and never capitally punished Vide: M Kenzie Crim. part 1 Tit. 10 § 25. The Law forbidden practices may sometimes be excused by the utmost gross Ignorance or the Clearness of Circumstances, that he designed no Mischief thereby than fun and sport and Diversion Delrio lib. 4 cap. 2 Quest 4 M Kenzie ibid. 511. A Agreement to serve the Devil is surely Relevant to infer the Crime of witchcraft 20 August 1661 Margaret Hutchison 13 September 1678 Margaret Douglass Margaret Lowis and others Harprov. Crim. part 1 Tit. 49 n. 13. Prov. ded the Deluded Creature know them to be the Devil at the Making of it. Seeing the Devil usith upon such an Occasion to appear to them in Human shape, the question stands to be put to them if they knew him to be the Devil when they agreed to serve him. M Kenzie Crim. part 1 Tit. 10 § 5. Yea, even a tacit paction, as when a person usith only the superstitious words or Signs of Sorcerers knowing them to be such by their Book is sufficient is Relevant to infer witchcraft Delrio lib. 2 Quest 4 but use of such words or signs without knowing them to be such is no Crime if there be a probable ground of their ignorance, and he be ready to abstain from such practices when informed of their Unlawfull use.

It hath been ordinarly found Relevant to infer Acquittal of witchcraft, that one threatned to do some Mischief to another, and immediately or not long after that other suffered a Grievous harm in his person or goods by sorcery or witchcraft without any apparent Natural cause, the Manner or Instrument used to work such Mischief be not particularly expressed, and the threat was only general and did not specify the ill turn to be done; in respect the particular Means used by witches are best known to themselves 20 March 1622 Margaret Wallace 5 Feb. 1629 Isobel Young 4 June 1634 Elizabeth Balligate 20 December 1644 Agnes Finnie 10 September 1661 Margaret Hutchison 10 September & 11 November 1661 Janet Cock Albert Hutchison was pleaded for the Pannels, that the Method whereby harm is done such as Characters Signs, &c, powders, broken figures pictured words or Invocation of Satan or some other Impious Unlawfull sign or Action whereby witchcraft usith to be accomplished, should be

be mentioned; that the assize might Judge upon it, who ought not to be left to determine points in Law, such as, how far Mine & damnum facitum are Relevant, and how far any person is punishable as a witch, who uses no Charm or other Act of sorcery for Effecting her purpose. But Sir George M Kenzie (ibid. § 8) thinks, that Mischief happening after threats uttered, should Infer only an Arbitrary punishment wherein he is supported by the Authorities of Bodinus (lib. 5 sect. 3) Farinacius

Some times Articles of witchcraft have founded upon words that seem no necessary Dependance on the Means used by the person accused: as that a Man, a Woman had laid a Grievous sickness upon by her sorcery, was Relevant thereof upon her taking him by the hand, and Moving of her lips; albeit that Circumstance Viz. grupping the hand or feeling the pulse, is what is ordinarly and lawfully done by a friend or Physician visiting a patient, to stir the Vital Spirits 20 March 1622 Margaret Wallace. That a Woman came several Nights into a House, while the Doors and Windows were all fast Locked and shut, and Combed her head the last Night, and laid her hand upon a Mundsick Pap, whereupon a Child whose Mouth was at the pap died within half an hour; was found Relevant to infer the pain of witchcraft 20 August 1661 Margaret Hutchison. Which Decision as wanting a sure foundation is, in the opinion of Sir George Mckenzie (Crim part 1 Tit. 10 § 9) very Dangerous, and furnishes the occasion to Judges of being very Arbitrary: for that, except the Means used by the person Indicted were such as might produce the Mischief Libelled, that person could not be thought Concluded guilty of it; seeing the Conclusion of all Criminal Libels (which Inquiture Debet Iuridem partem) should be Necessarly Inferred from the Deeds Subsumed, and there should be a Necessary Connection Inter terminum a quo & ad quem, inter causam & effectum. But I humbly think that this Rule can not be applied to Criminals for witchcraft: because the Injuries done by witches are not brought about