

***J V Barry: A Life*, Mark Finnane, University of New South Wales Press, Sydney, 2007 (ISBN 978 086840 845 3)**

For criminologists of my generation there is almost certainly no more towering Australian pioneer in the field than John Vincent Barry, the subject of this fine biography by Mark Finnane. Indeed, as a reviewer I should profess at the outset that Barry is one of my criminological heroes, without whose influence as a young law student it is likely that I would have never embarked on my own career in the discipline. Justice John Barry, as he then was, a distinguished and senior judge of the Victorian Supreme Court, came across Bass Strait to the University of Tasmania in the late 1950s, together with his friend and fellow pioneer, Professor Norval Morris, to give a series of lectures on crime and punishment. I attended the lectures and was immediately attracted to the notion of studying the social context of the criminal law, as espoused by Barry and illustrated by his own and then recently published study of the early Australian penal reformer, Alexander Maconochie (Barry 1958).

For the current generation of criminologists, Barry's name is less significant, as I was reminded shortly after receiving this book to review. I asked two younger colleagues what they knew of Barry's life and work in the field. One, nurtured originally in the folds of sociology, admitted he knew almost nothing. The other, with a dual background in law and criminology, indicated she was aware of some of Barry's contributions having been the recipient of a prize given in his name at the University of Melbourne. Both indicated that they would be keen to learn more about the man whose fame is also recognised by the annual Barry Memorial Lecture at the University of Melbourne, and the John Barry Memorial Library at the Australian Institute of Criminology (AIC) in Canberra.

Mark Finnane acknowledges the contribution made by John Myrtle, for many years the Principal Librarian at the AIC, in compiling *J V Barry: A Life*. It was Myrtle who, in amongst his other activities, introduced Finnane to the Barry family at a time when they were sympathetic to the idea of having a biography written about their pioneering relative. Finnane and Myrtle between them amassed a formidable database of materials from family, friends and other sources to assist the preparation of the book. The database included more than 10,000 letters passing between Barry and correspondents, ranging from his school days and letters to his mother to the time that he was a judicial officer writing to a close friend, Professor Mark Perlman, at the University of Pittsburgh in the United States. Perlman and Barry corresponded with one another for almost two decades, providing a rich and unique record of Barry's developing ideas in many areas of socio-legal import.

With the skill and perspicuity of a highly talented historian, Finnane takes the reader through the diverse and intriguing rivulets of Barry's life which traversed some key periods in Australian political, legal and social development during much of the twentieth century. Born in 1903 in Albury, NSW, Barry's early formative years were spent north of the Murray border with Victoria. Educated at Catholic schools, he moved south to Victoria in the early 1920s to pursue a career in law. At the time enrolment in the Law Faculty at the University of Melbourne was a way into legal practice only for those who could afford the fees and the years without an income. For most practitioners, including Barry, an alternative route was by apprenticeship through employment as a clerk, and then service in articles in a law firm.

Barry completed his apprenticeship in 1926 and commenced work at the Victorian bar. He quickly established himself as a highly competent advocate with a diverse practice that

included both criminal and civil cases. His public profile grew, even in a time of deep economic decline, as he became involved in some sensational criminal trials as a defence lawyer, and in numbers of divorce proceedings. But Barry was also emerging as a socio-legal scholar and civil libertarian. He began to contribute articles to the fledgling *Australian Law Journal*, which commenced publication in 1927, and later to the proceedings of the Medico Legal Society of Victoria, founded in 1931. In the latter, Barry, who became the joint editor of these proceedings for a period of 10 years, addressed many controversial issues including the need for abortion law reform.

Finnane devotes considerable attention to Barry's important role in the development of Australia's civil liberties movement, which grew out of the deepening political conflicts of the 1930s and the rise of fascism. The Council of Civil Liberties was established in 1935 in Victoria and, in the years that followed, Barry was among its key members as a writer, speaker and legal advisor. He was also to become an active campaigner against capital punishment, having been involved personally in a number of capital trials, and having had clients who had gone to the gallows. Barry's political leanings were shaped by these experiences. In 1939, on the eve of World War II, he joined the Victorian Branch of the Australian Labor Party (ALP). He was elected a member of the Victorian Central Executive, and had many friends and contacts among ALP activists. In 1943, he was endorsed and stood as an ALP candidate for the seat of Balaclava in Victoria but failed to gain election.

During World War II, Barry did not enter military service but instead served in a number of important government positions including participating in an inquiry into the Japanese bombing of Darwin in 1942, and leading a series of investigations into administrative issues in Papua and New Guinea towards the end of the conflict. This prominent wartime service was to result in Barry's name being advanced in 1945 for consideration for appointment to judicial office on the High Court of Australia. Already made a King's Counsel in 1941, Barry's nomination was canvassed by a number of members of the then Labor ministry but ultimately foundered in favor of a compromise candidate, the Queensland Chief Justice William Webb. As former High Court Justice Michael Kirby remarks in his forward to *JV Barry: A Life*, the High Court would have gained much from the presence of Barry whose non-conformist views and brilliant mind would have challenged the deeply conservative thought of the bench led at the time by Sir Owen Dixon.

Barry was appointed a judge of the Victorian Supreme Court in January 1947 and held that office until his death in 1969. It was largely during this period that what have proved to be enduring contributions to the development of criminology in Australia were made. Barry also forged of closer ties with like minded academics and practitioners in criminal law and criminal justice in this country as well as in Europe and North America. These contacts, which collectively amounted to a veritable Who's Who in the field, included Leon Radzinowicz at the University of Cambridge, Hermann Mannheim at the London School of Economics and, on home territory, George Paton and Norval Morris at the University of Melbourne. As Finnane comments, Barry and Paton were present and contributing 'at the beginning of the post war development of criminology in the English speaking countries, at least outside the USA' (p115). It was through the concerted efforts of Barry, Paton and Morris that Australia's first Department of Criminology was established at the University of Melbourne in March 1951.

Barry did not travel to the United States until 1955 when he was 50 years old. Remarkably, this visit was Barry's first overseas excursion beyond those made in time of war to northern neighbours like Papua and New Guinea. It was a trip which had been arranged in large part by Professor Mark Perlman, an American labour relations lawyer with

a special interest in Australia, who had met Barry during an extended research visit to this country in 1949. While in North America Barry visited many criminal justice agencies and met a wide range of prominent political, judicial, academic and allied figures in the United States and Canada. On the way home via Europe, he led the Australian delegation to the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Geneva.

Barry returned from his trip both impressed and depressed by what he had seen and heard. He was struck by the capacity for innovation that he had observed in the United States, and in particular in California's penal system, but critical of matters like police corruption and the lack of effective prosecution of crime. In a lengthy report on his observations abroad, he recommended many reforms in areas such as juvenile justice and also made the case for the establishment of a parole board in Victoria – a reform achieved in 1957 with Barry becoming the first chair of the new system.

Barry's many contributions like these to law and social reform are outlined by Finnane, as is his specific advocacy of the establishment of an institute of criminology in Australia. This advocacy, made in tandem with Norval Morris, had commenced in 1955 following attendance at the United Nations Crime Congress. By 1960, it was hoped that the United Nations would choose Australia as the favoured location for an Asia Pacific regional criminological institute but this dream was dashed in March 1961 with the establishment of the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders [UNAFEI] at Fuchu in Japan. Barry continued to press strongly for the Federal Government to establish a national institute but did not live long enough to see this particular reform objective achieved in 1970.

We are fortunate to have a social historian of Finnane's calibre and stature writing about one of our most illustrious pioneers in criminology. Finnane's rigorously researched and documented biography of Barry is couched in an eloquent but careful prose that gives life and meaning to the man and his contributions. As Finnane concludes:

[T]here were few judges of his generation who thought as broadly about the law and fewer still who pursued their thoughts into anything other than judgments and talk about judicial reasoning. Barry was impatient with the more arid zones of the profession he had made his own. More than that, he had little time for those who walked in a fog of their own making, indifferent to the forces that made the law what it was, shaped the thinking that it exhibited and moulded the individuals brought before it (p278-279).

In Finnane's biography we are lifted above any fog, and directed away from any arid regions of the law, in order to appreciate and understand how one man achieved so much during his lifetime in giving shape and substance to our contemporary world of criminology.

Duncan Chappell

University of Sydney, Faculty of Law