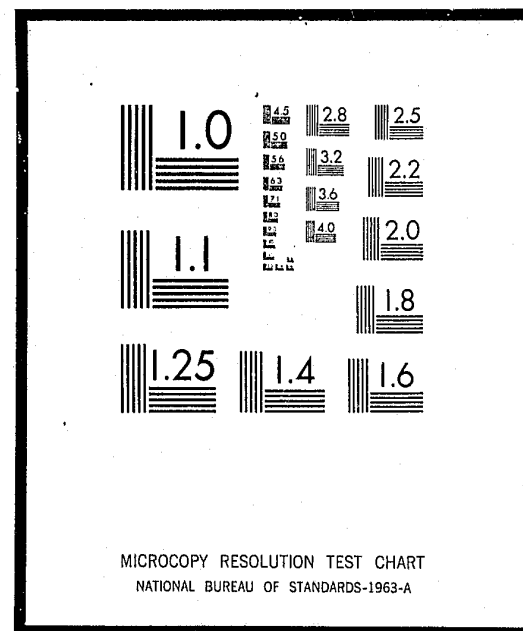


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THE COURT INTERPRETER

III

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## INTRODUCTION

Whenever the inability to communicate in English interferes with a citizen's right to a just and fair trial, a court interpreter's services are generally required. As the interpreter is "a person sworn at a trial to interpret the evidence of a foreign or a deaf and dumb person to the court",<sup>1</sup> these services may include both interpretation of oral testimony as well as the translation of documents written in a foreign tongue.<sup>2</sup> In short, the interpreter himself, acts as an all important medium of communication to ensure that justice is administered to the litigant.

### COURT INTERPRETERS UNDER STATE JURISDICTION APPOINTMENT OF INTERPRETERS

Court interpreters are recognized to be an integral part of the administration of justice and are recognized in all but six of the states.<sup>3</sup> Among the states that do appoint court interpreters, two means of selection are followed. By far the most popular means of selection is the temporary appointment. Some 37 of the states appoint court interpreters on a temporary basis as the particular need arises. The second alternative preferred by four states is the permanent employment of an official court interpreter for a particular term of office, generally a term of two to four years, or until removed for cause by the court of appointment.<sup>4</sup> The states of Hawaii, Massachusetts, New York and Texas provide for both those interpreters temporarily appointed as well as those on a full time basis. The advantages of maintaining an official full time interpreter, as pointed out by these states, seem to be that fewer attorneys have cause to question the interpreters initial selection, his qualifications and his interpretations. Critics of the full time appointments suggest, on the other hand, that maintaining a permanent interpreter is an unnecessary expense since the cases which occur that require his services are generally few in number.

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<sup>1</sup>Black, Law Dictionary, St. Paul: West Publishing Co., 1933, p. 1001.

<sup>2</sup>As to whether these services are rendered to the litigant, the court has complete discretion. In California, for example, the state statute suggests that this power to appoint an interpreter is an "inherent power" of the court and the authority lies nowhere else. West's Annotated Code, "Code of Civil Procedure", Title 2, part 4, section 1884.

<sup>3</sup>Only the states of Arkansas, Maine, Maryland, New Hampshire, North Carolina and South Carolina, fail to provide for court interpreters in their state statutes. See Appendix I for a complete statutory listing of all the states that make provisions for court interpreters in their laws.

<sup>4</sup>The states appointing permanent court interpreters, include New Jersey, Pennsylvania, Kentucky and Ohio.

## RIGHTS AND RESTRICTIONS OF THE INTERPRETERS

Normally all of the court interpreters, whether permanently or temporarily appointed, are sworn in under oath to interpret a witness's testimony truly and as accurately as his individual skills will allow. This swearing in is not absolutely necessary if no objection is made by the court, but often prevents embarrassing accusations by opposing attorneys.<sup>5</sup> The oath, of course, does not prevent all challenges to the accuracy of the interpreter's translation. He is often accused of misinterpretation in court and confronted by interpreters appointed by the opposing attorney to check the exactness of interpretation. Indiana encourages such practice allowing more than one interpreter to be appointed to interpret the same witness's testimony.<sup>6</sup> Georgia, to prevent possible injustices, has its court interpreters examined and cross examined as to their competency and biases. If found to be unreliable in either case, the interpreter is dismissed. In Idaho, on the other hand, all questions as to the accuracy of an interpretation must be left up to the jury to decide, thus preventing any opportunity for a second interpreter's translation.

An interpreter claims in some states to be an official of the court, yet most of the temporary interpreters throughout the states are not considered by the court to be such, but are classified as a special type of witness. In one sense the interpreter is designated to interpret the testimony of someone other than himself and can in this sense be considered an officer of the court.<sup>7</sup> But the temporarily appointed interpreter in another sense, allies himself closely to a witness's position since the law allows him to claim witnesses' privileges, and limits him with witnesses' obligations and restrictions. An interpreter, in every state, for instance, is allowed into a grand jury hearing but is under an obligation to keep all proceedings secret or he is subject to the same punishment a witness is subject to if he violates the secrecy. Again, an interpreter can be subpoenaed to appear before a court and can be accused of perjury and of contempt for misinterpretation and failure to appear.<sup>8</sup> Likewise, most states fail to differentiate between a witness and an interpreter in the courts fee schedule.<sup>9</sup> Often times the interpreter's skills and services are offered to the court for the same price as a witness's testimony. Low pay, stringent restrictions, and binding obligations have been designed to insure authenticity of interpretation. As to the effectiveness of such an approach, studies still have yet to verify.

<sup>5</sup>See Irving Goldstein, "The Interpreter in the Trial of Cases", Trial Lawyers Guide, 1957, p. 42.

<sup>6</sup>See "Indiana" section of Appendix I, and refer to Skaggs v. State, 108 Ind. 53, 8 NE 695.

<sup>7</sup>Poucher v. Enterprise Coal Mining Co.; 169 NW 86, 87, 183 Iowa, 1076.

<sup>8</sup>See Appendix I, Utah Code Annotated, Title 76, section 76-45-1; and Alaska Rules of Civil Procedure, Rule 43, section (g) (2).

<sup>9</sup>See Table II for a comparative list of salaries and fees for temporary interpreters.

## QUALIFICATIONS OF THE INTERPRETER

Qualifications of an interpreter, as can be expected, vary from state to state. Wyoming, for example, will allow anyone who has a "requisite knowledge" of the language in question to act as an interpreter,<sup>10</sup> but fails to suggest what this "requisite knowledge" means. California, Idaho, Montana and Nevada all specify that anyone who resides in the county of court jurisdiction and who can speak the language in question may be summoned by the court to act as an interpreter. South Dakota allows anyone to become an interpreter providing he has some knowledge of the language in question and as long as he is a "disinterested" party to the litigant in question. Absolutely no mention is made as to the level of fluency the interpreter should attain.<sup>11</sup> In Wisconsin, however, it is necessary for the interpreter to have his skills attested to by affidavit.<sup>12</sup> Pennsylvania, as well, requires an interpreter to produce a certificate of fitness and competency after having been properly examined by an examining board.<sup>13</sup>

Certain states provide in their statutes for an interpreter skilled in a particular language which might seem to be the most relevant for the geographic area. Kentucky, for instance, requires its permanent court interpreters to be fluent in English and German. New Jersey, however, authorizes official interpreters in Italian, German, Polish, Russian, Yiddish, Hungarian, Slavish and Greek.<sup>14</sup> Michigan no longer specifies a particular language, but guarantees in its statutes to recruit a qualified interpreter for any litigant who fails to understand or speak the English language regardless of the language spoken.<sup>15</sup>

It can be suggested with little argument that all states, regardless of whether its interpreters are temporarily appointed or permanently employed by the court, should require its interpreters to qualify by some minimum standards in an attempt to upgrade the interpretative skills necessary to insure a litigant a just trial. Irving Goldstein, a student of the court, suggests that an interpreter before he is appointed by the court should provide the following technical information to the court and attest to his impartiality concerning the case at hand. He suggests that the court should have:

...the interpreter's name, address, business, place of birth, his education, both in this country and in his country - if of foreign birth - his citizenship in this country, length of residency, prior experience as

<sup>10</sup>Wyoming Statutes Annotated, Title 1, section 1-154.

<sup>11</sup>1960 Supplement to the South Dakota Code of 1939, Title 36, chapter 36.02, section 36.0207.

<sup>12</sup>West's Wisconsin Statutes Annotated, Title 30, chapter 326, section 326.26.

<sup>13</sup>Purdon's Pennsylvania Statutes Annotated, Title 28, section 443.

<sup>14</sup>New Jersey Statutes Annotated, Title 2A, article 5, section 2A 11-28.

<sup>15</sup>Michigan Statutes Annotated, Title 28, section 28.1256.

an interpreter, any official positions he holds or has held, if he has taught the foreign language, this should be brought out, his relationship or lack of relationship to the parties or witness. His knowledge of the particular dialect involved, and that he can read, write and understand both English and the foreign language - that he is able to translate and interpret from the English into the foreign language and from the foreign language to the English.<sup>16</sup>

In addition to this suggested list of needed qualifications, an interpreter for the handicapped needs additional ones. Special provisions are made for interpreters of the language of the deaf and dumb in Indiana, Michigan, Missouri, North Dakota, Tennessee and Virginia, for those handicapped in this way. Virginia, for example, assures that its interpreters for the deaf are qualified without question, since its selection of interpreters is made from a preprepared agency registry which lists qualified interpreters for the deaf.<sup>17</sup> Georgia, not wishing to limit its interpretative services to the deaf and dumb, assures the litigant that no physical defect shall incapacitate a witness, and instead provides for an interpreter regardless of the physical handicap suffered by the litigant.<sup>18</sup>

SALARIES OF THE INTERPRETERS

Fees for the interpreter's services are generally fairly low since the interpreter most often is required to work shorter hours than most of the other employees of the court. But the salaries vary according to the state and the county the interpreter works, whether the interpreter is temporarily appointed or permanently employed, and according to what level of the court system the interpreter is assigned. These salaries are most often limited by statute but set and regulated by the court itself. Often the judge is guided by the fees received by witnesses returning the identical fee to the interpreter. Temporary fees vary from a low of \$2.00 a day in Montana and New Mexico, to a high of \$25.00 a day in Alaska and Michigan.<sup>19</sup> For those on a permanent salary, an interpreter's fees vary from a high of \$4,500 a year in the appellate division of the supreme court of New York, to a low of \$600 a year in the criminal branch of the circuit court of Kentucky.<sup>20</sup> When an interpreter is permanently employed, some states provide him with a number of fringe and retirement benefits in addition to his salary. New Jersey, for example, offers its interpreters the most comprehensive program of benefits in providing high salaries, a pension fund at half pay and pensions for the interpreters widows.<sup>21</sup>

<sup>16</sup>Goldstein, p. 137.

<sup>17</sup>Code of Virginia 1950, Title 19.1, section 19.1-246.1.

<sup>18</sup>Code of Georgia Annotated, Book 13A, Title 38, section 38-1609. No state employs a permanent interpreter for the physically handicapped. All are temporarily recruited when the need arises.

<sup>19</sup>Refer to Table I for a salary breakdown of those states which temporarily appoint interpreters.

<sup>20</sup>Consult Table II for a detailed resume of salaries for permanent interpreters.

<sup>21</sup>New Jersey Statutes Annotated, Title 43, art. 9, sections 43:10-93 to 43:10-102.

TABLE I  
PERMANENT INTERPRETER SALARY SCALE\*\*

State	Salary
KENTUCKY	<u>Circuit Court</u> , interpreter: \$1,500 a year <u>Criminal Branch, Circuit Court</u> , interpreter: \$600 a year
NEW JERSEY	For <u>Italian, German, Polish, Russian, Yiddish, Hungarian and Slavish</u> interpreters salaries are fixed by the judge of the county courts  For <u>Greek interpreters</u> : - in counties of more than 500,000 inhabitants: \$2,500 a year - in counties of from 300,000 to 500,000 inhabitants: \$1,800 a year - in counties of more than 80,000 inhabitants: \$1,200 a year
NEW YORK	<u>Appellate Division, Supreme Court</u> , interpreters: \$4,500 a year <u>King County Court</u> , including all Slavonic interpreters: \$1,800 a year <u>Bronx and King County Court</u> interpreters receive the same as interpreters of the Supreme Court of those counties
OHIO	<u>Court of Common Pleas</u> , interpreters: \$1,200 a year
PENNSYLVANIA	<u>Court of Common Pleas</u> in counties containing population of one million, two hundred thousand: \$3,500 a year
HAWAII	To be determined by the court that hires the interpreter
MASSACHUSETTS	Reasonable compensation determined by the justices of the particular courts
TEXAS	For the County Courts, county commissioners fix the salary

\*\* The Information for Table I and Table II is taken from the state statutes found in Appendix I. Not all states specify their salary scale in the statutes and so not all states are listed. The courts have the prerogative to set the salary at a lower figure than reported, but they cannot exceed the listed figure.

TABLE II

## TEMPORARY INTERPRETER SALARY SCALE\*

State	Salary
ALABAMA	Paid the same as witnesses in the cause
ALASKA	\$25 a day for attendance in any court or coroner's inquest
ARIZONA	\$5 a day in Superior Court \$2.50 a day in the Justice Courts
CALIFORNIA	\$10 a day for a coroner's inquest \$20 a day at any court
COLORADO	Fixed by each judge
CONNECTICUT	\$10 a day in any court
DELAWARE	Fixed by the court
HAWAII	Temporary interpreter salaries are determined by the court
IDAHO	\$10 a day at any court, 25¢ a mile travel money
ILLINOIS	For the interpreter of deaf mutes, the court determines the fee
INDIANA	Fees the same as witnesses
LOUISIANA	\$2 a suit
MICHIGAN	\$25 a day in the Justice Court \$15 a half-day in the Justice Court

TABLE II (contd.)

State	Salary
MINNESOTA	Fees of interpreter to be determined by the court
MISSISSIPPI	\$5 a day in any court
MISSOURI	35¢ a testimony interpreted beyond regular witness fee .05¢ for every 10 words of translation
NEBRASKA	\$2 a day in any court
NEVADA	Fees determined by the court
NEW MEXICO	\$20 a day in District Court; \$2 a day in other courts 25¢ for 100 words of translation
NEW YORK	\$10 a day in any court
NORTH DAKOTA	\$5 a day in any court
OKLAHOMA	Fees determined by the court
RHODE ISLAND	\$5 or as determined by the particular court
SOUTH DAKOTA	\$5 a day in any court
TENNESSEE	Fees for the interpreters for the deaf and dumb are set by the judge of the particular court
VIRGINIA	Interpreter for the deaf is to be paid a fee as determined by the court

TABLE II (contd.)

State	Salary *
WISCONSIN	\$4 a day in <u>Justice of the Peace Court</u>
WYOMING	\$5 a day in any court

## COURT INTERPRETERS UNDER FEDERAL JURISDICTION

Discretion for both calling and compensating a court interpreter in the federal courts would seem to rest with court itself. In February, 1966 both civil rule (43) and Criminal rule (28) of the Federal Court procedures were amended to include provision for court interpreters. Civil Rule 43 added section (f) which read:

Rule 43 (f):

Interpreters--The court may appoint an interpreter of its own selection and may fix his reasonable compensation. The compensation shall be paid out of funds provided by law or by one or more of the parties as the court may direct, and may be taxed ultimately as costs, in the discretion of the court. (as amended February 28, 1966, effective July 11, 1966).<sup>1</sup>

Criminal Rule 28 reads in almost identical language except for the provision concerning interpreters fees as costs of the Court. The rule states:

Rule 28 (b):

The Court may appoint an interpreter of its own selection and may fix the reasonable compensation of such interpreter. Such compensation shall be paid out of funds provided by law or by the government, as the court may direct. (as amended February 28, 1966, effective July 1, 1966).<sup>2</sup>

The Advisory Committee that assisted in writing rule 28 recognized two particular circumstances when an interpreter would probably be called upon to assist the court. Said the Committee:

Interpreters may be needed to interpret the testimony of non-English speaking defendants in understanding the proceedings or in communicating with assigned counsel. Interpreters may also be needed where a witness or a defendant is deaf.<sup>3</sup>

<sup>1</sup>Ohlinger's Federal Practice 1966-1967 Supplement (Cincinnati: W. H. Anderson Co., 1966), p. 6,

<sup>2</sup>Barron and Holtzoff, Federal Practice and Procedure, Vol. 4, 1967 Pocket supplement (St. Paul: West Publishing Co., 1967), p. 121.

<sup>3</sup>Ibid.

\*Salary is generally determined by the particular court, but the court cannot exceed the figure listed.

In addition to these two circumstances, special reference in some Federal Court Rules is made to the necessity of obtaining correct documentary translations for any documents supplied to certain of our appellate courts. The Supreme Court has included in its rules, for example, Rule 14, that gives it authority to obtain a translation of any printed matter submitted to it in a foreign language.<sup>1</sup> In addition those circuit courts of appeal which include within their geographic boundaries any foreign territories have also made special rulings covering the translation of documents and testimony submitted to them. Included herein are the First Circuit---which includes Puerto Rico, the Third Circuit---which includes the Virgin Islands, the Fifth Circuit---which includes the Canal Zone, and the Ninth Circuit which includes both Guam and the state of Hawaii.<sup>2</sup> In addition, the Eighth Circuit also lists in their rulings concerning printed records in civil cases that "if the printed record contains any matter in a foreign language, it must be accompanied by a correct translation thereof."<sup>3</sup> This places the responsibility for translation on those submitting the material.

It might be generally agreed that where a witness fails to speak perfect English, or has a physical handicap impairing the direct communication with the court, the need for interpretation and the need for a competent and fit interpreter remains at the discretion of the Federal court. The court also has the right to determine the worth of the interpreter's skill and fix a proper compensatory fee thereto. This, of course, leaves the interpreter virtually unprotected without the right to help determine a proper compensation, and often without the privilege of determining whether he will serve or not. Protection of the court, as some have observed, is preserved but at the expense of the interpreter and his needed skill.

While court discretion is necessary to protect the dispensation of justice, the Federal courts might well follow the lead of many of the states in permanently establishing fair and just compensation for the interpreter within each court and determining the standards of translation and interpretation it wishes realized.

<sup>1</sup>See Rule 14 in Appendix II.

<sup>2</sup>Refer to these rulings in Appendix II.

<sup>3</sup>Rule 10 (b) U. S. Court of Appeals---Eighth Circuit: US Code Annotated--Cumulative Pocket Part (1967), p. 110. See the complete rule in Appendix II.

## CONCLUSION

In conclusion, one might suggest that the interpreter for the foreign-born, as well as for the handicapped, performs an irreplaceable service in the judicial process--one which has often been ignored but one which is consistently made use of. For those states which frequently have need for the services and can afford it, an official and permanent interpreter for certain courts may prove to be a successful alternative to insure adequate translations and to prevent possible miscarriages of justice. For those states which choose to retain the temporary selection of interpreters, and for the Federal Courts, a stringent standard of qualifications is a necessity in order to continue to recruit the skilled, and root out the inadequate from the judicial system. In addition, compensation for an interpreter's services most certainly should be made commensurate with the skill which is necessary, if the recruitment of high grade interpreters is to be made a reality in every circumstance. Only when each court incorporates such protections, will we be assured that court interpretation will continue to fill its all important role in the administration of justice at a consistently high level.

## APPENDIX I

### ALABAMA

Code of Alabama (Charlottesville, Va.: The Michie Co., 1960), Title 7, sec. 436.

#### Title 7:

§ 436. (7724) (4010) (1793) (2764) (3034) (2679) (2275) **Interpreters.** — Interpreters may be sworn to interpret truly, when necessary, and must be paid as witnesses in the cause.

An interpreter is a witness for the purpose indicated by the descriptive word. *Birmingham Ry., etc., Co. v. Jung*, 161 Ala. 461, 49 So. 434, 440, 18 Ann. Cas. 557.

And the competency of the person to take the prescribed oath is a question for the court. *Birmingham Ry., etc., Co. v. Jung*, 161 Ala. 461, 49 So. 434, 440, 18 Ann. Cas. 557.

Purported translation inadmissible

without original.—A purported translation of a deed in Spanish is properly rejected where (among other things) there is a failure to show that it is offered as an interpretation of an original in evidence as provided for by this section. *Aiken v. McMillan*, 213 Ala. 494, 106 So. 150.

Am. Jur. and ALR references.—58 Am. Jur., Witnesses, §§ 102, 549, 556, and 662.

### ALASKA

Alaska Rules of Court Procedure and Administration (Charlottesville, Va.: The Michie Co., 1963), Rule 8.

Alaska Rules of Civil Procedure (Charlottesville, Va.: The Michie Co., 1963), Civil Rule 43 - "Evidence", sec. (g), part 2.

Alaska Rules of Criminal Procedure (Charlottesville, Va.: The Michie Co., 1963), Criminal Rule 6 - "The Grand Jury", sec. (g) and (h).

#### Rules of Court Procedure and Administration:

#### **Rule 8. Fees of Interpreters and Translators.**

(a) **Amount.** Interpreters' and translators' fees for attendance in any court or at a coroner's inquest, shall be set by the court and be commensurate with the time required to be in attendance, but shall not exceed \$25.00 a day.

(b) **Payment.** Interpreters' and translators' fees shall be paid:

(1) In criminal cases and in coroners' inquests, from the appropriation to the judiciary of the state.

(2) In civil cases, by the litigants, in such proportions as the court may direct, to be taxed and collected as other costs.

#### **ANNOTATIONS:**

Admin. Director Instructions 80-2  
(Fees Schedule)

#### Rules of Civil Procedure - Rule 43:

(2) *Interpreters.* When a witness does not understand and speak the English language, an interpreter shall be sworn to interpret for him. An interpreter is subject to all provisions of rules relating to witnesses.



## Rules of Criminal Procedure - Rule 6:

(g) **Who May Be Present.** The prosecuting attorney, the witness under examination, interpreters when needed and, for the purpose of taking the evidence, a stenographer may be present while the grand jury is in session, but no person other than the jurors may be present while the grand jury is deliberating or voting.

(h) **Secrecy of Proceedings and Disclosure.** Disclosure of matters occurring before the grand jury other than the deliberations and the vote of any juror may be made to the prosecuting attorney for use in the performance of his duties. Otherwise, a juror, attorney, interpreter or stenographer may disclose matters occurring before the grand jury only when so directed by the court preliminary to or in connection with a judicial proceeding or when permitted by the court at the request of the defendant upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury. No obligation of secrecy may be imposed upon any person except in accordance with this rule. The court may direct that an indictment shall be kept secret until the defendant is in custody or has given bail, and in that event the clerk shall seal the indictment and no person shall disclose the finding of the indictment except when necessary for the issuance and execution of a warrant or summons.

ARIZONA

Arizona Revised Statutes Annotated, vol. 4 (St. Paul: West Publishing Co., 1956)  
Title 11, section 11-601; Title 12, section 12-241.

## Title 11:

**§ 11-601. County charges**

County charges are:

1. Charges against the county incurred by virtue of any provision of this title.
2. Salaries of county and precinct officers, deputies and employees and necessary expenses incurred in the conduct of their offices.
3. Expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail.
4. Sums required by law to be paid to grand and trial jurors and indigent witnesses in criminal actions.
5. Compensation of interpreters in the prosecution or defense of criminal actions, not to exceed five dollars per day in the superior court and two dollars and fifty cents per day in justice courts, but the judge of the superior court may appoint interpreters for justice courts and courts of record of their county who shall be the official interpreters when present, and who shall be paid such salaries as the board of supervisors may determine, not to exceed one hundred fifty dollars per month.

## Title 12:

**§ 12-241. Appointment; court attendance**

The court may when necessary appoint interpreters, who may be summoned in the same manner as witnesses, and shall be subject to the same penalties for disobedience.

**Historical Note****Source:**

§ 2505, R.S. '01; § 1087, R.S. '13;  
§ 4400, R.C. '25; 23-317, C. '30.

**Notes of Decisions**

In general 1  
Fees or compensation 3  
Necessity of appointing 2

**1. In general**

Trial court has discretion whether to provide accused with an interpreter, and whether failure to so provide constitutes an abuse of discretion depends upon whether such refusal in any manner hampered accused in presentation of his case to the jury. *Viliborghl v. State* (1935) 45 Ariz. 275, 43 P.2d 210.

Objections at the trial that a witness could not speak English well enough to have given the answers contained in his deposition, and that the deposition did not show an interpreter was present, could not be considered by the jury; the question of admissibility being for the court. *Arizona Eastern R. Co. v. Bryan* (1916) 18 Ariz. 106, 157 P. 376, affirmed 37 S.Ct. 241, 242 U.S. 621, 61 L.Ed. 532. In this case the court said: "We find no requirement of law that before a witness can testify that it must be made to appear that he can speak English correctly or at all, or that, if he speaks but little English, an interpreter must

be there and sworn. The fact that the witness could speak but little English, and that the return on the deposition failed to disclose that an interpreter was sworn, is no ground for rejecting the testimony of a witness when the deposition is procured as provided by law when offered."

**2. Necessity of appointing**

Refusing to set aside information on ground that accused had not been legally committed because no one was appointed to interpret proceedings for accused, who did not understand English language, and because they were not represented by attorney or advised by magistrate that they could have one appointed, was not error under record. *Hernandez v. State* (1934) 43 Ariz. 424, 32 P.2d 18.

**3. Fees or compensation**

A complaint against a county for interpreter's fees, failing to allege that the services were rendered in a civil case in which the county was a party or in a criminal case, did not state a cause of action. *Cochise County v. Michelena* (1914) 15 Ariz. 477, 140 P. 62.

CALIFORNIA

West's Annotated California Codes - "Government Code", vol. 3 (St. Paul: West Publishing Co., 1964) Title 8, section 68090-68092.

West's Annotated California Codes - "Code of Civil Procedure", vol. 21 (St. Paul: West Publishing Co., 1955) Title 2, part 4, section 1884

## Title 8:

**§ 68090. Interpreters' and translators' fees.** Except as otherwise provided by law, interpreters' and translators' fees, for each day's actual attendance, when legally required to attend, are:

- (a) For attendance at a coroner's inquest, ten dollars (\$10) a day.



## Title 8, §68090 (contd.)

(b) For attendance upon a court, such fee as may be allowed by the court, not to exceed twenty dollars (\$20) a day. (Added Stats.1953, c. 206, p. 1241, § 1, as amended Stats.1953, c. 243, p. 1381, § 2.)

Library references: Courts ~~§56~~; C.J.S. Courts § 141.

## Historical Note

The 1953 amendment doubled the fees provided. Derivation: C.C.P. § 304.3, added Stats. 1951, c. 655, p. 1849, § 16.

## Cross References

Admissibility of interpreters' evidence, see Code of Civil Procedure § 1863.  
Employment of interpreters by officers authorized to take proof of instruments, see Civil Code § 1201.  
English language, use of required in judicial proceedings, see Code of Civil Procedure § 185.  
Grand jury, use of interpreters, see Penal Code § 925.  
Summoning of interpreters, contempt for disobedience, see Code of Civil Procedure § 1884.

**§ 68091. Interpreters' and translators' fees; aggregate daily amount.** The aggregate amount of fees that may be allowed to any one person pursuant to Section 68090 shall not exceed twenty dollars (\$20) a day. (Added Stats.1953, c. 206, p. 1241, § 1, as amended Stats.1953, c. 243, p. 1381, § 3.)

## Historical Note

The 1953 amendment doubled the maximum fee. Derivation: C.C.P. § 304.3, added Stats. 1951, c. 655, p. 1849, § 16.

**§ 68092. Interpreters' and translators' fees; payment.** Interpreters' and translators' fees shall be paid:

(a) In criminal cases and in coroners' cases, from the county treasury upon warrants drawn by the county auditor, when so ordered by the court or by the coroner, as the case may be.

(b) In civil cases, by the litigants, in such proportions as the court may direct, to be taxed and collected as other costs. The county's proportion of such fees so ordered to be paid in any civil suit to which the county is a party shall be paid in the same manner as such fees are paid in criminal cases. (Added Stats.1953, c. 206, p. 1241, § 1.)

Derivation: C.C.P. § 304.4, added Stats.1951, c. 655, p. 1849, § 16.

## Title 2:

**§ 1884. Interpreters; swearing; residence qualifications; summoning; contempt**

WHEN AN INTERPRETER TO BE SWORN. When a witness does not understand and speak the English language, an interpreter must be sworn to interpret for him. Any person, a resident of the proper county, may be summoned by any Court or Judge to appear before such Court or Judge to act as interpreter in any action or proceeding. The summons must be served and returned in like manner as a subpoena. Any person so summoned who fails to attend at the time and place named in the summons is guilty of a contempt. (Enacted 1872.)

Derivation: Stats.1851, c. 5, p. 114, § 401, as amended by Stats.1863, c. 334, p. 495, § 1.

## Title 2, §1884 (contd.)

## Cross References

Contempt, see § 1209 et seq.  
County clerks, employment of foreign language interpreters, see Government Code § 26906.  
Employment of interpreters by officers authorized to take proof of instruments, see Civil Code § 1201.  
Fees, see §§ 304.3, 304.4.  
Grand jury, interpreter in proceedings before, see Penal Code § 925.  
Proceedings to be in English language, see § 185.  
Service of subpoena, see § 1987.

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Criminal Law ~~§642~~.  
Trial ~~§22~~.  
C.J.S. Criminal Law § 965.  
C.J.S. Trial § 42.

## 1. Construction and application

While one is engaged in discharge of duties of an interpreter, he is but a witness whose conduct is subject to a most

careful scrutiny. *People v. Walker* (1924) 231 P. 572, 69 C.A. 475.

Court erred in permitting wife of witness, whose physical condition was such that he could give forth no sound or whisper by means of organs of speech, to act as his "interpreter," since defendant was denied right to impeach or ascertain correctness of "interpretation," and she was immune from a successful prosecution for perjury in making it. *Id.*

The defendant, indicted for murder, moved to set aside the indictment under Pen. C., § 905, providing that an indictment must be set aside when a person is present during the session of the grand jury, when the charge embraced in the indictment is under consideration, except as provided in Pen.C. § 925, which specifies the judge, the district attorney, a stenographer, the members of the grand jury, and witnesses actually under examination. Two of the main witnesses against defendant were Chinese, who could not speak English, and an interpreter was called in. Held, that the interpreter was a witness, within § 1878, declaring that a witness is a person whose declaration under oath

is received as evidence for any purpose; and § 2005, providing that an oral examination is one where the testimony is heard from the lips of the witness; since, under this section, the interpreter must be sworn, and he states under oath to the jury what the other witness said; and Pen.C., § 1102, provides that the rules

of evidence in civil actions are applicable also to criminal actions, except as otherwise provided; hence the interpreter was properly before the grand jury. *People v. Lem Deo* (1901) 64 P. 265, 132 C. 109.

## 2. Inherent power to call interpreters

In addition to power conferred by this section, courts of general jurisdiction have inherent power to swear interpreters, whenever necessary to due administration of justice, which may be exercised to supplement existing statutes, provisions of which do not extend to all cases in which such a necessity appears. *People v. Walker* (1924) 231 P. 572, 69 C.A. 475.

## 3. Necessity of interpreter

Necessity of interpreter is question for judicial determination of court. Code Civ. Proc. § 1884. *Hilbert v. Kundicoff* (1928) 268 P. 905, 204 C. 485.

## 4. Demand for interpreter

Accused presented in sufficient form a demand for an interpreter within this section. *People v. Holtzclaw* (1926) 243 P. 894, 76 C.A. 168.

## 5. Duty to call interpreter

Independently of statute, every court has inherent power to call interpreter for witness under proper circumstances. *People v. Holtzclaw* (1926) 243 P. 894, 76 C.A. 168.

Court is under duty to call interpreter whenever circumstances calling for interpreter arise, in view of this section. *Id.*

Refusal to call interpreter for Japanese witness was not abuse of discretion, in view of witness' understanding of English language as disclosed by record. *Id.*

Under this section it is made the duty of the court to appoint an interpreter in those cases only where the witness does not understand or speak the English language, the question being one in each case for the judicial discretion of the trial court, so that its ruling will not be disturbed unless abuse of discretion is clearly shown. *People v. Avila* (1920) 104 P. 768, 50 C.A. 228.

## 6. Discretion of court

The matter of the appointment of an interpreter is discretionary with the court. *People v. Rebolledo* (1949) 209 P.2d 16, 93 C.A.2d 281; *Application of Carr* (1946) 167 P.2d 243, 73 C.A.2d 697; *People v. Lopez* (1913) 131 P. 104, 21 C.A. 188; *People v. Santos* (1933) 26 P.2d 522, 134 C.A. 736.

Permitting witness to testify through interpreter was matter within discretion of trial court. *People v. Lacang* (1931) 1 P. 2d 7, 213 C. 65.

## Title 2, §1884 (contd.)

Under this section the propriety of calling an interpreter and the fitness of the person so called are matters for the trial court. *People v. Valencia* (1915) 150 P. 68, 27 C.A. 407.

Whether an interpreter should be appointed for witness claimed to be unable to talk English, as authorized by this section, is within the discretion of the trial judge. *People v. Morine* (1903) 72 P. 166, 138 C. 626.

## 7. Appointment of interpreter

Where no request was made for appointment of interpreter for examination of defendants as witnesses, and defendants were examined at great length and responsiveness and intelligibility of their answers, indicated their comprehension of questions asked, court did not err in failing to appoint an interpreter. *Forman v. Goldberg* (1941) 108 P.2d 983, 42 C.A.2d 308.

Order for interpreter, was not abuse of discretion, though witness could read, write, and speak some English. *People v. Santos* (1933) 26 P.2d 522, 134 C.A. 730.

Whether an interpreter shall be called to render testimony of witness not understanding English language rests in discretion of trial court. *People v. Holtzelaw* (1926) 243 P. 894, 76 C.A. 168.

Determination of witness' understanding of English language within this section is to be solved upon examination of witness' entire testimony. *Id.*

Where an Indian understood some of the language addressed to him in English, but he could not understand all, he had through association with Spanish companions acquired a slight knowledge of that language, which was used in his conversation with defendant on the occasion of the commission of a crime, the court did not abuse its discretion in appointing an Indian interpreter, a resident of the county, for the Indian when testifying as witness on defendant's trial. *People v. Salas* (1905) 84 P. 295, 2 C.A. 537.

## 8. Refusal to appoint interpreter

Court did not abuse its discretion in refusing to appoint an interpreter for defendant, an Indian, when defendant disclosed an ability to understand questions and respond in English when he wished to do so. *Application of Carr* (1946) 167 P.2d 243, 73 C.A.2d 697.

In a prosecution for statutory rape, where to corroborate the 13 year old vic-

tim's testimony her aunt was called as a witness, and such aunt during her examination repeatedly asked for an interpreter, stating she did not understand the questions asked her in English, as an examination of her answers shows, the trial court abused its discretion in denying an interpreter to the witness. *People v. Avila* (1921) 104 P. 708, 50 C.A. 228.

Under this section, the court is necessarily vested with a discretion which is not abused in refusing an interpreter to a foreigner charged with murder who appeared to sufficiently understand the language. *People v. Young* (1895) 41 P. 281, 103 C. 8.

Where an Italian on trial for homicide, as appeared from the record, had a very good command of English, readily understood the questions asked him, and had no difficulty in narrating all that occurred between himself and deceased, and his counsel apparently did not consider that he failed to understand questions or to give a direct and intelligent answer except in a couple of instances when he did not understand the meaning of a few words, and an interpreter was used, no prejudice from the court's ruling in refusing to permit him to give his testimony through an interpreter was apparent. *People v. Mammilato* (1914) 142 P. 58, 168 C. 207.

## 9. Competency of interpreter

The competence of an interpreter is ordinarily for the trial court to determine. *People v. Mendes* (1950) 219 P.2d 1, 35 C. 2d 537.

In prosecution of a Mexican for murder, where defendant and witnesses testified through a court-appointed interpreter, denying motion to replace interpreter on the ground of incompetence was not error where the court interpreter and defendant's interpreter were generally in agreement and no errors were shown which were not corrected in the course of trial. *Id.*

Where the accuracy of an interpreter was drawn into question, evidence of his skill is admissible, but it is proper for the court to deny counsel's suggestion that the interpreter be allowed to carry on, in the presence of the jury, conversation with the witnesses so that his skill might be determined. *People v. Ong Git* (1913) 137 P. 283, 23 C.A. 148.

A person who is a witness on a criminal charge is not, on that account, incompetent to act as interpreter at the examination of other witnesses in the case before the grand jury. *People v. Ramirez* (1880) 56 C. 533, 38 Am.R. 73, 7 P.O.L.J. 4.

## 10. Qualification of interpreter

Where, in a prosecution for homicide,

a number of the witnesses were Indians, who were unable to testify in English, and it was recognized by all that the interpretation was likely to prove inexact in the hands of any one within reach of the court, the proper time to question the qualification of an interpreter was before he was permitted to act, and, where the best is made of the situation by consenting to a person acting as interpreter who was known not to be able to interpret exactly either the oath or the evidence, the accused was not entitled to have the testimony given through such an interpreter stricken out without some showing that in a particular instance complained of the oath was not correctly interpreted. *People v. Phillips* (1910) 108 P. 731, 12 C.A. 700.

## 11. Duties of interpreter

It is the duty of an interpreter to interpret and report to the court every statement made by a witness. The court should so instruct the interpreter and require a strict compliance with such instruction. *People v. Wong Ah Bank* (1884) 4 P. 19, 65 C. 305.

## Title 2, §1884 (contd.)

## 12. Translations

A witness may translate to the court plaintiff's book of account kept in Chinese. *Yick Wo v. Underhill* (1907) 90 P. 967, 5 C.A. 510.

## 13. Confessions, interpretation of

Prosecution was entitled to have confessions in foreign language, properly in evidence, interpreted by having notes read into record, or by filing transcription in evidence. *People v. Costello* (1928) 262 P. 75, 87 C.A. 313.

## 14. Leading questions

In robbery prosecution, where an interpreter was appointed for accused, certain leading questions were allowable. *People v. McNeal* (1954) 266 P.2d 529, 123 C.A.2d 222.

## 15. Objections

Where reporter's testimony as to declarations made in the Chinese language which he did not understand was excluded on objection, but again offered after interpreter had testified that he correctly translated the questions and answers, general objection then made, which defendant's counsel expressly declined to make more specific, was not sufficient to call the court's attention to the fact that the interpreter's testimony was not a sufficient foundation for the reporter's testimony. *People v. Wong Toy* (1922) 209 P. 543, 189 C. 587.

## 16. Review

Competency of an interpreter duly appointed by court cannot be attacked for

first time on appeal. *People v. McNeal* (1954) 266 P.2d 529, 123 C.A.2d 222.

In robbery prosecution, objection that testimony of prosecuting witness was contradictory in itself was not sufficient ground for reversal. *Id.*

Necessity of interpreter is question for judicial determination of court, whose ruling will not be disturbed, except for clear abuse of discretion. *Hilbert v. Kundicoff* (1928) 268 P. 905, 204 C. 485.

In prosecution for larceny, where court concluded that witness was unable to understand and express himself in English language and that an interpreter was necessary, denial of defendant's request that witness answer certain questions directly in English would not be reviewed, there being nothing in record indicating an abuse of discretion. *People v. Miller*, (1924) 221 P. 400, 64 C.A. 330.

In a prosecution for murder, many of the witnesses were Indians, who could not testify in English, and the court allowed accused to introduce the testimony of his witnesses with the aid of his step-father as an interpreter, and allowed the district attorney to have an Indian boy as a check interpreter to prompt him when it appeared to the boy that the interpretation had not been correctly made. Much of the defense was introduced in a leading form. The district attorney objected to one answer given by the interpreter, and said, "Is this interpreter giving the answers to the witness, or is she testifying?" Held that, there being enough in the record to justify the remark, the suggestion that the interpreter might be giving his own version of the matter was not prejudicial to accused. *People v. Phillips* (1910) 108 P. 731, 12 C.A. 700.

## COLORADO

Colorado Revised Statutes 1963, vol. 7 (Denver: Bradford-Robinson Printing Co., 1964), Chapter 154, article 1, sections 13 and 14.

154-1-13. Interpreters—compensation.—When the judge of any court of record in this state shall have occasion to appoint an interpreter for his court, it shall be his duty to fix the compensation to be paid such interpreter for each day his services shall be required.

Source: L. 91, p. 246, § 1; R. S. 08, § 7281; C. L. § 6567; CSA, C. 177, § 13; CRS 53, § 153-1-13.

154-1-14. Paid by county.—It shall be the duty of the board of county commissioners of the county where such services are rendered to audit the accounts of such interpreter, as allowed by the judges of the courts of record of such county, and to cause warrants to be drawn upon the county treasurer in payment thereof.

Source: L. 91, p. 246, § 2; R. S. 08, § 7282; C. L. § 6568; CSA, C. 177, § 14; CRS 53, § 153-1-14.

CONNECTICUT

Connecticut General Statutes Annotated, vol. 2 (St. Paul: West Publishing Co., 1960)  
Title 1, sec. 1-25; Title 52, sec. 52-257.

Title 1, §1-25:

FOR AN INTERPRETER IN A CRIMINAL CASE

You solemnly swear that you will make a true interpretation of the information (or indictment) upon which the accused stands charged, in the language which he understands and can speak, and of all questions which may be propounded to him under the direction of the court; and that you will make a like true interpretation of his plea to said information (or indictment) and of his answers to such questions to this court (or to this court and jury), in the English language, according to your best skill and judgment; so help you God.

FOR AN INTERPRETER IN COURT

You solemnly swear that you will make a true interpretation of the oath to be administered to the witness, in the language which he understands and can speak, and of all questions which may be propounded to him under the direction of the court; and that you will make a like true interpretation of his answers to such questions to this court (or to this court and jury), in the English language, according to your best skill and judgment; so help you God.

Title 52, §52-257

**Fees of parties in civil actions**

The fees of parties in civil actions shall be: For each complaint, exclusive of signing and bond, three dollars for the first page, and for each succeeding page, one dollar and fifty cents; for each judgment file, two dollars for the first page and for each additional page, one dollar and fifty cents. The prevailing party in any civil action in the superior court or in the court of common pleas shall receive, by way of indemnity, the following sums: For all proceedings before trial, twenty dollars; for the trial of an issue of law or fact, twenty-five dollars, but if more than one issue of fact is tried at one time, only one trial fee shall be allowed. In difficult or extraordinary cases in the superior court, where a defense has been interposed, the court may, in its discretion, make a further allowance to the prevailing party, not to exceed one hundred dollars. The following sums may be allowed to the prevailing party in causes pending in the supreme court of errors: For all proceedings, thirty dollars; for expenses actually incurred in printing copies of briefs, a sum not exceeding one hundred dollars; and to the plaintiff in error, plaintiff in a cause reserved or to the appellant, as the case may be, the record fee of

Title 52, §52-257 (contd.)

twenty-five dollars, provided judgment shall be finally rendered in his favor. The foregoing costs in the supreme court of errors shall be in the discretion of the court on reservation of a cause for advice, or when a new trial is granted, and nothing herein shall interfere with the discretion of the court in taxing costs in causes in which equitable relief is demanded. Parties shall also receive, for each witness attending court, his legal fee and mileage; for each deposition taken out of the state, twenty dollars, within the state, fifteen dollars; on an application for the sale of property attached, the expenses incurred; in any civil action affecting the title to real estate situated in this state, or affecting any mortgage or lien thereon, the actual expense, not exceeding the sum of fifty dollars, of an examination of the land records concerning the title to the real estate in question and the actual amount, not exceeding the sum of fifty dollars, paid for an expert on the value of the land when such value is in dispute; for maps, plans, mechanical drawings and photographs, necessary or convenient in the trial of any case, a reasonable sum; for copies of records used in evidence, bonds, recognizances and subpoenas, court and clerk's fees; for the signing and service of process, the legal fees payable therefor, except that no fee shall be allowed for the return of a subpoena to court; the actual expense incurred in publishing orders of notice under direction of the court; for each interpreter necessarily employed in the trial of any civil case, ten dollars; for premiums upon all bonds or undertakings provided pursuant to statute, rule of court, order of court or stipulation of parties, including bonds in lieu of or in release or dissolution of attachment, the actual amount paid, not exceeding a reasonable amount. (1949 Rev., § 3602; 1955, Supp. § 1970d; 1959, P.A. 28, § 177; 1959 P.A. 473, § 2.)

DELAWARE

Delaware Code Annotated, vol. 13 "Court Rules" (St. Paul: West Publishing Co., 1966 Cumulative Pocket Part), Rule 43, section f.

RULE 43. EVIDENCE

\* \* \* \* \*

(f) Interpreters. The court may appoint an interpreter of its own selection and may fix his reasonable compensation. The compensation shall be paid out of funds provided by law or by one or more of the parties as the court may direct, and may be taxed ultimately as costs, in the discretion of the court. As amended, effective Jan. 1, 1967.

FLORIDA

Florida Statutes Annotated, vol 23 (St. Paul: West Publishing Co., 1944), Title 45, Chapter 905, section 905-15, 905.17.

## Title 45:

## 905.15 Appointment of interpreter

The foreman or acting foreman, whenever necessary, shall appoint an interpreter, and shall swear him not to disclose any testimony or the name of any witnesses except when testifying in court.

## History and Source of Law

## Derivation:

Comp.Gen.Laws Supp.1040, § 8053(04).  
Laws 1939, c. 10554, § 94.

## 905.17 Who may be present during sessions of grand jury

No person shall be present at the sessions of the grand jury except the witness under examination, the prosecuting attorney, and the interpreter, if any. No person shall be present while the grand jurors are deliberating or voting. Any person violating either of the above prohibitions may be held in contempt of court.

GEORGIA

Code of Georgia Annotated, Book 13A (Atlanta: The Harrison Company, 1954), Title 38, sections 38-405 (5778), 38-1609 (5864;1040 P.C.), 38-2206, 38-2207; Title 113, sections 113-207, 113-306.

## Title 38:

38-405. (5778) Admissions by strangers to suit.—The admissions by third persons, strangers to the suit, shall be received in evidence:

1. When a party refers another to such third person for information.
2. Admissions by a third person against his interest, as to a fact collateral to the main issue between the litigants but essential to the adjudication of the cause.
3. Statements by an interpreter where from any cause he cannot be sworn.

Cross-references.—Interpreter, see §§ 113-207, 113-306. Evidence through interpreter, see § 38-1609.

38-1609. (5864; 1040 P. C.) Evidence through interpreter.—No physical defect in any of the senses shall incapacitate a witness. An interpreter may explain his evidence.

Cross-references.—Interpreter must be competent to be a witness, see § 113-306. Statements of an interpreter as evidence, see § 38-405, ¶ 3.

Cited. 58/190 (1).

Audible speaking by witness impossible by reason of his physical condition, his answers may be communicated in his presence and hearing by a sworn officer of court. 25/515 (4), 516 (5).

Kinship of interpreter to party in case, not require a reversal, it not appearing that any other person was available. 136/46 (4) (70 S. E. 798).

Telegram expressed in cipher may be translated into ordinary language by witness who knows how to read it. 57/270 (4).

## Title 38 (contd.)

38-2206. Interpreters; selection; oath.—Whenever testimony is taken under this Chapter, the services of an interpreter may be utilized to translate the questions or the answers of the witness, or both, into English. The interpreter may be selected by the party at whose instance the testimony is taken, in which case he shall be named in the notice of intention to take testimony, or he may be selected by the person before whom the testimony is to be taken, in which case notice that he will be so selected shall be included in the notice of intention to take testimony. He shall be sworn to translate the testimony truly to the best of his knowledge and ability. (Acts 1939, pp. 290, 292.)

38-2207. Same; examination and cross-examination as to competency and bias; translation of questions and answers.—The interpreter may be examined and cross-examined under oath as to his competency and lack of bias and the questions and his answers thereto shall be reduced to writing and returned with the other testimony. The questions and answers of the witness shall be translated in English, but if that is not possible or if the parties otherwise agree, either the questions or the answers or both, may be transcribed in a foreign language and separately translated into English, either by an interpreter who was present when the testimony was taken or by a witness at the trial of the case. (Acts 1939, pp. 290, 292.)

## Title 113:

113-207. (3844) Blind mutes.—A person deaf, dumb, and blind may make a will, provided both the interpreter and the scrivener are attesting witnesses thereto, and are examined upon the petition for probate of the same. In such cases, strict scrutiny into the transaction should precede the admission of the paper to record.

Blind man's will need not be read to him in presence of subscribing witnesses. 7/564. Sufficient if read to him alone. 28/382.  
Deaf and dumb person may make a will. 6/325 (11).

113-306. (3845) Interpreter; competency, etc.—In all cases when an interpreter is necessary to convey to the scrivener or to the witnesses the wishes of the testator, such interpreter shall be a person competent to be a witness, and shall be sworn on the motion for probate, if within the jurisdiction of the court.

Cross-references.—Statements of unsworn interpreter as evidence, see § 38-405, ¶ 3. Evidence through interpreter, see § 38-1609.

Competency: Person incapable of being sworn not competent. 6/324.

HAWAII

Revised Laws of Hawaii 1955 (San Francisco: The Filmer Bros. Press, 1957), Title 26, Chapter 218, section 218-9.

§ 218-9. Reporters and interpreters; district court clerks. Authority is conferred upon the judges of the circuit court of the first judicial circuit, or a majority thereof, to appoint one or more interpreters, and upon each of the circuit judges of the other circuit courts, to appoint a competent shorthand reporter and one or more interpreters for their respective courts.

Authority is also conferred upon the district magistrates of Honolulu, of South Hilo and of Wailuku, respectively, to appoint a clerk or clerks and one or more interpreters for each of such district courts, and upon the district magistrates of Makawao, of Lahaina, of Molokai and of Lanai, respectively, to appoint a clerk for each of such district courts. The district magistrates of Honolulu, any other law, rule or regulation to the contrary notwithstanding, are empowered to require of the interpreters, in addition to their other duties, such clerical work as they may be qualified to perform.

Each of the shorthand reporters, interpreters and clerks thus appointed shall hold office until removed by the judges, or a majority thereof, or by the judge or magistrate by whom he is appointed, and shall receive for his services such salary as may be appropriated from time to time. Any one of the circuit judges may temporarily

assign to any shorthand reporter or interpreter, appointed as aforesaid, any appropriate duties in any court of the Territory other than the one in which he is located. Nothing in this section contained shall be held to prevent the employment by any one of the circuit judges or district magistrates aforesaid, of any shorthand reporter, interpreter or clerk to serve in individual cases as they may arise, when necessary.

Where one district magistrate is appointed for two or more districts, a clerk or clerks appointed for any of such districts shall serve as clerk or clerks for any other of such districts, and shall receive and accept in any of such districts papers for filing in any of the district courts of such districts.

All duly appointed clerks of the district courts in the Territory shall have power to administer oaths to witnesses. [L. 1898, c. 8, s. 1; am. L. 1915, c. 208, s. 1; R. L. 1925, s. 2298; am. L. 1929, c. 101, s. 2; R. L. 1935, s. 3697; am. L. 1941, c. 52, s. 1; am. L. 1943, c. 69, s. 1; R. L. 1945, s. 9728; am. L. 1945, c. 80, s. 3; am. L. 1947, c. 26, s. 2; am. L. 1953, c. 35, s. 1.]

Duty of stenographer under direction of court to furnish attorney general transcript in action instituted by Territory, 16 II. 483; see 18 II. 659; 20 II. 699.

IDAHO

Idaho Code, vol. 2 (Indianapolis: The Bobbs-Merrill Co., 1948), Title 9, sections 9-205 9-1603.

9-205. Interpreters.—When a witness does not understand and speak the English language, an interpreter must be sworn to interpret for him. Any person, a resident of the proper county, may be summoned by any court or judge to appear before such court or judge to act as interpreter in any action or proceeding. The summons must be served and returned

in like manner as a subpoena. Any person so summoned who fails to attend at the time and place named in the summons is guilty of a contempt. [C. C. P. 1881, § 901; R. S., R. C., & C. L., § 5960; C. S., § 7938; I. C. A., § 16-205.]

Cross ref. Interpreters' fees, § 9-1603.

Comp. leg. Cal. Same, C. C. P. 1872, § 1884; Kerr's Code, § 1884; Deering's Code 1941, § 1884.

Mont. Rev. Codes 1935, § 10538.

N. D. Similar, Rev. Code 1943, § 31-0111.

Utah. Code 1943, § 104-49-5.

Drug Addiction by Interpreter.

Where the victim of a homicide was a Chinese, unfamiliar with the English language, and his purported dying statement was interpreted by a Chinese interpreter and taken down in shorthand by a stenographer, evidence of the fact

that the interpreter was addicted to the use of opium or other drugs was competent for the purpose of showing the mental balance of such interpreter, and his capacity to remember the questions that were propounded by the prosecuting attorney through him to the deceased, and the deceased's answers thereto as the admissibility of such purported dying declaration depended on the truthfulness and accuracy of the interpretation of such questions and answers. State v. Fong Loon, 29 Idaho 248, 158 Pac. 233.

Necessity Question of Law.

Question whether or not witness requires an interpreter is a question for court. State v. Bogris, 26 Idaho 587, 144 Pac. 789.

Title 9, §9-205 (contd.)

State's Right to Examine Defendant.

Because of claim that he can not understand English, the state can not be deprived of the right to cross-examine the defendant in a criminal action, and the state may call witnesses to prove the defendant can speak English, which evidence should be taken, however, out of the presence of the jury. The right to have such evidence heard by the court alone is waived, however, unless request that the jury be excused is made. State v. Bogris, 26 Idaho 587, 144 Pac. 789.

Collateral References.

Where it appears that a witness is unfamiliar with the English language, he should not be compelled to testify in that language, but an interpreter should be called. See 70 C. J. 492, § 665.

Necessity for interpreter in court's discretion. See 70 C. J. 493, § 666.

Sufficiency of showing of necessity for interpreter. See 70 C. J. 493, § 666.

Whether a particular interpreter shall be selected and used is a matter committed to the sound discretion of the court. See 70 C. J. 493, § 666.

Determination of qualification, generally. See 70 C. J. 495, § 667.

Disqualification generally. See 70 C. J. 494, § 667.

9-1603. Interpreters' fees.—Interpreters are entitled to receive \* ten dollars per day for each day's actual attendance upon a court of justice under a subpoena, and twenty-five cents per mile one way for each mile actually traveled; to be \* \* \* paid out of the county treasury on the certificate of the clerk, judge, or magistrate, \* \* \* in both civil and criminal actions. [R. S., R. C., & C. L., § 6141; C. S., § 8071; I. C. A., § 16-1603; am. 1959, ch. 65, § 1, p. 137.]

ILLINOIS

Smith-Hurd Illinois Annotated Statutes (St. Paul: West Publishing Co., 1966) Chapter 51, sections 47, 48.01.

## INTERPRETERS AND SURVEYS

## § 47. Interpreters

Interpreters may be sworn truly to interpret, when necessary. 1872, March 29, Laws 1871-72, p. 405, § 47; 1874, March 27, Laws 1873-74, p. 99, § 1.

## Historical Note

As enacted by the Act of 1872, this section read as follows: "Interpreters may be sworn truly to interpret, when necessary in taking depositions." R.S.1845, p. 417, § 31.



## Notes of Decisions

Discretion 3  
Necessity of Interpreter 2  
Objections to Interpreter 1

Library references  
Courts ⇨ 56.  
Witnesses ⇨ 230.  
C.J.S. Courts § 141.  
C.J.S. Witnesses § 326.  
I.L.P. Courts § 41.  
I.L.P. Witnesses § 81.  
I.L.P. Trial § 25.

## 1. Objections to Interpreter

Conviction for robbery would not be reversed because the court permitted the son of the prosecuting witness to act as interpreter for him while testifying, where no objection was made until after direct examination had concluded and the cross-examination had been in progress for some time, and then only in connection with the correctness of his interpretation, and, after such objection, the son was allowed to continue to act and there was no further substantial objection made to the correctness of the interpretation. *People v. Gijga*, 1921, 299 Ill. 172, 132 N.E. 506.

## § 48.01 Interpreters for deaf-mute

Whenever any deaf-mute person is a party to any legal proceeding of any nature, or a witness therein, the court upon the request of any party shall appoint a qualified interpreter of the deaf-mute sign-language to interpret the proceedings to and the testimony of such deaf-mute person. In proceedings involving possible commitment of a deaf-mute person to a mental institution, the court shall appoint such interpreter upon its own initiative. The court shall determine a reasonable fee for all such interpreter services which shall be paid out of general county funds. 1963, Aug. 19, Laws 1963, p. 3138, § 1.

## Historical Note

## Title of Act:

An Act to provide for interpreters for deaf-mutes in legal proceedings. Approved Aug. 19, 1963, Laws 1963, p. 3138.

## INDIANA

Annotated Indiana Statutes 1933, vol. 2, part 1 (Indianapolis: Bobbs-Merrill Co., 1946) Title 2, Chapter 15, section 2-1712 [548].

2-1712 [548]. Interpreters—Fees and mileage.—Interpreters may be sworn to interpret truly whenever necessary; and they shall receive the same fees and mileage as witnesses. [Acts 1881 (Spec. Sess.), ch. 38, § 273, p. 240.]

Indiana Decimal Digest. See Witnesses, 3941.

## Deaf and Dumb Witnesses.

Persons may be appointed to interpret the testimony of a deaf and dumb person, and more than one interpreter may be appointed to interpret the testi-

## 2. Necessity of Interpreter

There was no error in failing to provide an interpreter in hearing plaintiff's

testimony where it appeared that chancellor was very careful in hearing her testimony and that she was able to give it in English in an intelligent and proper manner. *Lott v. Rondon*, 1945, 389 Ill. 94, 58 N.E.2d 858.

## 3. Discretion

Calling of interpreter is normally within discretion of trial court. *People v.*

*Soldat*, 1965, 32 Ill.2d 478, 207 N.E.2d 440.

Trial court did not abuse discretion in not providing an interpreter in absence of request therefor, where witness' testimony, although broken and ungrammatical, was nonetheless understandable. *Id.*

## IOWA

Iowa Code Annotated, vol. 3A (St. Paul: West Publishing Co., 1967), Title 3, chapter 29B, section 29B.29.

## 29B.29 Detail or employment of reporters and interpreters

Under such regulations as the adjutant general may prescribe, the convening authority of a general or special court-martial or court of inquiry shall detail or employ certified court reporters, who shall record the proceedings of and testimony taken before that court. Under like regulations, the convening authority of a military court may detail or employ interpreters who shall interpret for the court. Acts 1965 (61 G.A.) ch. 85, § 29.

## Library References

Militia ⇨ 21.

C.J.S. Militia §§ 24, 25.

## KANSAS

Kansas Statutes Annotated ('Topeka: Harry Timberlake, State Printer, 1964), Chapter 60, section 60-417, 60-418, 60-419.

## D. WITNESSES

60-417. Disqualification of witness; interpreters. A person is disqualified to be a witness if the judge finds that (a) the proposed witness is incapable of expressing himself concerning the matter so as to be understood by the judge and jury either directly or through interpretation by one who can understand him, or (b) the proposed witness is incapable of understanding the duty of a witness to tell the truth. An interpreter is subject to all the provisions of this article relating to witnesses. [L. 1963, ch. 303, 60-417; Jan. 1, 1964.]

Source or prior law: C. S. 1868, ch. 80, § 323; L. 1909, ch. 182, § 321; R. S. 1923, 60-2805.

60-418. Oath. Every witness before testifying shall be required to express his purpose to testify by the oath or affirmation required by law. [L. 1963, ch. 303, 60-418; Jan. 1, 1964.]

60-419. Prerequisites of knowledge and experience. As a prerequisite for the testimony of a witness on a relevant or material matter, there must be evidence that he has personal knowledge thereof, or experience,

training or education if such be required. Such evidence may be by the testimony of the witness himself. The judge may reject the testimony of a witness that he perceived a matter if he finds that no trier of fact could reasonably believe that the witness did perceive the matter. The judge may receive conditionally the testimony of the witness as to a relevant or material matter, subject to the evidence of knowledge, experience, training or education being later supplied in the course of the trial. [L. 1963, ch. 303, 60-419; Jan. 1, 1964.]

mony of the same witness. *Skaggs v. State*, 108 Ind. 53, 8 N. E. 695.

## Testimony on Former Trial.

Evidence as to what an interpreter stated was the testimony of a witness on a former trial can not be given except in special instances. *Scheerer v. Harber*, 36 Ind. 536.

KENTUCKY

Baldwin's Kentucky Revised Statutes Annotated (Cleveland: Banks-Baldwin Co., 1963), Title 1, chapter 28, sections 28.610, 28.620, 28.630, 28.640, 28.650.

**INTERPRETERS**

28.610 [1019c-1; 1019c-5; 1020-15; 1020-10] Interpreters for certain circuit courts; appointment; term; salary.

(1) A majority of the judges of the circuit court of each judicial district composed of a county containing a population of seventy-five thousand or over, may appoint an official interpreter for a term of four years and until his successor is appointed and qualified. He shall receive an annual salary not exceeding fifteen hundred dollars, to be fixed by a majority of the judges of the court and paid in monthly installments out of the county treasury. The interpreter may be removed at any time by a majority of the judges.

(2) The judge presiding in the criminal branch of the circuit court of each judicial district having seven or more judges may appoint an official interpreter for a

term of four years and until his successor is appointed and qualified. He shall receive an annual salary fixed by the presiding judge of the criminal branch at not exceeding six hundred dollars, to be paid in monthly installments out of the county treasury.

Bastardy proceedings, interpreter for mother of child, KRS 400.100.

**ALR and Am Jur Annotations**

Competency of testimony of interpreter. 20 Am Jur, EVIDENCE § 255.

Examination of witness through interpreter. 58 Am Jur, WITNESSES § 550.

Use of interpreter in court proceedings. 72 ALR 923.

Interpreter; Nioum v. Com., 128 Ky. 685, 33 R. 62, 108 S.W. 945.

28.620 [1019c-2; 1020-16] Qualifications of interpreter.

No person shall be eligible to the position of interpreter who is not able to speak fluently the English and German languages and to interpret each of these languages into the other.

LOUISIANA

West's Louisiana Statutes Annotated "Revised Statutes," vol. 6 (St. Paul: West Publishing Co., 1951), Title 13, Chapter 1, section 4.

West's Louisiana Statutes Annotated "Code of Criminal Procedure", (St. Paul: West Publishing Co., 1966), Article 433.

Title 13, §4:

**§ 4. Interpreter; costs**

When an interpreter may be deemed necessary by the judge, he shall receive the sum of two dollars for each suit in which he may be called on to act, to be taxed with the cost.

28.630 [1019c-4; 1020-18] Oath of interpreter.

The interpreter shall, before entering upon his duties, take the oath required by Const. 228, and shall further swear that he will, to the best of his ability, make a true interpretation in all matters and controversies in the court wherein he is directed to interpret.

**Am Jur Annotation**

Examination of witnesses through interpreter. 58 Am Jur, WITNESSES § 550.

28.640 [1019c-3; 1020-17] Duties of interpreter.

(1) The interpreter appointed pursuant to subsection (1) of KRS 28.610 shall attend daily the sessions of the various divisions of the circuit court in the county in which he is appointed, and interpret the evidence or statements of parties and witnesses in such courts, or before the commissioners thereof, when directed to do so by the judge.

(2) The interpreter appointed pursuant to subsection (2) of KRS 28.610 shall attend all sessions of the criminal branch and interpret the evidence or statements of parties or witnesses when directed to do so by the judge.

**ALR and Am Jur Annotations**

Competency of testimony of interpreter. 20 Am Jur, EVIDENCE § 255; Examination of interpreter as witness. 58 Am Jur, WITNESSES § 550.

Use of interpreter in court proceedings. 172 ALR 923.

28.650 [2945] Interpreter for police court in cities of the first class.

The judge of the police court in cities of the first class may appoint, for a term not exceeding four years, an interpreter, who shall be paid nine hundred dollars per annum, and the judge may remove him at pleasure.

84 (contd.)

**History and Source of Law**

Source:  
Rev.St.1870, §§ 1008, 3910.

These sections in the Revised Statutes of 1870 were duplicate provisions, based on Acts 1855, No. 245, § 10.

**Comments by Henry G. McMahon**

The Reporter recommended elimination of the specific fee and authorization to the trial judge to allow the interpreter reasonable compensation, because of the incongruity today of the fee of \$2 per case. The Council of the Louisiana State Law Institute concluded that such a change would exceed the mandate of the legislature, and hence recommended no change in the section.

**Cross References**

Appointment of translators, see Code of Practice 1870, arts. 784, 785.

**Notes of Decisions**

Appointment and use of interpreters 2  
Construction and application 1

a fund for accused's prosecution avoids a conviction. State v. Lazarone, 1012, 130 La. 1, 67 So. 532.

**1. Construction and application**

A clerk of court when acting as interpreter in civil or criminal cases is entitled to payment of compensation provided by statute, since acting as interpreter is not one of clerk's normal duties. Op.Atty.Gen., 1938-40, p. 67.

When the court and jury are ignorant of the language in which records are written, a person who on oath declares he is acquainted with such language will be permitted to translate them. Davis v. Police Jury of Concordia, 1841, 19 La. 533.

A judge is not bound to appoint a sworn interpreter; if there be none, any competent person may act as such. Farar v. Warfield, 1830, 8 Mart.(N.S.) 697.

**2. Appointment and use of interpreters**

The appointment as court interpreter of a person who had contributed toward

**Code of Criminal Procedure:****Art. 433. Persons present during grand jury sessions**

A. Only the following persons may be present at the sessions of the grand jury:

- (1) The district attorney and assistant district attorneys, or any one or more of them;
- (2) The witness under examination;
- (3) A person sworn to record the proceedings of, and the testimony given before, the grand jury; and
- (4) An interpreter sworn to translate the testimony of a witness who is unable to speak the English language.

B. No person, other than a grand juror, shall be present while the grand jury is deliberating and voting.

C. A person who is intentionally present at a meeting of the grand jury, except as authorized by Paragraph A of this article, shall be in constructive contempt of court.

Source: Former R.S. 15:19, 15:215; A.L.I. Code of Crim.Proc., § 133; Ill. Code of Crim.Proc., § 112-6(a).

**5. Interpreter**

When an interpreter is called to translate testimony given by witnesses before

the grand jury, he must necessarily be present when such witnesses testify, and so long as he confines himself to the discharge of the duty for which he is called his presence is unobjectionable. State v. Firmatura, 1008, 121 La. 670, 46 So. 691.

An interpreter summoned by the grand jury is not disqualified to serve by being called as a witness to the facts under investigation nor by reason of his being a deputy sheriff and taking an active part in the effort to discover the author of the supposed crime under consideration. Id.



MASSACHUSETTS

Annotated Laws of Massachusetts, vol. 7A (Charlottesville, Va.: The Michie Co., 1957), Title 1, chapter 218, section 67, 68; chapter 221, section 92; chapter 262, section 32.

## Title 1:

**§ 67. Interpreters in Boston Municipal Court.**

The justices of the municipal court of the city of Boston may appoint such official interpreters as they may deem necessary for the criminal and for the civil sessions of the court. The interpreters shall hold their positions at the pleasure of the court and shall render such additional service as the chief justice of said court may require. Said justices shall forthwith discharge any such interpreter who shall be found by them to have requested or received, directly or indirectly, any gratuity, bonus or fee in connection with any criminal or civil case pending or in course of preparation for presentation to any court. Other interpreters may be employed when the services of the official interpreter are not available. (1912, 648, § 1; 1916, 109; 1930, 400, §§ 5, 7-9; 1931, 301, § 31.)

**§ 68. Interpreter in East Boston District Court.**

The justice of the East Boston district court may appoint an Italian interpreter for that court. Said interpreter shall be entitled to an annual vacation period of fifteen working days with pay. (1920, 534; 1925, 255, § 1; 1930, 400, §§ 5, 7-9; 1931, 301, § 32.)

**§ 92. Interpreters.**

The justices of the superior court may appoint such official interpreters as they may deem necessary for the sessions of the court. Such interpreters shall hold their positions at the pleasure of the court and render such additional service as any justice of the court requires. No official interpreter shall request or receive, directly or indirectly, any gratuity, bonus or fee, in connection with any case pending, or in course of preparation for presentation of said court; provided, that upon request of the district attorney such interpreter may, in the discretion of the court, receive additional compensation for his services as an interpreter at such hours or times as the courts are not in session, which shall be paid under section twenty-four of chapter twelve.

This section shall not prevent the justices from employing other interpreters when the services of the official interpreters are not available. The expenses incurred hereunder shall be paid by the county in which the prosecution, suit or action is pending. (1914, 673; 1926, 294; 1930, 400, §§ 5, 7-9; 1931, 301, § 45.)

**§ 32. Interpreters, and Witnesses from without the Commonwealth.**

District courts and trial justices may allow reasonable compensation to interpreters for service rendered and to witnesses from without the commonwealth in criminal proceedings before them, which shall be paid by the county in the same manner as witness fees, and shall allow interpreters ordered by them to attend such proceedings before them but not called upon for service the sum of one dollar for each day of such attendance, which shall be paid in the manner aforesaid. (1893, 385; RL 204, § 24; 1935, 280.)

**Editorial Note—**

The last clause of this section reading "and shall allow interpreters ordered by

them," etc., was added by the 1935 amendment.

MICHIGAN

Michigan Statutes Annotated (Mundelein, Ill.: Callaghan and Co., 1954 and 1966 suppl.), Title 28, section 28.1256, 28.1256(1).

## Title 28:

**§ 28.1256 Compensation of interpreter; amount, certificate authorizing payment.]** Sec. 19. Whenever any person shall attend any court as an interpreter for the purpose of interpreting the testimony of any witness given in behalf of the people of this state, or for the purpose of translating or interpreting any writing or document introduced or used in any court in behalf of the people of this state, either upon request of the prosecuting attorney or by and with the consent of the presiding judge or justice of the peace, he shall receive such compensation as shall be ordered by said presiding judge or justice of the peace. ♦ The compensation for such interpreter in the justice court shall not exceed the sum of ~~[\$25.00]~~ for each day and the sum of ~~[\$15.00]~~ for each half day actually employed. The certificate of the clerk of a court of record or of a justice of the peace stating the amount ordered to be paid as hereinbefore provided, shall authorize the county treasurer to pay the amount therein stated.

**History.**

As amended by Pub. Acts 1955, No. 27, ind. eff. April 13; 1957, No. 11, eff. Sept. 27.

**§ 28.1256(1) Interpreter to be appointed under certain circumstances; compensation.]** Sec. 19a. If any person is accused of any crime or misdemeanor and is about to be examined or tried before any justice of the peace, magistrate or judge of a court of record and it appears to the magistrate or judge that such person is incapable of adequately understanding the charge or presenting his defense thereto because of a lack of ability to understand or speak the English language or inability adequately to communicate by reason of being deaf and/or mute, or that such person suffers from a speech defect or other physical defect which handicaps such person in maintaining his rights in such cause, the justice of the peace, magistrate or judge shall appoint a qualified person to act as an interpreter. The interpreter so appointed shall be compensated for his services in the same amount and manner as is provided for interpreters in section 19 of this chapter.

**History.**

Added by Pub. Acts 1955, No. 27, ind. eff. April 13.

MINNESOTA

Minnesota Statutes Annotated, vol. 17 (St. Paul: West Publishing Co., 1959), chapter 253, section 253.053.

**253.053 Insanity, hearings to determine; deaf or mute persons**

**Subdivision 1. Interpreters.** It shall be the duty of any court before which the question of the alleged insanity or feeble-mindedness of any person who is deaf and mute, or either, is being determined to appoint a competent interpreter for the benefit of said alleged insane or feeble-minded person to interpret to and for said alleged insane or feeble-minded person the questions asked said alleged insane or feeble-minded person and his answers and all other oral court proceedings at the trial, including any physical, psychological, and psychiatric examinations of said deaf or mute person conducted or had in connection with said

## Chapter 253, §253.053 (contd.)

hearing or trial, and said alleged insane or feeble-minded person shall be entitled to have the services of such interpreter as a matter of absolute right.

Subd. 2. Fees. The fees and expenses of such interpreter shall be fixed and ordered paid by the judge of the trial court out of the general revenue fund of the county in which such trial occurs and the auditor and treasurer of such county shall cause such fees and expenses to be paid upon presentation of the order of such court.

Subd. 3. Application. This section shall apply to all persons whose means of communication includes the sign language and finger spelling. Laws 1945, c. 138, §§ 1-3; Laws 1955, c. 210, § 1.

## History and Source of Law

The 1955 amendment of subd. 1 authorized the services of interpreter for physical, psychological, and psychiatric examinations of deaf or mute persons alleged to be insane or feeble-minded.

## MISSISSIPPI

Mississippi Code - 1942 Annotated, vol. 2 (Atlanta: The Harrison Co., 1957), Title 10, section 1529.

## Title 10:

## § 1529. Trial—interpreters.

Interpreters may be sworn truly to interpret, when necessary; and in criminal cases the court may appoint an interpreter, and allow him a reasonable compensation, not exceeding five dollars per day, payable out of the county treasury.

SOURCES: Codes, Hutchinson's 1848, ch. 61, art. 1 (80); 1857, ch. 61, art. 158; 1871, § 640; 1880, § 1713; 1892, § 731; 1906, § 792; Hemingway's 1917, § 576; 1930, § 585.

## Annotations

Right of witness to testify to another's statement out of court made in conversation through an interpreter. 116 ALR 800.

## JUDICIAL DECISIONS

Deaf-mutes may give their testimony under this section through an interpreter or in writing if they are sufficiently intelligent and such testimony is not hearsay. Dugg v. Houlika, 122 M 400, 84 So 387, 9 ALR 480.

Where plaintiff was able to express himself completely in matters of detail only through translations by daughter, teacher in public schools, rejecting her as interpreter held error. Morse v. Phillips, 167 M 452, 128 So 330.

That interpreter, otherwise unobjec-

tionable, has testified or will testify in case, does not render him incompetent to act in interpreting testimony of witness. Morse v. Phillips, supra.

That interpreter is relative of party to proceeding or of witness does not render interpreter incompetent. Morse v. Phillips, supra.

Where trial court's action in refusing to permit competent interpreter to act deprives party of benefit of evidence of material witness, error is reversible. Morse v. Phillips, supra.

## MISSOURI

Vernon's Annotated Missouri Statutes, vol. 28, 38 (Kansas City, Mo.: Vernon Law Book Company, 1952), Title 29, chapter 446, section 446.160; Title 33, chapter 476, section 476.060; Title 33, chapter 490, section 490.630; Title 33, chapter 491, section 491.300; Title 38, chapter 540, section 540.150.

## Title 29:

## 446.160. Examination of witness through interpreter

When any witness examined under these sections cannot clearly understand and speak the English language, his examination shall be made through a competent interpreter, duly sworn correctly to translate into his language to him all questions put to him, and his answers thereto, into the English language; and the officer taking his depositions shall reduce the questions and answers to writing, in the English language, which, being distinctly translated to him by said interpreter, shall be sworn to and subscribed by said witness. (R.S.1939, § 1987)

Former Revisions. 1929, § 1823; 1919, § 5510; 1909, § 6453; 1899, § 4559; 1889, § 8402.

## Historical Note

From R.S.1855, p. 1154, § 17.

## Cross References

Appointment of interpreters, translators, see § 476.060.

## Notes of Decisions

1. Construction and application from such a witness by whatsoever means necessary to the end to be attained. This section contains nothing on the subject of deaf mutes, yet a court has the inherent power to elicit testimony State v. Howard, 24 S.W. 41, 118 Mo. 127.

## Title 32:

## 476.060. Interpreters appointed, when

The courts may, from time to time, appoint interpreters and translators to interpret the testimony of witnesses, and to translate any writing necessary to be translated in such court, or any cause therein. (R.S.1939, § 2910)

Former Revisions. 1929, § 1816; 1919, § 2313; 1909, § 3865; 1899, § 1600; 1889, § 3215.

## Historical Note

From Act July 3, 1837, 1 Terr. Laws, p. 532, § 46; R.S.1825, p. 274, § p. 123, § 66; Act Jan. 11, 1822, 1 Terr. 17.

## Cross References

Examination of witnesses through interpreter, see § 446.160.  
Grand jury, appointment of interpreters by, see § 510.150.  
Translations, evidence, see § 490.630.  
Translators and interpreters, fees, see § 491.300.

8476.060 (contd.)

Notes of Decisions

Discretion of court 2  
Necessity of interpreter 1  
Witness, competency of interpreter as 3

a state deaf and dumb institute to act as interpreter on the ground that he was biased in her favor because she had been a pupil at the institute. State v. Smith, 162 S.W. 526, 263 Mo. 695.

1. Necessity of interpreter

That native language of defendants in murder case was Spanish, which they usually spoke at home, held not to require interpreter; evidence tending to show they could speak and understand English. State v. Aguilera, 33 S.W.2d 961, 326 Mo. 1265.

Appointment of interpreter is not error unless court abuse its discretion. State v. McGinnis, 59 S.W. 83, 158 Mo. 165.

2. Discretion of court

The appointment of an interpreter is within the discretion of the trial judge. State v. Aguilera, 33 S.W.2d 961, 326 Mo. 1265.

Even in absence of statute, judge may appoint interpreters and translators and in absence of abuse of discretion, judge's refusal to appoint interpreter will not be disturbed. State v. Aguilera, 33 S.W.2d 961, 326 Mo. 1265.

Where prosecuting witness was deaf and dumb, the court did not abuse its discretion in permitting a professor at

Where a witness for the state for whom an interpreter was appointed was present in court, so that the judge could determine the necessity of an interpreter, and no showing was made by defendant as to witness' ability to speak English, such appointment was not error, it being within the discretion of the trial court. State v. McGinnis, 59 S.W. 83, 158 Mo. 165.

3. Witness, competency of interpreter as

A sworn interpreter is a competent witness to testify as to communications made to him in one language and translated by him into another, where he is shown to be acquainted with both languages and capable of speaking and understanding each of them. Avaro v. Avaro, 138 S.W. 500, 235 Mo. 424.

Title 33:

490.630. Evidence, when translated into English, may be read Whenever any written evidence in a cause shall be in language other than English, a written translation thereof into the English language, made by a competent translator, and verified by his affidavit, may be read in evidence instead of the original, if such original be competent evidence. (R.S.1939, § 1874)

Former Revisions. 1020, § 1710; 1910, § 5307; 1909, § 6341; 1899, § 3145; 1880, § 4801.

Historical Note

From Laws 1838, p. 43, § 13.

491.300. Fees of interpreters

Interpreters and translators shall be allowed fees for their services, in addition to the compensation and mileage allowed witnesses in civil cases, as follows:

For interpreting the testimony of each witness ----- \$0.35  
For translating every ten words ----- .05

(R.S.1939, § 13422)

Former Revisions. 1920, § 11800; 1919, § 11008; 1909, § 10711; 1899, § 3254; 1880, § 4998.

Title 38:

540.150. Interpreter—appointment—oath

Whenever in the opinion of any grand jury it shall be necessary to have an interpreter of the testimony to be given before them by any witnesses speaking a foreign language they may appoint such interpreter and permit him to be present in the grand jury room during the hearing of the testimony of such witnesses and after said interpreter has been sworn by the foreman not to divulge any of the proceedings before said grand jury or the names of any witnesses; and the foreman shall swear said interpreter to correctly interpret all questions to the witness into his language and all the witness' answers into English. (R.S.1939, § 3935)

Former Revisions. 1020, § 3546; 1910, § 3801.

Historical Note

From Laws 1913, p. 225.

MON TANA

Revised Code of Montana - Annotated, vol. 7 (Indianapolis: The Allen Smith Co., 1964), Title 93, section 93-401-20, 93-701-6.

Title 93:

93-401-20. (10524) Persons skilled may testify to decipher characters. When the characters in which an instrument is written are difficult to be deciphered, or the language of the instrument is not understood by the court, the evidence of persons skilled in deciphering the characters, or who understand the language, is admissible to declare the characters or the meaning of the language.

History: En. Sec. 617, p. 199, L. 1877; re-en. Sec. 617, 1st Div. Rev. Stat. 1879; re-en. Sec. 635, 1st Div. Comp. Stat. 1887; re-en. Sec. 3139, C. Civ. Proc. 1895; re-en. Sec. 7880, Rev. C. 1907; re-en. Sec. 10524, R. C. M. 1921. Cal. C. Civ. Proc. Sec. 1863.

References  
New Home Sewing Mach. Co. v. Songer, 91 M 127, 135, 7 P 2d 238.

Collateral References  
Evidence 450 (1), 453.  
32 C.J.S. Evidence §§ 930, 933, 934, 959, 960, 971.

93-701-6. (10538) When an interpreter to be sworn. When a witness does not understand and speak the English language, an interpreter must be sworn to interpret for him. Any person, a resident of the proper county, may be summoned by any court or judge to appear before such court or judge to act as interpreter in any action or proceeding. The summons must be served and returned in like manner as a subpoena. Any person so summoned, who fails to attend at the time and place named in the summons, is guilty of contempt.

History: En. Sec. 379, p. 211, L. 1867; amd. Sec. 453, p. 126, Cod. Stat. 1871; re-en. Sec. 632, p. 204, L. 1877; re-en. Sec. 632, 1st Div. Rev. Stat. 1879; re-en. Sec. 653, 1st Div. Comp. Stat. 1887; amd. Sec. 3165, C. Civ. Proc. 1895; re-en. Sec. 7894, Rev. C. 1907; re-en. Sec. 10538, R. C. M. 1921. Cal. C. Civ. Proc. Sec. 1884.

§93-701-6 (contd.)

**Discretion of Court**

Determination of the question whether an interpreter is necessary for a particular witness lies within the discretion of the trial court, and its conclusion is not subject to review except for a manifest and gross abuse of discretion. Abuse of discretion in appointing an interpreter in a criminal case will not justify setting aside a conviction, unless defendant apparently was prejudiced thereby. *State v. Inich*, 55 M 1, 10, 173 P 230.

Where a foreign-born witness understood and spoke with reasonable ease the English language of the street and that used in ordinary business, but encountered difficulty and embarrassment when subjected to examination on the witness stand, the appointment of an interpreter was not a manifest or gross abuse of discretion. *State v. Inich*, 55 M 1, 10, 173 P 230.

**Collateral References**

Trial § 22.  
88 C.J.S. Trial § 42.

**NEBRASKA**

Revised Statutes of Nebraska, vol. 3 (Lincoln, Nebraska: George H. Turner, State Librarian, 1959), Chapter 33, section 33-142.

33-142. **Interpreters and translators; compensation.** Interpreters and translators may be allowed such compensation for their services as the court shall certify to be reasonable and just, to be taxed and collected as other costs, but the same shall not exceed two dollars per day.

**Source:** R.S.1866, c. 19, § 18, p. 169; R.S.1913, § 2467; C.S.1922, § 2408; C.S.1929, § 33-147.

Need for appointment of an interpreter is left to the sound discretion of the trial court. *Prokop v. State*, 148 Neb. 582, 28 N.W.2d 200.

**NEVADA**

Nevada Revised Statutes, vol. 1 (Carson City, Nevada: Legislative Counsel Bureau, 1957), Title 1, section 1.110; Title 48, section 48.110.

**Title 1:**

1.110 **Interpreters and translators; fees.** Interpreters and translators shall receive such fees as the court by whom they are employed shall certify to be just.

[14:49:1883; BH § 2355; C § 2479; RL § 2016; NCL § 2947]

Title 48, §48:110 **Interpreters: Appointment; summons.** When a witness does not understand and speak the English language, an interpreter shall be sworn to interpret for him. Any person resident of the county may be summoned by any judge or court to appear before the judge or court to act as interpreter in any action or proceeding. The summons shall be served and returned in like manner as a subpoena. Any person so summoned shall, for a failure to attend at the time and place named in the summons, be deemed guilty of contempt and punished accordingly. [1911 CP A §488; RL §5430; NCL §8977]

**NEW JERSEY**

New Jersey Statutes Annotated (St. Paul: West Publishing Co., 1962) Title 2A, article 5, sections 2A:11-28, 2A:11-29, 2A:11-30; Title 43, article 9, sections 43:10-93 - 10-102.

**Title 2A:****ARTICLE 5. INTERPRETERS.****2A:11-28. Appointment; duties**

Whenever the transaction of the public business of the superior court, the county court and the juvenile and domestic relations courts, in any of the counties of this state, other than counties of the first class having a population of more than 800,000 inhabitants, and the business connected with such courts in the office of the county prosecutor, the sheriff, the county clerk, the surrogate and of the grand jury, will be expedited or improved thereby, the judge of the county court of any such county, or the judges of the county court if there be more than one such judge in any such county, may appoint, to serve at the pleasure of the appointing judge or judges, interpreters of the following languages, namely, Italian, German, Polish, Russian, Yiddish, Hungarian and Slavish, and Greek, or any one interpreter for one or more of the aforesaid languages.

Interpreters appointed under authority of this section shall severally attend in person upon the courts mentioned in this section during the several sessions thereof, and at chambers when requested so to do upon the judges of such courts, upon the sessions of the grand jury, upon the county prosecutor, upon the sheriff, upon the clerks of such courts, and upon the other officers charged with the transaction of the public business of such courts, for the purpose of interpreting the languages and dialects for the interpretation of which they are appointed respectively.

In all counties of the first class having more than 800,000 inhabitants, the persons holding positions of interpreters of languages under authority of article 6 of chapter 16 of Title 2 of the Revised Statutes of 1937 shall be transferred to the office of the sheriff of the county. Such persons shall retain all the rights and privileges under all laws relating to seniority, civil service, pensions and veterans, and shall perform the duties of interpreters of languages as set forth in this article. Hereafter interpreters in such counties may be appointed by the sheriff with the approval of the board of chosen freeholders, at a salary fixed for the position by the board. As amended L.1952, c. 181, p. --, § 1.

§2A:11-28 (contd.)

## Historical Note

## Sources:

R.S. 2:16-35, as am. L.1948, c. 410, p. 1620, § 1.

O. 2:10-30.2 (L.1949, c. 134, p. 507, § 2).

L.1920, c. 202, § 2, p. 522 [1924 Suppl. § 50-118b].

L.1932, c. 63, §§ 1, 3, pp. 100, 110.

The amendment of 1932 added "Yiddish" to the list of languages for which interpreters are authorized, and added, at the end of the first paragraph, the clause "or any one interpreter for one or more of the aforesaid languages."

## Notes of Decisions

## Legislative power 2

Prior law, construction and application 1

## Removal 3

## 1. Prior law, construction and application

Under statute as it stood in 1888, held that the court of common pleas had the power to employ interpreters for the purpose of translating the testimony of applicants for naturalization papers and the testimony of their witnesses, and the board of chosen freeholders were bound to pay for any reasonable charges of the interpreter. *Trimble v. Board of Chosen Freeholders of Essex County*, 11 N.J.L.J. 148.

## 2. Legislative power

In the absence of constitutional restriction, legislature has power to abolish position of court interpreter

or, for the future, to lower the salary or to add new or additional requirements before former salary can be effective. *Kopezynski v. Camden County*, 1 N.J.Super. 121, 62 A.2d 737 (1949), reversed on other grounds, 2 N.J. 419, 66 A.2d 882.

## 3. Removal

Where appointing authority of court interpreters was the judge or judges of court of common pleas, and there was no dismissal of interpreter by appointing authority, although there was an attempted dismissal by director of revenue and finance of county because of failure of board of freeholders to provide money for salary payment, appeal to civil service commission from alleged dismissal was not a prerequisite to a suit at law for salary. *Kopezynski v. Camden County*, 1 N.J.Super. 121, 62 A.2d 737 (1949), reversed on other grounds, 2 N.J. 419, 66 A.2d 882.

## 2A:11-29. Salaries of interpreters of Italian, German, Polish, Russian, Yiddish and Slavish languages

In any county of the State other than counties of the first class having a population of more than 800,000 inhabitants, the compensation of interpreters appointed to interpret the Italian, German, Polish, Russian, Yiddish, and Hungarian and Slavish languages shall be fixed by the judge of the county court of the respective counties, or by the judges of such court if there be more than 1 such judge in any county; but the salaries so fixed shall not become effective unless approved by resolution of the

board of chosen freeholders of the county wherein such salaries are to be paid.

The salaries herein provided shall be paid by the treasurer of each county, semimonthly, out of the funds of the county, and shall, whenever fixed as herein provided, be in lieu of all other fees or compensation whatsoever. As amended L.1952, c. 181, p. —, § 2.

## Historical Note

## Sources:

R.S. 2:16-36, as am. L.1947, c. 344, p. 1104, § 1; L.1948, c. 410, p. 1627, § 2.

L.1920, c. 202, § 1, p. 522 [1924 Suppl. § 50-118a], as am. by L.1920,

c. 70, § 1, p. 122.

L.1920, c. 202, § 3, p. 522 [1924 Suppl. § 50-118c].

The amendment of 1932 added "Yiddish" to the list of languages.

2A:11-29 (contd.)

## Notes of Decisions

Construction and application 1  
Legislative power 2  
Resolution 3

## 1. Construction and application

The 1947 Amendment of R.S. § 2:16-36 providing for approval by board of chosen freeholders, was not retroactive and affirmative action by board of freeholders was not necessary with respect to those interpreters already employed with fixed salary. *Kopezynski v. Camden County*, 2 N.J. 419, 66 A.2d 882 (1949).

The salary of court interpreters appointed pursuant to R.S. § 2:16-35 for any particular period depended upon the then effective provisions of R.S. § 2:16-36. *Kopezynski v. Camden County*, 1 N.J.Super. 121, 62 A.2d 737 (1949), reversed on other grounds, 2 N.J. 419, 66 A.2d 882.

The effect of the 1947 amendment to R.S. § 2:16-36 was to repeal the requirement that the county pay sal-

ary fixed by judge within salary limitations and substitute, for the future, a requirement that salary fixed by judge must be approved by resolution of board of freeholders before it became effective. *Id.*

## 2. Legislative power

In the absence of constitutional restriction, legislature has power to abolish position of court interpreter or, for the future, to lower the salary or to add new or additional requirements before former salary can be effective. *Kopezynski v. Camden County*, 1 N.J.Super. 121, 62 A.2d 737 (1949), reversed on other grounds, 2 N.J. 419, 66 A.2d 882.

## 3. Resolution

Under R.S. § 2:16-35, resolution of board of freeholders purporting to disapprove interpreter's salary and attempting to abolish the position was ultra vires and void. *Kopezynski v. Camden County*, 2 N.J. 419, 66 A.2d 882 (1949).

## 2A:11-30. Salaries of interpreters of Greek language

In any county of this state other than counties of the first class having a population of more than 800,000 inhabitants, the compensation of interpreters appointed to interpret the Greek language shall be fixed by the judge of the county court of the respective counties, or by the judges of such court if there be more than one such judge in any county, and shall be as follows:

In counties having more than 500,000 inhabitants, a salary of not more than \$2500 annually;

In counties having between 300,000 and 500,000 inhabitants, a salary of not more than \$1800 annually;

In counties bordering on the Atlantic ocean and having more than 80,000 inhabitants, a salary of not more than \$1200 annually.

The salaries herein provided shall be paid by the treasurer of each county, semimonthly, out of the funds of the county, and shall, whenever fixed as herein provided, be in lieu of all other fees or compensation whatsoever.

Title 43:

## 43:10-93. Definition of "court interpreter"

The words "court interpreter," as used in this act, shall mean and include persons appointed by the judge or judges of the County Court in said county, or acting as interpreter in the Superior Court in the county or in the County Court. L.1938, c. 330, p. 841, § 1; L.1953, c. 41, p. 771, § 6.

Library references: Courts — 56; C.J.S. Courts § 141.

## Art. 9, §43:10-93 (contd.)

## Historical Note

Prior to the amendment of 1953, section read as follows: "The words 'court interpreter,' as used in this act, shall mean and include persons appointed by the presiding judge of the court of common pleas in said county, or acting as interpreter in the court of common pleas, the circuit court, the court of general quarter sessions of the peace, the orphans' court, the

court of special sessions and the court of oyer and terminer."

## Title of Act:

An Act providing for the pensioning of court interpreters in counties of the second class. L.1938, c. 330, p. 841.

## Cross References

Interpretation of terms relating to courts in laws taking effect prior to Sept. 15, 1948, see § 1:1-22.

**43:10-94. Retirement for service and age**

In second-class counties of this State, now or hereafter having court interpreters, any court interpreter who shall have served as such for a continuous period of thirty years, and shall have reached the age of sixty years, shall, upon application in writing to the judge or judges of the County Court of their respective counties, be retired upon one-half pay. L.1938, c. 330, p. 841, § 2; L.1953, c. 41, p. 771, § 7.

## Historical Note

The amendment of 1953 substituted "County Court" for "court of common pleas."

**43:10-95. Amount of pension**

The words "be retired upon one-half pay," as used in this act, shall be construed to mean, retired upon a pension equal to one-half of his annual salary at the time of retirement. L.1938, c. 330, p. 841, § 3.

**43:10-96. Retirement for service and disability**

Any court interpreter who shall have served as such for a continuous period of thirty years, whether he has reached the age of sixty years or not, who shall be found as hereinafter provided, to be physically unfit for further services, shall, upon application in writing to the judge or judges of the County Court of his county, be retired upon one-half pay. L.1938, c. 330, p. 841, § 4; L. 1953, c. 41, p. 771, § 8.

## Historical Note

The amendment of 1953 substituted "County Court" for "court of common pleas."

**43:10-97. Retirement for permanent disability**

Any court interpreter who shall have received permanent disability by reason of injury, accident or sickness, incurred at any time in the service, which shall permanently incapacitate him from further duty, shall, upon the certification of the account of such disability by three physicians designated as herein provided, be retired upon one-half pay. L.1938, c. 330, p. 841, § 5.

## Art. 9 (contd.)

**43:10-98. Determination of physical unfitness or incapacity**

Physical unfitness or incapacity for further duty of any court interpreter shall, for all purposes of this act, be established and determined by a board of three physicians who shall be designated for that purpose by the judge or judges of the County Court of such county. The three physicians so designated shall examine the court interpreter applying for retirement upon one-half pay because of physical unfitness or incapacity for further duty, and if they, or a majority of them, find him physically unfit or incapacitated for further duty, they, or a majority of them, shall make and sign a certificate to that effect and file the same with the county treasurer, and thereupon the applicant shall be retired upon one-half pay. L.1938, c. 330, p. 842, § 6; L.1953, c. 41, p. 771, § 9.

## Historical Note

The amendment of 1953 substituted "County Court" for "court of common pleas."

**43:10-99. Pension to widow of court interpreter dying while in service**

The widow of any court interpreter, who shall die from any cause while in the service, whether the said court interpreter shall have served as such for a continuous period of thirty years or not, or whether such court interpreter shall have reached the age of sixty years or not, shall receive a pension, so long as she shall remain unmarried, equal to one-half of the amount of the annual salary of such court interpreter at the time of his death. L.1938, c. 330, p. 842, § 7.

**43:10-100. Pension to widow who was wife at time of retirement**

If any court interpreter, after having been retired on one-half pay, shall die, leaving him surviving a widow who was his wife at the time of his retirement, such widow, so long as she shall remain unmarried, shall receive a pension equal to one-half the amount of the annual salary of such court interpreter at the time of his retirement. L.1938, c. 330, p. 842, § 8.

**43:10-101. Time and manner of payment of pensions**

Persons who may become entitled to pensions under this act shall be paid such pensions in the same manner and at the same time as court interpreters in active service in the several counties are respectively paid. L.1938, c. 330, p. 842, § 9.

**43:10-102. Pension fund**

A fund shall be created in the following manner for the purpose of paying such pensions, to wit: There shall be deducted from every payment of salary to each court interpreter, three per centum (3%) of the amount thereof; then there shall be contributed



## Art. 9, §43:10-102 (contd.)

annually by the county the amount equivalent to three per centum (3%) of said interpreter's salaries; to said fund there shall be added all moneys donated for the purpose of such fund, and all rewards which may be paid to any court interpreter while acting as such court interpreter, all of which moneys and rewards shall be paid over to the board of chosen freeholders of the county to be deposited in such fund. L.1938, c. 330, p. 842, § 10.

NEW MEXICO

New Mexico Statutes - Annotated, vol. 6 (Indianapolis: The Allen Smith Co., 1964), Chapter 36, sections 36-5-8, 36-5-9, 36-5-10, 36-5-34. Chapter 199, Laws 1921, section 3, 16-3-46.

36-5-8. Employment of interpreter.—Any justice of the peace may, upon trial of any cause in which he may deem it necessary, employ a competent person to interpret the testimony and to translate any writing necessary to be translated in the trial of such cause.

History: Laws 1889, ch. 110, § 1; C. L. 1897, § 3252; Code 1915, § 3199; C. S. 1929, § 79-318; 1941 Comp., § 38-508.

36-5-9. Interpreter's fee.—Such interpreter shall receive the sum of two dollars (\$2.00) per day for each cause, the trial of which occupies less than one [1] day, and twenty-five cents [25c] per one hundred [100] words for translating and transcribing any writing.

History: Laws 1889, ch. 110, § 2; C. L. 1897, § 3253; Code 1915, § 3200; C. S. 1929, § 79-319; 1941 Comp., § 38-509.

36-5-10. Fees included in costs.—The fees of interpreters provided for in the preceding section [36-5-9] shall be taxed to and payable by any party adjudged to pay other costs in the same cause.

History: Laws 1889, ch. 110, § 3; C. L. 1897, § 3254; Code 1915, § 3201; C. S. 1929, § 79-320; 1941 Comp., § 38-510.

36-5-34. Interpreters.—The officer executing such commission shall have the authority, when he shall deem it expedient, to summon and swear an interpreter to facilitate the taking of the depositions.

History: Laws 1891, ch. 28, § 9; C. L. 1897, § 3044; Code 1915, § 2138; C. S. 1929, § 45-114; 1941 Comp., § 38-534.

## Chapter 199:

16-3-46. COMPENSATION OF OFFICIAL COURT REPORTERS AND INTERPRETERS.—Each full-time official court reporter of the district courts shall receive compensation paid out of the court fund in an amount not less than seven thousand two hundred dollars (\$7,200) a year nor more than ten thousand dollars (\$10,000) a year, exclusive of transcript fees, for court reporting, secretarial and other duties performed for the district courts. Court reporters employed on a part-time basis by the district courts may be paid at a rate not to exceed thirty dollars (\$30.00) a day for all services required of them, exclusive of transcript fees. Official interpreters employed by the district court shall receive compensation not to exceed twenty dollars (\$20.00) a day paid out of the . . .

NEW YORK

McKinney's Consolidated Laws of New York - Annotated (Brooklyn: Edward Thompson Co., 1954), "Appellate Division", Art. 4, section 106-107; "Judiciary Law", art. 12, sections 380-389.

## "Appellate Division", article 4:

106. Power of justices of appellate division in first department to appoint interpreters for supreme court

The justices of the appellate division of the supreme court in the first department, or a majority of them, may appoint and at pleasure remove such number of interpreters for the supreme court as in their opinion shall be necessary. Formerly § 113, amended L.1913, § 348; renumbered 106 and amended L.1945, c. 649, § 67, eff. April 9, 1945.

**Historical Note**

Section derived from L.1895, c. 553, § 8, as amended by L.1907, c. 496, § 3. Former section 106 was renumbered 97.

**Cross References**

False interpretation of material evidence by interpreter, see Penal Law, § 120(3).  
Interpreters generally, see section 380 et seq.

107. Power of justices of appellate division in first department to regulate attendance and duties of officers of supreme court in first district

The justices of the appellate division of the supreme court in the first department shall from time to time make such rules as they may deem necessary to regulate the attendance and prescribe the duties of criers, interpreters, stenographers, librarians, clerks, assistants and attendants of the supreme court in the first judicial district, except the confidential attendants of the justices of the supreme court, whose attendance shall be regulated and duties prescribed by the justice who appointed such confidential attendant. Formerly § 114, amended L.1911, c. 611; renumbered 107 and amended L.1945, c. 649, § 68, eff. April 9, 1945.

## "Judiciary Law", article 12:

**ARTICLE 12—INTERPRETERS****Sec.**

- 380. Salary of interpreters appointed for supreme court by appellate division of the first department.
- 380-a. Renumbered.
- 381. Salary of interpreters in county court of Kings county.
- 382. Oath of interpreters in county court of Kings county.
- 383. Salary of interpreters of county court of Bronx and Kings counties.
- 384. Salary of interpreters in county courts of Queens county.
- 385. Oaths of interpreters in Queens county.
- 386. Appointment and compensation of court interpreters generally.
- 387. Temporary appointment of interpreters.
- 388. Polish and Italian interpreters for Erie county.
- 389. Appointment of additional interpreter for Westchester county.
- 390, 391. Renumbered.



## Art. 12 (contd.)

§ 380. Salary of interpreters appointed for supreme court by appellate division of the first department

The salary of each of the official interpreters for the supreme court in the first judicial district appointed by the justices of the appellate division shall be fixed by the justices of the appellate division of the supreme court, or a majority of them, with the approval of the board of estimate, not to exceed four thousand five hundred dollars per annum to be paid by the county of New York. Formerly § 380-a, added L.1924, c. 666, § 2; amended L.1930, c. 508; L.1941, c. 290, § 12; renumbered 380, L.1945, c. 649, § 186, eff. April 9, 1945.

**Historical Note**

Former section 380 which related to salary interpreters appointed for court of general sessions of the peace in and for the county of New York, as amended by L.1911, c. 398; L.1924, c. 666, § 1, was repealed by L.1945, c. 649, § 185, eff. April 9, 1945. It derived from L.1895, c. 553, § 8, as amended by L.1907, c. 496, § 3.

**Cross References**

Appointment of interpreters for Supreme Court by justices of Appellate Division, see section 100.

§ 380-a. Renumbered 380. L.1945, c. 649, § 186, eff. April 9, 1945

§ 381. Salary of interpreters in county court of Kings county

Each interpreter appointed by the county judges of Kings county, including the interpreter of the Slavonic languages, shall receive a salary of eighteen hundred dollars per annum to be paid by the comptroller of the city of New York, in monthly instalments from the amount appropriated for the support of the said county court or from any other contingent city fund. Formerly § 382, renumbered 381 and amended L.1945, c. 649, § 188, eff. April 9, 1945.

**Historical Note**

Section derived from Code of Civil Procedure, § 360, as amended by L.1877, c. 416; L.1895, c. 946; L.1896, c. 46; L.1897, c. 475; L.1900, c. 771; originally revised from L.1876, c. 338.

Former section 381 which related to interpreters appointed by supreme court justices in Kings and Queens counties was repealed by L.1945, c. 649, § 187, eff. April 9, 1945. It derived from Code of Civil Procedure, § 94, as amended by L.1877, c. 416; L.1895, c. 724; L.1897, c. 92; L.1900, c. 629; originally revised from L.1864, c. 501, § 1, as amended by L.1869, c. 249, § 1.

**Cross References**

Appointment of interpreters by county judges of Kings county, see section 199.

§ 382. Oath of interpreters in county court of Kings county

Each interpreter appointed by the county judges of Kings county, shall, before entering upon his duties, file in the office of the clerk of the county of Kings the constitutional oath of office in which there shall be incorporated language to the effect that he will fully and correctly interpret and translate each question propounded through him to a witness and each answer thereto in said courts. Formerly § 384, renumbered 382 and amended L.1945, c. 649, § 190, eff. April 9, 1945.

**Historical Note**

Section derived from Code of Civil Procedure, § 360. For history of latter section, see Historical Note under section 381.

Former section 382 renumbered 381.

**Cross References**

Appointment of interpreters by county judges of Kings county, see section 199.

## Art. 12 (contd.)

§ 383. Salary of interpreters of county court of Bronx and Kings counties

The salaries of the interpreters of the county court of Bronx county are hereby equalized and fixed at the same amount per annum as is now paid to interpreters of the supreme court in such county. The salaries of the interpreters of the county court of Kings county are hereby equalized and fixed, subject to the approval of the board of estimate, at the same amount per annum as is now paid to interpreters of the supreme court in such county. Such compensation shall be paid semi-monthly, out of the amount appropriated for the support of the county court in such counties, respectively, or from any other contingent fund. Formerly § 390, added L.1921, c. 639; amended L.1931, c. 542; L.1941, c. 290, § 13; renumbered 383, L.1945, c. 649, § 197, eff. April 9, 1945.

**Historical Note**

Former section 383 which related to salary of interpreter of Slavonic languages in county court of Kings county was repealed by L.1945, c. 649, § 189, eff. April 9, 1945. It derived from Code of Civil Procedure, § 360. For history of latter section see Historical Note under section 381. The subject matter is now covered by section 381.

**Cross References**

Appointment of interpreters by county judges of Kings county, see section 199.

§ 384. Salary of interpreters in county court of Queens county

The interpreters appointed for the county court in the county of Queens pursuant to section two hundred one of this chapter shall each receive an annual salary to be fixed by the county judges of said county and such salaries shall be a county charge. Formerly § 386, amended L.1911, c. 566, § 3; renumbered 384 and amended L.1945, c. 649, § 192, eff. April 9, 1945.

**Historical Note**

Section derived from Code of Civil Procedure, § 94. For history of latter section see Historical Note under section 381.

Former section 384 renumbered 382.

§ 385. Oaths of interpreters in Queens county

The interpreters appointed for the supreme and county courts in the county of Queens shall, before entering upon their duties, file in the office of the clerk of the county of Queens the constitutional oath of office. Formerly § 386-a, added L.1939, c. 661, § 33; renumbered 385, L.1945, c. 649, § 193, eff. April 9, 1945.

**Historical Note**

Former section 385 which related to compensation of interpreters in Kings county to be paid from court funds was repealed by L.1945, c. 649, § 191, eff.

April 9, 1945. It derived from Code of Civil Procedure, § 360. For history of latter section, see Historical Note under section 381. The subject matter is now covered by section 381.

**Cross References**

Appointment of interpreters by county judges of Kings county, see section 199.

## Art. 12 (contd.)

## § 386. Appointment and compensation of court interpreters generally

The county judge and the district attorney of the county may appoint one interpreter, who shall act as and be the court interpreter for such county. Such interpreter shall hold office during the pleasure of the county judge and district attorney and they shall appoint his successor in office. Said interpreter shall receive a salary to be fixed by the board of supervisors of said county, which shall be a charge upon the county, to be paid monthly, in the same manner as other county officials are paid. Said interpreter so appointed shall, before entering upon his duties, file in the office of the county clerk, the constitutional oath of office. The provisions of this section, however, shall not apply to the counties of New York, Kings and Queens, nor to any other county in which the appointment or compensation of court interpreters therein is governed by a special or local act or by any special provision of a general act. Formerly § 387, added L.1909, c. 259; renumbered 386, L.1945, c. 649, § 194, eff. April 9, 1945.

**Historical Note**

Former section 386 renumbered 384.

## § 386-a. Renumbered 385. L.1945, c. 649, § 193, eff. April 9, 1945

## § 387. Temporary appointment of interpreters

If the services of an interpreter be required in any court of record other than a local city court and there be no unemployed official interpreter to act therein, the court may appoint an interpreter to act temporarily in such court. Such interpreter shall before entering upon his duties file with the clerk of the court the constitutional oath of office. The court shall fix the compensation of such interpreter at not more than ten dollars per day for each day's actual attendance by direction of the presiding judge or justice and such compensation shall be paid from the court fund of the county upon the order of the court. Formerly § 388, added L.1912, c. 120; amended L.1921, c. 482; renumbered 387, L.1945, c. 649, § 195, eff. April 9, 1945.

**Historical Note**

Former section 387 renumbered 386.

## § 388. Polish and Italian interpreters for Erie county

The county clerk of the county of Erie shall appoint a Polish and an Italian interpreter to serve as such, under the direction of the presiding judge or justices, at the criminal terms of the county and supreme court, and before grand juries, in Erie county. Each of such interpreters shall be entitled to an annual salary to be fixed by the board of supervisors of Erie county and payable by the county of Erie, at the same time and in the same manner as the salaries of other county officers. Formerly § 389, added L.1913, c. 562; renumbered 388, L.1945, c. 649, § 196, eff. April 9, 1945.

**Historical Note**

Former section 388 renumbered 387.

## Art. 12 (contd.)

## § 389. Appointment of additional interpreter for Westchester county

In addition to the interpreter authorized to be appointed under section three hundred and eighty-six, the county judge and district attorney of the county of Westchester may appoint one additional interpreter for such county and all the provisions of such section applicable shall apply thereto. Formerly § 391, added L.1922, c. 169; renumbered 389 and amended L.1945, c. 649, § 198, eff. April 9, 1945.

**Historical Note**

Former section 389 renumbered 388.

NORTH DAKOTA

North Dakota Century Code, vol. 6 (Indianapolis: The Allen Smith Co., 1960), Title 31, section 31-01-11, 31-01-12.

31-01-11. Interpreter for witness—When required—How subpoenaed—Oath.—When a witness does not understand and speak the English language, or is deaf and unable to talk, an interpreter must be sworn to interpret for him. Any person who is a resident of the proper county may be subpoenaed by any court or judge to appear before such court or judge to act as interpreter in any action or proceeding. The subpoena must be served and returned in like manner as a subpoena for a witness. Any person so subpoenaed who fails to attend at the time and place named in the subpoena is guilty of contempt. The oath of the interpreter shall be as follows:

You do solemnly swear that you will justly, truly, and impartially interpret to \_\_\_\_\_ the oath about to be administered to him; and the questions which may be asked him, and the answers that he shall give to such questions, relative to the cause now under consideration before this court (or officer). So help you God.

If the interpreter has conscientious scruples as to taking an oath, he may affirm as is provided in the case of witnesses.

Source: C. Civ. P. 1877, § 502; R. C. Collateral References. 1895, § 5706; R. C. 1899, § 5706; R. C. Competency of interpreter in court proceedings, 172 ALR 923. 1905, § 7307; C. L. 1913, § 7926; R. C. 1943, § 31-0111; S. L. 1957, ch. 221, § 1; Law Review. 1957 Supp., § 31-0111. The Use of Interpreters in Court, 30

Derivation: Harston's (Cal.) Practice, N. D. L. Rev. 304. 1884.

31-01-12. Fees for interpreters.—Interpreters may be allowed such compensation for their services as the court shall certify to be reasonable and just, to be paid and collected as other costs, but the same shall not exceed five dollars per day.

Source: Pol. C. 1877, ch. 39, § 29; R. C. 1905, § 2625; S. L. 1907, ch. 89, § 1; C. L. 1895, § 2101; R. C. 1899, § 2101; R. C. 1913, § 3545; R. C. 1943, § 31-0112.

## OHIO

Baldwin's Ohio Revised Code - Annotated 1964 (Cleveland: Banks-Baldwin Law Publishing Co., 1964), Title 23, sections 2301.12, 2335.09.

## 2301.12 Appointments by court of common pleas.

The court of common pleas of a county may appoint:

(A) A court interpreter, who shall take an oath of office, hold his position at the will and under the direction of the court, interpret the testimony of witnesses, translate any writing necessary to be translated in court, or in a cause therein, and perform such other services as are required by the court. The interpreter shall, without extra compensation, render such services in the court of appeals and probate court as the judges of those courts require. He shall receive for his service a compensation fixed by the court appointing him, not to exceed twelve hundred dollars in any year, or such sum in each particular case as the court deems just. If a stipulated salary, such compensation shall be payable monthly from the county treasury, upon the warrant of the county auditor; in other cases, at the conclusion of his services, upon the certificate of the judge of the court in which they were rendered.

(B) A criminal bailiff, who shall be a deputy sheriff and hold his position at the will of such court. He shall receive compensation to be fixed by such court at the time of his appointment, not to exceed the amount allowed court constables in the same court, which shall be paid monthly from the county treasury upon the warrant of the auditor.

(C) In counties where there are four or more judges of the court of common pleas, the judges of such court in joint session shall, instead of a criminal bailiff as provided in division (B), appoint a chief court constable, who shall, in connection with the court constables appointed by the several judges, have supervision over the jurors regularly drawn for service as jurors, so that there may be at all times sufficient jurors in attendance subject to the call of the several court constables when the said jurors are required to fill the panel in any case upon trial. Said chief court constable, who shall be a deputy sheriff, shall perform all the duties and give a bond required to be performed and given by a criminal bailiff, and perform such other duties as the court directs. He shall receive such compensation as the judges of the court in joint session fix, not to exceed the sum of fifteen hundred dollars per annum, which shall be paid monthly from the county treasury, upon the warrant of the auditor. Said chief court constable shall hold his position during the pleasure of the judges of the court and shall be subject to and under their direction.

(D) In counties having a population in excess of three hundred thousand as ascertained by the federal census, one or more psychiatrists, psychologists, or other examiners or investigators, who shall take an oath of office, hold their positions at the will of such judges, and receive compensation to be fixed by the judges appointing them, not exceeding in the aggregate such amount as is appropriated therefor by the board of county commissioners, which compensation shall be in place of all fees. Such compensation so fixed shall be payable monthly from the county treasury upon the warrant of the auditor.

Such employees, whenever called upon by a judge of such court, in a criminal case, shall perform the duties which are prescribed by section 2947.06 of the Revised Code respectively for psychiatrists or psychologists ap-

pointed in the particular case, or for probation officers or departments.

(E) In counties having a population in excess of three hundred thousand as ascertained by the last preceding federal census, an administrative assistant, who shall take an oath of office, hold his position at the will of the judges appointing him, and under the direction and supervision of the judges, assume such duties, other than judicial, as may be delegated to him by the judges, and receive compensation to be fixed by the judges appointing him sitting in joint session, payable in equal monthly installments from the county treasury, upon the warrant of the county auditor. (128 v 989. Eff. 10-20-59.)

2301.12 former GC 1541

See Baldwin's Civil Manual, Form 9.18, 9.19

OJur 2d: 14, Courts § 27; 15, Criminal Law § 507; 38, Municipal and County Courts § 22; 49, Sheriffs, etc § 5, 8, 13; 52, Trial § 51

See 5705 93 and note citing State v Thomas, 35 App 250, 122 NE 397.

A common pleas court does not have authority to appoint two regular criminal bailiffs and divide the statutory compensation between them. 1957 OAG 188.

A board of county commissioners must appropriate the amount fixed by the common pleas court for the compensation of a criminal bailiff. 1932 OAG 4178.

If the judge of the court of common pleas deems it advisable to appoint a criminal bailiff, upon such appointment the criminal bailiff then becomes a deputy sheriff. 1931 OAG 330.

The office and duties of a criminal court bailiff and those of a court constable are compatible, and the same person may be appointed to discharge the duties of both offices, by the judge or judges of the common pleas court in counties having less than four judges, and may receive the salary for both positions, provided, however, that he is not paid twice for the same service. 1921 OAG p 317.

## 2335.09 (3014-1). Interpreter.

Whenever, in any criminal proceeding or prosecution for the violation of an ordinance, or in a hearing before a coroner, an interpreter is necessary, the judge, magistrate, or coroner may appoint interpreters, who shall receive fees as witnesses in the case or proceeding. Such fees shall be taxed and paid as provided by sections 2335.05 to 2335.08, inclusive, of the Revised Code, for other witness fees. This section shall not apply if, by law, an interpreter is otherwise provided.

OJur 2d: 11, Coroners § 17; 14, Costs § 88, 91

## OKLAHOMA

Oklahoma Statutes Annotated (St. Paul: West Publishing Co., 1937 and 1966 suppl.), Title 12, section 496; Title 22, section 344.

## Title 12:

## § 496. Translation of written evidence in foreign language.

Whenever any written evidence in a cause shall be in a language other than English, a written translation thereof in the English language, made by a competent translator, and verified by his affidavit, may be read in evidence instead of the original, if such original be competent evidence. R.L.1910, § 5109.

## Historical Note

St.1893, § 4272; St.1903, § 4509; Comp.Laws 1909, § 5902; Comp.St.1921, § 648; St.1931, § 331.

Origin: Gen.St.Kan.1889, par. 4477.

## Notes of Decisions

## Library references

Evidence § 350.

O.J.S. Evidence § 732.

ambulation, or by having his depositions taken, and his ex parte affidavit as to his qualifications, or opinion with reference thereto of another wit-

## 1. Qualifications of translator

Translator must qualify by being brought before the court for oral ex-

amination, or by having his depositions taken, and his ex parte affidavit as to his qualifications, or opinion with reference thereto of another wit-

ness, was not sufficient. Missouri, K. & T. Ry. Co. v. Bagley, 60 Kan. 424, 50 P. 750 (1899).

## Title 22:

## § 344. Interpreter—Appointment—Compensation

Upon the request of either the county attorney, or the grand jurors, the district judge who has called a grand jury shall appoint, whenever necessary, an interpreter, and shall swear him to secrecy, not to disclose any testimony or the name of any witness which shall be presented to the grand jury except when testifying in a court of record.

The compensation for any interpreter thus appointed shall be fixed and allowed by the judge appointing him, and such fees, when earned, may be allowed and paid from time to time as they accrue, and shall be paid from the funds from which the grand jurors are paid. Laws 1941, p. 33, § 1.

## Title of Act:

An Act providing for the appointment of interpreters of grand juries, and providing for compensation for such interpreters. Laws 1941, p. 88.

## Library references

Grand Jury § 36.

O.J.S. Grand Juries § 41

OREGON

Oregon Revised Statutes (Salem: The State of Oregon Legislative Counsel Committee, 1965), Title 4, Chapter 45, sections 45.520; Title 14, Chapter 132, section 132.090.

## Title 4:

45.520 Interpreters. When a witness does not understand and speak the English language, an interpreter shall be sworn to interpret for him.

## Title 14:

**132.090 Presence of persons at sittings or deliberations of jury.** (1) No person other than the district attorney or a witness actually under examination shall be present during the sittings of the grand jury; provided, however, that upon a motion filed by the district attorney in the circuit court, the circuit judge may appoint a reporter who shall attend the sittings of such grand jury

and take and report the testimony in any matters pending before the grand jury; and provided further, that the circuit judge, upon the district attorney's showing to the court that it is necessary for the proper interrogation of a witness appearing before the grand jury, may appoint an interpreter, a woman, a medical attendant or a nurse, who shall be present in the grand jury room and shall attend such sittings.

(2) No district attorney, witness, reporter, interpreter, woman, medical attendant or nurse shall be present when the grand jury is deliberating or voting upon a matter before it.

PENNSYLVANIA

Purdon's Pennsylvania Statutes Annotated (St. Paul: West Publishing Co., 1962), Title 17, Chapter 18, section 1875; Title 28, Chapter 2, sections 441-444.

## Title 17:

## § 1875. Interpreters in courts of common pleas

The court of common pleas of each county is authorized to employ such number of interpreters and in such languages as the court may deem necessary for the proper transaction of its business. Such interpreters may be removed by the court at any time. Any interpreter so appointed shall, when required, act as interpreter in any court of the county, and shall receive out of the county treasury such annual or per diem compensation as the appointing court shall fix: Provided, That in counties containing a population of one million two hundred

## §1875 (contd.)

thousand inhabitants and over, the salary paid interpreters shall not exceed three thousand five hundred dollars per annum for each interpreter. Before assuming the duties of the office, each interpreter shall take and subscribe the oath prescribed in the Constitution of this Commonwealth. 1919, July 7, P.L. 725, § 1; 1927, March 24, P.L. 62, § 1.

**Historical Note**

This section amends section 1 of act of 1919, July 7, P.L. 725, which supplied the act of 1913, May 8, P.L. 170. Section 2 of the 1919 act and section 2 of the 1913 act each repeal inconsistent acts and parts of acts.

The act of 1915, June 4, P.L. 823, § 1, repeals the following acts relative to interpreters in Allegheny county: 1838, April 14, P.L. 395, § 4; 1861, March 25, P.L. 193; 1866, April 16, P.L. 941. Act 1870, March 28, P.L. 565, §§ 1, 2 authorizing appointment of interpreter of German language by court of common pleas of Butler county and provides for payment of per diem and fees is omitted as local.

Act 1876, May 18, P.L. 180, § 1, providing salary instead of per diem for interpreters of German and French languages in counties having population

exceeding one hundred fifty thousand but less than three hundred thousand was repealed by act 1920, March 20, P.L. 30, No. 28, § 1.

Act 1865, March 27, P.L. 705, § 1, insofar as authorizing governor to appoint interpreter of documents for city of Philadelphia was supplied by act 1860, Feb. 18, P.L. 198, §§ 1-4 (sections 441 to 444 of Title 28, Evidence and Witnesses).

The remainder of that section is as follows: "And the court of common pleas for the city and county of Philadelphia are hereby authorized to appoint a competent person, to act as interpreter of foreign languages for the said court for the term of five years, and from time to time thereafter, as often as a vacancy shall occur in said office, to fill the same."

**Notes of Decisions**

Decisions under prior acts 2  
Interpreters in general 1

Library references  
Courts 556.  
C.J.S. Courts § 141.

## 1. Interpreters in general

Where official court interpreter, employed to interpret testimony of prosecution another interpreter disagreed, held not shown to be error, where there was nothing to show which of the two interpreters was correct, or that defendant made a request to have a different interpreter used, or that he took an exception touching the matter. *Com. v. Diaco*, 111 A. 879, 268 Pa. 305, 1920.

An interpreter is a witness and should be sworn. *Com. v. Corsino*, 104 A. 739, 261 Pa. 593, 1918.

Allowance of interpreter for witness is matter of discretion of court. *Com. v. Kreider*, 34 Lanc. 414, 1917.

## 2. Decisions under prior acts

Interpreter, who was never appointed by court of common pleas to office of court interpreter, or qualified as required by act 1913, May 8, P.L. 170, § 1

cution witness, had been sworn as a court official, and defendant failed to object at trial that interpreter had not been again sworn at trial and used interpreter in cross-examination of such witness, failure to have interpreter sworn prior to his interpreting of such testimony was not reversible error. *Com. v. Kauffman*, 165 A.2d 602, 193 Pa. Super. 364, 1961.

The use of the interpreter regularly used in the court, with whose interpretation (supplied) and who was designated for work he performed, not by court, but by a single judge thereof, was held a "mere interpreter de facto," and not entitled to recover salary provided by act 1915, May 6, P.L. 271, § 1 (repealed). *Moritz v. Luzerne County*, 129 A. 85, 283 Pa. 349, 1925.

Where interpreter agreed with county upon per diem basis of compensation before passage of act of 1915, May 6, P.L. 271 (repealed) which fixed per annum rate, he could not recover upon per annum basis for services rendered after act, where his services were rendered only during sessions of criminal court, since act contemplated continuous service, and per diem rate must therefore stand. *Moritz v. Luzerne County*, 23 Luz. 81, 4 D. & C. 728, 1924.

## INTERPRETERS

## § 441. Appointment of interpreter for Philadelphia

The governor shall have power to appoint an officer in and for the county of Philadelphia, who shall be called interpreter and translator of foreign languages, and to fill said office by appointment, where the same shall be vacant; the appointee shall hold his office for a term of three years and be eligible for re-appointment; he shall have a seal of office, and may appoint such number of clerks and assistants as he may deem necessary. 1869, Feb. 18, P.L. 198, § 1.

## Historical Note

This act supplies act 1865, March 27, of foreign languages for city of Philadelphia. P.L. 795, § 1 (see Historical Note to section 1875 of Title 17, Courts), in so far as it establishes office of interpreter 1871. Com. v. Sanson, 67 Pa. 222.

## Cross References

Interpreters in courts of common pleas, see section 1875 of Title 17, Courts.

## § 442. Translations to be received in evidence, when properly certified

All translations of any papers, instruments of writing, or document of any kind in a foreign language, made or certified by said officer to be correct under his hand and seal of office, and attached to the original, shall be received as evidence, without further proof or authentication, in any court of justice of this commonwealth, and shall have the same effect for that purpose as any competent, admissible, oral or written translation, made and sworn to in a court of justice, by any competent sworn interpreter or expert, would have. 1869, Feb. 18, P.L. 198, § 2.

## § 443. Interpreter to produce certificate of fitness

No witness shall be produced, sworn or examined, in any court of justice of said city of Philadelphia, to interpret the testimony of any witness who testifies in a foreign language, or to translate any written paper, instrument of writing or document in a foreign language, who shall not produce the certificate of said officer as to his fitness and competency for that purpose, bearing date of the day of his examination. 1869, Feb. 18, P.L. 198, § 3.

## Notes of Decisions

## 1. Repeal of prior act

This does not repeal the act of 1865, March 27, P.L. 795 (Historical Note to section 1875 of Title 17, Courts), providing for the appointment of a court interpreter. Com. v. Sanson, 67 Pa. 222. 1871.

## § 444. Fees of interpreter

The fees of such officer shall be regulated, from time to time, by the judges of the court of common pleas of the city and county of Philadelphia. 1869, Feb. 18, P.L. 198, § 4.

## RHODE ISLAND

General Laws of Rhode Island (Indianapolis: Bobbs-Merrill Co., 1956), Title 9, section 9-29-7.

## 9-29-7. Witness fees.—The fees of witnesses shall be:

For every day's attendance before the supreme or superior court, or before any other tribunal or magistrate, including attendance in giving depositions .....\$5.00  
For every mile's travel ..... .10  
For every day's commitment in jail upon default to enter into recognizance with surety ..... 2.00

In addition to the fees above provided, witnesses summoned and testifying as experts in behalf of the state, or any person acting as an interpreter, before the supreme, superior, or district court, may be allowed and paid such sum as such court may deem just and reasonable.

## History of Section.

G. L. 1896, ch. 295, § 10; C. P. A. 1905, § 199; G. L. 1909, ch. 364, § 9; G. L. 1923, ch. 417, § 9; G. L. 1938, ch. 633, § 10; P. L. 1939, ch. 715, § 7; P. L. 1956, ch. 3624, § 1.

## Cross-Reference.

Garnishee's witness fee, § 10-17-6.

## Collateral Reference.

Contract for extra compensation, validity of. 16 A. L. R. 1457; 41 A. L. R. 1322; 45 A. L. R. 1423.

## SOUTH DAKOTA

1960 Supplement to the South Dakota Code of 1939, vol. 2 (Pierre, South Dakota: State Publishing Co., 1960), Title 32, chapter 32.05, section 32.0505; Title 36, chapter 36.02, section 36.0207; Title 51, chapter 51.16, section 51.1617.

## Title 32:

32.0505 Interpreters: compensation. Interpreters or translators may be allowed such compensation for their services as the Court shall certify to be reasonable and just, to be paid and collected as other costs, but the same shall not exceed five dollars per day.

Source: § 5194 Rev. Code 1919.

## Title 36:

36.0207 Interpreters: duty of court to produce and qualify by oath. When a witness does not understand and speak the English language the court shall procure and appoint a disinterested interpreter for him.

Any person may be subpoenaed by any court or judge to appear and act as interpreter in any hearing. The subpoena shall be served and returned in the same manner as a subpoena for a witness. Disobedience to such subpoena is contempt of the court.

The following oath shall be administered to the interpreter:

You do solemnly swear that you will justly, truly, and impartially interpret to ..... the oath about to be administered to him; and the questions which may be asked him and the answers that he shall give to such questions, relative to the cause now under consideration before this court (or officer), so help you God.

If the interpreter have conscientious scruples as to taking an oath, he may affirm in form as hereinbefore provided in section 36.0206 in case of witnesses.

Source: § 2733 Rev. Code 1919, revised.

## Title 51:

**51.1617 Officer taking proof: administer oath; interpreters; subpoena; contempt.** Officers authorized to take the proof of instruments are authorized in such proceedings:

- (1) To administer oaths or affirmations;
- (2) To employ and swear interpreters;
- (3) To issue subpoenas and to punish for contempt as provided in title 36 in regard to the means of producing witnesses.

Source: § 589 Rev. Code 1919.

TENNESSEE

Tennessee Code Annotated, vol. 5 (Indianapolis: Bobbs-Merrill Co., 1966 Suppl.), Title 24, section 24-108

**24-108. Deaf and dumb persons—Interpreter.**—In any case in law or equity before a court of record, wherein any person is either deaf or dumb or is both deaf and dumb, and such physically handicapped person is party to such court action, either as complainant or defendant, the judge or chancellor before whom such action is pending, shall appoint a qualified interpreter, facile in the use of the sign language and the manual alphabet for such physically handicapped person to interpret for him at any time he gives testimony during the proceedings held in such action.

The cost of the services of such interpreter shall be set by the trial judge and adjudged a part of the cost in each case wherein such interpreter is used. [Acts 1957, ch. 233, §§ 1, 2.]

TEXAS

Gammel's Annotated Rules of Civil Procedure in Texas (Austin: Gammel's Book Store, 1948), Rules 183, 197.

Vernon's Annotated Revised Civil Statutes of the State of Texas, vol. 4A (Kansas City, Mo.: Vernon Law Book Co., 1964), Chapter 5, article 1970-325.

## Rules of Civil Procedure:

**Rule 183. Interpreters**

The court may, when necessary, appoint interpreters, who may be summoned in the same manner as witnesses, and shall be subject to the same penalties for disobedience.

Source: Art. 3712, unchanged.

**TEXAS DECISIONS**

Counsel should be allowed greater latitude in the examination of witnesses who must testify through an interpreter. *Merriman v. Blalack*, 121 S. W. 552.

When a document offered in evidence

**Rule 197. Interpreter**

The officer executing such commissions shall have authority, when he deems it expedient, to summon and swear an interpreter to facilitate the taking of the deposition.

Source: Art. 3750, unchanged.

## Revised Civil Statutes:

**Art. 1970—325. Official interpreters for County Courts at Law**

Section 1. The judge of the County Court at Law of any county having a County Court at Law, is authorized to appoint an official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the salary of said official interpreter and provide for the payment of such salary, and shall prescribe the duties of such official interpreter.

Sec. 2. The judge of the County Court at Law shall have authority to terminate such employment of such interpreter at any time.

Sec. 3. The official interpreter so appointed by the judge of the County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law, and which oath shall suffice for his service as official interpreter of such court in all cases before such court during his term of office. Acts 1941, 47th Leg., p. 357, ch. 195.

Library references: Courts 556; C.J.S. Courts 1222.

**Historical Note**

## Title of Act:

An Act authorizing the judge of the County Court at Law of any county having a County Court at Law to appoint an official interpreter for the County Court at Law in such county; authorizing the Coun-

ty Commissioners to provide for the salary of said official interpreter and to prescribe his duties; providing for the oath of such interpreter; and declaring an emergency. Acts 1941, 47th Leg., p. 357, ch. 195.

UTAH

Utah Code Annotated, vol. 9 (Indianapolis: The Allen Smith Co., 1953), Title 76, section 76-45-1; Title 77, section 77-45-7; Title 78, section 78-24-4.

## Title 76:

**76-45-1. Definition.**—A person is guilty of perjury who

(1) Swears or affirms that he will truly testify, declare, depose or certify, or that any testimony, declaration, deposition, certificate, affidavit or other writing by him subscribed is true, in, or in connection with, any action or special proceeding, hearing or inquiry, or on any occasion in which an oath is required by law or is necessary for the prosecution or defense of a private right or for the ends of public justice or may lawfully be administered, and who in such action or proceeding or on such hearing, inquiry or other occasion wilfully and knowingly testifies, declares, deposes or certifies falsely or states in his testimony, declaration, deposition, affidavit or certificate any matter to be true which he knows to be false.

(2) Swears or affirms that any deposition, certificate, affidavit or other writing by him subscribed, is true and which contains any matter which he knows to be false affecting the title to any real or personal property, and upon which reliance is placed.

(3) Having been appointed or designated to be an interpreter in any judicial action or proceeding knowingly and wilfully falsely interprets any evidence, matter or thing between a witness and the court or a justice thereof in the course of an action or special proceeding.



## Title 77:

77-45-7. Interpreters—Subpoena for—Oath of.—The court or magistrate may cause to be issued a subpoena requiring any competent person to appear before the court at or during a trial or proceeding and act as interpreter. Such interpreter must be sworn to the effect, that he will well and truly to the best of his ability discharge the duties of interpreter under the direction of the court. The manner of compelling compliance on the part of the interpreter shall be the same as that provided in the case of witnesses.

History: R. S. 1808 & C. L. 1907, § 5023; C. L. 1917, § 9200; R. S. 1933 & C. 1943, 105-46-7.

## Cross-Reference.

Fee for interpreter, 21-5-17.

## 1. Right to interpreter.

Under this section, where a witness cannot make himself understood without an interpreter, it requires both the witness and the interpreter in order that counsel, the court, the jury and defend-

ant will be brought as nearly a fair and complete understanding as may be reasonably possible. State v. Vasquez, 101 U. 444, 121 P. 2d 903.

It would seem that the court should err on the side of appointing an interpreter. State v. Vasquez, 101 U. 444, 121 P. 2d 903.

## Collateral References.

Criminal Law § 642.  
23 C.J.S. Criminal Law § 965.

## Title 78:

78-24-4. Interpreters—Subpoena—Contempt.—When a witness does not understand and speak the English language, an interpreter must be sworn in to interpret for him. Any person may be subpoenaed by any court or judge to appear before such court or judge to act as interpreter in any action or proceeding. Any person so subpoenaed who fails to attend at the time and place named is guilty of a contempt.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-24-4.

## Compiler's Note.

This section is identical with former

VERMONT

Vermont Statutes Annotated (Oxford, New Hampshire: Equity Publishing Co., 1958), Title 12, Chapter 211, section 5811.

## § 5811. Oath to be administered to interpreter of testimony

You solemnly swear that you will justly, truly and impartially interpret to A. B. the oath about to be administered to him, and the testimony he shall give relative to the cause now under consideration. So help you God.

VIRGINIA

Code of Virginia 1950 (Charlottesville, Va.: The Michie Co. Law Publishers, 1960 and 1966 Suppl.) Title 8, section 8-295; Title 19.1, section 19.1-2461.

## Title 8:

§8-295. Interpreters. - Interpreters shall be sworn truly to interpret, when necessary. (Code 1919, §6223.)

## Title 19.1:

§ 19.1-246.1. Interpreters for the deaf.—There shall be provided in any criminal case in which a deaf person is the accused, an interpreter, if available, for the deaf. Such interpreter shall be appointed by the judge of the court in which such case is to be heard, from a list of qualified interpreters provided by the Registry of Interpreters for the Deaf, and his compensation shall be fixed by the court, and shall be paid from the general fund of the State treasury, as part of the expense of trial, but such fee shall not be assessed as part of the costs. The provisions of this section shall apply in both courts of record and not of record. (1966, c. 240.)

The number of this section was assigned by the Virginia Code Commission, the 1960 act having assigned no number.

WASHINGTON

Revised Code of Washington Annotated (St. Paul: West Publishing Co., 1962), Title 78, section 78.40.711

78.40.711 Copies of laws and rules for employees. Copies of these rules shall be printed in English, by the operator, and each workman in and around the mine shall procure a copy. If he cannot read the English language, he must at his own expense, procure an interpreter to correctly interpret the rules to him. The workman will pay the operator twenty-five cents per copy for the rules, and if he returns the same to the operator in legible condition, the amount so paid by him shall be returned.

## LEGISLATIVE HISTORY

1. Enacted Laws 1917 ch 36 § 200 p 176. Based on:
  - (a) Laws 1891 ch 81 § 20 p 163.
  - (b) Laws 1885 p 232 § 24.

2. Amended by Laws 1919 ch 201 § 6 p 707, (1) omitting "Slavic, Lithuanian, Polish, Italian, Croatian and Finnish" after "English" in the first sentence; and (2) substituting "the English language" for "any one of the languages as mentioned above" in the second sentence.

See RRS § 8835 and former RCW 78.34.230.



WEST VIRGINIA

West Virginia Code -Annotated, vol. 16 (Charlottesville, Va.: The Michie Co., 1966), Chapter 57, section 57-5-7

**§ 57-5-7. Interpreters.**

Interpreters may be sworn truly to interpret, when necessary. (Code 1849, c. 176, § 25; Code 1860, c. 176, § 26; Code 1868, c. 130, § 30; 1882, c. 160, § 30; Code 1923, c. 130, § 30.)

WISCONSIN

West's Wisconsin Statutes Annotated (St. Paul: West Publishing Co., 1957), Title 25, chapter 269, section 269.55; Title 30, chapter 325, section 325.05; Title 30, chapter 326, section 326.26.

Title 25:

**269.55 Interpreters for deaf mutes**

Upon trial or examination of any deaf mute or deaf person who is unable to read and write, or upon any examination into the mental status of any such person, the court or person or body conducting such trial or examination shall call in an interpreter competent to converse in the special language, oral, manual or sign, familiar to or used by such deaf mute or deaf person. The necessary expense of furnishing such interpreter shall be paid by the county in which such trial or examination is held if satisfactory proof be offered that said deaf mute or person is unable to pay the same.

Library references: Courts Ⓢ50; Criminal Law Ⓢ642; Trial Ⓢ22; Witnesses Ⓢ220; C.J.S. Courts § 141; C.J.S. Criminal Law § 905; C.J.S. Trial § 42; C.J.S. Witnesses § 322.

**History and Source of Law****Source:**

L.1917 c. 330.  
St.1917 § 4205m.

L.1925 c. 4.  
St.1925 § 209.55.

**Cross References****Interpreter's fees,**

Actual and necessary attendance, see § 325.05.  
County court, see § 324.27.  
County liable for, see § 59.77.

Title 30:

**325.05 Witness' and interpreter's fees**

(1) The fees of witnesses and interpreters shall be as follows:

(a) For attending before a justice of the peace, or any arbitrators or any board or committee thereof of any town, city or village, for witnesses \$4 for each day, for interpreters \$4 per day.

**§325.05 (contd.)**

(b) For attending before any other court, officer, board or committee, for witnesses \$5 for each day, for interpreters \$7 per day.

(c) For traveling, at the rate of five cents per mile going and returning from his residence (if within the state); or, if without, from the point where he crosses the state boundary in coming to attend to the place of attendance, and returning by the usually traveled route between such points.

(2) A witness or interpreter shall be entitled to fees only for the time he shall be in actual and necessary attendance as such; and shall not be entitled to receive pay in more than one action or proceeding for the same attendance or travel on behalf of the same party. No person shall be entitled to fees as a witness or interpreter while attending court as an officer or juror; nor shall any attorney or counsel in any cause be allowed any fee as a witness or interpreter therein.

**History and Source of Law****Source:**

R.S.1840 c. 131 §§ 9, 51.  
R.S.1858 c. 133 §§ 15, 70.  
L.1867 c. 157.  
L.1868 c. 94 §§ 2, 3.  
L.1869 c. 140 § 1.  
L.1872 c. 90.  
R.S.1875 § 4007.

L.1885 c. 232.  
Ann.St.1889 § 4007.  
St.1898 § 4007.  
L.1913 c. 175.  
L.1921 c. 101.  
St.1925 § 325.05.

L.1927 c. 523 § 9.  
L.1931 c. 40.  
L.1933 c. 201.  
L.1951 c. 17.  
L.1953 c. 314.  
L.1955 c. 510.

**Title 30, Chapter 326: §326.26:**

(8) **Translations.** When the witness is unable to speak the English language, the judge of the court from which the commission issues may appoint some competent and disinterested person to translate the commission, rules, interrogatories and cross-interrogatories, or such part thereof as may be necessary, from the English into the language spoken by the witness; and such translation shall be sent to the commissioner in place of the original papers that have been translated. Upon the return of the commission and deposition, such judge shall in like manner cause the answers of the witness and the exhibits to be translated into English, as well as all other proceedings in a foreign language, and such translation to be filed. The translator shall append to all translations his affidavit that he knows the English and such foreign language, and that in making such translation he carefully and truly translated such proceedings from the English into such foreign language or from the latter into English, and that such translation is correct. Such translation shall have the same effect as if all the proceedings were in English, but the trial court, upon the deposition being offered in evidence, may admit the testimony of witnesses learned in such foreign language for the purpose of correcting errors therein; and, if it shall appear that the first translation was in any respect so incorrect as to mislead the witness, the court may, in discretion, continue the cause for the further taking of testimony.

## WYOMING

Wyoming Statutes Annotated, vol. 2 (Charlottesville, Va.: The Michie Co., 1959), Title 1, sections 1-154, 1-155, 1-156.

§ 1-154. Appointment; summons; oath.—In all the courts of this state, whenever it becomes necessary to summon and employ the services of an interpreter, the presiding judge or justice thereof may appoint and summon any suitable person possessing the requisite knowledge of the language to be interpreted, to act in that capacity, who shall be duly sworn or affirmed to make a true interpretation according to the best of his skill and ability. (Laws 1882, ch. 56, § 1; R. S. 1887, § 3410; R. S. 1899, § 4292; C. S. 1910, § 5153; C. S. 1920, § 6429; R. S. 1931, § 89-1401; C. S. 1945, § 3-2701.)

Cross reference.—See the cross references under § 1-138.

Editor's note.—This article was not enacted as part of the civil code. See Editor's note to § 1-1.

Privilege attaching to communications between client and attorney as rendering incompetent testimony of interpreter, 53 ALR 373.

Am. Jur., ALR and C.J.S. references.—  
53 Am. Jur., Trial, § 29.  
Promise of immunity by interpreter as affecting admissibility of confession, 7 ALR 427.

Competency of interpreter in court proceedings, 172 ALR 923.  
88 C.J.S. Trial § 42.

#### ANNOTATIONS APPEARING IN 1945 COMPILED STATUTES.

Special appearance.—Where special appearances were made by nonresident defendant solely for purpose of testing validity of service which was constructive only, court's adverse ruling to request of special appearances, did not transform service into one upon which personal judgment could be entered. Kimbel v. Osborn, 61 Wyo. 80, 156 P. (2d) 270, 158 A. L. R. 1079.

§ 1-155. Fees and mileage.—Interpreters shall receive for their services the sum of five dollars for each day or fractional day of service, and when compelled to travel more than five miles in attending the court to which they are summoned, they shall be entitled to the same mileage as is allowed by law to witnesses attending the district courts of this state, under the subpoena of said courts: provided, that this section shall only apply to matters in the district court. (Laws 1882, ch. 56, § 2; R. S. 1887, § 1202; R. S. 1899, § 4294; Laws 1903, ch. 68, § 1; C. S. 1910, § 5155; C. S. 1920, § 6431; R. S. 1931, § 89-1403; C. S. 1945, § 3-2702.)

Cross reference.—As to witness fees, see § 1-195, and notes thereto. 1903, makes the act effective from and after passage. Approved February 20, 1903.

Effective date.—Section 2, ch. 68, Laws

§ 1-156. Deposit for fee in civil cases; payment of fee in criminal and civil cases.—In all civil business the court shall require a deposit in the hand of the clerk in advance of a sum sufficient to pay such interpreter before he shall be summoned and employed and sworn, and the costs of such interpretation shall be taxed as a part of the costs in every civil case, and in all criminal business the compensation for their services, shall become a county charge, and paid as other county indebtedness. (Laws 1882, ch. 56, § 3; R. S. 1887, § 3411; R. S. 1899, § 4293; C. S. 1910, § 5154; C. S. 1920, § 6430; R. S. 1931, § 89-1402; C. S. 1945, § 3-2703.)

Effective date.—Section 4, ch. 56, Laws 1882, makes the act effective from and after passage. Approved March 7, 1882.

## APPENDIX II EXCERPTS FROM THE RULES OF FEDERAL COURTS CONCERNING TRANSLATION AND INTERPRETATION

### SUPREME COURT

#### Supreme Court Rules (1950)<sup>1</sup>

##### Rule 14. Translations.

Whenever any record transmitted to this court upon appeal shall contain any document, paper, testimony, or other proceedings in a foreign language, without a translation of such document, paper, testimony, or other proceedings made under the authority of the lower court, or admitted to be correct, the case shall be reported by the clerk, to the end that this may order that a translation be supplied and printed with the record.

#### Supreme Court Rules (1967)<sup>2</sup>

##### Rule 37. Translations.

Whenever any record transmitted to this court shall contain any document, paper, testimony, or other proceedings in a foreign language, without a translation of such document, paper, testimony or other proceedings, made under the authority of the lower court, or admitted to be correct, the case shall be reported by the clerk, to the end that this court may order that a translation by supplied and, if necessary, printed as a part of the appendix.

#### U. S. Court of Appeals - First Circuit<sup>3</sup>

##### Rule 28. Translations.

Whenever any record on appeal or on petition for review or enforcement shall contain any document, paper, testimony, or other matter in a foreign language, a translation thereof shall be supplied promptly. Whenever reference is made in any petition, motion, or brief to a statute, opinion, treatise, or other matter in a foreign language, no English translation of which is readily available to the court, it shall be the duty of the party making such

<sup>1</sup>U. S. Code Annotated, Title 28 "Rules", (St. Paul: West Publishing Co., 1956), p. 31.

<sup>2</sup>U. S. Code Annotated, Title 28 "Rules", Cumulative Pocket Edition (1967), (St. Paul: West Publishing Co., 1967), p. 30.

<sup>3</sup>Ibid., pp. 49-50.

reference to append an English translation to the petition, motion, or brief in which such reference appears. As amended Dec. 14, 1962.

Order of Court March 9, 1966

Supplementing Rule 28 of the Rules of this Court.

Whenever reference is made in a brief to an opinion of the Supreme Court of Puerto Rico which has not yet appeared in the bound volumes of the Puerto Rico Reports in English, the party making such reference shall file with his brief three xeroxed or otherwise reproduced copies in English. If such copies be of an official translation, no copy thereof need be served upon opposing counsel. Otherwise, proof of service of one copy upon opposing counsel shall be required to be filed here with the three copies.

By the Court:

(s) Roger A. Stinchfield,  
Clerk.

Approved for the Court:

(s) Bailey Aldrich,  
Chief Judge.

U. S. Court of Appeals - Third Circuit<sup>1</sup>

Rule 20. Translations.

(1) When and by Whom Ordered. Whenever any record on appeal or petition for review or enforcement of a decision or order shall contain any matter in a foreign language, without a translation thereof made under the authority of the court, agency, board or commission below, or admitted to be correct, this court may order that a translation be supplied.

U. S. Court of Appeals - Fifth Circuit<sup>2</sup>

Rule 15. Translations.

Whenever any record transmitted to this court upon appeal shall contain any document, paper, testimony, or other proceedings in a foreign language without a translation thereof made under the authority of the lower court, or admitted to be correct, the case shall be reported by the clerk to the end that this court may order that a translation be supplied and printed with the record.

U. S. Court of Appeals - Eighth Circuit<sup>3</sup>

Rule 10 (b)

(b) Contents of Printed Record in a Civil Case. The printed record in

<sup>1</sup>US Code Annotated, Title 28 "Rules", op. cit., p. 208.

<sup>2</sup>Ibid., p. 296.

<sup>3</sup>Ibid., Pocket Edition, p. 110.

a civil case shall contain all of the essential pleadings, essential docket entries, the judgment or order appealed from or sought to be reviewed or enforced, and the opinion (which, if reported in the Federal Supplement, may be included by citing the volume and page where the opinion can be found), findings and conclusions of the trial court or administrative agency, and, if the case was tried to a jury, the complete instructions of of the trial court and the verdict. The printed record shall contain only so much of the evidence as may be necessary to enable this court to determine the questions presented for decision. The evidence included in the record shall be in the form in which it appears in the original record unless the appellant or petitioner shall elect to reduce such evidence, in whole or in part, to narrative form. If the printed record contains any matter in a foreign language, it must be accompanied by a correct translation thereof. If the appellant or petitioner in his brief challenges rulings upon evidence, such evidence, the objections interposed thereto, and the rulings questioned shall be quoted in the printed, and if the question of the sufficiency of the evidence to support a finding, ruling, order, verdict or judgment of the court or board is raised by the appellate or petitioner, he shall include in the printed record all evidence received upon the trial or hearing pertinent to that question.

U. S. Court of Appeals - Ninth Circuit<sup>1</sup>

Rule 11. Translations

Whenever any record transmitted to this court shall contain any document, paper, testimony, or other proceeding in a foreign language, and the record does not also contain a translation of such document, paper, testimony, or other proceeding, made under the authority of the inferior court, or admitted to be correct, the record shall not be printed; but the case shall be reported to this court by the clerk, and the court will thereupon remand it back to the inferior court, in order that a translation may be there supplied and inserted in the record.

<sup>1</sup>US Code Annotated, Title 28 "Rules", op. cit., p. 476.

**END**