

John Cowell's *Interpreter*: Legal Tradition and Lexicographical Innovation

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This paper has grown out of a larger study of Samuel Johnson as both linguist and literary critic in which I endeavour to read Johnson's criticism in the light of his notions of linguistic authority. These I believe to have been based largely on analogies with English common law. This relationship between law and linguistics has led me to examine Johnson's legal sources for the *Dictionary*, chief among which is John Cowell's *The Interpreter*, an English-language law dictionary published in 1607.¹ Censured by Parliament, repudiated by James I and ordered burnt by the common hangman, *The Interpreter* is often discussed in accounts of English constitutional history. In a source study I read at SEDERI VIII, I showed that Johnson sometimes cites this first, polemical *Interpreter* rather than later, expurgated editions. Today I would like to set aside *The Interpreter*'s place in legal and political history and concentrate on lexicography.

Despite its fame, *The Interpreter* goes unmentioned in histories of lexicography and linguistics, in part because contemporary metalexicographers focus on general-purpose monolingual dictionaries, the feeling being that specialised dictionaries are misnamed encyclopaedias (Béjoint 1994: 26). In part, this is the thing-word *topos* reworked as a standard against which to measure reference books. Proper dictionaries, by this reckoning, include entries for all parts of speech, provide definitions of concepts, and perhaps non-functional information such as etymologies; their head-words may not be replaced by synonyms. Encyclopaedias, on the other hand, give a comprehensive and often historical account of things rather than words: the head-words for entries are nouns, and may sometimes be changed without doing disservice to the entries' contents. Moreover, encyclopaedias, inasmuch as they include definitions, introduce them via the verb 'to be' rather than the verb 'to refer', thus making it clear that referents rather than signs are being defined. A further distinction could be made on the basis of use: both categories of work are clearly didactic, and clearly meant as instruments for self-teaching, yet only dictionaries attend to the learner's need to produce texts. In

¹ Cowell was born in Devon in 1554, undertook studies at King's College, Cambridge in 1570, and obtained an LL.D in 1588. He was admitted as an advocate of Doctors' Commons in 1590, and made Regius Professor of Civil Law at Cambridge four years later. Among other offices, he held those of master of Trinity Hall, vice-chancellor of Cambridge (1603-4), and vicar general to the Archbishop of Canterbury from 1608. His first book was the *Institutiones Juris Anglicani ad Methodum et Seriem Institutionum Imperialium Compositae et Digestae*, written first published in 1605 and going through two further editions in Latin (1630 and 1664) and two in English (1651 and 1676): the translation was ordered by parliament. This work is notable at least in as much as *The Interpreter*'s method is partly derived from it: Cowell seeks to draw parallels between the two systems of law with which he was familiar (Stein 1988: 213); indeed, Coquillette describes the *Institutiones* as "nothing less than an attempt to restate the entire common law in a logical outline based on civilian forms" (Coquillette 1988: 81).

short, encyclopaedias impart knowledge, and dictionaries impart knowledge about the use of words: both how they have been used, and how to use them.

Neither *The Interpreter* nor John Rastell's earlier and very popular *Terms of the Law*² is described in DeWitt Starnes's and Gertrude Noyes's authoritative 1946 study of early English hard-word dictionaries, though they are mentioned as sources for other works. Starnes and Noyes 1946 argue that early seventeenth-century English lexicographers had combined two didactic strands of the previous century: the idea of a compilation of English/hard words, taken from the spelling lists of orthographic reformers and schoolmasters; and the glosses or definitions, from Latin-English dictionaries. This dovetails nicely with traditional histories of lexicography in which bilingual and polyglot dictionaries reach sophistication earlier than do their monolingual counterparts. They further contended that the first generation of English lexicographers often borrowed entries from works of the latter sort by Anglicising the lemmas. The late Jürgen Schäfer qualified this, and I would like to qualify it further. Schäfer 1989 documents many cases in which Cawdrey, Bullokar, and Cockeram took their lemmatical material from monolingual glossaries³ appended to older works and translations. Many of the translated works were systematic introductions to fields of contemporary knowledge—Schäfer 1989 cites a work on New-World medicinal plants—translators were especially conscious of hard words they had introduced (Schäfer 1989: 4-8).⁴

I believe there exists a debt to at least one category of specialised dictionary, the law dictionary. As Schäfer 1989 points out in his discussion of translated works, the border between monolingual dictionaries and encyclopaedias remained ill-defined in the early modern period (6). *The Interpreter* is no doubt a hybrid, as Cowell himself signals in his prefatory material addressed 'To the Readers':

One thing I have done in this booke, whereof, because it may seem strange to some, I think to yeld my reason: and that is the inserting not onely of words belonging to the art of the lawe, but of any other sorte, that I thought obscure, of what sort soever; as Fish, Cloth, Spices, Drugs, Furres, and such like. For in this I followed the example of our Ciuilians, that have thought it their parte to expound any thing they could meete with in their walk. . . . And therefore, if I Have either omitted any hard word within my circuit, or set it downe not expounded; I give you leaue to impute the one to my negligence, the other to mine ignorance. (Cowell 1607: 5)

² First published in 1527 as *Terms de la Ley*; a bilingual edition was produced in 1567, and re-issued under one or the other title twenty-three times. The last edition was published in the United States in 1812.

³ *The Interpreter* would seem to have grown out of such a glossary: Cowell appended a glossary of obscure words to his 1605 *Institutiones*.

⁴ Typographically, both *The Interpreter* and the *Terms of the Law* follow typical, period-specific arrangement for such glossaries: they are printed in two columns; entries are arranged alphabetically; Cowell's work uses italics for lemmas and roman type for glosses, the scheme adopted towards the end of the sixteenth century; the earlier dictionary uses, in its English text, black-letter glosses.

The mention of hard words relates *The Interpreter* to *The Table Alphabeticall* and, as Schäfer 1989 has shown, to the glossaries, in whose titles and front matter ‘hard word’ meant difficult words whatever their origin and not, as has been supposed, learned loan words from Latin. In Bullokar’s *English Expositor* of 1616 the favour was returned: Bullokar includes a number of law terms, from ‘abate’ to ‘withername’. Moreover, John Legatt or Legate of Cambridge published both works; the same emblem features on both title pages.

The Interpreter may be classified as a dictionary on a number of other counts. To begin with, it includes entries for four parts of speech: in addition to nouns, there are verbs (under the letter ‘A’, ‘abate’, ‘abet’, ‘abridge’, ‘advow’, ‘affirme’, ‘afforest’, ‘agist’, ‘approue’, ‘arraine’, ‘assoile’, ‘attache’), adjectives (‘anniented’, ‘at large’, ‘attainted’) and at least one adverbial (‘at large’ in the fixed collocation ‘to vouch at large’, given in the referring entry for ‘at large’). Most entries include etymologies or etymological speculation. Entries are framed by various means which refer alternately to signs (e.g. ‘it is used for’, ‘signifyeth’) and to referents (e.g. ‘is’). Indeed, some entries do not in themselves supply encyclopaedic information about the referent: under ‘articles of clergy’, for example, the reader learns that the term refers to ‘certain statutes made touching person and causes ecclesiastical’, but will find nothing of the law laid down by those statutes. Moreover, Cowell includes entries for a number of ‘easy’ words that were not to receive treatment in non-specialised monolingual dictionaries until the early eighteenth century (Osselton 1983: 17; Green 1997: 191; Murray 1900: 34-36). Indeed, two of the four lemmas most often associated with the political ‘Cowell crisis’, ‘king’ and ‘parliament’, appear neither in Rastell nor in Bullokar. He is unique in treating the lemma ‘law’ both historically and idiomatically.⁵ Again, by the standard of use, *The Interpreter* is clearly a dictionary: lawyers, after all, do things with words, and at least some of what they do must be accounted performative rather than hermeneutical.

Were Cowell’s work to be incorporated into the histories of English-English dictionaries, it would stand out from the rest for two features. The first is the use of citations; the second is the sophistication of semantic description. To begin with citations: historians of linguistics normally give Johnson credit for having introduced the systematic use of quotations, though there is some debate whether he originated the historical method—that is, the arrangement of citations in chronological order with reference to semantic development (Read 1986: 28-9; Osselton 1983: 18; Green 1997: 221-222). *The Interpreter*, again, has been excluded from consideration: yet Cowell cites authorities in nearly every entry, and frequently includes quotations (albeit mainly Latin ones). Cowell’s use of citations has been dismissed by one scholar as ‘given to support statements of fact rather than to show the occurrence of words’ (Read 1986: 45, note 8). No doubt in the longer, more discursive entries this is the case: yet in many entries it is difficult to distinguish a linguistic from a substantive legal authority, as in ‘abeyance’:

Abeyance, seemeth to be deriued from the French (Abayer. i. allatrare), to barke at, as dogs do against a stranger, or spaniels at a Fesant put to the pearke. So children are said

⁵ Cowell gives ‘law’ a Saxon etymology; he does not provide a definition (‘the generall signification is plaine’), but makes the point that ‘the law of this land hath been variable’. Of the law of the Britons, Cowell holds that ‘we finde no obscure remnants in our lawes now in use’—certainly not Coke’s view.

(bayer à la mamme) when seing the dug, they struggle and make meanes towards it... This word in Littleton, cap. Discontinuance, is thus used. The right of Fee-simple lyeth in abeyance: that is (as himselfe interpreteth) all onely in the remembrance, intendment, and consideration of the law. Also in the same place: the Francke tenement of the glebe of the Parsonage, is in no man during the time that the parsonage is void, but it is in abeyance. And again: It is a principle in lawe, that of euery land there is Fee-simple in some man, or the Fee-simple is in abeyance.⁶ Considering these places, and comparing them with the French word, I am driven to thinke, that our auncient Lawyers would signifie hereby a kind of hope, or longing expectance: because that those things that be in abeyance, though for the present that they be in no man, yet they are in hope and expectation belonging to him that is next to enjoy them. (Cowell 1607: A2)

(The final section of this entry is comparative, drawing a link between ‘abeyance’ and the Civilians’ use of the verb ‘iacere’.) Cowell’s procedure here and elsewhere involves reference to etymology and to examples of usage. He frequently remarks on semantic evolution--as in the cases of ‘baron’, ‘castellain’, and ‘marchers’--and recognises synonymy (see the entry for ‘marque’, where we are told that ‘Marques and Reprisals are used as Synonyma’). His treatment of polysemy and of multi-word lexical units is variable.⁷ To cite three examples: the verb collocations ‘to wage law’ and ‘to make law’ are given in the second paragraph of the entry for ‘law’, along with Latin equivalents, English glosses and authorities; the various names of actions are not all defined under one omnibus lemma, but receive independent paragraphs headed accordingly; and under ‘assise’, a hierarchy of senses is constructed by which various names of writs are treated as depending on the first of four definitions, i.e.

Headword, etymology, ‘So that by all these places compared together, it is evident whence the original of this word (assise) floweth. How diuersely it is used in our common law, it followeth that we declare.’

first sense: ‘first (assise) is taken for a writ directed to the Shyreeve, for the recouerie of possession of things immouable, whereof your selfe, or your ancestor have been disseised.’

Assise of novel disseisin

Assise of mort d’auncester

Assise of darrein presentment

⁶ These quotations may have been translated by Cowell from the law-French original of Littleton’s treatise, or drawn from an English translation, *Littletons Tenures in English*, published in London by Richard Tottell in 1556.

⁷ Fredric Dolezal claims that John Wilkins’s and William Lloyd’s *Alphabetical Dictionary*, appended to the former’s *Essay Towards a Real Character and a Philosophical Language* (1668), was the first English monolingual dictionary to include ‘a formidable number’ of compounds.

Assise de utrum

second sense: 'Assise, in the second signification (according to Littleton) is used for a Iurie.'

third sense: 'Assise in the third signification according to Littleton, is an ordinanc or statute: as the statute of bread and ale made . . .'

fourth sense: 'Assise is further taken for the court, place, or time, where and when the writs and processes of assise be handled or taken. (Cowell 1607: E3-F2)

This is highly innovative: the first English-English general-purpose dictionary to have used separate, numbered definitions is Benjamin Martin's *Lingua Britannica Reformata*, published in 1749.⁸ Outside the English tradition, this practice can be traced to the great Renaissance Latin dictionaries, whether scholarly or pedagogic in design, such as those based on the work of Robert Estienne or Basilius Faber.⁹

One aspect of lexicographic technique remains to be addressed, implicit in the above examples: Cowell's definitions. The issue of definition is both substantive and linguistic: in a field where much discourse is performative, where the process of interpreting texts dictates social action, definition based on usage or any other criteria entails what lexicographers term 'statements of fact' as well as purely linguistic descriptions. The duplex character of definition in such cases can make linguistic inquiry contentious; and a number of historians have remarked on Cowell's impolitic 'zeal for definition' (Chrimes 1949: 464) or 'search for strict definitions' (Burgess 1993: 149). It is true that Cowell seeks to construct consistent, succinct and conceptually clear definitions: in doing so he often tries to make sense of seemingly inconsistent traditions, and attempts, wherever possible, to provide the Civilians' 'synonym' for a common-law term. For example, the questions whether and how the prerogative could be defined was highly polemical: Lord Salisbury, reporting James's judgement to the House of Lords, stated that 'it was dangerous to submit the power of a king to definition' (quoted in Chrimes 1949: 471).

It is in this context and because he was a lawyer that the basic tools of Cowell's semantic analyses are remote from the basic shape of definitions in English monolingual dictionaries until Johnson: that of listing synonymous, or superordinates (Hayashi 1978: 42). Cowell sometimes defines verbs by reference to equivalent verbs belonging to a non-specialist register: for example, 'abet' is defined as 'to encourage or set on'. He more often adds differentiae (in the form of a genus of direct object in the case of verbs) to a superordinate, as in the definition of 'advow' as 'to iustifie or maintaine an act formerly done', or provides a paraphrase, as in 'Wage [. . .] the giuing of securitie for the performing of any thing'. Cowell's most common technique consists of definition by genus and both descriptive and functional differentiae. To cite but a few: 'addition' is 'a title given

⁸ See the entry for 'diuination' in Bullokar's *Expositor* for a later, encyclopaedic use of the 'atomising' entry format.

⁹ For a detailed discussion of Johnson's possible use of these dictionaries as models, see Korshin 1974; for a more recent, and very lively survey of Johnson's lexicographic achievement that touches on this issue, see Robert DeMaria's 1986 contribution to *The Cambridge Companion to Samuel Johnson*.

to a man ouer and aboue his Christian and surname, shewing his estate, degree, occupation, trade, age, place of dwelling, &c.’; ‘faculty’ is ‘a priuilege, or especial power granted unto a man by fauour, indulgence, and dispensation, to do what that which by the common law he cannot doe’; and ‘piccage’ is ‘money paid in faires for breaking of the ground to set up boothes or standings’. Such definitions are consistently independent of more substantive commentary, and no word of ramified signification is without a definition of the root meaning. This contrasts with Rastell, who is often content to begin an entry with a statement of the ‘Assets be in two sorts’ type.

In the initial discussion of ‘assise’, Cowell reports Littleton’s opinion that ‘assise’ was *equivocum*, quotes three usages quoted by Littleton, and remarks that he has made further collections. There follows a generic definition of ‘assise’, introduced by the phrase, ‘[m]y collection have served me thus’ (Cowell 1607: E3). This is not far off corpus linguistics: for a body of texts to be deemed a corpus, the procedure of scholars using it must be descriptive and inductive; that is, one does not go to a corpus to seek out illustrations of pre-written definitions. Rather, the study of examples is a necessary first step before definitions can be composed. In Cowell’s grappling with texts belonging to an intellectual tradition that paralleled but was not his own, he adopts a similar if improvised and abbreviated method. He grappled, of course, with common law, with a set of techniques for ascertaining and interpreting both custom and trains of precedents; and the common lawyers’ precedents were both linguistic and substantive. The habit of referring to authorities, then, seems to have given rise to a lexicographical technique at first restricted to dictionaries of ‘terms of art’; I would argue that this flows through Johnson and the OED into our own century. The opposing tradition emphasised the fixity and precision of meaning not as a means of fostering the end-user’s ability to produce texts, but in the belief that all words had meanings free from context and bound by etymology: in solving the problem of having always to define words and not things, linguists such as Bailey, Horne Tooke and Charles Richardson came to reify the etymon, thus divorcing their field of study from other fields to which it may be considered adjunct. This school of lexicographical thought, already visible in Bailey, was to criticise Johnson for having made semantic description too dependent on context (Reddick 1995: 48-51, 207 n. 567, 208 n. 69).¹⁰ Richardson, endorsed by Coleridge, went so far as to describe Johnson’s method as that of ‘seeking the meaning of a word singly from the passages in which it is found’ (quoted in Reddick 1995: 48), thus ‘interpret[ing] the import of the context’ and neglecting ‘to explain the individual meaning of the word’ (quoted in DeMaria 1986: 7). He goes on to damn the result as ‘[a] collection [. . .] of usages’ (quoted in Reddick 1995: 48). Yet this was a by-product of an effort to present words as the end-products of a linguistic and intellectual evolution. Of course, humanist textual criticism provided models for many of the procedures Johnson adopted, and may have seen, in Cowell. If I am today proposing Cowell as a sort of missing link, it is only because his lexicon was written in English, and because it seems to have been chosen over a Latin work

¹⁰ In fact, Johnson’s method enabled him to analyse connotative, attitudinal, and associative meaning, as well as professional registers, sociolect, and the pragmatic dimension of discourse. See DeMaria 1986: 176-177.

early in the compiling process.¹¹ In Cowell, it seems likely that Johnson found that dictionaries could, via and because of their citations, provide what Johnson terms in the ‘Preface’, in what must be among the earliest occurrences of the phrase, ‘a kind of intellectual history’.

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¹¹ Johnson’s library included a number of works on law terms and their interpretation: John Ayliffe’s *Parergon Juris Canonici Anglicani* and Giles Jacob’s *Law Dictionary* in English, and works by Pierre Huet and Calvinus in Latin. This last item is of particular note: the *Lexicon Juridicum*, first published in 1600 and reprinted some more than a dozen times in the seven- and eighteenth centuries, provides a link to Cowell, and to the period of the *Dictionary*’s compilation. Johnson must have had access to and likely owned Calvinus’s work in the 1740s, as he took from it and translated the definition of ‘abalienate’ appearing on the first page of entries. It is, to my knowledge, one of only five non- English language sources cited. Moreover, it is the only case in which Johnson uses a non-English language source for a definition, in violation of the latter-day lexicographical maxim that dictionaries are untranslatable. Where, how, and why Johnson acquired a copy of the *Lexicon Juridicum* we can only guess: he may have sought out a copy when, in 1738, he contemplated applying for ‘permission to practice as an advocate’ at Doctor’s Commons (Boswell 1791: 97). He may also have come to the work through John Cowell’s *Interpreter*, or to the latter through the former, for the *Lexicon* is the model which Cowell praises in *The Interpreter*’s front matter:

The Civilians of other nations, have by their mutuall industries raised this kinde of worke in their profession, to an inexpected excellencie, I have seene many of them have bestowed very profitable and commendable pains therein: and lastly one Caluinus, a Doctor of Heidelberge, like a laborious Bee, hath gathered from all the former, the best iuice of their flowers, and made up a hive full of delectable honie. (Cowell 1607: 3)

It would seem that Johnson discarded the foreign source in favour of the English. It is tempting to think that, very early in the process of composing the *Dictionary*, he came to realise that a translated source would neither properly describe legal terms as used in English law nor furnish authentic examples of English usage. He had, in the *Plan*, flirted with the idea that ‘terms of art’ form a translatable pool of cognates in modern European languages; he had at first proposed to omit “the terms of particular professions since, with the arts to which they relate, they are generally derived from other nations, and are very often the same in the languages of this part of the world” (Johnson 1835: 440). In the end, all but one of his sources were all English: they are, for law terms, in inverse order of frequency: the *Lexicon Juridicum*; John Harris, the author of an early eighteenth-century general technical dictionary; Coke; Edward Phillips; Thomas Blount; Ephraim Chambers; Francis Bacon; the *Parergon Juris Canonici Anglicani* by John Ayliffe (1726); and Cowell’s *Interpreter*. (Matthew Hale’s legal works provide many citations, but none is quoted for a law term or sense.) *The Interpreter* is cited 282 times.

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