

Memorial Minute for Malcolm Barry Smith
Read by John Connolly at the December 14, 2016 Faculty Meeting

Malcolm Barry Smith, professor emeritus, died on August 15. He was 76. Barry came to our philosophy department from graduate school at Cornell in 1967. A tenacious philosopher of strong, and strongly held, views, Barry's interests were always more than academic. Over the years he staked out positions in ethics and the philosophy of law that he regarded as of direct import to our individual and community lives.

For the most part Barry taught courses in ethics and legal theory at Smith, as well as the survey courses in the history of philosophy. His students remember him as demanding—a teacher of high standards—but also fair.

Barry was a study in contrasts. Born in the South in 1939, he spent most of his life in New England. He was an undergraduate at Virginia Military Institute, but there he studied, not war, but English and philosophy. He saw several years of active army duty in the mid-1960s, including in Viet Nam, and was honorably discharged at the rank of captain. Perhaps in reaction to army life, he at one time had longer hair than anyone else in the philosophy department, and in his early years at Smith his uniform was a white leather jacket with fringe. Quite conservative in his political views, his answering machine nonetheless at one point greeted callers with his own version of the opening stanza of “The St. James Infirmary Blues”. The most telling contrast was between his deep love for the law—which led him, in mid-career, to law school at Berkeley followed by a half-time legal practice in Northampton—and his equally deep-seated conviction that we are under no moral obligation to obey that same law. The motley nature of these traits—perhaps signs of a libertarian streak—made Barry a fascinating and endearing colleague.

Barry produced challenging philosophical articles of admirably high quality, published in well-regarded philosophical and legal journals. For example, his essay “Is There a Prima Facie Obligation to Obey the Law?” first appeared in the *Yale Law Journal* in 1975 and continues to be included in anthologies in law and philosophy. Another piece—a favorite—was titled “Can a Lawyer Be Happy?”. Barry retired from the College after 35 years in 2002.

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Admitted to the Massachusetts Bar in 1985, Barry continued his solo practice in Northampton until 2011. A man of admirable community commitment who performed copious *pro bono* legal work, he was proud to have "a good reputation up at the county jail." There are not many philosophers of whom that sort of thing could be said.

"Can a Lawyer Be Happy?" His answer, based in large part on his own life and work, was a clear "yes." Barry often credited his wife, Tricia Sweetser, an alumna, and his sons Malcolm and Eric for much of his own happiness, of which he also said it was more than he deserved. Reminded, when his own death was imminent, of Kant's "practical postulate of immortality," Barry was typically philosophical. As a confirmed but open-minded agnostic, he said he did not know if there is an afterlife; but (ever the defense attorney) he added that if he were to face judgment, he thought he could plead that he had lived a good life. His family, friends and colleagues would surely want to file *amicus* briefs on his behalf: he indeed led a good life, and he shared it generously.