

Ice House:

Great Southern Land

- **Lecture 1: Australian legal and political history**
- **Lecture 2: Common Law method and basic principles of Australian Constitutional Law**
- **Lecture 3: Principles of interpretation and specific powers**
- **Lecture 4: The Court system**

Australian legal and political history

- **Aboriginal history**
- **Colonial and military government**
- **Demographic changes- the goldrushes**
- **Steps to Federation**
- **Changes in the twentieth century**
- **Women in politics**
- **Immigration**
- **Recent political history**

Aboriginal history



- 50,000 + years
- Eora and Dharuk guerillas
- Disease and culture loss
- Paternalism
- Assimilation
- Referendum 1967
- Land rights
- Uluru

(copy)

Proclamation

By His Excellency Major General
 Sir Richard Bourke, K. G.
 Commanding His Majesty's Forces,
 Captain General and Governor in
 Chief of the Territory of New South
 Wales and its Dependencies, and
 Vice Admiral of the same K. G. & C.

Whereas, it has been represented to me that divers of His Majesty's Subjects have taken possession of vacant Lands of the Crown within the limits of this Colony, under the pretence of a treaty, bargain, or contract, for the purchase thereof, with the Aboriginal Natives; Now therefore, I the Governor, in virtue and in exercise of the power and authority in me vested do hereby proclaim and notify to all His Majesty's

Whereas it has been represented to me that divers of His Majesty's subjects have taken possession of vacant lands of the Crown under the pretence of a treaty, bargain or contract for the purchase thereof with the Aboriginal natives ... I the Governor ... do hereby proclaim that every such treaty, bargain or contract is void and of no effect.

Subjects who shall be found in possession of any such Lands as aforesaid, without the license or authority of His Majesty's Government, for such purpose first had and obtained, will be considered as trespassers, and liable to be dealt with in like manner as other intruders upon the vacant Lands of the Crown within the said Colony.

called Cape Cook, in the latitude of ten degrees thirty seven minutes South, to the southern extremity of the said Territory of New South Wales, for Wilson's Promontory, in the latitude of thirty nine degrees twelve minutes South, and embracing all the Country inland to the westward, as far as the one hundred and twenty ninth degree of east longitude, reckoning from the meridians of Greenwich, including all the Islands adjacent, in the Pacific Ocean within the latitude aforesaid, and including also Norfolk Island, is void and of no effect against the rights of the Crown; and that all Persons who shall be found in possession of any such Lands as aforesaid, without the license or authority of His Majesty's Government, for such purpose first had and obtained, will be considered as trespassers, and liable to be dealt with in like manner as other intruders upon the vacant Lands of the Crown within the said Colony.

Given under my Hand and Seal, at Government House, Sydney, this twenty sixth Day of August, one thousand eight hundred and thirty five.
 (signed) Richard Bourke
 By His Excellency's Command,
 (signed) Alexander McLeay
 God save the King!
 True Copy / Deas Thomson Ck Co.

CONTRAST South Australia

- **Letters Patent 1836 were issued to Governor Hindmarsh in London, authorising the colonization of the Province of South Australia, which it described as ‘waste and unoccupied lands’.**
- **The Letters Patent included the condition “that nothing in these Letters Patent contained shall effect or be construed to effect the rights of any Indigenous Natives of the said province to the actual occupation or enjoyment in their persons or in the persons of their descendants of any lands now actually occupied or enjoyed by such Natives”.**
- **An associated document - Instructions to the Resident Colonizing Commissioner – also required that “the Aborigines are not disturbed in the enjoyment of the lands over which they may possess proprietary rights, and of which they are not disposed to make a voluntary sale” and required “evidence of the faithful fulfillment of the bargains or treaties which you may effect with the aborigines for the cessation of lands”.**

European settlement



Ludwig Leichhardt
Other colonies started

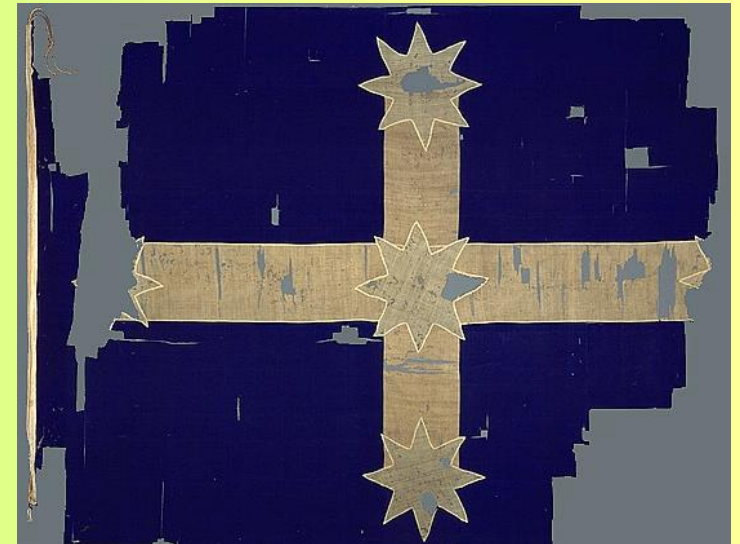
Naval and Military Government

- A dictatorship authorised under Letters of Patent from England
- Governor Phillip then the Rum corps
- Exploration and other settlements
- Bligh and Rum rebellion
- The Bigge report 1822 and reforms
- 1842/3 first elected representatives
- *Australian Colonies Government Act 1850 (Imp.)*

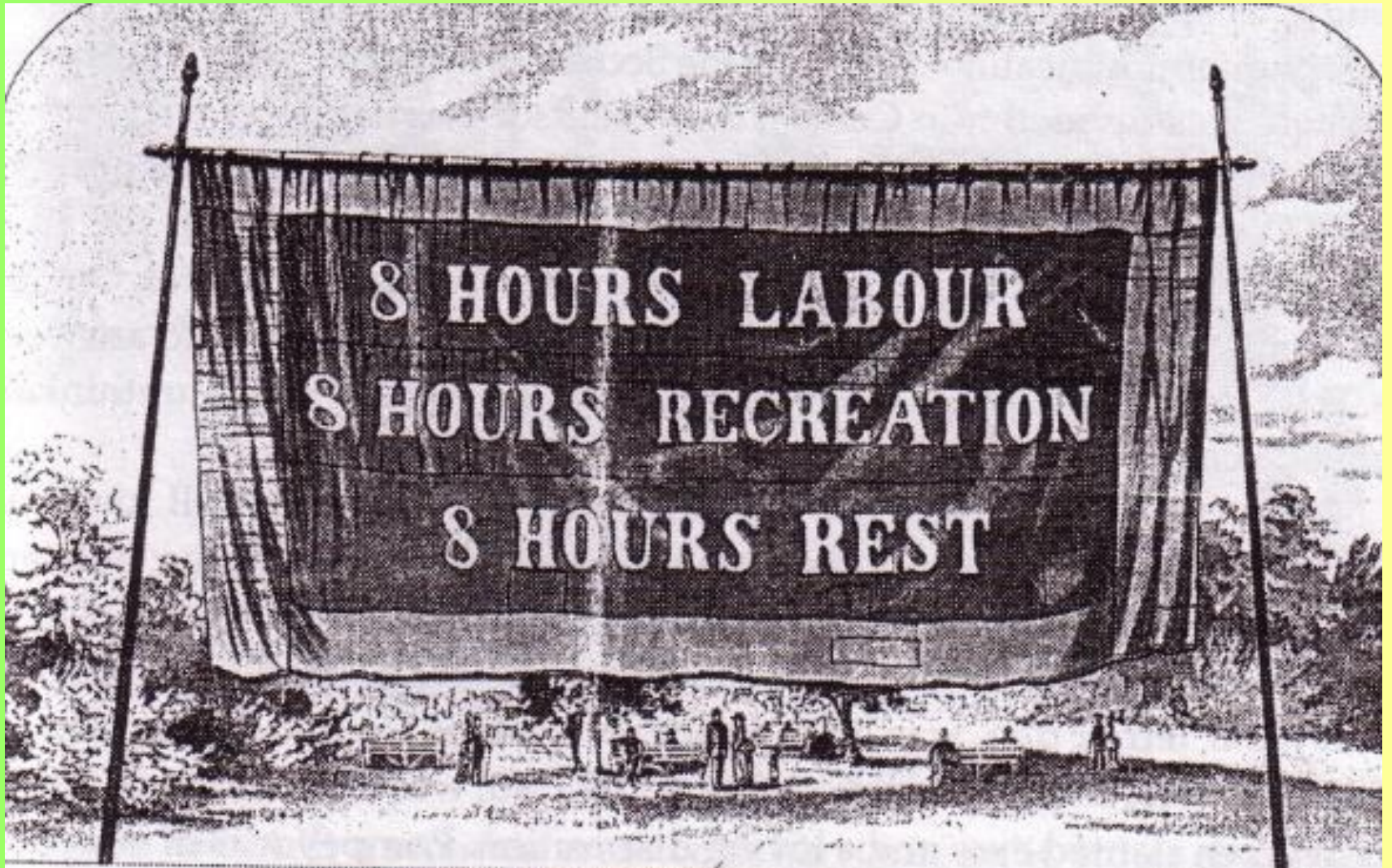
The goldrushes and rebellion



The Eureka Stockade 3 December 1854



Melbourne 1856



Democracy

- **Manhood suffrage NSW 1858
(Germany 1871)**
- **Female suffrage and candidates SA
1894 (NZ suffrage 1893, Finland 1907,
Germany 1919, France 1944)**
- **Organised labour/Labor**
- **Paid politicians**

Reasons against Federation

- **Parochial self interest**
- **Fear of the larger States**
- **The tyranny of distance**
- **Labour unions distrust of capital**
- **NSW disinterest**
- **QLD cheap Kanaka labour**

Reasons for Federation

- **Fear of immigration**
- **Defence**
- **Rail and Telegraph**
- **Common political and cultural heritage**
- **An emerging sense of identity**

Waltzing Matilda



Once a jolly swagman camped by a billabong
Under the shade of a coolibah tree
And he sang as he watched and waited 'til his billy boiled
You'll come a-waltzing matilda with me

*Waltzing matilda, waltzing matilda You'll come a waltzing
matilda with me And he sang as he watched and waited 'til
his billy boiled You'll come a-waltzing matilda with me*

Down came a jumbuck to drink at that billabong
Up jumped the swagman and grabbed him with glee
And he sang as he stuffed that jumbuck in his tucker-bag
You'll come a-waltzing matilda with me

Up rode the squatter, mounted on his thoroughbred
Up rode the troopers, one, two, three
Where's that jolly jumbuck you've got in your tucker-bag?
You'll come a-waltzing matilda with me

Up jumped the swagman and sprang into that billabong
"You'll never take me alive!", said he
And his ghost may be heard as you pass by that billabong
You'll come a-waltzing matilda with me

Rudi Hofmeister burnt down McPherson's shearing shed

Labour organises/ capital collapses

- **Maritime union strike**
- **Collapse of capital in world depression of 1890s**
- **Australia wide drought**
- **Suffragettes**
- **Shearers strikes of 1891 and 1894**



Click Go the Shears

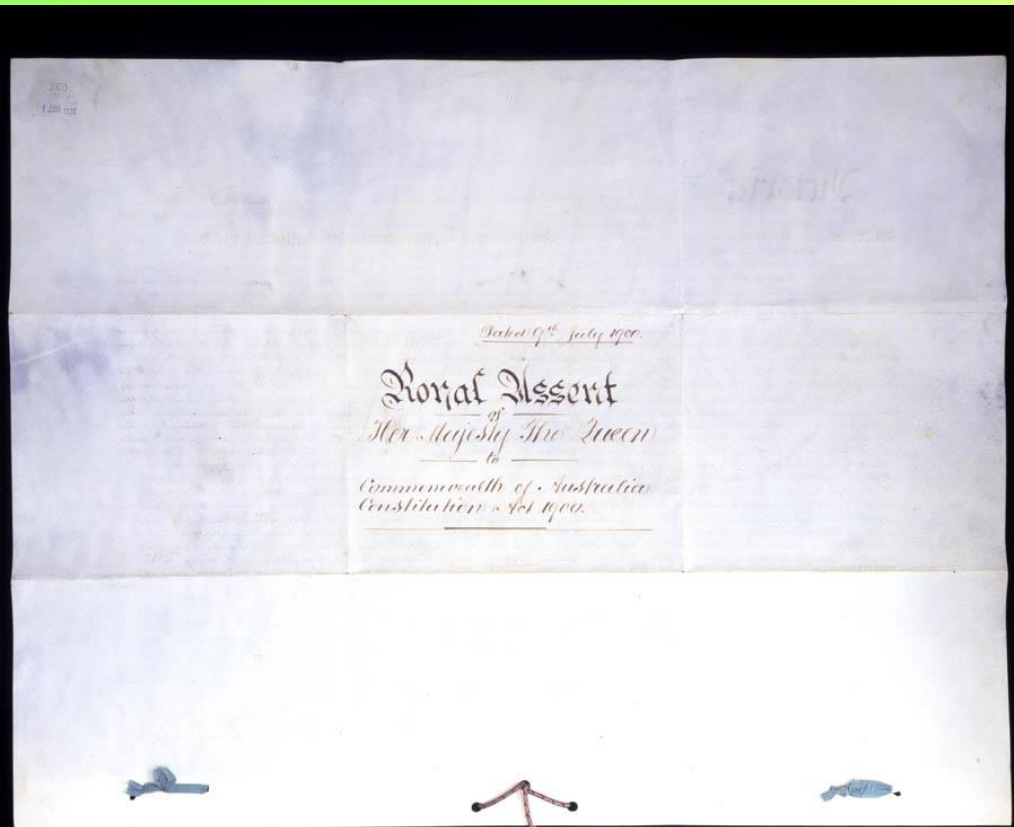
**Out on the boards where the old shearer stands
Clasping his shears in his thin bony hands.
Fixed is his gaze on a bare-bellied yoe,
Glory, if he gets her, won't he make the ringer go.**

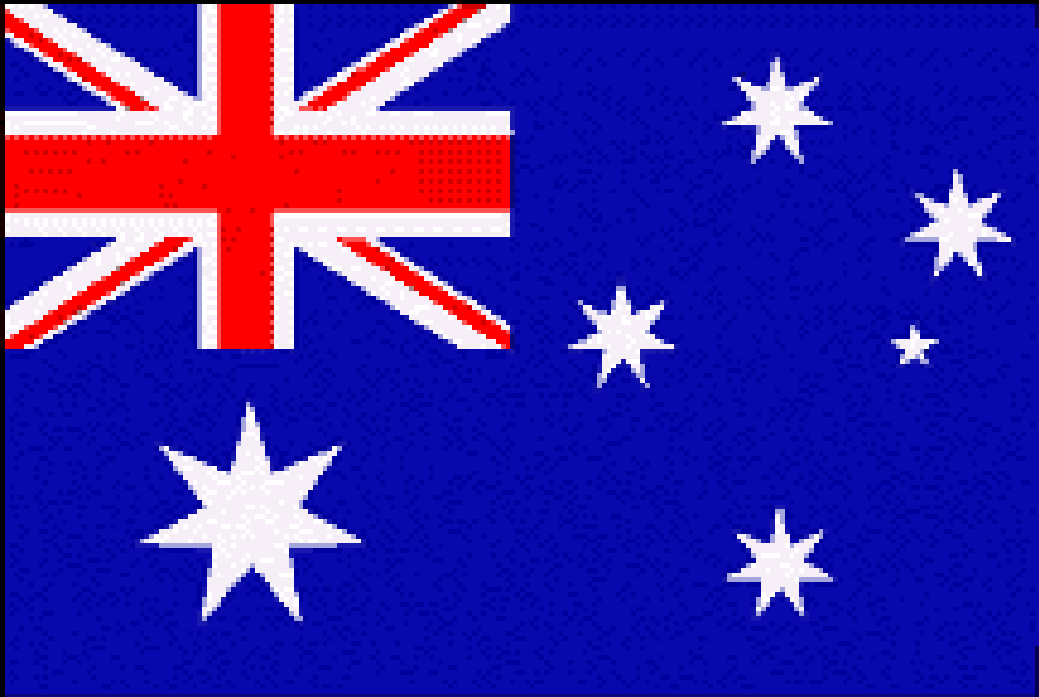
**Click go the shears boy, click click click.
Wide is his blow and his hands move quick.
The ringer looks around and is beaten by a blow
And curses the old snagger with the bare-bellied yoe.**

Federation at last

- **Parke's speech at Tenterfield 1889**
- **First Convention in Sydney 1891**
- **Conventions in Adelaide and Sydney 1897**
- **Delegates democratically elected**
- **Two referenda- passed September 1899**
- **Constitution Act passed by the Imperial Parliament July 1900**
- **1 Jan 1901 the Commonwealth of Australia was created**

The Royal Assent 9 July 1900





Coats of Arms at the High Court



True independence 1

- Fetter of the *Colonial Laws Validity Act 1865* (Imp)
- World War I: *Treaty of Versailles*
- *Balfour Declaration 1926*
- Great Britain and the Dominions are “autonomous Communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations.”

True independence 2

- ***Statute of Westminster* 1931 (Imp):** the Imperial Parliament could legislate for Dominions only if they request it and repealed the effect of the ***Colonial Laws Validity Act* 1865 (Imp)** for the Commonwealth nations
- ***Australia Acts* 1986 (Cth), s. 51(xxxviii)** and (Imp): no more Imperial legislation for Australia and no more appeals from the States
- Does the Imperial Parliament still have power to amend the constitution it created? Canada

AUSTRALIA AS A REPUBLIC

In Hannover you will find the
Mausoleum of the King whose
heir is the Queen of Australia

George I Great Grandson of James I

Prince Albert of SaxeCoberg m. Victoria

Philip son of Alice of Battenburg m. Elizabeth



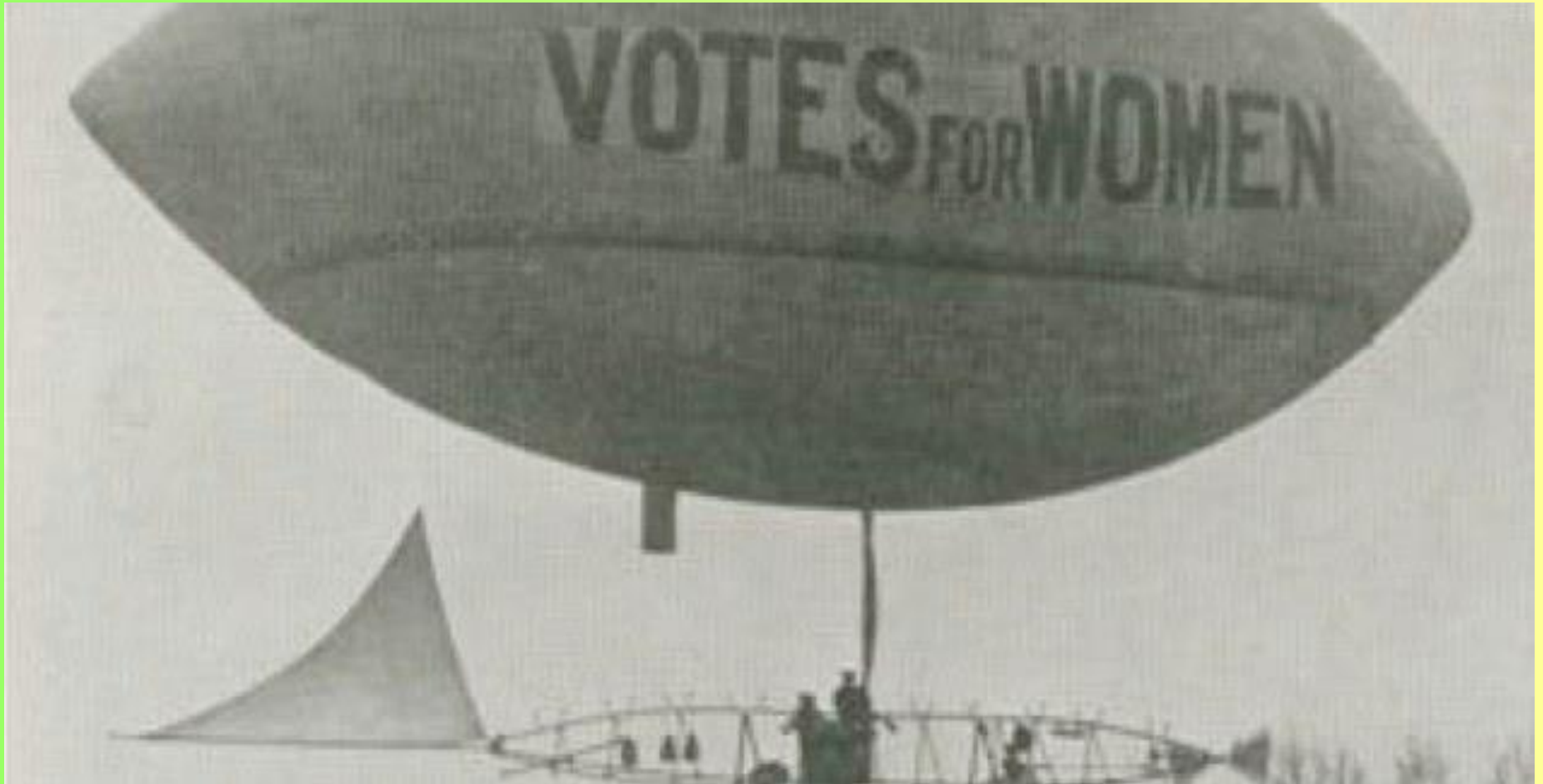
A migrant culture

- **160,000 convicts**
- **European Diaspora- 50m.**
- **Free settlers and goldrushes**
- **Chinese 50,000 and Kanakas 70,000**
- **White Australia policy**
- **1901: 4 million > 1945: 7.3 m > 2017: 24.5m**
- **Recent net migration as high as 300,000+ p.a.**
- **Nearly half have one parent born overseas**

Recent political history

- **World War II: from UK to USA**
- **Long period of Menzies conservative government**
- **The Vietnam War and conscription**
- **1972-5: Whitlam Labor government**
- **The Whitlam dismissal**
- **Hawke and Keating Labor government**
- **Howard Liberal National government**
- **Rudd Labor government- Sorry statement**
- **Present Liberal National government**

Muriel Matters pamphlet machine



Women in Australian Politics

- **VIC: Carolyn Dexter, Henrietta Dugdale, Vida Goldstein, WA: Edith Cowan (first in parliament 1921), NSW: Jessie Street, SA: Mary Lee and Catherine Helen Spence**
- **Women's Suffrage League, later the Women's Electoral lobby**
- **Germaine Greer, *The Female Eunuch***
- **Anne Summers, *Damned Whores and God's Police***
- **Women as Premiers of States: Gladys Berejiklian NSW and Annastacia Palaszczuk QLD**
- **Julia Gillard as Prime Minister/ Quentin Bryce as Governor General**