

WORKSHOP NOTES OF A LONDON COURT INTERPRETER

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The organizers of the Szczecin Workshop took a great risk because they know very well that once they get me started I shall go off at all sorts of tangents and I shall take about three times as long as is allotted to me. But they said could I give you an anecdote to illustrate the system of the Courts in England.

So with no names I shall quote a case that I read about in the newspaper. It illustrates one of the great differences between our Civil Courts and our Criminal Courts, which is the burden of proof.

There was a woman who was raped. The person who was caught went through the criminal system. The Police Officer who arrested him would have put a recommendation to the Custody Sergeant, and he has to convince the Custody Sergeant in the Police Station that there is at least a 51% chance that if this case is sent to Court there will be a conviction. The Sergeant decided that there was a 51% chance or better so he charged the man officially (*oskarzenie z urzedu*). *

There is a very strong principle in English criminal law that the accused must know precisely what charge he is facing. It is written out, read to him, and he gets a copy. This is often a problem for the interpreter because the language that is used can be tangled and old fashioned, with lots of subordinate clauses and alternatives, but you have to give this whole spiel word for word. Then at the end tell him what it actually means. There was one man who was prosecuted for driving while drunk. He kept saying "But I did hit the other car." But hitting a car and causing a little bit of damage is such a minor offence by comparison with driving while under the influence of alcohol that he was not charged with that.

The burden of proof

So this man who was suspected of rape found himself in the Magistrates' Court, and the Magistrates sent him up to a higher Court, possibly the local Crown Court but more likely the Old Bailey. There the burden of proof is this: he cannot be found guilty unless the Jury - and it is always a Jury in a rape case - is convinced **beyond reasonable doubt** that the man is guilty. And there was just a glimmer of doubt in somebody's mind, or perhaps more than one person, and they could not deliver a guilty verdict.

This woman did not give up. She was rather a brave woman, because it is an unpleasant experience to stand up in public and have everyone thinking "You have been raped". She was advised by her lawyers that, if she could stand it, she could start a civil case against him. She sued him in the Civil Court for the tort of rape. And she won. Because the burden of proof in the civil courts is **on the balance of probabilities**. And that Court found that on the balance of probabilities she probably was raped by him. She cleared her name, or

whatever. I do not presume to comment on what may have been in her mind.

Incomplete bundles

Now, the title of this session is "Selected Problems" and I was glad to see that the programme made clear that the problems are to be selected by the audience. Here is one which was put to me earlier today.

When the President of a Civil Court in Poland has before him a bundle of documents, finds that it is incomplete, and has to send it back to the plaintiff or petitioner or whoever, what word or phrase do you use for his action, does he just "return" it? That does not sound right. The trouble is of course that we have these two completely different systems in our two countries. I would take a term which I have come across in Annual General Meetings and in Trade Union meetings when a motion or resolution is put, and there is a certain amount of discussion, and then it is not turned down altogether, it is certainly not passed, it is "referred back".

So I would like to suggest, but this is a suggestion and not telling you what is right, that when the President of the Court sends back the documents and says "No, the case cannot come on next Tuesday", or the thirtieth of next month or whenever, you could say that he is "referring it back". This is only a suggestion, by all means consult someone who knows more about the law.

Put back - stand out

There are other possibilities. Let us say that a man is before the Magistrates' Court for being drunk and disorderly, but only when he is already there is it realised that he needs an interpreter, and no interpreter is there. What happens then is that the case is "put back" until the afternoon, which gives the court officials time to find an interpreter. Usually minor cases come on in the morning and if the accused pleads guilty he may be dealt with immediately. There is an attempt to keep the afternoons for defended cases, which have to be proved, perhaps with examination in chief, cross-examination, and re-examination of witnesses.

If you have a case which is listed to come on shall we say 10th of next month, and it becomes obvious that it cannot go ahead because the key prosecution witness is in hospital with a broken leg - now it is always open to the Judge to say "No, hard luck, it is listed for then, it will go on then, and if you have not got your key witness you are likely to lose" but if it is decided that it is too important, or it is not really anybody's fault, the Judge may agree to "stand out" the case. So a case can be "stood out" after it has been listed for a particular court room on a definite date. That means it is not crossed off the list altogether, but it is put on one side and another date will be found. So I hope this is of some use, but it is not the last word.

How would one translate that into Polish? I suppose *od_o_y_* but I do not translate into Polish. I would be breaking the regulations of my professional institute, the Institute of Translation and Interpreting, if I were to translate into a language which is not my native tongue. I interpret in both directions, and when I write to my friends I write in Polish, but they have a good laugh at my idioms and grammar.

You "put back", "adjourn" or "stand out" a case, not a bundle of documents. And in

England it is the responsibility of the lawyers on each side to make sure that their bundles are complete before they come into Court. That is why I had to stop and think before suggesting the phrase "refer back". An English judge is not called upon to do that.

What is the difference between "put back" and "adjourned" ? If a case has come on and they have heard part but there is not enough time to hear the whole of it, or for some other reason it cannot be completed, then it may be "adjourned": *odroczone*. It has already been part heard. This happens often. Less frequently it is necessary "to put back" a case before the hearing gets under way, *przełożyć* or *przesunąć na koniec wokandy*.*

Oddalic - odrzucić*

What is the difference between *oddalic* pozew* and *odrzucić* pozew* ? In a civil case when the Court refuses to accept what the plaintiff requests, in common usage you could say that the case was "thrown out". If you say that a case was "dismissed", that sounds more formal, the sort of expression the Court itself would use. Now I have much more experience in the criminal courts than I have in the civil courts. I am not sure whether the term "dismissed" is used in civil proceedings, but if you are up in front of the Beak - that is slang for the Magistrate - and he says "Case dismissed" that is the same as saying "You are found not guilty. You are free to go."

Research since the discussion suggests that *oddalic* and *odrzucić** can both be used as translations of "to dismiss" but *odrzucić** has more of a flavour of rejection. So use it if the judge throws the case out as soon as the prosecution sit down, without calling the defence at all. If the case is heard to the end and then dismissed, I suggest using *oddalic**. Here I am again dealing with the application of a Polish word to what happens in an English Court. In Poland I am informed that *oddalic** is used with *pozew* while *odrzucić** sits better with *apelacja*. If I came across the word *umorzyć** applied to a case I would probably use "to discontinue" or something similar. And of course it is possible for a higher Court to **overturn** or **reverse** the decision of a lower Court. Once one starts to chase words around the page like this it is all too easy to find oneself in the sort of situation described by Frazer in the preface to his "The Golden Bough".

In the past when it has been important to catch nuances precisely - I am thinking of a research paper to be published in a professional journal - I have sat down with an expert in that discipline and talked it over until we agreed on an acceptable rendering. Too often there is no time for this; like the film producer, the client says "I don' wan' it good, I wan' it Toosday". After all, we are not dilettanti amusing ourselves by playing with words, we are professionals earning our living, deriving satisfaction from completing the best possible job in the given circumstances.

N.F.A

For a case to be dismissed it has first to get into Court, but the same thing can happen earlier on, in the Police Station. If the arresting officer says "I know very well he did it, but I do not have the evidence" the Custody Sergeant will mark the papers "N.F.A." for "No Further Action".

"N.F.A.", "No Further Action", is one of the more important abbreviations, but you will only encounter it in a Police Station. To give you an actual illustration, an alarm went

off in commercial buildings, during the hours of darkness, somebody had done something to the windows on the first floor, and two gipsy youths were picked up in the vicinity. They were taken to the Police Station and I came along.

There was a long wait because if you have someone in custody who is under age, the watershed is the seventeenth birthday, someone must be present who is known as an "appropriate adult", *odpowiednia osoba dorosła*.^{*} So we had to wait until their mother was brought to the station. Somebody to see that everything proceeds as it should do, according to the regulations. The lads were interviewed, with their mother present, and they denied everything: "No, we were just looking in the rubbish bins to see if there was anything useful that we could take home." and the mother actually said "Yes, I asked them to do that, we don't have very much money from your Social Security Services, we have to live on only about £80.00 per week and they sometimes find useful items of food or clothing behind the supermarket." It was not the supermarket that they were thought to have broken into.

They were bailed, that is released on condition that they came back to the Station, so that the Police would have time to go and see whether their fingerprints were in the premises, on the window frames or anywhere. If when they came back after a fortnight no fingerprints had been found, it would be "No Further Action". In the event a date was fixed for them to come back, and they did not show up. This suggests to me that they knew very well that their fingerprints would be there. But if there is no evidence, then there is "No Further Action". The investigation can carry on until the Police are satisfied one way or the other, either there is sufficient evidence to charge them or there is not. But there are limits to the time for which a suspect can be held in custody before being charged.

"N.F.A." can also stand for "No Fixed Address", but there is never any confusion because it is obvious from the context which meaning is intended.

Legal jargon

If you break the criminal law in England, the difference between being accused of a "felony", an "offence" or a "misdemeanour" is the level of penalties that can be imposed. When due to inflation it is necessary to change the maximum, one change can apply to all actions that have been defined to fall into the same category. It is a mistake to say that one is a *wykroczenie* and the other a *przestępstwo*^{*} or *zbrodnia* because the boundaries are not quite the same.

And this illustrates a basic principle that I have adopted and I would like to suggest to all who aspire to be professional translators: be careful about using a word which has a precise meaning for a lawyer. Recently I was sent a document to translate where the obvious word to use would have been "reasonable". But the term "reasonable" has a long history in English law. What is "reasonable": if you take reasonable care and something still goes wrong, because you took "reasonable" care a Court can decide on the basis of what has happened in the past that you do not have to pay a penalty. I did not want to use the word because it can have such a precise meaning for a lawyer in England, so I used the word "sensible". Stylistically it was bad, it was not an elegant translation. But I felt it was safer.

That is an additional safeguard for me in my profession, over and above the fact that

always when I am translating legal documents I include a Translator's Note: **For the precise meaning of a term in the source language a specialist in that system of law should be consulted rather than a translator.** I always put that in, because then if they come back and say "You got it wrong !" I can say "Well, I told you that you should go to a lawyer. I am not a lawyer".

Community interpreting

As to whether I have experience of Community Interpreting, I am not sure whether the phrase means the same to a Pole. Firstly, in England Community Interpreting for, let us say, the Probation Service, is very badly paid. So I prefer to work for the Police. But if for example I am in Court and the Bench calls for a report, after the session I go round the corner with the same accused, we find the Probation Officer and we have a session in his office.

Equally, once there was a telephone call late at night from the London Hospital, which is a long way away from me, but it is a well known hospital with which my family happens to have connections. They had a 75 or 78 year old Pole on the ward and they needed to explain to him why he must have an emergency operation. So obviously I went across, and he was a nice old chap, a pleasant change from gipsies and shoplifters. But this does not happen very often.

Scheduling

Most of my interpreting is for the Police, not all that much for the Courts because I find that Police work comes up late in the day. Shoplifters about five o'clock in the afternoon, domestic disputes round about midnight, and drunken drivers towards two o'clock in the morning. Consequently I get into a routine, going to bed late and getting up late. If I accept a Court case I probably have to be in Court at ten o'clock. If I have just interpreted for a drink-drive case which did not start until two o'clock I probably did not get into bed until five o'clock, so thank you very much, I do not particularly want to report any where by ten.

Although I can only speak for myself, I think most of my colleagues would agree. There are fourteen of us on the list who handle Polish and English for the Metropolitan Police. You can react to a telephone and go straight to a Police Station at the drop of a hat. Or, you can work on the basis of filling up your diary with commercial or court cases, spread out into the future. It is very difficult to marry the two in together. So I tend to go for the Police work and refer Court work to one of us who has school age children so finds Court hours convenient.

Territories

Now just in case nobody started me off on a series of digressions, I prepared some material about the names of territories. This may be more useful in written form than it would have been as part of the discussion.

For your average Brit - a real dictionary word, by the way - everything from Riga to Tashkent is "Russia". In the same way I have the impression that very few Poles are clear about the precise significance of the various overlapping names for territories in the part of the world where I live.

Names for territories can be geographical, political and legal, or what I would call descriptive, often historical. First let us take the widest geographical term:

The British Isles means the two main islands and about 5,000 smaller islands off the western seaboard of Europe. The term definitely includes the whole of Ireland and the Isle of Man. Also the Orkney Islands and the Shetlands, which are part of Scotland. Some people do not include the Channel Islands, but I think they should.

Britain means the same as **Great Britain**: it comprises England, Wales and Scotland. The terms came into use when King James of Scotland ascended the throne of England but I have the impression that the "Great" is sometimes included and sometimes not, mainly for variety in literary texts. For completeness, if you meet it in an old text, **Greater Britain** used to mean GB plus the colonies. It was never a term that one met very often; nowadays we do not have any colonies, although there are the **Overseas Territories**. Since we live on an island, the words "foreign", "overseas" and "abroad" are almost interchangeable. If you hear an Englishman refer to Scotland as a foreign country you should assume that he is making rather a weak joke; before long he will probably talk about going hunting and shooting a haggis.

At least in Poland I do not have to explain that GB stands for Great Britain. I was driving in Macedonia towards the end of Marshal Tito's time when I heard two yokels discussing my vehicle in what sounded slightly, but only slightly, like badly garbled Polish: "What's GB stand for then?" "Dunno. Must be BG back to front."

The State

The United Kingdom, *Zjednoczone Królestwo*, is used, especially by Immigration Officers, as though it were a precise legal and political term. Properly speaking it is an abbreviation of **The United Kingdom of Great Britain and Northern Ireland**, which is the title of the State. Note that it does NOT include the **Crown Dependencies**, which is the technical term for the Channel Islands and the Isle of Man. They have their own legislative systems, and in particular their own tax systems, although some functions, such as defence, are handled by Whitehall. Jersey, Guernsey and the rest are not part of the European Union.

Consequently, when I hear someone talk of "British Law", it jars. There is no such body of statutes. There is United Kingdom Law which applies to the whole Kingdom, Scottish Law some of which has lasted since before the Act of Union, and English Law which applies equally to Wales. There is also a small body of law which applies to Northern Ireland.

Descriptive names can be obvious - **The Shires** are the counties which end in ...shire such as Lancashire, Gloucestershire etc., definitely not Cornwall, Norfolk, Sussex, Kent. **The Dales, the Downs, the Lake District** and the areas referred to by the name of a group of hills, like **the Chilterns** do not have precise boundaries.

History

And then there are the historical names. After the Romans left, when you had the period of the Wandering of the Tribes, we had a lot of small kingdoms, petty statelets which

were usually at war with their neighbours, sometimes joining together in short lived alliances against the invading Saxons. **Cornwall** and **Kent**, which are now counties, were once kingdoms. **Wessex** was a kingdom and the writer Thomas Hardy adopted the name for the area in which he set a number of novels, changing the names of the towns although many of them are easily recognisable. There was **Mercia** and there was **Middle Anglia**, and we know roughly where they were, although the terms are no longer in use. And there was **East Anglia**, in common use nowadays to denote a geographical or tourist area. The kingdom of East Anglia covered what are now Suffolk, Norfolk and part of Cambridgeshire but never Essex.

So when someone says "*Anglia*" I have to be sure that he is speaking Polish, in which case he means "England". Because if he is one of those people who insist on mixing English and Polish he may mean an area in the East of England. With such people it is also easy to confuse the English "yes" and the Polish "*jest*" while if somebody uses an English word pronounced in a Polish way in the middle of a Polish sentence it can throw me completely.

There is a certain degree of danger associated with getting things wrong. It may not lead to the sort of confrontation that followed the innocent question "What language do you speak in Warsaw ? Is it German ?" (the man had been handed a card with an address on "Krucza Strasse, Warschau" left over from a trip to Germany). But if you suggest to a Scotsman that he lives in a country called "Anglia" you are not likely to evoke a smiling response.