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To cite this article: Jeremy Martens (2022) 'In a State of War': Governor James Stirling, Extrajudicial Violence and the Conquest of Western Australia's Avon Valley, 1830–1840, History Australia, 19:4, 668-686, DOI: [10.1080/14490854.2022.2072351](https://doi.org/10.1080/14490854.2022.2072351)

To link to this article: <https://doi.org/10.1080/14490854.2022.2072351>



Published online: 27 May 2022.



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RESEARCH ARTICLE



'In a State of War': Governor James Stirling, Extrajudicial Violence and the Conquest of Western Australia's Avon Valley, 1830–1840

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ABSTRACT

Between 1830 and 1840 British settlers and soldiers forcibly took possession of the fertile valley of the Avon river (*Gogulgar Bilya*) 60 miles to the east of Perth. The Ballardong Noongar resistance to this incursion was so fierce that in mid 1837 prominent colonists warned that 'the district of York may be considered, at present, in a state of war'. This article focuses on both the wide extent of settler violence and the tenacious resistance mounted by Ballardong Noongar communities in defence of their country. It argues that the conquest of the Avon valley was actively facilitated by governor James Stirling, who ordered and encouraged British army officers, civil officials and the settler population at large to employ extreme measures to 'tranquillize' the York district. In carrying out these instructions, soldiers and colonists frequently employed illegal extrajudicial violence, including murder; however, they were never held to account for their actions.

KEYWORDS

Western Australia; James Stirling; Settler Colonialism; Frontier Violence; Ballardong Noongar Country

Between 1830 and 1840 British settlers and soldiers forcibly took possession of the fertile valley of the Avon River (*Gogulgar Bilya*) 60 miles east of Perth. The Ballardong Noongar resistance to this incursion was so fierce that in mid 1837 prominent colonists warned 'the district of York may be considered, at present, in a state of war' and 'the strongest and most energetic measures [were necessary] to bring it to a speedy termination'.¹ The taking of Ballardong country in the 1830s was the precondition for the emergence and early success of pastoralism in Western Australia; by the following decade a highly profitable wool industry centred on the York district had become one of the colony's major sources of export income.² Given pastoralism's importance to Western Australia's early development, it is striking that historians have paid little attention to the conflict for the Avon. While Neville Green, Donald Garden and Ann Hunter have briefly outlined the conquest and early settlement of the valley, their

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¹'Agricultural Society', *Perth Gazette and Western Australian Journal*, 29 July 1837, 945.

²Pamela Statham, 'Why Convicts I: An Economic Analysis of Colonial Attitudes to the Introduction of Convicts', *Studies in Western Australian History* 4 (1981): 6.

accounts focus mainly on the events of 1836–1837.³ In this article, I cover the entire decade of the 1830s and demonstrate that the dispossession of the Ballardong Noongar was actively facilitated by governor James Stirling, who ordered and encouraged British army officers, civil officials and the settler population at large to employ extreme measures to ‘tranquillize’⁴ the York district. In carrying out these instructions, soldiers and colonists frequently employed illegal extrajudicial violence, including murder; however, they were never held to account for their actions.

Most of this extrajudicial violence took place after a punitive expedition under Stirling’s command killed scores of Binjareb people at Pinjarra in October 1834.⁵ In an explanatory report sent to the Colonial Office, the governor claimed the Binjareb had threatened to ‘destroy all the whites in their district’; and if they were not checked other Noongar communities might eventually ‘combine together for the extermination of the whites’. Immediately after the massacre Stirling warned Binjareb women that ‘the punishment had been inflicted because of the misconduct of the tribe; ... that on this occasion the women and children had been spared; but if any other person should be killed by them, not one would be allowed to remain alive on this side of the mountains’.⁶ In response, the secretary of state for war and the colonies censured the Western Australian governor. In a terse despatch Lord Glenelg expressed deep concern and instructed Stirling henceforth to ensure his government ‘visit[ed] every act of injustice or violence [committed by settlers] on the natives with the utmost severity, and that in no case will those convicted of them remain unpunished’. Glenelg deprecated Stirling’s ‘threat of general destruction, extending even to women and children’ and impressed upon him that whenever it became necessary ‘to bring any native to justice, every form should be observed which would be considered necessary in the case of a white person; and that no infliction of punishment, however trivial, should be permitted, except by the award of some competent authority’.⁷ The parliamentary select committee on Aborigines also criticised Stirling’s actions at Pinjarra, noting that ‘we cannot understand the principle of such indiscriminate punishment’.⁸

Ann Curthoys and Shino Konishi argue that the memory of the Pinjarra massacre reverberated for decades through settler–Indigenous relations in Western Australia, with authorities frequently using it as a threat to deter Aboriginal groups’ resistance to settler encroachment on their lands.⁹ However, the strident criticism from Glenelg and the select committee (whose recommendations would ultimately result in the appointment of Aboriginal protectors in the Australian colonies) provided a disincentive for Stirling to conduct further punitive expeditions. Violence in the Avon valley was conducted in less spectacular fashion; while large numbers of Ballardong people were

³Neville Green, *Broken Spears: Aborigines and Europeans in the Southwest of Australia* (Perth: Focus Education Services, 1984), 119–28; Donald S. Garden, *Northam: An Avon Valley History* (Victoria Park: Hesperian Press, 1992), 48–56; Ann Hunter, *A Different Kind of ‘Subject’: Colonial Law in Aboriginal-European Relations in Nineteenth Century Western Australia 1829–61* (North Melbourne: Australian Scholarly Publishing, 2012), 54–65, 102–8.

⁴Government Notice, 21 July 1837, UK National Archives (hereafter NA): CO 18/18, ff. 587–89.

⁵For a recent description of the Pinjarra massacre see Ann Curthoys and Shino Konishi, ‘The Pinjarra Massacre in the Age of the Statue Wars’, *Journal of Genocide Research*, published online 16 January 2022.

⁶Stirling to Glenelg, 1 November 1834, in Parliamentary Select Committee, *Report from the Select Committee of the House of Commons on the Aborigines (British Settlements)* (London: Aborigines Protection Society, 1837), 136.

⁷Glenelg to Stirling, 23 July 1835, in *Report from the Select Committee*, 138.

⁸*Report from the Select Committee*, 13.

⁹Curthoys and Konishi, ‘Pinjarra Massacre’, 10.

killed, these murders usually occurred in ones and twos over weeks and months, often under cover of darkness; and thus seldom attracted the attention of authorities in London. In overseeing and encouraging such violence, Stirling openly disobeyed Glenelg's instructions and on several occasions wilfully ignored evidence that soldiers and settlers had attacked and killed Ballardong people without any pretence of judicial process.

The conquest and occupation of colonial Australia have attracted renewed attention from historians. Recent books by Grace Karskens, Mark Dunn and Stephen Gapps detail the violence that underpinned Aboriginal dispossession and the tenacious resistance and complex accommodations that marked Indigenous responses to settler expansion.¹⁰ These studies, which all focus on regional New South Wales, augment a well-established literature on frontier violence that spans the eastern colonies.¹¹ In contrast, research on early colonial Western Australia is patchier. Neville Green's pioneering scholarship was the first to describe settler dispossession and Aboriginal resistance in the colony's southwest. More recently, Tiffany Shellam and Murray Arnold have provided nuanced accounts of interactions between colonial and Noongar communities at King George's Sound. Malcolm Allbrook has written on the Vasse and Leschenault region, and there is a significant body of work on Indigenous-settler relations in Western Australia's north, especially the Kimberley.¹² However, the conquest of the Avon valley in the 1830s remains under-researched. This paper seeks to fill this gap and focus attention on both the wide extent of settler violence and the tenacious resistance mounted by Ballardong communities in defence of their country.

During an expedition to explore the Avon valley conducted in the spring of 1830, Ensign Robert Dale paid special attention to the countryside he travelled through. Dale's journal descriptions were mostly matter-of-fact; however, in his entry for 29 October 1830, his spare prose was replaced by the imagery of the pastoral idyll. 'Leaving the stream on which we bivouaced', he wrote;

we pursued our course for two miles over grassy, undulating plains, the soil on which was a light sandy loam. On our right was an apparently fertile valley, beyond which

¹⁰Grace Karskens, *People of the River: Lost Worlds of Early Australia* (Crows Nest: Allen & Unwin, 2020); Mark Dunn, *The Convict Valley: The Bloody Struggle on Australia's Early Frontier* (Crows Nest: Allen & Unwin, 2020); Stephen Gapps, *Gudyarra: The First Wiradyuri War of Resistance – The Bathurst War, 1822–1824* (Sydney: NewSouth Publishing, 2021).

¹¹See for example: Richard Broome, *Aboriginal Victorians: A History since 1800* (Crows Nest: Allen & Unwin, 2005); Robert Foster and Amanda Nettelbeck, *Out of the Silence: The History of South Australia's Frontier Wars* (Adelaide: Wakefield Press, 2012); Ann McGrath, ed., *Contested Ground: Australian Aborigines under the British Crown* (Sydney: Allen & Unwin, 1995); Henry Reynolds, *The Other Side of the Frontier: Aboriginal Resistance to the European Invasion of Australia* (Sydney: UNSW Press, 2006); Lyndall Ryan, *Tasmanian Aborigines: A History since 1803* (Crows Nest: Allen & Unwin, 2012).

¹²Neville Green, 'Aborigines and White Settlers in the Nineteenth Century', in *A New History of Western Australia*, ed. Charles T. Stannage (Nedlands: UWA Press, 1981), 72–123; Green, *Broken Spears*; Tiffany Shellam, *Shaking Hands on the Fringe: Negotiating the Aboriginal World at King George's Sound* (Crawley: UWA Publishing, 2009); Murray Arnold, *A Journey Travelled: Aboriginal-European Relations at Albany and the Surrounding Region from First Contact to 1926* (Crawley: UWA Publishing, 2015); Malcolm Allbrook, *Henry Prinsep's Empire: Framing a Distant Colony* (Canberra: ANU Press, 2014). See also: Sylvia Hallam, *Fire and Hearth: A Study of Aboriginal Usage and European Usurpation in South-Western Australia* (Crawley: UWA Publishing, 2014); Amanda Nettelbeck et al., *Fragile Settlements: Aboriginal Peoples, Law, and Resistance in South-West Australia and Prairie Canada* (Vancouver: UBC Press, 2016); Chris Owen, *Every Mother's Son is Guilty: Policing the Kimberley Frontier of Western Australia 1882–1905* (Crawley: UWA Publishing, 2016).

were low hills, the trees on which were dispersed like a plantation ... our journey was over grassy, undulating plains, tolerably well adapted for pasture.¹³

Dale seems to have been ignorant of the intensive Aboriginal land and resource management that over millennia shaped this rich and varied landscape. The Ballardong Noongar were 'land moulders' and 'pasture-managers', and deliberate enhancement through the use of fire, along with 'wild harvesting' and 'natural cultivation' practices had created the grassy, undulating plains and dispersed stands of trees that so appealed to Dale's aesthetic sense.¹⁴ Nevertheless, European explorers were certainly aware of the extensive and long-standing Indigenous presence in this fertile, well-watered region. Dale's pioneering expedition in August 1830 encountered several groups of Ballardong people, including hunting parties tracking emus; Lieutenant Archibald Erskine's expedition the following month reported being 'met by natives, whom we found fishing ... on the banks of the river described by Mr. Dale'.¹⁵ Both officers also encountered evidence of permanent habitation. Erskine came across 'Native huts ... very substantially built',¹⁶ while Dale described 'native huts, of a different, but more substantial construction, than those on the Swan' as well as 'a native wigwam, which was much larger than those we had seen [previously]'.¹⁷

Ballardong people's sovereignty was barely acknowledged by the colonial administration, which began processing land grants in the Avon valley towards the end of 1830. Most early applicants were notified of their grants in December; and within weeks nearly a quarter of a million acres had been apportioned along the valley. The new settlement's focal point was the townsite of York at the base of Mount Bakewell, from which land grants stretched in a strip up to ten miles wide along the Avon river, southwards towards Beverley and northwards beyond Northam. Although the apportionment of land progressed swiftly, actual settlement did not follow at once. The occupation of York began in the spring of 1831, when Dale escorted a party of prospective settlers over the hills; however, by July 1832 only 18 settlers and four soldiers resided in the Avon valley as a whole.¹⁸

Among these pioneers was Revett Henry Bland who, with Arthur Trimmer, would establish the district's first pastoral station. Early reports indicated the valley would be much better suited to raising sheep than the Swan coastal plain, and once Trimmer successfully exported a small packet of wool to England in 1832, Western Australia's nascent pastoral industry was brought into being. Even though Trimmer's wool packet had been badly washed and poorly packed, it fetched 2s 2d a pound on the London market, and further successful exports in 1833 prompted the *Perth Gazette* to announce

¹³Robert Dale, 'Journal of Another Expedition', in *Journals of Several Expeditions Made in Western Australia During the Years 1829, 1830, 1831, and 1832*, ed. Joseph Cross (London: Joseph Cross, 1833), 63–64.

¹⁴Sylvia Hallam, *Aborigines of the York Area* (York: The York Society, 2003), 2–3; Alistair Paterson, 'Once Were Foragers: The Archaeology of Agrarian Australia and the Fate of Aboriginal Land Management', *Quaternary International* 489 (2018): 6.

¹⁵Archibald Erskine, 'Journal of Lieut. Ad. Erskine', in *Journals of Several Expeditions Made in Western Australia During the Years 1829, 1830, 1831, and 1832*, ed. Joseph Cross (London: Joseph Cross, 1833), 94. See also Robert Dale, 'Journal of an Expedition', in *Journals of Several Expeditions Made in Western Australia During the Years 1829, 1830, 1831, and 1832*, ed. Joseph Cross (London: Joseph Cross, 1833), 59–60.

¹⁶Erskine, 'Journal', 93.

¹⁷Dale, 'Journal of Another Expedition', 64–65, 66.

¹⁸Garden, *Northam*, 5–9.

that sheep raising had become 'the most successful venture in the colony'.¹⁹ By the following year the 'success which has attended Messrs. Bland and Trimmer's flock of Sheep at York' had 'created a general desire to enter upon this lucrative speculation', with many settlers with the means 'making preparations to remove to their larger grants over the hills'.²⁰ By late 1834 the Swan had 'been nearly abandoned as a sheep district',²¹ with half the colony's 3,545 sheep in eight flocks at York; by 1836 sheep numbers had risen to about 5,000. In addition to raising sheep, early settlers tended small herds of cattle to produce milk, butter and cheese; and planted wheat, barley and garden crops to supplement wildlife and other food gathered from the environment. During these years a modest settlement consisting of small farms and a military camp was established at York.²²

Although the number of settlers was small, their expanding agricultural and pastoral activities rapidly impacted upon Ballardong foraging and hunting practices. Alistair Paterson notes that systems of wild harvesting and natural cultivation across Australia were disrupted by the arrival of sheep and cattle, which 'consumed root plants, and assisted the spread of new invasive species through grazing and the transformation of the topsoil through hooves'.²³ Flocks of sheep in the Avon valley were widely dispersed and, in addition to eating large amounts of plants and grasses, depended upon the same water sources that Indigenous communities relied on for fishing and drinking, especially in the dry summer months. Settlers also shot significant numbers of kangaroos, waterfowl and other wildlife, reducing a key food source for Noongar people. The extent of the disruption was already evident in 1832, when Robert Lyon wrote that 'the natives [were] finding that the settlers were greatly lessening the number of their kangaroos, opossums, & birds; & that they were driven from all their fishing stations'; and that 'as the settlement fills up, they will gradually lose not only their country, but the very means of procuring food. Their fishing stations they dare not now approach but at the risk of their lives; & the game is fast diminishing'.²⁴ In late 1836 the government's interpreter, Francis Armstrong, described the devastating impact of colonial settlement on Noongar communities' ability to forage and hunt. Armstrong's informants recounted how when Europeans first arrived in their country, 'some of [the Noongar people] became hostilely disposed to the settlers, but others cared or thought little about it, until they began to find the kangaroo and other game getting alarmingly scarce'. Before long these communities were dependent on bread, rice, sugar and other food supplied by the newcomers; however, even if the colonists were now to leave, 'they would not be placed in the same condition as when we first came; because the game is nearly all driven away, and what remains is very much shyer'.²⁵

While the emerging agricultural and pastoral industries in the Avon valley were particularly disruptive to traditional foraging and hunting, they also exposed the

¹⁹J.M.R. Cameron, *Ambition's Fire: The Agricultural Colonization of Pre-Convict Western Australia* (Nedlands: UWA Press, 1981), 134–35.

²⁰'The Western Australian Journal', *Perth Gazette*, 27 September 1834, 362.

²¹'The Western Australian Journal', *Perth Gazette*, 13 December 1834, 406.

²²Garden, *Northam*, 9.

²³Paterson, 'Once Were Foragers', 6.

²⁴Lyon to Goderich, 1 January 1833, NA: CO 18/11, ff. 142, 146.

²⁵Cited in Michael Bourke, *On the Swan: A History of the Swan District Western Australia* (Nedlands: UWA Press, 1987), 83.

vulnerability of the small settler community. Farmhouses were distanced from one another; shepherds were isolated and alone for long stretches of time; and grain and flour stores were often unattended. Moreover, in summer, Noongar burning practices regularly threatened homes and fields; in March 1832 John Morgan noted that for solitary settlers 'the Native fires ... must be the source of constant alarm'.²⁶ The following month James Stirling himself summed up the situation when he reported that settlers were;

safe enough in our houses or when prepared for attack, but we are never so when absent from home or unprepared. Stock are also safe, when there are two or three white persons present on the spot, but when the cattle or sheep stray, they are but too likely to be attacked.²⁷

Stirling's concerns were for the entire colony, but the threat of violent resistance to settler invasion was already acute in the Avon valley by 1832. The first year of contact between Whadjuk people and British settlers on the Swan coastal plain had largely been peaceful; as Robert Lyon later remembered, the former 'not only abstained from all acts of hostility, when we took possession, but showed us every kindness in their power'.²⁸ However, there are indications that as early as 1830 the reception of Ballardong communities to the colonial incursion of their country was far less welcoming. When Dale's pioneering expedition prepared to leave the valley, they were met by a Ballardong hunting party eager to see them on their way. Although Dale 'found them very friendly', he also noted that 'they accompanied us some distance, being at great pains to direct us on our journey'. Early the following morning the party was 'visited by three natives' who were 'more familiar and even daring in their manners'; these men 'attempted to prevent our pursuing our course ... but on our making a detour to the left, they joined us with apparent satisfaction'.²⁹ Several weeks later, Erskine's expedition found more obvious evidence of hostility. After making their way to a storage depot Dale set up the previous month, 'to the mortification of the party, with the exception of the natives who were in company with us, about 25 in number, we found everything damaged'; and when Erskine ordered a halt on the banks of the Avon river, he complained that the 'Natives became very numerous and rather troublesome, in fact, too friendly. A much more athletic tribe than those seen at Perth'.³⁰

Ballardong resistance became more overt once the first settlers arrived to set up farming and pastoral operations. One pioneer was Du Bois Agett who attempted to establish a small farm at York in 1831 before moving some years later to his large land grant on the eastern bank of the Avon river close to Northam.³¹ Agett's first effort to occupy the farm at York was short-lived. In May 1831, Amelia Blagg, the Agett family's children's maid, recounted how the farm was destroyed by deliberate Ballardong burning soon after their arrival at York:

after we had been there about five weeks one Saturday when Mr Agett had gone down the country ... the Natives put a fire brand near the house that set light to the straw

²⁶Morgan to Goderich, 8 March 1832, NA: CO 18/11, ff. 175–76.

²⁷Stirling to Goderich, 2 April 1832, NA: CO 18/10, ff. 49–50.

²⁸Lyon to Goderich, 1 January 1833, NA: CO 18/11, f. 140.

²⁹Dale, 'Journal of an Expedition', 59–60.

³⁰Erskine, 'Journal', 95.

³¹Garden, *Northam*, 11.

but was fortunately put out before any accident occurred. We got men to guard the premises all that night and the next day and the night after but was much surprised at seeing the house all in flames about ten o' clock the next morning ... Mrs Agett saw the Natives make off as fast as they could every exertion was tried to save the property but scarce anything was left, the children had nothing on but their nightshirts.³²

The first recorded fatal attack on settlers in the Avon occurred in early 1832, when the driver of a bullock team and a boy were attacked: 'the boy was killed most inhumanely, but the man, altho' severely wounded, escaped'.³³ As a consequence of this violence, Stirling established a military outpost at York with four soldiers assigned to conduct regular patrols and provide protection to the small community of 18 settlers living in the valley.³⁴

Ballardong attempts to defend their country were met with swift and violent retribution. Robert Lyon was one of the few colonists willing to criticise the Stirling administration for turning a blind eye to evidence of murder and other violent atrocities, not only at York but throughout the colony. He would later lament it was 'painful to reflect that the rightful owners of the country, are killed day after day by our own people, without trial by either judge or jury, & often in mere sport, though they are styled in the Government proclamations as British subjects'.³⁵ One particularly egregious incident of unprovoked extra-judicial mass killing occurred at some point in 1832, with Lyon recording that the 'settlers & soldiers at York have committed a horrible action. They went at night to an encampment of the natives &, while they were sitting round their fires, poured the shot among them – men, women, & children. Their cries were dreadful'.³⁶ Such violence was often extreme and frequently disproportionate, as Lyon's letters suggest. In February 1833 one of Trimmer and Bland's shepherds shot a woman at York with little provocation. The *Perth Gazette* reported the shepherd was tending his flock 'when he heard the voices of a number of Natives in the bush'. A woman came forward 'and appeared to encourage the others [to] follow, and attack'. She 'cried out "warra", "warra", ... which she repeated, with threatening gestures'; in response, the shepherd, 'considering his flock, as well as his life in danger, fired, and it is supposed seriously wounded her, as she *staggered* back towards the party'.³⁷ In 1833 the running of sheep in the valley had clearly become a flashpoint for violence, in August 'an affray with the natives at York' took place after 'they were caught in the act of spearing some sheep, and were consequently fired upon'.³⁸

The shooting of a woman simply for gesturing and crying out *warra warra* (bad or no good)³⁹ was a clear indication that settlers' widening occupation of Ballardong country was underpinned by a readiness to use deadly force at the slightest provocation. It appears this violence initially succeeded in discouraging the Ballardong resistance, as there is little evidence of conflict in 1834. As the *Perth Gazette* noted later, '[o]wing to the decisive measures adopted by the early settlers at York, but little

³²A. Blagg to G. Blagg, 12 May 1831, NA: CO 18/11, ff. 92–93.

³³Morgan to Goderich, 8 March 1832, NA: CO 18/11, f. 175.

³⁴Garden, *Northam*, 49.

³⁵Lyon to Goderich, 8 August 1833, NA: CO 18/13, ff. 291–93.

³⁶Lyon to Goderich, 1 January 1833, NA: CO 18/11, f. 150. Cited in Green, *Broken Spears*, 120.

³⁷'A Native Woman Shot at York', *Perth Gazette*, 16 February 1833, 27 (original emphasis).

³⁸'The Western Australian Journal', *Perth Gazette*, 7 September 1833, 142.

³⁹The Noongar word *warra/wara/warrah* is translated into English as 'bad or no good'. *Ballardong Noongar Waangkany - Ballardong Noongar Dictionary* (Northam: Wheatbelt NRM, 2018), 41. Thanks to Mary Blight for this reference.

inconvenience has been experienced from the natives'.⁴⁰ However, in 1835, as more farmers and pastoralists made their way over the hills, Ballardong communities mounted a more forceful defence of their lands. Settlers' livestock and food supplies were often targeted, suggesting traditional food sources were coming under strain. In May 1835, James Twine and George Morphy were speared at the half-way house on the York road while driving a flock of sheep. It was reported two men approached the settlers to ask for bread, even offering spears and hammers in exchange; but when Twine and Morphy refused, an altercation ensued and both men were stabbed. Morphy later died of his wounds.⁴¹ The following month Bland and Trimmer were ambushed on the York road, and the two pastoralists were forced to 'put spurs to their horses' and gallop three miles to safety.⁴²

In response to these incidents, the *Perth Gazette* warned darkly that the 'natives' had evidently become 'emboldened by the repetition of aggressions, which have not been chastised' and that;

unless some decisive measures are adopted to check their daring practices, [they] will, before long, organize themselves into a formidable band, which will require a second Pinjarra encounter to exterminate.⁴³

Bland and Trimmer were again targeted in July 1835 when 16 pigs were 'speared and carried off'; and there were calls to increase the military force at York.⁴⁴ However, while other isolated attacks occurred in 1835 – for example, a young colt owned by James Solomon was speared towards the end of that year⁴⁵ – it was not until the winter of 1836 that severe violence again erupted into view and the proposals for a larger military force were brought into effect. In May 1836 Solomon's farm was once again targeted when a 'daring robbery' was carried out by a Ballardong party, who 'contrived to carry off' bags of flour, sugar, and wheat. This occurrence, along with the theft of a large bag of flour belonging to the government, prompted the *Perth Gazette* to warn once more that if left unpunished, the 'daring manner in which the act was committed', would;

embolden the natives to further aggressions, which will no doubt meet with the infliction of more immediate chastisement from the settlers than they received on this occasion, and the sure result – retaliation, with its awful consequences.⁴⁶

Solomon himself frequently resorted to flogging those he caught stealing as a means of retaliation, and on at least one occasion marched three men who confessed to robbing him to York, where Bland, who had been appointed the district's government resident, promptly 'arrested them to be flogged'. However, while Solomon was thus engaged, another Ballardong party took advantage of his absence to empty his farm's store. He also complained of 'other occasions when the soldiers who were sent here for protection were patrolling, the Natives again robbed the place'.⁴⁷

⁴⁰'The Western Australian Journal', *Perth Gazette*, 25 July 1835, 534.

⁴¹'Two Men Speared by Natives', *Perth Gazette*, 16 May 1835, 495; 'The Western Australian Journal', *Perth Gazette*, 23 May 1835, 498.

⁴²'The Western Australian Journal', *Perth Gazette*, 13 June 1835, 510.

⁴³'The Western Australian Journal', *Perth Gazette*, 13 June 1835, 510. Cited in Green, *Broken Spears*, 120.

⁴⁴'The Western Australian Journal', *Perth Gazette*, 25 July 1835, 534.

⁴⁵'Escape of a Native from the Fremantle Jail', *Perth Gazette*, 7 November 1835, 595.

⁴⁶'Robbery Committed by the Natives at York', *Perth Gazette*, 7 May 1836, 688.

⁴⁷Affidavit by J. Solomon, NA: CO 20/2 ff. 135–36.

Some weeks later, on the morning of 18 June 1836, Private Michael McNamara, who had been assigned to protect the Solomon farm, heard dogs barking. Once he confirmed 'Natives were detected in getting into the store', McNamara, Solomon and two other armed men confronted the group and attempted to detain them. A struggle ensued, shots were fired, and McNamara killed two men with his musket.⁴⁸ This fatal train of events prompted Stirling immediately to reinforce the military presence at York. Concerned the killing of two Ballardong men would quickly lead to 'the usual course of retaliation', Stirling also believed that among 'the Natives of the York District', a 'hostile and most dangerous feeling appeared to exist ... and that they exhibit a greater form of combination and of concerted plan, than he had ever known them to possess'.⁴⁹ Stirling's worries about concerted attacks were echoed by Du Bois Agett, who by 1836 had established himself at his large, isolated land grant close to Northam. In a letter to Bland written shortly after the shooting at Solomon's farm, Agett worried that 'the Natives have lately become very troublesome in my neighbourhood' and appeared 'to be perfectly aware that we shall be able to offer but little resistance during the time the river runs'. Agett recounted how he warned a Ballardong party that 'if they stole again they would be shot'; but the men

instantly replied they would spear a white man, for every black that was killed, further that when the river ran the soldiers could not come to our assistance and they would muster a great many together, and our houses being far apart they could throw a great many spears at us whilst we were firing a gun.

Agett confessed that although he was 'not easily frightened by them', there appeared something 'in their behaviour, which put our threats at defiance; they don't hesitate to admit they robbed ... but merely plead hunger, and they are constantly committing some depredation, and will shortly do so with impunity if some means are not adopted to check them'. He admitted employing flogging as a punishment, but it was 'a mere farce, they care no longer about it', and suggested only 'the sight of a soldier, and nothing but a soldier' could act as an effective deterrent.⁵⁰

In late June Stirling despatched 10 men to York under the command of Lieutenant Henry Bunbury of the 21st Fusiliers.⁵¹ Bunbury, who had arrived in Western Australia three months previously, was ordered to protect 'the settlers their farms and flocks against further outrage'. He was instructed to fortify stores, strengthen weaker farms, and 'keep a moveable party of 6 men with yourself for the purpose of visiting, and occupying those portions of the district in which there may be the strongest reason to expect an attack'. Furthermore, if 'the Natives should not be deterred from outrage by the demonstration of your force', Stirling instructed Bunbury, 'take the most decisive measures in conjunction with the magistrates for ascertaining, and apprehending the guilty parties'.⁵² Bunbury obeyed the governor's injunction, describing later how he 'was ordered over here with a detachment to make war upon the Natives, who have been very troublesome lately, robbing farms and committing other depredations, even

⁴⁸Affidavits by J. Solomon and M. McNamara, NA: CO 20/2 ff. 135–36, 137.

⁴⁹WA Executive Council Minutes, 30 June 1836, NA: CO 20/2 ff. 132–33.

⁵⁰Agett to Bland, 20 June 1836, NA: CO 20/2 ff. 143–44.

⁵¹'Affray of the Natives at York', *Perth Gazette*, 25 June 1836, 716.

⁵²Stirling to Bunbury, 24 June 1836, NA: CO 20/2 ff. 139–40.

attempting to spear White people'. While he found patrolling the valley in the frost and rain of winter 'very fatiguing and disagreeable' he hoped 'it will not last very long as the Natives seem inclined to be quiet since I shot a few of them one night'.⁵³

The extent to which Bunbury 'made war' upon Ballardong people in mid-1836 is difficult to assess. The *Perth Gazette*, reliably in favour of Stirling's 'salutary' measures at York,⁵⁴ published few reports of conflict and did not explicitly mention Bunbury's night shooting. However, a single story in the newspaper hints at this incident and suggests Bunbury's use of violence was indiscriminate. Several days before the night attack a soldier stationed at Lennard's farm had been speared, and while he was not killed, 'little hopes' were entertained for his recovery.⁵⁵ It was supposed this attack was in direct retaliation for the two men killed by Private McNamara and seems to have provided a pretext for the events that transpired shortly afterwards. On 9 July, the *Perth Gazette* published the following account:

It has been reported during the week that an attack was made upon the natives in the York district *at night*; several, it is supposed, were wounded, and one woman was killed. We hope to hear that there is no truth in this rumour; - such an example of cowardice and treachery, if the report should prove true, is a disgrace to the parties implicated in it; it is not alone impolitic, but it ill becomes us to commence such a system of attack.⁵⁶

The newspaper claimed Stirling 'had very properly instituted an inquiry into this affair',⁵⁷ but no mention of this incident was made in the newspaper's pages again.

Bunbury's use of overwhelming force weakened Ballardong resistance in the short term. At an Executive Council meeting held on 21 July 1836, Stirling announced that 'since the last meeting nothing had occurred at York to render the adoption of further measures necessary' and Bunbury returned to Perth.⁵⁸ However, raids on settler properties did not cease altogether and in September led to the premeditated murder of a Ballardong man. Some days before this incident, a barn belonging to Bland and Trimmer had been 'plundered' and a quantity of flour carried off. In response, Trimmer directed an employee named Edward Gallop to hide in the barn's loft with a firearm, and when three men broke into the building and started removing flour, he fired.⁵⁹ Gallop later stated he:

saw two natives in the barn and one at the door. The two that were in the barn were emptying a bag of flour into a blanket and the one outside was watching the house. I fired at the two who were in the barn and one fell. He was shot through the head and died shortly afterwards.⁶⁰

In reporting the shooting, the *Perth Gazette* presumed Gallop had intentionally been stationed in the loft 'to shoot the native in cool blood' as a form of summary punishment; and hoped Stirling would express 'his disapprobation of an act calculated to arouse a spirit of retaliation, which may prove fatal to some innocent and unoffending

⁵³William St. Pierre Bunbury and W.P. Morrell, eds., *Early Days in Western Australia: Being the Letters and Journal of Lieut. H.W. Bunbury* (London: Oxford University Press, 1930), 27.

⁵⁴'Affray of the Natives at York', *Perth Gazette*, 25 June 1836, 716.

⁵⁵'The Western Australian Journal', *Perth Gazette*, 2 July 1836, 720.

⁵⁶'The Western Australian Journal', *Perth Gazette*, 9 July 1836, 724 (original emphasis).

⁵⁷*Ibid.*

⁵⁸WA Executive Council Minutes, 21 July 1836, NA: CO 20/2 f. 145.

⁵⁹Bunbury and Morrell, eds., *Early Days*, 54.

⁶⁰Cited in Green, *Broken Spears*, 122.

neighbour'.⁶¹ Even Bunbury believed Trimmer's 'character never could recover from this foul stain, even if he had nothing else to answer for', noting the murder 'was all done by the orders and almost with the aid of Mr. T. who never attempted to deny it until he found it was likely to be taken serious notice of. However, 'the Governor did not think proper to pursue the matter'.⁶²

Not only did Stirling decline to condemn this incident publicly, in a letter to Glenelg he openly defended settlers' use of extrajudicial violence. He acknowledged the deteriorating relations in the York district 'between the Settlers and the Natives', but maintained the latter's 'temptation';

to steal whenever they can find an opportunity is usually the origin of these affrays for when one or two are successful in their depredations they are joined and emboldened by others, until severe measures on the part of the settlers can alone secure their property from destruction and their lives from peril.

Stirling then explicitly referred to the murder at Bland and Trimmer's barn, explaining that notwithstanding his 'displeasure and regret at the loss of the Native's life' in that instance, he had decided not to prosecute Gallop because he was of the opinion that 'in cases where the law is necessarily ineffectual for the protection of life and property the right of self-protection cannot with justice be circumscribed within very narrow limits'.⁶³ It was this willingness to tolerate vigilante justice from settlers, from no less an authority than the governor himself, that would shape the nature of the violence in the Avon valley in the months to come.

As it happened, the murder at the barn was soon avenged when a Ballardong party killed an elderly man named William Knott who lived alone near York.⁶⁴ This revenge killing highlights an aspect of the conflict of which settlers were well aware: in defending their land and lives, Noongar men's violence was almost always in response to settler attacks and was carried out with a clear sense of proportionality. Mark Finnane characterises 'payback' in Australian Indigenous communities as having two dimensions. Firstly, it is 'the generalised expectation of a satisfaction' required by those who have been harmed by others; secondly, this satisfaction is achieved by the exercise of a violent retaliation that in extreme circumstances results in death.⁶⁵ In 1832 John Morgan noted that 'generally these atrocities, appear to be mere retaliations, - blood for blood with them appears to be the order of the day'.⁶⁶ Bunbury wrote that when exacting punishment 'according to their custom', Noongar men did not particularly target 'individuals who had committed the crime: they looked out to slay in return the first white man whom they could put an end to without much risk'. His description of Ballardong attacks also sheds light on the tactics employed against settlers and soldiers:

The spears which the Natives use are about eight feet long, slender and tough, sharp pointed and either barbed or else edged with sharp stone or glass near the point. They

⁶¹'A Native Shot at York', *Perth Gazette*, 17 September 1836, 765.

⁶²Bunbury and Morrell, eds., *Early Days*, 53–54.

⁶³Stirling to Glenelg, 3 November 1836, NA: CO 18/16, ff. 550; 551–52. See also Hunter, *A Different Kind of Subject*, 55.

⁶⁴Neville, *Broken Spears*, 122; 'The Natives', *Perth Gazette*, 22 October 1836, 784.

⁶⁵Mark Finnane, "'Payback'", *Customary Law and Criminal Law in Colonised Australia*, *International Journal of the Sociology of Law* 29, no. 4 (2001): 308.

⁶⁶Morgan to Goderich, 8 March 1832, NA: CO 18/11, f. 175.

throw them with great precision by means of a throwing stick. Many White people have been speared by them since the Colony was established; their usual way is to lie in ambush in the bush until the person has passed and then throw their spears into his back. They always run away from the soldiers and are so active and, from their colour, so difficult to see that they easily elude our pursuit.⁶⁷

There seems to have been a preference for mounting attacks in the wet season. The *Perth Gazette* noted in June 1835 that 'at this time of the year, for the last three years, we have been embroiled with the natives more than at any other period'.⁶⁸ Du Bois Agett believed this pattern to be a deliberate ploy, as the mobility of soldiers and settlers on horseback was much reduced when the rivers were running.⁶⁹

There were few reports of violence for the remainder of 1836, although William Heal was lightly wounded after being speared in December.⁷⁰ However, in mid-1837 a new and bloody chapter in the struggle for the Avon valley commenced. On 25 May, Isaac Green, a private in the 21st Fusiliers deployed at the farm of John Sewell and S.A. Barker, 40 miles south of York, was attacked by a Noongar party. The soldier was hit by one spear in his front and two in the back; and died two days later.⁷¹ The exact cause of this attack is unclear, with Sewell maintaining nothing had been done 'that could in any way give cause to such a blood-thirsty action'. However, he noted Green 'was in the habit of feeding them ... [and] as soon as they became intimate they began to steal, and have several times taken Kangaroo and Emu from the dogs, before the hunter could get up'. This admission suggests disagreement over the rights to wildlife and other food sources might have been a factor. Sewell called for 'vengeance upon the treacherous cowards',⁷² and D.H. Macleod, the newly appointed government resident for the district, wasted no time in exacting revenge. Although details are sparse, published allegations appeared shortly after Green's death that a party led by Macleod and Lieutenant Mortimer went out at night 'when the Natives were asleep' and deliberately fired 'into their huts', killing a woman and a three-year-old child.⁷³

Shortly after this incident the military detachment was increased to 20 men.⁷⁴ Even so, increased patrols and the establishment of defensive posts were unable to prevent the murder of two of the colony's 'most industrious and pains-taking settlers', Peter Chidlow and Edward Jones, at a land grant eight miles from Northam in July 1837. Both men were speared several times and their livestock driven away.⁷⁵ It was surmised the killings were in retaliation for the arrest of two men for robbing John Morrell's farm the previous month.⁷⁶ However, the ferocity of this attack suggests it was perhaps more likely carried out in response to the murder of the woman and child by Macleod and Mortimer's party. In any event, Chidlow and Jones' deaths set off a wave of fear

⁶⁷Bunbury and Morrell, eds., *Early Days*, 27–28, 54.

⁶⁸'The Western Australian Journal', *Perth Gazette*, 13 June 1835, 510.

⁶⁹Agett to Bland, 20 June 1836, NA: CO 20/2 ff. 143–44.

⁷⁰'Another Person Speared at York', *Perth Gazette*, 17 December 1836, 816.

⁷¹'A Soldier Speared by the Natives', *Perth Gazette*, 3 June 1837, 912; 'J. Sewell to Editor', *Swan River Guardian*, 15 June 1837, 186.

⁷²J. Sewell to Editor', *Swan River Guardian*, 15 June 1837, 186.

⁷³'Lord Glenelg and the Natives Lesson III', *Swan River Guardian*, 8 June 1837, 182; 'Lord Glenelg and the Natives Lesson IV', *Swan River Guardian*, 15 June 1837, 186.

⁷⁴Brown to Macleod, 27 June 1837, NA: CO 18/18, f. 593.

⁷⁵'Murder by the Blacks', *Perth Gazette*, 22 July 1837, 941.

⁷⁶Government Notice, 21 July 1837, NA: CO 18/18, f. 589.

that extended throughout the colony. Stirling immediately despatched Bunbury with a mounted party to York to augment the existing military force under Mortimer, noting it was of 'utmost importance that the perpetrators of these crimes should be brought to justice and that by proper examples of severity, to the full extent which the law warrants in such cases, the Natives may be deterred from the commission of further outrage'. Bunbury was ordered to 'take the most effectual measures' to apprehend the murderers of white settlers, and to 'be prepared for resistance whenever warrants are to be served and be particularly cautious to prevent the slightest chance of any such resistance becoming successful, as such an event might lead to very fatal consequences'.⁷⁷

Bunbury's 1836 deployment in the Avon valley had been marked by his use of indiscriminate and overwhelming violence, and it was no different in 1837. Shortly after his arrival he reported to Stirling that he, Macleod and Mortimer had gone out with an armed party to look for the murderers of Jones and Chidlow, and after 'some search we fell in with one Native named "Yumma" a noted bad character' who was 'well known' to have participated in the killing of both Private Green and Jones and Chidlow; he then admitted openly that this man 'was shot in endeavouring to escape'. Bunbury also warned Stirling that 'the state of this district is at the present moment most alarming' and that;

it would not only be injudicious but would lead to great loss of life to act strictly according to law, by apprehending the perpetrators of the late dreadful murders; since the Natives have now repeatedly at different farms expressed their determination to spear a white man for every Native either killed or apprehended.... As we are not at present sufficiently strong to guard effectually all the farms in this district as well as the stock ... it appears to me to be necessary by severe measures to deter the Natives from the commission of further outrage.⁷⁸

The governor's reaction to Bunbury's proposal to flout the law and employ 'severe measures' was to express 'satisfaction at the promptitude you have displayed for the protection of the District' and to encourage Bunbury to adopt 'such further measures for quelling the turbulence of the Natives as the circumstances of the District may render necessary'.⁷⁹

The following week Macleod and Mortimer received information about the location of one of the alleged murderers of Knott, a man named Dyool, and 'another Native named "Bunyap" who speared a sheep'. Bunyap was shot dead 'in attempting to escape', while Dyool 'was badly wounded'.⁸⁰ Stirling again expressed to Macleod his 'approval of the active and resolute measures which you appear to have adopted for the security of the farms and the prevention of further outrage'. The governor hoped the additions to the military force along with 'frequent and urgent entreaties with the settlers to aid in their own protection' would 'speedily convince the Natives of the hopeless character of the contest, which some of them wish to continue'. He also suggested 'a communication with the Natives of the District generally should be kept open' to spread the message that 'to injure one white person is to provoke the whole, and that

⁷⁷Brown to Bunbury, 17 July 1837, NA: CO 18/18, ff. 597–98.

⁷⁸Bunbury to Stirling, 21 July 1837, NA: CO 18/18, ff. 599–600.

⁷⁹Brown to Bunbury, 24 July 1837, NA: CO 18/18, f. 601.

⁸⁰Macleod to Stirling, 26 July 1837, NA: CO 18/18, f. 601.

they cannot have a chance of success in the end, [which would] go far to detach the timid & isolate the bold'.⁸¹

In a public notice Stirling outlined what he believed to be the causes for the violence and the measures required to bring it to an end. The 'York Natives', Stirling declared, were 'a warlike people, and in their own estimation powerful'. They passed their lives 'in mutual reprisals and contests', were ever prone 'to seize and appropriate that which they desire to possess' and were 'withheld from this only by fear of immediate destruction or the hope of future advantage by delay'. Furthermore;

they will steal whenever they can and they will take life rather than be baulked in their desire. Slight opposition irritates but does not check them, they boast of their own prowess and power, they plan many exploits, and collect around them numbers of their neighbours and their friends; nor will anything control these combinations, but an early exhibition of force, or if the evils have already gained strength such acts of decisive severity, as will appal them as a people for a time, and reduce their tribe to weakness.

Various circumstances had brought 'this boldness into existence among the York Natives'. There were 'few colonists, and those widely scattered over a large district', and 'no farms or stations sufficiently strong to inspire fear'. Stirling worried this 'unusual audacity' would eventually have 'an effect upon some of the Natives on this side [of the Hills]', and so it was at York;

as the source of these evils, that the current of events must be arrested, a decisive blow there will tranquilize that District, as well as this; and arrangements have been made accordingly for the purpose of apprehending and bringing to punishment the Natives concerned in the late atrocities. If these arrangements prove successful, it is to be hoped that a period of tranquillity will succeed; but if otherwise there is every reason to believe that the measures which will then become necessary, and the sacrifice of time and convenience which will be required from every member of the community will be cheerfully submitted to.⁸²

At a well-attended meeting of the Agricultural Society at Guildford, members passed resolutions condemning the 'continued and unprovoked aggressions and atrocities committed on the lives and property of the settlers'; requesting the augmentation of the colony's military force; and declaring that 'the district of York may be considered, at present, in a state of war'. The meeting concurred 'unanimously in the necessity of adopting the strongest and most energetic measures to bring it to a speedy termination', and members offered their personal services to ensure the security of the districts in which they resided.⁸³ The *Perth Gazette* also expressed its 'full approbation' of Stirling's actions. Jones and Chidlow's murder had called for a 'severe and well-merited chastisement', and thus the fatal shootings by Bunbury, Macleod and Mortimer were 'a just retribution for the inhuman and savage attack made by the aborigines upon those two unoffending individuals'. Nothing short of 'a bold and daring display of our superiority' would 'effectually eradicate from the mind of the savage, the impression that we may be plundered and murdered with impunity'.⁸⁴ Two weeks later, the newspaper reiterated that 'a greater impression is made upon the mind of the savage by summary

⁸¹Brown to Macleod, 27 July 1837, NA: CO 18/18, f. 603.

⁸²Government Notice, 21 July 1837, NA: CO 18/18, ff. 587–89.

⁸³'Agricultural Society', *Perth Gazette*, 29 July 1837, 945.

⁸⁴'The Aborigines', *Perth Gazette*, 29 July 1837, 944.

punishment and a strong example in the bush, than by all the parade and farce of legal proceedings'; and that '[n]o retaliation followed the wholesome chastisement inflicted at Pinjarra', where settlers were 'now located in perfect amity with the natives'.⁸⁵

The carrying out of summary executions continued to characterise Bunbury's military operations. In a report sent to Stirling in mid-August Bunbury admitted killing Derdum, whom he described as 'about the worst character in the whole District'. He claimed Derdum had been employed by Jones and Chidlow in herding cattle 'but left them that very morning [of the murders] to join the other Natives in spearing them'. One night, about six miles from Agett's farm, Bunbury's party were pursuing Derdum and another man who were 'running for their lives when a long shot by moonlight stopped Derdum's career'; his companion 'escaped severely wounded'. Bunbury also relayed the circumstances in which 'four Natives were shot' at Alfred Waylen's farm at Toodyay: several men had gathered at the farm hut demanding wheat; and after a physical confrontation two soldiers and Waylen 'succeeded in driving off the Natives who left four of their number dead on the ground' and one badly wounded. Bunbury rationalised the soldiers' action by claiming it was 'evident from the boldness and insolence of this party that they felt themselves very strong', and 'the shouts and cries heard on the surrounding hills' proved 'a large body of Natives had collected for the plunder of the place if the more daring of their party had succeeded in overpowering the white men'.⁸⁶ In retaliation, the following night Bunbury and a party of soldiers crept for nearly a mile up a hill to ambush a Noongar group in the dark, killing one man and wounding another.⁸⁷ Finally, Bunbury admitted a 'native who was in custody in the York Barracks was shot by one of the soldiers' during his absence from the townsite.⁸⁸ The *Perth Gazette* claimed this latter shooting occurred while the detained man was 'in the act of making his escape'.⁸⁹ Another killing occurred at York when colonists noticed a man had climbed a tree, and 'as it was supposed he was placed there as a spy, he was instantly shot'. The newspaper admitted there was reason to believe the victim 'was merely up there for the purpose of hunting the opossum', but even so;

such appears to be the imperious necessity for prompt measures and the strictest vigilance, that, much as we may lament the occurrence, if the native was innocent of any improper motive, the circumstance of his being in that suspicious position will in a great measure palliate the offence.⁹⁰

Extrajudicial murders were not only committed by the military and civil authorities. Louis Giustiniani, a missionary appointed by the Western Australian Missionary Society who had advocated for the colony's Indigenous inhabitants since his arrival in 1836, formally protested atrocities committed by prominent Avon settlers. In a letter sent in August 1837 to the colonial secretary, he stated several persons were prepared to testify how Arthur Trimmer 'with a party of other such gentlemen, who under the

⁸⁵'The Natives', *Perth Gazette*, 12 August 1837, 952.

⁸⁶Bunbury to Stirling, 14 August 1837, State Records Office of Western Australia (hereafter SROWA) CSR 55: 39 (microfilm). See also 'The Natives', *Perth Gazette*, 19 August 1837, 956.

⁸⁷J. Cameron, ed., *The Millendon Memoirs: George Fletcher Moore's Western Australian Diaries and Letters, 1830-1841* (Victoria Park: Hesperian Press, 2006), 430.

⁸⁸Bunbury to Stirling, 14 August 1837, SROWA CSR 55: 39 (microfilm).

⁸⁹'The Natives', *Perth Gazette*, 19 August 1837, 956.

⁹⁰*Ibid.*

pretext of hunting, will destroy all the aboriginal inhabitants they can meet, and that Mr Trimmer himself will kill indiscriminately *Ten* natives'.⁹¹ When these official complaints went unanswered Giustiniani turned to the *Swan River Guardian* to publicise the atrocities. In a series of open letters addressed to Lord Glenelg, Giustiniani detailed how settlers maimed, murdered and mutilated Noongar people with impunity. He described 'Barbarities of the middle age' committed 'even by boys and Servants, who shot the unarmed woman, the unoffensive [sic] child, and the men who kindly showed them the road in the bush'.⁹² A particularly horrific incident took place near York after Robert Souper, one of Trimmer's apprentices, 'invited a native and his wife to accompany him in hunting kangaroos and to track the game for him'. Once in the forest Souper 'fired on the native woman and killed her on the spot, the man fled on seeing his wife fall, when Mr S fired on him also and wounded him'. Rather than 'assigning any cause for this cruel deed', Souper instead 'came back boasting of it as though he had performed an heroic act'. Soldiers then;

went out in search of the dead body of the woman, which they found, and having cut the ears off they brought them as a trophy into York, and hung them up in Mr Trimmer's kitchen, while they left the mutilated corpse unburied, a prey to the wild dogs, birds or vermin.⁹³

Giustiniani also openly accused a military party led by Macleod and Bunbury of murdering 18 innocent victims (a number provided by Noongar informants) in retaliation for the killing of Jones and Chidlow. Soldiers 'had received a *carte blanc* from Lieutenant Bunbury and Mr McLeod, to *shoot the Natives in all directions*', he claimed, even though 'none of those victims had been previously tried, nor even the *least evidence* brought against them, before the deadly weapon of the armed European prostrated them to the ground'.⁹⁴ These reports infuriated settlers, who attacked Giustiniani's character and accused him of fabricating his allegations;⁹⁵ and in any event the colonial government made little effort to investigate further.

By September 1837, the impact of military and settler violence had significantly curtailed Ballardong defenders' ability to resist attacks. Stirling congratulated Macleod and Bunbury for their 'recent exertions', which had 'the happy effect of restoring to a great degree the disturbed state of the York District [and] to render so vigorous and constant a pursuit of the Natives unnecessary'.⁹⁶ The following month, the governor despatched the colony's advocate-general, George Fletcher Moore, to the valley 'for the purpose of seeking an interview with the Natives' so as to 'lay a foundation for the establishment of peace on the basis of a proper and amicable understanding'. At a meeting held at York, Moore informed those present that Stirling had instructed him to ask "'if the Natives were now good, and if they would refrain henceforth from striking white men with the spear or

⁹¹Giustiniani to Brown, n.d., SROWA CSR 55: 73 (microfilm). Original emphasis. Although undated, this letter was sent sometime in late August 1837.

⁹²'Blood, and Innocent Blood Again', *Swan River Guardian*, 16 November 1837, 249.

⁹³Giustiniani to Glenelg, 16 July 1838, NA: CO 18/21, ff. 309–10. See also 'The Logic of Swan River', *Swan River Guardian*, 23 November 1837, 253.

⁹⁴'Blood, and Innocent Blood Again', *Swan River Guardian*, 16 November 1837, 249. (original emphasis).

⁹⁵Lesley J. Borowitzka, 'The Reverend Dr Louis Giustiniani and Anglican Conflict in the Swan River Colony, Western Australia 1836–1838', *Journal of Religious History* 35, no. 3 (2011): 358–59.

⁹⁶Brown to Macleod, 13 September 1837, NA: CO 18/18, f. 606.

from stealing their property”. Moore reported their ‘immediate and reiterated answer was “That the Goongar were now good that they would spear no more, neither men, horses, cows, sheep, goats nor pigs, and that they would steal no more”’. Moore then said:

that the Governor desires me to say “If the Goongar spear no more, and steal no more, that he will shoot no more with the gun. They said “It is very good, the Goongar will spear no more & steal no more”. Then they asked if they might pick up (or glean) when the wheat is on the ground. I said when the wheat is on the ground ask the white man if you may pick up, if he says yes, then you may pick up, if he says no, then you must walk away.⁹⁷

Moore then distributed portions of wheat to all those present,⁹⁸ thereby reinforcing his message of settler supremacy and further encouraging the growing food dependency of Ballardong communities, whose hunting and foraging grounds had been severely disrupted by six years of settler hunting, pastoralism and farming.

Although the 1837 campaign of violence largely succeeded in establishing settler dominance in the Avon valley, a new nadir occurred in May 1839 when Sarah Cook and her baby were killed at a remote sheep farm 10 miles from York. These murders were committed when a large group of 30 to 40 men gathered to exact vengeance after the son of Ejan, a prominent Ballardong leader, was imprisoned for sheep-stealing. Cook and her child were the unfortunate victims of the retributory spearing and burning of a European homestead which followed.⁹⁹ This event prompted a new period of ruthless and indiscriminate reprisals and effectively forced John Hutt, Stirling’s replacement as governor, to concede the right of settlers to fire at suspects attempting to flee arrest. In one instance Bland led a party that attacked a Ballardong camp in August 1839, killing a woman and child and wounding several men. Two suspects in the Cook murders, Doodjeep and Barrabong, were eventually captured, tried and convicted; and after they were hanged in chains near the scene of the crime, settler onlookers shot at and mutilated their bodies.¹⁰⁰

By the time of these executions in 1840, overt Ballardong resistance to the settler conquest of the Avon valley had largely ceased. That year, Charles Symmons, one of two newly appointed Aboriginal protectors, reported the ‘conduct of the natives’ in the colony as a whole to be ‘uniformly correct and peaceful’, and in January 1841 York’s police inspector, J.N. Drummond, noted ‘with the exception of a few cases of petty theft, the natives throughout the Districts of York, Toodyay and Beverl[e]y, evince the most friendly disposition toward the settler’.¹⁰¹ Even so, this peace was secured by the ever-present threat of settler violence. In March 1841 York protector Peter Barrow conceded that the ‘few cases of assault’ the previous year had ‘mostly been without any provocation on the part of the Aborigines’; he also claimed the public execution of Doodjeep and Barrabong had ‘had a most beneficial effect; their bodies are still hanging in chains, a terror to evil doers’.¹⁰²

At the height of the conflict in mid-July 1837, Western Australia’s advocate-general George Fletcher Moore noted that a ‘very general impression’ prevailed

⁹⁷Moore to Brown, 23 October 1837, NA: CO 18/18, ff. 615–16.

⁹⁸Moore to Brown, 23 October 1837, NA: CO 18/18, f. 617.

⁹⁹Hallam, *Aborigines of the York Area*, 40.

¹⁰⁰Garden, *Northam*, 54; Hunter, *Different Kind of Subject*, 103–8; Simon Adams, *The Unforgiving Rope: Murder and Hanging on Australia’s Western Frontier* (Crawley: UWA Publishing, 2009), 11–12.

¹⁰¹Report of the Proceedings of the Police Force at York’, *Perth Gazette*, 6 February 1841, 4.

¹⁰²Annual Report’, 31 March 1841, in *Perth Gazette*, 1 May 1841, 3.

among settlers that ‘if we do not anticipate the natives, some mischief will be done’. It was ‘a most unpleasant state of things, especially when our instructions are to proceed only according to the forms of the English law, which is to say, in short, we must do nothing’.¹⁰³ When two Ballardong men were shot at York later that month Moore wrote that:

[w]e naturally defend our lives now, and thus vindicate the majesty of the law, but 10 to 1 we shall have an outcry in England that we should be called to account for it. Let them come here and convert the natives, and let us defend ourselves in the way which we find to be the best.¹⁰⁴

In his disregard for legal and judicial processes and his preference for action ‘in the way we find to be the best’, Moore was following the example set by James Stirling. The proclamation that established the Swan River colony in June 1829 had explicitly extended the British legal system to the new settlement; and Stirling had declared that any person ‘convicted of behaving in a fraudulent [sic], cruel or felonious Manner towards the Aboriginees of the Country’ would be ‘liable to be prosecuted and tried for the Offence, as if the same had been committed against any other of His Majesty’s Subjects’.¹⁰⁵ In the aftermath of the Pinjarra massacre his superiors in the Colonial Office had reminded him of his obligation to act strictly according to law when adjudicating conflicts and disagreements between Noongar communities and colonists. However, in overseeing the forceful dispossession of Ballardong country upon which the success and profitability of Western Australia’s early pastoral industry depended, Stirling disregarded these instructions. Noongar communities bravely resisted the settler incursion, but overwhelming extrajudicial violence inflicted by soldiers and colonists ultimately prevailed.

Acknowledgements

I would like to thank Georgina Arnott, Ann Curthoys, Ned Curthoys, Tony Hughes-D’Aeth, Shino Konishi, Zoë Laidlaw, Jane Lydon, Chris Owen and the *History Australia* editors and reviewers for their feedback on early versions of this article.

Disclosure statement

No potential conflict of interest was reported by the author.

Funding

Jeremy Martens receives funding from the Australian Research Council via the Legacies of British Slavery in Western Australia Discovery Project DP200100094.

¹⁰³Cameron, ed., *Millendon Memoirs*, 425.

¹⁰⁴*Ibid.*, 427.

¹⁰⁵Stirling, *Proclamation*, 18 June 1829.

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