

---

---

# **Witches** **and the** **Law**

By  
**C. E. Loseby**  
Inner Temple.

**Price 1/-**



# Witches, Mediums, Vagrants and the Law

BY  
C. E. LOSEBY  
INNER TEMPLE.

*Price 1/-*

*Published by*  
SPIRITUALISTS' NATIONAL UNION, LTD.,  
64A, BRIDGE STREET  
MANCHESTER

---

1946





# Witches, Mediums, Vagrants and the Law

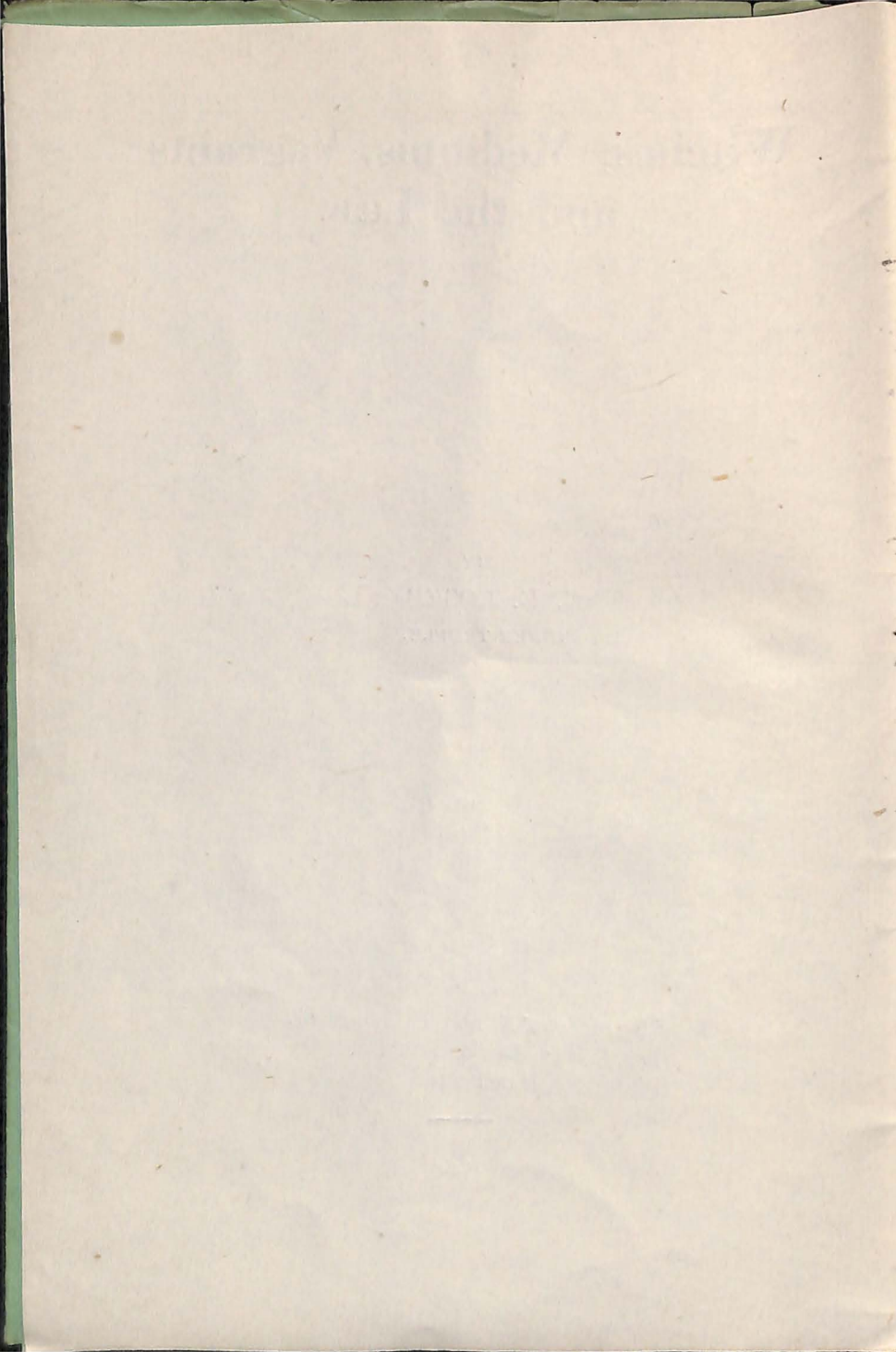
BY  
C. E. LOSEBY  
INNER TEMPLE.

*Price 1/-*

*Published by*  
SPIRITUALISTS' NATIONAL UNION, LTD.,  
64A, BRIDGE STREET  
MANCHESTER

---

1946



## FOREWORD.

In this short pamphlet I have endeavoured to demonstrate that there never was a time—and the proposition remains true to-day—when the Witchcraft Acts were capable of administration by machinery dedicated to Justice.

There are many matters connected with the campaign devoted to the persecution of "Witches" that are common knowledge. There are others, however, which are insufficiently appreciated. As to these I have endeavoured to supply information that is plain.

If I have elaborated quotations and references it is because I have felt that credence would not be given to a story so fantastic unless chapter and verse were given in every instance. In the majority of cases I have set out the facts as shortly as I could and allowed them to speak for themselves.

It is common knowledge that certain persons, accused of dabbling with the supernatural in a manner that was sinister, created at one time a grave problem. Laws were passed for the purpose of suppressing them and stamping them out. The Courts were called upon to give effect to the laws that were made. A result that was not anticipated followed. Instruments dedicated to Justice brought Injustice to a fine art.

The precise nature, however, of the charges made against persons accused—the essence of the offences alleged—is insufficiently appreciated. The same observation applies to the evidence which was deemed sufficient for the purpose of justifying convictions.

Knowledge that is more exact has been rendered particularly necessary by the recent effort to revive and revitalise the Acts and give an appearance of continuity to the policy behind them.

For this purpose I have examined many of the charges actually brought, and sum up the result of my efforts by saying that I did not discover one that was not on the face of it ridiculous.

I am compelled to follow up superlative by superlative.

After a careful search of the records of evidence brought in support of charges made—and that on a hanging matter—I was unable to find a line that could not fairly be described as preposterous.

As I read and examined these words one thing, in particular, impressed my mind. It seemed to me that judges and Courts, who have to administer the Law as it is and not as they might wish it to be, had by the Acts been placed in a position that was false. Called upon to administer laws, founded and based upon fallacies, they were made parties to the propping of it by evidence that was ludicrous.

Judges in the end broke down the law. It took them, however, many years. In the intervening period Justice was prostituted, not without the aid of the judges.



The matter is not one of past history or academic interest only. A Witchcraft Act has reappeared. It has been asserted (and I think rightly) that worked in conjunction with the Vagrancy Act, 1824, it has the effect that no medium, *however innocent*, has a reasonable chance of escaping conviction.

The words in italics should be noted.

The proposition is either true or untrue.

If judges and lawyers realized that it was true I am convinced that they would take an effective hand in the matter. They would not argue that in spite of the fact that it ensured the conviction of *innocent* people it was nevertheless expedient.

I did not wish to break the story by reference to the Vagrancy Act, 1824. Certain observations, however, that I was at one time called upon to make in regard to that Act help the argument I have tried to develop. I have, therefore, included them in the Appendix which I hope will be read.

C. E. LOSEBY.

# WITCHES, MEDIUMS, VAGRANTS AND THE LAW.

## I.

### THE DEVIL'S COMPANIONS.

Since the earliest days the alleged practice of witchcraft was regarded as an offence punishable both in the ecclesiastical and civil courts. Reference to it can be found in penal codes as far back as the seventh century. The history of the subject is shocking and nauseating. Responsibility for it must be shared about equally between the Church, the Legislature, lawyers and the Courts. Only this can be said for it that, until late in the 19th century it was based upon a logical line of thinking.

Records, commencing with the Liber Poenitentialis of Theodore, Archbishop of Canterbury (668-690 A.D.) show that the treatment of it was based upon the ecclesiastical conception of a personal Devil whose agents, were, upon terms, made available to human beings for sinister and criminal purposes. The Church explained and elaborated. The Legislature enacted. The Courts gave effect to the laws and decrees laid down.

In his excellent book, "Witch Hunting and Witch Trials." Mr. L'Estrange Ewen quotes from laws in force in the time of King Wintraed (690-631 A.D.), the Confessional of Egbert, Archbishop of York (735-766 A.D.), of Edward and Guthram, Ethelred, William the Conqueror and Henry I. The theory behind all of them is the same.

Under the Statute "de Heretico Comburendo," 2 Henry 5 c. 7, witches were liable to be burnt as heretics. That traffic with the Devil was heresy admitted of no argument.

The practice on the continent was the same. The theory behind it was the same. Dr. Kurtz, the German authority on Church history, wrote:—

"Heresy and sorcery were regarded as correlates like two agencies resting on and serviceable to the demoniacal powers, and were treated in the same way as offences to be punished with torture and the stake."

*("Church History," by Professor Kurtz,  
edited by Nicholl, Vol. 2, p. 105).*

It was at all times regarded as one of the gravest crimes known to the law. It represented a working with the arch-enemy of God himself—an alliance with evil for the purpose of evil.

The trial of Joan of Arc, 1431, well illustrates this point. She was charged specifically with being a "sorceress" and "invoker of demons."



The main efforts of her many cross-examiners and accusers were directed to prove that her voices were infernal. She, in her defence, admitted the fact of the voices but claimed that they were good. Joan was a masterly advocate, and would not have volunteered this admission if it had prejudiced her defence, placed her indeed at the mercy of her enemies. Both she and her accusers took it for granted that the only real issue was whether her voices were good or evil. If they were proved to be good she went free. Had it been otherwise the assessors would not have found (as they did) that

“Joan had failed to prove that the voices came from God.”  
Nor would the Faculty of Theology of the University of Paris (called upon to advise) have found

“The voices were seductive and pernicious lies proceeding from evil and diabolic spirits such as Belial, Satan and Behemoth.”

The burning of Joan was one of the meanest judicial murders of history. There was not a line of honest evidence that supported the charge made against her. Her accusers, however, were at enormous pains to find such facts as would justify their findings.

For the purpose of following the operation of the Witchcraft Acts during the last two hundred years of their activity, the following Statutes should be noted:

A.D. 1542	33	Henry VIII	c. 8.
A.D. 1547	1	Edward VI	c. 16.
A.D. 1563	5	Elizabeth	c. 15.
A.D. 1604	1	James I.	c. 12.

The Statute of Henry VIII was declared to be directed against

“conjurations and witchcrafts and sorcery and enchantments.”

This Act was repealed in the first year of Edward VI by an Act repealing

“everything mentioning or in any way concerning religion or opinions.”

A respite of 15 years was broken by the Statute of Elizabeth which re-enacted the death penalty.

This Act was repealed in the first year of James I but re-enacted for the purpose of

“the better restrayninge of the said Offenses and more severe punishinge the same.”

The Statute of James I, the only Statute prior to 1735 that need be closely examined, read as follows:

A.D. 1604. 1 Jac. I. c. 12.

*“An Acte against Conjuration Witchcrafts and dealinge with evill and wicked Spirits.*

*Be it enacted by the King our Sov'aigne Lorde the Lordes Spirituall and Temporall and the Commons in this p'sent Parliament*

assembled, and by the authoritie of the same, That the Statute made in fiftie yeere of the Raigne of our late Sov'aigne Ladie of most famous and happie memorie Queen Elizabeth, intituled An Act againste Conjuracions Inchantmente and Witchcrafte, be from the Feaste of St. Michaelle the Archangell nexte cominge, for and concerninge all Offences to be comitted after the same Feaste, utterlie repealed.

And for the better restrayninge the said Offenses, and more severe punishinge the same, be it further enacted by the aforesaide, That if any pson or persons, after the saide Feaste of Saint Michaelle the Archangell next cominge, shall use practise or exercise any Invocation or Conjuracion of any evill and wicked Spirit, or shall consult covenant with entertaine employ feede or rewarde any evill and wicked Spirit to or for any intent or purpose; or take up any dead man woman or child out of his or her theire grave, or any other place where the dead bodie resteth, or theskin bone or any other parte of any dead person, to be employed or used in any manner of Witchcrafte Sorcerie, Charme or Inchantment; or shall practise or exercise any Witchcrafte Inchantment Charme or Sorcerie, wherebie any pson shalbe killed destroyed wasted consumed pined or lamed in his or her bodie, or any parte thereof; that then everie such Offendor or Offendors, their Ayders Abettors and Counsellors, being of any the saide Offences duly and lawfullie convicted and attainted, shall suffer pains of deathe as a Felon or Felons, and shall lose the benefite of Charge and Sanctuarie.

James I was himself an authority and in the year 1597, as James VI of Scotland, published a Daemonologie.

In this book he did his best to fan religious fanaticism, which in fact required no stimulant.

He demonstrated the enormous power of demons saying that they could, inter alia, bring fire from heaven, conjure corn from one field to another and raise the wind. The lowest of all were

"the damned souls of departed conjurors."

He pointed out, however, that some spirits were of high class

"not to be spoken of idly or foolishly."

Five years previously he had demonstrated his willingness to give practical assistance by setting up a commission authorised to torture suspected witches.

"the pesonns wilfull or refusand to declare the veritie to putt to torture or sic uthir punishment to use and caus to usit as may move them to utter the treuth."

The Statute remained in force, keeping alive a reign of terror, until 1735. The chief evil aimed at was that indicated by the words "invocations, conjurations, witchcraft sorcery and enchantments." Such was the fear of them, fanned and kept alive by the teachings of the Churches, that in general pardons in the reigns of Elizabeth, James I, and Charles II persons convicted of these offences were excluded from benefit. (See 23 Elizabeth, c. 16, 21 James I, c. 35, 12 Charles II, c. 11).



Lord Chief Justice Coke, the greatest lawyer of his time, discussed the Statute at length in his Institutes (3 Inst. c. 6. p. 44). He had no doubt either of the wisdom of his monarch or of the fundamental piety behind the law.

*"It had been" he wrote "a great defect in government if so great an abomination had passed with impunity."*

His definitions were precise and made clear the damage aimed at.

*"A CONJUROR" said he "is he that by the holy and powerfull name of Almighty God invokes and conjures the Devill to consult with him, or to do some act."*

*"A WITCH is a person that hath conference with the Devill, to consult with him or to do some act."*

*"An INCHANTER, INCANTATOR, is he or she qui carminibus aut cantiunculis Daemonem adjurat—he or she who adjures the Devil by rhymes or verses."*

Coke concluded by taking the more prominent offences one by one and discussing them.

I. *"If any person or person shall use practise or exercise any invocation or conjuration of any evil and wicked spirit."*

Here the Devil by the holy and powerfull names of Almighty God is invoked as hathe been said, and this invocation or conjuration of a wicked spirit is felony without any other act or thing, save only the apparition of the spirit.

Coke was a great blackguard. His theology, however, was as sound as his law. It was not his fault if error crept in later.

## II.

### TORTURE.

Persecution never reached the same pitch in England as upon the continent, where it is estimated that, subsequent to 1484 (the bull of Innocent VIII), 300,000 people died by torture, burning, boiling, hanging or drowning. Children were not spared. In his book, *Daemonologie*, published in 1597, Remy the French Judge says that children of convicted witches were stripped and beaten with rods round the places where the parents were being burnt alive. Remy approved of this form of correction but doubted if it was sufficiently severe saying

*"out of consideration for the public safety such children ought in addition to be banished from the boundaries of human nature for experience has shown that they who have fallen into the power of the Devil can rarely be rescued except by death."*

In Scotland witches were burnt alive. In England, after 1603, burnings were rare, death by hanging being the normal punishment.

In every country persecution fever varied in strength in different parts according as religious fanaticism ran high or otherwise. The zeal of one man was often sufficient to raise killing mania to the danger point. Protestants were not less guilty than Catholics. In Scotland prosecutions were more common, torture more subtle and acute, than in England where incidentally persecution reached its highest levels during the reign of Elizabeth and the Commonwealth.

### WITCHCRAFT PROVED.

Coke made plain the essence of the offence. Other lawyers and writers demonstrated how it could be proved—the evidence by which it could be established.

To bring home to any person that he or she had been guilty of co-operation, collusion and partnership with the Devil was not easy. The lawyers of the time, however, were equal to the task.

It will be observed that they based their instructions and advice upon their knowledge of the difficulties by which the Devil was circumscribed and beset—of the confined channels in which he and his creatures worked and were compelled to work. It was known for example that he was of necessity compelled to work through “familiars.” Familiars had habits that were known. They left their tracks and traces behind them. These had but to be searched for and discovered and complicity and guilt were proved. The exact knowledge upon which they worked was based upon the teachings of the Church through centuries.

Examination of the records show that the evidence relied upon was ridiculous. It demonstrated nothing and proved nothing other than widespread folly, superstition and dark ignorance.

Behind the frenzy which throughout Europe took hundreds of thousands of tormented, half-demented men and women to the gallows the stake and the pot there was not a rag of evidence worthy of consideration.

Mr. L'Estrange Ewen, with great industry, has collected nearly eight hundred indictments actually used between the years 1558 and 1700. In each and every one of them reference—directly or by implication—is made to the Devil and/or his agents. For the purpose of illustration four are reproduced.

1645. Essex Summer Sessions and general gaol delivery holden at Chelmsford on 17 July, 21 Chas. I. Commission dated 20 June, 21 Chas. I.

640. JOYCE BOONES of Chette St. Osith, spinster, wife of William Boones, yeoman, on 1 Feb. 20. Chas. I, at Chette St. Osith, did entertain etc. two evil spirits, one called “Jockey” and one called “Rugge.”

: S.p. collu.



645. ELIZABETH HARVEY of Ramsay, widow, on 14 April, 21 Charles I, at Ramsey did entertain, etc., three evil spirits each in the likeness of a red mouse.

: S. p. collu.

646. MARY HOCKETT of Ramsay, widow, on April 14, 21 Charles I, did entertain three evil spirits each in the likeness of a mouse, called, "Littleman," "Prettyman," and "Dainty."

: S. p. collu.

The endorsement S. p. collu records the fate of three women—suspend per collu—hanged by neck until dead.

The gaol delivery roll reveals that at this one Sessions thirty-three persons were indicted for Witchcraft, four died in gaol (a common habit), thirty-one were hanged.

In each and every one of the indictments set out by Mr. L'Estrange Ewen, traffic with *evil* spirits is, directly or indirectly alleged. That was the essence of the matter. It indicated and proved traffic with the Devil. That, in trials, was the point on which the mind and conscience of the Court had to be satisfied. There is a mass of evidence available to show how it was done. Legal writers provided much of it.

#### COKE REINFORCED.

Michael Dalton, a Master of Chancery, editor of "The Country Justice," first published in 1618, and Richard Bernard, responsible for the Guide to Grand Jurymen in 1627, were the most illuminating. Between them they made plain the kind of and type of evidence which took witches to the gallows and the stake.

Writing in the "Country Justice," Dalton referred to witches as "the Most cruel, revengeful and bloody of all felons," but admitted apparent difficulties in bringing home this wickedness.

They, i.e., the Justices

"may not always expect direct evidence seeing all their works are the works of darkness and no witnesses with them to accuse them." He demonstrated, however, how the absence of direct evidence could with confidence be dispensed with.

"1. These witches have ordinarily a familiar or spirit which appeareth to them; sometimes in one shape, sometimes in another, as in the shape of a man, woman, boy, dog, cat, foal, fowl, hare, rat, toad, etc. And to these spirits they give names.

2. Their said familiar hath some big or little teat upon their body, and in some secret place, where he sucketh them. And besides their sucking, the Devil leaveth other marks upon their body, sometimes like a blue or red spot, like a flea biting . . . and these the Devils marks be insensible and being pricked will not bleed . . . and therefore require diligent and careful search.



These first two are main points to discover and convict these witches; for they fully prove that those witches have a familiar, and made a league with the Devil."

*"Country Justice," Michael Dalton—  
all editions, 1630-1727.*

Dalton and Bernard did no more than summarise and advocate methods and practices which in the past had proved effective.

For the purpose of demonstrating that they were based upon superstitions of the crudest description they have but to be set out in plain English.

The following are the most common tests of which evidence was given. Demonstrations in open Court were given.

### **Search for the Devil's mark.**

This test was based upon the theory that when familiars, i.e. Devil's agents, took on human form, the witches nourished them with their own blood either by suckling them or giving them drops of blood. For this purpose they, i.e., the witches were supplied with supernumerary nipples.

Search therefore was made for marks of the kind and type described by Dalton. Discovery of suspicious marks was a hanging matter.

The mark pointed to and proved the contact with a familiar. Intimacy with a familiar was proof positive of a working arrangement with the Devil. Each and every test followed the same line of thought. The search was normally carried out by a woman appointed by justices of the peace or by some recognised witch finder, remunerated, incidentally, according to the number of convictions secured.

### **The Pricking Test.**

It was known that familiars left behind them insensitive flesh on the bodies of women they suckled. This could be detected by sticking pins into the subject. In Newcastle-on-Tyne:

"A Scottish expert was engaged at a fee of 20s. payable for every woman discovered and condemned. As soon as the witchfinder arrived the magistrates sent their bellman through the town, ringing the bell and crying, all people that would bring in any complaint against any woman for a witch, they should be sent for and tried by the person appointed. Thirty women were brought into the Town Hall and stripped, and then openly had pins thrust into their bodies."

Most of them were found guilty.

### **The Blood Test.**

This test was based upon the theory that a person bewitched could rid himself of sickness brought on by witchcraft by causing blood to flow from the body of the person responsible. Any person accused was

therefore scratched, cut, or pricked, at the same time that the alleged victim was observed. If recovery from sickness by the bewitched person was simultaneous with the effusion of blood, guilt was presumed and evidence given accordingly.

Depositions of twenty-five witnesses against three alleged witches before the Grand Jury at the Assizes at Leicester in September, 1717, stated:

"But the most infallible cure was to fetch the blood of the witches which was constantly practised and with good success but the witches would be so stubborn that they were often forced to call the constable to bring the assistance of a number of persons to hold them by force to be blooded . . . . They used great pins and such instruments for that purpose."

The method was highly thought of in Scotland. Fatal results which followed upon pricking and prodding, however, by searchers who were unduly vigorous, robbed the gallows of its prey in too many cases.

### **The Swimming Test.**

Observations of this test were given in evidence at the Leicester Assizes in 1717 in regard to above. Witnesses deposed that all the supposed witches

"had their thumbs and great toes ty'd together & that they were thrown so bound into the water & that they swam like a cork or empty barrel tho' they strove all they could to sink."

The approved method was to strip the victim naked and to bind the right thumb to the left toe and the left thumb to the right toe and throw her thus into the river or pond or river. If she floated proof positive was obtained of guilt. If she sank and/or drowned it was but a case of a bad end to bad rubbish.

The theory behind this type of evidence and proof was explained by James I in his "Daemonologie."

"It appears that God hath appointed for a supernatural signe of the monstrous impietie of witches that water shall refuse to receive them into her bosom, that have shaken off from them the sacred water of baptism and wilfullie refused the benefit thereof."

Coke himself could not have been more clear.

### **The reactions of bewitched persons.**

In every edition of "The Country Justice" between 1630 and 1727, Dalton made reference to reaction tests. He pointed out that dead bodies of bewitched persons bled when touched by the witch responsible. The fact indicated the evidence to be sought.

He reminded his readers that people bewitched had a habit of



vomiting crooked pins, needles, nails, coals, lead, straw, hair or the like.

In the depositions before the Grand Jury at Leicester in 1717, reference was made to damning evidence arising out of discovery of Devil's marks, swimming tests, urine tests, in addition to that of reactions observed. An extract made for the benefit of Lord Parker, Judge of Assize, stated:—

“One of the bewitch'd persons vomited up a great quantity of gravell and dirt and thatch of a house and stones so big that it was incredible how they could come out of any Christian mouth.”

Several of the informants deposed that

“they themselves had been bewitch'd and afflicted after this manner and besides had seen and felt great black bees to come out of their own and other peoples noses and mouths, which bees could not be struck down, &c.”

“Another young maiden voided downwards—with the help of a midwife . . . a great number of stones of a large size. The stones themselves were produced and shew'd as evidence. The midwife and girl and mother all swore to the truth of the fact.”

### More reliable evidence sought.

Judges were helpful. They could not, however, make bricks without straw and at times, at any rate, insisted upon something capable of being called evidence.

This difficulty led to the employment of professional witch finders to supplement the efforts of local searchers and watchers. The latter were full of enthusiasm and zeal, but at times lacked finish.

These finders flourished particularly in Scotland. They were, however, widely used in England as well. They were employed by the Town Councils or Guilds and were formally licensed. Samuel Cocwra was licensed by the Privy Council, in 1579, to search for conjurers along the Welsh borders.

John Balfoure, of Corshous (Scotland), professed

“to discover persons guiltie of the crime of witchcraft by remarking the devill's marke upon some part or parts of their persons and bodies and threisting of preins in the same,” (1632).

Alexander Chrisholm, of Conmer (Scotland),

“tortured women by waking, hanging them up by the thombes, burning the soles of their feet at the fyre, drawing of othirs at horses taills and binding of them with widdies about the neck and feet and carrying them so alongst on horseback to prison . . . and all of them have confest whatever they were pleased to demand of them.”

(*Register of the Privy Council of Scotland*, 1632,  
pp. 427, 433).

In England the most famous representatives of the profession were Matthew Hopkins, who employed his own regular searcher (a woman by the name of Goody Philips), and John Stearn. Both of them crowned their careers by writing books upon the subject that were revealing.

Hopkins, a lawyer by profession, was a rare blackguard. He styled himself "Witchfinder Generall," and upon his own showing brought to their death two hundred women denounced as witches.

It is not known how many men he disposed of. Nor can any reference be found to his partial failures when the person accused received punishment less than the death sentence.

He first established his reputation at Chelmsford Assizes in 1645. where, *inter alia*, he secured the conviction of Elizabeth Clark, who (at the instance of Hopkins) was kept awake for three nights and therefore confessed that she had had

"carnal knowledge with the Devil and possessed familiars who waited upon her."

Elizabeth Clarke represented but a drop in the ocean. She was one of many.

Speaking of his triumph Hopkins recorded

"In one hundred in Essex 29 were condemned at once, 4 brought 25 miles to be hanged."

In 1646 Hopkins secured the hanging of an aged clergyman, by name John Lewis, by obtaining from him a confession that he had sunk a ship by magic. The confession came after persuasion. Lewis was "swum" in Framlingham moat and succumbed only after he had been searched for devil's marks, kept without sleep for several nights, and run backwards and forwards across a room until he was breathless.

It has been already shown that in Scotland torture was officially recognised as a legitimate way of obtaining confessions. In England, theoretically, it could only be made lawful by act of Royal Prerogative. The records show, however, that it was openly practised.

Many confessions are recorded. Not one can be found that is not on the face of it suspect. The style of Matthew Hopkins can be detected in many of them.

The evidence of young children was freely admitted and acted upon.

At Leicester Assizes in 1616 nine women were convicted upon the evidence of one thirteen year old boy who complained that he suffered from fits by reason of bewitchment. The women were hanged but the fits continued. Sir Humphrey Winch and Sir Randolph Crew were the presiding judges. Their names should be immortalised.

Clemence Vale of Fearing (1601), Magdalen Pircas of Panfield (1601), Katherine Kinge of Showeford (1626), Alan Dixon of Wivenhoe (1641), Susan Pinchenden, of Halden (1652), were all hanged on the evidence of a single witness.



### III.

#### THE STORM SUBSIDES.

The task of presiding over witch trials was formidable, too formidable indeed for the majority of judges who lacked the necessary grip and integrity of mind.

Compelled as they were to work in an atmosphere of fanaticism, hysteria and malice some excuses can be found for them. Every witchcraft trial was the occasion for popular excitement.

In his life of Lord Keeper Guildford, Roger North wrote:

"It is seldom that a poor wretch is brought to trial but there is at her heels a popular rage that does little less than demand her to be put to death; and if a judge is so clear and open as to declare against that impious vulgar opinion the countrymen cry, 'This judge hath no religion, for he does not believe in witches,' and so to show they have, some hang the poor wretches."

Writing of the trial of Susannah Edwards, Mary Trembles and Temperance Lloyd, at Exeter Assizes, in 1682, he said:

"A less zeal in a city or kingdom hath been the overture of defection and revolution, and if these women had been acquitted, it was thought that the country people would have committed some disorder."

Sir John Holt, Lord Chief Justice of England, 1689-1710, was an outstanding exception. To him indeed must be given the main credit for bringing to an end—temporarily at least—persecutions through the Courts.

Unlike many of his contemporaries he did not subscribe to the view that if persons charged with witchcraft were acquitted, revealed religion and the constitution would thereby be endangered.

Unmoved by witchcraft mania or any other mania, he strove only to ensure that justice was done. He presided over a dozen or more witchcraft trials and demonstrated in every case that examination of the evidence revealed its futility. Dealing with juries drawn from districts and areas permeated by superstition he succeeded, by a combination of shrewdness and trenchancy in so laying the evidence before them that the futility of it was appreciated.

In every case a verdict of not guilty was returned.

Two or three outstanding cases are worthy of perusal. They demonstrate, *inter alia*, the type of evidence seriously put forward by the prosecution.

At Guildford Assizes in 1701, Sarah Moredike appeared before him charged with "having bewitched one Richard Hathaway who was wasted, etc."

Hathaway and his witnesses gave evidence of a grievous condition of things.

"By reason of bewitchment," said Hathaway, "he had been



unable to eat or drink for many days on end and at times was both deaf and dumb. He had vomited pins in large quantities and had finally established the guilt of Moredike by the blood upon her from behind and scratched her face until blood flowed. He had recovered immediately."

The evidence of Hathaway, supported by many witnesses, was no more ridiculous than that which had hanged many unfortunate people. It did not, however, have the usual effect.

The evidence was coldly examined and equally coldly explained to the jury.

Sarah Moredike was acquitted.

Hathaway, upon the other hand, was by order of the judge detained in gaol until such time as he could find sureties that he would appear at the next Assizes to answer a charge that he had falsely accused Sarah Moredike without cause or colour.

A great outcry followed.

It was openly asserted that justice had miscarried and that the Judge and Jury had been bribed.

Hathaway's fits became worse, and excited crowds besieged Moredike's house clamouring for the swimming test. Hathaway became a popular hero and several churches prayed openly for his recovery. He vomited pins, this time in the presence of witnesses, with greater profusion than ever, and was unable to take food or drink for forty days.

Supported by an array of witnesses he appeared in due course before Lord Chief Justice Holt and Jury.

The Lord Chief Justice exhibited interest in the length of time during which Hathaway had survived without food or drink, and closely examined a medical witness on the point. He asked him if all the "devils in hell" could enable a man to fast for as long as the time sworn to by Hathaway and his witness.

The doctor was frankly sceptical and said so. Examination on the pins incident followed. Witnesses admitted that the pins thrown up were found in Hathaway's pockets.

Hathaway was convicted and was sentenced to a short period of time in the pillory, to be whipped, and to six months' hard labour.

The example given by Holt as head of the judiciary was even more important than his rulings.

His contemporary judges soon followed his lead.

Sir John Powell and Lord Parker were the most conspicuous and were concerned in cases which hastened the end.

Powell presided in 1712, over the trial of Jane Wenham at Hertford assizes, the last case in which the sentence of death for witchcraft was pronounced.

Dean Swift has described Powell as

"an old fellow with spare grey hairs, who was the merriest old gentleman I ever saw, spoke pleasing things, and chuckled till he cried again."

In the Wenham case he said several pleasing things.

A Rev. Mr. Chrishall gave evidence that for the purpose of easing Ann Thorne of fits brought on by bewitchment, he had read the office for the visitation of the sick. The judge beamed at him and said:

"that he had heard that there were forms of Exorcism in the Roman Liturgy, but knew not that we had any in our Church."

When it was testified against Wenham that she was in the habit of flying, the judge nodded in her direction as though to encourage her and said:

"You may. There is no law against flying."

He failed, however to chuckle the case out of Court. He did his utmost. The jury, however, convicted and Powell was compelled to pronounce the death sentence.

The judge did not rest until he had secured a free pardon.

In 1717 the case of Jane Clarke was due to be heard at Leicester Assizes before Lord Parker.

The case against her was typical and tremendous.

Twenty-five witnesses swore that Devil's marks had been found on her, that when ducked she had "swum like a cork," that she had failed in the blood test, and that various bewitched persons had vomited large quantities of metal.

The Grand jury, however, refused to return a true bill.

Lord Parker had an extract of the evidence made for his own purpose and made full use of it in his quarters.

## REPEAL.

No more attempts were made to use the Courts for the purpose of judicial murder.

Since the days of Shakespeare English judges have been past masters of the art of killing evidence that was ridiculous by ridicule. What Holt, Powell and Parker succeeded in doing in the end others could have done a century and a half earlier. They ought not to be acquitted of their share of responsibility for a long period of sadistic cruelty that was hideous and odious.

Help soon came from contemporary writers. Sir Richard Steele, in the *Tatler*, openly eulogised Holt and his methods, and himself, ridiculed the evidence on which unfortunates were being convicted.

The final deathblow was administered by the Rev. Francis Hutchinson who in "Historical Essays on Witchcraft," published in 1718, made an attack that was devastating.

Interested originally in the case of Jane Wenham, he observed the contempt of the presiding judge and shared it. Thereafter he investigated every available record and adopted the devastating method of arranging the cases in chronological order and recording the evidence upon which—judges concurring—the death sentence had been pronounced.

No more was necessary.



No reader of intelligence, even in those days, could fail to observe that, in the whole collection, there was not sufficient evidence to hang a self-respecting dog.

The Statute of James I was repealed in 1735.

#### IV.

### THE WITCHCRAFT ACT, 1735.

#### a.

The Statute of James I was repealed in 1735—in the ninth year of George II.

The Act was described as:—

“An Act to repeal the Statute made in the first year of King James the first, intituled, An Act against Conjurat[i]on, Witchcraft and dealing with evil and wicked Spirits.”

It declared as follows:—

“Be it enacted . . . . . that the Statute made in the First Year of . . . . . James the First, intituled, An Act against Conjurat[i]on, Witchcraft and dealing with evil and wicked Spirits, shall, from the twenty-fourth day of June next, be repealed and utterly void and of none effect. . . . .

“Be it further enacted that from the said Twenty-fourth day of June, no Prosecution, Suit, or Proceeding, shall be commenced or carried on against any Person or Persons for Witchcraft, Sorcery, Inchantment or Conjurat[i]on.”

An Offence, however, that was new, was created by the words following:—

“For the more effectual preventing and punishing of any pretences to such Arts or Powers as are before mentioned . . . . be it further enacted . . . . .

“That if any person or persons shall . . . . . pretend to exercise or use any kind of Witchcraft, Sorcery, Inchantment, or Conjurat[i]on . . . . . every person so offending shall, for every such offence, suffer imprisonment . . . . . stand openly on the pillory, etc.”

The Statute did not, in so many words, assert that witchcraft, sorcery, inchantment and conjuration had no actuality. Such however was implied. It is unthinkable that any legislature should proclaim that trafficking with the devil was no longer an offence but that any claim to do so would be punished. It could not have been contemplated that a person charged with pretending to use witchcraft could be heard to say that she was entitled to go free because she was in fact a witch.

The good sense behind the Act seems to have been recognised even

by those who had assailed the previous penal laws. It was known that in many parts of the country there was (amongst the ignorant) a genuine fear of witchcraft and a belief, founded or unfounded, that there were certain sinister persons who caused terror by their claims to demoniacal powers.

If there were such people the Statute appears to have dealt effectively with them. There may have been prosecutions in a few isolated cases. They attracted, however, but little public attention and did not find their way into the reported cases.

Belief in witchcraft gradually subsided and finally died away. When the twentieth century opened no problem arising out of it remained.

b.

### MEDIUMS.

In the middle of the 19th century a problem of an entirely different type presented itself. It came this time through persons who claimed to be in contact with forces that were good and (unlike witches and/or believers in witches) produced evidence in support of their assertions that was striking. Before the end of the first great war the assertions of fact made by these people had come under scientific scrutiny with the result that there was not a major country in the world in which there were not scientists of eminence who supported their main contentions and assertions.

Orthodox Science, the Churches and a section of public opinion however, frowned upon them.

The magnitude and importance of their claims exposed them to the suspicion of imposture and brought them under the notice of the Courts.

### FALLACIES.

Three cases are outstanding.

In *Monck v. Hilton* (1877) 2 Ex.D. 268 it was held for the first time that mediums came within the damage of a penal Statute, not under discussion, namely the Vagrancy Act, 1824, section 4, which makes punishable as a rogue and a vagabond:

"every person . . . using any subtle craft by *palmistry* or *otherwise* to deceive and impose on any of his Majesty's subjects."

It was held that mediums were persons who used "a subtle craft, which was covered by the descriptive words "by palmistry or otherwise."

In the course of the hearing Pollock, B, laid the foundation for subsequent trouble by the following references to the Witchcraft Acts which connected them with mediumship.

"There has long existed a parallel set of Statutes beginning with 33 Henry VIII c. 8 and ending with 9 George II c. 5 where the



expressed object is to deal with persons using, practising, or exercising any invocation or conjuration of any evil spirit.

"The offences dealt with by these Statutes are explained by Lord Coke in his treatise on I Jas., c. 12 and include what in more modern days is more commonly called witchcraft, and it is to be observed that by these the dealing with the supernatural is itself made an offence, apart from any deceiving or imposing on others."

In truth and in fact neither Lord Coke, nor any contemporary writer, either in the treatise quoted or in any other place, either then or at any other time, suggested that dealing with the supernatural was itself an offence.

Monck v. Hilton, 1877, has never been overruled and is consistently quoted as the leading case on the subject.

In the civil case of Beatty v. London Spiritualist Alliance, 1923 I Ch. 237, a bequest for the purposes of "training suitable persons as mediums" was held to be bad on the grounds that

"the trust was not one which was or might be operated for the public benefit."

It was argued against the bequest that it was contrary to public policy on the grounds, *inter alia*, that mediumship was illegal. Counsel said that he

"had no doubt that to practise as a medium, to claim to have communication with discarnate spirits and, thereby, to console the bereaved was an offence under the Witchcraft Act, 1735."

Mr. Justice Russell interrupted him to say

"That seems to be a complete answer."

A fallacy was judicially confirmed.

## THE WITCHCRAFT ACT REVITALISED.

The case R. v. Duncan, 1944, breathed new life into the Witchcraft Act and made out of it a powerful weapon. The Act was fully interpreted. The procedure under it and the rules of evidence referable to it were established.

The case made plain that any medium pretending or claiming to have mediumistic powers could be dealt with under it. It made equally plain that in practice no medium, however innocent, had if attacked a reasonable chance of escaping conviction. It demonstrated that a Witchcraft Act had, once again, forced the Courts into an impossible position.

But little comment on the case is necessary.

The facts speak sufficiently for themselves.

A Mrs. Duncan was indicted at the Central Criminal Court under the Witchcraft Act, 1735, as follows:—

"That on the 19th January, 1944, she pretended to exercise



or use a kind of conjuration, namely, that spirits of deceased persons should be present in fact in the place where she then was."

The essence of the case against her was that she had pretended to be a materialising medium, a person, that is to say, through whom persons reputed to be dead showed themselves in full physical form and in such a way that they could be seen, touched, heard, and identified.

Such a person should be easily tested. In view of the fact that she claimed that the spirits that came through her showed themselves in full physical form and could be seen and touched, heard and identified, she should be able to demonstrate the capacity claimed in such a way that all reasonable doubt was removed. The test of unmasking an impostor upon the other hand presented no difficulty.

Her defence removed such as there might be.

She admitted that she had made the claim or pretence alleged over a number of years and by way of defence said only that the claim was true.

She asked for an opportunity to demonstrate the truth of her assertions to the jury, and through her Counsel committed herself to the implication that the offer was practicable. She suggested, indeed, that to avoid possibility of error several demonstrations should be given.

It was plain that in this way she could prove her innocence beyond dispute—if she were innocent.

It was equally plain that her offer provided a means of establishing her guilt beyond doubt—if it was desired to remove doubt.

The evidence was, however, held to be inadmissible and the rejection of it was, on appeal, upheld.

The rule was established that a medium charged under the Witchcraft Act, 1735, with "pretending to be a medium" could or should be refused the opportunity of demonstrating through his own person that "he did not pretend."

The rule will be binding in all future cases brought under the Act.

It must be insisted that no evidence more direct, final and conclusive could be imagined and that a refusal to hear the accused in defence at all could hardly shock the conscience more.

Thereafter she proffered the evidence of a group of experienced investigators who had examined her subsequent to her arrest and sought to speak of the result of their investigations and to prove that she was what she claimed or pretended to be.

This evidence also was rejected.

The Lord Chief Justice commented

"If it was right to exclude the proffered evidence of a demonstration before the Jury, it follows that the evidence of what took place on March 15th, 1944, in the absence of the Jury, was likewise properly excluded."

She *was*, rather surprisingly, allowed to call a number of witnesses who gave evidence that she was what she claimed to be. The witnesses

called were in the region of fifty. It was, however, agreed that Counsel for the Defence had at his disposal witnesses running into hundreds who, by agreement made in the interests of time, were not called.

Amongst the witnesses was an experienced medical man Dr. Winning, who gave evidence that he had had forty opportunities at least for tests and had satisfied himself as to four hundred identifications, including the case of his own mother (who had identified herself not less than a dozen times), his brother, other close relations, and numerous friends. They had spoken in many different voices, including American, Irish, Scotch, English, Hebrew and German. Each and every one of them, he said, had established their identity to his satisfaction.

Witnesses from every part of the country gave corroborative evidence.

Many of them had examined the phenomena fifty times or more.

Commenting upon this evidence upon appeal the Lord Chief Justice said:—

“We find it a little difficult to see on what principle that evidence was admitted in this case. . . . The relevant period was the period covered by the indictment . . . . The learned Recorder no doubt was anxious that in an unusual case some latitude should be given, and permitted the evidence to be called, but had he excluded it, we do not think complaint could properly have been made. Indeed, we think it would have been rightly excluded.”

A further rule binding on all cases brought in future under the Act was thus established.

Charged with “pretending to be a medium,” Mrs. Duncan called such evidence as she was allowed to call to prove that she was in fact a medium.

The Prosecution retorted that this was evidence of good character and let in evidence of bad character. The Jury were therefore informed that Mrs. Duncan had previously been convicted.

She had previously been convicted of “falsely” claiming to be a materialising medium.

It was held on appeal that evidence of the previous conviction was rightly admitted. The Lord Chief Justice said that:—

“the evidence was plainly admissible for the purpose of showing that her record was not so blameless as was suggested.”

He pointed out that every question asked of a witness by the Defence for the purpose of proving that Mrs. Duncan was a medium implied the suggestion that she was a “genuine” medium.

This is of course true.

It is equally true, however, that a person charged with “pretending” cannot defend himself except by proving that he did not “pretend.”

The effect of the ruling, binding on all future cases under the Act, is crushing.

It means in practice that after one failure before a hostile (and possibly quite ignorant) magistrate a jury may be told by the Prosecution



—if the medium has ventured to defend himself at all—to bear in mind always that they are dealing with a person previously convicted of fraud.

### CONCLUSION.

The evidence upon which witches were convicted was regarded at the time as being sufficient. By reason of clouded judgment great cruelties were perpetrated and much injustice was done. The reputation of the Courts suffered. No great cause, however, was hampered.

Mediums are in a different category. Their claims it is true are high. So, however, were the claims of Socrates, Joan of Arc, Galvani, Copernicus, Columbus, Galileo and Newton, who were equally discredited.

If mediums are anything they are delicate instruments of some high purpose and should not be befouled. To misunderstand them and their end is perhaps excusable. To misuse them, to allow them carelessly to be destroyed with all the appearance of injustice, is madness.



## APPENDIX.

### EXTRACT FROM REPORT OF DEPUTATION TO THE HOME SECRETARY RE THE VAGRANCY ACT, OCTOBER, 1942.

#### THE FOLLY BEHIND PRESENT DAY TREATMENT OF MEDIUMS.

##### *Representing the Home Office:*

Mr. OSBERT PEAKE, M.P., Parliamentary Under-Secretary of State.  
Sir FRANK NEWSAM, K.B.E., C.V.O., M.C., Deputy Under-Secretary of State.  
Mr. GRAHAM HARRISON.

##### *The Deputation:*

AIR CHIEF MARSHAL LORD DOWDING, G.C.B., G.C.V.O.,  
C.M.G.

S. J. PETERS, M.A., LL.D., M.P.

T. J. BROOKS, M.B.E., M.P.

E. A. RADFORD, M.P.

C. E. LOSEBY, (M.P., 1918-22), Barrister-at-Law.

A. H. L. VIGURS, President

J. B. McINDOE, Treasurer and Past President

J. M. STEWART, Past President

A. J. RAFFILL, Vice-President

E. A. KEELING, General Secretary

G. A. ELKIN, Solicitor

} Of the  
Spiritualists'  
National  
Union.

DR. S. J. PETERS, introduced the deputation and called upon Captain Loseby to state the main case.

CAPTAIN LOSEBY: I am particularly glad that you have been reminded that a deputation from the S.N.U. was received by the Home Secretary in the year 1930. You will find that Sir Arthur Conan Doyle, Mr. Ernest Oaten, Mrs. De Crespigny, Mr. Drayton Thomas and Mr. Hannen Swaffer, every one of them highly experienced people in these matters, then spoke. They put the case, as I think, with brevity and complete clarity and I beg of you to be good enough to read the booklet given you by Dr. Peters.

I shall confine myself to the task of endeavouring to make plain with precision two things: firstly, the law and the machinery operated under it which we think is prejudicial to the particular school of philosophic and scientific thought represented here to-day; and, secondly, the steps we ask you, as representing the Home Office, to take to alleviate some of the harm, as we think, that has occurred under it.

Now Mr. Peake, I imagine I owe the honour of being here to-day to

two things. I have for a long time been a humble but industrious student of psychic matters. I was Chairman of the Leicester Psychical Research Society for some years and myself fought the case through which and under which they were relieved from rates upon the grounds that they were a scientific body working of course with mediums.

More than that, I have been privileged for many years now to defend mediums in courts of Law, and on that matter I have expressed the opinion that spiritualistic mediums are almost completely at the mercy of any ill-disposed person. I know of no other group of persons similarly penalised. I have expressed the view that it is quite idle to pay lawyers to defend them unless a move is made in several other directions at the same time. One most important direction is the matter of the alteration of the law. My predecessors, I understand, advised to the same effect.

Now I think it only right and only fair to commence with this: that our opposition to the Vagrancy Act, 1824, Section 4, which is the main cause of the trouble, admits of no compromise. It is, in our submission, the embodiment of ignorance, intolerance and injustice. It must go. Those of us who either know or think we know the facts of the matter must not and cannot rest until it is removed in toto—that particular Section—from the Statute Book.

All of us here realise and appreciate the difficulty of introducing any matters which might be deemed controversial in time of War. We think however there are many things the Home Secretary could do if he were good enough to do so.

I should like to commence, and I think it is relevant, by a reference to the Vagrancy Act as a whole. You will find it in the Volume of Collected Statutes and Text-books under the heading of Poor Law Administration. We do not complain of that. It is indeed some comfort to many of us to know that the Poor Law Administration is continually reminded of our existence.

From the first page to the last you will find that the Act breathes the spirit of the Poor Law Administrators of the year 1824. Upon the day that the House of Lords and King George the Fourth of pious memory gave their assent to it, Mr. Bumble was commencing his career as a Poor Law Administrator. It was the charter under which he worked so faithfully that is still in being to-day. I hope, Mr. Peake, that you will not think that this is a cheap reference. I submit that it is a relevant reference.

Now the material words of Section 4 are these, "Any person professing to tell fortunes or using any subtle means or device by palmistry or otherwise" commits an offence and is liable to punishment.

MR. PEAKE: It goes on does it not "to deceive and impose on His Majesty's subjects?"

CAPTAIN LOSEBY. Yes, and it has been held in a Court of Law that these words are not of any importance because the mere fact of a person using "subtle means or device"—in this case to be a Spiritualistic medium—of itself and ipso facto, shows that the person intends to deceive. The effect of the words has been established by judicial decision. The



words "by palmistry or otherwise" cover the case of any person professing to hold communication with departed spirits. A Spiritualistic medium is such a person. I refer you to the case of *Monck v. Hilton*, 1877, in which it was held that it was not necessary to prove fraud, as I have stated. The allegation of itself carries with it the presumption of fraud.

Section 4, therefore, in my submission, as judicially interpreted and established, reads as follows: "any person professing to tell fortunes or professing to be a Spiritualistic medium commits an offence and is liable to the penalties under this Act."

Now here is the list of persons with whom Spiritualistic mediums are classified. I want you to note the people *inter alios* who are listed and stand in the dock with those persons sometimes called sensitives, and not inappropriately so called.

No. 4. A woman deserting her bastard child.

No. 8. A person in a public place exposing indecent prints or exhibitions.

No. 9. A person lewdly and obscenely in a public place exposing his person with intent to insult a female.

No. 10. A male person who lives on the proceeds of prostitution or in a public place importunes for immoral purposes.

Fortune-tellers and mediums come under No. 11.

This is the list of people who are placed in the same category as Spiritualistic mediums.

I am reading from the Act. I ask you, Mr. Peake, to consider for a moment—with what is this woman charged. What is the seriousness of the offence in Law of this person who stands in the dock charged alongside the woman who has deserted her bastard child, and the man who has exposed his person in a public place and the male person who lives on prostitution, whose offence is deemed to be *eiusdem generis* and such that if she is found guilty she is liable to the same handling.

She is a person who has been heard to *speak* no more—

(like Socrates) "A voice not my own speaks through me."

(like Joan of Arc) "Spirits from another world use me."

(like Luther) "Here stand I, I can do no other."

Let her but admit such words and she must be told by counsel defending her that she has no defence in law. They are the words, however, that every medium if she is honest must say. Every medium does not say them because of the law and because every medium is not honest.

I have said that every medium is at the mercy of any ill-disposed person. I repeat that. I might have added "and a medium is a person who from the very nature of things excites and must excite hostility in the minds of certain persons."

Under the Vagrancy Act, 1824, any person may arrest a professing medium without a warrant. A policeman refusing to arrest when requested to do so is himself liable to penalties. Is that fair to the police? In fact it is the practice for the police to proceed by arrest rather than by summons. Worse than that, in many cases the police arrest

upon request. I am satisfied that many mediums are only safe from persistent persecution under the above powers by reason of one thing, and one thing only, namely that these powers given by law to officious and unofficial people are not widely known. A veritable spate of attacks, however, might come at any time. They will come if mediums prove their value to the community in the way we hope and think they will.

We come now to the trial. I have dealt with pre-trial events. I should like to commence with a general comment which I do not like to make but which I deem it my duty to make.

I have never been at a case in which I have defended a medium in which I have felt I have earned my fee, or in a case in which I have not left the Court feeling depressed and rather ashamed, in which I have not felt that I have been taking part in a sorry farce, in which I have not felt that in the bustle and scurry of a Court of Petty Sessions, neither has Justice been done nor has the appearance of Justice been given.

The reasons are twofold. Firstly, the muddled state of the law; secondly, the fact that under Section 4, the right of trial by indictment and by jury is not given.

I want to deal quite quickly with No. 1. The matter of amending the law could be dealt with simply if some member of the Government initiated some such amendment as this; "No proceeding under this Section shall lie against any person claiming to be a Spiritualistic medium and proved to be acting at the time as a representative of a recognised religious or scientific society or body." That would suffice.

Of course, I visualise that the onus would be on the person accused to prove that she was acting at the time as a representative of a recognised religious or scientific body when it had once been established that she claimed to be a Spiritualistic medium.

Secondly, the fact that under Section 4, the right to trial by jury is not given. A one line amendment would put that right. "Any person charged under this Section shall be entitled to trial by jury."

Now how do we establish that claim? I am quite satisfied that the present unsatisfactory trial method is due to an oversight and nothing but an oversight. It is of course a fundamental principle of English Law (dating back as far as the Magna Charta) that any person placed in grave peril on a criminal charge is entitled to trial by jury. The extent of the trial is dogmatically fixed by the rule that any person liable to imprisonment for more than three months is entitled to trial by jury. A Spiritualistic medium is imperilled to a much greater extent than three months imprisonment. I want to leave that for the moment though.

Is it really true, this assertion that trial by jury ensures anything? The answer is "It is true." Trial by jury is the only known method calculated to ensure Justice at every stage. It enables the accused to examine the evidence of hostile witnesses, reduced to writing, and to protect himself against unscrupulous evidence and surprise—a vital point for mediums. It is the only system that enables a person in peril to prepare his defence knowing what the evidence against him is and ensuring that he can prepare his defence having examined it with his



legal adviser; it is the only system which ensures careful direction of the presiding judge on the facts, the law and the admissible evidence—the judge works throughout in a public court with a fierce glare upon him the whole time and is liable to have his directions and decisions examined by the Court of Criminal Appeal; this form of trial carries with it the right of appeal to the Court of Criminal Appeal, who will unhesitatingly quash conviction if there is any irregularity proved at any stage. Is this important? I say it is of vital importance.

I have a case in mind that happened only this year of a medium being destroyed.

What is the punishment that I say is greater than three months imprisonment? I have given you a list of the rather odious people with whom mediums are classified. No differentiation is made between them. For the first offence a medium is liable to three months imprisonment and to be put on a certain black-list known as the List of Rogues and Vagabonds. Any practising lawyer will tell you that being put upon this list, is rather a terrible punishment. You are on the list for all time. Whatever you do you cannot be removed from that list. At the top of it,—I think it is hardly an exaggeration to say this—might well be written the words “Abandon hope all ye whose names are written here.”

The penalty of being black-listed is such that I would undertake to destroy any medium as a medium, however valuable to Science, within a short period of time. I say I know of one case in which a medium this year, as a medium, has been destroyed—and through this list.

For the second offence a person goes to trial knowing that the Court is told as she is being tried: “This is a person who has been condemned of using a subtle means to deceive and impose.” For the second offence, on conviction, the punishment is one year’s imprisonment a whipping, and her name is placed on a different black-list, namely a list of Incurable Rogues. By a subtle gesture under the Vagrancy Act, 1824, things were so manipulated that there was no right to trial by jury in this case either.

The conviction only is established by the Court of Summary Jurisdiction and then the person is committed to prison to await trial and sentence by Quarter Sessions.

If the being upon the black-list were equivalent to one day’s imprisonment only, then the right to trial by indictment and by jury would become automatic. I repeat my view that this is a matter of oversight only. The Legislature has overlooked a peculiar and quite extraordinary penalty—rather a barbaric and terrible penalty which is tucked away into an Act of Parliament passed when Charles Dickens was a boy.

By one of the law’s vagaries a medium convicted and sentenced to imprisonment has it recorded not only that she has been sentenced to imprisonment but also that she has been found guilty of using “subtle craft to deceive and impose,” although she will not be allowed to submit in evidence that she was in truth and in fact a genuine medium. The

mere fact of holding yourself out to be a medium has been held, by the Court of 1877, of itself to prove that you are a fraud. That might do for the year 1877, but who is there who would be heard to-day to say that from such facts such a conclusion and such a deduction is an inevitable and right conclusion in the year 1943.

Now, if nothing is done in the matter quickly, will great harm be done? The answer is that great harm may be done. Nothing was done by Mr. Clynes thirteen years ago and great harm was done. It is only fair to remember that the Government of that time were warned of many dangers and apparently took no steps in regard to any of them.

The wrongness of inactivity is made plain by a consideration of the qualities and nature of these people under discussion—these people who are treated by the Legislation as coming naturally under the Poor Law Administration, who are being treated not as gifted persons of high potential value, but as being odious. The quality and nature of them was well described by the last Deputation all of whom had mediums under observation for many years.

This is how Mr. Ernest Oaten described them at the middle of page 4. He says of them:—

“Mediumship is a natural faculty possessed by certain people.”

“They are the most valuable people you could have.”

Mrs. De Crespigny at page 13 speaks of them as:—

“Delicately poised things called mediums.”

“Instruments through which we make our experiments.”

“People without whom we cannot progress.”

Mr. Drayton Thomas, an experienced psychic investigator and clergyman who must have worked with mediums for 20 years prior to that date, describes them as:—

“indispensable instruments.”

“people who provide present-day evidence for the reality of life beyond death.”

Speaking as a clergyman he says “It is my profound conviction that one Heaven-gifted medium is of more value than many Bishops.”

I should like to add a description of my own which I base on actual personal experience: I would describe them as “People who in the matter of scientific research in all fields relating to the Cause of alleviation of human suffering and disease have a value and importance that can hardly be over-estimated.”

I have coldly weighed my words in the matter of this last description and used them after deliberation.

These are the people who are treated by the Legislature as being odious, who, in the words of Mr. Brooks to the Home Secretary in his letter of 30th June 1943, are described as people to whom fundamental elementary justice is denied. It is my submission that these words are not too severe. They are words that simply cannot be challenged.

There is one final word I must say. There is not a person in this room who would not wish to disassociate himself from me and repudiate



me if I were to suggest by implication or otherwise that the Home Office had been a conscious party to injustice. No such suggestion of course is made. The suggestion and submission is that the Home Office could help to rectify matters.

Now for my precise proposals. These are the proposals which I most respectfully put forward for your consideration and I prefer to do so without argument. I attach the greatest importance to No. 4.

4. The Home Secretary is asked to set up a small Committee consisting of representatives of the Home Secretary and representatives of Spiritualist and Psychic Research Organisations and kindred bodies, to consider the Vagrancy Act, 1824, Section 4, and the machinery provided under it in so far as it affects Spiritualistic mediums—and to report.

If that were considered then of course it would govern all the others. It would satisfy me personally, better than anything. Of one thing in regard to this Committee I am sure. You would discover a surprising consensus of opinion by the Home Office representatives and the representatives of ourselves as to what is desirable and could be done. You would certainly find no desire on the part of any representatives of Spiritualistic organisations to weaken the machinery of Government regarding fraud or chicanery. Anything in the nature of fraud or chicanery is, of course, deadly to the Cause we are representing.

I will not argue the other points. I will but read the proposals. I would put No. 4 first. We ask for no more than that and I realise myself that we can hardly expect more. The detail would obviously have to be discussed on either side. When I said I had something in mind to cover an amendment proposed earlier I was thinking of this. The amendment in question would have to be considered as to whether it could be put forward at all, as to whether it was in the best form or in what form it could be put.

## PROPOSALS HANDED IN.

1. The Home Secretary is asked to secure the amendment of Section 4 of the Vagrancy Act, 1824, through the following amendments:—

At the end of Section 4, add the words following:—

(a) No proceedings under this Section shall lie against any person claiming to be a Spiritualistic medium proved to be acting at the time as a servant of recognised religious or scientific society or body.

(b) Any person charged under this Section shall be liable to Trial by Jury.

2. *To advise the Police*

In the matter of proceedings against Spiritualistic Mediums to proceed under the Common Law and to avoid the use of machinery provided under the Vagrancy Act, 1824, Section 4 (and any advices from the Home Office I have no doubt are of the greatest possible value).

3. *To advise the Magistracy*

To frown upon any unfair use of the Vagrancy Act, 1824, Section 4, in so far as it relates to Spiritualistic mediums, for example, in such cases as when fraud is alleged and there are alternative methods provided under the above Act and under the Common Law.

4. The Home Secretary is asked to set up a small Committee consisting of representatives of the Home Secretary and representatives of Spiritualist and Psychic Research Organisations and kindred bodies, to consider the Vagrancy Act, 1824, Section 4, and the machinery provided under it in so far as it affects Spiritualistic mediums, and to report.

5. To move for the appointment of a Select Committee of Members of Parliament to consider the Vagrancy Act, 1824 and Section 4 of the said Act in particular. This Committee I submit should be set up as well as the Home Office Committee.





