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WHAT IS LANGUAGE AND LAW? AND DOES ANYONE CARE?[1]

This paper will discuss in a very general sense the emerging interdisciplinary field of language and law, as well as its relationship to the individual disciplines of both law and linguistics. It will also examine more specifically the field of forensic linguistics.

It's hard to know when exactly the study of language and law began. But there has always been a close relationship between these two fields, even if that relationship has not always have been formally acknowledged. It may be possible to have language without having law. Indeed, it is likely to have been the situation for much of the early history of mankind. Of course, our prehistorical ancestors would almost certainly have developed customs and some method of informal dispute resolution at a relatively early stage of human history. But the word "law" suggests something more formal than mere custom. I would like to avoid the philosophical and jurisprudential debates regarding what is "law," and how law differs from custom. Nonetheless, it seems safe to conclude that human beings had language long before they had law.

In contrast, it is utterly impossible to conceive of law without language. In making the statement, I do not want to suggest that law must inevitably be written. There are some scholars who seem to believe that the emergence of law necessarily presupposes the existence of writing. It is certainly true that the technology of writing facilitates the expression and communication of legal norms. Almost as soon as the ancient Babylonians created writing, they began to use it for legal purposes. Around four or five millennia ago, they were writing contracts on clay tablets and chiseling codes of law into stone stelae (Versteeg 2000).

Yet despite the close historical connection between writing and law, writing is not essential to the existence of law. An excellent example is medieval Iceland. Once a year, people would gather from all around the island to attend the Althing, a type of folk assembly or parliament. The Althing took place at Thingvellir, a dramatic setting where the Eurasian tectonic plate meets the North American plate. One of the main purposes of the Althing was to settle disputes. Of course, to settle disputes, it's convenient to have some law. Iceland at the time did not have a written code. Yet Iceland did have law. We know this because the official who presided over the Althing was called the *lögsögumaðr*, or "lawspeaker." Every year, the lawspeaker was required to recite from memory one-third of Iceland's law to those who had gathered at Thingvellir. Thus, the entire corpus of the law would be recited in three-years cycles (Quinn 2000). Eventually, scribes wrote down the law of Iceland, as dictated by a lawspeaker. But it seems bizarre to suggest that before the scribes wrote down the lawspeaker's recital, Iceland had no law, and that after they wrote it down, Iceland did.

[1] Legal Studies Paper No. 2009-11. March 2009. URL: http://ssrn.com/abstract=1352075. This article appeared in: Law and Language: Theory and Society / Frances Olsen, Alexander Lorz, & Dieter Stein eds. 2008.

In contrast to writing, *language* more generally is indeed essential to law. Perhaps it's not necessary that legal norms be *articulated* in language, but at the very least they ought to be *describable* in language. In addition, just about any legal activity, such as settling disputes, making contracts, or providing for what happens to your possessions after you die, presupposes the existence of a sophisticated system of communication, which is another way of saying that such legal activities require language.

Thus, language is essential to law in at least two ways. First, laws or legal norms cannot exist without the ability to articulate or describe them in language. Secondly, language is an essential tool in carrying out the business of law. There is, without any doubt, an extremely close relationship between language and law.

Although this relationship is an ancient one, it's not clear when scholars first began to explicitly think about it or study it. We do know that people have been thinking about the consequences of writing down law for quite some time. About 500 BC, a Chinese prime minister ordered that certain laws be written down on bronze tripod vessels. The vessels themselves have been lost. But scholars know they existed because of a surviving letter written at the time by another government official. That official objected to the writing down of law, because he believed that people would stop following accepted norms of behavior and would instead "make their appeal to the written word, arguing to the last over the tip of an awl or knife." (Bodde & Morris 1973:16-17).

In contrast, the work of Plato suggests that the ancient Athenians had a more positive view of written law. In a speech by Clinias, he stated that "legal ordinances when put in writing remain wholly unchanged, as though ready to submit to examination for all time, so that one need have no fear even if they are hard to listen to at first, seeing that even the veriest dullard can come back frequently to examine them" (Plato 1926:319).

1. The marginality or obscurity of the field

Given that language and law are so closely linked, and that people have been thinking about the relationship for millennia, why is it that today—when interdisciplinary studies of all kinds have proliferated—the field of language and law remains a relatively obscure and marginal discipline?

This is not just my subjective impression. Using an informal corpus linguistic approach, in early 2006 I conducted a survey of the number of times that the phrase "language and law" appears on the Internet, using the search engine Google[2]. It appeared 61,500 times. The phrase "language and *the* law" produced 58,200 hits. And "law and language" added another 126,000 hits.

Altogether these phrases produced around 250,000 hits, which might seem impressive. But now consider that the phrases "law and economics" and "economics and law" produced over 5 million hits. Of course, phrases like "law and economics" or "language and law" give only a rough indication of how much is being published on the Internet on these topics, which in turn provides a very approximate indication

[2] The search was conducted on April 13, 2006. For readers who might wish to see what the current situation is, it is critical to place quotation marks around this and similar phrases.

of how much scholarly attention is devoted to the respective fields. Yet it confirms my own impression, as an American legal academic, about the much greater amount of attention paid by American legal scholars to law and economics, as opposed to language and law. This phenomenon is particularly striking because language is at least as important to the law, and arguably more important, than economics is[3].

To ensure that Google is not biased in some way, the search was repeated on Yahoo, another search engine. It produced 29,000 results for the phrase "language and law" (in quotation marks), 23,800 for "language and *the* law," and 57,700 for "law and language." For "law and economics" there were 905,000 hits, and 196,000 additional hits when the nouns were reversed[4]. By this reckoning, the Internet has about ten times more references to law and economics than to language and law. Roughly speaking, this confirms the Google results.

Part of the problem may be that there is no single descriptive label for the disparate activities that relate in some way to language and the law. For example, law and literature might be considered a branch of the study of language and law, or at least a closely related study. If we add the search results for that phrase (once again, placing the phrase in quotation marks and using the search engine Google), we would have somewhat over 220,000 more references to the topic. Reversing the nouns ("literature and law") nets another 50,000 results. Likewise, we could conduct a search for the term "linguistics and law," but this increases our results by a paltry 551 hits. The results for "law and linguistics" roughly doubles the total to approximately one thousand. Finally, we could add the term "forensic linguistics," a phrase that has made significant headway recently in the United Kingdom. That collocation returned somewhat over 70,000 hits.

The grand total of all these possible references to the study of language and law is approximately half a million, which is still quite a few less than are garnered by the single phrase, "law and economics."

Similar results obtain in other languages. Once again using Google, the phrase "Sprache und Recht" (language and law) returned over 14,000 hits. "Recht und Sprache" produced an additional 9,400. The phrase "forensische Linguistik" produced a much smaller number of hits (695)[5]. A closer examination of the websites suggests that there is a fair amount of interest in forensic linguistics at various German universities, including several courses on the topic, as well as faculty who list themselves as doing research in this area. It's also worth noting that about all of the interest in "forensische Linguistik" seems to be in departments of linguistics or German or some other language, rather than in law faculties.

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[3] For some reason, when I replicated this search in early 2007, the number of results was quite a bit lower: around 1.4 million for the phrases "law and economics" and "economics and law." The results for language and law were also lower than when the search was conducted in April of 2006, but not as dramatically. Apparently, Google has changed how it counts results. The moral is to use these numbers with caution, but the overall conclusion remains the same.

[4] Search conducted January 17, 2007.

[5] This number had increased to 1,610 when the search was replicated in January, 2007. In addition, adding the results for "forensischen Linguistik" increased the number by 328 results.

By way of comparison, it's difficult to get a handle on the impact of law and economics in the German-speaking world. The phrase "Recht und Ökonomie" produced approximately 16,000 hits, and "Ökonomie und Recht" around 16,700. And the phrase "őkonomische Analyse des Rechts" appeared in over 25,000 web pages[6].

These search results give only an extremely general indication of the size of a particular field of study and research. But it does seem that in Germany, law and economics is not as trendy as it is in the United States, a result confirmed by a German colleague who has taught law in both countries[7]. Or—on the positive side—it may be that the study of language and law is considerably more prominent in Germany than in the English-speaking world. Part of the reason may be the multilingual nature of the European Union, which has been the subject of much scholarly attention recently.

Overall, despite some encouraging news, these results suggest that language and law is a field of study whose significance has not up to now been fully appreciated. Why might this be so?

2. An underappreciated discipline

2.1. Failure to engage the legal profession

One of the major reasons that language and law is underappreciated is that legal education, and the legal profession more generally, pays very little explicit attention to it. At least in the United States, lawyers and law professors tend to view language as a tool, rather than as an object of study. Lawyers are *users*—often very good users—of language, but most of them don't consciously think about it very much. The result (or perhaps the cause) of this state of affairs is that law schools devote little attention to language and the law as a subject. In contrast, there are quite a few classes on law and economics at American law schools, and a respectable number of courses on law and literature, or law and feminism, or race and law.

The Internet once again provides some tangible perspectives on this issue. Thus, if you search on Google for "law and economics seminar," you will find dozens of courses offered at major American law schools. "Law and literature seminar" also reveals information about a respectable number of law school courses. But classes on language and law are an extremely rare breed at American law schools. Courses on the topic are currently offered on a regular basis only at Brooklyn Law School and Loyola Law School in Los Angeles. David Mellinkoff once taught such a course at UCLA law school, but since he retired and died, there has apparently been no effort to replace the course[8]. Nonetheless, it suggests that the presence of a course on language and law

[6] The results when the search was replicated in January 2007 was somewhat lower (22,300). In general, the results for law and economics were somewhat lower in 2007, while the results for language and law were slightly higher. I have no explanation, but the trend is encouraging.

[7] Thanks to Joachim Zekoll of the law faculty at Frankfurt University.

[8] Through an informal survey I know that there are at least two dozen courses on some aspect of language and law or forensic linguistics offered at universities around the world, but mostly these are taught at the undergraduate level in departments of linguistics rather than law schools.

at American law schools is purely a matter of happenstance. No law school seems to believe that it needs to have an expert on legal language on its teaching staff or to offer a class on the subject. Of course, if such a person ends up on the faculty, which has occurred in a few instances, adding a course on language and law to the curriculum is usually tolerated, or might even be encouraged[9].

The closest that most American law schools come to a course on language and law is that almost all of them offer classes on legal writing. In fact, such courses are often mandatory. But these are usually skills classes that teach students how to use language for specific purposes, such as writing legal memoranda or briefs, rather than focusing on the relationship between language and law. They are generally taught by teaching assistants, practicing lawyers, or special skills faculty, who are almost always considered second- class citizens in the hierarchy of the legal academy. Although there are some notable exceptions, most teachers of legal writing have little training in language or linguistics, so it's not surprising that they usually focus on nuts and bolts of drafting legal documents. Having said this, there are a number of areas in which the legal academy pays somewhat more attention to language per se. One of these areas is the distinctive language of the profession.

2.2. The language of the legal profession

Scholars have done a fair amount of analysis of the language of lawyers, or the language of the law, and how it differs from ordinary speech and writing. Most of this literature has focused on written language. A classic study is Mellinkoff (1963). Tiersma (1999) also concentrates primarily on written language, although it pays relatively more attention to oral communication than Mellinkoff did.

Anyone who analyzes the written language of the legal profession soon realizes that there is room for improvement. When it comes to usage and style, the person who has unquestionably made the largest impact in the English-speaking world is Bryan Garner. He has introduced modern lexicographical principles to the most recent editions of the venerable *Black's Law Dictionary* (see Tiersma 2006). Garner, as the author of a *Dictionary of Legal Usage* and also a handbook of American usage in general, has become a leading arbiter of legal style. Although most linguists are inherently suspicious of anyone engaging in what they consider to be prescription, Garner bases his recommendations on careful observation of the better legal writers, and his work for that reason is potentially quite useful for the average lawyer, who can do far worse than imitate the style of Holmes, Cardozo, or Lord Denning.

A practical application of the work done on legal language has been the movement to make the law more understandable to the public at large, especially in the case of contracts, leases, warnings, and other legal documents that are directed at consumers. This is the focus of the plain English movement. The classic book in this area is Wydick (1994).

In addition to consumer documents, jury instructions have also claimed the attention of the plain English movement. A number of states, most notably California, have

[9] One possible exception is Brooklyn Law School, as the Center for Law, Language, and Cognition, headed by Larry Solan, attests.

abandoned the legalese that is traditionally used to explain the law to juries and replaced it with instructions in more ordinary English (see Tiersma 2006).

Yet although progress has been made in this area, it still remains relatively marginal from the perspective of most legal academics. Generally, law schools seem to regard the study of legal language as part of the skills curriculum, if they think about it at all. Or, in the alternative, legal language may so integral to the study of law that legal academics seldom explicitly distinguish it from the substantive areas in which they are interested.

2.3. Language and the substantive law

Linguistic knowledge can also be helpful in understanding the substance or content of the law. Once again, however, the legal profession seems slow to recognize the point.

One area where some progress has been made is in criminal law. Janet Ainsworth's excellent explanation of why interrogating police officers are sometimes allowed to ignore requests by suspects for the assistance of a lawyer during police interrogation, which appeared in an article in the *Yale Law Journal*, illustrates how a lawyer with some background in linguistics can illuminate an otherwise obscure area of the law (Ainsworth 1993). Other examples relating to criminal law can be found in Solan and Tiersma (2005).

Constitutional law is another area in which theories of language and linguistics have played a modest role. The American constitution protects the "freedom of speech," for instance, but what exactly is meant by "speech"? Does "speech" include only verbal utterances, or can it also include nonverbal acts that communicate in some way? Conversely, can verbal utterances, such as threatening or hateful speech, be classified as "conduct" rather than "speech," which would mean that they are not protected by the free speech clause? There has been intense debate on these issues, sometimes making fruitful use of the tools of speech act theory and the philosophy of language (Greenawalt 1989; Haiman 1993; Tiersma 1993).

The area where knowledge about language and linguistics has probably had the greatest impact is legal interpretation, especially the interpretation of statutes. An English judge, Chief Baron Pollock, once remarked that "Judges are philologists of the highest order" (Megarry 1958:25). Whether judges are philologists is debatable, but English judges did indeed pay very close attention to language in the past, especially when an interpretive principle called the *plain meaning rule* was in vogue. This rule mandates that judges must determine the meaning of a legal text acontextually, without considering any evidence outside of the text itself. Barred from considering "extrinsic evidence," judges developed canons or maxims of interpretation to help them resolve the meaning of difficult or ambiguous language.

Some of these maxims, including *expressio unius* and *ejusdem generis,* were held to reflect rules of ordinary language, rather than being made-to-order legal principles. The canons of interpretation have been subjected to a great deal of criticism in the past few decades. But at least two legal scholars, Sinclair (1985) and Miller (1990), using the tools of linguistic pragmatics, and more specifically Grice's (1989) notion of *conversational implicature*, have shown that the textual canons are indeed linguistically-based generalizations about language.

The plain meaning rule and the accompanying canons were also influential in United States, albeit never so much as in England. Yet about two decades ago, Justice Antonin Scalia of the U. S. Supreme Court began a campaign to reinvigorate them. This led to a huge debate, at least among legal scholars. One of the more interesting aspects of this debate has been the linguistic perspective that the notion of "plain" meaning (which generally refers to acontextual or literal meaning) is very problematic (Solan 1993).

Another promising approach in the area of legal interpretation is cognitive linguistics, or cognitive science more generally. Examples of work in this area include Solan (1998) and Winter (2001).

Of course, language-based approaches are not the only way, or even the best way, to interpret statutory language. There are many nonlinguistic considerations that should be taken into account in deciding how to understand and apply a statute. But to the extent that we expect judges to carry out the intentions of legislatures, and to the extent that those intentions are expressed by language, linguistic approaches to meaning—which are based not on abstract theorizing, but on observations of how people actually use language--are obviously extremely relevant to this enterprise.

Some legal scholars are beginning to realize that linguistics can be useful in understanding legal interpretation, but few have the background to put this insight into practice. Many legal scholars during the past decade or two have taught themselves the fundamentals of economic theory. Maybe it's time for legal academics to learn some basic principles of language, especially if they consider themselves to be experts in areas of the law, like legal interpretation and free speech, where a more sophisticated knowledge of language and linguistics can be especially helpful.

Whether a growing appreciation of the role of language in understanding legal issues will energize the field of language and law is harder to say. Most legal scholars who know something about philosophy of language or linguistics, which is already a very small number, tend not to think of themselves as engaged in the practice of language and law. Instead, they regard themselves as experts in legal writing or criminal law or constitutional law. There is a very small number of people in the legal academy who consider themselves to be specialists in language and law. Until that situation changes, the field is going to remain a relatively marginal enterprise within the legal world.

3. A fractured field

If the field of language and law is underappreciated in the legal world, there seems to be substantially more interest in the topic on the "language" side of the equation, among scholars of linguistics, communications, and perhaps also in anthropology, literature, and sociology. Obviously, the problem here is not lack of interest. Rather, it is that there are a number of different groups producing work in this area, often with differing backgrounds and interests. These groups sometimes identify themselves as being part of the broader field of language and law, but on other occasions they identify themselves more narrowly with their own group. They don't talk to each other very much, don't attend conferences together all that often, and therefore tend not to know what other groups of scholars are doing. There is nothing wrong with this, of

course, but it does tend to result in the overall field of language and law being relatively fractured and consequently receiving less prominence than it might otherwise deserve.

It may be useful at this point to survey the various fields of study and research that could reasonably be considered as comprising part of the larger field of language and law. I will be mentioning some of the major works in each of these disciplines to give some idea of what sorts of scholarship are being done. To keep the task manageable, this survey is limited almost entirely to books that are written in English, and it also leaves aside journal articles and books that are merely collections of essays. Those who want a more comprehensive list of resources should consult Levi (1994) or the online bibliography that can be found on the website of the International Association of Forensic Linguists (www.iafl.org).

3.1. Law and literature

The field of law and literature is a large one. Two of the leading figures are quite prominent in American intellectual life. One is Richard Posner, a very well-known and extremely prolific judge, who has written a book on the "misunderstood" relationship between literature and law (1988). The other is Stanley Fish, who comes from the literary world but has an appointment at a law school and for the past decade or two has written on legal and literary interpretation (see Fish 1989).

For the most part, work in law and literature seems to revolve around analysis of literary themes in legal texts, legal themes in literary texts, and discussion of whether and how literary theory might have relevance to the problem of legal interpretation.

One way to get a more specific idea of what is included in the field is to browse through the two-volume bibliography by Christine Alice Corcos (2000). It contains over 1000 pages listing books and articles on the topic. Assuming an average of at least 30 works per page, we can conclude that there have been more than 30,000 books and articles written on law and literature, broadly construed.

Focusing in more closely, we see that there are well over 50 pieces of scholarship in the Corcos bibliography under the heading "Was Shakespeare a Lawyer," hundreds of works on "Shakespeare's Vision of Law and Lawyers," and one or two thousand articles and books on legal themes in his various plays. And this, of course, is just a small part of the field of law and literature.

Obviously, if we could incorporate this enormous body of scholarship into the category of language and law, we could vastly increase its perceived significance. But it seems to me that law and literature—as a whole—cannot simply be considered a branch of language and law. There's a close relationship, of course, but it is one between two equal categories, rather than category and subcategory.

Of all the work being done in this large field, the one area that deals most explicitly with language is the scholarship that compares literary and legal theories of interpretation, including discussion of the importance of authorial intentions and the role of the audience. A good overview of some of this work can be found in a symposium issue of the Texas Law Review (1982).

Another area of overlapping interests is authorship attribution, discussed in somewhat more detail below. Just as literary scholars debate who wrote the works attributed to Shakespeare, forensic linguists debate who wrote a threatening letter or whose voice is contained on an incriminating audio recording.

3.2. Law and semiotics

Another discipline that could be considered part of the broader language and law movement is semiotics and the law. A good overview is provided by Bernard Jackson (1985). Law and semiotics has its own journal, the *International Journal for the Semiotics of Law*, also known as the *Revue Internationale de Sémiotique Juridique.* The French title suggests (correctly, in my estimation) that this discipline is better known in continental Europe than it is in the English-speaking world.

The journal also gives us some idea of what those who are part of the discipline consider to be included within it. It welcomes submissions on the "different forms of textual analysis to the discourses of law." More specifically, it refers to the semiotic approaches of Greimas, Peirce, and Lacan, as well as rhetoric, philosophy of language, sociolinguistics, and deconstructionism. Arguably, some of these approaches more useful than others in trying to understand the "discourses of law," but they certainly are connected in some way to the study of language and law.

3.3. Law and rhetoric

Rhetoric and law could likewise be considered part of the broader category of language and law. Rhetoric has been studied since classical times. And theories of rhetoric were put to practical use in the courts of this period as well, most notably by Cicero.

Modern work on legal rhetoric includes that of Peter Goodrich (1987) and Austin Sarat (see, e.g., Sarat and Kearns 1994). Not surprisingly, there is also a huge practical literature, mostly written by lawyers for lawyers, on the use of language as a persuasive tool. To the extent that it focuses on linguistic devices, it seems that the study of rhetoric and law fits quite naturally under the umbrella of language and law.

3.4. Discourse analysis, sociolinguistics, and law

Discourse analysis, and sociolinguistics more generally, is another discipline that is being used to shed light on the legal system. There is a growing number of studies on the discourse strategies that occur in the courtroom, often involving analysis of the interaction between legal professionals and ordinary citizens during trials.

Examples include Janet Cotterill's (2003) study of the O. J. Simpson murder trial, Greg Matoesian's (2001) work on the William Kennedy Smith rape trial, Susan Ehrlich's (2001) book on a rape case that took place on a university campus, Gail Stygall's (1994) analysis of a civil trial, and the ethnographic study by John Conley and William O'Barr (1990) of discourse in small claims courts. This literature, which often focuses on how legal professionals use language as a tool of power and domination, once again clearly fits within the realm of language and law.

3.5. Multilingualism and legal translation

Bilingualism (or multilingualism and law) is a field that has received a great deal of attention during the past years. Much of the interest results from the development of the European Union and the linguistic issues created by a political entity that operates in almost two dozen official languages (see, e.g., Bhatia, Candlin, Engberg, & Trosborg 2003).

This complex multilingual situation poses challenges not just for interpreters and translators, but also for the legal profession, which must often make sense of legislation that has no single authoritative text. In the United States, multilingualism is also an issue, but there the focus is primarily on language policy and rights. Both legal scholars and social scientists have examined the growing bilingualism or multilingualism in the country, both in everyday life and in the legal system (Berk-Seligson 1990). There has been quite a bit published in American law journals on the rights of members of linguistic minorities to have an interpreter in court, to understand the Miranda warnings, to receive bilingual education, or to use their native language in the workplace.

Most of the people writing in this area do not seem to consider themselves part of the field of language and law, however. Instead, they tend to identify with various movements that fight for the rights of ethnic and racial minorities. But it seems fair to conclude that these concerns are also a very natural part of the study of language and law, broadly speaking.

3.6. Philosophy of language and law

There is a great deal of interest in the intersection between law and philosophy, both by philosophers and legal academics. Sometimes this field of enquiry is simply called *jurisprudence*. Philosophy of language, and more specifically, speech act theory, is probably the aspect of philosophy most relevant to language and law. An interesting attempt to apply speech act theory to the legal system is Kurzon (1986).

More central to the concerns of jurisprudence is the nature of law itself. As one might expect, this discussion is often quite philosophical. But when philosophers look more closely at the language in which laws are expressed, the discussion can become more linguistic. Is law a *command* from the sovereign to the population as a whole, or does it consist of *declarations*, or is it a series of *statements* to judges regarding how they should decide cases? In other words, what kind of speech act is the law? This is a fascinating issue, although legal philosophers seem to have lost interest in it recently. There also is a very large literature on what we might call philosophical approaches to legal interpretation. A good introduction to legal interpretation from a philosophical point of view is Bix (1993).

3.7. Forensic linguistics

The final branch of language and law to be discussed here is forensic linguistics. An initial issue is that it is not entirely clear what the field of “forensic linguistics” includes. It unquestionably refers to the use of linguistic knowledge and methodologies to solve factual issues that are relevant to legal disputes. For instance, linguistic expertise can help resolve questions of identity. Who is the author of a particular writing? Who spoke the words captured on a sound recording of a telephone conversation made to the police? And is it possible to identify a person’s national origin based on linguistic analysis?

Although the identify of speakers and writers is a major preoccupation of forensic linguistics, practitioners of the field concern themselves with just about any factual questions that are raised in legal disputes and involve issues of language. Thus, Shuy (1993) discusses several examples in which he has testified regarding the content and meaning of statements that were secretly tape-recorded by police or government

informants. And Coulthard (2002) has conducted analyses that call into question the authenticity of some written confessions that have been used in British criminal cases.

The biggest challenge facing the practitioners of forensic linguistics is the reliability of their results. Eades (2005) has been at the forefront of efforts questioning the accuracy of national origin identification work that has been used by various governments around the world to determine whether to grant asylum. Lawrence Solan and I have expressed concerns about the reliability of speaker and author identification as currently practiced. The problem is not that linguistic judgments on such issues are necessarily unreliable, but that we presently have so little knowledge of how reliable they are. We conclude that the field has been making serious progress on this issue, although completely reliable identification of a speaker or author based on a relatively short sample of speech or writing (as is typical in real cases) remains elusive (Solan and Tiersma 2005).

Some scholars suggest that the term "forensic linguistics" should be employed more broadly, as a synonym for the phrase "language and law" (Gibbons 2003). "Forensic linguistics" is a convenient term, and it has gained a certain amount of currency. But in my view, forensic linguistics is inevitably going to be regarded as a subfield of the broader field of language and law.

There are two problems with using "forensic linguistics" to refer to language and law in this more expansive sense. One the word "forensic." In the legal context, "forensic" generally refers to people or organizations devoted to solving crimes. Somewhat more broadly, it could be used to refer to scientific efforts to resolve any type of factual issue relevant to a legal dispute. But it does not usually refer to analysis of the law or the workings of the legal system in general, not does it apply to studies of legal language. So, it excludes a great deal of important work that is done by scholars studying the interaction of language and the law.

The other problem is use of the word "linguistics." Although this term could be understood as referring to any aspect of the study of language, it in fact tends to be most often used to identify the highly formal study of language that is associated with people like Leonard Bloomfield, Roman Jacobson, and Noam Chomsky. Scholars engaged in the study of law and literature, or semiotics and law, or law and the philosophy of language, will in many instances not consider themselves to be part of this tradition.

The bottom line is that forensic linguistics is an important part of the field of language and law, as indicated by a growing organization devoted to its study (the International Association of Forensic Linguists) and by the *International Journal of Speech, Language, and the Law.* But forensic linguistics is not synonymous with the broader discipline of language and law.

4. Conclusion

If language and law is a discipline that has not realized its potential, the obvious question is what can we do about it?

One imperative is to make the field more relevant to lawyers, judges, and the legal academy. The challenge, of course, is figuring out how to accomplish this goal.

It seems to me that some of the most interesting and relevant work on language and law is being done by people who have degrees in, or at least substantial knowledge about, both language and law. Of course, for many scholars getting another degree or doing substantial coursework in either law or linguistics may not be a practical option.

A more realistic option is collaboration between scholars of law and scholars of language. A good example is Conley and O'Barr (1990). Working together may not always be easy. In the United States, law schools tend to be physically, or at least institutionally, detached from their universities. It may be that collaboration is more practical in Europe, where law faculties are ordinary departments within universities, rather than separate professional schools.

Another way of fostering more dialogue and collaboration is by means of organizations and conferences that bring scholars of language and law together. Of course, there's nothing wrong with meetings devoted to forensic linguistics, law and literature, law and semiotics, and similar cross- disciplinary ventures, but it would be very helpful if conferences were held regularly on language and law in the broader sense.

Finally, there is currently no organization that can serve to bind together all of the fractured groups that I've described. There's an International Association of Forensic Linguists, an International Association of Forensic Phoneticians, an International Association for the Semiotics of Law, an Association for the Study of Law, Culture and the Humanities, and so on. Perhaps it is time to begin discussions on creating an International Language and Law Association.

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TIERSMA COLLECTION

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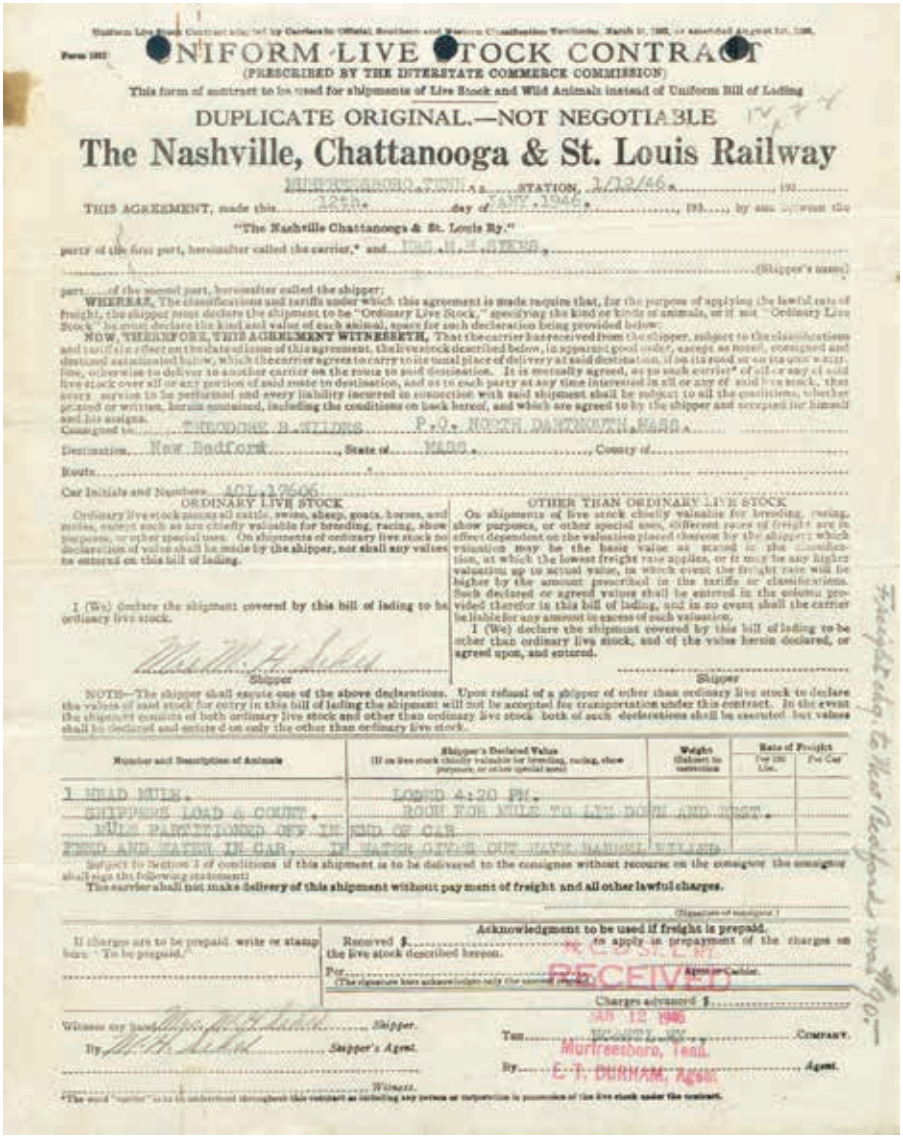


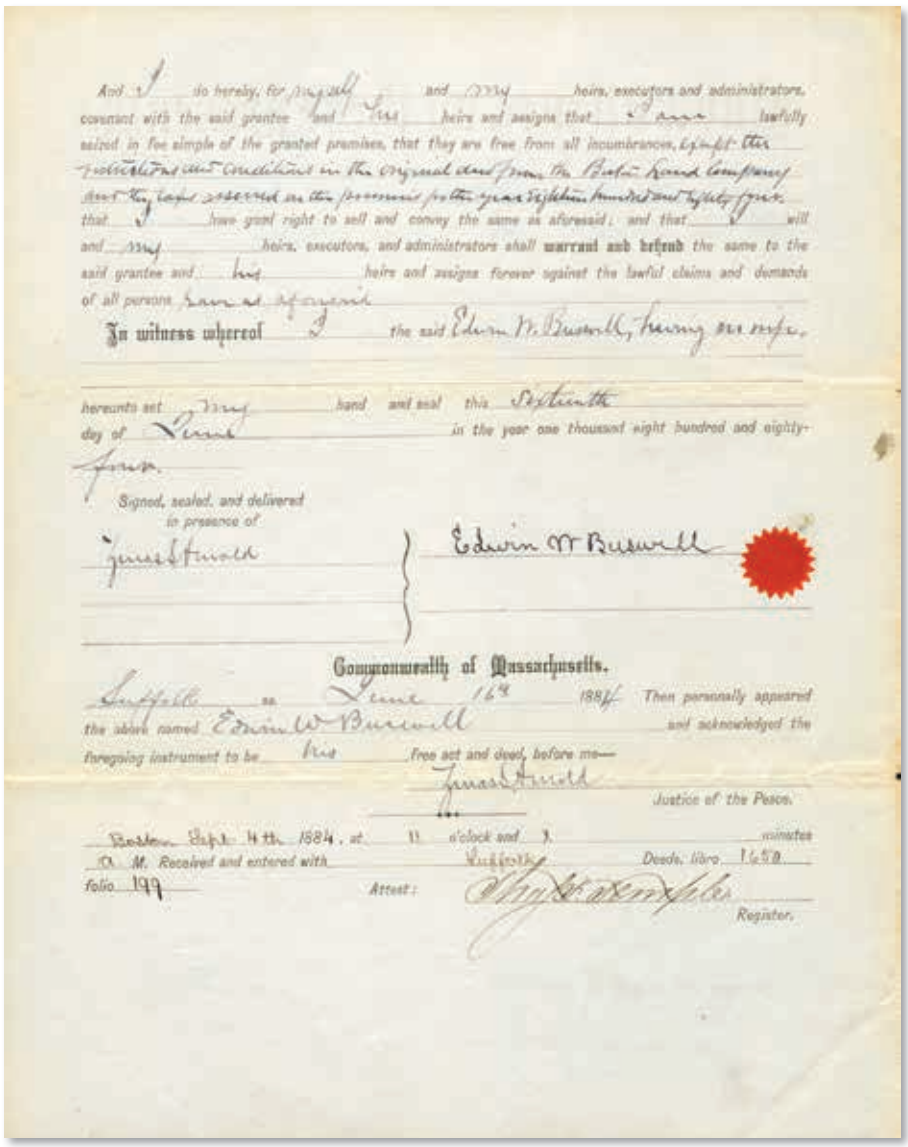
UNIFORM LIVE STOCK CONTRACT
(PRESCRIBED BY THE INTERSTATE COMMERCE COMMISSION)
This form of contract to be used for shipments of Live Stock and Wild Animals instead of Uniform Bill of Lading
DUPLICATE ORIGINAL.—NOT NEGOTIABLE
The Nashville, Chattanooga & St. Louis Railway
THIS AGREEMENT, made this ... day of ... 1946, by and between the "The Nashville Chattanooga & St. Louis Ry."
party of the first part, hereinafter called the carrier,* and ... (Shipper's name)
part ... of the second part, hereinafter called the shipper;
WHEREAS, The classifications and tariffs under which this agreement is made require that, for the purpose of applying the lawful rate of freight, the shipper must declare the shipment to be "Ordinary Live Stock," specifying the kind or kinds of animals, or if not "Ordinary Live Stock" he must declare the kind and value of each animal, space for such declaration being provided below;
NOW, THEREFORE, THIS AGREEMENT WITNESSETH, That the carrier has received from the shipper, subject to the classifications and tariffs in effect on the date of issue of this agreement, the live stock described below, in apparent good order, except as noted, consigned and destined as indicated below, which the carrier agrees to carry to its usual place of delivery at said destination, if on its road or on its own water line, otherwise to deliver to another carrier on the route to said destination. It is mutually agreed, as to each carrier* of all or any of said live stock over all or any portion of said route to destination, and as to each party at any time interested in all or any of said live stock, that every service to be performed and every liability incurred in connection with said shipment shall be subject to all the conditions, whether printed or written, herein contained, including the conditions on back hereof, and which are agreed to by the shipper and accepted for himself and his assigns.
Consigned to ... P.O. ... County of ...
Destination ... State of ... County of ...
Route ...
Car Initials and Numbers ...
ORDINARY LIVE STOCK
Ordinary live stock means all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, or other special uses. On shipments of ordinary live stock no declaration of value shall be made by the shipper, nor shall any values be entered on this bill of lading.
I (We) declare the shipment covered by this bill of lading to be ordinary live stock.
Shipper
OTHER THAN ORDINARY LIVE STOCK
On shipments of live stock chiefly valuable for breeding, racing, show purposes, or other special uses, different rates of freight are in effect dependent on the valuation placed thereon by the shipper which valuation may be the bona fide value as stated in the classification, at which the lowest freight rate applies, or it may be any higher valuation up to actual value, in which event the freight rate will be higher by the amount prescribed in the tariffs or classifications. Such declared or agreed values shall be entered in the column provided therefor in this bill of lading, and in no event shall the carrier be liable for any amount in excess of such valuation.
I (We) declare the shipment covered by this bill of lading to be other than ordinary live stock, and of the value herein declared, or agreed upon, and entered.
Shipper
NOTE—The shipper shall execute one of the above declarations. Upon refusal of a shipper of other than ordinary live stock to declare the values of said stock for entry in this bill of lading the shipment will not be accepted for transportation under this contract. In the event the shipment consists of both ordinary live stock and other than ordinary live stock both of such declarations shall be executed but values shall be declared and entered only for the other than ordinary live stock.

Number and Description of Animals	Shipper's Declared Value (If on live stock chiefly valuable for breeding, racing, show purposes, or other special uses)	Weight (Subject to correction)	Rate of Freight Per 100 Lbs.	Rate of Freight Per Car
1 HEAD MUL ...	LOADED 4:20 PM ...			
SHIPPER LOAD & COUNT ...	ROOM FOR MULE TO LIE DOWN AND TURN ...			
MULE PARTITIONED OFF IN END OF CAR ...				
FEED AND WATER IN CAR ...	IF WATER GIVEN OUT HAVE HANDLE WITHER ...			

Subject to Section 7 of conditions if this shipment is to be delivered to the consignee without recourse on the consignor the consignor shall sign the following statement:
The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.
(Signature of consignor.)
If charges are to be prepaid, write or stamp here: "To be prepaid."
Acknowledgment to be used if freight is prepaid.
Received $ ... to apply in prepayment of the charges on the live stock described hereon.
Agent or Cashier.
Per ... (The signature here acknowledged is only for the amount prepaid.)
Charges advanced $ ...
RECEIVED
JAN 12 1946
Murfreesboro, Tenn.
Witness my hand this ... day of ... 1946.
Shipper.
By ... Shipper's Agent.
Witness.
Tan ... Company.
By ... Agent.
E. T. DURHAM, Agent.
*The word "carrier" is to be understood throughout this contract as including any person or corporation in possession of the live stock under the contract.

Contract between Nashville and St. Louis (1946)

This is a uniform live stock contract into by and between the Nashville Chattanooga & St. Louis Railway and Mrs. M. H. Sikes whereby the railway had agreed that it received from Sikes One head mule to be transported to its usual place of delivery.



And I do hereby, for myself and my heirs, executors and administrators, covenant with the said grantee and his heirs and assigns that I am lawfully seized in fee simple of the granted premises, that they are free from all incumbrances, except the conditions and conditions in the original deed from the Boston Land Company and the taxes assessed on the premises for the year Eighteen hundred and eighty four. that I have good right to sell and convey the same as aforesaid; and that I will and my heirs, executors, and administrators shall **warrant and defend** the same to the said grantee and his heirs and assigns forever against the lawful claims and demands of all persons.

In witness whereof I the said Edwin W. Buswell, have hereunto set my hand and seal this Sixteenth day of June in the year one thousand eight hundred and eighty-four.

Signed, sealed, and delivered in presence of

Edwin W Buswell

Commonwealth of Massachusetts.

Suffolk ss June 16 1884 Then personally appeared the above named Edwin W Buswell and acknowledged the foregoing instrument to be his free act and deed, before me—

Justice of the Peace.

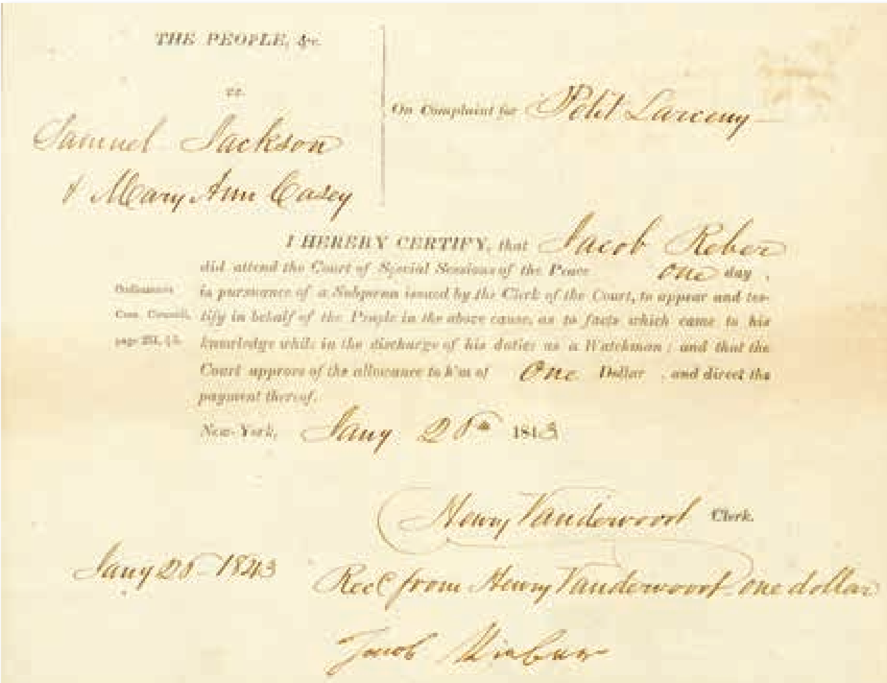
Boston Sept 4th 1884. at 11 o'clock and 3 minutes A. M. Received and entered with Suffolk Deeds, libro 1450 folio 199

Attest:

Register.

Deed (New York) 1884

Deed by and between Edwin W. Buswell and Mark W. Pray, in which Buswell granted to Pray a certain parcel of land situated in Suffolk County.



THE PEOPLE, &c.

vs.

Samuel Jackson
& Mary Ann Casey

On Complaint for Petit Larceny

I HEREBY CERTIFY, that Jacob Reber did attend the Court of Special Sessions of the Peace One day, in pursuance of a Subpoena issued by the Clerk of the Court, to appear and testify in behalf of the People in the above cause, as to facts which came to his knowledge while in the discharge of his duties as a Watchman; and that the Court approve of the allowance to him of One Dollar, and direct the payment thereof.

New-York, Jany 28th 1843

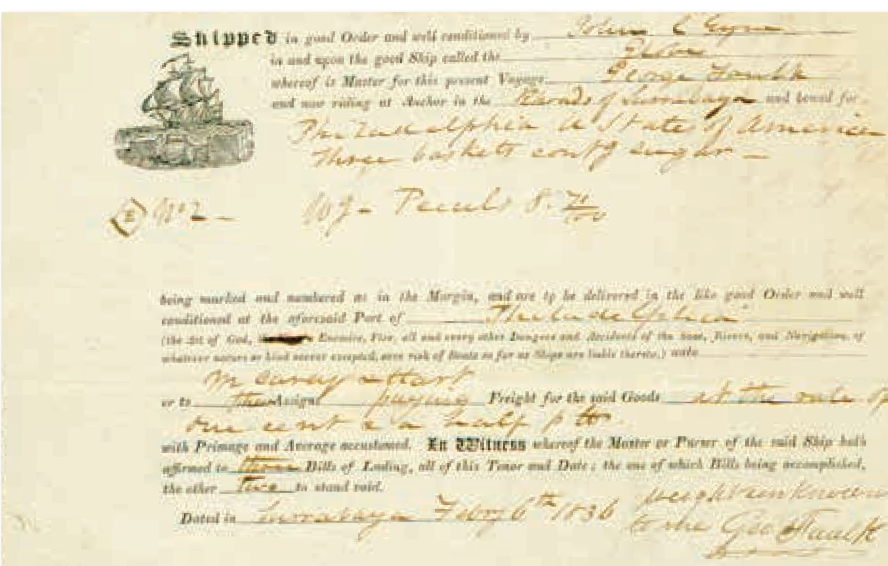
Henry Vandewoort Clerk.

Jany 28 1843 Recd from Henry Vandewoort one dollar

Jacob [illegible]

Certification Regarding Juror Allowance NY (1843)

Certification regarding juror allowance for Jacob Reber.



Shipped in good Order and well conditioned by [illegible] in and upon the good Ship called the [illegible] whereof is Master for this present Voyage [illegible] and now riding at Anchor in the Roads of Sourabaya and bound for Philadelphia U States of America three baskets cont[illegible] sugar –

[illegible] Peculs [illegible]

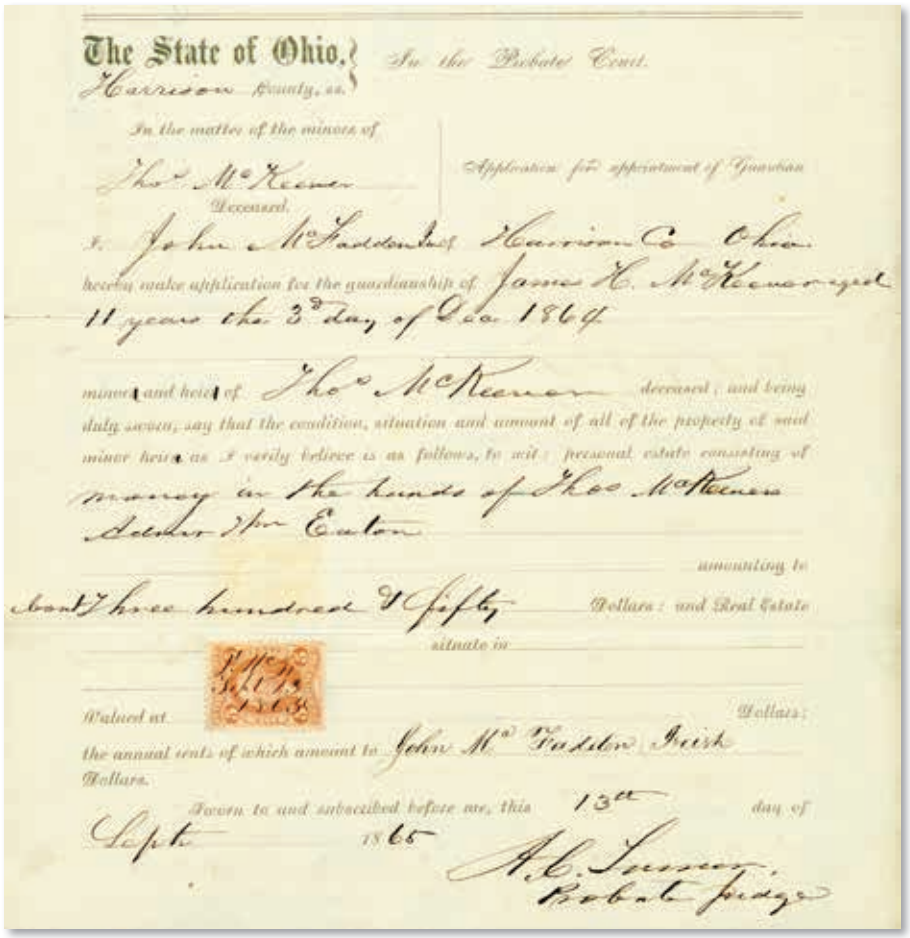
being marked and numbered as in the Margin, and are to be delivered in the like good Order and well conditioned at the aforesaid Port of Philadelphia (the Act of God, [redacted] Enemies, Fire, all and every other Dangers and Accidents of the Seas, Rivers, and Navigation, of whatever nature or kind soever excepted, save risk of Boats so far as Ships are liable thereto,) unto [illegible] or to their Assigns paying Freight for the said Goods at the rate of one cent & a half p [illegible] with Primage and Average accustomed. In Witness whereof the Master or Purser of the said Ship hath affirmed to three Bills of Lading, all of this Tenor and Date; the one of which Bills being accomplished, the other two to stand void.

Dated in Sourabaya Feby 6th 1836 [illegible] Geo. Faulk

Bill of Lading (1836)

Bill of Lading in connection with three baskets of sugar. Surabaya to Philadelphia.

ЛИНГВИСТИЧЕСКОЕ НАСЛЕДИЕ



The State of Ohio, } In the Probate Court.
Harrison County, ss.

In the matter of the minors of

Thos McKeever Application for appointment of Guardian
Deceased.

I, John McFadden of Harrison Co Ohio
hereby make application for the guardianship of James H. McKeever aged
11 years the 3d day of Dec. 1864

minor and heir of Thos McKeever deceased; and being
duly sworn, say that the condition, situation and amount of all of the property of said
minor heir as I verily believe is as follows, to wit: personal estate consisting of
money in the hands of Thos McKeever
Admr Thos Eaton

amounting to
about three hundred & fifty Dollars: and Real Estate
situate in

Valued at Dollars;
the annual rents of which amount to John McFadden Clerk
Dollars.

Sworn to and subscribed before me, this 13th day of
Sept 1865

A.C. Swan
Probate Judge

Application for Appointment of Guardian (1865)