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Judge William Matthew Byrne: An Irish Reflection

Mark H. Tuohey III*

And here's John Synge himself, that rooted man
'Forgetting human words,' a grave deep face.
You that would judge me do not judge alone
This book or that, come to this hallowed place
Where my friends' portraits hang and look thereon;
Ireland's history in their lineaments trace;
Think where man's glory most begins and ends,
And say my glory was I had such friends.¹

Judge William Matthew Byrne was a friend to many people and many institutions throughout the country and the world. Some were legion, others ordinary, and a few unique, but all were important in their own way to Judge Byrne. Yet none became more important to the judge than his native Ireland—her people, her legal system, and her struggles. His love of Ireland was matched by a commitment of his expertise and experience in our legal system and the administration of justice to affect meaningful change to those institutions in Ireland and Northern Ireland.

My own association with Judge Byrne began in the early 1980s where we served together on several American Bar Association committees involved with various law reforms in the administration of justice. Former ABA President John Curtin appointed a Working Group to develop an initiative, which included Irish barristers and solicitors and American litigators, to explore issues affecting the trial bar, but most importantly to initiate a dialog. The dialog began in Dublin, Ireland in the summer of 1985. Together with leaders of the bench and bar in Ireland, and in particular David Byrne S.C., a leader of the Bar Council of Ireland who went on to serve as Attorney General of Ireland and Ireland's Commissioner in the European Union, a remarkable relationship between leaders of two

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1. W.B. YEATS, *The Municipal Gallery Revisited*, in THE VARIORUM EDITION OF THE POEMS OF W.B. YEATS, 601, 603-04 (Peter Allt & Russell K. Alspach, eds., 1968).

similar, but distinct legal systems began, and endures, due in no small way to the personality and talents of Judge Matt Byrne.

The issues over the twenty-five years of Judge Byrne's interaction with Ireland were varied, and not without controversy, but always geared to address or improve a process or resolve a thorny problem. The initial Dublin Conference in 1985 dealt with improving the ability of the trial lawyer to communicate. Judge Byrne masterfully chaired a series of presentations to a large audience of American and Irish judges and lawyers which presented innovative ways to conduct oral argument (Irish barrister style) and present computer generated evidence (American litigator style) to a fact finder. Both Ireland Chief Justice Tom Finley and U.S. Chief Justice Warren Burger commented that Judge Byrne's contributions set the tone for meaningful improvements in advocacy for the profession.

Following the Dublin conference, Judge Byrne was a key member of a delegation of lawyers and judges sent to Northern Ireland—the first such delegation in memory—to meet with our colleagues from bench and bar in Belfast and discuss the legal implication of “the Troubles,” a benighted term which describes the years of sectarian violence between Catholics and Protestants in Northern Ireland.² Judge Byrne was immediately drawn into discussions with his Northern Ireland judicial colleagues on the practical and theoretical aspects of the special criminal court established to try persons charged with terrorist offenses. The “supergrass”³ court proceedings generated considerable controversy because of the summary nature of the trial proceedings, the restrictions on the right of confrontation, and admissibility of evidence, and the severe security measures which obviated the notion of a public trial.⁴ During the late 1980s, Judge Byrne had the opportunity in Northern Ireland and the United States to engage in several discussions with lawyers, judges, and public officials over these procedural due process issues in ways that contributed to reform of the process. The judge believed with fervor and reverence that the system of public trial by jury, with all of its magnificent blend of openness and procedural protections for the rights of the parties to a fair trial, was essential to democratic society—even in times of strife.

In the aftermath of the important reconciliation initiatives, including the Anglo-Irish Accords in 1985⁵ and the Good Friday Agreement in 1998,⁶

2. See, e.g., Jennifer Schense, *Creating Space for Change: Can the Voluntary Sector Help End Northern Ireland's Troubles?*, 11 HARV. HUM. RTS. J. 149, 160 n.46 (1998).

3. “‘Supergrass’ refers to the blanket grant of immunity to a person probably involved in an act of terrorism in exchange for his or her proffering evidence against the other principals.” See Carol Daugherty Rasnic, *Northern Ireland's Criminal Trials Without a Jury: The Diplock Experiment*, 5 ANN. SURV. INT'L & COMP. L. 239, 249 (1999).

4. See generally, John D. Jackson, *The Restoration of Jury Trial in Northern Ireland: Can We Learn From the Professional Alternative?*, 2001-2002 ST. LOUIS-WARSAW TRANSATLANTIC L.J. 15 (2001).

5. This was an agreement between the Government of the Republic of Ireland, and the

attention turned to the policing function and its critical role in reconciliation in the divided society of Northern Ireland. The governments of Northern Ireland, Ireland, and the United Kingdom, as part of the 1998 Agreement, established The Independent Commission on Policing in Northern Ireland (“the Patten Commission”)⁷ to create a police service acceptable and accountable to the people of Northern Ireland, reflective of their diversity, and efficient in a policing, rather than military, operation. I was privileged to serve as a consultant to the Patten Commission and again called on the judgment and experience of Judge Byrne. His service as a federal prosecutor, a federal judge, and member of numerous appointive investigative bodies enabled the judge to offer a balanced perspective on difficult problems confronting police services in a divided society as well as in democratic societies. His thoughts on crime prevention, partnership with the community, protecting the rights of all citizens, and integrity issues were relevant, timely and practical. Furthermore, in my opinion, they helped to shape my own thinking, and in turn, the thoughtful and workable recommendations in the Patten Commission’s reports.

Whatever the issue—from the procedural nuances of administering judicial tribunals appointed by the Irish government to investigate official misconduct, to law enforcement approaches to drug trafficking, to administration of justice issues in a combined European Union—Judge Matt Byrne offered his help selflessly to Ireland. He advised Ireland’s Taoiseach (Prime Minister), Chief Justice, Attorney General, and other Irish officials who sought his wise counsel. But it was not all business. Matt Byrne loved to tell a good story with a touch of brogue, to sing the lilt of an Irish lullaby, and with the twinkle in his eye, to warm your heart with friendship. His address to the Los Angeles Society of the Friendly Sons of St. Patrick’s Annual Dinner several years ago captured the Irishness of Judge Matt Byrne as he saluted his Irish roots and the Irish character. We spent many days together in Ireland during our twenty-five year friendship. Our last trip together in 2004 began with a wonderful week of fly fishing in Ballinahinch in Connemara, and ended in Dublin where the judge, surrounded by friends from bench and bar, politics, and prose, beamed with pride as he reflected on his life as an Irish American.

Government of the United Kingdom of Great Britain and Northern Ireland. See Kate Fearon & Monica McWilliams, *The Good Friday Agreement: A Triumph of Substance Over Style*, 22 FORDHAM INT’L L.J. 1250, 1250 n.2 (1999).

6. See *id.* at 1250 n.1.

7. A NEW BEGINNING: POLICING IN NORTHERN IRELAND, THE REPORT OF THE INDEPENDENT COMMISSION ON POLICING FOR NORTHERN IRELAND, at 1.1-1.3, available at <http://www.belfast.org.uk/report/fullreport.pdf>.

This tribute began with the words of Ireland's First Nobel Prize bard, W.B. Yeats and it concludes with a verse of her most recent Nobel Prize bard, Seamus Heaney, whose words match actions of Judge William Matthew Byrne:

The old man rose and gazed into my face
and said that was official recognition
that I was now a dual citizen.
He therefore desired me when I got home
to consider myself a representative
and to speak on their behalf in my own tongue.
Their embassies, he said, were everywhere
but operated independently
and no ambassador would ever be relieved.⁸

8. Seamus Heaney, *From the Republic of Conscience*, in *THE HAW LANTERN* 12, 13 (1987).