

Extracts from Johannes Kepler's legal defence of his mother, translated for the first time into English by Pamela Selwyn, with generous support of St John's College. For the context of his defence see Ulinka Rublack, *The Astronomer & the Witch*, Oxford University Press, chs 11 & 12. The document has been cut to make it more readable for non-specialists: a scholarly edition of the full document and its legal citations is in progress. The purpose of this resource is to document in English the intensity of Kepler's involvement in the trial and how he applied his ability to refute opponents in scientific arguments and argue for fact based procedure to legal proceedings in which his mother's life and own reputation were at stake.

Ulinka Rublack

Most Serene, Honourable, Gracious Prince and Lord

I lay before Your Ducal Highness my poor, humble services and prayers to God

Gracious Prince and Lord,

Fourteen days ago I humbly petitioned you on behalf of my seventy-four-year old mother, who has been unjustly imprisoned at GÜGLINGEN for these eleven months. I would like obediently to impress upon you that she was arrested on the 7th of August last year, 1620, charged with a capital offence at GÜGLINGEN on the 4th of September, and, after she was supposed to respond on the 13th of September, was granted a delay until my arrival, which occurred on the 28th, whereupon I immediately applied for a court date, which was thereupon granted for the following 2nd of October. But it was then delayed again for ten weeks, until the 11th of December. After the holidays had passed, on 8 January 1621, the swearing in of the witnesses began, but after the opening of the witness testimony, our side had to wait once again for the exhibits, before our lawyer learnt that no further documents were forthcoming. Now to be sure, my hard-pressed mother would have liked nothing more than an end to her long imprisonment, and since it could not be changed, would have done without the submission of a written defence. Our lawyer, however, reminded us that such silence can prove injurious to innocence and he did not wish to be responsible for this: thus although this time the trial on our side continued for five weeks, to the defendant's great dismay, the pleading was presented to the Ducal Advocate on the 7th of May. Considering this extremely irksome delay, I wrote to Your Ducal Highness 14 days ago and humbly implored you to be so gracious as to hasten the trial and bring it to an end in order to spare the unfortunate prisoner. Whereupon I have been admonished several times since then to be patient for a few

short days, which very much pleased the poor prisoner, who offers Your Grace her humble thanks.

Another five full weeks have passed since then, however, and in addition to the nearly unbearable dejection and extreme and growing poverty suffered by the unfortunate prisoner, should this trial go on much longer, I in particular have been threatened with the utmost peril, so that I could not help but knock at Your Grace's door once again and humbly beg you to effect at last the gracious promises made through God's mercy, obediently reminding you that while the Acta are rather voluminous, Your Grace's Ducal Chancery has many mechanisms at its disposal. Since, however, Your Grace, as a just Prince and Father, cannot blame the poor innocent prisoner for this voluminousness, but rather will all the more graciously take pity upon her, given that she could lament to God in Heaven above that this now six-year-long business, which arises from two or more likely four civil actions that hostile deceits and practices combined into one capital charge, rejecting the Princely orders commanding to proceed with the civil case *post meliorem informationem* until a verdict is passed. Also the *attestata* in the civil matter which the Ducal Advocate lodged against her, so that she was compelled for her part to reproduce civil *attestata* in this Capital Defence as proof of her innocence. Although the copiousness of the documents and the aforementioned pleading may wax and cause still greater and hopeless delay, as if the poor prisoner had asked to deviate from the delivered defence: she wished then to commend herself to God's mercy and the judge's diligence without further argument, yet not prescribing anything to Your Grace, but rather commending herself obediently and humbly to Your Mercy and Grace as a poor, abandoned widowed subject, alongside myself,

Your Ducal Grace's
humble and obedient

Johan Kepler
Mathematicus
10 June 1621

I. Plea and Defence

Cath. Kepler, Criminal Defendant Contra Our Gracious Prince and Lord's Advocate
The Governor at Guglingen, Plaintiff. Presented *extra judicialiter* on the 7th of May Anno
1621.

Honourable, circumspect, exemplary, prudent officials and judges of this criminal court, especially benevolent gentlemen

Because the deposition was opened of the witnesses questioned in the capital case between our gracious Prince and Advocates, on the one side, and the accusers of the defendant Cath. Kepler on the other, and it shall remain unmentioned at the outset that Reinhold's witnesses had been previously examined, but not publicly in the civil trial...

As concerns the witnesses, who were provided by the Ducal Advocate, they are the very same whose confrontation I attended, presided over by the Governor (*Vogt*) of Leonberg, who led the directorium, and selected the assessors of his choice, and not the elders of the court, instead taking those men who are well disposed towards him, some of them averse to the Kepler woman, and some having little knowledge of her comings and goings, for which reason little credence should be lent to the at times verbose testimony of the witnesses in question. As the aforementioned Governor, because of various reports to him about Kepler and her family, has treated her with irreconcilable enmity, while he is well disposed towards the Reinbold woman and her brother Urban Kreitlin and also (which he did not deny at the *generalibus interrogatoriis*) has either lodged the capital complaint with your Your Grace or at least provided reports and information. Thus the civic scribe of Leonberg has not yet abandoned the youthful zeal he so openly showed against the Kepler woman, and under the Governor's brief time in office became a citizen, mayor and finally a civic scribe there. Apart from him, the Special Superintendant (who has often shown himself to be as violent as if he had served many years as an inquisitor) also reveals an excess of untimely *Judicium*. He is a man transferred to Leonberg not long ago, under whom the Reinbold woman's decrying reached a peak, and he cannot know anything but what he has gleaned from conversation with the Governor, the civic scribe or the Reinbold woman's allies, the forest administrator and Mayor (for he is unlikely to have had much intercourse with others). It is plain in the case of the Kepler woman that he feels little favour towards her, given that he has denied her holy communion although she is aware of no ill will or action on her part towards the pastor, whilst he gave the Reinbold woman communion in her home (although she was free for many days to ride across the fields and go out, is often found at wedding feasts and the market, and only avoids the church) while admitting during the deposition that she had clamoured for vengeance against the Kepler woman while taking holy communion.

As to the three assessors involved in the confrontation, among them Ludwig Bilfinger in particular, they bear considerable hostility towards the accused, and accepted far too much

of the unfounded outcry caused by the Reinbold woman's case, drawing from it much ill will towards the defendant, which presumably is why the Governor chose them as assessors.

But with such witnesses, the criminal defendant has all the less cause to defend herself, for all of them must admit that Kepler confessed to nothing during the confrontation, and therefore cannot testify what they heard from those who confronted her as interested parties, who, filled with a great hatred and envy of her, were neither sworn in nor otherwise properly questioned during this criminal trial.

To approach the main matter more closely, it all began ten years ago when, for a variety of reasons, the Reinbold woman fell gravely ill for a long period, which state, after consulting a doctor and taking all manner of improper remedies, became worse rather than better (as can be learnt from the first examination, the first doctor gave her a potion which half robbed her of her senses, nearly driving the heart out of her body and causing the eyes to bulge out of her head). However, such practitioners tend to attribute what they ruin or otherwise cannot cure to sorcery, as was done here by an alleged medical doctor: the Reinbold woman then recalled having imbibed something at Kepler's (with whom and with whose son she had been involved in quarrels and enmity shortly beforehand), which is why she blamed her, not even considering natural causes, exacerbated by useless medicaments and sent by the Almighty as punishment for sins committed, since the Reinbold woman had once been imprisoned on charges of fornication.

As, however, Kepler was accused ever more vociferously by this Reinbold woman (a superstitious person, who by her own admission had been involved in similar dealings before she came to Leonberg, and had attributed the harm done to her body to imagined witches), Kepler instituted an action of slander against this same Reinbold, whereupon the latter contested this, Kepler produced her witnesses and persisted until the final submissions of both parties, whilst Reinbold undertook a new complaint (in order to refuse or delay the verdict), and, having been the defendant, now became the plaintiff, whereupon she produced all manner of mendacious, mostly ill-willed witnesses, wholly partisan and driven by irreconcilable envy. But before her depositions were made public in court, the sole outcome of all her actions was the dismissal of this case, too, and Kepler was now criminally charged, to the end that all that had proven useless as proof in a civil trial might be used *criminali in causa* for the purposes of torture and strict interrogation according to her unjust, unlawful opinion.

However, just as this criminal trial originated with Reinbold, an envious, superstitious female once incarcerated for her scandalous way of life, so the particular arguments, evidence

and denunciations presented against the accused, when examined and considered with care, cannot be deemed very serious. For in such highly important matters, in which even the most reasonable persons may be wrong, one should pay no attention to paltry, bad, and farfetched assumptions, suspicions and mistrust of the person under arrest. Instead, before undertaking torture it is necessary to possess clear, irresistible evidence that credibly reveals the offences, so that all that is needed in order to learn the truth is the malefactor's own confession.

Furthermore, the application of torture requires each piece of evidence to be substantiated by two unexceptionable, impartial witnesses uninvolved in the matter, as stipulated in the *Halsgerichtsordnung* (criminal code). Moreover, in capital matters involving torture or life and limb, only male persons and not females are admissible as witnesses: For women are credulous, superstitious and changeable, overly gentle, fragile and fluctuating, as everyone knows.

The Ducal Advocate began by stating that the accused had aroused suspicions by walking to and fro, so that nearly everybody considered her to be a witch. Now fame and general reputation is nevertheless to be taken into account. In the first examination, however, there were many witnesses who claimed never to have heard anything bad about the Kepler woman before her trial. Indeed there are honest folk at Leonberg who believe her innocent, among them the elder Hanns Beitelspacher of the court, who testified that 'he had sometimes heard that she had not always shown herself to be reasonable in her behaviour,' but that he could not state under oath that she had ever come to the attention of the authorities for any misdeeds. Similarly Michael Stahl, also of the court, states that he had known Kepler in the single and the married state, but had never heard anything bad or suspicious about her, including with regard to what only became known to the citizenry in the current trial. Additional witnesses likewise stated that they could not accuse Kepler of anything, for they knew her at the same time as a woman who was always active and busy and they liked her.

In order to solidly prove a person's general reputation and good name, it is likewise necessary that the testimony originate with honest, credible and respected persons, which is by no means the case here. After all, in the first examination four witnesses testified that such evil talk about the Kepler woman arose only among lowborn folk and the rabble.

Moreover, the aforementioned fama, rumours and reputation must not come from spiteful people, or those who draw some advantage from it, or have arrived at them only following an existing dispute.

Several witnesses however testify to what occurred when the aforementioned suspicion was first uttered in the case, and after Kepler had become involved in a dispute with

Reinbold because of her disgraceful defamation. How the Reinbold woman spread this rumour among the people is described in the first examination, and for that reason it is all the less surprising because she complained to everyone of her pains, and frivolously claimed that she would swear by her life that Kepler had caused her suffering. Therefore others too with whom Reinbold had dealings were also instructed not merely to spread these rumours but also, if they or theirs encountered misfortunes (such as pain, sickness and death, which come to all humankind), to blame Kepler (because they had once eaten or drunk with her, or she had merely walked past them). Likewise Benedict Beitelspacher, the Reinbold woman's nearest neighbour, and daily in her house, who had never complained before Reinbold began her rumours, nor spoken against Kepler. Similarly, in her deposition, Osswaldt Zaanen's wife herself reported that when the Reinbold woman stated that Kepler had given her a potion, after which she fell ill, she the witness had recalled that on the day when her calf became sick Kepler had also been in the house, so that she might have done the same to her. What is more, the bathing master's apprentice had lived in Reinbold's house. And Jergen Haller's wife owed most of her livelihood to the Reinbold woman.

Thus although these rumours principally originated with Reinbold, and she and Kepler were otherwise embroiled in longstanding quarrels and a legal dispute, which both she, Reinbold, and her friends, neighbours and acquaintances spread all the more the longer it continued.

From this it follows that this evil reputation, which originated with ill-intentioned persons, was also present in others (especially because of long established rights and the disfavour of the Ducal Governor) and ultimately became all the more widespread, so that in the subsequent second and third examinations a number of witnesses dared to testify *de praetensa hac fama*. If, however, some of the witnesses questioned during the first examination speak well of Kepler, and others repeat nothing of the rumours, but testify that such a reputation arose only during the legal case, then more credence should be given to these witnesses who attest to *pro reae innocentia* than to the other, opposing testimony.

Since this alleged evil reputation had begun with quite simple, unimportant and unproven incidents, for just because someone drank in the Kepler woman's house, or she walked past someone, and afterwards that same person or his animals fell ill, one cannot therefore conclude that she, Kepler, caused this by sorcery.

To the degree that these aforementioned evil rumours have any basis, and the accused be given to witchcraft, she would have had some acquaintance and contact with such suspicious females (which the criminal code considers as evidence). This is not merely

unproven, but also, although sorceresses have been tried and burnt several times in the city of Leonberg, the Ducal Advocate (for there was not a single mention of it at any time during the trial) cannot attest that the defendant was ever mentioned by anyone arrested as a witch, or that anything pointing to the slightest suspicion of witchcraft was ever attributed to her, since after all such persons who are brought to justice are severely tortured, and all information about themselves and their fellows is drawn out of them by unbearable pain and torment. Indeed one of these arrested women (and perhaps others as well) who had her innocence purged and rendered *per torturam barbaram et diminutionem membrorum corporis* (to the extent that her thumb was left hanging in the scale), stated that two men of the court were sent to her specifically to question her in a prohibited manner about the Kepler woman, which is great and very substantial evidence of the defendant's innocence, to which the judge should pay good attention in this whole matter.

Otherwise, however, although the Ducal Advocate is bringing forward another cause for the abovementioned rumours, one can conclude how paltry and petty it is from the first and second articles of the indictment, which state that the accused had made herself very suspicious by walking back and forth in a place where she allegedly had no business, and that various people had been displeased to see her and believed her to be a witch. To suppress the fact that the defendant had sufficient reason to enter the houses in question, however, when such wandering could be considered a sign of female weakness rather than evidence of sorcery (as this wandering into houses was mentioned only after she became involved in a legal dispute with the Reinbold woman, and was slandered to many people who then grew suspicious), is to allow that if someone does not like to see an old woman in the house, an accusation of sorcery may be drawn from this. For otherwise elderly, garrulous women, who are therefore deemed unpleasant by many people, can never be free of such evil suspicions.

When, as I hope, this asserted and unfounded defamation is sufficiently rejected, and the Ducal Advocate states in the third article that the accused harmed human beings and animals, and also, in the subsequent article 11, names various alleged acts of sorcery, of which only two (namely by the Reinbold woman when she was charged with *actione injuriarum*, and by Haller's girl, whom the Reinbold woman agitated during the trial, so that the questioning of the witness might be halted) have been brought before the authorities, but the others were collected here and there by the aforementioned Reinbold woman for her expected victory in court, thereby to free herself of the intended shameful accusation. For which reason there are not a few witnesses who, when questioned collectively as to what they

knew of the Kepler woman's Ungleich, had nothing to say beyond what the Reinbold woman herself had told them.

Considering the facts themselves, though, let us leave aside their value or lack thereof, and assume *sine praejudicio* that the Reinbold woman suffers pains in her head, that Beitelspacher's limbs are lame, that Bastian Mayer's wife withered away and died, the tile-maker woman has an open wound on her thigh, the bathing-master's apprentice felt sick to his stomach for many hours and vomited, that Topher Frick had a pain in his thigh for a day or two, that the late pastor of Gebersheim's daughter had a sore foot, that Daniel Schneider's children died, that Haller's little daughter had a sore arm, that Jergen Beltzen lost a sow and Osswald Zaanen a calf and that Michael Stahlen's cow was restless and ailing but soon recovered. Nevertheless, taken together, these stories and facts do not necessarily constitute specific acts of witchcraft; for many madwomen [*phreneticae mulieres*] can be found, and many who suppress their monthly bleeding, which is diverted *ad superiores corporis partes* and seeks another outlet through evaporations, which commonly causes great suffering and terrible pains in the head. There are many women who are full of blood in their youth, and bloom like roses, with time, however, as they (like the Reinbold woman) become barren, a surfeit of blood or gall inflames the *spiritus epatici*, leading to terrible ailments of the head. Many of them contain *vitium uteri*, which is probably implicated in Reinbold's sterility, which causes *laesis tunicis uteri tunicae cerebri trahuntur in consensum*, and also persistent sickness and headache.

Many persons both male and female die everyday of consumption, and still more children of other diseases. Many people are crooked or lame. It is not uncommon for those who often lift or carry heavy loads or leap to twist their backbones, and the sinews involved either become lame or are otherwise injured and, prevented from lubrication from above, become damaged and dry out. And that this necessarily occurs is visible in the instance of Beitelspacher, whose upper limbs are healthy and complete, while the lower ones are crooked, and this crookedness, and the blockage of the natural passages, must affect manly potency, so that it is not unusual that nausea results and headache persists for an hour or more. It is not unusual for a butcher to get a stitch in his foot from protracted chopping motions, and for him to pull a muscle soon thereafter, and experience shows that young and old people contract St Anthony's fire in their arms or thighs.

There is no need to waste the judge's time with the death of cattle and swine (which is an everyday occurrence). Similarly, at the time when the baker's calf perished the widespread death of cattle had begun in many places.

Since all of these occurrences do not substantially point to the deeds of witches, as otherwise occurs when magical *indicia* and *signa* manifest themselves, the Ducal Advocate cannot use them to substantiate his case. Among the indicators used to distinguish between natural and unnatural ailments, one of the most important is that when the harm is caused by witchcraft, the pain is worse at the beginning, and does not develop in a regular manner. This does not apply to the Reinbold woman, Beitelspacher, the tile-maker woman and Haller's girl, whose illness waxed from day to day until reaching its height. Thus it is also believed that such harm is of no natural origin, when it follows the moon and the weather, as in the case of Gobersheim's daughter, and once again in that of the Reinbold woman. It also cannot be cured by natural remedies, although Haller's girl recovered her health by common, ordinary means.

In addition, however, to address the damage attributed to the Kepler woman separately, points 4 and 5 of the indictment assert that a drink she gave the Reinbold woman caused terrible stomach pains. Moreover, she admitted to having given her something to drink, but explained that the jugs had been mixed up.

There is very good reason to reject the allegation, and maintain that the Reinbold woman's illness was not unnatural, that she had used an inexperienced physician and also strong medicines, which caused such pains and persistent stomach upset, to the degree that her brother also reported that his sister had (among the inappropriate, in some cases prohibited medicines) found a suspicious little envelope (containing a strong powder), which caused her great pain. Thus Barbara Beltz, Reinbold's nearest neighbour, also states that the Reinbold woman admitted that after taking the drink she was seen by the witness in the Kepler woman's house again, and therefore at the time she was presumably neither ill nor did she suspect that she had been harmed by Kepler.

Since the Reinbold woman is a superstitious person, and was not the most devout in her youth, having been in trouble for fornication, and because the comings and goings of such folk have little rhyme or reason, the weakness of many evil people, attributable to nature or their own transgressions, in addition to which persuasion against the person under suspicion great envy, hatred and enmity follow, no credence should be given to the aforementioned Reinbold (however much she may have repeated that she swore on her life that the Kepler woman had done her this harm), a matter discussed in more detail in Fichard, and in *Consilio* at the end of Bodini's *tract. de daemonomania magorum*. Moreover, she is variously implicated in the current matter, since the Kepler woman initially brought charges of slander

against her, while towards the end of the trial the Reinbold woman presented herself as a plaintiff, and demanded compensation for the alleged damage caused to her.

....

In the sixth article of the indictment the Kepler woman is accused of having given a drink to Benedict Beitelspacher and the wife of Bastian Mayer, which killed the Mayer woman and lamed Beitelspacher and deprived him of his manhood. But the Ducal Advocate here was supposed to prove that Kepler lamed Beitelspacher and caused the death of the Mayer woman. For although at the confrontation she did not deny having given Beitelspacher a drink (when he came to sign for several bushels of spelt that she had lent him), it is very wrong to conclude that this was the source of his lameness. Above all because Beitelspacher testified that he at first felt only a small pain in his thigh, for which reason he could not possibly know that the abovementioned harm was caused by the Kepler woman. And then she denied as absolutely untrue what Beitelspacher added to his ill-founded testimony, namely that the Kepler woman had come to his house some time before while they were eating, when both doors were locked. Had this occurred, Beitelspacher would have taken nothing from her thereafter, and not borrowed from her, much less eaten and drunk with her. If, however, Beitelspacher – even after demonstrably having drunk in the Kepler woman’s dwelling – came to her again, and asked her to breathe not a word about the grain he had borrowed, and made no complaint then or afterward (as he himself admitted at his deposition) until the Reinbold woman became involved in a court case with Kepler, he also testified about this *in propria causa*, so that if the Kepler woman should be convicted (which, God willing, will never occur, but hopefully her innocence shall be brought to light), one could certainly expect Beitelspacher’s inevitable claim of asserted harm, not to mention his ill-will towards the Kepler woman and his conviction that the defendant robbed him of his mortal well-being and cast him into the utmost misery: The judge may wish to consider what can be expected of such a witness, whether one can lend him any credence whatsoever, and whether a poor, infirm elderly 74-year-old woman should be subjected to torture based on such testimony. And consider that in his *singularis* pronouncements, and especially in the inadmissible *secundo rotulo*, Beitelspacher changed his story and showed himself inconstant, saying now this, now that: whereas in his deposition he stated that the Kepler woman called him to her dwelling on a Sunday, and asked him to read several letters to her, at the same time offering him a drink that caused his ailment, while Beitelspacher told his brother-in-law Jacob Koch that the Kepler woman gave him something to drink from a cup when he came to thresh for her, thereby causing his sickness.

As for Mayer's late wife, she was afflicted by consumption long before the Kepler woman came to her home, and already had difficulty walking when she sat down on Kepler's day-bed and announced that she would drink with her one last time. Similarly, her daughter Barbara and also her husband not merely made no accusation, but also complained under questioning that the Reinbold woman, Beitelspacher and their followers had spread the rumour that she had drunk her death at the Kepler woman's house, to the extent that, if he had had the slightest suspicion, he would never have allowed his young daughter Barbara to go there. What is more, because he, Beitelspacher (by his own admission) and the Mayer woman drank out of a cup at the same time, the drink (had it been bewitched) would have had the same effect on both persons, that is, both would have withered or become lame.

Because Beitelspacher (being otherwise a common, foolish idiot and superstitious person) was not merely partisan and inadmissible as a witness, but it was also manifest in the circumstances that he was indulging his adverse *affectibus* rather than the truth, especially since he could state nothing certain about the Mayer woman, but only with regard to himself, this can in no way be construed as incriminating to the defendant.

In the 7th article of the indictment, the Ducal Advocate seeks to interpret the statements of the defendant's late son Heinrich Kepler as proper arguments for torture, but does so in vain. For one may sometimes expect something from the depositions of children against their parents, this does not apply in the present case. Given that this Heinrich was never examined, his words (assuming that he actually said what is claimed) cannot be construed as referring to witchcraft. Moreover, we can learn his intention in making such statements from the testimony of Hanss Jossenhanssen, namely that Jacob Koch (who was confronted with the accused because of these allegations) told the Kepler woman personally that he had heard from her son Heinrich that his mother should be disgraced, since she had let him go hungry for so long. Aside from this, the aforementioned Heinrich Kepler (although one is sorry to say it) ran away from his parents at the age of 16 before completing his apprenticeship, grew up in the military life, and after the passage of 15 years returned home bringing more ill than good with him, demanding much of his mother, and thus frequently spoke out against her in a manner unbecoming a child. None of this, however, gave any indication of sorcery nor could it be used to make a legal case against the accused.

Otherwise, the only contradiction to be cited is that the Ducal Advocate suggests that the Kepler woman claimed she had reproached her son for falling away from the Protestant religion, despite admitting that she took Holy Communion with the Papists in Weil once at the age of 27. How can one accuse such a person of deviating from the path of the Protestant

church when young and yet returning to it, but in her old age reproaching her son for his persistent apostasy from the Augsburg Confession, for such conduct is not merely not to be censured, but very much to be lauded.

That the amount of alleged evidence may increase is also proposed in the 8th article of the indictment, in the case of the dead calf belonging to Oswald Zahn, (house) baker at Leonberg. No other circumstances were mentioned than that Kepler came to buy milk from the baker's wife the day before the calf fell ill, but afterwards wanted to change money, and her son Heinrich wished to roast a joint in the baker's oven (as is common with such house bakeries). This baker's wife, in contrast, testified that she could not state under oath that the calf in question died because of the Kepler woman, nor that Kepler had touched the calf, since she had neither seen it nor gone into the stable. And the Reinbold woman alone had caused this suspicion. And if the demise of this animal could be attributed to someone who had simply walked into the house, without seeing or touching it, then few elderly matrons would be safe from this evil and unworthy suspicion (for there is no doubt that more women entered the baker's house at that time).

The 9th article of the indictment mentions Michael Stahl's cow (which was unwell and restless in the night, but was soon quiet and well again), but merely *pro indicio*, stating that the Kepler woman walked past the shed in which the cows were kept and spoke about this cow. What a paltry and worthless suspicion, upon which it is unnecessary to waste much time, especially as Stahl himself must concede that he has nothing with which to reproach the Kepler woman. Moreover, he was not surprised that the Kepler woman heard the noise in her bed, for her house and Stahl's shed were directly adjacent, as visual evidence and Ludwig Bilfinger's testimony shows. And the Kepler woman also has no other way of walking from her house to the market than to pass Stahl's shed. When she entered such sheds at other times she did so because she was storing grain there.

The 10th article of the indictment claims that the defendant undertook to teach witchcraft to Bastian Mayer's young daughter Barbara. This is absolutely unproven, and the Ducal Advocate has presented no witnesses to it. For this reason, such an unfounded addition does more to benefit than to harm the accused, since it reveals how easily suspicion can be cast upon an honest woman by the twisting and malicious perversion of words. For the aforementioned Barbara can do no more than testify that some 10 years ago (at which time the witness was 10 years old) the Kepler woman (when she helped her during the oat harvest) laid a fire to cook the evening meal and burnt herself on something, whereupon she told the witness 'O Jesus, who would want to be a witch', asking whether she would like to be one,

and when the witness said she would not, she, Kepler, said that in truth she would not like to be one either. Which words (since they were supposed to be vorgelaufen) can by no means prove of any disadvantage to the defendant. As the witness herself added, she did not think the defendant meant any harm by this statement, but instead believed that, had she not burnt herself, she would have remained silent. And although in the inadmissible second *rotulus* the sixth witness maliciously twisted these words and testified as if she had heard something very different from the witness Barbara. Thus in the alleged matter the witness is to be given no credence whatsoever.

One cannot avoid mentioning here the dangerous suborning of the Reinbold woman by Victor Hecht, the former *Provisor* of Leonberg. For this Hecht had it announced to the Kepler woman that he knew much that was useful in her case, and he hereby moved her to produce him as a witness, but in the subsequent deposition he not merely proved himself quite contrary and suspect, but also sought to influence the other witnesses with all manner of threats and to lead them away from the truth. For example, he undertook this with the abovementioned Barbara Mayer, summoning her brother-in-law Martin Widman, and instructing him to incriminate his sister-in-law if she did not state that the Kepler woman had once come at night to bring her a lover, and sought to instruct her in witchcraft, and indeed that Kepler had killed her late mother (as mentioned above) with a witch's brew, a small amount of which Beitelspacher, the little girl's schoolmaster, also drank, making him ill, else she would be placed in the tower. From this we learn what repellent cunning and practices the Kepler woman allegedly used to deprive this woman of her good name and reputation, her honour and her due, and also to endanger her life and limb. Endres Leutbrand's wife was similarly moved to make the malicious accusation (which occurs in the 11th article of the indictment) that she had long suspected the Kepler woman of responsibility for the condition of her thigh (which is allegedly damaged in some way). The accused, however, insists that both at her landlord's house, when she was in Prague in 1602 and learned that her son's first wife was greatly affected by St Anthony's fire on her thighs, and from several experiments, notably from her mother-in-law (an honest, renowned and skilled physician), and then also from her daughter-in-law, and at a later time from seeing the brick-maker's wife in the public bath, raising one foot and binding it to protect it from the water. Shortly thereafter, when she went to the brick-kiln to pick up what she needed from the oven, she found the brick-maker's wife lying in bed, and remembering having seen her in the bath asked about the condition of her foot, and soon learned that the foot was badly afflicted with St Anthony's fire, for which reason she offered out of kindness to do something for her that might prove useful. That the

defendant stated this circumstance in the confrontation is evident from the 3rd *rotulus*. The brick-maker's wife has no memory of this incident, which may be attributed to the passage of time, namely 18 years, and one should also take the following into account: First, that the brick-maker's wife cannot with any certainty attribute the aforementioned damage to the Kepler woman, since the thought only occurred to her many years later, during the Reinbold woman's trial, as is evident from the testimony given by her shepherdess, the 9th witness in the 2nd *rotulus*. To that degree, and secondly, since she had an evil suspicion of the Kepler woman because she had touched her leg previously, she would not have accepted and used the pebble offered her. Thirdly, this brick-maker's wife is also quite unsuitable as a witness (which she was also *unica et singularis*) both by virtue of her sex and because of the improper examination *propter conceptum odium et sinistram suspicionem*. Fourth, the brick-maker's wife irresponsibly deviated from her story, since she admitted in her deposition that she had pains in her thigh before the Kepler woman came to her, whereas during the confrontation she claimed no longer to know whether there had ever been anything amiss with her thigh, though the thigh she displayed is undeniably *ex circumstantial*. Which deviation reduces and indeed removes any credence that may be given to the brick-maker's woman. And because it is indisputable that she had had pains in her thigh before Kepler's arrival, how can the latter be blamed for them, and she the defendant be incriminated in any way? Because, fifth, there was no evidence that this constituted unnatural damage caused by witchcraft; seeing as daily experience shows that after giving birth, sanguine females contract St Anthony's fire from a surfeit of heated gall, and that they easily injure themselves by needlework or in some other way, thus the damage to a thigh (which is generally where it appears) finally erupts, and never ceases from thence, but rather all fluxes are directed there, and seek their outlet. And although the Special Superintendant at Leonberg quite indiscreetly testified that Jergen Haller's wife (the Kepler woman's worst known enemy) had told him that she had heard from the brickmaker's wife that hair had recently started to grow from the injury, these claims by the Haller woman doubtless represent the entire unsound foundation, and it is quite curious to learn that the Special Superintendant based his deposition on the account of an ill-willed, highly partisan and foolish woman.

What the present Special Superintendant's immediate predecessor, Mr Grab, now hospital preacher at Stuttgart, believed and testified in response to the superstitious Haller woman and her deeds can be affirmed if necessary by his signature.

And assuming that this superstitious brickmaker's wife was harmed by a witch 18 years ago, why should the innocent Kepler woman with her salutary counsel be punished for this?

As to the 12th article of the indictment, the Kepler woman nearly always kept on hand, for her own daily consumption, a jug of wine, wormwood, blessed thistle, and sometimes ginger, which she offered to the bathing master mentioned in this article when he came to bleed her 9 years ago. The defendant has no way of knowing whether he then vomited as stated, other than what he testified. But should this prove to have been the case, do *medicorum iudicium* and daily experience not teach us that a person may easily become unwell from even a harmless drink before midday, and then feel the need to vomit? And the bathing master himself states to the 22nd *probat.* and his questioning that he had an aversion to ginger, and that the drink did not otherwise harm him, for which reason he also accused no one. Therefore the Governor of Leonberg deemed it unnecessary to confront him with the defendant. If, however, this and similar articles damaging to the Kepler woman are presented by the Ducal Advocate for the sole purpose of adding more and more alleged evidence to incriminate her, then hopefully all of this will not be taken into consideration in the present important matter.

The subsequent 13th article of the indictment is similarly negligible. For nobody in his right mind would find it credible that the Kepler woman could have caused any harm to Topher Frick (whom she did not touch) simply by unavoidably walking past his butcher's bench (as none other than Frick himself can attest *pro teste unico*, in the disputed 2nd *rotulus*). Daily experience shows that someone who has previously engaged in strong motions (as when a butcher chops meat) can easily develop a pain in his limb, which eventually abates. Similarly, the aforementioned Frick himself admits that he has nothing of which to accuse the Kepler woman here. And the superstitious request for help suggested by him (of which the Kepler woman knew nothing) or that such restored his health can by no means be considered legitimate information and evidence.

As to the fact that the Ducal Advocate however undertook to corroborate this wholly useless alleged evidence by the circumstances contained in the 16th and 17th *probat.*, on the pretext that the defendant had been heard to utter various threats against Frick, it should be particularly noted that Frick made no mention of this in his deposition, doing so only in the confrontation (doubtless in order to conceal his inglorious superstition). Thus nearly all of the witnesses can no longer recall the *verborum formalium*. The Kepler woman, in contrast, insists that Frick suggested in her presence that the preceding stormy weather was caused by

witches, which she (who at the time was being slandered by the Reinbold woman) understood as directed against herself, and she also remembered that her granddaughter was likewise confronted by Frick's child because of this, which was the reason, when she met Frick, that all she desired was for him to understand that she had taken this to heart and would not soon forget it, and that he should think to his own kin who had also been defamed as witches, believing she had repaid him in kind, which she understood as a 'settled score'.

The 14th article of the indictment and the related 18th, 19th and 20th *probatoriales* are based on the testimony of Barbara, the late wife of Severin Stahl, who, uncorroborated by concurrent witnesses, testified to a story that supposedly occurred 25 years ago (when the witness was not yet 7 years old).

Just as the aforementioned Barbara could not prove that the Kepler woman ever touched the pig, and she the defendant later insisted that she had been speaking with the witness's father's manservant in the road when a little piglet was run over by a cart, but that this had been kept from the master and his wife, and that Beltz's large pig might have died at a different time (so that the abovementioned Barbara may have remembered something, but under different circumstances), the Kepler woman knew nothing of this, neither at the time nor in the present.

Continuing on to the 15th article, in which the defendant is accused of having caused a pain in the thigh of Anna Maria, the unwed daughter of Johann Maisterlin, former pastor at Gebersheim, it should be taken into account that this is based solely on the dubious and uncertain deposition of this daughter. And apart from the fact of her *testis unica, in judicio civili producta*, which was moved to foolish suspicion by the previous unfounded rumours, she is a female person whose testimony is invalid in a criminal trial, who also contradicts herself in her deposition: at the beginning she claims that when the Kepler woman struck her on the right foot (which the accused vehemently denies doing and consistently refutes) she straight away escaped from Kepler and walked towards the castle square. Soon thereafter, however, she testified that after being struck she looked around to see who had done it, and the Kepler woman spoke to her, asking whether she was in Stuttgart again etc. ...

If the aforementioned witness indeed had the injury she now refers to, which she consistently fails to demonstrate was caused by the Kepler woman, said injury could easily have occurred through a strain to her leg, or some other natural cause, such as naturally follows the moon and weather, as the witness herself knows, especially because it was remedied by ordinary means. Therefore none of this can incriminate the defendant.

Moreover, as regards the 16th article of the indictment (towards which the 21st, 22nd and 23rd *probatorialis* is directed), the defendant hopes she will not be incriminated by her purported knowledge of the ailments of Schneider's (a superstitious man's) dead children, because even before he was irregularly questioned in his single statement, he was prejudiced against the Kepler woman by his repugnant imagination and evil suspicions, with no little hatred and envy (which he demonstrated especially in the vehemence he displayed during the confrontation, as the witnesses testify). Schneider's wife then spoke very differently of these matters, for which reason, although first presented as a witness by the Reinbold woman, she was afterwards not interrogated, to prevent feared deviations and contradictions, and it was expressly announced that they preferred to have her removed. Moreover, the Kepler woman was meant to have stated at the time that Schneider was being sorely tried, but she has no memory whatsoever of this, or that anything of the kind was spoken of or that it had aroused his suspicions, or that he or his wife had learnt a prayer from the Kepler woman, or that their sick child had used it, such that Schneider himself made no mention of it in the confrontation.

Thus in exploring the reason why the Kepler woman entered Schneider's house, it was unavoidable because he was doing work for her, and she also enquired about stockings (which however in Schneider's account were allegedly waist-bands), which her then-unmarried daughter supposedly sold to her good friend in Schneider's presence.

As to the prayer referred to here (which is considered a blessing), the Kepler woman was always known for saying such a prayer whilst kneeling before a cradle, but not in a public churchyard (for although the Special Superintendant testifies to this, his testimony is contradicted by the Governor *ad 7. interr. art 23*, similarly by the 5th and 6th witnesses). She taught it to Schneider's wife, but there are no improper words to be found in it. Should some superstition have slipped in here, however, it would stem from permissible papist traditions, and therefore cannot be classed as sorcery.

Hopefully the court will lend no credence to the 17th article referred to in the 24th *probatorial*. For although the Kepler woman never requested the skull mentioned therein from the gravedigger of Öltigen, as is erroneously stated there, (for which reason this was quite rightly refuted), she does not deny speaking to the now deceased gravedigger at Leonberg, where her father is buried, at which time this event occurred (regardless of the fact that such circumstances remain unconfirmed by the confronted *testibus de auditu*, which occurred in her presence). Namely, when she arrived at the graveyard to examine the wreath placed upon the grave of her grandson, who had recently been buried next to her late father, to ensure that it not be destroyed by the digging of another grave, she found the gravedigger

working near her late father's grave. At this time it occurred to her – and she told the gravedigger – that she would like to have her father's blessed skull encased in silver, not believing this undertaking to be improper. After all, she had heard drinking cups made of deceased parents' skulls, and the use thereof by various peoples at festive occasions, mentioned admiringly in daily sermons and in remembrance of mortality, and had seen actual examples of such preserved skulls with her own eyes. And if the defendant's adversary already held her to be cunning and sly, is it at all credible that, at the very moment when witches were being burnt at Leonberg, she would have been so careless as to ask openly for her father's skull if she intended to use it for improper purposes? Especially given that no one has ever heard of a dead father's cranium being especially suitable for sorcery.

Thus since the defendant's actual possession of her late father's skull should cause no prejudice against her, how much less should she be punished for the mere expression of a desire to have it? On closer scrutiny, this wish was not uttered secretly or with evil intent, but simply as she saw a new grave being dug near her father's grave, in a public churchyard, in the middle of the day, without any suspicious circumstances, so that even the confronted Martin Heller himself was surprised at this unfair accusation and stated that, had he known that so much would be made of it, he would have held his tongue (according to the deposition given by the 1st and 6th witnesses in the 3rd *rotulo ad 24. prob. 3. Int.*)

In the 18th article, the Kepler woman's adversary at Leonberg was at great pains to incriminate her with regard to Jerger Haller's little daughter, as if she had harmed her, thereby helping the Reinbold woman's case. But although the Kepler woman never denied going to see the girl, and was also unsure whether she might not have inadvertently hit her with her basket because of the narrowness of the path and the deep ruts, she firmly and consistently denies striking her, and there is no testimony from anyone but the brick-maker's girl (which testimony is contained *in separato rotulo* of the unfinished Reinbold trial), since 10 or 12 other girls were present, all of them carrying bricks, but not one of them could corroborate this with any certainty, for otherwise they would also have been called as witnesses.

First of all, as to the brick-maker's girl in question, there can be no doubt that, as in the case of Haller's girl, she already bore ill-will towards the Kepler woman, because her mother, as was questioned above, was made suspicious by her neighbour the Haller woman, who claimed to have suffered harm at Kepler's hands (which injury to her thigh she already had before Kepler came to her). This girl (who was baptised on 8th Nov. 1604) was also not

yet 15 years old at the time of questioning, and was testifying about incidents that had occurred four years previously, when she was not much over 11 years old.

Second, there is no proof of the purported beating or *circumstantiae maleficii ejusdam* or other dangerous and harmful damage. Rather, according to the deposition of Christof Georg auf dem Sand, barber-surgeon at Leonberg, the 13th witness in the first *rotulo ad 44. art.*, he was able to help this girl easily by rubbing a salve on her arm. If there was anything else wrong with the girl, it must have been very slight, because Michael Teurer (the 10th witness *in rotulo primo*), Haller's closest neighbour, testifies that he found no injury to the girl, and therefore did not know whether there was anything wrong with her or not, especially since she was carrying wood the next day. There can be no doubt that a weak and frail child (given that she was little more than 7 or 8 at the time) can easily be injured by carrying heavy bricks in her arms, irritating the sinews and causing a flux. Which is all the more likely in this case.

Third, the knacker's wife [Wal]Burga (who spread rumours against the Kepler woman concerning the alleged harm to her little daughter) was at the Reinbold woman's house every day, and gained not a little benefit from this, since she received alms for her upkeep, and is otherwise a scurrilous, presumptuous, rumour-mongering female, full of superstition, who engages in the forbidden measuring of heads. Her husband is on the run before a charge of theft, and was finally punished, which one can learn from the testimony of the 17th witness in the first *rot. ad. 27 art.* Moreover, she was hostile to the Kepler woman even before that, and when Kepler demanded the repayment of a debt, instead of paying it she accused her of witchcraft, attempting to lend some credence to her wholly groundless accusation by complaining of murderous sharp and dull pains (as one learns from her own deposition in *rotulo separato*), and she also hoped that if she drove the Kepler woman to flight or even to her death she would be able to acquire her modest wealth. Whereby she then petitioned, with the knowledge and indubitable support of the Governor, for a portion of the Kepler woman's property, as the 20th witness testifies in the first *rot. ad 29 addit.*, stating that the same woman gave her some hope that she would receive all of the Kepler woman's worldly goods, and borrow money upon it. And although the defendant believes that the Haller woman's testimony about a black bird in Reinbold's inadmissible separate *rotulus* is invented, and Kepler rejects it, it would not be surprising if a bird had actually flown into her son's room, since (by her own statement) she gave him forbidden remedies. Her allegation regarding the aforementioned 20th witness is that she did not blame the Kepler woman for the headache, but afterwards, when asked for payment, wantonly undertook to improperly assign her the blame.

Thus no importance whatsoever is to be accorded to this witness (who also seeks to incriminate the innocent accused with a number of other fictitious additions).

Since no witchcraft was used upon the Haller woman's little daughter, and nothing of the kind could be proven against the Kepler woman (as is carelessly stated in the 19th article of the indictment), nothing of the *corruptio* also asserted in the following 20th article can be confirmed. These are the reasons she offered the cup to drink: because the accused saw that the Governor of Leonberg was lending all too much credence to the foolish Haller woman, allowing her murderous infringement to go unpunished.

....

If, then, the allegations introduced in both the criminal indictment and the subsequent *additionalibus articulis* are by no means substantial enough to subject a human being, the noblest creature made in God's image, to interrogation under torture, simultaneously not *testes omni exceptione majores*, but rather quite useless, inadmissible, partisan, self-interested, ill-willed witnesses, many of whom were not examined during the criminal trial, especially since all of the allegations were expressed separately, and thus each witness is individual and singular *in suo dicto*, thus at the same time *de indiciis remotissimus, non tangentibus immediate ipsum maleficium magiae*, invalidly deposed, and otherwise rightly provided *quod indicia in suo genere non sufficienter probata conjungi non possint*, so that the poor criminal defendant may feel assured *in hoc puncto* of certain absolution. All the more so because the defendant, of *decrepitae aetatis*, an aged, weak and frail 74-year-old woman of honourable birth, of whom nothing dishonourable was ever heard, and also her children (as many as she had) are honestly occupied, and she has been cast into such disgraceful captivity without sufficient cause, and has lived in prison for the long period from 7th August 1620 until today, with *squalore carceris, vinculorum molestia*, also in the expectation of all manner of violence and endangerment from her enemies, and has already been more than sufficiently tormented.

The criminal defendant hereby repeats her request presented during *litis contestatio*, appealing with the humblest diligence to the mercy of the court to exercise law and justice.

Salvo jure etc.

