

# One

## *Franks is Dead*

Everybody agrees that this is what happened.

Franks and Flinders were killed by blows from steel hatchets landing so heavily that Franks' skull was driven into the turf.

And that's the point at which agreement stops.

The *Champion* arrived at Point Gellibrand in Port Phillip Bay in 1836. On the ship Charles Franks brought 500 sheep and a partner, George Smith, and a shepherd called either Flinders or Hindes, but nobody seems certain.

The waters off Point Gellibrand are shallow, clear and calm, crowded with mussels, oysters, flounder, flathead and garfish. Only twelve months earlier, Bunurong, Wathaurong and Woiwurrung people feasted on this bay of plenty; their ovens and houses are evident but already the people are scarce, avoiding the frenetic activity of the white people.

It is winter but even so the days can be brilliant with mild sunshine, the wavelets scattering light as if from a shattered mirror. It is God's own country. A man might become anything here. In those days women could please themselves.

In this mood of limitless opportunity Franks removes his sheep from the *Champion* on 23 June and, on the advice of George MacKillop, decides to take up land around Mount Cotterell on the headwaters of the Barwon River. It took until 2 July to cover the 20 miles (32 kilometres) of flat volcanic grasslands. After depasturing the sheep George Smith returned to Point Gellibrand to bring up more stores.

On 8 July Smith arrives at Mount Cotterell, sees no sign of Franks or Flinders but the stores appear to have been ransacked.

He takes fright and returns to Point Gellibrand where he conscripts the help of Mr Malcolm, Mr Clark, Mr George Sams, Mr Armytage, Dr Barry Cotter, Charles Wedge, and Mr Gellibrand. Gellibrand asked Henry Batman to accompany him with William Windberry, George Hollins, Michael Leonard, Benbow, Bullett, Stewart and Joe the Marine. On the way they fall in with Mr Wood and his large party, some of whom were David Pitcairn, Mr Guy, Derrymock, Baitlange, Ballyan and Mr Alexander Thomson.

So, a party of well over 23 people are curious enough to drop what they are doing to investigate the upsetting of a cask of flour at Mount Cotterell.<sup>1</sup> Or have they already mounted similar expeditionary forces since the establishment of the first Yarra settlement less than a year before? Are they at war with the Kulin Nation and recognise this as a beachhead in the war for possession of the Port Phillip plains?

When Captain William Lonsdale is appointed Police Magistrate of Port Phillip in July 1836 the frontier community is under token jurisdiction, but it is an indelible indication of the true activities of the previous twelve months that when George Smith notices an upturned barrel of flour he has no trouble in mobilising a small army to investigate the cause.

These men do not believe a delinquent possum is rampant, they mount a volunteer force of heavily armed volunteers. They are not involved in casual reprisal but a calculated vigilante campaign.

The party followed a trail of flour and discarded stores and came across a band of about seventy to one hundred Wathaurong people.

In responding to Lonsdale's investigation of the incident Henry Batman says he yelled at them but they didn't move so he fired his gun once above their heads and they ran off; John Wood said several shots were fired but none could have taken effect because they were fired from too great a distance; Edward Wedge believed that by the nature of the cuts to the heads of Franks and Flinders, whose bodies were found near the stores, they had been 'inflicted with a particular type of long-handled hatchet' which he had given to the natives earlier in the year 'to conciliate them';<sup>2</sup> Michael Leonard says several shots were fired but to his knowledge no-one was injured; William Windberry says that the party went after the blacks to retrieve the stolen property but he did not think any were killed.

William Lonsdale receives the evidence and advises the Colonial Secretary that no harm had been inflicted on the Aboriginal people despite it being common knowledge in the colony that at least twelve were killed. The Wathaurong said over 35 but, of course, they were never invited to give evidence. No investigation is made of other attacks which follow the first punitive expedition.

The court hears that the murderers of Franks and Flinders were Goulburn Aboriginals Dumdom and Callen. The Daugwurrung are the people of the Goulburn River and this evidence places them in Wathaurong and Woiwurrung country, but given known clan movements of the time this is unlikely. But to the avengers one group of Aborigines is much the same as any other.

George Smith says it was impossible that Charles Franks could have provoked the murder because he 'had a great aversion to the native blacks, and would not give them food, thinking it the best way to prevent them from frequenting the station.'<sup>3</sup> He'd arrived for the first time only days before at a 'station' at the headwaters of the Barwon River, heartland of the Wathaurong and Woiwurrung people, a land they would defend with their lives.

Mr Franks was 'very mild and gentle in his general conduct, and I do not think he would molest anyone,'<sup>4</sup> concluded his partner, Mr Smith, but Robert William von Stieglitz, in a letter to his brother, casts a different light on Franks' gentle Christian demeanour. Stieglitz went to Franks in order to buy lead which all knew Franks had in great supply. Franks told Stieglitz that the lead was excellent for 'making blue pills for the natives.'<sup>5</sup> Some historians take the word pill literally and assume it is a euphemism for the manufacture of strychnine to lace bullock carcasses in order to poison Aborigines, a common practice in the colony and further refined in Port Phillip. When challenged about this practice it was a common defence to say that the poison had been for the crows. This was a popular jest in Port Phillip because at the time many referred to the blacks by the American euphemism 'Jim Crow'. It's more likely, however, that Franks was making his own shotgun balls.

Either way, it seems this mild Christian had been murdering Aborigines to secure the 'selection' he and his partners, George Smith and George Armytage, had decided upon. It seems he came upon his 'great aversion to the blacks'<sup>6</sup> in a very short space of time, perhaps even in advance of meeting them, so that he thought

it necessary to bring the ingredients of their destruction in his first stores.

Joseph Tice Gellibrand, Attorney-General of Tasmania until recently, and now the token representative of law and order for the Port Phillip Association, wrote of the Franks murder on 7 August 1836: 'Several parties are now after the natives and I have no doubt many will be shot and a stop put to this system of killing for bread.'<sup>7</sup> The press were also phlegmatic in their understanding of the true nature of the conflict. The *Cornwall Chronicle* records the event thus: 'The avenging party fell on the guilty tribe...and succeeded in annihilating them.'<sup>8</sup>

It's only twelve months since the arrival of the colonists and yet it is a matter of conversation, among men meeting for the first time, how to eliminate the annoying insistence of the Indigenes to protect their land.

Entrepreneurs in Van Diemen's Land frustrated by the restrictions being placed on land acquisition determine to form a company to take up the green fields discovered by sealers at Port Phillip. In their correspondence with each other they discuss the advantages of taking up broad acres where no civil authority exists to hamper their enterprise. Mindful of the Colonial administration's increasing desire to ameliorate the Indigenes and the Van Diemen's Land governor's determination to uphold that line, they confect a series of documents to disguise the true nature of their activities. The clans of the Kulin peoples surrounding Port Phillip and Western Port are about to experience one of the most blatant thefts in the history of humankind.

John Batman and John Pascoe Fawkner were both sons of convicts, both had built fortunes from property in Van Diemen's Land and joined to become the two principals of the Port Phillip Association. Batman was a chaotic character and his wild nature swung recklessly between acts of kindness and bloody-minded self-interest, while Fawkner was a more calculating and meticulous personality. Within days of landing at Port Phillip they were at loggerheads, Batman parading around the settlement with Aborigines he'd brought from Sydney and Fawkner making plans for hotels and newspapers, the stuff of prosperous settlements. But their different humours didn't prevent them from co-operating in the wholesale division of the Kulin lands.

Some of the most astute businessmen in Hobart helped establish the Port Phillip Association and they were joined by the more entrepreneurial members of the administration and judiciary. It was a formidable combination of law and enterprise; the entrepreneurs providing cash and energy and the legal minds steering the Association through the administrative shoals of colonial government by concocting sham documents of possession in the most portentous and arcane language.

These men were involved in very influential circles and knew how to weasel their way around Governor Arthur's instructions. Batman, Fawkner, Gellibrand, Charles Swanston, and others were the most celebrated business people in the colony and their plot to gazump the authorities and the real owners of the land is still celebrated in Australia as the bringing of the light to the heathen wasteland instead of the white shoe brigade land sham it really was.

Thousands of pounds changed hands in weeks as frantic entrepreneurs threw themselves at the Association in their haste to secure land. Most land was 'selected' unsurveyed and thousands of sheep were offloaded on the tranquil shores of Point Gellibrand where as many as eight ships rode at anchor on any given day, such was the speed of 'settlement'. In fact some of the party sent to revenge Franks' murder were recruited from the crew and passengers of these ships.

Nothing happened at random here; this was an orchestrated campaign where the colonists work against both the Kulin Nation and the colonial governments in Sydney and Hobart.

The unanimity of the colonists' purpose can be gauged by their relationships with each other. They were eager to see all the lands populated by like-minded individuals in order to thwart the government's purposes, and to murder and disperse the black population in order to secure the 'peace'. Indeed they went to great lengths to ensure that their friends joined the colony, their letters to each other confirming that they were anxious to create a solid confederacy to protect their interests and obscure the deceptions instituted to acquire them.

George MacKillop, who admired Smith, Armytage and Franks in their precipitous lust for land, was experienced in the process of dispossession having already applied the procedure to great

effect in India where he had worked in partnership with Charles Swanston. Swanston went on to become exceedingly rich in Port Phillip, his interests in land and banking making him one of its most respected and powerful citizens. Swanston and MacKillop have extensive business dealings with the staunch churchman George Smith, Franks' fellow squatter. These are respectable people, already wealthy from their Indian and Van Diemen's Land investments; churchgoers, solid citizens, good enough to name streets after, but they were directly involved in the war to dispossess the Kulin people. How did these solid citizens justify their actions?

They describe the murder of the 'gentle' Franks as an 'outrage', the term coined for the action of a black man raising a hand against a white, not patriots desperate to protect their mothers' lands, but criminals to be destroyed before justice could intervene. They urge other settlers to 'full satisfaction' against the blacks.<sup>9</sup> Black resistance is labelled criminality, for to equate it with armed resistance is to acknowledge prior ownership.

The squatters applaud the appointment of the Police Magistrate Foster Fyans in Geelong. Fyans earned the sobriquet 'Flogger' for his administration of 'justice' at Moreton Bay and Norfolk Island, and the esteem with which the gentlemen of Port Phillip regard him was earned by his thoroughness in defending their lands in the Indian Colonial war. What is establishing itself in Port Phillip is a close-knit club of men experienced in dispossession, war, treachery and silence, experience gained in the British Empire's most recent wars against legitimate landowners.

This is a land war and conducted in the same manner as any other in the history of conflict between nations.

At Portland, to the west of Port Phillip, the Henty brothers had already established a sealing colony, and the conflict with the Gundidjmara people is symbolised by a clash on the beach for possession of a single whale. Both sides probably saw it as a beach head in the fight for possession of the soil itself. The battle site became known as the Convincing Ground, the place where the Gundidjmara were 'convinced' of white rights to the land. The Gundidjmara were beaten in that battle but never convinced of its legitimacy.