

The trial (at large) of James Hill; otherwise James Hind; otherwise, James Actzen: for feloniously, wilfully, and maliciously, setting fire to the rope-house, in His Majesty's dock-yard at Portsmouth. Tried at the Assize, at Winchester, on Thursday, March 6, 1777. Before the honorable Sir William Henry Ashurst, knt. ... and Sir Beaumont Hotham, knt. ... / Taken in short-hand ... by Joseph Gurney. And published by permission of the judges.

Contributors

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Wellcome Collection
183 Euston Road
London NW1 2BE UK
T +44 (0)20 7611 8722
E library@wellcomecollection.org
<https://wellcomecollection.org>

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

*of James Aitken, (commonly called John the Painter)
for setting fire to the Rope-House at Portsmouth.*

T H E G R A N D J U R Y.

The Right Hon. Lord Viscount PALMERSTON,

The Right Hon. HANS STANLEY,

SIR RICHARD WORSLEY, BARONET,

SIR HENRY PAULET ST. JOHN, KNT.

SIR WILLIAM BENETT, KNT.

SIR CHALENOR OGLE, KNT.

HENRY PENTON, ESQ.

JOSHUA IREMONGER, ESQ.

THOMAS SAMUEL JOLLIFFE, ESQ.

JAMES WORSLEY, ESQ.

CHARLES SPOONER, ESQ.

THOMAS RIDGE, ESQ.

PETER TAYLOR, ESQ.

CHARLES SAXTON, ESQ.

JOHN POLLEN, ESQ.

THOMAS GATEHOUSE, ESQ.

THOMAS SIDNEY, ESQ.

JAMES AMYATT, ESQ.

THOMAS SOUTH, ESQ.

HARRY HARMOOD, ESQ.

WILLIAM HARRIS, ESQ.

RICHARD BARGUS, ESQ.

PHILIP DEHENY, ESQ.

I N D I C T M E N T.

SOUTHAMPTON,

THE Jurors for our Lord the King, upon their oath, present that James Hill, otherwise James Hinde, otherwise James Aitken, late of Portsea, in the County of Southampton, labourer, on the 7th day of December, in the seventeenth year of the reign of our Sovereign Lord George the Third, now King of Great Britain, &c. with force and arms at Portsea aforesaid, in the county aforesaid, twenty tons weight of hemp of the value of 100*l.* ten cable-ropes, each thereof being in length one hundred fathoms, and in circumference three inches, and of the value of 80*l.* and six tons weight of cordage, of the value of 200*l.* the said hemp, cable-ropes and cordage, then and there, being naval stores of our said Lord the King, and then placed and deposited in a certain building in the dock-yard of our said Lord the King there situate, called the Rope-house, feloniously, wilfully and maliciously, did set on fire and burn, and cause and procure to be set on fire and burnt, against the form of the statute in such case lately made and provided, and against the peace of our said Lord the King, his crown and dignity.

B

And

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And the Jurors aforeaid, upon their oath aforeaid, do further present, that the said James Hill, otherwise James Hinde, otherwise James Aëtzen, on the said 7th day of December in the year aforeaid, with force and arms at Portsea aforeaid, in the county aforeaid, a certain building erected in the Dock-yard of our said Lord the King there situate, called the Rope-house, feloniously, wilfully and maliciously, did set on fire, and cause and procure to be set on fire, against the form of the statute in such case lately made and provided, and against the peace of our said Lord the King, his crown and dignity.

And the Jurors aforeaid, upon their oath aforeaid, do further present, that the said James Hill, otherwise James Hinde, otherwise James Aëtzen, on the said 7th day of December, in the year aforeaid, with force and arms at Portsea aforeaid, in the county aforeaid, a certain building of our said Lord the King there situate, in which great quantities of naval stores, that is to say, twenty tons weight of hemp, ten cable-ropes, and six tons weight of cordage, of our said Lord the King, were then placed and deposited, feloniously, wilfully and maliciously, did set on fire, and cause and procure to be set on fire, against the form of the statute in such case lately made and provided, and against the peace of our said Lord the King, his crown and dignity.

The Prisoner was arraigned upon the above Indictment, to which he pleaded Not Guilty, when the following persons were sworn

THE PETIT JURY.

Henry Lucas, of the Soke.
Richard Long, of the same.
Robert Mondy, of Thruxton.
John Cole, of Upelatford.
William Cole, of Longstock.
Richard Vokes, of Kingsworthy.

Rechab Thorne, of Itchin Stoke.
Samuel Maunder, of Hyde-street.
George Newsham, of Wickham.
John Kent, of Fareham.
John Berry, of the same.
Chales Cobb, of Gosport.

COUNSEL FOR THE CROWN.

Mr. Serjeant DAVY,
Mr. MANSFIELD,
Mr. MISSING,

Mr. BULLER,
Mr. FIELDING.

Mr. FIELDING.

MAY it please your Lordship, and Gentlemen of the Jury, this is an indictment against the prisoner at the bar for a crime of so atrocious and uncommon a nature, as to render it impossible to affix any epithet to the crime descriptive of its enormity. This is, gentlemen, the first instance of its existence, and I hope in God it will be the last. The indictment, you have perceived, already turns upon three counts: The prisoner at the bar is first charged for setting fire to a quantity of hemp and ropes particularly specified; the *second count* is for setting fire to a certain building erected in the Dock-yard, called the Rope-house; the *third count* is for firing his Majesty's naval stores. Gentlemen, the matter will be more fully opened to you by the learned and experienced gentleman who leads this business, and I doubt not but your verdict will be satisfactory to your country.

Mr.

MR. SERJEANT DAVY.

MAY it please your Lordship, and Gentlemen of the Jury, I am of counsel in this case for the King in the prosecution of the prisoner at the bar, who is described by the name of James Hill, otherwise James Hinde, otherwise James Aetzen, for setting fire to the Rope-house at Portsmouth Dock, belonging to the Crown, the place where cordage is made to supply the King's navy, and which crime is constituted a capital felony by an Act of Parliament made in the 12th year of his present Majesty, till when it had not entered the imagination of man that such a crime could be committed at all. It will be unnecessary for me to expatiate upon the nature of the offence; that has nothing to do with the prisoner at the bar, any more than as he was an agent in the commission of it; and it will be necessary for me, therefore, to mention to you only those particulars that we have to lay before you in evidence, by which to affix the crime upon the prisoner, and to submit to you, upon the consideration of those facts, whether he is or is not guilty of the charge in the indictment.

Upon the 7th of December in the afternoon (I believe about 4 o'clock) a dreadful fire broke out in the Rope-house at Portsmouth Dock, which I think was intirely consumed; it is an edifice of very great extent and magnitude indeed, (perhaps you may have seen it) and is consequently of great value, and it is exceeding lucky for the public that it did not happen at that time to contain so much cordage as at sometimes it had; that was not the only thing intended to be consumed that day, but fortunately that alone was consumed. Gentlemen, it is necessary to mention to you that the fire broke out at the easternmost part of the building; as soon as this misfortune had happened, all imaginable enquiry was made, in order to find out the cause of it, but all to no purpose, no fire or candle had been there, none ever is used there, particularly in the eastward part of the building; nobody could tell by what means it happened, and all enquiry was fruitless, and it would have passed as an accident, the causes of it unknown to this day, had it not been for a very extraordinary discovery, which was made upon the 15th of January, five or six weeks afterwards, which led to an enquiry, and which enquiry produced the most ample and clear discovery that ever was laid before a Court of Justice.

Upon the 15th of January, in the Hemp-house, which is another very large building, and which contains hemp of an infinite value, belonging to the Crown, there was discovered by Mr. Russell, and two others, in turning over some of the hemp for some purpose, something which shone a little and appeared bright; it appeared upon taking it up, that it was a sort of canister, which one at first sight imagined to be a tea canister; it was a machine which nobody could tell what to make of; upon looking a little further on the same spot, there was found a sort of box, containing combustibles of various kinds; there was oil of turpentine, there was hemp, there was tar; the moment that was seen, it struck them; and there could be no doubt in any mind upon that subject, that whoever placed that machine there, had an intention to set the place on fire; it was alarming, the men were struck with astonishment and wonder, looking at each other and at the instrument in their hands, and upon recollection determined to do the only thing fit to be done, to go to the Commissioner of the Dock and inform him of it, that the proper evidence of this matter might be laid before Government, and fit enquiry made into it; then it was, for the first time, clear and apparent to every one, that the fire, which had happened on the 7th of December in the Rope-house, had not been by accident, but design. Now, Gentlemen, let us endeavour to recollect every circumstance of that unhappy day—while it was thought to have been accident, nobody gave themselves the trouble to enquire or to recollect who they had seen, who was there, or who was not there; but from the instant that they resolved that this must have been the work of some devil, or that this was some human contrivance, that this was an act done on purpose, then it was fit to advert back to the subject, and to turn in their minds all the circumstances of that day; among others it occurred (for it was the talk of all the thousands in the Dock in five minutes, I suppose) that a man had been seen

upon the day of the fire, lurking very much about the Hemp-house and about the Rope-house; then it occurred, that a man had been locked into the Rope-house, and with some difficulty had got out again; then it occurred, that the person upon whom suspicion then fell, from several vague indefinite circumstances, was one whose surname was not known, but who was called John, and who was by business a painter, who had worked for a Mr. Goulding, a painter at Titchfield, at a gentleman's house in the neighbourhood, and that was the origin of the name given to him of *John the painter*.

John the painter then being the man upon whom suspicions strongly fell from several circumstances, none of which concluded directly and positively against him, but all of which led to extreme strong suspicions; and the circumstances that caused these suspicions, were put together in the form of an information, and laid before a magistrate, in order, if possible, to have this John the painter apprehended and further enquiry to be made. Upon this, there was an advertisement published in the papers, with a reward of 50*l.* for the apprehending John the painter, describing him as well as they were able, and his person and his dress were very sufficiently described by the people who had seen him before.

A very worthy Honourable Gentleman, whom I have in my eye, and who is a very great friend to the public, and in the strict and true sense of the word, a patriot, having seen this advertisement, very actively stirred himself in the business, and was very much the cause of the apprehending of this John the painter. John the painter was accordingly taken up, I believe, in this county, at Odiham; and you will be pleased to mark, that there was then found upon him, a loaded pistol, a pistol tinder-box, some matches, and a bottle of oil of turpentine; he was examined, but he had too much sense, he was too much guarded to make any considerable discovery upon the examination that he underwent before a magistrate, and had it not been for a circumstance, which I am now going to mention to you, it would be an extreme difficult matter to affix the crime upon this person at the bar, however satisfied one might have been in one's own private judgment of his guilt:

It happened that there was one of the same business, a painter, who had been as the prisoner likewise had, a painter in America; for this gentleman (the prisoner) has worked in America; he is an American, not by birth, for by birth he is a Scotchman, but he is an American, there he was settled, from thence he had lately come, and thither he meant to return. One of that business, and who likewise had worked as a painter in America, it was imagined might possibly know this John the painter, and therefore he was sent for to Sir John Fielding's in Bow-street, upon the 7th of February, in order to be shewn the prisoner, and to inform the magistrate whether he did or did not know him; that man being asked the question answered, that he did not know him, and to the best of his recollection had never seen him in all his life-time; there was an end, therefore, of that business; as that man had worked in the same place, for I think the prisoner had worked at Philadelphia too, it was very likely that he might have known him, but he happened not to know him at all; that person being dismissed from the room, where this examination, though I can hardly call it an examination, where this little matter had passed, and retiring to the other room where the prisoner was, the prisoner having been informed that this person, whose name is Baldwin, was an American and a painter, naturally enough beckoned to him and desired him to sit down by him. Baldwin sitting down by him, a conversation began between these people, touching their trade, and touching America and Philadelphia, that part of America in which they had lived, the distance of the place, a few names, and some general conversation; the place and occasion would not admit of a long conversation. The prisoner at the bar desired Baldwin to do him the favour of a visit at New Prison, Clerkenwell, where he was going, desired he would be so good as to call upon him, he should be glad to see him. Now, Gentlemen, here let me tell you, for fear I should forget it, that all this was the mere fruit and offspring of accident; this Baldwin was not set upon him, was not desired to obtain any confession from him, nor desired to make any acquaintance with him; but an intimacy passed between these people for several days afterwards, before any body concerned for the prosecution knew any thing of it. It is fit the world should know that. In consequence of this short conversation that passed at Sir John Fielding's, Baldwin went, as desired

fired by the prisoner, to visit him at Clerkenwell New Prison; when he was there, a conversation passed between them of no very great importance, it was only general, concerning persons and places, some of which both of them knew, some of which only one of them knew. The next day, Baldwin paid him another visit, for the prisoner liked his company, and it was a very lucky circumstance; it was indeed the providence of God that this man placed that fortunate (for fortunate I may call it for the public) confidence in this Baldwin, by which he afterwards made the ample discoveries that you will hear by and by. The prisoner told him after various visits, for he visited the prisoner at his own request almost every day for, I believe, near three weeks from that time, and it was not for many days, not until a full discovery was made, that Baldwin communicated the matter to any body, and when he did, he communicated it to an Honourable Person not at all connected with Government; he told him, among other things (I will descend to the particulars by and by, for a very striking reason which you will go with me in observing when I descend to them, he told him) that he had lately come from France, that he had been employed there by a gentleman, whom he was surprised that Baldwin did not know, as he was a man of so much note, and whose name had been so frequently in the news-papers, which was a Mr. Silas Deane; that Mr. Silas Deane was a very honourable gentleman, employed by the Congress in America, as well as another very honourable gentleman, a Dr. Franklin; that Mr. Silas Deane had employed him in the noble business in which he had been engaged; that his employment was to set fire to the several Dock-Yards, to destroy the navy of Great Britain; that he had undertaken that work, and that he was to have a pecuniary reward for it; that Mr. Silas Deane was his employer; that this was a noble act, this was a patriotic measure, this was what all patriots would exceedingly applaud, this was the right way to expose Government, this was the way to render Great Britain forever subject, by bending its neck to the yoke of America, this was the way by which we were to prosper; this great work was to be effected by his hand under the employment of Silas Deane, and that he did not at all doubt but that Dr. Franklin was likewise engaged in the same good work; he told him, he had taken Canterbury in the way from Dover; and now I am going to descend to some particulars, which I shall by and by have an occasion to repeat, in order to shew you that it is impossible (I will not change the word) that it is impossible but that Baldwin's account should be perfectly true; he told him, that in his return from Paris to England, he had landed at Dover, and so came through Canterbury; and at Canterbury he had engaged a man to make a tin-machine, which you will see by and by, somewhat resembling a tin canister, the purpose of which was, to act the part, if I may so say, of a lantern; that is, that a candle might be enclosed in it, and yet the candle perfectly be hid, so that no eye should see the light; that the man he employed to make this tin canister for him, was an awkward fellow, and set about it in a way that convinced him he was dull, and did not comprehend his meaning; but that his servant, a lad, had a much brighter genius than his master, and very well understood his directions; that he set about the work and he made the canister for him. Gentlemen, you will remember these particulars; he told him, that he had ordered two more at another shop, but had not time to stay for them; and so left them behind him, but this canister he took with him; he told him that when he came to Portsmouth, he took a lodging; I had forgot the wooden box; he told him that he likewise got made for him a wooden box; I told you that the use of the canister was to contain a candle hiding it; the use of the box was to contain the combustibles which were to be lighted by the match, in order to set the place on fire; the preparation and the ingredients of this you will have an account of. He told him he had taken a lodging at Portsmouth, at a Mrs. Boxell's, where he had made some preparations for the work of setting the place on fire; I should have told you in the conversation with regard to Canterbury, he told Baldwin likewise of a quarrel which he had had there with a dragoon, which had led to a fight of this canister under the flap of his coat; he said at Mrs. Boxell's he had made preparations in order to set the store-houses on fire; and he told him there the manner of his making this composition; that it was by grinding charcoal with water very fine upon a colour stone, such as painters use in grinding their paint, not with a pestle and mortar; that it was ground to an exceeding fine powder;

that it was then to be mixed with gunpowder: he then mentioned to him how it was to be diluted with water, and what proportions of the powder and the charcoal, and to what consistency it was to be mixed; and so this ended with the particulars of how this composition was made: the prisoner told him that in the afternoon of the 6th, the day before the fire, being in the Rope-house, he got a parcel of hemp and strewed the hemp about where he intended the match to be; that he laid a bottle of turpentine on its side, with hemp placed in the neck of the bottle instead of a cork; that he laid the match upon a piece of paper in which was some gunpowder, and over the gunpowder some hemp strewed very light; he told him that as soon as the match reached the gunpowder, it would fire the hemp, and he mentioned also his throwing a quart of turpentine about the hemp; all these particulars he told this man of the manner of setting it on fire; I should have told you that he said this Mrs. Boxell was impertinent, and turned him out of his lodgings; he told him a circumstance of his being shut in at the Rope-house; that he was so long in the place about this work that the time of shutting it up had arrived, and when he attempted to go out at the door at which he got in, he could not get out; that after having walked up and down without his shoes to avoid being heard, and endeavouring to get out quietly, finding all that impracticable, that he knocked, and cried out hollow! upon which a person came to the door and asked who is there? that the person directed him to go straight forward, and possibly he would find a door open; however, he did happen to get out: he mentioned also the circumstance of his calling to a person on the outside, under apprehensions of his being shut in; he likewise told his acquaintance Mr. Baldwin, that he had been before on the same day in the Hemp-house; it was the Rope-house you observe that was set on fire; that in the Hemp-house he had laid the tin canister which he had got made: you will be pleased to observe he did not effect the fire in the Rope-house by means of the tin canister; I have told you already how he effected that, but the tin canister he got made at Canterbury was laid in the Hemp-house, which was not set on fire, for by the providence of God, the matches which had been lighted had luckily gone out; that there he had likewise laid a square box, in which square box there was room to put a candle; that he had put into the box tar and turpentine, and hemp and other combustibles; these things he said he placed in the Hemp-house; that making all this preparation, and doing this in the Hemp-house, had taken up a great deal of time; that he was so much heated, though in the month of December, that he had pulled off his coat which he could not find for some time; that when he found it, there was a good deal of hemp sticking to it, which he picked off as well as he could; he said the next day he went into the Hemp-house, in order to set it on fire; the candle was placed in the wooden box, and within this tin machine; and he mentioned to him this circumstance likewise, that he had bought some matches for the purpose of lighting it of a woman at Portsmouth, which he supposed were damp, because he could not make them catch fire, in order to light the candle; so you see the saving of the Hemp-house from destruction that day, was, because the matches were not so well made, or being well made, had been so long made that the wood was not dry enough, and would not catch fire, so as to enable him to light the candle; for if the candle had been lighted, the Hemp-house must infallibly have been burnt; then, he says, that not being able to set that on fire, he got some matches of a better sort, and then returned to the Rope-house; that there he placed himself in such a way, as that no body could see it; when he struck a light, that he lighted the match, and every thing being prepared he went away, leaving that to be burnt, very much vexed that he was not able to set the Hemp-house also on fire; that he set out as fast as he could from Portsmouth; that just after his leaving the town he overtook a woman in a cart; that he got her leave to get into her cart, for the sake of expediting his journey; that he gave her 6d. in order to make haste with him; that he then hastened to London as fast as he could. Another circumstance, likewise, he mentioned; that, besides the lodging which he took of Mrs. Boxell, he took another of a woman on Portsmouth Common; the pious man mentioned something to be done to the poor woman of whom he took the lodgings; they had a very fortunate escape too, for his intention was to set those lodgings on fire, in order to engage the engines, that they might not assist to extinguish the fire in the Dock-yard; but by good luck that did not succeed neither: burning a house was nothing to him; he told Baldwin a circumstance of his leaving a
bundle

bundle at the lodging on the Common; he said, that he had come away from Portsmouth in so great a hurry, that he had not time to go there for it, and that bundle, he said, contained three books, the titles of which he mentioned; there was an English translation of Justin, another of Ovid's *Metamorphoses*, and there was a *Treatise of the Art of War and of making Fire Works*, or something of that sort, and likewise a pair of breeches, a pair of buckles, and a French passport; all these things, he said, were in his bundle, which he had left with the woman, at his lodgings at Portsmouth Common; now all these particulars he told to Baldwin. I mentioned to you just now, Gentlemen, that it would come out in the course of this cause, that it was impossible for Baldwin to have invented this story; but that it must be, that the prisoner had told it to Baldwin: now I will tell you why I said so; Baldwin having made a discovery of these conversations, that he had held with this man, to the effect I have mentioned, then it was that an enquiry was made into these particulars; for that led to all the discoveries, of which you shall now have an account, and which will be proved to you in evidence. In the first place, I will mention to you, not in the order of time in which the discoveries came out, but in the order of time in which I have mentioned the transactions themselves to have happened: having told the story to this Baldwin of what had passed at Canterbury and the other places, messengers were sent to all these places to find out the people referred to, and to see whether these several accounts were true or no; upon enquiry, they found out the persons who made these tin canisters, not only the persons that made the tin canisters by his directions, which he had left upon their hands, not having time to stay for them; but we found out the very person who made the tin canister that was left in the Hemp-house, in order to set it on fire; you will see the very boy who made this, and he confirms exactly the account as related by Baldwin; that his master having first been employed to do this work, and not rightly understanding the instructions he received, that the boy understanding them, made the canister, and the boy will swear, that the very canister now to be produced at your bar, and which was found in the Hemp-house, he made for the prisoner. The story of his quarrel with a dragoon at Canterbury, will be confirmed by the dragoon who quarreled with him; the stripping off, or taking up the lappet of his coat, and the seeing the canister under it at that time. The making of the wooden box will be proved; the witness swearing to the identity of the person, by whose order it was made. Mrs. Boxell will be produced to you; she will tell you, that this very prisoner at the bar, came to her house to take a lodging, the day, I think, before the fire happened; that, afterwards, observing a strange sulphureous smell in the lodging, she went about, inside and outside of the house, and could not guess from whence it came; that the next morning, there was the like smell; she then traced it to the very room that the prisoner had taken to lodge in; she found him at work, in preparing combustibles, and there was a stench of gunpowder, or nitre, or whatever it was, which I mentioned to you just now from the account he gave to Baldwin, how he had prepared this; we will produce to you the person, upon whose colour-stone the prisoner ground the very charcoal, and who saw the prisoner grinding the charcoal. Gentlemen, we will prove the circumstance, I mentioned to you, of the Rope-house being shut, and the prisoner being shut in; we will prove by the recollection of the people in the Rope-yard, that there was a man exactly in the circumstances that he describes himself to Baldwin to have been in, making a noise; asking the witness how he could get out, and his giving him the best directions he could, leaving him there speaking to the watchman, the watchman saying, he must stay there all night, the hour of call being over; but perfectly recollecting the circumstances in the way, in which he himself described them. Gentlemen, we will likewise produce, it is marvellous that we are able to do it; but it is owing to the great vigilance and care of the noble person who was at the head of this enquiry, and who has spared no pains, in order to investigate every circumstance as far as possible; though one should not have supposed, that any human enquiry could have reached such circumstances as these; but we will produce to you the very woman that he bought the matches of; she saw him yesterday, and she will tell you, that that man at the bar, and she noted him particularly, because he was not such sort of a man as usually come upon these errands; he came to her shop the day before the fire to buy a bundle of matches; that he asked her whether they would light quick, rejecting one bundle and choosing another; she remembers his taking out a handful of silver, and having but one halfpenny, she remembers that particularly;

particularity; the man being dressed so particular, and unlike persons that call upon such errands, struck her observation, and she will swear to the identity of the person. There is yet, behind, one more circumstance, that places it beyond the possibility of suspicion; the bundle that I told you of, could not be found; for Mrs. Boxell, where he actually did lodge, nor any body there, could hear of any other lodging that he had taken; she remembered that she had seen such a bundle, that the prisoner had with him the first day; but what was become of the bundle, and where he had left it, or whether he took it away with him, God Almighty knew! nobody could give an account. At last, after great search and enquiry, the bundle was found in the possession of another woman, whose lodgings he had taken, and who had no suspicion about what the man was; she wondered that he had not returned, and kept the bundle unopened, expecting him to call every day for it. Upon opening the bundle, there were the very things he had described; an English Justin, Ovid's Metamorphoses, a Treatise on the Art of War and of making fire works, and there was this person's passport from the French Government; all these things were found just exactly as he had described them to Mr. Baldwin; and you will have likewise an account, that in that bundle are a pair of buckles, belonging to the prisoner, whom a witness will be produced to you to prove that he has seen, as far as he can remember, that pair of buckles in the shoes of the prisoner. Gentlemen, there is yet one more circumstance; you will have the woman that took him up in her cart, and she will swear to the very man, to the bringing him two miles in her cart, and while they were just at parting the blaze of the fire at the Rope-house burst out. Now, when you have all these circumstances proved to you in evidence, will not you say that I was well warranted in insisting that it was impossible for Mr. Baldwin to have invented this story? for these discoveries were made in consequence of Baldwin's relation; not that Baldwin's relation was after the discoveries, for it was the relation of Baldwin from the mouth of the prisoner that led to a discovery of all the particulars which I have now mentioned to you; the tenth part of these circumstances, which I have opened, would serve, I should think, to decide the fate of any man standing in the prisoner's situation; but it is the wish of the public, it is the wish of Government, that all the world should know the infamy of this transaction, and that they should know to whom they are indebted for the sorrows they have felt, and how much they owe to the providence of God, that America has not been able totally to destroy this country, and to make it bow its neck, not only to the yoke of America, but to the most petty sovereign in Europe; for let the English navy be destroyed, and here was a hand ready to effect it; let but the English navy be destroyed, and there is an end of all we hold dear and valuable; the importance of the subject, the magnitude, the extraordinary nature of the thing calls for a more particular investigation, than any other subject of what kind soever could demand; and therefore I need, I hope, make no apology for having descended so particularly into these minute, if any of them can be called minute, particulars of this story; we shall prove all these circumstances to the full, and surely there can be no doubt what shall be done with the man. I shall be glad to hear what he has to say for himself, and I shall be glad if he is able to lay this guilt at any body's door besides those to whom he has laid it. I wish Mr. Silas Deane were here, a time may come, perhaps, when he and Dr. Franklin may be here.

Prisoner. He is the honestest man in the world.

JAMES RUSSELL sworn against.

Q. You are, I believe, employed in Portsmouth-Dock?

Russell. I am.

Q. In what capacity?

Russell. I am clerk to the clerk of the Rope-Yard.

Q. Do you remember the day when the Rope-House was set on fire?

Russell. Yes, it was on Saturday the 7th day of December; the fire was first perceived at half after four in the afternoon.

Q. Was the Rope-House consumed by that fire?

Russell. Yes, entirely.

Q. What was in the Rope-House that was burnt?

Russell. Some hemp-toppings which were in the middle loft of the Hemp-House.

Q. Was there any thing else that was burnt?

Russell. Some cordage on the ground floor.

Q. It is the place where cordage and hemp usually are kept?

Russell. Yes.

Q. And there were some there at that time which was burnt?

Russell. It was.

Q. Did you at any time find any thing particular in the Hemp-House at Portsmouth?

Russell. Yes, on the 15th of January I found a tin case in the Hemp-House. [The witness is shown a tin case or canister.] This appears to be the tin case that I took up in the Hemp-House; there is a piece of wood hollowed out, which is inside it, and a thin piece of wood nailed at the top of it; there are matches, and tar, and oil, and other combustibles. I have no doubt but this is the tin case; this box goes into it; they were separate when I found them.

Q. What did you find else besides these two things?

Russell. A bottle, which appeared by the smell to have held spirits of turpentine, or something of that quality; and there were some common wooden matches, such as are generally sold at chandler's shops, which I found lying in the Hemp-House just by this tin canister.

Q. Whereabout in the Hemp-House?

Russell. In the centre of the mow of hemp there were some bundles of refused hemp. There is certain hemp which is refused, which is not according to the contract, which is put by and is returned to the merchant; this was behind those bundles of hemp which were then in the very centre of the mow behind several other bundles.

Q. Were these things easy to be discovered, or were they concealed?

Russell. They had the appearance of concealment.

Q. Could they be discovered without removing those bundles of hemp, behind which they were put?

Russell. Not conveniently. There was a passage that went up at the end of the bundles of this hemp, and a person probably might have discovered it. At the ends of the bundle of hemp, there is a little passage; a person might have gone up to the upper end of it and have discovered this, if he had had any apprehensions of such a thing.

Q. Was there any loose hemp near it?

Russell. Yes, what we call *dunnage*; that is the refuse of the hemp which we generally lay at the bottom of the hemp to preserve it from any moisture that may arise from the foundation; those combustibles were laid upon that; there was also some brown paper; when we found all these parts of the machine they were put together, and then made the appearance of a dark lantern; there was some brown paper laid near it, which appeared to have been tared; when this thing was all united we put it upon the paper that was tarred, and the paper seemed as if it had been round this tin case; it seemed as if it had been thrown over the bundle, and by striking against the mow of hemp, the parts had separated; that was the idea that I formed of the matter.

Q. Then you communicated it to the proper officer at the Dock-Yard?

D

Russell.

Russell. I did.

Q. Were these things found in such a place, that if a fire had arisen in consequence of them, the Hemp-House and the hemp in it must probably have been consumed?

Russell. Undoubtedly.

Q. That Hemp-House, I suppose, from its name, is the place where the hemp belonging to the Dock is kept?

Russell. Yes, the ground floor upon which this tin case was found was full of hemp, and this was the situation of the machine; it could not have been thrown in at a venture. The construction that I put upon it was, That it must have been thrown over the bundles of refused hemp, for they were as high as my head, and therefore it is possible, and I apprehend that was the case, that it was thrown against the mow from which it rebounded and separated.

Court. Prisoner, I would once for all, without repeating it to you after every witness is called, inform you, That you are at liberty to ask any witness what questions you think fit, after the examination is gone through by the Crown. You know best your own defence.

WILLIAM TENCH *sworn.*

Q. Did you ever see the prisoner?

Tench. I have.

Q. Where?

Tench. At my master's house just without Westgate, Canterbury.

Q. Did you make any tin thing for him?

Tench. Yes. I did.

Q. Look at that, and tell us whether that is the thing that you made for him?

Tench. Yes, this is the machine.

Q. When was it you made it for him?

Tench. About a month or six weeks before Christmas.

Q. When was the first time since that, that any enquiry was made of you about making this canister?

Tench. On the Monday before last.

Prisoner. You say you made this canister for me, a month or six weeks ago?

Tench. No; a month or six weeks before Christmas.

Prisoner. How do you know the canister?

Tench. I know it by the seam.

Prisoner. I saw a canister a few days ago with the same seam as that; how can you know one seam from another?

Tench. Because this is so very bad foddered; I took particular notice of it when you came to me about it.

Prisoner. Can you swear to the fodder?

Tench. Yes.

Prisoner. How do you know me; by my face, or dress, or voice, or what?

Tench. I know you are the very man that came to me about it. I know you by your person, by your hair, and by your cloaths that you have on now.

Prisoner. What particular garment?

Tench. You had on the same coat you have now.

Prisoner. This coat? (*his great coat.*)

Tench. No; not your great coat, the other, or near upon such a colour.

Prisoner. On what particular day did you make this tin canister?

Tench. I really cannot tell.

Prisoner. Was it so much as six weeks before Christmas?

Tench. That is as nigh as I can tell.

Prisoner. Was it more or less do you think?

Tench. I really cannot tell.

Prisoner. I think he ought to recollect whether it is more or less than six weeks before Christmas.

ELIZABETH

ELIZABETH BOXELL sworn.

Q. Have you ever seen the prisoner at the bar before?

Boxell. I have.

Q. When did you see him?

Boxell. The day before the yard was on fire, at my house.

Q. Where is your house?

Boxell. At No. 16, Barrack street, Portsmouth; he came to me for a lodging.

Q. Did he lodge at your house?

Boxell. One night.

Q. What night was that?

Boxell. The night before the fire happened.

Q. Did you observe any thing particular relating to him, or the room he lodged in?

Boxell. I observed a very sulphureous smell on the Friday, and on the Saturday.

Q. That was when he first came to your house?

Boxell. Yes, on the morning of the Saturday, my house was in a very great smell and smoke; I went up stairs and pushed open the door, and I could not see my hand before me, because of the smoke; there was a sulphureous smell in the room and the grate; I asked him what he was about, whether he was going to set my house on fire? He asked me what I was afraid of? I said I was afraid he was going to set my house on fire, for fire was a thing I much dreaded; he asked me if I had ever suffered by fire? I said no, God forbid I ever should, for fire was very dreadful to me; I was much afraid of fire.

Q. Did you observe what occasioned the smoke in the room?

Boxell. As I was making the bed, I turned round and saw he had been burning something on the hob by the fire-place.

Q. Did you observe any thing else in the room?

Boxell. He had a lighted candle on Saturday morning; he had had a little bit of candle carried up stairs in a candlestick for him, but the candle that I took from him in the room, was not the same candle that I carried up stairs for him, for it was about half an eight candle; he had something in a chair which he was doing something with, but I could not tell what it was. I carried the candle down stairs, and went up again immediately, as fast as possible; I opened the window a little before I went down; when I came up again he had shut it; I said I would not have my window shut by him or any other man, that if I chose to have it open it should be open.

Q. Did you observe any thing else, at any other time when you was in the room?

Boxell. On the Friday when he came out of the room, I went up; I saw his bundle; I went to carry it to one of the neighbours to wash; when I opened it, I saw part of an old shirt, a pair of leather breeches, a top of a tin case; I viewed the tin case a quarter of an hour to be sure.

Q. Look at that tin case?

Boxell. I viewed it from this part (pointing out a particular part of the machine) I think this is the same canister, it is as much like it as one thing can possibly be like another; I really believe it to be the same.

Q. You say you had some dispute with him about filling your room with smoke. Did you tell him he should go away from your house?

Boxell. I ordered him out of my house; he said it was hard he could not be permitted to put his things up; I told him no, he should quit the room; he then said that the candle I carried down in the candlestick was his, and that he wanted it; I told him he might take it as he went down stairs; this was on Saturday morning between nine and ten, then he left my house, and he never returned again.

Court. What became of the bundle?

Boxell. He carried the bundle in his left hand, and I saw him into High street, for I got into the middle of the road and watched him; I never saw him afterwards.

Q. Do you know whether the canister was in the bundle when he took it?

Boxell. I cannot say; I saw the canister on Friday, I did not see it on Saturday.

JAMES GAMBIE, Esq; *sworn.*

Mr. Gambier. I have here the bundle that has been spoken of by the witness; I received it from my first clerk John Jeffereys; it has been in my possession ever since; it is exactly in the same state now as when I received it; I received it on the 21st of February in the morning, about 9 o'clock.

Eliz. Boxell. I believe that to be the bundle; it is tied up in an handkerchief of the same pattern.

JOHN JEFFEREYS *sworn.*

Q. Do you know that bundle?

Jeffereys. That is the handkerchief, I believe; indeed I have no doubt of it; Commissioner Gambier gave orders on the evening of Thursday the 20th of February for search to be made in North-street and the neighbourhood, for such a bundle.

Q. Where did you go to make that search?

Jeffereys. I ordered a junior clerk, and a messenger of the office to make that search in North-street and its neighbourhood; they came back in about an hour's time, and told me they had searched that street except a few houses, in one of which particularly the person was not at home; I went next morning, and found this bundle at Mrs. Cole's, in North-street; I delivered it to Mr. Gambier.

ANN COLE *sworn.*

Q. Look at the prisoner, do you know him?

Cole. I do.

Q. When did you see him?

Cole. On the day of the fire.

Q. Where did you see him?

Cole. At my house in North-street, on Portsmouth Common.

Q. What was the occasion of his coming to your house?

Cole. To take a lodging; he took one.

Q. Did he leave any thing when he went away?

Cole. He left a bundle.

Q. Is that the bundle?

Cole. It looks like it.

Q. What became of that bundle?

Cole. I delivered it to Mr. Jeffereys and Mr. Calden.

Q. Had you kept the bundle from the time the prisoner left it with you, till you gave it to these gentlemen?

Cole. I had.

Q. How long did the prisoner stay in your house?

Cole. A quarter of an hour, not more.

Q. What time of the day was that?

Cole. In the forenoon, I can't exactly tell the hour; it was between nine and twelve; he staid about a quarter of an hour, then he went out.

Q. Did he return again?

Cole. No.

Q. Did you open that bundle?

Cole. It was not tied close, and I saw it a little way open.

Q. What did you see in the bundle?

Cole. I saw some books and other things; I did not untie it, I delivered it to these gentlemen when they came for it.

Q. You took nothing out, nor put any thing in?

Cole. No.

Prisoner. My Lord, I beg Mrs. Boxell may stop.

WILLIAM ABRAM *sworn.*

Q. What are you?

Abram. A blacksmith.

Q. Where

Q. Where do you live?

Abram. At Portsmouth.

Q. Did you ever see the prisoner before?

Abram. Yes, he lodged in the same room with me.

Q. At whose house?

Abram. At Mrs. Boxell's, in Barrack street.

Q. Had you any particular conversation with the prisoner?

Abram. At first he asked me whether there was any pressing; I told him yes, they press'd very hot; that the constables had press warrants, to take up all the people that could not give an account of themselves; says he, suppose they were to take up such a man as me, I can give no account of myself, only by the writings I have in my pocket; he asked me if I thought if he was to get into the Justice's hands, there was no way of escaping; I said no, there were gates and walls all round; and if he was not taken in Portsmouth town, he would be taken at the bridge; he said was there no way of getting over those walls? I said no, there is water on the other side; he then said again, is there no getting over those walls? I said no.

Prisoner. Was any other thing said?

Abram. Yes, he said he knew one Brooks who was in Newgate; and he was certain sure he would be hanged.

Prisoner. At what time was that?

Abram. I cannot justly say.

Prisoner. Where was it said?

Abram. At Mrs. Boxell's.

Prisoner. In what part of the house?

Abram. The lower room; Mrs. Boxell heard the words as well as me.

Counsel for the Crown. Look at these buckles which were in the parcel?

Abram. There are a great many buckles alike, they are such sort of buckles that the prisoner had, they are the same pattern.

JOHN BALDWIN sworn.

Prisoner. I can't embrace you now, Mr. Baldwin, as I did last Monday sen'night.

Q. Look at the prisoner at the bar, when did you first see him?

Baldwin. The 7th February.

Q. Where did you then see him?

Baldwin. At Sir John Fielding's; Lord Temple sent his servant to me on the 6th of February, to inform me, that I should be sent for by Sir John Fielding, in order to give evidence against a person whom they looked upon to be a painter that had come from America, my Lord knowing that I had been in America.

Q. Was you sent for under an imagination that you might know the prisoner at the bar, having been in America and a painter there?

Baldwin. Yes, I have been in America, at New-York, at Philadelphia, and Amboy.

Q. Are you a painter by business?

Baldwin. I am.

Q. Upon the recommendation of Lord Temple then you went to Sir John Fielding's.

Baldwin. I did; I was asked whether I knew the prisoner; I told Sir John that I had never known him to the best of my memory and remembrance; nor never seen him till I saw him in the other room.

Q. The prisoner heard you say that?

Baldwin. He did; he made me a bow as he stood at the bar, as soon as I had given my evidence to Sir John; I saw him afterwards in another room.

Q. What passed in that other room?

Baldwin. I went to sign my name to the deposition I had made; as I was going away the prisoner beckoned to me with his head; I went and sat down by him; he asked me what part of America I had been in, and who I knew there; I mentioned Philadelphia; he asked me if I knew any printers there; I said I did many; who did I know there? I mentioned several; he said I see that you know the place very well; you are not like evidences that have been brought against me; there was one person said he knew me, but I had changed the colour of my hair; did they imagine that I

was aameleon? there was another person said I was transported from Gloucester gaol; but, said he, you are a gentleman, and I wish it was in my power to make you a satisfaction; he told me he would be very glad to see me at a place called New Prison; I said I would come there whenever he pleased, if I could get admission; he said I don't know what time I shall be discharged from here, but if you will come between three and four, I dare say you will see me; I went to New Prison about four o'clock, I saw the prisoner there, he and I walked together; we adjourned to a corner by ourselves between the two gates; he disclosed a great deal about America, mentioning gentlemen's names in America that he knew; and he beg'd I would call upon him the next day when it suited me; I went and acquainted my Lord Temple of what information I had got from the prisoner; my Lord Temple said he thought it was very material, and thought it proper that Lord George Germain should be acquainted with it; he wrote a line, I carried the letter and was introduced to Lord George Germain; his Lordship said he was of the same opinion as Lord Temple; and that it should be taken care that I should have admission to see the prisoner, in order to bring him to a confession if possible; I waited upon the prisoner the next day, and we had discourse again about America as before; he found by my discourse that I was an American by principle; he asked me what countryman I was; I said a Welchman; he said he thought at first seeing me he saw in my face that I was a person interested in the cause of America; I told him I married at Amboy, that we removed to Philadelphia and there lived, where I had a son; that that son I had now in London.

2. However you need not mention every particular; you entered into general conversation, being both of the same trade and of the same country.

Prisoner. I desire the witness will speak every particular, as I am interested in it.

Counsel for the crown. Be it so by all means, go on then.

Baldwin. I mentioned to him about my family, that I had my son with me now in London; he was desirous to see him; I told him my wife was very much indisposed, which he said he was sorry for; I waited upon him from day to day, till the 15th February; on that day he told me all the particulars; he asked me if I knew one Mr. Deane? I told him no; he said, not Mr. Deane who is employed by the Congress at Paris?

Prisoner. I remark to the witness that there is a righteous Judge, who also giveth righteous judgment; beware of what you say concerning that Mr. Deane, perjure not yourself, you are in the sight of God, and all this company is.

Baldwin. The prisoner said, what not Silas Deane? I told him no; he said he is a fine clever fellow, and I believe Benjamin Franklin is employed in the same errand; he said that he had taken a view of most of the dock-yards and fortifications throughout England, and particularly the number of guns that each ship in the navy had, and likewise the guns in the fortifications, the weight of their metal, and the number of men; and he had been at Paris two or three times, to inform Mr. Silas Deane of the particulars of what he found in examining the dock yards.

Prisoner. Consider in the sight of God what you say concerning Silas Deane.

Counsel for the Crown. You need not be afraid, Silas Deane is not here, he will be hanged in due time.

Prisoner. I hope not, he is a very honest man.

Baldwin. He said that Silas Deane was greatly pleased with what he had done; he acquainted Silas Deane in what manner he was to set the rope-houses and the shipping on fire in England; that Silas Deane was amazed that he should undertake by himself to execute a matter of that kind, but he told Silas Deane, that he would do more execution than he could imagine, or any person upon the earth; that then Silas Deane asked him what money he wanted to carry his scheme into execution? he told him not much; he expected to be rewarded according to his merit; that then Silas Deane gave him bills to the amount of 300*l.* and letters to a great merchant or a greatman in the city of London. He was very anxious to know whether Lord Cornwallis had been defeated between Brunswick and Trenton, in the Jerseys. He said that he knew Gen. Washington personally, he believed that Gen. Washington's abilities were greater than those of Gen. Howe, and that Gen. Washington would watch Gen. Howe's motions, and would harass him; he was assured that the Provincials would conquer this winter; that the grand campaign was to be in the summer; that Gen.

Washington

Washington only wanted a few experienced officers, which he believed would be supplied from France; and Silas Deane was appointed for that purpose at Paris, to supply them with ammunition and stores; but as for cannon balls, he said, they could procure a sufficiency to serve all Europe, in America at a place near Annapolis in Maryland; that he himself had seen likewise pitch, tar and turpentine. This was what passed in the course of a great number of visits. I waited upon him from the 7th of Nov. to the 24th. I never missed but one day, and was with him twice on most days.

Prisoner. Remember that this witness says he was with me twice most days.

Baldwin. The prisoner said he arrived at Dover, from Paris, and went to Canterbury; that he went into a shop, and spoke for a machine to be made.

Prisoner. At what particular place did I call in my way from Canterbury? I must have called at some particular place.

Baldwin. He said he went into a shop, and ordered a tin machine to be made, which was by some people called a canister; he said the master was a stupid fellow, and did not understand his directions, but that the boy seemed to be more ingenious and understood it, but he was obliged to stand by the boy while he was making of it to instruct him, and he gave him something to get some drink for his pains; that then he went into a publick-house, with the canister under the breast of his coat; that a Dragoon saw something under his coat, and opened his coat to see what was under it, and said, which of them are you for? The Prisoner asked, what do you mean? He said, whether you are a Barber or a Taylor? The Prisoner said, that was no business to him, and called him an impudent fellow, and told him that he did not mind him, nor none of his Master's men; he said there was another soldier in the room, who was a civil man, and he drank with him; that he went from thence to Portsmouth, where he took a lodging at one Mrs. Boxell's.

Q. All this is the account that he gave you?

Baldwin. Yes; in all the conversations, as near as I recollect, word for word. He said at Mrs. Boxell's he tried his preparations, which were matches that he had made, by doubling a sheet of whitish paper into ten or twelve folds; that then the paper was unfolded, in order to be done over with a composition made of charcoal and gunpowder; he said, if the paper was not doubled before the composition was laid on it would cause it to crack; that the charcoal must be ground very fine, upon a colour-stone, in the same manner as painters grind their colours; but the gunpowder did not require much grinding, he said; that that might be mashed with a knife, in the same manner as painters mix vermilion: but, he said, they must be very particular in mixing these two bodies together; that the charcoal is ground in water, and then mixed to the consistence of new milk, and then with a small brush the paper must be painted over on both sides with this composition; he said, that he had managed the matter so well, that one match would last twenty-four hours. He said, he lodged at Mrs. Boxell's one night, and that Mrs. Boxell was a very impudent woman, for she had opened his bundle during his absence; he told me, that this tin machine was a very curious construction of his own invention, and that he had a wooden box made which had a hole in the centre, in order to put a candle in, and in that box was tar, turpentine, and hemp; that the tin canister fitted this wooden box so well, that when the candle was put into it no person could perceive any light. He said, that on the 6th of December he went into Portsmouth Yard, and got into the Hemp-house; that there was a deal of hemp there, and it was matted so together that he could hardly get it apart; he pulled his coat off, and then, after lightening the hemp, he placed this canister over the box, with a small candle in it; that he sprinkled some turpentine about the hemp that was round it; that he was some time before he found his coat afterwards, and, when he found it, there was a deal of hemp sticking about it, which he endeavoured to take off; that he then went out of the Hemp-house, and got into the Rope-house, and in the Rope-house he placed a quart bottle of spirits of turpentine upon its side, stopped with hemp instead of a cork, and close to the hemp he laid a piece of paper, and in this paper was some dry gunpowder.

Prisoner. Did I go strait out of the Hemp-house into the Rope-house?

Court.

Court. You had better wait till he has gone through his evidence, and then you may ask what questions you please.

Baldwin. To this gunpowder there was one of these matches, and over the powder he laid some hemp strewed very light, likewise a quart of turpentine strewed all about; that as soon as the fire of the match touched the powder, it would set it all immediately on a blaze. He said, that by cutting this match which he had made, into short pieces, it would answer any time that he pleased, in order to make his escape; that the next day, which was the 7th of December, he went from Mrs. Boxell's, and took two other lodgings, one was at a publick-house, and the other at a private house, on the Common, he said in the North-street; that he took particular notice before he took these lodgings which houses had most wood about them, for he had his combustibles ready for the purpose of setting his two lodgings on fire on the same day as he set fire to the Rope-house, in order to keep the engines from playing upon the buildings in the Dock-yard; he said, that he told the woman at the lodging which he took on the Common, that he was going to Petersfield, and begged her to take care of his bundle; he said, after that he went into the Dock-yard in order to set fire to both the Hemp-house and the Rope-house; that he first went into the Hemp-house, and struck a light, but the matches which he had were very damp, and he could not get the sulphur to take fire; that he wasted a whole box full of tinder in order to light the candle, and even blowed at the tinder till he had almost burnt his lips; that he went away from the Hemp-house, and procured some better matches; that then he got into the Rope-house, and set fire to the match which led to the powder.

Q. Did he say any thing about buying of the matches?

Baldwin. He said he had bought an halfpenny worth of matches the day before of a woman.—My Lord, there is one matter I forgot: he said, the day that he put his preparations into the Hemp-house and Rope-house, he was so long in the Hemp-house that he was locked into the Rope-house; that when he came to the door which he went in at, he could not get out; he said there were several doors belonging to this building, that he tried many of them, and went the whole length of the building, which was upwards of three hundred and sixty yards. He then went up stairs, pulled off his shoes, and went the whole length there, and could find no possible means to get out, upon which he returned, and got to the same door that he came in at; there he heard some persons voice, upon which he knocked at the door, and said, holloa! They asked, who was there, and what business he had there? He said, it was curiosity that had led him there, that he did not imagine they had locked up the house so soon; he said, the person told him to go strait forwards, and turn to such a door, and he would be able to get out, which he did; he said, when he came out he was very vexed with himself that he could not set the Hemp-house on fire, and was also vexed because he could not go to this lodging at Portsmouth Common, where he had left a parcel, which parcel contained, among other things, a pistol, Ovid's Metamorphoses, the Arts and Dangers of War, or something of that sort, and a Justin; but what vexed him most was a passport that he had left which was signed by the French King, and in that passport was his real name, but it was in French, and he did not imagine that the people at the lodgings could read or understand it, but, he said, he was greatly amazed that they had not found the bundle; he said, he imagined they intended to make a property of him, or otherwise he thought it would be best to take no notice of it, but let it lay; after setting fire to the Rope-house he made the best of his way towards London; he said, that he was so sorry that he could not get the matches to light in the Hemp-house, that he had a good mind to go and shoot at the windows of the woman's house where he had bought them; he said, that he had burnt the bills and the letter which he had from Silas Deane, on account of the behaviour of Mrs. Boxell, and to prevent any suspicion of the gentlemen that they were for; he said, that soon after he left the Dock-yard he jumped into a cart, and begged of the woman to drive quick: that he rode in this cart two miles, and then gave the woman sixpence for driving quick, for he had near four miles to go before he passed the sentries; that a few minutes after he had passed the sentries he looked back, and saw the flames; he said, the very element seemed to be in a blaze; that he walked all night on his way for London; that upon the road between the last sentry and Kingston two dogs barked at him very much; he said, he shot at them, and believed he either
killed

killed or wounded one; that he arrived at Kingston the next morning, which was Sunday, between ten and eleven o'clock; that he staid there till pretty near dusk, and then came in the stage to London, and waited upon this great man in the City of London; he said, he told the gentleman that he had had letters and bills about him that he had received from Silas Deane at Paris, which he was obliged to burn; that the gentleman seemed to be very shy of him, and told him, he had received no account from Paris; he said, he told the gentleman he might think what he pleased, but he was an enemy to Great-Britain, and a friend to America; and that he had set fire to the Rope-house at Portsmouth, which he would see in the papers of Monday; he said the gentleman ordered him to a certain coffee-house.

Court. I suppose, by your repeating the word gentleman so often, he did not mention his name?

Baldwin. No, I could not get his name from him; I wish I had. He said, the gentleman waited upon him at the coffee-house, where they had some little discourse, but the gentleman seemed still to be shy of him; he said, there was another gentleman in the coffee-house, who took very particular notice of him, which he observed, and therefore did not chuse to stop long; he said, he was so angry that this gentleman would not believe his word, that he took his leave of him, and went directly to Hammersmith; that when he got to Hammersmith he wrote a letter to this gentleman, and told him, he was very sorry that he would not believe what he had told him, but he was satisfied he would receive letters in a few days; that he was going to Bristol, where he should hear of more of his handy works. He said, in his way from hence to Bristol he called at Oxford.

Court. He is going now to speak about Bristol; if you don't watch him very attentively it is natural he should fall into an account of Bristol, which we have nothing to do with.

Counsel for the Crown. We are not examining about Bristol with a view to impute to him the setting Bristol on fire, but to shew he was actuated by the same motives towards this country, with regard to America, which operated at Portsmouth, which will be material, as it will confirm the design he had in his mind. We shall prove his grinding charcoal upon a painter's stone there, and other circumstances.

Court. Any conversation that he relates of the prisoner's, of what happened at Bristol that will confirm this evidence here, is material.

Baldwin. He said his next scheme was to set a building at Woolwich on fire; he said he arrived at Bristol a few days before Christmas; that he got leave from a painter to grind some charcoal upon his colour stone.

Q. Did he mention to you his reasons for going to Bristol? I don't mean of what he intended to do there; but whether he mentioned any reason why in particular he should go to Bristol, any more than to Worcester, or any other place?

Baldwin. He said that he heard there were three or four ships that were there; that one or two of them were mounted with twelve carriage guns and eight swivels, and that they were going to the West Indies, and he wanted to see these vessels.

Court. All these questions must necessarily tend to the fire at Bristol.

Baldwin. He said, a painter gave him liberty to grind this charcoal.

Court. When was this? before the fire at Portsmouth, or after it?

Baldwin. After the fire at Portsmouth.

Counsel for the Crown. We shall call that witness to confirm and prove many of these things after the fire; that he called upon the man to grind charcoal. Now I shall call that man to prove that the prisoner did grind charcoal at that house. I do not mean for the preparation for this particular fire, but only as a circumstance confirmatory that he did hold the conversation that the witness relates, and did make such preparations.

Court. As far as that goes I see no objection to that.

Counsel for the Crown. Let it be supposed that the charcoal was for an innocent purpose; but it is a fact that the witness will prove confirmatory of his having said that he did such a thing.

Baldwin. He said he ground it upon a colour-stone belonging to a painter at Bristol, that he was above two hours grinding it, and the painter took particular notice of that.

Q. He told you he went to Bristol?

E

Baldwin.

Baldwin. He did tell me he went to Bristol; he said he looked upon that to be one of the greatest circumstances against him, the man seeing him make this preparation, grinding this charcoal.

Q. You gave an account of this matter, and in consequence of that enquiries were made of the several people?

Baldwin. I suppose so.

Q. When did you give an account of this conversation?

Baldwin. Day after day to my Lord Temple, and from thence to my Lord George Germaine; it was on the 15th of February that the particulars came out. I was from the 7th to the 15th before I could get out any particulars. I communicated an account of the particulars day by day.

Prisoner. I should wish to hear the evidence read over.

Mr. Baron Hotbam. I certainly will read it over to you, if you desire it.

Prisoner. I wish it to be read, in order to refresh my memory.

Mr. Baron Hotbam. If you want to ask any question, you will stop me at the place where you wish to interpose your question.

Mr. Baron Hotbam then read over his notes (*which were exceeding accurate*) of the evidence which *Baldwin* had given. His Lordship concluded thus. "I have taken the evidence as faithfully and as exactly as I could; if there is any difference, I shall be obliged to any gentleman in court who will be pleased to set me right."

Prisoner. It is exceeding well taken down, my Lord. Now is it proper, in the sight of God and in the sight of man, that a man, contrary to the laws of God and man, should come with deceit in his heart as an emissary from other people to insinuate to me, or any person, what they can in that deceitful manner? If they are deceitful enough to deceive one in such a distressful situation, they must certainly have deceit enough in their heart to speak lies of them.

Court. That is matter of observation, which will come in with propriety in the course of your defence; it is better for you to apply yourself now to asking any questions that you may think proper.

Prisoner. I would rather ask him some questions after all the witnesses are examined.

Counsel for the Crown. Well, he shall stay in court.

EDWARD EVANS sworn.

Q. Was you at Canterbury at any time?

Evans. Yes, from the month of January till the latter end of February.

Q. Did you ever see the prisoner at Canterbury?

Evans. I think I have; the man is altered a great deal since I saw him, but, to the best of my judgment, he is the man, that was either the latter end of October or the beginning of November, in November to the best of my knowledge, we had some words.

Q. Did you see any thing about him?

Evans. My comrade was present; he said he saw something under his coat.

Q. How was he dressed?

Evans. In a brown duffil furtout coat, rather shabby.

Q. Did you observe what was inside the furtout?

Evans. I did not.

JAMES WILSON sworn.

Q. Do you remember seeing the prisoner at Canterbury?

Wilson. I really think he is the person; but I had never seen him before nor since he had a dispute with my comrade *Evans*. To the best of my opinion he was dressed much as he is now; I observed something bright under his coat that glistened like tin.

Q. Did you see much of it?

Wilson. I did not make much observation upon it.

Q. Was there any quarrel or words between either of you?

Wilson. There had been a fighting or a scuffle between him and my comrade.

Prisoner

Prisoner. (To the Counsel.) Sir, I have one thing to remark: Are you his Majesty's Counsel?

Counsel. I am. What then?

Prisoner. I only wanted to know if you was his Britannic Majesty's Counsel, and if you had done with the examination.

JOHN FISHER sworn.

Q. Where do you live?

Fisher. At Mr. Lawrence Tuck's at Canterbury.

Q. Do you know the prisoner?

Fisher. I think I have seen him before.

Q. When?

Fisher. About six or seven weeks, I believe, before Christmas.

Q. Where did you see him then?

Fisher. At my master's shop; he came and ordered two tin canisters of me. My master is a tin-man.

Q. What were his directions?

Fisher. To make two canisters of a long square. I have got one here. *[Producing it.]*

Q. Was that canister made by the Prisoner's directions?

Fisher. Yes.

Q. How came he not to take it away?

Fisher. I cannot tell; there were two of them left in my hands.

Q. Did he call afterwards for them?

Fisher. He called once and they were not compleated, after that he called no more. *[The machine or canister was exactly upon the same construction with that found in the Hemp-House.]*

WILLIAM BALDY sworn.

Q. Look at the Prisoner. Did you ever see that man in the Dock-Yard at Portsmouth?

Baldy. I have.

Q. In what part of it?

Baldy. I saw him about a hundred yards from the east end of the Rope-house upon the lower floor where the cordage is made.

Q. Upon what day did you see him there?

Baldy. On Saturday the 7th of December, which was the day of the fire.

Q. At what time of the day did you see him?

Baldy. Between eleven and twelve, it might be nearer twelve than eleven; I saw him come down on the south side of the house, and cross from that to the north side towards where I was sitting by myself.

Q. Did he speak to you?

Baldy. Yes, he picked up a small smooth stone which he held up in his finger in this manner. *[describing it.]* Pray, Sir, says he, Do you make use of this in making cables? The oddness of the question made me look fully at him; I thought he appeared very ignorant. I said, we do not make use of this; this is, I suppose, a stone that is come out of the clay that those barrels are filled with; there were then about threescore and ten barrels of clay there; he staid five or six minutes, and then he left me.

Q. When did you see him again?

Baldy. In about 10 minutes, or it might be a quarter of an hour after.

Q. Where did you see him then?

Baldy. I saw him the second time at the east end of the same floor; he had been up stairs, I saw him come down; there was one William Weston in company with me; the Prisoner addressed him with how do you do, how do you do? holding out his hands to him; they fell into a conversation, which I thought was a matter that did not concern me, supposing by his addressing him in that manner that they knew each other, I went off.

Q. Are

Q. Are you or are you not certain that he is the man whom you saw in the Rope-House, the day of the fire?

Baldy. I am certain.

Q. What is your business in the Dock-Yard?

Baldy. I am a rope-maker.

WILLIAM WESTON *sworn.*

Q. Look at the prisoner. Have you ever seen that man before?

Weston. To the best of my knowledge I have.

Q. Where?

Weston. In the Rope-House the day that the fire was; that is the man that I saw there, to the best of my knowledge.

Q. You had some conversation, I believe, with him?

Weston. Very little.

Q. Had you seen him there before, or did you know him before?

Weston. I saw him walking there, about seven weeks before the fire; he said he had been round the Dock then, and that he had never been in the Dock in his life before.

Q. Did you see what part of the house he came from, on the 7th of December?

Weston. I cannot say I did.

Q. Did you see him come down stairs?

Weston. No.

Q. What is your employment in the yard?

Weston. I am a shipwright's apprentice.

EDWARD CAREY *sworn.*

Q. Was you at Portsmouth at the time of the fire?

Carey. I was.

Q. Was you there the day before the fire?

Carey. I was.

Q. Do you remember whether any person was shut up in the Yard?

Carey. Yes, the night before the fire, a person was shut up in the Rope-House.

Q. Did you see him?

Carey. No; I heard a man make a rumbling noise at the door; I went up to the door, and asked him what he wanted; he said, he was locked in and could not get out, and he would be glad if we could let him out; I told him we could not let him out, he must abide there all night; we left him in the house.

Prisoner. Was it the night of, or the night before the fire?

Carey. The night before the fire.

ANN HOPKINS *sworn.*

Q. Look at the man behind you (the prisoner) did you ever see him before?

Hopkins. Yes.

Q. Where?

Hopkins. I saw him last Saturday.

Q. When did you first see him?

Hopkins. The day that the Dock was on fire.

Q. At what time?

Hopkins. At four o'clock, or half after, I cannot be exact as to the time, I had been at the market; I was coming home in a little cart; between the Flying Bull and Kingston, he stopped my cart.

Q. Did he overtake or meet you?

Hopkins. I cannot tell, it was a close tilted cart, I did not see him till he came close to me; he stopped my cart, and asked me how far I was going? I said but a little way; he said he would give me any thing to give him a lift, for he was going to Petersfield and should be benighted; he jumped up into the cart, and said, do ma'am drive as fast as you can; as I was coming out of Kingston, I called at a shop.

Q. Was he, or not, heated when he came up to you?

Hopkins. He was very much out of breath, when he came up to me; I called at a shop at Kingston to buy a pair of pattens; when I was taking out the money to pay the woman, the prisoner took six-pence out of his pocket and gave her, and I gave her another.

Q. Why did he do that?

Hopkins. It was to make haste. I told him before I called, that I must stop at a shop; he desired me not to stop there, then, he said, you won't wait long, and, he said, he would give any thing for a returned chaise, for he must get to Petersfield that night if he was alive; I drove on till I came in sight of my own house, I stopped to let my horse drink, and he jumped out of the cart and ran away as fast as he could.

Q. Had the fire burst out at the time he left the cart?

Hopkins. No.

Q. How soon was it afterwards?

Hopkins. I cannot pretend to say; he ran the main London road, and I saw no more of him.

ELIZABETH GENTELL *sworn.*

Q. Where do you live?

Gentell. I live at Portsmouth Common.

Q. Look at the prisoner, you saw him yesterday I believe?

Gentell. I did.

Q. When was the first time that you saw him?

Gentell. The day before the fire at the Rope-house; I saw him at my own house in Havant-street, Portsmouth common; he came to my house and asked for a half-penny worth of matches; I took down two bunches and put them upon the counter; he asked me if they would take fire quick; and he desired me to change one of the bunches, which I did; he pulled some silver out of his pocket, and gave me a half-penny.

Q. Are you sure that the prisoner is the same person?

Gentell. I am.

Prisoner. How can you be certain from so small a time as you have now taken to look at me; how should you know my physiognomy?

Gentell (looks at him again) I am sure he is the man.

JOHN ILLENDEN *sworn.*

Q. Did you ever see the prisoner at Canterbury?

Illenden. As far as there is human possibility of knowing a man, I have seen him there.

Q. What are you?

Illenden. A surgeon and apothecary; I was lately an apprentice.

Q. On what business or occasion did you see him there?

Illenden. Upon his coming to buy two ounces of spirits of turpentine, and a quarter of a pound of salt-petre, what we call nitre.

Q. About what time was that?

Illenden. As far as I can recollect, it was either three or four days before or after the 20th of November.

MARY BISHOP *sworn.*

Q. Did you ever see the prisoner before?

Bishop. Yes.

Q. Where?

Bishop. At my house in Canterbury.

Q. Do you recollect at what time you saw him there?

Bishop. It was between Michaelmas and Christmas; but I cannot recollect the particular time.

Q. Had he any conversation with you when he was at your house at Canterbury?

Bishop. He told me he had been interrupted by a dragoon at the White Horse; he told me he came from America on account of the disturbances.

Q. Do you recollect whether he applied to you to direct him where he might get any thing made?

Bishop. He asked me afterwards where he might get a wooden thing made?

Prisoner. Is that a proper question to put?

Counsel. If I was to put an improper question the judge would stop me.

Court. No improper question will be put; and you ought to see by this time that the candor of the counsel for the crown will prevent them putting an improper question.

Q. Did you see any thing that was made for him?

Bishop. I saw a wooden thing which the apprentice of Mr. Overshaw, to whom I directed him, brought into my house for him; the prisoner put it under his coat, wishing not to have it seen.

Q. Did you see that wooden thing?

Bishop. I saw the wrong end of it; the shape of it was a long square.

Q. Was it at all like this (*showing the witness the wooden part of the machine found in the Hemp-house.*)

Bishop. Yes.

Q. What is become of the apprentice who made and brought this machine?

Bishop. He is since dead.

Q. You say it was like this wooden machine?

Bishop. As nigh as I can guess it was like this; it was of the same shape.

Court. How long was it after he asked you where he could get such a thing made, that you saw it brought to him by the apprentice?

Bishop. Some time in the afternoon, I think, of the same day.

JOHN DALBY sworn.

Q. I believe you apprehended the prisoner?

Dalby. I did.

Q. What did you find upon him when you apprehended him?

Dalby. I found upon him a Bath metal seal; a pair of steel buttons; a snuff box with tinder; a small powder horn with gunpowder; a large nail piercer; a striking tinder box primed; a screw barrel pocket pistol loaded with shot; two bundles of matches dipt in brimstone; a phial bottle half full with spirits of turpentine, and a small pair of scissars.

THOMAS MASON sworn.

Q. Where do you live?

Mason. In the Parish of St. Philip and Jacob in the County of Gloucester, near to Bristol.

Q. Look at the prisoner, did you ever see him before?

Mason. He was in my house the morrow after Christmas day.

Q. What business had he there?

Mason. He came to my house about 11 o'clock; he asked me to let him grind a lump of charcoal upon my colour stone.

Q. What business are you?

Mason. I am a tyler and plaisterer, and a house painter; I told him yes sure, and welcome; I shewed him my colour stone.

Q. What did the prisoner tell you he was?

Mason. I talked with him a good while afterwards; when I was in my room, I saw him pull a hanger from under his coat when he began grinding, and lay it down, and lay his great coat upon it; I said, why you are one of the press gang; no, Sir, said he, I be not.

Q. What did he tell you?

Mason. I asked him when he was sitting in my house, what he did think of the American affairs; he said he wished that affair had never happened; that he had lost a plantation there, and he hoped when that affair was over he should have it returned to him.

Prisoner. Is it proper that this man's evidence should be invalidated or not, from his own downright contradictions?

Court.

Court. I did not observe any contradiction; the witness does not seem to be very quick of apprehension, and did not immediately understand the question put to him; it is nothing but relating a discourse which does not appear to be material.

Counsel for the Crown to James Gambier, Esq. Have you, Sir, translated the passport?

Mr. Gambier. This is the translation as well as I understand the English of it.

Prisoner. I object to the passport being read.

Court. State your objection.

Prisoner. That they who shall be called to witness for or against me, may not hear the contents of it.

Counsel for the Crown. We shall call no more witnesses.

The passport was read as follows:

Exhibited
at the
Office of
Marine at
Calais.

By the K I N G.

To all Governors and our Lieutenant Generals of our Provinces and Armies, Governors particular, and Commanders of our Towns, Places, and Troops; and to all other our officers judiciary, and subjects to whom it shall belong,
Health.

We will and command you very expressly to let pass safely and freely, Mr. James Actzen, going to England; without giving him or suffering him to have any hindrance; but on the contrary, every aid and assistance that he shall want or have occasion for. This present passport to be valid for one month only, for such is our pleasure.

Given at Fontainebleau the 13th of November, 1776.

LOUIS.

Gratis

By the King,

De Vergennes.

Counsel for the Crown. Now it will be material for the officer to tell your lordship what those books are.

Officer. The books are Ovid's *Metamorphoses*, a Treatise of the Arms and Engines of War, of Fire Works, &c. and the other is the History of Justin.

Counsel for the Crown. My Lord this is all our evidence.

Court. Prisoner, the evidence against you is now closed; this is therefore the time for you to make your defence.

PRISONER'S DEFENCE.

I understand, my Lord, that that French passport was not found out till a few days ago, and since my first apprehension, a great part of the kingdom has been fought, and persons have been brought from many different places to give evidence who I was, or what I am, or so far as they knew about me, and every particular thing that has been witnessed respecting the late fire in the Dock-yard, from these evidences given, and the communication of them to all the people in the kingdom, by newspapers, and other ways, I think it is possible, and may have been possible for Mr. Baldwin, or for any other person that is any way at all intelligible, to bring every evidence against me that that person has done, by the said knowledge from public papers and conversation; nevertheless, whether it is a false accusation, that is upon me, or whether it is a betraying of trust, through the treachery of the heart, God Almighty, the great judge of all, only knows; if it is the former, I pray God Almighty may forgive him! if it is the latter, I pray the same! but in that case I should like to know, whether it is proper, that a person possessed of such a disposition as that, should come from emissaries unknown to me, and do all that lies in him to insinuate any thing out of me, unknown to me, and daily to come and go, and give information to the said Lord George Germain? I should like that your Lordship would take it into your consideration, as in the sight of God, whether such a person has a right in the sight of God, and according to the laws of man, and of this kingdom, to give evidence against a man, that his evidence ought to be regarded? He that may have been able to betray me, and speak things in the dark of me; he is able also, I think, to give the lie to any man, through motives of gain,
or

or any other motives whatsoever ; your Lordship can consider that in your own mind, much better than I can speak it, as I am not endowed with oratory.

Court. Do you rest your defence on that observation, or do you intend to call any witnesses ?

Prisoner. With respect to any other witnesses that may be called against me, if there is any positive fact can be proved against me, I will then prove the negative, or otherwise the court will proceed according to the laws of the country. I have one thing more to say ; I would put a few questions to this man, Mr. Baldwin.

Prisoner. I think you gave evidence, that I should have said to you, that on Friday the 6th of December last, I went into the Hemp-House, belonging to his Britannic Majesty's yard, in Portsmouth ?

Baldwin. I did.

Prisoner. And that I went in there with some combustibles, and lighted some hemp ?

Baldwin. Yes ; in order to set fire to the combustibles.

Prisoner. Do you speak of lighting a flame, or laying the thing lighter ?

Baldwin. You said it was matted, that it was to make it lie light.

Prisoner. It is not my business to deny going to Canterbury, or confess it ; do you say, that I said, I went to Canterbury and had the tin machine made ?

Baldwin. Yes.

Prisoner. You also say, that I said, that I went into a house on Portsmouth Common, and left the passport ?

Baldwin. Yes ; among other things.

Prisoner. There are some other evidences say, that I was at Canterbury, one says, about six weeks before Christmas, another says, about six or seven, another between Michaelmas and Christmas, another, before or after the 20th of November ; of the other three, two speak of it as sooner : respecting the French passport that has been found at Portsmouth, it seems to me inconsistent how it can be my passport, and at the same time, I to be at Canterbury, or any where in England at the time mentioned ; the date of the passport is the 13th of November ; if I can bring these two articles to bear, it seems very unintelligible to me, for it is sworn, that I said, that is my passport, and again it is sworn, that I was in England at that time ; that is equal to the good gentleman, that said I had power to alter the colour of my own hair ; if there is any thing brought against me that is positive, I am ready with the greatest pleasure, by the help of Almighty God, to receive the punishment of the laws of the country, be what it will : there are other things surprize me more than that. I have nothing more to say, my Lord.

Counsel for the Crown. We have done with our evidence.

Court. Will you call any witnesses ?

Prisoner. For what end ? till something is proved positive against me, I intend no defence in the world. I am ready to live or die according to justice.

Mr. BARON HOTHAM.

Gentlemen of the Jury,

The Prisoner at the bar stands indicted for setting on fire, and procuring to be set on fire, the Rope-house, in the Dock-yard at Portsmouth; and before I sum up the evidence to you, I will make one general observation; that though it is impossible for any language to aggravate this offence, yet it is not for you now to feel the magnitude of that crime; you are to divest yourselves intirely of all the horrible consequences of the perpetration of it, and apply your consciences to this single fact; Is this prisoner guilty or innocent of this offence? What the consequences of it are, or might have been, I wish you not to think of; because it is in human nature to feel prejudices, that one wishes at such a moment as this, juries should forget. I am sure, therefore, you will now think of nothing but the plain simple fact itself; and whether it is, or is not, supported by the evidence you have heard.

Gentlemen, the first witness is *James Russell*, who says he is clerk to the clerk of the rope-yard, and that upon Saturday the seventh of December last, at half past four o'clock, he first perceived the fire by which the rope-house was consumed. There were hemp toppings in the middle loft, and cordage on the ground floor; and that was the usual repository for both; much of it, he says, was burnt.—This witness was called to prove the fact of the fire itself; which, though too notorious to doubt about, was necessary to be proved in evidence. He says, on the fifteenth of January he found a tin case in the hemp house, on the ground floor; and upon its being produced, he says, it appears to be the same—he has no doubt at all about it. He told you that there was a box in it, but at the time it was found, there were besides, matches, tar, and oil, in the wooden box; but the tin box and the wooden box were then separate. He says, he found also a bottle, which had had spirits of turpentine in it; he found all these things in the hemp-house, just by the box: its situation was in the center of a mow of hemp; and it had the appearance of concealment, though, he says, a person by going up to the upper end of it, if he had had a suspicion or apprehension of it, might possibly have discovered that such a thing was there. He says, there was a great deal of loose hemp near it, and there was some dunnage, which I understand to be cuttings, or refuse of hemp, which seemed to lie under the box and the canister. There was also some brown paper lying near it, and from the appearance it had, it seemed to him to have been all thrown in together over the bundle of hemp upon the mow; and by falling against the mow, they had separated. Now, gentlemen, it is material for you to understand, that all these several things were found in this place, because in the course of the evidence you will find, most, if not all of them, particularly accounted for;—he says, that there was hemp in the place; that both it and the hemp-house must have been consumed if the fire had happened, for you will recollect, that though fire was attempted to be set, as well to the hemp-house as the rope-house, the providence of God did interpose, and prevent that from taking effect.

William Tench, the next witness, says, that he saw the Prisoner at his master's house just without West Gate in Canterbury; and he thinks it was about a month or six weeks before Christmas.—The observation which the Prisoner has made in his defence is very true; namely, that all the witnesses from Canterbury give rather a different account about the time; they are none of them very particularly precise; they all speak rather at large about it. But it does not seem to me to weaken that evidence, because five or six different people do not all concur in their recollection of the very day when the person was at Canterbury; and when they speak cautiously, it is not to be wondered at, that they differ a little, a few days or a week in their account. This witness says, that it was a month or six weeks before Christmas, and that he himself made the tin machine for the Prisoner; the first time he was applied to upon this business was on the Monday before last, and that was particularly asked him in order I suppose to shew you a material circumstance that this was after the Prisoner had confessed the whole himself to Baldwin. But when I use the word confession, it is proper now at the outset to make one general observation to you upon the evi-

dence of Baldwin. I do not look upon this as being strictly a confession of the prisoner: but it was evidence which the man himself chose to disclose to Baldwin without any sollicitation whatsoever, and without any promise or engagement of secrecy. It seems to have come from the prisoner himself spontaneously; and as far as we have the evidence before us, Baldwin does not seem, in any one of these conversations, to have sought a discovery from the prisoner; but it has all come from the prisoner, and not from Baldwin, and therefore what the prisoner has said in his defence by way of objecting to Baldwin's evidence, does not, in my apprehension, weigh much in the consideration of this question.

Tench then proceeds to say, upon being cross examined by the prisoner himself, that he knows the cannister very particularly by the seam in it, and that he knows the seam by its being very bad folder; that he took particular notice of the badness of the folder when the prisoner came, and that he can swear to that folder any where: that he knows the prisoner by his person, he thinks also by his hair, but he is positive that he had the same sort of coat on as he has now—He says he does not pretend to recollect the particular day that he made the cannister.

Elizabeth Boxell says, that she saw the prisoner the day before the rope-house was on fire at her own house, in Barrack-Street, Portsmouth: that he took a lodging of her, and lodged there one night, which was the night before the fire. And, gentlemen, her evidence, abstracted from bringing it home to the prisoner that he was at Portsmouth at the very time, is extremely material, if you give her credit; inasmuch as she speaks to particular work and operations, upon which she found him employed; for, she says that that very night, when he was at her house, she observed a very ugly sulphureous smell in his room; and she smelt it again on the Saturday morning: she was so uneasy at it, that she went up stairs, she pushed open the door, and found the room full of smoke; she asked him, with great anxiety, what he was about? She saw that he had been burning something by the side of the fire, and on the hearth itself: she said she took a candle from him, but observed it was not the same candle she had carried up. She says he was doing something too on the chair. She then went down stairs, but returned again immediately; and, in that interval, she having opened the window, and he having shut it, she told him he should not shut the window, and insisted upon its being kept open.—I say, gentlemen, this is material; because as this case is to depend entirely upon a chain of circumstances, you must lay all of them attentively together, and circumstances may form such a body of evidence, as shall be abundantly stronger than where two or three witnesses swear to a positive fact. If you should think this case stands upon such circumstances, you will draw your own conclusion: if you think the circumstances are not strong enough to bring the charge home to the prisoner, you will then discharge your consciences by saying so: but upon every little circumstance you must hang. This, therefore, is material to recollect.—The prisoner is employed visibly in some preparation of combustible matter over night, and next morning; the fire happens that very day. That, therefore, you will take as one circumstance. She then mentions another, which turns out to be also material, which is, that on the Friday, looking into the prisoner's bundle, she found in it part of an old shirt and a pair of leather breeches upon a tin case; now, you have had it in evidence, that a tin case was found in the hemp-house; she says, she viewed this tin case a quarter of an hour, and therefore is very particular in swearing that it is as much like the case, which has been produced to you, as any thing can be: she says, she was so much alarmed at his proceedings, that she ordered him out of her house, and indeed she says, that she would not quit the room. He said he wanted his candle; she bid him take it as he went down; that, by and by, may turn out also to be a circumstance fit to be remembered. She says he took away the bundle, but she does not know whether the cannister was in it at that time; she had seen it on the Friday, and this was on the Saturday. Then Mr. Commissioner Gambier produces the bundle which he received from his clerk, John Jeffereys, on the twenty-first of February; it is shewn to Mrs. Boxell, who says, she does believe that to be the same bundle.

John Jeffereys, who delivered the bundle to Mr. Gambier, says, that he has no doubt about the handkerchief, which incloses the contents, being the same; he says, that

that on the evening of the 20th of February, he had orders to search all about, and particularly in North-Street, and he found the bundle in North-Street at a Mrs. Cole's.

Mrs. Cole being called, says, that she knows the Prisoner; that he came to her house on the day of the fire, and took a lodging there; that he left a bundle; and looking at the bundle now produced, she says it has all the appearance of being the same bundle. *Mr. Jeffereys*, and another person, she says, had it from her; that she never opened it whilst she had it; that the bundle was not tied quite close, and she saw a little way into it. She says the Prisoner came to her house in the forenoon; that he staid about a quarter of an hour, and went out about eleven or twelve o'clock.

William Abram, a blacksmith at Portsmouth, says, he lodged in the same room with the Prisoner at Mrs. Boxell's; the Prisoner asked the witness if there was any pressing? He said, yes, there was a pretty hot press. The Prisoner said, suppose they were to take up such a man as me, I could give no other account of myself but from writings in my pocket. Then he asked, if a man was to get into the justice's hand, could there be any way of escaping? The witness said no. Why not escape, said the Prisoner? Why there are very high walls?—Why is there no way of getting over the walls?—he said no. The witness says, that then the Prisoner said there was one Brookes in Newgate, that he knew would be hanged. He says, the Prisoner had yellow buckles on, but he cannot swear to the buckles that are shewn him (which are part of the contents of the bundle), being those buckles, though they are the same pattern. Now, upon this evidence, I would make this observation; that Abram proves the identity of the Prisoner;—he proves too his lodging at Mrs. Boxell's house, so that he confirms her evidence, and to his lodging there at that particular time; and then the bent of the Prisoner's conversation with him, (for you are to take the whole evidence together) you may, perhaps, think, implies that he then had something in contemplation, which might induce him to wish to make his escape.

The next witness is *John Baldwin*; this, you see, is the material witness, upon whose account very much will depend. I did read over his evidence before to the Prisoner, as he wished to hear it; but I will repeat it now to you. *John Baldwin* says, he first saw the Prisoner on the seventh of February, at Sir John Fielding's, having been sent there by my Lord Temple, because he thought he might know the Prisoner, as he was a painter, and had lived in America, and the Prisoner was described as having been there; he says, that he himself had been at Amboy, at New-York, and at Philadelphia; he says, he told Sir John Fielding that he had never seen the Prisoner; that the Prisoner heard him say so, and made him a bow: he afterwards saw the Prisoner in another room, and the Prisoner beckoned to him, and he sat down by him; and then he entered into a little discourse, and asked him who he knew there? he mentioned several people, particularly some painters; and he told him, "you are not like the other evidences, who have sworn falsely, but you are a gentleman, and I wish it was in my power to make you a satisfaction," and said he should be glad to see him in New Prison: he says, at near four o'clock he went there, he went into a corner between the two gates, and there he discoursed a good deal with him about America, and desired him to come again the next day. Lord Temple sent him, in consequence of this, to Lord George Germain; and they both thought it material that he should go to the prison. Accordingly he went again the next day, and had a good deal of discourse with the Prisoner; the Prisoner told him he found he was an American by principle, but what countryman was he? He said he was a Welshman; "Why," said he, "I find you are interested for America, however." Then, he says, he told the Prisoner that he was married at Amboy, and they talked about the witness's family. He waited upon him, he says, from day to day, till the fifteenth, and in the course of all that time, nothing but general discourse passed upon the subject of America; but upon the fifteenth he made material discoveries; he then began, and he told him all the particulars. I do not mean that he told him all upon the fifteenth of February: but I collected from his evidence, that the substance of what he has told you, all passed subsequent to the fourteenth of February; and among other things, he asked him, "Do you know one Mr. Deane?" he said no. "What not Mr. Deane, employed at Paris by the

the Congress!"—No. "What not Silas Deane!"—No—"He is a fine fellow; I believe Benjamin Franklin is employed about the same errand." And then he told him that he had taken a view of most of the dock-yards and fortifications about England, and particularly the number of guns in each ship of the navy, and the weight of their metal, and the number of men; and he said he had been at Paris two or three times, to inform Silas Deane of the particulars of what he found in the dock-yards; that Silas Deane was greatly pleased with what he had done, and he acquainted Silas Deane in what manner the dock-yards were to be set on fire; and Mr. Deane was amazed he could undertake to execute it in such a manner alone; but he told him he would do more execution than he could imagine, or any person upon the face of the earth. Deane asked him what money he wanted to carry his scheme into execution? he said not much; that he expected to be rewarded according to his merit. Silas Deane, however, he said, gave him bills to the amount of 300*l.* and letters to a great man, a considerable merchant in the city of London. In his discourse with the witness, he expressed his anxiety to know whether my Lord Cornwallis had been defeated in America; he said he knew Washington personally, and believed him to be abler than General Howe. That he would watch and harraß General Howe, and he was sure the Americans would conquer this Winter; but the grand campaign was to be in the Summer. He said he only wanted a few experienced officers, which he believed would be supplied from France. That Silas Deane was appointed at Paris for that purpose, and to buy stores and ammunition; but as to cannon ball, they had enough in America, particularly somewhere in Maryland, to supply all Europe; and likewise pitch, tar, and turpentine. He says, from the seventh of February to the twenty-fourth,—he was with him every day, and mostly twice a day: the Prisoner told him among other things, that he arrived at Dover from Paris, and went to Canterbury.—Now here you see appears the materiality of the Canterbury evidence. That he went into a shop at Canterbury, and bespoke a machine to be made which they called a Cannister; the master to whom he applied he said was a stupid fellow, and did not understand him; but the boy was more ingenious; though he was obliged to stay by him to instruct him. Now that boy you see has been called, and confirms this part of Baldwin's evidence, by swearing positively to the Prisoner being the man who came to his master's shop, who bespoke the Cannister,—for whom he made the cannister, and who took away the cannister. That the Prisoner told him he gave the boy something to drink, and then he went into a public-house with the cannister under the breast of his coat; that there was a dragoon in the house with whom he had some words, and that the dragoon opened his coat to see what he had in it.—The dragoon, you will recollect is called, and he confirms this story, not directly, but in such a way, as leaves you very little room to doubt about it; he does not, you will recollect, swear positively to seeing the actual cannister itself, but he saw something under the breast of the Prisoner's coat shining and glittering like tin: and he mentions the circumstance of the Prisoner's having had a quarrel with his comrade, which the other dragoon also confirms him in, though both of them swear cautiously to the identity of the Prisoner. The witness says the Prisoner told him that from thence he went to Portsmouth, where he took a lodging at Mrs. Boxell's; and there he tried his preparations. Now, gentlemen, I think I am warranted in saying, that Mrs. Boxell's evidence was very material, inasmuch as he himself, in his discourse with the witness, has confirmed her testimony in the strongest degree: for he tells him here what she told you before, that he was employed in her house in preparing and in trying these combustibles. He goes on and says, that there were matches made by a sheet of whited-brown paper being folded up in ten or twelve folds; and he told him this was the method in which he made them in order to be done over with a composition of charcoal and gun-powder; that is a small circumstance as it passes; but you will recollect it presently, as being perhaps material: the charcoal he said must be finely pounded upon a colour-stone, such as painters use, in order to make it effectual: he said the paper must be doubled before it was done, in order to prevent its cracking. Now there was a witness called afterwards, relative to what passed at Bristol, who is a painter. You will recollect I was desirous that he should steer clear of dropping any thing about the calamity that we have all heard of at Bristol; because we are not now in charity or justice at liberty to suppose, that this Prisoner had any the remotest connection with what happened at Bristol. But the evidence was material in this way, to

prove him at Bristol, merely for the purpose of confirming that part of Baldwin's evidence, where he said the Prisoner told him he went afterwards to Bristol, and to prove him to have been with Mason, the painter. It shews too, that he knew how to make this preparation, and that in fact he did himself apply to the painter to grind charcoal upon a stone, for some purpose or another; what that purpose was is no consideration of ours, nor was that the view with which the evidence was called; but however he knew that was the method of grinding charcoal, and therefore it confirms Baldwin, in some measure, in this part of his relation. The witness says he told him that the gunpowder does not require much grinding; that might be mashed with a knife, as painters mix vermilion: but they must be very particular in mixing these two bodies together; the charcoal is ground in water, then mixed up to the consistency of new milk, and then with a small brush, the paper, that is to make the match, is painted over with it: and it is so managed, that the match will last twenty-four hours. You will imagine, I dare say, without my telling you, that it is material for any person, who intends to carry into execution such a purpose as this, that it should not be executed too soon; it is of importance that it should be some time about, in order to facilitate the party's escape; and therefore it is to be so contrived, that it is not instantly to take fire. He told the witness he lodged at Mrs. Boxell's one night, but she was a very impudent woman, for she had opened his bundle during his absence. The tin machine, he said, was a curious construction of his own invention; and in that we all go along with him; it most certainly is a curious invention; and it is only a pity that it was for such a purpose. He told him he had a wooden box, which was made with a hole in the center, to put a candle into it; and in that box he put tar, turpentine, and hemp. He said the cannister fitted the box so well, that when the candle was put in, nobody could perceive any light: then he told him, that on the sixth of December, he went into the Yard, and got into the hemp-house, where there was a deal of hemp, so tight matted, that he could hardly get it apart: that he pulled his coat off to work at it; and then, after lightening the hemp, he placed the cannister over the box with a small candle in it. Now, gentlemen, you will recollect that Mrs. Boxell told you he was very desirous of having a candle, when he went away from her house, and that she told him he might take one as he went down stairs. He said he sprinkled some turpentine about the hemp that was round it; and when he had done that, it was some time before he found his coat; and when he found it, there was a good deal of hemp sticking about it, which he endeavoured to get off: he then went out of the hemp-house, and got into the rope-house; and he laid down a quart bottle of spirits of turpentine upon its side, with hemp in it instead of a cork: he said close to the hemp he laid a piece of paper, with dry gunpowder in it, and to the paper, where the powder was, one of these matches; and over the powder he laid some hemp lightly strewed, and a quart of turpentine poured all about it. Now, gentlemen, if you believe the fact, upon this account, to be sure it is impossible to conceive, that any man could take his measures more effectually for doing complete mischief. He said that as soon as the fire of the match touched the powder, it would set it all of a blaze presently; and that by cutting these matches into pieces, it would answer to any time, so that he might make his escape. He told him, that the next day, which was the seventh, he went from Mrs. Boxell's, and took two other lodgings, one at a public house, the other at a private house; and he took particular notice before he took the lodgings, which houses had the most wood about them, and he said he had these combustibles ready for setting those two houses on fire, on the same day that he set fire to the rope-yard, in order that he might keep the engines engaged: he told the woman at the lodgings he took on the Common, that he was going to Petersfield, and begged her to take care of his bundle—that bundle you have an account of, after that he went into the Dock-yard, in order to set fire to the hemp-house, and the rope-house. He first, he said, went into the hemp-house, and struck a light; but the matches were very damp, and he could not get the sulphur to take, and he wasted in the trial the whole box full of tinder, and blew at it till he almost burnt his lips: then he went away from the hemp-house, in despair of setting fire to that, and procured some better matches; and he returned, and got into the rope-house; and then he set fire to the match that led to the powder. This is the account he gave of the manner in which he perpetrated this crime: he said he had bought a halfpenny worth of matches the day before of a woman; that woman, you see, is called, in the subsequent part of the evidence, and confirms Baldwin in this circumstance too of his relation. The day he

put the preparations in, he said he was so long about it, that he was locked into the hemp-house, and could not get out; he tried at several doors, he went then up stairs, and pulled off his shoes, and tried whether he could get out; finding that he could not, he came back to the same door, where hearing somebody, he holloed; being asked how he came there, he said it was curiosity; a person on the outside of the door directed him at last which way he should get out; this too is confirmed so far, that a person was locked in, but who that person was, is not positively proved. He said, when he came out, he was much vexed that he could not set the hemp-house on fire; and also vexed because he could not go to Portsmouth Common, where he had left a parcel; which, you will observe, he told him, and it is very material, contained, among other things, a pistol, an Ovid's Metamorphoses, a book entitled The Art of War, and making Fire-Works, and a passport from the French king; all of which you see are found in it. And in that passport, he said, was his real name, which vexed him more than any thing; but, however, as it was in French, he did not imagine that the people at the lodging could read or understand it; but he expressed his surprize that this bundle had not been found. He said, after setting fire to the rope-house, he made the best of his way towards London; and that he was so sorry he could not get the matches to light, that he had a good mind to shoot at the windows of the woman where he had them: he said, that he burnt the bills and the letter, (which you will remember he told him before he brought over from Silas Deane) on account of the behaviour of Mrs. Boxell, for he evidently suspected that she entertained some doubt of him; and, therefore, lest the person to whom the letter was addressed, or the bills might lead to a discovery, he prudently burnt them all. He said, soon after he left the yard, he jumped into a cart, and desired the woman to drive quick; this, you see, is positively confirmed by the woman who drove the very cart; he rode in it two miles, and gave her sixpence to go quick; that he had near four miles to go before he passed the sentries, and therefore was very desirous of getting past them; and that two minutes after he had passed them, he looked back and saw the flames, and the very elements seemed in a blaze; he walked all the way to London; and in the road between the last sentry, and Kingston, two dogs barked at him; he shot at one of them, and believed he killed or wounded him. The next morning, being Sunday, he got to Kingston, and waited there till near dusk; he then came in the stage to London, and waited upon the great man, the merchant in the city; and he told him that he had a letter and bills upon him from Silas Deane at Paris, but which he had been obliged to burn. The merchant, he said, seemed very shy of him, and said he had received no such accounts from Paris; he answered, that he might think what he pleased, but that he was an enemy to Great Britain, and a friend to America; and that he had set fire to the rope-house at Portsmouth, which he would see in the papers on Monday. Baldwin said he could not get the name of the merchant from him, but the Prisoner said the merchant appointed to meet him at a coffee-house, and the gentleman waited there accordingly for him; they discoursed a little together, but the gentleman seemed still shy of him, and another gentleman in the coffee-house taking particular notice of him, he did not care to stop long: he was so angry that the gentleman would not believe him, that he got up and went to Hammersmith, from whence he wrote to him, and said, he was going to Bristol, where he would hear more of his handy works; and you will remember there is a subsequent evidence, Mason, the painter, who tells you he saw him at Bristol. He said, he arrived at Bristol a few days before Christmas; that he got leave of a painter there to grind some charcoal upon a colour-stone of his, and that the painter took notice he was long about it: that painter, you recollect, has been called, who tells you that the Prisoner did apply to him for the purpose of grinding charcoal upon a colour-stone, and he did according to grind it. Then the witness says, that he gave an account of this from day to day, to Lord Temple and Lord George Germain, and he mentioned that the fifteenth was the first day that the Prisoner disclosed any of the particulars to him. Now, gentlemen, you see from this man's evidence, there is an exceeding clear, intelligible, and consistent history given; but if this account, clear and consistent as it is, were unsupported by other evidence, one might perhaps entertain some doubts about it; but where you find it confirmed in almost every material passage, where you find it not contradicted in any one circumstance, you must then, I think, feel it, when so authenticated, to be a very strong body of evidence indeed.

Edward Evans, who is one of the dragoons, says, that he was at Canterbury from October till the first of February. But you will observe, that he does not pretend to swear positively to the Prisoner; for he says the man is much altered since he saw him, though he believes him to be the same. He says it was about the end of October, or beginning of November, that he saw him there, and that too you see is contradictory to the other evidences; as to the precise time they do not agree, as I told you before; but, however, he agrees in this material article, which came from the Prisoner's own mouth to Mr. Baldwin, that he was there at the time when he had a quarrel with him; in fact, the witness says he had a quarrel with him, (supposing the Prisoner to be the person) at Canterbury, and he then says that the Prisoner had on a brown furtout coat, but he did not see what was under his coat.

The next witness is *James Wilson*, the comrade of the last witness, who was there at the same time, and who says that he really thinks the Prisoner is the same person, though he will not positively swear to him, and that the dress was the same as he is in now; he remembers that there was a dispute between his comrade and him, and he says he did observe something white under his coat, which glistened like tin.

John Fisher, lives at Mr. Tuck's at Canterbury, who is a tin-man: he says he thinks he has seen the prisoner, and he believes it to be about six or seven weeks before Christmas that he saw him in his master's shop; you see they all vary a little as to the time: he says the Prisoner ordered two cannisters, and he ordered them to be made of a long square shape; and one of them being produced now to him, he believes it to be the same; and he says he does not know why the Prisoner did not take them away, but he left them at their shop: however, he says, the Prisoner called once for them, but they were not then compleated. Now, gentlemen, upon this man's evidence you will naturally make this observation, that the person, be he who he may, that wanted this tin box, certainly wanted more than one, why he did not bespeak them all at the same shop, cannot well be accounted for, unless it be that he thought so many at one place might lead to some suspicion. However, the fact turns out to be, that he did not stay for these two being made, they were left behind, and he only carried off that which has been found.

William Baldy is next called; and he proves the Prisoner not only in the Dock-yard, but in this very building, on the seventh of December. The witness says he is a rope-maker, that he has seen the Prisoner in the Dock-yard; he says he saw the Prisoner in the rope-house on the lower floor, about a hundred yards from the east end of it, on Saturday the seventh of December, between eleven and twelve o'clock; which was the day of the fire. He says he saw the Prisoner come down from the upper part of it. Now that too confirms the story that Baldwin has told; for the Prisoner said he was first in the lower part, that he could not get out there, and then he went into the upper part; the witness mentions an immaterial passage, which I need not repeat to you, about picking up a small stone, and he had a little discourse with him: that was only asked to satisfy you that he was so long in conversation with this Prisoner, that he could not make any mistake about his person, but that he was the man; he stayed five or six minutes with him, and then left him: he says he saw him about ten minutes or a quarter of an hour after this at the east end of the same floor coming down stairs; and then one William Weston being with the witness, the Prisoner said to Weston, "How do you do?" holding out his hands to him; and he, thinking him to be an acquaintance of his, did not stay to hear his conversation with him, but went away. He closes his evidence with saying, that, from seeing him at these different times, he is certain he is the man.

William Weston says, that to the best of his recollection he saw the Prisoner in the rope-house the day the fire was.—He had very little conversation with him at that time; but he is positive it was the same man; for he had seen him, he says, seven weeks before walking about in the Dock; he did not however see him come down stairs: these two witnesses then, as far as their evidence goes, prove him to have been in the Dock-yard, and in this very building in the Dock-yard, upon the day when the fire happened.

Edward

Edward Carey, a shipwright, says, he was at Portsmouth the day before the fire; and that night he remembers a person being shut up in the rope-house; he heard a person making a noise in the rope-house, who said he was locked in, and desired him to let him out; the witness said he could not, and went away; so that little circumstance too, mentioned by Baldwin, you see is confirmed by this witness; he remembers a person being locked up in the rope-house, but you will observe that he does not pretend to say that person was the Prisoner.

Then *Ann Hopkins* is called. She is the woman that drove the cart that day from Portsmouth, into which you recollect he told Baldwin that he got. She says she saw the Prisoner the day that the Dock was on fire at about four or half an hour past four in the afternoon. At that time she was coming from the market; she saw him first between the Bull and Kingston, she did not see him till he came up close to her; he stopped her and asked her where she was going? She said, a little way; he said he would give her any thing to give him a lift, for he was going to Petersfield that night, and was afraid he should be belated; and entreated her to drive as fast as she could. When he came into the cart, she observed he was much out of breath; she told him she was to stop to buy a pair of pattens; she did accordingly stop at a shop; she was to pay a shilling for them; the Prisoner threw down sixpence, and then he said, he wished he could get a returned chaise; and when she stopped a little before she came to her own house to give her horse some drink, he jumped out, and ran away along the London road. Now, with respect to this evidence, to be sure, any person, totally unconcerned in any guilty deed, might be anxious to get to Petersfield; might be afraid of being benighted; might wish her to drive very fast; all that might happen very naturally without any imputation upon the party; but, as I said before, you are to take this case with all its circumstances together; and every little circumstance weighs something; and if you should trace the Prisoner to the very place, almost to the moment of the fire, if you trace him leaving the place immediately after, and being in this state, out of breath, eager to get off, pressing the woman to drive on, anxious to get a returned chaise, jumping out, and running forward when she stopped; laying these circumstances together, with all the others, to be sure you will be justified if you entertain some suspicions about his motive. But all this you will weigh, together with the many various circumstances of the case.

Elizabeth Gentell says, she lives on Portsmouth Common. She saw the Prisoner at her house the day before the fire; he came there and asked her for a halfpenny worth of matches. That you see, gentlemen, is another circumstance that has been proved to you, as coming from himself to Baldwin; that he bought a halfpenny worth of matches of a woman at Portsmouth. She says he asked particularly if the matches would take quick? He took a bundle and tried one or two of them, and then he took out some money, and paid her a halfpenny. She says she is sure he is the same person. Now, upon this evidence, it is for your consideration whether a man, going to buy matches, would or would not shew such an anxiety about their being particularly well made; and there is one more observation, which I would make to you, that the man who goes to buy a halfpenny worth of matches for his own use, is hardly such a man as could afford to express a desire of meeting with a post-chaise to carry him to Petersfield.

The next witness is *John Illenden*, who is a surgeon and apothecary. He says, that as far as human possibility can go, the Prisoner is the person whom he saw at Canterbury, three or four days before or after the twentieth of November; and that he is particularly clear that he is the man, because he came to his shop to buy two ounces of spirits of turpentine, and a quarter of a pound of saltpetre. Now, gentlemen, these things you will feel a man might innocently buy, at the time you are recollecting that these materials have been found upon the spot, and that they are materials necessary for combustion.

Mary Bishop says, that the Prisoner was at her house at Canterbury, between Michaelmas and Christmas; so that she speaks very vaguely about the time; she cannot be positive when it was, but she remembers one circumstance (believing it to be the Prisoner) that he told her he had been interrupted by, that is, that he had had a quar-

rel with, a dragoon at the White Horse, and he told her in conversation, that he came from America, on account of the disturbances; but he asked her a material question, and that was whether he could get a wooden thing made, which she did not know what name to give to; but the wooden engine, that is produced, being shewn to her, she says, upon her directing him to some man, who could make it for him, that she saw something which a Mr. Overhaw's apprentice brought for the prisoner in the afternoon of the same day, and that he put it under his coat, wishing not to have it seen. The counsel very properly asked the woman what was become of the apprentice? because undoubtedly they ought not to have stopped short, without calling the apprentice; but the apprentice, she says, is dead, therefore we cannot have any clearer or fuller evidence upon this matter. Then, upon looking on this wooden machine, she says, it is as near, as she can guess, like that thing she saw brought to the Prisoner.

John Dalby is the person who apprehended the Prisoner, and he is called to prove what he found upon him; he says the prisoner had upon him a pistol primed and loaded with shot: he had a pistol tinder-box, which was also primed; and he had a snuff-box full of tinder. Now, gentlemen, that is a little circumstance that is uncommon, a man's carrying about with him a pistol tinder-box to strike a light may very well be; but he seldom carries more tinder than that pistol tinder-box will hold; for if ever you saw one of these, you must know there is a part of it made to hold tinder in; but, however, over and above that, he had a snuff-box full of tinder, and he had a powder-horn with some gunpowder in it. He says, he had also two bundles of matches. You remember he was discontented with the matches which he tried, and went out of the Dock-yard and bought others.

Thomas Mason says, he lives at Bristol, and is by trade a painter, that the Prisoner called on him the day after Christmas Day, and asked him to let him grind a piece of charcoal upon his colour-stone, which he did; this is only material to shew that he was at Bristol, as Baldwin mentioned he was, and that he knew, in fact, what use the colour-stone could be applied to.

Then, gentlemen, the only remaining evidence is the contents of the bundle. The bundle has been opened, and in it is found the passport from the French King, about which he expressed so much anxiety, lest it should lead to a discovery. That passport is dated the thirteenth of November; it is in the common form, to grant him free permission to go out of the kingdom, and to continue in force for one month from the date. Besides that, there was Ovid's *Metamorphoses*, and a *Treatise of the arms and engines of war and fireworks*, and the *Justin*, the books he mentioned to Baldwin, and the pistol, and some few other things. This, gentlemen, is all the evidence in support of the prosecution.

The Prisoner has called no witnesses, but he has rested his defence chiefly upon the credit that you ought to give to the evidence of Baldwin; because he says, that a man who was capable of drawing out this evidence from him, ought not to receive credit in a court of justice. Gentlemen, I have told you before, and I ought to tell you now, that, in point of law, there is no objection to this man's testimony; and from the manner in which he came by the knowledge, which he has now furnished us with, I do not see that there was any thing which can lead you to suppose that Baldwin was the first mover with him, or that he prevailed upon the Prisoner to disclose the secret; but it should seem as if it came from the Prisoner himself, though it was undoubtedly upon the idea that this man was his friend: because, if you do not suppose that, you must suppose him madder than any man that ever was born. He certainly thought him his friend, and he therefore did disclose all this to him.

Gentlemen, one has only to say farther, that if this point of honour was to be so sacred, as that a man who comes by knowledge of this sort from an offender, was not to be at liberty to disclose it, the most atrocious criminals would every day escape punishment; and therefore it is, that the wisdom of the law knows nothing of that point of honour; if the man is a legal witness, you are bound to receive his testimony; giving it, however, that weight only which you think it deserves: for it is always in the

breast of the jury, to consider of the degree of credit they will give to every witness. Let him be in all lights a legal witness, you are still to be the judges of his credit; if you think that a man, because he listened to this tale so many days, and disclosed it as he heard it, to the great officers of state, and has disclosed it now in a court of justice, is a man to whom belief cannot be given, in that case to be sure you will set aside his testimony: but if you see no ground to suppose that the man has spoke untruth, you cannot then reject his testimony.

Gentlemen, the trial has lasted already very long; the summing up has also been long. I have endeavoured, as I have gone on, to lay together some of the many circumstances of this case for your consideration; and I do assure the Prisoner, as well as you, that if I had found myself enabled in my conscience to have stated any thing more favourably for him, I would have been the first to have done it. But I am sitting here to do equal justice between the public and the Prisoner; and I was therefore bound to make those observations which I have done, because they strike my conscience, as being necessary and material. I thank God, however, gentlemen, that you are to judge of these circumstances; you are to lay them all together, and draw your conclusion from them; and if you believe that there is such a train following one another, I had almost said so irresistibly, as that you cannot doubt that in the first place the fire did happen by these combustibles, and then that the Prisoner was the person who laid those combustibles there, I should suppose you can have no doubt but that he set this building on fire wilfully and maliciously. If on the other hand you should feel, though there are a great number of circumstances tending in some degree to the proof of the fact, that your minds are not satisfied that it comes home to the Prisoner, if you are of that opinion, you ought to exercise the jurisdiction which you have, and acquit the Prisoner.

I will say one thing more, and only one; you are bound by your oaths to give a true verdict; and if the circumstances of the case appear to you decidedly strong, you will of course give your verdict on that side on which they preponderate; but if you should think that they are still so doubtful, as that you cannot satisfy your minds this was the very man who did the fact, in that case, in favour of life, you ought to acquit him.

The Jury almost immediately pronounced the Prisoner, GUILTY.

The Prisoner was then asked, in the usual form, what he had to say why sentence of Death should not be passed upon him, to which he replied, "I have."

Corrature

In the evidence of Ann Hopkins

for Whigston read Cosham

SENTENCE.

S E N T E N C E.

Mr. BARON HOTHAM.

Prisoner,

You have been indicted, tried, and convicted of a crime, which the law of this country has thought fit to make capital, and now the most painful moment that I have undergone in the course of this trial is arrived; for it is my duty to pass upon you that dreadful sentence. I shall not interrupt those feelings, which I trust you have, by talking to you of the enormity of the offence, which you have committed; because it is impossible for me, or any man who hears me, to add a word by way of aggravation to it: and it has this in particular about it, that it cannot have been committed from any motives of private malice, revenge, or lucre. It can have proceeded only from a general malignity of mind, which has broke out in a desire and a design, not only to ruin one devoted individual, but to involve every one of this audience, nay the whole English nation, perhaps, in immediate ruin. You cannot therefore be surprised that the law has thought fit to punish such a crime with death. You can as little be surprised, if, after you have been convicted upon the clearest evidence of this offence, I can give you no hope of pardon.* It is impossible for me to say a word in your behalf: and therefore I must entreat and conjure you, in the most solemn manner, to prepare yourself during the few days you have to live, to meet the great God in another world, and to ask him there for that pardon, which you could not receive in this; there it will be worth receiving: and atrocious as your crime has been, short as the time is that you have to live, a sincere repentance now on your part, may, and I hope in God will procure you mercy at his hands. I say all this not to taunt or distress you in your present unhappy situation, but merely from motives of humanity and religion. For you cannot be suffered to live in this world; you must die, and that within a very few days. And therefore, before you go into eternity, for your soul's sake, do what you can, that that eternity may be an eternity of bliss instead of misery. I have only now to pronounce the painful † sentence of the law which I am bound to do, and I accordingly adjudge and order that you be hanged by the neck until you shall be dead, and the Lord have mercy upon your soul.

Prisoner. My Lord, I am exceedingly well satisfied.

* The Prisoner said, "I do not look for it my Lord."

† When his Lordship mentioned the word *painful*, the Prisoner said "*joyful*."

City of Winchester.

The voluntary Confession of James Aitken, commonly called John the Painter, now a Prisoner in the County Gaol of Southampton, and under Sentence of Death, for burning the Dock-yard at Portsmouth taken this Twenty-eighth Day of March, 1777 ;

SAITH, that he was born at Edinburgh, the 28th of September, 1752, his mother now living, as he believes. Curiosity led him to Virginia, in America, at the age of twenty-one, as an adventurer to seek his fortune.—Left America in March, 1775.

In October, 1775, by the name of James Boswell, enlisted a private soldier in the thirty-second regiment at Gravesend—marched to Chatham next day, from whence he soon deserted; was not concerned in the fire in Temple-Street, Bristol, nor privy to it.—Broke into Mr. Morgan's warehouse at Bristol alone; no person concerned with him in that, or any other accident, that ensued in that city.—He intended to set fire to two houses in Portsmouth, in order to employ the engines, whilst the fire might spread in the rope-yard.—Broke into Mr. Morgan's warehouse at Bristol, in order to burn it, that the engines might be there employed, whilst the shipping were burning and the quay, for which purpose, he left a lighted candle burning in the said warehouse; and, because that fire did not take effect, he afterwards set fire to the warehouse in Quay-lane, by getting over the top of the door.—Mr. Deane told him, when the work was done (meaning burning the Dock-yards at Portsmouth, Woolwich and Bristol harbour, but not the houses) he should make his escape, and come, if possible, to him at Paris, and he should be rewarded. As a reward, his own expectations prompted him to hope, that he should be preferred to a commission in the American army.

When after setting fire to the rope-yard, he left Portsmouth (to wit) the next night, being Sunday—he reached London, and went to Doctor Bencraft, No. 4, Downing-street, Westminster, to whom he had a verbal recommendation from Mr. Deane, who gave him at Paris the Doctor's name in writing, and place of abode; but the Doctor would give him no countenance, and therefore did not relate the particulars of the mischief he had done to him, but hinted to him, that he would soon see or hear by the papers of an extraordinary accident that had happened.

And he afterwards wrote such an account in a letter to him, which he left himself at the Doctor's house with a person who came to the door, which for the sake of truth he relates, and without intention of casting any slur on the character of an innocent man.

That he saw the Doctor the day following in the Salopian coffee-house, and told him that he would do all the prejudice he could to this kingdom; to which the Doctor replied, "he could not be of opinion with him in that respect, for that he got his bread in this kingdom, and therefore would not be concerned with him." And seeing that the Doctor did not approve of his conduct, he hoped he would not inform against him, to which the Doctor said, "he did not like to inform against any man." When at Paris, he was assisted by Mr. Deane with twelve six livre pieces; he asked for no more, neither did he receive from him any Bank bill, draft or note whatever.

After leaving London (to wit) at High Wycombe, he broke into a house, and took away a few linens, consisting of caps, handkerchiefs, but nothing of value. He then went to Oxford, from thence to Abingdon, where he attempted to break into two houses, silversmiths or watchmakers, but without effect. From thence he went to Fairford, where he broke into a house, and took from thence a number of stockings and handkerchiefs, and a metal watch, and near fifty shillings in silver and halfpence: the watch he pledged for sixteen shillings, in the name of James Hill, at a pawnbrokers in Castle-street Bristol. After this, without attempting any thing, but having prepared some of his ingredients, he went from Bristol to Plymouth, with intent to set fire to the dock-yard there; twice he reached the top of the wall, but the watchmen being near, he could hear them talk together, especially the last night, therefore he desisted; he never committed, or attempted to commit any robbery, but when he was like to be drove short of money.

After



