

The trial of Capt. William Chapman for the wilful murder of Robert Dunn, on board the Apollo slave ship / [William Chapman].

Contributors

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Apollo (Ship)

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THE
TRIAL
 OF
CAPT. WILLIAM CHAPMAN
 FOR
 THE WILFUL MURDER
 OF
ROBERT DUNN,
 ON BOARD
 THE APOLLO SLAVE SHIP.

—»»»»—
As taken in Short Hand.
 —♦♦♦—

CONTAINING
 THE SPEECHES AT LENGTH OF THE COUNSEL;
 THE
Evidence verbatim of the Witnesses;
 THE
 PRISONER'S DEFENCE;
 CORRECT COPIES OF THE LETTERS AND DOCUMENTS
 PRODUCED IN COURT;
 AND
The Charge of the Judge to the Jury.

—
 The Whole being a Faithful Narrative of every Particular that transpired during that important and interesting Investigation.

—♦♦♦—
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—
 Price Four Shillings.

THE TRIAL
OF
GABRIEL JULIEN CHAMBERLAIN
BY
THE WITNESSES
ROBERT DENN
BY JURY
THE ARKANSAS STATE SHIP



THE STATE OF ARKANSAS
IN SENATE
January 1845
REPORT
OF THE
COMMISSIONERS OF THE
LAND OFFICE
IN RESPONSE TO A
RESOLUTION PASSED
BY THE SENATE
MAY 1844
AND
BY THE HOUSE OF REPRESENTATIVES
MAY 1844
AND
BY THE SENATE
MAY 1844
AND
BY THE HOUSE OF REPRESENTATIVES
MAY 1844

JUSTICE HALL, *Old Bailey.*

Admiralty Sessions,

DECEMBER, 1807.

TRIAL

OF

WILLIAM CHAPMAN.

Before Sir WILLIAM SCOTT, Knt., Judge of
the High Court of Admiralty; Sir ARCHI-
BALD MACDONALD, Knt.; and Sir
SIMON LE BLANC, Knt.

COUNSEL,

For the Prosecution, *Mr. Solicitor General,*

Mr. Jervis.

For the Prisoner, *Mr. Gurney,*

Mr. Alley.

THE Indictment stated that the Prisoner, on
the 1st day of March, in the forty-seventh year

of his Majesty's reign, and on divers other days and times between that day and the 31st of the same month, with force and arms upon the high seas within the jurisdiction of the Admiralty of England, to wit, within one league of New Calabar, on the coast of Africa, and at other places within the same jurisdiction, in and upon a certain ship or vessel called the Apollo, of which he the Prisoner was the master, violently and feloniously did assault one Robert Dunn, then being in and belonging to the said ship, and did then and there with force and arms feloniously, wilfully, and with malice aforethought, strip the said Robert Dunn, and cause him to be stripped and deprived of his cloaths, whereby he was naked and exposed to the rain, wind, and sun, and other inclemencies of the weather. And feloniously did refuse to give or allow, or suffer to be given or allowed, sufficient meat, drink, and other necessaries, proper and requisite for the sustenance and maintenance of his body; and that he then and there with a certain instrument made of wood, and divers pieces of cord called a cat, which he then and there held in his right hand, feloniously and with malice aforethought did beat and strike the said Robert Dunn in and upon his head, back, stomach, sides, and arms, thereby giving him divers wounds and bruises; and with a certain other instrument called a handspike, which he then and there held with both his hands,

feloniously and violently did beat and strike the said Robert Dunn upon his head, back, stomach, and arms, thereby giving him divers wounds, bruises, and contusions; and that he then and there with force and arms did tie, fix, and fasten, or caused to be tied, fixed, and fastened, certain cords to the right wrist of the said Robert Dunn, and thereby, and therewith, did hang up and suspend him for the space of four hours; and did also tie, fix, and fasten, certain other cords to both the legs of the said Robert Dunn, and thereby caused him to be hung up and suspended by his legs for four hours. And that he did also fix, tie, and fasten, heavy cords and chains to the arms and neck of the said Robert Dunn, and caused him to be hung up and fastened to several parts of the ship for the space of six hours, and did thereby inflict great bodily pain and torture upon him. By means of which said deprivation of food, beating, wounding, and ill treating, the said Robert Dunn became weak and greatly emaciated in his body, and from the time aforesaid did languish, and, languishing, did live until the said 31st of March, when he died. And that therefore the Prisoner did feloniously, and with malice aforethought, kill and murder the said Robert Dunn.

A second Count in the said Indictment charged

the Prisoner with the wilful murder of the deceased by strangling him.

To this Indictment the Prisoner pleaded that he was not guilty.

This Indictment, as also two others charging the Prisoner with the murder of John Hanson and Henry Johnson, were preferred and found at the Admiralty Sessions, held at Justice Hall in the Old Bailey, on Wednesday the 18th day of December last; but as the trial of Thomas Bennett, (charged with murdering a lad on board the Ship of which he was master) occupied the whole of that day, Captain Chapman was not put to the bar until the morning of the 19th, when a motion was made by his Counsel to postpone his trial, upon an affidavit stating the absence of a Captain Brown, who was considered a material witness on his behalf, and who was then at Liverpool; and the Court in consequence of this application was adjourned until Monday the 11th of January.

At ten o'clock on that day the Prisoner was put to the bar, and upon the names of the Jurymen who were summoned being called over, the Prisoner's Counsel challenged several of them, and particularly all those who had tried Captain Bennett, and some little delay was occasioned from there not being a sufficient number in attendance to form the Jury, but ultimately the following Gentlemen were sworn :—

Thomas Loveland	William Plumley
William Edwards	Caleb Welsh Collins
Joseph Turner	William Moore
William Rich	Ellis Shipley Lock
William Dixon	Thomas Norton
William Lambert	Charles Gale.

Mr. JERVIS stated the Indictment.

MR. SOLICITOR GENERAL,

May it please your Lordship :

Gentlemen of the Jury,

FROM the indictment which has been stated, you perceive that the charge against the prisoner is for the wilful murder of Robert Dunn, a youth of about eighteen years of age, who was one of the crew of the Apollo slave ship, of which the prisoner was master. That ship, Gentlemen, was bound from Liverpool to the coast of Guinea ; it sailed from Liverpool on the 8th of August, 1806, and arrived on the coast of Calabar in the beginning of the month of October following, and after remaining there five or six months, proceeded on her voyage to the West Indies.

Gentlemen, you will observe, that the charge is not that the prisoner destroyed this young man by any one of the several acts of severity stated

in the indictment, but that he occasioned his death by a series of ill treatment, during the time he was on board the ship.

Gentlemen, after hearing the imputation against the prisoner, I am sure it is unnecessary for me to remind you, that this case will require your most serious consideration. Every inquiry that respects the death of one of his Majesty's subjects, and upon which the life of another is to depend, is of the utmost importance; and I am sure that you will agree with me, that when such a case presents itself before a Court of Justice for investigation, it demands the most mature deliberation. The present enquiry being of this nature, you will feel the necessity of giving it your most serious attention; but, Gentlemen, in addition to the general importance of cases of this sort, there are peculiar circumstances attending this inquiry, which will require a more than ordinary attention on your part, to the evidence which will be this day laid before you.

Gentlemen, we have often observed from experience, that masters of vessels are liable to imputations of crimes without foundation; the crew are frequently urged by improper motives to make unfounded charges; they are often occasioned by the meritorious conduct of the captain, who, by exercising the necessary discipline over those who are under his command, excites their resentment

against him; therefore, a charge of this kind is not to be too easily received. But, Gentlemen, while we are preserving the discipline of his Majesty's navy, and all the ships in our employ, we are to be careful that we do not permit immoderate punishment or excessive severities to be inflicted with impunity, which is no less injurious to that discipline than it is to humanity. Whether the cruelties which the prisoner is charged to have used toward the deceased were actually committed, or whether the witnesses have accused him without foundation, it is your business to inquire; and I am perfectly satisfied that you will discharge your duty honestly and conscientiously, when you shall have heard the whole of the case.

Gentlemen, the witnesses against the captain will of course consist of the crew, who, to the number of five or six, will appear before you, and amongst them is Mr. Scott, the surgeon; and it is but fair that I should admit that some of those witnesses were certainly engaged in a dispute with the Captain soon after the vessel arrived on the coast of Calabar; some of the circumstances that attended it interfered with the authority of the captain; I will not say they amounted to actual mutiny, but they were of such a nature that several of the crew quitted the ship, and were for a time absent from their duty. You will also find, that the charge against the prisoner, for having

caused the death of the deceased, is not made until some time after the vessel arrived in the West Indies: I think it was for the first time mentioned at Montserrat; there the prisoner was arrested; he was sent home, accused with this offence, and he now appears before you to take his trial.

Gentlemen, when you shall have heard the detail of the ill treatment which the witnesses will state to have been exercised by the prisoner upon the deceased, two principal circumstances will arise for your consideration; in the first place, you must be satisfied that the facts are truly represented as they really occurred, and that the statement of the witnesses for the prosecution is an unvarnished narrative of what took place; and secondly, taking the facts to be true, you must be quite sure, not merely that the prisoner has conducted himself with great cruelty, but that his ill treatment of the deceased occasioned his death; that is, that it either actually produced or accelerated it; and on the part of the prosecution, it is incumbent to sustain the affirmative of both propositions, viz. that the various acts of cruelty which will be related by the witnesses actually took place, and that they occasioned or accelerated the death of this young man. In the first place, you will find that this boy, who was eighteen years of age, came on board at Liverpool, in perfect health, on the 8th of August, and that he continued so until their

arrival on the coast of Guinea; he there appeared to have a trembling in his limbs, which the witnesses represent to be something like St. Vitus's dance; and also some boils or sores upon his legs, which in that climate are produced by the bite of the musquito flies, but which boils were not likely to affect his health. It is stated by the witnesses, that the ill treatment the deceased received from the prisoner's hands, and by which he occasioned this boy's death, was inflicted after the vessel arrived at Calabar; and I think you will collect from them that the extreme severity with which he was used commenced in the early part or middle of January, and after a person died who was gunner of the ship, which I believe was on the 17th of January. Your chief inquiry will be directed to the interval from that time till the youth's decease, which happened on the 31st of March, five days after the vessel quitted the coast of Calabar.

Gentlemen, some of the witnesses describe this boy to have been mischievous, lazy, and idle; the captain therefore might have justly and properly inflicted upon him a moderate degree of punishment; but, Gentlemen, I am afraid you cannot attribute the conduct of the prisoner to a desire to correct the bad habits of the boy; for, if the witnesses are entitled to any credit, you will discover another motive operating on the mind of the

prisoner, which will account for his excessive cruelties. You will find that the deceased was brother-in-law to the wife of one of the owners, and was an apprentice, not I believe to the prisoner, but to some other person, and was sent on board the ship for improvement as a mariner. It appears by the declaration of the prisoner, that he suspected him to be sent on board as a spy on his conduct, and that he would give the trade in which he was engaged a bad name.

Gentlemen, I must solicit you not to permit your minds to receive any impressions against the prisoner on account of the trade he was employed in; it was at that time a lawful trade, and if he conducted himself in it properly, there would have been no blame attached to him; and there is no part of the evidence that imputes to him any improper conduct toward the numerous slaves on board this ship, although there were on board between two and three hundred. You will not therefore, Gentlemen, suffer the situation of the prisoner to operate to his disadvantage, but rather to the contrary, from the nature and importance of the charge committed to him, and the necessity of a strict attention to the discipline and good conduct of all under his care.

Gentlemen, I was stating to you the declarations made by the prisoner to the deceased, in which he expressed the suspicions he entertained

against him, and to which he added, that he would take care that the deceased should never return to Liverpool to tell tales; and particularly, referring on some occasions to a person of the name of Williamson, who had then recently died, he said "that he (Williamson) was gone to hell, and that this boy should soon follow him there." The witnesses will tell you, that these expressions of resentment against the deceased, and his determination to destroy him, were frequently repeated, and that the cruelties he afterwards inflicted upon him, and which are stated in the indictment, in their opinions were for the purpose of carrying his threats into execution.

Gentlemen, it is fit that I should caution you particularly to watch the evidence of Scott, who was surgeon on board this ship. He was bound from his situation, in obedience to an act of parliament, to keep a correct journal of whatever related to the health of the crew and the slaves on board; and he was also bound by the same act of parliament to render an account upon oath of the deaths, and of the causes which occasioned them, of any of the crew, at the first British port at which he should arrive. He did keep a journal or mortality list, in which the causes of the death of this youth and of others who died on board are particularly mentioned. I think you ought to check the testimony he gives to day respecting the death of this youth, with the account he gave upon oath in the

mortality list. In the mortality list which I hold in my hand, he represents Robert Dunn to have died on the 31st of March by debility, and the first account which is given in this journal of his being ill is about the 15th of March: and the following are the entries which are made respecting the deceased.

“ 1807, March 15th, Robert Dunn, eighteen
 “ years. He is much relaxed and debilitated.
 “ Extremely nervous, having a constant tremor
 “ and convulsive motion, particularly in his hands,
 “ when in action: this paralysis or nervous irrita-
 “ tion was more or less in his ordinary health, and
 “ lately has become greater in proportion as he has
 “ become more weak. He has had several attacks
 “ of pyrexia from eating almost any sort of food,
 “ particularly vegetables, the produce of the coun-
 “ try, and meat to excess: with this, and want of
 “ action in himself, he became reduced and weak.—
 “ 20th. He seems quite obstinate in every thing
 “ told him; is indolent to extreme; and becomes
 “ more debilitated.—31st. Died.”

Gentlemen, that, I believe, is all the account contained in this mortality list or journal respecting the deceased, and the causes of his death; and there is nothing certainly, by which any misconduct can be traced to the captain, much less that he occasioned his death by any ill treatment.

Gentlemen, undoubtedly a different account

will be given you to day. The surgeon will positively swear that the ill treatment the boy Dunn received from the captain occasioned his death, and it will be for him to explain why, if it was so, he did not give that narrative in the journal. Gentlemen, the account he will give you why he did not introduce it in the journal, is, that it was kept under the authority and control of the master, and subject to his daily inspection; and that he was apprehensive of some fatal consequences to himself if he had inserted the truth. It will be for you to judge whether this reason for his conduct is satisfactory, and whether it was from terror and fear of being punished that he inserted the account in the mortality list as it now appears. But, Gentlemen, you will find that the case does not rest simply upon the evidence of the surgeon. The crew consisted originally of twenty-five seamen, fourteen of whom from the climate and other causes died, others were pressed in the West Indies, and four of the survivors will appear before you as witnesses this day.

The account which these witnesses will give, is that the deceased, for a very trifling fault which he committed in the outward-bound voyage, received five dozen lashes with an instrument usually employed, called a Cat; that he was made to stand naked at the barricado door; that he had one side of his head shaved, and his belly blacked

with tar, and was feldom permitted to wear any thing but a shirt (the fhaving his head and tarring his body were done merely for the diversion of the flaves on board, and I do not think, myfelf, that thofe circumftances would in any way operate to injure his health); that he was expofed without his cloaths to the wet weather; that the prifoner told him, he would kill him, that he was fent as a fpy, and he would take care he fhould never go back to Liverpool again; that the prifoner caufed him to be hung up by the heels with his hands barely touching the hatchway, for no lefs a time than four hours, and till he was almoft in a ftate of phrenfy; that one night he was hung up with a chain round the middle until his cries and moans were fuch as caufed the prifoner to come and releafe him; that he was daily punifhed for the moft trifling faults; that he was not only beat with the tails, but the handle of the cat; that for a long time prior to the time of the death of Dunn, the prifoner refufed to give him any meat or grog, or to let him have any thing but yam or bread to eat; that the prifoner threatened to flog any of the crew if they gave him any thing to eat; that the key of the water cask was kept from him, and the prifoner ordered that he fhould be allowed only three panakins a day* (this is but a fmall allowance for a youth in

* A Panakin is half a pint.

such a climate, but he occasionally by stealth was supplied with more); that the prisoner struck him with a handspike, which is a wooden instrument used for the purpose of turning the windlafs; and only a short time before his death, they saw the prisoner take a handspike and beat him severely about the head and shoulders, and tear the shirt from his back; that the blood flowed from his head profusely; and that after his being knocked down with the handspike, the prisoner punched him with the end of it as he lay on the ground. After that time the deceased is represented to have lain down in the fore-castle, where he died.

Gentlemen, the witnesses will describe, some, one act of severity and some another; but I believe they will all relate declarations of the prisoner similar to the one mentioned by the surgeon, "That the deceased was sent on board by the owners as a spy, and he would take care he should never see Liverpool again;" that he one time asked the deceased if he thought he should ever see Liverpool again? He answered, yes, he hoped he should; that the prisoner replied, "I will take damn'd good care you shall not."

The surgeon will tell you, Gentlemen, and which is repeating again what has been before said, that the deceased was hung up four hours together by the heels, and two or three hours by the wrist; that his arms were at times stretched

out with a broom-stick, and the prisoner swung him round, and the negroes were called to laugh at him; that the deceased has been tied hands and feet together, and rolled round the deck by the prisoner, who has ordered him to be tied in that posture all night; but in point of fact it does not appear that this order was put in execution.

There is one circumstance which will be described by all the witnesses as having occurred a short time before the death of Dunn, I believe about three weeks. The deceased was ordered by the captain to attend the slaves, and empty their tubs. This employment would of itself naturally weaken him, as the cargo of slaves on board consisted, it will be recollected, of as many as two hundred and thirty-six persons. Gentlemen, I must take the liberty of cautioning you, not to let this circumstance, which cannot be laid out of the case, have more than its proper effect; for although it exhibits a picture of extreme brutality toward this youth, yet you are only to consider whether it could have contributed to his death, that being the material point to which your attention is to be directed. The fact I allude to is this: upon the lad happening to spill some of the foil on the deck, the prisoner became very angry, took up a handspike, and beat him with it a considerable time, insomuch that his head flowed with blood, and in his extreme passion he was brutal and filthy enough to thrust some

of the excrement in his mouth, and obliged him to take salt water to wash it down.

Gentlemen, the witnesses describe, that after this beating with the handspike, they saw the prisoner give Dunn another cruel beating over the head with the handle of the cat. The witnesses do not recollect the exact times when these acts of severity took place, although the dates are certainly material; but the beating I have just mentioned must have been given him shortly before his death, as the witnesses state it to have taken place after that inflicted with the handspike, which Scott says was three weeks before he died. The witnesses also state, that at another time Dunn received five dozen lashes for having eaten a bit of fowl, which was given him by one of the crew who was sick. The last time the witnesses saw Dunn beaten by the prisoner, was three or four days before he died; at that time his eyes were almost closed; he was lying with the pigs in the fore-castle, where he had eased himself, which the prisoner seeing, he went and punched him with a handspike; upon which Dunn cried out very faintly, as he was then near his death. The witnesses afterwards saw him still lying upon the fore-castle, making a kind of moan; and on the morning of the 31st of March, he was discovered dead, by some of the crew, upon which the prisoner, who was upon deck, ordered him to be thrown overboard.

Gentlemen, during the period I have described to you, no food or medicine were applied to him. The witnesses represent that his belly was sunk in on one side; that his body was covered with black bruises; that the marks were very visible, that were given him by the prisoner with the punches of the handspike; his eyes were swollen; and the hair of his head covered with a gore of blood.

Gentlemen, whether the medical persons who are present will be able to state to you what was the occasion of his death, you will hear from them, when the other witnesses have been examined. They will tell you whether or not, from all the instances of cruelty and severity, they can account for his death, and for his dying in the manner he did; whether by debility, occasioned by those acts of severity and long continued ill treatment, which were inflicted upon him from the 18th of January till the 31st of March; and their evidence will be one of the principal subjects for your consideration.

Gentlemen, after the vessel arrived in Dominica in the West Indies, the surgeon there delivered in the mortality list which I have stated to you. You will observe, that the vessel's arrival on the coast of Calabar was early in the month of October. It remained in that tropical climate five months, with a great number of slaves on board. The voyage of the middle passage could

not have occasioned the boy's death, because it took place five days after the vessel left the coast of Calabar. The vessel arrived at Dominica on the 4th of June—no charge was made there; about the middle of June the vessel arrived at Montserrat, and there a charge was made against the prisoner to the magistrate, a Mr. Herbert; and on the 20th of July the prisoner was taken into custody: he was shortly afterwards sent on board his Majesty's ship *Belleisle*, and from thence removed to the *Northumberland*, which arrived in England in the latter end of last September, bringing the prisoner and the witnesses. In removing the prisoner from Montserrat to the *Belleisle*, he was placed on board the bark *Hazard*; and during the time the prisoner was on board this vessel, the depositions which had been taken against him at Montserrat, and which had been committed to the care of the captain, were lost. In the voyage homeward in the *Northumberland*, besides the prisoner, Scott the surgeon, and the witnesses, there was a marine of the name of Evans; and I shall give in evidence against the prisoner what will tend to shew that he was conscious of something extremely improper being imputable to him, from a series of letters written with his own hand, and while the witnesses were on board the same ship, addressed to two of them, one of the name of Berrian, in which very considerable offers were

made to them to run away, or to unite in the same story, and give evidence against the doctor, or to mitigate the affair in his favour. Looking forward to a future inquiry that was likely to take place in this country, he entreats them to be united—to be of one mind in the account they would have to give of what passed on board; and accompanied this with a promise, I think, of one hundred pounds, to be distributed among them. The prisoner was in straitened circumstances, having sold his clothes, bed and bedding, and his watch, to raise money to give to several of these persons, with a view of influencing them to give their testimony in his favour.

Gentlemen, you will find there is also a letter addressed to the doctor on board, with whom he endeavours to produce a reconciliation, by apologizing for a punishment he had inflicted upon him, and entreats him to mitigate those circumstances that had been alleged against him.

Gentlemen, you will observe this is only general evidence, and does not go to establish the present charge in particular; the effect of these letters is to show a consciousness of something being imputable to him, and an attempt to gain over these witnesses, and by undue means to influence their testimony in his favour, prior to the inquiry taking place.

Gentlemen, I believe I have stated to you faith-

fully the circumstances of the case. The two things for you to attend to are, first, to be sure that the facts are truly related; and in order to form your opinion you will attend to the testimony given by the surgeon and the crew of the vessel, to the observations of his Lordship, and to the evidence of the medical gentlemen who will be called to assist with their judgment; you will then be enabled to decide how far these circumstances of ill treatment all together did or did not occasion or accelerate the death of Robert Dunn. If you should be of opinion, that the death of this youth was occasioned or accelerated by the ill treatment he received from the prisoner, in either case it will be your duty to find him guilty of the charge contained in the indictment.

John Scott sworn. Examined by Mr. JERVIS.

Q. Were you Surgeon of the Apollo during her late voyage to the coast of New Calabar?—

A. Yes.

Q. When did she sail from Liverpool?—

A. She sailed about the 7th or 8th of August, 1806.

Q. Of what number of persons did the crew consist?—A. Twenty-five, including the master and me.

Q. Was there on board a lad named Robert Dunn?—A. Yes, there was; he was a relation to one of the owners; he was brother-in-law to Mr. Brade.

Q. What age was he?—A. He might be about seventeen or eighteen.

Q. What was the state of his health when he came on board the Apollo?—A. He was in a very good state of health.

Q. When did the Apollo arrive off the coast of Guinea?—A. It arrived in Guinea about the 8th of October, 1806, off the coast of Calabar.

Q. Did the captain do any thing to Robert Dunn?—Yes, sometimes.

Q. Relate what you have seen him do.—A. He beat him out of the cabin, and turned him forward, and treated him sadly by flogging him. He was ordered by the owner to mels in the cabin.

Q. How long did the vessel lie off the coast of Calabar?—A. Nearly five months.

Q. Do you recollect the captain doing any thing to Dunn during the time the ship lay off the coast of Calabar?—A. Yes; I have known the captain to tie him up by the heels.

Mr. Justice Le Blanc.—Begin your account of what you have seen the prisoner do, by mentioning the order of time in which it took place, so far as you recollect. Now, is what you have

mentioned the first time you saw any thing done by him?—A. No; the deceased was flogged with cats prepared on purpose; he had five dozen lashes at one time; the tails of the cat were made of log line; they were very long, and knots on each tail: the handle was considerably heavy; it was made of hickory, or some wood of the country.

Mr. Jervis.—Did he inflict this flogging upon him himself, or order it to be done?—

A. Sometimes he did it himself, and sometimes he ordered it.

Q. The first time which you have mentioned, was that done by the prisoner himself?—A. Yes, by himself.

Q. You have described the handle of this cat as being of great weight: was there any thing done by the prisoner with the handle?—A. I have known him take the tail in his hand, and I have known him to beat him with the handle on his head, which caused a considerable swelling on his head, and likewise it has cut his head in several places, and he has bruised several parts of his body besides.

Q. You have described the manner in which he was beaten; that it occasioned a swelling on the head, and cuts and bruises on several parts of his body: what effect did it produce on the boy?—

A. It produced a kind of stupidity, by the appearance of his countenance, and a bleeding at

the back part of his head ; and the top of his head and temples bled from the bruises.

Q. Any other parts?—A. I have known his nose to bleed in consequence of the bruises.

Mr. Justice Le Blanc.—How long after the arrival of the ship on the coast of Guinea was this?—A. It commenced soon after we arrived on the coast, and it did not end till the boy's death, which was after we sailed from the coast.

Mr. Jervis.—Can you fix any particular date?—A. I cannot: this certainly was about two months after we arrived on the coast of Calabar.

Q. Do you recollect the death of the gunner, Henry Smith?—A. It was before that.

Q. What day did he die?—A. He died on the —(*Witness looking over a book*).

Mr. Jervis.—It is the 18th of January, I believe?—A. Yes; the 18th of January.

Q. How long was this before he died?—A. Some time, I cannot exactly say; near three months before the boy died.

Q. Did you ever hear the captain give any reason for this sort of conduct?—A. I have; I have heard him say he was sent out a spy on his conduct.

Q. Can you fix a date to that?—A. I cannot fix a particular date: I have heard him say it more than once or twice. I have heard him repeatedly say that he had been sent out as a spy on his conduct; that, if they could not get quit of him at

home, he would get quit of him ; that it was such as him that would tell tales of him ; and that it was such as him that gave the trade a bad name.

Q. You described the boy to have been in a good state of health when he came on board the *Apollb* ?—A. Yes.

Q. You have also stated the ill usage he received from the prisoner ; what was the state of his health at that time ?—A. He became greatly emaciated by the frequent beatings ; so much so, that he was scarcely able to walk.

Q. What did that proceed from ?—A. From the beatings and the hunger he sustained also.

Q. Describe the particular symptoms. As a medical man, you are able to describe them.—A. There was an emaciated appearance all over his body ; he appeared more stupid than before, on account, as I suppose, of the blows on his head, and the very bad treatment he received. He was emaciated greatly. There was no disease as I know of.

Q. That was after the arrival of the vessel at New Calabar ?—A. Yes.

Q. Was there any thing the matter with his legs ?—A. He had slight sores ; they were not of much consequence ; they came from the bites of the mosquito flies, after we arrived on the coast, and not before.

Q. Had he any trembling in his hands ?—A. He

was naturally of a nervous disposition, that he had from his birth a kind of paralytic affection.

Q. Did you observe that when he first came on board?—A. Yes.

Q. Did it increase upon him?—A. It increased upon him as he got emaciated upon the coast, but not very much.

Q. You have described the beating him with the cat: describe any other act of severity which the captain used to this boy.—A. I have known him hang him up by the heels with his hands suspending downwards: I have known him to have kept him in that situation for three or four hours at a time.

Q. Can you fix a date to that?—A. I believe it was both before and after Smith's death: it was frequently done.

Q. You are speaking of this act being done more than once?—A. Yes; more than once.

Q. How long was he suspended at a time in this manner?—A. I have known him suspended from eight o'clock in the evening till twelve at night; I have known the master order him to be taken down between eleven and twelve o'clock, upon account of his howlings, because he could not get any sleep.

Q. What was the effect this had on the boy?—A. It caused a numbness in his legs, and want of circulation. I have known him fasten him by the

barricado door suspended. He caused one of his arms to be tied up to the mast, with tackle and bolts to the other, and the whole weight of his body bearing upon his wrist.

Q. For what length of time have you known that to be continued?—A. I have known him in that situation for an hour or two.

Q. Describe this fully. How long have you known him continue in that situation?—A. For a couple of hours with his hands extended; I have known it more than once.

Q. How often have you known it done?—A. Twice a week for a considerable length of time, or three times a week.

Q. Was there any particular cause for this sort of treatment?—A. The cause was, he took great delight in torturing the boy.

Q. You do not understand me, perhaps. Did he do any thing to cause this punishment?—A. He sometimes stole sugar or melasses when he could get at it: he was punished for no particular crime.

Q. Did the punishment follow such a crime?—A. No; the punishment followed upon account of his not cleaning the slaves' tubs; upon account of that he would be punished.

Q. Then these punishments were all inflicted for offences the boy did?—A. And sometimes for no offence.

Q. What effect had this punishment on him?—

A. It occasioned a numbness in his arms. I have frequently felt his arms : I could feel no pulse at the wrist.

Q. Describe as nearly as you can the order of time.—A. I have known him keep him fastened at the barricado door, and strip him naked.

Q. Fastened in what manner?—A. Sometimes with a chain round his shoulders, or round his neck, stripped naked.

Q. Was that done once, or more than once?—A. More than once : I cannot repeat the number of times. It has been done repeatedly.

Court.—With a chain round his body?—A. Yes ; he has continued at the barricado door stripped naked, exposed to the heat of the sun.

Q. Do you recollect whether any thing had been done to any part of his body previous to his being so placed?—A. He had been beaten frequently with the handle of the cat, and flogged.

Q. I do not mean that. Was any thing done to his head?—A. One half of his head had been shaved at one of the times that he was fastened to the barricado door, and the captain painted different parts of his body with black and red paint and tar.

Q. Who shaved him by the captain's order?—A. I shaved the slaves in general : I had the razors handy. He ordered me to shave one half of his head.

Q. How came you to do that?—A. I durst not refuse. I shaved one half of the boy's head. He tarred and painted his body, and sometimes he would get hold of the cat, and give him a flogging while he was in that condition.

Q. While he was tied with the chain at the barricado door, do you recollect any other act which the captain did?—A. Yes; I knew him, one time, when the boy was very much debilitated,—he was emptying the slaves' tub by the order of the captain: as he was carrying it forward on the deck, he upset it. I cannot fix the date of that transaction; it was a little before we sailed from the coast. The captain came forward; he saw it: the captain got a handspike.

Q. Describe what a handspike is.—A. It is a long piece of wood that they heave the windlafs round with; the thinnest part is about the thickness of my wrist: it goes thicker towards the other end: the thickest part is about the size of my arm (*showing the thick part of his arm*). It is about four feet long. The instrument was used for heaving the anchor by means of the windlafs. With this handspike I saw him knock him down among the dung, and I saw him beating him after he was down.

Q. Describe the manner in which the prisoner beat Dunn upon that occasion.—A. He beat him by taking and doing as one would with a stick,

and he punched him with the end of it. He first knocked him down among the dung, and, after he was down, he beat him with the handspike, and then punched him; and he also jumped upon him with his feet.

Q. How long did he continue to do this?—A. About six or eight minutes.

Court.—Do you mean jumping upon him for six or eight minutes?—A. No; beating him and jumping upon him all together.

Jury.—Which end of the handspike had he in his hand when he beat the deceased?—A. I believe he had the small end in his hand; I think so. I saw him take hold of the small end when he knocked him down; whether he turned it, I cannot say.

Mr. Jervis.—When he knocked him down, in what part did he strike him, his breast or his back?—A. I saw him punch him with the large end of it when he was down; he jumped upon him more than once.

Q. What part of his body did he jump upon?—A. On his back and sides. The boy was laying down flat on the deck among the things, sometimes on his belly, sometimes on his back.

Q. How long before the boy died?—A. I do not think it was a month before he died; it was not so much as three weeks perhaps: he took up some of the dung, and called for a marlinespike to open his mouth: he could not get a marline-

spike that I saw. A marlinespike is an instrument they splice ropes with. He put the dung in his mouth, and insisted upon his swallowing it, saying he was not the first that he had served so. I heard this myself.

Juryman.—I would wish to ask, whether the large end of the handspike was square or round.—*A.* It is made to fit the hole of the capstan: it was square.

Mr. Jervis.—You were describing acts of great violence; his jumping upon him?—*A.* Yes.

Q. Did that act require your attendance as surgeon?—*A.* There were several cuts upon his head.

Q. I wish to know whether, in consequence of the treatment that you last described, or in consequence of any other act, your attendance was necessary?—*A.* In consequence of this, his head, by the beating with the handspike, was cut and swelled in several places. He was bruised in his back and shoulders. I did not apply any thing to him.

Q. Was it your duty to attend the different persons on board the ship?—*A.* It was: I could not see that I could do any thing to these bruises: he was liable to be beat every minute again.

Court.—Did you never dress any of his bruises?—*A.* Yes, I have; both before and after that transaction of the handspike.

Q. Did you dress him after that?—A. Not immediately.

Q. How soon after these bruises did you dress him?—A. I did not apply any thing to the bruises; but to the holes that he had, I applied a pledget. When I had an opportunity to go forward, I applied dressings to his legs, and also to his head sometimes.

Juryman.—How long after this transaction did you apply any thing to him?—A. I cannot answer that question exactly: at that time I had a great deal to do.

Mr. Jervis.—Did he continue capable of his duty?—A. He did a little duty, but not much, after that. The captain insisted on his cleaning the slaves' tubs, and doing duty in the head of the ship; but he was very incapable.

Q. Was he capable of doing that duty generally before the last beating you have described?—A. He was capable, before that, only a very short time.

Q. After this beating, was he capable of doing the ship's duty?—A. Yes; he cleaned the slaves' tubs in the head, which was his chief duty, before and some time little after that.

Juryman.—Do you remember how many times he beat him on the head?—A. I do not remember how many times.

Q. Were there any cuts on his head?—A. Yes; They were occasioned by the handspike.

Mr. Jervis.—How many slaves were there on board originally?—A. About two hundred and thirty-six. There was a considerable number died.

Q. What effect had the cleaning the slaves' tubs on the boy's health?—A. The cleaning the slaves' tubs fatigued him very much, in his debilitated state.

Q. Can you describe any other act of cruelty upon the boy by the prisoner?—A. Yes; I have seen him beat him with the handle of the cat and also with the tails after this.

Q. Do you recollect any other act before the time when the ship left the coast?—A. I recollect no other particular act than that the beating was frequently repeated with the handle of the cat and the tails: his head and face were very much swelled, that he could not see out of his eyes, before he died.

Q. On what day did the ship leave the coast? But I will put another question to you first: Do you recollect in what way the boy was fed?—A. No meat, and only a small piece of yam, in the course of twenty-four hours. When we were on the coast of Calabar, he was allowed no beef or pork, and only a piece of yam.

Q. About what quantity?—A. It weighed about a pound.

Q. Was he allowed as much as he could eat of yam?—A. I don't think he was.

Q. How long was he continued upon this allowance?—A. For a number of days, for a considerable length of time, for weeks.

Q. Was it continued for several weeks together after you arrived on the coast?—A. Yes; while we were laying on the coast of New Calabar.

Q. Can you tell us how many weeks?—A. No, I cannot.

Q. Try, and recollect as well as you can.—A. I dare say three or four weeks, though I cannot be certain.

Q. Was he afterwards restored to the ship's allowance of beef and pork?—A. No; he was not. At last, before he died, he was so emaciated, that he lost his appetite. I do not recollect it being allowed him afterwards; if it was allowed him, he had lost his appetite: he ate nothing.

Q. Do you recollect whether he used to have the regular allowance of water?—A. He was sometimes refused a drink of water also. I have known it frequently denied him.

Q. Do you mean that he was denied it when he asked?—A. There was a gun barrel that contained water, and this he was denied going to. He could only get a drink of water when it was unlocked.

Q. Had he not the means of getting it from the

gun barrel as well as you?—A. He had, if he had been allowed. Henry Smith was sentry at the barricado door; he kept the key of the scuttle cask; he kept sentry, and prevented him from getting any. What was allowed him was given in a panakin.

Q. What have you heard the prisoner say upon the fact of allowing him water?—A. I have heard the boy come and ask for water, and I have heard the prisoner say, “D—n him; he shall not have water.” I have heard him at particular times denied it.

Court.—You say he was allowed only yam, and no beef or pork: had he, in fact, any other provision? Do you mean to say that during that time the boy never ate any thing but yam?—A. I have heard some of them say that he had taken some of their beef at times; I never gave him any thing.

Q. Was the yam dressed?—A. It was boiled.

Q. Was the quantity of yam he had sufficient to keep him alive? Though not to give strength, might it be able to keep life for a time?—A. He got debilitated by it and by the beatings. It might be sufficient to sustain life for some length of time.

Mr. Jervis.—Are you able to say, as a medical man, whether a small quantity is not capable of sustaining life for a considerable time?—A. I think it is.

Q. At what time did the ship leave the coast?—

A. I believe the ship left the coast on the 26th of March, and the boy died on the 31st of March, off the island of Princess.

Q. Do you recollect any thing being done by the captain that you saw yourself?—A. The boy lay upon the fore-castle. His belly was shrunk in. He was in a state of blindness.

Q. About how long was he lying in the manner that you have described?—A. He was laying in the manner I have described four or five days. He laid in the fore-castle, with his great coat over him.

One of the Jury.—Did the boy apply to you for any medical assistance while he lay there so bad?—A. No; he did not.

Mr. Jervis.—He laid four or five days in the manner you have described?—A. Yes.

Q. How long had his eyes been swelled in the manner you have described?—A. His head had been swelled a good while before; but three or four days before he died his eyes swelled prodigiously: it came from the bruises he had received.

Q. Had he received any blows with the hand-spike that you saw?—A. About three or four days before he died, I believe the prisoner did not beat him after he was in that state of very great weakness. I did not see him beat him when he was laying in that state.

Q. I am asking, before he was in that state,

whether you saw the prisoner beat him, and in what manner?—A. When he overset the tub was the severest beating, but he beat him after that.

Q. How long before he died did you see the prisoner for the last time beat him?—A. About a week it might be I saw the prisoner beat him. I recollect it was about a week before his death that he beat him with the handle of a cat and with the tails.

Q. Did you see him beat him after you left the coast?—A. Not, as I recollect.

Q. Whereabout did he strike him with the handle of the cat?—A. He struck him promiscuously upon the head or back, where he could get at him. I have seen him hit him upon the head with the handle of the cat. The last time I recollect he beat him was upon the head and shoulders: I do not recollect what it was for.

Q. You do not recollect hearing the prisoner say any thing?—A. I do not, indeed.

Q. I want to know whether you ever gave the boy any surgical attendance?—A. There was no medicine that I gave him: I gave him some physic, upon account of the sores upon his legs. On the fore-castle I did not give him any thing. I could not think of any thing that would relieve him.

Q. Did you dress his wounds while he lay in that state?—A. I do not recollect.

Court.—During these four or five days you do not recollect doing any thing to him?—*A.* No.

Mr. Jervis.—How came you not to attend him?—*A.* I had very much to do among the slaves. If I had paid any attention to him, and been out of the way from attending the slaves, I should have been beat by the captain.

Q. Was it the apprehension that you should have been beat that caused you not to attend to this boy?—*A.* Yes.

Q. That you swear?—*A.* Yes.

Q. You have described a considerable swelling over his eyes. Were they swelled without being discoloured?—*A.* His whole forehead was puffed up like a sponge; the head upon the touch appeared quite soft and spongy; the fore part of his head and his eyes were swelled up in a prodigious manner. His head appeared twice the size of its natural state from that swelling. I do not remember whether the swelling upon his eyes was discoloured or not; I rather think it was not: but the swelling communicated from his head to his face and eyes.

Q. Did you see him after he was dead?—*A.* I did.

Q. When did you first perceive him dead?—*A.* There were some people that were forward that perceived him dead. I saw him after he was dead.

Q. When had you seen him before?—*A.* I had seen him frequently before in the course of the day.

I dare say that I might not see him an hour or two before he died.

Court.—Have you any recollection of the precise number of hours?—A. I do not distinctly recollect the number of hours.

Mr. Jervis.—What time on the 31st did you see him when he was dead?—A. In the forenoon or morning.

Q. What part of the day? Tell more precisely than that.—A. I cannot recollect the hour exactly; it was in the fore part of the day. I had seen him that morning before.

Q. Had you seen him alive that morning?—A. It was as much as he was. I could not perceive much circulation. I felt his arm.

Q. That was the morning of the 31st?—A. I think it was.

Q. Have you any recollection on the subject whether it was on that morning or not?—A. I have not.

Q. You have no distinct recollection?—A. No; I have not.

Q. Can you recollect what time in the morning you saw him; I mean the morning he died?—A. I cannot recollect at what time in the morning of the 31st when I saw he was dead.

Q. You do not recollect you saw him alive that morning?—A. Not particularly.

Q. Now describe the state of his body the last

time you saw him when he was alive?—A. When I last saw him, I could not see his eyes: his eyes were very much swelled; you could not see he had any, unless you lifted up his eyelids. After his death he appeared hunch-backed; his breast-bone seemed to stick out, and his belly shrunk in, and he was apparently hunch-backed; his body greatly emaciated, and his face and head prodigiously swelled and puffed up: there were marks of bruises on him, and blood sticking to the hair of his head.

Q. Upon what part of his body were the bruises?—A. The bruises were on his back, particularly his arms and head.

Q. You say his breast-bone appeared to be sticking out: was this the natural conformation of his body?—A. It was not so when he came on board.

Q. You say his back appeared hunched?—A. Yes.

Q. Was that the conformation of his body?—A. No.

Q. You say the belly was shrunk in: was that the conformation of his body?—A. It was not. He was in full habit of body, and very healthy, when he came on board.

Q. When did the body assume these appearances?—A. It began to assume these appearances for months before he died; not all of them at one time. I observed his breast-bone stick out, and his belly to shrink in and to waste, for months

before; and I observed his body to appear hump-backed for a week or two before he died.

Q. Then, am I to understand that you observed these appearances on his body during his life, and that they did not appear to you to be assumed at the time of death?—A. They were not assumed in consequence of the body being a corpse.

Q. In your judgment as a medical man, from the opportunities you have had of observing the prisoner's treatment towards the boy, now state what was the cause of his death?—A. I think it was entirely in consequence of the ill treatment he received. I think that his death proceeded from the ill treatment.

Q. With regard to the swelling of the eyes: in your judgment, was that swelling occasioned by St. Antony's fire, or occasioned by the wounds that he received?—A. I could not see *no* disease of St. Antony's fire: nothing of the kind.

Q. Do you recollect on what day you left Dominica?—A. On the 4th of June.

Q. How long did you remain there?—A. For near a fortnight.

Court.—Twelve days?—A. Yes.

Mr. Jervis.—When did you first go on shore at Dominica?—A. I went on shore one morning to market, to purchase some vegetables. I believe it was the first Sunday or the second; I am not certain which,

Q. Did you go on shore to deliver in the mortality list?—A. Yes; I went to the collector.

Q. Look at this; and state to his Lordship and the Gentlemen of the Jury, whether that is the mortality list that you gave in at Dominica with regard to Dunn's case?

Court.—Is that your writing and your signature?—A. It is my writing.

Mr. Jervis.—The mortality list and that annexed appear to be delivered on the 6th of June. I am asking of the mortality list and the journal that were delivered on the 6th of June: were you sworn to it?—A. I was.

Q. Did the prisoner accompany you to the collector?—A. Yes, he did; he went with me.

Q. Was that the journal kept during the time you were on board the ship?—A. I wrote it on the captain's cabin table: it was kept in the chest that stood in the cabin.

Q. Had he access to it?—A. He had access at any time when he chose.

Q. Was it a chest that was locked?—A. No; sometimes he used to look at it.

Q. Can you recollect whether the entry of Dunn's death was made in the captain's presence?—A. Yes; the whole of it was made in the captain's presence.

Q. On the 15th of March there is an entry of

your attendance on this boy, and another of the 20th?—A. Yes.

Q. And on the 31st he died?—A. Yes.

Q. Look at it. Were all these entries made at the different times which they purport to bear date, or at one time?—A. This was copied from one I made on cartridge paper—this was nearly wrote at one time—copied from the notes that I kept upon cartridge paper.

Q. Were these notes made in your own cabin when you were master of your own thoughts, or are these entries from which you copied that which is in the book? were they made in the captain's presence?—A. They were all made in the captain's presence upon the coarse paper; then copied into this book also in the captain's presence.

Q. Now, Sir, I think you said that you staid at Dominica twelve days? A. Yes; till the 16th of June, or thereabouts.

Q. The entry with regard to Dunn, was that made all at one time?—A. The entry with regard to Dunn, on cartridge paper, was done at more than once or twice.

Q. Is that which is in the book a correct copy?—A. It is nearly a correct copy; that on cartridge paper was shorter: I have lost it, I believe. Part was destroyed at the time that all our clothes were destroyed in the West Indies.

Q. When did you arrive at Montferrat?—A. About the middle of June.

Q. The account that you have given us to day is much fuller than what is in the journal.—A. Yes.

Q. How came you not to state fully with regard to the boy's death in the journal?—A. I durst not have done it: I had reason to apprehend my own life in danger if I had given a hint of it, or if I had stated the circumstances in my own journal.

Q. Now you say the entry on the cartridge paper was for your own satisfaction?—A. It was for me to copy in this journal.

Q. Did this entry contain a true account?—A. It did not.

Q. The prisoner had access to this entry. Had you the same reason for not entering the facts truly on the cartridge paper as in that book?—A. The very same.

Q. When did you arrive at Montferrat?—A. On the 18th of June.

Q. How soon after did you make any complaint to the magistrate at Montferrat?—A. The first time I came on shore at Montferrat: I was at Montferrat one night; I came on board again: I was only there about a couple of hours. The next time I went on shore, I men-

tioned the circumstances of the crime he had committed to some people.

Q. You are not to tell us what you said. When did you go before a magistrate there?—A. I think it was about the latter end of June that I went before a magistrate.

Q. Do you recollect the magistrate's name?—

A. Mr. Herbert, I think it was.

Q. When you went to the magistrate in the latter end of June, did you go alone?—A. I first wrote a letter to him.

Q. You are not to tell the contents of that letter.—A. After that he sent to me, and I went to him. I went with a guide, a little boy, to show me the place.

Q. I believe you were examined by that magistrate afterwards?—A. I was.

Q. Were there any other persons examined there afterwards?—A. There were two more; Henry Smith and William Berrian; after that we were put on board the Hazard ship, and the two witnesses.

Q. Was the prisoner there also?—A. Yes.

Q. Did you see the depositions that had been taken before Mr. Herbert on board the bark?—

A. I did; they were sealed up.

Q. Did you see them sealed up in the presence of the magistrate?—A. I saw them made out.

Q. How do you know of your own knowledge

that that parcel contained these depositions? Do you know it of your own knowledge?—A. I know no more than what I believe.

Q. Then you are not to tell us. You were afterwards, with the other witnesses and the prisoner, removed on board the Northumberland?—

A. First on board the Belleisle, and then the Northumberland.

Q. Was there a person of the name of Evans on board the Northumberland?—A. Yes; John Evans.

Q. Are you acquainted with the prisoner's hand-writing?—A. I am; I have seen him write frequently.

Q. Look at that letter, and tell us whether you believe that to be the prisoner's hand-writing?

—A. I do. I received it from one Evans, a marine, that is here, on board the Northumberland; there is no date nor any signature to it: it was in the morning that I received it, as I was going forward to the sick bay.

Q. That is, where the sick persons are?—A. Yes.

Q. Do you recollect what month it was you received it of Evans?—A. It was the latter end of August, or early in September. I arrived in England about the latter end of September.

Q. Be so good as to look at these other letters, and tell us whether you believe them to be the

hand-writing of the prisoner also?—A. I really think they are.

Q. From your knowledge of his hand-writing, do you believe them to be his?—A. I believe them to be his hand-writing.

Letter read by the Clerk of the Court.

“ I AM sorry that such indifference should have happened between you and me, and flatters myself has chiefly been occasioned from what unfortunately happened between you and me on the night you unfortunately was so much overseen by Mr. Cox, for which I seriously acknowledge myself in the fault, and humbly beg your pardon, as knowing myself the instigator of it. I am willing to make you any recompence that lays in my power at present, or may be in my power hereafter. As the business in which we are involved in is drawing close to hand, and every deposition that you and the other men have sworn against me are lost, I hope and trust in the Almighty God that you will have the goodness to mitigate the affair, and accept of my friendship both now and hereafter. As I flatter myself that you may be short of both money and cloathing, and as a proof that I never did nor do yet owe you any malice, what little I have got of either articles you are extremely welcome to the half of, which I hope you will accept of, and likewise my future friendship.

“ Captain Bell of the bark was with me the other day, and told me that the depositions were delivered to him when we left Montserrat, and by his neglect they are lost, with some other papers concerning the business. I hope you will send me an answer, with a few particulars concerning the above, as soon and as privately as possible. You may depend it shall never reach the ears of the public.”

Court.—There is no signature?—A. No, nor date, or superscription. That is the letter I received from Evans in my own hands.

Cross-examined by Mr. GURNEY.

Q. Mr. Scott, you have told us that for the last four or five weeks of this boy's life the captain generally beat him every day?—A. He made a practice of beating him, I cannot say every day; I do not know for every day exactly: sometimes he beat him twice a day.

Q. If he missed one day, I take for granted he beat him *twice* the next day?—A. Perhaps he might miss two or three days, just as he found himself inclined.

Q. And then he made it up by giving it him two or three times in one day?—A. I did not keep an exact account.

Q. I did not ask you whether you kept an exact account.—A. I have known him beat him twice a day.

Q. How many times all together did he beat him with the handspike?—A. I have seen him beat him one time very severely with the handspike.

Q. How many times in the gross have you seen him beat him with the handspike? You have described four or five times: I want to know how many more?—A. I cannot recollect how many times: I do recollect one time in particular.

Q. You have told us of one time, and more than one time; when was that time which you say you recollect in particular?—A. That was a few days before he died.

Q. How long before he died?—A. I cannot be certain to the number of days: eight or ten days.

Q. He beat him most unmercifully then?—

A. Yes.

Q. As hard as he could strike him?—A. Yes; or thereabouts.

Q. Both on the head and on the body?—

A. Yes.

Q. Describe the manner in which he struck him.—[*The witness described by action an overhanded blow.*]

Q. And then he jumped upon him with all the weight of his body?—A. He did so with his feet.

Q. How many times did he jump upon him?—

A. I recollect him jumping upon him twice.

Q. And he beat him most unmercifully with the butt end of a handspike?—A. Yes.

Q. We know perfectly well that the butt end of a handspike is square, like the side of this?—(*pointing to a box in the form of a large book*)—

A. Yes.

Q. When he struck him with an instrument of this size, he struck him as hard as he could each stroke, you have told us?—A. Yes.

Q. Upon your oath, Sir, must not such blows have killed him if they were given upon his head?

—A. Sir—

Q. Sir!—I repeat my question: if he struck him with an instrument of that size in the manner you

describe, must it not have killed him on the spot?

—A. I do not know that it might; it did not do it.

Q. I know that it did not do it; but if such blows had been given by a handspike four or five feet long, must they not have killed him at once?

—A. It is according how he held it.

Q. You have told me that he hit him as hard as he could: have not you told us that it was an over-handed blow, and that he hit him as hard as he could?—A. I did not see how high he lifted up his arm.

Q. After doing all this, he punched him with the handspike?—A. Yes.

Q. He punched him with the handspike in different parts of his body?—A. Yes.

Q. He made no secret of his intention to kill the boy?—A. No; he did not make much a secret of it.

Q. He declared in the presence of the whole crew that he would destroy him?—A. I have heard him say he would get quit of him.

Q. You and all the crew were upon the best terms with him, so that he must be sure you would keep the secret?—A. I do not know what he thought respecting that.

Q. I did not ask you what he thought respecting that: my question is, whether the crew and he were upon good terms, so that he might be sure they would not tell?—A. They were not upon very good terms; he might have got them pressed.

Q. He might have got them pressed! *You* were exempt from being pressed, as being a surgeon?—A. Sometimes they do in the West Indies.

Q. You and he were upon the best of terms: you bear no malice, I dare say?—A. No.

Q. Did he ever charge you with getting drunk?—A. He had no occasion but once, and he was the drunkest of the two: he punished me for nothing.

Q. He punished you for nothing?—A. It was for a very trifle.

Q. Then he did take the liberty of punishing you?—A. He did.

Q. How many times did he punish you?—A. Two or three times.

Q. How many times on the coast of Africa?—A. Twice on the coast of Africa.

Q. How many times on the middle passage?—A. I do not recollect on the middle passage.

Q. Cannot you recollect?—A. I was punished one time in the middle passage.

Q. Was it the beginning or the latter part of the time?—A. It was towards the latter part of the time; perhaps a month before I left the ship.

Q. Did he punish you in the West Indies?—A. Yes, at Dominica.

Q. That was before you got to Montserrat?—A. Yes.

Q. I believe he punished you with the cat once?
—A. Yes ; that was on the coast.

Q. It is very unusual, I believe, to punish a person in your situation with a cat?—A. Yes.

Q. He charged you with stealing some rum falsely, I dare say?—A. It was for returning to one Mr. Cox some rum which he had borrowed : he told Mr. Cox he would return it as soon as he sent for it.

Q. However, he punished you with a cat, and you were not very well pleased with it?—A. No.

Q. The crew and he were not on good terms, I believe : some of the crew mutinied on the coast of Calabar?—A. There was no mutiny in the case that I could think of.

Q. Was there never any mutiny on board of the ship?—A. I could not call it a mutiny.

Q. You could not call it a mutiny? Was there nothing like mutiny in twelve men taking a boat, and going ashore?—A. He told them there was a boat alongside ; he gave them leave to go on shore ; he insisted upon their drinking stinking water on board ; and moreover told them he would put poison in it, and make them drink it, and poison them.

Q. And this he said to the whole of the crew?—
A. Yes.

Q. And this at the time you were taking slaves in?—A. I do not think there were above one or two on board the ship.

Q. Upon your oath, Sir, I ask you whether you did not represent to the captain that you suspected that the water which had been brought from the shore had been poisoned, and desired that the men might not drink it, as you suspected it?—

A. I said no such thing.

Court.—You had not said that you suspected the water brought from the shore was poisoned?—

A. I never said so; he would not let them drink the water brought from the shore; he said they should drink the stinking water that was brought from England.

Mr. Gurney.—Did not he drink the same water himself?—A. I will swear that he drank water that came from the country, as soon as he got it.

Q. Do you mean that he drank the water that came from the country as soon as it came on board?—A. He never drank the water that came from England, that ever I saw, after he got water from the country.

Q. Do you mean to repeat that there was no mutiny in the ship?—A. One evening a man was singing a song forward on the forecabin: the captain desired him to be silent; he continued singing the song: the captain got the arm chest open, and began to fire. Smith said, “Fire, and be damn’d.” Smith said, before he would be used in that manner, he would blow the ship up. I be-

lieve he was in liquor, and one or two more: there was no one laid hands on the captain.

Q. Was there any mutiny?—A. There was no more than that.

Q. How long did the men who went on shore stay?—A. Some stopped two days, others a week, and some he would not take on board again.

Q. But this night that you speak of, nothing more was done by the men than singing a song?—A. Nothing more; they made a noise. Smith was a little riotous, because he was in liquor; the rest were orderly.

Q. Did not you arm to protect yourself?—A. He told me to do it: there was no occasion for my doing it. He hailed Captain Brown on board: he came on board. Captain Brown asked what the disturbance was. Smith the gunner spoke, and said that he had snapped pistols at him, and told him that he had heaved handspikes, and shot at them at different times. Captain Brown desired them to be quiet again. Nothing more happened particular that night, that I recollect.

Q. Did not Captain Brown tell them, if they did not return to their duty, he would bring his ship alongside of them?—A. He did.

Q. Did not Smith the gunner, who was at the head of the mutiny, say that they had as many

guns as he; they knew how to use them as well as his men, and they would make use of them?—A. I do believe he did make use of something of that kind.

Q. Did not some of them threaten to throw Captain Brown overboard?—A. Not that I heard.

Q. Will you swear that they did not?—A. It might happen: I did not hear it.

Q. After the men returned to their duty, I believe there was some uneasiness with respect to losing their wages for having gone on shore?—A. He told them, when they returned, they should have their wages, if they returned to their duty.

Q. Did not they say that they were afraid of losing their wages for leaving the ship?—A. He gave them orders for their money.

Q. Where did the captain give them those orders?—A. They had these orders on board Captain Macdonald's ship, before they would come on board.

Q. To whom did he give those orders?—A. Berrian was one; Jones another; and William Smith the gunner, who is dead, was another.

Q. None of the crew, I believe, escaped a flogging?—A. No.

Q. The captain flogged them all round?—A. Yes.

Q. And he did this notwithstanding he had treated the boy in the way you have described?

—A. Yes.

Q. I suppose, in your opinion, he would have liked to murder the whole of the crew?—A. Yes, I do think he would.

Q. Then what must have become of himself with a cargo of slaves? Does it not sometimes happen, when a crew has been reduced by sickness, that the slaves have risen and murdered them?—A. I have heard of such things.

Q. Then, if he had destroyed all his crew, must he not himself have been murdered by the slaves?

A. I don't know.

Q. You saw that the poor boy was going very fast?—A. Yes; after we got upon the coast.

Q. You gave him scarcely any medicine, you say; and sometimes you dressed his sores? How many times did you dress them?—A. Four or five times.

Q. You said at the Police Office, that his head was so bruised, that the scalp was detached from the bone apparently, and very much like a sponge.

—A. Yes.

Q. How many times were you on shore at Dominica?—A. I was twice ashore, I believe; once at the Custom House.

Q. There was a relation of one of the owners there, a Mr. Brade?—A. There was no Mr. Brade there when I was there. I saw Messrs.

Lockharts; I had very little opportunity of seeing them. The master ordered me to pretend to be sick whenever they came on board.

Court.—Who are Messrs. Lockharts?—A. They are the consignees of the cargo.

Mr. Gurney.—So, in obedience to the captain's orders, you feigned to be sick?—A. I was down below out of the way.

Q. Did you not go ashore to their house?—A. Yes; with the captain.

Q. You went from thence to Montserrat?—A. Yes.

Q. How long were you lying at Montserrat before the charge was made?—A. Only a few days.

Q. How many times were you on shore before the charge was made?—A. I was only on shore once: it was very late. I stopped an hour or two, and came on board.

Q. Do you remember being on shore at Betty French's?—A. Yes.

Q. Were any of the crew?—A. Some of the crew were there.

Q. Had you and they any conversation at Betty French's about the charge?—A. Of course, after the court of inquiry had been held, we mentioned something of this.

Q. Do you remember, either before or after the court was held, saying, "If you stick to what I

say, it will be the better for you; then you will have your wages?"—A. I do not.

Q. Nothing passed between you like conning over the story together?—A. Nothing of the kind.

Q. Was it not mentioned that every one would relate what they had seen?—A. Nothing of that kind ever passed.

Q. Nor nothing of the kind ever passed that you said, "You must stick to what I say?"—A. Never.

Q. Have you not said that you would not have made this charge against the captain, if he had not punished you?—A. I never said any such thing.

Q. You would have given this poor boy more medical assistance if you had not been afraid of the captain?—A. I dare say I should more often have attended to him than I did, if it had not been for that.

Q. And you would have made a true entry in the journal, if it had not been for the captain?—A. Yes.

Q. As to all the symptoms stated in the journal, those were not the correct symptoms of the deceased?—A. The entry in the journal is exactly the symptoms that he was attacked with.

Q. I will read it to you.

"1807, March 15th, Robert Dunn, eighteen years. He is much relaxed and debilitated. Extremely nervous, having a constant tremor and convulsive motion, particularly in his hands,

when in action: this paralysis or nervous irritation was more or less in his ordinary health, and lately has become greater in proportion as he has become more weak. He has had several attacks of pyrexia from eating almost any sort of food, particularly vegetables, the produce of the country, and meat to excess: with this, and want of action in himself, he became reduced and weak.—20th. He seems quite obstinate in every thing told him; is indolent to extreme; and becomes more debilitated.—31st. Died.”

If you are asked whether that was the cause of his death, you cannot say it is.—A. That is true, but it is not the whole of the treatment. I did not put down in that journal the real cause of his death. If I had not been afraid of the captain, I would have put down the cause of his death.

Q. The use and object of a journal are to put down the causes of the deaths?—A. Yes.

Q. Were you afraid of him when you came ashore at the Custom House?—A. I was.

Q. When you were on shore there, could you not have put yourself under the protection of the Custom House officers of the island?—A. No.

Q. Did not you suppose, that, if you had made a charge of murder against the captain, you would have been protected?—A. I don't know how that might be: I was told there was not much justice in the West Indies. At Montserrat I was advised to make the charge: I was told there, I might have as much justice as in England.

Q. You thought you could have no justice at Dominica?—A. No.

Q. You thought that Messrs. Lockharts, the agents of the owners, would not give you any sort of protection, if you made a charge against the captain of murdering this boy, who was so nearly related to one of them?—A. I don't know. During the twelve days I was there, I was obliged to attend the slaves, and also to cook the slaves' victuals. I had no time to make a regular charge.

Q. No time to make a regular charge! Did not an officer and some men of a sloop of war come on board at Dominica?—A. Not while I was there.

Q. Do you mean to say that you were not boarded by a sloop of war?—A. Yes; that was when we were coming in.

Q. Could you not have made the charge to the naval officer who came on board?—A. I wished to wait till I had a better opportunity; and if we had stopped to take in the loading at Dominica, I should have disclosed it.

Q. When you were on shore at Messrs. Lockharts, that might have been an opportunity.—A. Yes; it might.

Q. At the Custom House you swore to the truth of that journal.—A. Yes.

Q. What do you think of swearing to that journal, which you now admit was not true?—A. It was true that the boy had a paralytic affection.

Q. But there is much more in the journal than that. Did not you swear to the whole of the journal being true?—A. Yes, but there is no cause of his death there. I did not think I was swearing to the cause of his death.

Q. Then in your journal it was no object to give an account of the causes of people's death?—A. I did not account for the cause of his death in the journal.

Q. You did not consider it any object to insert the cause of his death?—A. It is sometimes put in. There is no cause mentioned in that journal.

Q. Did you not consider what you have mentioned in the journal as a statement accounting for the death of Robert Dunn?—A. No; I considered more of that in my own mind.

Q. Did not you consider that you represented what is there written as the cause of his death?—A. I might represent thus far as the cause of his death.

Q. The question is not what you *might* have done, but what you did. Did you not intend that that entry should convey, to whomsoever might read it, the matters therein stated as the causes of his death?—[*No answer.*]

Q. I suppose you have always given the same reason for taking that oath, that it was for fear of the captain?—A. I always understood that I was

safe in swearing to that; but I have not related the whole of the truth.

Q. One should have thought that you might have had courage enough to have related the whole truth at the Custom House.—A. I had not.

Q. Did you ever say to a person either here or in the West Indies, when you were asked how you came to swear to your journal, “Oh! it is a mere Custom House oath?”—A. I do not recollect ever mentioning any such thing.

Q. “I do not recollect!” That is the oddest answer to such a question that I ever heard. Did you, or did you not, when you were asked how you came to swear to your journal, say it was a mere Custom House oath?—A. I do not recollect any such thing.

Mr. Gurney.—That is, I suppose, all I can get from you.

Re-examined by Mr. JERVIS.

Q. You never said that you would not have made this charge if the captain had not punished you?—A. No; I never said so: I should have made this charge, whether he had ever punished me or not.

Q. You have been asked about this disturbance on board the ship: do you recollect when it happened?—A. Very soon after our arrival on the coast.

Q. Was Dunn one of the party concerned in it?—A. He had nothing to do in it.

Q. Nor you, of course. You was called to the assistance of the captain?—A. I, the steward, and the clerk, were in the cabin.

Q. And you say William Smith the gunner, and one or two other persons, used very improper language to Captain Brown?—A. They did.

Q. Did Captain Brown return to his ship that evening?—A. He did.

Q. He did not find it necessary to bring his own ship alongside?—A. He did not: he returned to his own ship, and the crew went to sleep very soon after.

Q. The captain said he should make them drink that water during the time they were there?—A. Yes; but I believe they drank very little of it: they got at the other whenever they could.

Q. Had they an opportunity of getting at the fresh water?—A. Sometimes they might, when they were down below.

Q. You have told us, that when you went to the Custom House the captain was with you?—A. He was.

Q. Are the symptoms which you have described this boy to have had accurately stated in this journal?—A. They are correct, as far as they are stated in that journal.

Court.—It is impossible he can reconcile the entry in the journal with the symptoms and causes of death as he now describes them.

Mr. Gurney.—In his evidence he states that the illness and death of Dunn were, in fact, occasioned by the privation of food, and particularly of *meat*. In the journal he describes the “*eating meat to excess*” as one of the causes of that illness which terminated in death.

Court.—The journal cannot be made consistent with the evidence; and I think, Mr. Jervis, you had much better give up that point, than, by asking him further, make him give more bad reasons for what he has done.

Mr. Jervis.—I will not pursue it, my Lord.

Q. You very seldom went ashore at Dominica, and had no opportunity of making it known there?—A. Provided we had taken in a cargo there, I should have made it known. At Montserrat we took in a cargo, and there I made it known.

Henry Smith sworn.

Examined by Mr. SOLICITOR GENERAL.

Q. You were one of the crew of the *Apollo*?—

A. I was.

Q. You failed with the ship, and continued on board all the time that she was in Africa?—A. There was a short time I was absent.

Q. Do you remember Robert Dunn being on board that ship?—A. Yes; I do.

Q. When did you first perceive any thing the matter with him?—A. After he arrived on the

coast I perceived he had sore legs: I always thought it was owing to the musquitos.

Q. Did you observe a trembling in his hands after he had the beatings?—A. I did not observe it before.

Q. How long before he had the beating did you observe the trembling in his hands?—A. After we failed from Liverpool; it might be a month. He had no trembling in his hands till after he was beat. The first ill treatment I saw him have was five dozen at the end of the windlass, for spilling some of the molasses.

Q. When afterwards did you perceive any ill treatment exercised upon him?—A. When we first arrived on the coast, he was sent to the barricado door; he was stript; he had some clothes on when he was sent to the barricado door.

Q. Did this hurt him?—A. No; not if he had been behaved to as he should have been.

Q. What other ill treatment do you recollect? you are now speaking when you were on the coast.—A. About two months after we failed from Liverpool; at this time, when he was in the galley, I have seen him put a rope round his neck, and hoist him up, so as his toes just reached the deck.

Q. How long was he continued in that posture?—A. He might be continued in that posture half an hour, or three quarters of an hour.

Court.—Did it hurt him?—*A.* I should think it did hurt him; he was hung up by a rope round his neck, the two bits coming round behind; the gun-tackle hoisted him up: I saw him in the galley at that time; he seemed to be red in the face; and, after he was let down, he had a long red mark, and all the skin was chafed off. Another time he was stript of every thing off him; one side of his head was shaved; his belly was blacked. He was standing by the barricado door. I have known the captain fetch the blacks to look at him when he was in this state. I have seen him hung up by the heels on the main deck; he was hung up to the booms by the heels, with his head downwards.

Q. Could he touch the deck?—*A.* Yes; the ends of his fingers just touched the combings of the main hatchway. He continued in that way half an hour, or three quarters of an hour.

Q. Have you observed that to have been done to him more than once?—*A.* Once I have seen him continued half an hour.

Q. How long was it after you got on the coast?—*A.* It was some time after then.

Court.—How long before you left the coast?—*A.* I cannot tell exactly how long.

Mr. Solicitor General.—Do you remember how near it was to the time of the boy's dying?—*A.* It was done when we were on the coast.

Q. Do you remember Dunn attending the slaves?—A. Yes; I remember his being sent to the barricado door with the tubs.

Q. Do you remember any thing happening upon that?—A. I saw him capsize the tub on the main deck. The captain happened to see him; he got some of it, and made him eat some of the contents of it.

Q. Did he do any thing else besides what you have mentioned?—A. I did not see him then.

Q. You did not see him beat him?—A. No; I did not take particular notice at that time.

Q. Did you ever see him employed at any other time emptying the tubs when any part of the contents were spilt?—A. I have not seen him eat the contents more than once upon any occasion.

One of the Jury.—Who held his mouth open?—A. He got his mouth open with one hand himself; he got his mouth so that he got some in it.

Mr. Solicitor General.—How far were you from him?—A. About as far as I am from you; or a little further.

Q. Did you remain looking on?—A. No, I did not; I was at the furnace, the other side the galley. There might have been a beating, but I did not see it.

Q. You were not present all the time?—A. I

was not ; because this case was so common at last, I used to take no notice of them. I saw him hung up with chains round his middle, off the deck, and several wet swabs put on him : that was for telling him that the second mate had not washed one side of the deck.

Q. Do you know whether that was true or not?—A. That I cannot say.

Q. How long did he remain in that state?—A. Till such time as the captain ordered him down.

Q. Was it in the day-time, or night?—A. It might be about seven or eight o'clock at night.

Q. How long did he remain in that way?—A. I cannot rightly say about how long ; it might be an hour.

Q. Did you ever see the captain beat him any time besides that you have described?—A. I did, with a handspike. There was a tub standing on the main deck : the captain came forward, and saw it ; he went towards him with a handspike, and knocked him down : several times he hit him down, and struck him with the thick end of the handspike.

Q. What sort of blows were they?—A. They were heavy blows. I saw the blood come out of his head, and run down his shoulders. He knocked him down, and struck him after he was down about the legs and body, and any where where he

could strike him, with the same end of the handspike.

Q. What was that for?—A. There was a tub standing on the main deck; it ought to have been in the head.

Q. For that he was punished in the way you have described?—A. Yes; it was about three or four days before he died.

Q. Are you sure whether it was before or after that something was spilt?—A. I believe it was after that.

Q. Where was the boy when he was beat with the handspike?—A. He was forward.

Q. You say you observed the blood flow from his head, and run down his shoulders?—A. Yes. After it was over, the boy got up and went in the forecabin, and there he lay for three or four days: he was able to crawl and get to where he was.

Q. What had he to eat when he first came from Liverpool?—A. He messed in the cabin.

Q. Did he continue to mess in the cabin, or mess with the crew?—A. He was sent forward to mess with the crew.

Q. Then he had the same quantity as the crew?—A. He had no grog nor beef; he had a piece of dry yam and bread.

Q. How long before he died was that stoppage of the usual allowance?—A. Some weeks. Soon

after we arrived on the coast, he had sometimes yam and sometimes bread.

Q. Had he at any time both yam and bread?—

A. Not as I know of. When we were short of yam, we used to take him bread. What we were allowed we used to take him:—a bit of yam about the size of a man's fist.

Q. What allowance of water had he at one time?—A. Three half panakins a day; that may be a little better than half a pint: he had three half pints a day allowed him.

Q. How long before he died was he allowed that quantity?—A. Some time before he died; I cannot recollect the length of time: it was the whole he was allowed to have any day; three half panakins a day. I have given him a little myself, when I had an opportunity. I had the key of the butt. Sometimes, when I could find an opportunity, I gave him some, not continually.

Q. How came he to be put on this short allowance?—A. I cannot tell, except to punish him. The captain told me to give him three half panakins a day. One day I was bringing his dinner; the captain was getting his dinner in the cabin: he asked me what I was bringing him. I told him, yam. He ordered me to shew it him; I shewed it to him: he told me if ever I brought him any beef, he would flog me. I have seen him, when it was raining very hard, made to wring swabs.

Q. What cloathing had he?—A. An old shirt : he had a great coat. I saw the captain take it from him. We had left the coast at that time.

Q. How long after?—A. I cannot rightly say how long it was.

Q. Do you recollect how long you left before the boy died?—A. I cannot recollect, to tell the truth.

Q. Was it a week, or more than a week?—A. I think it was more than a week ; I am certain it was more ; I cannot say how much more.

Q. How long after you left the coast was it that he had his coat taken away, and sent to wring the swabs?—A. I cannot say.

Q. Did you see him do any thing when he was under the awnings?—A. I have known the boy to lay any where he could get any rest, at times.

Q. Did you ever hear the prisoner say any thing to him why he was treating him in this way?—A. I have. I heard him one time come forward, and ask him if ever he thought he should see Liverpool again.

Court.—Mention, as near as you can, the time?—A. It was before he died some time.

Solicitor General.—Before you got to the coast?—A. It was after that.

Q. Was it after or before you had left it?—A. I cannot say.

Q. Upon what occasion did he say this?

Court.—Mention, as nearly as you can recollect, what was the occasion of this?—A. The boy was not doing any thing that I could see.

Q. Where was the boy?—A. He was standing forward.

Q. Now tell us what passed?—A. He asked if ever he expected to see Liverpool again? The boy said he did not know. He called him a b——r; that the merchants had sent him out to carry stories home, and he would take care he never should see Liverpool again: he would kill him.

Q. Did you know a person of the name of Williamfon, the clerk?—A. Yes; he died on the coast.

Q. Did you hear the prisoner say any thing about Williamfon to the boy?—A. I have heard him tell the boy that Williamfon was gone to hell, and he would make him go after him.

Q. Did you see the deceased when he was dead?—A. I did not: the last time I saw him was the time he beat him with the handspike.

Q. What appearance had he the last time you saw him?—A. His shoulders were all over blood; he could hardly see out of his eyes; his shirt was almost torn off his back; he looked very thin; and his breast-bone was sticking out.

Q. How was his back about the shoulders?—A. The skin was hard, and he did not appear to me to be straight after he had the beatings; he

was crawling on the forecastle: he was a straight boy at first, but a little round shouldered.

Q. Did you observe whether that increased?—

A. Yes, it did increase.

Cross-examined by Mr. ALLEY.

Q. He was a well-made boy, except that he was a little round shouldered, when he came on board?—A. Yes.

Q. You say you saw the captain knock him down, and beat him when he was down with the handspike?—A. Yes, I did, and gave him several beatings; and I saw the blood running from his head.

Court.—That was the last time you saw him?—

A. Yes.

Mr. Alley.—He was cruel enough to hang him up with chains from seven o'clock till eight, when he was taken down by the captain's orders?—A. Yes.

One of the Jury.—In what manner were those chains fastened so as to suspend him?—A. Round his belly, and his back was upwards; and there were wet swabs put upon his shoulders.

Mr. Alley.—One of the gentlemen very properly asked you how the prisoner got the boy's mouth open, and you told us that the captain opened it?—A. Yes.

Q. The deceased, I think you say, had been just before carrying tubs?—A. Yes.

Q. Then his hands must have been free; and yet you would have us believe he stood quite quiet, and let the captain open his mouth with one hand, and put the filth in with the other?—

A. Yes, he did.

Q. I suppose you did nothing while on board to deserve punishment?—A. Yes; I have had several floggings for misconduct.

Q. You were not one of the men that deserted the ship without the captain's knowledge at Calabar, were you?—A. It was by the captain's order: I never deserted it, but I meant to come back again.

Q. My question is, whether you left the ship without his knowledge?—A. Yes; but I did not desert: I intended to come back again.

Q. Then you did quit the ship without the captain's leave?—A. I have gone without his knowledge.

Q. You know that seamen in their ship's articles agree to forfeit their wages if they go on shore without the captain's leave?—A. I cannot read at all.

Q. Have you never heard any thing in your life upon that subject?—A. No.

Q. You signed the ship's articles, did you not?—A. Yes.

Q. Now, upon your oath, do you not know, that by signing the ship's articles you agreed to forfeit your wages if you quitted the ship without

leave?—A. I have heard people say so: I believe it must be so.

Q. You say you went ashore with an intention to return?—A. Yes.

Q. Did you return till after you got a note from the captain, promising you that you should have your wages?—A. I never got a note from the captain in my life.

Q. You were very much displeas'd with this conduct of the captain; you thought he was a great barbarian?—A. I thought he did not use some people right.

Q. You attribute the death of this lad to the ill treatment of the captain, do you not?—A. I suppose he died on account of the ill usage. From what the captain said, and from the way he used him, I thought he was the occasion of his death.

Q. You thought he had killed this boy, and deserved to be hanged?—A. I did think so.

Q. Then, of course, you took the first opportunity to make his conduct known?—A. I did not say any thing about it, till I was summoned. There was a constable came after me, and summoned me before the court at Montserrat.

Q. How many times had you been on shore at that place before you were summoned?—A. Twice.

Q. Were you not at Dominica some time before you went to Montserrat?—A. Yes.

Q. Were there any King's ships alongside you

at Dominica?—A. Yes; they were not far from us.

Q. Did not some of the officers come on board?—A. Yes.

Q. Then you could have told them?—A. I did not make it my business; I did not think of making it known myself.

Q. Do you recollect the time on which the surgeon was flogged about some rum?—A. I do.

Q. Were you the person that told the captain the doctor had stolen the rum?—A. There was a man that was a second mate of another vessel came on board, and the doctor took the liberty to let him have a bottle of rum.

Q. I ask you whether, in the surgeon's absence, you did not tell the captain that the surgeon had stolen some rum?—A. The captain came on board, and asked me whether that man had been on board. I said yes, and that the doctor had given him a bottle of rum; but I did not say it was stolen.

Q. Were you ever in Betty French's house?—A. Yes.

Q. Have you been in company with the surgeon there?—A. Yes.

Q. Have you not had repeated conversations at her house upon this subject?—A. I cannot say often.

Q. You have once or twice?—A. I don't know that ever I said any thing concerning it; I did

not know that ever he was going to make it known. I have been once or twice at her house; but I never said any thing about the prosecution.

Q. Perhaps you never told him what *you would say*; but has not he told you what *he would say*?

—A. No.

Q. Let me caution you, and pray attend well to the question before you answer it upon your oath: Did he never, at her house, give you an account of what he had stated against the captain?—

A. No.

Q. Do you know a person of the name of Dubry?—A. Yes; he was once in our company in the prison.

Q. Did not the surgeon tell you, in the presence of Dubry, to stick to the account he had given you?—A. No; he never did.

Henry Nutson sworn. Examined by Mr. JERVIS.

Q. Did you belong to the Apollo?—A. Yes.

Q. Was there a boy of the name of Robert Dunn on board?—A. Yes.

Q. What was the state of his health when he first came on board at Liverpool?—A. He was in a state of very good health.

Q. When was the first time that you observed any thing the matter with him?—A. On the coast of Africa, I observed he had sore legs, from the mosquito bites.

Q. Do you remember the captain doing any thing to him in the course of the passage?—A. Yes; he gave him five dozen one day in the passage out.

Q. Did that affect his health?—A. No.

Q. Do you recollect any thing the matter with his hands?—A. Yes; he was fo—(*Witness shaking his hands*); he had that when he came aboard.

Q. Do you recollect the captain doing any thing to him when he was on the coast?—A. Yes, I do.

Q. How long after you arrived on the coast was it that the captain did any thing to him?—A. I cannot exactly recollect the time.

Q. Do you recollect the time when William Smith, the gunner, died?—A. Yes, I do.

Q. Soon after that, do you recollect the captain doing any thing to the boy?—A. Yes, I do.

Q. What did he do to him?—A. A great deal of cruelty.

Court.—That was after the gunner's death?—
A. Yes; I saw him hanging up by a chain: it was put to a house, or caging, on the deck; the chain was put round his waist; he was hoisted up, and hung up by it at that time, with his face upwards: I have seen it several times. I saw him hung up by his heels.

Mr. Jervis.—How long was he hung up by the

chain?—A. Sometimes three hours and better: I am sure it was three hours.

Court.—Was that under the caging?—A. That was on the quarter deck.

Mr. Jervis.—That is, where the caging was built?—A. Yes; he was at one time hung up with a chain round his body.

Q. Once, or more than once?—A. More than once.

Q. What effect did you observe it had upon him?—A. He was crying out some time: it disturbed the captain; he could not sleep of nights; and when he could not sleep, he gave orders to let him down. I have seen several marks after he was dead on his body.

Q. Just after he was taken down, did you observe any marks upon his body?—A. No; I did not take any notice the first time; he was hung up by the heels, lashed up by the gun-tackle to the caging round his ankles.

Q. Was he able to touch the deck?—A. He was just able to touch the combings of the hatchway.

Q. The combing is the edging of the hatchway?—A. Yes.

Q. What length of time was he suspended this way?—A. Sometimes two hours, sometimes three, and sometimes he was hanging for four hours.

Q. What had he done when he was hung up

in the manner you describe?—A. Little crimes ; such as sitting down and lying down.

Court.—Sitting or lying down when he was ordered to work?—A. He always did his duty ; but sometimes for not trimming a lamp, and when it would not burn well.

Mr. Jervis.—When he was hung up, was he able to relieve himself by raising his head?—A. I do not know.

Q. Do you recollect any thing else being done to him?—A. I have seen him hung up by a chain put up to the caging ; the chain fixed round his breast, and a broomstick extending his arms.

Q. How long was he in that situation?—A. I cannot say. The captain would call the slaves up to look at him, and swing him round.

Q. Was he naked?—A. He had a shirt on at that time.

Q. Had any thing been done to his head at that time?—A. Yes ; one side of it shaved and painted, and round his body was painted.

Q. With what?—A. His body was painted with tar, I believe : I did not see it done ; I saw it after it was done.

Q. Did you hear the captain say any thing why he did these things?—A. I heard him say he would kill him ; that Mr. Brade sent him out on purpose to tell tales when he came home ; but he would put him out of the way. One day the

captain told him that he never should go home; Mr. Brade sent him out to tell stories, or tales, and he would take good care that he never should get home; and I heard him say, that Williamson the clerk was gone to hell, and he would make him go after him.

Q. Do you recollect any thing about the slave tub?—A. I do: this boy was carrying the tub, and was going to empty it, and he happened to upset it. The captain saw it: he came and beat him with the handspike.

Q. How did he hold the handspike?—A. The captain had the thin end in his hand; he beat him any where he could hit him: at last, he knocked him down, and put some of the contents in his mouth.

Q. Did he beat him after he was down?—A. No; he took some of the contents, and put it in his mouth.

Q. Then he did not beat him after he was down?—A. No, I did not see him.

Q. Did you remain there during all the time, or go away?—A. I saw him put the stuff in his mouth.

Court.—What did the captain do?—A. The captain brought a handspike, and beat the boy with it; the boy was then standing up.

Mr. Jervis.—Whereabouts did he beat him?—

A. On the main deck.

Q. On what part of the boy?—A. About the head or body: the last time I saw him beat the boy was at the time the tub was upset; he then made him eat part of the contents, and drink salt water to wash it down.

Q. How long was that before the boy died?—

A. I cannot exactly tell: about two or three weeks it was when we were on the coast.

Q. Did you see him beat the boy with the handspike once or more than once?—A. Several times: the last time I saw him beat him with a handspike was on the fore-castle, where the pigs used to be.

Q. Before that, did ever you see the prisoner beat Dunn with the handle of the cat?—A. Yes.

Q. Was it before or after the upsetting the tubs that you have been speaking of?—A. He beat him almost every day; sometimes with the cat and sometimes with the lashes.

Q. When he hit him with the handle, what part of his body did he strike?—A. Sometimes on his body, and sometimes on the head; and he bled in the places where the cuts were given.

Q. When he was beating him with the handle of the cat, what did you observe at the time?—A. He beat him cruelly; he cut his head all to pieces across his face; and his eyes were swelled up.

Q. When he was at the barricado door, had he any thing round him?—A. No, not a fitch. I gave him a piece of cloth to put round his mid-

die: he was kept in that state from the first time I saw him till his death.

Q. How long was he kept in that state?—A. About five months.

Court.—He never wore any clothes but a shirt for five months?—A. No.

Mr. Jervis.—What provision was allowed him?—A. He had yam or bread all the while we were on the coast: before he died, he never allowed him meat.

Q. Do you recollect what water he was allowed?—A. He used to get a little water, I know; but I don't know what he was allowed. I have seen him going with a pot to get some.

Q. Do you recollect another beating with the handspike shortly before he died?—A. Yes; that was about three days before he died: he laid along with the pigs under the fore-castle; he had eased himself there. The captain saw it, and he punched him with the handspike.

Q. Did you observe the state of the boy at that time?—A. Yes, I looked at him; and when the captain saw that he had eased himself, he went to him.

Q. Did the boy say any thing to him?—A. No; the boy was crying out for mercy.

Q. Do you recollect whether the boy cried strong?—A. No; he did not cry strong at all.

Q. How long did he lay there?—A. I don't

know: the next time I saw him was at the fore-castle; he had a mat over him, I lifted the mat up: he did not speak to me, nor I did not speak to him. I heard him breathe. He died on the morning. When I was upon watch, I looked, and found him dead. I saw him the evening before alive. The prisoner was on the poop deck when I told him he was dead: he said, "Damn your eyes, heave him overboard. What do you tell me of it for?"

Q. Did you examine the state of the boy's body after his death?—A. I did not examine it: he was naked. I could see the breast-bone stick out like a wedge, and one side of his belly shrunk in, and several marks on his body where he had punched him with the handspike; black and blue in divers parts of his body, where he had punched him.

Q. Did you observe his back?—A. I did.

Q. How did it appear?—A. On the shoulder-blade, where he beat him with the handle of the cat, the shirt was torn; there was several marks black and blue; and the back of his neck all cut to pieces, where he had beat him with the handspike; and his eyes were swelled up two or three days before he died.

Q. Were they swelled before he laid down, as you have stated?—A. I think his eyes were swelled some days before.

Q. Did you examine the state of his eyes when

he was dead?—A. I looked at them, but did not examine them particularly. I lifted up the mat, and looked at him, and told the captain he was dead: his eyes were black, and his face swelled up.

Q. Did the swelling proceed, in your judgment, from the blows he had received?—A. Yes, it did.

Q. When you observed the state of his body, were you able to form any judgment of the cause of his death?—A. To the best of my opinion, I really think he was the occasion of his death.

Cross-examined by Mr. GURNEY.

Q. The captain beat him almost every day?—
A. Yes, he did.

Q. And with the greatest severity?—A. Yes.

Q. He never beat him gently?—A. No.

Q. How many times did he beat him with the handspike?—A. I cannot say; I saw him two or three times, and sometimes he used the gunner's bar, which is much the same thing.

Q. A handspike is about five feet long?—A. They are of different sizes.

Q. He struck him with a hearty good will?—
A. Yes.

Q. And, I dare say, as hard as he could?—A. Yes.

Q. Sometimes on the head, and sometimes on the body?—A. Yes, where he could.

Q. But he preferred the head?—A. Yes.

Q. And sometimes he struck him over the back?
—A. Yes.

Q. He struck as if he meant to kill him?—A. Yes.

Q. And he told all the crew that he intended to murder him?—A. Yes.

Q. He said the boy was sent by the owners to tell tales, and he would take care he should never return; and this he repeated openly to all the crew?—A. Yes.

Q. After this he never could have ill used them?—A. Not much.

Q. He was upon good terms with the crew all the voyage?—A. Not all the voyage.

Q. Was he upon bad terms with any number of them?—A. Yes, he was. He ill used them all almost.

Q. He did not ill use some so much as others, but he punished them all?—A. Yes, he did.

Q. He thought to bring them all into good humour by beating them. Were you ever punished?—A. Yes; I was never flogged, but I was started.

Q. What you call starting, I believe, is a beating with a rope's end?—A. Yes.

Q. You fared better than the rest of the crew; they were all flogged, but you were only started?—A. I believe I was as well off as most of them.

Q. Neither you nor the crew, I take it for granted, did any thing to deserve punishment: the captain beat and flogged you all merely for

his amusement?—A. He beat us without any occasion.

Q. You none of you refused to obey his orders, and set him at defiance?—A. No.

Q. And I dare say there was no such thing as a mutiny?—A. No.

Q. Nor any such thing as threatening to blow the ship up?—A. Yes; I heard the gunner say that.

Q. That was said in a joke?—A. I don't know what he meant by it.

Q. Of course, there could be nothing like mutiny in saying that he would blow the ship up?—A. That I am sure there was not.

Q. And there was nothing like the captain and some others being armed, and the men telling Captain Brown that the Apollo had as good a crew as the Eliza?—[*No answer.*]

Q. He hailed Captain Brown to come on board: I suppose that was for him to see how well you all behaved?—A. I don't know what he wanted with him.

Q. Upon your oath, did not he call him on board for the purpose of bringing you and the rest of the crew to obedience?—A. I never disobeyed his order at that time.

Q. Were not he, and the mate and other officers, armed with pistols?—A. Yes; after the

captain had snapped a pistol at the gunner, he said he would blow the ship up before he would be used so.

Q. Were not the gunner and the other men armed on the fore-castle?—A. No; he was on the main deck, singing a song.

Q. There was no reason for calling any body on board the ship?—A. I don't think there was.

Q. You were perfectly quiet when Captain Brown came on board?—A. Yes.

Q. Upon your oath, sir, did not you threaten *him* because he begged you to behave properly, and return to your duty?—A. He said he would bring his ship alongside; and we gave him answer, we have as good a crew as the *Eliza*, and we will show you as many guns as you have.

Q. What did you understand by that?—A. I understood hard fighting: that was what I made of it.

Q. You think there was nothing like mutiny in all this?—A. No.

Q. Pray, did any number of the crew go ashore?—A. Yes; there was eleven of us went ashore.

Q. What time did they remain absent?—A. I staid about four weeks ashore.

Q. You know, that by going ashore without the master's leave, you forfeited your wages?—A. The captain told us we might go on shore: the captain swore he would poison us all.

Q. And you believed him! If he had poisoned you all, what would have become of the captain? Would not the slaves have risen, and murdered him?—A. I don't know.

Q. Then, being on shore, do not you know that you had forfeited your wages?—A. I don't know.

Q. Did you, or did you not, fear that for going ashore, and staying the time you did, without the captain's leave, that you had forfeited your wages?—A. I did not desert: the captain gave me liberty.

Court.—If he gave you leave, it was no forfeiture certainly.

Mr. Gurney.—Did not you refuse to come on board unless he would take you all back? and did you not tell him, that, if he would receive you all on board, that then you would go?—A. Yes.

Q. William Smith and Samuel Jones he refused to take back, because he considered them as dangerous men; and you and some others said, unless he would take them, you would not go: is not that so?—A. I told him I would not go, unless he took all hands.

Q. At last, did not the captain give you a note to get your wages?—A. I never had *no* note: I was brought back by the black fellows against my will. Samuel Jones and Berrian, they had notes.

Q. Then, notwithstanding you were upon such bad terms, he publicly said in your hearing, after

you came back, that he would kill Dunn?—A. Yes.

Q. When you got to Dominica, you were boarded by a King's ship.—A. A King's officer came on board with a boat's crew.

Q. The floop of war's boat boarded you?—A. Yes.

Q. Before you got to Dominica?—A. Yes, and pressed one of our hands.

Q. You were quite satisfied that the captain had committed murder?—A. Yes.

Q. And yet you made no charge to the King's officer?—A. I did not.

Q. Nor did any body else?—A. I did not hear it.

Q. Why did not you?—A. It was not my place to say any thing then; I had something else to do.

Q. You were on shore at Dominica?—A. Yes, better than three weeks.

Q. You saw Messrs. Lockharts?—A. Yes.

Q. Did not you see a gentleman of the name of Brade, a relation of the owners?—A. No.

Q. You were on shore taking care of the slaves, and afterwards followed the captain to Montserrat?—A. Yes; I went in an American brig to Montserrat.

Q. How came you not to make a charge against him at Dominica?—A. I did not make the charge, because he was gone.

Q. Was not you above a week on shore before the ship went away?—A. No; only about three days.

Q. Could not you have made the charge during these three days?—A. Yes, I could.

Q. Why did you not?—A. I did not know who to go to, nor how to go about it.

Q. You could have told Messrs. Lockharts?—A. I told a clerk of it.

Q. You say that with safety for this day, because you know he is not here to contradict you. Did you go before any magistrate there?—A. No.

Q. Did you go to the Custom House officers or King's officer?—A. No.

Q. You went to the house of Messrs. Lockharts?—A. I was not at the house of Messrs. Lockhart; I was at the store: I had the care of the slaves.

Q. If you had made the charge at Dominica, he could have been taken before a magistrate?—A. Yes.

Q. How far is it from Dominica to Montserrat?—A. Only a day's sail.

Q. Then might not the captain have been immediately pursued and taken, if you had accused him at Dominica?—A. He might.

Q. When did you arrive at Montserrat?—A. I got there on Sunday, and on the next Sunday I was summoned.

Q. You had three days' liberty on shore before that?—A. Yes.

Q. Did you, in the course of these three days, make the charge?—A. I did not, because there were other people more sensible than me to go about it.

Q. When you were at Dominica you did not make the charge, because the captain was gone away; and when you got to Montserrat you did not make it, because there were others more sensible and knew how to do it better than you?—A. I did not know how to go about it.

Q. Do you mean that you did not know whom to apply to?—A. I was a stranger; I did not know how to go about it.

Q. You could not be more a stranger at that place than you were at Dominica. How many consultations had you with Scott?—A. I had no consultations with him; I only heard him say that he would go and inform against the captain. I heard him say it in Montserrat about two or three days before I was summoned.

Q. Were you at the house of Betty French?—
A. I have been in the house.

Q. Were you there in company with Scott and Berrian, and others of the crew?—A. I have been there with them.

Q. Were you not there at the very time the charge was made against the captain, and had you not

been each of you conning over the story to each other?—A. I had been talking about it, but not studying it: I had not been talking about it with Scott.

Q. Which of the crew had you the conversation with?—A. With Smith, Berrian, and Jones.

Q. Then you did talk with them at Betty French's about it, before you went before the court?—A. I never went before the court: I heard them tell the officer on board the Belleisle; but I never heard them talk about it at Betty French's.

Q. Did you never hear Scott say any thing about sticking to what he said, and it would be better for you?—A. No; I never heard that: I am sure there was no such question as that.

Q. I did not mean to put that as a question from him to you. I ask you whether it was not a part of your conversation?—A. It was not.

Q. Had you any conversation with any body at all about your wages, that they would be taken from you by reason of your going ashore?—A. Nothing of that kind.

Q. Have you never said, that, if the captain had not taken your wages from you, you would not have made this charge?—A. I don't know that either of them said that.

Q. Were there no apprehensions in the crew that they would lose their wages when they came

to Liverpool? Were not you and Berrian, and several others, of opinion that, if the captain came home with you to Liverpool, you would lose your wages?—A. No; I had no fear about losing my wages: I took his word for it.

William Berrian sworn.

Examined by Mr. SOLICITOR GENERAL.

Q. You were one of the crew of the Apollo?—

A. Yes.

Q. You remember Robert Dunn being on board?

—A. Yes.

Q. When was the first ill usage you saw the prisoner exercise upon Dunn?—A. The first ill usage I saw William Chapman, the prisoner, exercise upon Dunn was giving him four or five dozen, and tying him up to the windlafs; and when we arrived upon the coast, I saw him hang him up by the heels.

Q. Describe that particularly. Where was he hung up to?—A. To the caging, or to the booms.

Q. Was he hung so that any part of him could touch the hatchways?—A. He could just the combings of the hatchways: he was continued in that situation for the space of three hours or better; I cannot exactly tell the time.

Q. Who was it that did it?—A. The prisoner did it; he helped to hang him up.

Q. Did you observe any effect it produced upon Dunn?—A. He looked very poorly and very red

in the face when he came down ; he was very weak : he sit down on the deck after he was taken down.

Q. Did ever you see him hung by the heels more than once?—A. I cannot say rightly that I did ; I will not be positive : but I have seen him once.

Q. Can you be sure when that once was?—A. Just after we arrived upon the coast.

Q. That was in the month of October?—A. Yes, it was : I have seen him hung up with a chain round his arm-pit, and hung up to the caging that we had to keep the slaves in.

Q. How long was he hung up in that state?—A. I cannot rightly say ; some considerable time ; I may say four or five hours at one time.

Q. Who hung him up?—A. I cannot rightly say : he was ordered to be hung up by William Chapman.

Q. What was the occasion of treating the boy in this manner? Tell us the particulars.—A. The prisoner and I were on board the Eliza ; he told me that there was a musket fired from our brig : he said, “ I think the slaves have risen : ” we went down to her. The prisoner, William Chapman, told me that there was one slave jumped overboard. When we got on board, Robert Dunn told the prisoner, that the second mate had not washed one side of the fore-castle ; then he said, “ Now, you damn'd rascal, I will learn you to tell tales.”

Q. Did not you hear what was the occasion of his being hung up by his heels the first time you have spoken to?---No.

Q. You did not hear what that alluded to?---
A. No.

Q. Have you seen him stand at the barricado door?---A. Yes; he had one side of his head shaved, and nothing on him but his shirt.

Q. Did you ever hear him say any thing to Dunn why he treated him in this way?---A. No.

Q. Did you see him beat with the cat?---A. Yes; I saw him several times beat him with the cat with the tail, and likewise with the handle, about his shoulders and several parts of his body: it was such a common practice, that I did not take any notice of it. I only heard the occasion of his being punished once in particular; that was, he had spilt some molasses.

Q. Do you know what quantity of meat and drink he was allowed?---A. I never saw any meat served out to him after we got upon the coast.

Q. Had he as much yam as he could eat, and water to drink?---A. No: I think he had about a pound of yam a day.

Q. What quantity of water had he?---A. About three half pints, or about a pint; I never saw it served out: I know he was very scanty of water.

Q. He was employed in emptying the slaves' tubs?---A. Yes.

Q. Do you remember his being beat when he was so employed?---A. Yes: I saw William Chapman take up a handspike, and beat him with the butt end over the head and shoulders; and when he knocked him down, he punched him in the side.

Q. Upon what occasion was that?---A. It was for upsetting one of the slaves' tubs: at the same time he made him eat some of the contents. I saw him beat him over the shoulders.

Court.---You were present all the time?---A. Yes; I was upon the main deck.

Mr. Solicitor General.---Did you observe his face and eyes?---A. His face and eyes were very much swelled up.

Q. Did you see him after he was dead?—A. I did.

Q. What did you observe?---A. I saw his head and face quite bloody, and his breast-bone stuck out like a wedge: in several parts of his body were dents, where he had been punched with the handspike in his side; and his head and face were quite bloody, and several cuts on his head.

Q. In what condition was his body as to flesh?---A. He was very poor; he was like a skeleton when he was dead: he was drawn up all in a heap.

Q. Was he suffered to have any clothes on?---A. He had a shirt, and sometimes he had a coat; and the prisoner used to take the coat away from him, and heave it down in the rain; and he used to make him go and wring swabs in the rain in the fore-castle.

Q. Did you receive any letter afterwards when you were on board the Northumberland?---A. Yes.

Q. From whom did you receive them?---A. From Evans.

Q. Can you read writing?---A. Yes.

Q. How many letters were delivered to you?---A. I cannot say rightly; I believe seven or eight.

Q. Look at these letters. Are those them you received?---A. Yes.

Court.---Did you yourself, when upon the coast, wear trowsers and jacket?---A. Yes, sometimes; and sometimes trowsers without a jacket, for it was quite hot; and at other times we wore a jacket.

The following letters (which were those spoken to by the witness) were then read by the clerk of the court.

FIRST LETTER.

“I AM very glad to hear your proposals, and I shall write to Liverpool as soon as we arrive in England concerning it. I am very much afraid that it will be difficult for you to make your escape; but if you cannot make your escape, and is obliged to appear at court, I could wish you would be evidence for me, and contradict the doctor, as there will be no trouble in doing it; for I am certain sure every paper that was against me is lost; but if you make your escape, you must change your names, and let me know the names you intend to go by, and the place you intend for me to send to you at in London: you must let me know these things before you leave this ship, as perhaps you may not see me afterwards. I have sold a great many things yesterday, and I hope I shall be able to assist you with some money by next Sunday. I have now about six pounds. I could wish to keep about five pounds for to buy some articles for myself on my ar-

rival; all the rest, whatever the amount may be, you shall have amongst you. I have sold my bed to-day, and expects to sell my watch to-morrow. I will see how many shirts and trowsers I have left: if you want any, let the bearer know, and let me know your names, and where I must write to you in London."

SECOND LETTER.

"I AM very much obliged to you for your answer, but would be much more obliged to you if you would let me know what you would say if you were obliged to give evidence on board this ship before you go on shore, as I believe it will be the case. The evidence that you must give on board this ship, as soon as she arrives in England, will be sent to London, and appear in court whether you are there or not. Now, in that case, I hope you will consider all of you what is the properest method to take: for your saying that my witness was not come, as you say in your letter, that is a very foolish argument of yours; but I hope you will consider of what I have inserted here. As for blue trowsers, I have none: light trowsers I have about six pair. In regard of the money you mentioned, you shall have it as soon as I can get it from the person that lends it me. You know perfectly well, that if you were all of one mind, that what I propose might be very easy done, as there would be very little trouble or questions ask'd of you; for what I offer you, you have no need of being afraid of receiving."

THIRD LETTER.

"I AM very glad to hear that you have accepted my offer, which you may depend shall be paid as soon as I can get a letter from Liverpool; but if you would rather have bills from me, I must break the bill that I have for my voyage, and the bills that I give you must go to Liverpool to be paid. You can please yourselves, for either way is very agreeable to me, as you may depend upon receiving the money, if you are in any part of the world, by writing to me, or the merchants. I understand you

are fearful of being stopped in Liverpool ; but as to that, you have not the smallest reason to be frighten'd. Since yesterday, after hearing that you would comply with this offer, I have sold a great part of my clothes to raise money. I expect I shall be able to let you have a trifle : you shall have the one half that I can raise. My advice to you on this business would be as thus—that when you come to London, and if you can't very well escape before the trial comes on, I think, if you could agree amongst yourselves, to appear as evidence for me, and against the doctor, as every paper concerning the business is lost overboard from the bark : there will not be the least inconvenience in so doing ; then you would have more liberty of getting clear ; and, if I should get clear at the same time, might go to Liverpool all together."

FOURTH LETTER.

" I DO firmly assure you all that it is my sincere will and wish to give you each one hundred pounds as soon as I can receive it in London, not to stop the small sum that I shall give you on board this ship, if you can all determine and be of one mind, as I have wrote to you this afternoon. If you wish to have separate bills for the money, and give me the bills when you receive the money, I am agreeable to give you bills ; but then I must break my own bill, or send it to Liverpool, and perhaps must wait a long time before it is paid. I will leave all those things to yourself, as I have and hope shall be your friend. I beg you will send me an answer upon paper as soon as possible, and let me know the particulars of your wishes and intentions. What clothes I can spare, you shall have to-morrow."

FIFTH LETTER.

" I AM very happy to inform you that I have met with a friend this morning, and has lent me forty dollars, which you shall divide amongst you. I have made every thing known to him concerning yourselves and me, as I am sure he is my friend. He says, that you must give your evidence on board this ship as soon

as we arrive in England, and then proceed to London. If that be the case, I can tell how you will manage; but my advice to you in that case will be as thus—for you all to be of one mind, and to say contrary to what has been said of me: by so doing, it may be the means of securing your liberty the sooner. I understand Harry and Samuel has not given any evidence as yet, and the evidence that Will has given, the papers are all lost; so that it is a very easy matter to succeed in these proposals. It would be very easy to say, that what has been sworn to was done by a drunken frolick: the person that has told me the above has been in the same case about four years ago. I expect to give you about twenty dollars more as soon as I can receive them, which will be on Monday, I expect. I wish you could let me have an answer to this, and let me know the names you intend to go by, and the place you intend for me to write to in London. I will send you what shirts I can spare to-morrow.”

SIXTH LETTER.

“ I AM very sorry that you are so uneasy about your wages; but I do assure you, that, if you do me the service that we are upon, you shall have the hundred pounds paid to you; and if you are obligated to appear in court, and can make all your minds up to give evidence with me, and against the doctor, I will pay you your wages in London myself, as, when I get to Liverpool, I can very easily receive them from the merchants. It will not be the least troublesome for you to act upon this plan, and by that means I shall be enabled to shew you my generosity for yours, as my life now lays in your own hands, and you are the only people that can save it. I hope you will take these things into consideration, and have the generosity of setting me at liberty; when you will then find your generous act rewarded in a manner that, I suppose, you do not think of. If I am set at liberty by you, I must be a very unthinking man, and a brute, if I would not reward you to the utmost; but the one hundred pounds each you shall have as soon as possible. I will write to Liverpool on our arrival in Eng-

land for the above. I am sorry that I could not find what I promised last night; but you shall have the remainder, and more, if I can get it, as soon as possible. I declare to you and the Almighty God, I have only two dollars left, and them I owe to a taylor. Do you think Smith would be of any service to you?—but that I will leave to yourselves, as you know him better than I do. I hope you will not make any foolish use of what trifle of money you get, as it may be of great service to you in London. I wish you could give me an answer to this upon paper. Wishing you all success and happiness in your undertakings, I hope and trust in the Almighty God, that, if you cannot escape, and if you are brought into court, that you will fulfil the above desire.”

SEVENTH LETTER.

“ I AM very sorry that you are so uneasy about the money. I can assure you that it is far from me to go contrary to my word. I have let you have all I have got, except two dollars: I hope to let you have the remainder to-morrow. You may depend that this sum, and the sum that you will receive in London, shall not be known to mankind, much more to my owners, Messrs. Brades. I gave the articles and wages book to the man that is master of the brig when he was on board here: I particularly desired him not to make any alterations in either the articles or wages book. You may depend there is no remark of your leaving the vessel; and be assured that I shall never harm or hurt you any way whatever: all I wish is, to see you and myself at liberty. Believe me you shall have the remainder as soon as I can get it. Wishing you success.”

EIGHTH LETTER.

“ THERE is one thing that I had nearly forgot to mention to you, but I hope it will not be the case; that is, if you cannot make your escape, and appears in court, and I am cleared, and perhaps you may be sent on board man of war again, perhaps I may not know the ship that you may be sent to; therefore I

think you had better take care of these directions where to write to me in Liverpool, as I do not know any person in London, and by that means I shall be enabled to send you the sums: but if I am cleared, and has any opportunity to speak or write to you in London, I shall let you know where I shall stop in London, or else I shall come to see you according to your directions; but I trust in the Almighty God that these our undertakings may meet with success. If you can only clear me, you will, I do assure you, find me your sincere friend. I have been several times thinking that you might persuade Smith to this plan, if you was to go very privately about it. You might tell him, that I have a relation on board that was speaking to you about this matter, but not to tell him what the proposal is until that you thought he would consent; but, as you are acquainted with him better than me, I leave that to yourself, wishing you health and success. I have been offered two guineas for my bed: as soon as I can get it, you shall have them. I have two pair of shoes: if you want them, speak. If you should have occasion to write to me (but I hope to the Almighty that you will not), I must not go by my own name, to keep things secret; therefore you must observe these directions, and believe me to be your well wisher and friend when an opportunity offers. I am very sorry that I have not yet got any more money; but as soon as I have, you shall have it. The messenger wants me to send you an account of what dollars I sent, twenty-seven."

Mr. Solicitor General.—You received all these letters while you were on board the Northumberland?—A. Yes; and every letter I got I gave them to the doctor as soon as ever I got them. I shewed them him after I got the first; I shewed it him after I got the second or third; I shewed him them, and so on: then he saw the whole.

Q. Did you receive any money from the same messenger?—A. Yes.

Q. How much?—A. Twenty-seven dollars, as part of my wages, in one sum.

Court.—From whom?—A. From the hand of Evans, on part of payment of my wages. In my passage home, I told him I would not accept of it without he would mention it on part of payment of my wages.

Q. How many letters did you write?—A. Two or three.

Cross-examined by Mr. GURNEY.

Q. Is that your hand-writing? (*shewing the witness a letter*)—A. No; that is not my hand-writing.

Q. Is that your hand-writing? (*shewing the witness a second letter*)—A. No; the second is not my hand-writing.

Q. Is that your hand-writing? (*shewing him a third letter*)—A. No; nor the third is not my hand-writing.

Q. Are these two of the letters that you sent to Chapman?—A. No.

Q. That you are sure of?—A. That I am sure of.

Q. You never saw either of these two letters before?—A. No.

Q. Just write, in your common hand-writing, these words, "*We do not want*"—(*The witness wrote them, and gave the paper to Mr. Gurney*).

Q. This is not as you commonly write?—A. Yes, it is. I can write better sometimes.

Q. But you did send two or three letters, saying that, if he would give you some money, you would not give evidence against him?—A. No; and when I wrote to him, I wrote with a pencil with a bit of lead.

Q. Do you remember asking him for money, or any of them asking him?—A. No: he told us, if we would do what he said, he would give us the money.

Q. But you did not send for any money at all? you never asked for any money?—A. No.

Q. Of that you have a distinct recollection?—A. Yes.

Q. Were you one of those who went on shore at Calabar?—A. Yes; there were eleven of us.

Q. How came you to go on shore?—A. He told us: there was some dispute.

Q. Did that dispute go to the length of his punishing you?—A. Yes; he struck one man with his fist.

Q. What was that dispute about?—A. So far as I can recollect, the gunner was singing a song to the ship's company: the prisoner told him to keep silence; he told him he would not. With that he brought a pistol up, and snapp'd or flash'd it at us. The gunner told him he did not care a damn for him. The prisoner went and hailed

Captain Brown. When Captain Brown came, the gunner said he did not want the ship; he only wanted good usage, and he would have it; or he would blow the ship up.

Q. How long were you on shore?—A. Five or six weeks. We did not go on board the ship till the captain came on board another ship for us.

Q. Were not you under any apprehension of losing your wages?—A. Yes; he gave me a note.

Q. You were on the best terms with him, of course, at that time. How long did you all continue on the best terms? all the voyage?—A. No; at different times there used to be falling out.

Q. How many were flogged during the voyage?—A. I do not think any body escaped it; he was so much out of humour. I did not escape it myself: I was flogged once, and at other times started.

Q. You were not upon very good terms with him; but when he had put you all in good humour by flogging you, you would have us believe he said to the boy, "Damn you, sir, I will send you to hell, where Williamson is gone;" so that he made no secret at all of his intention of killing the boy?—A. I believe he meant to finish him before he went home.

Q. Then, after having brought you all into good humour by flogging you all, he said he would kill the boy?—A. Yes.

Q. You have said that he beat him with a hand-spike?—A. Yes.

Q. And that for half an hour, holding it in both hands, beating him as hard as he could?—A. Yes.

Q. He hit him over the shoulders and about the head as hard as he could strike him for half an hour; he knocked him down, and made him get up in order to take another spell at him?—A. Yes; he delighted in keeping him in as much torments as he could.

Q. Do not you think it must have killed him if he had struck him in the way you have described?—A. It did not kill him.

Mr. Solicitor General.—You say the captain gave you leave to go on shore?—A. Yes; he gave us the long boat, and he took the jolly boat, and got there first.

Mr. Gurney.—Were you on shore at Dominica?—A. Yes, but not to run about. I went on shore to take the victuals for the slaves to Nutson.

Q. Had you any conversation with the surgeon or any of the crew at Betty French's, at Montserrat?—A. I used to be there off and on: I was there several times. I used to tell Scott, if he did not make it known, I would make it known; if not there, I would at Liverpool. I used to go in to Betty French's for a glass of grog: she kept a grog shop. I told him, if he did not make it be known, I would myself; if he did not there, I would myself, when I got to Liverpool.

Q. But at Dominica you did not?—A. No; he persuaded us to let it alone till we got to Liverpool.

Mr. Solicitor General.—You have said the captain gave you leave to go on shore; he took another boat, and got there first?—A. Yes; he gave us the long boat, and he took the jolly boat.

Q. This was the time when the gunner was singing a song?—A. No; the next day after this.

Q. However, the captain got on shore before you?—A. Yes.

Q. Did you see him afterwards on shore?—A. Yes; up at the black merchant's.

Q. Did he say any thing to you there?—A. He did at the latter, and he asked me if I would go on board again: he said he would take us all except the gunner. There were four of us refused.

Q. Was there any thing done to you on shore?—A. No: only one man was carried on board the ship.

Samuel Jones sworn. Examined by Mr. JERVIS.

Q. Were you one of the crew of the Apollo?—
—A. Yes.

Q. Do you recollect a youth of the name of Robert Dunn being on board that ship?—A. Yes.

Q. Do you recollect the captain doing any thing to him after the ship's arrival off the coast of Calabar?—A. Yes; he flogged him after we got to the coast with the cat.

Q. Did he flog him with the lashes of the cat?—

A. Yes, for spilling the molasses: I recollect he frequently flogged him after that with the cat, but I do not know what it was for.

Q. What number of lashes did he give him?—

A. Five dozen, and sometimes less, and sometimes more: sometimes he did it himself, and sometimes he ordered it to be done.

Q. What else did he do?—A. I recollect him hanging him up by the heels with a rope over the booms that cross the main deck: it is a building of spare spars.—

Q. Was he able to touch the deck?—A. He was just able to touch the deck with his fingers, and that was all. That was done once, that I saw him.

Q. What length of time was he hung up?—A. I think it was two hours and upwards, or three hours, as far as I know. At another time he was hung up in another manner by a chain round the middle, and hung to the caging; and wet swabs put about his neck. That was done once, that I saw.

Q. What length of time?—A. I cannot say properly.

Q. What length of time was it, according to the best of your recollection?—A. Two or three hours. At another time he was hung up to a house that was built on the quarter deck: he stood in this manner (*witness extending his arms*), with

his arms stretched at full length with a broomstick. He was tied to the chain that went round his neck, each end of it fastened to his hands; so that, if he moved either arm, it brought the chain tight round his neck: this was on the quarter deck.

Q. Had any thing been done to his hair before this?—A. I cannot say whether it was before or after. He had one half of his head shaved: I did not see it done; I saw it after it was done. He blacked his middle, and his private parts were tarred.

Q. Was he hung up by his arms?—A. That I did not see.

Q. Do you know what provisions were given him?—A. He was allowed a piece of yam and bread, but no meat.

Q. What allowance of water had he?—A. I cannot tell what allowance it was: it was but a small quantity.

Q. How long was he kept upon this allowance of yam, bread, and water?—A. The chief part of the time that we were upon the coast.

Q. Had he any clothes?—A. He wore a piece of cloth round his middle, and afterwards a shirt: after that, the captain gave him a coat; he took it from him again, and threw it into the cupboard.

Q. Did you ever hear the captain say why he treated him in this manner?—A. I heard the captain ask him whether he ever thought of living to

get to Liverpool again: he answered, yes, he was in hopes he should. The captain replied to him, that he would take d——d good care he should not; for Mr. Williamson the clerk was gone to hell, and he should follow him: I heard this several times.

Q. Do you remember his being beat with a handspike?—A. Yes, several times; and he was punched with the end of it.

Q. When he was beat with the handspike the first time, tell us how he beat him with it?—A. The captain held the handspike with the small end of it, and beat him with the big end, and struck him over the head and shoulders: it swelled his head that no one could tell the shape of it; and he knocked him down, and punched him with the end foremost.

Q. Do you recollect the time this was done?—A. It was a little time before we came from the coast: I saw him beating him with the handspike.

Q. What was the occasion of it?—A. It was for upsetting the slaves tub upon deck.

Q. How long was it before you quitted the coast?—A. I believe it was one or two days: we were scrubbing the cable upon the larboard side of the deck.

Q. What effect had this beating upon the boy?—A. The boy was stupid and blind, so that he

could not see. He was beat before that with the cat.

Q. Did you look at him to see what was the effect of this beating him with the handspike?—A. I did. His head seemed to be affected very much, and seemed to be swelled out of measure: the blood and matter from the wounds on his head was always dropping down his body. That was the last beating I saw.

Q. How long might that be before the boy died?—A. It might be five or six days: it was before we left the coast. He died afterwards.

Q. Do you recollect where the boy lay at the time of his death?—A. Yes, I do: under the fore-castle, at a place that was made up for the pigs. He was covered with the tarpaulin.

Court.—Was that the place where he always lay?—A. No; he sometimes laid in one place, and sometimes in another. I saw him the night before he died: he called me, and asked me if I could give him a drink of water. I gave him some. After he was dead, I saw one side of his body shrunk in, and his breast-bone stuck out in a point, and his head swelled to the top out of measure: the blood was running down off his head on his neck down his body, both before and behind; his eyes were swelled. It appeared to proceed from the blows upon his head; they ap-

peared black; you could not see his eyes without you lifted up the lids.

Q. Did it appear to be occasioned by the blows on the eyes or the head?—A. By blows on the eyes and on the head.

Q. Did you observe his back?—A. His back was beat considerably: I did not see any thing on his back but bruises.

Q. Was his back strait?—A. I cannot say whether it was or not.

Q. What was the state of his health before the captain had beaten him?—A. Why, he was in a good state of health: he seemed to be a hearty fellow.

Q. Did you observe his hands?—A. He seemed to shake his hands after he was beat: I observed that shortly after we arrived on the coast.

Cross-examined by Mr. GURNEY.

Q. His hands never shook at all till after he was beaten?—A. Not that I saw.

Q. Were you one of those that went on shore at Calabar?—A. Yes, I was one of the eleven: I was on shore three or four weeks.

Q. Pray, did you come on board again until you had a note from the captain for your wages?—A. Yes; I got a note.

Q. You were afraid that if you did not get that note you should not get your wages?—A. No; it was his own proposal.

Q. Did not you know that by your leaving the ship without the captain's leave you had forfeited your wages?—A. Yes; I did know it.

Q. Were you flogged?—A. Yes, I was flogged once.

Q. The captain said he would not take you on board after you went on shore?—A. No.

Q. You and the gunner, he said, were two dangerous men. Did not he at first refuse to take you on board?—A. He refused when we went on shore to take me and the gunner on board; but when we went on board of another ship, he was willing to take us.

Q. However, he did flog you?—A. He did not flog me much; and the reason of our going on shore was because he said he would poison the whole ship's company: he told us to go on shore.

Q. He said he would poison you all?—A. Certainly he said he would poison us all, and we would sooner go on shore than be poisoned by him.

Court.—I ask you whether you mean to say, that every one of the men went on shore, and left the ship, for fear of being poisoned by the captain?—A. Yes; and to avoid being poisoned and killed by the captain, and being shot by him: he said right up and down he would poison us, and we thought he would.

Mr. Gurney.—Then after he had put you in

good humour in this way, he said he would kill this boy?—A. That he said many times.

Q. Did Berrian read any letters to you of the captain's?—A. He did; one or two of them.

Q. Do you recollect what was said to the captain?—A. No.

Q. Did you ever say, after the captain had been charged with this at Montserrat, that it was a made up story, and you were sorry for what was done; and that, if he would give you your wages, you would make it up?—A. No, I did not.

Mr. Jervis.—Had the captain done any thing with a gun or pistol before?—A. Yes, he flashed it the night before.

Mr. Gurney.—Do you mean to say it was loaded?—A. There was a bullet the steward drew from one; I took it with me on shore.

Mr. GURNEY, Question to Mr. Scott.

Q. Look at these letters, and tell me whether you know that hand-writing?—[*shewing the witness two letters.*]

Mr. Scott.—I don't know that hand-writing; I never saw it before, to my recollection.

Mr. Gurney.—How many of the party can write?—A. Only Berrian can write, except the marine.

Q. Are they or are they not his hand-writing? Do you not believe them to be his hand-writing?

—A. I cannot say that it is, I am sure; I do not think that he writes quite as well as that; I think it is a better hand-writing than he writes.

Q. Look at this small paper: whose writing do you believe that to be? [*Shewing the witness the paper written on by Berrian during his cross-examination.*—A. I cannot say; I do not think he can write so well as that.

Q. Do you mean to say, that you think he cannot write so well as that?—A. He does not spell so well as that.

Q. Now look at the two letters again, and tell me whether you do not believe them or either of them to be his hand-writing?—A. I cannot positively say.

Q. What is your belief?—A. I think it is rather better written than the generality of the writing I have seen of his.

Q. Supposing you had seen that writing with Berrian's name signed to it, should you have believed it to be his hand-writing?—A. I cannot say that it is or that it is not; I have no belief either way.

—
John Evans sworn.

Examined by Mr. SOLICITOR GENERAL.

Q. Were you employed as a marine on board his Majesty's ship the Northumberland?—A. I was.

Q. Do you remember after leaving Tortola the

prisoner coming on board?—A. Yes; and there was William Berrian, Jones, and Mr. Scott.

Q. Did Chapman make any application to you after that?—A. The first application he made to me was, whether I knew any one that would wash his linen; I told him I would, by permission of my non-commissioned officer. I did it. After that, he asked me if I knew Mr. Scott, a surgeon belonging to the Apollo; I told him I did not know him. He saw him coming down the ladder; he told me that was Mr. Scott: he gave me a letter unsealed, with no direction to it; he desired me to give it to Mr. Scott, and to ask Mr. Scott to send an answer. Some time after that he asked me if I knew William Berrian and Samuel Jones: I told him I did not. He asked me to deliver twenty-six dollars: I made it known to Berrian, who said he would not take it, unless Chapman said it was in part of wages. Berrian said he would not receive it.

Q. Did the prisoner say any thing about the doctor?—A. The prisoner desired me to mention to Berrian that he would contradict the doctor in what he had said. Chapman desired the letter to be broke up as soon as he read it, and then to be thrown overboard. Chapman desired me to mention to Berrian for him to be as favourable as possible when called upon his trial. I delivered that message. Berrian made answer, and said, that they

would do every thing in their power as far as right would go in his favour. I communicated immediately that answer to Chapman.

Q. What did he say upon that?—A. He seemed not well pleased with the return.

Q. Was any enquiry made by him respecting the letter?—A. He asked me whether Berrian broke the letter up, and threw it overboard; I told him that Berrian told me he had done it: that was the first letter. I delivered seven at different times to Berrian.

Q. Where did you receive them?—A. I messed next to the gun-room of the starboard side of the ship; I received them from Chapman's own hand myself. He several times repeated it over to me, for Berrian and them to be as favourable as possible whenever called upon.

Q. Did you deliver any thing to him besides the money and letters?—A. I did; I delivered, by his request, a shirt, two pair of trowsers, one pair of shoes, and a handkerchief: he desired me at this time to deliver them into Berrian's hands, saying that they were clothes that were of no service to him; that they were to be shared between Berrian and Samuel Jones. At that time he said he hoped they would be as favourable as possible when called on his trial: they replied over again, they would as far as they could, so far as right would

go. He also desired me at that time to beg that they would contradict the doctor.

Q. Did you communicate to Chapman what they said?—A. I did. Chapman desired every note that I delivered from him to Berrian to be broken up and hove overboard at the time, whenever he had looked over them, as he thought proper.

Cross-examined by Mr. ALLEY.

Q. Can you read or write?—A. I can.

Q. Do you know Berrian's hand-writing?—A. I have seen Berrian's hand-writing since I have been on board the Tender. I carried two of Berrian's letters to Chapman. I have seen the writing on the outside; I never looked inside the letters—*[The letter which was shewn to Berrian, and which he denied as being his hand-writing, was handed to the witnesses]*—it was nearly about the same size as that is folded.

Q. You have seen Berrian write?—A. I have, on board the Enterprize.

Q. Do you believe that to be or not his hand-writing?—A. I cannot say.

Court.—You have seen Berrian write?—A. I have.

Q. Are you particularly acquainted with his hand-writing, so as to be able to form any opinion whether you believe that letter to be his writing or not?—A. It appears much in imitation of Berrian's writing.

Mr. Alley.—Do you believe it to be his or not?
—A. It appears much to be his writing.

Q. You do believe it to be his hand-writing?—

A. Berrian seems to write a smaller hand than that letter.

Q. This is three times as large (*shewing him what Berrian had written in Court*). Look at that, and tell me whether you know it? [*The witness hesitated.*]

—*Court.*—Can you form a belief of either of these two papers, whether they are his hand-writing or not? Do you sufficiently know Berrian's hand-writing, to form an opinion whether they are his writing or not?—A. This letter is very much in imitation of his.

Q. Do you believe it to be his?—A. I do believe it; but I cannot positively say it is; but his hand-writing appears to be a much smaller hand than that letter.

Mr. Solicitor General.—How often have you seen Berrian write?—A. I saw him write two or three times on board the *Enterprize*.

Mr. Gurney.—The witness says, that Berrian's general writing is smaller than the letter; and, to prevent the resemblance being traced, Berrian has written a character three or four times as large.

—
Dr. Powell sworn.

Examined by Mr. SOLICITOR GENERAL.

Q. You are a physician?—A. Yes.

Q. I believe you have heard the evidence given in court to-day?—A. I have.

Q. Are you able to form any judgment respecting the cause of the death of this person about whom we are now inquiring?—A. I should believe it was the effect of severity.

Q. From what circumstances, Sir?—A. Many of the acts of severity which have been described, if they are believed, were in themselves sufficient to destroy life at the time of their infliction.

Court.—The facts that have been described were sufficient in themselves to have caused death?—A. Yes; at the time they were inflicted.

Mr. Solicitor General.—You mean by that, immediate death?—A. I mean that if, for instance, a man was hung up by his heels, without being able to support himself by his hands, that might probably have caused his death before the end of four hours: I do not say that it must necessarily have done so.

Q. Suppose, Sir, that immediate death was not caused by that severity, would it contribute with other acts of severity to his death?—A. Certainly.

Q. In what way would it contribute to his death?—A. It would affect the general health of the boy, and thus accelerate his death. What I mean is, that by continued acts of severity a boy must at last be worn out, independent of the immediate effects of any one such act.

Q. You do not mean to say that this one act of

feverity alone must be enough to produce his death?

—A. No; for it did not do it.

Q. Now, with respect to the beating the boy with the handspike, you observe it did not produce death?—A. It did not immediately: I should think from its violence that it probably would.

Q. Suppose such a beating was inflicted upon him, would it afterwards contribute to his death, although it did not produce immediate death?—

A. Probably it would.

Q. Would the deprivation of food and due quantity of water contribute to his death?—A. It would injure his health, though life may be supported by a small quantity of food. The feeding him upon yams and water was certainly a poor and miserable diet, and must have tended to reduce his strength; but I think the beating with the handspike would have produced local injury about the head; and even if he was in good health at the time, would have contributed to his death.

Q. Are there any circumstances either in the climate or employment of this boy, he being an attendant upon the slaves, by which you can account for his dying as he did?—A. No disease has been described which can be attributed to such a cause.

Q. Do the appearances upon the body (I mean the wounds and swellings described by the witnesses) lead you to form any judgment con-

cerning the cause of his death?—A. He is described as having been much bruised, particularly about the head, and much emaciated in his body; probably, then, these injuries were the cause of his death.

Q. Supposing death to have been occasioned by such previous ill treatment, would the body appear in such a state as the witnesses have described?—

A. I think it would to a certainty.

Q. You observe that the breast-bone has been described to have projected, the belly to be sunk; would this have been the natural consequence of ill treatment?—A. Not entirely; but as the body became more emaciated, the more the shape of the bony arch forming the chest must have discovered itself. I suppose he may have been what is called chicken-breasted.

Q. You observe that the witnesses describe the deceased as having a trembling, or Saint Vitus's dance, and as having sores upon his legs; could these circumstances have caused his death?—A. I think not such a death as they have described; they might have increased nervous symptoms: but the shaking of the hands has not been described as having much increased.

Q. Are you able to pronounce with certainty, supposing the facts are true as described, that they were the death of this boy?—A. Not with certainty, it is my belief; but I should certainly qua-

lify it, knowing nothing of the case farther than from description.

Q. If the series of ill treatment did produce death, are you of opinion that life would go out of the body in the way described?—A. I think it would in the way described.

Cross-examined by Mr. GURNEY.

Q. The coast of Guinea is a very unhealthy climate?—A. A most unhealthy one, and so is the trade itself.

Q. It is not always possible, with certainty, when persons die naturally, to tell the cause?—A. It is not.

Q. You were asked respecting the prisoner, who, for half an hour together, is described as beating him with a handspike: should you have thought it probable he would have survived that time?—A. I should have thought it more than probable that he would not have survived such severity.

Mr. Solicitor General.—Supposing the youth to have died from the unfavourableness of the climate, what would have been the disorder and symptoms of such a death?—A. It is impossible to say; it might have been from various diseases, and of course with various symptoms.

Q. By the account given of this boy's death,

do you observe the marks of any disorder produced by the climate?—A. Certainly not.

Court.—I wish to know whether, notwithstanding this ill usage, you can attribute the boy's death to the climate?—A. No, I cannot. Speaking with all the caution that is necessary in such a case, I should attribute the boy's death to the injuries of the head, connected with the emaciation of the body.

Q. The blows given by the handspike, as described, you conceive must have produced instant death?—A. I think most likely they would a speedy death.

Q. The suspension by the heels with the head downwards, for four hours, would produce almost immediate death?—A. Yes; I should think so for so long a time.

Q. I take it the suspension by the wrist would not have caused death of itself?—A. Certainly not.

Q. Then am I to consider that the material acts which contributed to, and which might produce death, are the blows on the head, the suspending him with the head downwards, and not giving him sufficient quantity of food?—A. Certainly.

Q. Taking it for certain, from the evidence, that his allowance of yams or bread was about a pound a day; another witness has said about a pound and a half, with three panakins of water, which has been said to be about three half pints;

would that have caused his death?—A. I think a boy would become emaciated upon such a diet, but I think he would not be killed by it; indeed, I do not think any circumstance described would be more likely to kill the boy than the beating him on the head with the handspike.

Q. It is proved that he was suspended in one or two instances horizontally, with his face upwards and sometimes downwards; would that cause death?—A. It was great severity. It is hard to say what a boy would bear; but a series of ill treatment must weaken him at any rate.

Mr. Gurney.—I will ask you, Sir, whether you think it probable that, after a boy had been suspended for four hours with his head downwards, he would be able to walk upon deck, or walk across the deck?—A. I should think he would be very little able to do it.

Mr. Ramsden, surgeon, sworn.

Examined by Mr. JERVIS.

Q. I understand, Sir, you are surgeon to St. Bartholomew's Hospital?—A. I am one of the assistant surgeons.

Q. You understand, from the evidence that has been given in court to-day, that certain acts of great severity were inflicted upon the boy. What is your opinion of those acts, supposing the boy to

have had these beatings as were described by the witnesses---the beating with the handspike, and receiving five dozen lashes at a time, and to have been beaten with the handle of the cat? Were these instruments, and the severity with which they were used, such as were likely to contribute to the death of this person?—A. Having heard the whole of the evidence, I am of opinion that the symptoms under which Dunn died arose from the severities, generally, which have been stated in evidence.

Q. Be so good as to enumerate the severities which, in your opinion, occasioned the boy's death.—A. I attribute his death more immediately to the beatings with the handspike.

Q. Was that beating with the handspike, as given in evidence, such as must necessarily occasion the death of the deceased, or such as might occasion his death?—A. I should have expected that blows given with the full force of the handspike, as described on one occasion, would have produced instant death. It appears, however, that the beatings did produce wounds and swellings, with considerable enlargement of the scalp; and, therefore, I feel myself bound to declare that his death was occasioned by these circumstances.

Q. In your judgment, Sir, did these swellings, such as are described to have taken place on the scalp, and the swelling on his head and eyes; were they from the beatings described by the witnesses?

—A. I think they were such as would necessarily arise from the beatings.

Q. Suppose the boy had been afflicted with St. Vitus's dance, would that disorder produce swellings such as described by the witnesses?—A. I presume that it would not.

Q. It has been stated by the witnesses that the boy was suspended by his legs four hours: what, in your judgment, would be the effect of that suspension?—A. I should have supposed it would have produced stupidity, or even apoplexy, if he had been suspended such a time: I cannot credit that he was suspended such a time.

Q. Then, in your judgment, if he had been suspended such a time, you conceive it would have produced stupidity, or apoplexy?—A. I conceive it would have produced either one or the other; instead of which, we are told that he was calling out, and that upon that account he was taken down.

Q. Then, in your judgment, upon his being taken down on account of his calling out, it could not be the cause of his death?—A. A repetition of suspension would make him stupid, and would contribute towards his death, by debilitating him.

Q. Were there any instances of severity as described by the witnesses that, in your judgment, would have produced such a death? Would the beating him with the handspike, together with

the deprivation of food and water, contribute to such an end?—A. They would contribute to his death: the privation of a proper allowance of food would lessen the immediate effects of the blows, but afterwards contribute towards his death.

Court.—They would lessen the inflammation?—
A. Yes, my Lord, but would produce death in another way; as, indeed, seems to have been the fact in the present case, since Dunn did not die of inflammation of the brain, but of debility.

DEFENCE.

My Lord,

HAVING an impediment in my speech, which renders me incapable of verbally stating my defence, I have committed it to writing, and humbly beg your Lordship's permission to have it read.

I had the misfortune to have under my command a set of men of the most wicked and mutinous disposition, and who took every possible opportunity to disobey my orders, and insult me personally, insomuch that I continually considered my life in danger: indeed, they have not only threatened but have actually assaulted me. Upon one occasion I was seized, and about to be thrown overboard; and upon others the crew have, in a body, threatened me with destruction, if I proceeded beyond a certain part of the vessel.

Besides these acts of violence, the men one and all neglected their duty; and, when I was upon the coast of Calabar, the chief part of them deserted, and remained absent for several weeks.—The conduct of the doctor was particularly improper: instead of attending the sick when they were confined to their hammocks, he was generally in a state of insensibility from drunkenness;

and from his frequent criminal neglect of duty, and from my having reason to believe that several of the slaves and crew lost their lives owing to his inattention, I at length felt myself warranted in punishing him; and it is because I did so, that he is now persecuting me with unrelenting malignity.

A similar motive of resentment actuates the rest of the witnesses; but I believe they would not of themselves have formed such diabolical charges, and that they have been urged on by the surgeon.

When the crew have been conducting themselves in the mutinous manner I have described, and particularly upon their deserting, I threatened them with the loss of their wages: this induced some of them to desert a second time, and I could not procure their return until I gave them an undertaking in writing that they should receive their wages upon their arrival in Liverpool, which they would have done, had they afterwards conducted themselves properly: but Scott told the men, that, notwithstanding the undertaking, I intended to prevent the owners from paying them; and by thus irritating the crew against me, they were easily brought over to his purpose: he then tutored and instructed them what to say, and they have asserted whatever he dictated.

The witnesses stated at my examination, that I publicly and repeatedly mentioned in their presence my intention to destroy the deceased; but I submit to your Lordship that, if I was even wicked enough to commit the enormities they have accused me with, whether it is probable I could have made use of expressions so repugnant to human nature, and dangerous to myself, were I even upon the best possible terms with them: but when it is considered that we were so particularly hostile to each other, surely no one can for a moment believe I could have used such language in their hearing.

I solemnly declare there is no foundation for any of the offences or cruelties which the witnesses impute to me: I was always attentive to the wants of the sick, and anxious that they should receive every possible assistance, and it was this anxiety that led me to chastise the surgeon for his shameful neglect of duty.

If I had been the cruel monster the witnesses represent, would they not have availed themselves of the first opportunity to prefer their accusation? Instead of so doing, not a word was mentioned by either of them until the 12th of July, though they had been frequently on shore at Dominica and Montserrat for upwards of a month previous to that time; and I should also observe, that Scott went to the Custom House at Dominica, and swore to the truth of his journal, in which there is entered a true and accurate description of the diseases which caused the death of the persons he now falsely accuses me with murdering. I therefore submit to your Lordship, that, had I been a guilty man, and he had inserted a false account in his journal from any apprehension of danger, that no such motive could influence his conduct at Dominica: he had there an opportunity of correcting his entries, and denouncing me, without any risk whatever; but he knew that his journal was true, and he therefore swore to it without hesitation.

I have been given to understand, that, previous to the men preferring the accusation, they had frequent meetings and consultations on shore; and the doctor has been often observed instructing them, and telling them to "Say as he did, and they would be sure to succeed and get satisfaction."

I am informed that courts of justice have but too often to lament the little regard paid to an oath by common sailors, when they have any revenge to gratify or interest to serve: in this case, both those causes have operated upon the witnesses to invent the story they have told. I had punished them repeatedly, and could not have prosecuted my voyage unless I had so done: this excited their resentment; and they had great reason to fear, and did fear, that, if I came to England master of the vessel, I should prevent them receiving their wages; therefore not only their resentment, but their interest, urged them to seek my destruction.

The facility with which charges may be made against the masters of vessels must appear obvious to every one. The crew who have behaved mutinous and refractory, to avoid the punishment which

their conduct merits, may conspire together, and readily fabricate an imputation of murder against the captain, without any possibility of his disproving the charge by positive testimony; and this, my Lord, is precisely my situation; but I trust the wicked conspiracy which has been entered into to take away my life will be completely frustrated, and my innocence demonstrated.

As considerable stress has been laid on my having written letters to the witnesses, I beg leave to state the way in which the correspondence arose. During my passage home in the Northumberland, frequent messages and letters were brought to me from the witnesses; in some of which they admitted that they were sorry for what they had done, and in others demanded money: all the letters, except two, I have accidentally lost in my different removals. In consequence of these letters and messages, and from having observed the art and wickedness with which the witnesses had framed their stories, notwithstanding my innocence, I was alarmed for my safety, and, acting under that alarm, I was imprudent enough to write some letters to them: but I solemnly assure your Lordship that I was not impelled by a consciousness of guilt, but a natural anxiety, which I should think every man so circumstanced would feel, rather to part with the last shilling I possessed, than to risk my life being sworn away by those mercenary and wicked people.

In some of those letters I may, perhaps, have used words which will bear a different interpretation to that which I intended; for, being an ignorant illiterate man, and having followed a seafaring life since I was ten years of age, I am not so capable of explaining myself, and have not acted with that prudence, perhaps, which those who are more conversant with the world would have done: but I most humbly trust that these letters, which were written in the moment of alarm and apprehension, and which originated merely in imprudence, will not be construed into a confession of guilt.

From my infancy, up to the time of those unfounded charges being made, neither my honesty, integrity, or humanity, were

ever impeached. In one voyage, the surgeon died shortly after we failed; and I voluntarily attended the sick both with nourishment and medicine, as far as my abilities permitted me to administer them: this will be proved by the captain under whom I failed. I submit, therefore, to the consideration of this honourable Court, whether it is probable that I should so soon reverse my conduct, from kindness and attention to the sick, to the very extreme of brutality towards them.

I will not further trouble your Lordship; but shall now leave my case in your hands, firmly persuaded that an impartial, intelligent, and discerning Jury of my Country, will discover the motives which actuate the witnesses, and protect me against the machinations of my enemies.

John Bell sworn. Examined by Mr. GURNEY.

Q. You, sir, are commander of the merchant ship Hazard?—A. Yes.

Q. Were you at Montserrat at the same time as the Apollo?—A. Yes.

Q. Do you remember seeing Scott, and the other persons that have been examined, in conversation together?—A. I did, one evening, at the door of the gaol: I was applying to go in to Captain Chapman. When I came there, as I was stopping at the door, I saw the surgeon of the Apollo talking through the grate to the prisoners inside; that is, the other part of the crew.

Q. Do you mean the other witnesses that have given evidence?—A. Yes; the witnesses that I

saw examined to day were in the gaol: he was talking through the bars to them.

Q. Did you hear any part of what he said?—A. I heard him say they need not be afraid of their wages, if they stuck true to him.

Q. What was returned in answer?—A. I don't know: I heard some answer given, but did not hear what it was. I heard him reply to the answer, "That will not do; we must be of one story, or we can make nothing of him." The surgeon then came away, as the turnkey happened to come up at the time: he turned away, saying, "We have got him fast. I'll make him repent flogging me."

Q. You were present at Montserrat when the witnesses were examined?—A. I was.

Q. You heard the surgeon and the other men examined?—A. I did.

Q. Did they either of them, in either of their examinations, make any charge against the captain of his having hung the boy up by the heels?—A. Not to my knowledge.

Q. Were the depositions that were taken afterwards in your care?—A. They were; they were lost.

Q. Have you any means of knowing how they were lost?—A. I have not.

Q. How many persons were on board your ship?—A. There were six of us. Chapman and the mate

were in my bed-room. I do not know how they were lost.

Q. You were present at the time the witnesses were examined?—A. I was there at the time they were examined. I cannot charge my memory that there was any charge made against the captain for hanging the boy up by his heels.

Q. Was any part of that charge for hanging him up three or four hours by the heels?—A. Not to my recollection.

Q. Could you have forgotten it in so short a time, if there had been any thing said about hanging him up by the heels for three or four hours?—A. I should have thought not.

Cross-examined by Mr. SOLICITOR GENERAL.

Q. Where were the depositions placed on board your ship?—A. In my bed-room.

Q. Were they locked up?—A. No; they were not locked up.

Q. Were they in any drawer?—A. No; they were in the cabin: they were open to them that were in my cabin.

Q. Your's is a bark?—A. Yes; a bark.

Q. Did you yourself do any thing to the depositions?—A. Not I, upon my word; not I, indeed.

Q. You don't know who did?—A. No; I did not miss them until I was in the boat going to the sloop of war. I went down, expecting to find them there. I was forced to deliver the men up with-

out them : this was about six o'clock in the evening. I do not recollect seeing them after eleven o'clock in the forenoon. I missed them at six o'clock in the afternoon.

Q. Had Chapman been in the cabin during that time?—A. He had.

Q. Had he any company with him?—A. He was in company with me and Mr. Adams, part owner of the vessel.

Q. Was there any other person with you in the cabin?—A. There was another person ; but I believe we were most part of the time on the deck, including Chapman.

Q. Was he at any time in the cabin when you were not with him?—A. I do not recollect ; I believe he might be there when I was not with him ; but some person was with him ; some of the passengers.

Q. The examination which you heard, was it before or after the conversation that you heard between Scott and the witnesses?—A. The examination was before.

Q. How many persons were examined?—A. To the best of my recollection, there were five.

Q. You heard all the five persons examined?—A. I do not think I was out a quarter of an hour during the whole time : it took up from about half past ten in the morning till about four in the evening, or five.

Q. Were they separately examined?—A. Yes, one by one.

Q. Was the surgeon examined first or last, do you remember?—A. To the best of my recollection, I believe he was examined first, and the other persons afterwards.

Q. Did you hear what he said?—A. Yes.

Q. They were called in separately, and examined?—A. Yes.

Q. Did each of them describe that this boy had been ill treated by the captain?—A. They did.

Q. Did each of them describe that his death was owing to that?—A. I cannot say that either of them said his death was occasioned by that: they said he was ill treated by the captain; that on his back he had put a red hot iron to let a gun off.

Q. Which of them are you speaking of?—A. The boy, I believe.

Q. Can you distinctly relate all that was stated by them?—A. No.

Q. Can you distinctly say that you heard nothing said about hanging him up by the heels for any length of time?—A. I did not hear any thing of that.

Q. In the month of July last did you send any written account to Admiral Cochrane?—A. No written account went from me to Admiral Cochrane.

Q. No account?—A. No written order: I spoke to him myself.

Q. Did you give no account?—A. I did; I told him the depositions were lost: I told Admiral Cochrane myself of it.

Q. Did not you tell Admiral Cochrane they were lost when you and the owner of the vessel were upon deck; that, by reason of a squall coming on, you had gone on deck, leaving Chapman in the cabin? You are upon your oath.—A. I am upon my oath, and I will speak the truth.

Q. Did not you say that you went on deck, leaving the master of the brig below: in the course of half an hour you went below again, and found them gone; and nobody was in the cabin but Chapman during the time you were on deck?—A. No such account was given by me.

Q. Who did you represent to be in the cabin at the time the papers were lost?—A. I made no representation; I did not say any body at all was in the cabin.

Q. Upon your oath, did you not say who was in the cabin?—A. I did not say that any person was in the cabin at all: I related to him truly how they were lost, the same as I do to you.

Q. And can you take upon you to swear that you sent no line or letter to Admiral Cochrane?—A. I never did.

Abiah Dubry sworn. Examined by Mr. ALLEY.

Q. You are the mate of the *Lady Parker* West Indiaman?—A. Yes.

Q. Were you at Montserrat at the time the Apollo was there?—A. Yes.

Q. Do you know the house kept by Betty French?—A. Yes; I saw Scott, Smith, Jones, and Berrian, at her house, and the carpenter.

Q. Had you an opportunity of hearing the surgeon say any thing to these witnesses?—A. I was several nights in the house. One night the doctor, and two or three of them who are here, and the carpenter, were consulting together. I heard Captain Chapman's name mentioned several times; and, when they got up, Scott said, "If you all say as I say, there is no fear but we shall do him." This was before Chapman was taken into custody, and I heard a similar conversation one night after he was in custody.

Q. How long before the captain was taken was it that you heard the first conversation?—A. It might be a week or a fortnight; but I cannot say positively.

Q. Did any of these men apply to be taken on board your ship?—A. They all did, but the surgeon: we could not take them, because we were both assigned to one agent.

Q. Did they give you any reason why they wished to go on board your ship?—A. They told me the reason was, they had absconded from the vessel, and the captain would stop their wages.

Q. Did they assign any other reason?—A. They did not.

Q. This was before they had made the charge against the captain?—A. Yes.

Cross-examined by Mr. JERVIS.

Q. Your ship was consigned to the same agent?
—A. Yes.

Q. Do they belong to the same owner?—A. No.

Q. Of course, your agents must have known that they came from the Apollo?—A. Yes.

Q. And the reason they assigned for wishing to come to your ship was, that they were afraid of losing their wages?—A. Yes.

Q. You heard the surgeon say, “If you all say as I do, there is no fear but we shall do him?”
—A. I heard the surgeon say, “If you say as I say, we shall do him;” and they mentioned Captain Chapman’s name frequently.

Q. Was that before or after they had been examined?—A. Before they were examined.

Q. Do you know when they were examined?
A. I believe it was in the beginning of July.

William Hoskins sworn.

Examined by Mr. GURNEY.

Q. I believe you are purser of his Majesty’s ship Challenger?—A. I am.

Q. Pray, Sir, have you ever had any conversation with surgeon Scott respecting this prosecution?

—A. I have, about three months ago, on board the Challenger.

Q. Did he state to you the reason why he prosecuted?—A. He told me that Captain Chapman had exercised a variety of barbarities against the ship's company on her passage from the coast of Guinea to St. Dominica. I asked him why, upon his arrival at that island, he did not make the governor, or some other person of authority, acquainted with it; I also asked him, if he was not under the necessity of delivering in his medical journal on his arrival at Dominica, as I understood it was the custom: he told me he had done so. I asked him if he had described the manner in which the people died, and the treatment they received, in that journal: he told me he had stated in his journal that they had died naturally, and he described the methods of treatment he had adopted respecting them. I asked him if he had sworn to the journal: he said he had sworn to it, but what was stated in that journal was not true. I asked him why he did not make some proper person acquainted with the treatment of the men previous to his swearing to the journal: he said he was in dread of Captain Chapman. He afterwards informed me that they proceeded from Dominica to Montserrat, and said that, had he not been punished by the captain at Dominica, he never should have mentioned a word about it; but he was determined to be revenged on him.

Captain James Brown sworn.

Examined by Mr. ALLEY.

Q. What ship do you belong to?—A. The Elizabeth: I was at the coast of Calabar at the time the Apollo was there.

Q. Do you recollect in the month of October going on board the Apollo?—A. I do: Captain Chapman hailed my ship, and I went on board.

Q. Describe the situation you found the crew, and the reason why Captain Chapman hailed you on board?—A. When I went on board, Captain Chapman told me that his life was in danger; that the whole of the people had collected themselves on the starboard side of the deck, and were making a great noise; that he had desired them to be silent: they told him they would not; and if he came forward, they would knock him down with a handspike. They were all in a mutinous state. I went forward, and asked them what was the reason they would not obey their captain. They said, they had obeyed him too long. The gunner told me he had the key of the magazine, and he would stick close to it: he would set it on fire, if the captain did not take care, and that he would blow the ship up.

Q. When you were going over the side of the ship, and leaving the vessel, did you hear any thing particular relating to yourself?—A. I heard

one man say, "Damn his eyes, why does he not mind his own ship? Heave him overboard. What business has he here?"

Q. In consequence of this mutinous disposition, did you make any threat?—A. When the gunner told me he would set fire to the magazine, I told him it was a dangerous word; and if they did not return to their duty, I should be under the necessity of laying my ship alongside of them, and compel them. There were three or four made answer, They had guns as well as I had, and they would see who would fight the longest.

Jonathan D'Arcy sworn.

Examined by Mr. GURNEY.

Q. I believe, Sir, you are captain of a ship?—A. Yes, I am. The prisoner sailed with me one voyage: I have known him upwards of twenty years.

Q. How has he conducted himself during those twenty years?—A. During the voyage he was with me, the doctor died three weeks after I sailed: he volunteered to fill the place, and he conducted himself with great humanity to the seamen and the slaves. I had that character from the captain I received him from, and I also gave him that character to the captain he went with afterwards.

MR. JUSTICE LE BLANC :

Gentlemen of the Jury,

THE evidence both on the part of the prosecution and on the part of the prisoner being closed, it now becomes my duty to recapitulate it to you, and to make such observations as occur, and it will then be for you to determine the merits of the case.

Gentlemen, the charge against the prisoner at the bar is one of the most serious which can be preferred against any man : it is that of wilful murder. The indictment charges him with having violently and feloniously assaulted Robert Dunn upon the high seas, and occasioned his death by a series of ill treatment and acts of severity ; among others, the stripping him of his clothes, and obliging him to go naked—striking him with a cat upon his head, and also beating him with a handspike—suspending him with cords and chains about his arms and different parts of his body to various parts of the ship ; and that by these means he murdered him.

Gentlemen, the first question that you will have to consider will be, whether you are satisfied that the deceased (who was an apprentice to some person belonging to the ship) died in consequence of the severities mentioned in the indictment ; and if you should be of opinion that he did, and that the prisoner inflicted those acts of severity upon him, he will then be guilty of the charge of murder. If you should be of opinion that they did not of themselves cause his death, but that they contributed thereto or were the occasion of accelerating it, in that case he will be equally guilty, and it will be your duty to pronounce him so by your verdict : but, as it appears to me, the most difficult question upon which you will have to make up your minds will be, whether the prisoner did or did not commit those acts ; for if he did, very little doubt can, I think, be entertained, but that they either actually occasioned or at least accelerated the death of the deceased ; and this question must be determined entirely upon the credit you give to the different witnesses who have been called upon the part of the prosecution.

The prisoner states in his defence, that he was captain of a vessel, that the witnesses against him composed part of his crew; that they were very mutinous and refractory; that he was compelled to exercise a severe discipline upon them; and that they have manufactured and brought forward this charge against him, not for the purpose of justice, but merely to gratify their revenge.

Gentlemen, it will be for you, when you have maturely considered all the circumstances of this case, to say whether the witnesses have told you a true story, or whether they are men to whom you can or ought to give any credit. There are some facts about which there seems to be no dispute;—that the prisoner was captain of the *Apollo*, a vessel in the African trade, which sailed from Liverpool, and, having performed her voyage, arrived in the West Indies; that when at Montserrat, this charge was made, and the prisoner sent to England for the purpose of taking his trial; the witnesses were likewise sent home, for the purpose of giving their evidence before you.

Gentlemen, it can be little doubted that the crew of the ship, while it lay at Calabar, conducted themselves disobediently and very irregularly (they themselves say they were not mutinous); but they appear to have been in open resistance to their captain, and opposing him so much, that he was obliged to call another captain to his aid and assistance: this is perfectly clear, I think. It is also pretty clear that the captain, from the conduct of his crew, was obliged to punish them, and he says they bore him some ill-will in consequence; but whether that has urged them to accuse him unjustly, you are to judge. There is another circumstance which I will state to you in the outset, for the purpose of laying it further out of the case; it is this: If a captain of a ship, in a course of discipline which he has a right to exercise, exceeds the proper bounds of punishment, or if he does it with an improper instrument, so as to occasion the death of the party, there can be no doubt but it would be murder in the person who so inflicted it. And here, I think, there can be no question that the deceased was not a person who had conducted himself in such a way as to de-

serve the treatment alleged to have been bestowed upon him by the captain. It is true, that he had been guilty of trivial faults; but there is no evidence before us, that he was guilty of any offence to call for such heavy punishment as the witnesses describe him to have received.

Gentlemen, in the first place, you will consider, whether you can be fully satisfied that the prisoner acted toward the deceased as the witnesses have described; and you will compare the facts they state with your own observations, and with the opinion you have heard from the medical persons; and then judge whether you are satisfied that such treatment was the occasion of his death.

Gentlemen, the first witness called before you is John Scott, who was surgeon on board the ship: he says, the crew consisted of twenty-five men and the captain; that Robert Dunn, the deceased, was put on board that vessel, and was brother-in-law to the wife of one Mr. Brade, the owner of that ship; that he was in good health when he went on board the vessel; that the vessel arrived in October 1806 on the coast of New Calabar; that, during the outward voyage, the captain turned him out of the cabin, where he used to mess, and he speaks of the boy having been flogged with a cat of nine tails. He then proceeds to state what passed after the vessel arrived at the coast of Africa. He says, the vessel lay five months off Calabar, and while she lay there he has known the captain give him five dozen lashes at a time; that the handle of the cat was heavy; it was made of the wood of that country. He says, that the flogging was sometimes done by the captain himself, and at other times by his directions; and he has known him take hold of the lash or line of the cat, and swing it about the boy's head, and beat him with the handle. Then he describes him as having his back and temples very much cut and bruised, says that it produced a kind of stupidity in the boy, and bleeding from the head and temples; that this treatment commenced soon after the ship arrived on the coast of Africa, and continued till the time of the boy's death; that Henry Smith the gunner died the 18th of January, and this punishment commenced after the death of Smith. He

gives us an account of an expression used by the captain, which most of the other witnesses likewise speak to, that they have heard the captain say, more than once or twice, that the boy had been sent out as a spy on his conduct; that he would get quit of him, and that it was such as him that got the trade a bad name. Then the witness Scott describes the boy's health to be impaired, and that by the bad treatment he received, and from hunger, the boy became thinner, and had an emaciated appearance; that he had some slight sores upon his legs, but he attributed the cause of them to bites of the mosquito flies; that he had a paralytic affection upon him, but he did not observe it increase very much; that the captain hanged him up by the heels by the gun tackle, his hands just touching the deck. And you will attend particularly to what he says as to the time he represents the captain as suspending him: he says, he did this several times, and that he kept him from eight o'clock till twelve o'clock at night, and that the boy then cried out so as to prevent the captain from sleeping, and in consequence of that he was taken down; that the effect of this upon the boy was a numbness in his legs, and want of recollection. He has known the captain tie him up by the arms to the barricado door; that he was suspended in such a way that his toes could just touch the deck, that he kept him in that situation for an hour, and that he did this twice or three times a week. He says, the occasion was the boy's pilfering some sugar or molasses, and neglecting to clean out the tubs which were for the slaves on board the ship. He has known him fasten the boy about the wrist to the barricado door, naked, one half of his head was shaved, and he painted his body black, and then he called the slaves to laugh at him; and he, the surgeon, who was in the habit of shaving the slaves, did it: that was done by way of mortifying and exposing him to ridicule; it could not injure his health. He says, the boy was much debilitated. He says, one day, while the boy was carrying a tub across the deck, he spilled some of the contents; that the captain came forward with a handspike, which has been described to be a wooden instrument to heave the windlafs, and broader at one end than

the other; that the captain struck the boy with it so as to knock him down among the ordure which had been spilled, and beat him with this handspike after he was down; that the blows were given as if with a common stick; and then he adds this circumstance, which I do not find stated by any other of the witnesses, that he jumped upon him with his feet, and continued jumping upon him for five minutes. He says that the prisoner held the handspike by the smaller end, and struck the boy with the larger, which was square; that he hit him upon the head, breast, and back; this was done a month before the boy died. And after that he gives an account of the prisoner opening the mouth of the deceased, and putting some of the dung into it, and making him swallow salt water afterwards. The boy, he says, was very much bruised about the head and shoulders; and although he was surgeon or doctor on board the ship, he did not do any thing to him as to dressing his wounds, because it was of no use, for the boy was beat every day; and he assigns also as a reason for not dressing him, that his time was fully employed in attending to the slaves who were on board the ship. That the boy did a little duty after these beatings, but he did not do much: he says the boy was able to do but little; he was not a sailor sufficiently capable of handling the tackle of the ship.

Gentlemen, he says, after this he saw the captain beat him with the handle and the tails of the cat on his head; that his head and face were much swelled, and that he could not see out of his eyes for several days before he died; that the boy was not allowed the same provision as the sailors when he came upon the coast, but only a bit of yam and a bit of bread; and he says he does not think that he had so much of that as he could eat, and he was kept upon this diet for several weeks while they lay at New Calabar, till at length the boy became much emaciated. He does not himself think that he was allowed to eat beef or pork, if he had the appetite to eat it: that the captain ordered him not to go where the water was; he was limited to three panakins a day, which is something about three half pints of water. When the

boy has asked for water, the prisoner has said to him, with an oath, that he should have none. He is asked whether, notwithstanding the captain did not allow him meat, the boy did not get some: he says, he has heard some of the people say the boy did get at their beef; and he tells you, that on the 31st of March the boy died; that four or five days before his death his belly was shrunk in, and his breast-bone appeared sharp; his head and eyes were swelled so much, that he could not see out of them; and he believes the boy's death was occasioned by the blows that he received by the cat and by the handspike. That he himself, as a doctor on board, gave him some physic for the bites of the mosquitos, but gave him no medicine upon any other occasion, because, he says, if he had neglected the slaves to attend the boy, perhaps he would have been beat himself. He then describes the appearance of the boy's body after his death: he says his forehead was puffed up like a sponge; he does not particularly recollect whether his eyes were discoloured, or whether they were only swelled, in consequence of the blows upon the head. He says, he saw him an hour or two before he died, the time he does not particularly recollect, but it was in the fore part of the day when he died: he felt his arm, and found some circulation, but very little: his eyes were then closed; his back appeared crooked; his head and face swelled up, and the blood sticking to the hair of his head: that bruises were upon his body, his arms, and his head, and his breast stuck out; that when he first came on board at Liverpool, his breast was not of that form, nor did he observe that his back was crooked or hunched until about a month before he died; but he did not observe his breast to project, and his belly to sink, only a week or two before he died; and he says, upon his oath, that the boy's death proceeded from the ill treatment which he had so received from the captain.

Gentlemen, that is the whole account which he gives of the treatment this boy received on board the ship; and as he was in the situation of a medical man going out as surgeon, and prescribing medicines for the sick, he ought to be the person, to be sure, upon which one should particularly rely for every thing that took

place on board with respect to the health of the crew. Gentlemen, you will see how far you can rely on his account by his future conduct: he tells you, that on the 4th of June they arrived at Dominica; they stayed there twelve days; that he went on shore on the Sunday morning for the purpose of delivering in his mortality list, which, as surgeon, he was obliged to keep, and afterwards to deliver it in at the first port at which he should arrive. At Dominica he delivered in his journal and his mortality list; that is, the account of all persons who had died in the course of the voyage, and the causes which occasioned their deaths. He says, it is his writing and his signature; it is dated the 6th of June: he says he was likewise sworn to it. Gentlemen, it is material that it should be stated to you: it begins—

“ 1807, March 15th, Robert Dunn, eighteen years. He is
 “ much relaxed and debilitated. Extremely nervous, having a
 “ constant tremor and convulsive motion, particularly in his
 “ hands, when in action: this paralysis or nervous irritation was
 “ more or less in his ordinary health, and lately has become
 “ greater in proportion as he has become more weak. He has
 “ had several attacks of pyrexia from eating almost any sort of
 “ food, particularly vegetables, the produce of the country, and
 “ meat to excess: with this, and want of action in himself, he
 “ became reduced and weak.—20th. He seems quite obstinate
 “ in every thing told him; is indolent to extreme; and becomes
 “ more debilitated.—31st. Died.”

And to this the witness, Scott, at Dominica, swore, as being a true account. He now says, that he wrote the journal at the table in the captain's cabin; that the journal was kept in a chest in the cabin; that the captain had access to it, and sometimes looked at it. He says he kept his journal upon a coarse sheet of cartridge paper, and then he copied it: the first journal he made was destroyed, or what became of it he does not know. He says, he has not stated the whole truth in the journal; and adds, “ I had reason to apprehend my own life in danger if I had told the truth.” He says, the entry on the cartridge paper and in his journal is true as far as it goes, but that it did not contain what

was the cause of the weakness and the debility. Gentlemen, I think if it did not state the true cause, or if the symptoms are improperly described, he cannot shelter himself as not having sworn to a falsehood, because, when he is sworn, he is compelled by law to state the truth, and the whole truth, and he cannot exonerate himself by saying it is the truth, but not all the truth. He says, that after he himself delivered in this account at Dominica, where they first stopped, they proceeded to Montserrat, at which place they arrived on the 18th of June; and the first time they went on shore at Montserrat he mentioned the crime to some people, but not to a magistrate; but toward the latter end of the same month (having first written a letter to Mr. Herbert) he went before him, and gave the same account he has now given: he went there without any of the crew, and afterwards they were sent for and examined, and, in consequence of their testimony, the crew, together with this witness and the captain, were put on board the bark Hazard, with the depositions that were taken before the magistrate, but what became of them he does not know: it appears, however, that they were lost in that vessel, in which were the prisoner and several other passengers, but he does not know at what time they were missing; that the prisoner and the witnesses were afterwards put on board the Northumberland, and brought to England. He then speaks of one of the letters you have heard read being brought by Evans, a marine, in the month of August or beginning of September, and that letter, he says, is in the prisoner's hand writing. This letter I will read to you.

[*His Lordship here read the letter inserted in Scott's evidence.*]

That is the only letter written by the prisoner to this witness.

Gentlemen, on his cross examination he says, that sometimes the prisoner did not beat the deceased for two or three days together, and then he made it up by beating him twice a day; that on the day he beat him with the handspike he jumped upon his body; that he struck him as hard as he could strike; he afterwards says, he could not say it was as hard as he could strike, but he seemed to be in a great passion; and he has more than once heard him say that he would murder him. That he and the captain

were not on the best terms. Once the captain had occasion to charge the witnesses with being drunk, but he was more drunk than himself; that the prisoner punished him at Dominica before he got to Montserrat; and also on the coast he flogged him. He was asked particularly if there was any mutiny on board the ship: he says, there was no mutiny, in his opinion; that the captain insisted upon the crew drinking stinking water, and upon that occasion the crew said, sooner than they would be poisoned they would go on shore, and die among the negroes. He says, the captain himself drank of the water of the country which was brought on board. He says, that the men were one day singing, and the captain desired them not to make a noise; but they continued singing: upon which the captain opened the arm chest, and took out a pistol, and snapped it at them; and the gunner said, sooner than they would be fired at by the captain, they would blow up the ship.

Gentlemen, you will compare this account with the testimony of the other witnesses, and with what was said by the captain of another ship, who, it appears, was hailed by the prisoner to render him assistance. He says, the prisoner hailed Captain Brown, and that the men told their grievances to him; and Captain Brown told them, if they did not be quiet, he would bring his ship alongside. He did not hear any threats of throwing Captain Brown overboard. He says, Jones and Smith had orders for their wages to be paid them before they would come on board. He is asked whether he was not on shore at Dominica more than once: he says, he was twice, so that he had an opportunity of giving an account of the captain's conduct at Dominica, where there was a magistrate to protect him. He also saw Messrs. Lockhart, who came several times on board their ship while they lay at Dominica; but he never mentioned a word about it; on the contrary, he puts in this false mortality list. He says, he was once at Messrs. Lockhart's house; that he went there with the captain, and that he was at Montserrat a few days before he made this charge. He was asked if he was not at the house of Betty French: he says, that he was there, after the court of inquiry had been held. He

is then asked, whether he ever used expressions to the witnesses, and told them to mind and stick to what he should say, and denies that he ever used these words to any of them. He says, that in conversation they would relate what each had seen, but nothing more; and that he never mentioned that he himself would not have made the charge, if the captain had not punished him. He says, in the mortality list he put down the symptoms, but not the cause of the symptoms; therefore he represents his journal as true in part, but not in the whole. There may be some ingenuity, as he may think, in this excuse; but it is nevertheless false. If the account he has sworn to now is true, it is impossible to reconcile it in any manner with what he has stated in his journal. He says, he was afraid of the captain when he was on shore at Dominica, and that is the reason he did not disclose what the captain had done; that he was told there was little justice to be had at Dominica, but at Montserrat he was informed he could have justice done him. He was pressed why he did not communicate it to the King's officers of the customs, or to the commanders of his Majesty's ships: he says, he did not think himself safe in making the disclosure there, and therefore he did not do it. He says afterwards, upon his re-examination, that whether the captain had punished him or not, he should have made the prisoner's conduct known; that neither he, nor Dunn the boy, had any thing to do with the mutiny; and that Smith the gunner was drunk at the time. Gentlemen, that is the account which is given by Scott, and I think it contains as many or more particulars of ill treatment which Dunn received than all the other witnesses put together. Though in many cases you will find him confirmed, yet it is impossible to pass over this man's evidence without great difficulty arising in the mind as to giving him any credit, he having upon a former occasion, upon oath, stated this boy's death to have happened from disease, and now he has taken another oath, and given another account; but which of the two accounts is true creates the difficulty, because both accounts are upon oath. You have heard the account that has been read, and which is in his own hand writing, and by himself delivered in at

Dominica : if he had inserted in that account, that it was through the ill treatment of the captain that the boy died, it would have been more satisfactory, and then we should have had no need of resorting to any one else. The journal was delivered in and sworn to on shore ; but yet, he says, he was afraid of the captain ; but it is impossible to believe that he would have been in any danger, when there was a ship there belonging to the Crown, and officers of the customs, who would have protected him from receiving any ill treatment ; but he says, if he had given a true account, the captain would have murdered him, and this is the way in which he endeavours to reconcile his conduct. To be sure, with respect to him I should find it very difficult to rely upon any one fact he has stated, as he has so materially contradicted himself. .

The other witnesses, it appears, were persons who had been in a state of mutiny, or were punished by the prisoner for misconduct ; and you will judge whether they are, or are not, liable to the imputation, which the prisoner in his defence alleges against them ; namely, that they are seeking to gratify their revenge for his having so punished them.

Gentlemen, the next witness is Henry Smith, a person who has been alluded to by Scott : he was one of the crew on board the Apollo. He says, Robert Dunn seemed to have nothing ail him when he came on board ; he speaks of his being flogged in the outward voyage ; that after they came to the coast he was placed at the barricado door : the standing there would not hurt him. He then says, that he has seen the captain fasten him by the wrist, and hoist him up so that his toes would touch the deck ; he has also suspended him by a chain round the neck, and called the slaves to laugh at him ; that when he was let down, there appeared a mark about his neck. At another time the captain shaved one part of his head, and blacked his body ; that the captain hanged him up by the heels. He cannot say how long it was before he died. He says, he remembered the boy being employed in cleaning the slaves' tubs ; that he saw him captize it and spill the contents ; the captain saw it, and he made him ea

some of this filth; that he has made him eat the slaves' dung more than once. He says, he once saw the captain hang Dunn up with a chain about his middle to the boom, and the reason was, he told the captain that the mate had neglected to wash the deck: he says, he saw the captain strike him while he was down, on the body, and on the legs once, for leaving a tub standing on the main deck, which ought not to have been there; and this, he says, was three or four days before the boy died, and after the time when he had overset the tub. He says, when he had so beat him, the boy got up, and walked to the top of the fore-castle, and went under the fore-castle, and there he lay till he died. He says, with respect to the boy's food, he had no grog allowed him, and only yam, and sometimes bread instead of yam; and that the quantity of yam he had was about the size of a man's fist: he was kept upon that allowance for a considerable time before he died. That, while the ship was upon the coast of Guinea, the captain saw the witness taking him a bit of yam; and the captain said, if he found him taking the deceased any beef, he would flog him. He says, the captain sent him forward to wring out some swabs, and at that time he had no clothes on. It was more than a week after they left the coast when he died. He says, he once heard the prisoner ask the boy whether he thought he ever should see Liverpool again; the boy said, he did not know; he hoped he should. The captain called him a bad name, and told him he never should. He has heard the captain tell the boy, that Williamson was gone to hell, and he would make the boy go after him; that he never saw the captain beat the boy after the last time he beat him with the handspike, at which time the boy had only a shirt on, and that his shoulders were then all of a gore of blood; and that the deceased was a stout boy when he came on board the ship. Gentlemen, he is next examined with respect to his own conduct; and he says, that he himself had several floggings for misconduct; that he was on shore while at Calabar, but that he went with the captain's order. Then he says, he went without leave, but he intended to come back again. He cannot read,

but he understands that a failor, by leaving the ship without leave, loses his wages. He remembers Scott, the doctor, being punished, and he gives the distinct account why he was punished; that a man came to borrow a bottle of rum, and the doctor let him have some: the captain being told of it, punished the doctor. He admits that he went to this house of Betty French, at Montferrat; that he knows Dubry: he denies that Scott ever told him what he had said when examined before the magistrate; and he denies that he was told by Scott to stick to what he had said.

Gentlemen, it is observable here, that the particular beating described by Scott, as one of the most severe the boy had, was when he spilt the contents of the slaves' tub. This witness says, he saw the lad spill the contents, and the captain oblige him to take some of it in his mouth, and swallow it, but he did not see any beating given to the boy at that time. Now, Gentlemen, if the captain had beat the lad in the very severe manner described by Scott, it is somewhat extraordinary that it should not have made an impression upon this man's recollection; but though he was present, and saw the tub capsized, and the captain force some of the filth into the boy's mouth, he does not speak to any blows whatever being given.

The next witness is Henry Nutson: He describes the boy to have been in good health in the outward passage; that he had a shaking of his hands when he took hold of any thing when first he came on board; that he has seen the captain hang him up by a chain across his middle, sometimes with his face upwards, and sometimes downwards; that he has hung him up sometimes for three hours in that manner, and then let him down:—he says, at another time the boy was lashed by the heels to the gun-tackle, and suspended so that he could just touch the combings of the hatchway; that he has been hung up that way for four or five hours at a time: and that this was done for little crimes. He has seen the captain hang him up by a chain across his breast, and so swing him round, and the slaves were called up to look at

him; one-half of his head was shaved: and he has heard the captain say he would kill him, because Mr. Brade had sent him out as a spy; and he would take good care he never should go back; that Williamson was gone to hell, and he should follow him. That one day the boy spilt some of the contents of the slaves' tub. The captain saw that the tub was upset; he ran, and got hold of the handspike, and beat the boy about the head and body. You observe, Gentlemen, Scott spoke of another act of severity, that of jumping upon his body when he was down: this witness speaks to his beating him, and says that was all he did: (the other witness does not speak to any thing but giving him the ordure). He says, that sometimes the captain beat him with the lash of the cat, and sometimes with the handle across the temples and head; that the boy was naked, except his shirt; that he was so four or five months before he died. Then he speaks of a beating which took place three days before he died, when the boy was laying under the forecastle: he cried out for mercy. The next time the witness saw him, he was upon the forecastle, with a mat over him; he was then alive; and one morning he found him dead. Then he gives an account of his being the person that told the prisoner of the boy's death, and the answer the prisoner made was, "D—n your eyes, heave him overboard: what do you tell me about him?" He says, that one side of his belly was shrunk in, and where he had been punched was marked with bruises; his eyes were closed up and black for about eight days before he died. On his cross-examination, he describes the captain as beating him almost every day with the handspike, and sometimes with a gun bar, as hard as he could, over his head and back; and sometimes the captain used to sing out that he would take good care the boy should not get back again. He says, the prisoner called Captain Brown to come on board, but that he, the witness, did not know what he came on board for; that they were doing no harm; they were only singing a song: he says, Captain Brown desired them to return to their duty, or he would bring his ship alongside. He says, some of the crew went on

shore; he was four weeks on shore; he refused coming back, because the captain would not take all hands; he says, the captain refused to take Smith and Jones. He did not go voluntarily back to the ship; he was brought back by the traders. He says, he never charged the captain with being the murderer of Dunn at Dominica and at Montserrat; he never said any thing about it: he says, the reason was, because he thought there were other people who were more sensible and better able to make the charge than himself; that he was at this house which is called Betty French's; that he never had any conversation with Smith, or Berrian, or Jones; he says, he never heard any thing said by the doctor or any one else about sticking to what the doctor said; that he never said that nothing of this would have happened, if it had not been for fear of losing their wages. This question is put to the witness upon account of the testimony hereafter given on behalf of the prisoner.

Gentlemen, the next witness is William Berrian: He says, that after they arrived on the coast, he saw the boy Dunn hung up to the booms with his heels upwards, and this continued three hours: when he came down, he looked very poorly: he never saw him hung up by the heels more than once. That he has been hung up by the middle with chains; he has seen him standing at the barricado door only with a shirt on. That the captain beat the boy with the handle of the cat, and with the lashes; that the boy used to have about a pound and a half of yam a day, and about three half-pints of water. He says, the boy was employed in emptying the slaves' tub, and that the boy's face was swelled up, so that he could not see out of his eyes for some days before he died: after he died, he says his breast-bone stuck out, and his belly was sunk in. He says, that sometimes the captain used to make him wring out swabs, and go without clothes; that sometimes the crew went without their jackets, and with only their trowsers on. He speaks to the letter brought by Evans, the marine, to Scott, and which you have heard. He says, that this letter, and the other letters which were produced, are the captain's

hand-writing; that he came home a prisoner on board the same ship, and the letters were all brought to him by Evans, who was one of the marines on board; that the letters desired him to be as favourable to the captain as he could in the account that was to be given, and offering him money and clothes, and it appears he sent money to him, which he received. Berrian says, he showed these letters to Scott as soon as he had them; that he wrote one or two letters in answer to the captain, one of which was written with a pencil, and that he did not ask the captain for money. That while they were on the coast of Calabar, he and some more of the crew went on shore; that the reason of their going was, the gunner was forward singing a song, and the captain bade him be quiet: he would not, and upon that the captain snapped a pistol at them, and they went on shore; but after staying about four or five weeks, they returned. He admits that they went to another ship, but the captain fetched them away. He says, that at different times the captain and the crew fell out; that he was himself flogged once, and twice he had some blows given him. He says, he was at the house of Betty French, and that he said there, if Scott did not make it known, he would when he got to England. He says, that Scott persuaded him to let it alone till they came to Liverpool; that while they were on the coast the captain told them all they might go on shore, and that when they were on shore he said he never would take the gunner on board again: he says, there were four of them refused to go back to the ship upon account of the captain's refusing to take the gunner.

The next witness is Henry Jones, who was also one of the crew of this ship: He says, that sometimes the captain flogged Dunn in the outward passage, and after they got on the coast he hung him up by the heels; and that he was hung up with a chain round his middle, and once by a chain round his neck, with his feet barely touching the quarter-deck; that he wore a piece of cloth round his waist, and the captain gave him a coat. He once heard the captain ask Dunn, if he thought he should live to see Liverpool: the boy replied, he did not know; he hoped he

should : the captain said, he would take d—and good care he should not; for Williamson the clerk was gone to hell, and he should follow him. He says that afterwards the boy became nearly blind, and his head and face swelled by reason of the blows; that this was before they left the coast. That he saw the boy the night before he died; he asked for a drink of water, and he gave him one; that his breast-bone stuck out, and his eyes were swelled; it seemed to proceed from the blows he had received on his head and neck. He says, that he never saw his hands shake till after he was beaten; but you will recollect that all the other witnesses say, they observed it from the time he first came on board the ship, excepting one, who, I think, says he saw it about a month after he was on board. This witness was also flogged once. He says, the captain said he would poison all of them, and upon that they went on shore; that he never told the captain that it was all a made up story, and if he would let them have their wages they would say nothing about it. Gentlemen, this is all the evidence of those who were on board the ship.

The next witness is for the purpose of authenticating certain papers; namely, the letters written from the captain to Scott the surgeon, and to Berrian, during their passage home, one of which letters I have read to you: these letters were communicated by a man of the name of John Evans, who is now brought before you. He says, he was a marine on board the Northumberland; that the prisoner first applied to him to wash his linen, which he did; that he asked him if he knew Scott; he said he did not. The prisoner showed him Scott, then gave him a paper to deliver to him, and afterwards employed him to deliver some money to Berrian, amounting to twenty-six dollars: he gave the money to Berrian, and mentioned to the prisoner, that Berrian said, unless it was in part of his wages, he would not receive it: the prisoner desired the letter might be thrown overboard as soon as Berrian had read it, and begged they would do all they could for him, and to contradict the doctor. Berrian sent word they would

do every thing in their power as far as was right, and the captain seemed not well pleased with that answer. He asked him, whether Berrian had torn the letter? he answered, that Berrian had told him he had destroyed it; he likewise received from the prisoner a shirt, a pair of trowsers, a pair of shoes, and a handkerchief, to deliver to Berrian, and was desired to say they were clothes that were of no use to him, and to divide them between Jones and Berrian, and for them to be as favourable as they could, and to contradict the doctor; and that he particularly requested that the letters might be thrown overboard. Gentlemen, then these different letters were read [*here Mr. Justice Le Blanc read four of the letters from the prisoner to Berrian, which are before inserted.*]

Gentlemen, I do not think it necessary that I should read them all over to you again, as you have heard them once; but the general object is to shew, that knowing many of these persons had been examined against him, he is giving them advice and advancing them money, and, indeed, offering them more than their wages would come to, provided they would give evidence against the doctor; and the prosecutors infer from hence, that the prisoner was conscious the facts were well founded, and that he therefore endeavours to prevail upon the witnesses to suppress their evidence.

Gentlemen, The next evidence is that of the medical gentlemen, who are called to prove that, supposing the other testimony is true as to the ill treatment of the deceased, that such ill treatment might be the occasion of his death. The first witness called is Dr. Powell, who, of course, can only speak from his medical knowledge, supposing all the facts stated to be true. Dr. Powell says, "I cannot form a positive judgment of the cause of Dunn's death, but I should believe it to be from the acts of severities used to the boy." Those acts, he says, are sufficient, supposing them to be true, in themselves to cause the death of the party; that is, to have made the party die at the time they were inflicted; not to have caused a lingering death, but to have killed him on the spot. Certainly it is very likely, that, if a man had been hung

up by the heels four hours, it might have caused his death in that time; but though it might not have caused his immediate death, death would follow. With respect to the beating with the handspike, as described by the witnesses, Dr. Powell says, he should have thought it would have produced instant death; and, to be sure, if it is true as they say, one would wonder the boy did not die instantly; and it is a most astonishing thing that he did not. Dr. Powell says, although it did not kill the boy, it would probably so far injure the head as to operate in the termination of his life; but he should think the beating him with the handspike in the manner the witnesses have described, would produce death at the time. From the evidence which has been given respecting the appearance of the boy, he cannot attribute his death to any thing in the climate, or to any thing from the nature of his employment on board this ship: he says, that his head is described as much bruised, and the body as much emaciated; and that probably the injuries of the head and the emaciation of the body were the cause of the boy's death. He thinks the breast-bone would not have been raised by the ill treatment, but that he was what they call chicken-breasted, and when he was plump it did not appear; but after he wasted, the projection of the bony arch would be more apparent: that the shaking of the hands, when he went to do any work, he does not think would cause him to die of a nervous affection; that, as a man of skill, he cannot venture to pronounce with any certainty what was the cause of his death, but, in his opinion, if what the witnesses say be true, the boy's death was produced by the ill treatment he received.

Mr. Ramsden, who is a surgeon, says, that, having heard the whole of the evidence, he feels himself bound to say that he considers the death of Dunn to proceed from the severities used: he attributes his death most particularly to the beating with the handspike: he says, "I should have expected it would have produced immediate death;" but it appears the beating produced swellings and wounds, and these circumstances ultimately were the occasion of his death.

Gentlemen, that is the whole of the evidence on the part of the prosecution. The first witness, who is the witness from whom we ought to have expected an accurate account not only of the ill treatment, but of the symptoms which they occasioned, does not appear in the best light before you, he having given two such contrary accounts ; and, unfortunately, there is no indifferent person from whom you can have an account of this transaction, all the other witnesses being people who have misconducted themselves, and been punished by the prisoner.

The prisoner, in his defence, tells you, he had the misfortune to be the commander of this ship, and that, when they arrived on the coast, the crew conducted themselves in a very turbulent manner ; that there was a mutiny on board the ship, and he was obliged to call in the assistance of another captain ; that one of them (the gunner) said, he would blow the ship up, and they afterwards went on shore, and would not return until he gave them notes for their wages ; and in particular he points out the doctor as wishing to be revenged of him, because he punished him for misbehaviour. He tells you, if that had not taken place, this charge would not have been brought against him, and that he cannot bring any witnesses to contradict them, they being the whole of whom his crew consisted.

Gentlemen, that part of the case which presses against him the most is, his offering the witnesses money, which no prudent man would or ought to have done ; but with respect to that he says, that he is an ignorant man, having been at sea all his life ; and that, finding he was in their power, he was alarmed and frightened, and rather than risk his life being sworn away, he wrote those letters, and this is the way he accounts for them. He further says, that at Dominica they had an opportunity of making this charge, if they had been so disposed ; and to be sure they ought to have done it at the first British port at which they arrived, and where they were likely to have protection.

On the part of the prisoner, witnesses are called to prove that there was a mutiny on board, and another part of the case is, that

the witnesses for the prosecution have most of them sworn false, in having denied conversing at Betty French's, where they are represented as consulting together in what manner to bring forward this charge; that they said they would be revenged of the captain, because he had punished them.

The first witness called is Captain Bell, who is the master of the ship Hazard, which was lying at Montserrat while the Apollo was there. He says, that he saw the surgeon outside of the gaol at Montserrat talking to the other witnesses who were within; he heard Scott say, they need not be afraid of getting their wages if they stuck to him: he could not hear their reply, but they said something. Scott answered them, "That will not do; we must be of one story, or we can make nothing of it:" and upon Scott's leaving them, he said, "I'll make him repent flogging me."—You recollect Scott said in his evidence, that 'at Dominica he was punished, and he was also flogged on the coast by the captain.—Captain Bell says he was present at the examination; that the witnesses did not, to his knowledge, make any charge at that time of tying up of the boy by the heels: however, that matter must rest upon his recollection, as he is speaking to what happened a great while ago.

Gentlemen, the next witness is Abiah Dubry, who was the mate of a West Indiaman lying at Montserrat. He says, he saw Smith, Jones, and another man, a carpenter, at Betty French's. One night he heard the doctor, and the three witnesses that have been examined, and the carpenter, consulting together; and when they got up, Scott said, "If you all say as I say, there is no fear but we shall do him." He says, that all the seamen wished to be taken home in his ship: he asked them why; they said, they had absconded from the prisoner's ship, and the captain wanted to stop their wages. He says, he does not know what they could be talking about at Betty French's, except that they were talking about Chapman. When they got up, he heard the expression, there was no fear they should do him, if they all agreed.

William Hoskins, purser of his Majesty's ship the Challenger,

says, that Scott told him that Chapman had exercised a variety of barbarities upon the seamen; that he frequently beat them; upon which he asked Scott why he did not acquaint the governor of Dominica, and whether he had not delivered in a journal there, describing the manner of treatment the deceased received; he says, Scott told him that he had stated in his journal that he died of a natural death: he asked him whether he had not sworn to it; he said he had, but it was not true, and that he was in dread of the prisoner. He says, Scott told him, if he had not been punished by the captain, he should not have said any thing about it at Montserrat; but now he was determined to prosecute him, and have his revenge.

Gentlemen, this all goes in contradiction to the witnesses for the prosecution; for when questions were put to them by the prisoner's counsel, as to whether either of them said they would do the captain, they all strictly denied it.

The next witness is Captain Brown, of the Eliza, who was on the coast of Africa at the time the Apollo was there: he says, he commanded the Eliza; and that, when on the coast of Africa, the prisoner hailed him: he went on board, and the prisoner told him his life was in danger; he went forward, and asked the crew why they did not obey the captain; the crew said, they had obeyed him too long. The gunner said, the captain had snapped a pistol at him, and sooner than he would be used so, he would blow the ship up, as he had the key of the magazine. One of them said, "Damn him, why does not he go about his business? Why does he not stay on board his own ship? Throw him overboard." He says, he told them, if they did not return to their duty, he must bring his own ship alongside the Apollo, to compel them: upon which, two or three of them said, they had guns as well as he, and they should see who could last the longest. Gentlemen, this is the account given by Captain Brown, and, to be sure, the conduct of the crew was as near mutinous as could be. The gunner saying he had the key of the magazine, and would blow up the ship, and others saying we have as many guns, and we shall see

which shall last the longest, are pretty strong symptoms of mutiny on board ship.

Gentlemen, another witness is called, a Mr. D'Arcy, who is captain of a ship in which the prisoner sailed: in the course of the voyage, he says, the doctor died, and that the prisoner voluntarily took upon himself the management of the sick, and conducted himself with great humanity; and his general character, from his own observation, he believes to be that of a man of humanity.

Gentlemen, the greatest difficulty that you have to make up your minds upon is, whether the facts are truly represented by the witnesses. If you should be of opinion that they are, there is no doubt in the case; because, if the boy was ill treated by the captain in the manner they have described, the severities were such as must necessarily occasion death, and the prisoner must be guilty of the whole charge. I observe, the medical gentlemen who have formed their opinion from the evidence agree in the result, although one of them speaks only of the beating with the handspike as being the cause of his death, and the other attributes it to the general ill treatment the deceased received; but they concur in believing that the boy's being hung up by the heels for such a length of time as four hours could never have existed without producing death before or at the end of it; that is, what you would call instant death.

Upon the whole, it is for you to judge whether the witnesses examined on the part of the prosecution have given you a true and correct account of what passed on board relative to this lad: these facts are perfectly clear, that there was during the time the ship lay on the coast of Calabar something very like, if not an actual, mutiny, and that the crew were punished by the captain: and the only thing which now remains for you to consider is, whether you are satisfied that the account given by these men is a true account, and not exaggerated by any grudge. There are some little circumstances in which they are contradicted: you observe that questions have been put to them concerning their conduct at Montferrat, and the language which they held to one another, which

they have all denied ; but on the part of the prisoner, two persons have been called, who prove the conversation to have passed : one man particularly speaks to their consulting together at Betty French's ; and the other person, who was captain of a ship, says he was present at the door of the gaol at Montserrat, and heard part of a conversation between Scott and the other witnesses ; Scott saying to them, " If you say as I say, there is no fear but we'll do him." If these expressions really passed, they carry with them an appearance of ill-will towards the captain. You will likewise consider that Scott, the surgeon, never made this charge till he arrived at Montserrat, when it was his duty to have related the whole truth at Dominica, that being the first British port he arrived at, rather than to have done that which he did, namely, to give in the false mortality list. On the other hand, supposing them to be men who are not free from objection, and to whom all these arguments apply which I have stated to you in the course of the night, and that the prisoner was assailed in the manner he has related by a mutinous and rebellious crew, yet he is found to be in treaty with those men ; he is sending letters to them, when he knew they had been examined, and given depositions upon oath against him. We must say, if he is really innocent, it was extremely improper for a man in his situation to write to them, as the matter was about to undergo a judicial enquiry. I do not see how such conduct can be reconciled as consistent with perfect innocence ; for it appears improbable that any man should attempt to bribe a set of people to say what he knew to be the truth in his favour ; and if he had conducted himself properly in his situation as captain and commander, and knew that they acted out of revenge, because he had punished them for offences, he should patiently have awaited the investigation which he knew must take place. The answer he gives to this part of the case is, by stating that they made overtures to him, and he being an illiterate man, and knowing himself to be in the power of these people, he thought it would be the best thing he could do to comply with their demands, and prevail upon them to give evidence in his favour.

Gentlemen, if you are satisfied by the witnesses on the part of the prosecution (subject to the observations that I have made to you) that the ill treatment which this boy received was the cause of his death, undoubtedly, in point of law, it must amount to murder. On the other hand, if you think you are not treading upon good ground, and that the facts upon which the law must arise are not satisfactorily proved, in that case you must acquit him.

It was about nine o'clock when the Judge finished his charge; and the Jury immediately retired out of Court, and, after being absent SIX HOURS, they returned with a verdict of NOT GUILTY.

FINIS.