Kevin Murray
'A Middle-Irish tract on cró and díbad'


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A Middle-Irish tract on *cró* and *dibad*

KEVIN MURRAY

The tract published by Kuno Meyer under the title ‘The distribution of *Cró* and *Dibad*’ is to be found in the composite Ms. TCD H 3.18 where it occupies most of p. 25. It is not included in the *Ancient Laws of Ireland* but is printed in *Corpus Iuris Hibernici* (henceforth *CIH*) at 600.1-601.11. It is the last legal tract in the opening section of the manuscript and follows on immediately after *Berred Airechta*. The text was discussed and partly translated by Eóin MacNeill and a couple of lines of it were translated by Rudolf Thurneysen. He also drew attention to a parallel passage, the canonical text of which has been translated by David Greene. This translation was made by Greene as part of a larger study of the words *cró* and *crú*, a study which has since been taken up by Lionel Joseph. Fergus Kelly has also treated of this text in the recent past as has Thomas Charles-Edwards.

Despite this attention, however, the text has not yet been translated in its entirety. This is what I have attempted to do here below. The text has been transcribed from a microfilm copy of the manuscript and collated with the printed editions of Meyer and Binchy. All expansions are marked by italics. Square brackets [ ] are used to indicate letters etc. added by the editor, round brackets ( ) to indicate superfluous letters. The text has been emended as little as possible. The length mark is infrequent in the manuscript (it is marked on ni, §4; arddrigh, §5; ndaghdaitne, ni (x2), bi, §7; óthu, ln, §8; rl[l], §9), though it is quite common on the conjunction mark ‘j’ (as an abbreviation for d). All other examples have been supplied by the editor. Lenition has been restored by means of [h] – the presence in the manuscript of the *punctum detens* on ‘T’ and ‘S’ has been marked by using an italicized ‘h’. I have followed the manuscript layout of the tract. From the brief language notes appended to the text, it is clear that we are dealing with a language in rapid transition, preserving as it does many O.Ir. and Mid.Ir. forms side by side, though many later Mid.Ir. developments are not represented. Thus, I would agree with Thomas Charles-

ABBREVIATIONS USED IN NOTES

Edwards (Kinship, 491, 506) in dating this tract to the early Mid.Ir. period (tenth century), though probably based (at least in part) on an earlier O.Ir. original.

§1 (p. 2513) Ropu doraídh la(isna) huchar u na nGaidhil cinnus no roindfitis c(h)ról 7 díbhad ar is iann chatting leo-som roinn c[h]ról 7 díbhad. Is farum immu-taramsair (a h)uchtar u na nGóedhail 7 ro hordaigseit indas no roindfitis cró 7 díbhad a fir aicuid 7 scretra 7 cuilinnhisi. Ro ordúighseit faram 7 immu-deisidh lea a buith a mbscna isin inis-se 6 c[h]osog co forcen 7 ad-rodamnair Pátraic 7 fir Érenn olcena a buith samlaid[il]. 7 a n-uchtar ro bátar a ndegaid Pátraic far créim ro ordúdhse i commu c[h]áich i. Cenn Fóedhhdh la Ailella 7 Dubhartach Bérrí fo deoidh 7 Fingin mac Fláinn 7 Fingein mac Conmaic 7 Cormac mac Cuielinnáin.

1 Ms. roodhaigh. b Ms. féin. c Ms. roodaidheit.

It was a difficulty for the authorities of the Goidhil how they would divide cró and díbhad because a division of each was the same to them. Then the authorities of the Goidhil assembled and they decided how they would divide cró and díbhad, according to the truth of nature and scripture and conscience. They arranged [it] then and it was settled by them what was to be their custom in this island from the beginning to the end, and Patrick and the men of Ireland besides acknowledged that it should be so. And their authorities that came after Patrick, after Christianisation, they instituted it like everybody else, i.e. Cenn Fáelad mac Ailella and Dubhartach of Bérrí subsequently, Fingin mac Fláinn and Fingin mac Conmaic and Cormac mac Cuielinnáin.

§2 Ceist didiu. 'Cis lir ran na fil for crú? Ni ansa. A. iii. ran na i. ranu ó bon cémámus 7 ranu ó inm 7 ran ar mebhón.

2 In Ms. this is written after cruí with marks of transposition.

A question then. How many divisions of cró are there? Not difficult. Three divisions, i.e. a division from the bottom first and a division from the top and a middle division.

§3 Rann ó bun cémámus i. tét rl(g) in c[h]óicidh nó na móbhdaithe i tech r[flg] Érenn. Ma[d] rl(g) cóicidh ma[d] rl(g) mórhdaithe. tét i tech righ in c[h]óicid nó ind ardri[gh] b cemn le gaibidh giall n-anu Imam c[h]ánaigh ind-i marbus a fer co n-éireen fris a cró 7 ranntair taram in cró. Seachtar as cémámus do giall frisi toboingar.

1 Ms. coicidh. b Meyer (Éria 1, 214,16) indrus righ. It is not easy to decide what to read here. The one letter that is in doubt looks like an a with an added stroke to make it into a d. At the very least, if following Meyer, one would have to read indrum / righ. c Ms. gaibhe.

A division from the bottom first, i.e. the king of the province or of the major tioth goes into the house of (that is, submits to) the king of Ireland. Whether provincial king or

14 Mairi Herbert has suggested that it would seem more logical if indeimin 'uncertain' or some such word was in the text originally instead of iann as the first sentence is unclear as it stands.
king of a major tuath he goes into the house of (that is, submits to) the king of the province or the high-king on the other hand and he takes a hostage there for the crime of the one who kills their man, until he pays them their cró and this is then divided. One seventh of it in the first place for the hostage who is taken for it.

§4 Rannaitir i tri air sin. Triant as don ardrig dond-boing 7 trian do c[h]nih na deirbh[h]line 7 trian do f[h]laith[bl] ilibh huiilbh. 7 berid rí[g] in c[h]óidic ní na nótr[h]úaithi a cró n-uiile leis acht eit cuit in adrigh 7 is húadhára beoru cách a c[h]úit tirit fine 7 flaithi i. a triant tic na flaithe, fácaibh a triant lais-[s]im 7 beridh in f[h]laith[bl]i i is nesom dó-som na dá trian n-aile 7 fácaibh cuch áet trian leis beos i. each tellugh asa tét beos cona túrnat ní de eitir.

* Written as fal i with punctum delens under the a.

It is divided in three thereafter. A third of it for the high-king who levies it and a third for the derbhline’s cró and a third for all the other lords. And the king of the province or of the major tuath takes their complete cró with him apart from the share of the high-king and it is from him that everyone, both fine and lords, gets his share, i.e. [of] the third which comes to the lords, a third is left with him and the lord who is nearest to him takes the other two thirds and each of them leaves a third with him still, i.e. every household from which it goes still until none of it remains at all.

§5 Cró ó inn dano, is héisidh[e] saighis fine ar urrádhas, ar athgabáil 7 ní bí cuit ardrigh occo acht a flaithe na fine fadeisín. Rannaitir laram i tri beos i. triant do c[h]úi 7 trian do f[h]laith[bl] ilibh, acht an c[h]úití ro-saigh in ardrigh asin c[h]úi toiseach i. asin c[h]úi cró ranntar ó bon. Is ed ro-saigh flaithe ina fine húair tod[h]-boing 7 fácaibh trian i tellugh cacha flaithe 7 tét b[Ms. flatha ite]beos fríthrasc stáis corúice in n-arrdrig 7 is ann ar-[s]íestar a ndo-ruáirt de. 7 in c[h]úit ro-saigh inn flaithe ina fine asin (p. 25b) c[h]úi toiseach, is ed ro-saigh in n-ardrigh asin c[h]úi-ruí-sa.  

* Ms. q5. In the microfilm copy of the Ms. only cr is legible. I follow CIH here. Meyer (Erin 1. 215,3) expands to cruid.

Cró from the top then, it is this that the fine claims through native law, through distraint, and they do not have a share for a high-king but [for] their lords of the fine itself. It is then still divided in three, i.e. a third of the cró [for the derbhline] and a third for all the lords, excepting the share that comes to the high-king out of the first cró, i.e. from the cró divided from the bottom. It is this which comes to the lord of the fine because he levies it and he leaves a third in the household of every lord and it goes up then in the opposite direction as far as the high-king and it is there that which remains of it stays. And the share which comes to the lord of the fine there from the first cró, it is this which comes to the high-king from this cró.

§6 Cró ar mehbón i. tét nótr[h]úaithi [c]úri na n-atugh do s[h]ochrait[i] aiceirne bí húadháibh hí céin iar marbad fir dib 7 ní dambrar cert ná dilged doibh ima ferb co tolgort in nótr[h]úath ar fáigín leo-sim co slúaga[ib]b 7 [n]-innib 7 ar-gelltar a cuid doibh dín c[h]úi iar héisi a tobalhaigh leo.
A middle cró, i.e. the major tiúth goes after being requested in friendship to a family which is far away from them after the killing of one of them and neither justice nor law is ceded to them regarding their man until the major tiúth exacts it by force along with them by hosts and weapons and their share of the cró is promised to them after its execution by them.


And it is cró that is divided among a number of followers. One third of the cró for the derbhíne moreover and one third to the lords as we have previously mentioned in the other two cró and a third for the host which enforces it along with them. But according to the legal status of the nobility and according to the number of each and according to the amount of their power, it is divided from the bottom to the top, but there is no-one of them with nothing at all, however small the share of each of them may be.

§8 Ocu an tiún ro-saigh in derbh[h]ine, cinneas ranntair? Ní annu. Ranntair óthá athair 7 mac co seathair for cúlo 7 frithruac a fh[h]ithisi corúisc ingen ar méraibh. A(i)thair 7 mac céitomás, leith díbh dinaisc. Bráthair7 aithair 7 mac ra(i)nuit aithairthin athruighin co leith in neich7 do-hurtíte ann. A ndo-hurtíte ann faram ranntair i tri. Tiún do bráthair7 ranntar a mbis ann beus i tri. A trián7 dourd-i bebesnem dó farsan uird cedna, acht is i láin cenn ngabail7 tét 7 ní i láin cind comorbar. 7 a ndo-uurtíte ann fá déoith forsnai[ib]7 tréinibh .i. in tan ro-saigh semathair for cúlo, a mbeag do-uurtíte ann for ranntaibh tét i láin cind7 comorbar súas arís i frithruac corúisc a(i)thair 7 mac 7 tágait ind amail cáich, cíd bec cuit c[h]áich díbh de.

And the third which comes to the derbhíne, how is it divided? Not difficult. It is divided from father and son contrary-wise to the grandfather and the counter-direction again as far as the most distant kindred. Father and son first, a half to them exclusively. A father's brother and son make a re-division again to a half of that which remains there. That which remains there then is divided in three. A third for a brother and what is still there is divided in three. A third for whoever is closest to him according to the same ranking, but it proceeds according to the number of family lines and not the number of heirs. And
that which remains finally after the thirds, i.e. when it comes back to the grandfather, the little which remains there after divisions, it proceeds according to the number of heirs up again contrary-wise as far as father and son and they proceed there like everyone, however small the share of each of them may be.


* Binchy (Cih 601h) notes that O’Curry’s transcript has in here for ní (clearly ní in the Ms.) which he remarks ‘seems to be required by the context’.

A third of the cró for five there. They divide the other two-thirds in three again, i.e. a third for the lord, a third for the fine, a third for intermediate lords and for guarantors. The third of the intermediate lords and the guarantors, a third of it is distributed to the administrative head who takes precedence in the house of a king, a third for guarantors, another third for the negotiators of the túath to divide down to one screpal. It is not cró without five, with as a retinue. That is a re-division of cró.

Language notes

§1.a The conjunction sign ‘7’ is consistently used as an abbreviation for et (e.g. ro ordaghset, cromt §1) and the conjunction sign ‘7’ with length mark as an abbreviation for ét (e.g. cétamus, §2; tét, §3).

§1.b buith The use of the classical O.Ir. form of the substantive verb.

§1.c a mbéscna This could also be translated as ‘the custom’, taking béscna as neuter. D.II, gives no gender for the word but notes that it is a compound word made up of hés ‘custom’ + gne ‘kind, form’. Gné was a neut. word in O.Ir. (later f.) so this interpretation seems plausible.

§1.d The first paragraph would remind one of the pseudo-historical prologue to the Senchas Mbr. See J. Catey. Éiriu 45 (1944) 1-32, esp. 11-13.

§3.a The text is inconsistent in its treatment of ri ‘king’, with rig and rígh for the nom. sg. and ri for the gen. sg.

§3.b iad argaigh. The O.Ir. form of the article is preserved here – it has not yet been reduced. See also iad-i, §3; iad argaigh, §4; iad argaigh, in a fine, §5; don sí[h]láagh, §7; dond-i, §8. The neuter form of the article (nom. & acc. sg.) a n- is preserved with trian (§§ 4, 8, 9) and may also be preserved with cró – see §3.c. For loss of the classical O.Ir. forms of the definite article, see don argaigh, in fhluath(i), na dá trian, §4; an c[h]uit, §5; an trian, §8.

§3.c a cró. This may alternatively be translated as ‘the cró’. This interpretation (see also §4.c) depends on treating cró as neuter. It is treated as non-neuter (in cró) in the next line of the text. Joseph (Éiriu 39, 182) thinks that cró ‘wergild’ was masculine but argues that ‘we must consider the possibility that an old neuter has adopted masculine gender secondarily’. It may also be translated

This could be expanded to aitūr (apud Meyer, Éiriu 1, 215-27) and as suggested by Binchy, Cih 601 f.
as ‘his cró’, with no marking of lenition. Part of the problem of interpretation is in understanding whether the cró was seen as part of the property of the dead man that had yet to be collected or was perceived as belonging to those who had to collect it – I incline towards the latter interpretation.

§4.a trian do c[h]rú na deirbh[h]íne. Variations of this phrase are used in §§ (trian do c[h]rú) and §7 (trian do c[h]rú deirbh[h]íne). These alternatives seem to simply mean ‘a third for the derbhíne’. Similarly trian do c[h]rú c[h]róic cer (§9) ‘a third for five’ may refer to the gelshíne, which has five members, traditionally ego, father, father’s father, father’s brother and father’s brother’s son. Alternatively, in our text, these five may be seen as ego, son, father, father’s brother and father’s brother’s son.17 For an indepth discussion of these issues, see Charles-Edwards, Kinship, 486–514, esp. 497.

§4.b flaithí[h]. Lack of consistency in using the dat. plu ending –ib. See also forin[a]bl. §8; etair[b]laithí[h], na n-eteri[bb], §9. Used correctly: ilíbh huilíbh, §4; ilíbh, §5; donaíb flaithíbh, ina[h]liabh cróáthbh, §7; méairiub, tréiníbh, rannáibh, §8; iaraiubh, attiubh, aidhbeníabh, §9.

§4.c a cró n-úile. This may alternatively be translated as ‘the complete cró’. See note §3c and Joseph, Ériu 39, 182.

§4.d trian is treated as neuter throughout (§§ 4, 8, 9) apart from one example where the definite article is given as an in the nom. sg. (§8).

§5.a húitir tod(h)-boing The correct use of a Class C infixed pron[+t] in a relative clauses.

§5.b Univerbation: fáitíbh fos f-faiubh.

§6.a There seems to be some confusion here between co ‘to’ and co n- ‘with’ as the latter is followed by the acc. at this point in the text (Ms. co sluaga 7 innu).

§7.a amail remind-érbartram mar/íd-aigg The correct use of Class C infixed pron in relative clauses.

§7.b airecar na ndagh dáine This may simply translate as ‘the legal status of the good people’.

§7.c Máire Herbert has suggested to me that cannaír ó húas i ro húasal may be better translated as ‘it is divided from inferior to superior [rank]’.

§8.a Following a suggestion by Máire Herbert, I have taken lín eann as a phrase simply meaning ‘number, amount’.

§9.a The interpretation of iaraiubh, eteri[bb] and attiubh, all as forms of ain ‘guarantor’, is unsatisfactory in explaining the sense of the passage.

Analysis

The texts distinguishes between three different distributions of the body-fine known as cró.18 These are called respectively rann ó bun (‘a division from the bottom’), cró ó inn (‘cró from the top’) and cró ar medón (‘cró from the middle’).

Rann ó bun

In this situation the subordinate king takes a hostage from the overking, which hostage is returned when the overking succeeds in obtaining the cró on behalf of the subordinate king and

17 Following Bincly’s emended reading (note 15 supra) the gelshíne may be taken as ego, father, son, brother (and brother’s son). 18 Even though the first paragraph concerns itself with both cró and dBh, the rest of the text is only concerned with the distribution of cró. This may be because in the first line we are told that ‘a division of each was the same to them’ – this seems to mean that whatever percentage of the cró you were entitled to, you were due the same percentage of the dBh.
his túath. The hostage receives \( \frac{1}{3} \) of the córó for his trouble, the overking who levies it receives one third of the remainder, the deceased person's derbhshine receives another third and the lords of the deceased person's túath receive the final third.

The king of the túath seeking the córó in this situation is responsible for dividing \( \frac{1}{3} \) of the complete body-fine. He gives half of this to the deceased person's derbhshine and the other half he divides between himself and the lords of the túath. He gets one third of this (\( = \frac{1}{3} \)) and the rest of it is divided among all the lords until none of it remains.

Córó ó inn

This division of córó is made when it is the lord of the fine who enforces payment. The derbhshine receives one third, the lords of the túath get a third and the lord of the fine gets the final third. The ardri (perhaps in this case referring to the king of the túath?) gets his share from the third given to the lords of the túath - his share is equal to what the lord of the fine gets from the rann ó bun.

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19 As F. Kelly, *A guide*, p. 21, points out, 'this is only possible, however, where both túatha owe allegiance to the same overking', though this is not explicitly stated in our text.
20 It seems probable, however, that the king of the túath receives more of the body-fine than this. i.e. if we interpret the line fáthaid each de trion leis bons 'each of them leaves a third with him still' (§4) as referring to the lords of the túath giving one third of their individual shares of the córó as tribute to the king (I can see no other way of explaining this line satisfactorily). 21 Córó ó inn and córó ar médin seem to be levied without taking a hostage (unlike rann ó bun) though, once again, this is not explicitly stated. This viewpoint is strengthened, however, by the fact that anbháil 'distrain' is used to extract the córó ó inn and a sígad 'hosting' enforces...
Cro ar medon

This division occurs when the mórthlath goes on a hosting to enforce payment of the cro. This seems to happen when the member of the fine for whom the compensation is sought is killed a good distance away from his own tíaith, thus making enforcement more difficult. When the body-fine is successfully levied, the mórthlath receives one third (with everyone who goes on the hosting getting some share of it), one third goes to the derbhshine as in the other divisions above and one third goes to the lords of the deceased person's tíaith. There is no specific mention made here of the share of the king of the tíaith, but presumably he gets his share from the third received by the lords of the tíaith.

The share of the derbhshine

In the three divisions listed above, the derbhshine gets one third of the available money (in the case of the rann ò bhu) the hostage's share is at everybody's expense equally). This third is divided among the derbhshine as follows (treating the text exactly as it stands): 12

Father and son get ½ - and ½ remains. (i.e. the deceased person's father and all his sons?)

Uncle and [his] son get ¼ - and ¼ remains. (i.e. all his uncles and cousins?)

Brother gets ¼ × 2 and ¼ remains. (i.e. all his brothers?)

Another ¼ to the person nearest him following the same order. (i.e. all his near relatives?)

The final ¼ seems to be divided out among all the kindred.

This is difficult to follow because it presupposes that the deceased person's father is still alive which quite often won't be the case. The text does not tell us who does the dividing but from the focus of the text as it stands, it seems that it may be the father of the deceased who would distribute the cro. This would help account for the large share received by the father's brothers and their families.

If we treat of the restored text (as suggested by Binchy) then the division is as follows:

cro ar medon. 12 If we restore the half-line that Binchy believes is missing here (which seems very probable), then the distribution of cro follows the table laid out by Charles-Edwards, Kinship, p. 107. However, the table is misleading in giving the amount to be divided as seven cumala. Taking the standard wergild as seven cumala, it is clear that the derbhshine receive only 2 (or at most 2⅔) cumala from this total.
Father and son get $\frac{1}{2}$ - and a $\frac{1}{2}$ remains.  
Brother gets $\frac{1}{6}$ - and $\frac{3}{6}$ remains.  
Father and son get $\frac{1}{6}$ - and $\frac{1}{6}$ remains.  
Brother gets $\frac{1}{6}$ - and $\frac{1}{6}$ remains.  
Another $\frac{1}{6}$ to the person nearest him following the same order.  
The final $\frac{1}{6}$ seems to be divided out among all the kindred.

In this way, father and son get $\frac{3}{6}$ of the cró, brother gets $\frac{1}{6}$ and the last $\frac{1}{6}$ is distributed as noted above.

**Technical vocabulary**

*aídbden* A negotiator; a person belonging to a noble grade whose function is to represent his kin in dealings with a higher lord, especially the king, or with members of an outside tíath.

*aíreasc* rank, legal status.

*aítire* hostage-duty. See *CG*, 74-5.

*bóscna* legal custom.

*cró* wergild, body-fine.

*derbhíne* descendants on the male line of the same great-grandfather.

*dídab* inheritable assets, property of a deceased person.

*étarflaithe* intermediate lord. *DIL* also suggests 'subordinate chief' as an alternative translation. It is possible that its sense is not dissimilar to the *flaith aíthig* ('commoner lord') of *Cdt. Shódernaith*, a man who occupies an intermediary position between lord and commoner (Kelly, *A guide*, p. 28). From the examples listed s.v. *étarflaith* in *DIL*, it seems that it is a term only ever used in the law tracts, when distribution of assets, fines etc. was involved. In Bretha *Eogaid* (at *CIH* 330.15 & 330.23) we find examples where the *étarflaith* and the *flaith* receive one-sixth of a penalty, payable by those who avoid / miss a hosting. *Di Gníomh Gdáll* (at *CIH* 1756.12) notes that the *étarflaith* gets no part of the éric 'wergild' when he has no part in its collection.

This may be paralleled in our text (§9) where it seems that the share of the *étarflaith* is completely divided among others. However, it may be that the *nuire rechigí, aítire* and *aídbden* are all different types of *étarflaith*.

*finn* family group, kinsman.

*gíall* hostage. See *CG*, 95-6.

*íngen ar méairb* lit: nail in front of fingers or nail on fingers. This has been discussed by MacNeill (*Studies* 8, p. 373 n.1) as follows: 'This expression must mean the ultimate limit of the *derbhíne* in the direction of descent. The literal sense is 'nail in front of fingers'. The hand is the symbol of the *derbhíne*, the palm representing the common ancestor, and the joints of the fingers the three generations of his descendants'.

*mórgúthúth* the major tíath or over-kingdom. The *rí mórgúthúthe* seems to be posited as a different grade to the *rí cóidid* and thus may be equivalent to the *rí tíath* or *ruiri*, though this is only speculation. A grade of king higher than the regular *rí tíaithe* seems to be implied, however.
muire rechtgi lit: the chief of law. I take this person to be the equivalent of the king’s recktaire ‘steward, administrator’ (referred to as ‘the most important functionary’ in the king’s household in Kelly, A guide, p. 65) rather than his brithem ‘jurist’, though this is only a personal preference based on the context.

rí cóicid provincial king.
screpal unit of value = $\frac{1}{24}$ th of an ounce.
uradas traditional or customary law.