

Dr Libby Connors,
University of Southern Queensland,

Title of Paper: 'Within an hour's ride' of the capital: The Problem of Sovereignty in 1859

‘Within an hour’s ride of the capital’: The problem of sovereignty in 1859.

Abstract

This paper explores a number of Aboriginal attacks on white settlers and on the Native Police in the northern suburbs of Brisbane in the years 1853 to 1859. These are the years leading up to the separation of Queensland, and its creation as a self-governing colony of the British empire with the township of Brisbane as its capital in December 1859. Despite the role of some Aboriginal people in assisting officers of the law on occasion over this three decade history, Aboriginal political structures remained strong; the reception of British law by many traditional owners was still down the barrel of a gun and their own laws insisted upon at the point of a spear. The paper shows how ineffectual colonial policing of these districts was in order to show that British territorial sovereignty had not been established even within an hour’s ride of the capital of the new colony in these years. It thus contributes to the literature on the problematic legal status of the Australian colonies.

On 15 April 1858 a detachment of eight Native Police troopers under the command of Lieutenant Williams came under sudden and unexpected attack while patrolling Mrs Griffin's Whiteside station on the Pine River in what is now known as southern Queensland. Despite responding to a complaint from Mrs Griffin the detachment was caught off-guard when it came upon a large Aboriginal camp in the scrubs along the river which ran through her station. The Aboriginal trooper to the left of Lieutenant Williams was speared in the throat and fell instantly, eight or nine spears piercing his body. Lieutenant Williams promptly regrouped his men and ordered them to return fire. He estimated ten minutes of firing by the detachment before the tribal men dispersed. At the end of the encounter, as well as the death of Trooper John, Troopers Charlie and Mark were injured while six warriors had fallen and two were injured. The *Moreton Bay Courier* reported that John was buried near the spot where he fell in the scrub and that the loss to 'the blacks' was not known suggesting the potential for some literary licence regarding the numbers of tribesmen killed either by the press or by Lieutenant Williams in his official report.¹

A number of interesting features can be discerned from the sparse official and newspaper reports of the incident. This station had been continually occupied since 1843 but fifteen years later the Aboriginal people of the Pine River and the coastal people referred to in the colonial press as the Ningy Ningy had clearly not conceded this portion of their lands. The trees surrounding the camp were hung with fresh carcasses of beef suggesting measures were underway to feed a large assembly of people. The newspaper report claimed that 300 men attacked the Native Police patrol – it seems some kind of regional gathering of perhaps 500 or more men, women and children was taking place at the time on these lands which were an important Aboriginal crossroads. Although the *Courier* confidently described the attackers as

¹ Drawn from J.C. Wickham, Government Resident Moreton Bay to Colonial Secretary, 21 April 1858, l/no. 58/1492 & enclosure in Col Sec: Letters received re Moreton Bay 1858 A2/39 QSA & *Moreton Bay Courier* 24 April 1858, p.2. [hereafter *MBC*]

Ningy Ningy, the covering letter to Lieut Williams' official report from the Government Resident for Moreton Bay, emphasised that it was 'the Natives occupying the sea coast between the Brisbane River, and Wide Bay [who] have been for a length of time very troublesome, and an absolute terror to the Settlers in the more immediate vicinity of Sandgate and the Pine Rivers.' White authorities were anxiously aware of the hostility of all the traditional owners from this 200 kilometre stretch of coastline and that given the traditional social and political organisation of this region any of them could have been participating in ceremonies hosted by the peoples of the Pine Rivers district. Traditional ceremonial and political life remained strong. Secondly, this was a concerted attack on white authority. The newspaper report noted that the warriors shouted in English 'kill the white fellow' and 'you bloody coward'. The reporter assumed that the discipline and 'forbearance' of the troopers had been interpreted by the warriors as cowardice but to traditional fighting men the lack of an open challenge and the uneven match of weaponry and horses all made this style of fighting an affront to their code of traditional martial chivalry. After thirty-four years of contact with British settlers, the northern peoples generally had a good command of English, but their reference points remained their own political and legal values which had not been surrendered in the face of the firepower of either the white town police or the Native Police.

To European eyes this attack was shocking because it occurred within districts which were long presumed to be "occupied". This part of Whiteside Station was less than twenty-eight kilometres due north of the township of Brisbane and it was less than ten kilometres from Redcliffe, the first site of attempted settlement for a new penal station. The Redcliffe settlement had been abandoned in 1825, in part because of attacks by the Ningy Ningy, and the penal station moved to what became the central business district of Brisbane, later the

colonial and then state capital of Queensland.² The first pastoralists had begun arriving in Brisbane's hinterland in August-September 1841 and the nearest sheep run to the north was the station of Durundur, fifty kilometres north of Whiteside. A prohibition on entering penal stations prevented settlement any nearer to Brisbane Town until May 1842 when the district was declared open for free settlement. So by the time of this April 1858 attack European settlers had been well established north and south of the Pine Rivers district for a third of a century.

Administration from Sydney had struggled to keep pace with the growing population in the north, however. The first police magistrate and town police were appointed in January 1843 but the surrounding pastoral districts of Moreton Bay and the Darling Downs were managed by commissioners of crown lands and their detachments of Border Police. With the recall of New South Wales governor, Sir George Gipps, and the repeal of his Squatting Regulations the Border Police had to be disbanded at the end of 1846. Despite pastoralist opposition to the Border Police, there was a political outcry when it became apparent that there was no longer any force with responsibility for rural policing. In straitened financial circumstances, the new governor Sir Charles FitzRoy then ordered the recruitment of Native Police detachments for northern New South Wales including the pastoral districts which would become Queensland. The Native Police had operated in the Port Phillip district since 1838; their reconstitution in the north was under a white commandant, Frederick Walker, with white lieutenants or sergeants in charge of detachments of eight or so Aboriginal troopers. These troopers were paid much less than white town police and were recruited from southwest New South Wales for service in lands that there were far removed from their kin, their country and language group. Walker's force was to commence operations in 1848 and

² Ray Evans, *A History of Queensland*, Melbourne, 2007, pp. 32-33; W. Ross Johnston, *Brisbane: The First 30 Years*, Brisbane, 1988, p. 19.

by May 1850 legal and administrative support for northern districts was further augmented with the first sittings in Brisbane of the New South Wales Supreme Court on circuit.³ These trappings of British law and order more than a 1000 kilometres north of Sydney appear impressive but their appearance is misleading. Aboriginal people as long as they remained outside the town boundaries were beyond the reach of the law as events in the 1850s were to prove. The insecurity of the northern and coastal suburbs of Brisbane naturally was deeply disturbing for the white community but it also raises interesting questions about claims of sovereignty just fourteen months before the announcement of the new British colony of Queensland in June 1859.

Recent law and history scholarship on sovereignty has helped to challenge assumptions that the legal status of the Australian colonies was unproblematic for governors or for the courts. Australian work on 'porous' and uneven frontier zones⁴ fits productively with international scholarship such as that of Lauren Benton which emphasises the imperfect geography of empires. European empires expanded unevenly along river and trade corridors and via enclaves so that Benton argues the notion of borders and frontiers should be replaced by a notion of 'spaces in which imperial sovereignty was contested.'⁵ This approach is reinforced by Julie Evans, Ann Genovese, Alexander Reilly and Patrick Wolfe who have described settler-colonial frontiers as a region which 'sporadically and discontinuously consumes and

³ . L.E. Skinner, *Police of the Pastoral Frontier: Native Police 1849-59*, St Lucia (Qld), 1975, pp. 26-27. Regarding pay, in 1857, ordinary constables in town police were paid 5s 6d per day; whereas native police troopers were paid 5d per day. 'Estimates 1857' in *Joint Volumes of Papers presented to the Legislative Council and Legislative Assembly*, New South Wales Parliamentary Papers, 1857, [no pp]. On commencement of circuit courts see Libby Connors, 'The Birth of the Prison and the "death" of convictism', Doctor of Philosophy, University of Queensland, Brisbane, 1990, pp. 313-315.

⁴ Luke Godwin, 'The fluid frontier: Central Queensland 1845-63' in Lynette Russell (ed) *Colonial frontiers: Indigenous-European Encounters in Settler Societies*, Manchester, 2001, pp. 108, 116.

⁵ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900*, Cambridge, 2010, p. 37.

disgorges Indigenous space.’⁶ Antony Anghie argues that European assertions of territory were part of the ideological underpinnings imperialism but a critique of their claims remains essential since the system of modern international law rests on them.⁷ Some Australian scholars, however, have noted that imperial administrators were less confident of their sovereign authority than the modern nation-state recognises. Lisa Ford and Brent Salter, for example, have explored New South Wales Governor Macquarie’s conceptualisation of the limits of legal authority in the Mow-watty case of 1816.⁸ Ford emphasises the implicit legal pluralism which early governors assumed operated on New South Wales’ and Georgia’s frontiers; only after 1830 was sovereignty equated with territorial jurisdiction.⁹ Nonetheless Simon Cooke’s work on inter se cases before the Victorian colonial courts in 1860 shows that legal opinion in that colony had not been settled by *R v Murrell* in 1836¹⁰ as is so often assumed in law texts.

The issue had first been put on the Australian academic agenda by Henry Reynolds whose 1996 book surveyed legal views of sovereignty from Roman times to the present including countervailing views to *R v Murrell* from Tasmania, Western Australia and South Australia in colonial Australia.¹¹ In a seminar presentation to Macquarie University in 2005 Reynolds focused on the international law which had been established by the Berlin Conference of 1885 and which Britain had accepted – that claims to sovereignty must be able to prove

⁶ Julie Evans, Ann Genovese, Alexander Reilly & Patrick Wolfe, ‘Sovereignty: Frontiers of Possibility’ in Julie Evans, Ann Genovese, Alexander Reilly & Patrick Wolfe (eds) *Sovereignty: Frontiers of Possibility*, Honolulu, 2013, p. 11.

⁷ Antony Anghie, ‘Western Discourses of Sovereignty’ in Evans *et al*, *Sovereignty*, pp. 19-36.

⁸ Lisa Ford & Brent Salter, ‘From Pluralism to Territorial Sovereignty: The 1816 Trial of Mow-watty in the Superior Court of New South Wales’ *Indigenous Law Journal*, Vol. 7, 2008, pp. 67-86.

⁹ Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia 1788-1836*, Cambridge Ma., 2010, pp. 54, 203.

¹⁰ Simon Cooke, ‘Arguments for the Survival of Aboriginal Customary Law in Victoria: A case note on R v Peter (1860) and R v Jemmy (1860)’ *Australian Journal of Legal History* Vol. 5, 1999, pp. 201-241. See also Janine Rizzetti, ‘Judge Willis, Bonjon and the recognition of Aboriginal Law’ *ANZLH E-Journal*, 2011, Refereed paper 5, pp. 1-26.

¹¹ Henry Reynolds, *Aboriginal Sovereignty: Reflections on Race, State and Nation*, St Leonards NSW, 1996.

actual occupation or effective administrative control over territory.¹² It is an important point that Kent McNeil has taken up with respect to Canada and the United States and their grandiose claims over the Northern Plains to the detriment of the Lakota, Cheyenne, Crow, Blackfoot, Gros Ventre, Assiniboine, Cree and other Indigenous peoples of the region.¹³ It is this aspect of the colonising of Queensland that this article focuses on. While Great Britain would require other powers to prove territorial jurisdiction for their colonial claims to be upheld, some twenty-six years earlier Westminster had granted territorial sovereignty to a small group of colonists whose hold not only over the vast territory that the Queen named eponymously, but even over their planned capital, was tenuous. Despite the absence of effective administrative control, even over the suburbs of Brisbane, the campaign for the creation of a separate colony of Queensland proceeded apace in the 1850s and was won in 1859. While there were also interesting examples of a lack of any attempt to enforce British law in many cases of Aboriginal-Aboriginal and even Aboriginal-European assaults in the north in the years 1842 to 1859, consistent with an implicit recognition of legal pluralism and of a lack of territorial jurisdiction, it was the inability of whites to occupy coastal and northern suburbs of Brisbane thirty-five years after first settlement that proves the actuality of Indigenous territorial control and sovereignty over much of southeast Queensland even at the time of proclamation of the new colony.

As part of the Macquarie research seminar series a number of scholars were asked to respond to Reynolds' paper. Among the critical voices, Alexander Reilly made the point that 'if the British could only secure sovereignty over these areas through occupation or effective administrative control, there is probably a reasonable legal argument that these conditions

¹² Henry Reynolds, 'Reviving Indigenous Sovereignty?' *Macquarie Law Journal*, Vol. 6, 2006, pp. 5-12.

¹³ Kent McNeil, 'Factual and legal Sovereignty in North America: Indigenous Realities and Euro-American Pretensions' in Evans *et al*, *Sovereignty*, pp. 37-59.

were satisfied by the time land was divided into titles granted of and from the Crown.’¹⁴ The interesting aspect of the Queensland capital’s story is that land sales had been made and title deeds issued, but the northern tribes successfully ejected new settlers in a strip along the coast that stretched from the river mouth to the northwards approaching the next coastal township of Maryborough. The events to be explored here show that awarding title and dividing land based on maps in Brisbane and Sydney were not proof of effective administrative control. This article discusses the problems settlers in Brisbane’s north faced when the courts sought to enforce British law on one Aboriginal leader and the success of Aboriginal defence of the coastal lands between the years 1853 and 1859.

By November 1853, eleven years and six months after the northern districts had been thrown open to free settlement and twenty-nine years since the penal outpost of Moreton Bay had originally been established, the township of Brisbane on the northside of the river did not stretch beyond Breakfast Creek where a number of farms had been established. There were also settlers at the original German mission at Nundah which had been founded in 1838 and at Eagle Farm but between these settlements and the town was bushland. Beyond these suburbs were Darby McGrath’s sheep station at the Gap and James Cash’s cattle run on the South Pine River which had only been leased in 1851 and 1852. They were 10 and 18 kilometres north of the township respectively and today The Gap is a suburb of Brisbane while the eastern reaches of the South Pine form the most northerly boundary of the city of Brisbane. The track that was the Old Northern Road continued past Cash’s river crossing to cattle stations at Samsonvale and Whiteside which had been established in 1845 and 1843 respectively and on to Durundur established in 1841. It was a settlement pattern consistent with Godwin’s analysis of a ‘mosaic’ of uneven settlement in the frontier districts of central

¹⁴ ‘Responses to Henry Reynolds’, *Macquarie Law Journal*, Vol.6, 2006, p. 22. For a more detailed and recent consideration of Reilly’s view on Australian Indigenous sovereignty, see Reilly, ‘Sovereign Apologies’ in Evans *et al*, *Sovereignty*, pp. 196-219.

Queensland.¹⁵ New European settlers and residents of Brisbane, however, imagined all this region to their north as “settled” country and there was much enthusiasm when the government announced a land sale of suburban allotments which was to include good farming land at the Bald Hills and seaside allotments at Sandgate in October 1853.

The sales took place at the courthouse on 9 and 10 November 1853. More than 55 lots were sold and buyers included, prosperous squatters, such as the three McConnel brothers, Brisbane Police Magistrate and Sheriff for the northern districts, William Brown, former missionary Leopold Zillman and Thomas Dowse, a local auctioneer, merchant and Moreton Bay correspondent for the *Sydney Morning Herald*. Influential locals had invested their money in Sandgate lands and the government raised more than £1957 from the sales.¹⁶

The first purchaser to attempt to build on his block was Thomas Dowse who set up on his allotment at Sandgate with his two sons on 3 December 1853. Late in the afternoon about thirty local Aboriginal people came to their camp and tried to solicit food and tobacco. Dowse was an ex-convict businessman who had done well for himself in early Brisbane.¹⁷ He had no intention of sharing his provisions and he and his sons succeeded in driving the Aboriginal locals away who were not at all happy about his lack of generosity on their lands. As night fell Dowse realised that he and his sons were vulnerable and made the decision to pack up and return to Brisbane. The problem was that they had to wait for the tide to turn to launch their boat. Aboriginal people knew the tides too and at 2.00am they returned just as the tide was lifting and attacked Dowse on the back of the head with a waddy as he tried to

¹⁵ Godwin, ‘Fluid Frontier’, p. 109.

¹⁶ *MBC* 12 November 1853, p.2, 11 March 1854, p. 2 & 13 May 1854, p. 2.

¹⁷ Mark Gosling, ‘Thomas Dowse: Brisbane’s Samuel Pepys’ in Rod Fisher & Jennifer Harrison (eds) *Brisbane: Squatters, Settlers and Surveyors*, Brisbane, 2000, pp. 102-109.

make for the boat. The younger son Thomas was speared in the leg and the party was saved by Henry Dowse firing 'point blank at a youth and the native was seen to fall.'¹⁸

Dowse should have been more alert to the coastal peoples' intentions. He had already run into trouble trying to secure timber for his general store when his contracted cedar rafters had been plundered by a large group of Aborigines just three months earlier in September. They had camped at Luggage Point near the mouth of the Brisbane River and while the two men were adjusting their raft Aborigines led by a Joondaburri man from Bribie Island helped themselves to their food supplies. The white men forlornly begged to be left some stores which was refused; their bedding and weapons were also taken. The guns the Aboriginal party pointedly returned to them after destroying the barrels.¹⁹ The Ningy Ningy, Joondaburri and Gubbi Gubbi from the Sunshine Coast to the north had been successfully working together for many years and had made clear that they were not going to allow any new settlers onto the coastal lands between Brisbane and Wide Bay.

The unequivocal defiance of the northern peoples was made clear when the Brisbane police succeeded in arresting their leader Dundalli, a Joondaburri warrior from Bribie Island in the northern part of Moreton Bay, in Brisbane in May 1854. A warrant had been out for his arrest for murder for more than eight years but the Brisbane police knew they had no hope of arresting him in his own territory. When informers told Chief Constable Sneyd of Dundalli's presence in the township, Sneyd remained pessimistic but nonetheless sent two constables in plain clothes. To Sneyd's surprise they were able to effect the arrest with the help of

¹⁸ In his recollections, Dowse said his elder son Henry was also hit by a boomerang. Thomas Dowse, *Recollections of old times in Moreton Bay: a transcript of the original manuscript*, pp. 14-15 OM79-68, JOL; *MBC* 10 December 1853, p.2.

¹⁹ *MBC* 24 September 1853, p. 2.

Dundalli's local Aboriginal political opponents.²⁰ The Chief Constable's problems did not end with Dundalli's incarceration, however. In the months that followed large numbers of Aboriginal people 'from the northern coast of the bay ... commonly called the "Ningy Ningy" tribes' gathered in Brisbane and at the Pine Rivers to debate "payback" for the Brisbane Mianjin people who had engineered Dundalli's capture. The local newspaper called them Ningy Ningy but reported a leading Joondaburri man was one of the participants at these gatherings and it is highly unlikely that Dundalli's countrymen would have been absent from this discussion and planning. Aboriginal internal governance was of no concern to the local press – the *Courier's* objection was to them assembling within the township and near white settlers for they 'cause[d] much loss and annoyance to the settlers in the suburbs of the town, and much anxiety to those on the Pine River.'²¹ By October, the *Sydney Morning Herald* correspondent was describing the continued ominous presence of these young Joondaburri men and their supporters as 'native infantry' and the 'scouts of Dundalli's tribe' who as 'spies and rovers ought to be frightened back to their own hunting grounds'.²² There was little the Chief Constable could do to prevent these gatherings given the small number of town police under his command and the fact that they were unmounted. His police district nominally extended from south of the Brisbane River to the boundary of the Wide Bay pastoral district and to cover this territory he had eleven ordinary constables and one district constable with only the district and chief constables provided with horses.²³

Community anxiety about the coastal lands near Brisbane were only accentuated when two white members of the Harbour Master's boat crew, Joseph Goold and Thomas Anderson, went missing in October 1854. Although Bribe Islanders as well as Quandamooka people

²⁰ *Daily Mail*, 21 January 1924, p. 9; Memories of E.E. Caswell, *Early Brisbane Clippings 1894-1947*, OM 91-36, Box 9256, JOL.

²¹ *MBC* 26 August 1854, p.2.

²² *Sydney Morning Herald* 3 October 1854, p. 5.

²³ Connors, 'The Birth of the Prison and the "death" of convictism', p. 154.

from Stradbroke and Moreton Islands had been used as boat crews for the Pilot Station and Harbour Master's boats since penal days, and in more recent times as pilots and crew for white fishermen, the utter disregard that local Aboriginal men had for white authority was now publicly aired. Local Indigenous people happily engaged in trade over labour and goods but they were still living on their own lands and had not surrendered their political structures, values or world view. The Harbour Master's abandoned boat was soon found at Sandgate along with marks of a violent struggle and no sign of the white men who were presumed murder. The abandoned boat was a shocking reminder that whites did not control the bay or the coast lands despite the large and growing sea traffic to and from Brisbane and the *Moreton Bay Courier* now editorialised against the practice of employing Aboriginal men as boat crews. It evocatively drew attention to the extent of Aboriginal control over northern Moreton Bay:

Within thirteen miles of North Brisbane is the surveyed village of Sandgate at Cabbage Tree Creek. At this spot large quantities of land have been sold at high prices by the Government, and some thousands of pounds have been invested by persons anxious to build upon and improve the place forthwith. Yet ... no person dares to attempt to improve his land within an hour's ride of the capital because his life would be in danger from the attacks of the natives ... All along the northern shore of the bay is one dreary waste of bush, entirely abandoned to the blacks ... At this very spot we learn that the blacks landed on the late melancholy occasion, and perhaps it was here – where but for the grossest neglect a thriving village population might now be established – that the murderous assault was made.

The inability of policing officials to act following this attack infuriated the paper. Later in the editorial it decried ‘the coolness that succeeds such events is astonishing. All hope of arresting the murderers [of Goold and Anderson] seems to be abandoned’.²⁴

The Brisbane authorities had few options. There had been incessant demands for the Native Police to be used in Brisbane but that force had faced constant logistical problems since its northern establishment in 1848, including the ill-health of troopers and officers who spent so much time in the field.²⁵ In 1850 Frederick Walker, the commandant of the force, had been authorised to undertake further recruitment and expansion of the force²⁶ but demand for its patrols always outstripped its capacity and its management became the subject of angry political disputes among pastoralists. From late 1852 to mid-1853 Walker spent several months heading a detachment which patrolled the Brisbane Valley and districts to the north of Brisbane. The detachment was successful in arresting two young Aboriginal men from the Pine Rivers who were accused of offences committed during an attack in 1846 and the commandant boasted that they had successfully disrupted attendance at that summer’s Bunya-Bunya gathering,²⁷ but assaults on stations resumed when the force departed to other pressing duties at Wide Bay and the Burnett.

The Whiteside and Samsonvale stations had suffered from Aboriginal incursions since their foundations in the 1840s but in September 1855 the organised nature of Aboriginal resistance to incursions on their land was made clear. In that month Mrs Griffin discovered bush barricades in the bed of a creek on Whiteside station which had been constructed by

²⁴ *MBC* 28 October 1854, p. 2. Goold was also known as Gould and had a criminal record so it is not out of the question that he caused some offence to his Aboriginal crew. See *MBC* 13 February 1855, p. 2.

²⁵ Walker to E. Deas Thomson Enclosure in l/no. 52/3069 CSIL: 1852 4/3075 SRNSW.

²⁶ *MBC* 31 January 1852, p. 2.

²⁷ This was a regular regional assembly of Aboriginal peoples which was held in the Sunshine Coast hinterland at a site now covered by the waters of the Baroon Dam. *MBC* 27 November 1852, p. 3; *Maitland Mercury & Hunter River General Advertiser* 20 April 1853, p. 4.

Aboriginal people in order to muster and spear cattle systematically. The Pine River Valley was an important meeting place for neighbouring traditional owners including the coastal tribes so the systematic harvesting of beef to feed large meetings was an interesting adaptation. However since the barricades could have entrapped more bullocks than the Pine River people could eat, it is possible that another motivation was to disrupt the station's productivity.²⁸

Although Police Magistrates Wickham and his successor William Brown had at various times organised mounted police patrols of two constables to the Pine River and Sandgate this had not been sustainable on any regular basis. There were proposals for a police station to be constructed at the mouth of the Brisbane River that could have readily accessed the coasts and islands of the bay but they appear to have come to nought.²⁹ A small detachment of six troopers under the command of a sub-lieutenant of Native Police briefly patrolled the northern and coastal districts from June to September 1855 but it had not succeeded in limiting attacks on cattle at Whiteside nor in effecting any arrests. Nonetheless its withdrawal owing to cutbacks to the force provoked another flowery *Courier* editorial which described its retraction as evil and emphasised the on-going impediment to development of Sandgate.³⁰

The Sandgate land purchasers in the face of this policing stalemate subsequently formed a committee to lobby the New South Wales government for protection for the coastal suburbs. It prepared a Memorial from concerned citizens and also took out paid advertising to promote its views. The committee placed its 'Notice to Government' as a newspaper advertisement which ran from 22 March to the end of April 1856. The purchasers were naturally aggrieved

²⁸ *MBC* 29 September 1855, p. 2.

²⁹ *MBC* 7 June 1856, p. 2.

³⁰ *MBC* 29 September 1855, p. 2.

that the government had made a considerable profit on the land when it clearly did not have effective control over the district and their actual occupation had been made impossible by the local Niny Niny. Their notice made clear that it was the Aboriginal tribes who controlled and occupied these lands and that the government had granted them deeds which could not be enforced:

Know ye that the Marine Township of Sandgate, situated on the shore of Moreton Bay, only 12 miles from the Township of North Brisbane, and which township of Sandgate has all been sold by the Government, at prices averaging from 2 to 400 per cent. above the upset price; and know ye, by this notice, that all parties that have attempted to sit down on the said township, to erect dwellings, have been driven away by the blacks; and I now solemnly declare by this notice, that no person can attempt to make improvements on their purchased township allotments at Sandgate except at the risk to their lives; and which township to this day remains a wilderness. And we by this notice pray ye for protection to enable us to build our houses thereon.

Richard J. Coley. Chairman of Committee.³¹

With the granting of self-government to New South Wales in 1856, elections for new representatives from the northern districts to the New South Wales parliament provided the local newspaper with a new focus to press for northern residents' claims. The *Courier's* priorities for the new members for the County and Boroughs of Stanley included 'that dreaded and dangerous spot Sandgate' at number three on its list. It argued that these lands had been sold 'on the implied if not express understanding that the buyers would be protected, in making improvements, from the assaults of the hostile tribes of aboriginals ... in this would-be Government township.' The editorial acknowledged that previous

³¹ *MBC* 5 April 1856, p. 1.

governments had repeatedly recognised this need but it ignored the immense organisational difficulties that any administration faced in providing the intensive on-the-ground “policing” required to claim lands which had never been ceded by the coastal tribes. It described government inaction as ‘listlessly apathetic and evidently careless’.³²

Not surprisingly the new government replied favourably to the Sandgate committee but it also indirectly admitted it simply did not have the means to do anything. In his new role of government resident Captain Wickham was advised that there was no means for supplying a Native Police Force for the district but that the current commandant, Lieutenant Morrisset, had been instructed to patrol the ‘disturbed portion of the Moreton Bay district’ whenever possible. The *Courier* responded facetiously that it was ‘rather a roving commission for the gallant officer’ whose force now had responsibility for pacifying a district that extended from the Clarence and Macleay Rivers in the south to the Upper Dawson in the north, some 700 kilometres north to south and a similar distance east to west, with just eighty-five men.³³ ‘And also for the valiant sons of the soil who roam about Cabbage Tree Creek [at Sandgate]’ it added.³⁴ Clearly any claims to effective administrative control over these extensive lands at the time of self-government are highly problematic.

Despite the insecurity of property, new settlers continued to take up cattle leases close to the older existing stations at the North and South Pine Rivers and north to Caboolture. And the North Pine traditional owners continued to evict them. A Mr Young tried to establish a cattle station in the vicinity of the Pine River but in September 1856 while he was absent in Brisbane 200 Aboriginal men descended on the station taking whatever they wanted and

³² *MBC* 26 April 1856, p. 2.

³³ L.E. Skinner, *Police of the Pastoral Frontier: Native Police 1849-59*, St Lucia Qld, 1975, pp. 374-77.

³⁴ *MBC* 31 May 1856, p. 3.

spearing several cattle.³⁵ Just three weeks later between 300 and 400 men were waiting in ambush at a Mr Westaway's new station on the North Pine. Becoming aware of their plans Westaway and his servant who were both mounted attempted to charge the gathering but the warriors simply urged the two white men on. Realising that they were soon to be surrounded Westaway led a retreat back to their hut. From there the servant fired blank shot which triggered a shower of waddies. Now Westaway grasped that they were at even greater risk as the northern men prepared to storm the hut; he and his man fled but local creeks had recently flooded and they soon found conditions impossible for their horses; they finally reached the nearest station to the north on foot. By the time they returned two days later on Monday morning the hut had been robbed of all his goods and provisions. Westaway who spoke the local dialect reported that the local people had been joined by Durundur and Wide Bay peoples and claimed that the leader was one of the latter who called several times to him to go, 'as plenty more blacks were coming, and pointed the direction that he was to take.' Once again this alliance of northern peoples proved that they were in the ascendant on these, their own lands. The *Courier* complained of 'official incapacity and gross neglect in withholding protection to life and property'.³⁶

In the twelve months which followed, farmland was purchased at Bald Hills which would eventually come to define the city of Brisbane's north-east boundary. The hills abutted fine wetlands, tidal flats and mangroves of the South Pine River which were home to migratory birds and rich marine life and flowed to the bay. The new settlers had been anxious about purchasing so close to Ningy Ningy heartlands and they and their family and friends added to the lobbying of the Government Resident for police protection. By October 1857 the government had agreed to an expansion of the Native Police and a new detachment was to be

³⁵ *MBC* 20 September 1856, p. 3

³⁶ *MBC* 11 October 1856, p. 3.

raised for the Moreton Bay district commencing January 1858.³⁷ Until then Chief Constable Sneyd and a mounted District Constable undertook a weekly patrol of these northern districts. The *Courier* believed that the absence of Aborigines in these districts in the weeks that followed was proof that the police presence ‘restrained them’. Certainly the local tribes were keeping an eye on police movements. As the police patrolled on Wednesdays smoke signals floated into the air for miles along the bay as the coastal peoples warned their allies to stay clear.

It is arguable then, as to how effectual this police authority actually was. The rejection of white authority especially its expression through the Native Police was brought home forcefully in the last weeks of 1857. A native trooper was sent to go among the northern tribes as far as Caboolture which would have taken him through several tribal territories to seek recruits for the Native Police expansion. At some point on the journey the Aboriginal trooper was confronted by a Bribie Island warrior known as “Dr Ballow” who assaulted him with a butcher’s knife cutting the trooper’s arm ‘clean off by the shoulder’. Aboriginal women hastily applied clay, their traditional method for treating wounds, but could not stem the flow and the man died the next day. It was a gruesome expression of Bribie Islander rejection of colonial policing rather than the *Courier’s* naive belief that Aborigines simply found the Native Police pay too small and the work too hard. This was the context for the smoke signals – they indicated a wary tactical pause rather than any diminution of Aboriginal assertion of their authority in these lands.³⁸

³⁷ *MBC* 31 October 1857, p. 2. See also lobbying by Jordan and Zillman for protection at Caboolture in this same period, Skinner, *Police of the Pastoral Frontier*, pp. 264-65.

³⁸ *MBC* 21 November 1857, p. 2.

Despite the risk to security the government conducted further Sandgate land sales in 1855 and again in 1858.³⁹ As the amount of invested money increased, a group of Brisbane shareholders boldly planned the development of a boarding house or hotel at this pretty bay.⁴⁰ They met in August 1857 and by October a publican by the name of Loudon had commenced operations there. Loudon also owned a hotel in Fortitude Valley and it seems likely that it was actually some of his staff rather than Loudon himself who were trying to get a Sandgate business up and running in these months.⁴¹ This business seems to have survived, unlike Dowse and others, by simply agreeing to local Aboriginal demands for provisions. When the mounted police patrol visited they reported that ‘the blacks ... have proved troublesome to Mr. Loudon, getting almost everything they wanted by sheer [sic] boldness in demanding it.’ Police Magistrate Brown, himself a Sandgate landholder, promised to visit Loudon and do all he could until the Native Police detachment arrived.⁴²

A detachment of eight troopers under Lieutenant Williams promptly arrived in January 1858 but no sooner had it commenced patrols around Sandgate than an attack on a station on the Logan River to the south of Brisbane resulted in it being called away. Settler authorities did not have the capacity for more intensive paramilitary operations. This was the context for the confident gathering of 300 men on Whiteside station in April and their attack on Lieutenant Williams’s patrol that this paper began with. Having recommenced patrols in the north in April, this attack at Whiteside now reduced Williams’ detachment to five active troopers until Troopers Charlie and Mark recovered from their injuries.

³⁹ *MBC* 27 January 1855, p. 2, 30 July 1855, p. 1, 11 September 1858 p. 2, & 27 October 1858, p. 3.

⁴⁰ *MBC* 1 August 1857, p. 1.

⁴¹ See the report of the Native Police sergeant’s attempt to prosecute Loudon for refusing accommodation to him and a trooper at his hotel in the Valley in March 1858; *MBC* 7 April 1858, p. 2.

⁴² *MBC* 31 October 1857, p. 2.

Mrs Griffin, the station owner, however had had enough. Tom Petrie recalled a conversation with her son John Griffin whom he met at the North Pine in about 1859. John told him that

We can't keep a beast down there for the blacks, they run them into the swamps and spear them, then have great feasts. If any of us go down in that direction, we have always to be on our guard – that is the reason I am armed like this (touching his weapons [of two horse pistols and carbine hanging at his side]).⁴³

A few months later his mother sold the coastal portion of the Whiteside run which her family had held since 1843 to Tom Petrie. It was a victory for Dalaipi, the Pine River elder whom Petrie had first approached to ask about good land for a run. Petrie had grown up with local Aboriginal boys, spoke the local dialects fluently and without any trace of an accent, and had even been allowed to attend a kipper ceremony, (a secret ceremony which is part of male initiation rites) when he was thirteen or fourteen years old. Now Dalaipi could guarantee his people's movement across their lands; they had a white owner who was prepared to respect their sacred sites and allow their continued enjoyment of them. The Pine River people's sustained harassment had removed an unsympathetic and uncompromising owner and installed a European whom they trusted. Tom Petrie was known among the Gubbi Gubbi as 'belonging to Dalaipi' and he named his run Murrumba Downs, the local word for 'good'.⁴⁴

As well as the "friendly" stations of Durundur⁴⁵ and Petrie's Murrumba Downs, Bribie Island continued to sustain a permanent Aboriginal village into the 1870s. Aboriginal communal and ritual life survived despite the limitations on free movement. The continuity of culture and law and the Aboriginal community's creation of new forms of resistance into the

⁴³ Petrie, *Reminiscences*, p. 180.

⁴⁴ Petrie, *Reminiscences*, pp. 178-87; see also Alex Bond, *The Statesman, the Warrior and the Songman*, Nambour Qld, 2009.

⁴⁵ David Archer who had founded Durundur Station in 1841 had allowed the local Dalla people to continue to hunt and move across their lands. Although he sold the station to David and John McConnel in 1848, the McConnel's continued to allow Aboriginal ceremonial activities on the station into the 1860s. Recollections of AJ McConnell 1856-1937, Box 3 Item 206, McConnell Family Collection, Fryer Library.

twentieth century is a separate strand of the sovereignty question, too large to be explored here.

The battle for Sandgate was not so easily fought. The strength of the Native Police detachment was eventually reinforced and by the end of 1859 it was led by the most notorious officer in the force's brutal history, Lieutenant Frederick Wheeler.⁴⁶ Despite the detachment's activities over twenty-four months, conditions at Sandgate were still described as 'in a rough state' in 1859, although more houses were being constructed and pleasure visits to the seaside began to be advertised in the local press.⁴⁷ Wheeler's dominance was bolstered by the erection of Native Police barracks and horse paddocks right in the village of Sandgate in the course of the year 1859.⁴⁸

Wheeler ranged over a wide territory of southeast Queensland including the Sunshine Coast and Caboolture in an effort to break the alliance of the coastal and Sunshine Coast hinterland peoples. Despite his ruthless rampages when he came across Aboriginal gatherings, Aboriginal people continued to evade his dispersals and to persist with their traditional meetings.⁴⁹ In December 1862 four of his troopers deserted and he struggled to replace them.⁵⁰ Then in 1865, one of his sergeants ordered the shooting of a "friendly" Aboriginal boat's crew on the beach at Sandgate; this was not necessarily unusual police behaviour in the field, but such an operation within view of white residents was here deemed an atrocity by the local press. The decision was made to close the Sandgate Native Police camp.⁵¹

⁴⁶ *MBC* 3 December 1859, p. 2

⁴⁷ *MBC* 27 April 1859, p. 2.

⁴⁸ *MBC* 14 May 1859, p.1.

⁴⁹ Jonathan Richards, 'Frederick Wheeler and the Sandgate Native Police Camp', 20 *Journal of the Royal Historical Society of Queensland*, Vol. 20, 2007, p. 115.

⁵⁰ Richards, 'Frederick Wheeler', p. 116.

⁵¹ Richards, 'Frederick Wheeler', pp. 117-18.

Twelve years after the government of New South Wales had first granted land titles, the Europeans finally had effective control and actual occupation of this northern seaside suburb of Brisbane. Clearly the occupation of Sandgate was by eight years of episodic paramilitary operations, ie it required conquest to achieve a hold over the northern suburbs of Brisbane. Since as Alexander Reilly reminds us the High Court of Australia has ruled that all statutory grants prior to 1975 were rightfully conferred,⁵² perhaps it does not matter in terms of the letter of the law. For the most part histories such as the struggles to control Brisbane have been dismissed politically and legally as, in Benton's words, 'mere temporary formations on the way toward more evenly expansive territorial rule and settled sovereignties.'⁵³ As Australian historical scholarship of the nation's many frontiers develops, however, a picture of uneven political geography becomes the norm and the date at which sovereignty becomes settled, elusive. It shows what an enormous task the Australian state still has before it in terms of establishing its right to deny Indigenous self-determination and sovereignty. As Reynolds pointed out in 2005, 'ultimately the Crown will be required to establish how and when Aboriginal sovereignty was overridden.'⁵⁴ It took more than six years following the creation of the colony of Queensland to effectively control the outer suburbs of the capital. Detailed investigation of the Crown's claim to control the remaining 99.99% of Aboriginal lands are likely to show a process that was as uneven, piecemeal and lacking in legitimacy as the northern suburbs of Brisbane.

⁵² 'Responses to Henry Reynolds', *Macquarie Law Journal*, Vol. 6, 2006, p. 23

⁵³ Benton, *Search for Sovereignty*, p. 3.

⁵⁴ Reynolds, 'Reviving Indigenous Sovereignty?' p. 6.