

Walker. Ours was half an Hour faster than theirs.

Mr. Cowper. How came you to know this?

Walker. By reason that Dinner was dress'd at the Cook's, and it was ordered to be ready by Two a-Clock, and it was ready at Two a-Clock by the Town-Clock, and half an Hour after Two by ours.

Mr. Cowper. When you came down and misfed your Mistress, did you enquire after her all that Night?

Walker. No, Sir, I did not go out of the Doors; I thought you were with her, and so I thought she would come to no Harm.

Mr. Cowper. Here is a whole Night she gives no Account of. Pray, Mistress, why did not you go after her?

Walker. My Mistress would not let me.

Mr. Cowper. Why would she not let you?

Walker. I said I would see for her: No, faith she, by Reason if you go and see for her, and do not find her, it will make an Alarm over the Town, and there may be no Occasion.

Mr. Cowper. Did your Mistress use to stay out all Night?

Walker. No, never.

Mr. Cowper. Have not you said so?

Walker. I never said so in my Life.

Mr. Cowper. Pray Mrs. *Walker* did you never take notice that your Mistress was under Melancholy?

Walker. I don't say but she was melancholy; she was ill for some time, and I imputed it to her Illness, and I know no other Cause.

Mr. Cowper. Have you not often told People that your Mistress was a melancholy Person, upon your Oath?

Walker. I have said she hath been ill, and that made her melancholy.

Mr. Cowper. I will ask you this Question; Pray, did you ever purchase any Poison, more or less, within these twelve Months?

Walker. Yes, Sir, I did so, and can tell what it was for.

Mr. Cowper. By whose Order?

Walker. By my own Order.

Mr. Cowper. Did you buy Poison but once, upon your Oath?

Walker. I believe I might buy twice.

Mr. Cowper. Where?

Walker. Of Mr. *Ludman*.

Mr. Cowper. Both Times there?

Walker. Yes.

Mr. Cowper. Of him?

Walker. No, of the young Man.

Mr. Cowper. Did you ever buy any Poison at *Luton*?

Walker. No.

Mr. Cowper. Did you ever buy any by your Mistress's Order, or of one Mrs. *Crooke*, upon your Oath?

Walker. No, I never did.

Mr. Cowper. Pray at what Time was it that you bought this Poison you speak of?

Walker. I can't remember.

Mr. Cowper. Pray recollect your self?

Walker. It was within this half Year, to be sure.

Mr. Cowper. What was the Name of the Poison you ask'd for?

Walker. I ask'd for White Mercury.

Mr. Cowper. She faith, I pass'd by her Mistress's House, and went directly to Mr. *Barefoot*'s; Pray did not you come to Mr. *Barefoot*'s after me?

Walker. Yes, Sir.

Mr. Cowper. Pray did you give the same Account before the Coroner, when this Matter was enquired into, that you have now done?

Walker. Yes, I did, as near as I can tell.

Mr. Cowper. Did you give this Account in Substance?

Walker. Yes, I did.

Mr. Baron Hatsell. Mr. *Cowper*, I suppose you don't mean in relation to the Poison.

Mr. Cowper. My Lord, I mean in relation to so much of the Evidence which she now gives, and particularly respects me. For what End or Purpose did you buy it?

Walker. I bought it to poison a Dog.

Mr. Cowper. Why should you poison the Dog?

Walker. It was a Dog that used to haunt our House, that did us a great deal of Mischief; but that did not do, so I bought it a second Time.

Mr. Cowper. Who gave it to the Dog?

Walker. 'Twas another Maid did give it the Dog.

Mr. Cowper. Why did you then swear it was given the Dog?

Walker. Sir, I saw it given.

Mr. Cowper. Did your Mistress know of it?

Walker. Yes, she did know of it afterwards.

Mr. Cowper. How did you give it?

Walker. In warm Milk.

Mr. Cowper. How did the Milk look?

Walker. It did not look discolour'd in the least.

Mr. Baron Hatsell. You said just now your Mistress was ill, and that made her melancholy, what Illness was it?

Walker. My Lord, she had a great Pain in her Head.

Mr. Baron Hatsell. How long had she been troubled with it?

Walker. Ever since last May was twelve Months was the beginning of it.

Mr. Jones. Did you ever find her in the least inclined to do her self a Mischief?

Walker. No, I never did.

Mr. Cowper. You bought Poison twice, did you give all the Poison you bought to the Dog?

Walker. Yes.

Mr. Cowper. The first and the last?

Walker. Yes, the whole.

Mr. Cowper. How much did you buy?

Walker. I am not certain how much I bought.

Mr. Cowper. Pray, what Mischief did it do the Dog?

Walker. I cannot tell, he may be alive till now for ought I know.

Mr. Cowper. What Mischief did the Dog do?

Walker. A great deal, he threw down several Things and broke them.

Mr. Jones. Did Mr. *Cowper*, upon your Oath, hear Mistress *Stout* give you Order to make his Fire, and warm his Bed?

Walker. He knows best, whether he heard it or no; but he sat by her when she spake it.

Mr. Jones. Did she speak of it so as he might hear?

Walker. Yes she did, for he was nearer than I.

Mr. Jones. And did not he contradict it?

Walker. Not in the least.

Mr. Jones. Was it the old or young Woman that gave you the Order?

Walker. The young Woman.

Mr. Cowper. Pray, did the Dog lap it, or did you put it down his Throat, upon your Oath?

Walker. No, he lapt it, upon my Oath.

Mr. Jones. Did Mr. Cowper send for his Horse from your House the next Day?

Walker. I can't say that; I was not in the Way.

Mr. Jones. Did he come to your House afterwards?

Walker. No, I am sure he did not.

Mr. Jones. Was the Horse in your Stable when it was sent for?

Walker. Yes, Sir.

Mr. Jones. And he did not come to your House again, before he went out of Town?

Walker. No, Sir.

Mr. Jones. Do you know which Way he went out of Town?

Walker. No, Sir.

Mr. Baron Hatfell. Did Mr. Cowper use to lodge at your House at the Affizes?

Walker. No, my Lord, not since I came there; the Sessions before, he did.

Mr. Cowper. Where did you come to invite me to Dinner?

Walker. At Mr. Barefoot's.

Mr. Cowper. Then you knew I was to lodge there?

Mr. Baron Hatfell. Who wrote the Letter on Friday, that Mr. Cowper would lodge there?

Walker. I know not who wrote it, his Wife sent it.

Mr. Jones. Did he tell you he would lodge there that Night before he went away?

Walker. When he went from Dinner he said so.

Mr. Jones. Call James Berry. (Who was sworn.) Now, my Lord, we will give Evidence of the Manner how she was found. Mr. Berry, Do you remember when Mrs. Stout was found by your Mill?

Berry. No, indeed, I do not know just what Day it was.

Mr. Jones. When you found her, do you remember, how, in what Manner she was found?

Berry. Yes; I went out in the Morning to shoot a Flush of Water by Six a-Clock, and I saw something a floating in the Water, so I went out to see what it was, and I saw part of her Cloaths.

Mr. Jones. Did you see her Face?

Berry. No, not then.

Mr. Jones. Was her Face under Water, or above?

Berry. No part of her Body was above Water, only some part of her Cloaths.

Mr. Jones. How many Foot deep might the Water be?

Berry. Five Foot deep.

Mr. Jones. And how much was she under Water, do you conceive?

Berry. She might be under Water about five or six Inches.

Mr. Jones. Then he whole Body was not under Water, was it?

Berry. Yes.

Mr. Jones. Was her Face under Water?

Berry. Yes.

Mr. Baron Hatfell. Did she lie upon her Face, or her Back?

Berry. She lay upon her Side.

Mr. Jones. When she was taken out, were her Eyes open or shut?

Berry. Her Eyes were open.

Mr. Jones. Was she swell'd with Water?

Berry. I did not perceive her swell'd: I was

amaz'd at it, and did not so much mind it as I should.

Mr. Jones. But you remember her Eyes were staring open?

Berry. Yes.

Mr. Jones. Did you see any Marks or Bruises about her?

Berry. No.

Mr. Cowper. Did you see her Legs?

Berry. No, I did not.

Mr. Cowper. They were not above Water.

Berry. No.

Mr. Cowper. Could you see them under Water?

Berry. I did not so much mind it.

Mr. Cowper. Did she lie streight or double, driven together by the Stream?

Berry. I did not observe.

Mr. Cowper. Did you not observe the Weeds and Trumpery under her?

Berry. There was no Weeds at that Time thereabouts.

Mr. Jones. Was the Water clear?

Berry. No, it was thick Water.

Mr. Jones. Was there any Thing under her, in the Water, to prevent her sinking?

Berry. No, I do not know there was; she lay on her right Side, and her right Arm was driven between the Stakes, which are within a Foot of one another.

Mr. Jones. Did any Thing hinder her from sinking?

Berry. Not that I saw.

Mr. Jones. Did you help to take her out from the Stakes?

Berry. No.

Mr. Jones. Call John Venables.

Mr. Cowper. Mr. Berry, if I understand you right, you say her Right Arm was driven between the Stakes, and her Head between the Stakes; could you perceive her Right Arm, and where was her Left Arm?

Berry. Within a small Matter upon the Water.

Mr. Baron Hatfell. Did you see her Head and Arm between the Stakes?

Berry. Yes, her Arm by one Stake, and her Head by another.

Mr. Jones. Did her Arm hang down, or how?

Berry. I did not mind so much as I might have done.

Then John Venables was sworn.

Mr. Jones. Did you see Mrs. Stout, when she was taken out of the Water, as she lay in it?

Venables. Yes.

Mr. Jones. Give an Account how you found her.

Venables. She was floating upon the Water.

Mr. Jones. How? Was all her Body, or what Part in the Water?

Venables. She lay upon her Right Side, and this Arm upon the Water, rather above the Water, her Ruffles were upon the Water.

Mr. Jones. Did you help to take her out?

Venables. No, Sir.

Mr. Jones. Were her Eyes open then?

Venables. Her Eyes were open when I saw her, but I did not see her when she was taken out.

Mr. Jones. Did any thing hinder her from sinking?

Venables. I saw nothing to hinder her if she would have sunk.

Mr.

Mr. Jones. Call Leonard Dell. (Who was sworn.) Did you see this Mrs. Stout in the Water?

Dell. Yes.

Mr. Jones. Pray tell us in what Posture she was found.

Dell. I saw her floating in the River; I saw her Face and her Cloaths.

Mr. Jones. Were her Cloaths all above the Water?

Dell. Her Stays and her Coat that she had next her.

Mr. Jones. Were these plainly above the Water?

Dell. Some Part of them.

Mr. Jones. Did you see her Face, was that above the Water?

Dell. No, Sir, it was between the Piles; she lay on her Right Side, and her Head was between the Stakes, and her Right Arm.

Mr. Jones. Did you help to take her out of the Water?

Dell. Yes.

Mr. Jones. Did any Thing hinder her from sinking?

Dell. Neither Stakes nor any Thing there.

Mr. Jones. Did her Arms or Neck stick to the Stakes?

Dell. Not to my thinking.

Mr. Jones. Was the Water clear, or weedy?

Dell. It was very clear.

Mr. Jones. How many Foot deep was it?

Dell. I know not, but it might be five Foot deep.

Mr. Jones. Did you help to take her out of the Water?

Dell. Yes, Sir, and we took her and carried her into the Meadow just by, and laid her on the Bank.

Mr. Jones. Did you observe her Face, Neck, or Arms, to be bruised?

Dell. I saw no Bruise at all.

Mr. Cowper. How did you know but her Right Arm did reach to the Ground, since you did not see it?

Dell. We could see her Arm lie in this Manner between the Piles, the Right Arm was downwards, for she lay on one Side.

Jury-man. Did you see any Arm above in the Water?

Dell. No.

Mr. Baron Hatsell. You should propose your Questions to the Court.

Jury-man. My Lord, I desire to know where was her Left Arm.

Mr. Baron Hatsell. Where was her Left Arm?

Dell. I can't tell how it did lie; I did not observe it.

Mr. Baron Hatsell. When you took her out of the Water, did you observe her Body swell'd?

Dell. We carried her into the Meadow, and laid her on the Bank-side, and there she lay about an Hour, and then was ordered to be carried into the Miller's.

Mr. Baron Hatsell. Did you observe that any Water was in her Body?

Dell. None at all that I could see; but there was some small Matter of Froth came from her Mouth and Nostrils.

Jury-man. My Lord, I desire to know whether her Stays were laced?

Dell. Yes, she was laced.

Mr. Cowper. If I take you right, you say she was strait-laced?

Dell. Her Stays were laced.

Mr. Cowper. And you say there was Froth and Foam came out of her Mouth and Nostrils?

Dell. Yes, Sir.

Mr. Jones. Pray, what Quantity?

Dell. I could hold it all in the Palm of my Hand.

Mr. Cowper. How was she taken out of the Water?

Dell. My Lord, we stood upon the Bridge, I and another Man, where she lay, and he laid hold of her and took her out.

Mr. Jones. And did you not perceive she was hung?

Dell. No, my Lord.

Mr. Cowper. Pray, Where was she laid when she was taken out?

Dell. In the Place call'd the Hoppers, just by.

Mr. Cowper. How long did she lie there?

Dell. About an Hour.

Mr. Cowper. Did you stay there all that Time?

Dell. Yes.

Mr. Cowper. And did the Froth continue to issue from her Mouth and Nostrils?

Mr. Baron Hatsell. He told you, Mr. Cowper, he could hold it all in the Palm of his Hand.

Mr. Jones. Call John Ulfe. (Who was sworn.) John Ulfe, Did you see Mrs. Stout when she was taken out of the Water?

Ulfe. Yes.

Mr. Jones. Give an Account of the Condition she was in.

Ulfe. She lay on one Side; I help'd to take her out.

Mr. Jones. Did she hang or stick to any Thing?

Ulfe. There was nothing at all to hold her up; she lay between a Couple of Stakes, but the Stakes could not hold her up.

Mr. Jones. Did you see her after she was taken out?

Ulfe. Yes.

Mr. Jones. Did any Water come out of her?

Ulfe. Nothing at all, only a little Froth came out of her Nostrils.

Mr. Jones. Call Katharine Dew. (Who was sworn.) Did you see Mrs. Stout taken out of the River?

Dew. Yes.

Mr. Jones. Did you see her in the River before?

Dew. Yes, Sir.

Mr. Jones. How did she lie in the River?

Dew. She lay Side-way with her Eyes open, and her Teeth clenched in her Head, with Water flowing a little from her Face, some Part of her and her Petticoats were above Water.

Mr. Jones. Did nothing hold her from sinking?

Dew. Her Right Arm lay against the Stake.

Mr. Jones. Did you see her after she was taken out of the River?

Dew. Yes, Sir.

Mr. Jones. Was she swell'd?

Dew. I did not perceive she was swell'd at all.

Mr. Jones. Did you handle her?

Dew. No, I touch'd nothing but her Petticoat.

Mr. Jones. Did you observe her Legs were in the Water?

Dew. No, I did not.

Mr. Cowper. Did you see where her Right Arm was?

Dew. I could not see her Right Arm, the Water flow'd over it.

Mr. Cowper. Did you see her after this Time?

Dew. No, Sir, I saw her taken out, but not afterward.

Mr. Baron *Hatfell*. Did you see her after she lay on the Ground?

Dew. Yes, my Lord.

Mr. Baron *Hatfell*. How was she then?

Dew. She purged at the Nose and one of her Eyes; I did not take particular Notice after she was out; the Notice I took was when she was in the Water.

Mr. Baron *Hatfell*. What did you see at her Eye?

Dew. Froth, my Lord.

Mr. *Jones*. Did you see her after she was stripp'd naked?

Dew. No, my Lord.

Mr. *Jones*. Was it a settled Frothing, or a Purging?

Dew. A purging Froth.

Mr. Baron *Hatfell*. Did any Body wipe it off?

Dew. No, my Lord, I did not see any Body do it.

Mr. Baron *Hatfell*. Then there was no new Froth came?

Dew. No, my Lord, I saw her froth at the Nose and one of the Eyes as soon as she was taken out, but I did not stay long.

Mr. *Cowper*. Was she in her Stays?

Dew. Yes, Sir.

Mr. *Cowper*. Was she not laced?

Dew. Yes, she was laced before and behind.

Mr. *Jones*. Call *Thomas Dew*. (*Who was sworn.*) Did you see this Mrs. *Stout* in the Water? Pray give my Lord and the Jury an Account what Posture she was in.

Dew. I saw her lying in the Water floating, above the Water I will not say, but the Water ran some small Matter over her; her right Arm was within the Stake, and her left Arm without; she lay just upon her Side, and I saw her when she was first taken up, and her Shoes and Stockings were as clean as when they were put on, no Mud nor Dirt upon them, and I saw her Shoes and her Stockings, as high as her Knee almost; but I saw no Dirt.

Mr. *Jones*. Do you believe she had been sunk to the Bottom?

Dew. She did not look as if she had, nor I see no Water come from her.

Mr. *Jones*. Did you observe that she was swelled at all?

Dew. No, nor swelled that I perceive a bit; there was a little Froth that came out of her Nose, and about her (I can't say from her Eye) in that it was a small Quantity.

Mr. *Jones*. Call Mr. *Edward Blackno*. (*Who was sworn.*) Did you see Mrs. *Stout* when she lay in the Water?

Blackno. Yes, I did see her lye in the Water floating; I was so near, that I saw the Miller's Man lift her up by one of her Arms out of the Water.

Mr. *Jones*. Was the Arm bent or streight?

Blackno. It hung in this Manner (*showing the Court how with his own Arm.*)

Mr. Baron *Hatfell*. The other Witnesses said, she lay on her right Side.

Blackno. Yes, she lay on her right Side, and her Arm in this Manner.

Mr. Baron *Hatfell*. Did you observe her to be swelled?

Blackno. I did not see her taken out.

Mr. Baron *Hatfell*. Did you observe any thing to hinder her from sinking?

Blackno. No, I did not, nothing but the Water.

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Mr. *Cowper*. I think, Sir, if I heard you right, you say, that this taking by the Arm and stirring her, was before she was taken out of the Water; then I would know, after she was stirred, was she let go again? Was you by at the taking of her up?

Blackno. No, I was not.

Mr. Baron *Hatfell*. He told you she was floating when he saw her, and that nothing hindered her from sinking.

Then *William Edmunds* and *William Page* were sworn.

Mr. *Jones*. *Edmunds*, did you see Mrs. *Stout* when she was in the Water?

Edmunds. Yes, Sir.

Mr. *Jones*. Give an Account what Posture she was in?

Edmunds. She lay against the Stake, her Head lay against the Stake in the River; we were coming up in a Barge, and called to a Miller to draw the Water, but he said he could not, for then she would swim through; and then we came on, and see her lie in the Water.

Mr. *Jones*. Did any thing hinder her from sinking?

Edmunds. Not that I see.

Mr. *Jones*. Did no Part of her Legs or Arms stick? Did you see her taken out?

Edmunds. No, I did not, I was gone, I did not know whether they would take her out or no.

Mr. *Jones*. *Page*, did you see Mrs. *Stout* upon the Water?

Page. Yes, Sir.

Mr. *Jones*. Tell us how she lay.

Page. She lay floating on the Water on her right Side, with her Head between the Stakes.

Mr. *Jones*. Did her Arms or Cloaths, or any Thing stick?

Page. Not that I saw.

Mr. *Jones*. Did any Thing hinder her from sinking?

Page. I saw nothing.

Mr. *Cowper*. Did you see her Legs or Knees?

Page. No, I could not, they were not out of the Water.

Mr. *Jones*. Swear Mrs. *Anne Ulse*. (*Which was done.*) Did you see Mrs. *Stout* in the Water?

Ulse. Yes, I help'd to pull her out; she lay on one Side in the Water floating, and the Water came over her Face.

Mr. *Jones*. Did she stick by any Thing?

Ulse. One of her Arms was about the Post.

Mr. *Jones*. How?

Ulse. It got through the Grate.

Mr. *Jones*. But it did not hang.

Ulse. No.

Mr. *Jones*. Did you take her out?

Ulse. Yes, Sir.

Mr. *Jones*. Did you mind her Cloaths?

Ulse. Yes I turn'd up her Petticoat in the Water.

Mr. *Jones*. Had she Gloves on?

Ulse. No, Sir.

Mr. *Jones*. How were her Shoes and Stockings?

Ulse. They were not muddy, her Stockings were rouled down, she had no Garters on.

Mr. *Cowper*. You say, one Arm lay through the Grate, where lay the other?

Ulse. The other was down in the Water.

William *How* was sworn.

Mr. *Jones*. Did you see Mrs. *Stout* in the Water?

How. Yes, Sir, I see her lie upon the Water; she lay afloat, she might lie three or four Inches deep in the Water.

Mr. Jones. Did any of her Cloaths lie above the Water?

How. Some Part of her Coats lay above the Water.

Mr. Jones. Did any Thing hinder her from sinking?

How. I saw nothing, I saw them take her out, and did not perceive she hung any Way, she lay with one Arm, and her Head in the Grate, but I did not perceive she hung.

John Meager was sworn.

Mr. Jones. Well, do you give an Account of what you know of Mrs. Stout being in the Water?

Meager. I see Mrs. Sarah Stout floating in the Water, her right Arm in the Grate, and her left Arm with the Stream.

Mr. Jones. Did she hang or stick by any Thing?

Meager. No, neither hang nor stick, she floated.

Mr. Cowper. Did you see some Body go through the Blue-coat Building about Eleven a-Clock?

Meager. No, Sir, I was in Bed before Nine.

Mr. Jones. Now, my Lord, we will give an Account how she was when she was stript, and they came to view the Body. Call John Dimsdale junior. (*Who was sworn.*)

Dimsdale. My Lord, I was sent for at Night on Tuesday the last Assizes—

Mr. Cowper. My Lord, if your Lordship pleases, I have some Physicians of Note and Eminency that are come down from London; I desire they may be call'd into Court to hear what these Surgeons say.

Mr. Baron Hatsell. Ay, by all means.

Mr. Cowper. My Lord, there is Dr. Sloane, Dr. Garth, Dr. Morley, Dr. Gilstrap, Dr. Harriot, Dr. Wollaston, Dr. Crell, Mr. William Cowper, Mr. Bartlett, and Mr. Camlin.

Who respectively appear'd in Court.

Mr. Jones. Give an Account how you found Mrs. Stout.

Mr. Baron Hatsell. You are a Physician, I suppose, Sir?

Dimsdale. A Surgeon, my Lord. When I was sent for to Mrs. Stout's, I was sent for two or three times before I would go; for I was unwilling after I heard Mrs. Stout was drown'd; for I thought with myself, what need could there be of me when the Person was dead; but she still sent; and then I went with Mr. Camlin, and found a little Swelling on the Side of her Neck, and she was black on both Sides, and more particularly on the left Side, and between her Breasts up towards the Collar-bone, that was all I saw at that time, only a little Mark upon one of her Arms, and I think upon her left Arm.

Mr. Jones. How were her Ears?

Dimsdale. There was a Settling of Blood on both Sides the Neck, that was all I saw at that Time.

Mr. Jones. How do you think she came by it?

Dimsdale. Truly I only gave an Account just as I say now to the Gentlemen at that Time, I saw no more of it at that Time, but about six Weeks after the Body was opened by Dr. Philips—

Mr. Cowper. My Lord, he is going to another Piece of Evidence, and I would ask him—

Mr. Jones. Let us have done first; how was her Ears?

Dimsdale. There was a Blackness on both Ears, a Settling of Blood.

Mr. Jones. Call Sarah Kimpson.

Mr. Bar. Hatsell. Mr. Cowper, now you may ask him any Thing, they have done with him.

Mr. Cowper. I would ask him whether he was not employed to view these particular Spots he mentions at the Coroner's Inquest?

Dimsdale. I was desired to look upon the Face and Arms, and Breast, because they said there was a Settling of Blood there.

Mr. Cowper. When you return'd to the Coroner's Inquest, What did you certify as your Opinion?

Dimsdale. I did certify there was a Settling of Blood; but how it came I could not tell.

Mr. Cowper. I ask you, Sir, Did not you say it was no more than a common Stagnation usual in dead Bodies?

Dimsdale. I do not remember a Word of it.

Mr. Cowper. Sir, I would ask you; You say the Spot was about the Collar-bone; was it above or below?

Dimsdale. From the Collar-bone downwards.

Mr. Cowper. Had she any Circle about her Neck?

Dimsdale. No; not upon my Oath.

Mr. Jones. Swear Sarah Kimpson. Did you observe this Mrs. Sarah Stout, when she was strip'd how her Body was?

Kimpson. Yes.

Mr. Jones. Pray give an Account of it.

Kimpson. She had a great Settlement of Blood behind her Ear, as much as my Hand will cover and more; and she had a Settlement of Blood under her Collar-bone.

Mr. Jones. Did you see nothing about her Neck?

Kimpson. Nothing round her Neck; on the Side of her Neck there was a Mark.

Mr. Jones. Was there any other Part bruised?

Kimpson. Only her left Wrist, and her Body was very flat and lank.

Mr. Cowper. Pray, what Day was it that you saw her?

Kimpson. It was the Day she was found.

Mr. Cowper. Was she not laced?

Kimpson. She was laced.

Mr. Cowper. Did you help to stir her?

Kimpson. Yes, Sir.

Mr. Jones. Did her Body seem to be swell'd, or was there any Water come from her?

Kimpson. I did not observe the least Drop of Water that appeared any Way.

Mr. Jones. Do you know what did Purge from her?

Kimpson. Nothing that I saw.

Mr. Jones. Had not you a Child drown'd there lately?

Kimpson. Yes, about ten Weeks ago.

Mr. Jones. And you found her?

Kimpson. She was drown'd at Night, and we found her next Morning.

Mr. Jones. Where did you find her, at the Top, or at the Bottom of the Water?

Kimpson. At the Bottom.

Mr. Jones. How was she?

Kimpson. She was swell'd as much as she could hold.

Mr. Jones. Were her Eyes shut or open?

Kimpson. Her Eyes were shut, and the Child was laced as tight as the Coat could be.

Mr. Jones. Was the Child opened?

Kimp-

Kimpson. Yes.

Mr. Jones. And what was in the Body of the Child?

Kimpson. 'Twas very full of Water.

Mr. Jones. Call *Sarah Peppercorn.*

Mr. Cowper. You say you view'd the Child; Had it any Settlement of Blood?

Kimpson. I saw none.

Mr. Cowper. And you view'd the Body?

Kimpson. Yes.

Then Sarah Peppercorn was sworn.

Mr. Jones. Did you see the Body of *Mrs. Sarah Stout*, after it was stript and laid out?

Peppercorn. I did, Sir.

Mr. Jones. In what Condition did you find her?

Peppercorn. I did not see her till she was brought home to her Mother's, and there was a Rumour in the Town that she was with Child, and I was sent for to give an account whether she was or not, and I found she was not; and I help'd to pull off her Cloaths, and she was very clear as any I ever knew, only had a black Place on the Side of her Head, and in another Place about her Ear; but how it came I know not.

Mr. Jones. Did you observe how her Body was?

Peppercorn. Her Body was very well as any Woman's could be.

Mr. Jones. Did you observe any Water, or any such thing from her?

Peppercorn. No.

Mr. Jones. Was there any Purging at her Mouth or Nostrils?

Peppercorn. A little Froth as any Body might have.

Mr. Cowper. At what Hour did you see her?

Peppercorn. I believe it might be Nine or Ten a-Clock.

Mr. Baron Hatfell. In the Morning?

Peppercorn. Yes, Sir; but I can't give a just Account of the Time.

Mr. Baron Hatfell. What was you sent to for?

Peppercorn. To know if she was with Child; for it was reported she had drowned her self because she was with Child; and so her Mother desired me to come to give an Account that it was not so, and I found that it was not so.

Mr. Baron Hatfell. You are a Midwife, are you not?

Peppercorn. Yes, my Lord.

Then Elizabeth Husler was sworn.

Mr. Jones. Had you the View of the Body of *Mrs. Sarah Stout* the Day you heard she was drowned?

Husler. She was not drowned, my Lord; I went thither and helped to pull off her Cloaths.

Mr. Jones. In what Condition was her Body?

Husler. Her Body was very lank and thin, and no Water appeared to be in it.

Mr. Jones. Was there any Water about her Mouth and Nose?

Husler. Not when I saw her.

Mr. Jones. Did you mind her about her Neck and Head?

Husler. Yes, yes, there was a Settling of Blood at the Top of the Collar-bone, just here, and there was a Settling of Blood upon both her Ears, most about her left Ear.

Mr. Jones. Swear *Ann Pilkington.* (*Which was done.*) Did you see the Body of *Mrs. Stout* after she was drowned?

Pilkington. Yes, Sir.

Mr. Jones. Pray, in what Condition was she when she was stript?

Pilkington. I was in the House when she was brought in dead; and old *Mrs. Stout* desired me to help to lay her out; and taking a View of her, I did not at all perceive her Body to be swelled.

Mr. Jones. Was there any Water came out upon the moving of it?

Pilkington. No, I did not perceive any; and by a further View, I saw a Redness on the left Side of her Head, and her Ear was black, and there was a little Mark upon her Breast on the left Side.

Mr. Jones. What Colour was it of?

Pilkington. It seem'd reddish and blackish: As to Colour it was like a Settling of Blood: I can't tell how to make it out very well.

Mr. Cowper. Had she any Circle round about her Neck?

Pilkington. No, not that I see.

Mr. Cowper. Pray, did not you make some Deposition to that Purpose, that you know of?

Pilkington. Sir, I never did, and dare not do it.

Mr. Cowper. It was read against me in the *King's Bench*, and I will prove it; was not *Mr. Mead* with you at the Time of your Examination?

Pilkington. Yes.

Mr. Cowper. Did not he put in some Words; and what were they?

Pilkington. Not that I know of.

Mr. Cowper. But you never swore so, upon your Oath?

Pilkington. No, I don't believe I did; if I did; it was ignorantly.

Mr. Jones. Here is her Examination, it is cross her Neck.

Mr. Cowper. Was *Mr. Young* of *Hertford*, the Constable, present when you were examined?

Pilkington. Yes, he was so. The next Day *Mrs. Stout* sent for me again to put on her Daughter's Shrowd, and I was one that helped to draw the Sheet away, and there was not one Drop of Water come from her; and I laid a Cloth under her Chin, when I help'd her into the Coffin, but I did not see the least Moisture come from her.

Mr. Cowper. What Day was it, that you put her into the Coffin?

Pilkington. The next Day after she was dead.

Mr. Cowper. Do you know nothing of her being convey'd into the Barn?

Pilkington. I happen'd to be in the Barn, *Mrs. Stout* desired me to go with her, and she was brought up in an indecent Manner, and I put a Sheet about her. I was in *Mrs. Stout's* House before her Daughter was brought thither.

Mr. Jones. Call *Doctor Coatsworth*, *Doctor Nailor*, *Doctor Woodhouse*, *Doctor Bide.*

Mr. Coatsworth was sworn.

Mr. Jones. Pray, Doctor, had you a View of the Body of *Mrs. Stout*?

Coatsworth. Yes, I had Sir: I am a Surgeon.

Mr. Jones. Pray give an Account of it, and what your Opinion was how she came by her Death.

Coatsworth. My Lord, in *April* last I was sent for by *Dr. Philips*, to come to *Hertford* to see the Body of *Mrs. Stout* open'd, who had been six Weeks buried; and he told me, That there was a Suspicion she was murdered, and that her Relations were willing to have her taken up and opened. I

came down, I think on the 27th of *April*, and lay at Mrs. *Stout's* House that Night, and by her Discourse, I understood she wanted to be satisfied, whether her Daughter was with Child. I told her it was my Opinion we should find the Parts contained in the *Abdomen* so rotten, that it would be impossible to discover the *Uterus* from the other Parts; however, if she would have her opened, I could not discover whether she was with Child, unless the Infant was become bony. Her Face and Neck, to her Shoulders, appeared black, and so much corrupted, that we were unwilling to proceed any further: But, however, her Mother would have it done, and so we did open her; and as soon as she was opened, we perceived the Stomach and Guts were as full of Wind as if they had been blown with a pair of Bellows; we put her Guts aside, and came to the *Uterus*, and Doctor *Philips* shewed it us in his Hand, and afterwards cut it out and laid it on the Table, and opened it, and we saw into the Cavity of it, and if there had been any Thing there as minute as a Hair, we might have seen it, but it was perfectly free and empty; and after That, we put the Intestines into their Places; and we bid him open the Stomach, and it was opened with an Incision-Knife, and it sunk flat, and let out Wind, but no Water; afterwards we opened the Breast and Lobes of the Lungs, and there was no Water: Then we look'd on each Side, and took up the Lobes of the Lungs too, to see if there was no Water in the *Diaphragm*, and there was none, but all dry. Then I remember I said, this Woman could not be drowned, for if she had taken in Water, the Water must have rotted all the Guts: That was the Construction I made of it then; but for any Marks about her Head and Neck, it was impossible for us to discover it, because they were so rotten.

Mr. *Cowper*. You say, this Inspection was made about six Weeks after she was dead?

Coatsworth. It was made on the 28th of *April*.

Mr. *Cowper*. She was drowned on the 13th of *March*.

Mr. *Jones*. Did you make an Incision into those Parts of the Neck and Head.

Coatsworth. No: I told Mrs. *Stout* and her Son, If you imagine the Skull to be injur'd, I will open the Head; for if the Scalp be never so rotten, yet if the Skull has suffered any Impression I shall discover it; they said, They did not suspect a broken Skull in the Case, and so we did not examine it.

Mr. *Jones*. But all her other Parts were found?

Coatsworth. Yes, found to a Miracle; for I did not imagine we could find them so.

Mr. *Jones*. Call *John Dimsdale*?

Mr. *Cowper*. My Lord I would know, and I desire to be heard to this Point: I think where the Coroner's Inquest have view'd the Body, and the Relations have been heard, and the Body buried, that it is not to be stirr'd afterwards for any private Inspection of Parties, that intend to make themselves Prosecutors; but if it is to be taken up, it is to be done by some legal Authority; for if it should be otherwise, any Gentleman may be easily trepan'd: For instance, if they should have thought fit, after the Coroner's View, to have broken the Skull into a hundred Pieces, This was a private View altogether among themselves. Certainly, if they intended to have

prosecuted me, or any other Gentleman upon this Evidence, they ought to have given us notice, that we might have had some Surgeons among them, to superintend their Proceedings. My Lord, with submission, this ought not to be given in Evidence.

Mr. Baron *Hatsell*. Mr. *Cowper*, I think you are not in earnest; there is no Colour for this Objection: If they did take up the Body without notice, Why should not that be Evidence? unless you think they had a design to forswear themselves.

Mr. *Cowper*. Had you a *Melius Inquirendum*, or any lawful Warrant for making this Inspection?

Coatsworth. No, there was not.

Mr. Baron *Hatsell*. Suppose they did an ill Thing in taking up the Body without some Order, tho' I don't know any more ill in taking up that Body than any other; but, however, Is that any Reason why we should not hear this Evidence?

Coatsworth. Mr. *Camblin*, Six *William Cowper's* Surgeon was there by.

Mr. *Jones*. Call Mr. *Dimsdale* senior. (*Who was sworn.*) Had you a View of the Body after it was taken up?

Dimsdale. Yes.

Mr. *Jones*. Pray give your Opinion of it?

Dimsdale. On the 28th of *April*, as I remember, I was sent for down by Mrs. *Stout* to view the Body of her Daughter. Her Daughter was just taken out of the Ground, but not opened; they had just touch'd the Body, but not opened the Skin when I came there——

Mr. Baron *Hatsell*. Are you a Surgeon?

Dimsdale. Yes, my Lord. Finding her Head so much mortified, down to her Neck, we thought all the Parts were seized, and had a Consultation, Whether we should open her or not; but Mrs. *Stout* was very much enraged, because a great Scandal had been raised, That her Daughter was with Child; and she said, She would have her opened to clear her Reputation. With that we opened her, and found her Body as found as any Flesh could be; no manner of Putrifaction in her Lungs or any other Part, but she was very full of Wind. We search'd the Stomach and the Thorax, and found not one Drop of Water about it. I was more curious than the rest, and turn'd away her Legs, to see if the Coffin was soil'd, and the Coffin and Shroud were not wet. Her *Uterus* was taken out, and I saw no manner of Sign of Conception. After this we had a Consultation to consider, Whether she was drowned or not drowned; and we were all of Opinion, That she was not drowned; only Mr. *Camblin* desired he might be excused from giving his Opinion, whether she was drowned or not; but all the rest of us did give our Opinions, That she was not drowned.

Mr. *Jones*. Give your Reasons, why you believ'd she was not drowned.

Dimsdale. My Reason was this: Because we found no Water in her; her Intestines were not putrified; for if there had been Water in her, that would have caused a Fermentation, and that would have rotted the Lungs and Guts.

Mr. Baron *Hatsell*. Could you tell, so many Weeks after, whether she was drowned or no?

Dimsdale. Yes, my Lord, for this Reason: For if she had been drowned, there had been some Sign of Water; and if there had been a Pint of

Water, it would have rotted her Lights and her Guts; and that is done in a Week's Time by Fermentation.

Mr. Cowper. Sir, I desire to know, Whether according to Reason and your Skill, after six Weeks Time, it's possible there should be Water in the Thorax?

Dimsdale. I do believe there may be some; for it can't come out after the Body is dead, by but Putrifaction; and there was no Putrifaction, but it was firm and sound.

Mr. Baron Hatsfell. What Parts would have been putrified by the Water?

Dimsdale. The Lungs and Bowels.

Mr. Baron Hatsfell. And they were firm?

Dimsdale. They were: And if there had been Water, they would have been putrified.

Mr. Jones. Call John Dimsdale junior.

Juryman. Was her Navel started?

Dimsdale sen. No: I never saw such a Body in my Life.

Mr. Cowper. Did you ever see a Body that was drowned, opened six Weeks after?

Dimsdale sen. No, never. If a Body be drowned a Fortnight, the Bowels will be so rotten, there will be no coming near it; and I took particular Notice, and I did not see one Drop of Water.

Mr. Baron Hatsfell. Was the Coffin close?

Dimsdale sen. Yes; it was close and dry as any Board whatsoever; and all the Parts sound, but the Head and Neck, and left Arm.

Mr. Jones. What do you think could be the Reason of that?

Dimsdale sen. The left Arm was rottener than the other, the Neck was rotten before.

Mr. Jones. What did you take to be the Cause of it?

Dimsdale sen. I can't judge of that.

Call John Dimsdale (junior.) Who was sworn.

Dimsdale jun. My Lord, the Body was opened before I came to see it, and they were drawing up an Affidavit, that there was no Water in the Body, and they desired me to sign it; but I desired first to look into the Body; and I did look into it, and turn'd the Intestines aside, and there was no Water in it; but the Head from the Neck was very much putrified.

Mr. Jones. Do you believe she was drowned?

Dimsdale jun. No, I believe not.

Mr. Jones. Did you open the Child that was drowned? What Difference was there between the Body of that Child and this?

Dimsdale jun. The Child was extreamly swell'd in the Belly and Stomach, and had abundance of Water in it.

Mr. Jones. Was the Child lac'd that you open'd?

Dimsdale jun. It was laid upon the Table before I came.

Mr. Cowper. How long was it before the Child was opened?

Dimsdale jun. It was drowned in the Afternoon, and opened the next Morning.

Mr. Cowper. You said, Sir, you was ask'd to sign the Affidavit before you saw the Body, and you were honest, and would see the Body first; Pray who ask'd you?

Dimsdale jun. All of them did.

Mr. Cowper. Who in particular; if you please name them?

Dimsdale jun. Mr. Coatsworth, Mr. Philips, Mr. Camblin, &c. they asked me to set my Hand to it, because they thought I had seen it before.

Then Dr. Dimsdale was sworn.

Mr. Jones. Mr. Robert Dimsdale, was you at the opening of this Body?

Dr. Dimsdale. I came after it was opened; my Brother and I came together.

Mr. Jones. What Profession are you of, a Physician?

Dr. Dimsdale. Yes: when the Body was taken up, they desired us to be there, to inspect the Body; but before we came, it happen'd they had opened the Body, and were setting there Hands to a Paper, a sort of Affidavit; and when I came in, they would have had us set our Hands, but we would not, till we had look'd upon the Body, and went and laid it open again, and we did not find the least Drop of Water neither in the Thorax nor Abdomen.

Mr. Cowper. Is it possible there should be Water in the Thorax, according to your Skill?

Dr. Dimsdale. Yes, we did think there would have been, if she had been drown'd.

Mr. Bar. Hatsfell. Could you expect to find it, so long as six Weeks after?

Dr. Dimsdale. We should have expected that or a Putrifaction; but we found no Putrifaction, neither in the Bowels nor Intestines, but only upon her Head and Shoulders, and one Arm.

Mr. Cowper. Pray by what Passage does the Water go into the Thorax?

Dr. Dimsdale. 'Twill be very difficult for me to describe the Manner here; but we should have found some in the Stomach and Intestines.

Mr. Cowper. Pray, Sir, how should it go into the Thorax?

Dr. Dimsdale. By the *Lymphæduct*, if carried by any Means.

Mr. Cowper. When the Party is dead, Can any Water pass into any Part of the Body?

Dr. Dimsdale. We opened the *Abdomen* of the Child that was drowned, and found in the several Cavities abundance of Water.

Mr. Jones. When a Person is dead, Can they receive any Water after?

Dr. Dimsdale. No; for all the Parts are closed and contracted.

Mr. Cowper. Pray, If a dead Body be put into the Water, will not the Water come into the Wind-pipe?

Dr. Dimsdale. I question whether it will or no.

Mr. Jones. Was her Mouth shut?

Dr. Dimsdale. She was putrified about the Head and Shoulders, and one Arm that I saw was putrified; it was the left Arm, as I take it.

Mr. Jones. What is your Opinion, as to her Death?

Dr. Dimsdale. I believe, if she had been drowned, there would have been a Putrifaction of the *Abdomen* first; and it was her extream Parts, her Arm, her Head, and her Breast, that was putrified, but her Bowels seem'd firm and sound.

Mr. Jones. Then you don't think her Death was by drowning?

Dr. Dimsdale. No.

Mr. Cowper. Pray, did not you give some Certificate or Paper, declaring the Death of this Gentlewoman, before you saw the Body at all?

Dr. Dimsdale. No, I did not.

Mr. Cow-

Mr. *Cowper*. Sir, I would ask you, Was not you angry that Mr. *Camlin* would not join with you in Opinion?

Dr. *Dimsdale*. No.

Mr. *Cowper*. Did not you tell him, that you were a Graduate Physician, and was angry he would not join with you?

Dr. *Dimsdale*. Suppose I did?

Mr. Baron *Hatsell*. But did you so or no?

Dr. *Dimsdale*. Yes, my Lord, we had some Words about it.

Mr. *Jones*. Swear Dr. *Coatsworth*. (*Which was done.*)

Now, my Lord, we call these Gentlemen that are Doctors of Skill, to know their Opinions of them that are found floating without Water in them, how they came by their Death.

Dr. *Coatsworth*. I have not seen many drowned Bodies to make Observation upon; but it is my Opinion, That every Body that is drowned, is suffocated by Water passing down the Wind-pipe into the Lungs upon Respiration; and at the same Time, the Water pressing upon the Gullet, there will be a necessity of swallowing a great Part of it into the Stomach: I have been in danger of being drowned my self, and I was forced to swallow a great Quantity of Water. If a Person was drowned, and taken out immediately, as soon as the Suffocation was effected, I should not wonder if there were but little Water in the Stomach and Guts; but if it lay in the Water several Hours, it must be very strange if the Belly should not be full of Water; but I will not say, it is impossible it should be otherwise.

Mr. *Cowper*. I desire to know, whether this Gentleman attempted to drown himself, or was in danger of being drowned by Accident.

Dr. *Coatsworth*. It was by Accident: I was passing up the Ship Side, and took hold of a loose Rope instead of the Entering-Rope, which failing me, I fell into the Water.

Mr. *Cowper*. But you struggled to save your self from drowning?

Dr. *Coatsworth*. I did so: I have seen several Persons that have been drowned, and they have lain several Days, until by Fermentation they have been rais'd; but I never made my Observations of any Persons that have been drowned above six Hours.

Mr. *Jones*. Did you ever here of any Persons that, as soon as they were drowned, had swam above Water?

Dr. *Coatsworth*. I have not known such a Case.

Mr. *Cowper*. Did you ever know, Sir, a Body that was otherwise kill'd, to float upon the Water?

Dr. *Coatsworth*. I never made any Observation of that.

Mr. Baron *Hatsell*. Dr. *Browne* has a learned Discourse, in his *Vulgar Errors*, upon this Subject, concerning the floating of dead Bodies; I don't understand it my self, but he hath a whole Chapter about it.

Then Dr. Nailor was sworn.

Mr. *Jones*. We ask you the same Question that Doctor *Coatsworth* was asked, What is your Opinion of dead Bodies? If a Body be drowned, will it have Water in it or no?

Dr. *Nailor*. My Lord, I am of Opinion, That it will have a Quantity if it be drowned; but if there be no Water in the Body, I believe that the Person was dead before it was put into the Water.

Mr. *Cowper*. I would ask the Doctor one Question, my Lord, Whether he was not a constant Voter against the Interest of our Family in this Corporation?

Dr. *Nailor*. I never did come to give a Vote, but Sir *William Cowper*, or his Son, oppos'd me, and said, I had no Right to Vote.

Mr. *Cowper*. I would have ask'd the same Question of the *Dimsdales*, if I had remembered it; they are of another Party, as this Gentleman is.

Mr. Baron *Hatsell*. It is not all material, as they are Witnesses.

Then call Mr. Babington. (Who was sworn.)

Mr. *Jones*. Pray, What is your Opinion of this Matter?

Mr. *Babington*. I am of Opinion, that all Bodies that go into the Water alive, and are drowned, have Water in them, and sink as soon as they are drowned, and don't rise so soon as this Gentlewoman did.

Mr. *Cowper*. Pray, what is your Profession, Sir?

Mr. *Babington*. I am a Surgeon.

Mr. *Cowper*. Because Mr. *Jones*, call'd you Doctor.

Mr. Baron *Hatsell*. Did you ever see any drowned Bodies?

Mr. *Babington*. Yes, my Lord, once I had a Gentlewoman a Patient that was half an Hour under Water, and she lived several Hours after, and in all that time she discharged a great Quantity of Water: I never heard of any that went alive into the Water, and were drowned, that floated so soon as this Gentlewoman did; I have heard so from Physicians.

Mr. Baron *Hatsell*. I have heard so too, and that they are forced to tye a Bullet to dead Bodies thrown into the Sea, that they might not rise again.

Mr. *Cowper*. The Reason of that is, that they should not rise again, not that they will not sink without it. But I would ask Mr. *Babington*, whether the Gentlewoman he speaks of went into the Water voluntarily, or fell in by Accident?

Mr. *Babington*. By Accident, but I believe that don't alter the Case.

Mr. *Jones*. Swear Dr. *Burnet*. (*Which was done.*)

Dr. *Burnet*. You hear what is the Matter in question; what is your Opinion of it?

Dr. *Burnet*. My Lord, I think that if any Person fall into the Water by Accident, or throws himself in, the Body will receive Water as long as it is alive, and there are Endeavours for Respiration, and after these Endeavours are over, there is no Water will come in, for all the Parts are clos'd; so consequently there must be Water in all probability found in her.

Mr. *Jones*. What, do they swim or sink?

Dr. *Burnet*. They sink; I never saw a Person drowned taken up without Water in my Life; but I have seen several full of Water.

Mr. *Cowper*. I think you say when the Faculty of Respiration ceases, no Water comes in.

Dr. *Burnet*. Yes, that is my Opinion.

Mr. *Cowper*. But the Water does pass into them while there are Endeavours for Respiration?

Dr. *Burnet*. Yes, that is my Opinion.

Then Dr. Woodhouse was sworn.

Mr. *Jones*. Doctor, What is your Opinion of this Matter?

Dr. *Woodhouse*. My Opinion is, that no Person is suffocated by Water, but he must have a great deal

deal of Water within him, a great deal of Water in the Stomach, and some in the Lungs?

Mr. Cowper. Pray, Sir, did you ever open any of these Bodies?

Dr. Woodhouse. Yes, I have opened a Child my self that had a great Quantity of Water in it.

Mr. Cowper. Did you find any Quantity of Water in the Throat?

Dr. Woodhouse. There was some, but a little, but a great deal in the Stomach.

Mr. Cowper. Pray, which way can it pass into the Thorax?

Dr. Woodhouse. While the Person is struggling for Respiration, there may be a Relaxation of and the Person must suck in Water as well as Air, and some Water may get into the Windpipe, and so enter into the Lungs.

Mr. Cowper. Is there a Passage from the Lungs to the Thorax?

Dr. Woodhouse. The Thorax is the Vessel wherein the Lungs lie, the Lungs in the Thorax, the Breast is the Cavity where the Lungs lie, the Windpipe is the Conveyance to the Lungs, and a Person in Respiration takes down some Water there, but no doubt the greater Quantity will be in the Stomach.

Mr. Bar. Hatfield. Pray let me ask you a Question: Some of the Witnesses said, That if a Person be drowned, and lies dead a great while, the Inwards will be putrified; What is your Opinion of it?

Dr. Woodhouse. No doubt, my Lord, where Water gets into the Stomach, or wherever it is, it will putrify very soon.

Mr. Jones. Call Edward Clement. (Who was sworn.) Are not you a Seaman?

E. Clement. Yes, Sir.

Mr. Jones. How long have you been so?

E. Clement. Man I have writ my self but six Years, but I have used the Sea nine or ten Years.

Mr. Jones. Have you known of any Men that have been kill'd, and thrown into the Sea, or who have fallen in and been drowned? Pray tell us the Distance as to their swimming and sinking?

E. Clement. In the Year 89, or 90, in Beachy Fight, I saw several thrown over-board during the Engagement, but one particularly I took notice of, that was my Friend, and kill'd by my Side; I saw him swim for a considerable Distance from the Ship; and a Ship coming under our Stern, caus'd me to lose sight of him, but I saw several dead Bodies floating at the same time; likewise in another Engagement, where a Man had both his Legs shot off, and died instantly, they threw over his Legs; though they sunk, I saw his Body float: Likewise I have seen several Men who have died natural Deaths at Sea, they have when they have been dead had a considerable Weight of Ballast and Shot made fast to them, and so were thrown over-board; because we hold it for a general Rule, that all Men swim if they be dead before they come into the Water; and on the contrary I have seen Men when they have been drowned, that they have sunk as soon as the Breath was out of their Bodies, and I could see no more of them. For Instance, a Man fell out of the *Cornwall*, and sunk down to rights, and seven Days afterwards we weighed Anchor, and he was brought up grasping his Arm about the Cable; and we have observed in several Cases, that where Men fall over-board, as soon as their Breath is out of their Bodies they sink downright, and on the contrary

where a dead Body is thrown over-board without Weight it will swim.

Mr. Jones. You have been in a Fight; How do Bodies float after a Battle?

E. Clement. Men float with their Heads just down, and the small of their Back and Buttocks upwards: I have seen a great Number of them, some hundreds in Beachy-head Fight, when we engag'd the *French*. I was in the old *Cambridge* at that Time. I saw several (what Number I will not be positive, but there were a great Number, I can't guess to a Score) that did really swim, and I could see them float for a considerable Distance.

Mr. Jones. Have you seen a Shipwreck?

E. Clement. Yes; the *Coronation* in September 1691. I was then belonging to the *Dutchess*, under the Command of Captain Clement; we look'd out and see them taking down their Masts; we saw the Men walking up and down on the right Side, and the Ship sink down, and they swam up and down like a Shoal of Fish one after another; and I see them hover one upon another, and see them drop away by Scores at a time, and there was an Account of about Nineteen that sav'd themselves, some by Boats, and others by Swimming; but there were no more sav'd out of the Ship's Complement, which was between five and six Hundred, and the rest I saw sinking downright, some twenty at a time. There was a Fisherman brought our Captain Word, that in laying in of his Nets he drew up some Men close under the Rocks that were drowned belonging to the *Coronation*. We generally throw in Bags of Ballast with them.

Mr. Jones. I suppose all Men that are drowned, you sink them with Weights?

E. Clement. Formerly Shot was allowed for that purpose; there us'd to be threescore Weight of Iron, but now 'tis a Bag of Ballast that is made fast to them.

Mr. Jones. Then you take it for a certain Rule, that those that are drowned sink, but those that are thrown over-board do not?

E. Clement. Yes; otherwise why should the Government be at that vast Charge to allow threescore or fourscore Weight of Iron to sink every Man, but only that their Swimming about should not be a Discouragement to others?

Then Richard Gin was sworn.

Mr. Jones. You hear the Question; Pray what do you say to it?

R. Gin. I was at Sea a great while, and all the Men that I see turned over-board had a great Weight at their Heels to sink them.

Mr. Jones. Then will they swim otherwise?

R. Gin. So they say.

Mr. Jones. Are you a Seaman?

R. Gin. I went against my Will in two Fights.

Mr. Jones. Then Gentlemen of the Jury, I hope we have given you Satisfaction that Mrs. *Stout* did not drown herself, but was carried into the Water after she was killed. That was the first Question; for if it be true that all dead Bodies when they are put into the Water do swim, and the Bodies that go alive into the Water and are drowned do sink, this is sufficient Evidence that she came by her Death not by drowning, but some other Way. Now, my Lord, as to the second Matter, and that is to give such Evidence as we have against these Gentlemen at the Bar. Mr. Cowper, it appears, was the last Man that any one can give an Account of

was in her Company. What became of her afterwards, or where they went, no Body can tell; but the other Witnesses have given you Evidence that he was the last Man that was with her. I shall only give this further Evidence as to Mr. Cowper, That notwithstanding all the Civility and Kindnesses that pass'd between him and this Family, when the Bruit and Noise of this Fact was spread abroad, Mr. Cowper did not come to consider and consult with old Mrs Stout what was to be done; but he took no manner of Notice of it, and the next Day he rode out of Town, without further taking Notice of it.

Call George Aldridge, and John Archer.

John Archer was sworn.

Mr. Jones. Do you know any thing of Mr. Cowper's going out of Town about this Business of Mrs. Stout's being drowned?

J. Archer. Yes, I did see him go out of Town afterwards.

Mr. Jones. Which Way did he go?

J. Archer. He went the Back-way from the Glove; I suppose he came that Way.

Mr. Cowper. What Day was it I went? Is it not the Way that I us'd to go when I go the Circuit into Essex.

J. Archer. Yes, I believe so.

Mr. Cowper. I lodg'd at Mr. Barefoot's, and he has a Back-door to the Glove, where my Horse was, and I went the direct Way into Essex, and it was Wednesday Morning: What Day was it you see me go?

J. Archer. It was on the Wednesday Morning.

Mr. Cowper. That was the very Day I went into Essex.

Then George Aldridge was sworn.

Mr. Jones. When did Mr. Cowper go out of Town the last Assizes?

G. Aldridge. On Wednesday.

Mr. Jones. Which Way did he go?

G. Aldridge. He went the Way to Chelmsford.

Mr. Jones. Did you not fetch his Horse from Stout's?

G. Aldridge. Yes, Sir.

Mr. Jones. How often did you go for it?

G. Aldridge. Three Times.

Mr. Jones. When?

G. Aldridge. On Tuesday Night I sent once, and went twice my self; the first Time there was no Body at home to deliver the Horse, so I went to Mr. Stout's, and ask'd him about the Horse, and he said he could not deliver him till the Maid went home, and then I went about Eleven of the Clock and had the Horse.

Mr. Baron Hatfell. Was it Eleven at Night?

G. Aldridge. Yes, my Lord.

Mr. Cowper. When I sent you to fetch my Horse, what Directions did I give you?

G. Aldridge. You gave me Directions to fetch your Horse, because you said you should have occasion to go out next Morning betimes with the Judge.

Mr. Cowper. The Reason I sent for my Horse was this; when I heard she had drowned her self, I think it concern'd me in Prudence to send a common Hottler for him, for fear the Lord of the Manor should seize all that was there as forfeited.

Mr. Baron Hatfell. There was no Danger of that, for she was found *Non compos mentis*.

Mr. Cowper. No, my Lord, I sent before the Verdict.

Mr. Jones. It seems you did not think fit to go and take Horse there your self, though you put your Horse there.

Now, my Lord, we will go on and give the other Evidence that we opened concerning these three other Gentlemen that came to Town, two of them took Lodgings at Gurrey's at Five in the Afternoon, but did not come in till between Eleven and Twelve, and then they brought another in with them; and though he had been in Town five or six Hours, his Feet were wet in his Shoes, and his Head was of a reeky Sweat; he had been at some hard Labour I believe, and not drinking himself into such a Sweat.

Call John Gurrey, Matthew Gurrey, and Eliz. Gurrey.

John Gurrey was sworn.

Mr. Jones. Do you know any of the Gentlemen at the Bar?

J. Gurrey. Yes.

Mr. Jones. Name who you know.

J. Gurrey. There is Mr. Stevens, Mr. Rogers, and Mr. Marson.

Mr. Jones. Pray, do you remember when they took Lodging at your House?

J. Gurrey. The last Assizes; when they first came, there was only Mr. Stevens and Mr. Rogers.

Mr. Jones. At what Time did they take it?

J. Gurrey. I was at Church, and can't tell that, they hir'd the Lodgings of my Wife.

Mr. Jones. What can you say more?

J. Gurrey. I was in at Night when they came; there came three of them at Eleven at Night, whereof Mr. Marson was the third Person, and he said he was destitute of a Lodging, and he ask'd for a spare Bed; my Wife told him she had one, but had let it; whereupon Mr. Stevens and Mr. Rogers said he should lodge with them; so they went up all together, and they call'd for a Fire to be kindled, and ask'd for the Landlord, which was I, and they ask'd me to fetch a Bottle of Wine, and I told them I would fetch a Quart, which I did; and then they ask'd me to sit down and drink with them, which I did; and then they ask'd me if one Mrs. Sarah Stout did not live in Town, and whether she was a Fortune? I said yes; then they said they did not know how to come to the Sight of her; and I said I would shew them her to-morrow Morning, not questioning but I might see her some time as she was coming down the Street; so they said they would go to see her. Mr. Rogers and Mr. Stevens charged Mr. Marson with being her old Sweetheart; saith Mr. Marson, she hath thrown me off, but a Friend of mine will be even with her by this Time.

Mr. Baron Hatfell. What a-Clock was it then?

J. Gurrey. I reckon Eleven of the Clock when they came in.

Mr. Baron Hatfell. Did you observe in what Condition Mr. Marson was in?

J. Gurrey. I did not observe, only that he was hot, and put by his Wig; I see his Head was wet, and he said he was just come from London, and that made him in such a Heat.

Mr. Jones. Had he Shoes or Boots on?

J. Gurrey. I did not observe that.

Mr. Jones. What did they do the next Day?

J. Gurrey.

J. Gurrey. The next Morning I heard this Party was in the Water; I sat up all Night, and was fain to wait till my Daughter came down to look after the Shop, and then I went to see her, and she was remov'd into the Barn, and they were wiping her Face, closing her Eyes, and putting up her Jaws; and as I came back these Persons were walking, and I met Mr. *Marson* and Mr. *Stevens*, and told them the News: Said I, this Person is come to a sad Accident: Say they, so we hear; but nevertheless we will be as good as our Word, and go and see her. I went with them, and overtook Mr. *Rogers*; and *Marson* said, we are going to see Mrs. *Stout*. O Landlord, said *Rogers*, you may take up that Rogue (pointing at Mr. *Marson*) for what he said last Night; but I did not think, they speaking so jocularly, that there was any Suspicion of their being concern'd in the Murder. A second time I went, the Barn-door was lock'd; I knock'd, and they open'd it and let us in, and they uncover'd her Face to let me see her, and I touch'd her; and looking about for them, they were gone, and I can't say they see her or touch'd her: Then Mr. *Marson* and they were consulting how to send a Great Coat to *London*, and I directed them to a Coachman at the *Bell-Inn*; but I did not hear he went to enquire after the Coachman; then they went to your Lordship's Chamber, and I went home; and about Eleven of the Clock I saw Mr. *Marson* and Mr. *Stevens* coming down with Mr. *Spencer Cowper*.

Mr. *Marson*. I did not go out that Night after I came in.

Mr. *Jones*. No; we agree that. Did you see Mr. *Cowper* and these Gentlemen together?

J. Gurrey. Only at Eleven of the Clock on *Tuesday* Noon, Mr. *Cowper*, Mr. *Marson*, and Mr. *Stevens* were coming down to the Market-place.

Mr. *Jones*. Did not they take their Leave of you when they went away from you that Forenoon?

J. Gurrey. No; only in the Morning they told me they would send me Word at Noon if they intended to lodge there.

Mr. *Marson*. I desire to know of Mr. *Gurrey*, if his Sister was not in the Room when we came in?

J. Gurrey. She was in our House that Day; but whether when they came in, I can't tell.

Mr. *Cowper*. Pray, have you not had some Discourse with your Sister, the Widow *Davis*, concerning some Suspicion that you had of *Sarah Walker*, that hath been produced as a Witness?

J. Gurrey. I don't remember any such.

Mr. *Cowper*. Then did not you say these Words, We must not concern ourselves with *Sarah Walker*, for she is the only Witness against the *Cowpers*?

J. Gurrey. I can't remember any such Thing.

Mr. Baron *Hatsell*. You may answer according to the best of what you remember; if you say you have forgot when you have not, you are forsworn.

Mr. *Cowper*. If your Lordship pleases to give Leave to Mr. *Gurrey* to recollect himself. I ask him, whether he did not talk with his Sister *Davis* about some Suspicion his Wife and he had about *Sarah Walker*, the Maid-servant of the Deceas'd?

J. Gurrey. I believe there might be some Talk of a Person that was seen to go into the Church-yard at some Distance with *Sarah Walker*.

Mr. *Cowper*. Did your Wife say that she did suspect that Person?

J. Gurrey. Yes.

Mr. *Cowper*. Did your Wife say they behav'd themselves strangely, and that she would have per-

suaded the Widow *Blewit* to have watch'd her?

J. Gurrey. There was something of that.

Mr. *Cowper*. Was there not some such Words, that they must not meddle with *Sarah Walker*, for she is the Witness against the *Cowpers*?

J. Gurrey. I said, Do not concern your self with *Sarah Walker*, for fear of taking off her Evidence.

Mr. *Cowper*. Pray, did not the Widow *Davis* warm the Sheets for these Gentlemen?

J. Gurrey. She was with my Wife, but I can't say whether she warm'd the Sheets.

Mr. *Cowper*. When they came home, had you any Lodgers that wanted to come home? Had not you one *Gape*?

J. Gurrey. I can't say whether he was in before or after them.

Mr. *Cowper*. Did not you say to your Sister *Davis*, Now these Gentlemen are in Bed, if Mr. *Gape* would come home, our Family would be quiet?

J. Gurrey. I do not remember that.

Mr. *Cowper*. Pray, did not you go to look for Mr. *Gape*?

J. Gurrey. Yes, I went to *Hockley's*.

Mr. *Cowper*. Who did you employ to speak to Mr. *Gape*?

J. Gurrey. Mrs. *Hockley*.

Mr. *Cowper*. When you came home to your own House, and after you had been at *Hockley's* to speak with Mr. *Gape*, what Account did you give of the Time of Night, and other Particulars?

J. Gurrey. I gave no Account of the Time.

Mr. *Cowper*. Not to Mrs. *Davis*?

J. Gurrey. I can't tell whether I did or no.

Mr. *Cowper*. Did not you say Mr. *Gape* ask'd Mrs. *Hockley* what a-Clock it was?

J. Gurrey. No, I don't remember that; but Mrs. *Hockley* went in and told him what Time of Night it was; it was Eleven or Twelve of the Clock, whether I can't say.

Mr. *Jones*. Call *Martha Gurrey*. (Who was sworn.) Which of these Gentlemen do you know?

Mrs. *Gurrey*. Mr. *Marson*, Mr. *Rogers*, and Mr. *Stevens*.

Mr. *Jones*. What Time of the Night was it when they came to your House? Give an Account of it, and of what you heard them say.

Mrs. *Gurrey*. It was a little after Five, or thereabouts, that they came——

Mr. *Jones*. Who came?

Mrs. *Gurrey*. Mr. *Stevens*, and Mr. *Rogers*, and there was one Mr. *Gilbert*, that married a first Cousin of mine, he came and ask'd me for my Husband; and I ask'd him his Business, and he said, he wanted to speak with him——

Mr. *Jones*. Pray come to these Men; when did they come to your House?

Mrs. *Gurrey*. They hired the Lodging at Five of the Clock. When they first came to see them I was not at home: Mr. *Gilbert* brought them, and as I was coming along the Street I saw Mr. *Gilbert* walking off, and would not look at me.——

Mr. *Jones*. When did they go out?

Mrs. *Gurrey*. They never staid there.

Mr. *Jones*. When did they come in again?

Mrs. *Gurrey*. Between Eleven and Twelve.

Mr. Baron *Hatsell*. What did they do when they came in again?

Mrs. *Gurrey*. I was laying on some Sheets two Pair of Stairs when they came, and then there was three of them; so they saw me a little after, and begg'd my Excuse for bringing in another, for they said it was so late that they could not get a Lodging

any where else; and said, if I thought fit, the Gentleman should lie with them; and I told them I liked it very well.

Mr. Jones. What Firing had they?

Mrs. Gurrey. The Firing I laid on in the Morning, and they sent for my Husband to fetch them some Wine.

Mr. Jones. What did you hear them talk on?

Mrs. Gurrey. They discours'd with my Husband, and ask'd him if he knew Mrs. Sarah Stout; and one of them said to Mr. Marson, I think she was an old Sweetheart of yours; ay, said he, but she turn'd me off, but a Friend of mine is even with her: And Mr. Rogers said he was in with her, and afterwards said, her Business was done. They had a Bundle, that was wrapt in a pure white Cloth, like to an Apron, but I can't say it was an Apron; and there was a Parcel hanging loose by it; and when he laid it down he said, he would pass his Word Mrs. Sarah Stout's court-ing Days were over; and I said, I hoped 'twas no Hurt to the Gentlewoman; and then I looking upon Mr. Marson, saw him put his Peruke aside, and his Head reek'd, and he told them he was but just come from London that Night, which made him disappointed of a Lodging.

Mr. Jones. What did you hear them say about any Money?

Mrs. Gurrey. I ask'd them how they would have their Bed warm'd, and Mr. Marson answer'd, very hot: With that I went down to send my Daughter up, and she could not go presently; I told her then she must go as soon as she could.

Mr. Baron Haifell. Pray don't tell us what pass'd between you and your Daughter: What do you know of these Gentlemen?

Mrs. Gurrey. I went to the next Room, to see if every thing was as it should be; I hearkened, and they had some Discourse about Money, and I heard some-body (I don't know who it should be except it were Mr. Stevens) answer and say, the Use-money was paid to-night; but what Money they meant, I can't tell.

Mr. Jones. What did you find when they were gone?

Mrs. Gurrey. Sir, I found a Cord at the End of the Trunk.

Mr. Jones. Was it there in the Morning, or before they came?

Mrs. Gurrey. No, it could not, for I swept my Room, and wiped down the Dust.

Mr. Jones. Was the Cord white?

Mrs. Gurrey. No, it was more dirty than it is now, for my Husband and I have worn it in our Pockets.

Mr. Cowper. Pray, who brought the Cord down from above Stairs?

Mrs. Gurrey. My Daughter that liv'd with me, and she laid it upon the Shelf.

Mr. Cowper. Did not you hear there was a Coroner's Inquest sitting?

Mrs. Gurrey. The next Day at Night I did hear of it.

Mr. Cowper. Why did not you go to the Coroner's Inquest and give an Account of it there?

Mrs. Gurrey. I told my Husband of it, and I ask'd my Husband if he did not hear what they said concerning Mrs. Sarah Stout, and he answer'd, yes, they ought to be taken up for the Words they said last Night: Why, saith I, don't you take notice of it? I think you ought to take them up. But he went out of Doors, and I saw no more of

him till the Afternoon. When I heard the Words I thought some-body had stole away and got to bed to her.

Mr. Cowper. Pray, if your Husband heard these Words, why did not he go to the Coroner's Inquest?

Mrs. Gurrey. I did speak to him to have them taken up.

Mr. Cowper. Why did he not do it?

Mrs. Gurrey. He said he would not do it; he did not know but it might cost him his Life.

Mr. Jones. How came you after this to discover it?

Mrs. Gurrey. Because I was so troubled in Mind I could not rest Night nor Day; and I told him if he would not tell of it, I would tell of it myself, for I was not able to live.

Then Elizabeth Gurrey was sworn.

Mr. Jones. Pray, do you know Mr. Rogers, Mr. Stevens, and Mr. Marson?

E. Gurrey. I know Mr. Marson, and these are the other Gentlemen I reckon.

Mr. Jones. What Discourse did you hear from them?

E. Gurrey. Mr. Marson ask'd the other Gentlemen how much Money they had spent; the other answer'd, what was that to him? you have had forty or fifty Pounds to your Share. Then the other ask'd him, whether the Business was done? and he answer'd, he believ'd it was; but if it was not done, it would be done to-night. Then, my Lord, he pull'd a handful of Money out of his Pocket, and swore he would spend it all for Joy the Business was done.

Mr. Jones. Was Mr. Cowper's Name mention'd?

E. Gurrey. I heard them mention Mr. Cowper's Name, but not Mrs. Sarah Stout's.

Mr. Jones. What Condition was the Gentleman's Shoes in?

E. Gurrey. I think it was Mr. Marson, his Shoes were very wet and dirty; one of them was very hot, and he wiped his Head with his Handkerchief.

Mr. Jones. Now, my Lord, we have done as to our Evidence. Mr. Marson pretended he was just then alighted and come from London, and was in great Heat, and his Shoes were wet: I wonder what Mr. Marson had been doing; for when he was examined, he said, he came to Town about Eight of the Clock, and went to the *Globe and Dolphin Inn*, and stay'd there till he came to his Lodging. Now 'tis a wonderful Thing that he should come wetshod from a Tavern, where he had been sitting four or five Hours together.

[Then the Examination of Mr. John Marson was read.]

The Examination of JOHN MARSON, taken before Me, this 27 Day of April, 1699.

WHO being examin'd where he was on Monday the 13th of March last, saith, That he was at the Borough of Southwark (he being an Attorney of the said Court) till past Four of the Clock in the Afternoon; and saith, That he set out from Southwark for Hertford soon after, and came to Hertford about Eight of the Clock the same Afternoon, and put up his Horse at the Sign of ——— an Inn there, and then went to the Hand and Glove, together with Godfrey Gimbart, Esq; Ellis Stevens, William Rogers, and some others, where they stay'd till about Eleven of the Clock at Night, and then this Examinant went thence directly to the House of John Gurrey, with

the said Stevens and Rogers, who lay all together in the said Gurrey's House all that Night. And being ask'd what he said concerning the said Mrs. Sarah Stout, decess'd, this Examinant saith, That on Sunday the 12th of March last, this Examinant being in Company with one Thomas Marshall, and telling him that this Examinant intended the next Day for Hertford with the Marshal of the King's Bench, the said Thomas Marshall desired this Examinant and the said Stevens, who was then also in Company, that they would go and see the said Sarah Stout (his Sweet-heart). He confesseth, That he did ask the said Gurrey if he would shew this Examinant where the said Stout lived, telling the said Gurrey that his Name was Marshall, and ask'd him if he never heard of him before, and jocularly said, That he would go to see her the next Morning; but doth not believe that he said any thing that any Friend was even with the said Sarah Stout, or to such like Effect. And doth confess, That he did the next Day, upon the said Gurrey's telling him that the said Stout was drowned, say, that he would keep his Word, and would see her. And saith, That meeting with Mr. Cowper (who is this Examinant's Acquaintance) he believes he did talk with him concerning the said Stout's being drowned, this Examinant having seen her Body that Morning.

Cogn. Die & Anno
antedict. coram
J. Holt.

John Marson.

Mr. Jones. All that I observe from it, is this; that he had been five Hours in Town, and when he came to his Lodging he came in wet and hot, and said he was just come from London.

Mr. Marson. I had rid forty Miles that Day, and could not be soon cold.

Mr. Baron Hatsell. They have done now for the King; come Mr. Cowper, what do you say to it?

Mr. Jones. If your Lordship please we will call one Witness more, Mary Richardson. Mrs. Richardson, Do you know Mr. Marson, or any of these Gentlemen?

Mrs. Richardson. They came on Tuesday Night to the Bell at Hoddesdon and lay there, and one of the Gentlemen, when I was warming the Sheets, ask'd me if I knew Mrs. Sarah Stout? and I said yes. He ask'd me if I knew which Way she came to her End? and I told him I could not tell.

Mr. Jones. Is that all? what did they say more?

Mrs. Richardson. They did desire and wish it might be found out how it came about, and one Gentleman took no notice of her at all. They had a little Bundle, but what was in it I can't tell, but there I saw it bound up in some colour'd Stuff or other, but what it was I can't tell.

Mr. Jones. Is that all you can say?

Mrs. Richardson. Yes, that's all.

Mr. Jones. Then we have done.

Mr. Baron Hatsell. Come, Mr. Cowper, what do you say to it?

Mr. Cowper. Now they have done on the Part of the King, my Lord, and you Gentlemen of the Jury, I must beg your Patience for my Defence. I confess, it was an unfortunate Accident for me (as Mr. Jones calls it) that I happen'd to be the last Person (for ought appears) in the Company of a melancholy Woman. The Discourse occasion'd by this Accident had been a sufficient Misfortune to me, without any thing else to aggravate it; but I did not in the least imagine that so little, so trivial an Evidence as here is, could

possibly have affected me to so great a Degree, as to bring me to this Place to answer for the worst Fact that the worst of Men can be guilty of.

My Lord, your Lordship did just now observe, that I have appear'd at the Bar for my Clients; but I must say too, that I never appear'd for my self under this, or the like Circumstances, as a Criminal, for any Offence whatsoever.

Mr. Jones very well said, when he spoke on the Part of the King, That if this Gentlewoman was murther'd, the Crime was Villainous, Base, Barbarous, and Cruel; and for my Part I think so too; the Crime would be so great, that it could never be sufficiently condemn'd: But at the same time I may aver, that to suppose a Murther without good Grounds for it, and afterwards to charge innocent Men with it knowingly and maliciously, is to a Trifle as Base and Barbarous as the Murther itself could be. My Lord, I speak for my own Part; I know not at what Price other Men may value their Lives, but I had much rather my self was murther'd than my Reputation; which yet I am sensible hath suffer'd greatly hitherto by the Malice and Artifice of some Men, who have gone pretty far in making this Fact, as Barbarous as it is, to be credited of me. And therefore I must beg your Lordship's and the Jury's Patience, while I not only defend my Life, but justify my self also from these things that have unjustly aspers'd me, by the Conspiracy and Artifice of my Accusers.

My Lord, in all the Evidence that hath been given, I must observe, that there is no positive Evidence, with Submission, to induce the Jury or any one to believe the General, that this Gentlewoman was murther'd; but they go upon Suppositions and Inferences, which are contradicted by other Circumstances, in the very Evidence of the Prosecutor, that make full as strong to prove she was not murther'd, as that she was; so that, as it stands, it can amount only to a bare Supposition that she was murther'd by any Body.

Then, as to the Evidence that particularly relates to my self, or the Gentlemen who stand with me at the Bar, that they or I were concern'd in it (if she was murther'd) there is not one Syllable of Proof; at most, it amounts but to make us suspect a Murther, not prov'd, but only suspected: This I observe upon the Evidence, as it now stands without Answer, as it has been given on the King's Part: And how far, in the Case of Life, Men shall be affected with Evidence of this nature, which neither proves the Murther in general, nor that they did it in particularly, tho' no Defence was made, or any further Answer given, I must submit to your Lordship's and the Jury's Judgment.

But, my Lord, I do not doubt but I shall be able to wipe away even that remote Suspicion by my Defence: They have been long in their Evidence for the King, and therefore I must beg your Patience while I give a particular Answer to every Part of it, in as good a Method as I am able; and I will waste as little Time as may consist with the justifying my Reputation; for which I know your Lordship will have as tender a Regard, to see it doth not suffer unjustly, as for my Life it self.

And I promise your Lordship, I shall trouble you with no Evidence which is not express and plain; no Inuendo's or Suspicions; but I shall

prove fully and clearly, in the first place, That there was no Ground at all, in this Case, to suppose she was murther'd by any one but herself.

The first Fact that they insisted upon to infer a Murther from it, was, that the Body was found floating: Now, my Lord, that Fact I am able by the Evidence I have, as well as from that of the Prosecutor, to deny; for the Fact was directly otherwise, that is, she was not found floating.

And whereas the Prosecutor's Witnesses, who have been produced to this Point, are obscure and poor Men, and, your Lordship observes, have been taught to say generally that she floated; which, when they are requir'd to explain, and describe how she lay, they contradict themselves in, by shewing she lay sideways between the Stakes, and almost all under Water. Now I shall give your Lordship and the Jury a full and particular Account and Description from the Parish Officers, Men employ'd by the Coroner to take the Body out of the Water, of the very Manner and Posture in which it was first found; which they are much better able to do than the Prosecutor's Witnesses, having seen her before all or most of those People; and these Officers clearly agree, that her Body was under Water when found, except some small Appearance of her Petticoats, near or on the Surface of the Water, which may be very easily accounted for, because the Stakes the Witnesses mention, and which are driven into the Ground cross the River, to prevent Weeds and Trumpery from running into the Mill-stand, as the Witnesses have already said, about a Foot distant from one another, and are set with their Feet from the Mill, and their Heads inclining toward the Mill with the Stream. Now my Lord, every one knows, that tho' a drowned Body will at first sink, yet is buoyant, and does not go downright and rest in one Place like Lead; for a human Body is seldom or never in a Stream found to lie where it was drown'd: A Body drown'd at *Chelsea* has been often found by Fishermen at *London*, and that before it came to float above Water. Now, if a Body is so buoyant, as that it is driven down by the impellent Force of the Current (tho' it do not float above Water) it seems a Consequence, that when it comes to be stopp'd and resisted by the Stakes, which lie with their Heads downward, inclining with the Stream, the Stream bearing the Body against the Stakes, must needs raise it upwards to find another Passage if possible, when the Ordinary and Natural is obstructed. I have seen, I remember, that where Weeds have been driven down a River, and have been rouled along at the Bottom, when they have come down to a Board or Stakes of a Wye, or Turnpike, they have been by the Force of the Water raised up against those Boards, or Stakes, and forced over them, tho' without such Obstruction they had undoubtedly continued to roul under the Water. I don't know of any other Symptom they pretend to, of her not being drowned, from any thing observ'd of her in the Water. Then, as to the Flatness of her Belly, when she was put into her Coffin, I shall shew 'tis a common and natural Accident; sometimes drowned Bodies are swell'd more, sometimes less, sometimes not at all: I think it hardly deserves a Physician to prove that a Body may be drowned with very little Water; that a Man may be drown'd by Strangling or Suffocation, caused by a

little Water in the Lungs, without any great quantity of Water receiv'd in the Body, is a certain and establish'd Truth; for I am told that when Respiration ceases, the Party dies, and can receive no more Water after that: So that nothing is to be infer'd from a Body's having more or less Water found in it, especially if your Lordship will give me Leave to observe this Distinction, where a Body is voluntarily drowned, and where it is drowned by Accident; for People that fall in by Accident do struggle and strive as long as they can; every time they rise they drink some Water into the Stomach, to prevent its passing into the Lungs, and are drowned no sooner than needs must; but Persons that voluntarily drown themselves, to be sure desperately plunge into the Water, to dispatch a miserable Life as soon as they can; and so that little quantity in the Lungs which causes Death may be the sooner taken in; after which no more is receiv'd: And I hope by Physicians it will appear there is good Ground for this Difference.

The next is the Evidence that the *Surgeons* have given on the other Part, relating to the taking this Gentlewoman out of her Grave after she had been buried six Weeks. Whether this ought to have been given in Evidence, for the Reasons I hinted at in a Criminal Case, I submit to your Lordship; but, as it is, I have no reason to apprehend it, being able to make appear, that the Gentlemen who spoke to this Point have deliver'd themselves in that manner, either out of extream Malice, or a most profound Ignorance; this will be so very plain upon my Evidence, that I must take the Liberty to impute one or both of those Causes to the Gentlemen that have argued from their Observations upon that Matter.

And now, if your Lordship will but please to consider the Circumstances under which they would accuse me of this horrid Action, I don't think they will pretend to say, that in the whole Course of my Life I have been guilty of any mean or indirect Action; and I will put it upon the worst Enemy I have in the World to say it. Now, for a Man in the Condition I was in, of some Fortune in Possession, related to a better, in a good Employment, thriving in my Profession, living within my Income, never in Debt (I may truly say not Five Pounds at any one time these Years past) having no Possibility of making any Advantage by her Death, void of all Malice, and, as appears by her own Evidence, in perfect Amity and Friendship with this Gentlewoman, to be guilty of the murthering her, to begin at the Top of all Baseness and Wickedness, certainly is incredible.

My Lord, in this Prosecution my Enemies seeing the Necessity of assigning some Cause, have been so malicious to suggest before (tho' not now, when I have this Opportunity of vindicating my self publickly) that I have been concern'd in the Receipt of Money for this Gentlewoman, had her Securities by me; and sometimes, that I had been her Guardian, or her Trustee, and I know not what. I now see the Contrivers and Promoters of that Scandal, and they know it to be Base, False, and Malicious; I never was concern'd in Interest with her, directly or indirectly, and so I told them when I was before my Lord Chief-Justice: 'Tis true, it was then just suggested by the Prosecutors, I then denied it, and I deny it still——— I thank God, I have

have not been used, nor have I need, to deny the Truth.

My Lord, you find the Prosecutors have nothing to say to me upon this Head, after all the Slanders and Stories they have publish'd against me, of my having Money in my hands which belong'd to the Deceased: But tho' they do not stir it, I will, and give your Lordship a full Account of all that ever was in that Matter. When I lodg'd at *Hertford*, some time since, she desired me to recommend to her a Security for 200*l.* if it came in my Way; my Lord, when I came to Town, I understood that one Mrs. *Puller*, a Client of mine, had a Mortgage formerly made to her by one Mr. *Lofius*, of *Lambeth* in *Surrey*, for the like Sum, and that she was willing to have in her Money: I wrote to this Gentlewoman, the Deceased, to acquaint her of the Security; she thereupon did send up 200*l.* and some odd Pounds for Interest (the Account of which I produced to my Lord Chief-Justice); this Money was sent to me by Mr. *Cramfield*, as I have been inform'd, and by him given to Mr. *Toller's* Clerk, and by him brought publickly to me: My Lord, this Mortgage I immediately transferr'd by Assignment, endors'd on the Back of it, and Mrs. *Habberfeld*, a Trustee for Mrs. *Puller*, sign'd and seal'd it, and that very 100*l.* and Interest due, was at one and the same time paid to Mrs. *Puller*, and by her the Principal was paid to her Daughter, in Part of her Portion. All this was transacted the beginning of *December* last, and she was not drowned till the 13th of *March* following: And, my Lord, these People that are now the Prosecutors did own before my Lord Chief-Justice that they had found this Mortgage among the Deceased's Writings in her Cabinet at the Time of her Death. Now, my Lord, I say, that saving this one Service I did her, as I said in *December* last, I never was otherwise concern'd with her in the receiving or disposing of any of her Money; nor had I ever any of her Securities for Money in my keeping; and I defy any Adversary I have to shew the contrary.

My Lord, as there appears no Malice, no Interest, so they have prov'd for me that there was no Concealment of Shame, to induce me to commit so barbarous an Action; otherwise, perhaps, now they find they can assign no other Cause, they would content themselves to give that Reason, and sling that Scandal at me: And tho' I take it by the Experience I have had of them, they did not design to do me any Favour, yet I thank them, in endeavouring to vindicate her Honour, they have secured my Reputation against that Calumny; and tho' I am satisfied, as I said, they did not intend me Kindness, yet, I thank God, they have given me a just Opportunity to take Advantage of their Cunning for the clearing of my Innocence in that Particular.

Then, my Lord, not to rest it here, but to satisfy the *Jury* and the *World* how this Gentlewoman came to destroy her self: I shall give the clearest Evidence that was ever given in any Court that she murder'd her self. When I enter upon this Proof, I must of necessity trespass upon the Character of this Gentlewoman that is dead. I confess this is a tender Point, 'tis a thing I would willingly be excused from, and 'tis not without a great deal of Reluctance and Compulsion forced from me. That she was melancholy the Prosecutors themselves have prov'd; but I must of ne-

cessity shew you the Occasions and Reasons of it, and the Witnesses will tell your Lordship what desperate Resolutions she had been under formerly, and that will lead me to near the Time of her Death, to shew why, and upon what Accidents, she made away her self. I will not enumerate Particulars by way of opening; only I must tell your Lordship, that some Letters of hers must of necessity be produced, which truly, as I said, I should not meddle with, if I had not these innocent Gentlemen here to defend as well as my self. Perhaps it may be said, that in Honour I ought to conceal the Weakness of this Gentlewoman; but then in Honour and Justice to these Gentlemen that are falsely accus'd with me, I cannot do it: I hope this one Reason will excuse me to the World, for I have no other that could have oblig'd me to bring these Letters upon the Stage. I solemnly protest, if I stood here singly in the Case of my own Life, upon the Evidence given against me, I take it to be so inconsiderable, I would not do it; but I must do it, to shew that these Gentlemen also are innocent, and to preserve them, because I am satisfied in my own Mind they are so. My Lord, when I have done that, I shall shew your Lordship in the next Place, that it is utterly impossible I could be concern'd in this Fact, if I had had all the Motives and Provocations in the World to have done it; I shall shew your Lordship, in Point of Time it could not be.

The Maid *Sarah Walker*, who is the single Witness, I take it, that says any thing in the least relating to me, said but now the Clock had struck Eleven before she carried up the Coals, and about a quarter of an Hour after, while she was warming the Bed above Stairs, she heard the Door clap, and some time after that she came down and found that I and her Mistress were gone. Now in Point of Time I shall prove it utterly impossible I could be guilty of the Fact I am accus'd of, being seen to come into the *Glove-Inn* as the Town-Clock struck Eleven, and staying there more than a quarter of an Hour, was, after several things done at my Lodging, in Bed before Twelve a-Clock, and went no more out that Night, as I shall prove. As for that little Circumstance of sending for my Horse, which they have made use of all along to back this Prosecution, their very telling me of that Matter, shews how much they are put to their Shifts to justify their accusing me; I say, in Prudence I ought to have done what I did: I sent for him on the *Tuesday*, but, as their Witness saith, I told him at the time I bid him fetch my Horse, not to use then, nor till by the Course of the Circuit I was to go into *Essex* with the Judges the next Morning; and 'till then the Prosecutor's Witness, who is the Hostler of the *Glove-Inn*, was order'd to set him up there, to litter him down, and to take care of him and feed him, and that he should be ready for me to go to *Chelmsford* on the Morrow, whither I went with the other Counsel the next Morning being *Wednesday*: And this, my Lord, is the Whole of that Matter.

My Lord, this Business slept near two Months after the Coroner's Inquest before I heard of it, or imagin'd my self to be concern'd in it, and was never stirr'd till two Parties, differing on all other Occasions, had laid their Heads together: I beg leave to let your Lordship a little into that Matter, to shew you how this Prosecution came to be manag'd with so much Noise and Violence as it

hath

hath been. I can make it appear, that one of the greatest of the Quakers, Mr. *Mead* by Name, has very much, and indirectly too, concern'd himself in this Matter: It seems they fancy the Reputation of their Sect is concern'd in it; for they think it a wonderful thing, nay, absolutely impossible (however other People may be liable to such Resolutions) that one who was by her Education entitled to the *Light within her*, should run headlong into the Water, as if she had been possess'd with the Devil; of this they think their Sect is to be clear'd, tho' by spilling the Blood of four innocent Men. The other sort of People that concur with the Quakers in this Prosecution, I shall mention, now I come to observe what the Witnesses are that have been produced against me; some of 'em I have nothing to object to, but that they are extream indigent and poor, and have been help'd by the Prosecutor; those that are so, say nothing as to me; others, who live in this Town, and give their Opinions of the Manner of her Death, are possess'd with much Prejudice against me, upon Feuds that have risen at the Elections of my Father and Brother in this Town; and these with the *Quakers* have wholly dress'd up this Matter for several Ends; the Quakers, to maintain the Reputation of their Sect; and the others, to destroy, or break at least, the Interest of my Family in this Place: But however effectual these Designs may have been to have made a great Noise in the World out of nothing, I am satisfied now that I am in a Court of Justice, where no Person's Reputation, much less his Life, will be sacrificed to the Policy or Malice of a Party without Proof; and therefore I have taken up so much of your Time, to set the true Rise of this Prosecution before you in a clear Light.

My Lord, as to my coming to this Town on *Monday*, it was the first Day of the Assizes, and that was the Reason that brought me hither: Before I came out of Town, I confess, I had a Design to take a Lodging at this Gentlewoman's House, having been invited by Letter so to do; and the reason why I did not was this: My Brother, when he went the Circuit, always favour'd me with the Offer of a Part of his Lodging, which out of good Husbandry I always accepted: The last Circuit was in Parliament-time, and my Brother being in the Money-Chair, could not attend the Circuit as he us'd to do; he had very good Lodgings, I think one of the best in this Town, where I us'd to be with him; these were always kept for him, unless notice was given to the contrary. The *Friday* before I came down to the Assizes, I happen'd to be in Company with my Brother and another Gentleman, and then I shew'd them the Letter by which I was earnestly invited down to lie at the House of this Gentlewoman during the Assizes ('tis dated the 9th of *March* last); and designing to comply with the Invitation, I thereupon desir'd my Brother to write to Mr. *Barefoot*, our Landlord, and get him, if he could, to dispose of the Lodgings; for, said I, if he keeps 'em they must be paid for, and then I cannot well avoid lying there: My Brother did say he would write, if he could think on't; and thus, if Mr. *Barefoot* disposed of the Lodgings, I own I intended to lie at the Deceased's House; but if not, I look'd on my self oblig'd to lie at Mr. *Barefoot*'s. Accordingly I shall prove, as soon as ever I came to this Town, in the Morning of the first Day of the

Assizes, I went directly to Mr. *Barefoot*'s (the Maid and all agree in this) and the Reason was, I had not seen my Brother after he said he would write, before I went out of *London*; and therefore 'twas proper for me to go first to Mr. *Barefoot*'s, to know whether my Brother had wrote to him, and whether he had dispos'd of his Lodgings or not. As soon as I came to Mr. *Barefoot*'s, there was one Mr. *Taylor*, of this Town, came to me, and I in his hearing ask'd Mr. *Barefoot*, his Wife, and Maid-servant, one after another, if they had receiv'd a Letter from my Brother to unbespeak the Lodgings; they told me No, that the Room was kept for us; and I think they had made a Fire, and that the Sheets were airing. I was a little concern'd he had not writ; but being satisfied that no Letter had been receiv'd, I said immediately, as I shall prove by several Witnesses, If it be so, I must stay with you, I will take up my Lodging here: Thereupon I alighted, and sent for my Bag from the Coffee-house, and lodg'd all my Things at *Barefoot*'s, and thus I took up my Lodging there as usual. I had no sooner done this, but *Sarah Walker* came to me from her Mistress to invite me to Dinner, and accordingly I went and dined there; and when I went away, it may be true, that being ask'd, I said I would come again at Night; but that I said I would lie there, I do positively deny, and knowing I could not lie there, 'tis unlikely I should say so. My Lord, at Night I did come again, and paid her some Money that I receiv'd from Mr. *Loftus*, who is the Mortgager, for Interest of the 200*l.* I before mention'd (it was 6*l.* odd Money, in Guineas and Half-guineas): I writ a Receipt, but she declined the signing of it, pressing me to stay there that Night, which I refused, as engag'd to lie at Mr. *Barefoot*'s, and took my leave of her; and that very Money which I paid her was found in her Pocket, as I have heard, after she was drowned.

Now, my Lord, the Reason that I went to her House at Night was first, as I said, to pay her the Interest-Money; in the next Place, 'twas but fitting, when I found my self under a Necessity of disappointing her, and lying at *Barefoot*'s, to go to excuse my not lying there, which I had not an Opportunity at Dinner-time to do. My Lord, I open my Defence shortly, referring the Particulars to the Witnesses themselves, in calling those who will fully refute the Suppositions and Inferences made by the Prosecutor, whom first, my Lord, I shall begin with, to shew there is no Evidence of any Murther at all committed; and this, I say again, ought to be indisputably made manifest and prov'd before any Man can be so much as suspected for it.

Mr. Baron *Hatsell*. Do not flourish too much, Mr. *Cowper*; if you have open'd all your Evidence call your Witnesses, and when they have ended, then make your Observations.

Mr. *Cowper*. Then, my Lord, I will take up no more of your Time in opening this Matter.

Call Robert Dew. (*Who appeared.*)

When Mrs. *Sarah Stout* drowned her self, was not you a Parish Officer?

R. Dew. I was——— I was next House to the *Coach and Horses*, and about a Six a-Clock came a little Boy (*Thomas Parker*'s Boy) and said there was a Woman fallen into the River I consider'd it was not my Business, but the *Coroner*'s, and

and I sent the Boy to the Coroner, to acquaint him with it, and the Coroner sent Word by the Boy, and desir'd she might be taken out; so I went to the River and saw her taken out: she lay in the River (as near as I could guess) half a Foot in the Water; she was cover'd with Water; she had a striped Petticoat on, but nothing could be seen of it above Water. I heav'd her up, and several Sticks were underneath her, and Flags; and when they took her out, she froth'd at the Nose and Mouth.

Mr. Cowper. How was she? was she driven between the Stakes?

R. Dew. She lay on the right Side, her Head leaning rather downwards; and as they pull'd her up, I cried, *Hold, hold, hold, you hurt her Arm*; and so they kneel'd down and took her Arm from the Stakes.

Mr. Cowper. Did you see any Spot upon her Arm?

R. Dew. Yes, Sir.

Mr. Cowper. What sort of Spot was it?

R. Dew. It was reddish; I believe the Stakes did it; for her Arm hit upon the Stake where she lay.

Mr. Cowper. Pray, how do these Stakes stand about the Bridge of the Mill?

R. Dew. I suppose they stand about a Foot asunder; they stand slanting, leaning down the Stream a little.

Mr. Cowper. Could you discern her Feet?

R. Dew. No, nothing like it, nor the striped Petticoat she had on.

Mr. Cowper. Might not her Knees and Legs be upon the Ground, for what you could see?

R. Dew. Truly, if I were put upon my Oath, whether they were so, or not, I durst not swear it; sometimes the Water there is four Feet, sometimes three and a half; I believe her Feet were very near the Bottom.

Mr. Cowper. Are not the Stakes nail'd with their Head against the Bridge?

R. Dew. They are nail'd to the Side of the Bridge.

Mr. Cowper. Pray, describe the Manner in which they took her up?

R. Dew. They stoop'd down, and took her up.

Mr. Cowper. Did they take her up at once?

R. Dew. They had two Heavings, or more.

Mr. Cowper. What was the Reason they did not take her up at once?

R. Dew. Because I cried out, *They hurt her Arm*.

Mr. Cowper. Was she not within the Stakes?

R. Dew. No, this Shoulder kept her out.

Mr. Cowper. When you complain'd *they hurt her Arm*, what Answer did they make you?

R. Dew. They stoop'd down and took her Arm out from between the Stakes; they could not have got her out else.

Mr. Cowper. After she was taken out, did you observe any Froth or Foam come from her Mouth or Nose?

R. Dew. There was a white Froth came from her, and as they wiped it away, it was on again presently.

Mr. Cowper. What was the Appearance of her Face and upper Parts at that Time?

R. Dew. She was so much disfigur'd, I believe that scarce any of her Neighbours knew her, the Slime of the Water being upon her.

Mr. Cowper. Did you see her Maid *Sarah Walker* at that Time?

R. Dew. No.

Mr. Baron *Hatsell*. Mr. Cowper, do you intend to spend so much Time with every Witness? I don't see to what Purpose many of these Questions are ask'd.

Mr. Cowper. I have done with him, call *Young*.

Mr. Baron *Hatsell*. Mr. Cowper, I would not have you straiten your self, but only ask those Questions that are pertinent.

Mr. Cowper. Pray, give an Account of what you know of the Matter.

Young. On Tuesday Morning, between Five and Six a-Clock, last Affizes—

Mr. Cowper. What Officer was you?

Young. I was Constable.

Mr. Cowper. Was you employed by the Coroner?

Young. Not by him in Person. Between Five and Six a-Clock some of the Men that came into my Yard to work told me a Woman was drowned at the Mill; I staid a little and went down to see, and when I came there I saw a Woman, as they had told me, and I saw part of her Coat lie on the Top of the Water to be seen, and I look'd strictly and nicely within the Bridge, and saw the Face of a Woman, and her left Arm was on the Outside the Stakes, which I believe kept her from going thro'; so I look'd upon her very wishfully, and was going back again; and as I came back I met with *R. Dew* and two of my Neighbours, and they ask'd me to go back with them, and said they were going to take her up; and being Constable, I told them I thought it was not proper to do it, and they said they had Orders for it; so I being Constable, went back with them, and when I came there I found her in the same Posture as before; we view'd her very wishfully; her Coat that was driven near the Stakes was seen, but none of her other Coats, or her Legs; and after we had look'd a little while upon her, we spake to *Dell* and *Ulse* to take her up, and one of them took hold of her Coat till he brought her above Water; and as her Arm drew up, I saw a black Place, and she laid sideway, that he could not take her up till they had let her down again, and so they twisted her out sideway; for the Stakes were so near together that she could not lie upon her Belly, or upon her Back; and when they had taken her up, they laid her down upon a green Place, and after she was laid down, a great Quantity of Froth (like the Froth of new Beer) work'd out of her Nostrils.

Mr. Baron *Hatsell*. How much do call a great Quantity?

Young. It rose up in Bladders, and run down on the Sides of her Face, and so rose again; and seeing her look like a Gentlewoman, we desired one *Ulse* to search her Pockets, to see if there were any Letters, that we might know who she was; so the Woman did, and I believe there was twenty or more of us that knew her very well when she was alive, and not one of us knew her then; and the Woman search'd her Pockets, and took out six Guineas, ten Shillings, Three-pence halfpenny, and some other Things; and after that I desired some of my Neighbours to go with me and tell the Money; for when it came to be known who she was, I knew we must give an Account on't, and I laid it upon a Block and told it, and they ty'd it up in a Handkerchief, and I said I would keep the Money, and they should seal it up to prevent any

Question about it; and during all this while of Discourse, and sealing up the Money, the Froth still work'd out of her Mouth.

Mr. Cowper. Have you measured the Depth of the Water? What Depth is it there?

Young. I measured the Water this Morning, and 'twas so high that it ran over the Floodgate, and the Height of it was about four Foot two Inches; but sometimes 'tis pent up to a greater Height than 'tis to Day.

Mr. Cowper. Was it higher to Day than when the Body was found?

Young. To the best of my Remembrance 'twas as high to Day as it was then.

Mr. Cowper. Was any Part of the Body above Water?

Young. No, nor nothing like the Body could be seen.

Mr. Cowper. Could you see where her Legs lay?

Young. No, nor nothing but her upper Coats, which were driven against the Stakes.

Mr. Cowper. Pray give an Account how long she lay there, and when she was convey'd away.

Young. I stay'd a quarter of an Hour, and then I went and sealed up the Money at my own House, so that I did not see her removed.

Mr. Jones. Was any Body there besides your self at this time?

Young. Yes, twenty People at the least.

Mr. Jones. Now here is Ten of them that have sworn that the Body was above the Surface of the Water.

Mr. Baron Hatsell. No, her Cloaths, they say, were, but the Body was something under the Water.

Mr. Cowper. Now I will trouble your Lordship no more with that Fact, but I will give you an Account of the Coroner's Inquest, how diligent they were in their Proceedings, and produce a Copy of the Inquisition it self, that she was found to have drowned herself.

Mr. Baron Hatsell. Mr. Cowper, that is no Evidence, if it be produced in order to contradict what these Witnesses have said, that have been examined for the King; but if you will prove, that they have sworn otherwise before the Coroner than they now do, then you say something, otherwise the Coroner's Inquest signifies nothing as to the present Question.

Mr. Cowper. Call *Thomas Wall*. I am loth to be troublesome; but if you please to favour me, I desire to know of them, whether they do admit there was an Inquisition, and that she was found *Non Compos Mentis*, and did kill her self.

Mr. Jones. We do admit it.

Jury-man. We desire it may be read.

Mr. Baron Hatsell. Why, won't you believe what they agree to on both Sides?

Jury-man. If they do agree so, I am satisfied.

Mr. Cowper. *Thomas Wall*, pray do you give an Account of what you know of Mrs. Stout's being taken up.

Wall. My Lord, I was one of the Jury, that view'd her at the Place where she was laid when she was taken up, and there was no Marks upon her, only a little Mark about her Ear, and something near her Collar-bone; that was all I see upon her.

Mr. Cowper. Do you know any thing of any Surgeons being employ'd to view those Marks?

Wall. My Lord, we had several Persons that

came before us that we examin'd; we had a Dispute concerning these Marks what might effect them, and we desir'd Mr. *Dimsdale* and Mr. *Camlin* to see them, that we might be the better satisfied; and they both went down and view'd the Body after it was brought down to Mrs. Stout's, and they came back, both of them, and Mr. *John Dimsdale* told us, that these Marks were no more than were usual in such Cases, and it was only the Stagnation of Blood.

Mr. Cowper. Was it the old Man or the young Man?

Wall. It was the young Man.

Mr. Cowper. Usual did he say?

Wall. I can tell the very Words, I have them writ down.

Mr. Cowper. Pray do so, for he has denied it here.

Wall. (*Looks on his Paper.*) Here 'tis. Mr. *Dimsdale* and Mr. *Camlin* came to us, and Mr. *Dimsdale* spake and said these Marks are usual, or might be usual; or if they were Marks, it was no more than was usual in such Cases; and that it was the Stagnation of Blood.

Mr. Cowper. Now you have your Notes in your Hand, pray, what did *Sarah Walker* say to you as to the Time I went from Mrs. Stout's?

Wall. *Sarah Walker* said, it was about Eleven a-Clock when she took up Coals to warm the Bed, but she said she could not, nor did not know when Mr. Cowper went out, for she warm'd the Bed, and Mr. Cowper not coming up, she took up some more Coals, and tarried a little longer, and no Body coming up, she went down, and found Mr. Cowper was gone, and she look'd into the Parlour, and her Mistress was gone.

Mr. Baron Hatsell. The Woman said the same Thing.

Mr. Cowper. 'Tis necessary in this Particular as to the Time.

Mr. Baron Hatsell. She told you the Clocks did differ.

(*Then Mr. Bowden was called.*)

Mr. Cowper. Well, what do you know of the taking up of Mrs. Stout?

Bowden. I went with the rest of the Neighbours to view her, and I did perceive it was Mrs. *Sarah Stout*'s Body, tho' some question'd it: I do believe I was the second Person that discover'd it was she; and, my Lord, I did see a great deal of Froth that came out of her Mouth and Nostrils.

Mr. Cowper. Did you go about to wipe it away?

Bowden. No, but some other Persons did; it came out in a great Quantity.

Mr. Jones. How much do you call a great Quantity?

Bowden. Her Mouth and Nostrils were very full of it.

Mr. Jones. Was not her Mouth shut?

Bowden. I did not observe that.

Mr. Cowper. How long had she lain there before you came?

Bowden. I believe I was there in half an Hour; as soon as I heard the Report of it I went down.

Mr. Cowper. Call Mr. *Shute*.

Mr. Baron Hatsell. Well, what can you say to this Matter?

Shute. Sir, I was summoned upon the Jury upon the Coroner's Inquest; and I perceiv'd when I was there, that the same Stuff worked out of Mrs. Stout's Nostrils as worked out of the Child's.

Mr.

Mr. Baron *Hatfell*. What Child is that you speak of? Is it the Child that was drowned in the same Place as Mrs. *Stout* was?

Shute. Yes.

Mr. *Cowper*. My Lord, I am very tender how I take up your Lordship's Time; and therefore I will not trouble you with any more Witnesses upon this Head; but, with your Lordship's Leave, I will proceed to call some Physicians of Note and Eminence, to confront the Learning of the Gentlemen on the other Side.—Dr *Sloane*, you were in Court when these Gentlemen delivered their Opinion concerning Mrs. *Stout*'s having no Water in her; I desire you would give your Opinion in that Matter.

Dr. *Sloane*. I have not heard them very particularly or distinctly, because of the great Crowd; some of them I have; Cases of this kind are very uncommon, and none of them have fallen directly under my own Knowledge. As to my Opinion of drowning, it is plain, that if a great Quantity of Water be swallowed by the Gullet into the Stomach, it will not suffocate or drown the Person: Drunkards, who swallow freely a great deal of Liquor, and those who are forced by the Civil Law to drink a great Quantity of Water, which in giving the Question (as 'tis called) is poured into them by way of Torture to make them confess Crimes, have no Suffocation or Drowning happen to them: But on the other hand, when any Quantity comes into the Wind-pipe, so as it does hinder or intercept the Inspiration, or Coming-in of the Air, which is necessary for Respiration or Breathing, the Person is suffocated. Such a small Quantity will do, as sometimes in Prescriptions, when People have been very weak, or forced to take Medicines, I have observ'd some Spoonfuls in that Condition (if it went the wrong Way) to have choaked or suffocated the Person. I take Drowning in a great measure to be thus; and though it is very likely when one struggles he may (to save himself from being choaked) swallow some Quantity of Water, yet that is not the Cause of his Death, but that which goes into the Wind-pipe and Lungs. Whether a Person comes dead or alive into the Water, I believe some Quantity will go into the Wind-pipe; and I believe, without Force after Death, little will get into the Stomach, because that it should, swallowing is necessary, which after Death cannot be done.

Mr. Baron *Hatfell*. Pray, Doctor, I understand you say this; that in case a Person is drowned, that there may be but little Water in the Stomach?

Dr. *Sloane*. That it is accidental, my Lord.

Mr. Baron *Hatfell*. But what do you say to this; if there had been Water in the Body, would it not have putrified the Parts after it had lain six Weeks?

Dr. *Sloane*. My Lord, I am apt to think it would have putrified the Stomach less than the Lungs, because the Stomach is a Part of the Body that is contrived by Nature partly to receive Liquids; but the Contrivance of the Lungs is only for the receiving of Air; they being of a spongy Nature, the Water might sink more into them than the Stomach; but I believe it might putrify there too after some time. I am apt to think, that when a Body is buried under Ground, according to the Depth of the Grave, and Difference of the Weather and Soil, the Fermentation may be greater or lesser, and that according to the several Kinds of Meats or Liquids in the Stomach the Putri-

faction will likewise vary; so that it seems to me to be very uncertain.

Mr. Baron *Hatfell*. But when they are in a Coffin, how is it then?

Dr. *Sloane*. No doubt there will be a Fermentation more or less, according as the Air comes more or less to the Body. Indeed it may be otherwise, where the Air is wholly shut out, which is supposed to be the Way of Embalming, or preserving of dead Bodies of late, without the Use of any Spices, which is thought in a great measure to be brought about by the Closeness of the Coffin, and hindering of the Air from coming in to the Body.

Mr. *Cowper*. Is it possible, in your Judgment, for any Water to pass into the Thorax?

Dr. *Sloane*. I believe 'tis hardly possible that any should go from the Wind-pipe into the Cavity of the Thorax, without great Violence and Force; for there is a Membrane that covers the Outside of the Lungs, that will hinder the Water from passing through it into any Part without them.

Mr. *Cowper*. Now, do you think it possible to find Water in a drowned Body after six Weeks time?

Dr. *Sloane*. I am apt to think if there was any Quantity in the Lungs, the Sponginess of the Part would suck up some Part of it. As to the Stomach, I have not known it tried; but 'tis like, if there was a great Fermentation, a great deal of it would rise up in Vapours or Steams, and go off that way.

Mr. *Cowper*. Dr. *Garth*, I can't tell whether you were in Court when the Surgeons who are Witnesses for the King gave their Evidence.

Dr. *Garth*. Yes, I was.

Mr. *Cowper*. Then I desire you, Sir, to give your Opinion as to those Particulars.

Dr. *Garth*. I observed in this Tryal the first Gentleman call'd for the King that spoke to this Matter was Mr. *Coatsworth*: He saith he was sent for to open her, upon an Aspersion of her being said to be with Child. I agree with him in what he speaks to that Point, but must differ with him where he infers she was murdered, because he found no great Quantity of Water in her, as also her Head extremely mortified, but not her Lungs (Lungs and Bowels I think were used promiscuously.) Now, my Lord, as to the Matter of Putrification, I think 'tis not much material whether there be any Water or no in the Cavities of the Body; if Water would hasten Putrification, it wou'd do it as well in the Lungs as otherwise; there is always some Water in the Lympheducts there, the Breaking of which may be one Occasion of Catarrhs. As to what relates to the Putrification of the Head, it may happen from a Stoppage of the reflux Blood, which is staid there in a great Quantity, through the Suffocation in the Water, or from the Nearness of the Brain, which is observed often to mortify first.

The next was Mr. *Dimsdale* (I would speak to them all in order if my Memory would permit) I think he was of the same Opinion as Mr. *Coatsworth*; he laid the Stress of his Suspicion upon the Mortification of the Head, which I think is not at all material, no more than what they infer from her floating; it being impossible the Body should have floated, unless it had rested, or had been entangled among the Stakes, because all dead Bodies (I believe) fall to the Bottom, unless they be prevented by some extraordinary Tumour. My Lord, we have not only Philosophy, but Experiments for this. The Witnesses all agree she was

found upon her Side, which to suppose her to float in this posture, is as hard to be conceived, as to imagine a Shilling should fall down and rest upon its Edge rather than its broad Side; or that a Deal Board shou'd rather float Edgeways than therwise; therefore 'tis plain she was entangled, or else the Posture had been otherwise.

As to the Quantity of Water, I do not think it necessary it should be very great. I must own the Water will force itself into all Cavities where there's no Resistance. I believe when she threw herself in, she might not struggle to save herself, and by consequence not sup up much Water. Now there's no direct Passage into the Stomach but by the Gullet, which is contracted or purs'd up by a Muscle in Nature of a Sphincter: For if this Passage was always open, like that of the Wind-pipe, the Weight of the Air would force it self into the Stomach, and we should be sensible of the greatest Inconveniencies. I doubt not, but that some Water fell into her Lungs, because the Weight of it would force itself down; but if we consider the Wind-pipe with its Ramifications as one *Cylinder*, the Calculation of its Contents will not amount to above twenty-three or twenty-four solid Inches of Water, which is not a Pint, and which might imperceptibly work and fall out. I remember I offered a Wager at *Garaway's Coffee-House* to a Gentleman here in Court.

Mr. Baron *Hatsell*. Pray, Doctor, tell us your Opinion as to what the Seaman said, and also as to what Dr. *Sloane* said, whether Water in the Body will putrify it.

Dr. *Garth*. I say not; for in some Places they keep Flesh-Meat from corrupting by preserving it in Water, and 'tis well known 'twill putrify less so, than when exposed to Air.

Mr. Baron *Hatsell*. But what do you say as to the sinking of dead Bodies in Water?

Dr. *Garth*. If a strangled Body be thrown into the Water, the Lungs being filled with Air, and a Cord left about the Neck, 'tis possible it may float, because of the included Air, as a Bladder wou'd; but here is neither Cord, nor any Mark of it, nor nothing but a common Stagnation.

Mr. Baron *Hatsell*. But you don't observe my Question; the Seaman said, that those that die at Sea, and are thrown overboard, if you don't tye a Weight to them, they will not sink: What say you to that?

Dr. *Garth*. My Lord, no doubt in this they're mistaken. The Seamen are a superstitious People, they fancy that whistling at Sea will occasion a Tempest: I must confess I never saw any Body thrown overboard, but I have tried some Experiments on other dead Animals, and they will certainly sink; we have tried this since we came hither. Now, my Lord, I think, we have Reason to suspect the Seaman's Evidence; for he saith, that threescore Pound of Iron is allowed to sink the dead Bodies, whereas six or seven Pounds would do as well. I cannot think the Commissioners of the Navy guilty of so ill Husbandry; but the Design of tying Weights to their dead Bodies, is to prevent their floating at all, which otherwise wou'd happen in some few Days: Therefore what I say is this, that if these Gentlemen had found a Cord, or the Print of it, about the Neck of this unfortunate Gentlewoman, or any Wound that had occasioned her Death, they might then have said something.

Mr. *Cowper*. Do you apprehnd that any Quantity of Water can enter into the Cavity of the Thorax.

Dr. *Garth*. 'Tis impossible there should till the Lungs be quite rotten; there is no Way but by the Lungs, which are invested with so strong a Membrane, that we cannot force Breath with our Blow-pipes through it; and there's a great Providence in such a Texture, for if there were any large Pores in the Membrane, the Air would pass thro' it into the Cavity of the Thorax, and prevent the Dilatation of the Lungs, and by consequence there would be an End of Breathing.

Mr. *Cowper*. Dr. *Morley*, pray be pleased to give your Opinion of these Matters.

Dr. *Morley*. Those which seem to be Questions of greatest Moment, are whether there was a Necessity for this Body (if drown'd) to have a great Quantity of Water in it, and whether Bodies thrown dead into the Water float. To the first I answer positively, that there is no absolute Necessity that she should have a great Quantity of Water in her; and I think the Question Mr. *Cowper* ask'd Dr. *Coatsworth*, whether he had like to have been drowned by Accident or Design, suits with my Assertion; for if this Gentlewoman did voluntarily drown herself, she then, in all likelihood, threw herself into the Water, with a Resolution of keeping her Breath for a speedy Suffocation; and then if upon the first Endeavours for Respiration (which naturally must be) she drew into her Lungs two Ounces of Water, it was the same Thing to drowning of her, as if there had been two Tun. We see the same Thing done by Divers in order to save themselves, as it happened to this unfortunate Gentlewoman, in her Design of destroying herself: If a Diver, before he comes to the Surface of Water, should so far mistake his Power of holding his Breath, that he should be forced to endeavour Respiration, the little Water he drew into his Lungs by this Attempt to respire, may drown him. We last Night drown'd a Dog, and afterwards dissected him, and found not a Spoonful of Water in his Stomach, and, I believe, about two Ounces in his Lungs; while we were doing this, we drowned another, and he lay at the Bottom and did not float; no more would he have done, if he had been hang'd before thrown into the Water: We took him up, and opening him, we found much about the same Quantity of Water in his Lungs, and little or none in his Stomach. They both froth'd at Nose and Mouth, because the Water coming into the little Bladders of the Lungs, and there meeting with Air, a Commotion arose between the Water and Air, which caused the Froth. To the second Question, I think if Bodies new killed swim, 'tis by Accident; for the Reason that Bodies swim, is because by Putrification they rarifie, by Rarification they grow lighter, which brings them to the Top of the Water.

Mr. *Cowper*. I desire to know if any Man of Skill in Prudence would give his Opinion?—

Mr. Baron *Hatsell*. This is not a proper Question.

Mr. *Cowper*. Then I will ask it thus: Do you think, Doctor, it is to be known six Weeks after, if a Person was drowned?

Dr. *Morley*. I think it is morally impossible.

Mr. *Cowper*. Can there be any Water in the Thorax?

Dr. *Morley*. By an Imposthume or some Violence to Nature possibly; but I think no otherwise.

Mr. *Cowper*. Dr. *Woolleston*, what is your Opinion if a Person be drowned, whether it can be discover'd six Weeks after?

Dr. *Woolleston*. My Lord, I think it is impossible to be known; for if there had been never so much Water in the Body at first, it could not lie there so long, but must of necessity have forced its way out. We see in Persons that die of Dropsies, that the Water will work it self out (and sometimes burst the Body) before it is buried; and, I am sure, if it do so in Dropsies, where there are no visible Passages for it to get out at, it must do so much more in drowned Persons, where the Water lies only in the Stomach and Guts, and has nothing to hinder its working out when it ferments, as it always doth.

Mr. *Cowper*. Have you ever made any Experiments in that nature, Doctor?

Dr. *Woolleston*. I have made no Experiments, but I have seen a very particular Instance.

Mr. Bar. *Hatsell*. That is very well; pray let us hear it, Doctor.

Dr. *Woolleston*. My Lord, about three Years since, I saw two Men that were drowned out of the same Boat. They were taken up the next Day after they were drowned: One of 'em was indeed prodigiously swell'd, so much that his Cloaths were burst in several Places of his Sides and Arms, and his Stockings in the Seams; his Hands and Fingers were strangely extended; his Face was almost all over black; but the other was not in the least swell'd in any Part, nor discolour'd; he was as lank, I believe, as ever he was in his Lifetime; and there was not the least Sign of any Water in him, except the watery Froth at his Mouth and Nostrils. My Lord, this I saw myself, and took very particular Notice of it.

Mr. *Jones*. Did you see these Bodies taken out of the Water your self, Doctor?

Dr. *Woolleston*. No, Sir.

Mr. *Jones*. How long had they been taken out when you saw them?

Dr. *Woolleston*. I enquir'd, and to the best of my Memory, it was that same Day.

Mr. Bar. *Hatsell*. But what do you think, Doctor, of a Person's being drowned without taking in any Water?

Dr. *Woolleston*. My Lord, what is taken in is, I believe, chiefly at the Surface of the Water, when they open their Mouths for Breath, and the Water that rushes in they are forced to drink down, to keep it from the Lungs: But when the Head is quite under Water, I don't think 'tis possible for any quantity to get down into the Stomach; because it being Breath they open for, the very first Water they take in would of necessity fill the Lungs; and, when the Breath is stopp'd, I don't see how they can swallow.

Mr. *Cowper*. Dr. *Gelstrop*, what is your Opinion of this Matter?

Dr. *Gelstrop*. I don't think they can make any Judgment of Persons being drowned after Six Weeks time.

Mr. *Cowper*. Can any Water get into the *Thorax*?

Dr. *Gelstrop*. No, not unless the Lungs be putrified.

Mr. *Cowper*. Is a great quantity of Water necessary to Persons dying by drowning?

Dr. *Gelstrop*. No; only so much as may hinder Respiration.

Mr. *Cowper*. Now, my Lord, I would call Mr. *William Cowper*; and because of his Name, I must acquaint your Lordship; that he is not at all related to me; tho' I should be proud to own him if he were so: He is a Man of great Learning, and, I believe, most People admit him the best Anatomist in *Europe*. Mr. *Cowper*, pray will you give your Opinion of this Matter?

Mr. *W. Cowper*. My Lord, I hope what I shall say will not be suspected because I am of the same Name, for this Gentleman is an utter Stranger to me.

Mr. Bar. *Hatsell*. Pray, Mr. *Cowper*, without any Apology, give your Opinion concerning Persons drowned; and how 'tis with them in their inward Parts.

Mr. *W. Cowper*. I will give you a short Account, I hope to your Satisfaction too, my Lord. I will not only speak from Reason, but give you the Testimony of the Experiments I have made upon this Occasion. My Lord, I heard it made a mighty Argument, that this Person had no Water that seem'd to flow out, but the Witnesses agree that there was a Froth. Now, my Lord, it was not reasonable to expect any thing but Froth. My Lord, had she been thrown into the Water, and made her utmost Efforts, which she would then have done to have saved her self, and been often buoy'd up to the Top of the Water, no doubt but she would have swallow'd a considerable quantity of Water before she had been drowned; and it may be expected to flow from her, if her Head had been inclined downwards.

This is a Truth that no Man can deny who is acquainted with any Thing of this nature, That when the Head of an Animal is under Water, the first time 'tis oblig'd to inspire (or draw in Air) the Water will necessarily flow into its Lungs, as the Air would do if it were out of the Water; which quantity of Water (if the Dimensions of the Windpipe, and its Branches in the Lungs, be consider'd) will not amount to three Inches square, which is about three Ounces of Water. Nor is a greater quantity of Water in the Windpipe necessary to choak any Person, if we do but reflect what an Ebullition is caused by its meeting with the Air which remain'd in the Lungs, whereby a small quantity of Water is converted into Froth, and the Chancel of the Windpipe, and those of the *Bronchia*, are fill'd with it, insomuch that no Air can enter the Lungs for the Office of Respiration. After a Suffocation is thus commenced (I am apt to think) all regular animal Actions are perverted, and particularly that of swallowing (or Deglutition); and what Water flows into the Lungs at the Instant, or after this Suffocation, is from its own Weight, which is more or less as the Body is farther under, or nearer the Surface of the Water. My Lord, I don't speak this by way of Conjecture or Hypothesis, but I have made Experiments, which have suggested what I here offer. I shall by the by tell you how fallacious the first Experiment was, when I propos'd to satisfy my self, whether a dead Body would float in Water: It happen'd that a Spaniel, that had a great deal of long Hair, washang'd for this Purpose, which I found to swim on the Surface of the Water; but when I consider'd that his Hair might buoy him up, I caus'd another Dog, which had shorter and less Hair, to be hang'd and put into the Water, which (agreeable to what I had always conceiv'd

of a Human Body) sunk directly to the Bottom. In order to satisfy my self what quantity of Water was necessary to enter the Body of an Animal, and cause a Suffocation in Water, I caused three Dogs, when alive, to be suddenly plunged under Water till they were stifled; one was before I left *London*, the other two I made the Experiment on last Night, in the Presence of Dr. *Sloane* and Dr. *Morley*, and we could not compute there was more than three Ounces of Water in their Lungs, and none that we could perceive in their Stomachs.

Dead Bodies necessarily sink in Water, if no Distention of their Parts buoy 'em up; this Distention sometimes happens before Death, at other times soon after, and in Bodies that are drowned after they lie under Water: This Enlargement of them is caused by a Rarefaction of the Humours within the Cavities, and the Bodies necessarily rises to the Surface of the Water. Your Lordship may infer this from what the Seaman told you, and the great Weight they use to fasten to their Bodies that die of Diseases, was not of such use to sink them, as it was to prevent their floating afterwards; so that the Weight was necessary for those that were kill'd, as well as those that died of Diseases.

It is so commonly known that the Contents in the Stomach of a dead Body are discharg'd by the Mouth and Nostrils, so soon as it begins to ferment, and the Belly becomes distended, that it is no Wonder that Water, if the greatest quantity of that had been in the Stomach, or any thing else that was fluid, must be forced from thence six Weeks after Death.

My Lord, I can't but think it ridiculous to expect Water in the Cavity of the *Thorax*; 'tis such a Conceit as nothing in Nature can account for, unless the Lungs had suffer'd some Apoplexy, or the like, whereby the Water may pass their outward Membranes into that Cavity.

Mr. *Cowper*. With your Lordship's Favour, I now think it a proper Time to make this Observation. The Witnesses that have given Evidence for the King do say, They believe she was not drowned; but they have not pretended to say how she died otherwise.

Mr. Bar. *Hatsell*. That is very true.

Mr. *Cowper*. Dr. *Croll*, I desire you will be pleased to give an Account of this Matter.

Dr. *Croll*. My Lord, I have little to say in this Affair, the Physicians that have been examin'd already having made it out, that Persons who are drowned may have but little Water in their Bodies; but I have taken what Pains I could, upon short Warning, and I will tell you the Opinion of several eminent Authors. My own Opinion is, That a very small quantity of Water, not exceeding three Ounces, is sufficient to drown any Body; and I believe that the Reason of the Suffocation, or of any Person's being stifled under Water, is from the intercepting of the Air, that the Person can't breathe, without which he cannot live. Now, my Lord, I will give you the Opinion of several ancient Authors.

Mr. Bar. *Hatsell*. Pray, Doctor, tell us your own Observations.

Dr. *Croll*. My Lord, it must be Reading, as well as a Man's own Experience, that will make any one a Physician; for without the reading of Books of that Art, the Art itself cannot be attain'd to; besides, my Lord, I humbly conceive, that in such

a difficult Case as this, we ought to have a great Deference for the Reports and Opinions of learned Men: Neither do I see any Reason why I should not quote the Fathers of my Profession in this Case, as well as you Gentlemen of the Long-Robe quote *Coke* upon *Littleton* in others: But I shall not trouble the Court long; I shall only insist upon what *Ambrose Parey* relates in his Chapter of Renunciations. He was chief Surgeon to *Francis* the First, employ'd by him in most of his Sieges and Battles against the Emperor *Charles* the Fifth, and consequently must observe, and could not be ignorant of such like Casualties in such great Bodies of Men. He tells us, That the certain Sign of a Man's being drowned, is an Appearance of Froth about his Nostrils and Mouth. Now, my Lord, I think that every one of the King's Evidences observ'd it in the present Case, and a Woman swore, that she saw her purge at the Nose; which could not be, as he declares, if the Person had been strangled, or otherwise kill'd before.

As to the Quantity of Water requisite to drown a Person, I believe that three Ounces, or less, is enough; to wit, as much as will fill the Windpipe, and so stop the breathing of the Person drowning. I am not now to descant upon Matter of Fact, whether she drowned her self; but my firm Opinion is, that she was drown'd; for tho' sometimes, not always, there is Water found in the Bodies of such Persons; yet where-ever it be, besides the Lungs, it is superfluous as to this End, and accidental upon violent Strugglings.

Mr. *Cowper*. I desire Mr. *Harriot* may be ask'd what Observations he hath made concerning this Matter.

Mr. *Harriot*. My Lord, when I was a Surgeon in the Fleet, I made it always my Observation when we threw Men over-board that were kill'd, some of them swam, and some sunk; and I remember particularly, when the *Sandwich* was burnt, we saw abundance leap off from on board, and they sunk directly, but in a little time I observ'd some swim again.

Mr. Bar. *Hatsell*. When a dead Body is thrown over-board, does it sink or swim?

Mr. *Harriot*. I always observ'd that it did sink: When we were in the Channel, and in Time of Peace, we never threw any over-board but we put some Weight to them; but it was not to make them sink, but for Decency sake, that they might not be driven to Shore when they began to float.

Mr. *Cowper*. I desire that Mr. *Bartlet* may be ask'd to the same Purpose.

Mr. *Bartlet*. I have been in several of the King's Ships of War that have been disabled and forced to lie by, in several Engagements between the *French* and *English*, and I never saw any Bodies float, either of the Men that were kill'd in our Ship, or in the Ships that have been near us; I have not seen a Body upon the Surface of the Water.

Mr. Bar. *Hatsell*. Another Witness said, That after an Engagement he saw them swimming.

Mr. *Bartlet*. I can't tell what he saw, my Lord, but what I say I am ready to make Oath of.

Mr. *Cowper*. Dr. *Camlin*, will you please to give my Lord and the Jury an Account whether you were employ'd by the Coroner's Inquest to view the Body of Mrs. *Stout* after she was drowned, and the Marks upon it, and tell my Lord your Opinion of it.

Mr. *Camlin*. I was sent for by the Coroner and

the Jury that sat upon the Body of Mrs. *Sarah Stout*, the Coroner being then at her Mother's House, and the Coroner desired Mr. *Dimsdale* and me to go and take notice of the Marks upon her Neck, and upon her Breast: We view'd all about, and perceiv'd a Mark under her left Ear; we look'd to see if there was any Contusion, and we perceiv'd a Settlement of Blood upon her Breast, and another upon her Arm; and when we came back, Mr. *Dimsdale* made a Report, I stood by him at that time, That it was only a common Settlement.

Mr. *Cowper*. Pray, Mr. *Camlin*, was the Spot above or below the Collar-bone?

Mr. *Camlin*. Below the Collar-bone.

Mr. *Cowper*. What did Mr. *John Dimsdale* say then concerning this Matter?

Mr. *Camlin*. I understood that he was of Opinion, that it was only a common Stagnation of Blood, that happens in the Case of drowned People.

Mr. Bar. *Hatfield*. Did he say so to the Jury?

Mr. *Camlin*. Mr. *Dimsdale* spake for us both, and I understood him, that it was a Stagnation that did commonly happen to drowned People; and that was my Opinion of it too.

Mr. *Cowper*. And that you agreed to be your Report?

Mr. *Camlin*. Yes.

Mr. *Cowper*. Pray, Mr. *Camlin*, was you present when the Child that was drowned in the same Place was taken up?

Mr. *Camlin*. Yes; it was taken up some time after, near the same Place, as I was told, and there was more and greater Signs of the Stagnation of Blood on the Body of this Child, than on the Body of Mrs. *Stout*; the Child's Face was black and discolour'd.

Mr. Bar. *Hatfield*. How old was the Child?

Mr. *Camlin*. Between Ten and Eleven, as near as I could guess.

Mr. Bar. *Hatfield*. Had Mrs. *Stout* any Signs of being strangled when you saw her first?

Mr. *Camlin*. Nothing at all, that I could discern.

Mr. *Cowper*. My Lord, I will give you no more Trouble upon this Head; I shall go now to the next Thing I opened, and shall prove substantially that this Gentlewoman is not only more to be suspected to have murder'd her self, than to be murder'd by any Body; but 'tis almost a Certainty that she was the Cause of her own Death.

Mr. *Firmin*. I would begin withal, if he be here.

(But he not presently appearing.)

Mr. *Cowper*. Then, my Lord, if you please, I will desire Mr. *Bowd* in the mean time to give your Lordship an Account of what he knows of the Melancholy of this Gentlewoman.

Mr. *Bowd*. 'Twas much about this time Twelve-month I had some Business in *London*, and she sent to me, to know when I should go to *London*, and I waited upon her before I went, and she desired me to do some Business for her; and when I return'd, I acquainted her with what I had done; and sitting together in the Hall, I asked her, What's the Matter with you? Said I, There's something more than ordinary; you seem to be melancholy. Said she, You are come from *London*, and you have heard something or other: Said I, I believe you are in Love. In Love! said she, Yes, said I, *Capit* that little Boy hath struck you home: She took me by the Hand; Truly, said

she, I must confess it, but I did think I should never be guilty of such a Folly; and I answered again, I admire that should make you uneasy; if the Person be not of that Fortune as you are, you may, if you love him, make him happy, and your self easy. That can't be, said she; the World shall not say I change my Religion for a Husband. And some time after I had been in *London*, having bought some *India* Goods, she came to my Shop and bought some of me for a Gown, and afterwards she came to pay me for it, and I asked her, How do you like it? Have you made it up? No said she, and I believe I shall never live to wear it.

Mr. *Cowper*. Pray how long is it since?

Mr. *Bowd*. It was about *February* or *January* before her Death. I ask'd her why she did not come to my House oftener? she said, She had left off all Company, and apply'd herself to Reading, and Company was indifferent to her.

Mr. *Cowper*. Mr. *Firmin*, will you please to inform my Lord and the Jury what you know of Mrs. *Sarah Stout*'s being melancholy?

Mr. *Firmin*. I did observe about three quarters of a Years ago, that she was melancholy; I can't say that she acknowledg'd her self to be so, but I have charg'd her with it.

Mr. *Cowper*. Did you believe she was melancholy when you charg'd her with it?

Mr. *Firmin*. Yes, I did.

Mr. *Cowper*. Mrs. *Bendy*, if you please to inform the Court what you know of this Gentlewoman's being melancholy.

Mrs. *Bendy*. Sir, I can say she always acknowledg'd her self extremely melancholy; and when I have ask'd her how she did, she has said, Pretty well in Health, but so much troubled with Melancholy she could not tell what to do with her self.

Mr. *Cowper*. Did she tell you any Thing particularly?

Mrs. *Bendy*. It disorder'd her so, she said, that she had rather have chosen Sickneſs than so much Disorder in her Mind.

Mr. *Cowper*. Have you any Thing more to recollect?

Mrs. *Bendy*. Nothing but what I heard from Mrs. *Cowper*.

Mr. Bar. *Hatfield*. How old was this Gentlewoman?

Mrs. *Bendy*. About Six and twenty.

Mr. *Cowper*. Call Mrs. *Jane Low*, *Martha Grub* and Mrs. *Cowper*. Mrs. *Low*, pray do you inform my Lord and the Jury what you know concerning the Melancholy of Mrs. *Sarah Stout*, and when you first observ'd it.

Mrs. *Low*. 'Twas a Week before *Whitsuntide* was Twelve-month.

Mr. *Cowper*. What did she say then?

Mrs. *Low*. She often complain'd to me, that she was very melancholy and uneasy; one Time particularly, as we were walking together in the Fields, I ask'd her the Occasion of it, and she told me, That was a Secret; but she said, she led a very melancholy Life: Said I, I am apt to believe you are in Love; she did not disown it, and with a little more speaking she own'd she was. I ask'd her who the Person was; she said, That should be a Secret, but it would end her Days: Said I, a Woman of your Fortune may command any Body: She shook her Head and said, No: Perhaps, said I,

he may not be a *Quaker*, and you may be afraid of disobliging your Mother; but if you tell your Mother that your Life depends upon it, your Mother (rather than lose her only Child) will consent to it: She said, No; 'twas a Person she could not marry; and shook her Head, and look'd very melancholy.

Mr. *Cowper*. When was this?

Mrs. *Low*. This was the Week before *Whitsuntide*; and in *Whitsun-week* she saw me often, and said, She would take her full swing of Melancholy when her Mother was away; and she used to lie a-Bed that Week.

Mr. *Cowper*. Have you observ'd any Melancholy in her since?

Mrs. *Low*. Yes, at several times.

Mr. *Cowper*. Do you remember any thing of an intermitting Fever?

Mrs. *Low*. Yes; she told me her Melancholy had occasion'd an intermitting Fever; and I mention'd Dr. *Eales* to her, and she said her Distemper lay in her Mind, and not in her Body, and she would take nothing, and the sooner it did kill her the better.

Mr. *Cowper*. Did she say any thing of her Disposition to Reading?

Mrs. *Low*. She said, nothing delighted her now, neither Reading nor any thing else.

Mr. *Cowper*. My Lord, *Sarah Walker*, when I ask'd her if she did not observe the Melancholy of her Mistress, and whether she had not said that her Mistress had been melancholy? deny'd that she had said so: Pray have you heard her say any thing to that Purpose?

Mrs. *Low*. I have often ask'd her how her Mistress did, and she would answer, Very much indispos'd, but not otherwise.

Mr. *Cowper*. Mrs. *Cowper*, what do you know of Mrs. *Stout's* Melancholy?

Mr. *Cowper*. My Lord, this is my Brother's Wife.

Mrs. *Cowper*. About Spring was Twelve-month she came up to *London*, and I believe it was not less than once or twice a Week I saw her; and I never had an Opportunity to be an Hour alone with her at any time, but I perceiv'd something of her Melancholy. I have ask'd her the Reason of it several times, and sometimes she seem'd to dislike her Profession, being a *Quaker*; and sometimes she would say, that she was uneasy at something that lay upon her Spirits, which she should never out-live; and, that she should never be well while she was in this World. Sometimes I have endeavour'd to persuade her out of it seriously, and sometimes by Raillery, and have said, Are you sure you shall be better in another World? And particularly I remember I have said to her, I believe you have Mr. *Marshall* in your Head; either have him, or do not trouble your self about him; make your self easy either one way or another; and she hath said, No, in an indifferent way, I cannot make my self easy: Then I have said, Marry him; No, saith she, I can't. Sometimes with Company she would be diverted, and had frequently a way of throwing her Hands, and shew'd great Disturbance and Uneasiness. This time Twelve-month, at the Summer Assizes, I was here six Days, and I saw her every Day; and one time, among other Discourse, she told me she had receiv'd great Disturbance from one *Theophilus*, a Waterman and a *Quaker*, who coming down to old Mrs. *Stout*, that was then lame, she had gather'd about 20 or 30

People together to hear him preach, and she said he directed his Discourse to her, and exasperated her at that rate, that she had thoughts of seeing no Body again, and said, she took it heinously ill to be so us'd; and particularly, that he told her that her Mother's falling outwardly in the Flesh should be a Warning that she did not fall inwardly; and such *Canting Stuff*, as she call'd it; and she said, that *Theophilus* had so used her, that she was ashamed to shew her Head. Another time, the same Week, she had a Fever, and she said, she was in great hopes it would end her Days, and that she neglected her self in doing those Things that were necessary for her Health, in hopes it would carry her off, and often wish'd her self dead. Another time, which I think was the last time I saw her, 'twas at my Sister's Lodgings, and I sent for her to drink a Dish of Tea with us, and she came in a great Toss and Melancholy: Said I, What is the Matter you are always in this Humour? Saith she, I can't help it, I shall never be otherwise. Saith my Sister, for God sake keep such Thoughts out of your Head as you have had, don't talk any more of throwing your self out of Window: Saith she, I may thank God that ever I saw your Face, otherwise I had done it, but I can't promise I shall not do it.

Mr. Bar. *Hatfield*. What is your Name, Madam?

Mr. *Cowper*. 'Tis my Brother's Wife, my Lord. I desire Mrs. *Toller* may give an Account of what she knows as to her being melancholy.

Mrs. *Toller*. My Lord, she was once to see me, and she look'd very melancholy, and I ask'd her what was the Matter? and she said, Something had vex'd her that Day; and I ask'd her the Cause of it, and she stopp'd a little while, and then said, She would drown her self out of the Way.

Mr. Bar. *Hatfield*. How long ago was this?

Mrs. *Toller*. About three quarters of a Year ago.

John Stout. I desire to know whether she has always said so, or not told another Story.

Mrs. *Toller*. I told you no Story; it may be I did not say so much to you, but I said she talk'd something of drowning. I have been with her when Mr. *Cowper's* Conversation and Name has been mention'd, and she said she kept but little Company, that sometimes she went to Mrs. *Low's*, and that she kept none but civil modest Company, and that Mr. *Cowper* was a civil modest Gentleman, and that she had nothing to say against him.

Mr. *Cowper*. This is Mrs. *Eliz. Toller*, my Lord.

Mrs. *Eliz. Toller*. My Lord, she came to see me some time after *Christmas*, and seem'd not so cheerful as she us'd to be; said I, What is the matter? Why are you not so merry as you us'd to be? Why do you not come often to see me? Saith she, I don't think to go abroad so much as I us'd to do, and said, It would be as much a Rarity to see her go abroad, as to see the Sun shine by Night.

Mr. *Cowper*. Mrs. *Grub*, what do you know concerning Mrs. *Stout's* pulling out a Letter at her Brother Mr. *John Stout's*? Give an Account of it, and what she said upon that Occasion.

Mrs. *Grub*. I have a Daughter that lives at *Guernsey*, and she sent me a Letter, and I pray'd Mrs. *Sarah Stout* to read the Letter; and while she was reading it I cry'd; saith she, Why do you cry? Said I, Because my Child is so far off. Said she, If I live till Winter is over, I will go over Sea as far as I can for the Land.

Mr. Bar. *Hatfield*. What was the Occasion of her saying so?

Mrs.

Mrs. Grub I was washing my Master's Study, Mrs. Sarah Stout came in, and I had a Letter from my Daughter at Guernsey, and I pray'd Mrs. Sarah Stout to read it, and she read my Letter, and I cry'd, and she ask'd me why I cry'd; said I, because my Child is so far off: Saith she, if I live to Winter, or till Winter is over, I will go over Sea as far as I can for the Land.

Mr. Cowper. Now, my Lord, to bring this Matter of Melancholy to the Point of Time, I will call one Witness more, who will speak of a remarkable Instance that happen'd on Saturday before the Monday when she did destroy her self.

Call Mr. Joseph Taylor. Pray, will you inform the Court and Jury of what you observ'd on Saturday before the Monday on which Mrs. Stout destroy'd her self.

J. Taylor. I happen'd to go in at Mr. Firmin's Shop, and there she sat the Saturday before this Accident happen'd, the former Affizes, and I was saying to her, Madam, I think you look strangely discontented; I never saw you dress'd so in my Life: Saith she, the Dress will serve me as long as I shall have occasion for a Dress.

Mr. Cowper. In what Posture did she appear in the Shop?

J. Taylor. She appear'd to be very melancholy.

Mr. Cowper. What Part of her Dress did you find fault with?

J. Taylor. It was her Head-cloaths.

Mr. Cowper. What was the Matter with them?

J. Taylor. I thought her Head was dawb'd with some kind of Grease or Charcoal.

Mr. Cowper. What Answer did she make?

J. Taylor. She said, they would serve her Time.

Mr. Cowper. As to this Piece of Evidence, if your Lordship pleases, I desire it may be particularly taken notice of; 'twas her Head-dress that she said would serve her Time.

Pray, Mr. Taylor, was you at Mr. Barefoot's when I came there on Monday Morning?

J. Taylor. Yes; I went up Stairs with you into your Chamber.

Mr. Cowper. Pray what did I say to Mr. Barefoot?

J. Taylor. You ask'd him if they had received a Letter from your Brother, and he said, No, not that he knew of, but he would call his Wife; and he did call his Wife, and ask'd her if she had receiv'd a Letter, and she said, No; then said you, I will take up this Lodging for mine; and accordingly you went up Stairs, and I went with you, and staid there about four times as long as I have been here.

Mr. Cowper. Are you very sure that I said I would take up my Lodgings there?

J. Taylor. Yes, I am very sure of it.

Mr. Baron Hatfell. What Time of the Day was it?

J. Taylor. 'Twas the fore Part of the Day: while I was there, my Lord, Mrs. Sarah Stout's Maid came to invite Mr. Cowper to her House to Dinner.

Mr. Cowper. Did you know any thing of my sending to the Coffee-house?

J. Taylor. You sent to the Coffee-house for your Things.

Mr. Baron Hatfell. Did Mr. Cowper use to lie at Mrs. Barefoot's?

J. Taylor. His Brother did, but I do not know whether this Gentleman did; but at that Time he took up that Place for his Lodging, and said, it was all one, my Brother must pay for't, and therefore I will take it up for my self.

Mr. Cowper. Call Mrs. Barefoot and her Maid.

(But they not presently appearing.)

Mr. Cowper. My Lord, in the mean time I will go on to the other Part of my Evidence, in opening of which I shall be very short.

My Lord, my Wife lodging at Hertford, occasion'd me frequently to come down. Mrs. Stout became well acquainted with her: When Business was over in the long Vacation, I resided pretty much at Hertford, and Mr. Marshall came down to pay me a Visit, and this introduc'd his Knowledge of Mrs. Stout. When she was first acquainted with him she receiv'd him with a great deal of Civility and Kindness, which induc'd him to make his Addresses to her, as he did, by way of Courtship. It happen'd one Evening that she and one Mrs. Crook, Mr. Marshall, and my self, were walking together, and Mr. Marshall and Mrs. Crook going some little Way before us, she took this Opportunity to speak to me, in such Terms, I must confess, as surpriz'd me. Says she, Mr. Cowper, I did not think you had been so dull. I was inquisitive to know in what my Dulness did consist. Why, says she, do you imagine I intend to marry Mr. Marshall? I said, I thought she did, and that if she did not, she was much to blame in what she had done: No, says she, I thought it might serve to divert the Censure of the World, and favour our Acquaintance. My Lord, I have some original Letters under her own Hand, which will make this fully manifest: I will produce the Letters after I have call'd Mr. Marshall. Mr. Marshall.

Mr. Marshall. If your Lordship pleases, it was in the long Vacation I came down to spend a little of my leisure Time at Hertford; the Reason of my going thither was, because Mr. Cowper was there at that Time. The first Night when I came down I found Mrs. Sarah Stout visiting at Mr. Cowper's Lodgings, and there I first came acquainted with her; and she afterwards gave me frequent Opportunities of improving that Acquaintance: And by the Manner of my Reception by her, I had no Reason to suspect the Use it seems I was design'd for. When I came to Town, my Lord, I was generally told of my courting Mrs. Stout, which I confess was not then in my Head; but it being represented to me as a Thing easy to be got over, and believing the Report of the World as to her Fortune, I did afterwards make my Application to her, but, upon very little Trial of that sort, I receiv'd a very fair Denial, and there ended my Suit; Mr. Cowper having been so friendly to me, as to give me notice of some Things, that convinc'd me I ought to be thankful I had no more to do with her.

Mr. Baron Hatfell. When did she cast you off?

Mr. Marshall. I can't be positive as to the Time, my Lord, but it was in Answer to the only serious Letter I ever writ to her; as I remember, I was not over-impertunate in this Affair, for I never was a very violent Lover.

Mr. Baron Hatfell. Well, but tell the Time as near as you can.

Mr. Marshall. I believe 'twas the second or third time I came down to Hertford, which is about a Year and half since; and, during the Whole of my Acquaintance with her, I never till then found her averse to any Proposal of mine; but she then telling me, her Resolution was not to comply with what I desir'd, I took her at her Word, having partly by my own Observation, but more by Mr. Cowper's Friendship, been pretty well able to guess at her Meaning.

Mr.

Mr. Cowper. Because what you say may stand confirm'd beyond Contradiction, I desire you to say whether you have any Letters from her to yourself.

Mr. Marshall. Yes, I have a Letter in my Hand which she sent me, upon occasion of some Songs I sent her when I came to Town, which she had before desired of me; and this is a Letter in Answer to mine; 'tis her Hand-writing, and directed to me.

Mr. Baron Hatsell. How do you know 'tis her Hand-writing?

Mr. Marshall. I have seen her write, and seen and receiv'd several Letters from her.

Mr. Cowper. Pray shew it Mr. Beale.

Mr. Beale. I believe it to be her Hand; I have seen her write, and have a Receipt of hers.

Clerk of Arr. 'Tis directed to Mr. Thomas Marshall, at Lyons-Inn, and dated Sept. 26, 1697.

S I R,

Sept. 26, 1697.

*Y*ours came very safe; but I wish you had explain'd your Meaning a little more about the Accident you speak of; for I have been puzzling my Brains ever since; and without I shall set my self to conjuring, I cannot imagine what it should be, for I know of nothing that happen'd after you went away, nor no Discourse about you, only when we were together, the Company would sometimes drink your Health, or wish you had been there, or the like; so that I fancy it must be something Mr. ——— has invented for Diversion; tho' I must confess we have a sort of People here, that are inspir'd with the Gift of Foreknowledge, who will tell one as much for nothing as any Astrologer will have a good Piece of Money for. But, to leave jesting, I cannot tell when I shall come to London, unless it be for a Night and away, about some Business with my Brother, that I must be obliged to attend his Motions; but when I do, I shall remember my Promise, altho' I do not suppose you are any more in earnest than my self in this Matter. I give you Thanks for your Songs and your good Wishes, and rest

Your loving Duck.

Mr. Cowper. Have you any more Letters?

Mr. Marshall. Yes, I have another Letter here; but, before 'tis read, I think 'twill be proper to give the Court an Account of the Occasion of its being writ. I waited on Mrs. Stout one Evening at her Lodgings in Houndsditch, and at our parting she appointed to meet me the next Day; and to excuse her not coming according to that Appointment, she sent me this Letter.

Clerk of Arr. 'Tis directed to Mr. Thomas Marshall; 'tis without Date.

Mr. Marshall,

I Met unexpected with one that came from H——d last Night, who detain'd me so long with relating the most notorious Inventions and Lyes that are now extant amongst those People, that I could not possibly come till 'twas late; and this Day was appointed for Business, that I am uncertain when it will be finish'd; so that I believe I cannot see you whilst I am in Town. I have no more at present, but that I am your obliged Friend.

Mr. Cowper. Now, my Lord, if your Lordship please, I proceed to shew you, that I went not so much voluntarily as press'd by her to come to this House, and for that I will produce one Letter from her to my self; and, my Lord, I must a little inform you of the Nature of this Letter. It is on

the Outside directed to Mrs. Jane Ellen, to be left for her at Mr. Hargrave's Coffee-house. For her to direct for me at a Coffee-house, might make the Servants wonder, and the Post-man might suspect, and for that Reason she directed it in that manner. There was Mr. Marshall by when I received it, and I can prove the Hand by Mr. Beale.

Mr. Marshall. My Lord, I verily believe I was by, and that Mr. Cowper shew'd me this Letter immediately on receipt of it, as he had done several others from the same Hand.

Cl. of Arr. This is directed for Mrs. Jane Ellen. 'Tis dated March the 5th, without any Year.

S I R,

March the 5th.

I Am glad you have not quite forgot that there is such a Person as I in being; but I am willing to shut my Eyes, and not see any Thing that looks like Unkindness in you, and rather content my self with what Excuses you are pleas'd to make, than be inquisitive into what I must not know. I should very readily comply with your Proposition of changing the Season, if it were in my Power to do it, but you know that lies altogether in your own Breast: I am sure the Winter has been too unpleasant for me to desire the Continuance of it; and I wish you were to endure the Sharpness of it but for one Hour, as I have done for many long Nights and Days, and then I believe it would move that rocky Heart of yours, that can be so thoughtless of me as you are: But if it were design'd for that End, to make the Summer the more delightful, I wish it may have the Effect so far, as to continue it to be so too, that the Weather may never overcast again; the which if I could be assur'd of, it would recompense me for all that I have ever suffer'd, and make me as easy a Creature as I was the first Moment I receiv'd Breath. When you come to H——d pray let your Steed guide you, and don't do as you did the last time; and be sure order your Affairs to be here as soon as you can, which cannot be sooner than you will be heartily welcome to

your very sincere Friend.

For Mrs. Jane Ellen, at Mr. Hargrave's near Temple-Bar, London.

Mr. Cowper. Tho' it is directed to Mrs. Jane Ellen, it begins in the Inside, Sir; and 'tis dated the 5th of March next before the 13th.

Mr. Baron Hatsell. What March was it?

Mr. Marshall. I kept no Account of the Time, but I am very positive, by the Contents, that Mr. Cowper shewed me this Letter, and I read it, but by my now Remembrance, it should be longer since than March last.

Mr. Cowper. It was March last. That which will set Mr. Marshall's Memory to rights is this other Letter, which I received at the Rainbow, when he was by, and he read it; and it importuning me to a Matter of this kind, I did produce it to my Brother and him; they both knew of it, and both read it, and that will refresh his Memory concerning the Date of the other.

Mr. Marshall. My Lord, I was in the Coffee-house with Mr. Cowper when he receiv'd this Letter; and he afterwards shew'd it to Mr. William Cowper, at the Covent-garden Tavern, when I was by.

Cl. of the Arr. This is dated the 9th of March, and directed to Mrs. Jane Ellen, at Mr. Hargrave's.

S I R,

March 9.

I Writ to you by Sunday's Post, which I hope you have receiv'd; however, as a Confirmation, I will assure you I know of no Inconveniency that can attend your cohabiting

habiting with me, unless the Grand Jury should thereupon find a Bill against us; but I won't fly for't, for come Life, come Death, I am resolv'd never to desert you; therefore according to your Appointment I will expect you, and till then I shall only tell you, that I am,

For Mrs. Jane Ellen at
Mr. Hargrave's near
Temple-Bar, London. Yours &c.

Mr. Cowper. If your Lordship please, I will further prove this Letter by my Brother.

Mr. W. Cowper. I can bear my Brother Witness, that when he has been advised to make these Letters Part of his Defence, he hath expressed great Unwillingness, and has said, nothing but the Life of these Gentlemen could incline him to it.

My Lord, all I can say to this Matter is this: I do remember, that when she was one time in London, I think it was about a Year and a half since, I am not positive as to the Time, but when she was in London, my Brother came in the Morning to my Chamber in the Temple, and after some Discourse, he told me he had receiv'd a Letter from Mrs. Stout that Day, wherein he said, she intended him a Visit at his Chamber that Afternoon; he told me at the same time, that his Friend Mr. Marshall had some Thoughts of her, and therefore for that, as well as other Reasons, he would decline receiving the Visit intended him; and upon Consideration, this was the Method agreed upon: At that Time I lived with my Father in Hatton-Garden; and this Gentlewoman having writ in the same Letter I now speak of, that she designed to dire there, and to come from thence in the Afternoon; says my Brother, you may casually, as it were, take occasion to say at Dinner, that my Business obliges me to go to Deptford in the Afternoon, as in good earnest it did, as he then told me, and from that she may take a Hint of my not being at home, and so save her self the Disappointment of coming to my Chamber. I told him I would find an Opportunity of doing it if I could. At Dinner my Father happen'd to ask me, as he often did, when I saw my Brother? I took this Hint, and said I had seen him at my Chamber in the Morning, and that he was gone to Deptford that Afternoon about some Law Business. My Lord, Mrs. Stout was then at the Table. I no sooner said it, but I observ'd she chang'd Colour presently, and rose with her Napkin, and went into the Back-yard, and we saw her through a Sash-window fall into a Woman's Fit of Swooning, and they gave her the Assistance that is usual in such Cases.

My Lord, the next Thing I can speak to is this: The Parliament sitting late the Friday before the Monday of the last Affizes at Hertford, I came late from Dinner, I had din'd about Seven a-Clock, as I remember, and having occasion to speak with my Brother, I found him out by Enquiry at the Covent-Garden Tavern, and there was Mr. Marshall of Lions-Inn with him. I had not drunk above a Glass or two of Wine, but my Brother began with me, and said, I seldom trouble you with Affairs of mine, but now I do not know well how to avoid it. I have receiv'd an importunate Letter, which I will shew you; it came from a Lady, whose Name I believe you will guess; so he pull'd it out of his Pocket and read it so often, because of the Oddness of the Expression, that I can say, I am sure this is the very Letter he shew'd me at the Covent-Garden Tavern the Friday before the last Affizes;

faith he, the Occasion of my shewing it, is not to expose a Woman's Weakness, but I would not willingly lie under too many Obligations, nor engage too far; nor on the other hand, would I be at an unnecessary Expence for a Lodging. Upon this Subject there was some Discourse, I think, foreign to this Purpose, and therefore I would not trouble your Lordship with a Repetition of it; that which is material is this; I did undertake to write to Mr. Barefoot's to dispose of his Lodgings, where I us'd to be at the Time of the Affizes, and my Brother with me. I said I would write the next Day, being Saturday; but when I should have writ, it was very late, and I was weary, being then tied down to the Business of Parliament, and partly for that Reason, and partly in point of Discretion, which I had upon my second Thoughts, that 'twould be better for my Brother's Business to be at Mr. Barefoot's, which is near the Court, and in the Market-place, I did neglect writing; and tho' I thought of it about Eleven a-Clock, yet, as I said, partly for one Reason, and partly for the other, I did not write that Time. My Lord, my Brother could know nothing of this Matter; for I did not see him from the Friday he shew'd me the Letter, till he went to the Affizes; so that he could not know before he was at Hertford, that I had not writ. My Lord, I say as to this Letter, I am sure he shew'd me the Friday next before the last Affizes.

Mr. Baron Hatsell. Let me see that Letter. (Which was shewn his Lordship.)

Mr. Cowper. My Lord, one or two of the Jury seem to question whether the Letters are sufficiently prov'd; for their Satisfaction, I will further prove them. Call Mr. John Beale, William Oaker, and Mrs. Low. My Lord, Mr. Beale is one of their own Sect.

(The Witnesses prov'd her Hand.)

Jury. My Lord, we are satisfied.

Mr. Baron Hatsell. I believe you may ask her Mother, she will tell you whether it be her Daughter's Hand.

Mrs. Stout. How should I know! I know she was no such Person, her Hand may be counterfeited.

Mr. Baron Hatsell. But if it were written in a more sober Stile, what would you say then?

Mrs. Stout. I shan't say it to be her Hand, unless I saw her write it.

(Then the Letter was shewn to Mr. Stout.)

Mr. Stout. 'Tis like my Sister's Hand.

Mr. Bar. Hatsell. Do you believe it to be her Hand?

Mr. Stout. No, I don't believe it; because it don't suit her Character.

Mr. Bar. Hatsell. But do you think she might not conceal from you what were her inward Thoughts.

Mr. Stout. Not in such a Degree as this.

Mr. Cowper. Call Mrs. Barefoot and her Maid. I desire they may be ask'd what they know about my taking of Lodgings at their House.

Mr. Baron Hatsell. This is taken for granted.

Mrs. Barefoot. When you came to my House, you ask'd me, if I had receiv'd a Letter from your Brother, and I told you, No.

Mr. Cowper. What did I say to that?

Mrs. Barefoot. Then you ask'd me if I expected you? and I told you, Yes, by reason I had heard nothing from you.

Mr. Cowper. Where did I lodge that Night?

Mrs. Barefoot. I had prepar'd the Lodging before you came, expecting you or Mr. Cowper your Brother.

Mr. Cowper. And I did come?

Mrs. Barefoot. Yes, as you us'd to do.

Mr. Cowper. Did I fend for my Things from the Coffee-house?

Mrs. Barefoot. Yes, you did, and I carried them up in your Chamber as I us'd to do.

Mr. Baron Hatsell. Where did Mr. Cowper dine that Day?

Mrs. Barefoot. Mrs. Stout sent her Maid to desire him to come to Dinner at their House; whether he went thither or no I can't say, but he went out.

Mr. Cowper. What Time did I come into my Lodging that Night?

Mrs. Barefoot. It was a little after Eleven.

Mr. Cowper. You are sure I came in a little after Eleven.

Mrs. Barefoot. Yes.

Mr. Jones. By what Clock? By the Town-Clock?

Mrs. Barefoot. Yes.

Mr. Cowper. Did I go out any more that Night?

Mrs. Barefoot. No.

Mr. Cowper. Is your Maid there?

Mrs. Barefoot. Yes.

Mr. Baron Hatsell. What is your Name?

Mrs. Hanwell. Mary Hanwell.

Mr. Cowper. Pray, what Time was it I came to my Lodging?

Mrs. Hanwell. You came in a little after Eleven a-Clock.

Mr. Cowper. Are you very positive in that?

Mrs. Hanwell. Yes, I am very positive.

Mr. Cowper. What was done before I went to Bed?

Mrs. Hanwell. My Lord, I went up and made a Fire, and then I came down again, and then I went up and warm'd Mr. Cowper's Bed, and then he desir'd another Blanket, and I came down for it; and all this took up a considerable Time; and Mr. Cowper was in Bed before Twelve a-Clock.

Mr. Cowper. Did I go out again that Night?

Mrs. Hanwell. No, you went out no more.

Mr. Cowper. Now, if your Lordship pleases, I would explain that Part of *Sarah Walker* the Maid's Evidence, where she says her Mistress order'd her to warm the Bed, and I never contradicted it. Your Lordship observes the Words in the last of the two Letters, *No Inconvenience can attend your cobabiting with me; and afterwards, I won't Fly for it: For come Life come Death, I am resolv'd, and so on*— I had rather leave it to be observed, than make the Observation myself, what might be the Dispute between us at the Time the Maid speaks of. I think it was not necessary she should be present at the Debate; and therefore I might not interrupt her Mistress in the Orders she gave; but as soon as the Maid was gone, I made use of these Objections; and I told Mrs. Stout, by what Accident I was obliged to take up my Lodging at Mr. Barefoot's, and that the Family was sitting up for me: That my staying at her House under these Circumstances, would in probability provoke the Censure of the Town and Country; and that therefore I could not stay, whatever my Inclination otherwise might be; but, my Lord, my Reasons not prevailing, I was forced to decide the Controversy by going to my Lodging, so that the Maid may swear true, when she says I did not contradict her Orders.

Mr. Baron Hatsell. I believe you have done now, Mr. Cowper.

Mr. Cowper. No, my Lord, I have more Evidence to give. Call *Elizabeth Spurr*.

If your Lordship pleases to observe, I have already proved by two Witnesses that I was actually at Mr. Barefoot's a little after Eleven; so that if I was to rest upon this Proof, here is not the least Article of Time, in which it can be supposed I was employ'd in this Matter: But, says *Sarah Walker*, the Maid, to obviate (I presume) this Evidence of mine, our House-Clock went faster than the Town-Clock. Now to answer this too, I shall further prove to your Lordship, that before I came to my Lodging, I was at the *Glove and Dolphin* Inn, where I had a little Account of about six or seven Shillings, as I remember, for Horse-keeping, and which I then paid.

Mr. Cowper. Do you remember my coming to your House, and at what Time?

E. Spurr. The Clock struck Eleven, just as you came into the Door.

Mr. Cowper. How long did I stay at the *Glove*?

E. Spurr. About a Quarter of an Hour.

Mr. Cowper. How far is it from the *Glove* and *Dolphin* to Mrs. Stout's House?

E. Spurr. About a Quarter of a Mile, or not quite so far.

Mr. Cowper. Call *Mary Kingitt*, and *George Man*, (who not then appearing) in the mean time, I would observe to your Lordship, that to go from Mrs. Stout's House to the Place where she was drown'd, and to return from thence to the *Glove* and *Dolphin*, will take up at least half an Hour, as I shall prove, and then the Matter will stand thus: Says *Sarah Walker*, you went about a Quarter after Eleven; but our Clock went half an Hour too fast: Then according to her Account, I went three Quarters after Ten by the Town-Clock; and if it requires (as I say, I shall prove it does) half an Hour to go to the Place where she was drown'd, and to return from thence to the *Glove* Inn, that would make it a Quarter past Eleven when I came to the Inn by the Town-Clock, which it was not; and if I staid there a Quarter of an Hour (which is proved I did not) it must be half an Hour after Eleven when I came to my Lodging by the same Clock, which it was not; so that I think this Matter as to the Time is very clear. My Lord, to prove the Time it requires to go from Mrs. Stout's to the Place where she drown'd her self, and to return to the *Glove*, I desire Sir *William Asburst* may be called.

Sir *William Asburst*. My Lord, I can't say I walk'd as fast as I could, but I went with a Gentleman I see here to satisfy my self about the Probability of this Matter; I walk'd as People usually do, and I found it took up half an Hour and a Minute, when I walk'd with that Gentleman.

Mr. Baron Hatsell. Who was with you, Sir?

Sir *William Asburst*. Mr. *Thompson* was with me the Time I mention. I walk'd it before with Sir *Thomas Lane*.

Mr. *Thompson*. My Lord, indeed it will take a compleat half Hour.

Mr. Cowper. I desire Sir *Thomas Lane* may give you an Account of the Distance between one Place and the other.

Sir *Thomas Lane*. Sir *William Asburst* and I did walk to the Place mentioned, and we were careful to take notice of the Time, and it took up about three Quarters of an Hour, according to my Observation; and we did not stay at all by the Way, except just to look upon the Hospital.

Mr.

Mr. Cowper. Now, my Lord, *Mary Kingitt* and *George Man*, the Servants at the *Glove*, are come: Pray, Mrs. *Kingitt*, do you remember my coming into the *Glove and Dolphin*?

Mary Kingitt. Yes.

Mr. Cowper. How long did I stay there?

Mary Kingitt. About a quarter of an Hour.

Mr. Cowper. What was my Business there?

Mary Kingitt. You came and enquir'd what you ow'd.

Mr. Bar. *Hatfell*. What a-Clock was it then?

Mary Kingitt. I thought it was about Eleven; our t'other Maid told it Eleven.

Mr. *Jones*. How came you to take Notice of the Time?

Mary Kingitt. She heard the Clock go Eleven, but I did not.

Mr. Cowper. Was there any Dispute about the Account?

Mary Kingitt. You ask'd the Hostler how that came to stand in the Book, concerning the Horse; for you told him, You thought you had paid some Part of it, and he told you, You had not.

Mr. Cowper. My Lord, with your Lordship's Favour, I would ask *George Man* a Question to the same Point. Do you remember my coming into the *Glove and Dolphin*? *G. Man*. Yes.

Mr. Cowper. How long did I stay there?

G. Man. You staid but a quarter of an Hour, as near as I can guess.

Mr. Cowper. I will now call a Witness to prove that this Maid *Sarah Walker* is not so cautious and careful how she swears, as I think she ought to be.

Call Mrs. Mince.

Mr. Bar. *Hatfell*. Pray wherein hath *Sarah Walker* said any Thing that is false?

Mr. Cowper. In this; I ask'd her when she gave Evidence, Whether she went out to see for her Mistress all that Night, and whether her Mistress did not use to stay out a-Nights, and whether she her self had not used to say so? If your Lordship pleases to remember she said No. Pray Mrs. *Mince*, what have you heard Mrs. *Stout*'s Maid say concerning her Mistress, particularly as to her staying out all Night?

Mrs. *Mince*. She hath said, That her Mistress did not love to keep Company with *Quakers*; and that she paid for her own Board and her Maid's; and, that when she entertain'd any Body, 'twas at her own Charge. And she hath said, that Mrs. *Stout* used to ask, Who is with you, Child? and she would not tell her; and, that she did entertain her Friends in the Summer-house now and then with a Bottle of Wine; and when her Mother ask'd who was there, her Mistress would say, Bring it in here, I suppose there is none but Friends: And after the Company was gone, she us'd to make her Mother believe that she went to Bed, but she us'd to go out and take the Key with her, and sometimes she would go out at the Window; and she said particularly, One time she went out at the Garden Window, when the Garden Door was lock'd, and, that she bid her not sit up for her, for she would not come in at any Time.

Mr. Bar. *Hatfell*. Did ever *Sarah Walker* tell you that Mrs. *Stout* staid out all Night?

Mrs. *Mince*. She hath said, She could not tell what Time she came in, for she went to Bed.

Mr. Cowper. Now, if your Lordship please, I will prove to you, if it may be thought material, that *Gurrey*, at whose House these Gentlemen lodg'd,

should say, That if I had visited Mrs. *Stout* none of all this had been (upon so little an Omission it seems did this Prosecution depend). To which I give this Answer, my Lord; I never did once go to visit her in my Life, she knows it. Now, for a Man officiously to make a new Visit in the Time of the Affizes, one engag'd in Business as I was, and especially upon so melancholy an Occasion, I say, for me to go officiously to see a Woman I never had the least Knowledge of, would have been thought more strange (and justly might have been so) than the Omission of that Ceremony. For my Part, I cannot conceive what Mr. *Gurrey* could mean, this being the Case, by saying, That if I had visited Mrs. *Stout*, nothing of this had happen'd.

Mr. Bar. *Hatfell*. Mr. Cowper, he is not the Prosecutor, I think 'tis no matter what he said.

Mr. Cowper. I take it, my Lord, with humble Submission, 'tis material as he is a principal Witness against these Gentlemen; and the rather, for that he now pretends, that what he did was out of Conscience. My Lord, I have only one Thing more to say, I know not whether 'twill be requisite for me, or no, to give some Account of myself. Sir *William Ashurst*, if you please.

Sir *William Ashurst*. My Lord, if I had not had a good Opinion of this Gentleman, I had not come on purpose to hear this Cause, which has made so great a Noise all *England* over.

Mr. Bar. *Hatfell*. But what do you say as to Mr. Cowper's Reputation, for which you are call'd?

Sir *William Ashurst*. I always thought Mr. Cowper to be a Gentleman of singular Humanity and Integrity; he is an Officer in *London*, and as to his Management of his Office, I think no Man ever perform'd it better, or has a better Reputation in the Place where he lives.

Sir *Thomas Lane*. My Lord, I came hither on purpose to own this Gentleman, and indeed he deserves to be own'd by his Friends, and those that know him; his Character is altogether untainted with us, he has gain'd a good Reputation in the Business wherein he is concern'd, he has behav'd himself in his Office which he holds of the City of *London* very honestly and well; I never knew him discover any ill Nature in his Temper; I think he can't be suspected of this or any other Act of Barbarity.

Mr. Cowper. My Lord, in the next place I would call Mr. *Cox*, who has the Honour to serve in Parliament for the Borough of *Southwark*, and has been my near Neighbour these eight or nine Years. If you please, Mr. *Cox*, give an Account what Reputation and Character I have in that Place.

Mr. *Cox*. My Lord, I live in *Southwark*, where Mr. Cowper lives: I have liv'd by him eight or nine Years; I know him to be a Person of Integrity and Worth, all the Neighbours court his Company. I take him to have as much Honour and Honesty as any Gentleman whatsoever; and, of all Men that I know, he would be the last Man that I should suspect of such a Fact as this is: I believe nothing in the World could move him to entertain the least Thought of so foul an Act.

Mr. Cowper. Mr. *Thompson*, I desire you would be pleas'd to give an Account of what you know of me.

Mr. *Thompson*. If you please, my Lord, the first Acquaintance I had with Mr. Cowper was in our Childhood, I had the Honour to go to *Westminster* School with him; I did not renew my Acquaintance with him till about five Years ago; since that Time I have been often with him, and have several

Times had Occasion to ask his Advice in Matters relating to his Profession; and I think no Man more faithful in the Service of his Client than he is, and I am sure he is very deserving of the Esteem of any Man, and I believe he never entertain'd a Thought of so foul and barbarous a Fact as this, of which he is accused.

Mr. Bar. *Hatfield*. Mr. *Marson*, you have heard the Evidence, what do you say to it?

Mr. *Marson*. My Lord, our Business at *Hertford* was this: Mr. *Ellis Stevens* and I went down, he is Clerk of the Papers of the *King's-Bench*, and Mr. *Rogers* is Steward of the *King's-Bench*, and it was their Duty to wait upon my Lord Chief-Justice, with the Marshal of the *King's-Bench*, out of Town; and on Monday Morning we went to my Lord Chief-Justice's House in *Lincoln's-Inn-Fields*, as we us'd to do, and there set out; but I, being an Attorney of the Borough Court, could not with any Convenience go farther with them than to a Place which I think is call'd *Kingland*, and therefore I return'd to my Business in *Southwark*, where I attended the Court, as was customary and necessary for me to do, and set forth from thence at past Four in the Afternoon: By the way, as I remember, about *Waltheam-Cross*, I met one Mr. *Hanks*, a Clergyman of my Acquaintance, who had been likewise to attend my Lord Chief-Justice to *Hertford*, and was returning from thence; with some Persuasion I prevail'd with him to go back again with me to *Hertford*, telling him, I did not know the Way; and we gallop'd every Step of it, because Night was coming on, it was about Eight a-Clock when we came in. Mr. *Hanks* and I found the Marshal, Mr. *Stevens*, Mr. *Rogers*, Mr. *Rutkin*, and others of the Marshal's Acquaintance, at the Coffee-house; and truly when I came in, I might, for ought I know, be in a Sweat with riding so hard as we did, but even then I was not in such a Sweat as the Witness would have it. My Lord, we went from thence to the *Glove and Dolphin*, and stay'd there till about Eleven a-Clock. Mr. *Rogers* and I had a Dispute who should lie with Mr. *Stevens* at the now Witness Mr. *Gurrey's*; at last 'twas agreed between us to go to *Gurrey's* to see what Convenience he could make for us, and to drink a Glass of Wine at our Lodging; but afterwards it came in Mr. *Rutkin's* Head that he was to lie with the Marshal, and for that reason, he said, he would go back again; and accordingly he went, and Mr. *Hanks* with him, after they had seen us into our Lodgings, and Mr. *Stevens*, Mr. *Rogers* and I drank three Bottles of Wine together, Mr. *Gurrey*, our Landlord, was sent to fetch it; and afterwards in jocular Conversation, I believe Mr. *Stevens* might ask Mr. *Gurrey* if he knew one Mrs. *Sarah Stout*? and the Reason why he ask'd that Question our Witness will explain. I believe he might likewise ask what sort of Woman she was? and possibly I might say the Words, *My Friend may be in with her*, tho' I remember not I did say any thing like it, but I say there is a Possibility I might, because I had heard she had deny'd Mr. *Marshall's* Suit, and that might induce me to say, *My Friend may be in with her*, for all that I remember. I confess Mr. *Rogers* ask'd me what Money I had got that Day, meaning at the Borough-Court? I answer'd, Fifty Shillings; saith he, We have been here a spending our Money, I think you ought to treat us, or to that purpose. As to the Bundle mention'd, I had no such, except a Pair of Sleeves and a Neckcloth. As to the Evidence which goes to Words spoken, the Witnesses

have fruitful Inventions; and as they have wrested and improv'd the Instances I have been particular in, so have they the rest, or otherwise forg'd them out of their own Heads.

Mr. Bar. *Hatfield*. Mr. *Rogers*, what do you say to it?

Mr. *Rogers*. We came down with the Marshal of the *King's-Bench*, it rain'd every Step of the Way, so that my Spatterdashs and Shoes were fain to be dry'd; and it raining so hard, we did not think Mr. *Marson* would have come that Day, and therefore we provided but one Bed, tho' otherwise we should have provided two, and were to give a Crown for our Night's Lodging. We went from the Coffee-house to the Tavern, as Mr. *Marson* has said, and from the Tavern the next Way to our Lodging, where there was some merry and open Discourse of this Gentlewoman, but I never saw her in my Life, nor heard of her Name before she was mention'd there.

Mr. *Stevens*. We never stirr'd from one another, but went along with the Marshal of the *King's-Bench*, to accompany my Lord Chief-Justice out of Town, as is usual.

Mr. Bar. *Hatfield*. I thought it had been as usual for him to go but half the Way with my Lord Chief-Justice.

Mr. *Rogers*. They generally return back after they have gone half the Way, but some of the Head-Officers go throughout.

Mr. *Stevens*. 'Twas the first Circuit after the Marshal came into his Office, and that's the Reason the Marshal went the whole Way.

Mr. Bar. *Hatfield*. Did not you talk of her Court-ing-days being over?

Prisners. Not one Word of it; we absolutely deny it.

Mr. *Stevens*. I never saw her.

Mr. *Jones*. Mr. *Marson*, did you ride in Boots?

Mr. *Marson*. Yes.

Mr. *Jones*. How came your Shoes to be wet?

Mr. *Marson*. I had none.

Call Mr. *Heath*, Mr. *Hunt*, and Mr. *Foster*.

Mr. *Marson*. Mr. *Hunt*, will you please to acquaint my Lord and the Jury with what Discourse we had on Sunday Night before the Assizes, at the *Old Devil Tavern* at *Temple-Bar*.

Mr. *Hunt*. On Sunday Night I happen'd to be in Company with Mr. *Marson*, and three or four more of *Clifford's-Inn*, and there was a Discourse of the Marshal's attending my Lord Chief-Justice out of Town to *Hertford*, and Mr. *Marson* said, *I think the Marshal may require my waiting upon him too*; and the whole Company being known to Mr. *Marson*, and there being a Discourse of Mr. *Marshall's* court-ing of Mrs. *Stout*, saith one of the Company, *If you do go to Hertford, pray enquire after Mr. Marshall's Mistress, and bring us an Account of her*.

Mr. *Jones*. Who was in Company?

Mr. *Hunt*. There was Mr. *Heath*, Mr. *Foster*, Mr. *Marson*, Mr. *Stevens*, Mr. *Bevor*, and Mr. *Marshall*.

Mr. *Marson*. Now 'twas this Discourse that gave us an Occasion to talk of this Woman at *Gurrey's* House, which we did openly and harmlessly. Mr. *Foster*, do you remember any Thing of our talking of this Gentlewoman on Sunday Night?

Mr. *Foster*. Yes; I and they were talking, that they should go to *Hertford* the next Day, to wait on the Marshal, in Compliment to my Lord Chief-Justice, and go as far as *Hertford*; and there being a Report, that Mr. *Marshall* courted this Wo-

man,

man, we put it in a jesting Way, Pray enquire after Mr. Marshall's Mistress, how the Match goes on; for there was some Wagers between him and the Company, who should be married first: And so, in a jocular way it went about, and Mr. Marson or Mr. Stevens said, They would do their Endeavour, and they would enquire after the Lady, and give as good an Account of her as they could.

Mr. Stevens. If you please, my Lord, we will call another to this Purpose.

Mr. Bar. Hatfell. No, I think you need not, for it seems not material.

Then Mr. Hanks was call'd.

Mr. Hanks. I came as far as *Walbam's-Cross* to wait upon my Lord Chief-Justice; I stay'd there 'till about Four or Five a Clock, and then set out for *London*; and I met with Mr. Marson, who importun'd me to go back with him to *Hertford*, and accordingly I did so, and we came in about Seven or Eight at Night, and we enquir'd after the Marshal of the *King's-Bench*, and where he had set up his Horses, and we found him in the Coffee-house just by the Court, and we went and set up our Horses, and came again to him; from thence we went to the *Glove and Dolphin Tavern*; these three Gentlemen and the Marshal, and one Mr. Rutkin came afterwards to us, and we stay'd till about Eleven at the *Glove and Dolphin*.

Mr. Marson. Do you remember how we rid?

Mr. Hanks. Yes, very hard.

Mr. Bar. Hatfell. What Time did you come into the Tavern?

Mr. Hanks. Between Seven and Eight, as I remember.

Mr. Bar. Hatfell. And did you stay there till past Eleven?

Mr. Hanks. 'Till about Eleven, little more or less; we went away together in order to drink a Glass of Wine with them at their Lodging; but Mr. Rutkin considering that he was to drink a Glass of Wine, and lie with the Marshal, thought it would disturb the Marshal; So, saith he, *I will not go in*; but we saw them go into their Lodgings, and return'd to the *Bull*, where we eat Part of a Fowl, and I was never out of Mr. Marson's Company all that Time.

Mr. Marson. When you took your leave of me, don't you remember that the Door was clap'd to?

Mr. Hanks. I can't remember that.

Mr. Marson. Mr. Gurrey saith, I never went out after I came home. Mr. Rutkin, pray give an Account to my Lord, and the Gentlemen of the Jury, of what you know of my coming to *Hertford*.

Mr. Rutkin. My Lord, I came to wait on the Marshal of the *King's-Bench* to *Hertford*, and when we were come to *Hertford* we put up our Horses at the *Bull*, and made our selves a little clean; we went to Church, and dined at the *Bull*, and then we walk'd in and about the Court, and diverted our selves till about Seven a-Clock; and between Seven and Eight a-Clock came Mr. Marson and Dr. Hanks to Town, and then we agreed to go to the *Dolphin and Glove* to drink a Glass of Wine: The Marshal went to see an ancient Gentleman, and we went to the *Dolphin and Glove*, and stay'd there till past Ten a-Clock, and after the Reckoning was paid we went with them to their Lodging, with a Design to take a Glass of Wine; but then I consider'd I was to lie with the Marshal, and for that Reason I resolv'd not to go in, but

came away, and went to the *Bull-Inn*, and drank Part of a Pint of Wine, and afterwards went to the next Door to the *Bull-Inn*, where I lay with the Marshal.

Mr. Jones. What Time did the Gentlemen go to their Lodging?

Mr. Rutkin. I am not positive as to that, but I believe 'twas about Eleven a-Clock.

Mr. Marson. If your Lordship pleases, now I'll call some Persons to give an Account of me. Mr. Cox.

Mr. Cox. I have known Mr. Marson a long time, and had alway a good Opinion of him; I don't believe 5000*l.* would tempt him to do such a Fact.

Mr. Marson. Captain *Wife*, I desire you would please to speak what you know of me.

Mr. Cowper. My Lord, because these Gentlemen are Strangers in the Country, I think, if in taking an Account of any Evidence for my self there is any Thing occurs to me that they may have a just Advantage of, I think I ought not to conceal it, for I am as much concern'd to justify their Innocence as my own. The principal Witness against them is one *Gurrey*; and I will prove to you, that since he appear'd in this Court, and gave his Evidence, he went out in a triumphant Manner, and boasted, That he, by his Management, had done more against these Gentlemen than all the Prosecutor's Witnesses could do besides. To add to that, I have another Piece of Evidence that I have been just acquainted with: My Lord, 'tis the Widow *Davis*, *Gurrey's* Wife's Sister, that I would call.

Major *Lane*. My Lord, I have known Mr. Marson ever since he was two Years old; and never saw him but a civiliz'd Man in my Life; he was well bred up among us, and I never saw him given to Debauchery in all my Life.

Mr. Bar. Hatfell. Where do you live?

Major *Lane*. In *Southwark*, my Lord.

Mr. Bar. Hatfell. Well, what do you say, Mrs. *Davis*?

Mrs. *Davis*. I came to the House where these Gentlemen lodg'd; I was in about half an Hour, and my Sister ask'd me to air two or three Pair of Sheets: When I had air'd the Sheets, she ask'd me to go up and help to lay them on; and, before I had laid them on, these Gentlemen came into the Room.

Mr. Bar. Hatfell. What Hour?

Mrs. *Davis*. By the Time of my going out again, I believe it might be about Ten, or something better, and they drank three Quarts of Wine, and they had some Bread and Butter and Cheese carried up, and so they went to Bed; and after my Brother went to fetch Mr. *Gape*, that lay at his House, from *Hockley's*.

Mr. Cowper. I only beg leave to observe, that *Gurrey* deny'd that he went for him.

Mr. Bar. Hatfell. Ay; but this signifies very little, whether it be true or false.

Mrs. *Davis*. The next Day after, these Gentlemen were about the Town; and she said, She did believe they were come to clear a young Man (a Minister's Son) that was try'd at the Bar for robbing the Mail: I ask'd why she thought so? she said, She was sure of it: And I ask'd her, how she could be sure of it, when she was never told so? Why, said I, do they accuse these Gentlemen? They ought rather to take up the Gentleman that was with Mrs. *Stout's* Maid; and she said, If they took up Mrs. *Stout's* Maid, they should have never a Witness.

Mr.

Mr. Bar. *Hatfell*. Who was That that was talking with Mrs. *Stout's* Maid?

Mrs. *Davis*. I don't know, but she said she did not like their Actions; and therefore she ought to have been examined who she was with.

Capt. *Wife*. I have known Mr. *Marson* several Years, and he is a Person of as fair Reputation as any in the *Borough*.

Mr. *Reading*. I have been acquainted with Mr. *Marson* Twenty Years, he lives near the House where I now do: He has a general good Character among his Neighbours, for a fair Man in his Practice, an honest Man, and a Man of good Conversation.

Mr. Bar. *Hatfell*. Well, Mr. *Stevens*, What do you say?

Mr. *Stevens*. I desire Sir *Robert Austin* to give an Account of me.

Sir *Robert Austin*. I have known Mr. *Stevens* many Years; his Brother is Captain in a neighbouring Country; he is reckon'd not only an honest Man in his Practice, but has the general Character of a good-natur'd Man; and he is so far from being a Person likely to do such an Action, that, for a younger Brother, he was very well provided for; his Father left him a Thousand Pounds, and he is Clerk of the Papers, which is reputed worth a Hundred Pounds a Year, and is in good Practice besides.

Juryman. I have known him several Years, and he has the same Reputation Sir *Robert* has given him.

Sir *John Shaw*. I know Mr. *Stevens*, and his Brother Captain *Stevens*: As to this Gentleman, he hath always behav'd himself well in our Country, and hath the Character of an honest Gentleman.

Mr. *Evans*. I have known him for these eight Years, and to be a very civil Person, and well educated, and never heard but a good Character of him: I have also known Mr. *Marson* these ten Years, and never saw any Ill by him, and do believe, that he or the other would not have done such an ill thing to have gain'd this Country.

Mr. *Menlove*. My Lord, Mr. *Stevens* was my Clerk, and he behav'd himself very honestly with me. And since that, I have kept a Correspondence with him, and I believe he would not do such a Thing for all the World.

Mr. Bar. *Hatfell*. Call some Body to speak for Mr. *Rogers*, if there be any.

Mr. *Evans*. My Lord, Mr. *Rogers* hath a general Character in *Southwark*, for a very honest Man.

Mr. *Rogers*. Pray call Mr. *Lygoe*. Sir, please to give my Lord and the Court an Account what you know of me.

Mr. *Lygoe*. My Lord, I have known all the three Gentlemen at the Bar, but particularly Mr. *Rogers* and Mr. *Stevens*, from their Infancy. I have employ'd them both in Business several times, and always found them fair Practisers; and believe neither of them would be guilty of doing an ill Act.

Mr. *Rogers*. Call Mr. *Thurly*. Sir, Pray give the Court an Account how I behaved my self in your Service.

Mr. Bar. *Hatfell*. Come, Mr. *Thurly*, What do you say of Mr. *Rogers*?

Mr. *Thurly*. My Lord, Mr. *Rogers* lived with me about eight Years, in which Time I frequently trusted him with very great Sums of Money, I

ever found him just and faithful, and can't believe, that any Money could tempt him to do an Act of this Kind.

Mr. *Jones*. My Lord, we insist upon it, That Mr. *Cowper* hath given a different Evidence now from what he did before the Coroner; for there he said he never knew any Distraction, or Love-fit, or other Occasion she had to put her upon this extravagant Action. Now, here he comes, and would have the whole Scheme turn'd upon a Love-fit. Call *John Mason*. (*Who was sworn.*)

Mr. Bar. *Hatfell*. What do you say, Sir, to this Matter?

Mr. *Stout*. When Mr. *Cowper* was examin'd before the Coroner, he was ask'd, if he knew any Reason why she should do such a Thing? and he said, She was a very modest Woman, and he knew no Cause why she should do such a Thing as this, *John Mason*, Was you by when Mr. *Cowper* gave Evidence before the Coroner?

Mason. Yes.

Mr. *Jones*. What did he say?

Mason. He said he did not know any Thing was the Cause of it, but she was a very modest Person.

Mr. *Jones*. Was he upon his Oath?

Mason. Yes, he was.

Mr. Bar. *Hatfell*. When did he say this?

Mason. It was the same Day she was found.

Mr. *Jones*. Did they ask him any Question, if he knew any Person that she was in Love with?

Mason. He said he knew but of one, and his Name was *Marshall*, and Mr. *Marshall* told him, That he was always repul'd by her.

Mr. *Stout*. I desire *John Archer* may be asked the same Question. (*Who was sworn.*)

Mr. *Jones*. Was you present with the Coroner's Inquest?

J. Archer. Yes.

Mr. *Jones*. Was Mr. *Cowper* examin'd by them?

J. Archer. Yes, he was?

Mr. *Jones*. What did he say concerning Mrs. *Stout* then?

J. Archer. They ask'd him, If he knew any Occasion for Mrs. *Stout's* Death? and he said, He knew nothing of it, or of any Letters?

Mr. *Cowper*. Then I must call over the whole Coroner's Inquest to prove the contrary.

Mr. Bar. *Hatfell*. Did they ask him concerning any Letters?

J. Archer. They ask'd him if he knew of any Thing that might be the Occasion of her Death.

Mr. Bar. *Hatfell*. I ask you again, if they ask'd him if he knew of any Letters?

J. Archer. My Lord, I don't remember that.

Mr. *Stout*. I would have called some of the Coroner's Inquest, but I was stopp'd in it.

Juryman. We have taken Minutes of what has pass'd: If your Lordship please, we will withdraw.

Mr. Bar. *Hatfell*. They must make an End first.

Mr. *Jones*. If your Lordship please, we will call one Witness to falsify one Piece of their Evidence, and that is one Widow *Larkin*. (*Who was sworn.*)

Mr. *Jones*. Do you remember one Mr. *Rutkin* being at your House?

Larkin. Yes.

Mr. *Jones*. At what Time did he come in?

Larkin. Between Nine and Ten of the Clock.

Mr. *Jones*. Was the Marshal then in the House?

L. r.

Larkin. No; the Marshal did not come till near an Hour after.

Mr. Jones. Did not he go out afterwards?

Larkin. Not that I know of.

Mr. Rutkins. I am satisfied it was past Eleven when I came in.

Mr. Baron Hatfell. It is likely it may be true; for, I believe they did not keep very good Hours at that Time.

Mr. Stout. I desire to call some Witnesses to my Sister's Reputation.

Mr. Jones. My Lord, they would call Witnesses to this Gentlewoman's Reputation; I believe the whole Town would attest for That, that she was a Woman of a good Reputation. Indeed they have produced some Letters without a Name, but if they insist upon any thing against her Reputation, we must call our Witnesses.

Mr. Baron Hatfell. I believe no Body disputes That; she might be a virtuous Woman, and her Brains might be turn'd by her Passion, or some Distemper.

Gentlemen of the Jury, you have heard a very long Evidence. I am sure that you can't expect that I should sum it up fully; but I will take Notice of some Things to you, that I think are most material; and if I omit any Thing that is material, I would desire *Mr. Jones* (that is Counsel for the King) and *Mr. Cowper* to put me in mind of it.

The Indictment against the Prisoners at the Bar is for a very great Crime, it is for Murder, which is one of the most horrid of all Crimes: You are to consider first what Evidence you have heard to prove it; and tho' there be no direct Proof, you are to consider what is circumstantial.

They do begin with *Sarah Walker*, who was *Mrs. Sarah Stout's* Maid, and she tells you, that *Mr. Cowper*, when he came to this Town on Monday the 13th of March last, came to *Mrs. Stout's* House and dined there, and went away about Four of the Clock in the Afternoon; but she tells you, that the Friday before, there came a Letter from *Mr. Cowper's* Wife to *Mrs. Stout*, to let her know that *Mr. Cowper* would come and lodge at their House at *Hertsford* at the Assizes; so that when he came, she thought that he had intended to have done according to that Letter. She saith, that after Dinner *Mr. Cowper* went away, and came again at Nine at Night, and there he supped; he was desir'd so to do, (and indeed had been invited to Dinner also that Day) and she doth say, that after Supper there was a Fire made in his Chamber (for this young Gentlewoman, *Mrs. Stout*, press'd him to lie at their House) and she order'd the Maid to warm his Bed, and I believe, says she, *Mr. Cowper* heard her say so, for he was nearer to her than I at that time, and he doth not deny but that he heard it. She says, that accordingly she went up to warm the Bed, and having stay'd there a while, she heard the Door clap; and when she came down into the Parlour, where she had left them, they were both gone, and that she could not tell what the Meaning of it was; and they waited for her all Night, old *Mrs. Stout* and this Maid, and she did not come in all Night, nor was afterwards seen alive; but *Mr. Cowper* was the last Person seen in her Company.

The other Witnesses that came afterwards, speak concerning the finding of the Body in the River, and tell you in what Posture it was. I

shall not undertake to give you the Particulars of their Evidence, but they tell you she lay on her right Side, the one Arm up even with the Surface of the Water, and her Body under the Water; but some of her Cloaths were above the Water; particularly one says, the Ruffles of her left Arm were above the Water. You have heard also what the Doctors and Surgeons said on the one side and the other, concerning the Swimming and Sinking of dead Bodies in the Water; but I can find no Certainty in it; and I leave it to your Consideration.

Another Circumstance they build on, and which seems to be material is, of her Belly being lank, and, that there was no Swelling; whereas, say they, when a Person is drown'd, there is a great deal of Water goes in, and makes the Belly to swell; but here was no Swelling that Morning she was taken out, and no Water came out of her Mouth and Nostrils, only a little Froth there was, and her Belly was lank. But, say they, on the other Side, that may very well be; for, perhaps she might be choak'd immediately, as soon as she was in the Water; and, say they, you may not wonder at That; for if she went to drown her self, she would endeavour to be choak'd as soon as she could; for those Persons that are drown'd against their own Consent do swallow a great deal of Water, but those that drown themselves don't swallow much Water, for they are choak'd immediately by the Water going into the Windpipe; that we commonly call going the wrong Way. The Doctors and Surgeons have talk'd a great deal to this Purpose, and of the Water's going into the Lungs or the *Thorax*; but unless you have more Skill in Anatomy than I, you won't be much edified by it. I acknowledge I never studied Anatomy; but I perceive that the Doctors do differ in their Notions about these things. But, as to Matter of Fact, 'tis agreed to by all the Witnesses for the King, that her Body was lank, her Belly was thin, and there was no Sign of any Water to be in it: They on the other Side tell you, that her Stays was on, and she was strait-laced, and that might occasion her Belly's being so small, and hinder the Water from going in.

Gentlemen, I was very much puzzled in my Thoughts, and was at a Loss to find out what Inducement there could be to draw in *Mr. Cowper*, or these three other Gentlemen, to commit such a horrid, barbarous Murder. And, on the other hand, I could not imagine what there should be to induce this Gentlewoman, a Person of a plentiful Fortune, and a very sober good Reputation, to destroy her self.

Now, Gentlemen, I must confess, the Evidence that the Defendants have given by these Letters, if you believe them to be this Gentlewoman's Hand-writing, do seem to fortify all that *Mr. Cowper's* Witnesses have said, concerning her being melancholy: It might be a Love-distracted, and she might have been a virtuous Woman for all that; for it might be a Distemper which came upon her, and turn'd her Brains, and discompos'd her Mind, and then no Wonder at her writing thus, in a Manner different from the rest of the Actions of her Life. Gentlemen, you are to consider and weigh the Evidence, and I will not trouble you any more about that Matter.

As to these three other Gentlemen that came to this Town at the Time of the last Assizes, what

what there is against them you have heard : They talk'd at their Lodging at a strange rate, concerning this Mrs. *Sarah Stout*, saying, her Business is done, and, that there was an End of her Court-ing-Days, and that a Friend of theirs was even with her by this Time. What you can make of it, That I must leave to you ; but they were very strange Expressions ; and you are to judge, whether they were spoken in jest, as they pretend, or in earnest. There was a Cord found in the Room, and a Bundle seen there, but I know not what to make of it. As to Mrs. *Stout*, there was no Sign of any Circle about her Neck, which, as they say, must have been, if she had been strangled : Some Spots there were ; but it is said, possibly those might be occasion'd by rubbing against some Piles or Stakes in the River. Truly, Gentlemen, these three Men, by their Talking, have given great Cause of Suspicion ; but whether They, or Mr. *Cowper*, are guilty or no, that You are to determine. I am sensible I have omitted many Things ; but I am a little faint, and cannot repeat any more of the Evidence.

Jury. We have taken Minutes, my Lord.
Mr. Baron *Hatsell*. Well then, Gentlemen, go together, and consider your Evidence ; and I pray God direct you in giving your Verdict.

[Then One was sworn to keep the *Jury*, and in about half an Hour, the *Jury* return'd.]

Cl. of Arr. Gentlemen, are you all agreed in your Verdict ?

Omnes. Yes.

Cl. of Arr. Who shall say for you ?

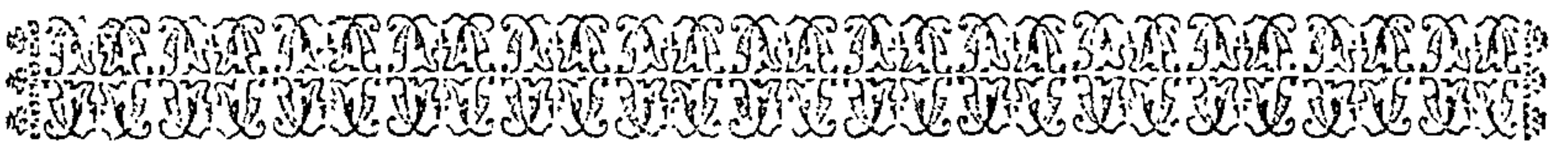
Omnes. Foreman.

Cl. of Arr. *Spencer Cowper*, hold up thy Hand. (Which he did.) Look upon the Prisoner. How say you ? Is he guilty of the Felony and Murder whereof he stands indicted, or not guilty ?

Foreman. Not guilty.

[In like Manner the *Jury* did give their Verdict, that John Marson, Ellis Stevens, and William Rogers were Not guilty.] *

* See the Case of *Spencer Cowper*, Esq; *John Marson*, *Ellis Stevens*, and *William Rogers*, Gentlem. in the *State Trials*, Vol. VIII. p. 466, 467, 468, and Mrs. *Stout's* Case, 469, 470, 471, and several Observations relating to this Trial.



CLXVII. The TRIAL of MARY BUTLER alias STRICKLAND, at the Old Bailey, for Forging a Bond of 40000 l. in the Name of Robert Clayton, Octob. 12, 1699. II Will. III.

Cl. of Arr. BRING Mary Butler to the Bar.



[Accordingly she was brought.]

Mary Butler alias Strickland, you stand indicted by the Name of Mary Butler alias Strickland, late of London, Widow ; for that you endeavouring, and maliciously intending, to deceive and oppress Sir Robert Clayton, Knight and Alderman of London, the First Day of December, in the Seventh Year of his now Majesty's Reign, at London aforesaid, in the Parish of St. Mary Woolnoth, in the Ward of Langborne, a certain false Writing, sealed in Form of a Bond, bearing Date the Fourteenth Day of April, 1687, in the Name of the said Sir Robert Clayton, for the Payment of the Penal Sum of Forty Thousand Pounds, to be made by the said Sir Robert Clayton to you Mary Butler alias Strickland, with Condition there under-written ; concerning, among other Things, the Payment of Twenty Thousand Pounds, to be made to you Mary Butler alias Strickland, after the Death of the said Sir Robert Clayton, by his Heirs, Executors, and Administrators ; falsely, knowingly, unlawfully, and subtilly did make, counterfeit and write, and cause to be made, counterfeited, and written : And further, that you Mary Butler alias Strickland, afterwards, viz. the First Day of December, in the Seventh Year aforesaid, at London aforesaid, in the Parish and Ward aforesaid, a certain false and forged Writing, sealed in Form of a Bond, in the Name of the said Sir Robert Clayton, for the Payment of

the penal Sum of Forty Thousand Pounds by the said Sir Robert Clayton, to you Mary Butler alias Strickland, with Condition under-written, concerning, among other Things, the Payment of Twenty Thousand Pounds, to be made to you Mary Butler alias Strickland, after the Death of the said Sir Robert Clayton, by his Heirs, Executors, or Administrators, as a true Bond of the said Sir Robert Clayton, as if really made by him ; falsely, subtilly, and deceitfully, did publish, you Mary Butler alias Strickland well knowing the said Writing to be false, forged, and counterfeited, and not the Deed of the said Sir Robert Clayton, to the great Damage of the said Sir Robert Clayton, to the evil Example of all others in the like Case, offending against the Peace of our Sovereign Lord the King, his Crown and Dignity.

Cl. of Arr. How say'st thou, Mary Butler alias Strickland, art thou guilty of this Forgery whereof thou standest indicted, or not guilty ?

Prisoner. Not guilty.

Cl. of Arr. Prisoner, look to your Challenge : Cryer, swear the *Jury*, which follow :

JURY sworn.

William Clark,	}	George Ludlam,
William Christopher,		Richard Kemble,
Thomas Wharton,		John Clarke,
George Kimble,		Stephen Broughton,
James Church,		Joseph Sheppard,
John Whistler,		Thomas Wickham.

Clerk

Clerk of Arr. You of the Jury that are sworn, look upon the Prisoner, and hearken to her Cause. She stands indicted, &c.

Mr. Montagu. May it please your Lordship, and you Gentlemen of the Jury, this Indictment does charge the Prisoner at the Bar, *Mary Butler*, *alias Strickland*, with a Fraud and intended Cheat. It sets forth, that the Prisoner at the Bar intending to cheat *Sir Robert Clayton*, did counterfeit a certain Writing, purporting to be the Bond of *Sir Robert Clayton*, for payment of Twenty Thousand Pounds, and that it was to be paid to the said *Mary Butler*, *alias Strickland*, after the Death of the said *Sir Robert Clayton*. Likewise, that she did publish this Writing as *Sir Robert Clayton's* Deed. To this Indictment she has pleaded not guilty. If we prove the Fact, I do not question but you will find her guilty, that she may have her due Punishment.

Mr. Serj. Wright. My Lord, I am Counsel for the King in this Cause. You hear what sort of Crime it is that is charged on the Prisoner. It is for Forging a Bond of no less Penalty than Forty Thousand Pounds, for the Payment of Twenty Thousand Pounds. This is made in the Name of *Sir Robert Clayton*, and the Twenty Thousand Pounds were to be paid a little after his own Death, by his Executors or Administrators: And that in the mean time Twelve Hundred Pounds a Year were to be paid for the Interest of this Sum. But, my Lord, the Prisoner did not rest here, (a second Contrivance will be opened to you.) That which she is charged with, is the Forging of a Bond of the Penalty of Forty Thousand Pounds.

My Lord, the Prisoner for some Years had a great Intimacy with a great Peer, the late Duke of *Buckingham*. And she either had, or pretended to have, a Bond from him for Five Thousand Pounds, payable to herself after his Death, and an Annual Interest in the mean time, till the Principal was paid. *Sir Robert Clayton* being a Trustee of the Duke's Estate for the Payment of his Debts, the Prisoner came frequently to *Sir Robert Clayton*, to solicit his Favour and Interest for the Payment of this Debt. On this Account she insinuated herself into his Company and into his Family. Sometimes she pretended to be a great Penitent, and that she was sorry for the Conversation she had with the Duke; that her own Relations were Papists, and if she should go to them, they would send her into a Nunnery. All which was but counterfeit, and in order to win upon *Sir Robert Clayton*; and he finding she was an ill Woman, notwithstanding all her Pretences, he at last, about twelve Years ago, forbid her his House, and since that she never was there.

About the Year 1695, *Sir Robert Clayton* had some private Intimation given him, that the Prisoner had a great Demand on him, no less than Twenty Thousand Pounds. Upon this *Sir Robert Clayton* took the best Course he could to find it out, and exhibited a Bill in *Chancery* against her, and some of her Accomplices, to discover whether they had any Pretences upon him or his Estate. To this Bill the Prisoner put in an Answer, that she had no Claim or Demand against him upon any Account whatsoever. While this was in Agitation, the Prisoner came to *Mr. Woodward*, an Attorney of this City, and brought him a Writing, purporting a Bond, with the Name *Robert Clayton* subscribed to it, sealed and attested by

four Witnesses, as the Bond of *Sir Robert Clayton*, and told *Mr. Woodward*, "That Bond was given to her by *Sir Robert Clayton*, upon some good Considerations; but it having taken Air, some Uneasiness had risen about it in *Sir Robert Clayton's* Family; and (as she pretended) upon this Account he had exhibited a Bill in Equity against her, therefore this Bond must be delivered up; and *Sir Robert* had promised to give her a new Bond for Twenty Thousand Pounds, and that all the Money in Arrears for Interest, was to be turned to Principal, and put into the new Bond: But this was to be done very privately, so as not to be known by any of *Sir Robert Clayton's* Family, and therefore none of his Servants were to be privy to it." Thereupon she gives to *Mr. Woodward* the Bond, desiring him to make a new Bond by it, and to turn all the Interest that was due into Principal. Upon this *Mr. Woodward* made her a Bond of the Penalty of Fifty-four Thousand Pounds, conditioned for Payment of Twenty-seven Thousand Pounds after *Sir Robert Clayton's* Death, and Interest in the mean time. This Bond she took away with her, and likewise the first Bond; but what she did with them since, we are not privy to. And a great Charge she laid upon *Mr. Woodward*, to carry it with all possible Privacy, that no Notice might be taken by *Sir Robert's* Family.

Some few Months ago there was another Intimation sent to *Sir Robert Clayton*, that this Gentlewoman pretended to have a great Claim upon him of a great Sum of Money that was to be paid her, either at present, or after his Death; and that *Mr. Woodward* made the Bond, and he could give an Account of it. Upon this *Sir Robert Clayton* sent to *Mr. Woodward*, who, like a very honest Man, told the whole Business, in what manner it was the Prisoner came to him, and how he came to make the Bond; and that he was desired to be silent in it, *Sir Robert Clayton* having desired this Bond should be made out of his own House, that none of his Family might take notice of it. *Sir Robert Clayton* having this notice, and finding from *Mr. Woodward*, the Prisoner had taken this Course to carry on this Design to charge his Estate, he got a Warrant from the Lord Chief-Justice to have her before him, to be examined before his Lordship. Where being brought, she upon her Examination, has confess'd the whole Matter, her having the first Bond, and where it was made. What is become of the latter Bond, we cannot get out of her, nor whether she ever affixed the Name of *Sir Robert Clayton* to that. But we will produce credible Witnesses to prove her guilty of Forging the first Bond for the Payment of Twenty Thousand Pounds; and that it had the Name and Seal of *Sir Robert Clayton* affixed to it, and that she affirmed it to be a good Bond, well executed by *Sir Robert Clayton*, and that there was Interest due upon it from *Sir Robert Clayton*, and that the Interest was in the second Bond to be turned into Principal. We will call Witnesses to prove this, and then I hope she shall have such Punishment as she deserves.

Mr. Northey. My Lord, what the Nature of our Evidence will be, I shall inform you. It cannot be expected from us to produce the Bond, for that she carried away from *Mr. Woodward*, so that we cannot give the Writing itself in Evidence; but, if she insist on it, we hope she will produce the

Bond. We have the Copy (taken by Mr. *Woodward*) of the first Bond, which he had from her, that he might draw the Second Bond by it. But we can prove from that which agrees with our Record, that she affirmed, that the first Bond that she produced was Sir *Robert Clayton's*: That that Bond which she produced, of which this is the Copy, she affirmed to be Sir *Robert Clayton's* Deed. We shall do that, and afterwards prove her publishing it; for our Indictment is against her for Forging a Bond, and publishing that forged Bond, knowing it to be such, and close all with her own Confession. And, my Lord, there is this to shew there could be nothing in the Bond; that from the Time she pretended to have this Bond, when she was to have Twelve Hundred Pounds a Year, she remained a Prisoner all that Time, and got her self out by swearing she was not worth Five Pounds in all the World. Call Mr. *Woodward*. (*Who appeared, and was sworn.*)

Mr. Serj. *Wright*. Mr. *Woodward*, you hear what the Charge is; pray give an Account of what you know in reference to it.

Mr. *Woodward*. My Lord, Mrs. *Butler* has been my Client many Years. About two or three Years ago, more or less, Mrs. *Butler* came to me, and brought me a Bond; she gave it me to peruse, and told me another must be drawn by it. When I had perused the Bond, I found it was signed *Robert Clayton*, and four Witnesses Names set to the Bond. It was a Bond of the Penalty, as I remember, of Forty Thousand Pounds, and I think it was in the Year 1687, for to pay, I think, Twelve Hundred Pounds a Year, by four quarterly Payments yearly, during Sir *Robert Clayton's* Life, and Twenty Thousand Pounds within six Months after his Death. There were some other Things in that Bond, which will appear by the Copy, which indeed I did take; for Mrs. *Butler* desired it might be a Secret, being of a very great Concern. And I asked her why such a Bond should be given. I thought it must be great Generosity, and not for Money lent. But she told me the Forty Thousand Pound Bond was to be delivered up to Sir *Robert*. I asked her why, since she had it, she did not keep it? she said, that he would give her another Bond. She told me it had taken Air, and my Lady *Clayton* had some Disquiet about it; and for my Lady's Satisfaction, a Bill in *Chancery* was exhibited against her, to which she was to put in her Answer, and thereby disclaim any sort of Bond, or Interest, or any Pretence that she had upon Sir *Robert Clayton*.

Mr. Serj. *Wright*. She told you this her self?

Mr. *Woodward*. Yes; and when she gave me the Bond, she told me it was Sir *Robert Clayton's* Bond, or to that Purpose. But there being about nine or ten Years Arrears of Interest, she desired me to cast up the Interest that was in Arrear, and that it might be put to the Principal in the new Bond, saying, that Sir *Robert* would give her a Bond for the Whole together.

Mr. Serj. *Wright*. Was the whole Interest pretended to be in Arrear?

Mr. *Woodward*. I cannot say, all the Interest.

Mr. Serj. *Wright*. How did you compute it, from the Date of the Bond, or from what she told you?

Mr. *Woodward*. She said she had received some Money, and I computed the rest, rather under than over, and so made the Interest to come to Seven Thousand Pounds (the Interest payable by the Bond being Twelve Hundred Pounds a Year.) Whereupon she desired I would draw a Bond for

it my self; and accordingly she left the first Bond with me. I took some Time, and drew it; and made the Penalty thereof Fifty-four Thousand Pounds, conditioned for the Payment of Twenty-seven Thousand Pounds. And it was to be made in the same Nature as the former was, in respect of the Principal, and in the mean time to continue the Payment of the Interest yearly, by proportionable Quarterly Payments.

Mr. *Montagu*. What Discourse had you with her about it?

Mr. *Woodward*. I did draw a Bond, and did take Notice, That whereas Sir *Robert Clayton* had given her this Bond of Forty Thousand Pounds, and at his Request, she had delivered it up to him; and upon an Account stated, there did remain Seven Thousand Pounds in Arrears for Interest, which in all amounted to Seven and Twenty Thousand Pounds, or thereabouts; when I gave it her, I said, it is a very great Sum, it concerns you to have Witnesses of Credit, for no body will believe Sir *Robert Clayton* did give you this Bond, especially after his Death, unless it be very well attested. I told her, if she pleased, I would go and be a Witness for her to see it executed. So she went away. And when she came to me again, she told me, that Sir *Robert* knew me very well, but did not think fit to have me for a Witness. I answered, I do not care; but it being a very great Sum, take care it be well executed. I gave her both the Bonds, and from that Time heard no more of it till about two Months since.

Mr. *Northey*. Was there anybody came to discourse with you of making a new Bond, besides her self?

Mr. *Woodward*. Not that I know of, I do not remember any. It was an extraordinary Sum, I did take a Copy of the Bond.

Mr. *Northey*. Have you it here?

Mr. *Woodward*. Yes, I have it here.

Mr. *Northey*. He swears he took a Copy of it, and delivered it to the Prisoner again. We desire it may be read.

Mr. *Mallet*. Is it a true Copy?

Mr. *Woodward*. I cannot say I examined it.

Mr. *Northey*. Did you write it from the Bond?

Mr. *Woodward*. I did.

Mr. *Northey*. Do you believe it is a true Copy?

Mr. *Woodward*. I believe it is. The Reason why I did not examine it, was because it was to be a Secret.

Mr. *Mallet*. Do you look upon your self to be infallible?

Mr. Serj. *Wright*. Had you any Direction from the Prisoner to take a Copy?

Mr. *Woodward*. I cannot say that.

L. C. J. *Holt*. Why did you write it out, for your Direction to draw the new Bond?

Mr. *Woodward*. I did write it out, because it is a special Condition, more than is usual in Bonds: for it is expressed, that there should be no Prosecution against her, by Sir *Robert Clayton*, or his Executors, either at Law or in Equity, for the 20000 *l.* or the Interest, or to do any Act to obstruct her in receiving the same.

L. C. J. *Holt*. When did you take a Copy of it?

Mr. *Woodward*. At the same time, and before I returned it.

L. C. J. *Holt*. Did you make the new Bond by this Copy, or by the former Bond?

Mr. *Woodward*. Very likely I might use both.

L. C. J. *Holt*. Did you keep them both?

Mr. *Woodward*. I did keep 'em both by me till I deliver'd the new Bond.

Mr.

Mr. Serj. *Wright*. Is the Copy your own Hand-writing?

Mr. *Woodward*. Yes.

Mr. *Montagu*. What did you take it from?

Mr. *Woodward*. From the Original.

Mr. *Wright*. And do you take that to be a true Copy?

Mr. *Woodward*. I believe it is a true Copy.

Mr. *Hall*. Did you read it over at that Time?

Mr. *Woodward*. I did read it over.

L. C. J. *Holt*. Did you write it?

Mr. *Woodward*. I did write it.

Mr. *Mallet*. And did you examine it afterward?

Mr. *Woodward*. No, I did not examine it, it was not to be taken Notice of.

Mr. *Hall*. Can you say you read it carefully over at that Time?

Mr. *Cutts*. It may not be the very same Bond, if he did not examine it by the Original, sign'd by Sir *Robert Clayton*.

Mr. *Northey*. They may shew the Bond.

Mr. *Mallet*. Did the Prisoner bring the Bond to you, of which this is the Copy, and tell you This was her Bond?

Mr. *Northey*. We will prove it by her own Confession.

Mr. *Mallet*. If it be not the same Bond, she cannot be convicted.

Mr. *Northey*. No doubt of it.

Mr. Serj. *Wright*. Produce the Copy; and, if your Lordship please, it may be read.

L. C. J. *Holt*. Let it be read.

Noverint Universi per presentes me Robertum Clayton, Militem & Decurionem Anglice, Kt. & Alderman de London, teneri & firmiter obligari Mary Butler alias Strickland, de South-street in Parochia de Edmonton, in Comitatu Middlesex, vidue, Quadraginta mille libris bone & legalis monet' Anglie, solvend' eidem Mary Butler alias Strickland, aut suo certo Attornat' Executor' vel Administrator' suis, ad quam quidem solutionem bene & fideliter faciendam obligo me, heredes, Executores & Administratores meos, firmiter per presentes. Sigillat' dat' decimo quarto die Aprilis, Anno Regni Domini nostri Jacobi Secundi, Dei Gratia Anglie, &c. Regis, tertio, Annoq; Domini 1687.

THE Condition of this Obligation is such, that if the above bounden Sir *Robert Clayton*, or his Assigns, do, and shall well and truly pay, or cause to be paid unto the above-named *Mary Butler* alias *Strickland*, her Executors, Administrators, or Assigns, or any of them, yearly and every Year, during the Term of his natural Life, the full and just Sum of 1200 l. of lawful Money of *England*, by four equal Quarterly Payments, being the just and legal Interest, to grow due of and for the Principal Sum of Twenty thousand Pounds herein after-mention'd, in Manner and Form following; that is to say, 300 l. on the 14th of *July* next ensuing the Date of these Presents; 300 l. on the 14th of *October* next coming; 300 l. on the 14th of *January*, which shall be in the Year of our Lord 1688, and 300 l. on the 14th of *April* following; and so on every the said 14th Day of the said Months in every Year, one next, and consequently coming after another, the like Sum of 300 l. during the Time and Term of the natural

Life of the said Sir *Robert Clayton*: And also, if the Heirs, Executors, and Administrators of the said Sir *Robert Clayton* do, and shall, on or before the End and Expiration of Six Months next after the Death or Decease of him the said Sir *Robert Clayton*, not only well and truly pay, or cause to be paid, unto the said *Mary Butler* alias *Strickland*, her Executors, Administrators, or Assigns, the full and just Sum of Twenty thousand Pounds of lawful Money of *England*, above express'd; but also all such Interest thereof, after the Rate aforesaid, as shall be in arrear and unpaid at the Death of the aforesaid Sir *Robert Clayton*, and also all such as shall grow due to be paid for the same, for so long time of the said Six Months as the said Sum of Twenty thousand Pounds shall be unsatisfied and unpaid after the Death or Decease of the said Sir *Robert Clayton*, without Coven, Fraud, or Deceit; nor shall not commence any Suit, either in Law or Equity, against the said *Mary Butler* alias *Strickland*, her Heirs, Executors, or Administrators, for, concerning, or in respect of the said Twenty thousand Pounds and Interest, or any Part thereof; and shall not do any Act or Thing to obstruct, molest, or hinder her, them, or any of them, from receiving, having, or enjoying the same; then this Obligation to be void, and of none effect, or else to remain in full Force.

Robert Clayton.

Seal'd and delivered in
the Presence of us;

J. Pennington;
Edw. Spencer,
John Hebden,
Eliz. Rivers:

Mr. Serj. *Wright*. Did the Prisoner bring you the Bond, of which this is a Copy, as a true Bond?

Mr. *Woodward*. Yes, my Lord.

Mr. Serj. *Wright*. I ask you this, Had you a Charge from her to keep this Matter secret?

Mr. *Woodward*. Yes; and that I would write the Bond with my own Hand.

Mr. Serj. *Wright*. She giving you this Charge, how came this Matter to be known then?

Mr. *Woodward*. Mr. *Nicholas Baker* came to me from Sir *Robert Clayton*, and ask'd me if I did not know the Prisoner, and particularly about a Bond, and whether I did not make one for her. It was not in my Memory at first, till further Discourse occasion'd me to remember it; and I told him, that I did do some Business for her. He told me Sir *Robert Clayton* had some Information given him, that there was such a Bond drawn by me: Then I told him, I did remember there was such a Bond brought to me, and that I had made a Bond for Mrs. *Butler*, and had taken a Copy of the first Bond, which I had by me; and also of the second Bond, in which I had left out a material Word in the Obligation, and was fain to write it over again, and had the first Draught by me till about a Month before that Time, when meeting with it among my Papers, I threw it into the Fire in my Closet, but this Copy did remain by me.

Mr. *Hall*. You say this Copy is all your own Hand-writing?

Mr. *Woodward*. Yes, it is.

Mr. *Hall*. Was it Seal'd or Cancell'd?

Mr. *Woodward*. No; 'twas Seal'd, I am very positive.

Mr. *Hall*. Are you positive the Seal was on it at that Time?

Mr. *Woodward*. Yes, Sir.

Mr. *Mallet*. Did she tell you that Bond was to be cancell'd?

Mr. *Woodward*. She told me, she was to deliver up that Bond to Sir *Robert Clayton*; and, that he would give her another instead of it.

Mr. *Mallet*. Was the Bond then deliver'd up or no?

Mr. *Woodward*. I cannot say she did?

Mr. *Cutts*. Did you never hear any Bill in *Chancery*? To what End was this Bond deliver'd to you? For what Reason?

Mr. *Woodward*. I ask'd her why the Bond was to be deliver'd up, and she told me, There was some Uneasiness in the Family, and my Lady *Clayton* had got the Air of it; and therefore, to satisfy her, there was a Bill preferr'd against her in *Chancery*, and she was to put in her Answer; and, that he would give her another Bond, and that was to be deliver'd up.

Mr. *Northey*. We have other Witnesses to prove the Forging of it. Call Mr. *Baker*. (*Who appear'd and was sworn.*)

Mr. Serj. *Wright*. Mr. *Baker*, were you present when the Prisoner Mrs. *Butler* was before my Lord Chief-Justice concerning this Bond? Look on that Copy.

Mr. *Baker*. I was present at my Lord Chief-Justice's Chamber, when the Prisoner was brought before his Lordship; and she did there acknowledge, that the Bond, of which she was accus'd, she had order'd to be made.

Mr. Serj. *Wright*. Was that the Bond in question?

Mr. *Baker*. Yes, she did confess she caused Sir *Robert Clayton*'s Name to be set to it, and the Witnesses Names; and, that it was done by one Mr. *Lewker*, a Scrivener in *Bishopsgate street*.

Mr. Serj. *Wright*. She said so?

Mr. *Baker*. Yes, Sir.

Mr. *Hall*. Did she confess it? Where was it?

Mr. *Baker*. At my Lord Chief-Justice's Chamber; she confess'd it was her own Act, she caused it to be made, and directed the Scrivener to set Sir *Robert Clayton*'s Name, and the Witnesses Names to it.

Mr. *Mallet*. Was there not at that Time a Discourse of a Bond that she had on the late Duke of *Buckingham*?

Mr. *Baker*. I cannot be positive in that; but this was the Fact she was charg'd with, and she did confess that she caused it to be done, and, that the Persons as Witnesses were innocent of it, and, that she did direct Mr. *Lewker* to set Sir *Robert Clayton*'s Name to it.

Mr. *Hall*. How do you know This is the very same Bond?

Mr. *Baker*. Mr. *Woodward* shew'd me this very Bond when I went to him from Sir *Robert Clayton*, to know whether he was acquainted with the Prisoner; who, after some Discourse with him relating to this Bond, very frankly and ingenuously told me the whole Matter of Fact, as he has done here.

Mr. *Mallet*. But we ask you about her Confession; Did you shew her that Copy? Did she confess that?

L. C. J. *Holt*. What was the Discourse of at that Time?

Mr. *Baker*. It was about the Bond of Forty thousand Pounds, with which she was charg'd before your Lordship, to have counterfeited.

Mr. *Northey*. Did he give an Account then of this Bond?

Mr. *Baker*. Yes, Mr. *Woodward* produced this Copy before my Lord Chief-Justice, and she own'd she had order'd Mr. *Lewker* to make it, and to put Sir *Robert Clayton*'s Name to it.

Mr. Serj. *Wright*. Now, my Lord, we will shew you, that she is going on still, and that very lately she has own'd it, and that she is going about to make the Bond of 50000 *l.* a very good Bond.

Mr. *Mallet*. When it is in Question, you may then invalidate it.

Mr. Serj. *Wright*. Mr. *Woodward* has told you he did make the Bond of 54000 *l.* but, I think, we have no need of it.

Mr. *Hall*. They have fail'd in the Indictment, so that it can't be supported by this Bond; it should be laid specially, according to the Condition of the Bond to be paid; for it is a Bond of Forty thousand Pounds, to be paid by his Heirs after his Death Twenty thousand Pounds. Now the Bond, whereof they produce a Copy, is of other Things.

Mr. *Northey*. It is for the same.

Mr. *Hall*. It is a different Thing.

L. C. J. *Holt*. Not at all.

Mr. *Mallet*. It is laid in the Indictment, to be paid by Sir *Robert Clayton*: In the Bond 'tis said, it is not to be paid till after his Death.

Mr. Serj. *Wright*. 'Tis laid in the Indictment, that the Bond was of the Penalty of Forty thousand Pounds to be paid by Sir *Robert Clayton*, with Condition thereto under-written, concerning, among other Things, the Payment of Twenty thousand Pounds to the Prisoner, after the Death of Sir *Robert Clayton*, by his Executors.

L. C. J. *Holt*. Let your Exceptions proceed from the Indictment; it is to be paid after the Death of Sir *Robert* by his Executors.

Mr. Serj. *Wright*. Have you any more to say for your selves?

Mr. *Hall*. We have a great many Witnesses here to prove her Reputation. 'Tis a strange Thing any one should go to forge a Bond on such an eminent Person.

L. C. J. *Holt*. It is strange indeed; but the Question is, whether it be true.

Mr. *Hall*. Her Confession is prov'd by Mr. *Baker*, but we have many Witnesses as to her Reputation.

Mr. *Mallet*. This Bond is not in the Indictment. The Bond of Forty thousand Pounds is several Years since. Now there are two Bonds. Now that of Fifty four thousand Pounds is not in this Indictment, and this of Forty thousand Pounds is several Years since that it was shewn to him. It is strange he should be so very exact, and yet did not examine it. And probably he might mistake in the Copy, and it may not be the very Bond in the Indictment. Now, as to Mr. *Baker*, 'tis true, we have a Bond of Five thousand Pounds from the Duke of *Buckingham*, and we are suing Sir *Robert Clayton* for this Money, and hope to have it, now after so many Years. And Sir *Robert Clayton* did prefer a Bill in *Chancery* against us, and we in Answer did disclaim having any such Bond. And now, when we are like to have a Decree for this Sum against the Trustee of the Duke of *Buckingham*'s Estate, he comes and would take off our Credit in this Matter. We did, in the Year 1695, disclaim any such Bond.

Mr. *Northey*. Then you do admit that she own'd the Bond. [*Then her Witnesses were call'd.*]

Mr.

Mr. Mallet. Mr. Glover, do you know Mrs. Butler?

Mr. Glover. Yes.

Mr. Mallet. Give an Account of what you know, as to her Reputation.

Glover. I have known her fifteen or sixteen Years. All that I know of her is fair and clear.

L. C. J. Holt. Where do you live?

Glover. In *Red Lyon-street*.

L. C. J. Holt. What Profession are you of?

Glover. I belonged to *Lincoln's-Inn*.

L. C. J. Holt. A Gentleman of *Lincoln's-Inn*.

Glover. I was brought up at the University, but have not resided there lately.

L. C. J. Holt. How do you live? Are you a House-keeper?

Glover. I live privately at present.

L. C. J. Holt. Who knows you?

Glover. I cannot tell who knows me here. I believe Mr. Northey does.

Mr. Northey. I do not intend to give any Character of you, I do not use to give Characters of my Clients.

L. C. J. Holt. How long have you lived in *Red Lyon-street*?

Glover. Ten or Eleven Years.

Mr. Mallet. How did she live?

Glover. I knew her live in *Devonshire-Square* very reputably, I always thought so.

Mr. Serj. Wright. Had she any Estate of her own?

Glover. I cannot say so certainly; it was thought so. She paid every body very punctually.

Mr. Hall. Acquaint my Lord how long you have known her, and whether you think she would be guilty of such a Forgery.

Glover. I have known her fourteen or fifteen Years. I cannot believe she would.

Mr. Montagu. Have you heard the Evidence?

Glover. Yes.

Mr. Montagu. What do you think of it then?

Glover. I know not what to think.

Mr. Montagu. Do you think she would confess her self guilty of a Forgery, if she were not?

Glover. I cannot tell what to say to that. I suppose no Body would confess, if they were not guilty.

Mr. Serj. Wright. Do you know one *Hebdon*?

Glover. I know *Hebdon*.

Mr. Serj. Wright. He is a Witness to the Bond. Was he Sir *John Hebdon's* Son?

Glover. I can give no Account of that, but he has had a very honourable Character.

Mrs. Rodum called, and appeared.

Mr. Hall. Mrs. Rodum, do you know Mrs. Butler?

Rodum. Yes.

Mr. Hall. How long have you known her?

Rodum. Five or Six Years.

Mr. Hall. What do you know of her Character?

Rodum. I am the Widow of one of them that kill'd one another by the *Temple*. I never knew of any Bond, nor ever heard her lay claim to any such Bond. She lived in good Reputation. She was in my House when my Husband was killed. She lived in my House about a Year; I never heard she made any such Pretension. She liv'd honestly and decently. She owes me upwards of three hundred Pounds.

L. C. J. Holt. For what? How came she to owe you three hundred Pounds?

Rodum. I kept a Shop in the *Exchange*, and my Husband was a Broker. She owed it me partly for Goods out of my Shop, and partly for Goods out of *Scotland*. He was killed about half a Year ago, and I have kept the Shop still. About three or four Months ago she left me, and I never heard of any Bond.

Mr. Serj. Wright. Did you never hear of a Bill in *Chancery* against her?

Rodum. No, Sir.

Mr. Mallet. Did you hear of any Money that was due to her from the Duke of *Buckingham*?

Rodum. I was told she was suing Sir *Robert Clayton* for Money that was to be paid her on the Duke of *Buckingham's* Account, and upon the Credit of that I trusted her.

Shaw called.

Mr. Hall. How long have you known Mrs. Butler?

Shaw. About sixteen Years.

Mr. Hall. Do you think she would forge a Bond?

Shaw. Indeed I cannot give an Account of that.

Mr. Hall. How has she behaved her self?

Shaw. I never knew her guilty of any Rudeness.

Mr. Serj. Wright. Put up more Witnesses, if you have any?

Mr. Hall. We have done.

L. C. J. Holt. Mrs. Butler, will you say any Thing for your self?

Mrs. Butler. I am altogether innocent in the Matter, I never wrong'd Sir *Robert Clayton*, nor any Body else, in my Life.

L. C. J. Holt. Gentlemen of the Jury, This Mrs. Butler, alias *Strickland*, stands indicted for forging a Bond in the Name of Sir *Robert Clayton*, in the Penalty of Forty thousand Pounds, the Condition for the Payment of Twenty thousand Pounds, among other Things, within six Months after the Death of Sir *Robert Clayton*. And also, That she did publish this Bond as the true Bond of Sir *Robert Clayton*. You have heard what Evidence has been given, to prove her guilty of this Forgery, and the Publication of it.

It seems, some Time since, as is proved to you by Mr. Woodward, this Gentlewoman came to him with this Bond of Forty thousand Pounds. And it was upon this Account, as she said: To wit, Sir *Robert Clayton* having given her this Bond, it had taken Air, and was come to the Lady *Clayton's* Ear; which occasioned some Difference between Sir *Robert Clayton* and his Lady. She said, That this Bond, by Direction from Sir *Robert*, was to be deliver'd up to him to be cancell'd; and that Sir *Robert Clayton* had engaged to enter into a new Bond in the Penalty of Fifty four thousand Pounds, for the Payment of Twenty six thousand Pounds (there being at that Time supposed an Arrear of Interest for Twenty thousand Pounds) payable after Sir *Robert's* Death, and Interest in the mean Time. She delivered this Bond to Mr. Woodward. He takes a Copy of it, which is produced and read. And so, according to her Direction, Mr. Woodward does draw another Bond, with the Penalty of Fifty four thousand Pounds. And she then told Mr. Woodward Sir *Robert* would seal this Bond upon the Delivery up of the Bond of Forty thousand Pounds. Mr. Woodward having considered, that it was an extraordinary Sum for Sir *Robert* to engage himself in, and he being a very considerable Man,

Man, he advised her to have this new Bond well attested; and to be sure to get Witnesses of unquestionable Credit to see it executed. And thereupon he offered himself to go with her to Sir Robert, to be a Witness to this new Bond. No, says she, Sir Robert is not willing that this should be known; you are not a proper Person to be a Witness to it; therefore, says she, I will get some other Witnesses to attest it. Whereupon he gives her this first Bond for Forty thousand Pounds, which she brought to him, for the Payment of Twenty thousand Pounds, and gave her also the Draught of the new Bond. He says, this Bond that she brought to him was attested by four Witnesses. Sir Robert, it seems, upon her Answer in Chancery, not imagining any Thing of this, she having disclaimed in Chancery the having of any; some Time after he had heard a Report as if she was setting up of a new Bond, and that Mr. Woodward could give an Account of it. Wherefore he sends Mr. Baker to Mr. Woodward, who gave him the same Account that he has done here. Then Sir Robert makes a Complaint, and has her brought before me; and there was Mr. Woodward with this Copy. And this was objected to her, as if she had forged this Bond. And it seems, when she was there under Examination, and is proved to you by Mr. Baker, she did plainly confess, that she had forged this Bond of Forty thousand Pounds, and that she had procured one Lewkar to do it for her, who set Sir Robert's Name to it; and said, that the Witnesses, whose Names were set to it, were innocent, and knew nothing of the Matter.

Now what is said for her on the other Side? They bring some Persons for her, that say they have known her. One, that says he belonged to *Lincoln's-Inn*, and had been acquainted with her fourteen or fifteen Years, and did look upon her as a civil Woman; and for his Part, he does not believe she would be guilty of such a Forgery. Another, who is a Woman, says, she has known her some Time, and she says, she has trusted her much, and did never hear her say any Thing of this Bond,

but she behaved her self civilly, and she took her to be a very sober Person. Another Witness says, she look'd on her to be a very honest Person. This is the Sum of the Evidence.

There is a very strong Evidence to induce you to believe that she did forge the Bond. Such a Bond she had, that is plain. She does give no Account what is become of it; and she does not shew any manner of Pretence of having so much Money from Sir Robert Clayton due to her; she does not make it appear why Sir Robert should give her a Bond upon any Account. Now for any to say that they knew her, and they do not believe she would forge a Bond, that is no Evidence; no Body ought to believe Ill of Mrs. Butler, or any one else, unless it be made to appear. But the Question is not, what they do believe; but whether the Matter be not proved to you to your Satisfaction, that she has forged this Bond? And if you are satisfied that she did forge it, you ought to find her guilty; and if you do not believe the Evidence to be satisfactory, you ought to acquit her.

Then the Jury withdrew, and being returned, gave their Verdict as follows.

Cl. of Arr. Are you agreed of your Verdict?

Jury. Yes.

Cl. of Arr. Who shall say for you?

Jury. Foreman.

Cl. of Arr. Bring Mary Butler to the Bar. How say ye? Is the Prisoner at the Bar guilty of the Forgery whereof she stands indicted, or not guilty?

Foreman. Guilty.

The Judgment which the Court pronounced against her was, That she should pay a Fine of Five hundred Pounds to the King, and continue in Prison till she paid it.





CLXVIII. *The Proceedings in Parliament upon the Bill of Divorce between His Grace the Duke of NORFOLK and the Lady MARY MORDANT, February and March, 1669.*
12 Will. III. *

V I Z.

- I. *The Journal of the House of LORDS, together with the BILL.*
- II. *The Depositions before their LORDSHIPS.*
- III. *The Examination and Evidence of the DUKE's Witnesses.*
- IV. *The State of the Case on both Sides.*
- V. *Bishop Cousens's Argument, proving that Adultery causes a Dissolution of Marriage.*
- VI. *The Pleadings of the Learned Council, before the Honourable House of Commons and the Committee, with other Matters thereto relating.*

Die Jovis 15 Februarij, 1699.



UPON Reading the Petition of Henry Duke of Norfolk, praying Leave to bring in a Bill to dissolve his Marriage with the Lady Mary Mordant, and to enable him to Marry again; he having certain Proof of his Wife's living in Adultery with Sir John Germaine: It is ordered by the Lords Spiritual and Temporal in Parliament assembled, That the said Petition shall be taken into Consideration To-morrow, at Eleven of the Clock, and all the Lords summon'd to attend.

Die Veneris 16 Februarij, 1699.

After reading the Order for referring the Consideration of the Duke of Norfolk's Petition, and Debate thereupon:

Hodie prima vice lecta est lilla, entitled, An Act to dissolve the Duke of Norfolk's Marriage with the Lady Mary Mordant, and to enable him to Marry again. In the Words following,

Humbly sheweth, and compleineth to Your most Excellent Majesty, your true and faithful Subject Henry Duke of Norfolk, and Earl-Marshal of England, That he did, some Years since, marry the Lady Mary Mordant, his now Wife; and, that she hath, for divers Years, lived in Separation from the said Subject, and hath had unlawful Familiarity and adulterous Conversation with Sir John Germaine, Bar. and is guilty of Adultery on her part, and hath broken the Bond of Matrimony. Forasmuch therefore as your said Subject hath no Issue, nor can hope for any other than spurious Issue to succeed him in his Honours, Dignities, and Estate, unless the said Marriage be declar'd void, and annull'd by Parliament, and your said Subject be enabled to marry any other Woman. May it please Your most Excellent Majesty, out of your Princely Goodness and

Compassion to your said Subj. Et's Misfortune and Calamity, and for the future Support and Comfort of himself and Family, that it may be enacted: And be it enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual or Temporal, and of the Commons in this present Parliament assembled, and by the Authority of the same, That the said Bond of Matrimony being violated and broken by the manifest open Adultery of the said Lady Mary Mordant, &c. and is hereby enacted, declared, and adjudged to be from henceforth wholly dissolved, annulled, vacated, and made void to all Intents, Constructions, and Purposes whatsoever: And, that it shall and may be lawful to and for the said Henry Duke of Norfolk, at any time or times hereafter, to contract Matrimony, and to marry (as well in the Life-time of the said Lady Mary, as if she were naturally dead) with any other Woman or Women with whom he might lawfully marry in case the said Lady Mary was not living: And, that such Matrimony, when had and celebrated, shall be a good, just, and lawful Marriage, and so shall be adjudged, declared, and taken to all Intents, Constructions, and Purposes; and, that all and every Child and Children born in such Matrimony, shall be deemed, adjudged, and taken to be born in lawful Wedlock, and to be legitimate and inheritable, and shall inherit the said Dukedom of Norfolk, Office of Earl-Marshal of England, and all other Earldoms, Dignities, Baronies, Honours, and Titles of Honour, Lands, Tenements, and other Hereditaments from and by their Fathers, Mothers, and other Ancestors, in like manner and form as any other Child or Children born in lawful Matrimony shall or may inherit or be inheritable, according to the Course of Inheritances used in this Realm; and to have and enjoy all Privileges, Pre-eminencies, Benefits, Advantages, Claims, and Demands, as any other Child or Children born in lawful Wedlock may have or claim by the Laws and Customs of this Kingdom. And be it further enacted, That the said Henry Duke of Norfolk shall be entitled to be Tenant by Courtesie of the Lands and Inheritance of such Wife whom he shall here-

* See *State Trials*, Vol. VIII. p. 7, and 27. &c. for Two former Trials, relating to this Affair.

hereafter marry; and such Wife as he shall so marry shall be entitled to Dowry of the Lands and Tenements whereof the said Henry Duke of Norfolk shall be seised of such Estate whereof she shall be dowable, as any other Husband or Wife may or might claim, have, or enjoy. And the Child or Children born in such Marriage shall and may derive and make Title by Descent or otherwise to and from any of their Ancestors, as any other Child or Children may do, any Law, Statute, Restraint, Prohibition, Ordinance, Canon, Constitution, Prescription, or Custom had, made, exercised, or used to the contrary of the Premises, or any of them, in any wise notwithstanding. And be it further enacted by the Authority aforesaid, That the said Lady Mary shall, and is hereby barred and excluded of and from all Dowry and Thirds, and of and from all Right and Title of Dowry and Thirds unto or out of any the Honours, Manors, Lands, or Hereditaments of the said Duke; and, That all Conveyances, Joyntures, Settlements, Limitations, and Creations of Uses and Trusts of, into, or out of any Honours, Manors, Lands, or Hereditaments, at any time heretofore made by the said Duke, or any of his Ancestors or Trustees, unto, or upon, or for the Use or Benefit of the said Lady Mary, or any the Issue of her Body, or for easing, discharging, or counter-securing any the Manors, Lands, or Hereditaments of the said Lady Mary, or any of her Ancestors, shall be from henceforth, so far as concerns the said Lady Mary, or any Issue of her Body, or any Interest for her or them, utterly void and of none effect; and all and every the said Honours, Manors, Lands, or Hereditaments of the said Duke, or any of his Ancestors or Trustees, shall from henceforth remain and be to and for the Use and Benefit of the said Duke, and such other Person or Persons, and for such Estates and Interests, and in such manner and form as if the said Lady Mary was now naturally dead without any Issue of her Body. And also, That all Limitations and Creations of any Use, Estate, Power, or Trust, made by any of the Ancestors of the said Lady Mary, unto or for the Use or Benefit of the said Duke, his Heirs or Assigns, out of any the Manors, Lands, or Hereditaments of any the Ancestors of the said Lady Mary, shall be from henceforth void, and of none effect. * And be it further enacted by the Authority aforesaid, That the said Duke of Norfolk, his Heirs, Executors, Administrators, or Assigns, shall, on or before the Five and twentieth Day of March, One thousand seven hundred and one, pay, or cause to be paid, unto the said Lady Mary, or her Assigns, the Sum of Ten thousand Pounds of lawful Money of England, which was the Portion in Money paid on her Marriage with the said Duke; and in default of Payment of the said Sum of Ten thousand Pounds, on or before the said Five and twentieth Day of March, then, and in such case, she the said Lady Mary, and her Assigns, during her Natural Life from the Decease of the said Duke, if she shall survive him, shall be entitled to, and shall and may have and enjoy such Joynture and other Advantages as she might or may have or claim by virtue of a certain Indenture, Quinquartite, made upon and in consideration of the said Marriage, bearing Date the Thirteenth Day of June, Anno Domini One thousand six hundred seventy-seven, and made, or mention'd to have been made, between Henry late Duke of Norfolk, then Earl of Norwich, Father of the said Duke, and the present Duke, by the Name of Henry Lord Howard of the first Part, Henry Earl of Peterborough and the said Dutches, by the Name of the Lady

Mary Mordant, sole Daughter and Heir apparent of the said Earl of Peterborough, of the second Part; Henry Marquis of Worcester, William Earl of Powis, and Henry Lord O-Brian, of the third Part; Arthur Onslow, Esq; and Thomas Dalmatroy, Esq; of the fourth Part; Simon Fox, Esq; and Thomas West, Gent. of the fifth Part: And by virtue of the Agreements contain'd in certain Articles bearing Date the Eight and twentieth Day of April, in the Year of our Lord One thousand six hundred ninety-four, made, or mention'd to have been made, between the said Duke of the one Part, and the said Henry Earl of Peterborough on behalf of the said Dutches; and the said Dutches of the other Part; according to the true Intent and Meaning of the said Quinquartite Indenture and Articles; and also, during the joint Lives of the said Duke and Dutches, shall and may enjoy Five Hundred Pounds per Annum, by virtue of an Indenture Quadrupartite, dated the Fifteenth Day of June, One thousand six hundred ninety-four, made, or mention'd to have been made, between the said Duke of Norfolk of the first Part, the said Earl of Peterborough and the said Dutches of the second Part, William Lord Lemster of the third Part, and Sir John Mordant, Knight and Baronet, and William Longueville, Esq; of the fourth Part. And then, and in such Case, the said Duke of Norfolk, his Heirs, Executors, and Administrators, is and are discharge'd of and from the Payment of the said Sum of Ten thousand Pounds, any Thing herein contained to the contrary thereof in anywise notwithstanding. But on Payment of the said Ten thousand Pounds in manner aforesaid, she the said Lady Mary shall be wholly barred and excluded from her said Joynture, and of and from all other Advantages out of the Real and Personal Estate of the said Duke, as aforesaid.

Upon the first Reading of the Bill, entitled, *An Act to dissolve the Duke of Norfolk's Marriage with the Lady Mary Mordant, and to enable him to Marry again*; it is order'd by the Lords Spiritual and Temporal in Parliament assembled, that the Dutches of Norfolk may have a Copy of the said Bill; and, that his Grace the Duke of Norfolk shall be heard by his Counsel, to make good the Allegations of his Bill, on Tuesday next, at Eleven of the Clock in the Forenoon; and, that the Dutches of Norfolk may have Counsel to attend at the same time, if she please.

Die Sabbati 17 Februarij, 1699.

Upon reading the Petition of Mary Dutches of Norfolk, praying to be heard by her Counsel before any further Proceedings be made on the Bill entitled, *An Act to dissolve the Duke of Norfolk's Marriage with the Lady Mary Mordant, and to enable him to Marry again*; it is ordered by the Lords Spiritual and Temporal in Parliament assembled, that the Dutches of Norfolk shall be heard by her Counsel as desired, on Tuesday next, at Eleven of the Clock in the Forenoon.

It is ordered by the Lords Spiritual and Temporal in Parliament assembled, That William Law and John le Fountain, Gent. do attend this House on Tuesday the Twentieth Day of this Instant February, at Ten of the Clock in the Forenoon, as Witnesses to be examined on the behalf of the Duke of Norfolk.

Die Lunæ 19 Februarij, 1699.

It is ordered by the Lords Spiritual and Temporal in Parliament assembled, That Mr. David

* This Clause was added after the Bill was brought into the House of Lords.

Germaine, Mr. *Simon Briane* alias *de Brienne*, Mrs. *Anna-Maria Briane* alias *de Brienne*, and Mrs. *Judith Poſſette* alias *Perſode*, do, and they are hereby requir'd, to attend this Houſe, as Witneſſes on the Behalf of his Grace the Duke of *Norfolk*, to-morrow at Eleven of the Clock in the Forenoon.

Die Martis 20 Februarij, 1699.

After hearing Council, upon the Petition of the Dutcheſs of *Norfolk*, purſuant to the Order of the Seventeenth inſtant; as alſo Council for the Duke of *Norfolk*, the following Order was made; viz.

It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That this Houſe will hear Witneſſes for the Duke of *Norfolk*, only to Matter of Fact, ſince the rejecting of the firſt Bill, except only Mr. *Daniel Germaine*, Mr. *Simon Briane* alias *de Brienne*, Mrs. *Anna-Maria Briane* or *de Brienne*, Mrs. *Judith Poſſette* or *Perſode*, Mrs. *Elienor Vanefs*, who are at liberty to give Evidence to Matters of Fact before that Time, which were not then before the Houſe; and are hereby required to attend this Houſe, as Witneſſes on the Behalf of his Grace the Duke of *Norfolk*, to-morrow Morning at Eleven of the Clock.

It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That to-morrow at Twelve of the Clock, this Houſe will proceed to hear Council and Witneſſes for the Duke of *Norfolk*, to make good the Allegations in his Bill; at which Time the Dutcheſs of *Norfolk's* Council ſhall be preſent.

It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That *William Bayly* and *Edmund Davies* do, and they are hereby required to attend this Houſe to-morrow at Eleven of the Clock in the Forenoon, as Witneſſes to be examined on the behalf of the Duke of *Norfolk*.

Die Martis 21 Februarij, 1699.

The Houſe being inform'd, That Endeavours had been made to ſerve Orders upon the Duke of *Norfolk's* Witneſſes, and ſeveral of them were ſick, and others could not be found:

Joſeph Whilley being call'd in and ſworn, ſaid as follows:

Daniel Germaine. I went to his Houſe, and was told by a Neighbour no body was within; but they bid me go to the Alehouſe at the next Door, and I might hear of him; and enquiring there, I found one of his Journeymen, *Peter Hercules*, who told me, he had not been at home theſe fix Months, nor could not tell when he would return: But I ſhew'd him the original Order, and ſerv'd him with a Copy, and told him his Maſter was to appear at the Duke of *Norfolk's* Lodgings, at the Houſe of Lords, to-morrow at Eleven a-Clock, as a Witneſs for him.

Mr. *Simon Briane*. I went to his Houſe in *St. James's-street*, and Mr. *Poſſette's* Man, *Jer. Hoffman*, came to the Door, who told me Mr. *Briane* went to *Kensington* that Afternoon; and no ſooner had he ſaid ſo, but Mr. *Poſſette* came in, who told me the ſame; and I aſk'd him to ſpeak with Mr. *Briane's* Wife, and he told me ſhe was ſo weak, that I could not ſerve her with the Order. Then I aſk'd to ſee Mrs. *Poſſette*, his own Lady; he likewiſe told me ſhe was ſick, and could not be

ſpoke to; ſo I ſhew'd him the original Order, and left the Copy with himſelf for his Lady and Mr. *Briane's* Lady, and forthwith went to *Kensington*, to ſerve the Order upon Mr. *Briane*; but not meeting with him, after a great deal of Enquiry, I left it with his Maid-ſervant at his Lodgings, and ſerv'd her with it, who told me ſhe would give it her Maſter that Night, who waited for the King's coming from *Hampton-Court*. This Morning I went again to his Houſe at *St. James's*, and ſent for his Servant, who told me his Maſter did not come to Town laſt Night; ſo I believe his Maid had given him the Order.

Mrs. *Elienor Vanefs*. I enquir'd at every Houſe in *Kensington*, where I was inform'd there were Dutch People, and could not know of any of them of any ſuch Woman; but the Earl of *Albemarle's* Steward, and the Porter of the Lodge going into *Hide-Park* (*Kensington*) promis'd me they would enquire after her, and ſend me word if they heard of ſuch a Perſon.

Then *George Starkey* being call'd in and ſworn, ſaith as followeth: I ſerved *William Bayly* with the Order of this Houſe, to attend as a Witneſs this Day: He told me he was under a Courſe of Phyſick, and could not ſtir out without Danger of his Life, but any other Day he would attend.

Then a Certificate under the Hands of *John Hutton* and *Theodore Colladon*, Doctors of Phyſick, was produced and read, as follows:

We whoſe Names are under-written, Doctors of Phyſick, do certify, that *Mary*, Wife of *Simon de Brienne*, and *Judith* Wife of *Peter Perſode*, have been for ſome time, and are at this preſent, ſo extraordinary ill in Bed, that neither of them can remove from thence without Danger of their Lives. Witneſs our Hands, at their Dwelling-houſe in *St. James's-street*, betwixt Ten and Eleven of the Clock in the Morning, the 21ſt Day of February, 1699.

John Hutton.
Theodore Colladon.

After which, the following Order was made; viz.

It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That Doctor *John Hutton* and Doctor *Theodore Colladon* (who ſign'd a Certificate delivered and read this Day, of the Illneſs of Mrs. *Mary*, Wife to *Simon de Brienne*, and *Judith* her Siſter, Wife to Mr. *Peter Perſode*) do attend this Houſe to-morrow at Eleven of the Clock, to atteſt upon Oath what they have certified.

Then the Form of the Oath formerly given to Witneſſes, being read out of the Journal, 23 Jan. 1691, the ſame was agreed to with ſome Alteration, and is as followeth:

“ YOU ſhall true Answer make to all ſuch
“ Questions as ſhall be aſk'd you by this Ho-
“ nourable Houſe, in relation to the Charge of
“ Adultery in the Bill brought in by the Duke of
“ *Norfolk* againſt the Dutcheſs of *Norfolk* with
“ Sir *John Germaine*. You ſhall declare your
“ whole Knowledge of this Matter, and ſhall
“ ſpeak the Truth, and nothing but the Truth,
“ as well upon the Matter as you ſhall be ex-
“ amined on behalf of his Grace the Duke of *Nor-*
“ *folk*, as upon ſuch Interrogatories as ſhall be ex-
“ hibited on behalf of the Dutcheſs of *Nor-*
“ *folk*,

“folk, without Favour or Affection to either Party. So help you God, and by the Contents of this Book.”

Then the Council being called in, they for the Duke having opened the Nature of their Evidence, Mrs. *Elianor Vanefs* was sworn; and being asked some Questions by the Duke's Council, she appeared to be a Dutch Woman, and could not well understand *English*, and an Interpreter being offered by the Duke's Council; Council withdrew, and the House agreed, that the Dutchess's Council should have an Interpreter also; and the Council being called in again, were told so by Order of the House, and that they might proceed to any other Witness. The Duke's Council desired that they might begin with Mrs. *Vanefs*, and withdrew.

Then the following Orders were made.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Agents for the Duke of *Norfolk* do forthwith deliver a List of the Witnesses they intend to examine on the behalf of the Duke of *Norfolk*, to the Dutchess of *Norfolk* or her Agents.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That to-morrow at Twelve of the Clock, this House will proceed to hear Council and Witnesses for the Duke of *Norfolk*, to make out the Allegations in his Bill; at which Time the Dutchess of *Norfolk*'s Council shall be present.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That *Daniel Germaine*, *Simon Briane* alias *de Brienne*, *Anna-Maria Briane* alias *de Brienne*, *Judith Possette* alias *Perfode*, — *Goutaken*, — *Pontack*, *Susanna Barrington*, — *Hicgonee*, Mrs. *Keemer*, *Joseph Berger*, *William Lane*, *John le Fontaine*, *Jonathan Browne*, — *Hater*, and — *Welburne* do, and are hereby required, to attend this House to-morrow at Eleven of the Clock in the Forenoon, as Witnesses to be examined on the behalf of the Duke of *Norfolk*.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That *William Allen* and *John Maitland* do, and they are hereby required, to attend this House, on Service of this Order, as Witnesses to be examined on behalf of the Duke of *Norfolk*.

Die Jovis 22 Februarij, 1699.

This House being informed, that Sir *Theodore Colladon*, and Doctor *Hutton* attended, as ordered yesterday :

Sir *Theodore Colladon* being called in and sworn, says, He saw Mrs. *de Briane* yesterday; she was very ill, fainting in Bed, and scarce able to live. Mrs. *Perfode* he also visited, who having miscarried by a Fright, could not stir out of her Bed without hazard of her Life.

Doctor *Hutton* being called in and sworn, says, He visited Mrs. *Mary de Briane* this Morning; she hath been sick three Months, is in an ill Condition of Health, and will endanger her Life if she comes abroad. Mrs. *Perfode* is very ill, she cannot come out of her Bed without endangering her Life.

Then the Council were called for the Duke and Dutchess of *Norfolk*.

The Dutchess's Council moved to have the

Witnesses Christian Names, and Place of their Abode, and said they had not the Names till this Morning.

Then the two Interpreters took the following Oath.

You shall well, truly, and faithfully interpret between the House and Elianor Vanefs, the Witness, touching the Matters she shall give in Evidence.

Council being withdrawn, the House agreed to tell the Duke's Council, that they might proceed to examine Witnesses that were named the Day before: And that if the Dutchess's Council had any Exception, they might now make it against them or their Testimony, and that the Duke's Agents should give the Christian Names of their Witnesses, and as much as they can of the Places of their Abode to the Agents of the Dutchess.

The Council being called in again, were told what was agreed on by the House touching the Witnesses: Then the Duke's Council proceeded and called in *Elianor Vanefs*, who being ask'd several Questions by the Duke's Council, the Interpreter ask'd them of her in *Dutch*, and she answered again to the Interpreter, and he declared her Answers to the House in *English*.

Nicholas Hausier being sworn in like manner, gave his Testimony in *French* by an Interpreter.

Then Council being withdrawn, the following Orders were made; *viz.*

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That the Short-hand Writers, who took the Witnesses Evidence, do dictate to a Clerk, in order to be transcribed what the Witnesses have said; That the Examinations with the Short-hand Writers Book and Papers are to be sealed up and kept by the Clerk until the next Day the House shall proceed on this Matter, and then what is transcribed shall be read at the Bar in the Presence of the Witnesses.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That on *Saturday* next, at Twelve of the Clock, this House will proceed to hear Council and Witnesses for the Duke of *Norfolk*, to make out the Allegations of his Bill; at which Time the Dutchess of *Norfolk*'s Council shall be present.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That *Simon Briane* alias *de Brienne*, shall be, and is hereby required, to attend this House on *Saturday* next at Eleven of the Clock in the Forenoon, to be examined as a Witness on behalf of the Duke of *Norfolk*.

Die Veneris 23 Februarij, 1699.

It is Ordered by the Lords Spiritual and Temporal in Parliament assembled, That *James Berger*, *Susanna Barrington*, *Frances Knight*, and *James Macdonnell*, shall, and they are hereby required, to attend this House to-morrow at Eleven of the Clock in the Forenoon, as Witnesses to be examined on the behalf of the Duke of *Norfolk*.

Die Sabbati 24 Februarij, 1699.

The House being moved, That Mr. *Simon Briane* or *de Brienne* may be sent for in Custody, for not having attended according to the Order of this House, as a Witness for the Duke of *Norfolk*?

Here-

Hereupon *Thomas Kellett* was called in; and being sworn, ſaid to this Effect, *viz.*

I went to the Houſe of the Dutcheſs of *Norfolk*, and enquired for Mrs. *Sufannab Barrington*, and if ſhe lived there? A Man ſaid no: I asked if he could tell me where ſhe was? He ſaid, no.

Then I went to ſerve Mr. *Simon Briane* or *de Brienne*; and being at his Houſe, enquired for him: His Man ſaid, his Maſter was gone to *Kenſington*. He took the Order, and ſaid he would give it his Maſter.

I went to the Lord *Cutt's* Houſe, and aſk'd for one Mr. *Berger*, but could not hear of him; I went to my Lord's Stables, and asked his Coachman for Mr. *Berger*, he ſaid he lived in *Hedge-Lane*; there I went and found his Wife, and delivered the Order to her; ſhe ſaid ſhe would have nothing to do with it, and that Mr. *Germaine* gave him Bread. I ſaw him Yeſterday, and he told me he had been with the Duke of *Norfolk*, and would attend him again.

I went again to the Dutcheſs of *Norfolk's* Houſe to ſerve Mrs. *Barrington*, and one told me ſhe was ſeen to look out of a Window, and another told me ſhe was at Home, ſo I could not ſerve the Order on her.

The Houſe being informed upon Oath, That a Copy of the Order for Mr. *Simon Briane* or *de Brienne* to attend this Houſe, as a Witneſs for the Duke of *Norfolk*, was left with his Servant at his Dwelling-place, and he not attending this Houſe, It is Ordered by the Lords Spiritual and Temporal in Parliament Aſſembled, That the Serjeant at Arms, attending this Houſe, do forthwith attach the Body of the ſaid *Simon Briane* or *de Brienne*, and bring him to the Bar of this Houſe, to answer for his Offence: And this ſhall be a ſufficient Warrant on that behalf.

To the Serjeant at Arms attending this Houſe, his Deputy or Deputies, and every of them.

The Houſe was informed that one *Hugonce*, Servant to the Lord *Haverſham*, being ſummoned, was ſince gone away. Of which the Lord *Haverſham* gave the Houſe an Account to this Effect; That he received a Letter from the Duke of *Norfolk*, wherein he deſired his Servant might attend the Houſe this Day. And his Lordſhip writ an Answer that he ſhould. But when his Lordſhip aroſe in the Morning, his Servant was gone away, and told the Laundry-woman or Servants, he had a Quarrel, and was going for *Holland*.

The Council and Witneſſes being called in for the Duke of *Norfolk*, the Dutcheſs's Council preſent, and Mrs. *Vaneſs* at the Bar, the tranſcribed Depoſitions from the Short-hand Writer were read to her, and ſhe ſigned them.

In like manner *Nicholas Hoſter's* Depoſition was read, and he ſigned it.

Then the Council proceeded, and examined *William Bayly*, and his Depoſitions were taken in Short-hand, was left with the Clerk to be tranſcribed, in order to be read to him on *Monday* next.

Council withdrew, and it was ordered that *William Bayly* do attend this Houſe on *Monday* next.

Then the following Orders were made.

It is Order'd by the Lords Spiritual and Temporal in Parliament aſſembled, That on *Monday*

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next at Twelve of the Clock this Houſe will proceed to hear Council and Witneſſes for the Duke of *Norfolk*, at which Time the Dutcheſs of *Norfolk's* Council ſhall be preſent.

It is Ordered by the Lords Spiritual and Temporal in Parliament aſſembled, That Mr. Secretary *Vernon* be deſired to ſend to this Houſe, on *Monday* next at Eleven of the Clock, the Books wherein the Entries of Paſſes are in the Months of *January*, *February*, and *March*, One thousand Six hundred Ninety one.

Die Lunæ 26 Februarii, 1699.

The Council for the Duke and Dutcheſs of *Norfolk* were called in, and the Examination of *William Bayly* was read to him; and he being croſs-examined by the Dutcheſs's Council, and that Examination read to him, he ſigned them.

Then *John Curry* was called in and ſworn, ſaid, I went to ſerve Mr. *La Fountaine*, and Mr. *Lane* with the Order for their Attendance.

Mr. *La Fountaine's* Wife lay in, he ſaid he could not be forced to come, he was not a Subject of *England*, and is the Lady Dutcheſs's Servant.

Mr. *Lane* gave me a Letter to the Clerk of the Parliament, which was read, and in it he deſired further Time, not having Horſes, nor could ride faſt.

The Dutcheſs's Council moved for Copies of the Depoſitions taken, and Time for the Dutcheſs to be heard, and withdrew. Then the following Orders were made, (*viz.*)

An Order for both Parties to have Copies of the Depoſitions, and ſo much as relates to that Matter in the Journal.

The other for hearing the Dutcheſs by her Council, on *Monday* next, and the Duke's Council then to be preſent.

Depoſitions of *Elianor Vaneſs*.

Die Jovis 22 Februarii, 1699.

E*Lianor Vaneſs* ſworn, Depoſeth as followeth, (*viz.*)

Queſt. D'ye know Sir *John Germaine* and the Dutcheſs of *Norfolk*?

Answer. Yes.

Q. How long have you known them?

A. Two Years.

Q. When did you firſt come acquainted with them?

A. Sir *John Germaine's* Siſter hired me for a Cook-maid the Summer after the King came for *England*.

Q. In what Month of that Year?

A. In *May*.

Q. Did you live with either of them as a Servant-maid?

A. I lived two Months with my Lady Dutcheſs, in Sir *John Germaine's* Houſe.

Q. How long did you live in the Houſe with them?

A. Till they went to *Vaux-Hall*.

Q. How long was the Dutcheſs in the Houſe before they went to *Vaux-Hall*?

A. Two Months.

Q. Where was that Houſe?

A. Juſt over *Spring-Garden*.

Q. At the Time when the Lady Dutchess lived with Sir *John Germaine*, what Company and Conversation did they keep with one another? And in what Manner?

A. Like Man and Wife.

Q. Where was it the Lady Dutchess lived when you came first into *England*?

A. In Sir *John Germaine's* House.

Q. Where did she live then?

A. The Dutchess lived there then.

Q. How long continued she there?

A. About two Months.

Q. How did they live together during that Time?

A. Like Man and Wife.

Q. Saw you them in Bed together, at any Time, at that Place in the *Cockpit*?

A. Yes.

Q. How often?

A. Many times, as often as Man and Wife she saw them in Bed, but did not put them in Bed in those two Months.

Q. Did you think any otherwise, but that they had been Man and Wife?

A. She did not at first, but afterwards she did; and then they kept her within Doors, for fear she should tell it.

Q. Whither did the Dutchess go after that two Months?

A. To *Fox-Hall*.

Q. How long did she live there?

A. About two Years.

Q. Did Sir *John Germaine* use to come and keep Company with the Dutchess there?

A. Yes; he used to come and dine with her sometimes; and he lay there sometimes.

Q. What Conversation had Sir *John Germaine* with the Dutchess at *Fox-Hall*?

A. They convers'd together as Man and Wife.

Q. How long?

A. Sometimes one Night, sometimes two.

Q. How often did he use to come thither?

A. Sometimes twice, sometimes three times a Week, and sometimes but once.

Q. Had they one Bed, or two?

A. But one.

Q. What Name did the Dutchess go by at *Fox-Hall*?

A. By the Name of the Lady *Beckman*.

Q. What Kin was Sir *John Germaine* pretended to be to the Lady Dutchess?

A. Her Brother; my Lady Dutchess said so.

Q. Did you go with them to *Fox-Hall*, or not?

A. She went with the Lady Dutchess.

Q. Whose Servant was you there?

A. Lady Dutchess's.

Q. How long did you serve the Lady Dutchess?

A. She staid with her till she went to *Mill-bank*.

Q. How came you to leave their Service?

A. They sent her away upon the account of the late Trial.

Q. Who went with you?

A. Mrs. *Susannah*, Chambermaid to the Lady Dutchess; and Mr. *Nicholas*, that was Gentleman to Sir *John Germaine*.

Q. What's his Name?

A. *Nicholas Hofier*.

Q. Who took care of your Passage?

A. *Nicholas Hofier*.

Q. Whither was you order'd to go?

A. To *Holland*, to the *Hague*: They paid her

in full, and promised fifty Livres besides.

Q. Was any Part of it paid? And by whom?

A. She receiv'd it in four Quarters, from his Brother *Philip*, at the *Hague*.

Q. Whose Brother?

A. Sir *John Germaine's* Brother.

Q. Who hired you when you came to *England*?

A. Mr. *Briane's* Wife.

Q. What Kin is she to Sir *John Germaine*?

A. His Sister; and they promised, if Matters did not go for the Dutchess, she would come to *Holland* her self, and take her into her Service a gain.

Q. Have you seen Sir *John Germaine* and the Dutchess in Bed together at *Mill-bank*?

A. Once or twice.

Q. How long had the Lady Dutchess lived at *Mill-bank* e're you left her Service?

A. Nine or Ten Weeks.

Q. How came you to see them in Bed together?

A. By reason none was suffer'd to come into the Room, the Bedchamber, but she and another Maid, to bring Necessaries, as, Water to wash their Hands, and to clean the Room.

Q. Did you see them at their undressing, when they went to Bed?

A. She undress'd them her self, and saw them in Bed.

Q. Give an Account how you two came to be admitted into the Chamber, and what you saw there.

A. She help'd them to Bed, and saw them go to Bed together.

Q. Saw you them next Morning?

A. Yes.

Q. On what Occasion came you into the Chamber in the Morning?

A. She came with Chocolate, and Water to wash their Hands.

Q. Did you ever see Mr. *Nicholas Hofier* there?

A. Yes; he did the Business that she did when she could not be present; he was *Valet de Chambre*.

Q. Was he *Valet de Chambre* to Sir *John Germaine*, or to the Dutchess?

A. He belong'd to the Dutchess at *Fox-Hall*, and afterwards to Sir *John Germaine*.

Q. Came he to Sir *John Germaine* before the Lady Dutchess went to *Fox-Hall*, or not?

A. The Dutchess was at *Fox-Hall* when he came to Sir *John Germaine*.

Q. Who lived with the Dutchess at *Fox-Hall*?

A. Sir *John Germaine's* Sister.

Q. Who hired you?

A. Mrs. *Briane*, Mr. *Briane's* Wife.

Q. Was there no other Relation of Sir *John Germaine's* that lived there besides?

A. Mrs. *Judith*.

Q. What Mrs. *Judith*? What's her Name?

A. She does not know.

Q. What kin was Mrs. *Judith* to Sir *John Germaine*?

A. His Sister.

Q. Did the Dutchess use to go to no other Place?

A. None, but to the neighbouring Gardens, to gather Flowers.

Q. When you were at *Mill-bank*, did you ever see the Dutchess's Father?

A. She hath been several times at the Dutchess's Father's, and the Lady Dutchess told her Father and Mother, that she brought her from *Holland*; she

ſhe dreſs'd three Diſhes of Meat by order of the Dutcheſs.

Q. Who was the Lady Dutcheſs's Father? Where did he live?

A. He lived at *Mill-bank*, but could not tell his Name; the Lord *Peterborough*, ſhe ſays, but could not think on't before now.

Q. When ſhe lived with *Germaine* at the *Cockpit*, was there no other that lived with them at that Time?

A. No body.
Q. Did Sir *John Germaine's* Brother-in-Law or ſiſter lie in the Houſe at any time?

A. Yes; when they came firſt to *England* they uſed to lie there.

Q. Name them.
A. Mr. *Briane*, and his Wife.

Q. Did you ſee any of Sir *John Germaine's* Relations, at any time, in the Room during the Time that the Dutcheſs was in Bed with him?

A. Yes, Mr. *Briane* and his Wife.

Q. Was Sir *John Germaine* in Bed at that time with the Dutcheſs?

A. Yes.

Elianor Vanes's croſs'd-examin'd.

Q. Was it at *Fox-Hall* that the Lady Dutcheſs ſaid, That *Germaine* was her Brother?

A. Yes.

Q. Did the Dutcheſs tell you, that Sir *John Germaine* was her Brother?

A. She gave it out among the Neighbours, but never told her ſo.

Q. Was you Cookmaid?

A. She was hired for Cookmaid.

Q. Did you continue to act as Cookmaid?

A. Yes, at *Fox-Hall*.

Q. Was you at the *Cockpit*?

A. She uſed to clean the Rooms, and no body was ſuffer'd to come into the Room but ſhe, Mrs. *Sufannah*, and *Nicholas*.

Q. Was there no other Woman in the Houſe but you?

A. Yes, Mrs. *Sufannah*.

Q. Where did you ſee Sir *John Germaine* and the Dutcheſs in Bed?

A. At *Fox-Hall*.

Q. When came you from *Holland*?

A. About five or ſix Weeks ago.

Q. Where have you been ſince?

A. She does not know no Place nor Street in *London*.

Q. How came you over?

A. About a Year and half ago ſhe met *Nicholas* at *Amſterdam*; ſhe ask'd him how he did, and if he had got a Place; he answer'd, No, but he believ'd he ſhould very ſoon have one in *England*.

Q. Who ſent for you, or brought you over, from *Holland* this laſt Time?

A. She met Mr. *Nicholas* about a Year ago, and ſaid, She had a great Mind to go and live in *England* again; and he ſaid, He would get a Place for her

Q. Who ſent for her?

A. Does not know.

Q. When you came over, who paid your Paſſage, and firſt took Care of you?

A. *Nicholas* hath given her what ſhe ſpent ſince.

Q. Who brought you to Town? And who furniſh'd you with Money? And where did you land? What Houſe did you firſt come to?

A. She landed at *Graveſend*.

Q. Who receiv'd her there, or, when ſhe came to Town, brought her to any Place to lodge at?

A. *Nicholas* brought her to a Place where ſhe was ſecure.

Q. What Place is it?

A. She does not know, ſhe never was in *London*.

Q. Did you not live at *Fox-Hall*, and at Sir *John Germaine's* Houſe in the *Cockpit*?

A. She was no further than thoſe Houſes; ſhe means, ſhe was never in the City of *London*.

Q. Where is the Houſe ſhe has been at theſe ſix Weeks?

A. She can't tell whereabouts it is.

Q. Was you not ſent for back from *Holland* to be a Witneſs?

A. No, knew nothing of it till about ——— Now about eight or nine Weeks ago.

Q. In what Street is the Houſe you have been at?

A. I can't tell.

Q. How long is it ſince you went into *Holland*, ſince you left the Dutcheſs's Service?

A. About eight Years ago.

Q. Did you never tell any body the Occaſion of your going over?

A. Yes, in *Holland*, but not here.

Q. To whom did you tell it?

A. To a great many.

Q. Know you any of thoſe to be in *England*, that you did tell it to?

A. Does not know any.

Q. Did you ever diſcover this Matter of your own accord? or, Was you ask'd to do it?

A. I ſaid, I would tell the Truth if I were asked.

Q. Can you name the Perſon that ask'd you?

A. Mr. *Nicholas*.

Q. Had you any Diſcourſe about this Matter about eight Weeks ago?

A. When I asked Mr. *Nicholas* if he could get me a Place in *England*, I told him, I would ſay the Truth.

Q. What Diſcourſe had you with Mr. *Nicholas* about it?

A. I asked Mr. *Nicholas*, whether there was any danger of any ſuch Thing; he ſaid, He knew nothing of it.

Q. Did you ever diſcover that you were ſent out of the Way, into *Holland*?

A. No.

Q. Whether you and this Gentleman that interprets have not talk'd moſt of this Matter before you came hither?

A. No.

Q. Who have you talk'd to about this Matter, ſince you came into *England*, beſides *Nicholas*?

A. No body.

Q. Are you a Single Woman, or a Married Woman?

A. A Single Woman.

The Duke's Council.

Q. Was it your Buſineſs to look after the Chamber, to keep the Door conſtantly, or on what Occaſion?

A. I uſed to waſh the Dutcheſs's Cloaths, and bring 'em to Sir *John Germaine's* Houſe, and keep the upper Rooms clean, where Sir *John Germaine* lay.

Q. Did *Suſan* go over with you into *Holland*, and come back with you?

A. Mr.

A. Mr. *Nicholas* brought me into a Room where she was kept, and I stayed a while with her.

Q. Did *Susan* go with you, and come with you again?

A. *Nicholas*, and *Susan*, and I, were in a Room together, and Mr. *Germaine* came every Night when the House was broke up, and told us what passed.

Q. Did *Susan* go to *Holland* with you? Whether did you go before *Nicholas*, or with him?

A. Sir *John Germaine* ordered *Nicholas* and she to go into *Holland*, and *Nicholas* went with her.

Signum,

Elianor Vanefs.

Depositions of *Nicholas Hoster*.

Die Jovis 22 Februarii, 1699.

Nicholas Hoster sworn.

Q. Whether he knows Sir *John Germaine* and the Dutchess of *Norfolk*?

A. Yes, Sir, I understand, I know both.

Q. How long have you been acquainted with Sir *John Germaine*, and upon what Occasion?

A. The first he came to know him was in *Suffolk-Street*.

Q. Whether ever he was a Servant to him?

A. Yes, I was a Servant to him there.

Q. When was it you first came into Sir *John Germaine's* Service?

A. It was above half a Year before King *James* went away.

Q. Did you live with Sir *John* or the Dutchess?

A. With Sir *John Germaine*.

Q. Where did he dwell at that Time?

A. He had Lodgings at the *Golden Ball*.

Q. Was you with him afterwards when he was at the Cockpit?

A. Yes, and I lived with him at the Cockpit too.

Q. At that Time did you know the Dutchess of *Norfolk*?

A. I knew her because they told me she was so.

Q. Was there any Lady that lived with Sir *John Germaine* at the Cockpit?

A. At that Time there was Mrs. *Brienne*, Sir *John Germaine's* Sister.

Q. Was there any body else us'd to lodge there?

A. There was none there but her at first.

Q. Was there any other afterwards?

Q. Yes, about two or three Months after he was there, but I don't justly know how long afterwards.

Q. Who was there then?

A. There was his Sister, by Name Mrs. *Judith Germaine*.

Q. Do you know any thing about the Dutchess of *Norfolk* at that Time.

A. Yes.

Q. What Conversation had Sir *John Germaine* and the Dutchess of *Norfolk*?

A. She was in the House, and they Eat and Drank together, and lay together.

Q. Where was that?

A. At Sir *John Germaine's* House next the Cockpit.

Q. How came you to know they lay together?

A. Because I was his *Valet de Chambre*, and help'd to undress and put him to Bed.

Q. Where was the Dutchess at that Time?

A. The Dutchess was sometimes a-Bed, and sometimes not, according as he came home, early or late.

Q. How long was the Dutchess with Sir *John Germaine* at the Cockpit?

A. She was at the Cockpit before I came there.

Q. Whether he went from Sir *John Germaine's* Service, after he came to live there?

A. He left his Service several times.

Q. When was the first time he went from Sir *John Germaine's* Service.

A. The first time he left his Service was in *Suffolk-Street*.

Q. How long was it before he came to live with him again?

A. He came into his Service again, the Summer after this present King came into *England*.

Q. What Time of the Summer was it?

A. He can't justly tell that.

Q. Whether the Dutchess was there before he came to the Cockpit or not?

A. She was there before.

Q. How long continued she there?

A. About fifteen Days after he came to Sir *John Germaine*.

Q. In what manner did Sir *John Germaine* and the Dutchess live there during those fifteen Days?

A. He says he hath already explained that before, he used to undress him and put him a-bed together with the Dutchess.

Q. Where did the Dutchess live after she went from Sir *John Germaine's* House?

A. She went and dwelt at *Vaux-Hall*.

Q. By what Name did she go when she was at *Vaux-Hall*.

A. She went by the Name of my Lady *Beckman*.

Q. Whether he went with her, or continued in Sir *John Germaine's* Service?

A. He went with my Lady Dutchess for some time, by Sir *John Germaine's* Order; he was sometimes with the one, and sometimes with the other; sometimes one paid him, and sometimes the other.

Q. Whether Sir *John Germaine* went to *Vaux-Hall*?

A. He came there sometimes; he has seen him there several Nights.

Q. Whether he stayed all Night there?

A. Sometimes.

Q. Whether he was alone, or any body was with him?

A. There was some body lay with him.

Q. Who, upon his Oath?

A. Madam the Dutchess, Madam *Beckman*.

Q. How know you that?

A. Because he undress'd him when they lay together.

Q. How often was that?

A. He can't justly say how often, but it was several times.

Q. What Service was he in when he went out of *England*, and upon what Occasion?

A. He

A. He left Sir *John Germaine's* Service at that Time when the Trial was depending between the Duke and the Dutcheſs of *Norfolk*.

Q. By whoſe Order did you leave that Service?

A. He deſired leave.

Q. How came you to leave that Service at that Time?

A. Becauſe he was afraid he ſhould be obliged to ſpeak the Truth of what he had ſeen.

Q. Whether any went with him, and who went from their Service when he went?

A. There were two Servants of the Dutcheſs's.

Q. What was their Names?

A. One is called *Suſannab Barrington*, and the other *Elianus Vanefs*.

Q. Whither did they go?

A. He was ordered by Sir *John Germaine* to hire Lodgings for them, where they ſhould be unknown and private.

Q. What was the Reaſon why they ſhould be in private?

A. He knows no other Reaſon, but the Difference before the Parliament between the Duke and Dutcheſs of *Norfolk*; he was obliged to take the Lodgings, becauſe the Wind was contrary for them to go for *Holland*, and took private Lodgings for them by the Order of Sir *John Germaine*.

Q. What became of *Suſannab Barrington* after that?

A. She ſtay'd about three Weeks with him, and then Sir *John Germaine* came and fetch'd her back again, and where he carried her he does not know.

Q. What became of *Vanefs*, and your ſelf afterwards?

A. When the Wind favoured, we paſſed the Seas.

Q. What Time of the Year was it?

A. It was about *Eaſter* that he came into *Holland*.

Q. What Time he went from his Service, and was ordered to be private?

A. It was about the Time of the Trial.

Q. Whether he hath any Paper under Sir *John Germaine's* Hand for his Diſcharge? We do not aſk it, but only to reſreſh his Memory.

The Paper was dated Eighth of February, One thouſand ſix hundred ninety-two, reckoning the Year to begin the firſt of January.

Whether that was the Time he left the Dutcheſs's Service?

A. Yes, about ſix or eight Weeks after he went to Sea.

Q. Where did you ſtay in the mean time?

A. In the *Minories* near the Tower.

Q. How came you to ſtay there ſo long after you were out of Service, before you went beyond Sea?

A. Becauſe the Wind was contrary.

Q. Who went over with him; what became of *Elianus Vanefs*?

A. She went with him to *Holland*.

Q. Who bare her Charges thither?

A. Sir *John Germaine* gave him ſeven Guineas to pay for the Expences that he was at here, and to croſs the Sea.

Q. How long after that he continued in *Holland*, before he came into *England*?

A. He did not ſtay long in *Holland*, but went into his own Country.

Q. How long was it before you returned to *England*?

A. The Summer following.

Q. Was he ſent for over into *England*, and by whom?

A. Yes, Sir *John Germaine* ſent to him often, by himſelf, and by his Brother in *Holland*.

Q. When he came over in the Summer following (in Ninety-two) whoſe Service did he come to?

A. He returned to Sir *John Germaine*.

Q. Where did he live at that Time?

A. Where he lives at preſent, at the *Cockpit*.

Q. Whether after he came back in the Year One thouſand ſix hundred ninety-two, he obſerved any Converſation between Sir *John Germaine* and the Dutcheſs?

A. Yes, he ſays he ſaw them come together at their Houſe.

Q. What more?

A. He again then ſaw them a-bed together.

Q. Where?

A. In the Houſe of Sir *John Germaine*.

Q. How often may that be?

A. He can't juſtly tell how often.

Q. Whether it was often or not?

A. No, he can't ſay very often.

Q. When was the laſt Time he ever ſaw them a-bed together?

A. The laſt Time he ſaw them a-bed was not at the *Cockpit*.

Q. Where then?

A. It was at the Dutcheſs's own Houſe, where, as he believes, ſhe lives ſtill.

Q. Whereabout in the Town?

A. It was upon a Corner of the Park, near my Lord of *Oxford's*.

Q. How long ſince he ſaw them laſt a-bed together?

A. He can't juſtly tell the Time, it was about two or three Months before he went away.

Q. Did he mean the firſt, ſecond, or third Time?

A. It was two or three Months before he went away the laſt Time.

Q. In what Year did he go away the laſt Time?

Let him look upon any Note he hath to reſreſh his Memory.

Accordingly he look'd upon a Paper.

A. 'Tis the Twenty-ſeventh of *April*, One thouſand ſix hundred ninety-ſix.

Q. Did you go away then the laſt Time?

A. Yes, he ſays, that 'twas the laſt Time he left his Service.

Q. How long before that did you ſee them a-bed together?

A. He ſays it was about two Months and a half before he left the Service.

Q. When my Lady Dutcheſs lived at *Fox-Hall*, whether he can name any body elſe that was a Servant in the Houſe at that Time?

A. Yes, there was one *Elianus Vanefs*.

Q. What Servant was ſhe?

A. She look'd to the Kitchen.

Q. Whe-