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‘An honourable man should not talk about that which he cannot prove’: slander and speech about witchcraft

On 29 January 1561, Paulus and Barbara Brosam, a married couple from Wettringen, one of the largest villages in Rothenburg’s rural hinterland, brought a slander suit before the council in Rothenburg against two of their neighbours, brothers-in-law Hans Lautenbach and Leonhart Immell. The Brosams complained that Lautenbach and Immell had falsely claimed that Barbara was a witch and Paulus her accomplice, thereby threatening to rob the couple of their honour. Defendants Lautenbach and Immell refused to retract their claims, however, and because of this and the gravity of their allegations, the council gaoled both parties to the suit in order to examine the matter further. A few days later the case ended, in the Brosams’ favour. Paulus and Barbara were allowed to return home after paying the costs of their brief imprisonment and promising to present themselves before the council if allegations of witchcraft were made against them in future, while Lautenbach and Immell were eternally banished from Rothenburg and its hinterland for malicious defamation, with Lautenbach first enduring the additional ignominy of a spell in the city’s pillory.¹

This was one of the earliest cases in which allegations of harmful or demonic witchcraft were brought to the attention of the post-reformation council in Rothenburg and one of eighteen such cases investigated by the council between *c.* 1561 and *c.* 1652. Of the forty-one individuals involved in these cases as alleged or self-confessed witches, nine were banished and only one was executed, in 1629.² Chapters 1 and 2 of this book will explain why Rothenburg and its hinterland had this restrained pattern of formal prosecution for witchcraft during the early modern period, exploring the web of legal, social and cultural factors at popular and elite levels which operated and interacted to deter the inhabitants of the area from accusing their neighbours of witchcraft at law, and to ensure that the allegations of witchcraft that reached the courts rarely led to convictions for the crime and never triggered mass trials. Using the Wettringen case from 1561 as a starting point, this chapter will focus on two legal factors central to this web of restraints: the unwillingness of the Rothenburg

council to abandon due legal procedure in its treatment of witchcraft, and the role that the legal treatment of slander in Rothenburg played in dissuading people from accusing others formally of witchcraft, and even from voicing suspicions of witchcraft publicly at all. The Wettringen case proved to be the forerunner of a case-type – in which allegations of witchcraft were treated as instances of slander and in which the slanderers rather than the alleged witches came off worst – which played an important part in shaping the council's judicial engagement with witchcraft in the late sixteenth and early seventeenth century and remained of some, albeit lesser, significance thereafter.

Brosam v. Lautenbach and Immell

Hans Lautenbach's story of alleged witchcraft, which precipitated the Brosams' slander suit and which he repeated to Wendel Ferg and Erhardt Schleeried, the councillors deputised to question him after his arrest, ran as follows. On 18 January 1561 he had been travelling home with several barrels of wine from Heidenfels, a village situated several miles to the southwest of Wettringen, when heavy snowfalls had forced him to abandon his cart at a tavern in another village called Wallhausen. By sunset he had managed to return home to Wettringen on horseback and, tired and cold, had lain down on a bench in front of the stove to warm himself. He had dozed off and been pressed by a witch while asleep.³ On waking, Lautenbach had urinated into a glass container, stoppered it shut, and locked it in a chest. By this means Lautenbach hoped to identify the witch responsible for the pressing as – according to popular belief – she would thereafter be unable to pass water and would be forced to confront him in order to obtain and smash the container and thereby break its counter-magical power over her.⁴

A couple of days later Lautenbach's plan for identifying the witch had apparently worked. He had been drinking with companions in a Wettringen tavern belonging to Hans Kapp when one of the daughters of Paulus and Barbara Brosam arrived with a message from her father, in which Paulus offered to accompany Lautenbach on his journey to Wallhausen to retrieve his abandoned cart. Instead of going to meet Paulus, however, Lautenbach had dallied in the tavern. A short while later Lautenbach's own wife had turned up, to tell him that Paulus had just called at their house to repeat his offer personally. Again Lautenbach had stayed in the tavern, and it was at this point that he uttered the words that were to have such dire consequences for him. He told his companions of his recent pressing by the witch and of the method he had adopted to identify his tormenter, suggesting that Paulus Brosam's desire for his company 'was part of the same affair'.⁵ This indirect reference was understood by those listening to

Lautenbach to imply that the witchcraft was the work of Barbara Brosam, on whose behalf Paulus was now acting to obtain the urine-filled container.

The account Lautenbach gave of his subsequent journey to Wallhausen to retrieve his cart underlined this conclusion. He had set off alone, but Paulus had followed the tracks of his horse in the snow to the tavern at Wallhausen. There he had insisted on speaking to Lautenbach and arranging that the two of them travel back to Wettringen together. On the return journey, Paulus had begged Lautenbach for the container, which was apparently causing great problems in the Brosam household. Lautenbach had initially made no promises, merely commenting that 'he had not thought that Paulus and his family were such people', meaning witches.⁶ Paulus had asked for the container on two further occasions, once when Lautenbach's cart overturned in the snow – the idea being that he would help right the cart if Lautenbach promised to give him the container – and again when they reached Wettringen. At this point Lautenbach had relented to his increasingly desperate requests and given him the container, which he had smashed on the ground outside Lautenbach's house.⁷ The allegation that Barbara Brosam was the witch who had pressed Lautenbach was subsequently repeated by his brother-in-law, Leonhart Immell, at another Wettringen tavern belonging to Georg Rigell.⁸ It was in reaction to the ever-widening publicity that Lautenbach's story was gaining in Wettringen that the Brosams brought their slander suit.

In custody both Brosams refuted the allegations made by Lautenbach, although in different ways. Paulus told councillors Ferg and Schleeried a tale which accorded in many details with Lautenbach's, but which put a different gloss on the motives for his actions. He suggested that his offer to accompany Lautenbach on his journey had not been unusual or overly insistent, explaining that he had needed to travel in the same direction anyway in order to collect some money he was owed for a barrel of wine from a man who lived near Wallhausen. As he had been concerned about the threat posed by itinerant mercenaries to lone travellers, it had made sense to him to secure the company of Lautenbach for the journey. The arrangement had worked to Lautenbach's advantage as well, as he had been able to right his overturned cart on their return journey to Wettringen only with the assistance of Paulus. Paulus denied ever asking Lautenbach for the glass container. Instead, he gave his interrogators an everyday account of two men going about their business in the context of a neighbourly companionship which worked in both their interests, with no subtext of witchcraft to give sinister meaning to their exchanges.⁹

What Paulus implied – that Lautenbach's story was a malicious fabrication – Barbara made explicit in custody using three interlinked strategies: an assertion of her innocence, an attempt to discredit the defendants, and an emphasis on her piety. She insisted that she was not a witch, pointing out – by

way of a negative proof of this fact, and as evidence of the popular understanding of witchcraft as a mode of illicit material gain made by witches at the expense of their neighbours – that if she could work witchcraft she would not have suffered such poverty during her life. Her innocence was further shown by the fact that she and Paulus had come into Rothenburg voluntarily, leaving their six young children at home, to bring the case to the attention of the council in the first place. The implication was that these were not the actions of people who had anything to hide, but here Barbara was being disingenuous, glossing over the fact that the Brosams' decision to bring the suit had doubtless been made after careful calculation of its risks and advantages. She accused Lautenbach and Immell of having plotted together to concoct lies about her out of envy and hatred and did all she could to undermine their credibility and the plausibility of their testimony. Immell had previously accused other women of being witches when drunk, she explained, while Lautenbach was a man tainted with vice, who lacked honour himself and therefore sought to deprive other people of their good names by defaming them. Barbara referred to a previous legal punishment that Lautenbach had received – for adultery in 1555, discussed below – and the fact that God had seen fit to inflict the serious illness of epilepsy upon him, as proof of his inherent sinfulness and dubious character. Barbara also called on God as a witness of her blamelessness and drew parallels between her own and Christ's suffering as a way of emphasising her lack of guilt and of warning her interrogators against the unjust punishment of innocents by secular authorities.¹⁰ From their fervour and frequency, Barbara's assertions of piety appear to have been heartfelt, but in voicing them she may also have been replicating narrative strategies she had already employed in response to the questions about her identity as a witch that had been put to her by the pastor of Wetztingen, Johannes Zöllner, in the years before 1561.¹¹

Leonhart Immell, Lautenbach's brother-in-law and a baker by trade, was questioned next. He had lost his nerve since being gaoled and now sought to escape the council's wrath by shifting the blame for the slander against the Brosams onto Lautenbach and by offering excuses for his own role in the affair. He admitted that he had mentioned Barbara's act of witchcraft to his drinking companions in Georg Rigell's tavern, but added that he had done so only after Lautenbach had first made the allegations against her public and that he otherwise knew nothing about her in connection with witchcraft. To excuse his repetition of the slander, Immell explained that he had been drunk at the time and provoked in his actions by the hostility which the Brosams had previously shown towards him. Barbara had once attacked him with a stick and Paulus with an axe and both Brosams had damaged his trade by criticising the quality of his bread. Immell expressed the wish that he lived far away from the couple,

begged the councillors for merciful treatment, and implored them to ask his neighbours in Wettringen for testimony of his good character.¹²

The council did turn next to other Wettringen inhabitants for evidence, questioning pastor Zöllner and four men – Gilg Hoffman, Lorentz Herman, Steffan Haim and Gorg Kurtz – who were neighbours of the Brosams, on oath on 31 January. Such communal opinion was crucial to legal procedure in early modern Germany, as it could provide the circumstantial evidence on the basis of which a decision to question one or more of the protagonists under torture could be made by the judicial authorities. It was particularly important in cases such as those of alleged witchcraft or illicit sexual intercourse, where two parties maintained opposing versions of events which no-one else had witnessed and where the key issue for the authorities was that of which party was to be deemed most credible. The fact that the questioning of the Wettringen witnesses focused on the suspicions of witchcraft raised against Barbara Brosam showed that the council was still taking them seriously.

The statements given shed interesting light on other members of the Brosam family. Pastor Zöllner explained that, throughout the decade of his incumbency in Wettringen, rumours had circulated to the effect that the parents of Paulus, Veit and Elisabeth Brosam, were workers of sorcery who had taught their arts to Barbara. Zöllner stressed that he had done all he could to discover whether there was any truth in this talk, frequently exhorting Veit, Elisabeth and Barbara to admit their sin rather than take communion with it on their consciences. Here Zöllner had acted in accordance with the *Rothenburg Church Ordinance* of 1559, which decreed that village pastors were to summon and talk to any parishioners suspected of having heterodox beliefs or of working sorcery, in order to convince them of the errors of their ways.¹³ The Brosams, however, had always maintained their innocence and continued to take communion. Zöllner had also watched their behaviour closely, but had seen nothing to confirm the rumours against them.¹⁴ Hoffman, Herman, Haim and Kurtz stated that they personally had never seen or heard anything of Paulus and Barbara which would connect them with witchcraft and confirmed that the couple had behaved in a neighbourly fashion in Wettringen during the twelve years of their marriage. Since the time of the Peasants' War (1525), however, it had been rumoured in the village that Veit and Elisabeth Brosam, and Veit's brother Hans, were workers of sorcery.¹⁵ Leonhart Immell had once publicly accused Hans Brosam of this, but had been fined after Hans had pursued a slander suit against him successfully at the village court in Wettringen.¹⁶

The Wettringen witnesses were thus unwilling to take sides, personally and unequivocally, with Lautenbach and Immell against Paulus and Barbara Brosam in the slander suit. However, their statements had at least the potential to swing the balance of the case against the couple in more subtle ways. This

was because the *Carolina*, the code of criminal law procedure issued for the Holy Roman Empire in 1532, recognised as circumstantial evidence of possible guilt of alleged witchcraft two of the points implied in the testimony of the witnesses. These were first, that Paulus and Barbara were closely associated with other reputed workers of sorcery (Paulus' blood-relatives), and second, that Barbara, Veit, Elisabeth and Hans Brosam had long-standing reputations as workers of sorcery.¹⁷ However, the councillors decided not to act on this evidence, on the basis of which they might have questioned the Brosams under torture, and instead brought Paulus and Lautenbach together in custody on 1 February to confront one another with their still-contradictory narratives.¹⁸

This decision was based on precepts – the tendency of the council to give the plaintiff rather than the defendant the benefit of the doubt in slanders involving witchcraft and its unwillingness to proceed too rapidly to the use of torture in the uncertain matter of witchcraft – which will be discussed later. It proved crucial for the ongoing case, however. On confronting Paulus, who still protested his innocence, Lautenbach broke down and confessed that he had never been pressed by a witch, but had been provoked into fabricating the story about Barbara Brosam by the hostility she had shown towards him.¹⁹ It is unclear why Lautenbach executed this ultimately fateful about-turn in his narrative at this juncture, although some plausible explanations can be offered. He may have feared the possibility of being interrogated under torture or on oath as a test of his story, because he was in poor health at the time of the trial and thus doubtful of his ability to withstand physical pain, and because he knew that perjury was subject to potentially severe secular punishments as well as divine wrath. He may also have hoped that a retraction at this stage, combined with contrition and an explanation of the provocation by Barbara which he felt had justified his slander, would constitute sufficiently mitigating circumstances to earn him the council's mercy. He proved mistaken in his hopes, however, because his plea of provocation served merely to strengthen Barbara's claim that his words against her had been motivated by malice. His confession thus brought the case to an end and the council's judicial severity upon himself and his brother-in-law.

Honour, insult and feud

Why did Hans Lautenbach bear such ill-will towards Barbara Brosam that he slandered her as a witch? The explanation he gave to the councillors on 1 February rooted his enmity in various verbal exchanges he had had with her as he made his way home from Hans Kapp's tavern.²⁰ Barbara had been in the habit of accosting him and asking him in defiant tones, 'whether he had not already

been led around by the hangman's rope for long enough', adding that 'the hangman would lead him by the noose for a long time yet'.²¹ It was 'because she had hurt him so' with these words that Lautenbach had been goaded into spreading the witchcraft allegations against her.²²

Lautenbach reacted with such hostility to the insults offered by Barbara because of the importance attached to honour and the need to defend it in early modern German society. A person's honour was his or her good name, trustworthiness and integrity, and the main guarantor of an individual's standing and reputation within a community. It was an invaluable asset: people with bad reputations not only risked being marginalised and disadvantaged within the nexus of everyday exchanges between neighbours, but were also rendered more vulnerable to the deleterious effects of a legal system in which possession of ill-fame was recognised at both elite and popular levels as an important indicator of possible guilt of a crime.²³ It was therefore with some justification that contemporaries likened honour to a precious jewel, worth more than gold or silver, or expressed the wish that they would rather lose vast sums of money than suffer it to be damaged.²⁴ In addition to being precious, however, an individual's honour was precarious and in constant need of defence and affirmation. It could be jeopardised by an insult, by an allegation of discreditable behaviour, even by a rude gesture, and anyone whose honour had been thus attacked had to retaliate against the person or people responsible – with violence, a counter-insult, or a legal suit – or risk a depreciation in the value of their good name.

The insult which Barbara Brosam offered Lautenbach as he walked home from Hans Kapp's tavern had such power to hurt him for three reasons. First, because it implied an association between Lautenbach and the hangman, or municipal executioner, who was regarded in early modern German society as dishonourable by virtue of his profession, which was that of torturing suspected criminals and carrying out the corporal and capital sentences on those found guilty of their crimes.²⁵ Second, because hanging was the usual punishment for persistent theft in early modern Germany and was regarded as a more dishonourable method of execution than, for example, beheading.²⁶ By suggesting that Lautenbach was led about by the hangman's rope, therefore, Barbara implied that he was a thief, someone not to be trusted with other people's property and reputations, and damaged his honour still further. Finally, Lautenbach had been publicly flogged by the Rothenburg hangman as punishment for an act of adultery he had committed with his maidservant in 1555, a fact which probably rendered him more vulnerable to insults of this nature and put him under greater pressure to react to them.²⁷

Behind Lautenbach's personal grievance against Barbara Brosam, however, lay at least two other conflicts in which he was ranged against the Brosams which help explain what he said and why Leonhart Immell repeated it. One of

these was a conflict which, he explained to the councillors, had arisen between Paulus and Barbara Brosam and Hans Kapp, who was his good friend and neighbour and at whose tavern he drank. As Barbara's insults towards Lautenbach had been offered as he made his way home from Kapp's, and as she had prefaced them with the accusation that he and Hans Kapp had been plotting together – presumably against the Brosams – Lautenbach's reaction to her words can thus be understood in the light of this Lautenbach–Kapp versus Brosam dispute.²⁸ The cause of it remains unclear, although it may have been related to a rivalry between Lautenbach and Paulus Brosam over the selling and supplying of wine, in which they both appear to have been engaged, and in which Kapp had taken sides with Lautenbach, or was perceived by the Brosams to have done so.

Lautenbach probably also felt loyalty towards his brother-in-law Immell, who was involved in his own disputes with Paulus, Barbara and Hans Brosam. Paulus and Barbara had threatened Immell's reputation and income as a baker by criticising the quality of his bread.²⁹ Immell may have been particularly sensitive to any threat to his financial position because of events which had occurred two decades earlier, before he moved to Wettringen. In 1541, while still living in Diebach, Immell had been ordered to pay a man named Hans Sorg the considerable sum of 95 gulden as compensation for injuries he had inflicted on Sorg in a fight. Pleading poverty, Immell had been granted permission to pay off the debt in eight instalments between 1541 and 1548. It actually took him until 1550 to complete the payments; he had moved to Wettringen in the meantime in 1544.³⁰ Further financial loss, caused by a decline in his trade, would have been unwelcome; it was small wonder that Immell lamented his close proximity to the Brosams.³¹ His negative feelings against them would have been intensified by the fact that he had also been fined by the Wettringen court for having failed to prove his claim that Hans Brosam could work sorcery – another example of a Brosam victory at his expense.³²

There is no reason to think that Lautenbach and Immell did not also genuinely believe that the Brosams could work witchcraft; after all, rumours to this effect had been circulating about Veit, Elisabeth and Hans for almost four decades and – according to the testimony of pastor Zöllner – about Barbara for at least a decade. For the inhabitants of Rothenburg and its hinterland, moreover, there was an emotional logic in imagining one's enemies to be witches, as both feuds and suspicions of witchcraft fed on common feelings of envy, hatred and fear of one's rivals. Despite these caveats, however, the story told by Lautenbach seems more like a move in an ongoing feud based on an unbearable sense of personal affront than a response to a deep-seated fear of witchcraft, particularly insofar as the efforts by Paulus Brosam to retrieve the urine-filled container from Lautenbach, rather than the initial pressing by

Barbara, dominated his account. The councillors understood this as an attempt by Lautenbach to implicate Paulus in Barbara's alleged witchcraft,³³ and it can also be seen as a way for Lautenbach to shift the focus of suspicion onto Paulus and to give added substance to the long-standing rumours connecting Paulus' parents and uncle with witchcraft. The creation of the story by Lautenbach and its repetition by Immell were thus expressions of their enmity towards the whole Brosam family, as well as an attempt to place its members at greater risk from a variety of sanctions, ranging from the communal to the judicial, as possible witches.

Slander in social and legal context

The decision by Paulus and Barbara Brosam to bring their slander suit before the council in Rothenburg can also be understood in the context of ideas about honour and would have been made after a careful evaluation by the couple of the risks and benefits of such a course of action. On the one hand, by bringing slanders against themselves to the attention of a court in an attempt to clear their names, plaintiffs subjected those slanders to legal scrutiny and possibly to further investigation by the judicial authorities. Plaintiffs thus ran the risk of suffering imprisonment, interrogation and even torture themselves if the investigation of the slander pointed towards the conclusion that they were guilty rather than innocent of the allegations it contained. This happened in Rothenburg in 1563, when Appolonia Kellner and her daughter Anna, inhabitants of the hinterland village of Finsterlohr, were gaoled and tortured – Anna with thumbscrews and Appolonia with thumbscrews and strappado – after an attempt to clear their names of allegations of witchcraft made against them by their relatives went awry. They were banished from Rothenburg and its hinterland as a result of the investigation of the allegations, despite the fact that they had refused to confess to being witches.³⁴

On the other hand, to leave a slander unchallenged constituted tacit confirmation of the anti-social behaviour it implied. In the Finsterlohr case discussed above, for example, Leonhardt Knor – who was one of only two villagers willing to admit to the council in Rothenburg that he had ever publicly insulted Appolonia Kellner as a witch before 1563 – cited as evidence in support of his suspicions against her the fact that she had never taken action against his slanderous words.³⁵ Had Paulus and Barbara Brosam not reacted to the words of Lautenbach and Immell in 1561, therefore, this would have counted against them in the long term as proof of their possible guilt as witches. Moreover, given the widely held belief in witchcraft as an art passed on within households, Paulus and Barbara had to think not only of the need to clear their own

names of the slander but also of the need to protect the reputations of other Brosam family members, including those of their six children.

The slander suit initiated by the Brosams can also be understood in the context of their feud against Lautenbach and Immell, although it is hard to judge whether it was an act of aggression against the brothers-in-law, pursued by the Brosams from a position of strength within Wetrtingen, or an act of desperation, pursued from one of weakness and social isolation. The unwillingness of their neighbours to testify unequivocally against them and the fact that Paulus Brosam's father, Veit, was a man of some standing in Wetrtingen, who had held important positions within the administrative structures of the village since the 1520s, supports the former interpretation.³⁶ However, the fact that four members of the Brosam family already had reputations as workers of sorcery within the village by 1561 and the fact that Paulus and Barbara felt it necessary to pursue their suit before the council, where the consequences of failure would have been far more damaging for them, rather than at the village court in Wetrtingen, suggests that they may have become increasingly vulnerable to slanders about witchcraft by 1561 and needed to show their neighbours that they would go to the highest available judicial authority to defend themselves against them. They may also have been encouraged in their decision to bring the suit by the fact that Immell had already failed to prove an allegation of witchcraft against Hans Brosam at the Wetrtingen village court and been fined for slander for his pains. Ultimately their gamble paid off – with perhaps even higher dividends than they had expected – with the banishment of their enemies and their own release from gaol, untortured and unpunished.³⁷

The slander suit, or the threat of one, were thus important weapons which a reputed witch could wield, with some hope of success, against her detractors in early modern Germany: it was not the case, as Malcolm Gaskill assumes, that the threat of a prosecution for slander failed to deter people from making accusations of witchcraft in the context of continental inquisitorial procedure.³⁸ The significance of the deterrent effect of slander suits has hitherto been under-estimated and under-researched for early modern Germany, although some good work has been done for certain regions. For example, for the Principality of Bavaria Wolfgang Behringer points out that more people almost certainly appeared in the records of minor courts accused of having slandered others as witches than appeared as accused witches in witch-trials there, with most of the former cases ending with the punishment of the slanderer.³⁹ In her study of twenty-seven slander cases brought by alleged witches against their accusers before the court of Davensberg in the Prince-Bishopric of Münster in the early seventeenth century, Gudrun Gersmann shows that they also enjoyed a high success rate: only one of these alleged witches was subsequently prosecuted and executed for witchcraft by the authorities.⁴⁰ In

Rothenburg, the gamble of taking legal action against allegations of witchcraft was similarly successful for several alleged witches in the city and its hinterland after 1561.

In 1582, for example, it paid off for Gertraud Durmann, Anna Schneider and Anna Weh, who brought a slander suit before the council against Margaretha Seitz, one of their neighbours from the village of Oberstetten, after she had started rumours claiming that the trio were witches who had transported her against her will to their nocturnal gathering. As a result of their suit Seitz was imprisoned and interrogated and freed only after paying the costs of her stay in gaol, promising to present herself before the council if the plaintiffs brought further complaints against her, and providing two men to stand as sureties for her release. The plaintiffs were not imprisoned or questioned about her allegations.⁴¹ A case from the village of Steinach from 1602, in which the blacksmith's apprentice, Leonhardt Brandt, claimed to have seen five village women at a nocturnal witches' gathering, followed a similar pattern. The women's husbands brought a slander suit against Brandt; he was imprisoned and interrogated, but none of the women were; and he had to pay his costs and promise to desist from his slanders and to present himself before the council if the matter went any further before being released from gaol.⁴² Individuals deemed responsible for starting rumours of witchcraft against others could also be punished as slanderers by the council when their cases were investigated *ex officio* rather than as a result of a plaintiff's suit against them. In separate cases from 1629, for example, Barbara Rost of Rothenburg and Margaretha Harter of Bovenzenweiler were both banished, with Harter first suffering a flogging, for having spread such rumours. Unsurprisingly – given that they were the mayor's wife and one of the city councillors – the individuals slandered as witches by Rost were not involved at all in the legal investigation of her allegations, while the poor herdsman who was accused of witchcraft by Harter was questioned but subsequently released from custody without punishment.⁴³

Several factors explain why these cases ended with the punishment or reprimand of those who made accusations or who started and spread rumours of witchcraft, rather than the punishment of the alleged witches. Part of the explanation lies in the fact that the Rothenburg councillors took a dim view of all slanderers during the early modern period, as people who jeopardised the good names of others and who caused enmity between individuals and within communities with their damaging words. Indeed, the councillors were so firmly of the opinion that 'an honourable man should not talk about that which he cannot prove' – in other words, that no one should speak publicly against another person unless he or she was prepared to demonstrate the validity of his allegations in a court of law – that this dictum was displayed on a board which hung outside the council-chamber in the town-hall.⁴⁴ This meant that,

particularly until about 1650, the councillors approached allegations of witchcraft with reasonably open minds, regarding most alleged witches as potentially innocent of the charges against them and their accusers as potentially guilty of slander. As it was difficult to prove charges of witchcraft at law in Rothenburg, for reasons which are discussed later, it was perhaps not surprising that several late sixteenth- and early seventeenth-century cases saw the alleged witches escaped unscathed.

Second, the councillors in Rothenburg appear to have realised from an early stage that the pursuit of allegations of witchcraft against individuals to the bitter end of verdicts of guilt, executions, and possibly even mass trials was inimical to one of their main political priorities: the maintenance of social stability and harmony in the city and its hinterland.⁴⁵ Their resolution of the Finsterlohr case in June 1563, for example, provides a good illustration of their awareness that discretion was the better part of valour as far as the handling of allegations of witchcraft was concerned. Alleged witches Appolonia and Anna Kellner were tortured during the investigation of the case, but the council was willing to accept their denials that they were witches without subjecting them to further physical torment, despite the fact that, in its final summary of their crimes, the council stated that it could have done this had it so chosen. The official summary of the case also concentrated as much on the fact that mother and daughter were part of a troublesome family, whose members quarrelled, cursed, blasphemed and slandered one another, as it did on their alleged witchcraft. Moreover, Appolonia's other daughter, Appolonia junior (about whom suspicions of witchcraft had also been raised), and the latter's husband, Leonhardt Bretner, were also imprisoned, interrogated under threat of torture and banished along with Appolonia senior and Anna, for having frequently insulted their mother and sister as witches in the context of a bitter dispute over the family's material resources. By banishing all four of them the councillors rid Finsterlohr of a family which had caused great discord within the village and also impressed upon its subjects the idea that disruptive public speech, particularly about witchcraft, was to be avoided at all costs.⁴⁶ This idea was also underlined by the council by the fact that Leonhardt Knor, the Finsterlohr villager who had also once insulted Appolonia senior as a witch, was imprisoned and interrogated in the course of the case and released only after swearing a surety which pointed out that his allegations of witchcraft against her 'had not in the least been proven'.⁴⁷

The council's resolution of this case may well have been influenced by its awareness of events that had taken place in Wiesensteig, a Protestant town in the southwest-German county of Helfenstein, in 1562. Between August and December of that year sixty-three witches had been executed under the aegis of Count Ulrich von Helfenstein, after fears had been raised that witchcraft

was responsible for the severe hailstorms which had badly damaged vineyards in the area.⁴⁸ Although no mention was made of Wiesensteig in connection with the Finsterlohr case in 1563, it was mentioned by two jurists from Nuremberg, Christoph Hardessheim and Christoph Fabius Gugel, who were asked for advice on the Oberstetten case of 1582 by the Rothenburg council. They cited Wiesensteig as an example of the unpleasant consequences which could ensue if witchcraft cases were pursued on a dangerous, unstable basis by judicial authorities.⁴⁹ This suggests that the Wiesensteig trials, about which a sensational pamphlet had been published in 1563, had rapidly become a symbol of warning against the over-zealous pursuit of witches in certain southwest-German Protestant circles.

The resolution by the council in Rothenburg of the Oberstetten case from 1582 and the Steinach case from 1602 also underscored its lack of enthusiasm for hunting witches, as it chose to take the mildest course of action against the alleged witches from the differing opinions written on both cases by its legal advisers.⁵⁰ In 1582, for example, the three jurists called on by the council for advice on how best to handle the account given by Margaretha Seitz of the alleged witches' gathering in Oberstetten offered three different options for action against plaintiffs Gertraud Durmann, Anna Schneider and Anna Weh. Friedrich Renger advised the council that it could question the trio under oath about the allegations made by Seitz, but suggested that this be done in Oberstetten to spare them the ignominy of being called before the council in Rothenburg.⁵¹ Johann Metzler, on the other hand, advised the council to concentrate its investigative efforts against Durmann, who could be called before the council or even imprisoned for further questioning. This was because other inhabitants of Oberstetten had testified that rumours, of at least seven years' standing, existed in Oberstetten to the effect that Durmann had fetched her since-deceased husband back to the village on a goat after he had left her on account of their bad marriage.⁵² It was only the most recently appointed jurist, Cunradt Thalheimer, who advised that none of the plaintiffs be imprisoned or questioned on oath, on the grounds that the evidence against them was of dubious quality, and who was supported in his conclusions by Gugel and Hardessheim, the two Nuremberg jurists also called on for advice in the case.⁵³

The council followed Thalheimer's recommendation and took no action against the trio of alleged Oberstetten witches.⁵⁴ Again, a concern for social stability and an awareness that witch-trials and thoughtlessly voiced accusations of witchcraft threatened to undermine good social order appear to have influenced the council's decisions. The legal opinions written by Thalheimer and Gugel and Hardessheim played on these themes, with Thalheimer pointing to the risk of an escalation of enmity between the women involved in the case if it were not resolved rapidly, and the Nuremberg jurists reminding the council of the fact that

suspicious of witchcraft could provoke hostility and vengeful actions amongst people.⁵⁵ It is perhaps possible to set the concern of the councillors and their legal advisers with social order in 1582 against the backdrop of the severe dearth and inflation that Rothenburg – in common with much of Central Europe – had suffered as a result of a series of harvest failures caused by bad weather between 1570 and 1575.⁵⁶ Wolfgang Behringer has suggested that climatic catastrophes and the crop damage they caused could provide the trigger for episodes of witch-hunting in early modern Central Europe, because they encouraged desperate and fearful people to make demands for action against the witches believed responsible for magically causing the bad weather which judicial authorities found hard to resist.⁵⁷ In the aftermath of the famine of 1570–75, therefore, the Rothenburg authorities may have felt that the risk of such demands being made by their own subjects had increased, and resolved the Oberstetten case of 1582 in a manner which they hoped would diminish this risk.⁵⁸

The council also took the most moderate line of action suggested by its jurists in its resolution of the Steinach case from 1602. Evidence offered by other villagers during the investigation of the claims made by Leonhardt Brandt had suggested that Appolonia Holenbuch, one of the five women allegedly seen by Brandt at the witches' gathering, had a reputation of at least six years' standing as a witch who could cause other people's cows to fall ill and whose own cow produced unusually large quantities of milk.⁵⁹ Working on the theory that there was no smoke without fire, jurist Michael Bezold told the council that it might subject Holenbuch's reputation to further investigation. Jurist Friedrich Prenninger, on the other hand, advised the council to take no action against her or any of the other alleged witches on the basis of Brandt's testimony, and it chose to follow his advice.⁶⁰ It was probably also significant in 1602 and 1582 that stronger suspicions of witchcraft existed against only one of a group of alleged witches, so that the council's enthusiasm for singling Durmann and Holenbuch out for more intense investigation may have been further diminished by the thought that this risked tarring their less suspect co-plaintiffs with the same brush of apparent guilt.

In another case, the decision by the councillors to treat allegations of witchcraft as slanderous stemmed as much from a desire to protect themselves from the slur of witchcraft as it did from a desire to maintain social harmony. Barbara Rost, a maidservant in the household of Georg Bezold, was banished in 1629 for having started and spread rumours to the effect that Bezold's wife, Anna Maria, was a witch who had caused the erysipelas from which another maidservant in the household was suffering. Rost had also helped spread rumours, which were being repeated by school-children, about a nocturnal dance which had allegedly taken place in a vineyard belonging to the wife of Johann Bezold and in which the most distinguished men and women of the

city, including Johann Georg Schnepf, had participated.⁶¹ Georg and Johann Bezold were two of the most powerful men in Rothenburg, council-members since 1611 and 1612, respectively, and mayors from 1620 to 1632 and 1618 to 1634, respectively. Although younger than the Bezolds, Schnepf was of similar social status and in 1629 was poised at the start of a political career which would see him hold the office of mayor from 1633 to 1652.⁶² Rost's words thus threatened the honour of three of Rothenburg's pre-eminent men and their families, as well as the peace of the city at a time when exceptionally fierce witch-hunts were raging in the Franconian bishoprics of Würzburg, Bamberg, Eichstätt and Mainz.⁶³ It was therefore unsurprising that Rost was banished for slander and that the record of her sentence constituted one of the most virulent condemnations of that sin drawn up by the council during the sixteenth and seventeenth centuries.

Slander was punished in various ways in early modern Rothenburg. In minor cases which came before the urban and rural civil courts there was a tendency for presiding judicial officials to nullify the alleged defamatory words in order to restore the social peace between the parties involved. In addition, a fine could be imposed on the defendant who failed to prove his or her slander – as happened to Leonhart Immell at Wettringen's court – while short spells of incarceration, and the shaming punishment of carrying a large stone around Rothenburg were imposed more rarely, and for more serious slanders, on men and women, respectively. In cases involving allegations so serious that they risked exposing individuals to the rigours of criminal law procedure and which were proven to be untrue and malicious, the council was willing to make an example of the slanderers to the rest of its subjects with still more severe punishments. Banishment, with the option of time spent in the pillory and/or a flogging, was the favoured option, and was inflicted not only on those who falsely slandered others as witches, but also on men who falsely claimed to have deflowered single women and on people who fabricated false allegations against others for the purposes of extortion.⁶⁴ Hans Lautenbach and Leonhart Immell, Leonhardt Bretner and his wife Appolonia, and Barbara Rost and Margaretha Harter thus suffered the full force of the council's judicial wrath for their unguarded words in 1561, 1563 and 1629, respectively. Their treatment was in line with the law of talion, a medieval legal precept which continued to influence proceedings in slander cases in early modern Rothenburg and which decreed that individuals who brought but failed to prove charges at law risked suffering the same punishments their adversaries would have suffered had the charges been proven against them.⁶⁵ Their punishments were also in accord with clause 68 of the *Carolina*, which threatened the bearers of false witness with the same penalties they had tried to bring down on the heads of the innocent by means of their perfidious testimony.⁶⁶

The councillors were more cautious in their treatment of Margaretha Seitz of Oberstetten and Leonhardt Brandt of Steinach, however. Jurist Thalhaimer had advised fining Seitz for her rumour-mongering and even suggested to the council that she could be threatened with banishment as a way of 'stopping her mouth' in 1582,⁶⁷ while in 1602 jurist Prenninger suggested that Brandt could be gaoled for eight days on bread and water or punished even more severely for his slander, according to the law of talion, as this might help put a stop to what Prenninger regarded as the bad habit of the lower orders in making false accusations.⁶⁸ The council opted to release both Seitz and Brandt without punishment, however, having perhaps decided that their incarceration and interrogation had already been punishment enough. It probably did this because the legal investigation of their cases had unearthed no evidence of any malice on their part towards the alleged witches which would have provided an explanation of their motives in starting the rumours about them. Moreover, the council had to be as mindful of social harmony in its handling of alleged slanderers as it was in its handling of alleged witches. Too severe a punishment of slander risked escalating, rather than assuaging, enmity between individuals. This can be seen in the aftermath of the Wettringen case from 1561. About five weeks after his banishment, Hans Lautenbach – enraged at the way in which the slander suit had ended and even more embittered against the Brosams – was arrested and gaoled in Rothenburg for a second time, after he had returned to Wettringen, repeated his accusations of witchcraft against Paulus and Barbara, and tried to stab another member of the Brosam family. That Lautenbach could still find four men willing to stand surety for his release after his second spell in gaol shows that he was by no means friendless at this stage; that the council merely banished him again, rather than punishing him more severely for having so violently broken his first surety, suggests that it was keen to show his friends that it was willing to exercise some mercy on his behalf.⁶⁹ In an attempt to restore communal harmony to the village of Steinsfeld in 1664 the council ensured even-handed treatment of both the slandered and their slanderers by ordering that anyone who repeated what it characterised as 'loose, careless children's gossip' about 'imagined witchcraft' was to be fined heavily.⁷⁰

Witchcraft in legal context

The fact that the Rothenburg council was prepared to treat allegations of witchcraft as potential slanders and to punish with severity those allegations of witchcraft it deemed to be untrue, malicious, or particularly threatening to the social fabric, worked to the advantage of several of the alleged witches who appeared before it in the late sixteenth and early seventeenth century.

The other half of the legal equation which worked to their advantage was that allegations of witchcraft were generally difficult to prove at law, according to legal procedure as it was implemented by the councillors and interpreted by the jurists who advised them. This was primarily because torture was used either not at all, or with relative restraint, against alleged witches in the course of trials.

The manner in which early modern German courts were willing to use torture in witchcraft cases was crucial to their outcome, because the less frequently and severely torture was applied, the less likely it was that confessions of guilt would be elicited from suspects. In Rothenburg, torture was used against only nine of the forty-one people who were accused of witchcraft or who claimed to be witches between c. 1561 and c. 1652.⁷¹ This restraint stemmed from a tendency on the part of councillors and jurists to subject the evidence that existed against alleged witches to careful scrutiny, in order to ascertain whether or not it constituted an indication of guilt sufficient to justify interrogating them under torture, rather than to assume their guilt as a fore-gone conclusion. In the Oberstetten case from 1582, for example, Thalheimer – whose advice on the case proved most influential – argued that Seitz, as the only person who could testify to the alleged witches' gathering, did not constitute a good enough witness to justify even imprisoning, let alone torturing, the three plaintiffs. This was because, as the defendant in the defamation case, she had a vested interest in proving her story true, and because the generally inferior legal status of women meant that Seitz did not constitute a sufficient witness on her own in a criminal case.⁷²

Thalheimer was equally dismissive of Gertraud Durmann's alleged ill-fame as an additional proof of her guilt, pointing out that none of the Oberstetten villagers who had mentioned the rumours concerning her alleged transportation of her husband back to Oberstetten on a goat had specified from whom they had originated. He added, by way of devaluing the rumours, that it was the habit of the ignorant lower orders to call old women witches on the slightest whim.⁷³ This point was reiterated by Metzler, who told the council that the ill-fame in which Durmann stood would constitute a valid presumption of guilt against her only if the rumours which had created it could be shown to have been voiced first by honourable and credible people.⁷⁴ This was in line with clause 25 of the *Carolina* which, like clause 68, sought to minimise the influence of personal malice on legal procedure by stipulating that a suspect's ill-fame had to be proven to emanate from an impartial source, and not his or her enemies, before it could be counted against the suspect by a criminal court.⁷⁵ This proof was very hard for the council in Rothenburg to obtain, however, partly because some witches' reputations could be decades old before they came to its attention, and chiefly because the witnesses who testified in witchcraft cases were

loathe to specify who had originally started rumours about alleged witches. Rumours against suspected witches in these cases therefore tended to remain general, in the sense that no-one was willing or could be made to take personal responsibility for them, and they were regarded as legally weak as presumptions of guilt of witchcraft as a result.

The councillors and jurists in Rothenburg were not always as scrupulous in their evaluation of the presumptions of guilt that existed against alleged witches as they were in 1582, however, and in some cases subjected suspected witches to interrogation under torture rapidly or on the basis of technically dubious testimony. This happened in 1587 and 1652, for example, in cases discussed in Chapters 3 and 6, respectively. It also happened in 1563, when Appolonia and Anna Kellner were subjected to torture during their first and only session of interrogation in custody and before the men of Finsterlohr had been questioned about the provenance of the rumours which were circulating against them in the village.⁷⁶ No legal opinions exist or appear to have been called for on this case. However, the final case summary suggests that it was the explicit and public accusations of witchcraft, frequently bandied about between the members of the Kellner family and repeated before the council during the attempt by Appolonia and Anna to clear their names of them, that had counted so heavily against mother and daughter and justified their rapid interrogation under torture.⁷⁷ This was probably because the council found it hard – at least initially – to believe that malice could be the cause of allegations of witchcraft made by such close relatives and therefore assumed that there might be some truth in them. It proceeded no further with its investigation, however, after Appolonia and Anna had denied the allegations under torture and the men of Finsterlohr had failed to substantiate the rumours of witchcraft that existed against them. This was because the council worked on the principle that, by withstanding the pain of torture and refusing to confess, an alleged witch purged herself of whatever presumptions of guilt had justified her interrogation under torture in the first place, and could not be tortured again unless new evidence against her came to light.⁷⁸

When employed in witch-trials in Rothenburg, therefore, torture tended to be used in order to test the consistency of the statements made by suspects, rather than without restraint, to force them to confess their guilt. The highest number of bouts of torture inflicted on suspected witches in any one case was five, although between one and three bouts was more usual.⁷⁹ It was possible for adult women who possessed strong wills, sound minds, a conviction of their innocence, a fear of banishment or execution, a piety which sustained them during interrogation, and feelings of anger against both their accusers and judges, to resist even five bouts of torture and not only refuse to confess to being witches but, in some cases, to develop more sophisticated strategies of defiance

against their interrogators. No woman of this type who believed herself innocent at the start of a case was convinced otherwise in early modern Rothenburg. It was rather children and weak-minded women, who had trouble differentiating between fantasy and reality or who had self-destructive tendencies, who were willing to admit to being witches, often without suffering any torture and to the perplexity of their interrogators. The absence of large numbers of executions of witches in Rothenburg may have given individuals determined to maintain their innocence the degree of confidence in the outcome of their trials necessary to enable them to endure torture and the other privations of a period of captivity in the city gaol without succumbing to the physical and psychological pressures of the judicial process and conceding their guilt.

The relatively restrained use of torture against alleged witches in Rothenburg was in keeping with the general tenor of the *Carolina*, key aims of which had been to eradicate local abuses of criminal law procedure, particularly in relation to the infliction of torture, and to afford all alleged criminals a greater degree of protection against arbitrary treatment by local courts, particularly by stipulating that judges who tortured suspects improperly could be sued by them for compensation.⁸⁰ This reluctance may also have been influenced by the council's awareness that over-zealous use of torture was open to popular criticism. For example, in 1652 jurist Georg Christoph Walther suggested that voices had been raised against the council's actions in two ongoing cases in which alleged witches Catharina Leimbach of Wetztingen and Margaretha Horn of Bettenfeld had been subjected to the thumbscrews five times each.⁸¹ Popular disapproval of excessive or unjust use of torture stemmed from the fact that torture risked injuring suspects and jeopardising their ability to earn a living even if they were released from custody without punishment, as well as rendering them dishonourable, because it was inflicted by the municipal executioner.⁸² In areas where popular enthusiasm for prosecuting witches formally remained at a low ebb, therefore, it was not something for judicial authorities who cared about public opinion to resort to lightly.

More importantly, however, the reluctance of jurists and councillors to advise and implement the use of torture with much enthusiasm against alleged witches in Rothenburg – and, indeed, their reluctance to pursue allegations of witchcraft with enthusiasm at law at all – stemmed from their belief that witchcraft, as an invisible and primarily spiritual crime, was extremely difficult to deal with according to the fallible processes of human law. In 1582, for example, Thalheimer referred to cases of witchcraft as difficult and slippery matters, while Metzler described the ongoing Oberstetten case as doubtful, difficult and dangerous.⁸³ Jurists advising on later cases wrote in similar vein: Friedrich Prenninger noted that witchcraft cases were difficult, doubtful and uncertain in opinions he wrote in 1587 and 1602, Michael Bezold referred to the Steinach

case from 1602 as doubtful, and Georg Christoph Walther described witchcraft as the most unclear and puzzling form of magic in 1639.⁸⁴

At certain times judicial authorities in certain other parts of Germany responded to the difficulty of proving witchcraft at law by treating it as an exceptional crime, one so heinous and threatening that all the inbuilt safeguards of due legal procedure, and particularly those pertaining to the use of torture, could be set aside in the pursuit of verdicts of guilt. It was in these circumstances, where torture was used without restraint, that confessions were most likely to be forced from suspected witches and large-scale episodes of persecution were most likely to occur.⁸⁵ In Rothenburg, however, the awareness that witchcraft was a difficult matter had the opposite effect, convincing jurists and councillors alike that discretion was the better part of valour in their handling of witchcraft cases, because the potential consequences of guilty verdicts – execution and the possibility of mass trials – were so dreadful for the alleged witch and the wider community alike.

This caution was evident in the ways in which the council handled and resolved cases of witchcraft: according to due legal procedure (as laid down in the *Carolina* and the legal precepts governing slander) and never as an exceptional crime. This caution was also clearly expressed in the words of the jurists who advised the council on witchcraft cases. In 1582, for example, Metzler advised the council to proceed in the Oberstetten case in a cautious and careful manner, while both Renger and Prenninger insisted that it was better to proceed too slowly rather than with too much haste in such cases.⁸⁶ In a variation on this theme, Prenninger noted in his opinion on the Steinach case from 1602 that, precisely because they were so serious, criminal cases should be pursued only on the basis of proofs that were ‘clearer than the hot sun at midday’. These were clearly lacking in the Steinach case, because for Leonhardt Brandt to say that he had seen a witches’ gathering by no means proved that it had really happened.⁸⁷ This counsel of caution was expressed most eloquently by Georg Christoph Walther in an opinion he wrote – and which the council followed – in 1652. He pointed out that if the secret and uncertain matter of witchcraft could not be proven according to due legal procedure, judges were not to exceed this, but were rather to release suspected witches unpunished. It was better for judges to free a hundred guilty individuals than to execute one innocent person unjustly; God would know if they were truly guilty and punish them accordingly himself. Here Walther underlined how hard it was for mere mortals to prove witchcraft unequivocally and suggested infallible divine judgement, rather than the treatment of witchcraft as an exceptional crime by earthly courts, as the best solution to the problem.⁸⁸

Reluctance to accuse: witchcraft in popular perspective

The legal caution displayed by the council would have had much less effect on the frequency and severity of witchcraft prosecutions in Rothenburg, however, had the inhabitants of the city and its hinterland not evinced a marked lack of enthusiasm for accusing their neighbours of witchcraft formally at law during the early modern period. This is an important point, as historians of European witchcraft now agree that the initial impetus in most witchcraft trials came from the lower orders, in the form of accusations against specific suspects or general pleas from subjects to their lords demanding tougher action against witches.⁸⁹ This popular initiative was taken a stage further in parts of Germany where traditions of peasant autonomy remained strong, where concern about witchcraft became heightened, and where – either consciously or subconsciously – villagers realised the potential for pursuing social conflicts by means of witchcraft accusations most effectively. In much of the western part of Germany, for example, the witch-hunting initiative between the late sixteenth and mid-seventeenth century came from committees of village men, formed with the express purpose of starting and pursuing legal proceedings against suspected witches in their communities. Territorial lords were often powerless to ignore or abolish these committees, despite their desire to do so.⁹⁰

In the villages of Rothenburg's hinterland, from where most witchcraft cases emanated until the later seventeenth century, no similar witch-hunting organisations were formed, however. This was despite the fact that traditions of peasant autonomy had also remained strong there: the widespread participation of Rothenburg's peasant subjects in the Peasants' War of 1525, for example, was organised in each village through the *Gemeinde*, the committee of propertied male householders responsible for regulating and overseeing the affairs of their community which continued to play an important role in hinterland village life until about 1630.⁹¹ Petitions calling on the city council for action against witches were also conspicuous by their absence in early modern Rothenburg and accusations of witchcraft against specific individuals were brought before the council with relative infrequency. Given that belief in the ability of witches to work maleficent magic was as common in this area as it was in the rest of Europe, why was this the case?

Part of the answer to this question lies in the power which the laws pertaining to slander had not only to curb popular enthusiasm for the making of formal witchcraft accusations, but also to shape speech about witchcraft within communities more generally. Testimony from cases of witchcraft that did reach the council in Rothenburg suggests that knowledge of the risks run in speaking incautiously about witchcraft was widespread amongst the council's subjects, even if it was not always acted upon. For example, in 1602 Leonhardt Brandt

was so painfully conscious of his potentially parlous position as the creator of the rumours against the five alleged witches of Steinach that he burst into tears in custody, told his interrogators that he had been foolish in failing to consider adequately the consequences of his talk about the women, and begged them to forgive his mistake in having repeated his story of the witches' gathering to other Steinach villagers.⁹² In her statement to the council Brandt's fiancée, Elisabetha Meck, claimed that she had warned Brandt against even peeping in at the window of the house where the witches' gathering had supposedly taken place, telling him that he could not be made answerable for something he had not seen.⁹³

Similar reactions were elicited from Barbara Rost, the woman held responsible for starting and publicising witchcraft rumours about mayor's wife Anna Maria Bezold, and Susanna Negelein, a witness questioned about Rost's rumour-mongering, in 1629. Like Brandt, Rost burst into tears in council custody, claimed that she had not really understood the implications of her words about Anna Maria and expressed the wish that she could unsay them, while Negelein told the councillors investigating the case that she had warned Rost to keep quiet about Frau Bezold or risk being flogged out of the city as a slanderer.⁹⁴ It is impossible to tell whether the lamentations of Brandt and Rost in custody were genuine, or tactical ploys to gain the council's sympathy, or whether Meck and Negelein had really demonstrated such sagacity at the time of the respective incidents, or were expressing it retrospectively, in order to deflect any suspicion of complicity in the rumour-mongering away from themselves. What the four of them said and did during the investigation of the respective witchcraft allegations, however, testified to their awareness of the risks of prosecution and punishment run by people deemed personally responsible for starting slanders against others.

The inhabitants of Rothenburg and its hinterland were so generally cautious in speaking of witchcraft that the depth of a person's conviction about another's identity as a witch was equated with the manner in which they were willing to talk about her. In a case from 1671, for example, witnesses Hans Deeg and Michel Horn testified to the tenacity with which the deceased Andreas Horn had believed that his former mistress, Appolonia Glaitter of Windisch-Bockenfeld, had lamed him through witchcraft, by describing Horn as having been without reserve in speaking about the suspicions he held against Glaitter, and willing to repeat them publicly rather than secretly, to everybody, and to her face.⁹⁵ It is, in fact, possible to discern four levels of publicity – or openness, as a more literal translation of the German word *öffentlichkeit* – at which speech about witchcraft circulated in Rothenburg and its hinterland villages. The first and most acceptable, because most secret, was when suspicions of witchcraft were voiced within the confines of one's own house, or to just one

or two intimate acquaintances.⁹⁶ The second level was reached when rumours that someone was a witch began to circulate more widely within her community and in public spaces – such as streets, bath-houses and taverns – and the third when these rumours linked an individual with specific acts of witchcraft, like attending witches' gatherings and harming her neighbours, their families, livestock and livelihoods.⁹⁷ The fourth and most explicit speech about witchcraft was when individuals who believed that they or theirs had been bewitched accused the suspected witch personally, often after having identified her by means of consultations with cunning men. This direct accusation was known literally as 'saying it to someone's face' and often took the form of the standard plea for lifting a bewitchment: the witch was begged to do this for God's sake three times.⁹⁸

Of course, as soon as a specific accusation was made against an alleged witch, or rumours about her were traced back to a specific individual, she had the option of a slander suit, or the threat of one, as a defensive weapon to silence her detractors. This also helps explain the unwillingness of individuals to take personal responsibility for accusations of witchcraft, a necessity circumvented in those parts of Germany where villagers formed witch-hunting committees who bore this responsibility and the financial risk it entailed collectively.⁹⁹ That the slander suit was acknowledged as at least one of the fairly standard and potentially effective ways of reacting to an accusation of witchcraft in the villages of Rothenburg's hinterland was shown by Martin Göller of Adelshofen in 1668, in a statement he made during an investigation into allegations of witchcraft made by seventeen-year-old Margaretha Fischer against her foster-mother, Susanna Lamer. Göller described Susanna and her husband Anthoni as quarrelsome and told the council that Anthoni was in the habit of calling his wife an old witch when he was drunk. As Anthoni had done this publicly at the village tavern as well as at home, Göller had told him to desist and explained to him that if other villagers called Susanna a witch he should go into Rothenburg to bring slander suits against them. As Anthoni and Susanna had moved to Adelshofen at the end of the Thirty Years' War from outside Rothenburg's hinterland, Göller's remarks were intended as instruction to them as newcomers of proper procedure in such matters, as well as a warning to them of the inadvisability of using so potentially damaging a word as 'witch' so openly and explicitly.¹⁰⁰

Many of the statements made by witnesses called on to testify about allegations of witchcraft that became the subject of legal proceedings were also characterised by caution and indirectness. This suggests that popular awareness of the laws pertaining to slander and of the risks run in flouting them continued to influence speech about witchcraft even at this stage of proceedings, when it might, perhaps, have been expected that the council's willingness to

investigate the allegations formally would have signalled to its subjects that more open speech was permissible. On the whole, however, witnesses might confirm that general rumours about an alleged witch – and/or her family or forebears – had been circulating for some time, but often added that they personally had never seen or heard anything to confirm the rumours, had no idea how they had originally started, and personally knew nothing bad about the suspect in question.

The statements given by Hoffman, Herman, Haim and Kurtz about Paulus and Barbara Brosam in the 1561 Wettringen case discussed earlier followed this pattern, as did those given by the eight men and four women of Oberstetten called on to testify about the alleged transportation of Margaretha Seitz to the nocturnal gathering of Gertraud Durmann, Anna Schneider and Anna Weh in 1582. All the Oberstetten witnesses claimed to know nothing of the matter beyond what Seitz herself had said about it. The eight men mentioned the old rumours to the effect that Durmann had allegedly transported her husband back to the village on a goat, but five of them were unwilling to say whether or not they believed them and the remaining three stated that they disbelieved them. The women witnesses claimed never to have heard the rumours at all. Five of the men offered additional evidence which might have been damaging for Durmann and Weh. They pointed out that Durmann had a brother living outside Rothenburg's hinterland who was a cunning man and that Weh's mother and grandmother, who also lived outside the hinterland, were rumoured to be witches. None of the other witnesses confirmed these points, however, and the five men who had offered them lessened their significance, for Durmann at least, by adding that she had little to do with her brother. All the witnesses praised Durmann and Schneider as hardworking housewives and diligent churchgoers and were as positive about Weh, who had only recently moved into the village and kept herself to herself, as they could be.¹⁰¹

The witnesses called on to testify about the wives of Jörg Stahl, Frantz Kupfer, Daniel Kraft, Michel Lientschner and Leonhardt Holenbuch, the five women accused of being witches by Leonhardt Brandt in 1602, were similarly cagey in what they said about them to the council. Again, while they were willing to confirm that common talk existed connecting Appolonia Holenbuch with witchcraft, they added that they could not personally say anything bad about her and that they could specify no-one as personally responsible for the rumours which existed against her.¹⁰² In 1629 the men of Bovenzenweiler, Obereichenroth and Untereichenroth were equally unwilling to say anything to the council to confirm the accusations of witchcraft that Margaretha Harter of Bovenzenweiler had made against Anna Dieterich, the old herdsman of Untereichenroth.¹⁰³

To an extent, of course, the inhabitants of Rothenburg and its hinterland were unwilling to accuse others of witchcraft or to testify explicitly against alleged witches because of the deterrent message that council policy with regard to witchcraft and slander conveyed to them: that speech of this sort was more likely to lead to their own punishment for slander than it was to a verdict of guilt against the alleged witch.¹⁰⁴ However, the aims behind the laws pertaining to defamation which influenced popular speech about witchcraft – to protect the honour of individuals and to prevent and defuse social conflict – were shared by, not simply imposed upon, the council's subjects, for whom at least the attempt to foster amity made more practical sense for the wellbeing of their communities than the fostering of enmity. These aims were also enshrined in various aspects of the customs of the hinterland villages, which had been established during the late medieval period in order to regulate communal life, and they motivated the application of law by the minor courts of the hinterland, which were staffed by jurors drawn from the male householders of the villages over which they held jurisdiction.¹⁰⁵

Moreover, there is evidence to suggest that the council's subjects had no more patience for people who slandered others persistently and with potentially serious consequences than the councillors themselves had. This can be seen from the statements given by the nineteen men of Finsterlohr about the quarrelsome Kellner family in 1563. In what was to become a familiar pattern, they confirmed that Appolonia senior had been reputed a witch for at least thirty years, but added that they had no idea how the rumours against her had started and that no harm had been done to the villagers' cows – a favourite target of witches – while she had lived at Finsterlohr. However, they confirmed that Appolonia and her daughters had persistently and publicly accused one another of witchcraft and implied that they were held in disdain by their neighbours for behaving in this way. Some of them had even tried to persuade the women to stop slandering one another, for, if it was uncharitable for neighbour to call neighbour a witch, how much less charitable was it for members of the same family to do this to each other? The Finsterlohr men also conceded that something should have been done about this troublesome family a lot sooner, and the banishment of Appolonias senior and junior, Anna and Leonhardt Bretner was doubtless as much a relief to the Finsterlohr villagers as it was to the council.¹⁰⁶ In other cases the angry reaction of alleged witches and their families towards those they believed responsible for the public talk against them illustrates the depth of feeling such talk could arouse and the discord it could produce within communities. In the Hilgartshausen case from 1587 discussed in Chapter 3, for example, the story of witchcraft circulating in the village triggered inter-personal violence and even death-threats between accusers and accused, while in the Steinach case of 1602, one of the five women accused of

witchcraft by Leonhardt Brandt accosted Brandt's fiancée, Elisabetha Meck, after the arrest of Brandt, called her a dissolute, stinking, thieving whore, and threw stones at her.¹⁰⁷ Thoughtless public talk about so potentially serious a matter as witchcraft always threatened an escalation of conflict within communities and was thus something not to be encouraged or undertaken lightly by their inhabitants.

The laws pertaining to slander and the ideal of curbing enmity which animated them thus formed an important part of the explanation for the reluctance to prosecute witchcraft evinced by the inhabitants of Rothenburg and its hinterland. The desire to preserve the stability of – and their own positions within – existing social hierarchies may also have motivated the men involved in certain cases to quash, rather than pursue, potential outbreaks of witchcraft accusations. In Steinach in 1602, for example, the husbands of the women who featured in Leonhardt Brandt's tale of the witches' gathering were quick to bring a slander suit against him on behalf of their wives. Brandt's words not only placed the reputations of their wives and households at risk, but also jeopardised the proper order of the village by suggesting that single, dependent youngsters could threaten established households by speaking out of turn about witchcraft. Before his arrest on the defamation charge Brandt seems to have been aware of the power that his briefly held position as the identifier of witches gave him over men who were his superiors in age, status and wealth. On being asked by Hans Bröschel, the village innkeeper and one of the richest men in Steinach, whether he had seen Bröschel's wife at the witches' gathering, Brandt replied magnanimously that he had not and that Bröschel need have no fear on that score.¹⁰⁸ Brandt's power was, however, shortlived, as was to be expected given that three of men whose wives he had slandered – Kraft, Stahl and Kupfer – were members of Steinach's *Gemeinde*, with Kraft as one of its leading figures.¹⁰⁹ The treatment of Barbara Rost by the Rothenburg councillors in 1629, discussed earlier, can be understood in similar terms, as the action of men keen to protect their own wives and positions within the community by quashing the thoughtless words of the socially and economically marginal.

It may also have been the case that the inhabitants of Rothenburg and its rural hinterland were less willing to prosecute witches formally, perhaps to the death, because they were not, on the whole, overwhelmingly frightened of them.¹¹⁰ The Rothenburg evidence offers glimpses of what is perhaps best described as a spectrum of popular concern about witchcraft, in which people felt varying degrees of envy, hatred and fear towards alleged witches and were thus differently disposed towards the question of how best to deal with them in specific contexts. At one end of this spectrum was the depth of feeling aroused in Benedict Wücherer of Schmerbach, who slit his wife Magdalena's throat with a knife in June 1627 because he thought she was a witch and because he wished

to be rid of her so he could marry another woman; he was broken on the wheel for murder for his pains.¹¹¹ At the other end, however, lay an awareness of the possibility that talk of witchcraft could be the subject of humour, or could be used strategically by individuals in order to pursue feuds.¹¹² In the broad middle-ground of this spectrum it appears that people could adopt a pragmatic approach towards reputed witches and tolerate them within their communities for years, even decades, without taking any action against them which left its mark in written records. This approach is suggested in the communal testimony offered by the inhabitants of Wettringen, Finsterlohr, Oberstetten, Steinach, Bovenzenweiler, Untereichenroth and Obereichenroth, discussed above.

This spectrum of popular attitudes could be replicated and refined in specific cases, when it was usually the people who were involved in feuds or disputes with the alleged witch, or who were her nearest neighbours and thus felt themselves under greatest threat from their proximity to her allegedly malign influence, or who were weak-minded and particularly fearful of witchcraft as a result, who were most willing to testify against her, while people with less negative emotional investment in their relationships with her were correspondingly less driven to do so.¹¹³ A person's fear of witchcraft could also vary according to the times at which they felt themselves to be most vulnerable to its threat. These might include life-cycle events such as childbirth or times of the year such as Walpurgis Eve (30 April) when witches were commonly believed to be especially active.¹¹⁴ Popular concern about witchcraft was thus not uniform; it varied from individual to individual according to their psychological predisposition to anxiety, their personal relationships with alleged witches and the particular context of their own lives. Many of the inhabitants of early modern Rothenburg and its hinterland were therefore probably quite capable of believing in witchcraft without using the law against everyone ever suspected of it and without personally believing that a particular individual, accused by someone else, was necessarily a witch.

The rarity of executions in Rothenburg also helped keep popular concern about witchcraft at a low level. It seems reasonable to assume that the execution of people condemned as witches – and particularly of several or many at once, as was the case in larger-scale episodes of prosecution – carried out in front of large crowds and preceded by the promulgation of the crimes they had supposedly committed, could have increased the fear of witches felt by the inhabitants of an area. It may also have increased the vengeful desires of families who had already lost relatives to the executioner to demand the continued pursuit of other suspected witches by the authorities.¹¹⁵ The idea that the legal mechanisms for dealing with witchcraft could whip up greater concern about the crime was recognised by contemporaries. For example, during the Navarre trials of the early seventeenth century, inquisitor Salazar suggested a connection between

the public promulgation of sentences at executions and the perpetuation of trials, commenting that, 'there were neither witches nor bewitched until they were talked and written about'.¹¹⁶ With relatively infrequent cases involving allegations, suspicions or confessions of witchcraft, no large-scale episodes of prosecution and just three executions for witchcraft in 300 years, the inhabitants and authorities of Rothenburg lacked the opportunity to stir each others' fears about witchcraft to the sort of frenzy which demanded sustained legal action to the point of mass trials and executions for its appeasement.

Their reluctance to prosecute alleged witches left the inhabitants of Rothenburg and its hinterland largely reliant on a set of non-legal options for coping with witchcraft. Given the paucity of guilty verdicts reached in witchcraft cases by the council, these were doubtless regarded as more effective than the law by the populace. The most important of these options was the vast panoply of strategies of white or beneficent magic with which most people believed that it was possible to counteract and contain the threat of witchcraft; these are discussed in more depth in Chapter 2. Other options also existed. The afflicted party might beg the witch for relief if other remedies against her bewitchments had been tried and found wanting.¹¹⁷ To avoid bewitchment in the first place, neighbours might try to have little contact with a suspected witch, in their everyday exchanges with her and especially at times at which they regarded themselves and their households as particularly vulnerable to malevolent external influences.¹¹⁸ Other people may have regarded placation as the best policy and tried to maintain at least the semblance of neighbourly exchange with suspected witches. It was only when the patience of an individual, household or village faction with a suspected witch became exhausted, or when their concern about her outweighed their ability or willingness to tolerate her presence, or when a particularly favourable set of circumstances encouraged them to do so, that a formal charge against her might be brought or an attempt to drive her out of the community made.¹¹⁹ None of these strategies was without risk or assured of success for the protagonists involved, however: to use cunning folk risked questioning or reprimand by the authorities,¹²⁰ while to accuse a suspected witch risked angering her and rendering oneself vulnerable to further bewitchment or a counter-accusation of slander.¹²¹

Suspected witches also had a set of options for trying to defend themselves against the suspicions of their neighbours which operated largely outside the law. For example, they might keep themselves to themselves as much as possible in order to minimise social exchanges with their neighbours, as such exchanges could always be interpreted or re-interpreted by people who believed them to be witches as a cause of bewitchment.¹²² Or they might try to live as blameless a life as possible, seeking to convince their neighbours of their essential goodness by means of their good housekeeping and parenting, their

piety and peaceableness, and their willingness to help others.¹²³ Once suspected of an act of bewitchment, they might challenge the maker of the accusation or the starter of the rumours against them verbally (with insults or threats) or physically (with violence),¹²⁴ or try to persuade them to retract their allegations in an out-of-court settlement negotiated by other neighbours,¹²⁵ or accuse them formally of slander at one of the hinterland courts or before the council itself. The willingness of a reputed witch to bring a defamation suit against her detractors or to continue to live in a community despite the suspicions which existed against her often depended on the amount of support she was able to call on from her family and on the standing which her family enjoyed within the community. If the latter dwindled to a dangerous extent, the witch and her family might decide to cut their losses and move elsewhere, or to appeal to the council as their overlord for protection against the hostility of their neighbours.¹²⁶ For the alleged witch, the danger to survival lay in failing to take action against the suspicions raised against her, as this risked her own exclusion from important networks of social and economic exchange within her community and damage to the reputations of the rest of her family.

The predominantly non-legal system of coping with suspected witches was so strong and the incentives to abandon it in favour of more frequent use of the law so weak, that it held firm in Rothenburg throughout the early modern period. This was the case even during periods of dearth and inflation, times which Wolfgang Behringer has identified as crisis points at which the lower orders were most likely to press the authorities for action against the witches believed to have caused harvest failures with their weather-magic.¹²⁷ This suggests either that the Rothenburg authorities had ways of coping with such crises which obviated popular demand for witch-trials, or that the lower orders did not perceive action against witches as the best solution to agrarian crises. As was the case with the Rothenburg elites, however, the popular lack of enthusiasm for prosecuting their neighbours as witches was not altruistic. It was rooted to a great extent in the pragmatic self-interest of individuals and families and to some extent in their awareness of what was best for their communities, and had little or nothing to do with the well-being of the alleged witches themselves. Moreover, as was suggested at the start of this chapter, the limited pattern of formal prosecution for witchcraft in early modern Rothenburg was the result of a complex and delicate equilibrium of mutually reinforcing factors which operated at, and interacted between, both elite and popular levels. Just as elite restraint in prosecuting witches was encouraged by popular unwillingness to accuse them formally, so popular enthusiasm for accusation was discouraged by the way in which cases were treated by the council when they came to court. After all, witnesses offered many general clues that pointed towards the guilt of certain individuals as witches in their testimony; what was significant was that

the councillors chose, on the whole, not to act upon them. Chapter 2 will explore further the other side of the balance: the beliefs and priorities which lay behind the unwillingness of the elites to use the law to hunt witches in early modern Rothenburg.

Notes

- 1 RStA Surety Book A846 fols 433v–441v.
- 2 See Appendix for details. I have included the 1549 case of Dorothea Klenneckh and the 1663 case of Michael Würth (briefly discussed in Chapter 5) in these figures: the dates in the book's title refer to the first and last cases discussed in depth in Chapters 1 (1561) and 6 (1652), respectively. After 1652 there were only two other executions for witchcraft in Rothenburg, in 1673 and 1692.
- 3 Lautenbach did not say 'witch'; instead he said that 'something' ('etwas') had pressed him. This unwillingness to use the words 'witch' or 'witchcraft' when giving testimony was common in Rothenburg's witchcraft cases, supporting one of the main arguments of this chapter: that the area's inhabitants were reluctant to speak publicly and explicitly about witchcraft.
- 4 RStA Interrogation Book A858 fols 21v–22v.
- 5 *Ibid.*, fols 22v–23v, especially fol. 23r: 'Vnnd er besorget es dorffe wol derselbig Handdell sein.'
- 6 *Ibid.*, fols 23v–24v, especially fol. 24v: 'er hete nit vermaindt das er vnd sein hauff sollche leuth were[n].'
- 7 *Ibid.*, fols 24v–25v.
- 8 *Ibid.*, fols 19r–20r.
- 9 *Ibid.*, fols 14r–16v.
- 10 *Ibid.*, fols 16v–19r.
- 11 See p. 18 for discussion of Zöllner's testimony.
- 12 RStA Interrogation Book A858 fols 19r–21v.
- 13 Sehling, *Die evangelischen Kirchenordnungen*, pp. 561–616, see pp. 612–614. If the pastor failed in this endeavour, such parishioners were to be sent to Rothenburg's Superintendent (the city's foremost ecclesiastical official) and then to the Consistorium (the city's Church Council) for further exhortation, and only in the last resort – and 'not hurriedly' – to the city council for possible punishment.
- 14 *Ibid.*, fols 28r–29r.
- 15 *Ibid.*, fols 29v–31v.
- 16 *Ibid.*, fol. 30r. This evidence was given by Hoffman, who had been in Hans Kapp's tavern when Lautenbach had first made public his allegation against the Brosams.
- 17 Radbruch, *Die Peinliche Gerichtsordnung*, clause 44, p. 52. The other indications of possible guilt of witchcraft, on the basis of which courts might use torture against suspected witches, were: if the suspect offered to teach others witchcraft; if he or she threatened to bewitch someone and the bewitchment subsequently occurred; and if he or she used suspicious objects, gestures, words or behaviour which suggested that they were working witchcraft.
- 18 The hope behind a confrontation was that one party would break down and admit that they had been lying: it put pressure on suspects without the need to torture them.
- 19 RStA Interrogation Book A858 fols 34r–36r.
- 20 *Ibid.*, fols 34v–36r.
- 21 *Ibid.*, fol. 35r: 'ob der Henncker Inne zuvor nit lanng genug an dem strick gefuert hete, so wurde er Inne lenng[er] fuern.'
- 22 *Ibid.*, fols 35v–36r: 'Allein das hab Ime so Whee thun.'
- 23 On the importance of honour in early modern German society, see Roper, 'Will and honour', especially pp. 64–66; Schwerhoff, *Köln im Kreuzverhör*, pp. 312–322; Müller-Wirthmann, 'Raufhändel'; Walz, 'Schimpfende Weiber'; Rowlands, 'Women, gender and power', pp. 40–89.

- 24 See RStA Blood Book B665 fol. 21v; Civil Court Book B304 fols 123r–123v.
- 25 Stuart, 'Des Scharfrichters heilende Hand', pp. 317–318. As Stuart points out in this article, however, the executioner's power to dishonour depended on context: no dishonour attached to people who had contact with the executioner in his capacity as a medical practitioner.
- 26 Burghartz, *Leib, Ehre und Gut*, p. 129.
- 27 RStA Blood Book B329 fols 156r–157v; Interrogation Book A854 fols 142r–143v.
- 28 RStA Interrogation Book A858 fols 34v–35r.
- 29 *Ibid.*, fols 20v–21r.
- 30 RStA Wettringen Village Acts A753 fols 89r–93v.
- 31 RStA Interrogation Book A858 fol. 21r.
- 32 *Ibid.*, fol. 30r.
- 33 RStA Surety Book A846 fols 433v–435v.
- 34 RStA Interrogation Book A861 fols 497r–517r; Surety Book A847 fols 353v–355v.
- 35 RStA Interrogation Book A861 fols 500v–501r.
- 36 For evidence of Veit's status, see Wettringen Village Acts A753 fols 47r, 93v.
- 37 There is no evidence that Paulus, Barbara or any other members of their family were officially accused of witchcraft after 1561, which suggests that the punishment of Lautenbach and Immell had a long-term deterrent effect.
- 38 Gaskill, 'The Devil in the shape of a man', p. 166.
- 39 Behringer, *Hexenverfolgung in Bayern*, pp. 63–64.
- 40 Gersmann, "'Gehe hin und verthedige dich!'", especially pp. 248–269.
- 41 RStA Interrogation Book A875 fols 186r–229v; Surety Book A853 fols 393r–394r; see also Rowlands, 'Eine Stadt ohne Hexenwahn'.
- 42 RStA Steinach Village Acts A739 fols 441r–480v; Surety Book A857 fols 499r–500v.
- 43 For the Rost case, see pp. 27–28, 35; for the Harter case, see pp. 124–130.
- 44 It was referred to by jurist Friedrich Prenninger in an opinion he wrote on the Steinach witchcraft case of 1602, see RStA Steinach Village Acts A739 fol. 472r.
- 45 See pp. 60–64 for more detail.
- 46 For the interrogations of Appolonia Kellner senior, see RStA Interrogation Book A861 fols 498v–499v; of Anna Kellner, fols 497v–498r; of Appolonia junior, fols 501r–502r; and of Leonhardt Bretner, fols 499v–500r. Georg Kellner, Appolonia senior's son, was also interrogated about his own and his family's activities as witches, after Bretner had called him a *Trutenkönig* (witches' king), fol. 497r.
- 47 *Ibid.*, fols 500v–501r; Surety Book A847 fols 379v–380r: 'welches sich dan hernacher mit dem wenigsten nicht befunden hat'.
- 48 Midelfort, *Witch Hunting*, pp. 88–90.
- 49 RStA Interrogation Book A875, fols 221r–223v, especially fol. 223r.
- 50 See p. 24 for a summary of these cases.
- 51 RStA Interrogation Book A875 fols 209r–209v.
- 52 *Ibid.*, fols 217r–219r.
- 53 *Ibid.*, fols 211r–215r (Thalhaimer); fols 221r–223v (Gugel and Hardessheim).
- 54 They had, however, taken the existence of the rumour against Durmann seriously enough to have made some enquiries about it, see *ibid.*, fols 199r–200r.
- 55 *Ibid.*, fols 214r–214v (Thalhaimer); fols 221v–222r (Gugel and Hardessheim).
- 56 For discussion of the impact of this famine in Franconia, see Endres, 'Zur wirtschaftlichen und sozialen Lage', pp. 28–52.
- 57 Behringer, 'Weather, hunger, fear'.
- 58 Rumours to the effect that town midwife Anna Muller might have caused the unseasonably cold weather had circulated in 1569, during her trial for a bizarre fraud in which she had manufactured monstrous births out of puppies' corpses: see Rowlands, 'Monstrous deception', for more details. Recorded references to weather-magic were otherwise exceptionally rare in early modern Rothenburg.

- 59 RStA Steinach Village Acts A739 fols 449r, 458v–459r, 463r–465v.
- 60 *Ibid.*, fols 471r–472r (Prenninger); fols 473r–476r (Bezold).
- 61 RStA Interrogation Book A888 fols 1r–32v; Blood Book B665 fols 21r–23v.
- 62 See RStA B186 (lists of councillors, 1230–1669) and B186a (council elections, 1300–1720).
- 63 Behringer, *Hexenverfolgung in Bayern*, pp. 238–241.
- 64 Rowlands, 'Women, gender and power', Chapter 1, especially pp. 46–49, 65–66; RStA Blood Book B331 fols 8r–11v.
- 65 The latest reference I have found to the law of talion dates from a case involving allegations of witchcraft from 1709 in which the couple responsible for having initiated the allegations were banished for slander; see RStA Interrogation Book A938 fols 297r–373v, especially fol. 373r and the Appendix.
- 66 Radbruch, *Die Peinliche Gerichtsordnung*, p. 61.
- 67 RStA Interrogation Book A875 fols 211r–215r, see fol. 215r ('das maul gestopfft').
- 68 RStA Steinach Village Acts A739 fols 471r–472r.
- 69 RStA Surety Book A846 fols 452r–455v.
- 70 B198 (Mayor Johann Georg Styrzel's Notebook), vol. II (1661–68), fols 407r–408r.
- 71 See Appendix for details.
- 72 RStA Interrogation Book A875 fols 211v–212v.
- 73 *Ibid.*, fols 212v–213r.
- 74 *Ibid.*, fols 217v–218r.
- 75 Radbruch, *Die Peinliche Gerichtsordnung*, pp. 42–43.
- 76 RStA Interrogation Book A861 fols 497v–499v.
- 77 RStA Surety Book A847 fols 353v–355v.
- 78 This principle was first mentioned in the 1587 Hilgartshausen witchcraft case discussed in Chapter 3, see RStA Interrogation Book A877 fol. 579v.
- 79 Catharina Leimbach and Margaretha Horn were both subjected to the thumbscrews five times in 1652. However, as all five bouts occurred in the same torture-session, the council may have considered them one bout overall: see pp. 150–160 and pp. 180–192 for discussion of their cases. The council's greatest severity was shown against two women tried in sixteenth-century fraud cases who were also asked whether they were witches in the course of their trials. In 1569, Anna Muller was subjected to three sessions of torture (two of strappado and one of strappado and thumbscrews) during interrogation, while in 1581 Anna Gebhart suffered the thumbscrews, strappado and then strappado with thumbscrews. Neither confessed to being a witch but both admitted their frauds, for which they were branded and banished. See above, n. 58 for details of the Muller case; pp. 49–50, 73–74 for the Gebhart case.
- 80 Radbruch, *Die Peinliche Gerichtsordnung*, pp. 19–20; Langbein, *Prosecuting Crime*, pp. 155–158, 179–186.
- 81 Staatsarchiv Nürnberg (hereafter StAN) Rothenburg Repertorium vol. 2087 fol. 96r.
- 82 For other examples of popular disapproval of torture, see Scribner, 'Witchcraft and judgement', p. 14; Gersmann, 'Injurienklagen', pp. 259–260.
- 83 RStA Interrogation Book A875 fols 215r, 217r.
- 84 RStA Interrogation Book A877 fol. 577r, Steinach Village Acts A739 fol. 471r (Prenninger); *ibid.*, fol. 473r (Bezold); Interrogation Book A895 fol. 171r (Walther).
- 85 For examples, see Midelfort, *Witch Hunting*, pp. 85–163; Behringer, *Hexenverfolgung in Bayern*, pp. 236–241.
- 86 RStA Interrogation Book A875 fols 217r, 209v; Interrogation Book A884 fol. 560r.
- 87 RStA Steinach Village Acts A739 fols 471r–472r: 'heller . . . dann die liebe Sonne vmb den heissen Mittag leuchtet.' Prenninger also argued for caution in the legal opinion that he wrote on the case of Hans Georg Hofmann in 1605 (discussed pp. 162–164), RStA Interrogation Book A884 fols 556r–560r.
- 88 StAN Ro. Rep. vol. 2087 fols 97r–97v.
- 89 See for example Briggs, *Witches and Neighbours*, pp. 7–10.

- 90 Labouvie, *Zauberei und Hexenwerk*, pp. 135–154; Rummel, *Bauern, Herren und Hexen*, pp. 26–67; Dillinger, ‘Hexenverfolgungen in Städten’, pp. 151–152, 160.
- 91 Vice, ‘The German Peasants’ War’, pp. 30–74.
- 92 RStA Steinach Village Acts A739 fols 443v–44r.
- 93 *Ibid.*, fol. 450r.
- 94 RStA Interrogation Book A888 fols 22v–23v.
- 95 RStA Interrogation Book A908 (unpaginated); testimony of Deeg (25 July), and of Horn (31 July).
- 96 RStA Interrogation Book A875 fol. 203v; Steinach Village Acts A739 fol. 471r.
- 97 RStA Interrogation Book A858 fols 19v, 23r; A888 fols 13r, 15r.
- 98 See Deeg’s testimony (‘ins gesicht sagen’), n. 95; RStA Interrogation Book A896 fol. 263v.
- 99 Imperial law stipulated that the accuser was to pay the costs of a trial that ended without a guilty verdict himself. However, such was the power of these witch-hunting committees in parts of western Germany that they managed to overturn this stipulation and make released witch-suspects pay their own costs, see Rummel, *Bauern, Herren und Hexen*, pp. 32–35.
- 100 RStA Interrogation Book A906 (unpaginated), 25 August 1668.
- 101 RStA Interrogation Book A875 fols 192r–98v.
- 102 RStA Steinach Village Acts A739 fols 449r–450r, 463r–463v, 464r–465v.
- 103 See p. 128.
- 104 Ruling elites elsewhere also sent out this deterrent message to their subjects. In Munich in 1608, for example, the authorities issued an ordinance threatening those who denounced others as witches with punishment (Behringer, ‘Scheiternde Hexenprozesse’, p. 77), while in 1590 Nuremberg’s city council executed a man whose main crime had been to identify women of the city as witches (Kunstmann, *Zauberwahn*, pp. 74–78).
- 105 Ziegler, *Die Dorfordnungen*, pp. 70–91; Village Acts A719, A753–A754, A515, A539; Detwang Village Court Books B327–B328, B659.
- 106 RStA Interrogation Book A861 fols 505r–513r.
- 107 RStA Steinach Village Acts A739 fol. 451r.
- 108 *Ibid.*, fols 468r–468v.
- 109 *Ibid.*, fols 288r, 308r–309r, 367r–367v, 602r–603v.
- 110 As Eva Labouvie points out, witchcraft was just one of many threats to their existence that peasants faced; others were war, famine, epidemic disease, fire and bad weather, see Labouvie, ‘Hexenspuk’, pp. 74–75.
- 111 RStA Interrogation Book A886 fols 308r–343v.
- 112 RStA Interrogation Book A888 fol. 603v; A858 fol. 17v.
- 113 See the cases involving Margaretha Horn (pp. 180–192) and Catharina Leimbach (pp. 150–160).
- 114 This idea of the importance of ritual time is taken from Robisheaux, ‘Witchcraft and forensic medicine’, p. 206. Leonhardt Brandt thought that he had seen the Steinach witches’ gathering on Walpurgis Eve, RStA Steinach Village Acts A739 fol. 441r. In 1652 Leonhardt Gackstatt linked his neighbour Margaretha Horn’s alleged witchcraft with Shrove Tuesday, while in the same year Eva Schurz became worried about her neighbour Catharina Leimbach’s witchcraft as the birth of her child approached (see pp. 153, 181).
- 115 Schormann, *Der Krieg*, pp. 62–63.
- 116 Henningsen, ‘The greatest witch-trial’, p. 39.
- 117 RStA Interrogation Book A896 fol. 263v.
- 118 See for example StAN Ro. Rep. 2087 fol. 24r; see also n. 114.
- 119 See the cases involving Margaretha Horn and Catharina Leimbach, discussed on pp. 180–192, 150–160.
- 120 See pp. 68–72.
- 121 Cf. Briggs, ‘Verteidigungsstrategien’, p. 121. Another defensive strategy Briggs shows suspected witches in Lorraine using was that of the threat that they would denounce their accusers as witches if formal proceedings were brought against them, *ibid.*, pp. 123–126.

- 122 Anna Weh, whose mother and grandmother had been reputed witches, was known to keep herself to herself in Oberstetten in 1582, see RStA Interrogation Book A875 fol. 194r.
- 123 *Ibid.*, fols 192v–193v. In 1652, Margaretha Horn offered the fact that she was a good wife and housekeeper and had been godmother to twenty-six children as evidence of the lack of veracity of the witchcraft accusation against her, RStA Interrogation Book A898 fol. 489v.
- 124 See for example the reactions of Hilgartshausen villagers to Hans Gackstatt's story of witchcraft (discussed in Chapter 3); RStA Interrogation Book A875 fol. 187v; StAN Ro. Rep. 2087 fol. 679r.
- 125 *Ibid.*, fol. 11r; RStA Interrogation Book A898 fol. 517v.
- 126 This happened in the aftermath of the cases involving Margaretha Horn and Catharina Leimbach, discussed on pp. 180–192, 150–160.
- 127 See p. 27 for details.