

The proceedings at large on the trial of John Donellan ... for the wilful murder ... of Sir The. Edward Allesley Boughton ... / Taken in shorthand ... by W. Blanchard.

Contributors

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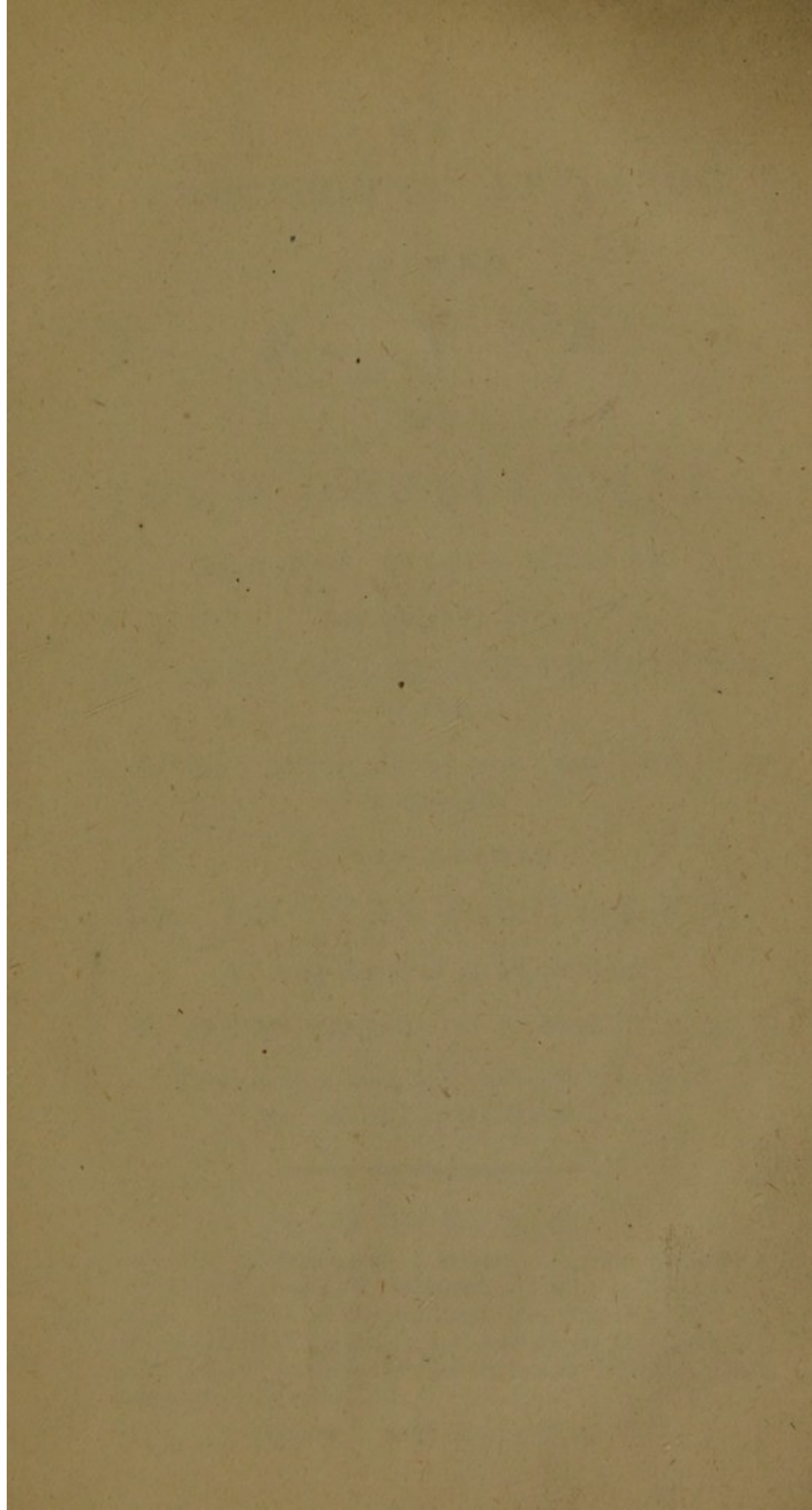
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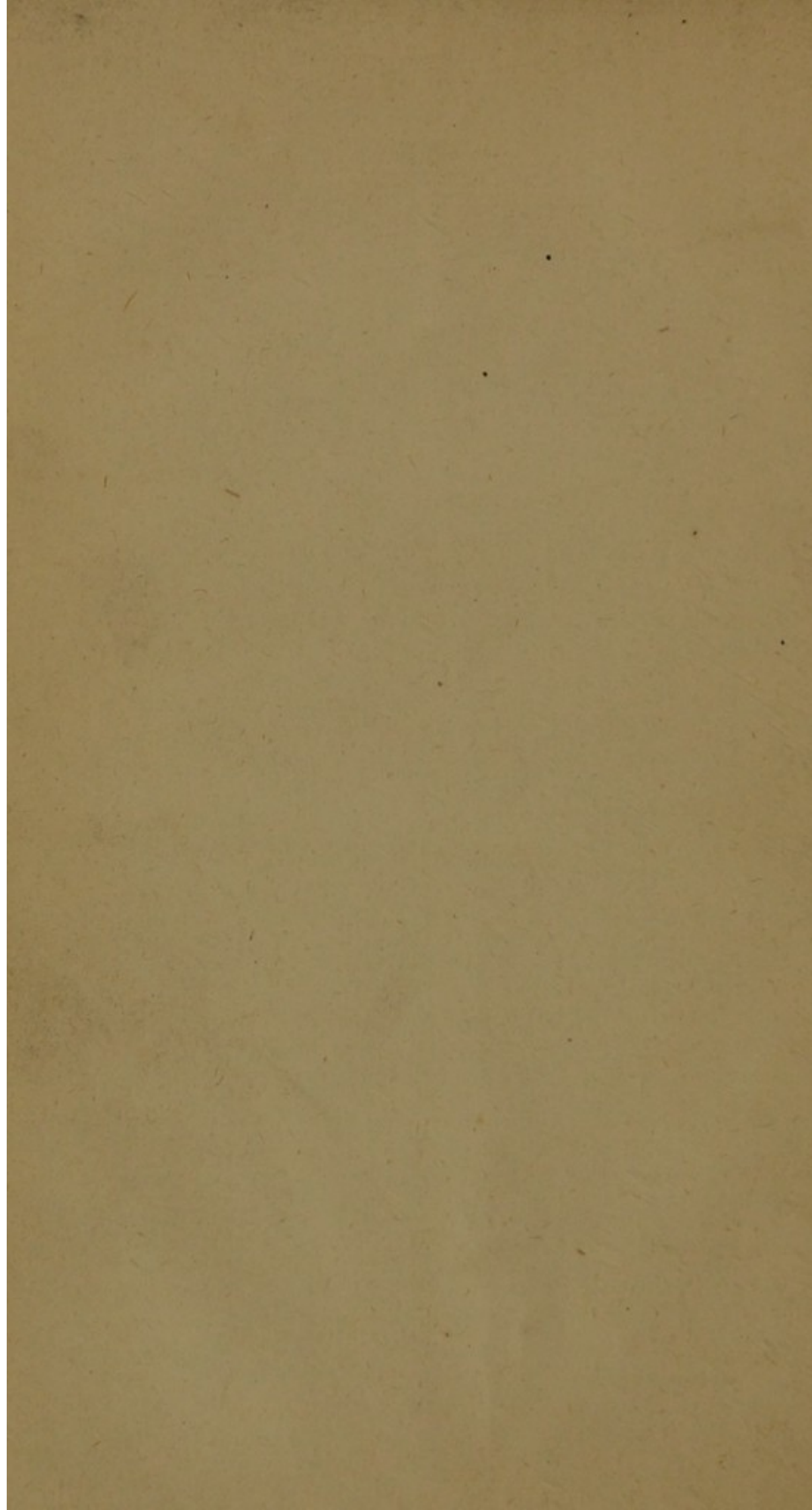


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A T T H E A S S I Z E S a t W A R W I C K.

O N F R I D A Y T H E 30th D A Y O F M A R C H, 1781.

T a k e n i n S h o r t - h a n d, b y P e r m i s s i o n o f t h e J u d g e,
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L O N D O N.

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P R I C E T W O S H I L L I N G S.

THE
PROCEEDINGS AT LARGO
ON THE
T R I A L
OF
JOHN DONNELLY

FOR THE WILLFUL MURDER
(BY POISON) OF
SIR THE EDWARD ALBERT DOUGHTON,
BART.
JUDGE OF THE COURT OF



MR. J. D. DONNELLY
AT THE ASSIZES AT WARWICK
ON FRIDAY THE 20th DAY OF MARCH 1881
Taken & Edited by J. D. DONNELLY
BY W. B. DAVENANT

L O N D O N
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LONDON: J. D. DONNELLY, 1, GREAT COURT STREET, FINSBURY LANE, E.C. 2.
LARGE TWO SHILLINGS.

For the CROWN.

Mr. Howarth,
Mr. Wheler,
Mr. Gueft,
Mr. Balguy,
Mr. Digby,
Attorney, Mr. Caldecott, of
Rugby.

For the PRISONER.

Mr. Newnham,
Mr. Green,
Mr. Dayrell,
Attorney Mr. Edward Inge,
Jun. Coventry.

For the Crown

Mr. Thompson
Mr. Green
Mr. Dwyer
Attorney Mr. Edwards
Jan. Convent
Attorney Mr. Caldwell
Ralph

T R I A L

O F

JOHN DONELLAN, Esq.

THE prisoner being placed at the bar, the clerk of the arraigns read the following indictment:

WARWICKSHIRE.

The jurors for our lord the king, upon their oath present, that JOHN DONELLAN, late of the hamlet of Little Lawford, in the parish of Newbold upon Avon, in the county of Warwick, Esq. not having the fear of God before his eyes, but being moved and seduced by the instigation of the Devil, and feloniously, wilfully, and of his malice aforethought, devising and intending Sir Theodosius Boughton, Bart. to poison, kill, and murder, on the twenty-ninth day of August, in the twentieth year of the reign of our Sovereign lord George the Third, by the grace of God of Great-Britain, France, and Ireland, king, defender of the faith, &c. with force and arms at the hamlet aforesaid, in the parish, and in the county aforesaid, a certain quantity, to wit, *two drachms of arsenic*, (being a deadly poison) feloniously, wilfully, and of his

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malice

malice aforethought, did put, infuse in, and mix together with water, (the said John Donellan then and there well knowing the said arsenic to be deadly poison) and that the said John Donellan, the said arsenic so as aforesaid, put, infused in, and mixed together with water, into and in a certain glass phial bottle of the value of one penny, did put and pour, and the said glass phial bottle with the said arsenic put, infused in, and mixed together with water as aforesaid contained therein, then and there (to wit) on the same twenty-ninth day of August, in the twentieth year of the reign of our said lord the king, with force and arms at the hamlet of Little Lawford aforesaid, in the parish of Newbold upon Avon aforesaid, in the said county of Warwick, feloniously, wilfully, and of his malice aforethought, in the lodging room of the said Sir Theodosius Boughton, did put and place, in the place and stead of a certain medicine then lately before prescribed and made up for the said Sir Theodosius Boughton, and to be taken by the said Sir Theodosius Boughton; he, the said John Donellan, then and there feloniously, wilfully, and of his malice aforethought, intending that the said Sir Theodosius Boughton should drink and swallow down into his body, the said arsenic, put, infused in, and mixed together with water as aforesaid, contained in the said glass phial bottle, by mistaking the same, as and for the said medicine so prescribed and made up for the said Sir Theodosius Boughton, and to be by him, the said Sir Theodosius Boughton, taken as aforesaid. And the jurors aforesaid, upon their oath aforesaid, do further present, that the said Sir Theodosius Boughton, not knowing the said arsenic put, infused in, and mixed together with water as aforesaid, contained in the said glass phial bottle, so put and placed by the said John Donellan, in the lodging room of the said Sir Theodosius Boughton, in the place and
stead

stead of the said medicine then lately before prescribed and made up for the said Sir Theodosius Boughton, and to be taken by him the said Sir Theodosius Boughton in manner aforesaid, to be a deadly poison, but believing the same to be the true and real medicine then lately before prescribed and made up for, and to be taken by him the said Sir Theodosius Boughton afterwards, (to wit) on the thirtieth day of August, in the year aforesaid, at the hamlet of Little Lawford aforesaid, in the parish of Newbold upon Avon aforesaid, in the said county of Warwick, the said arsenic so as aforesaid put, infused in, and mixed together with water by the said John Donellan as aforesaid, contained in the said glass phial bottle, so put and placed by the said John Donellan in the lodging room of him the said Sir Theodosius Boughton, in the place and stead of the said medicine then lately before prescribed and made up for the said Sir Theodosius Boughton, he, the said Sir Theodosius Boughton, did take, drink, and swallow down into his body, by means of which said taking, drinking, and swallowing down into his body of the said arsenic, so as aforesaid put, infused in, and mixed together with water by the said John Donellan as aforesaid, he, the said Sir Theodosius Boughton, then and there became sick, and distempered in his body, of which said sickness and distemper of body, occasioned by the said taking, drinking, and swallowing down into the body of the said Sir Theodosius Boughton, of the said arsenic so as aforesaid put, infused in, and mixed together with water by the said John Donellan as aforesaid, he, the said Sir Theodosius Boughton, on the said thirtieth day of August, in the year aforesaid, at the hamlet of Little Lawford, in the parish of Newbold upon Avon, in the county of Warwick aforesaid, did die. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said John Donellan, him, the said Sir

Theodosius Boughton, in manner and by the means aforefaid, feloniously, wilfully, and of his malice aforethought, did poison, kill, and murder, againſt the peace of our ſaid lord the king, his crown and dignity.

Second count.

And the jurors aforefaid, upon their oath aforefaid, further preſent, that the ſaid John Donellan, not having the fear of God before his eyes, but being moved and ſeduced by the inſtigation of the Devil, and feloniously, wilfully, and of his malice aforethought, deviſing, and intending to kill and murder the ſaid Sir Theodosius Boughton, with a certain poiſon called arſenic, on the ſaid 29th day of Auguſt in the ſaid 20th year of the reign of our ſaid lord the king, with force and arms, at the ſaid hamlet of Little Lawford, in the ſaid pariſh of Newbold upon Avon, in the ſaid county of Warwick, knowing the ſaid poiſon called arſenic to be deadly poiſon, feloniously, wilfully, and of his malice aforethought, did mix and mingle the ſaid poiſon, called arſenic, in water, and that the ſaid John Donellan, feloniously, wilfully, and of his malice aforethought, did put and pour the ſaid poiſon called arſenic, ſo as aforeſaid mixed and mingled in water, into and in a certain glaſs phial, and the ſaid glaſs phial, with the ſaid poiſon, called arſenic, ſo mixed and mingled in water as aforeſaid contained therein, then and there, (to wit) on the ſaid 29th day of Auguſt, in the 20th year aforeſaid, at the hamlet aforeſaid, in the pariſh aforeſaid, in the county aforeſaid, feloniously, wilfully, and of his malice aforethought, did put and place in the lodging room of the ſaid Sir Theodosius Boughton, in the dwelling houſe of Dame Anna Maria Boughton, widow, there ſituate, with intention that the ſaid Sir Theodosius Boughton ſhould take, drink, and ſwallow down into his body the ſaid poiſon called arſenic, ſo
mixed

mixed and mingled in water as aforesaid, and contained in the said glass phial. And the jurors aforesaid, upon their oath aforesaid, further present, that the said Sir Theodosius Boughton, not knowing the said poison, called arsenic, so mixed and mingled in water as aforesaid, and contained in the said glass phial, to be deadly poison, afterwards (to wit) on the 30th day of August, in the 20th year aforesaid, at the hamlet aforesaid, in the parish aforesaid, in the county aforesaid, did take, drink, and swallow down into his body, the said poison, called arsenic, so mixed and mingled in water as aforesaid, and contained in the said glass phial, by means of which said taking, drinking, and swallowing down into the body of him the said Sir Theodosius Boughton, of the said poison called arsenic so as aforesaid, mixed and mingled in water by the said John Donellan as aforesaid, he the said Sir Theodosius Boughton then and there became sick and distempered in his body, of which said sickness and distemper of body, occasioned by the said taking, drinking, and swallowing down into the body of the said Sir Theodosius Boughton, of the said poison called arsenic so as aforesaid, mixed and mingled in water as aforesaid by the said John Donellan as aforesaid, he the said Sir Theodosius Boughton afterwards, to wit, on the said thirtieth day of August, in the twentieth year aforesaid, at the hamlet aforesaid, in the parish aforesaid, in the county aforesaid, did die. And so the jurors aforesaid, upon their oath aforesaid, do say, that the said John Donellan, in manner and by the means last aforesaid, feloniously, wilfully, and of his malice aforethought, did poison, kill, and murder the said Sir Theodosius Boughton, against the peace of our said lord the king, his crown and dignity.

After

After the indictment was read, the prisoner pleaded NOT GUILTY, the same as he had before done upon his arraignment. Mr. Digby then stated the indictment, shewtly, to the jury, to which he said, the prisoner had pleaded NOT GUILTY, and that was the issue they were to try. Then Mr. Howarth opened the case at large, in the following speech :

Gentlemen of the jury, The crime imputed to the prisoner at the bar is that of wilful murder, effected by means the most detested and abhorred ; an accusation of such a nature, naturally excites the indignation of honest minds against the criminal—I shall not endeavour to encrease it—it is your duty to resist it, for the nature of the present enquiry calls for your sober and dispassionate attention. The offence is easy of perpetration, but most difficult of detection. The murderer, by poison, is not pointed out to justice by the bloody marks of his guilt, or the fatal instrument of his crime—his horrid purpose is planned in secret—executed without the means of prevention—his guilt can only be traced by circumstances, but circumstances sometimes do, and in this case, I trust, they will as plainly reveal the guilty hand, as if a thousand witnesses had testified the actual commission of the crime. Gentlemen, it is my duty to state to you these circumstances, and I shall add to them such observations as, in my judgment, the nature of the case fairly affords ; and this I shall do the more readily, as I address you, subject to the correction of an upright and discerning judge, who will permit nothing to be placed in the scale of justice, but what ought there to be weighed. Sir Theodosius Edward Alfley Boughton, Bart. was a young man of an ancient and respectable family in this county—had he attained to the age of twenty-one years, he would have had in his own power, and at his own disposal, a great and opulent fortune. In the event of his dying before that time, by much the greater part of that fortune descended

descended to his sister, who is the wife of the prisoner, Mr. Donellan, and he, in her right, would have been entitled to a life estate in this considerable fortune. The attaining this fortune was, doubtless, what induced the prisoner to plan and execute this abominable crime with which he now stands charged; but, in as much as the taking off a young man at his time of life, possessed of a good constitution, affected by no indisposition that could at all endanger his life, must necessarily be attended with suspicion, it was found convenient to prepare the minds of those who were his neighbours and lived near him, for an event which the prisoner had already determined. Gentlemen, you will learn through the witnesses, that for a short time before the death of Sir Theodosius Boughton, the prisoner had taken many opportunities of expressing the very bad state of health this young gentleman laboured under, expressing his opinion, that it was impossible for him to live, and that his life was not worth one year's purchase. The accounts you will find were false, and the only reason for his making use of them was what I before suggested, preparing the minds of the people for that event which he knew shortly was to happen.

Gentlemen, Sir Theodosius Boughton intended to pay a visit to a young gentleman of the name of Fonerau, a friend of his, living in Northamptonshire, and intending to stay with him till he came of age, it called for the immediate execution of the scheme. He being attended by a Mr. Powell, an apothecary, for a slight venereal disorder he had contracted, in the course of which he was giving him some cooling medicines, furnished too happy an opportunity for the execution of this deed. Gentlemen, you will learn, that on Tuesday evening, the 29th of August, Mr. Powell made up a draught, which was sent, by the servant, to Sir Theodosius Boughton, for the purpose of being taken upon the next morning, the Wednesday. It was perfectly

perfectly well known to the prisoner, that Sir Theodosius was to take that physic—you will learn from Mr. Powell, that physic was, in itself, as harmless a draught as could be administered to any body. The medicine was brought to Lawford Hall early in the evening, upon the Tuesday the 29th. About five o'clock that evening, Sir Theodosius Boughton, taking with him most of the men servants, went to the river, for the purpose of taking the diversion of fishing. Lady Boughton and Mrs. Donellan were walking some hours in the garden together; where the prisoner was, I believe, cannot be explained to you, but you will learn that he joined them in the garden, about seven o'clock in the evening, and upon joining them, he told them he had been with Sir Theodosius a fishing; that he was solicitous for his return home, and that he was apprehensive, by his staying so late by the river, he would take cold. You will find that this account was not true; he had not been with Sir Theodosius Boughton any part of that evening a fishing. What motive, or what inducement he could have to tell them this falsehood, you will conjecture and decide upon, if you are able. It seemed, however, necessary that he should account for his absence that evening, though he does it at the expence of truth. When Sir Theodosius Boughton returned in the afternoon from fishing, he was then perfectly in health and good spirits, and gave some directions concerning the family, eat his supper, and went to bed apparently in good health. It will be proved to you, by a servant, that about six o'clock in the morning, he appeared in perfect good health, that he got out of his bed for the purpose of giving something out of the closet the servant wanted, and in his apprehension, he had never seen him better: in about an hour afterwards, about seven o'clock in the morning, Lady Boughton got up; she went into the room of Sir Theodosius Boughton, as he had before desired her

her to give him the medicine when she was able to do it. She went for the purpose of enquiring of him whether he had taken his phyfic, or whether he chose that she should give it him. He desired her to reach down the draught that was standing upon the shelf in his bed room. Then there is this very singular circumstance attending the manner in which those draughts, which formerly had been locked up by Sir Theodosius in his closet, should afterwards come to be placed upon the shelf in the bed room; and the manner in which that will be accounted for is, that he once complained that he had neglected taking his phyfic at the time appointed for him, upon which the prisoner, Donellan, said, you should not lock your phyfic up; if you leave it on the shelf in your bed room, it is not possible then you can neglect it; it will be before your eyes, and it will be ready for you to take it when you want it; this is a very singular and an extraordinary fact. Lady Boughton reached the draught from the shelf, and poured it into a cup for the purpose of Sir Theodosius Boughton's taking it; he had not swallowed above half of it, when he complained that it was so nauseous in its taste, and so disagreeable in its smell, he did not apprehend he should be able to keep it upon his stomach: this observation led Lady Boughton to smell to the draught, and the smell of it was extremely particular; she will describe it to you, that it gave her the idea of the taste of bitter almonds; she, however, gave him the cup again, and he swallowed the whole of the draught; then he desired her to furnish him with a bit of cheese to put in his mouth, for the purpose of taking away the disagreeable taste: she then gave him a little water, with which he washed his mouth, and spit it out; then he lay down in order to compose himself, and in a very few minutes after he had swallowed this draught, he appeared to be affected to a considerable degree; his stomach heaved violently, his eyes seemed very much

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affected

affected, and these emotions Lady Boughton at that time conceived to be his efforts to keep the medicine upon his stomach, he having stated his apprehensions, that from the disagreeable taste of it, it would be difficult for him to do it; she took no further notice of it at that time, and in a few minutes afterwards he became more composed; Lady Boughton upon that quitted the room, conceiving he was going to sleep; she returned again in about ten minutes after, when, to her inexpressible astonishment, she found this young man in the agonies of death, his eyes fixed, his teeth clenched, his stomach indeed heaving with some violence, and a considerable quantity of foam issuing from his mouth, and he died in about half an hour afterwards, in the manner that will be described to you by Lady Boughton, and another witness.

It perhaps here may be enquired what this poison could be, so fatal in its effects, and so instantaneous in its operation! It is hardly material in the present case, what the poison was, if you are satisfied in your minds he was in fact poisoned.—That he was poisoned, no man exercising his sober judgment upon the occasion, can possibly entertain a doubt.—A young man, somewhat better than twenty years of age, having a good constitution, labouring under no disorder that could in the smallest degree endanger life. The swallowing of that draught was followed with the immediate symptoms which I have now described to you. No man, who hears these circumstances related, can for a moment doubt, that poison produced those effects. But the experiments made by learned and intelligent men in the profession will satisfy you, if you should want satisfaction upon that head, that this poison certainly was a distillation of laurel water.

Gentlemen, I shall forbear to give the reasons of their judgment, because you will hear it better from their own mouths: but this is a fact which you will learn
correctly

correctly from Lady Boughton, that be the draught what it will that she administered, most clearly it was not the draught sent by the apothecary, for the smell of the draught which she administered is as different from that sent by the apothecary as it is possible for any two things to be—that fact therefore will be clear and out of all controversy.

Gentlemen, there is a circumstance, and a very important one indeed upon this trial, which goes to establish the strong probability that this poison was a distillation of laurel water. That the prisoner at the bar, before this villainy, was possessed of a still—I shall prove that he worked that still—that within a month of the death of this young man, he frequently was confined, locked up in his own room, where he used to distil a variety of ingredients in it. This still was afterwards produced by him, about a fortnight after the death of this young man, filled with lime. I will tell you what I conceive it was, and you will be apt to conjecture what was the reason for filling it with lime. If the still had been used for the purpose of making laurel water, it would have left behind it evident traces of what he had been about—the smell would have remained—that would certainly have led to a discovery of his practice: in order to remove that smell, this lime was placed in the still. It will be explained to you, that was of all other things the properest to be placed there, in order to take away the smell.

Gentlemen, the still thus being filled, was produced to one of the servants, in order to be put into the oven to be dried there, and afterwards to be cleaned. In order to account for its being filled with lime, the prisoner makes use of this singular and particular excuse. Says he, I put the lime in it, and placed it under my bed for the purpose of killing the fleas. An excuse more ridiculous, or more improbable, is not easy to suggest. Yet, when he gives this still so filled,

to the servant, he conceived it to be necessary to make some excuse and some apology for his still, and therefore he made that excuse.

Lady Boughton, when she returned again into the room to her son, was struck with surprize and astonishment at the situation in which he lay, and she immediately dispatched a servant for Mr. Powell, the apothecary, and for Mr. Donellan. The prisoner Donellan arrived first, and here let me beg your attention to his conduct and behaviour. Upon coming into the room, the moment he entered, Lady Boughton, who imputed the death and the situation of her son to the draught that he had swallowed, immediately said to Mr. Donellan, good God! what medicine can Mr. Powell have sent? I am satisfied it would have killed a dog if he had swallowed it. Upon that, the prisoner answers, why the Devil did Mr. Powell send such a medicine!—Where is the bottle?—She pointed to it as it was standing upon the mantle-piece. The prisoner took the bottle down immediately, poured water into the bottle, he shook it, he rinsed it, and he threw the contents of it into a basin of dirty water that was standing in the room. Lady Boughton, astonished at his conduct, remonstrated at it, and said, good God! what are you doing? Let every thing remain just in the situation in which it is, 'till Mr. Powell, the apothecary, arrives. For God's sake, don't touch the bottle! The prisoner, notwithstanding that remonstrance, fearing lest by accident he might have taken up the wrong bottle, reaches down the other from the shelf, pours water into that second bottle; for you will learn that there never were but two draughts of this sort sent by Mr. Powell. Fearing, therefore, he might have mistaken the bottle, as both had labels upon them, he takes the second bottle and pours water into that, he rinses it well, and throws the contents of that also into a basin of dirty water. How is this to be accounted

accounted for? By what ingenuity? What gloss can be put over this transaction? How can it be reconciled to any possible idea of innocence? Nay, that is not all, he made the servant who came up (and who, unfortunately is dead since, therefore we lose the benefit of her evidence upon this prosecution, but in some measure it will be supplied) while this young man was laying in the agonies of death, take down the bottle, and insisted upon her taking away the dirty things, and cleaning the room; to this Lady Boughton objected, she begged every thing might be suffered to continue just in the state in which it was, till Powell the apothecary came there. The prisoner Donellan was warm upon the occasion, he insisted upon it, and pressed the woman to take them down; he prevailed, the room was cleared, the bottles removed, and every circumstance that could lead to suspicion was taken away.

Gentlemen, When Mr. Powell came, observe what was the prisoner's conduct.—When Mr. Powell, the apothecary, was shewn into the room, instead of the prisoner enquiring what medicine had been sent, instead of his making any observation upon the effect of the medicine, not a word is said to the apothecary, not an expression is made use of that the draught could, by the most distant probability, have occasioned the horrid situation in which he was then lying, but the prisoner, upon the contrary, took great pains to explain to Mr. Powell, that Sir Theodosius Boughton had taken a cold, that he had been out late the night before fishing, and that that cold had occasioned his death. Mr. Powell was suffered by the prisoner to depart from the house, without having the question put to him about the medicine, and without having the bottle shewn to him, without having any means used of explaining or clearing up his own conduct, relative to the medicine which had produced these fatal effects; that is a circumstance, that
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if there was no other in this case, in my apprehension, ought to decide upon the fate of the prisoner. But, Gentlemen, after Mr. Powell had been got rid of, it occurred naturally enough in the mind of the prisoner, that suspicion would arise in the family; those suspicions, it behoved him either to prevent or put an end to — You will find, that he is industriously going among the servants before this young man had expired, accounting to them for his death, representing it variously: to one, that he had taken cold, that the poor foolish fellow, as he called him, had staid out very imprudently the night before fishing, and had wetted his feet.——To another he represents, that he died of the venereal disorder; going about through the family, in order to account for the sudden death of this unfortunate young man. Now, it is pretty singular he should undertake to state, he had wetted his feet the night before fishing, and that occasioned his taking cold; how did he know it? Had he been a fishing with him? Could he possibly know the circumstance? But I will prove to you it was false, in fact, for Lady Boughton had prudence enough to examine the stockings which he wore the preceding evening, and there was not any appearance that they had been wetted. It will be proved by his servants that attended him, that almost the whole time he was out, he was on horseback, he constantly avoided coming near the water, and that his feet never were wet at all. It was necessary for the prisoner to give some account of his death to the guardian, Sir William Wheeler, and it will be proved to you, that morning he wrote him a letter, which letter I shall read to you; that letter was addressed to Sir William Wheeler; it was written upon the morning of the death of Sir Theodosius Boughton. “ Dear Sir, I am very sorry to be
 “ the communicator of Sir Theodosius’s death to you,
 “ which happened this morning: he has been for some
 “ time past under the care of Mr. Powell, of Rugby,
 “ for

“ for a similar complaint to that which he had at Eaton.
 “ Lady Foughton and my wife are inconsolable ;
 “ they join me in best respects to Lady Wheeler and
 “ yourself.”

Now, in this letter not a word is said of the suddenness of his death, or the manner of it, or of the suspicions that had been occasioned by the medicines he had swallowed ; but the whole of the letter is calculated merely to impress Sir William Wheeler with the idea the death was a natural one, the result of a long illness, which had been treated properly, and he had received medical assistance. It produced the effect intended to be practised upon Sir William Wheeler's mind ; for no enquiry was made ; no person of the faculty was admitted to open him. This young man was kept secret from all eyes but those of the family, 'till the Saturday after his death, when he was actually soldered up in his coffin. Suspicions however came on—people were struck with the manner of his death—they were greatly alarmed, and the suspicions were so strong, that they at last reached the ears of the guardian, Sir William Wheeler. Upon Monday, Sir William Wheeler communicated those suspicions to the prisoner Donellan. And here it will be very material for you to attend to Sir William Wheeler's letter to him, and to advert to his conduct upon that occasion. Upon the Monday, the 4th of September, Sir William Wheeler writes a letter to Mr. Donellan, stating to him in express terms, that he had received information that Sir Theodosius Foughton must have died by poison, calling upon him, in order to satisfy the family, and in order to relieve the public from the suspicions they entertained, to have the body opened ; and in his letter he expressly insists upon its being done. Then he names the persons he wished to have called in upon the occasion—a Dr. Rattray, a Mr. Wilmer, and a Mr. Snow. This letter was received by the prisoner upon the Monday, and in consequence
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of that requisition, for he dared not to have resisted it, he was bound to send for those persons; they were accordingly sent for. The prisoner sends a note back to Sir William Wheeler, stating, that with the approbation of himself and the family, the body should be opened. In answer to that, a second letter is sent from Sir William Wheeler, saying, that he is perfectly happy to find that the family are in that disposition; that he himself cannot come over to Lawford Hall, that it would be of no use; in truth, if he did, that the medical gentlemen were the only gentlemen to apply to, and the properest persons on that occasion. Dr. Rattray and Mr. Wilmer came to Lawford Hall about eight o'clock on Monday evening, the 4th of September; when they came there, they were met by the prisoner, who took them into a parlour; he there enquired if Dr. Rattray had heard from Sir William Wheeler; Dr. Rattray said he had not. Why says the prisoner, I have received a letter from Sir William Wheeler, which I will shew; upon that he searched, as it were, in his pocket, but produced the cover of the letter, and not the letter itself. Immediately after, however, he did produce a letter, not the first letter from Sir William Wheeler; not that letter in which he stated the information he had received, that this young man had been poisoned; not that letter in which he pressed and insisted on the body being opened, but he produces the second letter, containing no direction, and nothing more than the expression of his satisfaction, that the family were disposed to have the body opened. The perusal of that letter, you will necessarily perceive, could give no idea at all to Dr. Rattray and Mr. Wilmer of the occasion of their being sent for. Gentlemen, in point of fact, it was never communicated to them by the prisoner; instead of desiring them, or urging them to open the body; instead of stating that it was in order to satisfy the minds, and
remove

remove the suspicions of the public; and, in order to investigate the cause of his death, not a word of that is said, they ask him why they are sent for to open the body? His answer is, it is for the satisfaction of us all. They are shewn into the room, the body appeared to be at that time in such a state of putrefaction—they not being called upon to act, not having it explained to them the reason why they should act, they declined doing any thing, because the body appeared at that time to be in such a state, it would be attended with some degree of personal danger to themselves, if they attempted at that time to open it—they are dismissed from the house, and sent away without the prisoner once asking any opinion of them, or even calling upon them for their judgment to say, upon the appearance of the body, what occasioned the death—no enquiry made into it—not a syllable said about the suspicion—they are suffered to depart the house, leaving Mr. Boughton's family just in the doubtful state it was before. Gentlemen, this is not all; upon the next morning, a Mr. Bucknell, a surgeon, came to Lawford Hall—he had heard the suspicions that had been entertained by the family; he had learned that the gentlemen of the faculty, that had been at Lawford Hall the evening preceding, had declined opening the body—he went to the prisoner, Captain Donellan, stating the reason he came for; saying, at all hazards, he was ready to open the body, in order to give satisfaction to the public. The prisoner would not permit him to do it, and he assigned as a reason, he had not been ordered by Sir William Wheeler to send for him; that the persons sent for by Sir William Wheeler, had declined opening the body, and it would be unfair and improper in him to permit any body else to attempt it. After they had declined it, and with evasions and excuses of this sort, this gentleman was permitted to depart the house, though he was very ready to open the body, to

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give

give the family the satisfaction they required, he is sent away, and did not see the body at all—upon that the prisoner writes a letter, in answer to Sir William Wheeler's first letter. This letter I shall beg leave to read to you; it is dated the 5th of September, 1780.

“ Dear Sir,

“ Give me leave to express the heart-felt satisfaction I
 “ enjoyed at the receipt of your letter, as it gave us,
 “ Lady Boughton, my wife, and self, an opportunity
 “ of instantly observing your advice in all respects: I
 “ sent for Dr. Rattray and Mr. Wilmer, they brought
 “ another gentleman with them; Mr. Powell gave
 “ them the meeting; and, upon the receipt of your
 “ last letter, I gave it to them to peruse, and act as it
 “ directed” [Mind the fallacy of this.] “ I gave it
 “ to them to peruse, and act as it directed.” What
 did he give them? Did he give them the letter that
 gave them directions? Did he give the letter that called
 upon the medical gentlemen to act? Did he give them
 the letter that contained the suspicions of this young
 gentleman being poisoned? You will learn from the
 witnesses, that the letter they saw was the second letter, a
 complimentary answer to Mr. Donellan's note, contain-
 ing no directions or instructions for them to act; and,
 upon the perusal of which, they were furnished with no
 ideas for their conduct. The letter goes on thus:
 “ The four gentlemen proceeded accordingly, and I
 “ am happy to inform you, they fully satisfied us.”
 Good God! in what did the satisfaction consist? What
 enquiry was made? What investigation of the death?
 What opinion was asked? Or what opinion could be
 formed? Not a single circumstance was ever mention-
 ed—not a single enquiry was ever made—no opinion
 ever expressed to the prisoner—yet, upon this, he
 writes back to Sir William Wheeler, that they have
 fully satisfied us. In my apprehension, if there was no
 other fact in this cause but this single letter, it speaks
 as

as strongly as a thousand witnesses present, and testifying the act that had been done. I shall not read the latter part of the letter, because the whole of the letter will be read to you; this part of it I use, as affording an observation which I conceive material for your consideration.

Mr. *Newnham*. I desire the whole of the letter may be read now.

Mr. *Howarth*. I shall certainly do it.

‘ I am happy to inform you they fully satisfied us, and I wish you would hear from them the state they found the body in, as it will be an additional satisfaction to me that you should hear the account from themselves.’

Now, what is to be heard from themselves? Now what information is to be gained by seeing these gentlemen, and hearing what they had to say? I will tell you the whole of the information. We saw the body, it appeared to us in a great state of putrefaction, we made no observation, we have formed no opinion, we can give you no light upon the subject. There is the whole of the enquiry; and when he states his wish to know from them the state of the body, that is the whole that from any possibility could be learned. The letter then goes on very artfully to account for Sir Theodosius’s death from this illness that he laboured under. He says, ‘ Sir Theodosius made a very free use of ointments and other things, to repel a large bubo which he had in his groin; so he used to do at Eaton, and at Mr. Jones’s, he told me often; I repeatedly advised him to consult Dr. Rattray, or Mr. Carr, but, as you know Sir Theodosius, you will not wonder at his going his own way, which he would not be put out of. I cannot help thinking but that Mr. Powell acted to the best of his judgment for Sir Theodosius, in this and the last case, which was but a short time finished before the latter appeared. Lady Boughton expressed her wishes

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‘ to

“ to Sir Theodosius that he would take proper advice
 “ for his complaints, but he treated her’s as he did mine.”

Gentlemen, The whole of the letter is calculated to mislead Sir William Wheeler, to take off all his suspicion, and account for the death of Sir Theodosius by ascribing it to another cause, not to that of taking the draught. This letter certainly produced in Sir William Wheeler the effect intended by it; for upon the perusal he was perfectly satisfied the body had been opened, and as he was perfectly acquainted with the abilities and integrity of the gentlemen applied to upon that occasion, if they were satisfied he was perfectly satisfied. You will judge however of his surprize, upon learning three days afterwards that this body, in point of fact, had never been opened. He immediately writes to the prisoner Donellan his astonishment at the body not being opened. He desires immediately that Mr. Bucknell and Mr. Snow might be sent for, and, at all events to have the body opened. Mr. Bucknell came, and as Mr. Snow had not at that time arrived at Lawford-hall, he went away, and left word he should return back in an hour. Mr. Snow came within that hour; he was told that Mr. Wilmer had declined opening the body, because it was so much in the state of putrefaction it was apprehended dangerous. Upon this information Mr. Snow is got out of the house; and upon Mr. Bucknell’s return, he was told that Mr. Snow had declined it, as being too hazardous for him, and Mr. Bucknell is sent away without the body being opened. This is a most extraordinary circumstance:—after the letter is received from Sir William Wheeler, after the suspicion so strongly pointed out, after the express requisition to have it opened, the prisoner is found to conceal the body, and resisting its being opened, and by a conduct the most artful that can be imagined, preventing the body being opened, and procuring it to be buried afterwards. Upon that day the body was buried; but before it was
 buried

buried he writes a note to Sir William Wheeler to satisfy him as to the reasons why the body was not opened. This letter is very material for me to state. It is in answer to Sir William Wheeler's letter. He sends this upon the day the body was buried, about one o'clock.

‘ Dear Sir,

‘ In answer to your's, which I this moment received,
 ‘ I now, as I did yesterday in my letter, refer you, and
 ‘ any one that pleases, for the particulars respecting the
 ‘ state Mess. Rattray, Wilmer, Powell, and another
 ‘ gentleman, found Sir Theodosius body in, to them.
 ‘ They, agreeable to your directions, were by them-
 ‘ selves upon that business, and I was in hopes you had
 ‘ seen them since I wrote to you yesterday. Mr. Buck-
 ‘ nell, of Rugby, called here afterwards, and said that he
 ‘ heard we wished to have the body opened. I told him
 ‘ we did, and that I wrote to the above gentlemen for
 ‘ that purpose; and that you had named them to us;
 ‘ and if you had named Bucknell we should have
 ‘ sent to him as we did to the other gentlemen. We
 ‘ fixed this day for the corps to be buried, as being the
 ‘ eighth day since Sir Theodosius died; and if the coffin
 ‘ had not been foldered by the plumber, Crooke, of
 ‘ Rugby, Mr. Bucknell should be welcome to inspect
 ‘ the body. Then the time fixed for the burial is three
 ‘ o'clock to-day. And if you please to order it to be
 ‘ postponed, until the state of the body is made known
 ‘ to you, by the people you ordered to come here, please
 ‘ to let me know it before. If we do not hear from
 ‘ you, we conclude you have seen some of them; and
 ‘ lest you should not, I will send to Mr. Rattray to call
 ‘ upon you directly, and bring with him my note to
 ‘ him, to come here with Wilmer to open Sir Theo-
 ‘ dosius.’

Now this is a specious show of an inclination to postpone the burial, 'till what? 'till Dr. Rattray and Mr. Wilmer are sent for; who, if they are sent for, can
 give

give no information upon the subject; that is the most extraordinary reason that an offer is made to let Mr. Bucknell be permitted to open it; but offers to postpone the burial 'till Dr. Rattray and Mr Wilmer are sent for, from whom he can by no possibility receive any information upon the subject. Between the hours of three and four that evening, the body was buried; but the circumstance of its being buried, with its being previously opened, wonderfully alarmed the minds of all the people; and it was insisted upon very laudably, by the gentlemen in the neighbourhood, that the coroner should be called in, that the body should be taken up, and that should be done by force of law, which the prisoner took so much pains to prevent.—The body was accordingly taken up and opened.—What appearances the body afforded, you will hear from the gentlemen present that opened it. I shall not forestall the account they will give you, for you will hear it with infinitely more propriety, and greater correctness from their mouths. It will be enough for me to say, such appearances as the body afforded, confirmed them strongly in their judgment and opinion, that this young man had lost his life by poison. During the course of the examination before the coroner, Lady Boughton, the prisoner, Mrs. Donellan, and, I believe, the whole of the family, are called upon as witnesses, before the coroner. When Lady Boughton was telling the whole of the circumstances of the case, when she came to the most remarkable passage, of the prisoner's having washed the bottle, in spite of every opposition she could give, the prisoner was observed to lay hold of her by the sleeve, to endeavour to check her from giving an account of that fact. That circumstance struck the prisoner, who observed it with astonishment. That is a circumstance that cannot be explained by any possibility—no folly can account for it—no art can explain that away. Those who are at all acquainted
with

with the human mind must feel, that has something most forcible to shew the efforts of a guilty man, to screen from the public eye a fact, which he conceived must stamp his guilt upon every mind. That circumstance will be related to you by persons of undoubted veracity.—Nay, gentlemen, it will be in proof to you, that after he returned from Lawford-Hall with Lady Boughton, before the whole of the enquiry was over before the coroner, he chides her for mentioning it; he corrects her for it—says he, you are not bound to answer—you are not to give the whole account of it—you are only to answer such questions as are put to you, and you must say nothing else.—Say nothing else!—Is there any thing to be concealed? Ought any thing to be concealed? Is it material for him, any thing should be concealed? Yet, this you will have proved to you to be the conduct of the prisoner before the coroner; and upon his return to Lawford-Hall with Lady Boughton, when the prisoner found that the idea of this young man having been poisoned was so generally entertained, that there was no probability of getting rid of that suspicion by the ridiculous pretence of his having taken cold, or having died by any means of that sort, Captain Donellan writes a letter, addressed to the coroner and his jury. That letter was sent the last day of their sitting, which was the third day.—This letter is very material indeed, and I will state it to you.—This letter is addressed thus:

‘ To the Coroner, and the Gentlemen of the jury,
‘ at Newbold.

‘ Gentlemen,

‘ My understanding from report, that you are to
‘ meet again to-day, I hold it my duty to give you every
‘ information I can recollect, respecting the business
‘ which you are upon, exclusive of what appeared be-
‘ fore you last Saturday, when Lady Boughton and
‘ myself

« myself were with you. During the time Sir Theo-
 « dosius was here, great part of it was spent in pro-
 « curing things to kill rats, with which this house
 « swarms remarkably ; he used to have arsenic by the
 « pound weight at a time, and laid the same in and
 « about the house, in various places, and in as many
 « forms. We often expostulated with him about the
 « extreme careless manner in which he acted, respecting
 « himself and the family in general : his answer to us
 « was, that the men servants knew where he had laid
 « the arsenic, and for us, we had no business with it.
 « At table, we have not knowingly eaten any thing for
 « many months past which we perceived him to touch,
 « as we well knew his extreme inattention to the bad
 « effects of the various things he frequently used to
 « send for, for the above purposes, as well as for mak-
 « ing up horse medicines. He used to make vast
 « quantity of Golard, from a receipt which he had from
 « Mrs. Newsane. She will give you a copy of it, if
 « you please, and it will speak for itself.—Since Sir
 « Theodosius's death, the gardener collected several
 « fish, which Sir Theodosius laid ; he used to split
 « them, and rub the stuff upon them. The gardener
 « was ordered to bury fish. The present men servants,
 « and the former ones, for about two years back, with
 « William Matthews, the house-carpenter, can relate
 « the particulars.'

The materiality of this letter is, that you find the
 prisoner, when the idea of Sir Theodosius's having been
 poisoned, had been so far circulated, that it was uni-
 versally believed, that he then finds it necessary to ac-
 count for the death by poison ; and the whole scope of
 that letter is to lead the jury to believe the young man
 poisoned himself. Independent of that observation, it
 will be proved to you to be false in fact ; for it is not
 true that the family had not for many months touched
 of the dishes at table that Sir Theodosius had eaten of.

Upon

Upon the contrary, the observation never was made; and you will learn, the whole of it was an invention, calculated to answer the purposes proposed by the prisoner in that letter. The prisoner, however, was committed upon the coroner's warrant to goal. Since his commitment, his conduct will afford very material matter for your consideration; for it will be in proof to you, that since neither the pretence of this young man having taken cold and died; (that was an invention of his) that he had inadvertently poisoned himself, had not been adopted by any creature, it was found necessary for the prisoner to give out, this young man had been poisoned by somebody else. And I shall call to you a witness, who has had frequent conversations with him in goal; which conversations may very fairly be given in evidence here, because this man has frequently cautioned the prisoner not to mention before him circumstances that may make against him; that he probably should be called in question about it. But so solicitous has the prisoner been to account for this young man's death, he has frequently to this man pressed a conversation, and frequently talked to him upon the subject. Notwithstanding he had been cautioned, in the manner I have stated before, in one of those conversations, it will be in proof, with one Darbyshire, who said to him, do you believe Sir Theodosius Boughton was in truth poisoned? Says the prisoner, I make no doubt of it. Says the other, who do you think could have poisoned him? Why, says he, it must lay amongst themselves? Who do you mean? Why, says he, himself, or Lady Boughton, the apothecary, or the servants; it must be amongst some of them that did it, there is no doubt of it. Why, says Darbyshire, you could hardly think the young man would poison himself. No, says he, I don't think so neither. Says Darbyshire, it could not be the apothecary, he could get nothing by it; he would lose a patient by it; nor, says

he, it could not be the interest of Lady Boughton, she could get nothing by it, and it would be unnatural conduct. Upon this he turned round and said, it must have been amongst them.—Gentlemen, this affords decisive evidence, that the Prisoner in his own judgment, believed this young man has been poisoned by somebody: But I shall add a very strong piece of evidence indeed, to prove that the prisoner is quite satisfied in his own mind, that Sir Theodosius Boughton was poisoned, and that is the letter which he wrote to Mrs. Donellan. This letter I'll produce without feeling the least reluctance, because, it will be proved to you, the letter was sent unsealed, in order to be delivered to Mrs. Donellan. The man who carried it went to the Prisoner, and told him, Sir, you have not sealed this letter, do you mean that I should carry it open; yes, says he, I mean that you should, and I mean that it should be made public; and upon that the gentleman who carried it, opened it, and took a copy of it; which copy I shall produce, and give it in evidence. I think it is dated the 8th of September 1780, from Warwick.

Mr. Newnham. Does your Lordship desire the copy of the letter to be given in evidence?

Justice Buller. It will depend upon the manner it was to be laid before the court. They cannot produce a copy without other circumstances to introduce it.

Mr. Howarth. We have taken proper measures for that purpose. I shall be able to prove it.

Just. Buller. You must give the best evidence the nature of the case will admit.

Mr. Howarth. It was the 8th of September. “ I am
 “ now informed that Mr Harris's Clerk is here, and
 “ hope by this time that you have removed under the
 “ friendly roof I last recommended to you, and no
 “ longer remain where you are likely to undergo the
 “ fate of those that have gone already, by sudden
 “ means, which Providence will bring to light by and
 “ by.”

“ by. In my first letter to you from Rugby, 14th
 “ September last, I mentioned a removal; I had my
 “ reasons, which will appear in an honest light in March
 “ next, to the eternal confusion of an unnatural mother.”

Gentlemen, you will perceive the Prisoner is satisfied of the fact, that this young man has in truth been poisoned, but for the purpose of lifting it from his own shoulders, he dares to lay the charge where suspicion had never fallen before. The materiality of this evidence and letter, is only to prove, that in the opinion of the prisoner, this young man had in truth been poisoned; upon the whole of this case, justice calls aloud for punishment of the crime, and it remains only for you by your verdict to consign the criminal to that punishment, which, if guilty, he deserves.

Mr. Thomas Powell sworn.

Q. What profession are you?

A. I am an Apothecary.

Q. Where do you live?

A. At Rugby.

Q. Is that near Lawford-Hall, where Sir Theodosius Boughton resided?

A. About three miles.

Q. Have you for any time before the death of Sir Theodosius Boughton been employed as his Apothecary?

A. About two months before.

Q. Pray in what state of health was he when you was first employed for him?

A. He had got a Venereal complaint upon him.

Q. To what degree?

A. Not very high; a fresh complaint.

Q. Did you give him any medicines for that complaint?

A. I gave him cooling physic.

Q. For how long might you continue this?

- A. For about three weeks.
- Q. Did you then cease to give him any more ?
- A. Yes.
- Q. For how long ?
- A. More than a fortnight.
- Q. How came you afterwards to repeat the medicines ?
- A. He had a swelling in his shear.
- Q. To what degree did the disorder then arise ?
- A. A small wound, not further than the skin.
- Q. Did you give him more medicines ?
- A. Yes, two doses. One was Manna and Salts.
- Q. What was the other ?
- A. Rhubarb and Jallap.
- Q. Was any thing else given ?
- A. Nothing else. I gave him a wash to use.
- Q. When was it that you sent to him the last draught ?
- A. Upon the Tuesday.
- Q. What day of the month ?
- A. Upon the 29th of August.
- Q. How long was this after you had sent the former ?
- A. I sent the former on the Sunday.
- Q. Was that which you sent upon the Sunday and that which you sent upon the Tuesday the same ?
- A. Both alike.
- Q. By whom did you send them ?
- A. By Samuel Frost.
- Q. Pray how long, Sir, was it before you sent him this last draught ?
- A. Upon the Tuesday at noon.
- Q. In what state of health was Sir Theodosius Boughton ?
- A. In very good health and great spirits.
- Q. How long had you seen him before that ?
- A. I think upon the Sunday before, in the afternoon.
- Q. In what state of health did he then appear ?
- A. In a very good state of health.
- Q. Did you ask him how the first draught agreed with him.

A. He

A. He told me that which he had taken had disagreed with him.

Q. Then I will remind you, you saw him upon the Sunday, and you saw him again upon the Tuesday?

A. I did.

Q. You before told us that you sent this last draught you spoke of by Frost?

A. Yes.

Q. Have you got any one of the same kind?

A. Yes, Sir.

Q. Have you any one in your pocket?

A. Yes.

Q. Please to produce it?

[He produces a mixture.]

Q. Now, Sir, that draught which you have in your hand, was in a phial of the same size with that which you sent?

A. The same size.

Q. Was it composed of the same ingredients?

A. The very same ingredients.

Q. Let me ask what they are?

A. Rhubarb and Jallap, Lavender-water, Nutmeg-water, Syrup of Saffron, and simple water.

Q. You have another draught in your hand?

A. Yes, I have.

Q. What is that?

A. This is the same, except the water.

Q. The same quantity of Rhubarb and Jallap, and what is now added to that?

A. Laurel Water.

Q. Mr. Powell you told us before this was sent upon the Tuesday, and I think it was upon the Wednesday, was it not, that he died?

A. Upon the Wednesday morning.

Q. Was you then sent for to Lawford Hall?

A. Upon the Wednesday morning I was.

Q. At what time?

A. About

A. About eight or nine o'clock.

Q. What was the first time they came for you, the first time in the morning?

A. Between eight and nine o'clock the servant came.

Q. What was his name?

A. William Frost.

Q. Was it the same man you before sent the draught by?

A. No.

Q. What was his name?

A. Samuel Frost.

Q. What message did he bring to you, when he came from Lawford Hall?

A. He said Sir Theodosius Boughton was very ill, and desired I would come immediately.

Q. Now, pray Sir, what time of the day might it have been when you came there?

A. Nearly nine o'clock.

Q. About nine o'clock you got there?

A. As nearly as I can recollect.

Q. When you come there, did you go into the room where Sir Theodosius was?

A. Yes.

Q. Who did you find there?

A. Mr. Donellan went along with me, I met him in the court-yard.

Q. And he went along with you into the room?

A. Yes.

Q. Who was in the room besides you and Donellan?

A. Some maid servant, I cannot tell who it was.

Q. Who else was there?

A. Nobody.

Q. I should be glad then if you would tell us, was Lady Boughton there when you first came?

A. Not when I first came.

Q. Pray now, will you tell us in what situation you found Sir Theodosius?

A. I saw no distortion.

Q. What

Q. What did you see?

A. He was dead.

Q. How long had he been dead?

A. They told me he had been dead near an hour.

Q. Was Mr. Donellan there with you?

A. Yes.

Q. Will you tell us whether he asked you any questions, and what he said to you?

A. He asked me no questions at all.

Q. How long might you remain with him in the room?

A. I cannot tell, some little time.

Q. Did you say any thing to him, how he died?

A. I asked him how he died; he told me he died in convulsions.

Q. *Judge.* Who told you so?

A. Mr. Donellan.

Q. With respect now to the bottles that you had sent before, did you see any thing of them?

Q. He never mentioned them to me.

A. Were they in the room?

Q. No, Sir.

A. Had you any farther account than what you have now mentioned given you, of the manner of his death, by any body?

A. No other than that he died in convulsions.

Q. Now, do you remember any other conversation with Mr. Donellan about Sir Theodosius?

A. Nothing, but the discourse was, how he had taken cold.

Q. What was that?

A. The particular expression I don't know, the general expression was, he had taken cold, the words I cannot recollect.

Q. Mr. Powell, it is necessary those gentlemen of the faculty should hear you, as well as the Jury, therefore speak out?

A. I

A. I don't know the particular words he said to me, but it was to make me believe he had taken cold.

Q. Are you, Sir, acquainted with Mr. Donellan's manner of hand-writing?

A. Yes, Sir.

Q. Have you often seen him write?

A. Yes, I have seen him write.

[*Letters produced*]

Q. Do you believe those to be the hand-writing of the prisoner.

A. Yes, they are all of them his hand-writing.

Cross Examination.

Q. Will you describe to the faculty what the several ingredients were of the medicine you sent him?

A. There were fifteen grains of rhubarb, and fifteen grains of jalap, two drachms of nutmeg water, twenty drops of spirits of lavender, two drachms of simple syrup, and an ounce and a half of simple water.

Q. That is two ounces and four drachms?

A. Yes, except the twenty drops of lavender.

Q. You had given one of those draughts upon the Sunday?

A. Upon the Sunday.

Q. What was the effect of the quantity of medicine you gave him?

A. It purged him very well, and agreed with him very well.

Q. We wish to know how many stools he had, we must not mince the matter?

A. I cannot tell how many, it purged him very well.

Q. Did they make him sick at all?

A. Not at all, it agreed with him very well, that which made him sick before, he desired I would alter; that was the manna and salts, and I changed it.

Q. Upon the Saturday he was made sick by taking manna and salts?

A. Yes; I then made an alteration in them; I have the two letters in my pocket concerning these alterations.

Q. You

Q. You say Mr. Donellan told you Sir Theodosius died of convulsions, and that was all the conversation about it?

A. Yes, all.

Q. Did it not occur to you, as a physical man, to enquire when those convulsions commenced, and when he died?

A. It was soon after.

Q. What do you mean by soon after?

A. Soon after he had taken the draught.

Q. What idea have you of soon?

A. A quarter of an hour, or sooner.

Q. You are speaking before gentlemen of your own profession, do you know for certain?

A. I do not know.

Q. Did you enquire particularly?

A. I did not.

Q. Who did you see first?

A. Lady Boughton.

Q. Had you any conversation with her?

A. Yes, it was soon after he had taken it.

Q. Did not you enquire how soon he was convulsed?

A. He was convulsed almost immediately, I heard.

Lady Anna Maria Boughton sworn.

Examined by Mr. Howarth.

Q. Lady Boughton, what age was Sir Theodosius Boughton when he died?

A. He was twenty years of age upon the third of August last.

Q. What fortune would your son have been intitled to, upon his coming of age?

A. About two thousand a year.

Q. Upon the event of his dying before he came of age, what then would become of that fortune?

A. The greater part of his fortune would have descended to his sister, who married Captain Donellan.

Q. How long had Mr. Donellan resided in your family, Madam, at Lawford Hall.

A. I cannot exactly remember.

Q. About what time was it?

A. Sometime in the year 1778, about the month of June.

Q. How long had your son Sir Theodosius made part of your family at Lawford Hall, before his death?

A. A little before Michaelmas, in the year 1778.

Q. How long was it, according to your recollection, twelve months, or six, or nine months, that he made part of your family at Lawford Hall?

A. In the year 1778 he came from Mr. Jones's.

Q. Who was a kind of tutor to him?

A. Yes.

Q. He came to live with you as a part of your family, at Lawford Hall?

A. When he came from Eaton, he went for several weeks to Mr. Jones's, he came from Mr. Jones's about Michaelmas 1778.

Q. Have you at any time had conversation with the prisoner Mr. Donellan, respecting the state of your son's health, and about what time was that conversation held?

A. Several times before the deceased's death, Mr. Donellan mentioned to me when I wished him to go into the country, that I did not know what might happen in the family, and made several observations upon the bad state of his health.

Q. In what manner did he represent him to be affected? what were the expressions used by him, when he was talking of his bad health?

A. When I was talking about going to Bath, he said, don't think of leaving Lawford, something or other may happen before you come back, for he is in a very bad state of health. I thought he might mean something of his being very venturous in his going a hunting, or going into the water, which might occasion his death.

Q. Do you remember his going into Northamptonshire?

A. He

A. He expected a Mr. Fonnereau to come the latter end of the week, I believe Mr. Fonnereau did in fact come.

Q. At what time, how soon after his death?

A. Upon the Friday night, I believe, he came.

Q. Now, had you heard from Mr. Donellan any thing respecting the stay Sir Theodosius would probably make in Northamptonshire?

A. I don't recollect.

Q. Was his stay intended to be long or short?

A. Mr. Fonnereau's stay was to have been about a week, and then my son was to return to Mr. Fonnereau's, in Northamptonshire.

Q. You did not learn whether he proposed to stay a long or short time there?

A. He did not say how long.

Q. Now, Madam, Mr. Powell we have heard was the apothecary that attended him?

A. Yes.

Q. Do you recollect any bottle of medicine being sent by him on the Tuesday?

A. The servant had been sent twice on Tuesday for a bottle.

Q. Who did you hear it from?

A. Upon enquiring where the servant was, Mr. Donellan said, Sir Theodosius has sent him a second time for a bottle of stuff.

Q. It was known in the family Sir Theodosius was to take physic upon the next morning?

A. Yes.

Q. Does your Ladyship know whether Sir Theodosius used to take his physic when it was sent?

A. Some time before his death he kept it locked up in an inner room, and he had forgot to take one dose. Mr. Donellan said, why don't you set it in the outer room, then you will not so soon forget it.

Court. Q. Did he use the physic in the inner room that was locked ?

A. Yes.

Q. Do you know where it was afterwards kept ?

A. He put several bottles upon the mantle-piece in the outer room.

Q. Upon the evening of Tuesday the 29th, what became of Sir Theodosius ? where did he go ? I want to know whether he went a fishing upon the evening of the Tuesday, or what other amusement ?

A. He went a fishing.

Q. About what time in the evening ?

A. About six o'clock.

Q. Did you see him shortly before he went ?

A. I saw him about two o'clock.

Q. Do you know any thing about the servants being with him ?

A. The gardener and the coachman, and John the footman, were with him.

Q. Were any of the men servants left in the house ?

A. Yes ; Samuel Frost.

Q. He was the only one ?

A. Yes.

Q. What became of yourself and Mrs. Donellan ?

A. We went to take a walk in the garden.

Q. How long do you think you and Mrs. Donellan were out in the garden ?

A. Above an hour.

Q. When was it you had last seen Mr. Donellan before your walk in the garden, and where ?

A. To the best of my remembrance, I saw nothing of him after dinner.

Q. Do you remember whether he came into the garden to you and Mrs. Donellan, joined you in your walk, and about what time was it when he came ?

A. He

A. He came about eleven o'clock out of the house door, and told us Sir Theodosius, should have his phyfic.

Q. He told you, and Mrs. Donellan, Sir Theodosius should have his phyfic?

A. Yes; and he had been to see them a fishing, and he had endeavoured to persuade Sir Theodosius to come in, he was afraid lest he should take cold.

Q. What time, madam, do you recollect Sir Theodosius came home, about what time?

A. A little after nine o'clock.

Q. Was he then apparently in good health?

A. Pretty well.

Q. How did he dispose of himself till he went to bed, and what time did he go to bed?

A. He went to bed very soon after.

Q. Did he eat any supper?

A. Very little.

Q. Did he say any thing in his own room when he went up stairs?

A. As I was going up stairs, he called me into his room; he asked for his phyfic; I said, what do you want now? Says he, I want to know if you will send your servant with a net to-morrow morning early, as I expect Mr. Fonnereau here, I should wish to have my phyfic in time.

Q. He desired your permission to make use of your servant to go next morning with a net?

A. Yes; and desired I would come and give him his phyfic in the morning, that was the chief of it, and then he went to bed.

Q. At that time how did he appear as to his health?

A. He seemed very well.

Q. What time next morning did you see him?

A. About seven o'clock.

Q. Did you go into the room at that time?

A. Yes;

A. Yes ; he had desired me to call in as I went down in the morning to give him his physic ; and said, he had rather I should give it him than any body else.

Q. How did you find him at that time in the morning ?

A. He appeared to be very well.

Q. Now will you give the Jury an account, madam, of the physic that you gave him, and the manner of it, how you gave it him ?

A. I asked him where the bottle was ? he said, that it stood there upon the shelf. First of all he asked me to get a bit of cheese for him, in order to take the taste out of his mouth ; that I did. He desired me to read the label : I accordingly did, and found wrote upon it, “ Purging draught for Sir T. Boughton.”

Q. When you gave it him, did he make any, and what observation upon it ?

A. As I was talking to him, I had omitted shaking the bottle ; he observed that, and said, pour it in again, and shake the bottle, which I did ; and, in so doing, I spilt a little of it upon the table, the rest I gave him ; and as he was taking it, he observed it smelt and tasted very nauseous, and desired to have some water to wash his mouth, which he spit out part upon the table ; upon that I smelt it, and I observed it was very like the taste of bitter almonds ; says I, don't mind the taste of it, and he upon that drank the whole of it up.

Q. Will you be kind enough to open that bottle and smell at it, [*presenting a bottle to her Ladyship, in which was contained some rhubarb and jallap mixed*] and see whether you are able to tell whether that smell is at all like the medicine that he took ?

A. No, it is not.

Q. Will you open this, and smell to it (*presenting her Ladyship with another mixture, in which was some laurel water.*)

Lady Boughton. This is a smell very like that smell.

Q. Of

Q. Of the medicine which you gave him ?

A. Yes.

Q. When he had taken the medicine, what was the first observation that your Ladyship made ? You have already said you gave him cheese and water ?

A. Yes ; the cheese he chewed and spit out, and I asked him if he would have some water to wash his mouth ? he said, yes, and I gave him some water ; he then remarked, he thought he should not be able to keep the stuff upon his stomach ; he then asked to have some water, washed his mouth with it, and spit it out, and after that he laid down again.

Q. How did he appear then ?

A. In two minutes, or less, he seemed so ill, and looked as if he was going into convulsions, and he struggled very much, as it seemed to me, to keep it down.

Q. He struggled very much, as it seemed to you, to keep it down ?

A. Yes ; and made a prodigious rattling in his throat and stomach, and a guggling, and seemed to me to make very great efforts to keep it down.

Court. Q. How did he make a rattling ?

A. A guggling in his throat, and a noise in his stomach, as if it would come up again.

Q. How long did you observe those symptoms continue upon him ?

A. About ten minutes ; he then seemed as if he was going to sleep, and inclined to doze : I staid a little, and perceiving him more composed, I then went out to compleat my dress, and put on my things ; and, I think, in about five minutes afterwards, I returned into the room, and found his eyes fixed upwards, his teeth clenched, and the froth running out at each corner of his mouth.

Q. What did your Ladyship do upon that ?

A. I run down stairs ; I called out to the servant ; I thought it was a mistake ; I bid him take the first horse

horse that he could, and go to Mr. Powell, and bid him to come ; says he, the Captain has got the horse ; I bid him go after him, and to go to Mr. Powell.

Q. You ordered him to go immediately for Mr. Powell ?

A. Yes.

Q. Was any body else sent for ?

A. No, sir.

Q. Where did you first see Mr. Donellan ?

A. I sent immediately to tell him to come up to me.

Q. How long after was it before you saw Mr. Donellan ?

A. Not five minutes.

Q. Where did he come to ?

A. He came to my son's bed-chamber, where he then lay in the situation I described. He said, what do you want ? I said, want ! Here is a terrible affair ! I have been giving my son something that was wrong, instead of what the apothecary should have sent ; I said it was an unaccountable thing in the Doctor to have sent such a medicine, for if it had been taken by a dog, it would have killed him.

Q. What answer was made to that ?

A. He was struck.—He asked where the physic bottle was ; I told him it stood there upon the mantle-piece, or the shelf.—Says he, is this it ? yes, says I. He took it, and held it up, and poured some water into it. He shook it, and emptied it out into some water that stood in a basin just by.

Q. Where did he throw it ?

A. Into the dirty water in the wash hand basin.

Q. Did you, upon that conduct, make any observation, or say any thing to him about it, and what was it ?

A. I said, good God, what are you about ! After he had put it into the basin of dirty water, I then observed he ought not to do it. I said, you should not have meddled

meddled with the bottle. Without making any answer, he snatched up the other bottle, and put water into that, and he put his finger to it to taste it; I said, what are you about, you ought not to meddle with the bottle; he put his finger to it, and, he said, he did it to taste it.

Q. Had he tasted the first bottle?

A. No.

Q. Did your Ladyship make any other observation upon that subject?

A. I went away upon some other occasions.

Q. What was done by Mr. Donellan that caused your attention? Did any of the servants come up in the room?

A. Yes.

Q. Name the servant that came up in the room?

A. Sarah Blundell, and Catharine Amos.

Q. What is become of Sarah Blundell?

A. She is dead.

Q. Now upon their coming up, was there any thing said, or done, by Mr. Donellan, that called your attention to it?

A. Mr. Donellan desired Sarah Blundell to take away the physic bottles, and the basin, and carry them all away; and he put the bottles into her hand.

Q. What said your Ladyship to that?

A. I took them out of her hand and set them down, and bid her let them alone.

Q. Did you assign any reason why they should be left there, and for what purpose?

A. No, I did not.

Q. What was done upon that?

A. He desired she would take away the cloaths and things, and that the room might be cleaned, and the cloaths thrown into another room. I opened the door of the room; as soon as my back was turned, Mr. Donellan put the things into her hand again, and bid her

take them down, and was angry she did not take them at first.

Court. Did you see the bottles put into her hand again?

A. My back was towards her.

Q. Did you see them in her hand, and taken out of the room by her?

A. I did.

Q. Did you hear any orders given?

A. I did not.

Q. All you know is, in fact, they were taken out of the room?

A. Yes.

Q. Who were the persons that took them out of the room?

A. I don't know.

Q. How soon did you find it out, what had been done?

A. I did not observe it directly.

Q. How soon, a minute, or two, or three, before you observed those things had been removed?

A. I cannot say the time.

Q. Can you say whether, during the time you were in the room, you discovered the bottles were gone? Did you, before you left the room yourself, discover the bottles were gone?

A. No; I did not.

Q. Now at the time of his washing the bottles, and speaking of moving of the cloaths, was Sir Theodosius at that time dead?

A. He was not quite dead.

Q. Describe the situation in which he lay at that time?

A. He was nearly dead; one of the maids was wiping the froth from his mouth, and his stomach at that time was heaving, and shortly after he was dead.

Q. In the course of that morning, do you remember to have said any thing to Mr. Donellan, or he to you, as to the suspicions entertained of this medicine which he had taken?

A. Some

A. Some time afterwards I was down in the parlour, Mr. Donellan and my daughter were there—he told his wife, I had been pleased to take notice of his washing the bottles out, and did not know what he should have done, if he had not thought of putting in the water, and putting his finger to it to taste.

Q. What passed further upon that?

A. I then turned to the window from him, and made no answer to him; upon which he repeated the same.

Q. What happened then?

A. As I made no answer, he then desired his wife to ring the bell, to call up the servant, which she did; when he came, he bid him send in Will, the coachman.

Q. Did the coachman come upon that?

A. Yes, Sir.

Q. Now give an account to the Jury what passed between him and the coachman.

A. When he came, he said to him, Will, don't you remember my going out this morning, that I went through the garden and out of the iron gate, about seven o'clock? He said, yes, Sir. Says he, you remember that, don't you? He said, yes. He said, that was the first time of his going out, he had never been on the other side of the house that morning. He said again, do you remember my setting out at seven o'clock this morning? He said, yes. Then, said he, you are my evidence—and, says he, I have never been on the other side of the house—this morning, you remember, Will, I came out of the iron gate, and asked for a horse to go to Newnham Wells; upon which the man said, yes, Sir. Then he said, you are my evidence; and the man said, yes, Sir. On the Tuesday I had asked him to go to the Wells, and he agreed to go as the next morning; and when I was going to my son's room, Mr. Donellan asked if I was ready to go to the Wells, and I told him no; he went away without me, as I thought, to the Wells.

Q. Did he make any other observation at the time, that called your attention to it?

A. No, no particular observation.

Q. Do you remember his receiving a letter from Sir William Wheeler upon any occasion, and when; the first letter he received from Sir William Wheeler?

A. He said he had received a letter from Sir William Wheeler.

Q. Do you remember being shewn an answer to that letter?

A. Yes, Sir.

Q. Who shewed it you?

A. Mr. Donellan.

Q. Do you recollect having made any observation upon that letter to Mr. Donellan; I mean the letter after Dr. Rattray and Mr. Wilmer had been there?

A. Yes, Sir, I remember his reading the letter, and he said he would send it. I said I did not think it was right, I thought it would be to no purpose; I said it was unnecessary to send that letter.

Q. Did you assign any reason why the letter would be objected to, and why it would be of no use?

A. No, Sir.

Q. You did not mention it would be unnecessary to send such a letter?

A. I said he had better let it alone, and not send such a letter; and he said it was highly necessary.

Q. You did not assign your reasons to him?

A. No.

Q. He said it was necessary to send the answer, and he did?

A. Yes.

Q. Do you recollect what day Sir Theodosius was buried?

A. He died upon the Wednesday morning, and was buried upon the next Wednesday.

Q. Do

Q. Do you remember afterwards attending before the Coroner and his jury, in order to be examined?

A. Yes.

Q. Was Mr. Donellan present at that examination?

A. Yes, he was.

Q. Did you state, and give to the jury the same account you have done to-day?

A. Yes, Sir.

Q. Did you mention to the jury your account of the circumstance of washing the bottle.

A. Yes, Sir.

Q. When you returned home to Lawford Hall, had you any conversation with Mr. Donellan respecting that circumstance?

A. Yes, Sir; he said I had no occasion to mention washing the bottles, if they did not ask the question.

Q. He said, before his wife, to you, you had no occasion to have told of the circumstance of my washing the bottles; he said you are only to answer the questions that are put to you?

A. Yes.

Q. Upon the morning of the death of your son, did Mr. Donellan endeavour to account to you, by any means, in any way, for the death of Sir Theodosius?

A. When the things were removing away in order to be put in an inner room, he said to the maid, take his stockings, they have been wet, he has caught cold to be sure, and that might have occasioned his death: upon that I examined them, and there was no mark or appearance of their having been wet.

Q. Now, I presume you, and Sir Theodosius and Mr. Donellan, and the rest of the family, dined at the same table together?

A. Yes.

Q. For some months before the death of Sir Theodosius, had there been any attention in you or any other part

part of the family, not to eat off the same dish that Sir Theodosius eat of?

A. I cannot say that there was.

Q. Do you recollect any such circumstance drawing your attention?

A. We eat off the same dishes.

Q. Was there any fear entertained by you or any body else, of the danger of eating of what he eat?

A. Mr. Donellan recommended me not to drink out of the cup with him, because he was affected with the venereal disorder, and not to touch the bread he eat, that his hands might be dirty, as he made use of arsenic, but no attention was paid to that afterwards.

Q. But no such attention was paid to it afterwards by any body?

A. No, Sir.

Cross-Examination.

Q. When was it your Ladyship and Sir Theodosius Boughton went to Bath?

A. The first of November 1778.

Q. When was it you learnt from Mr. Donellan that your son was in a bad state of health, how long before his death?

A. In August, some little time.

Q. About what time, six months, or twelve months, or two years?

A. About three weeks or a month before his death.

Q. That was only after hearing of the present complaint?

A. Yes.

Q. Before that, Mr. Donellan often expressed to you that Sir Theodosius was in a bad state of health?

A. Yes.

A. Yes.

Q. For a long time before ?

A. Yes, that he was in a bad way, and he desired me not to go, for something or other might happen to him.

Court. Q. How long ago was that when he said something might happen to him ?

A. About a fortnight or three weeks before Sir Theodosius died,

Q. Had not you yourself apprized Mr. Donellan and his Lady, that he was in a bad state of health ?

A. I had told them of it.

Q. Was not your Ladyship the person who informed Mr. Donellan of his ill state of health ?

A. I had said he had been ill at different times, that he had a particular disorder.

Q. I ask you, if your Ladyship had not written to Bath in 1777 and 1778, that his fine complexion was gone, and he was in a very bad way ?

A. I said I was afraid he was in a bad way, and that his complexion was altered.

Q. I put these words. Did you write his fine complexion was gone ?

A. Yes, I did.

Q. You went to Bath, at what time was it ?

A. The first of November, 1778.

Q. Having previously informed them he was in a bad state of health ?

A. Yes.

Q. When you went to Bath, Sir Theodosius went with you ?

A. Yes.

Q. Pray, Madam, so you recollect a quarrel that happened between Sir Theodosius and a gentleman at Bath ?

A. Yes,

A. Yes, Sir, some gentlemen and Mr. Donellan interfered, to prevent any thing happening.

Q. Does not your Ladyship recollect a quarrel that Sir Theodosius had at Rugby?

A. Yes, Sir,

Q. Who was sent for upon that occasion?

A. Mr. Donellan.

Q. Did not your Ladyship go to Mr. Donellan's room door, and press him to go over immediately?

A. I went to him?

Q. Did not you put the letter under the door?

A. I wished to have the letter put under the door; I called the servant up, it was directed to Mr. Donellan. That letter expressed a desire, that Mr. Donellan should go to Rugby, upon account of a quarrel that my son had had with a gentleman there.

Q. Did Mr. Donellan interfere to prevent any mischief that might have happened there?

A. He told me he did.

Q. Did he not quarrel with another gentleman at Daventree?

A. Yes.

Q. It was with a Mr. Willets?

A. Yes.

Q. Was there not a quarrel with Mr. Chartres?

A. Yes.

Q. Both at the same time?

A. Yes.

Q. Don't you recollect your son telling you, that he went up the church at Newbold, and tumbled from the weather-cock, and had it not been for Mr. Donellan, who caught him in his arms, he must have broke his neck?

A. He told me that he went up to the top of the castle.

Q.

Q. Did not you return home together in the Coach. Did not he mention it in the coach?

A. He did not mention it to me.

Q. Did not he mention he had gone up to the top of a church, and had fallen down in going up to the weather-cock?

A. No.

Q. What time in the morning was it your ladyship rose on the 30th of August?

A. About six or half after six, I believe.

Q. The day before you say Sir Theodosius had been out fishing?

A. Yes.

Q. What time did he return?

A. A little after nine o'clock.

Q. Did not you enquire the reason about his being out so late?

A. Yes. I began to be uneasy, and I sent my servant to him. I said go and tell him I want to speak with him.

Q. Do you recollect whether his being out so late might or not affect him?

A. No. I did not perceive it.

Q. Do you recollect whether Mr. Donellan was or not gone to bed before Sir Theodosius returned?

A. I believe he was.

Q. Was your ladyship and Mr. Donellan to ride out the next morning?

A. Yes we were, as I passed by the window and looked into the little court, I heard Mr. Donellan call out, is your ladyship ready to ride out? I said I am not ready; I shall be ready in about a quarter of an hour, I am going to put my things on. He then walked out, and said he would go to Newnham wells.

Q. That was after you left your son's room.

A. Yes.

Q. Will you tell me how it happened, that after your son had given symptoms of these convulsive appearances he did, and frightened your ladyship so much, you did not disclose at that time to Mr. Donnellan, you was in that condition you could not ride?

A. I thought I might think wrong, I thought he might go out of the convulsions, and as he was going to doze, and that it was nothing but the violent efforts to keep down the medicine, which occasioned such illness.

Q. Was it less than two minutes after he took the medicine, these appearances came upon him?

A. It was almost immediately.

Q. Did your ladyship give him some physic upon the Monday?

A. No. I did not.

Q. Had that been given?

A. No.

Q. Now and then you did give him his physic?

A. Yes.

Q. Do you recollect his saying it had a very nauseous taste?

A. Yes, an ugly taste and an ugly smell

Q. Nauseous was the expression you made use of before?

(No answer.)

Q. Now, Madam, your Ladyship was pleased to say, you always gave this account when you was formerly examined?

A. Yes, Sir.

Q. Do you recollect ever mentioning when you was examined before the Coroner this fact, that Mr. Donnellan said, that I should not have known what I should have done, if I had not thought of saying, that I put my finger in to taste?

A. I

A. I mentioned that when I was examined before the Coroner.

Q. You did mention this before the Coroner?

A. Yes, I did. When I told him, Captain Donellan turned about and said, I did it to put my finger into taste; that he said himself.

Q. I am asking what your Ladyship said and swore? Go on with your answer, madam.

A. My answer was, I said when I told him of his washing the bottles, he said that he did it to put his finger to it. I asked why he did it. He said he did it to put his finger to it to taste, he mentioned this before the Coroner.

Q. I asked whether you declared before the Coroner, that Mr. Donellan told Mrs. Donellan in your hearing, that if he had not thought of saying that he did it to put his finger into taste, he should not know what to have done. Did you mention that before the Coroner?

A. Yes, Sir.

Q. And swore to it?

A. Yes,

Q. I imagine you was examined a second time, was it upon the first or second examination?

A. I think it was the second.

Q. Was your first examination read over to you at your second examination?

A. Yes,

Q. I wish to put your Ladyship in mind whether upon your second examination before the Coroner, you do not recollect this circumstance, after you had two or three days to recollect all the circumstances. Did you mention this, that he said he did it to taste it?

A. He said he did it to taste it.

Q. I

Q. I understood your Ladyship to say, he told you he did it to taste it?

A. Yes.

Q. But your examination was read respecting the conversation you had in the parlour?

A. Yes.

Q. Did you mention the circumstance of the Coachman being sent for into the parlour, and his asking him about going to Newnham Wells, and then saying now you are my evidence. Was that mentioned by your Ladyship?

A. I believe it was. But whether I mentioned it before the Coroner the first time or second, I do not know.

Q. I ask if any conversation passed between Mr. Donellan and your Ladyship, between the time of his repeating the expression you have so often mentioned, and his sending for the Coachman?

A. There was. He mentioned it as I tell you, and because I did not make any answer the second time, he sent for the Coachman.

Q. You said something about Mr. Donellan's mare, one of your servants informed you Mr. Donellan had it; in point of fact, Did not he go for Mr. Donellan's mare to fetch Mr. Powell?

A. That I cannot say.

Q. You have said Mr. Donellan a second time put the bottles in the hands of Sarah Blundell. Was that circumstance disclosed in evidence before the Coroner?

(That question was objected to by the Counsel and the Judge.)

Mr. Newnham. I should not have asked that question upon the subject, if something had not dropt respecting his hands being dirty in poisoning of fish.

Lady

Lady Boughton. Mr. Donellan said his hands might be dirty, having used poison for fish or something of that sort.

Q. I ask your Ladyship whether you do not know he accused himself with poisoning of fish, and laying poison about for rats?

A. Yes.

Q. Do you know where he put or kept those things?

A. I do not know every place, he put them in some places.

Q. Those things he used to amuse himself, were arsenic, I will not mince. Do you know of a large quantity he sent for?

A. Yes.

Q. He sent for a pound of arsenic?

A. Yes.

Q. Where did he keep it?

A. In a closet.

Q. And there it was kept usually locked up?

A. Yes. It was mostly locked up.

Examination in reply.

Q. You have been asked as to some particular instances of friendship, shewn by Captain Donellan to your son Sir Theodosius. What was his general behaviour to Sir Theodosius, for some months before he died; whether he treated him with respect and friendship, or tenderness, or otherwise?

A. About a fortnight before my son's death, I heard of something.

Q. I ask as to your own knowledge, whether you have had any occasion to observe any?

A. Only what I have heard my Son say.

Court. Q. Have you heard your Son say any thing about it at times?

A. My

A. My Son and he used to be angry with each other at times.

Q. You observed they did not live in terms of friendship together?

A. No.

Court. Q. Not in general?

A. No.

Mr. Newnham. Q. I apprehend they were those sort of words that happen in all families, more or less?

A. Yes, Sir.

Q. When you went down in the parlour, who did you find there?

A. As I came down in the parlour Mr. and Mrs. Donellan were both there.

Q. How long had he been gone before you went into the parlour?

A. Not long.

Q. Was what he said to his wife, that you had been pleased to take notice of his washing out the bottles, spoken in any passion or resentment, or in what manner?

A. Rather in a way of resentment.

Q. Was there any conversation between you and the prisoner, saying she was pleased to take notice of his washing out the bottles?

A. Not that I recollect. No, I don't recollect any conversation in particular.

CATHERINE AMOS, Sworn.

Q. Did you live at Lawford at the time of the death of Sir Theodosius Boughton?

A. Yes, I was there a little before his death about five months.

Q. Did you live there at that time?

A. Yes.

A. Yes.

Q. In what capacity was you ?

A. I was Cook.

Q. Was you sent for by Lady Boughton to come into his chamber ?

A. I was called there by Lady Boughton's maid.

Court Q. What was her name ?

A. Sarah Blundell. She is since dead.

Counsel Q. In what place was you desired to stand ?

A. I was called to stand by Sir Theodosius. I stood by Sir Theodosius, and wiped the froth from his mouth.

Q. When you came into that room where Sir Theodosius was, in what condition was he ?

A. He never stirred hand nor foot, but frothed at the mouth ; and I wiped the froth three or four times.

Q. Was his body motionless ?

A. His stomach heaved very much.

Q. Was there any noise ?

A. He guggled at the throat.

Q. You know of no other circumstances ?

A. No, Sir.

Q. Where did you go from thence ?

A. About my work, for my work lay below stairs.

Q. How long was it before you saw Mr. Donellan ?

A. It might be about a quarter of an hour or more.

Q. Where did you see him ?

A. In the passage, near the kitchen.

Q. Did he say any thing to you ?

A. He said to me it was very silly, that Sir Theodosius was out very late the over night fishing.

Quest.

Q. Go on and repeat the particular words, Mr. Donellan made use of to you.

A. Mr. Donellan said when he came home from Newbold, there was nothing at all the matter, but a blood vessel was broke.

Q. At this time when you saw him in the passage, what did he say?

A. He said it was very silly Sir Theodosius's being out so late, upon taking such physic as he had been taking before that time.

Q. Did he say that he had been fishing?

A. He said it was very silly to be out so late a fishing.

Q. Did he give any other reason why it was so silly to be so late out a fishing?

A. No Sir.

Q. Did he say any thing more at time?

A. I don't remember he did.

Q. Did you see Mr. Donellan the day that the body was opened?

A. Yes, I saw him that day.

Q. What did Mr. Donellan say at that time?

A. He said there was nothing at all the matter but a blood vessel broken, that was the cause of Sir Theodosius's death.

Q. Did he say it was nothing but a blood vessel broke?

A. Nothing at all the matter but a blood vessel broke.

Q. Did Mr. Donellan bring any thing to you at or about the time of Sir Theodosius's death?

A. No, Sir.

Q. About the time that Sir Theodosius died or some time before his death, did he never apply to you and bring you any thing?

A. No nothing.

Quest.

Q. For no purpose ?

A. No.

Q. Did he desire you to put any thing into an oven ?

(Counsel for the Prisoner objected to that question.)

The Counsel then put the following question. Was there any thing brought to you, by Mr. Donellan, about a month before or about three weeks before the death of Sir Theodosius Boughton ?

A. No.

Court Q. To Lady Boughton. Did Sir Theodosius speak after he had taken the medicine and lain down ?

A. No, Sir, Nothing articulate after he had lain down.

Counsel Q. To Catherine Amos. What was your Business at lady Boughton's ?

A. I was cook maid.

Q. Was the oven under your direction ?

A. Yes, Sir.

Q. Was there any brought to you ?

A. Yes, Sir, the Captain's still.

Q. Who brought that ?

A. The Captain brought it.

Q. When did he bring it ?

A. Some time after Sir Theodosius's death.

Q. How long after his death ?

A. To the best of my remembrance it might be a fortnight, but I cannot say justly.

Q. What was there in it when he brought it ?

A. There was nothing at all in it. It had been washed and was dry.

Q. What did he desire you to do with it ?

A. Only to put it into the oven and dry it that it might not rust.

Q. What did you say to that?

A. I said if I put it in then it would unfold it, because it was tin.

No Cross Examination.

The Rev. PIERS NEWSAM, Sworn.

Q. Did you see Captain Donellan about the time of the death of Sir Theodosius Boughton?

A. Upon the Saturday preceding his death.

Q. Where did you see him?

A. At Lawford Hall.

Q. Had you any conversation with him?

A. I had.

Q. Will you be so good to relate to the court what that conversation was?

A. He informed me that Sir Theodosius Boughton was in a very ill state of health, that he had never got rid of the disorder he had brought with him from school, and had been continually adding to it, that he had made such frequent use of mercury outwardly that his blood was a mass of mercury and corruption; that he had at that time a violent swelling in the groin, which they were endeavouring to bring to a head; that Sir Theodosius was so obstinate that he would not attend to it, nor take the medicines, but said he was well enough; that they were fearful it would turn into his blood, for it was at that time at the crisis; and said he had frequent swellings in his throat, that his breath was so offensive he could hardly bear to sit at table with him, that at intervals his intellects were so much affected nobody knew what it was to live with him; my answer to him was, if that was the case I did not apprehend his life was worth two years purchase, he reply'd not one; I asked him what advice he had, he told me he was a patient of Mr. Powell, apothecary of Rugby, and that he was attended by him,
cary

and that his medicines was principally made up by some prescriptions, which he had from Mr. Kerr, who had him under his care while he was at Mr. Jones's.

Q. Was that all the conversation that passed ?

A. Not all. He said at the time he was at Mr. Jones's school, that lady Boughton had helped him to a book called the Family Physician, which he was very fond of consulting.

Q. I would ask you, if you are well acquainted with this family ?

A. Very well.

Q. Perhaps you can tell us what was the actual state of health of Sir Theodosius Boughton at that time ?

A. From his appearance nothing at all uncommon, he looked like a man to all appearance in health, but he did not look so florid in his countenance as formerly.

Q. Had you any knowledge of his countenance ?

A. Sir Theodosius did suppose he was out of order ; but as to his appearance he looked very well.

Q. You know the family very well, according to your observation do you know upon what sort of terms, Captain Donellan and Sir The. Boughton lived for sometime preceding the death of Sir Theodosius.

A. That I cannot speak to, for the four last months before this I had been absent at my other living which I have besides this ; upon Saturday preceding his death the 26th day of August, this conversation passed.

Cross Examination.

Q. Sir Theodosius I believe, (the Prisoner told you) had been under the care of Mr. Kerr ?

A. I believe he did.

Q. He is an eminent surgeon at Northampton ?

A. Yes.

Q. He told you that Mr. Powel had given out his medicines by the prescription at that time of Mr. Kerr.

A. Yes, at the time he was at Mr. Jones's.

Q. Had you any letter sent you by Mr. Donellan ?

A. I had.—It is in court.

Q. Have you got it about you ?

A. I have not, it was demanded of me some time ago.

Q. When was the date of that letter ?

A. I cannot recollect the date, I received it the day that the Jury was sitting at Newbold, I believe the first time.

Q. When the body was to be opened ?

A. Yes, upon the morning of that day.

Mr. KERR, Sworn.

Q. I understand you are a surgeon, and live at Northampton ?

A. Yes, Sir.

Q. Do you recollect having attended Sir Theodosius Boughton when he was at Mr. Jones's ?

A. I do, Sir.

Q. Was the disorder for which you attended him at that time compleatly cured, or not ?

A. I saw no disorder; there was a small wart upon the head of the glans, I did not consider that as any complaint.

Q. You found nothing that you can call a complaint ?

A. I will tell you what the appearance was: there was a small wart upon the prepuce. It was so slight, I did not consider it as venereal.

Q. Was

Q. Was the state of his body such as seemed necessary to you to give him the prescription he was to follow, or take notice of for the cure of a venereal complaint?

A. No.—Except I gave him a prescription for a lotion.

Q. When he went from under your care, you considered him as by no means disordered by any venereal complaint?

A. I considered him as having no venereal complaint.

Mr. Newnham. Q. Is not a lotion a medicine?

A. Certainly.

Dr. DAVID RATTRAY, Sworn.

Q. You are a physician at Coventry?

A. I am.

Q. Do you remember receiving any message from any body, and from whom, to come to Lawford-hall?

A. Upon the 4th of September in the afternoon, I received an anonymous note; I mean a note was sent by some person, desiring me to go to Lawford-hall, in order to examine the body of Sir Theodosius Boughton.

Q. Have you got that note?

A. No, Sir, I have not; I did not think it of any moment, and I have not preserved it.

Q. You had notice to produce it?

A. I gave an answer at the same time that I had not got it.—The note imported likewise, that I was to bring Dr. Wilmer with me. Mr. Wilmer happened to be out of town that afternoon; but

but as soon as I could find him, and he came to Coventry, we went to Lawford-hall together,

Q. What time in the evening?

A. As to the exact time I cannot pretend to say, it was growing dark when we arrived there.

Q. When you arrived there, did you or not find Captain Donnellan?

A. The first object that I saw was Captain Donnellan with a candle in his hand; he was the first person that received us in the hall, I think.

Q. What passed between Captain Donnellan and you upon your coming there?

A. As Captain Donnellan lighted me into the parlour, he said, have you heard from, or seen Sir William Wheler; I said I had not. I believe he afterwards added, I rather expect Sir William Wheler will be here; if he does not come, I shall hear from him.

2. He said that he expected Sir William Wheler would be there, or he should hear from him.

A. Yes, either the one or the other.

Q. Did he say any thing further?

A. We were asked to take a drop of what they had in the house, by way of refreshment, and the coffin in the mean time was ordered to be unfolded, and we begged as soon as it was done, we might know. As soon as they came and informed us the coffin was opened, we went to see the corpse.

Q. But before you went to see the corpse, and the coffin was unfolded, was any letter shewn you, or not, by Captain Donnellan?

A. A letter I saw, Sir.

Q. From

Q. From whom did the letter come?

A. From Sir William Wheler, in answer, as I understood, to a message which Captain Donellan had sent requesting Sir William Wheler to come and see the body opened.

Q. Was that shewn you by the prisoner?

A. When I came down, Mr. Powel, the apothecary, stood by a great table, reading the letter. Captain Donellan, I saw, turned up the letter to see the direction.

Q. Do you remember whether he read it so that you heard the contents of it?

A. I heard part of it.

Q. Look and see whether that was the letter?

(A letter shewn him.)

A. I pretty well remember what part I heard; it was that part of the letter in which Sir William Wheler excused himself from coming to Lawford-hall, saying he conceived nobody was proper to be there, but the surgeon and physician that was sent for.

Q. Naming nobody's name?

A. No name was mentioned, only surgeon and physician.

Q. Did Captain Donellan at that time speak of any other letter?

A. He searched in his waistcoat pocket for a letter, but instead of that he pulled out a cover, which, according to the slight glance I had of it, was Sir William Wheler's hand-writing; but any other letter I cannot speak of.

(Another letter shewn him.)

Q. Now can you tell whether that was the letter Captain Donellan shewed you?

A. Here are the very words I just now mentioned, I glanced my eye over it.

Q. In

Q. In consequence of having seen that letter, what did you and Mr. Wilmer proceed to do?

A. Immediately after some little conversation about that letter, Captain Donellan, I think, said Sir William Wheler was extremely polite.—That his letters were extremely polite.—That the letter he first received was much of the same nature as the last, very polite. At the bottom of the stairs, he said, Gentlemen, you will excuse me, or something to that effect; upon that we walked up stairs. Mr. Wilmer went up first, and expressed some surprize at first at the smell, and said, Good God! what a stench here is at the door; upon which I immediately entered, and saw the body for the first time.

Q. Did you use any expressions of any sort at the time of seeing the body to Captain Donellan, as to the time of being sent for, or to any other effect respecting the occasion of your being there?

A. After I went into the room, I looked at the body several times, and spoke to Mr. Wilmer, he seemed to think it would answer no purpose in being opened at that time, and he asked Captain Donellan for what purpose he wished it to be opened?—he said, for the satisfaction of the family.—We thought at so late a period, nothing could be discovered.

Q. Captain Donellan said the purpose of your opening the body was for the satisfaction of the family?

A. Yes. He told us so before Mr. Wilmer and I went up, I think he repeated that to me.

Q. Did he speak of any other purpose for which the body was to be opened, except the satisfaction of the family?

A. No, Sir, not to me.

Q. Do

Q. Do you remember at that time whether he intimated to you any suspicion of poison?

A. No, Sir, none.

Q. Nothing of that sort?

A. No.

Q. Did he intimate that to you, or not?

A. No, he did not.

Q. In consequence of this, you did not in fact open the body?

A. We did not open the body.

Q. Now, how soon after this was it you was sent for upon this melancholy occasion?

A. Upon the 9th of September, upon Saturday the 9th, I am positive.

Q. From whom did you receive the message at that time?

A. I really do not know, I went in consequence of the message I received upon the 9th.

Q. Inform the Gentlemen of the Jury what passed at that time; who did you meet there on the 9th?

A. Mr. Wilmer and I went in company, we met Mr. Bucknall and Mr. Powell of Rugby, and Mr. Snow of Southam, I think those were all the people.—Mr. Bucknall opened the body.

Q. Where did you meet at that time?

A. That was in the church-yard at Newbold.

Q. The body had been interred then?

A. The body had been in the vault, as I understood.

Q. When you came there, inform the Gentlemen of the Jury what passed at that time?

A. We proceeded to the opening of the body as soon as we conveniently could, and inspected, as far as we were able, the appearances of the body

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Q. Now

Q. Now will you be so good to inform my Lord and the Jury, what were the material appearances that struck you at that time?

A. The material appearances in the first place were, the body appeared much swoln or distended a great deal, the face almost a round figure, extremely black, with the lips swelled and retracted, the teeth black, excepting a small white speck, upon one of the fore teeth, the tongue protruding beyond the front-teeth, and turned upwards towards the nose, the lips retracted and shewing the gum, the tongue obtruding beyond the teeth, and turned upwards towards the nose, the blackness descended on the throat gradually diminishing as it got towards the breast, and the body was spotted in many parts; there were other appearances, there was another circumstance, which in decency I thought proper not to mention, if it is not material.

Q. It is not material.—Now, Dr. Rattray, I did not mean you to give a general account of all the appearances that struck your eye upon seeing the body, but to confine you merely to such appearances as are material.—Tell me, if there were any that was material so as to confirm the opinion you will by and by give upon the subject.

A. We proceeded to open the body, and dissecting the skin, the fat appeared in a dissolving state to water upon getting into the cavity of the belly, the bowels in the lower belly seemed to put on the appearance of inflammation. I chuse to make use of general terms to convey an idea of the colour of it; I make use of vulgar terms in order to convey an idea things in that state generally put on; it was so at the orifice of the stomach, and at the smaller arch of the stomach; upon opening the chest, the heart appeared, upon opening the membrane that encloses the pericardium

dium, to be in a natural state; the lungs appeared what I call suffused with blood, looking red, spotted in many places with black specks; and upon the back part, the blood was settled of a purplish, or a deep red, approaching to a purple colour.

Q. That was the appearance across the back part?

A. Yes.—I am speaking of the body as it lay, the blood was settled of a deep red or a purplish colour; the diaphragma was in the same state, and in general upon the depending surfaces of the body, the blood was settled in like manner; the kidneys appeared black, and like burnt tinder, and the liver much in the same state, and small. These are most of the appearances I need mention.

Q. Now to have done with these appearances for a moment, you have heard the evidence of Mr. Powell?

A. I have.

Q. You have heard likewise the evidence of Lady Boughton?

A. I have.

Q. Now upon the evidence of Lady Boughton and Mr. Powell, independent of the appearances, I would have you forget them for the present. Upon the evidence of Mr. Powell and Lady Boughton, tell me what was the occasion in your judgment of Sir Theodosius Boughton's death?

A. Independent do you desire me to say of the appearances of the body?

Q. I do.

A. Independent of those appearances of the body, I am of opinion, that draught, in consequence of the symptoms which followed the swallowing of it, as described by Lady Boughton, was poison, and the immediate cause of his death.

Q. Now, Sir, be so good as to smell on that bottle, and tell me what in your judgment the mixture is, that is infused into that bottle, the noxious matter ?

A. The mixture in this bottle, I know well is Laurel Water. A distillation of Laurel Leaves, commonly called Laurel Water.

Q. Now being killed in phyfic, you have heard Mr. Powell's account of the mixture, that he meant Sir Theodosius to have taken ?

A. Yes.

Q. Tell me whether in your judgment, if he had taken the mixture Mr. Powell had prepared for him, it was an innocent and a proper mixture.

A. In my opinion perfectly innocent.

Q. Now Sir, you have told me that in your judgment, Laurel Water is infused in that bottle ?

A. It is contained in that bottle.

Q. Have you observed or made any particular experiments or effects of Laurel Water ?

A. I have several.

Q. Now be so good to inform the Gentlemen of the Jury, of the particular experiments you have made, and the appearances that have shewn themselves upon those experiments.

A. I will briefly as I can. In company with Mr. Wilmer, we tried the first experiment of Laurel Water upon a middle sized dog; I held his mouth open, and the water was poured down, I believe it might be nearly two ounces; and the dog which I held between my knees, dropt dead in half a minute, as near as I can guess, to the ground without motion, except a rumulous motion in the lower jaw. The next animal upon which I tried the Laurel Water, (and which was likewise

likewise in company with Mr. Wilmer) was upon an aged mare, to whom we gave nearly at repeated intervals, in all near a pint and a half of Laurel Water, in about two minutes she was precipitated to the ground, with her head under her, and in that manner tumbled upon her back, kicking violently; she afterwards lay as it were still, at least she did not kick, but seemed convulsed very much, her eyes rolled about, rising up her head as if in agonies, gulping at her stomach, as if something lay there extremely offensive to her, and heaving in the first instance, and during the time she lived in the most extraordinary manner, and at the end of fifteen minutes expired. Then I gave in company with a Mr. Ewbank at another time to a cat, a spoonful of Laurel Water, which I had seen distilled seemingly very pure and limped as any distilled water, the cat, though she had not half the quantity I intended, died in three minutes.

Court. Q: What quantity did you give the cat?

A. About a spoonful, about half an ounce. At Southam one day the beginning of this week, I gave in the presence of Mr. Snow, to another horse or mare aged, about a pint of Laurel Water, distilled by Mr. Snow, upon her receiving into her stomach the first horn, (which was a small horn) she dropt in one minute to the ground.

Q. What was the quantity?

A. We gave her a pint in all, at different intervals.

Q. How much might the horn hold?

A. That horn I suppose might hold three or four ounces, it was impossible to give it full, it might spill, in order to try the strength of it, as I thought it was very strong, I desired we might give her

her no more at that time, and she with that horn-full dropt to the ground, when she endeavoured to raise herself up, which she could not, any further than by setting herself upon her buttocks, in the manner of a dog; I perceived by that she had entirely lost the use of her hinder parts; we then gave her another horn full, which in its turn knocked her down very soon, and at intervals we gave her several horns, and at the end of 28 minutes she expired violently convulsed groaning, with her tongue lolling out of her mouth; and indeed the first horse had a very extraordinary appearance of his tongue, which darted out backwards and forwards very quick, this mare lolled it out, the artery in the neck of the first horse was much distended, and it heaved violently; and soon after the animal ceased to breath, unless you call the motion in the lower jaw a breathing, not after any inspiration. All the bodies I saw open, and in all of them, there was a violent distention of the venal system from the whole of the veins in the body, that is in the bowels and about the heart; in the stomach, bowels and lungs, and so on, the veins were distended and full of blood, the lungs appeared red and suffused: I do not use the term inflammation, in any other way than to convey the vulgar appearance of a red colour, given to the blood; the first horse was violently tremified and of a very red colour, something of the colour of a deep pink, very different from the natural colour.

Q. Now you have smelt to that bottle of Laurel Water, do you know any thing of any medicine which corresponds with that mixture so made?

A. No. I do not indeed know of any medicine that smells like it.

Q. Does

Q. Does the smell described by Lady Bough-ton, convey to you the idea of that mixture which you have smelt to.

A. Yes, it does ; and I have given it to various people to try, in order that I might know what was the smell they discovered, and they always said it was something like bitter almonds. That was how they expressed it.

Q. Now, Sir, in your judgment, Is the quantity one of those bottles contain of Laurel Water, sufficient to take away the life of any human being ?

A. In my opinion it was.

Q. Now, Sir, I have your opinion upon the subject, independent of any appearances : Did you observe upon seeing those appearances, any thing that did or not serve to confirm you in the opinion you have given ?

A. I did, so far as from viewing the body so long after death. One can be allowed to form a judgment from such appearances.

Cross Examination.

Q. If I did not misunderstand you in the account you gave in answer to a question, whether you was confirmed in your opinion from the appearances, in viewing the body so long after the death, you said you was.

A. Yes Sir, If one may be allowed to form a judgment from appearances so long after death.

Q. Then by putting it in that way, did you or not mean to say, that all your judgment upon such a subject, in such a case, after such a length of time, is not uncertain ?

A. I cannot swear it. But from the analogy between the appearances in that body, and those distinguishable

distinguishable in the animals killed by the poison I have just mentioned, I think they are so much alike, that I am rather confirmed in my opinion, with respect to the operation of the poison.

Q. Those bodies were dissected ?

A. Yes.

Q. What appearances had the body when you first came to Lawford-Hall ?

A. When I first came, I saw a maggot crawling over it : The face was black as I have described it, and it was quite in the same state when I saw it afterwards. In short, I saw no difference, except the maggot was not on it the last time.

Q. Were you offended by the violent smell or stench, as you approached the dead body ?

A. We were.

Q. Was the putrefaction began considerably ?

A. I believe it had.

Q. Did Mr. Wilmer observe the same appearances ?

A. I believe he did. I saw no reason to doubt it.

Q. What was your reason at that time, for not opening the body ?

A. I just said the body seemed to us to be in that kind of state, which was a very disagreeable state, and we did not like to enter upon the investigation, as we had no particular orders ; and no particular purpose was to be answered by it, that could give any satisfaction to the family.

Q. At that time was not you sent for, and Mr. Wilmer to attend you, for the purpose of opening this body ?

A. Yes. It was so expressed in the note.

Q. Was not your reason at that time for not opening it, that you conceived the opening it, would answer no useful purpose ?

A. Yes.

A. Yes, we were of that opinion at that time.

Q. When you went back from Lawford Hall to Coventry, Was you or not desired, or did you or not undertake to apprise Sir William Wheler of this fact?

A. Sir, I did not undertake that. I believe Mr. Donellan said to me at going out of the door, Shall you see Sir William Wheler? or words to that effect. I said I believe I shall not, for I had an engagement upon my hands upon the next day following, that I must necessarily attend in the evening. That I had it not in my power to go, and it did not occur to me in point of politeness, that I should go to Sir William Wheler, as no man's name was mentioned in the letter only the Surgeon and Physician.

Q. Was nothing mentioned to you about your calling upon Sir William Wheler?

A. Yes, certainly. Mr. Donellan said, shall you see Sir William Wheler? I said, no Sir, I did not think I should.

Q. Was Mr. Wilmer present at that time?

A. Yes, Sir. We were returning home.

Q. Was any thing said by Mr. Wilmer?

A. Not that I think of at present.

Q. Pray when was it you did see Sir William Wheler?

A. I don't recollect. When I returned home on the morning of the 6th, I was told Mr. Donellan's servant had been in quest of me and Mr. Wilmer, and afterwards I saw a letter from Captain Donellan, desiring either me or Mr. Wilmer, or both, to go to Sir William Wheler's, to inform him of the circumstances that had happened at Lawford-Hall, while we were there upon the 4th of September.

Court. Q. When was it you saw him ?

A. Upon the 6th I saw Sir William Wheeler at the Black Dog. I think it was upon the next day but one, I think there was but one intervening day.

Q. I think the next time you saw the body was upon the 9th ?

A. Yes.

Q. That was the eleventh day after the death ?

A. I think so.

Q. Pray, Sir, Does not putrefaction increase very much in the space of five or six days, in a hot summer.

A. Why, I should think it must naturally be the case.

Q. Why then was it or not in a very high state of putrefaction, when you first saw it ?

A. Why, Sir, the body appeared much fairer, than I expected upon the shroud being removed, I did expect to see it in a very black putrified state indeed. But it was not quite so bad as I expected upon the occasion.

Q. Sir, you state the body was very much swelled ?

A. Sir it was swelled.

Q. Looking gangreous ?

A. It rather put on that appearance.

Q. I'll tell you why I ask you. I understand that you are a professional man, and that you have subscribed to certain appearances, when the body was opened.

A. Sir, I set my name to it.

Q. Did not you subscribe your examination ?

A. Yes.

Q. Did not you set your name to it ?

A. Yes.

A. Yes. If you mean my examination, I have undoubtedly.

Q. Did you or not concur with Mr. Wilmer in the appearances of the body ?

A. In general we did.

Q. You set your names to that examination ?

A. I did not set my name to any thing, but my own examination.

Q. Were the appearances described in it ?

A. They are not particularly described, there is a little said about inflammation of the stomach and bowels.

Q. For what purpose was it you attended, unless to describe particularly the appearances of the body ?

A. I did not apprehend it was necessary before that Coroner's Jury, to describe those appearances at all.

Q. How came you to do it at all ?

A. I entered into that a little, as I was quite a novice in the business.

Q. Do you mean a novice in the business of dissection ?

A. No. The mode of giving evidence in before a Coroner's Jury.

Q. Those appearances were the true description of appearances, that met your eye upon the occasion ?

A. So far as they went.

Q. I don't mean so far as they did not go, but so far as they went. Now, Sir, did you ever hear or know of any human poison whatever, occasioning any appearances externally upon the body immediately ?

A. No. No immediate external appearances except what I have heard.

Q:

Q. I ask you what you know ?

A. They have not fallen under my own knowledge.

Q. Now, Sir, I should be glad to know whether all those appearances you spoke of, from the face, the protusion of the tongue, the apex being turned upwards, and the lips retracted, whether they are not all signs of putrefaction ?

A. I really don't know that they are.

Q. I beg pardon, I really don't mean to give offence. Have you been much used to anatomical dissections ?

A. I have been used to that in some measure, but not so far as absolutely to be intended for particular anatomical pursuits, like people who are educated in that way. I was not intended for the profession of anatomy.

Q. Did you ever in your life, attend to see the dissection of a human person that was poisoned, or suspected to be poisoned before ?

A. No, Sir.

Q. You have talked of the appearance of different parts of the body externally, from thence you derive no kind of conclusion or inference, you form no opinion ?

A. No. I form no very strong opinion upon that.

Q. Now I will ask you, whether you was present when the body was opened ?

A. Yes, Sir.

Q. Pray, Sir, how were the appearances, when the cavity of the abdomen was open ?

A. I have described them in general just now. I believe I did not mention the omentum or caul, that was red and suffused with blood of a brownish red; the stomach and bowels appeared as I said before,

before, in a general state of what is vulgarly called inflammation, the appearance of red.

Q. Might not that be owing to the transfusion of the blood?

A. From what cause? Do you mean by the transfusion of the blood, the passage from the arteries into the veins.

Q. Yes?

A. I cannot say, I don't think it could arise from putrefaction.

Q. That is your opinion?

A. That is my opinion.

Q. Did you look at the stomach; as Sir Theodosius is represented to have died in a few minutes after having taken this mixture, did you examine with correctness and attention the stomach?

A. The contents of the stomach was about a spoonful and a half of slimy reddish liquor which I rubbed with my finger and thumb, it contained no gritty substance as I could perceive.

Q. Is it not always usual to find some liquid there, what was the quantity?

A. About a spoonful and a half or a couple of ounces.

Q. Is it not always usual to find that quantity in the stomach?

A. The stomach in general after death must contain something more or less, I suppose according to the different circumstances.

Q. You found the stomach and the orifice of it, the smaller arch bearing the appearance of inflammation?

A. Yes, Sir.

Q. Pray tell me what inflammation is, whether inflammation and appearance are not much the same thing?

Answ.

A. All I have to say upon the present case, is, I perhaps don't know the cause of the inflammation, there was an appearance of an inflammation upon the stomach and bowels, the veins being full of blood put on that appearance of red, I say, I distinguish it by that name to convey the vulgar idea of inflammation.

Q. You will not take it upon yourself to say, what are the signs of inflammation?

A. The signs of inflammation are an appearance of redness, attended sometimes with red colour, but not always.

Q. Pray did you pursue your search thro' the bowels?

A. No I can't say I did, nor did I think it in my power.

Q. Will you explain the reasons. In the first place give me an account how far you pursued your search in the stomach?

A. We examined the contents of the stomach, took out the stomach by taking out the bowels, great part of the contents issued out, and indeed the smell was so offensive, I did not enter into that much.

Q. Now tell me whether the pursuit, or enquiry and inspection thro' the bowels was not as likely to have led to a discovery of the cause of the death, as any other part?

A. I did not conceive any pursuit through the whole extent of the bowels, would have led to any discovery at all, under those circumstances.

Q. The bowels were affected?

A. When that which is obnoxious passeth in them, no doubt it affects the bowels.

Q. Why not examine into the state of the bowels?

Answ.

A. I told you I thought it not in the power of any body to examine the contents of the bowels.

Q. Were they so decayed ?

A. No not decayed, the effects of putrefaction were so disagreeable.

Q. I should be glad to know, whether your judgement is formed upon appearances or not ?

A. Not altogether, they corroborate my opinion upon the effects of the draught. I know of no external marks, by which vegetable poisons can be distinguished.

Q. Now, pray Sir, did you or did you not, know of the contents of the draught, when you was examined before the coroner ?

A. No, I did not know it.

Q. Did not Mr. Powell tell you the contents of the draught he supposed he gave him ?

A. Yes, the contents of the draught prescribed, indeed it appeared from the deposition.

Q. Why then, Sir, after you knew the contents of the supposed draught, tell me if you do not know how long Sir Theodosius Boughton lived, or was supposed to live, from the account you heard after he took the draught ?

A. By the information of lady Boughton.

Q. Tell me if any reason had not occurred to induce you subsequent to that time, to have formed your judgement he died of arsenick ?

A. Not at that time. I did think of that but I was clear I am mistaken.

Q. If you was mistaken then, why may you not be mistaken now ?

A. Because the sensible qualities of this medicine are so strong, I don't think any poison from metals will have such effect so instantaneous.

Q. I say, suppose that quantity in the bottle of lawrel water taken, I cannot conceive in these circumstances

cumstances any one can be mistaken as to the medicine, that is, supposing you to take this quantity of laurel water ?

A. By the circumstances described by lady Boughton.

Q. Did not you at that time the symptoms described by lady Boughton ?

A. Yes, Sir, I did.

Q. Was not your judgment at that time as ripe for information as now ?

A. It was not.

Q. Did you or not, after you heard lady Boughton describe the symptoms that immediately followed taking the medicine, and after your observation on seeing the body open; whether did not you then think or say, it was arsenick he died of.

A. I say, I then entertained such opinion.

Q. I ask if you did not disclose it ?

A. I then said so. I don't mean to withhold any thing that I have said.

Q. Was there or was there not, a large quantity of extravasated blood, on each side of the stomach and thorax ?

A. Upon the same side of the lungs there was.

Q. What quantity ?

A. I think not quite a pint on each side of the chest, and the right and left lobe of the lungs.

Q. Upon a rupture of a blood vessel, might it not have occasioned death ?

A. A rupture of a blood vessel undoubtedly might have occasioned death, but not attended with the same appearance.

Q. Might not a blood vessel that was broken occasion convulsions and death ?

Answer

A. I should conceive if it reach a *vessel of that magnitude he must have died immediately without a pang.

Q. A person that is sick and in convulsions, in recovering from those convulsions, are they not inclined to sleep?

A. That is a state I can't suppose very probable in his case.

Q. I ask whether it is possible?

A. Every thing is possible with God.

Q. Did you ever hear of a person dying of an epileptic or apoplectic fit, with the same symptoms like these in convulsions?

A. Why I do not think the symptoms described as having taken place with Sir Theodosius Boughton, are applicable to epilepsies.

Q. Nor apoplexes?

A. In epilepsies or apoplexes the symptoms entirely depend upon the consequence of the draught.

Q. Whether an epilepsy or an apoplexy might not have occasioned those symptoms of heaving in the stomach?

A. I never in my life discovered a heaving of the stomach in an apoplexy, nor do I believe it is a symptom of death in that case.

Q. They talk of froth issuing out of his mouth, pray when respiration grows feeble is it not a common case, that the muscles of the throat are very much relaxed?

A. Sir, all the effects that succeeded I believe were in consequence of that draught. If the muscles are relaxed or foam issued from the mouth, I look upon it to be effects from the same cause.

Q. I ask whether that is not a common appear-

* N. B. The Dr. confines this remark to the rupture of the large vessels about the heart only.

ance to have froth come out of the mouth, of every person that dies of a common disorder?

A. Not every disorder, but now and then it happens.

Q. Have not you seen it frequently?

A. I have seen it in epilepsies.

Q. Now pray tell me what was your reason for supposing at one time, that he died of arsenick, and disclosing your opinion to be so?

A. At some time every man is mistaken in his opinion, it was my case then, I am not ashamed of owning it.

Q. You talked of experiments, have you been very nice in your experiments?

A. I don't understand what you mean by experiments.

Q. The experiments on the laurel water?

A. If there was a difference in point of nicety, the quantity taken by the subject was too little and less than I intended.

Q. Is it not common when animals are striving to refuse the draught, when forcing it into the mouth of a cat, for instance, that some part of the liquor whatever it is, gets into the lungs?

A. If it did, it would make them cough, no other symptoms unless it was poisonous.

Q. Did you introduce the laurel water into the veins, or into the stomach?

A. I conceive when put into the mouth it goes into the stomach.

Q. Did you ever convey it immediately into the stomach?

A. By perforation?

Q. Yes?

A. No, I never did.

Q. Did you ever convey it into the veins?

A. No.

Q. Did you ever smell at that liquor that was in the stomach ?

A. Aye, smell, I could not avoid smelling.

Q. Was it the same offensive smell ?

A. It in general had that sort by the great putrefaction, you could not expect any of that smell would be left in that state of the body ; but I had a particular taste in my mouth, a kind of biting acrimony on my tongue ; and I had every time in all the trials I have made with laurel water ; I have breathed over the water and had a biting on my tongue, and sometimes a bitter sort of a taste on the upper part of the fauces.

Court. What taste had you ?

A. I had that on opening of the body, and in all the trials since of the laurel water I have had the same, a kind of biting acrimoniuous taste.

Q. If you had that taste at the time you imputed it to that cause ?

A. I did not impute it to that cause, I did not know at that time what cause to impute that to ; I imputed it to the volatile salts that escaped from the body.

Q. Will those volatile salts give that effect ?

A. No, I think they would not, I said to Mr. Wilmer I had a very odd taste in my mouth, and my gums bled.

Q. Had he the same ?

A. I don't recollect he said he had.

Q. You attributed it to the volatility of the salts ?

A. No.—I did not at that time know how to account for it. At that time I attributed it to the effluvia, but since I have made trials of laurel water, by giving it to animals, or breathing over it, it had constantly and uniformly had that effect ;
there

there is a very volative oil in it, I am very confident.

Q. Did not you understand there was no inflammation in consequence of dissecting animals destroyed by lawrel water.

A. In answer to that I might say, an operation of this sort on the inside of the stomach, produces violent appearances, and a redness; but in most animals I have seen there has been small red specks about the orifice in the inside; but the effect of this poison seems to me in driving the blood every where the farthest from the center of action, to all parts of the body; the lungs in particular are effected.

Q. In pursuing your enquiry, did you find the arteries affected?

A. The arteries in general, as well as the veins, as far as I had gone, were affected.

Q. You told me you was wrong about the arsenick?

A. No; not with respect to the thing I am just now telling you, I say in attributing the cause of this to arsenick, I own I formed a wrong notion with respect to the arsenick at first.

Examination in reply.

Q. Now, at the time the Gentlemen alludes to about the arsenick, had you or not, tried experiments of the laurel water?

A. No.

Court.—He has spoke of that since.

Q. You tell us, Dr. Rattray, when the shroud came to be taken from the body, you found it less in a state of corruption than you expected?

A. Less black.

Q. When you first saw him upon the fourth of September, did you or not take the shroud?

A. I

A. I cant't say I did.

Court. You did not.

A. No.

Q. You saw nothing but putrefaction, and a maggot crawling over it.

A. At that time had Captain Donellan insinuated any suspicion of poison, would you, or not, have taken the shroud from the body ?

A. I verily believe, had I known the tendency of the enquiry, I should have staid for a month by the body, to have it opened.

Q. Should you or not, after it had been disclosed to you at the time, proceeded to have opened the body ?

A. It was not my duty ; I can't answer for others. I should have staid by it for a month to have made the enquiry.

Mr. Newnham, Q. Have you or not said nothing conclusive could be drawn from the external appearances of the body ?

A. I have.

Q. I understand you to say that when the body was open, the external appearance of the body did not contribute any way towards forming your judgment.

A. Nobody could go by the external appearances to form a judgment. Nobody would suppose I should.

Mr. BRADFORD WILMER, Sworn.

Q. You was sent for to Lawford-Hall ?

A. Yes, I went there with Dr. Rattray.

Q. I should be glad to know when you first came there, Whether you saw Mr. Donellan ?

A. I did, Sir.

Q. Now will you tell us, what he said to you at that time ?

A. He desired us to walk into the parlour, and after taking some refreshment, we were told the coffin

coffin was ready, it was unfolded, and we were desired to walk up stairs.

Q. Did you hear at that time, by what means he died?

A. Not the least intimation in the world.

Q. Nothing of poison?

A. No. I never heard the word poison.

Q. When you did go up stairs to see him, what part of him did you see?

A. His face.

Q. And that only?

A. That only.

Q. We have learned before you did not proceed any farther when you came to him?

A. The body was so extremely putrid, I declared my opinion to Dr. Rattray, that the proposed enquiry could give no sort of information.

Q. Supposing it had been intimated to you that he had died by poison, Should you have opened the body?

A. I should have opened the body at all events.

Q. You certainly then did not open the body?

A. Certainly not.

Q. You afterwards did open it at the time Dr. Rattray spoke of?

A. I was present at the opening by Mr. Bucknall.

Q. Now have you been concerned in any experiments with Dr. Rattray?

A. I have, Sir.

(*A bottle containing a mixture was shewn to Dr. Wilmer.*)

Q. Now, Sir, without going into every particular of Dr. Rattray's account, I want to know whether you and he did not concur in general, respecting your opinion of the operation of that stuff?

A. I

A. I wish you would be more particular in your question.

Q. I should be glad in the several experiments Dr. Rattray and you made of that water together, whether you concurred in opinion with him in its effect?

A. I took notice at the time of the effects, and with the permission of the Court I will read them.

Court. *Q.* You have heard Dr. Rattray give his evidence, and the particulars as to all the experiments he has made, Do you agree with him in what he has said respecting the experiments he made?

A. I do in general, but as he has not described the appearances visible upon dissecting the horse, I submit to your Lordship it may be proper to read them. May I read the experiments at large?

Mr. Howarth, only the particular experiments you wish to speak of.

A. Upon the 20th of March an ounce of Laurel Water was given to a young grey hound, while Dr. Rattray held the mouth open, I poured the water into the dog's throat, as soon as it was swallowed the doctor released the head to observe the effects of the poison, when to our great surprize, the animal fell down upon his side without the least struggle or any perceptible motion.

Q. About the horse which you mention, When was that experiment made?

A. Upon the 22d of March, in the presence of Sir William Wheler. One pint and a quarter of Laurel Water was given to a mare, aged 28 years, within a minute of time she seemed much affected, her flanks were observed to heave much, and a trembling seized her limbs in many parts, she suddenly

denly fell down upon her head in a short time, and was very violently convulsed, this continued about five minutes, at the expiration of which time, she lay still, her breathing was very quick and laborious, her eyes were much affected with continual spasms; at this time four ounces more of the water were given her, upon which she seemed much weaker without any more convulsions, and in about 15 minutes after she expired.

Court. Q. After the first convulsion, that mare was quieter?

A. Yes. Upon opening the abdomen of the lower belly, a strong smell of Laurel Water was perceptible, the colon one of the large intestines was not altered from its usual appearance.

Q. You are speaking of opening the mare?

A. Yes. The smaller intestines appeared of a purple colour, the veins were much distended with blood; the stomach contained some hay mixed with Laurel Water, its internal surface was not inflamed, excepting a small degree by the lower orifice of the stomach; the lungs appeared remarkably full of blood, the small vessels upon their surface, being as visible as if they had been injected with red wax.

Q. Now I will ask you, Whether in general you concur in sentiment with Dr. Raturay upon the effect of Laurel Water?

A. Do you mean upon the human body, or the horse?

Q. Upon either or both.

A. I know that in four symptoms it has been fatal to the human frame: Not from my own knowledge but reading.

Q. Have you any doubt of its being fatal?

A. Not the least in the world.

Q. Now

Q. Now the quantity contained in that bottle do you apprehend sufficient?

A. I apprehend one bottle of that size of Laurel Water, is sufficient in half an hour to kill the strongest man in this court.

Q. From its operation upon brutes, you have not doubt about?

A. No doubt, I have had the evidence of my own senses.

Cross Examination.

Q. Was there any symptoms in this case, particularly different from the symptoms in the case of epilepsy or apoplexy?

A. I mean to observe that the appearances of the body, from the putrid state it was in, when I had an opportunity of observing it, could give me no information of the cause of his death.

Q. From the appearances of the body externally or internally you were not able to form any opinion of the cause of his death?

A. Not any at all.

Q. Have you ever had any cases of epilepsy occurring in your own experience?

A. I have.

Q. Have you observed in those cases appearances similar to what you have heard in the present case?

A. Epilepsies are of two kinds, they are either original or symptomatic; now it sometimes happens a man in the most perfect state of health, without the least previous notice in the midst of pleasure or in the midst of business, (as Suetonius informs us, was twice the case with Julius Cæsar) may in a moment be seized with an epilepsy, his senses will

N

leave

leave him, he will fall down, be convulsed, foam at the mouth, his tongue will be black, and he either may die, or he may recover, this is the original epilepsy; the symptomatic epilepsy, happens when any symptoms precede it. I speak from experience; for instance, a patient of mine had a complaint in his finger, a violent pain in his finger, and a tumour; as soon as the pain which gradually advanced up the arm, reached his arm pit, he fell down immediately in an epilepsy. But if previous to an epilepsy, a patient of mine was to heave very much in his stomach, I should conclude the cause of the epilepsy to be in the stomach.

Q. They proceed from various causes.

A. Very numerous causes.

Q. Will not the loss of blood occasion epilepsy?

A. I believe not.

Q. What quantity was there think you of extravasated blood, perceived upon this occasion?

A. I did not measure. As far as I can recollect there was about two pints.

Q. Where was that lodged?

A. In the cavity of the breast, in the thorax.

Q. Might not that occasion convulsions?

A. I don't know that it will. But if I may be allowed to reason from analogy, I should conclude it would. In all slaughtered animals, when the blood runs out of a vein in a full stream, they lie sometime quiet, but never die without convulsions.

Q. You was there twice, once upon the 4th, and again upon the 9th of September?

A. I was.

Q. Whether upon the 4th you observed the prisoner had any reluctance to the body being opened?

A. Not the least in the world.

Q. Did

Q. Did he seem rather desirous of it ?

A. I believe he was desirous.

Q. Of sending for a man to unfold the coffin ?

A. I believe that was at his own request.

Court. Q. You must explain that a little more, you say at his request a person was sent for to unfold the coffin, did he come ?

A. He was sent for after we came.

Q. After you were at the house ?

A. After we were at the house.

Q. Did the Captain send for him.

A. I believe he did.

Q. Was that the first time of your being there ?

A. At that time I declined opening the body, not having the least intimation from any part of the family that poison was administered or suspected.

Q. You was there upon the 4th upon the Monday ?

A. Yes, upon the 4th upon the Monday.

Q. Was any thing said about your going to Sir William Wheler's the next day ?

A. I heard a conversation between the prisoner and Dr. Rattray to the best of my recollection, I cannot be very accurate at this distance of time to speak of matters that appeared *then* trifling to me, he asked Dr. Rattray whether he should see Sir William Wheler, he answered very probably he should, and he would give an account of the business.

Q. Was you desired to go over the next day to Sir William Wheler, or did any thing prevent your going over ?

A. I was not desired to go over.

Q. Did

Q. Did you say you should go over?

A. I did not say I should go over, not that I recollect.

Examination in reply.

Q. I don't ask you from what you saw of the appearance of the body, you have heard Lady Boughton's evidence?

A. I have.

Q. I should be glad to know what your opinion is, this young gentleman's death arose from?

A. After having heard Lady Boughton's evidence, and therefore being acquainted with the symptoms that preceded the death of Sir Theodosius Boughton, I am *clearly* of opinion his death was occasioned by the draught administered by Lady Boughton upon the morning of his death.

Court, Q. You have been asked a great many questions about the heaving in the body, is that a circumstance always attending epilepsy?

A. It is not.

Dr. ASH, Sworn.

Q. You are a physician?

A. I am, Sir.

Q. Where do you live?

A. At Birmingham.

Q. You have heard the evidence of Lady Boughton, Dr. Rattray, and Mr. Wilmer.

A. Yes.

Q. What is your opinion of the death of Sir Theodosius Boughton.

A. I answer he died in consequence of taking that draught administered to him in the morning.

He

He died in so extraordinary a manner. It does not appear from any part of the evidence that has been this day given, that Sir Theodosius had any disease upon him of a nature either likely or in any degree sufficient to produce those violent consequences which happened to him in the morning when he was seized in that extraordinary manner, nor do I know of any medicine properly so called, administered in any dose or form, could produce the same effects. I know nothing but a poison immediate in its operation, that could be attended with such terrible consequences; as to appearances of the body upon dissection, they were certainly as far as could be collected at that distant period from the time of his death and hot weather at that time of the year, they may be said to be similar to those appearances that are found in the bodies of animals killed by poisons collected from vegetable substances, not from mineral substances.

Q. Now will you look at that draught (producing a bottle with laurel water in it)

A. From the appearance of it, it is lawrel water.

Q. Tell us whether that quantity would be sufficient to cause death.

A. Why I don't know any thing of the nature how this is mixed, but I know it may be made in this quantity to destroy animal life in a very short period of time in a few minutes. I don't know the nature of this, nor who made it; I dare the gentleman has made it in a very proper manner; I have made it myself in such a degree as to destroy an animal in a very short time.

Q. Then in your opinion it is sufficient.

A. Yes.

A. Yes.

Court. Q. Suppose that quantity was made for the purpose of destroying an animal, would it destroy a human person?

A. Yes, My Lord.

Q. In all these experiments that you have made, I should be glad to know whether as strong a poison could be made of bitter almonds.

A. No.

Q. In your judgement, do you or not think Sir Theodosius Boughton died of poison?

A. By the evidence I have not a doubt he died of poison, and nothing else.

Court. Q. You should not say by the evidence in general, but by the particulars that have been sworn to, if you are of that opinion.

A. I mean by the symptoms those evidences have described.

Dr. PAR-

Dr. PARSONS, Sworn.

Q. You are, I believe, professor of anatomy in the University of Oxford.

A. I am, Sir.

Q. You have heard the symptoms that occasioned the death of Sir Theodosius Boughton, described by the witnesses produced to day here, I wish you would inform the Jury, and speak to those gentlemen so loud that they may hear you, what in your judgment occasioned the death of Sir Theodosius Boughton.

A. From the description of the state of the young gentleman's health, previous to his taking the second dose of jallap and rhubarb, which was supposed to be similar to that he took two or three days before, and from the violent affection of the nervous system that immediately followed upon taking that medicine, I have no difficulty in declaring it to be my opinion he died in consequence of taking that draught, instead of the medicine of jallap and rhubarb. The nature of that poison appears sufficiently described by Lady Boughton in the account she gives of the smell of the medicine when she poured it out in order to give it to her son, she describes it to be like the smell of bitter almonds, which particularly characterizes the smell of the laurel water; and perhaps the gentlemen of the jury might not be displeased to have some produced to them, in order to judge of it themselves.

Mr. Howarth. I propose that the jury should smell at that, to judge at the description of it, whether it is like the smell of bitter almonds.

Dr.

Dr. Parsons. Those violent symptoms could not be the effect of a medicine similar to that he took in the first instance; the violent symptoms occasioned by the second dose was different from the first; no doubt it was a mixture that contained something different, and infinitely more active and deleterious.

Court. Q. You have heard what those ingredients were that were sent by Mr. Powell?

A. The mixture was 15 grains of jallap and 15 of rhubarb, the former of those ingredients sometimes disagree with the stomach, even in that quantity; but, with respect to Sir Theodosius Boughton, it did not produce that effect in the first instance.

Court. Q. Taking all the ingredients together sent by Mr. Powell, could they produce the effects which, its sworn, have shewn themselves upon Sir Theodosius Boughton?

A. Certainly not, my lord. As a proof of it, they did not produce that effect, nor any other disturbance scarce, in the first instance!

Mr. Howarth. Q. After having heard a good deal of enquiry concerning epilepsies, were the symptoms described by Lady Boughton, such as tended to an epilepsy, or, is there any material, and what difference between those and an epilepsy?

A. Epilepsies may be said to consist in the temporary abolition of the senses, attended with an increase of motion of several of the muscles, and, in general, attended with considerable convulsions; though the eyes are open to observe every thing that passes, and the ears to hear, yet they

they have no recollection at all of what is past when the fit is over. I think the symptoms in this case seem rather to approach to the character of an apoplexy than an epilepsy, as it has been described by Lady Boughton, soon after his taking that draught the stomach heaved very much, and a noise was perceived as issuing from the stomach.

Q. Is that, in your judgment, to be attributed to an apoplexy or an epilepsy, or to the effect of this medicine?

A. To the medicine undoubtedly.

Q. Was the heaving of the stomach in that violent manner, the effect of an epilepsy or an apoplexy, or was it occasioned by the medicine, be it what it will, that was taken?

A. There must be some cause for the production of such terrible symptoms, and no doubt it was the cause; and, especially, as laurel water will produce similar effects.

Q. Your opinion is, those effects were produced by the medicine that was taken?

A. Yes, Sir; I think there can be no doubt of it from the effects of it.

Q. Is not the smell of bitter almonds like the smell of laurel water?

A. Yes, and black cherries are much the same smell. Dr. R—— of Dublin gives an account of a girl, in a perfect state of health, taking, by accident, 2 drachms, 2 tea-spoonfuls of laurel water; she fell down, in half a minute was convulsed, foamed at the mouth, and died in a short time.

Q. I want to know whether those effects could be produced, speaking from your judgment; whether

ther laurel water will produce those effects which, you have heard, were produced in this case?

A. Yes, Sir; it produces a deprivation of sense, and convulsions.

CROSS EXAMINATION.

Q. I will not ask you of the Dublin case, or the Abbey Fontaine; but tell me, whether the medicine, the 15 grains of jalap and 15 grains of rhubarb, in the situation of his health, might not affect him and make him sick?

A. From what was adduced in evidence by the clergyman, he was apparently perfectly well and in very good spirits; and so Lady Boughton said.

Q. It is much better for a physician than a clergyman to give an account of his health.

A. He said, he seemed in perfect health.

Q. You said the medicine sent by Mr. Powell was not likely, or could not, occasion those convulsions, and it not having occasioned any bad symptoms before, you conclude that he was killed by some other substitute in the room of it or some addition to it.

A. Most certainly.

Q. Have you never known instances of people taken suddenly ill in acts of pleasure and business,

business, or at dinner, and dying convulsed of an apoplexy or an epilepsy?

A. Yes; I have; they are generally very fat people, and of a certain age, not so young as Sir Theodosius Boughton was, nor are they so thin as he was.

Q. Have you never heard of an instance of a thin man being seized with an epilepsy, or an apoplexy?

A. Epilepsy they have, but not apoplexy.

Q. You say it was immaterial whether it was an epilepsy or an apoplexy, they are the same in effect.

A. I say, with respect to the symptoms.

Q. Have you never heard of persons, at dinner, being seized with an epilepsy without any primary cause?

A. It sometimes happens, that people in perfect health are seized with an epilepsy or an apoplexy; with respect to apoplexy, it depends on the bursting of a vessel, a vein bursting, or a thousand other causes; there are a great variety of causes.

Q. Might it be possible for that to have been the case with Sir Theodosius Boughton?

A. As to possibility, I think there is no reason for going so far for a cause, as to go to possibility, when a medicine has been conveyed into the stomach, and we have all the reason to suppose it was that, that caused the effect described.

Q. Then you assume the fact of his taking 2 ounces of laurel water?

A. Not

A. Not 2 ounces.

Q. But you assume the fact that he took some?

A. Yes; I have already observed it produced the symptoms as related by Lady Boughton, after his taking the medicine.

Q. Is it not a common case, that a variety of things of that smell; suppose common black cherry water, for instance, which every old woman gives to a child, will not a distillation of it have the same smell?

A. It might; I don't know that any apothecary has them in the house now. They are not used now.

Q. Will not a distillation of bitter almonds have that smell?

A. It will.

Q. And that violent effect?

A. No.

Q. You assume that, as a ground of your opinion, that he did take some laurel water?

A. The smell of it convinces me it is so.

Q. Do you form your judgment from the smell being like bitter almonds, as expressed by Lady Boughton?

A. I found it upon that and nothing else, Sir.

Court. The evidence given by Dr. Parsons and all the gentlemen of the faculty is, the symptoms described are the symptoms that attend taking laurel water; and, in their judgment, laurel water was the cause of his death.

Mr. SAMUEL BUCKNILL, fworn.

Q. I believe you are a surgeon?

A. Yes, Sir, I profess surgery.

Q. Where do you live?

A. At Rugby.

Q. Do you remember at any time going to Lawford Hall, and seeing Mr. Donellan?

A. Yes, Sir.

Q. When was it?

A. The morning after Dr. Rattray and Mr. Wilmer had been there.

Q. The Tuesday morning after Dr. Rattray and Mr. Wilmer had been at Lawford Hall?

A. The next morning.

Q. Was you sent for, or did you go upon your own account?

A. I was not sent for.

Q. You went upon your own account?

A. Yes, Sir.

Q. Did you see Captain Donellan at that time?

A. I did.

Q. Now inform the gentlemen of the jury what conversation passed between you and Captain Donellan?

A. I cannot recollect every word that passed, but I told Mr. Donellan, that I had heard Dr. Rattray and Mr. Wilmer had been there; and after telling him I was informed he and the rest of the family wanted the body of Sir Theodosius Boughton to be opened, I told him I heard they declined opening the body from the putrid state it was in, but if it would be any satisfaction to the family, I would, at all events, take out his stomach.

Q. Was you permitted to take out the stomach, or to act at all in the affair?

A. No, Sir, I was not permitted.

Q. Why was not you permitted?

A. Mr. Donellan's reason was, that Dr. Rattray and

Mr. Wilmer had been there, and they declined opening the body, and it would not be fair in him or me to do any thing after men so eminent in their profession (as he expressed himself those gentlemen were) had declined it; he said it was impossible.

Q. Did any thing else pass at this time between Captain Donellan and you; did you go away in consequence of his answer?

A. I went away in consequence of his answer.

Q. Did you go there the second time?

A. I went there the second time, upon the Wednesday afterwards.

Q. Was that the day Sir Theodosius was buried?

A. It was Sir.

Q. Now, Sir, did you go by any appointment or to meet any body at that time?

A. I received a verbal message from Sir William Wheler, to go to Lawford Hall to meet Mr. Snow; and Mr. Snow and I together were to open the body.

Q. Did you in consequence of that message go to Lawford Hall upon that day?

A. I did.

Q. Now what time of day was it you got there?

A. I cannot be very particular as to that, I believe it was about two o'clock.

Q. Did you see Captain Donellan at that time?

A. I did.

Q. Now tell us what passed then upon seeing Captain Donellan?

A. I saw Captain Donellan in the hall, and I asked him if Mr. Snow was come; he said he was not come; I said, pray Sir, have you received any message or letter from Sir William Wheler; he said he had: I told him I had received a verbal message from Sir William Wheler, to meet Mr. Snow there, and if he would get Sir Theodosius's body into the garden, or any other convenient place he thought proper, I would open the body.

Q. Was

Q. Was you permitted at that time to open the body?

A. Captain Donellan said that he had then written to Sir William Wheler, and likewise to Coventry, to the gentlemen of the faculty there, and he then waited Sir William Wheler's further orders.

Q. Was you at that time permitted to open the body?

A. I went to attend a patient that was very ill about two miles from Lawford Hall; I took my horse, and within ten yards of the gate I met a messenger riding a great pace, who desired I would go then to a patient he thought dying.

Q. Did you leave any word at Lawford Hall?

A. I left word before I went, I should be back; I believe I mentioned the time:

Q. In how long a time?

A. It might be an hour and a half.

Q. Who did you leave that word with, do you know?

A. I spoke it out openly in the hall before a great many people, the bearers, and people that were ready to assist.

Q. Do you know whether Captain Donellan was there?

A. Captain Donellan was there, but I don't know whether he heard it; it is my opinion he did.

Q. Did you return at the time you promised?

A. Sir, I had not rode a mile from Lawford Hall, when I heard a person calling after me; I turned back as I saw the person upon full gallop; he told me Mr. Snow was come: I dare say I could not be gone five minutes, or three minutes before Mr. Snow came; I told the person I would be back in an hour, I could not go back then as I had received a message from a person, who, in all probability, was dying; I came back I believe within the hour.

Q. When you came back, what passed then? Was Snow there or not?

A. No.

A. No.

Q. Did you see Captain Donellan?

A. I saw Captain Donellan, I asked if Mr. Snow was gone; Captain Donellan said he was gone, and he had given his orders what to do, and they were proceeding according to those orders, but I am sorry you should have given yourself this trouble; I then took my horse and rode away.

WILLIAM FROST, sworn.

Q. Did you live in the service of Lady Boughton, at the time of Sir Theodosius Boughton's death?

A. Yes, my Lord, I did.

Q. In what capacity?

A. I was coachman.

Q. Upon the day Sir Theodosius Boughton died, did any thing pass between you and Captain Donellan, and what?

A. Please you, my Lord, I will tell you as near as possible I can to the truth. That morning that Sir Theodosius Boughton died, the Captain and my Lady were to go to the Wells to have a draught of the water; they ordered me to get the horses ready, which I did accordingly.

Q. What time were those orders for?

A. I think it was about seven o'clock in the morning, I think it was according to the best of my knowledge; I got the horses ready according to the orders, and as they stood ready at the gates at the top of the space way, the Captain came out of the gates, and looked at the horses, and said they are fast I believe, William; I said yes, Sir; they are said he, I will go and see if my lady is ready. Accordingly he did; says he, my lady is not ready, I will take my mare and go to the Wells.

Q. Where did you see Captain Donellan again?

A. Please your Lordship, I had been in the stable for a considerable time; Lady Boughton comes up the space way, and calls and says, William, you must go to
Mr.

Mr. Powell and fetch him as fast as possible, for Sir Theodosius is dangerously ill; says I, here is no horse here, for the Captain is gone away to the Wells with his horse; says she, you must go after him as fast as possible, and go to fetch Mr. Powell; I went to shut the stable door, the Captain came within side the gate; I told him what my lady said, I must go to the doctor's; he made some answer, I took no notice of what it was.

Q. When you came back again, did you see Mr. Donellan? Was you called by Captain Donnellan at any time into the parlour when you came back again?

A. When I came back again the first time, I saw the Captain, I met him at the door.

Q. Was you sent for into the parlour by Captain Donnellan?

A. Yes, Sir, I was.

Q. When?

A. Whether it was the same morning, or a morning or two afterwards, I cannot tell; I was called into the parlour door; says he, when I came to the parlour door, what gate did I come out of that morning? I looked at him; says I, the iron gates, the front gates. Look you there, says he, Lady Boughton, he says the front gates.

Q. What did you say?

A. I said the front gates, the iron gates.

Q. What did he say afterwards?

A. He did not say any thing then; but afterwards he said, I should be a clear evidence for him of his coming out of that gate.

Q. He said so to you?

A. Yes.

No Cross-Examination.

SAMUEL FROST, sworn.

Q. Did not you go to Mr. Powell for the medicines Sir Theodosius was to take?

A. Yes.

Q. From

Q. From whom did you receive them at Rugby ?

A. From Mr. Powell's hand.

Q. Whose hands did you deliver them into ?

A. Mr. Theodosius Boughton's.

Q. About what time did you deliver it ?

A. Between five and six o'clock in the afternoon.

Q. What did he do with it after he received it ?

A. He took it up stairs with him.

Q. Were you with him that afternoon a fishing ?

A. About seven o'clock I was.

Q. Did you stay with him till he returned ?

A. I did.

Q. Was Captain Donellan with you any part of the time ?

A. No, Sir, not a fishing.

Q. Do you know whether Sir Theodosius was on foot or on horseback there ?

A. On horseback all the time.

Q. Could he by any possibility wet his feet while he was there ?

A. No, Sir ; he had his boots on, and continued on the mare all the time.

Q. His boots on, and on horseback all the time ?

A. Yes.

Q. Had you occasion to go into his room that day ?

A. Yes.

Q. What time did you go into it that day ?

A. About six o'clock.

Q. Did you awake him ?

A. Yes, Sir.

Q. For what purpose ?

A. For the straps to buckle on a net that I was going to take to Dunchurch.

Q. Who gave you those straps ?

A. Sir Theodosius.

Q. How did he get at them ?

A. He got out of his bed and went into the next room and took them.

Q. How

Q. How did he appear to you at that time, did he appear in health?

A. In a very good state of health to all appearance, he spoke very well.

Cross-Examination.

Q. You say you brought the medicine from Mr. Powell?

A. Yes; about that time.

Q. Was it nearer to six or five?

A. I cannot justly say whether it was near six or five, it was somewhere about those hours.

Q. How long was it afterwards that Sir Theodosius went a fishing?

A. He was a fishing; I went to him about seven o'clock in the evening.

Q. I ask you when he went a fishing?

A. I don't know when he went out, I did not see him when he went first out.

Q. When was it he went a fishing, do you know the hour?

A. I cannot justly say the hour; I was not in the way.

Q. Where was you when you delivered him the medicine?

A. He was upon the other side of the brook, behind the mill.

Q. Was that the brook where he used to go a fishing?

A. Yes.

Q. Was he fishing when you delivered the medicine to him?

A. No, Sir, he was in his room; he came down stairs and took it out of my hand.

Q. You say, when you delivered the medicine he was on the other side of the brook?

A. No, he was upon the stairs.

Q. How came you to say he was on the other side of the brook?

A. I understood you, where he was when I went to him when he was a fishing.

Q. When

Q. When you delivered the medicine?

A. No, Sir, his sister stood by him when I delivered the medicine.

Q. What did he do with it?

A. He took that up stairs; I don't know what he did with it.

Q. Did he put it in his pocket?

A. No, Sir, he took it up in his hand and shewed it to his sister.

Q. How soon after did you see him at the brook?

A. It might be about a couple of hours after; I saw him fishing after I gave him the medicine.

Q. What time did he come home?

A. It might be about nine o'clock; it was quite dark when he came home.

Q. Now, did your master complain that the phyfic Mr. Powell sent him before made him sick?

A. No, Sir, he never made any complaint of it as I heard.

Q. Did not you say so to Mr. Powell? Did not you tell Powell so, boy?

A. No; not that that phyfic made him sick, he did not say any thing to me about it.

Q. Did he say so about any phyfic?

A. No, Sir; he did not say any thing to me about any phyfic making him sick.

Q. What do you mean by saying about that phyfic?

A. There was one dose he took made him sick, he brought it up again, but he did not mention it to me.

Q. Was any other person present besides his sister, when you delivered the medicine?

A. No, Sir.

Q. What is the hour of dining at your house?

A. We commonly used to dine about two or three o'clock sometimes, and sometimes later.

Q. And how soon after dinner had you seen Mr. Donellan?

A. It

A. It was about seven o'clock, I saw Mr. Donellan in the garden.

Q. Then you had not seen him from dinner time?

A. Not till then, Sir.

Q. Who was with him in the garden when you saw him?

A. My Lady and Madam Donellan were walking about; I was getting apples; he came in soon after.

Q. You did not see any thing of Mr. Donellan from dinner till seven o'clock?

A. No.

Q. Do you know when Mr. Donellan came home?

A. No.

Q. Not that night?

A. No.

Q. Was not he gone to bed before Sir Theodosius came home?

A. Not that I know of.

Court. Q. How long was it after you delivered the medicine to Sir Theodosius Boughton, before he got on horseback to go a fishing?

A. I was not in the way when he got on horseback.

Q. Did you see him come out of the house to go?

A. No; I was not in the house.

MARY LINES, sworn.

Q. Did you live servant to Mrs. Donellan, at Lawford Hall?

A. Yes, Sir; a little before Sir Theodosius's death, before Sir Theodosius died.

Q. How long?

A. I was not there at his death?

Q. You had left the place then?

A. Yes, Sir.

Q. How long before his death was it that you left it?

A. He died, I believe, in August.

Q. Did you leave the place in August last?

A. I cannot justly tell when I did leave it.

Q

Q. You

Q. You cannot recollect it?

A. No, Sir.

Q. Was it a month or six weeks before?

A. I think it was a month before.

Q. How long had you lived with Mrs. Donellan before you left that place?

A. I cannot justly say, Sir.

Q. I don't ask you exactly how long?

A. I cannot justly say.

Q. As near as you can; did you live there a twelve-month, or half a year, or three months, or four months?

A. Yes, Sir, I might, I cannot justly say.

Q. During the time you was there, Mr. Donellan was at that house?

A. Yes, Sir, all the time I was there, he was.

Q. Now, do you know any thing about a still?

A. Yes, Sir.

Q. Tell us what you know about that, speak up distinctly.

A. Yes, Sir; I will tell the truth and nothing else. Mr. Donellan distilled roses, Sir; I don't know he distilled any thing else.

Q. Where was this still kept?

A. He kept the still in what he called his own room.

Q. Was that the room that he slept in at any time?

A. No, Sir, he did not sleep there.

Q. Was the room locked?

A. Yes, Sir; he slept there when Madam Donellan was brought to bed; he slept in that room then, but no time else when I was there.

Q. Was that room in which the still was kept locked?

A. Yes, Sir, it was kept locked before Mrs. Donellan was brought to bed; but when she was brought to bed, it was open.

Q. Do you know of his using this still? Did he frequently make use of it?

A. Yes, in distilling roses; I don't know that he distilled any thing else.

Q. Was

Q. Was it done frequently?

A. It was; I cannot tell how long he distilled, but it was a good while.

FRANCIS AMOS, sworn.

Q. Amos, did you live at Lawford-hall at the time of the death of Sir Theodosius Boughton?—A. Yes.

Q. What capacity was you in there?—I was the gardener.

Q. Do you remember being out fishing with Sir Theodosius the night before he died?—A. Yes.

Q. Were you with him the whole night fishing?—A. Yes, Sir.

Q. Was Mr. Donellan with you fishing?—A. No, Sir.

Q. Do you remember seeing Mr. Donellan upon the evening Sir Theodosius died?—A. I saw him in the garden.

Q. Did he say any thing to you?—A. He whooted for James the footman to come.

Q. Did you see Captain Donellan the day Sir Theodosius died?—A. I saw Captain Donellan the day Sir Theodosius died; he came to me to take two pigeons.

Q. I ask you, during that day Sir Theodosius died, but after his death, did you hold any conversation with Mr. Donellan?—A. No; but at night I had.

Q. What did he say to you?—A. He came into the garden; I had raked the canal; says he, now gardener you shall live at your ease, and work at your ease; it shall not be so as it was in Sir Theodosius's time; I have wanted before to be master; I have got master now, and I shall be master.

Q. Do you know any thing of Mr. Donellan's using a still?—A. No, he brought his still to me two or three days after Sir Theodosius died, with some lime in it; he brought it to me to clean, it was full of lime, and the lime was wet.

Q. Was any thing said to you about it?—A. He said he used that lime to kill the fleas.

Q. Did you, as gardener, know whether he used to gather things in the garden for the purpose of distilling?—A. He might, for what I know.

Q. Have you ever gathered any for him?—A. I have got lavender for him.

Q. You have got lavender for him to distill?—A. Yes, Sir, and took it into the house to him.

Q. Have you in your garden any laurel trees?—A. Yes, Sir, and bays too and laurestina.

Mr. Newnham. Q. And you have cellery in your garden too?—A. Yes.

Mr. Howarth. Q. You say, in the morning that Sir Theodosius died, Mr. Donellan was with you for the purpose of getting some pigeons?—A. Yes, Sir.

Q. Did any conversation pass between him and you respecting Sir Theodosius?—A. Yes, Sir.

Q. What was it?—A. He came and called me, and said, gardener you must come and take a couple of pigeons directly. I said, I have none fit to take, they are not good to eat; says he, it will make no odds if they are not, they are for Sir Theodosius to do something with, we must have them ready against the doctor comes; says he, poor fellow, he lies in sad agonies now with this damned nasty distemper the pox, it will be the death of him.

Q. That was the morning he died?—A. Yes, and soon after that I met my Lady coming out at the door, crying and wringing her hands; and she said it was too late, and she sent me for a woman.

Cross-Examination.

Q. Sir Theodosius Boughton was lain out, was not he?—A. Yes.

Q. He was not concealed?—A. No.

Q. The woman saw him.—A. Yes, Sir, the woman saw him.

Q. Did Mr. Fonnereau come there that day?—A. He came there the day after.

Q. He

Q. He saw him too, did not he?—A. Yes, I believe he saw him.

Court. Q. What time was it the prisoner spoke to you about the pigeons?—A. About eight o'clock.

Q. How soon after was it my Lady came out wringing her hands?—A. A very few minutes.

Mr. CROFTS, sworn.

Q. Did you attend at taking the Coroner's Inquest at Newbold, on the body of Sir Theodosius Boughton?—A. I did.

Q. You was one of the Jury?—A. Yes.

Q. Lady Boughton was examined on that occasion?—A. Yes, Sir.

Q. Did you observe, during Lady Boughton's examination, any particular behaviour of Captain Donellan, and what?—A. I observed him to lay hold of her arm, to give her a twitch, when Lady Boughton said Captain Donellan rinsed the bottles.

Q. When she said what?—A. When she said that Captain Donellan rinsed the bottles, I saw the Captain catch her by the gown, and give her a twitch.

Q. Was that at the time she was repeating that part of her evidence?—A. Yes, it was, upon her saying the Captain rinsed the bottles.

No cross-examination.

JOHN DARBYSHIRE, sworn.

Q. You are a prisoner in the gaol of Warwick, are not you?—A. Yes.

Q. Are you a prisoner for debt in the gaol?—A. Yes.

Q. Give an account of what conversation you had with Captain Donellan, and how you came to enter into that conversation?

A. Why, Sir, we were both in one room together. He had a bed in the same room that I had, for a month or five weeks, I believe; and as the accounts came in-
to

to the prison, I used to tell Captain Donellan what I had heard from time to time. I remember one time a conversation that passed about the body of Sir Theodosius Boughton being opened. I asked Captain Donellan, if the body was poisoned or no? He said there was not a doubt of it. For God's sake, Captain, I said, who could do it? It was done among themselves, he said; that he had no hand in it; he had nothing to do with it. I asked, who were themselves? He said, himself, Lady Boughton, the footman, or the apothecary.

Q. Who did he mean by himself?

A. Sir Theodosius, Lady Boughton, the footman, and the apothecary. I said, Sir Theodosius could not do it himself. He said, No, he did not think he did; he could not believe he would. I told him, I thought the apothecary could hardly do it, for he had no interest in it, he would lose a good patient; the footman could have no interest in doing it; and it was very unnatural to suppose Lady Boughton could do it. He then spoke of my Lady's covetousness, how covetous she was: That she had received an anonymous letter the day after Sir Theodosius's death, charging her plump with the poison of Sir Theodosius: That she called him, and told it to him, and trembled.

Court. Q. The day after he died? — A. Yes.

Q. What did he say farther?

A. She desired that he would not let his wife know of that letter, and asked him, if he would give up the right to the personal estate, and some estate of about £.200 a year belonging to the family. I think that was the substance of the conversation, my Lord.

Cross-Examination.

Q. Had you any acquaintance with Captain Donellan before he came into the gaol?

A. No, I never had seen him before that in my life.

Q. Never in your life? — A. Never.

Q. When

Q. When was this conversation had? — A. Why, in less than a minute after the time he came there.

Q. Soon after his coming? — A. In less than a minute: It was not a minute, I am sure.

Q. Pray, Sir, what way of life were you in before you came to Warwick gaol? — A. A tradesman, Sir, and a very reputable one.

Q. You have failed, I believe, in trade; you was not a very successful tradesman? — A. I have failed in trade.

Q. How often? — A. Twice.

Q. Do you mean twice a Bankrupt? — A. Yes, twice a Bankrupt; but I failed fairly.

Q. Where did you live? — A. At Birmingham.

Q. You know Mr. Pope very well, do you? — A. Yes.

Q. And Sir Alexander Leith too? — A. No, Sir, I know nothing of him.

Q. You knew Pope? — A. Yes, Sir. I know not Sir Alexander Leith. I never spoke to him in my life.

Q. What time of day was this conversation held? — A. Why, we have had some part of that conversation over many times. I fancy it was before dinner.

Q. Was it common talk? — A. Common conversation; we have had it frequently. The Captain and I have talked over the affair hundreds of times.

Q. So that was his usual account? — A. No; not always, but frequently, speaking of Sir Theodosius's death, and my Lady's behaviour: But said he was innocent; and said it was impossible for him to do the thing; it was not in his power, he said.

Examination in Reply.

Q. Did he ever make any doubt, in these conversations, that Sir Theodosius had been poisoned by somebody? — A. Since Christmas, he has said Sir Theodosius was not poisoned.

Q. Not much before? — A. Not much before, as I remember.

Q. How lately has he altered that conversation? —
A. I can-

A. I cannot particularly say the time; but he has altered it, and said that he was not poisoned.

Q. Have you in conversation, more than once, heard him say he was poisoned? — *A.* Yes, I have.

Sir WILLIAM WHEELER, sworn.

Q. Were you the guardian of Sir Theodosius Bough-ton? — *A.* I was, Sir.

Q. Do you remember having received a letter according to this date? — (*Shewing him a letter.*) — *A.* I received that letter some time in August. I received it the 31st.

Letter, signed John Donellan, addressed to Sir William Wheeler, Baronet, produced, dated Lawford-hall, 30th August.

Q. When was it you first had any suspicion of his being poisoned? — *A.* Upon September 1, on the Friday.

Q. Did you, in consequence of that intimation, write any letter to the prisoner? — *A.* No; it was only a flying report in the country.

Q. When was it, and for what reason was it, you was induced to write a letter to the prisoner? — *A.* On Sunday evening, the 3d of September, Mr. Newsam, a gentleman who stands by me, came to my house, and I wrote a letter in consequence.

Q. In consequence of what you heard, you wrote a letter? — *A.* He read a letter from Lord Denbigh.

Q. Have you the letter you wrote? — *A.* It is in court.

Q. Have you a copy of it which, from your recollection, you can undertake to say you wrote it? — *A.* Clearly so.

Cross-Examination.

Q. What was the date of that letter? — *A.* The second of September.

Q. Then the letter was sent on the Saturday? — *A.* Yes.

Mr. Newnam, the Counsel for the prisoner, desired that the letters might be read in their order, with their answers, which was ordered by the Court; and the Judge said, it was more intelligible a great deal.

Then the letters were read, as follow:

Copy

Copy of Captain Donellan's Letter to Sir William Wheler.

Dear Sir,

I am very sorry to be the communicator of Sir Theodosius's death to you, which happened this morning; he has been for some time past under the care of Mr. Powell, of Rugby, for a similar complaint to that which he had at Eaton. Lady Boughton and my wife are inconsolable; they join me in best respects to Lady Wheler, yourself, Mr. and Mrs. Sitwell; we were much concerned to hear of their loss.

I am, dear Sir, with the greatest esteem,

Lawford Hall,
Aug. 30, 1780.

Your most obedient servant,

JOHN DONELLAN.

Dear Sir,

Lemington, Sept. 2, 1780.

I received the favour of your letter the day after my return from Mr. Sitwell's. The sudden and very untimely death of my poor unfortunate Ward gives me great concern, and we condole with Lady Boughton, Mrs. Donellan, and yourself for his loss. I send a servant with this to know how Lady Boughton and Mrs. Donellan do, after so sudden and great a shock. Please to make our respects to them. At a proper time I shall make my respects to them and you in person.

I am, dear Sir, your obedient humble servant,

WILLIAM WHELER.

To John Donellan, Esq.
Lawford Hall.

Dear Sir,

Lemington, Sept. 4, 1780.

SINCE I wrote to you last I have been applied to, as the guardian of the late Theodosius Boughton, to
R enquire

enquire into the cause of his sudden death. And report says, that he was better the morning of his death, and before he took the physic, than he had been for many weeks; and that he was taken ill in less than half an hour, and died in two hours after he had swallowed the physic. Supposing this to be true, there is great reason to believe that the physic was improper, and that it might be the cause of his death. As it makes a great noise in the country, and as I find that I am very much blamed for not making some enquiry into the affair, I thought it necessary to call upon Mr. Powell, to give an account in what state of health he found Sir Theodosius Boughton when he first attended him, what medicines he gave him, and, particularly, the dose of physic that he took the morning of his death; and what state he was in at the time of his death. I expect Mr. Powell here every moment, his character is at stake, and I dare say it will be a great satisfaction to him to have the body opened; and though it is very late to do it now, yet it will appear from the stomach whether there is any thing corrosive in it. As a friend to you, I must say that it will be a great satisfaction to me, and I am sure it must be so to you, Lady Boughton, and Mrs. Donellan, when I assure you that it is reported all over the country that he was killed either by medicine or by poison. The country will never be convinced to the contrary unless the body is opened, and we shall be all very much blamed; therefore I must request it of you, and the family, that the body may be immediatly opened, by Mr. Wilmer, of Coventry, or Mr. Snow, of Southam, in the presence of Dr. Rattray, or any other physician that you and the family think proper. Mr. Powell is now with me, and, from his account, it does not appear that his medicines could be the cause of his death; he has not gave him any mercury since June, and the physic he took, the morning of his death, was composed of rheubarb

barb and jallap, two very innocent drugs. Mr. Powell says it will be a great satisfaction to him to have the body opened; and, for the above reasons, I most sincerely wish it, as no reflections can be cast upon me, Lady Boughton, or you, if it is done; and if it is not we shall be much blamed. I will only add, that this affair makes me very unhappy, as it must do you, Lady Boughton, and Mrs. Donellan. I beg of you to lay this affair before Lady Boughton in as tender a manner as you can, and to point out to her the real necessity of complying with my request, and to say that it is expected from the country.

I am, with respects to Lady Boughton, yourself, and Mrs. Donellan,

Your sincere friend, and obliged humble servant,

WILLIAM WHEELER.

Dear Sir,

I this moment received a letter from you, by Mr. Powell, which I communicated to Lady Boughton and my wife, and we most chearfully wish to have the body of Sir Theodosius opened, for the general satisfaction, and the sooner it is done the better, therefore I wish you could be here at the time.

I am, dear Sir, with the greatest sincerity,

Your most obedient humble servant,

Lawford Hall,
Sept. 4, 1780.

JOHN DONELLAN;

Dear Sir,

I have this moment received the favour of your letter, and I am very happy to find that Lady Boughton, Mrs. Donellan, and yourself, approve of having the body opened. I should wish to shew Lady Boughton,

ton, and every part of her family, every respect that is in my power, but it would be very improper for me, or indeed any other person except the faculty, to attend upon this occasion; the surgeons, a physician, and Mr. Powell, should attend as soon as possible. I hope that you understand that it is not to satisfy my curiosity but the public, that I wish to have this done, and to prevent the world from blaming any of us that had any thing to do with poor Sir Theodosius.

I am, with great sincerity,

Your faithful humble servant,

WILLIAM WHELER.

Dear Sir,

GIVE me leave to express the heart-felt satisfaction I enjoyed in the receipt of your letter, as it gave us, Lady Boughton, my wife, and self, an opportunity of instantly observing your advice in all respects. I sent for Dr. Rattray and Mr. Wilmer, they brought another gentleman with them, Mr. Powell gave them the meeting; and, upon the receipt of your last letter, I gave it to them to peruse, and act as it directed; the four gentlemen proceeded accordingly, and I am happy to inform you they fully satisfied us; and I wish you would hear from them the state they found the body in, as it will be an additional satisfaction to me, that you should hear the account from themselves. Sir Theodosius made a very free use of ointments and other things, to repell a large b—— which he had in his groin; so he used to do at Eaton, and at Mr. Jones's, he told me often. I repeatedly advised to consult Dr. Rattray, or Mr. Carr, but, as you knew Sir Theodosius, you will not wonder at his going his own way, which he would not be put out of. I cannot help thinking but that Mr. Powell acted to the best of his judgment for Sir Theodosius

Theodosius in this and the last case, which was but a short time finished before the latter appeared. Lady Boughton expressed her wishes to Sir Theodosius, that he would take proper advice for his complaints, but he treated her's as he did mine. She and my wife join in best, &c.

Sept. 5, 1780.

JOHN DONELLAN.

After the letter of the 5th of September was read, the following questions were asked of Sir William Wheler :

Q. Upon the receipt of that letter, did you entertain the idea of this body being opened ?

A. I took it for granted the body had been opened.

Q. When was you first undeceived in that particular ?

A. On Wednesday morning.

Q. By whom ?

A. By Lady Boughton.

Q. Did you, in consequence of being undeceived, write any letter to Mr. Donellan ?

A. I did immediately.

The letter of the 6th of September read :

Dear Sir,

FROM the letter that I received from you yesterday morning, I concluded that the body of the late Sir Theodosius Boughton had been opened, and that I should receive an account from the faculty of the state that they found it. I have not yet heard from them, but find that they found the body in so putrid a state, that they thought it not safe to open it. I likewise find that a young man of Rugby (Mr. Bucknill) did attend, and offer to open the body, but it was not done. If Bucknill and Snow will do it, I by all means recommend it to you to let it be done, as it must be a satisfaction

faction to you, as well as myself, to have the cause of his sudden death cleared up to the world. If there is any danger in opening the body, it is to themselves, and not to the family, as the body may be taken into the open air. If I am not misinformed, Mr. Bucknill is, or was, very desirous of opening the body. I am, with respects to Lady Boughton, Mrs. Donellan, and yourself,

Your sincere friend, and obliged humble servant,

Lemington, Sept. 6, 1780. WILLIAM WHEELER.

If Snow is from home I do not see any impropriety in Bucknill's doing it, if he is willing. I will send Snow to Bucknill, that if Bucknill should be gone to Lawford he may follow him.

*To John Donellan, Esq.
Lawford Hall.*

After the letters were read, except the letter to the Coroner and his Jury, the following questions were asked of Sir William Wheeler.

Q. How far do you live from Lawford-hall?

A. About eight miles, the nearest way.

Q. How far is it the coach-road?

A. Ten miles.

Q. What time would it take to go from your house to Lawford-hall?

A. The servants always go the round-about way, the other is a trespass. They might go the long way. I suppose it is about ten miles at least.

Then the letter of the Coroner and the rest of the Jury was read, as follows:

To the Coroner, and Gentlemen of the Jury, at Newbold.

Gentlemen, my understanding from report that you are to meet again to-day, I hold it my duty to give you every

every information I can recollect, respecting the business which you are upon, exclusive of what appeared before you last Saturday, when Lady Boughton and self was with you. During the time Sir Theodosius was here, great part of it was spent in procuring things to kill rats, with which this house swarms remarkably: He used to have arsenic by the pound weight at a time, and laid the same in and about the house in various places, and in as many forms. We often expostulated with him about the extreme careless manner in which he acted, respecting himself and the family in general. His answer to us was, that the men servants knew where he laid the arsenic, and for us, we had no business with it. At table, we have not, knowingly, eaten any thing for many months past which we perceived him to touch, as we well knew his extreme inattention to the bad effects of the various things he frequently used to send for, for the above purposes, as well as for making up horse medicines. He used to make vast quantities of golard, from a receipt which he had from Mrs. Newsam. She will give you a copy of it, if you please, and it will speak for itself. Since Sir Theodosius's death, the gardener collected several fish which Sir Theodosius laid; he used to split them, and rub the stuff upon them. The gardener was ordered to bury the fish. The present men servants and the former ones, for about two years back, with William Matthews, the house-carpenter, can relate the particulars respecting the above having been Sir Theodosius's common practice when he was able, or that he was not a fishing, or attending his rabbits, or at carpentering work. Lady Boughton, my wife, and myself, have shewed the utmost willingness to satisfy the public respecting Sir Theodosius's death, by every act within the limits of our power. The accompanied letter from Sir William Wheler will testify the same, as well as our orders that every one that came to the house should

see

see the corps before it was put into the coffin, the fourth day, and the eighth day the corps was sent to the vault at Newbold. I am,

Gentlemen,

Your most obedient humble servant,

Thursday, Lawford-hall,

JOHN DONELLAN.

14th Sept. 1780.

After the letter to the Coroner and his Jury was read, Sir William Wheler was cross-examined.

Q. Pray, Sir, did you know the late Sir Edward Boughton?

A. I did very well.

Q. Do you recollect what he died of?

A. I really do not know. He died suddenly. I never heard.

Q. He died as he was walking home?

A. I believe he did. I do not know it of my own knowledge.

Q. It was so understood?

A. It was so understood.

Q. What sort of person was he?

A. He was a short thick-set fat man.

Q. What was the person of the late Sir Theodosius Boughton?

A. Very thin, and much taller than his father.

Q. What age was Sir Edward Boughton when he died?

A. Sixty.

Mr. EDWARD ORME, sworn.

Q. What is your Christian name?

A. My name is Edward.

Q. Were you at any time desired to carry a letter by the prisoner to any person?

A. Yes.

Q. By

Q. By whom?

A. To Mrs. Donellan.

Q. Did you receive that letter sealed or unsealed?

A. Unsealed.

Q. Did you make any observation to the prisoner?

A. I never saw Mr. Donellan.

Q. Then whose hands did you receive it by?

A. By Mr. Rowe, the gaoler. — I think Mr. Rowe gave me the letter.

Q. Did you open that letter that you received, as it was unsealed.

A. I did open it.

Q. Did you afterwards carry it to the person to whom it was directed?

A. I did not.

Q. Where did you deliver it?

A. I delivered it at Rugby, where I live, and sent it by a person going into that neighbourhood.

Q. Who was it directed to?

A. To Mrs. Donellan, at Lawford-hall, or elsewhere.

Q. Did you take a copy of that letter?

A. I did, (*producing it*) and I am very sorry I did do it.

Mr. Newnham. 'Tis a very extraordinary thing to intercept a letter from him to his wife.

The Judge was of opinion, it was not evidence, as he had not received it from the prisoner.

Court. Q. You do not know Captain Donellan's hand-writing?

A. I cannot positively swear to it.

Q. Did you see him write?

A. No, I cannot positively swear to it.

Q. Do you know the prisoner at the bar?

A. No, I do not.

Q. Have you seen him before?

A. Yes, I have.

Mr. ROWE, Keeper of the Gaol, sworn.

Q. Was you present when any body delivered into this man's hand, a letter directed to Mr. Donellan?

A. I delivered to him.

Q. From whom had you that letter?

A. From the person that waits on the Captain.

Q. Who is he? what is his name?

A. John Barnes.

Q. He is a debtor in gaol?

A. Yes, he is under execution for debt.

Q. Had you curiosity to open that letter and read it?

A. Yes, I did.

Q. Can you tell whose hand-writing that letter was?

A. Yes, Sir; it was Captain Donellan's.

Q. to Orme. What did you do with the letter when you received it?

A. I carried it to Rugby, and gave it to a person who was going into that neighbourhood.

Mr. Howarth. It is perfectly immaterial whether it ever got to Mrs. Donellan or not; I only produce it as delivered by the prisoner to this man.

Mr. Newnham objected to it, and said it was not admissible evidence in a cause short of treason, what the wife has said either for or against her husband.

Mr. Howarth. His Lordship will presume it was received agreeable to directions.

Mr. Justice Buller. Circumstanced as this letter is, having gone through two hands, as a Judge I do not think it is admissible.

Mr. Howarth. The declaration of the prisoner is evidence: Here is something delivered by the prisoner into the hands of the witness Orme, and ordered by him to be sent agreeable to that direction, in consequence of that order from the prisoner; though it is not now in our power to produce the original, we may produce the copy.

Mr.

Mr. Justice Buller. In my opinion it has not gone far enough to shew the necessity of it ; for, in the first place, you trace it from the prisoner to Rowe the gaoler ; from thence to Edward Orme, and he delivered it to another person ; you might have gone on to enquire of that person ; is he here ?

Mr. Howarth made enquiry of Orme, whether he was or not ; Orme said, I do not know that he is : Then Mr. Howarth said, we have done for the prisoner.

Mr. Justice Buller to the prisoner. Prisoner, now is the time for you to make your defence.

Prisoner. My Lord, I beg leave to have this read, putting in a written defence, which was read as follows :

My Lord, and Gentlemen of the Jury,

PERMIT me, in this unfortunate situation, to submit to your consideration a few particulars and observations relating to this horrid charge which has been brought against me.

Although many false, malevolent, and cruel reports have been circulated *in the public prints*, and throughout the country, ever since my confinement, *tending to prejudice the minds of the people* in an opinion injurious to my honour, and dangerous to my life—I still have confidence that your justice and humanity cannot be misled by them.

My marriage with Mrs. Donellan, in the year 1777, was with the entire approbation of her friends and guardians ; and to convince both her and them of my honourable intentions, I entered into articles for the immediate settling of her whole fortune on herself and children, and deprived myself of the possibility of enjoying even a life estate in case of her death ; and this settlement did not extend only to her then fortune, but to all future expectancies.

Ever since my marriage, the deceased and myself lived in perfect friendship and cordiality; and it is well known to the family, and to many respectable persons, that upon several occasions of danger to his life, which the deceased had unguardedly fallen into, I have stepped in and prevented it: Such instances of friendship on my part, are, I trust, sufficient to convince you that I could never entertain any design against his life.

Immediately after the death of Sir Theodosius, I wrote a letter to Sir William Wheler, one of his guardians, to acquaint him of the melancholy event; and to my letter Sir William Wheler sent an answer, condoling with the family for the loss. A few days after, I think on the 4th September, I received a second letter from Sir William, representing the surprize which had arisen in the country respecting Sir Theodosius's death, and his wish to have the body opened for general satisfaction. This letter was brought me by Mr. Powell, and so anxious was I to give that satisfaction, that by him I returned an answer, expressing the cheerful acquiescence of myself and the family, to his propositions; and immediately afterwards sent a servant to Coventry, to Mr. Wilmer and Dr. Rattray, (gentlemen alluded to in Sir William's letter) requesting them to be at Lawford directly, to perform the operation.— These gentlemen arrived there about nine o'clock at night, *when I produced to them Sir William's letter, and desired they would pursue his instructions.* They accordingly, with Mr. Powell, went up stairs, and examined the body; and, after continuing there some time, returned, and informed the family that the same was so putrid, it was not only dangerous to approach it, but *impossible at that time to discover the cause of Sir Theodosius's death.* I then *express'd my wish that Sir William might be acquainted with the result of their attendance, and I think Dr. Rattray promised to wait upon him the next morning for that purpose.* But by a letter I received from

from Sir William soon afterwards, I found Dr. Rattray had not been with him, and therefore immediately sent a letter to Mr. Wilmer, particularly requesting that he and Dr. Rattray would, on receipt thereof, wait upon Sir William Wheler; to which he wrote me an answer, informing me that he was then engaged in a case of midwifery, but that as soon as he should be disengaged, he would comply with my request; and further informed me, that Dr. Rattray was then from home, but that if he should return before he, Mr. Wilmer, left Coventry, he would communicate my wishes to him.

Soon after this, a Mr. Bucknill called at Lawford, and said, he had understood that I wished to have the body of Sir Theodosius opened. I informed him that it was my wish, but that Mr. Wilmer, Dr. Rattray, and Mr. Powell, had attended the preceding evening, and declared, that from the high state of putrefaction the body was in, it was not only unsafe to open it, but at that time impossible to form any opinion with respect to the same; however, I told him, that I should, nevertheless, think myself obliged to him to undertake the matter, if he would wait upon Sir William Wheler, and obtain his consent to do it.

Mr. Bucknill then left me, and the next morning, being the 6th of September, I received another letter from Sir William Wheler, wherein he mentioned that he had been informed of Mr. Bucknill's having expressed a wish to open the body, and that therefore he had requested Mr. Snow (the apothecary of his family) to call upon him, and take him to Lawford for that purpose; in which letter Sir William also recommended to me, to let them open the body if they should attend.

This day had been fixed upon several days prior to the same for Sir Theodosius's funeral, and the tenants and others invited, were then there ready to attend the same.

About three o'clock that afternoon, Mr. Bucknill arrived alone, and immediately on his arrival I asked him, if the plumber and carpenter (who were then there) should open the coffins, who desired they might wait till Mr. Snow should attend.

Mr. Bucknill waited some time, and then informed me that he must go, but said he would return again, and desired that if Mr. Snow should arrive in the mean time, he might wait. I pressed him to stay, but he said he could not do it.

Soon after Mr. Bucknill was gone, Mr. Snow arrived, and waited a considerable time for Mr. Bucknill's return; but on his not arriving, he at length sent for the plumber and others into the parlour, and after examining them as to the putridity of the body, declared he would not be concerned in opening it for Sir Theodosius's estate; and recommending it to the family to have the same buried that afternoon, immediately left Lawford before Mr. Bucknill's return.

The body was therefore buried that evening, but not by my directions or desire.

This, my Lord, and Gentlemen of the Jury, was the undisguised part I took; but, such is my misfortune, that not only a gentleman, unused to attend this bar, whose persuasive abilities the most conscious innocence must tremble at, has been called in against me—but the most trifling actions and expressions have been handled to my prejudice: My private letters have been broke open, and many other unjustifiable steps have been taken to prejudice the world, and imbitter my defence. However, depending upon the conscience of my Judge, and the unprejudiced impartiality of my Jury, I trust my honour will be protected by their verdict.

Mr.

Mr. ANDREW MILLER, sworn.

Q. You are post-master, Sir, at Rugby?

A. Yes, Sir.

Q. Did you keep the Bear Inn, at Rugby, at the time the assembly was held at that house?

A. Yes, Sir.

Q. Now do you remember the late Sir Theodosius Boughton being at your house, upon any quarrel happening between him and Mr. Wildgoose?

A. I do, Sir.

Q. How long is it ago?

A. About the 1st of June, I think, 1778. It was on Tuesday the 1st of June.

Q. Do you remember what his conduct was upon that occasion, and whether Mr. Donellan was sent for or not?

A. I remember something of it.

Q. You remember Mr. Donellan coming?

A. Yes, I do.

Q. You remember what part Mr. Donellan took upon that occasion?

A. I remember what I thought upon that occasion.

Q. Repeat what you thought?

A. Why, I thought he acted in such a measure as to prevent their fighting.

Q. Were any applications made to you to deliver up any letters to Captain Donellan, in case they came from the prosecutor's attorney?

A. I don't recollect.

Q. You keep the Post Office?

A. Yes. I don't understand what you said about the letters; I remember something of some letters.

No Cross-Examination.

GEORGE

GEORGE LOGGINS sworn.

Q. Do you know Mr. Chartres, a clergyman?

A. Yes, Sir.

Q. Do you know any thing of a misunderstanding between him and Sir Theodosius Boughton?

A. Yes, Sir; I was present at the time.

Q. When was it?

A. I don't recollect the exact time, I believe it was about a year and a half ago.

Q. Now what passed?

A. There happened a quarrel between the late Sir Theodosius Boughton and a Mr. Miller, and Mr. Chartres interfered; Mr. Miller asked pardon, and then he insisted on fighting Mr. Chartres; in consequence of that he sent for Mr. Donellan.

Q. Who did?

A. Sir Theodosius Boughton did. The Captain came over the next morning, in consequence of a letter Sir Theodosius sent him.

Q. Did the Captain interfere at all?

A. Yes, he did; he did as a mediator: I considered the matter as settled before the Captain came.

No cross-examination.

Mr. JOHN HUNTER, Surgeon, sworn.

Q. You have been present in Court, and have heard what the gentlemen have said?

A. The whole time.

Q. Did you hear what Lady Boughton said?

A. I heard the whole.

Q. Did you attend to the symptoms so described, as appearing upon Sir Theodosius Boughton, after the medicine was given him.

A. I did.

Q. Pray, Sir, can any certain inference be drawn, either upon physical or chirurgical principles, from those

those circumstances, or from the appearances, externally or internally, upon the body, to enable you in your judgment to decide that his death was owing to poison?

A. In London I had some gentlemen, who are present in this Court, wait upon me with the examination of Mr. Powell and Lady Boughton, with the physical gentlemen's opinion upon that dissection.

Q. I did not wish to go into that; I put my question in a general way?

A. The appearances of the body certainly explain nothing.

Q. By appearances of the body let me understand whether you mean to say, the external or internal appearances?

A. The whole of the appearances upon the dissection explain nothing but putrefaction.

Q. Pray, Sir, have you been in the habit of dissecting human subjects?

A. Some thousands.

Q. I presume more than any man in Europe; have you been long in that habit?

A. These thirty-three years.

Q. You heard those appearances mentioned; are they, in your judgment, such as are the result of putrefaction in dead subjects?

A. Entirely.

Q. Then as to the symptoms that appeared after the medicine was given, are they such as necessarily conclude that he had taken poison?

A. Certainly not.

Q. If an apoplexy had come on, would not the symptoms have been nearly or somewhat similar?

A. Very much the same.

Q. Pray, Sir, have you ever known a young subject die of an apoplexy, or epilepsy?

T

A. Certainly;

A. Certainly ; with regard to apoplexy, though not so frequently, young subjects will die ; and perhaps more frequently than old ones, of epilepsy. Children are dying every day of teething, a species of epilepsy arising from it.

Q. Did you ever, in your practice, know an instance of laurel water being given to a human subject ?

A. No, never.

Q. Is any certain analogy to be drawn from the effects of a given species of poison upon an animal, I mean the brute creation, to that which it has, or may have, upon the human subject ?

A. As far as my experience goes, which is not very confined, because I have poisoned some hundreds of animals ; they are very near the same : opium will poison a dog similar to a man, arsenic will have very near the same effect upon a dog as it will have upon a man ; that is, I know something of the effects of them, and I believe their operations will be nearly similar.

Q. Does it not happen that many things will kill animals almost instantaneously, spirits, for instance, occurs to me that know nothing of the subject ; that will have no detrimental or noxious effect upon the human subject ?

A. I apprehend a great deal depends upon the mode of experiment. There is no man fit to make an experiment but those that have made many, and by a considerable attention to all the circumstances that relate to experiment. It is a common experiment, and believe it seldom fails, and is in the mouth of every body, that a little brandy shall kill a cat ; I have made the experiment, and I have killed several cats, but it is a false experiment. In all those cases where it kills the cat, it is got into the cat's lungs, not the stomach ; if you convey it into the stomach, in such a way that the lungs shall not be affected, the cat will not die. Now in all those experiments that are made in forcing the
animal

animal to drink, there are two operations going on: there is one, refusing the operation by the animal; the other, of forcing upon it from it's struggling to refuse it; and there are very few experiments of that kind but some of the liquid will get into the lungs. I have known it from experiment.

Q. If you are called upon to dissect a body, suspected to have died of poison, and had been present at the dissection, should you not have thought it necessary to have pursued your search into the intestines, into the guts?

A. Certainly.

Q. Do you, or not, apprehend you would have been likely, or more likely, to have received information from thence than any other part of the human frame?

A. That is the tract of the poison, and therefore I should certainly follow that tract through.

Q. You have heard particularly, the symptoms of froth coming out of Sir Theodosius Boughton's mouth immediately before he died; is that peculiar to a man dying of poison, or is it not very common in many other complaints?

A. I fancy it is the general effect of people dying in what you may call health.

Q. By dying in health, do you mean apoplexy or epilepsy?

A. Both; or sudden death, upon a person that was the moment before in perfect health.

Q. Have you ever had an opportunity of seeing such appearances or effects upon such subjects?

A. Hundreds of times.

Q. Do you consider yourself as called upon by such appearances, to impute the death of the subject to poison?

A. Certainly not, I should rather suspect it to be an apoplexy; and I wish the head had been opened, it might have removed all doubts.

Q. You apprehend all doubts might have been removed?

A. They would have been removed still further, because, although the body was putrid, so that you could not tell whether it was a recent inflammation, yet, at the same time, an apoplexy arises from extravasations of blood in the brain; that a quantity of blood, I take it for granted, though the body was putrid, would remain there in a coagulum visible to be seen, and much more visible than the effect any poison would have had upon the stomach and intestines.

Q. Then I am to collect, that, in your judgment, from the appearances of the body being black, swollen, or distended, the lips swelled and retracted, and those appearances which the gentlemen of the faculty have described, and I dare say they have all given an accurate description, that no inference can be drawn from thence to say he died of poison.

A. Certainly not; it does not give the least suspicion.

Cross-Examination.

Q. Having heard, before to-day, that a person, apparently in health, had swallowed a draught which had produced the symptoms described; I ask you, whether any reasonable man can entertain a doubt that that draught, whatever it was, produced those appearances;

A. I don't know well what answer to make to that question.

Q. I will therefore ask your opinion; having heard the account given of the health of this young gentleman, previous to the taking of the draught that morning, and the symptoms that were produced immediately upon taking that draught; I ask your opinion, as a man of judgment, whether you do not think that draught was the occasion of his death?

A. With regard to the first part of the question, his being in health, that explains nothing; I see healthy people,

people, and generally healthy people, die suddenly, and therefore I shall lay no stress upon that. As to the circumstances of the draught, I own there are suspicions. Every man is as good a judge as I am.

Court. Q. You are to give your opinion upon the simple evidence, not taking in all the other evidence, only speak upon the symptoms?

(No immediate answer given.)

Mr. Howarth then put the following question: Upon the symptoms immediately produced upon the swallowing of that draught, I ask your judgment and opinion, whether that draught did not occasion his death?

Mr. Newnham. I beg to object to that question, if it is put in that form; if it is put after the swallowing it, I have no objection.

Mr. Howarth. Q. Then, after swallowing it, what is your opinion, allowing he had swallowed it?

A. I can only say that is a circumstance in favour of such opinion.

Court. Q. The symptoms as appeared afterwards are a circumstance in favour of an opinion the draught occasioned his death?

A. No, my Lord; because the symptoms afterwards are those of a man dying who was before in perfect health. Of epilepsy, or apoplexy, or a thousand other sorts of disorders, the symptoms will give one those general ideas.

Court. Q. The general ideas that we ask you are, from the symptoms you have heard described, immediately after he took the draught, followed by his death very soon after; whether, upon that part of the case, you are of opinion the draught occasioned his death?

A. If I was clear the draught he has taken was poison, or something obnoxious, I should say, most probably the symptoms arose from that. But, when I first of all don't know the draught was noxious, and I can conceive a number of other circumstances can kill,

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or produce the same effect, I cannot speak positively to it.

Q. In the first place, you remember the circumstances of the violent heavings that came on?

A. Yes; all that violent heaving is the effect of the voluntary action being lost, and nothing being left but the involuntary.

Mr. Howarth. Q. Then you decline giving any opinion upon the subject?

A. I cannot form an opinion upon the subject.

Q. You refuse giving an opinion upon the subject, whether the death of Sir Theodosius Boughton was occasioned by the draught or not?

A. I cannot. I can conceive, if he had the draught of poison, the effects might arise from it; and I can conceive it might arise from other causes.

Q. If you are acquainted at all with the effects or causes of distilled laurel water, give me leave to ask, whether the swallowing that as a medicine, would not have produced the symptoms described?

A. I should suppose they might; I can only say this from experience, the effect of laurel water upon animals has not been so quick as the effects described in this case. I have ejected it directly into the blood of dogs, and they have not died; I have thrown laurel water into the stomach of dogs, and it never produced so quick an effect with me as described by those gentlemen.

Q. You think laurel water would have produced symptoms as they have described?

A. I have killed dogs with laurel water

Q. I ask whether you conceive it is possible laurel water will not produce symptoms such as have been described?

A. I should conceive it might.

Q. Will not an apoplexy, or an epilepsy, if you had seen Sir Theodosius at this time, though he had taken no physic at all, have produced similar symptoms?

A. Cer-

A. Certainly.

Court. Q. Either epilepsy or apoplexy?

A. Either epilepsy or apoplexy.

Q. Now I will ask you another question, whether it is not understood that one part of the family died of an apoplexy?

A. The father died of an apoplexy.

Q. Is not that a disease sometimes apt to run in the family?

A. There is no disease whatsoever that becomes constitutional, but what can be given to a child; there is no disease that is acquired that can be given to a child, but whatever is constitutional in the father. The father has a power of giving that to the child, by which means it becomes hereditary. There is no such thing as hereditary diseases, but such a thing as an hereditary disposition.

Q. Do you call apoplexy constitutional?

A. I can easily conceive there are no diseases hereditary but what are constitutional. In the small-pox, as there is a constitutional disposition more in some than others; but it requires an immediate cause to produce the effect. The venereal disease is hereditary for that reason.

Court. Q. Do you conceive an apoplexy to be constitutional?

A. I can easily conceive some constitutions are more disposed to an apoplexy than others.

Q. Is apoplexy likely to attack a thin young man, who had been in the course of taking medicines before?

A. Not so likely surely as another man; but I have an account in my dissections of two young women dying in an apoplexy.

Q. In such an habit of body, particularly attended with the circumstance of having taken cooling medicines, you say it was very unlikely?

A. I

A. I don't know the effect of medicine so well as to know any that would hinder an apoplexy from taking effect.

Court. Q. I wish you would be so good as to give me your opinion, in the best manner you can, one way or the other, whether, upon the whole you have heard of the symptoms described, it is your opinion the death proceeded from that medicine, or any other cause?

A. That question is distressing. I don't mean to equivocate, when I tell the sentiments of my own mind, what I feel at the time ; I can give nothing decisive.

Mr. JUSTICE BULLER.

Gentlemen,

THE prisoner at the bar, John Donellan, stands indicted for the wilful murder of Sir Theodosius Edward Alsley Boughton, which is said to have been effected by poison. Before I state the evidence, I will mention a thing that is taken notice of by the prisoner in his defence, which is, that a great many tales and cruel reports have been circulated in the public prints ever since his confinement, tending to prejudice the minds of the people against him. If such has ever existed, it has been extremely improper, and it has been highly criminal, for there is nothing that tends more to stop the course of justice, than attempting to prejudice mens minds before a cause comes to be tried. Whether the fact be true or false, is what I cannot say, for I really do not know of my own knowledge ; but, if it be true, I recommend to you to strip your minds from every thing you have heard respecting this cause before you got into that box, and to consider very coolly and indifferently on the evidence given, before you pronounce one way or the other ; and in the verdict you may find, whatever it may be, you will take nothing in
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your consideration that has not been proved in the course of the trial. On the part of the prosecution, a great deal of evidence has been laid before you; it is all circumstantial evidence, and in its nature it must be so, for in cases of this sort, no man is weak enough to commit an act in the presence of other persons, or to suffer them to see what he does at the time, and therefore it can only be made out by circumstances, either before the time of the action, at the time when it was committed, or subsequent to it; and the presumption which necessarily arises from circumstances is very often more convincing, and more satisfactory, than any other kind of evidence; because it is not in the reach and compass of human abilities, to invent a train of circumstances which shall be so connected together as to amount to a proof of guilt, without affording opportunities of contradicting a great part, if not all, of these circumstances. But if the circumstances are such as, when laid together, will bring conviction home to your minds, that is then more convincing than positive proofs. You will see, whether the circumstances of this cause amount to that conviction; that is the matter solely for your consideration. I will state the evidence as I have taken it down. I trust I have not omitted anything that may be material, though I am conscious I have taken down a great deal that may not be material. If I have omitted any circumstance that may have the least weight, I desire the Counsel on either side will correct me.

Here his Lordship summed up the evidence, after which he proceeded as follows :

After so long a trial as this has been, I do not think I should discharge my duty if I rested content with doing nothing more than stating the evidence directly to you. Being a cause of so great a length, and consisting of such a variety of circumstances, I hold it to be a duty which I owe to the public, and which I owe to

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you, to state to you what are the impressions that that evidence makes on my mind, and to give you my observations; but at the same time, previously to inform you, that you are not to attend to any opinion, because it is mine; you are to consider the evidence yourselves, you are to form your own opinion; if you differ from me on one, or all, or any of the reasons that I give, it is your judgment and consideration, and not mine, that must decide this case. Now there are two questions for you to consider; the first is, that the deceased died of poison: with regard to that, you heard in evidence, on the part of the prosecution, a great number of very able men in the physical line, who have given you their opinions, that they have no doubt but the death was occasioned by poison. The first physician that was called, is Dr. Rattray; he says, he has no doubt at all but that the medicine was the cause of the death; and in his opinion, and as the appearances he saw on the body could not arise from putrefaction, he has taken great pains to inform himself of the effects of laurel water; he has tried various experiments; he has told you the effects of these experiments; he has mentioned the circumstance of a biting upon his own tongue, which likewise affected him in all the experiments that he made after; and from thence, he says, he is satisfied that what he found on the tongue, at the time the body was opened, proceeded in some measure from the laurel water: he says, he never saw any heaving of the stomach attend either epilepsy or apoplexy. Mr. Wilmer says, that though from the appearances of the body, he is not able to form any opinion of the cause of this, yet he is now clearly of opinion, that Sir Theodosius Boughton's death was occasioned by the draft administered by Lady Boughton; he was asked a great deal about epilepsy, and he says, that heaving is not a circumstance generally attending epilepsies. Another circumstance proper for you to attend to, upon the evidence of these

two gentlemen, is, that when they came to Lawford-hall, neither of them were told that there was the smallest suspicion that poison had been administered to Sir Theodosius Boughton; if there had, they both swear, in the strongest terms, they would have opened the body at all events. Dr. Ashe agrees in opinion with them, that Sir T. Boughton did die in consequence of the draught; and he says, that he attributes the effects of it from the symptoms that had been spoken of, to nothing but the poison that the appearances on the bodies of animals are similar to the appearances mentioned on this body; and he says, the appearances on this body were similar to those symptoms which appear where an animal is killed by a vegetable poison. Dr. Parsons agrees in the same opinion, that Sir Theodosius did die of the poison; and he says, that the smell is the greatest characteristic of the laurel water: he agrees, that the heavings were to be attributed to the effects of the medicine; his words are, "It must be attributed to the effects of the medicine undoubtedly, and that the laurel water will produce all the effects that have been mentioned." These are the gentlemen of the faculty who have given their opinions on the part of the prosecution. For the prisoner, you have had one gentleman called, who is likewise of the faculty, and a very able man, and he can hardly say what his opinion is; he does not seem to form any opinion at all of the matter: he at first said, he could not form an opinion, whether the death was occasioned by the poison or not, because he could conceive it might be ascribed to other causes: I wished very much to have got another answer from Dr. Hunter, if I could; what, upon the whole, was the result of his attention to this case? what his present opinion was? but, he says, he can say nothing decisive: so that on this point, if you are determining on the case upon the evidence of the gentlemen who are skilled in the faculty only, you have a very positive opi-

nion of four or five gentlemen of the faculty on the one side, that the deceased did die of poison ; and upon the other side, what I really cannot myself call more than the doubt of another, that is Mr. Hunter; he says, that laurel water will produce the symptoms which are described ; he says an epilepsy or apoplexy will produce the same symptoms ; but as to an apoplexy, it is not common in its effects on so young and thin a man as Sir Theodosius Boughton was. As to epilepsy, the other witnesses tell you, they did not think the symptoms which had been spoken of, do shew that Sir T. Boughton had any epilepsy at the time. This is the case as it stands, upon the evidence of the medical gentlemen only ; but as there was a doubt about that, we must take into consideration all the other circumstances that have either shewn there was poison administered, or that there was not ; and every part of the prisoner's conduct is material to be considered in that light. The first evidence that has been spoken of is, that for three or four weeks, or more, before this time, the prisoner had entertained doubts that something or other might happen before Sir Theodosius came of age. This is sworn to by Lady Boughton. On the evening before Sir T. Boughton died, the prisoner comes out into the yard, about seven o'clock, and he addressed Lady Boughton and his wife ; he said, he had been to see Sir Theodosius fishing, and he had persuaded him to come in lest he should take cold. Is that truth ? You have it sworn by a man who was with Sir Theodosius all the time, that the prisoner was not with him at all ; what was there then that called upon the prisoner, unnecessarily, to tell such a story ? If you can find an answer to that, that does not impute guilt to the prisoner, and if it be such an answer as you think is a fair and reasonable one, you will adopt it ; but on this fact, and many others that I must point out to your attention, I can only say, that unnecessary, strange, and contradictory

zory declarations, cannot be accounted for otherwise than by that fatality which only portends guilt. It is said by Lady Boughton, that the prisoner, when he comes up into the bed-chamber, accosts her in the manner as if he knew nothing what was doing; he asks, what do you want? Why, had he heard nothing about it? He had seen the servant; the servant had told him what Lady Boughton had said, that he was going in a violent hurry for the apothecary Powell; he comes in and says, what do you want? She told him what she had given, and what she thought of the physick, and said if it was given to a dog it would kill him. What was the next step the prisoner took? He asked for the bottle. Is he not apprised, at that time, by Lady Boughton, that she at least suspected; that she thought; for she had said, that if the physic had been given to a dog, it would have killed him. What is the next thing that is done by the prisoner? He asked her which is the bottle; she shews it him; he takes it up; as soon as ever he had got it in his hand, he asks, is this it; she says, yes; he immediately pours water into it, and throws it out: can you tell the reason of that? Was there any thing like a reason? It might lead to a discovery if a very small quantity remained in the bottle, but it is prevented by the prisoner; in the moment of doing it, he is found fault with: what does he do then? He takes the second bottle and puts water into it, and rinses it also; he is chid by Lady Boughton; his answer is, that he wanted to put his finger to it to taste it. When Sarah Blundell comes up, he orders her to take away the bottles and the basin; he puts the bottles into her hands; she was going away with them; Lady Boughton stopped her. Why were all these things to be removed? Why was it necessary for the prisoner, when he was advertised by Lady Boughton of the consequences? Why so solicitous for removing every thing that might lead to a discovery? When they come down

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stairs, Lady Boughton tells you of another conversation on the part of the prisoner, and if you believe that, it shews that what he said about the rinsing the bottles, was not an immediate invention but an after thought: he says to his wife, your mother has been pleased to take notice of my washing the bottles out, and he says, I do not know what I should have done, if I had not thought of saying, that I put the water in it to put my finger on it to taste it; and then she stated it afterwards, as a thought that occurred to him at the time, to say he had done it in order that he might taste it: she swore that he did not taste the first bottle at all. The next thing is, the servant is called; why? the prisoner is anxious to know what he remembers about the time of his going out; he fixes his going out to seven in the morning, and then the prisoner answers, Will, you are my evidence. Now something had passed between the time of the prisoner's leaving the room and Lady Boughton's leaving the room, and the time of the servant being called down; and therefore, though this expression was extraordinary, yet I do not think it is one of those leading facts of the case which ought to be much relied upon. If Lady Boughton had entertained suspicions, and had communicated it to him, it was natural enough for him to call on any body who had seen him for the fact he knew; and then he gave this answer, which he might do without conveying any bad meaning in it. But the next day, what is his conduct with regard to the gentlemen of the faculty and the letter he received? First of all, he spoke of it to Lady Boughton; he told her, he had received a letter from Sir William Wheler, desiring the body might be opened, which he answered; he read the answer to her which he sent: after Dr. Rattray had been there, she objected to the answer, but the particular reasons she did not give. Now, see what that answer was; in that letter he tells Sir William Wheler, that he has the great satisfaction of receiving his letter,

as it gives him an opportunity of instantly observing his advice in all respects ; he then mentions having sent for four persons by name, Dr. Rattray, Dr. Wilmer, who brought with them another person, which made three, and a Mr. Powell, who came to the meeting ; so that, according to this letter, four persons were present, and which by the answer he leaves Sir William Wheler to understand, had been a meeting purely in consequence of a letter Sir William Wheler had sent. He says, after receiving your last letter, I gave it them to peruse ; that was speaking, as if it had directed the four gentlemen to have proceeded accordingly ; and he says, I am happy to inform you they truly satisfied us. Now, what were the facts on the evidence, which warranted these general expressions ? Dr. Rattray and Mr. Wilmer had been in the room, they had seen nothing but the face, they had heard no suspicion of poison, they had never seen the first letter that Sir William Wheler had written to the prisoner. He does not say so in this letter, but so couched, it will be for you to consider, whether by this letter he did not mean to mislead Sir William Wheler, and intend it should have that effect which Sir William Wheler swears it had on his mind ; that is, that he had understood the body had been inspected, and had been opened by the physicians. The first letter he answers, mentions Sir William Wheler having expressly intimated and spoken of his suspicions from the manner in which Sir Theodosius Boughton got his death, wherein he strongly presses the opening of the body, where he does it not only in the first part of his letter, but he presses it in different parts, telling it about the country, that Sir Theodosius Boughton had been killed by medicine or poison, and therefore writes again, begging it might be opened. This letter the prisoner had, but this letter was not produced. For what purpose was it that this letter was secreted ? If it was for the purpose of preventing the
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body being opened, and their forming a fair and full judgment in which way Sir Theodosius Boughton had got his death, it is then a very strong circumstance in the case; and you observe, that both these witnesses swear, that if they had any intimation of poison, which if they had seen that letter they must have had, they never would have gone away without opening the body; so that the body was not opened at this time by means of that letter being kept back; but yet it is possible, that the prisoner might suppose Sir William Wheeler's ideas were sufficiently communicated to the physicians and surgeons by the last letter, and therefore unnecessary to shew the first. If you think that upon the letter, that there is no weight in keeping back the first, and that he did not do it with a view to suppress the suspicions that had been entertained, then this fact ought to have no weight. The next fact spoken to is the prisoner's behaviour about the cloaths; he directed they should be removed; he ordered them to be taken out of the room before any body comes; he takes up the stockings himself, and he says they are wet; was that true? Lady Boughton swore positively that she examined the stockings, that they were not wet at all, and there was no appearance of their having been wet. Another fact proved in evidence, is the conversations that the prisoner has held about this unfortunate young man, before the time that his death happened. Mr. Newsam says, he had represented him to him as a person in a very bad state of health, that his blood was a mess of mercury and corruption. Is it truth, that he ever took one grain of mercury in his life? Two witnesses have been called that attended him, Mr. Powell and Mr. Kerr; neither of them say a syllable about any mercury having been given him. He tells a story about a violent swelling of the groin, which they wanted to bring to a head, and for that reason he had attempted and endeavoured to prevail on the deceased

ceased to take the medicines; that the disorder was then at the crisis. Was it true? Mr. Powell does not agree in it. He says it was very trifling; hardly any thing. Mr. Kerr does not agree. He says it was very trifling. In this also he is contradicted by Mr. Powell. Then he told Newsam, the young man's breath was so offensive, they could hardly bear it. Of that there is no evidence. Then, subsequent to the time when Dr. Rattray was there, upon the day after, Sir William Wheler sends a letter, desiring the body might be opened. What is the prisoner's answer? That Dr. Rattray and Mr. Wilmer had declined it, and said that it would not be fair to have it opened, after these gentlemen had declined it. This he said to Mr. Bucknill; after gentlemen so eminent in the profession had declined it, that it would not be fair in him to permit it. What, in a case where suspicion of poison had been mentioned by a mere friend and relation of the family, Sir William Wheler; if a man was to be found that would open the body, was it not a thing to be desired by every body? However, that is refused on the morning after, to Mr. Bucknill. After this, Mr. Snow came to the house: What passed between the prisoner and Snow we have not heard; but, when Mr. Bucknill comes back again, he asks the prisoner, Whether Mr. Snow was gone? The prisoner told him, Yes; he had been there, and had given orders what to do, and that they were proceeding accordingly. What were the orders? Were they any thing more than that the body should be buried? That is what the prisoner says in his defence: But Mr. Snow was not called. You have had no evidence of what passed between the prisoner and Snow. He has told you, in his defence, Mr. Snow advised the immediate burial of the body: That is not proved. If that was all the advice that could be given, why, in such a situation, should the prisoner

chuse to content himself with such a general answer to Bucknill, That Snow had given the orders what to do, and they were proceeding accordingly. They then shew you, that the prisoner is a man who, for a long time before this, had been practising with a still. He had a still of his own in the house, which he kept in a room that belonged to himself; it is called his room; and in which it further seems he had been distilling different things: That is a circumstance to be considered; but it is a circumstance which, alone, would not deserve much weight, for a man may have such a thing for an honest purpose; and he did make use of it, and sometimes for an honest purpose; for he used it for distilling lavender-water, and in distilling roses: But however, this fact appears, that he had it in his possession long before the time when Sir Theodosius Boughton died; that he produced it himself within two or three days after Sir Theodosius's death; that it was **then** full of lime, and it was wet: The prisoner then thought it necessary to make an excuse for the state in which it was, and he tells the gardener that he had used the lime to kill fleas. That is the excuse he made about the still. Now it is rather an extraordinary thing, that it should be thought necessary by him at that time to make an excuse about the still, when no question was asked about it. Then, he says, he used the lime to kill the fleas. What other conversation is there between the prisoner and the gardener in the morning of that day? The prisoner came to the gardener, and tells him, You shall work at your ease now; I wanted to be master before, but now I am got master, and I shall be master. Upon the same morning, he goes to the gardener, and tells him that he must get some pigeons; that he must have them at ten o'clock for Sir Theodosius; for, poor man, he is very ill of that nasty disorder: This must have been after he was up in the room, and ordered the pigeons

to be killed and got ready by ten in the morning.—
(Here Mr. Justice Buller was interrupted by Mr. Newnham, who told him that the pigeons were meant to be put to his feet.) — Mr. Justice Buller. I am very glad the counsel has told me what occurred to him; for, whatever circumstance I mistake, I would wish to be set right in. They suppose the pigeons were meant to be put to his feet, which is a common practice, and a circumstance I dare say all of you must have heard of; if a man is in extreme pain or danger, they put pigeons to his feet. If that was so, how comes it not to be mentioned? Not a word is mentioned to Lady Boughton about that, or any thing that was like to be a relief to Sir Theodosius, by the prisoner. The next thing is the circumstance of the prisoner's rinsing out the bottle. The Jurymen swore, that the prisoner pulled Lady Boughton by the sleeve before the Coroner, when she mentioned that circumstance. Was that proper, in a case where all possible enquiry should be made? But, when this circumstance is mentioned by her before the Coroner, he pulls her by the sleeve. He tells his wife, afterwards, that she had given this evidence unnecessarily; that she was not obliged to answer any question that was not put to her, and that the question about rinsing the bottles was not asked. Did the prisoner mean that she should suppress the truth? Did he mean that she should endeavour to avoid the discovery as much as she could, by barely suppressing a circumstance in which there was truth? If he were innocent, how could the truth affect him? But, at that time, the circumstance of rinsing the bottle appeared even to him to be so decisive, that he stopped her in the instant. He blamed her afterwards for having done it. Gentlemen, these are very strong facts, to shew what was passing in the prisoner's own mind, and to shew what he was conscious of at that time. Besides the evidence which was given by one of the witnesses, of the con-

versation that he has held with him since he has been in gaol, you are told, for a long time together, beginning in the month after he got into the gaol, he was continually talking about this affair; at that time, he made no doubt but that Sir Theodosius Boughton had been poisoned. He stated it as a matter that admitted of no doubt. In the short time that passed afterwards, that tale had not been altered. These are the material circumstances against him.

For himself, he says, (and which he would have you believe from the letters) he has always been ready to give the utmost satisfaction in this enquiry; that he wished to have the body opened; that he expressed himself so to different witnesses; that he wrote to Sir William Wheler, and begged that Sir William Wheler would give him advice. Several of the expressions that are made use of, respect the satisfaction which he received from Sir William Wheler's advice. Sir William Wheler's letter mentioned, that he wanted a young man, Mr. Bucknill, to examine it, and it was his wish to have the body opened. But the question for you to consider is, Whether, on the whole of his conduct, he did endeavour to have the body opened; for if, on the whole, he did not do his endeavour to get the body opened, but has frequently attempted to prevent it, that will be much stronger than saying either two, or even twenty times, he wished to do it. You will judge from the evidence; and therefore it is for you to say, Whether you think, on the whole of his conduct, you are or not satisfied that what he says, in one or two of his letters, or what he said to the young man, the surgeon, was his real intention and meaning. You are to judge, from the whole of his conduct, whether he did wish and endeavour to have every explanation given, and to have the body opened, or whether it was only used to throw a greater blind on the case, and that he endeavoured, by every artifice, to prevent it. If
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he did prevent it, it will be for you to enquire, with what view that could be done? Could it be done with any view but to secret the truth? If therefore you are satisfied, on the whole, that the deceased was poisoned, the next question is, By whom that poison was prepared? You have been truly told by the Counsel, on the part of the prosecution, that it is perfectly immaterial what was the kind of poison used: The Indictment states arsenic. It is not necessary, in point of law, they should prove any arsenic at all was administered to the deceased. But if you are satisfied that he was destroyed by poison, and that the prisoner had a hand in mixing up that poison, and put it in the place of medicine, for the purpose of its being given to Sir Theodosius Boughton, and it afterwards was given to him, and was the cause of his death, that is full evidence of the offence which is charged against him. Now, with regard to his being the person, it must depend on the evidence that has been stated before, which is produced against him; every circumstance that I have been speaking of is a degree of proof. And that circumstance to which I can find no answer whatever is given; that is, rining out the bottle; carries very strong marks of the knowledge in himself, there was something in it which ought never to be discovered. The answer he gives to that is, he was not to gain any thing by Sir Theodosius's death; that his affairs were so settled, and so arranged, upon his marriage, that he never was to get any thing by Sir Theodosius's death; and, therefore, it was no motive to commit such a crime. Besides that, he had, in repeated instances, interposed to save this young man from scrapes he had got into. In one instance it is true, in the other it is very slight; because it is said, he came there: And so far you must take it for the credit of the prisoner, he did go for the purpose of mediating and preventing mischief: But the evidence says, there was no occasion; for the witness said he understood it was settled

settled before the prisoner came. But so far it is material, as the witness understood he went from the seat where Lady Boughton lived, in order to meet Sir Theodosius, and to prevent any mischief that might ensue. Another fact of that sort was proved by Lady Boughton, at Bath. She understood he interfered, and put an end to a dispute which Sir Theodosius had with some other person. Now these are facts not to be forgotten. You are to take them into your consideration, and give them all the weight you think in justice they deserve; but you will observe, these quarrels are at a distance. One is two years back, in 1779. In the year 1778, he prevents the mischief that might arise in consequence of quarrels between the deceased Sir Theodosius and other persons: That is a different period of time from that which we are talking of; but that is for your judgment. You hear, on the other hand, he represented this young man in a dangerous state of health, and not likely to live long; and the representation is at a time which is very recent, and a short time before the death of Sir Theodosius. The clergyman speaks of a transaction two or three days before his death. He speaks of conversations. Conversations are strong things. On the whole of the evidence, you will say, whether you think they were true or not. If they were not, then they prove nothing as to this case. But you must take the whole of the circumstances into your consideration: It is for you to decide on this case; in doing which you are to act according to the best of your judgment and your conscience, to find out the truth of the case; and as you find that truth, so you will pronounce your verdict.

The Jury retired for a few minutes; and, when they returned, brought in the prisoner, **GUILTY**.

The Clerk of the Arraignment then addressed the Prisoner. — John Donellan, you stand convicted of wilful murder: What have you to say, why the Court should not

not pronounce sentence of death against you according to law? The Prisoner then answered, Not guilty, my Lord.

After proclamation for silence, the Judge proceeded to pass sentence, in the following words :

John Donellan, the offence of which you now stand convicted, next to those which immediately affect the state, the government, and the constitution of this country, is of the blackest dye that any man can commit. For, of all felonies murder is the most horrible, and of all murders, poison is the most detestable. Poisoning is a secret act, against which there are no means of preserving or defending a man's life ; and so far as there can be different degrees in crimes of the same nature, your's surpasses all that has ever gone before it. The manner and the place in which this dark deed was transacted, and the person upon whom it was committed, must enhance your guilt. It was committed under the mask of friendship, and by the greatest imposition, on an unfortunate mother, and a still more unfortunate unsuspecting young man. It was committed in a place where suspicion, at the instant, must have slept ; where you had access, as a bosom-friend and brother, where you saw the rising representative of an ancient family preside in affluence, but where your ambition proudly, but falsely, taught you to imagine that you might live in splendour and happiness, if he whom you thought your only obstacle were removed. Probably the greatness of his fortune caused the greatness of your offence. And I am fully satisfied, on the evidence given against you, that avarice was your motive, and hypocrisy served you with the means. That the deed was done by you, which not only hastened him, but which very soon removed him to an untimely grave, has been fully proved to the satisfaction of myself and the Jury ; and I think it impossible to find a person of the meanest capacity amongst the numerous audience who stand around you, that can doubt about your guilt. In most cases of murder, it has pleased

pleased heaven, by some mark or other, to point out the guilty person; and all the care and foresight of the most cunning and the coolest offender, is not able to guard against some token, some circumstance which has left the door open to a discovery, that they imagined they had perfectly barred up all access to. In your case the facts of the accounts which have been given by yourself, the misrepresentations which you have held out to Sir William Wheler, the endeavours that you have used to prevent a full enquiry to discover the truth of the case, the strange conversations which you have held at different times, and that circumstance of rinsing out the bottle, leave your case without the smallest doubt. In such a case as your's, supported by such cogent proofs as have been adduced against you, you can receive nothing from the tribunal before which you now stand but strict and equal justice; but you will soon appear before an Almighty Judge, whose unfathomable wisdom is able, by means incomprehensible to our narrow capacities, to reconcile justice with mercy. Your education must have informed you, and you will do well to remember, that such beneficence is only to be obtained by deep contrition, by sound, unfeigned, and substantial repentance. May it please that great and awful Being, during the short time that is allotted for your existence in this world, to work that repentance, and that contrition in your mind, which will prepare you for his everlasting mercy. But the punishment which the public has a right to demand, and which I must inflict on you, is speedy and ignominious death. And the sentence therefore which I pronounce on you is, That you be taken from hence to the place from whence you came; and, from thence, on Monday next, you be carried to the place of execution, there to be hanged by the neck until you are dead, and that your body be, afterwards, delivered to the surgeons, to be dissected and anatomized: And may God Almighty have mercy on your soul!

F I N I S.

