

Such Circumstances to a direct proof of Murder, a proof against whom such presumptive guilt lies, cannot prove Innocence more than one against whom two Witneses have positively sworn the fact, who may be Innocent or will stand in respect it was answered, that not only, may one against whom Concealing and not calling for help &c. are proved, be Innocent of the Murder, & the Crown happening often to be still borne but also the Statute doth not, for that a mother against whom such Circumstances are proved, shall be guilty of first thought felony or Battered Murder, but only guilty of Murder, which is applicable to Capital or Capital as well as wilful homicide 11 July 1720 Janet Graigison Woman are condemned as guilty of the Murder of their Children not only upon that presumption but also of five odious laws by act of Parliament; but a late Roman presumption 25 June 1614 Janet Brown. Hence a Woman having brought forth a Ripe Child, or appearing to be in the Circumstances of one Newly delivered of a Child, and the Child being found dead under the Breast of her, and having the Marks of a violent death, and the having the Breast before several Witneses acknowledged that she brought forth the said Child, and after the Birth wounded with a knife, and stuffed it under the Breast; were found guilty Relevant to infer the guilt of Murdering the Child 19 March 1720 John Marshall. A Woman being carried out her Child under Night, and returning soon thereafter without the Child, and giving false and various Accounts about it to those who inquired after it, and the Child being Next Morning found dead upon a Road; was found Relevant to infer the guilt of death and suffocation of her Child. And the Child being found about in such a place, and the Mother when Enquired to give false and various Accounts of it, Relevant to infer an arbitrary punishment 23 July 1722 John Wilson. And a woman being buried or hiding secretly a Ripe Child she had born, was found Relevant to infer an arbitrary punishment 23 September 1723 Marion Dalgleish. A Married woman who

husband had been two Years absent from her being indicted for the Murder of a Child she was suspected to have brought forth and smothering, upon those presumptions, that when her breasts were opened to be drawn for trial, she was found to have the Marks of a Woman lately brought to bed, and of Remedies used for pulling back the Milk, and when Examined by the Surgeon gave inconsistent accounts of her being with Child: the Jurisdiction was found Relevant to infer an arbitrary punishment. All but it was pleaded for the pardon of 9/9 Murder of Children by parents is not to be inferred from presumptions but is degraded by the more powerful presumption of Natural affection to them. 29 The qualifications of Milk and other presumptions have are at 9/10 of any Concomitants and Consequences of an Intimacy as of a Rape by the Child it is not Genuine for a Married Woman who hath Milk carried of a Child, to put back the Milk. Nor do the improbable Account of her a Whore given to the Jurors signify any thing, because Extra-judicial, and not Evident in presence of the Affairs; 29 November 1701 Callan Smith. Women are admitted as witnesses for proving the Murder of Children, M'Kenzie Criminal 1 July 1487.

The Doctors fluctuate and Waver Exceedingly in their going about to Discover and Determine what wound is Mortal. They lay much Stress upon Conjectures, and chiefly upon the time that the person lived after he Received the wound. Some holding, that if he after the Wound survives 20 days or more, and did within three days, he is presumed to die of his wounds. Others will have the presumption to take place if he don't survive eight days; others if he die within 40 days, others if he survive Not a Year; a third sort think the presumption for the Space of three Years Proper for homicide is qu. 124 n. 35 & 36 q. 1. Monachus arbitr. Jur. quæst. lib. 2 cap. 275. Mascaraud de probat. lib. 2 concl.