

# Does anyone believe in witches?

Geoffrey Bindman QC breaks the spell of witchcraft



There are no witches and never have been. In this day and age could anyone disagree?

Henry VIII's Witchcraft Act of 1542, following the Old Testament (Exodus, XXII 18) declared it a capital offence 'to use devise, practise or exercise...any invocations or conjurations of spirits, witchcrafts, enchantments or sorceries'.

This in substance remained the law until the Witchcraft Act 1735, which replaced the prohibition of witchcraft with a ban on the pretence of witchcraft. By that time many—mostly women—had been hanged for this impossible crime.

The last trial and conviction for witchcraft took place at Hereford in 1712. Jane Wenham was accused of flying. It was generally believed that only witches possessed this skill. Mr Justice Powell was sceptical. Sarcastically he told her: 'You may fly—there is no law against flying.' The jury missed the point and found her guilty.

The jury's verdict was by no means unpopular. A pamphlet supporting it, entitled 'Witchcraft Farther Display'd', was widely distributed. It contained an account of the trial of two widows, Amy Duny and Rose Cullender, at Bury St. Edmunds in 1664. The celebrated judge and legal scholar, Sir Matthew Hale, then Lord Chief Baron of the Exchequer, presided.

## Precedent

This case had become an important precedent. Mrs Duny babysat for William, the infant child of her nextdoor neighbour. Mrs Duny already had the reputation of being a witch and, for that reason, the mother claimed, she asked her not to suckle the child. The mother said the instruction was disobeyed. Later that night the child had 'strange and terrible fits'. A doctor was consulted—Dr Jacobs of Yarmouth—'a man famous for curing persons bewitched'. His advice was to wrap the child in a blanket and not to be afraid of what might fall out of it. Sure enough 'a great toad fell out of the blanket and ran about the floor'. An unidentified young man 'caught this toad and held it in the fire with a pair of tongs: immediately it made a great noise, to which succeeded a flash like gunpowder...and after this the toad was no more seen'.

The infant William's elder sister complained that she too suffered fits, and that 'Amy Duny appeared to her and tormented her'. Three other children were in court but none of them gave evidence. They had made similar claims against both Mrs Dumy and Rose Callender. They all 'fell into violent fits screaming in a dismal manner so that they were incapable of giving their evidence; and although they at length recovered out of their fits yet they remained speechless till the conviction of the

prisoners'.

An 'expert' witness gave evidence. He was the celebrated doctor, Sir Thomas Browne, author of such classics as 'Religio Medici' and 'Pseudodoxia Medica'. The latter was a critical account of medical myths. Yet Sir Thomas supported the prosecution case, asserting that the claimants had indeed been bewitched. Trying somewhat desperately to rationalise this view he said 'these fits might be natural only raised to a great degree by the subtlety of the Devil co-operating with the malice of these witches'.

As for the great judge himself, 'he did not in the least doubt but these were witches: first, because the scriptures affirm it; second, because the wisdom of all nations, particularly our own, has provided laws against witchcraft, which implies their belief of such a crime'. Sir Matthew directed the jury 'strictly to observe the evidence and begged of God to direct their hearts in the weighty concern they had in hand since to condemn the innocent and let the guilty go free are both an abomination to the Lord'. After half an hour the jury found the two women guilty on all 13 counts. They were executed four days later, on 17 March 1665, 'Sir Matthew Hale being so satisfied with the verdict that he refused to grant a reprieve'.

The repercussions were considerable. Hale's authority was relied upon in the 1690s in Salem, Massachusetts, then a British colony, in a notorious series of witchcraft trials, the subject of Arthur Miller's play *The Crucible*. In a wave of mass hysteria, over 200 people were prosecuted of whom 30 were convicted. Fourteen women and five men were hanged.

## Comment

We have come a long way since those days. Yet Hale and Browne were among the intellectual giants of their time. How could they be so credulous? And is such gullibility, and the gross injustice it feeds, possible today?

Modern advances in science and the spread of education have developed a more critical and sceptical approach to factual claims of all kinds. Fact finding and fact checking are central to the lawyer's role. In Britain, competent lawyers, an independent judiciary and a high level of literacy among jurors have ensured that the courts have become largely free from the influence of superstition and fantasy. Yet examples of widely believed myths are not hard to find and there are plenty of people willing to exploit them. In the age of Donald Trump and social media we must always question the evidence.

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