

The trial of Edmund Thrower : blacksmith, late of Carbrook, in Norfolk, for the wilful murder of Thomas Carter, & Elizabeth Carter, his daughter, on the 16th day of October, 1793, at Cratfield, in the county of Suffolk; and also the trial of John and Elizabeth Smith, for the wilful murder of Mary Ann Smith, an infant aged 8 years, daughter of the said John Smith by a former wife; by starving and cruelty, at Cookley, in the county of Suffolk. Before the Hon. Mr. Justice Heath, at the assizes held at Bury, March 21, 1812 / Taken in court by George Kent.

Contributors

Thrower, Edmund, 1754?-1812
Smith, John, 1773?-1812
Smith, Elizabeth, 1785?-1812
Kent, George.
Francis A. Countway Library of Medicine

Publication/Creation

Bury St. Edmund's : Printed by Gedge and Barker, [1812]

Persistent URL

<https://wellcomecollection.org/works/y6thq7te>

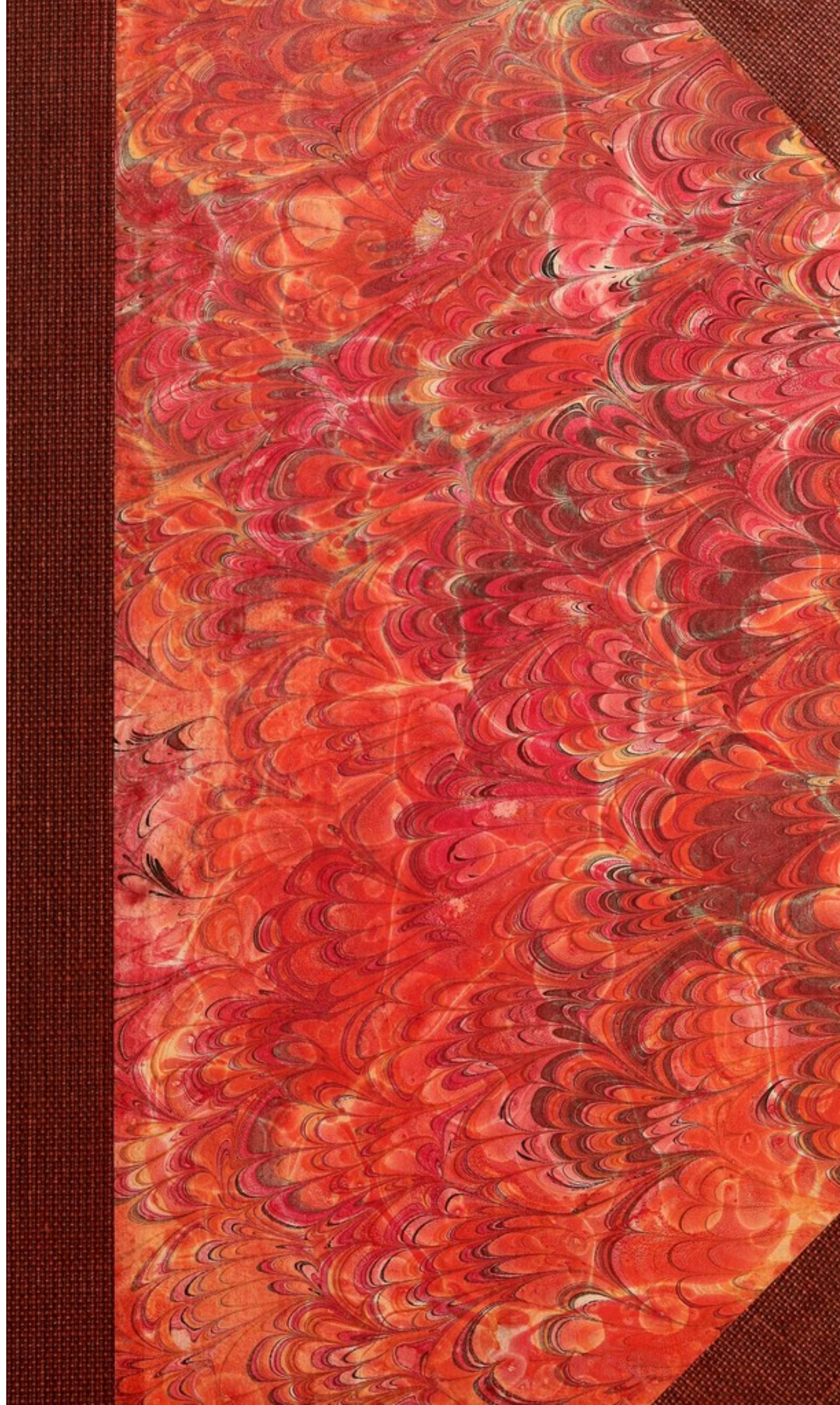
License and attribution

This material has been provided by This material has been provided by the Francis A. Countway Library of Medicine, through the Medical Heritage Library. The original may be consulted at the Francis A. Countway Library of Medicine, Harvard Medical School. where the originals may be consulted. This work has been identified as being free of known restrictions under copyright law, including all related and neighbouring rights and is being made available under the Creative Commons, Public Domain Mark.


You can copy, modify, distribute and perform the work, even for commercial purposes, without asking permission.



Wellcome Collection
183 Euston Road
London NW1 2BE UK
T +44 (0)20 7611 8722
E.library@wellcomecollection.org
<https://wellcomecollection.org>



BOSTON MEDICAL LIBRARY
in the Francis A. Countway
Library of Medicine - *Boston*



Digitized by the Internet Archive
in 2010 with funding from
Open Knowledge Commons and Harvard Medical School

4

TRIALS FOR MURDER

At the Suffolk Lent Assizes, 1812.

THE TRIAL
OF
EDMUND THROWER,
BLACKSMITH,
Late of CARBROOK, in NORFOLK,
FOR THE WILFUL MURDER OF
Thomas Carter, & Elizabeth Carter,
HIS DAUGHTER,
On the 16th Day of October, 1793, at Cratfield, in the
County of Suffolk;
AND ALSO THE TRIAL OF
JOHN and ELIZABETH SMITH,
For the Wilful Murder of
MARY ANN SMITH,
An Infant aged 8 Years,
Daughter of the said John Smith by a former Wife;
BY STARVING AND CRUELTY,
At COOKLEY, in the County of SUFFOLK.

Before the Hon. Mr. Justice Heath,

At the Assizes held at Bury, March 21, 1812.

TAKEN IN COURT BY GEORGE KENT.

BURY ST. EDMUND'S :

PRINTED BY GEDGE AND BARKER,

And sold by all Booksellers in Suffolk, Norfolk, Essex, & Cambridgeshire.

Price One Shilling.

The following Jurymen were sworn
with out being challenged for
the Trial of John and Elizabeth
Smith late of Cockley which was
the first Trial
And likewise for Edward Thower
late of Carbrook which was 2^d

Robt Woods	Wothall
Tho: Threadkell	Ubbistone
J Lamb	Woodbridge
Jas Gooderham	Haleworth
Wm Sutton	
J Clark	
Brown	Westleton
Jas Balls	Wothall
J Foulsham	Darsham
Lay	
J Lallows	Wangford
Harring	

Printed in N. Britain
1812

THE TRIAL.

EDMUND, alias **EDWARD THROWER**, (58 years of age) was tried on an Indictment charging him with (not having the fear of God before his eyes, but instigated by the Devil) feloniously, wilfully, maliciously, and with malice aforethought, making an assault on **ELIZABETH CARTER**, at Cratfield, in the county of Suffolk, on the 16th day of October, in the 33d year of the present reign, in and upon the body of the said Elizabeth Carter, and with a certain hammer then and therewith did strike the said Elizabeth divers mortal wounds upon the head, of which she died; against the statute, and against the King's peace; and to which the prisoner pleaded Not Guilty. *

He stood charged on another Indictment, for the Wilful Murder of **THOMAS CARTER**, the father of the said Elizabeth Carter, at the same time.

MR. ALDERSON, Counsel for the prosecution, addressed the Jury, and commented with considerable feeling on the nature of the offence with which the prisoner stood charged, previous to detailing the facts attending the case. It was an observation, said the learned Counsel, that was frequently heard, and a regulating principle of morals, that murder will come

* Thrower said he was innocent and did not know Cratfield nor was ever near it by thirty Miles

out ; but however remote, the awful hands of justice invariably sooner or later visited it. If the case was proved in this instance, that general observation would be confirmed, as this murder would be proved to have been committed as long since as the 16th of October 1793. If the guilt of the prisoner should be proved, he must have led a very unhappy life for several years past, for however callous the person so offending might have become, yet there were those sort of visitations, and compunctions of conscience, which held the mind in a state of disquietude.— The two persons whom the prisoner was charged with having murdered, resided at the village of Cratfield, and kept a little shop. They would be proved to have been alive at six o'clock on the evening the murder was perpetrated, by witnesses who saw both walking in the garden ; and it would also be stated clearly in evidence, that the house was quiet, and the lights were out at nine o'clock in the evening ; and this was a circumstance which the learned Counsel observed would assist the Jury hereafter in judging of the time the murder was committed.

The next part of the evidence would be to prove, that at about nine o'clock in the evening, a man was observed hurrying off from the house where the persons killed resided. This was a circumstance by which the Jury might draw inference that the murder was perpetrated by one person, for if three had committed it they would most likely have all been seen, and this would be found extremely important in corroboration of some other part of the evidence.— It would be proved in evidence, that the prisoner lived in an adjoining parish to Stradbroke,

which was contrary to his own representation, and on the night the murder was committed he did not return home to sleep as usual, which was another most important feature in this case, of circumstantial evidence, as regarding the murder itself. That a murder had been committed would be proved by witnesses who resided on the spot, and particularly by a woman who found the body of the female lying partly on a gooseberry bush in the garden fronting Carter's house, with her brains scattered in every direction, and the father was found murdered within the house. The horrid murder had excited universal alarm throughout the country, and every means of discovery proved ineffectual. The matter was buried in obscurity, and no trace was had of it until eight or nine years after, and that by a mere accident which the Jury would bear strongly in their minds.

The horrible murder of the Marr and Williamson families last Autumn, which had excited national alarm, was the subject of much conversation all over the country ; and a Magistrate of the county, in conversing on the subject of these murders in London with Mr. Fox, an attorney, happened to observe, that the murder at Cratfield, which bore resemblance to those of the Marr and Williamson family, yet remained a secret.

A man, named Saunders, under sentence of death in Norfolk gaol, and who was executed, had told Head, a witness in this case, (at that time a prisoner for felony in the same gaol) that he had often been suspected of the murder in question, but he declared his innocence of it. The matter was strange to Head at this time,

and he recollected the prisoner had told him some time before, that he had killed two people with a hammer; he communicated this matter to Mr. Oldershaw, a Magistrate, who took Head's deposition in writing, and used every effort to find out the prisoner Thrower in vain, and he was supposed to have been dead. Mr. Oldershaw, in his conversation with Mr. Fox, was relating the statement and subsequent depositions of Head, and was describing the prisoner as a man who had parted from his wife; and here an incident extremely remarkable occurred: Mr. Fox had been employed to pay a legacy to the very prisoner's wife, and it having been necessary to ascertain whether her husband was alive, he discovered that he was in existence, and resided at Carbrook, in Norfolk. This discourse, which was mere *chat*, turned out most important. The prisoner was apprehended, as were also Head and a woman.

Another piece of circumstantial evidence, the learned Counsel observed, was very important. On the prisoner being taken into custody, he was desirous to know if Head had given in evidence, and having been answered by the officer who had him in charge in the affirmative, and that he told the same story he had done ten years before, the prisoner appeared much agitated, and said he was present at the murder with Head and a man called Gipsev Will. An observation very necessary to be made here was, that the prisoner had never offered to make any sort of confession until he had been informed Head had so done. Head would be necessarily brought forward as an evidence in this case. It should not be a secret that he had been trans-

ported, but since his return he had resided in the town where he lived before he was convicted of felony, in a manner decently for a man of his kind. He had suffered the sentence of the law, and he would tell the Jury upon his oath, that in 1793, when these murders were committed, he resided at Swaffham, in Norfolk. He knew the prisoner two years before, by his travelling with asses. On one occasion, whilst Head was mending a shoe with a broken kind of hammer, the prisoner observed, he would supply him with a better when he came that way again. It was a long time after that he called on Head again, with his wife and child, and he was reminded of the promise of the hammer, when he made a most singular declaration, and a very important one, that he had had a bloody job; he had knocked out the brains of a girl and her father. It might be asked here, said the Counsel, why Head had not represented this confession of the prisoner to a Magistrate? and he would give the best answer; it was because Head believed the story incredible, and the prisoner he knew to be very guilty of uttering falsehoods; it was a strong inclination of his. It was to be observed, that it was full eight years after this affair that it came into Head's mind, and he would be found to tell the same story in his evidence as he had done at that time, as would be proved by the testimony of the Magistrate before whom such deposition was taken.

Another very important piece of evidence, in corroboration of the story Head would tell in evidence, was the examination of Thrower, the prisoner, before two Magistrates at Harleston, on the 3d or 4th of January last. He will be

proved to have stated that he had a knowledge of the murder. His confession was, that he met two persons near Cratfield, Smith, alias Gipsev Will, and Head. The confession of the prisoner went to state, that he was to get 10l. for the job. On arriving at Carter's house, Smith said they must stop there; this was betwixt eight and nine o'clock in the evening.— The deceased woman was putting a shutter to, when Head gave her blows with a hammer, threw her over a hedge, and repeated the blows. Smith went into the house and struck the old man. They did not rob the house, nor did the prisoner receive any money for accompanying them. The story would be proved by a chain of evidence to corroborate the testimony of Head. The prisoner knew the time, described the night, the state in which the body would be proved to have been found, and other particulars which would be proved to be correct, and which was tolerably demonstrative that he was there when the murder was committed.

[The Judge interrupted the learned Counsel in the above sentence, and observed, it was a misprision of felony, and the declaration of the prisoner could only be taken as far as corroborated by other testimony.]

The Counsel resumed his address to the Jury, and observed that it was not his desire to stretch the law on the subject. In murder it was generally known there was no accessory, and he (the learned Counsel) was satisfied the wisdom of the Judge would give a clear definition of the law on the subject; and should it turn out that the indictment could not be supported, he would leave the prisoner to his own guilty conscience,

and he would one day be called before a Judge who would execute his dreadful vengeance upon the offence. In the close of his address the Counsel observed, he was satisfied the Jury would do their duty, and justice would be done the country, whatever might be their verdict.

To establish the perpetration of the Murder, the following witnesses were called :

JOHN WRIGHT sworn.

Examined by Mr. Alderson.

Q. Where do you live, Wright ?

A. At Stradbroom.

Q. How far is Stradbroom from Cratfield ?

A. About four miles.

Q. Do you remember a murder having been committed at Cratfield in 1793 ?

A. Yes, very well.

Q. Do you recollect seeing Elizabeth Carter on the evening the murder was committed ?

A. Yes.

Q. Did you see her father too ?

A. I did.

Q. Did you see the body of the young woman the morning after the murder ?

A. Yes, I saw the body about ten o'clock in the morning.

Q. In what state was it ?

A. It was lying over a hedge in front of the little house where Carter lived.

Q. It was a live hedge, was it not ?

A. Yes.

Q. What was the state of the head ?

A. I don't recollect.

Q. I don't mean how it laid : I want to know the state of the head from any blows received ?

A. It was much shattered by having been struck many times apparently.

Q. Did you observe the brains of the deceased ?

A. Yes, scattered at some distance.

Q. Were the brains betwixt the hedge and the window, or on the garden side?

A. On the garden side, scattered about.

Q. Did you see the old man, Carter?

A. Yes, I saw him in the house.

Mrs. DUNNET sworn.

Q. Where do you live?

A. Near the cottage where Carter lived.

Q. You say near; am I to understand you a mile off, or what distance?

A. Only a few yards.

Q. Are you enabled to communicate in what state Carter's house was on the evening preceding the murder, in 1793?

A. The light was out at nine o'clock, and they were all quiet. My clock I thought was too slow, and I went to see how my neighbour's was; but as there was no light, I supposed they were gone to bed, and I went home again.

Q. Did you see the two dead bodies the next morning?

A. Yes.

Q. What were the appearances about Elizabeth Carter?

A. As though she had been banged about the head with a hammer.

JOHN HARMAN sworn.

Q. Where do you live?

A. At Cratfield.

Q. Do you recollect the murder of Carter and his daughter?

A. Yes; I was returning from Norwich with my wife, in a cart, on the evening of the murder.

Q. At what time did you reach Cratfield?

A. A little before nine o'clock; a quarter before or so.

Q. Was your attention excited, and by what means?

A. I was coming along Chevenhall Green near Carter's house, (*interrupted*)

Q. How far from the house?

A. About a rood.

Q. Well, proceed, what excited your attention?

A. As I was driving along Chevenhall Green, as I before said, I heard a sharp woman's shriek, and I pulled up, and said to my wife, "I heard a woman shriek, and it was enough to stun any body."

Q. What did you do then?

A. I went on.—My wife said she supposed some man was turning his wife out of doors, or quarrelling, or some such thing.

Q. What followed? Go on with what you saw & heard?

A. I saw a man running, or walking quick, when I got to the four cross-ways, from towards Carter's house, and I made a kind of halt when he was before me.—I was a quarter of a mile or so from Carter's house then.

Q. What became of that man?

A. He went over a stile on the left hand of Cratfield Green.

Q. What sort of an evening was it?

A. It was a fine bright moonlight night as ever I saw.

Q. Am I to understand you to say you were going from or approaching Carter's house when you saw the man to whom you have alluded?

A. Going from the house.

Q. Do you know the man?

A. No, not if I saw him.

Q. What sized man was he?

A. Not so tall as myself. [*Witness was about 5 feet 6*]

PETER CHANDLER sworn.

Q. Where do you reside?

A. At Cratfield.

Q. You then recollect the murder committed there as a matter of course?

A. Yes.

Q. Did you see the dead bodies the next morning?

A. Yes.

Q. At what time?

[*Here the Judge interfered, and observed to Mr. Alderson, that he had sufficiently established the fact of the murder having been committed.*]

Evidence was then adduced to charge the prisoner with having perpetrated the murder.

MARY CATTERMOLLE sworn.

Q. Where do you live?

A. At Stradbrook.

Q. Did you know where Carter lived?

A. I was never there.

Q. Do you know the prisoner?

A. Yes, he lodged at my house.

Q. Was that about the time the murder was committed?

A. Yes; he slept in a wood-hole amongst straw.

Q. Do you recollect so as to fix the night the murder was committed?

A. Yes, I had a child in fits.

Q. Was the prisoner at your house that night, or in other words, did he come home to sleep?

A. No, he was not at the house that night.

Q. (From the Judge.) Did you see him after, and how soon?

A. It was a week or more: it must be that.

Q. (By the prisoner.) Don't you know my sister came for me that day, and did I not go home with her?

A. I can't speak to that at all.

[The prisoner here stated in a manner of defence, and not in asking questions, that he went to his sister's house, and staid a week.]

Q. (By Counsel.) Are you quite certain you know nothing of the prisoner's sister coming for him?

A. Quite certain of that.

Q. (By the Judge.) The prisoner did not lie constantly at your house?

A. No.

Judge. This is no great matter.

JOHN HEAD, the Approver, sworn.

Q. You are come here, I believe, from Ipswich Gaol?

A. Yes.

Q. You were there charged with this murder?

A. Yes.

Q. Where did you reside before apprehension?

A. At Swaffham.

Q. What was your employ?

A. Cutting ling.

Q. You have served seven years on board the hulks, have you not?

A. Yes.

Q. When were you discharged?

A. Four years next August.

Q. Have you lived at Swaffham ever since?

A. Yes.

Q. Do you know the prisoner, and how long?

A. About 30 years; I bought an ass of him the first time I saw him, for five shillings and sixpence, and then I asked him his name, for fear the ass should have been stolen.†

Q. When did you see him again?

A. Several times, three or four; and then I missed him for more than eight years.

Q. What about a hammer which you have spoken of in another place?

A. He promised to give me one,

Q. State particulars?

A. I was mending my own shoes on a wet day, when the prisoner called upon me, and he observed I had got a bad hammer, (it being broke) and he promised the next time he called that way, he would bring me a good one, and I could then work like a man.

Q. (From the Judge) How soon did you see the prisoner again?

A. I can't tell; it was after harvest, and less than a year. The next time he called he wanted to lodge with me, and I sent him to a woman at the next door but one to where I live.—He had his wife and child with him, and I took his child in, and asked him about the hammer he promised me.

Q. What was his reply when you spoke about the hammer?

A. He said a man and woman of whom he bought things had persuaded his wife to take up with another man, and not to live with him after he had returned from transportation; and that he had done them a kindness in return, for he had caught the woman doing up a shutter, and he banged her so about the head with a hammer, that he killed her and threw her over a gooseberry bush; he then said he went into the house, and the old man was sitting in an arm chair, when he gave him a blow and killed him.

Q. Was there any other conversation?

A. He said he had done both a kindness,

Q. Did he state with what instrument he committed the murder?

A. Yes, he accounted to me for not giving me the promised hammer, because he had done the murders with it, and it was bloody. He had tried to scratch the blood from it, but he could not do it well, and he said he had thrown it into the Brockdish river.

Q. Did he state any thing further?

A. Yes, he said he had blooded his frock also, and he had buried that under ground.

* Prisoner said we have known each other since we were boys together at Swaffham which head completely denied & appeared head was right.

† There a contradictory alteration took place between them prisoner told head that he had given against me and would do me a kindness if it was twenty years after all which head firmly denied and proved prisoner told lies in this place money wanted

Q. Why did you not communicate the prisoner's confession to a Magistrate, or any other person?

A. Because I did not believe a word of the story. I had heard him tell so many stories before, which nobody would ever have thought of.

Q. Upon the oath you have taken, was you ever in Suffolk before your apprehension?

A. I believe I may say I have been in Suffolk, but never any where near Cratfield I can swear.

Q. Do you know Smith, otherwise Gipsev Will?

A. No.

Q. When did you first hear of the murders?

A. By John Saunders, in Norwich Gaol.

Q. Was he a convict?

A. No, he was there for stealing two heifers, for which he was afterwards hanged.

Q. He represented to you, I believe, that he was suspected of being the perpetrator of these murders?

A. Yes, he did, and swore to his innocence.

Q. How came you at length to make a discovery?

A. It was in consequence of something which had been mentioned.

Q. You told the real truth before the Magistrates at that discovery you made ten years ago, did you not?

A. I told the real truth, and nothing but the truth; it was eleven years ago.

Q. And you have spoke nothing but truth to-day?

A. It is all true that I have said.

Q. The Jury are to understand, you first heard of the murder at Cratfield from Saunders?

A. Yes.

Q. (By the prisoner, who had no Counsel.) You say wrong about not knowing me only so many years; you have known me from a boy.

A. I have said true about first knowing you.

[The prisoner, instead of putting further questions, went on upon his defence.]

Q. (From the Judge.) Don't you know the prisoner charged you with being the man who committed the murder?

A. Yes, he did.

Mr. ARCHDEACON OLDERSHAW examined.

Q. I believe, Sir, you are a Magistrate of Norfolk?

A. I am.

Q. Relate what you know relative to Head's confession.

A. I called on Head in Norwich Gaol, and took his depositions relative to this murder, 10 or 11 years ago, which depositions I cannot find.

Q. Did Head's deposition at that time accord with what he has sworn to-day?

A. I took a constable with me when Head made his deposition, and he has entered more fully into his statement than he did in the former instance, but what he has sworn to is a corroboration of what he stated eleven years ago.

Q. Saunders, I am led to believe, was suspected of being the perpetrator of this murder?

A. I committed Saunders on the 1st of August 1801, and he was so suspected. Head informed me of most he has sworn to to-day, and he described the prisoner pretty accurately as having travelled with asses, and whose wife was living with another man, whom he would like to *hammer* too.

Q. There was no suspicion attached to Head at that time relative to the murders?

A. I never heard if any of his depositions were given voluntarily.

Q. I believe, Sir, you exerted yourself to the utmost of your endeavours to find the prisoner?

A. I conceived it a duty incumbent on me to find the prisoner, and I ascertained that his wife was living with a man of the name of Norman, at Stradbroke. The prisoner was apprehended under my warrant, but committed by Mr. Kerrich, a brother Magistrate.

Q. By what means did you find the prisoner?

A. I was conversing with Mr. Fox on the subject of the murders in London, when the conversation turned to the one undiscovered at Cratfield, and I was telling Mr. Fox of the prisoner, and describing him, when Mr. F. it turned out, had a legacy in hand for the prisoner's wife, which could not be executed without the husband, and that led to his discovery through Mr. Fox, and he was apprehended.

Q. Where was Head living when apprehended?

A. At Swaffham, with a woman named Jordan, who was taken with him.

SARAH DUNNET was sworn,

To prove Carter's house was not robbed.

Q. You live close by where Carter lived I understand; do you know that the house was not robbed?

A. I never heard that it was, but could not say.

Another witness, Mr. Fisher, Overseer of Cratfield, who was in the house the next morning, and who lived on the spot, proved, to the best of his belief, the house was not robbed.

ROBERT SMITH, a Constable, sworn.

Q. You apprehended the prisoner?

A. Yes.

Q. Had you any conversation on the subject of this murder?

A. Yes.

Q. (From the Bench.) Did you ask him to confess, or hold out hopes of favour if he would confess?

A. No, none; I told him what Head had formerly said.

Q. Proceed?

A. Whilst conducting the prisoner from Swaffham to Dereham he made a confession of the murder, and charged Head with being the man who did it.

Q. Did the prisoner ask if Head continued in the same story he had done 11 years ago?

A. Yes.

Q. (From the prisoner.) Did you not tell me, going on the road, to say I had better say Head was with me at the murder, and that if I would take your advice you would be bound for my safety.

A. (With an air of surprize, addressing the Judge.) No, I never uttered such expressions. *

PRISONER'S CONFESSION.

The written Confession of the prisoner, before Messrs. Oldershaw and Kerrich, Esqrs. Magistrates, although highly important to the readers of this trial, was not conceived so either in the prosecution or the defence, the former from not making use of it, and the other from not being aware, in the absence of counsel, of the importance of it. The confession of the prisoner, as follows, was dated the 4th of Jan. 1812:—Having been confined on board the *Fortunée* hulk, at Portsmouth, in March 1792, I was discharged, and went to work for Mr. Potter, of Stradbroke, in helping butchers to fetch and carry calves about, till Michaelmas 1793.—Some time after March 1793, as examinant was going over Shotford heath, in Weybread, Suffolk, on his return from Rusball, in Norfolk, from a visit to his father-in-law, at Yaxley, he was overtaken by a man called John Head

* Prisoner bent his arm and said would be damn'd if he did not wish it never might be right again if he did not say he would be bound for him

and Gipsej Smith. They asked him, the examinant, if he would walk with them, and they would give him the dickey (meaning an ass) he once wanted to purchase. He consented, and went to a little cottage at Cratfield, in Suffolk, as he afterwards understood. The two had told Examinant he would get 10l. by the job. When they arrived at the cottage, Smith, alias Gipsej Dick, laid his hand on a gate and said, they must stop there. Head and Gipsej Dick went to the cottage at eight or nine o'clock at night; it was not dark. When they arrived there a woman was out. Smith went into the house and Head *felled* the woman. Examinant saw him strike at her two or three times, without saying a word. After the woman was down, Head appeared to strike her again. Smith came out of the house with either a hatchet or a hammer in his hand. Head gave something to Smith, who put the same into his side-pocket, which examinant heard rattle. No one came by at the time. There was no kind of alarm, and the first person they saw was, after crossing two or three fields, a man, whom Smith addressed as Hog. A general conversation was entered into, and Head informed the man he had done them both. Examinant wanted to leave them, and they offered to treat him at the White Horse, at Laxfield, but the former left them in conversation with the man in the field. Examinant slept that night at his lodgings at Stradbrook, at the house of one Cattermole, and on the next morning it was reported that a man and woman had been murdered at Cratfield, which Examinant supposed must have been the woman Head struck, and that Gipsej Will had killed the man in the house.—Examinant next saw Head on Swaffham Heath, cutting ling, who asked the former if he had got the dickey (the ass) Smith had promised, when he replied in the negative.—Examinant saw him two other times, but had no particular conversation with him. Examinant quitted the hulks in 1792, and he had since lived at Stradbrook, and no where else. He had not lived with his wife since his return from transportation. He was employed by Chase, a butcher at Stradbrook, to carry calves about the country. Examinant never knew the Carters at Cratfield, who were murdered.—He saw Smith some time after, but when asked for the ass, he said he had parted with it. Examinant never received any of the promised reward offered him by Head.

Thirkiter, a constable who had the prisoner four days in custody, proved, that he attempted an escape, at 3 o'clock in the morning, from a room.

The Judge called up John Wright, to ask if he knew whether the house of Carter had been robbed.

Witness did not believe such had been the case, at least there were no such appearances.

The prisoner being called on for his defence, said, he never was at Cratfield in his life, nor had he any knowledge of the deceased Carter.

The Judge, in recapitulating the evidence to the Jury, commented on the several passages for the information of the Jury. It was rather strange, he observed, *that* part of Head's testimony relative to the prisoner having confessed the murder on being reminded of the promise of the hammer. That part of it which related to the revenge expressed by the prisoner to Carter, was deserving close consideration. The murder was either perpetrated for revenge or for gain, and it did not appear that the house had been robbed. If the prisoner, or any other person, committed the murder, it looked like revenge, nevertheless the evidence of Head was very questionable, where it was not confirmed by others. It was a strong confirmation of his story having corresponded with that given eleven years ago. Another part of the evidence of Head demanded the strictest attention, and should be weighed well in the scale of reason and justice, whether it was true, as sworn by him, that he paid no attention to the declaration of the murder by the prisoner to him, on the ground that he disbelieved it altogether, from the prisoner's propensity to utter falsehoods. If he had believed it, it was a duty of the last importance to have made an early disclosure. The learned Judge concluded by exhorting the Jury to weigh well the evidence, and if a doubt

existed in their minds, they would give the prisoner the benefit of that doubt.

The Jury retired *thirty-five* minutes, and returned a verdict of Guilty—*Death*.

The Crier of the Court having proclaimed silence, on pain of imprisonment, the learned Judge proceeded to pass on the prisoner the awful sentence of the law, in the following words:

“ *Prisoner at the Bar*—You have been tried and convicted, by an impartial Jury of your country, of a most foul and cruel murder; a murder on an inoffensive poor girl, who gave you no provocation, and who you did not even know, and of her aged father too, in the moment of quietude. The motives which led to that murder are best known to God and your own conscience. Justice, though slow, has at length overtaken you for this great and heinous offence; and you will do well not to flatter yourself with the hope of mercy betwixt this world and the world to come, and therefore it behoves you to make your peace with God, before whose awful tribunal you must appear. I have now to perform the most awful part of my duty.—You will be removed from hence to the place from whence you came, and from thence to a place of execution on Monday next, where you will be hanged by the neck until you are dead, and your body afterwards to be delivered to the surgeons for dissection, and the Lord Almighty receive your soul.”

The prisoner stood also indicted for the murder of Thomas Carter, the father of Elizabeth Carter, which it was unnecessary to enter into.

THE
TRIAL

OF

John Smith and Elizabeth his Wife,

FOR THE WILFUL MURDER OF

MARY ANN SMITH, their DAUGHTER.

JOHN SMITH (aged 39), and ELIZABETH SMITH his Wife (aged 27), were indicted for the Wilful Murder of MARY ANN SMITH, 8 years of age, in the parish of Cookley. The Indictment contained several counts, which stated the said Murder to have been committed by a series of beatings, starvings, and exposure to cold, from the 31st of December to the 11th of February, by which the said Mary Ann Smith was cruelly wounded, her feet were in a state of mortification from cold, and her frame emaciated for want of food; of which ill treatment the said Mary Ann Smith died on the 11th of February.

MR. ALDERSON stated the case to the Jury, and observed, that should he succeed in bringing this murder home to the prisoners, it was one of the most wicked murders ever recorded. The deceased, Mary Ann Smith, was the daughter of the male prisoner. The learned

Counsel did not make observations with a view of creating a prejudice in the minds of the Jury, but in order to excite their attention to the facts of the case. The male prisoner was married about 12 years ago to his former wife, who died of a consumption two years since ; and, said the learned Counsel, it is a duty incumbent on me to state, that he would be proved to have been a kind and tender husband, and a fond and indulgent father. The offspring of his first marriage was three children, of the ages of eight, four, and three years, and the eldest of whom was the subject of this indictment.

The prisoners were married in November last, and from that time a material change in the male prisoner's conduct took place. Previously to this marriage, the three ruby-faced children excited the notice of travellers, from their cleanliness. The attention of the parish was directed towards these unfortunate children at the beginning of February. They had been shut up from the public eye some time, which was at first attributed to a different system of economy, and that an abridgement of indulgencies might be necessary. The state of the children was found to have altered, by starvation, beating, exposure, and other cruelties, which would be proved in evidence to have reduced the healthy children to the most emaciated state, and the girl, the subject of this indictment, would be proved to have died in consequence, but the lives of the other two were saved by another charitable hand.

On the 1st of February the prisoner represented the state and condition of his child to a surgeon, and attributed the cause of her ema-

ciated state to a worm fever. At this time the child's feet were in a state of mortification to the ancles, but the prisoners never disclosed this fact to the surgeon when he called to look at the child. The medical gentleman, continued the learned Counsel, will be called, and from him you will have a delineation of the horrible emaciated state of the child, which was as complete as any corpse. The surgeon observed the children were starved, to which the female prisoner replied they had victuals enough, but they *might be short of drink*. If she had kept from the child in question that drink necessary to support life, this indictment was completely made out. A witness named Clark would be called, to prove that she was shocked at the alteration in the three children, and she would also prove that she had several times carried them cakes, which they devoured with ravenous appetite. She had told the female prisoner that it was reported the children were starved, and she added, "if the child up stairs die, woe be to you." It would be proved, out of Smith's own mouth, that on being charged with cruelty to the child the subject of this indictment, he confessed having hung her up to a beam by a cord fixed round her body, and that he had exposed her three successive nights in a shed, without nourishment.

The learned Counsel continued to state, that the prisoner gave his excuse for his barbarous conduct, which it was not right here to mention. What defence would be set up he knew not.—It could not be supposed that for three months the man prisoner did not know his children were in want of food when pining to death before his

eyes! He was bound to know by law, and let him ask his own conscience. The prisoner could have no excuse by a plea of poverty, because in England starvation was not known.—When the poor wanted, the parish officers were bound to relieve, or answer for a refusal. The learned Counsel observed, that whatever might be the feelings of the Jury, justice was required at their hands. It was a tale of woe, and if, under the directions of the Judge, the case should not be made out in evidence, at least the parish officers and the Jury would have discharged their duty.

LUCY SMITH sworn.

Examined by Mr. Hulton.

Q. Are you a married woman?

A. Yes, and the sister of John Smith.

Q. State what you know relative to the state of the child which died?

A. My brother came crying to my house at Halesworth on the night of the 4th of February, and said his eldest girl was very bad, she would certainly die, and the others were following very fast.

Q. What did you do on this representation?

A. I went to his house the next morning, and saw the three children and the prisoners. The eldest was in bed up-stairs.

Q. What state was she in, and also the room?

A. The chamber was so offensive I could not bear the smell, and the child had the appearance of death. I concluded she could not live many hours. The children below seemed to be nearly in the same state, and in that state of indifference that did not notice any object.

Q. When did you see the child up-stairs again?

A. On the Friday, and the child in bed called out "Aunt, come to me," as I was going up stairs, as she knew my voice.

Q. Had you any conversation with the prisoners on the state of the child, and what?

A. I said they were certainly starved.

Q. What was the reply to this ?

A. The man prisoner said he could not get sufficient food for them, and that he believed his wife kept drink from them. I told him I would take the two children under my care, for which he expressed thanks. He said he was shocked to see the eldest child the last three weeks, and he would get rid of his wife by leaving the country.

Q. You have the two children now under your protection, I believe ?

A. Yes, I have.

Q. Did you perceive any other appearances on the eldest child on the second visit ?

A. Yes ; on turning down the bed clothes I saw the body, arms, and neck, much discoloured. I was shocked, and asked how it came ; when the female prisoner said it was the disorder, and only came the day before. I talked with her more than an hour on the state of the child, but she only answered by saying she had done all she could. The child wished me to undo her feet, which were wrapped in cloths, but the female prisoner objected to it, as she had just done them up. The children were all in good health previous to the marriage, excepting Maria, who was troubled with worms.

Q. The child which died you always conceived healthy ?

A. Yes, particularly so.

Cross-examined by Mr. Cooper, Counsel for the prisoners.

Q. You were not in the habit of visiting the prisoners at the house since the last marriage ?

A. No.

Q. State to the Court the opinion you formed of your brother's character for humanity ?

A. He was the best of husbands, and a most indulgent kind-hearted father, till he married the other prisoner. The first wife died of a decline, and he expressed fear that the eldest child would take harm from her constant attendance upon her.

Q. Where you much alone with the child ?

A. No, very little. She told me the female prisoner had hung her up, but did not describe in what manner.

MARY CLARK sworn.

Examined by Mr. Alderson.

Q. Where do you live Mrs. Clark ?

A. At Chediston.

Q. How far is that from Smith's house?

A. About half a mile.

Q. Do you know the prisoners?

A. Yes, I went to Smith's house in February last, and I saw the woman prisoner.

Q. What induced you to go there, state to the Court?

A. I heard the children were starved, and that one was dying. When I got to the house I was shocked with their appearances, they having always been such fine, healthy, clean, and jolly looking children. I went up stairs with Mrs. Smith and saw the child in bed. The room was in a very bad filthy state, and obnoxious; the smell was very bad.

Q. In what state did you find the child?

A. Too shocking to tell; I didn't expect she could live long.

Q. You frequently gave the children nourishment?

A. I gave all the children oranges, cake, and wine and water when I called, and they devoured it with ravenous appetite; the child in bed even partook of it with great eagerness. On the Friday when I called, I thought the child in bed was dying; the woman prisoner turned down the bed clothes, and the child cried out "oh! you hurt me." I saw the marks on the child, which the prisoner said came with the disorder.

Q. Did you express abhorrence at the prisoner's conduct?

A. I told the woman as I was coming down stairs, woe be to her if the child did die. I told her every body said the children were starved, and she replied, she gave them what she could get, but they might have been short of drink. The last time I went, the child called to me and said, "Pray dear stay with me, I can't spare you." I asked the woman why the child should be so eager for me to stay. (*The Judge here observed, that that evidence was not admissible.*)

Cross-examined by Mr. Cooper.

Q. You knew the prisoners?

A. Yes, I have known the man seven years.

Q. You lived near them?

A. Yes, half a mile off.

Q. Did you often go there?

A. In the first wife's time.

Q. She died of a decline?

A. Yes.

Q. State what you know of the man's character?

A. As kind and good a husband and father as could be, and I never could have suspected him of an act of cruelty to his children when I knew so much of him.

ANN CAMERON sworn.

Q. You, I believe, kept Smith's house before he married the other prisoner?

A. Yes, thirteen months.

Q. Were the children then healthy?

A. Purely well and jolly, and always had their bellies full.

Q. When did you leave the house?

A. On the 8th of November last.

Cross-examined.

Q. The prisoner was a good father?

A. Yes, as any child need have.

Q. Plenty of food?

A. Yes, always plenty of necessary food.

Q. He was not much at home?

A. No, he is a labouring man, and was only at home at his meals, and when he finished work.

Q. He was then an indulgent father, who never used severity to the children?

A. Never.

JOHN WALKER, Surgeon, sworn.

Q. You know the prisoners?

A. Yes.

Q. State to the Court any application the prisoner made to you?

A. On Saturday the first of February, he came to me in the morning before I was up, to give relief to his eldest child, whom he said had a worm fever. On making a general inquiry of the prisoner, I expressed surprise at his calling me up, as I did not find by his description such an act necessary. I sent him a worm-cake, and called on the child in a day or two. The whole of them were very thin and dejected, and took no notice of any object. Their apathy was remarkable, and such as I never before witnessed in children. Their pulses could scarcely be distinguished, it was languid and lifeless.

Q. Speak to the state of the eldest child?

A. I went up stairs and found that child in a very dreadful state, she was more emaciated than any child I ever saw.

Q. Did you at this time know of any complaint in the child's feet?

A. No, that was strange to me. The child appeared to have a kind of thrush in the mouth.

Q. Did you see the child after her death?

A. Yes, at the inquest. I was present when Mr. Stebbing Revans opened the body. The lungs were sound, excepting a small tubicle on the lobe of the lungs.

Q. Were there any appearances to constitute symptoms of consumption?

A. Not the slightest. The body was only opened to ascertain the state of the lungs.

Q. Did you see the feet after death?

A. Yes.

Q. In what state were the feet?

A. Mortified to the ancles.

Q. Do you conceive from your practice that such mortification was partly the cause of death?

A. It certainly had great influence in accelerating the child's death; it might have nevertheless recovered had it been in a pure state of health. Mortification in the extremities might be brought on by low living, and cold was also an exciting cause. I have known instances of mortification brought on by frost and cold. The abdomen of the child appeared livid and flaxed, and the skin was discoloured with purple spots.

Cross-examined.

Q. Had you any conversation with the man prisoner on the subject of his children?

A. Yes, I told him the children were in a bad state, in a state of starvation.

Q. What was his reply?

A. That his first wife's illness had left him poor, and involved him in debt, and he was not able to get food good enough. I asked him why he did not get milk, and he replied, the farmers would not let him have any; and I said, no farmer at Cookley would refuse him.

Mr. STEBBING REVANS, jun. examined.

Q. You are a surgeon?

A. Yes.

Q. Were you present at the opening of Smith's child?

A. I opened the body.

Q. What, in your opinion, was the cause of the child's death, from the observations you made on opening the body?

A. My opinion is, that the child died in consequence of want of food.

Q. Then not of the mortification in the feet?

A. That no doubt would hasten the death of the child.

Q. (From the Judge.) Would the want of nourishment occasion mortification?

A. No, not alone; mortification would be more likely to take place from cold, by a person being in a weak state, than if healthy and strong. I consider mortification, in this case, a secondary cause of death.

Q. (By Counsel.) Then what is your opinion as to the cause of death?

A. I suppose the child to have died for want of food, and the mortification I conceive a secondary cause of death.

Cross-examined.

Q. If you had opened the child without hearing any previous reports, should you not have conceived she might have died of a consumption?

A. No.

Mr. STEBBING REVANS, sen. examined.

Q. You are a surgeon?

A. Yes, at Halesworth.

Q. In long practice?

A. Yes, twenty-six or twenty-seven years.

Q. You were present at the opening of the child?

A. Yes.

Q. What were the state of the lungs?

A. There was a slight induration on the lungs, but they were not unsound.

Q. State the situation of the feet?

A. The feet were mortified to the ancles.

Q. What, according to your professional knowledge and experience, was the cause of the child's death?

A. My opinion is, that the primary cause of death was a long want of food, and that the mortification was an exciting cause, considering the debilitated state of the child.

In cross-examination, Mr. Revans was satisfied there were no symptoms of organic disease about the child, and being so satisfied, it was unnecessary to examine the body further.

JOHN WRIGHT, a Constable at Halesworth, sworn.

Q. You apprehended the man prisoner?

A. Yes.

Q. You had a conversation with him at that time?

A. Yes.

Q. (From the Judge.) Had you made him any promise of favour, if he would confess any thing.

A. No.

Q. State what he said to you?

A. I first told him, he could not pretend to say he did not know the state of his children, and that he must have seen them reducing daily. He had first observed the marks on the child's neck and arms, and had not asked his wife how it came. He once said to his wife, it was a hard thing they could not get a bit of meat after working hard; and she said, yes, it is; but the children will soon be off our hands, and we shall do better. (*The Judge here observed, this evidence was not admissible*) His wife had insisted the child should be put into the shed, and he had put her there three different nights. He also said he had hung her up, but not by the neck, by the middle, so as for her feet to touch the ground. This was for not doing her stent at spinning.

The case being closed on the part of the prosecution, witnesses were called in defence.

Mr. HIGHAM, farmer, at Cookley, sworn.

Q. You know the man prisoner?

A. Yes, he was in my employ from February 1805 to October 1811.

Q. What was his conduct to his children?

A. He was one of the best and most tender fathers.

Q. What were his average earnings?

A. Half-a-guinea a week; but I sold him two bushels of wheat every three weeks, at 6s. per bushel, and I never heard of any distress for food experienced by him.

Q. Do you know this shed where the child was put, and describe it?

A. It joins Smith's house, and is set in with ^{Bush}faggots.

JAMES REEVE, Esq. sworn.

Q. How long have you known the prisoner?

A. Three or four years.

Q. Did you know his children?

A. Yes, I have frequently noticed their health and cleanliness.

Q. Do you happen, Sir, to know any thing of the prisoner's character for humanity?

A. I do, and I always conceived him a most tender-hearted man. He called frequently at my house for wine when his first wife was ill, but I have known but little of him since his last marriage.

Mr. HAYWARD, of Cookley, also gave the prisoner a good character for humanity.

The Judge observed, character had been carried as far as it could. The Counsel had described the prisoner as possessing a good character in his opening.

In recapitulating the evidence to the Jury, the Judge observed, that the Jury must first be satisfied that a murder had been committed, and he dwelt on the evidence of the three professional gentlemen who had given their opinion that the deceased met her death by starvation, which was accelerated by other cruelties. They had stated that the mortification was an exciting cause, which would hasten dissolution where the body was in a dejected state. The Jury would weigh the evidence, and deliver their verdict accordingly.

After five minutes deliberation, the Jury found both prisoners Guilty—*Death*.

The Judge proceeded to pass judgment of death on the prisoners, with the following observations:

“ *Prisoners at the Bar*,—You have had a fair and impartial trial, and now stand convicted of a most barbarous murder, at which human nature revolts—that of your child, by a series of unparalleled cruelties and tortures. An offence more wicked than your’s cannot be.

“ You, John Smith, the unnatural father of the child whom you were bound to cherish and comfort, not only inflicted tortures, but suffered the said child to be persecuted by your wife.

"You, the woman prisoner, are equally guilty; for you, instead of being an affectionate mother to the child, withheld from her the common sustenance and nourishments necessary for the support of life. I do not mean here to upbraid; you are about to fall victims to your country's just laws. I intreat you not to expect mercy can be administered you in this world; but prepare, by pious devotions, for the tribunal before which you will shortly have to appear. You will be removed from hence to the place from whence you came, and from thence to a place of execution on Monday next, the 23d of March, where you will severally be hanged by the necks until you are severally dead, and your bodies afterwards to be delivered to surgeons for dissection, and God, in his infinite goodness and mercy, receive your souls."

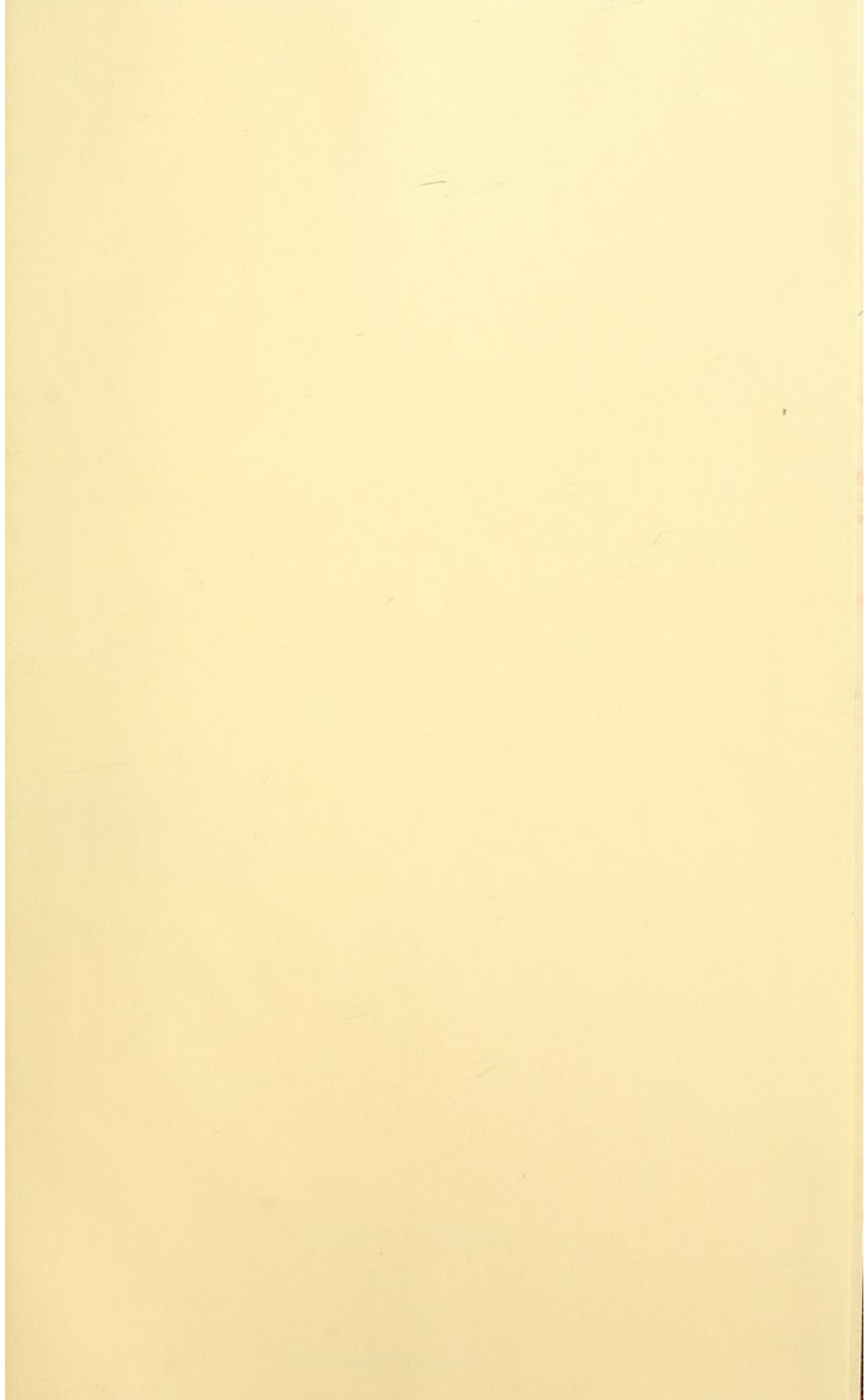
The prisoners, with Thrower, were immediately conveyed in two post chaises to Ipswich.

Smith and his Wife have not spoke together for some time, and during the trial they never even glanced at each other. The man seemed much affected during the trial, and particularly so whilst the Judge was passing sentence, when he wept bitterly. The woman prisoner, on the contrary, seemed indifferent to either the trial or the sentence, and never moved a muscle.

FINIS.









COUNTWAY LIBRARY OF MEDICINE

HV
6535
G7 T41

RARE BOOKS DEPARTMENT

