

THE FRANCIS FORBES SOCIETY FOR AUSTRALIAN LEGAL HISTORY

ABN 55 099 158 620

2008 AUSTRALIAN LEGAL HISTORY ESSAY COMPETITION: DESCRIPTION, CONDITIONS OF ENTRY AND GUIDELINES

1. **COMPETITION OBJECT:** To promote interest in and an awareness of Australian Legal History by encouraging students to develop a facility for describing historical events and for recognizing their place in broader themes. The best essays will be lucid and entertaining. While further research is welcome, the Society anticipates that students will be able to meet these goals with the “Background Information Paper” published with these Guidelines.
2. **COMPETITION THEME:** The importance to the effective working of the legal system of individual honesty, a well-informed conscience and trust.
3. **ESSAY TOPIC:** *Honesty, Legal Ethics and the Limits of a Guilty Secret.*
4. **ESSAY QUESTION:** *“How can a lawyer defend somebody he or she “knows” is “guilty”?... What is it to “know” that somebody is “guilty”?... Okay, to be more precise: What are, or should be, the ethical obligations of a lawyer acting for a client who, after being charged with a crime, makes a confidential confession of guilt?” Discuss this question from the perspective of a member of the community (who is not a lawyer) using examples drawn from the Dean Controversy (1895-1896) and/or Tuckiar’s Case (1932-1934).*
5. ***COMPETITION CATEGORIES AND PRIZES:**
 - a. The Competition is open to all Students enrolled, at any time during 2008, in an Australian Secondary School. For those students there are two categories of award; one for Senior Students, another Junior Students.

b. The Competition is also open to tertiary students enrolled, at any time during 2008, in a course of study at undergraduate level. For those students there are, again, two categories of award. One is for students enrolled in their first undergraduate course of any description (including a combined Law Course) at an Australian University. The other award is for students enrolled in any tertiary course conducted by an Australian educational institution (including, but not limited to, universities) leading to the award of an undergraduate degree of any description or a qualification (such as awarded by a Legal Profession Admission Board) which satisfies a requirement for admission to practice as an Australian lawyer. The two categories overlap but, in relation to the second, the fact an Essayist holds a university degree (of any type) is no impediment to entry in the Competition and it is open to students studying law otherwise than at a university.

c. The Competition is not confined to students enrolled in formal study of history or law.

d. **University Student (First Degree) Category**

Suggested essay length: 2,000-4,000 words approximately.

University Prize (for the University of the Winning Essayist): \$500.00

Essayist's Personal Prize: \$500.00 and a \$1,000.00 Abbey's Book Voucher.

e. **Tertiary Student (Open) Category**

Suggested essay length: 2000-4000 words approximately.

Institution Prize (for the Institution of the Winning Essayist): \$500.00.

Essayist's Personal Prize: \$500.00 and a \$1,000.00 Abbey's Book Voucher.

f. **Senior Secondary School Category (Years 11-12 in NSW, and Interstate Equivalents).**

Suggested essay length: 750-2000 words approximately.

School prize (for the School of the Winning Essayist): \$500.00 and a \$500.00 book voucher from Abbeys Bookshop, Sydney.

Essayist's personal prize: \$250 and a \$250.00 Abbey's book voucher.

g. **Junior Secondary Category (NSW Years 7-10 and Interstate Equivalents).**

Suggested essay length: 500-1,000 words approximately.

School prize (for the School of the winning Essayist): \$500.00 and a \$500.00 Abbey's book voucher.

Essayist's personal prize: \$250.00 and a \$250.00 Abbey's book voucher.

- h. Each Essayist will receive a Certificate of Acknowledgement acknowledging participation in the Competition. At the discretion of the Society, Merit Certificates may be issued to selected Essayists.

6. **ESSAY SUBMISSION DEADLINE:** 5.00 pm on Monday, 17 November 2008. Essays should be submitted by email (preferably) or by post. They may be delivered by hand. Essays submitted by email should be sent to secretary@forbessociety.org.au Essays submitted by post should be addressed to The Secretary, The Francis Society for Australian Legal History, C/- NSW Bar Association, Lower Ground Floor, Selborne Chambers, 174 Phillip Street, Sydney, NSW, 2000. Essays submitted by hand should be delivered to that address.
7. **ESSAY WINNERS ANNOUNCEMENT:** **Australia Day (26 January) 2009.** The announcement will be made on the web site of the Forbes Society (www.forbessociety.org.au)
8. **CONDITIONS OF ENTRY**

- a. Each Essayist must certify that his or her Essay is his or her own original work, and that certification must be countersigned by a lecturer, tutor or teacher at his or her educational institution.
- b. The Society reserves a right (without obligation) to accept Essays received after the Essay Submission Deadline and before the announcement of prizes.
- c. The Society reserves a right not to make any award if, in the opinion of the Council of the Society, no essay merits an award.
- d. The Society reserves a right to publish, or to cause to be published as it sees fit, any Essay submitted and for that purpose to edit any Essay. [The Society anticipates that some essays will be published on its web site, and might be published or extracted in a law journal or newspaper, but does not bind itself or anybody else to publish anything].
- e. The decision of the Council of the Society is final on all questions relating to the Competition, including those relating to the conduct and outcome of the Competition, publication of Essays and editorial work.

9. **RESEARCH HINTS AND BACKGROUND INFORMATION**

- a. All Essays should address the “Essay Topic” and the “Essay Question”, and be written with the “Competition Theme” and the “Competition Object” in mind.
- b. Each Essay should be typed. Handwritten Essays will be accepted, but typed Essays are preferred.
- c. There is no “word limit” as such. The “suggested Essay length” indicators for each Competition Category are for guidance only.
- d. Each Essay should include a short bibliography of the main books or other sources consulted by the Essayist in preparation of the Essay, and an acknowledgment of assistance received (eg, from teachers).

- e. So far as possible, Essayists should avoid use of quotations, particularly lengthy quotations and quotations of secondary (as distinct from primary) material.
- f. The “Background Information Paper” is offered primarily as an aid to the staff of educational institutions, and others supervising students, who may be unfamiliar with the historical or legal issues it canvasses or the availability of writings with a “legal history” flavour. It is not intended to constrain any Essayist’s approach to the Topic or any expression of opinion. It should not be read as a “model essay” designed to be copied. Its object is to make available to all participants in the competition information which might be inaccessible to some, and to serve as an encouragement to everybody to consider the desirability of consulting primary sources such as may be found in Law Reports and Hansard records of Parliamentary Debates.
- g. The Society recommends (without requiring) that Secondary School Students (especially in the Junior Category) focus their attention exclusively, or primarily, on Tuckiar’s Case. The High Court of Australia’s authoritative statement in that Case about the duties of an advocate provides a standard against which to measure debates about ethical issues, and the Court’s findings of fact are relatively clear and generally accepted as correct.
- h. *The Society also recommends – without requiring - that University and other Tertiary Students enter upon the more complex issues that arose in the Dean Controversy, comparing and contrasting what happened in that Controversy with what happened in Tuckiar’s Case.
- i. Analysis of the Dean Controversy is likely to be assisted by concentration on the entries highlighted in the “Dean Chronology” and the Reasons for Judgment of the Full Court of the Supreme Court of NSW reported as *In Re Meagher* (1896) 17 NSWLR (Law) 157. A copy of that law report, with some passages highlighted, is published with these Guidelines.

- j. Analysis of Tuckiar’s Case is likely to be assisted by concentration on the entries highlighted in the “Tuckiar Chronology” and the Reasons for Judgment of the High Court of Australia reported as *Tuckiar v The King* (1934) 52 CLR 335. A copy of that law report, with passages highlighted, is published with these Guidelines.
- k. One of the lessons to be learned from an examination of the ethical, and legal issues that arose in both the Dean Controversy and Tuckiar’s Case is the importance of basing any opinion upon particular facts. Judgements about those sorts of issue can vary significantly depending upon the facts identified for opinion. That is why a useful aid to clarifying thoughts is a “Chronology” which lays bare the sequence of facts thought to be relevant to any question stated for opinion.

10. **ACKNOWLEDGEMENT OF SUPPORT:** The Francis Forbes Society for Australian Legal History acknowledges the support for this School Essay Competition it has received from the following institutions:

The New South Wales Bar Association,
 ABN 18 526 414 014,
 Basement, Selborne Chambers,
 174 Phillip Street,
 SYDNEY, NSW, 2000.
www.nswbar.asn.au
 Tel: (02) 9232 4055
 Contact: Chris Winslow,
 Publications Manager.

**Division of Law,
 Macquarie University,**
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 NORTH RYDE, NSW, 2109.
www.law.mq.edu.au
 Contact: Dr Lisa Ford,
 Tel: (02) 9850 4236.

The Law Society of New South Wales,
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 SYDNEY, NSW, 2000.
www.lawsociety.com.au
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Contact: Diane Young,
Director.
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**The State Library of New South
Wales,**
Macquarie Street,
SYDNEY, NSW, 2000.
www.sl.nsw.gov.au
Contact: Kay Payne,
State Library Foundation.
Tel: (02) 9273 1593.

State Records NSW,
ABN 96 588 554 718,
NSW Department of Commerce.
Western Sydney Records Centre:
143 O'Connell Street,
KINGSWOOD, NSW, 2747.
Sydney Records Centre:
2 Globe Street,
The Rocks,
SYDNEY, NSW, 2000.
www.records.nsw.gov.au
Contact: Christine Yeats,
Manager, Public Access.
Tel: (02) 8247 8617.

Date: 15 February 2008

NOTE:

*Paragraph 5 of this document was amended on 29 April 2008 to add an additional category of award (namely, the “Tertiary Student (Open) Category”); consequentially to rename the “University (Undergraduate Student) Category” as the “University Student (First Degree) Category” and to make other, formal consequential amendments; and otherwise to confirm the terms upon which the Essay Competition is conducted. Paragraph 9(h) was, at the same time, consequentially amended by the insertion of the words “and other Tertiary” after the word “University”.