

The Voice of Reason: Archbishop Abbot on the Essex Divorce Case

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Speaking truth to power is a practice that has often landed speakers in trouble, and, in the early modern period, with its profusion of monarchs believing themselves to be divinely anointed to rule, a courtier or functionary who asserted a viewpoint opposed to that of the monarch was almost certain to incur severe consequences ranging from the loss of favour to the loss of life.

Under these circumstances, it is remarkable that George Abbot, who was Archbishop of Canterbury for the greater part of the reign of King James I of England (he served from 1611 to 1633, therefore also holding that position after Charles I ascended the throne), respectfully but firmly opposed the divorce of Frances Howard from her husband Robert Devereux, the 3rd Earl of Essex, on the grounds of impotency, because the divorce was something that James I avidly encouraged because he had agreed to let Howard marry his current favourite Robert Carr, who was later created Earl of Somerset.

This essay will examine the correspondence between James I and Archbishop Abbot on this matter, in order to demonstrate how Abbot attempted a rational inquiry (as far as rationality went in that period) into a subject that was widely believed in by virtually every social class in England at that time, and also how his language negotiates his political obligations to James I and his own position as an arbiter.

In 1613, Frances Howard (later known as Frances Carr), petitioned for an annulment of her marriage to Robert Devereux, the 3rd Earl of Essex, to whom she had been married in 1604, when she was fourteen years old. The grounds for claiming the annulment was the non-consummation of the marriage, with Howard claiming that her

husband was impotent.¹ The earl denied the charges, claiming that he was perfectly capable of intercourse with other women, but that Howard had never allowed him to consummate the marriage. Since Howard wanted the annulment in order to marry Robert Carr, who was the current favourite of James I, James took a personal interest in the case and tried to use his influence to secure the annulment. As the Archbishop of Canterbury was one of the authorities who could rule on the matter, James put pressure on George Abbot, who was the Archbishop at that point in time, to agree to the annulment, going so far as to suggest that perhaps the Earl of Essex was under the influence of witchcraft, which made him unable to consummate his marriage to his wife.

However, Abbot refused to be pliant. In a letter written to James I that year, a copy of which is part of the Thomas Murray Papers (MS 663) of Lambeth Palace Library, and which was reprinted as part of a larger pamphlet, *The Case of Impotency as Debated in England*, published by the notorious publisher Edmund Curll in 1715, he takes a very rational stand on the matter, not only demanding proof of such witchcraft, but also refuting points made in favour of the idea that witchcraft was involved. In spite of Abbot's opposition, the divorce was approved by the other judges appointed by the king to hear the matter. Therefore, although Abbot did not succeed in preventing the annulment of the marriage, his arguments against it remained on record, providing powerful testimony of the fact that there were valid reasons to oppose the divorce, and, by extension, the will of the monarch.

The Case of Impotency was published almost two hundred years after Abbot's death. It was Abbot's personal manuscript account of the Essex case, probably completed in October 1613, after the final judgement on the matter had been pronounced. The long delay in publication was presumably caused by the fact that Abbot would not have cared for his opinions to be circulated in print during his lifetime for fear of reprisal, and that his manuscript was then archived

before it was obtained by Curll for publication—in all likelihood from a lawyer residing at the Inner Temple in London, if the preface of the book is to be believed. Curll's interest in the book may have arisen due to a recent spate of publicly discussed divorces, and he states in the preface to this volume that this book had been published given the interest aroused by the recent divorce case of the Marquis of Gesvres.² This essay will focus primarily on the two letters and the material that immediately preceded or succeeded them in Volume 1 of the book brought out by Curll.

Abbot's letter to James I, where he argues against the granting of the divorce, is a short one, but it is very clearly expressed. It runs from Pages 139 to 142 in the printed volume, but is preceded by a list of six points by Abbot where he questions certain details of the divorce case, especially the points made by Howard in the formal application (here called a "libel") for the divorce. The letter is followed by a series of quotations in Latin from various ecclesiastical and civil law scholars about divorce supporting the Archbishop's position—authorities cited included Theodore Beza, Philip Melanchthon, and Girolamo Zanchi. The fact that at least two of these authorities were among the leading Protestant theologians of their times would not have been lost on the readers of these opinions, making Abbot's points even harder to refute, since they were backed up by such authority.

Abbot's reasons for opposing the divorce were manifold: there were both pragmatic and ideological grounds. In political terms, this represented a clash between the powerful Devereux and Howard families, and it was compounded by the personal interest taken by James I in the affair. In addition, as Cyndia Susan Clegg points out:

How durable was the bond between king and subject if the King himself could insist upon the dissolution of the like bond between husband and wife? Not surprisingly, James's insistence in 1613 on the divorce of Frances Howard from

Robert Devereux, third Earl of Essex, so that Lady Essex would be free to marry the King's favorite, Robert Carr, met with opposition. Those who opposed the divorce, like the Archbishop of Canterbury, George Abbot, understood only too well the implications that such an assault on the institution of marriage held for patriarchal authority.³

Divorces on flimsy grounds that had royal support also had royal precedent: the two divorces of Henry VIII were not even a century old when the Essex divorce case began. During Henry VIII's first divorce (with Catherine of Aragon), his first minister Cardinal Wolsey had found himself in a similar moral and political dilemma—the over-riding factor being the fact that Catherine was the aunt of Charles V, the King of Spain and Holy Roman Emperor, who was keeping the Pope Clement VII under virtual house arrest in Rome in 1527, when the divorce proceedings had been instituted and which required the assent of the Pope, who could hardly offend his captor so blatantly. While Abbot did not have to worry himself about international consequences due to his handling of the Essex divorce case, some of the arguments debated during the Catherine of Aragon divorce raised themselves here—the question of an unconsummated marriage being the principal one.

Abbot's objections can be divided into two groups: first, his doubts about the accusation that the Earl of Essex was impotent and that Frances Howard was a virgin, and second, his dismissal of the suggestion that witchcraft had been worked upon the Earl to render him impotent when he was with his wife. Regarding the alleged impotence of the Earl, Abbot wrote a personal memorandum on the matter, published in *The Case of Impotency* in a section headed "Doubts conceived out of the Fact and Process, in the Suit between the Lady Frances Howard, and the Earl of Essex." In it, he states four points, the two crucial ones being:

III. Whether in this Case my Lord of Essex his Oath (*cum Septem manu propinquorum*) be not by Law requisite as well as my Ladies.

IV. Whether my Lord of Essex should be inspected by Physicians, to certify (so far as they can by Art) the true Cause and Nature of the Impediment.⁴

This was a response to the fact that Frances Howard had apparently been inspected by a group of ladies from the court to ascertain whether she was a virgin, and they had reported that she was one. In this, Abbot may be displaying a common failing, described thus.

Men often proved a skeptical audience for these narratives, fearing that women could use the ambiguity of the female body to falsify virginity in order to further their own agendas. Nevertheless, men were frequently forced to depend on women's potentially unreliable words, behavior, and appearance for "proof" of physical and moral integrity.⁵

Abbot is also sceptical of the assertion that the Earl of Essex was impotent when it came to his wife and not to other women, as, in a speech that was delivered on 25 September 1613 during the formal divorce hearing, he states that, "No Memory of Man can express unto me the Name of that Person, whose Marriage was annull'd for Impotency towards his Wife, when he found an Ability of carnal Copulation with any other Woman."⁶

Regarding witchcraft, Abbot was clear that not only did he not believe that witchcraft had been practised in this case, but also that he believed that it was not possible that impotence on account of witchcraft could ever be regarded as grounds for divorce. To this end, he writes:

Now admit the Earl of Essex might be imagined to be troubled with *Maleficium versus hanc*, I demand what Alms have been given? What fasting hath been used, what Prayers have been pour'd out to appease the Indignation of God towards him, or his Wife, or what Physick hath been taken, or Medicine applied for Eight Years together? Not one of these things; but the first Hearing must be, to pronounce a Nullity in the Marriage. Of which Declaration we know the Beginning, but no mortal Man's Wit can foresee the End either in his Person, or the Example.⁷

Abbot is also sceptical of the fact that witchcraft is at all applicable in this case, because, drawing on his knowledge of recorded history, he states that:

But since the Light of the Gospel is now in so great Measure broken out again, why should I not hope; but those who have embraced the Gospel, should be free from this *Maleficium*? especially since amongst a Million of Men in our Age, there is not one found in all our Country, who is clearly and evidently known to be troubled with the same. And if there should be any that might seem to be thus molested, we are taught to use two Remedies against it; the one spiritual Physick, the other external.⁸

Therefore, Abbot is seen to approach the question of witchcraft with a demand for proof that it was actually used, as well as a parallel demand to know whether the standard measures authorized by the Church in those times—fasting (the physical action) and prayer (the spiritual action)—had been tried out by both parties. While Abbot does not forsake a belief in witchcraft—that would

be extraordinary for those times, especially in the circles of a court whose head not just believed in but wrote about witches in detail—he nevertheless tries to show that the alleged effects of witchcraft on marital life have no historical documentation to support them, and that it is impossible to take a single person's assertion (especially if that person is a woman) as inviolable proof of such witchcraft. Abbot also makes it clear that he has seen nothing in the divorce libel that explicitly supports Frances Howard's assertions, and that the Earl of Essex had testified clearly that he did not lack virility, especially when it came to other women, so he failed to see why he could be impaired when it came to his own wife. While Abbot's language towards Frances Howard can be justifiably criticized as patronizing, it is also clear that the content of his arguments is carefully framed and backed up with evidence which Abbot thinks is solid enough to prove his points.

The legal opinions appended at the end of Abbot's letter are by standard legal authorities accepted in that time period, all of which declare that being affected by witchcraft is not sufficient cause for divorce.⁹ By citing such well-regarded authorities (as James I's reply shows, even he does not challenge them, but uses another standard trick—co-option—to get around them), it can be argued that Abbot hoped that the king would realize that it was legally impossible to justify the divorce: any resolution in favour of the annulment would take place because the king wanted it and not because the law allowed it. Abbot may have been aware at this point that the divorce would be allowed because a majority of the other judges appointed by James I to decide on the matter would agree with the king's position—even if they were bishops who were under the direct authority of Abbot in his position as Archbishop of Canterbury and Primate of England (even today, the Archbishop of Canterbury's official title includes the phrase, "Primate of All England"). In that way, Abbot's learned opinions went in vain, and he suffered through the loss of royal

favour to him and his family till Robert Carr lost his position due to the Overbury poisoning case.¹⁰

The response by James I was acerbic. The tone of the letter written by him to Abbot makes it clear that the king was furious with Abbot for resisting his explicitly stated desire that the divorce be approved. The reasons are printed without any salutation: the lack of that may be the decision by the publisher to leave it out, or it may be an indication of James' irritation with Abbot in skipping pleasantries and coming directly to the point. This letter tries to be a point-by-point refutation of Abbot's letter, and James I repeatedly reminds Abbot that the doubts raised are Abbot's own, and not shared by his fellow judges, the king, or, for that matter, any rational person. This is highlighted through the use of phrases like, "your . . . question", "your . . . arguments", "your . . . argument, or rather, hope" and "your conclusion".¹¹ James argues that Scripture alone contains solutions to every conceivable problem, that Scripture permits divorce on the grounds of non-consummation of a marriage, that the Church Fathers and other ecclesiastical authorities must have pronouncements regarding divorce on such grounds (they only need to be searched for, but the search is not important, because marriage was originally a matter of civil law, so the early Christians did not concern themselves with it), that witchcraft exists without question, that it certainly can affect men by making them impotent (albeit selectively), that Abbot cannot tell for certain if the Earl or Frances Howard have not resorted to remedies such as prayer and fasting (which James claims are unnecessary anyway), and finally, that the opinions of the legal authorities cited by Abbot support James' contention that *maleficium versus hanc*, divorce on the grounds of witchcraft targeted against a specific individual, were grounds enough to grant an annulment.

James ends with a scathing reprimand to Abbot to concern himself only with the question put to him and not concern himself with the legalities of the case, writing: "As for the legal Doubts of formality,

they concern none of your Calling. If your Conscience be resolved in the Points of Divinity, it is your part to give your consent to the Nullity, and let the Lawyers take the burthen of making it formal.”¹² The reply shows that James is not interested in the content of the questions raised by Abbot: his purpose is to steamroller any opposition raised by Abbot by providing any possible refutation to Abbot’s points, even if the refutations do not make logical sense or are mere rhetorical flourishes seeking to distract attention from the principal issue. As Andrew Hadfield argues when he says that Abbot knew that James I was lying, “It is equally clear that James knows exactly what he is accused of and he does all he can to put pressure on Abbot to grant the annulment.”¹³

The question of witchcraft is approached by James I with even more confidence due to his assertion of being a self-professed expert on the subject (note the assurance in the phrase, “Look my *Demonology*”).¹⁴ He insists that Satan can have sufficient power in this world, and that there are examples from the Creation onward about the malevolent powers of devils and their human agents, witches (“For as sure as God is, there be Devils, and Devils must have some Power, and their Power is in this World, (for *Satan* is the Prince of this World).”¹⁵ James attempts to provide multiple justifications for his arguments that witchcraft is involved in the Essex case and that it specifically targets the Earl of Essex’s virility. He cites the Old Testament’s account of the protection of Sarah (the wife of the patriarch Abraham) from abuse by God through turning her would-be molester into a eunuch, and goes on to draw an analogical conclusion by claiming that Satan merely copied this action of God, but for evil ends, by rendering the Earl of Essex *inhabile*, impotent.¹⁶ Similarly, while refuting Abbot’s point that there is no mention of divorce granted on the grounds of impotence caused through witchcraft in classical and ecclesiastical sources, James argues that this kind of malevolence may have been a new kind of innovation, as “it is very probable (as I said before)

that this Trick of *Maleficium* had not then been put in Practice in the World, and therefore not known, nor mentioned by them; for why may not the Devil find out as well new Tricks of Witchcraft, when God will permit him, as he doth daily new sorts of Heresies? for his Malice can never end, till the End of Times.”¹⁷ It is worth noting once again that these refutations never provide any real rebuttal, content-wise, to the points raised by Abbot: instead, they are a set of superficial responses that seem to serve their purpose, but, in reality, they do not.

James’ anger at Abbot may have been exacerbated by the fact that he expected Abbot, whom he had appointed as Archbishop of Canterbury over the heads of more senior bishops, would be more complaisant. As S. M. Holland points out with reference to Abbot’s actions during the Essex divorce case:

James’s sense of outrage on that occasion was expressed in his amazement that “you, who are so far my creature” should contradict him, particularly since he had been able to persuade the normally high-minded Andrewes to agree to the annulment. James was to discover that in matters of morality Abbot lived up to Horace’s ideal of “the just man” as one who “tenacious of his purpose will not be shaken from his set resolve by the inflamed citizenry demanding wrong nor by the impending face of a tyrant.”¹⁸

The philosopher Michel Foucault re-defines the concept of *parrhesia* in terms of power relations, by suggesting that true *parrhesia* is only possible when the speaker indulging in this act places herself/himself in great danger (including the peril of one’s life) in order to speak freely. Foucault also suggests that *parrhesia* is speech without adornment: the speaker deliberately uses the most direct language possible to stress the urgency and the importance of what is being said.¹⁹ I argue that, through his defiance of James I’s explicitly

worded letter asking him to agree to the divorce, Abbot displays the characteristics of a truly parrhesiac speaker, making his act of resistance a significant marker of the limits of the royal hegemony in early modern culture. The fact that this was not a one-off incident is borne out by the fact that Abbot was later reprimanded and punished by both James I and Charles I for opposing their actions on various occasions in the 1620s.

However, Abbot still attempts to tread as carefully as possible, while remaining direct in his language. His letter, the list of reasons, and even his account of his meetings with James I, other courtiers and clergymen, and above all the Earl of Essex himself, are written such that every argument put forward by him is backed up by proof and every refutation of an opponent's point is matched with a demand for evidence in favour of the opposing point: the questions of the Countess of Essex's virginity and the Earl of Essex's potency are cases in point. It is also worth noting that he still paid a price for this defiance: Archbishop Neile of York received more royal favour after that, while Abbot's brother Robert was not raised to the see of Lincoln till Abbot was reconciled with the king a few years later.²⁰

Abbot's approach to the allegations of witchcraft in the Essex divorce case is surprisingly devoid of the irrational belief in the omnipotence of witches that dominated the public imagination at that point in time. While recognizing witchcraft to be the handiwork of the devil, Abbot's quest for explicit signs of such witchcraft foreshadows in some ways the inductive method of scientific investigation that would be promoted by the Royal Society within a few decades. Abbot is also cautious because, as mentioned earlier, he was aware that James I was lying, but did not possess the means or the scope to publicly vouch that.²¹ Above all, of course, he was questioning the belief of a king who not only believed in witchcraft, but had written (or published under his name) a tract dealing with witchcraft and its exorcism. With further reference to Abbot's reaction to the witchcraft allegations, it is notable that Abbot does not recommend a detailed

examination by ecclesiastics into the probable means through which such witchcraft was taking place: in conventional circles, ecclesiastical investigation of the witchcraft would be a common practice. Instead, he recommends practices like regular prayer and fasting.²²

In contrast, James I appears to have no qualms in directly contradicting Abbot without offering any clear evidence in support of his arguments, because he is aware that the most compelling justification he possesses is his own royal authority, which, according to him, is absolute. It is for this reason that Foucault argues that what a tyrant says cannot qualify as parrhesia, because the tyrant does not risk any danger in uttering whatever he/she wants to say.²³ Moreover, James' attitude to witchcraft reflects the commonly held acceptance of the fact that witchcraft did exist and that witches were capable of causing almost limitless harm to their victims if they chose to do so. This is ironic to us, since James prided himself on his knowledge of the sciences and philosophy, though his critics labelled him the "wisest fool in Christendom."²⁴

Therefore, the exchanges between Abbot and James I represent a conflict between the well-reasoned arguments of a scholar and ecclesiastic about an action that he felt would undermine the institution of marriage and the bonds on which the society of his times was structured, as opposed to the wilfulness of a monarch intent on having his immediate wish fulfilled at any cost—with consequences for anyone who dared to oppose his royal will. The questions of political and social morality raised are crucial to our understanding of the function and extent of royal power in early modern England, and by extension, in early modern Europe. While the citation of ecclesiastical teachings and legal opinions was common practice, in this case, we see Abbot being able to marshal his sources more effectively and produce the more persuasive argument—despite the eventual failure of his efforts. Furthermore, the scepticism shown towards accusations of witchcraft is one of the first known examples of such scepticism by such an eminent religious figure, and it looks

forward to the gradual eradication of belief in witchcraft that would gain pace over the course of that century.

NOTES

- 1 Alistair Bellany, “Frances Howard,” *Oxford Dictionary of National Biography*, 23 September 2004. <https://doi.org/10.1093/ref:odnb/53028>.
- 2 George Abbot, *The case of impotency, as debated in England, in that remarkable tryal, 1613. between Robert Earl of Essex, and the Lady Frances Howard, who, after eight years marriage, commenc’d a suit against him for impotency. Containing I. The whole Proceedings and Debates on both Sides. II. The Report of the Seven Matrons appointed to search the Countess. III. The Intrigue between Her and the Earl of Somerset, who after the Divorce married her. IV. A Detection of some Politicks in the Court of King James the First. Written by George Abbot, D. D. Lord Archbishop of Canterbury. In two volumes. 3rd ed., vol. 1, printed for E. Curll, at the Dyal and Bible in Fleetstreet, [1719]*, Preface. Downloaded from Eighteenth Century Collections Online, accessed 2 June 2020, <https://link.gale.com/apps/doc/CW0123955155/ECCO?u=uokent&sid=ECCO&xid=7b058411>.
- 3 Cyndia Susan Clegg, *Press Censorship in Jacobean England* (Cambridge: Cambridge University Press, 2001), 13.
- 4 Abbot, 138.
- 5 Sarah D. Luttfiring, “Bodily Narratives and the Politics of Virginity in ‘The Changeling’ and the Essex Divorce,” *Renaissance Drama* (New Series) 39 (2011): 98.
- 6 Abbot, 102.
- 7 Abbot, 141-42.
- 8 Abbot, 141.
- 9 Abbot, 142-48.
- 10 Clegg, 204-06.
- 11 James I, “His Majesty’s Answer to the Arch-bishop’s Reasons”, printed in Abbot, 149, 153-54, 156.
- 12 Abbot, 158.
- 13 Andrew Hadfield, *Lying in Early Modern Culture: From the Oath of Supremacy to the Oath of Allegiance* (Oxford: Oxford University Press, 2017), 106.
- 14 Abbot, 154. James I is supposed to have authored a work titled, *Daemonologie, In Forme of a Dialogie, Divided into three Bookes*, which was published in 1597. This work is assumed to be one of the sources used by William Shakespeare for

- creating the characters of the three witches in *Macbeth*.
- 15 Abbot, 154.
 - 16 Abbot, 151.
 - 17 Abbot, 153-54.
 - 18 S. M. Holland, "George Abbot: The 'Wanted Archbishop'," *Church History* 56, no. 2 (June 1987): 186-87.
 - 19 Michel Foucault, *The Meaning and Evolution of the Word "Parrhesia": Discourse & Truth, Problematization of Parrhesia—Six lectures given by Michel Foucault at the University of California at Berkeley*, October-November 1983. Accessed 15 June 2020, <https://foucault.info/parrhesia/foucault.DT1.wordParrhesia.en/>.
 - 20 Kenneth Fincham and Peter Lake, "The Ecclesiastical Policy of James I," *Journal of British Studies* 24, no. 2 (April 1985): 192.
 - 21 Hadfield, 106.
 - 22 Abbot, 141.
 - 23 Foucault, *Meaning and Evolution*.
 - 24 Anthony Weldon, *The court and character of King James whereunto is now added The court of King Charles: continued unto the beginning of these unhappy times: with some observations upon him instead of a character/collected and perfected by Sir A.W.* London: Printed at London by R.I. and are to be sold by J. Collins . . . , 1651. Accessed 15 June 2020, <http://name.umdl.umich.edu/A65393.0001.001>.