The Theoretical Background and Practical Implications of Argumentation in Ireland

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CHAPTER ONE

IRELAND AND ARGUMENTATION

1.1 What this book is

The association between the words “Ireland” and “argumentation” may not look so straightforward. The purpose of this book is to show that they are in fact more closely connected than it seems at first glance. In particular, the volume offers a linguistic perspective, and it suggests that the study of reasoned argument is likely to have a wide range of potential applications in the context of Irish public discourse.

On historical, political and linguistic grounds, Ireland is itself a complex subject to investigate: as it is beyond the scope of this work to capture such complexity in full, the primary focus of the analysis will be on the Republic of Ireland as a case in point. Similarly, the area of public discourse is vast, because it stretches from the press and other print or electronic media, to the institutionalised fields of politics and the judiciary, to name but a few. Taking two of the classic, favourite subjects of inquiry of contemporary argumentation theory (Perelman and Olbrechts-Tyteca 1958), the volume will address the issue of the construction of argumentation in the judiciary and in the politics of the Irish Republic.

On the basis of three illustrative case studies, the research reported here fields the following general questions: (1) what methods can be used to identify any distinctive aspect of the language at work in public settings where argumentation is the expected form of interaction?; (2) how can such methods lead to an integrated approach to the study of argumentative language in Irish public discourse, in the interest of field scholars and practitioners alike?

Before providing an outline of the volume in Section 1.3, it is sensible to discuss the rationale of the research in more detail. In an attempt to clarify the point raised at the outset–notably, the relationship between Ireland and argumentation–what follows is a broad historical survey. Its aim is, first of all, to elucidate the role of argumentation (or, as it was

classically known, "rhetoric") in Ireland, and at a secondary level, to motivate and legitimise the present investigation.

1.2 Ireland and argumentation: Historical overview and present opportunities

In order to appreciate the significance of argumentation studies in Ireland, scholarly research has tended to define their role in the history of the Island's education system. As we shall see in this section, this essentially meant that the place of "rhetoric" has been evaluated in the development of Irish university curricula across centuries (Moss 1996).

The term "rhetoric" has been used since classical antiquity to denote "the art of speaking well". As such, for instance, it was seen by Marcus Tullius Cicero (1998 [46 BC]) as a crucial part of education. The Roman philosopher, politician and lawyer considered it as an all-inclusive discipline, by no means limited to *elocutio*, i.e. the set of stylistic devices used to shape arguments. In fact, he postulated, rhetoric was supposed to include *inventio*–the heuristic preparation of argumentative materials–*dispositio*–i.e., the sequence of arguments in speech–and *sapere*, that is a degree of familiarity with the subject matter of orations. Accordingly, Cicero called for a combination of formal and content features in his comprehensive model of rhetoric.

The birth of present-day studies on rhetoric can be traced back to Perelman and Olbrechts-Tyteca's (1958) seminal work *Traité de l'argumentation. La nouvelle rhétorique* [Treatise on argumentation. The new rhetoric]. As can be noted from the title itself, the writers used the term "argumentation" to lay the foundations of a new rhetoric. The aim of the discipline was to analyse the discursive means that create and increase the adherence of minds to a thesis presented to them. More explicitly, "argumentation" was conceived by Perelman and Olbrechts-Tyteca's (1958, 10) as the analysis of the technique of using discourse to convince and persuade ("*la technique utilisant le langage pour convaincre et persuader*").

Perelman and Olbrechts-Tyteca were well aware of the argumentative traits of oral interaction. However, they mostly concentrated on forms of argumentation inherent in written texts. A modern, more extensive notion of argumentation beyond the realms of "rhetoric" as the art of speaking well is among the merits of Perelman and Olbrechts-Tyteca's theorisation. By reason of this, the term "argumentation" was used in the title of this volume and it will be preferred to "rhetoric" all along the following chapters. Nonetheless, the term "rhetoric" inevitably occurs in a section

like this, devoted to a retrospective review of the discipline in the Irish history of the last few centuries.

During the Middle Ages, Ireland earned a reputation as a stimulating learning environment. The monastic movement contributed to the establishment of great monasteries in such ecclesiastical centres as Kildare, Cork, Clonard, Emly and Clonmacnoise. This ensured that proper resources be allocated to maintain high-order workshops and craftsmen, develop a taste for opulence and afford a generous patronage of "an art distinguished by its taste and delicacy" (Ó Corráin 1992, 15). Regrettably, the Viking raids into monastic towns of the late eighth century, the subsequent invasions by the Norsemen throughout the eighth and ninth centuries, and eventually the English domination from the late twelfth century caused major disruptions to higher education for the Irish Catholic population.

Unlike other European countries, therefore, Ireland had no university until the foundation of Trinity College in 1592. One of the purposes behind the College's establishment was to enable the Anglo-Irish Protestant population to study at home, and to do so within a Puritan and anti-Catholic setting. As a result, the sharp increase in the number of Trinity's scholars and fellows from 1592 to 1620 and beyond was of no benefit to Catholics, who accounted for the vast majority of Ireland's inhabitants. Rather, in the wake of the Williamite Campaign of 1689-1691 (Canny 1992), the imposition of the Penal Laws on Ireland secured that Protestant schools set up for Catholic children ultimately pursued the aim of extirpating their parents' religion. In the words of William E.H. Lecky (1913 [1892], 148-149):

> The Catholic was excluded from the university. He was not permitted to be the guardian of a child. It was made penal for him to keep a school, to act as usher or private tutor, or to send his children to be educated abroad; and a reward of 10*l.* was offered for the discovery of a Popish schoolmaster. In 1733, it is true, charter schools were established by Primate Boulter, for the benefit of the Catholics; but these schools – which were supported by public funds – were avowedly intended, by bringing up the young as Protestants, to extirpate the religion of their parents. The alternative offered by law to the Catholics was that of absolute and compulsory ignorance or of an education directly subversive of their faith.

As Ireland approached the end of the seventeenth century, the Jesuits may have represented an exception to such a consistent pattern. These "missionaries, whose zeal deserves our admiration", are reported by John Pentland Mahaffy (1896, 207) to have been "content to deter the youth of

Ireland from going to the dangerous [Trinity] College", and in this to have "to a great extent succeeded". Among the purposes behind the Jesuits' activism was the preparation of Irish boys for an education in Europe, possibly in a Catholic country such as Spain. As Mahaffy himself records, it was no later than July 1629 that three students from Trinity were noted to go into the city and frequent suspect houses. Upon examination before the Dean and the Provost, they confessed that they "had met with two friars [...] who plied them with arguments in favour of Popery, and offered to convey them secretly and safely to Galway, and thence to Spain" (Mahaffy 1896, 208).

Despite the efforts by Jesuits and Dominicans to counterbalance the effects of the dominant Protestant paradigm on Irish education, it was Trinity College that trained the vast majority of public figures of the time. Moss (1996, 386) stresses that no Catholics would be admitted there until 1794, so that "higher education in Ireland more than anywhere else in Great Britain was confined to an elite segment of the population whose religious affiliation was different from most of the other inhabitants". Arguably, such religious affiliations were also to exert considerable influence upon rhetorical education at the College. Not surprisingly, then, the first Provosts had been educated at Cambridge and had a strong Puritan background. Among them was William Temple, who drafted the first statutes of the curriculum in keeping with his interest for the French logician Peter Ramus [*Pierre de la Ramée*].

The first account of the contents of student curriculum dates back to Temple's successor, William Bedell, who upheld the Ramist tradition. Bedell's statutes are included in Mahaffy's (1896, 352) volume as a Latin appendix, and they clearly prescribe the practice of logic and rhetoric, as can be seen from the following passage:

> *Discipuli [...] disputationes praestent […]: Illi de Thesi Logica, hi de binis quaestionibus e Physiologia. Thesis a respondente tractetur, oratione perpetua, adhibito vario Argumentorum genere et Elocutionis Rhetoricae Ornamentis.*
>
> Students will engage in discussions: some about a logical thesis, others about two topics from physiology: A thesis from the respondent will be discussed through continuous speech, by availing oneself of various kinds of arguments as well as of the embellishments of rhetorical elocution. [My translation]

The year-by-year development of the curriculum is illustrated by John William Stubbs (1889) in detail. For instance, first-year students devoted

themselves to the study of logic, and they were required to submit an analysis on the subject of *inventio* and rhetorical style. In the second year, the study of logic was further pursued, and it was part of the lecturer's task to teach students how to detect false arguments in logical reasoning. Taking the subject to yet a higher level, fourth-year students were supposed to come together for a disputation. The "respondent" advanced a thesis, whereas the "opponents" put forward two arguments in reply, framed as syllogisms. The respondent and a moderator in turn "carefully watched these syllogisms, and detected the error in their form, if any such exhibited itself", the whole of the disputation lasting "for an hour and a quarter, each Monday, Wednesday and Friday, from 2 o'clock, P.M." (Stubbs 1889, 45).

The centrality of logic and rhetoric to the average student profile is equally apparent from the criteria laid down for the admission to the Degree of Bachelor of Arts. In that regard, Stubbs (1889, 44-45) observes that each candidate "must have publicly disputed in the schools concerning philosophical questions, twice as respondent, and twice as opponent, as well as privately in the College" on the basis of the rules set out by the Provost and Senior Fellows, and he had to have once declaimed. Consistent with the Puritan training of Trinity's provosts, candidates were examined for the degree by the Vice-Chancellor and Proctors: on that occasion, they were expected to be capable of translating into Latin "the whole of the Greek Testament" (Stubbs 1889, 45).

As Mahaffy (1896, 187) surmises, it is significant that students probably had no textbooks, although it can be hypothesised that lecturers made use of Temple's edition of Ramus along with other commentaries upon the same author. This is an aspect of no secondary importance. First of all, it sheds light on the widespread belief that "the logic of Ramus", applied as it could be to sacred texts as well, "afforded a clear and reasoned *vade mecum* for the education and conduct of princes" (Mahaffy 1896, 146). Secondly, it underlies the notion that mastery in assimilating lessons in Latin and defending one's views in public disputations, served a practical purpose: the development of "knowledge being ready for use, and defensible by argument" (Mahaffy 1896, 186), so as to make students intellectually and spiritually fit "to do battle with the forces of Rome" (Moss 1996, 388). It is not surprising, therefore, that such a training is attested at Trinity College from the foundations until the late nineteenth century (Mahaffy 1896, 187).

A discernible shift in educational philosophy occurred when Archbishop Laud was appointed Chancellor of the College in 1645. Reappraising the pre-eminent position of Ramist logic, he left a

distinctively Aristotelian mark on the curriculum. Accordingly, Stubbs (1889) explains that first-year students still studied logic, but they did so on the backdrop of Porphyry's *Isagoge*, by tradition an introduction to Aristotle's logic. Moreover, Aristotelian rhetoric was included in the curriculum in the form of the *Organon* in the second year, the *Physics* in the third year, and the *Metaphysics* as well as the *Nicomachean Ethics* in the fourth. Nonetheless, the practice of declamations retained paramount importance: in fact, "two students in turn declaimed *memoriter* in the Hall on each Friday and Saturday after the morning prayers" (Stubbs 1889, 139), and it was the duty of no one less than the lecturer himself to be present at those declamations.

Regrettably, as Moss (1996) points out, the political disruptions of the 1641 Irish insurrection and Cromwell's campaign contributed to the conspicuous lack of data about educational standards for the remainder of the seventeenth century and the early eighteenth. Notwithstanding the paucity of details available, the beginning of the Protestant Ascendancy in Ireland seems to have heralded the emergency of neoclassical education at Trinity. Testifying to the neoclassical imprint of the statutes of the age, Stubbs (1889, 197) himself notes that "the Undergraduates of each of the four classes were daily instructed in Science and in Classics".

In that context, the foundation of the Erasmus Smith Chair of Oratory and History in 1724 was indicative of the recognition accorded to rhetoric in the first half of the eighteenth century. Among the academics appointed to that position were two prominent figures of the time, two scholars that were to leave a published record of their ideals and beliefs (Moss 1996, 392), i.e. John Lawson and Thomas Leland. In delivering his "discourses concerning the nature, precepts and method of oratory" (Lawson 1760, 1), the former defined oratory as the result of the interplay of two elements. The first one was genius, without which "all attempts are vain, and no progress can be made" (Lawson 1760, 13). The second was application, which chiefly consisted in the combination of study and practice. It was largely by "delivering himself up, without control, to his genius, and uttering the sentiments of his heart, as in animated conversation" that the "preacher" would express his views most persuasively and transfuse "in their heart and vigour, his own sentiments into the breasts of his hearers" (Lawson 1760, 418).

The term "preacher" may itself be suggestive of the attention directed by Lawson to the needs of pulpit orators. Lawson (1760, 430) treated the matter in the last part of his *Lectures*, where he argued that the noblest endeavour of anyone preaching the Gospel was the acquisition of "authority" in the eyes of their audience. Authority was to be acquired by

orators by fostering the belief that they possessed "a competent degree of knowledge, of perfect sincerity, and of diligence"; they constructed their speeches with care, i.e. "by exact attention in the right choice of subjects", disposing these "with clear method", "treating them with close reason, well moderated passion and chaste fancy"; they expressed their ideas properly, i.e. with perspicuity and shortness; and they delivered "the whole with a natural, becoming sense of warmth" (Lawson 1760, 431). Once obtained, the authority thus established would compensate for any lacks in the preacher's genius, let alone conceal any imperfection.

In Lawson, the development of an energetic style goes hand in hand with the discussion of principles of taste, as can be seen from his advice on the use of figures. These, he emphasised, ought to be used with moderation in the light of their inherent downsides, hyperbole having an air of fiction, apostrophes deflecting the attention and therefore displeasing the audience, and the use of frequent interrogations, "obsolete or unusual constructions" as well as new terms "coined in the fruitful mind of vanity" being "destructive of that natural simplicity, which is the perfection" of good writing styles (Lawson 1760, 411).

Like Lawson, Thomas Leland was a clergyman. As an enthusiast of the prominent Greek orator Demosthenes, Leland is reported by Moss (1996, 398) to "have fostered an interest in elocution at Trinity". Our intercourse with mankind, Leland pointed out, awakens such passions as anger, indignation, benevolence and sympathy. Everyday experience tells us that these emotions "naturally and unavoidably produce an elevation or vehemence of speech, or a tender and melancholy flow of words", "lively images and similitudes, glowing expressions or some other of those modes which rhetoricians call tropical and figurative" (Leland 1764, 3). Following Leland, the source of tropical expressions is to be located in a natural state of necessity and deficiency of human language, as it strives to articulate the feelings of the heart. Although they may be misdirected for purposes of deceit, therefore, tropes and figures do not originate from artifice or refinement. On the contrary, they are worth considering as "parts of perfect elocution", and they "have their several degrees of perfection independent on caprice or fashion" (Leland 1764, 77).

In that capacity, tropes and figures underlie modes of elocution that can be gradually refined and improved by reason, judgment and experience. Regardless of the qualities of speech prevalent "at different periods, or among different nations", modes of elocution should be cultivated to pursue a wide array of aims. These include their adaptation "to convey ideas clearly, pleasingly and forcibly, to interpret the mind with sentiments of dignity, to display qualities more engaging or exalted, passions more

noble and generous" and eventually "to reconcile, affect, and influence, more powerfully" (Leland 1764, 78).

It follows from this notion of rhetoric that Leland sees eloquence as something else as the abuse of human speech, an instrument of fraud, or as being arbitrary or dependent upon fashion and custom. Rather, by decrying all ostentation of art as a mark of falsehood, Leland (1764, 23) defines perfect eloquence as "the expression of truth".

Before his appointment at Trinity, Leland directed the Hibernian Academy. This was established as a preparatory school in 1759 with the task of elevating gentlemen, and by teaching them how to speak properly, of enabling them to play a leading role in society. The Academy had grown out of the keen interest for elocution of another well-known figure of eighteenth-century Dublin, Thomas Sheridan. As an actor, Sheridan was sensitive to the need of tutoring actors in diction and gesture. Although he acknowledged the quality of the education he had received at Trinity, he held the view that schools and universities had largely failed to teach pupils how to speak in public and thereby deliver their sentiments with propriety and grace (Sheridan 1759).

Because elocution had been an overriding concern of ancient rhetoric, Sheridan firmly insisted on designing student curricula of the day in a way that privileged the canons of proper delivery. Complaining that the English could be seen as the only civilised nation never to have systematised their language so as to cultivate the art of elocution, Sheridan (1759) maintained that they had even more opportunities than the ancients to excel in rhetoric. The English, Sheridan remarked, apparently shared the same organs of speech, limbs, muscles and nerves as the citizens of classical Athens or Rome. This, along with the advantages of a pure, holy religion and an admirable constitution, was a prime reason for him to believe in their chances to match or surpass the rhetorical prowess of the ancients themselves.

A curious paradox explored by Sheridan was indeed the status of the English language in the context of proper instruction of the youth in the arts of reading and writing. On the one hand, the fall of Latin into disuse and its confinement to books had not prevented the peoples of Italy, France and Spain from sustaining a passionate interest for their own languages through grammars, dictionaries and dedicated academies. On the other hand, the English, who "had infinitely more occasion for the refinement and regulation" of a language in current usage both in their constitution and in church services, had "left" their idiom "wholly to chance" (Sheridan 1759, 32).

The art of speaking, compared to which writing was only to be ancillary, required not only that formal and stringent rules be available to learners, but also that masters be hired to teach them and "enforce the rules by examples" (Sheridan 1759, 36). The reason why the *belles lettres* and philosophy had a major part in liberal education, Sheridan suggested, was that they had been systematically taught and learned. By contrast, the English language and the art of speaking had not gained an equal status on the grounds of the absence of prestigious institutions, "in consequence of which, they have not been reduced to systems, or taught by rule; and no one can regularly instruct another in what he has not regularly acquired himself" (Sheridan 1759, 45).

The teaching of elocution on a regular basis was the decisive element in ensuring that Greek and Roman citizens attained full oratorical maturity. In the light of the advantages offered to English-language students "in all the materials points necessary to the perfection of that art", Sheridan (1759, 57) concluded that the progress of rhetoric in the related institutions might have been even more rapid than in Rome. The "bad fruits" of past neglect (Sheridan 1759, 23) would thus give way to the benefits of proper instruction, which were to be appreciated with regard to noblemen and gentlemen's superior knowledge and achievements in the fields of politics and the law.

The choice of Leland as a director of the Hibernian Academy is likely to show some affinity between Trinity's prospective Erasmus Smith Chair and Sheridan's concerns. Indeed, although the Academy was to fold soon after Leland's appointment at Trinity, Moss (1996) points out that a number of students at the College looked eager to improve their rhetorical education even before Sheridan's campaign in England, Scotland and Dublin. In an effort to enhance their learning skills and broaden their practical experience, they organised academic clubs. From their early stages in 1747, these were established as debating societies and bore such names as *Academy of Belles Lettres*, *Historical Club* and *College Historical Society*.

As Samuels and Samuels (1923, xiii) explain, the original debating club was founded by Edmund Burke, who had been admitted to Trinity in April 1743. A fellow with a distinguished career at the College and later a renowned statesman, Burke appears to have had a keen interest in rhetoric. Most remarkably, he kept a notebook between 1750 and 1756, where he outlined principles of argumentation, "showing a wide knowledge of contemporary and classical oratory and logic" (Moss 1996, 406). Focusing on the main purposes of argument, which he saw as persuading of natural

truth and matters of fact or spurring one into action, Burke (1957 [1750-1756], 45) then dealt with the *topoï* inherent in each of them.

Even if oratory was acknowledged to be part of traditional arts training, club students contended, "practice in it was limited to the traditional school exercise in declamation" (Moss 1996, 404). In fact, the detailed summaries of debates among society members show that a wide range of topics were chosen for disputations, from the historical to the scientific, from the political to the social at large. Examples drawn by Moss (1996, 405-407) from College Historical Society journals include debates on the causes of differences in climate, the regulation of the press and its freedom, the admission of women to the management of public affairs and government, the right to inflict capital punishment, and the legitimacy of Queen Mary's execution under Queen Elizabeth.

These comprehensive rhetorical exercises, animated though they were by ideals of thorough-minded civic oratory, were later to become the object of much controversy. College administrators began to exert strict control over the Society's debates after the French Revolution and during the following period of unrest caused by fears of a French invasion in support of Irish nationalism as well as the events of 1798 (cf. Boyce 2003). The College Historical Society was therefore expelled from Trinity College in 1794 and admitted again in 1813, only to be formally dissolved in 1815 and eventually re-established in 1843 (Haapala 2012, 29). At times, members agreed to remove present-day political questions from their agenda. However, the Society proved fairly open to radical views, and such issues were eventually raised again and debated.

Despite the ordeals the Society was subject to, it is an eloquent testimony of its influence that in 1783, it established a mutual membership agreement with the Speculative Society of Edinburgh, with which it shared educational aims. Then, the "idea of founding academic debating societies seemed to travel down to England with students from Scottish universities during the Napoleonic wars" (Haapala 2012, 29) and in turn, John Stuart Mill's *London Debating Society* was to be founded in 1825 with the Speculative Society as a model. Accordingly, it seems little wonder that on Richard Whately's ascent to the Archbishop's throne of Dublin's St. Patrick's Cathedral in 1831, "his views on persuasive argumentation could not have found a more appreciative audience than the members of the Historical Society of Trinity College" (Moss 1996, 411).

Three years before his appointment to the Dublin's Archbishopry, the publication of Whately's magnum opus *Elements of Rhetoric* constitutes concrete proof of his vast knowledge as a rhetorician. A theologian and a gifted economist, first serving as professor of political economy in Oxford

and later endowing a chair of political economics at Trinity, Whately (1853 [1828], 16) also made a discernible impact on the study of reasoning with a thorough investigation of "argumentative composition, generally and exclusively".

Whately considered skills in composition and speaking as extremely advantageous to the public, because he saw reasoning as applicable to two main purposes: the ascertainment of truth by investigation and the establishment of it to somebody else's satisfaction. Most importantly, the task he set himself was to argue that succeeding in explaining one's opinions and bringing others over to them was to be achieved "not merely by superiority of natural gifts, but by acquired habits". Going back to Aristotelian rhetoric, he thought that a more systematic examination of the reasons behind one's success as a skilled rhetorician was likely to provide one with "rules capable of general application" as "a proper office of the art" (Whately 1853 [1828], 25).

A significant achievement of Whately's *Elements* lies in the identification and definition of notions that still serve as the core of present-day argumentation studies. These include, first of all, a distinction between "instruction"–i.e., the conviction of those who have neither formed an opinion on the subject nor are willing to accept or reject a proposition *per se*, but simply look forward to "ascertaining what is the truth in respect of the case before them"–and "conviction", addressed to those with an opinion opposed to the standpoint put forward (Whately 1853 [1828], 34).

Secondly, the interrelated notions of "presumption" and "burden of proof" are introduced: the former is conceptualised as "such a preoccupation of the ground, as implies that it must stand good till some sufficient reason is adduced to it", so that the "burden of proof lies on the side of him who would dispute it" (Whately 1853 [1828], 89). The example chosen by Whately to state his case is the well-known legal principle of presumed innocence: the fact that someone is "presumed" to be innocent (regardless of the charges pressed against them) entails that the burden of proof, notably the responsibility to conclusively prove the opposite, lies with the accusers.

Finally, Whately (1853 [1828], 37) defines the proper province of rhetoric as "the finding of suitable arguments to prove a given point, and the skilful arrangement of them". After a survey of the distinctive features of the most common argument forms, e.g. argument from cause to effect, argument from analogy and by the example, he raises salient points about how to order them in argumentation. For instance, speakers addressing an audience familiar with the proposition to be presented are advised to state

their conclusions right at the beginning. By contrast, should it be likely that hearers are either unfamiliar with the speaker's standpoint or opposed to it, it is recommended as a safer practice to state the arguments first, and then to introduce the conclusion, thus "assuming in some degree the character of an investigator" (Whately 1853 [1828], 108). Moreover, Whately continues, a valuable piece of advice is to arrange arguments in a way reminding of Nestor's plan of arranging troops, namely placing the best first and last, and leaving the weak ones in the middle. In that regard, Whately (1853 [1828], 131) suggests that reverse recapitulation be adopted, letting "the arguments be A, B, C, D, E, &c. each less weighty than the preceding; then in recapitulating", proceeding "from E to D, C, B, concluding with A".

An aspect studied by contemporary argumentation scholars, particularly in the French-speaking context (cf. Plantin 2005; Micheli 2010), that is also convincingly explored by Whately is the role of emotions in argumentative processes. The achievement of persuasion as the influencing of the will is, in Whately's view, to be invariably achieved by exciting the hearers' passions. In that respect, it is noteworthy that the audience's feelings should be addressed indirectly. In order to successfully operate on and arouse the desired feelings, oblique and indirect strategies ought to be used, because "no passion, sentiment, or emotion, is excited by thinking about it, and attending to it; but by thinking about, and attending to, such objects as are calculated to awaken it" (Whately 1853 [1828], 142).

Finding, let alone arranging, proper arguments and aiming for persuasion by arousing the hearers' emotions imply that Whately's theorisation acknowledges the pivotal role of the audience in argumentative exchanges. Indeed, he himself points out that proper attention must be paid to such aspects as the hearers' degree of literacy, profession, nationality and even character in that "there can be no excellence of writing or speaking, in the abstract; nor can we any more pronounce on the eloquence of any composition, than upon the wholesomeness of a medicine, without the knowing for whom it is intended" (Whately 1853 [1828], 160). Accordingly, the very construction of the speaker or writer's own *ethos* in terms of common sense, good principle and good-will, is tied to the awareness of the opinions and habits of the audience.

In that system, listeners–rather than the occasion or the speaker–are the actual starting point in the construction of the argumentative message (Golden et al. 2000). In this, Whately aligns himself with another prominent rhetorician of his age, the Scottish Presbyterian minister and educator George Campbell, whose influence is apparent in many a section

of the *Elements*. In the pages of his *Philosophy of Rhetoric* dedicated to the audience's status, Campbell (1868 [1776], 118) used poignant images to stress that the hearers' characteristics should matter to the skilled orator:

> In mercantile states, such as Carthage among the ancients, or Holland among the moderns, interest will always prove the most cogent argument; in states solely or chiefly composed of soldiers, such as Sparta and ancient Rome, no inducement will be found a counterpoise to glory. Similar differences are also to be made in addressing different classes of men. With men of genius the most successful topic will be fame; with men of industry, riches; with men of fortune, pleasure.

Interestingly, Whately's teaching of rhetoric as a system of rules reflects a sense of unease with traditional approaches to the pedagogy of elocution. If a boy, he contends, is made to declaim speeches by Caesar or Lear, he will be reciting in a wholly artificial manner not simply because he would be repeating from memory under utterly fictitious circumstances, but "because the composition, the situation, and the circumstances could not have been his own" (Whately 1853 [1828], 291). On the other hand, encouraging a schoolboy to recite his own compositions, or those of a classmate, about a topic "interesting to a youthful mind" would ensure that the system of practice designed in the *Elements* could ultimately "prove beneficial" (Whately 1853 [1828], 292).

The broad historical overview presented in this section hints at a variety of leading personalities in the field of rhetoric in Ireland, most often within Trinity College (e.g., Lawson and Leland) or in any case gravitating towards it (e.g., Sheridan and Whately). Most of all, what these men shared was a set of genuine concerns about the teaching of rhetoric and/or written composition, from the establishment of a system of rules for the practical teaching of rhetoric to the study of principles of style and taste, from a balanced assessment of the boundaries of rhetoric as a discipline to a thoughtful reflection upon the civic importance of developing sound reasoning skills. If anything, one might ask what has become of the study of rhetoric after Whately, and whether such a rich heritage has been preserved or at the very least shared in contemporary Ireland. These questions require careful pondering.

On the one hand, one might argue that the study of rhetoric in Ireland was long confined to the Protestant elites admitted to Trinity College, thereby excluding the rest of native Ireland (Catholic and Gaelic). After all, Lecky's study mentioned at the beginning of the section leaves little doubt as to the status of Catholics *vis-à-vis* formal education. At the same time, the strongly Puritan imprint upon the foundation of Trinity College

shows why rhetoric was primarily conceived as a tool to excel in public disputations and prevail over the forces of Roman Catholicism. Against such a backdrop, it may not be surprising that the Dublin-born Thomas Sheridan praised the virtues of the English language as the basis for a meticulous and systematic study of elocution, while at once dismissing Irish, the idiom still spoken by large segments of the native population at that time (Mac Giolla Chríost 2005), as a second-order language–"Had Demostenes written his orations in such a language as High Dutch, or Virgil his poems in such a one as Irish or Welsh, their names would not long have outlived themselves" (Sheridan 1759, 27-28).

On the other hand, there is ample evidence that the study of argumentation is present in today's Irish higher education at various levels. To name but a few examples, Trinity College's Department of Classics still treasures its glorious tradition by offering an undergraduate course on the historical development of rhetoric as an academic discipline, and oratory as a primary application within both public and private contexts–"from literary production to informal codes".[1] Furthermore, the belief that "argumentation is a form of discourse that needs to be appropriated by students" and "taught through suitable instruction, task structuring and modelling" (Jiménez-Aleixandre and Erduran 2007, 4) appears to serve as a central principle of Sibel Erduran's teaching at the University of Limerick. Finally, it may be indicative of a steadfast scientific commitment that the first international workshop on "Argumentation and Logic Programming" was hosted by University College Cork in August 2015.

A reliable source for this chapter, Moss (1996, 384) himself states that the scarcity of information available about rhetorical education in many a period of Irish history is more than counterbalanced by the "wealth of Irish statesmen and churchmen who had undeniable rhetorical prowess". It is a conviction held by the author of this volume that the Irish context may prove fairly receptive to the study of argumentative language. More specifically, it may provide a window of opportunity for the implementation of present-day integrated methods of argumentation analysis, with public discourse in the Republic of Ireland as a field of application. Before embarking on a discussion of the theoretical underpinnings of this work in Chapter 2, the next section will provide an outline of the overall organisation of the book.

[1] https://www.tcd.ie/Classics/undergraduate/rhetoric.php. Accessed July 1, 2016.

1.3 Organisation of the volume

The volume essentially consists of two parts. The first one includes this chapter along with Chapter 2. Both are aimed at explaining the motivation behind this research. While connections between Ireland and the study of rhetoric have been drawn in Chapter 1 from a primarily historical perspective, Chapter 2 sets some of the key terms emerging from the first chapter against the appropriate scholarly background. To this end, the notion of "argumentation" itself is defined on the grounds of contemporary argumentation theory. Moreover, insights are lent into the two fields most closely associated with the present study, i.e. legal argumentation and political argumentation. The critical assessment of influential works produced about each over the last thirty years is intended to serve as a basis to discuss the contribution that linguistic approaches have made and can make to the study of reasoning in context. This leads to spot major methodological gaps in existing research, and outline the key issues addressed in later chapters. Understandably, the non-specialist reader might yield to the temptation of a cursory reading of the chapter. However, they should not miss the last part of it to make sure they fully grasp the implications of the academic inquiry encouraged by the book.

The second part of the volume begins with Chapter 3. The chapter is intended to form a sound basis for the presentation of findings later in the volume. First of all, it deals with the norms that dictated the choice of materials for the analysis. As will be clarified, the study is based on corpora as large collections of authentic texts. Accordingly, details are provided about the criteria for corpus design and the characteristics of the collected corpora. Secondly, the major methodological issues of the investigation are addressed. The aim of this is to make explicit the stages at which the analysis was performed. In that regard, the interplay of quantitative analysis with qualitative interpretation is discussed in detail for each and every strand of the research on legal and political argumentation reported in Chapters 4-6.

In Chapter 4, the first case study of the book is reported. It is about right-to-life judgments as a first example of judicial argumentation. On the basis of a corpus of authentic texts by the Supreme Court of Ireland, the analysis is conducted through two main stages. In the first one, a preliminary quantitative survey of corpus data is undertaken to find out more about the subject matters treated in the texts. The second phase of the investigation is a qualitative one identifying the argumentative structure of the two judgments that most frequently and typically exhibit the lexical and phraseological patterns documented through the first stage of the

analysis. As we will see, results demonstrate that the techniques used are useful for a preliminary approach to the corpus as well as for a first-hand corpus-driven retrieval of key-arguments in text. In particular, the qualitative case study of judgments shows that in the complex structure of the argumentation, the use of definition–cf. the terms *unborn* and *moral failure of duty*–plays a major role.

Chapter 5 presents the second case study of the present work. It focuses on EU-related judgments by the Supreme Court as a second example of judicial argumentation. The research is intended to build on the methods developed in the preceding chapter, in the attempt to make them more comprehensive and systematic. By means of a significantly larger corpus, the analysis widens the scope of the investigation of phraseology launched in Chapter 4, before concentrating on semantically relevant word forms (e.g., *sovereignty*) in context. These were used to extract the judicial opinion in which they were most frequently attested. In turn, this formed the basis for a qualitative analysis to identify widespread argument schemes and the overall argument structure. Findings provide evidence of the tension between national sovereignty and the harmonisation with EU law in the Court's discourse. Furthermore, results show the complex interplay of persuasive definition, pragmatic argumentation and *ad hominem* argument in support of the Court's standpoint on EU matters.

In Chapter 6, the attention shifts from judicial to political argumentation. In the last case study of the book, a corpus of statements and speeches by Eamon de Valera is taken as a fine example of political argumentative discourse in Ireland. In the first place, two model texts are extracted from the corpus in order to retrieve the schemes that most distinctively characterise the argument structure. Subsequently, the linguistic indicators of the schemes are studied at a broader corpus level. Finally, the analysis is completed through the compilation of an inventory of the subject matters (the Anglo-Irish Treaty, partition etc.) in relation to which de Valera would most often advance the argument schemes. Data indicate that pragmatic and symptomatic argumentation are widespread schemes in de Valera's reasoning. Interestingly, the combination of text and corpus analysis provides evidence of linguistic indicators of the schemes so far not included among those reported in the relevant literature.

Finally, Chapter 7 concludes the survey on judicial and political argumentation. First of all, results are discussed with regard to the research questions introduced in 1.1 and more extensively phrased in Chapter 2. Secondly, the application of the methods and findings presented in the volume is evaluated with respect to the needs of scholars and practitioners,

and in relation to future research. The final discussion is therefore intended to confirm that Irish public discourse may be seen as a highly fertile ground for argumentation analysis, in the hope that the research reported here might sound appealing to a wide array of subjects within and around the areas of public debate this work is most relevant to.

CHAPTER TWO

ARGUMENTATION STUDIES: AN APPLICATION TO JUDICIAL AND POLITICAL SETTINGS

2.1 Introduction

In Chapter 1, a historical overview on the place of rhetoric in Ireland was provided, with primary emphasis on its role at Trinity College as the Island's leading educational institution. A time-honoured tradition has emerged, albeit one that has not been shared by the country at large for many a century. Nonetheless, the presence of argumentation in today's Irish higher education, along with the number of Irish statesmen and churchmen with undeniable rhetorical skills, was postulated to put Ireland in a favourable position, as a setting for the application of present-day integrated methods of argumentation analysis. Before presenting the materials used in this work and discussing its methodological standpoints in Chapter 3, it is advisable to clarify the theoretical assumptions upon which the research rests. This is the chief concern of the present chapter.

To begin with, Section 2.2 will be devoted to the notion of "argumentation". The use of the term "rhetoric" in the last chapter has largely foreshadowed how "argumentation" itself should be understood. However, a working definition of the concept will be proposed here, and recent approaches to the study of argumentation will be reviewed. The section will show that politics and the law have long enjoyed privileged status in argumentation theory. Accordingly, the following two sub-sections (2.2.1 and 2.2.2) will respectively focus on features of legal and political argumentation, with specific reference to the main directions taken by recent scholarly contributions about both.

This survey will ultimately serve two inter-related purposes. The first is to highlight methodological challenges posed by the study of argumentation in the fields relevant to this book, whereas the second is to identify procedural gaps to be filled through the integrated linguistic perspective brought from the next chapter onwards (Section 2.3).

2.2 The notion of argumentation

The notion and fundamental principles of argumentation have been dealt with for centuries. For it is beyond the scope of this work to trace its roots in the context of the long-established tradition of ancient rhetoric,[1] the definition of "argumentation" presented here originates from the dominant paradigms of present-day argumentation theory.

The leading Dutch theorist Frans Van Eemeren (2001, 11) sees argumentation as "a verbal, social and rational activity aimed at convincing a reasonable critic of the acceptability of a standpoint by advancing a constellation of propositions justifying or refuting the proposition expressed in the standpoint". The merits of this comprehensive vision are apparent. First of all, argumentation is conceived of as "verbal": this shows that there is an inherent linguistic dimension to reasoning processes. Secondly, argumentation is "social" and "rational": this rightly suggests that argumentation is both an activity presupposing reason ("rational") and one that unfolds in contexts of interaction ("social"), whether it be face-to-face discussions or more mediated communication between one or more writers and their prospective readership. Thirdly, the aim of argumentation is to get the interlocutor (or reader) involved to accept the speaker's (or writer's) standpoint: the addressee(s) of argumentation are called "reasonable critics" because they are both entitled to question–let alone reject–a standpoint (hence the term "critic"), and expected to operate in a way that is appropriate in view of the communicative and interactional situation ("reasonable").

Unlike formal logic, which by definition incorporates the use of artificial languages, e.g. mathematics, a high degree of formalism instantiated by axioms and substitution rules, and an aura of objectivity underlying deductive or inductive reasoning aiming at impersonal validity (Taguieff 1990), argumentation embraces the field of non-formalised thought (Perelman 1977, 177). As such, the quintessentially monologic nature of formal logic, designed to ward off critical counterclaims, is therefore opposed to the dialogic nature of argumentation. In short, by no means do we "argue" through pointless soliloquy, as it were. Rather, we do so in that we are aware that somebody might reject or at least doubt the validity of the standpoint we have adopted. This aspect is well covered by Plantin (2005), who ideally reinforces Van Eemeren's notion by stressing that argumentation is a discursive and dialogic activity that occurs when

[1] For an overview of the historical development of argumentation studies from ancient rhetoric to the present day, see Mazzi (2007).

around a controversial issue, a discourse may be questioned or overtly opposed by a counter-discourse.

Of the multifarious approaches to the study of argumentation, one that has gained great momentum over the past thirty years is "pragma-dialectics", pioneered in Amsterdam by Van Eemeren's research group. The model of critical discussion they advocate is "dialectical because it is premised on two parties who try to resolve a difference of opinion by means of a methodical exchange of discussion moves", and it is "pragmatic because these discussion moves are described as speech acts that are performed in a specific situation and context" (Van Eemeren and Grootendorst 2004, 22). This requires further elaboration.

Van Eemeren's view of argumentation rests on four meta-principles. The first one is "functionalisation". It implies that argumentation is a complex communicative act performed by making functional verbal (at times, also non-verbal) communicative moves. In other words, argumentation is seen as an interplay of purposeful communicative acts: the term "act" does not denote "mere behaviour" in this context, but rather goal-oriented activities based on rational considerations for which arguers may be held accountable as "actors". More specifically, as one participates in critical discussion, their utterances serve both a communicative and an interactional purpose. In the light of speech act theory, "the communicative aim is pursued in attempts to bring about the *illocutionary* effect of understanding and the interactional aim in attempts to bring about the *perlocutionary* effect of acceptance" (Van Eemeren 2013, 144).

The second meta-principle is "socialisation". In so far as argumentation is an interactional act complex aiming at eliciting a response from those it is addressed to, it may be said to be part of a dialogue. This dialogue can be either explicit–as with argumentation put forward in a discussion–or implicit, as with argumentation advanced for the benefit of an audience that are not physically present, e.g. readers. The third meta-principle is called "externalisation". What is "externalised" is commitments. The complex act of arguing involves expressing propositions. In turn, these create commitments for which arguers are to be held accountable. In fourth place, the meta-principle of "dialectification" underlies the assumption that argumentation entails appeals to reasonableness: these are grounded in shared critical standards to resolve a difference of opinion on the merits (Snoeck Henkemans 2014). This is a distinguishing characteristic of argumentation as part of a regimented critical discussion where crucially, the mutual presumption of reasonableness is observed to combine with each and every party's quest for effectiveness–the resolve to settle a difference of opinion "in favour of

their case, i.e. in agreement with their own position or the position of those they represent" (Van Eemeren 2013, 145).

At the outset, therefore, pragma-dialecticians point out that differences of opinion emerge when someone advances a standpoint that is or may be questioned by an antagonist. When the parties have ascertained that, both procedurally and substantively, there is enough common ground to open up a discussion, the proponent of argumentation puts forward arguments in support of the standpoint, admittedly followed by a critical response of the antagonist. As a rule, the difference of opinion resolves with the antagonist's acceptance of the proponent's point of view on the ground of the arguments offered, or when the proponent reconsiders his view in the light of the antagonist's critical stance.

The four stages outlined by pragma-dialecticians (confrontation, opening, argumentative, and concluding) and succinctly summarised above presuppose a view of argumentative discussion where the resolution of differences of opinion can hardly be confined to the simple relation between premises and conclusion most conventionally associated with the act of reasoning. Rather, pragma-dialectics sees argumentation in more holistic terms, with the aim of accounting for all speech acts performed in argumentative discourse and inherent in the resolution process. A fundamental aspect of the model is the assumption that in their being oriented towards a resolution of conflicts of opinion, people engage in argumentation by maintaining standards of reasonableness and expecting their interlocutors to sustain the same standards. Besides and possibly above reasonableness, however, people are also concerned with resolving differences of opinion effectively, namely in agreement with the standpoint they have adopted or elected to represent.

The simultaneous pursuit of the inter-related aims of reasonableness and effectiveness is a distinctive trait of argumentative discourse, and it underlies the notion of "strategic maneuvering" referring to "the continual efforts made in all moves that are carried out in argumentative discourse to keep the balance between reasonableness and effectiveness" (Van Eemeren 2010, 40). The term "maneuvering" typically indicates a planned movement produced to gain advantage over someone, and it appears well suited to argumentative contexts, where the participants' predicament to combine reasonableness and effectiveness gets them to maneuver strategically to bring about the intended perlocutionary effect of the interlocutor's acceptance of one's standpoint.

Strategic maneuvering constitutes an integral part of the extended pragma-dialectical model, where it is to be understood alongside the rules of critical discussion pertinent to the resolution of differences of opinion

on the merits. For instance, Rule 1 establishes that participants in a discussion cannot prevent one another from expressing or questioning a point of view; Rule 2 claims that "discussants who advance a standpoint may not refute to defend this standpoint when requested to do so" (Van Eemeren and Grootendorst 2004, 191); Rule 8 stipulates that standpoints may not be regarded as conclusively defended by argumentation, if the defence is not based on appropriate argument schemes, correctly applied (Van Eemeren and Grootendorst 1992).

Within this framework, any argumentative move in breach of the rules, no matter who is responsible for it or what stage of the discussion it occurs in, stands as a threat to the resolution of the difference of opinion. As a result, it must be regarded as "fallacious". The concept of strategic maneuvering makes a substantial contribution to explaining why sound and fallacious arguments are so often hard to separate. On the one hand, arguers may "neglect their interest in effectiveness for fear of being perceived as unreasonable; on the other hand, at times, they may neglect their commitment to reasonableness in their zeal to promote their case effectively" (Van Eemeren 2013, 148). If the former is the case, the arguers' lack of effectiveness simply militates against the prospective acceptance of their standpoint. If, by contrast, the arguers' commitment to reasonable exchanges is overruled by a deliberate attempt to be rhetorically effective, the subtle balance between reasonableness and effectiveness is disrupted. Their strategic maneuvering has got "derailed", and as such it must be condemned as fallacious.

The pragma-dialectical approach is of an essentially normative nature. This means that it is primarily designed to assess the soundness–or, conversely, the fallaciousness–of argumentative moves in the light of the standards of reasonableness set for arguers as they maneuver strategically in the most diverse contexts. Indeed, the versatility of the approach is confirmed by the fact that its applications range from argumentation in the healthcare–cf. Schulz and Rubinelli (2008) on the rhetorical management of informed consent within doctor-patient interaction, and Van Poppel (2012) on the combination of dialectical and rhetorical features in health brochures–to political argumentation, as we shall see in 2.2.2 below.

However, the pragma-dialectical model also has great descriptive value, because it has generated a growing body of scholarly research devoted to disclosing the overall "structure" of argumentative exchanges, by pinpointing the underlying "argument schemes". "Argument schemes" are forms of reasoning that create "a specific justifying relationship between the applied argument or […] the applied arguments and the standpoint at issue" (Van Eemeren et al. 2007, 137). In turn, "argument

structure" is a term that denotes the overall articulation of schemes into single or complex patterns to be explored and evaluated across domains of use. As far as this work is concerned, it is not so much the normative character of pragma-dialectics that will be of relevance. In fact, the analysis provided in Chapters 4-6 is not intended to evaluate the acceptability of the instances of argumentation detected. Rather, the study will benefit from the descriptive potential demonstrated by pragma-dialectics, as it will identify recurrent argument schemes for the purpose of isolating the associated linguistic tools.

The idea that the pragma-dialectical approach is flexible enough to allow for significant extensions into further research directions is by no means new to this study. To mention but two examples, Lewinski (2014) presents his theory of argumentative polylogues as building on, rather than substituting for, the pragma-dialectical model. By adding to traditional views of argumentative interaction as a dialogue between two adversaries arguing on both sides of a controversial issue, Lewinski (2014, 195) defines "polylogues" as forms of verbal interaction that involve "argumentation between multiple parties with distinct positions". Lewinski's investigation shows how ill-suited dyadic accounts of argumentation may sometimes be to appreciating why fallacies happen or why they may be successful. Still, although he suggests that some instances of fallacious reasoning can only be properly accounted for on polylogical grounds, Lewinski (2014, 211) argues that any model of polylogue should not replace extant models (such as pragma-dialectical critical discussion), but rather amount to "a friendly extension that acknowledges their validity while adding some extra-insights, both descriptive and normative, to the functioning of argumentation in multi-party contexts".

In the second place, a promising development initiated by pragma-dialecticians themselves has been the so-called "indicator project". The question addressed by the project is what verbal means are used by arguers to signal the functions of the various moves made in argumentative discussions or texts. The aim of the project has been to identify typical words and expressions, "to classify them in accordance with the argumentative function they can have in argumentative discourse and to determine under which conditions they fulfil a certain function" (Van Eemeren et al. 2008, 479). The project started from a broad view of "indicators" as an open-ended class that does not simply include "words and expressions that directly refer to *argumentation*", but also those words and expressions "that refer to *any of the moves* that are significant to the argumentative process" (Van Eemeren et al. 2007, 2). Therefore, a rich

repertoire of "indicators" is provided with reference to such widespread argument schemes as analogy argumentation, symptomatic argumentation and causal argumentation.

The analysis of argumentation structure and the quest for linguistic indicators of argumentation are the major tasks handled in this volume, too. In particular, by strengthening the linguistic component integrated in the study of argumentation, this work will explore two main areas of interest to communication in the public sphere, i.e. legal argumentation and political argumentation.

To begin with, the centrality of argumentation to legal settings cannot be overestimated. In the law, argumentation plays a pivotal role when somebody's legal claims are submitted to others for acceptance. When a case comes to court, lawyers are supposed to advance arguments in support of their case. Likewise, when judges reach a verdict, they are expected to justify their decision with arguments. In parliament, those who introduce bills are invited to support their proposals with valid reasons, while in academic circles scholars tend to motivate the opinions they submit to their colleagues. In brief, "everybody who advances a legal standpoint and wishes this standpoint to be accepted by others, will have to present justifying arguments" (Feteris 2005, 355).

As for politics, there is ample evidence that argumentation represents an invaluable tool to decode political messages as the outcome of a complex machinery, where techniques of deliberation and discussion are applied (Taguieff 1990, 261). As Perelman (1977, 20) observed,

> *c'est dans les disciplines pratiques, telles que l'éthique et la politique, où les choix et les controverses sont inévitables, que le recours à l'argumentation s'impose, qu'il s'agisse d'une délibération intime ou d'une discussion publique.*
>
> it is within practical disciplines such as ethics and politics, where choices and controversies are inevitable, that recourse to argumentation is constant, whether for private deliberation or public discussion. [My translation]

Engaging in politics presupposes adopting standpoints about desirable and/or undesirable courses of action for one's municipality, district/county or State. This invariably implies discussing and debating what the best policy is likely to be, seeking sensible compromises and eventually making decisions, all of which are underlain by argumentative exchanges.

By reason of their interest and relevance to this work, the following two sub-sections are devoted to argumentation in the law (2.2.1) and in politics (2.2.2).

2.2.1 Legal argumentation

By no means is it possible to undertake here a full-scale enquiry into such a vast field of research as legal argumentation. What follows should therefore not be taken as an exhaustive treatment. However, it might help in identifying the main approaches and research topics in the study of legal argumentation in the last 30 years, drawing as it is on Eveline Feteris's (2005) authoritative categorisation.

In Feteris's survey, three main approaches are outlined: the logical, the rhetorical and the dialogical. In the logical approach, first of all, it is a fundamental assumption that the acceptability of a legal justification is dependent on the logical validity of the argument underlying the justification. A further condition for acceptability is that the reasons set out as a justification are legitimate in the light of legal standards. The logical validity of arguments is the benchmark against which to determine whether a decision or conclusion follows from a legal rule and the facts as premises. Scholars such Verheij et al. (1997, 243) stress that there is a natural affinity between logic as the study of formal models of argument, and the law: accordingly, "lawyers can use logic to analyze and evaluate their reasoning; logicians can be inspired by legal argument and practically assess their theoretical models". The theoretical elaboration offered by Verheij et al. (1997) includes three parent notions, i.e. defeasibility, integration of logical levels and argument as a process.

"Defeasibility" pertains to arguments and conclusions alike. Its onset may be marked by the fact that new information prevents an argument from properly supporting a conclusion: hence, "the conclusion that a thief should be punished is no longer justified if it turns out that there was a legal justification for the theft, such as an authorized command" (Verheij et al. 1997, 244). Moreover, the notion of "integration of logical levels" applies to situations where arguments lead to incompatible conclusions. In the event that weighing is necessary to establish which conclusion follows, additional information is required to decide the outcome of the weighing process. This information is placed "on a higher logical level than the facts of cases, and the rules of law" (Verheij et al. 1997, 244). Finally, the "process" of argumentation is seen as modelled in the form of lines of argumentation. This leads to a complex system, where explicit procedural rules guide the process in which arguments are exchanged, explicit commitment rules dictate the commitments of the parties involved, and norms for the division of the burden of proof are defined.

On the grounds of these notions, Verheij et al. (1997) implement a number of logical tools for the modelling of legal arguments. These include "undercutters" as reasons "why the application of some rule is

blocked" (Verheij et al. 1997, 244), "rebutters" as arguments defeating other correlated and competing arguments, and other tools whose practical usefulness they test in the domain of Dutch tort law.

In response to the formalistic nature of the logical approach, the rhetorical approach focuses on the content of arguments and the context-dependent aspects of their acceptability. As of this approach, there is a strong correlation between the acceptability of the argumentation and its effectiveness for the intended audience. In that regard, it is significant that Toulmin (1975 [1958]) uses examples from the law to point out that argument-adequacy is less associated with formal logical validity than to field-dependency. On the one hand, arguments share the following basic structure: a claim or conclusion (C); data (D) supporting the conclusion through a warrant (W); a qualifier (Q) indicating the argumentative strength by which (W) enables one to derive (C) from (D); a rebuttal referring to the circumstances for a potential refutation of the conclusion, and a form of backing on which (W) relies. On the other hand, the acceptability of the content of an argument has to do with its subject matter and the audience it is intended to engage. In the law, the latter may be as diversified as to include judges from an Irish District Court, the jury of an American criminal trial, or the whole of a national legal community.

With a view to judicial contexts, Perelman (1979 [1976]) deals with the argumentative techniques used to convince an audience of the acceptability of a legal decision. He notes that judges often lay emphasis on widely shared starting points in justifying their decisions. These are framed as legal principles such as fairness, equity, good faith, and freedom, the implementation of which requires that judges "make policy choices about what these general policies involve, and the way these policies relate to those of the statute" (Bell 1989, 70). From the perspective of single legal systems, Summers's (1991, 418) study of the United States provides evidence that judges tend to invoke moral, political, economic, or other similar considerations to motivate the (un)desirability of a decision: this he describes as a practice that "commonly occurs in Supreme Court opinions".

The third and most recent approach to legal argumentation is the dialogical. Based on this approach, legal argumentation is analysed from the viewpoint of a discussion procedure where the defence of legal positions is closely related to rules for rational discussion. The adjective "dialogical" stems from a notion of legal argument as embedded in a dialogue about the acceptability of a legal standpoint. The rationality of arguments is evaluated through well-defined standards, whereby a distinction is made between formal, material and procedural aspects of

justification (Wróblewski 1992 [1985]). A sound reconstruction of the justification of judicial decisions entails that formal aspects are taken into account on the plane of internal justification: arguments should be logically valid, so that a legal rule and the facts of the case serve as premises, while the decision follows as the conclusion. On the plane of external justification, material aspects are relevant, addressing the issue of the acceptability of the facts and the legal rule employed in the internal justification.

The dialogical approach more closely focuses on procedural criteria of rationality. The assumption is that participants are to abide by certain rules for a legal decision to be acceptable: viewed pragma-dialectically, legal argumentation is interpreted as a contribution to a critical discussion, and legal processes are investigated in terms of an ideal model for rational dispute-resolution. Bearing this in mind, Kloosterhuis (2005) shows how the pragma-dialectical approach to argumentation provides clues for analyzing complex analogy argumentation, and how the criteria for evaluating analogy argumentation can be used to reconstruct types of complex analogy interpretations in Dutch case law. By proceeding on an empirical basis, Kloosterhuis provides explicit recognition of the passages where Dutch judges deal with two main questions: is analogy argumentation a suitable argumentation scheme? Has it been applied justifiably?

Against the broad background of the three approaches reviewed above, research in legal argumentation has broached a number of topics. Feteris (2005, 364-368) groups them under five “components”: the philosophical, the theoretical, the analytical, the empirical and the practical. Each one of these is surveyed in the remainder of this section.

The “philosophical” component discusses the normative foundations of a theory of legal argumentation. Constitutive to this component are the question of the criteria of rationality for legal argumentation, and the difference between legal norms of rationality and other (moral) norms of rationality. A firm advocate of this component is Alexy (1989 [1978]). He considers some of the characteristics shared by legal systems, namely the vagueness of language, the likelihood of conflict between norms, the existence of cases apparently falling under no legal norm, and the adoption of decisions seemingly contrary to the wording of statutes. As a result of his systematic treatment of these aspects, Alexy goes into the sensitive matter of justifying judicial decisions in the light of the complex and fuzzy system of constraints imposed by the law.

Alexy’s theory of legal argumentation is thus set up in order to investigate what exactly counts as a rational justification within the legal

order. For this purpose, he describes the most common forms of argument at work in judicial reasoning. These comprise recourse to precedents–which reflects the need to ensure stability, legal certainty and protection of confidence in judicial decision-making, the burden of proof being by definition imposed on anyone invoking an exception to settled case law–and special argument forms (analogy, *e contrario*, *a fortiori* and *ad absurdum*) included in the standard repertoire of legal methodology.

Close to the philosophical component is the "theoretical" component, the aim of which has been to develop models for legal argumentation. In these, the structure of legal argument and the rules behind argument-acceptability are formulated. In the interest of proposing a methodology for the interpretation of judicial argumentation, Aarnio (1989) distinguishes between authoritative legal reasons–grounded in such sources as statutes, preparatory works and court decisions–and substantial legal reasons, whose status was elevated by specific cases, e.g. general principles of law, moral principles and the custom of the land. Furthermore, he provides a detailed overview of standards of legal reasoning sustained by courts. Among these, standards of grammatical interpretation–laying emphasis on co-textual and contextual factors affecting the interpretation of legal text–extensive and restrictive interpretations, variants of argument *a fortiori*, principles of analogy and conclusions *e contrario*.

In comparable terms, Peczenik (1989, 125) describes the activity of legal decision-makers as a task to be performed by "weighing and balancing" legal sources. On the one hand, he writes about "Must-sources", that is binding sources such as statutes. On the other hand, he mentions "Should-sources" and "May-sources": the former feature legislative preparatory materials that support legal interpretation, whereas the latter are largely optional sources to be consulted and/or quoted, e.g. authoritative textbooks by influential jurists. However distinguished from one another, these three sources create a hierarchy from which legal reasoning takes its steps to reach rational conclusions.

Peczenik's discussion of widely used methods of legal justification is of high practical value. First of all, it grasps the subtlety of methods of pseudo-justification, at work when courts only state rather brief (elusive, one might argue) reasons in support of their decision to confer rights on plaintiffs or defendants. Secondly, it rigorously examines the so-called simple subsumption method. With this method, courts present a decision as if it were a logical consequence of the combination of a general rule with the facts of the case, although in fact references to general rules might arise from more subjective perceptions.

The accurate reconstruction of salient traits of legal argument underlies the "analytical" as the third core component of scholarly research. The object of the works produced in this category is to give concrete expression to the intuitions of theoretical models. This has been achieved with analyses which give a clear view of the stages in the argumentation process, the explicit and implicit arguments, along with the overall structure of judicial reasoning. One of the findings in the study by MacCormick and Summers (1991) on the interpretation of statutes is thus that courts generally use more than one argument to justify interpretative decisions. Even when all the serious arguments lead to the same conclusion, there may be reason to state all the arguments in full to build full cumulative strength, or to acknowledge that they are substantially coinciding. Following MacCormick and Summers, there are several reasons for this tendency to use complex argumentation. This may be institutionally motivated–e.g., by the need to discourage an appeal–or politically motivated, as is the case where courts clarify that their decisions are based not "on partisan reference but on strong grounds; or it may be for other reasons of style or legal rhetoric, or to make clear to defeated parties the full weight of the case" (MacCormick and Summers 1991, 527).

With a view to the evaluation of arguments in actual legal practice, the "empirical" component seeks to determine in what respects legal practice conforms or conflicts with theoretical models, and how potential discrepancies can be explained. In her work on strategic maneuvering in appellate argumentation, Schuetz (2011) notes that dialectical processes, such as advocacy and defence of interpretations of legal principles in appellate attorney briefs and oral arguments, aim to influence appellate judges to develop a consensus opinion. However, this outcome rarely occurs. In fact, appellate judges put forward disparate judicial arguments with dramatically different interpretations of legal principles that reflect their individual goals with specific audiences. On the one hand, judges writing for the majority offer an interpretation of what the national law is; on the other, judges writing for the minority promote arguments that fuel dissent in public and political forums. While appellate decisions reflect a majority vote, they rarely envisage legal or public consensus. In appellate argumentation, rhetorical processes are in the foreground, whereas dialectical processes are in the background. Consequently, "the argumentation of the majority and dissenting judicial opinions reflect judges' rhetorical choices in the way they define, frame, embellish, and reason from precedent" (Schuetz 2011, 164).

Finally, the "practical" component draws on key findings from the philosophical, theoretical, analytical and empirical components, in order to upgrade analytical, evaluative and writing skills with a view to their teaching in universities and law schools, and their prospective use in legal practice. At a more general level, Copi's (1964 [1953]) treatise on logic features a chapter on fallacies, inductive and deductive reasoning in the law. More detailed accounts of practical argumentative skills are those by MacCormick (1978) on the style of motivating judicial decisions across legal systems, and Feteris (2002) on pragmatic argumentation in Dutch Supreme Court decisions.

MacCormick (1978) draws a sharp distinction between the style of motivations in the French *Court de Cassation* and the House of Lords, at the time still serving as England's court of last resort. On the one hand, the *Cour*'s decisions present themselves as sequences of impersonal sentences. Conclusions appear to have been derived deductively from an article of, say, the civil code, taken together with the findings of fact ascertained by the trial court. The *motifs*, i.e. the *Cour*'s justificatory statements, are those of the court as a whole, and as such they are not individually attributed to any of its members. What emerges is a process of authentically authoritative interpretation of articles of written law. On the other hand, decisions by the House of Lords looked "rambling": they were less impersonal and collective than idiosynchratic and individualistic. Although the conclusion reached by the majority of Law Lords was the decision of the House, "the justifying reasons, for the conclusion, may be as various as the personalities of the judges participating" (MacCormick 1978, 170). The ambulatory style of House of Lords judicial opinions is therefore taken to be indicative of legal training that bears the profound influence of the tradition of common law advocacy.

Feteris (2002) investigates variants of pragmatic argumentation in actual examples of judicial reasoning. As we shall see in Chapters 4 and 5 of this book, pragmatic argumentation is consequentialist argumentation in that "judges often defend a decision by referring to the consequences of application of a particular legal rule in the concrete case" (Feteris 2002, 349). Interestingly, Feteris distinguishes two main variants: a positive variant, whereby the acceptability of an act, decision or interpretation is defended by envisaging its positive future consequences; and a negative variant, in which conversely the unacceptability of the act is argued to derive from the negative effects it would produce. These two variants may also be combined, with the effect that various other combinations are possible, so that the undesirability of an act X' could be defended because it does not lead to the supposedly desirable consequence Y; alternatively,

the desirability of a legal interpretation X might as well be defended by pointing out that the opposing interpretation is undesirable in that it produces the adverse effect Y'.

Pragmatic argumentation is often embedded within more complex argumentation, in which the desirability of the consequences is evaluated with regard to the desirability of certain goals. In turn, these goals are likely to be defended by recalling relevant values and principles. When this occurs, pragmatic argumentation is integrated with other arguments. In such cases, the argument that a specific consequence is positive may be supported by the view that the desirability of the result is associated with a particular goal or value. In judicial contexts, this is defended with respect to "the intention of the legislator, the purport of the rule, or general legal principles" (Feteris 2002, 359). Alternatively, pragmatic argumentation shapes up as a necessary complement of other argumentation which, on its own, is ineligible as a defence *per se*. On a higher degree of complexity, argumentation may encompass pragmatic arguments when a choice is required between two or more alternatives: under this circumstance, pragmatic argumentation is advanced to show that "the preferred alternative has desirable results and that the rejected alternative has undesirable results" (Feteris 2002, 360).

The spate of interest for pragmatic argumentation has been stimulated by the debate over its practical benefits to legal reasoning. Some authors suggest that one or more elements in the construction of the argumentation may not be openly expressed, a trait common to other forms of legal argumentation where, "unlike in mathematics, the premises and the conclusions are not unambiguously stated" (Bustamante 2013, 22). Others such as Carbonell (2013, 1-2) add that criticisms to pragmatic argumentation refer to such problematic aspects as an insufficient backing for the prediction of future consequences, the at times objectionable conclusiveness of the causal relationship between an act and its foreseen consequences, "the parameters to evaluate or assess consequences against other values, interests or goods, and the question for what or for whom are the consequences favourable or unfavourable, among others."

This work does not take a philosophical or theoretical perspective. Nevertheless, the linguistic analysis of argumentation by the Supreme Court of Ireland in Chapters 4 and 5 will integrate the application of corpus and discourse tools (cf. Chapter 3) with major elements comprised in the analytical and practical components reviewed here, e.g. a focus on the structure of the argument.

2.2.2 Political argumentation

Politics has long been researched from a wide array of theoretical perspectives, e.g. political science, social psychology, media studies, cultural studies, discourse analysis and pragmatics. Anita Fetzer (2013), a leading scholar utilising a pragmatic approach to politics, defines political communication as an instance of institutional discourse. Accordingly, it is observed to take place in institutional contexts, and it is constrained by distinctive contextual requirements. These include a "selection of discourse topics from the domain of the institution, a preference for more neutral discursive styles and discourse identities, and a turn-taking system constrained by the requirements of institution as regards possible self-selection and length of turns" (Fetzer 2013, 1).

This conceptualisation is primarily focused on politics as oral interaction–hence the notions of "turn" and "turn-taking", which are inherent in face-to-face communication. However, it also reflects a widely held view of politics as a type of "discourse", namely language in use within a specific context. The underlying assumption is that political activity could not even exist without the use of language. In fact, politics is predominantly constituted in language, and on such grounds it is studied in the present work with respect to its argumentative features.

On the one hand, politics can be studied "from below", i.e. as the discourse of professional political agents in the media, or of professional journalists with professional politicians in the media. As speakers in news programmes, anchors of news magazines, studio experts or correspondents in the field, journalists produce reports, analyses and commentaries. In so doing, they "can monitor and critically observe political-decision-making processes and they may intervene on behalf of the audience thereby initiating a political discourse from below" (Fetzer 2013, 13).

On the other hand, politics may be analysed "from above". When performed from above, politics appears as the discourse of leading politicians–whether in power or in a prominent position in the opposition–holding the floor in such relevant institutionalised places as parliaments, governments, party-political offices, or various sorts of public arenas as when rallying voters during a campaign. Political discourse from above serves as the main focus of this volume, which takes Eamon de Valera's statements and speeches as a case in point in Chapter 6.

Studies on politics as discourse from above take an interesting angle by reason of their account of politicians as doing more than simply talking politics in the media. As successful communicators, politicians "present their roles and functions, and, what is even more important", they "do leadership in context" (Fezter and Bull 2012, 128). From a language-use

perspective, a pre-condition for doing leadership is "a self-reference and a predication of a relevant leadership quality, for instance being charismatic, competent, reasonable, sensible, responsive and caring" (Fezter and Bull 2012, 132). Asserting leadership therefore poses the question of how politicians construct a rhetorical ethos of credibility "about the values attached to personal and professional qualities such as candor, fairness, righteousness, good moral character, good sense, modesty, responsibility, fortitude, etc." (Roitman 2014, 742-743).

The concept of "ethos" is a sophisticated one. Maingueneau (1999, 78) distinguishes pre-discursive ethos from discursive ethos. The former is rooted in mechanisms of speaker knowledge on the part of a linguistic, social and cultural community. In contrast, discursive ethos manifests itself as the speaker's representation of him/herself before an audience: as such, it is influenced by the contexts of the communicative event under way. A speaker's, or we might say a politician's credibility is based on the combination of pre-discursive and discursive ethos. This is so because the dimension of ethos is acquired through the debate itself, and it arises out of the use of discourse that either strengthens or rectifies pre-discursive ethos. In brief, ethos is the outcome of "linguistic materiality in the actual discourse" (Roitman 2014, 744).

Maingueneau (1999, 82) constructs a model where ethos as a discursive phenomenon is associated with the enunciation scene (*scène d'énonciation*) of discourse. This unfolds at three levels. First of all, the "overall scene" indicates the type of discourse in question and, most importantly, its function–whether narrative, educational, argumentative etc. Secondly, the "generic scene" incorporates the socio-cultural norms about the textual mode involved–e.g. novel, manual, speech. Finally, "scenography" is depicted as the form in which messages are delivered, e.g. in a professorial or prophetic manner (Maingueneau 1999, 83).

Ethos, no matter the stage (pre-discursive or discursive) and the enunciation scene it develops in, appears to imply a presentation of self. Dealing with language from the speaker's viewpoint, Benveniste (1971 [1966], 314) argues that speaking subjects leave traces in their discourse. The use of linguistic items such as deictic expressions and in particular the first-person pronoun *I* ensures that an individual's subjectivity emerges in discourse and thereby becomes apparent. This holds true for political discourse no less than it does for other discourse areas. In his study about the elaboration of French presidential ethos in the televised debate between the outgoing President Nicholas Sarkozy and his opponent François Hollande in 2012, Roitman (2014) identifies two kinds of *I* in his data.

On the one hand, what he calls "represented *I*": this refers to "the speaking entities in the discourse–the protagonists of the interaction–and constitutes the persons presenting the topics of the communicative event" (Roitman 2014, 746). This *I* denotes the speaking subject less as the speaker him/herself than as a subject of past, present or future actions or properties. Typically, this applies to statements where candidates present their deeds as prospective presidents. On the other hand, "situated *I*s" merely refer to the speaker as empirical subject, as in *After this digression, I now come to the right to vote*. This *I* "positions itself in the discourse in relation to the arguments presented and the progress of the interaction" (Roitman 2014, 746). In this capacity, situated *I*s stage the utterances, and they bring the speakers' subjectivity to the surface in comments on their own or somebody else's discourse and arguments.

Both within and outside politics, the role of the speaker's ethos is intimately linked to argumentative processes. In Aristotle's (1686 [4th century BC], 8) *Rhetoric*, due recognition was accorded to the orator's reputation in securing the audience's conviction:

> Convincement by manners is when the oration is so pronounced that the orator may be thought a person worthy to be credited. For we believe the virtuous more easily and sooner, and barely in all things; but absolutely in these things where there is not that certainty, but that suspense of judgment, and difficulty of determination, in regard of the various opinions of men.

In more recent times, Ducrot (1984, 200-201) also stresses that one of the secrets of achieving persuasion is for orators to provide a favourable image of themselves. This image, which will entice the audience and win their goodwill, constitutes the speaker's "ethos", "character" or *moeurs oratoires* [oratorical habits]. These "habits" are those speakers cultivate through the way they conduct their rhetorical activity, e.g. their intonation and choice of words as well as arguments.

Politics as an exercise of leadership, and at the same time the assertion of leadership through an ethos of credibility thus reveal the inherently argumentative character of political discourse. In his work on strategic maneuvering in politics, David Zarefski (2008, 318) points out that "political argumentation is about gaining and using power, about collective decision-making for the public good, about mobilizing individuals in pursuit of common goals, about giving effective voice to shared hopes and fears". As a discourse of the public sphere, Zarefski goes on, politics represents a type of unregulated, free-form argumentative discourse, to which access is conventionally unfettered and for which technical

expertise is no indispensable prerequisite. In his detailed list of distinctive features of political argumentation, Zarefski (2008, 318-322) includes four.

First of all, "lack of time limits" is identified. Although limits are set on political debates or legislative deliberation, for instance, argumentation and public controversy about issues such as healthcare reform and the choice of an isolationist or interventionist foreign policy have persisted in American public discourse for well over a few decades. Secondly, "lack of clear terminus" is seen as a dominant trait. In brief, one can never be completely sure that an argument is over. This allows one to see the downsides of interpreting election outcomes as concluding political arguments and giving a strong mandate for specific actions. Thus, "Franklin D. Roosevelt misunderstood his landslide 1936 re-election as a mandate to press forward with the New Deal by taming the power of a recalcitrant Supreme Court" (Zarefski 2008, 320). In third place, politicians typically argue by appealing to a "heterogeneous audience". As a result, they seek arguments that acknowledge and build upon a set of core values and norms that more or less faithfully reflect a community's political culture. In twentieth-century America, these might include the beliefs that the market mechanism generally works, or that a higher power guides the nation's destiny. Finally, political argumentation is by definition "open-access" argumentation. The fact that it is open to all imposes tight constraints on participants. While therefore less sophisticated arguers are not expected to display complete mastery of technical terms, "more sophisticated arguers may find that their understanding of a standpoint is not shared by other participants or spectators" (Zarefski 2008, 321).

After exploring the institutionalised conventions that shape political argumentation, Zarefski undertakes a case study on one of the Kennedy-Nixon Presidential debates in 1960. This enables him to assess the practical application of the various types of strategic maneuvering he classifies for political reasoning.

To name but a few of these, politicians often choose to change the subject: if a damaging subject emerges, skilled politicians may divert the audience's attention away from it and then focus on more favourable matters. Secondly, politicians are frequently observed to modify the relevant audience. This essentially amounts to defining the scope of an argument, so that one's chances of winning increase. For instance, seeing defence policy according to stringent criteria for the country's missile production will inevitably attract specialists as the only likely audience. Nonetheless, if defence policy "is seen as both a moral issue and a

competition for scarce fiscal resources, then it is a matter of more general concern" (Zarefski 2008, 323).

Thirdly, strategic maneuvering underlies the construction of arguments that appeal to both liberal and conservative presumptions. As is typical of societies where ideological differences have become subtle, arguers can boost their chances of success by combining items from both a progressive and a conservative agenda. This would explain why a conservative leader may present change "not as a radical new departure but as a restoration of past conditions that have been lost" (Zarefski 2008, 324). The desired effect is to accommodate the diversity of the target audience(s), as is also made possible by condensation symbols. These comprise visual or verbal symbols that incorporate a range of different meanings into an overall positive or negative connotation. Examples include both well-turned phrases (e.g., *investing in the future* or *strengthening the national security*) and images such as the national flag or the picture of a candidate holding a rosary. The basic principle of condensation symbols is an association technique, whereby the "idea/person/product" is linked with "something already loved or desired by the intended audience" (Rank 1980, 41).

Zarefski's work is by no means the only one to consider the specificity of political argumentation from the wider perspective of strategic maneuvering discussed earlier on (Section 2.2). Major contributions are also made by Ihnen (2009) and Andone (2014). Ihnen's study deals with pragmatic argumentation as an integral part of lawmaking debates. In order to propose instruments to reconstruct pragmatic arguments in the Second Reading of the Terrorism Bill in the British House of Commons, Ihnen makes explicit and organises all elements of the discourse that are relevant to argument evaluation. Interestingly, she notes that placing pragmatic argumentation within the institutionally defined argument structure of Home Secretary Clarke's speech is relevant to the evaluation of pragmatic arguments in three major respects. The first is that "the structure attributes to the arguer the standpoint that is officially at stake in the Second Reading" (Ihnen 2009, 105). Secondly, the structure establishes which criticisms are relevant and which ones irrelevant to assessing the strength of the argumentation. Thirdly, the structure allows for a thorough evaluation of the adequacy of the argumentation advanced.

Andone (2014, 66) delves into practices of political accountability, where argumentation "plays a fundamental role because this is the only available means available to fulfil the obligation to justify the political performance". She thus addresses the question of what possibilities there are for confrontational maneuvering with the burden of proof in practices informed by standards of political accountability. By taking the discourse

of the EU Commission as a striking example, Andone's analysis determines how three dialectical routes involving a burden of proof can be strategically realised in practice. With reference to her dialectical routes I and III, she shows that arguers may choose to limit or broaden the scope of their own standpoint, depending on what is most expedient at a specific stage in the discussion. "By doing so, the defense of the standpoint will be easier or–even more to the protagonist's advantage – no defense will be necessary at all" (Andone 2014, 64).

The depth of the insights yielded by such investigations does not exclude that original research about widespread schemes or fallacies of political argumentation has also been carried out outside the pragma-dialectical school. For instance, Talisse and Aikin (2006) detect the presence of the so-called "straw man fallacy" in political argument. The fallacy is committed when someone "misrepresents an opponent's position in a way that imputes to it implausible commitments, and then refutes the misrepresentation instead of the opponent's actual view" (Talisse and Aikin 2006, 345). It is the authors' view that the straw man is a widespread form of fallacious argumentation at work in contemporary political discourse. Their findings raise civic consciousness in that the positive correlation between exposure to sources of putative political analysis (e.g., television and radio) and political ignorance is a direct consequence of modes of public discourse where the straw man fallacy is so common.

The impact of fallacies on political argument is also explored by Miller and McKerrow (2001). These authors look at the relationship between well-known forms of fallacious reasoning and emotional appeals in the 2000 US presidential campaign. Among others, they analyse specific instances of argument *ad hominem*, where one discredits an argument by reason of character or other drawbacks in the opponent advancing it. As Miller and McKerrow (2001) emphasise, George W. Bush's attacks on Al Gore's character are illustrative examples of emotional appeals. By underlining his credentials as a political outsider, Bush used pity and fear to criticise Gore along with the outgoing Democratic administration. In an effort to draw the attention to the shortcomings of Gore's platform and his prior political accomplishments, Bush's emotional appeals proved decisive in presenting his own candidacy as that of the people. Interestingly, Miller and McKerrow's (2001, 57) findings show that emotive arguments, as observed for the reviewed fallacies, are "as natural as reason and as critical to a candidate's ultimate success".

With regard to more radical political messages, Gustainis (1990, 158) includes emotional appeals and *ad hominem* attacks in his list of "rhetorical techniques of demagoguery". Besides resorting to tactics of

oversimplification, anti-intellectualism and political pageantry, demagogues tend to make use of name-calling. This strategy, Gustainis (1990, 159) suggests, is aimed at taking advantage of the non-rational side of human nature, "because if the audience paused to think, it might think twice about the demagogue".

The overall review provided in this section is indicative of the variety of directions taken by research into political discourse and political argumentation. This is confirmed by the rich diversity of the findings as well as by the range of materials through which political communication lends itself to extensive exploration, from televised debates to public speeches, from parliamentary readings to party-political programmes (cf. Krieg-Planque 2013) reviewed in the next section. In 2.3, the last part of the theoretical foundations underlying this work is laid: key methodological challenges to be handled and gaps to be bridged over the coming chapters are therefore raised for both legal and political argumentation.

2.3 Methodological challenges and gaps: The room for systematic linguistic analysis

Sections 2.2.1 and 2.2.2 provide evidence that legal and political argumentation has been thoroughly researched over the last thirty years. Despite the outstanding quality of the works reviewed above, there seems to be a number of methodological challenges and gaps to be addressed in the two areas. While it is beyond the scope of this work to fully rectify any imbalance existing in contemporary research paradigms, the methods discussed and the findings reported in the volume are believed to offer food-for-thought about research on argumentation across specialised and non-specialised domains.

With regard to legal argumentation, the approaches in 2.2.1 accurately define the standards sustained and enforced in legal reasoning, with patterns of judicial interpretation as a favourite subject of investigation. However, only a few of the available studies discuss legal argumentation from a genuinely linguistic viewpoint. This is not to say that their concerns are of an exclusively theoretical nature. After all, reference was made to the practical and analytical components of legal-argumentation research. Still, the study of discursive mechanisms of judicial argument all too often slips into the background compared to attempts to abstract textual evidence and model reasoning processes into argumentative schemes and patterns. Conversely, plenty of works on legal language have been produced in the last twenty years (cf. Bhatia 1993 on syntactic aspects of

common law judgments; Vass 2004 on socio-cognitive aspects of hedging across judicial opinions and law review articles; Mazzi 2010 and 2013 on conditionals; Pontrandolfo 2013 on phraseology). Nonetheless, only a few of these explicitly deal with argumentative aspects of judicial discourse.

Among these, Capeta (2009) examines the impact of multilingualism on judicial interpretation in the European Union. Hence, she looks into the case law of the EU Court of Justice and focuses on the cases where the Court compares different language versions of existing legal sources. In this context, she considers how the conclusions reached about any discrepancy among them influence the meaning eventually given to key terms. Her findings show that any difference in meaning across language versions does not lead the Court to abandon the long-standing practice of looking into the ultimate purpose of legal norms within the more general scheme they belong to. In order to ascertain what a norm stands for, therefore, a purposive or teleological approach is the common way for the Court to establish legal meaning, and by no means is it "confined to resolving situations where language versions differ" (Capeta 2009, 106).

As regards the common law system, Vásquez Orta (2010) investigates intersubjective positioning, intertextuality and interdiscursivity in the reasoning of appellate court judges. The data from his careful textual analysis suggest that the facts of cases are socially constructed through a dynamic from quoted or reported speech to nominalisation. *X said that Y* therefore tends to be rendered through nominal items such as *statement*, *evidence* and *decision*, which imply an evaluation of the external world. In the argumentative passages of judgments, however, this dynamic is reversed, since nominalisations are turned into quoted speech. Viewed rhetorically, external texts such as precedents are first introduced in nominalised form, which allows judges to "attribute some kind of evaluation to the text such as *authority* to evaluate a text as 'highly relevant' or *statement*, which would evaluate the following texts as 'less relevant'" (Vásquez Orta 2010, 277).

Mazzi's (2014) account of indicators of pragmatic argumentation is also provided against the background of the common law. Through qualitative discourse-analytic findings supported by solid quantitative evidence from US Supreme Court opinions, the paper yields fresh insights into the use of the indicators from a phraseological point of view. Whereas it may be argued that pragmatic argumentation is not invariably signalled in discourse, it is demonstrated that the use of corpus tools to analyze the indicators–e.g., *cause*, *purpose*, *result* and *effect*–in context brings valuable and at times somewhat unexpected evidence as to the idiomaticity behind the tendency of words to go together and make meaning by virtue

of their combination in argumentative contexts. For example, the fact that the lemma *result* can be read as a potential indicator of pragmatic argumentation hardly comes as a surprise. What is more striking, though, is that data show not only the tendency of the lemma to occur within larger phraseological patterns such as *would result in*. They also suggest that some are correlated with an outline of both desirable and undesirable consequences the judge may draw the attention to, whereas others preferably serve to point to the major downsides of an admittedly erroneous interpretation.

In Capeta (2009), Vásquez Orta (2010) and Mazzi (2014), text and text analysis acquire the centrality they deserve in the study of argumentation as a primarily verbal activity (cf. the definition by Van Eemeren 2001 reported in 2.2 above). What is more, Vásquez Orta (2010) tackles the vital issue of corpus use. He chooses to investigate four House of Lords appellate judgments, which makes his argument qualitatively sound and his analysis finely-grained. In Mazzi (2014), a discourse-analytic and corpus approach is tested: the purpose is to generate novel empirical findings that are qualitatively significant, without overlooking the need for granularity met by balanced corpus approaches.

As we will see in Chapter 3, working with "corpora" as vast amounts of authentic language through which to study argumentative discourse is a salient methodological point adding to the analytical rigour of the research. This aspect cannot be overemphasised, because it is not carefully considered on a regular basis. Focusing on recent works, Feteris (2015) aims at showing how the argumentative activity is conventionalized in the domain of legal justification. She proceeds by establishing which stereotypical patterns of argumentation are functional in realising the institutional point of the activity. Nonetheless, Feteris (2015) falls short of specifying which countries or legal systems her model applies to. Her claims about the putatively universal coverage provided by her argumentative patterns tend to be left unsubstantiated.

Moving from the law to politics, the abundance of linguistic works on political argumentation is a proven fact. At the qualitative end of the spectrum of language studies, Adam (1999) concentrates on the use of connectives, pronouns and performatives in two well-known speeches delivered in the wake of France's Nazi occupation: Marshal Pétain's address to the nation of 17 June 1940, and General De Gaulle's reply through Radio London of the following day. As regards performative acts, the difference between the two leaders is striking. On the one hand, Pétain generally opts for directive speech acts such as orders: hence the use of the formula *Que tous les Français se groupent autour du gouvernement* [All

French gather round in support of the Government]. On the other hand, De Gaulle prefers to use commissive speech acts instantiated by pledges to free France, and his speech centres around an act inherent in appeals, i.e. invitations (*j'invite les officiers et les soldats français qui se trovent en territoire britannique ou qui viendraient à s'y trouver [...] à se metre en rapport avec moi* [I invite French officers and soldiers on British territory or about to be on British territory [...] to liaise with me]). The respective use of performatives may be taken as indicative of the way Pétain and De Gaulle construct their ethos before the intended audience, i.e. French citizens. Whereas Pétain's orders are consistent with his legitimate authority as appointed by the French President, De Gaulle enjoys no comparable legitimacy. As an exile in London, the General is no position to issue orders. He extends an invitation to British officers and soldiers, aware as he no doubt was that invitations are by definition based on a shared presupposition: typically, one is invited to do something that is beneficial to them.

Also in a French setting, Micheli (2013) takes on the methodological challenge of combining three analytical approaches, notably linguistic reflexivity, the unfolding of argumentative discourse, and media representation of political language. By means of a meta-linguistic and pragmatic study of the term *rigueur* [budgetary rigour] in present-day interviews and press conferences, Micheli shows that political disputes often erupt over the controversial use of key terms as principal objects of discourse. More specifically, politicians are observed to deliberately re-define and use a word that would not normally belong to the ideological baggage of their own party. By contrast, they may oppose the use of terms their opponents strive to get them to use to denote a given policy. In both cases, the word involved acquires political and at once media significance in a very short time.

Micheli's results are promising and merit due recognition, not least because they draw on a much cherished French tradition. This is the study of the act of naming objects as a way to engage in their social construction, as in Née's (2007) study of the noun *insecurité* [insecurity] in a small corpus of 2001-2002 articles by the newspaper *Le Monde*. Her data point to a process of semantic appropriation, whereby the newspaper employs the term as a synonym of "criminality". It follows that anyone adopting a different standpoint in response is inevitably required to disambiguate their position before descending into polemics.

The issue of framing and at once "guiding" the use of political keywords is also relevant to Krieg-Planque's (2013) research on the language of French parties' *argumentaires*. These are the sections of

political programmes where reservoirs of valid arguments and authorised vocabulary are provided for the benefit of party members. *Argumentaires* are established by Krieg-Planque to cover diverse areas, from immigration to the cost of living. In their capacity of designated sites for parties to affirm their beliefs and identity, they avail themselves of an array of language tools such as polemical negation to serve a variety of communicative purposes. These include the dialogic refutation of opponents' views, a proper training of party activists, the encouragement of public debate, and ultimately political persuasion as of their novel Internet-based formats.

At the quantitative end of the spectrum of language studies on political argumentation, Fetzer and Johansson (2010) perform a contrastive analysis of cognitive verbs–e.g., *think*, *believe*, *assume*–in a corpus of British and French spoken data. At the outset, their view of political interviews is that of mediated argumentative discourse, the aim of which is to win an argumentative battle by getting communication partners to accept a standpoint. According to Fetzer and Johansson (2010), argumentation can be accorded a dual status. First of all, it drives the process of establishing intrasubjective meaning. Secondly, it indicates an intersubjective activity, in and through which context-dependent communicative meaning is negotiated. By reason of this status, Fetzer and Johansson (2010) maintain, argumentation plays a central role in both the internal and the external relationship between premises and conclusions. This is the reason why

> it is not only discourse connectives which are of relevance in those contexts, but also self-references with the cognitive verbs *think* and *believe*, and *penser* and *croire*, as they make the intra-subjective processes of reasoning explicit, signalling how the speaker intends her/his conversational contribution to be taken and how the hearer is intended to interpret it. (Fetzer and Johansson 2010, 241).

The importance of argumentative strategies and references to intra- and intersubjective processes within argumentative media discourse is reinforced by the fact that two actors need to be convinced at the same time. These are the direct communication partners and, more than anyone else, the audience as the indirect communication partner.

Fetzer and Johansson's (2010) analysis does more than simply determining and comparing the relative frequency of a set of selected cognitive verbs. It also provides corroborative evidence that the verbs fulfil important functions in the negotiation of argument validity, by expressing intersubjective positioning and paving the way for intersubjective maneuvering. This is illustrated by the occurrences of *I*

think and *I believe*. The former is a flexible instrument that boosts or reduces the pragmatic force of an utterance (cf. *I think this is actually very important* v. *I think it wouldn't be right to change the forecast*, respectively). By contrast, *I believe* is observed by Fetzer and Johansson (2010) to act as a booster only (cf. *And I believe we will do better*). In French, whereas *je pense* [I think] can both boost and mitigate pragmatic force, *je crois* [I believe] appears to boost pragmatic force in passages where it co-occurs with discourse connectives such as *donc* [therefore]–cf. *...c'est la noblesse du rôle de responsable politique. Donc je crois qu'on doit distinguer un certain nombre de situations…* [it's the nobility of being politically in charge. I therefore believe you must distinguish a number of situations…].

Leaving a cross-linguistic perspective for a cross-textual one, Fetzer (2014) investigates the distribution, function and collocates of the first-person-singular cognitive-verb-based syntagmatic configurations *I think*, *I mean* and *I believe* in a comparison of political face-to-face interviews and speeches. On the whole, her data confirm earlier results in Fetzer and Johansson (2010). However, Fetzer's understanding of the communicative function of *I think* in argumentative political discourse is refined by her new extensive data set. Thus, the boosting function is mainly expressed by the three-word pattern *and I think* in combination with modality markers of necessity and prediction–e.g., *must*, *should*, *will* and *certainly*. On the other hand, the mitigating function is attested by the combination of *I think* with markers of epistemic possibility and probability, i.e. *may*, *might*, *can*, *could* and *probably.*

The insightful observations of the qualitative and quantitative research on political argumentation reported above cannot be denied. Nonetheless, it may be pointed out that there is vast potential for a full cross-fertilisation of perspectives between the two ends of the spectrum, and/or between the whole of linguistic research on political argumentation reviewed here and the framework of argumentation theory provided in 2.2. This appears to be so in two main regards.

First of all, the analysis in Adam (1999) and Micheli (2013) is very carefully conducted. Yet the former only takes two speeches into account, whereas Micheli (2013) is not quite specific about the size of his corpus of political debate over *rigueur*. This inevitably poses the question of the generality of their findings and the replicability of their investigation. Secondly, Fetzer and Johansson (2010) and Fetzer's (2014) exploration of cognitive verbs is rendered very thorough by both the versatility of the perspectives they adopt (cross-linguistic and cross-textual), and the authors' clear account of criteria for corpus design–number of texts and

running words in the corpora, sources, rationale for material inclusion. However, their approach would sharpen our knowledge of the broader argumentative context in which their linguistic indicators are used, if it also examined more closely the overall argument schemes and structure in which cognitive verbs are embedded. For instance, it would be highly interesting to see if and to what extent politicians across languages or national backgrounds tend to use cognitive verbs in the context of distinctive types of strategic maneuvering attested in corpora.

And fair enough, there is no reason to believe that in turn, mainstream argumentation studies such as those from pragma-dialectics would not benefit from an in-depth coverage of the language tools at work in actual examples of critical discussion on the merits. There is no doubt that the indicator project in Van Eemeren et al. (2007 and 2008)–cf. 2.2 above–is a very good starting point for a comprehensive overview of argumentative signposts in text. It is also true that the Dutch scholars consider texts from a wide range of sources, e.g. the Eindhoven corpus, the proceedings of the Dutch Lower House and the Internet, to name but a few.

Yet the soundness of the methodological foundations underlying their quest for indicators would deserve to be extended in two ways. First of all, the analysis could be based on more homogeneous data instantiating similar kinds of communicative events. This would not exclude comparative perspectives–cf. Mazzi's (2015b) study of hedging and boosting in the argumentation of EU Court of Justice and Irish Supreme Court judgments– while at same time paying meticulous attention to the features of the inherent context of communication. In the second place, research may relate to a single language, or more languages as in Fetzer and Johansson's (2010) comparison. In this respect, Van Eemeren et al. (2007) tend to wander off the point. Their use of the Oxford English Dictionary as a backup for their findings is authoritative. Still, it seems slightly at odds with the fact that they actually discuss Dutch examples in English translation, rather than original attested occurrences (cf. Van Eemeren et al., 2007).

The methodological challenges and research gaps highlighted in this section for legal and political argumentation are a strong motivation for the present work. In devising a methodology intended to seamlessly integrate and harmonise the components of the major contributions discussed here, this book addresses the following detailed questions:

(1) What kind of data sets should be used to offer a well-balanced perspective on legal and political argumentation?

(2) What criteria of corpus design can be laid down, in order to make the corpus representative and the analysis generalisable?
(3) What methods can be used to map the corpus in order to identify distinctive language tools of argumentation?
(4) How can the study of tools be combined with the quest for textual evidence of widespread argument schemes?
(5) More generally, how can such methods lead to an integrated approach to the study of argumentative language in Irish public discourse, in the interest of field scholars and practitioners alike?

2.4 Concluding remarks

The aim of this chapter was to lay the theoretical foundations of the volume. For this reason, the very notion of argumentation was defined according to the criteria set out in contemporary argumentation theory, with due emphasis on pragma-dialectics (Section 2.2). In addition, the focus of the chapter was narrowed to take a closer look at the fields of legal and political argumentation (Sections 2.2.1 and 2.2.2., respectively). In order to measure major academic achievements in the two areas, the main approaches and components of legal-argumentation studies were discussed–from the logical to the dialogical approach, and from the philosophical to the practical component. Furthermore, the centrality of argumentation to the study of politics as a discourse of leadership and political accountability was acknowledged. In 2.3, finally, a critical appraisal was made of both the contribution of linguistic studies to the investigation of legal and political argumentation, and the benefits non-linguistic studies might derive from corpus and discourse views on argument.

This has allowed us to identify a number of methodological issues to be considered and gaps to be bridged in existing research in the field. Taken together, Chapters 3-6 constitute an attempt to engage in the task. To begin with, Chapter 3 is about the materials on which the analysis is based, and the methodological parameters chosen for the study. First of all, the chapter will go through the process of corpus design, i.e. how many texts and word forms the corpora include, the time span covered by collected data, whether the corpora are of a synchronic or diachronic type, and any text inclusion or exclusion requirements. Secondly, the chapter will illustrate the various stages through which the analysis was carried out. The focus will therefore be on the combination of corpus and discourse tools, and the integration of qualitative and quantitative methods.

CHAPTER THREE

MATERIALS AND METHODS

3.1 Introduction

The first two chapters of the volume provided a justification for this research. As we saw, there are powerful motivations behind this study, both in terms of the research gaps to be addressed through it, and with a view to the context chosen for its undertaking, i.e. Ireland and Irish public discourse.

In this chapter, the scientific apparatus of the analysis is introduced, before the findings are presented in the next three chapters. First of all (3.2), the norms that dictated the choice of materials for the analysis are clarified. Accordingly, details are provided about the criteria for corpus design and the characteristics of the collected corpora (3.2.1-3.2.3). Secondly (3.3), methodological issues are dealt with, with the aim of making the stages explicit at which the analysis was performed. In that regard, the interplay of quantitative analysis with qualitative interpretation is discussed in detail (3.3.1-3.3.3) for each and every research strand of Chapters 4-6. This chapter is thus first and foremost concerned with issues of procedure, whereas the ones that follow will be entirely devoted to evidence.

3.2 Materials: Criteria for corpus design

This work deals with legal and political argumentation from a linguistic point of view. The emphasis is on the structure and constituent elements of argumentative discourse. The term *discourse* made its first appearance in the prior chapter. For the sake of clarity, it must be specified that "discourse" is defined here as "language in use in institutional, professional or more general social contexts" (Bhatia 2004, 3). Studying discourse means focusing on both formal and functional properties of authentic language within specific contexts of use (Brown and Yule 1983). In our case, the function of the language analysed is the argumentative

one, while the contexts of use are judicial settings and politics. Furthermore, the identification and discussion of widespread formal properties inherent in argumentation requires that the related discourse be adequately sampled for analytical purposes. This poses the question of *corpora*, employed today by a large number of linguists to instantiate the population of communicative events they wish to investigate.

As was briefly anticipated in Section 2.3, the term "corpus" refers to a large collection of authentic texts customarily gathered in electronic form according to a specific set of uniform criteria (Bowker and Pearson 2002, 9). The reason why linguists have increasingly been relying on corpora over the last thirty years is that collecting and processing vast amounts of naturally-occurring data ensures that the analysis is both rigorous and representative (Stubbs 1996). It is rigorous, because it observes language in use rather than data stemming from introspection. And it is representative, because the amount of data is designed to be an effective sampling of a given register or genre.

In this respect, Stubbs (2001, 223) rightly argues that corpora as samples of authentic language "can be representative only if the population to be sampled is homogeneous, and this is possible only in special cases, say with a specialised sub-genre corpus (such as editorials from quality papers or research articles on biochemistry)". In our case, no study of legal argumentation would be serious, if based on a corpus where American tax lawyers' statements and judgments by the Court of Justice of the European Union on agricultural policies were randomly collected. While corpora allow for comparative perspectives (cf. Fetzer and Johansson 2010 cited in Section 2.3), these should only be adopted on the grounds of homogeneous materials. The quest for consistency in the study of communicative events in context is a driving force behind the notion of *genre* in applied linguistics. Here, the term "genre" is taken to refer to a class of communicative events exhibiting patterns of similarity with regard to a primary communicative purpose determined by the parent discourse community, their style, structure, content and intended audience (Swales 1990 and 2004).

Corpus analyses meeting proper standards of rigour and representativeness also adhere to two practical guidelines: first of all, the independence of analysis from data, so that observers may not influence their object of observation; secondly, the significance of repeated events, which implies that the analyst's main task is to describe what is usual and typical in language use. In so doing and to the extent that it acts as a firm support to a systematic study of authentic language over simple intuition, and of recurrent patterns of performance over abstract concerns with

language competence, corpus linguistics can be seen less as a simple methodological tool than a valid theoretical standpoint.

This study combines the salient features of discourse studies pointed out so far. Consequently, the analysis of argumentative discourse carried out in the next chapters was based on corpora instantiating specific genres of politics and the law produced within the same context, i.e. the Republic of Ireland. As regards the law, the genre of judgments was selected as a case in point, and the Supreme Court was chosen as the source. By reason of that, the more precise term "judicial argumentation" will be preferred to the far too generic "legal argumentation" in the rest of the book. As for political argumentation, two inter-related genres were included on the grounds of their shared argumentative function. These are speeches and public statements by the former Irish *Taoiseach* [Prime Minister] and *Uachtarán* [President] Eamon de Valera.

For methodological purposes, these genres were investigated through three case studies, for each and every one of which a full account of materials and criteria for corpus design is provided in the upcoming three sub-sections.

3.2.1 Case study 1: Right-to-life judgments

The first and the second case studies are about judicial argumentation. Both are based on judgments by the Supreme Court of Ireland (henceforward, "the SCI"). The SCI is the Republic's court of last resort. It was established in 1961 under Article 34 of the Irish Constitution. It is composed by the Chief Justice, who presides over it and takes charge of the general organisation of the Court's work, and a number of judges that has increased since 1996 (Byrne et al. 2014, 146-147). In cases that have a constitutional connection, the SCI sits as a five- or seven-judge court. In any other case, however, the Chief Justice may allow for the Court to sit as a three-judge body only. This has given the Court the opportunity of sitting in two or more divisions at the same time since 1995. Regardless of its ultimate composition, the SCI is a collegiate court because it invariably consists of more than a single judge. As is conventionally the case with common law courts, each one of the court's judges has a right to express his/her view on the issues arising in a case. This means that in a court composed of five, a case may be settled by the views of three of the judges sitting. As Byrne et al. (2014, 525) warn in their comprehensive work, this has profound implications for the doctrine of precedent: while minority judgments in a case appear "at best a consolation for the disappointed

litigant, such dissenting judgments have, in some important instances, proved highly influential in subsequent cases".

A fascinating aspect of the SCI has been its judicial activism (Morgan 2001), which at times led it to identify unenunciated rights. This has fuelled vigorous debate about the role of SCI judges, as summarised in the question posed by Gallagher (2005, 91):

> When judges accept the existence of rights not specifically mentioned in the text of the constitution, such as the right of bodily integrity or the right to marital privacy, are they logically deducing the existence of these rights from the overall nature of the constitution, inferring them, discovering them, or calling into active life rights that, though hitherto unnoticed, have lain dormant within the constitution of 1937? Or are they, as critics might maintain, merely conjuring up or drawing out of the ether a "right" in order to provide a convincing basis for a decision whose real progenitor is the judge's own attitude towards the case in question?

Reporting on an earlier study of judicial appointments, Gallagher (2005) states that in periods such as the mid to late 1960s, the Government and the Department of Justice expressed mounting concerns over the amount of creative decisions by the Irish courts. Apparently, this led the Government to consider appointing less activist judges in the near future. However, proposals to keep a watching brief on judges' behaviour have met with effective resistance. So much so that a government proposal to hold a referendum on the creation of a Judicial Council to review judicial conduct in 2001 was eventually to be withdrawn, when the opposition parties voiced serious reservations about its details. After all, the argument of supporters of full judicial independence goes, "if judges were somehow made genuinely accountable to the government or parliament, they would cease to be an independent judiciary, one of the checks and balances of a liberal democracy" (Gallagher 2005, 92).

From the body of settled case law by the SCI, two areas were chosen for our case studies. The first one is "right-to-life", a sensitive matter that has ignited intense controversy in Irish public discourse within and outside courtrooms for well over a decade, as we will see in Chapter 4.

The related study was based on a small corpus of judgments delivered by the Supreme Court. In order to build the corpus, the official website of the Court (www.supremecourt.ie) was consulted on 26 September, 2013. The site provides free and unrestricted access to judgments, which may be retrieved though two main search tools: first of all, by year; secondly, by topic. In this respect, the viewer may choose from three options: "Article 26 References", including all judgments pronounced in response to the

Irish President's queries about the constitutional legitimacy of a parliament bill or part of it; "Important Judgments", a selection of the Court's most influential verdicts, e.g. about personal constitutional rights, the right of the *Oireachtas* [Parliament] to amend the Constitution, or adoption matters; or "Advanced Search", a section where one may look for judgments on the basis of their subject matter and/or by specifying the name of the Justice one is most interested in.

An advanced search was thus launched, with the aim of retrieving any judgment provided by the website though the search item "right to life". A total of 28 full texts were thus collected in what shall be termed the *SCI_1 Corpus*, covering a time span between 19 January 2001 and 29 April 2013, for an overall size of 262,477 words.

3.2.2 Case study 2: EU-related disputes

The other area of SCI case law to be explored through the second case study of the volume was "EU-related disputes". To some, this might sound less appealing than "right-to-life". Nevertheless, the wide array of studies that critically discuss the relationship between the Republic of Ireland and the European Union (see Chapter 5) show how topical this question can be for the Irish public opinion. From this point of view, the severe economic downturn affecting Ireland in the past few years, along with the Troika monitoring whether the country has been carrying out the reforms it was asked to push though, have stimulated further lively debate on the matter.

For the related case study, a small synchronic corpus of SCI judgments was compiled. The texts were again retrieved from the Court's official website at http://www.supremecourt.ie/Judgments.nsf/SCSearch?OpenForm&l=en as of 15 October 2014, when corpus design was completed. On that page, the advanced-search function allowing one to insert any string in the quest for judgments was used. In particular, the item "European Union" was used as the search term. The 82 full texts displayed as results and collected to generate the so-called *SCI_2 Corpus* cover a time span between 2001 and 2014, and they altogether amount to 742,194 words.

3.2.3 Case study 3: De Valera's speeches and statements

The quest for an illustrative example highlighting Irish political rhetoric eventually led this author to choose Eamon de Valera. This was the case for two main reasons. First of all, de Valera's political longevity has turned him into a dominant figure of twentieth-century Irish history: from

Volunteer to doctrinaire Republican during the Civil War, from party leader to *Taoiseach* and eventually *Uachtarán*, de Valera became an undisputed protagonist of contemporary Irish politics. As a leader, he may be said to have achieved cult status as "The Chief". However, as Lee (1989, 340) suggests, he never invested it "with the sinister contemporary connotation of Führer, or even the downmarket version of Duce. In few countries has so powerful a personality cult proved so relatively harmless as in de Valera's Ireland", which adds to his reputation as leading statesman.

In the second place, the interest in de Valera's figure is awakened by a long-standing controversy over his political legacy. In his well-documented *Judging Dev*, Ferriter (2007) dispels any doubts about that. On the one hand, he reports his officially approved biographers Lord Longford and Thomas P. O'Neill to insist that de Valera unequivocally shaped Ireland's destiny. To their statement that the Long Fellow used to measure his deeds against strict intellectual and moral criteria, Ferriter (2007, 3) adds Pope Paul VI's assessment of de Valera as a true statesman of Europe. On the other hand, the former Irish President's detractors appear to include well-known authors such as Tim Pat Coogan–whose view it is that de Valera ultimately did "little that was useful and much that was harmful" (Coogan 1993, 693)–as well as ordinary people, including one quoted as passing the following remark to political scientist Peter Mair's father upon the news of Pope John XXIII's death in 1963: "Isn't it a shame? That old saint in Rome dying and that old bugger in the Park still going on as strong as ever" (Mair 2004, 45). Indeed, the use of the phrase *De Valera's Ireland* as a shorthand for the country's political shortcomings and economic weakness seems symptomatic of such a severe condemnation that "it was almost as if de Valera was in power on his own, whereas he was in fact surrounded by a host of strong and able politicians" who "were happy to see him last the course, as was the majority of loyal Fianna Fáil voters" (Ferriter 2007, 6).

No matter what view one takes of de Valera, his centrality to twentieth-century Ireland's political landscape is unquestionable, whereas the genuine curiosity it arouses to the analyst's perception is motivated by de Valera's uniqueness in a number of aspects. These are not limited to the somewhat paradoxical nature of a man who had worked as a teacher for a number of years and yet whose steps in educational policy have been considered by many to be small, let alone an orator who proclaimed his preoccupation with Ireland's "cosy homesteads" (*That Ireland that we dreamed of*, 1943) yet might have lacked resolution before the emigration that blighted the country during his tenure of office. De Valera's

uniqueness also lies in his deep instinct for political survival, which saw him go through the Easter Rising, the Civil War, imprisonment and a number of terms of office that lasted until his retirement in 1973 at the ripe age of 91.

As far as this work is concerned, it is entirely beyond the author's intention to take sides with either laudatory assessments or negative criticisms. More appropriately, de Valera was chosen as a case in point for a merely descriptive approach to political argumentation. In terms of criteria for corpus design, the so-called *Dev_Corpus* includes 126 texts, for a total 288,254 words. The texts were taken from Maurice Moynihan's (1980) collection of de Valera's speeches and statements.

As Moynihan (1980) himself notes in the preface to the volume, the statesman must actually have delivered a few thousand speeches of various sorts during the decades of his public life. Having to choose from such a broad repertoire, Moynihan (1980, xxvii) took meticulous care in making available

> a reasonably representative collection of examples, showing how he expressed his deeper feelings and ideals, how he bore himself in situations of national struggle, danger or suspense, by what quality of reasoning or emotional appeal he sought to convey his own convictions to his fellow-countrymen and to the representatives or the peoples of other countries, how he acquitted himself on occasions requiring only brief and somewhat formal remarks but calling for delicacy and tact, and how he would devote long, thoughtful–and sometimes tedious–disquisitions to matters of administration and practical policy.

The outcome of this laborious process of material selection is a distinguished collection of "oral addresses (including broadcasts), press interviews, written statements issued on special occasions and some other writings prepared for publication in more durable form" (Moynihan 1980, xxvii).

There are at least four reasons why Moynihan's collection deserves to be considered as a reliable source for a study of de Valera's argumentative discourse. The first is that Moynihan's selection was no doubt positively influenced by the fact that he was associated with de Valera for several years. He began by serving as his private secretary in 1932. He then worked as Secretary to the Government and the Department of the *Taoiseach* from 1937 through to 1960, a period in which de Valera held office for no less than fifteen years. Finally, he maintained contact with him until his death in August 1975.

The second reason for the reliability of the collection was that Moynihan (1980, xxxi) undertook his ambitious project "on Mr de Valera's invitation". Accordingly, he was granted full access to the former President's papers. Of note, de Valera made himself available to answer any question he might have had about such materials, while at the same time leaving the inclusion or exclusion of any text to Moynihan's full discretion.

In the third place, Moynihan made no substantial changes to the speeches and statements he eventually included. As a result, any desirable alteration to paragraphing and punctuation was carried out "with the utmost care to preserve not only Mr de Valera's own words, as recorded in the sources, but also their precise contextual meaning" (Moynihan 1980, xxviii). Furthermore, corrections were limited to those "of obvious errors of a minor nature and within the scope of editorial discretion" (Moynihan 1980, xxviii). In addition, in one speech only–i.e., the address to the Irish National Teachers' Organisation of 26 March 1940–were paragraphs or sentences transposed. However, this is confined to those passages where "the editor formed the opinion that the newspaper report of the Irish text had been affected by a printing error" (Moynihan 1980, xxviii).

Finally, the fourth argument determining the preference for Moynihan's collection is that in the materials he chose–as seems typical of the Long Fellow elsewhere, too–the documents produced by de Valera were entirely his own. Whereas de Valera acknowledged the efforts of his assistants, Moynihan (1980, xxviii) observes, he hardly ever accepted them in full, and whatever use he would make of "other peoples' drafts as material, the final version was essentially the work of Mr de Valera himself".

For the purpose of corpus design, the texts in Moynihan's volume were included in full with a few exceptions and minor reworkings reported here. To begin with, the three speeches delivered by de Valera in Irish were not included in the *Dev_Corpus*. These respectively date back to 26 March 1940 (address to National Teachers), 25 June 1959 (address on the occasion of his inauguration as *Uachtarán*), and 21 January 1969 (address in commemoration of the first meeting of the *Dáil*[1] fifty years before). The decision to leave them out of the corpus was made as a result of both the intention to compile a consistent corpus featuring English as the language on which the analysis was to focus, and the author's limited knowledge of Irish at the time the corpus was designed (July 2015). As a consequence of that, the criterion applied to all those texts where de Valera included short

[1] The Irish Parliament's lower house.

bits and passages in Irish was as follows. Salutations, single words, phrases or isolated sentences were kept, because they may have added to the rhetorical flavour of the surrounding co-text. By contrast, the full paragraphs occasionally opening or concluding speeches and forming discrete, self-contained units within the speech were not included.

Secondly, it was necessary to edit corpus texts in two main ways. The first was to eliminate all markers of reported discourse at times incorporated by Moynihan in speeches and statements. These include, for instance, *In his reply to the press, Mr de Valera stated today that* or *he said* (public statement on American troops in Northern Ireland, 27 January 1942). Understandably, Moynihan might have chosen not to remove these out of respect for the original sources. Still, the analysis performed here only concerns de Valera's own discourse. Those text-external elements were therefore deemed redundant.

Unlike with the *SCI_1* and *SCI_2* corpora presented in 3.2.1 and 3.2.2, a major editing effort was required for the *Dev_Corpus*. With SCI judgments, the advantage of using the Court's Internet-based archive was apparent. By entering the appropriate search terms, the related judgments became available and accessible in a matter of seconds. In particular, no editing whatsoever was necessary, and the full text of each judgment could be easily downloaded and/or converted into the *.txt* format required by the computer-assisted component of analysis (cf. 3.3 below). In contrast, Moynihan's collection was not available in electronic format. This means that the paper-based text of each and every one of de Valera's speeches had to be manually scanned and individually edited in order to produce an accurate version according to the inclusion criteria laid down for the *Dev_Corpus* in this section. This also explains why a more detailed account had to be given about the latter than about *SCI_1* and *SCI_2* earlier on. The three corpora from the sources described above provided the basis for the analysis. The methodological approach to the investigation of the corpora is outlined in the following section.

3.3 Methodology

The methods of this study were devised in an attempt to address the first four questions outlined at the end of Section 2.3, whereas the answer to the fifth is best deferred to the final discussion in Chapter 7. The articulation of the methodological approach follows the prior section as a model. The analytical techniques are therefore presented below in three distinct subsections. Each one of these corresponds to the related subsection in 3.2 so that, for instance, 3.3.1 presents the methods through which the corpus

in 3.2.1 was analysed; 3.3.2 outlines the criteria through which the *SCI_2* of 3.2.2 was investigated; and in 3.3.3, the procedure for the analysis of the *Dev_Corpus* (cf. 3.2.3) is described.

3.3.1 From corpus to text (I)

From a methodological perspective, the study of the *SCI_1* on right-to-life judgments consists of two main stages. The first one was a preliminary data-mining phase. The term "data-mining" is borrowed from computer science, where it denotes the application of machine learning (ML) algorithms to an existing database. In brief, the word is ordinarily employed to refer to "a diverse set of computational techniques whose shared characteristic is that they attempt to inductively establish trends and interactions in data" (Wallis and Nelson 2001, 312). The underlying notion has been carried over to linguistics, where corpus-driven approaches to the study of discourse have increasingly been utilised to explore and map large amounts of naturally-occurring data. By way of computer-assisted tools, data are "not adjusted in any way to fit the predefined categories of the analyst" and "recurrent patterns and distributions are expected to form the basic evidence for linguistic categories" (Tognini Bonelli 2001, 84). Corpora as large repositories of authentic data stored in electronic form are thus data-mined through exploratory-analysis queries: these can then reveal suggestive patterns useful for the purpose of knowledge elicitation. From an empirical viewpoint, the implementation of data-mining techniques has generated a wealth of results in the study of specialised discourse: for instance, Teich and Fankhauser (2010) explored a corpus of scientific texts, and the verbal patterns they identified across texts allow them to single out a number of epistemological peculiarities of disciplines such as computer science, computational linguistics and linguistics. In a similar vein, Warren (2010) makes use of the computer-mediated methodology of concgramming to investigate the most frequent lexical words in a corpus of engineering texts, in order to highlight the contribution of their associated words and meanings in defining the "aboutness" of the corpus.

In order to data-mine the corpus and therefore find out more in terms of its overall aboutness, a single-word list and a 3/6-word *n-gram* list were created through the linguistic software package *WordSmith Tools 5.0* (Scott 2009). These lists allow the analyst to visualise the most frequent words and phrases of a corpus, and they were used to extract the most recurrent semantically relevant items of the selected judgments, including such tokens as *life*, *death*, *abortion*, *unborn*, *embryo*, *of the child*, *right to life*

and *the protection of*. These were then concordanced (Schulze and Römer 2008; Römer and Wulff 2010), i.e. analysed in context, with the aim of identifying their main collocates and phraseological patterns. In the main, this first stage of the analysis allowed for a preliminary quantitative survey of corpus data: accordingly, the information collected in terms of the preferred collocates of the items, i.e. the words they most often co-occur with (Sinclair 2003), as well as their semantic preference, i.e. their tendency to collocate with words sharing a recognisable semantic trait (Sinclair 1996), served as a basis to glean insights about the burning issues covered by the corpus.

The second stage of the investigation was more of a qualitative kind. It lay in a case study of the argumentative structure of the two judgments that most frequently and typically exhibited the lexical and phraseological patterns documented through the first stage of the analysis. In the context of judicial proceedings as mixed disputes where each participant–whether the parties, a single judge or the Court as a whole–defends a particular standpoint of his own and carries a burden of proof for one or more standpoints in opposition to other parties' standpoints (Van Eemeren et al. 2007), the study of the argument structure of the two judgments implied first of all the isolation of the main strands in the Justice's reasoning; within each strand, secondly, the presence of multiple, coordinative and subordinative arguments was detected.

From a pragma-dialectical perspective, multiple argumentation is observed to be advanced when Justices make more than one attempt to defend their own standpoint. This accounts for an option in implicit discussions too (cf. a judge drafting his own opinion), where the antagonist is not necessarily present and "the arguer can only anticipate an opponent's criticisms" (Snoeck Henkemans 2003, 408). More precisely, multiple argumentation is seen as complex argumentation, whereby "the only connection between the first argument and the new argument is that each of them is advanced as a defence for the same standpoint" (Snoeck Henkemans 2003, 411). Moreover, the arguments advanced do not need each other to adequately support the standpoint: rather, "the only reason for undertaking a new attempt at defending the standpoint is that the previous argument has failed or that the arguer expects that it might fail" (Snoeck Henkemans 2003, 411).

In addition, coordinative argumentation is pinpointed where two or more arguments "need each other to provide adequate support for the standpoint" (Snoeck Henkemans 2003, 411), in the hope that the combination of arguments may eventually satisfy the antagonist(s). Finally, subordinative argumentation is put forward in order to support

either an argument whose validity has been questioned by the antagonist with a view to its propositional content, or an unexpressed premise.

As far as this case study is concerned, multiple and coordinative argumentation were singled out within each strand of the Justice's reasoning, and any unexpressed elements were explicitly formalised, in the interest of shedding light on the argumentative use of definition (cf. Section 4.1) in the Supreme Court's rhetoric about the controversial judicial topic of right to life and its protection.

3.3.2 From corpus to text (II)

The study of the SCI's argumentative discourse in EU-related disputes was again carried out through two main stages. The first was a corpus-driven investigation[2] of phraseology. Phraseology has been singled out by corpus and discourse scholars as a leading principle of discourse organisation, whereby words tend to go together and make meaning by virtue of their combination (Sinclair 1996; Hunston and Francis 1998; Groom 2010). In order to examine key instances of phraseology in context, emphasis was laid here on "lexical bundles" as a case in point (Biber et al. 1999; Biber et al. 2004; Pecorari 2009; Breeze 2013). Lexical bundles are aptly defined by Breeze (2013, 230) as "multi-word sequences that occur[red] most frequently in particular genres, regardless of whether or not they constitute[d] idioms or structurally complete units".

In order to identify bundles, the linguistic software package *AntConc* (Anthony 2006) was used. More specifically, the on-screen function *Clusters* was launched in the attempt to generate an *n-gram* list for the corpus. This is a list of the most frequent clusters, i.e. multi-word sequences, in the corpus. It was used to extract the top-ten most recurrent lexical bundles on the basis of the following criteria: first of all, a minimum size of three and a maximum size of six words per bundle; secondly, a minimum frequency of 10 tokens per bundle; finally, a distribution of each bundle across a minimum of 5 different texts, in order to ensure an adequate degree of generality to the analysis.

[2] The distinction between "corpus-based" and £corpus-driven" goes back to Elena Tognini Bonelli's (2001) theorisation. On the one hand, the peculiarity of corpus-based investigation is that corpora are used as sources of examples, in order to check researcher intuition or examine the frequency or plausibility of the language contained in more restricted data sets. On the other hand, corpus-driven approaches entail a more inductive procedure: "the corpus itself is the data and the patterns in it are noted as a way of expressing regularities (and exceptions) in language" (Baker 2006, 16).

Once the bundles were identified, they were classified by combining the criteria in Biber et al. (2004), Pecorari (2009) and Breeze (2013). As will be clarified in Section 4.2, this essentially amounted to integrating semantic (Breeze 2013) and syntactic (Biber et al. 2004) criteria for a preliminary exploration of the *prima facie* characteristics of the bundles. In addition, *Concordance*– a software function displaying the whole of the occurrences of a search word or phrase on the same page–was operated, with the aim of uncovering and quantifying the main discourse function of each bundle in context (Stubbs 2001).

The second stage of the study was a corpus investigation of patterns of argumentative discourse. In order to achieve this, a *Wordlist* was generated (Anthony 2006): this allowed for the retrieval of the most frequent single words that appeared to be most inherently correlated with the judicial subject matter of the corpus, i.e. EU-related disputes. By browsing through the first 1,000 items of the list, such words as *jurisdiction* and *sovereignty* were extracted. Moreover, concordance lines displaying these words were generated, for the purpose of identifying the judicial opinion in which they were most frequently attested. As a final step, a manual–i.e., not computer-assisted–qualitative analysis of the opinion was conducted, in order to identify widespread argument schemes and the overall argument structure these were observed to underlie (Snoeck Henkemans 2003; Macagno and Walton 2008; Van Poppel 2012).

3.3.3 From text to corpus

In the case study on political argumentation, the sequence of analytical steps was reversed in that the qualitative text analysis preceded the interrogation of the larger corpus. In a preliminary phase, therefore, two model texts were extracted from the *Dev_Corpus* in order to retrieve the schemes that most distinctively characterise their argument structure. In the interest of selecting two speeches/statements representative of de Valera's rhetoric, the choice was guided by Aldous's (2007) *Great Irish Speeches.* This fine collection of Irish oratory from Henry Grattan to Bertie Ahern includes two speeches by de Valera. These are *That Ireland that we dreamed of* and *The abuse of a people who have done him no wrong*.

The former also appears in Moynihan's book as *The Ireland that we dreamed of*. It is a well-known St. Patrick-Day message delivered by de Valera in 1943. The address was to coincide with the fiftieth anniversary of the Gaelic League, which had played a central role in shaping his national consciousness. De Valera rose to the occasion: in the midst of

World War II, with rationing in full sway, many were to respond positively to his call to uphold noble spiritual and cultural ideals over materialism. Although the address also prompted criticism for de Valera's allegedly backward and patriarchal attitude to women, Aldous (2007, 78) argues that it "proved to be among his most enduring statements". The second speech, for which Moynihan preferred the title *National Thanksgiving*, was broadcast on Radio Éireann on 16 May 1945. The address was intended to be a reply to Winston Churchill's speech to the BBC to mark his fifth anniversary as Britain's Prime Minister. While focusing on the task of defeating Japan and the recent Allied victory in Europe earlier that month, Churchill unleashed a vigorous personal attack on de Valera and his decision to keep *Éire* neutral. De Valera replied with a measured yet compelling argument. Coming from a man who had so bitterly divided the Irish public opinion, the speech unexpectedly matched Churchill's rhetorical prowess perfectly. De Valera successfully "spoke for the nation" and his reply of 16 May "was the finest speech he ever made" (Aldous 2007, 83). In sub-dividing his collected speeches into "those of the head" and "those of the heart", Aldous (2007, xxii) significantly observes that

> many display remarkable powers of analysis, setting out rigorous arguments to influence opinion by sheer force of intellect. Others gain their authority from the passion and context of their delivery, as a speaker finds an oratorical elixir to inspire or capture a public mood. Only occasionally do both occur at the same time. When they do, such as in de Valera's response to Churchill, the result transcends its own time and speaks to ours.

By virtue of such solid reputation, the two speeches served as the starting point for the case study. The manual examination they were subject to provided evidence of two main argument schemes underpinning de Valera's standpoints. These were pragmatic argumentation and symptomatic argumentation, whose overall articulation within the argument structure of the speeches was illustrated. The subsequent stage of the analysis was marked by a shift from text to corpus. By investigating the linguistic indicators of the two argument schemes at a broad corpus level, the aim was thus to establish how typical pragmatic and symptomatic argumentation were of de Valera's discourse.

The corpus-based study was conducted as follows. First of all, the indicators isolated during text analysis–i.e., *would* and *if* for pragmatic argumentation, and *as long as* for symptomatic argumentation–were concordanced through *AntConc*. In order to corroborate the initial findings, secondly, a corpus search was launched for the other indicators

listed by Van Eemeren et al. (2007) for the two argument schemes. For pragmatic argumentation, these included Van Eemeren et al.'s (2007, 176-186)

- "Expressions used to indicate a causal relationship" (e.g., *X means that Y*);
- "Verbs that indicate a process that produces a particular effect or result" (e.g., *destroy*);
- "References to a future event" (e.g., *will*);
- "References to the inevitability of the occurrence of the result after the cause" (e.g., *necessarily*);
- Inscribed signals of pragmatic argumentation such as *then*, *otherwise* or *desirable*;
- "Clues in criticism of causal argumentation" (e.g., *X does not lead to Y*).

As regards symptomatic argumentation, the indicators analysed in context were the following:

- "Expressions indicating a symptomatic relationship" (e.g., *X is characteristic of Y*);
- "Expressions indicating aspects or subtypes of the symptomatic relation" (e.g., *Take (for instance) Y*).

The corpus-based investigation provided the qualitative insights of text analysis with a quantitative basis. The results were finally completed with the compilation of an inventory of the subject matters (the Anglo-Irish Treaty, partition etc.) in relation to which de Valera would most often advance the two argument schemes.

3.4 Concluding remarks

In this chapter, the materials for the analysis in Chapters 4-6 were presented, along with the respective methodology. As we could see, the key to the research was the undertaking of a study on argumentation in Irish public discourse, as instantiated by corpora representative of one or more homogenous genres–respectively, judgments by the Supreme Court and speeches and statements by Eamon de Valera.

The combination of corpus and discourse perspectives (Swales 2009) is a core principle of the work. Discourse studies are generally preoccupied with whole, individual texts reflecting the social context of

their production and reception (Charles et al. 2009). As such, their top-down perspective may only benefit from corpora as valuable exploratory and confirmatory tools. Indeed, communicating in the arena of public discourse can be seen as a social practice. Its interest lies primarily in the study of both the effect of social roles on text, and the converse influence of writer and text on context. In that regard, the growing concern for recurrent formal and rhetorical patterns of text across genres is in need of the representative textual basis provided by corpus linguistics.

The corpora compiled for the case studies described above are synchronic and small yet representative. There can be no doubt about the synchronicity of *SCI_1* and *SCI_2* because both cover brief time spans, namely 12-13 years. In the case of the *Dev_Corpus*, the time span is considerably longer, because de Valera's presence in the landscape of Irish politics stretches from the early 1970s back to 1917, the year of his first by-election in Co. Clare. However, there is a strong sense of continuity in the dominant themes of his political life–cf. his views on partition. Defining the *Dev_Corpus* as a diachronic one would therefore seem dubious, to say the least.

Compared to other corpora employed in argumentation studies (cf. Krieg-Planque 2013), the ones designed for this work are big. Still, if we take the corpora in use within applied linguistics studies (cf. Hunston and Francis 1998) as a benchmark, one might argue that they are rather small. The potential of a "small corpus linguistics" has already been recognized with a view to register studies and the teaching of English for academic purposes (Bondi et al. 2004, 8). In this work, we might see it as preferable to define our corpora as flexible, rather than simply "small". In particular, it is argued here that the notion of "representativeness" needs to be refined. This should not merely refer to a quantitative assessment, however important that is. Rather, representative materials should meet two basic criteria. The first is the homogeneity of data. The second is that corpora ought to be manageable. In order to achieve this, quantitative analyses should not prevail over but instead be integrated with qualitative interpretation, as is essential to the study of argumentative discourse.

The benefits inherent in the interplay of quantitative and qualitative analysis have now been fully appreciated in computer-assisted discourse studies (cf. Morley and Partington 2009; Partington 2010). Their rigour lies in collecting and using large amounts of language to perceive patterns of co-occurrence. These patterns can in turn be related to significant elements of context, such as real-world events. The contextual elements thus identified point towards sub-corpora that can be usefully examined in more detail through available corpus techniques. These nowadays make

sure that the unprecedented scope and granularity allowed by corpus-assisted investigations are well balanced with the development of techniques helping analysts deal with the complexity of the large amounts of data they are exposed to. This has been a strong motivation for the attempt to undertake focused qualitative analyses by downsampling from large corpora, in response to a pressure from "linguists wanting to adopt a corpus-based approach, but who wish to combine that with a more nuanced study of a smaller number of texts" (Gabrielatos et al. 2012, 171).

The manageability of the corpora (3.2.1-3.2.3) was a decisive factor in the implementation of flexible methods for the study of argumentative discourse in judicial and political argumentation. Although methods were presented separately for each case study, it is important to stress that the overall methodology was intended to ensure continuity across the next chapters. More specifically, the study in 3.3.1 was conceived as a pilot project for the integrated approach to the study of argumentation taken in the volume. As such, it was designed as an exploratory investigation based on a circumscribed corpus. In contrast, the study of *SCI_2* in 3.3.2 builds on the previous one and is more comprehensive and systematic. Not only is it based on a corpus that is more than twice as big as the *SCI_1*: it also differs from the first case study in the way the two main stages of the analysis are combined.

As regards *SCI_1*, the examination of single word forms and phraseology was carried out at the same time, and both were identified according to a single criterion, i.e. their semantic proximity to the subject matter covered by the corpus. Conversely, the investigation of phraseology in *SCI_2* precedes the study of semantically relevant word forms. Furthermore, it widens the scope of phraseology analysis, because it focuses on lexical bundles identified by virtue of their corpus frequency rather than through semantic criteria.

Regardless of their differences, the analysis of right-to-life judgments (3.3.1) and that of EU-related disputes (3.3.2) are closely interwoven. Both were carried out by moving from corpus to text. In this they stand together as a first macro-unit of the research, while the two-step sequence of their methodology is reversed in the case study of political argumentation presented in 3.3.3. As the second macro-unit of the project, the latter does not simply distinguish itself by virtue of its topic, but also because the analysis was performed by moving from text to corpus evidence. In theoretical terms, finally, while the research on *SCI_1* and *SCI_2* was predominantly corpus-driven, that on the *Dev_Corpus* was inherently corpus-based.

Taken together, the two research directions provided in 3.3.1/3.3.2 and 3.3.3 productively combine quantitative findings with qualitative insights, and corpus perspectives with textual inputs. As such, they are argued here to establish a workable, integrated and highly flexible methodological framework for the study of argumentative discourse.

In the next chapter, the findings from the case study on the *SCI_1 Corpus* are presented, whereas Chapter 5 reports the results from the examination of the EU-related judgments in *SCI_2*. Finally, Chapter 6 offers evidence from the analysis of political argumentation based on the *Dev_Corpus*.

CHAPTER FOUR

CASE STUDY 1: RIGHT-TO-LIFE JUDGMENTS

4.1 Introduction

The first case study of the book is about right-to-life judgments as a first example of judicial argumentation. Based on the methodological framework established in Section 3.3.1, the analysis focused on a corpus of authentic judicial opinions by the Supreme Court of Ireland, i.e. the *SCI_1* (cf. 3.2.1). Before reporting the findings of the first corpus-to-text study of argumentative discourse, it is reasonable to devote this section to explaining how and why the topic of right to life can be a suitable candidate for argumentative analysis in public discourse, and one of considerable interest to the Republic of Ireland.

As we saw in Chapter 2 (Section 2.2), the simultaneous pursuit of the inter-related aims of reasonableness and effectiveness is a distinctive trait of argumentative discourse, and it underlies strategic maneuvering (Van Eemeren 2013) as a well-established notion of the pragma-dialectic theory of argumentation. An ingenious way to study strategic maneuvering in context is by making use of framing theory, which has become quite popular in the social sciences.

Frames in communication act as cognitive resources through which people organize reality. Related as they are to the culture in which they are used, they co-determine social reality within the reference cultural framework (Goffman 1986), and they take shape as "words, images, phrases, and presentation styles that a speaker […] uses when relaying information about an issue or event to an audience", so that "the chosen frame reveals what the speaker sees as relevant to the topic at hand" (Chong and Druckman 2006, 100; Scheufele and Iyengar forthcoming).

Accordingly, the process of frame building between the parties confronting each other within competitive settings is crucial in establishing the meaning and interpretation of issues. Viewed rhetorically, framing can be seen as a speaker's/writer's construction of a context "by

verbal means in which what is put forward makes sense to the audience in a way that is in agreement with the speaker's or writer's intentions" (Van Eemeren 2010, 126). The power of framing may be discursively wielded at many different levels, but there is strong evidence that it can be primarily assigned to the argumentative use of definitions (Zarefski 2006).

Definition and defining practices have received extensive coverage in the literature from various inter-related research fields (Riegel 1987; Walton 2005; Dumitru-Lahaye 2010). A standard treatment of definitions in logic is provided by Hurley (2000). In an attempt to elucidate the underlying purpose of definitions as "a group of words that assigns a meaning to some word or group of words", Hurley (2000, 92) classifies definitions into five main types: first of all, stipulative definitions, designed to either coin a new word or assign new meaning to an old term; secondly, lexical definitions, whose aim is to illustrate the meaning a word has been ascribed in natural language, e.g. through dictionary entries; thirdly, precising definitions, which are intended to reduce the vagueness of words; fourthly, theoretical definitions, whereby meaning is established with reference to a conceptual framework against whose background each term is set; and finally, persuasive definitions, which purposefully generate a favourable or unfavourable attitude towards a term and have kindled the interest of argumentation scholars over the last few decades.

The reflexive act of definition has indeed become a favourite subject of investigation in argumentation studies. To begin with, definition has received scrupulous attention on the part of argumentation theorists, who define it as an argument form and seek to devise its structure. Thus, Perelman and Olbrechts-Tyteca (1958) conceive of definitions as standpoints that ought to be supported by arguments, and as arguments defending a thesis. As such, definitions are tools that may be employed to shape up the relationship between a concept and a broad system of thought. Resting on the speaker's or writer's choice, definitions define the correspondence between *definiens* and *definiendum* in quasi-logical terms, and they unveil argumentative strategies such as the dissociation of concepts (Van Rees 2005) and argumentation stemming from emotions (Walton and Macagno 2009).

First of all, the role of dissociation in supporting a point of view may be to restrict the denotation of a concept by separating a prior meaning of the related term from another. The intended effect is to attach a new meaning to the term defined, and one that is favourable to the speaker's or writer's standpoint by reason of the underlying connotation or value judgment. Secondly, the study of argumentation stemming from emotions

further elaborates on the view that the descriptive meaning of a term is in some instances clearly based on its emotive meaning.

The correlation and/or the distinction between descriptive and emotive meaning has been a significant development in the study of language use in argumentative settings. In the early nineteenth century, Jeremy Bentham discussed the ethical and political implications of the concurring as well as value-laden terms "liberty' and 'licentiousness" with reference to the press and its public status. Accordingly, the definition of such appellatives being a prerogative of "those alone, in whose hands the supreme power of the State is vested", Bentham (1824, 275-276) warned against the dangers of confusing one term with the other. If a line is drawn between their respective meanings, he argued, then licentiousness in the press "may be opposed without opposing liberty". Still, "while that line remains undrawn, opposing licentiousness is opposing liberty".

Over a century later, Stevenson (1962 [1944]) advanced a theory in which persuasive definitions are those where descriptive and emotive components co-exist. Their function is to alter the descriptive meaning of a term by increasing its degree of precision, while at the same time leaving its emotive meaning virtually unchanged. The effect of persuasive definitions, which Stevenson associated with widespread words like "good" and "just", is therefore to more or less deliberately bring about a change in people's attitudes by taking advantage of the correlation between emotive and descriptive meanings.

More recently, Macagno and Walton (2008) investigate the argumentative structure of persuasive definitions, and they end up distinguishing between conflicts of values and conflicts of classifications. Their analysis of the persuasiveness of words in terms of argument schemes leads them to convincingly pinpoint what differentiates quasi-definitions from persuasive definitions. In the former, on the one hand, the argumentation is concerned with the confrontation between divergent arguments from values. For instance, the argument that "virtue is desirable, therefore it should be achieved" may happen to be replaced with the one that "vice is original and fun, originality and fun are desirable, therefore vice should be praised" (Macagno and Walton 2008, 545). With persuasive definitions, on the other hand, the key argumentative move lies in the employment of argumentation from verbal classification. Whereas the endoxic premises of the argument from values remain unaltered–e.g. the term "culture" may retain its laudatory meaning in full across conflicting standpoints–the focal point in the argument revolves around a redefinition of the scope of terms such as "culture" and "originality", in order to support different commitments and conclusions.

A theoretical framework is thus established, according to which persuasive definitions "are seen as redefinitions of terms in order to support a conclusion by means of an inference that is often concealed" (Macagno and Walton 2008, 548). The application of the theorisation on strategic maneuvering through framing operations resting on persuasive definitions has been fruitful in a variety of settings, most notably in the field of political argument.

To mention but a few works, Micheli (2011) focuses on argumentative interactions where political confrontation lies in the definition and re-definition of a key-word. In particular, he takes into account frank exchanges of views about the terms *libéral* and *libéralisme* in the discourse of the French Socialist candidates Bertrand Delanoë and Ségolène Royale. Micheli observes that the two words, their normative or descriptive definitions as well as the attitude these may instil, represent the main stakes of the critical discussion between the two politicians. In an American context, furthermore, Zarefski (2006 and 2008) examines the political implications of the definition of the new questioning techniques laid down in the Detainee Treatment Act as either "alternative interrogation techniques" or "torture"; the framing of the terrorist incidents of September 11, 2001 as "acts of war"; and Kennedy's winning re-definition of the notion of "fiscal responsibility" as the capability of keeping the federal budget under control, rather than as the *a priori* avoidance of budget deficits at all costs.

With regard to morally or socially sensitive issues, finally, Plantin (2004) shows how a described episode may arouse emotions in that it represents a potential source of happiness or pain. Accordingly, descriptions can direct the audience's choices with reference to what they see as desirable or objectionable, notably in relation to the values their parent community of speakers identifies with. It follows from this that the way we define "life" and "death" is crucial in determining whether a doctor could be criminally charged for murder for removing the organs of a patient whose brain activities have ceased (Schiappa 1993). And it indeed makes a difference to define "abortion" as a woman's free choice or as an intentional violent act killing an unborn baby (Micheli 2007). Examples such as these show that right-to-life rhetoric has turned out to be an outstandingly delicate matter. Not only has it resulted in a wide range of works in argumentation studies; it has also been highly relevant to the recent political and jurisprudential debate in the Republic of Ireland, most notably in the form of lively controversy over protection of life and women's rights.

Looking back on the last 20-25 years only, the so-called X case–shorthand for *Attorney General v. X* [1992]–provoked great emotional uproar. It concerned a 14-year-old girl who had become pregnant, allegedly as a result of rape. Upon her attempt to move to Britain for an abortion, the Attorney General took out a High Court injunction preventing her from leaving the country. The Court held that the journey being motivated by an intention to terminate the life of an unborn child, it was contrary to Article 40.3.3 (cf. Section 4.3.2 below) of the Irish Constitution. A few months later, the injunction was overturned by the Supreme Court, which ruled that the Article did in fact allow for abortions in cases where a woman's life would be threatened by continuing with a pregnancy. While the Supreme Court's verdict was welcome by pro-abortion groups and liberals, it predictably enraged pro-life supporters. The former believed that women enjoyed the right to travel abroad regardless of their reason for doing so. On the other hand, pro-life groups complained that the 1983 amendment to the Constitution was intended to have "the effect of completely outlawing abortion" (Gallagher 2005: 88).

Twenty years later, Savita Halappanavar's death at University Hospital Galway in October 2012 sparked off considerable dispute in the Irish public opinion. The 31-year-old woman had allegedly asked several times for her pregnancy to be terminated, because she suffered from severe back pain and was miscarrying. Apparently, her request was turned down by hospital staff on the grounds that there was evidence of a foetal heartbeat. After two days, she died of septicaemia and her husband contended that "no doubt she would be alive had she been allowed an abortion".[1] In September 2013, the doctor who treated Mrs Halappanavar and the Health Service Executive were sued by her husband "for negligence".[2]

Less than a year after the Halappanavar case, the Protection of Life During Pregnancy Act was passed and eventually enacted following vigorous political debate. The Act states that terminating a pregnancy is lawful in the event that two medical practitioners "have jointly certified in good faith that there is a real and substantial risk of loss of the woman's life from a physical illness", and the only way to avert the risk is by ending the "unborn human life" (Protection of Life During Pregnancy Act 2013, 8-9). The Act tackled a vital issue arising from the Halappanavar case, but it is likely to stimulate further discussion on the matter. On the one hand,

[1] "Woman dies after abortion request 'refused' at Galway hospital". *BBC News*, November 14, 2012. http://www.bbc.com/news/uk-northern-ireland-20321741.

[2] "Savita's husband to sue her doctor for negligence". *Irish Independent*, September 22, 2013. http://www.independent.ie/irish-news/savitas-husband-to-sue-her-doctor-for-negligence-29596560.html.

pro-life groups might argue that the Act opens the floodgates to a repeal of the Constitutional amendment prohibiting the procuring of a miscarriage. On the other hand, pro-choice activists might retort that the scope of the Act is limited in that only tangentially does it get to the point of the matter, namely women's full right to make a decision about procreation. It may contribute to shaping future debates that the Irish Human Rights and Equality Commission has recently endorsed calls by the UN for Ireland to hold a referendum on abortion "and address the country's 'highly restrictive laws' on sexual and reproductive health".[3]

The outcome of the intense discussion about right-to-life issues in Ireland is beyond the scope of this volume. However, there is little doubt that this is a suitable candidate for argumentative analysis, in the light of the difficult questions it poses and the largely value-laden judgments the answers may entail: How is "the unborn" defined? To what extent do the right to life of the unborn and the mother's constitutional rights interfere with each other? And even beyond abortion, how are children's rights protected and parental rights safeguarded, in case of disputes?

It is interesting to see how an authoritative source such as the Supreme Court of Ireland deals with these issues and articulates its argumentation accordingly. This is the research goal of the present chapter, which combines corpus and discourse tools to investigate the rhetoric–and in that, the argumentative use of definition–of the Supreme Court as the leading player in the Republic's judicial system.

The presentation of results in this chapter reflects the two analytical stages outlined in Section 3.3.1. In 4.2, therefore, the findings of the corpus-driven data-mining survey are provided, whereas 4.3 illustrates the outcome of the qualitative investigation of the argument structure of the two judgments taken as a case in point.

4.2 Data mining: Corpus insights on text "aboutness"

The study of semantically relevant words and phrases from the corpus frequency list shows that the collected judgments exhibit three main thematic patterns we may briefly summarise as follows: first of all, the primacy of family and children; secondly, a genuine concern for the protection of life; thirdly, the deeply controversial nature of cases. To begin with, the centrality of children and the constitutional framework

[3] "Abortion referendum endorsed by Human Rights Commission". *Irish Independent*, October 1, 2015. http://www.independent.ie/irish-news/politics/abortion-referendum-endorsed-by-human-rights-commission-31572711.html.

recognising the privileged status of their natural families, is highlighted by the 151 occurrences of the cluster *of the child*. Not only does this phrase collocate with *family* in the pre-fabricated string *family as the primary educator of the child* in 5.3% of its total occurrences: more significantly still, it collocates with items sharing a clear semantic preference of "protect and vindicate", as it were. Accordingly, expressions such as *constitutional duty to protect the life of the child, in the best interests of the child, with due regard to the natural and imprescriptible rights of the child* or *ensure the welfare of the child* can be noted in 19.8% of the corpus entries of *of the child*.

Moreover, the overall widespread constitutional concern for the protection of life is voiced by the main collocational patterns of the 504 tokens of the term *life* itself. Evidence reveals that the main cluster the word is embedded in is *right to life*, accounting for as many as 21.3% of its occurrences. More specifically, the cluster is part of a large number of semantic sequences whose discourse function is to indicate whose life is protected: the forms [*due regard to* / *acknowledge* / *protection of* + *the right to life of the unborn*] as well as *equal right to life of the mother* are thus often attested. Finally, the controversial nature of the issues addressed by SCI Justices is well elucidated by a smaller share of the entries of *life* and an interesting semantic sequence featuring the word *embryo*. In 41.6% of its 12 occurrences, the cluster *when human life begins* collocates with constructions whose semantic preference of "conflict and widespread disagreement" is beyond dispute–e.g. [*there is generally no accepted truth or dogma* / *there was no clear view or consensus* + *as to* + *when human life begins*]. In addition, the main collocate of *embryo* is *frozen*, so that 20% of *the frozen embryo* are encompassed within a semantic sequence that underlines both the unresolved problem and the vital importance of determining whether frozen embryos may or may not constitute the *unborn* protected by constitutional guarantees: [*the really important question remains* / *the fundamental question is* / *the more serious issue in the appeal is* + *whether* + *the frozen embryo*(*s*) + *can be determined by this Court to have the qualities of human life* / *constitute life of the unborn* / *is the unborn*].

Because the corpus designed for the study covers the area of right to life in the Supreme Court's jurisprudence, the pervasive presence of such sensitive matters may not entirely come as a surprise. However, the first phase of the investigation documented in this section is important for three main reasons. First of all, it suggests which aspects in the SCI's case law on right to life are more prominent than others: as a matter of fact, a comprehensive overview of the corpus shows that it is more articulate than

one might expect, by reason of the fact that it also includes judgments on the alleged and disputed rights of children born in the Republic of Ireland from non-EU citizens. Secondly, data on lexis and phraseology tell us more about the discursive shape systematically taken by the Court's argument about children's rights, the protection of life and the related controversies. Thirdly, it is precisely the frequency of the large patterns retrieved from the corpus that allowed for the identification of the texts on which the second stage of the analysis subsequently focused. In particular, the two cases the above data applied to most often were *N. and N. v. The Health Service Executive and G. and G.* [273 and 283/06] and *Roche v. Roche et al.* [469/06 and 59/07]. The argument structure of the judicial opinion with the lion's share in the Court's final ruling was analysed for both, and is described in more detail in 4.3.1 and 4.3.2 respectively.

4.3 The argumentative use of definition: A case study on two judicial opinions

The previous section provided evidence of both the main aspects corpus texts deal with, and the discourse tools though which these are covered in SCI judgments. The aim of this section is to concentrate primarily on the two cases where the forms illustrated above more consistently appear, in order to isolate the various strands in the Justice's argumentation that proved decisive in settling the dispute, and to explore how the use of definition contributed to crafting the Court's eventual standpoint.

4.3.1 *N. and N. v. The Health Service Executive and G. and G.*

This case was about the custody of N., an infant whose natural parents were N. and N. When the child was born, her parents were still young and feared they could not afford to cater for her needs and provide for her education. As a result, they consented to place the child for adoption, and G. and G. were identified by the Health Service Executive as suitable adoptive parents in whose temporary custody the child was eventually placed. Soon before the adoption order was signed by the Adoption Board with the mother's consent and the whole procedure was thereby completed, however, N. and N. changed their mind, they got married and reclaimed an ultimate right to the child's custody. There followed a lengthy and acrimonious dispute between the infant's natural parents and the prospective adopters, which was settled in the latter's favour by the High Court. Of note, the High Court's standpoint was based on an authoritative interpretation of Section 3 of the Guardianship of Infants Act

1964 by Justice Finlay in the case *In re J.H., an Infant* [1985], whose central passage is reproduced in (1) below (here as well as elsewhere, my emphasis):

> (1) the welfare of the child […] is to be found within the family, unless the Court is satisfied on the evidence that there are **compelling reasons** why this cannot be achieved, or unless the Court is satisfied that the evidence established an exceptional case where the parents have **failed** to provide education for the child and to continue to fail to provide education for the child **for moral or physical reasons**.

Predictably enough, not only in High Court but also in the Supreme Court proceedings considered here did the case bring the parties to an outright confrontation about the definition and correct interpretation of the terms "compelling reasons" and "moral" as well as "physical failure of duty" on the natural parents' part. In the Supreme Court, the judicial opinion that was accepted by the majority of the Court's members and led to the decision that the infant should be returned to her natural family was Justice Adrian Hardiman's. As we are going to see in the remainder of this sub-section, his complex argumentation begins by framing the issue in a way that is most favourable to his argumentative predicament, and it proceeds to a multiple argumentation in whose first and second strand the presence of subordinative arguments can be noted, where definition plays a crucial role.

Justice Hardiman opens his judgment, by choosing the Irish Constitution as the most appropriate context to frame the issue, rather than the 1964 Act mentioned earlier on. An immediate consequence of this is that the perspective from which the issue is seen is highly favourable to the natural family's prospects to regain their child's custody. In a set of joint articles, the Constitution proclaims the family as "as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law" (Article 41) and as the "the primary and natural educator of the child" (Article 42); but what is more, it lays down that once an inquiry under Article 40.4.2 has been ordered, the onus lies on the party currently detaining the child, i.e. the prospective adoptive parents, to justify their custody of her.

In other words, the framing device used at the outset is one that establishes a strong presumption that children's welfare is best secured in the hands of their natural parents, to the point that the burden of proof in arguing otherwise ultimately and invariably rests with the adopters themselves. This point is reinforced by Justice Hardiman with the assistance of influential case law and further pressed through a cultivated

reference to the Bible. First of all, he recalls the main thrust of the SCI's argumentation in both *North Western Health Board v. H.W.* [2001] and *Attorney General v. X* [1992], where the Court's ruling was upheld against any "unwarranted interference with the authority of the family" (O'Flaherty J.). Secondly, he briefly alludes to I Kings 3: 16-28 to support his view that "it is the experience of mankind over millennia that selflessness and devotion" towards children "are very generally found in natural parents". That is the episode where one of the two prostitutes engaged in litigation had shown her willingness to surrender her right to her own baby out of fear that he might be cut in half, and the king wisely decided that she was the contested child's natural mother to grant her his custody.

What follows this meticulous framing operation is a three-strand multiple argumentation. The first strand concerns the definition of "compelling reasons", the first crucial element to determine whether N. and N. were fit to regain their child's custody. Justice Hardiman's reasoning is paraphrased in (2) as a sequence of two premises (a. and b.) leading to the intended conclusion (c.):

(2) a. There must be compelling reasons to rule that the welfare of the child cannot be found within her natural family.
b. There are NO compelling reasons in this case.
c. It cannot be ruled that the welfare of the child cannot be found within her natural family: **the child should be returned to her natural family.**

The minor premise b. plays a pivotal role in grounding the standpoint, and it rests on a redefinition of "compelling reasons" with respect to the interpretation offered by Mr Durcan, the prospective adopters' legal representative. As early as in High Court proceedings, he provided a construction of the phrase whereby the focus shifted onto the adjective *compelling*, virtually excluding the noun it served to qualify: "I say", he claimed, "that it is the nature of what may happen that must be 'compelling', and not the evidence or the burden of proof. The test is met if what may happen is so compelling as to interfere with the welfare of the child". By means of this definition, Mr Durcan successfully persuaded the High Court that what was so compelling as to interfere with the child's best interests was the ongoing feeling of mistrust and hostility between the natural and the adoptive parents. By contrast, Justice Hardiman's redefinition of "compelling reasons" amounts to a full-fledged subordinative argument supporting premise b. through the sound warrant of both the ordinary lexical and the normative constitutional base for defining "compelling reasons":

(3) In my view, there is no support whatever for this construction of the phrase. **The word "compelling" is an adjective and the noun it qualifies is "reasons"**. Unless the basic norms of the English language are to be ignored for the purposes of making an argument, it follows that it is the reasons which must be compelling. The reasons in question are reasons why the welfare of the child cannot be secured or achieved in the natural family. The phrase "compelling reasons" is a fairly familiar use of language. I would not normally subject a passage in a judicial decision to the sort of minute linguistic analysis which is sometimes appropriate in the construction of a statute. But I feel compelled to do so here in order to illustrate that the ingenious argument advanced by Mr. Durcan, which is quite central to this aspect of his case, is wholly insupportable. **The ordinary meaning of the verb "compel", according to the Oxford dictionary, is "to urge irresistibly, to constrain, to oblige, to force"**. A compelling (or coercive) argument is one which, once its premises are established, leaves no option but to accept the conclusion. **The phrase "compelling reasons" is to be understood in the same sense**. Mr. Durcan's argument ignores both the existence of the word "reasons" and the (grammatically and logically) obvious exclusive reference of the word "compelling" to it. If the relevant passage is read as I have found it should be, it requires the Court to be satisfied, on evidence, that there are compelling reasons why the welfare of the child "cannot" be achieved in the constitutional family. **I believe this to be** both the correct meaning of the phrase in the ordinary and natural meaning of the words used, and equally to be **the only meaning consistent with the constitutional context.**

Justice Hardiman's subordinative argument integrates three main components: the Oxford Dictionary's authoritative definition, the pre-modifying nature of the adjective so defined, and the stringent criterion of consistency between the proposed definition of the term and the constitutional framework. The premise that there are no compelling reasons in the case at hand therefore rests both on the fact that the Court is not "satisfied, on evidence" that the welfare of the child cannot be achieved in the natural family, and on the highly-praised conformity to the letter of the Constitution. The latter appears to foreshadow an implicit pragmatic argument.

The notion of "pragmatic argumentation" was first introduced in our review of legal-argumentation studies in Section 2.2.1. For the sake of clarity, we shall even more explicitly define it here as argumentation through which a reasonable critic is invited "to accept a standpoint in which an action is advocated or discouraged" by referring to "advantageous or disadvantageous effects of the action" (Van Poppel 2012, 97). Here, the argument is compatible with Van Poppel's (2012, 101)

"Variant IV" of pragmatic argumentation: Mr Durcan's line of argument should not be accepted, because it fails to bring about the desirable effect of consistency between judicial decisions and the spirit of the Constitution.

The second strand of Justice Hardiman's argument addresses the definition of "moral and physical failure of duty" on the parents' part. The basic structure of his reasoning lends itself to the schematization in (4), where a. and b. again serve as premises supporting standpoint c.:

(4) a. "where the parents have failed to provide education for the child and to continue to fail to provide education for the child for moral or physical reasons", the welfare of the child cannot be found within her natural family.
b. In this case, NEITHER physical NOR moral reasons can be suggested.
c. It cannot be ruled that the welfare of the child cannot be found within her natural family: **the child should be returned to her natural family.**

The absence of physical failure of duty remaining a piece of uncontested evidence in SCI proceedings, the heart of the argumentation in (4) is Hardiman's definition of "moral failure of duty", countering the respondents' allegation that in the current case, placing the child for adoption amounted to a form of "abandonment". In this respect, premise b. aptly rests on subordinative argumentation where the natural parents' conduct is defined as being in absolute conformity with the State's valid law, and therefore morally irreprehensible: case *MOC v. Sacred Heart Adoption Society* [1996] is resumed, along with the binding opinions of Justices Henchy–the "consent [to place the child for adoption] […] does not amount to a waiver or abandonment so as to destroy the mother's rights"–and O'Flaherty–"The correct approach is to regard the mother's constitutional rights as subsisting right up to the time that an adoption order is made by the Adoption Board". Such reading of the natural parents' position–as morally proper as the law permits–is to be read coordinatively with an instance of "Variant II"-pragmatic argumentation (Van Poppel 2012, 99-100) laying out the details of the adverse effects ensuing from an opposite definition of the parents' demeanour (5):

(5) The need to establish "failure in duty" is a bulwark of the rights of the family and its members. Any dilution of the content of the phrase undermines that protection. In this case the respondents have submitted that the parents can be found, for moral reasons, to have failed in their duty towards the child, and this submission has been upheld, without any finding of personal fault. **Such an interpretation risks reducing Article 42.5 of the Constitution to an empty formula**.

Through this statement, Hardiman evaluates the respondents' argument as submitting that natural parents are morally unfit to look after their child, "without any finding of personal fault". Not only, therefore, is the parents' behaviour legally justified, but the prospective adopters' call should not be heeded in that it leads to the undesirable consequence of undermining constitutional protection by reducing Article 42.5 to a meaningless provision.[4]

One last word should be spent about the third strand in Hardiman's judgment. Not much weight is attached to this final strand of his argumentation, which would probably be hardly defensible if it were to stand on its own to support the standpoint that the child should be returned to her natural family. Still, given that this is only one of three strands in a clear case of multiple argumentation, it does nonetheless play a strategic role in undermining the moral status of the respondents. It is an *ad hominem* argument targeted at the social worker entrusted by the Health Service Executive with the task of acting as an intermediary between the natural and the adoptive parents. In (6), the overall credibility of the social worker is questioned by virtue of her close connection with the prospective adopters, which might at face value be hypothesised to shift the heavy burden of (im)moral conduct from N. and N. to the prospective adopters themselves:

(6) […] there were certain unusual features of the pre-adoption procedures. It transpired that the proposed adopters and in particular the lady, were known to certain of the social workers involved, **including the social worker assigned to the natural parents.** Considerations of anonymity make it undesirable to say precisely how this came about. There is however evidence that it came to cloud their relationship with this practitioner, and indeed others. […] there is no doubt that subsequent to the natural mother's request for the return of the child in September, 2005, relations became rather fraught between the natural parents and the social worker. **The latter**, as the learned trial judge found, **was in a**

[4] It should be pointed out that the dispute in general also covered other aspects than those mentioned here. An example is Justice McGuinness's counter-argument to the respondents' submission that the mother's consent to the final adoption order was "not necessary", based on a detailed reading of the Memorandum in Form 10, a statutory form circulated by the *Bord Uchtála* [Adoption Board] on the conditions under which such consensus may or may not be dispensed with. However, such issues are not taken into account in the present analysis, both because they did not alter the substance of the Court's verdict as argued by Justice Hardiman, and because they are not as relevant to the topic of the argumentative use of definitions dealt with here.

somewhat invidious position by reasons of the connection to both couples and this may have resulted in the social worker "expressing in rather stark and emotive terms the effect of the applicants' decision to reclaim custody of her on the [proposed adopters]".

4.3.2 *Roche v. Roche et al.*

The facts of this case were as follows. A married couple trying for children for some time decided to resort to I.V.F (in vitro fertilisation) treatment, which the woman underwent with her husband's consent. Six embryos resulted, three of which were implanted in her uterus, so that she could eventually become pregnant. The remaining three embryos were frozen and placed in storage at a clinic. Soon after the birth of their second child, the couple separated, and years later the woman requested to have the three remaining embryos implanted, which the former husband refused to consent to. Among the numerous grounds of appeal brought by the woman as the appellant in the case, one was that the protection granted by Article 40.3.3 of the Irish Constitution applied to the three frozen embryos she wished she could have implanted. The judgment endorsed by the majority of the Court's members and leading to the ultimate dismissal of the appeal, was delivered by Justice Susan Denham, whose multiple argumentation comprises three main strands: first of all, the definition of the purportedly correct scope of Article 40.3.3; secondly, a brief reconstruction of the relevant statutory context; and thirdly, an effective instance of pragmatic argumentation.

The first and by all means most delicate strand in Justice Denham's argumentation concerns Article 40.3.3, whose relevant passage is reported in (7) below for convenience:

(7) The State acknowledges the right to life of the **unborn** and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.

In the applicant's view, the article acknowledges the presence of life before birth: it hardly takes anyone aback, therefore, that she sought to have the three frozen embryos defined as "the unborn", so that the State would be legally obliged to authorize their implantation in order not to violate their right to exist as a constitutionally protected life form. What is significant, however, is that her line of argument relied on the Irish version of the article. This is of no little consequence, because Article 8 of the Constitution establishes that the Irish language "as the national language is

the first official language", whereas English is only "recognised as a second official language". One far-reaching implication of this is that in case of acknowledged conflict between the two versions the Constitution is available in, the Irish one would prevail. The Irish counterpart of Article 40.3.3 is reproduced in (8):

(8) Admhaíonn an Stát ceart na m**beo gan breith** chun a mbeatha agus, ag féachaint go cuí do chom cheart na máthar chun a beatha, ráthaíonn sé gan cur isteach lena dhlíthe ar an gceart sin agus ráthaíonn fós an ceart sin a chosaint is a shuíomh lena dhlíthe sa mhéid gur féidir é.

Even without approaching the complexity of the language, it suffices to look at the term *beo gan breith* to realise why the appellant decided to rely upon it. As suggested in Ó Dónaill's (1977) standard Irish-English bilingual dictionary and further argued in Ó Cearúil's (1999) highly influential study of the Irish text of the Constitution, *beo gan breith* is somewhat more precise than its English closest equivalent *unborn*: in particular, it literally translates as "living being without birth", which seems to lay greater emphasis on the appellant's argument that the article recognizes the presence of life before the delivery proper, than the more generic *unborn* does. In the attempt to define the purportedly correct scope of Article 40.3.3, the first strand in Justice Denham's argumentation is put forward as two coordinated arguments reported in (9) and (10) respectively:

(9) The word "unborn" is not defined in the Constitution. This case is not about the wonder and mystery of human life. […] It is a matter of construing the word in the Constitution to determine its constitutional meaning. […] **The concept of unborn envisages a state of being born, the potential to be born, the capacity to be born, which occurs only after the embryo has been implanted in the uterus of a mother**. […] There were submissions stressing the word "beo" in the Irish version of the Article. However, both language versions refer to birth or being born. Thus the fact of being born or birth is a factor in both versions. **The beginning of "life" is not the protected term**, it is the unborn, the life capable of being born, which is protected. **The capacity to be born, or birth, defines the right protected.** This situation, the capacity to be born, arises after implantation.

(10) Article 40.3.3° acknowledges the right to life of the unborn. However, due regard is given to the equal right to life of the mother. […] The unborn is considered in Article 40.3.3° in relation to the mother. The special relationship is acknowledged. […] **The right to life of the unborn is not stated as an absolute right in Article 40.3.3°**. Rather, it

> is subject to the due regard to the right to life of the mother. **The right to life of the mother is not stated as an absolute right either**. Article 40.3.3° refers to a situation where these two lives are connected and **a balance may have to be sought between the two lives. Thus the physical situation must exist to require such a balancing act**. No such connection exists between the plaintiff and the three surplus embryos now frozen and stored at the Clinic. **There is no such connection between the lives of the mother and the embryos at the moment.** The relationship which might require the consideration of the right to life of the unborn and the equal right of the mother does not arise in the circumstances.

In (9), Denham deflects the attention from the *unborn* strictly speaking, to a more comprehensive definition of the right whose protection is afforded by the article, notably the *right to life* of the unborn. As the argument goes, protecting the *right to life* of the unborn means *protecting life capable of being born, the capacity to be born, the potential to be born*. Such capacity only occurs after the implantation of embryos; the three embryos have not been implanted and there is no consent between the applicant and the defendant (i.e., the would-be constitutional parents of any resulting child) to implant them.[5] Therefore, no right arises that is protected by Article 40.3.3. One might detect here the presence of dissociation as a strategy to define and interpret the norm in question, because the object of the provision is split in a way that the *unborn*–and with it, the thorny dilemma of determining when life begins–is dissociated from the *right to life* of the unborn (*ceart...chun a mbeatha* being its word-to-word Irish equivalent) as the real and only target of the Constitutional prerogative embodied by the article.

In the coordinated argument (cf. 10), Denham turns the focus to the second half of the text: the right to life of the unborn is not absolute, and neither is the right to life of the mother (*with due regard to the equal right to life of the mother*). Accordingly, a balance must be sought between the two lives (see the adjective *equal*). In order for a balancing act to be sought, a situation of physical connection between mother and *unborn* must exist. No such connection exists here. The connection can only be created through the implantation of the embryos. Still, there is no consent between applicant and defendant to implant them. Therefore, no right

[5] The issue of (lack of) consent to the implantation of the three frozen embryos is discussed at the beginning of Justice Denham's lengthy judgment. Because this turned out to be an exquisitely technical matter of private law related to the forms completed by the former couple before the I.V.F. treatment, and of no immediate relevance to the topic addressed by the study, Section 4.3.2 does not deal with it.

arises that is protected by Article 40.3.3. The two arguments in (9) and (10) look like the two sides of the same coin. They integrate and complete each other while envisaging the same standpoint: in the current case, no situation arises that generates a right falling under the scope of Article 40.3.3.

The second strand in Denham J.'s argumentation expatiates on the wider normative context that led to the constitutional amendment bringing about Article 40.3.3 as its major effect. A first landmark in the country's normative landscape on right-to-life matters, she points out, was the Offences against the Person Act 1861, which addressed the mischief of miscarriage and stated that anyone found guilty of procuring the "miscarriage of any woman" would be convicted of "felony". The Act was designed to prosecute anyone (including the woman herself) liable for the termination of a pregnancy. It was passed by the British Parliament when Ireland was still part of the United Kingdom and it was later retained as a piece of valid legislation under the constitutional framework of both the Irish Free State (1922-1923) and the present-day State (1937/1949). Yet in the aftermath of the English case *Rex v. Bourne* [1939], when Justice MacNaghten declared that an abortion to preserve the life of a pregnant woman was not unlawful, public concern began to heighten in Ireland's catholic public opinion. Because the case was followed in many common law jurisdictions, fears grew that it might one day come to a watering down of the State's criminal law on abortion. As a result, a referendum was called for in 1983, proposing that a constitutional ban on abortion be introduced to copper fasten the normative protection against the procuring of miscarriage. The current text of Article 40.3.3 was the direct result of the outcome of the referendum. Of note, Denham J. posits that the normative context was further refined by Justice Munby in *R. (Smeaton) v. Secretary of State for Health* [2002]. In order to proceed to a more unambiguous definition of the term "miscarriage" than was ever provided by the 1861 statute mentioned earlier on, he drew on an authoritative publication by Professor J.K. Mason–*Medico-Legal Aspects of Reproduction and Parenthood*–to argue as follows:

(11) Something which is external is carried only in the loosest sense–it can be dropped either intentionally, accidentally or naturally. There can be little or no doubt that bodily "carriage" implies some kind of integration with the body or, as Kennedy has said: "**there can be no miscarriage without carriage**".

Viewed rhetorically, the statutory, constitutional and judicial background outlined by Justice Denham serves as a warrant. Through this warrant, a subordinative argument by definition discerning the meaning of "miscarriage" as the mischief the law is concerned with, supports the minor premise of an argumentative strand to be formalised as follows:

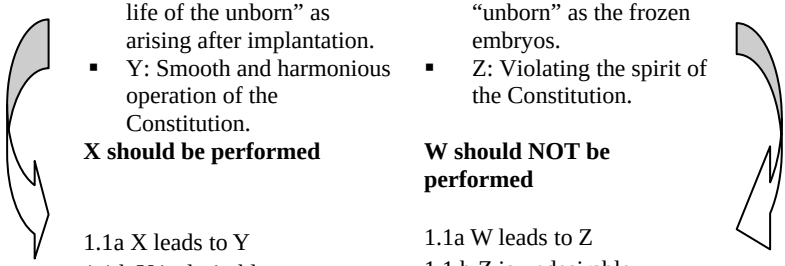
(12) a. The law (the Constitution, statutes and case law alike) lays down that miscarriage is prohibited.
b. In the present case, there is NO miscarriage (there being NO integration of the three frozen embryos with the appellant's body, and therefore NO carriage [cf. Mason, following Professor Kennedy]).
c. Therefore, there is no mischief to be addressed by means of the law in force, in the present case.

As anticipated before, the third and final strand in Justice Denham's argument lies in the deployment of pragmatic argumentation assessing the opposing effects of interpreting the *right to life* of the unborn as arising after the implantation of embryos, and equating the frozen embryos with the *unborn*, respectively:

(13) The interpretation of the "unborn" as arising after implantation is also a harmonious interpretation of the Constitution. Article 41.1.2 states: "The State … guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State." This establishes a strong family unit under the Constitution. […] If the frozen embryos were the "unborn" protected by Article 40.3.3° the State would have to intervene to facilitate their implantation. This would be a duty of the State irrespective of the parents' wishes. Clearly this would be inconsistent with the rights of the family under the Constitution. It would also give to the State a duty to protect all embryos in the State in all the clinics, hospitals, etc., no matter what were the wishes of the parents.

In (13), two coordinated pragmatic arguments are advanced: the first one, schematized on the left-hand side of Table 4.1 below, follows Van Poppel's (2012, 99-100) "Variant I", whereas the second one is an instantiation of "Variant II" and is reproduced in the right column of the table:

Table 4.1. Variants I and II of pragmatic argumentation as coordinated arguments in Denham J.'s third argumentative strand



▪ X: Interpreting the "right to life of the unborn" as arising after implantation. ▪ Y: Smooth and harmonious operation of the Constitution.	▪ W: Interpreting the "unborn" as the frozen embryos. ▪ Z: Violating the spirit of the Constitution.
X should be performed	**W should NOT be performed**
1.1a X leads to Y 1.1.b Y is desirable 1.1a–1.1b' [If X leads to Y and Y is desirable, then X should be performed]	1.1a W leads to Z 1.1.b Z is undesirable 1.1a–1.1b' [If W leads to Z and Z is undesirable, then W should not be performed]

Taken together, the two arguments reinforce the standpoint that the right to life of the unborn only arises after the implantation of embryos. In other words, the current application should be rejected because of the long-term undesirable effects its acceptance would end up producing: were the status of the frozen embryos certified to be that of the *unborn*, the State would have to assume the constitutional duty of facilitating their implantation. In turn, this would set a precedent whereby the State would invariably interfere with the natural parents' constitutionally-attributed authority, by fulfilling a duty to protect all embryos in all clinics and hospitals of the country, regardless of the family's resolve. By contrast, tracing the beginning of constitutional protection to the period following implantation secures a harmonious operation of constitutional guarantees (cf. Doyle 2008), the authority of the family as the basis of social order being faithfully preserved by the fact that implantation only occurs as the result of the natural parents' freely expressed consent.

4.4 Concluding remarks

The findings recorded in Sections 4.2 and 4.3 are significant in more than one respect. First of all, results demonstrate that data-mining techniques such as wordlist frequency and concordance-based analysis are useful tools for a preliminary approach to the corpus as well as for a first-hand corpus-driven retrieval of key-arguments in text. The collocational and phraseological patterns in 4.2 therefore showed which aspects in the SCI's

case law on right to life are more prominent than others, and they provided evidence about the discursive shape of the Court's argument about children's rights, the protection of life and the related controversies.

Secondly, the qualitative case study of the judgments in 4.3.1 and 4.3.2 showed that in the complex structure of the argumentation, the use of definition plays a major role. Indeed, the ethical sensitivity and utmost delicacy of the matters discussed by the Court is such that the suitable definition of key concepts including (but not limited to) "compelling reasons" or the "unborn" is a turning point in the Justice's joint pursuit of the communicative and interactional aims of argumentation (Van Eemeren 2013). We therefore observed that SCI Justices maneuver strategically, first and foremost, by framing issues in a way that leads them to define the crucial terms in the dispute "in agreement with the speaker's or writer's intentions" (Van Eemeren 2010, 126).

In this light, the choice of Articles 40.4.2, 41 and 42 as framing devices in *N. and N. v. The Health Service Executive and G. and G.*, is indicative of a topical potential whereby the mainstream line of argument emanates from the constitutional presumption that children's welfare is best secured with their natural family. The constitutional principles invoked in this case as well as in *Roche v. Roche et al.* (Article 40.3.3 on the right to life of the unborn) are indeed reasonable as normatively legitimate and appropriate to the situation. Moreover, they are effective with a view to parameters of audience demand (Van Eemeren 2009, 132), because the Constitution is recognised by the audience as a primary legal source in the Irish legal system. With regard to presentational choices, electing the Constitution as the point of departure of the Court's argumentation is also significant in terms of the resulting argument structure, in so far as its various strands include different variants of pragmatic argumentation. As a result of the Constitution's centrality and acknowledged authority, judicial interpretations are set and (from the Justice's perspective) conveniently assessed against the backdrop of their compatibility with the constitutional text.

Moreover, the examination of the argument structure of the judgments shed light on the nature of the argumentative use of definition on the part of Irish Justices. Of the different schemes related to definition (cf. Walton and Macagno 2009, 84), the one observed in this chapter seems close to "argument by definition", i.e. [X is Y (therefore R)]. More precisely, evidence from 4.3 suggests that Hardiman and Denham J.'s argumentation interestingly adheres to the guidelines of its negative variant. Accordingly, what their lines of argument share is a conscious attempt to respond to a party's full-fledged persuasive definition by defusing it, as it were. Thus,

the definition of the natural parents' behaviour in the *N. and N.* case as morally unfit to fulfil their parental duties was aimed at engendering an unfavourable attitude towards their conduct, so that the Court might eventually settle the dispute in favour of the adoptive parents, as had eventually happened at a High Court level. Similarly, defining the three frozen embryos as the "unborn" in *Roche v. Roche* was also meant to engender a sympathetic attitude towards the need of protection enshrined in Article 40.3.3.

In both cases, the key judgment in the Court's discourse is crafted as a redefinition of either the basic terms of the dispute (e.g., "moral reasons" behind failure of duty) or the overall scope of the norms concerned (c.f. Article 40.3.3 and its broader normative context). This operation, akin to Macagno and Walton's (2008, 546) view of persuasive definitions as underlain by arguments from verbal classification, was observed to imply that a background concept "endoxically associated to an evaluation" is redefined in order for a particular fragment of reality to be classified outside it. Hence the impression that the multiple arguments isolated across 4.3.1 and 4.3.2 foreshadow a negative variant of argument by definition of the kind [X is NOT Y (therefore ¬ R)]–e.g., the three embryos are NOT the unborn whose right to life is protected by Article 40.3.3, therefore they should NOT be ordered to be implanted.

The argumentative use of definition illustrated above indicates that definitions act as decisive elements within complex argumentative structures. In that context, they generally operate in the framework of multiple argumentation. More specifically, they are embedded in subordinative arguments that support unexpressed premises in the Justice's reasoning by means of authoritative lexical sources (cf. the Oxford Dictionary) or sound normative warrants (i.e., statutory and constitutional norms).

The study in this chapter was conceived as a pilot project for the integrated approach to the study of argumentation taken in the volume. Accordingly, it was designed as an exploratory investigation based on a circumscribed corpus. In contrast, the research on the *SCI_2 Corpus* in Chapter 5 builds on this one and is more comprehensive and systematic. Not only is it based on a corpus that is more than twice as big as the *SCI_1*: it also differs from the analysis reported here in the way the two main stages of the examination are combined (cf. 3.3.2).

CHAPTER FIVE

CASE STUDY 2: EU-RELATED DISPUTES

5.1 Introduction

The second case study of the book is about EU-related judgments as a further example of judicial argumentation. The analysis implements the methods devised in Section 3.3.2, and it again relies on a collection of authentic Supreme Court judicial opinions–the *SCI_2 Corpus* (cf. 3.2.2). The chapter is devoted to the presentation of the main findings of the second and last corpus-to-text study of argumentative discourse. As a preliminary step, however, this section will discuss in detail the reasons why EU-related disputes qualify as a topical question for the Irish public opinion, and hence deserve to be chosen as a vital and controversial issue on which to focus our gaze.

The creation and expansion of the European Union has generated wide interest and increasing recognition across disciplinary perspectives. This has been so for a number of reasons, the first and most intuitive one being that the EU legal framework has brought not only speakers but also different and at times heterogeneous legal systems closer together (Maley 1994; Barceló 1997). Consequently, as the impetus towards the integration of the Member States within the EU gathered momentum, the Union itself progressively increased the range of its activities, so that "friction between the laws of the individual Member States is likely to increase" (Collins and O'Reilly 1990, 322).

With specific reference to individual countries, most notably those with common law jurisdictions, the impact of EU membership has indeed been profound. From a legal point of view, the United Kingdom and the Republic of Ireland have yielded to Community law, i.e. a legal system largely influenced by the civil law tradition, and they had to create a new legal infrastructure to accommodate the influx of vast amounts of EU legislation in economic and social matters (Dimitrakopoulos 2001; Tomkin 2004; Byrne et al. 2014).

In the case of the Irish Republic, a wide array of studies have thoroughly and critically discussed the relationship between the country and the EU, along with any peaks and troughs in the application of EU law within domestic legislation. Going back twenty-five years, Collins and O'Reilly (1990) pointed out that the incorporation of certain provisions in isolated matters such as intellectual property or product liability may not have been as swift as was desired, but this was very much the exception to the rule. In fact, by showing that direct actions commenced by the EEC (now EU) Commission against Ireland had only amounted to an average of one or two per year since the country's accession in 1973, they believed Ireland "to be no different from many of the other Member States of the Communities" (Collins and O'Reilly 1990, 339).

Roughly ten years on, however, the majority of the Irish electorate (54%) voted No in a referendum to ratify the 2001 Nice Treaty, thereby giving a profound shock to the Government, its partners in the Union and the candidate states eagerly awaiting Membership (Laffan and Tonra 2005). In response to a vote hypothesised to reflect the people's belief "that smaller member states would be marginalised by the Treaty" (Byrne et al. 2014, 802), the Government negotiated and obtained the Seville Declaration. In preparation of a second referendum to be held in October 2002, this document essentially stated that no binding mutual defence commitments would be imposed on EU countries by the Treaty. Ireland thus confirmed that its participation to any future EU foreign and security policy would not undermine its traditional policy of military neutrality, and the Nice Treaty was then approved by a majority of Irish voters.

In spite of the political upheaval generated by the 2001/2002 referendum campaigns, Eurobarometer surveys have been rather consistent in reporting the Irish respondents' view that EU membership is good to the country. In autumn 2003, for instance, 73% of participants claimed they were in favour of Ireland's EU membership, while on the question whether the country had benefited from joining the EU so far, "82 per cent of respondents believed this to be the case, the highest figure in the EU" (Laffan and Tonra 2005, 449).

At the same time, a sense of tension between ever closer EU integration and the attempt to preserve sovereignty and control over the national legal system has been documented in more than one scholarly work. First of all, Fahey (2008) deals with the serious repercussions of the implementation of the EU Framework Decision on the European Arrest Warrant (EAW) into Irish domestic law. The EAW was an important provision of EU law designed to replace traditional extradition systems and surrender procedures across Member States. While ensuring that the

EAW surrender procedures may satisfactorily protect fundamental rights norms through s. 37 of the European Arrest Warrant Act of 2003, Fahey explains, the Irish State decided not to accept the jurisdiction of the Court of Justice of the European Union in respect of Third Pillar issues, as of Article 35 of the EU Treaty.

The so-called Third Pillar concerns judicial review aspects and most importantly, judicial co-operation in criminal matters: the refusal to abide by its rules, Fahey contends, has entailed that the Irish Courts have been denied access to the EU Court's interpretation on controversial issues arising out of EAW implementation. As a result, the dramatic increase in unsuccessful challenges on fundamental rights and procedural grounds, along with that in the number of individuals surrendered to other States by Irish courts, is said by Fahey to be symptomatic of the consequences of a somewhat antagonistic stance adopted by the Irish State at a European level.

In the second place, Phelan (2008) points to elements of constitutional disobedience inherent in Irish law with respect to EU legislation. At the outset, the author shows that Article 29.6 of the Irish Constitution underlies the dualist approach taken by the Irish legal order to international treaty obligations such as those deriving from the EU framework. More specifically, Phelan observes that international law has only been effective in the Republic's law as a result of domestic legislation. Accordingly, although EU judges have kept stressing that EU law is in principle directly applicable and therefore binding on national judges, their Irish counterparts have repeatedly disagreed with such views. As Phelan surmises, in fact, Irish judges have constantly tended to conceive of the supremacy and direct effect of EU law as a derivative of successive amendments to the European Communities Act and the norms of the Irish Constitution that introduce EU law into the Irish legal order.

It follows that two possible scenarios might arise, whereby the Irish State could actually legislate expressly contrary to EU obligations. To begin with, the *Oireachtas* might legislate contrary to EU law by explicitly amending the European Communities Act. In association with a referendum of the Irish people, secondly, the *Oireachtas* would be entitled to adopt a constitutional amendment contrary to EU law obligations. By reason of that, Phelan (2008, 549) goes as far as to conclude that

> it is not so much the 'constitutional' claims of European Community law that prevent the member states from legislating contrary to Community law but rather the fact that the member states persistently refrain from legislating to limit the effect of Community law in the national jurisdictions which gives European Community law its 'constitutional' character.

The spate of interest generated by the discussion of the competing pressures on Ireland as an instance of small yet open polity (Stone Sweet 2000; Laffan and Tonra 2005, 459)–i.e., benefiting from EU integration while at once preserving its sovereignty–is a motivation for this research, too. In the context of the growing body of research documented earlier on, this case study offers a corpus and discourse perspective to the examination of the judicial discourse of the Supreme Court of the Republic of Ireland within EU-related disputes. The analysis implemented and combined computer-assisted quantitative methods of language study with qualitative analysis, in the attempt to discern recurrent phraseological and argumentative patterns in the Court's discourse.

In Section 5.2 below, corpus data are presented. In particular, the results of the study of phraseological patterns embedding lexical bundles are elucidated in Section 5.2.1, whereas the main argumentative patterns detected through the qualitative analysis are illustrated in 5.2.2.

5.2 Views of Irish sovereignty: The Supreme Court's discourse on the EU

5.2.1 Lexical bundles: Forms and functions in context

By applying the criteria laid down in 3.3.2 to the *n-gram* list of the corpus, the most frequent bundles were identified. These are displayed in Table 5.1 below with their respective raw and per 1,000-word frequency:

Table 5.1. Most frequent lexical bundles and related frequency

BUNDLE	FREQUENCY (RAW)	FREQUENCY (PER 1,000 WORDS)
of the Act	753	1.014
in respect of	560	0.754
European Arrest Warrant	437	0.588
in relation to	435	0.586
the fact that	394	0.530
the purposes of	260	0.350
the European Union	233	0.313
the basis of	227	0.305
seems to me	213	0.286
the principle of	207	0.278

Moving beyond mere frequency counts, the items in the table could be classified by following the guidelines provided in the literature. To begin with, Pecorari's (2009) sub-division of bundles into "content" and "non-content" forms appears to apply well to a preliminary categorisation: all bundles in Table 5.1 are "content" in that they refer to specific aspects of the contents of the texts, the only exceptions being *seems to me*, *the fact that*, *in respect of* and *in relation to*.

On the one hand, the latter fall within the scope of Biber et al.'s (2004, 381) chiefly syntactic framework: thus, *seems to me* may be said to belong to Type 1 bundles–i.e., those that "incorporate verb phrase fragments"; *the fact that* can be ascribed to Type 2 bundles–namely those that "incorporate dependent clause fragments"; and *in respect of* as well as *in relation to* are definitely to be attributed to Type 3 bundles, which also incorporate prepositional phrase fragments.

On the other hand, "content" bundles can be read in the light of Breeze's (2013, 238) semantic categorisation of lexical bundles in case law texts. Accordingly, they may denote "agents" (*the European Union*), "documents" (*of the Act* and *European Arrest Warrant*), or "abstract concepts" (*the purposes of*, *the basis of* and *the principle of*).

Leaving aside such formal properties of lexical bundles, it is by looking at them in context that one manages to know more about the textual functions they fulfil at a broader corpus level. In this respect, the analysis provided substantial evidence that bundles perform three main functions: first of all, defining the relationship between State and EU law; secondly, indicating peculiarities of the Court's argumentation; thirdly, identifying the core element of the dispute, from the Court's own perspective. These functions are reviewed in the remainder of this section.

The first function, i.e. a definition of the relationship and ever shifting boundaries between Irish and EU law, is served by bundles in four main ways. One of these is the expression of the Court's critical stance towards the EU and the implementation of its norms or policies. This takes the form of two phraseological patterns schematised as follows: (a) [Evaluative marker + *purpose(s)* + *of the Act*]; (b) [Evaluative marker + "objective" + *the European Union*].

The former concerns 13.1% of the co-occurrences between *of the Act* and the lemma *purpose*, preceded by a marker of the Court's critical attitude, e.g. *it is difficult to decipher* or as in (1) below, *there is great difficulty in attributing any effective meaning to*. In (b), *the European Union* typically "collocates", i.e. co-occurs with greater than random probability (Sinclair 1996), with words sharing a semantic preference of "objective"–either the word *objective* itself or a lexicalisation of the

specific objective discussed in the text, e.g. the enlargement of the Union. In turn, this is again preceded by formulations reflecting SCI Justices' negative perceptions about the putative mismatch between proposed legislation and the goals to be pursued at an EU level–cf., *represents a disproportionate implementation of, does not seem to be relevant to* or *problems that would arise from the enlargement of*, as in (2):[1]

(1) That particular part of the section is worth repeating, "a person shall not be surrendered to an issuing state under this Act in respect of an offence unless the offence is an offence that consists of conduct specified in [paragraph 2 of Article 2]". There is great difficulty in attributing any effective meaning for the purposes **of the Act** to that particular provision. (*Minister for Justice v. Ferenca*)

(2) Accordingly, there continued to be a surplus of milk in the community. Various methods were adopted by the EEC of dealing with the resultant problems. Eventually, what was called "Agenda 2000" was adopted by the EEC Commission with a view to preparing the dairy sector for the further problems which would arise from the enlargement of **the European Union** and the liberalisation of trade within the World Trade Organisation. The latter developments would mean, not merely a new threat of surpluses in milk production, but also an undermining of the effectiveness of the quota regime in maintaining milk prices. (*Maher et al. v. Minister for Agriculture et al.*)

In (1), Murray C.J. notes that the obscurity of the reported provision of EU law on the surrender of subjects to another State is indeed what makes its implementation in the domestic legal order so problematic. In (2), similarly, Keane C.J. points to the purported discrepancy between the scope of the Commission's *Agenda 2000* and the scale of the problems related to the milk quota regime within the enlarged Union envisaged at the beginning of the new century.

Another aspect relevant to the first function of lexical bundles in context was the Court's reflection upon and appreciation of the impact of EU law on the domestic legal framework. In this regard, it is noteworthy that in 5.6% of its 233 entries, *the European Union* collocates with items sharing a semantic preference of "consequence" in that they deal with the nature or scope of legislative tools the State had to incorporate into its own legal order by virtue of EU membership, e.g. *was necessitated by the*

[1] In all the numbered examples of the section, the realisation of the patterns identified is signalled by the use of bold typeface for the lexical bundle involved, and an underline for the rest of the pattern. In addition, the case passages are taken from is reported in brackets at the end of each example.

obligations of the membership of (echoing the exact wording of Article 29.4.6 of the Irish Constitution), *a historic transfer of legislative, executive and judicial sovereignty to*, and *as a consequence of Ireland's membership of*–as in (3). A similar pattern applies to the bundle *European Arrest Warrant*: the innovative nature of this document is often discussed in the case law sampled through the corpus, as per the collocation of the bundle with items such as *is a novel instrument*, or *constitutes a complete change of direction* in (4):

(3) The democratic system in Ireland functions through three branches of government. However, in addition, the State is subject to European institutions and provisions made therein. These regulations are directly applicable. These regulations are part of Irish laws as a consequence of Ireland's membership of **the European Union**. (*Browne v. Attorney General et al.*)

(4) The move from extradition to the **European arrest warrant** constitutes a complete change of direction. It is clear that both concepts serve the same purpose of surrendering an individual who has been accused or convicted of an offence to the authorities of another State so that he may be prosecuted or serve his sentence there. However, that is where the similarities end. (*Minister for Justice v. Ostrowski*)

In (3), Denham J. addresses the notion of the direct applicability of regulations, which is argued to be due to the country's full EU membership, while in (4) Mc Kechnie J. delves into the aspects that differentiate prior legislation on extradition from the current regime set up under the EAW.

A context acting as an actual counterpart to the Court's critical stance–as of (1) and (2) above–is represented by those passages where SCI Justices emphasise the value of domestic legislation as a benchmark against which to evaluate EU norms. Interestingly, the bundle *of the Act* recurrently collocates with a specification of the year the legislation at issue was passed, and an evaluative marker through which the Court expresses its satisfaction with the overall quality of the Act mentioned. In 6.5% of its occurrences, [*of the Act* + year] is followed by such markers as *is stated clearly*, *I find no ambiguity* and *terms are very specific and unambiguous*. In (5), therefore, Denham C.J. does more than simply introduce the content of Section 21A of the European Arrest Warrant Act of 2003: she also stresses that that piece of domestic legislation displays a desirably high degree of quality and explicitness:

(5) Under Irish law, s. 21A **of the Act** of 2003, as amended, ensures persons are not surrendered for the purposes of investigation. […] The national law is clear on the requirements it lays down. (*Minister for Justice v. Bailey*)

As a way of expatiating into the relationship between State and EU law, one more aspect worth mentioning is the tendency of SCI Justices to stress the need to make sure that domestic legislation is harmonised with and construed in light of EU objectives and/or principles. This is primarily true of 45.4% of the co-occurrence pattern between the prepositional bundle *in respect of* and the noun *offence*. However, it also applies to a limited amount the collocation entries of *in relation to* with either *a criminal trial* or *framework decisions*. In (6) and (7), the Irish Justice delivering the opinion begins by identifying a specific matter around which the dispute revolves, before suggesting an interpretation of the facts of the case consistent with the overarching EU framework, most often in the field of the highly controversial European Arrest Warrant:

(6) By section 44 of the Act of 2003, Ireland adapted into Irish law Article 4.7.b. of the Framework Decision […]. I construe s. 44 as enabling Ireland to surrender a person **in respect of** an offence alleged to have been committed outside the territory of the issuing State in circumstances where the Irish State would exercise extra-territorial jurisdiction in reciprocal circumstances. (*Minister for Justice v. Bailey*)

(7) The sole matter which I wish to make clear here is that the mere fact that a trial or sentence may take place in a requesting State according to procedures or principles which differ from those which apply, even if constitutionally guaranteed, **in relation to** a criminal trial in this country does not of itself mean that an application for surrender should be refused pursuant to s. 37(2) of the Act. (*Minister for Justice v. Stapleton*)

What the data show so far is that in critically assessing the impact of EU law on the Irish legal order at various levels, the discourse of SCI Justices is indicative of the tension between the growing pressure to incorporate EU law into State legislation as swiftly as possible, and the willingness to emphasise and preserve the prerogatives of the country's domestic law. This aspect has been singled out by legal scholars (cf. Section 5.1), but it is interesting that it can be documented with corpus analytic tools as well.

The second main function performed by the phraseological patterns of lexical bundles lies in their capability of bringing insights into the Court's argumentation. To mention but two examples, the bundle *the principle of* mainly collocates with a precise denotation of the specific principle

considered by SCI Justices, e.g. *conforming interpretation*, *mutual recognition*, *effectiveness* and *proportionality*. In the vast majority of these contexts, what the collocation shows is the Justice's recourse to "argument from substantive reasons". This argument form is observed by Summers (1991, 418) to be common in Supreme Court opinions, where the mode of the argument derives "from an authoritative source of law, such as a statute, or case or legal principle". As far as our opinions are concerned, the most widely mentioned principle appears to be *equivalence*: its use at the basis of the Court's reasoning follows a clear two-part sequence attested for 70.6% of the tokens of the pattern. First of all, a definition of the scope of the principle, testified to by the collocation between *the principle of equivalence* and the verbs *meet* and *comply with*, or the nouns *observance* and *breach*. Secondly, an outline of the criteria for the Court to bear in mind while determining whether the principle itself has been complied with (cf. 8 below):

(8) Observance of **the principle of** equivalence implies, for its part, that the procedural rule at issue applies without distinction to actions alleging infringements of Community law and to those alleging infringements of national law, with respect to the same kind of charges or dues. [...] In order to determine whether **the principle of** equivalence has been complied with in the present case, the national court–which alone has direct knowledge of the procedural rules governing actions in the field of employment law– must consider both the purpose and the essential characteristics of allegedly similar domestic actions. (*TD et al. v. Minister for Justice et al.*)

In addition, the bundle *for the purposes of* includes the verb *assume* among its top collocates. In the greater majority of these occurrences, the discourse of the SCI Justice in question makes use of the larger pattern *even assuming for the purposes of...that*, in order to respond to and criticise someone else's–e.g., one the parties'–causal argumentation. In causal argumentation, "the argument is presented as if what is stated in the argumentation is a means to, a way to, an instrument for or some other kind of causative factor for the standpoint or vice versa" (Van Eemeren and Grootendorst 1992, 97).

In (9) below, O'Donnell J. expresses its own disagreement with the appellant's argument requesting an interlocutory injunction. In order to strengthen his argument, he stretches the potential validity of the plaintiff's case to the extreme (*and even assuming for the purposes of this stage of the argument that*), only to argue that there is no causal connection between the claim that the European law argument can also be

framed in domestic constitutional terms, and the standpoint that the Court should issue the requested injunction:

(9) In analysing the issues in this way, I do not lose sight of the argument made on behalf of the plaintiff that a breach of the Treaties is ipso facto a breach of the Irish Constitution […]. It is apparent however that this constitutional point is an entirely consequential one. It is completely dependent on, and follows ineluctably from, the European law argument. The alleged breach of the Constitution occurs because there is an alleged breach of the Treaties. […] In my view therefore, and even assuming for **the purposes of** this stage of the argument that there is or may be merit in the contention that a breach of the Treaties is a breach of the Constitution (on which I express no view), it adds nothing to the calculation the court must carry out on an application for interlocutory injunction to say that the European law argument can also be framed in domestic constitutional terms. (*Pringle v. Government of Ireland et al.*)

As regards the third function fulfilled by the phraseology of bundles, notably the identification of the core element of the dispute from the Court's own perspective, this is primarily shown by *seems to me*. As an indicator of "stance expression" (Breeze 2013, 245), the bundle tends to collocate with evaluative markers such as *it is important to keep in mind that* or *significant weight needs to be attached to*. In 4.7% of these cases, what underlies this pattern is the SCI Justices' intention to lay appropriate emphasis on what they single out as the key-issue in the dispute. In (10) below, it is significant that in pronouncing judgment in a sensitive case on asylum applications, Hardiman J. points out that public interest is a parameter of paramount importance in securing a rational and effective immigration system (*seems to me to constitute a grave and substantial matter of high importance*):

(10) All these considerations emphasise the social and legal need for a proper discretion in these cases to be exercised with due regard to the individual circumstances of applicants (including applicant families) and the common good of the Irish community. This includes the public interest in a fair rational and effective asylum and immigration system. This interest **seems to me** to constitute a grave and substantial matter of high importance. (*Minister for Justice v. Osayande et al.*)

5.2.2 Argumentative patterns: A (re)negotiation of Irish sovereignty?

As we saw in Chapter 3, the second stage of the analysis lay first of all in the identification of the most frequent word forms related to the judicial subject matter of the corpus, i.e. EU-related disputes. Based on the *Wordlist* generated for the corpus, the terms extracted from the first 1,000 items in the list are reported in Table 5.2 below. Of note, *interest* was included because in a number of its occurrences, its preferred collocational environment was *national interest*, which made it relevant to the search.

Table 5.2. Most frequent word forms related to corpus subject and related frequency

WORD	FREQUENCY (RAW)	FREQUENCY (PER 1,000 WORDS)
jurisdiction	682	0.918
Constitution	656	0.833
interest	282	0.379
sovereignty	133	0.179

Upon close corpus scrutiny, it turned out that these terms were most often attested in the judicial opinions of case *Thomas Pringle v. The Government of Ireland and the Attorney General* [339/2012]. The facts of this case can be briefly summarised as follows. In response to the ongoing economic crisis affecting the Eurozone, EU-Member States that were part of the euro area agreed the Treaty Establishing the European Stability Mechanism (hereinafter, the ESM Treaty) in July 2011. The Treaty was conceived to establish closer co-operation mechanisms among the States, so that funding could be mobilised to support those members of the Eurozone in financial difficulty. In the Republic of Ireland, the ratification of the Treaty proved highly controversial, as its text was put through the *Dáil* by means of a guillotine procedure. Some remarked that that "precluded close parliamentary analysis of the terms of the treaty and their implications for Ireland", so that "the debate tended instead to be reduced to set piece presentations with only limited time for debate" (Noonan and Linehan 2014, 132). In the aftermath of the debate, Independent TD–i.e. MP in the Republic–for Donegal South West Thomas Pringle challenged the ratification of the Treaty on the grounds that the Government had violated the country's sovereign rights. Hence, he applied for an interlocutory injunction restraining the Government from depositing the

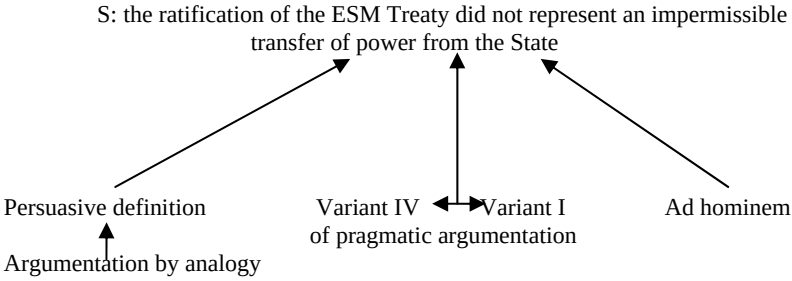
instrument of ratification. The dispute eventually landed on the bench of the Supreme Court, who pronounced judgment on 19 October 2012.

The *Pringle* case was indeed a complex one by virtue of the political and financial aspects it led the Court to consider. However, of all claims lodged by the plaintiff, the so-called "sovereignty claim" was arguably the most important, relying as it was on both the Irish Constitution and the Court's own case law. To begin with, Article 1 of the Constitution states that the "Irish nation hereby affirms its inalienable, indefeasible, and sovereign right to […] determine its relations with other nations". Furthermore, a passage in Walsh J.'s opinion in the well-known case *Crotty v. An Taoiseach* [1987] stressed that "the essential nature of sovereignty is the right to say yes or to say no". According to Mr Pringle, by denying the Irish people the right to say yes or no to the Treaty in the form of a referendum, the Government had infringed the nation's right to determine its relations with the other nations involved.

The Supreme Court ultimately dismissed Mr Pringle's appeal with a majority judgment only Hardiman J. dissented from. The qualitative analysis of the occurrences of the terms in Table 5.2 above showed that it did so on the basis of a multiple argumentation illustrated in the rest of this section.

In *Pringle*, we may note that the arguer being obviously the SCI, the Court's standpoint (S) was that the ratification of the ESM Treaty did not represent an impermissible transfer of power from the State to the new supra-national institutions set up by the Treaty. The structure of the Court's multiple argumentation is such that the standpoint rests on three independent arguments: the first is an argument from persuasive definition; the second rests on the deployment of pragmatic argumentation; and the third is an instance of argumentation *ad hominem*, as schematised in Figure 5.1 below:

Figure 5.1. The SCI's multiple argumentation in *Pringle*



Beginning with argument from persuasive definition, it does not come as a surprise that the key-term to be defined in the dispute was "sovereignty". Looking back at Irish history and the long struggle for independence, the notion of sovereignty was crucial to the establishment of the new country.

When a Constitution Committee was charged with the daunting task of drafting a constitution for the Irish Free State in January 1922, a primary concern of the members was to lay the foundations of a State where all powers would have to be derived from the people of Ireland. As Cahillane (2011) argues, "the declaration of popular sovereignty was also seen by the people as a Republican aspect of the Constitution; a sign that the Irish Free State was not going to be controlled by the Crown" any longer.

In his seminal work on the Irish-language version of the Constitution, Ó Cearúil (1999, 59) points out that the adjective "sovereign" in the English version of Article 1 translates the Irish *ceannasach*, which is "based on 'cennas' (translated as 'headship, lordship, superiority, precedence' [...])" and is "in turn based on 'cenn' ('head')". In an attempt to further stress the cultural significance of the word and its underlying notion, Ó Cearúil shows that *ceannasach* is also contained in the Irish version of the 1916 Proclamation of the Irish Republic, a watershed in the country's recent history. Mr Pringle's argument, firmly rooted in the overall cultural value attributed to "sovereignty" in Irish statehood, therefore advanced a strong argument requiring all of the SCI's rhetorical skills to be defeated.

In that regard, the Court's line of argument becomes clear from two passages by O'Donnell J. and Clarke J. respectively reported below as (11) and (12):

(11) …in many cases the entry into an agreement may also create restraints on the freedom to enter into any inconsistent agreement. It is indeed in the nature of international relations, and expressly contemplated by the Constitution, that states will make treaties, enter into trade agreements, form alliances, join groups and assist in the setting up of international bodies with agreed mandates and which on occasion may have adjudicative functions. There is no sense in which Ireland or any other state can remain completely free to say no, once it has entered into any such agreement, alliance, grouping or body. It is the decision to enter into an agreement or alliance which is the exercise of **sovereignty**.

(12) It would be a strange conclusion indeed if that broad discretion was to mean that the Government could not, as a means of exercising that discretion and, thus, exercising its **sovereignty**, enter into what must be the most usual way in which sovereign states exercise their sovereignty, i.e. by agreeing with other sovereign states to pursue a specified policy in

> a specified way. Many legitimate policy objectives which the Government, in exercise of its constitutional entitlement to formulate and implement foreign policy, might wish to pursue can only, as a matter of practicality, be achieved by entering into bi-lateral or multi-lateral treaty arrangements with other countries of like or similar mind with a view to securing specified ends. Characterised in that way, it seems to me that the ESM Treaty is, as was argued by counsel for the State, an exercise in **sovereignty** rather than an abdication or transference of sovereignty. It involves an immediate commitment which is finite in the sense that it cannot be increased without the agreement of Dáil Éireann. It is no different, in principle, to the allocation of monies to any international purpose without the expectation of their return.

In both passages, the SCI Justice proceeds to persuasively re-defining the term "sovereignty". As we mentioned in Chapter 4 as well, Macagno and Walton (2008, 546) establish that persuasive definitions entail an "argumentative move [...] based on the employment of argumentation from a verbal classification" of the notion that is central to dispute resolution. In (11) and (12) above, more precisely, the SCI Justices propose a definition of "sovereignty" as a country's free and unconstrained decision to enter into an agreement or alliance. In this vein, the Irish Government's decision to have the ESM Treaty ratified in the prospect of joining the other signatories was, as per Clark J., more of a legitimate exercise of a sovereign right than an abdication or transference of sovereignty. The crucial rhetorical mechanism here is therefore to retain the cultural significance and overall praiseworthy nature of the notion of "sovereignty" as a value in Irish public discourse, while at the same time re-defining its core meaning in a way that supports different commitments and different conclusions from those called for by the appellant.

In order to consolidate the strength of the argument from persuasive definition, O'Donnell J. and Clarke J. support it with a subordinate argument by analogy unfolding through (13) and (14) below:

(13) …it cannot be suggested that Ireland retains a freedom not to abide by sanctions imposed by a UN resolution, even if Ireland considered that the sanctions were misguided, or that it stood to gain considerably by continuing to trade with the State in question. I do not see however, that that involves any loss of **sovereignty**: indeed I consider that the Constitution contemplates matters such as membership of the UN as an exercise in the sovereignty of a small country which at the time of the adoption of the Constitution was anxious to secure international recognition of its status as a nation.

(14) If, in accordance with the policies of the institutions of the United Nations, sanctions are imposed on a country in accordance with the UN treaties, Ireland will be bound, as a matter of international law, to enforce those sanctions. That would be so even if it were to transpire that the Irish Government was not entirely comfortable with the imposition of sanctions on the country in question. However, the underlying policy behind the imposition of sanctions by the UN (including the circumstances in which a decision to impose sanctions might be adopted) is one to which Ireland subscribed by joining the United Nations. Powers conferred by the Constitution cannot be given away or "fettered", to use the term adopted by Hederman J. in Crotty. But in international relations, as in very many other areas of public and private life, freedom to act will often, as a matter of practicality, involve freedom to make commitments which will, to a greater or lesser extent, limit one's freedom of action in the future. Persons are free to enter into lawful contracts. However by so doing the person concerned may restrict their ability to enter into other contracts in the future. […] A person might commit to a contract of employment for (say) five years. In so doing it seems to me that such a person is exercising freedom of contract. To say that such a person has lost the freedom to deal with their services in whatever way they wished (within the law) would, in my view, be a mischaracterisation. Any contract of employment will, to some extent, restrict the right of the employee for some period into the future.

By reading through (13) and (14) taken together, one notes that the parallel is between the country's membership in the ESM Treaty on the one hand, and its belonging to the United Nations as well as commitment to an employment contract, on the other. More specifically, the Irish Government's decision to push the Treaty through the *Dáil* and the latter's decision to endorse it are described as having the same consequences as Ireland's choice to be a UN member as well as anyone's choice to sign a contract of employment. Upon entering into the ESM Treaty, accordingly, the *Dáil* exerted a free, sovereign right, which may bring about a number of benefits as well as the downside of an inevitable restriction to the country's future freedom to act.

This is also suggested to hold true for Ireland's free determination to join the United Nations long ago. While the country is likely to benefit from taking part in the international community's decision-making processes, this may also mean that it will have to accept the sanctions imposed on other countries as a result of UN resolutions, whether it agrees with the sanctions or not. Similarly, anyone committing to an employment contract for, say, five years, may enjoy the advantages of such free decision–e.g. high wages, favourable pension schemes, lengthy holidays. However, the free act of signing the contract will also result in restrictions

to the employee's rights during those five years. Based on Juthe's (2005, 19) conceptualisation, the argument scheme behind the analogy can be reconstructed as follows:

(15) (1) A has *x* and *y*.
(2) B has *x* and *y*.
(3) C has *x* and *y*.
(4) It is by virtue of *x* and *y* that A and B are P.
Therefore, C is P.

Here, A is Ireland's UN membership, B is the signing of an employment contract, and C is the ratification of the ESM Treaty. Furthermore, *x* and *y* are, respectively, the benefits and the inevitable limitations inherent in situations A, B and C, whereas the predicate P should be read as "is legitimate and acceptable".

In keeping with Snoeck Henkemans (2003), the subordinate argumentation here does not support an unexpressed premise, but rather another argument, i.e. that from persuasive definition. In this way, the whole of the SCI's reasoning so far could be summarised as: "Because of its analogy with other comparable situations, the Government's decision to have the ESM Treaty ratified was legitimate and acceptable. It is within the scope of a Government's exercise of a sovereign right to perform such legitimate and acceptable acts. Therefore, the ratification of the ESM Treaty did not represent an impermissible transfer of power from the State".

In its rhetorical capacity, the subordinate argument lends further support to the standpoint in response to a potential rejection of the argument from persuasive definition–i.e., something along the lines of: "Alright, but even assuming that joining the ESM is the exercise of a sovereign right, is it right and fair for the Irish people to have to endure decisions by the ESM institutions they may disagree with?".

As schematised earlier on, the second argument supporting the SCI's majority standpoint S is pragmatic argumentation. Under the present circumstances, the deployment of pragmatic argumentation is constituted by two coordinated variants of pragmatic argumentation in O'Donnell J.'s opinion, respectively reported below as (16) and (17):

(16) It is entirely inconsistent with the **Constitution**, and in particular the first two sub articles of Article 29, to conceive of Ireland being obliged to adopt a position of splendid isolation from other countries so that it could only engage in agreements in which Ireland (perhaps alone) insisted upon

a veto over all future decisions, and indeed the right to resile from decisions already made and matters already agreed.

(17) But it is not necessary to address and resolve such issues here because in my view, it is very clear that the Government was fully entitled to conclude that it was in the **national interest** of Ireland, a country whose currency is the euro and which has suffered significant financial instability, to enter into an agreement which provides for support of the Eurozone generally, or for the economies of individual countries therein. In the circumstances I would dismiss the appeal on this issue.

In (16), Van Poppel's (2012, 101) "Variant IV" of pragmatic argumentation is instantiated. In O'Donnell J.'s view, thus, a decision not to join the ESM Treaty–cf., *Ireland being obliged to adopt a position of splendid isolation from other countries*–should be avoided on the grounds that it would fail to lead to the highly desirable result of acting consistently with the first two sub-articles of Article 29 of the Irish Constitution. In (17), Van Poppel's (2012, 99) "Variant I" of pragmatic argumentation can be observed: here, the Irish Justice's perspective is that the action of entering the ESM–*an agreement which provides for support of the Eurozone* [...] *or for the economies of individual countries*–should be performed because it would bring about the desirable result of pursuing the national interest. By borrowing Van Poppel's model, the two coordinated variants are respectively schematised as (18) and (19):

(18) 1 Action X [**adopt a position of splendid isolation (i.e., not joining the Treaty)**] should not be performed

1.1a Action X does not lead to Y [**consistency with the Constitution**]

1.1b Y is desirable

1.1a-1.1b'(If Action X does not lead to Y and Y is desirable, then Action X should not be performed)

(19) 1 Action X [**entering the ESM**] should be performed

1.1a Action X leads to Y [**the national interest of Ireland**]

1.1b Y is desirable

1.1a-1.1b'(If Action X leads to Y and Y is desirable, then Action X should be performed)

The two argument schemes in (18) and (19) are coordinated because read in conjunction with each other, they "constitute a single attempt at

defending the standpoint", while the argument in (19) is added to that in (18) "to overcome the doubt or answer the criticism that it is insufficient" (Snoeck Henkemans 2003, 410). In this case, the strength of the first argument–notably, that rejecting the ESM Treaty altogether would be contrary to the letter and the spirit of the Constitution–may be resisted by a challenging view. This is the notion that in spite of the desirable consistency with the Constitution ESM membership would guarantee, entering the Treaty should not be taken at face value as an advantage to the country. In turn, however, this potential criticism is reversed by the second argument, whose repairing function is to show that it is definitely in Ireland's interest to ratify an agreement providing for support for the economy of individual signatories.

Finally, the third argument scheme employed by SCI Justices again in O'Donnell J.'s words, is an *ad hominem* argument. This kind of argument was also briefly identified in Chapter 4 (Section 4.3.1). It has often been picked out in argumentation theory as fallacious, because it attacks an opponent's argument by questioning their overall personal credibility instead of addressing the substance of the argument itself (*ad rem*). An evaluation of the quality and appropriateness of argument schemes is beyond the scope of this research, whose task is to provide for a descriptive account of the observed argument forms. The *ad hominem* retrieved in the *Pringle* case is illustrated in (20) below:

(20) If the injunction sought is granted, then the one thing that cannot be done, and can never be done whatever the subsequent outcome of this case, is that Ireland should proceed to ratify the Treaty at that time which the body entrusted with that decision had decided it was in Ireland's **national interests** to do so. It is manifest that there is nothing that the plaintiff or indeed this Court could do to remedy that damage. It is also truly remarkable that on this application the courts should be invited simply to disregard that stark statement, and to accept instead the assertion of the plaintiff, who lacks both the constitutional function and it appears any professional expertise to make such a judgment, that Ireland is fully funded until 2013 and that therefore no damage will be done to Ireland's **national interest** by a delayed ratification, even if it should later transpire that such ratification would have been perfectly lawful.

In (20), O'Donnell J.'s support for the legitimacy of the ratification of the ESM Treaty takes the form of an open refutation of Mr Pringle's case. Significantly, the Court is invited to disregard the TD's views on the grounds that his lack of constitutional capacity and professional expertise are far from qualifying him as someone suited to evaluate what is or is not

in Ireland's national interest. The underlying argument scheme could therefore be reconstructed as shown in (21), i.e. in line with Walton's (2004, 361) "direct *Ad Hominem* argument":

(21) The plaintiff is a person of defective character.
Therefore, the plaintiff's argument should not be accepted.

5.3 Concluding remarks

The findings presented over the whole of Section 5.2 may be read at various levels. First of all, they provide evidence that corpus-driven tools can be a rich source of insights about the texts under investigation, as far as the study of lexical bundles is concerned. In spite of their lack of inherent idiomaticity, these were observed to act as significant "lexical units that cut across grammatical structures" and "have identifiable discourse functions, suggesting that they are important for the production and comprehension of texts" (Biber 2006, 155). Although Biber's research mainly focuses on university classroom teaching and textbooks, its value can fruitfully be extended to judicial texts, too.

Bundles were described in 5.2.1 as keys to judicial discourse as a practice and system of statements that systematically construct the object of which it speaks (Baker 2006). In the case of the study undertaken here, that "object" was the European Union, or even more precisely the underlying tension between State and EU law, a critique of the Union or the implementation of its policies and a genuine appreciation of domestic legislation, coupled with an assessment of the impact of EU law and the inevitable need to harmonise the Republic's legal order with EU objectives and/or principles. The findings may be indicative of the oft-taken-for-granted yet at times problematic relationship between the European Union and its Member States, especially when it comes to traditionally pro-EU countries such as Ireland: hence the potential interest of replicating an analysis such as that proposed here to other comparable national contexts.

Secondly, the data reviewed in 5.2.2 show that corpus investigations can be an effective strategy to map large amounts of data for the purpose of isolating and studying widespread argument schemes and their relationship within the overall argument structure (cf. also Mazzi 2015b). As we suggested in Chapter 2, the theoretical elaboration of argumentative patterns provided by argumentation studies is accurate and highly sensible (cf. Feteris 2015). However, it can only serve limited analytical purposes unless it addresses the issue of how to reliably identify a text sample to which theoretical models can be applied and tested. Here, the

implementation of corpus methods was significant. In fact, it allowed for the identification of representative data on a smaller scale–i.e., the *Pringle* case–in order to carry out the fine-grained argumentative analysis of Section 5.2.2, documenting the construction of multiple argumentation around the occurrence of the terms (e.g., *sovereignty*) identified at the outset.

Indeed, the crafting of the Court's argument corroborates the findings in 5.2.1 in so far as the argument from persuasive definition is suggestive of the SCI's favourable view of a broad notion of "sovereignty", while the schemes of pragmatic argumentation are more narrowly focused on consistency with the Constitution and the pursuit of national interest as primary criteria. This aspect is of no secondary importance, since it should be agreed that "in order to have confidence in a method" such as corpus analysis, "we must also check its results on small texts which are within the narrow limits of human observation" (Stubbs 2001, 125).

Predictably, some legal commentators might suggest that the centrality of a case such as *Pringle* could be easily grasped even without recourse to corpus tools. On the one hand, it is right and fair that *Pringle* has generated a spate of interest on the part of legal scholars. For instance, Cahill (2014) thoroughly discusses *Pringle* as a landmark decision that documents the revival of the doctrine of implied amendment in the Irish system. In particular, as Cahill (2014, 4) argues, despite its formal rejection after the enactment of the 1937 Constitution, the doctrine has been revived in *Pringle* in the form of the "test of treaty comparison", whereby "finding that the treaties have sufficiently similar characteristics [...], the Court will hold that parliamentary ratification suffices", and no referendum is needed to amend the Constitution accordingly.

In addition, Noonan and Linehan (2014, 129) propose that "the judgment reveals much that is of interest about the nature of legal reasoning, in particular the blend of text, background purpose, and teleology that constitutes the very essence of legal discourse". In this vein, they delve into what they see as the major procedural aspects of the case, e.g. the tight timescale for the Irish courts to examine the issues raised, and the composition of the EU's Court of Justice as it sat for a preliminary ruling on the case.

On the other hand, it should first of all be pointed out that the study of the procedural matters and technicalities of jurisprudence is neither offset nor questioned, but rather profitably integrated by the application of quantitative and qualitative methods to the investigation of judicial texts. In fact, corpus linguistics needs not only and not necessarily be seen as a primary source of insights–as it has been over Chapters 4 and 5–but also

as a handy tool and a flexible instrument to check and support the trained analyst's first-hand intuition. Secondly, the fact that corpus findings may either integrate or indeed overlap with the legal scholars' research skills should neither surprise nor disappoint anyone. In keeping with Stubbs's (2001, 143) views, although "the method seems to add little to what an intelligent reader knows already", the fact remains that "we would be rightly suspicious of a technique which was completely at odds with the interpretations of trained readers".

By using corpus methods at the inception of argumentative analysis, we might indeed "have the beginnings of an explanation of the human reader's interpretation, because we can make explicit some of the textual features which a human reader (perhaps unconsciously) attends to" (Stubbs 2001, 143). This was the case with lexical bundles like *in respect of* or *in relation to*, which provide the "frame" enclosing the key "slot" of the legislative item to be harmonised with EU law (Biber 2006, 172). Overall, therefore, the data reported in the chapter may suggest that legal scholars' expertise is likely to benefit from a sound textual basis enriching or consolidating their specialised profile.

This chapter closes the part of the volume dedicated to the study of judicial argumentation. The next chapter will mark a shift from Chapters 4 and 5 in both topic and methodology. First of all, it will deal with political argumentation. Secondly, it will reverse the sequence of analytical steps followed so far: in an equally productive search for argument structure and associated linguistic indicators, as we shall see, the qualitative text analysis preceded the interrogation of the larger corpus.

CHAPTER SIX

CASE STUDY 3: DE VALERA'S RHETORIC

6.1 Introduction

The last case study of the book is about Eamon de Valera as a fine example of political argumentation in Ireland. The Long Fellow's life and political stature left an indelible mark on the country's recent history, and most notably on its transition to independence from British rule. In this chapter, the findings of the analysis of de Valera's argumentative discourse based on the guidelines set out in 3.3.3 are presented. Prior to accomplishing this task, however, it seems appropriate to spend a few more words about the Irish leader to fully appreciate his significance, if anything to the benefit of the non-Irish reader.

Born in New York City on 14 October 1882, he was sent to Ireland to live with his maternal uncle's family at the age of two. While living on their farm in Co. Limerick, Ryle Dwyer (2006) tells us, de Valera read books about the French Revolution and Scottish mythology. He seemed to know little about Irish history, because he did not study it at school. Although he was later to credit "the local parish priest, Father Eugene Sheehy, with introducing him to nationalist politics" (Ryle Dwyer 2006, 5), he was slow to express any real interest in it. During the second year of university study, de Valera was required to present a paper to the local debating society. In what could be seen as a softening of his otherwise conservative views, he advocated the establishment of a free Irish Parliament in College Green. This, he is reported to have said, would have put the vexing question of Ireland's sovereign rights to rest for ever. That was a night of February 1903, when the seeds were set that "later blossomed into his ardent nationalism" (Ryle Dwyer 2006, 6).

Ryle Dwyer's account of de Valera's role in the events of the following two decades–from his participation in the Easter Rising to the imprisonment in Kilmainham Gaol, and from the early negotiations with the British Prime Minister Lloyd George to his anti-Treaty stance in the

civil war–is vivid. At the same time, it is symptomatic of how utterly divisive de Valera has been in the Irish public debate. To begin with, Ryle Dwyer describes his behaviour during the *Dáil* debate on the Anglo-Irish Treaty of December 1921 as singularly inappropriate. Thus, he states, whenever de Valera "wanted to say something he just interrupted, as if he had a right to determine procedure himself", while "his opening remarks were patently dishonest" (Ryle Dwyer 2006, 236). In the final part of proceedings, Ryle Dwyer adds, Arthur Griffith was supposed to have the last word before the vote was taken. This was due to his capacity as the proponent of the resolution exhorting the *Dáil* to approve the Treaty. Still, "de Valera again violated the procedure" (Ryle Dwyer 2006, 236) as he entered a further protest to invite the deputies to reject the Treaty, and have his own Document No. 2 on external association approved instead. Finally, Ryle Dwyer (2006, 336) accuses de Valera of inconsistency, and he describes his attitude towards the oath of allegiance to the British King as an "aboutface". He first rejected the Treaty on the grounds that the oath was incompatible with the aspirations of the Irish people. After the general election of June 1927, nonetheless, no matter how boldly he proclaimed he would not bind himself to it, de Valera eventually signed the book containing the oath, before he and his *Fianna Fáil* colleagues were allowed to take their seats in the *Dáil*. De Valera's seamless integration into the Free State's parliamentary life, let alone his reiterated and successful attempts to dismantle the Treaty in the 1930s (Kee 2000 [1972], 749-750), are interpreted by Ryle Dwyer (2006, 337) as evidence that "Michael Collins was right in his assessment that the 1921 agreement could be the stepping stone to the desired freedom".

Ryle Dwyer's is a joint biography of Collins and de Valera, and as such it cannot entirely focus on the latter's profile. The author of the present volume is in no position to verify the accuracy of Ryle Dwyer's theses. However, it seems a bit of a shame that his insightful reading of de Valera's figure contains trenchant criticisms, while at the same time falling short of revealing the complexity of his lasting imprint on post-civil war Irish politics. In flicking through the pages of the last chapter of his *Big Fellow, Long Fellow*, one is indeed left with the impression that there is little to de Valera's political significance beyond a crude comparison with Collins and the long shadow that would cast on contemporary Irish political debate.

Since Ferriter's (2007) work is exclusively devoted to an appraisal of de Valera's contribution to Irish politics, his research contains a balanced assessment of the peaks and troughs of his long tenure within Ireland's public service. Among the criticisms de Valera was to draw, on the one

hand, Ferriter mentions his defence against allegations that he made money from the *Irish Press*, and a putatively outdated concept of women's social role, as emerges from the 1937 Irish Constitution. As regards the former, the *Irish Press* was a daily newspaper founded in 1931, for the establishment of which a major fund-raising campaign was orchestrated. The *Press* soon evolved into a high-quality newspaper, and de Valera served as its controlling director while at the same time remaining in office as *Taoiseach*. Upon being questioned about any incompatibility between a top position in a commercial enterprise and ministerial office in December 1958, de Valera replied that none of his actions could be held inconsistent with the dignity of the *Taoiseach*'s office, a defence Ferriter (2007, 351) labels as "unconvincing".

As for the protests that followed the enactment of the Irish Constitution, Ferriter notes that these were sparked by such sections as Article 41.2.1-2:

> The State recognises that by her life within the home, a woman gives to the State a support without which the common good cannot be achieved. The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

Letters are reported to have been addressed to de Valera by international organisations including the International Alliance of Women for Suffrage and Equal Citizenship and the Six Point Group in London. These complained that such clauses were an insult to women's dignity and were indicative of a "fascist and slave conception" of them as non-adult people, whose weakness justifies that their place be in the home only (Betty Archdale's letter in Ferriter 2007, 239).

On the other hand, de Valera's achievements stretch over a wide array of policy issues. From a constitutional point of view, de Valera engaged in constructive dialogue with John Charles McQuaid, Holy Ghost Father, headmaster of Blackrock College and Archbishop of Dublin, who sought to influence him in the draft of many a section of Ireland's fundamental law. As Ferriter (2007, 199) argues, a careful scrutiny of the correspondence between the two "reveals the extent to which McQuaid helped him with the Constitution, but also that they did not always arrive at the same conclusions". This was to result in de Valera resisting the pressure to declare Ireland a Catholic state, and in the country being provided with a good Constitution–one underpinning a highly centralized state as well as a powerful centre, and at once a framework for the

dispersal of power symbolized, among others, by the provision for referendums and the establishment of an independent Supreme Court.

In the field of social policy, de Valera supervised the implementation of a comprehensive housing programme. Between 1932 and 1942, this led to 29,000 urban houses and flats–and nearly twice as many rural houses–being built across the country (Ferriter 2007, 283). Furthermore, effective legislation was passed in relation to health and child welfare. In this respect, the 1947 Health Act comprised express provisions for mothers and children. Accordingly, it gave a "response to growing concerns about the persistence of high levels of child and maternal mortality" (Ferriter 2007, 284).

Moving from domestic to foreign policy, finally, the decision to preserve the country's neutrality from World War II was likely to be as timely as it was wise. First and foremost, it served the cause of avoiding "divisions in the body politic" on the domestic front (Ferriter 2007, 256). This goal was attained with remarkable diplomatic adroitness. On the one hand, neutrality was not incorporated into the Irish Constitution. This granted proper recognition to the fact that "whatever about the desire for an independent foreign policy, it could not be pursued by ignoring the interests" of the country's stronger neighbour (Ferriter 2007, 124). Furthermore, choosing not to turn neutrality into a constitutional imperative would not jeopardise the informal pragmatism behind the assistance rendered to the Allies throughout the war. On the other hand, de Valera's defence of Irish neutrality clearly shows that the Long Fellow conceived of it as a tangible expression of Irish independence, and by far the country's first free self-assertion as an independent State.

No matter how controversial de Valera's figure might still be (cf. Section 3.2.3), there is solid evidence for Ferriter's (2007, 7) thesis that he can be presented as a man

> who was of international significance; a role model in the struggle of small nations to challenge and defeat imperialism in the twentieth century, and someone who contributed handsomely to sustaining Irish democracy in the 1930s, a dangerous decade for democracy internationally.

The extensive historical research produced about de Valera and only very briefly reviewed here demonstrates that his political significance has been fiercely and thoroughly debated. The author of this book works outside the framework of history and historiography. In his view, de Valera's unquestionable centrality to Irish politics makes him eligible to serve as an intriguing example of Irish political argumentation at work. In an attempt to check his profile as communicator, this chapter begins by

examining the two main argument schemes retrieved through the analysis of the two model speeches *That Ireland that we dreamed of* and *The abuse of a people who have done him no wrong* (6.2). Moreover, a systematic corpus-based study of the linguistic indicators of the schemes is documented in 6.3. Finally, a short inventory is compiled of the subject matters (e.g., the Anglo-Irish Treaty and partition) in relation to which de Valera would most often advance the two forms of reasoning illustrated before (6.4).

6.2 A text-based view of de Valera's argumentation

In this section, the argument structure of the two selected speeches is addressed with a view to the main argument schemes that are the backbone of de Valera's standpoints. As anticipated in 3.3.3, the manual analysis of *That Ireland that we dreamed of* and *The abuse of a people who have done him no wrong* showed that the two basic schemes at work are pragmatic and symptomatic argumentation. In the following paragraphs, we will see how they are deployed in the two texts, where they seem to be closely interwoven in the overall argument structure.

In the radio broadcast of St. Patrick's Day 1943 (*That Ireland that we dreamed of*), de Valera recalled the event of the establishment of the Gaelic League fifty years before. He did so through an emotional appeal to the audience to learn the Irish language and use it both at work and in leisure time. The speech is "memorable for the vision of an ideal Ireland" (Moynihan 1980, 466) described as "the home of a people who valued material wealth only as the basis of right living, of a people who were satisfied with frugal comfort and devoted their leisure to the things of the spirit" (de Valera in Moynihan 1980, 466). In a crucial part of the speech, de Valera claims Irish identity to be built on the people's knowledge of Irish as a characteristic mark of nationhood:[1]

(1) As a vehicle of three thousand years of our history, the language is for us precious beyond measure. As the bearer to us of a philosophy, of an outlook on life deeply Christian and rich in practical wisdom, the language today is worth far too much to dream of letting it go. To part with it would be to abandon a great part of ourselves, to lose the key of our past, to cut away the roots from the tree. With the language gone we could never aspire again to being more than half a nation.

[1] In all numbered examples, the argumentative indicators to be discussed later in the chapter are underlined.

> For my part, I believe that this outstanding mark of our nationhood can be preserved and made forever safe by this generation. I am indeed certain of it, but I know that it cannot be saved without understanding and co-operation and effort and sacrifice. It would be wrong to minimise the difficulties. They are not slight. The task of restoring the language as the everyday speech of our people is a task as great as any nation ever undertook. But it is a noble task. Other nations have succeeded in it, though in their case, when the effort was begun, their national language was probably more widely spoken among their people than is ours with us. As long as the language lives, however, on the lips of the people as their natural speech in any substantial part of this land we are assured of success if–*if* we are in earnest.

This passage reveals the presence of multiple argumentation (cf. Section 3.3.1). The standpoint is that the restoration and preservation of the Irish language *is a noble task* to be fulfilled with *understanding*, *co-operation*, *effort* and *sacrifice*. The standpoint is supported by two arguments. The first one, embedded in the opening paragraph of (1), is a "Variant-II" pragmatic argument. As the argument goes, abandoning the language is the wrong way to go, because the direct consequence of such a course of action would be *to lose the key of our past* and *to cut away the roots from the tree*. In other words, it would imply surrendering the nation's own identity. By availing ourselves once more of the pragma-dialectical schematisation, de Valera's pragmatic argument can be rendered as follows:

(2) 1 Action X [**parting with the language**] should not be performed

1.1a Action X leads to Y [**losing the key to our past**]

1.1b Y is undesirable

1.1a-1.1b' (If Action X leads to Y and Y is undesirable, then Action X should not be performed)

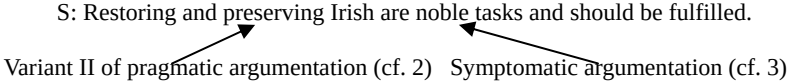
The second argument justifying the standpoint is a symptomatic argument. Following Van Eemeren et al. (2007, 154), symptomatic argumentation is advanced when "a property, class membership, distinctive characteristic, or essence of a particular thing, person, or situation referred to in the argumentation also applies to the thing, person or situation referred to" in the standpoint. In the last paragraph of (1), symptomatic argumentation is raised by de Valera in response to a criticism that may be paraphrased as: "Restoring the native language is

indeed a noble task. However, it is unlikely to succeed in Ireland, because in countries where a comparable task was undertaken, the national language was *more widely spoken among their people* than Irish is". By applying Van Eemeren et al.'s (2007) scheme for symptomatic argumentation to de Valera's reasoning, here is the outcome:

(3) Y is true of X
because Z is true of X
and Z goes characteristically with Y

In (3), X is Ireland, whereas Y is the property of "being assured of success in restoring the language" and Z is the distinctive characteristic of languages of "being alive on the people's lips as their natural speech". Phrased differently, de Valera's argumentation goes like this: because Ireland is a country where Irish is still spoken in substantial parts of the national territory, and languages that remain alive on the *lips of the people* to such an extent characteristically imply that their countries succeed in preserving them, it follows that Ireland is equally assured of success in its effort to safeguard its linguistic heritage. The pragmatic argumentation in (2) and the symptomatic argumentation in (3) lend independent support the same standpoint, as illustrated in Figure 6.1:

Figure 6.1. De Valera's multiple argumentation in *That Ireland that we dreamed of*



As we saw in Section 3.3.3, de Valera's address to the nation of 16 May 1945 (*The abuse of a people who have done him no wrong*) is remembered as a strong yet dignified reply to Churchill's attack on Irish neutrality. De Valera began by thanking God for preserving the Irish people from the atrocities of war. He then acknowledged their duty to assist those who were not as fortunate, and he expressed his gratitude to the services and voluntary bodies who played their part in the national effort. He motivated the policy of neutrality by resuming his pre-war declaration that Ireland's history and painful experience of World War I and partition would make the alternative choice of supporting the war effort a poor one. In (4), the key-passage is reported where de Valera dismisses Churchill's accusation that Ireland was guilty of denying Britain

the use of its ports and airfields, so that it was hard for Britain to restrain itself from laying a violent hand upon *Éire*:

(4) Mr Churchill makes it clear that, in certain circumstances, he would have violated our neutrality and that he would justify his action by Britain's necessity. It seems strange to me that Mr Churchill does not see that this, if accepted, would mean that Britain's necessity would become a moral code and that when this necessity became sufficiently great, other people's rights were not to count.

It is quite true that other great powers believe in this same code–in their own regard–and have behaved in accordance with it. That is precisely why we have the disastrous succession of wars–World War No. 1 and World War No. 2–and shall it be World War No. 3?

Surely Mr Churchill must see that, if his contention be admitted in our regard, a like justification can be framed for similar acts of aggression elsewhere and no small nation adjoining a great power could ever hope to be permitted to go its own way in peace.

The argument structure in (4) is more elaborate than in (1). Here, the standpoint is that Churchill's views about Britain's right to violate Irish neutrality should be rejected. The standpoint is supported by two coordinated Variant-II pragmatic arguments, the first one of which rests on a subordinated symptomatic argument. The first pragmatic argument is contained in the opening paragraph of (4). Supporting Churchill's contention that Britain's necessity would have justified aggressive action on Irish soil is contra-indicated, because it would result in Britain's necessity becoming *a moral code* and trampling on other peoples' rights:

(5) 1 Action X [**accepting Churchill's views**] should not be performed

1.1a Action X leads to Y [**Britain's necessity becomes a code**] and Y' [**other people's rights no longer count**]

1.1b Y and Y' are undesirable

1.1a-1.1b' (If Action X leads to Y and Y', and Y and Y' are undesirable then Action X should not be performed)

This pragmatic argument relies on a subordinate symptomatic argument that warrants its support to the standpoint. The symptomatic argument put forward by de Valera follows the same structure as (3) above. Here, however, X stands for "great powers (including Britain)", while Y is the property of "believing in a moral code that justifies

aggression in case of necessity"; finally, Z is the characteristic of "accepting war as a means of settling international disputes".

Phrased differently–and rather provocatively: since accepting war as a means of dispute resolution is typical of great powers such as Britain, and such an attitude goes characteristically together with the belief that the related moral code is acceptable, Britain and other great powers may be said to believe in the code, whose consequences are assessed in the pragmatic argument in (5). Were it not so, de Valera argues, we would not have had two world wars. Some may suggest that the second paragraph of Dev's address in (4) is actually an instance of argumentation from example–as if to say, "the undesirable effects of the *moral code* are exemplified by the evens of World Wars I and II". Still, that does not undermine the validity of our analysis, because Van Eemeren et al. (2007, 155) themselves classify argumentation from example as a "subtype of symptomatic argumentation".

The argument in (5) is coordinated with a second pragmatic argument advanced by de Valera in the last segment of (4). De Valera again warns against sharing Churchill's opinions about Britain's full rights. The Long Fellow ideally anticipates and reacts to the counterargument "Yes, but after all World Wars I and II were exceptional circumstances justifying extreme measures such as seizing a country's ports and airfields for a time". In particular, he points out, endorsing Churchill's policy would imply tolerating *similar acts of aggression elsewhere*, so that *no small nation adjoining a great power* would be entitled to choose its own course *in peace*. Accordingly, the second pragmatic argument can be schematised as follows:

(6) 1 Action X [**admitting Churchill's contentions**] should not be performed

1.1a Action X leads to Y [**justifying similar acts of aggression elsewhere**] and Y' [**no small nation could ever hope to be permitted to go its own way in peace**]

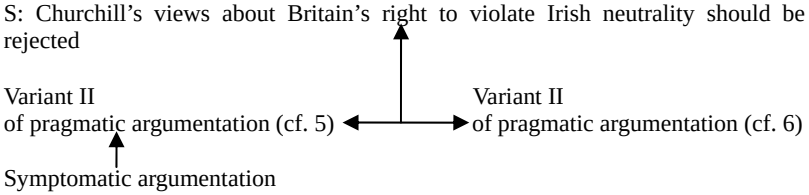
1.1b Y and Y' are undesirable

1.1a-1.1b' (If Action X leads to Y and Y', and Y and Y' are undesirable, then Action X should not be performed)

In combination with each other, therefore, the pragmatic argument in (5)–bolstered by the subordinate symptomatic argument described above–and the pragmatic argument in (6) warrant the conclusion that there was no

such thing as Britain's right to take aggressive action. Taken together, these argument schemes form the structure illustrated in Figure 6.2:

Figure 6.2. De Valera's multiple argumentation in *The abuse of a people who have done him no wrong*



If one looks more closely at the extracts in (1) and (4), one may note that the two main schemes at work in de Valera's speeches are signalled by distinctive argumentative indicators. These are, first of all, *if* and *would* for pragmatic argumentation. In both passages, *would* introduces a statement exploring the consequences of the conditions set out through *if*. In *this, **if** accepted, **would** mean that Britain's necessity would become a moral code*, therefore, de Valera shows that the undesirable effect of turning Britain's needs into a moral code follows from the acceptance of Churchill's views as a pre-condition, as it were. Secondly, *as long as* appears to be an indicator of symptomatic argumentation. Hence in (1), it is used to introduce the defining trait of countries where language policies are *assured of success*, i.e. the native language being alive *on the lips of the people as their natural speech*.

The relationship between indicators and argument schemes is interesting and highly relevant to the linguistic study undertaken in the book. It is apparent that it poses the question whether the connection between the above indicators and the two argument schemes is confined to the two speeches considered in this section, or indeed it also applies to de Valera's own argumentative style, more generally. In order to answer this question, a broader corpus-based study was conducted of *if*, *would* and *as long as* along with other indicators of pragmatic and symptomatic argumentation in Van Eemeren et al. (2007). The findings are reported in the next section.

6.3 A corpus-based analysis of argumentative indicators

For the sake of clarity, the corpus-based analysis of argumentative indicators has been sub-divided into two sub-sections. The first one (6.3.1)

focuses on indicators of pragmatic argumentation, whereas 6.3.2 documents the occurrence of indicators of symptomatic argumentation in the *Dev_Corpus*.

6.3.1 Indicators of pragmatic argumentation in the *Dev_Corpus*

Would and *if* are not included in Van Eemeren et al.'s (2007) list of indicators of pragmatic argumentation. Nonetheless, corpus evidence suggests that their use may underlie the deployment of this argument scheme, in so far as de Valera's discourse is concerned. Not surprisingly, both items are extremely frequent in the corpus: 1,943 entries for *would* and 1,725 for *if*. In order to sift through such large amounts of data, it is again sensible to look for phraseology rather than the use of the single word form. Among the patterns indicated by the *Clusters* application of *AntConc* (cf. 3.3.2), *it would be* occupies a pre-eminent position with its 121 occurrences. In 4.9% of these, pragmatic argumentation is advanced. In (7), for instance, de Valera discusses the Anglo-Irish Treaty of 1921. He argues that it should not even be voted for in the *Dáil* on the grounds that that would result in glaring inconsistency between the effects of the Treaty itself and the Irish people's national aspirations, a mostly undesirable effect:[2]

(7) It is therefore to be brought before us not for ratification, because it would be inconsistent, and the very fact that it is inconsistent shows that it could not be reconciled with Irish aspirations, because the aspirations of the Irish people have been crystallised into the form of government they have at the present time. (*Time will tell*, 19 December 1921)

As for *if*, a major pattern in the data is the 3-gram *if we were*. In 5.7% of its 35 entries, the cluster introduces a negative variant of pragmatic argumentation. More precisely, it refers to a course of action the country should be avoiding, because it would lead to utterly adverse effects. In (8), de Valera warns against the harmful effects of abandoning the national policy he has been advocating for some time, i.e. allowing Northern Ireland to join with *Éire* "on a position of equality" and "in accordance with their numbers and whatever influence their abilities would entitle them to" (de Valera in Moynihan 1980, 267). That would amount to being *foolish* and eventually cause Irish politics to drift out of touch with the feelings of ordinary people:

[2] In the rest of the chapter, the speeches passages are taken from are reported in brackets at the end of each example, with an indication of the respective date.

(8) Our people have been fighting for seven hundred years in order to secure that freedom, and they are not going to give up that struggle. It is vain for anybody to think that they will. If we were foolish enough in the morning to blind ourselves into thinking that we were serving the interests of our country by giving way on vital matters, we would not bring our people with us. Our people would not be willing; but, if we stand for our people's rights and our people's rights are assured, the two countries can be on friendly terms. (*Domestic peace and friendship with Britain*, 29 May 1935)

Passages such as (7) and (8) share hypotheticality as a common feature. In both, de Valera invites the audience to prefer the option(s) he indicates, by alluding to the detrimental effects that would occur should a different choice be made. The hypothetical framework in which statements are embedded also explains why, predictably, *if* and *would* tend to co-occur in such contexts–cf. ***If*** *we were foolish enough […], we* ***would*** *not bring our people with us* in (8) above.

In addition to *if* and *would*, it was reasonable to assume the presence of other indicators of pragmatic argumentation in de Valera's speeches and statements. This was the reason why the indicators in Van Eemeren et al. (2007) were also concordanced and carefully examined. These are grouped into categories, most of which (cf. 3.3.3) proved highly useful to the study of the *Dev_Corpus*.

The first category includes verbs that indicate a process that produces a particular effect or result. In our corpus, these included *arouse*, *destroy* and *disrupt.* For the purpose of making the analysis more comprehensive, these were lemmatised so as to include both verbal forms (e.g., *disrupt*, *disrupts*, *disrupting*) and their nominal derivatives (e.g., *disruption*). To provide but a first example here, 10% of the 30 occurrences of *destroy* serve the function of outlining the disastrous results that would follow if crucial points were taken off the Republican agenda, as in (9) below. By following a sentence structure close to that observed in (4) about the same topic (*...if once admitted, that plea would justify...would destroy...and would subordinate*), de Valera points out that England's attitude to Ireland may not be accepted as motivated by *legitimate security* or *safety*. Twenty-five years before his reply to Churchill, his statement is that if sustained, England's pleas would end up justifying aggression everywhere and jeopardising *fundamental equality between all nations*:

(9) And so it is not England's legitimate security or safety that is in question in the case of Ireland, but rather England's dominance. And that England

> may continue to hold Ireland's markets as a commercial monopoly to profiteer upon, and that she may continue to hold Irish harbours as a pirate's rendezvous from which to issue forth on the adjacent trade routes and strangle any commercial or imperial rival she may have grown to dread, are these interests of England good and just reasons why Ireland should be deprived of the most fundamental of all a nation's rights–the right to be free? To me such a doctrine is so immoral that I cannot understand how any normal conscience can support it. I have frequently pointed out that, if once admitted, that plea would justify aggression everywhere, would destroy the fundamental equality of right between all nations and would subordinate the most sacred right of the small nation to the selfish interests of the great–and this simply because the great was powerful enough to make its interest prevail. (*Irish freedom and British security*, February 1920)

The second category of indicators that proved relevant to the analysis of pragmatic argumentation in the corpus includes references to future events. This large class includes not only the use of the future tense in its various forms, but also future-oriented items like *can be predicted* or *the expectation is that*. In de Valera's discourse, the link between such expressions and pragmatic argumentation is best secured through a few of the collocational patterns of *will*. These comprise a single occurrence of *will achieve*, 25% of the entries of *will mean that*, 66.6% of *will lead to*, and 40% of *will inevitably* as in (10) below. As can be seen straight away, there is no hypotheticality to this statement compared to the prior examples. In considering the scenario that would unfold in the event conscription was to be extended to Northern Ireland in 1941, de Valera vehemently objects that that would no doubt (*inevitably*) restore *old unhappy relations* between *Éire* and Britain:

(10) The imposition of conscription will inevitably undo all the good that has been done and throw the two peoples back into the old unhappy relations. The conscription of the people of one nation by another revolts the human conscience. No fair-minded man anywhere can fail to recognise in it an act of oppression upon a weaker people, and it cannot but do damage to Britain herself. (*Threat of conscription in the North*, 25-26 May 1941)

The collocation between *will* and *inevitably* should not be seen as a random pattern. In fact, the latter is part of Van Eemeren et al.'s (2007, 173) category of "references to the inevitability of the occurrence of the result after the cause", along with other adverbials such as *necessarily*. In our case, it could be observed that 16.6% of the occurrences of *necessarily*

and 38.3% of those of *inevitably* indicate de Valera's recourse to pragmatic arguments. Thus in (11), taken from a speech about the Spanish civil war, de Valera responds to mounting pressure on the Government to recognise Francisco Franco. Until then, the Free State had consistently supported the Spanish Republic, while the Irish public opinion was becoming increasingly sensitive to the idea of an anti-communist crusade supported by local bodies and bishops. In this context, de Valera's problem was that recognizing Franco would imply joining the diplomatic company of other fascist states and at once compromising Irish neutrality at a critical time. In the light of this, de Valera's reluctance and subsequent refusal to agree to the demand for recognition might be seen as no secondary achievement. As can be seen below, de Valera suggests that *mere recognition* would not be without consequences for the country. The inevitable outcome would be further involvement in Spanish affairs: if Ireland is not prepared to that, de Valera objects, it should not even go as far as to consider recognition itself:

(11) If I felt, as strongly as the members on the Opposition bench pretend to feel, that recognition by us would mean what they suggest it would mean, then I feel we could not stop at mere recognition. I feel that we would inevitably be involved, if we were serious about it, very much farther. We could not simply take the easy way of a mere gesture. If all these things are involved, we should be prepared to do very much more and go very much farther; and if we are not prepared to do these things, I take it it is on some grounds of prudence, and I am wondering whether the grounds of prudence which would justify us [in not?] going farther than is suggested would not also suggest that we should not go even that far at the present moment. (*Ireland and the civil war in Spain*, 27 November 1936)

Whereas the indicators reviewed so far may introduce the argument scheme to varying extents, the items in the next category–"specific indicators of the pragmatic argumentation subtype" (Van Eemeren et al., 2007, 174)–are most inherently associated with its presence in text. In the *Dev_Corpus*, this mostly rests with the comparative *better* and the two connectives *then* and *otherwise*. Predictably, *better* is used to express positive evaluation about the effects of the policies pursued by de Valera. This is the case with 8.5% of its occurrences, most effectively instantiated by Dev's contention that Irish neutrality entails "a vision of a nobler and better ending, better for" the people of both Ireland and Britain (de Valera in Moynihan 1980, 476).

As for *then* and *otherwise*, the latter serves as a signal of pragmatic argumentation in 9.6% of its entries, where it almost invariably–4 times

out of 5–precedes or underlies negative consequences. By contrast, *then* more flexibly indicates both positive and negative consequences. Most interestingly, though, it appears that de Valera uses it to outline the positive effects of his own proposals in 13.8% of its 29 collocations with *we*. These aspects of *otherwise* and *then* as indicators of pragmatic argumentation are well illustrated in example (12) below:

(12) For us the question is: is a second chamber advisable here? I will say that the answer as to whether it is or not will depend mainly on whether you can constitute one that will fulfil the purposes we have in mind when we speak of the value of second chambers. That is the practical proposition to which we have to devote ourselves. If the speakers today, instead of repeating the old statements which, as Sir John Marriott says, are the commonplaces of a debating society, were to devote themselves to the practical proposition of the constitution of such a chamber, then we would be doing much better work than we would do otherwise. (*Abolition of Senate*, 28 May 1936)

In (12), de Valera expresses his wish that the debate about a second chamber for the Free State's parliament took place in a different manner. He points out that it should be a practical discussion on the actual benefits arising from its creation, rather than a speculative argument over the *value of second chambers* in general. On the one hand, *then we* suits the purpose of introducing the desirable ends accomplished through a practical discussion, i.e. *doing much better work*. On the other hand, *otherwise* is used to underlie the occurrence of the opposite effect. Therefore, *much better work than we would do* ***otherwise*** means "better than we would do **by keeping the discussion too theoretical,** which would probably lead us nowhere".

On a final note, both in theoretical terms and from a discourse perspective, pragmatic argumentation may not merely be advanced in isolation, as it were. In fact, there are contexts where it is put forward in order to respond to an interlocutor/opponent's own pragmatic argument. Linguistically, this is secured by what Van Eemeren et al. (2007, 177) call "clues in criticism of causal argumentation". Interestingly, there is solid corpus evidence that de Valera's argumentation was often intended to refute political opponents' pragmatic arguments. This is revealed by a variety of linguistic indicators, including the verbs *prevent* (5.8% of attested entries), *guarantee* (8.8%), *avoid* (11.5%), *promote* (22.2%) and a few scattered occurrences of *avert* (2 tokens), *does not lead/help* (3); the connective *thus* (19.1%) and the adjective *effective* (16%). Two examples will help clarify the point of criticism to pragmatic argumentation.

The first one includes the negative use of the noun *problem*–e.g., *not solve the problem*–which amounts to 1.8% of its 107 tokens. In (13), de Valera replies to the argument that a plebiscite in Northern Ireland and in particular in the area around Belfast would be a peaceful, acceptable solution to the problem of partition on the grounds that, if anything, it would result in an extension of *Éire*'s territory. De Valera's divergent view was that a plebiscite would surely give the State territory. Nevertheless, it would not entirely *solve the problem of partition*. In other words, since the effect of a plebiscite would in any case fall short of solving the problem in its complexity, that is not an optimal solution and should therefore not be agreed upon:

(13) A plebiscite would give us territory, but it would not solve the problem of partition. We are not seeking some territorial gain merely–we are not asking for some new boundary commission to perpetuate partition in this small island, the whole of which is only the size of Lake Superior. A local plebiscite would leave in Belfast alone a minority of a hundred thousand nationalists permanently cut off from common life with their motherland. That is not a solution which appeals to me. (*A dangerous anachronism*, 13 October 1938)

In the second example, an indicator is used that is not included in Van Eemeren et al.'s (2007) inventory. Still, it was observed to occur in the immediate vicinity of many an indicator illustrated so far, and as a result should be mentioned as a peculiarity of de Valera's language. It is the 6-gram *we/you cannot have it both ways*. As with other analogous indicators, with this one the speaker opposes a standpoint which implies that a certain thing X proposed by the speaker him/herself is undesirable because of the unfortunate consequences. With this aim, the 15 occurrences of *we/you cannot have it both ways* voice the criticism that "besides undesirable consequences, X may have positive effects that may be of greater importance than the potential adverse effects" (Van Eemeren et al. 2007, 183).

In (14), de Valera accepts that the standards of social and administrative services in Ireland might have lowered since the country decided to go its own way and break the ties with Britain. On the other hand, he argues, that choice brought Ireland the long-awaited freedom to shape its own future, whose benefits will certainly outweigh the disadvantages in the long run. In order to reinforce this message, de Valera substantiates his claim with an analogy between Ireland and a servant who seeks freedom from his master. If he wants to *get away from the kicks in*

the lord's mansion, he will have to give up the luxuries of the mansion, but he will have liberty at last:

(14) I tried to express my own view by saying that we cannot have it both ways. We cannot have the furniture that we might have in a lord's mansion. If we want our liberty, and to get away from the kicks in the lord's mansion, we will have to be content with the plain furniture that we have in a cottage. I have no hesitation in saying–and very few on these benches, and on the opposite benches for that matter, if the deputies there have not completely lost any views they had in the past–that we are prepared to face the alternative and take the plain furniture of the cottage. To my mind, you can do that and the standard of living really need not come down. (*Economic policy*, 12-13 July 1928)

6.3.2 Indicators of symptomatic argumentation in the *Dev_Corpus*

As was the case with *if* and *would* in pragmatic argumentation, *as long as* has not been included among the indicators of symptomatic argumentation by Van Eemeren et al. (2007). However, since the conjunction was observed to perform that function in 6.2, the corpus-based study of pragmatic markers of this argument scheme began with it. It seems of no secondary importance that *as long as* indicates a symptomatic relationship in 20.9% of its 43 occurrences, a shown by (15) below. Here, de Valera forcefully asserts that leaving a portion of one's country in foreign hands characteristically goes with the country's lack of full freedom. Therefore, he contends, as long as that continues to apply to Ireland (cf. the *six counties*), the country may not be said to be truly free:

(15) I will read part of the speech I made–which was beautifully condensed, by those who wanted to mislead [people about] my position, into this phrase, that I represented myself as a delegate of a free nation. Of course, the suggestion is that I wanted to pretend that this country was completely free. I did not. As long as six counties of this country are not governed by the Irish people I will never say this country is free. (*No going back*, 12 October 1937)

By virtue of such documented instances, *as long as* deserves to be part of Van Eemeren et al.'s (2007, 155) "expressions indicating a symptomatic relationship". In actual fact, as far as the *Dev_corpus* is concerned, the frequency of *as long as* turns it into the main indicator of the argument scheme. More generally, the class it belongs to includes both the nominal and the adjectival use of *characteristic*, the noun *mark* (cf. 6.4), and the

verb *imply*. In 11.1% of its attested entries, the verb marks the onset of symptomatic argumentation as highlighted by (16). In the excerpt, de Valera suggests that preparedness to accept the oath of allegiance is a characteristic mark of a country bending its head towards a foreign power. As a result, as long as Ireland accepts the oath it accepts *England's right to overlordship*, a formidable *barrier* to national unity:

(16) The Free State assembly might be used as a nucleus for such an assembly were it not for the oath of allegiance to the King of England which is imposed as a political test on all who become members of that assembly. That oath no Republican will take, for it implies acceptance of England's right to overlordship in our country. The Free State oath is, then, the primary barrier to national unity and must go if unity is to be attained. (*Aims of Fianna Fáil*, 17 April 1926)

Besides the above expressions of symptomatic relationships, Van Eemeren et al. (2007, 158) mention "expressions indicating aspects or subtypes of the symptomatic relation". These typically refer to argumentation from example, which in our corpus is emphasised by 4.8% of the occurrences of *take*. As was largely expected, these represent the whole of the entries of *take, for instance*, for which a prime example is provided in (17). De Valera deals with the serious issue of gerrymandering in the voting system of Northern Irish local councils. Derry City is chosen by the Long Fellow as a case in point. Since gerrymandering–a putatively devious scheme whereby *one Tory vote is as good as two nationalist votes*–is a distinctive trait of countries lacking full democratic development, widespread recourse to it in cities like Derry implies that the Northern Irish system is no genuine democracy. No doubt, that is the answer to de Valera's rhetorical question at the end of the passage (*Is that democracy?*):

(17) I have told you that, in the areas which I have mentioned, in four of the six counties and in the parliamentary constituencies of South Down, South Armagh, Tyrone, Fermanagh and Derry city, there are nationalist majorities, that is, majorities in favour of union with the rest of the country. There is a system of local government in these areas. Would you not expect that, there being nationalist majorities, the local councils in these areas would reflect that and would have nationalist majorities? But that is not, in fact, the case. […] Take, for instance, Derry city. In Derry city there are 27,000 nationalists and only 18,000 Tories; 27,000 nationalists, 18,000 Tories. You would expect that the local council, the city council, would have a nationalist majority. But it has not. The 27,000 can elect only eight representatives, whereas the 18,000 elect twelve.

> How is that done? By a system of gerrymandering. I believe you know what that means. 27,000 can get only eight representatives; 18,000 get twelve. That means that one Tory vote is as good as two nationalist votes. Is that democracy? (*Ireland in 1948*, 3 April 1948)

Expressions of subtypes of the symptomatic relation in the corpus also include a single entry of *true* and predictably, 50% of the occurrences of the phrase *in the nature*.

In 6.3, the relationship between the two argument schemes identified through the text analysis in 6.2 has been described. In the next section, more quantitative evidence is provided, albeit with a slightly different focus. Instead of, or perhaps in addition to exploring the connection between forms and argumentative function in discourse, we will more systematically examine the relationship between the deployment of pragmatic or symptomatic argumentation through indicators, and specific policy issues on de Valera's republican agenda.

6.4 The argument schemes at work: An inventory of policy issues

The detailed corpus-based and discourse-oriented analysis of argumentative indicators demonstrated that the onset of both pragmatic and symptomatic argumentation concerns a specific range of political matters broached in de Valera's addresses. As regards pragmatic argumentation, four areas could be singled out, i.e. partition, Ireland's right to action and unimpeded freedom, the Anglo-Irish Treaty, and sensible economic policy.

To begin with partition, this area is aptly illustrated by the occurrence of the cluster *there would be* and the verb *arouse*. In 4.6% of the former's entries, the item is used to foreshadow the harmful effects exerted by partition upon a country's integrity, as in (18). In order to enhance the impact of his pragmatic argument, de Valera resorts to analogy as well. Thus, he urges the audience to consider what would happen to the USA if Southern States holding to *old Democratic views* were allowed to *cut themselves off* and join Mexico. Such *principle* would be as unacceptable for the United States on the grounds of its detrimental impact–i.e., *an end to the Union*–as it is for Ireland, whose six northern counties were severed from the Free State:

(18) Again, I heard of the "solid South", and I heard of states in a bloc that, even when the majority vote was Republican in this country, still held to their old Democratic views. Do you think that you could permit the states that were of that opinion–were Democratic states–that you could permit

> them, even if there were a bloc of them, to cut themselves off from the Union and attach themselves, say, to Mexico? Of course you wouldn't! Of course you know perfectly well that if you were to do that, there would be an end to the Union, of the United States of America–that it would mean the end. And, of course, in our case it is precisely the same. We cannot admit that principle. (*Ireland in 1948*, 3 April 1948)

Arouse is more rarely attested, but in 50% of its 6 occurrences it has the same function as *there would be* in (18). The passage in (19) is taken from a speech given by de Valera as leader of the Opposition in May 1949. At the end of the previous year, the British Prime Minister Attlee had made a statement in the House of Commons. He had reassured Northern Ireland that it would continue to be part of the United Kingdom, unless its parliament decided otherwise. As a result of the bitter resentment this was to generate in the Irish nationalist opinion, *Taoiseach* Costello moved for the adoption of a statement protesting against the British Government's guarantee. In supporting the motion, de Valera argued that the introduction of a bill to perpetuate Ireland's present division would again stir up animosity towards London (cf. *feelings that would be aroused in this country*):

(19) The Taoiseach has told us today that, from the first moment he saw the communiqué he referred to, our Government has been active in bringing to the attention of the British Government the consequences that would flow from the introduction of this measure. He has told us–and I thought myself beforehand that this must be the case–that it would not be possible for a measure of this sort to be introduced without the strongest representations being made from the Government here. I felt that it was equally certain that the representatives of the British Government here could hardly have failed to apprise their own Government of the feelings that would be aroused in this country if such a measure were introduced. I can see no reason for the measure. (*British Guarantee to Northern Ireland*, 10 May 1949)

In (18) and (19) alike, the articulation of de Valera's argument is very clear. The standpoint–respectively, *we cannot admit that principle* in (18) and *I can see no reason for the measure in* (19)–is in both cases supported by negative variants of pragmatic argumentation. There appears to be a consistent trend in de Valera's recourse to Variant-II pragmatic arguments, when it comes to partition. Instead of weighing any long-term benefit deriving from its lifting, the Long Fellow preferred to evoke feelings of indignation by estimating its deleterious effects.

As regards Ireland's right to action and unimpeded freedom, pragmatic argumentation is mainly associated with de Valera's concept of Irish sovereignty and neutrality. This is expressed through 16.6% of the occurrences of *necessarily*, which is used as a clue in criticism of pragmatic argumentation in passages such as (20). Britain's policy of occupation, he suggested in 1920, was usually motivated by security reasons. Denying sovereignty to the Irish was necessary, the argument went: if a *dependent* Ireland was hostile, an *independent* Ireland would be an even more serious threat to British security. De Valera rejected this view, thinking that if British aggression ceased, *its effect–Irish hostility–* would *cease also*.

(20) Who is to blame? Is it not England? Who can remedy this state? Is it not England? If the obvious remedy is not applied, is it unreasonable to suppose that it is because the will to apply it is absent? And yet England pretends to be solicitous about her "security" simply. She affects to believe and would have the world believe that, because a dependent Ireland is hostile, an independent Ireland would necessarily also be hostile. She carefully hides that Ireland's present hostility is due solely to England's persistent aggression and that, when the aggression ceases, its effect–the hostility–will cease also. (*Irish freedom and British security*, February 1920)

Furthermore, the fact that de Valera placed high value on neutrality is confirmed by 10% of the corpus entries of *destroy*. In excerpts such as (21), neutrality is described as something more than a cautious stance in the country's foreign policy. Rather, it is seen as a means of preserving a recently restored unity, which would be shattered by *any change* of policy:

(21) You who know Ireland, however, will not need to be told that Ireland's fate is bound up with the maintenance of the present policy of the Government. Today we are a people united as perhaps never before in our history. Unless we are attacked, any change from neutrality would destroy this unity. It is our duty to Ireland to try to keep out of this war, and with God's help we hope to succeed. (*Determination to resist attack*, 25 December 1941)

The Anglo-Irish Treaty is a third major area, in relation to which pragmatic argumentation was observed. In 22.2% of the occurrences of the lemma *disrupt*, the argumentation is again advanced in its negative variant, with particular reference to the vigorously debated Treaty. In (22), taken from a letter to the editor of the New Yorker newspaper *The Irish World*, de Valera weighs the risks and benefits of accepting or rejecting the Treaty.

In his opinion, the disadvantages experienced as a consequence of signing it–*the abandonment of cherished ideals, certain disruption and division*–would have been largely offset by rejecting Lloyd George's proposals. While rejection would have meant war, Ireland could have coped with the emergency by counting on the *world's understanding and support*. Hence, it would have been in a better position to dare *with forces united* what had already been dared until a few months before:

(22) To defy Lloyd George and to face renewal of the war and the persecutions which he threatened, or to surrender our independence and face the national disruption and civil war which that surrender made inevitable, was an awful choice for any Irish statesman and lover of his country to have to make. But still there should have been no doubt as to which alternative should have been chosen. One meant, at worst, daring again with forces united, and on the whole better organised and equipped and under better conditions of world understanding and support, what had already been dared, not unsuccessfully, for four strenuous years. The other means not only the abandonment of cherished ideals but certain disruption and division, with ever-increasing friction that would make reunion and retracing of steps more and more impossible as time went on. (*Ireland's tragedy*, February 1923)

De Valera's habit of arguing by weighing the pros and cons of a policy or course of action is not only instantiated by (22), or his remarks on the Treaty more generally. In fact, this seems a typical feature of his attitude to economic policy, too. As the fourth issue correlated with the onset of pragmatic argumentation in the *Dev_Corpus*, economic policy is a subject where a somewhat prudent course was taken by de Valera. At a discourse level, this is emphasised by *we/you cannot have it both ways* (cf. 6.3.1). In passages like (23) and (24), de Valera discusses the effects of his well-known protectionist policies. He acknowledges that the decision to develop Irish industry and protect agriculture entails risks–i.e., *certain costs will go up* (23); *we cannot have the advantage of imported cheap food* (24). Nevertheless, as long as the community as a whole bears the costs, and Irish industry grows and thrives, the *immediate hardships* will not simply be borne, but also survived.

(23) We set out to try to get industries protected and established to such an extent that they would meet our needs. I know that certain costs will go up, but that is necessary. You cannot have omelettes and not break eggs. You cannot have it both ways. You must make up your mind that, if certain things are to be done, whatever the immediate hardships are they

will have to be borne. What we have to see is that the community as a whole will bear them. (*The unemployed*, 29 April 1932)

(24) We know that we cannot have it both ways. We cannot have the advantage of imported cheap food if we want to develop our industries and protect our own agriculture. Which is it to be? I know that economists have been divided on these things. If the world were one unit, if there were free passage, not only of goods and capital but of persons, between all nations, then, in all probability, the free-trade policy, as a world policy, would be the best policy. But that is not the world in which we are living. For that reason, whether wise or unwise, we are convinced that the policy of protecting our industries, in order to produce for ourselves the things we require, is good national policy. We have fought elections on that basis, and we have been returned. (*The banking commission and economic policy*, 6-7 July 1939)

Interestingly, *we/you cannot have it both ways* reinforces de Valera's argument by means of the combination with an obvious analogy. In (14) above, that was between Ireland and a servant winning liberty from his master. In (23), the analogy is between pursuing a protectionist policy and having an *omelette*: in the same way as you cannot have one without breaking eggs, you cannot protect the country's industry and agriculture without incurring costs of some kind.

In the light of their significance to de Valera's character, the topic areas most intimately related to symptomatic argumentation are roughly the same as for pragmatic argumentation. They include Ireland's freedom and partition, although they also comprise the Irish language as a distinctive dimension of Irish nationhood. De Valera's vision of Ireland's freedom, as conveyed by corpus data on symptomatic argument, is a comprehensive one. It was laid out at two main levels.

From a constitutional perspective, the first is the mirror image of the concept of Irish sovereignty formulated across (20) and (21) above: the Irish State is to be free from foreign imposition, united but most of all, Republican. Given the importance of defining Ireland's status after independence (cf. Daly 2007), it hardly comes as a surprise that symptomatic argumentation applies to de Valera's attempt to forge the country's identity in quintessentially republican terms. This is corroborated by 50% of the occurrences of *mark*, a most illustrative example of which is represented by (25). The excerpt is from a speech to *Dáil Éireann* of July 1945, through which de Valera answered a question posed a few days before by Deputy Dillon. As Moynihan (1980, 477) recalls, the question was "Are we a republic or are we not, for nobody seems to know?". The *Taoiseach* replied in the affirmative, and to do so he pointed out that Ireland bore *every characteristic mark by which a republic*

can be distinguished or recognised. Since being a representative democracy with organs of state functioning under a written constitution characteristically goes with being a Republican State, Ireland should be seen as a Republic in its own right. The relevant passage cannot be reproduced in its entirety due to its length. However, it is noteworthy that de Valera backed his judgment about the matter through copious references to authoritative sources such as the *Encyclopedia Britannica* and the *Encyclopedia Americana*:

(25) Let us look up any standard text on political theory, look up any standard book of reference, and get from any of them any definition of a republic or any description of what a republic is and judge whether our State does not possess every characteristic mark by which a republic can be distinguished or recognised. We are a democracy with the ultimate sovereign power resting with the people–a representative democracy with the various organs of state functioning under a written Constitution, with the executive authority controlled by Parliament, with an independent judiciary functioning under the Constitution and the law, and with a head of state directly elected by the people for a definite term of office. […] I fear, *a Chinn Comhairle,* that I have no further useful information which I can give Deputy Dillon. I must now leave him to answer his own question from the facts which I have presented. (*Ireland's status*, 17 July 1945)

The second level at which de Valera's vision can be outlined is that of the statesman with international stature. This aspect is revealed by those addresses where de Valera champions the noble cause of Ireland's freedom as the cause of all countries striving to assert their right to nationality and separate existence. In 20% of the occurrences of *essentially*, the adverb is embedded in statements where he identifies slavery and occupation as the true marks of illegitimate power. Therefore, they ought to be resoundingly rejected, while supra-national institutions such as the League of Nations should be founded on "equality and right amongst nations" as the "foundation-stone" (de Valera in Moynihan 1980, 27).

De Valera's position on partition, secondly, needs no further clarification here. From a purely linguistic point of view, the relationship between *as long as* and symptomatic arguments was discussed in 6.3.2 above. In this overview of key themes, however, it is useful to provide an extra example about partition to show that the occurrence of *as long as* in this context is not confined to (15). In actual fact, the indicator can be seen as de Valera's first choice, as it were, when he wanted to deal with the evils of partition. There is such a striking parallel between (26) below and (15), one would hardly believe these are taken from two different

speeches. In (15), we read that Ireland could not be completely free *as long as six counties* were *not governed by the Irish people*. In (26), taken from an address to *Seanad Éireann* of nearly two years later, the *Taoiseach* reiterates that even a *single square inch* of territory in foreign hands characteristically goes with a feeling of frustration on the part of its inhabitants. This certainly applies to *any generation* of Irishmen–both North and South of the border–with a connection to *the historic Irish nation*:

(26) It is vain and foolish, of course, to try to prophesy or to look into the future, but I do not think that any generation of Irishmen living in this island would ever be satisfied–those of them, at any rate, who regard themselves as having a connection with the historic Irish nation–as long as a single square inch of the island was outside the control of the nation. (*The unity of Ireland*, 7 February 1939)

Finally, corpus data demonstrate that the importance of language as a salient trait of Irish nationhood is not limited to the passage from *That Ireland that we dreamed of* in (1) (Section 6.2). Its pivotal role in defining de Valera's political stance is also confirmed by 37.5% of the occurrences of the indicator *characteristic*. In the same way as (1) was the key part of a speech delivered on a St. Patrick's Day, (27) below is from a public statement issued by de Valera in April 1966 on commemorating the Easter Rising. On occasions of national pride, it would seem, de Valera would often spare a thought for Ireland's ancient language. In the passage below, he argues that preserving the native language has characteristically gone with the preservation of the nation's personality in countries like Denmark or the Netherlands. Therefore, in so far as Ireland also sees to it that its own *language lives*, the *closest bond between its people* shall not be lost:

(27) In the realisation of all this our national language has a vital role. Language is a chief characteristic of nationhood—the embodiment, as it were, of the nation's personality and the closest bond between its people. No nation with a language of its own would willingly abandon it. The peoples of Denmark, Holland, Norway, for example, learn and know well one or more other languages, as we should, of course, for the sake of world communication, commerce, and for cultural purposes; but they would never abandon their native language, the language of their ancestors, the language which enshrines all the memories of their past. They know that without it they would sink into an amorphous cosmopolitanism—without a past or a distinguishable future. To avoid such a fate, we of this generation must see to it that our language lives. (*Easter 1966*, 10 April 1966)

6.5 Concluding remarks

This chapter served a twofold purpose. The first was to provide a methodologically good model for the analysis of political argumentative discourse. The second purpose was not just to focus on Eamon de Valera as a case in point, but also to bridge a gap in the analysis of this key figure of Irish political discourse.

From a methodological perspective, moving from text to corpus has had a number of advantages. In the first place, the text analysis reported in 6.2 allowed us to gain the benefit of both identifying two fundamental argument schemes on which de Valera's standpoints rested, and seeing if and how these were interwoven in the overall argument structure.

Secondly, the detailed study of two texts representative of de Valera's rhetoric enabled us to single out indicators of pragmatic and symptomatic argumentation that were not included among those in Van Eemeren et al. (2007). These included *if, would* and the highly interesting *we/you cannot have it both ways* for pragmatic argumentation, and *as long as* for symptomatic argumentation. Their presence and frequency as indicators of argumentative discourse show that no pre-determined list of indicators, however exhaustive, should be taken at face value for any argument scheme. The findings in 6.3 confirm that Van Eemeren et al.'s (2007) inventory is a very good starting point to carry out broader corpus-based investigations of argumentative discourse. Nonetheless, it is also true that our knowledge of indicators was sharpened through the evidence we collected from texts typical of de Valera's politics chosen as a context for this case study.

On the one hand, such indicators as those mentioned above may have gone unnoticed without any in-depth manual analysis of *That Ireland that we dreamed of* and *The abuse of a people who have done him no wrong*. On the other hand, there is no denying that text analysis alone, no matter how careful, would hardly have projected the bigger picture, as it were. Accordingly, extending the analysis to the corpus as a whole helps verify whether the occurrence of an argument scheme and its related indicators is circumscribed to one or few texts only.

The findings in 6.2 would have aroused genuine interest anyway, but it adds to their significance to be able to show that pragmatic and symptomatic argumentation have been observed across other corpus texts as well. Furthermore, it corroborates the evidence of argumentative indicators to note that they are also attested at a larger corpus level. There lies the significance of quantitative remarks. Figures about corpus entries of each indicator are not significant *per se*. They make a substantial

contribution to supporting first-hand evidence from texts, because they establish how often a word or phraseology acts as an indicator of a certain argument scheme. This is accurate information that makes the research more systematic and rigorous, since "some of the discussed expressions may occur in more than one type of argumentation" (Van Eemeren et al. 2007, 189), or else their use may not in itself be indicative of argumentation at all.

Finally, interrogating the corpus was an effective method to discover the correlation between the recourse to an argument scheme (or indicator) and recurrent contexts of use. Corpus studies of huge datasets often entail the risk of analysing vast amounts of single decontextualised forms (Stubbs 2001). Here by contrast, pragmatic and symptomatic argumentation were examined with due regard to the contexts in which they were most frequently noted. Therefore, while it would not take anyone (certainly not historians) aback to pinpoint partition as a favourite topic in de Valera's speeches, its direct connection with symptomatic argumentation and the indicator *as long as* could not have been taken for granted *a priori*. Likewise, even if the protectionist practices behind de Valera's policy of self-sufficiency are by no means a result of this case study (cf. Neary and Ó Gráda 1991; Fitzpatrick 1992), their tight discursive links with pragmatic argumentation and in particular the critical clue *we/you cannot have it both ways* are an original finding. It is not possible to know for certain whether de Valera deliberately chose to use the linguistic devices and argument schemes retrieved through this analysis. Still, the uniqueness of a linguistic analysis of argumentation is precisely that it may provide a vivid account of the regularity in usage patterns of argumentative discourse, of which speakers or writers need not necessarily be aware.

It is in this vein that such findings help us bridge a gap in the analysis of de Valera as a key figure of Irish politics. As we said at the outset, the present case study is not intended to compete with the rich sources disclosing essential details of de Valera's political message and role in shaping twentieth-century Irish history. However, the data reported above are likely to offer food for thought to complete extant enquiries into one of the Republic's founding fathers, by laying the groundwork for an examination of his profile as an arguer.

CHAPTER SEVEN

DISCUSSION AND APPLICATIONS

7.1 Introduction

In Chapters 4-6, the findings of the three case studies conducted in the book were reported. The aim of this chapter is to conclude our survey on judicial and political argumentation in two main ways. First of all (Section 7.2), results are discussed with regard to the research questions introduced in 1.1 and more extensively phrased in 2.3. Secondly (7.3), the application of the methods and findings presented earlier on is evaluated with respect to the needs of scholars and practitioners, and in relation to future research.

7.2 Discussion

The specific data from each of the three case studies have been discussed at the end of the respective chapters. In this section, a more general answer is provided to the leading questions posed at the outset of the research.

(1) What kind of data sets should be used to offer a well balanced perspective on legal and political argumentation?

As far as this work is concerned, this question has raised the issue of corpora for the study of argumentation. It is fair to say that nowadays argumentative discourse is hardly analysed on the basis of single or restricted occurrences. Whereas this was the case with a number of early works in contemporary argumentation theory (cf. Anscombre and Ducrot 1983), the importance of collecting large amounts of authentic materials has been acknowledged for some time now (Plantin 2002).

As we saw in Chapter 3, using corpora ensures that the analysis is based on naturally-occurring examples of argumentation in context. This has the advantage that no *ad hoc* materials or invented examples are used. Since argumentation is a verbal and social activity through which differences of opinion are resolved in actual communicative settings, it is

important that linguistic approaches to argumentative texts are developed in real contexts. Politics and the law are two cases in point, where the correlation between forms of argumentative discourse–whether words and phraseology in general, or argumentative indicators in particular–and distinctive functions at the level of argument structure, can be established on the grounds of compelling evidence.

(2) What criteria of corpus design can be laid down, in order to make the corpus representative and the analysis generalisable?

Criteria of corpus design should be defined rigorously. This does not simply amount to specifying how many texts were included and why any might have been excluded, the total number of words, the sources and the time span covered by each corpus. Designing a corpus also implies selecting materials through which homogenous and therefore comparable populations of communicative events are sampled. In our case, the emphasis was on either a single genre–i.e., judgments for the *SCI_1* and *SCI_2* corpora–or comparable genres, as with the speeches and statements of the *Dev_Corpus*. Moreover, corpora should be manageable. Manageability underlies the assumption that a reasonable compromise should be found between the representativeness of a corpus and its potential for a proper balance of quantitative and qualitative investigations.

Whether diachronic or synchronic as in our case, corpora designed with care and according to transparent criteria form a sound basis to make sure that qualitative remarks are not confined to a few texts only, but rather can be extended and quantified through large amounts of language data. When corpora serve as the primary source of evidence, it seems sensible to use more than one corpus to test the validity of corpus-driven observation. In our case, that was the reason why our study of judicial argumentation began as an exploratory research into a smaller corpus (Chapter 4), and later evolved into a more systematic analysis of phraseology, which was added to the examination of semantically-relevant word forms against the backdrop of a much larger data set (Chapter 5). Accountability in keeping track of corpus design criteria and flexibility in corpus size were thus fundamental to the implementation of methods designed to successfully combine first forays into the collected data with detailed analyses of argument schemes and structure.

(3) What methods can be used to map the corpus in order to identify distinctive language tools of argumentation? (4) How can the study of

tools be combined with the quest for textual evidence of widespread argument schemes?

The two questions may be answered together in that they represent the two sides of the same coin. On the whole, the three case studies in the preceding chapters have demonstrated that there is more than one strategy to approach argumentative discourse. In Chapters 4 and 5, corpora were mapped in order to extract salient language items. This was done at two levels.

One was a study of phraseology, which has gained momentum in applied linguistics research over the past twenty years as a leading principle of discourse organisation. The notion that meaning is expressed in discourse by means of the tendency of words to combine with one another has led to a variety of applications. These include a study of disciplinary epistemology in academic written discourse across disciplines (Mazzi 2012 and 2015a on history and medicine, respectively), and they appear to extend to the identification of widespread argument forms in other specialised domains such as the law.

With reference to the *SCI_1* and *SCI_2* corpora, the study of phraseology was conducted in distinctive ways. On the one hand, recurrent clusters of right-to-life judgments were extracted on the basis of an empirical criterion: accordingly, only those 3/6-word *n-grams* were selected that were semantically close to the subject area of the corpus (e.g., *of the unborn* in the *SCI_1 Corpus*). On the other hand, phraseology was studied in EU-related judgments by means of a pre-determined category popular in the literature, i.e. lexical bundles, which were selected with regard to their overall frequency only.

The second level at which corpora were mapped was the concordance-based study of word forms (e.g., *sovereignty* in the *SCI_2 Corpus*) observed to be semantically relevant to the broad legal issue addressed in the corpus. The interplay of the study of phraseology and the collocational properties of the selected word forms allowed for a preliminary survey on corpus "aboutness", and at the same time for the retrieval of the texts on which the qualitative analysis of argument schemes was subsequently carried out.

It is important to stress here that the words and phraseological patterns identified in Chapters 4 and 5 do not enjoy the status of argumentative indicators *per se*. As such, they cannot be and indeed were not correlated with the onset of one or more argument schemes. By reason of their high frequency, rather, they were treated as clues to follow to look for argument patterns contained in the texts where they were most often attested.

Because the text-based analysis eventually indicated the presence of a multifarious array of argument schemes–e.g., argument by definition, pragmatic argumentation, argument by analogy–and structures, the early corpus investigation proved to be an invaluable asset. With a view to the ensuing analysis of argumentative discourse, in particular, the frequency of lexical and phraseological tools may be said to give further application to the corpus linguistics principle that what is frequent is also going to be significant (Stubbs 2001).

By contrast, the identification of language tools of political argumentation in Chapter 6 was in a way more straightforward. The analysis being a corpus-based one, no mapping of the corpus proper was completed. Two texts were extracted. The argument structure was examined. Typical schemes–pragmatic and symptomatic argumentation–were singled out. Finally, their indicators in discourse were identified as well as analysed in the *Dev_Corpus* alongside other indicators included in scholarly literature (Van Eemeren et al. 2007). In brief, whereas the case studies on judicial argumentation adopted a bottom-up approach to argumentative discourse, that on political argumentation began with a textual input but was eventually predominantly top-down, using as it did the corpus as a confirmatory tool.

(5) More generally, how can such methods lead to an integrated approach to the study of argumentative language in Irish public discourse, in the interest of field scholars and practitioners alike?

In spite of their distinctive features, the analysis of right-to-life judgments in Chapter 4 and that of EU-related disputes in Chapter 5 are closely interwoven. Both were carried out by moving from corpus to text. In this they stand together as a first macro-unit of the research, while the two-step sequence of their methodology was reversed in the case study of political argumentation presented in Chapter 6. As the second macro-unit of the project, the latter does not simply distinguish itself by virtue of its topic, but also because the analysis was performed by moving from text to corpus evidence. Taken together, the two research directions provided in the volume combine quantitative findings with qualitative insights, and corpus perspectives with textual inputs and discourse-oriented interpretations. As such, they are argued here to establish a workable and highly flexible methodological framework for the study of argumentative discourse.

The integrated approach called for in the volume addresses the methodological challenges and the gaps mentioned in Chapter 2, from the

need to redress the balance in the study of legal argumentation in favour of language approaches, to the paucity of works on legal language that also encompass argumentation as a major dimension; from the often missing link between qualitative and quantitative research on political argumentation, to a desirable yet not fully accomplished cross-fertilisation between mainstream argumentation studies, e.g. pragma-dialectics, and linguistic research on the tools of argumentative discourse.

Finally, the findings of the volume suggest that Irish public discourse may be seen as a highly fertile ground for argumentation analysis, as was hypothesised in Chapter 1. The political and economic upheavals experienced by the Republic as a young independent state–most peculiarly, one in transition from independence to a "revised" sovereignty forcibly dictated by EEC/EU-membership, from an agricultural to a more secularised society, and from the years of the Celtic Tiger back into recession–have turned Irish society into an arena where a number of sensitive issues are still waiting to be framed and settled. For these reasons, it is hoped that the research reported here might sound appealing to both field scholars and practitioners in the areas of public debate this work is most closely associated with. A further discussion of this aspect is held in the next section.

7.3 Applications

The field to which the methodology of this work is most relevant is certainly argumentation, while the scholars appreciating the significance of findings are less theorists than analysts–e.g., discourse analysts and applied linguists in general–interested in empirical studies of argumentative discourse. Moving beyond the immediate circle of the research community identified in Chapter 2 and pertinently addressed through the answers in the prior section, this work also engages a broader audience of academics interested in forms of public discourse, e.g. sociologists and/or political scientists.

In Section 5.3, we showed that the data examined in the context of EU-related disputes are likely to enrich and consolidate the specialised profile of legal scholars. This is due to the implementation of methods that proved in keeping with the interpretation of trained readers, albeit with distinctive research goals. In 6.5, similarly, we pointed out that the presence of pragmatic and symptomatic argumentation along with a range of related indicators in de Valera's discourse may help sharpen our knowledge of this prominent figure of Irish political history, with a view to his profile as an arguer rather than as a statesman only.

However, the implications and applications of this research may be even more far-reaching. The author of this volume takes a broad view of public discourse as including all types of language use that are part of and eventually influence a well-informed public opinion and the related perception of a community's values, beliefs and problems. From this perspective, the choice of the topics around which the discussion of judicial and political argumentation revolved here, reflects that kind of context. Matters such as protection of life, women's rights and parental responsibility, or sovereignty and nationhood are by no means major concerns of judges or politicians only. The background of heated controversy surrounding them in Ireland and briefly reconstructed at the beginning of Chapters 4, 5 and 6 very clearly proves that judicial and political discourse do not develop in isolation within courtrooms and political assemblies, but are rather informing or possibly informed by perceptions about those topics in public debate.

How are concepts such as right to life and mothers' rights framed in the discourse of judges as public actors entrusted with the daunting task of settling disputes about them? How are the porous borders between national sovereignty and EU-membership dealt with in cases where governments' decisions and subsequent actions require tact and are often built on the shifting sands of contemporary politics? How do politicians exert their leadership to promote or discourage courses of action? What kind of affiliational resources do they mobilise to inspire feelings of membership and strive for distinctive ideals of nationhood? With what argument schemes? What role does language play in such processes? These questions are an integral part of the public discourse of nations as small yet open polities we live in, and they are tackled in this book.

In the realm of public debate on burning political and/or social issues, political theorists have warned against such dangers as "plebiscitary rhetoric" and "bonding rhetoric". The former is observed to "reign when campaigns are vapid and vacuous, when voters are given no information, when the press only covers strategy and never policy, when politicians say anything to get elected" and most of all, "when the audience, that is citizens, remains passive" (Chambers 2009, 337). As a further abnormal development of public discourse, bonding rhetoric becomes rooted in people's conscience when a message unites citizens in their aims, while at the same time investing on its divisive force. That should be "feared by democrats, because it is likely to deepen divisions with out-groups, to mobilize passions, to move groups to extremes" (Dryzek 2010, 328).

Argumentation as rational discourse facilitating debate and peaceful resolutions to differences of opinion plays a pivotal role in that respect, not

least for pedagogic purposes at large. Harris and Schön-Quinlivan's (2009) experiment on deliberative processes in engaging and informing citizens is a fine example. The two authors adopt a model of deliberative democracy as a forum where collective decisions are made through public reasoning. In the interest of encouraging informed rational decisions, fair and public-oriented outcomes as well as refined civic skills, deliberative processes are characterised by "a focus on 'reasonableness', where participants give reasons/justify their positions in a truthful and respectful manner from the perspective of the common good and where the force of the better argument prevails" (Harris and Schön-Quinlivan 2009).

This model of deliberative democracy was adapted to fit a one-day deliberative conference organised in University College Cork on 8 September 2009. That was only days ahead of the second referendum on the EU Lisbon Treaty, which had been rejected by 53.4% of Irish voters in June 2008. The aim of the conference was to stimulate free debate, argument and eventual deliberation on a wide range of topics related to the Treaty. By means of the joint effort by conference chairs, expert speakers and "facilitators" designed to ensure respect for diversity of opinion and a sympathetic attitude to others' views, the outcome of the experiment was striking. Participants appeared keen to collect more information than they ever had on the Lisbon Treaty, and facilitators pointed out that many former No-voters "changed their views on the EU and their position on the Lisbon Treaty in the course of the day. In particular, their perceptions on the loss of the Irish Commissioner, control over abortion and erosion of Irish neutrality changed" (Harris and Schön-Quinlivan 2009).

Although the present work does not delve into deliberative mechanisms from the citizen's viewpoint proper, it may not be by chance that the study of argumentative discourse reported here covers a range of topic areas that overlap with those in Harris and Schön-Quinlivan's (2009) experiment–e.g., the EU, Irish sovereignty and the protection of life. Our choice of the Republic of Ireland as a suitable candidate for research on argumentative discourse in public domains is not a random one, either. Not only has rhetoric been of interest to the design of academic curricula in a historical institution such as Trinity College, as we extensively saw in Chapter 1, but it is a fact that the relationship between this country and public debate has attracted a great deal of scholars.

For instance, the sociologist Mary P. Murphy (2011) compares the Irish public opinion's response to the latest economic crisis with the waves of protest against austerity and EU-policies in countries like Spain, Portugal and Greece. Even though the Irish response has overall been less passive than is commonly believed, she asserts, "questions nonetheless linger.

Why has dissent and debate about alternatives had such little impact on framing the crisis, championing alternatives or registering protest?" (Murphy 2011, 171). While historical and cultural factors are taken into account–from the enduring bitterness of the defeat of the 1798 rebellion and the 1840s famine, to the country's conservative, peasant and rural culture, where dissent was all too often stifled by a dominant Catholicism promoting deference and victimhood over open debate–Murphy (2011, 173) proposes an institutional interpretation of the "relative weakness of progressive civil society in Ireland".

In a country where, as of 2007, 38% of citizens were reported to be interested in politics and 54% were quoted as thinking they could influence decisions at a local level, "consistent with, or above European levels of activity", Murphy (2011, 173) identifies a set of factors inherent in Irish institutional life. One is "the populist nature of Irish political parties" (Murphy 2011, 177). After independence was achieved, Irish society bore the influence of a weak yet controlling state and a one-party dominant system, "in a culture that emphasised solidarity, cohesion and homogeneity, but maintained a political discourse that was largely non-ideological" (Murphy 2011, 177). Another factor is represented by politically neutral civil society actors. In the framework of a localistic and clientelistic political culture, Murphy (2011) suggests, civil society activists are granted access to political life. However, this is shaped by the mediation of political brokerage, which is largely at odds with a shared culture of empowerment, dissent and mobilisation.

In the light of that, Murphy (2011, 182) argues that "Irish civil society needs to create institutions or new public spheres to mobilise public dialogue". One way to stir such dialogue into action is to acquire practical skills to deconstruct the argumentative strategies included in the rhetorical repository, as it were, of the leading actors in the country's public life, from their linguistic part and parcel to argument schemes and the broader argument structures, and back again. This book is aimed at making a contribution to such undertaking. Although the topics in the country's public discourse may change over time, the theoretical and methodological foundations laid here are intended to remain secure.

As a result, one might say that partition is no longer as central to Irish political discourse as it was in the age of de Valera, but regardless of the theme that has the lion's share on the Irish public agenda, the argument schemes at work and their typical indicators in discourse may be resilient and endure over decades. By matching the core methodological requirements defined in this work while shifting the analytical perspective, it would be of great interest to collect one or more corpora instantiating

present-day political controversy. For example, corpus texts might include speeches and statements by a major politician (or fellow politicians from the same party) from the years before and after the crisis, in order to see whether the same issues are discussed, represented and "argued" in the same way. In addition, it would be an original approach to argumentation to collect a corpus sampling the *vox populi* [the people's voice] on a series of key political issues. In this respect, the Internet would be a rich source. Articles from Ireland's leading newspapers could be found, and readers' comments could be anonymised and collected in one sub-corpus per each of the selected topics. This would provide exclusive coverage of the readers' language in articulating arguments and managing disagreement about, say, rural crime, a (would-be) referendum on abortion, the Government's budget etc.

On the side of judicial argumentation, furthermore, a small corpus of dissenting opinions by SCI Justices could be collected, in order to verify what arguments they use to express their commitment to a verdict other than that eventually reached by the majority.

Whatever direction is taken by future studies, the present work is proposed to be a starting point for further research on argumentation in Irish public discourse. It is the author's wish that readers may find the analysis and the texts investigated in the previous chapters to be captivating and highly engaging. Data appear to provide strong evidence for Tóibín's (2007, ix) claim that over the last two centuries, "language in Ireland has often seemed an aspect of performance, eloquence itself has at times seemed more influential than laws; poems and plays and speeches have often been more powerful than actions". And indeed, there seems no better place to study argumentative language than "in the arena of public discourse", where the actual "battle of ideas takes place":

> [t]hat contest shapes the minds and passions of successive generations. The Victorian writer, Mark Pattinson, called this process 'the active warfare of opinion'. In that conflict, few weapons are as effective as rhetoric. Nowhere is this observation more applicable than in Ireland. [...] The power of language and the effect it might have on an audience have been indelibly bound together in the course of Irish history (Aldous 2007, xxi).

In conclusion, it is almost inevitable to yield to a temptation, namely leaving it to a prominent figure like Richard Whately, one of the rhetoricians we began with, to conclude this journey across judicial and political argumentative discourse. The past importance of rhetoric in Ireland is matched by its prospective future "utility" in the country's public forums,

> because the evil effects of misdirected power require that equal powers should be arrayed on the opposite side; and because truth, having an intrinsic superiority over falsehood, may be expected to prevail when the skill of the contending parties is equal; which will be the more likely to take place, the more widely such skill is diffused (Whately 1853 [1828], 24).

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