

CHAPTER FIVE

Funeral and Inquest

"The Government have no wish to interfere with the solemnity and dignity of any funeral ceremonial, but they cannot tolerate any defiance of the law."

**- Official communique issued on Wednesday,
April 9 1919, in advance of Robert Byrne's
funeral.**

On Tuesday, April 8, at Meelick, the Coroner for East Clare, Mr Michael Brady, opened an inquest into the death of Robert Byrne. The inquest began at John Ryan's cottage, where Byrne had died. The remains were identified by Sergeant James Walshe, a plain clothes member of the RIC from Limerick and by the deceased's brother Thomas.

Dr T Humphreys, Resident Medical Officer to the Workhouse and Dr James Brennan, visiting physician there, carried out the post mortem examination. Dr Humphreys said there was a small circular external wound just below the heart, but he could not find a corresponding exit wound. He could not find the bullet, which had taken a backward and downward course. It penetrated the left lung and the walls of the stomach and apparently lodged in the intestines. In a portent of allegations yet to come, District Inspector McClelland of the RIC objected to a line of questioning and to the admission of evidence that suggested the fatal shot had been fired at close range. The doctors cited haemorrhage, peritonitis (inflammation of the intestines) and shock as the causes of death.

The Coroner agreed to hand over Byrne's remains to his relatives for burial and adjourned the inquest for a week. Michael Brennan, of Meelick, a leading member of the IRA, complained that the Volunteer uniform had been removed from Byrne and a file was indeed opened in Dublin Castle under the title "Robert Byrne - Forfeiture of Volunteer uniform." This suggests the removal complained of was a deliberate act of policy.

An estimated ten thousand people attended the removal of Robert Byrne's body from John Ryan's house in Meelick to Saint John's Cathedral in Limerick. The coffin, covered in the Republican tricolour, was borne the distance of three miles or so on the shoulders of Volunteers. Close on ten thousand mourners from Limerick and Clare marched in a military style escort with the hearse.

During the parade, there was no police interference, police and military having been withdrawn from the streets. But the authorities were not prepared to accept further open defiance. On the night of the removal, an Assistant Inspector General of the RIC visited Limerick, while Major Maunsell, Chief Intelligence Officer, Southern District, arrived with other military officers. Their visit was said to be in connection with the mapping out of a portion of Limerick to be placed under martial law. The following day, Wednesday April 9, the authorities' determination was underlined in an official communique issued as a public notice: "The Government have no wish to interfere with the solemnity and dignity of any funeral ceremonial, but they

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cannot tolerate any defiance of law. Anything in the shape of a military parade or assembly in military formation will at once be stopped. The Government will accept no responsibility for any consequences which may arise from disobedience of this order".

All that day, thousands of people passed by Robert Byrne's coffin, lying in state before the high altar in Limerick Cathedral and the flag of the Town Hall flew at half mast.

On Thursday, April 10, Robert Byrne was buried in Mount Saint Laurence's Cemetery in Limerick. The funeral was as much a city's display of defiance as an expression of sorrow. There was a strong military presence throughout the day. Armoured cars flashed through the streets, and coming up to two o'clock, sections of soldiers with fixed bayonets and police took up positions along the funeral route. Each section was supported by an armoured car and an ambulance. A military aeroplane circled above the Cathedral and followed the procession for part of the way.

At ten past three, the funeral left the Cathedral. The hearse was covered in wreaths, and many more were carried by Volunteers following behind. The "Irish Independent" termed it "a most remarkable funeral demonstration. First came the Catholic clergy of the city churches, the wreath-bedecked hearse, the flag-draped coffin borne by Volunteers, the chief mourners and a seemingly endless number of Volunteers from Limerick, Clare and Tipperary with Cumann na mBan. A further five thousand must have marched - including the Mayor and members of the Corporation in state."

The funeral made its way through the old town, the Mall, Patrick Street, William Street, to the cemetery. The mourning throngs wore armlets of crepe and the Sinn Fein colours of green, white and orange. As the coffin passed points where the military and police were posted, the troops presented arms. At the corner of O'Connell Street and William Street, the clatter of rifle butts on the cobbled setts and the glint of bayonets in the sunlight caused a moment of panic among the crowd. A few onlookers were slightly injured in a wild stampede.

Among the mourners at the graveside were the deceased's cousin Alfie Byrne, a former National Party MP, Alderman of Dublin Corporation, and famous Lord Mayor of that city. The mourners also included railway workers and employees of some local stores who had taken the day off when refused a half holiday to attend the funeral. Already, the emotions aroused by Byrne's death were having their effects among some workers. Byrne's Post Office clerical colleagues in Limerick, Thurles and Limerick Junction and the Limerick Postmen laid wreaths at the grave. His brother, Thomas, worked as a chemists' assistant and the assistants' Association passed a vote of condolence. More significant perhaps was the vote of sympathy passed by the ITGWU on the night of the burial.

With the funeral of Robert Byrne ended, public attention could focus again on the precise and increasingly controversial circumstances of his death. The issues arose with devastating clarity, not in the resumed inquest on Byrne himself, but in the more unlikely forum of the inquest on Constable O'Brien.

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The Byrne family retained Mr Patrick Lynch KC to represent their interests at the O'Brien inquest and at Byrne's own inquest. Lynch was a member of a prominent Nationalist family who had unsuccessfully challenged Eamon de Valera in the crucial East Clare by election of July 1917. In the subsequent years of the War of Independence, he represented Republican interests in a number of celebrated trials and inquests.

Mr Lynch first questioned the legality of Byrne's detention at the Workhouse Hospital during the adjourned inquest on Byrne himself. But, the following day, in the inquest on Constable O'Brien, he developed the idea and made a sustained legal attack on the validity of the detention. By undermining the legality of Byrne's detention, Lynch's aim was to dissuade the jury from bringing in a "verdict at large" - in simple terms, implicating a person or persons "unknown" in the killing of the policeman.

Lynch began his final speech to the jury by emphasising the wide powers of a Coroner's court. It could issue a warrant for the arrest of anybody, who could be tried without any intermediate intervention by a magistrate. If the jury returned a verdict beyond the actual cause of death, they would be opening up a very large field of investigation, he said.

The inquiry, according to Lynch, had been conducted in a very singular way. They had evidence that Byrne was a patient in the hospital, but none to show he was sentenced to imprisonment or that he was a prisoner on the day of the rescue, any more than any other patient in the hospital. If friends and relatives came to take away a prisoner, what right had anyone to stop them? Byrne was not a prisoner, he argued, and how did his case differ from that of any other patient?

Mr Lynch said the jury could not bring in a verdict against people or attribute crimes to them without evidence, and the jury were not to assume that because a warder took up position beside him that Byrne was in legal custody. The police were bound to prevent a prisoner being taken from them, and they would be justified in using a great deal of force in doing so, but there was no pretence in this case that Byrne was their prisoner.

"If the matter was probed and investigated," said Lynch, "it would be found that men who were ill and transferred from other prisons to hospitals for treatment did not leave in the custody or company of a warder because there was no legal sanction to send one." If that were so, the warder John Mahony had no more right in the ward than anyone who might be a trespasser, except he was there with the courtesy of the Infirmary Guardians. He had no right to hold Byrne once he left the walls of Limerick Prison, and neither the warder nor the police had any right to detain him in the hospital.

In legal terms, the inescapable conclusion from Lynch's argument was that Byrne was not held in legal custody at the time of the shooting. Therefore, any violence used by the police or warders to restrain him had no legal backing. His death from a bullet wound sustained in the Infirmary struggle could, therefore, be characterised as contrary to

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law - either murder or manslaughter.

In Dublin Castle, the authorities requested a legal opinion on the legality of police remaining in an Infirmary to prevent the escape of a prisoner. (5) The Castle records indicate this request referred to a case in Cork Infirmary. It may, indeed, have referred to Cork, though the relevant file number is contemporaneous with the events in Limerick. The file is no longer held in Dublin Castle, but the records note it was handed over to the Irish Free State Department of Justice on May 5, 1925 - an interesting example of the similarity, and continuity perhaps, of the problems faced by the new state.

In any event, Lynch's eloquent plea had the desired effect locally. In Constable O'Brien's case, the jury perfunctorily returned a verdict that his death was due to haemorrhage, the result of a bullet wound. They did not, therefore, seem to take any account of a plea from the Crown Solicitor for Limerick, Mr J S Gaffney, that the .38 calibre bullet found in the Constable's body indicated he had been shot by a non-Constabulary weapon.

The following day, at the conclusion of Robert Byrne's inquest, a different jury showed no hesitation. After only twenty minutes deliberation, they found that "Robert J Byrne met his death by a revolver bullet discharged by either Constable O'Brien or Constable Spillane." (6) Here, the decisive evidence was that of Doctor John Holmes, of Barrington's Hospital, who spent the last hour or so with Byrne before he died.

Holmes asked the dying man: "How did this happen to you ?"
He replied: "I was jumping out of bed."
Holmes: "Do you know who did it to you ?"
Byrne said: "The man that was shot." "That was all he said", continued the witness, "that was relevant as to how he sustained the wounds."

This evidence pointed towards either Constable O'Brien or Spillane (since both were "shot") as the man who had pulled the trigger on Robert Byrne. But, first, there was legal argument as to whether or not Byrne's words could be admitted in evidence.

Dr Holmes said he saw Byrne at about seven o'clock on the evening he died, and he was vomiting blood about every quarter of an hour. Byrne said to him: "This is going to do for me doctor. Is it not ?" Then he said: "I am not afraid to die, in any case."

The State Solicitor, Gaffney, pointed out that there were only two cases where a dying declaration was admissible in evidence. One was where there was a charge of murder against a person then on trial, and the other was in the case of manslaughter and in the presence of the person being indicted for that manslaughter.

Lynch's reply was clever. Murder and manslaughter were both charges arising from the death of someone, but in an inquest too, it was a death they were dealing with. In such a case, he argued, what more powerful evidence could there be than the "voice from the grave" ? If the deceased man knew he was dying - if he knew he was in a dying condition - and if counsel could produce evidence for the Coroner and the jury incriminating any person, then the jury could bring in a

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verdict against the person incriminated, and on their finding, the Coroner could issue his warrant for the arrest of such person. If the jury had power to issue a warrant and bring in a verdict, they had the same power to receive evidence to justify a warrant. If the evidence led to a conviction afterwards, surely the hearing of such evidence in the first place was admissible ?

P J Kelly, one of the Resident Magistrates for Limerick City, witnessed much of the inquest and sent a graphic account of the proceedings that day to the Under Secretary at Dublin Castle. Kelly expressed concern about the inflammatory nature of comments made about him by O'Brien Moran, a solicitor representing Arthur Johnson, one of those arrested when Byrne's body was found. The Solicitor General advised the Under Secretary that the Coroner had discretion about how he conducted proceedings, unless they were irregular and could be quashed by the High Court. As regards speeches, nothing could be done, unless proceedings were justified against the speakers.

Kelly's report said that more than five hundred people were present in Limerick City courthouse for Byrne's inquest. There were frequent bursts of loud applause, cheering and unrestrained clapping of hands, according to Kelly. From the extended report on the inquest in the "Irish Independent" we get a flavour of Lynch's final speech to the jury.

From the evidence, said Lynch, they could gather that Mr Byrne belonged to the Irish Volunteers, "a body recognised by everybody as remarkable for the purity of their lives, nobility of motives and their unselfish love of the land that bore them." That statement was received with prolonged cheering.

Nearly sixty years later, in a series of conversations with the Limerick historian, Jim Kemmy, Batty Stack admitted it might have been a bullet from his gun that killed Robert Byrne. The sixteen years old Stack himself did most of the shooting in the Workhouse Hospital ward. He fatally wounded Constable O'Brien, but may have unwittingly wounded the prisoner too, as a weakened Robert Byrne tried desperately to ease himself out of the line of fire. With the benefit of hindsight, then, the Crown Solicitor's claim that the calibre of the bullet found in Constable O'Brien's body showed that he was killed by a non-Constabulary weapon, is seen in a new light.

Within the IRA, Batty Stack had a reputation as a cool and efficient killer, a squat gunman who shot first and did not talk afterwards. Although IRA members often recounted their exploits in bolt holes like a favoured public house in Nelson Street, Stack was noted for his silence. In the aftermath of the Workhouse rescue, his coolness stood to him and he allowed the British authorities to suffer the blame for the killing of Byrne, while he kept the truth to himself.

In the early months of 1919, Stack had taken part in numerous IRA operations. Although he lived in a largely Republican community, at Carey's Road near Limerick's railway station, Stack took little part in any overt anti-British demonstrations. Like others with military expertise, he was kept in the background for the "real" fight - the armed attacks on police and army.

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Eventually, Stack's exploits came to the notice of Michael Collins, who was then intensifying the military campaign against British occupation. He was seconded to IRA Headquarters, in Dublin, and became one of Collins' select and hand-picked assassins, whose activities, had such a disproportionately devastating effect on the morale of the Crown forces. Stack would often disappear from Limerick for days on end and the few people "in the know" would scan the newspapers for details of the latest IRA shooting escapade.

The startling outcome of the inquests on O'Brien and Byrne was an unpleasant shock for the British authorities and the people of Limerick. But, while all of this was emerging behind the walls of the Courthouse, other events had been taking place in Limerick and the shock of the inquests was as nothing compared to the tremors that were being prepared.

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