

## **Wreck of the *Maria* Incident.**

In mid 1840 the news of the wreck of the brigantine *Maria*, bound from Port Adelaide to Hobart Town and the subsequent massacre of the twenty-six survivors, began to reach Adelaide.

As is described below, a party of police troopers was sent to investigate and punish the perpetrators.

Interestingly, the incident became a major political storm in the new colony, not because of the terrible atrocity inflicted on the passengers and crew of the *Maria*, but because of the summary execution of some of the perpetrators without a trial. The debate is covered in the Exhibits presented below, especially Exhibit D, but there was a clear expectation among the settler population, expressed through the newspapers of the day, that British Law should apply to everyone – even Aborigines who were still outside the range of the colonial Government, and that the Government had acted outside its mandate. The reaction was not that dissimilar to what one might expect today.

The State Governor, Colonel Gawler was recalled to England and replaced.

From that time the Government was much more circumspect in its dealings with Aboriginal people which quite often brought them into conflict with the settler population.

Trials of a serious nature involving Aboriginal defendants always occurred in with proper legal representation and an appropriate interpreter. Several actions against Aborigines were discontinued when an interpreter who could speak the required dialect could not be located.

On the other hand there was some recognition that ultimately there was some merit in the issuing of summary justice on the ground rather than a long drawn out legal process in far off Adelaide. The public got their way and prisoners were taken to Adelaide to face court, but new law was passed that allowed aborigines sentenced to death to be hung where the crime was committed. The journalist JD Woods (see more from Woods below) in 1879:

“What was wanted with regard to them (the Aborigines) is a means of bringing them speedily and summarily to justice; and when they seriously offend, whatever the punishment may be awarded to them should be so inflicted as to come directly under the notice of the other blacks; for severity is not so much a requirement as certainty and example. Some years ago a law was passed which required that blacks convicted of murdering whites should be executed in the presence of their tribes, as near as possible to the scene of the crime. The operation of this law has been effectual, and now many years have elapsed since any murder of white persons have been committed within the limits of South Australia.

In fact, in 1879, there had been no executions of Aborigines in South Australia since 1862 – and none since either. The last execution of an Aborigine in the State of South Australia occurred at around the same time as John McDouell Stuart arrived at Port Darwin, that is, when the limits of the colony of South Australia were only just being reached.

The following Exhibits are presented:

Exhibit A      Reverend George Taplin’s version of the incident of 1879

- Exhibit B          Journalist JD Woods' version of the incident of 1879
- Exhibit C          Reverend Clamor Schürmann's version of the incident of 1840
- Exhibit D          Academic Kathleen Hassell's version of the incident of 1921.

And, as an idle consideration, one could perhaps speculate on the thoughts of the Protector of Aborigines as reported by Hassell (Exhibit D):

“He himself thought that there was a moral injustice in imposing the British Constitution on aboriginal tribes except in so far as their own laws agreed with it.”

If one has difficulty with the problem of whether Aborigines could or could not be tried under British Law, then perhaps one should consider whether they could be tried under Aboriginal customary law, since the murder of twenty-six people could hardly be expected to go unavenged? Mounted Police Trooper Samuel Gason describes the “court” procedure for the Deiri peoples of the Lake Frome region of South Australia for deciding who the responsible party for a death is to be – usually not in their presence of course – and who is to carry out the execution.

“An armed band, entrusted with the office of executing offenders (elsewhere referred to), is entitled *Pinya*, and appointed as follows:- A council is called of all the old men of the tribe ; the chief – a native of influence – selecting the men of the *pinya*, and directing when to proceed on their sanguinary mission. ... The chief opens the council by asking who caused the death of their friend and relative, in reply to which the others name several natives of their own or neighbouring tribes, each attaching the crime to his bitterest enemy. The chief, perceiving whom the majority would have killed, calls out his name in a loud voice, when each man grasps his spear. The women, who have firesticks, lay them in a row, and while so placing them, call out the name of some native, til one of them calls out that of the man previously condemned, when all of the men simultaneously spear the firestick of the woman who has named the condemned. Then the leader takes hold of the firestick, and after one of the old men has made a hole a few inches deep in the ground with his hand, places the firestick in it, and covers it up, and declaring that they will slay the condemned, and see him buried like that stick.”

Gason then describes, in detail, the actions of the *pinya* band as they execute their warrant. Of interest is the fact that it appears that the guilty party is, in effect, “elected” and is given no opportunity to answer the charges before the punishment is applied.

Incidentally, the Reverend George Talpin has this to say about the Nurrinyeri people, that is, the same tribe involved in the *Maria* incident.

“The avenger of blood is not very particular who is sacrificed to the desire for revenge; the brother of a guilty person is put to death in his stead without hesitation, if he comes in the way.”

Perhaps the court martial and summary execution of those found guilty was not a process that the Aborigines would have found too foreign?

## EXHIBIT A

### ACCOUNT OF REV. TAPLIN

The Wreck of the Brigantine *Maria*.

#### APPENDIX

The Reverend George Taplin, Missionary at Point MacLeay Mission

In

The Native Tribes of South Australia, J.D. Woods (Ed.), 1879.

The following particulars of the wreck of the *Maria* have been compiled by the writer from the *South Australian Register*, to which he was allowed access through the kind courtesy of the proprietors of that old-established newspaper – the first in South Australia.

In the end of July, 1840, a report was sent to the authorities by Police-Sergeant W. MacFarlane, enclosing a letter from H. Nixon of Encounter Bay, which stated that the natives said a number of white people who had escaped a wreck had been killed by the blacks up the sea-coast in the direction of Rivoli Bay. Ten men, five women, and some children were said to have thus been murdered. A letter from Dr. Penny confirmed this account, which was substantiated by the result of the inquiries of Sergeant MacFarlane himself. At that time the country on the coast between Encounter Bay and Rivoli Bay were *terra incognita* to the colonists. An active whale fishery was at that time being carried on at Encounter Bay. The Government, in consequence of this report, dispatched Mr. Pullen, who was at the time at the Elbow (now Goolwa), to learn particulars by proceeding as far as he could up the Coorong by whaleboat.

Mr. Pullen hastily got together a party, consisting of himself, Dr. Penny, five boatmen, one police-trooper, and three natives of Encounter Bay. They started from Encounter Bay on the 28<sup>th</sup> of July, so no time was lost, and on the 29<sup>th</sup> proceeded down the river, on the south side of Hindmarsh Island, to the entrance of the Coorong. On the 30<sup>th</sup> they continued their voyage up the Coorong, and at last came to a spot which was pointed out by one of the Encounter Bay natives named Peter, as that on which some of the murders took place. This he had no doubt ascertained from the blacks who were implicated, as they have a name for every nook and corner of the shores of the lakes; so the party landed on the shore of the Coorong which is toward the sea, and a sickening spectacle presented itself. There, partially covered with sand, lay legs, arms, and portions of several human bodies. On gathering these remains together, they, by the aid of the doctor who was with them probably, made out that there were the bodies of two men, three women, and a female child of ten (one woman's body was almost denuded of flesh, except the hands and feet), two male children – one apparently about fifteen years of age and the other about ten; and at a little distance lay the body of a female infant. All were dreadfully bruised about the face and head, and they were stripped of every rag of clothing. They removed the wedding-rings which they found on the fingers of the women, and then

reverently buried the remains of the poor murdered people. This occupied the party till evening, and it is easy to imagine with what indignation they left the vicinity of the scene of such an atrocity.

It should be stated that the Coorong is a long, narrow sheet of salt water, running out of the lower part of Lake Alexandrina towards the south-east, and separated from the ocean by a peninsula of sandhills about two miles wide. Some of these sandhills are of white without vegetation, while others are covered with shrubs and creeping plants. Between them are small flats of pasture-ground. The scenery of the Coorong is very wild and peculiar. There is a solitary-looking sheet of water, stretching for sixty miles, and presenting, as its waves dance in the breeze, beautiful tints of blue and green. On the right are the white and sombre hills of sand, and on the left green plains dotted with clumps of dark sheoak. The waters abound with fish and game; consequently the shores were inhabited by a fierce and vigorous tribe of natives belonging to the nation called Narriyeri. But we must proceed.

On the 31<sup>st</sup> Mr. Pullen and his party continued their voyage up the Coorong in search of the wreck from which the murdered people had come. They saw several natives, but at first they all kept a distance and appeared frightened. At last they managed to communicate with them, and learned that other white people had been killed – some on one side of the Coorong, and some on the other – and that two men had crossed to the islands (probably Mundoo and Towadjeri), and had been killed there. On the 1<sup>st</sup> of August the party saw many natives with European clothing, and the next day came upon the tracks of people on the mud of the shore which were evidently not natives'. There were the marks of children's footsteps; and in places these disappeared, as if the men had carried the weary little ones. On the 9<sup>th</sup> of August the party got back to Goolwa (or Elbow, as it was then called). The impression on their minds at the time was that some of the shipwrecked people had escaped.

The particulars brought by Mr. Pullen's party, and especially the rings found on the fingers of two of the bodies of the women, led to the identification of the persons who had been murdered. They were found to be passengers and crew of the brigantine *Maria*, 36 tons, of Hobart Town. She had arrived in Port Adelaide on 7<sup>th</sup> of June, 1840, and had sailed again on the 21<sup>st</sup> June following, under the command of Capt. Smith, for Hobart Town, in ballast. According to the South Australian Register of August 15<sup>th</sup>, 1840, the passengers and crew were as follows :- There was Captain Smith and his wife and the mate, and eight and boys before the mast. The passengers were Mr. and Mrs. Denham and family, consisting of three boys and two girls, George Young Green and wife, Thomas Daniel and wife, Mrs. York and infant, James Strutt (a servant of Mr. Denham's) and Mr. Murray. Mr. Denham and Mrs. York were, it appears, brother and sister. The total number on board, then, was twenty-six.

The Government resolved, after receiving Mr. Pullen's report, that a strong body of police-troopers under Major O'Halloran should be sent to make further investigations. This force was rapidly gathered at the Elbow, and, with Major O'Halloran in command and Inspector Tolmer as his second, started on Friday the 21<sup>st</sup> August, 1840, for the Coorong. That day they got fourteen miles beyond the mouth of the River Murray. By the 23<sup>rd</sup> they arrived at the scene of the murders; and on that day, after much galloping about the scrub, captured thirteen native men and two lads and fifty women and children. They found articles of European clothing on almost all these people, and sometimes the garments were stained with blood. They were also found in the possession of the

natives a silver watch and some silver spoons. The tribes to which they had now come were noted amongst the Aborigines for their ferocity and warlike character. The whites had frequently heard of them from sealers and others as the great Murray tribe. They consisted of all the Narrinyeri on the southern sides of Lakes Alexandrina and Albert. These had rapidly gathered at the news of the wreck, and were now in force on the Coorong ; but, although at this time they could muster easily eight hundred warriors, (an eye-witness soon after counted eight hundred fighting men at a corrobory), the sight of the strange armed troopers dashing through the scrub completely daunted them.

On the 24<sup>th</sup>, the expedition saw large numbers of ferocious-looking men who hung about the skirts of the scrub. Almost all had some article of European clothing. At last they came to some native huts, and found male and female clothing which had been drenched with blood. Aided by the Encounter Bay natives who had been brought with the expedition, they made enquiries as to the actual perpetrators of the murders, and there were pointed out by some of the natives four very truculent-looking savages. Two of these were pursued and shot down, and two more captured. In the native huts were found, newspapers, mail letters opened and torn, the leaves of a Bible and part of the log of the *Maria*.

The chiefs of the expedition now came to the conclusion that something must be done to satisfy the demands of justice on the murderers, and to strike terror into the minds of the natives and deter similar atrocities in the future; so a court of justice was extemporised on the spot, and such evidence as was obtainable adducted in support of the charge against the two prisoners. There appears to be plenty of proof that these two men were leaders in the massacre; so a verdict of guilty was pronounced against them with the universal assent of the party. By virtue of the commission from His Excellency the Governor held by Major O'Halloran, he then passed sentence of death upon them. The next day (the 25<sup>th</sup> of August) the natives were driven to a spot near the place where the bodies of some of the murdered people were found, and in the presence of their countrymen hanged in sheoak trees over the graves of their victims. They evinced great courage at the place of execution, and died immediately. The bodies were left hanging in the trees, and the other blacks warned not to touch them. This they carefully abstained from doing, and the carcasses of the culprits were suspended there until the weather caused them to fall to pieces. The rest of the natives were allowed to depart, and they at once precipitately fled from the vicinity of the expedition. It appeared, upon inquiry, that a man named Roach and his mate, who had gone up the Coorong for some purpose, had also been killed by these people.

The expedition now pressed on in order to find the wreck, and on the 4<sup>th</sup> of September obtained another watch from the natives, the dial stained with blood. In the huts of these people much European clothing was found, so the party set fire to the huts and consumed them. They now communicated with a party which had been sent up along the coast in a whale boat from Encounter Bay under the command of Mr. Thomson. They found that these had first discovered the longboat and then the remains of the wreck of the *Maria* in Lacedpede Bay.

The expedition now returned down the Coorong, and discovered other bodies of the murdered people, which they reverently interred in the vicinity of these bodies several books were found. The native women, when questioned, said that the white people had parted into two companies, one of

which crossed the Coorong. They said that some of the natives rushed upon them and held them while others beat them on the head until they were dead.

The expedition having arrived at the head of Lake Albert peninsula, scoured the whole of it, so that if any survivors of the wrecked party remained they might be discovered; but the only result was to terrify the blacks and drive them to take refuge in the great beds of reeds by Lake Albert. No further traces being discoverable, the members of the expedition turned their faces towards Encounter Bay, and arrived at the Elbow, whence the men of the force dispersed to their homes.

This account of the wreck of the *Maria* perfectly agrees in the main particulars with that which the natives themselves give. Not one person is known to have escaped from the natives. The discrepancies between the natives' account and that given above only refer to the number of natives executed, which the report says was four - two shot and two hanged; and the natives say it was six. The report states that twenty-six persons were massacred; the natives say twenty-five as one woman got across the Murray mouth and escaped. Of this we have no other evidence. The natives' account states that the ship-wrecked party was guided down the Coorong until it reached the part opposite Lake Albert, where they were induced to separate, and then murdered. The place of burial and persons found exactly agree with the account given to the writer by a woman who helped to bury them.

A great deal of discussion took place in the papers at the time as to the wisdom and legality of the execution of the natives, and His Excellency Governor Gawler issued a solemn Minute of Council vindicating the expedition. Time, however, has proved that a wiser course could not have been adopted than the prompt punishment of such an atrocious massacre.

## EXHIBIT B

### ACCOUNT OF JOURNALIST, J.D. WOODS.

James Dominick Woods' INTRODUCTION to

The Native Tribes of South Australia.

Woods, J.D., (Ed.) 1879

About the middle of 1840 news arrived that a vessel (the brig *Maria*) had been wrecked on the south coast, about three days' journey from the mouth of the River Murray, and that all the survivors of the wreck had been murdered by the natives. A party was sent out under Lieutenant Pullen, R.N. (now Admiral), to visit the spot, and investigate the matter. After a comparatively brief search, the party found the dead bodies of several men, women, and children. They were partially buried in the sand and the flesh had been completely stripped off the bones of one of them – a woman. No doubt it had been eaten. Natives were found in possession of the clothes and blankets of the murdered people, and bonnets and shawls which had belonged to the women. On receipt of Lieutenant Pullen's report, the Governor, Colonel Gawler, organised a strong party under Major O'Halloran, Commissioner of Police, to proceed to punish the offenders. Their country was in that part of the south coast known as Lacepede Bay. The tribe was but little known, but was described as being remarkably ferocity. The party crossed the mouth of the Murray on the 21st August, 1840, and on the following day captured thirteen men, two lads, and about fifty women and children. The men were detained, but others were at once set free. All of them had something of the ship-wrecked party's property, and some of the clothes recovered were saturated with blood. After some trouble, two more blacks were taken, and on the following morning were tried by court martial for the murders, of which seventeen had been committed. Two of the blacks, Mongarawata and Pilgarie, were found guilty, and sentenced to death. They were hanged on the following day, in the presence of a large number of the tribe, who were considerably impressed with the proceedings. This politic act of summary vengeance was done under the authority of Colonel Gawler, then Governor, and it had an excellent effect upon the tribe. Yet the Governor was much blamed in England for his share in the transaction. As a matter of fact it was illegal, but it was far more merciful to the blacks themselves, and produced a more lasting impression upon them, than if they had been brought to Adelaide and tried in due form of law.

## EXHIBIT C

### ACCOUNT OF REV. SCHÜRMAN

from

I'd Rather Dig Potatoes

Edwin Schurmann.

Edwin Schurmann's Biography of Clamor Schürmann, the Missionary from Poondina, Eyre Peninsula, contains many diary excerpts from Clamor Schürmann's diary of the day. It includes the following information about the *Maria* incident:

An action of Governor Gawler, revealed while Eyre was still at Port Lincoln, was to have a similar, if less publicized, sequel. Schürmann's diary for October 19 reads:

Following the news that a memorial had been erected for the Governor in Adelaide, and the story of the execution of two natives from the *Milmenruru* tribe, the Magistrate, Mr Smith, called a public meeting for today. Mr Dutton read a message to the public, supporting it with some words of his own. He also read the minutes which the Governor submitted to the Colonial Council to justify the execution of the natives. Dr Harvey supported Dutton's words.

The hanging of the two natives followed the wreck of the vessel *Maria*, en route from Port Adelaide to Hobart in June of that year. The passengers and crew of the ship came ashore somewhere along the Coorong and tried to find their way to a refuge of civilization, but were attacked and massacred by natives. A police party, under Major O'Halloran, was dispatched by Governor Gawler to apprehend the murderers. Following a round-up of natives in the area, two of them, whom Tolmer described in his Reminiscences as having countenances 'the most ferocious and demon-like I ever beheld', were tried by 'court martial' by the Major, after which he declared:

'I now, by virtue of the authority I have from the Governor of this province, whose representative I am, pronounce the sentence of death upon the prisoners.'

Tolmer wrote:

'The results of these reprisals by the police, under the instructions of His Excellency Colonel Gawler, was severely commented upon by the home authorities, and doubtless the unjust treatment he received in England, after his recall, was attributed to the mistaken decision arrived at by some persons miscalled philanthropists. The colonial press also attacked the Governor furiously, and those who acted under his orders. I remember especially Mr George Stevenson was most bitter and vindictive in some of his articles at the time, expressing an opinion that Major O'Halloran and myself ought to have been sent home and tried for murder.'

The minutes submitted to the council by the Governor, and referred to in the diary,



included statements that His Excellency had received legal advice that:

'... the crimes in question were beyond the reach of the ordinary British law ... The natives as being practical atheists, unacquainted with the obligation of an oath, or solemn declaration, are not in British law valid witnesses ... Acting on the principles of martial law, I addressed instructions to Major O'Halloran, which I now lay before the council. The council will perceive that in them Major O'Halloran was expressly charged to make prisoners, if possible without bloodshed, to select the guilty persons from among them, to try them in the most formal manner, to obtain the opinions of the gentlemen who accompanied the party and of the friendly natives present, and then if proof of guilt were sufficient, to pass sentence and proceed to formal execution.'

Schürmann's diary account of the meeting to support the Governor's action concluded:

'Everybody present signed the statement, except me'.

## EXHIBIT D

### THE RELATIONS BETWEEN THE SETTLERS AND ABORIGINES IN SOUTH AUSTRALIA, 1836-1860

KATHLEEN HASSELL

Thesis in fulfilment of the 1921 Tinline Scholarship,

University of Adelaide

1921

Adelaide, Libraries Board of South Australia, 1966

Extract:

Two years afterwards another ship, the brigantine "*Maria*", was wrecked on the same coast. The natives massacred its passengers (101). The first news of the tragedy was brought to Encounter Bay in July 1840 by two natives, who said the bodies of ten white men, five women and some children were on the coast about three days distance from Rosetta Head, and that the natives there had clothes and biscuit.

Within a few hours after the news reached Adelaide the Marine Surveyor was sent to investigate (102). He sailed down the Coorong with a settler from Encounter Bay, who offered his service, a crew of five, a policeman, and three natives. On the day after they left the Murray mouth the natives said that they were near a place where they had heard white people had been murdered. So some of the party were set ashore to search the beach and the sandhills. They found, strewn in all directions on the beach, human legs, arms, and mutilated bodies partly covered with sand. One body was stripped of flesh except for the feet and ankles. Others were buried in the sand. For two and a half days longer they sailed down the Coorong.

When the boat could go no further they walked for some distance along the beach. Some of the natives they met were dressed in blankets, shawls and other articles of European clothing. Many were alarmed at the approach of white men; some came up to them fearlessly. Very little could be elicited from the natives. One old man claimed that he had been given the woman's shawl that he was wearing for conducting the Europeans along the beach, catching fish, and helping them in other ways.

The party returned with its news to Adelaide. A special meeting of the Executive Council (104),

which the Judge was invited to attend, was called for August 12. It resolved to take serious notice of the outrage. In this case the obstacles to punishing aborigines loomed large. Not only was evidence against individuals wanting, but the Judge said that only those natives who had in some degree submitted to British dominion could be subject to British laws. He felt he had no right to try formally the people of a tribe who had never had social intercourse with the colonists.

A formal trial and condemnation seemed impossible. But the Governor felt that to have allowed immunity to a band of “most ferocious, insidious, unprovoked, and inveterate murderers and robbers” (105) would have defeated the ends of justice and humanity. He instructed the Commissioner of Police to go with a strong detachment to capture some of the actual murderers, as far as possible by “temperate means”, and to execute summary justice after a deliberate and formal investigation. If he could not apprehend those who were guilty he was to scour the country so as to awe the natives. On August 22, his party, including the Marine Surveyor, reached a place fourteen miles east of the Murray mouth. On the next day after a tiring pursuit through hilly, scrubby and sandy country, they captured thirteen men and two lads, besides about fifty women and children, whom they let go (107). Nearly all the captives were wearing European garments, some of which were bloodstained, and in nearly every native hut that they reached, there was more clothing or other stolen property. On the 24<sup>th</sup> they reached a place where the former party had seen a number of fierce natives. The captives said that it was the district of the principal murderers. The party scoured the country but succeeded only in capturing a few women and in finding more bloodstained clothing and other property from the “*Maria*”. Two natives who were swimming across the lake were fired on.

The captives, thoroughly frightened, pointed out one of their number as a murderer of two years before. Two sealers had gone to the Milmenrura country from Encounter Bay and had never been seen again. They said that this man, Moorcangua, had killed one of them. They offered too, to produce one of the actual culprits in the “*Maria*” incident. Two were allowed to go with an Encounter Bay native to seek him, and when he was brought back they all raised a shout of joy.

Then ensued the “deliberate and formal investigation”. At its close, sentence of death was pronounced on Moorcangua and on Mongarawata, the other captive, with the concurrence of the white men and natives present. They neither confessed nor denied guilt. All but a small guard which was left to protect the camp went back fifteen miles to the scene of the massacre, and the natives were hanged over the graves of the Europeans. The Commissioner of Police commented on their extreme courage, and on the appearance of Mongarawata, who had the “most ferocious and demon-like countenance” he had ever seen.

It remained for the Governor to vindicate his action in sanctioning summary justice. He told the Secretary of State for the Colonies (108) that no one could be more desirous than he of treating the natives with humanity and justice, and of adhering to the British laws. He set forth his difficulties. At first he had intended to proclaim military law, but his Council had been much opposed. It would have roused unusual excitement, and cast a slur on the colony, while it would have been a mere form to the culprits. The Council favoured the plan of treating the Milmenrura natives as an openly hostile tribe and foreign enemy.

At a meeting of the Council on September 15 (109) the Governor declared his intention of keeping aloof from “that unhealthy sentiment, by some persons called philanthropy”, which, in its shrinking from cruelty, condoned wanton crimes. Rather he would do all he could to bring settlers and aborigines alike to formal and condign punishment. Later he declared that every grant of protection and privilege due to British subjects that was accorded to savages, resident within British territory but beyond the settled districts, entailed some loss of those privileges to natural-born subjects.

In October colonists presented an address to Gawler expressing their appreciation of his efforts for the natives and of the justice and leniency of his policy in the Milmenrura affair (110). In his report

for the latter half of 1840 (111), the Protector of Aborigines adverted to the extraordinary measures which the Governor had adopted. He himself thought that there was a moral injustice in imposing the British Constitution on aboriginal tribes except in so far as their own laws agreed with it. For to receive a settler's evidence against a native and reject native evidence against a settler was oppression. He quoted from a pamphlet published by the New Zealand Association which said that the establishment of the same rights and obligations for two parties of greatly unequal strength meant inevitably, in competitive society, the destruction of the weaker, even if neither party were conscious of the process. The Protector and the missionaries agreed with the New Zealand Association that since the aborigines were not adapted to British laws, laws would have to be adapted to them.

Letters had been sent to the newspapers explaining the policy pursued and soliciting their support (112). The reply of the editor of the "*Register*" to the letter of explanation had been that it was farthest from his wish to aggravate the matter; but however horrible the murders and deserved the punishment, all the facts were overshadowed by the summary execution of culprits who had been proclaimed British subjects. From that time the "*Register*" was a dangerous critic of any excuses for the Milmenrura affair. It quoted Gawler against himself. In 1839 he had declared that the aborigines had been brought under British laws, and that while he would endeavour to make them obedient to law, they must be given legal protection. Gawler had explained that he acted on martial law without proclaiming it. The Advocate General, voicing the opinion of the Executive Council, had tried to justify the summary punishment by saying that the Milmenrura natives were not British subjects, but a hostile nation. The "*Register*" demonstrated the incompatibility of these arguments and adduced long arguments to prove that both positions were untenable. It cited parallels from Africa and India in a way that made the rival newspaper and the Governor accuse it of intriguing for the trial of the Commissioner of Police on a charge of manslaughter and for the recall of the Governor.

Criticism of the arbitrary punishment of the Milmenrura natives extended beyond South Australia. Newspapers of Van Diemen's Land roundly condemned the Governor's action (113). The Aborigines' Protection Society in England deplored it (114). Gawler himself at the time of his sudden recall seemed to consider that the agitation about the summary execution of the natives was partly responsible for his being superseded (115).

It was not until December 1841 that the Secretary of State replied to the despatch which he had sent in attempted justification of his policy. His report had been immediately referred to the Law Officers of the Crown. Their decision was that the natives could have been brought to trial in the ordinary legal tribunals of the colony, and that their summary execution was an act of murder. The Commissioner of Police and those present helping him were guilty as principals and the Governor an accessory before the fact. They could be indemnified only by an Act of Parliament or by a pardon under the Great Seal. On being consulted again as to the details of the pardon, they suggested that no action at all should be taken until a prosecution or some other proceeding might make it necessary.

So after many months the official consciences had satisfied themselves that the enquiry could lapse.