

## *In senchas bith-nua: the traditionalisation of early Irish law*

1. *Senchas* (Byrne 1974; Ó Corráin 1985, 68; Simms 1998; Toner 2005).

1) a textual tradition.

2) the historicity of its accounts of the past is doubtful.

2. ‘mimetic’ approach to the narratives (Ó Cathasaigh 1984).

### 3. **law**

*Pseudo-historical Prologue to Senchas Már, Di Astud Chirt 7 Dligid* etc.

Part of *Bretha Nemed* in the form of dialogue between Morann and Neire.

A bee blinded an eye of Congal Cáech as recounted in *Bechbretha*

### **other *senchas* accounts**

Patrician hagiography by Muirchú et al.

*Audacht Morann*, similar in style to *Bretha Nemed*, perhaps from the same poetico-legal school.

Also mentioned in *Cath Maige Roth* (Marstrander 1911, 234); another version in (Lehmann 1964, 10–11)

### **historical fact?**

*Senchas Már* compiled in late 7<sup>th</sup> century (Breatnach 2011).

*AM* written in c. 700 (Kelly 1976, xxix), *BN* between 721-742 (Breatnach 1984), while Morann is conventionally believed to live by the end of the 1<sup>st</sup> century (LGÉ v. 304)

Such injury, if ever happened, is extremely rare (Kelly and Charles-Edwards 1983, 121)

4. Legal narratives that directly borrow figures and chronology of the ‘ancestors of the Gaels’ from the synthetic historical scheme:

e.g. *CIH* 380.1-13, 582.29, 682.1-15, 884.14-5, 1653.16-1655.26, 2127.6-18, etc.

5. The medieval concept of ‘*historia*’ (Poppe 2008, 48–56).

6. Anthropological perspective:

the ongoing process of ‘traditionalisation’, a process which systematically links texts to a conceived meaningful past (Bauman and Briggs 1992; Bauman 2001).

The quality of being traditional (‘traditionality’) is a notion of social function rather than of temporal relation (Hymes 1975).

7. Attributing law texts to the promulgation or pronouncement of figures who have already been established as authoritative in the *senchas* (Breatnach 2005, 354–372).

8. *accessus ad auctores: locc, aimser, persa* and *tucait na dénma*.

Continental commentaries to Vergil’s poems: e.g. MS Monac. lat. 19475 (*olim Tegernseensis* 1475, s. xii) cited in Quain 1945, 219, Suetonius’s and Donatus’s *Vita Vergilii* as summarized in Irvine 1994, 123. These focus on the author’s biography.

Irish legal *accessus*, e.g. prologue to *Cóic Conara Fuigill* (CIH 1027.21-1028.12; 1280.1-21); *Persa*: Cermna, *locc*: Wood of the Uí Lugair (*Caillín Ó Lugair/Luachair*); *aimser*: the reign of Cathal mac Finguine (721-742)

9. Two *accessi* to *Anfuigell* (CIH 979.23-26) and *Cáin Fhuithirbe* (CIH 687.37-688.20):

**Anfuigell**: *persa*: Cummain (perhaps Cumméne Foto d. 662?), *locc*: Mag Fuithirbe; *aimser*: the reign of Finguine mac Con-cen-Máthair (678-695)

**Cáin Fhuithirbe**: *persa*: Amairgen son of Amalgaid son of Máel Ruain from the Déssi, *locc*: Mag Fuithirbe; *aimser*: the reign of Finguine mac Con-cen-máthair.

CIH 688.12-15: *7 rotaisbenad in gres-sin iar sin do patraic iar taidecht; ro bennaidh 7 roentaig 7 rocomlin a canoin a esbaid eile, 7 roscris a chlaen 7 a forbann rechta uile 7 a glor geintlighi, uair nir cuir as acht forbann rachta uili no glor geindtligi, uair rofulaing crist mor do recht rouairbai reime...*

‘and that artistic work was afterwards shown to Patrick after [his/the Faith’s] coming; and he blessed and combined and fulfilled its canon in other deficiency, and he wiped out its perverted parts and all their excessive rules and their gentile utterance, because he did not put them out except for all excessive rules or gentile utterance, since Christ had suffered greatly from the rule that existed (*for-tá?*) before him.’

10. Other types of legal narratives besides *accessus*: aetiological, background and example narratives (Qiu 2013a).

11. Prologue of *Bretha Étgid* cites from the *Dindshenchas* (CIH 250.18-24 = MD I. 6 (*Achall*)) and possibly *Auraicept na nÉces* (Burnyeat 2007).

Glosses to the first few lines of *Di Chethairshlicht Athgabálae* import from *Cath Maige Tuired*, *Aided Con Roí*, grammatical works and Middle Irish poetry (Qiu 2013b).

Translations or free renderings of parts of *Collectio Canonum Hibernensis* in *Bretha Nemed* and elsewhere (Ó Corráin, Breatnach, and Breen 1984, 416–418; Breatnach 1984).

12. §6 in *Scéla Moshauluim* was copied from *Bretha Nemed Toísech* (CIH 2232.33-37, 2230.1-2 = (O Daly 1975, 76–77).

Large portions of *Scél na Fír Flatha* that derive from *Di Astud Chirt 7 Dligid* and the *Pseudo-historical Prologue of Senchas Már* (CIH 342.22-39; 913.13-24; 915.33-916.11; 1125.38-1126.6 and 1653.16-1655.26).

13. Biblical tales (e.g. CIH 251.17-21; 1378.28-32.)

A passage in *Ántechtae* as sequel to *Cath Maige Mucrama* (CIH 1244.18-1245.16).

The story of Cú Chulainn killing his son (CIH 251.32-33, 927.6-7; 1302.32-36; 2127.19-2128.17.), otherwise known as *Aided Óenfîr Aífi* (Ó hUiginn 1996).

14. The narrative at the beginning of *Dí Chethairshlicht Athgabálae* ( *CIH* 352.26-356.38, 881.4-883.36, etc. partly edited in Binchy 1952; McLeod 2011) may have absorbed the once independent saga *Echtrae Fergusa maic Léti*.

‘Finn and the man in the tree’ (*CIH* 879.23-880.14 (Meyer 1904)).

Athairne’s pre-natal thirst for a good ale (*CIH* 1118.40-1119.16 (Gwynn 1928)).

15. *CIH* 2169.10-11 (*Gúbretha Caratniad*):

*Cair, cá rí cetaescomrad colainnéric i nÉre? Ni hansa. Fergus Lethderg docer i Cath Bó Cúalgne.*

‘A question: who is the king that was first compensated with body-fine in Ireland? Not difficult. Fergus the Red-Side who fell in the battle of the cow of Cooley.’

Conn Cétchathach and Fergus mac Léti as contemporaries (see 14 above)

16. Cernodon and Morann (*CIH* 1134.6-24, 2113.26-2114.4, 2218.4-23 (Dillon 1932, item IV)).

17. Registers of legal language:

*Fénechas*, plain prose and textbook prose (Charles-Edwards 1980, 146 ff.);

Prose, syllabic rhyming verse and *roscad* (Breatnach 1991);

In terms of mode of discourse:

**provision, exposition and narration.**

18. Provision: apodictic and casuistic.

19. Narration: the primary discourse of *senchas*.

‘Narrative openers’ (Mac Cana 1996):

V-second order, e.g. *tri meic robatar ac meidbh banbriugu...* *CIH* 106.39.

*Nominativus pendens*: e.g. *Aimirgin Rathach, laisi mbatar .uii. ratha* *CIH* 63.8-9.

Temporal adverbials are relatively rare, e.g. at the beginning of the perhaps once-independent section in the narrative of Fergus mac Léti: *fecht naen ann iar sin luid Fergus...* *CIH* 355.4.

Prosimetrum for various textual functions (Mac Cana 1989; Toner 2005):

e.g. *CIH* 687.37-688.20 (evidential verse); 1120.16-30 (*Situationgedichte*), 1587.18-34 (evidential verse).

20. Exposition: discourse derived from Latin *Grammatica*.

The expository discourse instructs one in reading (*lectio*), interpreting (*enarratio*), emending (*emendatio*) and evaluating (*iudicium*) the provisions (Irvine 1994, 4).

expository markers:

*.i.* and *amal*; *cair* and *ní hansa* (Baumgarten 1992); *cid ara n-eperr*, *arailiu*, *óndí* and their variants (Russell 1988, 22), *desimrecht*, etc.

Law texts engaging in meta-theoretical discussion on issues of *grammatica*:

e.g. *Pseudo-historical Prologue to Senchas Már* (*CIH* 342.40-344.23);

*Cóic Conara Fuigill* (1027.25-31) (Poppe 1999, 204);  
*Uraicecht Becc* (2255.1-2256.12).

Law texts deploying grammatical analytic terms to illustrate their content:  
 e.g. the word *étgid* in *Bretha Étgid* (*CIH* 251.4-14) is analysed in terms of *bunad* (root), *inne* (essence) and *airbert* (application) (Russell 1988, 23); the paradigm of *ainm* (name), *indaithmech* (analysis) and *érchoiliud* (definition) in examining the word *ferb* (*CIH* 1664.5 ff.) (Qiu 2013b, 104).

## 21. Structure of texts:

Types of page layout of Irish law texts as found in manuscripts from the late Middle Ages (Kelly 2002).

A hierarchy created by glosses and commentaries which promotes the canonical text to an authoritative status (Irvine 1994, 390–391).

A pleading in the 16<sup>th</sup> century (*CIH* 2204.1-2208.19).

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