

## **Briefing for the Citizen Participation and Public Petitions Committee on petition PE2122 Pardon those who were accused and convicted of witchcraft in Scotland under the Witchcraft Act 1563 lodged by Gemma Clark**

### **Brief overview of issues raised by the petition**

The [Scottish Witchcraft Act, entitled, Anentis Witchcrafts](#), was passed by the Parliament of Scotland in the Ninth Parliament of Queen Mary in 1563. It was repealed by the introduction of the Witchcraft Act 1735 which was, in turn, repealed by the Fraudulent Mediums Act 1951.

#### **Convictions under the 1563 Act**

The following information has been taken from an academic paper, '[The Survey of Scottish Witchcraft 1563 - 1736](#)' ("the Survey").

The Survey identified a total number of 3,837 people who were accused of witchcraft in Scotland between 1563 and 1736. Of the 3,837 people who are on the survey database, 3,212 are named and there are a further 625 unnamed people or groups. Of the 3,212 named individuals, the sentence given after trial is only known in 305 cases: 205 were to be executed; 52 were acquitted; 27 were banished; 11 were declared fugitive; 6 were excommunicated; 2 were "put to the horn" (outlawed); 1 person was to be kept in prison; and 1 person was to be publicly humiliated. In addition, a further 98 were recorded as having fled from prosecution.

This would suggest that 67% of those tried were sentenced to death. However, the authors state that this figure is probably not very accurate. It is based on only 305 cases - less than a tenth of the 3,212 people known to have been accused.

The Survey states that four types of evidence were used in the trials which took place:

- Confession evidence – this was often extracted under torture. Typically, if a suspect was interrogated they would be expected to confess to making a pact with the Devil and to harming their neighbours by maleficent witchcraft, though one or other was often omitted.

- Neighbours' testimony – statements by neighbours usually ignored the Devil. They usually described quarrels with the suspect followed by misfortune they had suffered.
- Other witches' testimony – when witches were interrogated they were sometimes asked about their accomplices. The people they named could then be arrested and interrogated.
- The Devil's mark – the Devil was believed to mark his followers at the time they made a pact with him, as a parody of Christian baptism. A physical search of the suspect's body could find this mark – either a visible body blemish or an insensitive spot. The insensitive spot was discovered by pricking with pins, sometimes by the interrogators themselves and sometimes by itinerant professional "witch-prickers" (of whom about 10 are known to have acted in Scotland).

The Survey states that the lawyers in charge of the central courts gradually became less convinced that these kinds of evidence could prove guilt. The validity of confessions made under torture was questioned and pricking for the Devil's mark came to be seen as fraudulent.

The Survey goes on to say that after the so-called Glorious Revolution, the state became more secular and no longer continued to try individuals for witchcraft.

## **Scottish Parliament action**

Similar petitions have been submitted to the Petitions Committee twice before.

[PE1128, lodged by Ewan Irvine in 2008](#) called on the Parliament to urge the Scottish Government to take necessary action to grant a posthumous pardon to all persons convicted in Scotland under all witchcraft legislation.

Following [consideration of that petition in its deliberations on 4 March](#), the Committee agreed to write to the Scottish Government for its view on whether such a pardon could be granted.

[In August 2008, the Scottish Government wrote to the Committee](#) setting out, amongst other things, how the Royal Prerogative of Mercy (RPM) works, and some of the factors which would have a bearing on the granting of a posthumous Free Pardon. Essentially, the Scottish Government did not consider that the use of the RPM would be appropriate in this case.

After considering the Scottish Government's response, the Committee took the decision to close petition PE1128 at its meeting on 9 September 2008.

[PE1855, lodged by Claire Mitchell QC](#) called on the Parliament to urge the Scottish Government to pardon, apologise and create a national monument to memorialise those people in Scotland accused and convicted as witches under the Witchcraft Act 1563.

[The Committee heard evidence from the petitioners in January 2022](#), before agreeing to write to the Scottish Government and Natalie Don MSP. [Natalie Don responded stating she was consulting on a proposed Member's Bill](#) on the topic in May 2022, and [the Scottish Government replied on 5 August 2022](#).

In November 2022 the petition was closed due to Natalie Don MSP's proposed Member's Bill being taken forward, as well as First Minister Nicola Sturgeon MSP issuing "a formal, posthumous apology to all those accused, convicted, vilified or executed under the Witchcraft Act 1563" during a [2022 statement for International Women's Day](#).

The [Proposed Witchcraft Convictions \(Pardons\) \(Scotland\) Bill](#) was lodged by Natalie Don MSP on 22 June 2022. A consultation was held later that year before the proposal was withdrawn on 19 April 2023 when Natalie Don MSP was appointed to the Scottish Government as Minister for Children, Young People and Keeping the Promise.

## Scottish Government action

As set out above, the Scottish Government has previously responded on similar issues raised at the Public Petitions Committee in 2008 and 2022.

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**Researcher**

25 November 2024

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot)

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