

Unsworn Statement – The Artful Testimony of
The Book of Evidence

Declaração Não Juramentada – O Testemunho Astuto de
The Book of Evidence

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Towards the end of July in 1982 Ireland was convulsed by a series of murders. Two of the killings seemed especially horrific. A young nurse, Bridie Gargan, was beaten to death with a lump hammer in her car in Dublin's Phoenix Park. Three days later Donal Dunne, a farmer, was killed by a shotgun blast to the face from his own gun; his body was found in a bog in County Offaly. The killings seemed random and motiveless; neither of the victims had any previous association with their killer. The man eventually charged with the two murders was Malcolm Macarthur. Macarthur was 36, the only son of well-to-do parents who was brought up in County Meath. He affected an air of intellectual superiority; many thought he was an academic. With his upper-class accent, bow-ties and corduroy jackets, he revelled in the image he cultivated of himself as a cultured eccentric. His arrest in August 1982 in the apartment of the then Attorney General, the Irish Government's legal advisor, only added to the shockwaves the murders generated; Macarthur had been friendly with the then Attorney General, the late Patrick Connolly SC, and though no suggestion of wrongdoing could be made against Connolly, the episode heaped further unwelcome adverse media publicity on a Government already mired in scandal. Macarthur, who was defended by Patrick MacEntee SC, the leading criminal lawyer of his generation, eventually pleaded guilty to the murder of Bridie Gargan. (The Dunne murder charge was not proceeded with, perhaps due to a lack of witnesses, though many felt this was unsatisfactory, not least the relatives of the late Donal Dunne). In January 1983 Macarthur was sentenced to life imprisonment, the mandatory sentence in Ireland for murder. He was released in September 2012.

Macarthur's egregious deeds provide the background to *The Book of Evidence* (1989) in which the murderer Freddie Montgomery recalls the circumstances in which he came to kill a servant girl, and his subsequent arrest and charge. Banville has always claimed to "forget that I'm writing stuff that's based on real lives. I have no sense of responsibility to fact or so-called truth. Fact becomes fiction when you start writing..."¹ but as a witness he is unconvincing in this regard. Like Macarthur, Montgomery wears bow-ties and practices a "slightly sinister, old-world charm"; like Macarthur, Montgomery leaves a partner and child on a sun holiday while he returns to Ireland to commit his crimes, apparently in need of money (Macarthur at one stage appeared to suggest he needed Gargan's car and Dunne's shotgun to enable him to commit a bank-robbery²). Like Macarthur, Montgomery murders a girl in a car and then flees, taking cover in the seaside home of an influential and unsuspecting friend, (the chalk-stripe trousered Charlie French) before being arrested. Montgomery too is defended by "the famous counsel Maolseachlainn MacGiolla Gunna" and ultimately pleads guilty to murder. The

exploitation of tragic real-life events in a work of fiction, especially so close to their occurrence, led to some criticism in the Law Library and elsewhere of the book when it was published. As part of his half-baked scheme to obtain money Montgomery steals a painting, and the book raises the familiar dilemma of the extent to which the appropriation of a recent life and gruesome death is appropriate in a work of art.³

What then is the appeal of this disturbing book? Certainly as readers we are frequently captivated by stories of dark crimes, especially when related by the perpetrator. Such stories reveal to us something inside ourselves we are afraid of: how far would *we* go? But this is more than a confession. Anyway, how much of what Montgomery tells us is true? Asked this in custody by the inspector, he replies “All of it. None of it. Only the shame” (220). Montgomery prides himself on having provided in his story “a masterpiece of dissembling” (123). Even the book’s title is suspect; in criminal law, the ‘Book of Evidence’ is the legal term for the collection materials setting out the evidence which the prosecution intends to give against an accused at his/her trial, including a statement of the charges, a list of exhibits, and a list of witnesses the Director of Public Prosecutions proposes to call, with a statement of *their* evidence; in essence, the case for the prosecution. Yet the novel is in effect the testimony only of the *accused*, his explanation or rationale – such as it is – for doing what he did. Freddie Montgomery’s account is perhaps closer to an unsworn statement, the entitlement which used to exist in Irish criminal law of an accused to make a statement to the court without taking the oath. By this device the accused could say what ever he wanted, telling his story without ever exposing himself to the perils of cross-examination⁴ – and Freddie Montgomery is the ultimate “unreliable narrator”.

In a sense all litigants, civil or criminal, are unreliable in this regard: their aim is to tell *their* story, not *the* story. As a consequence, an accused’s “truth” is rarely the whole truth, since his account may conveniently omit unfavourable details, and is equally unlikely to be nothing but the truth, since he is likely to include any embellishment which he feels may be helpful to his cause. Whether, of course, the “truth” will ever come out in a court of law is another matter⁵. But when the book, a whydunnit rather than a whodunit, asks – what makes a murderer? – even more intriguingly, no real answer is provided. Montgomery is unable to explain what drove him: “My journey, like everyone else’s...had not been a thing of signposts and decisive marching, but drift only...I was living like that because I was living like that, there is no other answer” (37). He repeatedly states his belief that man is “a sick animal, an insane animal” (49). But if one were tempted to conclude that what impels Montgomery is nothing less (and nothing more) than the human condition, a stain left by what Christians call “original sin”, this explanation is rejected. Pressed by the police as to why he did it, Montgomery answers “I killed her because I could...what more could I say?” (198). Indeed, the question of whether “badness” even exists at all is challenged: Montgomery, ruminating in his cell on various names for badness (evil, wickedness, mischief) wonders “if these strangely vague and imprecise words are only a kind of ruse, a kind of elaborate cover for the fact that nothing is there. Or perhaps the words are an attempt to make it be there? Or, again, perhaps there is something, but the words invented it?” (55).

“The words” as Banville likes to call them, gleam here, as always. The shadow of a house lies across a lawn “like a fallen stage-flat”; the sea is “a bowl of blue, moving metal” and the lights of a car passing outside his bedroom is “a box of lighted geometry that slid rapidly over the ceiling and down the walls and poured away in a corner”. Banville’s ability to create startling and unsettling images in dazzling language was apparent as far back as his first book, a

collection of short stories entitled *Long Lankin* where on a breakfast table “the wreckage of their meal lay like the dismembered parts of a *complex* toy” (78). Not just any toy, mind: a complex toy. This urge to draw attention to the art being made even as he is making it is one of the most interesting – or infuriating, depending on your taste – aspects of Banville’s craft. His 2005 Booker Prize winning novel *The Sea* famously contains arcane words such as “cinereal”, “flocculent” and “velutinous”. At least here, however, Banville pokes fun at his own fetish: having described a particular post-coital sensation as a state of “balanic, ataraxic bliss,” Montgomery confesses “yes, yes, I have got hold of a dictionary” (19). There is also a cheeky hat-tip to the other criticism frequently levelled at Banville (that the beautifully written observational detail occasionally weighs down the story) when Montgomery ruefully notes “Oh, by the way, the plot: it almost slipped my mind” (219).

This constant rupturing of the fourth wall is not just a highlighting of Montgomery’s psychological state; it is also a wry reminder from the author that the reader is a witness to the making of a work of art; a work which is the antithesis of the “confession” prepared by the policeman who is, Montgomery sneers, “the kind of artist I could never be, direct yet subtle, a master of the spare style, of the art that conceals art.” (202). Like his creator, Montgomery is endlessly self-lacerating⁶; in his analysis of Montgomery-as-artist Banville is showing something of himself, and this artfulness may be the most compelling element at the dark heart of *The Book of Evidence*.

Of course, there is an old saw that writers who write about writing need to get out a bit more. But the elegance and sly black humour with which Banville engages with the process is appealing. In having his murderer ask himself “Why do I do this?” he is asking the same question of the artist about the creative act - and to Banville the parallels are more obvious than might first appear, since there are no simple answers. It’s easy then to imagine his tight-lipped smile at being described while writing as being like “a murderer who’s just come back from a particularly bloody killing.” (Browne 2007). Perhaps in describing the heartless amorality of Montgomery Banville is also reflecting his view of the essential cruelty of the writer: “...we are cannibals. We’d always sell our children for a phrase. We are ruthless. We are not nice people.” (Sheridan 2016). Indeed.

Notes

- 1 In Conversation with Chris Boyd, chrisboydblogspot.com June 2006.
- 2 Joe Joyce and Peter Murtagh, *The Boss* (Dublin: Poolbeg Press 1983) p 216. Chapter 11 of this book contains an excellent account of these events.
- 3 See for another example Don DeLillo’s *Libra* (USA: Viking Penguin 1988), a fictionalised version of the life of Lee Harvey Oswald, which was however published 25 years after the Kennedy Assassination.
- 4 The right was exercisable before as well as after conviction (the latter often referred to as a ‘speech from the dock’). The right to of an accused make an unsworn statement was abolished by section 23 of the Criminal Justice Act 1984, though an accused can still tender in evidence a prior unsworn statement made to the police.
- 5 See Peter Charleton & Ciara Herlihy, Truth to be Told: Understanding Truth in the Age of Post-Truth Politics. Dublin: [2019] *Irish Judicial Studies Journal*, Vol 3, p1-18.
- 6 “...all works of art are failures, all human endeavours are failures. That’s no comfort to me. Every time I start a book I feel in that completely irrational way that writers have that this one is going

to be the absolute masterpiece. The other part of my brain knows that it's just going to be another damned book that I'll hate when it's finished. "(Interview with John Banville, BBC, October 2016).

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