

# What Treaty?

## -Examining Batman's 1835 Port Phillip Excursion from an Aboriginal Perspective



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## -EXAMINING BATMAN'S 1835 PORT PHILLIP EXCURSION FROM AN ABORIGINAL PERSPECTIVE

### Not One but Two 'Treaties'

In Victoria in particular, there is a strong public awareness about 'Batman's Treaty'. It is well known as the tool by which Batman purported in 1835 to have bought land in present day Melbourne from the Woiwurung people. Nowadays, there is a healthy scepticism that Aboriginal people could have had any conception of selling their land as a commodity. Australians now have a better general understanding that Aboriginal people viewed the Land as a living entity, and that it owned them, not the other way around.

However, apart from a few academic historians, there is very little public understanding that there were in fact **two** 'Treaties' not one. The first treaty involved Batman's claim to have purchased land in the Melbourne area, roughly covering the catchment areas of the Maribyrnong, Plenty and Yarra Rivers. This was a major part of land belonging to one language group, the Woiwurung, but it involved territory covering various clans of the Woiwurung.

The second treaty concerned land in the Geelong area covering the catchment areas of the Barwon River Moorabool River and Hovell's Creek. This was similarly a major part of land belonging to the Wathurong language group and involved several clans. The description of the land involved in the Geelong deed was much more succinct than the land described in the Melbourne deed. It simply said:

*'All that tract of country situate and being in the Bay of Port Phillip known by the name Indented Head, but called by us as Geelong extending across from Geelong Harbour about due south for ten miles more or less to the Heads of Port Phillip.'*<sup>1</sup>

However, whilst there was a lengthier description of the land in the Melbourne deed, it was crowded into the same space that had been provided in the Geelong document. Obviously, the separate deeds had been prepared beforehand, with spaces left for Batman to fill in after he got more specific details. It is well established that the Port Phillip Syndicate lawyer, Joseph Gellibrand, had indeed produced draft documents, replete with blank spaces, prior to Batman leaving Tasmania in May 1835.

In an excellent 1991 article for the Victorian Historical Journal, Rex Harcourt compared the handwriting styles, inks and variations between the documents and concluded that Batman:

*'...was clever and capable enough to meet all the requirements of Gellibrand's strategy....discreet and reliable in keeping important aspects confidential until he first checked the position with his superiors. He was capable of deception, and shrewd enough to conceal the fact. If his diary was rearranged as supposed in this paper then it has been a masterpiece of deception'*<sup>2</sup>

Batman's conscious deception is the real point. In the second treaty document, he purported to have purchased land from the **Woiwurung** people in Melbourne that actually belonged to the **Wathurong** people in Geelong. Whilst both the Woiwurung and Wathurong people belonged to a broader **Kulin** cultural federation of five language groups, such a transaction is an impossible proposition.

Even back then Batman was aware it was an impossible idea to buy land off someone who didn't own it. So he did not initially disclose the existence of the second treaty and waited two weeks before telling his colleagues. Barely a week after this, public attention was suddenly riveted by William Buckley appearing on July 6<sup>th</sup> 1835 after a thirty-two year sabbatical. This therefore assured that the second 'treaty' did not enter public consciousness, a situation that continues in the present day.

The primary tool used by Batman to direct public attention exclusively to the first treaty was by recording a rearranged sequence of events in his diary along with a host of bogus distances. That is, he documented an entirely fictitious cross-country journey in order to fulfil the requirements laid out by Gellibrand to 'Beat the Bounds' of the land he was claiming to have bought in Melbourne.

Apart from this, he also needed to fulfil his role as the 'Real Estate Salesman' for the Port Phillip Syndicate and so used his bogus journey to extol the excellence of the rich pastures supposedly rolling out before him in his heroic journey.

Batman was a very experienced bushman and so had a good eye for distances. Unfortunately, this has led some people to conclude that Batman's diary entries must therefore be accurate. However, this is clearly based on the assumption that Batman was an honest man and was not deliberately attempting to deceive anyone.

There is however no evidence to support the assumption that Batman was an honest man. He had in the past proven himself to be boastful and manipulative, as well as dishonest in commercial transactions with his neighbours.<sup>3</sup> One simple example from his own diary can serve to illustrate this deceptiveness.

On June 5<sup>th</sup>, 1835, after having supposedly walked generally north for two days from Port Phillip Bay, Batman claims to have been some fifty miles from the Bay. He then said that after ascending to the top of a beautiful hill he could see for thirty miles due north and that there were '*... all plains, and here and there a few gentle rising hills and valleys of the best description.*'<sup>4</sup>

If it was indeed true that at the time Batman was fifty miles from the Bay, then he would have been standing in the middle of the Great Dividing Range. This distance from the Bay would have placed him anywhere in an arc between present day Kyneton and Yea. The vista before him would therefore most certainly not be that of gentle hills for the next thirty miles north, but of mountainous terrain all around.

It is therefore obvious that, apart from his mandate as Real Estate Salesman for the Port Phillip Syndicate, Batman was also trying to fulfil Gellibrand's instructions on the requirements of the medieval ceremony of Feoffment. This was a ritual that had last been used in the British Empire by William Penn in 1681, when he established the Quaker colony of Pennsylvania on the Atlantic coast of North America.

### **William Penn's use of Feoffment to Purchase Native Land in America**

At the time of founding the first Australian colony at Sydney Cove in 1788, Britain had become the supreme colonial power in the world. It had already established 'The Empire on Which the Sun Never Sets' and it dominated world trade, commerce and manufacture through its worldwide colonial Empire.

In reality, much of the economic backbone to Britain's colonial empire had been built, not just on the dispossession of native people in the colonies, but also on the ruthless and immoral Slave Trade.

However, times had changed rapidly following the loss of the American colonies after the Revolutionary War in 1783. In 1789, only one year after founding the Australian colony, a British Parliamentarian William Wilberforce began campaigning for the abolition of the slave trade in the British Empire.

It took nearly twenty years of campaigning before the slave trade was abolished in 1807, but not slavery itself. Wilberforce and others therefore continued their human rights campaign until slavery was finally abolished in the British Empire in 1833. The new Act was passed only days before Wilberforce died.

However, the 1833 Act achieved much more than the abolition of slavery. The public and parliamentary debates over the previous forty-four years had heightened sensitivity in the Empire to the rights of indigenous people and the deprivations they had suffered through British colonisation.

By coincidence, after the 1833 Slavery Abolition Act had been passed, two Quakers from Pennsylvania visited Hobart that same year.<sup>5</sup> The Governor, George Arthur delegated John Batman to interview them, so this may indicate that Governor Arthur was a silent partner in the fledgling Port Phillip Syndicate and his nephew Henry a proxy.

Whether this was so or not, it is nonetheless clear that the task delegated to Batman was to elicit details from the two Quakers of the process that had been used by William Penn, to secure his 'treaty' with the natives and then gain royal approval for it.

The land purchased by Penn had been by using the medieval process of Feoffment. This was a mechanism by which usage rights over particular areas of land had been transferred in Medieval England. This in reality only involved usage rights, rather than the land itself being sold.

This situation had existed from the time of William the Conqueror, when he had assumed ownership of all land. All land titles had therefore ultimately rested with the monarch under his Allodial Title. Those under him therefore had rights of 'estate' rather than actual ownership of the land itself. Feoffment therefore came into being as a deed (that is an action) by which a person gained rights over the land in exchange for a pledge of service.<sup>6</sup>

Written conveyances gradually became customary to support this feoffment process. Written evidence of such sales ultimately became mandatory in England in 1677, with the supporting documents being referred to as 'Deeds'.

The ritual itself involved the seller, in the presence of witnesses and for a specified fee, giving the buyer a sod of grass and earth, along with a description of the boundaries of the estate. The buyer was then required to 'Beat the Bounds' by travelling the perimeter of their new estate and making boundary marks. Batman's use of the feoffment procedure was therefore to be the only such case in Australian history.

The members of the Port Phillip Syndicate, Gellibrand the lawyer, Swanston the banker, Wedge the surveyor, and Batman the salesman, right from the outset intended their 'treaty' to be a fraudulent process. This intention was clearly foreshadowed in a letter by Wedge to Governor Arthur on 18<sup>th</sup> September 1834. Wedge's letter complained that the Henty family's planned to settle at Portland and that they intended:

*'... taking possession of unlimited tracts of land under the pretence of a treaty with the Aborigines.'*<sup>7</sup>

There is no record of any such intention by the Henty family, nor did they display the slightest intention of conducting any type of negotiation with the Gunditjmarra after they arrived. The

comment by Wedge is purely and simply a projection of the Port Phillip Association's own true intention of fraudulently using the feoffment process.

It transparently obvious that Batman tried to demonstrate his use of the feoffment process in his dealing with the Woiwurung, by specifically referred to it in his report to Governor Arthur. This was however an obvious fabrication, as no mention of it was made of it in his journal. The report to the Governor was in fact completed when Batman returned to Tasmania on June 11<sup>th</sup> 1835, and done so under the close supervision of Joseph Gellibrand, the Port Phillip Association lawyer.

In the report, but not his diary, Batman claimed a Woiwurung Elder had poured soil into his hands. This is an obvious artifice, probably suggested by Gellibrand himself. Batman would have felt no necessity to conduct such a charade with the Elders. All he had to do was make a false record asserting that it had happened, and it would then become the unchallengeable truth.

Similarly, to prove he had 'Beat the Bounds' of the land in question, all Batman had to do was retrospectively assert it in his diary. If you say something is true convincingly it will convince people, particularly if there is no disputing version of the events. And Batman had assured there was no disputing version of events by leaving the three colonists who had accompanied him, back at Geelong.

The record that Batman subsequently entered into his diary, that he had travelled about one hundred and twenty miles around the countryside in four days, was therefore a figment and an artifice. Its purpose was purely and simply to serve the illusion of having 'Beaten the Bounds' in fulfillment of the feoffment conditions. The plain fact is that Batman was actually not physically capable of such a feat.

At the time Batman came to Port Phillip in mid-1835 he was suffering tertiary stage syphilis and had gummatous growths on his face. There had been no respite in the progress of his symptoms from when he was first diagnosed with the disease in 1833, to when he died in 1839. It was obvious to Batman's friends as early as January 1834 that his cardiovascular system was already compromised,<sup>8</sup> so when he was in Port Phillip eighteen months later in 1835, he could only have been even more debilitated.

Quite apart from the question of his physical capability, the distances and directions claimed to have been travelled, somehow magically turned out to be the boundaries of the area Batman then claims to have bought. Rex Harcourt notes with healthy scepticism in his 1991 journal article that:

*'Such a recital of events is too coincidental and it is highly probable that he varied the sequence of events to make it appear that he had inspected the boundaries and corners during the course of his journey.'*

### **Sorting the Wheat from the Chaff in Batman's Account**

I am in complete agreement with Rex on this point, but it immediately raises the question of what did Batman actually do for those first four days in Melbourne, if he wasn't 'Beating the Bounds'? The answer comes from a close examination of the only two other eye witness accounts of the meeting with the Woiwurung that are available.

The first account is that of Robert Robson, the First Mate of the ship that Batman had hired, the Rebecca. The second account is that of the famed Woiwurung leader, William Barak, who was present at the treaty meeting when he was aged almost twelve.

However, it first needs to be emphasised that apart from the last week of his time in Port Phillip, Batman's diary seems to be a fairly contemporaneous and accurate account of the events. This view is supported by the fact that in the first few days in Geelong, Batman makes a number of observations that seem to be genuinely spontaneous, and which are also consistent with Aboriginal land use practices. For instance, on May 30<sup>th</sup> Batman noted in his diary:

*'Most of the high hills were covered with grass to the summit, and not a tree....The whole appeared like land laid out in farms for some hundred years back, and every tree transplanted. I was never so astonished in my life'*

This comment is consistent with the way in which Aboriginal people across Australia managed their estates, both through fire and cultivation schedules, to be a series of 'Farms without Fences'.<sup>9</sup> What Batman was in fact observing at Geelong were hilltop grain farms, yam farms, possum farm copses and sparsely treed kangaroo farms.<sup>10</sup>

Two days later Batman sailed into Hovell's Creek and noted the aquaculture engineering there:

*'We saw several places on going up, which the natives had made with stones across the creek, to take fish...The walls were built of stones about four feet high and well planned out. Two or three of these places following each other down the stream with gates to them.'*

What is also interesting and obviously an accurate record was the role played by Batman's seven Sydney Blacks. He had brought them over as guides and interpreters and at Geelong they were instructed to make contact with some local people seen in the distance. On May 31<sup>st</sup> 1835 Batman noted:

*'My natives stripped off and went up to them quite naked....They seemed quite pleased with my natives who could partially understand them.'*

The second part of this statement, that Batman's men understood the Wathurong people, presents as wholly accurate. However, it has led some historians to opine that it this could not be so, because the Sydney men spoke an entirely different language.

Unfortunately, this sort of comment underlines how abysmally little most Australians, including historians, know about Aboriginal culture and their language skills. It is a logical conclusion only from a non-Aboriginal perspective. In fact all Aboriginal people were brought up to be multilingual. They were all inculcated with listening skills that allowed them to replicate all manner of sounds, especially human language. This wonderful capacity of Aboriginal people for mimicry was of course often noted by colonists, but these precise sound replication skills tended to be dismissed as only being akin to that of a cockatoo.

Aboriginal culture also ensures that each individual is able to navigate foreign landscapes with ease by recognising both the natural and man-made 'street signs' that abound. This is also supported by the customary process of 'Singing Country', where people sing in praise of the vistas, birds and animals as they walk along. This protocol ensures safe passage through other tribal lands as long as you are following a designated 'Songline', their universal word for a travel route. In a very real practical sense, the song is actually your passport to safe travel in a foreign country.<sup>11</sup>

What is intensely interesting is that while Batman made some unguarded references to the role his Sydney men played at Geelong, he virtually does not refer to them or their role when in Melbourne, This is an issue that will be returned to later in the discussion of William

Barak's account, but first the scene needs to be set for the first day of Batman's week in the Melbourne area of Port Phillip.

### **How Batman Really Spent his First Day in Melbourne**

As was discussed earlier, on June 1<sup>st</sup> 1835 Batman noted the fish traps at Hovell's Creek. Despite foul weather the next day on June 2<sup>nd</sup>, Batman's boat reached the mouth of the Yarra, but they could not find the channel. Batman reported that the depth of the water was no more than a fathom (six feet). This observation accords with the fact that at present day Spotswood, there was a low-tide Aboriginal crossing, where the depth of the water was about chest high at low tide.

Batman therefore had the boat turn around and land at 'Point Gellibrand' (Williamstown) where they spent the night. Next morning, June 3<sup>rd</sup> was therefore the first day of Batman's week long stay at Melbourne. Batman records that all ten members of his party, Todd, Gumm, Thompson, Bullet, Bungett, Old Bull, Pigeon, Joe the Marine, Jacky and Stewart, were instructed to walk north overland from Williamstown with the dogs they had bought. They would then be picked up later, some five miles up from the mouth of the river.

This offloading of the ten men was obviously to lessen the weight on board in order to help negotiate the channel. Batman then records he departed with the crew in the Rebecca at 9am. This time there was one and a half fathoms depth of water in the channel (nine feet). The overland course taken by the ten men would have generally allowed them to keep the boat in sight the whole way.

Immediately after this low tide crossing point at Spotswood, the Yarra flows in from the east. It is by far the major river and could not possibly have been missed by Batman, the Captain and all five of the crew. Batman's failure to record the sighting of the Yarra in his diary was therefore a deliberate omission and he claims to have first seen the Yarra four days later, on June 7<sup>th</sup>.

On June 2<sup>nd</sup> Batman instead simply recorded that they landed and met the others five miles up the river. In other words, about opposite present-day Flemington Race Course, after his men had walked some seven miles overland. Three mile an hour is a pretty good walking speed, so by this time it was past midday, with only five more hours of daylight left. However Batman then claimed that he and his party then loaded up left the Rebecca and walked a further twenty-six miles by sunset.

What he is saying is that ten fully laden men ran a marathon in about four hours and nobody died. More than this, Batman would then have us believe that these superhuman feats were repeated for four days in a row. This analysis will therefore not be continued, and it will instead be merely asserted what I believe to be how the afternoon of that first day was spent.

On arriving at Flemington and having a lunch break, the party reboarded the Rebecca. For a boat of her size the Maribyrnong was quite navigable up to Solomon's Ford at Braybrook which was a further seven miles upstream. There they got out and had a look around while the crew turned the boat about.

The Sydney men in all probability indicated the Songline (Geelong Road) that headed off southwest to where they had been the day before. They well may have also indicated the Songline (Ballarat Road) that headed off northwest from the crossing point into the hinterland. In all probability they also indicated the Songline that headed off to east back to the Freshwater River via Moonee Ponds Junction, Mount Alexander Road and Flemington Road.

By now it was probably about three o'clock, so everyone then got back in the boat, sailed down to the Yarra, turned left and made their way up to the Queen Street falls. The Rebecca was then moored and this is where she stayed for the next five days.

When the ship had been out in the Bay, smoke was seen from the northeast, obviously somewhere along this major freshwater river. The plan was therefore simplicity itself. Send the Sydney Blacks out the next day, June 4<sup>th</sup>, to make contact and try to arrange a meeting.

### **The One Reliable Fact from Robert Robson's Account**

This now leads us to the purported eye-witness account by Robert Robson, of Batman's meeting with the Woiwung. Robson was the First Mate on the Rebecca, which Batman had hired for six months. Robson's account of Batman's meeting with the Woiwung was however not contemporaneous. It was instead dictated in 1866, over thirty years after the event, and shortly before Robson's death.<sup>12</sup>

The account is confused in dates and event sequences and is wholly unreliable. Not just because of the probable confusion of memory over a thirty-year time lapse and also the possible onset of dementia. The stark provable reality is that Robson never left the boat at any stage to accompany Batman.

As First Mate, Maritime regulations and conventions prescribe that Robson was solely responsible for ensuring the safety and security of the boat, both at sea and in port. His responsibility and loyalty was therefore only to his employers, the owners of the ship. Batman was only a client to be ferried around. Each of the four sailors on board the Rebecca was responsible for a four hour watch each day. The First Mate was traditionally and invariably responsible for two watches, 4am to 8am and 4pm to 8pm.

The job of all crew, but especially the First Mate, was simply to ensure the safety of the Rebecca from fire, storm damage or attack by natives. Had Robson been absent at any time from the ship or dock precincts, the Captain would have formally noted it and Robson would have been unceremoniously sacked on his return to Tasmania. The fact that Robson was subsequently promoted to Captain is irrefutable proof that he had done his job and had never left the ship.

However, one fact from Robson's account rings true, especially from an Aboriginal perspective. Robson stated in his 1866 account that from out in the Bay, distant smoke had been observed. It is directly implied that this smoke was to the northeast, in other words up the Yarra Valley. This is what led to Batman's choice of direction in sending his Sydney men out to find the native encampment along the Yarra.

It should be noted that Robson's brief description implies that the smoke sighted was not near Melbourne such as on the Merri Creek at Rushall, it was more distant and this is consistent with Aboriginal practice in the winter months. As the seashore areas are cold and windy in winter time, Aboriginal people usually retreated to the more inland forest areas, where natural shelter and firewood were readily available.

This scenario was ultimately confirmed by the third eyewitness account of Batman's treaty meeting. This was the account dictated by William Barak at Coranderrk in May 1888, when he was just on sixty five years of age.<sup>13</sup>

### **The Amazing Revelations in William Barak's 1888 Narrative**

At the time of dictating his narrative, Barak was unwell and fearing he might die, so he began dictating his life story to a teenage student from Coranderrk School. Because of the stream of consciousness involved, the narrative switches between various time periods and is therefore



hard to follow unless you have an understanding of the broader context of Barak's formative years.

Added to that, there were in his narrative some errors of fact, spelling and grammar. So to properly interpret the Barak 'My Story' document, it requires not just knowledge of the facts relating to the immediate pre-colonial period, but also of Aboriginal concepts and the Aboriginal use of English.

It is beyond the scope of this paper to offer a full analysis of Barak's document, because this would diverge too far into the profound but largely unrecognised influence William Buckley had on the thinking of the Kulin people. This analysis is however available elsewhere,<sup>14</sup> so at this point only an interpretation of the following passage from Barak's document will be offered.

*'Batman sent some potatoes from Melbourne to the camp of the Yarra blacks. Then the blacks travel to Idelberg. All the blacks camp at Muddy Creek. Next morning they all went down to see Batman, old man and women and children and they all went to Batman's house for rations, and killed some sheep by Batman's order.'*

What the reader will immediately note is that Barak has mentioned three locations in his narrative, Melbourne, 'Idelberg' and Muddy Creek. The first location requires no explanation apart from noting that Batman's seven Sydney men did not arrive at the initial contact location at Heidelberg from a westerly cross-country direction, as Batman had later claimed in his diary. As already indicated, this was because Batman and his party had spent the first day (June 3<sup>rd</sup>) exploring the Maribyrnong River, after which the Rebecca had been moored on the Yarra at Melbourne.

Barak's second named location of 'Idelberg' also requires no explanation. It is transparently obvious that he is referring to the northeast suburb Heidelberg. This is of course precisely the direction from Melbourne from which smoke was seen in the Bay, and bearings had then been taken.

However Barak's third named location, Muddy Creek, is more obscure unless you are aware that the Woiwurung word for 'muddy' is 'Kurrum'. Also, the word for creek is 'Yallock'. 'Kurrum Yallock' as it so happens, is the original name of the Plenty River.

It was renamed Plenty River by Joseph Gellibrand a couple of months later in 1835 when he first arrived in Port Phillip. After his tour of the new colony, the Plenty River at Greensborough was the site Gellibrand nominated as where Batman's treaty meeting had taken place, and this is exactly what Barak was confirming in his 1888 narrative.

Readers will also note that Barak refers to potatoes being sent from Melbourne to Heidelberg. This is a clear indication of how well-versed Batman was in dealing with Aboriginal people and a confirmation of the role played by his Sydney men. The job they were given on the second day (June 4<sup>th</sup>) was to take a couple of bags of potatoes, follow the northeast course of the Heidelberg Road Songline out, make contact, try to arrange a meeting and report back.

They duly did this and met a group of locals at present day Warringal Park in Heidelberg. The Sydney men then requested a meeting between their Headman, Batman, and the Woiwurung Headman. To allow appropriate travel time the requested meeting would have been for the day after next.

A messenger would then have been despatched to Muddy Creek, only an hour's walk away. Batman's seven Sydney men would certainly have been in no hurry to get back to Melbourne that day. They would have acted as good guests and stayed the night to share some roast

potatoes with the people at Warringal. They would then have reported back to Batman by midday on the third day, June 5<sup>th</sup> 1835.

With the advice that a meeting was in the offing at Muddy Creek the following day on June 6<sup>th</sup>, Batman would have made arrangements for his men to carry their assortment of gifts for the Woiwurung, as well as the couple of sheep they had brought over for just such a purpose. Batman and his party of ten would therefore have left the Rebecca the following morning (June 6<sup>th</sup>) before 8am, in order to arrive at Greensborough by midday. This was the actual arrival time Batman recorded in his diary and it therefore rings as true as being one of the few accurate details recorded.

Batman and his ten companions therefore left the Queen Street Falls in Melbourne and followed the William Street- Peel Street-Queens Parade-Heidelberg Road-Greensborough Road-Grimshaw Street Songline for fifteen miles. They then duly arrived at the Gathering Place at the ford on the Plenty River at Greensborough at midday. It seems clear from Barak's narrative, that Batman had a couple of sheep trotting alongside the group and which were to be unwitting guests at a barbeque.

### **Three Ceremonies, Tanderrum, Feoffment and a Barbeque**

So if we entertain for a foolish moment the notion that Batman's diary might be a true record of his travels, we are then faced with two difficult questions. First, what is the chance, after four days of aimless wandering, accidentally stumbling across a meeting of 'Principal Chiefs' at Greensborough? Second, what is the chance that this same four days of blundering around the countryside would just happen to magically coincide with the very boundaries of the land he then purported to buy?

As Rex Harcourt has previously indicated in his 1991 article, the chance is zero. The four days travel that Batman describes in his diary is therefore a complete fabrication. What is more, it completely ignores the vital role played by his Sydney men.

Batman's Sydney men had quite obviously done the job required of them. They had acted as guides and interpreters, used their language skills and Songline knowledge, and they then facilitated Batman's introduction to the Woiwurung Elders. Their job had therefore not simply been as hired hands to do mere manual work. Theirs was a commission that above all required skills in geographic navigation and international diplomacy.

But the fact that the Woiwurung Elders had gathered at Greensborough, strongly suggests that they had already received intelligence of Batman's arrival and had met pre-emptively to discuss its implications. William Buckley the escaped convict had predicted for over thirty years that the White Man would inevitably come to take the land by force and clear the scrub.

Children and adults alike were constantly gobsmacked and patently terrified by his stories of the guns and cannons possessed by the white man, along with their uncompromising attitude. Barak's recollection of these terrifying talks by Buckley was recorded graphically in 1888 and it gives some understanding on how he felt on seeing Batman for the first time on June 6<sup>th</sup> 1835 when he was aged almost twelve.

*'Buckley told the blacks to look at Batman's face. He looks very white. Any man that you see out in the bush not to touch him....If you kill one white man white fellow will shoot you down like a kangaroo. A lot of white fellow come here by and bye and clear the scrub all over the country.'*

So after more than thirty years, Buckley's prophecy had finally come true and the Woiwurung Elders had received advance warning. They had now received news that Batman would in fact

arrive for a personal meeting the next day, so they needed to decide on their strategy. By the time Batman arrived at Greensborough at midday on June 6<sup>th</sup> 1835, the Woiwurung had already decided that their best course was to welcome him and offer to share the hospitality of their land.

In keeping with protocol the Sydney men facilitated the formal introductions through the men they had already met at Warringal the day before. Once this was done the Sydney men retired and Batman was subject to a ‘Welcome to Country’ ceremony, known as Tanderrum.<sup>15</sup>

This involved the Headman, Bebejern, first breaking a spear across his knee to show that arms would not be raised against Batman. A sprig of gum leaves was then given to Batman to show that the bounty of the land would be shared with him. Then Bebejern sipped water through a straw from a Tarnuk (wooden bowl) to show it had not been poisoned and he was safe from treachery of any kind.

Batman then duly drank through the straw and was probably shaking his head in disbelief at his luck. By giving him the symbol of vegetation, Bebejern had effectively just conducted a Feoffment ceremony, in which a sod of grass was ritually handed over, so why even bother with the charade of the British version?

Batman was of course also well aware of the universal Aboriginal cultural practice requiring visitors to bring gifts. He would therefore straight after the Tanderrum, have moved into the gift-giving phase of sharing out the scissors, axes, shirts, blankets and suchlike that had been brought. It had of course always been planned to misrepresent the provision of these goods as the purchase price for the land.

To the Woiwurung though, they were just gifts given in a reciprocal recognition of having been offered the hospitality of the land. Therefore with the protocols of Tanderrum and Feoffment now out of the way, all Batman had to do was invite the forty-odd people present, to be his guests at a lamb chop barbeque.

### **Batman’s Confirmation of Plenty River as the Meeting Site**

The following day on June 7<sup>th</sup> the fifth day of his Port Phillip trek, Batman spent the morning socialising with his hosts. He was no doubt in an elated mood, and also most gratified to receive two possum skin cloaks and artefacts, which he proudly took back to Tasmania.

Before leaving at midday, Batman’s guides were given the song for a shorter route back to Melbourne by their hosts. These directions were to simply continue west along Grimshaw Street for another mile, head southwest along Plenty Road, then St Georges Road, to where it meets Queens Parade in Clifton Hill.

This is of course the point where Batman’s party had the previous day diverged onto the Heidelberg Road Songline to reach the Plenty. Having now saved themselves three miles in travelling back by the Plenty Road route, they then crossed over the southern end of Melbourne University to meet a junction of Songlines at present-day Royal Melbourne Hospital. From there the Songline followed back along present-day Peel Street and William Street down to the Queen Street Falls, where the Rebecca had been moored for the past four days.

The direction and distance that Batman later recorded in his journal as having been travelled that day, was therefore one of the very few reliable entries he made over the previous four days. He stated:

*‘We walked over this land about twelve miles down my side line, in a south-west direction, when we came to another creek of good water....’*<sup>16</sup>

It should be noted that Batman says ‘another creek’ which indicates he crossed two creeks on his journey. In following the Plenty Road Songline from Greensborough to Melbourne, this is of course what happens. First you cross Darebin Creek at Bundoora, and then cross Merri Creek at St. Georges Road. Where this Plenty Road-St Georges Road Songline crosses the Merri is coincidentally right next to the present day Rushall Station; the very place that Fawcner subsequently convinced the general public was the site of Batman’s meeting with the Woiwurung.

This twelve-mile hike that Batman recounts is of course exactly the distance from Partington’s Flat to about the Royal Melbourne Hospital when travelling southwest along the Plenty Road Songline. If readers need any further proof, you only have to look at the map on the following page that Wedge drew of the land claimed by Batman. It is blindingly obvious that the ‘southwest sideline’ on Wedge’s map faithfully follows the course of present-day Plenty Road. Yet such is the continuing power of Terra Nullius that people have not previously seen this geographic relationship.

Arriving back in Melbourne only an hour or two before sunset and after a twelve-mile walk, Batman would have therefore been looking for an early night and a good rest. The next day, June 8<sup>th</sup> was the sixth day of Batman’s Melbourne adventure and as he records, the weather was foul. So he most probably spent the time at anchor in Melbourne, working on the bogus treaties with William Todd, who was a legal clerk.

The image on the cover of this paper is an artist’s 1886 impression of the treaty ‘signing’ but it is a figment. **It is quite obvious that the treaty documents never even left the boat**, let alone were signed on a log in the middle of winter. The original documents were all subsequently seen to be in pristine condition, without one raindrop, ink spot, smudge or fingerprint on any of them.<sup>17</sup>

Batman’s diary reference to travelling up the Yarra on the 8<sup>th</sup> June 1835 is therefore purely for the sake of wanting to be seen as active on a day that he actually went nowhere. He also needed to record that he had actually been to the spot that would in his immortal words be *‘the place for a village’*.

When writing his backdated journal on the way home to Tasmania, Batman therefore squeezed in a reference to the large river coming after the trip back from the Plenty River on June 7<sup>th</sup>. However rather than travelling up the river on June 8<sup>th</sup> Batman’s ship had been moored there for the whole five days of his Port Phillip excursion, and it departed for Geelong on June 9<sup>th</sup> 1835.

**Map Drawn by John Helder Wedge Based on Drawings and Information  
from John Batman and Previous Expeditionary Information**

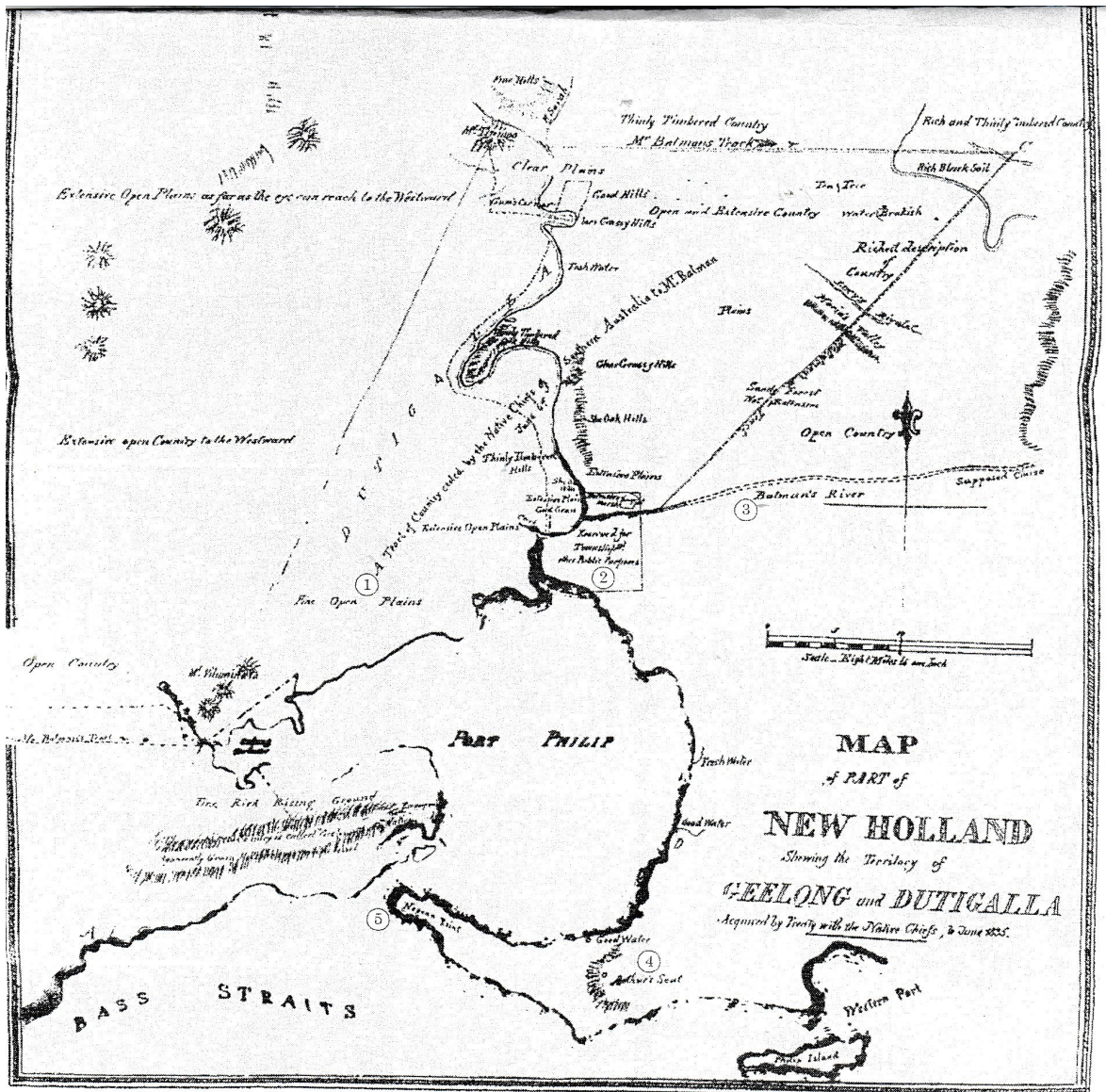


Fig. 1 Batman's Map of the Port Phillip Area  
showing land 'Acquired by Treaty with the Native Chiefs, 6th June, 1835'

1. 'A tract of Country ceded by the Native Chiefs of Southern Australia to Mr Batman'
2. Land 'Reserved for Township and other Public Purposes'
3. 'Batman's River'—'Supposed Course'
4. Arthur's Seat
5. Nepean Point

**Eliminating both Merri Creek and Darebin Creek as a site of the meeting**

Merri Creek is nowadays most often touted as the site of Batman's treaty meeting, but there has also been support for Darebin Creek. Both these locations have received strong political support and this has overshadowed the strong support previously given by a number of researchers to the Plenty River.

As already noted, Gellibrand himself in 1835 identified the Plenty as the meeting site. In 1855 James Blackburn came to the same conclusion, as did George Vasey in 1909.<sup>18</sup> More recently local Diamond Valley historian David Wilkinson in 1969 identified the location of the treaty

meeting as on the Plenty River three miles north of its junction with the Yarra River. This of course is precise location of the ford on the Plenty at Partington's Flat in Greensborough.

These opinions were reached despite none of these researchers utilising William Barak's narrative. However as has now been shown, when both Barak's narrative and Batman's writings are interpreted with some knowledge of Aboriginal culture and geography, an even more logically compelling case emerges for the Plenty River.

Unfortunately, most previous researchers have placed an undeserved reliance on the integrity of Batman's journal. So the weight of traditional 'informed' opinion has continued to lean toward Merri Creek and to a lesser degree toward Darebin Creek. The final refutation of both Merri Creek and Darebin Creek as possible sites for the 'treaty' meeting is therefore made with reference to the Woiwurung language.

We now know from Barak's narrative that the 'treaty' meeting took place on Muddy Creek, the Woiwurung word for which is Kurrum, or more exactly, Kurrum Yallock. Darebin in Woiwurung refers to the Welcome Swallow, and this bird is a harbinger of Spring when it returns after wintering in northern Australia.<sup>19</sup>

Merri on the other hand means rocky and Merri-Merri means very rocky. Anyone looking at Merri-Merri Yallock (its proper name) can tell that the name is very apt. Darebin Creek is similarly rocky and neither the Darebin nor the Merri Creek fit Batman's idyllic description of the meeting having been on: '*....a beautiful stream of water.*'

Not that I want to be seen as overly reliant on anything Batman might have said. I would instead prefer to rely fully on William Barak, a man of impeccable integrity and character, and he clearly said the meeting was on Muddy Creek, now known as the Plenty River.

## **Conclusions**

From the foregoing discussion it can readily be seen that previous analyses of historical documents, such as the Batman 'Treaties', Batman's journal and his report to Governor Arthur, have not been informed by any real awareness of an Aboriginal cultural perspective or mindset.

European assumptions about Aboriginal people and their culture have been insidiously and often unconsciously shaped by the notion of 'Terra Nullius' and this continues right into the present day. It is still implicitly assumed that Australia was a vast empty continent, and that Aboriginal people did not consciously shape their environment, either before or after colonisation

When looking at historical documents and events, questions are just not asked like: 'What were the Aboriginal land use practices in this area?' 'What were the established travel routes and Songlines in this area?' 'How did Aboriginal people think about or try to adapt to this event?' or 'How did colonisers use Aboriginal knowledge without acknowledging it or even realising it?'

The situation with Batman's 'Treaties' is a typical case in point. In writing early colonial history Aboriginal people are treated as just a blank canvas on which history is written. And we continue to fall for the same trap.

This paper has tried to address this issue by adopting a narrative, story-telling approach that relies on Aboriginal knowledge, rather than just a more traditional western academic approach. This examination from more of an Aboriginal perspective has enabled questions to be raised about Aboriginal geography and the cultural knowledge possessed by Batman's Sydney Blacks. It was the cultural knowledge of Batman's Sydney men that enabled him to

make contact with local Woiwurung people and interact with them in culturally appropriate ways, thereby ensuring the success of Batman's mission.

Some small insight has also been offered into the thinking of William Barak, by interpreting the true intent of his historic 1888 document 'My Story'. The problem is that like concrete, history sets and hardens over time. Barak's identification of the Plenty River at Greensborough as the site of the meeting with Batman, will like the existence of the second treaty, most likely remain outside of public consciousness.

It is most likely that Barak's revelation will remain submerged under orthodox colonial history, which continues to erroneously pronounce the Merri Creek as the site of the historic meeting.

**Jim Poulter**  
**Melbourne, January 2020**

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