

# **Irish Language Court Interpreting 1801-1922**

**Mary Phelan**

**Thesis submitted for the qualification of PhD**

**Supervisor: Dr. Dorothy Kenny**

**School of Applied Language and Intercultural Studies**

**Dublin City University**

**2013**

### **Declaration**

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## **Acknowledgements**

I would like to express my gratitude to Dr Dorothy Kenny for her supportive supervision, excellent suggestions and incisive feedback. Thanks are also due to my previous supervisor Professor Jenny Williams from whom I learnt a lot.

This research would not have been possible without the help of a number of people. I would like to thank Professor Emeritus Leo Hickey for inadvertently sowing the seed for this study; Dr Aidan Kane, NUI Galway, for telling me about the House of Commons Parliamentary Papers database; Siobhán Dunne, DCU Library, for promptly organising access to that database; Gregory O'Connor, National Archives of Ireland, for sharing his in-depth knowledge of registered papers, country letter books and grand jury presentment books; staff at the National Archives of Ireland, National Library of Ireland and Public Record Office of Northern Ireland (PRONI).

I would also like to thank the following for facilitating access to books of presentments: Gemma Eaton, PRONI; Brian McGee, Cork City and County Archives; Colm McQuinn, Fingal County Council Archives, Swords; Dr Mary Clark, Dublin City Archives, Pearse Street; Tony Storan, Limerick Studies; Martin Morris, Longford County Archives; Ivor Hamrock, Local History Department, Castlebar Central Library, Mayo; Caitlin Brown, Roscommon County Library; Mary Guinan-Darmody, Tipperary Studies, Thurles; and Joanne Rothwell, Waterford County Archives, Dungarvan..

I am grateful to Dr Emer Ní Bhrádaigh and Máire Nic Mhaoláin for answering questions to do with the Irish language, and to Dr John O'Sullivan for a discussion on newspaper court reports.

I would like to thank SALIS colleagues Dr Niamh Kelly, Dr Patricia O'Byrne, Marnie Holborow, Dr Gabrielle Carty, Dr Minako O'Hagan. Also, Dr Annette Schiller, Joan Colin, Nataly Kelly, Dr Krisztina Zimányi and Professor Lorraine Leeson for their interest and support.

And last, but not least, my family, who have been totally neglected.

## **Irish Language Court Interpreters 1801-1922 - Mary Phelan**

### **Abstract**

Research on court interpreting for Irish to date is based on mentions in contemporaneous accounts, articles, anecdotes and literature, and is fragmentary in nature. While it is known that interpreters were provided, the extent of provision in different courts, and in geographical and historical terms, is unclear.

This thesis draws on digitised newspaper archives, parliamentary debates, and the House of Commons Parliamentary Papers database and hard-copy grand jury presentment books, and registered papers and country letter books from the Chief Secretary's Office, Dublin Castle, to develop a more systematic picture of court interpreter provision. It focuses in particular on the key dates 1807, 1843 and 1898 for which grand jury accounts are available. The information is analysed using Pierre Bourdieu's concepts of field, capital and symbolic power.

The main findings are that salaried interpreters, whose maximum salary was laid down by law, were provided at assizes and quarter sessions, but not at petty sessions. In 1807, of 40 grand juries, at least 28 employed salaried court interpreters. In 1843, the figure had fallen to 18, and in 1898 to at least nine. Despite the presence of interpreters, there was pressure on defendants and witnesses to use English in some courts. The study also considers the appointments process, the role and remuneration of interpreters and the careers of three individual interpreters.

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## **Introduction**

This study aims to compile a picture of the organisation and provision of court interpreting for Irish between 1801 and 1922. Existing research on this topic, although interesting, provides a fragmented picture of the situation regarding interpreting and it is difficult to work out how much interpreting was happening, how the system was organised and when, where or if, interpreter provision ceased.

Interpreting is a notoriously difficult area on which to carry out research because once an interpreter has spoken, there is rarely if ever a record of what was said in the source language and only occasionally of what was said in the target language. These problems are even more pronounced in the case of historical research. However, interpreting does leave traces and it has proved possible to uncover a considerable amount of information from online newspaper databases which facilitate searches over long periods and large numbers of newspapers, and from records of payments to court interpreters.

Historical research in Ireland in general is difficult because many administrative records dating back to the thirteenth century were destroyed in 1922 when mines exploded in the Public Record Office in the Four Courts. The records included the census forms for 1821, 1831, 1841 and 1851, while the 1901 and 1911 records survived in the Registrar General's Office. The 1861 and 1871 forms were destroyed shortly after they were compiled and those for 1881 and 1891 were pulped during the First World War. The censuses for 1901 and 1911 are available online and provided some supplementary information on interpreters. The records of the Chief Secretary's Office, now held at the National Archives, survived, as there had been a delay in moving them. These records, in the form of the registered papers, proved useful in the current research, although the actual documentation to match the records of incoming letters was, disappointingly, rarely available.

The focus of the current research is not on historical events and it does not detail the political outlook of newspapers or their editors. It aims to answer three key research questions:

- ❖ How was court interpreting for Irish organised?
- ❖ How did interpreter provision change over the nineteenth century?
- ❖ How were court interpreters recruited and remunerated?

The theoretical framework is based on Pierre Bourdieu's concepts of field, habitus, capital and symbolic power. Bourdieu has previously been used in translation studies, most notably in an edition of *The Translator* edited by Moira Inghilleri (2005). Most of the articles in this volume focus on translation; however two are of interest to the current research. They are Moira Inghilleri's article on Bourdieu's sociology and M. Carmen Africa Vidal Claramonte's article on applying Bourdieu to legal translation. As yet, Bourdieu has not been applied to historical studies of interpreters. Therefore, this research follows in the steps of Inghilleri but applies Bourdieu in a different context, focusing on court interpreters in a historical setting.

### **Significance of the Study**

This study makes a significant contribution to knowledge by locating and analysing data from a variety of sources to establish how court interpreting for Irish was organised and provided during the nineteenth and early twentieth centuries. It is original work which contains detailed information and fills a gap in knowledge on the topic.

It will be of interest to three main groups. First, to interpreting scholars who are interested in engaging in historical research and are looking for new ideas and methods. Many of the issues covered in this study are still relevant today: for example, access to interpreters, their appointment, remuneration and how they were perceived. Second, the thesis will be of interest to Irish language scholars who are interested in the decline of the Irish language and in attitudes to speakers of Irish. Third, to historians because the study is basically a historical one that uses

archival material and newspapers that deal with a particular topic, court interpreting for Irish. As Diarmuid Ferriter has commented:

the Irish have shown an understandable penchant for celebrating and commemorating key historical revolutions, battles and the politics of high drama, but there have been too few attempts to chronicle the ordinary (1998: 7-8)

While court interpreting may not be ‘the ordinary’, it is a topic that has not been studied comprehensively to date. This study represents a new and original way of considering the Irish language through the lens of court interpreting.

### **Overview of the Thesis**

Chapter One provides some historical context and information on the principal resources sources used in the study; newspapers and grand jury payments to interpreters.

Chapter Two, a review of the literature, is divided into four parts. The first focuses on historical research in interpreting, and in particular on court interpreting. The second considers research on interpreting in general and court interpreting in Ireland for Irish and for foreign languages. The third deals with issues that have been covered in research on interpreting in courts, police stations and asylum hearings and on the role of the interpreter. The fourth concentrates on Pierre Bourdieu’s concepts which will inform the analysis chapters, four, five, six and seven.

Chapter Three details the resources used; newspaper databases, grand jury accounts, Parliamentary debates, and reports on Ireland in the House of Commons Parliamentary Papers database.

Chapter Four applies Pierre Bourdieu’s concepts to the field of power, the field of law, and official languages. It takes examples such as the case of *R v Burke*, and considers interpreter provision at police and court level in the Maamtrasna and Lough Mask murder trials in 1882.

Chapter Five explains the statutory framework for interpreter provision for Irish in the eighteenth and nineteenth centuries at the assizes, quarter sessions and elections. Interpreter provision at petty sessions, manor courts and Land

Commission courts is also covered, as is court interpreter provision for Welsh in Wales and Gaelic in Scotland.

Chapter Six tracks the changes in court interpreter provision by grand jury, particularly in the key years 1807, 1843 and 1898, for which figures or partial figures are available.

Chapter Seven looks at court interpreters and the different types of capital that they had in Bourdieusian terms. Their appointment and remuneration are considered as are ethics and the dual roles of some interpreters. The work of three interpreters is examined.

The conclusion returns to the research questions, looks back on what has been accomplished in this thesis and looks forward to future areas of research.

## Chapter One Context

This chapter provides a historical context for the current research and information on the main sources of data for the current research; newspapers and Grand Juries.

### Historical Context

On the 1<sup>st</sup> January 1801 the Act of Union started a new phase in Irish history; the Irish Parliament closed and over 100 Members of Parliament began to attend the House of Commons while four bishops and twenty-eight peers attended the House of Lords (Lyons: 71). Day to day running of the country fell to the Lord Lieutenant and in particular to the Chief Secretary and the Under Secretary in Dublin Castle. O'Brien compared the post of Chief Secretary to that of Prime Minister of England with the additional responsibility of being 'head of every department' (1909: 8).

There were dramatic changes in the population which increased from an estimated 6.8 million in 1821 to just over 8 million in 1841 (Lyons 1985: 37). There were fourteen partial or total failures of the potato crop between 1816 and 1842 (ibid: 38). The years of the great famine, between 1845 and 1851, resulted in large scale death and emigration and by 1851 the population had fallen to 6.5 million. According to Donnelly, there was considerable variation in the rates of excess mortality caused by the famine; 'Connacht accounted for 40.4 per cent of the total, Munster for 30.3 per cent, Ulster for 20.7 per cent, and Leinster for 8.6 per cent' (2010: 351). After the famine, emigration continued, people started to get married later or not at all, and the population continued to fall; by 1891 it had dropped to 4.7 million and in 1901 to 4.4 million.

In addition to emigration, there was some migration from rural to urban areas. The population of towns increased from 1.2 million in 1841 to 1.5 million in 1911. However, the change in the rural population for the same period was much more dramatic, with a fall from 7 million to just under 3 million (Lyons: 46).

In politics, Daniel O'Connell focused on catholic emancipation, the repeal of the penal laws. Later, Charles Stewart Parnell worked towards home rule and Michael

Davitt and the Land League for fair rents, fixity of tenure and free sale. Agrarian agitation was a feature of Irish life throughout the nineteenth century with secret groups such as the Threshers, the Caravats and Shanavests and the Whiteboys carrying out various campaigns. The Land Commission was set up in 1881. The Land War, however, continued, with widespread boycotting of 'landgrabbers' who took over land where previous tenants had been evicted. There were also a number of unsuccessful uprisings such as the Young Ireland uprising in Ballingarry, County Tipperary, in 1848, and the Fenian one in 1867 in Tallaght, Tipperary, Limerick, Cork and Clare. The twentieth century brought ongoing unrest, the First World War, the Easter Rising in 1916 and the war of independence. In attempts to control an often volatile situation in Ireland, the Government introduced over one hundred coercion acts between 1801 and 1922.

The Sinn Féin party won 73 seats in the 1918 general election and kept its promise to withdraw from Westminster. In January 1919, the first session of Dáil Éireann was held. This alternative government was followed by an alternative court system, the Dáil or Sinn Féin courts, first in west Clare and subsequently around the rest of the country.

The number of speakers of the Irish language declined steadily over the period in question. However, the Gaelic League, established in 1893, sought to preserve the language as the national language and to extend its use along with encouraging the study and publication of Irish literature, old and new. It also campaigned for the introduction of Irish as a subject at primary and secondary schools, and as a compulsory subject for matriculation in the National University (Lyons: 229).

## **Newspapers**

The nineteenth century saw great changes in the newspaper industry. In the first half of the century, newspapers were largely dependent on news from London; the *Freeman's Journal*, for example, regularly used articles from the *London Gazette*, the official journal of record. Access to the express editions of the London papers was controlled by Dublin Castle (O'Brien 2011: 12). Newspapers were expensive as

they had to be printed on stamped paper; the *Commercial Journal and Family Herald*, a literary publication with some news printed on unstamped paper, was unsuccessfully prosecuted. There was a tax of 1s 6d on advertisements. The *Freeman's Journal* cost 3½d in 1779 and 4d by 1800, was published three times a week and consisted of four pages. Some newspapers, such as *The Hibernian* and *The World*, were subsidised by Dublin Castle (O'Brien 1909: 53, 66). The tax on advertisements was abolished in 1853, and the requirement to use stamped paper for news in 1855. This brought about a 'great revolution in the newspaper world' (Dunlop 1911: 280) and when the *Irish Times* commenced publication in 1859, it was the 'first penny daily morning newspaper' and was soon matched by the *Daily Express* and the *Freeman's Journal* (*ibid.* 288). Meanwhile, the price of evening papers was reduced to a halfpenny (*ibid.* 38). These large price reductions over the course of sixty years meant that more people could afford to buy newspapers.

At the same time, access to education was growing; the national school system was established in 1831 and although the standard of teaching was not always exemplary and attendance was not made compulsory until 1892, access to education did lead to increasing levels of literacy in English. In 1841, only 47 per cent of the population could read, a proportion that increased to 67 per cent by 1871 (Ravenstein 1879: 587). Between 1848 and 1914, the number of schools doubled from about 4,500 to 9,000 and the number of pupils from half a million to one million (Lee 1973: 27).

Mail coaches were introduced in Ireland in 1790 and the British Mail Office was set up in the early 1800s to manage mail between England and Ireland (O'Brien 1909: 332). In 1779, articles from the *London Gazette* appeared five days later in the *Freeman's Journal*. The time lag was reduced to four days by 1800. The growth of the railway network facilitated the development of the post office. New towns were built along the railways and this facilitated the development of the provincial press (O'Brien 2011: 16). Steamships began to operate between Ireland and Britain around 1824 (Lyons: 57). The advent of the telegraph and in particular the laying of the transatlantic cable from Valentia to Newfoundland meant that news reports could be transmitted far more speedily. Reports for the morning papers were sent

after 6 p.m. when a reduced rate applied (Higginbottom 1934: 107). The cost of sending telegraphs increased to such an extent that for a three-year period, journalists could only send condensed reports of important events; the cost went down to less than a tenth (Dunlop 1911: 42) when the Government took over the Magnetic Telegraph Company in 1870.

In the nineteenth century and well into the twentieth, reporters were anonymous and there was no indication who was compiling reports. The identity of newspaper editors was generally known, but that of court reporters was not. Andrew Dunlop worked as a 'murder correspondent' from 1880-1886. He made the point that anonymity meant that 'the editor or it may be the proprietor of the newspaper is the person responsible to the public for what appears in its columns' but that when reporting on cases in small towns, it was inevitable that his identity would become known and he would be seen as the 'responsible individual' for the publication of reports on local cases (*ibid.* 180).

Some journalists were also lawyers. William O'Brien was originally a reporter on the *Cork Examiner* before joining the Bar and eventually becoming a judge of the Queen's Bench Division (Healy 1939: 14-15). Some practising lawyers provided newspapers with accounts of court cases. Matthias Mc Donnell Bodkin's knowledge of Pitman shorthand helped him secure a place 'as an unpaid probationer' with the *Freeman's Journal*. He explains that the 'length or brevity' of descriptions is dependent on 'the amount of available space' and that 'the Irish reporter is a Jack of all trades' unlike in England where 'press work is specialized' (1914: 26). Bodkin combined his work as a barrister and later as a County Court Judge for County Clare from 1907-24 with ongoing involvement in newspapers. A barrister called Breakey no longer practised as such but wore the wig and gown 'as a sure means of getting admission to any Court that might be crowded' and reported for the *Freeman's Journal* (Healy 1939: 127-8).

Dunlop and Bodkin both describe shorthand as the 'open sesame' to journalism (Dunlop 1911: 3, Bodkin 1914: 27) and essential for court reporting. Dunlop wrote of the 'strain of taking down the exact words of a rapid speaker' in proceedings that



could last as long as five or six hours. He complained about the acoustics in the Four Courts building, where, according to him, it was impossible to hear in two of the thirteen courts (80). Similarly, it was impossible for reporters to hear anything said by the judges in the No. 1 Nisi Prius Court (81). According to Dunlop:

The judge on the bench, if he misses a word, or thinks he misinterprets the answer of a witness, and all know how frequently that occurs, can have the answer repeated. The reporter would run the risk of being committed for contempt of court if he claimed the same privilege. (71)

John Adye Curran also combined his early career as a barrister from 1860 with reporting for three newspapers; the *Irish Times*, *Freeman's Journal* and *Saunders's News Letter*. According to him, 'Circuit-reporting was done by members of the Bar, payment being at the rate of 10s 6d per day's report' (1915: 40). Curran was appointed Dublin police magistrate in 1881 and another barrister, Richard Gamble, who later was appointed judge, wrote for the *Daily Express* and 'sometimes when busy asked me [Curran] to report for him' (40). Dunlop also mentions that his *Daily Express* colleagues included 'one who is now a judge of the High Court of Justice in Ireland, one who became a County Court Judge, three who became Queen's Counsel, one who is a Bishop of the Church of Ireland – all leader writers' (45).

According to Dunlop, a staff of five or six reporters from the *Freeman's Journal* attended the Phoenix Park murder trials at Green Street Courthouse in April-May 1883, to take down verbatim reports which were published in the evening papers each day, one hour after the court had risen (106). Higginbottom was reporting for the Press Association and his reports were 'carried by messengers on outside cars from the court to the telegraph office' (1934: 48).

*Finn's Leinster Journal* and the *Freeman's Journal* date back to the 1760s. A number of local and national newspapers were founded in the eighteenth century; for example, *Tuam Herald* (1837), *Nenagh Guardian* (1838), *Nation* (1842), *Irish Times* (1859) and *Westmeath Examiner* (1882). The turn of the century saw the launch of more newspapers such as *Meath Chronicle* (1897), *Connaught Telegraph* (1900), *Irish Independent* (1905) *Munster Express* (1908) and *Connacht Tribune* (1909). The

overall number of newspapers increased from 109 in 1853 to 230 in 1913 (Lee 1973: 13).

The place of the Irish language in newspapers is relevant. From the 1860s, provincial newspapers such as the *Tuam News*, *The Celt*, and the *Cashel Gazette* included columns in Irish (Uí Chollatáin 2011: 163). The Gaelic League published *Irisleabhar na Gaedhilge*, a monthly magazine, from 1882 to 1909 and the best known weekly newspaper in Irish, *An Claidheamh Soluis*, amalgamated with *Fáinne an Lae*, from 1899 to 1931. These publications mainly focused on ‘the creation of a modern Irish literature’ (*ibid.* 167) and ‘As the revival progressed, Irish language newspapers and journals assumed more of a role in language maintenance and revival, instead of public discourse and news’ (*ibid.* 168). Therefore, it is unlikely that these publications focused on court reports. They probably did not have enough staff to send to the different quarter sessions around the country; as they were not daily newspapers there was little point in providing a summary of court reports on a weekly basis. None of these newspapers have been digitised as yet although they are available on microfiche in the National Library.

By way of contrast, in Wales in 1874, a dozen newspapers were published in Welsh along with two quarterlies and a dozen monthlies (Hansard HC Deb 26 June 1874 vol 220 cc536).

While acknowledging that newspapers are a very useful potential source of historical information and ‘crime presented good journalistic copy’ and as a result was reported widely, Garnham cautions that ‘Reports tend to cover the unusual and exceptional, rather than the commonplace’ and recommends questioning the veracity of reports (1996: 4-5).

Harris and Spark in *Practical Newspaper Reporting* recommend that ‘A court report should try to answer in its first few sentences these five questions: Who was accused? Where does he or she live? What was he or she accused of? How did he or she plead? What was the court’s decision and sentence?’ (2001: 109). Clothier advises court reporters to ‘Watch for courtroom drama, with a witness breaking down, an outburst from the dock or a disturbance in the public gallery’ (1999: 209)

and that 'Quotes add liveliness and corroboration to your report' (*ibid.* 210). Nineteenth and early twentieth century reporters applied these principles consistently. Court reports begin by outlining the place and the actors with names of justices, lawyers for the prosecution and the defence, names of all the parties (prisoners or defendants and plaintiffs, witnesses). Names of jurors were provided as well and any situation that included an interesting or unusual reaction was more likely to be reported. Some accounts read like court transcripts, with long columns of dialogue taken down verbatim. Unlike today, many newspaper reports include the name of the interpreter.

While court reports tend to be a staple of most newspapers, events of the day such as rebellions, wars and famine can mean that the attention of journalists is directed elsewhere. There can also be a reduction in the number of court cases held; for example, the 1918 influenza epidemic resulted in the closure of the Kerry Courts of Session and the adjournment of many cases (Crane 1938: 245).

### **Grand Juries**

The grand juries were 'the foremost institutions of local government in eighteenth-century Ireland' (Garnham 1999: 630) and continued to play an important role in the nineteenth century. There were 40 grand juries; one for each of the 32 counties, and one each for the counties of the cities of Cork, Dublin, Kilkenny, Limerick and Waterford, and for the towns of Carrickfergus, Drogheda and Galway. The high sheriff, who was appointed by the Lord Lieutenant, selected between 12 and 23 members of the landed gentry to sit on the grand jury which met twice a year at the county courthouse before the spring and summer assizes (O'Donoghue 2007: 4). 'The inevitable result was a system in which ties of patronage, kin, and mutual interest were vitally important in jury selection' (Garnham *ibid.* 631). The grand jury officers were the treasurer, secretary, county surveyor and the high constables or baronial collectors (O'Brien 1909: 209). Catholics were not allowed become members until 1793. The date of establishment of grand juries is unclear

but Hancock (1875: 194) dates their involvement in fiscal administration back to the reign of James I, 1603-1625.

The grand juries met twice a year, at the spring and summer assizes. One of their tasks was to go through all indictments to decide if they should go to trial; surviving lists of indictments indicate if there was a 'true bill' or 'no bill'. If there was a true bill, a prosecution was taken. Another was to pay for work done locally to improve local infrastructure such as roads and bridges. Over time they also became responsible for courthouses, prisons, minor marine works, lunatic asylums and fever hospitals. They also had to pay some court officials, including clerks, gaolers, interpreters for Irish, and local constables. Many payments were 'imperative presentments', provided for by law.

The bills had to be paid by occupiers of land (Garnham 1999: 627) and the total bill for the county was divided up by barony and sent out so that a cess or tax could be collected by the sub-constable. For example, in 1818, the presentments of the county of Galway were sent to Patrick Burke Esq., High Constable of the Barony of Clonmacnoon, with the instruction that:

I do hereby empower you & your assistants to collect Levy and receive out of every Hundred Acres throughout the Barony of Clonmacnoon the Sum of Three pounds nine Shillings and Eightpence Sterling being the amount of Lent Cefs<sup>1</sup> 1818. And in so doing this shall be your sufficient Warranty (National Archives of Ireland).

As the cess was collected locally, there was little chance of grand juries overspending. However, there were allegations of 'jobbing' in relation to the grand juries. As they were comprised of the wealthy, they could make local arrangements such as:

'You suffer the road to be brought through my park, and I will have the bridge constructed in a situation where it will make a beautiful object to your house. You do my job, and I will do yours' (Sidney Smith cited in O'Brien 1909: 204).

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<sup>1</sup> The 'long s' has been retained as it appeared in the original.

Payments to court interpreters were recorded in the grand jury presentment books, books of accounts published at Lent and summer assizes each year. Brady (1959-62: 62) cites an early reference to the law in the County of Meath presentments for the Lent Assizes 1775:

Whether £5 be raised and paid Nicholas Fitzsimons interpreter pursuant to Act of Parliament.

Later entries in many books of presentments include the name of the act under which the payment had to be made. For example, in the case of the county of Kilkenny grand jury presentments 1832, payment of £4 12s 4d is recorded to 'John Anderson Esq., interpreter at this Assizes':

## 114 *County at Large continued.*

	£.	s.	d.
<i>Brought forward.....</i>	5634	4	2 $\frac{3}{4}$
last Assize, 55 Geo. III. cap. 91, to be placed to the Credit of the County at next Assizes, the Treasurer having taken Credit for same in his present account, ..	40	16	0
'To the Governor of the Gaol, for transmitting Prisoners since last Assizes, 26 Geo III. cap. 55; and 55 Geo. III. cap. 158,	32	4	6
<b>INTERPRETER.</b>			
To John Anderson, Esq. Interpreter at this Assizes, 36 Geo. III. cap. 55, sec. 34,	4	12	4

Figure 1 County of Kilkenny Presentments 1832

Another piece of information appears after this: '36 Geo III. cap. 55, sec. 34', which means the 36<sup>th</sup> year of the reign of George III, chapter 55, section 34. George III was crowned in June 1738 and the 36<sup>th</sup> year of his reign corresponds to 1773-4. The law is 'an act for the amendment of public roads, for directing the power of Grand

Juries respecting Presentments, and for repealing several laws heretofore made for these purposes’.

The 1815 *Report from the Select Committee on Grand Jury Presentments of Ireland* found that ‘the law appears to be neglected’ and stated that ‘the title of the Act under which Grand Juries derive their authority to make the Presentments required, should appear upon the face of such Presentments’ (4). In the county of Galway presentments, starting from 1808, there is no mention of any acts, and the practice of including a reference to the act commences only in spring 1832 (page 137: entry 512) and is applied somewhat haphazardly thereafter. There was considerable variation from county to county and some grand juries, such as Tyrone, were meticulous about citing the acts.

Another recommendation of the Select Committee was that the copies of presentments submitted to Parliament should be printed, not handwritten, as ‘the specifications, are, in many instances, so indistinct, that it is impossible to form an accurate opinion on them’ (4).

The grand jury presentments are essential to a study of interpreting in the nineteenth century because they include payments to interpreters who were salaried court officers and allow us to build up a picture of where and when interpreters were provided, what they were paid and how payments changed and in many cases were reduced and ultimately ceased.

The grand juries were largely replaced by county councils in 1898 with the passing of the Local Government (Ireland) Act which allowed for elections for county councillors, urban district councillors and town commissioners (Clancy 1899: 85). The Act does not mention interpreters, perhaps because there were so few left at that stage. From 1898 on, the County Councils paid the court interpreters.

## **Conclusion**

The newspaper industry underwent considerable change over the course of the nineteenth century. Improved communications speeded up the process of

collecting and distributing news. Regulatory changes helped reduce the price of newspapers and access to education increased the potential readership. The number of both local and national newspapers increased. While bylines did not appear on newspaper articles, we do know that some lawyers combined careers in the law and in journalism.

The grand juries in Ireland had a legal function in terms of deciding if cases should be tried or not but they also paid some court officers including court interpreters for the Irish language. These payments were called presentments and because the grand juries published bi-annual accounts, and because many records survive, it is possible to discover where interpreters were employed and how much they were paid.

The next chapter reviews the literature on historical interpreting and on court interpreting in Ireland and outlines Bourdieu's key concepts.

## Chapter 2 Review of the Literature

This chapter is divided into four parts. Part One deals with three main areas: historical research on interpreting and on court interpreting; war crimes tribunals, colonial and diplomatic interpreters and other examples of archive based research. Part Two focuses on the situation in Ireland in relation to historical interpreting in general and to court interpreting for Irish and for foreign languages. Part Three deals with research on interpreting in courts, police stations and asylum hearings and considers the role of the interpreter. Part Four concentrates on Pierre Bourdieu's concepts which will be applied in the analysis chapters.

### ***Part One***

#### **Historical Research on Interpreting**

The Delisle and Woodsworth (1995) edited volume *Translators through History*, as the title indicates, focuses on translators, with a final chapter entitled 'Interpreters and the making of history'. The research in this chapter, by Margareta Bowen *et al.*, covers conference interpreting at diplomatic levels, advances in simultaneous interpreting equipment, and in addition, the role of interpreters in proselytisation, alongside the Spanish conquistadores, and in war. The sources used range from interpreters' memoirs to contemporaneous accounts written by soldiers and clergy. Bowen *et al.* pinpoint a key problem in research on interpreting:

The spoken word is evanescent. Our knowledge of the past performance of interpreters tends to be derived from such sources as letters, diaries, memoirs and biographies of interpreters themselves, along with a variety of other documents, many of which were only marginally or incidentally concerned with interpreting. (Bowen *et al.* 1995: 245)

Bastin and Bandia's edited volume *Charting the Future of Translation History* includes two articles on interpreting. According to Julio César Santoyo (2006), 'Almost everybody would agree that one of the most notorious empty spaces in our



field is the history of oral translation or interpretation' (13). He writes of multilingual contexts where translation was intercultural and did not involve a shift from 'a source cultural polysystem' to 'another target polysystem'. Rather, translations were at local level and concerned local matters.

In the same volume, Jesús Baigorri-Jalón discusses the need to find out more about interpreters' ideas on interpreting, the setting in which they worked, and their profiles, situation and prospects. He also highlights the need to use secondary sources to find out more about the field and recommends that researchers use the skills and research methods of historians. He makes a number of recommendations for different possible areas for research, and in the case of court interpreting, suggests the use of the resources and methods summarised in table 1 (2006: 107):

Topic	Source	Method	Difficulty
History of court interpreting (in general or limited to a multilingual court)	Historical literature about the court(s), court archives and records, testimonies by interpreters, administration, users, etc.	Search, analytical work, cross-reference of data, oral history	Legal restriction for access to confidential sources; access to interpreters and other informants

Table 1 Research on history of court interpreting (Baigorri-Jalón)

### Historical Research on Court Interpreting

The sources outlined by Baigorri-Jalón and summarised in Table 1 are the main sources used by researchers in the area of court interpreting. Ruth Morris is the leading researcher on historical court interpreting cases. In 1999 she analysed a corpus of 600 legal reports where language was an issue. The reports covered four centuries and 24 different, but mainly English-speaking countries. The issue of the role of the interpreter arose in *Du Barre v Livette*, a case that was covered in the *Freeman's Journal* at the time:

Another seminal and much-cited case in the history of court interpreting is the 1791 English lawsuit of *Du Barre v Livette*, in which Lord Kenyon, erring on the side of discretion, ruled that "everything said before that interpreter was equally in confidence as

if said to the attorney when no interpreter was present; he was the organ through which the prisoner conveyed information to the attorney” (Du Barre v Livette at 110-111). As a result of this ruling, interpreters at lawyer-client conferences enjoy the same delegated privilege as the lawyer (Morris 1999: 102).

In a wide-ranging article, Morris discusses historical English cases such as the 1682 Borosky case, the 1820 Queen Caroline case (extensively covered in the *Freeman’s Journal*), *R v Lyons* 1864 and the 1916 Lee Kun case. In the Borosky case, lawyer Sir Francis Winn questioned the role being played by the interpreter:

Sir Francis Winn: We observe what sort of interpreter Sir Nathaniel Johnson is: he speaks more like an advocate than an interpreter; he mingles interpreter, and witness, and advocate together, I don’t know what to make of him... You may observe, my lord, how Sir Nathaniel Johnson who is interpreter in the case, is a witness, and argues for the prisoner too (2000: 255).

Sir Francis Winn was concerned that this could set a precedent for future cases involving interpreters but the Lord Chief Justice did not possess his prescience and saw this case as an ‘extraordinary’ one that was unlikely to recur. Sir Francis Winn raised points about the role of the interpreter, and whether the interpreter should act as advocate, issues that are still alive today and appear in codes of ethics for interpreters. Morris finds that, based on law reports in eighteenth century England, ‘As long as the courts suspected the need for an interpreter, whether for a deaf person or a foreigner, they reportedly did not hesitate to try to find somebody suitable’ (2000: 258).

Cynthia Giambruno (2008) examines the role of court interpreters in the 1500s and 1600s in the New World as detailed in fourteen laws contained in the New Law of the Indies (*Las Leyes de las Indias*). She argues that ‘the laws in the sixteenth and seventeenth centuries were more progressive than the ones that currently regulate language mediation in many modern societies’ (33). Interpreters had to take an oath, were expected to be impartial, not to add or omit information, not to accept gifts, to be present in court on court days, be available for prison visits, not discuss legal matters with Indians in their homes or elsewhere, not take on the role of legal advisor, and would be paid according to the amount of information interpreted.

## War Crimes Tribunals

War crimes tribunals often need the help of interpreters to carry out their work which tends to be well documented in the form of transcripts and even audio or, more recently, video recordings. Francesca Gaiba (1998) quotes Reich Marshal Hermann Göring as saying 'Of course I want counsel. But it is even more important to have a good interpreter' (110). Her book focuses on the Nuremberg Trials held in 1945-1946, which was 'the first official international gathering in which simultaneous interpretation was used' (19). Gaiba researched history books, manuscripts, letters, microfiches of newspapers and magazines such as *The Times*, *Newsweek* and the *New York Times* and wrote to interpreter associations and interpreters. She discovered that everything was recorded at the Nuremberg Trials and a Reviewing Branch checked the accuracy of transcripts (97). Gaiba reports that all speakers had to speak slowly and that the lawyers complained that cross-examination was ineffective when performed slowly and that they were therefore penalized by interpretation. Apparently, many of the defendants spoke English and could understand the questions being asked in that language so 'they could understand the English question and then use the time of the translation to think about the answer' (*ibid*: 102). Gaiba recounts problems such as waiting for the German verb at the end of the sentence and some defendants' use of 'Ja' while they considered what to say – the chief interpreter instructed his staff to translate it as 'well'. One German-English interpreter refused to say the word 'brothel' and another attenuated the import of some statements; both were replaced.

The Japanese equivalent of the Nuremberg Trials was held in Tokyo between 1946 and 1948. The Tokyo War Crimes Tribunal tried 28 Japanese war criminals, with Japanese nationals as interpreters, Japanese Americans monitoring their performance, and U.S. military officers acting as language arbiters. The Soviet judge had no English or Japanese; prosecutors spoke French and Russian and the witnesses spoke Chinese, Dutch, German and Mongolian. Consecutive interpreting was used for a lot of the proceedings. Speakers were asked to break their remarks into short segments and translations of documents were provided to the interpreters. The language monitors often interrupted to correct interpretations, and in some cases did so erroneously (Takeda, 2008).

In a volume edited by Debra Russell and Sandra Hale (2008) and divided evenly between spoken and sign language interpreting, Ruth Morris writes about the 1988 trial of Ukrainian Ivan Demjanjuk who was accused of being the gas chamber operator in the Treblinka death camp. As the case was heard in Israel, the language of proceedings was Hebrew. The three judges had no German and varying levels of English. The two original defence lawyers were American and monolingual and there was also an Israeli defence lawyer who spoke Hebrew, English and Russian. A combination of consecutive and simultaneous interpreting was used and audio recordings were made. Morris highlights a number of issues that arose during the course of the trial. At one stage, one of the trial judges interpreted for an elderly Yiddish-speaking witness (7). As one of the American defence lawyers used flowery language, one of the judges asked the interpreter to cut short her interpretation (7). The same lawyer had a convoluted questioning style that confused some witnesses. One witness asked the interpreter to shorten the questions and she responded by saying 'He simply wants to know...' Morris includes examples where the interpreter softened comments made by a judge. The presiding judge acted on occasion as gatekeeper, giving instructions on what should or should not be interpreted. Rapid speech and poor acoustics also caused problems.

### **Colonial Interpreters**

Historical research on interpreters in Africa and recent research on court interpreting in Malaysia provide interesting background information on colonial contexts. Prinisha Badassy (2002) has written about Indian interpreters in Natal between 1880 and 1919. She describes one interpreter, David Vinden, as 'the Indian Post Master, Clerk and Indian interpreter attached to the Klip River Magistrate' (31). While her study does not focus solely on the role of these interpreters in court, she has found complaints against interpreters in the archives. For example, a 1908 complaint about interpreter Anthony Peters cites four causes:

1. That by the abuse of his official position he had become most unpopular amongst the Indians in the metropolis.
2. That he interests himself too deeply in cases prior to their being brought before the Court; and has, in many case, actually

precognised [sic] witnesses and suggested evidence so as to ensure success to one or other of the parties concerned.

3. That he often acts in an arbitrary and capricious manner by refusing to take the depositions of many a poor and ignorant Indian, who call at his office for the purpose of lodging complaints, unless he is paid for taking them.

4. That his conduct and language towards Indian women and girls are often indecent and insulting, and cannot be tolerated by any honourable and self-respecting people. (56)

These complaints raise interesting issues about the role of the interpreter. Badassy reports that the annual salaries for Indian interpreters in Natal in 1902 varied from £100 to £400. Interpreters there were public servants and had to take an examination in London.

Lawrance, Osborn and Roberts (2006) find that Africans who could act as mediators or interpreters 'occupied important and sometimes powerful positions in colonial Africa' (4) and that the skills and knowledge they acquired helped them to further their careers (5). They raise issues of collaboration and resistance; by helping the colonisers, interpreters could be seen as facilitating the process of colonisation. In the same volume, Maurice Amutabi (2006) writes about an interpreter called Asituywa who allegedly used his position as interpreter in at least one case to alter testimony and influence the jury's verdict. His role was wider than just court interpreter; he also worked as clerk, messenger and processor (208) and ultimately he used his position to become influential and wealthy. Thomas McClendon (2006) writes about an interpreter called Theophilus Shepstone who recommended in the 1840s that native interpreters not be used by magistrates because the people of Natal distrusted them and preferred to have Europeans. In 1862 a plaintiff complained that his interpreter had been bribed and was related to the policeman involved in the case. By the late 1850s settlers had picked up the local languages and those interested in working as court interpreters were examined by Shepstone who, in the case of one candidate, concluded that:

I have examined Mr John Eustace Tannin as to his capability for a Kafir Interpreter, and I have found him tolerably sufficient in all ordinary conversation but somewhat deficient in his knowledge of Judicial terms. I consider however that the latter can only be

acquired by being sometime engaged in the interpretation of Native Law (84).

Over the course of the following decade he awarded first and second class results to aspiring interpreters.

Saliou Mbaya (2006), writing about the situation in Senegal in the nineteenth century, explains that a more formal system was established by the French; a *Corps des interprètes* was established with French and Arabic speaking interpreters nominated by the director of the Public Affairs Bureau and appointed by the governor. Qualified interpreters were paid a salary whereas auxiliary interpreters were freelance, divided into four different classes, and paid a lower rate than their qualified counterparts.

A colonial past has left its mark on modern day court interpreting in Malaysia. Zubaidah Ibrahim (2007) carried out a study of Malaysian court interpreters for English who are public servants and fulltime employees but undergo no training or testing in interpreting. She interviewed senior police officers, court registrars, magistrates, judges, interpreters and members of the Bar Council. She also attended a number of court sessions and found that the interpreters had to engage in clerical type work before, during and after each case. As many defendants in the Magistrates' courts have no legal representation, there is a tendency for interpreters to get involved in an advocacy type role. This could include rephrasing defendants' questions to make them acceptable to the court, suggesting forms of mitigation to the magistrate, advising defendants how to plead, and not providing a literal interpretation of what is said. These practices have been in existence for decades and interpreters are in effect expected to act as advocates. Ibrahim suggests that 'the practice was started during the British colonial times, as a way to cope with the shortage of staff and to dispense trials in a competent manner' (212). In an earlier study, also in Malaysia, Ibrahim and Roger T. Bell (2003: 217) quote Teo (1984) who lists fourteen different tasks, only one of which is interpreting, expected of interpreters. These include acting as principal assistant to the judge or magistrate, maintaining discipline and order in the court, writing up reports, translation, and setting dates for hearings.

### **Diplomatic Interpreters**

Political scientist Ruth A Roland (1999) studied the role of interpreters in diplomatic and political history. Starting in ancient times, she cites examples from the Bible, the Middle East, Greece, Rome, Byzantium and Turkey. She then moves on to Europe and the New World, East-West confrontation and the modern period from the 1919 Versailles Peace Talks. The final section of her book focuses on a number of male 'outstanding interpreters'.

From the mid sixteenth century, young European boys and men between the ages of eight and thirty and resident in the Ottoman Empire, were recruited to learn Turkish or Arabic and ultimately to become an interpreter in a consulate or an embassy. They were called *jeunes de langues* in French. The intention was to create a pool of bilingual people who could be trusted to act as interpreters and to mediate in delicate situations rather than working with local dragomen who perhaps could not be trusted entirely. The Venetians were the first to do this but others followed suit; the French set up a school in Constantinople in 1699 and also trained Armenians in Paris; a school was also established in Vienna. The Spanish opened an embassy in Constantinople but translation from Turkish to Spanish had to be done via Italian or French (135). However, they had no proper system of training interpreters. The *jeunes de langues* were usually male, catholic, educated, and from good families (Cáceres-Würsig 2012).

The diplomatic and economic relations between France and the Ottoman Empire, and in particular the role of interpreters, are detailed by Christian Balliu (2005) whose research was carried out in the archives of the French Ministry for Foreign Affairs, the navy and the National Library. The French had established schools for interpreters at Pera School in Constantinople and at the Louis-le-Grand institute in Paris, where some graduates also taught. This was an effort to train their own interpreters, whom they could trust and who would defend and promote French interests.

Rachel Lung (2008) reports that during the Tang dynasty, in the years 618-906 A.D., translators in the Court of Diplomatic Reception interpreted between Chinese

officials and foreign guests from Central Asia and helped collect information on the geography and customs of their countries. Lung (2009) also reports on the first century, 25-220 A.D. in China, where the inspector of Yi Province liaised with people from other tribes through his Senior Clerk, with the intention of encouraging them to integrate into Chinese society.

Moving to more recent times, Kuriko Tomikai (2009) researched the work of Japanese diplomatic interpreters by interviewing three male and two female interpreters and asking them about their involvement in international relations. Tomikai comments on the invisibility and anonymity of these interpreters despite their participation in important negotiations.

### **Other Archival Research**

Malgorzata Tryuk (2010) carried out a study of the Auschwitz-Birkenau Memorial and Museum Archives records to find out about camp interpreters. She points out that a different code of ethics applies to interpreters in such extreme settings, and that such norms as accuracy and impartiality may not be relevant. According to Tryuk, many records mention that individual interpreters were a 'good chap', an 'honest campmate' or 'far from the worst' but some interpreters were 'exceptionally cruel' (127). There were three groups of interpreters: SS men; women who worked as registrars or messengers; and prisoners who spoke German. Stefan Wulf and Heinz-Peter Schmiedebach (2010) examined the records of Friedrichsberg Asylum in Hamburg, where they located data on 446 emigrants from Russia, Austro-Hungary and Poland who went to the United States via Hamburg, were found to be insane and returned to their port of origin. Patients and attendants acted as interpreters. The time frame for the study of 49 patients is 1900-1903, and most patients stayed between one and eighteen months. The article focuses in particular on two patients who acted as interpreters for a Russian and an Armenian who had been sent back from America. The interpreters took notes on their co-patients and their observations seem to have been clouded by their own mental health status.



Marcos Sarmiento Pérez (2011) has researched the role of male and female interpreters who interpreted between the indigenous people living on the Canary Islands and the Barbary Coast and ‘missionaries, traders, slavers and conquerors’ from 1350 to 1600. As early as 1276, Franciscan missionaries were being taught Arabic so they could evangelise the Saracens. In the second half of the fourteenth century, ten islanders were taken to Majorca to learn Catalan and later became interpreters. When the Canary Islands were taken over by the French, they also used interpreters who had spent some time in France. Interpreters helped convert the islanders to catholicism and negotiate peace and trade treaties.

Most historical research to date has been carried out in archives and this work can be very slow and tedious, especially when all that is found is occasional references to interpreters. Online databases have a great deal of potential because they speed up the research process considerably. The Old Bailey online database includes accounts of over 100,000 trials between 1674 and 1834. Christopher Stone and Bencie Woll (2008) carried out a search for the words “deaf and dumb” and “sign”, resulting in 31 cases between 1725 and 1832. They found that 26 mentions of “deaf and dumb” applied to defendants, four to witnesses and one to a prosecutor (in this case, the person alleging a crime had been committed). Prior to 1808, most interpreters were family members, childhood friends or work colleagues. From that date on, there are mentions of teachers from deaf schools acting as court interpreters although in some cases, communication was in written form.

## ***Part Two***

### **Interpreters in Ireland 1395-1800**

Eamon Ó Doibhlin (1959) suggests that the Thomas O’Locheran who interpreted for Niall óg O Neill when he took the oath of allegiance to King Richard II in 1395 was Thomas O Lucheran, Rector of Donaghmore who combined the roles of chaplain, secretary and interpreter (402).

Patricia Palmer (2003) finds that in sixteenth century Ireland ‘Recourse to interpreters was inescapable – especially since some of the leading Irish spoke no English’ (259). Latin was the main *lingua franca* up to the 1580s and was used for

example when Grace O Malley met Elizabeth I in London. Palmer finds, however, that 'the interpreter is almost nowhere to be seen' (260) and one can only guess or surmise that interpreters must have been present to allow communication to take place. Passives such as 'Englished' or 'being demanded' disguise the presence of an interpreter. When charged with conspiracy, Sheane McCongawney wrote in Irish that:

The cause why I have written this is, for the Council do not understand my language, and also for another reason, that I know not what the interpreter declares, and that I wot not but that he might leave some things unexpounded to the Lord Deputy or the Council which I should speak. [Sheane McCongawney's Relation, Sept 1593 (Cal. Carew MSS 1589-1600, p. 76)] 267

Poets, clergymen and 'Irish-born members of New English families' acted as interpreters and translators as did at least one woman, Agnes Campbell, wife of Turlough Luineach, who is described as 'a grave, wise, and well-spoken lady, both in Scots-English, and French' (271). Contact with Spain led to new needs and Latin was used as a *lingua franca* between Irish and Spanish and some survivors of the Spanish Armada learnt Irish. Palmer details the mistrust of the 'English with the Irish hearts' who took the side of the native Irish, and of Irish interpreters in general (273). Sir Christopher Nugent regretted the newcomers' failure to acquire Irish and believed that 'their consequent reliance on interpreters left dangerous gaps in understanding between the two language communities' (276). Over the course of the century the interpreter changes into 'a combatant armed with a forked tongue' (277) who may well be duplicitous, deceitful and double-dealing.

According to Hore (1858-59) an Irish born interpreter called John Lye or Leigh is mentioned in a number of historical documents. For example, he is described as 'John a Lee, interpreter to my Lord Deputy, and a messenger unto dangerous places' in a State paper entry of 1571. He was sent by Dublin Castle to talk to the Irish chieftains. Lye was well rewarded for his services to the Crown with a lease of lands in Kildare and later a manor in Rathbride. In 1591, Lye was interpreter for Brian O'Rourke at Westminster when he was tried for high treason.

In an article on the O'Hanlon family in the 16<sup>th</sup> and 17<sup>th</sup> centuries, Joseph Canning (2001) writes about Phelim O'Hanlon, who acted as interpreter and informer for Sir

Henry Bagenal, marshal of the army in Ireland and chief commissioner for Ulster. O'Hanlon interpreted between Bagenal and Connor Roe Maguire when Maguire provided information on a meeting that had recently taken place between the Earl of Tyrone, Maguire and O'Donnell. When Bagenal captured a messenger in 1596 and held him to ransom, the money had to be paid either to Bagenal himself or to 'his man Phelim O'Hanlon'. Canning also quotes a letter written in 1598 in which Phelim's 'intelligences' are described as 'very good' by Richard Wackely. There were also promises of information about the Earl of Tyrone's secret councils (66-67).

Sylvie Kleinman (2005) carried out research on Irishmen who left Ireland and joined the French army, and acted as translators and interpreters for French-English at a time of extensive communication between such luminaries as Wolfe Tone and Robert Emmet with the French.

### **Irish language Court Interpreting**

The current study builds on the work of others on court interpreting. The first example is the study of court interpreters for Irish from 1850-2000 carried out by Máire Ní Dhonnchadha (2000) who combined real cases such as *R. v Myles Joyce* and *R. v Burke* with folk and fictional accounts of interpreters as sources. She found that prior to 1900, court interpreters 'were clerks of the court, barristers, solicitors and policemen' and worked 'at least in Counties Meath, Galway, Mayo and Dublin' (33). For the twentieth century, she focused on significant cases such as *Attorney General v Joyce and Walsh* (1929), *The State (Buchan) v Coyne* (1936), *An Stát v Mac Gamhnia* (1983), *Ó Monacháin v An Taoiseach* (1986), *Mac Cárthaigh v Éire* (1999) and the Ó Buachalla Inquiry, all of which are outside the scope of the current study. In her recommendations for further study, she suggested that grand jury presentments 'should be accessed and studied in detail' (65).

Michael Cronin (2006) writes about perceptions of court interpreters as portrayed in literature and folklore. A key theme there, according to him, is the 'interventionist nature' of the interpreter as in when an interpreter takes a bribe of ten guineas and ensures his client wins his case in the early nineteenth century. Another example is taken from Gerald Griffin's novel *The Collegians* where the

interpreter intervenes directly to address the court. Cronin links these examples to language and power, and to tensions between literacy and orality. For him, interpreters 'are potentially power-brokers for the powerless'.

Writing about interpreting in his book on the criminal law system in Ireland in the period 1692-1760, Neal Garnham (1996) concludes that 'This post was neither required nor regulated by statute, but must have evolved through necessity at an early stage' and that interpreters 'were continually employed until the mid-nineteenth century' (93). For Garnham, 'the fact that interpreters were provided at all is a clear indication that the legal process was not designed to be exclusive' (94). However, he also cites Baron Willes, Chief Baron of the Irish Exchequer and member of the Irish judiciary, who in the Irish House of Commons 1759-60 described interpreters as 'ignorant' and 'scarce ever.... able to interpret truly' (94). He remarks also that some magistrates and counsel spoke Irish in the period of time covered in his study.

Special provisions were made as early as 1353 for foreigners who appeared as defendants in the English courts. These took the form of the jury *de medietate linguae*, a jury made up of six natives and six foreigners. The property restrictions pertaining to jurors were not applied to foreign jurors who were required for such cases. Niamh Howlin (2010) has written a history of these juries, paying particular attention to an American Fenian, Captain John McCafferty, who was tried in Cork in 1865 and as an American citizen, was entitled to a mixed jury, even though he obviously spoke English. The court acceded to his request and a French Professor of modern languages, a French hatter, a French watchmaker, a Swiss watchmaker, a vice-consul for Greece, and an Italian businessman and interpreter were sworn in to the jury along with six Irish jurors. There was some discussion about whether some of the jurors had enough English but the court decided that they had and the case proceeded without an interpreter. Local Cork newspapers of the time such as *Cork Special Commission*, *Cork Constitution* and *Cork Examiner* contain a lot of background information on the case. The introduction of the Jurors Act in 1870 which allowed foreigners to sit on juries marked the end of the jury *de medietate linguae*.

Lesa Ní Mhungaile (2011) devotes a substantial proportion of her article on the place of the Irish language in the legal system from 1700-1843 to the use of Irish in the courts. Her aim was to explore the extent to which Irish was used and to look at Irish language literary references to the administration of the law. She finds that Irish and English coexisted in the lower courts until at least the 1830s and that some manor courts operated entirely through Irish. Some judges, such as John Philpot Curran, spoke Irish (329), as did J.E. MacCarthy the seneschal for Rathbarry and Gortnahorna manor courts (330) and Edward Dean in Mayo (331). Based on the information available to her from the grand jury presentments, she deduces that 'the employment of interpreters at the assizes courts was common in some counties up to at least the 1830s' (331) and provides examples from Meath in 1816 and between 1822 and 1826; Cavan in 1833; Kilkenny in 1832; Limerick in 1825; and Tipperary in 1828. She notes that 'By 1860, however, the need for interpreters in Limerick had disappeared' (333). The sources cited by Ní Mhungaile proved invaluable for the current research.

### **Foreign Language Court Interpreting in Ireland**

While there has been no study of interpreting of foreign languages in the nineteenth and twentieth centuries, some work has been carried out on the provision of interpreters in the first decade of the twenty-first century, a time of immigration to Ireland, with large numbers of workers from Europe and elsewhere arriving in Ireland to work and study.

Ivana Bacik (2007) makes the point that 'access to an interpreter is at the discretion of the court' (109). She looks at international law on interpreting, European Court of Human Rights caselaw, European Union and Irish law. She cites *Attorney General v Joyce and Walsh* (1929) and *State (Buchan) v Coyne* (1936), both of which centred on the Irish language, protected under the Constitutions in force at those times. She recommends that there should be a statutory framework that would set out training standards and ethical guidelines (122) and highlights the need for public accountability.

David Riordan (2007), a District Court judge in Cork, puts the proportion of foreign offenders appearing before the criminal courts in Ireland at between 15 and 20%. He finds that 'a persistent dilemma arises when the court cannot be sure if the accused has sufficient grasp of English to adequately understand the proceedings' and that 'in a simple matter such as driving without insurance, one can get by without too much difficulty'. He accepts that an interpreter is essential for more complex issues such as theft. He comments that trials heard with the help of an interpreter and where a defendant without much English is heard without an interpreter are much slower to process than cases where everyone speaks English. Thomas O'Donnell (2007), also a District Court judge, writing on the European Convention on Human Rights Act 2003, mentions that in a drink-driving case involving a foreign national, the defence was that the defendant had not been provided with an interpreter in the garda station. He argues that it is not enough just to say this; case law should be advanced to support such a defence. He also comments that 'Matters also took a turn for the worse when the accused kept answering the questions put to him in perfect English!' (151).

A study of interpreting in the District Courts was carried out by Kathryn Waterhouse (2010) who combines ethnographic non-participant observation of interpreters at work with interviews with interpreters and lawyers. In addition, she considers the legal right to an interpreter in criminal proceedings, and includes coverage of interpreting in the *Irish Independent* and *The Irish Times* newspapers during the first decade of the twenty-first century. Observation of court cases leads Waterhouse to conclude that the language of the District Court, where accepted in-house abbreviations and shortcuts have become the norm, makes it unlikely that interpreters will understand the discourse of the court.

Karolina Jarmolowska (2012) carried out a study based on a real life case in Ireland. Her study focused first on unqualified interpreters who helped the police take witness statements which were later translated into Polish for the benefit of the defendant. She applied Juliane House's translation quality assessment model to the translations and analysed court transcripts to establish if the translations affected the trial. Jarmolowska found that covert translations disrupted the flow of the trial whereas overt translations were more appropriate.

## ***Part Three***

### **Issues in Court Interpreting**

Ian Mason and Miranda Stewart (2001) studied politeness and threats to face in interpreting situations broadcast on television; four Polish-English immigration interviews and the pre-trial cross-examination of Rosa López at the O.J. Simpson trial in 1995. Their findings 'suggest that while the literal style of interpreting does not necessarily suppress interpersonal meaning, the freer, less regulated style does not necessarily preserve it' (68).

Bente Jacobsen (2003) examined issues of face and saving face in court proceedings involving an English-speaking Chinese defendant. Based on this study, she found that interpreters are concerned with these issues and 'will attempt to clarify ambiguous utterances as well as mitigate threatening ones' (69) as they do not want listeners to assume that they are unprofessional in their role as interpreters. They fear that they will be perceived as less professional if they preserve the language of the original speaker.

Over a period of seven months in 1982 and 1983, Susan Berk-Seligson (1990) recorded 114 hours of mainly criminal cases at municipal, state and federal courts in four different cities in the United States. She also observed eighteen interpreters at work and interviewed them and lawyers who worked regularly with Spanish language interpreters. In a small town, a bilingual bailiff and a bilingual court clerk regularly acted as interpreters and this solution was also used in a medium-sized city on occasions when full-time interpreters were not available. She observes:

Whereas court personnel assume that the interpreter is nothing short of a machine that converts the English speech of attorneys, judges, and English-speaking witnesses into the mother tongue of the non-English speaking defendant or witness, and the foreign language testimony of non-English speaking witnesses into English for the benefit of the court, the outcome of that machine is by no means perfect, nor can it ever be, because of the problems inherent in the interpreting process. At best, it can be excellent; at worst, a gross distortion of what has been said (2).

In addition, Berk-Seligson asked 551 Hispanic and non-Hispanic mock jurors to listen to audio recordings of two versions of authentic material recorded in court. She wanted to establish if the conservation of polite forms in English, in this case, the word *señor*, made a difference to the jurors' perception of the witness and the attorney. One recording included all incidents of the word and the other omitted it. She found that the pragmatic alterations made by the interpreter affected the mock jurors' perceptions of the witness's 'social/psychological attributes – namely, convincingness, truthfulness, intelligence, and competence' (196). She also examined interpreter behaviour, where, for example, the interpreter interrupts the examining attorney or the witness, or prompts the witness 'to answer in a responsive manner' (215).

Following on from the work of Berk-Seligson, Marianne Mason (2008) looked at cognitive overload and the relationship between interpreters' memory and their ability to process language. She obtained permission from a federal court judge in the United States to access 200 hours of digital recordings of Spanish-English interpreted civil cases on condition that confidentiality was respected. A total of eleven certified interpreters were included in the study, seven women and four men. Seven were staff interpreters. She also had the opportunity to meet with the interpreters and hear firsthand from them what they found difficult about their work. She made a link between turn length and about 38% of interpreter errors. Also, the cognitive overload led in some cases to interpreters omitting hedges or pauses which could result in their conveying what a witness had to say in a powerful style which differed from the original powerless style. There was a correlation between long utterances and a decline in interpreting accuracy. According to Mason, there is a need to find ways to reduce interpreters' cognitive overload. To combat these problems the interpreters interrupted witnesses but Mason found that they tended to wait too long before interrupting. When interpreters worked semiconsecutively, turn length and errors were reduced. She found that gender played a part in some errors with a tendency among women to add politeness markers and for men to omit markers such as "well" and "please". Mason suggests that notetaking could be beneficial in the courtroom setting.



Anne Martin and Juan Miguel Ortega Herráez (2009) carried out a study of interpreter self-perception based on a questionnaire completed by 19 court interpreters in Madrid, Spain. Their hypothesis was that interpreters, despite their oath, probably did not adhere strictly to literal translation. The questions focused on register adaptation, explanations of legal procedures, omissions and additions. They found that 78.9% of respondents adapted the language to both the Spanish speaker and the non-Spanish speaker. Explanations of cultural differences and legal procedures were provided by 57.9% of respondents and the same percentage said that they omitted repeated information. Just under half of respondents said they made these changes on their own initiative and without alerting the other parties. Another 21.1% said that they requested the judge's permission first and 5.3% said they made the changes and then informed the judge. Just under 60% tried to remain impartial, while 26% said that occasionally they 'felt empathy for' non-Spanish speakers.

The issue of visibility or invisibility is much discussed in interpreting. Claudia Angelelli (2003) carried out a survey of 293 practising conference, court, telephone and medical interpreters with the aim of finding out about their perception of their visibility/invisibility. She defined invisibility as potentially involving five aspects: alignment with the parties, establishment of trust between the parties, communication of affect plus the message, explanation of cultural gaps and establishment of rules of communication. The results of this study indicate that the interpreters, regardless of the setting where they worked, did not consider their role to be invisible although medical interpreters saw themselves as more visible than did court and conference interpreters.

### **Police Interviews**

Comparatively little has been written about police interviews where interpreters are required, largely because interviews are held in private and it is difficult or impossible to obtain recordings. Historical cases are even more difficult to research because there is very little information about how the police managed to communicate with people who did not speak their language.

Susan Berk-Seligson (2009) managed to overcome these problems when she obtained recordings of police interrogations of Spanish speaking suspects. In two cases, the police officers who took over the role of interpreter did not have enough knowledge of Spanish to be able to do the work in a competent fashion. One omitted turns of talk and resorted to a kind of pidgin Spanish. The police claimed that the defendant had confessed to a serious crime, but the recordings showed that this was not the case. In the other case, the police officer operated as an interrogator rather than an interpreter, appealed to the suspect on religious grounds and refused to accept the suspect's request to stop the questioning. In two other cases, the police officers were bilingual. One used controlling questions, did not allow the suspect to finish his answers, made statements rather than asking questions and put words in the suspect's mouth. In another case, which was not recorded, and where the suspect complained of police brutality, there were a number of mistakes in the translation of the Miranda Rights.

Yvonne Fowler (2003) had the opportunity over a number of years to observe her students act as interpreters in police interviews in England. She was concerned at the taking of witness statements in particular. Fowler set up four mock interviews, with real police officers and interpreters, and volunteers playing the part of witnesses. In two interviews the police officers were to ask the interpreter to take down the statement in the foreign language and in the other two, the statement was to be taken down in English. In both cases, the statement would be translated by the interpreter into the other language. Fowler found advantages and disadvantages to both systems. When the police took the statements they could control the questions and use the information gathered to ask more questions. Also, the English language version would then be available to the suspect's solicitor. The disadvantage was that the non-English speaking witness could not read the statement. When the interpreter took down the statement in the foreign language, the witness could read through it immediately. The disadvantages were that the police officer lost control and the interpreter had to decide what to include in the statement. The interpreter was kept busy writing and could not interpret at the same time.

In 2000, Isabelle Perez and Christine Wilson (2007) started providing basic training to police officers in Scotland in how to work with interpreters. In this research study they asked police officers before commencement of training what they perceived to be the main difficulty in working with an interpreter. After the training, they were given a questionnaire where they were asked open questions about the usefulness of the training. In tandem with this line of questioning, seven trained public service interpreters provided information on the difficulties they faced when interpreting at police interviews. The police officers were concerned with the logistics of locating interpreters, accuracy of interpreting, trust, maintaining the flow of conversation when an interpreter is present, knowledge of police procedures, unethical behaviour and adjusting questions to make them short and simple. Police officers who had prior experience of working with interpreters emphasised the importance of providing them with a briefing. Perez and Wilson recommend that police and interpreters work as a team, and that the police should focus on planning and preparation, rapport building, information gathering, clarifying, confirming and closing and finally evaluating.

### **The Role of the Interpreter**

Interviews and tribunal hearings involving asylum seekers can present interesting issues involving the role of the interpreter, who is often from the same country as the applicant and who may in some cases feel sympathetic to him or her.

Sonja Pöllabauer (2007) analysed the transcripts of twenty asylum seeker interviews conducted in German and English in Austria, to focus on issues of face and footing. There were three interpreters, two of whom were professional while the third was untrained but very experienced. Pöllabauer found that an interpreter changed to “The officer has the impression” rather than saying “I have the impression” in order to distance herself from a negative comment. When communication broke down, the interpreter added her own comment to indicate who was to blame.

Waltraud Kolb and Franz Pöchhacker (2008) analysed 25 hours of audio tapes of asylum interviews with English-speaking asylum seekers in Austria. They observed

that ‘interpreters were often found to take on tasks that go far beyond an interpreter’s normative role as laid down in professional codes of ethics and standards of practice, and these extended roles are ostensibly ratified by the adjudicators in the interaction’ (46). They found that some interpreters took on the role of interviewers, asking questions and confirming responses. Interpreters in this particular setting became participants in the production of the written record of the interviews, even adding in specific instructions regarding punctuation.

Hale (2008: 102) devised five possible roles (detailed in Table 2) for court interpreters: advocates for minority language speakers, advocates for powerful participants, gatekeepers, embellishers and faithful renderers. Only the last two involve impartiality.

	<b>Description of task</b>	<b>Role identity</b>	<b>Accuracy requirement</b>	<b>Impartiality requirement</b>
1	To help the minority language speaker present his/her case in the best possible way	Advocate for the powerless participant	Medium	Nil. Partial to the minority speaker
2	To help the service provider/institution. To serve as an institutional assistant.	Advocate for the powerful participant	Medium	Nil. Partial to the mainstream language participant.
3	To be an active third participant in the interaction and decide on what should and should not be uttered	Gatekeeper. The interpreter becomes the only powerful participant	Low	No partiality to either party – power to the interpreter
4	To ensure effective communication between the participants	Filter, embellisher, clarifier, speech assistant	Medium to high. Content alone	Impartial. Both parties “helped” by the participant
5	To remove the language barrier and place the minority language speaker in as similar a position as possible as someone who speaks the mainstream language.	Faithful renderer of the original utterances	High. Content and manner	Impartial. Responsibility for communication left to authors of the utterances

**Table 2 Court Interpreter roles (Hale)**

In the courtroom, everything the witness says in evidence is taken into consideration in the evaluation of credibility, in the judgement about consistency and plausibility of the case and ultimately in the outcome of the case (112).

According to Hale (2001) 'It is essential that interpreters understand the purpose of questions in the courtroom and the pragmatic use of each type in order to render accurate interpretation' (21). Her study of thirteen Spanish-English interpreted cases in Australian lower courts examines how interpreters interpret questions, which, she emphasises, are the territory of the lawyers and judges, and not of witnesses or defendants. Lawyers took a friendly approach in examination-in-chief but in cross-examination their questions were often controlling and aggressive. The interpreters tended to omit declaratives with tags and modal interrogatives. Hale concludes that the main reason for these omissions was a lack of equivalents in the target language. She suggests, however, that pragmatic equivalence can be achieved.

## ***Part Four***

### **Bourdieu**

Pierre Bourdieu's concepts of field, habitus, capital and symbolic power, which he refined and developed over decades, are all interrelated.

### **Field**

A field can be compared to a magnetic field, or a network. Three steps are involved in the examination of a field. The first is to analyse the position of the field in relation to the field of power. The second is to 'map out the objective structure of the relations between the positions occupied by the agents or institutions who compete for the legitimate form of specific authority of which this field is the site'. The third is to analyse the habitus of the agents, based on their economic and social circumstances (Bourdieu and Wacquant 2007: 104-105).

The field of power and the field of law are closely interconnected, with agents of government and the higher echelons of administration drawn from the same social strata as the judiciary and lawyers:

The closeness of interests, and, above all, the parallelism of habitus, arising from similar family and educational backgrounds, fosters kindred world-views. Consequently, the choices which those in the legal realm must constantly make between differing or antagonistic interests, values, and world-views are unlikely to disadvantage the dominant forces. (Bourdieu 1987: 842)

‘Law consecrates the established order by consecrating the vision of that order which is held by the State’ (*ibid.* 838) and ‘The membership of judges in the dominant class is universally noted’ (Bourdieu *ibid.* 842). Bourdieu also writes of ‘the nonaggression pact that links the magistracy to dominant power’ (*ibid.*: 843). The field of law is ‘the site of a competition for monopoly of the right to determine the law’ (*ibid.* 817) where there is ‘a symbolic struggle between professionals possessing unequal technical skills and social influence’ (*ibid.* 827). Access to the field is controlled by the need for qualifications.

### **Symbolic Power**

The court exercises power in a symbolic way, but also in a very real way when it passes sentence and imposes sanctions. This power is accepted by society; ‘the law is socially recognised and meets with agreement, even if only tacit and partial, because it corresponds, at least apparently, to real needs and interests’ (Bourdieu 1987: 840).

Symbolic power.[...]is defined in and by a definite relation that creates belief in the legitimacy of the words and of the person who utters them, and it operates only in the legitimacy of the words and of the person who utters them, and it operates only inasmuch as those who undergo it recognizes (sic) those who wield it. (Bourdieu and Wacquant 2007: 148)

### **Symbolic Violence**

One of the ways the State asserts its power is through the forces of law and order, the police, and the courts:

In this struggle, judicial power, through judgments accompanied by penalties that can include acts of physical constraint such as the taking of life, liberty or property, demonstrates the special point of view, transcending individual perspectives – the sovereign vision of

the State. For the State alone holds the monopoly of legitimized symbolic violence. (Bourdieu 1987: 838)

Bourdieu stresses that this violence 'is exercised upon a social agent with his or her complicity' (Bourdieu and Wacquant 2007: 167). The social agents do not recognise symbolic violence because 'their mind is constructed according to cognitive structures that are issued out of the very structures of the world' (ibid. 168).

## **Habitus**

Bourdieu (2007) defines habitus as 'an *open system of dispositions* that is constantly subjected to experiences, and therefore constantly affected by them in a way that either reinforces or modifies its structures' and maintains that 'experiences will confirm habitus, because most people are statistically bound to encounter circumstances that tend to agree with those that originally fashioned their habitus' (Bourdieu and Wacquant 2007: 133). The habitus is structured by the field (*ibid.* 127) and adapts to it (*ibid.* 129). Bourdieu gives an example:

'in order to understand what professor A or B will do in a given conjuncture (say May '68) or in any ordinary academic situation, we must know what position she occupies in academic space but also how she got there and from what original point in social space, for the way in which one accedes to a position is inscribed in habitus. (Bourdieu and Wacquant 2007: 136)

Habitus therefore varies from person to person, even if they are agents in the same field, because their social and educational backgrounds may not be exactly the same. This in turn contributes to tension in a field and helps make fields more dynamic.

A person's language habitus is 'a permanent disposition towards language and interactions which is objectively adjusted to a given level of acceptability' and is 'adapted to his particular chances of profit, given his specific competence and his authority' (Bourdieu 1977: 655). It is part of class habitus (*ibid.* 660).

## **Capital**

Capital, for Bourdieu, is not just economic, but also symbolic and cultural and exists in relation to a field. Economic capital is self-evident and is necessary for parents to invest in their children's education, for example. Cultural or informational capital

can be embodied, objectified or institutionalized. Embodied cultural capital is 'the form of long-lasting dispositions of the mind and body' (1983: 242) and could equate for example to culture or cultivation. Individual time, time invested on a personal basis, is essential to build up any cultural capital. Embodied cultural capital cannot be transmitted to the next generation and functions as symbolic capital. For example, 'any given cultural competence (e.g. being able to read in a world of illiterates) derives a scarcity value from its position in the distribution of cultural capital and yields profits of distinction for its owner' (1983: 246). Objectified cultural capital could be cultural goods such as books or pictures. Institutionalized cultural capital could be educational qualifications (244). Social capital is obtained through a network of relationships 'of mutual acquaintance and recognition' (249).

Referring to France, Bourdieu writes that 'it was necessary for the school system to be perceived as the principal (indeed, the only) means of access to administrative positions which were all the more attractive in areas where industrialization was least developed' (1991: 49). He sees education as 'the equivalent, in the cultural order, of genetic capital in the biological order' (Bourdieu and Passeron 2011: 32). This links in with his ideas on reproduction, whereby cultural capital is transmitted across generations, something that he links with education in particular, which he sees as another type of symbolic violence (Bourdieu and Passeron 2011).

Bourdieu (1988) carried out what he termed correspondence analysis of academics in third level institutions (Collège de France, Sorbonne, Faculty of Nanterre, Ecole Pratique des Hautes Etudes) in Paris in the 1960s and early 1970s. To do this, he collected a large amount of data, with the aim of capturing as much information as possible on the various forms of capital they had inherited or acquired. The first step was to obtain demographic information, and then information on academics' economic and social capital, meaning publications, foreign visits, and honours awarded. He and his team also interviewed academics, which helped clarify such issues as fathers' professions, where, for example, in one case, a professor's father's occupation was listed in *Who's Who* as a viticulturist, when he was in fact a vineyard owner with a degree in law. They also collected information on religion, and involvement in organisations linked to churches. To find out more about



cultural capital, they checked academic qualifications and then went on to find out more about indicators of capital of university power, meaning membership of high level committees and promotion within universities. Separately, they researched indicators of capital of scientific power and prestige for science academics and for this group they obtained data on publications, translations of same, citations and visits abroad. Another criterion was indicators of intellectual celebrity such as publication in paperback, TV appearances, and publications in *Le Monde* or in certain magazines. Lecturing in other higher education institutions and links to public bodies were included as evidence of capital of political or economic power (1988: Appendix 1). Finally, indicators of political dispositions were collected; these could be signatures of support for various issues of the day. Bourdieu then developed a visual representation of the information he had compiled, plotting out where individuals stood based on their capital. Anyone looking at the graph could see who resembled whom and which individuals had similar backgrounds or attributes. Bourdieu argued that this was a scientific, objective approach which transcended his own partial and perhaps subjective point of view. He divided academics into a dominant pole and a subordinate pole; the dominant pole tended to correspond to teachers of law who were catholic, had large families, voted right wing, and lived in fashionable residential areas while the subordinate pole tended to be Jewish, educated in state schools, and voted left wing (49).

### **Bourdieu and Legal Translation and Interpreting**

Pierre Bourdieu's concepts have been used by a number of Translation Studies scholars. Moira Inghilleri (2003) proposes a theoretical framework using Toury's model of norms, Bourdieu's notions of habitus and field, and Bernstein's model of pedagogic discourse, to analyse interpreting. She applies this framework to a section of a report from the mid 1980s on asylum interviews in the United States. The interpreters at the interviews were either qualified court interpreters or untrained and untested interpreters who doubled as clerks. The judges instructed them to interpret verbatim and not to add or omit any information but this caused difficulties for at least one staff interpreter/clerk who followed these instructions

but was then challenged by a bilingual attorney for not interpreting the sense of what was said by the asylum seeker. The qualified court interpreters in contrast, tended to become over involved in the cases, attempted to improve testimony and gave advice about what the applicants should say. Inghilleri links these findings with belief in interpreters' invisibility and the monolingual culture of the court. Furthermore, the legal and political fields were working in tandem to ensure that power is maintained by the state, with judges actively participating in questioning applicants. All the interpreters, regardless of their backgrounds, worked to maintain the norms of the context in which they were working.

Inghilleri (2005) identifies the increased interest of translation scholars in Bourdieu with the move towards seeing translation and interpreting not as products but as acts connected to power and control and the concepts of habitus, field and illusio which are central to his approach. For her, Bourdieu's concepts are useful when investigating the impact of interpreters and translators and she suggests that they can provide a good starting point for sociologically-informed research.

M. Carmen Vidal Claramonte (2005) draws on Bourdieu's concepts of habitus and capital and on his view of legal texts as signs of authority. Traditionally, the law was seen as a science and it was thought that there was one correct translation for each term or concept. Nowadays, legal translation could be considered as a 're-presentation of reality' and it should not be assumed that legal texts are neutral in nature because they are influenced by the social capital of the writer and of the receiver of the text. Moreover, if the habitus of the original author and of the translator are widely different, then there is likely to be divergence between source and target texts. Vidal Claramonte cites Roland Barthes' short piece on the Dominici trial in France, where the defendant, who was accused of triple murder, did not speak standard French.

## **Conclusion**

César Santoyo points to the paucity of historical research on interpreting and writes of a 'notorious empty space' (2006: 13). Baigorri-Jalón (2006) suggests the use of oral history and testimonies, administrative records and cross-referencing of data.

As we have seen, newspapers were used by Niamh Howlin in her study of the jury *de medietate linguae* but, apart from Francesca Gaiba's work on the Nuremberg Trials, they have not been used in mainstream interpreting research.

Irish language court interpreting in the nineteenth and twentieth century has not been studied comprehensively to date. Existing information is fragmented, with elements from different places and times, but no real overview of interpreter provision and how it was organised. The current research addresses this gap.

Bourdieu's concepts outlined in this chapter will be used to inform the analysis of Irish language court interpreting in the current research.

The next chapter details how the current study was carried out and the data that were used to inform it.

## **Chapter 3 Research Methodology**

This chapter describes the resources used in the current research, how they were accessed, and why they were useful. Each of the sources is described in detail, and an account is given of how they were used. The reasons for choosing the period 1801-1922 are explained.

The first group of sources of data for this thesis consists of electronic resources in the form of: digitised newspaper articles that mention court interpreters; the House of Commons and House of Lords debates (Hansard); and the House of Commons Parliamentary Papers database. The second group is composed of hard-copy grand jury abstracts of presentments which detail payments to interpreters; records of correspondence with interpreters in the registered papers from the Chief Secretary's Office in Dublin Castle and a small number of letters sent from the Office and compiled in the country letter books in the National Archives.

### **Irish Newspaper Archives**

The current research required the creation of a corpus of newspaper articles on the topic of court interpreting from the nineteenth and twentieth centuries. Through IReL, the Irish Research eLibrary, accessed via the Dublin City University Library website, the researcher created such a resource using two online databases: Irish Newspaper Archives and The Irish Times (Proquest).

A large number of newspapers are available on microfiche in the National Library of Ireland. While a useful way of preserving the print copies, microfiches are time-consuming to use, as they cannot be searched electronically, but have to be gone through article by article and page by page before any results can be found. They may also be difficult to read due to the small size of the print. The research reported on in this thesis would not have been possible without digitisation, which involves scanning newspapers article by article, to create a digital image of the original. Such digital images are then compiled into a database which allows full text searches. Articles that match a search term are retrieved and presented to the

user in digital image format. The search words used then appear underlined on the articles. The result is an image which cannot be copied and pasted but can be printed or transcribed. Readers who use Google Books will be familiar with the limitations.

At the time of writing the Irish Newspaper Archives database covered 27 Irish newspapers, the oldest of which is the *Freeman's Journal* (1763-1924). The archive also includes *The Nation* (1842-1897) and the *Irish Independent* (1905-) as well as a number of local newspapers such as the *Nenagh Guardian* (1838-). Overall, the national coverage is probably better than that of particular counties or provinces and it would have been useful for the current research to have had more access to older local newspapers. The archive is a work in progress; for example, *The Strabane Chronicle* was established in 1896 but at the time of writing was only available from 2011. The *Munster Express* is included, but Cork newspapers such as *Cork Herald*, *Cork Examiner* and *Cork Constitution* are not. While this archive is a very valuable resource because it goes so far back in time, searching can be slow.

Figure 2 presents the basic interface of the Irish Newspaper Archives:

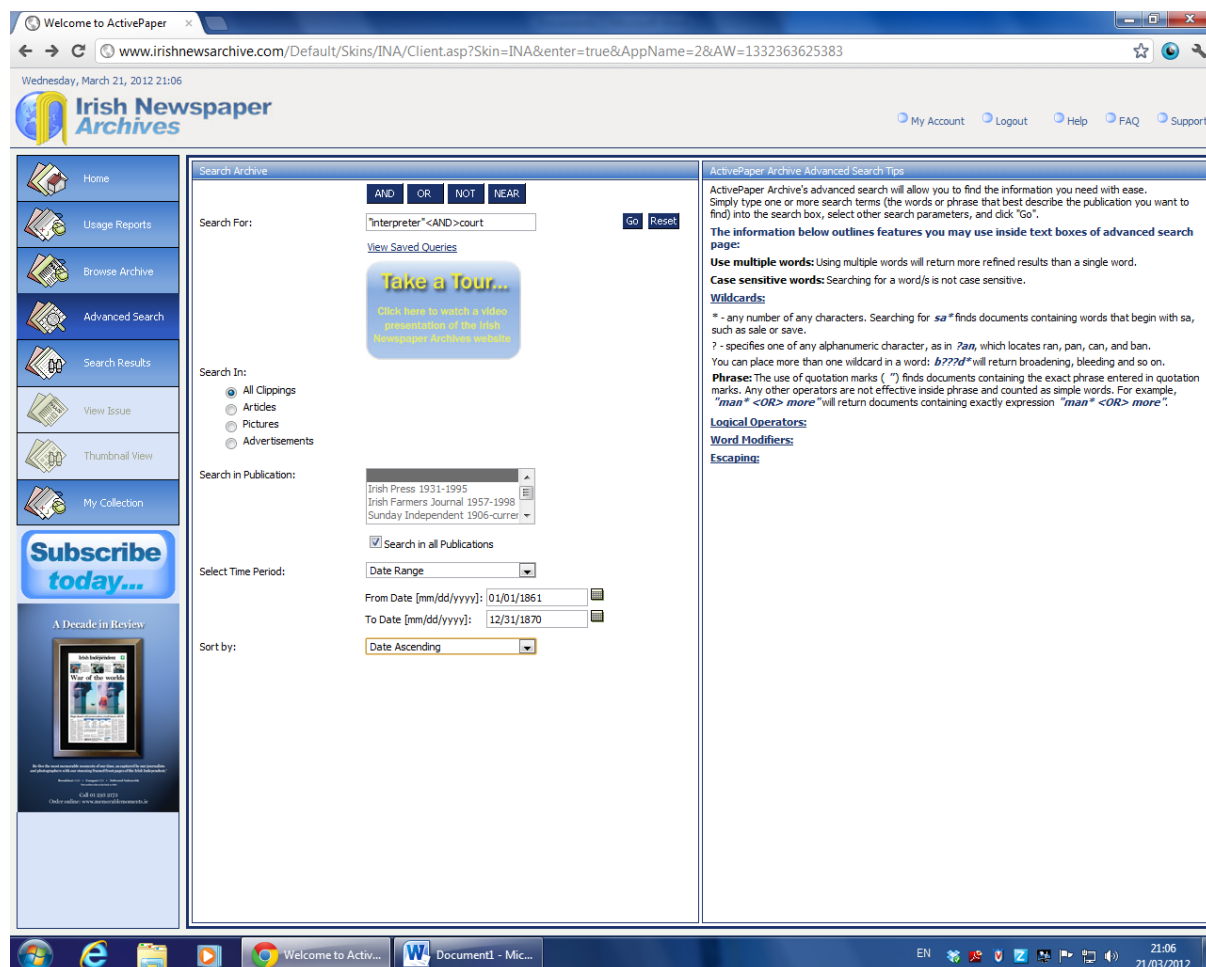


Figure 2 Irish Newspaper Archives interface

## Search Strategies

On the Irish Newspaper Archives, “fuzzy” searches for interpreter without any inverted commas, gave a large number of irrelevant results to do with ‘to interpret’ and ‘interpretation’. As a result, the researcher had to conduct exact searches for “interpreter” in inverted commas AND court, which proved successful overall. (Searches for “interpreter” <NEAR> court yielded no results.) Searches can be carried out of specific newspapers or of all publications at the same time but the latter often does not work. They can also be carried out for a particular date range. Results can be sorted by date ascending, date descending, publication, section, title and score. The researcher searched by decade and used the date ascending option to ensure that all data would be consistently captured and recorded.

Results appear five at a time (Figure 3) and the visible portion of the article often has no connection with the relevant article. This means that each hit has to be opened and read to ascertain if it is of interest.

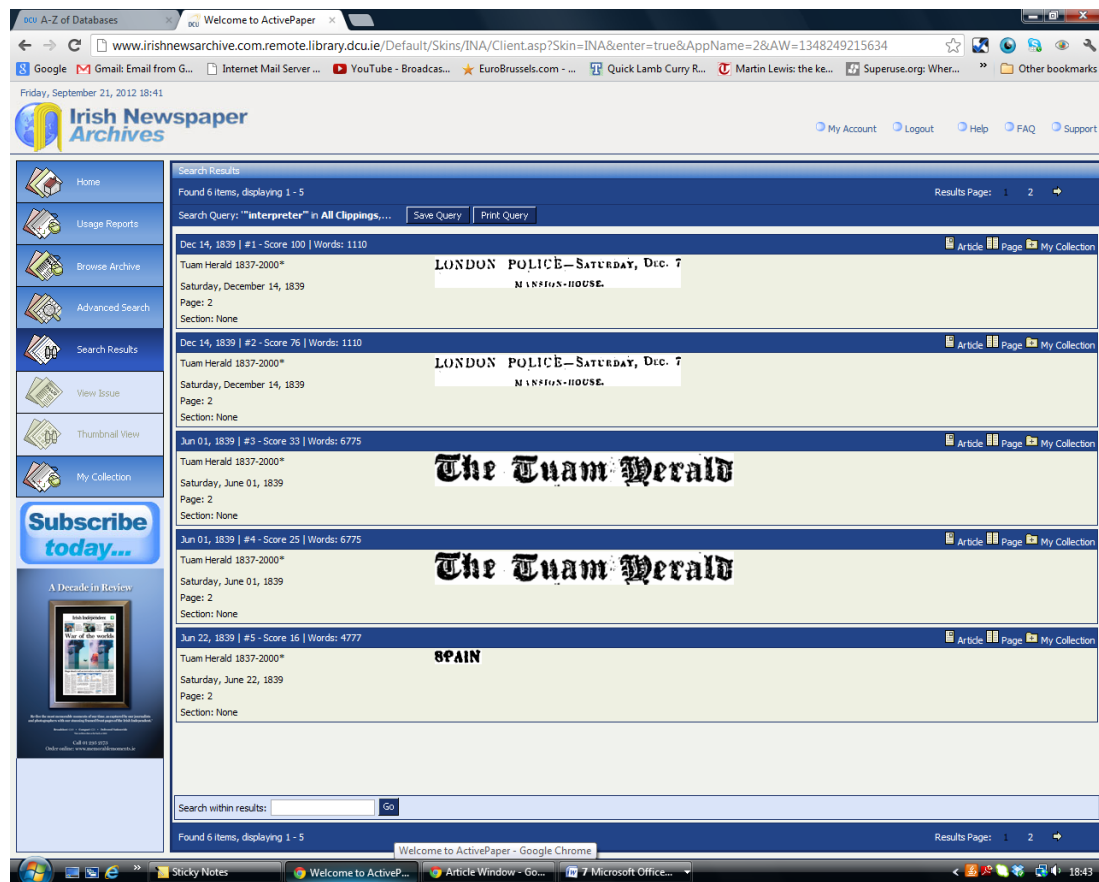


Figure 3 Example of hits on Irish Newspaper Archives

In some cases a number of article windows have to be opened before the relevant article can be found with the words “interpreter” and “court” underlined in blue (Figure 4).

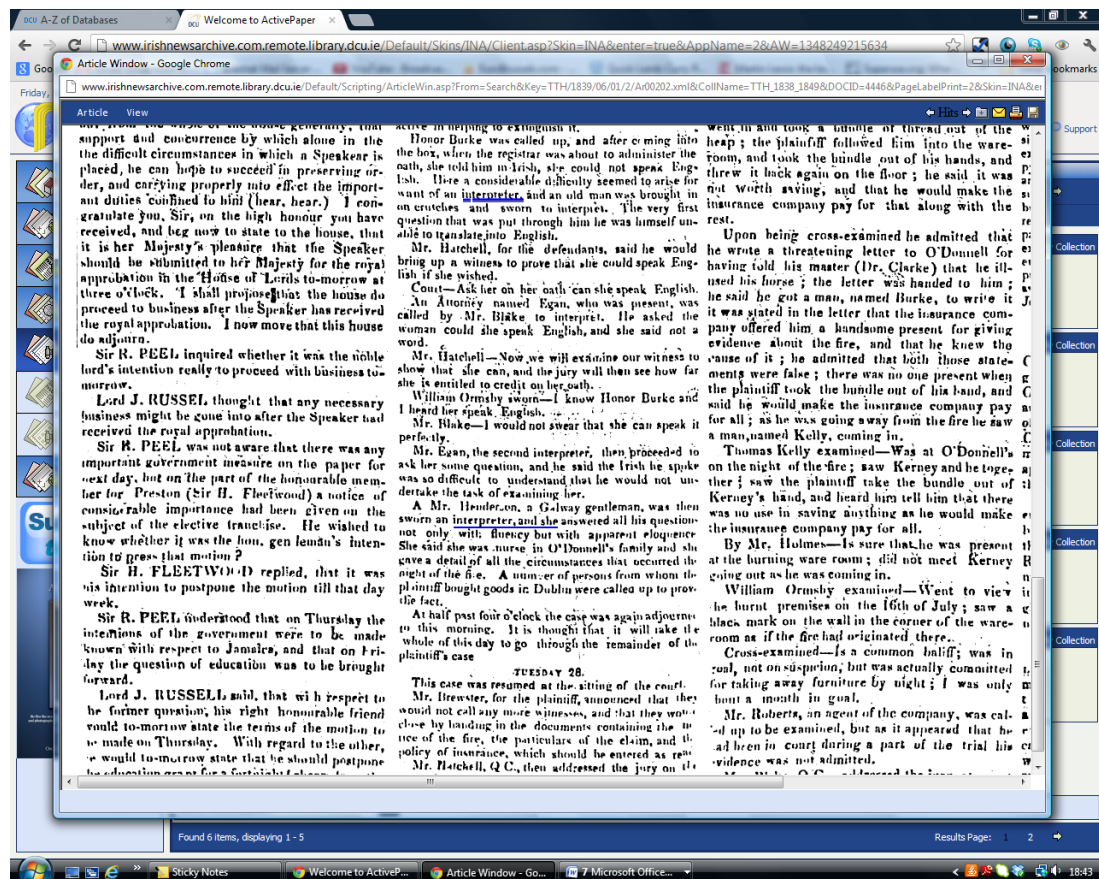


Figure 4 Search word underlined Irish Newspaper Archives

An additional delaying factor was that the word “interpreter” could be in one article and “court” in another, which meant that a substantial number of results were of no interest. This occurred because the database was searching by page image rather than by individual articles. Also, searches by article title, when for example the researcher had omitted to record the page number and had to go back and search again, were sometimes unsuccessful. Another problem occurred when the print edition of a newspaper divided an article between for example page 1 and page 8. If the word “interpreter” appeared on page 8 and the article was of interest, then it was necessary to go into page view, go back to page 1, and locate the start of the article and the title.

Searches were also carried out for “interpreter” and “assizes” because a small number of articles on cases heard at assizes did not include the word “court”. In addition, a search was carried out for “presentment” and “interpreter” in the hope of finding information in local newspapers about the attitudes of the grand juries



towards paying court interpreters for Irish. This strategy proved successful for local newspapers *Nenagh Guardian* and *Nenagh News*.

In the case of relevant results, the article or relevant sections of the article were typed up, which, although time-consuming was useful because it meant that the data could then be searched by keywords. (In the case of results from 2005 on, it is possible to copy and paste data as editable, searchable text.)

### **Irish Times Archives**

ProQuest Historical Newspapers cover *The Irish Times* from 1859 to the present and *The Weekly Irish Times* from 1876 to 1958. This archive is user friendly because it shows one article at a time, reducing the need to sift through a number of articles in order to find the relevant item. However, in the case of some very short court reports, it can be necessary to read through a lot of information to locate the relevant item. The researcher can choose to have 20, 50 or 100 results appear at a time. Figure 5 shows the user interface for this resource. The same search strategies as were used with the Irish Newspaper Archives were also applied in the *Irish Times* databases.

Figure 5 shows the search screen interface and Figure 6 shows an example of a results page:

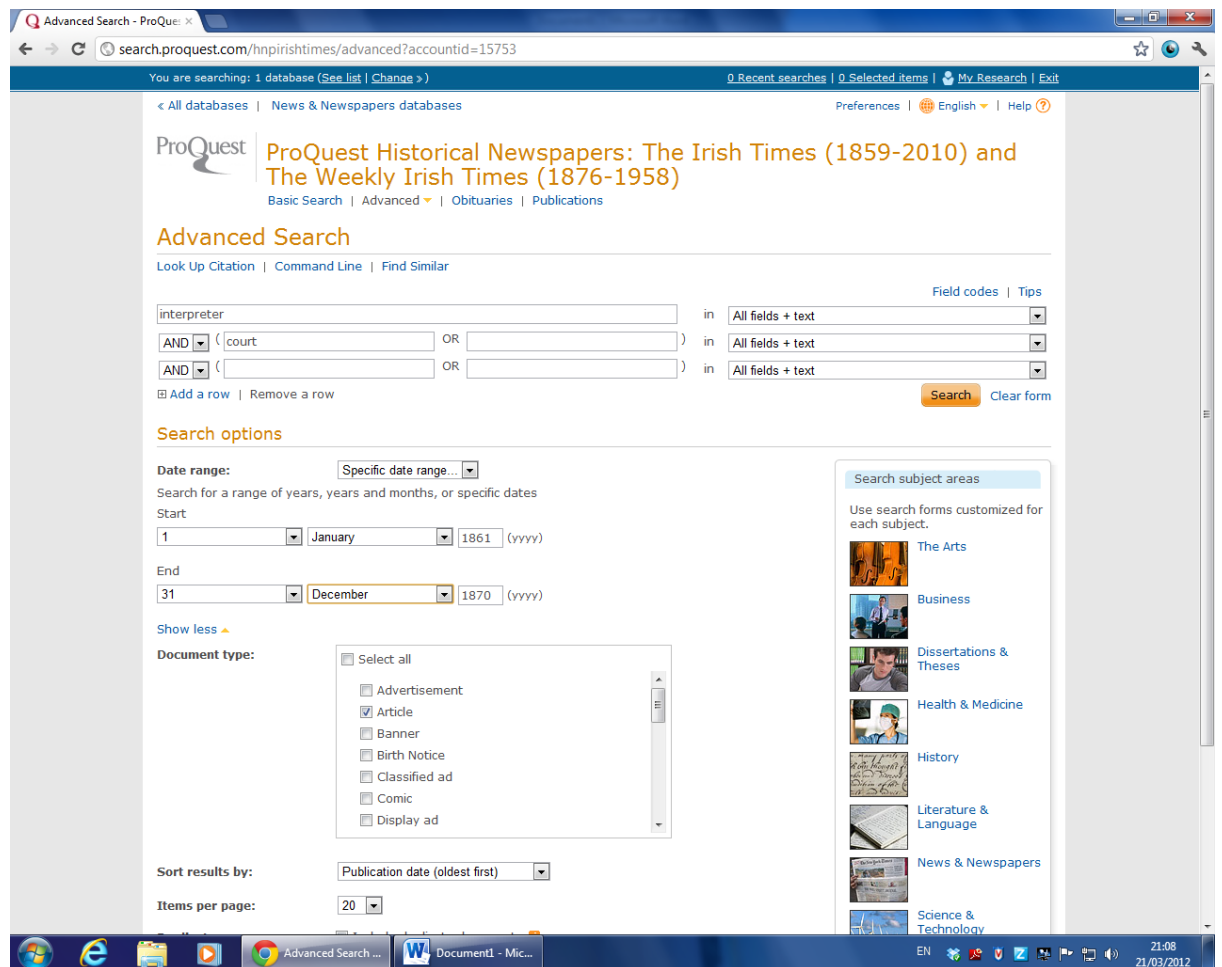


Figure 5 ProQuest Historical Newspapers: The Irish Times search screen

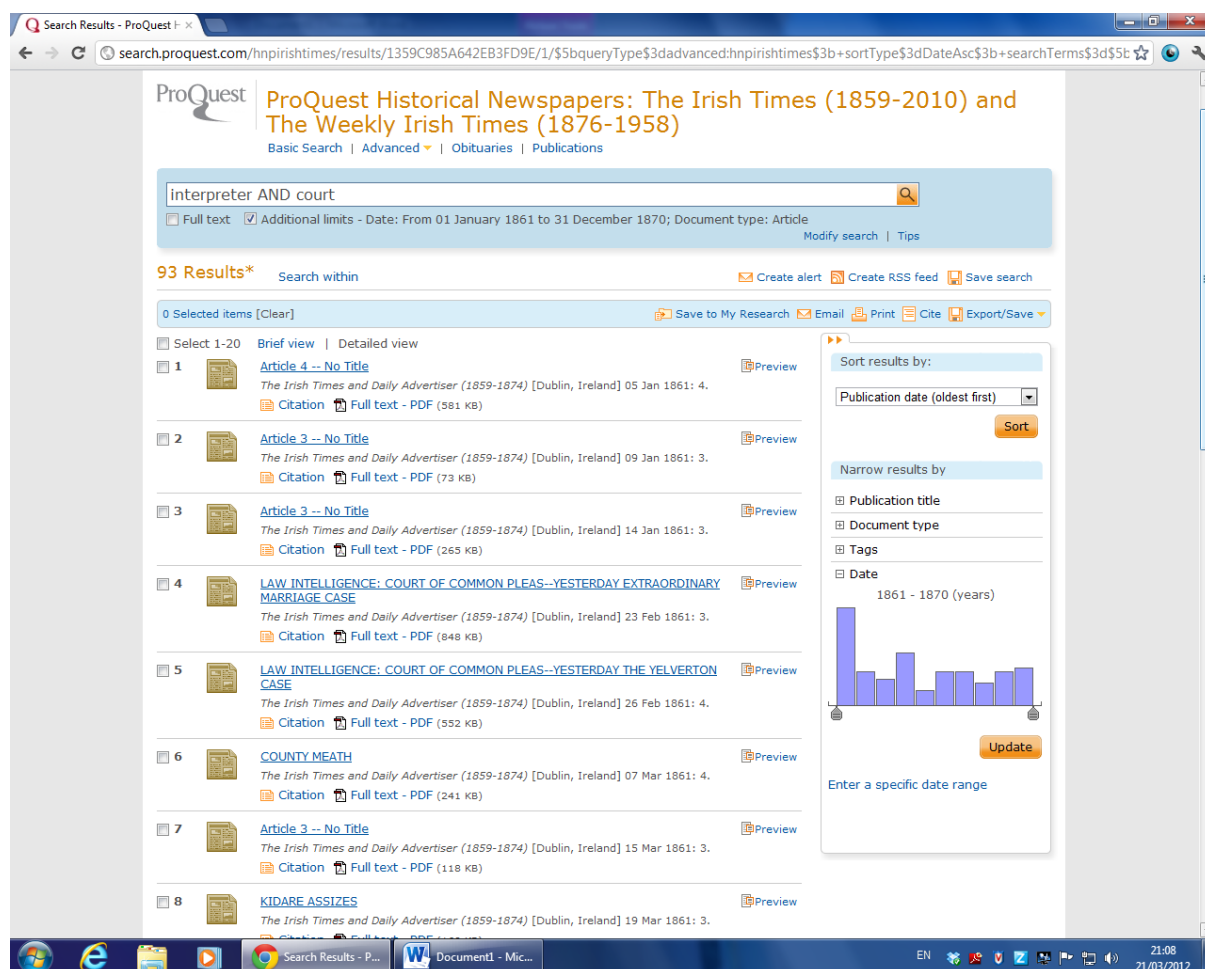


Figure 6 Results page in ProQuest Historical Newspapers

Each hit had to be checked one by one to decide if it was relevant. The search words appear in red in each article, once opened, which reduces the time required to ascertain its relevance.

## Results

As I went through the databases year by year, I recorded all articles that mention court interpreters from the earliest cases to the end of 2011. I also did a search for “translator” and “court” but this did not reveal any new information. Rather it confirmed my belief that the words interpreter and translator tended to be used correctly in the past, unlike in recent times when many journalists and the public seem to view the two words as interchangeable and use both for variety. The earliest example of the confusion of ‘interpreter’ and ‘translator’ on the *Irish Times* database appeared in a Reuter report from Moscow (*Irish Times*, 18 August 1960, 7)

and a later example by an Irish journalist occurred in 1973 (McCafferty, 7 March 1973, 15).

Three files were compiled, each in chronological order; one comprising cases involving foreign languages, one for cases involving the Irish language, and one for cases involving sign language. The annual numbers of cases involving Irish and foreign languages were very similar until the 2000s when immigration increased dramatically into Ireland. Around this time, the number of cases involving Irish fell while the number of cases involving interpreters for foreign languages increased dramatically. The number of cases mentioning sign language was very small and fairly consistent throughout the period under review. The total amount of information in the three files came to some 900 pages; 600 on foreign languages, 253 on the Irish language and 51 on sign language.

Searches were carried out on a total of 28 Irish newspapers for the current research. It should be noted that the National Library of Ireland newspaper database lists 1,500 newspapers, old and modern, of long and short duration, in Ireland and abroad, in English, Irish and for more recent publications, in other languages such as *Polska Gazetta* and *Życie W Irlandii* in Polish and *Sveiks!* in Latvian. Given the large number of newspapers that were published – approximately 600 were established in Ireland before 1922, many of which may have been shortlived - 28 is a relatively small number. However, it does include important newspapers like the *Freeman's Journal*, the *Nation*, the *Irish Times*, many local newspapers and later national newspapers such as the *Irish Independent* and the *Irish Press*.

### **Other Online Resources**

The Hansard Parliamentary Records for the House of Commons and the House of Lords are available online [<http://hansard.millbanksystems.com/>] and include official responses to questions asked by Members of Parliament and Lords about interpreters in Ireland, but also in Wales and Scotland.

The House of Commons Parliamentary Papers (HCPP) database [<http://parlipapers.chadwyck.co.uk/marketing/index.jsp>] proved an invaluable

resource. I carried out searches for “interpreter” in the Ireland collection on the hierarchical nineteenth century subject list and obtained 500 results from 1808 to 1922. Many results had no relevance to this research because they were for example ‘interpreter of their feelings’, or ‘interpreter of natural law’. Others, while not directly relevant, were of tangential interest, being to do with military interpreters and Irishmen who were appointed student interpreters in China, India and Japan.

The screenshot displays the 'HOUSE OF COMMONS PARLIAMENTARY PAPERS' website. The top navigation bar includes links for HOME, SEARCH, BROWSE, INFORMATION RESOURCES, MY ARCHIVE, and HELP. The main section is titled 'SEARCH' and features a 'Durable URL' link. On the left, there are links for 'SEARCH HISTORY' and 'MARKED LIST (0 items)'. The search form includes a 'Keyword' field with 'interpreter' entered, a 'Search' button, and a 'Limit keyword search to:' section with radio buttons for 'Entire database' (selected), 'Full records only', and 'Full text only'. Below this are fields for 'Paper title', 'Subject' (with 'Ireland' entered), 'Chair/author', 'Session', 'Collection', and 'Document type', each with a 'Select from a list >>' link. A 'Limit to:' section contains two columns of checkboxes for various document types, including 'House of Commons Sessional Papers', 'House of Commons Papers', 'Command Papers', 'Bills', 'Reports of Committees', 'Reports of Commissioners', 'Accounts and Papers', 'Additional Material', 'House of Lords Papers (1714-1805)', 'Private and Local Bills and Acts (1695-1834)', 'Journals of the House of Commons (1688-1834)', 'Journals of the House of Lords (1685-1834)', 'Debates (1774-1805)', 'Histories and Proceedings (1660-1743)', 'House of Commons Hansard (1803-2005)', and 'House of Lords Hansard (1803-2005)'. A note indicates '\* pre-1979 content only'. Further down are fields for 'Paper number' (with an example 'Cd.91, Cm 5672, Bill 51'), 'Year' (From: 1685 To: 1922), and 'Paper containing:' (with checkboxes for Maps/Plans, Tables/Graphs, and Illustrations/Photographs). At the bottom, there are dropdown menus for 'Sort results:' (set to 'Chronologically by earliest date') and 'Display:' (set to '50 results per page'), along with 'Clear search' and 'Search' buttons.

**Figure 7 House of Commons Parliamentary Papers interface**

Apart from the inevitable irrelevant and tangentially relevant results, the HCPP database contains the following very useful sources: reports from Select Committees, Royal Commissions and Commissioners; the overall census results for 1871, 1881 and 1891; mentions of Welsh court interpreters; and various bills that mention interpreters. There were also three extremely useful results: the *Presentments – Grand Juries of Ireland Spring and Summer Assizes 1807* (also on

Google Books); the 1845 *Statement of County Cess ordered to be levied in each half-year, in 1841, 1842, 1843*; and the 1898 *Return of Officers in the Service of the Grand Jury in each County in Ireland*, all of which included payments to interpreters and helped greatly in the development of an understanding of court interpreter provision for Irish over the course of the nineteenth century. Some House of Commons debates that are not included on Hansard Archives appear on the HCPP. The University of Southampton Enhanced British Parliamentary Papers on Ireland (<http://eppi.dippam.ac.uk>) contains information similar to the HCPP website and a search for 'interpreter' provided 44 results. However, it is not particularly easy to use because documents have to be browsed page by page and some documents would not open.

The Justis database [www.justis.com](http://www.justis.com) database (also on IReL) includes UK and Irish case law dating back to 1163 and legislation from 1235. A search for the word 'interpreter' on this resource resulted in hits for Irish laws that mention interpreters, the earliest of which was for 1817. Some of the results found on justis.com were not available anywhere else; for example they were not on the available *Statute Books* on Google Books. However, a considerable number of old books and other documents were available on Google Books and archive.org, which was very useful. Even those only available in snippet view were helpful as searches could be carried out to ascertain if they included any mention of interpreters. If they did, the book could be located in the National Library or elsewhere. If not, the book could be eliminated as a possible source of information.

A search for 'interpreter' and 'Irish' was carried out on HeinOnline, an extensive database (also on the IReL database) that includes historical law journals. This yielded one result, but a particularly interesting one, from an 1827 edition of the *Irish Law Recorder*.

The online National Archives of Ireland census results for 1901 and 1911 [<http://www.census.nationalarchives.ie/>] were useful for supplementary information on a small number of individual interpreters and on the profession.

## **National Archives of Ireland**

Another, more traditional, source of information on interpreters were the Chief Secretary's Office Registered Papers at the National Archives of Ireland. These are very large hard-copy volumes containing records of all incoming correspondence to Dublin Castle; each volume contains some 20,000 records. "Every man with a grievance," it has been said, "writes to the Lord Lieutenant" (O'Brien 1909: 112). A number of different filing systems were trialled over the years but the general system was that when a letter arrived at the office, it was allocated a new number if it had no connection with previous files. If it was connected to previous correspondence from the same person or on the same topic, then it was allocated a number and the Registered Papers also included the numbers of former and subsequent communication along with notes about action taken. For example, a claim from an interpreter for payment, a relatively common occurrence, would usually be followed up by authorisation to the crown solicitor and a letter to the interpreter informing him of same. All items were then filed together using brass studs. There is a huge amount of information and as most of the files have not been catalogued, it is necessary to go through the Registered Papers, tracking the subsequent communications until one reaches the last item in the file, which has an identifying Ø just above the file number. The last file number can be used to request the file. The problem at this stage is that the file may not be found; indeed the likelihood is that it will not be found. The task of going through the Registered Papers is time-consuming and frustrating, with a lot of heavy lifting, and in the case of the files on interpreters, most could not be found; they were lost, mislaid, burnt or thrown away. However, the five-year Crowley project (2008-2013) has been cataloguing the Registered Papers from 1818 to 1852 and thanks to this project it was possible to locate a complete file dating from 1822 about Simon Conway, an interpreter in County Mayo. The contents of this particular file posed a conundrum because it did not correspond to other information about court interpreters.

While it proved impossible to locate most of the files, the researcher was able to find some supplementary information in the country letter books, also in the National Archives, which are very large books containing copies of the letters sent out in reply to queries. Thus, it was possible to find some extra information sent to

a small number of interpreters. Again, this work is slow because it takes approximately two hours to go through each book and depending on the book, there could be zero, one or two relevant letters. As the paper is very fragile, care has to be taken. Also, the writing on some pages is very faded and impossible to read. The legibility of handwriting varies hugely as well although in later books some letters are typewritten. The letters also include the interpreters' addresses, which for those interpreters still alive in 1901 or 1911, could be cross-checked with the online census results.

### **Grand Jury Presentments**

As Irish language court interpreters were employed and paid by the grand juries, the precursors of the county councils, some volumes of accounts still exist and as a result it is possible to "follow the money". Under the Local Government Act 1994, local authorities are required to 'make arrangements for the proper management, custody, care and conservation of local records and local archives and for inspection by the public of local archives'. The grand jury presentments are held in county libraries and archives and the number of surviving volumes varies greatly from county to county. The Tipperary Grand Jury Presentment books from the 1820s (National Library of Ireland) included a list of one hundred people who were to receive a copy of the book. This means that at least in theory there is a good chance of the books surviving. The difficulty is that they are not held centrally and it took some time first of all to appreciate their potential value and second to locate them. Records of payments to interpreters appear on grand jury presentments for different counties; most of the surviving presentment records date from around 1800. A small number date from the eighteenth century; the Antrim records start in 1711, Donegal in 1753, Armagh in 1758, Longford in 1759, Meath in 1775, Londonderry in 1788 and Mayo in 1792. The presentments, which continued until 1898 when the administrative duties of the grand juries were transferred to the county councils, help develop an overview of when and where interpreters were provided over the course of the nineteenth century.



Some of the Kilkenny Grand Jury Presentments, kept by treasurer Lewis Kinchela, are available on Google Books. A book of presentments for the whole country for the year 1807 is also on Google Books but is extremely difficult to find because it is preceded by records for the East India Company. The Public Record Office of Northern Ireland (PRONI) in Belfast has a very complete collection of the books of presentments for Northern Ireland, with records starting as early as 1711 in Antrim. Grand jury presentments for the County of Galway from 1808 to 1841 and for 1894 and 1896 have not been catalogued but are available in the National Archives. There are other books of presentments in the Crown and Peace records at the National Archives but they were not available in summer 2012 as they were being reshelfed in the Four Courts.

The National Library has quite a good collection of books of presentments, but it took some time to find them on the catalogue, as they have a variety of names, depending on the county: *Schedule of Applications for Presentments, Undischarged Quaeries, with abstract of presentments, Schedule of the Approved Applications to obtain presentments, Presentments laid on the county of Fermanagh, Abstract of Undischarged Quaeries and new presentments, Grand Warrant for summer assizes, Quaere Book, A copy of the treasurer's account of payments and County Book*. The most successful search was using 'spring assizes', 'Lent assizes' and 'summer assizes' which yielded results for Carlow, Cavan, Clare, Down, Fermanagh, Kildare, Kilkenny, Leitrim, Limerick, Louth, Mayo, Monaghan, Queen's County, Roscommon, Sligo, Tipperary, Waterford, Wexford and Wicklow. In some cases, there was just one book for one assizes, but in the case of Down there were books for 1818, 1819 and from 1821-1898 but, unfortunately, no interpreters. In addition, there were typewritten copies of the presentments for Donegal from 1753-1798 which were very valuable because the records go back so far and because they were in five volumes, catalogued together under the same number.

Court interpreters were paid twice a year. A typical example of a record of payment appears below; the interpreter in Waterford in 1854 was paid a half year's salary of £5 plus an additional £5 for attendance at quarter sessions. He was interpreter at both the assizes and the quarter sessions.

<i>Ibid.</i>	33 To Major Roberts, local inspector of the county jail, for his half-year's salary due at this assizes	40	0	0
<i>Ibid.</i>	34 To Doctor William Carroll, surgeon to the county jail, for like,	32	10	0
<i>County at Large continued.</i>				
		5		
		<i>£</i>	<i>s.</i>	<i>d.</i>
<i>Ibid.</i>	35 To Edmond Foley, sub-sheriff, for like	23	10	0
<i>Ibid.</i>	36 To the judges' crier, for his half-year's salary due at this assizes	5	0	0
<i>Ibid.</i>	37 To assistant barrister's crier, for like	5	0	0
<i>Ibid.</i>	38 To interpreter of the Irish language, for like	5	0	0
<i>Ibid.</i>	39 To same, for his attendance at quarter sessions	5	0	0
<i>Ibid.</i>	40 To Richard Free, Court House keeper, for his half-year's salary due at this assizes	5	0	0
<i>Ibid.</i> , sec. 76	41 To same, for coals to air the Court House, and for candles	18	9	1
<i>Ibid.</i> , sec. 69	42 To same, for supplying necessaries to clean the Court House	7	10	0
<i>Ibid.</i> , sec. 79	43 To Court House keeper of Dungarvan, for his half-year's salary due this assizes	4	0	0
<i>Ibid.</i> , 76	44 To same, for coals to air the Court House.	3	0	0
<i>sec. 9</i>	45 To Court House and Bridewell keeper of Lismore, for his half-year's salary, and for coals to air the Court House	15	0	0
<i>sec. 110.</i>	46 To Dean Hoare, Protestant chaplain to the jail, for his year's salary	40	0	0
<i>Ibid.</i>	47 To the Rev. Martin Flynn, Roman Catholic chaplain to the jail, for like.	40	0	0
<b>CONTINGENCIES.</b>				
<i>7th Dec-184, cap. 74, s. 60.</i>	48 To the Board of Superintendence, to remain in their hands as a fund for supplying necessaries for prisoners in the county jail	500	0	0
	49 To same, to pay the following salaries :—			
	To the governor of the county jail	£100	0	0

Figure 8 County of Waterford presentments 1854 (Waterford County Archives)

In the case of the Waterford presentments pictured above, the interpreter is not named. However, record systems vary from county to county and from year to year and many records do include the names of the interpreters, which is very useful because it provides ancillary information on how long interpreters worked for; some remained in the system for decades while others only worked for one or two assizes. In cases where interpreters held other roles in the court, this information also appears in the presentments, which gives a more complete picture and helps resolve such questions as: were court clerks also interpreters?

The titles of Acts allowing for payments to interpreters were included in many books of presentments and proved invaluable for tracing laws providing for interpreters.

## Time Frame

As outlined above, searches on newspaper archives for the time period 1778 to 2011 produced 600 typed pages on court interpreting for foreign languages, 253 on the Irish language and 51 on sign language. The original intention was to focus on foreign languages but despite a surprising variety of languages and many interesting cases (for example, collisions between ships, the Caswell mutiny, stabbings by and of sailors, fishing in Irish waters), state provision of interpreters was consistently *ad hoc* with courts looking for local speakers of foreign languages who could interpret as necessary.

In contrast, the provision of interpreters for the Irish language was not uniform; it changed over time and a number of interesting issues arose in relation to the need for interpreters in an increasingly bilingual society. The newspaper articles that mention Irish language court interpreters collated for the current research cover the period from 1827 to 2011 with an obvious division in 1922 with the establishment of the Irish Free State. The focus of the research would be court interpreting for Irish. The next question was periodisation: what period of time would be covered? Two centuries was too lengthy a period to cover thoroughly, which left a choice of pre or post 1922.

While court interpreting for Irish existed before 1801, and possibly on a larger scale because more people were monolingual, there is very little material available for the eighteenth century, and much of what is available has already been covered by other scholars (Ní Mhungaile 2011). The timeframe from 1801 to 1922 makes sense from a research point of view because, as indicated at the end of Chapter Two, very little research has been done on interpreters in this period (Ní Dhomhnaigh 2000, Cronin 2006, Ní Mhungaile 2011). More importantly, as explained in this chapter, resources are available in the form of newspapers, records of payments to interpreters and Parliamentary debates.

The later period after 1922 is also of interest because of the changes that occurred after independence and the 1922 Constitution which states that 'The National Language of the Irish Free State is the Irish language, but the English language shall be equally recognised as an official language.' The Irish language is accorded an even higher status under the 1937 Constitution, which provides that 'The Irish

language as the national language is the first official language.’ Consequently, interpreters had and have to be provided for any defendant or witness who chooses to use Irish and this right is spelt out in the Official Languages Act 2003. A number of cases were taken on various facets of language provision including the right to use Irish in court (*R. (Ó Coileáin) v. Crotty* 1927), the right to expect a judge in a Gaeltacht area to speak Irish (*O Monacháin v An Taoiseach* 1986), and the right to an Irish-speaking jury (*MacCárthaigh v Eire* 1999). Irish speakers have sought to assert their rights under a Constitution that apparently favours their language, but in a system which in reality does not facilitate their predilection to use that language in court.

The time period 1801-1922 was chosen because during that time there was a properly organised system of court interpreter provision for Irish; newspaper reports and grand jury presentments provided information about the implementation of this system. Susan Bassnett-McGuire writes in relation to the history of translation that:

It is virtually impossible to divide periods according to dates for, as Lotman points out, human culture is a dynamic system. Attempts to locate stages of cultural development within strict temporal boundaries contradict that dynamism (1991: 40)

Similarly, according to Anthony Pym:

The end of a century undoubtedly exerts strange effects on cultural mentalities, but there is no reason to believe that people suddenly translate differently as soon as the big numbers change (1992: 5)

Despite the reservations of Bassnett-McGuire and Pym, in the current research, it was possible to divide the period according to dates or ‘temporal boundaries’. The time frame for this research is the period from 1801 to 1922, starting with the Act of Union and ending with the establishment of the Irish Free State. However, it also ranges backwards and forwards from these dates because court interpreting for Irish was provided before 1801 and after 1922; some interpreters commenced their careers before 1801 while others continued after 1922.

### Newspaper Corpus Content

For the pre 1922 period, the newspaper corpus compiled in the current research consists of 17 publications, because of the total of 29 newspapers searched, ten commenced publishing after 1922.

Figure 9 shows the number of articles that mention Irish language court interpreters each decade from 1821 to 1930:

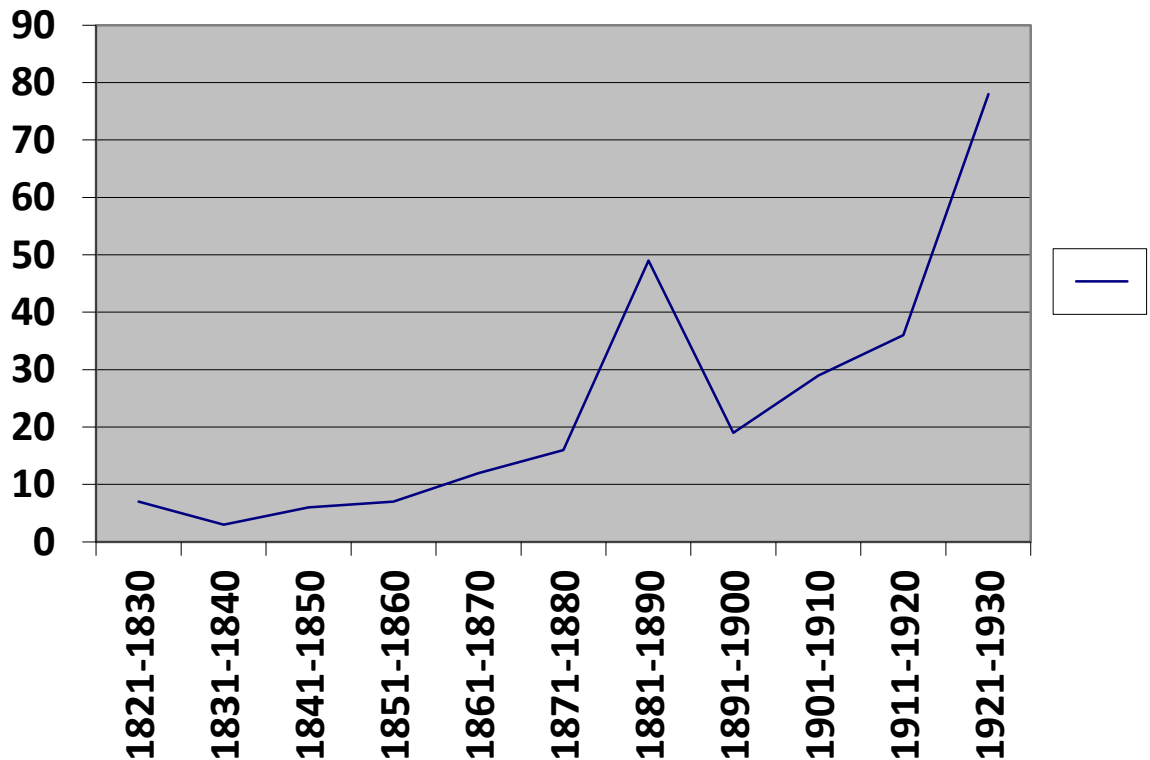


Figure 9 Newspaper mentions of Irish language court interpreters

While it is interesting to see the spread of articles in Figure 9, in a sense this information is meaningless for a number of reasons. First, the corpus includes very few newspapers from the early eighteenth century: *Finn's Leinster Journal* and the *Freeman's Journal* and the *Nenagh Guardian* from 1838. Secondly, the early newspapers did not appear on a daily basis and often consisted of a mere four pages. Thirdly, the early nineteenth century newspapers probably did not have the resources to cover court cases all around the country. Even in 2012, only a minority of cases heard in the courts are actually reported in local or national newspapers and this was probably also the case in the nineteenth century. The increase in the graph is due to the increase in the number of newspapers and periodicals and a

move away from dependence on English newspapers as a source. More newspapers meant more coverage of local court cases. Sensational cases like Maamtrasna and the Lough Mask murders were covered extensively by both national (*Freeman's Journal*, *Nation* and *Irish Times*) and local newspapers (*Nenagh Guardian*, *Kildare Observer*) and this is the reason for the spike in the decade 1881-1890.

The earliest newspaper record of interpreting for Irish in this corpus dates back to 1797 when the oath of allegiance was administered 'at the request of the inhabitants' of Glenahiry, Co. Waterford, to a large number of people with the help of catholic priests who 'interpreted into the Irish language for those for whom this was necessary, and its import and tendency commented upon very forcibly' (*Freeman's Journal*, 28 December 1797, 2).

The cases in the corpus include civil and criminal cases of all types. The criminal cases include murder, manslaughter, conspiracy to murder, riot, assault, rape, arson, and stealing. The civil cases include libel, the validity of a will, child support, a wife seeking £20 to pay for clothing, the trespass of nine hens, stock being driven off land. There are also cases involving arbitration between landlords and tenants.

The law was so cheap in Ireland, and the people naturally so litigious, that the number of cases at far away sessions was sometimes enormous. Often, however, I have travelled many miles to hear a few cases of trespass of a goat, or a few hens in a neighbour's haggard. (Crane 1938: 196)

County Court Judge A.M. Sullivan commented in his memoirs that "'the land" was a deity to which were sacrificed human ties and human sentiment. In the great majority of contentious cases the disputes concerned "the land". The smallest trespass was a sacrilege' (1928: 114).

The most cited articles in the current research are from the *Freeman's Journal* (34), *Irish Times* (29), *Southern Star* (22), *Connaught Telegraph* (12), *Connacht Tribune* (11) and *Nenagh Guardian* (11).

## **Conclusion**

This chapter has described the sources used in the current research: newspaper court reports, Parliamentary debates, House of Commons Parliamentary Papers,

records of correspondence with the Chief Secretary's Office in Dublin Castle, grand jury presentments, and acts that mention interpreters. The research itself started with the corpus of newspaper articles, but over time the other sources proved to be very important, with the newspaper reports proving extremely useful as illustrations of what was actually happening in the courts. The reader will have noticed that digitisation plays a key role in the current research; it would have been impossible to find so much information using traditional means. However, more traditional methods have not been neglected and archival sources have been used extensively.

Chapter Four applies Bourdieu's concepts (explained in Chapter Two) to attitudes to interpreter provision in court and at police interviews.

## Chapter 4 Language and Power

To rob a man of his language in the very name of language: this is the first step in all legal murders. Roland Barthes, *Mythologies* (1972: 46)

Our magistrates have shown themselves well aware of this mystery. Their red robes, the ermine in which they swaddle themselves like furry cats, the law-courts where they sit in judgment, the fleurs de lys, all this august panoply was very necessary. [...] Soldiers are the only ones who do not disguise themselves in this way, because their role is really more essential; they establish themselves by force, the others by masquerade. Pascal, *Pensées* (1995: 10-11)

A common thread through the newspaper reports in the corpus compiled for the current research is the contrast between the power of the courts and the powerlessness of the Irish speaker who in some cases is not permitted to use his own language, is perceived as duplicitous if he requires an interpreter and, most fundamentally of all, is expected to use what is to him a foreign language in a court of law in his own country.

This chapter applies Bourdieu's concepts of field and cultural and linguistic capital to the legal system in Ireland in the nineteenth century. It considers the fields of power and law, language, the case of *R v Burke* (1858), Irish language advocacy and attitudes to Irish speakers. The police were also part of the field of law and were likely to be involved in most criminal cases before they went to court. There is very little evidence extant on how the police managed interviews with Irish speakers during the time of this study. However, the Maamtrasna and Lough Mask murder trials (1882) provide some background information and are also of interest because police officers acted as court interpreters at the trials.

### The Field of Power

In Ireland, the penal laws began to be eased in the late eighteenth century and from 1793 Catholics could vote in parliamentary elections and become members of grand juries but could not take a seat in parliament. However, they could not



become part of the higher reaches of administration as they were excluded from the posts of Lord Lieutenant, Chief Secretary, Chancellor of the Exchequer and Attorney General. Nor could they become judges, King's Counsel, sheriffs or sub-sheriffs. In 1828, a mere 39 out of 1,314 posts in the administration of justice were held by catholics. Of 3,033 other posts paid for out of public funds, 134 were held by catholics (Connolly 1989: 26). In 1833, there were no catholic judges or stipendiary magistrates. There was one catholic high sheriff and a small number of catholic unpaid magistrates and grand jurors. Unpaid magistrates were landlords. The five inspectors-general and 32 sub-inspectors of police were protestant (O'Brien 1909: 60). In 1909, of 17 judges, three were catholic. Of 21 county court judges and recorders, eight were catholic. Five out of 37 county inspectors, 62 out of 202 District Inspectors of police and 1,805 out of 5,518 Justice of the Peace and 8 out of 68 Privy Councillors were catholic (O'Brien 1909: 79). It is evident that there was endemic discrimination on religious grounds against the majority of the population. The State decided who could work where, who could vote, and who could take part in society. O'Brien noted that 'the forces of law and order are geographically concentrated in the Castle' (*ibid.* 22).

## **The Field of Law**

The difference between the vulgar vision of the person who is about to come under the jurisdiction of the court, that is to say, the client, and the professional vision of the expert witness, the judge, the lawyer, and other juridical actors, is far from accidental. Rather, it is essential to a power relation upon which two systems of presuppositions, two systems of expressive intention – two world-views – are grounded. (Bourdieu 1987: 828-829)

The juridical actors in Ireland belonged to a different social class from most of the Irish speakers who appeared in court. In Ireland, until the 1880s, law students attended the King's Inns in Dublin but also had to attend one of the Inns of Court in London, where they 'were obliged to enter their names and eat their terms of commons' (Sullivan 1928: 21), meaning that they were not actually obliged to attend classes or sit exams. This meant that a career as a barrister was beyond the

reach of most people. The judiciary and the lawyers were part of an elite which was educated, mainly protestant, and English speaking.

The grand juries could decide if a case should go to trial or not; the courts held the power to hear cases; the juries could decide if a defendant was guilty or not guilty; the judge could decide on a prison sentence or even, in the case of murder or treason, the death sentence. Such power is what Bourdieu calls 'symbolic power'.

There were conditions around jury service; between 1833 and 1871, jurors had to be 'between the ages of 21 years and 60 years' and had to 'have property'. This meant that only property holders could serve on juries although this condition was eased somewhat with the passing of the O'Hagan Act in 1871 (Vaughan 2009: 121-2, 127). These conditions were laid down by law, and worked to exclude the not so well off.

The cultural capital of the judiciary could be seen in a very physical way around the country as the judges moved from place to place. Friedrich Hering described the arrival of the Chief Justice for Ballinrobe court sessions in 1806:

Before his carriage drawn by four horses there rode a trumpeter and six horsemen who wore antique halberds; the carriage was followed by a further six halberdiers and the servants (Bourke 2012: 81).

Maurice Healy described the procession of judges from their lodgings to the courthouse, a regular occurrence in the 1890s:

Their escort was supplied in two moieties, one by the mounted section of the Royal Irish Constabulary, the other by one of the cavalry regiments stationed at the barracks. First came a trumpeter and a mounted policeman riding breast, then two policemen, then two troopers; then came the Judges' carriage, with the military officer riding at one door and the police officer at the other; then two more troopers, followed by two more mounted police (1939: 11).

In 1806, the horsemen wore 'antique halberds'. In the 1890s, the RIC officers, members of the cavalry regiment, trumpeter, mounted policeman, policemen, troopers, military officer and police officer all wore uniforms. The pomp and ceremony attached to these occasions contrasted sharply with the description of at least some Irish speakers who appeared in court. Some newspaper descriptions of Irish speakers are striking. Clothing, included as part of cultural capital by Bourdieu,

features on occasion. In the first example, defendant Denis Bogue Sullivan is described as 'an humble, aged, and decently dressed peasant' (*Freeman's Journal*, 29 May 1838, 3). Unfortunately, the *Freeman's Journal* does not go into more detail on his dress but it does include information on his accent, another aspect of cultural capital, which is described as 'a totally unintelligible smattering in the English tongue, thrown out here and there with great volubility, considerable emphasis, and, in these, a peculiarly rich Munster brogue' (*ibid.*) which the judge could not understand. In Bourdieu's words:

The social sense is guided by the system of mutually reinforcing and infinitely redundant signs of which each body is the bearer – clothing, pronunciation, bearing, posture, manners – and which, unconsciously registered, are the basis of 'antipathies' or 'sympathies' (1984: 311)

A person's accent can 'offer better indices than syntax for identifying a speaker's social class' (Bourdieu 1977: 653). The man is 'decently dressed' but his way of speaking is sending another message.

The *Weekly Irish Times* included a detailed description of one witness at the Court of Queen's Bench in Dublin:

Much amusement was excited in court by the appearance and demeanour of the next witness. He was a decrepit old man, attired in the primitive fashion of knee-breeches, big blue long-tailed coat, and truly typical caubeen. (*Weekly Irish Times*, 8 December 1877, 2)

The clothes worn by the witness were not at all unusual for the time; however, it is possible that they were not a frequent sight at the Four Courts. O'Neill (1977: 51) provides a description of what he describes as the national men's dress in nineteenth century Ireland as 'tightly fitting knee breeches, a swallow tail coat, a Caroline hat and brogues or hob nailed boots'. Swallow tail coats were originally imported second hand from England and were later copied and made up in hard wearing coarse wool frieze (Bourke 2012: 359). The caubeen was probably a caipín or beret. Bourdieu writes about the working classes' functionalist approach to clothing, whereby they look 'for substance rather than form', seek 'value for money' and choose what will last (1984: 200). They prioritise 'being' while the middle classes are more concerned with 'seeming' (*ibid.*). For Bourdieu, 'it would be

naïve not to see that fashions in clothing and cosmetics are a basic element in the mode of domination' (ibid. 311).

Another example, of a case heard at Carrick-on-Shannon winter assizes, is quite striking:

None of the prisoners could speak English, and presented a very aboriginal appearance (*Irish Times*, 15 December 1881, 6).

It is difficult to know what exactly the reporter in 1881 meant by this description, but it certainly does not seem complimentary. However, there is a theme to these examples; monolingual Irish speakers who needed interpreters were described in somewhat derogatory terms. Even if they were 'decently dressed' as in the first example, this seems to merit comment, as if it were unexpected.

### **Language and Power**

While the majority of the population spoke Irish at the start of the nineteenth century, English was the language of administration, government, the courts and education. The government had the power to introduce laws on the language that could be used in particular contexts. The Administration of Justice (Language) Act (Ireland) 1737 provided that all legal proceedings should take place in English, 'and not in Latin or French, or any other tongue or language whatsoever'. The primary purpose of the Act was to put a stop to lawyers and the judiciary using Latin and French in court. However, it also prevented the use of Irish as the language of the courts. Over time, and particularly with the establishment of the petty sessions courts in 1827, English became the language of all courts, with interpreters provided for monolingual Irish speakers.

The official language is bound up with the state, both in its genesis and in its social uses. It is in the process of state formation, that the conditions are created for the constitution of a unified linguistic market, dominated by the official language. (Bourdieu 1991: 45)

The official language of Ireland was English and a climate was created which would ensure 'recognition for a new language of authority' (*ibid.* 48). For Bourdieu, this involves the devaluation of the linguistic capital of the dominated:

[I]t is the dominated who is obliged to adopt the language of the dominant [....] In this case, the dominated speaks a *broken language*, [....] and his linguistic capital is more or less completely devalued, be it in school, at work, or in social encounters with the dominant. (Bourdieu and Wacquant 2007: 143)

Bourdieu and Wacquant give the example of a French person talking to an Algerian, or a black American to a WASP; if we substitute an Irish person talking to an Englishman, we can make their point that 'it is not two persons who speak to each other but, through them, the colonial history in its entirety, or the whole history of the economic, political, and cultural subjugation' (Bourdieu and Wacquant 2007: 144). This was the case in the nineteenth century where the two groups were separated socially, geographically and economically. It was even more the case in the courts where the non English speaking witness or defendant was separated from the often English judges and lawyers because they occupied 'asymmetric positions in the distribution of the relevant capital' and in this situation, even more than in more everyday situations, 'every linguistic exchange contains the *potentiality* of an act of power' (*ibid.* 145).

Power is of course expressed through language as well, with legal language being a specialised domain. Jonathan Swift wrote that lawyers 'hath a peculiar Cant and Jargon of their own, that no other Mortal can understand, and wherein all their Laws are written, which they take special Care to multiply' (1995: 228).

Mellinkoff characterises English legal language as a specialised language containing:

- (1) Frequent use of common words with uncommon meanings.
- (2) Frequent use of Old English and Middle English words once in common use, but now rare.
- (3) Frequent use of Latin words and phrases.
- (4) Use of Old French and Anglo-Norman words which have not been taken into the general vocabulary.
- (5) Use of terms of art, i.e. technical words with a specific meaning.
- (6) Use of argot or professional language.
- (7) Frequent use of formal words.
- (8) Deliberate use of words and expressions with flexible meanings.
- (9) Attempts at extreme precision of expression. (2004: 11)

These features posed additional obstacles to understanding and participating in court proceedings for people who did not have a high degree of proficiency in

English. Gibbons (2003) writes of the address forms used in court, where judges are addressed as *Your Honour*, *Your Lordship*, or *Your Worship* depending on their rank and are not addressed by name. Instead of using the first person, judges can say *the court* or *the bench*. Lawyers refer to each other as *my friend* or *my learned friend* or by function in the court case as *the Crown*, *Counsel for the Crown* or *Counsel for the defence* (83). As Gibbons points out, all of these honorifics and ways of addressing legal colleagues link in with a strict social hierarchy.

The way people speak is a reflection of their social prestige and can affect how they are perceived in court. O'Barr found that:

witnesses who speak in a powerful style, avoid unnaturally formal speech patterns, testify with minimal assistance from the lawyer, and resist efforts by the opposing counsel to cut short their remarks will enhance their credibility because they will make more favorable impressions on the jury. (1982: 114)

In the case of witnesses who do not speak the language of the court, there is less chance of being able to fulfil these criteria. Therefore, Irish speaking witnesses who were compelled to use English were at a great disadvantage.

There were clear demonstrations of the importance and the power of the judiciary. This power is also expressed when people are told 'All rise' when the judge enters the courtroom, and everyone is expected to stand. Gibbons also writes about the way power is signalled through turn taking. Judges and magistrates always have the right to speak. Observers who disturb the court can be charged with contempt. Witnesses are allowed to answer questions, but cannot control the direction of the exchange. Jurors do not usually speak, although there are newspaper examples of them doing so in the nineteenth century where they could ask questions or give a list of questions to the judge. The positioning of the different participants in the courtroom also sends out signals about their status. The judge is usually separate, and seated in a higher position than anyone else. The field of law is a hierarchical one and any agent's position in the hierarchy 'always corresponds rather closely to the position of their clients in the social hierarchy' (Bourdieu and Wacquant 1987: 822).

Access to defence counsel was limited or non-existent until 1765 when they were allowed in cases of treason and in 1836 for felony trials (Garnham 1996: 114). This was another way in which the power of the system can be seen; people on trial for their lives had no access to legal advice although in such cases they were permitted interpreters if they did not speak English. In 1848, at Clonmel Assizes, an interpreter was provided to a father and son who were accused of murder. They were not entitled to counsel because the government had discontinued the practice of providing such in capital cases. Therefore, as they did not speak English, they had to have an interpreter. Baron Richards found this situation 'very painful' and read through his notes aloud so the interpreter could translate them into Irish (*Nenagh Guardian*, 2 August 1848, 1).

### **Attitudes to Irish Speakers**

For Bourdieu, 'All linguistic practices are measured against the legitimate practices, i.e., the practices of those who are dominant' (1991: 53) and linguistic exchanges 'are also relations of symbolic power in which the power relations between speakers or their respective groups are actualized' (*ibid.* 37). This is particularly evident in the Irish courts where certain social agents could decide what language was permissible.

The Thresher trials heard by the Special Commission of Oyer and Terminer for Sligo, Mayo, Leitrim, Longford and Cavan (Ridgeway 1806) provide a good illustration of the attitudes towards witnesses and their choice of language at the start of the nineteenth century. The question of language came up for three witnesses, two in Sligo and one in Mayo. The first, Laurence Summerton, started off by saying in Irish that he could not speak English, but 'after some expostulation', he did in fact give his evidence in English. He was cross-examined by the Attorney General:

Q. Did you ever hear, that O'Neil swore he could not speak English?

A. I did.

Q. And that he spoke good English after – was he not a perjured fellow when he did that?

A. He was.

Q. And you took an oath, that you could not speak English?

A. No, I was not sworn, when I said that.

Q. You were only near it. Where are Bryan Tighe and his wife?  
(Ridgeway 1806: 70)

The Attorney General took the opportunity to challenge Summerton, and perhaps to intimidate him in the hope of obtaining more information about Bryan Tighe. There is no sense here of a right to an interpreter in a witness's first language. Rather, there is distrust of anyone who attempts to use Irish. Another witness, Martin Sweeny, was allowed give evidence in Irish through an interpreter. When the interpreter was sworn, he was asked to ask the witness 'upon his oath did he ever speak English to any person?' The question is quite extraordinary – apparently, anyone who spoke even a little English on one occasion could have to manage in court using that language. Sweeny replied 'when he was drunk, and then he spoke a little gibberish of English' and was granted an interpreter (109). The third person, Margaret Lavin, appeared in Mayo where it was accepted that she did not speak English, and an interpreter was sworn (169).

However, it must be acknowledged that there is evidence that some judges spoke Irish. In his reminiscences, journalist Maurice Lenihan recalled that on one occasion, Barry Yelverton, Lord Avonmore, was hearing a case of cow stealing in Tralee where the defendant addressed him in that language saying he had no defence as the judge had seen him driving the cows. Yelverton did not pretend that he understood, but did not allow the man plead guilty, found a mistake in the bill of indictment, and allowed the man to go.

Baron Smith learnt Irish, 'in order not to be dependent on the fidelity of interpreters in cases where witnesses could not speak English, the interpreters sometimes not being very reliable for reasons best known to himself (sic)' (Lenihan, *Limerick Reporter* 1 January 1867). In the introduction to his dictionary, O'Reilly (1817) lauded Sir W.C. Smith, Bart (Baronet), for his study of the Irish language, 'in which he has made great progress, and set a praiseworthy example to other gentlemen of the bar' (2). Smith also features in an anecdote in *The Grand Juries of the County of Westmeath* (Lyons 1853: 41-44). In 1816<sup>2</sup>, he was hearing a robbery case at Mullingar summer assizes where complainant John Cooke 'could not speak a

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<sup>2</sup> The year 1816 is probably not accurate because the anecdote includes a reference to the mention of Baron Smith in O'Reilly's dictionary, published the following year.



word of English'. When Smith went through the bill of indictment compiled by the grand jury, he could find no mention of an interpreter and fined Magistrate Henry £100 for neglecting his duty. This caused consternation and the next day the high sheriff explained to Smith that Cooke understood English but could not speak it and that John Fetherston, a member of the grand jury, who understood Irish but could not speak it, was able to act as interpreter between Cooke and the grand jury. The fine was not enforced due to the particular circumstances of the case.

Some judges paid attention to what was being said by the interpreters. When three Downe brothers were on trial for the murder of Timothy Angling at Ennis Assizes, a witness was asked if he belonged to the party of the Downes or the party of the Anglings. When the interpreter interpreted this question, he said 'party' in English, rather than using an Irish equivalent. Mr Justice Torrens noticed this and asked 'Interpreter, have you no Irish word for party?' whereupon the interpreter replied 'No, my Lord, there is none in the language', something the judge found 'very extraordinary indeed'. Counsellor O'Gorman commented 'Neither, my Lord, is there any Irish for the English word ingratitude' (*Finn's Leinster Journal*, 21 March 1827, 2).

In cases where defendants and witnesses spoke Irish only, interpreter provision did not appear to be problematic; the county interpreter was normally available at assizes or quarter sessions, and interpreters could be provided at petty sessions, although the latter could opt for volunteers in the court. However, when witnesses were bilingual or believed to be bilingual, the approach taken was different and there was a great deal of distrust; this distrust of witnesses who claim they do not speak English reaches its apogee in the case of *R v Burke* which received extensive coverage in the *Freeman's Journal*. However, it is an ongoing issue from some of the earliest reports covered by this research.

### ***R v Burke***

*R v Burke* was an important case which was extensively covered in the *Freeman's Journal* and became case law [8 Cox CC 44]. It is surprising, given the amount of interpreting that was happening on a daily basis at the start of the nineteenth

century, that this is the only example from Ireland of case law on the topic. Thomas Burke was accused of 'felonious assault', in reality rape, by Margaret Sheridan [at the time, complainants, including children, were named in the newspapers]. A witness called Martin Thornton, aged about 17, was called for the defence. He swore that he 'could not speak nor understand the English language' and was allowed give evidence through an interpreter at Castlebar Assizes. However, the cross-examination focused on whether or not he spoke English, presumably in order to discredit him as a witness and to cast doubt on his evidence. If it could be demonstrated that he lied on oath about his proficiency in English, then the jury would be unlikely to believe his evidence for the defence. Thornton said all he had was 'an odd careless word' and that he had not sung a verse of 'The Heights of Alma' two nights previously. Nor had he spent time with the prisoner during the assizes. The prosecution produced two witnesses who said they had heard Thornton sing the verse at the lodgings house:

Ye loyal Britons, pray give ear Unto the news I bring you here  
While joy each Briton's heart doth cheer For the vict'ry gained at Alma  
'Twas on September the eighteenth day In spite of dashing salt sea spray,  
We landed safe in the Crimea Upon our route for Alma  
(Traditional Music Library)

One witness was the daughter of an inspector of National Schools and the other a servant in the house. They claimed he spoke very good English. They also swore that they saw the prisoner speaking to Thornton on a number of occasions. Thornton denied everything except that he had spoken to the prisoner the previous day. Burke was found guilty and sentenced to three years' penal servitude, and Thornton was charged with wilful perjury (*Freeman's Journal*, 13 March 1858, 4). Unfortunately, there is no further information on the perjury case; we do not know if Thornton was found guilty and if so, what sentence was handed down. However, *R v Burke* went to appeal.

The appeal was on the ground that the issue of whether or not Thornton spoke English was a collateral matter, and was not the issue at trial (*Freeman's Journal*, 24 May 1858, 4). The Court of Criminal Appeal heard the case but decided that it should be re-argued before the twelve judges of the three law courts (*Freeman's Journal*, 31 May 1858, 4). All the judges agreed that it was an important issue but

opinions were divided; three judges (including Justice O'Brien from the original trial) felt it was admissible to hear the evidence on whether Thornton spoke English and eight considered it inadmissible.

Mr Justice O'Brien, who had of course agreed to hear the evidence, felt that the presence of an interpreter meant that the witness 'gained the opportunity of preparing his answers and thereby evaded the ordeal of a cross-examination' and that this 'would give him an advantage that he was not entitled to' and that in this particular case, 'the whole evidence of the witness was a fraud upon the court'. For him, the manner in which the witness gave his evidence was not just a collateral matter. He was supported by Baron Pennefeather who said that in the interests of justice, it was correct to accept the evidence. The Chief Baron also agreed, on three grounds; one, to contradict the witness, two to show his bias and three to frustrate a deliberate fraud of the witness in favour of the prisoner.

The other judges disagreed. Mr Justice Christian acknowledged that 'mischief could follow' in some cases where witnesses who spoke English were allowed give evidence in Irish. For him, the question of whether or not Thornton had spoken English 'had no connection with the issue, which was the guilt or innocence of the witness at the bar'. He suggested that the desire to give evidence in Irish was not necessarily a desire to deceive the court or a fraud and that it was the language the witness 'knew best, and in which he could give his evidence in the most satisfactory manner'. He made a comparison with a member of the court who found himself in a foreign country being examined in his own language, but discredited because 'he had been heard to speak a few words in Italian or French' and with a lady who could sing an Italian song being obliged to give evidence in an Italian court in that language. According to Christian, an objection could have been made to Thornton giving his evidence in Irish, and the judge could have heard evidence in order to decide which language should be used. Seven other judges agreed with Christian and Burke's conviction was quashed (*Freeman's Journal*, 3 June 1858, 4).

*R v Burke* has been interpreted by Vaughan as indicating that 'the witness had a right to give his evidence in Irish, even if he knew English' (2009: 238). Despite Justice Christian's enlightened comments on the language the witness 'knew best, and in which he could give his evidence in the most satisfactory manner', in the

Common Law system, there is no *right* to an interpreter; access to interpreters is always at the judge's discretion (Gibbons 2003: 238). Therefore, the case of *R v Burke* did not change anything although it did prevent future occurrences of a situation where a collateral issue was used to discredit a witness.

The issues examined by the judges at the Court of Criminal Appeal and their differing opinions on access to interpreters are still alive today. Gibbons (2003: 233) cites a report by the Australian Commonwealth Attorney-General's Department (1991) in which judges and lawyers gave reasons for not using interpreters in court.

The reasons were:

1. If the second language speaker has some knowledge of the language of the legal system, the time taken during the interpreting process provides an advantage in terms of extra time for thinking and developing a response.
2. The use of an interpreter makes it harder to gauge the credibility of a witness, since the non-verbal information such as facial expression, eye contact, tone of voice and hesitation is altered during interpreting.
3. The interpreter may modify the content of what is said, and not simply act as a conduit giving 'literal interpretation'.
4. The interpreter may take an active role in the courtroom, intervening in the interaction between lawyer and witness.
5. Giving a right to an interpreter affects judicial discretion in deciding whether an interpreter is needed.

An Australian Law Reform Commission publication, *Report on Multiculturalism in the Law* (1992), takes up some of these points. In paragraph 3.38, the report states that 'The traditional reluctance of courts to allow a party to have someone to interpret the proceedings for him or her probably derives from a perception that it may be disruptive' or could give a litigant 'an unfair advantage'. According to the Report, however, 'interpretation does no more than diminish the disadvantage suffered by a party who cannot understand the proceedings because of language difficulties' (*ibid*). If interpreting is not made available, 'a person who cannot understand what is being said is effectively being denied the right to be present during the trial of a matter to which he or she is party, which would be 'a breach of the rules of natural justice'' (*ibid*). In paragraph 3.27, the report also refers to the belief that if a witness who speaks some English has an interpreter, 'he or she will

gain an unfair advantage in cross-examination by pretending ignorance and gaining time'. However, according to the Report:

In fact, a person giving evidence through an interpreter is more likely to be at a considerable disadvantage - because of the loss of impact of evidence mediated in this way, the lack of skilled and experienced court interpreters, the nature of the adversarial system, and the fact that neither courts nor those practising in them are properly equipped to work with interpreters (paragraph 3.27).

The idea that it could be an advantage to have an interpreter persisted in Ireland, however. In 1899, Judge Dane issued a denial at Castlebar Quarter Sessions about newspaper reports that he had dismissed a case at Ballinrobe Sessions because an unnamed litigant (Michael Connor) could not give evidence in English. The story was true but the judge felt justified because the person involved spoke English well. His explanation is interesting:

A litigant came up before me, and noisily insisted upon the interpreter of the court swearing him in Irish, and the interpreter, who is a paid official of the court, a paid sworn official, proved to my satisfaction that not only was this man not ignorant of English, but that he thoroughly understood English, and that he spoke it, and had been speaking it to him on that very day and the day before.

The interpreter's role here is of interest because he told the court that he had spoken to the litigant in English. Mr Alfred B. Kelly called for the litigant to be sworn in English and the man replied in 'very good English' that he would not be sworn in English. Judge Dane's justification for dismissing the case was:

I think it only right to add that every Irish-speaking witness has the fullest latitude in this court, which is provided with an official interpreter, sworn to interpret the evidence faithfully, but I am sorry to say that, in many instances, people who are speakers of the Irish language, and also understand English, sometimes avail themselves of that fact to come up here and try to frustrate the ends of justice, because they think that being sworn in Irish they will have time to hear the questions put and to consider what kind of an answer they will give.

He went on to say that he 'should be sorry [...] that it be thought for a moment that the poorest man in the country, if he happens to be an Irish-speaking man, won't get the fullest justice in this court'. It does not seem to have occurred to Judge

Dane that times were changing and some people were making a point about using Irish in court (*Irish Times*, 27 October 1899, 7).

The case dismissed by Judge Dane was appealed by the Irish-speaking plaintiff, Michael Connor, and heard at Ballinrobe Assizes record court the following year. Mr Justice Murphy allowed Connor an interpreter and did not raise any questions about his English language competency. It seems that ‘the Press of Mayo and several independent witnesses’ had flatly contradicted the idea that Connor was proficient in English. Murphy found for Connor and awarded him £5 plus £1 10s expenses (*Connaught Telegraph*, 24 March 1900, 5).

### **Irish Language Advocacy**

There were some isolated attempts to raise awareness about the situation faced by Irish speakers in court. A letter was sent to the editor of the *Nation* in 1844 by someone who signed himself O’M. He compared the situation of Irish in Ireland to that of Welsh in Wales. The author described the system in Ireland:

when an Irish-speaking witness is put on the table – the preliminary questions, “can you speak English, sir?” &c.? – the endeavour to induce or force the witness to take the oath in English- the outcry that is raised afterwards if a witness sworn in Irish turns out to have some knowledge of English, &c., and the discredit sought to be thrown on his character in consequence.

In contrast, the situation in Wales was described by his Welsh counterpart as one where “it is the privilege of the witness to choose the language in which he can best give his testimony”. O’M went on to further describe the typical Irish scenario:

How often my feelings have revolted, and I have felt my blood boil, at the scenes I have witnessed in Irish courts in the north and west, when witnesses were produced who claimed to speak Irish. The clamour raised by the brutally ignorant counsel – the mean insinuations thrown out and tolerated by *an equally ignorant judge* – the whole court sometimes in a turmoil – the witness scouted off the table on all sides!! (*Nation*, 12 October 1844, 12).

In 1888, another contributor, who signed himself *an tEirionnach* (the Irishman), a pseudonym used by George Sigerson (Smith 1945: 34), also wrote a letter to *The Nation*. He described what he called ‘persecution of the native language’ and

claimed that ignorance of English was deemed a ‘prima facie presumption against’ any accused and a reason to disregard a plaintiff’s case. He believed that witnesses feigned to speak English out of fear but could not cope when questioned, which resulted in the loss of cases. He, too, compared the situation to that of Welsh in Wales. According to him, the Maamtrasna case had drawn attention to something that had happened ‘in thousands of cases’ and ‘in obscure localities and were not reported in the press’. He gave an example he had witnessed himself at a magistrate’s court in Kilronan, on the Arran (sic) Islands where the magistrate had no Irish and the interpreter appointed was a protestant who lived there, but who, according to *an tEirionnach*, spent his time persuading people to speak English instead of interpreting. Moreover, according to him:

If a person making a deposition in one of the petty sessions courts has been known to say “a fine day” or “how are you?” in English, the opposite party immediately makes a statement that he can speak English, and the witness or suitor or accused person, as the case may be, is ordered with threats to confine himself to that language, to the manifest disadvantage of his side of the case. (*Nation*, 28<sup>th</sup> April 1888, 6)

Finally, he stated that ‘Some of the interpreters appointed, where there are any, are utterly unfit for the performance of their duty.’

Denis Holland, owner and editor of *The Irishman* (McNicholas 2007: 21) wrote an article in 1859 using the pseudonym *Allua*, about what he termed the ‘degradation of Ireland and Irishmen’, namely ‘that judges and lawyers on the Connaught circuit have been persecuting the unfortunate witnesses who could not give evidence in English – scoffing at them, and insulting them with revolting insolence’. He mentioned an unnamed judge who would not allow expenses to witnesses who would not or could not testify in English. According to Holland, 700,000 people spoke English only while 1.8 million spoke English and Irish but many of the latter spoke English ‘imperfectly’, and had to think in Irish, ‘and then translate their thoughts into indifferent English’:

Who has not often seen a peasant witness pothered by some question thundered at him from Bench or bar, look stupid and almost idiotic, in his bewilderment, but brighten immediately with the clear light of keen intelligence when the query was put by the interpreter in his own native language? (1859: 75)

The *Gaelic Journal* reported on a weekly meeting of the Council of Gaelic Union where these issues were discussed:

The Council discussed at considerable length the disadvantages under which Irish speaking people labour in districts where all, or almost all, speak a little English, while the intenser work of thinking is done in Irish. These disadvantages manifest themselves at Petty Sessions Courts and at Land Commission Courts, where persons who know only a little English naturally decline to give evidence on oath in that tongue, and are refused a hearing in Irish (July 1883: 299).

In a letter to the *Gaelic Journal* regular contributor John Fleming wrote that:

In the courts of justice, too, the Irish language as a rule was sneered at, and the witnesses who could speak a few words of English were forced to give their evidence in this language. It is but a short time since the judge has left us who, in the most Irish-speaking district in the country, refused to allow their expenses to any but English-speaking witnesses: the father of this judge, I believe, spoke Irish well. This is a point of such importance that all should understand it. Witnesses are compelled to try and tell the truth, and often to reply to puzzling questions, in a language that they do not understand, whereas they would have explained what they had to say as well as the lawyer examining them if allowed to speak in Irish (April 1883: 186).

There are many examples of the issues raised by these writers in the newspapers; the next two sections consist of these examples.

### **Threats**

The newspaper corpus contains evidence that Irish speakers were threatened with being sent to jail, or not getting their witness expenses, and in one case a woman was told that her pension would be stopped if she did not use English.

At the Clonmel Assizes record court, a young boy called James Dalton was sworn in as a witness but refused to speak English. Colonel Phibbs, who was also a magistrate, said from the grand jury gallery that he had examined the boy in English ‘and he seemed perfectly to understand it’. This information was then taken from Phibbs under oath. The judge allowed the boy to give his evidence through the interpreter but said he was sending him to jail for twenty-four hours and would not allow him expenses because “Justice must not be trifled with in this way” (*Nenagh Guardian*, 26 July 1843, 1). Expenses were important to witnesses and there is a lot



of correspondence with the Chief Secretary's Office in Dublin Castle on this issue. The decision to send a young boy to prison because he refused to speak English when possibly he just did not have enough of the language to give evidence or was nervous about doing so seems somewhat harsh, particularly when the case was heard in the assizes, where an interpreter was employed.

In a civil case at Second Queen's Bench, one peasant was sworn in to interpret for another, a witness in the case. Judge Barry told the witness that 'if he did not speak English he would not be allowed anything' i.e. he would not be allowed expenses. These words had what the newspaper describes as a 'magical effect' as the witness immediately switched to 'excellent English' and did not require any help from the interpreter (*Freeman's Journal*, 4 December 1876, 2).

An interpreter was called to Macroom petty sessions for a witness who declared he could not speak English and on being asked the first question, he switched to English. When a second witness started giving his evidence in Irish, saying that he had no English, he was asked in English 'Do you want your expenses?' and replied 'Yes, sir, that's what I want' (*Southern Star*, 14 August 1897, 8).

At Cork Local Bankruptcy Court, an old man called John Lucey started to give evidence in Irish and was threatened by Registrar Standish O'Grady 'If you do not speak English I will put you in jail and keep you there until you speak it'. A solicitor and the court messenger concurred that Lucey had spoken to them in English previously. However, Lucey did not go to jail; the previous witness interpreted for him and O'Grady said, to laughter from the court, 'That will do. You are a fine boy' (*Southern Star*, 22 January 1898, 1).

At Castlebar equity sessions a case was heard involving a mother and son and ownership of the family farm. The mother insisted on speaking Irish, and her son called from the back of the court that 'She has as good English as myself'. The son's solicitor told her she would lose the pension if she did not speak English but the judge said 'Indeed she won't'. The Old Age Pensions Act 1908 had become law in January 1909, the very month the case was being heard and was probably a big topic of conversation. The witness then told the solicitor that she would not lose the pension; the court interpreter Peter O'Toole was called and 'he and Mary had it all their own way for half an hour' (*Connaught Telegraph*, 16 January 1909, 8).

### **You *can* speak English**

At Tralee Assizes, a young woman witness to an assault, asked to be examined in Irish. The prosecutrix, the woman who was taking the case, then said “Oh! My Lord, she can speak English as well as I can; don’t mind her – she is telling a big lie”. However, the witness maintained that she did not have good English, and ‘got her wish’ (*Freeman’s Journal*, 15 August 1828, 4).

Meany, a defendant in a civil claim at Macroom Quarter Sessions, admitted that he had been previously examined in English but claimed that he had forgotten the English language. The judge told him that if he did not speak English he would not be examined, so Meany stepped down. The plaintiff, Baldwin, said he had always done business with Meany in English. Mr Sheehan, solicitor for the defence, said his client ‘could tell his story better in Irish’ but County Court Judge Bird Q.C. ‘said he could tell it as well in English’. Sheehan then pointed out that there was an interpreter attached to the court but the judge replied ‘For those who speak Irish, but this man can speak English’ (*Southern Star*, 13 June 1896, 8).

There was a controversial case at Dungarvan petty sessions in 1897 when witness Patrick Connors, who asserted his right to be examined in Irish, was sent to jail. The Gaelic League immediately passed a resolution protesting against ‘the injustice of punishing Irish-speaking people who prefer to give their evidence in the language they understand best’ (*Southern Star*, 23 January 1897, 1). The matter was raised in the House of Commons where Mr Power for Waterford East asked George Balfour, Chief Secretary, about this case, where, he said, Connors was found in contempt of court, even though an interpreter was present in court at the time. He also pointed out that over fifty per cent of the population of the barony of Decies without Drum spoke Irish, and 1,000 people spoke Irish only. Balfour replied that Connors ‘was detained in custody for a couple of hours only’ and that ‘solicitors on both sides expressed approval of the intention to compel Connors to give evidence in English, and when he notified his willingness to do so he was at once discharged’. According to Balfour, ‘the person who is usually employed to act as interpreter at this Court was not present on the occasion, although another person who was competent to

interpret was present' (Hansard 25 January 1897 vol 45 c403). When the case resumed, Connors gave his evidence in English. Brian Ó Cuív quotes the Lord Chancellor (Lord Ashbourne) as commenting on the case that:

he fully recognises the obligation upon all magistrates of securing to Irish-speaking witnesses the utmost facility for expressing themselves fully and clearly when giving evidence in a court of justice, and trusts that magistrates will satisfy themselves before requiring any such witness to give evidence in English that he is as fully capable of giving evidence in that language as in his own (1996: 391).

However, this comment merely restates the *status quo*: unlike bilingual witnesses, monolingual Irish speakers will be accorded interpreters.

The interpreter for Macroom quarter sessions was unable to attend an ejectment case between two brothers, who did not have much English. The judge considered adjourning the case, but the plaintiff's own solicitor 'said he would do his best in English'. When the second brother was sworn, he could not understand the questions, and the judge 'said he would give a decree against him if he did not talk English'. His solicitor also tried to get him to speak English and the judge commented to laughter 'It is my belief that this fellow is too great a rogue to be taken in by anyone'. As the witness smiled at this comment, he was deemed, at least by the reporter, to 'understand and appreciate this' and as he could not communicate in English, he was sent down and the case adjourned (*Southern Star*, 19 October 1901, 3). We have seen a number of examples of solicitors urging their clients to use English. They probably were concerned that cases would have to be adjourned for an interpreter; it was in their interest to have cases dealt with.

There was a change in attitude towards Irish around the turn of the century, with some judges viewing the language more positively. This was probably largely thanks to the work of the Gaelic League. At Youghal petty sessions, the complainant in an assault case responded to questions in Irish. According to the district inspector, he had made his complaint in English. In this case, the chairman, Mr Horne, was sorry that the magistrates did not all speak Irish, 'but he hoped they would before very long. He was of opinion that every witness was entitled to give his evidence in the language he knew best' and an interpreter was procured (*Connaught Telegraph*, 19

October 1901, 3). In a similar case in the same court, a solicitor remarked that a witness from Clonpriest 'spoke perfectly well in English' but Mr Horne responded saying 'The witness can select to give his evidence in the language in which he can express himself best' (*Irish Independent*, 22 May 1905, 2).

However, not many judges were like R.M. Horne. The word 'meitheal', or 'mehel' as it was spelt in the newspaper report, caused County Court Judge Craig some irritation at Enniskillen Quarter Sessions. Solicitor John F. Wray was cross-examining a witness and asked her 'was it the custom for a "mehel" of men to come to the bog to cut turf'. The Judge asked what he meant; Mr Wray said it was an Irish word and that the witness would soon explain what it meant. The Judge then asked 'Couldn't you get an English word that would suit equally as well? We talk English in this Court, and we have no interpreter here except yourself. Call it something else'. Mr Wray then explained that it was an Irish farming custom whereby farmers would contribute a day's work to help a neighbour cut the turf quickly. Later, Mr Wray asked the witness what was the usual number of men in a mehel but the Judge said 'I do not want your mehel. Talk some English. I do not know Irish. It is a very interesting language, but I have not learned it' (*Freeman's Journal*, 3 November 1910, 9).

The exchange prompted a letter to the editor from Patk O'Daly who drew a comparison with India, where, he said, 'judges are rightly expected to know something of the native language' and that 'puisne judges, who are the servants, not the masters, of the public, can sneeringly tell us that they want none of our "meithiol"'. He explained that there is no English equivalent, and that 'there is in English no occasion for it'. He also cited a recent Four Courts case where a copy of *An Claidheamh Soluis* was submitted as evidence but none of the lawyers could translate the title. Upon realising this, the Master of the Rolls commented "It is a disgrace to the Irish Bar to say that none of you can interpret the name of a paper printed in your native language" (*Freeman's Journal*, 5 November 1910, 8).

Judge Craig also took issue with a witness's signature in Irish on an agreement and said that a legal document should be signed in English as no court in Ireland would recognise a signature in Irish. The witness was South Monaghan travelling Gaelic teacher Eudhmonn O'Toole. The judge said 'You know the result of this sort of thing

will be that there will have to be an interpreter appointed in every County Court' (*Irish Independent*, 4 January 1907, 7).

At Oughterard quarter sessions, the judge told the interpreter to ask a witness if she spoke English as he had noticed that she seemed to understand her husband's testimony given in English. However, she claimed she knew very little English and was allowed use Irish (*Connacht Tribune*, 17 June 1911, 3).

Michael J. Lennon, a clerk at Dublin Corporation, was charged with encouraging people at a meeting in Maryborough to join the Irish Volunteers. This was done in English, but on appearing in the Northern Police Court in Dublin, he spoke Irish. The case had been adjourned for an interpreter, but a representative of the Chief Crown Solicitor's Office argued that the defendant had spoken in English when arrested and the parties agreed to hold the case in English (*Irish Times*, 27 April 1918, 3).

In Galway, a defendant charged with larceny of sugar and a paintbrush, claimed he had no English. As the court interpreter was not in court, the man was remanded for a week. Head-constable Noonan from Oughterard cross-examined him in Irish. His father was accused of receiving stolen goods but said he had no English. Despite this, Mr J.B.K. Hill, Resident Magistrate, said 'he was satisfied he knew it as well as himself' and read the depositions in English, 'on the understanding that the prisoner was aware of the proceedings' (*Connacht Tribune*, 22 May 1920, 8).

Andrew Dunlop was sent to Glencumbkille (sic) in Donegal to report for the *Daily News* in 1882. His report on Irish speakers there is in sharp contrast to the picture presented in the courts:

These poor women, whom Father Gallagher had summoned over-night to be interviewed by me in the morning, could every one of them understand and speak English, but whether from the greater facility with which, naturally, they spoke Irish, or from a feeling that it was more politic to allow their story to filter through the sympathetic mind of their parish priest before it reached me, must be a matter of conjecture, they in fact, although speaking in English when asked to do so, invariably reverted at the first opportunity to the vernacular. (1911: 264)

Here, the Irish speakers were not trying to get extra time to process questions and devise their answers; instead, they genuinely preferred to use their first language because they found it easier and more natural.

### **Police as Interpreters**

Chan places the field of policing within the field of power:

The field of policing, like any other field, is a social space of conflict and competition which is structured by hierarchies of rewards (capital) and sanctions (negative capital). The policing field exists in a subordinate or dominated position within the field of power: it is a relatively low-prestige occupation in terms of economic capital, but enjoys a high degree of public and government support (political and symbolic capital). (2004: 330)

However, the field of policing is also clearly part of the field of law. In the nineteenth century policing was new and the role of the police was very different from today. Vaughan quotes Nun and Walsh (1841) to the effect that:

constables should abstain not only from tampering with or holding out any inducement to prisoners to confess, which is a gross violation of their duty, but it seems also that, in general, they should not question the prisoner respecting the charge. (2009: 63)

Levinge wrote that:

the practice of questioning prisoners by police officers is entirely opposed to the spirit of our law, for by the law of this country no person ought to be made to criminate himself; if there is evidence of an offence, a police officer is justified, after a proper caution, in putting to a suspected person interrogatories, with a view to ascertaining whether or not there are fair and reasonable grounds for apprehending him. (1862: 63)

However, Vaughan describes a loophole where if a conversation developed, the policeman could pursue it (Vaughan 2009: 63). Only from 1864 was evidence from police questioning accepted.

It is not at all clear from the newspaper reports covered in the current study how police officers managed communication with Irish speakers, whether investigating officers spoke Irish and could deal directly with suspects and witnesses, or whether they had to find another officer or someone else with the language.

There is information, however, on the Maamtrasna and Lough Mask trials, held at the Dublin Special Commission in Green Street Courthouse in Dublin under the Prevention of Crimes Act 1882 in November and December 1882. As there were no salaried interpreters in Dublin, a decision must have been taken, possibly in Dublin Castle, to have police officers act as interpreters in court. Newspaper accounts of these trials show that police officers acted as interpreters during the investigation phase. In these particular trials, police officers also acted as court interpreters and it appears that some of the officers who had been involved in the Lough Mask investigation also interpreted in court. These trials are discussed in more detail in the next two sections.

### **Maamtrasna**

The Maamtrasna murders in 1882 were shocking; John Joyce, his wife, his mother and his daughter were killed in their home. His two sons were seriously injured; one died shortly afterwards. Two days after the killings, three men called Joyce approached the police and gave statements alleging that they had seen a group of ten men go to the house. Two defendants had turned approver<sup>3</sup> and gave evidence against their eight co-defendants. Patrick Joyce, Pat Casey and Myles Joyce were tried separately and all found guilty and sentenced to death. The remaining five defendants pleaded guilty and were sentenced to death, later commuted by the Lord Lieutenant to penal servitude for life.

In Joyce's country, where the family lived, nearly 40 per cent of the population did not know English in 1871 (Ravenstein: 590) and many defendants and witnesses in this case had no English. When Constable Johnson went to the scene of the murders, Sub-Constable Lenihan acted as interpreter (Waldron 2004: 15). Witness Patrick McGing gave a statement in Irish which was later translated into English (*ibid.* 43). At the inquest, some members of the jury did not speak English and a juror had to act as interpreter (46). Defence solicitor Henry Concannon did not speak Irish (53) and could not communicate directly with some of the defendants.

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<sup>3</sup> An approver was an accomplice to a felony who admitted his guilt and gave evidence against his accomplices.

According to Waldron, Constable Kelly had acted as interpreter for the men from the time of their arrest and had travelled with them to Kilmainham (58). However, it was felt that he was too friendly with them and Constable Thomas Evans (Head-Constable in the newspaper reports) acted as interpreter in court. Again according to Waldron, Constable Evans spoke Ulster Irish, and was not familiar with the Connaught Irish spoken by the defendants. At the time, this could have been a problem as there was not much movement between Irish-speaking areas, there was no radio and little opportunity for people to hear dialects from other parts of the country (personal communication: Dr Emer Ní Bhrádaigh).

However, the newspapers of the day contain no evidence of a problem with interpreting. On the contrary, the *Freeman's Journal* reported that 'The Irish speaking witnesses gave their evidence through the interpreter with surprising clearness' (15 November 1882, 2) and described Evans as 'the accomplished police interpreter'. The writer commented that 'This was so satisfactorily accomplished by the interpreter [....] that the proceedings were in no way delayed' (*Freeman's Journal*, 21 November 1882, 2). Justice Barry was reported as saying: 'I must say that I have never heard better interpretation in my life' (*Irish Times*, 15 November 1822, 6) and 'I think I ought to say a word for the intelligent interpreter, who discharged his duties, which were very difficult, in a most admirable manner' (*Irish Times*, 22 November 1822, 6); and 'complimented several of those who had taken part, including the interpreter' (*Kildare Observer*, 25 November 1822). On one occasion Mr Murphy QC [for the prosecution] checked the translation of what a witness had said:

Mr Murphy – I thought she said he went out before breakfast time.

The Interpreter – She says now it was after breakfast.

Mr Murphy (to Interpreter) – Did you interpret her evidence correctly when you said she first stated he went out to work and came back to breakfast?

Interpreter – I did. (*Freeman's Journal*, 17 November 1882, 3)

There was one incident when Mr Stritch for the defence commented on what the interpreter said. He had just asked witness John Joyce this question: 'If your uncle had made much noise would he be telling the truth?' and the reply came back 'He



did not make much noise' to which Mr Stritch responded: 'That is no answer, interpreter'. At that stage the judge interrupted to say 'I must say that I have never heard better interpretation in my life', to which Mr Stritch said 'I do not say anything to the contrary, my lord' and continued his questioning but on a different tack (*Irish Times*, 15 November 1882, 6). It is impossible to know if the unsatisfactory reply came from the witness or from the interpreter or indeed if Mr Stritch understood Irish and was not happy with the interpretation. Nor do we know if the judge understood Irish or how he assessed the interpreter's performance.

When the ten prisoners were arraigned, counsel for the defence told the court that some of them did not know English; Justice Barry said 'There ought to be an interpreter' and an interpreter was sworn (*Irish Times*, 2 November 1882, 3).

Evidence against the defendants was given by the three approvers [Anthony, Johnny and Paddy Joyce) in Irish through the interpreter. The general consensus on this is that:

This was in spite of the fact that it was suspected their level of knowledge of English was more than adequate. The consequent drawn out nature of their direct evidence and cross-examination allowed the three men plenty of time to think about their answers and made it extremely difficult for Malley to discommode them in any way by changing the rhythm of the questioning. (Dungan 2009: 142)

Practice at the time was that when defendants were legally represented, an interpreter would be provided at the police station, in a lower court, and in court to interpret the charge, evidence heard in the language that the defendant did not understand, and the verdict but no other proceedings (Morris 1999: 101-2). However, according to the *Freeman's Journal*, when the Clerk of the Crown told Patrick Casey the sentence, the latter 'looked around the court as if for the interpreter' and the Clerk continued, asking him in English to say why sentence of death and execution should not be awarded against him. The Court had to direct the interpreter to say why, upon which the interpreter went to the dock 'and commenced to make the communication in English, but the prisoner....asked him to speak in Irish', and the interpreter did so. The interpreter was not interpreting the

Clerk's words to the defendant. Then, the judge donned the black cap and said that Casey would be hung at Galway Jail on the 15<sup>th</sup> December.

The condemned man stood motionless in the dock for a little while, then took his cap from the seat beside him and beckoned the interpreter to come near. He whispered to the interpreter, who informed the court that the prisoner had asked 'What day?' The unfortunate man was informed the 15<sup>th</sup> December, and he, looking upwards with a most reverent and touching aspect, exclaimed in the Irish language 'I have expectations of heaven' (*Freeman's Journal*, 18 November 1882, 2).

This is also strange, because Casey has to actually beckon to the interpreter to ask him to interpret the date.

The case of Myles Joyce caught the national imagination, although not immediately. Over time, people came to appreciate that there had been a number of problems with the trials and that Myles Joyce was most likely innocent. The facts about the different Maamtrasna trials seem to have been confounded and confused. In 1883, Timothy Harrington spoke about the case in the House of Commons:

He was conveyed more than 200 miles from his home, and put upon his trial in Dublin. Not a single word of English was he able to speak; not a single word of his own language were the jury who tried him able to comprehend. The Judge, who tried him, was to him as much a foreigner as if he were a Turk trying the case in Constantinople. The very crier of the Court, and the counsel who represented him, were foreigners to him; and the whole trial, as far as he was concerned, was an empty show and a farce. As if to make the farce still more ludicrous, the very interpreter employed by the Crown to interpret the language of the Court to this unfortunate man was a policeman. (Hansard HC Deb 13 August 1883 vol 283 cc294-390)

The response of the Attorney General for Ireland, Mr Porter, included the following:

He could remind the hon. Member who had called attention to this matter that the policeman who interpreted was not one of those engaged in the investigation of the case. The officer was under the immediate control of the prisoner's attorney; and he had, no doubt, done his work faithfully and well, notwithstanding that differences of opinion had arisen as to the proper interpretation to be put upon certain words. (*ibid.*)

There is some interesting information contained in this response; Head-Constable Evans had not been involved in the investigation, and this was seen as an important

factor. Also, Evans 'was under the immediate control of the prisoner's attorney', something that is not at all evident in the newspaper accounts.

Twenty-five years after the trial of Myles Joyce, James Joyce described it in a version that was perhaps based more on folk memory than on fact. He described the questioning as 'at times comic, and at times tragic' with the 'excessively ceremonious interpreter' on one side and 'the patriarch of a miserable tribe unused to civilized customs, who seemed stupefied by all the judicial ceremony' on the other. He depicted Myles Joyce as 'this dumbfounded old man, a remnant of a civilization not ours, deaf and dumb before his judge' (1989: 198). He also gave examples of the interpreter at work:

'Ask the accused if he saw the lady that night.' The question was referred to him in Irish, and the old man broke out into an involved explanation, gesticulating, appealing to the others accused and to heaven. Then he quieted down, worn out by the effort, and the interpreter turned to the magistrate and said: 'He says no, your worship.' (197)

What do newspaper reports from the time tell us about interpreting at Myles Joyce's trial? Most importantly, they tell us that Myles Joyce had no English and 'he did not appear to have the slightest knowledge of the language in which his trial is being conducted' (*Freeman's Journal*, 18 November 1822, 3). Despite his lack of English, he was not provided with an interpreter:

The Attorney General asked the learned counsel for the defence if the prisoner spoke English.

Mr Concannon replied that he thought he did not, and that it might be better to have the evidence of the witnesses who speak English interpreted to the prisoner in Irish.

The interpreter asked the prisoner in Irish if he understood the evidence that was being given in English, and informed the Court that the prisoner answered in the affirmative. (*Freeman's Journal*, 20 November 1822, 2)

We can only guess that perhaps the defendant did not catch the question, or misunderstood it, or that the interpreter misunderstood his reply. The result of this exchange was that Evans did not interpret any of the evidence given in English. He is not 'under the immediate control of the prisoner's attorney' here at all; Mr Concannon has just asked for an interpreter in a very polite way and Evans is saying

he is not needed. When Myles Joyce was found guilty, 'the Clerk of the Crown informed the prisoner in the usual language of the result', but the defendant 'seemed like a man who had only the vaguest notion of what was going on'. So much so, that the judge then called on the interpreter to interpret the information to the defendant. The interpreter went on to interpret the defendant's response into English for the court but 'It merely conveyed the tenor, not the full words of the condemned man, who, in making the protestation frequently invoked the Son of God' (*Nation*, 25 November 1882, 5).

The first day of Michael Casey's trial provides more information on interpreting. The interpreter was to translate to him 'the evidence of English speaking witnesses'. While listening to the interpretation, Casey 'interjected some remarks' at first, but then 'merely nodded his head in acknowledgment of the interpreter's services each time a sentence was translated'. His solicitor, Mr Concannon, told the Court that Casey did not understand any English and the judge said 'Then all the evidence must be interpreted to him'. The interpreter was instructed to tell the prisoner that he had the right to challenge the members of the jury but he replied that 'he had no skill in such matters'. While a civil engineer was giving evidence, Casey made some comments which led to some discussion. Mr Murphy QC (for the prosecution) suggested that, to avoid interruptions, an Irish speaker could sit beside Casey and interpret his comments to his solicitor Mr Concannon. The Judge was willing to put up with the interruptions and Mr Murphy 'thought it would be better if the interpreter communicated to the prisoner that his counsel and solicitor were watching the case for him', presumably so that he would not feel the need to speak. Then the Judge suggested that Mr Evans could stand near Casey and 'communicate to Mr Concannon anything of importance which the prisoner said. Mr Evans is a man of sufficient intelligence to distinguish what was important' (*Freeman's Journal*, 21 November 1882, 2). This makes one wonder where exactly Mr Evans was standing; if he was interpreting what the civil engineer said in English, one would assume that he was positioned near Casey. Also of note here is the judge's suggestion that the interpreter, who was a policeman, and presumably keen on a conviction, would decide what the defence counsel needed to know.

The next day, Michael Casey and the four remaining defendants decided to plead guilty rather than risk the death sentence. The interpreter was 'called and directed by the Attorney-General to communicate to the prisoner, Michael Casey, that his counsel was about to plead guilty for him'. Mr Murphy, QC, then said that the interpreter must communicate the information that the counsel had withdrawn the plea of not guilty to the charge of murdering John Joyce but Mr Justice Barry held that they must plead guilty themselves. When it was time to pronounce the sentence, the interpreter was once again directed, this time by the judge, (who did not don the black cap on this occasion) to tell the men that they had been sentenced to death. The sentences on these five men were subsequently commuted to life imprisonment.

It is clear from the newspaper reports that, with the exception of Myles Joyce, Head-Constable Evans did provide interpretation of what witnesses said in English. However, when it came to interpreting verdicts and sentences, he had to be directed to do so by the court or in one case by the defendant. Perhaps he was not given any description of his duties and thought it more prudent to wait until directed by the court to interpret. From the information available, it seems that the Maamtrasna case was the first time he had interpreted in court although as a Head-Constable he must have attended court on many occasions and seen interpreters at work.

Members of Parliament Parnell, Harrington and Healy requested an inquiry into the Maamtrasna trials on numerous occasions but this was not granted (Hansard: HC Deb 27 October 1884 vol 293 cc266-339, HC Deb 24 October 1884 vol 293 cc168-235, HC Deb 17 July 1885 vol 299 cc1064-150). They were concerned about many issues around the trial including depositions that were not shared with the defence; interpretation provided by a policeman; the fact that the trials were held in Dublin, which meant that the Maamtrasna defendants were not tried by their peers; and that the surviving Joyce boy was not permitted to give evidence.

## Lough Mask

In January 1882, bailiff John Huddy and his grandson were killed and their bodies dumped in Lough Mask. The trials took place in December 1882, almost immediately after the Maamtrasna trials, and also at the Dublin Special Commission before a special jury. Patrick Higgins was charged with killing John Huddy. According to newspaper reports, Sub-Constable Fitzgerald and Bryan Collins acted as interpreters during the investigation. 'Bryan Collins, interpreter', appeared in court to corroborate the taking of a deposition from Kate Higgins, daughter of the defendant Patrick Higgins. He may have been the same person as Brian Collins, 'a constable in plain clothes', who was the court interpreter on at least one day of the trial:

Mr Honnor, Clerk of the Peace, addressing the interpreter, said – Inform Patrick Higgins that he stands indicted that he, on the 3<sup>rd</sup> of January, 1882, feloniously, willfully, and of malice aforethought, did kill and murder one John Huddy, and ask him whether he pleads guilty or not.

The Interpreter, having so informed the prisoner, replied – He says he did not do anything. He says he did not strike him with a stone, a stick, or a kick. (*Irish Times*, 9 December 1882, 6)

The interpreter's use of the third person is striking. Perhaps he wished to distance himself from the defendant. However, the third person was used by other court participants as well:

Clerk of the Crown (to the Interpreter) Tell him he has been found guilty of the murder of Joseph Huddy, and ask him if he has anything to say why sentence of death should not be passed on him. (*Freeman's Journal*, 14 December 1882, 2)

Mr Teeling (to the interpreter) Now ask him does he know that if he does not clear himself of taking the bodies down that day – instantly – that he is liable to penal servitude for life. (*Freeman's Journal*, 19 December 1882, 2)

Constable Evans, 'who acted so skillfully as interpreter in the Maamtrasna trials' was sworn in and 'was requested to explain to the prisoner his right to challenge the jury' (*Irish Times*, 8 December 1882, 5). From this, it seems that the court did not provide the explanation, but rather it was up to Constable Evans to do so. While a witness was being questioned in English, it seems the evidence was not being

interpreted and counsel Mr Adams said: 'This is not being interpreted to the prisoner' and 'the interpreter, by direction, informed the prisoner of the nature of the explanation'. It seems, therefore, that the court instructed the interpreter to interpret the evidence for the defendant. Shortly afterwards, Irish-speaking witness James Flynn was being examined by the Solicitor General and Mr Teeling said 'the witness's evidence should be interpreted to the prisoner', whereupon 'The Interpreter said he was speaking in Irish, which the witness understood' and Mr Teeling had to apologise to the court. The Solicitor General did not approve and said 'if this were done for the purpose of wasting time it should be discontinued' (*Irish Times*, 8 December 1882, 6).

The Solicitor General asked Evans to depose that he had 'truly interpreted' the evidence of Kate Higgins the previous Friday and he did so. A juror gave Mr Justice O'Brien a list of questions and one of the witnesses, Bridget Kerrigan, was recalled and asked why she had removed some blood off the barn. She replied 'For fear you (the interpreter) should come, or the like of you, and take myself and all in my house'. The Judge then addressed Evans saying 'You are a constable?' and he replied 'I am my Lord, and she knows it.' The Judge seems surprised to learn that the interpreter is a police officer; it is strange that this fact was not made clear from the beginning of the trial. However, in his summing-up for the jury, he mentions 'the intelligent interpreter, who was a police officer' (*Freeman's Journal*, 14 December 1882, 2).

At the Lough Mask trial a juror queried the difference between a boreen and a street. Mr Justice O'Brien said 'I was about asking the same question' and the interpreter explained, not terribly satisfactorily, that it was 'a little place in front of a country house' (*Irish Times*, 16 December 1882, 6).

There were many problems with the Maamtrasna and Lough Mask murder trials. However, the decision to hold them at the Dublin Special Commission was crucial because it meant a move to a place where there was no salaried court interpreter. If the trials had been held in Galway, the county interpreter would have been engaged and this would have removed the element of distrust related to a police officer who was acting as interpreter.

It is likely that police officers continued to act as interpreters when collecting evidence. In 1907, at the Mayo Assizes, the police could not process a complaint from an Irish speaker 'until they procured an Irish-speaking constable, who acted as interpreter' (*Connaught Telegraph*, 23 March 1907, 9).

An unusual case was that of an Irish-speaking Englishman with a French name, Claude Chevasse or Chavasse<sup>4</sup>, who was charged under the Defence of the Realm Regulations with refusing to answer questions put to him by a sergeant in Ballingeary, Cork. At Macroom Petty Sessions he was fined £4 with £1 costs or one month's imprisonment. At appeal, the sergeant explained that neither he nor the other policemen in the village spoke Irish but most people in Ballingeary did, including the parish priest, schoolmaster and schoolmistress. A constable in Macroom communicated in Irish with Chevasse as the sergeant did not trust anyone in Ballingeary to undertake this task (*Southern Star*, 1 April 1916, 5).

The situation regarding the level and amount of interpreting provided to defendants was changed by *R v Lee Kun* in 1916 in England. Lee Kun was provided with an interpreter at the police station and at a lower court; there was an interpreter in court as well who interpreted the charge, new evidence and the verdict but no other proceedings. It did not occur to his lawyer to request that everything be interpreted (Morris 1999: 101-2). The decision in the Lee Kun case was that all evidence should be interpreted for defendants who do not speak or understand the language of the court.

## Conclusion

We have seen the power of the courts and police vis à vis the ordinary person. There was distrust of witnesses and defendants who used Irish in court and a widespread belief that they did so in order to hear the question first in English, process it, and have extra time to devise a suitable answer. This distrust was used in the case that led to *R v Burke* to discredit a witness. Police interpreting was also examined in the Maamtrasna and Lough Mask cases, where policemen acted as

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<sup>4</sup> Spelt 'Chevasse' in some newspapers of the time, but the correct spelling is 'Chavasse'  
[http://www.scoilacra.com/scoil\\_acra\\_history\\_founding\\_members\\_claude\\_chavasse\\_1886\\_1971.htm](http://www.scoilacra.com/scoil_acra_history_founding_members_claude_chavasse_1886_1971.htm)  
!



interpreters in court. Elsewhere, some witnesses and defendants asked for interpreters but then switched to English. The power of the courts to ensure compliance with the 'legitimate language' of the court is seen when some defendants and witnesses were threatened with jail or loss of witness expenses if they did not use English. However, there were also attempts by Irish language advocates to highlight the prejudices against Irish speakers and the attitudes that governed interpreter provision.

According to Bourdieu, a trial is 'a struggle in which differing, indeed antagonistic world-views confront each other' (1987: 837) and this struggle is evident in *R v Burke*, and the Maamtrasna and Lough Mask cases. The Judge's suggestion at the trial of Michael Casey that Head Constable Evans, who acted as court interpreter, 'was of sufficient intelligence to distinguish what was important' for defence solicitor Mr Concannon to know, provides a good illustration. As a police officer, Evans was unlikely to be sympathetic to the needs of the defence; he could filter what was said. Michael Casey's need to communicate with his solicitor was effectively disregarded by the court.

Chapter 5 details the laws which formed the basis for interpreter provision in Ireland.

## Chapter 5 Laws on Interpreter Provision

This chapter outlines the statutory framework for interpreting in the courts and examines interpreter provision at assizes, quarter sessions, petty sessions, the Dublin courts, manor courts, the Land Commission courts, courts martial, ejectments and, more unexpectedly, at elections. Finally, comparisons are made with court interpreter provision for Welsh in Wales and for Scots Gaelic in Scotland. Governments have the power to make laws; the Irish Parliament prior to 1801 and the Westminster Parliament from that date, passed a small number of laws that mention interpreters. They had the power to decide in what settings interpreters would be provided, in which courts they would be provided and how much they would be paid.

### Ejectments

The earliest law located that mentions interpreters dates back to 1765-66 and provides for interpreters to be present during ejectments:

1 & 2 Will. IV. C. 31, s. 12 If the tenant be unable to speak English, the process server may employ an interpreter to explain the nature and object of the ejectment (k); and it is not requisite that the interpreter should be sworn, or join in the affidavit of service, provided the process server depose that he saw the person employed, as he believed, interpreting the explanation. (Smith Furlong and Dignes La Touche 1869: 983)

No evidence has been uncovered to indicate that this was ever put into action although from a practical point of view, it would clearly make the situation a little easier if communication could be effected through an interpreter. Of course, some interpreters might not be particularly willing to get involved in an ejectment because if they had to continue living in the community, there could well be a lot of resentment against them. In any case, the provision is somewhat lightweight because it says the process server ‘may’ employ an interpreter rather than ‘will’ employ an interpreter. Furthermore, the phrase ‘as he believed’ is a loophole.

## Assizes

There were assizes courts in Carrickfergus, Cork, Drogheda, Galway, Kilkenny, Limerick and Waterford until 1922. In addition, there were five assize circuits where judges moved from town to town to hear cases around the country. Serious cases such as murder were heard at the assizes, where the grand jury brought in an indictment, and the trial was presided over by one or two senior judges in the presence of a petty jury (Vaughan 2009: 4). Nowadays, jurors are not permitted to ask questions directly, however, in the nineteenth century, they did so (see for example *Nenagh Guardian*, 29 July 1848, 4). As the assizes were only held in Lent and summer, special commissions were set up as necessary to deal with any outbreaks of crime (Vaughan: 17). Assizes courts that heard civil cases were called *nisi prius*.

In 1701, a sworn interpreter was provided for three witnesses in the trial of Patrick Hurly at King's Bench (Howell 1816: 385-91, 402, 422-424). The earliest mention of a payment to a court interpreter located in the current research is in the grand jury presentments for the county of Donegal for April 1754:

33. We present two pounds to be levied and paid to the Treasr. and  
by him paid to Owen McConigall for his years wages as Interpreter 2  
0 0 (8) [National Library of Ireland]

The fact that this payment is recorded in the presentments indicates that it was a payment that the grand jury was expected to make and it is most likely the case that there was a law at that time, probably passed by the Irish Parliament, providing for a salary for interpreters who worked at the assizes. However, it has not proven possible to track down any such law. If there was such a provision, it was probably included in an act on another matter such as the grand jury or public roads. Searches of the volumes of *Statutes Passed in the Parliaments Held in Ireland* yielded no results to match the Donegal presentment of 1754. This could be because it was superseded by a later law. A manuscript book of presentments for Longford dates back to 1759 but contains no mention of an interpreter before the summer assize 1777: 'Wm Bignall, for Interpreter £5' (Longford Archives). If an interpreter was paid by the grand jury in Donegal in 1754, why was none provided in Longford in 1759?

The earliest law located that mentions payments to court interpreters was passed in 1773-4, 13 & 14 Geo III c. 32 s. 22 [i.e. in the thirteenth and fourteenth year of the reign of George III, chapter 32, section 22]:

Chap 32 XXII And be it further enacted by the authority aforefaid, That it fhall be lawful for the grand jury of any county at the affize by preferment to raife such fum of money, as they fhall think fit, [.....] and alfo any fum of money not exceeding five pounds for an interpreter at fuch affizes; (*Statutes Passed in the Parliaments held in Ireland 1774-1780*)

Similarly, 36 Geo III vol 9 c 55 s 34 in 1796 (the act mentioned in the presentment to John Anderson in the county of Kilkenny) contained the same provision: ‘Any fum not exceeding five pounds at each affizes, which fhall be recommended by the court as proper, to be paid to an interpreter at the faid affizes’.

In 1836, 6 & 7 Wm. IV c. 116 s. 79 or the Grand Jury (Ireland) Act laid down that:

Presentment for session house keepers and interpreters  
79. And be it enacted, that it shall and may be lawful for the grand jury of any county to present, without any previous application at sessions, to be levied off such county, [.....], and any sum not exceeding five pounds at each assizes for an interpreter at such assizes, if such payment shall be recommended by the court. (Vanston 1883: 68).

The rate of pay for interpreters at assizes remained fixed by law at a sum not exceeding five pounds per half year from 1773-4 to 1836 and beyond. The norm was for the assizes to be held twice a year in Lent and summer but from 1877 a winter assize was added (Vaughan: 86). This led to requests to the Chief Secretary’s Office for payment for extra work. For example, Crown Solicitor Wright and P. Stanton interpreter sent letters in 1894 and 1895 about work at the Cork Winter Assizes and payment was authorised in three cases. The amount of the third payment is recorded in a letter from the Chief Secretary’s Office dated 20<sup>th</sup> December 1895 as £3 15s ‘from 3<sup>rd</sup> to 13<sup>th</sup> inst.’<sup>5</sup> (CSO LB 74: 164). Stanton made further claims each year from 1896 to 1901 (CSO/RP/2517/02).

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<sup>5</sup> Abbreviation for Latin *instante mense* meaning ‘this month’

## Quarter Sessions

There were quarter sessions courts in Carrickfergus, Cork, Galway, Kinsale, Limerick, Londonderry, Kilkenny, Waterford and Youghal (McDowell 1957: 375-376). Less serious cases were heard at quarter sessions presided over by justices of the peace, who were 'unpaid amateurs' (*ibid.* 371). There was no great enthusiasm to become a justice of the peace in the early nineteenth century and as a result, some were not entirely suited to the role. In part of Cork, they were reputedly 'brewsters, malsters, distillers and rackrent landlords' (*ibid.*). In quarter sessions, the grand jury brought in an indictment, and a petty jury was involved. From 1851, the court consisted of an assistant barrister and a number of magistrates (Vaughan 2009: 4). The assistant barristers were paid professionals and were the sole judges in cases involving civil bills. In 1877, they were retitled county court judges (Lyons 1985: 75). The division between assizes and quarter sessions with more serious cases being heard at the former and less serious cases at the latter was not absolute, and if the assizes was due to sit before the quarter sessions, it could hear less serious cases that would normally have been heard at quarter sessions (Vaughan 2009: 4). Laws providing for payment for interpreters at quarter sessions were enacted considerably later than those for the assizes. In 1837, Wm IV and 1 Victoria c. 43, 44 also known as Small Debts Recovery (Ireland) 1837, became law. It is interesting that provision for interpreters continued to happen as the Irish language started to decline. This Act allowed for a payment not exceeding £15 for each half year and also allowed for either 'one interpreter for the whole of such County or separate interpreters for each District'. This provision must have resulted from a realisation that it was difficult for one interpreter to cover a number of different courts, particularly in the larger counties.

Small Debts Recovery (Ireland) 1837 7 Wm IV and 1 Victoria C. 43, 44  
Salary of Interpreter

V And be it enacted, that whenever it shall be certified by the Assistant Barrister of any County to the Grand Jury of such County that an interpreter is necessary at the Quarter Sessions for such County, it shall and may be lawful for the Grand Jury to present, without any previous Application at Sessions, to be levied off such County, any Sum not exceeding Fifteen Pounds at each Assizes as a Salary of Payment for such Interpreter. (justis.com)

The act also provided that the assistant barrister (later county court judge) would have the power to appoint and remove interpreters:

Assistant Barrister to appoint Interpreter or Interpreters

VI And be it enacted, That it shall be lawful for such Assistant barrister to appoint either one Interpreter for the whole of such County or separate Interpreters for each District in which Sessions shall be holden, at his Discretion, and to direct the Salary to be presented as aforesaid to be paid among such Interpreters, if more than One shall be appointed, in such Manner as he shall think fit and that upon a Certificate signed by such Assistant Barrister, specifying the Amount of such Payment, being produced to the Treasurer of such County, it shall be lawful for such Treasurer to pay to such Interpreter or Interpreters after every Assizes the Amount of the Payment mentioned in such Certificate, not exceeding in the whole the Sum presented by the Grand Jury for that Purpose.

Assistant Barrister may remove Interpreter

VII And be it enacted, That each and every such Interpreter may be removed at the Will and Pleasure of the Assistant Barrister of such County for the Time being, and that any other Person or Persons be appointed in his Place by such Assistant Barrister. (justis.com)

The criminal business heard at quarter sessions was 'a very small fraction' of the total work of the court with one day designated for criminal cases, appeals and licensing. Cases could be appealed at the next assize, where all the evidence would be reheard (Healy 1939: 63-64). The Quarter Sessions were held, as the name indicates, four times a year. This involved more work for interpreters and is most likely the reason why they were paid a higher rate than for interpreting at the assizes. Interpreters who worked in the assizes courts had fewer days' work, which is probably why the rate of pay of £5 per assizes was so much lower.

Similar provisions appear in the Civil Bill Courts (Ireland) Act 1851 14 & 15 Vict. c. 57, s. 20:

Interpreter at Quarter Sessions

When a county court judge certifies to the grand jury that an interpreter is necessary at quarter sessions, they are required to present, without previous application at presentment sessions, a sum not exceeding £15 at each assizes, as a salary or payment for the interpreter, or interpreters if several are appointed, and payment is made to him or them by the county treasurer after the assizes on production of a certificate of the amount payable signed by the county chairman. (Vanston 1883: 69)

A footnote on the scale of allowances to prosecutors and witnesses at assizes and quarter sessions in the *Annual report of Local Government Board for Ireland, being the 11<sup>th</sup> report under the Local Government Board (Ireland) Act 35 & 36 Vic c. 69* (1883) provided that:

Whenever an Interpreter is employed the Court may order him such compensation as may be reasonable, in cases where such interpreters are not paid by salary for the discharge of each duty. (214).

This proviso in 1883 is linked to the reduced provision of salaried interpreters as the population became bilingual. Even though salaried interpreters were no longer employed in certain counties there was still a need for interpreters in some cases.

### **Petty Sessions**

The Petty Sessions courts were established in 1827 to deal with minor cases, and were similar to today's District Courts in that they had no juries and it was the task of the magistrates to hear evidence and decide on guilt or innocence. Also like the district courts, most cases started at petty sessions level and were referred on to either the quarter sessions or the assizes although magistrates acting alone could also do this (Vaughan 2009: 4).

Henry Inglis, who travelled around Ireland in 1834, wrote of Westport petty sessions:

I saw less formality, and more of the free and easy, at the sessions here, than I had seen elsewhere. Every one took a part in what was going on. Lord Sligo's driver, who was sitting near, would say of a witness, "Don't believe it, your worship"; and a clerk, an interpreter, or even a reporter for a newspaper, would suggest a question; and the magistrates would interrogate accordingly. (1838: 258)

D. Browne said 'their establishment has been attended with the best effects, causing the people to have a confidence in the assembled magistrates, which they never had in their individual decisions' (Phelan and O'Sullivan 1826: 87). Stipendiary magistrates were first appointed in 1795 with a policing brief but over time became resident magistrates. By 1912 there were 64 resident magistrates, some of whom

had previous legal experience (Lyons 1985: 75), and, some of whom, like C.P. Crane, started their careers as officers in the Royal Irish Constabulary.

The Petty Sessions Court was the court of the people. It was there that all the minor cases affecting the everyday life of the countryside, were disposed of and settled, and in no court was there a greater demand for men of independent character; men who would judge between contending parties with absolute and unwavering fairness. (Crane 1938: 191)

Crane went on to say that 'It was in these little courts that one often had to make sure of an interpreter' and that 'When the witness came up and was handed the book he was asked "Bearla?" ("Have you got any English?") "Niel sha agum" ("I have not any") would be the reply; and the clerk or a magistrate would then proceed to swear him, the interpreter translating the oath into Irish' (*ibid.* 195).

A review of the *Petty Sessions Order Books* (Findmypast.ie) between 1850 and 1910 revealed that the top offences heard at Petty Sessions were:

1. Drunkenness 33%
2. Revenue and/or tax offences 21%
3. Assault 16%
4. Local acts of nuisance 5%
5. Destruction of property 4%

Around 1826, an 'enlightened and experienced judge' said that:

At the petty Sessions we find the number of cases requiring interpreters to be still greater than at the Assizes, as that court comes closer to the business of the lower order of inhabitants. (*Christian Examiner and Church of Ireland Magazine* 1826: 295)

An important finding from the current research is that, unlike the assizes and quarter sessions, there were no salaried staff interpreters at petty sessions. In the House of Commons in 1894, then Chief Secretary for Ireland John Morley revealed that:

There is no statutory provision applicable to Petty Sessions, but where necessary, and on application, I have been informed the Crown provides an interpreter in criminal cases. Paid interpreters are rarely required, at Petty Sessions, as there are usually present in Court persons who volunteer to interpret upon the occasion arising.



(HC: The Irish Language in Irish Law Courts: 10<sup>th</sup> April 1894, House of Commons Parliamentary Papers)<sup>6</sup>

This is significant because it means that no law was ever introduced to provide for payment to interpreters in the petty sessions. When interpreters did work there, they had to apply to the court for payment, and in some cases to the Chief Secretary's Office, and there were often delays associated with this process. Moreover, interpreters could only be provided in criminal cases, not in civil cases. In addition, Morley stated that in 497 of the 606 Petty Sessions districts, 'no Irish-speaking persons have been charged with offences in the memory of the present clerks'. That left 109 districts where Irish *was* used, and there 'provision is made for an interpreter, when the services of one are required, by the employment of a person duly sworn so to act'. However, as seen above, this person could be a volunteer or in some cases a paid interpreter.

Garnham, writing about the eighteenth century, concludes that:

the fact that interpreters were provided at all is a clear indication that the legal process was not designed to be exclusive. The courts were open, at least theoretically, not only to English speakers, but also to the Irish speaking, and presumably predominantly catholic, section of the population. (1996: 94)

However, the fact that salaried interpreters were not provided at petty sessions means that the courts were not in fact open to the Irish-speaking catholics. Moreover, the fact that interpreters could only be provided in criminal cases meant that an Irish speaker who wished to take a civil case would have to depend on a volunteer interpreter or hire his own interpreter.

The large number of petty sessions courts – a total of 606 - meant that it would have been expensive to provide interpreters. We can only speculate but perhaps the grand juries refused to incur such a cost. An attempt was made in 1849 to find a solution to the problem of non-provision of salaried interpreters at petty sessions. A Bill for the More Speedy Trial and Punishment of Offences in Ireland included an article providing that summons servers could act as interpreters:

XXXIV and it shall be lawful for such Justices to appoint One or more Summons Server for each District, who shall be removable in like

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<sup>6</sup> This record does not appear on Hansard.

manner as Petty Sessions Clerks; and such Summons Server shall reside in the District, and convenient to the Petty Sessions Court, and act as Interpreter at Petty Sessions, and shall be entitled to a Fee of one Shilling, and no more, for the service of each Summons, Notice or Order; and it shall not be lawful to appoint such Clerk or Summons Server for more than One Petty Sessions District. (Enhanced Parliamentary Papers on Ireland database)

The Bill never became law; at the second reading in the House of Commons (Hansard HC Deb 28 February 1849, Vol. 102 cc 1365-73), it was deemed to be 'draconian' and was dropped. However, the idea of combining the roles of summons server and interpreter re-emerged in 1909 in relation to Headford, County Mayo, in the only newspaper comment in the current study on the absence of interpreters at petty sessions. The anonymous author wonders if:

it would come within the province of the Gaelic League to see that a competent interpreter be appointed in the local Petty Sessions Court. A district practically Irish-speaking is included in the jurisdiction of the court, and yet Irish-speaking witnesses are at a disadvantage in having no permanent official to interpret their evidence. In making any future appointments of summons servers could not a knowledge of Irish be made essential in consideration of applications of the position. The present system of depending on the voluntary services of interpreters whose competency and impartiality cannot always be assured, requires to be remedied. (*Connacht Tribune*, 5 June 1909, 4)

It is not clear how the writer proposed to ensure the competency and impartiality of summons servers who were also interpreters.

As interpreters at petty sessions were not paid a salary, the grand jury presentments do not include any records of payments and we are dependent on other sources for information. There is one official mention of a payment to an interpreter at petty sessions. In 1835, petty sessions were held once a week in Dungarvan, County Waterford, and:

The costs and charges received, within the year ending the 31<sup>st</sup> December 1835, on all summonses, informations, warrants and convictions, received by clerk of petty sessions, out of which sum he has to pay for stationery, interpreter &c, 45l 14s 8d. (*Petty Sessions, Ireland. A return of the courts of petty sessions in the several counties of Ireland* 1836: 219)

This piece of information helps provide an explanation of how payment was effected; it seems to have been out of petty cash. In 1901, and this could well have been the system for some time previously, the system seems to have been that the bench would send a certificate to the Crown Solicitor (*Southern Star*, 24 August 1901, 6). Presumably the certificate would include details on the work carried out. There are many examples of volunteer interpreters in the newspaper court reports. In a case about non-payment of tithes in Cork, the defendant, Denis Bogue Sullivan, spoke Irish mixed with 'a totally unintelligible smattering in the English tongue'. The commissioner of rebellion 'volunteered his services as interpreter, and proceeded to interrogate the prisoner' (*Freeman's Journal*, 29 May 1838, 3). In effect, the prosecutor became the interpreter.

At Castletown Petty Sessions, witness Patrick Maguire was sworn in Irish by Mr Reilly J.P., which would indicate that the Justice spoke Irish but the interpreter was Mr Michael O'Connor, Poor Law Guardian (P.L.G.) (*Tuam Herald*, 12 November 1870, 2).

At Listowel Petty Sessions, Mary Joy, a witness to an assault case, was sworn, stated she could not speak English, and said that if she was not provided with an interpreter she 'would not speak a word'. The judge said she 'could speak English very well' and when she replied 'No, faix, I could not' to laughter in the court, the court policeman was told to take her to the bridewell whereupon she said 'Can't ye get one to talk to me in Irish and I won't' and 'the magistrates were then obliged to find an interpreter'. Mrs Joy's response was 'Ha, faith, I knew I'd make ye spake Irish to me'. The story is described as 'an amusing incident' (*Irish Times and Daily Advertiser*, 2 January 1872, 2). It took place in 1872, which was quite late, and it would appear that Mary Joy knew what to expect and was prepared to fight her corner.

Timothy Healy M.P. spoke about interpreting at petty sessions in 1883:

If a man came up in a Court of Petty Sessions, as was very frequently the case, and took the book in his hand, and happened to know enough English to be able to say "thank you," he would not be allowed to give his evidence in any other language than English. That was obviously very absurd, because a Russian might be able to say "thank you" without knowing anything more of English than those two words. (Hansard HC Deb 17 August 1883 vol 283 cc1022-81)

Dr Tanner M.P. complained about resident magistrates in the House of Commons and alleged that:

A neophyte, under the control of Captain Stokes, performed the task of interpreter, and his interpretation was objected to on the ground that it was an improper translation of the evidence given on behalf of the prisoner. (Hansard HC Deb 05 September 1887 vol 320 cc1146-224)

Towards the end of the nineteenth century, in a civil case in Timoleague, west Cork, about the trespass of fowl, the defendant spoke Irish and 'an oldish looking man, with long grey beard, advanced from the body of the court and spoke to the old lady in Irish. It was understood that he meant to act as an interpreter'. He started by asking her in Irish if she understood English, but she claimed she did not. However, she switched 'suddenly and in plain English' and mixed the two languages until she was issued a fine (*Southern Star* 27 October 1894, 2).

The *Southern Star* reported on a number of cases heard at Skibbereen Petty Sessions where there was a need for an interpreter. In a serious assault case, the injured man's wife spoke Irish and a witness in the case, Dr Shipsey, medical officer for the Schull dispensary district<sup>7</sup>, offered to act as interpreter for her (*Southern Star*, 12 March 1892, 6). A man called Michael Connolly was summonsed 'for allowing his horse on the streets without anybody in charge of him' but as he had interpreted in another case, he was let off as 'one turn deserved another' (*Southern Star*, 27 April 1901, 1). Also in 1901, an interpreter was again required, but there were no volunteers 'owing to the fact that none of them had the legal wording of the oath in Irish' (*Southern Star*, 15 June 1901, 8). In 1904, a valuer, Mr Donovan, was appointed to interpret in a case involving an Irish-speaking tenant from Cape Clear Island. The tenant, John Cadogan, was asked about improvements to the farm and explained that he had just 'three little cows' and had to buy 'handfeeding'. His solicitor said through the interpreter 'Ask him does he buy bran' but when Donovan interpreted this, it seems he did not translate the word 'bran' into Irish. When

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<sup>7</sup> The issue of doctors in Irish speaking areas who did not speak Irish comes up occasionally in the newspapers. Dr Shipsey appears to have been an exception.

challenged, Donovan said there was no Irish for bran and Mr Healy said “I suppose it did not exist then” (*Southern Star*, 17 December 1904, 8).

In 1889, in Falcarragh Petty Sessions Court in Donegal, the interpreter in an eviction case was the court clerk (Falcarragh Evictions 31 May 1889, House of Commons Parliamentary Papers)<sup>8</sup>. In 1911, Hugh Law M.P. said that an interpreter had frequently to be employed at petty sessions in Donegal, especially in Falcarragh, and suggested that future appointments should be of Irish-speaking magistrates and clerks. However, Mr Birrell replied that the summons-server acted as interpreter and two magistrates in Falcarragh spoke Irish (Hansard HC debate 23 May 1911 vol 26 cc229).

Then former county interpreter Humphrey Kelleher was present at Bantry Petty Sessions in a case where an interpreter was required but refused to take on the role unless he was paid five shillings. The witness’s husband offered two and six, which Kelleher ‘indignantly refused’ and the bench said they would send a certificate to the Crown Solicitor and ‘he should be satisfied with what he would get’. Apparently, Kelleher had previously been paid one shilling for similar work, so he then said he would accept two and six. The bench again refused permission and Kelleher eventually agreed to await payment from the Crown Solicitor (*Southern Star*, 24 August 1901, 6). In another case in the same court, a man attending court offered to interpret for five shillings but was turned down (*Southern Star*, 31 July 1909, 2).

In Schull, ‘Mr P. Walsh, valuer’ acted as interpreter for an Irish-speaking witness as to farm improvements (*Southern Star*, 21 May 1904, 2). At Youghal Petty Sessions, Michael Fitzgerald, honorary secretary of the Youghal branch of the Gaelic League, acted as interpreter for a witness in an assault case and resident magistrate A.E. Horne said he would try and secure payment for him (*Irish Independent*, 22 May 1905, 2).

In 1911, at Dungarvan Petty Sessions, Mr Foley, an Irish speaker, understood English but ‘appeared deaf to all questions in English’. Mr Ryan, for the defendants, said ‘I will make him speak English’ and Mr Williams for the plaintiff expressed the

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<sup>8</sup> This debate does not appear on Hansard.

view 'It is well you have confidence in your powers.' Mr Williams then said 'I must have an interpreter' and a man called Mr Treacy 'came forward and volunteered to interpret'. The witness answered some questions before they had been interpreted, which 'convulsed the court with laughter which lasted for a considerable time, the magistrates on the Bench heartily joining in' (*Munster Express*, 3 June 1911, 2).

Situations like this where it is clear to all that the speaker understands English, or where they suddenly switch codes from Irish to English seem to have been a source of amusement in some courts. It is possible that speakers switched language as they became more confident that they understood what was being said and could respond.

Margaret Lydon, a witness, was being cross-examined through an interpreter but when she gave an answer 'in capital English', the Commission Court judge 'directed the interpreter to stand aside' and questioning continued in English. Parts of her deposition were read out in English and she was asked if it was true or false. She then 'said something in Irish, and refused to answer the question directly'. As she refused to answer any more questions in English, the cross-examination ended and they made do with reading out her deposition (*Irish Times*, 17 August 1882, 7).

In another example of code switching, the *Southern Star* recounted in 1901 that:

There is on record the story of a witness who professed he did not know English. It is to be feared, too, that the interpreter had not a good knowledge of Irish. At any rate, the witness gave one answer which the interpreter translated hap-hazard, and then, to the amusement of the Court, the former blurted out "Yerra go away out o' that, I tell his worship all about it." And he did. (*Southern Star*, 16 February 1901, 3)

At Galway petty sessions, a witness who was testifying in Irish, understood a question before it was interpreted, and replied in English, 'which excited much laughter in court' (*Connacht Tribune*, 13 September 1913, 1).

### **Dublin Castle and Interpreters at Petty Sessions**

In 1895 Resident Magistrate Gardiner wrote to the Under Secretary at Dublin Castle on two occasions about the claim of John Faherty, interpreter, for acting as interpreter at Spiddal Petty Sessions. These letters were followed in 1895 and 1896

by three letters from John Faherty himself and payment was duly authorised. However, Faherty must have been frustrated with the lack of a system for payment, the long delays involved in obtaining payment and the likelihood of manuscript pages being lost. On the 8<sup>th</sup> of April 1896 he wrote again, this time to say that he intended 'getting Forms for Interpreter at Petty Sessions printed as I believe they would be more convenient than MS forms' and enclosed two prototypes with a request for 'indorsement' [sic] of one which he could show 'to the Justices' (National Archives of Ireland CSO/RP/6073/96). The first looked like this:

*Sessions of Spiddal*

*County of Galway*

*Return showing the number of cases at above Session this day of 189 in which the parties under examination were unable to speak in English, and in which the services of an Irish interpreter were required.*

<i>Complainants</i>	<i>Defendants</i>	<i>No. Witnesses examd.</i>

*This is to certify that Mr of acted in the capacity of Interpreter (Irish) at above Petty Sessions this day.*

*Signed*

*JP*

The second was shorter:

*Petty Sessions District of*  
*County of*  
*This is to certify that Mr* \_\_\_\_\_ *of*  
*Interpreted this day in* \_\_\_\_\_ *cases, the number of witnesses in all*  
*being* \_\_\_\_\_ *.*  
*Signed*  
*Justice of [illegible] County*

However, John Faherty's suggestion was not welcomed. Instead of corresponding directly with him, a letter was sent to the Inspector General of the Royal Irish Constabulary in Galway to say:

Please have it explained to this man by one of your local officers that his proposal to have forms printed for use in Petty Sessions is not one that can be sanctioned, and that he is quite unauthorised to sign himself "Interpreter at Petty Sessions".

As the post of interpreter at petty sessions did not exist, John Faherty was not entitled to use this title, even though it is possible that being based in Galway, he worked there regularly. A visit from an RIC officer would put a stop to any future bright ideas.

The Chief Secretary's Office Registered Papers include many claims for interpreting work carried out at Petty Sessions. In 1896, Edward Tighe sent in a claim for work at Belmullet Petty Sessions, and payment was authorised. John Lynch corresponded with the Office a number of times between 1901 and 1904 about work at Portmagee Petty Sessions in Kerry. In relation to this particular court, chief secretary George Wyndham stated that 'An interpreter is always present in the Petty Sessions Court, but his services have been seldom utilised' (HC Deb 24 March 1904 vol 132 c625). He may have been referring to John Lynch.

There seems to have been a campaign for the provision of an interpreter at Dingle Petty Sessions, with a letter from J. Moriarty to the Chief Secretary's Office (CSO) in



1917, followed by another from G. McGuire recommending James Curran for this employment, another letter from J. O'Connell, and the adjournment of some cases there in 1918 'for want of Irish interpreter'. James Curran also sent in claims for work, presumably at Dingle Petty Sessions. In 1919, Coleman Flaherty applied for an increase in fees as Irish interpreter at Spiddal and Derrynea Petty Sessions (CSO/RP/24593/19) and R.M. Kilbride also wrote, possibly in support of this application (CSO/RP/25893/19).

On 29<sup>th</sup> April 1896, a letter was sent to Michael Connor, interpreter, Ballinrobe, to say:

I am directed by the Lord Lieutenant to acknowledge the receipt of your application of the 27<sup>th</sup> inst., and to inform you that it should be addressed to the Magistrates in Petty sessions. No application for payment for interpreting can be dealt with in this office unless it is certified by the Magistrates and forwarded by the Clerk of Petty Sessions. (CSO LB 7165/96 page 975)

We do not know when this system began but it is clear that the CSO would need to corroborate that the interpreters had carried out the work that they said they had done.

### **Dublin Courts**

The county and city of Dublin had a different court system from the rest of the country. There was no assizes there, and criminal cases were heard at the court of King's or Queen's Bench (Garnham 1996: 81) which was 'the most senior of the criminal courts in Ireland', but cases were usually heard at the Dublin Commission in Green Street (Vaughan 2009: 4-5). Quarter sessions were held at Kilmainham for the county of Dublin and could try 'all manner of felonies' but only if committed outside the limits of the city of Dublin (*ibid.* 82). In the city of Dublin itself, there was a quarter sessions presided over by the city justices alongside the Lord Mayor and the city recorder. A Tholsel or civil court in the city was held four times a year and presided over by the Recorder (*ibid.*).

The County Dublin Grand Jury Act 1844 7 & 8 Vict. c.106 s. 21 set the rate for interpreters in the county:

The salary of the court keeper at Kilmainham shall not exceed £20, nor that of any other sessions house keeper £8. The sum for an interpreter shall not exceed £10 at each presenting term (Vanston 1883: 68).

At the time, Kilmainham was part of the county of Dublin. It is surprising to see a mention of interpreters in the County Dublin Grand Jury Act because the County of Dublin grand jury abstracts of presentments do not include any payments to interpreters between 1845 and 1898. They list all the other salaried officers: clerk of the crown, clerk of the peace, secretary to grand jury, sheriff, crier at Kilmainham, crier at Queen's bench, crier in commission court, courtkeeper in Queen's Bench, courtkeeper in Green Street, courtkeeper of sessions house, Balbriggan, courtkeeper of sessions house Swords, surveyor No. 1 District, surveyor No. 2 District, housekeeper in Green Street, courtkeeper in Kilmainham, Dr C.A. Cameron, as public analyst for County Dublin but no interpreter (Fingal County Council archives). A search of the county of the city of Dublin grand jury presentments for 1849-1850, 1861-1870 and 1877 (Dublin City Archive) also yielded no results. There must have been a perceived need for interpreters prior to 1844, but judging by the records, no post was created.

An appeal case about tithes in Timoleague, County Cork, was heard at the Privy Council in Dublin in 1827. Daniel O'Connell was there as counsel but was asked to act as interpreter. As the first witness could not speak English, an interpreter was sworn. O'Connell started examining the witness but it seems it was difficult to hear what the interpreter was saying because he was asked to speak up as 'His Excellency wished to enjoy the melody of the language'. Apparently, the interpreter was speaking 'a most melodious jargon of Irish and bad English' and Mr Jackson, counsel for the defendant, asked O'Connell to interpret, which he did, 'and acquitted himself to the satisfaction of his Excellency and the members of the Council' (*Irish Law Recorder* 1827: 103). It is possible that the interpreter was not very experienced, or was nervous about interpreting at this high level court.

The only newspaper reports that mention court interpreters in Dublin are for the Maamtrasna and Lough Mask murder trials in 1882. The crimes took place in Galway but were heard in Dublin under the Prevention of Crimes Act 1882 which

allowed for cases to be heard outside the area where crimes were committed. This was part of a crackdown on crime; it was felt that there was a better chance of a conviction with a jury from another part of the country, in these cases, Dublin. As we have seen, there is no evidence of salaried interpreters in Dublin, something that must have presented a problem to the Dublin Special Commission in Green Street courthouse, and the solution found was for Royal Irish Constabulary officers to act as interpreters. Subsequently, there were many complaints about the very idea of a policeman acting as interpreter in court. When the Criminal Law and Procedure (Ireland) bill was going through Parliament in 1887, Maurice Healy, M.P. for Cork, suggested an amendment. His wording was 'shall not be a policeman or other person in the service of the Crown otherwise than as an interpreter' but Chief Secretary Arthur Balfour responded that 'Inconvenience would arise from the adoption of the remaining part of the Amendment' (Hansard HC Deb 13 May 1887 vol 314 cc1819-940). Presumably, the official position was not to use policemen as interpreters in court but to retain the option of using other court officials such as court clerks or summons-servers. As a result of the disquiet expressed in the House of Commons and elsewhere, the Criminal Law and Procedure (Ireland) Act 1887 included this unusual provision:

(8) In case any witness examined under this section shall not speak English, the interpreter employed shall not be a policeman.

As we saw in Chapter 2, police officers in the United States routinely act as interpreters, even though many just have high school Spanish (Berk-Seligson 2009). The inclusion of this article was very innovative but unfortunately, despite this, it was not retained in later laws, possibly because the Act proved to be extremely unpopular. Timothy Harrington M.P. published a damning collection of newspaper reports of cases taken under the act detailing severe sentences handed down for fairly minor crimes. For example, Michael Daly was charged with intimidation and sentenced to two months in jail for groaning at an agent (1890: 8, 24). Former mayor of Wexford and editor of the *Wexford People* Edward Walsh was sentenced to five weeks in prison for condemning landgrabbing in a public speech. A number of M.P.s – Edward Harrington, David Sheehy, William O'Brien, J.L. Carew and Dr

Tanner - received prison sentences as did the editors of the *Carlow Nationalist*, the *Tipperary Nationalist*, the *Waterford News* and the *Limerick Leader*.

### **Manor Courts**

The manor courts operated from the seventeenth century up to 1859 in two guises: a court leet and a court baron. The former was a bi-annual criminal court which heard cases which had occurred on an estate. The latter was a civil court, held three times a week, which heard debt and trespass cases (McMahon 2001: 116). Some landlords presided over the manor court, but many appointed seneschals to do this (*ibid.* 118). Daniel O'Connell, who recommended their abolition, said that:

in the manor courts, the most indecent proceedings take place: a vulgar fellow, a hedge schoolmaster, or driver to an estate, is made seneschal, that is the judge of the court; he holds the court generally in a miserable whiskey house. It is almost an universal rule that the jury will not go together, unless they get a certain portion of whiskey; [.....] I have known an instance in which [...] the jury decided for the person who gave them most whiskey, having declared that they would do so. (*Evidence on the State of Ireland* 1825: 156-157).

Ultimately, the manor courts were replaced by the petty sessions courts, something described by O'Connell as 'notwithstanding some abuses, a very great improvement' (*ibid.* 518).

However, some manor courts were well-regarded. Wakefield (1812) reports on Mr Wynne of Hazelwood House in Sligo, whose 'justice was good'. It seems that Mr Wynne set aside certain days for the manor court, and his wife Lady Sarah heard the women's complaints.

The litigants, many of whom come from the mountains, and cannot speak a word of English, make known their case, which is often some trifling quarrel, through the medium of an interpreter. In general, Mr Wynne obliges them to present a written narrative, which they employ some schoolmaster to draw up. (750).

Wakefield describes an interpreter 'who exerted his eloquence in both languages, addressing the gentleman in Irish, and taking great pains to make each comprehend the nature of the decision, and that it was just (*ibid.*).

Two select committees reported on the manor courts, one in 1837 and one in 1837-1838. Judging by the evidence contained in their reports, it would seem that some manor courts, at least in Clare, Cork, Galway, and Mayo, operated in Irish. This is somewhat surprising, given the existence of the Administration of Justice (Language) Act (Ireland) 1737<sup>9</sup> (11 Geo II c. 6), which provided that all legal proceedings should take place in English, 'and not in Latin or French, or any other tongue or language whatsoever'. John Borlase Warren, 'a gentleman both by education and property', seneschal of Macroom, Kilcrea and Blarney manor courts and magistrate of Cork and Kerry, was asked if the country people preferred the manor courts to petty sessions, and replied:

I should say unquestionably, yes, when well conducted; I find that the people are invariably pleased with being able to tell their story in Irish, and to address the jury through me, and to tell their story as they like themselves. The jury are conversant with their little manners and customs and bargains, much better than gentlemen, and all that; and I do think many of them would come to a fairer and better decision than almost any magistrate, at least, more satisfactory to the parties; I speak now from the experience of both courts. (*Select Committee Report on Manor Courts, Ireland 1837*: 69)

This response led to a question on whether people were allowed to state their cases in Irish at petty sessions, which was met with this response:

Yes, they are, it must be allowed but at the same time it is much preferable to them to tell their story to persons who understand Irish well, than to be telling it to an interpreter, who tells it to the magistrates again; they are always gratified at that. (*ibid.*)

John Jagoe, 'no profession', described himself as an 'inquirer' who had attended a number of courts around the country, apparently purely out of interest. He reported that he attended a manor court between Outerard (sic) and Ballynahinch in Galway where the seneschal, and all the witnesses and jurors spoke Irish and no English. There were no lawyers involved in the case. Jagoe went on to say 'I have always thought witnesses should be examined the language in which they think; and for that reason they should be examined in Irish; but it struck me as a

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<sup>9</sup> This law is still in force in Northern Ireland.

peculiarity' (*ibid.* 47). This reaction would imply that it was an unusual event and something he had not seen elsewhere.

J.E. Macarthy, seneschal at Newtown, Ross Carbery, said 'My acquaintance with the law and the customs of the country, and my knowledge of the Irish language, qualify me to administer justice, and I hope leniently, within my sphere of action' (*ibid.* 355).

The *Select Committee on Small Debt Jurisdiction of Manor Courts, Ireland* heard evidence from Edward Macdonnell, an estate owner in Cahir, County Mayo, who agreed that some witnesses spoke Irish only, that the juries generally understood Irish, as did the seneschal, Mr Seymour, although he did not speak it. He also agreed that some people chose not to use English 'to avoid a rapid cross-examination' (1837-8: 113).

Denis Leonard, an attorney from Kilrush, County Clare, described the court there as 'disorderly' with 'the greatest uproar and confusion; the parties blaspheming and abusing each other' and described up to a dozen bystanders holding regular conversations and addressing the jury all at once, 'some in English and some in Irish; a regular tower of Babel' (*ibid.* 67).

Michael Cullinan, a solicitor in Capel Street, Dublin and in Ennis, speaking of jurors, said 'I dare say half of them cannot read or write; they are altogether illiterate; I have seen jurors that could not speak English'. He was then asked 'If the evidence was given in Irish, that would be of no consequence', and replied 'No; there are a number of persons who do not speak English, who are as intelligent as those who do, certainly' (*ibid.* 46).

Mr M Leonard said in March 1838 that:

upon a trial of a civil bill, before Mr Freeman, at the quarter sessions at Tralee, there was a witness under examination, and he stated that he could not speak the English language, nor did he understand it; that he was attending as a juror before Mr Sands, at the manor court of Ballylongford; that the evidence in the case was given in English, and that he did not understand one word of the evidence; notwithstanding that he was a party to bringing in the verdict there, and consented to the verdict, which astonished Mr Freeman at the time, who was the assistant barrister. (1837-8: 54)

Mr C.H. Hemphill of Kerry suggested that jurors who could not understand English should be struck off (*First, second and special reports from the Select Committee on Juries (Ireland)* Minutes of Evidence 1837: 2).

Decades later, in 1877, Mr Holmes said in court that 'Some jurors at Lifford did not even understand the English language, as had been discovered on a recent occasion' (*Irish Times*, 28 February 1877, 3).

### **Land Commission**

The Land Law (Ireland) Act 1881 allowed for the establishment of the Land Commission as a court of arbitration to fix fair rents between landlords and tenants. While, unlike in Scotland, it made no provision for interpreters, there is evidence that they did work at some land courts around the country.

In 1883, in the House of Commons, Timothy Healy cited a recent case in the Land Court in Bandon where a witness was asked about rent and said he could only speak Irish. According to Healy, at that point 'there was a howl amongst the barristers, and they insisted that he should give his evidence in English, and he had to do so'. However, when he was asked about rent he said he paid £50 a year and everyone present realised there was a problem. An interpreter was called, and it turned out that the man had meant to say £30 a year. As Healy said, 'Here, then, was a case where a man's whole life would have been affected by a question of words, for it made all the difference in the world to a tenant whether he was charged a high or low rent'. The confusion of fifty and thirty could have been crucial. However, at the same debate, Mr Tottenham, M.P. for Leitrim, took a different view. He said he had lived in Ireland for 25 years and 'in the whole course of that time he had only known it necessary on one occasion to make use of an interpreter' and that was at a winter assizes in Carrick-on-Shannon where a number of witnesses from Galway did not have 'sufficient fluency' in English (HC Deb 17 August 1883 vol 283 cc1022-81).

In 1884, Chief Secretary for Ireland George Trevelyan said that 'with regard to witnesses who do not understand or speak English, the practice in all the Courts of the Land Commission is to employ an interpreter, and this course is also adopted

when a witness's knowledge of English is imperfect'. This answer was in response to a question from Timothy Healy about a case involving a tenant called Mary Staunton in Fermoy. Trevelyan replied that 'she deliberately attempted to deceive the Court'. Healy asked if this deception 'related to her having spoken a few words of English after she had stated she could speak only Irish' but no reply was given (HC Deb 07 March 1884 vol 285 cc855-6). Later the same day, Healy returned to the topic and Trevelyan said that 'in the opinion of the Judge of First Instance, the woman was deceitful' (*ibid.*). It seems that in this case an assumption was made that Mary Staunton was lying when she said she did not speak English and as a result her only option was to lodge an appeal, something that could take several months. As we have already seen, this distrust of witnesses and the belief that they were deliberately misleading the court if they were heard to speak some English was a common phenomenon.

In Lifford land court in 1884, some cases had to be adjourned because the interpreter was not available. In the House of Commons, Mr Trevelyan explained to Arthur O'Connor M.P. that the interpreter usually employed in Court was not there when the cases were called, and it was necessary to send to a considerable distance for him (Hansard HC Deb 6 June 1884 vol. 288 cc 1687).

William Bourke, court interpreter, was the interpreter at the Galway sittings of the Land Acts Commission, where he interpreted for Martin Connelly and John Freeny from Spiddal (*Irish Times*, 26 November 1897, 2).

At the Southern Land Sub-Commission in Clonakilty, a tenant told the court that he had very bad English and the chairman said he would not force him to speak English. However, the tenant's own solicitor, Mr P.W. O'Donovan said 'His English will do well enough' and the case was heard in English (*Southern Star*, 17 November 1900, 3).

A different attitude prevailed in Dingle, in a case involving a large number of Irish-speaking tenants where Mr Ferriter, the court interpreter, interpreted the evidence. Assistant Land Commissioner Mr R.J. Kelly 'remarked that in every case where a witness, whether imperfectly or not, could speak English or not, still preferred to give his evidence in Irish, he should be facilitated in doing so in order that he should feel himself under no disability or disadvantage' (*Freeman's Journal*,



22 October 1909, 5). This is perhaps evidence of a changing attitude towards Irish speakers, but an attitude that was not emulated in all quarters.

### **Sourcing of Interpreters**

Interpreter provision was a problem in a number of civil cases. In 1839, at the Nisi Prius court, it took three attempts to locate someone in court who could act as interpreter for witness Honor Burke. The first volunteer, 'an old man...on crutches' was sworn in but was unable to interpret the very first answer. Then, an attorney named Egan made an attempt, but said 'that the Irish he (sic) spoke was so difficult to understand that he would not undertake the task of examining her'. Finally, Mr Henderson, 'a Galway gentleman', was sworn in and 'she answered all his questions not only with fluency but with apparent eloquence' (*Tuam Herald*, 1 June 1839, 2).

At the Court of Probate, an interpreter was needed to examine an Irish-speaking witness and a Mr Brown, also a witness, who had already been examined, was proposed. The court at first declined this proposal but then decided to allow it 'upon the understanding that the defendant's solicitor, who likewise could speak Irish, would check the evidence' (*Irish Times*, 5 December 1859, 4).

The Most Rev Dr McEvilly, Bishop of Galway, was subpoenaed as a witness at the court of common pleas, and then recruited as interpreter for the plaintiff's mother (*Freeman's Journal*, 13 May 1869, 8). In the same year, Isaac Butt both examined an Irish-speaking witness and interpreted for him in a libel case (*Irish Times*, 19 June 1869, 4). In 1871, 'Mr Clancy, court-keeper, kindly consented to act as interpreter' in Oughterard (*Tuam Herald*, 3 June 1871, 1).

The Galtee Boy libel case at the Court of Queen's Bench involved two Irish-speaking witnesses (*Weekly Irish Times*, 8 December 1877, 2). Isaac Butt, acting for the defendant, 'asked was there no one in court who could interpret the evidence?' and said that 'such a fact was a disgrace to the country'. The Registrar 'appealed to Mr Butt', presumably in the hope that he would act as interpreter, but 'Mr Butt said in a jocular way that he thought it was the duty of the Clerk of the Crown to interpret the evidence' (*ibid.*). An interpreter, a Mr Dwyer, was found but 'Considerable laughter was caused by the witness frequently answering in English

to questions put by counsel before the interpreter had translated them' (*Freeman's Journal* 3 December 1877, 7). A second witness, John Shaughnessy, managed to answer some questions about rent and his family in English but ran into difficulty when it came to reclamation, and even more problems when the judge asked him 'whether it was the March gale he was paying' [The gale was the rent]. Another witness, Mr Riordan, was sworn in as interpreter, despite objections from Mr Heron for the prosecution. The defendant, John Sarsfield Casey, was about to go looking for an interpreter, but Mr Butt 'thinking he was about to interpret, said – "It would be still worse with Mr Casey." Mr Butt most likely meant that it would be worse because Casey was the defendant. In the end, Rev John Walsh 'who was present, proffered himself as an interpreter, and was sworn' (*Freeman's Journal*, 4 December 1877, 2).

Cases were adjourned because there was no interpreter: the court of bankruptcy could not hear evidence from the father of a bankrupt, and had to adjourn for an interpreter (*Freeman's Journal*, 20 September 1879, 3). In 1880, at a special sessions in Bantry, the bridewell-keeper acted as interpreter (*Nenagh Guardian*, 3 November 1880, 3). In Ballina, a tenant's evidence about her rent was interpreted 'through the crier, William Kearney, an interpreter' (*Irish Times*, 12 November 1881, 6).

The coroner and jury went to a house in Belmullet where the deceased's father's evidence was interpreted by Father McManus (*Irish Times*, 10 November 1881, 7). In Castletown, Cork, the Reverend Mr O'Reilly, PP, acted as interpreter at an inquest 'as both Murphy and Shee were Irish witnesses' (Skibbereen and Castletown Board of Guardians 1862: 24).

### **Courts Martial**

Courts martial tended to be speedy affairs heard *in camera* and there is rarely any record of what was said. Consequently, there is very little information on the language spoken at courts martial by various rebels and it is impossible to know if interpreters were provided. In 1917, IRB and IRA member Eamon O'Dwyer from Tipperary, was court martialled by British officers in Cork Jail. He and his colleagues

refused to recognise the court, saying in Irish “Níl meas madra agam ar an gCúirt seo”, which was translated rather literally by the interpreter as “the prisoner said he had not a dog’s regard for that court” (Bureau of Military History <http://www.bureauofmilitaryhistory.ie/>). It would be interesting to know if many others used Irish, and if interpreters were provided.

### **The Interpreter’s Oath**

The tradition of swearing in interpreters has been in existence for centuries. At the 1701 trial of Patrick Hurly in Clare, the record states ‘an interpreter sworn, because she [witness Peggy Rabbet/Margaret Connene] could not speak English’ (Howell 1816: 385). In 1778, the *Freeman’s Journal* includes ‘true translations’ of the articles of capitulation of Dominica<sup>10</sup>, certified and signed by ‘John Gillon, fworn interpreter and tranflator’, (*Freeman’s Journal*, 5 December 1778). Official records such as those of select committees always mention that the interpreter was sworn, as do many newspapers. It seems that there was a high level of awareness of the requirement for the interpreter to take an oath in eighteenth century Ireland, possibly more than in the twenty-first century.

The main sources of information on interpreter oaths are books directed at justices of the peace and constables. Nun and Walsh (1841) mention interpreters being sworn in the case of jurats, statements which were included at the end of affidavits and recorded all the details of the oath or affirmation:

If an interpreter be employed, add, Sworn at &c, by the above-mentioned A.B., the same having been first read over and explained to him in the [Irish] language, by M.N. of           , who was first duly sworn to interpret the same to the said A.B., before me J.P. &c. (1841: Appendix cclviii)

In addition, in the context of issuing a warrant, information is provided on ‘where interpreter is used’:

If it be necessary to use the intervention of an interpreter, he should also be sworn to interpret well and faithfully, and the jurat to the information modified accordingly. (176)

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<sup>10</sup> On 7 September 1778, the island of Dominica, then occupied by the British, surrendered by capitulation to the French (Bee 1810: 405).

Levinge (1862), in *The Justice of the Peace in Ireland*, explained that:

Deaf and dumb witnesses, as well as others who do not speak the English language, should be sworn through the medium of another person qualified to interpret for them, the interpreter being first sworn faithfully to interpret the witness. Also, when the defendant, or the party charged, does not understand the English language, the evidence should be interpreted to him. The interpreter's oath may be in the following form:

Interpreter's oath] "You shall truly and faithfully interpret the evidence about to be given, and all other matters and things touching the present charge, and the [French, or as the case may be] language into the English language, and the English language into the [French &c] language, according to best of your skill and ability; so help you God. (1862: 81)

Levinge went on to detail the court processes. When the prosecution had examined the witnesses, it was the remit of the justice to read the depositions to the accused and then take down his statement if he wished to make one. The magistrate had to caution the accused "that he is not obliged to say anything unless he desires to do so, but that whatever he does say will be taken down in writing, and may be given in evidence against him on his trial" (86). If a statement was given, it had to be read over to the prisoner and signed by the magistrate. If the justice asked a question without first administering the caution, then that evidence could not be used if the case went to trial.

Humphreys (1867), also in a book directed at justices of the peace, has a slightly different version of the interpreter's oath:

You shall well and truly interpret and explain to the Court (and Jury) the evidence given in this case (trial or inquiry) according to the best of your skill and understanding. So help you God. [The interpreter is to be first sworn, and he is then to administer the oath to the witness]. And in the *jurat* add: - Sworn before me, &c, &c, the same having been first read over and explained to him in the \_\_\_ language by C.D., who was first duly sworn to interpret and explain the same. (376)

In his memoirs Resident Magistrate Crane records an abbreviated version of the interpreter's oath:

“You shall well and truly interpret the Irish language into the English language, and the English language into the Irish language, to the best of your skill and ability. So help you God”. (1938: 195)

The interpreter’s oath was a serious matter and was administered to both staff and volunteer interpreters. For example, Mr Cullinane, a lawyer, was ‘sworn in as an Irish interpreter’ in Kilrush (*Freeman’s Journal*, 20 June 1829, 3); ‘an old man was brought in on crutches and sworn to interpret’ (*Tuam Herald*, 1 June 1839, 2). Isaac Butt was ‘sworn an interpreter’ (*Irish Times*, 19 June 1869, 4); ‘An interpreter was sworn in English, who in turn swore the witness’ (*Irish Times*, 28 October 1889, 6).

The question of whether barristers who acted as interpreters needed to be sworn came up in a case in Shrewsbury, Oxford, in 1848, during a case involving two Irishmen, both charged with stealing potatoes. One spoke English but the other, Maloney, did not. Barrister McMahon offered to be sworn in as interpreter but Woolrych, described as *amicus curiae*, said that he had been allowed to interpret in a murder case without being sworn. He did not specify the language, but given his surname, it was probably not Irish. The judge (Patteson J.) decided that ‘Counsel are not privileged from taking an oath on giving evidence’ but an alternative solution was found; the other prisoner interpreted for Maloney (Cox 1850: 75).

## **Elections**

An unexpected finding in the current research was that legislation provided for interpreters to be employed at elections. Another finding was that the whole process of organising elections was exceedingly complicated. Several acts were passed to regulate voting. In 1795, 35 George III c. 29, An Act for regulating the Election of Members to serve in Parliament, and for repealing the several Acts therein mentioned (Act of the Irish Parliament), provided that there should be one place for every 100 electors to vote; electors had to register twelve months in advance and there were various oaths for the sub-sheriff, and also for voters. Some of the oaths were very long – containing details of where people lived and about their property. Deputy Sheriffs were required to ascertain people’s right to vote and could reject voters (Finnelly 1830: clxxxix). The voters’ oath, which is basically one

very long sentence, of at least 240 words, with one clause after another, must have presented difficulties unless the interpreters had access to the written version:

'I A.B. do swear [or if a Quaker, do affirm] that I am a resident inhabitant in the borough of \_\_\_\_\_ in the county of \_\_\_\_\_, and that I have been so for these twelve months last past, and duly proved and registered my residence twelve calendar months before the present vacancy, and that my house is situated in \_\_\_\_\_, and that my next neighbours are \_\_\_\_\_, and that I am not an inmate or lodge with any other person in said borough, nor have I been so at any time within these twelve months last past, but have paid the usual and customary taxes and cesses in said borough, as an householder, which have been legally demanded of me, and that I did not divide my house or outhouses, or suffer my house or outhouses to be divided, in order to multiply votes at this election, and that I did not come to reside in said borough since the present vacancy happened, nor in order to give my vote at this election; and that my said house, exclusive of my land annexed to it, or let with it, except that whereon it stands, with its offices and back and other yard, is, to the best of my knowledge and belief, worth the sum of five pounds yearly rent, and that I believe the same may be let for said sum of five pounds yearly to a responsible tenant. So help me God.

And if any candidate or any person having a right to vote at such election shall require it, these words shall be added to said oath, *videlicet*, 'and that I am of the age of twenty-one years, as I verily believe.' (Finnelly: ccii)

The Parliamentary Elections (Ireland) Act 1817 provided for interpreters and included an interpreter's oath:

Returning Officers, on Demand of Candidate, to appoint interpreters  
Interpreters to take the following Oath

XV And be it further enacted by the Authority aforesaid, That it shall be lawful for the Returning Officer or Officers, and he or they is and are hereby required, on Demand or Request in Writing of any Candidate or Candidates, immediately after such Request, to retain, nominate and appoint as many competent Persons to act as interpreters as there shall be Places of Polling, or Places of taking the Oaths, Declarations and Affirmations as aforesaid, so that one such interpreter shall attend each of such Places to translate faithfully such Oaths, Declarations and Affirmations, and such Questions and Answers as are hereinbefore or hereinafter required to be taken, made, asked or given at the Place of Polling, and also before the Persons appointed to administer Oaths, Declarations and Affirmations as aforesaid; and every such interpreter shall, immediately after such Appointment, and before he shall take upon

him to act under such Appointment, take the following Oath, which the Returning Officer or Officers are hereby required to administer:

'I A.B. do swear, That I will faithfully interpret such Oaths, Declarations, Affirmations, Questions and Answers as I shall be directed to interpret by the Returning Officer or Officers, his or their Deputies, and the Persons appointed to administer Oaths, Declarations and Affirmations at this Election.'

XXVIII And be it further enacted, That any Deputy Sheriff, Commissioner for administering Oaths, Declarations and Affirmations as aforesaid, Poll Clerk, Clerk of the Peace or Deputy Clerk of the Peace, appointed as aforesaid, or interpreter, absenting himself, shall forfeit all Compensation for Attendance during such Election; and the Returning Officer or Officers is and are hereby authorized and required, in case of the Absence of any such Person or Persons, immediately to appoint, as before herein directed, a Person or Persons to fill his or their Place or Places. (Statutes of the United Kingdom of Great Britain and Ireland 57 George III, justis.com)

*The Account of Sums Paid to Sheriffs at Elections of 1818 and 1820 for writs and precepts, fees and expenses* (1820) shows that at the 1818 election in Limerick County, 14 interpreters were employed for seven days, at half a guinea *per diem* (8). Two years later, also in Limerick, Michael Crowe was paid £7 for 14 days' attendance in booth number one, at ten shillings per day, 'pursuant to 1 Geo 4, section 9' and Thomas Egan was paid for 13 days' attendance in booth number 2 (19). In Galway County, interpreters were provided at 30 booths or houses during an election at a cost of £293 15s (6). There were three interpreters in the town of Galway (12). Interpreters were also provided in the city of Cork for the 1820 election, but their pay was included with that of peace officers and a total figure given (16).

In the *Report from the Select Committee appointed to enquire into the Expenses of Sheriffs and other Returning Officers* (1820), Sir Henry Parnell stated that the expenses of sub-sheriffs had increased dramatically and in the 1818 general election in Queen's county the sub-sheriff's bill came to a handsome sum of £1,162 for five days' work (8). Some elections lasted an inordinate length of time. For example, according to Dominick Browne, 57 polling days were required for 10,000 voters to exercise their franchise in the 1813-1814 election in Mayo (*ibid.* 12). As

everyone involved, including the interpreters, was on a *per diem* rate, this clearly was a useful income supplement.

The Parliamentary Elections (Ireland) Act, 1820 I Geo IV c 11 in 1820 Act limited polls to 15 days. In places where there were 800 voters, two or more places would be required for voting. One interpreter would be provided at each place of polling. The Act set a daily rate of ten shillings a day for interpreters.

On demand of Candidates, Returning Officers shall appoint Interpreters

IX And be it further enacted, That it shall and may be lawful to and for the Returning Officer or Officers at any Election, and he or they is and are hereby required, on the Demand in Writing of any Candidate, to appoint a sufficient Number of competent Persons to act as Interpreters, in order to translate faithfully such Oaths, Affirmations, and such Questions and Answers, as are required to be taken, made, asked or given, at any Election; and that every such Interpreter shall immediately after such Appointment, and before he shall proceed to act upon such Appointment, take the following Oath; and every Returning Officer is hereby required and empowered to administer the same:

Oath to Interpreters

'I A.B. do swear, That I will faithfully interpret such Oaths, Affirmations, Questions and Answers, as I shall be directed to interpret by the Returning Officer or Officers and his or their Deputy or Deputies [*as the Case may be*].'

Allowance to them

And that every such Person so appointed for the Purpose aforesaid, shall be entitled to receive the Sum of Ten Shillings for each Day of his Attendance. (Raithby 1822: 24).

This Act also shortened the voter's oath considerably to a more manageable version:

I A.B. do swear [or being a Quaker or Moravian, do solemnly affirm] that I will true answer make to all such questions as the sheriff's or other returning officer's deputy [as the case may be] presiding in this booth shall demand of me; and I do also swear [or being one of the people called Quakers or Moravians, do solemnly affirm] that I have not polled before at this election: and that I am as I believe twenty-one years of age. So help me God.

A letter from Richard Westenra (1834) illustrates the distrust around interpreter provision in County Monaghan at election time:



To show you what rascals we have to deal with: the Farney [a barony in County Monaghan] men could all speak English on the late election, and in '32 they were obliged to have interpreters. This was all a trick to allow the interpreter to instruct them in Irish for whom they were to vote. Do you twig? (PRONI T2929/8/6)

The 1843 *Account of Expenses of Returning Officers at Elections in Ireland* in June and July 1841 included information on the amount spent on interpreters. In the county of Cork there were 7 polling booths, 1,680 voters and seven interpreters employed for five days each at 10 Irish shillings each or a total of £9 13s 10d (5). In Kinsale for the Borough of Kinsale, there was one polling booth and one interpreter was paid £2 6s 1d for five days' work (5). No interpreter was provided in the city of Dublin. In the county of Kerry there were four booths, with four interpreters, paid a total of £10 (8). In County Tipperary there were 12 booths, seven used as polling booths, four as qualifying booths and one as sheriff's booth (12). There was one interpreter who was paid £2 for four days' work (13). Some seats were uncontested and no elections held.

John Mitchel described the five-day election in Galway in 1847 during the famine, where he acted as agent for one of the candidates, O'Flaherty, against Monahan, then Attorney General. According to Mitchel, the bailiffs and agents held the tenants' certificates of registry and accompanied them to the polling booths where there seems to have been no such thing as secret voting; voters had to say aloud the name of the person they were voting for. They also had to swear that they had not been bribed and one Irish speaker was clearly conflicted between committing perjury and obtaining some money to feed his family:

He spoke only Gaelic, and the oath was repeated, sentence by sentence, by an interpreter. He affected to be deaf, to be stupid, and made continual mistakes. Ten times at least the interpreter began the oath, and as often failed to have it correctly repeated after him. The unfortunate creature looked round wildly as if he meditated breaking away; but the thought, perhaps, of famishing little ones at home still restrained him. Large drops broke out on his forehead; and it was not stupidity that was in his eye, but mortal horror. Mr Monahan himself happened to be in that booth at the time, and he stood close by his solicitor, still urging him to attempt once more to get the oath out of the voter. Murmurs began to arise, and at last I said to Mr Monahan: "You cannot, and you dare not, take that man's vote. You know, or your solicitor knows, that the man was bribed. I

warn you to give up this vote and turn the man out." In reply, he shrugged his shoulders, and went out himself. The vote was rejected; and, with a savage whisper, the bailiff who had marshalled him to the poll turned the poor fellow away. I have no doubt that man is long since dead, he and all his children. (Mitchel 1862: 149)

Monahan won the election by a mere four votes. Mitchel was not an impartial witness; he also wrote: 'I saw Trevelyan's claw in the vitals of those children: his red tape would draw them to death; in his Government laboratory he had prepared for them the typhus poison' (*ibid.* 148). Despite this, his description of the Irish-speaking voter rings true and the very fact that people had to swear they had not been bribed is an indicator that bribery was endemic.

At the 1892 election in Baltimore, West Cork, there were two interpreters; Mr Jas. Carey in one booth, and Mr John O'Neill, Sherkin Island in the other, along with a presiding officer, a poll-clerk and a personating agent (*Southern Star* 23 July 1892, 3).

In 1899, rules on the scale of expenses were made under the Local Government (Ireland) Act 1898 providing 'for an interpreter, where necessary, not exceeding £1' (House of Commons Parliamentary Papers).

In 1908, at Mayo County Council a letter from county councillor Patrick O'Donnell was read out. He said that over fifty per cent of the population were Irish speakers and advocated the employment of Irish-speaking presiding officers at elections 'who could discharge the duties and save the expenses of engaging interpreters' (*Connaught Telegraph*, 7 March 1908, 5).

## **Wales and Scotland**

We have seen how court interpreting was organised in Ireland, but what was the situation for Welsh speakers in Wales and Scots Gaelic speakers in Scotland? Was the Irish system replicated elsewhere? O'M (*Nation*, 12 October 1844, 12) described the situation in Wales as one where there was an interpreter in every court and 'it is the privilege of the witness to choose the language in which he can best give his testimony'. While it may have been easier to use Welsh in Wales than Irish in Ireland, in reality the situation was quite different from that portrayed in his

letter from Wales. From 1535 to 1942 bilingual speakers of Welsh and English had no right to use Welsh in court in Wales (Colin and Morris 1996: 76).

As very little has been written about court interpreting for Welsh and Scots Gaelic, the source of information for this section is Hansard House of Commons debates. Welsh M.P.s raised the topic of the Welsh language and the courts in the House of Commons on a number of occasions. They called for juries to be Welsh speaking so they could understand evidence in that language (HC Deb 27 April 1830 vol 24 cc104-22). They provided examples of cases where the jury did not understand English; in one trial, this was the case for eleven members of the jury and the twelfth member, also the foreman, acted as interpreter. The defendant was found guilty but the next day his lawyer told the court that the eleven jurors who did not understand English had in fact instructed the foreman to give a verdict of not guilty (HC Deb 10 March 1846 vol 84 cc845-67). Richard W. Ireland (2001) cites a number of cases where Welsh juries did not understand English.

There was a strong feeling that judges should be Welsh speaking. In March 1872, the appointment of a judge who did not speak Welsh to the County Court Circuit [where civil cases were heard] was raised by Osborne Morgan M.P., who stated that previous County Court judges had been fluent Welsh speakers (HC Deb 08 March 1872 vol 209 cc1648-73). Morgan provided anecdotal evidence of an ejectment case where the judge was engaged in explaining the law when the jury foreman interrupted in Welsh saying "Tell that old gentleman to cut his speech short—we haven't understood a word he has been saying, and we settled yesterday who was to have the property over a glass of claret at the Mostyn Arms." In Cardiff, two men were tried for an assault on the police and all the evidence was given in English and the prisoners convicted. As they were being sentenced, the court realised that they did not understand the language. The difficulty of forming a jury that understood English was also highlighted by Morgan as were the problems of interpreting evidence given by witnesses in Welsh. According to Morgan, 'there was no regular interpreter attached to the Courts, and the Judges had to trust to any chance person, who often was unfit for the duty'. He went on to give examples from newspapers of mistranslations such as 'a man with a "sheep" upon his nose,

instead of a “wart””; a testator who was described as a man ‘who would stand on his head for hours near a river’ rather than as someone who enjoyed a meditative walk by a river. According to Morgan, the issue of interpreting was not so important in the higher courts because the juries there could understand the evidence given in Welsh. In addition, in the higher courts, defendants had access to bilingual solicitors who could brief counsel in English and correct the interpreter’s mistakes, if any. He felt there was a greater need in the County Courts because there were no juries, no written pleadings, and no lawyers. Therefore, if the Welsh speaking party did not speak English, he would have to pay a lawyer or make his own case. Mr Watkin Williams said that the general custom was to employ interpreters but when it came to discussions on points of law, this was ‘extremely inconvenient’.

The issue of non Welsh speaking County Court judges was raised again in the House of Commons by Osborne Morgan in June 1874 (HC Deb 26 June 1874 vol 220 cc524-39) when he described their function more as arbitrators than judges. He described the interpreters as ‘generally men of skill and education’ but said that to ‘state a case through an interpreter is utterly impossible’. He contrasted the situation with India, ‘where the Judge administering justice is always expected to understand the language of the district in which he holds his Court’. Morgan said that at petty sessions and in the county courts, judges who knew Welsh heard and decided cases in that language in cases where the parties and witnesses did not have English. He also said that it was useful for judges to have Welsh to be able to ‘act as a check upon the interpreter’. He told the case of a defendant who had no English, went to court, and unbeknownst to him, his case was called, and ‘disposed of as an undefended cause’; at the end of the day he discovered that the judgment had gone against him by default. In another case a man refused to give evidence in English and the Registrar deposed that he spoke English. It turned out that the Registrar had confused him with another man, also called Jones. Mr Scourfield, M.P. and Chairman of quarter sessions, argued that interpreters would still be needed even if the county court judge spoke Welsh because other court participants might not speak the language. Sir Eardley Wilmot said that when

interpreters were engaged the cost was usually divided between the parties, something which increased the cost of litigation.

A year later, Mr Morgan Lloyd argued the need for a select committee to enquire into the administration of justice in Welsh speaking parts of Wales and 'to consider the expediency of appointing official interpreters to attend the courts there' (HC Deb 08 March 1875 vol 222 cc1394-8). He mentioned juries where 'one third of them understood the English language, another third understood it imperfectly, and the remainder did not understand it at all' and evidence was given in Welsh and in English. According to Lloyd, evidence given in Welsh was 'translated by some person who happened to be in Court' for the judge and counsel while evidence given in English was not interpreted. The result was that, when juries did not understand the case, they preferred to bring in a verdict of not guilty. The same problems arose at quarter sessions, in the county courts and before magistrates and in some cases police officers interpreted evidence. Lloyd asked that official, competent interpreters be appointed in all courts. In order to interpret well, he recommended that interpreters should have a thorough knowledge of both languages plus skill and experience, and 'that could only be secured by the selection of those best qualified for the duties, and paying them an adequate remuneration for their services'. Home Secretary Mr Assheton Cross replied that he had contacted the county court judges about the appointment of official interpreters but only one was in favour. One said that it would involve unnecessary expense and that in any case registrars and their clerks spoke Welsh; another said that good interpreters could be obtained as required and therefore, there was no need for a select committee.

In 1886, William Abraham M.P. requested that newly appointed stipendiary magistrates be Welsh speaking. He also suggested that court interpreters for Welsh should have to pass an exam to test their proficiency in English and Welsh and receive a licence to practise as interpreter. Secretary of State Mr Childers replied that it was important that new appointees should have 'sufficient acquaintance with the Welsh language' and that it was up to the judges to ensure that interpreters were properly qualified (HC Deb 09 April 1886 vol 304 c1171).

In 1887, questions were raised again about the appointment of Welsh magistrates and there was an allegation that Welsh interpreters were 'extremely incompetent men'. Secretary of State Mr Matthews replied that 'he did not pretend to know the qualifications of the interpreters' (HC Deb 04 April 1887 vol 313 cc354-5). Mr Matthews reported that in three out of seven petty sessional divisions where Welsh was spoken, petty sessions clerks had been acting as interpreters for twenty years. Elsewhere, the police sometimes acted as interpreters and were 'intelligent men, sworn to interpret truly' and the practice 'constitutes a great saving of expense' (HC Deb 25 April 1887 vol 313 cc1792-3).

Cases of Welsh-speaking witnesses being charged a fee of five shillings for being allocated an interpreter were raised but seem to have arisen out of a misunderstanding as the interpreters in such cases were paid out of the police court fund (HC Deb 21 July 1890 vol 347 cc339-40). In 1911 some colliers who left work to attend a funeral were fined and those who gave their evidence in Welsh had to pay for the interpreter out of their wages. Secretary of State Mr Churchill replied that normally a policeman would interpret in such cases but on this occasion he was ill. Therefore it was agreed that an interpreter would be employed and paid by the losing party (HC Deb 19 June 1911 vol 27 cc4-5).

In 1890, Mr A. Thomas brought up the case of Richard Evans, who had been charged with wilful murder in 1889 and sentenced to twelve months in jail. He did not understand the sentence and asked the court 'Am I to be hanged?' In another case, in 1888, David Rees showed no reaction on being sentenced to death for murder. When he was taken down to the cell he asked the jailer what was to happen to him, and the judge had to return to the court to pronounce the death sentence again, this time with the help of an interpreter. In an interpreted case, the translation of a bill being passed over a counter was rendered as 'snatched' but the foreman of the jury objected and the defendant was acquitted. Thomas cited Mr A.C. Humphreys-Owen who had stated that it was wrong for the police, who were allied with the prosecutors, to act as interpreters. Thomas also mentioned the case of a clergyman who was sworn in as a witness, refused to give evidence in English and was threatened with prosecution for contempt of court. The Secretary of State for the Home Department, Mr Matthews, said he had 'known of cases in which

both parties have desired that the police should interpret, as they are the most reliable and faithful' (HC Deb 24 February 1890 vol 341 cc1068-127).

In 1892, Lloyd George told the House that the appointment of a county court judge who did not speak Welsh was regrettable. He said that interpreters were 'competent' and 'professional' but 'better acquainted with the English than with the Welsh language, and they very often fail thoroughly to understand either the answers or the questions' (HC Deb 19 February 1892 vol 1 cc811-63).

In 1911, Ellis Davies referred to a recent case where members of a jury had said they did not have enough English to hear a case. A lawyer himself, he said that nine out of every ten clients in Carnarvon spoke Welsh. He also made the point that 'a merely slight acquaintance with a language does not necessarily imply that a man is master of a language and enables him to give his evidence in that language, still less stand cross-examination in it'. He had often watched prisoners in court who did not understand the evidence against them, even though it could lead to their conviction or even the death sentence. Davies recommended the appointment of an official interpreter as in the Transvaal and in Canada (HC Deb 26 October 1911 vol 30 cc414-8).

In 1923, Robert Jones raised the issue of Welsh speakers not being allowed take the oath in their own language. This had been the practice, but apparently it had been decided that it should no longer be allowed. The situation was compared to that of a Chinaman who would be allowed take the oath in Chinese. Mr Gould replied that 'there has not been a single instance in 25 years where it has been necessary to administer the oath in Welsh with the aid of an interpreter'. Lieutenant-Colonel Watts-Morgan said that in Cardiff, a recently appointed county court judge had heard cases in Welsh on several occasions. He also said that the magistrates claimed they did not have the official version of the oath in Welsh (HC Deb 12 July 1923 vol 166 cc1629-91).

Unlike in Ireland, there were no salaried interpreters in Wales in the nineteenth century. In some courts Welsh speaking judges heard cases in Welsh. However, the Welsh M.P.s gave examples of cases heard in English where interpreters were not provided. Members of Parliament favoured the provision of Welsh speaking judges and the appointment of interpreters. It is interesting that they compare the

situation in Wales with India, the Transvaal, and Canada, but not with Ireland, where there were salaried court interpreters.

While it is clear that court interpreters for Gaelic were provided in Scotland, it proved difficult to find information about the extent of that provision and the underlying system. In 1839, Gaelic speaker Hugh MacQueen made a case for the provision of an interpreter for Gaelic to avoid 'blunders of interpreters, ignorant of their duty, and unexpectedly employed, who seldom understand the business in hand' (*Fourth Report by her Majesty's Law Commissioners, Scotland 1839*: 36). As happened in the Irish courts, Gaelic witnesses with 'the faintest glimmering of English' were expected to answer complicated questions in that language and if they declined to be cross-examined in English, were labelled dishonest (*ibid.*).

When the Land Commission was set up in Scotland, a provision was included that one of the judges should speak Gaelic. Dr R McDonald M.P. said 'it is of the utmost importance that the Commissioners should be able to talk to these people in their own language, and ascertain their grievances from their own mouths, instead of through an interpreter' (HC Deb 19 April 1886 vol 305 cc22-143). There was no such provision in the Irish Land Act 1881 (Healy 1882). There were demands for sheriffs to be Gaelic speakers (HC Deb 12 April 1927 vol 205 cc202-3W).

Why was Ireland different? Historian W. L. Burn (1949) saw Ireland as a 'social laboratory', where 'The most conventional of Englishmen were willing to experiment in Ireland on lines which they were not prepared to contemplate or tolerate at home'. As evidence for this phenomenon he cited the introduction of national school education, land purchase, and the establishment of the Congested Districts Board (68). The idea of a 'social laboratory' has been taken up by others (see Lyons 1985: 74; MacDonagh 1958: 62). However, it is unlikely that court interpreting was a feature of this 'social laboratory', as the first laws providing for salaried interpreters at assizes were introduced by the Irish Parliament in the eighteenth century. After the Act of Union, the Small Debts Recovery Act, which provided for interpreters at quarter sessions, was passed in 1837. Despite the provision of interpreters in Ireland, the system was not introduced in Wales or Scotland, perhaps because those jurisdictions were regarded as more bilingual. Another explanation could be that the Irish grand juries took on an administrative



role that was not replicated elsewhere. They were required by law to pay interpreters, which meant that the service did not have to be funded by the Exchequer. Irish-speaking counties had to pay for their own interpreters and if they stopped providing interpreters, they saved money. The system arose at least partly because of the way the role of the grand juries in Ireland developed over time. From the available information, it appears that there was no equivalent system in the other two jurisdictions and the perception probably was that there was no need for salaried interpreters who might be underemployed.

## **Conclusion**

The earliest example found of a law that mentions interpreters dates back to 1765-1766 and relates to ejectments. A significant finding is that there was legislation on payments to court interpreters for the Irish language at assizes and quarter sessions but not at petty sessions. A law from 1773-4 set a rate of £5 per half year for interpreters at assizes; however, it is possible that there was an earlier law that set a rate of £2 per year. A law from 1837 set a rate of £15 per half year for interpreters at quarter sessions. An unexpected finding was that interpreters were provided at elections and their rate of pay was also set down by law.

The principal focus of laws that provided for interpreters was not their provision but rather grand juries, public roads and elections. There was no interpreters' act; interpreting was simply something that needed to be included in the context of laws related to grand juries or small debts recovery. The number of laws that mention interpreters is very small, and interpreting is never the main focus of legislation.

In Chapter 6 we will examine the changes in court interpreter provision that took place over the course of the nineteenth and into the twentieth centuries. The decline in the Irish language is mirrored by the decline in court interpreter provision.

## Chapter 6 Decline in Court Interpreter Provision

For Bourdieu, language is ‘an instrument of power’ (1977: 648); over time English became the ‘legitimate language’ in Ireland and the Irish language was devalued. ‘A language is worth what those who speak it are worth’ (1977: 652) and it could be argued that Irish speakers came to be worth less than their English speaking counterparts. This can be seen in newspaper reports where Irish speakers, where they are described at all, are often portrayed as old:

Manus Gallagher, an old man who could neither understand nor speak English, was called (*Irish Times*, 28 October 1889, 6).

Defendant, an old woman of about eighty years, intervened and delivered a long harangue in Irish (*Southern Star*, 27 October 1894, 2).

The plaintiff, a very old woman, came on the table, and told a woeful tale in Irish (*Southern Star*, 20 June 1895, 8).

An old man named John Lucey was next put into the witness chair by Mr Herley, and immediately proceeded to speak very quickly in Irish (*Southern Star*, 22 January 1898, 1).

John Finn, an old man, was examined, and gave his evidence through the Court interpreter (*Connaught Telegraph*, 23 March 1907, 9).

Mary Early, a very old woman (*Connaught Telegraph*, 16 January 1909, 8).

Jeremiah Dennis, an old Irish-speaking man (*Southern Star*, 2 July 1910, 6).

A very feeble old man named Michael Molloy (*Connacht Tribune*, 18 October 1913, 8).

Mrs Walsh, an old woman of 90 years, was examined by Mr Verdon through the medium of Mr O’Toole, the interpreter (*Connaught Telegraph*, 3 June 1916, 8).

It is of course probably the case that monolingual Irish speakers *were* old, as younger people became proficient in English. If we transfer Bourdieu’s ideas to Ireland, the linguistic market had to be unified and over time English became the dominant language, identified with education, better employment prospects and the option of emigration or in short, with profit. English was imposed as ‘the sole legitimate competence on the legitimate linguistic markets’ (Bourdieu 1977: 654). Irish speakers, the dominated class, came to realise that the value accorded to their language was very low. Bourdieu would see Irish as ‘threatened capital’, a

competence that could not be saved 'without saving the market i.e. all the social conditions of the production and reproduction of producers and consumers' (*ibid.* 651).

Bourdieu (1991: 49) saw the school system as key to access to administrative positions in France and underlined the importance of such posts in rural areas. This was certainly the case in Ireland where there were few employment possibilities in the mid to late nineteenth century. Families were large, and after the great famine, eldest sons inherited farms and their siblings had to find work elsewhere. The industries of the time were wool and cotton in the early part of the nineteenth century and subsequently, ship-building, brewing, distilling and linen (Lyons 1985: 57). English was the 'legitimate language' of the national school system and education was the key to prospects.

The educational system is a crucial object of struggle because it has a monopoly over the production of the mass of producers and consumers, and hence over the reproduction of the market on which the value of linguistic competence depends, in other words its capacity to function as linguistic capital (Bourdieu 1977: 652).

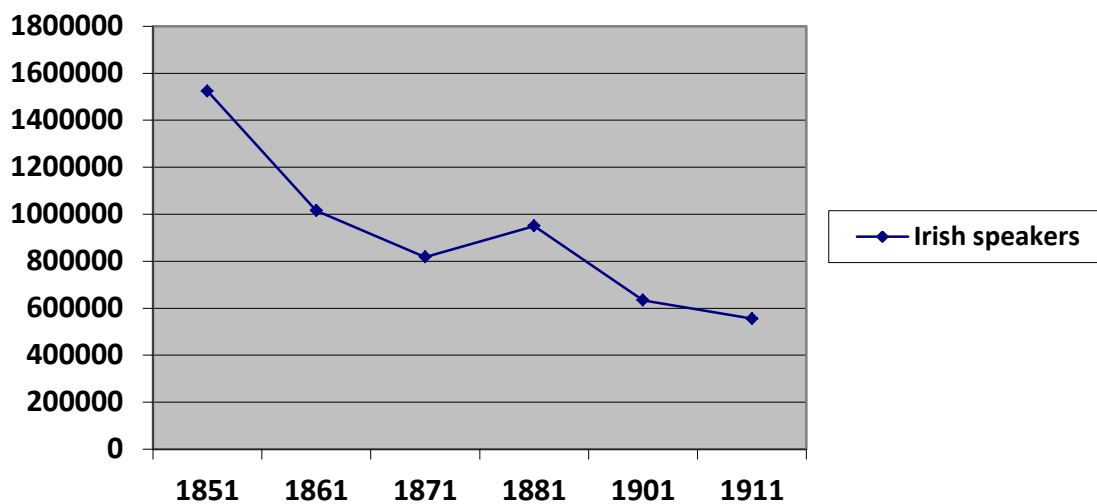
English was also essential for anyone who wished to emigrate to Britain, America, Canada and Australia.

### **The Censuses**

Global results for the 1851 and 1871 censuses survived down to barony level and were used by Ravenstein (1879) to analyse the data on the numbers of people who spoke Irish. Over this twenty year period, the total population declined from just under 6.6 million to 5.4 million and the number of Irish speakers was reduced by half. There was a large reduction, from 60% to 42%, in the number of districts where Irish was spoken by the majority of inhabitants. The corollary to this information is that the number of districts where Irish was spoken by between 25 and 50% of the population increased from 28% to 37% and the number of districts where Irish was spoken by less than 25% of the population increased from 12% to 21%.

The decline in population masks the problem to some extent; the proportion of the population who spoke Irish decreased from 23.3% in 1851 to 15.3% in 1871 but the

actual decline in terms of people is closer to 50%. The decline continued downwards to 14.3% in 1901 and 12.7% in 1911. The information from any census is dependent on participation by all concerned, actually filling in the form, and completing it correctly. At certain times, some people may have been reluctant to say that they spoke Irish and at others it may have been more acceptable. The information collated by Ravenstein and by Fitzgerald (1984) and from the 1901 and 1911 censuses is plotted in this graph:



**Figure 10** Number of Irish speakers in censuses

There is clearly a problem here because there is a rise in the number of Irish speakers in 1881 which does not fit in with the rest of the data. Fitzgerald (1984: 118) provides an answer to this when he points to an issue highlighted by Adams (1975, 1979), which is that the question about speakers of Irish in the 1851, 1861 and 1871 censuses was in a footnote and may have been missed by the enumerators who were supposed to fill in 'Irish' or 'Irish and English' in the column on education. In contrast, in the 1881 census, the question appeared on the form with the instruction to write 'Irish' in the column for any member of the family who spoke the language, and 'Irish and English' for those who spoke both languages. The enumerators double checked with respondents that the information in this column was filled in correctly (Fitzgerald: 139).

Ravenstein concluded that migration rather than emigration contributed to the decrease in the number of Irish speakers. People from Ulster and Leinster

emigrated and were replaced by migrants from Connaught and Munster. For him, 'it is the national schools in which only English is taught, which have proved the great extirpators of Irish' (587). However, others do not agree with this assessment. For Lyons 'it is important not to exaggerate the charges made against them [i.e. the national schools] with the sole responsibility for the dramatic decline in Irish as a language of everyday use in the second half of the nineteenth century' (1985: 88). Irish was introduced as an optional extra subject in national schools in 1878 with a fee of ten shillings being charged for each pupil for a three year course. This fee was maintained up to 1906 (O'Brien 1909: 244). This was hardly an incentive to learn Irish. Ravenstein also looked at the age profile of Irish speakers and found that children were not learning the language. Figure 10 is based on his results for 1851 and 1871 and the online 1901 and 1911 censuses to see how the percentages changed for each age group:

<b>Age</b>	<b>1851</b>	<b>1871</b>	<b>1901</b>	<b>1911</b>
Under 10 years	11%	7.4%	4.72%	5%
10-20	25%	17%	14%	14%
20-30	17.4%	14.2%	13.2%	10.2%
30-40	13.6%	13.7%	15.9%	11.4%
40-50	12.8%	12.8%	19.8%	13.8%
Over 50	20.2%	34.9%	28.8%	22.26%

**Table 3 Irish speakers by age in 1851-1911 censuses**

Table 3 shows a downward trend in the numbers of Irish speakers in the categories under 10 years, 10-20 years, and 20-30 years. The differences are greatest for children under 10 and for children and teenagers. In the case of the categories of 30-40 years and 40-50 years, there is little difference between 1851 and 1871 but there are increases in 1901, followed by reductions in 1911. The 1901 surge could be connected to the Gaelic revival. There is an increase in the proportion of people over 50 who speak Irish in 1871, followed by a decrease in 1901 and again in 1911. The increase from 20.2% in 1851 to 34.9% in 1871 may have more to do with an ageing population than anything else. The low and indeed decreasing numbers of children who spoke the language did not bode well for its future.

Another way of looking at the figures is to focus on the numbers of people who spoke Irish only and had no knowledge of English. In 1851, the number was 319,602 and by 1871 it was just 103,562, and included more women than men, possibly because fewer women had access to education.

### **Grand Jury Presentments**

The grand juries controlled payments to interpreters; a finding from the current research is that they had the power to reduce the amount paid if they found that less interpreting was required in court. They had this power because the law provided for the payment of 'a sum not exceeding £5' at the assizes and for 'a sum not exceeding £15' at quarter sessions. They also had the power to decide that salaried interpreters were no longer required. The grand jurors were the monied classes, all spoke English and they were unlikely to be sympathetic to the needs of Irish speakers. The list of grand jurors for the county of Kilkenny in 1803 starts with the Hon. James Butler, Lord Vifcount Ikerrin, Hon. Somerfet Butler, Sir Wm. Morris, Bart. and Sir Edward Loftus, Bart. and then works down to local landowners.

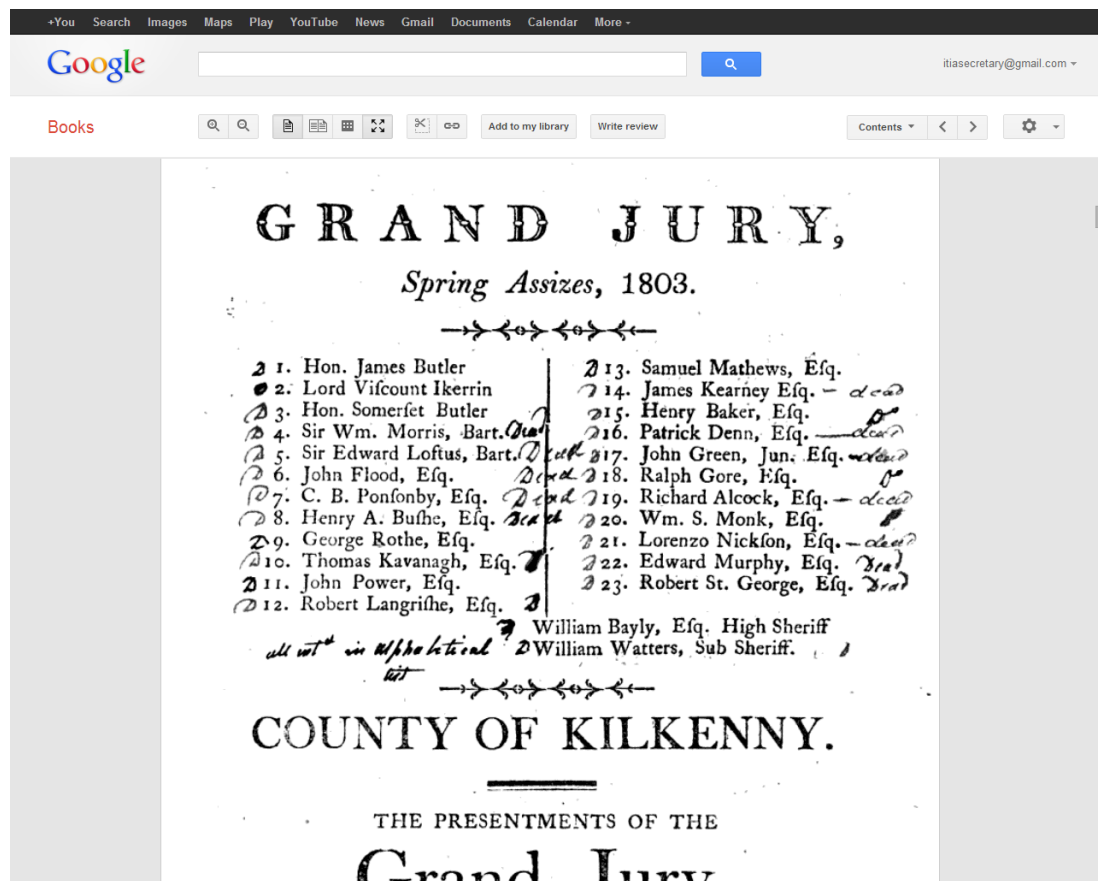


Figure 11 Members of Co. Kilkenny Grand Jury 1803

The changes in interpreter provision over the course of the nineteenth century provide a unique perspective on the decline of the Irish language. Grand jury presentment figures from three significant sources provide a good, although not totally complete, overview of the situation in 1807, 1841-3, and 1898. Some local government sources from 1901 helped complete the picture. The sources used in this chapter are:

- ❖ *Presentments – Grand Juries of Ireland Spring and Summer Assizes 1807*
- ❖ Statement of County Cess ordered to be levied in each half-year, in 1841-2-3 in *Appendix to minute of evidence taken before Her Majesty's Commissioners of Inquiry into the state of the law and practice in relation to the occupation of land in Ireland*
- ❖ *Grand Jury Officers (Ireland) return of officers in the service of the grand jury in each county in Ireland 1898*

### ❖ *Local Government (Ireland) Officials 1901*

These reports were collated at the request of parliament and taken together, provide an overview of the situation at the start, middle and end of the century<sup>11</sup>. The global findings are that in 1807, salaried interpreters were being paid by at least 28 out of 40 grand juries. In 1843, this number had decreased to 18 and in 1898 the number had been further reduced to nine counties. These findings demonstrate that interpreter provision was on a wider scale than realised previously and continued into the twentieth century.

### **Interpreter Provision in 1807**

The *Presentments - Grand Juries of Ireland Spring and Summer Assizes 1807* provide the information on interpreters, contained in Table 4. The report lists the salaries of interpreters and of other officers of the court. In 1807, payments were only made to interpreters at the assizes, as the law on payment to interpreters at quarter sessions only came into force in 1837. The information on interpreters has been extracted from more detailed information for each county:

1.	Cavan Assizes	Summer: To ditto (Sheriff) for providing criers and interpreters £22 15 0 (39) To an Interpreter this Assizes £5 (40)
2.	Clare Assizes	Spring: To Michael Canny, deputy Clerk of the Crown, for his attendance at this Assizes £20 To same, as Interpreter in the Crown Court £10 To same, as Interpreter in the Record Court £10 (45) Summer: To Michael Canny, deputy Clerk of the Crown, for his attendance at this Assizes £20 To same as Interpreter in the Crown Court £10 To same, for supplying an Interpreter in the Record Court £10 (74)
3.	City of Cork Assizes	Spring: Thomas Neale, Interpreter of the Irish language £3 8 3 (90) Summer: Robert Stunnell, interpreter of the Irish language £3 8 3 (93)
4.	County of Cork	Spring: To the interpreter, the like (i.e. half

<sup>11</sup> Another similar document, *Returns of the Gross Sums Presented* (1831) included information on interpreter payments for the counties of Clare and Waterford only.



	Assizes	year's salary) £5 (84) Summer: To the interpreter, half year's salary £5 (86)
5.	Donegal Assizes	Lent: The Irish Interpreter - for the like (i.e. his last half year's salary) £2 John Farrel, for interpreting at Sessions £5 To the interpreter, the like (i.e. half year's salary) £2 (96) Summer: the Irish Interpreter - for the like (i.e. his last half year's salary) £2 John Farrel, for interpreting at Sessions £5 (117)
6.	County of Fermanagh Assizes	Summer: To Robert Petty, for interpreting Irish £5 (171)
7.	County of Kilkenny Assizes	Lent: To the Clerk of the Crown, for providing an interpreter, £5 (189)
8.	County of the city of Limerick Assizes	Spring: To Thomas Egan, for having attended the court this assizes as Interpreter £2 10 0 (221) Summer: To Thomas Egan, for having attended the court this assizes as interpreter £5 (223)
9.	County of Mayo Assizes	Spring: To James Clerk, Interpreter, salary at special commission and this assizes £10 (237) Summer: To James Clerk, Interpreter £5 (242)
10.	County of Meath Assizes	Lent: To George Ladley, as Interpreter, half a year's salary £5 (271)
11.	County of Roscommon Assizes	Spring: To Edward Henderfon, Interpreter to the Crown Court, this assizes £5 (328)
12.	County of Tipperary Assizes	Summer: W. Bakerville, interpreter at this assizes £5, Same at last Nenagh sessions £4 (361) To William Rigney, acting as Interpreter in Crown Court £5 (335) Timothy McDermot Cryer and Interpreter was nil'd (336)
13.	County of Tyrone Sessions	Lent: To Hugh O'Friel, for interpreting £5 To Hugh O'Friel, for fire and candles for grand jury £3 8 3 To Hugh O'Friel, attending grand jury, 1 2 9 (364)
14.	County of Waterford Assizes	Spring: Interpreter £5 (402) Summer: J. Hearne, Interpreter £5 (407)
15.	City of Waterford Assizes	Spring: Interpreter £5 (412) (no entry for summer assizes)
16.	County of Westmeath Assizes	Lent: High Sheriff, for providing cryers and interpreters £11 7 6 (413) Summer: High Sheriff, for providing cryers and interpreters £11 7 6 (416)

17	County of Wexford Assizes	Lent: To John Bourne, Deputy Clerk of the Crown, for having provided an interpreter this assizes £5 (430) Summer: To the Clerk of the Crown, for providing an interpreter, £5 (433)
18.	County of Wicklow Assizes	Spring: To the Clerk of the Crown, for providing an interpreter, £5 (436) Summer: To John Bourne, Deputy Clerk of the Crown, for providing an Interpreter pursuant to the Statute £5 (447)

**Table 4 1807 presentments for interpreters**

According to these figures, in 1807, of the then 40 grand juries, 18 provided and paid for court interpreters at the assizes. Most interpreters were paid a half year's salary of £5 as laid down by law (13 & 14 Geo III c. 32 s. 22). However, there are some exceptions: Michael Canny, also clerk of the crown<sup>12</sup>, was paid £10 for interpreting in the crown court plus £10 for interpreting in the record court in Clare. Both payments were for half a year which means he was earning £40 a year for his work as an interpreter or for supplying an interpreter, plus £40 for his work as deputy clerk. His pay for his interpreting work was a lot higher than that of his counterparts, who were mostly earning £5 per assizes or a total of £10 a year.

The extent of interpreter provision in 1807 is surprising; court interpreters were provided in most of the country including counties that one might not expect to be there. The presence of Wicklow is particularly surprising because of its proximity to Dublin and because it was 'the only county in which the figures [for Irish speakers] in none of these three censuses [1851, 1861 and 1881] passed 2.5% in any barony' (Fitzgerald: 138).

However, on closer inspection, there are some problems with the accounts for 1807. They do not include any presentments for the towns of Carrickfergus and Galway, or for the counties of Monaghan and Sligo. In addition, while the presentments for counties Galway and Kerry are included, they are very short and do not include a breakdown of salaries. Similar problems arise for Armagh, Down, county of the town of Drogheda, Leitrim, Limerick and Longford. This posed a

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<sup>12</sup> The clerk of the crown was responsible for the routine functioning of the assizes court and kept its records. The clerk of the peace performed similar duties at quarter sessions and was also the principal officer in the civil bill court (McDowell 1957: 390).

problem: apart from the 18 grand juries listed above, where else were interpreters provided in 1807?

In the case of Carlow, there are no records for interpreters in the National Library of Ireland books of presentments for 1805, 1809, 1818, 1835 and 1840. However, there is one record for the spring assizes 1814 where Dudley Smith, late sub-sheriff, is paid £11 7s 6d for two interpreters (*Reports (Ireland, &c) from Committees and Commissioners* (4) Session 8 November 1814 to 12 July 1815 Vol IV).

However, the best source of information was the appendix to the *Minutes of Evidence taken before Her Majesty's Commissioners of Inquiry into the State of the Law and Practice in relation to the Occupation of Land in Ireland* (1848). The appendix contains a Statement of County Cess which includes twice yearly payments to court interpreters in 1841, 1842 and 1843. This information consists of the amount paid each year by the grand juries and does not include names of interpreters or courts. Interpreters' salaries appeared as a separate item to be filled in which could not be omitted by the grand juries and this set of data appears quite reliable and has been confirmed by searches of books of presentments for various counties.

This source shows that salaried county interpreters were still employed by 18 grand juries in 1841-43:

	County of	Lent 1841	Summer 1841	Lent 1842	Summer 1842	Lent 1843	Summer 1843
1.	Cavan	£7. 10	£7. 10	£7. 10	£7. 10	£7. 10	£7. 10
2.	Clare	£5	£5	£5	£5	£5	£5
3.	Cork	£40	£35	£35	£35	£35	£35
4.	City of Cork	£3	£3	£3	£3	£3	£3
5.	Donegal	£20	£5	£20	£20	£20	£20
6.	Co. Galway	£20	£20	£20	£20	£20	£20
7.	Galway town	£5	£5	£5	£5	£5	£5
8.	Kerry	£20	£20	£20	£20	£20	£20
9.	Kilkenny	£5	£5	£5	£5	£5	£5
10.	Leitrim	£10	£10	£10	£10	£10	£10
11.	Limerick	£20	£17.10	£20	£20	£20	£20
12.	Mayo	£30	£30	£30	£30	£30	£30
13.	Monaghan	£1.10	-	£1.10	£1.10	£1.10	£1.10
14.	Roscommon	£7.10	£7.10	£7.10	£7.10	£7.10	£7.10
15.	Sligo	£20	£20	£20	£20	£20	£20

16.	Tipperary	£20	£20	£20	£20	£20	£20
17.	Tyrone	£5	£5	£5	£5	£5	£5
18.	Waterford	£7.2.4	-	£7.2.4	£7.2.4	£7.2.4	£7.2.4

**Table 5 1841-1843 Presentments for Interpreters**

These figures include payments to interpreters by seven grand juries which were not included in the 1807 figures: county of Galway, town of Galway, Kerry, Leitrim, county of Limerick, Monaghan and Sligo. Working backwards with this information, and given that if interpreters were provided between 1841 and 1843, then the likelihood is that they were also provided in 1807, the figure of 18 grand juries in 1807 in the preceding section can be raised to 25 out of 40. Armagh can also be added because the last payment to an interpreter in that county was in spring 1807 (Public Record Office of Northern Ireland)<sup>13</sup>. The situation in Longford is not altogether clear as Longford County Archives do not have abstracts of presentments for the years between 1778 and 1816. Their records show that interpreters were not provided between 1759 and 1777 when one was provided. However, it is likely that interpreters were provided in Longford in 1807 because (1) there is a precedent in 1777 (2) interpreters were provided in the surrounding counties of Cavan, Leitrim, Roscommon and Westmeath, and (3) in 1851, 'there were probably still small Irish-speaking communities in the Baronies of Granard and Longford in the north, and Rathcline in the west' (Ó Cuív 1980: 24). That makes 27. It proved impossible to obtain information on the county of Louth because the County Archives had sent the books of presentments away for digitisation in summer 2012. However, 19,000 speakers of Irish were recorded there in the 1851 census and it would seem probable that interpreters were provided in 1807. Therefore, we can estimate that in 1807 interpreters were provided by 28 or almost three-quarters of the 40 grand juries. This is a sizeable proportion, and higher than would generally be expected.

To sum up and based on the available information, the grand juries which did not pay court interpreters a salary in 1807 were Antrim, Carlow, Carrickfergus, Down, city of Dublin, county of Dublin, Londonderry, Kildare, King's County and Queen's

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<sup>13</sup> Interpreter salaries appear in the Armagh books of presentments for 1797-1801 and 1805-1807 (PRONI).

County. The status of the town of Drogheda is unknown. Another way of looking at this information would be to see it as Dublin, Kildare, Carlow plus the counties that had undergone plantations, and therefore had a greater number of English speakers. However, even in those counties there were pockets of Irish speakers; in St Mullin's Lower in Carlow, Garrycastle in King's County and Clarmullagh in Queen's County (Ó Cuív 1980: 24).

Interpreters were provided in Londonderry between 1788 and 1801 but there are no records for interpreters in the books of presentments for Antrim (1727-1767 and 1775-1784), Down (1778-1892 and 1803-1807), Kildare (1792-1811), city of Dublin (1849-1850, 1861-1870, 1877) or county of Dublin (1845-1898). The surviving records for Queen's County (1845-1897) are too late for our purposes and therefore it is impossible to find out if interpreters were provided there in 1807; we do know however that there was no interpreter at the 1823 Lent Assizes (National Library of Ireland). Similarly, in the case of King's County, there is no record of an interpreter payment at Lent 1830 (Royal Irish Academy) and the other surviving records are too late (1830-1878). It is possible that in the eighteenth century, interpreters were provided on a wider scale, and perhaps even country wide. It could be speculated that interpreter provision in 1807 had declined compared to 1700 or even 1750.

If we map out the information contained in the presentment records for 1807 plus the Armagh grand jury presentments for the same year, and information from 1841-3, we obtain the picture of salaried court interpreter provision in 1807 depicted in Figure 12:



Figure 12 Map<sup>14</sup> of interpreter provision in 1807<sup>15</sup>

In this context, the words of E. O'Reilly in the preface to *Sanas Gaoidhilge Sagsbeurla An English Irish Dictionary*, published in 1817, make sense:

The great utility of this language to the lawyer, is proved frequently in the year. In every county, at every sessions, trials occur in which prisoners or witnesses can be heard only through the medium of an

<sup>14</sup> © Map copyright Genealogical Publishing Co., *A New Genealogical Atlas of Ireland* (1986) by Brian Mitchell. <http://www.kenefick.com/MapIrelandCounties.htm>

<sup>15</sup> Salaried interpreters were also provided in the cities of Cork, Limerick and Waterford and the town of Galway. The 1807 accounts for the city of Kilkenny include payments to other court officials but not to interpreters. However, the presentment book for summer 1824 includes a payment to an interpreter (John Anderson) (Google Books).

interpreter, probably but ill qualified for such an office, and who, by the mistake of a single word in the evidence, may cause the acquittal of a murderer, or the murder of an innocent. (1864: 2)

Incidentally, O'Reilly's dictionary includes five Irish words for interpreter: *bealgach*, *eidirtheanguightheoir* (also translator); *frothaire*, *gluasoir* and *soitheangach*.

### Interpreter provision in 1843

By 1843, court interpreters were no longer on a salary in Armagh, Fermanagh, city of Limerick, Longford, Meath, city of Waterford, Westmeath, Wexford and Wicklow, but provision was unchanged for the remainder of the country with 18 grand juries still paying court interpreters a salary.

Interpreters were still provided in the city of Cork and the town of Galway but not in other towns and cities. There was considerable disparity in pay. By this time, laws had been passed on both interpreter provision in the assizes at a maximum of £5 per half year and on provision at quarter sessions where interpreters were paid a maximum of £15 per half year. Where the sum of £20 appears, it is most likely made up of £5 for assizes and £15 for quarter sessions. This is certainly the case for the county of Galway:

County of Galway Spring Assizes 1841 (National Archives)	488 To the interpreter in the crown court, record court, and insolvent debtor's court, like, same act, s. 79 [6 <sup>th</sup> & 7 <sup>th</sup> Wm cap 116] £5 0 0 (120) 494 To interpreter at sessions, for half a year's salary, due summer assizes 1841, 1 <sup>st</sup> Vic. Cap 43, sec 5. £15 0 0 (121)
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The £20 payment in Donegal, Kerry, Limerick and Sligo is probably on the same basis. Payments of £5 or less are for assizes. The payment of £20 in Tipperary is because there were two assizes from 1838; North Riding and South Riding, so four half year payments of £5 per assizes. In 1838, one interpreter, William Murphy, was covering all four. The pay in Monaghan is very low, at £1 10s which is perhaps an indicator that the amount of work being done by the interpreter is quite low. The

rate of pay for Clare, at £5, has decreased substantially compared to the £20 per half year in 1807 when court clerk Michael Canny acted as interpreter. The payment of £40 for Cork is the highest; this is because Cork was divided into East and West Ridings in 1823 (*A Compendious Abstract*: 199). The second highest payment is £30 for Mayo. In Cavan, the amount is £7 10s, which is made up of £1 10s to Terence Dolan, interpreter at Ballyconnell Sessions, and £6 to Patrick Smith for interpreting at quarter sessions and assizes. The Easter and October sessions for the county were held at Ballyconnell (Lewis 1837: unpaginated). The sum of £7 2s 4d is provided for the county of Waterford and this sum is made up of £4 12s 4d for interpreting at assizes and £2 10s for interpreting at quarter sessions (*Statement of the Accounts of the Treasurer of the County of Waterford spring assizes 1841*).

The heading 'Salary for Interpreter' is provided for all counties but is blank for Counties Armagh, town of Carrickfergus, Carlow, Down, Dublin, Fermanagh, Kildare, Londonderry, King's County, Longford, Louth, Meath, Queen's County, Westmeath, Wexford, Wicklow, and for the cities of Kilkenny and Waterford. The county of the city of Dublin was not audited in these accounts but it is unlikely that there were salaried interpreters there as there are no records of payments to interpreters in the available books of presentments for the County of Dublin 1845-1889 (Fingal County Archives) or for the city of Dublin 1849-50, 1861-70 and 1877 (Dublin City Archives).

The map of interpreter provision in 1843 below shows that interpreter provision in the province of Leinster is confined to the county of Kilkenny. In 1821, 64% of the population of Callan in County Kilkenny spoke Irish but this figure decreased to 31% a decade later. Walsh comments that 'the magnitude and speed of the decline is striking' and that the 1851 census recorded that a mere 0.2% of the population were native speakers of Irish (2007: 131). In the 1821 census for Meath, 45,481 people spoke English and 113,702 spoke Irish (*Meath Chronicle*, 30 March 1946, 6). By 1851 there were 9,000 speakers of Irish (Ó Cuív 1980: 24). It is somewhat surprising then that interpreters were no longer employed at the Meath assizes after 1826 (Brady 1959-62: 62-63). It is even more surprising that interpreters were no longer employed in Louth, where, in the 1851 census, there were 19,000 Irish



speakers, slightly fewer than the 21,000 in Kilkenny where interpreters continued to be provided.



**Figure 13 Map of interpreter provision in 1841-3<sup>16</sup>**

Interpreter provision in the province of Ulster had also changed. Interpreters were still provided in Cavan, Monaghan and of course Donegal but it is somewhat surprising that provision has ceased in Fermanagh<sup>17</sup> given that the county was

<sup>16</sup> Salaried interpreters were also provided in the city of Cork and the town of Galway.

<sup>17</sup> A search of the Fermanagh books of presentments in PRONI proved fruitless as salaries were not recorded in the years 1792-1819; the book of presentments for 1822-1833 was a 'Book of Bridges'

surrounded by counties which did provide interpreters. Provision ceased in Armagh in 1807 and Rev. Henry Stewart wrote in 1814 about the Creggan that:

The people all speak the Irish language and some can speak no other, particularly in the county of Louth part of this parish; however the English language is gaining ground upon the other and very few cases occur to me as a magistrate, where I am obliged to have recourse to an interpreter, for I am, myself, totally ignorant of the Irish language. (Ó Fiaich 1972: 223)

In 1843, Edward Tickell, assistant barrister for the county of Armagh, reported that 'I am occasionally obliged to swear an interpreter where witnesses or parties come from the Fews'. According to him, the Irish lived in the mountainous districts and 'I dare say twelve months have not elapsed since I was obliged to swear an interpreter to interpret the evidence of one of the inhabitants of this district who appeared as a witness before me at Ballybot' (*Report from Her Majesty's Commissioners of Inquiry into the state of the law and practice in relation to the occupation of land in Ireland* 1845: 113).

Searches of books of presentments at the Public Record Office of Northern Ireland revealed that interpreter provision in Londonderry was irregular, with interpreters provided until 1793, but not from 1794 to Lent 1798. Provision recommenced in summer 1798 and continued until Lent 1801, when it stopped for good. The interpreters in Londonderry were also court criers. It seems that criers who had Irish also acted as interpreters as the need arose.

City and county Londonderry Summer assizes 1798	To Thos. Neil, Interpreter, for his fees this Assizes 5 To Thos. Neil, Cryer, for the like 1 15 0
City and county Londonderry Lent assizes 1799	To John Healy, interpreter, for Fees this Affizes 1 2 9 To John Healy, crier, for his Fees this Affizes 4 12 6
City and county Londonderry Summer assizes 1799	No entry for interpreter
City and county Londonderry Lent	To Bryan Finucane, cryer 3 17 6

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again with no salaries. There was no record of payment to an interpreter in the *Presentments laid on the County of Fermanagh at Summer Assizes 1838* (National Library).

assizes 1800	To Bryan Finucane for interpreting this Affizes 2 5 6
City and county Londonderry Summer assizes 1800	Wm Eager, crier
City and county Londonderry Lent assizes 1801	251. To Wm. Holmes, Irish interpreter at this Affizes 5 252 To same Perfon, Crier, for Fees of Perfons acquitted at this Affizes 5 0 0

In the Down books of presentments for 1778-1792 (Public Record Office of Northern Ireland) and 1803-1807 (National Library of Ireland), there are no entries for interpreters. In Tyrone, Stephen Nealus or Nealis worked as an interpreter from 1826 to 1860, after which date interpreters were no longer employed by the grand jury.

In 1856, School Inspector P. J. Keenan found there was a passion among the islanders on Tory, Inisboffin, Gola and Owey for education, which he linked to the desire to learn English. He explained that:

They see, whenever a stranger visits their islands, that prosperity has its peculiar tongue as well as its fine coat; they see that whilst the traffickers who occasionally approach them to deal in fish, or in kelp, or in food, display the yellow gold, they count it out in English; and if they ever cross over to the mainland for the "law," as they call any legal process, they see that the solemn words of judgment have to come second-hand to them through the offices of an interpreter. (*Twenty-Third Report of the Commissioners of National Education in Ireland: 143*).

Keenan also quoted an English-speaking Tory Islander as saying of fellow islanders who only spoke Irish that he 'was ashamed of them; they stood like dumbies; the cattle got on as well as them' (144). Despite their enthusiasm, the actual success rate in learning English at school on the islands was very low and Keenan recommended that, as in Scotland, pupils be taught in Irish first, and later in English.

Interpreter provision continued unchanged in the provinces of Connaught and Munster in 1843 with all grand juries providing interpreters. Edward Butler, Head Inspector of National Schools, visited Galway county prison in 1850 and reported on eleven children, most of whom were aged between ten and sixteen. Aided by an

interpreter, 'as numbers spoke no English', he found that 'not one of these could read, scarcely one of them had ever been within a school; not one of them knew the elements of religious knowledge, and several stated they were "glad to be transported" although they had no idea of where they were going; five of them stole sheep, one a cow, one meal, one clothes, one money, and two were pick-pockets' (*Seventeenth report of Commissioners of National Education in Ireland*: 152).

Interpreter provision continued in Leitrim until 1864 (Leitrim County Library) even though by 1851 there were fewer Irish speakers there (in Drumahaire and Rosclogher baronies) than in Kilkenny. Twenty-two per cent of the population of Sligo was made up of monolingual Irish speakers (O Cuív 1980: 25). In Galway, 34% of the population were monolingual Irish speakers and in Mayo the figure was 28% (*ibid.* 26).

In Kerry, 30% of the population was monolingual Irish speaking. Mr C.H. Hemphill gave evidence in 1873 that:

I am sorry to say that there are many instances of apparently very respectable men in Kerry, who, when they come to be examined as witnesses, cannot either speak or understand English even now, strange as it might appear. At my quarter sessions I am obliged to have an interpreter in the outlying districts to take the evidence. [...] In Dingle, in the county of Kerry, which is one of my quarter sessions' towns, and at Cahirciveen, almost every second case requires the intervention of an interpreter' (*First, second and special reports from the Select Committee on Juries (Ireland) 1873*: minutes of evidence: 2).

### **Interpreter Provision Questioned**

Interpreter provision was coming under attack at grand jury level in Tipperary North Riding in 1848. Mr John Bayly asked 'if the interpreter for this part of the County was in attendance, or had he attended at Assizes and Quarter Sessions'. Mr Going replied 'He always does. I heard him called upon several times at the assizes' and the half year's salary was passed (*Nenagh Guardian*, 18 March 1848, 2). The interpreter at the time may well have been Thomas Heffernan, interpreter for Tipperary North Riding and South Riding, who was also an auctioneer (*Freeman's Journal*, 14 March 1861, 4). There is evidence that Heffernan was employed as an

interpreter from summer 1839 in Tipperary South Riding (Tipperary Studies books of presentments) and from spring 1850 in Tipperary North Riding (*Nenagh Guardian* 23 March 1850, 1).

It seems that Thomas Heffernan almost lost his job in 1850 when 'The presentment of Mr Thomas Heffernan, Interpreter of Crown Court &c., which was disallowed by the Grand Jury, was fiated by the Judge, and he was retained in his office' (*Nenagh Guardian*, 23 March 1850, 1). The report does not explain why the grand jury disallowed this presentment although there was probably less demand for an interpreter in north riding than in the more Irish speaking south riding. Between 1852 and 1860, Heffernan was paid two-fifths of the salary, that is, £2 for interpreting at assizes and £6 for interpreting at quarter sessions in Tipperary North Riding. From 1855-62, in Tipperary south riding, he was paid three-fifths of the salary, or £3 for assizes work and £9 for quarter sessions. These fractions appear in the presentments, which is interesting because other grand juries probably used a similar system without explaining their logic.

A decade later, the *Nenagh Guardian* reported that:

the several county officers' salaries passed without remark, except the presentment of Mr Thomas Heffernan, £2, his half year's salary, due this assizes, on the reading of which Mr Lanigan asked if the situation was necessary, as he hadn't known an instance for several years of the interpreter's being required? (*Nenagh Guardian*, 17 March 1860, 2)

Another grand juror, a Mr Dwyer, commented to laughter that 'We can't say when he may be required in Tipperary, as only the other day an interpreter had to be taken before a committee of the House of Commons in the case of the Clare election petition.' The presentment was passed. Heffernan's half year's pay was a mere £2; in 1843, the spend on interpreting for the Tipperary North and South Riding assizes was £20. In 1829, William Murphy was being paid £10 per half year to work in both courts, i.e. in the assizes in north and south riding. Despite the very large reduction in payment, from £20 in 1829 for the county, to £10 for Tipperary North Riding in 1843, to a mere £4 in 1860, the very existence of the post of interpreter was under challenge. However, interpreting in Tipperary South Riding

continued at least until 1898, with North Riding contributing half the cost (*Grand Jury Officers (Ireland) Returns* 1898: 50).

In 1850, there was some opposition at Cavan grand jury summer assizes to a presentment for an Irish interpreter, but it was passed (*Anglo-Celt*, 5 July 1850, 3). Again, the payment involved was a mere £2 to James Curran, interpreter at Ballyconnell Sessions and at Assizes. Previously, from 1840 to 1844, two interpreters were employed; Terence Dolan was paid £1 10s for interpreting at Ballyconnell Sessions and Patrick Smith was paid £6 for interpreting at Quarter Sessions Towns and at the Assizes.

In 1843, the cost of interpreter provision in Waterford was £7 2s 4d. In 1854, the Irish interpreter was paid a half year's salary of £5 for his work at assizes and £5 at quarter sessions. However, in 1860, the rate of pay was reduced to 'only £1 for each quarterly and half-yearly attendance' (*Nenagh Guardian* 25<sup>th</sup> July 1860, 4) which would work out as a total of £6 per year.

The *Nenagh Guardian* and *Nenagh News* proved particularly useful as sources of information on the situation in Tipperary and Waterford. It is quite likely that similar information on other counties, particularly those where numbers of Irish speakers were going down, is recorded in other local newspapers which have not yet been digitised.

In 1863 the Chief Secretary's Office Registered Papers include an entry 'Write to O'Farrell (C. Sol) to enquire whether an interpreter is absolutely necessary at Galway Assizes' (CSO/RP/5191/63). It is most surprising that such a query should be made about Galway. Unfortunately, the file has been lost; it would be very interesting to read the correspondence. The record is an indicator of attitudes in Dublin Castle towards the Irish language.

In 1892, the arrival of a 27 year old monolingual Irish speaker at Ellis Island was enough to merit a short newspaper article on the tenacity of the Irish language in certain areas. An interpreter had to be found so the authorities could communicate with John Kearney from Kerry (*Anglo-Celt*, 25 June 1892, 3).

### **Interpreter Provision in 1898**

In 1898 the *Grand Jury Officers (Ireland) Return* is incomplete, perhaps because the grand jury system was coming to an end with the Local Government Act that year. It includes information on interpreters in four counties only; Clare, Donegal, Galway and, surprisingly, Tipperary south riding.

According to the *Return*, at the end of the century Patrick Curtis was interpreter in Clare on a salary of £40. In Donegal, Condy Boyle was interpreter and crier at quarter sessions, where he was appointed in 1875 and was paid £80 in salary plus fees. In the county of Galway, William Burke was interpreter at assizes and quarter sessions. He worked for the assizes under the authority of the grand jury and for a salary of £10 and under the authority of the county court judge at the quarter sessions, where he also earned £10. In Tipperary south riding, Michael Nugent earned £10 per year, half of which was paid by Tipperary north riding. Other sources indicate that in 1898 interpreters were also employed in four other counties: Cork, Kerry, Mayo and Sligo. This information is covered below. In 1898, salaried interpreters were thus still working in eight counties, or a quarter of the country.

In 1901, a report on *Local Government (Ireland) officials* includes information on four counties – Kerry, Donegal, Mayo and Sligo. In Kerry, Patrick O’Sullivan was deceased but his salary had increased to £40 per year. He was appointed to a portion of the county in 1867 and to the remainder in 1887 (43). In Donegal, Condy Boyle was still interpreter at the Assizes, and had been since 1876<sup>18</sup>. His salary was £16 but he also had emoluments of £64. A second interpreter in Donegal, Daniel Boyce, had been working as interpreter at the Assizes since 1875 and his salary was £43 plus emoluments of £60 (114). In Mayo, John Keane, appointed in 1893, was on a salary of £40 but was not paid any emoluments (283). In Sligo, John Downes, ‘dead’, was appointed in 1893 on a salary of £10 at Assizes and £5 at Quarter Sessions, but with no emoluments (300). The Clerk of the Crown and Peace in Sligo wrote to the Chief Secretary’s Office in 1898 ‘for instructions as to employing Irish

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<sup>18</sup> Condy Boyle died at almost 100 years of age. He had been working as court crier and interpreter at Donegal Quarter Sessions for over 75 years. He also worked as bailiff for the Marquis of Conyngham. (*Irish Independent*, 22 January 1909, 7)

interpreter at Sligo Winter Assizes' (CSO/RP/20028/98) but it is unlikely that Downes was replaced as the number of Irish speakers in the county was quite low. Information on Clare, Cork and Galway is not included in the report on local government officials. We know from newspaper records that in Cork, Humphrey Kelleher was civil bills officer and interpreter for Irish and Patrick Stanton is listed as an interpreter on the 1901 census. Waterford presented a problem because there was no evidence of continued provision of salaried county interpreters in newspapers or other sources. However, a search of the books of presentments proved that provision of interpreters continued to at least 1921 (Waterford County Archives, Dungarvan).

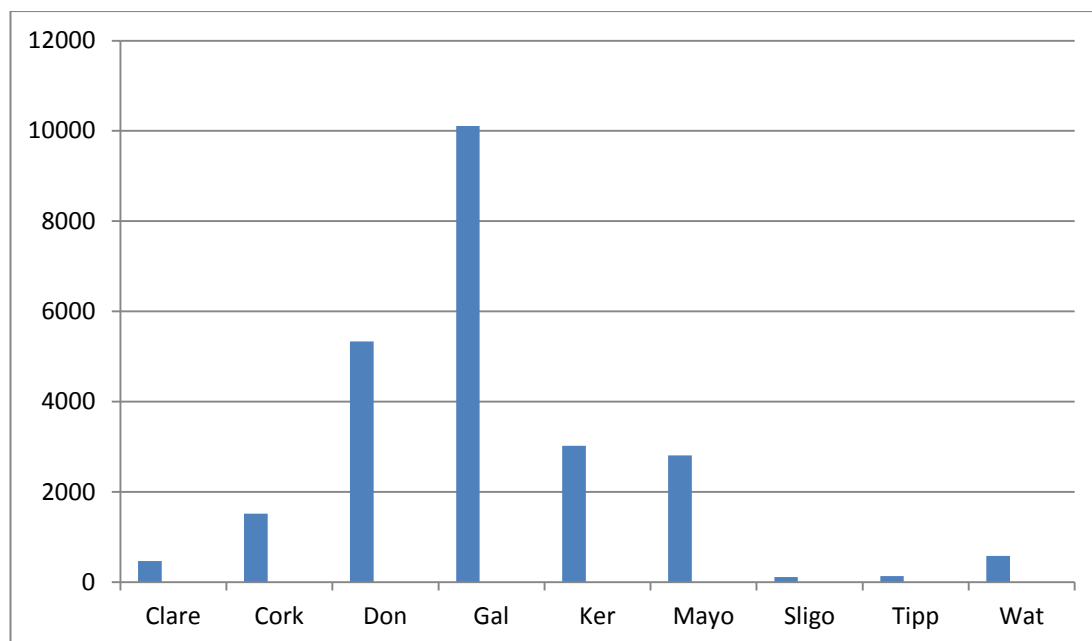
Figure 14 shows the nine counties where interpreters were provided in 1898:



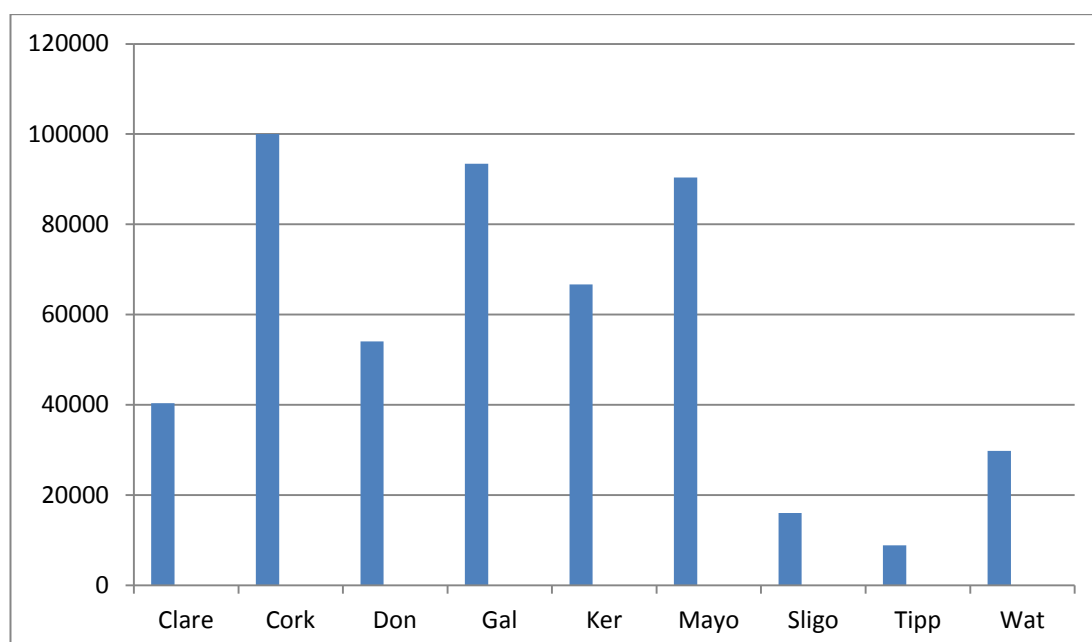


**Figure 14 Map of interpreter provision in 1898**

In 1898 there were substantial changes compared to 1843, with interpreters no longer provided in Cavan, Kilkenny, Leitrim, Limerick, Monaghan, Roscommon and Tyrone. The 1901 census figures for Irish speakers in the nine counties where interpreters were still provided in 1898 are included in Figures 15 and 16:



**Figure 15 Monolingual Irish speakers in 1901 census (9 counties)**



**Figure 16 Irish and English speakers in 1901 census (9 counties)**

The surprise here is that interpreters were provided in Sligo and Tipperary in 1901. According to the census of that year, there were 135 monolingual Irish speakers and 8,858 speakers of Irish and English in Tipperary and 114 monolingual Irish speakers and 15,994 speakers of Irish and English in Sligo. The figures were lower for Limerick in 1901; 121 people spoke Irish only while 13,400 spoke Irish and

English. The provision of salaried interpreters in the county of Limerick ended in 1884 (Limerick Studies books of presentments). While the usual caveat applies with the answers to the census question on language, and it seems that a lot of people did not answer the question in 1901, many people may have preferred to say they spoke both Irish and English even if their Irish or indeed their English was not particularly fluent.

It is possible that interpreters were kept on in Sligo and Tipperary simply because they were old and had been working there for some time. This is the case in Tipperary, where Michael Nugent, interpreter for north and south ridings, was aged 85 in 1899. In 1898, Tipperary north riding paid half his salary of £10 a year and south riding paid the other half (*Grand Jury Officers (Ireland) Returns*). His situation was discussed at the North Tipperary County Council meeting in 1899 where a Mr Trench was in favour of abolishing the position. Apparently, the salary at that stage had been cut to half the original amount. Mr Power, who was also a solicitor, and seemed to know Nugent, suggested that the interpreter should continue to be paid, as this was 'his only means of sustenance' and the council agreed to this proposal (*Nenagh News*, 5 August 1899, 4). Nugent does not appear in the 1901 census. There may well have been a similar situation in Sligo where the interpreter was very old and working very little or not at all, but continued to be paid out of charity and because he was not entitled to any form of superannuation. However, this theory could not be confirmed.

It could be argued that moving in to the twentieth century, a more realistic *de facto* picture of the situation was that interpreters were provided in seven counties – Clare, Cork, Donegal, Galway, Kerry, Mayo and Waterford.

## **Conclusion**

We have seen parallels between the decline of the Irish language and decreases in court interpreter provision. However, the extent of interpreter provision in 1807, with at least 28 grand juries paying salaries, is probably greater than many would expect. Moreover, it is possible that even more grand juries provided interpreters previous to 1807; this is certainly the case for Londonderry where interpreters were

provided up to 1801. By 1843, court interpreters were provided by 18 grand juries and this figure was further reduced to nine in 1898. After that date, county councils continued to pay court interpreters in at least six counties, and did so up to and after 1922.

It is possible that the decisions made by the grand juries to reduce the rates paid to interpreters and ultimately to terminate their employment, at least in some cases, were made purely for economic reasons and on the pragmatic grounds that their services were no longer required. It could also be argued, however, that the decline in the Irish language was caused in part by the fact that access to the law and the courts was facilitated by fluency in English.

The next chapter looks at the capital (in Bourdieusian terms) that interpreters had that allowed them to obtain appointments. It also considers pay, the dual roles of some interpreters and ethical issues.

## **Chapter 7 The Interpreters**

We do not have enough information about the interpreters to be able to carry out a correspondence analysis such as that carried out by Bourdieu of the habitus of lecturers in third level institutions in Paris. However, we do have information, compiled from newspapers, grand jury presentments, the Chief Secretary's Office Registered Papers, and the census, on some interpreters and this information is examined in Part One using Bourdieu's concept of capital. Part Two focuses on nineteenth century understanding of interpreter ethics.

### ***Part One***

#### **Interpreters and Capital**

What types of capital did court interpreters for Irish have? For the period under consideration, 1801-1922, we know that court interpreters for Irish were all male, bilingual in English and Irish, and most likely mainly, though not exclusively, catholic. We can also assume they were educated, although some, particularly those working at the start of the nineteenth century must have been educated in hedge schools. They could read and write; some manuscript versions of the grand jury presentment books include the interpreters' signatures when they collected their pay. For example, the County Mayo at Large Spring Assizes 1794 presentment manuscript has this entry on a left hand page:

£5 be levied of said Barony and paid to Mr Bennis for interpretor (sic) to the courts (National Library of Ireland)

And Thomas Bennis's signature appears on the right hand page. In the Summer Assizes book for 1794, Bennis writes 'Recd the opposite presentment in full from Dodwell Brown Esqre 2<sup>nd</sup> April 1795'. Therefore, Irish interpreters or their families had enough economic capital to ensure that they could obtain a basic education; rather than being expected to work on the family farm, or in a shop or as a servant or a labourer, they were able to attend school. They were also in an environment where they were exposed to both Irish and English. Perhaps, however, their most important asset was social capital, the network of contacts that could help them to

obtain employment in court. They may have felt, like Nelson Mandela, that 'At that time, a career as a civil servant was a glittering prize for an African, the highest a black man could aspire to' and 'In the rural areas, an interpreter in the magistrate's office was considered second only in importance to the magistrate himself' (1994: 43).

Bourdieu (1991) writes about the *langue d'oc* region in France where the peasantry spoke only the local dialect, whereas the aristocracy, the bourgeoisie and the petite bourgeoisie were bilingual, and also spoke the Parisian dialect. Bilingual priests, doctors and teachers 'had everything to gain from the Revolutionary policy of linguistic unification' (47) where the official language became the national language and gave this group the 'monopoly of politics' and allowed them to become intermediaries. While interpreters in the current study were able to use their bilingualism to obtain work as intermediaries, the prevailing undervaluation of the Irish language and ultimately of their bilingualism, meant that their work was undervalued or not valued at all. Viewed in Bourdieusian terms, perhaps they did not have enough capital within the field of law to be able to induce change. They had enough capital to obtain work as interpreters, but ultimately, were perhaps perceived by others as a necessary evil.

### **Simon Conway**

Simon Conway provides an interesting example of Bourdieu's concept of capital at work. A file in the National Archives of Ireland (CSO/RP/1822/1979) contains information on his situation as an interpreter for Irish based in Clare, County Mayo. In 1822 he sent a petition to the Lord Lieutenant, Richard Wellesley, about changes to his pay. He had been working as a sworn interpreter since 1813 and his annual pay amounted to £60, a considerable sum at the time, and more than was being earned by any of his contemporaries. However, in summer 1821, the grand jury had changed the payment to £5 per assizes in line with 13 & 14 Geo. III Chapter 32 sec 22 which of course dated back 47 years, to 1773-4. The change had been made, not because the amount being paid to Conway was 'excessive or unreasonable', but because the grand jury did not have the legal right to pay more than five pounds per half year's salary.

According to Conway, £10 was the equivalent of about half the expenses involved in travelling some 314 miles to eight sessions, two assizes and two Insolvent courts in Clare, Ballinrobe, Castlebar, Westport and Ballina over the course of sixty or seventy days. He stated that there had been ‘an immense increase in population’ and suggested that a salary of £70 per year would be adequate and sought ‘reasonable remuneration’ for the last half year. He made the case that ‘he is the only Public Officer attending said Several Courts who does not receive a salary adequate to his trouble’ and that, unlike other court officials, he was not entitled to any presentment for prisoners convicted or acquitted. Here, Conway was referring to fees paid to the Clerk of the Peace, the Sub-Sheriff, the Crier and the Deputy Clerk of the Crown, as in this example from the Queen’s County Lent Assizes presentments for 1823:

Arthur Roberts, Esq. Clerk of the Peace, Fees for Prisoners acquitted at Sessions 11 4 0

10 0 0 William Lewis, Sub-Sheriff, Fees of Prisoners discharged at this Assizes (13)

5 0 0 Dan McKey, Crier at this Assizes, Fees of Prisoners

64 0 0 Benjamin Riky, Esq. Deputy clerk of the Crown, for fees of prisoners tried at this Assizes, as well those acquitted as those convicted (13) (National Library of Ireland Dix Collection)

Conway wrote that he enclosed certificates from Members of Parliament, members of the grand jury, the high sheriff, the clerk of the peace, the assistant barrister for Mayo, three ‘respectable attorneys’ and the Chief Justice of the King’s Bench, all of whom testified that he performed his interpreting work satisfactorily. According to a handwritten note on the back of the memorial, Conway was ‘a very deserving public officer’. All of this information would indicate that Conway had a lot of social capital; he was part of a network and had the support of influential people.

Conway reported that he was ‘no sooner disengaged in the one Court than required in the other’ and that ‘The lower Classes of people in the County don’t speak the English language’. His work included administering the oath of allegiance to the

Peasantry. He made the point that the Civil Bill Court and the Insolvent Court did not exist when 13 & 14 Geo III Chapter 32 sec 22 was passed in 1773-1774. The Act for the Relief of Insolvent Debtors in Ireland (1 & 2 Geo. IV c. LIX) became law in 1821 and established a new court for the relief of insolvent debtors with two commissioners in Dublin who were also expected to hear cases in the assize courts around the country up to three times a year (Creighton 1841).

Under Secretary William H. Gregory forwarded Simon Conway's memorial to Peter Burrowes and John Parsons, the Commissioners for the Relief of Insolvent Debtors, explaining that Conway had received no remuneration in the Insolvent Court and asking if payments could be authorised. Burrowes replied that Conway was 'inadequately compensated by the law as it now stands' and suggested that the 'proper remedy' was 'a legislative enactment extending the limit within which Grand Juries may present for all the services performed by interpreters in all the Courts in the several Counties'. He said that no demand for compensation had been made by any interpreters and that if the Commission were to pay one, 'it would lead to a claim from the interpreters of every county, whether his services were required or not' (CSO/RP/1822/21). The other commissioner, Parsons, also replied to Gregory, to the effect that Conway had acted as interpreter on a recent circuit in Castlebar, but had not requested any compensation. Parson wrote that if Conway had requested payment, he would have been paid 'at the expense of the Circuit but his trouble was so small that I thought he did not mean to broker any charge for it'. Parsons also wrote that 'that part of the population who can not speak English is diminishing' (CSO/RP/1822/1979).

The information supplied by Simon Conway on his earnings is very different from the surviving records on payment for court interpreters. In Mayo, between 1792 and 1795, the grand jury presentments detail payments of a half year's salary of £5 to interpreters Mathew Waters and Thomas Bennis. The £5 rate was set by law, as Simon Conway indicates, but how did his salary increase from £10 per annum to £60?

This correspondence also led to the question: did Simon Conway continue working as an interpreter? And if so, how much did he earn? Fortunately, the books of



presentments for Mayo in summer 1826 and spring 1827 are in the National Library:

County of Mayo The Quaere Book for summer assizes 1826	206. To Simon Conway, Interpreter at Assizes and Sessions 23 0 0 (30)
County of Mayo the Quaere Book for spring assizes 1827	525. To Simon Conway, Interpreter at Assizes and Sessions, for half years salary 13 16 11 (64)

In 1826 and 1827, Simon Conway was still working as a court interpreter. He was paid £23 in summer 1826 for interpreting at assizes and sessions or a possible £46 for the full year. In spring 1827 he was paid a half year's salary of £13 16s 11d, which would mean that his annual salary was the uneven amount of £27 13s 10d. This was less than half of his previous salary of £60 but a lot more than the mooted £10. It is worth comparing Simon Conway's pay to that of John Kirwan in the county of Galway around the same time. At the Lent Assizes 1822, Kirwan was paid £16 and in summer 1823, £15. His pay for the year was around £31, or slightly more than Conway's.

A Simon Conway is listed in Griffith's Valuation (1856) as a tenant farmer in the parish of Kilcolman, townland of Clare in County Mayo, who leased some small plots of land from James D. Browne. This could be Simon Conway, the interpreter or perhaps his son or grandson. It is possible that Simon Conway combined small farming and court interpreting. It is also possible that Simon Conway was a protestant. A Simon Conway is listed as churchwarden in Kilcoleman, diocese of Tuam in 1827 on *Parochial Rates (Ireland) II – sums applotted. An account of all sums applotted during the year 1827, by the several vestries of Ireland, under the head of Parochial Rates*: 144. In the 1901 census, there were 15 Conways in Mayo and all were Church of Ireland or 'Irish Church'. However, by then, there were no Conways in Clare or Kilcoleman.

If Conway was a protestant, it could explain the support he received from all the local dignitaries and the thorough way his petition was investigated by Dublin

Castle. Perhaps this was part of his cultural capital. His case is certainly puzzling: it is surprising that he could earn £60 a year in 1823 even if he was being paid £10 a year for working in assizes in different towns. Another puzzle is why the 1773-4 act was applied and then disregarded by the grand jury.

### **Michael McNamara**

Michael McNamara (1856- c. 1932) was described by A.M.Sullivan as ‘an expert counsellor, card-player, farmer, land valuer, County Court interpreter, and matchmaker’ (1928: 125). Maurice Healy described him as ‘not alone a barrister, he was also a mapper; he was parish match-maker to the parish of Kilshanny; but it is believed that his principal source of income was his skill at the game of “Forty Five”. He was also the court interpreter in Irish’ (1939: 151).

A barrister, he was appointed interpreter in 1909 by County Court Judge Bodkin on a salary of £30 per year, paid by Clare County Council. Perhaps McNamara found that he was being expected to interpret for his clients who used Irish and decided he might as well be paid as interpreter if he was doing the work anyway. His interpreting work would have meant a small extra income each year. At the time, appointments could be made by the County Court Judge, or later the Circuit Court Judge, for ‘so long as was necessary’. McNamara acted as interpreter in ‘nine or ten cases’ up to about 1918. In 1925 he sued the Council for £90 or three years’ salary to the end of March 1924. By that time he was living in Dublin and travelled to Clare if an interpreter was needed. He was paid a salary to be available and the Judge commented that he had a ‘cushy job’ (*Irish Times*, 28 April 1925, 9). The County Court Judge was supposed to submit certificates to the County Council each quarter or each year but this had not happened in McNamara’s case and he was awarded £60 (*Irish Independent*, 28 April 1925, 8).

Sullivan makes a cryptic reference to McNamara ‘holding on to his farm and facing danger courageously until a local patriot got him shot’ (125). It seems that in January 1913, as a result of a dispute over a field he had bought the previous year, he was shot in the arm with a shotgun. McNamara fired back with his revolver but missed (*Irish Times*, 22 July 1913, 3).

A story is told by Sullivan (1928) and McArdle (1995) about the way in which McNamara administered the oath on one occasion. He believed that the defendant intended to lie, something that was apparently very common at the time, and he wanted to ensure a fair and just resolution to the case. According to Healy, a Kerry alibi would involve swearing as to what happened on Tuesday 4<sup>th</sup> October which was in fact a Wednesday and a Tipperary alibi involved proving that the Crown witnesses were elsewhere. The Bishop of Kerry made perjury a 'reserved sin', meaning that only he could grant absolution to anyone guilty of the offence (Healy: 1939: 168). McNamara was both lawyer for the plaintiff and court interpreter. He administered the oath in the usual way to the plaintiff but when it came to the defendant's turn, he invented his own version of the oath:

Interpreter: Take the book in your right hand and listen to your oath – repeat after me: If I do not tell the truth in this case –

Defendant: If I do not tell the truth in this case

Interpreter: May all my sheep be clifted.

Defendant: My God, Counsellor, I never heard an oath like that.

Interpreter: I shall tell His Honour that you refuse to be sworn if you do not repeat –

Defendant – May all my sheep - but Counsellor, I have three hundred sheep.

Interpreter: are you going to repeat the oath?

Defendant May all my sheep –may all – may all – may all my sheep be clifted – God help the poor sheep.

Interpreter (sternly) May all my cattle die of the murrain.

Defendant: Oh Counsellor, I have only three little beasts.

Interpreter Very well, you will be decreed

Defendant But this is dreadful altogether. May all – may all – may all my cattle die of the murrain – I'm a ruined man

Interpreter And may all my potatoes be blighted, and rot in the ground

Defendant: What?!!

Interpreter: Go on, Sir, and repeat your oath.

Defendant: (laying down the Bible) Oh, Counsellor, I'll admit the debt, I'm only asking for time. (Sullivan 1928: 125-126)

Healy (1939: 153) adds that McNamara argued that he had done the right thing because an oath is 'a calling on God to punish you if you don't tell the truth'. As a barrister, and probably a court character, McNamara could take a risk and get away with it. He was part of the field of law. If another interpreter had administered the oath in this fashion, there would have been a different reaction. Ní Dhonnchadha

sees the incident as an abuse of the barrister's position and something that 'highlights the gulf that existed between barristers and those on the witness stand in rural Ireland' (2000: 37). Cronin finds that the humour of the anecdote derives from the roots of the 'ritual curse' in oral culture, which contrasts with the formal, legal setting where it is uttered (2006: 92).

Michael McNamara was in the news again in 1926 as court interpreter at the Circuit Court in Ennis for a case of serious assault on 'Sergeant William Mc Gill of the Civic Guards', which he interpreted, to laughter, as 'Liam MacGill, a sargint of the peelers'. After the case, he was asked why he had chosen to 'translate' in this manner and replied "Because it is the only correct way of translating it, in my opinion. Garda Siothcana is not proper Irish, and does not convey the correct idea to a man who presumably does not understand English. "Peeler" in my view, is the correct way of translating Civic Guard – it conveys the proper idea of a genuine Irish speaker, and that is my duty as interpreter" (*Limerick Leader*, 5 July 1926, 3).

Michael McNamara must have died before 1932 because in April that year, an interpreter was needed for an Irish speaking witness from Connemara, but since the death of McNamara, 'the last official interpreter, no appointment had been made' (*Irish Times* 6 April 1932). The case was adjourned until July when 'Tadhg O'Shea, Irish teacher', presumably on his summer holidays, acted as interpreter (*Irish Independent*, 8 July 1932, 14).

### **Peter O'Toole**

Another interpreter on whom information is available is Peter O'Toole. The first newspaper mention for the interpreter for Mayo County Court is in 1905 (*Connaught Telegraph*, 28 October, 7). He is the object of fun in two cases involving deaf people where there is no sign language interpreter in court. In the first report, the solicitor asks 'O'Toole, will you be able to interpret her evidence?' and the interpreter must be daydreaming because he replies to laughter 'I will, sir' but when he realises the issue he says 'I could not do it in that case'. The Judge jokingly says 'he is supposed to interpret all languages' and the solicitors take up the joke:

Mr Verdon – Even Chinese (laughter).

His Honor – Now, O’Toole, you had better make yourself up in all these languages before the next Sessions, and if you don’t you must take serious notice of it (laughter). You will require French, German, Italian, Greek, Latin, and, of course, Arabic (laughter).  
Mr Verdon – Also Esperanto and Marconigrams<sup>19</sup> (laughter).  
(*Connaught Telegraph* 5 June 1909, 5)

In 1915, in another case involving a deaf person, Mr Kennedy, solicitor, suggests, again to laughter, that ‘Toole, the interpreter, is here and will interpret their evidence’ (*Connaught Telegraph*, 17 April 1915, 7).

The Irish phrase ‘cuisde bower’ appeared in a deposition being read by County Court Judge Morphy who queried the meaning at the Mayo criminal sessions in the Crown Court, Castlebar. The solicitor translated it as ‘a fairy coach’ and the court interpreter, Peter O’Toole, said the literal meaning was ‘a silent coach’, which meant, in other words, ‘a coach without horses’ (*Connaught Telegraph*, 28 October 1905, 7). It is curious that the Irish words were included in the deposition.

O’Toole was fined £5 in 1909 for not attending at Belmullet Quarter Sessions. The Registrar explained to the court that he had stopped for the night in Ballina, with the intention of travelling on to Belmullet by the 4 a.m. mail car the next morning, but the people of the house did not wake him. A solicitor joked that ‘the car left by English time, but Mr O’Toole, as became his position, awakened at Irish time, when he found he was late’<sup>20</sup>. Five pounds was a substantial fine (*Freeman’s Journal*, 15 October 1909, 5).

In 1912, at Mayo Summer Assizes, a witness was being examined through O’Toole but ‘evidently being dissatisfied with the way Mr O’Toole, the interpreter was translating his story, he broke into English to the great amusement of the Bench, Bar and the entire Court’ (*Connaught Telegraph*, 20 July 1912, 5).

In 1916, O’Toole applied to Mayo County Council for an increase in salary. His request was conveyed to the Finance Committee but we do not know if he was successful (*Connaught Telegraph*, 25 November 1916, 3). When he died in 1929, the local newspaper reported that ‘he owned a public-house and was market

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<sup>19</sup> Marconi wireless messages, sent by radio.

<sup>20</sup> From 1880, there was an offset of 25 minutes and 21 seconds between Greenwich Mean Time and Dublin mean time, the official time in Ireland (Malone, maths.tcd.ie). This was the case until the Time (Ireland) Act 1916 (Dyson 1916: 467).

manager for Col. Knox' (*Connaught Telegraph*, 12 January 1929, 4). This information would indicate that he was comfortably off.

### **Appointment of Court Interpreters**

Burke records that in 1569, the Lord Deputy was instructed 'to select a suitable man of the country, learned in the laws, and with a knowledge of the Irish tongue, to act as assistant to said Chief Justice' (1885: 14). The inclusion of 'learned in the laws' is interesting as it seems that more than bilingualism was required for the post which probably involved more than acting as interpreter.

As they were appointed by the county court judge, quarter sessions interpreters most likely had contacts or social capital to help them to obtain interpreter posts. How were interpreters appointed? We do not know how they were appointed to the assizes in the eighteenth century and early nineteenth century. The evidence we have (see below) suggests however that they were appointed by recommendation and that individuals with high status in the community wrote letters of support for prospective candidates. However, from 1837, it was the task of the assistant barrister to certify to the grand jury 'that an interpreter is necessary at quarter sessions'. The assistant barrister also had the power to appoint and remove interpreters.

In June 1858 questions were asked in the House of Lords about William McDermott, assistant barrister for County Kerry, who had chaired the quarter sessions since 1840. Apparently, McDermott had financial problems and when the post of interpreter became vacant in 1850, he promised it to a man called Galavan in exchange for £37. However, he did not keep his word and later allocated the job to another man. These facts emerged in court when Galavan in turn became insolvent (Hansard HL 7 June 1858 vol. 150 c 1590). Thirty-seven pounds was a lot of money to pay to secure a post that would ensure an annual salary of thirty pounds. Galavan's replacement was called Michael Collins (*Journals of the House of Lords* 1857) and he appears in the presentments for spring 1876 (National Library) by which stage he was working at both assizes and quarter sessions.

In 1871, after the death of court interpreter Mr Rush, John H. Richards, chairman of the county, reported at Claremorris Quarter Sessions that he had received fourteen

applications for the post of interpreter. He said they all had 'good testimonials', 'but of all he considered Peter Rippingham of Ballinrobe, who was very highly recommended, the most eligible, he would therefore appoint him interpreter' (*Tuam Herald*, 1 July 1871, 3).

In 1901 in Tralee, Mr Broderick, a local solicitor, reminded Judge Shaw, K.C., that the civil bill officer, John Jones, had sent a petition 'praying that he may be appointed interpreter for Tralee instead of the existing interpreter, who, Jones says, is incompetent for the office.' Jones's application seems to have been based on his being 'a distinguished Biblical Irish scholar' and his ability to translate the Bible into Irish. The judge suggested that 'He ought to be a missionary of the Irish Church Missions' and said that there was no vacancy, 'and he must wait until Dowd, the present man, goes out' (*New Irish Jurist* 1901: 70).

In 1902 at Skibbereen quarter sessions, a solicitor called Mr Wolfe asked the judge about the appointment of a process server and interpreter at Bantry. The context was that Humphrey Kelleher, the person who had been fulfilling these two functions, had taken his own life a month previously; his son was willing to take his place as process server, but as he did not speak Irish, not as interpreter. The son had the support of all the solicitors in Bantry bar one, a Mr Flynn, who favoured a man called Power from Glengariffe (sic) who 'could speak Irish well'. He argued that there were already two process servers in Bantry but none in Glengariffe where it was difficult to have processes served. The judge's preference was for someone who could do both jobs, but his main concern was the need for 'a good sober man' because 'He had remarked people coming into Court under the influence of drink frequently, and he would not tolerate it in future'. However, he was persuaded by the advice of various solicitors, one of whom suggested that it would be better to separate the jobs of interpreter and process server as 'the interpreter must be away in Macroom at the time of the services of the processes' while another confirmed 'that is the reason the deceased used rarely serve any processes.' After some discussion, Kelleher was appointed process server 'particularly for the Glengariffe District' and the judge said he would accept applications for court interpreter (*Southern Star*, 25 October 1902, 8). In the 1901 census Humphrey Kelleher was living in Bantry with his son Andrew, 27, a draper's assistant, and

daughter Hannah, 35, housekeeper. By the time of the 1911 census, there were no Kellehers on Barrack road.

The newspaper articles show that testimonials were important; prospective interpreters had to show that they were trustworthy, reliable and well-perceived by important members of the community. The role of solicitors is also interesting, with groups getting involved in making a case for or against particular applicants for positions. It is also interesting that in some cases at least, the issue was raised in open court and debated in public.

Interpreters in Ireland were not tested in any way to establish if they could interpret competently. Petty Sessions clerks had to take an exam at Dublin Castle (Stoker 1879). Theophilus Shepstone tested interpreters in Natal in 1850; his test was on ordinary conversation and on judicial terms (McClendon 2006). It is possible that in Ireland, the assumption was that bilinguals would be able to interpret simply because they spoke English and Irish. There is no evidence of any attempt to test candidates' knowledge of legal terms or to assess their ability at interpreting. Moreover, there was no training for court interpreters who presumably had to learn on the job.

## **Pay**

As we have seen, payments for court interpreters at assizes and quarter sessions were fixed by law at a maximum of £5 per half year at assizes and £15 at quarter sessions. The grand juries had the power to pay the interpreters less than the maximum if they wished and many reduced the amount, possibly in line with the reduction in demand for interpreting. We have also seen that a system of emoluments evolved in some counties; in 1898, the two interpreters in Donegal were paid emoluments of £64 and £60 in addition to their salaries. There was a similar system in Galway but not in Mayo or Sligo. It would appear that these emoluments were introduced locally, by the grand juries, but we do not know when this happened. It is possible that there was more support for Irish and greater appreciation of interpreters in Galway and Donegal than elsewhere.



John Leslie Foster, commissioner of education, wrote in 1811 that: 'the whole reward of the annual labour of a [hedgeschool] master appears to be on average from 30l to 40l per annum, who for this sum is to find a school-house, and maintain his family' (*Reports from the Commissioners of the Board of Education in Ireland 1809-1812*: 342). Foster felt that the potential income was not sufficient to encourage qualified, educated people to become school teachers. If we compare these figures to the earnings of court interpreters, we have to conclude that, particularly with the passing of time, the rate of pay was inadequate. Furthermore, as grand juries reduced the pay by half or two-fifths or more, in line with the reduction in demand, the job, although part time, probably became more unattractive. Interpreters needed to combine their work as interpreters with other work in order to make a living. They also incurred travel expenses.

Unlike other officials who were entitled to superannuation paid by the grand juries, interpreters were not entitled to a pension, which explains why so many of them kept working for as long as they could; the old age pension was introduced in 1909. An unnamed partially deaf interpreter at Cork assizes was described by Mr Justice O'Brien as someone who 'possessed no intelligence whatever'. The context was a trial on a count of felonious killing where the defendant could not speak or understand English, and the interpreter could not be found. The judge commented that 'that was always the way in that court', and after some time the interpreter appeared. The judge described the situation as a 'public scandal' and a Constable Dowling was sworn as interpreter (*Freeman's Journal*, 19 March 1884, 3). Of course some deaf judges continued working; a Tipperary judge reportedly thought an action for the price of a Singer sewing machine was about singers disputing about a harmonium (McArdle 1995: 111).

The passing of the Local Government (Ireland) Act 1898 led to changes and amalgamations which affected interpreters. Questions were raised in the House of Commons about some interpreters' pay. Patrick Sullivan, of Killorglin, County Kerry, had been working as a court interpreter on a salary of £30 per year and was doing work previously carried out by two interpreters. Almost a decade earlier, in 1889, the County Kerry grand jury had supported his application for an increase in pay. It seems that O'Sullivan had to pay his own train and hotel expenses, resulting in

expenditure of £140 per year when his daily rate was 4s 3d per day. However, Gerald Balfour maintained that the Lord Chancellor of Ireland had no power in this matter and that a case had not been made to justify an increase in salary (Hansard HC Deb 04 March 1898 vol 54 cc 603-4).

Galway city and county were merged and as a result 'the interpreter of Irish has lost the emoluments he received from the town grand jury, and is obliged to do for nothing work for which £25 a year was previously paid'. In the House of Commons, Mr Wyndham explained that the amalgamation took place in January 1900 and the interpreter was appointed in March 1901, which meant that he was not an existing officer under section 109 of the Act and had no grounds for claiming compensation (Hansard, HC Deb 22 July 1902 vol 111 cc 898-9). Section 109 provides a definition of "existing" as meaning:

any officer, an officer holding office on the last day March one thousand eight hundred and ninety-eight, and also on the appointed day, and in any other case existing at the time specified in the enactment in which the expression is used, and if no such time is expressed, then at the appointed day for the coming into operation of such enactment (Clancy 1899: 174).

Further questions were raised in 1911 on behalf of the same interpreter, Anthony McDonnell, with Mr Birrell providing a similar answer to that provided in 1902, but with an additional explanation that the Local Government Act had put an end to an allowance for acting as interpreter in city cases at the Recorder's Court (Hansard HC Deb 31 July 1911 vol 29 c160). In 1920, Galway County Council agreed to pay Anthony O'Donnell a war bonus of £25 in addition to his salary of £30 and the newspaper reported that 'his predecessor was getting a salary of £55' (*Connacht Tribune*, 7 February 1920, 8).

In October 1906 the position of interpreter in the Loughrea division of County Galway became vacant. The work involved attending quarter sessions in four towns, but on a salary of £10 with no allowance for expenses under the Local Government Act. The matter was raised in the House of Commons and Mr Birrell's reply indicates that the maximum annual amount the county council could pay was £30, which was divided by the three different divisions in the county, Galway, Clifden and Loughrea. He admitted that there was a difficulty recruiting an

interpreter in Loughrea and said the matter could be considered at a later date if amendments were made to the Local Government Acts (Hansard HC Deb 23 March 1907 vol 171 c1367, HC Deb 27 March 1907 vol 171 c1776).

Court interpreter provision for Irish cost very little: in 1807, the cost for 27 grand juries was around £300; in 1843, with fewer grand juries paying county interpreters, but greater expenses in the form of a twice yearly payment of £15 for interpreters at quarter sessions, the cost was around £500. In 1898, by which time only nine counties provided interpreters, the cost was approximately £400 including emoluments paid to a small number of interpreters.

It would be interesting to know how much court interpreters for Welsh in Wales were paid, and also for Scots Gaelic in Scotland and to compare this information with the Irish situation.

There is a stark contrast between the pay of interpreters for Irish and the rates paid to interpreters working elsewhere. In Natal, in 1902, the annual salaries for Indian interpreters varied from £100 to £400, substantially higher than the salaries of court interpreters in Ireland (Badassy 2002: 107).

Salaries of dragomen and diplomatic interpreters were far higher. Mr F Scott thought it was useless to pay an interpreter at the consulate of Canton 750l a year, when so distinguished a linguist as Dr Bowring was appointed there at a salary of 1,800l per annum and could also act as interpreter (Hansard HC Deb 01 June 1849 vol 105 cc1039-78).

The *Report from the Select Committee on Official Salaries* (1850) included an interview with the Right Hon Lord Viscount Palmerston on the topic of staff in Constantinople, who said:

The Committee are aware that the Turkish language is one of very difficult attainment, and one which requires a great many years of study to be acquired with any degree of fluency for the purpose of intercourse. [...] they are confidential persons; they are employed in communications of the most confidential kind, and therefore they are men of a superior class. (62).

Mr Jennings M.P. referred to a 'third class interpreter' in China who was paid £528 a year but 'retired exhausted at 32' and was in receipt of a yearly pension of £146

(Hansard HC Deb 23 March 1888 vol 324 cc193-222). In 1859, the British government had plans to set up consulates in Japan to include interpreters who would be paid £500 per year, assistant interpreters £405 and student interpreters £200 (Hansard HC Deb 22 February 1859 vol 152 cc694-5).

### **Clerks, criers and bridewell keepers**

William Makepeace Thackeray visited Ireland in 1842, and described a scene at the city of Waterford Assizes:

The witness is here placed on a table instead of a witness-box; nor was there much farther peculiarity to remark, except in the dirt of the court, the absence of the barristerial wig and gown, and the great coolness with which a fellow who seemed a sort of clerk, usher, and Irish interpreter to the court, recommended a prisoner, who was making rather a long defence, to be quiet. I asked him why the man might not have his say. "Sure," says he, "he's said all he has to say, and there's no use in any more." But there was no use in attempting to convince Mr Usher that the prisoner was best judge on this point; in fact the poor devil shut his mouth at the admonition, and was found guilty with perfect justice. (1845: 52)

While a salaried interpreter was employed at the city of Waterford in 1807, by 1841 this was no longer the case. Therefore, it is possible that the court clerk also acted as interpreter when necessary. There was still an interpreter in the county of Waterford in 1842, paid £7 2s 4d at Lent and summer (*Statement of County Cess ordered to be levied in each half-year, in 1841-2-3*).

Thackeray's description is of someone who is combining the roles of 'clerk, usher, and Irish interpreter to the court'. This particular interpreter is clearly far from impartial or neutral because he tells the prisoner to be quiet. When challenged by Thackeray, he says there is no point in saying anything more. Thackeray's ironic comment 'was found guilty with perfect justice' implies that the defendant was not heard in full. Thackeray also writes about the petty sessions at Roundstone in Galway, where 'The sessions-clerk is a gentleman "having," as the phrase is here, both the English and Irish languages, and interpreting for the benefit of the worshipful bench' (199). Thackeray's descriptions pose a question: Were court clerks interpreters?

We have found that there were no salaried court interpreters in the petty sessions although interpreters could be provided (and paid) if necessary. Volunteers were also sought for non English speaking defendants and witnesses. But, were petty sessions clerks expected to act as interpreters? Bram Stoker's book on the duties of petty sessions clerks, published in 1879, describes what they were expected to do 'as laid down by law and by practice'. Clerks should be aged between 21 and 40 years unless they were practising lawyers. Justices nominated and voted on the appointment of clerks and the Lord Lieutenant had to give his consent to the appointment and the appointee. Clerks had to take an examination at Dublin Castle and they could not have any involvement in hotels, public houses, eating-houses, newspaper editing or be a bridewell-keeper. They could be asked to take affidavits; they were of course expected to attend the petty sessions and if necessary to adjourn same if no judges were available. Clerks had to administer oaths and affirmations to defendants, witnesses and, if necessary, interpreters.

He should not forget that as a Public Servant he owes a duty to every Member of the Public; and that as most of those who seek his services do so under some special pressure of circumstances, tending to worry or confuse them, he should be patient in his endeavours to help them to a thorough understanding of their wants, and of the relief accorded by law.

In many places the less educated portion of the community look to the Clerk of Petty Sessions in the first instance as the proper person to help them out of their difficulties, and recognising this, the Clerk should ever study the Dignity of his Office. (Stoker 1879: 26).

Clerks were expected to prepare information in criminal cases and Stoker's book explains how to take a deposition – the first person should be used, technical terms should be avoided and the whole should be a 'simple but full statement and history of all the facts, in the language used by the witness' (*ibid.* 27). Clerks had to prepare summonses, and copies, and enter the summonses in the Order Book (*ibid.* 33). A lot of their duties revolved around money, collecting fines and dog licenses and ensuring that proper records were kept and that everything was lodged in the Bank of Ireland each quarter. Stamps were issued for payments received and there were instructions on what should be done in the case of lost or spoilt stamps. If fines were not paid immediately, the clerk had to issue a warrant. However, Stoker

makes no mention of the Irish language at all and there is no mention of the duty of interpreting for Irish speaking defendants and witnesses. He does mention the interpreter's oath, however, and refers the reader to Levinge and Humphreys for the wording (*ibid.* 25).

Therefore, it seems that, in general, court clerks were not expected to act as interpreters; it was not part of their job description. However, petty sessions clerks who spoke Irish were probably asked to interpret if no interpreter or volunteer was in court. It is likely that the same happened at assizes and quarter sessions if the interpreter was ill or unavailable or in counties where provision of salaried interpreters had ceased. As seen in Chapter Six, there is evidence of at least one clerk acting as interpreter at assizes and being paid for this work. In 1807 the grand jury presentments for Clare provide details of payments to Michael Canny, who fulfilled a number of functions. He was Deputy Clerk of the Crown at the Assizes court but in addition, he was interpreter in the Crown and Record Courts. He earned £40 for the year as clerk and £30 as interpreter in the two courts. At the Clare Summer Assizes, Canny was paid £10 'for supplying an interpreter in the Record Court'. We do not know if that ten pounds was paid in full or in part to the interpreter. However, Michael Canny was an exception; most other interpreters just interpreted although there are exceptions.

Provision in Londonderry appears to have been somewhat haphazard, with no interpreters provided in some years. At the summer assizes 1798, Thos. Neil, interpreter, was paid £5 but he was also the crier. Similarly, the next year, John Healy, crier, was paid £1 2s 9d for interpreting. In 1800, Bryan Finucane also combined being a crier and an interpreter as did William Holmes in 1801 (Public Record Office of Northern Ireland). The Londonderry criers did not stay working in the assizes for long and there was a high rate of staff turnover. It seems that if the crier happened to have Irish, he could be asked to interpret as well, and so earn some extra money.

There are more records of interpreters carrying out other duties apart from interpreting. Owen McGonagill was interpreter in County Donegal from 1794 (and possibly earlier) on an annual salary of £2. From 1759 he had a second job,

‘sweeping and taking care of the county house and jury room’, for which he was paid £1 a year:

18. We present the sum of two pounds sterling to be levied in the usual manner and paid to the Treasr. and by him paid to Owen McGonagill to reimburse him for two years salary for his sweeping and taking care of the county house and Jury room. 2 0 0 (97)  
(National Library)

In Tyrone, Hugh O Freel or Friel started off providing fire and candles to the grand jury from 1799-1801, became a door keeper briefly in 1800 but by 1802 was paid £3.8s.3d for providing fire and candles, £1.2s.9d for ‘attending the grand jury’ and £10 as ‘Interpreter and for attending sessions’. He continued working until 1814 and possibly later (some presentment books are missing) and was replaced as interpreter by Stephen Nealis or Nealus at the Summer Assizes in 1826 or possibly earlier. In Lent 1830 Nealis started work ‘transmitting prisoners’ and continued doing this until 1833 when he reverted to solely carrying out his interpreter duties. He was court interpreter for Tyrone from 1826 to 1859, a total of 33 years.

John Kirwan, solicitor (Burke 1885: 186), was interpreter in County Galway between 1813 and 1832. It is possible that other interpreters, particularly those who fulfilled the role for some time, were also solicitors who were in court anyway, and could obtain some extra revenue by also acting as interpreters.

In 1872 in Oughterard, the unnamed bridewell keeper was paid £24 12s and was also employed as court keeper and interpreter at quarter sessions. At the time of the inspection of the bridewell, there were no prisoners in custody, but there was a cow in the exercise yard, which, according to the Inspector-General, was ‘clearly illegal. See 10<sup>th</sup> rule of 109<sup>th</sup> section of Prisons Act’. However, the keeper/interpreter pleaded he had no scythe to cut the grass, and the cow ‘was brought in to eat it’ (*Fiftieth Report of the Inspectors-General on the General State of the Prisons of Ireland*: 381).

Some interpreters, such as Humphrey Kelleher, combined interpreting with being a civil bills officer (C.B.O.). Summons servers and civil bill officers were paid a salary of £10 per year plus up to one shilling for each summons served. They had to travel considerable distances to serve summonses and keep a record of when and where summonses were served. They also had to attend quarter sessions. According to Mr

Ussher, a solicitor from Lurgan, between salary and payments less car hire, civil bill officers earned approximately £22 a year, which, according to him, was ‘manifestly insufficient remuneration for the services he renders, especially when it is taken into account that the nature of his duties prevents him from engaging in any settled occupation at which he might earn a livelihood’. Furthermore, if he were to fall ill or have an accident, he would have no earnings at all and there was no possibility of a pension, and ‘he has nothing to look forward to in the evening of his days but the workhouse’ (Dodd: 1878: 196).

Solicitor James Flynn of Bantry wrote to Cork County Council to request that Humphrey Kelleher, interpreter for Cork West Riding (and mentioned above) be granted superannuation. The Chairman refused the request and said that Kelleher had been appointed by the County Court Judge. Flynn said that Kelleher did not know where to look for superannuation (*Southern Star*, 5 July 1902, 8). In September the same year, the interpreter took his own life. Apparently, he had been in an accident some time previously and was unable to work and ‘the bad state of his health and the absence of means to support him appear to have unhinged his reason and driven him to the desperate deed which launched him into eternity’ (*Southern Star*, 27 September 1902, 2).

The case of Edward Collins civil bill officer for Macroom, occupation ‘interpreter’ in the 1911 census, was raised in the Dáil in 1927. At that stage he was 77 and had worked as a summons server for 58 years and as a civil bill officer for 57 years. He was discharged from his job and was not offered any form of compensation or pension. The two posts of summons server and civil bills officer were combined into one post, summons server, under the Court Officers Act 1926 (Dáil Éireann vol. 19, 26 April 1927).

### **Interpreters in the Censuses**

In the 1901 census, only 9 people, all male, listed their occupation as ‘interpreter’, five for Irish and four for other languages. They are:

<b>Name</b>	<b>Street</b>	<b>County</b>	<b>Age</b>	<b>Birthplace</b>
John Keane	Ballywalter	Mayo	30	Co Mayo



Emilio Trigheros	North Strand	Limerick	46	Madrid
Lars Olsen Haaland	Leeson St Lr	Dublin	65	Norway
Rudolph Felton	Queenstown	Cork	72	Germany
Henry I. Brett	Alexandria Gdns	Antrim	22	City of Dublin
Patrick Stanton	Evergreen Rd	Cork	67	Co Cork
Humphrey Kelleher	Bantry	Cork	74	Co. Cork
John Boyce	Fanad North	Donegal	40	Co. Donegal
Richard P. Conway	Emlagh	Kerry	36	Kerry

**Figure 17 Interpreters in 1901 census**

Henry I. Brett was a student interpreter on His Majesty's Service; Rudolph Felton was retired. There were five interpreters for Irish, two of whom, Kelleher and Conway, were also C.B.O.s or civil bill officers. John Boyce was a farmer as well as deputy county court Irish interpreter, although what precisely is meant by 'deputy' is uncertain.

Ten years later, in the 1911 census, only two interpreters appear. They are Edward Collins, age 58, from Macroom, whose twenty year old son William is a summons server, and William Knight, from Tyrone, who is a student interpreter with the Levant Consular Service. Back in 1901, Edward Collins listed his occupation as a process server. It seems that he has progressed (or perhaps regressed) to being court interpreter and his son has taken over his summons serving duties. John Boyce's entry has been misspelt as 'interpretor'; he is 51 and living in Greenfort, Donegal. Richard P. Conway is 'farmer etc.' so perhaps the 'etc' includes interpreting. As already indicated, Humphrey Kelleher died in 1902 (*Southern Star*, 27 September 1902, 2) and Patrick Stanton in 1908 (*Irish Independent*, 3 December 1908, 6). Meanwhile, John Keane has reverted to being a farmer's son.

It is interesting that so few people list their occupation as interpreter. There certainly were more Irish interpreters working in the courts in 1901 than appear on the census but it is likely that they saw this work as an ancillary source of income rather than their main occupation. Similarly, a search for translator in the 1901 census produced two results, both women. One is Mary Banim, who listed

literature, journalist, translator and essayist and the other was Nora Lynch who was an unemployed office writer and translator. In 1911, there was only one translator, an Englishman called John Rowland who was a translator of foreign languages. Mary Banim was now a general literature professor and Nora Lynch could not be located; she may have changed her name on marriage.

## **Women**

Women are largely absent from the newspaper accounts of court interpreting, apart from when they appear as witnesses and very occasionally as defendants. The earliest newspaper record for court interpreting in Ireland located in the current research occurred in 1789 in the trial of three men for the murder of a John Roberts in a bar in Abbey Street in Dublin when 'Mary King, fworn, to interpret between Richard Roberts, a Welsh boy and the jury' (*Freeman's Journal*, 8 December 1798, 3). While it was unusual that a woman acted as interpreter in this case, this did happen occasionally for languages other than Irish, presumably because nobody else was available. In 1863, an Englishwoman, Mrs Ghee Singe, interpreted for her Chinese husband (*Freeman's Journal*, 27 October 1863, 3). In 1902, a Melle Picquet acted as 'lady interpreter' for French (*Irish Times*, 30 August 1902, 4). Margaret Milligan applied to be an interpreter or a polling clerk at the 1899 Westport local elections but was turned down by the Sheriff who maintained it 'would be against the rules' for a woman to be appointed (Crossman 2006: 207). The earliest newspaper record of women court interpreters for Irish is in 1936 when 'Miss A.M. Sharkey, Irish instructress at the Letterkenny Technical School', was appointed to Lifford Circuit Court (*Sunday Independent*, 9 February 1936: 10). Miss Johanna Gleeson from Moneygall acted as interpreter for Irish at Tullamore Circuit Court in a compensation case and was congratulated by Judge Gleeson who said she 'was a distinguished graduate in Celtic Studies and he was particularly fortunate in having her appointed as interpreter in his court' (*Nenagh Guardian*, 25 July 1936, 5).

While women may not have been paid interpreters, they probably acted as informal interpreters. In 1906 the interpreter on Blasket Island was 'a young lady who had lived for some time in Boston' (*Irish Times*, 29 June 1906, 6). While there were

some women judges in the Dáil Courts between 1920 and 1924, there was no woman judge until the appointment of Eileen Kennedy in 1964 (Kotsonouris 2011: 105) and women did not sit on juries until 1975.

## **Part Two**

### **Interpreter Ethics**

Modern day codes of ethics provide guidelines for interpreters on the boundaries of their role. The European Legal Interpreter and Translator Association code of professional ethics includes intercultural competence, professional competence (appropriate interpreting technique), accuracy, impartiality, confidentiality and using first person when it has been used by the speaker (EULITA 2012). A high level of fluency in two languages is obviously essential, but that alone does not guarantee competent interpreting.

Giambruno (2008) wrote about fourteen New World laws on the role of court interpreters dating back to the 1500s and 1600s. However, in the case of Ireland, there is no evidence of a historical code of ethics for court interpreters. It is possible that circulars were sent from the Chief Secretary's Office to or about interpreters, but again there is no evidence of this. Readers may assume that ethical issues only came to the fore in the twentieth century. However, this is not the case because ethical issues were discussed in trials in England in the late eighteenth and early nineteenth century and reported in detail in Irish newspapers. For example, *Finn's Leinster Journal* reported in 1791 on the trial of Jean-Baptiste Levett, charged with robbing diamonds from the Countess du Barry<sup>21</sup>. Mr Rimonde appeared as a witness. He had accompanied Levett's attorney to Newgate Prison and acted as interpreter. On appearing in court, he was about to reveal what Levett had said, when he was interrupted and told not to do so, 'because it would tend to disclose the infractions of a client to his attorney, which would be illegal, Rimonde going to Levett, not as a friend, but solely in the capacity of an interpreter' (*Finn's Leinster Journal*, 6 August 1791, 2).

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<sup>21</sup> Spelt 'Levett' and 'du Barry' in *Finn's Leinster Journal* but the official legal citation is 'du Barre v Livett'.

In 1817, the select committee of the House of Commons on the affairs of the East India Company heard evidence from Lieutenant Colonel Sir John Malcolm, who was asked about the merits of Indian and European court interpreters. He replied:

It is also to be observed, that the officers of the English government, though many of them speak the language of the natives what is called tolerably well, have seldom that very minute knowledge of the idiom of the different dialects of India that can enable them fully to understand the story of a low or an ignorant native. (*Parliamentary Debates from the year 1803 to the Present Time* 1813: 974)

When Malcolm was asked if he had seen court interpreters at work in India and if they were 'qualified for the situations which they fill' he replied that he had attended a court in Bombay where his friend Sir James Mackintosh was the judge, and commented:

I certainly did not think the native interpreter employed at that court very adequate to his duty; indeed the only instance to which my memory can at present refer, was noticed by Sir James Mackintosh himself, and a gentleman who had knowledge of the language, and happened to be in court, was sworn in by desire of the judge to examine the evidence. (*ibid.* 979)

Later in the minutes, the questioner returned to this issue and asked for more details. Malcolm responded:

On the occasion to which I alluded, a Parsee inhabitant of Bombay was interpreting in the court at Bombay; he was interpreting an evidence that was describing what he had said himself, and in describing that, made use of the first person singular of an Hindostanee noun, stating, 'I said so and so;' – In his evidence he proceeded to give an account of an English officer coming in, and the interpreter then explained the witness to have remarked, that the English officer said 'we will do so and so;' on seeing the word 'we' noticed by some of the gentlemen of the law, and written down as if containing a proof that there were more than one concerned, I mentioned to Sir James Mackintosh that the interpretation was incorrect, nor from a want of knowledge in the interpreter of his own language, but from want of knowledge of the idiom of the English: that the native witness speaking of an English gentleman, used the plural term from respect, and on the witness being re-examined it was discovered to be the case. (*ibid.* 981)

He contrasted the abilities of native and European interpreters as follows:

The defect of native interpretation arises from their want of correct knowledge of the idiom of the English language; that of Europeans from their want of correct knowledge of the different and local idioms of the native languages. It must be almost the study of an European's life, to render himself fully competent for such an office; and I conceive, nothing but the prospect of a large salary could induce any European, of respectable talents, to devote his whole time to the accomplishment of that object. (*ibid.* 978)

When asked what salary 'would be necessary to an European gentleman so qualified, to undertake the important office of interpreter', Malcolm replied 'I think the salary of a person employed as such interpreter should be inferior to none but that of the judges themselves who preside in the court.' Where interpreting was inadequate, a judge could ask more questions to ensure the correct information was obtained, or call on outside expertise. It seems that Mackintosh had applied to the government for a 'sufficient salary' for a court interpreter but despite this, the person who was appointed, and who spoke a number of languages of India, resigned two years later. Another possibility was to draw on the skills of military officers who spoke the languages. However, Malcolm's reply to this possibility was:

The great majority of the officers have a knowledge of the languages competent to the fulfilment of their military duties; but there are but few who have that exact and complete knowledge of the language, which I should pronounce as requisite before a person was competent to act as interpreter in a court of justice. (*ibid.* 980)

Malcolm displays an excellent understanding of the issues around who should act as interpreter and the difficulty of finding a competent interpreter.

A high level of awareness of ethical issues was also demonstrated during the eleven week trial of Queen Caroline of Brunswick at the House of Lords, which received extensive coverage in the *Freeman's Journal*. The Queen's interpreter was instructed 'to interfere if he found any difference between the German and English meanings of the questions and answer' rendered by the other interpreter. The Lord Chancellor 'directed the interpreter to use the same form of words, as to number and person, as the witness in translating her replies'. Earl Morton requested that counsel address the witness rather than the interpreter, and use "did you" instead of "did she" and use the first person singular when giving the answers. The interpreter admitted to the court that he did not understand an expression

(*Freeman's Journal*, 29 August 1820, 2). Two days later, the same newspaper reported that 'the Interpreter begged to be allowed to tell the witness to hold his tongue while he was speaking' (*Freeman's Journal*, 31 August 1820, 3). When a peer complained about the incoherence and incorrectness of a translation (some of them understood Italian), the interpreter explained that 'the witness would persist in talking while he was translating, and he could not hear and speak too' (*Freeman's Journal*, 11 September 1820, 2). When a question was asked about the measurements of a grotto in feet, the interpreter suggested using *bracchia* (an old Italian unit of measurement equivalent to approximately two feet) instead (*Freeman's Journal*, 16 October 1820, 4).

In 1863, the *Irish Times* published an account by an unnamed barrister about his experience on being arrested in Brussels, thrown into prison and questioned by the investigating magistrate through a female interpreter who claimed she could understand English but could not speak or write it. He declined to be examined in such circumstances and when he was examined again a few days later, his interpreter was 'a sort of upper turnkey, who knew one or two English and German words, which he jumbled together in such a way as to make his meaning utterly incomprehensible' (*Irish Times*, 23 September 1863, 4). While the account is entertaining, no parallels are drawn with interpreter provision in Ireland.

The *Irish Times* also published an account by Consul Graham Dunlop of proceedings in Cadiz in Spain where the crew of a ship called *The Tornado* were examined through interpreters. Dunlop reported that the President asked long, rambling questions which were 'roughly and orally transmitted into a long stumbling sentence of very indifferent English, full of Latin derivatives'. The interpreter 'made his own translation' of the reply from the Scottish engineer. A question in Spanish, 'Who gave you the work?' was translated as 'Who proportioned you at the job?' which made no sense whatever (*Irish Times*, 12 April 1867, 3). Again, the article is published, but there is no discussion about court interpreting in Ireland, about provision for Irish speakers, or indeed about interpreter provision for speakers of foreign languages.

There are occasional mentions of ethical issues in coverage of trials in Ireland. In 1811, at a Caravats and Shanavests trial, two men were charged with robbing a

guard on the Cork mail coach of two blunderbusses and two pistols in Tipperary. An interpreter was sworn for a witness called Margaret Sauce. Solicitor Mr Mac Nally asked the judges to direct the interpreter 'to give a literal translation of the answers of the witness' because he recalled a case in Waterford, 'where three innocent men were nearly convicted, on the false translation of the witness's answers'. The interpreter for Margaret Sauce did, unintentionally, give 'a much fuller answer to a question than was given by the witness' (*Proceedings of the Trials of the Caravats and Shanavests*: 432).

An interpreter intervened in a very sad case heard at the record court in Galway where John Hernan pleaded guilty to stealing two pieces of rope. His wife and two children had died of hunger and he was hoping to return home and cut corn, and hopefully 'get some potatoes to eat'. In this case, the interpreter intervened to say that he had known the prisoner for a long time and could vouch for him. He also supported his story and said that 'he himself had contributed to his support'. Despite this, Hernan was sentenced to a month in prison from the date of his arrest (*Tuam Herald*, 12 August 1848, 1).

In a case mentioned in Chapter 4, the interpreter told the judge that he had spoken to the defendant in English on the day of the trial and the previous day. The defendant spoke English but wished to use Irish in court:

A litigant came up before me, and noisily insisted upon the interpreter of the court swearing him in in Irish, and the interpreter, who is a paid official of the court, a paid sworn official, proved to my satisfaction that not only was this man not ignorant of English, but that he thoroughly understood English, and that he spoke it, and had been speaking it to him on that very day and the day before. (*Irish Times* 27 October 1899, 7)

The precise way in which the information was provided is unclear, but it would appear that the interpreter volunteered the information, perhaps in an effort to ingratiate himself with the judge, or perhaps because he genuinely felt that a litigant who spoke English should not be allowed avail of his services.

On Tory Island, a fishery inspector carried out an inquiry in 1911, and a priest, Rev. Father Cunningham, 'was appointed neutral interpreter, at the suggestion of both sides' (*Nenagh Guardian*, 21 August 1907, 2).

When interpreters were working between English and Irish, in Irish-speaking areas, it was likely that some people in court, and indeed some judges and lawyers, could understand what they said and could notice if information was added, omitted or incorrectly rendered. This was the case at the Parnell Commission, where Timothy Harrington challenged the interpreter, Thomas Dilllon, an ex-head constable of constabulary, saying he thought the interpreter 'ought to put the questions, and not be suggesting the answers'. The interpreter responded 'warmly' that he did not suggest the answer and Harrington said that he understood Irish, 'and I say that he suggested the answer'. The President suggested that Harrington should have his own interpreter in court if he wished to 'throw doubts upon the correctness of the interpretation' (*Irish Times*, 9 November 1888, 5).

At Galway spring assizes, the judge told the jury that the interpreter in the case had been 'excellent' and had translated 'with exceeding quickness' and 'remarkable readiness' (*Connacht Tribune*, 23 March 1918, 8).

The fact that interpreters were appointed on a county basis, to work at the assizes or at quarter sessions, may have meant that their loyalty lay with the court. They would probably be reluctant to challenge anything said by other participants and would most likely do whatever they were asked to do. Hale (2008: 102) outlined five possible roles for interpreters. If we adapt this to the Irish situation, the possibilities are (1) the interpreter helps the Irish speaker present his case in the best possible way; (2) the interpreter helps the court, and serves as an institutional assistant; (3) the interpreter is a gatekeeper, and decides what should or should not be uttered; (4) the interpreter is impartial, and helps both parties to ensure that effective communication can take place; (5) the interpreter is impartial and other participants are responsible for what they say. Most court interpreters for Irish probably fell into category (2) and were institutional assistants to the courts. Some may, like Thackeray's court clerk cum interpreter, have fallen into category (3). It is unlikely that the interpreters felt they were there to help the Irish speaker present his case in the best possible way although there are some examples of this, as in the case of John Hernan mentioned earlier in this section.



### **Omissions, Additions and the Creation of Confusion**

Codes of ethics for interpreters recommend that they should be faithful to what was said and not omit or add information. Burke tells a story about John Kirwan, solicitor and Irish interpreter at Galway assizes in 1831. When the witness saw Judge Fletcher he said in Irish ‘Dar mo chianseois, is an fear is granach dha chonnairch me ariamh’. The judge asked Kirwan to interpret what had just been said but he replied ‘Oh, my lord, I could not tell your lordship.’ When the judge threatened to send Kirwan to jail for a month, presumably for contempt of court, he agreed to interpret the sentence and said ‘that, upon my conscience, you are the ugliest man that ever I saw’ a sentence that was greeted by ‘shouts of laughter’. Anyone in the court who was bilingual probably expected Kirwan to invent something else and the reaction was one of surprise that he would actually interpret the sentence accurately (1885: 186-187).

A very similar story was told about Baron Dowse (1824-1890) and repeated a number of times in different newspapers. The first newspaper record in the current corpus that includes the story is *Southern Star*, 16 November 1895, 7, and it is repeated in the twentieth century: *Meath Chronicle*, 19 December 1903; *Donegal News* and *Ulster Herald*, 26 December 1925; and *Ulster Herald*, 20 October 1962:

Baron Dowse once was judge where the accused could understand only Irish, and an interpreter was accordingly sworn. The prisoner said something to the interpreter, and the latter replied.

“What does he say?” demanded the judge.

“Nothing, my lord.”

“How dare you say that, when we all heard him? Come, sir, what was it?”

“My lord”, said the interpreter, beginning to tremble, “it had nothing to do with the case.”

“If you don’t answer I’ll commit you sir. Now what did he say?”

“Well, my Lord, you’ll excuse me, but he said “Who’s that ould woman with the red bed curtain round her, sitting up there?”

At which the court roared.

“And what did you say?” asked the baron, looking a little uncomfortable.

“I said, ‘Whist, ye spalpeen! That’s the old boy that’s going to hang yes!’” (*Southern Star*, 16 November 1895, 7).

An abridged version of the story was:

It has been stated that a Mayo prisoner in the dock once said to an interpreter: "Oh, mavrone, will you tell me who is the ould woman above rolled up in the ould blankets?" "Hould your whist", said the interpreter, "That's the judge, and the same chap would hang you while you'd be saying Jack Robinson" (*Nenagh News*, 23 November 1907, 3)

In this version, the dilemma of the interpreter, who has to decide whether or not to interpret what has been said, is lost.

There is little evidence in the newspapers of 'wily' interpreters (Cronin 2006: 91) but this is to be expected, as any such allegations could have been found libellous. The Earl of Mayo reportedly said that the interpreters used to interpret as they chose and gave an example of two Irish-speaking litigants who needed an interpreter:

After the case one said "What did you give the interpreter?" "I gave him £5" was the reply. The other man said "I gave him £10." "That pretty well settled the matter" observed the Earl. (*Irish Independent*, 7 February 1924, 7)

McArdle recounts a story about an old man who waylaid Daniel O'Connell and offered him ten guineas to act for his son who was 'on trial for his life'. O'Connell could not take the case but recommended another lawyer.

When the court rose and O'Connell left the building, he saw across the road a delighted crowd around a handsome youth. Most prominent in the crowd was the old man he had met that morning. The great advocate strode up and held out his hand.  
'The boy is free?'  
'He is, thank God''  
'Well, you took my advice then and gave your ten guineas to James Lyons'  
'Begor no! I didn't waste it – I gave it to the interpreter.' (McArdle 1995: 94-5)

Ten guineas would have been over a year's salary for an interpreter at assizes at that time, and if this was indeed the amount, it would certainly be extremely tempting. It is also possible that the amount has been exaggerated over time to make for an even better story. Cronin (2003) moots two possible reasons for the identification of court interpreters as interventionist or manipulative and suggests

two possible reasons; language and power, and a conflict between literacy and orality. Interpreters could ‘tilt the balance in favour of those who were disadvantaged’ and were ‘potentially power brokers for the powerless’ (133).

A similar story, about an interpreter in the west of Ireland, and told by Lord Morris of Killanin, rings true:

O’Gorman, for such was the litigant’s name, had not the “wan-wan” (£1 1s) essential to fee junior counsel in those parts, nor the six-and-eightpence necessary to secure the services of a “mountainy attorney”; but he had half-a-crown and a small bottle of potheen, and with both he invested in an interpreter. The “interpreter” is a very important functionary in parts of rural Ireland, and on the occasion of the anecdote he succeeded so well in confusing the issues that the plaintiff lost his case, and the defendant, his client O’Gorman, won what is popularly known as a D.O.M.<sup>22</sup>, with costs against the plaintiff. (*New Irish Jurist and Local Government Review* 1901: 69)

Law Commissioner MacQueen had foreseen such problems many years earlier:

I have cited, as an example, an honest but ignorant interpreter, as regards business; but if you choose to imagine, what is more than possible, that an interpreter has a bias that one of the parties employed and prejudiced him beforehand, it would be easy to figure translations of the evidence scarcely imputable to accident. (*Fourth Report by Her Majesty’s Law Commissioners, Scotland* 1839: 36 House of Commons Parliamentary Papers)

It is impossible to know if such manipulation happened on a wide scale but the potential was certainly there.

## Conclusion

Interpreters for Irish in the nineteenth and early nineteenth century were exclusively male, bilingual, had some education, and had the contacts or social capital to be able to canvass for and obtain appointments. In counties that became bilingual, their pay could be reduced if their services were not required very often or their posts could be abolished. They were not entitled to a pension. Some had other jobs in or outside the courts.

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<sup>22</sup> D.O.M =[case] dismissed on its merits (Healy 1939: 136)

While there is no evidence of a code of ethics for court interpreters for Irish, newspaper reports from the late eighteenth and early nineteenth centuries indicate a high level of awareness of ethical issues.

## Conclusion

Internationally, very little historical research has been carried out on interpreting; Santoyo wrote of a 'notorious empty space' (2006: 13). There are added difficulties in Ireland because many records were destroyed in 1922. However, despite these difficulties, the current research demonstrates that court interpreting in Ireland has left traces which have permitted the compilation of a detailed picture of provision for Irish from 1801 to 1922. A substantial quantity of data have been located and cross-referenced, including newspapers, legislation, grand jury presentments, registered papers and country letter books from the Chief Secretary's Office in Dublin Castle, to explore how court interpreting was organised in Ireland.

This thesis makes a significant contribution to the field of interpreting studies, to our understanding of the time from a historical point of view, and it also provides new information on attitudes to Irish speakers and to the Irish language. A large proportion of the current research is original work. This study is the first time that Pierre Bourdieu's concepts of field, habitus, capital and symbolic power have been used as a theoretical framework in historical research on interpreting. It is also the first time that contemporaneous digitised national and local newspaper accounts have been used to inform this type of historical research on interpreting. The current study contains a high proportion of original work: Chapter 4 contains new information on attitudes to Irish speakers, the interpreter's oath, and Irish language advocacy; Chapter 5 on the statutory framework for the provision of salaried court interpreters; Chapter 6 on the decline in interpreter provision and Chapter 7 on interpreters and ethical issues.

### Research Questions revisited

The three research questions posed in Chapter One have been answered:

#### **1. How was court interpreting for Irish organised?**

Irish speakers in the nineteenth century would probably have argued that they should have had access to a justice system where they could use their own language. While this seems to have been the case in the manor courts, it was not so

elsewhere and they were dependent on interpreters. In effect, they were treated like foreigners in their own country.

Writing about court interpreters for Irish, Garnham argues that 'This post was neither required nor regulated by statute, but must have evolved through necessity at an early stage' (1996: 93). While it is probable that Garnham is correct in arguing that the post 'evolved through necessity', for the grand juries to agree to pay salaries to court interpreters, there must have been a law in place. If not, they would not have taken on this burden. Even grand jury presentments for the eradication of vermin (mainly otters, but also foxes, ravens, magpies, kites, hawks, cormorants) existed because they were provided for by law.

The provision of salaried county interpreters for the assizes from 1774 and for quarter sessions from 1837, was innovative and was not replicated in Wales and Scotland. The need for interpreters was recognised by law and payment was organised and made locally by the grand juries; these were very positive aspects of provision. However, the implementation of the system meant that it was unlikely to survive. Even though interpreters were in court, and were being paid a salary, many judges insisted on using English and reserved use of interpreters to cases involving monolingual Irish speakers. Also, the fact that the laws specified 'a sum not exceeding' rather than a flat salary, meant that the rates could be reduced and in some cases stopped completely over time as more people became bilingual. In addition, the control of payments by the grand juries meant that there may not have been much sympathy for the needs and wishes of Irish speakers.

Another negative aspect is the appointment process, which appears to have been based on personal recommendations and petitions. While there were tests for other court officers, there was no testing of interpreters in their languages or in their ability to interpret. As there was no training, interpreters had to learn on the job and we know very little about their levels of competency.

Morris finds from her study of law reports that 'As long as the courts suspected the need for an interpreter, whether for a deaf person or a foreigner, they reportedly did not hesitate to try to find somebody suitable' (2000: 258). While the courts in Ireland do appear to have been willing to provide interpreters to defendants and

witnesses who had no English, they were suspicious of anyone who had even some English.

The most important finding is that, unlike at assizes and quarter sessions, there were no salaried interpreters at petty sessions, the lowest courts, which, as with all lower courts, were the busiest. Garnham argues that 'the fact that interpreters were provided at all is a clear indication that the legal process was not designed to be exclusive' (1996: 94). However, the absence of salaried court interpreters in the petty sessions, and the use of volunteers there meant that access to justice for Irish-speakers could in practice be very difficult. Interpreters who worked at petty sessions were paid locally by the court and, in some documented cases, on application to the Chief Secretary's Office at Dublin Castle. Interpreters were not always available in the higher courts and lawyers, including Daniel O'Connell and Isaac Butt, were asked to interpret.

## **2. How did interpreter provision change over the nineteenth century?**

In 1807, 28 grand juries paid interpreters £10 per annum for working at assizes. In 1837, a new law increased interpreter provision and allowed assistant barristers to appoint and remove interpreters who worked at quarter sessions and were paid £30 a year. In 1843, the number of grand juries that paid salaries to interpreters had been reduced to 18. Garnham found that court interpreters for Irish 'were continually employed until the mid-nineteenth century' (1996: 93) but as we have seen, there is evidence that they were employed in nine counties as late as 1898, although in two of these, Tipperary and Sligo, it is likely that payment was still being made more out of charity than for actual work. The provision of interpreters in seven counties (Clare, Cork, Donegal, Galway, Kerry, Mayo and Waterford) continued up to 1921 but after some years was discontinued by the new regime. Court interpreter provision declined more or less in line with the decline in the Irish language.

## **3. How were court interpreters recruited and remunerated?**

Salaried interpreters were employed by the grand juries to work in the courts. They probably were keen to keep their posts and most likely did not wish to offend

anyone, particularly not the judiciary. However, the rates of pay were fixed by law and many interpreters needed other sources of income. Supplementary work could include transmitting prisoners, providing fire and candles to the court, even sweeping the floor. Some interpreters were court clerks and at least one, John Kirwan, was a solicitor and one, Michael McNamara, a barrister. However, it is likely that they held these posts first and were appointed as interpreters subsequently. There was no superannuation for interpreters and many had to continue working well into their seventies and eighties.

While there is little evidence of official interest in court interpreting in Ireland, Lieutenant Colonel Sir John Malcolm provided well-informed, reflective evidence to a select committee in 1817. Meanwhile, in Natal, interpreters were paid far higher rates than court interpreters for Irish. There is a different attitude to Ireland and its needs.

The current research led to a number of ancillary questions which have also been answered. For example, the letter to the Editor from O'M raised the issue of access to court interpreters in Wales (*Nation*, 12 October 1844, 12). Research on Hansard suggested that, unlike in Ireland, there were no salaried court interpreters there. There was very little information on the situation in Scotland but the information that is available suggests that there was no system of salaried court interpreters there either.

Thackeray's description of a court clerk who also acted as interpreter prompted the question: Were court clerks interpreters? The answer is yes, in some cases. While a willingness to act as interpreter was not a criterion for their work, it seems that some court clerks at petty sessions acted as interpreters. The same may well have happened at quarter sessions and assizes where there were no longer salaried court interpreters and no interpreter was available. However, most salaried court interpreters were not court clerks.

The question of whether interpreters, the courts and society at large were aware of ethical issues in interpreting was also examined. It was found that there was a considerable amount of evidence from newspaper and other sources that showed that there was of awareness of the issues in Ireland but also in relation to interpreters in India and Spain.



There are parallels between interpreter provision for Irish in the nineteenth century and provision in 2012. There is still no test for interpreters and very little training. Pay is poor and interpreters find it difficult or impossible to make a living solely from interpreting. Just as interpreters in the nineteenth century needed another source of income, so do present day interpreters. Interpreters are not always provided to defendants with limited English proficiency and some judges are reluctant to certify for an interpreter where defendants have lived in the country for some time. Judges have no training or guidelines in how to assess if a defendant has enough English to be able to understand the proceedings (Phelan 2011).

### **Resources Used**

Bowen *et al.* (1995: 245) suggest that research on interpreting could be informed by letters, diaries, memoirs, and biographies of interpreters. Baigorri-Jalón (2006: 107) recommends that historical research on court interpreting should be based on historical literature about the courts, court archives and records, testimonies by interpreters, administration and users and should incorporate cross-reference of data. Badassy (2002: 56) located a complaint dated 1908 about an interpreter in the archives in Natal.

In the current research, no complaints about interpreters, memoirs or diaries were available. However, letters to and from the Chief Secretary's Office were located, which provided supplementary information on pay, as well as the curious case of Simon Conway, an interpreter in Mayo who was earning £60 a year in 1822. Administrative records in the form of grand jury books of presentments proved very useful. However, a key component of the research was the documentation prepared by the grand juries for the House of Commons for three key points in the nineteenth century, 1807, 1841-3 and 1898. This information proved invaluable in compiling a complete picture of where and when interpreters were provided. It is possible that Ireland is in a unique position in having these records. If laws had not been passed providing for court interpreters to be paid a salary, the grand juries would not have had the function of organising payments and records would not

have survived. Similarly, had interpreters been paid by the courts, records would probably not have survived. While the House of Commons papers supplied the key financial data by county, additional research on presentments resulted in information about how long some interpreters worked in the courts. For example, Stephen Nealus worked as court interpreter for Irish in Tyrone for at least 33 years from 1826 to 1859. Some court interpreters had other roles in the courts; for example, from 1759 Owen McConigall received an additional £1 each year 'for his sweeping and taking care of the county house and Jury room' in Donegal.

The information on payments was supplemented by newspaper reports which helped provide a more complete picture of interpreter provision and of attitudes to the Irish language with some judges doing their best to ensure that interpreters were provided while others were apparently more reluctant to provide interpreters.

Bourdieu's concepts, particularly field and capital, but also habitus and symbolic power and violence, framed the study and helped explain why and how the fields of power and law interacted as they did. Ireland was governed from England, with Members of Parliament sitting in Westminster. At local level, it was governed from Dublin Castle with local administration based with the grand juries. The economic capital of all these social agents was connected to their social and cultural capital. Their interests lay in preserving these, in reproducing themselves. In contrast, many Irish speakers who appeared in court were portrayed in newspaper reports as poor, old, poorly dressed, and speaking unintelligibly. The English language was linguistic capital and the administrative, legal and educational system operated through this language to the exclusion of people who did not speak it. In the case of Ireland in the nineteenth century, the dominated were ultimately obliged to adopt the language of the dominant. They had to do this to access education and work opportunities in Ireland and abroad.

### **Limitations of the Study**

It is possible that the reports of court interpreters that were published in nineteenth century newspapers are not representative of the average, everyday type of case. Perhaps journalistic interest in courtroom drama or an amusing incident meant there was a greater chance of the type of article included in the newspaper corpus in the current research appearing. Court reporters probably attended more cases than actually appeared in newspapers; there is a selection process attached to the choice of cases to attend, and in the cases that are published. Something as mundane as the amount of space available can be a criterion.

The research has thrown up some questions that proved impossible to answer because there was no information available. More information on the reasons for continued interpreter provision in Sligo in 1898 would be of interest. Another question is why did the County Dublin Grand Jury Act 1844 include a provision for an interpreter's salary? This is surprising because no record of interpreter provision was found apart of course from the Maamtrasna and Lough Mask cases moved from Galway to Dublin in 1882. It should be possible to answer another question when records become available in Dundalk: Were court interpreters provided in Louth in 1807? And if so, until when?

### **Future Research**

As more newspapers and archives become available electronically, more information on court interpreters for Irish may become available in the future. Grand jury minute books and county council minutes may include information on court interpreting, the appointment of new interpreters, and the need for interpreters. The volume of information in terms of time and quantity that would need to be sifted through is enormous but if this information were digitised, the process of finding what is relevant would be greatly facilitated. More background information on discussion around interpreter provision would be useful and some may be contained in local newspaper reports on grand jury and county council meetings. The finding in the current research that legislation provided for

interpreters to be made available at elections was unexpected and could be worth pursuing.

An obvious follow-on from the current research is interpreter provision for Irish post 1922; the Irish Free State was set up at the end of that year, and the Constitutions of 1922 and 1937 changed the status of the Irish language. The Constitution gave Irish speakers the right to use Irish in court (and elsewhere) even if they were proficient in English. Interpreter provision was discussed at Galway County Council in November 1922 where it was suggested that there would be no need for interpreters in the future, as Irish-speaking judges would be appointed and 'The very existence of these interpreters is a reflection on us'. Dr Walsh expressed the hope that in the future interpreters would be needed to work from Irish to English rather than from English to Irish (*Connacht Tribune*, 11 November 1922, 6). The appointment of Irish speaking Circuit and District Court judges in Irish-speaking areas 'as far as may be practicable' was to become government policy from 1924. Ambivalent attitudes to the language prevailed and the provision of salaried interpreters was ended.

The provision of interpreters for foreigners who did not speak English is also an interesting topic. A surprising variety of languages was required and it must have been difficult to source interpreters. Another potential area of interest is interpreting for the British Empire; there are records of student interpreters from Ireland who were sent abroad to learn Japanese or Chinese.

The type of historical resources used in this study, i.e. newspapers, laws, records of payments and administrative records could be used to research the provision of court interpreters for other minority or non-official languages in other jurisdictions. For example, it would be interesting to compare the provision of Irish language court interpreters in Ireland with the provision of Welsh interpreters in Wales, and Gaelic interpreters in Scotland in terms of laws, pay and status. Similarly, it would be interesting to know more about court interpreting for languages like Galician, Catalan and Basque in Spain and Breton in France.

## **Conclusion**

The current research has uncovered a substantial quantity of new data on court interpreting for Irish from 1801 to 1922. It includes new information on interpreter provision, on the Irish language and on attitudes to monolingual and bilingual speakers. It has analysed this data to build up a comprehensive picture of the system in place in the late eighteenth, nineteenth and early twentieth centuries. The picture presented is substantially different from one would expect in that provision, in terms of time and place, was much more extensive than previously thought.

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[Newspapers established before 1922 appear in bold. The dates indicate the years that were available during this research]

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2. [Butte Independent 1910-1930]
3. City Tribune 1984-2011
4. Connacht Sentinel 1927-2011
5. **Connacht Tribune 1909-2011**
6. **Connaught Telegraph 1900-1974**
7. Donegal News 1980-2011
8. **Finn's Leinster Journal 1767-1828**
9. **Freeman's Journal 1763-1924**
10. Gaelic Life 2011
11. Irish Farmers Journal 1957-1998
12. **Irish Independent 1905-2011**
13. Irish Press 1931-1995
14. Kerryman 1950-2011
15. **Kildare Observer 1880-1935**
16. Leitrim Observer 1999-2007
17. **Meath Chronicle 1897-2011**
18. **Munster Express 1908-2011**
19. **Nation 1842-1897**
20. **Nenagh Guardian 1838-2011**
21. **Nenagh News 1895-1924**
22. **Southern Star 1892-2011**
23. Strabane Chronicle 2011
24. **Sunday Independent 1906-2011**



- 25. **Tuam Herald 1837-2000**
- 26. Tyrone Herald 2011
- 27. **Ulster Herald 1901-**
- 28. **Westmeath Examiner 1882-2011**