

Obituary†

John Hailes Flood Nagle, 1913-2009

John Hailes Flood Nagle, born in Albury on 10 July 1913, the second of nine children of a solicitor, Valentine Flood Nagle, and his wife, Margaret (nee McDonald), was one of Australia's great jurists, an unassuming man who never lost his compassion and sense of fairness. He left his mark on public administration in Australia by his landmark report, in 1978, on conditions in the New South Wales prison system, and one of the great frustrations of his life was that implementation of his report became mired in politics.

He was certainly bred into the law. His great-grandfather, William Nagle, had practised law in Dublin. Nagle's grandfather, also named Valentine Flood Nagle, migrated from Ireland in 1857, graduated in law and moved to Albury, where he set up a legal practice in 1875. Nagle's father became a solicitor in Albury.

John Nagle, educated at Christian Brothers College, Albury, arrived in Sydney at the age of 15, entered St John's College, Sydney University, and did an arts degree, graduating in 1932. He completed his law degree with honours in 1936. Some time after that, he turned out for a Riverina rugby league team against a visiting English team.

Nagle was admitted to the bar in 1939 and, a few months later, Australia declared war on Germany. Nagle enlisted and as Gunner Nagle, VX1143, he served in the Middle East with 2/5 Field Regiment AIF. He also served in the south-west Pacific as a paratrooper. His younger brother, Val, was killed in action in New Guinea. Nagle married Stephanie Scott in 1944 and by the time the war ended he was a major and second-in-command of his battalion.

His interests were expansive, one being the importance of education, which he retained for the rest of his life and which inspired him to push for the extension of tertiary education in the Riverina. Another passion was good, powerful cars. In 1951, he was one of an English Jaguar motor racing team that took second place in the Monte Carlo rally. He had one child, Winsome, but his marriage ended in the early 1950s and he did not remarry.

Nagle joined the Bar Council from 1954. In 1959 he became secretary of the Bar Association and was appointed a QC. Among his friends and contemporaries were the future prime minister Gough Whitlam and the future governor-general Sir William Deane. Nagle, whose nickname among friends was 'Gaffer', practised mainly in common law and in commercial and criminal law. He became a judge of the Supreme Court in 1960, and was soon widely known as a protector of individual rights and a judge who treated all who came before him as equal in the eyes of the law.

In 1977 Nagle was made royal commissioner into NSW prisons. He went on a seven-week tour of jails in North America and Europe, then began a detailed look at NSW prisons, where he was horrified by the conditions and the brutality. The inquiry, in which Nagle was assisted by David Hunt QC, led to a hard-hitting report, which among other things led to the closure of the maximum security unit, the 'electronic zoo', Katingal, at Long Bay. The then Chief Justice of NSW, Sir Laurence Street, was to say: 'After months of careful and thorough inquiry, Justice Nagle produced a report which has justly earned acclaim from all political parties and throughout the various strata of our society.'

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Nagle himself was reluctant to talk about the commission. He remained a very private person and only wanted the sparsest details recorded in *Who's Who in Australia*. He was disappointed that more was not done with his report but he said on the record: 'I hope that it changed the attitude of the public to prisons; that people came perhaps to realise you can't lock prisoners up and forget about them. I have maintained my interest in prisons. I read a lot about them. But I've never visited one since.'

In 1977 Nagle was appointed the president of the board of trustees of the Art Gallery of NSW. In 1979 he was appointed the chief judge at common law and in 1981 he was made an officer of the Order of Australia. He retired on 7 July 1983, at the time the longest-serving judge of the NSW Supreme Court. In retirement he went to a 700-hectare property at Brae Springs, near Albury, where he grew oats and ran sheep and cattle.

Nagle was recalled in 1986 to head a special commission of inquiry into the NSW Police handling of the murder of the anti-drugs campaigner Donald Mackay. In the report, Nagle was critical of the police officer handling the investigation, Joe Parrington. He was severely critical of the former MP Al Grassby, who he said had propagated the 'scurrilous lies' about the Mackay family at the behest of groups within the Griffith community.

In 1991 a group of academics led by Dr (now Judge) Greg Woods, QC, wrote a letter to the *Herald* in which they appealed for penal reform: 'In our view the public is not protected if the penal system is based on increasingly heavier punishments inflicted in increasingly degrading and neglected prisons. There needs to be a recommitment by the legislature and prison administrators to the principles set out in the very valuable 1978 report into NSW prisons by the royal commissioner, Mr Justice Nagle.'

John Nagle died on 16 September. He is survived by his daughter, Winsome Anne Duffy, his grandchildren, David, Eve McBean and Sean, and six great-grandchildren.

Malcolm Brown