



Photo courtesy of Paul Debenham
and the estate of Toylaan Ah Ket

William Ah Ket - His Cases and Career

Dr Andrew Godwin
Melbourne Law School
2 March 2022

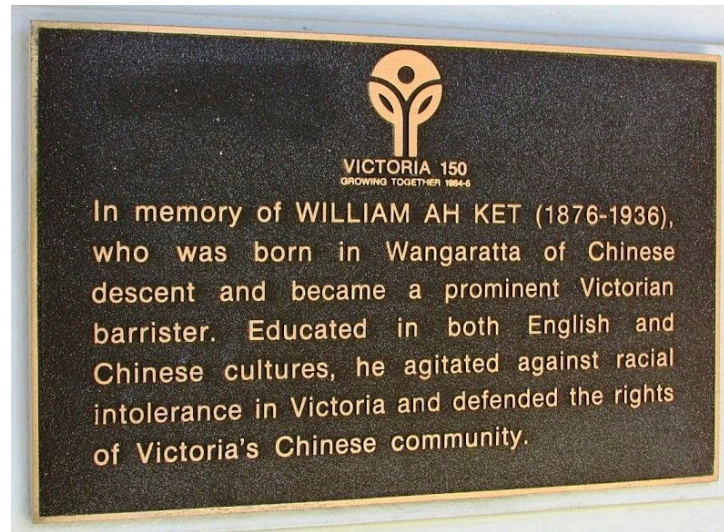




Outline

1. William's biography
2. William's education and training in the law
3. William's career, colleagues at the bar and on the bench
4. William's cases

William's biography



Source: <http://monumentaaustralia.org.au/>

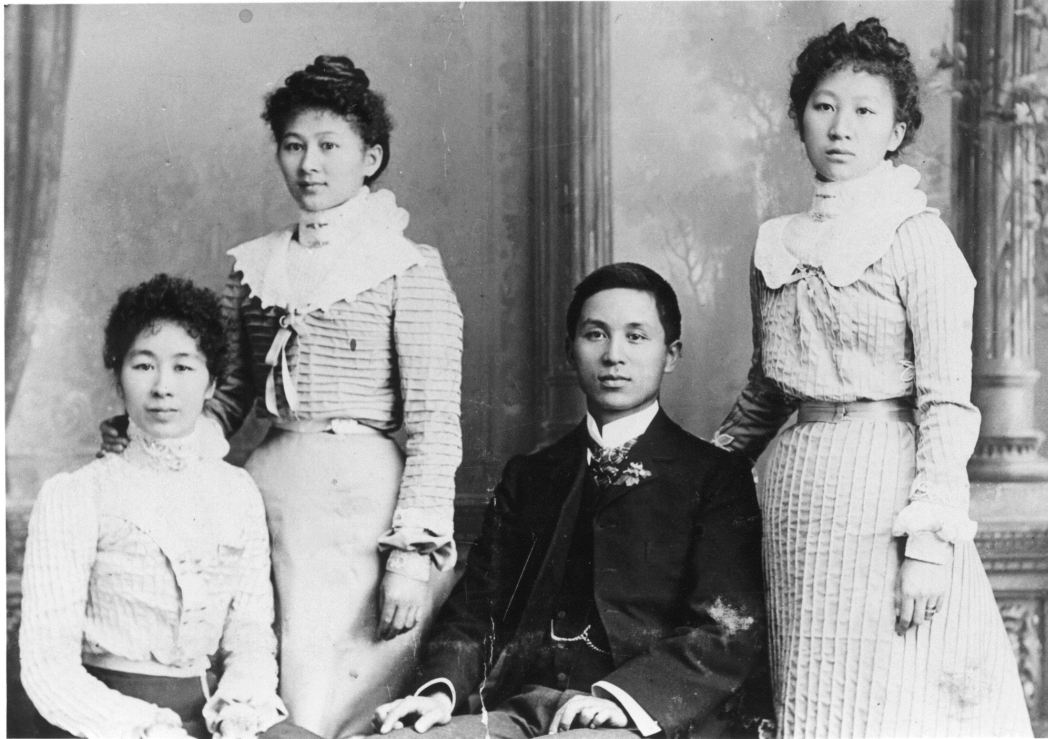


William's family

Mah Ket (1835 – 1896) m Muriel Hing Ung (1845 – 1896)



Margaret (1865) – Rose (1868) – Lilian (1870) – Blanche (1892) – Matilda (1874) –
William (1876 – 1936) – Alberta (1879) – Ada (1881)



William with Matilda, Alberta and Ada (c 1900)

Photo courtesy of Paul Debenham and the estate of Toyloan Ah Ket



William's education and training in the law

- Completed an Arts degree at Melbourne University from 1893 – 1897
- Completed *Jurisprudence* as a single subject in Arts in October 1897
- Joined Maddock & Jamieson and undertook the Articled Clerks Course from 1898 to 1899
- Undertook articles of clerkship for three years from 1900 to 1903 (admitted to practice in May 1903)
- Won the Supreme Court prize for articled clerks in 1902
- Read with (Sir) William Gilbert Stewart McArthur from 1903 to 1904 and signed the Bar roll in June 1904.
 - For general background, see John Waugh, *Diploma Privilege: Legal Education at the University of Melbourne 1857–1946* (PhD Thesis, 2009)



Date of passing
matriculation
examination
1st term 1893

Photo courtesy
of University of
Melbourne
Archives

THE UNIVERSITY OF MELBOURNE
1857

April 7th 1893

I William Ah Ket
Wangaratta
hereby give notice that I intend to present myself at the Matriculation Examination to be held
in the May Term, 1893
for examination in the following subjects, viz.:-

FOR PASS.

1. <u>Greek</u>	8.
2. <u>Latin</u>	9. <u>Arithmetic</u>
3. <u>Algebra</u>	10. <u>Geography</u>
4.	11. <u>P</u>
5.	12.
6.	13.
7.	14.
	15.

FOR HONOURS.*

1.	7. <u>French</u>
2.	8.
3.	9.
4.	10.
5.	11.
6.	12.
	13. ✓

and I send herewith the prescribed fee of £ 2 : 5 : 0 and supply the information required of me, viz.:-

1. Name at full length William Ah Ket
2. Date and Place of Birth 20th June 1876; Wangaratta
3. Age last Birthday 16
4. Name of Father Ah Ket
5. Name and Residence of Parent or Guardian Ah Ket, Wangaratta
6. Signature of the same Ah Ket
7. Post Office Address of Candidate Wangaratta
8. Last Place of Education Wangaratta High Sch

Candidate William Ah Ket

Matriculation Number	Name	Date of Matriculation
4027	Robert Christie Hall	May 1891 15 th Oct 1891
4028	Ernest Thomas Leslie	4 th Term 1891 12 th Oct 1891
4029	Almont Sumner	May 1891 12 th Oct 1891
4030	Thomas Sydney Johnson	May 1891 12 th Oct 1891
4031	Francis Gregory Atchison	May 1891 12 th Oct 1891
4032	William Henry Bullard	May 1891 12 th Oct 1891
4033	Robert Baird	May 1891 12 th Oct 1891
4034	Edward Ince Jason	May 1891 12 th Oct 1891
4035	Harry Johnstone	May 1891 12 th Oct 1891
4036	Thomas Napier Conside	4 th Term 91 15 th Oct 91
4037	Owen Hynes	4 th Term 95 20 th Oct 95
4038	Arthur Howard Nevett	1 st Term 91 12 th Oct 91
4039	Marion Ellen Bryant	Nov 91 30 Nov 91
4040	Euphemia Weir Josephine Ireland	4 th Term 92 1 st Dec 92
4041	John Brennan	4 th Term 94 9 Dec 94
4042	Henry Robert Holmes	1 st Term 93 18 Dec 93
4043	Robert Henry Gregory	1 st Term 94 18 Dec 94
4044	Patrick Francis Bowdler	4 th Term 94 1 Feb 97
4045	George Luke Pendergast	4 th Term 95 2 July 97
4046	Perival Charles Cole	4 th Term 96 8 Feb 97
4047	Samuel William Henry Jammons	1 st Term 96 8 Feb 97
4048	William Ah Ket	1 st Term 93 9 July 97
4049	Douglas Blue Graham	4 th Term 95 15 Feb 97
4050	Reginald Clive Potter	1 st Term 93 16 July 97
4051	Mary Living	4 th Term 95 17 July 97

4047 William Ah Ket
Date of matriculation
16 February 1897

Photo courtesy
of University of
Melbourne
Archives



THE UNIVERSITY OF MELBOURNE **STUDENT RECORD**

Enrolment No.		Matriculation Roll	
		4047 *	
Name <u>AH KET</u> <u>William</u> *		Date of Birth <u>16/2/1897</u> *	

Enrolment	Degrees	Remarks
	Conferred	

Single Subjects - Arts		Oct. 1897	Remarks
Jurisprudence		P *	
<u>1st Yr. Articled Clerks (New Regs.)</u>		<u>Oct. 1898</u>	
Roman Law		P *	
The Law of Property		P *	
The Law of Obligations		P *	
<u>2nd Yr. Articled Clerks (New Regs.)</u>		<u>Oct. 1899</u>	
International Law		P *	
Equity		P *	
The Law of Wrongs & The Law of Procedure		P *	

P.T.O.

Photo courtesy of University of Melbourne Archives



Supreme Court (Judges) Prize winners

- 1901 Herbert E Chambers
- 1901 John Latham
- 1902 William Ah Ket
- 1903 John C Behan
- 1904 Wilbur L Ham
- ...
- 1916 Robert G Menzies





1902 Henry G Joseph
1903 Henry G Joseph
1904 John B Gregory
1905 Harold E Cohen
1906 Charles J Lowe
1907 William Ah Ket
1908 Francis P Derham





The Melbourne University Magazine

Vol. 1, No. 1

JUNE, 1907.

Price 6d.

Vol. 1, No. 1

June 1907

PRICE 6d

Law Students' Society.

The society holds its meetings on every 3rd Monday at the Vienna Cafe, when debates and discussions on difficult legal points and topics of general interest to law students are held, resulting in the material benefit to both speakers and listeners.

On the 19th April the annual general meeting was held, when the following office-bearers were elected:—

President: Mr. W. Ah Ket.

Vice-President: Mr. F. P. Derham.

Secretary: Mr. A. W. Foster.

Treasurer: Mr. L. B. Cussen.

Committee: Messrs. Frank Carse, Harold Harper,
H. E. Elliott, D. Fitzgerald, and S. H.
Wilson.



The Melbourne University Magazine

Vol. 1, No. 1

JUNE, 1907

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June 1907

PRICE 6d

Is a Magazine Wanted?

‘Men are beginning to regard their ‘Varsity in a different light. They recognise that in it they can get their sport and much of their social life, as well as gain knowledge and experience...Moreover, members of the University are now interested in each other in a much greater degree than formerly. Some few years ago the cricketer viewed the footballer as a nuisance, who had to be tolerated during the “off season,” and the compliment was returned. Members of different schools, too, were accustomed to ignore one another’s existence at the University, and to live apart. But a larger spirit has come, and, though we work along different lines, we recognise in one another workers for the common cause in that “none are for the party but all are for the State.” Our magazine, then, will record the doings of all sides of University life. With such a field to draw on we should not fear that our new paper will be overwhelmed by the waters of oblivion.’

William's training



⌘
J.H.MADDOCK, ESQ.
As a token of esteem from the Staff of

Photo courtesy of Maddocks

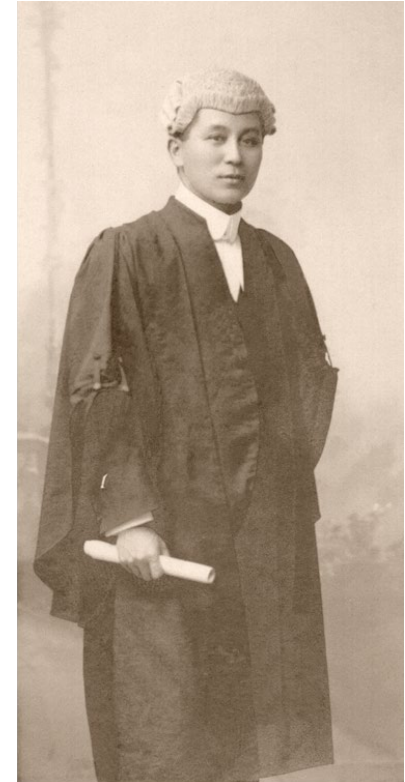


Photo courtesy of Lauris Hing and the
Victorian Bar



To Build a Firm – The Maddocks Story

‘Even while at Maddock & Jamieson from 1898, Ah Ket had been prominent in the Chinese community’s protests about discriminatory legislation, and in 1901 had helped organise a committee against the Immigration Restriction Act. He was a delegate in 1905 at the first interstate Chinese convention, and around the same time also opposed the state government’s attempts to favour European workers in factories and shops by demanding that Chinese workers be licensed. William Ah Ket’s relationship with Maddock & Jamieson continued when he sometimes appeared for their clients in court and at their instructions, such as in 1908 when an action for libel was taken by the Daylesford District Hospital.’

– Helen Penrose, *To Build a Firm – The Maddocks Story* (2010), 11



The auspicious '88'

Roll Number	Name	Date
82	R H Gregory	Monday 3 August 1903
83	F D Cumbrae-Stewart	Friday 28 August 1903
84	H G Joseph	Saturday 13 February 1904
85	E F S England	Saturday 23 April 1904
86	James G Drake	Friday 13 May 1904
87	Walter St George Sproule	Friday 17 June 1904
88	William Ah Ket	Monday 20 June 1904
89	George H Walker	Tuesday 21 June 1904
90	John Latham	Wednesday 15 February 1905

Dates from Peter Yule, *Vic Bar – A History of the Victorian Bar* (2021), 344
(Bar Roll: A comprehensive list of Victorian Bar members since 1900 as of 6 May 2021)

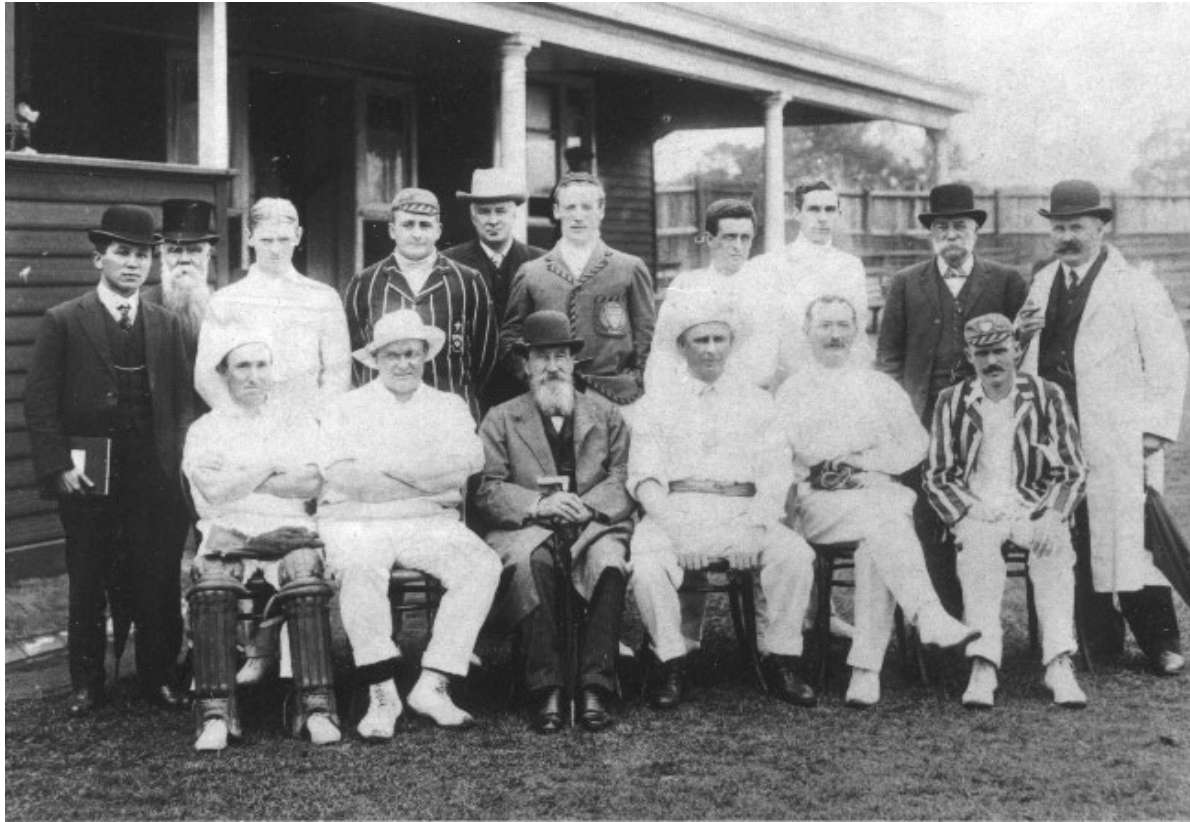


William's colleagues - the legal profession 1904 - 1935

Barristers with whom* and opposite whom Ah Ket appeared and who subsequently became judges:

- Sir Isaac Isaacs (1904)
 - Sir William Gilbert Stewart
McArthur (1905)*
 - Sir Leo Cussen (1905)*
 - Sir Frank Gavan Duffy (1905)*
 - Henry Christian Winneke (1907)
 - Sir Charles Lowe (1907)*
 - Sir Frederick Mann (1907)
 - William Henry Moule (1907)
 - Sir William Hill Irvine (1908)
 - Theyre à Beckett Weigall (1908)
 - Sir James Macfarlan (1914)
 - Sir Hayden Erskine Starke
(1918)*
 - George James Dethridge (1919)
 - Sir Owen Dixon (1923 and 1925)*
 - Sir John Greig Latham (1923)
 - Sir Percy Joske (1923)
 - Sir Norman O'Bryan (1924)
 - Sir Wilfred Kelsham Fullagar
(1924)
 - Sir George Augustus Pape (1928)*
 - Sir Arthur Dean (1935)
- Others (non-judges):
- Sir William Harrison Moore (1905)
 - J. A. Arthur (1906)
 - Edward Ellis (1935)

Sport and the law



Supreme Court Cricket Match c 1904
William as scorekeeper, standing far left
Justice Edward Holroyd seated at the front, third from left
Photo courtesy of Paul Debenham and the estate of Toylan Ah Ket



William's cases
Potter v Minahan (1908)
 7 CLR 277

Duffy KC and Ah Ket for the defendant

O'Connor J (at 304), citing *Maxwell on Statutes*, 4th ed., p. 122:

'It is in the last degree improbable that the legislature would overthrow fundamental principles, infringe rights, or depart from the general system of law, without expressing its intention with irresistible clearness; and to give any such effect to general words, simply because they have that meaning in their widest, or usual, or natural sense, would be to give them a meaning in which they were not really used.'

H. C. OF A.
 1908.
 POTTER
 v.
 MINAHAN.
 O'Connor J.

interpretation which would impute to the legislature an intention to bring about that result stands condemned on the face of it. So far from extending the operation of the Act beyond the ordinary meaning of the words which the legislature has used, it is always necessary, in cases such as this where a Statute affects civil rights, to keep in view the principle of construction stated in *Maxwell on Statutes*, 4th ed., p. 121 :—" There are certain objects which the legislature is presumed not to intend; and a construction which would lead to any of them is therefore to be avoided." After dealing with other matters not material to the aspect of the rule now under consideration the learned author continues (at page 122):—"One of these presumptions is that the legislature does not intend to make any alteration in the law beyond what it explicitly declares (*per Trevor J. in Arthur v. Bokenham* (1): See also *Harbert's Case* (2)), either in express terms or by implication; or, in other words, beyond the immediate scope and object of the Statute. In all general matters beyond, the law remains undisturbed. It is in the last degree improbable that the legislature would overthrow fundamental principles, infringe rights, or depart from the general system of law, without expressing its intention with irresistible clearness (3); and to give any such effect to general words, simply because they have that meaning in their widest, or usual, or natural sense, would be to give them a meaning in which they were not really used."

Mr. *Duffy* relied strongly on this principle, and urged that there was one right which it would not be assumed the legislature intended to take away except by express words or necessary implication. That is the right of every British subject born in Australia, and whose home is in Australia, to remain in, depart from, or re-enter Australia as and when he thought fit, unless there was in force in Australia a positive law to the contrary. The existence of that right is, to my mind, beyond serious controversy. It follows as a matter of reason from one of the fundamental principles of international law. Speaking generally, every person born within the British Dominions is a British sub-

(1) 11 Mod., 150.

(2) 3 Rep., 12a, at p. 13b.

(3) 2 Cranch., 390.

The Chinese and the Factories Acts



A PAPER
ON
The Chinese and the
Factories Acts.

BY
W. AH KET.



To which is added a Report of a Meeting of the Public Questions Committee of the Council of the Churches, held on the 3rd September, 1906, to discuss the "Chinese Employment Bill," then before the Legislative Assembly.



MELBOURNE :
ARBuckle, WADDELL & FAWCKNER, PRINTERS,
20 McKillop STREET.
1906.



William's cases

Ingham v Hie Lee [1912] VLR 329

Ah Ket for the defendant

Madden CJ (at 329):

'...the Legislature has, for some reason or other, felt satisfied that Chinese are more inveterate in doing that which the Legislature thinks they ought not to do, or more cunning in the wiles they use against those whose function it is to ascertain whether the Statute is being evaded. One must bear all those things in mind, and at the same time, must remember that a Statute of this kind ought to be interpreted in the spirit in which the Legislature has enacted it...Sec. 42, under which this charge is laid, provides—

"In any factory or workroom where any Chinese person is at any time employed and in any factory or workroom where any person whosoever is employed in preparing or manufacturing or partly preparing or manufacturing any article of furniture no person shall work for himself or for hire or reward either directly or indirectly or shall employ or authorise or permit any person whomsoever to work on any day before half-past 7 o'clock in the morning or after 5 o'clock in the evening."

Ingham v Hie Lee (1912) 15 CLR 267

McArthur KC with Ah Ket for the respondent

Griffith CJ (at 269):

'The facts of the case are that the respondent is a Chinese laundryman. His laundry is therefore a "factory." The facts as found by the magistrates were that during the prohibited hours one Ah Chook was doing manual labour—i.e., ironing his own shirt—in the laundry. The question is whether that is sufficient to establish an offence against the Act. There is no doubt that the place is a factory, that Ah Chook was within the walls of the factory, and that he was ironing his own shirt there. He was not an employee of the respondent, but was a lodger with the respondent, and was allowed this privilege of ironing his shirt in the laundry.'

William's cases

FAILED HIM

AH KET NO LONG TACK SAM

The Sun, Friday 6 May 1932.

'To prove his contention that a fruit machine in the Stock Exchange Club was a game of skill and not a game of chance, Mr. Ah Ket, counsel for an appellant, told Judge Foster in General Sessions that he would demonstrate his skill by producing a cherry.

Mr. Ah Ket dropped his token in the machine, and the result was a cherry.

Judge Foster was interested. He asked Mr, Ah Ket to repeat his skill, but the machine failed him. Judge Foster decided that the machine was a game of chance.'

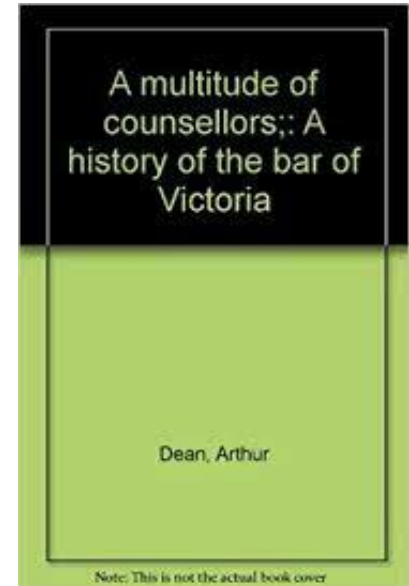


Mr. W. Ket
on a leisure job
what was it?

‘a great settler of cases’

‘Willie Ah Ket was the only man of Chinese origin to practise at the Bar. He was a very capable and popular man, and enjoyed a good, general practice in common law. He had a quiet, shrewd disposition, and was a keen, if not successful punter. He acquired a reputation as a negotiator of settlements, being persuaded that in general his clients would be wiser to come to terms with their opponents rather than incur the risks and expense of litigation. But not every client is wise enough to accept such advice.

- Sir Arthur Dean, *A Multitude of Counsellors – A History of the Victorian Bar* (1968)



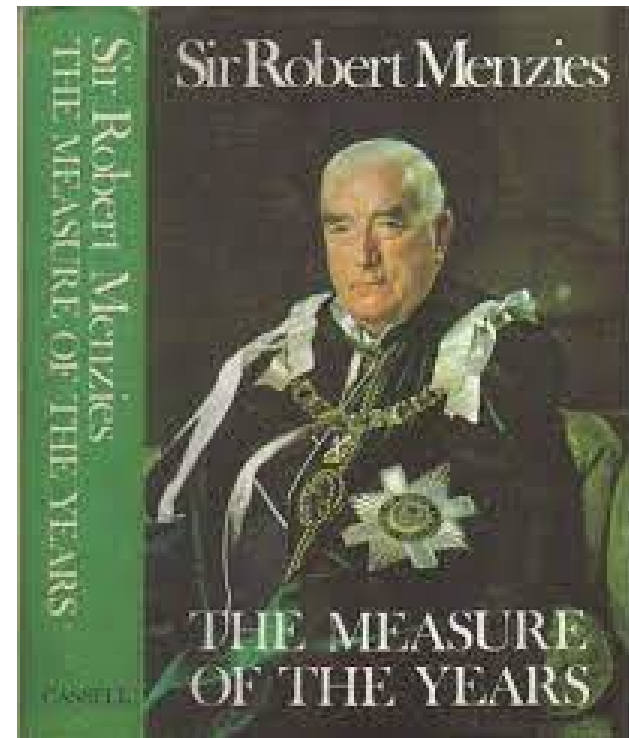
‘Just before the outbreak of the second World War when my reading period had finished I managed to temporarily acquire chambers next door to where I had been reading in what had once been the chambers of Willy Ah Ket but which were then leased to Jim Borrowman, a one armed veteran from the earlier World War but was not in active practice. I had never met Ah Ket who had died a couple of years previously but he had had the reputation of being a very good barrister and was, so I had been told, a great settler of cases.’

- Sir John Minogue, interviewed by Pam Coldham c 1984 (courtesy of Julian McMahon AC SC and the archives of Gorman Chambers) 22



Sir Robert Menzies, *The Measure of the Years* (Cassell Australia, 1970), 249

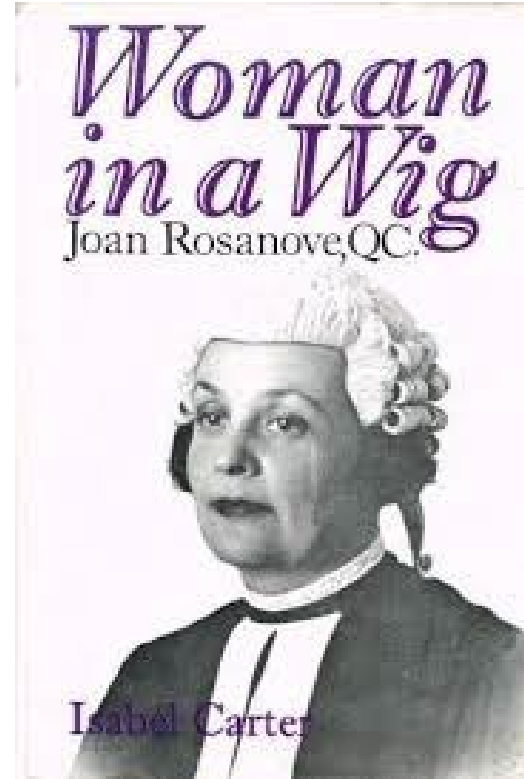
‘William Ah Ket did not ever sit on the Bench, though he would have been a very competent judge. He was a phenomenon at the Victorian bar, a full-blooded Chinese born in the north-east of Victoria. He was a sound lawyer and a good advocate. His bland oriental features gave nothing away; his keen sense of fun was concealed behind an almost immovable mask. A certain prejudice among clients against having a Chinese barrister to an extent limited his practice, though instructing solicitors thought very well of him. He was considerably senior to me but we were great friends.’



The fight against discrimination

Isabel Carter, *Woman in a Wig: Joan Rosanove, QC* (Lansdowne Press, 1970), 13:

‘A Melbourne barrister, Mr Ah Ket, a friend of Mark’s [Joan’s father], said to her, ‘You and I have both chosen the wrong profession, Joan. We will never satisfy our ambitions. Neither of us will ever be made a judge, you because you are a woman. I because I am Chinese. We should have done Medicine.’





The William Ah Ket Scholarship

‘His answer to the difficulties he faced appears to have been to succeed in what he did; to be a real part of the legal profession; to help others and to act at all times righteously, with courage and with kindness. It is fitting and proper that this scholarship is named for him.’

- The Hon Susan Kiefel AC, Chief Justice of Australia, ‘William Ah Ket’s contribution to diversity in the legal profession’ (Asian Australian Lawyers Association, William Ah Ket Scholarship Presentation, Great Hall, High Court of Australia, Canberra, 9 October 2019, 5:30pm)



Equity Chambers



Photo courtesy of Paul Debenham
and the estate of Toyiaan Ah Ket

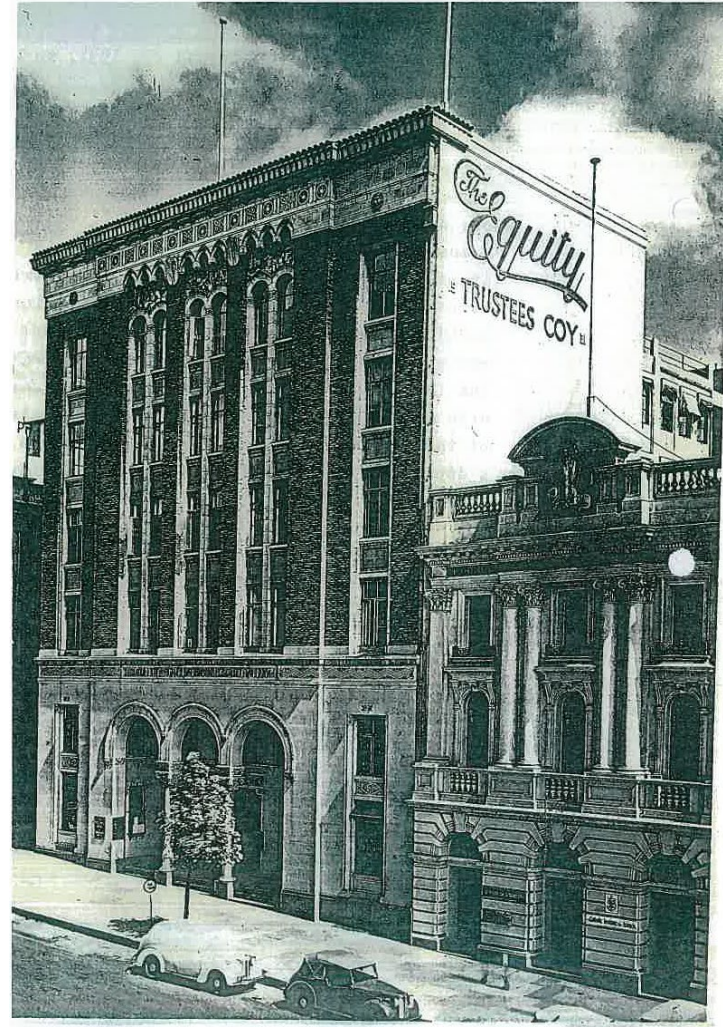


Photo courtesy of Julian McMahon AC SC and the
archives of Gorman Chambers

William's law reports

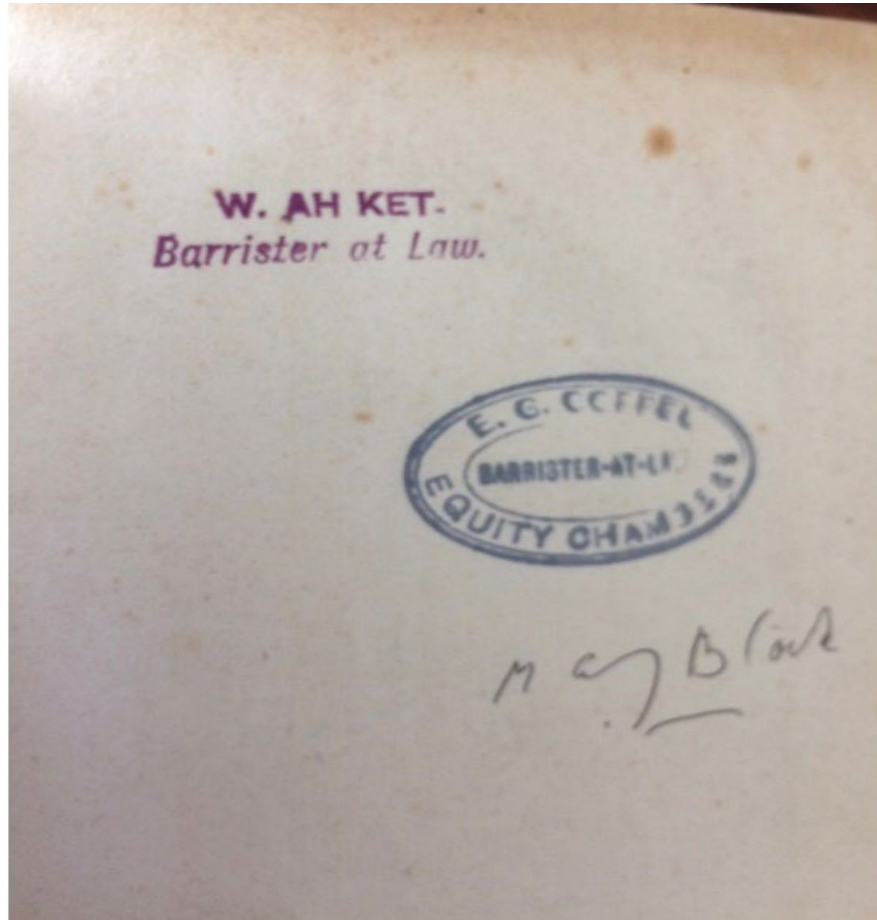
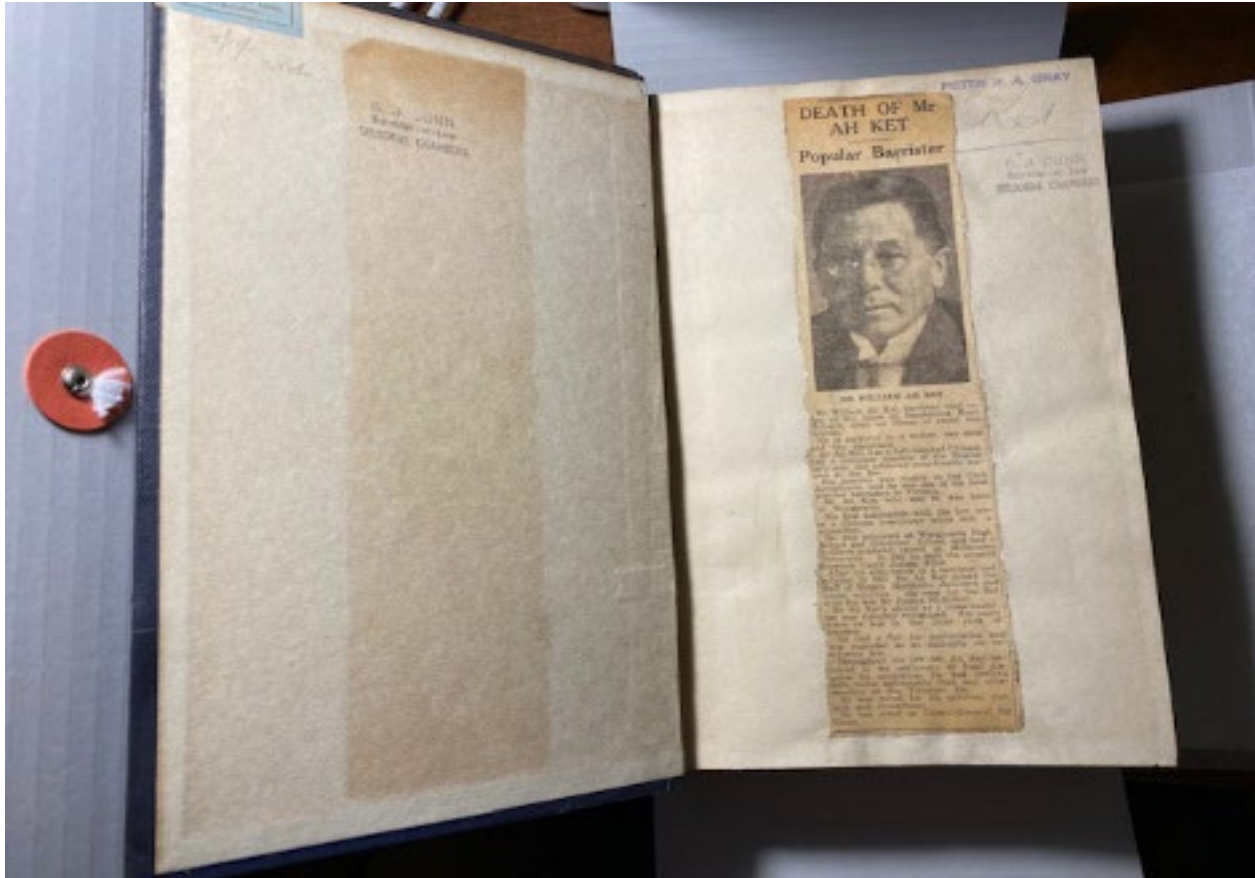


Photo courtesy of the Federal Court of Australia



Courtesy of the estate of Paul (Ah) Ket and Sharyn Prentice



1933 GE Morrison Lecture

‘Confucius did not teach that the cultivation of one’s character would bring any reward in the hereafter; what, then, was the reason of this teaching and what was its object? It proceeded on the basis that whoever wishes to improve external conditions must begin by improving his inner self and that all ideals must be realized internally. Having carefully improved himself, a man may bend his mind to improving others and by the force of example as well as precept help to make the world a better and happier place.’

Chinese Lawyer Thinks Bagpipes Would Have Fascinated Confucius.

CANBERRA, Thursday.

If Confucius lived to-day he would probably have been fascinated by the bagpipes, finding in the music something particularly stirring and satisfying to the soul.

This belief was expressed by Mr. Ah Ket, Melbourne barrister, in the course of the Morrison lecture on "Eastern Thought," which he delivered before a distinguished gathering at the Institute of Anatomy to-night.

"While he undoubtedly possessed a rare insight into human character," said Mr. Ah Ket, "Confucius appears to me to have had a quaint and subtle humor. He was passionately fond of poetry and music, and exhibited no little skill with the lute. Music had for him a peculiar charm."



Supreme Court Library Exhibition



Photo courtesy of Supreme Court of Victoria

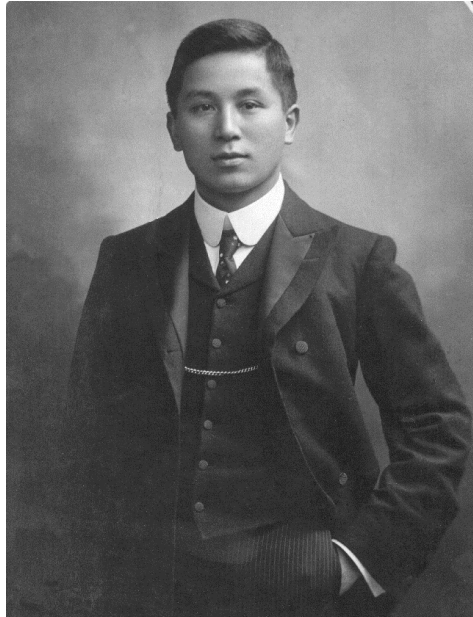


Photo courtesy of Paul Debenham
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William Ah Ket - His Cases and Career

Dr Andrew Godwin
Melbourne Law School
2 March 2022

