

Walter E. Barnett



Walter Barnett was one of the leading experts in the United States in the area of the constitutionality of the 1970s and 80s sex laws. He graduated summa cum laude from Yale in 1954, law degrees from the University of Texas, and a master of laws from Columbia. He was also a Fullbright Scholar at the College of Europe in Belgium.

Barnett practiced law in Dallas from 1958 to 1960, when he took a position as an attorney-advisor in international affairs with the U.S. Secretary of State's Office. In 1964, he was an assistant professor of law at the University of Miami. In 1967, he was an associate law professor at the University of New Mexico. In the 1970s, he was a visiting professor at UC Hastings College of Law. He was admitted to practice law in California in 1974.

Barnett was an important voice in the movement to challenge the constitutionality of state sodomy laws that criminalized private sexual conduct between consenting adults. In 1960, such laws existed in every state. By 1970, only two states had voted to repeal their sodomy statutes, Illinois in 1961 and Connecticut in 1969.

Barnett became involved in the gay rights movement in 1970 when he authored a brief on behalf of the North American Conference of Homophile Organizations Legal Committee in the Texas case of *Buchanan v. Batchelor*. In that case, the constitutionality of Texas sodomy law was challenged. The brief argued that the law violated the right of privacy, violated the establishment clause, and was void for vagueness.

In 1971, Barnett, along with Arthur Warner, a fellow attorney and gay rights activist, founded and co-chaired the National Committee for Sexual Civil Liberties – a sexual law reform interdisciplinary group. That same year, Barnett wrote a memorandum to Senator John L. McClellan to reform the oppressive and discriminatory federal sodomy statute which applied to private sexual conduct committed on federal land. “We believe that the only proper inquiry in molding the federal law is whether the conduct in question is seriously detrimental to society. We submit that adult consensual sodomy is totally harmless.” Barnett remained a member of the National Committee for a decade.

In 1972, while teaching at UC Hastings, Barnett was asked by Thomas Coleman – then a gay law student at Loyola Law School – to make a presentation on gay rights at the annual ABA meeting in August of that same year – he agreed. This marked the first time a forum on gay rights was ever presented at an ABA meeting. In 1973, Barnett wrote a

book titled *Sexual Freedom and the U.S. Constitution* which dealt with the constitutionality of sodomy laws in the United States. This book was funded by the Playboy Foundation. The book guided attorneys on how to challenge the constitutionality of sodomy laws which criminalized private sex between consenting adults. The Advocate newspaper published a review of the book in 1973. The article was titled “Barnett book will be landmark in march for sexual freedom.”

Barnett was a gentle and spiritual man. He was a devote Quaker, and in 1979 he published a pamphlet titled *Homosexuality and the Bible: an Interpretation*. The publication drew on his legal expertise as well as his experience working for social justice within a religious context in California. In this pamphlet, he wrote:

“The Bible does mention homosexual behavior in extremely negative terms in a handful of widely scattered verses, but modern research has turned up considerable evidence casting doubt on the traditional interpretation of these passages – an interpretation that has borne tragic consequences for homosexuals throughout almost the whole of Christian history. The purpose here is to examine this evidence, together with some of the light science has shed on the subject of psychosexual development, in the hope that it will lead to a more informed appraisal.”

Barnett worked as counsel to the Friends Committee for California Legislation, a Quaker based organization that lobbied for legal reform, and lived for many years in Catholic Worker houses in that state. Barnett passed away in 1985.

References

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