).

Yoorook Justice Commission 2021. Letters Patent, Terms of Reference 3. iv *massacres, wars, killing and genocide or other acts of of a similar gravity.*

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