

# The Francis Forbes Society

For Australian Legal History

We are delighted that the first legal history tutorial for 2023 will be delivered on **Monday 6 March 2023** at 5:15 pm by **Professor Emerita, Anne Twomey**. Professor Twomey provides the following outline of her topic **'The curious history of the nationhood power'**:

Hidden away in the round tower of Windsor Castle is a letter from Sir Isaac Isaacs to the King about one of the greatest constitutional crises that Australia had yet seen – the dismissal of the Lang Government. It contains the first strands of what would come to be a nationhood power to deal with national emergencies. This tutorial will trace the historical development of the nationhood power, with a particular focus on the pivotal judgment of Sir Anthony Mason in the AAP case, and its role in the COVID-19 pandemic as a power to deal with emergencies.

We are honoured that Chief Justice Bell has agreed to present the 2023 Plunkett Lecture later this year, and on **Tuesday 28 March 2023** will deliver his Sir James Martin Oration in Banco Court. At the event on 28 March, Chief Justice Allsop will present prizes to the winners and commended entries in our **2022 Australian Legal History Essay Competition**.

The Senior Secondary winner is Ruby Byrne for her essay, "An assessment of the legislative legacy of Prime Minister Whitlam Or Everything I learnt in Legal Studies I owe to Gough"

Jonathan Tang received a commendation for his essay "Growth of the Federal Spirit: The First Post-Federation Rail Link between NSW and Victoria"

The Junior Secondary winner was Junyoung Hong for his essay, "Why did Captain James Cook claim Australia for Britain in 1770 via the doctrine of Terra Nullius?"

Rachael Choe received a commendation for her essay, "What factors led to women getting 'the vote' in Australia?"

The students' schools were (alphabetically) Abbotsleigh, Chatswood High School, Katoomba High and Normanhurst Boys High School.

We hope to receive entries in the Tertiary section of the Competition this year.

## Legal history tutorials

Other dates this year we are pleased to announce are:

- 11 April – **Professor Peter Gerangelos**, Sydney Law School on a topic from the Mason Collection, *Dynamic and Principled: The Influence of Sir Anthony Mason* edited by Professor Barbara McDonald, Dr Ben Chen, and Dr Jeffrey Gordon and published in 2022;

- 24 May – **Michael Adams**, a PhD candidate at Columbia Law School and the current Counsel Assisting the NSW Solicitor General, on the topic of "*the effect of the American Civil War on the law of contract*";

Other presenters in 2023 will include:

- Dr Peter Edwell (Senior Lecturer, Deputy Director (Research) Australian Centre for Ancient Numismatic Studies, Department of History and Archaeology, Macquarie University) and the Hon Keith Mason AC KC on the history of the Archibald Prize, art and the law.

Dr Edwell is the author of *The Case that Stopped a Nation* focussing on the controversy and court case over the award of the Archibald Prize to William Dobell in 1944; the Hon Keith Mason delivered a lecture "Sir Frederick Jordan's brushes with 'degenerate art'" in October 2017 and his book *Sir Frederick Jordan: Fire under the frost* was published 2019.

And two recipients of grants from the Francis Forbes Fund in 2022:

- Dr Jessica Lake (Australian Catholic University) 'The Slander of Women',
- Megan Cameron (University of Sydney) The work of magistrates in early colonial New South Wales (from 1788 until 1835)

**The Francis Forbes Fund:** One of the Society's objects is to encourage and promote research into Australian legal history, and it maintains a fund for that purpose to which donations may be made – the Francis Forbes Fund.

Grants from the Fund for **2022** support the following projects:

- the University of Adelaide - Associate Professor Robert Foster 'Reconciling with the Frontier', which is to produce a digital map of frontier conflict in 19<sup>th</sup> century South Australia, including First Nations stories and oral history accounts
- the Australian Catholic University - Dr Jessica Lake 'The Slander of Women', which will examine why and how the Australian colonies reformed defamation laws in the nineteenth century to make it easier for women to bring claims and better protect their reputations
- the University of Sydney - Megan Cameron: an examination of the work of magistrates in early colonial New South Wales (from 1788 until 1835).
- the University of New South Wales - Associate Professor Marina Nehme, 'A study of the legal history of proprietary companies', examining the legal and policy motivations behind the introduction of proprietary companies in Victoria through the enactment of the Companies Act 1896 (Vic) and the key legal features of these companies back then and how they compared with public companies, studying three proprietary companies registered under the Companies Act 1896.

In **2021** grants from the Fund included the support of projects at a number of universities: *University of New England* Dr Patrick Graham – 'Sir John Latham and constitutional autochthony'; *University of Southern Queensland* Professor Antony Gray and Associate Professor Marcus Harmes – 'The History of Judicial Independence in New South Wales', exploring the history of the separation of powers principle in the Australian Colonies in the 19<sup>th</sup> century; *University of Sydney*: Digitisation of letters from solicitors, barristers and law students to the University of Sydney Law School Comforts Fund during the Second World War (Tony Cunneen); further support for 'Dynamic and Principled: The Influence of Sir Anthony Mason' (Professor McDonald, Dr Chen, Dr Gordon); *Monash University* Professor Tamara Walsh and Associate Professor Dominique Allen – a research project about the history of human rights complaints in federal law.

In **2020** grants from included the support of projects at Macquarie University: by Dr Kate Gleeson, Sinead Ring, Kim Stevenson “Legal Responses to Historical Child Sexual Abuse: Critical and Comparative Perspectives” and by Dr Henry Kha “The Unification of Australian Divorce Law under the Matrimonial Causes Act 1959” and at Sydney University: Professor Barbara McDonald, Dr Ben Chen, Dr Jeffrey Gordon, “Dynamic and Principled: The Influence of Sir Anthony Mason”.

In 2019 the Society was able to support through the Fund:

- Digitisation of the notebooks of Sir Keith Officer and Sir Robin Sharwood – a proposal from Professor Mark Lunney (UNE), Dr Tanya Josev (Melbourne Law School) and Ms Carole Hinchcliff (senior law librarian at Melbourne). The notebooks have now been digitised ( <https://digitised-collections.unimelb.edu.au/handle/11343/236008> ). Professor Lunney advises that in addition to what was planned, a notebook of KH Bailey, originally thought to be from his time at university in Melbourne but now thought to be from his first year in Oxford, has also been included. The final stage of the project was to involve some summaries and synopsis of the content of a selection of the notebooks
- A Biographical Dictionary of Barristers and Solicitors in Early NSW, 1824-1861 (Peter Moore, through the University of Adelaide)

The Society supported the publication by the 2019 Forbes lecturer, Professor Anne Twomey (Sydney University) of Pitt Cobbett's grand opus ‘The Government of Australia’ through the Fund. The book *The Constitution and Government of Australia, 1788 to 1919* by William Pitt Cobbett and edited by Anne Twomey was published by Federation Press in October 2019.

The Society encourages **donations** to the Francis Forbes Fund to enable us to continue to support such worthy projects. All donations to the Forbes Fund of \$2.00 or more are tax deductible.

There is provision for a donation on the membership renewal / application form: [2022-23 Francis Forbes Membership](#) (to be returned to the address on the form) or by email to [membership@forbessociety.org.au](mailto:membership@forbessociety.org.au) - a separate form for donations is [Fund Donation Form 2022](#), also available on the web site [forbessociety.org.au](http://forbessociety.org.au) at DONATIONS.

### **Dates for the Diary**

6 March 2023	Professor Emerita, Anne Twomey ‘The curious history of the nationhood power’
28 March 2023	Chief Justice Bell – Sir James Martin Oration and presentation of the winners of the 2022 Essay competition.
11 April 2023	Professor Peter Gerangelos on a topic from the Mason Collection, <i>Dynamic and Principled: The Influence of Sir Anthony Mason</i>
24 May 2023	Michael Adams on the topic “The effect of the American Civil War on the law of contract”

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