knowledge. It is not for those without some previous acquaintance with the medieval Church's own legal system. It is no substitute for the accessible short history of the emergence of classical canon law in English which might really open the subject up for comparative treatment of medieval laws. Naturally, it cannot cover every current desideratum, though it goes some way in that direction. This review has, however, sought to give from the outside a historian's summary of some of the special features of canon law which strike him, but which the volume's contributors perhaps take for granted and not worth making explicit. It deserves a good readership of those with the lawyerly reading qualities to unpack closely reasoned argument and work the results into their own legal framework. They can use it as a portal into the new world of "Western Legal Tradition" in which we all still function, and not least into the very English common law's still incompletely acknowledged debts to the civil law and especially classical canon law.

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Irish Speakers, Interpreters and the Courts, 1754–1921. By MARY PHELAN. [Dublin: Four Courts Press/Irish Legal History Society, 2019. xiii + 271 pp. Hardback €49.50. ISBN 978-1-84682-811-9.]

Under Article 6 of the European Convention on Human Rights anyone charged with a criminal offence has a minimum right to be informed promptly, in a language which he or she understands, and in detail, of the nature and cause of any accusation made against him or her. The accused is entitled also to the free assistance of an interpreter "if he cannot understand or speak the language used in court".

One of the strengths of Mary Phelan's study of interpretation in the Irish courts prior to the creation of an independent Irish state in 1922 is the manner in which it throws up questions about the limitations of interpretation services even as provided by law. Another is her demonstration of the relevance of the relationship between power and language in that context. One has only to glance at the bitter nature of the contemporary dispute between the Democratic Unionist Party and Sinn Féin over the latter's demands for an Irish Language Act in Northern Ireland to recognise the symbolic power of language.

During the period examined by Phelan, there was a substantial if declining minority of monolingual Irish language speakers in Ireland, and there were many other people who spoke English only to a limited extent. Most of those were of the poorer social classes. Some legislative provision was made for interpreters, but Phelan demonstrates that this was at least as much to facilitate the administration of the courts system and the disposal of cases as it was to ensure that the accused received a fair trial.

It was long the policy of the English government in London and the Anglo-Irish administration in Dublin, supported by legislation, to encourage and compel the native Irish to speak English and to adopt English customs, manners and styles. For example, the Administration of Justice (Language) Act (Ireland) 1737 required all proceedings in courts of justice to be in the English language. This meant that judges and lawyers could not conduct cases in Irish even where they themselves spoke Irish (*Gaeilge*). Eventually grand juries and Parliament introduced systems of allowing interpreters to be paid in some criminal cases, albeit at the discretion of the court and with the task of translating often allocated to persons such as

summons-servers who might be compromised by conflicts of interest or inclination arising from their more usual functions. Phelan points out that there was not a "right" to such an interpreter, citing the case of *R. v Burke* (1858) 8 Cox CC 44 to reject what she describes as an unfortunate misunderstanding to the contrary arising from that judgment. She notes that the case surprisingly appears to be one of only two examples of Irish case law on interpreting in this period.

Moreover, while provision was made for interpreters in Ireland in criminal cases before 1921, plaintiffs and respondents in civil cases were not entitled to avail of salaried court interpreters and had to find alternative solutions. Indeed, it may be noted that even under the European Convention on Human Rights today the enumerated minimum right refers only to criminal offences.

Perhaps less immediately obvious is the extent of any limitation on one's inclusion in the class of persons to be granted interpreters, such as that class in Article 6 of the European Convention referencing accused persons who "cannot understand or speak the language used in court". As Phelan clearly demonstrates, judges in pre-independence Ireland decided many times that a defendant or witness was feigning ignorance and that he or she spoke enough English to be held ineligible to be assigned a paid interpreter. No doubt there are some instances where an accused or a witness whose first language is not that of the court decides that it is somehow to his or her advantage to pretend not to be able to follow proceedings even where that person speaks quite fluently the language of the court as a second language. However, in Ireland before 1921, courts regularly determined, on the basis of inadequate evidence concerning the matter, a level of linguistic proficiency in English that was in fact non-existent or was so imperfect as to fail the test of allowing an accused to be informed promptly and in detail of the nature of any accusation or of details of evidence. Moreover, witnesses could not always understand questions put to them or answer questions in the language in which they were most fluent.

Resorting not only to surviving legal records, but also to quite frank newspaper reports of the time, Phelan frames clearly important and abiding issues around matters such as accuracy and the need for interpreters to take an oath in that context, levels of remuneration required to ensure a reasonable standard of translation, the danger of bribery and the perceived partiality or impartiality of interpreters where there is not a full-time, professional interpretation service. Phelan devotes a discrete chapter to the use of policemen as interpreters, with particular reference to the Maamtrasna murder case of 1882 that involved a particularly notorious miscarriage of justice when Maolra Seoighe ("Myles Joyce") was executed. In 2018, Seoighe was granted a posthumous pardon by President of Ireland Michael D. Higgins.

Phelan's account is not one of unrelieved injustice. While many of the judges spoke little or no Irish and those who did so were precluded from using it officially in court, some judges such as Barry Yelverton and Peter O'Brien (whose portraits are among those reproduced in a plates section) occasionally used what Irish they had picked up locally as youngsters to help a witness or to point up the shortcomings of an interpreter.

That having been said, one of Phelan's strongest chapters addresses the relationship between power and language, relating this both to the range or quality of interpretation services provided and the status or customs of those who do not speak the usual language of the court as their first tongue.

Social distinctions in Ireland were further complicated by sectarian ones, with special penal laws aimed at Roman Catholics when the native Irish-speaking population was overwhelmingly Catholic. Such laws long excluded Catholics from the bench and from other legal offices and even from the legal profession. Indeed, it is quite startling to read details in Phelan's book of the extent to which, even decades after the repeal of

such legislation, the Irish bench and senior legal profession continued to be dominated by Anglo-Irish Protestants up until independence in 1922. Even if they had been asked to speak Irish, many judges could not do so fluently.

Today Ireland is far more multicultural than it was between 1754 and 1921, and one is less likely to hear Irish being translated in court than to hear some other language such as Polish or Chinese being interpreted. A surge in immigration has given rise to contemporary debate about translation services (see e.g. *Law Society Gazette*, May 2017, pp. 54–57).

With its well-chosen tables and figures which support rather than weigh down her lucid narrative, Mary Phelan's book is a useful point of reference for anyone concerned about the provision of interpretation services and their implications for law and the legal system.

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The Oxford Handbook of Fiduciary Law. Edited by Evan J. Criddle, Paul B. Miller and Robert H. Sitkoff. [Oxford University Press, 2019. xxix + 997 pp. Hardback £115.00. ISBN 978-0-19-063410-0.]

Part I of this book, "The Doctrinal Canon", consists of 18 essays exploring fiduciary principles arising within specified fields of law. The aim is "to explain when fiduciary principles arise and how they govern specific relationships" (p. xxi). The essays cover fact-based fiduciary relationships (by Daniel Kelly), agency law (by Deborah DeMott), trust law (by Robert Sitkoff), corporate law (by Julian Velasco), unincorporated entity law (by Mohsen Manesh), charity and non-profit law (by Lloyd Hitoshi Mayer), banking law (by Andrew Tuch), the law governing investment advice (by Arthur Laby), pension law (by Dana Muir), employment law (by Aditi Bagchi), bankruptcy and insolvency law (by John Pottow), family law (by Elizabeth Scott and Ben Chen), the law governing surrogate decision-making (by Nina Kohn), the law regulating lawyers' representation of clients (by Richard Painter), health-care law (by Mark Hall), the law governing public offices (by Ethan Leib and Stephen Galoob), the application of fiduciary principles to the state, for example in administrative and constitutional law (by D. Theodore Rave), and international law (by Evan Criddle).

Part II, "A Conceptual Synthesis", contains six essays, each examining an overarching aspect of fiduciary law. The goal is to offer a "synthetic analysis of conceptual patterns that hold across the fiduciary doctrinal canon" (p. xxiii). The essays explore the identification of fiduciary relationships (by Paul Miller), the duty of loyalty (by Andrew Gold), the duty of care (by John Goldberg), other fiduciary duties, which are described as "implementing loyalty and care" (by Robert Sitkoff), mandatory and default rules in fiduciary law (by Daniel Clarry), and fiduciary remedies (by Samuel Bray).

Part III, "Fiduciary Law Across History and Legal Systems", comprises 10 essays, each contributing to the understanding of fiduciary principles in historical or comparative perspective. The purpose is to "show how different legal systems have embraced and extended fiduciary principles in their own unique ways over time" (p. xxv). The essays cover English common law (by Joshua Getzler), canon law (by Richard Helmholz), Roman law (by David Johnston), classical Islamic law (by Mohammad Fadel), classical Jewish law (by Chaim Saiman),