‘Devilische Wordis’:
Speech as Evidence in Scotland’s Witch Trials, 1563-1736

by

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This dissertation examines the links between speech and witchcraft during Scotland’s witch-hunting period in the sixteenth, seventeenth, and eighteenth centuries. As this thesis argues, verbal performances were a key feature in many definitions of witchcraft, from the curses and quarrels of maleficent witches, to the healing prayers of charmers, to the verbal pacts of diabolical witches. While witches in general were believed to possess a wide variety of powers, it was their utterances that most often brought them to the attention of the kirk and community, and which most often formed the majority of the evidence filed against them in their trials. Indeed, it was in the context of the court room that contested definitions of witchcraft found common ground in the words of witches. Consequently, speech should be seen as a unifying factor in popular, religious, and judicial definitions of witchcraft.

This research draws on a wealth of printed and manuscript sources on Scottish witch-hunting, in particular, the process notes of the Justiciary Court and the kirk session and presbytery records. This material is supplemented by transcripts of additional trial material, sermons, demonological tracts and treatises, and other sources. The majority of the dissertation focuses on the legal evidence sought and submitted in the trials, demonstrating how local and
central judges determined what constituted proof of witchcraft. While other historians have pointed out the connection between witches and words, this has generally been seen as a characteristic of popular folk belief rather than judicially-defined witchcraft: witches were accused of cursing, but convicted of having served the Devil. Alternately, the relationship has been explained as a consequence of the gendered stereotype of witchcraft, rather than an important feature in its own right. By focusing on speech as the commonality, however, we can better understand why women were most often accused of this crime, as well as revealing how witch-hunting was part of a larger concern and anxiety over speech in early modern Scotland.
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# TABLE OF CONTENTS

Abstract................................................................................................. ii
Acknowledgements..................................................................................... iv
List of Figures.............................................................................................. ix
Abbreviations............................................................................................. x

Introduction: “How to Do Things with Words”........................................... 1
  Methodology, Sources, and Structure......................................................... 6
  How to Hold a Witch Trial........................................................................ 10

Chapter 1: Debates and Divisions in Scottish Witchcraft Historiography........ 20
  Early Trends in Witchcraft Historiography and their Impact in Scotland.... 23
  Top-Down or Bottom-Up?: The Politics of Witchcraft............................ 27
  Narratives and Belief: Social Meaning in the Trial Records.................... 31
  Popular vs. Elite Belief.............................................................................. 37
  Gender and Witchcraft: Cause or Effect?................................................ 42
  Speech and Witchcraft: A Wider Perspective......................................... 53
  Answering the Questions, Crossing the Divide....................................... 60

Chapter 2: A Reputation for Witchcraft: The Witch in Popular Belief........... 61
  Flyters, Quarrelers, and Scolds................................................................. 64
  Verbal Acts of Witchcraft: Cursing, Spell-casting, and other Execrable Utterances.... 74
  Charming, Healing, and Prayer............................................................... 82
  Charming or Witchcraft?: What Difference Words Make....................... 91
  Words and Texts....................................................................................... 98
  What Shall ‘Come to Pass’: Prophecy and Divination.......................... 102
  Conclusion............................................................................................... 106

Chapter 3: ‘What Wordis They Spake’: Evidence of Witchcraft, Part 1......... 110
  Suspicious Speech................................................................................... 113
  Proving (or Disproving) Witchcraft......................................................... 123
Conclusion..................................................................................................................................................139
Chapter 4: Confessing Witchcraft: Evidence of Witchcraft, Part 2.................................................141
  Constructing a Confession.........................................................................................................................143
  Interrogation: Questions, Answers, and Conformity.............................................................................146
  Conclusion.................................................................................................................................................168

Chapter 5: Trial Procedure: Prosecution and Defense...............................................................171
  Jeane Scott and Jonet Galbraith, 21 March 1650.................................................................174
  Advocates and Arguments: Witchcraft in the Central Courts..............................................181
  Isobel Young, 1629.................................................................................................................................183
  Agnes Finnie, 1644-5...............................................................................................................................189
  Margaret Hutchison, 1661.......................................................................................................................193
  Janet Cock, 1661.................................................................................................................................196
  Conclusion.................................................................................................................................................199

Chapter 6: The Devil on Trial: Speech and Diabolical Witchcraft........................................202
  Debating the Devil: Satan in Scottish Witchcraft Historiography........................................205
  The Devil in Scotland: From Arrival to Integration.................................................................209
  Servants of the Devil: Religious and Judicial Definitions of Witchcraft................................214
  Defining the [P]act: Speech as Evidence of the Pact...............................................................221
  Absence of the Pact..............................................................................................................................227
  Conversing with the Devil: Speech and/or Sex in Diabolical Belief........................................233
  Covenanting with the Devil: Oral Contracts in Early Modern Scotland............................239
  Conclusion.................................................................................................................................................248

Chapter 7: Conclusion: Speech and Surveillance in Early Modern Scotland..............................250
  Dangerous Speech: Treason, Heresy, Witchcraft...........................................................................251
  Performances of Power: Ritual Speech Acts and Authority.........................................................259
  Gender....................................................................................................................................................265
  The Decline of Witch-Hunting.......................................................................................................269

Bibliography.............................................................................................................................................273
List of Figures

Figure 2.1: Sator Square, Bartie Paterousn (1607), NRS, JC26/5/2.................................100
Figure 2.2: Charm, Bartie Patersoun (1607), NRS, JC26/5/2........................................102
## Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
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<tr>
<td>DSL</td>
<td>Dictionary of the Scots Language, University of Glasgow, <a href="http://www.dsl.ac.uk">http://www.dsl.ac.uk</a></td>
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<tr>
<td>CH2</td>
<td>Records of the church courts</td>
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<tr>
<td>JC</td>
<td>Records of the Justiciary Court, National Records of Scotland, Edinburgh</td>
</tr>
<tr>
<td>NRS</td>
<td>National Records of Scotland, Edinburgh</td>
</tr>
<tr>
<td>SSW</td>
<td>Survey of Scottish Witchcraft, <a href="http://www.arts.ed.ac.uk/witches/">http://www.arts.ed.ac.uk/witches/</a></td>
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INTRODUCTION:
“How to Do Things with Words”

It seems particularly appropriate to begin this thesis with the title of J.L. Austin’s influential lectures, which is consciously invoked here in a two-fold fashion. First, it is perhaps a truism to say that witches are generally believed to be able to do things with their words. It is a point made repeatedly in witchcraft scholarship, from medieval studies of ancient charms to ethnographic analysis of modern-day witch belief and magical practice. In discussing magic and early modern culture in Europe, Stuart Clark has said, “Above all, magic rested on the perceived power of words…The assumption that words, simply by virtue of being uttered, had a mechanical power at least to assist in the causation or prevention of events seems to have been an intrinsic element of many of the procedures noted earlier.” J.A. Sharpe, reviewing English law on witchcraft, has written, “Most frequently, however, the malevolent power of the witch was thought to operate on the victim primarily or solely through the power of the spoken word.” Robin Briggs agrees that in France and across Europe, “The most overtly witch-like procedures were those which used the power of words, notably cursing or some form of threatening ceremony or ritual.” Such observations in witchcraft studies are so common as to have become almost self-evident. Witches did magic, and they did so often by using words. While acts of sorcery and magic vary greatly in belief and practice—a fact reflected in the abundant regional studies of witchcraft across the centuries—verbal performances of magic remain a key characteristic of witchcraft.

From the prophecies of Macbeth’s Weird Sisters to Harry Potter’s “Alohomora,” words have been the signs by which magic is revealed and performed.

This brings us to the second reason for beginning with Austin’s title: witches were believed to actually do things with words. Specifically, the speaking of sorcerous words—be it prophecy, charm, threat, or curse—amounted to a deed, a magical act that had or was perceived to have a specific effect. Austin’s and later John R. Searle’s theories on speech acts suggest that the performative nature of these utterances meant that in being spoken, something was also done by them. As with other performative speech acts—such as the verbal vows of marriage, for example—a witch’s curses and sorcerous spells were both a kind of speech and an act. More recently, scholars have in fact applied pragmatics theory to early modern witchcraft cases, looking at the preconditions and perceived effects of witches’ curses as well as the legal speech acts performed in their trials. It is clear from these studies that witches’ words can be understood and studied in a performative sense—that in uttering words they were perceived to have done something (whether they intended to or not). While the application of pragmatics analysis is outside the scope of this thesis, the research herein remains informed by this scholarship and the proposed principle that the speech acts of witches can be understood to represent a way of doing things with words.

If historians regularly agree that witchcraft usually involves and is powered by words, what can this tell us? The healing and harmful effects of witches’ words are regularly cited in

studies of charming and magic, while witches are often associated with verbally aggressive behaviour. Nonetheless, witchcraft as speech has remained relatively under-studied in general. This lacuna in the literature is likely due at least in part to the aforementioned variation in witch belief across geography and time. Depending on who was asked, witches might fly, transform, heal, destroy crops, raise storms, practice cannibalism, worship the Devil, or cause pestilence, impotence, madness, death and more. Even within a single community, groups and individuals could hold significantly varying ideas about what powers a witch might possess. Moreover, witch-hunting in general is believed to have been too complex to be motivated by any single factor, group, or ideology.\(^7\) The fact that some individuals were convicted without any evidence of verbal witchcraft might therefore be used to argue that speech cannot be considered a central factor in the hunting and prosecution of all witches. This variation in practice and prosecution, however, has often functioned to disguise the importance of speech in witchcraft studies. In fact, it was the association of witchcraft with words in particular that played a critical role in the development and practice of witch-hunting in the early modern period.

This thesis will examine the links between speech and witchcraft in Scotland’s witch-hunting period, 1563 to 1736. It will focus particularly on the types of evidence sought and used to achieve a conviction for witchcraft in both local and central court trials. This approach, in examining the legal definitions of witchcraft, will demonstrate the critical nature of verbal evidence in the prosecution of alleged witches. It will also demonstrate how witchcraft was clearly tied to speech acts both in the popular imagination and in elite definitions of diabolical witchcraft, which themselves often overlapped and influenced each other. While witches were believed to employ many different means and forms of power, it was their words that made them most readily identifiable to community members and court officials. The court room became the

\(^7\) See for example Briggs, *Witches and Neighbours*, 3-6.
site where contested definitions of magic found common ground: where popular ideas about maleficent witches were conflated with ideas about the diabolical pact, and where the arguments of advocates sought to influence the decisions of the assize. It was in the mediation of the judicial definition of witchcraft, which itself was often in flux, that speech emerged as the common component of popular, religious, and legal conceptions of witchcraft.

Moreover, the fact that witches were so closely linked to oral performance and disobedient speech was a critical factor in the rise and fall of prosecution rates. Speech in general was heavily monitored during this period in Scotland. Aggravated by the general political and religious turmoil of the times, rising anxieties and efforts to monitor and discipline disorderly speech of all sorts promoted an atmosphere of verbal surveillance. This was a factor at all levels of society, from the household to the kirk session to the king’s court. Kirk sessions in particular were concerned with promoting conformity and godly behaviour by disciplining unsanctioned behaviour of all kinds, and regularly reprimanded their congregations for slander, defamation, blasphemy, flyting, and more. The close association of witchcraft with verbal threats and curses, as well as charming and prophetic speaking, meant that these kinds of suspicious speech acts were likely to come to the attention of local officials. What differentiated common speech offenses from witchcraft was their perceived or reported efficacy. A witch’s words had the power to change or affect reality, or, alternately, to at least create the illusion of doing so under the deceptions of the Devil, both heretical offenses under Protestant law. Words of all sorts fell under the purview of the kirk and crown during this period, and the political chaos of the

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seventeenth century did little to lower anxieties about hidden allegiances and the seditious speeches that revealed them. The crown was often preoccupied by treason and sedition, while apostasy, blasphemy, and heresy were a constant source of concern at the local level.

Looking at the relationship between speech and witchcraft can therefore offer important insight into some of the reasons behind Scotland’s relatively high rates of prosecution. It has the added benefit of suggesting a reason for the gendered rates of witchcraft accusations. According to recent estimates, 84% of accused witches in Scotland were women. In previous studies, the verbal (and sexual) characteristics of witches have generally been interpreted as a factor of their gender, while the prominence of women among prosecuted witches has been explained as sex-related rather than sex-specific. In other words, women were already associated with the stereotypical behaviours of witches resulting in high rates of accusations, while the high rates of women among the accused meant that their feminine characteristics influenced the composite stereotypes of witchcraft. However, if we examine speech not as a function of gender, but as a fundamental feature of witchcraft in its own right, we can begin to move beyond this self-reflexive cycle. Women, already traditionally associated with verbal aggression and disobedience, were more likely than men to be accused of verbal crimes in general, particularly scolding and slander. The fact that many of the words used to prove witchcraft were a product of community quarrels frequently engaged in by women meant that, among other reasons, witchcraft accusations fell disproportionately on them. However, disorderly or illicit speaking was not the sole purview of women. Men, too, could and often did engage in community quarrels, prophetic speaking, and folk healing, which when followed by a perceived effect left them.

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9 15% were men and 1% unknown. See SSW (accessed 5/16/2016).
likewise open to allegations of witchcraft. Indeed, prosecution ratios for witchcraft closely resemble the gender patterns for other verbal crimes, such as scolding, where women were much more likely to be accused than men.\footnote{Elizabeth Ewan, “Divers Injurious Words,” 63-86; John Harrison, “Women and the Branks in Stirling,” \textit{Scottish Economic and Social History}, 18 (1998): 114-131.} This is especially notable when compared to the gender division of discipline for sexual crimes, such as fornication and adultery, where men were almost as likely to be accused as women.\footnote{In Graham’s study of women and kirk discipline, women made up 51% of those punished for sexual offenses. Graham, \textit{Uses of Reform}, 286-287.} Focusing on witchcraft as speech, therefore, offers new avenues for better understanding the role of gender in witch-hunting.

\textbf{Methodology, Sources, and Structure}

This thesis will look at evidence throughout the witch-hunting period in Scotland. While necessarily broad, this temporal range allows us to see how concern with speech was a common factor throughout (and beyond) this time period, as well as touching on the period of the decline of witch-hunting. The sources used include manuscripts and transcriptions of the central and circuit court records, presbytery and kirk session minutes, witchcraft treatises, personal records and diaries, popular literature, and other texts.\footnote{For primary source quotes, original spelling has been kept. This is, after all, a study of words and speech, and so spelling/speaking conventions are therefore important. However, for clarity, textual abbreviations have been lengthened (such as ‘wt’ for ‘with’), thorn has been replaced with ‘th’, and letter usage has been modernized (l/j, u/v, and z/y). In some cases quotes are drawn from transcriptions done by other scholars who may or may not have standardized spelling or paraphrased from the original source; in these cases I have followed the spelling of the source referenced except for the adjustments mentioned above. Where words or phrasing are unclear or use uncommon Scots words, these have been glossed in the text or footnote.} The Justiciary Court process notes (JC26 series) are of particular value as they often contain much of the evidence collected by local authorities before the trial, including depositions and confessions. These represent the closest we can get to the actual words and reports of the individuals involved in these cases.\footnote{For more on textual analysis and the construction of trial testimony, particularly confessions, see Chapter 4. For more on depositional analysis specifically, Malcolm Gaskill provides an excellent discussion on the narratives and performances of witness testimony. See Malcolm Gaskill, “Witches and Witnesses in Old and New England,” in}
evolution of the charges, which can help us see the lines of inquiry pursued in these cases, as well as the legal arguments used by advocates. While other scholars have generally differentiated between central court cases and kirk session inquiries (there is arguably a higher incidence of the Devil in central court cases, for example), to consider the two groups independently of each other obscures the ways in which local testimony was involved at all levels of the trial process. As such, ideas about witchcraft as it occurred in the popular imagination are present in both types of records and indeed would have influenced further evolution of belief over time and across social stratification through their public exposure in the trial and execution.

This thesis draws on the work of many scholars in order to examine and demonstrate the link between speech and witchcraft as well as tying it to larger shifts in social anxiety and control. In many ways, this study occupies a position at the crossroads of historiographical trends. It began as an exploration of social meaning, stereotypes, and ideology, looking at how witchcraft was associated with speech in the cultural beliefs and practices surrounding magic in the early modern period. In examining the manifestations of speech in the texts of witchcraft cases, however, it became increasingly clear that, from a legal standpoint, speech was the key to understanding how and why witchcraft cases were prosecuted as well as how they came to the attention of officials in the first place. Consequently, the study employs a range of methodologies.

As a study of judicial evidence and practice, legal studies of Scottish witchcraft have played an important role, particularly the work of Christina Larner, Julian Goodare, and Brian Levack.\textsuperscript{15} J.A. Sharpe and Malcolm Gaskill also provide excellent examples of discussion of

English law and witchcraft prosecution. The work of these historians—particularly Brian Levack’s recent and comprehensive discussion of law, politics, and religion in Scottish witch-hunting—provides a solid overview of legal and judicial practice in Scotland; nonetheless, as Julian Goodare has recently stated:

The law on witchcraft needs more work. Levack has opened up the subject, with an excellent study focusing on legal procedure; what we now need is a study of the substantive law as it was articulated in court. Why did courts find one suspect guilty, and another innocent? Why did judges order some charges to be dropped, while finding others competent? What value was placed on different types of evidence—neighbours’ statements, the suspect’s confession, the issue of ‘habit and repute’ (reputation), pricking for the devil’s mark, and so on?

This thesis directly addresses many of these questions, particularly the accumulation and use of evidence and judicial definitions of witchcraft.

In addition to the legal aspects of witch-hunting, the thesis explores the cultural meanings of witchcraft, especially the relationship between words, witchcraft, and power in the early modern period. Here the work of Stuart Clark has been particularly helpful in examining early modern discourse on witchcraft as part of a larger system of social ideology and culture. In a Scottish context, Lauren Martin’s work on witchcraft, women, and quarreling provides an excellent template for demonstrating how witchcraft accusations reflected ideas about gender and hierarchies of power in early modern belief. In discussing manifestations of witchcraft in popular and elite belief, Lizanne Henderson and Edward J. Cowan provide a thorough review of

19 Clark, Thinking with Demons.  
the field, particularly fairy and folk belief in magic, while Joyce Miller’s work on charming also plays a critical role in several of the central conclusions made.\textsuperscript{20} In his review of the field, Goodare identifies these areas as potential avenues for future study as well, including studies of popular belief and practice, elite belief and relationship to intellectual life, and the details of quarrels and curses, “especially from the perspective of gender.”\textsuperscript{21} Again, this thesis will provide a discussion of several of these aspects, particularly gender. The question of gender largely remains unanswered, or at least under dispute, despite the significant contributions made by feminist and gender historians.\textsuperscript{22} Here the work of Larner, Goodare, and Martin has been important to structuring both a critique and a new perspective on the role of gender in Scottish witch-hunting.\textsuperscript{23}

However, this is a study not just of witchcraft, but of early modern speech in general, particularly gendered speech; consequently the scholarship on early modern speech, gender, and crime has also been very important in informing the direction of this thesis. The work of Sandy Bardsley on scolding prosecution in late medieval England has been particularly helpful, as has the work of Laura Gowing, Edwin Craun, and David Cressy.\textsuperscript{24} Studies of speech, crime, and


\textsuperscript{22} See Chapter 1’s discussion of gender in witchcraft historiography.


social discipline in Scotland have been indispensable. Michael Graham and Elizabeth Ewan are
critical here, as is John Harrison’s discussion of the branks in Stirling, while Margo Todd and
David Mullan provide an important perspective on performative rituals and religious life in post-
Reformation Scotland.25 Excitingly, the relationship between speech, gender, and witchcraft has
begun to be discussed in some studies outside of Scotland. Jane Kamensky’s work on speech in
colonial New England includes an excellent discussion of the links between words and
witchcraft in late seventeenth-century Massachusetts.26 Kirilka Stavreva has discussed violent
female speech in the context of early modern England, and spends a fair amount of her analysis
on the verbal violence of witches, both on stage and in culture.27 While Stavreva’s work is more
literary in perspective, both provide excellent comparative examples discussing the intersections
between speech, gender, and witchcraft in early modern society. Building on the works of these
scholars and others, this thesis explores both the legal evidence and the narratives of the
confessions and depositions in order to demonstrate the link between speech and witchcraft in
popular culture, theological discussion, and judicial definition.

How to Hold a Witch Trial

Before proceeding, a quick review of the practice of witchcraft prosecution in Scotland is
necessary. The legal procedures and framework for Scottish witch-hunting have been well-

25 Graham, The Uses of Reform; Michael F. Graham, The Blasphemies of Thomas Aikenhead: Boundaries of Belief
on the Eve of the Enlightenment (Edinburgh: Edinburgh University Press, 2008); Ewan “‘Tongue You Lied’,” 115-
36; Ewan, “‘Divers Injurious Words’,” 63-86; Harrison, “Women and the Branks in Stirling,” 114-131; Todd, The
Culture of Protestantism in Early Modern Scotland; David Mullan, Narratives of the Religious Self in Early
Modern Scotland (Farnham: Ashgate, 2010).
University Press, 1997).
27 Kirilka Stavreva, Words Like Daggers: Violent Female Speech in Early Modern England (University of Nebraska,
2015).
covered elsewhere. Rather than reinventing the wheel, this section will provide a brief rundown of the general format of trial procedure in order to provide some context for the following discussion of legal evidence and argument. More details will be discussed in the body of the thesis in discussing each specific stage of the trial.

A prerequisite for witch-hunting is a cultural agreement that witches indeed exist and, moreover, that they represent a threat to individuals and/or society. In Scotland, folk belief in magic and witches long preceded the period of witchcraft prosecution. A few scattered cases were tried in the fifteenth and early sixteenth centuries, but it was not until the so-called Witchcraft Act of 1563 was passed by parliament that witchcraft was defined as a crime against sovereign and country. With this, suspected witches could be officially charged with abusing the people through their alleged practice of magic, for which the punishment was death. This continued to be the law until the official revocation of the act in 1736. Rates of witchcraft accusation, prosecution, and conviction varied across this period. However, the general structure of the trial was relatively stable.

Suspicions and reputations for witchcraft usually began at the local parish level. Those who were accused of witchcraft tended to already be known in their communities as reputed witches. Neighborhood disputes or curses followed by misfortune, or a particular series of efficacious healing charms, often long preceded any actual accusations of witchcraft. Over time, repeat performances or a reputation for threatening speech could result in the launch of a formal investigation for signs of sorcery and potentially a trial. Witchcraft cases could be tried locally by an assize (by commission), circuit courts (conducted by Justice Ayres that traveled through

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the country at certain intervals), or central courts.\textsuperscript{30} Even trials held at the highest levels of authority, however, almost always began as local investigations that later were passed to higher courts.\textsuperscript{31} In the case of Agnes Sampson—one of the foremost witches in the North Berwick trials, in which King James VI played a central role—Presbytery records indicate that she had faced investigation by the church courts in Haddington on suspicions of witchcraft for over a year before she came to the attention of the king.\textsuperscript{32} While this would become one of the highest-profile cases ever to be held in Scotland, the initial accumulation of evidence and hearings began in her own community. It was at this local parish or burgh level that accusations of witchcraft were almost always originally heard.

Community tensions and disputes were frequently a source for witchcraft accusations, and suspicions could be raised by individuals who felt themselves wronged by the witch, but a formal complaint needed to be made through the appropriate channels. In general, this was done by bringing community concerns before local municipal or religious officials. The kirk session, in particular, played an important role in investigating allegations of sorcery in the community, where parish residents could make their complaints before the kirk, and session elders could make further inquiries into matters. Ministers and session elders were often on the front line of witchcraft investigations, being well-informed about people’s behaviour and reputations, and many individuals were brought before these local parish courts on “suspicion of witchcraft.”\textsuperscript{33} Presbyteries, which oversaw the dealings of local kirk sessions, might also conduct further investigations into the matter if the case was not settled to everyone’s satisfaction and could also


\textsuperscript{31} While there were some cases involving high profile individuals or politically motivated inquisitions which began at high level courts, this was far from the norm. Most cases began—and ended—at the local level.


be involved in leading preliminary investigations. The Presbytery at Haddington, noted above, was involved in following up charges of witchcraft in several cases from local kirk sessions, for example. In investigating claims of witchcraft, kirk officials played an important role in deciding what might constitute evidence of witchcraft.

In addition to religious representatives, local civil authorities were often involved in apprehending and investigating charges of witchcraft; these included provosts, bailies, sheriffs, and their deputes. Members of the assize and witnesses to confessions also frequently included lairds, burgesses and other prominent locals on their lists. Account records show that witch-hunting was often financed by the burgh, while citizens who played a role in witch trials were usually reimbursed. In the Ayr Burgh Account records, for example, several expenditures involving witch trials appear. A witch in Barnweill cost the district £7 3s. 8d for expenses including her candles, meat and drink, and materials used in her execution, including pitch barrels, resin, heather, and trees, while the tar barrels, cords, and coals that were used to burn Marion Greiff were recorded as costing £4 4s. James Watson was paid £13 1s. 4d for the sustentation of Maly Wilson, witch, while the lockman James Gilmour was paid £6 13s. 4d for her execution.\(^\text{34}\) Indeed, burgh officials were sometimes the most vigorous in pursuing witches. For example, in Aberdeeen in 1596, the burgh recognized the Dean of Guild for his service and “extraordinary pains in burning a great number of witches.”\(^\text{35}\) Church courts and burgh courts sometimes fought over matters of jurisdiction in witchcraft cases, but more frequently cooperated with each other.

\(^{34\text{Ayr Burgh Accounts 1534-1624, transcribed and edited by George S. Pryde (Edinburgh: Scottish History Society, 1937), 156, 183, 267.}}
While kirk sessions and local officials were often involved in gathering evidence in witchcraft cases, they were not legally authorized to hold trials without permission; nor were presbyteries, sheriff courts, or other civil courts, although all could and frequently were involved in preliminary investigations. The state maintained a degree of control over witch hunting in the localities by requiring officials to obtain a commission of justiciary from the privy council or parliament before holding a trial. This writ allowed the commissioner(s) to appoint officers of the court and summon local respected individuals as a jury, or assize, who would stand in judgment of the charges of the dittay (indictment). Other possibilities included bringing the case to the attention of the Lord Advocate and applying for a trial in the central justiciary court, or to involve traveling circuit courts. However, commissions for local trials generally seem to have been the preferred route, perhaps because it allowed local officials to continue their involvement in the case or due to their familiarity with the proceedings. Usually these commissions would be issued for the trial of a specific individual or group. Before 1597, officials could apply for general or standing commissions, which allowed authorities to try a number of witches without having to travel to Edinburgh to obtain new commissions for each case. These general commissions could sometimes lead to miniature ‘panics’ in specific areas, such as in Aberdeen in 1597 when approximately 80 people were tried, usually as a result of convicted witches naming others in their confessions. The abuse of such general commissions and the Margaret Aitken debacle—an episode where one convicted witch was used to identify many other individuals throughout the countryside—led to tightening restrictions by the privy

37 While different authors have emphasized different aspects of the trial process and the varying importance of different officials and levels of government, the standard procedure of the trial itself are generally agreed upon and have been discussed at great length elsewhere. See Chapter 1 for more on this debate.
39 For more on the debate over general commissions in the 1590s, see Goodare, “The framework for Scottish witch-hunting in the 1590s,” 240-250.
council on issuing commissions of any kind and the abandonment of general commissions.\textsuperscript{41}

From this point on, commissions were to be issued only for specific named individuals; furthermore, officials seeking a commission to try a witch locally were required to first provide evidence sufficient to convince central authorities that a trial was warranted.\textsuperscript{42}

Resident officials, both civil and ecclesiastical, were frequently responsible for gathering the initial evidence for a witch trial. This evidence, obtained through the efforts of bailies, ministers, kirk elders, and civil magistrates, was not only necessary to obtain a commission, it also formed in large part the charges of the dittay. For example, the process notes of the trials found in the National Records of Scotland’s JC26 series contain many depositions of local witnesses, including cases heard in the Edinburgh’s central justiciary courts. These depositions were often incorporated into the dittay which was read and affirmed before the court; witnesses could be summoned to confirm or adjust these statements under oath. In large part, the articles of dittay closely adhere to these depositions, although variations do occur, most likely for the purpose of brevity.\textsuperscript{43} This indicates that, even when cases were not held locally, local officials still played a key role in gathering and submitting the legal evidence for the trial.

The evidence used in the trial generally fell into four major categories. First, the witness testimony of neighbours played a crucial role in trying witches. Community and sometimes even family members would provide specific evidence of any witch-like words or acts. This could

\textsuperscript{41} Margaret Aitkin was a convicted witch who claimed she could identify other witches by a special mark in their eye. Many people were tried upon being named by Margaret as she was carted throughout the countryside for help identifying witches. She was later exposed as a fraud, confessing herself to have accused innocent people of witchcraft. She maintained this recantation as truth until her execution. See Levack, \textit{Witch-Hunting in Scotland}, 24-30, 41; Goodare, “The Scottish Witchcraft Panic of 1597,” 58-60.
\textsuperscript{42} What constituted “convincing evidence” in these cases likely varied over time, with certain periods seeing an increase in dispensed commissions, while at other times central officials put on the brakes.
\textsuperscript{43} In his study of the Aberdeen panic in 1597, Julian Goodare discusses the ways in which pre-trial documents such as depositions and confessions were compiled to form the draft dittay and formal dittays of the trials. He finds that while there are structural and minor lexical differences between these pretrial and trial documents, the dittays in large part closely followed the testimony of neighbours and accused witches. Goodare, “Aberdeenshire Witchcraft, 1597,” 17-20.
include a wide range of material, reflecting a complex variety of beliefs about what witches could do, but often focused on acts of malefice where the witch was observed to say or do something, followed by a specific effect or misfortune. The second form of evidence was the testimony of the witches themselves. A confession of witchcraft and pact with the Devil was the most important form of evidence and often a commission could not be obtained without it. Once suspected witches had been identified, they would be detained and repeatedly interrogated in an effort to bring them to this confession.\footnote{The interrogation and confessions of witches is discussed at length in Chapter 4.} Third was the testimony of other confessing witches. Once accused witches confessed, they were often prompted by their interrogators to name their diabolical co-conspirators. This naming game was an important factor in the spread of witchcraft accusations, leading to community-wide hunts or ‘panics’, although this does not seem to be how most people experienced witch-hunting in general.\footnote{The use of witch ‘panic’ as a term to refer to spikes in accusations has been disputed by Lauren Martin, who argues that large-scale, localized witch-hunting was not how most people experienced the witch trials. Lauren Martin, “Scottish Witchcraft Panics Re-examined,” in Witchcraft and Belief in Early Modern Scotland, ed. Julian Goodare, Lauren Martin, and Joyce Miller (Houndmills and New York: Palgrave Macmillon, 2008), 119-143.} However, the testimony of witches against others was sometimes seen as suspect in itself (discussed in Chapter 3) and often required additional evidence. Likewise, the Devil’s Mark, the fourth type of evidence used in local and central trials, was considered relevant but generally not enough on its own to warrant a conviction without further evidence. This mark appears to have been a feature of both popular and elite conceptions of the witch, and was generally described to be some sort of mark on the witch’s body, such as a mole, sore, or other blemish. It was insensitive to pain and was thought to mark the spot where the Devil had touched, licked, or bit them at the time of their covenanting with him.\footnote{While the mark shares certain similarities with the witches’ teat common in English witch-belief, these do not seem to be interchangeable. The mark, for example, does not appear to be used to suckle familiars, which were themselves comparatively uncommon in Scottish witch belief.} Professional witch-prickers roamed the countryside plying their trade of ‘brodding’ or sticking the suspected witch with pins in order to find these spots. While the mark was
considered external evidence of the Devil, a confession was usually needed in order to fully prove his presence.  

A reputation for witchcraft can arguably be considered a fifth form of evidence used against witches and was often included in the list of charges. However, this reputation was itself a product of repeated community conflicts and witnessed efficacious speech acts that usually made up most of the points of the dittay.

Any combination of the above forms of evidence could be used in the local and central trials of witches. The best cases would obviously include proof from all categories, but conviction on even a single point of witchcraft was enough to warrant execution. The overall evidence, however, can be boiled down to two main types: evidence of malefice or magical power and evidence of the Devil. Many scholars believe this division to reflect different stages in the trial as well as a division between popular and elite ideas about witchcraft. However, a deeper look at the construction and use of evidence in the trials reveals a much more complicated picture. Witness testimony was important to prove malefice, but the accused themselves were often asked repeatedly about the words they had said, the harm they had done, and how they had performed their charms. This indicates that malefice was a concern among elite interrogators as well as community members, but more importantly, it suggests these words, if admitted, could be used as convincing evidence at both local and state levels. Likewise, suspected witches were asked about their relationship with the Devil, but as will be shown in Chapter 6, this relationship was built on and revealed by performative speech acts; moreover, the absence of reports of the Devil in local trials does not necessarily indicate the absence of belief in his involvement, but

48 The standard of proof under Scottish law was proven testimony from two witnesses or a confession, but in practice this was not always followed.
49 See Chapter 1 for the discussion of popular and elite belief in the historiography, as well as the debate over local or central concern.
rather an absence of evidence. The mediation of judicial definitions of witchcraft involved both
types of evidence, both of which centered on the words of witches.

In many ways, the structure of this thesis echoes the stages of a witch trial. First, the context and
conditions for witch-hunting are discussed. Chapter 1 provides an overview of the current state
of the field, showing how the research of this thesis fits into the historiography of European and
Scottish witchcraft. Chapter 2 looks at constructions and stereotypes of witchcraft in the popular
imagination. By examining what people believed witches could do, it is shown that witches were
associated with words on multiple levels: as quarrelers, scolds, and flyters in their communities;
through curses and spell-casting; and the practice of charming, healing, and prophecy. Over time,
engaging in, or being thought to engage in, such behaviours and performances could result in a
reputation for witchcraft, which might in turn lead to an investigation and trial.

The next chapters begin a more intensive examination of the legal procedure and
evidence used in the trials. Chapter 3 examines the ways in which initial suspicions were raised
and the early investigations into allegations of witchcraft. These investigations often prioritized
speech acts and witnessed words in building cases against individuals. Kirk sessions, ministers,
and bailies often played critical roles at this stage of the process in questioning parishioners
about the suspicious behaviour of the accused. This evidence became the depositions and witness
testimony critical to many trials. Chapter 4 continues the examination of the evidence sought
during the investigations and criminal trials, focusing on the words of the accused themselves.
Confessions were often vital to the success of obtaining a commission as well as a conviction.
By looking at the questions asked during interrogations and the conformity of answers, it is
shown that confessed speech acts were of extreme interest to the court. Chapter 5 examines
several case studies, showing that verbal acts were important in cases tried by the High Justiciary Court, as well as those held locally by commission. Speech acts were a critical part of the indictment submitted to both kinds of courts and many assizes would convict on this type of evidence alone. Citing precedent and differing interpretations of law and definitions of witchcraft, advocates fought for or against the allegations, frequently focusing on the words of the accused. While not all the factors are clear in the rulings of judge and jury, the attention focused on speech by both sides is clearly suggestive of the close tie between speech and witchcraft in both social imagination and judicial law.

In the final two chapters, the importance of words, witchcraft, and identity are discussed in a wider context. Chapter 6 addresses the distinction traditionally drawn between popular and elite definitions of witchcraft. Specifically, it is argued that the Devil’s Pact itself was a performed speech act and that the witch’s relationship with the Devil was founded on words. Moreover, the witch’s words were believed to be given power by virtue of their relationship with him. This chapter builds on evidence discussed previously in order to argue that speech was the common factor in popular, theological, and judicial definitions of witchcraft. Finally, Chapter 7 draws together many of the themes discussed throughout the thesis, including the role of gender and the trial as a performance. Here it is shown that witchcraft can be tied to other sins and crimes of the tongue, such as treason, sedition, and heresy. This demonstrates how witchcraft prosecution was part of a larger effort to monitor, control, and define right-speaking. In this context, who was speaking could be as important as the words that were said. As performances of power in a godly society of the Word, speech acts were critical to the control of the community, congregation, and kingdom, and officials at all levels of society were concerned with their oversight.
CHAPTER 1:
Debates and Divisions in Scottish Witchcraft Historiography

Witchcraft historiography is a wide-ranging discipline that at times defies traditional historiographic and disciplinary boundaries.¹ Recent surveys and compiled volumes for the study of witchcraft reveal some of the immense variation contained within the field.² Studies range from medieval magical amulets, to fairy lore, to shamanic visions, to criminal procedure, to demonic possession, and much more. Regional developments and variations of magical belief and practice provide additional avenues of exploration, while scholars draw on a range of disciplines and theoretical frameworks, including sociology, anthropology, theatre studies, psychoanalysis, and others, to further enrich and add to the complexity of the field. The field of witchcraft studies occupies a unique and productive position that engages with scholars across regional and disciplinary boundaries, resulting in a rich and dynamic body of literature.

While such diverse scholarship resists strict categorization, a survey of some of the themes and divisions within the field can be productive. For example, in recent years witchcraft studies have generally fallen into two basic methodological camps: studies that seek to catalogue the events and explain the particular development and progression of the trials; and studies which seek to deconstruct the beliefs and narratives of the witch trials in an attempt to better understand the cultural and social meanings embedded in these transcripts.³ Some historians, such as Peter

³ For an overview of the development and divergence of these approaches, see Stuart Clark, “Introduction,” in Languages of Witchcraft: Narrative, Ideology and Meaning in Early Modern Culture, ed. Stuart Clark (New York: St. Martin’s Press, 2001), 1-18.
Elmer, have argued that there has traditionally been little dialogue between the two groups. It can be argued, however, that the two approaches rely greatly on each other: the context and development of the trials being critical to discussions of social imagery and belief, while more traditional discussions of the political and criminal development of the trials benefit from consideration of the cultural meanings of witchcraft. Nevertheless, the concerns and approaches of both groups often diverge. Other divisions and debates characterize the field as well. For example, the division between those that see witchcraft as ‘fact’, or part of an experienced reality for the individuals, and those who see it as fantasy, or rather as a pretext for the persecution or a psychological manifestation of social tensions. Scholars argue over whether witch-hunting was more of a ‘top-down’ process inspired and driven by state interest and involvement, or if it was driven from below by local concerns and anxieties. The role of gender—a notoriously slippery concept in witchcraft scholarship and elsewhere—also remains an unanswered question for many, despite the number of studies that address the usual predominance of women in witchcraft prosecutions. This chapter will discuss some of these different approaches and areas of discussion, particularly in relation to the historiography of witchcraft in Scotland as well as studies of early modern speech.

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In Scotland, historians of witchcraft have engaged with each other and with a greater historiography of European and North American magic and witchcraft studies. Christina Larner’s work has been particularly important: her ground-breaking study, *Enemies of God*, which drew on the fields of sociology and anthropology, helped to firmly establish Scotland as an important site for witchcraft studies. The work of historians who followed Larner has also benefited from access to developing theories in the field of witchcraft studies as well as from outside the discipline. In turn, the work of Scottish historians has influenced the development of witchcraft studies as a whole. This dissertation focuses on the evidence from Scotland, particularly the evidence contained in the central, circuit, and ecclesiastical court records (supplemented by material such as witchcraft tracts and treatises from England and continental Europe). Consequently this chapter focuses mainly on the trends and debates in Scottish witchcraft historiography, which relies on similar sources. While Scottish scholarship serves as the major foundation for this chapter, works applying to areas outside the kingdom are included to highlight some of the particular themes that run throughout the field, as well as to show how this study fits into the wider discussions and debates in witchcraft historiography.

Early Trends in Witchcraft Historiography and their Impact in Scotland

Scotland is particularly rich in primary sources for witchcraft belief and prosecution, making it an especially fruitful region to study.\(^8\) Indeed, scholars have been studying the witch trials of Scotland almost since they came to an end in the eighteenth century.\(^9\) The Whiggish narratives of Victorian writers often depicted the witch-hunts as part of a ‘darker’ chapter in Scotland’s history, emphasizing the early modern Scots’ brutality, credulity, and superstitious natures—part of a wider casting of pre-Union Scotland as ‘backward’ or barbarous. Sir Walter Scott, for example, recorded with morbid relish some of the more dramatic or spooky witch stories he had collected, while Robert Pitcairn saw the alleged witches as victims of torture, abuse, and overzealous religiosity.\(^10\) Francis Legge echoed these sentiments in 1891.\(^11\) These terrible executions were a source of fascination for many scholars who sought to explain them as the product of superstition and an intensely religious government, in stark contrast to the civilization and scientific progress of society following the Enlightenment. While the undertones of rationalism and romanticism of these early works show clearly in retrospect, they laid the groundwork for others who sought to find the driving forces of the witch trials in other areas.

The next century saw a continued interest in witch-hunting in Scotland and elsewhere, with new and sometimes conflicting interpretations of events. Some authors sought to explain the

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\(^9\) And arguably earlier: George Sinclair’s *Satan’s Invisible World Discovered*, for example, was first published in 1685 (Edinburgh: John Reid, 1685).


witch trials by arguing that witchcraft confessions contained accurate representations of the alleged witches’ actual experiences. Montague Summers, for example, saw witchcraft confessions as evidence of actual diabolical worship, while Margaret Murray interpreted them rather as manifestations of a pre-Christian fertility cult surviving in pockets throughout Europe.\(^{12}\) By the second half of the twentieth century, these approaches were under attack and historians pivoted towards seeing the witches as innocent victims of a persecuting society.\(^{13}\) In the 1960s and 70s some authors contended that the visions and experiences confessed by witches had other ‘rational’ explanations. Some argued that these visions were the result of possible hallucinogenic use or ergot poisoning.\(^{14}\) Other scholars have proposed other medical or mental causes for the visions of witches, interpreting them as ‘fact’ if not actually ‘real’; yet most often these experiences have been cast in the language of pathology, madness, and irrationality, which is a tendency that needs to be carefully questioned by modern-day historians, especially in relation to


the gendered nature of these characteristics. Reducing people’s experiences, real or not, to insanity has the effect of privileging modern perspectives and interpretations over other people’s realities, and therefore perpetuates a stereotype of alleged witches as victims associated with disease, degradation, and other negative characteristics—many of which have also been historically associated with femininity.

Also in the 1970s, the application of social and cultural anthropology played an important role in transforming witchcraft studies. Keith Thomas and Alan MacFarlane, for example, both saw the witch trials in England as a natural consequence of changing cultural values and growing economic tensions in the early modern period. Under this interpretation, witchcraft accusations and anxieties were seen as a consequence of village tensions, social guilt, and the refusal of charity which had commonly been expected in medieval times. As old beggar women were turned away, the resulting guilt of those who refused them charity was projected onto the women in the form of malice and envy. Critics of this approach have argued that such “functionalist” theories cannot adequately address the myriad forms of witch hunting that occurred, yet both Thomas’ and MacFarlane’s work continue to be landmarks in the application of social theory in the field of witchcraft.

Scholars in Scotland have continued to try and expose the driving forces behind the witch-hunts, yet many have broadened their approach to attempt to find the motivations for the witch trials as part of larger social, religious, and political change. Christina Larner, who also applied methodologies from sociology and anthropology, focused on the role of the kirk and government in encouraging the witch trials. Managing to single-handedly revolutionize the study

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of the Scottish witch trials, Larner argued convincingly that the witchcraft trials in Scotland resulted from the unique conditions of the early modern period, particularly the “emergence of Christianity as a political ideology.” In declaring the witch an enemy of the state as well as an enemy of God, the government was able to legitimize its rule, as well as its authority to designate deviancy and enforce conformity through criminal prosecution. The witch, therefore, served as a tool that helped establish the divine authority of the Scottish state and encouraged popular support of the government through centralized witchcraft prosecutions. As part of Scotland’s effort to establish a ‘godly society’, the government ensured the participation and support of both the clergy and community members.

Larner’s hypothesis, while revolutionary, has since come under criticism by scholars such as Stuart Macdonald and Robin Briggs. Briggs, for example, points out that this work does not adequately explain why particular individuals were accused of witchcraft—a problem that this thesis will address. Nonetheless, Larner’s work played an important role in the development of witchcraft studies and firmly established Scotland as an important region for studies of European witchcraft. As witchcraft historiography continued to develop through the rest of the twentieth century, regional studies would play an important role in revealing the diversity of witch belief and persecution across Europe, leading to a revitalization of the field and an explosion of new publications.

Top-Down or Bottom-Up?: The Politics of Witchcraft

Larner’s findings influenced a generation of Scottish witchcraft historians and remain highly relevant to studies of European witchcraft to this day. In fact, her work was so influential that research on Scottish witchcraft came to a veritable halt after the publication of *Enemies of God*; as Julian Goodare stated in 2002, “This brilliant work so dominated the field that until recently it was difficult for anyone to think of new things to say about it.”

By the 1990s, however, new directions of research in European witchcraft brought about a renewed interest in Scotland as well. In particular, the relationships between crime, law, and state-building became important areas of research for witchcraft studies in Scotland and elsewhere. Like Larner, many of these scholars were interested in exploring specifically how and why the witch-hunts had occurred. However, this work reflects another debate in the field of witchcraft studies: the division between scholars emphasizing national levels of involvement in preventing or promoting prosecution, and those who focus on the tensions and motivations of local communities and officials in persecuting witches. As this thesis will focus on the different levels of official involvement and their corresponding definitions of witchcraft, this debate deserves some extra attention here.

Several historians have followed Larner in emphasizing the importance of state involvement in promoting or restricting witchcraft prosecution in Scotland. Julian Goodare, for

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example, has pointed out that there are three different stages in the witch trial, from initial accusation, to local investigation, to the application to the central government for a commission to hold a witch trial.  

He focused on the third stage where the state became involved by deciding to issue (or withhold) a commission, arguing that the decision to hold a criminal trial was ultimately in the hands of the central authorities and judges. While Goodare saw the kirk as an organ of government, he emphasized that the clergy still had to apply to central government for permission to hold trial. Furthermore, he argued that the occurrence of nation-wide panics demonstrates that the state had the ultimate control over whether to encourage or restrict witch-hunting in the localities. Like Larner, Goodare argued that, because national authority was required to authorize and indeed support witch hunts at the local level, the Scottish witch-hunts were first and foremost a concern of the state.

While the constraining function of the state is similarly emphasized in Brian Levack’s work, his conclusions are quite different. Unlike Goodare, Levack argues that the local authorities were often the most enthusiastic in attempting to bring witches to trial, and that the central government did what it could to try and rein in this enthusiasm. While he also emphasizes the third level of the trial process—the point at which local officials applied for a commission to hold a trial—he does so in order to show that this was the point at which central officials, who were increasingly skeptical of witchcraft accusations, tried to put on the brakes.

He points out that the kirk often bemoaned the infestation of witches and criticized the courts for

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24 Lauren Martin’s findings also seem to support this conclusion; while Martin does not directly engage in the debate, her findings can be used to complement the idea of national control over witch-hunting: Lauren Martin, “Scottish Witchcraft Panics Re-examined,” in The Scottish witch-hunt in context, 119-143.

failing to allow them to root them all out. Furthermore, Levack points out that in countries with decentralized court systems, such as Scotland, the lack of supervision and oversight allowed witch-hunts to occur with greater intensity.

Like Levack, Stuart Macdonald has also pointed out the role of local officials and trials as a major force behind the European witch-hunts; however, his focus is on the religious elite, particularly ministers. In his study on the witches of Fife, Macdonald concludes that it was not the central government but the local ministry and church courts that played a critical role in the initial stages and accusations of the trials. He argues that it was the ministry’s desire to create a godly society that was the main impetus behind the witch trials, and that the witch-hunts should be seen as part of a broader program to control and modify the population’s behaviour: “Church discipline was used to try to alter both belief and behavior. It is the main argument of this book that witch hunting developed naturally out of this concern.”

Macdonald also challenges the prevailing notion that judicial torture was a driving force behind the hunts; instead he emphasizes the key role of the clergy in interrogating and eliciting confessions from witches—often using techniques such as ‘waking,’ or sleep deprivation—in order to obtain enough proof to move forward with the trial and obtain a commission. In doing so, Macdonald stresses the importance of local officials and clergy rather than the organs of national government.

‘Bottom-up’ or ‘top-down’, it would appear that these perspectives are naturally at odds, and yet in some ways it seems merely a difference of emphasis. For one thing, there is a significant degree of overlap between centre and locality, as several authors have pointed out, and neither the central government nor the local officials could operate entirely without the assistance of the other. Although Larner emphasizes the driving force of the state, she also writes

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about the importance of lower levels of involvement, such as the kirk sessions, as the intermediary institutions for surveillance and discipline of populace. Larner divides the stratification of the ruling classes into three interconnecting layers: central administration (government); landowners with specific courts; and ministers and kirk sessions; however, she sees all three of these as highly involved in witch persecution at a variety of levels. John Young likewise emphasizes cross-over between governing levels, arguing that Covenanters in particular were active in both state and local governance, and were frequently foremost among those concerned with rooting out witchcraft in the 1640s. While Levack highlights the importance of Scotland’s decentralized criminal court system in encouraging the witch-hunts to flourish, he also emphasizes the close connection between national and local politics in Scotland, as well as the association of witchcraft with treason at all levels of society. He argues that, in requiring central authorization for local trials in the forms of commissions, this practice ensured that local trials were influenced by politics at the national level and therefore can be used to explain the severity of national hunts. In addition, Levack also highlights the role of the Scottish Kirk, arguing that, in establishing witchcraft as a sin as well as a crime, ministers could use witch hunting as a way of establishing a godly society. Consequently, Levack finds the driving forces behind the witch-hunts as operative in all levels of social control, in law, politics, and in religion.

While Goodare in general argues in favor of the witch-hunt as a state concern, he also points out that neighbourhood quarrels were necessary in order to initiate the subsequent trial proceedings. He likewise emphasizes the interdependent nature of local and elite institutions, arguing that the centralization of the government led to a decline in local autonomy while

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28 Ibid., 84.
paradoxically giving more authority to a growing class of local elite. The growing bureaucracy subsequently benefitted local institutions of power which in turn relied on a stronger central government for its own authority.\textsuperscript{32} He states:

> Witch-hunting was as much a top-down process as it was a bottom-up one. It is in fact wrong to see these two alternatives as mutually exclusive: rather we should recognize the harmonious co-operation between kirk session identifying witches and privy council authorizing trials. Both shared the same general goal: to identify and punish witches in order to purge the land of ungodliness.\textsuperscript{33}

The contrast between national and local approaches is thus less divisive than it might appear at first glance. Yet while both camps have acknowledged the important roles played by both state and local levels of government and discipline, neither seems willing to entirely abandon their position.\textsuperscript{34} In addition, many historians are realizing that to privilege one process over another disregards the complexity of the process of witch-hunting and undervalues the roles of the myriad individuals responsible for initiating and encouraging the witch hunts. Research continues to be conducted into the origins and driving forces of the witch-hunts, but other approaches investigating the social systems and beliefs of early modern witchcraft have opened up new directions for research in Scotland and elsewhere.

**Narratives and Belief: Social Meaning in the Trial Records**

One of the major challenges faced by historians of witchcraft is the difficulty inherent in discussing a cultural belief that is not one that our modern society adheres to. In other words, as

\textsuperscript{34} In his recent review of this particular debate, Goodare suggests that both he and Levack have come to accept certain parts of each other’s arguments, although their overall emphasis and conclusions remain different. Goodare, “Witchcraft in Scotland,” *Oxford Handbook of Witchcraft*, 306.
members of modern society, most academics do not believe in the empiric reality of witches, magic, or demons; consequently, witch trial studies are often predicated on the assumption that those accused of witchcraft were usually innocent of the crimes they confessed to, and that ulterior motives rather than true belief or experience was the cause behind many of the witch-hunts. This often has the effect of minimizing, victimizing, or reducing the experiences and beliefs of the subjects of our studies, reinforcing the same Whiggish dichotomy discussed earlier, between a ‘superstitious’ and primitive past and an intelligent and advanced present.

As Stuart Clark points out, we need to find a way to discuss witchcraft without invalidating the experiences of individuals involved, nor minimizing past belief as “superstition,” or worse, madness or pathology. Malcolm Gaskill echoes Clark’s concerns, pointing out that ignoring belief, especially self-belief, renders alleged witches passive victims. Clark’s solution, inspired by the work of Julio Caro Baroja, has been to focus “not on what witches did, but on what they were said to do; the reality of witchcraft was a consequence of beliefs and embodied in language.” Urging historians to explore “patterns of meaning rather than causal relationships,” Clark and others inspired a new wave of historians who sought to understand the trial material as an ideological and cultural resource. Influenced by literary and poststructuralist approaches, many of these historians find the value of witchcraft belief and trials—as this thesis does—in the narratives embedded within them that can be deconstructed and mined for reflections of the cultural values and mentalities of contemporary society.

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37 Clark, introduction, 2.
38 Ibid., 6, 8.
39 Marion Gibson discusses the rise of the New Historicism and the “linguistic turn” and their impacts on witchcraft studies in: Marion Gibson, “Thinking Witchcraft: Language, Literature, and Intellectual History,” in Palgrave Advances in Witchcraft Historiography, 165-181.
of witches and their accusers, recorded in the depositions and confessions of the trials as well as in contemporary literature, scholars could engage once more with the witch trials without becoming entangled in the debate over the reality of witchcraft.

Although studies of folk and witch belief have been around for centuries, witchcraft historians began to devote more attention to deconstructive methodological approaches in the 1990s. Lyndal Roper argued for a thematic approach to witchcraft rather than causational, examining the “imaginative themes of the interrogation,” in order to better understand what witchcraft revealed about collective fantasy and belief in early modern Europe.\(^{40}\) Other authors have applied literary and textual approaches to early modern English literature, drama, and popular culture in order to expose the cultural themes and ideological meanings embedded in beliefs about witches, gender, and violent crimes.\(^{41}\) Stuart Clark’s own work focused on intellectual manifestations of demonology and witchcraft, exploring the political, scientific, and religious implications of demonological theory, especially its relationship to inversions of the social order in this period.\(^{42}\) For Clark, witch belief and theory was more a product of the witch-hunts than a motivating factor: “It is simply not the case that witchcraft theory caused ‘witch

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hunts’ or that its incidence influenced theirs; indeed, the reverse is much more likely to have been true.43

In contrast to Clark’s focus on the intellectual foundations, Robin Briggs looks at the trials and records of alleged witches within local communities. Briggs likewise criticizes the causational approaches of traditional witchcraft historians, arguing that the witch trials were too complex to be made sense of by any mechanical viewpoints or sweeping generalizations that find the hidden cause of the witch hunts in religious, state, or patriarchal attacks on witches.44 While Briggs remains a proponent of a more strictly historical investigative approach, he also suggests that the local trial records and confessions should instead be mined for information about cultural values, popular fantasy, and social ideology, emphasizing the role of community members in creating and sustaining witch accusations and hunting.

In Scotland, the move towards deconstructive techniques has at times been met with resistance. In writing on the Paisley trials of 1697, Hugh MacLachlan and Kim Swales seem particularly opposed to those who use the postmodernist approach, misrepresenting them as believing in a uniformity of beliefs in the past in contrast to multiple beliefs in modernity.45 They argue that not all narratives are equally true, and go on to demonstrate how the narrative of Christian Shaw—who is traditionally represented by historians as a deceitful fraudster—was most likely deliberately shaped by key men involved in the trial in order to prove the existence of both God and the supernatural to unbelievers, thereby challenging the threats of deism and atheism. The records bear close resemblance to the Salem trials, whose events had recently been reprinted in London, and the authors speculate that the Paisley trial narrative was shaped by these

43 Ibid., vii.
44 Briggs, Witches and Neighbors, 3-6.
earlier trials. The characteristics of this trial that have been identified as unusual for Scotland are therefore not so unusual when seen in a wider context; consequently, these records may have been the consequence of exaggerated or invented accounts.\textsuperscript{46}

Regardless of this kind of resistance, studies of belief and textual approaches have proved to be vastly influential in Scottish witchcraft studies. Liv Helene Willumsen, for example, has applied a narratological approach in order to identify the different layers of voices present in a transcription of the trial records from a case in Bute, Rothesay.\textsuperscript{47} Diane Purkiss has also used a textual approach to examining Scottish cases, arguing that fairy stories and witchcraft confessions allowed women a space to speak about what might otherwise be unspeakable: in this case, the possibility of memories of incest. She states, “If you are asked about what you do not know, you talk about what you do know, to show willing [sic.], to cooperate with the investigation”; in this way, fairy stories were shaped by both women and interrogators into “the rough mould of pact witchcraft.”\textsuperscript{48} Lauren Martin has also examined the documents of the witch trials for signs of social significance, revealing insights into the workings of both families and gender.\textsuperscript{49} In conjunction with the numerous parallels she finds between the women’s work and witch’s curses, Martin argues that witchcraft trials associated women and their work with the Devil, thereby demonizing female domesticity.

In addition to these cultural and textual approaches, studies of Scottish fairy and magical belief have recently begun to draw even more attention. One recent edited collection, \textit{Witchcraft and Belief in Early Modern Scotland}, specifically focuses on this topic, providing several

\textsuperscript{46} Ibid., 54, 67, 70, 73.
approaches for understanding how witch belief in Scotland was constructed and experienced, from diabolism and possession to charming and cunning folk.\(^{50}\) Lizanne Henderson and Edward J. Cowan have been leaders in this field, looking at witchcraft and magic as one aspect of folklore and popular cultural belief in early modern Scotland.\(^{51}\) In *Scottish Fairy Belief: A History*, the authors investigate popular belief and folk culture as a way of better understanding early modern Scottish society. Avoiding the question of reality of witchcraft or fairies, the authors choose to instead emphasize people’s experiences of folklore and fairy belief; in doing so, they restore a sense of vitality to their subjects by exploring the reality of their belief rather than disputing the reality of magical beings.

In addition to fairy belief, many historians have explored ritual practices of charming and magic as a way of better understanding the experiences and beliefs of early modern folk culture, as will be discussed in Chapter 2. Joyce Miller has explored the beliefs and practices of charmers and folk healers in multiple works. Her work focuses on early modern understandings of disease, as well as the links between witchcraft and charmers, and the ways in which charming was believed to be an effective and proven method of healing in early modern Scotland.\(^{52}\) Owen Davies, who studies English charmers and charming, has applied a comparative perspective to

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\(^{50}\) Julian Goodare, Lauren Martin, and Joyce Miller, eds. *Witchcraft and Belief in Early Modern Scotland* (New York: Palgrave Macmillan, 2008).


the roles and activities of Scottish charmers and cunning folk in order to better understand the role of magic and charming in witch trials. He suggests that the Reformation created an increased awareness of the power of words, such as those used in charming, which may have contributed to the events of the witch trials.\(^5\) P. G. Maxwell-Stuart has also explored charming and magic, investigating in detail the manifestations of magic and the reported practices of witches and charmers, while Priscilla Bawcutt has examined the healing words used in Scottish charms.\(^4\) As these studies and others show, the charms, folk, and fairy beliefs recorded in the witch trial records continue to be a rich and productive source of research for historians and ethnologists alike, offering a window into the lives, beliefs, and rituals of everyday people in Scotland.

**Popular vs. Elite Belief**

These investigations of charming, folklore, and magic focus on one side of another divide in witchcraft studies: the division between local magical beliefs and the intellectual foundations of witchcraft theory. Scholars have long-recognized that the witch beliefs of the peasantry were not always the same as those held by elites. In a way, this division echoes the separation discussed earlier, between local and national motivations for the witch hunt, with a different set of beliefs assigned to different levels of society. According to most witchcraft historians, the general population had a particular set of stereotypes for describing witches, while elites, the ministry, and intellectuals had their own. Christina Larner identifies popular belief as being concerned with the witch’s *maleficium* or ability to do harm, while elites and educated were mostly

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53 Owen Davies, “A Comparative Perspective on Scottish Cunning-folk and Charmers,” in *Witchcraft and Belief*, 200; see also Owen Davies, *Popular Magic: Cunningfolk in English History* (Hambledon Continuum, 2007).  
concerned with “the condition of being a witch.” Likewise, Goodare argues that in popular witch belief, witches were believed to have an innate power to do harm, while elites believed witches had no personal authority, but must receive their power from demons, often through sex with the Devil in the Diabolical Pact. Cursing, healing, and charming were therefore considered common characteristics of popular belief, while intellectual and theological witch theory focused on demonological motivations and power.

The introduction of diabolical witchcraft belief to Scotland is itself a matter of some debate, particularly the role of James VI. Early interpretations laid emphasis on the king’s exposure to and importation of continental demonological beliefs during his time in Denmark. A number of classic diabolical elements appear in the North Berwick trials, in which the king played an important role. Christina Larner argued that James was most likely the source of these beliefs, which he had been exposed to during his stay in Denmark on his marriage to Anne of Denmark. More recently, however, both Jenny Wormald and P.G. Maxwell-Stuart have separately argued that various other factors suggest that James was not in fact the importer of a new and foreign belief system; rather, the idea of pact witchcraft was likely already present in Scotland, although it had not previously made a significant impact on the legal proceedings against alleged witches. Over time the Devil would become an important feature of many

witchcraft confessions and trials, although the exact nature of this role has likewise been a matter of dispute.\textsuperscript{59}

Most historians have chosen to interpret the witchcraft accusations and testimony of neighbours as evidence of popular belief, while the confessions of witches are believed to reflect elite constructions of diabolical witch belief. For Larner, “The accusations represent in their most uncontaminated form the ideas of peasants about what witches could do. They also indicate these peasants’ most central concerns.”\textsuperscript{60} In order to attain a conviction, however, the witches’ confessions needed to conform to elite ideas about witchcraft; consequently, it has been argued that alleged witches may have been forced—through torture, sleep deprivation, threats, or leading questions—to confess to particular acts in order to prove their witch-hood. As Brian Levack points out, “initial suspicions and accusations at the village levels did not usually involve the charge of making a pact with the Devil and having sexual relations with him. Almost invariably these charges were added at a later stage of the judicial process, often at the instigation of an interrogator.”\textsuperscript{61}

Henderson and Cowan argue that the post-Reformation period saw a separation of belief between elite and popular culture as elites sought to differentiate themselves from the populace, and that it was this period that saw the rise of the demonic in elite witch belief culture. New forms of social control, such as the kirk session, along with changes in central administration “led to a full scale attack on folk beliefs and customs,” of which “the most significant causal factor lies in the rise and fall of official interest in abolishing ballads and songs, legislating against feast days and plays, prosecuting practitioners of witchcraft, and persecuting believers in

\textsuperscript{59} See Chapter 6 on the Devil in Scotland.
\textsuperscript{60} Larner, \textit{Enemies of God}, 135.
fairies.” These authors see the attacks on popular culture by both kirk and state after the Reformation as part of an ongoing social process of change, a restructuring of cultural values and belief rather than a replacement. Joyce Miller likewise argues that the rise in witchcraft accusations and trials “was a result of the demonizing of popular culture and belief by the state and the church and recasting it as something dangerous and frightening.” Under this new ideology, the supernatural world was polarized black and white without the liminal spaces where fairies had previously resided, and witches now provided the bridge between the real and supernatural worlds.

Although most historians would agree that there was a difference between elite and popular belief, the line between them is far from hard and fast. Like Henderson and Cowan, Larner points out that elite belief had a lasting impact on popular belief: “Through witch-hunting popular peasant belief was actually altered, and the significance of endemic factors for an increasingly Christianized and increasingly literate Calvinist laity was redefined.” However, Larner also emphasized the ways in which popular belief influenced intellectual understandings of witchcraft as part of a multi-directional discourse, arguing that witch confessions had popular origins as well as demonological ones: “Thus the educated witch-belief always had a strong popular component. This educated belief, however, can be contrasted with popular beliefs in *maleficium* and sorcery which reflect everyday interests and fears as compared to collective social fantasies.” Goodare also finds overlap between popular and elite belief, describing the two systems as complementary. He uses the Devil’s Pact as a way of illustrating the crossover,

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62 Henderson and Cowan, *Fairy Belief*, 121
64 Miller, “Beliefs, Religions, and Neuroses,” 246.
66 Ibid., 137.
arguing that this intellectual feature of the witch came to be embraced in popular culture as well, as can be seen in the popularity of witch-pricking and searching for the Devil’s Mark on witches’ bodies.\textsuperscript{68} Several other historians, such as Stuart Macdonald, Joyce Miller, and Lizzanne Henderson, have likewise emphasized the mingling of popular and elite beliefs, particularly in descriptions of the Devil in witchcraft confessions.\textsuperscript{69} Henderson, for example, highlights how demonic theories gradually combined with popular beliefs about magic and witchcraft, arguing that as early as the 1570s, “fusion between folk belief and learned witchcraft theory was underway and there was no going back. The demonic seed, so to speak, had been planted and took hold like an unwelcome weed in the garden.”\textsuperscript{70}

Outside of Scotland, other authors have highlighted the blurry division between elite and popular cultures. In her studies of English witchcraft literature, Frances Dolan points out that popular and elite cultures are not discrete but mutually influence each other, arguing that “witchcraft discourses reside at an intersection of the two.”\textsuperscript{71} Looking at witchcraft in France, Robin Briggs argues that confessions were the sites where the mingling of personal experience and collective perceptions of witchcraft coalesced into a psychological narrative through dramatic internal enactment.\textsuperscript{72} As a consequence of public trials and reading confessions and accusations aloud, cultural stereotypes would mingle and blend. He emphasizes that the fusion of elite and popular stereotypes does not indicate sustained interest by upper classes, but rather suggests a more natural, organic blending; however once in place, the natural result would be to see an increase in cases. The fusion of old and new ideas about witchcraft and the redefinition of

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\textsuperscript{68} Ibid., 39-40.


\textsuperscript{70} Henderson, “Detestable Slaves of the Devil,” 248.

\textsuperscript{71} Dolan, \textit{Dangerous Familiars}, 179.

\textsuperscript{72} Briggs, \textit{Witches and Neighbors}, 33-38.
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witchcraft as heresy can be seen as particularly dangerous and would have dire implications for those accused of witchcraft. However, Briggs sees these beliefs not as a motivating element but rather as an enabling factor: “As a result, beliefs associated with both cosmic order and witchcraft were enabling rather than compelling, serving as a repertory or set of registers from which arguments or actions could be drawn as needed. This is a crucial reason why general theories about witchcraft have rarely led to systemic witch hunting.” While Briggs looks to cross over the ambiguous boundary between elite and popular belief, at the same time he re-draws the line between explanatory studies and explorations of narratives and belief in the field of witchcraft studies.

While many scholars have noted the cross-over between the two ‘belief’ systems, the division between elite and popular belief remains a common distinction in the historiography of witchcraft in Scotland and elsewhere. More study needs to be given to the common elements of these definitions of witchcraft as well as their differences in order to better understand the evolution of witch beliefs and their role in promoting witch-hunting. As this thesis will show, looking at commonalities such as speech can help to address many unanswered questions in the field of witchcraft studies.

Gender and Witchcraft: Cause or Effect?

Gender has traditionally been a complicated topic in the field of witchcraft studies. Most historians agree that gender played a significant role in the witch trials; however, the meaning and cause of this relationship remain shadowed. With all the political and methodological tangles that surround this notorious issue, many historians prefer to avoid the question altogether.

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73 Ibid., 101.
74 Ibid., 104.
Part of the reason for this avoidance can be linked to the relationship between gender studies and feminism. As Diane Purkiss points out, in general, witchcraft historians have often been overtly hostile to feminist theory.\textsuperscript{75} This hostility can be linked at least in part to the political associations of feminism, as well as to the accusation that feminist scholarship is in some way overly subjective or unscholarly, in spite of much evidence to the contrary.\textsuperscript{76} However, the reaction against feminist interpretations of the witch-hunts can also be tied to some studies that have argued that the witch-hunts can be viewed as a direct attack on women. Under the influence of second-wave feminism in the 1970s and 80s, the witch trials came to be seen by some historians as a female “holocaust” in which it was believed hundreds of thousands of women were burned across Europe in response to an early modern surge in misogyny and fear of women.\textsuperscript{77} This view was linked to earlier scholarship which saw these women as members of pre-Christian pagan cults, and was then linked, in turn, to the rise of neo-paganism. It also was based in part on the evidence that midwives and healers were accused of witchcraft, arguing that as men sought to expand their own influence and power over women’s bodies as doctors and physicians, they demonized the women who already held those positions. A large portion of this scholarship also focused on the sexual freedom of women in this period and the desire of early modern patriarchy to establish firm control over women’s sexual behaviour.\textsuperscript{78}

These perspectives, owing much to both feminist and neo-pagan movements, brought attention to the witch trials in a whole new way and ensured the engagement of both popular and scholarly attention on these events. However, the highly-charged rhetoric of some feminist

\textsuperscript{75} Purkiss, \textit{The Witch in History}, 59
\textsuperscript{76} Ibid., 59-64.
\textsuperscript{77} See for example \textit{The Burning Times}, produced by Mary Armstrong and Margaret Pettigrew, 56 minutes, National Film Board of Canada, 1990, DVD.
\textsuperscript{78} For a review of the development of early second-wave feminist interpretations of the European Witch-Hunts, see Purkiss, “A Holocaust of One’s Own,” 7-29.
historians, accompanied by sloppy scholarship in some cases, led to a historiographical backlash that has actively worked to discredit this approach. Since the 1980s, many historians have either fought to disprove the reality of the “Burning Times”, or have avoided the debate altogether. In Scotland, for example, Hugh McLachlan and J.K. Swales argued that witch trials should not be seen as ‘anti-feminism,’ or as an attack on women by men. Using a comparative perspective, they tested Scottish data against similar trial rates and distinction in England and elsewhere in Europe, concluding that there is no one supportable explanation for why women were more often accused, but that it may have been a combination of several factors.  

In more recent years, some authors have interpreted the gendered and ideological aspects of witchcraft as an attack on femininity, if not on women themselves. For example, some scholars have pointed out that witches were always associated with certain ‘feminine’ characteristics, such as lust, jealousy, and vengeance (although it is not always clear whether these were gendered feminine at the time). This point of view underlines the fact that, while local authorities may have been primarily concerned with hunting witches, the fact that witches were already associated with these gendered characteristics led them to search for them primarily among women. Other authors have also focused on the gendered nature of the witch, interpreting the overt sexualization of witches as a misogynistic attack on women’s sexuality, and the witchcraft confession itself as a kind of pornography, and interrogation as male sexual violence. Witchcraft accusations have also been interpreted by some as an economic attack on

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women and their property, linked to local power struggles and a desire for “possession.” Others have connected witchcraft with other female gendered crimes, such as scolding and petty treason, to argue that witch trials were a function and corollary of the enforcement of patriarchal authority on the bodies of women. Consequently, it could be argued that witchcraft prosecution was part of a broader program in the ‘criminalization’ of women and female gender roles. Some studies have similarly focused on witchcraft as a crime without necessarily seeing it as an attack on gender or women, arguing instead that witchcraft accusations and the legal process was more generally related to and reflective of patriarchy and other hierarchies of power in the early modern period.

The main critique of a gendered and/or feminist interpretation of witch-hunting has been to point out that these perspectives often have the effect of privileging women’s experiences at the expense of the men who were also prosecuted for witchcraft, as well as minimizing the roles played by other women in making accusations. In addition, the argument that witch trials were a direct result of misogynist attacks ignores the long history of misogyny in Europe both before and after the trials, as well as failing to account for why men would want to kill off their wives, sisters, and mothers. However, the main problem with these kinds of studies is that they usually identify gender as the single causal explanation of the witch trials, which does not account for the wide variety of contexts in which witch-hunting occurred. Indeed, the reaction to this line of argument has led some historians to veer in the opposite direction. Robin Briggs, for example,

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argues that witchcraft was not part of a criminalization of women, but part of “a much broader drive to exercise greater moral and social control by labelling and punishing many kinds of deviant behaviour.” He goes so far as to argue that the gendering of witches was merely an unfortunate consequence of the enforcement of power: “Social and gender hierarchies are naturally interlinked, so it comes as no surprise that harsher repressive policies had unfortunate consequence for women as they did for vagrants, beggars, and many others.”¹⁸⁵ However, this argument does little to explain the role of gender, but rather minimizes its importance. He also contradicts himself shortly thereafter, arguing that patriarchy can only be seen as a causative factor for the witch trials if we see it as a top-down or elite movement (which he also argues against).¹⁸⁶ This argument, however, ignores the pervasive aspects of patriarchy as existing at all levels of society. As his earlier point proclaims, gender hierarchies are linked to social hierarchies, and patriarchy itself exists as part of a larger cultural matrix of power that exists at all levels of society, including within local communities.

For many scholars who have chosen to include gender in their analysis, the solution to this dilemma has been to approach it as part of contemporary social ideology and psychology rather than as a cause for witch-hunting. Diane Purkiss has interpreted witch stories and confessions as ways for people to express and negotiate their fears and anxieties about motherhood, domestic authority, and power.¹⁸⁷ She analyzes witch narratives in order to examine the relationship between pollution, bodies, maternity, and witchcraft, seeing witchcraft as an inversion of the positive ideals of femininity: womanhood, maternity, and domesticity. Deborah Willis has likewise focused on the witch-figure as a malevolent mother figure in early modern

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¹⁸⁶ Ibid., 284.
English literature using psychoanalysis. Lyndal Roper also incorporates psychoanalysis, looking at witchcraft confessions and interrogations as a way of understanding the construction of collective fantasy and belief, finding that understandings of the witch’s body reveal anxiety about maternal bodies and female sexuality. She emphasizes the cooperative nature of the confessional narrative production between interrogator and witch, arguing that these testimonies can therefore allow us as modern readers access to the early modern psyche. While these approaches offer many insights into the early modern imagination, they have not, however, resulted in any general agreement on the debate surrounding gender and witchcraft.

In Scotland, comparatively, gender has remained a relatively under-discussed topic, with only a few authors choosing to wrestle directly with the subject. It is likely that at least some historians have avoided the topic because they believe that there is nothing left to say in the wake of discussion and review by prominent scholars such as Larner and Goodare, who have both provided excellent reviews of the subject (discussed below). However, while these studies remain the benchmark for gender in Scottish witchcraft cases, scholars are still reticent to commit to any specific conclusions regarding gender in the witch trials. For example, in discussing why women made up 85% of those accused of witchcraft, Stuart Macdonald has said, “Debate will continue to rage as to what is the precise meaning of this reality.” More recently, Edward Cowan has also stated that “the speculation will continue,” on whether witches experienced witch hunting as part of an early modern fear of gender revolt and an intense

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subordination of gender. In his early research, Brian Levack pointed out that alleged witches might have more often been women due to the early modern conception of women as morally weaker, noting that those accused of witchcraft were frequently either sexualized, quarrelsome, or practiced healing. However, while acknowledging the importance of gender, he does not find it relevant to explaining the particular development of the trials in Scotland in his later work. Clearly the debate about gender is far from over. Nonetheless, the works of Scottish scholars on gender have been critical in filling the gap in the scholarship, as well as providing some elegant examples of how to understand the links between gender ideology and the development of the witch-hunt.

Christina Larner directly addressed gender in both her monograph and a separate work on women and witch-hunting. Her conclusion was that the link between women and the stereotype of witches was direct: “witches are women; all women are potential witches.” She argued that the stereotype of the witch was characteristically feminine due to the early modern belief that women were imperfect human beings (under Aristotelean theory) as well as the source of sin and the Fall of Man. The fact that witches were often associated with deviant sexuality—with carnal copulation with the Devil being a key feature of the Pact—was another link to women since women had long been associated with excessive and insatiable sexual appetites which men had to struggle to fulfill. Consequently, witches were already associated with femininity by their relevant characteristics of malice, envy, and sexuality. In addition, the women who were prosecuted were often identified as cursing scolds in their communities—a behaviour much more

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96 Larner, Enemies of God, 92.
97 Ibid., 92-93.
commonly attributed to females—which made women more likely to be accused of witchcraft. In the end, however, Larner stops short of identifying gender as a key cause of the witch-hunts, but sees it instead as an explanation for why women were persecuted more often than men. Because the stereotype of the witch was female, she argues, the witch-hunt was not an attack on women as such, but rather one-degree removed, so that the witch trials were ‘sex-related’ rather than ‘sex-specific.’ 98

Julian Goodare has expanded on Larner’s findings, writing separately on both women and men as accused witches in Scotland.99 Like Larner, he emphasizes the ways in which women were associated with sexuality in early modern discourse, as well as how the idea of witchcraft was predicated on the assumption of sex with the Devil: “the interrogators could infer the pact’s existence from the fact of witchcraft, and they could infer sex from the pact.”100 Moreover, Goodare demonstrates how scolding and verbal characteristics of the witch were specifically related back to their sexuality, as uncontrolled speech was considered symptomatic of insatiable sexuality in early modern ideology. Goodare takes Larner’s argument a step further, however, arguing that the sexual nature of the witch indicates that witchcraft prosecution was part of the early modern effort by the kirk and state to create a morally reformed godly society. Consequently, attacks on sexuality in witchcraft can be seen as one aspect of the state’s larger project for control over sexuality: “Witch-hunting was to a great extent an effort to control, and come to terms with, women’s sexuality. The stereotype witch was obviously deviant – but she was also a deviant woman. In particular, her sexuality was out of control.”101 Like Larner, however, he hesitates to identify this relationship between women and witchcraft as a cause of

101 Ibid., 307.
witch-hunting, emphasizing that the link, while strong, remains indirect. Instead, he highlights the “bidirectional, multi-strand relationship” between women and stereotypes of witchcraft, arguing that: “Not only did people think that witches would be more likely to be women, they also thought that women would be more likely to be witches. Indeed it is hard to see how they could possibly have held one of these views without the other.”

More recently, Goodare has explored the other side of the gender divide in looking at the roles of men in the witch hunts. He finds that men were often characteristically different from women accused of witchcraft, with sexuality or cursing both being notably absent in their confessions and accusations (to be discussed further in Chapters 2 and 7). Indeed, he notes that the absence of speech-related accusations might have been a key factor in explaining the gender skew in the witch trials: “An assumption that men did not normally curse their antagonists may have been one of the most powerful mechanisms for limiting the number of witchcraft accusations made against them.” Instead, Goodare notes that men accused of witchcraft were more often associated with specifically masculine positions of power, such as in their roles as leaders of covens, or as political leaders who hired lower-class female witches to work for them. Men were also more likely to be cunning-folk or charmers than women.

Lauren Martin has also looked at gender in the Scottish witch trials, providing one of the best methodological approaches in her field to studying gender, not as a direct cause, but as a function and corollary of witch belief. She notes how elite and popular belief ought to be considered as complementary rather than separate sets of evidence. Martin examines the content of the accusations of the witch trials, finding that the curses and spells of witches often

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102 Ibid., 306.
104 Ibid., 158.
105 Martin, “The Devil and the Domestic,” 73-74, 76.
targeted the domestic practices of women. She also recognizes connections between the structure of the Demonic Pact and the contract of marriage in medieval and early modern Scotland. Together, she takes this as indicative of an early modern devaluation—and even demonization—of women’s work. However, while she identifies how witch trials did indeed associate women and their work with the Devil, her argument fails to fully demonstrate that this relationship would necessarily have resulted in the demonization of women’s domestic roles. In reality, many of the women who participated in the accusations were themselves involved in the same female work Martin argues was demonized by witches, such as healing, weaving, dairy production, brewing, and child-rearing. The domesticity of these women was apparently not threatening to society; indeed little can be seen as changing over the period in question in women’s domestic roles. In threatening other women’s domestic work, witchcraft can actually be seen as having normalized rather than demonized these forms of domesticity as ‘good’ women’s work. Martin’s work can therefore provide us with an appropriate framework with which to study gender in witch belief, but more work needs to be done in order to understand the links between women’s social roles and stereotypes of witchcraft.

The works of Larner, Goodare, and Martin have opened up the debate over the role of gender in the Scottish witch trials. In general, however, these approaches have stayed safely on one side of the divide between causational studies and explorations of social ideology. To a degree, all three have suggested that looking at the gendered characteristics of witches in the testimony and literature of the witch trials can help us to understand how or why certain people might have been more likely to be accused of witchcraft, which might then in turn be used to understand why the witch hunts occurred in the first place. Goodare, for example, suggests that gender and the witch-hunts might be related in the sense that the witch-hunts were part of the
state’s larger project to morally reform Scottish society. Likewise, Larner’s emphasis on the
gendered stereotypes of witchcraft reinforces her broader thesis that witches were constructed as
stereotypes of deviancy as well as enemies of God and society. Even Martin’s argument could be
applied to wider social change, supporting the idea that the witch hunts occurred in conjunction
with, if not as a consequence of, changing cultural values and gender hierarchies. Yet for the
most part the gendered characteristics of witches (including speech), while important to the
overall practice of witch-hunting, are rarely investigated in association with the driving forces of
witchcraft prosecution. Doubtless the fear of associating with outdated feminist interpretations
has made many scholars leery of directly relating gender in any form to the motivations behind
witch-hunting—with good cause. Unfortunately, this has led some historians to not only discount
the relevance of gender in procedural or comparative studies, but more importantly to ignore
aspects of speech and sexuality except as they pertain to an overall gendered stereotype of
witchcraft.

This is particularly detrimental when speech is overlooked or ignored. While Larner,
Goodare, and Martin emphasize the verbal qualities of witchcraft, they all ultimately relate these
characteristics back to gender. Unfortunately, by reducing the verbal characteristics of the witch
to a function of her gender, the wider impact and role of speech as a source of anxiety in the
early modern period goes unquestioned. By looking particularly at speech, not as a derivative of
gender, but as important in its own right in both witch belief and early modern society, we can
better understand and explain witch-hunting in general, as well as its relationship to gender.
Speech and Witchcraft: A Wider Perspective

Research in medieval and early modern speech is a growing discipline with many exciting studies recently being published, including research on slander, defamation, blasphemy, gossip, sedition, and much more. Edwin D. Craun has been particularly influential in his writing on speech and deviancy in *Lies, Slander and Obscenity in Medieval English Literature: Pastoral Rhetoric and the Deviant Speaker*, as well as his recent edited collection *The Hands of the Tongue: Essays on Deviant Speech*. David Cressy has looked at treasonous speech in his study on sedition in early modern England, while Adam Fox has explored the oral and textual culture of the age. Scholars such as Laura Gowing and Sandy Bardsley have been instrumental in establishing the connection between gender, speech, and crime, particularly in defamation and scolding cases. Bernard Capp has looked at gender as well in discussing women, work, and gossip, while talk is seen as an important aspect of reputation by the contributors to *Fama: The Politics of Talk & Reputation in Medieval Europe*. The connection between speech and gender has also been the subject of numerous essays on Elizabethean and Jacobean drama. In Scotland, the punishment of verbal sins and crimes has been discussed by Michael Graham,

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while Elizabeth Ewan has researched both defamation and verbal acts in public penance. As these and many other studies show, speech was an important dimension of early modern life and society; consequently, speech represents an exciting and productive avenue of investigation for witchcraft scholars as well.

Many scholars have noted the marked relationship between witchcraft, magic, and words, even in modern times. In her study on contemporary witchcraft practice and belief in Bocage, France in the 1970s, ethnographer Jeanne Favret-Saada found that, more than anything, the study of witchcraft came down to the study of language: “in the field, however, all I came across was language. For many months, the only empirical facts I was able to record were words.” For Favret-Saada, it was difficult to overstate the importance of words in witchcraft: “the act, in witchcraft, is the word.” She was also interested in how talking about witchcraft itself was governed by language, a proposition which thereafter directed her research and informed her inquiry into the verbal acts of witches and unwitchers. The title of Favret-Saada’s book, Deadly Words: Witchcraft in Bocage, is demonstrative of the importance she attaches to speech in modern-day witch belief, and the fact that such a relationship was notable even into the twentieth century is suggestive of the durability and importance of the association between speech and witchcraft.

Similarly, studies of magic and charming, which often have an ethnographic focus, likewise emphasize the importance of words. One recent collection is entitled The Power of

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Studies on Charms and Charming in Europe. Another study on textual magic and amulets is entitled Binding Words: Textual Amulets in the Middle Ages and includes a chapter on “The Magical Efficacy of Words.” Jonathon Roper has claimed that verbal charms can be considered a “near-universal (perhaps even universal) practice for dealing with illness and misfortune. In Scotland, charming and verbal magic was an important part of witch belief and practice, as noted by many scholars. Priscilla Bawcutt’s essay on early Scottish charms, for example, draws attention to these “Holy Words” used for healing, as well as linking them to the powerful words of prayer.

Other studies have looked more specifically at the performative speech acts used both by witches and their prosecutors. Jonathon Culpepper and Elena Semino, for example, examine the speech acts in witchcraft narratives and trial records of early modern England. They note that “a striking feature of witchcraft narratives is that the type of activity in which participants were most frequently involved was verbal in nature.” Speech acts were commonly used in these narratives, including such verbs as “ask, deny, beg, charge, fall out, curse, and wish” and were often interpreted by the court as evidence of witchcraft. Drawing on the work of J.L. Austin and John Searle to examine and define the types of illocutionary acts in witch trial records, they argue that pragmatics can give insight into historical cases. While Culpepper and Semino

114 Don C. Skemer, Binding Words: Textual Amulets in the Middle Ages (Pennsylvania State University Press, 2006).
116 To be discussed further in Chapter 2.
117 Priscilla Bawcutt, “‘Holy Words for Healing’: Some Early Scottish Charms and their Ancient Religious Roots,” 127-144.
119 Ibid, 5.
120 While Culpepper and Semino claim to be examining speech acts in English witchcraft cases, they often add in Scottish material (ie. Daemonologie) and secondary sources (Larner), which muddies the water and detracts from
focus on the types of speech acts used as evidence of witchcraft, Risto Hiltunen applies diachronic speech analysis to the questions asked during interrogations of the Salem witch trials in 1692. In a second article, Hiltunen and Kathleen Doty expand this analysis to include the different kinds of performative utterances and ritual discourse used in many of the different stages of the trials, from indictment, to deposition, to examinations, to confession. Similarly, Barbara Kryk-Kastovsky uses diachronic speech act theory to “reveal the interdependence between the identifiability of speech acts and the socio-historical conditions of the time when the speech acts were used.” While the primary focus of these works is to demonstrate the diverse applications of discursive analysis and pragmatics on historical documents, they also reveal the importance of speech acts at all stages of the trial, as well as in raising suspicions of witchcraft.

Rather than emphasize the specific words of witches, some scholars have connected witchcraft with other types of verbal disobedience. Studies of scolding prosecution have sometimes linked the unruly verbal behaviour of scolds and witches, interpreting both types of charges as part of a larger crusade for social control. David E. Underdown argued that there was an upsurge of both witchcraft accusations and scolding cases in the same period in Elizabethan-era England; therefore he saw both types of prosecution as part of a “crisis” in gender relations in which women in particular were targeted for deviancy. Martin Ingram, on the other hand, challenged Underdown’s conclusions, arguing that scolding cases had begun to increase well before the witch-hunting period and that scolding prosecution could be applied to both men and

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women; therefore scolding prosecution should not be seen as a patriarchal attack on women as such.124 Ingram’s challenge to Underdown’s chronology has been upheld by later studies.125 However, while most scholars now disagree with interpreting either scolding or witchcraft prosecution as evidence of a “crisis” in gender relations, both continue to be associated with efforts towards social control that reinforced traditional hierarchies of authority. In Scotland, John Harrison, like Underdown, posited a connection between scolds and witches, arguing that, “the social and behavioural profile of the ‘branked’ women (before and after 1670) closely parallels that of the Scots witch.”126 In his study of the use of the ‘branks’ or scold’s bridle in Stirling, he finds that use of this particular punishment for disorderly speech generally correlated to the period of witchcraft prosecution in Scotland (although the first mention of the branks in Scotland overall does appear somewhat before this in 1540). However, while he finds many similarities in the speech of branked women and witches, he argues that there were several differences that prevented scolds from being classified as “urban” witches, including the lack of perceived efficacy of speech. He does, however, link scolding punishment to a broader campaign to control and ‘bridle’ the tongues of women.127

Studies focusing on the association of witchcraft and speech often include material from literature, ballads, and drama. For example, Diane Purkiss and Marion Gibson have discussed the imagery and stereotypes of witches in popular literature and drama, and while speech is not their main focus, their research is certainly suggestive of these associations in early modern

124 Ingram, “‘Scolding Women Cucked or Washed’,” 48-80.
127 The connection between scolds and witches will be examined further in Chapter 2.
imagination. Sarah F. Williams explores this connection in more detail, arguing that chapbooks, broadsides and ballads played an important role in constructing and spreading stereotypes of orally excessive witches and their particular “acoustic qualities.” Kirilka Stavreva has also explored “witch-speak” of Jacobean drama, revealing common stereotypes of witches as primarily verbal creatures. In her monograph, *Words Like Daggers: Violent Female Speech in Early Modern England*, Stavreva expands her approach to look at the discourse surrounding female speech in religion, crime, and prophecy, providing an exciting collection of research on gender, speech, and deviancy in early modern England. Stavreva’s work is one example of recent research demonstrating the critical role of speech in witchcraft belief and prosecution, as well as in early modern society in general.

Jane Kamensky’s study of speech in colonial New England has likewise made an important contribution to the field, not only demonstrating the links between speech and witchcraft, but also tying it to larger concerns and anxiety over uncontrolled speech. She looks at the “relationship between verbal order and social order” in many different aspects of seventeenth-century colonial society, noting the heavy emphasis placed on monitoring the “sins of the tongue,” particularly those of women. Kamensky points out that Cotton Mather, a preacher who played a considerable role in the Salem trials, was veritably obsessed with speech, expounding on the precepts for the “Government of the Tongue” throughout his life. His concern over “the nature, and quality, and power of the spoken word,” was shared by much of the population:

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129 Williams, “A Swearing and Blaspheming Wretch,” 309-356.
130 Stavreva, *Words Like Daggers*.
Throughout the seventeenth century, then, rules for right speaking were not simply Cotton Mather’s personal precepts. They were New England’s rules: rules about social power as well as about manners and politeness. The work of “governing the tongue,” as so many seventeenth-century experts called it, was central to the work of governing families, neighborhoods, towns, and even empires.132

By drawing these links, she demonstrates that witch trials could be tied both to specific local concerns over the sins of the tongue, and to a broader cultural and state effort to monitor and govern speech and behaviour. For Kamensky, not only was witchcraft a “speech-crime,” it was one of many manifestations of anxieties over speech that erupted in New England during this period.133 Kamensky’s focus is on Puritan New England, where witch trials were notably different in form from Scotland (except perhaps for the Paisley trials in 1696-7); however, the cultural and religious context of the region shared many characteristics with seventeenth-century Calvinist Scotland, making it a useful comparison. More importantly, this study offers exciting new directions for studies of witchcraft as a “speech-crime,” but also demonstrates how this fits into a wider context of speech and social order in the early modern period.

Studies like these show some of the many ways in which speech can be used as a lens for studying witchcraft. When looked at in conjunction with research on medieval and early modern speech, particularly the work of Laura Gowing, Sandy Bardsley, and Elizabeth Ewan, witchcraft emerges as part of a wider relationship between speech, gender, authority, and social discipline. This relationship is critical to understanding how and why witch-hunting occurred and therefore is deserving of further attention in Scotland and elsewhere.

132 Kamensky, Governing the Tongue, 9.
133 Ibid., 16.
Answering the Questions, Crossing the Divide

The approach taken in this thesis neatly bridges many of these divisions and debates within the field by taking multiple approaches itself. The thesis is concerned with why the witch-hunts took place, looking at legal evidence and legal definitions of witchcraft; however, it also is interested in examining witchcraft accusations and confessions as texts in order to better understand how people viewed the world, particularly the power and constraint of performative speech in early modern society. It examines both folk belief in magic and theological belief in diabolical witches and, in doing so, finds the commonalities between them. Likewise, by looking at the evidence and legal process used in both local and central courts, it identifies speech as the common element here as well, demonstrating how these systems worked together in times of crisis and anxiety over speech. Rather than a pulling apart, a defining of difference, between popular and elite, local and state, religious and rational, this approach reveals a constant negotiation, a struggle for alignment around a common interest and definition of witchcraft. Paradoxically, by removing gender from a discussion of speech, at least initially, the approach provides a plausible explanation for why witches were more often women, not as a consequence of their sex, but due to their gendered association with ungoverned speech. Furthermore, this approach complements many of the conclusions of the authors discussed thus far, enhancing and expanding our understanding of the witch trials as part of a wider concern over early modern speech and governance.
CHAPTER 2:
A Reputation for Witchcraft: The Witch in Popular Belief

By the time of her trial in 1662, Margaret McWilliam had long had a reputation for witchcraft in Rothesay; her indictment states that “Since memory of any alive that knew the said Margaret she went under the name of a witch.”\(^1\) She had previously been identified and charged as a witch at least three separate times (1631, 1645, and 1649) but had escaped conviction either due to lack of evidence or, as in 1649, due to the “confusion of the tymes.”\(^2\) In January 1662, Margaret was named as a witch by Jonet Morrison, who had confessed to sorcery and covenanting with the Devil. This time the charges stuck. Nine of the eleven accusations against her involved speech or verbal conflict in some form. She appears to have engaged in multiple disputes in her community, some involving debts, others involving domestic tasks, and regularly cursed those involved. Most of the charges against her involved her speaking specific words that were perceived to have had an effect. For example, when Alester McNevan (the local landlord) quarreled with Margaret’s daughter over a debt, he threatened to seize the value of the goods owed him. In response, Margaret said that she would “gar [cause] him to repent it if he wold not tak so much as she hade to give him,” after which he went home and immediately fell ill of an unnatural disease.\(^3\) Alester, suspecting Margaret, sent his wife Agnes to go beseech her to heal him, to which Margaret answered “ye need not fear nothing will ail him, he will be well enough.” Agnes hurried home to find her husband recovered.

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\(^2\) This was likely a reference to the general turmoil following the death of Charles I and the British Civil War which then embroiled much of Scotland.

\(^3\) *Highland Papers*, 15. “took a very unnatural disease like a woman trav[ai]ling [labouring].” There is a second description of an illness laid on by McWilliam that is phrased in the same way.
This was not the end of the couple’s troubles with Margaret. Two years later, Alester arrived at Margaret’s house with a sack to collect their rents; rather than pay, Margaret and her daughter tied him to a post with his own sack where he was forced to remain until Margaret’s son came by and let him loose. During this dispute, Alester claimed Margaret said to him that she would give him cause “to repent quhat he hade done, and he saying to her quhat can ye do to me, she said Ile slay your wife.” Following these events, Alester took ill again and was in great pain until his death. Although the curse appeared to be directed at his wife, Agnes initially survived the threat; but when she later fell ill for three months the couple naturally suspected Margaret as the cause of both of their sufferings. Before her husband died, Agnes tried to approach Margaret again, begging her to forgive him now that he was on the point of death, to which Margaret replied, “the devil one bit wold she goe see him.” When another neighbour also beseeched Margaret to heal Alester, Margaret reportedly “lifting up her curcheffe said ‘devil let him never be seene till I see him and devil let him never ryse.’”

Margaret McWilliam exhibits many of the characteristics associated with accused witches in this period. She was quarrelsome, apt to take offense, and likely to respond with verbal attacks. She also had a reputation for witchcraft, built up over a long period, and her curses and charms were known to have recognizable consequences for their targets. Many of the other charges against Margaret involve her cursing those who fell into conflict with her, as well as predictions of both healing and harm. As a memorandum attached stated “it is remarked that she never flett [quarreled, scolded] or cast out with other but some harme came to [the] partie sik as contended with her.” In this case, as with many others, Margaret’s quarreling was viewed as the motivating factor for her spells, but it was her performances of speech that were seen as the actual cause of other’s misfortune.

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4 Highland Papers, 16.
Witches were believed to be capable of many different powerful, and sometimes contradictory, acts. Scottish witch belief has been studied extensively, ranging from discussions of charming and healing, to manifestations of fairy belief, to the role of the Devil. The conclusion one comes to is that witch belief in Scotland, as elsewhere, was rich, complex, multifaceted, and constantly evolving. Some people believed witches were capable of powerful verbal curses, whereas others might be more inclined to fear their evil eye or venomous breath. Others felt that witches had no power in themselves but relied on the Devil to perform their cruel bidding, either through illusion and deception or overt influence. Still others believed those who identified as witches were themselves sorely deluded and instead the victims of superstitious belief and ritual in the populace. The abundance of interpretations of witchcraft has made it difficult for scholars to come to any agreement on why and how “witch belief” played a role in inspiring witch-hunting in early modern Scotland.

While there is no single unifying idea or stereotype of “the witch” during this period, a study of the various behaviours and practices associated generally with witches in the popular imagination can be illuminating. When looked at as a whole, the verbal qualities exhibited by accused witches are particularly striking. Other authors have often noted the close relationship between unruly tongues and accused witches, but few have turned this into a deeper analysis of how speech plays a central role overall in witch belief and prosecution. The fact that not all magical practices and powers specifically involved the spoken word disguises its importance; instead we should be looking at how speech functioned as the common factor in different popular beliefs as well as in theological and judicial definitions of witchcraft. As will be shown

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in later chapters, it was the speech acts of witches that were most likely to bring an individual to the attention of local authorities, while the efficacy of their words was a critical part of the evidence brought against them in their indictments and trials. It was this belief in their efficacious speech that separated witches from their neighbours. Anyone could speak, albeit with varying levels of social acceptability, but not everyone had the power to enact their will solely through the power of speech. Those who did—such as the king, for example—were perhaps the exceptions that proved the rule.

This chapter identifies some of the specific connections between words and witchcraft in the popular imagination. Evidence is drawn from kirk session and presbytery records, central justiciary cases, and printed transcripts of other trial material. The examples used are spread across the witch-hunting period in Scotland; however the fact that speech can be seen as a common element, from early cases in the sixteenth century to the final spates of accusations in the late seventeenth and early eighteenth centuries, suggests that the connection between speech and witchcraft was solidly entrenched in Scottish witch belief. While witches were believed to have many different kinds of powers, the evidence examined here demonstrates a strong link between words and witchcraft in social consciousness. It is this link that would provide the necessary conditions for witch-hunting during the sixteenth and seventeenth centuries.

**Flyters, Quarrelers, and Scolds**

Margaret McWilliam’s case serves as a good starting point for discussing witches. As was the case with many other accused witches, the majority of the allegations against Margaret were made by people she knew and lived near. Indeed, many historians have noted that, in general,
witches were neighbours.¹⁶ For the most part they were not feared outsiders but people known throughout their communities. The majority of witchcraft accusations occurred locally, with most evidence and accusations being brought forward by the alleged witch’s neighbours and sometimes even family members. The substance of these accusations was frequently built upon a long history of association with magical cures, curses, and prophecy, but most especially on specific speech acts followed by ill luck or other evidence of the witch’s malice. Over time, an association between a particular individual and specific examples of unruly speech could develop into a reputation for magical power. In some cases, an individual could be charged for witchcraft on the basis of nothing more than being “bruit” or reputed as a witch, while being a witch by “open voice and common fame” was often included in the formulaic charges laid against the accused. In other cases, however, the trial records demonstrate how a witch’s reputation could be founded upon a series of specific acts, frequently featuring the witch speaking under suspicious circumstances or during community conflicts. It was these examples of disorderly or suspicious speech that could lead communities to identify witches in their midst, and often formed the body of the evidence drawn up against them.

Speech played a critical role in the development of the reputations of witches. Anna Cordey has looked at the kirk session records of Dalkeith and found that those accused of witchcraft often had a previous history of trouble with the kirk session, particularly for their unruly speech:

Where future witches appeared in kirk session records before their official accusation, it was almost always in cases involving words. They were either being punished for scolding or cursing, or they were pursuing a slander case against another member of the

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community. The fact that witches were often women with short tempers and sharp tongues has been noted in many studies.\(^7\)

Indeed, one of the most commonly remarked features of Scottish witches was their quarrelsome nature.\(^8\) Most historians studying the Scottish witch-hunts have pointed out this element, identifying local disputes and conflicts as a key motivating factor for witchcraft accusations: “the essential individual personality trait does seem to have been that of a ready, sharp, and angry tongue. The witch had the Scottish female quality of *smeddum*, spirit, a refusal to be put down, quarrelsomeness.”\(^9\) This feature was not unique to Scotland; for example, Reginald Scot, writing in England in 1584, observed that “the chief fault of witches is that they are scolds.”\(^10\)

For Scottish witches, this irascibility and tendency to talk back was a feature in many cases, as in the instance of Margaret Watson who was accused as a witch and brought before the session of Sandness in 1708 for her “continual cursing and imprecations.”\(^11\) In 1661, Kethren Portour, a blind woman accused of witchcraft, confessed herself to having been “a great banner and a terrible curser, and a very wicked woman” in her life.\(^12\) Likewise, Helen Guthrie confessed that she had been a “verie drunkensome woman, a terrible banner and curser and of a very wicked life and conversatione.” Helen also confessed herself to be a witch, and that “when shoe

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11 NRS, CH2/1/1/155
gave her *malisone* [curse] to any persone or creature it usually lighted.”¹³ In some cases alleged witches were specifically identified as scolds, and *vice versa*. In 1585 in Edinburgh, a woman called “Kaite the Witche” was also identified as a “common skold.” Indeed, her scolding appears to have been of such notoriety that she had been hired by the Earl of Arran to rail against the ministry and an ambassador to the city in exchange for a new plaid and the sum of £6, suggesting that at least in this case, scolding—like witchcraft—could be an act, an identity, and even a form of employment.¹⁴

Some authors have argued that this quarrelsome quality was limited to female witches. Lauren Martin’s study of central court records demonstrates that roughly 80% of cases included some evidence of quarreling; however she also reports no male witchcraft cases where quarreling was central.¹⁵ Julian Goodare has also argued that witchcraft accusations against men were much less likely to include allegations of cursing or quarreling.¹⁶ However, this was not always the case. The Dundonald kirk session’s inquiry into Patrick Lowrie’s behaviour, for example, revealed several quarrels and flying, as well as other suspicious behaviour.¹⁷ Likewise, in 1644, presbytery investigations of Patrick Malcolme indicate he was well-known for his quarrels and

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¹⁷ Patrick was accused, for example, of promising to do “ane ill turn” to John Andro’s wife after flying with her. John Forgushill in Ronhill deposed that he had “fallen in flying” with Patrick over interest paid on a debt, while John Gottray alleged that when he had taken a horse from Patrick in payment of a debt, it had then proceeded to destroy his corn, and that “discording thairfor” with Patrick, thereafter he “gat no profeitt” from his cows whereas they had been well enough before. Symon Lowrie deponed that Patrick Lowrie and his wife often “fell to flying” in the evenings, but this is the last entry on his case in the session records as the next several folios are noted as missing from the records. Henry Paton, ed., *The Session Book of Dundonald, 1602-1731* (Edinburgh: Bute Society,1936), 56-57, 58, 59.
oral curses.\textsuperscript{18} John Maltman said that Patrick had come to his house and asked his wife for milk, but when she refused, he “promised to doe them ane evill turne”; the next time the cow was to be milked, it fell down dead at a touch. Another witness claimed that Patrick came to him and told him he had cursed his corn but would lift the curse if he was given a new shirt. When Alexander Chrystie’s servant woman refused to accompany him one evening, Patrick allegedly cursed her cows and predicted what was in her cupboard; her master further deponed that Patrick had urged his servant to “commit filthiness with him” and that when she refused, he asked her for her left shoe, which he said he would use to cause her to follow him. Quarrels were central in the case of Thomas Patoun in Dumfries, in 1650, as well.\textsuperscript{19} For example, Thomas reportedly “went home in ane Rage” when he suspected Agnes McGowne of laughing at him; he later boasted of casting his ill will on her, resulting in her sudden illness. When John Rae caught Thomas’ sheep in his wheat and chased them into the river to drown, Thomas retaliated by “Praying ane curse To him and all that he had The effect quhairof” was the loss of much of his worldly goods and wealth. When Thomas argued with William Richardsone over pasture rights for William’s horse, “The said Thomas avowit that he [the horse] sould not feid the next day and the effect provit so,” for when William set his horse out to graze, it drowned in a pond.

These accusations quite clearly focus on Patrick’s and Thomas’ speech and the effects thereof; moreover, they show that men could be seen as cursers and quarrelers, just as women were, albeit significantly less frequently. Men might have been less likely to be associated with “evil words” than women as witches, but they were also less likely to be associated with ill

\textsuperscript{18} John Stuart, ed. Extracts from the Presbytery Book of Strathbogie, 1631-1654 (Aberdeen: Spalding Culb, 1843), 50-52.

\textsuperscript{19} Of the nine points of Thomas’ dittay, seven involve his quarrels and confrontations with neighbours, many of which included specific words. A.E. Truckell, “Unpublished Witch Trials,” Dumfriesshire and Galloway Natural History and Antiquarian Society 51, 52 (1975, 1976), reprinted in Witchcraft in Scotland, ed. Brian Levack (New York: Garland Publishing, 1992), 356-358. See also NRS, JC26/13/Bundle A
speech in general. As historians such as Goodare have pointed out, men were more likely to settle their disputes through physical or legal action.\textsuperscript{20} However, the fact that such combative verbal conduct was itself unusual for men in general can arguably be tied to the lower overall rates of accusations against men. As will be demonstrated throughout this thesis, both men and women accused of witchcraft were likely to demonstrate some form of illicit efficacious speaking.

Fueled by community conflicts, a witch was believed to be driven by thoughts of revenge and malice. For example, in the charges against Meriorie Mutche in 1597 there are numerous references to her “ewill will”, “rancour”, and “malice”, seen as the driving factors in her desire for revenge which she achieved by bewitching her antagonists.\textsuperscript{21} When she quarreled with William Cowpar over the use of the mill at Esselmonthe, William struck Meriorie with the mill’s hopper during the resulting scuffle. In retaliation, she “promeist thir wordis, thow suld put ane schot in his syde,” within the next 48 hours, “that suld do him gryter harme that schot did thee.”\textsuperscript{22} Following this “devilische promeis,” William fell violently ill, with much sweating, flux, and breaking of wind.\textsuperscript{23} This malice was considered to be a characteristic of all witches, and was directed at the person or property of the witch’s victim, resulting in misfortune such as illness, failure of crops, drying up of milk, impotence, strange weather and death. James VI identifies this “thirst for revenge” along with the desire for worldly wealth as the two motivating forces leading to the practice of witchcraft and sorcery.\textsuperscript{24} This tendency towards vengeance was also

\begin{itemize}
\item \textsuperscript{20} Goodare, “Men and the Witch-Hunt in Scotland,” 158.
\item \textsuperscript{21} The Miscellany of the Spalding Club, volume 1 (Aberdeen: The Club, 1841), 131-133 [hereafter cited as MSC].
\item \textsuperscript{22} This could be a reference to a sharp pain (as a result of the original strike), but is likely a reference to a popular folk belief of ‘elf-shot’ or fairy dart, which was believed to be one way in which witches could magically strike down their enemies.
\item \textsuperscript{23} MSC, v.1, 131
\item \textsuperscript{24} He also identifies “Curiosity” as a third cause, but restricts this motivation to the class of magicians, necromancers, astrologers, and demonologists, considered by him to be distinct from witches, charmers, and
\end{itemize}
used to explain why women were more likely to be witches. The *Malleus Maleficarum* states that:

> And indeed, just as through the first defect of intelligence [women] are more prone to abjure their faith; so through their second defect of inordinate affections and passions they search for, brood over, and inflict various vengeances, either by witchcraft, or by some other means. Wherefore it is no wonder that so great a number of witches exist in this sex.\(^{25}\)

Vengeance certainly drove Isobell Smith in 1662: she confessed to meeting with the Devil many times, but the first time was when she was alone and contemplating revenge, which led her to renounce her baptism and engage in the Devil’s Pact.\(^{26}\)

In quarreling with their neighbours, witches exposed themselves as irate, wrathful, and full of malice. This malice or *maleficium* was believed to be the source of their power, activated by their verbal disputes and performances. Jonat Leisk did not bother to hide her ire at Walter Cruikshank when he stole her son’s tack [lease] from him, saying in “a devilische furie” in Alexander Thomison’s pantry, “Weill has Walter Crukschank taine my sones tak ovir his heid, I sall do quhat ane guid scholar may do to put the said...Walter out of the way, or ewir my sones taks war rwn furthe”\(^{27}\) [Well has Walter Crukschank taken my son’s tack over his head, I shall do what any good scholar\(^{28}\) may do to put the said Walter out of the way, before ever my son’s tacks were irrecoverably ended]. Walter shortly after became gravely ill and died, leading his family to suspect Jonat of causing his death by witchcraft. In another case of quarreling, Margaret Robertsone was seen to have fallen into “ane jarr [quarrel] and discord” with Jon Cockburne, a weaver, “wherein great flyting and outrageous words...was utterit by either of

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\(^{27}\)MSC, v.1, 134.

\(^{28}\)This phrase might possibly mean lawyer.
them to others, so that they parted unfreindis [sic].” Later that night, Margaret and her mother, Agnes Finnie, allegedly appeared by devilish means to Jon in his locked bedroom and attacked him in his bed, whereupon he cried out in great fear, “God be in this house. I ken [know] you both well enough,” waking both his wife and apprentice who heard him utter these words.29

Accused witches could be quarrelsome, but were sometimes known for other disorderly speech acts, such as blasphemy, cursing, and other rude language, which could also be seen as suspicious. In 1659, when John Cuthbert refused to carry Barbara Cunningham’s malt from the mill to her house on his horse, the horse suddenly became ill and died. When Barbara saw the dead horse, she crossly complained “Aye, that fellow's horse is dead and my malt is [spoiled] in the mill.” Upon being told by onlookers, “mistress, that is not well-favoured language,” she replied that they should “take out Candles and wake him.” One other witness testified that she added moreover that they should “blow in wind at his arse,” which could be taken as more rude language or possibly a charm to bring the horse back to life.30 In the case of another unnamed witch:

Being desired that scho wold forgive a man, that had done hir some offence (as scho alleged), refused; then when any uther that stude by said, gif sho did not forgive, that God wald not forgive hir, and so scho suld be damped. But scho not caren for hell nor heawin, said opinllie, I pas not whidder I goe to hell or heawin, with diverse utheris execrable words.”31

She was subsequently stripped and searched for the Devil’s mark and apprehended on the finding of a white cloth, like a neck collar [collore craig], with knotted strings between her legs. When it

29 J. Irvine Smith, ed., Selected Justiciary Cases, 1624-1650, volume 3 (Edinburgh: Stair Society, 1974), 642 [hereafter cited as SJC]. Taking the Lord’s name as a defence or counter-charm was frequently used against witchcraft.
30 NRS, JC26/26/1
was found, she resisted and then declared, “Now I have no hoip of my self” which her captors took as a confession of witchcraft.\(^\text{32}\) In this case, it was the alleged witch’s quarrelsomeness and refusal to resolve her conflict with her neighbour that raised suspicions against her. Moreover, it was her speech and “other execrable words” that revealed her implacable malice, leading to her accusation for witchcraft.

Janet McMuldroch also had a reputation for her scolding and cursing behavior, built on a long series of conflicts with her neighbours.\(^\text{33}\) For example, when Janet’s horse wandered into John Harris’s grain, he refused to return the animal to her until she had made compensation for the damage, “whereupon she went away discontent and murmuring.” His child drowned the next day, and Janet had been “under ane evil report” from that day.\(^\text{34}\) When another man tried to chase off Janet’s livestock after he found them grazing in his crops, Janet “folloued him scolding and told him that she hoped that he should not have so many [livestock] as he had then to eat the nixte grasse.”\(^\text{35}\) When several of his oxen and horses died before the following harvest, Janet was held responsible. Janet was also accused of promising the bailie “ane ill turn” when he tried to make her pay a fine; an ox of his died shortly thereafter. In yet another accusation against her, it was recorded that Janet “went away cursing” after being kicked by an “accidental tuitch” of John Murray’s foot; she was subsequently held accountable when John lost two calves and a horse several weeks later.\(^\text{36}\)

\(^{32}\) This is a rather unusual finding as searchers were usually looking for a physical mark or blemish to identify as the Devil’s mark rather than clothing. Kerchiefs were used in some spell-casting (see Margaret McWilliam’s case at the beginning of the chapter), as was knotted string, but this does not seem to be the case with this particular item, which seems rather clearly to be a menstrual cloth. In any case, it appears that it was her words that were important in declaring herself without hope rather than the finding of the cloth itself.


\(^{34}\) Ibid., 364.

\(^{35}\) Ibid., 364.

\(^{36}\) Ibid., 363.
Janet seems to have been a particularly irate individual, involved in many clashes with her neighbours, but she was one of many accused witches who shared such characteristics. In the process of quarreling with her neighbours, Janet repeatedly found herself in situations where her words were interpreted as attacks by her antagonists. Whether muttering under her breath, scolding, or deliberately cursing others, it was her verbal behaviour that was identified as the source and vehicle of her bewitchments. These verbal performances, witnessed by her neighbours, became the foundation of the case against her. However, it was the perceived effect following her utterances that led to her accusation and trial, and served to identify her words as witchcraft rather than the disorderly but ultimately harmless verbal retribution of an old quarrelsome woman.

In fact, it was the ‘efficaciousness’ of utterances like these that differentiated the words of witches from the speech of scolds. John Harrison, in examining the use of the ‘branks’ or scold’s bridle in Stirling, has shown how the words used by scolds and ‘branked’ women often followed the same formulae of cursing and ill-wishing as those used by accused witches; however, without a perceived effect following these words, he argues there could be no proof of witchcraft.

The examples of the witch’s malefice given by Larner, all involving cursing and ill-wishing, are closely paralleled by many of the angry words already quoted from the Stirling records...This must invite the question; was the ‘brankit’ woman the Scots urban witch? If ‘witchcraft’ as a crime could exist only when a conviction was obtained, the answer must be, No. There are, moreover, clear differences. Horrible though branking was, it was not burning. There was no ‘scold-hunt’ analogous to the witch-hunt. Some ‘witches’ were men but men were not branked in seventeenth-century Stirling. Many of these women cursed, though it was not formally charged that their words were effective, as it often was against a witch...So the second of Larner’s characteristics, the (perceived) ability to cause ‘injury or death’ is not satisfied.37

It was therefore not just words, but efficacious words, that were necessary to fulfill the conditions for witchcraft. Without an associated effect, it was difficult, if not impossible, to prove witchcraft had occurred. The following sections will investigate what types of things witches were believed to be able to do with their words.

**Verbal Acts of Witchcraft: Cursing, Spell-casting, and other Execrable Utterances**

In popular folklore, the words of witches, from explicit cursing, to muttering or grumbling, were believed to have the power to heal or to harm. These verbal performances of spell-casting expose the ‘act’ in witchcraft: “the etymological force of the word [maleficium], its root in the verb facio, to make, construct, fashion, frame, build, erect, produce, compose.” Witchcraft was characterized by these performative acts of speech in early modern Scotland, as well as elsewhere, and the accusations against alleged witches are frequently filled with examples of curses, prayers, charms, incantation, and other spell-craft. When a quarrel or a curse was followed by misfortune, it was seen as evidence of witchcraft, particularly if there was proof of a witnessed speech act. While not all the powers of witches necessarily required verbal acts, words were often critical to the prosecution of witchcraft. Indeed, as will be discussed in the next chapter, without specific evidence of spoken words, it was very difficult to prove that sorcery had occurred; in Larner’s words: “No cursing: no malefice; no witch.”

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38 Larner, *Enemies of God*, 9, 73, 139-143.
In many cases, accused witches were heard to have uttered specific curses and threats, many of them quite formulaic. Returning to the case of Margaret McWilliam discussed at the beginning of this chapter, she was reported to have said of Alester McNevin “devil let him never be seen till I see him and devil let him never rise,” a curse that reportedly caused his death. In a similar case, Barbara Cunningham, who was angry at the bailie of Newtown for fining her two dollars, refused to speak to him about his health. When he fell ill, he sent Alexander and John Brown to her, but she said “the devil let him never rise til I come and see him,” after which, he never rose again. Barbara’s case includes several other examples of verbal curses, explicit and inferred—including specific formula to the effect of the devil never letting her subjects rise again—showing how important such evidence was to the trial. Invoking the name of the Devil was considered a powerful charm, and was often incorporated into other ‘devilische wordis and charmes’ of witches. In a spell to raise the wind, Issobel Gowdie, one of Scotland’s most notorious witches, reported that she and other witches would take a rag and wet it, then beat the rag against the stone with a piece of wood saying “I KNOOK this ragg wpon this stane,/ To raise the wind, in the DIVELLIS name;/ It sall not lye [be allayed] untill I please againe!” Several of Gowdie’s other recorded charms include mention of the Devil as well.

One of the most common curse forms was to claim that the hearer would have cause to repent or rue their actions against the alleged witch. In 1671, for example, Elspeth Thomsone was reported to have quarreled with Regina McGee and her husband after she was not invited to the birth and baptism of their child; in retaliation she promised, “to doe them ane ill turne and to

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42 NRS, JC26/26/1
43 To be discussed in more detail in Chapter 3.
cause them to rue it,” words that supposedly caused Regina to immediately fall ill. In 1671, Helen George in Kintour was accused of using witchcraft and an enchanted drink to kill David Anderson, whom she had quarreled with several times and had “menaced and threatened that he should repent it.” Several people in 1639 reported hearing from James Kodie before his death that Janet Durie was the cause of his sickness, because he had “stickit her swyne” for which she said she would “cause him to rue it.” In yet another case in 1661, James Dundas of Kirklistoune fell into a disagreement with Janet Miller, wherefore she “threatened and vowed that ye should cause repent [that] which he had done ere it be long.” Within a number of days, James contracted “an uncouth and lingering disease” from which he did not recover until she was apprehended.

A curse was seen as a vehicle for the witch’s revenge, often taken out upon the person, livestock, or livelihood of the victim. Lauren Martin has argued that the curses and spells of witches often targeted the domestic practices of women, including brewing and dairy production. Kathrein Makteir in 1604 was faced with several charges from her neighbours; after asking for and being denied butter from one woman, she was recorded as saying “scho sould caus hir revit [regret] that scho refused to gef hir buttir quhen scho askit it,” after which the cow refused to let itself be milked for two or three days. In 1650, Jeane Scott was accused of threatening that Robert Pinkarton’s cow “should not doe him good.” After this Robert’s people were unable to produce any butter, so suspecting Jeane, they sent for her and asked her to churn the butter (a form of counter-charm), which she was able to do. However, after this the cow took

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46 NRS, JC26/38 First Aberdeen Roll
47 NRS, CH2/224/1/256
48 NRS, JC26/27/1/1, NRS, JC26/27/1/6
49 Martin, “The Devil and the Domestic.” 74-76.
50 Dundonald Session, 53-54.
ill and died, fulfilling the terms of her curse. The disease and loss of livestock, crops, and other property appear as common effects of bewitchment. In one of the charges against Tibbie Smart in 1586, she was accused of having cursed the sheep of John Dakavis to the devil after a dispute over pasture.\textsuperscript{51} Jeane Craig in Tranent, 1649, was accused of continuing malice against James Smith. When she saw a servant leading six of James’ horses one morning, she greeted the man “with thir wicked wordis: ‘Quhat devill does thou man, soe sone up at morne’?” While this might be interpreted as a rather normal greeting—if a trifle blasphemous—these words were instead seen as a “wicked” spell, particularly when three of the horses and the serving man fell suddenly dead.\textsuperscript{52} In this case and many others, it was the context and following effect that often differentiated between regular words and witchcraft.

Promising that a person might never prosper or thrive was also fairly common formula used in curses, both in witchcraft cases and regular quarrels. In Kintyre in 1597, Isobel Cockie was accused of saying to Alexander Chalmer during a quarrel, “I haif weill mett with thee first; pass quhair thou pleisse, I sall warrand thee, thou sall nevir gang [go] forwaid, bot delie [daily] bakward; and for all thi geir, it sall nevir do thee guid, nor nevir prosper with thee.” Shortly thereafter, all of Alexander’s sheep and other livestock became ill and died, resulting in his extreme poverty which he attributed to Isobel’s curse.\textsuperscript{53} In Shetland in 1603, Maidlaine Williamsdochter was accused of saying to Gilbert Thomasoun “that the haile thing that he did and luikit on wald never thryfe.”\textsuperscript{54} While this statement was interpreted as “slander” rather than witchcraft by the court in this instance, possibly because there was no subsequent misfortune, the formulaic language matches those of curses cast by accused witches elsewhere in Scotland.

\textsuperscript{51} NRS, JC26/1
\textsuperscript{52} SJC vol. 3, 813.
\textsuperscript{53} MSC, v.1, 112.
While people could be and were accused of witchcraft in Shetland, the charge rarely resulted in execution; instead, accused witches in Shetland were often required to either find people to attest to their innocence or else to pay a fine. In the above example, Maidelaine was sentenced to pay three merks to the king for attempted witchcraft and three more to Gilbert in restitution for her slander. Gilbert, in contrast, was only fined one merk for physically striking Maidelaine in retaliation.

The laying on and off of disease on the alleged victims was one of the more common accusations levied against alleged witches. The indictment against Katherine Oswald in 1629 stated she had “by your devilish ways and enchantments foresaid lay on and took off sickness and diseases and so have been by your devilish carriage and practices used by you been suspect and deemed as a witch.” Transferring illness from one person to another, or to an animal, was a practice of charmers and cunning folk, but it was also associated with witchcraft, particularly when words were involved. In 1632, for example, Alison Nisbett, a midwife, was charged with taking off a disease from Issobel Nisbett and laying it on Helen Park, causing her death. As part of her cure she dipped her fingers in a pan of water and went thrice widdershins [circling counter-clockwise] about the bed “muttering out to yor selff dyverse unknawin wordis.” She then went south about the bed three more times, “utering the same wordis.” She then cast the pan of water in the fire and “uterit furth thir wordis at the oncasting thereof at tua severall tymes (banes to the fyre & saule to the devill).” While this charm led to Isobel Nisbett’s recovery, it was considered “sorcery” in causing the death of Helen Park.

In many cases, the curses of witches occurred during a quarrel, resulting in the sickness and sometimes death of the recipient. Kathren Ratter, for example, was known for her

55 For more on this, see Chapter 4 on Evidence.
56 NRS, JC26/9/6
57 NRS, JC26/10/3 – parentheses as in the original.
quarrelsome behavior, including “horrid cursing and imprecations.” In 1708 she was charged with causing the death of Christopher Thomson after quarreling with him over a perceived wrong he had done her and saying “that God should swarten\textsuperscript{58} his body and his ground”; “accordingly his body decayed dayly and repeating her curses hear curses [sic.] his death followed.”\textsuperscript{59} The depositions against Elizabeth Maxwell, an accused witch from Dumfries in 1650, also exhibits features of both quarreling with neighbours as well as specific curses and verbal attacks. When a neighbour sought payment for a debt from her daughter, “with upbraiding words cursing and railing … [Elizabeth] threattned that shoe sould er Lang Loss hir grace” whereupon her neighbour’s husband fell ill and “with excessive sweating dies of two day seiknes.”\textsuperscript{60} When she was arrested, Elizabeth declared that “it would be a deir wairding” upon the bailie, “whairupon very soon theireftir the said Thomas contracted a verie heavie disease which continuing for the space of two years at Last took away his Lyff.”\textsuperscript{61} Here Elizabeth’s words were consequently identified as causing the death of a man, two years after he had thrown her in prison! When John Davidson, a poor man, found Tibbie Smart’s purse with some suspicious items in it in 1586, he presented it to the residents of Watterstoun who urged Davidson to burn the purse, which he did; when Tibbie found out what he had done, she spoke to him “in great choler” or anger, saying “that the day of [her] speaking to him should be his last day.”\textsuperscript{62} He immediately fell ill, although in fact it took him several more days to actually die.

It is interesting to note that a witch’s words were not only seen as powerful in and of themselves, they also were believed to have power over the speech of others. Several cases

\textsuperscript{58} The Survey of Scottish Witchcraft has transcribed this as swarfin [to swoon], but I have transcribed this as swarten, which might mean to blacken. \textit{SSW} (accessed 5/2/16).
\textsuperscript{59} \textit{NRS}, CH2/107/1/5
\textsuperscript{60} Truckell, “Unpublished Witch Trials,” 353.
\textsuperscript{61} Ibid., 353.
\textsuperscript{62} \textit{NRS}, JC26/1/13/1; See also \textit{SSW} (accessed 1/23/16)
indicate that a witch could use her powers to cause others to blaspheme or curse uncontrollably, or alternately, lose the power of speech altogether. For example, Janet Ingram approached Helen Fraser in 1597 for a cure for illness and/or bewitchment, to which Helen agreed and stayed with her for the duration of her illness. Unfortunately, Helen’s cure backfired and the illness increased, turning into a “horrable furie and meadnes, in sic sorte, that scho alwayis and insessantlie blasphemit,” as well as attempting to climb the walls with her hands and feet. Janet died two days later and Helen fled. Another notable case involving uncontrolled speeches can be seen in the trial of Agnes Finnie, a notorious witch in Edinburgh in 1645. After “grit scalding and flyting falling out” between Agnes’ daughter, Margaret, and Mause Gourlay, Mause’s husband reprimanded Margaret, calling her a “witch’s get [brat, offspring]” to which she responded, “’Gif I be a witches get, the devill ryve the saull out of thee befoir I come agane.’” Within an hour, he became afflicted by a madness, with “his eyis standing out in his head in maist fearfull and terrible maner, evir uttering thir wordis, as his ordiner and continuall speitches, pronuncet be him in that his madness: ‘The devil ryve the saule out of me’.” His incessant repetition of the same words spoken by Agnes’ daughter, added to Agnes’ reputation as a witch, made it clear to observers who was the cause of his uncontrollable speech.

Agnes, a shopkeeper and small-time money-lender, allegedly had the power to cause uncontrolled speech as in the case above, but also was believed to have the power to take it away altogether. Hector Nisbitt owed her a small sum of money which his daughter, Beatrice, offered to pay, but Agnes demanded the sum with interest, which caused a quarrel between the two women. Before she left, Agnes reportedly said in great anger, “Befoir it be long, ye sall repent

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63 MSC, v.1,106.
64 SJC, vol. 3, 644.
and deir by [dearly buy] the same.” Six weeks later, Agnes stopped by Beatrice’s house and offered her a pint of ale, which she refused. Within an hour, Beatrice fell gravely ill of a heavy disease by which “sua the power of hir tongue was tane [taken] fra hir,” as well as the power of her right side. In another charge against her, Agnes was accused of taking away the speech of another woman, Jonet Walker, taking “from hir the power of hir tongue, quairthrow schoe become speitchles” after visiting Jonet, uninvited, in her childbed.

Other cases show that various witches possessed similar powers over speech. For example, in 1661 Magdalen Watsone testified that she had been drinking at a friend’s house when Margaret Murray came in and got into a heated debate with Magdalen’s husband. Magdalen claimed that Margaret had said to her husband “she should make him repent of his speiches”; later that night, he “became almost speechless” and then died twelve days later. In this case, his loss of speech can be seen as revenge specifically for his angry words against her. When Margaret Leslie and Alexander Hervie caught Isobel Cockie stealing their peats in 1597 (for which she was charged with theft), Isobel was reported to say “Weill, I sall gar [cause] alss mony wounder [wounds] on thee or this day tellmound [before this day in twelve months], as thow garris wounder on me now.” Half a year later, she was accused of having “keist the cantrypis” or cast a harmful spell on Alexander, causing him to be incapable of speech for twenty-four hours. She was accused of casting a similar curse on the speech of Alexander Andersoun in Kintore, until his son came and threatened to burn her unless she lifted her charm. In yet another case of bewitchment of speech, Agnes Spindie accused and upbraided Jonet Cock for placing an illness on her child in 1661. Jonet came to the house of Agnes eight days

65 SJC vol. 3, 638
67 NRS, CH2/145/7/259
68 MSC, v.1., 112.
thereafter and gave her a blow on the cheek, whereupon she immediately lost her speech and turned mad. Several others apparently went mad in witnessing this event, including another young woman present and Mr. Hugh Campbell, who had reproved Jonet for her actions. Agnes’ sister also reproved her, after which Jonet “desired her to lay her sister upon a bed and she should be well, which being done she immediately by Sorcery and Witchcraft recovered her Speech and Witts.”

The potency of witches’ words can be seen here in the belief in their power to do harm to those who offended them. Motivated by malice, the curses of witches could attack the bodies, minds, and speech of their victims. However, verbal acts of witchcraft were not solely linked with consequences involving disease and death, but also healing, lifting curses, charming, and prophecy. So-called “white magic” might not appear to be as obvious a threat in a community, but magical rituals followed by healing could be interpreted as just as suspicious as cursing and quarreling, and were often incorporated in accusations of witchcraft. Moreover, charming specifically can be used to further demonstrate the link between magic and speech in early modern Scottish belief.

**Charming, Healing, and Prayer**

Charming as a magical ritual is not unique to Scotland. According to Jonathon Roper, “verbal charms are a cultural near-universal (perhaps even universal) way of coping with ill-health, with misfortune, and with anxiety about the successes in the fields from agriculture to love.” While these rituals often, even usually, incorporate a physical or ritual aspect, a verbal component is

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equally as important, if not more so, although it is likely impossible to answer the question of which aspect dominates the ritual.\textsuperscript{71} In discussing Slovenic charms, Monika Kropej asserts, “The true power of invocation, however, is contained in the charm itself, in saying the words that supposedly have a magic power,” which she likens to hypnosis or the power of suggestion.\textsuperscript{72} Indeed, most studies of charming clearly demonstrate the link between verbal acts and popular magic, as can be seen from the title of a recent edited collection on the topic: \textit{The Power of Words: Studies on Charms and Charming in Europe}.\textsuperscript{73}

In Scotland, acts of ‘charming’ often appear in the evidence compiled against alleged witches. On the other hand, charming was also considered a separate and lesser crime compared to straight witchcraft. Charming was punishable as a crime under the Witchcraft Act of 1563, but rarely came to the attention of the central courts; instead it was generally disciplined by kirk or presbytery sessions and was usually punished with a fine or public repentance in sackcloth before the kirk, as well as an admonition to halt such superstitious practices. This may have been due to the widespread use of charming in people’s everyday lives in Scotland. As James VI noted in his discussion of witchcraft, “many honest and merrie men and women have publicklie practized some of them,” coming to the conclusion that to “accuse tham al of Witch-craft, ye would affirme more nor ye will be beleved in.”\textsuperscript{74} Still, charming as a ritual practice was a target for control as it conflicted with the teachings of the kirk, and the widespread inclusion of charming charges in witch trials indicates that it could be—and often was—interpreted as witchcraft.

\textsuperscript{71} Ibid., xxv.
\textsuperscript{72} Monika Kropej, “Slovenian Charms Between South Slavic and Central European Tradition,” in \textit{Charms, Charmers, and Charming}, 146.
\textsuperscript{74} James VI, \textit{Daemonologie}, Book 1, Chapter 4, 11-12
Charming has a long and respected heritage in Scotland. Cunning folk—those who
helped people remedy bewitchments and offered other magical services—were generally
differentiated from charmers, although their methods could be quite similar. Charming as a
category is somewhat nebulous and can be difficult to distinguish from other religious rituals,
prayers, or practices. Charmers took advantage of a host of different methods, including chants
and verbal charms, ritual washing, turning or walking in circles, as well as the use of physical
objects imbued with special powers, such as colored thread or yarn, certain stones, and plant
material. These charms were used both by professionals and common lay people in order to
produce a desired effect, from healing livestock or people, to keeping away mice, to easing
childbirth.

While words were not always necessary, they were frequently incorporated in charming.
Scottish charms generally involved some sort of spoken formula, sometimes repeated. In 1643,
for example, Janet Brown was recorded as using the following charm for healing bruises and
sprains on two people:

Our Lord forth raide,
His foal’s foot slade:
Our Lord down lighted,
His foal’s foot righted;
Saying: Flesh to flesh, blood to blood,
and bane to bane,
In Our Lord his name.

The format of this charm—similar to one used in Orkney in 1616 which went “bone to bone,
synnew to synnew, and flesche to flesche, and bluid to bluid”—is one of the oldest found among

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75 Owen Davies, “A Comparative Perspective on Scottish Cunning-folk and Charmers,” in Witchcraft and Belief in Early Modern Scotland, 186-187.
76 Robert Chambers, Domestic Annals of Scotland From the Reformation to the Revolution, volume 2, second edition (Edinburgh and London: W. and R. Chambers, 1859-61), 153. Chambers notes that “There is reason to believe that this is a charme of great antiquity for the healing of bruises and sprains.”
European and Slavic charms. In writing on the mythology of Northern Europe in the mid-nineteenth century, Benjamin Thorpe compared it with several similar examples from Scandinavia, Germany, and Shetland, ultimately tracing the origins of this charm back to a poem in Old High German from the ninth or tenth century. A similar charm was used by Bessie Graham in 1650, who confessed to uttering the words: “God teach me to pray to put the ill away, out of the flesh blood and bane into the earth and called staine and nevir to again in Gods name.”

Calling on God’s assistance in healing charms was quite common and reflects the medieval association of healing prayers and popular magic. While the Devil was sometimes invoked in curses, as discussed in the previous section, appeals to Satan appear to be much less common than appeals to God, the Virgin, or the Trinity. Invocation of the Trinity can be seen in Issobel Gowdie’s charm for healing broken limbs:

He pat the blood to the blood, Till all up stood;
The lith to the lith, Till all took with;
Our Ladie charmed hir deirlie Sone, With hir tooth and hir tounge,
And hir ten fingers—
In the name of THE FATHER, THE SON, AND THE HALIE GAIST!

It is quite interesting to note here the line: “Our Ladie charmed hir dearlie Sone, With hir tooth and hir toungue,” which appears to quite explicitly link charming with verbal acts, itself expressed within the context of an oral charm.

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78 Thorpe provides several similar examples from Scandinavia, Germany, and Shetland, tracing its origins back to the ninth or tenth century: Benjamin Thorpe, Northern Mythology, Comprising the Principal Popular Traditions and Superstitions of Scandinavia, North Germany and the Netherlands, volume 1 (London: Edward Lumley, 1851), 23-24.
 Issobell Bennett, accused of witchcraft in 1659, also called on the Trinity in her charm to end or mend sickness, in which “Together with a hooke and a peece raw flesh and uttering these words thrie tymes The Father, the Sone, and the Holie ghost. Which done The Sike persone ather suddenlie recovers or dies of their sikenes.” Issobell may have worked as a cunning woman dealing in anti-bewitchment spells and consultations, and her dittay includes many examples of verbal and nonverbal charms, although emphasis is given to her words which are recorded verbatim. In addition to the Trinity, Issobel’s charms also invoked the saints; in a charm for healing “maw-turned [nauseous]” persons, Issobell would lead them thrice about an oaken post while “expressing these words”: “Oaken post stands thou, bairns maw turns thou, God & St Birnibane [St. Barnabus] the bright, turn the bairns maw right.” A similar version of this charm was used in 1650 by Jonet Galbraith in Greenock, Renfrewshire, on Jonet Scott’s child, “by useing wordis: Oaken post, standes thou,/ Bairnes maw turnes thou;/ Our lord and lady bright, Turne the bairne’s maw right.” In her trial she confessed that the charm was spoken but that “ane old woman first spake it; that it was the first shee saw of that kynd; and that she did assist them in the sayinge of the wordis, and that James Ramsay, father of the bairne looked on.” This earlier version omits mention of St. Barnabus, but calls on “our lord and lady bright” which may reference Jesus and the Virgin, but might also harken back to pre-Christian beliefs.

Appeals to saints, the Virgin, and the Trinity were commonly associated with pre-Reformation prayer, and were consequently severely censured by the kirk; “Nevertheless, despite opposition from the Reformed Church, many people continued to use petitionary prayers that were a combination of pre-Reformation and local practice as a means to provide some relief

82 NRS, JC26/26 Stirling Roll
from suffering.”

This association of prayer and charming can be seen in the case of Agnes Sampson in the North Berwick trials in the late sixteenth century. In over fifty items presented against Sampson, speech, incantation, and prayer feature in almost all, including specific examples of the magical words she confessed to using. For example, Sampson’s “prayer and conjuration for hailing of seik folkis” is recorded in her trial proceedings:

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All kindis of illis that evir may be, in Crystis name, I conjure ye;
I conjure ye, baith mair and les, With all the vertewis of the mess,
And rycht sa the naillis fa, That naillit Jesus, and na ma;
And Rycht sa, be the samin blude, That reikit owre the ruthfull rwid;
Furth of the flesch and of the bane, and the eird and the stane.
Conjure thee, in Godis name.
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As others have pointed out, the format of “charms” used by Agnes and others bears close resemblance to pre-Reformation prayer, including elements of the Apostle’s Creed. Elements of Catholicism also appear in other examples of verbal prayers and charms, and appeals to the Trinity were quite common. Joyce Miller argues that the discipline and punishment of charmers and witches were part of the Reformed kirk’s program to stamp out pre-Reformation prayer and practice, as well as pre-Christian beliefs. However, while it might be tempting to see witchcraft accusations as an attack specifically on ‘papistry’ in an attempt to enforce religious conformity, the scholarly consensus is that this was in general not the case. While some witchcraft cases do include a clear Catholic association in prayer/charm formatting, many cases do not. Likewise

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85 For the justiciary court records for Agnes Sampson, see Pitcairn, *Ancient Criminal Trials*, v. 1, part 2, 230-241; for additional trial records including confessions and depositions, see Lawrence Normand and Gareth Roberts, eds., *Witchcraft in Scotland: James VI’s Demonology and the North Berwick Witches* (University of Exeter Press, 2000).
86 Pitcairn *Ancient Criminal Trials*, vol. 1, part 3, 239.
witch-hunting was not itself a solely Protestant phenomenon but was practiced across confessional boundaries. Moreover, structures were already in place to discipline irregular religious practice and apostasy without necessarily resorting to accusations of witchcraft. While it is certainly possible, even likely, that some specific cases came to the attention of the authorities due to people’s continued use of Catholic ritual, accusations of witchcraft were likely only to occur when such rituals were perceived to have actual healing or harmful consequences: “to claim that holy words in particular had an inherent efficacy was an outright rejection of the second commandment. If success was obtained, if children and livestock in fact recovered, this was by demonic intervention…; it was one thing to speak of the ‘power’ of prayers and sermons, but quite another to attribute utterances a material efficacy.”

The accusations against many alleged witches often involved attempts, successful and unsuccessful, at healing through incantation or charming. Tibbie Smart, for example, was often sought for help with healing and charming spells; when Alexander Skair approached her to help with his sick cow, she came to his house and cured it with an undescribed charm involving a bonnet. Jonet Anderson was admonished for charming by the Stirling Kirk Session in February 1621; she was told to desist in all charming, witchcraft and abusing the people, but was brought up again in December, this time before the Presbytery. She confessed to charming Patrick Mungwall’s wife’s sark (commonly done for healing) “in this maner; she put hir handis on it and said thir wordis, ‘Three bitter thingis hes thow bittin, ill hairt, ill ee, ill toung all meast; uther three, may the beit, the Father, the Sone, and Holy Ghost’.” She denied knowing any other charms during this session, but confessed the following week to knowing and using several other

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89 Clark, “Protestant Demonology,” 78-81.
90 See for example, Graham, The Uses of Reform, 88-93.
92 NRS, JC26/1/13
93 RPC v. 8, 345-347.
charms and variations for healing. Andrew Man was accused of curing the sickness of one man and placing it on a cat by putting the man’s head nine times through a skein of yarn and then putting the cat’s head through the same skein backwards while speaking a charm. In fact, a number of the charges against Man specifically reference him using “diverse orations” in order to cure people and animals of various illnesses.  

Charms in languages such as Gaelic and Latin were also believed to be quite efficacious. In 1607, Bartie Patersoun, a well-known healer living in Dalkeith, confessed to using a number of charms in Latin as well as in Scots. Margaret McLevin in 1662 in Bute confessed to knowing a charm against the evil eye and that “it proved effectuall and did good to any she applied it.” She also confessed to charmsing a calf the previous midsummer with a Gaelic charm that she repeated for her interrogators. In a session the next day she confessed to knowing another Gaelic charm for sprains and bruises which began with “Obi er bhrachaadh etc.” Another charm (or possibly the same one recorded differently) used by her reportedly began with the words “er brid na bachil duin,” which the men who witnessed it “were not the worse of it.”

Words and charms could also be used as a defence against witchcraft as well. One common anti-bewitchment charm was to approach the person suspected of placing the curse and to beseech them “for God’s sake” for their health or release from enchantment. Variations on this format were quite common and appear in a wide range of records throughout the period of witch-hunting. It was already referred to as “the auld fassioun” or “the custome of auld” by witnesses in 1602 when Margaret Forgushill begged her cow’s milk from Kathrein Makteir for “Goddis saik.” The kirk session in Aberlady, 1632, likewise chastised Robert Douglas when he

94 MSC, v.1, 117-122.
95 NRS, JC26/5/2
96 Highland Papers, 5-6, 9.
97 Dundonald Session, 2, 5, 6.
confronted Elspeth Meik, whom he suspected of bewitching him, and asked her upon his knees three times in God’s name to restore his health to him, “thus abusing the sacred name of the Lord.” He was charged by the session to make repentance “firstly for slandering Elspeth of witchcraft and secondly for forsaking his God and going to the Devil to seek his health.”

In Issobell Bennett’s ditty in 1659, it is stated that she had advised and counseled those who had believed themselves “wronged by another with whome they are at variance,” to go to that person “and crave their health fra them for Gods Sake and they wilbe weill.”

These anti-bewitchment charms are an example of harnessing the power of words as a protection against witchcraft. In a sense, anti-bewitchment charms turned the words back on the sayer. This approach was not exclusive to early modern Scotland: even in twentieth century France, ethnographer Jeanna Favret-Saada noted:

The unwitcher takes on himself these words originally spoken to his client, and turns them back on to their initial sender, the witch. Always the ‘abnormal’ is said to have settled in after certain words have been uttered, and the situation persists without change until the unwitcher places himself like a screen between the send and the receiver. Unwitching rituals—the actual ‘practices’—are remarkably poor and contingent: this ritual or that, it makes no difference, any one will do. For if the ritual is upheld it is only through words and through the person who says them.

In Scotland, the performative power of ritual speech was often used to defuse or redirect the power of past statements. Much like the “un-saying” of insults by repeating them publicly, or the power of the public apology in reintegrating the offender back into godly society, the

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99 NRS, CH2/124/1/34-35
100 Favret-Saada, Deadly Words, 9.
performative speech acts of anti-bewitchment charms were the mediating force that reestablished
the social order and removed the danger of ungodly speech.101

Charming or Witchcraft?: What Difference Words Make

As powerful as words were in religious and popular belief, they were not always required for
charms. For example, Isobel Kid accused Jonet Couper of having come over to her house one
midmorning three years earlier, and going thrice about the house “upon her heill” and then sitting
down before her and stroking her thigh. A quarter of an hour later, Jonet arose and went thrice
about again and then went to the fire. When Issobel fell ill later that night, she believed Couper’s
actions to be the cause.102 Walking thrice or widdershins around a house or a cow or any other
object was a popular folk remedy and was frequently incorporated into charms like this one.
Triads and the number three were believed to hold special power in both Celtic and Christian
belief and many charms were to be repeated in multiples of threes, both verbal and nonverbal.
For example, in the case of Stevin Maltman, he was charged with bewitching a sark [shirt] for a
friend, saying, “God be betwix this man that aught this sark [shirt] and all ewills in name of the
Father, the Sone, and the Holy goist,” and then telling the man to put the shirt on and off again
three times, in the name of the Father, etc.103

Charming and sorcery could also involve physical objects, like the sark above. Tibbie
Smart’s purse, discussed earlier, contained pickles of wheat beir, pieces of salt and coal, thread
of various colors, and pieces of human joint bones, by which the town folk knew her to be a

101 Elizabeth Ewan, “Tongue, You Lied: The Role of the Tongue in the Rituals of Public Repentence,” in Hands of
the Tongue: Essays on Deviant Speech, ed. E. Craun (Western Michigan University, 2007), 127; Jane Kamensky,
128, 132.
102 NRS, CH2/40/1/160
103 NRS, CH2/722/5/19
Items like these were frequently used by charmers and healers as part of their magical tool kit. Janet Craig had three enchanted stones that she rubbed on the body of a child after it was born, which was thought to be the cause of its death. Kathrein Makteir had a stone which she used for charming which became an item of considerable interest in the kirk session’s investigation; they eventually confiscated it and brought it to the Presbytery for examination. Bartie Patersoun used many such items to help him with his charming. For example, he ordered one patient to pick “nine pickles of wheat, nine pickles of salt, and nine pieces of rowan tree,” which he was to carry on him at all times as a charm for health. Bartie also frequently prescribed loch water from Dow-loche near Drumlanrig to be drunk as a cure for all manner of illnesses. Sometimes these were accompanied by a verbal charm, as in the case of Alexander Clerk in Creichtoun to whom he gave the loch water and also bade him say “I lift this watter in the name of the Father, the Sone, and Haly Gaist, to do guid for thair health for whom it is liftit,” to be repeated nine times. While words were not always recorded, it is likely that, as with Bartie’s use of lake water, magical objects and non-verbal performances were meant to be accompanied by a verbal component in order to activate their magic.

Other powers popularly ascribed to witches included innate abilities, such as night flying, transformation, and the evil eye. Night flying, the ability to move magically from one place to another while sleeping, was rather uncommon in Scottish trials, although recent work appears to suggest that it was more common than previously believed. Transformation, however, was a
fairly frequent inclusion, with a number of cases including allegations that a witch appeared to a
witness in the form of a cat, cow, hare, black dog, or other forms. This particular ability seems
closely tied to fairy belief and does not seem to have been taken as seriously by the courts as
alleged acts of speech. The evil eye appears less often in witch trials and generally appears to
have been associated with witchcraft and popular magic in the *Gàidhealtachd*.\textsuperscript{110} While the
penetrative and malicious nature of the evil eye shares many common elements with verbal
witchcraft, the fact that Highlanders and Gaelic-speakers associated witchcraft with visual rather
than oral elements may have played a role in the lower rates of witch-hunting activity in the
*Gàidhealtachd*.\textsuperscript{111}

Sometimes charming and popular magic was interpreted as witchcraft and sometimes not.
Before Helen Fraser was accused of witchcraft, she had already come to the attention of officials
for her charming, at which time she confessed and was convicted of “publict and commond
charming” before the presbytery and session of Foveran; as punishment she was charged with
doing public repentance before the kirk “in the goifis [pillory], and upon the stuile of
repentance,” and the records state that she was tried and convicted likewise by an assize.\textsuperscript{112} In
this earlier case, both the session and the assize chose to interpret Helen’s charming as relatively
harmless, or at least not as serious as actual sorcery. Unfortunately for Helen, following her
punishment she continued her practices of charming and “abusing the people,” and her actions
came to the attention of officials during a larger hunt in Aberdeenshire. She claimed she had
been forced to continue charming in order to feed both herself and her children, but the assize
was unmoved, convicting her of witchcraft and executing her in 1597. The charges against her in

\textsuperscript{110} Lizanne Henderson, “Witch-hunting and Witch belief in the *Gàidhealtachd*,” in *Witchcraft and Belief*, 98-99;
\textsuperscript{111} To be discussed further in Chapter 7.
\textsuperscript{112} MSC, v.1, 105.
this later case featured several cases of charming, but also of causing sickness and death in others.

It is not always clear why courts sometimes classified popular magic as charming and sometimes as witchcraft. Since many of the cases of simple “charming” are without specific information, it is sometimes difficult to tell for certain which cases include verbal charms and which ones do not. However, it is possible, and even likely, that allegations and punishment for “charming” were more commonly a response to nonverbal rituals, while verbal charming was more likely to be interpreted as evidence of witchcraft. Joyce Miller makes this argument in both her PhD thesis and an essay on folk healing in Scotland. In a detailed study of charming cases in Haddington and Stirling Presbyteries, Miller found almost 100 cases of charming between 1603 and 1688 and examined them for aspects of ritual, verbal, and other motifs:

They have been examined for the use of ritual and words, either alone or in combination, or for the inclusion of other motifs. The use of physical ritual was by far the most common feature, as nine out of ten treatments (92 per cent) included a reference to some form of ritual or routine. Physical rituals by themselves featured in over half the total charms (54 per cent). Words were mentioned in 42 per cent of the charms, a third (38 per cent) used words and ritual together but in this sample, perhaps rather surprisingly, only 3 per cent used words by themselves.

This stands in stark contrast to witchcraft cases where words and verbal acts were much more common and were often believed to be completely effective on their own without any physical component. Miller uses the example of the Lockhart laird of Lee who was brought before the presbytery session of Glasgow regarding superstitious practices, but he assured them: “…the custome is only to cast the stone in sume water and give the diseasit cattell thereof to drink and

114 Miller, “Devices and Directions,” 98; see also Miller, “Cantrips and Carlins,” ch. 11, esp. p. 274-275.
that the same is done without using onie words.” Consequently the presbytery found no offence and merely admonished the laird to take care in using the stone in the future so no one might suspect him. Miller also uses cases from the Haddington presbytery and North Berwick kirk session to show how these bodies inquired specifically into words and that when no words had been used, it was seen either as superstition or charming in the non-sorcerous sense. They could be admonished, told to stop, or be sentenced with repentance in sackcloth, but they were usually not charged with witchcraft: “The absence of words, and the openness of their practice, certainly seemed to satisfy the church authorities that they had not practiced witchcraft.” Miller argues that words were also important in distinguishing folk healing from witchcraft, using examples of people who defended themselves and their ritual practices in presbytery cases by arguing that they had not used any words. Their actions were consequently interpreted as ignorance and superstitious practices rather than witchcraft; “To a large extent these physical rituals appear to have been excused as having been carried out through simple ignorance rather than deliberate transgression. The use of ritual alone appears to have been regarded by the church and judicial authorities as charming not witchcraft.”

Clearly verbal charms could be taken as a significant presumption of witchcraft; however, sometimes they were still interpreted merely as charming. In May of 1632 in Perth, Lawrence Boik and his wife were brought before the kirk session for charming and confessed “that they would sometimes use some holy words for healing of shotts and sores, which words are these,--

\text{Thir [these] sairis are risen thro’ God’s work,}
\text{And must be laud thro’ God’s help;}

\footnotesize
116 Miller, “Cantrips and Carlins,” 278.
117 Miller, “Devices and Directions,” 98.
The mother Mary, and her dear Son,
Lay thir sairis that are begun.\textsuperscript{118}

They were ordered to appear again before the kirk session in eight days but there is no evidence of an investigation or trial for witchcraft. Cases of speech acts in charming cases like this one, as well as the presence of nonverbal charms in witch trials, suggests that the answer is not entirely clear-cut. It does appear that charming by itself was rarely considered sufficient grounds for a witch trial; on the other hand, the common inclusion of charms in charges against accused witches suggests that \textit{any} verbal evidence, including charming, could be used to help socially and criminally identify a witch.

It is likely, moreover, that charming itself was strongly associated with speech acts in the general imagination, whether they included witnessed words or not. Even James VI appears to have believed both sorcery and charming to be associated with words. In \textit{Daemonologie}, he mentions several verbal elements, including divination, prayer, and prophecy, in his definition of sorcery:

\begin{quote}
The cause wherefore they were called \textit{sortiarij} [sorcerers], proceeded of their practiques seeming to come of lot or chance: Such as the turning of the riddle\textsuperscript{119}, the knowing of the forme of praers, or such like tokens: If a person diseased woulde live or dye. And in generall, that name was given them for using of such charmes, and freites [fancies, superstitions], as that Crafte teacheth them.\textsuperscript{120}
\end{quote}

Similarly, he also discusses charming as: the Devil’s “rudimentes, I call first in generall, all that which is called vulgarly the vertue of worde, herbe, & stone: which is used by unlawful charmes,

\textsuperscript{118} “Kirk Session Extracts” in \textit{The Chronicle of Perth: A Register of Remarkable Occurrences Chiefly Connected to that City, From the Year 1210 to 1668} (Edinburgh: 1831), 97.


\textsuperscript{120} James VI, \textit{Daemonologie}, 32.
without natural causes.” He goes on to list a variety of uses to which charms are put, including healing, turning away evil, stemming blood, and treating ill livestock, the actions of which he links specifically to words: by “doing of such like innumerable things by wordes, without applying anie thing, meete to the part offended, as Mediciners doe.”

James sees the crime here being that magic users deceive the unlearned through deceptions of the Devil rather than “by anie vertue in these vaine wordes and freites”; however, it is notable to see that even the King of Scotland tied acts of charming with verbal acts. Charming was suggestive of illicit speech; therefore allegations of charming might have initially brought these individuals to the attention of local authorities who then inquired further for evidence of efficacious speech.

This association is particularly notable in considering gender. According to Miller, gender distribution of witchcraft accusations in Haddington and Stirling more or less conformed to the approximate national averages of 80% female and 20% male. However, in charming cases, this percentage shifted significantly: 67% female to 32% male in Haddington, and 66% to 34% in Stirling. While the majority of accused charmers were still women, men were also likely to engage in or be accused of this type of behaviour. As Miller argues, “the evidence does demonstrate that knowledge of healing in the seventeenth century was not the monopoly of women. In both areas male and female charmers were consulted by and advised by their neighbours, and even people from outside their own individual communities, about diseases and treatments.” It is possible that this variance is due to the fact that men might have been less likely to use verbal charms and therefore be accused of witchcraft, or, as Miller argues, that women were more likely to be seen as deriving their healing powers from the Devil.

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121 Ibid., 11-12.
122 Miller, “Cantrips and Carlins,” 212.
123 Ibid., 213.
124 Ibid., 213-227
it is also possible, and even likely, that this distribution suggests that men were also active in charming, and where their words were seen to be efficacious, they could be susceptible to the same charges of witchcraft as women. Male witches might be less likely to be associated with curses and quarrels than their female counterparts, but they could and often did engage in healing activities that may have brought them to the attention of local authorities. In either case, words were a critical part of the definition of witchcraft for both cursers and charmers, male and female.

Words and Texts

The power of words in magical practice can be seen not only in verbal charms, but also in written ones: as Joyce Miller asserts, “Esoteric words, spoken or written, were a powerful characteristic of both magic and religion and were believed to have intrinsic power.”\(^\text{125}\) Owen Davies points out that the rise of print culture in early modern England led to an increasing awareness of the power of the written and printed word, as well as the spoken word, including amongst the illiterate, although this seems to have happened to a lesser extent in Scotland.\(^\text{126}\) Due to the nature of the evidence as well as literacy rates during the sixteenth and seventeenth centuries, we have few examples of actual texts or grimoires used in Scotland. One notable exception, however, is in the case of Bartie Patersoun, who was accused and executed for witchcraft in 1607 and whose case includes numerous examples of specific charms, verbal, physical, and textual.\(^\text{127}\)

\(^{125}\) Miller, “Beliefs, Religions, Fears Neuroses,” 239.

\(^{126}\) Davies, “A Comparative Perspective,” 200.

\(^{127}\) The phrase ‘textual magic’ will be used here to refer to magic conducted through writing or application of symbolic letters or texts.
In Bartie’s case, the majority of the accusations against him revolve around his healing capabilities, although he was also accused of the murder of at least two individuals. Charges included “ministering under forme of medicine poisonous drinks, and for murder of Johnne Myller and Elizabeth Robiesoune by poisonous drinks,” so it is likely that these accusations were the result of failed healing attempts.¹²⁸ The process notes in Bartie’s trial contain a fascinating array of confessed charms, and including a detailed list of numerous specific charms and recipes.¹²⁹ Included are some very interesting symbols, texts, and diagrams, apparently used by Bartie, sometimes in conjunction with incantations, probably for healing and possibly prediction. Several of the charms are in Latin and closely resemble Catholic prayers to the Trinity, Virgin, and saints in an appeal for healing. For example, he was accused of curing James Brown in Turndykes of an unknown disease by ministering to him drinks and rubbing him with salves made of green herbs, and by sitting on his bed on his knees, and by saying thrice nine times, “to ask his helth at all leving wichtis, above and around the earth, in the name of Jesus.”¹³⁰ Another charm is entitled, to “staunce bluid”:

Lord as thow deid on the ruid [cross] / With all thy strenth stenche [staunch] thow this bluid
Fath[er], sone, & halie gaist / Thow stem & stenche this bluid in haist
Rythous [righteous] god in p[er]sonis thre / this may I wey in name off thee¹³¹
god for thy guid godheaid / thow lat this bluid no forth[er] spreid
that qik forbot I defend/ That they partit erd & sand
Cryst was born in bethlahem / & baptist in the fluid Jordane
& as the fluid stuid still as stane [stone] / so stem this bluid in godds name.
  3 pr / 3 an’e & ane Credo¹³²

¹²⁹ NRS, JC26/5/2
¹³¹ * N * in margin, apparently to be read separate from the rest of the text.
¹³² NRS, JC26/5/2. The final line likely refers to a triple repetition of accompanying prayers and/or the Creed.
In post-Reformation Scotland, these ‘papist’ elements may have potentially played a role in their being interpreted as illicit as well as magical. However, the numerous examples of his charms clearly involve not just Catholic elements, but elements of popular folk belief and other magical and medical components as well. Several of the entries involve recipes for healing drinks and potions, including the loch water discussed above. In a recipe “for the colik,” the reader is instructed to soak certain leaves in wine or ale and then drink them along with other items.\textsuperscript{133}

However, what is particularly interesting in Bartie’s case is that he uses textual elements accompanying some of his charms. Included in his process notes is an illustration of a ‘Sator Square’, a diagram containing a Latin palindrome, which can be read in any order—backwards, forwards, bottom to top.\textsuperscript{134}

\begin{center}
\begin{tabular}{ll}
SATOR & ROTAS \\
AREPO & OPERA \\
TENET & TENET \\
OPERA & AREPO \\
ROTAS & SATOR \\
\end{tabular}
\end{center}

Fig. 2.1: Sator Square, Bartie Patersoun (1607), NRS, JC26/5/2

\textsuperscript{133} NRS, JC26/5/2
The Sator Square has a long history—the earliest found so far was inscribed on a wall in Pompeii—and has been associated with early Christianity as well as popular folk magic. Copies of this charm have been found inside Carolingian bibles, inscribed into the masonry of churches, and in manuscripts relating to healing and easing childbirth. By the sixteenth century, it appears in at least two texts on healing and appears to be associated with treatments for fever and madness. It even has been found in the commonplace book of a seventeenth-century Scottish schoolmaster from Ayr which later ended up in New Zealand! Bartie appears to have been aware of the popular belief in the square’s efficacy and used it himself to aid in healing. According to his notes, Bartie would apparently have his patients hold the diagram to their breast while reciting a charm in Latin for some of his cures. As part of a European tradition of textual magic, this Scottish Sator Square further exhibits the connection between occult words and mystical power in early modern belief.

This is not Bartie’s only use of written charms, however. In a charm for bleeding, possibly of the nose, the instructions are to write a string of occult letters and numbers on a knife and slay a beast with it, apparently in order to stop the patient’s bleeding. Alternately, the charmer can write “veronix” in blood on the forehead of the bleeder, or “veronixa” if it is a woman.

While the Christian origins of the charm have been disputed, the associations with Christianity appear to be derived from the fact that the square is also an anagram a cruciform arrangement of the words PATER NOSTER, bracketed by Alphas and Omegas. Fishwick, “On the Origins of the Rotas-Sator Square,” 39-40.


National Library of New Zealand, Turnbull Library, MSY 6821. My thanks to Priscilla Bawcutt for providing the location of this manuscript and Elizabeth Ewan for sharing this exciting example.

The title apparently reads “For bleding at the neiss” but this is somewhat unclear as this is a rather elaborate treatment for a nosebleed.
Wryt thir letters on ane knyff & slay ane beist with it & it sal not bleid * P * S * t * T * P * V * O * X * A * S * S * z * W * ij * iiij*
or wryt with the bluid on the forheid veronix / or on ane Woman’s forheid veronixa\textsuperscript{140}

Fig. 2.2: Charm, Bartie Patourson (1607), NRS, JC26/5/2

Several of Bartie’s cures likewise call for similar inscriptions of occult letter combinations as part of his cures. These examples do appear to be a fairly unusual format for Scotland—or at least, we have few other extant documents that so clearly involve textual charms.\textsuperscript{141} Nonetheless, this case does serve to illustrate the conviction that words, whether written or spoken, held the power to both heal and harm. In order for the magic of the charm or spell to be activated, words were a key ingredient.

What Shall ‘Come to Pass’: Prophecy and Divination

As we have seen, the words of witches were believed to have the power to both heal and harm. People sought the help of reputed witches for cures for themselves, their livestock or their loved ones, but they also understandably feared their curses which could deprive a person of wealth, health, speech, or even life. Verbal acts in particular were feared and used as evidence in the trials, including the act of predicting what would “come to pass.” Having foreknowledge of

\textsuperscript{140} NRS, JC26/5/2

\textsuperscript{141} An English manuscript (dated 1622) appears to contain a number of charms remarkably similar to those contained in Bartie’s handbook and deserves further comparison and analysis (Oxford, Bodleian Library MS e Museo 243 (Summary Catalogue 3548)). For a partial transcription and analysis of this manuscript and the interplay of spoken, physical, and ritual elements, see John C. Hirsch, “Credulity and Belief: The Role of Postconditions in the Late Medieval Charm,” \textit{Preternature} vol. 1, no. 1 (2012): 130- 146.
future events was considered another clear mark of witchcraft and was a dangerous charge to face—particularly under a Calvinist regime founded on the premise of predestination. Predictions of what might be could be as simple as hazarding a guess about the future, but if that guess came true, it could be taken seriously by the court. James VI argued that those who claimed to have the power of prophecy, especially the ability to predict whether or not a person might live or die, ought to be punished more severely than other witches. While such prophets were themselves deceived by the Devil, he argued, they were still more culpable than other witches in perpetuating that deception in others: “I think it likewise as possible that the Devill may prophesie to them when he deceives their imaginationes in that sorte, as well as when he plainely speakes unto them at other times for their prophesying, is but by a kinde of vision, as it were, wherein he commonly counterfeits God”; he goes on to say that these sorts of witches, who presume to prophecy, “ought as seurely to be punished as any other Witches, and rather the more, that they goe dissemblingly to worke.”

Consequently, expressing knowledge of the future, by accident or by design, was considered a grave and transgressive act of witchcraft. Agnes Sampson, for example, was considered to be the greatest and most feared of all the witches accused in North Berwick in 1590. It is not a coincidence that she was also well-known for her powers of prophecy, and her foretelling of the future was used in many of the counts against her in her trial, especially in prediction of a patient’s living or dying. This was also the case in 1650 when Agnes Johnstoun approached Bessie Grahame, who was reputed be a witch, regarding her child’s illness; after muttering some “speiches” Bessie reportedly told Agnes “that the child was seik and wald not

142 James VI, _Daemonologie_, 75-76
Leive and it provit so and the child died presentlie."\textsuperscript{144} Even if these words were no more than the educated guesses of a skilled healer (or an observant bystander), the prediction of death could potentially prove fatal to the speaker as well.

Prediction of survival was no less serious. In Kirkcaldy in 1633, Janet Sanders deponed that she had been crying because she was worried that her husband had been lost at sea when William Coke, her father-in-law, came in and said to her, “What ails thee? Thou wilt get thy gudman again, but ye will get him both naked and bare.” And although there had been no word of the man for a long time before that, he came home two days later “naked and bare as he said; the ship wherein he was being casten away.”\textsuperscript{145} Many of the charges against William revolved around his ability to foretell (or perhaps cause) the sinking of ships. Similarly, his wife, Alison Dick was also believed to have the power of prophecy. When Jean Adamson was told to give up hope of ever seeing her husband again after a long time without word of his ship, she wept:

The said Alison Dick came in to her, (she with her bairns being weeping), and said What ails ye Jean to weep? She answered, We all have good cause to weep for my husband, whom we will never see more. The said Alison said, hold your tongue, your gudman and all the company are well enough; they are in Norway loading their ship with timber to come home, they will be here shortly. And so it fell out in every point as she said.\textsuperscript{146}

In predicting the survival of these husbands lost at sea, both William and Alison revealed themselves to have knowledge forbidden to earthly mortals. Add to this their constant flying and cursing in the community, and they both developed a reputation for witchcraft and were tried and executed in 1633.

\textsuperscript{144} Truckell, “Unpublished Witch Trials,” 357.
\textsuperscript{145} David Webster, \textit{A Collection of Rare and Curious Tracts on Witchcraft and the Second Sight with an Original Essay on Witchcraft} (Edinburgh: 1820), 115-116.
\textsuperscript{146} Webster, \textit{A Collection of Curious Tracts}, 116.
Prophetic speaking not only revealed the witch’s foreknowledge of events, but was also seen as having a specific effect on the future. This was especially true in places where malice and anger seemed to play a role in the witch’s speaking. Henry Wallace, for example, complained that he had been wronged by Barbara Cunningham, and his wife deponed that “being in wrath” against him, she “foretold…in a threatening way” that Henry Wallace should die a beggar, which “afterwards came to pass.”\textsuperscript{147} In another case, Issobell Halden had reason to resent Stephan Raye, who caught her stealing beer from the house of Balhoussie; when he brought her back, she allegedly clapped him on the shoulder, saying “Go thy way! Thow sall nocht win they selfe ane bannock of breid for yeir and day!” When Stephan wasted away from that point on, he attributed it to Issobell’s speech: and “as scho threttinit, sa it cam to pas.”\textsuperscript{148} Even when such predictions were used to positive effect, it could still be used as evidence of witchcraft because the individual was seen to have influenced the outcome. When Tibbie Smart was consulted by Robert Allan as to why all his sheep had died that year, she replied that he ought not to vex himself as the devil would leave his flock that year. When his flock survived the next year, Tibbie’s prediction was observed to have “come to pass,” which was used as evidence of her practice of witchcraft and sorcery.\textsuperscript{149} The efficaciousness of the witch’s words is revealed in the phrasing “and so it came to pass,” implying not only knowledge that something would happen, but also suggesting that the witch herself had played a role in its coming to pass.

In some cases, the evidence of foretelling submitted in a trial might seem less prophetic than observational, but was still interpreted as indicative of witchcraft. In the dittay against Thomas Leyis, for example, his “concubine” Elspeth Reid testified that he had met her one night in the house behind the Tolbooth to bring her tidings that she was with child. Since she herself

\textsuperscript{147} NRS, JC26/26/1
\textsuperscript{148} Pitcairn, Ancient Criminal Trials, v. 2, p. 2, 537.
\textsuperscript{149} NRS, JC26/1/13
had no idea at this time that this was so, she was astounded to hear from him specific details, including the time and date that the child was conceived (for which he was presumably present), as well as the gender of the child and the date of its future birth, all of which came to pass. His apparent foreknowledge of future events was taken quite specifically by the Assize to be evidence of the will of the Devil “in respect God hes nocht gevin nor grantit to trew Christians sic secreitt and his misteries to knaw; bot ar reservit to his hevinlie providens.”

Here the assize states quite clearly exactly how acts of prophecy—even ones as unlikely as this one—inflicted on the natural order. Knowledge of the future, when it was perceived to “come to pass,” could only be interpreted as an act of witchcraft and the Devil since none but God could know what was yet to come. Divination and prophecy, therefore, was seen as the willful usurpation of God’s authority and a disavowal of his predestined plan for humanity.

**Conclusion**

In the case discussed at the beginning of this chapter, Margaret McWilliam was charged with witchcraft due to her ill repute and conflicts with neighbours, but most especially because “The evil quhilk she threatened to doe and came to pas.” Through her quarrelsome habits and scolding behaviour, she found herself in situations where words could be interpreted as weapons. While it is uncertain whether or not Margaret thought of them as such, it appears that her neighbours believed in their power to do harm; that such performances of speech formed the majority of the indictments in her trial certainly indicates that the assize could interpret them as evidence that witchcraft had occurred. Indeed, the frequent appearance of charges like these in many witch

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150 MSC, v.1, 99.
151 This was particularly true when no earthly or heavenly agent—such as in the arts of astrology or turning the riddle—was used or identified.
trials suggests that these were the qualities and acts most closely associated with witchcraft in the eyes of both the populace and court officials.

However, it is important to note that not all such speech acts were interpreted as witchcraft. As we have seen, charming was considered a category distinct from witchcraft and was rarely punished to the same degree on its own. Scolding, quarreling, and cursing were likewise not always viewed as necessarily indicative of malefice; kirk session records indicate that those who engaged in such behaviour might just as easily be disciplined for flyting, slander, or other “abuses of the tongue.”

Even in cases where all the expected traits were present, including quarreling, evidence of malefice, specific speech acts, and healing and harming with sorcery, an assize might still pronounce the defendant not guilty and cleanse him or her of the charges against them.

What appears to have differentiated common disorderly speech acts from magical ones was in their perceived efficacy. Fighting with a neighbour did not guarantee that misfortune would follow; however, when misfortune did occur—sometimes years later—witchcraft might be suspected. Similarly, charming in and of itself was not necessarily viewed as harmful because it was not necessarily viewed as efficacious. Like prayer, charming was a verbal act that many people might turn to as a means of dealing with disease, livestock, or household chores. It was often viewed as superstition or religious malpractice (which was often regarded with disapproval and targeted for discipline, but rarely punished with death) rather than as a crime. Many people might possess a magical pebble for healing sick cows, or speak a wee charm while making butter without necessarily being accused of witchcraft, but such performative rituals were dangerous if they were witnessed to be effective too often. This appears to have been especially true when charmers offered their services to others rather than keeping their charms to themselves.

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152 This will be discussed in greater detail in Chapter 4.
Accounts of healing as well as death following on the heels of a witnessed speech act might be an act of Providence, but in many cases it was seen as the power of the Devil. In speaking curses, charms, and prophecies, for good or for evil, witches subverted God’s control over earthly events; moreover, they treasonously claimed the power of efficacious speech for their own use.

It should be noted here that the process for building a reputation for witchcraft was similar for men as well as women. Suspicions were often linked to a history of efficacious words and while these did not necessarily have to be curses or quarrels, they certainly could be used as evidence. Thomas Patoun was certainly well-known for his community conflicts, as was Patrick Malcolme. Male witches might also be identified for their prophetic speeches, as in the case of William Coke who predicted the success or sinking of many ships. Healing and charming were also practiced by many men accused of witchcraft. Many of these cases featured specific words or general prayers spoken over their patients, such as in the case of Bartie Patersoun who healed his patients with potions and well water, but also used healing prayers, invoked the Trinity, and applied textual forms of magic. The fact that men regularly acted as professional healers or charmers left them open to allegations of unlawful cures. Their work put them outside the realm of the church’s authority over healing, which could lead to discipline, but also linked them to suspicious speech acts in early modern understandings of charming. In any case, efficacious speech acts of all kinds could result in a reputation for witchcraft for both men and women.

The general consensus in this period was that witches could do things, and what they did, they often did with words. Even in cases where no words were witnessed, it was still generally accepted that the vocalizations of witches had power—either actual or illusory—and could be used to identify them as servants of the Devil. Whether motivated by greed, jealousy, or a thirst for revenge, a witch’s malice was revealed in her interactions with her neighbours and identified
by her unruly disposition and combative speech. When an individual was witnessed to have made statements that came true, or cast charms or curses that were seen to have an observable effect, or quarreled or flyted followed by misfortune, that person could be suspected as a witch. The more times this happened, the greater the reputation for witchcraft; the greater the reputation, the higher the chance that the person would come to the attention of the authorities. Disruptive or unruly but not necessarily efficacious speech might also serve to draw the ire of communities and the eye of the local officials, which might in turn lead to increased surveillance and thence to future suspicions of witchcraft. In either case, speech was the most common feature that led to accusations and prosecution.

As we have seen from the accusations levied against them, witches were believed to have a wide range of abilities, with powers to effect healing, destroy property, attack livestock, appear as illusions, spoil food and drink, find lost items, turn away the evil eye and bewitchments, affect the weather, predict the future, cause disease, madness, loss of speech, and even death. This wide assortment of powers has made it difficult for historians to come to any firm conclusions as to why these individuals were targeted and seen as a threat large enough to elicit the apparent panic with which they were received. Historians have instead sometimes pointed to witches’ relationship with the Devil and their status as enemies of God, the state, and their communities as a way of explaining why the witch hunts occurred; yet this fails to fully explain why particular individuals came to the attention of authorities or how popular belief in magic and witchcraft—more or less a constant both before and after the witch-hunting period—came into play. But if we look at speech as the unifying factor in the majority of witch trials, we can begin to answer these questions and many others. In the following chapters we will examine the role of speech in the witch trials themselves in order to show that speech was a common factor in judicial and
religious definitions of witchcraft, as well as popular belief. By understanding how speech was targeted for control at all levels of society and prosecution, we can better understand how witch-hunting functioned as a reflection and reinforcement of social concerns over speech and authority.
One afternoon in 1659, Barbara Cunningham fell asleep in the Newtown yard in Ayr. An English soldier happened upon the sleeping woman and decided to take advantage of the situation by stealing her shoes. When she awoke and discovered the theft, she went to John Brown’s house, where the soldier was lodging, and declared, “I cannot gett my shoe, bot a worse sight salbe [shall be] sein about this hous eir [ere] it be long.”¹ This statement worried John, so he sent a girl to tell Barbara that she could have her shoes back as long as she offered something in exchange to the soldier; to which she replied “goe thy way home lasse, ther salbe a worse sight about your hous er it be long.” Six or seven weeks later, John’s house was on fire.

This was one of several “Articles proven against Barbara Cunninghame befor a Comitte of the Presbiterie of Ayr.” These articles, based on the depositions of her neighbours, were used as evidence in Barbara’s trial for witchcraft, the proceedings of which have been preserved in the records and process notes of Scotland’s Circuit and High Justiciary Courts. In the course of her trial, several charges were brought against her, many of which involved verbal conflicts between the alleged witch and other residents of Newtown in Ayrshire. In one such dispute, Barbara enquired after the health of a servant’s mistress; upon being informed that the woman had suffered much but was feeling better, Barbara replied that it was little that the woman had suffered in respect of how much she should yet suffer, a statement that was witnessed and “proven” by three others.² In another conflict with a sick man against whom she held a grievance, Barbara was reported to have said “the divell lett him never rise till I come and sie

¹ NRS, JC26/26/1/2
² NRS JC26/26/1/2
him,” after which the man indeed never rose again, as was “proven by three witnesses.” In these examples and others, it was Barbara’s words, as witnessed by her neighbours, which provided the basis for her reputation and accusation for witchcraft as well as the evidence used in her actual trial.

In the previous chapter, perceptions of witchcraft and magic in the popular imagination were discussed, particularly the relationship between witches and words. These ideas about what witches could do set the stage for witchcraft prosecution to occur: without belief in witches, there could be no reason to hunt them. The following chapters will examine the ways in which evidence was collected and used in these trials, both in the initial stages of investigation at the community level, and at the advanced stages of prosecution in local and central courts. As Christina Larner has argued, the “process by which a witch was made was the same as that by which she was convicted.” In other words, the incidents and conflicts that led to the building of a person’s reputation as a witch—through quarrels, curses, and other suspicious words—were often the same incidents that would later be submitted as evidence in the trial. In order to prove that witchcraft had occurred, court officials would refer to this evidence, which had usually already been collected by local officials and kirk sessions previous to the application for commission and trial. Sometimes this evidence would be deemed acceptable, sometimes not: the process by which individuals were convicted or cleansed by the assize—with its multitude of unrecorded factors—can never be entirely exposed. However, we can infer—on the basis of the types of evidence most often sought and presented in these trials—what kinds of activities and behaviours were generally considered most damning before judge and jury, and therefore how witchcraft was interpreted from a legal standpoint. As will be argued, evidence of efficacious

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3 NRS, JC26/26/1/2
speech acts was one of the most promising lines of investigation for witchcraft investigators and prosecutors.

This chapter will look at the early stages of investigation into the suspicious behaviour of potential witches. As discussed in the previous chapter, many individuals accused of witchcraft were known in their communities as reputed witches or charmers. These reputations were usually built over a long period of time—but not always. For example, sometimes an initial accusation of witchcraft would come from another convicted witch, who would often be asked to identify fellow co-conspirators. Nonetheless, it was much more common for suspicions of witchcraft to arise naturally out of community conflict and tension. Once an individual had been identified—whether by reputation, by neighbours, or by other witches—local officials and kirk sessions would become involved in investigating specific events or conflicts suggestive of witchcraft. Frequently, individuals would come under investigation for a specific incident or history of suspicious speech acts—including quarreling, cursing, muttering, charming, prophetic utterances, and more—reflecting popular belief associating witchcraft with performances of efficacious speech. Further inquiry would follow into ‘what words they spoke,’ revealing the concerns of kirk and community. What had they said? Where had they learned these words? What had happened after the words had been spoken? The direction of these inquiries reveals the important part that verbal acts would play down the line as evidence in the trial.

It is important to note that officials were interested in many kinds of suspicious activities suggestive of magical potency. As discussed in the previous chapter, witches were believed to possess many different abilities. While verbal spell-casting, cursing, spoken charms, and prophecy were strongly associated with witchcraft in the popular imagination, they were not the only powers believed to be held by witches, nor were they the only allegations investigated by
kirk sessions. Some accusations revolved around nonverbal charms, superstitious behavior, apparitions and transformation, or charges linked to fairy belief; others include suggestions of healing or harm, but which followed physical acts or cures rather than verbal ones. These variations found among witchcraft charges—which indicate a wide range of folk belief about magic in early modern Scotland—may be why the role of speech has yet to receive the attention it deserves. However, it is not argued here that witchcraft belief only featured verbal acts, but rather that verbal acts played an important role in bringing particular individuals to the attention of the authorities and were subsequently used as critical evidence in many cases.

Suspicious Speech

Initial witchcraft investigations and accusations usually began at the local level, with both the congregation and local officials playing important roles. Stuart Macdonald and Anna Cordey have both emphasized the critical roles played by kirk officials in initiating proceedings, arguing that community members, while willing to testify in court cases of witchcraft, rarely initiated the accusation and trial themselves. Instead it was most frequently local officials and kirk elders who were involved in actually initiating the proceedings: “Where there were specific accusations for witchcraft or charming to a kirk session, they almost always came from session elders rather than ordinary villagers, even though there was no shortage of witnesses once a trial got under way.” In contrast, Paula Hughes—while agreeing that religious officials were instrumental in pre-trial investigations, gathering evidence, and applying for a commission for a trial—argues that “the initial accusation or report of witchcraft in a chain of accusations came from the local

Unfortunately, many of these background events cannot be positively identified in the extant documentary records. It is, however, likely that kirk elders would have been well-informed about community suspicions, regardless of whether or not a formal accusation had been made and recorded; likewise, summonses and public disciplining of nonconforming behaviour would have kept the congregation well-abreast of any potential cases brewing. It is clear in any case that both parish leaders and parishioners played integral parts in the early stages of witch trials, with the kirk session taking a leading role in rooting out and investigating suspicious behaviour.

Words were of particular interest to kirk sessions. This was not exclusive to witchcraft cases; sessions were often heavily involved in the surveillance and regulation of disorderly speech acts of all kinds: slander, defamation, blasphemy, swearing, flying, quarreling, and other forms of verbal violence were all overseen and disciplined by the kirk. Moreover, parishioners were encouraged to report any suspicious behaviour that they observed, including disorderly words, to the minister or session elders so that they could interrogate the nonconforming speakers before the congregation. This scrutiny of verbal behaviour played an important role in bringing cases of witchcraft to light.

In January 1602 in the parish of Dundonald, for example, Margaret Forgushill was called before the kirk session to account for some suspicious words she had spoken to Kathrein.

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Makteir: “beand inquyrit quhat were the wordis that scho [Margaret] spake to Kaithrein
Makteir…at lenth confest that scho askit hir kyis [cow’s] milk at the said Kaithrein for Goddis
saik.” These words, part of a fairly common anti-bewitchment charm, caused a high degree of
alarm amongst the kirk elders, who enquired where Margaret had learned such language. Margaret at first refused to answer, but later admitted that she had been taught to ask in such a
manner by Marion Blair who had told her that Kathrein was “noch lucky” and that her mother
was “ane notit witch.” Suspecting Kathrein as the cause of her troubles, Marion instructed
Margaret to go to her and to beg her to lift the enchantment using the words recorded above. On
being questioned before the session, Kathrein admitted that Margaret had come to her and
begged her on her knees “God send hir hir kyis milk”; when the elders asked her why she did not
make a report of such suspicious behaviour, she answered that “scho wes but ane pure bodie and
could noth cum to complain to the Sessioun thairof but scho wald mak sick [such] repentance
theirfoir as the Kirk wald command hir.”

Unfortunately for Kathrein, Margaret’s impious words had brought her to the attention of
the kirk who continued an inquiry into her reputation for witchcraft. Over the next six months,
the kirk session called repeatedly for those in the congregation with any knowledge or
experience of Kathrein to come forward and report. Kathrein herself was brought up repeatedly
before the kirk elders between January and May 1602 to answer to a variety of charges,
including quarreling, healing, prophecy, and charming. Some of the charges involved specific
words or verbal formulae, such as when Kathrein allegedly told Geilis Boyd, who was in good

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11 See Chapter 2 for anti-bewitchment charms.
12 *Session Book of Dundonald*, 3.
13 Ibid.
14 Ibid., 1-15.
health at the time, that “scho wald noth lief long,” after which, “it fell out sa.” Other complaints were more general in nature regarding healing or misfortune without evidence of specific words, including her possession of an allegedly magical stone used for charming. While the session elders were certainly interested in this case, they do not appear to have sought a commission for a trial at this time, possibly because they did not feel they had enough explicit evidence of witchcraft. Kathrein appears to have dropped from the records for a while after this until her case suddenly resumed two years later, possibly due to her apparent involvement with other suspected witches in the area (Jonet Hunter and Patrick Lowrie). At this point the session summoned multiple witnesses to provide testimony against Kathrein in a single day. The end of the case is missing from the parish records, but the number of charges levied against her on 20 May 1604 seems to indicate that the session elders had been slowly accumulating evidence against her, possibly in order to seek a commission for her trial. Kathrein was also mentioned in the central court trial of Patrick Lowrie—whose case was also initially investigated by the Dundonald kirk session—where she is noted as a reputed witch, but no record of a formal trial can be found for her; by the time of Patrick’s trial in 1605 she is recorded as deceased. While Kathrein’s case initially came to light through the suspicious anti-bewitchment charm spoken by Margaret Forgushill, her own words and behaviour were likewise scrutinized as a result.

In cases like these, session officials often sought more detail, inquiring further into what ‘words thay spake’, indicating that these words were important as evidence of sorcery. This was true in both charming and witchcraft cases. As discussed in the previous chapter, verbal

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15 Ibid., 11. This phrasing is allusive of prophecy and foreknowledge of events that “come to pass.” For more discussion on this, see Chapter 2.
16 Ibid., 52-54.
17 There are eight depositions listed against Kathrein before the session records note that one folio is missing here. The tail end of a charge that appears to do with witchcraft follows this notation, so it is possible that at least another folio of charges were included, but the lack of a name in this final charge makes this conclusion uncertain.
18 Robert Pitcairn, Ancient Criminal Trials in Scotland: Compiled from the original records and mss.; with historical illustrations, vol. 2 part 2 (Edinburgh: Bannatyne Club, 1833), 478; SSW (accessed 5/2/15).
charming was much more likely to be considered indicative of witchcraft, therefore the session would often focus their inquiries on the words spoken, but also the perceived efficacy of these speech acts. Andro Ker in 1644 was brought before the Presbytery of Haddington on allegations of charming, to which he confessed. According to the preliminary investigations of the kirk session at North Berwick, investigations began when Andro and some other men were reported to have been involved in skinning and possibly charming a dead, swollen cow belonging to Andro, during which the cow apparently exploded.\(^{19}\)

They made a little cut in her belly, and first a blast of wind came out. At the next cut came a flame like the flame of brimstone, which he knocked down with his hand. It had risen about an ell [94.1cm], and he felt the heat of it. In his opinion, if he hadn’t held it down it would have set fire to the house.\(^{20}\)

Four other men attested to witnessing this sensational event, and the kirk made further inquiry into Andro’s use of charming. When Andro admitted to healing another sick ox by cutting its ear and bleeding it, the session inquired specifically if he had used any words:

Asked if he used any words of charming, he answered yes, When asked what the words were, he answered as follows: -

‘Three things are tain fra thee; the heart, the hand, and the eye maist;
There is nane can remeid thee bot the father, the sonne, and the haly ghaist.’

Asked from whom he had learned these words, he answered from his mother Isobell Waitt, who taught him to charm bewitched animals in this way, and had died eight years ago.\(^{21}\)

When these charges were heard by the Presbytery, they sought confirmation from the owner of the ox and likewise inquired further of Andro if “he had ever heard anyone say these words of cursing to him, The fire of hell be in your cow’s belly,” which he denied; they also asked him to


\(^{20}\) Ibid., 157.

\(^{21}\) Ibid., 157.
confirm “whether he had repeated the words of the charm [i.e. Three things are tain fra thee…etc.] to his own cow or not, he said that he had, but to no avail.”\textsuperscript{22} The Presbytery found these speech acts to be highly suspicious and sent orders to neighbouring ministers and elders to search for any other information about this case “in any parish or congregation near at hand or far off.” In the meantime, without further evidence of cursing or efficacious speech acts (Andro’s healing charm certainly had not worked in the case of his own cow), the Presbytery settled for ordering Andro to make public satisfaction in sackcloth for charming.

Kirk sessions and court officials were clearly interested in demonstrating that verbal acts had been used in witchcraft and charming cases, as inquiries after specific words spoken indicate. However, other disruptive speech and unruly verbal behaviour could also be inquired after. In an investigation of a “scandal” of witchcraft raised against Issobell McClartich by the Presbytery of Dunion in 1680, the session was concerned when Jean Richmond testified that it was “little wonder that her [Issobel’s] head were sair if her body were exercised as bussily as her tongue was thought for the last night.”\textsuperscript{23} The Presbytery expressed interest in this testimony and specifically made further inquiries into what Jean had meant regarding Issobel’s “bussiness of the tongue” in order to determine whether or not further investigation was needed into this complaint. On finding no additional evidence of either suspicious speech or specific effects, they instead charged Jean to make public repentance for her slander against Issobel. While Issobel may have had a ‘busy tongue’, which in popular imagination was associated with witches as well as women in general, without specific evidence of speech acts followed by an effect, no witchcraft could be proven.

\textsuperscript{22} Ibid., 158.
\textsuperscript{23} NRS, CH2/111/1/105-106
Sometimes officials expressed interest not in specific words of suspected witches, but rather in their “conversation.” In early modern usage, ‘conversation’ could be used to indicate both general interaction and behaviour as well as verbal interaction (and in some cases sexual intercourse), which is suggestive of the importance of verbal integrity in the construction of reputation in early modern Scotland. As Jane Kamensky has noted in a colonial American context:

In seventeenth-century parlance, the word ‘conversation’ referred both to verbal exchange in particular and to human conduct in general. This definition surely made sense to New Englanders; for them, speech was conduct and conduct was speech. In their worldview, “conversation” in both of its contemporary meanings—amounted to nothing less than the whole “way or course of mans life.”

This emphasis on “governing the tongue”—part of the precepts and social governance of right speaking in the seventeenth century, as well as the title of Kamensky’s book—was likewise critical in Scotland during this same time period. Being of good life and conversation, in fact, was often used as testimony to a person’s character and good behaviour, such as in the case of Mr. William Harper, who was given a testimonial from the Session of Glenbervie in 1642 and a letter of reference “testifieing of his good life and conversatioun” in order that he might serve as instructor for the laird’s children. Therefore it may not seem surprising to see kirk sessions interested in the ‘conversation’ and thus comportment of suspected witches. For example, in looking for evidence against fugitive witches Thomas Ego and Bessie Paul in 1597, the kirk elders called for the congregation to come forward if they had any knowledge, “tuiching the tryall, lyff, and conversatioun” of the suspected witches, common questions during investigations.

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25 John Stuart, ed. *Extracts from the Presbytery Book of Strathbogie, 1631-1654* (Aberdeen: Spalding Culb, 1843), 35. Such testimonials were important in Presbyterian Scotland and often necessary for movement beyond the bounds of one’s parish.
into reputation and conduct. When Elspeth Cumingis was accused of witchcraft in 1613, the kirk session conducted “ane inquisition of [her] lyff and conversation”; fortunately for Elspeth, the elders and several neighbours gave “aiths they know no thing bot guid of the said Elspet,” and she was purged of the crime of witchcraft.

In these cases, it would seem that conversation was meant to indicate general behaviour and reputation, but it could also be interpreted as general and verbal interaction, particularly in relation to the Devil or the ‘guid neighbours’—fairies, elves, and the fairfolk. For example, Issobell Halden was specifically asked by the Session of Perth in 1623 if she had had any “conversatioun” with the fairy-folk, to which she answered that ten years ago she had been taken away from her bed and dwelled under a hill with them for three days. Jonet Drever admitted to having had “conversation with the fary” twenty-six years earlier as well as having carnal dealing with them and fostering one of their children, which is allusive of the blurred line between the verbal and sexual meanings of ‘conversation’ in early modern usage. Likewise, Janet Miller’s confession in 1659 to the session and minister of Kirkliston agreed with the charge that she had “had a conversatie with the divell and had delyvered yorself over to him and that he had carnall dealling with yow for severall tymes and in severall places,” particularly at the standing stone between the Newbridge and Inglistoune. As vocal communication, sexual intercourse, and/or general reputation, ‘conversation’ as an early modern concept is indicative of the close

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26 The Miscellany of the Spalding Club, volume 1 (Aberdeen: The Club, 1841), 189 [hereafter cited as MSC]. Interestingly, this was also similar to what congregations were asked to report about their ministers during presbytery visitations.
31 NRS, JC26/27/1/6. The usage of “conversation” as a specific reference to copulation with the Devil will be discussed in further detail in Chapter 6.
links between speech, sexuality, and reputation, particularly for women. As an important avenue of inquiry for kirk and presbytery sessions, it likewise signifies the importance of one’s speech and verbal reputation when it came to investigations of witchcraft.

Having a reputation for unruly speaking, cursing, or quarreling, for example, was often an important preliminary step in building a reputation for witchcraft. As discussed in Chapter 2, those accused of witchcraft had often been previously disciplined for other illicit speech acts. The importance of suspicious verbal behaviour can be demonstrated in the frequent appearance of such verbal disputes in the dittays and depositions of witch trials. Isobel Strauchein (alias Scudder), for example, was well-known for her flying and threatening behaviour; her reputation was apparently so great that the entire parish knew of her:

The hail parochin, and in special brousteris [brewsters], smythis [smiths], and mylwardis [millers], deponis (being sworne all), that thei never hard ony guid taill tauld upone hir, bot all ewill, and mony haid gottin harme be hir, and siclyk be hir dochter, quha wes als ewill sclanderit to be ane witche as hir self, and thei to quhom thei promisit ane ewill turne (as they did to mony), thei war sicker of it. 32

The charges against Isobel include a number of instances of specific speech acts, cursing, flying, and casting charms, actions that would have played an important role in her trial and conviction. Having a reputation for quarreling and scolding was frequently associated with witchcraft, possibly because such verbal misbehaviour brought further scrutiny and investigation into the specific words used by these individuals. Establishing that words had been uttered that could be perceived to have a specific—and ideally correlative—effect was considered highly indicative of witchcraft and therefore collected as evidence to be presented later in the trial. In the dittays and depositions against Janet Miller of Kirkliston in 1661, quarrels, discords, and verbal curses formed an important part of the evidence against her. According to a deposition

32 MSC, 177.
made by James Wilkie against her, she reportedly threatened him that “before he gained on[e] schilling he should lose tua.” Many of the other charges against her list similar acts of cursing and quarreling. Falling into discord with Thomas Peacock, Janet “satt doune upon your knees cursing and imprecating that never thing myt thryve with him,” which caused his cow to conceive a great swelling beneath her eye. Similarly, being in discord with another man, she made “Imprecations against him & Threatened that he should never work… all the days of his Lyfe”; consequently he became ill and “was never able to stir out of his bed nor walk upon the ground [there]after till he dyed.” These threats and curses, along with her confession, formed the majority of the evidence against her. While the assize found her not guilty and cleansed her of her judicial confession, there are summons for another trial later that year, although it is unclear if this occurred or not.

In the case against Christian Wilson in Dalkeith in 1660, her threatening words were noted in several of the depositions against her. When James Clark came to visit Christian when her son was ill, she inquired why his wife had not accompanied him, to which he replied that his wife refused to enter Christian’s house; “Shoe thereupon with threatining words said that James Clark’s wiffe should be childles befoir schoe was, and also did sorelie threatin him self.” James’ child immediately took ill and died that same night, even though “their was none in more perfyet helth then that child was at the tym of the said Christiane her expressiones.” Christian’s threatening speeches were also seen as having caused the death of her brother. When she had a

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33 NRS, JC26/27/1/2  
34 NRS, JC26/27/1/6  
35 She appears to have been tricked or pressured into giving her confession by the bailie, which may have been why she was not found guilty. This case is discussed in further detail in Chapter 5.  
37 NRS, JC26/27/9/1; NRS, JC26/27/9/2
quarrel with her brother’s son over borrowing a pair of “branks”\footnote{Possibly ‘breeks’, or meaning a bridle.} her words were submitted both as evidence of a curse—albeit one that had not yet come to fruition—and as evidence that her words had indeed been the cause of his father’s death; “Shoe threatened him to gae home by thus and the like woords: ‘That as his father did kill himself upon the wall for calling her ane witch: so the like death sould he die, for he should die in the water’.” Thomas Davidson also deponed that Christian was the cause of William Richardson’s madness and death after she saw him throwing stones at her chickens; she “immediatelie threatin him and…told him that he should never cast another stone.” At a later date, William’s nephew was playing in Christian’s yard and calling her names, for which she “threatened that gif he held not his peace schoe would cause him die the death that his uncle died of.” This led the court to interpret this statement as evidence that Christian was indeed guilty of causing the man’s death; “whereby it wold appear that schoe tooke upone her his uncle’s death.” This was verified by two other witnesses.

Frequently it was the suspicious speech of individuals that brought them under the scrutiny of the kirk and community. Further inquiry into these verbal acts and reputations might reveal evidence of efficacious or prophetic utterances. The fact that both courts and community members associated witchcraft with these kinds of performative and efficacious speech acts led to increased surveillance of speech and further efforts to gather evidence and “proof” that witchcraft had occurred.

**Proving (or Disproving) Witchcraft**

Proving witchcraft had occurred was not always straightforward. The nature of the evidence—usually being verbal utterances or quarrels followed by misfortune—meant that in the absence of a confession, witness testimony was often the only kind of evidence available to investigators.
This reliance on the depositions of witnesses was not specific to witchcraft trials, but was likewise important in other court and disciplinary cases, particularly for verbal crimes. For example, in July 1602 in Shetland, Jhone Strand was accused of slander and evil speech, specifically for the slandering of the folk of the entire parish saying, “that thair wes nocht ane honest man within the hail parochin except thrie.”  

The evidence in this case was given by four “honest” witnesses who deponed “all in ane voice that they hard the wordis spokin”; consequently the assize declared “all in ane voice” that Jhone was to be fined three merks for every honest house and person slandered in the parish: three to the king for each honest house and three to each individual person. As with this case and other slander and speech crimes, it was important in witchcraft cases to prove that words had truly been spoken and that, moreover, they had been followed by some effect. In the trial of Barbara Cunningham, discussed at the beginning of this chapter, the articles against her include many charges of specific and implied speech acts followed by illness or misfortune. At the end of each article, it is noted that these charges were each “proven” by one or more witnesses. This suggests that collecting valid witness testimony, especially when corroborated by more than one witness, was critical to building a case against a suspected witch. The standard of proof under Scottish law was testimony from two witnesses or a confession, but in many witchcraft trials evidence given by a single witness could be included in the dittay. Whether or not the assize members would later consider these verbal acts as credible proof of witchcraft, however, was a decision that varied from case to case; in Barbara’s trial, for example, she was acquitted of the charges against her, even with multiple witnesses attesting to what they believed to be efficacious speech acts.

40 NRS,JC26/26/1
There were undoubtedly many different factors at work in “proving” witchcraft, many of which we can only guess at from the evidence of the records. The reliability of the witnesses, for example, almost certainly played an important role, as did the reputation of the accused. Obviously, the skepticism or credulity of judicial authorities would likewise play an important role, as Brian Levack and others have argued.\footnote{Brian Levack, \textit{Witch-Hunting in Scotland: Law, Politics, and Religion} (Routledge, 2008), 92-97. For more on skepticism in English courts, see J.A. Sharpe, \textit{Instruments of Darkness: Witchcraft in Early Modern England} (Philadelphia: University of Pennsylvania Press, 1996), 213-234.} It is evident that in order to counter possible skepticism, local officials did their best to find as many reputable witnesses as possible to demonstrate that the case at least warranted a commission and trial. In an inquiry into Johne Rind’s case, heard before the kirk session of Elgin in 1661, several neighbours attested to Johne’s reputation and success in healing and charming. Several of the dilations include examples of specific acts of speech, such as when Thomas Gray deponed that John and his wife both “did most fearfullie curse” him after he sold them a horse that weakened and died, and that Johne had said “he sould mak him repent” his speeches when Thomas told him he had ruined the community; subsequently Thomas, his horse, and his family had all fallen ill and suffered many other misfortunes. Both John and his wife “denied cursing but Andrew Nicoll witnes proved it.”\footnote{Records of Elgin, 296.} Proof of verbal acts was a critical part of the case against Johne, and the testimony of Bessie Alwas, a key witness, included many details and reports of specific words spoken by Johne. She also alleged he had caused her own loss of speech after she saw him in the company of a man dressed in black. Bessie was summoned before the kirk session and asked to affirm her deposition before Johne; however, he refused to “admit her” or her testimony in the inquiry on the basis that “she was both ane houre [whore] and ane theife.”\footnote{Ibid., 297.} When the session pressed him, he admitted he had met a man in a black cloak, but claimed that he had merely been a man...
asking for directions to John Bruce’s house, which he was given. However, by casting doubt on
the reputability of Bessie’s speech, John attempted to defend himself from her charges. The
session—unclear on whether to believe the words of a notorious charmer or an alleged whore—
referred the case to the Presbytery who found John and his wife guilty of charming rather than
witchcraft and sentenced them both to stand in sackcloth at the pillar, thereafter to be banished
by the town magistrates. While John’s verbal acts were an important part of the charges against
him, he was able to deflect some of the charges by using his own speech to suggest that Bessie’s
words were untrustworthy. Thus, finding reputable witnesses was critical to building a case,
particularly when it could be used to prove that powerful words had been spoken.

Requiring individuals to swear “upon their oath” that they had indeed witnessed the
specific acts and words of suspected witches was one way that officials shored up the reliability
of their evidence. Again, this reflected established judicial practice in other medieval and early
modern courts, but it also highlights the importance of both reputation and speech acts as
evidence in these trials. For example, the oaths of witnesses were specifically emphasized in the
Kirkcaldy kirk session’s inquiry against Alison Dick and her husband William Coke in 1633.
Many witnesses gave depositions against the two. William Kerkie, for example, testified he had
witnessed Alison confront Robert Whyte, who had “once striken William Cok.” During this
confrontation, she “said Wherefoir have yee striken my husband I sall caus thow rew that, The
said Robert replyeing What says thow, I sall give yow als much, away witch, She ansrit witches
tak ye witt and the grace from yea.” That same night he was rendered “bereft of all his witts.”44

In order to verify these words and their effect, the kirk session sought confirmation from other
witnesses, such as Jonet Whyte: “Jonet Whytt dochter to ye said Robert Whytt speiring
[questioned] affirmed the forsaid dittay to be true.” Inserted above and at the end of this

44 NRS, CH2/636/34/283
sentence, “upon hir oath” is overwritten in a dark, heavy hand. This suggests that the kirk session and/or clerk sought to emphasize the legitimacy of the testimony and evidence after the fact, either by requiring an additional oath, or by highlighting the serious and sworn nature of the testimony. This same statement is appended to the second part of Jonet’s declaration. Here she states that when she reproached Alison for causing her father’s illness, Alison demanded payment to remove the curse, saying “let him pay me then, & he wilbe the better and if he pay me not he wilbe the wors, for thair is none that does me wrong bot I goe to my god and compleans wpon them and within four and tuentie hours I will gett amends of them.” Following this sentence, “qlk she ansred upon hir oath” is written in a darker hand and ink, continuing into the marginalia of the next line. In the final part of Jonet’s declaration, she accused Alison of threatening and cursing her servant, Agnes, causing her a great pain in her leg. This statement is affirmed not only by her own oath, but by the “great oath” of Agnes: where it is added in darker hand and ink “qhilk the said Agnes Fairlie depond upon hir greate oath to be true.” These notes, which clearly have been added after the initial writing in heavy, emphasized handwriting, indicate that these oaths were critical to the testimony being seen as credible in the eyes of the assize that later tried her. While oaths were judicially important in trials and investigations of all kinds, they are particularly notable in witchcraft cases where witness testimony was so fundamental to the case; moreover, the solemn and performative nature of such swearing is allusive to the importance of ritual speech acts of all kinds in the trial of suspected witches.45

If the oaths and testimony of neighbours could be used as evidence of witchcraft, so too could they be used to prove a person’s innocence in certain cases. Finding others to swear to the honest life and character of the accused could be used as a defence, such as in the case of Elspeth Cumings in Elgin, mentioned earlier in this chapter, who was acquitted based on the oaths of

45 To be discussed further in Chapter 7.
several people saying they knew nothing but good about her.\textsuperscript{46} Similarly, people accused of witchcraft before the Sheriff Court of Shetland could attempt to prove their innocence by finding a certain number of people to swear an oath attesting that the accused was, in fact, not a witch. If they were unable to find enough people willing to testify on their behalf, other punishments would be allotted, often in the form of a fine. For example, in 1603 Mareoun in Houle was accused of sending bewitched milk to Mareoun in Uverasound; as a result, she was ordered to find “larycht aithe”—which meant she was required to find two people prepared to swear an oath that she was not a witch—or else to pay two merks as punishment for practicing witchcraft.\textsuperscript{47} Variations on this ‘aithe’ involved different numbers of people required to provide them: the greater the offence, the greater the number of oaths needed. For example, Nicole in Culysetter was charged with turning of the sieve and shears [a divination practice for finding lost or stolen objects], for which he was ordered to provide the “saxter aithe” and find six people to swear to his innocence or pay a fine of six merks for his crime; the higher number of oaths required in this case suggests that divination was taken more seriously than sending someone bewitched milk.\textsuperscript{48} Shetland, with its close ties to Scandinavia, was more likely to incorporate older Norse judicial methods, such as in this practice which also resembles medieval procedure. Additionally, these cases were heard before a secular court rather than a church court, which may account for some of the differences in procedure. Witchcraft prosecution was also comparatively sparse in Shetland during the witch-hunting period, possibly due to court practices such as these which allowed character witnesses as well as eye witnesses. Nevertheless, these examples indicate the importance of oaths sworn before the court—another form of speech act as judicial evidence and defence—in both secular and ecclesiastical courts across Scotland.

\textsuperscript{46} \textit{Records of Elgin}, 137.
\textsuperscript{47} \textit{Court Book of Shetland}, 22.
\textsuperscript{48} Ibid., 30.
In some cases, it was the oaths of the suspected witches themselves that were required to prove their innocence. In 1617, the kirk session at Elgin ordered Janet Farquharson to “gaif aith that scho did Kartell Kelly no wrang by witchcraft nor sorcery and nather sall do heirefter.”

Later the session seemed less easy with this solution, although they allowed it in certain circumstances. In 1629, Alexander Stonoche, who was ill, suspected Katherine Norie of cursing him so he:

required hir oath whether or no scho curseit him willinglie or for what cause, but the Sessioun thought that the pairtie is nocht holdin to swere to hir awne hinderance in any actioun against hirselffe, bot scho willingllie sayis that scho sall go home to his hous and say before him that ony ill scho wold have cuming upon him that it returne back upon hir selffe, schewing that scho bearis no ill will towards him.

Here, the session appears to have worried that by agreeing to take such an oath, Katherine might be forced to implicate herself as a witch. Katherine neatly avoids this trap, not by denying the curse, but by swearing that if she had done such a thing, the harm would be redirected to land upon herself. This is a very interesting case that demonstrates the critical association of witches with efficacious speech. To the parties involved, if Katherine were a witch, then her speech clearly would have a specific associated effect, in this case redirecting the harm of the initial curse back on herself. If she was not a witch, however, then neither speech performance would have an effect and therefore no harm would follow. By agreeing to this plan, Katherine was able to demonstrate to the session and Alexander that her words were not efficacious; if they were, then she would never agree to take such a course of action, or alternately, would suffer the consequences thereof. Consequently, Katherine obviously could not be a witch, and the session ultimately found her oath acceptable as proof of the absence of malefice.

49 Records of Elgin, 152.
51 This redirection of a curse back on the initial speaker is reminiscent of anti-bewitchment charms, which functioned in much the same way. See Chapter 2.
In other cases, however, the oaths and testimony of accused witches were seen as more suspect. On 25 September 1644 at a meeting of the Presbytery of Strathbogie, “it was enquyred by one of the brethren if it be lawfull, for alledgit sorcerie, to tak the suspect persons oath, qhilk was alledgit to be the practise of some brethren within the province. The brethren thoght not such courses lawfull; referred the consideratioun heirof to the provinciall.”52 This entry is revealing of the uneasiness over whether or not the testimony of witches ought to be allowed as legal evidence in their trials. The reliability of a witch’s words as submissible evidence remained a point of contention for much of the witch-hunting period. On the one hand, as servants of Satan, witches were associated with all types of heretical and blasphemous speech, including falsehood; therefore their words could not be trusted. On the other hand, the testimony of witches—against themselves in the form of confessions, or against others when being asked to identify their fellow diabolical conspirators—was fundamental to their conviction and was sometimes the only evidence the court was able to collect against them. For the most part, the testimony of witches, against themselves and against others, was usually considered acceptable to the courts, but it was better if this could be supported by additional evidence.

As kirk sessions interrogated the accused and other witnesses, they sought evidence of efficacious speech. However, this allowed some individuals suspected of witchcraft—at least female ones—to argue that their words had had no intended effect, but rather they were merely the usual acts of verbal violence that women were prone to make. Lauren Martin argues that quarreling can be seen as a kind of ‘verbal work’ that most women during this period participated in: “This type of verbal work seems to have been so common that it was often used

52 _The Presbyterie of Strathbogie_, 60-61.
in witchcraft defence arguments to explain the suspect’s aggressive behaviour.” These kinds of “passionate speeches” and aggressive verbal acts were common enough among Scottish women at this time, as prosecution and punishments for scolding and other disorderly speech crimes can tell us. For example, in defence of Issobell Young in 1629 (discussed further in chapter 5), her advocate argued that the curses and threats she uttered were not witchcraft, but rather the “passionate speiches quhilk mycht be usuale to wemen,” especially, “ane irritat and cholerik woman,” such as Issobell. This defence approach suggests that at least one option for accused witches was to argue that their curses and imprecations were merely the words of women, not the acts of witches.

On the other hand, sometimes it was the drunk and disorderly words of men that brought them to the attention of the authorities. On 3 March 1631, David Duff was brought before the kirk session for slander. He had visited Isabel Hunter late one night and went and looked upon her husband—who was presumably ill at this time—by the light of candle, saying “the picture of death is in his face.” He added that if her husband lived three more weeks, he would live three hundred more years. Unfortunately for David, his words—which were probably meant merely to indicate a low likelihood of her husband’s survival—were perilously close to the predictions of witches. Isabell, offended, said “David, are ye a witch, that ye can discern upon life and death, and time thereof?” He answered, “You and your mother have witched him to lie pining in his bed till he die,” with “sundry other speeches, most slanderous, both against her husband, herself, and mother,” and others. He was kicked out of the house “by violence” still uttering his slanderous

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55 “Kirk Session Extracts,” in The Chronicle of Perth: A Register of Remarkable Occurrences Chiefly Connected to that City, From the Year 1210 to 1668 (Edinburgh: 1831), 94-95.
speeches. And so she pursued the case before the session, arguing that he was guilty of the highest degree of slander against them. He was summoned and confessed to the charges, although he tried to excuse himself on the basis that he had been overcome with drink. As a result, he was warded and fined for slander. Here we see David react to the suggestion of witchcraft by reversing the accusation back onto Isabel. Isabell then protected herself by filing a slander suit, but also by implying that David’s words were clearly suggestive of prophecy and witchcraft. When he was brought before the session, David blamed his malicious words, not on his quarrelsome nature, but on the evils of liquor, thereby actively attempting to undermine the apparent danger of his disorderly speech. This demonstrates that both men and women had options available to them to undermine the perceived power of their speech. Women could argue theirs’ were the usual (although disorderly) speeches of flyters, scolds, and shrews, while men might defend themselves by ascribing their slanderous words to drunkeness or other disorderly acts expected of them. While these arguments might in actuality apply to either sex (women over-imbibed from time to time and men also quarreled), it was more common and more effective to claim the contingent conditions of one’s gender.

Rather than denying the power of their speech, other accused witches denied they had said anything at all. On being questioned about several allegations of witnessed curses and speech acts, Margaret McWilliam in Bute denied that she had ever “spok such words.” 56 Similarly, in 1661 Margaret Murray denied the words attributed to her during a quarrel with Alexander Cuik; “Margaret Murray denyes that she said she wald make him repent it,” a threat that reportedly caused his illness. 57 Likewise, in cases of charming, the denial of speech could also be used as a defence. In Haddington in 1648, Issabell Smith in Newmilnes was brought

57 Records of Elgin, 299.
before the kirk session on charges of charming. She confessed that she had approached Agnes Andersone for her help curing her child who was ill, and that Agnes had ‘turned’ or taken the child around an oak tree two times. However, Issabell claimed she had stopped her before the third time because she was afraid, so instead Agnes had the child taken through a pair of barn doors and flipped him or her over three times. When Agnes was brought before the session, she attempted to defend herself by saying that while she had participated in these rituals, she “denied that she uttered any words.”\textsuperscript{58} The fact that no words appear to have been reported in Issabell’s initial report suggests that the kirk session inquired specifically into them on their own, demonstrating their interest in words in cases of suspected sorcery. The case was then referred to the Presbytery where Issobell was sentenced to appear in sackcloth the next Sunday as punishment for consulting a charmer, while Agnes herself was charged to wear sackcloth for the next week. Without definitive proof of spoken words, no further prosecution was pursued. Denial could therefore be used to downgrade or restrict charges to simple charming or to avoid accusations of witchcraft altogether. Much like the ritual unsaying of an insult in reparation for defamation or slander, the denial of one’s words could conditionally improve one’s standing before the session and community. However, if accepted by the session or court, denial was arguably more effective in that no words had to be taken back in order for resolution to occur—although other disciplinary measures might still be necessary.

Sometimes denial on its own was insufficient for protection, however. Jonet Anderson, who had previously been admonished by the Stirling Kirk Session for charming (which she denied), was brought up again four years later before the Presbytery in December 1621. This time she confessed that she had charmed Patrick Mungwall’s wife’s sark by putting “hir handis on it and said thir wordis, ‘Three bitter thingis hes thow bittin, ill hairt, ill ee, ill toung all meat;

\textsuperscript{58} Robertson, \textit{Goodnight My Servants All}, 73-74.
When pressed, she admitted to using this healing charm on several other occasions, but repeatedly denied she knew any other words for charming. Dissatisfied with this answer, the Presbytery called her to appear the next week, at which time she again denied: “that she usis ony uther wordis in hir charmis” besides the charm she had already confessed: “Nevertheless she confessis that she charmit ane bairne of Johte Levingstone, callit Johnne, in the Haining be saying of thir wordis on his sark. ‘He that made the of flesh, blude and beane, restore to the thy hail againe’.” This additional evidence of verbal charming led to further inquiry into her words and actions. Witnesses were called to attest to Jonet’s charming and asked to add other details of suspicious rituals and predictions. The Presbytery expressed particular interest in her ability to know things unknowable, demanding of her how she had known a baby in Falkirk would die, or that all would be well in Patrick Mungwall’s house. For example, when she confessed to knowing John Wardane’s sister would die, she said she knew it was so because John had told her that the woman was swollen, but he denied every telling her so: “quhilk narratione he affermis that he nevir spak to hir.” Jonet repeatedly denied her powers of prophecy or else refused to answer. The Presbytery, frustrated by her lack of forthcoming information on her foreknowledge, pressed her further on the words of her charming:

And albeit she hes obstinatlie denyit that she usit any uther wordis in charming nor thais set doun of befoir yit quhen it was avowit in hir faice she confessis that she said in thir wordis in the charme, “Earthles king and earthles queen, God let the nevir gait rest in kirk nor christiane beireis quhill that restore this woman Jonet Wilsone to hir heall againe, in name of the Father, the Sone, and the Holy Ghost.”

59 RPC v. 8, 2nd series, 345.
60 Ibid., 346.
61 Ibid., 347.
62 Ibid.
She also confessed to bidding Patrick to “keep it quyet,” suggesting she was fully aware of the danger posed by such speeches. The end of this case is not recorded and there is no extant commission, but it appears likely that the interest exhibited in Jonet’s words would have led to further inquiry and a trial for witchcraft.

Words could be denied, but the kirk sessions and presbyteries could overcome this defence if witnesses could be found to prove that efficacious or prophetic words had indeed been spoken. In the absence of witnesses, however, the original accusation could potentially rebound back on the pursuant. For example, when Margaret Foragusgill (mentioned earlier in the case of Kathrein Makteir), accused Agnes Lyoun of suspicious words and witchcraft in 1602, Agnes denied ever having spoken the words attributed her by Margaret; “[Agnes] declaired upoun hir aith that scho had not spoken to the said Margaret as scho reportit of hir to the minister.” Having no additional proof that Agnes “spak thay wordis” the Session found “the said Margaret a lyar,” and Margaret was punished six months later for slandering Agnes as a witch.63

Witchcraft accusations were taken seriously by both courts and communities; consequently, when witchcraft could not be proven to have occurred, the accusers were frequently punished for slander or defamation. Indeed, accusing another as a witch before the kirk session was much more likely to result in slander charges than lead to actual witchcraft prosecution. In Shetland, Garthero Jhonisdochter was found guilty of wrongfully slandering Bessie Boy, who she accused of bewitching her cow’s milk in 1604; her accusation backfired when it was proven that it was Garthero herself who had long been reputed and suspected of witchcraft herself, and therefore the court reproved her for slander and absolved Bessie of any association with witchcraft.64 In a case in Stirling, a woman accused her neighbor for taking

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63 *Session Book of Dundonald*, 1-2, 21.
64 *Court Book of Shetland*, 122-123.
away the milk of her father’s cow; however, when she was unable to prove that this had happened, she herself was charged with slander and punished for idolatry and superstition.\textsuperscript{65} Charging another with witchcraft without specific evidence was clearly a dangerous business.

Pursuing slander litigation was therefore one way to protect oneself against accusations of witchcraft. In a sense, this was protection against another kind of powerful speech. Being called a witch did not necessarily make one so, but repeated insinuations among the community could eventually lead to a reputation for witchcraft, which could obviously have very negative consequences. By charging their accuser before the kirk session with slander, these women sought to reverse and disempower such injurious allegations. Indeed, in this format it was the words of the slanderer which could then be scrutinized and punished, negating the effects of the slanderous speech that might otherwise negatively harm the tenuous reputations of these individuals. The subsequent act of public apology and forgiveness was important both to remove the taint of witchcraft from the pursuer and to renormalize the speech of the slanderer, reintegrating both back into godly society.\textsuperscript{66} These apologies did not always go smoothly, however. In 1640 in Aberlady, David Baxter was charged with slandering Marioun Taillyeor as a witch and ordered to publicly beg her forgiveness. When the case was heard before the session, however, Marioun’s speech was also reprimanded by the session when she not only refused to forgive him, but with “wicked and unchristian words in our church,” she cried “in great fury and devilish temper, in the presence of the whole congregation, ‘Lord, let God never forgive him!’” with many other wicked words.”\textsuperscript{67} She was later required to make repentance for this shocking behaviour and asked forgiveness of the session and congregation.

\textsuperscript{66} Ewan, “Tongue, You Lied,” 117-119, 127; Margo Todd, \textit{The Culture of Protestantism}, 250-251.
\textsuperscript{67} Robertson, \textit{Goodnight My Servants All}, 68
Pursuing a slander case, however, was not always sufficient to keep the original accusations from sticking. In Corstorphine in 1649 there was a series of witchcraft investigations conducted by the kirk session between May and September. The initial case that apparently set these inquiries into motion was that of Beatrix Watsone who brought a complaint of slander against Mr. James Chalmer, the schoolmaster, for calling her a witch. However, once this allegation was brought to the session’s attention, they felt it necessary to investigate further into her reputation. They called upon the congregation for anyone with knowledge of Beatrix’s doings to come forward and testify, which many did. Many of the encounters described by the deponents involved suspicious words and speech acts, which the session inquired into further. In one dispute over a debt, Beatrix allegedly said to the husband of a woman who owed her money, “If I gett not that silver from your good wyff…It shall be blak silver to hir.” The session inquired further into this, and “being asked if she spake these wordis at the first denyed” that she had, but upon being confronted by the woman in question, “confessed that she said al[l] bot not out of malice.” When she was further asked how she could make silver black, she gave no answer.

Several of the other charges against Beatrix include reported words or speech, prayers, or overheard mutterings where the words were not known. Jeane Brown, for example, fell ill after flyting with Beatrix, with symptoms including loss of speech and being unable to move either hand or foot. Beatrix was sent for and she uttered “some wordis” that were not overheard, but then she “said thryce God send thee thy haill Jeane Broun and thy tongue both, for…I have bein praying all night for thee and I know thou will gaite thy haill.” Then, “after the speaking of these wordis” Jeane reached out her arm, which she had been unable to do before, and there was a great crack and something like a black rat leaped out of the bed while the bedstead shook. Jeane then fell back asleep and when she later awoke, her tongue and health were restored to her. In

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68 NRS, CH2/124/1/31-33
one of the final charges against Beatrix, it suspiciously appeared that she had predicted her own arrest and death. It was alleged she had said to her husband one morning, “Lye still a whil with me for this will be the last fryday that ye will ryse from my syde.” Upon “being asked if that was true or not,” she at first denied saying these words, but then she was told that “hir husband had spoken it to Robert Scott his brother,” she answered “It is true I said it.” They then asked her how she had known it would be so, before any accusations of witchcraft had been filed against her, and she replied that “if her enemie gatt there will over hir it would be so.” While she had not yet officially been accused as a witch by the session, she had at that point filed her slander complaint and she may have been worried about the outcome of such an investigation, or of the reports of her “enemies”. Indeed, the session notes that the Friday before her apprehension she had approached those she suspected of testifying against her, which the brethren interpreted as “verie suspicious” behaviour. They asked that she be held in prison until her further trial could be arranged, but once she was left alone in her cell she hanged herself—a very sad confirmation of her earlier prediction.

Nothing daunted, the Corstorphine session immediately began an inquiry into the words and deeds of another suspected witch, Maggie Bell. One witness claimed that they had heard it said that Maggie was not worthy to dwell among her neighbours “because she gatt ane ewill word.”69 As with Beatrix, the kirk session was deeply concerned over reports of her ill speech, including specific words and threats spoken and examples of specific verbal cursing. However, unlike Beatrix, Maggie was interrogated and ultimately confessed to renouncing her baptism and being a servant of the Devil. In addition, she named several others as fellow witches who were then likewise investigated by the session, setting off a chain of accusations and confessions that

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69 This is a fairly unusual phrasing. It was more common to say that a witch had an “evil eye”, or alternately that they were of “ill voice and fame,” referring to a poor reputation. It is suggestive here, again, of the close relationship between evil words and witches. NRS, CH2/124/1/34.
frequently involved the Devil, but also suspicious acts of efficacious speech. These cases provide an excellent example of how inquiries into “words spoken” could ultimately lead to charges of diabolical conspiracy at later stages of the trial. More importantly, they demonstrate the keen interest of kirk sessions and communities in associating speech acts with potential witchcraft.

Conclusion

During this period, words were a constant source of concern for kirk and community. Disruptive speech posed a danger to the social order. Quarrels and flyting disrupted the peace of communities and defamation or slanderous speech could ruin the reputation and lives of those who experienced their sting first-hand. Disorderly speakers could be reintegrated through proper penance, apology, or litigation, but it was important that all speech be monitored to ensure proper behaviour and ‘conversation’. This constant surveillance ensured that suspicious speech acts of all kinds would be investigated by the kirk, including witchcraft which was already associated with speech in popular imagination. Suspicious utterances, suggestive of prophecy, healing, or harm, led officials to question what “wordis thay spake,” seeking evidence of both utterance and effect, which then played a critical role in the application for trial and conviction. Reliable witness testimony was critical to “proving” witchcraft, but so were the words of the witches themselves. The following chapter will look at the next stage of the initial inquiries of the trial, interrogation and confession, in order to show how the words of alleged witches, as well as those of witnesses, were used as evidence in their trials.
CHAPTER 4:

Confessing Witchcraft: Evidence of Witchcraft, Part 2

The curious sameness of the confessions of the parties accused can only be accounted for by the presence of certain ideas of the nature of witchcraft in the minds of the ministers and others who were their examiners-in-chief. They framed the questions, and they or their notaries also shaped the answers into substantive confessions. Though the questions and answers do not usually appear, they have been in some cases partially preserved by the notary; and in other instances, in which the answers only are recorded, they are worded in such a manner as to show clearly that they are not the spontaneous utterances of the persons under examination.¹

Joseph Anderson, LL.D., Keeper of the National Museum of Antiquities and Assistant Secretary of the Society of Antiquaries of Scotland (9 April 1888)

The last chapter examined how the witness testimony of neighbours, frequently featuring the witch speaking in suspicious circumstances, played an important role in identifying and convicting witches. While this evidence was certainly critical to initiating prosecution, it was also only part of the picture. Another major form of evidence sought in investigations were the confessions of the witches themselves. While these confessions rarely preceded community suspicions and criminal investigations for witchcraft, they were nonetheless a vital part of the trial process. The process of interrogation usually preceded the actual trial and the subsequent confessions were often required for the application for a commission; indeed, as scholars have pointed out, it was rare to obtain a commission for a trial, let alone a conviction, without a confession.² Once a confession had been made, these statements were used to form part, if not all, of the indictment and formal charges used in their trials. Scottish ministers and local officials therefore diligently sought these declarations as evidence that the individual was in fact a witch.

Furthermore, it was critical to the success of the prosecution for these confessions to conform at least in part to the legal parameters for witchcraft.

We have seen how kirk and court investigations suggest that officials were particularly interested in the words of witches. Indication of disputes or quarrels followed by misfortune, or the suggestion of healing following mumbled or audible speeches and charms, frequently constituted a critical part of the evidence collected against accused witches in the form of witness testimony. Interrogations and confessions likewise reveal the interrogators’ interest in the efficacy of witches’ verbal powers and malefice. Suspected sorcerers were often asked explicitly how they had performed their acts of healing or harm, seeking specific details that supported the personal involvement of the accused as well as adhering to collective concepts about performances of magic. As both demonic and popular stereotypes of witchcraft involved spoken spells and verbal magic, interrogators often encouraged the accused to confess the specific words that they had spoken. In addition to acts of malefice, officials often inquired specifically into the witch’s relationship with the Devil. Indeed, as other authors have argued, the one necessitated the other; without the Devil, the witch herself had no power.³

This chapter will focus on the construction of the confession, showing how interrogators and other officials sought to mold these narratives in order to fulfill the necessary requirements to prove witchcraft had occurred. While local officials were often involved in these early interrogations, the resulting confessions were incorporated into both local and central cases, and are preserved in the process notes that are used in many of the following examples. As will be demonstrated, even in cases where no questions are recorded, the direction of the inquiry can be reconstructed from the content or format of the responses. Since confessions were so critical to the commission, trial, and conviction of witches, we can use these records to likewise reconstruct

a picture of the judicial classification of witchcraft. The Devil plays a key role in many confessions. His appearance in these records has often been noted and interpreted as the crucial factor by which witchcraft was legally proven.\(^4\) However, as will be shown, verbal acts were likewise of extreme interest to kirk, court, and community officials, indicating that speech was a common factor at all levels of the investigation. While words were not the sole subject of the interrogators’ attentions, their frequent appearance and emphasis in the content of confessions reveals their importance to the judicial process and therefore their inclusion in both popular and elite concepts of witchcraft.

**Constructing a Confession:**

As scholars have pointed out for over a century, the confessions and narratives of witch trials were cooperative ventures.\(^5\) Many different people were involved in the interrogation and recording of confessions, including ministers, bailies, notaries, clerks, and other officials, not to mention the accused themselves; these competing voices all played a role in constructing the narratives of the trials. Disentangling one voice from another can be difficult, if not impossible, although we can see in some cases how specific questions from interrogators could influence the content, or alternately, how open questions on certain details could encourage reliance on the accused’s lived experience or imagination. As Christina Larner argues, “Witch confessions represent an agreed story between witch and inquisitor in which the witch drew, through hallucination or imagination, on a common store of myth, fantasy, and nightmare, to respond to the inquisitor’s questions.”\(^6\) Scribes and clerks involved in recording could also put their own particular stamp on the recordings of trial proceedings, for example by using short hand,

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\(^4\) For more on the legal relevance of the Devil and the debate on his significance, see Chapter 6.
\(^5\) See, for example, the initial quote by Joseph Anderson.
abbreviations, and combining or revising answers for purposes of coherence, consistency, or other reasons. Through the complex process of interrogation, reply, and recording, the participants all had some degree of influence over the actual content of witchcraft confessions.

As with other kinds of criminal trials, the various proceedings of a witch trial required the participation of an assortment of players, who then influenced the events, performances, and texts which we use to study such incidents today. Authors like Natalie Zemon Davis have focused on the cultural frameworks and the interests of both court and audience in fashioning and influencing legal narratives. This textual approach has likewise been embraced by a number of witchcraft historians, as demonstrated by Stuart Clark in his own work and his edited collection, *Languages of Witchcraft*, and in the work of scholars such as Alison Rowland, Lyndal Roper, and Malcolm Gaskill, to name a few. It has also been used to deconstruct confessions in some Scottish cases. Diane Purkiss, for example, has conducted a detailed study of the confessions of two accused witches in Scotland, arguing that the stories told by these women offer an important view into their psyches and early life experiences. In another study, Liv Helene Willumsen has used narratology—the analysis of narrative structure in ‘created texts’—and linguistic evidence to identify and analyze the different ‘voices’ of the accused, witnesses, and officials found in a series of witchcraft cases in Bute in 1662. She argues that the scribe had particular power over the construction of the narrative, as he was the ultimate arbiter of what was

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10 L.H. Willumsen, “A Narratological Approach to Witchcraft Trials: A Scottish Case,” *Journal of Early Modern History* 15 (2011): 331-560. These cases have also been discussed in this thesis, for example in the case of Margaret McWilliam in both Chapters 2 and 3.
written down in the text. Studies like these help us to better understand the different voices and influences of witchcraft confessions and other texts. Even in studies that do not take a specifically narratological approach, most historians agree that the testimony of the trials can help us to better understand different forms of witch belief as well as other social and cultural factors.\textsuperscript{11}

In what is probably the most detailed study of a single Scottish witchcraft case, Emma Wilby has conducted a thorough case analysis of the notorious Isobel Gowdie, one of Scotland’s most famous witches.\textsuperscript{12} Using the recently rediscovered manuscripts of Gowdie’s confessions, Wilby conducts an impressive microhistorical reconstruction of the events and people involved in her interrogation and potential trial. In the first several chapters she transcribes and analyzes the texts of Gowdie’s four confessions, taken over a period of six weeks, paying particular attention to the influence of the many individuals involved in her trial, including the minister, local laird, justices, and notary. While some of Wilby’s conclusions are somewhat questionable, if not downright speculative,\textsuperscript{13} her approach does give us a starting point for examining witchcraft confessions, particularly in thinking about the interrogation process, methods of questioning, and use of evidence. For example, using stop breaks suggested by commas, capitalizations, and sudden shifts in subject matter to indicate pauses for questions, Wilby

\begin{itemize}
\item \textsuperscript{11} Lizanne Henderson’s discussion of Bessie Dunlop’s trial provides a particularly good example of an analysis of confessions for evidence of folk and fairy belief: Lizanne Henderson, “Witch, fairy and folktale narratives in the trial of Bessie Dunlop,” in Fantastical Imaginations: The Supernatural in Scottish History and Culture, ed. L. Henderson (Edinburgh: John Donald, 2009), 141-166.
\item \textsuperscript{12} Isobel’s notoriety derives from the extremely detailed content of her confessions, which her interrogators claimed were made without torture; these have been used by numerous witchcraft historians and scholars to investigate the nature of witchcraft and fairy belief in Scotland.
\item \textsuperscript{13} For example, by the end of the book Wilby goes so far as to speculate that Isobel probably would have been partial to the “more martial and bloodthirsty verses” of the bible, particularly Psalm 18 (p. 434). Much of Wilby’s discussion is framed as “speculation” and yet she continues to build upon these speculations as though they were fact, leading to increasingly unsupported conclusions. Nevertheless, her microhistory remains one of the most detailed done to date on any single witch trial in Scotland and offers a fascinating analysis of the cooperative construction of Isobel Gowdie’s confessions: Emma Wilby, The Visions of Isobel Gowdie: Magic, Witchcraft, and Dark Shamanism in Seventeenth-Century Scotland (Eastbourne: Sussex Academic Press, 2010).
\end{itemize}
recreates several possible transcripts that interrogators might have used in questioning Gowdie. She points out that Gowdie’s confessions contain a surprising if not unprecedented amount of detail on fairy lore and popular magical belief, suggesting that such details most likely came from Gowdie herself, compared to the more demonological elements that in all probability resulted from pressure from her interrogators:

As a cottar’s wife, Isobel would have possessed a deeper knowledge of fairy belief and beneficent magic than her educated interrogators. The latter, on the other hand, would have possessed a deeper knowledge of demonological theory than Isobel, and a stronger desire to establish whether or not she had performed maleficium and/or made a pact with the Devil. As a basic rule of thumb, then, we can assume that close questioning from the interrogators at the beginning of each trial was largely responsible for the subsequent swing towards fairy lore and beneficent magic; and directive interrogatorial questioning was the impetus behind the shifts back to demonology and maleficium. Significantly, as the four confessions progress, the tenor of the material moves closer to the maleficent and demonological ends of the spectrum, so much so, that by the fourth confession we find barely any fairy lore or beneficent magic at all. From this perspective, we can assume that Confession Four represents the distillation of the interests of the interrogators.\textsuperscript{14}

Wilby points out that, through this inquisitional analysis, official interest focused on Isobel’s meeting and making a pact with the Devil, meetings with other witches, and causing harm through maleficium, particularly against the local minister and laird.\textsuperscript{15} In other words, the central concerns of her interrogators can be boiled down to two main points of interest: the witch’s relationship with the Devil and her powers and performances of maleficium. However, we can also see from the interrogators’ interest in the “wordis that we said” in a number of Isobel’s confessions that verbal acts were important in proving that witchcraft had occurred.\textsuperscript{16} As we will

\textsuperscript{14} Wilby, \textit{The Visions of Isobel Gowdie}, 76.
\textsuperscript{15} Meetings with other witches was of interest as being a part of elite belief in witches’ covens and meetings, but also because it allowed officials to detect other witches in their midst by asking the suspected witch to identify her co-conspirators.
\textsuperscript{16} Wilby, \textit{The Visions of Isobel Gowdie}, 51-52.
see, pressures from interrogators reveal that proving witchcraft frequently meant proving efficacious words had indeed been uttered.

In the quote at the beginning of this chapter, Joseph Anderson points out that the confessions of convicted witches can give us insight into what people—particularly the interrogators and recorders—believed to be true about witches. However, confessions also required and reveal the participation of the accused individuals themselves; indeed, the idiosyncratic details of their confessions were important in proving their personal involvement as well as the veracity of their statements. Folk belief in fairies and magic consequently can be seen to play a role in many initial confessions, while leading questions and interrogatory methods indicate that officials sought to bring these popular beliefs into common alignment with judicial definitions of witchcraft. The fact that popular, religious, and legal definitions of witchcraft all included ideas about verbal magic made this a common point of intersection in the evidence of the witch trial.

Interrogation: Questions, Answers, and Conformity

As discussed in the previous chapter, kirk sessions often spearheaded the initial investigations into suspicions of witchcraft. The congregation was then encouraged to provide any information they might have as to the suspected witch’s “conversation” and reputation for magical ability. The suspected persons themselves were likewise called to answer these charges before the session or to report if they had in fact had engaged in any unsanctioned practices of healing, cursing, or charming. If the answers given seemed to align with judicial definitions of witchcraft, the individual would usually be detained and interrogated in an effort to elicit a formal confession of witchcraft. The place where suspected witches were detained varied: they could be
held in the town steeple, as Alison Dick was in Kirkcaldy in 1621, or in the tolbooth, as Margaret Abernathy was in Leith in 1671.\textsuperscript{17} Not every community had access to a tolbooth or prison, however, so more often the accused were merely confined to their home or warded in the house of an elder or burgess. There they were repeatedly interviewed in an effort to obtain the critical evidence necessary to apply for a commission and trial.\textsuperscript{18}

Local officials, including ministers, bailies, and other prominent personages, were often involved in these sessions and confessions were made before reputable witnesses from the community. For example, in a series of cases in Rothesay, Bute in 1662, five women were repeatedly interrogated for witchcraft, with a cumulative total of twenty confessions given between them.\textsuperscript{19} Of these, the minister, John Stewart was listed as present at seventeen, while John Glasse, provost, attended thirteen. Numerous other individuals were listed as witnessing many of these confessions, particularly for Jonet Anderson, whose confessions apparently initiated the investigations into the other four cases. Thirty-one attendees are recorded in total, many of whom are listed as burgesses of Rothesay, indicating a popular interest in these cases as well as a desire to provide clear documentation and proof of the witches’ guilt.

In most cases, the questions asked by interrogators are not documented in the trial material we have today. Occasionally, however, such questions do survive, or can be inferred from the shifting content of the confessions. It was at this stage that we can begin to see the “shadow of the interrogator,” and reconstruct how popular belief in magic and malefice was shaped to conform to judicial definitions of witchcraft.\textsuperscript{20} Most interrogators focused on three

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\textsuperscript{17} L. MacBean, \textit{The Kirkcaldy Burgh Records, with Annals of Kirkcaldy. The Town’s Charter, Extracts from the Original Documents, and a Description of the Ancient Burgh} (Kirkcaldy: Fifeshire Advertiser Office, 1908), 39; NRS, JC26/38 Second Aberdeen Roll.
\textsuperscript{20} “The Shadow of the Interrogator” is the title of Chapter 3 in Wilby, \textit{The Visions of Isobel Gowdie}, 53-80.
main areas: identifying fellow witches; engaging in the Devil’s pact and/or sex with the Devil; and acts of malefice, particularly specific words and actions performed by the witch. Naming other witches was important to the effort to wipe out the pervasive threat of witchcraft in Scotland, while establishing the Devil’s presence was seen as substantive evidence of willful witchcraft. Yet it was likewise critical to establish the witch’s personal engagement and practice of witchcraft, and one of the primary ways this was accomplished was through obtaining a confession containing specific accounts of healing, prophecy, or malefice.

This focus on the details behind specific magical acts can be seen in the interrogation of Isabell Haldane and Janet Trall, who were both called to account before the kirk session of Perth in 1623. Both these cases have been examined by other scholars and discussed in terms of evidence of popular folk and fairy belief, yet the records also contain specific questions asked by the kirk leaders, which can be read in order to reveal the kirk’s interest in establishing that unsanctioned efficacious acts of magic, particularly speech acts, had occurred.21 When Isabell was brought up before the kirk session, the brethren questioned her specifically about her history of healing and harming her neighbours as well as her interactions with the fairies; for example, when the session summoned Isabell to appear before the kirk, “after prayers had been made to God to open her heart and loose her tongue to confess the truth, she was asked if she had any skill of cureing men, women, or bairns, that were diseased? She answered she had none.”22 The case proceeds with a series of questions asked by the session, (Had she cured Andrew Duncan’s bairn? Had she had any conversation with the fairy folk?), many of which focused on allegations of spoken words followed by misfortune by her neighbours. For example, John Rioch testified

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21 For example, see Lizanne Henderson and Edward J. Cowan, *Scottish Fairy Belief: A History* (East Linton: Tuckwell Press, 2001), 41, 58, 73, 78, 80, 83, 86, 94, 96, 182.
22 John Stuart, ed. *Extracts from the Prebytery Book of Strathbogie, 1631-1654* (Aberdeen: Spalding Culb, 1843), x; further discussion of the phrase “loose her tongue” will be discussed in Chapter 7.
that about that same time, bein in James Christie, the wrights booth, where he was causing him to make a cradle to him because his wife was near the down lying, the said Isabell passed by and spake to him these words, ‘Be not so hasty or you need not, your wife shall not be lightered [sic.] til this time five weeks, and then the bairn shall never lie in the cradle. It shall be born, and baptized, and never suck, but shall die and be taken away;’ and as the said Isabell spake, so it came to pass in every point.

The session therefore asked her “how she knew that?” She claimed that “the man with the grey beard” had told her, a person she had described earlier in her contact with the fairy folk. Isabell was also accused of having predicted the sickness and death of Margaret Buchanan, who had previously been the picture of health, with the words: “Make you ready for death, for before Faste[rnis] Even you shall be taken away,” and “as the said Isabell spake, so it happened.” Upon being asked by the session, “how she knew the term of the woman’s life,” she once again answered that the old man had told her. Other charges against her include mumbled words, spoken charms, and making potions and drinks for healing, and she was summoned to appear before the session twice more over the next two weeks.

During these interrogations, Isabell admitted that Janet Trall had given her directions for healing a child. Five days after this confession, the brethren called Janet before the kirk session to answer these allegations and other questions. Again, the questions and answers of the session were recorded, with the session showing particular interest in her role in healing Andrew Duncan’s bairn as confessed by Isabell. She admitted she had helped the child’s mother and given directions for healing the sick child, but denied that she herself had done anything or had

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23 The fairy folk appeared in a wide variety of forms in folk belief and confessions, as has been discussed by other authors (see Henderson and Cowan, *Scottish Fairy Belief*, 58-61). Sometimes the authorities appeared to explicitly associate these figures with the Devil or other demonic figures, while other times this was left more ambiguous. In this case, the gray-bearded man seems to specifically represent a fairy figure to both Isabell and the kirk session. For more on fairies and the Devil in popular belief, see Joyce Miller, “Men in Black: Appearances of the Devil in Early Modern Scottish Witchcraft Discourse,” in *Witchcraft and Belief*, 144-165, esp. 150.

24 *Presbytery of Strathbogie*, xi.

25 Janet Trall’s case is likewise discussed by Henderson and Cowan for evidence of fairy belief, which makes sense as her case overlaps with Isabell Haldane’s. Henderson and Cowan, *Scottish Fairy Belief*, 58, 78, 80, 83, 86, 94, 96.
any particular skill at healing herself; furthermore, she declared that “she was contented to be
holden as a witch if anything farther was proven.” However, her denial was undermined by
evidence given by the child’s mother who testified that Janet had given her a piece of “shot star”
wrapped in black wool to help with the healing. Janet was also asked

if she had used any cure to Gilbert Fiddes, indweller in Perth? She confessed that she was
sent for to come to him, but she denied that she had done anything to him except that she
had directed that white bread and wine and good cheer should be given to him.

Gilbert Fiddes was then brought forward, testifying that he had indeed sent for her during his
illness and that she “had promised to cure him.” Moreover, he emphasized Janet’s words in her
curing him, which was likewise emphasized in the session records as having an observable
effect: “At the time of her curing him by words, for no means was seen, the house shook, and his
face turned in his neck.” This phrasing suggests that it was important to show that it was
Janet’s words which had this effect rather than any other action or cause. Upon being asked if
this were true, Janet did not admit specifically to using any words—possibly because she
understood how damning such allegations could be; however, she did agree that the house had
shook and Gilbert’s face had turned in his neck, as well as to having in the past used common
charming methods such as south running water and green yarn to help cure him.

The session, alarmed by the allegation of such powerful speech, inquired more vigorously
into the matter. The records indicate that the session turned at this point from ‘asking’ and

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26 *Presbytery of Strathbogie*, xi
27 “Shot star” or *schot starne* was a kind of jelly-like algae that would appear in fields after a rain, which was
popularly believed to be the remnants of a shooting star and therefore containing healing properties. Dictionary of
the Scots Language, University of Glasgow, http://www.dsl.ac.uk/entry/dost/schot_starne (accessed 2/20/16).
28 *Presbytery of Strathbogie*, xi-xii.
29 Ibid., xii. Emphasis added.
30 For more on the association of color, particularly green, with fairies, see Joyce Miller, “Men in Black,” 149-151.
‘inquiring’ to demanding answers: “Afterwards it was demanded of her to declare if Satan, her master, was there?” The session’s emphatic interest in the Devil suggests that the brethren were keen to prove his presence by her confession. But when such a confession was not forthcoming (“She answered that he might have been there, but she saw him not”), they settled for interrogating her further about acts of magic and malefice. Upon further questioning, Janet confessed to healing another child by taking the child upon her knee and tracing each finger and toe while “mumbling all the while some words that could not be heard.” She was questioned on where she had learned her skill, but once again she denied knowing anything except what she had learned from watching other healers’ practices. Like Isabell, she was also questioned on whether “she had ever had any conversation with the fairy folk? She answered, that she was sore troubled by them; but had no other dealing with them.”

At this point, the session took a break and the case resumed four days later on May 26 at which time Janet’s attitude appears substantially different, being described as “trembling in hands, head, and body. Being asked what moved her she said she durst not confess for fear of spirits that vexed and troubled her. She was comforted by the ministers against fear if she would confess.” Her answers at this point are much different from before and she admits readily to having learned her skills in charming from the fairies, the principal of whom had appeared as a bonny white man on a gray horse. She said “He desired me to speak of God, and do good to poor folks and he shewed me the means how I might do this, which was by washing, bathing, speaking words, putting sick persons through hesps [skeins] of yarn, and the like.” She readily agreed to having cured Gilbert and that while “the cure was performing, the house shook.”

Janet’s confessions on this day contain many specifics about the fairies and her cures and she

31 For more on the multiple meanings of conversation as both speech, conduct, and reputation in early modern usage, see Chapter 3.
32 Presbytery of Strathbogie, xii. Emphasis added.
appears, if not eager to confess, at least willing. The abrupt shift in her attitude, her admission of things previously denied, and her trembling and fear of confessing, suggest that the days between her two confessions may have been well-utilized by her captors in pressuring her to confess, possibly through sleep deprivation or psychological pressure, or potentially more physical means of coercion. Without records, such conclusions must remain speculative, however. Ultimately, the depositions of the witches were sent to Edinburgh in order to secure a commission, while Mr. Archibald Steidman was paid twenty shillings to sustain them until their trial. The confessions and depositions against Isabell and Janet must have been deemed sufficient evidence by the Privy Council as a commission was obtained and they were both found guilty by an assize: an added note to the kirk session records stated that they and another convicted witch were executed on 18 July 1623.33

Confessions were consequently an important part of the evidence collected, and authorities would often go to great lengths to obtain these and ensure their conformity to judicial definitions of witchcraft. In order for a confession to be perceived as valid, however, it was important for the prosecution to show that this testimony had been made freely and willingly on the part of the accused. Torture of suspected witches was ostensibly illegal in Scotland at this time, except in those cases where permission was explicitly granted by Parliament or the Privy Council, which was rarely given.34 Despite this particular formality, records show that in addition to hunts where judicial torture was authorized, such as the North Berwick trials, torture was probably used illegally in a variety of contexts. Scholars are divided, however, over to what degree torture was actually employed in witch trials. For example, Stuart Macdonald has argued, that “while torture was clearly used in Scotland during the witch-hunts, the role judicial torture

33 Ibid., xii-xiii.
played as a motivating factor in the intensity of the witch-hunt has been exaggerated.” In contrast, Brian Levack argues that it was Scotland’s utilization of illegal torture that in part led to much higher rates of prosecution and conviction compared to England. In part, this debate is tied to how torture is defined in these studies. Macdonald clearly differentiates between acts such as sleep deprivation and poor prison conditions (which were not defined as torture at this time) and explicit acts of judicial torture—including thumbscrews, the boot, weights placed on legs, hot irons, the rack, etc.—which is one reason he finds that judicial torture was of much less influence in the trials since it was only rarely utilized by the privy council or central courts. However, other common practices, such as ‘waking’ and ‘brodding’ were used by local officials in seeking confessions of witchcraft, both of which seem quite torture-like. ‘Waking the witch’ was the practice of keeping a suspected witch awake, sometimes for days at time, by repeated questioning or applied discomfort (such as wearing sack cloth or repeated prodding), while ‘brodding’—sticking a person with long needles or pins—was used by witch-prickers and other officials in order to identify the Devil’s ‘mark’, which was believed to be insensitive to pain and/or would not bleed. Both could be incredibly painful or psychologically damaging and were therefore highly effective means of getting a witch to talk, which is why most historians have categorized such acts under the term ‘torture’. Imprisonment was not used as a punishment, but accused witches were often kept in poor conditions while awaiting their trial. In 1672, three accused witches petitioned the Lords Commissioners of the Justiciary, complaining that they had been imprisoned for the last year in “intollerable” conditions, suffering cold and hunger, “in such

pressable miserie that it ware better for them to be dead than alyve.”

In this way, the psychological pressure of imprisonment and interrogation could certainly act as an incentive to confess and be done with the whole business.\(^{39}\)

In most cases, it is impossible to tell if torture—either overt or psychological—was used to bring a witch to confession. Due to its illegal status, few trial records document such procedures. However, in certain cases, an individual or family member could file a complaint regarding their treatment at the hands of their interrogators. For example, in 1629, John Trinche filed a complaint that his mother had been arrested for witchcraft by the Sheriff of Berwick and held in the pit of Haymouth in “great miserie” while an application was filed for a commission for her trial. On January 19, before a commission had been obtained (one was issued by the Privy Council on January 20), several men including the keeper of the pit drew her out and:

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\text{putt violent hands in her persoun, band her arms with towes, and so threw the same about that they disjointed and mutilat both her armes, and made the sinews to loupe asunder, and thairafter with thair hailf force drew ane great tow about her waist, kuist her on her backe, and with thair knees they birsed, bruised, and punesed her so that she wes not able to stirre, strake the heid of ane speir throw her left foote, to the effusioun of her blood in great quantitie and perrell of her lyffe…}^{40}\]

Details are scarce in this case, although she does appear to have been denounced by other confessing witches as well as being “long suspected of witchcraft.”\(^{41}\) While it is unclear why she was subjected to such extreme physical abuse, the Lords of the Privy Council did denounce and escheat her attackers, indicating that such extrajudicial measures were unsanctioned by the

\(^{38}\) NRS, JC2/13; Larner et al. *Sourcebook of Scottish Witchcraft* (University of Glasgow, 1977), 273-274.
\(^{39}\) Wilby discusses the psychological effects of questioning, comparing witchcraft questioning to modern interrogation techniques: Wilby, *The Visions of Isobel Gowdie*, 53-80.
\(^{40}\) RPC, 2nd series, vol. 3, 15, 41-42.
\(^{41}\) Ibid., 15.
central government. Nonetheless, we cannot be certain how many others may have experienced similar treatment, especially those without family or friends to file formal complaints.

In another extreme example, Alesoun Balfour in Orkney 1594 was tortured horribly to bring her to confess that she had helped Johnne, Master of Orkney in his attempt to kill his brother, Patrick Stewart, the Earl of Orkney, by witchcraft.\(^{42}\) In his own defence against the charges of attempted fratricide, Johnne claimed that Alesoun’s confession was made under extreme torture of both herself and her family.

And as to the Confessioun of Alesoun Balfour, to remember the Assise, that the said Alesoun wes, be vehement tortour of the caschielawis \(^{43}\), quhairin sche wes kepit be the space of fourtie-aucht houris \([\text{wherein she was kept for the space of } 48 \text{ hours}]\), compellit to mak the said pretendit Confessioune: Likeas hir husband…togiddar with hir eldest sone and hir dochter, wer all kepit at anis and at the same instant in weird, beseide hir, and put (to) tortouris att the same instant tym; the fader beand in the Iren of fiftie stance wecht; the sone callit in the buitis \([\text{boots}]\) with fiftie sewin straikis \([\text{strikes}]\); and the dochter, being sewin yeir auld, put in the pinnywinkis \([\text{pilliwinks}]\); to this effect, that hir said husband and bairnis beand swa tormentit besyde hir, mycht move hir to mak any Confessioune for thair releif.\(^{44}\)

As was typical, Alesoun’s confession, which had been witnessed by two ministers and other local and church officials, was read before her public execution in the presence of the whole town; at this time she recanted her testimony, declaring that both she and her family had been subjected to punishment with instruments of torture “quhairwith sche and thay wer swa vexit and tormentit, that pairtlie to eschew ane gretar torment and puneischement, and upoun promeis of hir lyffe, and guid deid be the said Persoune, falslie, aganis hir saull and conscience, sche maid that

\(^{42}\) As Julian Goodare notes, Balfour’s trial was very untypical, being tried under the sole authority of Patrick Stewart, and her accusation and extreme torture can be seen as part of a play for power between him and his brother. Nonetheless, the case stands as an example of both the use of torture and the recantation of confession as evidence. Goodare, “The Framework for Witch-Hunting,” 248.

\(^{43}\) An iron instrument of torture in which the legs are placed and then heated by fire. Dictionary of the Scots Language, http://www.dsl.ac.uk/entry/snd/cashielaws (accessed 2/5/16)

\(^{44}\) Robert Pitcairn, Ancient Criminal Trials in Scotland: Compiled from the original records and mss.; with historical illustrations, vol. 1, part 2 (Edinburgh: Bannatyne Club, 1833), 375-6
Confession, and na uthirwyis: For the quhilk sche askit the Lord mercy and forgivenes.\footnote{45} The revocation of her confession unfortunately did not avert Alesoun’s own execution; however, these words did prove to have some power as they were successfully used in Johnne’s defence in proving that he was innocent of the attempt on his brother’s life by witchcraft or by any other means.

In order to show that torture had not been used, many confessions were recorded as having been made “freely” and “willingly” by the alleged witch. In the confessions of Isobel Gowdie, for example, it was noted that she had confessed “withought any compulsitoris”\footnote{46} and that “all qwhilkis of the premissis swa spokin and willinglie confest and declaririt furth of the mowth of the s[a]id Issobell.”\footnote{47} Before the reading of the confessions of four witches at Culross, they were asked to affirm that no torture had been used to bring them to confession: “being farder Interogat if they wer moved to speake the same or any part therof be any torture used against them be any person they all of them judiciallie declared that they did confesse the samen voluntarlie without any torture All which they did affirme to be of veritie.”\footnote{48} In another trial in 1662, Marjorie Ritchie confessed to meeting the Devil, renouncing her baptism, and multiple acts of charming, as well as causing the sickness of a neighbor against whom she had had a grudge. At the conclusion of her trial, her confession was read to the judges who “inquired the said Marjorie giff she had been any wayes tortured she answered she was not, and that what she had confessed was friely willingly and of treuth, and that she had no furder to confess.”\footnote{49}

\footnote{45}{Ibid., 377.}
\footnote{46}{This might mean compulsion or a writ ordering the performance of some act.}
\footnote{47}{Wilby, The Visions of Isobel Gowdie, 37, 41 (emphasis added); Dictionary of the Scots Language, http://www.dsl.ac.uk/entry/dost/compulsatour_n (accessed 2/5/16)}
\footnote{48}{NRS, JC2/14/177}
Whether or not torture was actually used in these cases, we cannot be certain. In any case there were other ways of getting alleged witches to confess. Evidence suggests that, at least in some cases, confessions could be the product of psychological coercion rather than physical. In Janet Miller’s trial in 1661, the evidence accumulated against her was based on witness testimony alleging neighborhood quarrels and disputes, as well as misfortune falling upon those who had been wronged following her “threatenings” and curses. In addition to this testimony, Janet’s confessions also formed part of the evidence against her, focusing specifically on her “covenant and paction” with the Devil. In her second dittay, it was recorded that Janet had confessed “voluntarily and without any torture” two years earlier to the minister, kirk session, and justices of the peace in Kirkliston; the dittay states she affirmed that she was a witch and “had a conversation with the devil and delivered herself over to him and that he had carnall dealing with her several times and in several places.” In her confession, made on 15 August 1659 before two kirk elders from Kirkliston and the Constable of Auldliston, she stated that she had met the Devil at the standing stone between Newbridge and Ingliston. She said he had appeared to her in the form of a young man and bid her to renounce her baptism and to put one hand to the top of her head and the other to the sole of her foot, and say all was his, “wiche sche confessst she did” and that he gave her the new name of Margaret and “he had carnall dealing with hir.” The next day, Janet was questioned again before two other men, confirming her earlier confession and adding additional details, such as that she had met often with the Devil and other witches at the new bridge by moonlight and that the Devil “was cloven footet lyk ane ox.” The third time she was questioned before the minister and kirk session of Kirkliston, as well as before

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50 NRS, JC26/27/1/1, 2, 6
51 NRS, JC26/27/1/1
52 NRS, JC26/27/6
53 NRS, JC26/27/2/1
54 NRS, JC26/27/2/2
the lairds of Dundas and Carlowrie and the Justices of the Peace of Linlithgow, in order to provide verification of her earlier confessions. When she was confronted with the particulars of the charges and her own confessions, however, she recanted, saying that “sche wald no stand to theim.” Curious about the reversal of her testimony, the justices asked if she had been tortured in making her confessions; she answered that she had not, but that “the said Robert Wilsone Constable had uitered sum fair speiches to hir – (saying) [sic.] Iff sche wald confes frielie sche might goe home to hir owne hous efterward.”55 This alleged coercion and disavowal of her testimony may have been the reason why she was acquitted of the charges in her central court trial in Edinburgh in August 1661; however, a summons for an assize dated from September suggests that there may have been another local trial following this.56

Commissions issued for local trials could likewise emphasize the lawful means by which witchcraft should be proven. In the commission for Isobell Shyrie’s trial in 1662, it is noted that she should be put to trial by an assize, “and if she shall be found guilty upon volunteer confession without any sort of torture or any other indirect means used against her to bring ane confession or that malefices otherways legally instructed and proven that then and in that case and no otherwayes they cause justice be administrat and execute upon her and conform to the lawes of the kingdome.”57 As far as the issuers of the commission were concerned, the only way to prove witchcraft was through willing (i.e. in the absence of torture) confession or through proving malefices had occurred, presumably through witness testimony—which as has been shown frequently included acts of efficacious speech. In the absence of sufficient evidence from witnesses, it was important that commissioners obtain a ‘free and willing’ confession from the witch herself to prove either acts of malefice and/or paction with the Devil. The heading of her

55 NRS, JC26/27/2/2
56 Scott-Moncrieff, Records of the Proceedings of the Justiciary Court, vol. 1, 6; NRS, JC26/27/1/3
confession read at her trial on 2 January 1662 states that it was “drawen from hir mouth and written by the minister, frequently repeated befor the under subscribers and witness with tears and cryes for mercie and the help of their prayers.”\textsuperscript{58} Such a description was no doubt meant to emphasize the ‘voluntary’ and penitent nature of Isobell’s words, yet is also curiously evocative of the imagery of a torture chamber.

Another notable point is that this formal confession, read at Isobell’s trial in 1662, differs substantially from the records of her first confession made on 15 September 1661.\textsuperscript{59} These differences can show us what avenues of inquiry were of interest to her interrogators through an examination of the shifts in emphasis and details by the time the case came to trial. In her first confession, Isobell included basic information without much detail, such as that she was guilty of witchcraft and was a witch, that she had attended meetings with the Devil and other named witches, and that she had had carnal copulation with the Devil. She also admitted to having committed certain malefices. A second copy of this confession includes specific questions that prompted her to include this information: “And being inquired if shee hade done any malefice to any, shee answered ‘that she wronged Baillie Wood’…And having inquired if shee hade done any other malefices shee confessed that she had wronged Thomas Webster.” She confessed to having caused Baillie Wood’s death with a powder made of toad heads and human bone and flesh, and cursing Thomas with a cantrip or harmful spell she cast before his door, but that she “could not have power of his person.”

Interestingly, no specific words were mentioned at this stage. By the time of her trial, however, this would change. Only four items were listed in the initial confession, while the final formal confession included seven, each with a much greater level of detail. In this formal

\textsuperscript{58} Ibid., 256.
\textsuperscript{59} Ibid., 248-9.
testimony, Isobell confessed to having engaged in adultery twenty years earlier with a man who was now dead, and that she had entered into “covenant and pactione with the divell,” which she described in terms of renouncing her baptism and promising to “serve and obey” him. In return, he would wrong those who had wronged her, as well as paying her the wages of three half pennies per year. In the third item, she described her several meetings with the Devil and other witches, including a more detailed account of her first meeting and covenant with the Devil, when he appeared to her in the shape of a handsome gentleman while she was gathering heather and dwelling on thoughts of revenge against James Gray; “and that tyme they made their covenant and he kissed her and lay with her as shee thought and his mouth and breath were very cold and his body lyk clay.” In the next three items, Isobell confessed to having cursed specific people who had wronged her, each with specific verbal formula attached. She confessed that when she was angry with James Gray over a dispute over grazing rights, “shee was his death by blowing ill…in his face, wishing hee might niver keep that barne so long as hir husband did, upon which hee died suddainly.” She also confessed to having been the death of John Dargy by laying her hand on the small of this back and “wishing that hee might never be able to doe so much to any other as hee had done to hir (for hee had strucken hir and drawin hir in ane strip)” after which he fell ill and died. She also confessed to having taken away the milk of cows belonging to various people, including Isobell Webster’s cow in retaliation for an injured

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60 Presumably her husband was deceased by the time of her trial as no spouse is listed in the heading of her trial, in contrast to other individuals in these cases whose confessions list their familial affiliations.

61 Ibid., 256. The initial admission of adultery, which is the first article in her confession, does not appear to contain any diabolical elements. Its inclusion here with the addition that she had asked the witnesses to “pray for hir poor soule” may have been simply a reflection of her desire to confess and repent of her sin before death, yet its inclusion in the trial suggests that this act was considered relevant enough to include as part of the final formal evidence. This could be because it indicates that sexual misbehaviour could later lead to falling into temptation with the Devil, or because witches were believed to have unnatural sexual appetites.

62 Ibid., 256-7.

63 “Drawin hir in ane strip” is somewhat obscure, but possibly might be a further description of a beating.
chicken; after Webster had broken the leg of the alleged witch’s chicken, Isobell Shyrie had prayed “Let thee never get more good off thy cows milk nor I get off my hens eggs.”

It is interesting to note that Isobell’s initial confessions regarding her malefices against Baillie Wood and Thomas Webster—neither of which feature verbal acts and only one of which can be shown as having a specific effect (in poisoning the bailie)—do not appear in the formal evidence or confession at her trial. In contrast, all three of the specific acts of malefice included in Isobell’s final confession included examples of specific words and efficacious speech acts. In the final item of her confession, several other malefices are alleged against her by three other confessing witches who claimed she had killed or injured a number of other people who had wronged her. At the end of this article, it is noted that “These presumptiones tho’ shee has not confessed them are many of them probably true because they followed immediately upon som act of hir”; from the emphasis placed on Isobell’s words in the other acts of malefice alleged against her, we can venture to suggest that these presumed acts were very likely speech acts.

It is possible that the words confessed by Isobell were first reported by her neighbours, and that she was then asked explicitly to confirm or deny them. This happened in the case of Magdalen Blair in 1659 when James Anderson, baxter, declared that he had witnessed a dispute between Magdelen and Richard Idstone regarding the inconvenient placement of his horse blocking her door, “and ther being some scolding words past betwixt the sd Richart & her, schee strake the sd Richards horse saying God ner [never?] he shoot to death And the horse died suddenlie the same day after he was taken home.” When confronted with this information at her trial, she admitted to these acts and words: “The [said] Magdalane here upon examined confess that shee strake the [said] horse and uttered the fore[said] words.” Magdalen’s utterances

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64 The horse in question was described as standing before Magdalen’s door “after he was disburdened of a load of whinns [dark-colored stones],” which caused the quarrel: NRS, JC26/26 Bundle 3, Item 4; see also “CASE of Magdalen Blair 1659,” in The Sourcebook of Scottish Witchcraft, 252.
were included in the depositions of several others as well and she was repeatedly asked to confirm or clarify these speech acts. While she admitted to many of the words attributed to her, or in other cases declared some variation thereof, she denied that she was a witch and was ultimately declared not guilty. However, the interest of the court in obtaining a confession of specific speech acts reveals their significance. It is unclear in Isobell Shyrie’s case if she provided the details of her speech acts, or if, like Magdalen Blair, these particulars were provided by her accusers. Yet the fact remains that Isobell’s specific words were explicitly included in her final “confession”, supporting the conclusion that officials found such speech acts as particularly malignant and therefore sought corroboration of this evidence.

Isobell Shyrie’s confessions can show us what kinds of evidence interrogators sought by examining what was kept in confessions and what was eliminated as unimportant to the actual trial. In addition to acts of malevolent speech, her confessions indicate that officials were also interested in obtaining as much specific detail as they could about the witch’s relationship to the Devil. In the confessions of other witches interrogated and tried in Forfar, we can see this same official interest in sex with the Devil. Most of the accused confessed to being present in some way at meetings with the Devil and other witches, many of which featured dancing, music, and feasting. Several also confessed that the Devil had kissed all the witches at the meeting, including themselves, although sometimes they declared that they had avoided such intimacy. Jonet Stout confessed that when the Devil had kissed everyone else at the meeting, she had ducked behind the backs of the other women so he did not kiss her.65 A second copy of Jonet’s confession, however, has an addendum added under the signatures of the witnesses saying that she also confessed before three named witnesses to having carnal copulation with the Devil at Petterden. Helen Guthrie declared that while he had kissed everyone else at the meeting, he had

only kissed her hand.\textsuperscript{66} Interestingly, she appeared to have been asked about this repeatedly in her second confession; the specification of the Devil having kissed the others but “her hand onlie” for herself appears in four separate instances in this confession. This shows that a sexual relationship with the Devil was important to prove.

This common interest in both malefice and the role of the Devil can be seen in the interrogations of witches elsewhere as well. In the case of Agnes Sampsoun in 1591, for example, she was questioned by the king about her service to the Devil and she admitted to having engaged to be in his service, renouncing her baptism, and receiving the Devil’s mark, among other details.\textsuperscript{67} She was also questioned extensively regarding her healing (and occasionally harming) of others, almost all of which included references to words and prayers. Moreover, she emphasized the importance of her speaking, saying that her prayers must be recited continuously if her charm was to work; if she ever stopped speaking, the charm would fail and the person would die.\textsuperscript{68} This is repeated at several points in her confessions, as are the specific words of her prayers, indicating that these were considered noteworthy points by her interrogators.

Likewise, in Isobel Gowdie’s case there are many details of charms and rituals throughout her confessions; however, repeated questioning appeared to focus on specific words and formula, which Isobel then described for her interrogators. While her first confession carried many hallmarks of popular ritual and charming magic, the following confessions included numerous examples of specific verbal formula and spells, by which we can infer that she was

\textsuperscript{66} Ibid., 253-4.
\textsuperscript{67} Lawrence Normand and Gareth Roberts, eds., \textit{Witchcraft in Scotland: James VI’s Demonology and the North Berwick Witches} (University of Exeter Press, 2000), 137-140, 146-149.
\textsuperscript{68} “She confesses that she learned her skill and her prayer from her father who told her that if her prayer stopped the patient would die, and if it stopped not he would live.” Ibid., 143-145; David M. Robertson, \textit{Goodnight My Servants All: The Sourcebook of East Lothian Witchcraft} (The Grimsay Press, 2008), 11-12.
probably asked repeatedly about the words that she spoke. When she confessed to casting a spell using a clay figure, the interrogators returned to this point in the next confession, at which point she confessed that

> the wordis which we spak quhen we maid the pictur for distroyeing of the Laird of parkis meall children, wer thus, In the devillis nam, we powr in this water among this mould, for land dwyning [wasting] and ill heall, we putt it in into the fyre, that it mey be brunt both stik and stowre, it salbe brunt w[i]th owr will, as any stikle wpon a kill, the devill taught ws the wordis, and q[uhe]n ve haid learned them we all fell downe wpon owr bare kneyeis, and owr hair abowt owr eyes, and owr handis lifted up, looking steadfast wpon the devell, still sayeing the wordis thryse ower, till it wes maid, and then in the devellis nam, we did put it in the miest of the fyre.

She was asked to repeat and confirm these words and many others in later confessions as well, indicating that officials were keen to verify that words had been spoken in her practice of witchcraft. Notably, Gowdie’s confessions also included some of the most graphic descriptions of the Devil’s sexual contact with her and other witches, indicating that her participation in the pact was likewise important to prove. Accordingly, her description of the pact and renouncing her baptism closely followed the standard description of placing one hand on the head and one hand on the foot and declaring all between to be the property of the Devil, which was itself a form of speech act which will be discussed in more detail in Chapter 6.

The importance of proving that words had been spoken can be seen in the trial and confessions of six witches in Paisley who were accused of trying to murder Sir George Maxwell of Pollock in January 1677. The commission for their trial stated that they were to be tried for “entering into paction with the Divill renouncing their baptisme and committing severall

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69 Wilby, *The Visions of Isobel Gowdie*, 48. The words which we spoke when we made the picture for destroying the Laird of Park’s sons were thus, In the devil’s name, we pour this water among this graveyard soil, for land wasting and ill health, we put it into the fire, that it may be burnt both stick and stone, it shall be burnt with our will, as any small stick upon a kiln, the devil taught us the words, and when we had learned them we all fell down upon our bare knees, and our hair about our eyes, and our heads lifted up, looking steadfast upon the devil, still saying the words thrice over, until it was made, and then in the devil’s name, we did put it in the midst of the fire.
malefices.” The main charges revolved around the making of wax and clay images of Sir George Maxwell in order to cause his illness and/or death, described in the confessions of four of the individuals on trial. These images were made first at the house of Jonet Mathie, then at the house of John Stewart, her son, after she had been imprisoned. These were alternately roasted before a fire and/or stuck with long pins, which caused Sir George’s ailment and pain in various parts of his body until the discovery and destruction of these figures. Included in the evidence of this case are several depositions from individuals, mostly in the employ of Sir George Maxwell, who testified they had been present at the finding of the effigies in Jonet Mathie’s house, in Jonet’s prison cell, and in John Stewart’s house, and/or attested to Sir George falling ill or recovering roughly in conjunction with these events. One officer testified he had left Jonet in the stocks in the prison at Paisley overnight, but found her the next morning sitting on a cot where no cot had been in reach, and that no one had access to her while she was in the stocks. This event may indicate human intervention and thus some sympathy for her cause, but its inclusion among the depositions suggests that it was used to demonstrate supernatural assistance or power on the part of Jonet.

The main evidence for the case, however, came from three of the accused witches, whose confessions had been taken earlier in January and were read and affirmed before the court twice. Annabel Stewart, Jonet Mathie’s fourteen-year-old daughter, reported being present at both effigy-makings and described the ritual of making the wax effigy and burning it before the fire, with Bessie Weir turning the spit, while they all repeated the words “Sir George Maxwell, Sir George Maxwell, Sir George Maxwell.” John Stewart was not present at this effigy-making and therefore his confession did not include any details on this ritual, although he did admit to

70 NRS, JC10/14/1
71 NRS, JC10/14/2
being present the second time when the Devil came to his house in the shape of a man in black
clothes and they made the clay figure and stuck pins in it. Margaret Jackson confessed to being
present at both events, but did not provide any details about either ritual except to describe the
man in black. There is no confession recorded for Jonet Mathie except a brief mention that she
confessed to having the Devil’s mark, with no specific details. Bessie Weir did not confess to
any of the charges; however she did admit that she had escaped prison and that when she had
been re-apprehended in Busbie she had been hiding under the false name of Bessie Aitken,
professing herself to be the wife of a man from Glasgow. This compromising information was
included in her indictment as evidence of her “being concious of her own guilt.”

No confession is included for Margerie Craig, but her indictment stated she had been present at both effigy-
makings and also that she had previously been reputed and imprisoned as a witch in Ireland due
to her “threatenings” and malefice, but that she had escaped and fled to Scotland to avoid trial.

The only purported evidence that words had been spoken at the first effigy-making
therefore was the testimony of Annabell Stewart, who was only fourteen at this time and would
escape execution because she was underage. Nonetheless, these words are specifically included
and even highlighted in the indictments of all the witches alleged to be present at this ritual. In
the indictment of Jonet Mathie, it is stated that their malice at Sir George had led them to seek
his illness and death by burning the image before the fire, which “ye and all the foresaid witches
did by saying Sir George Maxwell Sir George Maxwell Sir George Maxwell.”

Bessie Weir’s indictment emphasizes the sorcerous elements of her speech when she turned the image on the
spit “And by your sorcerie & charmes and crying when it wes burning Sir George Maxwell,

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72 NRS, JC10/14/7
73 NRS, JC10/14/6
In Margerie Craig’s dittay, they made the wax image, “And the divill ye and the foresaid witches did use the expressions Sir George Maxwell [etc.]” Margaret Jackson’s indictment stated that she had participated in making the effigy “and as it wes burning the divell ye and the foresaid witches did expresse these words Sir George Maxwell, [etc]” and as Annabel Stewart watched it being burnt before the fire, they all “cryed Sir George Maxwell [etc.]” In each of these cases, it was emphasized that immediately following these words, Sir George fell gravely ill and continued in pain until the image had been found and destroyed, suggesting that the words had an immediate and observable effect on his health. While the physical ritual and effigy-making was important—indeed, the second ritual included no descriptions of verbal acts beyond conversation with the Devil—the reported words were critical to activating and directing the harmful spell at Sir George Maxwell. They were so important, in fact, that they were emphasized in every single case, even in the absence of a confession or any evidence beyond the word of one girl.

The shaping of the testimony and indictments in cases like these can be seen not only in the emphasis on speech, but also on reports of the Devil. It is interesting to note that all six of these cases incorporate explicit descriptions of the standard formula of pact witchcraft, including: placing one hand on the top of the head and the other on the soul of the foot; renouncing their baptism and receiving a new name; engaging themselves to be in the Devil’s service and entering into covenant with him; receiving the Devil’s mark; meetings with other witches and other standard hallmarks. These descriptions—usually standardized to the point of stereotype—were often critical to proving the witch’s relationship with the Devil. Nonetheless, it

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74 NRS, JC10/14/6
75 NRS, JC10/14/7
76 NRS, JC10/4/11
77 NRS, JC10/14/12
78 To be discussed further in Chapter 6.
is also true that many confessions and trials do not contain reference to the Devil at all. In the trial of Bessie Dunlop in 1576, for example, the focus is on fairies and folk magic. While the Devil was a key figure in defining witchcraft as a crime by the end of the sixteenth century, the fact that he was largely absent from many trials makes it difficult to argue that he was essential to effectively proving witchcraft before a court. As will be argued in Chapter 6, however, this nonappearance can be interpreted as the absence of evidence rather than a lack of suspicion of his involvement. Moreover, as will be shown, the Devil was implicitly understood to be the source of a witch’s power; therefore it was the efficacious acts of healing and harm that were most important to prove, whether allegations of the Devil were included in the indictment or not. In either case, verbal acts of magic remained an important factor in the prosecution of—or defense against—charges of witchcraft.

Conclusion:
In interrogating witches, officials sought to obtain the most damning evidence that they could find, illustrating the ways in which examples of both magic and the Devil played a key role in their conviction. Certain details were focused on, prompting further questions and confessed details of specific words and acts. While we cannot get at the reality of whether these individuals had actually engaged in acts of practical magic, or if they believed they had experienced any of these confessed events, or if they had been pressured into providing these details through active or psychological torture and leading questions, what we can tell from these records is the kind of evidence officials sought in interrogating them. As has been shown, this concern focused most frequently on acts of malefice, particularly words, and the role of the Devil. Confessions were shaped, crafted, by both the interrogators and the interrogated, as well as the scribe recording

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79 Henderson, “Witch, fairy and folktale narratives in the trial of Bessie Dunlop,” 141-166.
what words were spoken. Details were provided by alleged witches, reflecting common perceptions of witchcraft and magic, but specific avenues of inquiry allowed officials to direct these details to conform to legal precedence in order to obtain a commission and conviction. Consequently, the confession was the most notable site of negotiation over the definition and perception of witchcraft.

In the previous chapters it has been shown that speech acts were critical to the definition of witchcraft in popular imagination. Yet we can see here that the questions of interrogators indicate a similar interest in exposing the verbal acts of witches through confession. If the cursing, quarreling witch was only a factor of popular belief in magic, why then were these characteristics so often included and emphasized in confessions as well? In addition, we begin to see a more prominent interest in the role of the Devil as well. These two components were linked by the religious and judicial conviction that witches acquired their power from the Devil himself.\(^80\) Consequently, it was critical for the court to prove that one or both of these elements had occurred. Since witness testimony of neighbours was only of use in proving the first—evidence of *maleficium*—courts often focused on interrogating suspected witches about both their involvement with the Devil and/or for specific sorcerous performances. The admission of either one could by definition prove that the other had occurred. By emphasizing the alleged witches’ relationship with the Devil, as well as their efficacious speech and malefice, the confessional evidence could be shown to conform to judicial stereotypes and prove that, by legal definition, witchcraft had occurred.

This chapter has looked at confessions in the pre-trial and trial of accused witches. In the next chapter we will look at several case studies in order to demonstrate how speech acts were likewise of interest to assizes, advocates, and central court justices. The legal arguments of both

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\(^{80}\) Diabolical witchcraft will be discussed in more detail in Chapter 6.
defense and prosecution suggest that proving that speech acts had occurred, and that such acts could be shown to be both relevant and efficacious in themselves, was a critical part of the definition of witchcraft in elite as well as popular belief.
CHAPTER 5:

Trial Procedure: Prosecution and Defense

Thus far this thesis has examined the role of speech and verbal witchcraft in popular belief, the pre-trial investigations of witnesses, and the interrogation and confessions of witches. At this stage it should be clear that while witches were believed capable of many things, evidence of witnessed speech acts and proof of words was important, and usually critical, in their trials. Popular ideas about folk magic and fairy belief often incorporated verbal features, while early reputations for witchcraft were usually built on recurrent reports of quarrels, scolding, and other transgressive speech. As ministers and kirk sessions conducted early investigations into suspected magical activity, they asked the accused and the congregation about ‘what words they spoke,’ revealing a keen interest in accumulating verbal evidence. Once local officials were satisfied that strong presumptions of witchcraft existed, they could arrest and interrogate the suspect at length. It was at this stage, usually (but not always), that allegations of the Devil were added to the proceedings. In part this was due to the nature of the evidence: it was difficult to find witnesses to a witch’s pact with the Devil other than the witch herself or other convicted witches. However, the interrogative focus on the words of witches demonstrates that speech was important at this later stage in the proceedings as well; repeated questioning and the gradual addition of specific words and details support the conclusion that confessions of verbal acts of sorcery were as important to obtain as declarations of the Devil’s Pact.

Once sufficient evidence had been acquired, officials could apply for a commission for a local trial (their usual preference) or they could attempt to initiate a central court trial in Edinburgh by applying to the lord advocate, the chief judicial officer, for an indictment.¹ Brian

Levack argues that the preference for local trials as well as a lack of oversight by central judicial authorities were some of the main reasons behind the severity of Scotland’s witch-hunts.\(^2\) Estimates of local conviction rates suggest these may have been as high as 96 per cent with a 91 per cent rate of execution, in comparison to the central justiciary court which had a 57 per cent conviction and 55 per cent execution rate.\(^3\) The skepticism of central judges likely played a role in this lower conviction rate, but so too did the efforts of advocates who were more readily available to those whose cases were heard in Edinburgh.\(^4\)

With the exception of some of the more high-profile cases, most of the evidence was amassed by local authorities during their pre-trial investigations. These confessions and depositions—and the occasional Devil’s mark—provided the foundation of the case, whether it was heard locally before an assize of prominent individuals, or before a central court justice. Consequently, the same general kinds of evidence could be heard and used in both types of trials. Confessions of witchcraft and paction with the Devil were obviously the most conclusive forms of evidence, but these were sometimes missing or revoked once these individuals were asked to affirm their statements before the assize. Therefore, the depositions of community members and other convicted witches were needed to prove either malefice or other magical powers, or that they had been witnessed or otherwise proven to converse with the Devil.\(^5\) As elsewhere, the evidence alleged against them could include many kinds of magical acts, including transformation, nonverbal magic, the evil eye, etc.; however, these were less critical or common

\(^2\) Ibid., 15-33.
\(^3\) Ibid., 26.
\(^5\) The Devil’s mark was another way of proving the pact without actually providing witness testimony. However, as Sir George Mackenzie, Lord Advocate, argued, this mark should only be taken as evidence of paction when accompanied by a confession—although in practice it is unlikely that this always enforced. Sir George Mackenzie, “A Treatise on Witchcraft” (1678), reprinted in *A History of the Witches of Renfrewshire*, ed. A. Gardner (Paisley: 1877), 17.
than allegations of harm following quarrels, curses, and threats. Moreover, the emphasis placed on these acts in the trial proceedings suggest that evidence of efficacious verbal acts was second only to proof of allegiance to the Devil. Indeed, as will be argued in the next chapter, efficacious words alone could be interpreted as evidence that tacit paction had taken place.

This chapter moves from pre-trial investigation to the examination of the actual trial proceedings in a series of case studies. First, the local trial of two witches from Renfrewshire will be discussed. As will be shown, the trial heavily emphasizes the verbal charms, threats, and prophecies spoken by Jeane Scott and Jonet Galbraith as they are confronted with the details of their own confessions, as well as the testimony of their neighbours, friends, and family. Following this, four cases from central courts will be discussed. Some of these cases have received extensive treatment by other witchcraft historians; for example, Isobel Young’s case is the subject of a detailed microhistorical study by Lauren Martin, while Christina Larner has also used Isobel’s case as well as others to discuss the legal arguments used by advocates in central trials. In comparison to the local content examined so far, these cases offer further insight into the concerns of central justiciary officials. These cases were overseen by a central justice or justices-depute, who judged the relevancy of the charges based on the arguments of professional lawyers acting as prosecution and defence; nonetheless, the outcome of the trial was still determined by the decision of the assize. In some cases the accused witch would be cleansed of the charges; in others they would be found guilty and executed on the same grounds, or less, as their more fortunate fellows. As has been argued thus far, there was no single definition of witchcraft, and what evidence might result in execution for one person might result in the

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6 Jeane Scott is referred to by name as both Jeane and Joanet in these records; the SSW lists her as Jeane Scott, which I will follow for this case.
freedom of another. Likewise, advocates might use similar arguments to attempt to prove witchcraft in one case, and defend the innocence of another. Trying to define witchcraft on the basis of the arguments of advocates or the precedent followed in these trials is therefore somewhat counter-productive. However, what these arguments do reveal is the concern of the court with the words of witches. Some lawyers would argue that the witch’s words had had no actual effect, or that the cause of the alleged harm could be shown to be of mundane origin, e.g. as in the normal contraction and spread of disease. Others would argue that there was no specific correlation between the threat or curse spoken and the concurrent or following misfortune, or alternatively that no words had been spoken at all. In contrast, prosecutors sought to prove by precedent and established law the very opposite: that when words had been spoken, witnessed or not, these could be taken as evidence that witchcraft had occurred. Regardless of the success or failure of these arguments, they exposed and reinforced the standard association of witchcraft with words in Scottish culture and courts.

**Jeane Scott and Jonet Galbraith, 21 March 1650**

The details of this case are recorded in the diary of none other than Sir George Maxwell of Pollock, discussed in the last chapter. He is listed as one of the commissioners in this trial, which occurred two decades before he allegedly fell victim to the spells of the six Paisley witches in 1677. Both women appear to have been caught up in a small hunt in the area around Paisley (part of a much larger spike in witchcraft accusations across Scotland from 1649 to 1650) begun on 13 September 1649 with the search for one James Thomson, a wandering beggar and reputed warlock. On 27 September, Mr. John Hamilton reported he had found “pregnant presumptions”

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of witchcraft in persons tried by the Session in the parish in Inverkip, including Jeane Scott, Janet Paterson, and Janet Loudon, while Mr. James Taylor reported having tried Jonet Galbraith in Greenock before his session.\(^9\) The Presbytery ordered these persons to be apprehended and appointed several brethren to be in charge of bringing them to confession, as well as taking depositions from the community over the next few months.\(^{10}\) On 24 January 1650 there is a note in the Presbytery records appointing three brethren to attend the trials of the witches in eight days’ time; however, this trial date appears to have been postponed for at least Jeane Scott and Jonet Galbraith, who were tried on 21 March 1650. At this stage a commission had been obtained from the Privy Council, naming Sir George and four other local lairds as commissioners.\(^{11}\) Clerks, officers, and assize were appointed and proceeded to hear the trial.

Jeane Scott’s case was heard first. The articles of the dittay were read one by one, clearly composed of information drawn from both depositions from the community and from the confessions taken during Jeane’s five-month imprisonment. After each article, Jeane was given an opportunity to confirm, deny, or qualify these accounts, including details from her own confessions. For example, in the first article against her she was confronted with her earlier confession:

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\text{Articles of the dittay:--1. Holden and reputed ane witche these tymes past, which shee confest; particularis wherof, cureing beastes and men in manner following: Of diseases, such as blastings, wrestings, blankes [glance] of ane ill eye; viz., by souseley [foxglove] leafes.}
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\[
\text{Shee confessed the forsaid salve of sousely leafes did not good but as the pairtie receaver did beleve. This denied.}\(^{12}\)\]
When confronted about further details of her previous confession—that the salve could be applied both externally and internally and that she had said that if patients slept after application of the salve, they would heal, but would die if they did not—“She answered, shee hearde that the salve was of that nature, but knew it not if it wer so.” When her interrogators had expressed doubt that such cures were lawful, she had confessed “she said shee had warrand out of the Bible, viz., ‘In the name of the Father and of the Son and Holy Ghost’.” However, when confronted with these words before the assize, “Shee denied that shee sayd so, only sayd that shee had a warrand from Doctoris.” When confronted about the curing of Jonet Patrick’s leg with the salve, “and with good wordis,” so that she no longer needed her staff to walk home, Jeane “sayd that shee went home so, and that she did give her of the salve, but sayd no wordis to her.”

Jeane was accused of many other acts of healing and malefice for which words were not always reported, but where they appeared they were emphasized. Jeane, for her part, tried to deny that she had spoken so or alternately to explain the circumstances and lack of efficacy of the speech. When Jonet Bell refused to sell Jeane a herring on credit, saying she had none left, Jeane had become angry, saying “I trow [trust] you have none”; when Jonet went to check her locked stores, the fish was indeed missing. When confronted, Jeane confessed she had offered to owe Jonet for the fish and was refused, but pointed out both the herring and a dozen salted cod were found in “annother manis hand” by the officer of Castlemilk, implying that theft rather than malefice was at fault here. When Robert Pinkarton, with whom she had quarreled after he called her a witch, claimed she had “sayd she used to gett ane mendes of all them that miscalled her, as shee did of James Crauford, who died ane miserable deathe,” she denied saying any such thing.

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13 Ibid., 351.
14 Ibid., 353.
Likewise she denied that she had threatened that his cow “should not doe him good” and that his family would get no butter, allegedly causing the cow’s sickness and death. Jeane would sometimes admit to her actions, but not her words, as when she was alleged to have

Threatened that one Robert Hastie should not hear or speake so as to be understood, which fell out; and that Hastie’s wyff cam to seeke salve for her husbandis sickenes, but after he did refuise, she applied it to ane cow, which cow died, and after the cowes deathe the man recovered. Answer.—Grantes the giving of the salve to ane shott [elf-shot; bewitched] cow.¹⁵

This example also reflects the common belief in the power of a witch’s words over the speech of others. Interestingly, Jeane’s salve was also alleged to sometimes cause uncontrolled speech. For example, when James Kirke sought some of the salve for his sick wife, he afterwards “did lick the spoone wherin the salve was, [and] became daft, and cryed, ‘Cuttie, cuttie spoone’.” This she also denied, but then the inquest was sworn in and the witnesses admitted.

The dittay against Jonet Galbraith was heard next. Many of the thirty-one articles against her focused on her charms for healing and for protection against the evil eye. Unlike Jeane, Jonet admitted to using at least some specific words in her charming. For example, she confessed that she had provided charms for numerous people who were afflicted by a glance of the evil eye, but only “in the fear of God, when people sought to be cured for Godis sake.”¹⁶

The people who sought her help would bring her a bit of something—salt, meal, bread, milk, broth—and she would cast some of this on the ground and charm the remainder “using thir wordis: ‘This is for the blainke [glance] of ane ill eye: In the name of the Father, Son, and Holy Ghost, I conjure th out of hide and out of haire, Out of blood and out of bone, And to the earthe and hard stone: In the name of the Father, Son, and Holy Ghost, a Godis name’. In response to this charge, she

¹⁵ Ibid., 353.
¹⁶ Ibid., 354.
confessed only to “the using of the wordis, ‘In the name,’ etc. [of the Father, Son and Holy
Ghost],” but denied the rest of the charm. Unfortunately, invocation of the Trinity in healing was
still considered highly suspicious, even with no other accompaniment. Jonet admitted to
charming using these words in a number of other instances, but denied it for others. For example,
when charged with giving a charm of salt to Joanet Allan, she denied charming the salt, but only
confessed that “the sickenes was for the feaver; and that all she sayd was, that salt shee had
found good for the same disease, and gave it to her.”¹⁷ She also confessed to giving a charm to
Katherine Morson for her cow, but “doth not remember if she sayd the wordis: ‘In the name,’
etc.” In another example, however, Jonet did confess to speaking a different charm. She was
alleged to have charmed the bairne of Joanet Scott (possibly the same as Jeane Scott, above),
curing its nausea using the words, “Oaken post, standes thow, Bairnes maw turnes thow; Our
lord and our lady bright, Turn the bairne’s maw right.”¹⁸ Jonet confessed to using the charm, but
qualified this by claiming “that ane old woman first spake it; [and] that it was the first shee saw
of that kynd” and that the child’s father had been present. Nonetheless, she did admit “that she
did assist them in the saying of the wordis,” representing a strong presumption of witchcraft.¹⁹

After this, Jonet was asked to affirm many other details from her earlier confessions. In
one unusual example, she had previously confessed to being able to suck witchcraft out of
people’s bones, which she now denied.²⁰ She also had confessed to “professing skill of
divination,” being able to tell others the nature of their disease (for example, if it were caused by
the ‘ill neighbours [fairy folk]’), the hour of its coming upon them, and whether they would
recover, but now denied this. However, evidence of this was provided by the depositions of

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¹⁷ Ibid., 355.
¹⁸ This example is also discussed in Chapter 2.
²⁰ Ibid., 356.
witnesses. For example, it was alleged she had told one individual a year before they died that they “would never gang [go; walk] on the ground againe,” and to another that “her beast was eaten away with ane ill eye; condiscending on tym and place when and wher.” She denied these charges and other examples where people reported on her words and ill wishes, such as when she told one man who had eaten her corn “that he should never thrive so long as he stayed in that towne.”

She similarly denied that she had cursed William Fife, causing him to contract a violent disease; “who in his torment sent to her, and bad her pray to God for him, else hee would cause burne her, or else be her deade; and that shee bad God helpe him, and within halfe ane houre the man recovered.” Clearly it mattered not whether she had offered help willingly here or otherwise: she was damned either way. Even her husband allegedly called her a witch, “who sayd shee had beene the divelliis servant since shee was 15 yeeris old, and that shee had beene seekeing to gett his soull to hell”; however, she refused to believe he would say any such thing.

Once the assize had heard these cases and the testimony of the witnesses, they passed judgement on the two women. Against Jonet Galbrieth it was “partly proven and confessed”: that she had engaged in charming against the evil eye, “Given in the name of the Father, etc.”; that as part of the charm, she had cast a portion on the ground and “appointing it to be asked for Godis sake”; that the charms could be of salt, meal, oat or wheat bread, or cheese; that she was “gapeing and ganting” as she cast these charms; and also that she had cured other fevers and had charmed a sick child “with these wordis, ‘Oaken post turnes thou,’ etc.” While Jonet’s words were clearly emphasized here, they were even more so in the next section:

21 Ibid., 357.
22 Ibid.
23 Opening her mouth wide and yawning (or moaning?), as if ill. Dictionary of the Scots Language, University of Glasgow, http://www.dsl.ac.uk/entry/dost/schot_starne (accessed, 4/3/16). This is described earlier in the charges: “Shee had a custome in giving charmes, that shee gaiped and ganted as if shee had been sick herselwe.” (355)
24 This section states she cured heart and head fevers by chewing sticks from an axle-tree and three pickles of salt, but the item in the dittay also mentions “muttering wordis” and she confessed to using the Lord’s Prayer in her healing of these fevers.
Proven: that she sayd shee could sucke witchrafte out of the bones of such as had it, and that none should come after her should doe better; and bidding them keepe themselves theerafter out of the sight of ill neighboris. Divination proven, in saying to the diseased they wer the worse of ill neighboris; and to ane who taken away, she sayd they would be taken yet away: and byesdes, one single witness depones, shee told exactlie that a manis sickenes began betwixt cock craw and midnight: and by another witness, she sayd it was needless for her to goe to a sick man, for he was a spent man: which man shee knew not.25

It was also proven that her charms could make people and animals sick if they tasted of one meant for another, and that the “Last, is the mark proven mala fama.”26 The Devil’s mark was likewise “proven” against Jeane Scott—even though this had not been included in the articles of her dittay—as was her “common bruit” as a witch.27 The charges “proven” against her were fewer than for Jonet Galbraith, but words played a key role here as well. In the pronounce ment of guilt, Jeane’s salve was described as being applied with accompanying words: “It was to be sought in Godis name, and it was given in the name of [the Father, Son, and Holy Ghost], etc., applied somtymes externallie, somtymes in potionis. The signe of its vertew was, if the pairtie slepted it was health, if otherwise no hope of life.” She was also convicted for curing bewitchment using a physical charm,28 and several acts of malefice causing death or illness (including leprosy) in others; while no details are included here at the conclusion of the trial, it is likely that these acts of malefice correspond to the spoken threats and curses described in the articles of the dittay.

No final sentence is recorded for this trial, either in Sir George’s diary or the Presbytery records. Presumably both Jeane and Jonet would have been convicted by the assize on the basis

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26 It is unclear if this means the mark was proven by report, or if her own ill fame [reputation] as a witch was proven separatelly here as well.
28 The article in the dittay contains no details, but here it states that she cured those elf-shot, “by three fingeris of different persons putt in the holl,” which I believe means three different people had to place their fingers in a hole in the ground, although there is a small possibility this refers to the occasional practice of using finger bones for charming.
of the evidence and acts “proven,” and were likely sentenced to be strangled and burnt at the stake. These cases clearly demonstrate how confessions and witness testimony were incorporated into the dittay as evidence in the trial. The accused were offered an opportunity to confirm or deny their previous confessions taken while imprisoned, as well as to address the charges laid against them by others in their community. While verbal acts were not the only types of magic and malefice described in the dittay, their frequent appearance in the charges, the efforts of the two women to deny their efficacy or existence, and their inclusion in the articles ‘proven’ against them, demonstrates the strong link between words and witchcraft in both popular imagination and the eyes of the court.

Advocates and Arguments: Witchcraft in the Central Courts

As stated above, central court trials often relied on the same types of evidence collected and used in local trials. It has been argued that allegations of the Devil were more common and played a larger role in central trials compared to local trials by commission; however, Brian Levack suggests that this disparity can be tied at least in part to the greater detail and survival of central court records. ²⁹ As can be seen in the above example, the Devil was certainly present in at least some local cases. In addition to diabolical content, however, evidence of malefice, quarrels, and threats still played an important role at the higher levels of the justiciary. While central judges might have a more skeptical view of this evidence, words were still notably linked to the definition of witchcraft. This can be seen especially in the arguments of advocates tasked with defending or prosecuting witches.

Christina Larner has looked at the arguments of advocates in order to better understand how witchcraft was defined and prosecuted in the highest courts. She states:

Lawyers argued in court and wrote about witchcraft in terms of general contemporary assumptions. There was no question of defending a witch by attacking the position of witchcraft in the criminal law or by attacking the concept of witchcraft as such any more than a lawyer would attempt to defend a client accused of murder on the grounds that there was no such crime. The nearest that any lawyer could get to such an approach was by pouring scorn on particular details of a given set of evidence.  

Larner argues that, in attempting to prove (or disprove) witchcraft, these advocates relied on details drawn from many legal sources, including the original 1563 Act against witchcraft, James’ *Daemonologie* and other witchcraft authorities. Even Canon Law was sometimes invoked (which might be surprising in Calvinist courts, although it continued to be used for marriage): as Larner points out, “Law was law.” Precedent was also used, although seldom: because previous judgements varied so widely, these could be used to attack as well as defend. Acquittal could be sought through technicalities, such as by accusing the accusers of slander, or through claiming an insufficient number of witnesses, which when successful could stop a trial before it started. Larner argues that once the trial had commenced, the defence arguments of lawyers usually fell into three major categories. The first category (and most important according to Larner) was based on scientific doubt and understanding: “The arguments were related to accusations of maleficce and suggested that they had a natural rather than a supernatural cause”; in other words, the witch’s curses, spells, and charms lacked efficacy in and of themselves. Second, was “ridicule” which was “sometimes closely allied to the first,” in which the lawyers would try to heap scorn on the evidence, arguing that no one could possibly believe that the witch had actually transformed herself into a hare, or any other fabulous power attributed to her. Third was

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31 Ibid., 178.
to prove the mental infirmity of the accused, which was a last resort and only used if the accused had already confessed. These three general approaches allowed advocates to argue that the accused was not a witch because there was no real evidence of her power or her identity as a witch and servant of the Devil.

The remainder of this chapter looks at the legal arguments drawn from four central court cases, including Isobel Young’s, whose case is also discussed by Larner. The arguments discussed generally fall into Larner’s three categories; however, the analysis here goes one step further to examine specifically the legal debate over speech acts as evidence of witchcraft. As Larner notes, advocates did not directly dispute the reality of witchcraft, only the failure of the evidence to support conviction in this case. Likewise, both prosecution and defence agreed that certain words, when spoken in the right form and context, could be considered indicative of witchcraft: where they differed was in their interpretation of what words qualified as legal and relevant evidence.

**Isobel Young, 1629**

Like many accused witches, Isobel Young seemed to have had a penchant for verbal discord and quarreling with her neighbours. Her dittay included 24 separate charges, most of which featured acts of malefice, threats, and curses, usually in relation to disputes over money, land or other neighbourhood quarrels. In addition to her acts of malefice, Isobel was also accused of having entered the service of Satan and receiving the Devil’s mark underneath her left breast. Her defence would argue that this “mark” was no more than a normal sore that would not heal, however, and without a confession from Isobel, the prosecution was forced to focus on providing evidence of malefice, quarreling, and harm. For example, it was alleged that Isobel had
conceived an ill will towards Thomas Ker when he helped to deliver a court summons to Isobel; in retaliation, she threw the copy of the summons in the loch and promised him that he “sould repent his thaircuming” after which he allegedly lost the use of his right hand and leg.\textsuperscript{32} Many other individuals testified that she had caused their illness by laying on of their disease, while other depositions from her process notes and trial likewise include evidence of cursing, threats, and other transgressive speech. Andrew Mautoun, for example, deponed that Isobel had owed him some money and when he approached her and demanded payment of the debt, she turned on him with “most blasphemous wordis that gif he lippin over mekill [trusted too much] in that God he wald God beguyle him committing thairthrow most hellische and horrible blasphemie, etc.”\textsuperscript{33} After this, meeting Andrew’s wife at the kirk, Isobel threatened her that they should lose all their meat and their good clothes, and that thereafter all his worldly wealth, including his house and cattle, were all lost to them. Even Isobel’s livestock were accused of talking back: in one deposition, a servant claimed he had heard one of her oxen speak the words, “oh God, oh God, o God,” while another servant testified an ox had asked him what ailed him.\textsuperscript{34}

Isobel was a prominent personage in her community; her husband was a landowner and she herself appears to have been frequently involved with the general management of the estate and household.\textsuperscript{35} While her position in the community may have provided fodder for quarrels and allegations of misfortune, her wealth and station also enabled her to take advantage of professional advocates in her trial. Isobel’s defence was handled by three of her sons and two advocates, Laurence Macgill and Mr. David Primrose, prolocutor and spokesman for the defence. In their detailed rebuttal of the points of the dittay, the defence employed several

\textsuperscript{33} Ibid., 111; NRS, JC26/9/8
\textsuperscript{34} NRS, JC26/9/1
\textsuperscript{35} Martin, “The Witch, the Household, and the Community,” 67-84.
strategies in order to prove the absence of witchcraft in this case, including: attacking the reliability of a particular witness; demonstrating the absence of witnessed magical deeds or speech acts; arguing for natural rather than supernatural causes; questioning the efficacy of Isobel’s words or their non-correlation to the ascribed effects; and suggesting that her threats were not curses, but merely the “ordinarlie blastis of anger quhilk people uses to vent quhan thay ar dispossessit of thair possessions” or in similar circumstances. These defence arguments frequently focused on Isobel’s words and other speech acts; likewise the rebuttals of the prosecution sought to prove malefice had occurred by showing that her quarrels and threats followed by misfortune could and ought to be considered as clear evidence of witchcraft.

This case is particularly interesting in containing details from the arguments employed by the prosecution and defence over the relevancy of the articles. In the first article, for example, George Sandie, miller at the Brandis mill, claimed that Isobel had long ago conceived a malice and hatred against him and was the source of his poverty and loss of his livelihood. He deponed that many years ago she had predicted or caused his mill to shut down for eleven days, resulting in the loss of his profits during this period. He also alleged that three months later she had come to the mill to grind her grain, but she refused to pay the price he charged for milling her meal and so he kept back some of her grain in restitution; in retaliation she threatened that he would lose all his worldly means and end in great poverty. He also claimed that she had been transported by some devilish and supernatural means across a river and through a terrible storm one night without getting any water on her. When George was dismissed by his employer, the laird of Broxmouth, he was left destitute and forced to turn to fishing for his work; his luck proved poor.

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36 SJC v. 1, 101.
37 Ibid., 98-101.
here as well, however, and he returned with no fish although others came back with large loads of herring.

Isobel denied these charges and her lawyers argued against their relevancy to the trial. Regarding the closure of the mill for eleven days, they cast doubt on the power of Isobel’s words by emphasizing the routine nature of the event: Isobel’s menacing that “the mylne sould nocht gang [the mill should not go]” could not be relevant, they asserted, as George himself was the cause of the mill shutting down for repairs after he knocked the hopper over and broke the cogs of the mill; furthermore, if “hir predictioun could haif had force it is probable that the force thairof sould haif continewit moir nor [than] ellevin dayis.”38 In the case of her arriving dry at the miller’s door, they likewise argued that natural causes were at play, as she had been riding the miller’s horse and that she probably crossed at a bridge and stayed dry beneath a cloak or plaid. As for the loss of his position as miller and his poor luck fishing, they attributed this to his own poor character, describing him as “deboischet [debauched]” and “knawin to be ane man of ane verrie leud lyfe.” His subsequent poverty also meant he could afford few nets and no hired help in his fishing, likewise hampering his efforts. Moreover, they pointed out that no spell or speech act had been witnessed that might have been the cause of such misfortune: “as to the lois of his heiring [herring] it can nocht infer ony poynit of witchcraft because there is no deidis lybellit no nocht samekil [not so much as] as minassing [menacing] speiches utterit be the pannell.”39

As with their rebuttal of many of the other articles, much of this defence focuses on Isobel’s words, either their absence, their lack of efficacy, or their non-correlation to the attributed effects. This can further be seen in the subsequent debate held between Mr. Primrose, speaking for the defence, and Sir Thomas Hope, pursuer and advocate, over the relevancy of this

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38 Ibid., 98.
39 Ibid., 99.
article. In response to the defence’s argument, Sir Thomas rejoined that the point must be relevant due to its inclusion in the original charges; moreover, that

the perticuler deidis contenit in the dittay to be done be the pannell [accused] upone malice preceeding minassi [menaces] and succeeding loissis accoording thairto immediatlie subsequent to the minassingis without ony evident or apparent cause or midis [intermediary] of reasone to impoirt that skayth [harm] except be the devillish sorcerie and incantatioun of the pannell. Lyk as it is lybellit that all the deidis lybellit war done be hir sorcerie the quhilk forme of dittay is relevant of law out of questioun and is daylie sustenit be the practique and lawis of this realme as was laitlie decydit in the caus of Margaret Wallace.40

In this passage Sir Thomas cites both legal precedent and the law of the realm in arguing that the malefices libelled in the article should be considered relevant and indicative of witchcraft because misfortune was seen to immediately follow specific threats or menacings with no other evident cause. In response, Mr. Primrose reiterated his position that the above article of the dittay is still irrelevant on the basis of his previous argument, as well as finding the prosecution’s reply likewise irrelevant, because it did not specifically identify the sorcerous means by which “scho brocht to pas hir minassing speiches and effectis thairof.” He argues that in order for misfortune to be interpreted specifically as evidence of witchcraft, there must be a proven connection between the words spoken and the ill luck that followed: “For be the law thair most be ane coherence betuix the minassing wordis and ensewing mischances quhilk is instancet by his misluk in fischeing the hering. It nocht being lybellit that he sould haif evill success in fischeing etc.” In other words, because there was no evidence of a witnessed speech act in which Isobel cursed George with poor luck in fishing, then there could be no proof that witchcraft had occurred. The prosecution responded that no such connection need be proven, except in order to

40 Ibid., 100. According to the SSW, Margaret Wallace was tried, convicted, and executed in 1622 by the central Justiciary court for a number of charges involving healing and harm following quarrels, including “rayling” followed by disease and the death of a minister. The surveyors note that this case included “very elaborate defence proceedings” in which both the prosecution and defence cited different passages from Delrio, a Jesuit theologian and author of an important witchcraft treatise, Magical Investigations. See entry for “Margaret Wallace (1622),” in SSW (accessed 4/3/16).
show “from whom and to whom” between the parties and that, furthermore, to make ‘witchcraft’ the only connection between the two would negate the point;\textsuperscript{41} to which the defence responded “that the cohesioun is absolutlie necessair and thairof in the \textit{termini a quo et ad quem} thair most be ane relatioun betuix thame be ane midis viz., the devillishe practizeis quhilk ar nocht lybellit etc.”\textsuperscript{42}

It is interesting to note that neither the prosecution nor the defence dispute the association of speech acts and witchcraft. Indeed, the position of both parties is that witchcraft could be proven when misfortune was seen to follow malicious threats or menacings; where the two parties diverge in their interpretation of the law is that the defence argued that there must be a specific correlation shown between words spoken and the misfortune that follows, with no other identifiable cause for the harm; in contrast, the prosecution argued that the presence of a quarrel or suspected malice (as was known to be present between Isobel and George Sandie), followed by misfortune could be included amongst the charges of the dittay as reasonable suspicion of witchcraft, regardless of the specificity of the words. These arguments continued to be employed by the respective sides of the counsel in debating the remaining charges against Isobel. Some of the charges against her included no words (for example in her alleged transformation into a cat or a hare, or her devilish transportation to the mill the night of the storm); in defending against these charges, Isobel’s lawyers continued to cast doubt on Isobel’s supposed supernatural powers, arguing that without evidence of deeds or words or any other magical efficacy, such occurrences were either ridiculous or could be attributed to natural causes: “Na deid committat nor speiches

\textsuperscript{41} “It is anserit thairto be my lord advocat that cohesioun is nocht necessar bot allanerlie \textit{solely} \textit{in terminus duobus a quo et ad quem}. And as to the cohesioun of ane midis the negatiioun makis witchcraft the positioun wald be ane defence to the pannell.”; SJC, v. 1, 100; Robertson, \textit{Goodnight My Servants All}, 295.

\textsuperscript{42} SJC v. 1, 100.
utterit is contenit in the said article." In cases where words were observed, such as in the accusation of Thomas Ker, they argued that the words were without effect or were no more than “the passionet speiches quhilk mycht be usuale to wemen." As discussed in Chapter 3, this gendered defence could be used to justify the speech while removing connotations of actual harm or sorcerous power. Lauren Martin has pointed out that Isobel’s lawyers attempted to show that these “passionet speiches” were all just common-place disputes normal for women in local communities, not witchcraft; consequently, she argues, witchcraft cases like Isobel’s reveal the broader cultural concerns with women, work, and community quarrels. However, it also reveals some of the gendered links between women, witchcraft, and illicit speech, which will be discussed in more detail in Chapter 7.

While the justice-depute could rule on the relevancy of the articles, it was the assize members who were the ultimate arbiters of Isobel’s fate. Isobel was acquitted of half the counts against her; of the remaining counts of which she was found guilty, the jury was only unanimous on two points, one being that she had had the reputation of a witch for many years past. Unfortunately for Isobel, conviction for witchcraft on any point was punishable by death, and the dempster pronounced her sentence to be strangled and burnt on Castle-hill in Edinburgh.

**Agnes Finnie, 1644-5**

A small-time shopkeeper and moneylender in Edinburgh’s Potterrow, Agnes Finnie was notorious for getting into scraps and quarrels in her neighborhood. The charges of her dittay reveal a sharp-tongued woman with a habit of cursing and threatening those who displeased

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43 Ibid., 103.
44 Ibid., 101.
46 SIC, v. 1, 96-120.
her.47 Almost all of the twenty articles against her revolve around disputes with her neighbours and customers over the years, fifteen of which include specific words and curses that allegedly led to her subjects’ misfortune. Johnne Walker, for example, claimed that twelve years past, his wife, Jonet Grintoun, had bought two herring from Agnes for the price of eight pennies. However, Jonet complained that the fish were not fresh and desired her money back, whereupon Agnes “in an great readge and furie, tuik the herring and trampled thame under [her] feit, and thairwith, in grit angre and with grevous threatening said to the said Jonet: ‘Goe the (thy) wayis hame. Thow sall nevir eat moir in this worald’.” That night at midnight, Jonet contracted “ane grevous desease and seakness,” and died two weeks later.48

Agnes’ devilish “speitches” were seen as the cause of death, illness, and misfortune in a number of other neighbours as well. In quarreling with Cristiane Diksone over a debt, Agnes “threatnit hir in thir speitches: ‘The devill ryd about the toun with yow and all yours’,” whereafter Cristiane had a great fall and broke her leg, causing her to be brought home in agony on horseback.49 In another “contraversie and debait” with Margaret Williamson, Agnes uttered “diverse outragious and cursed speiches, with horible and feirfull curses utterid thir devellisch wordis against the said Margaret: ‘The devil blaw yow blind’,” which caused Margaret to fall ill and lose the sight of her left eye.50 In an attack on the speech of another woman, Agnes cursed Beatrix Nisbett when she offered to pay the principal of her debt but not the interest, saying “Befoir it be long, ye sall repent and deir by [dear buy] the same”; when Agnes later stopped by the house selling ale and Beatrix refused, by her “devilrie, witchcraft and sorcerie,” Agnes

47 SJC, vol. 3, 627-675.
48 Ibid., 638.
49 Ibid., 640.
50 Ibid., 644.
caused Beatrix to fall seriously ill, “sua that the power of hir tounge was tane fra hir, also the haill power of hir ryt syde.”\textsuperscript{51}

In Agnes’ defence, Mr. Johnne Nisbett, prolocutor, focused particularly on the definition of witchcraft, as well as attacking the jury’s knowledge or ability to determine whether sorcery had actually occurred. He argued that, while judges and lawyers had the education and ability to identify witchcraft, the “unletterid” jury members were unqualified to make such judgments; consequently, he hoped that, as the justices were surely familiar with such educated distinctions, they would recognize that the charges against Agnes were not in fact definitive of witchcraft and should therefore be dismissed as irrelevant: “And it can nocht be constant to the assyssors that the pannell laid seiknes…be sorcerie, but be certain actis alledget to infer sorcerie, but sua it is that the questioun quhidder such and suche actis impoirtis sorcerie is \textit{questio juris}, to the quhilk assysors can nocht be Judges.”\textsuperscript{52}

Nisbett focused on the ability of the court to prove that specific “acts” of witchcraft had occurred. His defence, however, rested on defining witchcraft along classical demonological lines, including ritual summonings, diagrams, potions, magical instruments, and covenanting with the Devil, of which, he argues, there is no evidence as there was no confession of witchcraft in this case. However, while Nisbett was concerned primarily with showing that witchcraft required these ritual acts, his arguments indicate that ritual words and verbal elements played an important role in defining witchcraft even in demonological terms. Nisbett argues that there is no proof in this case that Agnes had “uset and practizet any proper of specifick act of sorcerie, impoirting of it[s] awin nature witchcraft or magiccull woirdis, postures” or other ritual elements. Speech was only one of the elements described, but the presence of verbal acts was clearly

\textsuperscript{51} Ibid., 638.
\textsuperscript{52} Ibid., 646.
included in this definition. Nisbett also cites prominent demonologist Jean Bodin, and English cleric and theologian William Perkins in his defence: quoting Perkins, Nisbett argues that, while acts of cursing and malefice, as well as misfortune following threats or quarrels, should be considered evidence of witchcraft, conviction for the said crime also required additional proofs, such as pact with the Devil (which, incidentally, Agnes was also charged with).\(^{53}\) In making this argument, Nisbett conceded that certain speech acts could indicate witchcraft, but that without additional evidence, his client should go free.

Like David Primrose in Isobel Young’s case, Nisbett also points out that the words of some of the alleged curses laid by Agnes did not specifically relate to the effect of the curse; for example, he points out that in a threat against a boy who had called her names, she declared she would make the boy “go halting hame,” which, while suspicious, could not specifically be taken as the cause for his sudden illness the next day.\(^{54}\) Nisbett likewise questions the efficacy and intent of the words Agnes allegedly uttered to Bessie Currie when she said “The devill take a byt of yow,” questioning whether these words were meant as imprecation or as a threat.\(^{55}\) For each of the charges, Nisbett addresses Agnes’ threats and quarrels, attempting to prove that the illness and misfortune suffered by Agnes’ accusers was the product of natural causes, but also to prove that Agnes’ words should not be considered efficacious in themselves, nor that they were intended to cause harm.

The prosecutor in this case was once again Sir Thomas Hope; his response was to reject Nisbett’s arguments, in respect that the articles of the dittay included examples of malefice and “wordis of imprecatioun and execrating quhairupon the malefice followit.”\(^{56}\) To the

\(^{53}\) Ibid., 648-649.
\(^{54}\) Ibid., 649.
\(^{55}\) Ibid., 652.
\(^{56}\) Ibid., 659.
prosecution, at least, witchcraft could still be suspected on the basis of transgressive acts of speech alone. After consulting for two days, the justices found five of the items to be irrelevant and two to be remanded to the authority of the kirk session for inquiry and punishment for flying rather than witchcraft; the remaining thirteen articles were presented to the assize for judgment, of which they found her guilty of eight. After review by the Justice-Deputes, however, this number was reduced to three: specifically articles 2, 3, and 20, which referred to her verbal cursing of Beatrix Nisbett and Jonet Grintoun, as well as her reputation as a witch. What is interesting in this case is not the number of charges by which Agnes was convicted—even one was sufficient to sentence her to execution after all—but rather the divergent definitions of witchcraft evidenced in this trial. Nisbett emphasizes the differences between educated belief in demonological theory versus the “unlettered” popular belief in malefice, yet he also acknowledges that verbal acts could be interpreted as witchcraft when they could be seen as relevant and efficacious in themselves. The prosecution holds firm in believing that proof of threatening words is sufficient as evidence of witchcraft, a position with which the assize members seem to generally agree, while the justices cannot seem to make up their minds. In all cases, however, it is clear that words played an important role in the evidence and defence in this trial.

Margaret Hutchison, 1661

In the case of Margaret Hutchison, the articles against her included many “threatenings” followed by misfortune: for example, her threatening words allegedly caused Harry Balfour’s

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57 Ibid., 672, 674.
58 The editor of the SJC transcriptions notes that several of the judges’ rulings appear to be somewhat arbitrary, judging some charges as relevant while dismissing other charges that seem to exhibit the exact same characteristics, then coming in at the final hour in what may have been an unprecedented ruling to strike down five of the guilty rulings (Ibid., 634-635, 674-675)
body to swell and experience “the pains of a woman in childbirth.”\textsuperscript{59} It was also alleged “That John Soutter after her Threatenings that he should not thryve, fell in a frenzie and madness [and] That Thomas Chrichton and others after her Threatening should make an ill end, dyed suddenly.”\textsuperscript{60} In court, Margaret was represented by Mr. Nathaniel Fyfe, who argued that the proposition of the dittay did not include compact with the Devil and that therefore these accounts of “malefice” should not be considered relevant to the case; he argues that without evidence of the Devil’s involvement, Margaret’s words could have had no power to cause the harm alleged “because they might have been done by natural causes without the Devil’s accession.”\textsuperscript{61} The prosecution, however, did not agree and defended their position with precedent showing how dittays describing deeds of malefice had been considered evidence of sorcery and witchcraft in many Justice Court cases, regardless of whether or not the means by which such sorcery was produced was identified.\textsuperscript{62} 

The Justice-deputes concurred with the prosecution, finding the points to be relevant to the case, indicating that they agreed that evidence of malefice and threatening speech should indeed be


\textsuperscript{60} Ibid., 7-8.

\textsuperscript{61} Ibid., 8.

\textsuperscript{62} “The Dispute upon this Lybel…is as follows: 1\textsuperscript{st} Mr. Nathaniel Fyfe, for the Pannel, alleages that the Proposition of the Dittay does not lybel Compact with the Devil, and the subsumption founded on particular deeds of Malefice lybelled is not relevant to infer Crimes of Sorcery and Witchcraft, because they might have been done by natural causes without the Devil’s accession.

“Replyed, the Proposition is opponned bearing expressly Compact with the Devil, and the subsumption is likewise opponned bearing that the particular deeds of Malefice were done by Inchantment and Sorcery in general. And it is not necessary nor possible to condescend on the means by which the Devil operates, but there being a Condesendance of \textit{Minae praecedentes et damnum subsecutum} [threats preceding and subsequent damage] specially in occult crimes.

“Duplyed, the Minae et Damnum [threats and loss] make but a presumption at most in this case where the Damnum is nothing but death or sickness, which is the effect of Mortality.

“Triplyed, oppones the constant practice of the Justice Court sustaining such Dittays, where the deeds of Malefice are lybelled to be done by Sorcery and Witchcraft, tho’ it be not condescended on \textit{quibus modis, medij et artibus} [in what ways or by what arts] it was done.” Moncrieff, \textit{Proceedings of the Justiciary Court}, 8.
considered relevant to the investigation and trial. This judgment suggests that witnessed speech acts were a key part of the evidence and the criminal definition of witchcraft. Fortunately for Margaret, the evidence presented failed to convince the jury and she was pronounced not guilty and cleansed of all the charges. Unfortunately for Margaret, the verdict reading was postponed, possibly to give more time for her accusers to obtain additional evidence. She was shortly brought up again on new charges, this time including “covenant” with the Devil and renouncing her baptism as well as acts of threatening and malefice.

In Margaret’s second hearing, she was represented by Mr. Andrew Birnie, advocate. Unlike Mr. Fyfe, Birnie did not dispute the role of the Devil as the empowering factor of Margaret’s curses (perhaps logically as charges of paction with the Devil had now been added to the dittay), but instead focused on Margaret’s actions, arguing that because no specific charm or sorcerous acts were witnessed in the laying of Margaret’s curse on her neighbour, then no witchcraft could be said to have occurred; “the Defender alledged that the Article of Indytement…was not relevant, because it does not condescend upon the means and methods of the Sorcery and Inchantment as Charms, Syllabs, Circles, and other Ceremonies whereby the Devil does effectuat his purposes by his Instruments.” Birnie’s argument emphasized the Devil’s role, but also the means by which witches performed their sorcery, including both verbal and nonverbal formats. Unfortunately for both parties, neither the prosecution, nor the Justices, nor the jury agreed with Birnie’s position. The prosecution once again cited precedent in accepting threats as evidence of witchcraft, to which the Justices agreed, holding all articles to be relevant. Interestingly, upon pronouncement of the verdict (which is noted in the margin of

63 Ibid., 12.
64 While not all of these magical rituals are specifically verbal, it should be noted that they all share a performative element by which the witch’s power could be observed to have been enacted.
65 “His Majesties Advocate oppones the Dittay and constant practice of this Court sustaining Dittays this conceived as appears passum through the Books of Adjournal”; Moncrieff, Proceedings of the Justiciary Court, 13.
both hearings), Margaret’s pacton with the Devil was not mentioned, nor is her reputation as a witch; she was instead convicted on the testimony of Katherine Wardlaw, who provided evidence that she had fallen ill after Margaret had threatened her. Even without specific evidence of a magical ritual, as described by Birnie in his defence, Margaret’s speech and threats were seen as damning enough to convict her in her second hearing. Thus, we can see here as well how evidence of witchcraft was strongly bound to witnessed speech acts in legal proceedings.

Janet Cock, 1661

Like Margaret Hutchison, Janet Cock was acquitted of the charges at the end of her first trial, only to be brought up on new charges two months later, whereupon she was convicted on several points of the dittay and sentenced to execution. The fact that both these trials occurred in 1661 during one of the largest witch-hunts in Scottish history may have played a role in their double trials; however, at least in Janet’s case, evidence had been being gathered against her for at least two years. Janet’s reputation as a witch was attested to by several witnesses, including the minister of Dalkeith. Both of Janet’s trials include many charges relating to verbal acts, including charming, healing, prophecy, and causing disease, death, madness, and/or loss of speech in many of her victims; a number revolved around quarrels and conflicts with her neighbours, including evidence of verbal “Threatenings” reported by witnesses. For example, she was accused of killing the child of William Scott who had been fostered by Helen Turnbull after threatening that she would do so. She was also accused of having “predicted the same by these words” that Helen would be let go from her position by her master, along with a “lash on her arse” after having threatened her with “trouble, poverty, and wrestling with the world,” which subsequently occurred. Likewise, Janet, “having conceived hatred against William Mitchell for smiteing her,

66 Moncrieff, Proceedings of the Justiciary Court, 14-15
said she would see him hanged and make a shamefull end, and accordingly he was hanged at Dalkeith.\textsuperscript{67} After a quarrel with William Wilson, baxter, Janet went away in “a great anger” muttering to herself. When William immediately fell ill, Janet was sent for: “And he praying to God as he could, schoe sayd to him, pray noucht and keep in your breath and I shall warand yow shall be weill, and he did sow as shoe bad him, and imediatlie he become weill again.”\textsuperscript{68}

In this case, Andrew Birnie acted once again as advocate for an accused witch. Standing for Janet’s defence in both phases of her trial, Birnie’s arguments focused on proving that the alleged misfortunes experienced by others had no supernatural cause. For example, he points out that without proof of the means of the sorcery by which Janet had cured one child and transferred the disease onto another, then the sickness and healing must be seen as having occurred naturally. Likewise, he argues that natural causes were likely at fault in other cases of illness and cures alleged by others, such as a distemper following a blow to the head as the cause of madness and loss of speech. In cases where specific curses were alleged to have occurred, such as in the case of causing the death of the child fostered by Helen Turnbull, Birnie focused on proving that the spoken words could not be linked to the target of the illness: “the Threatening lybelled was against William Scott’s nurse only and not against his child, and therefore the dammage suffered by the child cannot be imputed to be Threatning, as also the Threatning being only that the nurse should ger her leave from her Master.” In other words, because Janet’s curse was directed at Helen Turnbull, it could not have been the cause of the death of the child. Other

\textsuperscript{67} Ibid., 14-15
\textsuperscript{68} NRS, JC26/27/3/9. This event was expanded on in a second deposition, which states that, as part of her cure, Janet had given William some garlic and whisky, which she burnt, and then “made him drank it & he being praying, she forbad him to pray and hold his tongue & hold in his breath, and she said he wold come in a heat with it.” (JC26/27/2/2). In this case we can see how silence as well as words could play an important ritual element in popular belief in charms and magic. For example, Isobel Haldane confessed to going “silent to the well of Ruthven, and returned silent, bringing water from thence to wash John Gows bairn.” Isobel’s confessions also featured many spoken charms and words as well, demonstrating that silence as well as speech were dual aspects of verbal ritual magic. John Stuart, ed. \textit{Extracts from the Presbytery Book of Strathbogie, 1631-1654} (Aberdeen: Spalding Culb, 1843), xi.
items are argued irrelevant as they could be the result of natural causes or accidents, or, in cases of prediction, that these foretellings could simply be guesses or conjectures that just happened to turn out to be true.  

Birnie’s focus on words is especially apparent in his defence regarding an alleged charming charge. In this article, Janet and another convicted witch were accused of having healed a child, supposedly by a charm and sacrifice of a dog that took place behind closed doors. However, because there were no witnessed words or charms alleged in this article, Birnie argues “that all this cannot infer the crime of Witchcraft against the Pannell, unless it were libelled that she did speak words and use means not efficacious in themselves to produce the recovery of the child.” Birnie is implying here that not only were spoken words critical to Janet’s conviction on this point, but that in order for such speech acts to be confirmed as witchcraft, they must be proven to be efficacious in themselves and without other natural causes or efficacious means (e.g., by healing with medicine). In this legal argument, then, witchcraft was clearly defined as a crime related to efficacious speech. As the prosecution could not prove that such efficacious words were at fault in this article, the assize subsequently cleansed her of this and all other charges in her first trial; however, the second phase of her trial included thirteen new charges of malefic and threatenings, five of which she was found guilty of, and she was sentenced to be taken to Dalkeith where she was to be strangled and burnt at the stake.

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69 Birnie seems to differentiate legally between prophecy based on witchcraft and the ‘second sight’, arguing that in the article regarding Janet’s prediction of William Mitchell’s death by hanging, “which fell out a little thereafter, she might have done that from conjecture, such threatnings being usually made by persons injured, and if any crime could be inferred from this, it is not sorcery, but that which the Lawyers call Deuterocosopia [second sight], which is not libelled.” In either case, he is arguing that such an interpretation of these words render them less harmful than is currently alleged.


71 NRS, JC26/27/2/2
Conclusion:

Andrew Birnie would later go on to act as advocate in many other cases, including in the case of Agnes Williamson in 1662 when he acted on behalf of the prosecution. In this trial, he clearly takes the position that words were critical to proving witchcraft, arguing that threats followed by harmful effects should be accepted as evidence because, as he asserts, witchcraft is a “deed of darknes & perpetrat by hid means.” As witchcraft itself was largely an invisible crime of paction with the Devil, the threats, curses, and efficacious words of witches were therefore critical to revealing their malice and unnatural powers. This is not so much of a reversal of Birnie’s earlier positions, but rather a reframing of it—after all, he never sought to prove that words could not be used as evidence, but only to argue that the specific words spoken in those earlier cases were evidently not efficacious in themselves, or that there was no evidence of them having ever been spoken.

As has been shown, the trials of witches frequently included allegations of efficacious speech and the debates of the prosecution and defence often centred on proving that such acts had occurred. Sometimes these legal officials focused on proving that alleged speech acts, and therefore sorcery, had not occurred; at other times they argued that the witnessed words of witches did not specifically relate to their alleged outcome, which was a position taken by three of the four advocates discussed here. Advocates like Andrew Birnie argued that the link between spoken words and their effects could be happenstance, such as in the case of Janet Cock’s predictions, or that illness could be simply the result of natural causes. The defence arguments for both Isobel Young and Agnes Finnie maintained that their threats and curses should be interpreted as the impassioned speeches of unruly women rather than powerful curses on their targets, while Margaret Hutchison’s words were argued to lack power due to the absence of the

\[^{72}\text{NRS, JC26/28/1/7}\]
Devil; both arguments suggest that it was the efficacy of witches’ words that concerned the court. Frequently, the Justices upheld the precedent of the court and the argument of the prosecution in defining charges of malefice and threatenings as being relevant to the trial, although in some cases, such as in Agnes Finnie’s case, they could be moved to dismiss or reduce the charges. Once the court had debated and decided the relevance of the proceedings and the testimony of witnesses or confessions were heard, the assize could review the evidence and pronounce a verdict. Sometimes the defence’s arguments were effective, convincing the assize that particular charges or an entire case should be dropped; other times the panel was not so lucky.

Notwithstanding the rulings of the court, these processes clearly show that speech acts were inextricably tied to witchcraft in a legal sense. Prolocutors and prosecutors might debate the finer points of whether a particular charge could be proven as efficacious speech, but all agreed that, when proven, efficacious speech acts could be considered evidence of witchcraft. The precedent of the High Justiciary Court, cited in several cases, indicates that it was the convention of the court to accept accounts of malice and threatenings as potential evidence of witchcraft. Whether these speech acts were proven beyond a doubt to the court depended in large part upon the reliability of the witnesses, the specificity and verifiability of the testimony, the credence of the assize members, and the capitulation of the witch herself in whether or not she had confessed and therefore verified the charges against her. Many different factors may have influenced the development and outcome of each particular case. Regardless of how they did it, however, it was the advocates’ job to ensure that their client was not convicted. In order to do this, they had to prove to the judges and jury that the words of the accused were not efficacious in and of
themselves. This implies, conversely, that efficacious speech acts were clearly considered to be relevant to witchcraft, in criminal law as well as popular belief.

As has been noted throughout this thesis, witches were believed to engage in many different sorcerous and diabolical acts, which were reflected in the accusations and evidence against them. It is not argued that speech was the sole focus of the trial or the only evidence emphasized by courts and commissioners. However, it is notable how often these verbal features are included. Moreover, they are a major feature in definitions of witchcraft held at all levels of society. As we have seen, speech was a function and signifier of witchcraft in local communities, as well as to the kirk sessions and presbyteries who sought evidence of verbal acts in confessions and depositions. Advocates argued over the admissibility of certain words and deeds, while the commissioners and assizes drew their own conclusions as to the convincing nature of this evidence. In local and central judicial practice, as well as popular belief, it seems that speech was a linking factor. In the next chapter we turn to the religious definition of witchcraft as a crime of paction with the Devil. As will be shown, even here, speech was a critical component.
CHAPTER 6:
The Devil on Trial: Speech and Diabolical Witchcraft

The Devil’s role in witchcraft trials has long been debated by Scottish historians. On the one hand, Satan was clearly an important part of the classic construction of the witch as an enemy of the godly Scottish state, kirk, and people;¹ on the other, the original accusations and depositions against reputed witches in local trials rarely involved allegations of the Devil.² Most historians have interpreted this distinction to mean that there was a boundary—if an overlapping one—between popular and elite witch belief in Scotland, with the former playing an important part in identifying witches in their communities, and the latter providing the institutional mechanisms necessary to try witchcraft as a capital crime.³ As we have seen in earlier chapters, local accusations and early investigations into witchcraft charges often focused on the maleficent and/or healing power of witches, particularly their words. In contrast, the Devil usually—but not always—appeared in the confessions of alleged witches, which were then incorporated into the charges against them. The fact that these allegations were usually added after the involvement of municipal and ecclesiastical officers—potentially as a result of pressure or leading questions during interrogation—has been interpreted by historians such as Brian Levack as indicative of separate spheres of concerns and definitions of witchcraft.⁴ While popular beliefs were critical to the identification of witches in their communities, elites generally viewed these as superstitions.

until they were conflated in the courtroom with religious and legal definitions of witchcraft as a diabolical pact.

While many historians have noted the ‘strained’ nature of this distinction between popular and elite belief—the Devil’s mark and night flying, for example, are illustrative of the cross-over between the two systems\(^5\)—the division has persisted in most of the historiography of Scottish and European witch-hunting. The evidence does seem to support some level of difference, yet it is important that these two systems not be studied in isolation from each other. Indeed, the fact that the judicial evidence for witchcraft drew from both systems highlights how the courtroom functioned as the point of contact, conflict, and mediation between intellectual and popular definitions of witchcraft. While religious and elite definitions of witchcraft focused on the Devil’s Pact, reputations for witchcraft at the community level centered on repeated acts of healing, threatening, or otherwise efficacious speech.

As has been shown in previous chapters, both types of charges constituted critical forms of evidence used to convict witches. The legal debates between advocates over the relevancy of certain charges highlights the contention between different definitions of witchcraft, while also offering insight at the site of negotiation. Witches were sometimes convicted solely on evidence of efficacious speech, and at other times on the basis of nothing more than a confession of being the Devil’s servant; this suggests that either could be considered acceptable legal arguments *per se*, depending on the context and composition of the assize. On the other hand, the fact that

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\(^5\) Larner, *Enemies of God*, 137-8. This difficulty in ‘defining’ witchcraft is not limited to Scotland. The first eight chapters of the *Oxford Handbook of Witchcraft in Early Modern Europe and Colonial America* are devoted to the various manifestations possible of witch belief during the witch-hunting period. In his Introduction to the volume, Brian Levack points out the many challenges faced by historians seeking to provide a comprehensive definition of witchcraft in the absence of any one clear stereotype. The historiographical debate over the problematic division of elite and popular belief in Europe is discussed in more detail by Edward Bever in this volume as well, while Goodare deals with this debate specifically in Scotland. Brian Levack, “Introduction,” *The Oxford Handbook of Witchcraft in Early Modern Europe and Colonial America*, ed. B. Levack (Oxford, 2013), 3-4; Edward Bever, “Popular Witch Beliefs and Magical Practices,” in *The Oxford Handbook of Witchcraft*, 58-62; Julian Goodare, “Witchcraft in Scotland,” in *The Oxford Handbook of Witchcraft*, 311-314.
individuals could also sometimes be acquitted due to the absence of either efficacious speech acts or the Devil demonstrates that these arguments could also potentially be used to disprove witchcraft had occurred. At first glance, this seems to suggest an incompatibility of these two systems, emphasizing their differences rather than their similarities. Upon further investigation, however, it can be shown that the point where these belief-sets found common ground was in the verbal performances of witches. Witches were believed capable of many things, both in popular and elite belief; however, it was in speaking that the witch fulfilled the conditions for popular, religious, and legal definitions of witchcraft.

This chapter will examine the religious and legal definition of witchcraft as a crime of paction with the Devil. It will be shown that over time the pact became a standard and necessary part of the judicial definition of witchcraft, despite its noted absence in many cases. It will also be shown that these religious and legal definitions of witchcraft, like popular belief, were predicated on the verbal crimes at the centre of pact witchcraft. Looking at the evidence taken from witchcraft treatises, confessions, and trial records, it is clear that the pact was an important part of the legal definition of witchcraft, but so too were the verbal characteristics of witches. Indeed, each implicated the existence of the other, whether this was specifically identified in the indictments or not. Threats, curses, and efficacious speech could be used to prove the unstated existence of the pact, while the pact itself was founded on the verbal performances of witches. As this chapter argues, the act at the heart of the Devil’s Pact was a speech act. In engaging in a vocal contract with the Devil, the witch obtained the power—either innate or through appeal to the Devil—to perform and enact her will on others. In ‘covenanting’ with the Devil, a speech act became an identity critical to the designation of witches as the enemies of God, the state, and their communities.
Debating the Devil: Satan in Scottish Witchcraft Historiography

Joyce Miller has argued that “Demonic beliefs and figures were crucial to witchcraft, but the whom and the what are just as complex and abstract as witchcraft itself.”\(^7\) Most historians agree that the Devil was critical to the definition of witchcraft as a criminal offence, yet the fact that he is largely absent from the majority of trials, particularly local trials, seemingly contradicts this argument, leaving scholars divided on how to interpret this evidence. Part of the problem derives from the nature of the records, which suffer from inconsistent survival and a frequent deficiency of specific information. According to the Survey of Scottish witchcraft, which provides the most comprehensive review to date of the surviving and catalogued material on Scottish witchcraft, the ‘Demonic pact’ is only explicitly recorded in 9% of the cases.\(^8\) However, the creators of the Survey warn against drawing any firm conclusions from these statistics, particularly in discussing the Devil, citing challenges such as lack of information, ambiguous definitions of witchcraft, the destruction of records, and inconsistency in checking references from earlier surveys.\(^9\) One might be tempted to conclude from these apparently low rates of demonic content that the Devil was relatively unimportant in Scottish witchcraft cases; however, “such a conclusion would be highly unwise, since for most of the remaining 91 per cent the documentation is insufficient for us to be able to tell, one way or the other,” therefore “the

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\(^6\) For the purposes of this study, this chapter will focus specifically on the role of the Devil in Scotland. The Devil and demonological theory, however, represents a much greater portion of the historiography outside of Scotland. For more on diabolical belief in Europe, England, and Colonial America, see for example Gerhild Scholz Williams, “Demonologies,” in The Oxford Handbook of Witchcraft, 69-83; Stuart Clark, Thinking with Demons: The Idea of Witchcraft in Early Modern Europe (Oxford: Oxford University Press, 1997); Darren Oldridge, The Devil in Early Modern England (Sutton, 2000); Levack, The Witch-Hunt in Early Modern Europe, 174-108.

\(^7\) Joyce Miller, “Men in Black: Appearances of the Devil in Early Modern Scottish Witchcraft Discourse,” in Witchcraft and Belief, 145.

\(^8\) The figure is slightly higher when conducting a search for any cases tagged generally “Demonic”: approximately 15%.

question [of the role of the Devil in Scottish-witch-hunting] should be pursued primarily through qualitative study of the more detailed cases rather than through statistics.”

Several historians have engaged in just this kind of qualitative study, including Goodare himself. In his important study on women and witch-hunting, he argues that the crime of witchcraft was predicated on the implicit presence of the pact, which invoked and relied on the understood sexual relationship between witches and the Devil; therefore, the “crime of witchcraft, for many women, was broadly equivalent to the crime of fornication with the Devil.” Lauren Martin has likewise highlighted the importance of sex in the pact, arguing that the demonic pact represented a “heterosexual contractual union” suggestive of the performance of early modern marriage. The sexual nature of the pact has often dominated scholarly interest in the field, both in Scotland and elsewhere; the inference of sex from the pact has been discussed by both Christina Larner and Brian Levack, for example, although both have discussed Satan’s role in more general terms as well. Other scholars, such as Lizanne Henderson and Edward J. Cowan in their work on fairy belief, have looked at the religious definitions of diabolical witchcraft and its impacts on popular belief, while Joyce Miller has discussed the Devil’s various appearances and behaviour in witchcraft confessions. Louise Yeoman has also focused on the religious definitions of witchcraft, arguing that involvement of the Devil was tied to the traumatic experience of Calvinist conversion,

12 Lauren Martin, “The Devil and the domestic: witchcraft, quarrels and women’s work in Scotland,” in The Scottish Witch-Hunt in Context, 73-89, 81, 83, 89. Both Goodare and Martin note the gendered connection between women and sexuality, but also emphasize the link with disobedient female speech as part of the general link between women and witchcraft in the collective imagination, as has Christina Larner.
13 Larner, Enemies of God, 17, 134-74; Levack, “The Great Scottish Witch Hunt,” 266. The emphasis on sexuality is particularly prevalent in the scholarship outside of Scotland; for discussions of the sex and the Devil with Scotland, see, for example, Marianne Hester, Lewd Women and Wicked Witches (London: Routledge, 1992); Anne Llewelyn Barstow, Witchcraze: A New History of the European Witch Hunts (San Francisco: Pandora, 1995).
while Michelle Brock has discussed the blending of popular and religious experiences of the Devil in witchcraft cases and in early modern Scotland in general. The importation of demonological belief from the continent, and particularly the role of James VI as both witch-hunter and witchcraft scholar, has been studied by several authors and has been the subject of significant debate. Demonic possession has recently received more attention from scholars as well, particularly in relationship to the decline and end of witch-hunting.

While the Devil has clearly been the topic of much discussion in Scotland, he has also been a source of debate. Stuart Macdonald, for example, questions the role of the Devil in his study of Fife, which was the third most active shire in Scottish witch-hunting. He points out that the Devil is mentioned in only 20 per cent of the cases from Fife, “or, to put it another way, is absent in 80 per cent.” He points out that most references to Satan occur in central justiciary court trials or from the privy council rather than in local trials, and that even when present in trial records he appeared to have more of a background role rather than as a major player. Ultimately he argues that belief in the Devil and pact witchcraft cannot be used to explain the severity of the witch hunts in Scotland, stating that, “She was a witch, not because of a pact with the Devil, but because she was known as a witch by her neighbours, as someone who could heal or harm, and a

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16 The historiographical debate over James VI involvement in the trials and introduction of demonological belief is discussed in detail in Goodare, “Witchcraft in Scotland,” 303-311. For more on this, see below section on the Devil in Scotland.


19 Ibid., 34, 45.
troublesome neighbour.” 20 She was a “threat by her very existence” to the kirk and the establishment of a godly society through her usurpation of God’s exclusive power to heal or harm. In contrast, Brian Levack argues for a more prominent position of the Devil. While Levack agrees with Macdonald that references to the Devil were more likely to occur in central court records, he maintains that the relative absence of the Devil in local court records does not imply the absence of belief in his involvement: “The absence of references to the Devil in the trial records of many Scottish witches does not undermine the contention that Scottish officials viewed witchcraft as a religious offence.” 21 He points out that most references to the Devil were introduced at a later stage of the trial, which explained why so few Fife cases included the Devil; he suggests that if we had detailed records from as many local trials held by commission as we do for central court trials, no doubt we would have a much better picture of the role of the Devil in witch-belief. In contrast to Macdonald, Levack stresses the importance of the pact in Scottish witch-hunting, arguing that James VI’s emphasis on the pact in Daemonologie provided a foundation for future witch-hunting. 22 He asserts that “Over the course of the next century charges against witches and their confessions followed the basic outlines of James’ treatise. Scottish witches were routinely accused of making a pact with Satan, renouncing their baptism, receiving the Devil’s mark, and meeting with other witches.” 23

These two positions reveal some of the tensions and questions that arise when studying witch belief in Scotland. What was more important in contributing to witchcraft prosecution—popular belief in cursing witches, or elite and religious definitions of witchcraft as a pact with the Devil? Were the two mutually exclusive? If the Devil was so critical to the legal definition of

20 Ibid., 46, 50.
22 Ibid., 43.
23 Ibid., 44.
witchcraft, why was he absent in so many cases? And how did popular belief in magical performances and practices come to signify the presence of the pact? More importantly, how could this be proven in the courtroom? These questions will be addressed in the remainder of this chapter.

**The Devil in Scotland: From Arrival to Integration**

By the time the Devil began to regularly appear in witchcraft accusations in Scotland, witch-hunting had been an established practice in parts of Europe for over a century. Influenced by rising anxiety over the spread of heresy and heterodoxy, as well as the publication of witch-hunting manuals, such as the *Malleus Maleficarum*, and tracts by prominent demonologists, witchcraft prosecutions were on the rise in many parts of Europe. Drawing on scripture and classical and contemporary sources, witch-hunters and demonologists had redefined witchcraft as both heresy and the crime of consorting with the Devil and other evil spirits.  

Elements under the umbrella of classic diabolical witchcraft included many features—such as the Black Sabbath, orgies, cannibalism, and other blasphemous acts—but the most prominent was engagement in “an explicit face-to-face pact with the Devil.”

During this formal ceremony, witches offered their service to Satan in exchange for material reward, sexual pleasure, or the promise of revenge, often renouncing their baptism and giving homage to the Devil. While some of these features never became particularly developed in Scottish cases, the pact came to be a critical part of religious and elite definitions of witchcraft in Scotland.

The integration of the Devil into Scottish witch belief was a relatively gradual affair. It is doubtful, for example, that the writers of the Act prohibiting witchcraft in 1563 specifically

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targeted the practice as a diabolical craft. As has been pointed out by many scholars, the wording of the Act suggests that the reformers themselves were skeptical of the reality of witchcraft, seeing such practitioners as “abusers of the people” who promoted ignorant and superstitious practices and beliefs among the populace. It is therefore unlikely that the original framers of this act saw folk magic practitioners as the nefarious agents of the Devil that they would later become at the height of witchcraft prosecution. The Act was grounded, rather, in the desire to root out both superstitious folk beliefs and any remnants of ‘papistry’ in an effort to promote conformity of practice and belief in a reformed society. Nonetheless, the passing of the Act would have lasting consequences for popular culture and magical belief, resulting in the demonization of healers and cunning folk as well as witches, and the eventual arrival of the Devil in popular belief. As Henderson and Cowan have argued, with the criminalization of witchcraft, “the gap between white and black magic was hastily blurred, and folk-healers were caught up in the same judicial snare as malevolent miscreants. Of equal significance was that the crime remained defined as malefice, with any suggestion of the Devil or demonic pact only gradually emerging.”

The first significant appearance of ‘continental’ witch belief in Scotland occurred in the North Berwick trials of 1590-1. This period represents the first major hunt in Scotland’s history, with over one hundred individuals prosecuted, and has largely been connected to James VI’s involvement in the proceedings, although the precise nature of his role in the introduction of

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demonological witch belief has been disputed. The Devil loomed large in the confessions of the North Berwick witches. In the assizers’ dittays of these trials, Satan appeared in the pulpit as a “mickle [large] black man” with a black beard like a goat’s, a sharp hawk nose, dressed like a Calvinist minister with ragged black gown and skull bonnet and book in hand. In John Fian’s dittay, the Devil allegedly appeared to him as he lay in bed dwelling on thoughts of revenge:

“The Devil appeared to him with white raiment, where he spake to him in these terms, or ever he spake to him, ‘Will ye be my servant and adore me and my servants? And ye shall never want’.”

Fian, Agnes Sampson, and others had many dealings with the Devil, and while he often appeared as a man, he also appeared as an animal or object, including as a “long black thing” hauled up at the end of a rope (Agnes Sampson), and even a “coyle [bale] of hay” (Catherine Wallace, Janet Straton). According to their depositions, Satan ruled over the witches, and in exchange for their service gave them the poisons, powders, and power through which to work their evil magic at his demand. The witches allegedly met him at the North Berwick kirk, where he made a sermon of “doubtsoe speeches,” and bade them kiss his arse and dig up corpses. There was also dancing and music playing, spell casting and storm raising, parties on boats and in the kirk, and while the Devil was frequently present, he lacked some of his more intimidating features described in tracts like the *Malleus Maleficarum*.

While there are certainly demonological elements present in the trials of the 1590s, the descriptions of the Devil and the convention in the kirk do not tie closely with continental

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31 Normand and Roberts, *Witchcraft in Early Modern Scotland*, 215. The authors argue that this description was likely a composite of accounts given by others in the trial, including Donald Robeson, Janet Straton, Geillis Duncan and Bessie Thomson.

32 Normand and Roberts, *Witchcraft in Early Modern Scotland*, 225-7

33 Ibid., 225-7; NRS, JC26/2/1.
accounts where Satan features as a terrifying tyrant overseeing the dark, cannibalistic, and orgy-like sabbath. Indeed, the Devil in North Berwick was “at least in part, the Devil of popular belief, ballads and stories, of many proverbs and popular woodcuts, who has close, chatty relationships with clowns in early modern drama.” Ballads, broadsheets, drama, and other popular literature (oral, performed, or printed) likely increased Scottish exposure to the idea of diabolical witchcraft as well as reinforcing popular belief in verbally malicious witches already present in Scottish folk belief. The imagery from these sources, as well as from fairy belief, likely influenced both elite and popular interpretations of the Devil, which subsequently played a role in witchcraft prosecutions. The description and definitions of witchcraft in Daemonologie, for example, suggest that James drew heavily on his experiences during the North Berwick trials, as well as classical and scriptural sources. Consequently, his definition of witchcraft featured diabolical characteristics (witches’ meetings, kissing the backside of the Devil, and the Devil preaching at the pulpit), but also popular beliefs in magic, including wax images, spoken charms, healing and transferring diseases, magical powders as cures, and more. James even expounded at length on the place of fairies in his demonic genealogy. Written by the king himself, this tract would have had a dramatic impact on public perceptions and understandings of witchcraft and the legal role of the Devil in future Scottish cases.

Over time, the Devil came to be a common figure in the court documents of Scottish witchcraft trials. Christina Larner has argued that, by the early seventeenth century, popular descriptions of the Devil in witch trials had become stereotyped and that by the 1620s “the

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34 Normand and Roberts, Witchcraft in Early Modern Scotland, 216.
account of the Pact in the Scottish confessions and indictments had developed into a common form which did not vary much for the rest of the century.  

Demonic cases of witchcraft continued to rise and fall over the first half of the seventeenth century, spiking particularly around the hunts associated with the Bishops’ Wars and the conflicts between the Covenanters and Royalists in the 1630s and 1640s. In 1649, Parliament passed another Act against witchcraft, this time “against consulters with devils and familiar spirits and against witches and consulters with them,” indicating that the connection between witches and the demonic was now well-established.  

After a lull in the 1650s during the Cromwellian Occupation, the Restoration saw an explosion of accusations in Scotland’s largest witch-hunt from 1661-62; this period also correspondingly saw the highest number of diabolical cases. By the early 1660s, the Devil had become almost commonplace in central witchcraft cases: an accepted and integral aspect of a witch’s identity. For example, in Edinburgh in 1661, David Johnston, Agnes Loch, and several others were indicted for witchcraft. A later compiler of their trial records stated that, “There is nothing remarkable in this Process, ffor the Lybell is upon the common grounds of Compact with the Devill, Renouncing of Baptisme, keeping Meetings with the Deveil and accepting his mark, and found relevant and proven by Judicial Confessions, without any debate or opposition.”  

In other words, these acts and accusations were so common in witchcraft cases during this period as to be utterly unremarkable.

With the decline of witch-hunting, the later seventeenth century saw a shift towards witchcraft cases featuring demonic possession, characterized by shaking fits, speaking

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blasphemies or in tongues, or vomiting physical objects such as pins; however, witchcraft continued to be defined as a crime of paction with the Devil and characterized by transgressive speech acts. As late as 1697, ministers such as James Hutchison would define a witch as “a person that hath Immediat converse with the Devil, That one way or other is under a compact with him acted and influenced by him in reference to the producing such effects as cannot be produced by other without this compact.”40 The Devil continued to appear in cases into the beginning of the eighteenth century, demonstrating the longevity of diabolical belief in Scotland, despite the overall decline of witch-hunting in general. On the other hand, the continued relevance of accusations of quarrels, ill will, and ill speaking in witch trials up until their prohibition in the Witchcraft Act in 1736 is suggestive of the critical nature of these charges in both legal and popular definitions of witchcraft.41 The common inclusion of both diabolism and malefice, together and separately, lies at the heart of the dispute over the relative importance of elite and popular witch beliefs as the leading factor in encouraging witchcraft prosecution.

Servants of the Devil: Religious and Judicial Definitions of Witchcraft

While the Devil’s Pact may not have been critical to the original framework of legislation against witchcraft, over time it became a fundamental aspect of the judicial definition of witchcraft as a crime: “The religious concept of the crime, reflected mainly in the belief that witches made pacts with the Devil and joined other witches at nocturnal assemblies, was far more prominent in Scottish witchcraft trials than those that took place in England. In Scotland witchcraft was defined primarily in religious terms.”42 As discussed above, the North Berwick trials in 1590-

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41 See Chapters 2 and 3.
were the first to contain continental-type demonic features; however, the role of the Devil and
the concept of pact witchcraft were likely already familiar in Scotland prior to this time.\footnote{Wormald, “The witches, the Devil, and the King,” 173-175; Goodare, “The Scottish Witchcraft Act,” 62-4; Levack, Witch-Hunting in Scotland, 39.}

Descriptions of the pact could be found in witchcraft treatises, pamphlets, and publications,
many of which would have made their way to Scotland.\footnote{For example, Kirilka Stavreva counts at least twenty documentary witchcraft pamphlets (not counting learned
Bodin stressed the importance of the promise and pact, as did the writers of the \textit{Malleus Maleficarum}, while Puritan ministers in England described it in terms of a covenant made with
the Devil in a transgressive inversion of God’s covenant with his chosen people. William
Perkins’ description of the pact clearly reflects this inversion:

\begin{quote}
To this purpose, as God hath made a Covenant with his Church, binding himselfe by
promise to be their God, and requiring of them the condition of faith and obedience; so
doth Satan indent with his Subjects by mutuall confederacie, either solemnly or secretly;
whereby they bind themselves on the one part to observe his Rules, and he on the other to
accomplish their desires.\footnote{William Perkins, \textit{A Discourse of the Damned Art of Witchcraft; so farre forth as it is revealed in the Scriptures, and manifested by true experience} (Cambridge: Printed by Cantrl Legge, 1608), 3-4.}
\end{quote}

Thomas Cooper echoes this interpretation in a calculated attempt to answer the voices of critics
like Reginald Scot and Johann Weyer, stating “And therefore, as God have his covenant with
man: so will Satan have a speciall covenant also with his servants.”\footnote{Thomas Cooper, \textit{The mystery of witch-craft: Discovering, the truth, nature, occassions, growth and power thereof} (London: Printed by Nicholas Okes, 1617), 29-30. Original emphasis.} Cooper argues that this
pact between the witch and the Devil not only bound her in his service, but bestowed upon her
the power to summon him to perform her curses and ill wishes: “Concerning the covenant…at
length he will not faile to make sure of his Prentice, by binding him in some solemn Bond to
faithfull service, and performance of what hath formerly been promised…It must needes follow,
that this effect proceedes from some such compact with Sathan; who is hereby bound unto the Witch to do such things, when shee of her selfe were never able to doe."47 While few early tracts on witchcraft were printed in Scotland besides James VI’s *Daemonologie* in 1597, these ideas were clearly known and influenced Scottish perceptions of witchcraft; by the seventeenth century, and perhaps earlier, the pact had become an important part of the judicial definition of witchcraft.

In Scottish courts, witchcraft came to be defined as the religious crime, treason, and heresy of engaging in a covenant with Satan. This pact was seen as the source of a witch’s powers and therefore was used as a critical part of charges against them, which was reflected in the language of the indictments; “The Pact…came to be regarded by the Scottish justiciary, despite the number who continued to be convicted on other evidence or while maintaining their innocence, as the single most essential element in an indictment.”48 The legal relevance of the pact was such that by the seventeenth century it was commonly included in the summary of the charges in the indictment, which were often quite formulaic. The dittay of Margaret Burges, tried in 1628-9, provides an example. The first part of her indictment clearly outlines the crime of witchcraft as contrary to the laws of God, monarch, and Parliament:

Ye ar indyttit and accusit…[of] the detestabill and odious cryme of witchcraft…[which] is expreslie proheibite nocht onlie be [prohibited not only by] the divyne law of the almighty God bot also be the municipall laws of this kingdum speciallie be the 73 act of the 9 Parliament of our Soverane Lords darrest guidame [mother] Quene Marie of renownd and famous memorie halden be [held by] hir and hir thrie estaitis of this kingdome upon the fourt day of Junii 1563 yeiris…49

49 NRS, JC26/9/2/9
Larner has discussed this equation of witches with God’s enemies and enemies of the state, arguing that in doing so the Protestant regime claimed divine authorization for their actions and ascendancy. For this equation to be effective, it was fundamental to the judicial definition of witchcraft that it be associated with the Devil, either explicitly or implicitly. This relationship is made clear as the indictment continues, ultimately describing Margaret’s general crimes of consulting and covenanating with the Devil.

Nochtwithstanding [thairof] it is of veretie that ye the said Margaret Burges alias Ladie Dalzell shaiking af [shaking off] all feare of the omnipotent and almightie god your creator and of Jesus Chryst his sone your redimer and of the holie spireit in quhome [whom] ye war baptizet, [without] respect or regard to the Lawes of this kingdome thir to the syrvice of Sathane your maister [service of Satan your master] the eneme of mans salvation be making covenent with him to becume his servand and renuncing yor baptisme and resaiving his mark in dyvers partis of yor bodie [several parts of your body] for that effect. And be practiesing and using of dyvers poyntis of witchcraft and sorcerie be the consultai help and assistance of Sathane yor maister upone dyvers [of] our soverane Lords said subjectis againes quhome ye buire ony kynd [against whom you bore any kind]of malice to their overthraw and destruction in maner as followis.

This language is very common in indictments, clearly identifying Satan as both the witch’s “master” and as the “enemy of salvation,” and therefore the enemy of godly Protestant society. The Devil is understood not only as the source of her crime, but also the source of her power as the harm she has inflicted was done by “the consult[ing] help and assistance of Sathane [your] maister.” The pact is expressed here in terms of a “covenant” with Satan that she will become his servant, extended by the additional crimes of renouncing her baptism and receiving his marks.

Other indictments could contain additional formulaic charges, depending on the evidence collected; in addition to renouncing of baptism and receiving his mark, these might include such

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50 Larner, Enemies of God.
51 NRS, JC26/9/2/9
52 “Covenant” is the most common phrase used to describe the pact, but also “paction,” or more generally described as entering the Devil’s service.
crimes as attending meetings or gatherings of other witches, receiving a new name from the Devil, or having “suffered yor bodie qlk aught to have bein ane [your body which ought to have been a] temple to the holy ghost, to be polluted & defiled by his haveing carnall copulation with yow,” as in the case of Bessie Moffat’s indictment in 1661. However, it was the pact itself that was the first and foremost crime of the witch.

In Scotland, as elsewhere, the pact was built upon the concept of exchange of service. As Larner points out, “The Demonic Pact initiated, in fact, a standard feudal relationship, reflecting standard assumptions about all significant human bonds in this period.” In Scottish cases, the pact likewise paralleled other contracts such as bonds of manrent and covenanting. The ceremony of the pact involved the witch’s promise of service to the Devil in exchange for worldly goods, the power to exact vengeance on those who wronged her, or often simply the promise that they “should not want.” James VI explained that witches were those who were afflicted with an unnatural desire for either revenge or wealth and, being filled with such unnatural lusts, were open to the enticements of Satan when he approached them:

At which time, either upon their walking solitary in the fields, or else lying pansing [thinking] in their bed, but always without the company of any other, he [Satan] either by a voice or in likeness of a man inquires of them what troubles them; and promiseth them a sudden and certain way of remedy, upon condition, on the other part that they follow his advice, and do such things as he will require of them. The minds being prepared beforehand, as I have already spoken, they easily agreed unto that demand of his; and syne set another tryst [after that arrange another meeting] where they may meet again.

As a consequence of their wicked desires, the Devil was able to tempt these individuals into his service. For example, Satan offered Elizabeth Hutchison riches, and “promeist hir pearles and

53 NRS, JC26/27/9/11.
54 Larner, Enemies of God, 148.
55 To be discussed later in this chapter.
56 Normand and Roberts, Witchcraft in Early Modern Scotland, 383.
Jewalls” which he showed her at that time.\textsuperscript{57} Janet Paistoun in Dalkeith received forty pennies in coin, but after the Devil’s departure found she had nothing.\textsuperscript{58} Janet Barker in 1643 was promised that in exchange for her service, the Devil would make her “as trimlie clad as the best servant…for he sould [should] give her ane reid [a red] kirtle.” Not to be greedy, she “replyed she was content to be his servant and take assay of his service for half a year if he wold keep his promise Bot wold not have a reid kirtle onlie desyred a whyte plaidi Coat or a wylicoat.”\textsuperscript{59}

This exchange, whether for money, vengeance, or promise of maintenance, was an integral part of the pact, but the actual performance of the pact was a verbal contract or agreement between the Devil and the witch. This contract was alternately described as a paction, bargain, promise, covenant, or agreement. In 1597, Marion Grant confessed that “the Devill thy maister,” whom she called “Christsonday” had come to her in the shape of a man and “baid thee call him lord, and becom his servand, and thow suld nocht want,”; after engaging in carnal relations with the Devil, she agreed to “becom than his servand, in quhais [whose] service thow hes still yit continewit sensyn [since then].”\textsuperscript{60} In 1649, Satan appeared to Katharin Gib in the likeness of a large, grim man and asked her age and if she would be his servant; she agreed and he departed without anything further happening. He appeared seven or eight days after in the same place, clothed in black, at which time she renounced her baptism and was baptised anew by the Devil with water he had brought “in something like a cockle schell.” She promised to be his servant and then he lay with her. He also promised her “enough” but she said she had never received anything from him to this day.\textsuperscript{61} Bessie Moffat confessed she had met the Devil in the likeness of a young man after quarreling with her husband, at which time he promised her

\textsuperscript{57} NRS, JC26/50/1
\textsuperscript{58} NRS, JC26/27/9/14
\textsuperscript{59} NRS, JC26/13 Bundle D, Item 1
\textsuperscript{60} The Miscellany of the Spalding Club, volume 1 (Aberdeen: The Club, 1841), 170-171 [hereafter cited as MSC].
\textsuperscript{61} NRS, CH2/124/1/36-37
money. She later met him again at Courting Hill on her way to the mill, where she promised to meet him at the Newtown dam to receive the money he had promised her. At this time, she “entred in a covenant & paction wt him to be his servant,” and had carnall dealing with him and received a new name (“the Spounger”), taking the Devil’s mark in several parts of her body, including her right arm, her right shoulder, and another on her throat.62 In each of these cases and many others, the promise of service was the performed speech act that established the covenant with Satan, demonstrating the verbal nature of the pact.

In a variation on the standard promise, several witches in Crook, Kinross-shire confessed to having “engaged themselves to be [the Devil’s] servant by putting one of their hands on the crown of their head and the other under the sole of their foot, and delivering all betwixt them over to him.”63 This frequently-used format clearly contains both physical and verbal elements evocative of feudal homage, but it was the performance of speech that initiated the speaker into the Devil’s service. The physical act of placing hands to crown of head and sole of foot, while important to the ritual, had no talismanic power on its own; in contrast, verbally delivering oneself to the Devil with or without such physical elements clearly constituted evidence of express paction. On the other hand, this particular ritual was more generally interpreted as part of the formal renunciation of baptism rather than the pact itself. This was the case for Janet Burtoun, who first engaged in the pact when the Devil “had carnall copulation with hir and told hir that she behoved to be his servant when he called for hir qlk [which] she promised to him.”64 It was not until two weeks later that the Devil came again and “caused [her] to renounce hir baptisme and put hir one hand over the crown of hir head and the other under the sole of hir foot

62 NRS, JC26/27/9/11
64 NRS, JC26/49
and that she delivered over to the divell all qt [that] was betwixt hir hands and that the divell
gave hir a new name and called hir Sarah Drudge.” Sir George Mackenzie, former Lord
Advocate and member of the Privy Council, also defined this type of performance as part of the
diabolical baptism.\textsuperscript{65} In practice, however, the interpretation of this ritual performance was a bit
more fluid, being sometimes associated with the specific renunciation of baptism, and other
times with a more general formalization of the pact. In either case, however, words played an
important part in performing and entering the Devil’s Pact.

\textbf{Defining the \[P\]act: Speech as Evidence of the Pact}

While the terms and exact performance could vary, it was understood that by simply promising
to be the Devil’s servant, the accused had engaged in the pact and therefore was guilty of being a
witch. The pact was often accompanied by a variety of other activities, but these were secondary
to the promise and pact itself. James VI makes this ordering clear in his description of the pact:
“At which time, before [Satan] proceed any further with them, he \textit{first} persuades them to addict
[commit, ‘attach oneself to another as a disciple or adherent’] themselves to his service; which
being easily obtained, he \textit{then} discovers what he is unto them, makes them to renounce their God
and baptism directly, and gives them his mark upon some secret place of their body” [emphasis
added].\textsuperscript{66} This primacy of the pact continued to be part of the legal definitions of witchcraft
throughout the witch-hunting period. Eighty years after James VI, Sir George Mackenzie
likewise identified the pact as the primary condition for the proof of witchcraft: “As to the
relevancy in this crime, the first article useth to be paction to serve the Devil, which is certainly

\textsuperscript{65} Sir George Mackenzie, “A Treatise on Witchcraft” (1678), reprinted in \textit{A History of the Witches of Renfrewshire},
ed. A. Gardner (Paisley: 1877), 16.
\textsuperscript{66} Normand and Roberts, \textit{Witchcraft in Early Modern Scotland}, 383-384 (transcribers’ original gloss of “addict”).
relevant *per se*, without any addition.*67* He defines the terms of the pact and then goes on to discuss the additional articles of renouncing of baptism, receiving new names, the Devil’s mark, threatening and malefice, meeting with other witches, divination, reputation, and other charges in terms of varying degrees of relevancy and use as evidence in a trial; all of these, however, followed under the presumption first that the pact had occurred.

Like other lawyers and demonologists, Mackenzie divided paction into two different types: express and tacit. Express paction was done with full knowledge and consent of the individual (knowing the Devil to be the Devil, not as a human man in whose form he may have appeared) and is “performed either by a formal promise given to the Devil then present, or by presenting a supplication to him, or by giving the promise to a proxy or commissioner empowered by the Devil for that effect.”*68* He cites another demonologist’s description of the formula as “I deny God, creator of heaven and earth, and I adhere to thee, and believe in thee,” but notes that in Scotland the “the ordinary form of express paction confessed by our witness is a simple promise to serve him.” Such a promise could potentially be conducted in writing, but in Scotland and elsewhere was almost always orally enacted.*69* The verbal nature of the contract is highlighted in a witchcraft treatise from Norfolk in 1616 subtitled: “With a true Narration of the Witchcrafts which Mary Smith, wife of Henry Smith Glouer, did practise: Of her contract vocally made between the Deuill and her, in solemne termes, by whose meanes she hurt sundry persons whom she enuied: Which is confirmed by her owne confession, and also from the publique Records of the Examination of diuerse vpon their oaths.”*70* While this is an English

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*69* This preference could possibly relate to presumed illiteracy of accused witches, but was also likely tied to the power and authority of performative speech in early modern Scotland.
*70* Alexander Roberts, *A Treatise of Witchcraft: Wherein sundry Propositions are laid downe, plainly discovering the wickednesse of that damnable Art, with diuerse other speciall points annexed, not impertinent to the same, such as ought diligently of every Christian to be considered.* (London: Printed by N. O. for Samuel Man, 1616).
case, it clearly demonstrates all the major points associated with the Scottish cases we have been examining. First, Mary Smith had made a contract with the Devil, specifically a verbal contract. This contract bestowed upon her the power whereby she or the Devil at her bidding performed and enacted her malicious desires. This contract and power was then proven through two major forms of evidence: her confession, and witnessed accounts of her power, spoken under oath, both of which constituted speech acts themselves.

Tacit pactio, on the other hand, did not require a specific formal ritual, but instead, as Mackenzie asserted, could be presumed “when a person who hath made no express pactio, useth the words or signs which sorcerers use, knowing them to be such, either by their books, or discourse; and this is condemned as sorcery.” Mackenzie argues that use of these “words and signs,” if done in ignorance, was not a crime as long as the user agreed to refrain from all such acts in the future; yet speaking such words with apparent knowledge of their power and purpose was often used as evidence that tacit pactio had occurred and that they had knowingly agreed to serve the Devil by speaking these words. While Mackenzie mentions “signs” as well as words, the fact that individuals who practiced solely non-verbal charms were rarely accused of witchcraft suggests that speech acts were needed to prove tacit pactio. Most importantly, this shows that merely by speaking, accused witches could be considered to have engaged in the pact, whether they confessed to having expressly promised their service to him or not. Consequently, evidence of efficacious speech acts could be, and often were, interpreted as legal evidence of pactio with the Devil. In cases of both tacit and express pactio, therefore, words were the incriminating evidence proving that a pact had occurred.

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72 See Chapter 2.
This was the case with Thomas Patoun and his wife Bessie Grahme, whose cases include judicial notes over the relevancy of the charges.\textsuperscript{73} The first article, wherein Thomas boasts of casting his ill will on a woman and “the effect followed,” was seen as a “verie considerable” charge, while the following three articles were considered “great presumptions” although the words of the curses and threats did not have “so necessary ane cohesion with thair effects.” Article 5 involved a charm, which “is a verie divilish Lyk charme bot the custome of the Justice Court is to find charmes relevant, onlie when they proceid from express pactioun with the divell, or from tacite pactioun and whither this be so or not the Lords will judge by circumstances.” Therefore words and verbal charms were relevant as evidence, but needed to be tied to express or verbal pactioun. Ultimately, however, the very speaking of these words and charms could be interpreted as evidence of said pact: for both Thomas and his wife, the justices thought their long-use of charms and “execrable divilish wordis” could “not be presumed bot to proceid from a tacite diabolique Pactioun efter the using of them So long a tyme 24 yeares…” Thus charms and threats required proof of the pact to be perceived as witchcraft, but charms and efficacious speech acts could themselves be used as evidence of tacit pactioun, especially in the absence of a confession.

Not all authorities agreed on the reality of the pact, however. Skeptics like Reginald Scot argued that descriptions of the bargain were “absurd lies” and that the confessions on which they were based were a product of compulsion under interrogation, or else due to melancholic humours in those not “sound of mind.”\textsuperscript{74} Johann Weyer also blamed mental illness, but allowed that the Devil could potentially be the cause of the misfiring in ocular and auditory organs which


\textsuperscript{74} Reginald Scot, \textit{The Discoverie of Witchcraft} (London, 1584), 37, 46.
led accused witches to believe that they had engaged in such a pact. In fact, it was more common for skeptics and moderates not to deny outright the reality of witchcraft and the involvement of the Devil, but to argue instead that he was responsible in some way for deceiving witches into believing both in his power and their own. Puritan minister George Gifford, for example, argued that while the pact was real, the effectual power of witches and Satan was not. In Gifford’s *Dialogue*, the protagonist instructs his fellows that Satan, using calculated guesses and understanding of natural causes and consequences, convinced witches that they could cause harm or healing by their words and charms, but that neither he nor the deluded servant was the actual source of these powers. In conducting this elaborate fraud, Satan was rewarded by an exponential explosion of sin, including: blasphemies spoken as prayers and charms; the extension of heretical and superstitious beliefs in those who sought or feared the witch’s power; and the slaughter of innocents and sinners alike by honorable magistrates. Consequently, “the witch is the vassall of the divell, and not he her servant; he is lord and commaundeth, and she is his drudge and obeyeth.”

Opinions like these highlighted the difficulty faced by those uncomfortable with the prosecution of witches. Scripture clearly mandated “Thou shalt not suffer a witch to live”; to argue against the possibility of witchcraft therefore was to challenge the Word of God. This

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78 Some argued, such as Reginald Scot, that the word “witch” in this passage had been mistranslated, possibly from ‘poisoner.’ In sixteenth- and seventeenth-century Scotland, however, “witch” was the accepted translation.
was further complicated in Scotland where no less than the king himself had clearly defined witchcraft as pact with the Devil. While Reginald Scot pointed out that such a pact was not actually supported by biblical reference (“What chanceth it that we heare not of this bargaine in the scriptures?”), it was much more common for doubters to take a more moderate view, insisting on the reality of witchcraft and the pact but arguing against the idea that confessing witches were necessarily guilty of these crimes.\(^7^9\) For example, while George Mackenzie defined witchcraft as a crime of pact with the Devil, he also saw many of those accused of witchcraft as “poor ignorant creatures, and oft-times women who understand not the nature of what they are accused of; and many mistake their own fears and apprehensions for witchcraft.”\(^8^0\) This did not entirely dissuade him from the reality of witchcraft (at least not that he admitted in writing) or the necessity of trying them for their crimes; rather, he advocated for caution and the rigorous application of judicial standards in prosecuting witches in order to avoid the conviction of innocents who may have been pressured into confessing against their judgement. In order to ensure this conformity of judicial procedure, he systematically defined the various allegations commonly associated with witchcraft and their relevancy in the proceedings of the trial for use by advocates and justices of the courts. For Mackenzie and other lawyers, whether skeptical or believing, the emphasis on the pact as the principal crime of witchcraft indicates that legally the crime of witchcraft was defined in religious terms of pact and covenanting with the Devil. Moreover, the prosecution of witchcraft as a crime required evidence that such a pact, express or tacit, had occurred. This evidence, as is argued, was most frequently found in the utterances of witches.

\(^7^9\) Scot, The Discoverie, 37.
\(^8^0\) Mackenzie, “A Treatise,” 11.
Absence of the Pact

As we can see, the pact was an essential part of the legal and religious definitions of witchcraft. But if the Devil was so critical to the definition of witchcraft as a crime, then why was he missing from so many trial records? As discussed, some historians have interpreted this discrepancy to mean that the Devil was unimportant in local allegations and that he only played a significant role in central trials. Yet even central court cases did not always include mention of the Devil in the indictment. This absence, however, can be interpreted from a judicial point of view, not as the absence of belief in the Devil and his pact, but rather as the absence of evidence.

Consider, for example, the cases of six women tried within days of each other in Aberdeenshire by the North Circuit Court in 1671. All six were accused of various threatenings, charms, hatred and malice as evidence of their witchcraft. Helen George was accused of witchcraft and killing a man with an enchanted drink after quarreling with him several times and having “menaced and threatened that he should repent it.” Helen Sumner was similarly accused of having conceived a cruel hatred towards Alexander Blackhall for taking her house and so had “menaced and threatened that he should not long enjoy it, nor neided be at any further pains in repairing the same,” causing his sickness and death. Jean Ross and Katherin Russell appear to have been tried together for witchcraft, sorcery, and “useing and expressing of charmes” for curing fevers and banishing rats. The charges against Christian Sword included witchcraft, charming and enchantment, and having “used said charmes and enchantments by

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81 NRS, JC26/38 Aberdeen Rolls 1 & 2
82 NRS, JC26/38 Aberdeen Roll 2.
83 Their names are listed jointly on the dittay with one accompanying indictment
pronouncing of sundarie words & spels,” particularly in causing the sickness and recovery of James Foord’s daughter by “using some secret mutterings and words.”

In the same round of trials, Geillis Burnett was similarly accused of malice, threatenings and curses, particularly for having allegedly caused the death of her two husbands by curses, charms, and/or powders, and of consulting with other accused witches. Unlike the other five cases, however, her indictment also included the charge of associating with the Devil, stating that “ye haveing shaken off all feare of God reverance & respect to his sacred word & acts of parlia[m]ant of his kingdome grounded yrupon,” had “entered in ane paction and covenant with the Devill…the enemy of mans salvation,” by promising to be his servant and renouncing her baptism. This additional charge is surprising because, although other confessing witches claimed she had consulted with them and received materials or instructions from them for her charms, she does not appear to have actually confessed herself; in fact, none of the six women appear to have confessed to engaging in the pact. The only suggestion of the actual presence of the Devil came from the accusation that Geillis had visited Margaret Abernathy, an accused witch, in prison in the company of a “litle black man” who advised Margaret “not to speak or confess any thing [there]anent.” Considering that Geillis had enlisted Edinburgh advocate Alexander Anderson for her own trial, it is likely that this suspicious figure was he, yet the description in her indictment seems calculated to suggest her relationship with the Devil.

In the end, the circuit court justices found Geillis not guilty of witchcraft, possibly due to the lack of evidence or possibly as a result of her advocate’s efforts. Regardless of the outcome, however, this case illustrates how the presence of the Devil could be invoked selectively in indictments and court cases. These six women were from the same general area, tried by the

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84 The Survey has this case listed as Christian Foord, but I have transcribed the surname as ‘Sword’ from the manuscript. SSW (accessed 4/25/16)
same circuit court, within days of each other. Only Geillis’ indictment, however, includes reference to the Devil. This is not because there was an absence or disparity of belief, but rather a disparity of evidence. There were no recorded confessions of the pact, no specific evidence for the involvement of the Devil in the cases against the other five accused witches; consequently including these allegations in the summary of their charges would have dramatically weakened the case against them. There was no confession in Geillis’ case either, but there was evidence, however weak, of the potential presence of Satan. The inclusion of these charges in Geillis’ case suggests that the authorities were well aware of the connection between the Devil and witchcraft, as well as its usefulness as an additional charge in pursuing a conviction.

While not expressly mentioned in the other Aberdeenshire indictments, the Devil was still understood to have been the source of the accuseds’ powers through tacit paction; by speaking menacing words that resulted in harm, they could presume to have tacitly agreed to accepting his help and entering his service. His presence is therefore implied rather than defined. Christian Sword was accused of having accomplished her ends by her “divelish airts,” while Helen Sumner’s “devilish sorcery” was seen as the cause of her victim’s disease and death. The descriptor ‘devilish’ was frequently used to describe the words, arts, and threats of witches in trials. While the term could be used as a general expression of evil or sinfulness in cases besides witchcraft, its frequent usage to describe the speech and acts of witches highlights the unstated belief that the Devil was the source of the witches’ powers as a result of paction.85

Even in cases that do not specifically mention or identify the pact, its existence can still be inferred from reference to the Devil as “master”. This emphasis on the Devil as both master and source of power is emphasized in the dittays of Katherine Cragie’s two trials for witchcraft

85 The DSL defines this as 1) Of actions, qualities, etc.: Worthy of or befitting the Devil; diabolical, fiendish, and 2) Resembling, having the nature of, a Devil: Dictionary of the Scots Language, http://www.dsl.ac.uk/entry/dost/devilisch. (accessed 4/15/16)
in 1640 and 1643. In her second trial, the first article of the dittay stated that she had used and practiced “witchcraftis, sorceries, and divinatiounes,” and “in companie and societie keiping with the devill, your maister at dyverse and sundrie places, and thairthrow abusand the people, in maner following.”\textsuperscript{86} This formulaic language of the indictment clearly identified the Devil as the source of Katherine’s power. Likewise, in the final article of her indictment summarizing the charges, it is stated that:

\begin{quote}
And [in] generall, ye, the said Katherin, ar indytit and accusit…for airt and pairt of the using and practicing of the witchcraftis, sorceries, divinatiouns, and superstitioune above specifeit…thairby abuseand the people, and that by your cursingis and superstitiones that wrongis and hurtis both man and beast: \textit{Quhilk evillis ar brocht to pas} [which evils are brought to pass] \textit{by your Devilrie and the working of the Devil, your maister}, and swa ya ar haldin [and so you are held to be] and repute ane commoun notorious rank witch, diviner, and sorcerer.\textsuperscript{87}
\end{quote}

Paction or covenant with Satan is not specifically mentioned, but the Devil is clearly described as her “master” indicating that the pact is implicitly understood to have ordered her relationship with him, thereby empowering her curses. It is not insignificant that many of the charges against her centered on witnessed speech acts followed by an effect. For example, when Margaret Craigie’s calf had eaten a bundle of Katherine’s flax, she

\begin{quote}
being verie angrie, said to the said Margaret, ye sall nevir milk hir; dogis sall eat hir…Efter these your wordis, the calfe becam a beast of thrie yieris auld [three years old], went to the hill quhair [where] it died, was nevir found till the doggis haid eattin: Quhilk was done be your witchcraft and Devilrie.\textsuperscript{88}
\end{quote}


\textsuperscript{87} \textit{Misc of the Abbotsford Club}, v. 1, 178. Emphasis Added. This is Katherine’s second trial. In her first, conducted in 1640, she denied all the charges and was cleansed by the assize of all seven of the items against her. She was resummoned and tried again in 1643 with very similar charges (and in some cases, the same charges—\textit{the final article reads almost verbatim}) and was found guilty of 11 of the 12 articles.

\textsuperscript{88} \textit{Misc of the Abbotsford Club}, v. 1, 174.
Many of the charges against her ended with the statement: “Quhilk was done by your witchcraft and devilrie,” suggesting the common association of Satan and sorcery. Likewise, the Devil was seen as the source of her divination of secret or future events, such as when both Katherin Windwik and Margaret Craigie claimed that Katherine always seemed to know everything they said or did, even when not present. In Margaret’s testimony, she claimed that Katherine always knew “all that shoe wold speak in her awin house, most secretlie and privatlie,” no matter if Katherine was out of the house or even “in the farthest pairt of the yle [isle]…Quhilk revelatioun and foirknoweledge ye haid of the devill, your maister.”

Katherine was accused twice of witchcraft, once in 1640 and once in 1643. She denied the charges in both cases and refused to confess. While she was acquitted in the first instance, she was convicted on similar charges (and in some cases the same charges) in her second trial. In both cases, the prosecution lacked definitive evidence of an express pact in the form of a confession, therefore it was not included in either indictment although it was implied. Her conviction in the second case, however, was on the basis of the perceived efficaciousness of her speech acts, through which the assize could infer the presence and participation of the Devil, her “master.” In proving that a witch’s words were powerful, or efficacious in themselves, it could be presumed that the pact had taken place, either expressly or tacitly. It was therefore unnecessary—and in some cases counterproductive—to include allegations of the Devil or the pact in the charges against all accused witches, especially in cases where there was no confession on which to base these allegations. Nevertheless, alluding to the presence of the pact by mentioning the Devil as ‘master’ or by describing witnessed acts as ‘devilish’ may have been a way to invoke the common understanding of witchcraft as a product of paction without requiring specific allegations of his presence.

89 Misc of the Abbotsford Club, v.1, 177.
Local accusations and charges of witchcraft may not have included allegations of the Devil, but those who were responsible for investigating and prosecuting such charges, both locally and centrally, would have been well aware of the religious and legal definitions of witchcraft as a crime of pact with the Devil. They therefore would have sought to prove that this pact had taken place, preferably by obtaining a confession from the witch that they had participated in the pact and accepted Satan as their master. The Devil’s mark was another form of evidence that could be used to prove the Devil’s pact, although George Mackenzie cautioned that this article should only be considered relevant when accompanied by a confession that the witch had received the mark with full knowledge and consent.\(^\text{90}\) The confessions of other witches were also frequently cited as confirmation that the accused had been present at meetings with the Devil and other witches; yet this testimony was usually seen as suspect, coming as it were from the lips of self-confessed blasphemers, and usually required additional evidence to obtain a conviction. In most cases, however, the only legal avenue available to the prosecution was to prove the Devil’s relationship through evidence of their transgressive speech; as Lauren Martin argues,

> Without a confession the role of the Devil could only be inferred, because the witch’s relationship with the Devil was, by definition, secret. Here quarrels followed by misfortune were an important piece of evidence that prosecutors used to infer the participation of the Devil, thereby proving that the accused was a witch, i.e. that she had entered into a demonic pact.\(^\text{91}\)

Words therefore could be, and often were, used to infer that the pact—itself a speech act—had occurred. However, without explicit evidence of Satan’s involvement, the pact could not feasibly be included as part of the charges without undermining the legal case for conviction. This absence should not, however, be taken as the absence of belief in the Devil or the pact. The Devil


\(^{91}\) Martin, “The Devil and the Domestic,” 88.
was clearly implied and understood as being the source of the witch’s power, even when the specific charge of paction was missing from the summary of the charges.

Conversing with the Devil: Speech and/or Sex in Diabolical Belief

As we have seen in earlier chapters, speech played a notable role in popular belief about maleficent witches. Witches were identified at the community level by their quarrels and curses, and their charms and utterances were used as evidence against them in their trials. In contrast, few studies of witchcraft have focused on manifestations of speech in diabolical belief. Yet this is a unifying characteristic shared by both definitions of witchcraft. Indeed, the primary relationship and interactions between the Devil and his servants were founded on words. As we have seen, the act at the heart of the pact was a speech act, either through binding promises of service, or through powerful verbal acts signifying tacit agreement to the Devil’s terms. However, not only did the Devil engage his servants to him vocally, he himself was strongly associated with transgressive speech.\(^9\) William Perkins identifies him as the original “lyar, and the father thereof”, while Thomas Cooper states “therefore doth hee both teach them [witches] to lie…That hee may also by this meanes make a Trade of lying.”\(^9\) Sir George Mackenzie also deems him “a liar from the beginning,” and that through him “the Devil may make brutes to speak, or at least, speak out of them.”\(^9\) Likewise, Satan reveled in the blasphemies and heresies committed by his acolytes and encouraged the proliferation of their aberrant speech:

\(^9\) The association of sin, the Devil, and speech has been discussed by Sandy Bardsley, *Venomous Tongues: Speech and Gender in Late Medieval England* (University of Pennsylvania Press, 2006), 26-44, 45-68; see also Jane Kamensky, “The Tongue is a Witch” in *Governing the Tongue: The Politics of Speech in Early New England* (New York: Oxford University Press, 1997), 150-180.
Is not Satan the lord of their harts while they service God but with their lips? & doth he not hereby hold their hearts faster bound unto him, in that hee giveth way to their bodily service; nay, will he not have their tongues also at his devotion, at a pinch, to curse the same God whome they seeme to blesse, or to slander their brethren, and condemne the of hypocrisie, because they labor to serve God in spirit & truth?"  

Satan, of course, delighted in the encouragement of any kind of sin, including the carnal temptations of greed, lust, and envy in his servants, but he particularly enjoyed the blasphemies they committed in his name, knowingly or unknowingly. Calling on the “the Father, the Son, and the Holy Ghost,” or asking for their health for “God’s sake” with the intent to heal or harm were just some of the many ways that Satan encouraged witches and their victims to blaspheme the name of the Lord. In other cases, he more specifically ordered his servants to spread their blasphemy. Marion Veitch, for example, was commanded by the Devil to “do him service in destroying hir naighbours qlk [her neighbours which] god did not permitt hir to do and to blaspheme his name.”

In addition to being seen as the inspiration for the evil speech of others, Satan’s own speaking was likewise highlighted in his earthly interactions with his servants. In his dealings with witches, Satan cajoled, persuaded, tempted, argued, rebuked, preached, made promises, or otherwise conversed. According to John Fian, the Devil preached a “sermon of doubtsome speeches” from the pulpit of the North Berwick Kirk in 1590, saying “Many comes to the fair and buys not all wares.” In 1661 Isobel Ramsay confessed that she had “conversed with the Devill and received a six-pence from him, the Devil saying that God bad him give her that, and He asked her How the Minister was.” In 1675 Issobel Inglis confessed that the Devil came to her when she was sorrowing over the state of her crops, and “he enqyred at her the reason of her

95 Cooper, *The Mysterie*, 106.
96 NRS, JC26/49/5
sorrowing,” and told her “to be of good cheer,” as she would get them done in time and would have as good a success as her neighbours.99 Satan often spoke to potential servants in order to convince them to serve him, such as when Joanet Huit confessed the “the divill spoke to hir,” promising she would never want in exchange for her service.”100 Margaret McWilliam confessed in 1661 that she had met the Devil in the shape of a cat, who asked her “How doe ye? Will ye not now goe with me and serve me?” at which point she “made a covenant with him quhairin [wherein] she promised to be his servand and he said that she should want for nothing.”101

The verbal interaction between the Devil and accused witches is emphasized by their ‘conference’ and ‘conversation’ together, such as in the case of Johnne Ewart who in 1621 was accused of “having speeche and conference with the divill.”102 In Janet Miller’s second dittay in 1664, it is stated that she had confessed to being “ane witch and had a conversatione with the divell and had delyvered yorself over to him and that he had carnall dealling with yow for severall tymes and in severall places.”103 In a similar vein, Janet Craig in Tranent in 1649 was said to have conducted her sorcery and witchcraft by “the advyse and counsall of the devill, hir lord and maister, with quhom schoe was conversant at all tymes” and in 1622, Janet and Agnes Robertsone both confessed to “thair conversing with the devil.”104 The case against Jonet Ker emphasized that she had “conversed with the Devill,” while Elspeth Reoch was accused further

99 NRS, JC2/14/176-7.
103 NRS, JC26/27/1/6
of “haunting [haunting; being in company with] and conversing with the Devell at diverse and sindrie tymes.”

To have converse or conversation with someone could have multiple meanings in early modern Scotland and elsewhere, as discussed in Chapter 3. Both terms were generally used to indicate general contact or interaction, as well as reputation, but they also could be used to suggest both verbal and sexual intercourse. For example, in John Swinton’s trial for spousal homicide in 1664, he was also accused of many acts of sexual indiscretion, “undutifully conversing and haunting with evil company and women of bad fame and reputation,” particularly Jonet Brown with whom he did “converse” and commit adultery; in his trial, many witnesses testified “upon their being in bed together, that they heard a noise, and many depones upon their conversing in suspet places, kissing and embracing, and that he did forbear his wife’s company.” ‘Conversing’ could likewise be interpreted in multiple ways in descriptions of witches’ interactions with the Devil. In Kathryn Sands’ dittay, it was alleged that she had been to several meetings with the Devil and other witches, “and at these meetings did converse with the divill dancing and playing as is usual in such meeting.” This implies the regular nature of dancing and playing music but is also mildly suggestive of other forms of interaction which were

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106 Being of “good conversation” was frequently used as a qualifier for being of good reputation, for both men and women but particularly for women. Sandy Barsley has discussed the link between verbal chastity and sexual chastity in popular belief, while Martin Ingram has noted that this was used to indicate both sexual chastity or monogamy as well as general reputability: Bardsley, *Venomous Tongues*, 125-127; Martin Ingram, *Church Courts, Sex and Marriage in England, 1570-1640* (Cambridge: Cambridge University Press, 1987), 292. For the connection between speech and reputation in masculinity, see D. Neal, “Husbands and Priests: Masculinity, Sexuality, and Defamation in Late Medieval England,” in *Hands of the Tongue: Essays on Deviant Speech*, ed. E. Craun (Kalamazoo, MI: Medieval Institute Publications, 2007). The DSL defines converse as 1a) to hold intercourse, to be in company or society, with others; 1b) To have sexual intercourse, 2) To behave or conduct oneself; and “conversation” as: 1a) association or intercourse with others; 1b) sexual intercourse; 1c) handling, dealing; 2) conduct, behaviour, manner of acting; 3) Occupation, experience. DSL, http://www.dsl.ac.uk/entry/dost/converse; http://www.dsl.ac.uk/entry/dost/conversatio (accessed 4/15/16)


108 NRS, JC2/14/174-175
regarded as “usual” at such meetings—*i.e.* copulation. This implication is made more apparent in
the following dittay of Agnes Hendrie, who was tried at the same time as Kathryn, when she
entered into “paction” with him, and

did renounce our blised saviour and her baptisme and did devott and give over her self
soull and body to the service of the enemy of mankind by using the wicked and detestable
formalities of laying on of her hands to the crown of her head and the other to the sole of
her foot and did receave his marke and did thereafter abominabilie converse with him.”

Margaret Jackson’s dittay includes the charges of having attended meetings with the Devil and
other witches and at these times she “did converse with the divill”; in case there was any
confusion on the meaning here, the dittay also claimed that in January of that year, “the divill did
come and converse with you in your bed” when she had supposed him to be her husband.

At Borrowstounness in 1624, Katherine Blair, Jonnet Dunbar, and Isabell Cootis all confessed to
“having conversed with the devil ‘after a fleshie manner’,” leaving little doubt as to the manner
of their interactions with him.

The frequent usage of ‘converse’ to describe the Devil’s interactions with his servants is
suggestive of the blurred line between sex and speech both in early modern ideology and in
witchcraft belief. The relationship between witches and their master was verbal by definition,
but it was also often sexual. Most historians focus on the Devil’s sexual relationship with his
acolytes rather than the verbal bonds; for example, Larner emphasizes the sexual aspects of the
pact, asserting that “the pollution of the body implicit in the carnal relationship with the Devil is

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109 NRS, JC2/14/175-6
110 NRS, JC10/4/11
111 RPC, 2nd series, vol. 13, 485; Black, “Calendar of Cases,” 164.
intrinsic to the legal formulation [of witchcraft].” ¹¹³ Witches were generally presumed to have had sex with the Devil as part of the confirmation of the pact, and many women were accused of having “defiled” their body which “ought to have been a temple to the holy ghost” by having copulated with him.¹¹⁴ This stage of the pact was not required, however; many confessions of the pact did not mention copulation, and only a handful of male witches were ever alleged to have engaged in such a practice. It is therefore surprising that so many historians have focused on this sexual act rather than the verbal promise.¹¹⁵ In many ways, the witch’s sexual relationship with the Devil was a function of her verbal contract, and almost always took place after the individual had already agreed to enter Satan’s service. While the sexual features of the pact were certainly important to diabolical definitions of witchcraft, the sexual act was predicated on the verbal act. Julian Goodare has argued that sex with the Devil could be presumed on the basis of the pact, and Lauren Martin has claimed that copulation can be seen as the consummation of the heterosexual union and marriage with Satan.¹¹⁶ Yet in the context of the pact, it was the verbal promise, not the sexual act, that made the witch. In engaging in this performative speech act, imaginary or experienced, the individual was altered, receiving a new status, power, and occupation as Satan’s servant. This “covenant”, much like the personal and national covenants which many Scots entered into during this period, served to establish these individuals as part of

¹¹³ Larner, Enemies of God, 130.
¹¹⁴ See, for example, the case of Agnes Wilson, who is indicted for having: “taken yorsel to the service of Satan the enemy of yor salvation Entered in a covenant and paction with him, whereby yow renounced your Baptisme, took a new name from him And suffered yower Body qlk aught to have been a temple to the holy ghost to polluted & defyled by having carnall copulation wt yow And also hes taken his marks upon yor bodie.” NRS, JC26/28/1/4
¹¹⁵ Lauren Martin has noted the close similarities between the pact with the Devil and irregular forms of marriage in early modern Scotland, both of which are essentially verbal contracts; however, even she focuses on the sexual consummation of the contract more than the performative speech act at the foundation of the promise. Sex was an important part of proving irregular marriage had occurred in Scotland, as both promise and sexual confirmation were necessary to conform to definitions of marriage; it was not, however, necessary to prove sex in order to prove paction with the Devil, although the two often correlated.
an association and to identify them as such both to themselves and their communities. The pact was therefore an act, but it was also an identity.\textsuperscript{117}

Covenanting with the Devil: Oral Contracts in Early Modern Scotland

Several historians have noted the marked similarity between the Devil’s Pact and other social relationships and contracts in Scotland, particularly covenanting and manrent. For example, Michelle Brock points out that the pact can be seen as the inversion of “two related and common practices in early modern Scotland: banding and covenanting,” both of which represented, to some extent, an oath or contract binding two or more parties in either friendship, fidelity, service, or political or religious alliance.\textsuperscript{118} The format of the Devil’s Pact also shares similar elements with the act of homage as well as bonds of manrent. As the Devil’s Pact was essentially swearing oneself into the service of the Devil, these similar elements may not be that surprising; however, the fact that the physical/verbal acts of fealty and homage had fallen out of practice by the seventeenth century make these characteristics worth noting.

In late medieval Scotland, bonds of manrent were the common contracts of service and mutual obligation drawn up between lords and men, forming in large part the basis for Scottish lordship, kinship, and other social bonds. Usage of the term changed over time from its earliest usage in the tenth century to its sharp decline in the seventeenth. In its original Anglo-Saxon form, \textit{mannraedan}, the word derived “from ‘man’—the lord’s man or dependant—and ‘raedan’, which in compound means ‘to be in the state of’ but whose primary meaning is to counsel or

\textsuperscript{117} This will be discussed in more detail in Chapter 7.
\textsuperscript{118} Brock, \textit{The Devil in Scotland}, 152-3.
agree.” Interestingly, its earliest appearance is in reference specifically to service of the Devil, where Wormald argues that it is given to mean both an act and a state.

‘Raedean’ as a compound meant a state rather than an act—‘and [it] greatly shamed him of the devil’s *mannraedan* in which he had been until that time’—but it was also used of an act: ‘a certain man made firm *mannraedan* with the devil’. There is no contradiction here; the evidence suggests rather that *mannraedan* described lasting allegiance initiated by a formal act, exactly as ‘manrent’ was later to do.

*Mannraedan* as a “legal and contractual term” was generally displaced in medieval England by ‘homage’, but would later come back into common usage in Scotland by the fifteenth and sixteenth centuries when it was “the standard term for the relationship between a man and his lord,” signifying the complex relationship of allegiance, obligation, and dependency that characterized late-medieval Scottish lordship and kinship. By the fifteenth century, bonds of manrent were written contracts that were appropriately witnessed, signed, and sealed; however, the physical ritual and swearing were still important characteristics. Wormald describes this ceremony as the swearing of an “grete aith” on the gospels or Mass book, for which she asserts “the precedent is to be found not in the ceremony of homage but in the swearing of fealty.” As Wormald points out, the emphasis in ‘homage’ was on the act, while in manrent it was meant to refer to both the act of swearing fealty, but also the state of being in service.

There is, of course, one point in common between ‘homage’ and ‘manrent’. The emphasis in ‘homage’ may have been on the act, in ‘manrent’ on the long-term obligation. But men did not vaguely slide into that obligation, or undertake it only by giving a bond; ‘manrent’, just like Anglo-Saxon ‘mannraedan’, included the act as well as the state.

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121 Ibid., 14.
122 Ibid., 20.
123 Ibid., 21.
124 Ibid., 20.
It is helpful to think of this in illocutionary terms: in the act of swearing, one became the sworn man in service to the lord; likewise, in the Devil’s Pact, in promising to serve the Devil, the speaker suddenly and irrevocably was a witch.

By the initial years of the seventeenth century, however, the bonds of manrent abruptly declined, although the idea was continued in the bonds of friendship made between men and allies of equal status for assistance and protection rather than maintenance and obligation. From this form, “there grew the collective bond involving considerable numbers of people and made for a specific political purpose; and this was to have its apotheosis in the greatest of collective bonds, the National Covenant of 1638.”¹²⁵ The National Covenant played an important role in the British Civil Wars. On the 28th of February 1638, in the churchyard of Greyfriars Kirk in Edinburgh, the National Covenant was produced and all of the king’s subjects were invited to subscribe to it. The Covenant was a band between the monarch, the people, and God to uphold the ‘proper’ relationship between them, which, in the opinion of the Presbyterian writers, Charles I had blatantly failed to do.¹²⁶ Copies of this document were circulated to most of the major towns of Scotland for subscription by the local populace. For example, on three successive days in March 1638 in Perth, “The confessioun of the fayth and band of the covenant, wes subscrivit be the provest, baillies, counsall, deaconis, and haiill inhabitantis of perth, and gentric resident thairin, by sindrie nobillmen, barrones, commissionaris of burrowis, and otheris, that subscryvit at edinburgh.”¹²⁷ Later, and under different circumstances, the Solemn League and Covenant was

¹²⁵ Ibid., 3.
¹²⁶ For more on the National Covenant and Covenanters, see David Stevenson, The Covenanters: The National Covenant and Scotland (Edinburgh: Saltire Society, 1988); and Allan MacInnes, Charles I and the Covenanting Movement (Edinburgh: John Donald, 1997).
¹²⁷ The Chronicle of Perth: A Register of Remarkable Occurrences Chiefly Connected to that City, From the Year 1210 to 1668 (Edinburgh: 1831), 36.
created to solidify ties with their rebellious Parliamentarian brethren in England, and copies were likewise sent around to the burghs of Scotland so that everyone might reaffirm their commitment to the covenants. For those who could not read or write, subscription to the covenant was still mandatory and was made verbally, even for women. In Perth, November 1643, “The new covenant, read, sworne, and subscryvit be the toun of perthe, be standing up, and everie man uphalding thair hands. The women also wer mowit to stande and sueir.”

In swearing to the Covenants, Scots affirmed their bonds with fellow Presbyterians united against the episcopal royalists, as well as ascribing to the belief that Scotland was home to the people of God’s covenant. As with bonds of manrent, the oath was both act and state: in swearing to uphold the National and Solemn League of the Covenant, they became Covenanters.

It is interesting to note that Covenanters were often intensely involved in discovering and prosecuting witches in their midst. John Young argues that “witch-hunting in Covenanting Scotland was an important element in the attempted creation of a godly Covenanted state.” Consequently, Covenanters took advantage of their placement as both prominent individuals in local burghs and communities, and their involvement at the national levels of government in Parliament and the General Assembly in order to address what they saw as a deeply disturbing conspiracy of diabolical witches. There was no room for witches in a godly society such as Presbyterian Scotland. It may come as no surprise that Sir George Maxwell of Pollock, who has appeared several times in this thesis, was himself a “zealous Covenanter” who had been involved in both local governance and was appointed to the Committee of Estates on 7 August, 1649—less than six months after serving as commissioner at the trial of Jeane Scott and Jonet.

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128 Chronicle of Perth, 38.
To Covenanters like Sir George, the witch’s relationship with the Devil was a horrible parody of their own commitment to God; as Larner asserts, “The covenanted people were God’s people, firmly bound to him in a special relationship by a special promise. The Demonic Pact was therefore, for the Scots, a particularly horrific inversion.”

Once Cromwell’s armies had invaded and occupied Scotland in the summer of 1650, the Covenanters lost their prominence and the persecutors became the persecuted. While many people still self-identified as Covenanters, it was a dangerous time to advertise the title. It was around this time that the practice of personal covenanting emerged. Personal covenants represented a personal commitment and contract with God, which was “meant to serve as a means of confirmation of one’s conversion, that is, one’s claiming an interest in Christ and a parallel and simultaneous self resignation.” These were deep emotional commitments that could be renewed in times of crisis or anxiety, and took the form of a legal contract, usually written out and signed, although it was often read aloud and properly witnessed as part of the performance. David Mullan argues that personal covenants functioned as self-narratives which defined the moment of conversion as the turning point in the “story” of one’s life; “that moment of exquisite interiority, which is socially constructed and defined, and which supplies the lens through which the meaning of one’s existence can be discovered and evaluated.” He argues that the act of autobiography was the creation of a narrative of an objectified self, and in doing so, it created an organizing sequence of events (story-telling) and a self-object, becoming “part of another subject whose own self-writing continues an ongoing process of objectification and so

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131 Larner, Enemies of God, 172.
132 David Mullan, Narratives of the Religious Self in Early Modern Scotland (Farnham: Ashgate, 2010), 318.
133 Ibid., 318, 336.
134 Ibid., ix.
contributing to the construction of culture.”¹³⁵ Moreover, in finding and defining themselves as a newly confirmed disciple of Christ, there was a demarcation between the old self and the new; by creating this narrative of conversion, one’s life was effectively changed. In other words, in engaging in the act and contract of the personal covenant, they would experience and assume a new identity as the covenanted people of Christ. As with the oaths to the National Covenants, as well as bands of friendship and manrent, these were written and oral contracts that when performed produced a material change in state and identity.

Once again, Sir George Maxwell provides an illustrative example. On 21 July 1656, Sir George had occasion to write out his personal covenant in his diary. He appears to have renewed his covenant a few days earlier (possibly at the urging of the minister in repentance for some undisclosed sin), and while initially reticent, Sir George appears to have embraced this renewal of his faith with vigor.

I have been upon this occasion of the communion constrained to renew (shall I say renew, or first enter into?) covenant with Christ… But againe, when I began to reflect upon my wishes and desyres, oh to be in covenant with Christ! Oh to be willing for him! Oh to live to his praise! These ar not sufficient, but a bargaine must needes pass *per verba de praesenti*¹³⁶ I doe take Christ for myne: I vow myselfe his: I promise to walk in all weel pleaseing to him. And againe, I considered what is my vow is his promise. I say, I have at last entered with feare in covenant with Jesus Christ to this purpose: It is a day much to be remembered to the Lord, and it is a vow much to be remembered to the Lord, and therfor I will set down the verie engagement of covenant itselfe…¹³⁷

Throughout the covenant, Sir George repeatedly emphasizes the words of his vow and promise, which he believes are critical to his renewal and rebirth. He adds that, “the longeing desyre to be under covenant with him, is not sufficient, but there is a formall, direct, explicite embracing of

¹³⁵ Ibid., 4.
¹³⁶ This phrase “by words of present assent,” is also notable in being a reference to irregular forms of marriage wherein two parties jointly proclaim their joint consent to marriage without a third-party to formalize the union.
Christ required; so answereably, ther is on the part of the beleever required a formall, direct, and explicite promise, vow, and engagement.” Much like the emphasis on the “promise” or paction given by witches to the Devil, to covenant with God required an equally formal performative speech act in order to be inducted into the heavenly elect. The wording is more elaborate than that of the Pact, but the outcome in many ways is similar.

It is also interesting to note how the language of the covenant at times deliberately invokes the rite of marriage, specifically as a spoken ritual. David Mullan notes that the matrimonial metaphor was often present in the language of personal covenants, emerging first in the 1640s but disappearing by the end of the century. Sir George writes, “These ar not sufficient, but a bargaine must needes pass per verba de præsenti.I doe take Christ for myne: I vow myselfe his: I promise to walk in all weel pleaseing to him. And againe, I considered what is my vow is his promise.” The phrase verba de præsenti, or statement of consent, refers to the form of irregular marriage by which two people formally declared their union. Evidence was still required under civil law, preferably in the form of witness testimony (as long as the witness was a man), but the words themselves were considered binding and indicative of marriage. In promising himself thus to Christ, Sir George entered into a bargain, a promise, even a marriage, in declaration of his commitment to live as one with the Lord. This provides a link to yet another

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138 This phrase “by words of present assent,” is also notable in being a reference to irregular forms of marriage wherein two parties jointly proclaim their joint consent to marriage without a third-party to formalize the union.  
140 Two other forms of irregular marriage were recognized under civil law, although these were not endorsed by the kirk: verba de futuro, or the promise of future marriage followed by sexual intercourse; and marriage by ‘habit and repute’, in which two people resided together as man and wife. However, this last was usually interpreted as evidence that one of the other types of marriage had occurred rather than an act of marriage itself. Handfasting was similarly considered a form of verba de futuro. Leneman and Mitchison, Sexuality and Social Control, 99-102. In late medieval England, Shannon McSheffrey points out that the words of consent “themselves made the sacrament of marriage,” regardless of where or when they were spoken. Shannon McSheffrey, Marriage, Sex, and Civic Culture in Late Medieval London (University of Pennsylvania Press, 2006), 2.
contemporary spoken contract in the act of irregular marriage, one that is inverted in engaging in pact with the Devil.

Like other historians, Lauren Martin has noted the similarities between the Devil’s Pact and cultural contracts discussed thus far, but emphasizes the performance of marriage:

There are three early modern models that resemble demonic pacts: bonds of manrent, covenant theology and marriage. All three were central elements in Scottish life. Bonds of manrent and covenant theology, however, while clearly relevant to witchcraft, do not get to the essence of the demonic pact as a heterosexual contract. Marriage does.141

Martin’s argument, however, revolves around the sexual consummation of the contract. Yet, as noted above, allegations of sex with the Devil were not required or even necessarily frequent in descriptions of the pact.142 Julian Goodare has explained this by pointing to the unstated idea of sex with the Devil as part of the pact, by which authorities could presume sex with the Devil on the basis of the pact, and the pact on the basis of witchcraft. Yet the fact that the pact shared many commonalities with other solely verbal contracts important in Scottish culture indicates that it may have been the words spoken that tied the pact to marriage rather than sex.

In some cases, the wording of the pact itself could be evocative of the marriage contract. For example, when the Devil asked Elizabeth Hutchison to be his servant, he promised her pearls and jewels and desired to have carnal dealing with her. She refused, saying she was already married with a husband of her own.143 The Devil, not to be baulked by such a minor hurdle, continued to prevail upon her until at last she agreed, at which point they engaged in a variation of the Devil’s Pact, with first the Devil speaking the words “I am thyne and thow art myne,” which Elizabeth then repeated back to him. Elizabeth’s confession led to the accusation and

141 Martin, “The Devil and the Domestic,” 77.
142 Out of 528 cases listed as demonic in the SSW, only 130 include sex with the Devil (~25%). Again, these statistics should be used with caution. SSW (accessed 4/25/16)
143 NRS, JC26/50/1
interrogation of several other suspected witches, including Elizabeth Scotland. In her confession, Scotland claimed the Devil had appeared to her 23 years ago in the form of a black dog who transformed into a man in black clothes, who asked her if she was married.\textsuperscript{144} She replied that she was indeed shortly to be married, whereupon the Devil said “What need she marry any other but him for he would be as good a husband to her as any.” At this point, he asked her to renounce her baptism, which she did in a variation in the standard format, wherein the Devil placed one hand on the sole of her foot and the other on the crown of her head and declared all betwixt the two hands to be his. Both cases are suggestive of marriage, in both the Devil’s interest and the variations on the normal descriptions of the pact. However, these were fairly unusual forms for the pact to take, and it may be worth mentioning that torture was suspected and found in these cases by central court officials who were sent to investigate the trial method.\textsuperscript{145}

It is notable, however, that even in these cases, sex with the Devil was a factor but not a requirement of the pact. Elizabeth Scotland did eventually admit to having copulated with the Devil. In contrast, while the Devil had solicited Elizabeth Hutcheson for sex, she had refused him. Even after she had sworn herself to him in words very like a marriage contract, she does not appear to have engaged sexually with him at this time or thereafter. She confessed that he returned and asked her to renounce her baptism several weeks later but she refused because there were several people entering her shop at that moment. She also confessed to later dancing with him and several other witches in the night on the shores of Barrowstones as the piper played, but did not admit to sex with the Devil at this stage either. Nonetheless, her vow to the Devil was taken as evidence of paction with the Devil and her own identity as a witch.

\textsuperscript{144} NRS, JC26/50/2
\textsuperscript{145} SSW (accessed 4/25/16)
Words were therefore critical to the performance of the pact, while sex was more peripheral. The verbal performative act of swearing oneself into the service of the Devil was the source of the witch’s power as well as the origin of her identity. Like other important verbal contracts in early modern Scotland—including entering bands of manrent and friendship, participation in political and personal covenants, and the promise of marriage—these words were both an act and a state, an oath and an identity. In promising to serve the Devil, the woman or man became a witch. It required no sexual consummation, although this formality and others (such as the renunciation of baptism, receiving a new name or the Devil’s mark) were considered common inclusions and additional blasphemies against God. In a sense, one could argue that the Devil’s Pact can be seen as an inversion of traditional verbal bonds; it can also be seen as a treasonous, even heretical, rejection of the normal social and theological order. In agreeing to serve the Devil, the witch denied her covenant with God and with the godly congregation and community. She became the anti-neighbour, traitor to Christ and kingdom, all as a result of her words. As such, it was the transgressive speech acts of the diabolical witch, much like the verbal curses of maleficent witches, that could be used to identify and prove their guilt before the court.

Conclusion:
In popular belief witches were believed to have a wide variety of powers, including healing, harming, charming, and divination, among others. Belief in this magic both pre- and post-dates the witch-hunting period and the introduction and standardization of diabolical belief in Scotland. Similarly, diabolical witches were believed to have engaged in a variety of heretical practices under elite definitions of pact witchcraft, including sex with the Devil and engaging in a covenant with him. Where these two definitions found common ground was in the vocal
characteristics associated with both types of witches. Sex with the Devil, while important, was not always a shared concern or belief for members of local communities. Where it was recorded it was seen as a symptom and signifier of the pact, not representative of the pact itself. Speech, on the other hand, was a critical part of the definition of witchcraft in both popular and elite belief. It was the criminal prosecution of witches that allowed, and indeed required, these two systems to find common ground and definitions for witchcraft. Not every witchcraft case included reference to the Devil, yet the criminal prosecution of witchcraft was predicated on the presence of the pact, even in cases where he was not specifically mentioned. Likewise, not every case included reference to efficacious speech acts, but where they did, these were considered very damning charges both locally and centrally. Powerful speech invoked the presence of the Devil; consequently speech was a primary form of evidence used against accused witches. Most importantly, it was these verbal acts that could be agreed on by all participants—neighbours, community members, magistrates, kirk elders, local lairds, judges and advocates—as potentially indicative of witchcraft. Moreover, it was the ‘devilische wordis’ of witches that represented their threat not only to their neighbours, but to the very fabric of society.
CHAPTER 7:
Conclusion: Speech and Surveillance in Early Modern Scotland

In many ways, this thesis is not just about witchcraft and words, but about anxieties over speech in early modern Scotland. Reputed witches came to light in their communities as a consequence of unrestrained or unauthorized verbal acts, monitored by their neighbours and ministers. Suspected witches were asked to repeat their words before the kirk and explain their apparent efficacy, while witnesses were called to tell their stories before the session or the assize in order to ratify or dispute these narratives. Speech acts provided most of the evidence against them, and also represented the verbal signs of their rejection of God’s authority. Therefore, words—as the source of their power and the signifiers of their devilish rebellion—were almost always critical to establish the witch’s identity and internal state of treason and heresy.

The surveillance of speech in early modern Scotland was not limited to suspected witches, however. Many kinds of transgressive speech acts were heavily monitored during this period, from blasphemy, to sedition, to community quarrels. In his study of sedition and treasonous talk in pre-modern England, David Cressy notes that the danger of words was well-known in early modern society:

> Innocent of ‘speech act theory’, early modern authors knew that words had consequences, that spoken utterance caused situational-altering effects. They knew…that speech could provoke violence, discord, unhappiness, or sedition…[and] intensify divisions within communities eroding the fabric of society. These ‘sins of the tongue’ could damage reputations, set neighbour against neighbour, and undercut the authority of the crown. They became ‘crimes of the tongue’ when the state retaliated and its proceedings entered reports of spoken words into the written historical record.¹

Certain words could represent a threat to the social order; therefore, those words needed to be controlled. This was particularly true in times of political and religious turmoil, when the surveillance and punishment of unauthorized speech often became a common cause. The fact that witches were frequently associated with words meant that these periods of heightened anxiety over speech often correlated with peaks in witchcraft prosecution. As authorities monitored the ‘conversation’ of their communities for transgressive acts, it is little wonder that the words of witches would often come to light.

As this final chapter demonstrates, witchcraft prosecution was linked to a wider concern and anxiety over transgressive speech. This was true at both national and local levels. From ministers to monarch, local and state officials all benefitted from a discourse that subordinated the witch’s verbal power to their own authoritative speech. Furthermore, as is shown, the fact that women were more likely to be associated and censored for many kinds of disorderly speech acts can help to explain why women were more likely to be accused and tried as witches. However, suspicions of witchcraft can be traced back to oral performances for both men and women. It was the surveillance of their speech rather than their sex that ultimately resulted in their identification and punishment as witches. By the end of the witch-hunting period, changing ideas about speech as well as gender would lead to a decline in witchcraft prosecution.

Dangerous Speech: Treason, Heresy, Witchcraft

By the early modern period, witchcraft had long been associated with both treason and heresy; Sir George Mackenzie clearly made this connection, stating that witchcraft is “the greatest of crimes, since it includes in it the grossest of heresies, and blasphemies, and treasons against God, in preferring to the Almighty his rebel and enemy, and in thinking the devil worthier of being
served and reverenced…”

This relationship has been discussed at length by other scholars and does not require further attention here. Yet it should be noted how this connection also demonstrates the common thread of speech in all three crimes/sins. In speaking the promise of the pact—by *verba de præsenti*, as it were—witches engaged themselves to the service of the Devil. This revealed their hidden treason. Like witchcraft, treason and heresy were crimes of belief and practice; they could be acts as well as an identity, a state of internal revolt and desire. Yet words often represented their greatest menace. Heresies might be preached at the pulpit or seditious texts spread among the masses: the disloyal or blasphemous words revealed the speakers’ interior state of rebellion against the natural order and threatened contagion to the rest of godly society. This was a particular concern in a Protestant society and state based so fundamentally on the Word. Therefore, it was critical that the kirk and crown maintain vigilance against the threat of subversive speech.

The period of the sixteenth and seventeenth centuries was a time of political and religious upheaval in Scotland. The Reformation, the Bishops’ Wars and British Civil War, the Restoration of the Stuart monarchy and its final overthrow in the Glorious Revolution: all featured heightened anxieties over speech, reflected in the acts of Parliament and the General Assembly. This war on words was waged on more than one front, with legislation concerning

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4 See Chapter 6 for discussion of *verba de præsenti* and irregular marriage in the context of the pact.

5 Robert Moore argues that, in medieval discourse, heresy was equated with leprosy, a disease of contagion, both of which were spread by the “poisoned breath of its carrier,” while David Cressy notes that government officials “worried that seditious talk might prove contagious” in early modern England. R.I. Moore, *The Formation of a Persecuting Society: Authority and Deviance in Western Europe, 950-1250*, 2nd ed. (Oxford: Blackwell Publishing, 2006), 59; Cressy, *Dangerous Talk*, xi.
seditious speeches coinciding with kirk sessions’ efforts in the localities to punish slanderers, blasphemers, and scolds. Both church and state had a stake in establishing the authority of their own words and sought to do so by defining ‘right-speaking’ through ‘governance of the tongue’. Anxiety over the dangerous utterances of others encouraged officials at all levels of authority to protect their position through the definition and discipline of deviant speech.

Treason and sedition were often a concern during this period; this was especially true for James VI, whose own person was used early on in plays for power made by different factions. As part of James’ response to being kidnapped by the Ruthven raiders, the Treason Act was passed in 1584, which “penalised false, untrue, and slanderous speeches to the dishonour of the king.” The following year, punishment was expanded so that “the authors of slanderous speeches and writings against the king were to be put to death as seditious persons.” Leasing Making “was the uttering of calumny against the king, or engendering discord between king and people.” This had been statutorily punishable since 1318 but updated in acts in 1524, 1540, and 1557, expanding the definition. The Leasing Makers Act of 1594 ratified this earlier legislation, and expanded the definition to include any who heard or read slanderous speeches against the king without reporting it, making this a capital offense as well. James was clearly concerned about the possibility of seditious speech, particularly in relation to his constant struggles with the kirk. In December 1596 a failed coup took place. Sedition was preached from the pulpit at this time, and James cracked down on ministers, ordering them to cooperate, while commissioners were ordered to leave Edinburgh. The following year saw increased scrutiny of potentially

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treasonous talk; it also saw the largest spike in witchcraft accusations thus far in Scotland's history. Moreover, 1597 was also the year James’ published his *Daemonologie*, shortly followed by *The True Law of Monarchies* wherein he laid out his theory of the divine right of kings in an absolutist monarchy. Under James’ discussion of divine-right kingship, acting against the king was both treason and heresy, as was witchcraft.⁹ Therefore it was critical to the crown that all kinds of treasonous speech, from the words of witches to the preaching of ministers, be monitored and controlled in order to counter the dangerous speech of these offenders.

Efforts to curb and control irregular speech were not just projects of the crown, but of the kirk and the Reformed Parliament as well. Following the Reformation, Scotland became a Protestant nation, a religion that centered on the Word: as Margo Todd points out, “In principle and in practice, the word defined the culture of Protestantism.”¹⁰ This was particularly true in Calvinist Scotland, where “the word—read, preached, sung, remembered, and recited back at catechetical exercise or family sermon repetition—became the hallmark of communal worship and individual piety.”¹¹ Kirk sessions were concerned with disciplining all kinds of sin in their communities, including sins of the tongue. Defamation was a sin that could harm the whole community, as was slander, while scolding and flying disrupted the social order; while this was true in both Catholic and Protestant communities, Reformers were particularly keen on enforcing the discipline of these sins.¹² Furthermore, public repentance often required verbal acts of contrition and confession in order to rehabilitate the souls of the sinners back into the godly

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congregation. Interestingly, these verbal acts of repentance had a performative effect on the perceived state of their soul and identity. As Todd notes, “Repentance was scripted as well as choreographed…The proper response was in three parts”: a confession, a request for forgiveness from God, kirk, and congregation, and a promise to never again commit such a sin. In begging for re-acceptance back into the kirk, and receiving, it, these speech acts had a clear effect on the identity/state of the penitent: “Such speech in a liminal state has, as Turner puts it, ontological value: it ‘refashions the very being of the neophyte’. ”

Words were clearly an important part of the Reformed Kirk’s crusade to establish a godly society. This concern with speech can be seen at both local and national levels. For example, a series of acts against prophaneness, swearing, and blasphemy were passed by both General Assembly and Parliament from the sixteenth century to 1695. Kirk sessions and local courts were empowered by this legislation to crack down on many kinds of disorderly and blasphemous speeches. Scolding, flyting, defamation and slander could also be statutorily punished. Scolds and slanderers were sometimes punished with the ‘branks’ or scold’s bridle, an instrument that clearly punished the sinners’ unrestrained tongues; it could also be used as a punishment for blasphemers, as was the practice in Anstruther West.

Interestingly, John Harrison argues that use of the branks in Stirling generally corresponds to the period of witch-hunting. 16 1658, a peak year for charming and witchcraft prosecution, also saw a corresponding peak in use of the branks


15 Todd, *The Culture of Protestantism*, 142.

in Stirling: a correlation which Joyce Miller interprets as “evidence that there was an atmosphere of verbal violence and threats in the community at that time, and also that there was some connection between the incidents.”\textsuperscript{17} While scolding and slander litigation certainly cannot be directly equated with charges of witchcraft, correlations like these suggest that anxiety and efforts to control or punish speech played a role in both kinds of prosecution.

Written words were also a cause for concern. On 23 Nov 1649, the General Assembly denounced the “diverse erroneous books [that] are brought to this Kingdome, and privatly scattered amongst the people.” It therefore urged the ministers of Edinburgh to exhort the magistrates to search all ships and stationers’ shops in order to disrupt such trade, giving “power to them to doe everie thing necessary for trying and censuring stationers, or merchants, or any other that bring home, disperse, or vent such books, according to the Acts of the Assembly.”\textsuperscript{18} Perhaps unsurprisingly, in the same session the Assembly urged commissioners to select able and conscientious men for judging witchcraft trials. The bodies responsible for kirk oversight were often involved in making sure that each parish was free from the dangers of witchcraft. In 1611, for example, representatives of the Synod of Fife made inquiries in each parish they visited whether there were any witches or other suspicious persons present. On the 21 of April at the Kirk of Rascabie it was noted that there were no “noncommunicants or excommunicants; no papists or thair resaitteris; no witches or consulters with them”; three days later at the Kirk of Fettercairne, however, the Synod noted “Thair is some motioune of ane man suspect of witchcraft, in the tryall quhairof thei ar to insist.”\textsuperscript{19}

\textsuperscript{17} Joyce Miller, “Cantrips and Carlins: Magic, Medicine and Society in the presbyteries of Haddington and Stirling, 1603-88” (PhD thesis, University of Stirling, 1999), 311-312.
\textsuperscript{18} Alexander Mitchell and James Christie, eds., \textit{The Records of the Commissions of the General Assemblies of the Church of Scotland Holden in Edinburgh the years of 1648 and 1649} (Edinburgh: Scottish History Society, 1896), 329
\textsuperscript{19} Church of Scotland, \textit{Ecclesiastical Records: Selections from the Minutes of the Synod of Fife, 1611-1682.} (Edinburgh: Abbotsford Club, 1832), 17, 19.
Oversight and punishment of blasphemy, heterodoxy, sedition, and witchcraft was therefore important to both church and state. Accordingly, periods of heightened anxiety over one category often coincided with an increase in anxiety and surveillance over the others. In 1661 an Act of Parliament officially made blasphemy a capital crime; this act just happened to be passed in the middle of the largest witch-hunt in Scotland’s history. This hunt occurred during the Restoration of the Stuart monarchy and the disenfranchisement of the Presbyterian ministry, a period of intense surveillance for signs of both treason and irregular religious practice. Episodes like this were often associated with an increase in monitoring speech at local and national levels, and often intersected with surges in witchcraft prosecution. For example, the last major spike of witchcraft accusations occurred between 1697 and 1700 during a period of “moral panic.” This began the same year as the trial and execution of Thomas Aikenhead, the last person to be executed for blasphemy in Britain and possibly the only person to have been so in Scotland. Michael Graham has argued that, in the period leading up to Aikenhead’s trial, an influx of deist beliefs into Scotland led to “a heightened awareness of the danger of this sinister conspiracy against the Godly.” This resulted in a “state of alert” which, along with other factors, ultimately led to Aikenhead’s sacrificial and demonstrative execution. This climate of anxiety over the heretical challenges to the recently restored Presbyterian Kirk, reflected in the increase in pamphlets, sermons, and books on the subject, likely led to a surge in surveillance and censorship of blasphemous speech and writings. While some have argued that these fears of deism and sadduccism likewise played a role in encouraging witch-hunting, particularly among

22 Ibid., 48
ministers and other elites, it is also likely that this atmosphere of verbal surveillance helped to identify certain individuals as witches in their localities.

Certain times and places saw periodic increases in witchcraft prosecution: based on the research for this thesis, it seems likely that these were tied to periods of increased concerns over speech both locally and nationally. This focus on speech can also help to explain why witchcraft prosecution remained low in places like the Gàidhealtachd. The comparative inability of Protestantism to penetrate the Highlands, as well as the difficulty monitoring speech in Gaelic-speaking communities, presented a challenge to the kirk’s oversight of speech. Moreover, a greater respect for female speakers in general existed in the Highlands, which featured a long tradition of professional female poets, bards, and mourners. The greater freedom of female speech could mean that their words were less likely to be interpreted as sorcerous. However, even here, the verbal, sexual, and mobile characteristics of female poets left them more open to suspicions of witchcraft.

Undoubtedly, many other factors and conditions were at play in the ebbs and flows of witchcraft accusations. Each trial occurred within a context-specific landscape with a constellation of characters, history, and social influences. While national legislation and events may have had an influence, it is important not to overstate their impact. Nonetheless, the coincidence of these events is striking. Rather than seeing these attacks on the sins and/or crimes

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23 Wasser, “The Western Witch-Hunt,” 155-159. It may be worth noting here that one of the leading figures involved in pursuing witches during this period was Sir John Maxwell of Pollock, son to Sir George Maxwell.

24 By the end of the seventeenth century, witchcraft cases often involved reports of demonic possession. While these featured many physical features, such as seizures and vomiting of pins and other foreign objects, reports often also included the afflicted individuals speaking in tongues or blaspheming uncontrollably.


26 Colm Ó Baoill, “Neither Out nor In’: Scottish Gaelic Women Poets, 1650-1750,” in Women and the Feminine in Medieval and Early Modern Scottish Writing, eds. S. Dunnigen, C. Harker, and E. Newlyn (Houndmills and New York: Palgrave Macmillon, 2004), 136, 150. It is also possible that witchcraft was less connected to speech in the Gàidhealtachd, where witches were more likely to harm their victims with their ‘evil eye’ than with the verbal spells of their Lowland counterparts. However, more research needs to be done before this can be effectively proven.
of the tongue as equivalent to an attack on witchcraft, it is productive to interpret them instead as correlative signs of the same anxiety over dangerous words. Fear of sedition, blasphemy, and heresy ran rampant during this period, periodically spiking as a consequence of both local and national events. Corresponding efforts to monitor and discipline all kinds of illicit speech therefore resulted in a greater number of “witches” coming to light. Because witchcraft was already associated with efficacious utterances in the social imagination, witches’ words could be used to identify them in their communities; because their verbal pact with the Devil was the ultimate treason and heresy, it was necessary to the safety and success of the godly community and kingdom that they be officially silenced.

Performances of Power: Ritual Speech Acts and Authority

One exciting aspect of this research is that it addresses the debate over whether witchcraft was a top-down or bottom-up process. It seems likely that judicial skepticism did indeed play a role in putting the brakes on witchcraft prosecution at certain times throughout the period of witch-hunting.27 Yet it also seems likely that a period of heightened anxiety at the national level was a factor in promoting verbal surveillance, which in turn fostered witchcraft accusations. Fear of sedition and rebellion could be a factor in local courts as well as central ones, such as in the conflict between Patrick Stewart, Earl of Orkney, and his brother John, which resulted in the horrible torture and execution of Alesoun Balfour for witchcraft.28 Local politics and concerns at the community level likewise played a critical role, as prominent individuals sought to assert their authority over the words of witches. Joyce Miller has argued that the distribution and

politics of power, particularly locally, played an important part in witchcraft accusations. This was true not only for ministers and officials involved in interrogating and trying witches, but also for local neighbours who involved themselves in providing accusations and evidence; power dynamics at the local level therefore clearly played an important role in witch trials.29

Sandy Bardsley has suggested that scolding prosecution in pre-Reformation England was one way for local officials to demonstrate their authority by defining and punishing deviant speech.30 John Harrison has likewise argued that the branking of scolds was a public shaming ritual that allowed authorities to literally and metaphorically bridle women’s uncontrolled tongues,31 thereby clearly positioning themselves ‘at the reins’. While the quarrels and curses of flyters and scolds were disruptive to the social order, however, the ‘devilische wordis’ of witches were seen as considerably more powerful. Nonetheless, in the process of interrogation and prosecution, even their power was overcome by the verbal authority of local and state officials. James VI was “insistent that the witches’ power is reduced when she is legally apprehended by the ‘lawful magistrate’—an opinion common to demonologists such as Bodin and Remy, and perhaps also a popular one.”32 Consequently, the power of the utterances of the magistrate (or monarch) was clearly demonstrated in prevailing over the words of witches. Agnes Sampson, for example, confessed to the king that she had previously “vowed not to confess anything, and was that same day resolved never to confess, were not his Majesty’s speeches that had moved her; whereof she praised God that had wrought a repentance in her and a sense and feeling of her

30 Bardsley, Venomous Tongues, 147-149
sins.” Here the king’s “speeches,” vested with divine authority, were portrayed as having clear supremacy over Agnes’—and by extension, Satan’s—tongue.

This verbal empowerment was not limited to the monarch, however; local ministers and magistrates also benefitted from the trial and interrogation of witches. Pragmatics scholars have discussed the use of interrogation techniques, formulaic language, and illocutionary speech acts in early modern witch trials; these studies reveal the power dynamics of the court room, wherein the interrogator, advocate, and magistrates established the authority of their words over the speech of others. Many authors have noted the links between speech acts and the law, pointing out the ways in which the language of the court room is predicated on a framework of discursive speech acts, reflecting a “language of power and control.” In prosecuting witches, local and state officials sent a message couched in public spectacle: witches’ words were powerful, yes, but not as powerful as the magistrates who apprehended, tried, and convicted them.

The interrogation of suspects in particular allowed local and judicial officials to engage in a ritualized performance that authorized and empowered their own words. Repeated questions, multiple interrogations, witnessed statements, and formulaic language were all a part of this performance, prioritizing their own language at the expense of the suspect: “the formal language used by the interrogators increases their social distance from the interrogated even more and enhances the power which the former have over the latter.” This can be seen quite literally at times, such as in the interrogation of Isabell Haldane by the kirk session at Perth, where prayers

33 Normand and Roberts, Witchcraft in Early Modern Scotland, 146.
were made to “louse hir tounge to Confess the treuth.” Isobel Gowdie’s confessions were repeatedly recorded as being “spoken furth of the mowthe of Issobell gowdie,” while Issobell Shyrie’s confessions were “drawen from hir mouth and written by the minister.” This formulaic phrasing reflects how the mouths and tongues of suspected witches were repeatedly subjected to the powerful questions and speech of the authorities interrogating them. This phrasing is even more noteworthy when contrasted with the language of conviction. At the conclusion of the trial, the assize would declare their verdict “all in one voice,” which would be pronounced “by the mouth” of the chancellor or spokesman for the council. For example, at the conclusion of a series of trials at the Crook of Devon, Kinross-shire, three witches were “found and declared be the haill Assize all in ane voice,” to be guilty of diverse points of sorcery and witchcraft; of these, all three were convicted “as common sorcerers and notorious witches by the mouth of George Barclay as chancellor of the said assize.” Like many other individuals accused of witchcraft in Scotland, these alleged witches received their sentence from a Dempster, or Doomsayer: to be “stranglit to death…and thereafter their bodies to be burnt to ashes.” These ritual pronouncements and positions were not exclusive to trials for witchcraft; kirk sessions and courts of law both routinely dispensed their pronouncements all in “one voice,” referring to unanimity in judgement. Nonetheless, this formulaic language does reflect the performative power of ritual speech acts in the trial and the clear subordination of the ‘mouths’ and tongues of witches to the powerful utterances of the assize.

40 Ibid.
The punishment of witches was likewise an opportunity to publically demonstrate the power of the kirk and court over the bodies and voices of witches. The most common sentence for convicted witches was to be “worrit” or strangled and then burnt at the stake. This method of execution was deliberately evocative of both heresy and treason. Brian Levack states:

The reason Scottish witches were burned at the stake (after being strangled) rather than hanged was that burning was traditionally the punishment reserved for heretics in all European countries. If Scottish witches had been found guilty of a purely secular crime, they would have been hanged, just like murderers or thieves. Burning at the stake sent a message to the entire community that they had committed an [sic.] offence against the Christian religion as well as the social and political order.

However, as discussed, witchcraft was a crime of treason against the king as well as heresy. This equation of treason and witchcraft can be seen in the sentence of Lady Glammis in 1537, who was charged with using witchcraft in an attempt on the king’s life: she was “to be had [taken] to the Castell Hill of Edinburgh, and there brynt in ane fyre to the deid as ane traitour.” Burning could also be used as punishment in cases of petty treason, or husband-murder. This was the case in 1608 when Patrick Eviot was murdered in his bed by his wife and her accomplice, for which they were sentenced to burn. Like treason against the crown, petty treason was an attack on the natural order as the hierarchy of the domestic household echoed the hierarchy of both state and heaven; consequently, burning sent an important statement about the egregiousness of these crimes.

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41 Occasionally witches were noted as being burned alive, but this appears to have been very rare. See Laura Paterson, “Executing Scottish Witches,” in *Scottish Witches and Witch-Hunters*, ed. J. Goodare (Palgrave Macmillon, 2013), 204-205
45 *The Chronicle of Perth: A Register of Remarkable Occurrences Chiefly Connected to that City, From the Year 1210 to 1668* (Edinburgh: 1831), 12.
The spectacle of the execution was a performance of ritual acts and scripted words designed to publically display the power of the kirk, court, and state; it also functioned to dissuade others from engaging in such deviant acts. In the conviction of four witches in Culross it is noted that their punishment for witchcraft would stand as a warning for all others: that witches in general “ought & should be exemplarlie punished with the panie of death to be execat agt them [exacted against them] in ane exemplarie maner as use is in the caire of so hynous a cryme and with confiscat of ther moveables to the terror & example of others to commit the lyke heireftir.” At the time of execution, the witch was taken to a public place, often one designed to engage the widest audience. Her confession of witchcraft was read aloud to the crowd, which she either affirmed or occasionally retracted. When Margaret Barclay was taken to her place of execution, she affirmed her confession and guilt for witchcraft (although she also retracted her previous confession that Isobel Crawford was a witch): “And sua utterit thir wordis—God’s blessing and myne be among you all, and pray for me; and hir braith chokit be the executioner, hir handis being up to the heavins, uttering thir wordis—Lord ressave my saull in his mercie.”

The recitation of the charges and verbal confession of the accused was an important part of the execution for several reasons. First, it informed the public exactly what kind of deeds and speech acts were the work of the Devil and thus not to be tolerated in themselves or their neighbours. Second, it was a verbal capitulation, a subordination of speech, wherein the convicted acknowledged their fault before God and the community. As with the scripted act of public confession in the performance of repentance, these words were critical to restoring the natural and social order. Unlike repentance, the result was not a rehabilitation or even absolution,
but was still necessary as symbol of remorse. By acknowledging their treason against God, convicted witches ‘willingly’ gave up their usurped power and restored it to those who had lawfully tried and convicted them. In the subsequent strangulation and burning, the witch was literally and effectively ‘silenced’ before being purified by cleansing flame.

**Gender**

The discipline and punishment of disorderly words was therefore as much about establishing the rules and proper uses of language as it was about the definition of deviant speech. Certainly the ministers, lawyers, and kirk sessions conducting inquiries were involved in right-speaking, as were the witnesses sharing their depositions. Consequently, context was critical to determining whether speech was sanctioned or not. In general, men had many more opportunities to verbally express themselves without repercussions. However, when spoken outside of the traditional bonds and hierarchies of authority, men’s words could be deemed ‘womanly”—or worse, witch-like.

As discussed in earlier chapters, the verbal stereotypes of witchcraft have often been relegated to a function of their gender. Witches were more likely to be women, therefore they were more likely to exhibit the disorderly verbal and sexual characteristics associated with femininity, and *vice versa*. One of the problems with this position, beyond its obvious self-reflexivity, is that it does not effectively explain why particular women were charged, nor does it explain the significant minority of men among the accused. However, if we accept that witches were frequently defined and identified by their words, then it should be little wonder that women would be most often accused of the crime. Not only were they more likely to engage in verbal violence and verbal work than men, they were also more likely to be monitored and disciplined
for it.  

Women were more likely to be involved in scolding and slander litigation in both England and Scotland, and the scold’s bridle as a punishment for uncontrolled tongues was usually restricted to them. Some authors have even argued for a direct link between scolding and witchcraft prosecution. This was not, however, a war on women, as some have argued, nor was the rise of scolding prosecution strictly constrained to the period of witch-hunting. Nonetheless, it is clear from numerous studies of medieval and early modern discourse that transgressive and excessive speech was gendered feminine, while the speech of women in general was frequently seen as illicit.

At first glance, this position seems to more or less align with the ‘sex-related’ thesis described above. Women were more likely to be witches, therefore witches exhibited stereotypical deviant female behaviour, which included uncontrolled orality. Yet the critical difference to note is that it was not just female witches who exhibited verbal qualities: the magical reputations of both men and women relied on acts of efficacious speech. This common factor has often gone unremarked in witchcraft scholarship, perhaps because discussions of verbal stereotypes of witchcraft have often been limited to acts cursing, quarreling, and malefic. Julian Goodare has argued that male witches were significantly less likely to be accused of cursing and quarreling in depositional evidence. If this is the case, then it is no wonder male


51 Martin Ingram, “‘Scolding women cucked or washed’: a crisis in gender relations in early modern England?” 48-80.

witches are less associated with verbal acts compared to their female counterparts. As Goodare puts it, “The male witch in Scotland…was a watered-down female one.” In other words, men could occasionally demonstrate some of the same qualities or behaviours as women witches, but rarely to the same degree. The fact that men were less likely to engage, or be thought to engage, in the curses and quarrels that usually made up the body of evidence against female witches can therefore help to explain this “watered-down” effect. Yet, as has been shown, witchcraft was associated with many kinds of performative speech acts, not just quarreling and cursing; this left men as well as women susceptible to allegations of witchcraft, albeit at lower rates.

As has been shown throughout this thesis, the process by which men were identified as witches was similar to women’s. Like women, men could be accused by other witches, or identified by their family ties to suspicious person, or they might be accused as a result of a reputation for witchcraft. Efficacious speech acts—including not only verbal cursing and quarreling, but also divination, healing, and charming assisted by sorcerous utterances—were often key in the development of these reputations. Once an accusation had been made, then an investigation would be made into their history and conduct. Interrogators sought proof of the pact, either through a confession of covenanting with Satan, or a history of efficacious or suspicious speech acts signifying tacit paction. Ultimately, however, local officials and commissioners were limited to what the community observed and reported as suspicious behaviour, or to what the accused himself confessed. Any kind of suspicious act—verbal or physical—was worth including in the testimony; yet, as has been shown, the efforts of local investigators and magistrates often focused heavily on the witch’s ‘devilische wordis’. Acts of cursing, quarreling, divination, and healing were all utterances that could be used as evidence of

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witchcraft, while engagement in express or tacit paction with the Devil was proof of the witch’s identity.

Although men were often tried on charges of promising to serve the Devil, they were rarely accused of having sex with him. This presents a challenge to witchcraft historians seeking to explain how men could be tried under a “female” stereotype of witchcraft. This problem can once again be overcoming be focusing on the primacy of speech. The sexual consummation of the pact, rather than being a requirement for prosecution, can instead be interpreted as a reflection of the common conflation of sex, speech, and disobedience specifically in women.\(^\text{54}\) The disorderly words of women were often directly equated with their insatiable sexual appetites in early modern discourse; virtuous women were required to be chaste in speech and sex, while promiscuous women could be identified by their “loose” tongues.\(^\text{55}\) This natural link between women’s sexual and verbal nature was grounded in the embodiment of women in medical discourse, drawing its authority from the writings of ancients like Galen and Aristotle who believed in a close metaphoric and functional relationship between a woman’s upper and lower ‘mouths,’ both of which were guarded by lips that were “best kept closed.”\(^\text{56}\) Therefore the quarreling, cursing, and scolding witch was characterized not only by her unruly utterances, but also by her unnatural sexual appetites; indeed, the one was the symptom and signifier of the other. Men who were unable to govern or manfully exercise their tongues were also effeminized.

\(^{54}\) For more discussion on the relationship between sex, speech and witchcraft, see S. Dye, “To Converse with the Devil?” \textit{IRSS 37} (2012): 28-30.


and cast as ‘womanly’; but while their words could similarly reflect sexual misconduct, they could also be used to invoke the threat of impotence. A man’s tongue could be as effective as the ‘sword’, but it could also be as limp as a lamprey: the trick was to use it correctly in the appropriate context.

The fact that women were more likely to be associated with or engage in disruptive speech acts associated with witchcraft—quarreling, cursing, charming, etc.—explains why they were more likely to be accused of the crime than men. Moreover, the negative associations surrounding female speech meant that their words were more likely to be monitored and interpreted as illicit by authorities. Men had more opportunities and venues for sanctioned speech; it follows that there were fewer occasions for them to develop a reputation for sorcerous speaking. While both men and women could engage in transgressive speech, women were more likely to come to the attention of the kirk and other courts for it. When words were observed to be followed by an effect, then a reputation for witchcraft could begin to be built. Surveillance over speech, particularly the targeted scrutiny of women’s words, was therefore a key factor in gendered rates of witchcraft prosecution.

The Decline of Witch-Hunting

By the end of the seventeenth century, witch-hunting was on the decline across Scotland. The last person executed for witchcraft was Janet Horne in Dornoch in 1727. By 1736, Parliament revoked the 1563 act making witchcraft punishable by death. Brian Levack argues that the

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57 Sandy Bardsley, “Men’s Voices in Late Medieval England,” in *The Hands of the Tongue*, 127; Fletcher, *Gender, Sex and Subordination*, 94-98.
59 The memorial stone commemorating this trial dates her execution at 1722, but the scholarly consensus is that this took place in 1727.
increase of judicial control and skepticism was a major factor in the decline of witch-hunting.\textsuperscript{60} Michael Wasser, however, notes a similar trend of increased control and skepticism in the period between 1597 and 1628, which likewise led to a decline in witch trials, but asks then why wasn’t this the end of witch-hunting?: “This suggests that judicial skepticism needed to be reinforced by other attitudes and social factors before it could resist insistent demands for witch-hunting, as it did in the period 1697-1700.”\textsuperscript{61}

Based on this present research, it seems likely that these other factors involved concerns over speech. David Cressy has argued that English concern with seditious and treasonous speech was high across the sixteenth and seventeenth centuries. By the eighteenth century, however, speech crimes became prosecuted less and less often. Speech on its own could no longer be legally interpreted as treason, while convictions became fewer and punishments lighter: “The state no longer felt imperiled by dangerous words, so long as those words were not distributed through writing. By the early years of the eighteenth century, the English had the freedom to speak as they pleased, provided they steered clear of blasphemy and slander.”\textsuperscript{62} While Cressy’s focus is on England, a similar decline in regulation against sedition and speech crimes can be seen in Scotland, with the last execution for blasphemy taking place in 1697. Cressy also argues that, following the Glorious Revolution and overthrow of the Stuart monarchy, “freedom of speech” had become a part of the national rhetoric; by the nineteenth century, it was part of the British national identity. Treasonous talk could occasionally still be a concern, such as during the Jacobite Risings or the French Revolution, periods which saw increased surveillance and punishment of seditious pamphlets and writings; however speech alone no longer represented the threat to the state that it once had.

\textsuperscript{60} Levack, \textit{Witch-Hunting in Scotland}, 133-141.
\textsuperscript{61} Wasser, “The Privy Council and the Witches,” 44.
\textsuperscript{62} Cressy, \textit{Dangerous Talk}, 235.
By the early eighteenth century, witchcraft trials became more and more sporadic. Popular ideas about magic and witch belief did not necessarily change, but witches’ words were no longer seen as dangerous or efficacious by the ‘rational’ elites of the budding Enlightenment. Judicial ‘skepticism’ surely played a role in this, but this was itself tied to shifting ideas about the accessibility and dangers of speech. Diane Purkiss argues that this skepticism came “not from disinterestedness, but from a notion of power that explicitly excludes women.” Women’s words in particular became increasingly seen, not as a threat, but as reflection of their own weakness. Disorderly speech was still associated with women, but was no longer seen as dangerous to the social order; instead it was a symptom of their pathologized femininity, associated with madness and hysteria. Under the male clinical gaze, the prophetic speeches of witches and female visionaries gave way to the uncontrolled shrieks of the hysteric, whose voice no longer presented a danger to any but herself.

This thesis has shown that witchcraft was associated with words in both popular and elite belief in Scotland. Speech was a critical part of the judicial evidence and definition of witchcraft across the witch-hunting period in both local and central trials. As a result of the particular religious and political context of the sixteenth and seventeenth centuries, the surveillance of speech was a shared project and concern at all levels of society. While the triggers and motivations for each individual trial or hunt were a consequence of their own specific context, the monitoring of speech played an important role in bringing the words of witches to the attention of authorities. This was likely to have resulted in higher rates of accusations for women, as well as surges in witchcraft prosecution during periods of increased anxiety over dangerous speech. The

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interrogation and prosecution of witches allowed both local and state officials to participate in a ritual performance that established their authority over the powerful voices of witches. As witches’ words became seen as less powerful and/or dangerous, witch-hunting declined. By the beginning of the eighteenth century, ideas about the control and uses of speech began to shift in national consciousness. As a result, the words of the witch were no longer seen as a threat to their community or a sign of their internal revolt, but as a symptom of her madness and disease.
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