The first judgment in Ireland

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Since *Lebor Gabála Érenn* became the canon of Irish historiography shortly after its first appearance in the eleventh century (Carey 1993, 6), the doctrine that Amairgen, son of Míl of Spain, delivered the first judgment in Ireland has accordingly been accepted by medieval Irish literati. This doctrine has been summarised in (1) below, cited from the Book of Leinster copy of *Lebor Gabála*, while the same passage is found in copies representing all three of the so-called first, second and third redactions (Macalister 1942, 46, 68, 94):

(1) Dáig is íat tri cétbretha ructha oc maccaib Miled i nHerind .i. in breth ruc Amairgen i Temraig. 7 in brethsain. i Sléib Mis. 7 in breth ruc Amairgen i Cind Sále i mMumain. for ossaib 7 altaib 7 chethraib. (LL 1750–1753) These are the first three judgements that were given among the sons of Míl in Ireland : the judgement that Amorgen gave in Temair, and that decision in Slíab Mis, and the decision that Amorgen gave in Cenn tSáile in Mumu upon the deer and roes and quadrupeds (translation in Macalister 1942, 47).

This doctrine dates back at least to the ninth century, since the Pseudo-historical Prologue of *Senchas Már* already claims that:

(2) On uair dā ronuc aimirgin glungel cetbreith i nere, robu la filedu a naenur breithmnus cusin imacallaim in da tuar i nemain mache.
From the time when Amairgen Glúngel gave the first judgment in Ireland, judgment was in the hands of the poets alone until the 'Colloquy of the Two

Sages' in Emain Macha (*CIH* 342.25–27, edited and translated in Carey 1994, 13, 19).

The recognition of Amairgen as the primary poet in prehistoric Ireland can be traced back even further to the early eighth century, when the poetic treatise 'The Caldron of Poesy' uses *Amargen glúngel garrglas grélíath* 'white-kneed, blue-shanked, grey-bearded Amairgen' as an antonomasia for an elevated poet (Breatnach 1981, 62–63). The two *Bretha Nemed* law tracts from the same period make several references to Amairgen Ánmoltach 'splendid and praise-worthy' who is well versed in poetry (Breatnach 2005, 362). Although poet-scholars (*filed*) are frequently accorded legislative and adjudicating roles in early Irish legal narratives (Qiu 2017, 16–18), it may be his connection with the *Bretha Nemed* tracts that gave rise to Amairgen's role as a judge in (2) as well as in a legal narrative commenting on *Bretha Nemed Toisech (CIH* 2117.9–22; Dillon 1932, 50). The honour of being the first judge in Ireland finds echoes in a list of the legendary poets and judges in Ireland, which describes Amairgen as *cetna ugdur cetarobuidh i nEirinn (CIH* 1653.16) 'the first author who has been first in Ireland'.¹ This list quotes from sources that are probably contemporary to the

¹ Another version of this text is edited and translated in McLaughlin (2013).

Pseudo-historical Prologue (McLaughlin 2013, 21–22), and since the other personages in the list are all engaged in legislation for the Irish people, the word *ugdur* 'author' should be understood here as 'legislator, legal author'. This list may have inspired a Middle Irish poem on the authors of laws in Ireland, which claims:

(3) Aimirgein Glúngel tuir tend / cétugdar amra Éirend / ba breithem, ba coimgnid cain, / ba file, ba firsenchaid.

White-kneed Aimirgein, a firm pillar, first wonderful author in Ireland, he was a judge, he was a fair synchroniser, he was a poet, he was a true preserver of tradition (edited and translated by P. Smith (1994, 125, 134)).

As a prominent author in Ireland, Amairgen has also been credited with the writing of *Auraicept na nÉces*, or at least part of it (*Auraic* 78).

According to the *Lebor Gabála* passage (1) cited above, the first judgment happens in Tara where the earlier inhabitants of Ireland, the *Túatha Dé*, meet the invading Milesians and request a respite of three days. The judgment by Amairgen grants them the respite, and demands the Milesians to retreat from Ireland over the distance of 'nine waves' (Macalister 1942, 36). The second judgment in Slíab Mís may refer to the decision by Amairgen to name Ireland after Banba (Macalister 1942, 34), although this is only one of three judgments to name the island Banba, Fotla and Ériu respectively after the three women whom the Milesians meet in Slíab Mís, Eblinne and Uisnech, and all three encounters have happened before the Tara judgment in the extant *Lebor Gabála* narrative. The third judgment is purported to have been given in Kinsale, and a poem attached to the passage describes the content of the judgment. Here I reprint Macalister's edited text and translation (Macalister 1942, 118–121):

(4) Sund ruc Amairgen in mbreith—
nī chelat a chomathig—
O chath Maland, miad cen meth, etir sluago Mac Miled.

Ro mid do chāch dīb a chert, dia mbātar con tselgairecht, Ruc leis cāch a dlīged cōir, trē chert Amairgin ard-moir.

Cēt guine clossach, ro fes, cid fer, cid cū, cirres cnes, Earchoidich, ces cen chel, tarlaithair it tarthither.

Lethe fir fennta, mar ruc, diurn munel gerr garit, Coin tafaind, cossa na n-āg, beth do līn nis tormastar.

Inathar fir thic fo deōid, cid maith cid saich leis in seōl, Is derb ni tuilter do dē do dālaib na comrainne.

Comraind coitchend do cach ōen iarmotha sein—ni seol sāeb— Cen furail ille no innund, is i breath ruc Amargen sund.

There did Amorgen give the judgement his neighbours conceal it not ; after the battle of Mala, a fame without decay, between the hosts of the Sons of Mil.

To each of them he apportioned his right, as they were a-hunting ; each one received his lawful due at his hands, by the judgement of Amorgen, high and great.

The first wounding of stags, it is known, be it a man or a hound that tears the skin, to the stag-hounds, customary without fail, there comes what is cast to them. (?)

The share of the skinner, so he [Amorgen] apportioned it, a gulp (?) of the short brief neck ; to the coursing-dog the legs of the stag, his should be a part that is not increased.

The inward parts to the man who comes last, whether he thinks the course good or bad, it is certain that he is not entitled, from it, to shares in the co-division.

A general division to everyone thereafter—it is no vain course without commanding hither or thither this is the judgement that Amorgen gave.

The retreat over nine waves and the meeting with Banba, Fotla and Ériu were

probably already present in the prototype of *Lebor Gabála* (Scowcroft 1988, 7–8) and certainly are mentioned in the poem *Can a mbunadus na nGaedel* by Máel Muru Othna who died in 887 (*LL* 16080–16085). The third judgment, however, is absent from *Can a mbunadus na nGaedel* and from the so-called *Miniugud* redaction of *Lebor Gabála*. Scowcroft is of the opinion that the poem on the third judgment, along with other poems attributed to Amairgen, was added to the ancestor of the first, second and third redactions in the eleventh century (Scowcroft 1988, 4).

For this third judgment, fortunately, we are now able to locate its source. This short text, from which the *Lebor Gabála* poem (4) apparently derives (see the 'Textual Relationship' section below), records Amairgen's judgment directly in the formulaic, rhetorical language that is widely employed in the early Irish law tracts.

This obscure text (hereafter 'The First Judgment'), which declares Amairgen Glúngel's verdict on the division of twelve deer as the first judgment in Ireland, appears in two manuscripts. In fact, the two copies are textually so different from each other, that although they share a portion of the text which must represent the oldest core of 'The First Judgment', they should rather be regarded as two recensions, labelled **A** and **B** hereafter.

A: Dublin, Trinity College Library MS 1336 (olim H 3.17), col. 841.17–43. It is found

in a separate fragment (cols. 832–874), probably dating to the 16^{th} century, in this composite manuscript, now bound with other fragments as volume (6). The scribe who wrote cols. 832–863 has not identified himself. Semi-diplomatic editions of **A** have been provided by Binchy (*CIH* 2127.6–18) and by Roland Smith (1931, 63), both without translation.

The text contains a prose introduction typical of the so-called 'standard Old Irish textbook prose' which opens with a question-answer schema (Charles-Edwards 1980, 147) and continues with a narrative of the background of the judgment. The prose introduction sets the judgment immediately after the landing of Éber and Érimón at Inber Féile, and before they are aware of the previous inhabitants of Ireland. This judgment therefore predates the judgment of retreating over nine waves in Tara, effectively making it the first judgment by chronology, and indeed this is reckoned in the prose introduction, transcribed from the manuscript and translated as follows:²

(5) CIASSA CET BREATH ruccad i neirind ocus cia .c.naruc ocus cia dusrucc .nī. eber mac miled ocus eirimon gabsat indber feile 7 ni edatar in raibe duine an eirinn. Luid dī .eber. cona muintir issin sléib do seilg 7 marbaid dí oss déc. Boí eremon hi fos cona muintir ic denum aitreibe 7 irgnama bíd. ISberait muinter ebir fri muintir érimoin nis bíad ní don fiadach romarbsat uair nirbo soethar dóib. Fuigellsad breith amairgein maic miled. issi inso in breath rucc.

What is the first judgment that was delivered in Ireland? And who adjuged it in the first place? And to whom did he give it? Not difficult. It was Éber son of Míl

² Here and in the following transcriptions, the transcribed texts are set in italic, while expansions and compendia are indicated by roman. *Spiritus aspers* and *puncta delentia* that represent lenition are spelled out as <h>.

and Érimón who landed at Inber Féile, and they did not know whether there was anyone in Ireland. Éber then went with his folk into the mountain for hunting and they kill twelve deer. Érimón was at the place with his folk, making abode and preparing food. The folk of Éber say to the folk of Érimón that they shall have nothing from the wild animal that they have killed, since it has not been a labour by them. They submitted the case to the judgment of Amairgen son of Míl. This below is the judgment he passed.

The judgment itself is presented as direct speech by Amairgen in another style that Charles-Edwards terms *fénechas* in the legal context but which is usually known as *roscad*, an ornamented, highly alliterate flow of speech text with obscure words and uncommon syntactical features but lacking obvious metrical regularity.³ It can be subdivided into two parts. The first is an alliterative chain of words from *airrióc* to *domnaig*, enumerating the persons who are entitled a share of the carcass. The second describes the actual portion awarded to each category of these persons, on which (4) appears to be based. Gen.sg. *fir* 'of the man' and gen.pl. *con* 'of the hounds' (see the textual notes below) are employed in the first six lines of the second part, a format closely resembling that of a law tract on the proportions of responsibility for a crime on different persons involved.⁴ An excerpt from that tract shows the similar structure:⁵

(6) Fir elgnaise ogchinaid cen comarb i cein, Fir mbraith morleth miscara coscrad, Fir targuda trian tre mesa muin... (CIH 1055.1–13)

Full-liability [is] of the man of malicious injury, without patrimony for long, Great-half [is] of the man of deceit who wrongly separates (?) the destruction,⁶ A third [is] of the man of the cause, through wealth of measurement...

In the manuscript, the judgment and the prose introduction are preceded by another narrative,⁷ namely the well-known episode of the first satire ever composed in Ireland by Coirpre against Bres mac Elathan.⁸ This episode is part of the story *Cath Maige Tuired*, but the sole surviving copy of the older version of that story does not contain the full satire.⁹ The full satire has however been preserved in other texts, such as here in TCD MS 1336, and in the commentary to *Amra Coluim Cille*.¹⁰ Satire has been one of the central topics in several law tracts regulating the poetic grades, and this episode is

³ For the definition see Breatnach (1991).

⁴ CIH 572.20–24, 1055.1–1056.13, 2031.31–2033.30, printed without translation in Meyer (1918, 361) and R. Smith (1934).

⁵ The regular alliterations in this passage, however, is not consistently found in the second part of 'The First Judgment'.

⁶ A *figura etymologica* may be intended here between *mi*·scara 'wrongly separates' and *coscrad* 'destruction', verbal noun of *con*·scara 'destroys'.

⁷ For this and the description of other contents of this manuscript hereafter see Abbott & Gwynn (1921, 136–137).

⁸ Edited and translated in Hull (1930) with variant readings from YBL, LU and other manuscripts.

⁹ Edited and translated in Gray (1982, 34).

¹⁰ Edited and translated in Stokes (1899, 250–251).

considered by Liam Breatnach, based on the evidence from the arrangement of entries in O'Davoren's Glossary, as originating from the lost opening section of one of the poetic-legal law tracts *Bretha Nemed Dédenach* (Breatnach 2005, 187).

The judgment is then followed by a story of how Cú Chulainn killed his son unintentionally.¹¹ Compared to the Old Irish *Aidid Óenfir Aife*, this version has been adapted and elaborately commented to illustrate certain legal rules concerning the compensation incurred by inadvertent killing between a native (*urrad*) and an outsider (*deorad*) (Ó hUiginn 1996, 228–229), which coincides with the topic extensively discussed in *Bretha Étgid*. In fact, in the opening section of *Bretha Étgid* a gloss has used the killing of his son by Cú Chulainn as an example (*desimrecht*) of inadvertent homicide (*CIH* 251.32–33; Qiu 2017, 12–14).

Accounts in the following pages in this fragment are mostly on legendary personages and events, but they also betray a strong interest in their legal implications, and some materials probably come from lost Old Irish tracts.¹²

B: Oxford, Bodleian Library MS Rawlinson B 512, fol. 97va 24–36. The manuscript

dates to the 15^{th} and the early 16^{th} century (Ó Cuív 2001, ***). This text has not been edited before. It contains a shorter recension of the judgment, which also consists of two parts but only part of the text is shared by both **A** and **B**. The judgment proper is preceded likewise by a prose introduction, which is transcribed and translated as follows:

(7) IS i an cet breth rucad ind erind. Fir torachtan tuinide. Etir tuatha dea 7 macu miled. IN breth tanaise um forba¹³ nduinn etarru abus a triur. IN tres breth eter cheithre 7 ossa a cinn tsaili in descert erenn in desmumain.

This is the first judgment that was delivered in Ireland: 'Men arriving for taking possession', between the Túatha Dé and the sons of Míl. The second judgment concerning the heritage of Donn between the three persons here. The third judgment between cattle and deer at Kinsale in the south of Ireland, in South Munster.

(7) does not subscribe to the narrative in (5), but gives an account similar to that in the *Lebor Gabála* as demonstrated by (1). The judgment on the division of deer is, as in (1), numbered the third judgment. The first judgment is, again as in (1), the one between the Túatha Dé and the Milesians in Tara, and the first line of that judgment is quoted (*Fir torachan tuinide*, see Macalister 1942, 114). The second judgment, however, is not on the naming of Ireland as in (1) but instead on the inheritance of the royal title after the death of Donn. This dispute is mentioned immediately before (1) in the three redactions of the *Lebor Gabála* where (1) is attested, quoted from the Book of Leinster

¹¹ *CIH* 2127.19–2128.17, edited with translation in O'Keeffe (1904).

 $^{^{12}}$ For instance the texts on cols.847 and 848 may derive from the last third of *Senchas Már*, see Breatnach (2005, 87–88 and Appendix 3 on 465–466).

¹³ Read *imm orba*.

copy as follows:

(8) Baí cosnam eter maccu Miled imon ríge .i. eter Eber 7 Hérimón. Co rucad Amairgen chucu do chóra eturru. Co n-erbairt Amairgen orba in taesig .i. Duind don tanaise .i. do Herimón. 7 a orbaside do Eber dia éis 7 nira gab Éber in sen acht roind Herend. (LL 1747–1750)

There was a contention between the sons of Míl concerning the kingship, that is, between Éber and Érimón. Amorgen was brought to them to arbitrate between them, and he said: The heritage of the chief, Donn, to the second, Érimón; and his heritage to Éber after him. But Éber would not accept that—only a division of Ireland (translation in Macalister 1942, 47).

Moreover, the judgment proper in **B** is followed by a citation of the first line of (4): Sund ruc aimirgen 7rl- 'Here Amairgen has given, etc.' It is not surprising that **B** is heavily influenced by the Lebor Gabála account, given that it belongs to a group of texts in the manuscript that are obviously appended as relevant information to the two preceding texts, namely the so-called second redaction and the *Miniugud* redaction of Lebor Gabála respectively (Ó Cuív 2001, 245–246). This group includes a short note on the geographical position and the nature of Ireland, the text of **B**, and a story and a poem about Túan mac Cairill, a legendary figure who retains his memory in his transformations through the ages and recounts the stories of Lebor Gabála to St. Finnio (Carey 1984). These texts are then followed by a quatrain about the division of the provinces of Ireland, a poem praising the four seasonal festivals of Ireland, and a short version of Compert Conchobair (O Cuív 2001, 247). After these there is a scribal note Finit do leabar gabala glind da locha acsin duit uaim 'The end of the Book of Invasion from the Book of Glendalough, that is for you from me'. Ó Cuív takes this to be a misplaced colophon that should have been placed at the end of the Lebor Gabála proper (O Cuív 2001, 247), but it is also possible that anything between that and this colophon, including **B**, could have been copied from the 'Book of Glendalough'.

Amairgen's judgment in the two texts **A** and **B** are transcribed here from the manuscripts. Each text is normalised according to the conventions of edited Early Irish texts, restored when necessary, and translated. The restoration and translation are explained in the ensuing textual notes. Although a great effort has been made, much of the first part of the judgment still remains obscure or corrupted. The restoration and translation are translation are therefore tentative.

A

Airrióc fogni concomlai contuairce do hend déice gabaid éccis moillid munus conrai contoéscai conlaid sechlais contabar contuet iarmór ching conram conai connernen congam confor conair mairind nad dergair fogni tech domnaig.

Fir .c.guinid classach Fir fenta lethe Fir concés. Fir iarn muinel conscara contafaind cossa. Inathar fir fa déoid. aei la fiallach nurgadach. Tarla tir a tarrustar.

IS isin .c.na breath ruccad ind heirinn. FINIT.

Normalised text:

Ar·icc: fo·gni con·comlui con·túairc;	
de ind déccai, gaibid aicces, muillid múnas;	
con·ric (?) con·tesca con·laídi.	
Sech lais con·tabair con·táet,	
íarmo·ching con·ranna con·oí,	
con nernen con gam con for con air; (?)	
muirenn nad dergair, fo gní tech domnaig.	

Fir cétguini classach,	
fir fenta lethe,	
fir con cés,	10
fir íairn muinél con·scara,	
con tafainn cosa,	
inathar fir fo deoid,	
aí la fiallach n-airchóitech,	
tarr la tir i·tarrastar.	15
Is ísin cétnae breth rucad i nÉirinn. Finit.	

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Translation:

I decide thus: it serves him who proceeds, who beats; he watches from the top, he declares what has been seen, he unleashes the dogs [to the direction] which he has pointed; [it also serves him] who encounters (?), who cuts down, who incites; and besides, [it is] with him who gives, who accompanies, who steps in pursuit, who divides, who preserves, who..., who..., who..., who... (?), a spear which is not reddened, it serves the house of... (?).

The ribs belongs to the man of first wounding, the shoulder belongs to the man of flaying, the haunch belongs to the man of hounds, the neck belongs to the man of iron who dismembers [the deer], the legs belong to the hounds of hunting, the innards belong to the man in pursuit, the liver with a band of attacking warriors, the belly with the land in which it has come to a stop. That is the first judgment passed in Ireland. Finit.

B

Airicc fogni conndeni. confodlai conseolai contabair conteit contaet iarmoching conranna conoi. Fir cetguin closach fir fenta lethe. Fir tic fodeoid muinel 7 inathar. Ces dard coin Coin tafuinn cossa. 7rl- Sund ruc aimirgen 7rl-.

Normalised text:

Ar·icc: fo·gní con·dénai con·fodlai con·seolai, con·tabair con·tét con·táet, íarmo·ching con·ranna con·oí.

Fir cétguini classach, fir fenta lethe, fir tic fo deoid muinél 7 inathar, cés d'aird con, con tafainn cosa, 7rl-. Sund ruc Amairgen 7rl-.

Translation:

I decide: it serves him who performs, who distributes, who dispatches/guides, who gives, who goes, who accompanies, who steps in pursuit, who divides, who preserves.

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The ribs belongs to the man of the first wounding, the shoulder belongs to the man of flaying, the neck and the innards belong to the man who comes in pursuit, the haunch for the collar of hound (?), the legs belong to the hound of hunting, etc.. Here Amairgen has given, etc..

Textual notes:

Ar icc: I think this opening word serves the same function as messiur 'I judge' (e.g. CIH 1130.39), *áiliu* 'I pray' (e.g. Corthals 2010) and *biru* 'I deliver' (e.g. Corthals 1995, 108) in early Irish legal texts, namely, to define the beginning of a judgment pronounced by the judge. Although theoretically Airrióc A can stand for an u-affected 1sg.pres.ind. form ar-iucc 'I find, I decide', such a form would be very early and rare. Conjunct 1sg.pres.ind. iucc is to my knowledge never attested, and already in the glosses one finds roiccu 'that I need' Wb. 23d9, niriccim 'I need not' Wb. 12a33 and ruicim 'that I need' Ml. 22c14. The u-affected form could be expected for compound verbs with *icc* (S1 verb, 1sg.pres.ind. < *-*iggū* cf. dat.sg. *biucc* 'small' < **biggū*), but it seems that the $/\underline{u}$ was lost before the eighth century, so that the 1sg.pres.ind.conjunct of these compound verbs look identical to the 2sg. and 3sg. forms (*ar*·*icc* for all three persons in the singular), although the 1sg. has unpalatalised /g/ while the 2sg. and 3sg. have palatalised /g'/. New conjunct endings -u and -i were then added in the fashion of W2 and S2 verbs, producing the paradigm *iccu*, *icci*, *icc* for the three singular persons respectively, as attested in the Old Irish glosses; *iccu* in turn was replaced by *iccim* on the model of W1 and S3 verbs (McCone 1997, 68–70). At any rate, if ar icc 'I decide' is indeed the correct reading, it represents an archaic form.

Given that the r is palatalised in both **A** and **B**, it is also possible to restore the 2sg. imperative *airicc* 'you find out!', but this would be unusual for a legal judgment, in which the decision is found out by the judge rather than the audience.

- con comlui: this verb follows fo gni 'it serves' and contains the double preverb con, if the prototonic part is the verb *con·luí* 'goes on, proceeds'. The first *con* in my opinion should be read as the relative conjunct particle, which is found pervasively in the Middle Irish recension of *Táin Bó Cúailnge* in the Book of Leinster (*LL Táin*) (O'Rahilly 1966). The con can also be interpreted as a verbal prefix denoting 'together, mutually' (eDIL s.v. 1 com-), but the syntactical relationship between fo gni and con comlui is difficult to explain without the relative lenition (*con chomlui 'who proceeds toghether', note that the lenition is also missing from all the following verbs prefixed by con in both A and B). The relative conjunct particle seems a better interpretation, and the phrase is accordingly normalised as fo gní con comlui 'it serves [him] who proceeds', with the relative subordinate clause as the object of the main clause verb. It is not quite clear to me what is meant by 'who proceeds' - perhaps all the men and hounds who participate, since etymologically con·luí means 'moves together' (*kom-+ *lu-). In any case, what follows in the first part of this judgment appears to be a list of persons entitled to sharing the game, described by their respective actions in the hunting.
- *con*·*túairc*: the Middle Irish relative conjunct particle con + do·*fúairc* 'beats, pounds', referring to the act of beating the bush to scare out the deer. The *e* at the end of con*tuairce* **A** is probably a copying error.
- *de ind déccai*: I interpret *ind* 'tip, end' as meaning 'the top of a tree, a summit of a hill' (see *eDIL* 1 *ind, inn* (c)), and *déccai* as the contracted 3sg.pres.ind. of *do éccai* 'to look at, to gaze'. Presumably someone has to climb to the top of a tree or a high ground to search for the hideout of the deer.
- *gaibid aicces*: in light of *déccai* I read the first word as indicative *gaibid* 'he takes, he recites' instead of subjunctive *gabaid* 'he would take, he would recite'. *éccis* A may stand for *aicces*, the rel.pass.pret.sg. of *ad·ci* 'sees'. In Old Irish one would expect deutorotonic *ad·chess* 'which was seen'. This phrase seems to mean that the man who observes the whereabouts of deer declares the direction for the hunters. An alternative to *aicces* is *éces* 'was related, was pointed out', rel.pass.pret.sg. of *in fét* 'relates, points out', also a prototonic form. Although *éces* reads closer to the manuscript form, *aicces* fits the context better by corresponding to *déccai* in the previous phrase.
- *muillid múnas*: *múnas* is the rel.pret.3sg. of *múinid* 'to give instruction, to show the way'. The phrase may be understood as that the hunter unleashes his hounds to the direction shown by the observer on high.
- con ric (?) con tesca con laídi: in absence of an obvious main clause verb, I presume this chain of relative verbs follow fo gní again. Perhaps con rai A should read con ric 'who encounters' after losing the final $\langle c \rangle$ due to haplology? But the broad r is hard to explain, and the con in con ric is lexical, not the relative marker. contoéscai A, on the other hand, should read con tesca = relative marker con +

tescaid 'cuts off, severs', thus 'who cuts off'. *eDIL* gives the headword as *do esc* but the examples show that it is a weak verb, and there are only two instances of the compound form, while all other examples can be regarded as the simple verb *tescaid*. I tentatively restore con*laid* **A** to *con·laidi*, the Middle Irish relative conjunct particle con + laidid 'exhorts, incites'. These three verbs may mean the persons who set out to confront the deer, who strike at the deer, and who incite the hounds to pound on the deer.

- *sech lais*: here Amairgen starts a new main clause, connected to the previous by *sech* 'and that', and denoting possession by *lais* 'with him, he owns'.
- *con·tabair con·táet*: the two manuscripts share this phrase: con*taba* con*taba* con*tabair* con*tabair* con*tabair* 'who brings' and *con·táet* 'who comes' may refer to the ancillary hunters whose function in the hunting is less clearly defined, while con*teit* **B** 'who goes' seems to be superfluous.
- *iarmo*·ching: *iarmór* ching **A** *iarmoching* **B** points to the relative *iarmo*·ching, literally 'who steps after'. The *o* may represent Old Irish *i* (non-relative *iarmi*) or *a/e* (relative *iarma/iarme*), cf. *iarmoracht maoldithruib do máolrúoin* 'Máel Díthruib asked Máelrúain' (Gwynn and Purton 1912, 133), but the context as well as the lenition *ch* here indicate that this verb is relative. It probably refers to the person who pursues the deer into the desired direction, corresponding to the *fer fo deoid* in the second part.
- *conranna conoi*: I think con*ra*m con*ai* **A** is corrupted and con*ranna* con*oi* **B** provides the correct reading. Note that the two *con* here are lexical preverbs, but perhaps *ad hoc* understood as the relative marker. These seem to be the persons who cut up the carcass, corresponding to the *fer iairn conscara* 'man of iron who cuts apart' in the second part, and who help preserve the meat.
- con·nernen con·gam con·for con·air (?): I cannot recognise these words apart from taking them as containing the same Middle Irish relative marker con·. con·nernen may be a corrupted form of con·ern 'who bestows' or con·érn 'who dispenses'. con·gam perhaps reads con·gain, the Middle Irish pret. 3sg. of con·gní 'helps', but the tense differs from other verbs following con·. con·air may read con·airi, based on airid 'guards, keeps watch over' (eDIL 2 airid). All these are highly speculative. muirenn nad·dergair: 'a spear that is not reddened', i.e. one who does not participate

in the actual killing of the deer.

- *fo*·*gni tech domnaig*: since the whole story depicts something happening long before the time of Christ, it is unlikely that *tech domnaig* means 'house of Sunday, i.e. the church' or 'house of God'. Can *tech domnaig* mean the place referred to in *tarr la tir i*·*tarrastar* 'the belly with the land in which it has come to a stop'?
- fir: Liam Breatnach points out that *fir* could be the gen.sg. 'of the man', see Kelly (1997, 276 n.31) and GOI §250.3, but it could simply be the Middle Irish form of the dat.sg. *fiur* 'for the man' (Breatnach 1994, 233), used without a preposition. The phrase contafaind cossa A coin tafuinn cossa B coin tafaind cossa na n-ag (4) has the same structure as *fir X Y* 'Y for the man of X, Y belongs to the man of X'. While con A (written with the compendium 2 in the manuscript) appears to be in gen.sg./pl. 'of the hound(s)', coin B coin (4) are in dat.sg. 'to the hound', so the

evidence is ambivalent. However, since the last two allotments *aei la fiallach nurgadach*. Tarla tir a tarrustar **A** shows the structure $[at \cdot tá] X la Y$ 'Y has X', which in Old and Middle Irish denotes possession rather than endowing, and since there should be more than one hound involved, I accept the reading of gen.sg. *fir* and gen.pl. *con*, and take *fir/con* X Y as a predicative genitive sentence with implied copula 'Y [is] of the man/hounds of X, Y belongs to the man/hounds of X'.

- cétguini: .c.guinid A cetguin B stand for the gen.sg. (cf. gen.sg. fir fenta, gen.pl. fir con below) of a compound word with cét 'first' as the first element. The second element in the compound cannot be guin 'wounding', an *i*-stem ($< g^{\mu}oni$ -) verbal noun of gonaid 'to wound, to kill', which should give a gen.sg. cétgono here. Neither can it be the agent noun guinid 'killer', the gen.sg. of which should be gunetho. I would rather take the second element as guine 'killer, killing', a masculine or neuter *io*-stem substantive ($<*g^{\mu}onijo$ -) (Stifer 2012, 349; Breatnach 1983). The same element is found pervasively in Early Irish compound names, such as *Findguine* 'fair-killer' (AU 686.3, 690.3, etc.), *Eitguine* 'cattle-killer' (AU 813.6), Bógaine 'cow-killer' (AU 644.1 etc.), Úgaine 'sheep-killer' (O'Brien 1962, 115b32 etc.) and in generic nouns such as sédguine 'deer-killer/killing' (eDIL s.v. sédguine). eDIL indeed has an entry cétguin 'first wounding; severe wounding, slaughter', but apart from the first citation from O'Clery's glossary (cedghein .i. céd ghuin. is uadh cédghein a laighnibh), the other attested forms all point to *cétguine* instead as the headword, e.g. *neimh cédghúine* 'poison of first-killing' (CIH 1116.26) and debtha...im chetguine muicce 'strives...concerning the first-killing of a pig' (LL 7776).
- classach: Kelly (1997, 275, n.29) suggests that this is the remainder of the carcass after the division, despite in Modern Scottish Gaelic it means the whole carcass. Classach may be a substantivised adjective based on clas 'ditch, furrow', a word that also means 'grooved or furrowed parts of the body' (eDIL s.v. 1 clas). eDIL s.v. 1 clas gives instances of clas dromma 'trench in the back = shoulder blades', clas cúlaid 'the hollow at the base of the poll', clas ochta 'hollow of the breast', etc. Thus classach 'trenched, the trenched part' probably refers to the ribs, which is not given to other people or hounds in the judgment, and which does have a furrow-shape formed by the rib bones and the intercostal muscles.
- *fir iairn muinél con-scara:* I follow Kelly's suggestion (1997, 276 n. 31) in restoring *iarn* A to gen.sg. *iairn*. Given the intrepretation of *con*· in the first part, *con-scara* may also represent the relative marker *con*· + *scaraid* 'separates' rather than the compound verb *con-scara* 'destroys, kills, dismembers', but the latter is semantically more likely.
- fo deoid: fa déoid **A**, fo deoid **B**, both meaning 'at last'. But it does not make much sense to consider someone who arrives temporally late in a collaborated hunt as a separate category. I suspect that the exemplar of both versions already confused fo deoid 'at last' with *i ndeoid* 'following, pursuing', so that fer *i ndeoid* means 'the man following', i.e. the one who chases the deer into the attacking spot, unless there existed a technical term *fer fo deoid of which I have no other evidence.

n-airchóitech: I take nurgadach A to be a warbled spelling of acc.sg. n-airchóitech

'attacking'. Note that in (4) one reads *earchoidich* (= *airchóitig*) *ces cen chel* 'of the attacking one, the haunch without concealment', but here *fiallach nurgadach* **A** probably refers to the ancillary hunters who share only the liver (*ai*), as opposed to the *earchoidich* in (4) who gets the haunch and corresponds to *fir* concés 'the haunch [is] of the man of hounds' **A**. Another possibility is to read *oirgdech* 'killing, plundering', see *eDIL* s.v. 2 *aircthech* 'given to plundering'. *Oirgdech* is based on *orgaid* 'to wound, to kill', with an unexplained dental suffix and the adjectival suffix *-e/ach*.

- *tarr la tir i-tarrastar*: Macalister (1942, 119) finds the line *tarlaithair it tarthither* in (4) difficult, but *Tarla tir a tarrustar* A (also Kelly 1997, 276) makes it clear that this line should read *Tarr la tir i-tarrastar* 'the belly belongs to the land in which it has come to a stop', in a parallel structure to the previous phrase. The Old Irish form of prototonic 3sg.aug.pret. of the deponent verb *do-airissedar* should be *-tarrasar* (Schumacher 2004, 571, *LU* 6493). The *-star* ending is due to the spread of the *s*-pret. deponent ending in Middle Irish.
- *con·dénai con·fodlai con·seolai*: these three words are not found in **A** but are not difficult to explain. They are the Middle Irish relative marker *con*· plus the verbs *do·gní* 'does', *fo·dáili* 'divides' and *seolaid* 'to dispatch, to guide' respectively. The *con*· in *con·fodlai* is also possibly a lexical preverb in the compound verb *con·fodlai* 'shares jointly, divides, apportions' (*eDIL* s.v. *con·fodlai*).
- *cés d'aird con*: the portion assigned here is the *cés* 'haunch',¹⁴ corresponding to *fir* con*cés* 'the haunch [is] of the man of hounds' **A** and *earchoidich, ces cen chel* 'of the attacking one, the haunch without concealment' in (4). Both **A** and (4) seem to mean that the man who owns the hounds which attack the deer gets the haunch, which is a fair portion because the attack by the hounds is the most important and dangerous step in deer-hunting by chasing. Perhaps one should restore *Ces dard coin* **B** to *cés d'aird con* 'the haunch for the collar of hound(s)', metonymically referring to the hound-owner? The emendation of *coin* to *con* finds parallel in the emendation of *coin tafuinn cossa* **B** to *con tafainn cosa* 'the legs [are] of the hounds of hunting' (see above s.v. fir).

Metrical analysis:

The first part of the judgment is decorated by extensive alliteration, mostly between the various instances of the unstressed relative marker con in both A and B, but also between (alliterating pairs in bold) *muillid múnas* A, *contabair (contét)* contáet A B and possibly *de ind déccai* A, but the alliterative pattern is not consistent.

In the second part alliteration still seems to be the only metrical device apart from the repeated formula *fir/con X Y* 'Y belongs to the man/hounds of X'. Again, the alliterative pattern is inconsistent. Not all the stressed words in a line alliterate, e.g. *fir cétguini clasach, fir fenta lethe, con tafainn cosa* **A B**, *aí la fiallach n-airchóitech* **A**, *cés duirn con* **B**. Only in *tarr la tir i-tarrastar* do all the stressed words alliterate. In

¹⁴ *LEIA* C-79 s.v. 4 *ces* discusses the length of the vowel but does not give a definite opinion. I consider the vowel to be long on the basis of modern Irish *céasán* 'narrow rump', see Dinneen (1927, s.v. *céasán*).

fact, the alliteration there is complex, as the consonant sequence t-r is repeated in every stressed word, even twice in *i*-tarrastar. In fir *iairn muinél con*-scara and *inathar fir fo deoid* **A** there seems to be no alliteration, neither is there linking alliteration between any lines in **A** and **B** except *cés duirn con, con tafainn cosa* **B**.

Linguistic comments:

Apart from the first word $ar \cdot icc$ 'I decide, I find', there is no apparent Old Irish feature in both A and B. The vocalism of the second syllable in *iarmo ching* and in *fenta*, reflected in both recensions, rule out an Early Old Irish date. The pervasive use of *con* as a relative marker in both recensions strongly suggests a Middle Irish date. Other Middle Irish features include dat.sg. *deoid* instead of Old Irish *deud*, aug.pret.3sg. *tarrastar* instead of Old Irish *tarrasar*. On the other hand, indicative Late Middle Irish or Early Modern Irish features, such as the use of independent subject or object pronouns in non-emphatic context, or the general replacement of deutorotonic verbal forms by the prototonic forms, are lacking from 'The First Judgment'. I would describe the language of 'The First Judgment' as Early Middle Irish.

Textual relationship:

The text shared by A and B is more readily visible when one compares the normalised texts. The corresponding phrases in (4) are also added in comparison to the second part of the judgment:

A: Ar·icc: fo·gní con·comlui con·túairc B: Ar·icc: fo·gní

A: B: con·dénai con·fodlai con·seolai

A: de ind déccai, gaibid aicces, muillid múnas B:

A: con·ric (?) con·tesca con·laídi B:

A: sech lais con·tabair con·táet B: con·tabair con·tét con·táet

A: *iarmo*·ching con·ranna con·oí B: *iarmo*·ching con·ranna con·oí.

A: con nernen con gam con for con air (?)

B:

A: muirenn nad·dergair, fo·gní tech domnaig. B:

Α	В	(4)
Fir cétguini classach,	Fir cétguini classach,	Cēt guine clossach
fir fenta lethe,	fir fenta lethe,	Lethe fir fennta
fir con cés,	cés d'aird con.	Earchoidich, ces cen chel
fir íairn muinél con·scara,		diurn munel gerr garit
con tafainn cosa,	con tafainn cosa	Coin tafaind, cossa na n-āg
inathar fir fo deoid,	fir tic fo deoid muinél 7	
	inathar	
aí la fiallach n-airchóitech,		
tarr la tir i•tarrastar.		tarlaithair it tarthither

'The First Judgment' is written in a gnomic style with a consistent formulaic structure. The second part of **A** not only cover all the portions mentioned in (4), but also provide some extra information, thus it should be established that (4) derives from 'The First Judgment' rather than the contrary. (4) re-tells 'The First Judgment' in the third person, adds the narrative elements, and trims the wording of the judgment to fit the *debide* metre. (4) contains information on the belly (*tarr*), which is missing in **B**, and states that the back of the neck (*muinél*) goes to the man of iron, rather than to the man who comes in pursuit as in **B**, thus (4) cannot have derived from **B** but must have been based on either an earlier copy of the **A** recension, or on the common and fuller exemplar of both recensions. **B** seems to be an abridged version of 'The First Judgment', but the first part of **B** contains information not found in **A** as well, i.e. *con*·*dénai con*·*fodlai con*·*seolai*. The exact nature of the relationship between **A** and **B** is difficult to establish.

The earliest copy of (4) is that in the Book of Leinster, dated to the second half of the 12th century (O'Sullivan 1966, Mac Eoin 2010). While the manuscripts in which A and B are written are from the late Middle Ages, the prototype of 'The First Judgment' must have already existed before mid-12th century, even in the 11th century if Scowcroft is right about the provenance of the bulk of materials ascribed to Amairgen (Scowcroft 1988, 4). An 11th- or early 12th-century date also fits the language profile of 'The First Judgment', as analysed above.

Legal comments:

Despite its resemblance in form and content to legal texts, 'The First Judgment' does not appear to be part of, or connected to, any known law tracts in either manuscript. Kelly (1988, 276) has suggested that 'The First Judgment' may belong to, or is affiliated with, a lost law tract titled *Osbretha* 'Deer-judgments', the existence of which is cautiously accepted by Breatnach (2005, 265–266). Since 'The First Judgment' dates

to the Middle Irish period, it cannot belong to the Old Irish canonical text of *Osbretha*, which is part of the *Senchas Már*, compiled in the seventh century (Breatnach 2011). Whether 'The First Judgment' had ever been part of the glosses or commentary to *Osbretha* is impossible to answer now, because the only evidence of the existence of *Osbretha* is legal commentaries concerning deer-hunting with embedded Old Irish snippets.

Kelly (1988, 276) also proposes that the Early Modern Irish legal commentary in *CIH* 113.36–114.7 is commenting on *Osbretha*, which is cited from *CIH* and translated as follows:

(9) Conaire no ceime .i. in bail i ceimnighend cach isin faichthi uair robad lanfiach ann-sidhe uair nuchu gebha greim immi na hescairi ann-side uair is denta indlighthech cach denta uili isin faichthi. Cidh cu cidh duine rauaslaicc ar dus arin fiadh is a seichi do breith do 7 cidh cu gidh duine da tainicc a astudh ina deghaidh is a trian do breith do 7 in da trian uil ann ar sein a leath d'aes fogluasti ar dichill aesa tuthachta 7 in trian eile du roind eatarru go coitcheand eter aes fogluasachta 7 aes idhnaidhi 7 aes tuthachta 7 in trian ruc aes togluasā ass ar dus du roind etarro 7 aes idhnaidhi aris ocus anmanna is tarbha feoil 7 seichi sin ocus masa anmanna is tarbha feoil amhain int ainmrainne gabait na nneichi sin atrubramar isan anmanna is tarbha feoil 7 seichi gurub e int ainmrainne sin don anmanna is tarba feoil amhain beas isna nneichibh-sin.

Of a path or of a step, i.e. where everyone steps in the green, for it would be full liability in that case, because the 'fence and notice' does not apply there, because any [hunting] structure in the green is an illegal structure to everyone. Be it a hound or a man who has released at first the game animal, the hide is to be adjudged to him; be it a hound or a man, if by him it was seized afterwards, a third of it is to be adjudged to him; and the whole of the two-thirds in that case afterwards, a half to the folk of stirring making the effort for the folk of coming, and the other third to be divided between them altogether, between the folk of stirring, the folk of waiting, and the folk of coming; and the third that the folk of stirring takes out of it at the beginning is to be divided again between them and the folk of waiting, and [that applies to] an animal which is profitable of meat and hide. If it is an animal which is only profitable of meat, the proportion that they take those things [is] as we have said for the animal which is profitable of meat and hide, so that that is the proportion for an animal which is only profitable of meat, which would be for those things.

The first sentence of (9) (*Conaire... isin faichthi*) bears close resemblance to another commentary in *CIH* 320.40–41: *manub da[r]* .s. *conaire .i. in primrot no ceime baile i ceimnighenn cach isinn aiche* 'if it is not on the route of path, i.e. the principal road, or of step, [i.e.] where everyone steps in the green.' That commentary is part of a long discussion (*CIH* 320.28–322.33) on the setting of hunting pitfalls and traps and its legal consequences, headed by what seems to be a quotation from an Old Irish law tract: *DILES I NOSBRETHAIB* 'free from claim in deer-judgments'. The

commentary and the quotation are actually part of the law tract *Bretha Étgid*, but the subject matter and the quotation indicate that they could have been imported from the lost *Osbretha* (Breatnach 2005, 265), and so could (9). The rest of (9) stipulates the division of the game animal (perhaps not limited to deer) in a collaborated hunt. Five categories of participants are mentioned: 1) the one who first stirs up the game, be it a hound or a man, 2) the one who seizes the game, be it a hound or a man, 3) the folk of stirring (*áes foglúasachta*), or 'beaters' in English, 4) the folk of coming (*aes tuthachta* = *áes tuidechta*?), possibly the men coming towards the animal to drive it to the desired direction, and 5) the folk of waiting (*áes idnaidi*), possibly the ones who strike or shoot at the animal when it is driven by. When the animal is only profitable of meat, the one who first stirs up the game gets meat as well, but the proportion of his share is not specified. Their respective portions in the case of an animal of both hide and meat are shown in the following chart:

category	portion
1) the one who first stirs up the game	the hide
2) the one who seizes the game	1/3 of the meat
3) the folk of stirring	5/18 of the meat
4) the folk of coming	1/9 of the meat
5) the folk of waiting	5/18 of the meat

Chart 1 the division of a game animal according to (9).

In comparison, 'The First Judgment' stipulates a categorical instead of a proportional division; in other words, different parts of the carcass rather than different amounts of meat are distributed to the participants. A chart according to A illustrates the principle:

category	portion
the man of first wounding	the ribs
the man of flaying	the shoulder
the man of hounds	the haunch
the man of iron who dismembers	the neck
the hounds of hunting	the legs
the man in pursuit	the innards
a band of attacking warriors	the liver
owner of the land	the belly

Chart 2 the division of a game animal according to A.

Notably, the categories of the hunting parties do not overlap in the two charts, perhaps except 'the folk of waiting' in Chart 1 which may correspond to 'a band of attacking warriors' in Chart 2, and 'the folk of coming' in Chart 1 to 'the man in pursuit' in Chart 2. However, these two parties in Chart 1 get sizeable portions of the meat (5/18 and 1/9 respectively), while their presumed counterparts in Chart 2 only receive the innards and the liver.

The discrepancy between 'The First Judgment' and (9) in the division of the game

may simply be the result of change in legal opinions in the centuries between the compositions of these two texts. It may, however, also reflect actual change in the hunting practice, such as the social status of the hunters, the technique employed, or the habit of meat consumption. Such a hypothesis awaits further research in collaboration with experts in other fields, but 'The First Judgment' at least sheds some light on how deer-hunting was organised and how the game was distributed in Ireland in the High Middle Ages. It provides, moreover, an interesting specimen of the relative conjunct particle *con* used outside of *LL Táin*, as well as a chain in the development of the *Lebor Gabála* textual tradition.

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