

The Barbarian and The Cart: Law, Citizenship and Linguistic Identity in Irish Macaronic Verse

*'I am a barbarian in this place because I am not understood by anyone'*¹

Abstract: This article focuses on the Irish language macaronic song '*An Trucailín Donn*' (ATD) as a piece that is representative of the broader Irish/English macaronic tradition in exposing the identity conflicts that minority language speakers must internalise to resolve themselves as citizens. The article focuses, in particular, on how such songs expose the dilemma faced by Irish language speakers – to either constitute themselves as Anglophone citizens within the institutional structures of the State, or Irish speaking citizens outside it.

Keywords: macaronic verse, multi-level citizenship, language rights, Irish, minority languages.

Introduction

As an island and a national community Ireland has experienced a contested, contradictory and control centred relationship with language. This is particularly so in circumstances in which particular languages, and those who spoke them, have been highly politicised. As part of this history of politicisation, language has acted as a mechanism for exclusion from power during colonial rule and as a symbol of national autonomy and political opposition.

While estimates of the length of time for which the Irish language has been spoken on the island of Ireland vary² it is established that, at the time of the Norman invasion of 1169, the citizenry were almost exclusively Irish speaking monoglots with pockets of bilingualism in areas which had absorbed smaller linguistic communities over the preceding centuries.³

¹ Brian Friel, *Translations* (Faber (Paperbacks) 1995), 85.

² Not least as a result of the largely oral tradition of the island which produced little by way of written records, see, on the earliest recorded form of 'primitive Irish' see Lloyd Laing, *The Archaeology of Celtic Britain and Ireland: c.AD 400 – 1200* (Cambridge University press 2006), 11-12.

³ Aidan Doyle, *A History of the Irish Language: From the Norman Invasion to Independence* (Oxford University Press 2015), 11 *et seq.*

Following the invasion, this pattern endured with the dominant, Irish speaking community, absorbing newer French and English-speaking linguistic groups.

Repeated attempts were made to reverse this linguistic trend by successive English monarchs and their agents, both through prohibitions on the use of the Irish language and mandates requiring the use of English language and custom.⁴ What seems particularly exceptional now is the negligible short-term impacts on the Irish language which these efforts occasioned. This is particularly so in light of the loss of indigenous Gaelic leadership following the Battle of Kinsale in 1607,⁵ the subsequent Ulster (1609) and Cromwellian (1642)⁶ dispossessions of Irish landholders and the 'plantation' of Irish-speaking strongholds with English speaking settlers and the Penal Laws in the eighteenth century which viewed the identities of Irish speaker and protected English citizen as mutually antagonistic if not outrightly exclusive.⁷

While these events saw successive displacements of Irish speaking populations westwards and alienated Irish speakers from centres of political power and the institutions and forums of formal citizenship, they lacked an immediately observable impact on the popular endurance of the Irish language. Despite this, in the longer term, it was the cumulative impact of these events which underwrote the Irish language's decline.

By the early decades of the 1800s the geographic displacement and economic and political dispossession caused by these events had resulted in an Irish-speaking population which, while both vibrant and large⁸ was also politically marginalised and economically precarious - largely dependent on subsistence agriculture, disenfranchised and without ownership interests in land.⁹ The Great Famine of 1845-1849, disproportionately impacted this population precipitating an initially steep and subsequently inexorable decline which neither

⁴ See, Katherine Simms, 'Gaelicisation' in Ailbhe MacShamhráin and James Moynes Seán Duffy (ed), *Medieval Ireland: An Encyclopedia* (1st edn, Routledge 2005), 191 and the discussion of the Statutes of Kilkenny in part 2 below.

⁵ John McCavitt, *The Flight of the Earls* (Gill & MacMillan 2002).

⁶ Pádraig Lenihan, *Consolidating Conquest, Ireland 1603-1727* (Routledge 2007).

⁷ Roy Foster, *Modern Ireland: 1600 -1972* (Penguin 1988), 153-225.

⁸ Estimates put the number of the Irish speaking population in Ireland before the Great Famine at roughly 3-4 million speakers though this makes little allowance for linguistic communities competent in, but who did not consider themselves to be, Irish speaking. See, in particular the census recorded declines marked by Brian Ó'Cuív, *Irish Dialects and Irish Speaking Districts* (Dublin Institute for Advanced Studies 1951).

⁹ Gearóid Ó Tuathaigh, *I mBéal an Bháis: The Great Famine and the Language Shift in Nineteenth Century Ireland* (Quinnipiac University Press 2015).

attempts at cultural revitalisation¹⁰ nor the elevation of the Irish language to the status of “official” national language post-Independence¹¹ were successful in halting.¹²

In this context, the relationship between citizenship and language in Ireland has, and continues to, labour under the pressure of historical presumptions about the mutual exclusivity of linguistic capacity and citizenship, the enduring geographic and political isolation of Irish speaking communities and the contemporaneous pressures imposed by a legal system which affords high symbolic but little practical protection to the linguistic rights of citizens.¹³

The historical cross definition of linguistic capacity and citizenship in Ireland and the resulting tensions in Irish society between both statuses have found expression in many works of Irish literature. Brian Friel’s *Translations* remains perhaps the most cuttingly insightful and widely read of these works. First staged in 1980, the play is set in 1833, in the fictional *Baile Beag*¹⁴ an isolated town in Co. Donegal, as Ireland is being mapped by the English army for the Ordnance Survey.¹⁵

The setting is pre-famine Ireland, a country which remains under English rule, with a growing population of subsistence tenant farmers who are excluded from political participation by virtue of their lack of rateable property above the required threshold.¹⁶ The Irish language,

¹⁰ Caitríóna Ó Torna, *Cruthú na Gaeltachta 1893-1922* (Cois Life 2005), 25-45.

¹¹ See generally, Daithí Mac Cárthaigh, *An Ghaeilge sa Dlí* (Leabhar Breac 2020).

¹² See, on the declining Irish language population following independence, Coimisiún na Gaeltachta, *Coimisiún na Gaeltachta Report, 1925*; John Walsh, *Díchoimisiúnú Teanga: Coimisiún na Gaeltachta 1926* (Cois Life 2002). On the decline in the interim years see, Reg Hindley, *The Death of the Irish Language: A Qualified Obituary* (Routledge 1990); Conchúr Ó Giollagáin, 'From revivalist to undertaker: New developments in official policies and attitudes to Ireland's 'First Language'' (2014) 38 *Language Problems and Language Planning* 101; Conchúr Ó Giollagáin, *An Update of the Comprehensive Linguistic Study of the Use of Irish in the Gaeltacht: 2006-2011*, (2015).

¹³ In a modern context the issue continues to be a live one. The status of Irish in Northern Ireland, for example, remains sufficiently contested to have played a not insignificant role in the breakdown of the Stormont government. See, Gerry Moriarty, 'Stormont talks: as negotiations start parties speaking same positive language' *The Irish Times* 16 December 2019.

¹⁴ Meaning 'Little town,' and which is later Anglicised to 'Ballybeg.'

¹⁵ It should be noted that in this respect Friel conflates the topological surveys carried out by the Royal Engineers in the nineteenth century to one single enterprise. See, Colin Meissner, 'Words Between Worlds: The Irish Language, the English Army and the Violence of Translation in Brian Friel's *Translations*' (1992) 28 *Colby Quarterly* 164.

¹⁶ On the impacts of the Act of Union and the selective enfranchisement of Irish Catholics see, JG Simms, 'Irish Catholics and the Parliamentary Franchise 1692-1728' (1960) 12 *Irish Historical Studies* 28; E M

while tolerated, is excluded from the curriculum of the burgeoning system of national schools and its speakers are regarded with suspicion, if not simple hostility by the institutions of State, including by contemporaneous politicians like Daniel O'Connell who viewed allegiance to the Irish language as both economically and politically disadvantageous.¹⁷

Under the attention of the soldiers mapping the country in *'Translations'* Irish placenames like *Poll na gCaorach* (the hole of the sheep) are not translated but 'Anglicised' resulting in the phonetic gibberish of names like 'Poolkerry' - alienated from their context and linguistic origin. These mistranslations and miscommunications characterise not only the project of mapping around which the play turns but also the interactions between the characters as they struggle to convey themselves to those speaking their own, and those seeking to impose another, language.¹⁸

The play shows the history of the Irish language as one of sublimation, silenced voices, and a struggle for recognition that is strongly aligned to a desire to be heard as a citizen - and to be heard in one's native language.¹⁹ *'Translations'* is, in the abstract,²⁰ the ultimate macaronic piece of Irish prose - weaving the voices of Irish and English-speaking characters seamlessly into its text and its characters' lives. Yet on close inspection the play is not, in fact, macaronic at all. Although the reader understands the events and dialogue of the piece to be taking place through Irish there is, in fact, no Irish language dialogue in the play.

In this respect *'Translations'* presents the reader with the dilemma of the Irish speaker - to experience all languages as their own but to be forced to use the English language as their means of expression as part of a context in which comprehension is a-lingual but the language of participation, and the language of citizenship, is specifically policed and delineated in Anglophonic terms.

Johnston-Liik, *History of the Irish Parliament 1692-1800*, vol 2 (Commons, Constituencies and Statutes, Ulster Historical Foundation 2007).

¹⁷ Nicholas M Wolf, *An Irish Speaking Island: State, Religion, Community and the Linguistic Landscape in Ireland 1770-1870* (University of Wisconsin Press 2014), 23 *et seq.*

¹⁸ On the complications raised by expressed love of foreignness in the case of Lieutenant Yolland see Lilith Acadia, 'Conquering Love' (2020) 26 *Common Knowledge* 407.

¹⁹ Maureen SG Hawkins, 'We Must Learn Where We Live: Language, Identity and the Colonial Condition in Brian Friel's *Translations*' (2003) 38 *Éire* 23.

²⁰ *Ibid*, 24.

This article is specifically concerned with works that, like *'Translations,'* compel the reader to examine the relationship between the speaker and the State²¹ and the way citizenship and language can operate as practically antagonistic (even as they can also be viewed as mutually reinforcing for political purposes). In particular, the article examines the use of Irish/English language macaronic verse as a means of understanding how Irish speakers have been engaged, under both Ireland's colonial and modern State, in a struggle to constitute themselves as citizens. In undertaking this examination, the article focuses its analysis in particular on the macaronic song *'An Trucailín Donn'* (ATD) composed by Niall Mac Giolla Bhríde in 1906.

Part One: An Trucailín Donn and Macaronic Verse in Ireland

In 1905 the poet, language activist and farmer Niall Mac Giolla Bhríde was fined for failing to comply with the statutory requirement to display his name and address in legible script on the side of his cart.²² In fact Mac Giolla Bhríde's name was clearly printed on the cart, which read *'Niall MacGiolla Bhrig'óde, Fiod'ó Mór,'* however, the script was printed in the traditional Irish rather than standardised English alphabet – a rendering that resulted in his name being deemed 'illegible' in the mind of the police constable (Hugh McGovern) who stopped his cart.²³

The legal and linguistic context to the constable's stop and Mac Giolla Bhríde's subsequent prosecution are significant. The eighteenth century had been a period of increasing bilingualism and linguistic mixing in Ireland.²⁴ While the famine of 1845-1849 had resulted in a sharp decline in the number of Irish language speakers²⁵ by 1901 census returns indicate that roughly 640,000 people spoke the Irish language of which number, some 20,000 were Irish monoglots.²⁶ By the time of Niall Mac Giolla Bhríde's case, the Irish language was still in daily, and in portions of the country, widespread, use but was also used alongside and mixed with

²¹ Within the context of this piece 'the State' refers to the institutions of State inclusive of executive, legislature and judiciary whether lead and legitimated by English and later Irish power.

²² Imposed by Act 14 & 15 Vict., c.92, s.12.

²³ Ruairí Ó hAnluain, *Tuairiscí Speisialta 1980-1998* (Tuairiscí Éireann/ The Irish Reports, 1999).

²⁴ ÓCuív, *Irish Dialects and Irish Speaking Districts*, I; Wolf, *An Irish Speaking Island: State, Religion, Community and the Linguistic Landscape in Ireland 1770-1870*, 83.

²⁵ ÓCuív, *Irish Dialects and Irish Speaking Districts*, 26. ÓCuív and others note that this was likely an under-estimation as the question regarding language was frequently overlooked due to its positioning on the census return.

²⁶ ÓCuív postulates that this is an over-estimation caused, in part by an enthusiasm for Irish brought about by the Gaelic Revival which not matched by practical use, see *ibid*, 29.

English to an extent which had not been previously in evidence. Despite the continued use of the Irish language it had little official recognition, and was effectively excluded from official and institutional contexts within the State.²⁷

In recognition of this lack of status, beginning in 1904 the Gaelic League had begun an unofficial campaign to push for the use of the Irish language in all aspects of daily life (including in schooling²⁸) and in individual interactions with the State.²⁹ The aim of the campaign was to create a context in which the use of the Irish language in daily and official life was so widespread that the State, while still under English rule, would be required to accept the Irish language as a *de facto* official language. This campaign included the use of Irish names and addresses on carts like Mac Giolla Bhríde's, a visible manifestation of the Anglophonic preference of the State.

Against this background, Mac Giolla Bhríde declined to pay the fine imposed for his "breach" of the legislation, arguing that his name was legibly displayed, albeit in Irish script.³⁰ He was subsequently brought before the Court of Petty Session in Dunfanaghy, County Donegal where he put these arguments to the Court and lost his case but was granted leave to appeal the decision to the High Court in Dublin.³¹ In the resulting High Court case of *M'Bride v*

²⁷ Limited exceptions to this status such as the provision of interpreters for legal matters see, Mary Phelan, *Irish Speakers, Interpreters and the Courts 1754-1921* (Four Courts Press 2019) and the passage of the Intermediate Education (Ireland) Amendment Act of 1900 which permitted Irish to be included on the syllabus of schools had questionable practical impact on Irish language speakers' daily lives or experience of the State. It is notable that the major controversy at the beginning of the twentieth century, in respect of Irish and the Intermediate Education Act was whether the language was fit to be taught at all. The Fellows of Trinity College most notably John Pentland Mahaffy then Professor of Ancient History at the college argued that no provision should be made to permit Irish to be taught in school and that the language was 'unstandardised,' 'a foolish waste of time supported only by foolish sentimentalists and wild eyed separatists' and that the language had produced no literature which was not 'religious, silly or indecent' Janet Egleson Dunleavy and Gareth W Dunleavy, *Douglas Hyde: A Maker of Modern Ireland* (University of California Press 1991).

²⁸ Dunleavy, *Douglas Hyde: A Maker of Modern Ireland*, 227 et seq.

²⁹ See, *ibid*, 235 et seq.

³⁰ It may be that non-payment was encouraged by Conradh na Gaeilge, in Dublin, as noted at <https://www.ainm.ie/Bio.aspx?ID=32> (accessed 29 January 2021), however, it is clear from the point of view of Douglas de hÍde that this was not a test case. In fact, on leaving for the United States to raise funds for the Irish language revival the same year de hÍde had left explicit instructions that no such case was to be brought, having been warned by counsel that Irish was not yet sufficiently widely used to found a successful outcome. See, hAnluain, *Tuairiscí Speisialta 1980-1998*; Dunleavy, *Douglas Hyde: A Maker of Modern Ireland*, 242-243.

³¹ On the meaning and procedure of appeals by way of case stated see, Paul McCutcheon Raymond Byrne, Claire Bruton and Gerard Coffey, *Byrne and McCutcheon on the Irish Legal System* (6th edn, Bloomsbury Professional 2014), [7.14].

M'Govern,³² (Mac Giolla Bhríde represented in the case name by the anglicised rendering of his name - *M'Bride*) the justices affirmed the decision of the lower court³³ and unanimously agreed that the statute's requirement for 'legible letters'³⁴ was to be read as meaning letters rendered in English script and that, for the purposes of the law, Irish lettering was 'illegible.'

Mac Ghiolla Bhríde who was known, both prior to and following the case, for his composition of popular songs and poems wrote the macaronic song '*ATD*' as a response not only to this experience but, as section four examines, as a piece which also communicated his community's resistance to the law's finding that his native language was 'illegible.'

The resulting song, *ATD*, is a typical exemplar of macaronic form combining a narrative told by an omniscient narrator with dialogue from various characters delivered in a mix of Irish and English over the course of six verses. The macaronic aspects of the piece are used (as section four examines in greater detail) in a manner that highlights the divisions between the linguistic communities who play out the events of the song. Thus, the protagonist's speech and points of view are consistently rendered in the Irish language as is the narrator's account, while the voice of the State (the Judge) is strident in its commitment to English.

More than this, however, the song's structure puts these voices, and languages in competition with each other, forcing the Irish and English speakers into dialogue without regard to the competences of one speaker to understand the speech of the other. In doing so, the piece reveals the iniquities which underly the protagonist's dilemma. While the Judge is monolingually English, and entitled to be so, the protagonist is not permitted to constitute himself as a purely Irish speaking citizen, either by necessity or choice – and is forced to identify himself publicly with an English sign on his cart, and to answer in English when questioned by the State.

This iniquity, and the conspiracy of the State in perpetuating it, is given particular articulation in the song's fifth verse when the protagonist is brought before the Judge '*oilte ar an gcam*.' While the reference to '*oilte*' (proficient, specialised or trained) may be read as an allusion to

³² *M'Bride v M'Govern* [1906] 2 KB 181.

³³ Though they commended the performance of Mac Giolla Bhríde's barrister (a young Pádraig Pearse appearing in his first, and only, case). Interestingly, Pearse had been instructed not to take such a case by Douglás De hÍde. See, hAnluain, *Tuairiscí Speisialta 1980-1998*, ii.

³⁴ In accordance with s.12Brendan Van Alsenoy² Günes, Acar¹, Frank Piessens³, Claudia Diaz¹, Bart Preneel¹, *Facebook Tracking Through Social Plug-ins*) of the Summary Jurisdiction (Ireland) Act 1851.

the training of the judge presiding in the case (referred to as a 'cam' or 'con') the precise choice of words is, in fact, more subversive. The phrase '*oilte ar an gcam*' in this context may be equally, if more subjectively, translated as referring to the Judge's participation in the conspiracy of insisting on Anglophonic monolingualism while simultaneously refusing to admit for, or accommodate the existence of, an equivalent, monolingual Irish community.

In this context, the lines '*Ós comhair an bhreithimh bhí oilte ar an gcam*' brings the protagonist before the Judge, as a representative of a State who is specialised in the art of the con which demands the compliance of Irish speaking citizens with the imagined status quo of an English speaking nation. It is, moreover, a system which brands the protagonist a 'reprobate' subject to criminal sanction (in the form of imprisonment in verse five) for seeking to realise himself as a citizen and an Irish speaker.

In this respect, the linguistic capacities of the song's omniscient narrator are particularly notable. Throughout the six verses it is the narrator who describes the action of the song, and to whom we can attributed the description of the Judge as participating in 'the con' in the fifth verse. It is interesting, and tempting, to view this choice as one which deliberately seeks to unravel the 'con' of the fifth verse – giving a dramatic illustration that English is not the language of the grand narrative from which truculent characters depart but, is, instead, the natural state of an Irish speaking nation.

Interestingly, the song is not satisfied to present only a dichotomic presentation of the participants as either members of the English speaking State or Irish speaking other. Instead, the song undermines such simplistic identities by revealing a richer linguistic tapestry of citizens as speakers. Thus, for example, the song appears to imply that the policeman who arrests the protagonist Mícheál an Gabha,³⁵ while he refuses to use the Irish language in his interactions with Mícheál does in fact understand it. So, the policeman's internal narrative recalling events in the first two lines of the second verse occurs through Irish, yet he switches to English only in approaching the protagonist as an agent of the State – to enforce the requirements of the Act. More intriguing is that, within the narrative of the song the policeman himself does not directly recount his utterances in English.

³⁵ The protagonist, Mícheál, acts in the song as a surrogate for the author.

While the other dialogue in the song is delivered without attribution, emanating directly from the speaker, the policeman's first words in English are framed in the third person by the narrator who quotes him, separating the policeman as a speaker from his English speech and suggesting that he does not own, or inhabit the language he is using. Whether this attribution within the song is intended, in this way, to indicate the policeman's true linguistic allegiance is unclear. However, it is a notable feature of the piece that it mixes such diverse linguistic identities and expression with such fluidity, and to such effect – prompting the audience to question the allegiance of the song's speakers to the languages they use.³⁶

In addition to its macaronic form, the song might equally be viewed as part of a broader tradition of satire in Irish verse, with the author exposing the ignorance of the antagonists through comparison with the virtuous protagonist. The piece, however, lacks both the unrelenting and personally detailed dissection common to the satirical tradition.³⁷ This is not to say that the piece does not, in certain aspects, owe something to the satire – certainly it evidences an allegiance to that cultural inheritance in its use of verse as a means of protest at unjust rule or flawed institutions.³⁸ However, in as much as the piece can be read as offering a protest or an attempt to subvert the tropes of the ignorance of Irish speakers or expose the injustice of the system as it then was the song should instead be contextualised within the broader tradition of macaronic verse in Ireland.³⁹

The mid-nineteenth century onwards witnessed a significant degree of genre and linguistic mixing between Irish and English⁴⁰ which Mac Mathúna has articulated as a significant feature of the interaction between the two language communities on the island during the period.⁴¹ This pattern is given an explicitly appreciable form in the style of song referred to in

³⁶ See, section 4.

³⁷ Liam Breatnach, 'Satire, Praise and the Early Irish Poet' (2006) 56 *Ériu* 63.

³⁸ In the macaronic tradition 'warrant songs' were an overtly satirical form in which the introduction, in English, took the form of an indictment and was followed by verses in Irish outlining the charges levelled against the accused. Liam Mac Mathúna, 'Verisimilitude or Subversion? Probing the Interaction of English and Irish in Selected Warrants and Macaronic Verse in the Eighteenth Century' in James Kelly and Ciarán Mac Murchaidh (ed), *Irish and English: Essays on the Irish Linguistic and Cultural Frontier* (Four Courts Press 2012), 122-123.

³⁹ On the recurrence of such tropes and on the relationship between language and identity as represented in literary sources see, Mary Phelan, 'Literary portrayals of court interpreters and Irish speakers in the long nineteenth century' (2020) 13 *Translation Studies* 153.

⁴⁰ ÓCuív, *Irish Dialects and Irish Speaking Districts*, I; Wolf, *An Irish Speaking Island: State, Religion, Community and the Linguistic Landscape in Ireland 1770-1870*, 83.

⁴¹ Liam Mac Mathúna, *Béarla sa Ghaeilge: cabhair choigríche-an códmheascadh Gaeilge/Béarla i litríocht na Gaeilge 1600-1900* (An Clóchomhar 2007). On the linguistic capacities of the singers of macaronic songs

this work and more generally as ‘macaronic.’ The term macaronic originally referred to a poetic parody merging a vernacular language and formal Latin – a term which later came to refer to any merging of a vernacular and international language, in an Irish context mixing the Irish and English languages.⁴²

Particularly popular from the mid eighteenth to mid nineteenth century was the ‘*Ath-insint Mhacarónach*’⁴³ – a song in which the same verses were sung in the Irish language by one singer and then in English by another in turn, with the entire piece in that way being recited in both languages.⁴⁴ Macaronic features were common in Irish folk songs. Songs such as ‘*An Maidrín Rua*,’⁴⁵ mix Irish and English words in the same sentence or verse. Some of these latter songs took a form which might be considered only minimally macaronic⁴⁶ or were originally monolingual, but were partially translated over time by singers to incorporate both languages.⁴⁷

The most extensive collection of macaronic verse was compiled by Diarmaid Ó’Muirithe in his text ‘*An t-amhrán Macarónach*’ which contains some 79 songs dating from the 1850s to the 1950s.⁴⁸ In attempting to classify the themes of those songs which can be considered ‘substantively macaronic’ (in that they make significant or equal use of both Irish and English) a high proportion (some 40%) are, as Zimmerman notes, ‘rebel songs’⁴⁹ or take a common format of an Irish speaking man attempting to woo an English speaking woman⁵⁰ with

see Hugh Shields, 'Singing Traditions of a Bilingual Parish in North-West Ireland' (1971) 3 Yearbook of the International Folk Music Council 109.

⁴² See, Erick Falc’Her-Poyroux, 'The Great Irish Famine in Songs ' (2014) 19 Revue Française de Civilisation Britannique 1.

⁴³ A Macaronic retelling.

⁴⁴ Diarmuid Ó Muirithe, *An t-Amhrán Macarónach* (An Clócomhar 1980), 28.

⁴⁵ ‘The Small Red Dog/Fox.’ In which the Irish speaking bilingual protagonist encounters an English speaking fox (presumptively, a metaphor for English rule) who is stealing and consuming the farmer’s chickens but generously invites the farmer to share his stolen goods.

⁴⁶ Examples of this form are evident in ‘The Potato Digger’s Song’ which includes the Anglophone lay transcription lyric “Come, Connal, acushla, turn the clay, And show the lumpers the light, gossoon!” with ‘acushla’ representing a phonetic reduction of the Irish ‘a cuisle’ and ‘gossoon’ a similar rendering of the dialectic ‘garsún’ meaning ‘boy.’ See, Falc’Her-Poyroux, 'The Great Irish Famine in Songs ', 8-9.

⁴⁷ One of the songs documented by Mac Mathúna is of this type: originally composed in Irish, over time it was also sung with alternating verses of an English translation. Mathúna, 'Verisimilitude or Subversion? Probing the Interaction of English and Irish in Selected Warrants and Macaronic Verse in the Eighteenth Century'.

⁴⁸ Muirithe, *An t-Amhrán Macarónach*.

⁴⁹ George Denis Zimmermann, *Songs of Irish Rebellion: Irish Political Street Ballads and Rebel Songs 1780–1900* (2nd edn, Four Courts Press 2002), 94.

⁵⁰ Mathúna, 'Verisimilitude or Subversion? Probing the Interaction of English and Irish in Selected Warrants and Macaronic Verse in the Eighteenth Century', 127.

resulting, and deliberately comic, misunderstandings.⁵¹ *ATD* falls within this latter category of substantively macaronic songs (though not fitting within either romantic or rebel labels) which make equal use of both languages and in a manner which employs dialogic misunderstandings for dramatic effect.

⁵¹ *Ibid*, 128 citing the examples of *Pairlement Chloinne Tomáis* and *Stair Éamuinn Uí Chléire*.

'An Trucailín Donn'⁵²

Lá aonaigh san earrach 's mé ag taisteal go triopallach,
Trasna an droichid i Muileann na hAbhann,
Sea chonaic mé Bobby arbh ainm dó Thingummy
A's é ag druidim 'mo choinne go teann.

Choras/Curfá

Agus óró bog liom í, bog liom í, bog liom í,
Óró bog liom í, an trucailín
Óró bog liom í, druid liom í, corraigh í,
Óró bog liom í, an trucailín donn.

Ba ghairid go bhfaca mé asal is trucail bheag,
Chugam ar a shodar faoi Mhícheál an gabha
Siúd leis an Bobby 'This cart has no signature
Only a lingo I cannot make out.'

Choras/Curfá

'Your name my good man, and answer right quickly now.'
'Amharc ar an trucail! An bhfuileann tú dall?
Tá m'ainmse breactha i dteanga a thuigimse,
Agus fógraím thusa go hIfreann lom!'

Choras/Curfá

Tiománach chun beairic an t-asal is trucail beag
Stracadh is stolladh 'sa phludaigh an gabha
'S nuair d'éirigh leath-mharbh ar maidin go tugadh é
Ós comhair an bhreithimh bhí oilte ar an gcam

Choras/Curfá

'Ten shillings with costs or a fortnight's imprisonment.
Next on the list. Take this reprobate down!'
'Cuirtear faoi ghlasa mé feasta, a ghlagaire -
Pingin de m' sheilbh ní fheicfidh sibh ann!'

Choras/Curfá

Níl trucail gan ainm breá lachanta *legible*
Gaeilge le feiceáil i Muileann na hAbhann,
Agus ceardaithe an bhaile, sea 'thugaid ar *Thingummy*
Fós ná Trucailín Mhíchíl an Gabha.

'The Little Brown Cart'⁵³

While travelling merrily on market day,
Over the bridge at Mullenhaven,
I saw the policeman named Thingummy
Headed straight for me.

Choras/Curfá

And oh she moves with me, moves with me, moves with me,
Oh she moves with me, the little brown cart
Ah oh she moves with me, along with me, carries me,
Oh shes moves with me the little brown cart.

Presently I saw a donkey and little cart,
Trotting toward me with Mícheál the smith steering it
The policeman said 'This cart has no signature
Only a lingo I cannot make out.'

Choras/Curfá

'Your name my good man, and answer right quickly now'
'Look at the cart! Are you blind?
My name is written there in a language I understand,
And damn you to hell!'

Choras/Curfá

The cart and donkey were brought to the barracks
With their owner following reluctantly behind
And half dead the following morning he was brought
Before the Judge who was presiding over the con

Choras/Curfá

'Ten shillings with costs or a fortnight's imprisonment.
Next on the list. Take this reprobate down!'
'You can lock me up now you fool
But you won't see a penny's worth of my assets here!'

Choras/Curfá

There are no carts without attractive, *legible*
Irish signs to be seen in Mullenhaven,
And the craftsman of the town to this day
Refer to Thingummy as the small cart of Míchíl an Gabha

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⁵² Mícheál Ó Conghaile, 'Croch Suas É' (1986, Cló Iar-Chonnacht), 168-9.

⁵³ Translation is the author's own.

How to determine who is a citizen has been a site of contestation since the Roman empire – not only because of the necessary othering of certain groups as non-citizens “beyond the State” but also because of how that othering is achieved – through the possession or non-possession of certain characteristics or capacity.⁵⁴

In generating as well as in navigating this tension, the State has endured as the exclusive manager of citizenship as a status which is attached to and practiced within an individual territory. However, the tendency of analysing citizenship through this crucible (as part of which the nation state acts as the unique site and recogniser of citizenship) obscures the diverse spaces and axis in and on which the creation of citizenship takes place.⁵⁵ Moreover, the use of the State as the analytic norm of citizenship⁵⁶ - viewing citizenship as predominantly territorial and as satisfied by a belonging only within a vertically defined hierarchy, ignores the reality that an individual may be within a State and yet not sufficiently of it to be considered a citizen.⁵⁷

This view risks conflating nationality and citizenship and as Neveu has argued⁵⁸ ‘assume[s] exclusive, hierarchical and a-historical relations among and between [State] entities, and conceals their multiple, fluid and overlapping forms of existence.’⁵⁹ In terms of citizenship, such understandings imply that there is only one level of belonging and loyalty to the State which in turn enjoys a monopoly on defining identification, belonging and engagement. Within this vertically defined concept, broader horizontal conceptions of citizenship fall away and the struggles for citizenship, conducted ‘beyond the incorporation into the political system in a restricted sense of the formal-legal acquisition of rights’ are minimised.⁶⁰

⁵⁴ Citizenship as the foundation of the right to have rights in Hannah Arendt’s account. See, Alastair Hunt Stephanie DeGooyer, Lida Maxwell and Samuel Moyn, *The Right to Have Rights* (Verso 2018). See also, Ralph W Mathisen, 'Peregrini, Barbari and Cives Romani: Concepts of Citizenship and the Legal Identity of Barbarians in the Later Roman Empire' (2006) 111 *The American Historical Review* 1011

⁵⁵ Catherine Neveu, 'Sites of Citizenship, Politics of Scale' in Eilem Maas (ed), *Multilevel Citizenship* (University of Pennsylvania Press 2013).

⁵⁶ Kathleen Coll John Clarke, Evelina Dagnino and Catherine Neveu, *Disrupting Citizenship* (Policy Press 2014), 10.

⁵⁷ *Ibid*, 18.

⁵⁸ Neveu, 'Sites of Citizenship, Politics of Scale'.

⁵⁹ Chris Collinge, 'Flat ontology and the deconstruction of scale: a response to Marston, Jones and Woodward' (2006) 31 *Transactions of the Institute of British Geographers* 244.

⁶⁰ John Clarke, *Disrupting Citizenship*, 9.

Within the Irish constitutional order, citizenship is vertically defined by Article 2 which provides that it is the 'entitlement and birth right of every person born in the island of Ireland ... to be part of the Irish Nation.' Following the 2004 referendum this relatively broad grant of citizenship was amended to provide a qualification stating that to be considered a citizen of Ireland those born here must also have at least one parent who is an Irish citizen or who is entitled to be an Irish citizen.⁶¹ In this manner contemporary Irish citizenship requires not only a territorial belonging but also a patrimonial link. Irish law is unusual in requiring this combination of both territorial and patrimonial belonging in order to satisfy the requirements of citizenship, however, it is hardly without precedent in a historical Irish context.

During the period of English rule in Ireland,⁶² but with recurrent emphasis from the Statutes of Kilkenny in the fourteenth century, repeated attempts were made to impose English as the vernacular language throughout the island and to thus 'make Ireland British' and transform Irish subjects into English citizens. In this sense the contemporary attitude to citizenship – requiring not only a congruence to a vertical, territorial conception of citizenship but also to a more horizontally constituted conception of citizenship is not unprecedented.

In 1596 Lord Edmund Spenser advocated a policy of linguistic imperialism⁶³ on the basis of the link between language, identity and allegiance noting, 'the speech being Irish, the heart must needs be Irish.'⁶⁴ This being the case Spenser observed the converse might be equally correct and that previous statutes requiring the prohibition of Irish names in favour of English ones and the mandatory adoption of Anglicised custom might be used to ensure the Irish 'forgot' their cultural allegiance to an independent Irish state and adjusted more readily to their status as English citizens.⁶⁵

⁶¹ See, Article 9(2) Bunreacht na hÉireann.

⁶² English rule endured, in various forms, from the Norman invasion in 1169, formalised in 1171 with the creation of the 'Lordship of Ireland' through which the King of England exerted indirect rule through his Anglo-Norman Lords who controlled large portions of Ireland but did not control portions of Cork, Kerry, Clare or Ulster which remained under indigenous control. The Lordship endured, through it enjoyed diminishing control of its territory, until 1542 when the Kingdom of Ireland was created leading to the Desmond Rebellion and, eventually, the collapse of indigenous rule following the defeat of the Gaelic leadership at the Battle of Kinsale. See, SJ Connolly, *Contested Island: Ireland 1460-1630* (Oxford University Press 2007), chapter 3.

⁶³ Edmund Spenser, *A View of the Present State of Ireland* (Renwick 1970), 67.

⁶⁴ *Ibid*, 68.

⁶⁵ *Ibid*, 156.

Spenser's words imply a keen understanding of the manner in which language structures experience and conditions identity and the English State's approach to Ireland did subsequently involve concerted attempts to embed within the thresholds for citizenship (and thus the rights and protections which accompanied it) a deliberate denial of and alienation from the aspects of identity considered problematically Irish – most notably religion and language. The most well-known of these attempts was passage of specific prohibitions on the use of Irish in the Statutes of Kilkenny in 1366 - a development which was fundamentally, and explicitly, oriented toward preventing the endurance of a bilingual, or Irish speaking society.

Recognising that Norman and later English settlers in Ireland had become influenced by Irish culture and customs, the Statutes prohibited intermarriage between native Irish and English populations, English fostering or adoption of Irish children, and the use of Irish names and dress as part of an attempt to end a parallel Irish identity and culture that operated alongside (or beneath) that of the colonial English power.⁶⁶ Under the Statutes, those inhabitants of Ireland who did not speak English were required to learn it, and to adopt appropriate English customs, on pain of dispossession by the Crown.⁶⁷

Crucially, the Statutes also began a process that formally institutionalised the official State and its servants as exclusively Anglophonic. While the Statutes of Kilkenny provided that judicial decisions should be recorded in Latin⁶⁸ by the end of the seventeenth century there was an emerging push for the use of English in all written and oral components of the legal process. In 1732 statute law finally, and fully prohibited the use of Latin and French in legal proceedings in England and Scotland, in favour of English.⁶⁹ An Irish counterpart to this prohibition followed in 1737 on the basis that 'great mischiefs do frequently happen to the subjects of this kingdom from the proceedings in courts of justice being in an unknown language.'⁷⁰

⁶⁶ Simms, 'Gaelicisation', 191.

⁶⁷ Ibid.

⁶⁸ (Eng) 36 Ed III c.15 (1362).

⁶⁹ 4 George II c.26 (1731); Peter Burke, *Languages and Communities in Early Modern Europe* (Cambridge University Press 2004), 17; Mark Ellis Jones, 'An Invidious Attempt to Accelerate the Extinction of Our Language: The Abolition of the Court of Great Sessions and the Welsh Language' (1998) 19 *The Welsh History Review* 230; JA Andrews and LG Henshaw, 'The Irish and Welsh Languages in the Courts: A Comparative Study' (1983) 18 *The Irish Jurist* 7.

⁷⁰ 11 Geo II c.6 (1737). This elevation of English was also extended to Wales through the Acts of Union 1536 which was later confirmed by 6 Geo II c.14 (1733) though as Jones notes in the case of Wales there is significant documentation, albeit unofficial, of bilingual officials and proceedings, J Gwynfor Jones, 'The Welsh Language in Local Government: Justices of the Peace and the Courts of Quarter Sessions

The dominance of the idea of citizenship as a process and relationship defined by submission to English custom and language which the Statutes of Kilkenny began was reinforced by the defeat of the Irish Gaelic chieftains in the Battle of Kinsale (effectively ending the nine years war), the departure of much of Ireland's indigenous ruling class to Europe in 1607 and the subsequent Elizabethan and Cromwellian plantations.⁷¹ These events catalysed the dissolution of indigenous legal, socio-political and military systems which depended on the leadership and institutional patronage of the Gaelic elite in Ireland – effectively bringing to a conclusion the process begun by the Statutes as the resistant parallel system of Gaelic, Irish-speaking rule, institutions – and citizenship – dissolved.

Into the institutional vacuum left by these events the extension of English, and English-speaking institutions and jurisdiction shifted the balance of power decisively towards an Anglophone understanding of State and citizen.⁷² From the mid nineteenth century onwards, in the immediate aftermath of the Irish famine, and in this legal context, the notable feature of Irish social and political life where it intersected with the State was its institutional and mandatory English monoglotism – a feature particularly evident in the judicial process.⁷³ Crucially, this institutional Anglophonia effectively restricted the capacities of Irish speakers to actively participate in the State and with its institutions as citizens – requiring them to exist outside the architecture of the State as Irish speakers or within it as Anglophones.⁷⁴

1536-1800' in G Jenkins (ed), *Welsh Language before the Industrial Revolution* (University of Wales Press 2001); Henshaw, 'The Irish and Welsh Languages in the Courts: A Comparative Study'. Earlier statutes requiring English to be used for pleadings and proceedings in all inferior courts of record was already in place in 1697 and later 1733 statutes prohibiting attorneys and solicitors filing bills commencing suits in languages other than English also predated the 1737 statute. See, 9 Will III c.38 (1697); 7 Geo II c.14 (1733) and 17 Geo II c.8 (1743); 38 Geo III c.39 (1798); RB McDowell, 'The Irish Courts of Law 1801-1914' (1957) 10 *Irish Historical Studies* 363.

⁷¹ McCavitt, *The Flight of the Earls*

⁷² Ó'Cuív, *Irish Dialects and Irish Speaking Districts*; Vincent Morley, *Ó Chéitinn go Raiftearaí* (Coiscéim 2011); Patricia Palmer, *Language and Conquest in Early Modern Ireland* (Cambridge University Press 2001); Bernadette Cunningham, *The World of Geoffrey Keating: History, Myth and Religion in Seventeenth Century Ireland* (Four Courts Press 2000); Nicholas Canny, 'The Formation of the Irish Mind: Religion, Politics and Gaelic Irish Literature 1580-1750' (1982) 95 *Past and Present* 91.

⁷³ Wolf, *An Irish Speaking Island: State, Religion, Community and the Linguistic Landscape in Ireland 1770-1870*, 149-150; George E Woodbine, 'The Language of English Law' (1943) 18 *Speculum* 395-96, 425-33; Neal Garnham, *The Courts, Crime and the Criminal Law in Ireland 1692-1760* (Irish Academic Press 1996), 54-55, 65; Desmond McCabe, 'Law, Conflict and Social Order: County Mayo 1820-1845' (1991) University College Dublin 196-7.

⁷⁴ Wolf, *An Irish Speaking Island: State, Religion, Community and the Linguistic Landscape in Ireland 1770-1870*, 151; John Carr, *The Stranger in Ireland* (Richard Phillips 1806), 329; House of Lords, *Report from the Select Committee of the House of Lords, Appointed to Enquire into the State of Ireland in Respect of Crime and to Report to Thereon to the House*, 1839), 1039-44; Select Committee on Destitution, *Report from the Select*

Perhaps the most central aspect of this exclusionary pattern has remained the highly contested rights of parties to participate in the legal process and interact with the institutions of the State through the Irish language in legal settings, as evidenced in *ATD*. While, as Phelan has explained, rights to translation subsisted from the nineteenth century,⁷⁵ the perception of Irish speakers nevertheless remained one in which viewed such speakers as deliberately electing to alienate themselves through their refusal to use English, and as fully capable of doing so if they wished.⁷⁶

The judgments delivered in *R v Burke*⁷⁷ for example all display a notable presumption against the existence of Irish monoglots and display a general endorsement of the idea that all citizens were possessed of a degree of knowledge of English. A similar scepticism was evident, famously, in the *Ma'amtrasna* trials, which cast the tensions between an institutionally monoglot legal system, and the complex levels of competence and fluency of the population into stark relief.⁷⁸ There is, lingering beneath the narratives of these cases, the taint of the assertion that Irish monoglotism is an inconvenient mantle adopted by those unwilling to assume the obligations of citizenship and who wish to live apart from, or as exceptions to the State from which they have deliberately othered themselves.

In one sense this narrative is correct. Certainly, monolingual Irish communities, have existed in a liminal state in which they exist as subjects within the vertical construction of citizenship of the State but are excluded from the full realisation of that citizenship through denials of their rights and social and economic marginalisation because of their linguistic identity - which is acknowledged but not accommodated. Yet this is not a willing or deliberate

Committee on Destitution (Gweedore and Cloughaneely) Together with the Proceedings of the Committee, 1857-58), 365. While there are accounts both of the use of translators and of bilingual officials in various locations it was not until 1774 that any provision was made in law for the formal provision of interpreters. See, James Kelly and Ciarán MacMurchaidh, 'Introduction: establishing the context' in James Kelly and Ciarán MacMurchaidh (ed), *Irish and English: Essays on the Irish Linguistic and Cultural Frontier 1600-1900* (Four Courts Press 2012), 15, 21.

⁷⁵ Phelan, *Irish Speakers, Interpreters and the Courts 1754-1921*.

⁷⁶ Margaret Kelleher, *The Maamtrasna Murders: Language, Life and Death in Nineteenth Century Ireland* (University College Dublin 2018).

⁷⁷ *R v Burke* (1858) 8 Cox CC 44, *ibid* n.70.

⁷⁸ The Dublin October Commission, 55. Margaret Kelleher, *The Maamtrasna Murders: Language, Life and Death in Nineteenth Century Ireland* (University College Dublin 2018). Indeed, during the course of the trial the presiding judge, Barry J, apparently an accomplished Irish speaker, intervened to correct the translation provided by the interpreter Crown Office Papers 1893, *Mayo Correspondence*, National Archives Dublin, IC-78-51, 113.

alienation of the citizen from the State. Rather it is the necessary result of a system which through its institutions conceptualises citizenship, and thus the citizen, as English speaking.

The very real dangers posed by this status are highlighted, to an astonishing degree, in the *Ma'amtrasna* trials⁷⁹ which expose that the risks for individuals as a result of their inability to speak English were not merely abstract or ideological denials of linguistic rights. Ultimately, the decision in that case displays that the danger faced by minority speakers is the most serious penalty – the risk to their lives. In a system where non-Anglophonia carried such risks, a turning away from the State, and a retreat towards a personally defined understanding of citizenship within this 'othered' space would hardly be surprising.

This is certainly demonstrated, in a less dramatic but no less significant fashion, in the case of *M'Govern v M'Bride* the real-world dispute on whose facts *ATD* is based. The court in its decision in *M'Govern* clearly views citizenship and the participation in national life it permits as not only requiring English to be used but actively views Irish as an 'illegible' language, unfit as a medium for the expression of, or participation by the citizen in, national life – at however grand or humble a scale.

3. Divided Loyalties: Language as a Site of Citizenship in Ireland

Against the background and in the context outlined above the Irish language began to be adopted, during the time at which *ATD* was written and *M'Bride and M'Govern* was decided, as a deliberately assumed characteristic of those who agitated for Irish independence and resistance to English rule. In this context the Irish language became a symbol of a desired, alternative citizenship, fundamentally linked with national independence and self-determination.⁸⁰

Following Irish independence in 1922, this status was formalised as the first constitution of the newly established Irish Free State elevated the Irish language above its marginalised

⁷⁹ Following the occurrence and discovery of the murders around which the trial turned on 17/18 August 1882 the trials proceeded from 13 -21 November. See, *ibid*, xv-xxiv.

⁸⁰ An Fáinne being the leading example. See, Liam Andrews, *The Founding of the Fáinne Association in 1916 and its Influence on the Irish Language Revival in Belfast* (2016). Other, more prominent examples include Conradh na Gaeilge founded to 'keep the Irish language alive amongst its people' see, Gearóid Denvir, 'One Hundred Years of Conradh na Gaeilge' (1995) 30 *Éire* 105.

position under English rule to a central and defining characteristic of the new nation. Yet, while the Irish language was raised to an official status as the national language by Article 4 of the Free State Constitution⁸¹ its speakers remained in a position which differed little from the protagonist of *An Truicailín Donn*.⁸²

Indeed, the inversion of the previous linguistic hierarchy did little to ameliorate or fundamentally shift how Irish speakers experienced or interacted with the State. Rather, Article 4 began an enduring and contradictory context in which the now minority language became the *de facto* constitutional tongue of the population – the status for which the Irish language movement agitated at the time *ATD* was composed – even while its speakers continued to receive an unpredictable reception in their attempts to interact with the State as citizens.

This reception is evidence in early decisions under the new constitution such as *R (Ó'Coileáin) v Crotty*⁸³ and *Attorney General v Joyce*⁸⁴ in which both defendants faced criminal prosecution in an Irish speaking area in the West of Ireland and while evidence was given in Irish only an English translation of the evidence was put before the higher court on appeal. This was unsuccessfully objected to by the defendants. On appeal, Kennedy CJ in the Supreme Court in refusing to overturn the defendants' convictions, noted

'The Irish language is not merely the vernacular language of most if not all of the witnesses in the present case, but it holds a special position by virtue of the constitution of the Saorstát in which its status is recognised and established as the national language ... from which it follows that whether it be the vernacular language of a particular citizen or not, if he is competent to use the language he is entitled to do so. Therefore, it may be said that all those who gave their evidence in the Irish language in the present case had

⁸¹ Constitution of the Irish Free State (Saorstát Éireann) 1922, Article 4, 'the national language of the Irish Free State (Saorstát Éireann) is the Irish language, but the English language shall be equally recognised as an official language. Nothing in this Article shall prevent special provisions being made by the Parliament of the Irish Free State (otherwise called and herein generally referred to as the Oireachtas) for districts or areas in which only one language is in general use'

⁸² Seán Ó'Riain, 'Pleanáil Teanga in Irinn 1919-1985' (1998) 22 *Language Problems and Language Planning* 294; Pádraig Ó'Riagáin, *Language Policy and Social Reproduction: Ireland 1893-1993* (Clarendon Press 1997).

⁸³ (1927) 61 ILTR 81

⁸⁴ [1929] IR 526

as it were a double right to do so – first on general principles of natural justice as their vernacular language and secondly as a matter of constitutional right.’

Yet despite these statements Kennedy CJ did not find that there was a right to put before the Court the evidence as presented rather than a translation. This is a position which is counter-intuitive given the Chief Justice’s own statements as to the existence of a ‘double right’ and generated an ironic context in which, despite its formal status the Irish language remained one which must be translated out of in official contexts. This contradictory attitude was evidenced again in the subsequent case of *Ó’Foghludha v McClean*.⁸⁵ That case stemmed from a landlord and tenant dispute in which, the Gaelic League in seeking to recover arrears of rent issued proceedings against their tenants in Irish.

The League’s application for judgment in default was refused because the League had served only an Irish language and not an English language version of their application on the respondents. The League complained that this refusal amounted to a failure to afford the national language equal status with English in the absence of any procedural rule specifying the language of documents served.⁸⁶ This was rejected by O’Sullivan P who noted that while Article 4 of the constitution made Irish the official language it also provided that English would be afforded equal status and that such recognition involved,

‘so far as the administration of justice in the courts is concerned – that every person shall be entitled at his option to use either language in transacting legal business, and that he shall not suffer any impediment or incur any liability or disability by reason of the language he uses.’⁸⁷

On appeal before the Supreme Court this judgment was upheld, with Kennedy J noting that the constitution’s provision was not a recognition of the prevalence of the use of the language at the time of drafting but

‘... did mean that it is the historic, distinctive speech of the Irish people that it is to rank as such in the nation, and by implication, that the State is bound

⁸⁵ [1934] IR 469.

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*, 471.

to do everything within its sphere of action to establish and maintain it in its status as the national language.’⁸⁸

Ó’Foghludha gives the first definitive articulation of what was to be and remains the dominant attitude to the Irish language – that the Constitution simultaneously affords a right to a live and conduct one’s relationship with the State through Irish – but only in so far as that choice accommodates English speakers. Far from inverting the previous position Article 4 thus afforded a symbolic elevation of Irish which indulged a *de facto* endurance of the previous position in which minority language communities were obliged to constitute themselves as citizens in a manner most convenient for the linguistic majority – a position which has endured under the 1937 Constitution. Thus, while some of the minor signifiers of daily life in Ireland attained the bilingual character desired by those agitating for language rights during the time of ATD the more substantive conceptualisations remained fundamentally oriented towards a system which viewed possession of a competence in the English language equal to if not greater than in the Irish language as the default state of citizens.

The introduction of the 1937 Constitution saw little change. The Constitution Review Committee of 1934 recommended the retention of the Article noting it was ‘important because of the status which it gives to the Irish language.’⁸⁹ When challenged on the need to recognise both Irish and English equally the then President of the Executive Council of the Irish Free State, Eamonn De Valera’s succinct reply was that the national language should be the language ‘most associated with this nation; the language that is in accordance with the traditions of our people. We are a separate people, and our language was spoken until little over 100 years ago generally by our people. The English language was the language of those who came as invaders.’⁹⁰

The resulting Article 8 provides that Irish is the national and first official language, that English is recognised as the second official language and that provision may be made for the

⁸⁸ Ibid, 482-483.

⁸⁹ Quoted in Gerard Hogan, *The Origins of the Irish Constitution 1928-41*, vol 1 (Royal Irish Academy 2012), 74.

⁹⁰ Dáil Debates 67:987 (25 May 1937).

use of either for particular official purposes.⁹¹ The position of the Irish language and its speakers thus remained largely unchanged.

Article 8 was first considered by the courts in the case of *Attorney General v Coyne and Wallace*⁹² in which Kingsmill Moore J interpreted Article 8 as meaning that either Irish or English might be used unless provision had been made by law that one language only was to be used for a particular official purposes.⁹³ That pronouncement, with which Walsh J expressly agreed, remains authoritative and goes somewhat further than Nic Shuibhne's characterisation, that the courts have continually evaded the task of interpreting the scope and implications of the provisions of Article 8.⁹⁴

This is the case in as much as the decision not only evades the task of interpreting the Article but effectively curtails its power by providing not that Irish is the first and English the second languages of the State and that they must presumptively be read as preferable in that order, unless otherwise provided for, but that Irish may in fact be relegated or ignored absent an explicit legislative proviso that this must not be the case. Kingsmill Moore J's reasoning from the text of the Article is fundamentally flawed. While Article 8 states that provision "may however be made" in the absence of any such enactments, it is entirely more logical to argue that the *first* official language must take precedence as a matter of textual interpretation.

Dissatisfaction with the Judge's reasoning was given tentative expression by O'Hanlon J in the later decision of the High Court in *An Stát (Mac Fhearraigh) v Mac Gamhna*⁹⁵ In that decision O'Hanlon J noted that while the doctrine of precedent precluded him from directly overruling Kingsmill Moore J's interpretation '[u]ntil the Oireachtas uses the powers conferred on it by the provisions of the Constitution, it must always be accepted that Irish is the first official language and that it is a citizen's privilege to demand that it be used for official purposes throughout the State.'⁹⁶

⁹¹ See in particular the remarks of Kennedy CJ in *Ó'Foghludha v McClean* [1934] IR 269 and of O'Hanlon J in *Ó'Murchúv Registrar of Companies and the Minister for Industry and Commerce* (Unreported HC 20 June 1988).

⁹² (1967) 101 ILTR 17.

⁹³ *Ibid*, 3-4.

⁹⁴ Niamh Nic Shuibhne, 'State Duty and the Irish Language' (1997) 19 *Dublin University Law Journal* 33.

⁹⁵ (1983) 6 JIC 0102.

⁹⁶ *Ibid*, 8-9.

Despite its compatibility with both the words and spirit of Article 8, this interpretation cannot easily be reconciled with the previous decision of Kingsmill Moore J. Significantly, O'Hanlon J also ignored his own pronouncement in *An Stát (Mac Fhearraigh) v Neilan*,⁹⁷ in which he had held that a prosecutor was not entitled to compel a Minister to issue an Irish language summons.

While O'Hanlon J sought to ameliorate this divergence in his subsequent decision in *Delap v Minister for Justice, Ireland and the Attorney General*⁹⁸ the unsettled reception of Irish continued with the decision in *Tomás Ó Monacháin v An Taoiseach & Daoine Eile*⁹⁹ which it was held by Hamilton J that the government had no absolute obligation to assign a District Court Judge with Irish to a *Gaeltacht* area¹⁰⁰ while the decision in *Ruairí MacCárthaigh v Ireland*¹⁰¹ found there was no right to an Irish speaking jury or, it would appear, a representative jury composed of a proportion of Irish speakers.¹⁰²

While the decision of O'Hanlon J in the High Court case of *Antóin Delap v The Minister for Justice, Ireland and The Attorney General*¹⁰³ offered some advancement of the first official language by providing that the Rules of the Superior Courts should be provided in Irish, the decision in *Caitríona Ní Cheallaigh v The Minister for the Environment & Ors*¹⁰⁴ illustrates that the position of Irish speaking citizens– and indeed the very disputes,¹⁰⁵ addressed by Niall Mac Giolla Bhríde in *ATD* remain unresolved.

4. The Sum of All Parts? Citizenship in An Trucailín Donn

Conceptions of citizenship and who is included within the definitions of citizenship convey particular views of the justified distribution of power influenced by the historical and political

⁹⁷ [1980-1998] *Tuairiscí Speisialta* IR 38.

⁹⁸ [1980-1998] *Tuairiscí Speisialta* IR 46.

⁹⁹ [1980-1998] *Tuairiscí Speisialta* IR 1.

¹⁰⁰ On appeal before the Supreme Court, Walsh J, Henchy and Griffin JJ dismissed the appeal. A *Gaeltacht* refers to an area in which the majority of residents of

¹⁰¹ [1980-1998] *Tuairiscí Speisialta* IR 57.

¹⁰² *Ibid*, referring to *DeBúrca v The Attorney General* [1976] IR 38 (*Ibid*, 60) and *The State (Byrne) v Frawley* [1978] IR 326 (*ibid*, 61). On the issue of linguistic composition of juries see more recently, Daithí Mac Cárthaigh BL, 'Aguisíní le Breithiúnas Hardiman Brmh in *Ó'Maicín v Éire* [2014] 4 IR 477, *Aguisíní atá Fágtha ar Lár ón Tuairisc Oifigiúil* (2020) 4 *Irish Judicial Studies Journal* 148

¹⁰³ [1980-1998] *Tuairiscí Speisialta* IR 46.

¹⁰⁴ *Ní Cheallaigh v An t-Aire Comhshaoil* [1980-1998] *Tuairiscí Speisialta* IR 52.

¹⁰⁵ Seán Ó'Conaill, 'The Irish Language Cart Prosecutions of 1905 - Did They Break the Wheel?' (2020) *Forthcoming*

experiences of the State and its citizens.¹⁰⁶ Language, no less than citizenship, is similarly mediated by the political, historical and cultural constructs of the states in which it is embedded.¹⁰⁷ Moreover, while all individuals have an innate capacity to acquire language our ability to use it is culturally mediated,¹⁰⁸ and conditioned by our citizenship – tied to the thresholds and requirements of belonging and integration which citizenship imposes.

As such, both citizenship and language are closely intertwined. Nowhere is this more clearly seen than in ancient Greece where citizenship was determined specifically by reference to linguistic capacity – those who did not speak Greek were non-citizens – ‘barbarians.’¹⁰⁹ Nor was this pattern uniquely classical, Bernard Guenée has argued that this mutual cross-definition of citizenship by reference to language endured through the Middle-Ages when ‘a nation ... was primarily a language.’¹¹⁰ Certainly, in the twentieth century in Ireland a similar association of the independent Irish nation and the Irish language was present, as part of which the Irish language became the language of Irish nationalism – its endurance and uniqueness both an expression of and a justification for independence.¹¹¹

In this context, and at the time of *ATD*, translation into and from Irish was itself a political act in as much as it indicated a desired citizenship of an Irish nation rather than the English state. The final two lines of *ATD* reinforce this deliberate positioning, alluding to a long-term community response in which the policeman has been given the disparaging moniker of ‘Mícheál’s cart.’ Just as the protagonist’s and Mac Giolla Bhríde’s choices to use Irish in

¹⁰⁶ John Clarke, *Disrupting Citizenship*, 14.

¹⁰⁷ On language rights more generally see Heinz Kloss, *The American Bilingual Tradition* (Newbury House 1977). For analysis of Kloss' binary classification of language rights see Alan Patten, 'The Justification of Minority Language Rights' (2009) 17 *The Journal of Political Philosophy* 102, 108 and in Ireland see Verona Ní Drisceoil, 'Antipathy, Paradox and Disconnect in the Irish State's Legal Relationship with the Irish Language' (2016) 55 *The Irish Jurist* 45.

¹⁰⁸ Peter McQuillan, *Native and Natural: Aspects of the Concepts of 'Right' and 'Freedom' in Irish* (Cork University Press 2004), 1.

¹⁰⁹ Anthony Pagden's interesting remarks on the Greek view of the barbaros and the adaptation of the term to mean paganus in the Middle Ages. The barbarian by definition lives outside the "civil community" that is "made possible through the persuasive power of language. See, Anthony Pagden, *The Fall of Natural Man: The American Indian and the Origins of Comparative Ethnology* (Cambridge University Press 1982), 16-20.

¹¹⁰ Bernard Guenée, *States and Rulers in Later Medieval Europe* (Blackwell 1985), 435.

¹¹¹ *Ibid.* This was perhaps best articulated by Collins who tied the achievement of freedom to retrieving and securing Irish customs and the Irish language and who questioned how a people so used to bilingualism might 'express our most subtle thoughts and finest feelings in a foreign tongue? Irish will scarcely be our language in this generation, not even perhaps in the next. But until we have it again on our tongue and in our minds we are not free, and we will produce no immortal literature. Michael Collins, *A Path to Freedom* (Cork University Press CELT 1922), 120-123.

labelling the cart – and to adopt the macaronic form exceeds a merely performative declaration of minority status¹¹² and assumes a substantive role in defining the contours of identity and of citizenship¹¹³ so too the policeman's allegiance to English is seen as a political act.

This is evidenced not only by the policeman's nickname but also by his lack of an Irish name. Referred to as '*Thingummy*' in an apparent inversion of the stereotype of Irish as unintelligible, the policeman's English name is deemed unworthy of being recorded. He is also characterised as '*Bobby*' an English label for an individual whose allegiances the song clearly views as being other than to the Irish language.

This is the context in which we should understand both Niall Mac Giolla Bhríde's and his protagonist's decision to display Irish script on their cart and to refuse, when threatened with a penalty, to satisfy any fine levelled – preferring instead to undergo imprisonment rather than discharge the fine and in doing so risk acknowledging the legitimacy of a legal system which deemed Irish to be 'illegible' as a matter of law.

Fundamentally, for both the actual defendant in *M'Bride v M'Govern* and the fictional one of *ATD*, the choice to comply with the law and to communicate with the State through Irish is a deliberate rejection of a model of citizenship that attempts to construct them as exclusively Anglophonic and to construct citizenship as a vertically defined state requiring adherence to a majoritarian linguistic identity. In *ATD* the repeated refusal of the protagonist to engage with the other characters he encounters through English, despite clearly understanding them, retrenches this refusal to accept a model of citizenship in which Irish speakers are included only as long as they deny their own expressive capacity and linguistic identity.

The choice of Irish by both the author and his protagonist is thus a declaration of a commitment to a model and a concept of citizenship which is defined not exclusively on a

¹¹² Guenée, *States and Rulers in Later Medieval Europe*.

¹¹³ Writing from a Scottish perspective Dunbar notes that in seeking to extinguish Gaelic the English state was also seeking to eradicate a different worldview – one with an entirely different view of cultural values including those surrounding social relationship, ownership of land and use of property. See, Robert D Dunbar, 'The European Charter for Regional or Minority Languages: Some Reflections from a Scottish Gaelic Perspective' in Deirdre Fottrell and Bill Bowring (ed), *Minority and Group Rights in the New Millennium* (Nijhoff 1999), 116

vertical axis but also on a horizontal one – by citizens themselves.¹¹⁴ In this context, the concession of translation would be an act of defection or betrayal – forfeiting fundamental aspects of identity in exchange for being embraced within the vertically defined understanding of the citizen ordained by the State.¹¹⁵

Faced with this choice Mac Giolla Bhríde refused to translate his identity, and in doing so to diminish it. This same dilemma faces Mac Giolla Bhríde in translating his experience of law into literature - to be ignored by an Anglophone audience if he writes in Irish or to be read and heard by them but to compromise his loyalty to an Irish identity.¹¹⁶

This gives voice to the central problem faced by those who, like the protagonist in *ATD*, seek to constitute themselves as citizens and minority speakers. As language itself is the central means of expressing citizenship through democratic engagement and thus constituting oneself as a member of the State, speakers like the protagonist in *ATD* are faced with the dilemma of how to translate, how literally to ‘carry across,’ their linguistic identity into a legal setting which views it as a characteristic which is destabilising, if not hostile, to the understanding of citizenship adopted by the State.

In this context the task facing speakers like the protagonist of *ATD* in constituting themselves as citizens is one of translation at two levels. First they must translate their identities as minority speakers into a form which is compatible with the vertically defined understanding of citizenship dictated by the State. Having done so they must then translate for themselves how to be a citizen within those structures – a process of alienation and retrieval which is ripe for fostering disillusionment. *ATD* gives voice to just this – articulating the alienation and rejection which such burdens engender and exposing these unseen acts of self-translation undertaken by minority language speakers who must interpret themselves as citizens for the State while also interpreting what it means to be a citizen for themselves.

¹¹⁴ Laura O’Connor, 'Translation through the Macaronic: Gearóid Mac Lochlainn's Sruth Teangacha / Stream of Tongues ' (2009) 13 *Irish Éireannach Nua* 73.

¹¹⁵ See, Michael Hartnett for example in his poem ‘Inchicore Haiku’ ‘my English dam bursts and out stroll all my bastards, Irish shakes its head.’

¹¹⁶ O’Connor, 'Translation through the Macaronic: Gearóid Mac Lochlainn's Sruth Teangacha / Stream of Tongues ', 73-74. Biddy Jenkinson refuses to engage in what she views as a dilution of her work through translation as a result.

Of course, the danger of this process is that the translation demands of the State will overwhelm those of the individual – at the individual’s expense. That, as in *ATD*, the individual in order to be seen as a citizen of the State must abandon, or subjugate, their linguistic identity. In this respect, the macaronic model of *ATD* is deeply revealing.

In many respects songs must always be understood as dialogues. At the most superficial level they can, as in *ATD*, include dialogue, or structure themselves as a dialogue but, more fundamentally, songs are also dialogues between narrator and audience, between narrator and text and between text and context. Even the most passive encounter with a song forces an interpretation and reinterpretation as the piece progresses, and as its story is told. In the macaronic form this centrality of dialogue is still more crucial with macaronic pieces themselves often using the elusiveness facilitated by dialogue to communicate subversive and indirect challenges to accepted narratives – what Kiberd refers to as ‘glamorous conspiratorial act[s].’¹¹⁷

The power of *ATD* as a lens through which to examine the position of Irish speakers as citizens lies in this capacity to engage in a layered dialogue. In the case of *ATD*, both the macaronic structure as well as the story of the piece require those engaging with it to undertake the same linguistic encounters as its protagonist – and, more fundamentally, to code-switch between the Irish and English and between the protagonist and institutional voices and perspectives which the piece adopts. The result is that those encountering the piece – as reader, narrator or audience are required to engage in an active process of translation as part of a song which forces them to occupy and thus appreciate the contested space in which the protagonist as an Irish speaking citizen finds himself. At once understanding yet not understood.

ATD thus ultimately acts as a deliberate and dramatic means of requiring its audience to not only observe but inhabit the point of view of the Irish speaking citizen – alienated either from the State or himself and struggling to understand how to constitute himself as a citizen as a result. In placing the audience in this position *ATD* highlights the dual ‘potency and the plasticity of citizenship’¹¹⁸ as a highly valued and vertically defined status but one which is vulnerable to being drawn in an exclusionary manner – leaving those groups not

¹¹⁷ Declan Kiberd, *Inventing Ireland: The Literature of a Modern Nation* (Random House 1996), 616.

¹¹⁸ John Clarke, *Disrupting Citizenship*, 29.

encompassed by its definition to define for themselves a horizontally constituted model of citizenship which is not antagonistic to the structures imposed by the State.

The irony is that this commentary which *ATD* offers on citizenship has become more relevant since the song's composition. Even as linguistic identity was used as a building block for claiming Irish exceptionalism from colonial structures and for establishing the distinctiveness of the Irish people as a national group entitled to self-governance it was progressively marginalised in policy and law.¹¹⁹

Despite the elevation of Irish to a constitutional status with the advent of the Irish state, the institutional view was that it was largely a matter for individuals to foster the revitalisation of Irish.¹²⁰ That approach divorced the symbolic importance of Irish within the constitutional structure and identity of the State, from the practical and legal commitments necessary to ensure its speakers could affect their rights and obligations as citizens through its medium.¹²¹ As a consequence, twenty years after *ATD* was composed in an institutionally Anglophonic English jurisdiction, the aspirationally Irish speaking independent State was, in practice, just as hostile to a linguistically diverse idea of citizenship as part of a State whose institutions offered individuals little space in which to define citizenship in a manner hospitable to an Irish speaking identity.

The result is that the protagonist's struggle in *ATD* to be heard in his own voice, and to mediate his relationship with the State through his own, national language, remains a live one. More ironically, and as pointedly illustrated by *Ní Cheallaigh v The Minister for the Environment & Ors* precisely the same challenges continue to arise for Irish speaking citizens at the end of the twentieth century as at its outset.¹²²

In an echo of the facts of *M'Bride* and *ATD*, the applicant in *Ní Cheallaigh* sought and was refused permission for a car registration that displayed the letters BÁC¹²³ rather than D for the county of registration. Despite this refusal the applicant nevertheless displayed the letters

¹¹⁹ *Supra*, pages 13-14.

¹²⁰ Official report of parliamentary debates: Seanad Eireann Dublin Oifig an tSoláthair 1940 XXII 989

¹²¹ Michael Cronin, 'The Imaginary Gaeilgóir' (1989) 6 *Graph* 1216-18.

¹²² *Ní Cheallaigh v An t-Aire Comhshaoil* [1980-1998] *Tuairiscí Speisialta IR* 52.

¹²³ For 'Baile Átha Cliath' in place of D for 'Dublin' in the English rendering.

BÁC on a self-altered registration plate and was in due course convicted for non-display of the correct index mark under the appropriate legislation.

The applicant sought leave for judicial review, to quash her conviction and compel the Minister to introduce an Irish scheme similar to the one in effect in respect of English. O'Hanlon J refused the application on the basis that when provision is made by law for only one of the two official languages to be the sole language used for one or more official purposes the State may choose between the two languages as it wishes – and has chosen English in this case.

The parallels between the cases of *M'Bride* and *Ní Cheallaigh* are significant – not least in terms of their factual context with both cases turning on the legal 'legibility' of Irish for the purposes of registrations displayed on vehicles using public roads. More significant, however, is the similarity in the outcome of the two cases. In both cases the verdict for the Irish speaking parties is the same – despite the subsequent constitutional elevation of Irish to the first and national language. It is difficult to escape the inevitable conclusion that the position of Irish speakers remains similarly unchanged – obliged to accommodate the majority and accommodated themselves in equivalent fashion in theory but rarely in practice as part of an institutional view which understands Irish speakers as a derivation from an Anglophonic norm.

The question which *ATD* ultimately poses, but which it cannot answer is whether the song's protagonist, and the group he represents, can integrate their disparate identities and be vindicated as citizens and Irish speakers. The natural and perhaps inevitable alternative for *Ní Cheallaigh*, Mícheál an Gabha and his creator is to occupy a state of half possession – possessors of citizenship only in so far as they relinquish those aspects of their identity which are inconvenient to a singular vision of the citizen as English speaking in public and Irish speaking only in closed, private contexts – possessors of their own linguistic identities only to the extent that they are willing to subsist outside the definitions of citizenship drawn by law.

Conclusion

In 'Translations' Hugh remarks 'I am a barbarian in this place because I am not understood by anyone.'¹²⁴ In a country where allegiance to a monolingual English identity was historically both a signifier and qualifier for citizenship, and in which Anglophonic expression remains the default means of citizen participation, the remark is apposite. As *ATD* and its modern equivalent in *Ní Cheallaigh* expose, Irish speakers have consistently struggled to actualise themselves as citizens in the context of a State whose institutions have rarely exceeded mere tolerance of non-Anglophonic linguistic identities.

More broadly, what *ATD* highlights is that citizenship is constituted not only through the vertical axis and the definitions offered by State but, more fundamentally, by citizens themselves in how they choose to view and interact with law and identity. It is at these intersections – where the horizontally constituted citizen clashes against the vertically defined ideal drawn by the State that conflict arises. Moreover, this intersection is also where the State is undermined by subversive action when it does not accede to, or recognise horizontally constituted identities, and their drivers. In this respect, works like *ATD* offer crucial reminders of how the sites and sources of populist agitation and institutional exclusion may be more visible and their remedies more easily identified by adopting a horizontal, civil society rather than a vertical institutional perspective.

¹²⁴ Friel, *Translations*, 85.

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