

NOS DISPARUS

Darrell O'Byrne

A story about Darrell O'Byrne is a celebration of life. Although he passed away on November 4, 2013, at the all too young age of 64, he left a lasting legacy through his contributions to the law in northern British Columbia and the fond memories of all who knew him.



Darrell was born August 21, 1949, in Winnipeg. He was the second of four brothers: Dave, Darrell, Don and Doug. His was a military family, and the family moved from Winnipeg to Ottawa, to Winnipeg again, then to Vancouver, where Darrell completed his high school.

From his early days, singing was a passion for Darrell. He played the main role in his high school's production of *Brigadoon*, and this passion for singing continued throughout his life. He was in various choirs during the time he practised law in Terrace and Prince Rupert and was a member of the Prince George Cantata Singers from the time of his appointment to the Provincial Court.

It was obvious from an early age that Darrell was destined to be a lawyer. When Dave was 12 and Darrell 10, they were riding their bikes in Winnipeg and "blew" through a four-way stop. A police officer, who was sitting there in his cruiser, gave chase. Darrell stopped—or, as Dave described it, he was just too slow to get away. Reluctantly, older brother Dave returned to the scene of the crime expecting that they would receive just punishment from the police—but, oh no, Darrell wouldn't tolerate that! By the time he was done, he had successfully completed his first plea bargain and the boys were sent off with a pat on the back.

Before he became a lawyer, Darrell had a real job. From 1965 to 1979, he was one of those smiling and helpful store clerks for Canada Safeway. He

maintained that employment while finding time to graduate from the University of British Columbia with a history degree in 1976 and a law degree in 1979. He was one of over a dozen people from that law school class to become a judge of the Provincial Court. His classmates included former Chief Judges Carol Baird Ellan and Hugh Stansfield.

Leaving the exciting life of stocking shelves with fresh rutabagas, canned peaches and large boxes of laundry detergent, Darrell embraced the law. He articulated in Vancouver and was called to the bar in 1980.

In the early 1980s he practised in Prince George briefly with the firm of Aartsen, Morrison and Company before making his way west to Terrace. There, he practised first as Crown counsel and then for 10 years in partnership in the firm Halfyard, O'Byrne and Wright. His partners, Doug Halfyard and Terry Wright, both became judges, Doug on the Supreme Court and Terry on the Provincial Court.

Darrell embraced technology wholeheartedly and, as with the law, was always interested in learning something new. In the 1980s, he convinced Doug and Terry to jump into the electronic age, both with computers and with fax machines, which at that time had not been widely accepted by the legal profession. Darrell would often amicably clash with his partner Doug, who was definitely "old school" when it came to these decisions. Darrell joked that if Doug had his way they would still be using a quill and parchment. So Darrell would craftily wait until Doug went away on his yearly holiday in Hawaii to implement any changes in the law office.

One time Doug, who was also adamantly against any kind of advertising, returned to find a brand-new sign on the roof of the law office. The sign was about 4 feet high and 20 feet long, with the words "Halfyard, O'Byrne and Wright" written on it in giant letters. Doug quipped that the sign was so big it was visible from the surface of the moon.

For years, every Friday afternoon the local bar would gather at Halfyard, O'Byrne and Wright to have a drink or two and enjoy Darrell's company, which would invariably include various war stories.

While in Terrace, Darrell was one of the leading criminal barristers in that city, being involved in numerous high-profile cases, including many jury trials. Darrell soon became very well known throughout the north, representing clients in criminal cases of all varieties, from minor shoplifting cases in the Provincial Court to lengthy and complicated murders and conspiracies before juries in the Supreme Court.

However, what many people don't know is that Darrell was one of the 22 lawyers for various parties who toiled on the seminal aboriginal rights case from the Northwest, *Delgamuukw*, for the 374 days the trial lasted. The reasons for judgment were so long they were published in book form.

In 1992, he and Irene Peters formed a professional and personal partnership in the halibut capital of the world, Prince Rupert, where they practised together for 12 years, until Darrell was appointed to the Provincial Court, sitting in Prince George.

As a criminal lawyer, Darrell believed that there was always a defence—you just had to find it. On one occasion while still in practice, he was on a short break on day three of a three-day trial when he suddenly announced: "I just figured out what my defence is!" His mind was like that—always going at 100 miles per hour, always cooking up novel ways to successfully defend what looked like an impossible case.

Darrell was known as a master of the law and for tirelessly researching every detail of his case. One example involved a Ministry of Transportation scale master for logging trucks that went on a rampage and gave out about 400 tickets in a particular week. Darrell methodically researched a defence. While it may be a technical argument to say that this particular scale master, not having been appointed by order in council and listed in the *Gazette*, was therefore not properly appointed and thus unable to legally issue tickets, that argument succeeded and Darrell was the folk hero of a generation of log haulers in the North.

The delays in the court system in Prince Rupert were legendary during the last few years of Darrell's time as a lawyer—waiting two years, even three years for your trial was, unfortunately, often considered the norm. Darrell took to calling himself "Delay O'Journ". On one occasion, he even insisted that lawyer friends of his should name their cat "Askov".

And Darrell had nicknames for everyone, not just for himself. Court staff were variously "The Welsh Goddess" and the "Prairie Princess". Many times he would waltz into the trial coordinator's office and, with a flourish, announce: "Madam le French Wench! Delay O'Journ at your service!" It was part of his charm that you considered it a compliment to have one of his nicknames bestowed upon you.

He always had a quick reply. One example was the time that the Legal Services Society demanded to know why he had chosen to fly from Prince Rupert to Haida Gwaii for court rather than to drive. Without skipping a beat, he explained: "Because they haven't built the bridge."

In addition to his legal practice, Darrell was very involved in legal volunteerism, having at various times assisted in organized workshops for the bar in the Northwest, speaking to various college and high school classes, and volunteering with the Lawyers' Assistance Program.

He was a bencher of the Law Society for Prince Rupert County from January 2004 until his appointment. In December 2004, he was honoured with an appointment as a Queen's Counsel.

Darrell was appointed to the Provincial Court on August 29, 2005, and began his all too brief but storied second career in the law as a judge.

He was admired by clerks and sheriffs everywhere. He had to be extra nice to the clerks because his daughter Katrina is one, and if her dad was grumpy to a clerk, she would hear about it—and then would let Darrell hear about it in no uncertain terms.

Darrell became the administrative judge for the Cariboo Northeast District of the Provincial Court in July 2008. He came to the role reluctantly, protesting all the way that he knew nothing about administration and didn't want to learn, but he would "take one for the team".

Once there, he took on the role of a taskmaster—to himself. He would often take the really challenging files because he didn't want to burden the rest of his colleagues with the serenity-testing cases.

Throughout his career, Darrell was famous for having a particular way of capturing the essence of a topic in a pithy phrase. Everyone called them "Darrellisms". Not all of them were politically correct, but they certainly got the point across. They included:

- (a) Colder than a mother-in-law's kiss (reference to the weather).
- (b) As nervous as a long-tailed cat in a room full of rocking chairs.
- (c) Breach your bail, go to jail (behave in the community, or sleep in a cell).
- (d) We don't want you scummy pot growers from the Coast up here in the Cariboo (we have enough of our own criminals without encouraging imports).
- (e) You only get one lick at the lollypop; if you breach your CSO, next time bring your toothbrush to court (on a conditional sentence order you get to serve your jail sentence in the community in your own home, with your faithful dog by your side. But if you breach your conditions, then obviously you are not paying attention so you can sleep in a cell).
- (f) The "helpless desk" (as noted above, Darrell had an interest in all things technological. The court's IT department helpdesk is part of a bureaucracy. This is not a good mix. In the north we are often forgotten by the powers-that-be in the Big Smoke).
- (g) Asserting in a decision that a couple of Asian marijuana growers in the Cariboo would "stand out like two palm trees on the prairies" (that comment even made it into the Vancouver papers and no doubt gave the learned justices on the Court of Appeal something

to scratch their heads about as they searched for his reasoned path to conviction).

- (h) A regular comment that “it is always better to do what is needed and ask for forgiveness rather than to ask for permission” (a brilliant insight into the black hole of bureaucracy, combined with a clear understanding that when something needs to be done, it often needs to be done right now).

Darrell and Irene purchased an acreage in the Peace Country near Chetwynd in 1999. The acreage became known as simply “The Farm”, the one residence Darrell did not actually name. It became the gathering spot for friends and family over the years. It was often the place they enjoyed getaway time with their three children, Karsen, Katrina and Taylor, as well as with Taylor’s partner, Leah, and more recently Taylor and Leah’s addition to the family, their granddaughter Rowan. Everyone was welcome at The Farm. The only requirement was some work contribution, as Darrell always had an ongoing project. The work was rewarded with good food, wine and lots of laughter.

Although not born in Ireland, Darrell was a quintessential “Irishman” and a true gentleman. He loved to talk and gossip with people and enjoyed the company of everyone. He was one of those rare people who could make everyone, whatever their station in life, feel at ease and comfortable. Whether you were a logger, a truck driver, a businessperson or another lawyer or judge, Darrell had a knack of talking to you, not at you.

He never spoke badly of his clients—he treated them all with respect and compassion, whether the client was the derelict behind the dumpster or the town’s most prominent businessperson. A client’s representation was never based on the size of his or her pocketbook. When Darrell was your lawyer, you knew you had the best advocate you could possibly have working for you.

Likewise, all the litigants who appeared before Darrell were treated with dignity, respect and a genuine sense of fair play, regardless of their life circumstances or their stature in the community.

Those are our stories about Darrell O’Byrne. There are many more that we know about and others that many of you know as well. Share these stories. In many cultures they believe that a person does not die so long as their name is mentioned in an affectionate way. Stories do that.

Darrell was a fearless barrister, an excellent judge and a wonderful colleague to all who worked with him. But, most of all, he was a devoted husband, a proud father and a true friend to all he knew.

The Honourable Judges Steven Merrick, Terry Wright, Dan Weatherly
and Michael Brecknell