

T H E
T R I A L
O F A
C A U S E

BETWEEN

RICHARD MADDUX, Gent. Plaintiff

A N D

Dr. M-----Y, Defendant,

Physician, and MAN-MIDWIFE,

B E F O R E

Sir *MICHAEL FOSTER*, Knt.

One of the Justices of the *King's-Bench*.

At *Guildhall, London, March 2, 1754*. By a
Special JURY.

I N A N

Action upon the CASE, brought by the Plaintiff against
the Defendant for promising and undertaking, and not
performing his Office as a Man-midwife in the Delivery
of the Wife of Mr. *Richard Maddux*, the Plaintiff.

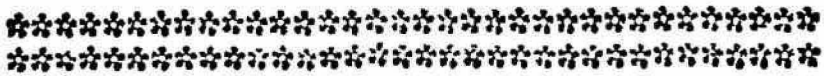
W I T H T H E

Opinions of several Physicians and Man-midwives upon the
Case, as given in Evidence upon the Trial. Whereupon the
Jury thought proper to give 1000 l. Damage to the Plaintiff.

L O N D O N :

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ADMONITIONS TO ALL HUSBANDS.



HE Perils of Childbearing are so many and great, and Lives so frequently lost in it, that a Woman who knows and foresees the terrible Consequences of her entering into a State of Matrimony, must have more than common Courage to subject herself to them. On the other Hand, what Care, Tenderness, and Affection ought every Husband to express for his Wife at such a critical Juncture? 'Tis true, it is out of his Power to afford her any immediate Assistance in the Time of her Travail ; yet there is one Thing he can do, which may greatly contribute to the Safety both of her and her Offspring ; and that is, to provide her a careful, prudent and skilful Midwife, which can give her the Assistance requisite on that dangerous Occasion ; one of known Sobriety, and watchful to favour and promote every Opportunity of forwarding a happy Delivery.

BUT there are Cases which frequently occur, so difficult as to exceed the Judgment of the most skilful Midwife to undertake with any Prospect of Safety to the Life either of the Child or Mother ;

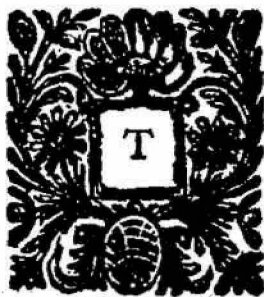
ADMONITIONS to all HUSBANDS.

which happen either from the untoward Situation of the *Fetus*, or other Circumstances attending the Labour. In such Cases the Midwife, if she is not too conceited of her own Judgment, or too proud to ask Assistance of any one, will give the Husband timely Notice of the Danger; who, if he has any Regard for his Wife, or is desirous of seeing and enjoying the dear Pledge of their Loves, will not hesitate a Moment to procure the Assistance of a Man-midwife, one who has the best Reputation for his Skill, Experience and Humanity; one who never refused his Aid and Assistance to the Poor as well as the Rich, and who never grudges his Labour, though in some Instances he can have but small Expectations of a sufficient Gratuity. But whatever may be the Husband's Circumstances, he ought, on this Occasion, to exert his utmost Abilities to make the best Recompence he can for such a hard and difficult Service as this most certainly is, to save Life, when it was impossible to escape Death by any other Means.

To conclude: Whoever considers the excruciating Pains and Agonies that a Woman undergoes in the Time of her Labour, even though she escapes with Life, and does not compassionate, comfort, and assist her to the best of his Power, is less sensible than a Brute, and deserves not the Name of a Man. And since it is the Will of Heaven to subject the whole Female Race to this unhappy Lot, the Almighty has, at the same Time, planted the tenderest Passions in the Breast of Man, in order to relieve, comfort and alleviate the Distresses of her whom he chuses for the Partner of his Life and Fortune.



THE
T R I A L
OF A
C A U S E
BETWEEN
RICHARD MADDON, Gent. Plaintiff,
AND
Dr. M-----Y, Defendant.



H A T *Midwifry* is an Employment of the greatest Importance to Society, will not be questioned by those who reflect, that the Lives of our dearest and nearest Relations, our Wives and Children, depend on the

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due and skilful Execution of it. Ignorance or wilful Neglect in the Discharge of this Office is often attended with the most fatal Consequences. How often is a tender Husband deprived of a beloved Wife, and his Hopes defeated in the Increase of his Offspring, by the perverse Obstinacy or unskilful Management of a Midwife? How often is a poor unhappy Woman held in the most excruciating Pains for Days together by an injudicious Operator, from which perhaps she might have been delivered in an Hour or two, had she fell into the Hands of a Person of Skill and Judgment?

IGNORANCE in this Profession is hardly excusable, because it is an Affair of such Importance, that no one ought to undertake it who is not conscious of a sufficient Ability to perform it; yet some Allowances may be made to those who honestly endeavour to improve their Minds and enlarge their Knowledge in this difficult Art. I call it difficult, because it is hardly ever perfectly attained; for Cases frequently happen that puzzle the most skilful Artist, and put his Judgment to the Test in what Manner he shall best proceed to save the Lives that are entrusted to his Care.

BUT if Ignorance in a Midwife, Man or Woman, be scarce pardonable, because the utmost Skill is required for the faithful and most dexter-

cus Performance in many Cafes that call for an Exertion of the moft exquisite Judgment and Ability; what are we to think of that Man, who, by a long Courfe of Practice, and accumulated Experience, may be fupposed to be extremely well verfed in every Part of the Science, fhall refufe his Affiftance in the Hour of Extremity, to a Lady whom he knew to be in the moft dangerous Situation, and whose Life, at leaft that of her Child, depended on his immediate Attendance and Relief? One would imagine it muft be fomething very interefting that could induce a Doctor to defert his Patient in fuch a Condition. For furely no pecuniary Confiderations could prevail on a Mind, the leaft endued with Humanity or Compaffion, to fuffer a Woman to lay languifhing under the extremeft Pains for Hours together, and in momentary Expectation of Death itfelf, merely becaufe he was to have fo trifling a Fee as *five Guineas* for his Trouble, when he expected double the Sum. Can any one believe there is a Man of fo mercenary a Nature? If fuch a one there is, ought he not to be pointed out, as a Monster to be abhorred and avoided by all Mankind, efpecially the Female Sex, whose Diffreffes he has fo shamefully difregarded? whom he has forfaken in the Hour of Extremity? Will they eafily pardon a Man through whose wilful Negligence, an amiable

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Wife, a tender Mother, and an innocent Babe have been lost? Whether the Case described in the following Narrative is a parallel Instance of this Kind, let the Reader judge.

AN ACTION was brought by *Richard Maddox*, Gent. Plaintiff, against *D-----r M-----y*, Physician and Man-midwife, for undertaking and not performing his Office, as a Man-midwife, in the Delivery of the Wife of the Plaintiff.

THE Plaintiff declared against the Defendant in an ACTION upon the Case; for that the Defendant using and exercising the Art, Mystery, or Profession of a Man-midwife; and the Plaintiff's Wife being Pregnant and in Labour, he, on the 29th of *May* 1753, retained the Defendant to aid and assist her in her Delivery; and that the Defendant did promise and undertake to attend on and assist the Plaintiff's Wife in such her Delivery. But the Defendant, notwithstanding such his Promise and Undertaking, did neglect and refuse to attend and assist the Plaintiff's Wife in her Labour, though required so to do; whereby the Plaintiff's Wife underwent great Labour and Pain, and for want of the Defendant's Aid and Assistance, was brought into such a State and Condition, that she from that Time languished until the 30th of *August*,

then next ensuing, when she died. And the Plaintiff laid, with several other Counts, his Damages at 5000 *l*.

To this the Defendant pleaded, that he did not promise and undertake in Manner and Form as the Plaintiff declared against him, and put himself on the Country ; and the Plaintiff did so likewise.

ON *Saturday* the second Day of *March*, 1754, this Cause came on to be tried before Mr. Justice *Foster*, at *Guildball*, *London*, by a special Jury.

MR. *Huffey*, of Council with the Plaintiff, briefly opened the Declaration, and Mr. *Hume Campbel*, on the same Side, stated the Facts, and expatiated largely on the Nature of the Cause, very pathetically describing the severe Sufferings of Women in Child-bearing, in which Condition they were justly entitled to all the Comfort, Assistance and Relief that possibly could be given to them ; that it was cruel and unnatural to withhold the helping Hand, from a poor Creature labouring, as it were, between Life and Death, and crying out under the most agonizing Pains and Tortures ; that Compassion and Assistance, in this Respect, is due and given to the most abandoned of the Female Sex ; much more does it belong to a virtuous, modest and lov-

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ing Wife, between whom and her Husband there
always was the most sincere and affectionate Tender-
ness.

Now if it should be proved, as I apprehend it will, that the Defendant did promise and undertake, and afterwards neglected to give his due Attendance on this Lady in the Extremity of her dangerous Travail, and that such his Neglect was attended with the most fatal Consequences both to her and her Infant, I doubt not but you Gentlemen will be of Opinion, that the Plaintiff is entitled to the largest Damages you can give him; especially if it shall appear to you, as my Instructions inform me it certainly will, That the Defendant could not plead Ignorance of the Danger the Patient was in, because after he had examined her, he declared that to be his Opinion; he never said, that her Case was past his Judgment to relieve, for then, if he had been an honest Man; he would have demanded Assistance from some other skilful Practitioner; neither could he affirm, that he wanted proper Help, for both the Midwife and Apothecary were there ready to obey any Orders he should give them. What then could be his Motive to refuse a Woman his Relief in so terrible a Conjuncture? I have not yet learnt, that he ever alledged any Reason or Pretence for his Re-

MR. MADDOCKS, *and* DR. M---Y. 7
fufal, except the Smallness of a Fee, on a like
Occasion, fome Years before ; though the Plaintiff,
now, made him, what I should think a very ge-
nerous Offer. If this should appear to be the only
Motive for his barbarous Treatment of this un-
happy Patient, you will no doubt be of Opinion
that he deserves the most exemplary Punish-
ment.

GENTLEMEN of the Jury, give me Leave to
address myself more particularly to you, on this
Occasion. You are, I believe, the greatest Part of
you, married Men : Now make the Case your own :
Which of you, whose Wife is in Labour, does not
immediately call for all the Help you can get ?
You fend for a Midwife ; she comes, but soon finds
it exceeds her Skill to give the necessary Relief ;
she very honestly tells you so ; you directly fend
for a Man-midwife, whose superior Judgment may
be relied on ; he comes, and finds the good Wo-
man in a very dangerous Situation, in which Con-
dition he leaves her, and promises to return in an
Hour or two's Time, but does not ; you fend to
him again, nay, go to him yourself, and entreat him
to come, yet he absolutely refuses ; and your Wife,
together with the Fruit of her Body, and perhaps
the Hopes of your Family, die for want of his
Assistance, would you not express the highest Re-

sentment for such an injurious Treatment? Would you not endeavour by all Means possible to do yourself Justice on such a Mifcreant? And though no Recompence can be made for the Loss of a Life, especially of a Life so dear to you, yet surely your own irreparable Loss, as well as the Respect you owe to the dear Memory of the Deceased, would spur you on to seek such as the Law will allow you. Now, if we should prove this to be the Plaintiff's Case by sufficient and incontestible Evidence, and that the Defendant has been guilty of the cruel and inhuman Usage to this unhappy Lady, in the Manner I have set forth, I believe you will be of Opinion, that, though by the Law, in this Case, his Profession has exempted him from corporal Punishment, yet that you cannot make him suffer too severely in his Pocket:

HE farther set forth, That this Action was brought by the Plaintiff against the Defendant, not only to recover Damages for the great Loss he had sustained by Means of the Defendant's Neglect and Default in his Profession (that being irreparable) but in order to deter others of the same Profession from the like contemptuous Negligence of their Duty, in Cases where the least Delay may occasion the Loss of the most valuable Lives.

THE Case here was this: Mrs. *Maddocks* having gone her full Time, had Mrs. *Hopkins*, a Midwife of great Experience and Reputation, attending her in Mr. *Maddocks's* House, in *Crane-court* in *Fleet-street*. On the 29th of *May* last, Mrs. *Maddocks* being laid in Bed, had the Symptoms of Labour come upon her; which Mrs. *Hopkins* carefully observing, apprehended her Labour would be extremely dangerous; and giving some Intimation of it, desired she might have the Assistance of a Man, fearing it would be too hazardous and difficult for her to undertake alone. Upon which Mrs. *Maddocks* took Notice, that Dr. M——y had laid her about four Years ago, and that if it was necessary, she was desirous of his Assistance again. Whereupon Mr. *Maddocks* instantly (it being then about Ten o'Clock) sent for Dr. M-----y, and he came accordingly; and being taken into the Room where Mrs. *Maddocks* lay, he in a very rude Manner, asked of Mrs. *Hopkins* then attending, whether he was to lay the Woman? But Mrs. *Hopkins*, instead of giving a direct Answer to so abrupt a Question, said she could not readily inform him; but represented the Case to him, and desired that he would inform himself what was proper to be done, by examining the Lady himself; by which Means, she ap-

prehended, he would be able to determine what was most fit and proper to be done in so dangerous a Case. Accordingly, Dr. M——y did examine Mrs. *Maddocks*, and found her in such a Condition as had been represented by Mrs. *Hopkins*; and going into another Room with her, declared he was of Opinion that Mrs. *Maddocks* was in a dangerous Way; that if she was to be then delivered she would not live half an Hour; and therefore they must wait a more favourable Opportunity, or to that Effect. And though he made such a Declaration, he said he would go Home; which greatly surprized Mrs. *Hopkins*, who asked him the Occasion of such his Conduct, and whether he had any other Patient that required his Assistance? And representing the Danger Mrs. *Maddocks* was in; entreated him in the most pressing Manner to stay; informing him that if he was weary; or fatigued; or was inclined to go to rest, there was a very good Bed, clean-sheeted for Mr. *Maddocks*, which she desired he would go into, or lie down upon as he pleased; or if it would be more agreeable, Mr. *Maddocks*, and a Gentleman his Friend, would entertain him in the Parlour below, with what his House would afford, or could be procured for him. To which he replied, he would not stay; but would go Home; and though Mrs. *Hopkins* repeated her Request for him to stay, and repre-

sented to him how necessary his Presence was for Mrs. *Maddocks's* Preservation, he absolutely refused; and being again asked the Occasion, he very furlily declared, he did not know what brought him there, or why he came; that he remembered he had attended this Lady some Years before, but he was not paid to his Satisfaction. She enquired of him what he had been offered? To which he replied, that he could not then remember, other than that he was not paid to his Liking, as he then thought. Whereupon Mrs. *Hopkins* said, if that was the Case, she was sure it must arise from some Mistake; that Mr. *Maddocks* was a very worthy Gentleman, and a generous Man; and she would answer for it, that if he, the Doctor, would be pleased to stay, it would be made up to him double; and entreated him in the most earnest Manner, that he would not leave her. But the Doctor still persisting in his Resolution to be gone, she insisted on his Promise to return again, when the Symptoms altered, and it should appear necessary. And accordingly the Doctor did promise to return the Instant it should be thought necessary, and that he should be sent for. Mr. *Maddocks*, Mr. *Langley* his Apothecary, Mr. *Flower*, a Gentleman of his intimate Acquaintance, waited in the Parlour below; and hearing that the Defendant intended to go away,

before Mrs. *Maddocks* was delivered, came out to wait on him, and used all the Arguments they could think of to engage him to stay, Mr. *Maddocks* offering to give him what Money he desired; and putting his Hand in his Pocket, in order to see if the Allurement of Gold would have any Effect, Mr. *Langley* intimated, that it was improper to give him Money at that Time; that it was not customary on such Occasions to give Money before the Business was done, it being usual to make Satisfaction in Cases of that Sort, according to the Danger of the Case, the Time bestowed upon, and Trouble attending the Performance and Operation. However Mr. *Maddocks*, in order to prevail on the Doctor to continue with him, offered him his own Bed, or to entertain him in such a Manner as would be most agreeable to him. But being unable to prevail on the Doctor, he asked him if he might depend on his coming again when Occasion should require it; and the Doctor then promised and assured Mr. *Maddocks* he would attend whenever he should be sent for, and represented to Mr. *Maddocks* the great Danger his Wife was in, with Intent, as supposed, to enlarge the Fee.

THE Doctor being gone before twelve o' Clock, an Alteration in Mrs. *Maddocks* being hourly expected, Mr. *Langley* the Apothecary, who had undertaken to give the Doctor Notice of it, and to

bring him when it should happen, continued with Mr. *Maddocks*, having a Coach waiting for that Purpose. About Two o'Clock Mrs. *Hopkins* observed the Symptoms greatly altered, of which she informed Mr. *Langley*, and desired he would immediately go and bring the Doctor; and that she was satisfied, that if he had been then with her, he might have delivered her with Safety, and that any Delay would probably be dangerous. Mr. *Langley* accordingly went with a Coach to the Doctor's House in *Lincoln-Inn-Fields*, and having gained Admittance, informed him of the Truth of the Case; that he had a Coach ready for him, and requested his immediate Attendance, representing to him in the strongest Terms the great Danger of a Delay. But the Doctor, devoid of all Humanity, remained inflexible, and without assigning any Reason, declared he would not go. And being asked by Mr. *Langley*, what Apology he should make to Mr. *Maddocks*, for such his Conduct, answered, what he, Mr. *Langley*, pleased, or none, as he thought fit. Upon which Mr. *Langley* returned, and informed Mr. *Maddocks* of the Doctor's Behaviour: And Mrs. *Maddocks* being at this Time in the greatest Distress, and Flooding to an excessive Degree, Mrs. *Hopkins* entreated Mr. *Langley* to procure some other Person in the Place of the Doctor presently, in Regard Mrs. *Maddocks* was in such a

Condition as to require further Assistance in Aid of her Mrs. *Hopkins*. Accordingly Dr. *Hannakin* was pitched upon as a very experienced and judicious Person, and the nearest to be had. Mr. *Langley* therefore went to Dr. *Hannakin*, who immediately came with him to Mrs. *Maddocks's* Assistance, and finding her in a very dangerous Condition, occasioned in a great Measure by the Delay of her Delivery at a proper Time, and being informed of Dr. *M-----y's* having before attended, of his going away, and refusing to return, declared he thought Mrs. *Maddocks's* Case to be very dangerous, and that he would not venture to intermeddle without advising with, and having the Assistance of, some other Person of the Profession. Whereupon it was proposed and agreed to send for Dr. *Middleton*, which was accordingly done, and he came immediately; and shortly afterwards Mrs. *Maddocks* was delivered, and her Flooding stopped; but the Child lost its Life through Neglect, and for Want of Assistance in due Time.

MR. *Gould*, of Council on the same Side, called the Plaintiff's Witnesses, and first examined Mrs. *Hopkins*, the Midwife, who gave her Evidence very clearly and distinctly, and set forth the Case as stated by Mr. *Hume*, the Discourse and Con-

verfation between her and Dr. M-----y, in the Manner before related ; the Doctor's actual Promife to return when fent for ; and that if the Doctor had waited as he was requested to do, or had returned according to his Promife and Undertaking, Mrs. *Maddocks* and her Child, might have been preferved; who were feverally loft through his Neglect.

MRS. *Hopkins* was cros-examined by Mr. Serjeant *Prime*, and Mr. *Norton*; the Doctor's Council ; but fhe ftill adhered to the Evidence fhe had already given, without varying from it in the leaft.

THE fecond Witnefs called, was Mr. *Langley*; who fully and clearly proved fo much of the Cafe, as is before ftated, in which he was concerned ; particularly Mr. *Maddocks's* entreating the Doctor to ftay at his Houfe, and offering and promifing to pay him any Sum of Money he fhould defire, the Doctor's Refufal to ftay, and his Promife to return; his, Mr. *Langley's* going for the Doctor, and informing him of Mrs. *Maddock's* Condition, and his abfolute Refufal to attend according to his Undertaking, and the Doctor's making fuch Answers as before-mentioned.

MR. *Langley* was likewise cros-examined for the Doctor ; but he gave fuch fatisfactory Answers to

all their cross Questions, as rather confirmed than contradicted the Evidence he had given before.

MR. *Hussey* examined Mr. *Flower*, the third Witness, who corroborated Mr. *Langley's* Evidence as to Mr. *Maddocks's* entreating the Doctor to stay, offering him Money, and the Doctor's absolute Promise to return and attend when called for.

THE fourth Witness called was Dr. *Hannakin*, who being examined by Mr. *Hume*, proved so much of the Case as is before stated, in which he was concerned, and the Case of Mrs. *Maddocks* as before set forth; that if Dr. *M---y* had attended when sent for, and had performed his Duty, the Train of ill Consequences, occasioned by his Neglect, would have been prevented.

DR. *Middleton*, with other Witnesses, proved that Mrs. *Maddox* afterwards languished for three Months, that is, from the 29th of *May* to the 30th of *August*, and then died, and never recovered from the Disorders brought upon her, by the very great and excessive Floodings and other Injuries she received, for Want of Assistance, and being delivered in due and proper Time.

DR. *Schomberg* likewise gave Evidence in Behalf of the Plaintiff, and made it plainly appear, that Mrs. *Maddocks's* great Loss of Blood, occasioned by the Delay of her Delivery, was the sole Cause of the Dropsy, which she soon afterwards fell into, and of which she died.

THEN Mr. Serjeant *Prime*, of Council for the Defendant, pleaded with a great Deal of Judgment and Elocution, in the Observations he made upon the Evidence given for the Plaintiff, and hoped, that notwithstanding all that had been said on the other Side, that the Plaintiff would not maintain his Action, but ought to be non-suited, or else that the Jury should find a Verdict for the Defendant; alledging, that the Evidence given on Behalf of the Plaintiff, was not sufficient to prove the Charge against the Defendant; that this was a Case unprecedented; that Dr. *M---y* was a Physician of great Eminence in his Profession, and esteemed and employed by Persons of the highest Rank and Distinction, not only in the Practice of Physick, but as a Man-midwife. And farther, that his Client, the Doctor, saw no Necessity, and therefore was under no Obligation to stay with Mrs. *Maddocks*, since it was evident to him, and as he

then told Mrs. *Hopkins*, that she was not, at the Time he was with her, in a Condition fit or proper to be delivered; that what he did while he was there, was in prescribing for her as a Physician, and not as a Man-midwife to deliver her. That as to his refusing to come to her afterwards, it was the Effect of Self-preservation, always deemed the first Law of Nature, for at that Time he was in Bed, very much out of Order, and in a very great Sweat, so that if he had attempted to have got out of Bed at that Time, it would have been to the manifest Hazard of his Life. That the Doctor has indeed been represented by the Council on the other Side, as an inhuman and avaricious Person, greedily grasping at large Fees, and the like: Whereas, if he was rightly instructed, it would be made appear, that this was quite the Reverse of the Doctor's Character, who was not only a Physician of great Eminence, and very extensive Practice, but was likewise a most kind, beneficent, and humane Man, always ready and desirous to aid and assist all Persons without Distinction, who stood in Need of his Help and Judgment, without any mercenary View or Consideration whatever. That the Defendant would produce Witnesses, who were of unexceptionable Characters in the Profession, to shew, that Mrs. *Hopkins*, and the Witnesses, who had sworn

MR. MADDOCKS *and* DR. M----Y. 19
in Behalf of the Plaintiff, were greatly mistaken
with Regard to the Case of Mrs. *Maddocks*; and
that if the Doctor had attended her at the Time he
was called for, it would have made no Variation in
it; and that her Flooding in the Manner represented
by the Plaintiff's Witnesses, would have had the
same Consequences, as were insisted on by the
Plaintiff's Witnesses, whether he had been there or
not. Then,

MR. *Norton*, of Council of the same Side, call-
ed the Witnesses.

THE first Witness was Dr. *Sands*, a Man-mid-
wife, who being sworn was asked, whether he had
heard the Evidence that had been given on the Part
of the Plaintiff? He declared that he had; and
then gave a very long and learned Account of the
Course of Practice in such Cases, with Precedents
and Instances of the like Nature, as well such
wherein he had been himself concerned, as what he
had read in Treatises of Midwifry. Being asked,
whether he was of Opinion, that Dr. M----y ought
to have continued with Mrs. *Maddocks* when he
was with her, or if he ought to have come again
to her, when the Apothecary came to call him;
he very candidly declared, that for his own Part,

he should have done it, and that the Doctor ought to have done so too ; though he thought the Doctor ought to have staid with her ; however, upon the whole, he gave Dr. *M---y* a good Character, as to his Ability and Judgment in his Profession.

MR. *Evans*, of Council on the same Side, called the next Witness, Sir *William Brown*, Bart. a Physician, who likewise spoke very learnedly on the Occasion. He made a great Distinction with Respect to the Capacity in which Dr. *M---y* acted in this Case. And being asked the same Question which was put to Dr. *Sands*, in Relation to his having heard the Witnesses for the Plaintiff, answered in the Affirmative, and then distinguished, and would have had it been understood, that the Doctor was called as a Physician, and not as a Man-midwife ; that he was sent for to administer Physick, and not to lay the Patient. And though the Defendant's Council were unwilling to give him so much Trouble, yet he was pleased to give a very long and particular Evidence upon the Nature and Circumstances of a Labour in General, in the ordinary Way, it's presumed, with an Intent to serve the Defendant ; but it seemed, and was believed that it had a quite contrary Effect, little Regard, it is apprehended, being paid to this Evidence by the

Jury: and the rather, that on his being cross examined by Mr. *Hume*, for the Plaintiff, and asked, Whether if he had been sent for, and had been in the like Situation with Dr. M---y, he should have thought it incumbent on him to have continued with the Patient till after her Delivery, or at least have come again, when called upon for that Purpose? But instead of a direct Answer, he charged Dr. *Hammakin* with Neglect, in not laying the Patient when he came, without wanting any other Assistance.

THE Defendant's Council then called the Doctor's Servant Maid, who swore, that her Master had been for some Time past indisposed, and then was, or had been ill with the Shingles, and had Sweats of a Night. That he came Home from the Plaintiff's a little before Twelve o'Clock, and went to Bed, and said he was then indisposed, and that he could not go out again with Safety: But upon the Whole, gave a very loose and imperfect Evidence.

AFTER these several Witnesses had been examined, and given their Evidence of the several Facts they were sworn to prove, the Defendant's Council called several other Persons, some of Note and Dis-

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tion, others of the Faculty, to establish the
Doctor's Character, as well with Respect to his
Humanity and Disinterestedness, as to his Care,
Skill, Diligence, and Experience in his Profession,
of a Physician and Man-midwife; particularly,

THE Right Honourable the Lord *Dungannon*,
and Earl of *Cork*, in the Kingdom of *Ireland*;
who testified that he had known the Doctor six
Months, and that he had employed him as a Physi-
cian and Man-midwife, to assist and advise his La-
dy in her Pregnancy and Labour; that the Doctor
had been extremely diligent and careful; and in
general, gave him a good Character.

SIR *Everard Fawkner* was called next, who swore
he had known the Doctor two Years; that he
was looked upon to be a very good Physician, and
of great Humanity.

THE Defendant's Council called several other
Witnesses, who all testified that the Defendant was
a very humane and good Physician and Man-mid-
wife.

THE Defendant's Council having examined also
their Witnesses, rested the Matter here, declaring,

that their principal Design was, to invalidate the Propriety of the Action, which they apprehended had no Foundation to support it, and to prove that the Doctor acted, on this Occasion, as a Physician, and not as a Man-midwife.

MR. HUME, by way of Reply, briefly recapitulated the Arguments and Evidences that had been given on both Sides ; particularly that given by Sir *William Brown*, making some pertinent Remarks on the Incertainty and Impropriety of it ; that the Defendant had not made good any Case to excuse himself of the great Neglect in the Duty of his Office, of which he had been accused, and was sufficiently proved against him ; and that upon the Whole, the Plaintiff had fully proved his Declaration.

THE Council having finished their Pleadings, the Judge, who tried the Cause, having with the greatest Justice and Impartiality, and with the utmost Clearness and Perspicuity, summed up the Evidence on both Sides, left it to the Consideration of the Jury, to find such Damages for for the Plaintiff as they should deem requisite.

UPON which the Jury retired, and having been out about fifteen Minutes to consider of their Ver-

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dict, (and which Time they employed, not in disputing whether they should find for the Plaintiff or Defendant, that being unanimously agreed upon, but as to the *Quantum* of the Damages, some of them being of Opinion, that they ought to find to the Amount of two or three thousand Pounds) at last did, to the Satisfaction of the Judge, bring in a Verdict for the Plaintiff, and one thousand Pounds Damages, with Costs of Suit; a Verdict so just and equitable, that it gave Pleasure to all who heard the Cause.

N. B. It's generally believed that the Plaintiff, who is a Gentleman of generous Principles, as well as Opulence, will apply the Damages he has recovered on this remarkable Occasion, to some charitable Use.