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SIN CITY

Foreword
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HISTORIC HOUSES TRUST
JUSTICE AND POLICE MUSEUM SYDNEY 2010

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The Hon. Michael Kirby AC CMG

From its convict origins, Sydney had its fair share of the seven deadly sins. *Anger* in abundance, as those transported to the ends of the earth came to terms with their isolation and military rule. *Avarice*, as the colony evolved from subsistence to respectability. *Envy* as the descendants of the troopers tried fruitlessly to suppress the more talented children of the convicts. *Gluttony* in the eating houses that sprang up everywhere to pass time and feed the growing population. *Lechery* and *lust* in the brothels, streets and dance halls, where sex was openly sold. *Pride* amongst the bunyip aristocracy and the local 'establishment' that mimicked the manners of the gentry back 'home'. And *sloth* on the beaches and mountains where it was so easy to just do nothing in the sunshine, as the beauty of the Emerald City came to be realised.

So Sydney had all of these 'sins'. It still has. Collecting great numbers of immigrants in a bustling port town around a harbour playground made it inevitable that eyes and minds would wander to indulgence of the senses as fallible humans vented their inclinations in a 'sin' or two, especially under the cover of night or in the leisure hours of a lazy Australian weekend. People cannot live in a playground without wanting to play. For most, that is just human nature.

Everything would probably have been different if those who settled in the Great South Land had been Buddhists who believed that a little sin, practised in moderation, was perfectly fine. The problem for Sydney was that, like the great hinterland beyond, it was ruled by an energetic, self-confident elite who espoused a stern protestant view of the seven dastardly inclinations, considering that indulgence in them would lead to eternal damnation. Saving weak mortals from their inclinations in that respect (even if the 'sins' hurt no-one but themselves) became a purpose of law and order.

Alcohol and drugs were wicked because they tended to sloth. So did gluttony. The Empire was built upon furious energy. Lechery and lust were no good because they encouraged extra-marital relations. Moreover, they tended to lead to anger or sloth. Gambling was intolerable because it grew out of avarice and envy. Depending on fortune, it all often ended up in pride or sloth. Sloth, you see, was at the heart of them all. Distractions from the *work ethic* were to be strongly discouraged. Hanging around and talking was something the 'natives' did. Not British subjects who ruled a quarter of humanity. Their job was to carry the white man's burden.

The fundamental problem with this thesis about life was that the overwhelming majority of Sydneysiders did not believe it or could not live up to its expectations. They just wanted to have a good time. And this meant indulging drinking or other drugs; gambling and sex. Between the 'standards' dictated by the law and the ardent desires of much of the population, opened up a gulf demanding services. The provision of those services promised big money.

In this outpost of Empire, trying to enforce the morality of 'home' became the duty of judges, prosecutors and police. But some of these guardians of 'morality' inevitably themselves fell victim to the temptation of the 'sins'. Or they found that there was money to be had (often in great quantities) by turning a blind eye to the 'sinners'. They could salve their consciences by assuring themselves that 'sin' would go on happening whatever they did; that laws would not be changed because of hypocritical officials, often themselves sinners; and that a little money between friends would harm no-one and supplement the miserable pay and animosity they derived by trying to enforce unenforceable laws.

Look at the stories of the characters collected in this book. Some, it is true, were nasty, violent people. But if you dig deeply enough, you will find that most of them would probably have been kind to children and animals and slept peacefully at night, believing that they were doing little more than serving the insatiable demand of their fellow citizens for an assortment of drugs, gambling and lust.

I knew Murray Farquhar, one time Chief Magistrate of New South Wales, when I was Chairman of the Australian Law Reform Commission in the 1970s. He was a delightful man. Well ahead of his time in embracing the new-fangled theories of criminology and penology. He exuded sympathy for the prisoners he had to punish, sometimes for victimless crimes that he probably regarded with disdain. He attended conferences and committee meetings and was ever supportive of reform and innovation. But he was found to be corrupt. That was a shocking discovery for the judiciary and legal profession. At the heart of his guilt lay gambling, as it did with many of the others on our list.

Neddie Smith appeared before me in the Court of Appeal in connection with a charge of contempt of court for refusing to answer perfectly reasonable questions. The Court imposed a whopping fine. Given that Neddie had no money and received a pittance for sweeping duties, I suggested a punishment that would reflect his realities. Yet viewed from the Bench, he did not look the sort of man one would like to meet in one of the dark lanes that still exists in the old parts of Sydney.

Abe Safron ran a lot of establishments, reportedly for gambling and consenting adult sexual behaviour. He knew all too well Sydney's weakness for avarice and lust. Once he too appeared before me in the High Court. It was a tax case I think. He sat in the well of the court, with Mrs. Safron I believe. He looked exactly what he was: a well-dressed, successful businessman. He was a great litigant and deployed the best lawyers of the time, including Sir Garfield Barwick QC. Barwick presented arguments of exquisite subtlety designed to beat 'the system'. In one of them, he even challenged the appointment of a State Supreme Court judge on the basis that his commission had attached to it the *public seal* of the State and not its *great seal* (*Safron v Delaney* (1953)). Lawyers loved him.

Top-ranking police commissioners make the list in *Sin City*. In the smaller community of Sydney in the 1920s, Commissioner Merv Wood grew up near my mother's family home in Randwick. Corruption of police or anyone else, unless nipped in the bud, poisons a society and is no joking matter. Yet it is never enough to punish those who are caught. A society that is serious about the subject will try to tackle the causes. That means repairing the gulf between the espoused principles of

community 'morality' and the activities which the community enjoys pursuing.

I have put 'sin' in quotes because some of the 'sins' recounted in this book are questionable, viewed in retrospect. When I was young, the *Crimes Act* 1900 (NSW) contained a number of heavily punished crimes designed to stamp out the 'sin' of homosexuality. Handsome young policemen were deployed to entrap gays in various city parks in the 1950s. The afternoon tabloids, *The Sun* and *The Mirror*, screamed the offences from their front pages. Police Commissioner Delaney, reassuringly incorrupt, pronounced homosexual 'vice' as the greatest evil facing Australia at the time. Yet scattered around Sydney, and doubtless elsewhere, were a small handful of venues where gays could meet with only occasional risks of a police raid. Looking back, some of these may have been owned by Abe Safron, with his unerring eye for a quick buck.

The SP bookmakers could not be stamped out. So they have now graduated to the TAB. And later came a casino. If we are so inclined, internet gambling on the weirdest odds of events occurring in outer Azerbaijan is available to the modern 'sinner'. Now most do not consider these things 'sins' at all.

The moral of this tale is that the seven deadly sins, and especially lust, gambling and various drugs, are very hard to suppress. Ultimately, we reach a point of asking whether the race is worth the candle. Ponder on this thought as a reality check as you read the stories of the 'sinners' collected in this book.

When I was a judge, I had no problem in punishing severely crimes of violence: homicide, assaults, knives and the rest of it. As for the so-called 'sinning' crimes, at least when committed in private by consenting adults, I dealt with them unenthusiastically. I would do my duty, for it is not the judge's privilege to ignore laws made by parliament. But I would do it with the knowledge, born of my own experience growing up in Sydney, that 'sin' is often in the eye of the beholder. Even in the playground of the Harbour City, there is an awful lot of it and much hypocrisy about it besides.

Perhaps, in the end, Sydney was not "Sin City" after all. Just a cosmopolitan beautiful, generally tolerant and up-to-date place, where people wanted to enjoy life to the full in an environment blessed with the beauties of the world and with people mixed together from its four corners.

Michael Kirby

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