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Witchcraft Legislation and Legal Administration in Early Modern Ireland

If a small minority of Irish Catholics and the majority of Irish Protestants in the early modern period believed in the type of malefic/demonic witchcraft feared all over Europe did it result in formal accusations for witchcraft and if so how were these handled? This raises the question, as to whether in Ireland, as in other parts of Europe, witch-hunting ‘was essentially a judicial operation … the entire process of discovering and eliminating witches, from denunciation to punishment, usually occurred under judicial auspices’.1 These questions are considered in Chapter 4, but before this can be done we must first of all consider Ireland’s legal system and in particular the Irish witchcraft statute of 1586, which has in the past been cited rather than studied, or indeed has it been placed within the context of the passing of witchcraft laws in other parts of the British Isles.2

Witchcraft legislation

Witch-hunting came relatively late to the British Isles, beginning after witchcraft became, in the late to mid-sixteenth century, a civil, statutory crime, as opposed to an offence that only concerned ecclesiastical authorities.3 For example, although the pre-Reformation Scottish church arbitrated some witchcraft cases, witch-hunting only became serious post-Reformation, after the passing of the Scottish Witchcraft Act.4 This Act was passed in June 1563 but drafted in December 1562 by a minister or ministers of the Fifth General Assembly of the Protestant Church and passed by the Scottish parliament in June 1563, a few years before the country witnessed its first witchcraft ‘panics’, such as that at Easter Ross in 1577. The Scottish Witchcraft Act was part of the new Protestant church’s attempt to impose on the common people a new, theologically
correct model of Christian belief and practice which included targeting surviving Catholic practices and popular ‘superstition’ involving fairy belief, magical healing, and popular magic. In fact, the Scottish witchcraft statute was not specifically aimed at malefic witches but charmers, the Scottish version of cunning-folk. The official theology of Protestant reformers regarded cunning-folk, just like witches, as gaining their power from the devil, and thus little different from malefic witches. The Scottish 1563 Act handed the death penalty not only to those guilty of practising popular magic but to those who consulted them. In practice, there was little thirst among ordinary people for the punishment of cunning-folk, and Kirk Sessions tended to punish them using public penance. Furthermore, although not intended as such by the radical Protestant reformers who drafted it, the Scottish witchcraft statute was used to prosecute demonic, malefic witches up until the early eighteenth century. As it failed to provide a useful definition for what the crime of witchcraft was, it was thus left to the courts to decide what a witch was, through custom and practice. It became practice for ministers (who were becoming more demonologically aware due to the republishing of continental texts) and the courts in the very late sixteenth and seventeenth centuries to define a witch as someone who had made a pact with Satan.5

By the sixteenth century, witchcraft and popular magic was of concern not only to the English government, but to ecclesiastical authorities and the malefic witch figure had been recognisable in popular culture for over a century. The first English witchcraft statute, and also the harshest, was passed in 1541/2 and imposed the death sentence for felonious invocation and conjuration of spirits by sorcery, and various magical practices associated with cunning-folk and malefic witchcraft.6 Very few people were prosecuted under its dictates and it was repealed in 1547 by Edward VI along with other Henrician legislation.7 In January 1563 the English parliament passed a new Witchcraft Act.8 This was drawn up by the Privy Council to strengthen Elizabeth I’s resurgent Protestant government, to enable the prosecution of those who used magic in a treasonable manner, in particular Roman Catholic plotters, and satiate those in the ecclesiastical hierarchy who wanted to clamp down on sorcery, witchcraft, and idolatry.9 In common with the majority of continental witchcraft acts, when discussing witches, the 1563 Witchcraft Act employed gender neutral language.10 The Act did not place emphasis on the demonic nature of witchcraft nor did it discuss a demonic pact, but instead concentrated ‘on the physical harm that witches caused their victims … [and] stressed supposedly verifiable,