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# Remarks Matt Byrne Memorial June 23, 2006

Ron L. Olson\*

Chief Judy Schroeder, Chief Judge Stotler, members of the Judiciary, Law Enforcement Officers, Honored Guests and of course Lyn, Esther and Family:

First, for a moment, let me take you back to September 11, 1858 at Edwardsville, Illinois. There, like here today, a large group of citizens had gathered. Instead of inside the courthouse as we are today, the citizens were gathered just outside the courthouse on the town square. On a raised wooden platform sat the then powerful Illinois Senator Stephen Douglas. In front of him, standing at the podium, was his challenger. With a large voice and heavy eyes, and an even heavier message, Abraham Lincoln posed a most fundamental question for Senator Douglas and the townspeople gathered for their debate.

He asked, “[w]hat constitutes the bulwark of our own liberty and independence?”<sup>1</sup> In answering his own question, he said, “[i]t is not our . . . battlements, . . . [nor] guns, . . . [nor] gallant . . . army . . . [Rather], [o]ur reliance is in the love of liberty . . . . Our defense is in the preservation of the spirit which prizes liberty as the heritage of all men [and women], in all lands, everywhere.”<sup>2</sup>

I ask: who are the soldiers who have carried the burden of defending our liberty and independence? And I would argue it is first and foremost our judiciary. The best of our judges create a moral tide that protects liberty and builds the bulwark of our independence.

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\* Ronald L. Olson received his B.S. degree from Drake University in 1963, his J.D. degree from the University of Michigan in 1966, and a Diploma in Law from Oxford University, England, in 1967. In 1967, Mr. Olson worked as an attorney for the Civil Rights Division of the Department of Justice and in 1968 clerked for Chief Judge David L. Bazelon, United States Court of Appeals for the D.C. Circuit. From 1968 to the present, he has practiced law with the Los Angeles law firm now known as Munger, Tolles & Olson.

1. Abraham Lincoln, Speech at Edwardsville (Sept. 11, 1854), *available at* <http://showcase.netins.net/web/creative/lincoln/speeches/liberty.htm>.

2. *Id.*

The Honorable William Matthew Byrne was at the forefront of that war for over thirty-five years. He taught us that it is not enough that we have law. There must also be profound respect for it. Why? Because courts, like this one and like most religions, rest their authority not so much on fear as on deference.

Judge Byrne's personal and professional integrity, like this court generally, always, without exception, rooted out any bias or personal gain. His integrity would not allow it, and his integrity and respect for the law is part of that moral tide that has defended the liberty of each of us. That is point one.

Point two. I know of few individuals in our profession—lawyers or judges—who extended themselves as generously and gregariously as Judge Byrne. He didn't just decide cases, he taught how to investigate them, how to try them and how to settle them. He taught those skills to lawyers in his courtroom, to his many clerks, to students at Loyola Law School, to lawyers from California to Florida, and even to a few of his fellow judges.

He didn't just read the law, he shared its highest purpose with judges from Russia to Jordan to China. The rule of law and independence of the judiciary is now better understood because Judge Byrne has embodied it. Here is how he explained it to Soviet lawyers and judges in September 1986. The National Law Journal reported his explanation of judicial independence as follows, "In our system, a judge can tell the President of the United States—or Government—to get away; if you will to 'Go to hell' – you are not going to interfere with my decision."<sup>3</sup> In looking back, I wonder if this is what was going through his mind as he made his rulings in the Daniel Ellsberg case.

Third is an observation closer to home. By example, Judge Byrne taught us the joy and importance of lawyers reaching out beyond just being lawyers. Judge Byrne loved his hometown—Los Angeles—and he loved California, all of it. More importantly, he shared that love with countless others. From Loyola High School to Pomona College to USC, from the Norton Simon Museum to the Jules Stein Eye Institute, from the High Sierra flowers to Baja quail, he reached out to touch, to preserve, and to enhance the community he loved.

Finally, I make one last observation—friendship. As Nelson noted, have any of you known anyone who had more close friends? Steven Sondheim observed: "[Multiple] new friends pour through [life's] revolving door; maybe, there's one that's more?"<sup>4</sup>

For so many of us, Matt was that one and if you became one of Matt's close friends, he would share his greatest treasure, his most valued

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3. Source on file with author.

4. STEVEN SONDEHEIM, *MERRILY WE ROLL ALONG*, lyrics available at <http://libretto.musicals.ru/text.php?textid=224&language=1>.

possession with you—and that, of course, was his treasure trove of other close friends.

One place, his favorite place, for sharing friends was Flat Creek Ranch, high above Jackson, Wyoming. As I look about the audience, I see a number of you who shared that experience with him. You will remember the harrowing ten mile drive with a four-wheel drive jeep to get there, the meandering stream full with trout—and often a moose cow and her calf—the highest bald eagle nest in North America, and the old log cabins lit by kerosene lanterns, and the lake—the lake surrounded by gnarled granite canyon walls. One twilight, as we stood on the old wooden porch, glass in hand, watching the lake reflect the canyon walls like a great grand cathedral, Matt considered his death. “You know,” he said, “I’d surely like to make it to heaven; but if you get a chance, Ron, let God know I would be happy to settle for Flat Creek.”<sup>5</sup>

One day I hope to learn how Matt and God resolved it. Thank you for this rare, and I hope not the last, opportunity to honor our friend William Matthew Byrne.

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5. The quoted material references the author’s own recollection of his conversation with Judge Byrne.

