

T R Y A L

O F A

C A U S E

F O R

5/32

Criminal Conversation,

B E T W E E N

Theophilus Cibber, Gent.

P L A I N T I F F,

A N D

William Sloper, Esq;

D E F E N D A N T.

L O N D O N:

Printed for T. TROTT. 1739.

(Price Six Pence.)

12220 - Law 10

T H E
T R Y A L, &c.

ON *Tuesday* the 5th of *December*, 1738, at Nine o'Clock in the Morning, at the Sittings in the Court of *King's-Bench* in *Middlesex*, before the Right Hon. Sir *William Lee, Knt. Lord Chief Justice* of that Court, came on the remarkable Trial before a Special Jury of Gentlemen of a Cause in which *Theophilus Cibber, Gent.* was Plaintiff, and *William Sloper, Esq;* was Defendant.

The Declaration (which was opened by the Junior Council for the Plaintiff) was for Assaulting, Ravishing, and carnally knowing *Susannah Maria Cibber*, the Plaintiff's Wife: And this was laid, to be done at three several Periods of Time, at divers Days between such a Day, to such a Day, at each Period; whereby (the Declaration said) the Plaintiff lost the Company, Comfort, Society, Assistance, &c. of his Wife, to his Damage of FIVE THOUSAND POUNDS.

The Council for the Plaintiff were, Mr *Sollicitor General*, Mr *Hollings*, Serjeant *Agar*, Mr *Marsh*, Mr *Dennison*, and Mr *Lawson*. The Council for the Defendant were Serjeant *Eyre*, Mr *Noel*, Mr *Lloyd*, Mr *Murray*, and Mr *Barnadiston*.

It is here proper to let the Reader understand that this Tryal is not taken in the very Words at length: as is sometimes done, when a Short-hand Writer can be conveniently placed. But the Person who attended on this Occasion, was at such Disadvantage, that he was forced to take it in an abridged Way; Writing down the Substance of it as well as he could: We thought good to mention this, that we may not be understood to impose on our Readers; nor to injure the great Men concerned: We therefore hope that neither the learned Gentlemen at the Bar, nor the Court, will be offended, that we cannot do them full Justice in Printing at Length the very good Arguments on both Sides, and his Lordship's excellent Charge to the Jury.

Mr *Sollicitor General*, (—— *Strange*, Esq;) Stated the Case for the Plaintiff; and (among many other things) observed to the Court and the Jury, that the Injury done to the Plaintiff was of the most tender Concern to his Peace of Mind, Happiness, and Hopes of Posterity, and was the highest of all Injuries for which he could come before them to seek a Recompence or Satisfaction in Damages; and that indeed
it

it was impossible to give a pecuniary Satisfaction adequate to the Injury: For that no Sum of Money could restore a Man's Tranquility of Mind. But that the Plaintiff must rest upon such Remedy as the Law had given him.

He farther observed (*upon the Plaintiff's being a Player*) that 'tis true the Plaintiff was a Player, but he was also a Gentleman; being well descended and having had a liberal Education; that the Plaintiff himself was a very good Player; that his Father was well known to all Gentlemen, who delighted in Theatrical Entertainments to be of the first Figure in that Profession, and an Author too; that the Plaintiff's Grandfather was the best Statuary of his Time; and that the Plaintiff by the Mother's Side, was related to *William of Wickam*: and in right of that Pedigree, had received his Education upon a Foundation of that great Man.

He said he knew it was attempted by some, to have the Players considered in a Matter of this Nature, as not upon the same Footing with the rest of the Subjects; as if it were more lawful to invade their Properties, than those of other People; but he knew no Law that deprived them of those Comforts, or of those Rights which other Subjects ought to enjoy: That the Stage had been cherished and encouraged by the Politest and Wifest States, as a School of Virtue and good Morals; and that many receive good Lessons and Impressions from what they hear at the *Theatre*; who

who perhaps don't incline to go seek for Instruction elsewhere.

That there had been a good deal of Pains taken to spread a Report about Town as if the Plaintiff had been consenting to the Wrong the Defendant had done him; but this was only to blast the Credit of the Plaintiff's Cause before the Trial; and that it might come with Prejudice before the Jury. That his Brief instructed him, that there could not be the least Colour or Shadow of Proof to support such a Surmise.

Mr *Sollicitor General* also Stated the Evidence for the Plaintiff, in part as it comes from the Plaintiff's Witnesses in the following Pages; but as to part of what comes from Mr *Carter* of *Kensington*, it doubtless was never mentioned in his Brief. As to the principal Facts he mentioned, the Witness Mr *Hayes's* looking through a Hole in a Wainscoat Partition, which parted Mr *Hayes's* Closet from a Room in which the Defendant and Mrs *Cibber* were together; and that through that Hole Mr *Hayes* at several different Days and Times saw them guilty of Criminal Familiarities, and in such Acts, and with such Circumstances, and particularly the last Time, he, Mr *Hayes*, saw such a Sight, as he (*Mr Sollicitor*) would leave to the Witness to tell; for it ought to be related but once.

Mr *Hollings* also spoke very well on the same Side, pathetically observing to the Gentlemen

lemen of the Jury the mischievous Consequence of Suffering a Man to commit such an Injury to the married State without being obliged to repair it in Damages; that the Plaintiff was an *Englishman*, and as such, had Rights which ought not to be invaded, particularly in the present Instance; that he had brought his Complaint before a Jury of *English* Gentlemen, and he (Mr *Hollings*) did not doubt, that they would give the Plaintiff proper Damages.

The Plaintiff's Council then proceeded to call their Witnesses: And First, to prove the Marriage between the Plaintiff and his Wife, they called Mrs *Brett*, but she did not appear at this time.

Note, *She appeared in the Afternoon, as will be mentioned hereafter.*

The Plaintiff's Attorney then named Mr Cibber, the Plaintiff's Father, who being present in Court, was sworn. His Evidence was in Substance as follows:

Q. Do you know of the Plaintiff's being married to his present Wife?

Mr *Cibber*. I was not at the Marriage, but I am as well convinced that they were married, as that I myself was married. I was against the Match.

Q. Why were you against the Match?

Mr *Cibber*. Because She had no Fortune.

Q. Did they at first live happily together?

Mr *Cibber*.

Mr *Cibber*. They did live happy, very happy, much happier than I expected; for I was averse to the Match.

Q. How long did they live thus happily together.

Mr *Cibber*. About three Years; within that Time they had two Children, which are both dead.

Q. Did Mr *Cibber*, the Plaintiff, during that time, support her well and liberally, as became an affectionate Husband.

Mr *Cibber*. He did, even to Profusion. I often admonished him about it; and advised him to retrench his Expences; for I thought them a good deal too large for his Condition, or what he was able to afford. He made her several valuable Presents of Rings and Jewels.

Q. Is not Mrs *Cibber* a good Actress? and how did she become so?

Mr *Cibber*. When they married She was a Singer, but there were better Voices. I thought her Voice not the best; and if not best, 'tis nothing. I thought it might possibly do better for speakiug. I asked her Husband if he had ever heard her attempt to speak a Part? he said he had; and that she did it very prettily. I tried her, and was much surprized to find her do it so very well.

Q. Did not her Husband take Pains to instruct her?

Mr *Cibber*. I believe I was the Person who chiefly instructed her; I spent a good deal of Time

Time, and took great Delight in it: for she was very capable of receiving Instruction. In Forty Years Experience that I have known the Stage, I never knew a Woman at the beginning so capable of the Business, or improve so fast.

Q. When did you first hear of any Disagreement in the Family?

Mr *Cibber*. Soon after he came from *France*; about last *April*.

Mr Fleetwood, Master of Drury-lane Playhouse was sworn.

Q. Sir, Do you know the Plaintiff's Wife? Is she a good Player.

Mr *Fleetwood*. Yes, Sir, I think her a good Player for her Time.

Q. What Salary did you give her? What Advantages did she bring to her Husband?

Mr *Fleetwood*. She played three Seasons: For the first, her Salary was an hundred Pounds, and she had a Benefit.

Q. What was that Benefit worth?

Mr *Fleetwood*. I can't be particular, because I have not looked into the Accounts on this Occasion: If I had known I should have been examined to this, I could have been particular. I believe it might be about a hundred Pound.

Q. Well, Sir, the second Year?

Mr *Fleetwood*. The second Year, Sir, I gave her two hundred Pounds Salary; and she had a Benefit.

Q. What was that Benefit worth ?

Mr *Fleetwood*. That must have been a good deal better than a hundred Pound.

Q. Then, the third Year ?

Mr *Fleetwood*. Her Salary the third Year was two hundred Pound, and she had a Benefit.

Q. What was that worth ?

Mr *Fleetwood*. I believe it must have been worth an hundred and fifty Pound; for she grew much in the Favour of the Town, and 'twas a very good Benefit.

Note, The Examination to these Matters was at first opposed by the Defendant's Council, as not being supported by the Declaration; but the Plaintiff's Council insisted, that it being laid in the Declaration, that by the Means there alledged the Plaintiff had lost the Assistance of his Wife, he had a Right to prove the Loss he sustained by the Defendant's taking her off the Stage, and the Quantum of that Loss. And of that Opinion was the Court: so Mr Fleetwood was examined as above. The Defendant's Council insisted that nothing here appeared that the Defendant had taken her off the Stage, and they Cross-Examined Mr Fleetwood.

Q. Sir, how comes it that Mrs Cibber does not play this Season ?

Mr *Fleetwood*.

Mr *Fleetwood*. Because we could not agree upon the Terms. I would not come up to her Terms.

Q. What were her Terms?

Mr *Fleetwood*. She insisted to have as good a Salary as any Woman in the House; and the first Benefit.

Q. Perhaps she deserves as much; is she not as good a Player as any in the House?

Mr *Fleetwood*. I can't say that, I can't pretend to determine that. I have got more Money by Mrs *Clive*.

Mr *Quin*, Mr *Johnson*, and some others were called for this Purpose; but the Court was of Opinion, 'twas now proper for the Plaintiff's Council to establish their principal Fact.

Mrs Hayes was sworn.

Q. Mrs *Hayes*, pray give my Lord and the Jury an Account of the Defendant's and Mrs *Cibber*'s coming to your House. Do you know Mrs *Hopson*?

Mrs *Hayes*. Yes, Sir, it was just this Day Twelve-month, the fifth of *December*, that Mrs *Hopson* came into my Lodgings. I live in *Blue-cross-street*, *Leicester-fields*, on the *Saturday*, Mrs *Hopson* came to my House and took my Lodgings; she beat them down as low as she could, for she said she was a single Woman, and should give but very little Trouble, she had no body to come after her but a Gen-

tleman and a Gentlewoman that would come to see her sometimes. She had the Lodgings for seven Shillings a Week; two Rooms on the first Floor; there was a Bed in each of them; one of the Beds was a Turn-up Bed. She was to come in on *Sunday*, but she sent me Word that she should not come in 'till *Monday*, and on *Monday*, the fifth of *December*, she came in a Hackney-Coach, and some Boxes and Things with her. On *Sunday* in the Evening a young Gentleman, whom I afterwards knew to be Mr *Sloper*, called and asked if Mrs *Hopson* had not taken the Lodgings, and whether she was come: We told him she had taken the Lodgings, but that she had sent Word that she should not come till *Monday*. She lay there on *Monday* Night. Neither Mrs *Cibber* nor Mr *Sloper* came that Day, but they came soon after, I think 'twas on *Tuesday*, and they supped together, and went away between eleven and twelve o'Clock; Mrs *Hopson* sat up, and let them out, and locked the Door after them. They often came in the Space of six Weeks that Mrs *Hopson* had the Lodgings; I believe near Twenty Times. They did not come together, but dropping in one after the other. They sometimes dined, but most commonly supped there. Mrs *Hopson* used to leave them together every Time they came; sometimes an Hour, sometimes two or three Hours at a time. She often made Errants to go out to buy something; and sometimes sat two Hours at a time

below

below Stairs with me, while they were above together. They stay'd sometimes till One or Two o'Clock in the Morning ; and how they went away I cannot tell, for I was in Bed at these Times, but I believe they usually went in Chairs or Coaches.

Q. When they were thus left alone, did they use to fasten the Door ?

Mrs *Hayes*. Yes, the Door used to be fast ? Mrs *Hopson* used to go and knock at it, and they let her in ; and sometimes she could not get in, and use to come down Stairs again.

Q. How did you know they were Mr *Sloper* and Mrs *Cibber* ?

Mrs *Hayes*. There was an Acquaintance of mine at my House one Day, when Mrs *Hopson* came down Stairs to me ; one Mr *Rowe*, and he knew Mrs *Hopson* ; *How do you do Mrs Hopson ?* said he. So after she was gone, I asked him who Mrs *Hopson* was, and he told me she was Mrs *Cibber's* Maid ; so I gave her Warning, and let my Lodgings to another ; for I did not like their coming. Mrs *Hopson* did not usually lie there o'Nights, except when they had been there in the Evening ; but on those Nights she did lie there. One Day after I gave Warning, Mr *Sloper* was in a great Passion above Stairs at something, and Mrs *Hopson* came to me, *You have made a fine Kettle of Fish of it*, says she. I did not know what she meant by her Kettle of Fish. *What Fish do you mean ?* says I. *Why there*, says she, *you have been talk-*
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ing of Matters, and he's stark mad at it above Stairs. She would have kept the Lodgings; but I chose not. I let them to another, and so they went away.

Q. Did Mr *Cibber* ever call at your House, and talk with you about them?

Mrs *Hayes*. Yes, about five or six Months ago, he came and asked me, if Mrs *Hopson* had not lodged there? I told him she had. He asked, who came to see her, and I described them, both by their Clothes and their Persons; so he said no more, and went away.

Mr Hayes sworn.

Q. Sir, give an Account of Mrs *Hopson's* lodging at your House, and who came to see her, and what happened, &c.

Mr *Hayes*. When Mrs *Hopson* had my Lodgings, Mr *Sloper* and Mrs *Cibber* used to come often to her, and she used to leave them together two or three Hours at a Time. They used to go away at one, two, or three o'Clock in the Morning, in Coaches or in Chairs. I have a Closet on the same Floor, adjoining to the Room where they used to sit; I bored Holes through the Wainscoat, and could see them very plain. He used to kiss her, and take her on his Lap. On the 22d Day of *December* I was looking through; he took her on his Knee, lifted up her Clothes, and took down his Breeches, and took his privy Member and
put

put it in his Hand, and put it between her Legs. On the 12th Day of *January*, I was lock'd up in the Clofet at one o'Clock in the Afternoon ; and he came first, and he was angry, because she was not come, and he sent Mrs *Hopson* for her. In about two Hours she came. Mrs *Hopson* went away, and left them alone : So he spoke something to her in an angry way about Mr *Fleetwood* ; she said she would take away her Brother from his House, and that she did not value Mr *Fleetwood*. He and she grew Friends again ; they made it up, and he took her upon his Lap, took up her Clothes, took down his Breeches, and put his privy Member between her Legs. I stayed there longer. Between five and six in the Evening he let down the Turn-up Bed softly, she laid herself upon it, upon her Back, and pulled up her Clothes ; her Body was bare. He unbuttoned his Clothes, hung his Bag-wig upon a Sconce, let down his Breeches, took his privy Member in his Hand, and lay down upon her.

Hereupon some further Questions offered as to the Fact, his Lordship interposed to this Effect ; *there is no occasion to be more particular ; we are not trying a Rape*. However the Witness did say there was a Criminal Conversation, and being a Foreigner he express'd himself as much by Gestures, as by Words.

Q. Was their Chamber Lock'd?

Mr *Hayes*.

Mr *Hayes*. No, it was fastened with a Screw. The Holes are there to be seen in the Wainscoat and the Door.

Q. Who did that Screw belong to?

Mr *Hayes*. I believe it was Mrs *Hopson's*. I have seen it lying in the Chamber Window.

Q. How did you know who they were?

Mr *Hayes*. Mr *Rowe* was one Day at our House, and he spoke to Mrs *Hopson*; and afterwards he said, she was Mrs *Cibber's* Maid. Besides I dogged them both Home in their Chairs: Her Chair carried her to Mr *Cibber's* House, Number 12, in little *Wild-Court*, and his Chair went to his Father's House in *St James's Place*. After he was gone into the House, I ask'd the Chairmen *whose House that was?* and they told me *old Mr Sloper's*. I had often seen him at the *Tennis-Court*, and knew his Name there.

Mr Rowe was sworn.

I was one Day at Mr *Hayes's*, and Mrs *Hopson* came in, I asked how she did? I had known her for a good many Years before; and the last time I had seen her, I had been told she lived with Mr *Cibber*. I believe I told Mrs *Hayes* so

Furyman. My Lord, we would beg Leave to call back the last Witness (Mr *Hayes*) to ask him this Question? Why he took the Pains to Dog Mr *Sloper's* Chair, at that time
of

of Night, to learn who he was, when he had known him before at the *Tennis-Court*?

Mr *Hayes* being called in again, and the Question put to him; he answered to this purpose?

As Mr *Sloper* and Mrs *Cibber* came into my House, I knew them both, because I had seen him at the *Tennis-Court*, and her on the Stage; but to be the more certain, I went and followed their Chairs, as I told you.

Mr Carter was sworn.

Q. Give an Account of Mr *Cibber* and Mrs *Cibber*'s Lodging at your House in *March* last, and whether Mr *Sloper* resorted there.

Mr *Carter*. Yes Sir, on the Second of *March* Mrs *Cibber* took the Lodgings, I believe for them all; there were three Beds.

Q. Do you remember any thing of Mr *Cibber*'s going to *France*, and whether Mr *Sloper* came there during his Absence.

Mr *Carter*. Yes, Mr *Cibber* went to *France* soon after, and Mr *Sloper* did Lodge there part of the time while he was absent; and he lodged there again soon after Mr *Cibber* came back; and there was a Lodging taken for Mr *Cibber*, at *Blue-Green*, about a Mile and a Half from *Kensington*, and after Mr *Cibber*, Mrs *Cibber*, and Mr *Sloper* had Supped together, Mr *Cibber* had a Man with a Lanthorn and Candle, between Nine and Ten o'Clock at Night to light him to *Blue-Green*.

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He came back to Breakfast next Morning, and every Morning; and they Dined and sometimes Supped together; and he went to *Blue-Green* at Night; and Mr *Sloper*, and Mrs *Cibber* lay at my House, but I do not know what Beds they lay in. When Mr *Sloper* went away from my House, back to *London*, Mr *Cibber* left *Blue-Green*, and came and lay at my House.

Q. Who bore the Expences of their House-keeping?

Mr *Carter*. Mr *Sloper* did. Sometimes he gave my Wife Money to lay out; at other times, my Wife laid out what was necessary, and made a Bill of it, and Mr *Sloper* paid it.

Q. Did Mr *Cibber* know this.

Mr *Carter*. Yes Sir, it was very often before his Face.

Q. Did he offer to pay any thing?

Mr *Carter*. No Sir.

Hannah Calcot, and *Ruth Calcot*, being severally sworn and examined, had little to say.

They lived at *Burnham* in *Buckinghamshire*; where Mr *Sloper* and Mrs *Cibber* spent part of last Summer. They did not live in the Family. The Amount of their Evidence was, that Mr *Sloper* and Mrs *Cibber* lived at the same House at *Burnham*; they were sure he lived there because they had seen him walk abroad in his Slippers, and in an Undress.

* *Fife* and *Watson* being severally sworn: deposed, That they and another in a Coach went with Mr *Cibber* to *Burnham* in *September* last, to take away Mrs *Cibber*; that they left the Coach in a Field and went to the House where she and Mr *Sloper* were; that she was in a Night-gown sitting at the Tea-table, and Mr *Sloper* was at the other side of it, in his Slippers; that Mr *Cibber* said he came to demand his Wife; that Mr *Sloper* cursed, and swore, and called Mr *Cibber* hard Names, but suffered one of the Witnesses to lead her to the Coach, and walked on the other side of her himself; that she gave him a Watch out of her Pocket; on which he said by G — well remembred, the Rascal would have had it else. That they drove away with Mrs *Cibber* in the Coach, along with Mr *Cibber* and two of his Assistants, the third being on Horseback. That Mr *Sloper* soon overtook them; that he was Booted and on Horseback; that he swore there was a Villain in that Coach, who should never live to go into another: that they came to *Slough*; and there Mrs *Cibber* not being well, desired Mr *Sloper* (who was at the side of the Coach, before the Door of the Inn) to get her a Dram; that Mr *Sloper* brought her a Glass of Rum. That she was above a Quarter of an Hour in the Coach at the Door

* Mr *Fife*, 'tis said, is a Serjeant in the Guards.

of the Inn, while Mr *Cibber* was in the House providing for her Accommodation. That when Mr *Cibber* was in the Chamber in the Inn, she called her Husband a great many Villains, and said, that now he had ruined her Reputation: She did not value if all the World knew that she was with Child by 'Squire *Sloper*, and that she loved him dearly, for he was an honourable Gentleman; that Mr *Sloper* took up a Room in the Inn for some time, swore much, and fired a Pistol; which one of the Witnesses seemed willing to believe was intended at him; but being cross-examined, he did own, that the Muzzle of it was elevated, so as to point over the Stable; and also that Mr *Cibber* and his Assistants had two Case of Pistols loaded. These proved that Mr *Sloper* went away in the Night-time from the Inn, which determined Mr *Cibber* to stay all Night; that he sat up all Night himself; and procured a Woman to lye in the Bed with his Wife. She would eat no Supper tho' there was one provided; for she, was Sulky. The next Day he did not take the direct Road to *London*, but drove a-cross part of the Country and got to *London* in the Evening.

— *Stint was sworn.*

— *Stint* *. Mr *Cibber* employed me to take care of his Wife when he brought her to Town, that she might not be taken away again, and he used her, and provided for her very honourably, and gave Orders at the Tavern, the *Bull-head*, near *Clare-Market*, that she should want for nothing: Meat was dressed there for her, and brought to her, and Wine, a Pint of White, and a Pint of Red. She complained that it was cold Weather, and I made her a Fire, and locked her up in the Room, but she knocked and called, and begged for God's Sake I would let her out, or else she should be Stifled, for the Chimney Smoaked. So I let her out, and put out the Fire. Mr *Thomas Arne*, her Brother, came there, and he begged and prayed that I would let her go along with him; but I would not break my Trust, I could not do it: He came several times, and finding I would not do it, began to break open the House, and at the same time bid her cry out Murder; she cried out Murder, and I believe there was an hundred Mob assisting him to break open the House. I had a Case of Pistols, and laid my Back against the Door; but they were too strong for me, and took my

* We hear that Mr *Stint* is a Candle-Snuffer at the Play-house.
Pistols

Pistols out of each Hand, and held me fast by each Arm ; and beat me severely, and tore all the Clothes off my Back, and took Mrs *Cibber* away with them.

— Applesford [*the Reading Stage-Coachman*] was sworn.

This Witness proved that he was hired to carry two Ladies and a Gentleman, sometime in *September* last from *Slough* to *Reading*. He was to meet them at *Slough*, and met them accordingly. The Gentleman walked out of Town in his Boots, about half an Hour before the Coach, and when the Witness overtook him, he took him in : He knew neither him nor the Women.

This Witness was paid two Guineas for his Charges ; and several other Witnesses, from *Slough* were also paid, who had nothing to say to the Purpose.

Mrs Brett was sworn.

She proved the Marriage ; and being asked when and where she saw Mrs *Cibber* last ? She answered, this Morning, at her Mother's.

This last Question was asked because it had been insinuated that Mrs *Cibber* at that very time cohabited with Mr *Sloper*.

Mr Serjeant *Eyre*, for the Defendant, opened the Defence. And among other things observed,

observed, that he believed this was the first Action of the kind, that ever came from the Theatre; that he never heard that it was a place celebrated for Virtue: that Mr Solicitor General had taken some pains to display the Plaintiff's Pedigree as descended from *William of Wickam*; that there was no Proof made of this Pedigree; but he observed in the time of *William of Wickam*, who was a Clergyman, Celibacy prevailed among the Clergy; therefore the Plaintiff could not be descended in a *right line* from him. That Love is the most governing Passion in human Nature; that as it is so all Theatrical Performances abound with it; that they cannot expect to please without it: That a very wise and modest Man who hath wrote one of the best Plays extant, could not depend on his Hero for Success; that he was forced to interlard it with Love Scenes, or it might probably have been damned the first Night; and this is the Tragedy of *Cato*. That the Hero of this Piece, that very *Cato*, the greatest Man of the Time he lived in; is recorded in History to have had very free Notions of Love and Matrimony; that he lent his Wife to a Friend to breed out of her, and when they had done, he took her back again, very well contented. That the Players are a People who act, and enter into all manner of Characters; that their Men and Women are made to fall in Love with each other every Day, this Day with one, Tomorrow with another; that

that this Practice in Variety must give them an uncommon Propensity to Love, without any Confinement of the Passion to a particular Subject; that 'tis very likely this enters into their common Course of Life. That their Women learn all the Allurements that can engage the Eye and Ear, and strike the Imagination of young Gentlemen; they dress, chat, sing, dance, and every way charm unguarded young Gentlemen, who are not aware of any ill Consequences. That it had already appeared, and would further appear in the Course of the Evidence, that if there was a Suspicion of any thing amiss in the Acquaintance between Mr *Sloper* and Mrs *Cibber*, that the Plaintiff must thank himself for it; that the Plaintiff had taken Pains to bring them acquainted, to live under the same Roof, and used to leave them together to improve their Acquaintance; that he (Serjeant *Eyre*) hoped, that nothing criminal had passed between them; but if there had, the Plaintiff had certainly encouraged it, and had no Pretence to come to a Jury for Damages.

Mr *Lloyd*, on the same Side, made an excellent Speech, which we do not take upon us to give the Reader; we shall only mention a Hint or two. He hoped (as Mr Serjeant *Eyre* had done) that nothing Criminal had passed between the Defendant and the Plaintiff's Wife; but if any thing seemed to tend that way, it at the same time appeared, that the Plaintiff

Plaintiff was privy and consenting to whatever Intercourse or Familiarities there passed between them. That if there had been any thing done amiss with such Circumstances (he submitted to his Lordship's Direction, but) apprehended that the Plaintiff had no Wrong done him, upon this Maxim in Law and Reason, *Volenti non fit injuria*; and that therefore he (the Plaintiff) ought not to have a Verdict. But that if it should be thought proper (notwithstanding such Consent) to find a Verdict for the Plaintiff, it would at least be fit and necessary for the Gentlemen of the Jury to proportion it to the *Size* of the Trepass, which he hoped would be taken in Consideration upon this Occasion. — He said this and much more, in a much better manner than we can relate it (for a Reason already given) and proceeded to the Evidence for the Defendant.

Anne Hopson was sworn.

Q. Did you lodge at Mr *Hayes's* about this time Twelve-month?

Anne Hopson. Yes, Sir, I was then out of Service. I had left Mr *Cibber's*; and intended to follow the Business of Mantua-making: I was bred to it.

Q. Did Mr *Sloper* and Mrs *Cibber* sometimes meet at your Lodgings?

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Anne

Anne Hopson. Yes, they came to see me pretty often. They desired they might come there, and usually had a bit of something for Supper.

Q. For what Purpose did they meet?

Anne Hopson. As they were Acquaintance, to converse together.

Q. Did you use to go out, and leave them alone together?

Anne Hopson. Yes, I often had occasion to go and buy something for Supper, or some Tea and Sugar; and I had occasion to be below Stairs to get Supper ready.

Q. When you came up Stairs did you use to find the Chamber-door fast?

Anne Hopson. Sometimes it was so; and Mr *Sloper* used to open it to me.

Q. Pray what could you believe was the Occasion of these private Meetings.

Anne Hopson. I will tell you all I know of the Matter. I do not fear my Character; there are enough in Court that will give me a very good Character. It was about *March* was Twelve-month that Mr *Sloper* used first to come to our House, to Mr *Cibber's*: The Servants did not know who he was; but my Master called him Mr *Benefit*, and used to say he was a *Romp*, and a good-natured Boy. Mr *Cibber* was then very bare of Money, and afraid of his Creditors. I was very sorry for it; for he owed me a good deal of Money, and does so still. But one Day he told me: *Anne*, says he, I shall have a good deal of Money soon, and

and you shall have some. And I know he soon after had a good deal of Money, and he paid me five Guineas. That Summer we went to lodge a *Kingston*, and Mr *Sloper* with us. My Master used often to leave Mr *Sloper* and my Mistress at Home, and go a Riding or Abroad, some where or other. The rest of the Servants wondered at it as well as I; but I knew no Harm. They did not know Mr *Sloper's* Name. My Master called him his Cousin *Thompson*. Afterwards when they came to Town, I left the Service, and took that Lodging. In last Spring, about *March* last, I lived with them again. My Master took me aside, and made me promise Secrecy concerning something he was about to say to me. He told me he was going to *France*: That there was an Affair between Mr *Sloper* and his Wife: That he was ruined for ever if it should be publickly known. And he made me promise to live with her till he should come back, that the rest of the Servants might not know any thing of the Matter. I promised him. They took Lodgings at *Kensington*, and my Master went to *France* in *March* or *April*. He was some Weeks gone, and in his Absence Mr *Sloper* was commonly at the Lodgings at *Kensington*. When my Master came back he was at a Bag-nio in *Goodman's Fields*, and sent Word to my Mistress. Mr *Sloper* was not then at *Kensington*. My Mistress and I went to *Goodman's Fields* in a Hackney Coach, and he came back

with us to *Kensington*. In our Return we changed our Coach two or three times by the Way, that he might not be discovered. She told him, she expected Mr *Sloper* in a Day or two. My Master said he would take a Lodging when Mr *Sloper* came; or if there was not time for that, he would go lie at some Inn in the Town. Within two or three Days Mr *Sloper* came; and then Mr *Cibber* sent and took a Lodging at *Blue-Green*, and after Supper about nine or ten o'Clock he went there, with a Man carrying a Lanthorn and Candle, and left Mrs *Cibber* and Mr *Sloper* at the Lodgings at *Kensington*. He came back to Breakfast next morning, and dined, and I believe supped; and so he did several Days, till Mr *Sloper* went away; and then Mr *Cibber* paid off the Lodgings at *Blue-Green*, and came to the Lodgings in *Kensington* to his Wife.

Q. Was you at *Burnham* with Mr *Cibber* and his Wife, and Mr *Sloper*?

Anne Hopson. Yes, last Summer it was. They three and I looked over the House; that they might contrive in what Rooms to lie, and the rest of the Servants know nothing of the Affair. It was a large House, seven Rooms on a Floor. Mr *Cibber*'s Bedchamber and Mr *Sloper*'s had a Door opened between them. Mrs *Cibber* used to undress herself in my Master's Room, and leave her Clothes there, and put on a Bedgown, and take away one of the Pillows from my Master's Bed, and go away to Mr *Sloper*'s Room;

Room ; my Master used to shut the Door after her, and say, *Good Night my Dear* ; and sometimes he used to knock at their Door in a morning, to call them up to Breakfast, and at other Times he sent me to call them ; and the Pillow was brought back again ; for my Master's Bed was always made with the two Pillows.

Q. Did you see Mrs *Cibber* the Day she was rescued, and where ?

Anne Hopson. Yes, I saw her at her Mother's, Mrs *Arne's*.

Q. Was Mr *Sloper* there ?

Anne Hopson. He was there.

Q. What became of Mrs *Cibber* ?

Anne Hopson. I do not know. She went away somewhere. I did not see her till two or three Days afterwards.

Q. Did you go down into the Country with her afterwards.

Anne Hopson. Yes, we went to *Reading*. Mr *Sloper* met us at *Slough*, and there we went into the *Reading Coach*, Mr *Sloper* walked out some time before us, and the Coach took him up.

Q. Where was Mrs *Cibber* afterwards ?

Anne Hopson. At *Reading* with Mr *Sloper*, till she came to town about five Weeks ago ?

Mrs Carter,

Mrs Carter (the Wife of a former Witness) was sworn.

She gave in Substance the same Evidence that her Husband did before; and that Mr Sloper used to pay her the money for Housekeeping. That when the Lodging was taken at *Blue-Green*, and upon her asking the meaning of it, she had for Answer, 'twas because Mr *Cibber* was a mean spirited Dog.

Q. Why would you keep such a House?

Mrs Carter. I thought it no Business of mine, if the Husband consented, and was satisfied.

Jane Philips was sworn.

Q. Give the Court, &c.

Jane Philips. I lived at *Burnham*, and used to make the Beds. Mr *Cibber* and Mr *Sloper's* Beds. There were two Pillars on Mr *Cibber's* Bed, and only one Pillow on Mr *Sloper's*; but there was the mark of only one Person having lain in Mr *Cibber's* Bed, and of two in Mr *Sloper's*. The Bed-chambers opened into each other: I never saw Mrs *Cibber* undress; nor do not know who brought back the Pillow every Morning.

As hath been said with regard the rest of the Council, so as to Mr *Murray*, we shall mention but a few hints from his Speech.

He observed that the Plaintiff by his Council shewed himself related to *William of Wickham*;

ham; but would have been better entitled to claim that Alliance if he had observed *William of Wickham's* Motto, that *Morals make the Man*. The Words are *Manners make the Man*; but *Manners* are there intended to signify *Morals*.

That upon the whole of the Evidence, (he the Council) was afraid that the Plaintiff's Wife and the Defendant had gone beyond the bounds of Duty; but whatever had passed, appeared not only to have been with the Plaintiff's Consent, but even to have been concerted by him. That the Defendant was a young Gentleman of Fortune, who became acquainted with a Player and his Wife: That she being Mistress of the alluring Arts of the Stage, first engages the young Gentleman's Affection and draws him in, and this with the Husbands Privity and Assistance. For ~~it is~~ it conceals the Defendant's true Name from the Knowledge of the Servants; at one place he calls him Cousin *Thompson*; at another, *Mr Benefit*; a cant Name, taken from a particular Night in the Year when they get a great deal of money. The Plaintiff tells the Servants the Defendant is a *Romp*, and a *good natur'd Boy*; and he makes a Boy of him. He takes his Money, lets him maintain his Family, resigns his Wife to him; and then comes to a Court of Justice, and to a Jury of Gentlemen for Reparation in Damages. The Council further represented, that it would be of the utmost ill Consequence, if

if it should once come to be understood in the World, that two artful People, being Husband and Wife, might lay a Snare for the Affections of an unwary young Gentleman, take a Sum of Money from him, and when he would part with no more, then come for a second Sum to a Court of Justice.

That he (the Council) desired to be understood as by no means an Advocate for the Immorality of the Action ; but this is not a Prosecution for the Publick, or to punish the Immorality: This is only a Question whether the Defendant has injur'd the Plaintiff; and certainly the Plaintiff cannot be injured, if he has not only consented, but has even taken a Price.

However if it should be thought requisite to find a Verdict for the Plaintiff; we had not a Denomination of Coin small enough to be given him.

Mr Solicitor General in his Reply, observed the ill Consequence of letting it pass for Law that Men might sell their Wives, which would be the Consequence of giving a Verdict for the Defendant.

His Lordship summed up the Evidence,

And the Jury withdrew, and in about half an Hour, brought in a Verdict for the Plaintiff, and Ten Pounds Damages.

F I N I S.