

# KELLEHERS AUSTRALIA

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## Aboriginals and Early Law in Victoria

### ~ Mumbowran ~

This is a riveting tale of Aboriginal strength alongside bureaucratic neglect. It comprises contemporaneous newspaper accounts published in the Geelong Advertiser<sup>1</sup> about this time of year in 1841, describing the fate of a wonderful Aboriginal known as Mumbowran.

The Geelong Advertiser, at that time, was edited by<sup>2</sup> James Harrison<sup>3</sup> and owned by John Pascoe Fawkner. Harrison, who is most likely the author of the reports, was born near Renton, Scotland, circa 1816 as the son of a fisherman. He learnt the printing trade and moved into journalism upon his arrival in Port Phillip:

*"His standards were high, his policies broad and progressive; he was a fearless humanitarian, devoid of humbug and sectarian prejudice, with natural and acquired width of knowledge."*<sup>4</sup>

He would have been around 25 years old at the time of the incident.

#### 1. Saturday, 23 January 1841

MURDER BY THE BLACKS.--One of the aborigines, named Mumbowran, of the Barrarbool tribe, is now lying in the stone watchhouse at Corio, on suspicion of having committed murder. A letter describing the culprit was forwarded, it seems, to Mr Seivewright, who caused him to be lodged in the watchhouse by stratagem. Mr S. sent him with a parcel to the watchhouse, notice having been previously given that he was to be detained. Although thus brought to the very door, he was with difficulty captured. He is a powerful young man and made a desperate resistance. He planted his nails in one constable's jaw, and his teeth in the fleshy part of the arm, and held fast until he was almost benumbed by the blows from the other constables. Since his capture he has confessed that he assisted at the spearing of a black fellow, and afterwards ate his share of the body, but justified himself by saying that the black fellow whom they speared had murdered a white man just before. The murder alluded to was that of a shepherd of Mr Bloomfield's station. Even the authorities do not know the particulars of the transaction; no examination has yet been held; and we therefore refrain from giving publicity to several rumours the truth of which we could not vouch for

<sup>1</sup> The paper was renamed *Geelong Advertiser and Squatters' Advocate*, where on 28 May 1845 in its first edition it was noted that the newspaper was then "edited, printed and published by its Proprietor, James Harrison at his office, Yarra Street, North-Corio, Australia Felix", p8; for online records see:

<https://www.nla.gov.au/ferg/issn/14401401.html>, accessed 17/03/14; for a history of the paper see:

[http://en.wikipedia.org/wiki/Geelong\\_Advertiser](http://en.wikipedia.org/wiki/Geelong_Advertiser), accessed 17 March 2014.

<sup>2</sup> The various editions of the paper record that the newspaper was "edited by James Harrison, and printed and published for John Pascoe Fawkner (sole proprietor) by William Watkins at the *Advertiser Office*, Corio, Australia Felix", p.4; for online records see: <http://www.nla.gov.au/ferg/issn/14401398.html>, accessed 17 March 2014.

<sup>3</sup> For more information on the life of James Harrison see: L. G. Bruce-Wallace, 'Harrison, James (1816–1893)', Australian Dictionary of Biography, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/harrison-james-2165/text2775>, published in hardcopy 1966, accessed online 17 March 2014.

<sup>4</sup> Ibid.

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### 2. Saturday, 13 February 1841

MUMBOWRAN, THE ABORIGINE. This poor wretch has now been seventeen days in the watchhouse at Corio, without any formal charge having been brought against him. During the greater part, if not the whole of this time, he has been in irons, and, it is said, fed on bread and water; he is kept in a cell separate from the other untried prisoners, thus having solitary confinement added to his other miseries. This has been a most atrocious affair throughout. He has been protected with a vengeance. The pitiful cries of the poor wretch often disturb the neighbourhood. Where are the Chief Protector and his Assistant? The latter, we are aware, visited the prisoner once; we know not what passed, except that the black roared with agony; and relapsed into his first fit of terror, from which he was then recovering. He is one of the best-looking aborigines we have seen, young, well-formed, neat limbed, and of great strength; his behaviour has been such as even to draw pity from the constables; when he raves about his "pickaninny Mara" (his child, a few months old) his tears are quite touching, and hardened must he be who would be ashamed to sympathise with him.

In the absence of any official examination, it is difficult to arrive at the truth of the affair which has led to his imprisonment. The following particulars may, we think, be depended upon: — A wild black fellow (Mumbowran belongs to the Barrarbool tribe, who consider themselves civilised, and look upon the others as barbarians!) — a wild black fellow was guilty of attempting to murder a shepherd near Lake Colac. The Barrarbool tribe took the law into their own hands, and wreaked their vengeance upon the guilty black; the affair was conducted in a deliberate manner, according to their notions of law and justice; and he was put to death by a party of natives, who showered their spears upon him simultaneously. So far from supposing that he had been guilty of an illegal act, Mumbowran afterwards boasted that he threw the last spear. The manner in which he was taken is sufficient to stamp disgrace upon the Protectorate; the white perfidy of the Protector is rarely equalled in the annals of black treachery. Mumbowran was rewarded, and 'gammoned' to carry a parcel to the watchhouse, where he was entrapped.

Should this account be substantiated, and we have every reason to believe that it will, we have no hesitation in giving our opinion that the conduct of the blacks was not only blameless, but praiseworthy. Though ignorant of European law, they outraged none of its maxims; if they did not go through its forms, they at least acted according to its spirit. They are now punished for protecting the whites — a crime they will take care not to be guilty of again.

Again, we urge upon the Protectors and the local authorities, (and if the appeal be unavailing, upon the Government), the propriety of bringing this case to an immediate settlement. The laws relating to the blacks are sufficiently bad, without being aggravated by gross maladministration.

### 3. Saturday, 13 March 1841

IMPRISONMENT OF MUMBOWRAN. — It is now nearly six weeks since this aborigine was apprehended, and no one has yet appeared against him! This is a case of cool cruel atrocity on the part of his detainers. They are guilty of cowardice, for they would not dare do the same to a white man. That they are guilty of inhumanity, must be acknowledged by the greatest enemy to the blacks, for any one who would use a dog in the same way would be a dog himself. We have noticed this subject so often, that we should be wanting in our duty if we did not deepen our imprecations upon these violators of law, justice, and humanity. Where are the Protectors, the accusers, the Crown Prosecutor, the Superintendent, and the Magistrates? Are they all implicated in this disgraceful affair? We call upon His Honor Judge Willis to sift this matter to the bottom, and to read the delinquents a severe reprimand. When the

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aborigine's trial does come on, it is twenty to one that no case will be made out against him.

#### 4. Saturday, 20 March 1841

THE BLACKS. Mumbowran, who, forty-five days ago, was captured by white treachery, charged with having assisted at the execution of a fellow black who had been condemned to be speared for an attempt to murder a white man — and who has now suffered six weeks unnecessary imprisonment, without his case having been entered into, — was, on Thursday evening last, escorted by a party of soldiers with fixed bayonets, and constables armed with carbines, from the watch-house to the beach, a distance of two or three hundred yards, and put on board the cutter Governor La Trobe, amid the indignant yells of a crowd of aborigines.

The execrable management of this business from first to last, has created a great sensation among the blacks. Several strange tribes are now in the neighbourhood of Corio; and had not Mumbowran been removed, it was confidently expected that an organised attempt would have been made for his rescue. The fierce behaviour of the few who witnessed his embarkation, was not to be misunderstood; and had he been conveyed overland, a rescue would doubtless have been attempted.

We cannot see that his removal to Melbourne can efface the stain which marks the conduct of every one connected with his detention. In fact, it deepens the dye of their iniquity. It is an additional uncalled-for injury. He is a native of Geelong—his crime (if crime it be) was committed in Geelong—his accusers and witnesses are in Geelong—his Protector is in Geelong—there is a court competent to decide his case at Geelong. Wherefore then is he removed to Melbourne? Merely to shew that they are doing something! But they cannot remove him out of the jurisdiction of our remarks, and we shall continue our weekly reproaches on the cowardly, cruel, bungling perverters of law, justice, and humanity, until they cease the further infliction of wrongs on this defenceless wretch.

#### 5. Saturday, 27 March 1841

ESCAPE OF MUMBOWRAN. We always felt a sort of presentiment that Mumbowran's affair would end as it commenced, and as it has been carried on. It appeared to us a moral impossibility for any one bearing the brand of "government" to manage such matters as they ought to be managed. Such a phenomenon has never yet occurred, and probabilities were strongly in favour of the result. It appears that when the cutter Governor La Trobe was within one mile of Melbourne, on the night of Friday the 19th instant, Mumbowran under some pretext obtained leave to come upon deck. He had been heavily ironed, and in order to get him on deck, one hand had to be set at liberty. Watching his opportunity, he glided over the side so swiftly and silently, that no trace of him was afterwards seen, although the boat was instantly manned and strict search made. It is even doubtful whether the weight of his irons dragged him at once to the bottom, or if he managed to reach the shore by the use of his one hand. It is said that he has since been seen near Station Peak, free from his fetters. So far as the escape of Mumbowran is concerned, we are far from being sorry at the occurrence; he has all along been the victim of white treachery, white barbarity, and white stupidity. In fact, we consider him a superior being, as compared to his Protector, especially in those duties which — but we have no right to pry into private character, and shall therefore drop the contrast. On the other hand we are sorry for the occurrence, when we consider the effect it will have in widening the breach between the whites and blacks. The latter have lost all respect for the former; they have been taught to laugh at the idea of punishment; and find that there is not so much difference between them as was formerly supposed. They will

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imitate all the worst traits of their oppressors, and accelerate their own final extinction. An instance in confirmation occurred so early as Sunday last, when the District Constable, Mr McKeever, and constable Shaw proceeded to Mr Bates' station to apprehend a runaway seaman, when the hut was surrounded by about 150 blacks, using threatening language and gestures towards the constables, who, however, were luckily well armed. It was only by the earnest advice of Mr Bates, that the natives refrained from violence.

### **6. Saturday, 10 April 1841**

MUMBOWRAN. — From the examination instituted into this affair on Thursday last, it appears that the black had suffered severely in health from his long confinement; that when brought on deck on the evening of his escape, he pretended to be worse, staggered, and shook off one handcuff to which a chain was attached, and which was held by the soldier below; the constable had hold of his other hand; and in suddenly jumping over the side of the vessel, the black nearly pulled the constable after him.

THE CONSTABULARY. — Mr. Guest, who so recently joined this body, has retired from it in dissatisfaction; he had been assaulted on Sunday last, and not having been sufficiently supported by the magistrates when the case came on next day, he immediately resigned. This is certainly a novel affair, the reverse being generally the case; on the Thursday following, after a lapse of eighteen days he was called upon to account for the escape of Mumbowran; this, we imagine to be merely a matter of form, for the satisfaction of the government. The vacancy in the constabulary has been filled by the accession of Mr Draper.

**Source:** The Reports (numbered above) are found in the Geelong Advertiser as follows: 1. 23 January 1841, 2. 13 February 1841; 3. 13 March 1841; 4. 20 March 1841, 5. 27 March 1841, 6. 10 April 1841, 7. 27 June 1845, 8. 2 July 1845,

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