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## Crossing Boundaries: Tracing Indigenous Mobility and Territory in the Exploration of South-Eastern Australia

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In ‘Expulsion, Exodus and Exile in White Australian Historical Mythology’, Ann Curthoys examined how Indigenous mobility was problematised in settler colonial discourses. She drew on Gamatj leader and former Australian of the Year Galarrwuy Yunupingu’s observation that Aboriginal people were derisively represented as aimless wanderers and nomads, perpetually on ‘walkabout’, while the colonists claimed for themselves the mantle of settlers and natives, ostensibly defending their homelands from marauding Aboriginal people.<sup>1</sup> Curthoys highlighted the tension between movement and place, and the ways in which certain kinds of mobility or, to be more specific, the mobility of certain kinds of people—namely, nomadic Indigenous people—have been historically coded as ‘dysfunctional’ and ‘rootless’.<sup>2</sup>

Colonial discourses constructed Indigenous mobility as aimless wandering—an almost animalistic roaming driven by the search for food and the need to eke out survival. According to Sarah Prout and Richard

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1 Curthoys 1999: 14.

2 Cresswell 2010: 20.

Howitt, ‘Indigenous hunter-gatherer lifestyles were interpreted by arriving British settlers as evidence of their backward and uncivilized existence’.<sup>3</sup> Such constructions fuelled the colonial fantasy of terra nullius—that the lands the British ostensibly discovered belonged to no one.

Alan Frost’s ‘New South Wales as Terra Nullius: The British Denial of Aboriginal Land Rights’, published in 1981, was one of the first significant historical studies of European perceptions of Aboriginal people and the conception of terra nullius.<sup>4</sup> He argued that upon the *Endeavour*’s arrival in 1770, the British inevitably assumed that Aboriginal people lacked sovereignty and property rights because ‘Aborigines had scarcely begun to develop social, political or religious organization’s as the Europeans understood these’.<sup>5</sup> For Frost, a crucial factor underpinning the British belief that New South Wales was not owned by Aboriginal people was their apparent failure to ‘subdue and cultivate the earth so as to obtain “dominion” over it’. He saw Indigenous mobility as a sign of their failure to progress beyond the ““first stage” ... of civilization’. Frost cited Joseph Banks’ observation that they ‘seemed “never to make stay in their houses but wander[ed] from place to place like the Arabs”’.<sup>6</sup> Such Eurocentric perceptions of Aboriginal mobility were construed by Frost as an inevitable response to the seemingly abject poverty of Aboriginal material culture, as well as their local environments, which were devoid of recognisable food sources to cultivate. Hence, Frost believed that the British had little option but to see Australia as a terra nullius, as he explained:

The Aborigines had not enclosed the country to depasture herds and flocks, nor had they wrought an agriculture upon it. And just as they did not labour in the sweat of their brow for their food, neither did they manufacture to any degree. Their few utensils, weapons and ornaments were crude in the extreme—mere pieces of wood, stone, shell, bark, bone or hair, fashioned in rudimentary ways to meet only basic needs.<sup>7</sup>

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3 Prout and Howitt 2009: 398.

4 Frost 1981. This work is more widely discussed than earlier historical analyses of terra nullius in Australia, such as Scott (1940). Fitzmaurice (2007: 5–6) argued that ‘between Ernest Scott and [Wiradjuri activist and lawyer] Paul Coe’s use of terra nullius in 1978, discussions of res nullius, territorium nullius and terra nullius in application to Australian history were rare’.

5 Frost 1981: 520.

6 Frost 1981: 519.

7 Frost 1981: 519.

In the decades after Frost's essay was published, historians such as Henry Reynolds countered the view that eighteenth-century British colonists were oblivious to Aboriginal modes of land tenure, demonstrating that some seventeenth- and eighteenth-century jurists held that nomadic peoples maintained sovereignty over their land.<sup>8</sup>

Further challenging the settler discourse that Aboriginal people were aimless wanderers, Indigenous scholars such as Dale Kerwin and Bruce Pascoe demonstrated that Aboriginal people, far from eking out a meagre existence, systematically managed the environment through a range of seasonal practices, such as harvesting fish and eels, collecting seeds and preparing the soil through deliberate firing.<sup>9</sup> In *The Biggest Estate on Earth: How Aborigines Made Australia*, Bill Gammage contended that Western recognition of such practices is not a recent development (i.e. it did not follow anthropologist Rhys Jones' 1969 coining of the term 'fire-stick farming'), as some individuals acknowledged such practices during the colonial period. For example, citing Edward Curr's 1883 claim that no other 'section of the human race has exercised a greater influence on the physical condition of any large portion of the globe than the wandering savages of Australia', Gammage argued that Curr 'defied a European convention that the wanderers barely touched the land'.<sup>10</sup>

When combined with the legacy of terra nullius and, since 1993, the introduction of native title legislation, the construction of Indigenous mobility as aimless wandering has led many Aboriginal people to minimise their histories of mobility in favour of asserting their fixed connections to place and ties to particular country. In *Rivers and Resilience: Aboriginal People on Sydney's Georges River*, Heather Goodall and Allison Cadzow argued that the trope of aimless wandering made it difficult for Aboriginal people to rehabilitate and extol their cultures of mobility lest it 'obstruct the recognition of their rights to land'.<sup>11</sup> Indeed, such a strategy can be prudent, as evident from the difficulties the Wongatha people of the Western Desert, who regularly migrated around the area east of Mount Margaret in the Western Australian goldfields, faced in proving they 'had

8 Reynolds 2003. Note that the first edition of this book was published in 1987. In 1992, in the Mabo decision, the High Court dismissed the legal fiction that Australia was terra nullius before British occupation and recognised native title.

9 Kerwin 2010; Pascoe 2014. 'Fire-stick farming' was a term coined by archaeologist Rhys Jones in 1969.

10 Gammage 2012: 2.

11 Goodall and Cadzow 2009: 21.

a long term attachment' to their land.<sup>12</sup> Yet, mobility has long been a key characteristic of Aboriginal experience, ranging from the ceremonial gatherings and extensive trade journeys that marked Indigenous life before (and, to a significant and often unrecognised degree, after) colonisation, through to the forced and voluntary movements that have continued in different ways through to the present. As Goodall and Cadzow attested, 'mobility was and is as much a defining characteristic of Aboriginal cultures as affiliations with meaningful bounded places'.<sup>13</sup>

This chapter examines the tension between mobility and place, in particular, the notion espoused by Frost that Eurocentric perceptions of Indigenous mobility inevitably prevented colonists from recognising Aboriginal sovereignty and connections to land. Reynolds showed that a colonial blindness to Indigenous sovereignty was not universal;<sup>14</sup> my aim is to demonstrate that this sentiment was not just an abstract philosophy, but was acknowledged, explicitly and implicitly, in explorers' accounts of their interactions with Aboriginal people. Focusing on maritime and overland explorers' accounts of Aboriginal people in south-eastern Australia, the chapter highlights the kinds of Indigenous movement that occurred before and during the early stages of colonisation in Australia. My aim is to explore the ways in which Indigenous people in the eighteenth and nineteenth centuries expressed to European strangers that they were both mobile *and* bounded to particular places, and the extent to which European interlocutors understood these articulations.

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New imperial histories have begun to explicitly engage with the role of mobility in the creation and maintenance of empire, as well as in the development of Western notions of modernity.<sup>15</sup> As Nan Seuffert observed, the 'circulation of capital and commodities, technologies of transportation and communication, traveling ideologies and systems of governance and surveillance as well as the movement' of individual agents of empire, such as settlers, colonial administrators and so on, all 'shaped the politics and the period'.<sup>16</sup> Explorers played a key role in the expansion of empire as their expeditions into ostensibly uncharted territories opened up new routes for

12 Muller 2014: 59.

13 Goodall and Cadzow 2009: 21.

14 Reynolds 2003.

15 See Ballantyne 2014; Carey and Lydon 2014.

16 Seuffert 2011: 10.

the empire as well as producing new information about local resources that justified further expansion. Significantly, in many parts of Australia, it was explorers who first encountered Aboriginal people and their lands. It was their representations of Aboriginal peoples and landscapes, widely disseminated through the publication and circulation of their journals, that shaped the expectations of later explorers and colonists. Certainly, some explorers contributed to Eurocentric constructions of Aboriginal mobility as aimless wandering.

Nicolas Peterson has observed that one of the ‘most mythologised aspects of Australian Aboriginal behaviour has been the “walkabout”’, which, he explained, is considered to be the seemingly ‘internal urge’ to suddenly ‘travel for travel’s sake’.<sup>17</sup> Peterson highlighted how colonial discourses presented Indigenous movement as essentially inexplicable and irrational, for such discourses did not accommodate the reasons Aboriginal people had for moving on. For instance, Aboriginal workers in the pastoral industry were often not permitted to leave work to ‘attend a ceremony, or to visit kin’; consequently, such workers had to leave without notice.<sup>18</sup> However, the Western rendering of Indigenous mobility as inexplicable or, at best, predicated on momentary needs, predates the colonial coopting of Aboriginal labour. Sueffert suggested that ‘distinctions between “settler” and “nomad” were ‘integral’ to nineteenth-century ‘concepts of civilization’, for ideas of civilisation and settlement were juxtaposed by notions of savagery and wandering.<sup>19</sup> Such a construct was mobilised in Captain James Cook’s 1770 account of the Aboriginal people of New South Wales:

I do not look upon them to be a warlike people; on the contrary, I think them a Timorous and inoffensive race, no ways inclined to Cruelty ... neither are they very numerous. They live in small parties along by the Sea Coast, the banks of Lakes, Rivers, Creeks, etc. They seem to have no fixed habitation, but move about from place to place like wild beasts in search of Food.<sup>20</sup>

This description is arguably one of the most influential European descriptions of Aboriginal society. It informed the eventual decision by the British to establish a penal colony in New South Wales in 1788.

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17 Peterson 2003: 223.

18 Peterson 2003: 223.

19 Sueffert 2011: 11.

20 Cook 1955: 433.

Cook's journal, as well as those of his fellow *Endeavour* shipmates, botanist Joseph Banks and lieutenant James Matra, who separately petitioned the government to establish a colony in New South Wales, initiated the myth that Aboriginal people did not own their land. The *Endeavour* accounts suggested that Aboriginal people would simply move off the land and make way for the colonists, rather than violently oppose their settlement.<sup>21</sup> By contrast, Maria Nugent observed that Cook's interactions with Aboriginal people at Kamay, or Botany Bay, revealed that they did not aimlessly 'move about from place to place'; instead, each clan and people had a bounded sense of territory, and had instituted elaborate protocols for entering other's country.<sup>22</sup> Discussing Australia more broadly, Sylvia Hallam noted that:

Meetings between different Australian communities were, before the coming of Europeans, (and remain for Aboriginal Australians) highly structured affairs, with elements of ceremonial preparedness for conflict, formal peacemaking, reciprocal exchange of gifts, and sometimes actual conflict and resolution of conflict.<sup>23</sup>

Tracing a wide range of anthropological studies and early settler accounts, Hallam argued that there was a pan-continental protocol for when Aboriginal groups encountered one another, with each side having set expectations of reciprocal obligations.<sup>24</sup> Yandruwandha man Aaron Paterson has recently reiterated this point, explaining that the 'customary protocols' for strangers entering Yandruwandha traditional lands include 'announcing their arrival at a distance, waiting for an invitation to enter camp, and waiting for a spot to be picked out where they could camp'. He added that, from an Indigenous perspective, such protocols seem 'so basic, so simple to understand', for they have 'been honed over millennia [and] reinforced by dire physical consequences' for any breaches.<sup>25</sup> However, as we shall see, Cook and later European explorers did not easily recognise or understand such protocols when they entered Aboriginal territory.

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21 For a discussion of how Maori were perceived as protective of their territory, see Standfield 2012.

22 Nugent 2005: 13–14.

23 Hallam 1983: 134–36.

24 Hallam 1983: 134–36.

25 Paterson 2013: xv.

On 28 April 1770, Cook's *Endeavour* arrived at Kamay, a location he later named Botany Bay.<sup>26</sup> The surrounding land 'appeared [sic] Clifty and barren without wood', making the smoke rising from a fire tended by a group of 10 Aboriginal people even more conspicuous. The ship immediately tacked towards the party, who then 'retird [sic] to a little eminence where they could conveniently see the ship'.<sup>27</sup> In the meantime, another group of Aboriginal men, perched on the shore's rocks, called out to the *Endeavour*. These men, whose black bodies were 'painted with white', were clearly perturbed by the arrival of the ship; they spoke animatedly and frequently brandished their weapons at their seemingly unwelcome visitors.<sup>28</sup> Concerned with seeking anchorage, Cook navigated further into the bay towards the mouth of an inlet on the southern shore of the harbour. Unlike the north side of the harbour, the south was marked by an unusual calm. Within the harbour were a number of canoes, their owners fishing, utterly unmoved by the presence of the ship; on the shore were 'a few hutts [sic]' and equally indifferent women and children emerged from the nearby wood carrying bundles of sticks.<sup>29</sup> With the people appearing to act as though the ship was not there, the English retired for dinner and planned their first landing.

Emboldened by the Aboriginal people's apparent indifference towards them, the British assumed that they could quietly land; however, as they approached, almost all of the people suddenly fled to the woods, leaving two lone men to oppose their landing. Rushing down to the rocks, shouting 'warra warra wai',<sup>30</sup> the two men threatened the boats with their spears and woomeras.<sup>31</sup> Cook tried to appease them by offering nails and beads, and tried in vain to gesture that they 'meant them no harm'.<sup>32</sup> Tiring of this mime, and hoping to scare them off, Cook had a musket fired over their heads.<sup>33</sup> Though one man dropped his bundle of spears in shock, he quickly collected himself and 'renewed [his] threats and

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26 Cook 1955: 304; Banks 1998: 21.

27 Banks 1998: 21.

28 Banks 1998: 22.

29 Banks found the Aboriginal peoples' indifference to the Europeans curious, and he was 'almost inclin'd [sic] to think that attentive to their business and deafnd [sic] by the noise of the surf they neither saw nor heard her [the *Endeavour*] go past'. Banks 1998: 22.

30 This term was later interpreted as 'be gone'. Parkinson 1972: 134.

31 Banks 1998: 23.

32 Banks 1998: 23; Cook 1955: 305.

33 Banks 1998: 23. However, Cook stated that he fired the shot between the two men. Cook 1955:

305. Parkinson clarified that the purpose was to frighten them. Parkinson 1972: 134.

opposition'.<sup>34</sup> Cook then had another shot fired, striking one man's leg. Instead of surrendering or retreating as Cook expected, the man ran back to one of the huts to collect a wooden club and an oval shield. During this time, the British landed and both Aboriginal men hurled their spears at them. Once again, Cook had the men fired upon, finally causing them to retreat.<sup>35</sup>

Nugent contended that the Aboriginal response to the arrival of Cook and his men reflected Indigenous protocols for receiving strangers. Drawing on Baldwin Spencer and Frank Gillen's anthropological studies of the Arunta people of Central Australia, she observed that within Aboriginal societies, uninvited guests were ignored until they conducted the necessary requests for admission to their potential hosts' country. Nugent suggested that the two Aboriginal men's 'display of force and the [previous] cold shoulder treatment were a type of protocol to be followed when in the presence of strangers. They were perhaps designed to pave the way for some form of exchange to occur'.<sup>36</sup> Oblivious to these protocols, Cook failed to play the passive role designated to strangers. Had he been aware of what was expected, he may not (later) have conceived of Aboriginal people as aimless wanderers, nor seen their mobility as incommensurable with Indigenous notions of territory. Not all explorers were as unaware as Cook that Indigenous people might have conventions for greeting strangers. Some tried to anticipate Indigenous reactions to the arrival of ships and improvise formal ceremonies of encounter.

In March 1772, just two years after Cook sailed along the east coast, Marc-Joseph Marion-Dufresne's *Mascarin* and *Marquis de Castries* landed at Marion Bay in Van Diemen's Land. The French spent four days there, and were the first Europeans to come face to face with Palawa people. After anchoring at Marion Bay, the French approached the shore in three longboats. Upon seeing them, Aboriginal people, most likely from the Oyster Bay nation, lit a fire and watched their progress, shouting and gesturing at them as they neared. Marion-Dufresne evaluated the scene and, concluding that the Aboriginal people seemed friendly, made two sailors swim ashore naked and bearing gifts. According to John Mulvaney, the idea of sending the men ashore naked was so that they would emerge from the sea like 'natural man', and not frighten the Aboriginal people

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34 Banks 1998: 23.

35 Matra 1771: 58; Parkinson 1972: 134; Banks 1998: 23; Cook 1955: 305.

36 Nugent 2005: 13.



with their starkly different appearance.<sup>37</sup> At first, the Palawa men greeted the sailors with enthusiasm and seemed to delight in their gifts of mirrors and necklaces. When Marion-Dufresne's boat landed, the captain, although clothed, was similarly welcomed. He was given a lit torch and, in turn, offered the Aboriginal people 'several pieces of cloth and some knives' and bread. The Aboriginal people mainly seemed interested in the French weapons and clothes, 'especially the scarlet ones'.<sup>38</sup>

Unlike Cook, the French explorers not only recognised that Aboriginal people had protocols for receiving visitors, they also imagined that they understood them. One of the officers recorded that Marion-Dufresne believed that to show he 'had come with pacific intentions' he should light a nearby pile of wood with the firebrand he had been given. This seemed to be a mistake, as one French witness believed that lighting the fire was tantamount to an Indigenous 'declaration of war', for the Aboriginal people immediately responded by hurling stones at the explorers. However, another officer offered a more prosaic explanation for the attack, suggesting that the Aboriginal people were alarmed by the sight of a third longboat approaching the shore. Irrespective of the cause, the French responded by firing, killing at least one man.<sup>39</sup> Despite the tragic outcome, this attempt by Marion-Dufresne to anticipate and interpret an Indigenous protocol for greeting strangers suggests that he expected that the natives would be sovereigns of their land and have a process of welcoming strangers to their country. Yet, the Oyster Bay people failed to proceed as he expected, and misread his symbolic display of 'pacific intentions'. Unlike Cook, Marion-Dufresne recognised that Aboriginal people might have a formalised system of welcome, but he misunderstood how that welcome might be performed. In consequence, he precipitously retreated to the myth of the pernicious 'savage' and concluded that the Palawa people of Van Diemen's Land were 'the most miserable people in the world, and the human beings who approach closest to brute beasts' for they seemed to 'have no fixed abode in any one place'.<sup>40</sup>

Yet, the European misapprehension of Indigenous mobility was not only a result of cross-cultural miscommunication and violence. Some European explorers readily fell back on pejorative assumptions about

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37 Mulvaney 1989: 29.

38 Duyker 1992: 22, 31.

39 Duyker 1992: 22, 31.

40 Duyker 1992: 22.

aimless wandering even when they failed to actually meet any Indigenous people. On Cook's second voyage around the world, Tobias Furneaux, Captain of HMS *Adventure*, consort to Cook's HMS *Resolution*, landed in south-eastern Van Diemen's Land, at what became known as Adventure Bay, in 1773. While his men did not actually meet any Aboriginal people during their brief stay, they encountered signs of the Indigenous presence. Examining their empty 'Huts', Furneaux claimed that 'they will hardly keep out a show[e]r of rain'. This led him to posit that 'they have no settled place of habitation, as their houses seem'd to be built but for a few days'. He assumed that they 'wander about in small parties from place to place in search of Food', and emphasised that he believed the unseen natives' mobility was 'actuated by no other motive'.<sup>41</sup> He found their mobility inexplicable, adding that it was 'remarkable' that they 'never saw the least signs of either Canoe or boat'. Furneaux concluded that the locals were 'a very Ignorant and wretched set of people, tho' natives of a country producing every necessary of life, and a climate fairest in the world'.<sup>42</sup> His account typifies colonial discourses on what Seuffert labelled the 'savage wanderer'. Drawing on John Stuart Mill, Seuffert suggested that the savage wanderer was constructed in opposition to the civilised settler, for their movement was not 'upward and forward', but instead was characterised as 'rootless and directionless, moving over the land without advancing or progressing'.<sup>43</sup> For Furneaux, such mobility rendered the natives as undeserving of the bounteous land (which they wasted), and, like Cook's 1770 accounts that informed Frost, contributed to the notion of terra nullius.

Cook, Marion-Dufresne and Furneaux's obliviousness to, or misrecognition of, local Indigenous protocols were, in some respects, a consequence of their not having Aboriginal intermediaries who could mediate between the locals and strangers and explain Indigenous protocols to them. This is highlighted when we compare their accounts with those of overland explorer Paul Edmund de Strzelecki, who, through the benefit of his Aboriginal guides Charlie Tarra and Jackey, observed that there were many Aboriginal 'superstitious practices connected with the rights of hospitality'.<sup>44</sup>

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41 Furneaux 1961: 735.

42 Furneaux 1961: 735.

43 Seuffert 2011: 23.

44 Strzelecki 1845: 340.

Strzelecki provided a vivid account of one such ‘traditionary’ practice, recalling an encounter with an unknown Aboriginal group after a few days struggling through the Snowy mountain range with little water. As they crested the unnamed mountain, Strzelecki and his guides ‘beheld at [their] feet, in the shade of a thicket, the long-looked-for pond of water’, surrounded by the dwellings of the ‘encamped tribe’. Desperate to quench his thirst, he began to rush towards the pond when his guide<sup>45</sup> seized him, warning him to ‘stop, or we are lost’. Instead of directly approaching the ‘circle of wigwams’, led by the guide, they sat down ‘about sixty yards from them’.<sup>46</sup> After a short while, at which point Strzelecki’s impatience for food and water was ‘about to burst’, a ‘piece of burning wood was thrown towards [them] from the nearest wigwam’. His guide nonchalantly retrieved the torch and lit a fire, and began to cook a possum that they ‘had in store’. All the while he seemingly ignored the local Aboriginal group, yet occasionally cast a ‘sideways’ look towards them. After 10 minutes, an ‘elderly woman’ brought water, leaving it ‘midway between’ the two groups’ fires; a while later, fish was provided. Strzelecki was surprised to find that it was after his group’s hunger and thirst had been ‘appeased’ that ‘an old man in the camp [finally] rose and advanced towards’ the expedition. Strzelecki’s guide met him halfway, and the two men discussed ‘the object of [Strzelecki’s] wanderings’ through their country. Following their ‘parley’, the old man returned to his group to report back; after a ‘few moments’ silence, Strzelecki and his men were ‘ordered to return from whence [they] came’. Strzelecki was surprised not to receive an ‘invitation to join the camp’; however, since his guide informed him that there ‘was no appeal against this decision’, he had no option but to retreat.<sup>47</sup> Reflecting on this interaction, Strzelecki declared:

Simple child of nature! Faithful to her inspirations, the native of Australia proceeds in the discharge of hospitality by a way exactly the reverse of our own: he first satisfied the wants of the traveler, and afterwards asks him those questions which in our civilization precede and regulate the kind and quantity of the hospitality to be accorded, and sometimes prompt its refusal altogether.<sup>48</sup>

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45 Strzelecki does not name his guide in this account so it is not clear whether it was Charlie Tarra or Jackey.

46 Strzelecki 1845: 340.

47 Strzelecki 1845: 341.

48 Strzelecki 1845: 341.

Yet, it was not only through their protocols for welcoming strangers that Aboriginal people conveyed implicitly to Europeans that mobility could coexist with notions of territory and sovereignty. It was also made apparent to the Europeans when they observed large ceremonial gatherings of clans from different language groups.

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Large ceremonial gatherings were most frequently observed in New South Wales around the Port Jackson colony, initially by the First Fleet chroniclers, and later by explorers who conducted excursions out of Sydney into the hinterland. With the benefit of either Aboriginal or European intermediaries, Europeans learned that clans affiliated with different places came together for social and political purposes. Peterson explained that 'prior to sedentarization' most Aboriginal societies comprised groups of households that, together, made a band; each 'band was integrated into a regional network through the personal, social, political and ceremonial ties of individuals to other individuals in nearby bands'.<sup>49</sup> The political ties between bands were dependent on regular travels to visit one another to trade, fight and marry, as well as to conduct a wide range of ceremonies. Even the early explorers, who did not fully grasp the meaning of these large-scale meetings, recognised that they were significant occasions. Moreover, in the Europeans' eyes, the ceremonies delineated a native space from which the Europeans were either prohibited, or allowed to enter, at the will of the Indigenous hosts.

In 1795, David Collins, judge advocate of the Port Jackson colony, had the privilege of witnessing the yoo-lahng erah-ba-diahng ceremony, whereby boys had their front tooth removed to catalyse and signify their transition to manhood.<sup>50</sup> Even though he did not fully grasp the significance of each part of the ceremony, Collins wrote a detailed account of the ritual. Significantly, he recognised that it was a regular event, having previously taken place in February 1791 (he had not been permitted to observe the previous ceremony). He also observed that before the ceremony took place, a large number of Aboriginal people from all over the Sydney region assembled at Farm Cove, clearing the yoo-lahng, or ceremonial space, during the day and dancing through the night. Collins recorded

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49 Peterson 2003: 225.

50 Collins 1975: 485.

the names of some of the clans who visited and where they had come from, most notably the Cameragal people from north of the harbour who played a significant role in the ceremony.<sup>51</sup>

Similarly, Strzelecki learned, presumably through his Aboriginal guides Charlie Tarra and Jackey, that while the ‘nature of the religion and government of the Australian natives [was] ... mysterious’, their society was comprised of ‘three distinct classes’, which were ‘attained through age and fidelity to the tribe’.<sup>52</sup> Ceremonies, such as the Eora’s yoo-lahng erah-ba-diahng, marked what Strzelecki described as the ‘ceremony of admitting the youth to the first class’; this was attended by much secrecy. He explained that ‘one or two tribes usually attend the meetings’ of these first or second classes. By contrast, ceremonies that marked the entrance to the ‘third class’—initiating ‘the aged few’ into the ‘details of the religious mysteries’—would result in the assembly of most ‘tribes within seventy miles’. These less common ceremonies were occasioned by great secrecy; as an outsider, Strzelecki was warned by his guides that he could not ‘approach nearer than ten miles to the spot’.<sup>53</sup> While Collins and Strzelecki explicitly saw these ceremonies as religious or cultural, their recognition that as outsiders they could not attend suggests that the explorers at least implicitly recognised Indigenous dominion over certain native spaces within and beyond the colony.

In addition to the maintenance of Indigenous ceremonial spaces, Lisa Ford has shown that in the early years of the New South Wales colony, Indigenous legal spaces were also recognised, as both Aboriginal and colonial jurisdictions coexisted, despite notional claims that Aboriginal people were subject to British law.<sup>54</sup> She revealed various cases in which Aboriginal ‘retaliatory violence’ was tolerated because such cases involved the prosecution of *inter se* crimes; the British only sought to impose British jurisdiction on Aboriginal people for alleged crimes against British victims. Ford explained that ‘these acts of Indigenous jurisdiction suggested an alternative spatial order’ in which Aboriginal people carried out their trials in colonised places—in the streets, outside the barracks or near British landmarks—either out of convenience or as ‘a defiant reminder of the legal plurality of settler space’.<sup>55</sup> Here, I add to Ford’s

51 Collins 1975: 467.

52 Strzelecki 1845: 339.

53 Strzelecki 1845: 339.

54 Ford 2010: 75–78; see also Buchan 2008: 88–91.

55 Ford 2010: 75–78.

spatial argument by highlighting that Indigenous law was not only maintained through the assertion of sovereign Aboriginal spaces, but also through Indigenous cultures of mobility. This is because neighbouring Aboriginal clans and language groups travelled together to resolve legal disputes through ritualised corporal punishment, also known as ‘payback’. According to Mark Finnane, ‘the practice of payback’ provided a means of ‘exacting a satisfaction, remedying a wrong done by the other, in ways that imply a law-like exercise of a sanction, with the objective of resolving the harm done by a previous action’. As he pointed out, while the ‘physical violence of such sanctions, is undeniable’, it was ‘also intended to be final’.<sup>56</sup> Therefore, as we will see, for crimes between members of different clans and language groups, the ritualised physical punishment such as ‘the ordeal of spearing’<sup>57</sup> allowed conflicts to be resolved before they could escalate, and thus contributed to maintaining social order and peaceable relations between Indigenous groups.

In February 1824, the *Astrolabe*, captained by French explorer Jules Sébastien César Dumont d’Urville, visited Sydney. During his stay, Dumont d’Urville was taken by British officers, themselves acting as intermediaries between French visitors and local Aboriginal people, to visit the camp of Bungaree, a Garigal man from Broken Bay who had moved south to Port Jackson in 1802. Bungaree was a well-known figure in the colony, having served as an intermediary on both Mathew Flinders and Phillip Parker King’s expeditions around Australia.<sup>58</sup> Bungaree advised Dumont d’Urville that ‘a great gathering would take place near Sydney’ the following day, and that it would be attended by ‘several other tribes’ from ‘Parramatta, Kissing Point, Sydney, Liverpool, Windsor, Emu Plains, Broken Bay, Five islands, Botany Bay, and even from Hunter River etc. etc.’<sup>59</sup> The purpose of the gathering was to ‘punish several natives accused of various crimes’. In exchange for some rum, Bungaree agreed to take the French along with him to the meeting.

The next day, Dumont d’Urville followed behind the great procession of Bungaree and his people, with the ‘chief’ at the ‘head of all of the warriors of his tribe ... leaping and prancing through the bushes in all directions’. The excited group eventually arrived at the meeting place, ‘high ground

56 Finnane 2001: 297.

57 Finnane 2001: 297.

58 For more on the role of Indigenous guides and imperial exploration, see Konishi, Nugent and Shellam 2015; Shellam, Nugent, Konishi and Cadzow 2016; Shellam in this collection.

59 Dumont d’Urville 1987: 85.

about two miles from the sea, from where the views take in both the vast harbours of Port Jackson and Botany Bay'. Dumont d'Urville assumed that the site was chosen for practical reasons, as it 'offered an immense area of flat land free of scrub'; however, it is likely that the space was deliberately chosen because it overlooked the lands of many of the greater Sydney clans, so was maintained as a significant Eora meeting place. Upon their arrival, the explorers saw that 'several tribes were already camped around the bush'. Dumont d'Urville wrote that each of the clans were 'distinguished by the designs of their body paintings, black, red, or white'. He also observed that there were only 'five or six complete tribes' present, although others had 'sent representatives who had gathered under allied chiefs'.<sup>60</sup>

The formal proceedings began when 'at a general signal, all the tribes got up and went to the arena in groups of fifteen to twenty men, all armed with spears, shields, clubs and boomerangs'. Six women were lined up in a semi-circle, armed with long sticks; two men 'stood up a short distance away' and only held 'long narrow wooden shields they call a *heloman*'.<sup>61</sup> Bungaree explained to Dumont d'Urville that the eight individuals (six women and two men) were accused of 'having caused the death of a man from the Windsor tribe, which was allied with the Liverpool tribe commanded by Coagai, and all were to receive punishment from their tribe'. After some formal speeches, 'the executions began'. One man approached the women, 'merely' hitting each of their sticks, until he came to the fifth woman, who he 'bashed ... in the throat' causing her to fall to the ground. She 'lost no time in getting up again to endure the rest of her punishment'. Other men and women followed suit, and again they only 'set upon' the fifth woman. The two men were punished by ordeal, whereby 15 men in turn hurled spears at them, the accused parrying the spears 'with amazing dexterity'. Another man collected the spears to 'send them back to their owners', and Dumont d'Urville was surprised that 'often the natives being punished threw them back themselves, challenging their enemies and mocking them for their lack of skill'. Meanwhile, others from the aggrieved clans hurled boomerangs at the women, 'making them curl and whine all around them'. After the two men had 'endured a barrage of about sixty spears each', all eight accused were set free and 'no further notice was taken of them'. The 'unfortunate woman' who had

60 Dumont d'Urville 1987: 85.

61 Dumont d'Urville 1987: 85.

received all the blows was ‘dragged off into the bush by the women of her tribe’. Dumont d’Urville reported that the reason her punishment was so ‘excessive’ was that she had been accused of ‘another crime, separate from the one that was shared in common with her accomplices’. For the rest, they had ‘merely [been] terrorized and publicly humiliated’.<sup>62</sup>

Importantly, it was not only crimes against individuals that were prosecuted at such gatherings; crimes against property also meted punishment. Strzelecki claimed that ‘the foundation of their social edifice may, like that of civilised nations, be said to rest on an inherent sense of the rights of property’.<sup>63</sup> He asserted that Aboriginal people were just like ‘any European political body’ and were ‘strongly attached to ... property, and to the rights which it involves’. Thus, if one’s ‘territory has been trespassed upon, in hunting, by a neighbouring tribe, compensation of a reparation of the insult is asked for’.<sup>64</sup> Thus, in contrast to Frost’s aforementioned argument that ethnocentric Europeans were blind to Indigenous territorial sovereignty and jurisdiction, some early explorers did explicitly recognise the existence of Indigenous property rights and had in place systems for asserting and protecting their rights.

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The eyewitness accounts discussed in this chapter illustrate that some European explorers realised that Aboriginal people in New South Wales were mobile, with clans, or their representatives, visiting one another for ceremonial, judicial and political purposes. Consequently, Aboriginal people had developed protocols for crossing boundaries and entering the territory of other clans—protocols that could also accommodate meeting strangers such as the Europeans who explored Aboriginal country. As Penny Russell observed, ‘respectful negotiation of territorial boundaries was vital in the mobile world of traditional Aboriginal society’.<sup>65</sup> Europeans in Sydney observed various clans visiting Port Jackson, home of the local Cadigal clan, from around the greater Sydney area. By distinguishing the different clans, and noting their homelands, early European accounts reveal that Indigenous mobility did not negate connections to place.

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62 Dumont d’Urville 1987: 86.

63 Strzelecki 1845: 339.

64 Strzelecki 1845: 339.

65 Russell 2010: 26.



Further, all explorers recognised, to differing degrees, the formal and ceremonial aspects of the gatherings, highlighting the social, judicial and political purposes of such meetings: to mark the coming of age of young men and the attainment of ‘religious mysteries’ by respected elders; to punish individuals for crimes; and to either ameliorate the consequent tensions between clans, or represent closer affiliations between other clans. As Kerwin explained, journeying to attend ceremonies performed important political functions within Aboriginal societies, allowing, among other things, the opportunity to ‘settle criminal matters’ or to ‘settle disputes of a political nature, such as land boundaries’.<sup>66</sup> This is evident in both Dumont d’Urville’s and Strzelecki’s accounts.

Attending such ceremonies also allowed Aboriginal clans to come together and ‘renew their networks’, which was crucial in many Aboriginal societies, as Fred Myers has shown, for it allowed Aboriginal clans to produce and maintain ‘relatedness and shared identity’.<sup>67</sup> Thus, while not all European explorers and observers fully grasped the significance of the hospitality protocols and cultural ceremonies they witnessed, they nevertheless identified the interplay between mobility and place. Numerous influential early explorers and colonists did not, as is often claimed, equate Indigenous mobility with ‘placelessness’.<sup>68</sup> Recognition that the trope of Aboriginal people as aimless wanderers was not as ubiquitous and as firmly held by early explorers and colonists, as has often been claimed, may have significant implications for contemporary Aboriginal communities undergoing the native title claims process. In the wake of native title legislation, Aboriginal groups have tended to downplay their cultures of mobility, highlighting instead their fixed connections to place to try and secure rights to their lands, as Goodall and Cadzow identified. Yet such approaches elide and downplay the rich cultures of mobility that have long characterised Aboriginal culture, life and custom, both before and since colonisation.

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66 Kerwin 2010: 12.

67 Peterson 2003: 224.

68 Havemann 2005: 59.

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