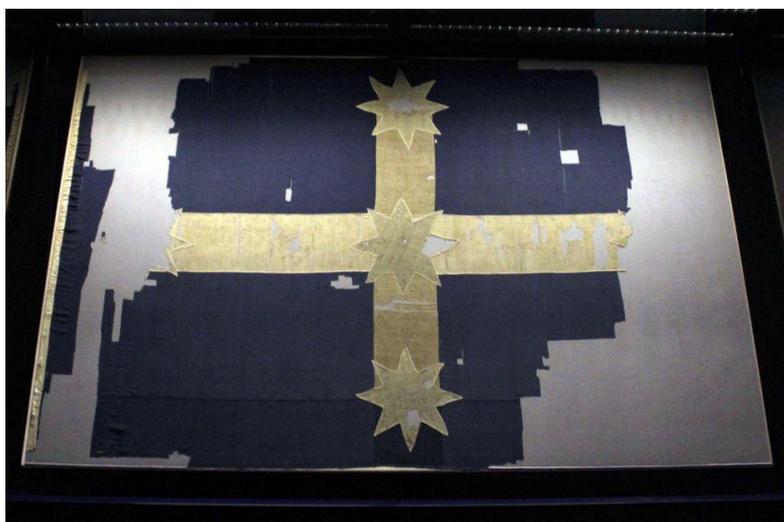


The Eureka Trials— 160 Years On

Many thanks to Carol Frost, who attended the Kew Historical Society Inc lecture presented by The Hon. Chief Justice of Victoria Marilyn Warren AC.



On March 18, Chief Justice of the Victorian Supreme Court, Marilyn Warren, delivered the 2015 McIntyre Lectures at the Kew Court House. Her topic was an analysis of the trials following the Eureka Stockade Uprising in Ballarat. She reminded us that the trials of the thirteen miners arrested after the battle were an often neglected part of the Eureka legend. She also reminded us that the Eureka Rebellion was the only time in Australian history that citizens took a military stance against the government. After the call to surrender, 150 miners were arrested. Of these, 13 men were carefully chosen to face trial in Melbourne. They spent months in appalling conditions in the Old Melbourne Gaol before facing court on February 22, 1855.

Although the state government had brought in its top legal guns, including the Attorney General, tactical mistakes were made by the prosecution that cost it dearly. The first was the Crown's insistence that the men be tried for high treason, requiring a three-fold proof for conviction. The second was the agreement by the prosecution to a request by the defence (acting pro bono) that each of the 13 men be tried separately. This meant that each man had to be individually identified and witnesses procured to give evidence of his treasonable intentions and activities "beyond reasonable doubt."

This piece of legal strategy turned out to be the Crown's downfall. Starting with the first miner, John Joseph, an African-American, the issue of personal identity was picked apart in cross-examination by the defence, and other evidence could not be proved "beyond reasonable doubt." The jury of 12 inner-city men from a cross-section of occupations, found John Joseph "not guilty" of high treason to the uproarious approval of those in the courtroom and the thousands of people standing outside the courthouse.

One by one all of the miners were acquitted as the prosecution's evidence unravelled under cross-examination. One hundred and sixty years after the Eureka Stockade uprising and trials, it's fitting to reflect, as Chief Justice Warren reminded us, that Victorian democracy owes a large debt to the patient application of the law as well as to the Australian spirit of rebellion against injustice.

As part of the 160th anniversary commemoration of the Eureka trials, the Victorian Supreme Court Library is releasing the transcripts of the trials online.