

The Hon Barry O’Keefe AM QC (1933–2014)

The following is an unabridged version of the obituary by Philip O’Keefe and Kevin McCann, published by the *Sydney Morning Herald* on 23 May 2014.



Barry O’Keefe’s life was a testament to service and resolve. He was born in 1933, the first of three children to Ray and Thelma O’Keefe, proud Catholics who had lived through the Great Depression. Ray owned a furniture store on Pitt Street in Sydney and was later mayor of Waverley, while Thelma was reputedly the first woman to surf at Bondi Beach. Earlier O’Keefe forebears had been transported from County Cork to the penal colony of New South Wales in the first half of the nineteenth century, their crimes recorded as stealing empty bottles and poaching two fish from a manorial pond.

Barry was educated by the Christian Brothers at Waverley College. He battled against debilitating bouts of rheumatic fever in his youth but ultimately won a Menzies Scholarship to study law at the University of Sydney. By his own admission, he was a relatively ordinary, if conscientious student. He maintained himself by working as a bowser boy at a local garage, as a taxi driver, as a porter at the Darling Harbour Railway Goods Yard, and finally as associate to the late Mr

Justice Hardie of the NSW Supreme Court.

When Barry went to the bar in 1957, times were tough. For the first three years he kept his head above water only by teaching at the then University of Technology in the Faculties of Economics and Law. His lectures were often delivered on the stage of the Phillip Street Theatre, backdropped by the sets of its latest productions. Given his extroverted personality, the venue was entirely appropriate. He was an outstanding lecturer with a deep and scholarly knowledge of his subject. He was also a popular teacher, dubbed by his students ‘the mild one’ in contrast with his brother Johnny O’Keefe, ‘The Wild One’ of Australian rock ‘n’ roll.

Eventually, Barry developed a wide ranging law practice, often appearing and advising multinational corporations overseas. After he took silk in 1974, he appeared frequently in the Supreme Court of NSW, the High Court of Australia and the Privy Council. He was a formidable cross-examiner, and had a forensic ability to assemble and use complicated facts in sprawling cases. He was counsel in a number of high-profile state and Commonwealth royal commissions concerning the sinking of HMAS *Voyager*, the relationship of Premier Neville Wran and the chief magistrate of NSW, and the impact of Agent Orange on Australian troops in Vietnam.

He also served as president of the New South Wales Bar Association from 1990 until 1991, and sat on the Executive at the Law Council of Australia from 1992 to 1993. Then, at the peak of his career at the bar in 1993, he was appointed chief judge of the Commercial Division of the Supreme Court of New South Wales.

But his career soon took an unexpected turn. In 1994, Barry accepted a five-year appointment as commissioner of the Independent Commission against Corruption (ICAC). He understood that proper administration and effective responses to corruption are integral requirements of good government, and under his tenure, wrongdoers were exposed and ICAC took a leading role in corruption prevention and education. His work saw him subjected to threats on his life and reputation, but ICAC became a model accepted by the Australian police forces and eventually other states. His anti-corruption work eventually extended well beyond Australia, as he became chairman of Interpol’s International Group of Experts on Corruption, and chairman of the International Anticorruption Conference. Latterly, he was the driving force in the establishment and evolution of the Anti-Corruption Academy, a young but already highly esteemed body established to promote justice, anti-corruption and the rule of law globally.

After ICAC, O’Keefe returned to the bench as a judge of the Common Law Division of the NSW Supreme Court and of the NSW Court of Criminal Appeal. He was assigned to try a number of extremely high profile and difficult murder trials in Wollongong and Newcastle. As an acting judge in the NSW Court of Appeal, he also presided over several precedent-setting cases, including on the care that hospitals must provide to terminally ill patients and to patients in a persistent vegetative state. On his retirement as a judge, he became a consultant to Clayton Utz, where he built up a busy practice specialising in construction cases.

But throughout his distinguished legal career, Barry O’Keefe also gave himself to the service of his community with

extraordinary energy and generosity.

He sat as an alderman on Mosman Council from 1968 to 1991, and served a record ten years as mayor. During these terms, he was dedicated to proper town planning and kept the destroyers of the built and natural environments at bay, especially defending Mosman's open spaces and foreshores as sacrosanct. He was also the principal architect of Mosman's town plan, and oversaw the building of the Mosman Library and Mosman Square. One particularly notable feature of his mayoralty was his passion for civic embellishment, and when in full flight he was hard to resist. He managed to persuade Sir Tristan Antico, for example, that Pioneer Concrete should acquire a very expensive Italian fountain from an English stately home and donate it to the municipality. But Barry also personally funded several other fountains and statues in the suburb, including one of a legendary local mongrel 'Fugly' on the Balmoral foreshore. 'Barry was man of great intellect, enthusiasm and generosity,' says former Mosman Council general manager Viv May. 'He was a true leader and no mayor has ever equalled him.'

Beyond Mosman, Barry served as president of the Local Government Association of NSW. He also received numerous offers to stand for safe seats in the NSW Parliament. Wisely he refused. But he did accept a membership of the Order of Australia in 1989 for his services to local government.

Incredibly, his community service did not end there. He also served as president of the National Trust of Australia in New South Wales from 1991 until 2006. Under his leadership, the trust emerged from bankruptcy and built up a large and active membership of heritage defenders. In the age before

social media and community activism, the National Trust was the lone bulwark against the inappropriate redevelopment of built and natural heritage sites by big developers, and as president, Barry was often required to be the public face of that struggle.

In 1998 the Harbour Trust (later the Sydney Harbour Federation Trust) was established by Prime Minister John Howard, to be responsible for the management and rehabilitation of surplus defence lands on Sydney harbour foreshores. Barry was an energetic member of the trust who applied his vast planning experience to help draft the legislation creating the trust, and the management masterplans for the areas vested in the trust, ensuring the creation of magnificent public harbourside amenities for future generations of Australians.

As for Barry's private interests, they were beyond numerous and incredibly diverse. For a man who was in many ways very moderate, the strength of his enthusiasms was remarkable. As he often said, 'All things in moderation, including moderation'.

A first was his great love of regalia and the theatrical. Whether in the mayoral robes and chain, the gowns and wigs of the QC and judge, the dashing cape of the order of St Lazarus, or the tartan kilt of clan O'Keefe, he never failed to take delight in dressing up, a trait he duly acknowledged when receiving an honorary doctorate from the Australian Catholic University earlier this month as he floridly doffed his academic cap to the assembled students. More generally, he took great pride in having the right gear for the right place – safari suits in Tanzania, long riding boots and crop for horse riding in Hyde Park London, or even on one occasion a bullet-proof vest for an appearance with the president

of Israel in Jerusalem. While he loved regalia, at the same time, he never forgot that these things were symbols of institutions and not a source of glory for him. He noted this in an interview with the *Catholic Weekly* where he said 'The power is not from you, it is given to you, and you therefore have to exercise it in trust. That should engender a sense of great responsibility, rather than engender any sense of importance.'

A second abiding enthusiasm was art. He had a wonderful eye for all forms of art, and took deep pleasure from discussing it with his friend Rex Irwin, the notable Sydney dealer. He also took a great interest in engaging with artists themselves. His wonderful taste in higher forms of art did not, however, stop him picking up every trinket known to man on his world travels and hoarding them in a parallel collection of kitsch.

Perhaps the strongest of Barry's enthusiasms was for music, if of a somewhat different brand to his brother's. This manifested itself in his lifelong attendance of and support for the opera and ballet, a passion he shared with his wife Janette. His excitement ahead of a Puccini or Mozart opera was palpable, as he leapt around the house singing arias like a *bel canto* leprechaun. He had an equally soft spot for the ditties of Gilbert and Sullivan.

Given their range, it was inevitable that Barry occasionally overstretched in his passions. One example was the purchase of a vintage steamboat which, in his captain's hat, he planned to take around Sydney Harbour on impromptu reviews of the fleet. However, the vessel also required a vintage steamboat engineer to keep it primed, something easier said than done. In the end, he captained the boat's maiden and only voyage within the confines of the swimming baths at

Clifton Gardens, before donating it to the Sydney Maritime Museum.

But beneath his many enthusiasms, Barry's life was underpinned by three greater forms of devotion: devotion to service, devotion to God, and devotion to his family.

Beyond its grander public expressions, much of Barry's sense of service was through his example of plain decency and courtesy. Many have noted that he always seemed to have time for them no matter how busy he was or how grand the event; others speak of his small (and large) kindnesses to them – as struggling students, as new arrivals in Australia, or as people who had simply fallen on hard times. One of his former associates, Nana Howard recalls, 'I remember him correcting the grammar of pompous barristers from the bench, but then always taking the time to show solicitude to the self-represented litigant whose second language was English'.

He also derived enormous hope and consolation from his faith. Like the rest of his life, his faith expressed itself in many ways, from highly esoteric discussions on matters of theology or church history, to simple heartfelt prayer, especially to the Blessed Virgin Mary. Fundamentally though, it took a very practical form: faith meant most to Barry when it was the motivation for action, whether that was undertaking charitable works with the Brotherhood of St Lazarus, helping raise the funds to complete the spires on St Mary's Cathedral and mounting them with crosses, or simply stepping in as the reader at Mass when the designated

person failed to show. Moreover, for someone who was a devout Catholic, he had enormous respect for people of other faiths and saw all religions as embodying a common search for something deeper in life.

Shortly before the end of his life, Barry agreed, at the request of the Australian Catholic Bishops, to take the chair of the Truth Justice and Healing Council established to co-ordinate the church's response to the royal commission into child sexual abuse. He was unequivocal that the church must acknowledge the wrongs and injustices of the past, develop new policies to protect young people, and respond to future issues by putting the needs of the victims first.

Two days before Barry's death, Pope Francis 1 created him a Knight Grand Cross of the Order of St Gregory the Great (the highest award a layperson of the Catholic Church can receive) for service to the church, to the law and to the community. Typically, he sat up in bed, removing the ventilator which was keeping him alive, to make a speech thanking the church for the great honour.

The complement to his spiritual life was Barry's devotion to his family. He was a proud son who talked to his mother almost every day no matter where in the world he was, and always cited the gentleness of his father Ray as a model for how a man could be. He was a loving and steadfast brother to his sister Anne, as well as to his brother John, of whom he always spoke with pride as a great Australian. He was also enormously proud of his children,

and casually made sure that everyone heard about even their most modest achievements. Most days when they were small, he would make the time to have a five-minute cuddle with each of them before heading off to work at 5.00am. Above all though, he was a loving and devoted husband. By a combination of excellent judgment and sheer luck, he found a wife who returned his devotion in equal measure for over 51 years. That love was more evident than ever during his recent illnesses, through the tender and unstinting care that Janette provided him, and the valiant way in which he bore his suffering and shielded others from it.

Barry O'Keefe embodied the great paradox – that the more fully we embrace our duty, the more we are fully free. Fully embracing his duties took enormous diligence and perseverance; but the freedom, hope and joy that he took from that embrace were profound. They energised his whole life – and so many people in turn derived comfort and energy from their interactions with him.

Always generous with his time and advice, he evinced warmth and human concern, had an ability to engage with people at all levels, and was a straightforward and unpretentious man despite his many achievements. He treasured all of life's blessings.

Barry is survived by his wife Janette, his children Philip, Vanessa, Roger, Andrew and Sophie, seven grandchildren and his sister Anne Rose.