

# The Francis Forbes Society

For Australian Legal History

## September 2022 Events

**Legal history tutorial:** Dr Henry Kha (Senior Lecturer, Macquarie Law School) will present a tutorial “**Unification of Australian Divorce Law under the Matrimonial Causes Act 1959**” on **Tuesday 27 September 2022 at 5:15pm** in Court 13A.

### Synopsis

The enactment of the *Matrimonial Causes Act 1959* (Cth) was a significant moment in the history of Australian family law. The Act unified the divorce law under a single federal statute. It is argued that the introduction of the Act was driven based on modern conservatism. The Act promoted the social conservatism that was prevalent during the Menzies era of the 1950s by preserving many of the existing grounds for divorce and barring divorce to married couples in the first three 3 years of marriage. On the other hand, it was a legal change driven by modernity and the unification of Australian divorce law was part of the project of nation building. Moreover, the Act introduced separation of five 5 years as a no-fault ground of divorce. This eventually paved the way for the introduction of no-fault divorce in Australia under the Family Law Act 1975 (Cth). The tutorial will explore the legal and political changes that led to this divorce law reform.

### Biography

Dr Henry Kha is Senior Lecturer in Law at Macquarie University and researches the legal history of family law. He has published a monograph with Routledge: *A History of Divorce Law: Reform in England from the Victorian to Interwar Years*. He was also the Australian National Rapporteur to the International Academy of Comparative Law for the 2021 Thematic Congress on the theme of “Diversity and Plurality in the Law: Family Forms and Family's Functions

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

**2022 Plunkett Lecture:** Dr Patrick Graham (School of Law, University of New England) will present the **2022 Plunkett Lecture** “The Unlikely Reformer: Sir John Latham and the Australian Constitution” on **Thursday 27 October 2022 at 5:15pm** in Court 13A. Dr Graham received a grant from the Forbes Fund in 2021 for his project “Sir John Latham and constitutional autochthony”.

**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 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 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 / 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.

### **Upcoming Dates**

- Tuesday 27 September 2022 – **legal history tutorial** by Dr Henry Kha “Unification of Australian Divorce Law under the Matrimonial Causes Act 1959”
  - Thursday 27 October 2022 – **2022 Plunkett Lecture** by Dr Patrick Graham “The Unlikely Reformer: Sir John Latham and the Australian Constitution”
  - Thursday 10 November 2022 – joint presentation with the Ngara Yura Committee by **Chief Justice McCallum** “The impact of protectionist policies on First Nations people” (in Court 1, Federal Court)
  - 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
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