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Repository Citation

Daniel J. McKenna, *Witchcraft, An Obsolete Crime*, 13 Marq. L. Rev. 18 (1928).

Available at: <http://scholarship.law.marquette.edu/mulr/vol13/iss1/3>

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WITCHCRAFT

AN OBSOLETE CRIME

DANIEL J. MCKENNA†

'Tis all one

To be a witch as to be counted one.

The Witch of Edmonton

FORTUNATELY, a text-writer on the subject of criminal law need no longer include the subject of *witchcraft* in his table of contents, nor would the editor of a casebook feel justified in including the report of the trial of Rose Cullender and Amy Duny.¹ The sinister and fatal accusation of witchcraft has now been obsolete for practically two centuries.

Yet mankind never tires of the marvelous. The descendants of those who delighted in the spurious miracles of Apollonius of Tyana now seek to evoke the dead in the shadows of the seance room. And the subject of witchcraft, as that term was understood by the best judicial minds of the past, carries with it an attraction both antiquarian and legal.

There is a comparative dearth of official information concerning the Anglo-American witch trials. The adjective *official* is used advisedly, because there is a vast amount of pamphlets, newsletters, broadsides and other *unofficial* documents. It is to these papers, which, in most instances, were printed to sell and which were probably about as accurate as a modern journalistic report, that we are indebted for much of the information concerning the actual administration of the criminal law with regard to the offense. There is, of course, a very large collection of books in all languages, dealing with the subject of demonology, but these were mostly written in terms of philosophy or theology, without particular emphasis upon the more legalistic phases of the question.

The offense of witchcraft, in its essence, consisted of the worship of Satan instead of God. This worship was in all respects a reversal of conventional religion. The Lord's Prayer was recited, but recited backwards. Travesties of the Mass, Baptism and the other Sacraments were enacted with details of revolting obscenity. The witches commonly formed themselves into a coven, or group of twelve, presided

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¹6 Howell State Trials, 647. (1665.)

over by a personification of a demon. The latter detail is particularly vague. In most cases the belief in the satanic presence was caused by hallucination or was admitted in order to avoid or terminate the torture. On the other hand, there is a fair amount of evidence from which one may infer that a living individual actually presided over the coven in the disguise of Satan. Reverend Cotton Mather, our own New England witchfinder *par excellence*, declared that the covens were governed like Congregational Churches.

In an intensely religious age, and in an age, moreover, when the fires of bigotry kindled by the Reformation were still burning under full draft, the crime of witchcraft took upon itself the nature of spiritual treason, directed against the King of Kings, just as temporal treason was directed against the worldly ruler. The Scriptures abound in references to the practice of sorcery, condemning it in the strongest terms. The most uncompromising text and the one which was ever on the lips of the witchhunters was the eighteenth verse of the twenty-second chapter of Exodus, "Wizards thou shalt not suffer to live."² It is difficult in this present age of widespread scientific knowledge to understand the headlong credulity which induced former generations to explain the simplest occurrences in terms of the supernatural.

The fear of witchcraft reached its bloodiest eminence in the Protestant countries of the seventeenth century. There were many cases in France and in other Catholic lands both before and after the Reformation but not in any volume comparable to those in Germany, where the renowned Jesuit, Friederich von Spee, did much to restore the population to sanity by pointing out the flimsiness of most of the evidence and the horrible uncertainty of testimony evoked by torture. The British Isles, England, and Scotland, under the Stuarts and Puritans, had a plethora of hangings and burnings, while Catholic Ireland, only a few miles away, was practically immune, except for a few prosecutions conducted by the Protestant interlopers.³ Even Spain, the traditional land of enchanted castles and buried gold, of Moorish and Gitanesco magic, seems to have escaped much of the plague that fell upon the Northern lands. The Moslem djinns and afreets, who would be expected to make a special delight in tormenting the enemies of the Prophet, were well restrained.⁴

² This is the wording of the Douai Version. The King James' Version reads: "Thou shalt not suffer a witch to live."

³ The celebrated case of Dame Alice Kyteler, 1324, stands almost alone for its time.

⁴ Montague Summers tries to explain this by pointing out the difficulty of distinguishing between trials for witchcraft as such and trials for other forms of heresy. *The History of Witchcraft and Demonology* (1926) and *The Geography of Witchcraft* (1927), both published by Knopf.

Various Acts of Parliament were enacted in England, beginning in 1541 with a statute⁵ which declared witchcraft to be a felony without benefit of clergy. As might be expected, the accession of James I to the English crown in 1603 was marked by a further legislation,⁶ tightening the noose around the neck of any poor wretch who might formerly have escaped. The whole sorry mess lingered on the statute books until 1735, when it was repealed⁷ (a minor punishment being preserved for cheats and rogues who would impose upon the credulous by a pretense of witchcraft or other supernatural power).

In the course of years, the administration of the witchcraft law developed a certain technique, which was individual and distinct from that employed against ordinary malefactors. As in the case of the well known recipe for stewed rabbit, it was first necessary to catch your witch. This offered no difficulty. Potential witches existed by the hundreds in every part of the kingdom, rural and urban. In most instances, they consisted of feeble old women, childish and friendless. Very often these victims had taken a sort of senile pleasure in the awe which their reputation had extracted from the superstitious peasantry. Occasionally, when the hounds were in full cry and the hunt was being pushed home with energy and speed, an influential person would be accused and convicted, as in the case of Euphemia Macalzean, daughter of the Scottish Lord Cliftonhall. But this was the exception, rather than the rule. In most instances, the victims were of a lowly station and the influential gentry, as would be natural, were not molested.⁸ The witch-hunt in Salem encountered one of its decisive checks when the wife of the Colonial governor was accused.

In Scotland and on the Continent, the devil went into politics (has he ever been out of it?), but in England he seemed content with the lowlier rôle. Most of the manifestations of alleged witchcraft were so trivial and ridiculous that it is hard to realize that intelligent persons would ever have credited them. A farmer's cow or horse would sicken, the milk would not properly churn into butter, someone would have a severe attack of rheumatic pains, and forthwith would come the accusation of witchcraft against some neighborhood gaffer or gammer. Malice and spite frequently hastened the accusation. In 1688, at Boston, a girl named Glover was accused of a petty theft by one of her employer's children. The Glovers were Irish "Catholicks" and there-

⁵ 33 Hen. VIII, c. 8. Also 5 Eliz. c. 2 and 23 Eliz. c. 2.

⁶ 1 Jac. I, c. 12.

⁷ 9 Geo. II, c. 5.

⁸ Compare the murder of Sir Thomas Overbury, which also involved sorcery, and the Satanism and child-murders of Mme. de Montespan. In each instance, the law proved a net to catch small fish but let the great ones go.

fore suspect and when Mrs. Glover "gave the children harsh language" for slandering her daughter, the children pretended to be bewitched. "They were struck dead at the sight of the assembly's catechism, Cotton Mather's 'Milk for Babes' and some other good books but could read the Oxford Jests, Popish and Quaker books and the Common Prayer without any difficulty." Mrs. Glover was blamed, and being considered sane, was hanged, a victim of childish devilry and religious bigotry. "She could recite her Pater Noster in Latin very readily; but there was one clause of two alwaies too hard for her, whereof she said, 'She could not repeat it, if she might have all the world.'" This inability to pray, was considered evidence of guilt, as in many other cases.⁹

After a witch was arrested, it was deemed highly desirable to obtain a confession, not so much for its evidential value—the wretch was foredoomed without it—but because of the widespread amateur and professional interest in the "science" of demonology. The jail served as sort of a laboratory or clinic, wherein the theorists could prove their theories by experiment. At the time a person became a wizard or a witch (so the belief went), Satan asserted his dominion by stamping the person with a mark, much as a human being might affix his signature to a document. As long as this mark were undiscovered, the witch would not confess. Consequently, the initial step after the arrest of the prisoner was to strip the latter and search the body. The spot, when found, could be readily recognized because of its insensibility to pain, and the technique of examination was to insert pins,¹⁰ which were actually as long as good sized nails, into every mole or discoloration of the skin that could be detected. Sooner or later, the tortured and exhausted nerves would be slow to register any new pain. Wherever the pin happened to be inserted at the time would be considered the satanic mark. Any tenuous possibility of escape would then be firmly barred.

Certain depraved wretches actually made a business out of witch-hunting. The most notorious of these was Matthew Hopkins, who claimed a sort of semi-authorized office of "Witchfinder-General For the Benefit of THE WHOLE KINGDOM." He traveled from town to town, with his pins and thumbscrews, blackmailing the well-to-do and blasting the poor. He was believed to possess a book which he had stolen from the Devil and which contained the names of all English witches, as well as their customers—a kind of a supernatural "sucker

⁹ Hutchinson, *Historical Essays*, 1718, and Cotton Mather, *Memorable Providences*, 1689, (reprinted in *Narratives of the Witchcraft Cases*, 1914, edited by George Lincoln Burr.)

¹⁰ Some of these pins are still preserved in Salem.

list." He was also an exponent of the water test. The alleged witch would be taken to a pond or river and the thumbs tied to the big toes. The suspect would be divested of clothing, wrapped in a blanket, and thrown into the water. If he or she floated, the floating was a sign of guilt, on the theory that the element of water would refuse to accept a wretch, who, by means of witchcraft, had profaned the blessed water of baptism. On the other hand, if the accused sank, the sinking was a sign of innocence and the accused might know the satisfaction of vindication, provided the blanket were pulled out of the water in a hurry. In this test, as in the others, the cards were stacked against the alleged witch, because the air contained in the blanket would tend to keep the bundle afloat for a few moments—and a very short time was enough to prove guilt.

Hopkins eventually lost caste. There is a pretty story—almost too good to be true—that he himself was accused by a mob of the same offense for which he had doomed so many innocent victims, that he was given the tests, and then lynched.

No article on this topic would be complete without a reference to King James I. This royal incompetent, strong only in perversity and cruelty, actually became an authority on the subject of witchcraft. As the champion of Protestantism, he was especially hateful to Satan and felt that self-preservation compelled him to learn all the available information concerning Satan's methods. At times, curiosity as to the details of his chosen science caused James even to approach the diabolic rites as an observer, as when Geillis Duncan played her devilish jew's-harp before him, at his command and to his "great delight." James is entitled to join the ranks of the royal authors, by virtue of his *Demonologie*, a book written to refute the more advanced and humane conclusions of Reginald Scot's *Discovery of Witchcraft*.

Before James became James I of England and while he was only James VI of Scotland, he decided to marry Princess Anne of Denmark. A number of persons had an interest in heading off this marriage, especially his cousin, the Earl of Bothwell. Whether Bothwell was actually seeking to prevent the marriage by the instrumentality of witchcraft, as has been suggested by Margaret Alice Murray, is probably incapable of final proof. There is enough evidence to build up a strong case against him.¹¹

In any event, a group of Scottish witches began to take active steps against the King. This group was under the chairmanship, if we may use that term, of a Doctor Fian, and included the Euphemia

¹¹ See *The Witch-cult in Western Europe* by Margaret Alice Murray, 1921, *The Rebel Earl and Other Studies* by William Roughead, 1926, and the works cited in note 4.

Macalzean to whom reference has already been made. Their activities were so grotesque as to resemble the vagaries of a nightmare. According to the confession of one of the group, they attempted to prevent the return of King James with his Danish bride by sending a fog upon his ship. The ship escaped the fog and recourse was had to stronger measures. The witches put forth from the coast of Scotland in sieves and sailed until they met the Devil. Satan appears to have been punctual and there was no difficulty in finding the infernal rendezvous. Satan handed them a cat, which had been drawn through the fire nine times. They threw the cat into the sea, at the same time raising a cry, thereupon setting in motion a terrific storm. Then they returned to Scotland, with the consciousness of a night well spent, and danced hand in hand to the church at North Berwick, to the music of a reel played on a jew's-harp by the aforesaid Geillis. James returned in safety, unfortunately for the witches, for he rested not until he had them thoroughly burned on Castle Hill. The awful words *convicta et combusta* form the epitaph of thousands of witches.

In this, as in most similar cases, the confessions were extorted by the rack and the boot and were therefore unworthy of excessive credence. On the other hand, corroborative details are not lacking and it is no means unlikely that Bothwell (who, of course, escaped) may have sought to advance his cause by supernatural experiments.

As late as the middle of the seventeenth century, a belief in witchcraft was practically universal among all classes and was linked with a hearty fear of its perpetual imminence. The charge of Lord Hale to the jury, in the above cited case of Rose Cullender and Amy Duny, tried in 1665, is especially interesting as representing not the view of a superstitious ignoramus but the reasoned opinion of a great and scholarly lawyer. "Whereupon, the judge, in giving his directions to the jury, told them, that he would not repeat the evidence unto them, lest by so doing he should wrong the evidence on the one side or on the other. Only this acquainted them, that they had two things to enquire after. First, Whether or no these children were bewitched? Secondly, Whether the prisoners at the bar were guilty of it?"

"That there were such creatures as witches he made no doubt at all; For first, the scriptures had affirmed so much. Secondly, the wisdom of all nations had provided laws against such persons, which is an argument of their confidence of such a crime. And such hath been the judgment of this kingdom, as appears by that act of Parliament which hath provided punishments proportionable to the quality of the offense. And desired them strictly to observe their evidence; and desired the great God of heaven to direct their hearts in this weighty thing they had in hand: For to condemn the innocent, and to

let the guilty go free, were both an abomination to the Lord.”

Needless to say, the prisoners were convicted and executed on the following St. Patrick's Day, “but they confessed nothing.”

The close of the seventeenth century and the opening of the eighteenth one saw a growth of enlightenment on the part of the educated classes. In a number of instances, the judges restrained the blood-thirsty superstitions of the jurymen. Lord Jeffreys himself, in spite of his reputation for cruelty, deserves credit for having so acted. In 1712, Jane Wenham was convicted in spite of Judge Powell's friendly attitude. The law required him to pronounce sentence of death, but he immediately obtained a pardon for the woman.¹²

The Wenham case was the last definitely established conviction for witchcraft in England, although there have been occasional lynchings since that time. In 1751, a man named Colley, who had been the leader of a mob which had drowned an old woman in testing her for witchcraft, was hanged for her murder. The people believed that he was a martyr.

In fact, the belief in witchcraft still lingers in isolated parts of Europe and America. Even Blackstone¹³ writing just before the American Revolution, could not do better than practically to reschedule the arguments of Lord Hale. While he accepted the possibility of witchcraft in the abstract, he refused to accept it in the concrete, and said that there have been no witches in modern times. Montague Summers,¹⁴ writing in 1926, proves conclusively that there is just as much reason for accepting at least a preternatural explanation of witchcraft as there is for accepting such an explanation of spiritism.

No one can say just how much actual injustice was perpetrated against innocent victims of ignorance and prejudice. But one must never forget that the witches themselves were often convinced of their own power. At the very least, many of them sinned in intention and purpose. The same hungering for strange gods which led the hard-headed Romans to desert the comparative sanity of their own pantheon for Bast and Mithras and Siva and other divinities of the Near and Far East and which leads modern men and women to membership in esoteric cults and isms operated in intervening centuries to swell the mysterious and therefore interesting cult of Satan.

Furthermore, the practice of witchcraft was accompanied by more mundane but equally sinister offenses. The dagger and the vial of poison frequently accomplished the purpose which had resisted spells and charms. Perhaps substantial justice was achieved in many convictions.

¹² This case inspired the printing of many pamphlets, both *pro* and *con*.

¹³ IV Commentaries, 60 *et seq.*

¹⁴ Works cited note 4.