

The Francis Forbes Society

For Australian Legal History

Change re 2022 Forbes Lecture, other events and Membership

The 2022 Forbes Lecture to be given on 28 June 2022 by Dr Susan Bartie of the University of Tasmania, Legal Life Histories and the Creation of Legal Fields, has been postponed.

In lieu, Professor Mark Lunney, Junior Vice President of the Forbes Society (who was to chair Dr Bartie's lecture) will present a lecture titled **'Racing Morals' and the Law of Defamation: An Australian Story** on **Tuesday 28 June at 5.15pm** in Court 13A Supreme Court of New South Wales:

Abstract: While legal proceedings arising out of recreational activities were not common in early white Australian legal history, they were not unknown. Where such cases involve private law, they can provide an opportunity to view the interaction between formal English rules of private law and their application in very different Australian conditions. Using an example from the 'Sport of Kings', this lecture explores how rules founded explicitly on public policy – such as the defence of qualified privilege in defamation – were moulded to prioritise the interests thought most valuable to the Australian community they now served. What the analysis reveals is that horse racing in early twentieth century Australia was a prioritised interest albeit one that revealed important class differences between the various constituencies of the racing community.

Biography: Mark Lunney is a Professor at the Dickson Poon School of Law, King's College London. He is also a Professor in the School of Law at the University of New England, Armidale, Australia, and a Visiting Professor at the Faculty of Laws, University College London. He trained as a solicitor in Brisbane before obtaining an LLM from the University of Cambridge. Between 1991-2003 he was Lecturer, Senior Lecturer and Reader at the School of Law, King's College London. He was an Associate Professor in the School of Law at the University of New England between 2003-2011 and from 2011-2012 he was Professor and Director of Research in the ANU College of Law. His research interests are the law of tort, and the history of the common law and legal profession. He has published extensively on the law of torts in both Australia and the United Kingdom (see, for example, Barker, Cane, Lunney & Trindade, *The Law of Torts in Australia* (5th ed, 2012) and Lunney & Oliphant, *Tort Law: Text and Materials* (5th ed, 2013). He is also a contributing editor to the practitioners' reference work *Tort Law* (3rd ed, 2015, Butterworths Common Law Series). He is the inaugural Australian member, and a member of the Executive Committee, of the World Tort Law Society, Junior Vice-President and Council member of the Francis Forbes Society for Australian Legal History, a Fellow of the Australian Centre for Private Law at the TC Beirne School of Law, University of Queensland, a member of the European Centre for Tort and Insurance Law, an International Associate of the Brazilian Institute on Tort Law, and an Adjunct Research Fellow of the Australian Centre for Intellectual Property in Agriculture. His monograph, *A History of Australian Tort Law 1901-1945: England's Obedient Servant?* was published by Cambridge University Press in 2018. In September 2018 he was elected a Fellow of the Australian Academy of Law.

We are very grateful for the use of the Supreme Court facilities, courtesy of Chief Justice Bell.

For any queries, please email membership@forbessociety.org.au. Alternatively, you may contact the Secretary: Simon Chapple secretary@forbessociety.org.au or Treasurer: Carol Webster SC treasurer@forbessociety.org.au.

Membership renewal for 2022/2023: Membership of the Francis Forbes Society is renewed annually and will run for the period to 30 June 2023. We look forward to your continuing membership of the Francis Forbes Society. Fees are unchanged from last year. The categories of membership are

- Ordinary member – \$90 incl GST
- Ordinary member (full time tertiary student) – \$30 incl GST
- Corporate member – \$160 incl GST
- Secondary school student – \$15 incl GST
- School with nominated teacher contact (we envisage a Legal Studies or History teacher) – \$50 incl of GST

The Society is dedicated to studying and documenting the history of Australian law. Its membership includes legal practitioners, academics, journalists and students. Benefits of membership include timely notification of legal history events *via* updates emailed to members from time to time and opportunities to obtain discounts on publications from time to time published or arranged by the Society.

A renewal / application form is available here: [FFS Membership-application and renewal 22-23](#). We ask you to complete the renewal / application and return it as soon as possible to the address on the form or email to membership@forbessociety.org.au.

Donating to 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** will 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 19th 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 19th 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 addition, the Society supports an annual Essay prize for the best paper presented at the ANZLHS Conference, judged by a panel appointed by the Editor of law & history. The Fund has supported Sydney Living Museum, noting the approach of the Bicentenary of the Supreme Court and the Legislative Council and the roles of SLM / the State Archives & Records Authority and the Society.

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 form, or a separate form for donations is [Francis Forbes Society 2022 Donation form](#) and on the web site forbessociety.org.au at DONATIONS.

Upcoming Dates

- Tuesday 28 June –**Lecture ‘Racing Morals’ and the Law of Defamation: An Australian Story** by Professor Mark Lunney, Junior Vice President of the Forbes Society – Court 13A, Supreme Court
- July /August (*to be advised*) – *rescheduled* – **2022 Forbes Lecture, Legal Life Histories and the creation of legal fields** by Dr Susan Bartie from the University of Tasmania – Court 13A, Supreme Court
- July /August (*to be advised*) – *rescheduled* legal history tutorial “**The Mason Court**” by Professor Barbara McDonald, Dr Ben Chen, and Dr Jeffrey Gordon (University of Sydney Law School)
- 1-3 December 2022 – **ANZLHS 2022 Annual Conference** at the University of Technology Sydney. The theme of the conference is *Tenuous Histories and Provable Pasts: How Legal Historians Create Knowledge*. Keynote speakers will include Professors Constance Backhouse and Katherine Biber. See [2022 conference](#) for details and a link to the full Call For Papers