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(249)

W. Crawford, (Brig)



A  
BRIEF SKETCH  
OF THE  
OCCURRENCES ON BOARD THE  
**BRIG CRAWFORD,**  
ON HER VOYAGE FROM  
*MATANZAS TO NEW-YORK;*  
TOGETHER WITH  
**AN ACCOUNT OF THE TRIAL**  
OF THE THREE SPANIARDS,  
*Jose Hilario Casares, Felix Barbeito,*  
*and Jose Morando,*  
**IN THE CIRCUIT COURT OF RICHMOND,**  
BEFORE  
**CHIEF JUSTICE MARSHALL,**  
*FOR PIRACY AND MURDER,*  
Committed on board said Brig; with other circumstances,  
calculated to illustrate those transactions.

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BY A MEMBER OF THE BAR.

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RICHMOND:  
Printed by Samuel Shepherd & Co.

1827.

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Law  
Trials  
(C. & E.)  
Crawford, B. H.

*Eastern District of Virginia, to wit:*

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\* L. S. \* States of America, Samuel Shepherd and Company, of  
\*\*\*\*\* said District, have deposited in this Office the title of  
a Book, the right whereof they claim as proprietors, in the words  
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*"A brief sketch of the occurrences on board the brig Crawford,  
on her voyage from Matanzas to New York; together with an  
account of the trial of the three Spaniards, Jose Hilario Casares,  
Felix Barbeito, and Jose Morando, in the Circuit Court of Rich-  
mond, before Chief Justice Marshall, for piracy and murder, com-  
mitted on board said brig; with other circumstances calculated  
to illustrate those transactions. By a Member of the Bar."*

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## ADVERTISEMENT.



The following narrative of the occurrences on board the Brig Crawford, and of the trial of the three Spaniards, in the Circuit Court of the United States at Richmond, before *Chief Justice Marshall*, is made out from notes of the Author, taken during the trial, which he attended throughout. To render this narrative more perfect, he has availed himself of facts communicated to him, by the witnesses, in conversations out of Court, particularly those furnished by *Mr. Ginoulhiac*, who, from his acquaintance with the Spanish language, and the confidence which *Tardy* reposed in him as a countryman, was better able to explain the motives and views of the agents in this horrid villainy, than the Mate of the vessel, who had not the same advantages. He has also availed himself of statements, both verbal and written, obtained from the Prisoners, and has attentively examined all the papers found in the possession of *Tardy* and the Prisoners, from which he has extracted whatever he believed calculated to illustrate the occurrences narrated. He has given the general import of the remarks of the Counsel at the Bar, and the opinions of *Chief Justice Marshall*. But as those, who have had frequent opportunities of hearing the opinions of the *Chief Justice*, well know, it is nearly impossible to convey the sentiments of that Judge, with the force and perspicuity with which they are delivered, unless taken down verbatim; he is sure that the manner in which they are here presented, is feeble compared to that in which they were expressed.

Upon the whole, however, he believes that the account here furnished, is as complete as ought to be required, it being intended rather as a popular narrative of the occurrences at sea and at the trial, than as a circumstantial report of a Criminal Cause tried in a Law Court of the United States.

*Richmond, July 20th, 1827.*



## INTRODUCTION.



Chief Justice Marshall, having been apprized, in the latter part of the month of June, when about to close one of the longest and most arduous sessions ever held by the Circuit Court at Richmond, that three Spaniards, who had made their escape from an American brig, then lying in Hampton Roads, had been apprehended, and that on their examination before the Mayor of Norfolk, circumstances were disclosed, which proved them guilty of piracy and murder, ordered, with a promptness which characterizes the discharge of his official duties, a Special Term to be held on the 9th of July, for the trial of the offenders.

On Monday the 9th of July, a Grand Jury was sworn in, and adjourned till the following day, as the witnesses for the United States had not yet arrived; although Mr. Stanard, the District Attorney for the United States, informed the Court that he had received a letter from the owner of the brig, Mr. Crawford Allen, dated at New-York, informing him that the Mate of the vessel and the French passenger had left that place on the preceding 5th of July. The next day, the Court was again in session, and from the same cause, adjourned till 12 o'clock the day following. On both these days, numerous persons thronged the Court, anxious to ascertain whether it was probable that the trial would progress, and the absence of the witnesses gave rise to various conjectures. On Wednesday morning, it being previously known that all the witnesses had arrived in the steam-boat from Norfolk on the preceding evening, the Court was crowded with spectators; and, when the witnesses were called to be sworn, it was with difficulty they could make their way to the Clerk's table.

The following witnesses were sworn to give evidence before the Grand Jury, on five indictments which the District Attorney had prepared to lay before it, viz: Edmund Dobson, Ferdinand Ginoulhiac, Capt. N. G. Dana, Lieut. Robt. Anderson, Col. Wilson W. Jones, Dr. Robt. Archer, John S. Westwood, Samuel B. Servant, Joseph Brough, and Adolphus Crozet, Professor of the French and Spanish languages, who was sworn to act as interpreter, at the request of Dr. John Brockenbrough, the foreman of the Grand Jury.



The Grand Jury having retired to hear the testimony, returned after an absence of nearly three hours, declaring that they had found the Indictment for Piracy, on which they had acted first, according to the request of Mr. Stanard, "a true bill;" and, after some explanation, again retired to consider of the other indictments, three of which were returned "true bills" the same evening; and the remaining not being found to correspond to the evidence as it had been drawn, as well as the rest from notes furnished by the Committing Magistrate at Norfolk, Mr. Stanard withdrew it; and being amended, it was again submitted on the following day, and also returned a "true bill."

The prisoners, having been conveyed from Norfolk to Richmond, but not having as yet been brought into Court, were ordered up for the following day; and in the mean time, the Clerk was ordered to make out copies of the indictments.

Judge Brockenbrough, who had held the Superior Court of Henrico for the trial of criminal causes, having vacated the Hall of the House of Delegates, in which he had held his Court, the Circuit Court met on the following day at twelve o'clock, in the Hall, which, being the most spacious room in the Capitol, was better calculated to accommodate the numerous spectators, who were expected to assemble to witness the first appearance of the prisoners. Accordingly, before twelve o'clock, the Hall was filled to overflowing; and, when the prisoners were brought in, there was a general press, produced from anxiety to behold men, who were supposed guilty of the greatest atrocities. The Marshal of the Court having restored order, the prisoners were placed in front of the Speaker's chair, which was to be occupied by Chief Justice Marshall, who had not as yet arrived.

The appearance of the prisoners, as they sat at the bar, was remarkable for the perfect composure with which they seemed to view the scene around them, rendered imposing by the multitude of spectators, the solemn silence which prevailed, and the black drapery with which the Hall was decorated. Some of the more acute observers, were of opinion, that when the sable decorations of the room first met their view, it made a strong impression upon them, but that the feeling thus evinced, was almost immediately subdued. Their countenances, although of the darkest hue, were not regarded as ferocious, and that of *Felix Barbeito* was generally thought prepossessing. In stature, *Casares* was of the middle size, *Felix* rather below, and *Morando* above that height; and had they been seen under different circumstances, all three would probably have been pronounced likely men.



As soon as the Chief Justice had taken his seat, and Mr. Crozet, the interpreter, had arrived, Mr. Stanard suggested, that it would probably be proper now to arraign the prisoners. Mr. Schmidt, in behalf of the accused, remarked, that as the arraignment was part of the trial, and the accused was usually called upon to plead to the indictment when arraigned, it would be premature to arraign them then, as it was admitted, that they had not been furnished with copies of the indictments, and no Counsel had, as yet, been assigned by the Court to defend them; that the Act of Congress, which declared, that in all capital offences, the accused should have a copy of the indictment at least two entire days before the trial, intended to allow a prisoner time to examine the charge preferred against him, and procure advice as to the best mode of meeting it, &c. Mr. Stanard, in reply, observed, that it was not his wish to call upon the prisoners to plead instantly; that he only desired them to be informed of the nature of the crime with which they were charged; and that he wished them at the same time to be apprized of their right to be defended by Counsel, and that time would be granted them to plead, if asked. The Court thereupon decided that the indictments should be read and interpreted to the prisoners, but that they should not be called upon to say whether they were guilty or not guilty of the crimes therein charged.

The indictments were accordingly first read by the Clerk of the Court, and afterwards interpreted to the prisoners by Mr. Crozet. There were five indictments. One for Piracy, containing two counts; the first charging them with having committed piracy, as defined by the Law of Nations, and the second with having committed the same crime as defined by the Act of Congress, passed the 15th of May, 1820, "to continue in force 'an Act to protect the commerce of the United States,' etc. and to make further provision for punishing the crime of piracy."

The four remaining indictments charged the prisoners with the murder of Henry Brightman, Asa Bicknell, Oliver Potter and Joseph Dolliver, and each contained several counts.

After the indictments were read and explained, the prisoners were informed that they had a right to be defended by Counsel, and asked if they were provided with, or wished the Court to assign them Counsel. Whereupon, they stated that they wished Mr. Schmidt to defend them, and pointing to Mr. Stanard who was seated at the bar, expressed a desire that he might be appointed for the same purpose. It having been explained to them that it was his duty to prosecute them, they left the selection of another Counsel to the Court, and Mr. Benjamin

Watkins Leigh, who was not present, was accordingly assigned them by the Court.

Monday, the 16th of July, having been appointed as the day of their trial, Mr. Schmidt, on behalf of the prisoners, prayed that the Court would award that a jury be summoned *de medietate linguæ*, which, after some discussion, was awarded, the Court declaring, that though not perfectly satisfied that the prisoners were entitled to claim it as a right, under the existing laws of the United States, still, from a desire to afford the prisoners an impartial trial, it felt disposed to grant their request, if left to the exercise of its discretion.

The Court further said, that as in the State Courts, the practice of which was adopted by the Circuit Court, it was admitted that the Judges had at least a discretionary power to award a jury *de medietate linguæ* if desired by an alien, and the Act of Congress which had been referred to, to prove that in all trials in the United States' Courts, the jurors ought to be citizens of the United States, did not, in his opinion, prescribe a practice differing from that adopted by the State Courts, (here the Judge examined the provisions of that act) it thought that in deciding on the motion, it was left in the exercise of a sound discretion, and would accordingly order a jury to be summoned composed of an equal number of aliens and citizens, although the execution of such order might, in the present instance, be attended with some inconvenience; and thereupon, the Court adjourned.

On Friday and Saturday, the Court met merely to adjourn. On Monday, the 16th of July, the Court met at ten o'clock, and the prisoners were separately arraigned and pleaded not guilty, the charges, etc. having been again explained to them by Mr. Crozet, the interpreter.

In behalf of the accused, Mr. Schmidt read the following affidavit, which had been previously translated and sworn to by the prisoners in open Court:

The affidavit of *Jose Morando*, *Hilario Casares*, and *Felix Barbeito*, who stand indicted in the Circuit Court of the United States for the Fifth Circuit and District of Virginia, for piracy, by the names of *Pepe*, otherwise called *Jose Hilario Casares*, *Courro*, otherwise called *Jose Morando*, and *Felix*, otherwise called *Felix Barbeito*, witnesseth: That these affiants, judging from their own observation, and from the information obtained from others, verily believe, that such is the excitement prevailing against them in the City of Richmond, and its vicinity for many miles around, that no jury, which could be selected from the said city and its vicinity, or from either, would be



impartial judges of their guilt or innocence, but would be influenced by preconceived opinions, derived from incorrect and exaggerated accounts of their guilt. These affiants further state, that they verily believe, that the accounts circulated in the news-papers, giving a narration of the occurrences on board the brig Crawford, on board which vessel, the piracy with which they are charged, is said to have been committed, have so prejudiced the public against them, that if at present put upon trial for the offence, with which they are charged, they would fall victims to such prejudices.

These affiants also declare, that if time were allowed them to prepare for their defence until the month of November next, when, they have been informed, the Court will again be in session, they would be able to prove the following facts, to wit: that such was their situation at the time they took passage in the aforesaid vessel, that they could have had no possible temptation to commit the crime with which they are charged; that they have always borne a fair character in their own country; that they were amply supplied with money when they came on board the vessel, in which the piracy is said to have been committed; that they were going to the United States in the said vessel, for the purpose of engaging in commercial enterprises, and were furnished with the means so to do; that the account given by the Mate of the vessel, and by the French passenger, before the committing magistrate in Norfolk, is incorrect in relation to facts which occurred at Matanzas, and that in a place where the said witnesses and the accused were equally well known, to wit: at Matanzas, the declarations of the accused would be believed in preference to those of the said witnesses.

These affiants further declare, that they are entirely ignorant of the language, institutions and laws of the United States of America, and that they were informed immediately after their examination before the committing magistrate at Norfolk, that they would not be put upon their trial until the month of November next following the said examination; and that, in consequence of such information, they addressed letters to their friends and relations in the Island of Cuba, requesting their aid in collecting the necessary proofs; but that, as scarcely three weeks have elapsed since the said letters were forwarded, it has not been possible, in the ordinary course of communication between the United States and the said Island, to obtain answers to the letters thus forwarded, nor do these affiants expect them until the latter part of the month of August next ensuing.

These affiants further declare, that they are confident, that immediately upon receipt of the said letters forwarded as aforesaid, their friends and relations would take steps to collect the before mentioned proofs, with all possible speed, and have them transmitted to the City of Richmond; but that as the Crawford arrived in Hampton Roads, about the 12th day of June last, and their letters were not written till some days afterwards, it is not probable that even the greatest exertions on the part of their said friends and relations could put them in possession of them till the month of September next.

And finally these affiants solemnly declare, that they verily believe, that to put them upon their trial for the offence with which they are charged, before they have had an opportunity of collecting the proofs, which they think necessary for their defence, and before time shall have allayed the excitement, which at present operates so much to their disadvantage, would be to jeopardize their lives, by submitting their cause to the decision of partial judges upon *ex parte* evidence.

*Richmond, July 16, 1827.*

The above affidavit was sworn to in the usual form in open Court by the affiants, the affidavit itself and oath administered to them being interpreted by *Adolphus Crozet*, who was sworn in Court for that purpose, this 16th day of July, 1827.

R'D. JEFFRIES, *Clerk.*

Mr. *Schmidt*, after having read the affidavit, remarked that he did not deem it necessary to make any observations in relation to its contents, but submitted the motion for a continuance supported by the facts, which it disclosed.

Mr. *Stanard*, in opposition to the motion, said that he had been apprised by rumour, that delay was to be employed as a means to evade the law, and that a continuance was expected to enable the prisoners to escape with impunity, not because they were not guilty, but on account of the casualties which might, and *would probably* prevent the United States from again collecting the testimony necessary to establish their guilt.

From what had been disclosed of the evidence, it was known that there were only two material witnesses, one of whom was a sea-faring man, and a resident of Massachusetts, the other was an inhabitant of the Island of Cuba, who had come to the United States, where his stay was expected to be short, for the purpose of transacting business. Under these circumstances, what inducements had he to remain in the United States; and



if he returned to Cuba, as he was assured he would do before the month of November, what assignable motive could he have for again returning to this country to give evidence against those who had at least shewn him mercy? Nay, what security have we, that the offence may not find impunity by the murder of the witnesses? He said that these observations, without dilating upon others which might be urged, were sufficient to shew, that he performed an imperious duty in pressing upon the Court the necessity of looking to the present application with jealousy and care.

He then went into an examination of the affidavit, and contended with great force, that the facts therein stated were insufficient; that the excitement, if it existed, was directed against the crime, and not the supposed offenders; that the prisoners, from their ignorance of our language, must necessarily be unacquainted with the state of public feeling; that their own evidence was insufficient to prove it, because it was a fact to be inferred, not from the feelings of one or two individuals, but from proofs that such feelings pervaded a great portion of the community, and that it existed not only in Richmond and its vicinity, but throughout the whole Eastern District of Virginia, which was the bailiwick from which the Marshal might select the jury.

He further contended, that there was nothing in this cause which would not equally apply to every other, as it was impossible to prevent the news-papers (which he thought had observed unusual caution in this case) from giving an account of crimes remarkable for atrocity; and, if this circumstance was a good reason to delay the execution of the laws, you might in every case arrest the arm of justice; that it was not to be expected, that the delay asked would prevent the diffusion of prejudices, or obliterate those already existing; that on the contrary, reasoning from analogy, it was to be expected that the excitement, instead of being allayed, would increase in a geometrical ratio; and that what was at present only felt in Richmond and its vicinity, would in the month of November, extend to every part of the State, and then be urged with still greater force, as a cause for postponement.

That as to the facts, which the witnesses are said to have stated, as having occurred at Matanzas, he did not recollect that any facts were stated as having occurred at that place, and he was confident that they were not material; he could not conceive that the witnesses could have had any motive for detailing such-facts, as the crime was committed on the high sea, and nothing which occurred at Matanzas could be at all important, and even if it were, the Court would not listen to the

affidavit under such suspicious circumstances, unless the facts which it was intended to controvert, were fully detailed, and the witnesses designated. For the law on this subject, he referred to *Chitty's Crim. Law*, vol. 1st. And he further contended, that the vagueness of the certificate in relation to these facts, proved, with demonstrative certainty, that the sole object of the motion was delay; and that even if it were not, there was not reasonable probability of obtaining witnesses; nay, it was not even alleged that such a thing was probable.

As to the other facts set forth, the sum and substance of them was to prove the character of the accused; the law, however, is explicit, that the absence of a witness, who can testify only to character, is no ground for postponement of trial. The prisoners were, therefore, not entitled to a continuance on any of the grounds stated in their affidavit; and the unexampled atrocity of the charge, as well as the peculiar situation of witnesses, would induce the Court rigorously to proceed according to the forms of law.

*Schmidt*, in reply, said, that in presenting the affidavit of the accused, and submitting the motion for a continuance, founded on the facts therein set forth, the great respect which he felt for the Court, as well as a deep-felt conviction that the Court would in this, as in every other application addressed to its discretion, exercise its prerogative with an enlightened regard to justice, impelled him to silence; and he should still have obeyed this impulse, had not a sense of duty to his clients pressed upon him the necessity of replying to the arguments advanced with such force and eloquence by the Attorney for the United States.

This application, it is true, comes from men accused of crimes, which the laws of the land punish with death; men, strangers in this country, unacquainted with our laws, institutions and language; but who are still entitled to an impartial trial, which those laws grant to every individual, even the meanest. As a reason for their request, they assign, first, the excitement prevailing against them. That such excitement exists, my own observations confirm; nay, it is natural, and would be honorable, were it merely a virtuous people expressing their indignation against a daring and most atrocious offence; for, such feelings must be experienced, in a greater or less degree, by every member of the community. As to myself, I will freely acknowledge, that I have never heard of any transaction in real life, nor have I read even in the wildest fictions, where imagination, rioting 'mid gloomy images, takes delight in arraying those which were most appall-



ing, of any scene of villainy, which excited in my breast such thrilling horror, such bitter indignation, as the recital of the occurrences in the brig Crawford, as related in the newspapers of the day; and so strongly were these feelings associated with the supposed perpetrators of the crime, that it required considerable reflection, ere I could bring myself to believe that they might by possibility be innocent. What I have thus experienced myself, I may without violating any rule of just reasoning, also suppose to have been experienced by others, and with this difference, that as few of them have had the same motives as myself to analyze their feelings, they are probably still highly unfavorable to the accused. To prove that these conclusions are just, and founded on a knowledge of human nature, I might appeal to the history of every age, the experience of every day, which shew the facility with which public indignation, is directed from the crime to the individual, charged with the commission of some heinous offence. Without adverting to the periods, when at Rome a single offence caused the expulsion of the Tarquins, or the destruction of the Decemvirs, I might, from the annals of our own country, the inhabitants of which are, perhaps, the most orderly on earth, select numerous facts to prove the overwhelming effects of popular excitement, and the resistless influence which it exerts over its unhappy victims. It is said, however, that no such excitement exists; or if it does, it is directed against the crime, and not the offenders; that witnesses ought to be brought to prove its existence, &c. In reply to this, I beg leave to observe, that if it be true, as I suppose, that it prevails, its very existence would preclude direct proof, as no individual would be willing to acknowledge that he was actuated by prejudice against the prisoners in forming his opinion of their guilt or innocence; for, the moment he made such acknowledgment, if an honest man, he would suspend his opinion; but, if we may infer its existence from circumstances, which in my opinion is the only mode by which, in this case, we can arrive at any proof, I think such may be adduced as will prove its existence conclusively; and I would advert, in support of it, to the argument addressed by Mr. Stanard to the Court on this motion; in which, instead of adopting the maxim of the law, which declares that every man shall be presumed innocent till proved guilty, he has not only taken for granted the guilt of the accused, but had the boldness to suppose that these men, in order to screen themselves from the punishment which awaits them, seek to obtain delay; that by committing another crime, the most revolting which the imagination can possibly suggest, they may get rid of the witnesses which appear against

them. Is it to be believed that that gentleman, who is remarkable for his discrimination and humanity, would have been capable of forming such a conclusion, if an undue excitement had not influenced his deliberations?

It has also been said, that the excitement which exists now, will operate with increased energy, in the month of November. This, I cannot believe; for, all passions which operate with great violence on the human mind, are from their nature, necessarily of short duration: man is so constituted, that he cannot long experience them with the same intensity, and his mind insensibly resumes that calmer tone of feeling, better adapted to his nature; besides, many events will intervene between this and the month of November, to divert the attention of the public, allay the excitement, and enable us to obtain an impartial jury. It has not been urged, and could not with any degree of plausibility, that the accused would have any desire to keep up this excitement; their ignorance of our language and their friendless situation, would render it impossible, even if they entertained a wish to do so.

Courts, both in England and the United States, have, in all instances of strong excitement, and more particularly in cases of life and death, granted the accused time. Thus, in *Doctor Hensley's Case*, Lord Mansfield of his own accord, without any application, granted the accused a month in addition to the time allowed by law, to prepare for his defence.

If this, then, were the only ground for the application, I should rely with confidence on its sufficiency, and on the willingness of the Court to interfere to protect the prisoners. But there are others: It is said that this offence was committed on the high seas, and it is admitted that the two witnesses, who were present at the time when it is said to have been committed, are the only that are material; one of those is said to be an inhabitant of the State of Massachusetts, the other of the Island of Cuba: that the character of either of these witnesses, is known to any one in the City of Richmond, is not pretended, and we are entirely ignorant of their past life and conduct.

And, as in every case, where a jury has to decide on the force and effect of evidence, its opinion will be influenced by a knowledge of the character of the witness, a person accused has a right to prove, if he can, that the character of the witness is such that he is not entitled to belief. The question of credibility must always depend on the knowledge, disinterestedness, integrity and veracity of the witnesses; and that they are deficient in knowledge of the facts to which they testify; are biased; expect to derive benefit from the conviction; have been convicted of infamous crimes, or are capable of uttering



deliberate falsehoods, under the solemn sanction of an oath, &c. are circumstances which may be given in evidence, to shew, either that they are wholly unworthy of credit, or that allowance ought to be made for the influence of all or either of these circumstances, on their testimony. Nay, the facts to which a witness deposes, may also be tested by their conformity to experience, and in every one of these aspects, the facts which the prisoners believe that they would be able to prove, if time were granted, are material.

As to character, every human being accused of a crime has a right to shew his character; the weight of such evidence must of course be considered by the jury, and it is fair to infer, that it would require much stronger evidence to convict a man of a crime, who had always sustained a fair character, than one whose character was entirely unknown. In this particular instance, it is of the utmost importance, not only because the prisoners are strangers, but because they are Spaniards, who, with us at least, have acquired the reputation of being in the highest degree ferocious, and reckless of human life, with what justice I cannot undertake to determine.

When, in addition to this, it is recollected that the expectation has already been held out to the prisoners, that they would not be tried till the month of November, that they have written to their friends in the Island of Cuba to this effect, and that it is totally impossible for them, at least for some time, even to hear from their friends and relations, much less to procure their aid; it seems to me, if not cruel, certainly in the highest degree rigorous, at present to press their trial.

The fears expressed by them that they will not have an impartial trial, is also entitled to some indulgence; these fears are natural to foreigners, unacquainted with our language and laws; and if a Court ought ever to be influenced by considerations of national honor, I think this a fit occasion, when the honor of the United States is interested, in convincing these unfortunate men, that they have nothing to fear but the *laws*, to which all are equally amenable.

As to the manner in which the facts in this certificate are presented, it has nothing suspicious. The affiants state, "that from their own observation," &c. Their ignorance of the language does not prevent observation, as the actions of men, the expression of the countenance, &c. are much better criterions of their feelings than verbal declarations; these the prisoners have had opportunities of examining, both in Norfolk and Richmond, and their situation was calculated to make them acute observers.

The other facts are such as are certainly not improbable, and had it been the intention of the prisoners to obtain time at all events, they could easily have made out a certificate, which no judge could have thought insufficient to support the application. As to the inconveniences which must attend the delay asked, they are formidable; the greatest, however, is the difficulty of again collecting the witnesses, and this does not to me appear insuperable. I should certainly regret if a continuance were eventually to defeat the ends of justice; for, although as Counsel for the accused, it is my duty to attend to their interest, yet my duties both as advocate, citizen and man, forbid me to do any thing to obstruct the execution of the laws, or so to act as to defeat their operation; but, so fully am I convinced of the propriety of the delay for which I ask, that be the consequences what they may, I must request it, otherwise I would not perform my duty. The Court, however, in the absence of all proof of the fact, will not presume that the witnesses would not attend if so ordered, at the next term. It seems to me, that both have the strongest motive for being punctual in their attendance, the inconveniences of which, are not so very formidable; for, admitting that they would forego the gratification of revenge, is not their character at stake, and would not their absence give reason to suspect that fear of being implicated in the horrid transactions, which they pretend to have witnessed, has prevented their return?

I am confident that the Court, in deciding upon the application of the accused, will not subdue the sentiments of pity which plead in their behalf, as friendless and desolate foreigners, who stand before it for life and death, unless such sentiments be manifestly opposed to the stern and imperious dictates of justice.

The Court then examined the grounds on which the motion was made, and declared, that it was convinced that no such excitement existed, as would prevent the prisoners from having an impartial trial; that if it prevailed, it must have been produced by the accounts circulated in the news-papers, and not by the sight of the transactions. It was true, that our feelings might be strongly affected by the mere narration of some horrid outrage; but not probable that such narration would so sway the understanding, as to prevent it long afterwards from exercising the judgment. The sight, indeed, of some frightful object or some bloody catastrophe, may affect the mind so strongly, as for sometime to deprive it of the coolness and equipoise necessary to deliberation; but, as in this particular instance, the crimes were committed on the high-sea; it was

impossible that any person, who would be called upon to act as a juror, could have any knowledge of the transactions, derived from actual observation. It was the duty of the Court, impartially to administer the laws; and in the discharge of this duty, it was as much bound to prevent the guilty from escaping punishment, as it was to protect the accused in their right to an impartial trial. It felt desirous to do both, and as it was admitted, that if the witnesses were discharged it would be difficult again to collect them, the Court would feel constrained to order them into close confinement until November next, should it grant a continuance. This would be a positive evil, to which it would not resort unless it was absolutely necessary. The Court could not see any reason why the accused could not now have an impartial trial. The evidence which they wished to procure, might not be obtained, but admitting that it could, would it have any bearing on the charge? The offence was committed on the high-sea, and was expected to be proved by persons, who were eye-witnesses. In this aspect, neither the character of the accused, nor occurrences in the Island of Cuba, could have much influence on a jury, who would have to determine whether the facts proved, left no reasonable doubt of the guilt of the prisoners. The Court further declared, that it was certain that it felt no prepossessions unfavorable to the prisoners, and that as it possessed the power to protect them, *it would* certainly exercise that power, and grant a new trial, should it have the least reason to believe, that prejudice had influenced the verdict of the jury.

The motion was over-ruled.

[The above is but a slight sketch of the opinion of the Chief Justice, as the low tone of voice in which it was delivered, and the motions of the spectators, pressing forward to hear what was said, prevented many parts of it from being distinctly understood.]

Mr. *Leigh*, who had been prevented by pressing business, from examining the indictments till that very morning, and who had not even seen the prisoners till he arrived in Court, while the motion was pending, took no part in the discussion.



## THE TRIAL.



The prisoners having requested to be tried separately, the venire (*de medietate linguæ*) was called, and *Pepe*, alias *Jose Hilario Casares*, was first put upon his trial. Each juror was sworn to answer questions, and examined by Mr. *Leigh* for the purpose of ascertaining whether he was prejudiced against the accused. The prisoner having made peremptory challenges, and challenges for favor; about half-past one, a jury was impannelled, consisting of Thomas Muir, Charles H. Hyde, Thomas Williams, Edward Byrnes, Francis Larmand, William Pollard, Willis Cowling, Nehemiah Tichenor, William M. Harris, Richard Whitfield, John B. Valentine and Rix Jordan.

Mr. *Stanard* opened the cause on behalf of the United States, and said; that in discharge of his official duty, he was called upon to give a narrative of the facts connected with the charge. He believed, that the testimony would disclose acts of such cold, deliberate and heartless wickedness on the part of the prisoner at the bar, and his associates, as were seldom met with in the annals of any country, even in the older Governments of Europe, and which had happily hitherto been entirely unknown in this country; that although the evidence would furnish proof of obdurate villainy, perpetrated with unexampled boldness and cruelty, still he had no wish to press the evidence beyond its natural import, as he was confident that a simple narrative of the circumstances attending the perpetration of the crimes, could not fail to fill every human breast with horror. He then recapitulated briefly, the facts which he expected would be proved, and in conclusion said, that if after having heard the evidence, the jury should still entertain a reasonable doubt of the guilt of the prisoner, it would be their duty to acquit him.

Mr. *Leigh*, on behalf of the prisoner, remarked, that having been assigned as Counsel for the prisoner, by the Court, it was his duty to see, that he had a fair trial; and this he was confident, from the character of the Court, Counsel and Jury, would be secured to him; that as Counsel for the defendant,



he had an additional duty to perform, which was, to examine the manner in which the charge against him was preferred, and take advantage of every legal defect. It was also his duty to remind the jury, that the defendant had pleaded *not guilty*, and that in consequence, it was incumbent on the United States to prove every material fact and circumstance which constituted the offence. That he had not the advantage of knowing beforehand, what facts could be proved, this was the peculiar privilege of the Counsel for the United States, he should therefore content himself with repeating what had been candidly admitted by the Counsel for the United States, that if the evidence was of such a character as to leave a reasonable doubt of the guilt of the prisoner, it was the duty of the jury to acquit him.

The witnesses, who had been previously sworn, were then called; and first,

*Edmund Dobson*, who carried his left arm in a sling, was about 5 feet six inches high, well made, had fair complexion, light hair and eyes, and an open and engaging countenance, declared,

That he sailed from Providence, Rhode Island, as mate of the brig Crawford, about the 6th of April, 1827; that the said brig, which was loaded with a general cargo of American produce, was bound for Matanzas, in the Island of Cuba, and besides Henry Brightman, who was captain of the vessel, was manned by the following crew, viz: Joseph Dolliver, Oliver Potter, Asa Bicknell, Nathaniel P. Deane, and Stephen Gibbs, a colored man, who was cook: that the vessel was built at Troy, in Massachusetts, where he had assisted in rigging her; that she was first registered at Deighton, and shortly before her last, which was her second voyage, at Providence; that after arriving at Matanzas, they took in a cargo of molasses, coffee and sugar, to be delivered in New-York.

While they were loading at Matanzas, and about eight or ten days before they were ready to sail, capt. Brightman informed him that he expected some passengers, and upon enquiry stated, that he believed two or three were Spaniards and one was a Frenchman. A few days afterwards, Tardy, who assumed the title of Doctor, came on board, entered into conversation with the Captain, whom he proposed to furnish with medicine to cure the Asthma, with which he was dreadfully afflicted. Tardy remained in the vessel that night, and on his return to shore in the morning, sent the Captain three Phials, containing some medicine, which he used, and thought beneficial. About three days before the departure from Matanzas,

Felix and Courro came on board the vessel in the evening, carrying a small iron bound box, which was very heavy, and which they said, contained \$ 17,000. They also stated, that they had great difficulty, and were compelled to use many precautions, in bringing it to the vessel, as the Police of the City was constantly on the alert, for the purpose of detecting specie, the exportation of which was prohibited. Felix seemed particularly anxious that the box should be put in some safe place, where it might not be found, should the vessel be searched, and accompanied the witness, who by direction put it in a locker, under the birth in which the Captain slept, with which disposition of it he seemed perfectly satisfied. Felix continued on board from this moment until the vessel sailed, and was continually about the cabin, as if anxious to watch the spot which contained his pretended treasure. Courro also continued in the vessel, but as he was steerage passenger, he confined himself to the fore-castle. On Saturday the 26th of May, in the morning, Tardy and Pepe came on board, and in the evening of the same day Mr. Ginoulhiac arrived. They expected to leave Matanzas that day, but the mercantile house to which they were consigned, having failed to procure the necessary documents, their departure was delayed. The vessel was hauled out from the shipping on Sunday, and sailed on Monday the 28th of May. When the brig left the port there were aboard, the following passengers, to wit: Alexander Tardy, Ferdinand Ginoulhiac, Felix Barbeito, Jose Hilario Casares, Jose Morando, an American, and an Irish Carpenter, names not known, and Mr. Norman Robinson, who was part owner of the cargo. The three Spaniards, Casares, Morando and Barbeito, designated each other familiarly by the appellations of Pepe, Courro and Felix, and seemed acquainted with each other, and with Tardy. The brig proceeded on the voyage with variable winds, until the 30th of June, when from an observation taken, they found themselves in latitude 27 degrees 41 minutes N. and longitude 79 degrees W. On the morning of the 31st of May, the wind being light, and the weather fair, the witness sat down to breakfast on deck with Tardy and the other cabin-passengers. Captain Brightman was indisposed and confined to his birth. During breakfast, Tardy acted as Master of Ceremonies, and helped the witness to bacon, fried eggs and a bowl of chocolate; in handing the latter to the witness, a portion of it was spilt, which Tardy, with officious politeness, insisted on replenishing, and was permitted to do, the act at the time being regarded as a civility, and excited no suspicion. After breakfast, witness descended into the cabin, for the purpose of taking some repose, as the



sickness of the Captain had compelled him to spend the preceding night on deck. He had hardly reclined on his bed for this purpose, when he was attacked with a violent head-ach, throbbing about the temples, and sickness of the stomach.— Unable to account for this sudden indisposition, he sent for Tardy, who having felt his pulse, and inquired into the symptoms of the disease, declared that he had bile on the stomach, and recommended an emetic. Mr. Robinson, who in the mean time had descended into the cabin, and overheard Tardy's prescription, dissuaded him from taking an emetic, at least then, and advised him to seek repose, to which he consented; but finding the heat of the cabin oppressive, he had his mattress brought on deck, notwithstanding the remonstrances of Captain Brightman, who expressed great apprehension, that his own indisposition, and that of the witness, would prevent the vessel from being properly managed.

On deck, his sickness, attended with constant vomiting, continued throughout the day, and it was not until 8 o'clock in the evening, that he felt somewhat relieved. During the day, he had a conversation with Mr. Robinson, who communicated his fear that an attempt had been made by the Spaniards to poison them, as the whole crew seemed to be sick; and who proposed, that to guard against any thing of this kind for the future, their own cook should prepare food for the crew and the other passengers, while Courro, who was the servant of Felix and Tardy, might act as cook for the Spaniards. So vague, however, were these suspicions, that the witness had resolved to take Tardy's medicine the next morning, if he did not feel better. In the mean time, the witness continued on deck and obtained some repose. At 12 o'clock, when it was his duty to take charge of the watch on deck, he was called up, but the night being calm, and the vessel making but little way through the water, he did not think it necessary to turn out. Dolliver, who had at this time taken the helm, was directed to wake him, should a breeze spring up, or any thing occur which would make it necessary to change the course of the vessel; and thereupon, having adjusted his mattress on the starboard side of the quarter-deck, between the hen-coop and a water-cask, he fell asleep. His sleep had continued, as he supposed, about an hour and a half, when he was waked by dreadful shrieks proceeding from various parts of the vessel. Apprehensive that they had been attacked by Pirates, as they were yet in the Gulph, he inquired what was the matter, started up and ran forward. At the fore-castle he saw a man standing, who held a knife in his hand, which was raised; as he approached, the man assumed the attitude of striking, and

on turning to avoid the blow, he received a stab in the left shoulder. This man was Pepe. Hastening across the deck, he saw a man, whom he supposed to be the Captain, leaning against the side; he called to him, but received no answer. Approaching the main rigging, he beheld Potter supporting himself by the railing, with his hands before his stomach, mourning piteously. As he recognized the witness, he inquired if they could get nothing to defend themselves with; witness seized a handspike, which was taken possession of by Potter. They then ascended the main shrouds, whither Dolliver had already retreated, and as the witness was going aloft, the blood of his fellow-sufferers, which descended in a shower upon his head, inspired him with such horror, that he was almost incapable of advancing. On reaching the cross trees, Potter fainted, and would have fallen, had it not been prevented by the exertions of himself and Dolliver, who was also badly wounded, and declared, when called upon to assist Potter, that he was hardly able to support himself. In the mean time, Potter reclining on the breast of the witness, recovered, and declared that he must die, as his intestines protruded through the wound, seemed much affected, and spoke of his mother and sisters, whose fate, when deprived of his support, he deplored. He proposed as an act of safety, to cut away the rigging, but this the witness opposed, not only because they had no instrument with which to effect it, except a jack-knife, but because such an act would exasperate their enemies, who were on deck and possessed fire-arms, which might be used for their destruction. Potter, however, was resolved to cut the rigging, and having got possession of the knife, began to cut the hallyards. Dolliver, being asked by the witness who took the helm from him, related, that about half after one, Tardy came on deck, looked into the binnacle, and asked him how he was steering; that on stooping down to ascertain the course with more precision, he received, in rapid succession, two cuts across the throat, and immediately fled to the rigging.—While remaining at the mast head, witness heard something thrown into the water, and supposed at the time that two dead bodies were thrown overboard. Witness also heard the voices of two men swimming in the water, and recognized them to be Nathan and Mr. Robinson. Nathan approached the vessel and entreated that a barrel, a plank, oar or something might be thrown out to support him, as he was ready to sink. His entreaties, which were addressed to the Spaniards, in broken Spanish, were either unheeded, or answered with threats.—Mr. Robinson, who had kept further off from the vessel than Nathan, now swam to the side, and addressed himself to the



men aboard. As he spoke in Spanish, witness could not understand what he said, but from hearing the term *harrel*, frequently repeated, he supposes that the import of his conversation was similar to that which he had previously heard from Nathan. At one time, the Spaniards seemed willing to grant his request; but when he approached, they seized the greins, (an instrument resembling a harpoon) and stood prepared to strike him. As the night was calm, the sky clear, and the stars shone with great brilliancy, the witness was able to distinguish conspicuous objects on deck, and especially the Spaniards, who were calling to each other, and were in constant motion. In the mean time, the vessel was carried gently along by the Gulph stream, and the voices of Nathan and Robinson, which became fainter and fainter, died away. Tardy then called out in a loud voice, "Mr. Dobson, where are you?" Witness replied, "in the main top." Tardy again asked, "are you wounded," and being answered "yes," requested him to come down. Witness refused; but upon repeated assurances from Tardy, that if he came down his life should be spared, he descended, notwithstanding the remonstrances of his companions, who implored him, as he valued his life, to remain where he was. When he reached deck, he was immediately surrounded by the three Spaniards, and sometime afterwards Tardy approached him. Tardy began to question him about the box which Felix had brought aboard, and what had become of it. Witness replied, that he had seen the box and put it in the Captain's state room, but could not tell what had become of it. Tardy then explained to him, that the Spaniards had applied to the Captain for the box, and upon his refusal to give it up, they, believing that he had put it ashore at Matanzas, had resolved, instead of going to the U. States, to seek a precarious redress from the laws, to take the law in their own hands, and had accordingly killed the captain and taken possession of the vessel. That, as the deed was now done, it would be useless to go to the United States, and they had determined to sail for Europe, and if the witness would assist them, they would not only save his life, but he should be well paid for his services when the cargo was disposed of.

The Spaniards accompanied this explanation with curses against Captain Brightman, and the witness having consented to do whatever was asked, obtained permission to lie down. He retreated to the quarter-deck, where he threw himself on a matress, faint from the loss of blood, and greatly agitated by the scenes which he had witnessed. Tardy again accosted him to know who was at the maintop, and having been told

that Dolliver and Potter were there, they were called, and requested to come down separately. At first they refused; but finally, upon repeated assurances from Tardy that no harm should befall them, Dolliver came down; but hardly had his foot touched deck, before he was stabbed by Courro, and pushed overboard by Pepe. On falling in the water, Dolliver still retained life, and addressing himself to Potter, told him to die where he was, and not to come down, for if he did, he would certainly be killed. He then addressed himself to the Spaniards, and called them barbarous and blood-thirsty wretches, equally destitute of courage and humanity. His voice was soon silenced by the waves. Shortly afterwards, Potter fell from the rigging, and as he struck the ocean in a heavy manner, and no struggle was heard, witness supposed that he had either fainted or was dead. By this time day began to dawn, and he saw Pepe and Courro come on deck with two muskets, which they loaded in sight of the witness, who believed that it was their intention to shoot the cook, who had fled to the foretopmast, where he had concealed himself in the sail. He saw them advance to the fore-castle and call up some one from below, whom he recognized to be Asa Bicknell. This poor fellow seemed wounded, and writhing with agony, a bandage surrounded his body, and he was either ordered, or threw himself voluntarily overboard, and in the act of falling, was shot at by Courro, whether with or without effect, he cannot tell; but when in the water, Pepe discharged his piece at him, and from the shriek which followed, he supposes that it took effect.

The Spaniards now approached the quarter-deck, and as it was day, he could distinctly perceive, that two of them had nothing on but their trowsers, confined with handkerchiefs, tied around the waist; the third had on, in addition to his trowsers, a Guernsey frock. Each of them was armed with a long sharp-pointed knife, confined to the side by the handkerchief. Their hands and clothes were besmeared with blood, and their appearance hideous. One of them descended into the cabin with a rope, which, having fastened it to something, Pepe drew it on deck. It was a dead body, and by the bent of one of the legs, he recognized it as the body of the Irish carpenter, who had broken his leg, which, from having been improperly set, was crooked. The body was thrown overboard, and then the cook was called. After repeated assurances of safety, he came down and was ordered to go to work and cook breakfast. The Spaniards having thus completed the work of destruction, set up loud cries of exultation, and intoxicated with their success, walked about the deck, which, as well as the sails and rigging,



was every where dyed with blood. They occasionally resorted to a bottle of liquor, placed on the hen-coop. Tardy remarked to the witness at the time, that Spaniards could drink a great deal; that these men had been drinking all night without being sensibly affected by it, and that it was unusual to see a Spaniard drunk. They then set about cleaning the deck, and seemed anxious to remove every trace of the murders they had committed. The deck and rigging were washed, and the sails painted to conceal the blood with which they were stained. Tardy, taking compassion on the situation of the witness, sent to the cabin for the medecine-chest, and applied himself to dress his wounds. Perceiving that the witness was greatly alarmed, he endeavoured to soothe him; he represented his wound as a mere scratch, and said he could shew fifty scars from wounds more dangerous. He also assured the witness, that if he would remain in the vessel, and assist them, his life should be as safe as his own; that he ought not to be afraid of the Spaniards, who were mere brutes, as he knew how to govern them. Witness asked to be brought into the cabin, and when raised for that purpose, he fainted. How long he remained in this situation, he does not know; recollects that he was roused by some noise, and on opening his eyes, saw Felix in the act of breaking open his chest. He pointed out by signs, the place in which he would find the key; saw him open the chest, and take out a pocket-book (which was now in Court) containing a three dollar bank note, and about two dollars in small change. He took also twenty-five dollars in silver, and some articles of clothing. In the course of the day, all the papers belonging to the brig were torn up and thrown overboard; all the trunks and chests, which belonged to the passengers and crew, were overhauled, and after such articles as pleased the Spaniards were taken out, thrown overboard. The American Flag was destroyed, and materials were produced for making a Spanish Flag, which Mr. Ginoulhiac was required to put together. Tardy then informed the witness, that he intended to go to Hamburg, and that he was provided with papers for such a voyage. He said that he had purchased these papers in Havana; that they cost him nine doubloons, and that before he sailed for Europe, he wished to put in at some port to procure fresh provisions, and ship a crew, as the Spaniards were no sailors. At his request, witness informed him how to steer for St. Mary's. In the course of the day, he saw the Spanish papers, which are the same exhibited in Court, and heard Tardy say, that if the officer from whom he procured them, were known to the Government in Havana, he would lose his place. Had conversations with Tardy



about the manner of managing the vessel, from which he discovered, that he knew very little about seamanship. Felix was the next in command, and was the only one of the Spaniards, who knew how to steer. It seemed to be the wish of Felix to soothe his fears, and he made him understand that he had nothing to apprehend, and that if he assisted them, he should, on their arrival in Europe, share equally with Tardy and himself; that as to the other Spaniards, they would give them very little. Witness endeavoured to make himself useful, by shewing them how to keep the Log-book, which they had begun in Spanish; he also gave directions how to steer and manage the sails. Indeed, such was his alarm for his own safety, from what he had seen of the Spaniards, that he would have done any thing they ordered, even had it been to sink the vessel, or throw himself overboard. Contrary winds prevented their entering at St. Mary's, and after cruising off the mouth of that river for two days, witness proposed that they should go to Savannah; to this Tardy objected, as he said he was known there. Witness then proposed Charleston, and said if he would sail to that place, he could take him over the bar without a pilot. But this he also refused, saying that he was too well known in Charleston, as he had lived there, and failed in business.

It was finally resolved to go to Norfolk, and they accordingly shaped their course for the Capes of Virginia. Tardy proposed, that they should anchor in the Chesapeake, and remain there while he went to Norfolk and procured hands and provisions. This the witness opposed, alleging that he was afraid of the Spaniards, who, when not restrained by the presence of Tardy, would probably take his life. Tardy endeavoured to remove his fears by saying, that if they did, he would sink both them and the vessel; that he would tell them so; and that when he went to Norfolk, he would buy him a pair of pistols. A list of the articles to be bought; were made out by the Spaniards, including wines of different kinds, poultry, pickle, clothing, &c. but particularly some good knives. It was calculated that these articles would cost upwards of three hundred dollars, and Tardy said that, unknown to the Spaniards, he had added fifty dollars, to buy pistols for himself and the witness. When they arrived at the Capes, they were spoken successively by three pilot-boats. Tardy answered their hail by saying, that it was a Spanish vessel coming from Matanzas and bound to Hamburg, and refused to take a pilot, pretending that he had no occasion, as he was well acquainted with the bay.

Tardy in the mean time addressed himself to the witness, and told him that he had saved his life; that the least hint from him to the Spaniards would have caused his destruction; and asked if he could depend on his silence. That, in reply to this, witness assured him that he could, and said every thing he thought calculated to inspire confidence. Tardy seemed satisfied, and told the witness how to act, should a pilot come aboard. He told him to be silent, or if he attempted to speak, to use some Spanish expression, as *senor, usted*, &c.; that he would call him *Smith*, to which name he must answer, and that he would occasionally seem angry, to lull suspicion.

They were again hailed by a pilot boat, and Tardy again refused to take a pilot. Not having understood the answer, a pilot came alongside the brig, and witness having persuaded Tardy that his refusal might excite suspicion, especially as the name of the vessel was not on the stern, he consented to take a pilot. Witness thought of availing himself of this opportunity of escaping, by leaping into the small boat, which brought the pilot, but apprehensive that the representations of Tardy, would induce the pilot to think that he was either mutinous or deranged, and expecting that a better opportunity would offer, he resisted the temptation. Tardy entered into conversation with the pilot, and told him that he was going to Norfolk to lay in provision and ship hands; that he had been boarded by a Spanish Frigate, which had carried off four of his best hands, that those which remained, were no sailors except Smith, who was at the helm, and who was an Englishman by birth, but had lived for many years in Spain, and spoke only Spanish. Some conversation also ensued in relation to a little dog, which the pilot asked Tardy to give him, and which he refused, saying that it belonged to Smith. Witness then told the pilot in English, that he could not give him the dog; upon which, the pilot remarked that he thought from his appearance that he was an American or Englishman, and no Spaniard. This conversation excited Tardy's suspicions, and he afterwards watched him so closely, that he had no opportunity of speaking to the pilot. About six o'clock in the evening on the 12th of June, they came to anchor at Old Point Comfort, about a hundred yards from shore; and while the Spaniards and the Cook went aloft to furl the sails, Tardy prepared to go ashore. He again addressed himself to witness, and asked him if he could depend on his fidelity, and offered to purchase any thing he wanted, and also give him one hundred dollars. Witness refused the money, asked him not to forget to buy him a pair of pistols, and persuaded him that he was perfectly contented,



and would not betray him. He offered to prepare the boat, but Tardy told him not to take the trouble, as the men would shortly be down. He then offered to remove the water with which the boat was filled, which he was permitted to do, and while thus employed, a small boat rowed by two black men, passed the vessel. In this boat was a white person, who accosted Tardy either in French or Spanish. By this time, the men aloft having furled the sails, were about to come down; and the witness apprizing Tardy of this, told him that if he would lower the boat and hand him an oar, the witness would bring it to the side. Seeing the men in the act of descending, Tardy and Mr. Ginoulhiac lowered the boat, and as soon as he had unhooked the tackles and gotten an oar, he sculled towards shore. When Tardy saw that he was not coming alongside, he said, "Mr. Dohson, are you going to betray me?" The witness answered "no;" and this was the last word he spoke to Tardy. As soon as he got ashore, he communicated the occurrences on board the brig, to the officers at Fortress Monroe, who took possession of the vessel. At Norfolk, had a survey of the vessel, and found in the chests of the Spaniards some articles of clothing, which had belonged to the crew and Mr. Robinson, and the Log book kept by Tardy in Spanish. (These articles were exhibited in Court.)

The style in which the preceding narrative was told, was plain and unaffected; the witness seemed subdued by sorrow and suffering, and though his tone was firm, it was apparent that no angry emotions had influenced him to give an exaggerated account of what he had seen. The sympathy of the audience was deeply enlisted; a profound silence was preserved throughout the whole narration; and when it terminated, there did not appear a man present, who was not convinced of its truth. Even the Counsel for the prisoners seemed to think it impossible to impeach the veracity of the witness; and their cross-examination, conducted with a view to discover contradictions, tended only more fully to shew, that the transactions were too indelibly impressed on his mind, to permit them to elicit any thing, but what would confirm his statement.

The witness candidly admitted, that many circumstances, which had made a strong impression upon him at the time when they occurred, were, owing to the anxieties he had since experienced, effaced from his recollection.

Mr. *Ferdinand Ginoulhiac*, who had been previously sworn, was then called. He was about six feet in height, with



fair complexion, blue eyes, brown hair, well made, remarkably erect in his carriage, and of prepossessing appearance. Being unacquainted with the English language, Mr. Crozet interpreted his testimony, which was to the following effect:

That he was a native of *St. Hipolyte*, a town in *Languedoc*, in France, and had resided in the Island of Cuba seven years, some part of which he had spent in the interior, but had lived for the three last years in the town of Matanzas, where he kept a retail store. That being desirous to go to the City of New-York for commercial purposes, he procured, through the agency of Mr. Howland, an American merchant at Matanzas, a passage in the brig Crawford, and went, accompanied by Mr. Robinson, aboard the vessel on the 26th of May. That he found Tardy, three Spaniards, called Pepe, Courro and Felix, and two persons who spoke English, already aboard, and occupying the cabin as passengers. That during the first days of the voyage, which began on the 28th of May, he was seasick and stayed on deck, and had occasional conversations with the Spaniards and Tardy, neither of whom, he thinks, he had ever seen before, and observed nothing in their conduct which gave rise to suspicion. He observed on the 31st of May, that immediately after breakfast, which consisted of chocolate, fried eggs and hacon, almost every person on board was taken sick and vomited, and the mate seemed more affected than the rest, and continued vomiting throughout the day; he thought it arose from sea-sickness, and it excited his surprise, that persons accustomed to the sea, should be thus affected. On the evening of the 31st, he spread his mattress on the quarter-deck, on the starboard side near the helm, and slept, as he supposed, till between two and three in the morning, when he was aroused by dreadful cries, which made him start on his feet. He found Tardy at the helm, and asked him what was the matter. Tardy seized him by the arm, and told him to be still and remain where he was, and no harm would befall him. While standing near Tardy, he saw, at the distance of two or three yards, two men struggling, one of which fell, and the remaining one he recognized to be Pepe, whom he heard afterwards exclaim, "hah, not yet dead," and then beat the body of the man who had fallen, with some instrument, which he supposed to be an axe, and throw it overboard. He heard Nathan and Robinson in the water, and their conversation with the Spaniards; saw Courro stab Dolliver, and Pepe push him overboard; heard Felix and Pepe ask Courro why he delayed to strike Dolliver, and his reply, which was, that he wished to give a handsome blow, (*punalada hermosa*.) Heard Potter fall from the mast-head, and saw Bicknell shot.

[The witness related the preceding occurrences nearly in the same manner in which they had been previously told by Dobson. There were some slight variations in the circumstances, arising probably from difference of situation; for, on the whole there was a most remarkable coincidence, considering that the witness did not understand English, and that as he did not know the names of the sailors, he had to describe their appearance, which corresponded with the previous descriptions of the Mate.]

The witness proceeded to state, that he saw Felix standing near the stairs leading to the cabin, and strike at some one who was in the act of coming up; and that he afterwards heard Felix declare, that he thought it was Robinson coming up with a gun, which he seized with one hand, while he stabbed him with the other. He also saw the dead body hauled from the cabin, and recognized it as the body of the passenger who had a crooked leg. Felix seemed to examine the wound with great triumph, and exclaimed that it was the best blow he ever struck in his life, it had exactly divided the heart. Pepe and Courro, who were present, admitted that it was the handsomest stab they had ever seen. Heard the cook called down; he went to clean the deck. The Spaniards showed the most extravagant joy at the success of their enterprize, and in striding the deck to and fro, had the appearance of demons rather than men. Each contended for the honor of having done the greatest execution. Felix asserted that he had killed the Captain and Mr. Robinson, which Pepe denied, alledging that he had killed the Captain. Some altercation ensued, in which each endeavoured to convince the other, and Pepe seemed at last to concede that Felix had killed the Captain, while he killed the American carpenter. Courro also claimed merit on the score of having stabbed the greatest number, but this claim Pepe denied. Then turning to Tardy, they upbraided him for not having procured such knives as they had directed, saying that those which he had given them were all broken, and that if any thing were now to happen, they would be unable to defend themselves. Tardy promised to procure them knives at the first place where he could get ashore. Tardy, who had been by the side of the witness during these occurrences, and perceived that he was terrified, told him not to be afraid, that he would protect him. He said that he had been a Pirate for many years, but that he had never yet taken the life of a countryman, and that he was now too old to begin; that he would set him ashore at St. Mary's and give him fifty dollars, which, with economy, would enable him to make his way to New-York. That this was all he could do for him, as he was afraid



of the Spaniards. From the conversations of the Spaniards during the voyage, he discovered their determination to destroy the cook. That when he remonstrated with Tardy on the unnecessary cruelty of such conduct, he received for answer, that it was not in his power to protect him, as he had already rendered himself suspected by preserving two lives, and that he must let the Spaniards work their will upon the negro. He then entered into conversation with Felix, and told him that he had always admired the Spaniards, that they were bold and courageous in action, but that he had never known them commit murder in cold blood; that on the contrary, he thought they took delight in showing humanity. He said that the cook was already wounded, that there was nothing to apprehend from him, and that he would be very useful. Pepe and Courro joined them during the conversation, and his sentiments seemed to gain the approbation of all except Courro, who insisted that the cook was dangerous and ought to be killed. It was, however, resolved to spare him for the present. He saw the papers belonging to the vessel destroyed, and Spanish papers substituted, which Tardy said had cost him twenty-five doubloons in Havana. He one day, when at the table with the Spaniards, heard them observe that some persons eat as if unconscious that they were only fattening to be killed. And thinking that this remark applied to himself as well as to Dobson and the cook, he communicated it to Tardy, who told him to be under no apprehension, for if they dared to hurt him, he would destroy both them and the vessel.

The witness then gave an account of the occurrences in the Chesapeake Bay, and at the Mate's departure, in every particular conforming to that given by Dobson, except the conversations with the pilot, which he had not understood; and then related, that as soon as Tardy saw the Mate on shore he exclaimed, we are all lost, he is going to betray us. The Spaniards then left the vessel in a boat, borrowed from a schooner which had anchored a short distance from the brig, and Tardy giving up every thing for lost, said that he had resolved not to be taken alive, and would cut his throat. Tardy then went into the cabin, and witness followed for the purpose of taking some clothes. He saw Tardy with a small trunk filled with silver dollars, and as his deportment was calm, he supposed that he had no intention of destroying himself. He therefore returned on deck, and was shortly afterwards told by the cook that Tardy had cut his throat; he descended immediately to the cabin, where he found Tardy seated with his throat cut from ear to ear, and though still warm, he was speechless, and life seemed extinct.



Upon *cross examination*, but few additional facts were disclosed. Mr. *Dobson*, who was again called, exonerated the witness from any participation in the crimes of the Spaniards, and stated that when Courro and Pepe murdered Dolliver, he saw the greatest terror depicted in the countenance of Ginoulhiac, who was standing by his side; and he heard him speak to Tardy, who seemed to soothe his fears.

*Joseph Brough*, a youth about 18 or 19, was the Pilot who conducted the vessel to Old Point. His account of the events, which occurred before Dobson's departure, corresponded with that already detailed. After the Spaniards had taken their departure in a boat borrowed from a vessel bound for Martinique, witness descended into the cabin, and Tardy came down likewise. He seemed busy counting money which he had in a trunk, and appeared to be preparing to go ashore. He sent the witness on deck under pretence that he heard the boat coming. Witness immediately returned, and as he went down, heard some noise resembling that made by pouring water. In the cabin he found Tardy with his throat cut, and the blood gushing with great violence from the wound. Greatly alarmed, he rushed on deck, and seeing the boat from Old Point approaching, asked the officers, for Heaven's sake, to come on board.

Capt. *N. G. Dana*, of the U. S. army, who commanded a company, ordered to guard the prisoners at work on the fortifications at Old Point Comfort, explained, that sometime between the 10th and 15th of June, he observed a brig come in and cast anchor, and believing it to be a lime vessel, he took no further notice of it. That afterwards it was reported to him, that a sailor had landed from this vessel, who represented it as an American vessel in possession of Spaniards, who had murdered the crew. Having ordered the man to be brought before him, Dobson came, and narrated to him substantially what he has this day given in evidence; but that the story seemed to him so improbable, that it was not till after he had satisfied himself that Dobson was acquainted with Troy, where he said the vessel was built, that he felt willing to assume the responsibility of going aboard, and when he resolved to do so, he ordered the Mate to be taken into custody. Accompanied by Lieut. Robert Anderson, and eight men, he proceeded towards the vessel, going around her stern, from which the name had been effaced, as had been previously told him by Dobson. Before the boat reached the brig, they were called by the pilot, who seemed frightened, and asked them, for Heaven's

sake to come aboard, for the Captain had just cut his throat. They took possession of the vessel without resistance, and found Mr. Ginoulhiac and a coloured man aboard. On descending into the cabin, saw Tardy seated with a trunk containing silver dollars by his side, and his throat cut; and as the body retained some warmth, the boat was sent ashore for a physician; but when Dr. Archer arrived, he declared that the work was so effectually done, that his services were unavailing. A guard was then placed at the cabin, and the Custom-House Officer of Hampton sent for, who, as soon as he arrived, took charge of the vessel. The Mate, Cook, and Mr. Ginoulhiac, were, at the request of the witness, left in his charge for the night, as they expressed aversion to remain in the brig; and as far as he recollects, the account which Mr. Dobson and Mr. Ginoulhiac then gave, was similar to what they have this day given.

Lieutenant *Robert Anderson*, of the United States' army, said that his evidence would be merely a repetition of Captain Dana's. That the account of the Mate seemed to him at first improbable, and that the earnest manner in which he entreated them to go to the vessel and save the life of the Cook, who would otherwise be killed, made him think it true. That he thinks that the facts, this day related in Court, correspond with those previously told him at Old Point Comfort, by the Mate and the Frenchman.

*Samuel B. Servant* gave a minute account of the pursuit of the Spaniards, by Col. Jones, Mr. Skinner, Mr. Godwin and himself, and the route they had followed. From Hampton they had taken the direction of Newport's News, where they had crossed James river, which is there about eight miles wide, in a small canoe, and then pursued their journey for more than twenty miles into the interior, where they finally overtook the fugitives. They were seated by the road-side, and rose as their party approached. When the witness presented his pistols, Felix and Courro fell upon their knees; Pepe leaped a fence and fled. Witness searched them, and found in the possession of Felix about twenty-five dollars, in gold and silver, and in the pockets of Courro, some tobacco, a clasp knife, and the lining of a hat, which was afterwards found to fit the one worn by Pepe.

Colonel *Wilson W. Jones* was one of the party which pursued the Spaniards after they had landed at Hampton. He set out on the 13th of June in the morning, and after travelling a



distance of upwards of forty miles, overtook them about six o'clock in the evening. On arriving near the spot where they were seated, Pepe fled and vaulted over a high fence with extraordinary agility. Witness pursued, accompanied by Mr. Skinner, who discharged his gun at Pepe as he was in the act of leaping the fence, but without effect. The speed of the fugitive at first exceeded that of his pursuers, who continued the chase about two hundred yards; when, exhausted by exertion and impeded in his progress by a thick growth of bushes, Pepe threw himself at full length upon the ground, and was taken. On returning to join their party, heard the report of a pistol, followed by cries from the Spaniards, and on approaching the road, saw Felix and Courro stretched at full length on the ground, and screaming dreadfully. Thinking that the prisoners had made some attempt to escape, witness enquired what was the matter, and was informed that the accidental discharge of a pistol, which had done no injury, had caused the alarm. It was sometime before terror permitted the two prisoners to rise, and when they did, Felix was pale and trembling, and fear caused him to vomit. A cart was with some difficulty obtained to convey them to Hampton. On their journey thither, Felix and Courro were tractable, but Pepe was sullen and refused to take refreshments. In crossing James river, the prisoners, who were tied together, intimated that they would throw themselves overboard; but they seemed afterwards to have changed their resolution, as no attempt of the kind was made.

*John S. Westwood*, the Custom-house Officer at Hampton, went aboard the brig Crawford at the request of Capt. Dana, and was present at the inquest held over the body of Tardy. He found the Spanish papers, which he identified as the same which were now exhibited in Court.

There being no other witnesses to examine on the part of the United States, Mr Stanard offered the Spanish ship's papers in evidence. They were translated to the jury by the interpreter, and consisted of the following documents:

*First.* A document purporting to be executed by *Don Juan Jose de Arranguren*, Collector of the Royal Custom-house in the City of Matanzas, who certified, that the Spanish Brigantine *Alias*, commanded by Captain Alexander Tardy, was registered as about to undertake a voyage to Hamburg, with a cargo consigned to the Captain, consisting of the following articles, viz: 351 barrels and 35 boxes of sugar; 23 hogsheads and 91 sacks of coffee; 27 hogsheads and one barrel of molasses;



on all which, the duties were paid. It was dated the 26th of May, 1827, was written on stamped paper, and purported to be signed by Juan Jose de Arranguren, but had no seal. The stamp was a medallion, bearing the Coat of Arms of Spain, with the following inscription: "*Fernando VII. Rey de Espana e Indias, Havana.*"

*Secondly.* A document also stamped with the Coat of Arms of Spain, with this inscription: "*Provincia de la Habana,*" and purporting to be a license from *Don Jose de Alcala y Guerra*, Knight of the Cross of the Royal Military Order of St. Hermenegildo, Captain by brevet of a Ship of War of the Royal Fleet, and Military Commander, provisionally appointed by his Majesty to superintend the Registers of the Island of Cuba, to Captain Alexander Tardy of the brigantine *Alias*, of one hundred and thirty tons, to perform a voyage from *this port* to Hamburg with five mariners, whose ranks, names and abodes, are as follows:

Captain, Alexander Tardy; Mate, Juan Pablo; Sailors, Ramon Dias, Esteban Gonzales, Manuel Rodriguez, and Simon Smith. The abodes of the crew were not designated. The instrument had no date, and was neither signed nor sealed.

*Thirdly.* A document dated Havana, the 20th of May, 1827, and purporting to be signed by *Antonio Rodriguez*, containing instructions to masters of Spanish merchant vessels trading with the Island of Cuba, and prescribing, among other things, that no passenger should be admitted in a vessel unless his name was inserted in the Roll, and that every captain should enter into articles of agreement with his crew, properly authenticated by a Notary. It described the crew, as composed of one Captain, one Mate and four mariners, without designating any names. The date was evidently altered from the 20th of March to the 20th of May.

[This instrument, though on a detached sheet, was no doubt a part of the preceding; the paper was similar in every respect, and Rodriguez signed as deputy, acting during the sickness of the commander.]

*Fourthly.* A Manifest, which was proved to be in the handwriting of Tardy, and purported to give an account of the cargo taken in by the Brigantine *Alias*, commanded by Capt. Alexander Tardy, at Matanzas, viz: 27 hogsheads of Molasses, without mark; 23 hogsheads of Coffee, marked H; 17 sacks of do. marked S; 20 do. do. marked P; 26 do. do. S; 130 barrels of Sugar, marked H; 160 do. do. R; 14 boxes of do. A. R.; 16 do. do. no mark.

A Log-book, written in Spanish, was also offered in evidence; the commencement of which is kept like a merchant's

day-book, and was in the hand-writing of Felix. The remainder, which purports to give an account of the run of the vessel from the 28th of May till the 12th of June, is neither in the hand-writing of Felix nor of Tardy. On the third of June, it gives an account of their falling in with the Spanish frigate *Yberia*, which took four of their men.

Having gone through all the evidence, the cause was submitted to the jury without any argument. The jury retired, and after an absence of a few minutes, returned with a verdict of *Guilty*.

The verdict of the jury was explained to the prisoner, who seemed unmoved.

The Court then adjourned till the following morning, nine o'clock.



#### TUESDAY, 17th July, 1827.

The *Court* met at 9 o'clock, and Felix, otherwise called Felix Barbeito, having pleaded *not guilty* to the charge of Piracy, was put upon his trial. After several challenges for cause, and some peremptory challenges, the following jurors were impanelled, viz: Thomas Richardson, Benjamin Stetson, Amos L. Hubbard, Francis Wicker, Thomas Ball, Michael M'Donough, Peter Cook, George Mills, Spottswood D. Crenshaw, Sterling I. Crump, Thomas Guy, and Jesse Wherry.

Mr. *Dobson* recapitulated what he had stated on the preceding day, and disclosed the following additional facts in relation to the cook, viz: that he had one wound in the stomach and two in the head; that by direction of Tardy, he effaced the name of the vessel from the stern, and painted the sails.

The witness further stated, that having observed on deck pieces of iron tied together with rope yarn, he enquired to what use they were to be applied, and was answered by Tardy, that the Spaniards intended to kill the cook, and fasten the iron to his body to sink it. Witness also said, that he was alarmed by seeing the Spaniards one day grinding a knife to a very sharp point; and that, from what he had seen and heard, he is confident that he would have been killed on the night of the 12th June, had he remained in the vessel.

The evidence of the other witnesses, was in substance the same as on the preceding day. Mr. Ginoulhiae had also seen the Spaniards grinding the knife, and heard Tardy order them to lay it aside.

The jury again retired without any argument from the bar, and returned almost instantly with the verdict of *Guilty*.

The prisoner, who had shewn more sensibility than either of the other prisoners, seemed, when the verdict was explained by the interpreter, deeply affected.

The Court then adjourned.



WEDNESDAY, 18th July, 1827.

*Courro*, otherwise called Jose Morando, was this day put upon his trial. After sundry challenges, the following jurors were impannelled: Madison Walthall, Thomas Lambert, Richard H. Whitlock, Charles Z. Abraham, Robert Johnston, Archibald Pleasants, Junior, John Goode, Robert Hyde, John Hutchison, Nathaniel Charter, Robert D. Murchie, and Warren Bibber.

Doctor *A. Lemosy* was, at the request of the prisoner, summoned to act as interpreter.

The same evidence being again given in, and the Counsel for the prisoner deeming it utterly hopeless to make any defence, Mr. *Leigh*, at the request of the prisoner, informed the Court, that the prisoner was desirous to explain to the jury what he knew of the occurrences in the brig Crawford, and asked that permission might be granted him to do so. The Court having granted the request, the prisoner addressed himself to the jury in Spanish, (which was translated,) to the following effect:

That being in Matanzas, I was accosted on the 19th of May, in the evening, by Jose Casares, Felix Barbeito and the Frenchman, Tardy, neither of whom I knew, and asked if I could inform them where they could hire a servant to accompany them to New-York, and from that place to the coast of Africa; that I told them yes, and asked what they were willing to pay a servant; and Tardy and Felix replied, fifteen dollars a month to New-York, and twenty dollars to the coast of Africa; that I would have to wait on them during the passage to New-York, and while they were ashore in that place, and that on the voyage to Africa, I would have to assist to work the vessel, which they intended to purchase at New-York. I told them that I would go with them; and they informed me that they intended to sail about the 24th or 25th, and requested me to procure a passport and get my clothes in readiness. That I immediately procured what clothes I thought necessary, and obtained a passport on the 22d of May;



that on obtaining the latter, the master with whom I had worked, *Don Pedro Benito*, became my security. Being thus prepared, I went to a Coffee-House, where I was to meet Casares, Barbeito and Tardy, on the 23d; and Tardy gave me a note to the American captain, who told me, that he did not stand in need of my services, and that I ought to come aboard on the 25th. On the 25th, in the evening, I met Felix on the quay, with a box and bed, which he desired me to take care of till his return; that he then went away, and returned in a short time with a trunk rather more than a quarter of a yard square, which was iron-bound, and contained \$17,000, and which they took in the boat and conveyed to the vessel, where it was put in the cabin. Thereupon, I went to the fore-castle and continued at work with the crew, aiding them in conveying sugar, coffee and molasses from the shore, and in stowing it aboard. On the 27th, Don Jose Casares and the Frenchman, Tardy, came aboard and told me to wait upon the table, which I did, waiting with great pleasure upon all who were in the cabin. On the 28th we set sail; on the 30th every body in the vessel vomited, except Tardy. On the 1st of June, in the night, between one and two o'clock, I, who had gone to sleep on deck, between the long-boat and the windlass, heard a noise from many voices, some of which seemed to be in the ocean, others on deck, which I could not understand. I heard somebody asking for money, but cannot tell who it was. I also heard exclamations of *carajo*, and some conversations between the Frenchman and an American, but could not understand what it was about. I saw two persons descending from the mainmast, and one of them falling overboard; then I saw the Frenchman and the Spaniards bracing the sails and go to the stern, when the Frenchman asked them where is Courro; to which they answered, that they did not know. He then called me, and having answered, he told me to come aft. When I did so, Tardy, who was at the helm, told me, "I am now the master of the vessel, and I will pay all hands when we get ashore." On the following morning, Don Tardy and Don Felix being on the quarter-deck, told Don Fernando, Don Jose Casares and myself to clean away the blood on the deck; which having done, I went to make coffee, and while thus employed, I heard the discharge of a gun, which made me turn round, when I saw Don Felix and Casares, each with a gun. I asked them what was the matter? They answered, "nothing." I then saw the negro, who was wounded; but being engaged in making coffee, I saw nothing more. The Frenchman, Tardy, then sent me to the cabin for the medicine-chest, which I brought for him to cure

the Mate and the negro. Afterwards, I saw Tardy and Don Felix with a desk containing papers, which the Mate, Tardy, Don Felix and Don Fernando examined, and threw many of them overboard and some in the fire. Thereupon, they examined all the trunks and chests aboard, except that of the Frenchman, Don Fernando, and the Mate, and took out the clothes. Don Felix went to the bow and threw all the chests of the sailors overboard, and with them my clothes, which were in a bag.

We continued the voyage, and Tardy and Don Felix brought out the papers, which were signed by Don Felix, who wrote for two days in the Log-book, which was afterwards kept by the Mate till we got to Norfolk. When we came to anchor, Tardy said he wanted to go ashore to get men and provisions, and that I and Don Ferdinand should go with the boat to get fresh provision for supper. I said very well, and went aloft to furl the sails, and when I came down, I saw Tardy and Don Ferdinand trembling, and asked them what was the matter; they answered, we are lost, the Mate has fled to shore. Another boat then arrived, and I was told to go in it, and Don Felix and Casares went in al-o, and Felix said, let us go to Norfolk and see the Spanish Consul, and tell him to come aboard. We then went ashore as it was night, and we lost our road, and I asked where we were going, and they did not know. Then we arrived at the shore of the water, and we took a canoe and went over, and we walked a part of the night and we met some negroes, and we asked for Norfolk, and they said it was on the other side. We gave them four dollars to set us over, and on the other side we asked for Norfolk, and we lost the road, and we pursued the road pointed out to us at a cottage, when we were overtaken by some armed people, when Jose Casares fled, Don Felix fell on his knees, and I remained still. They searched us all, and took from Jose Casares nothing but a piece of tobacco, from Don Felix twenty-five dollars, a passport and a pocket-book, and they conducted us to a village, where we remained two days; then we were carried to Norfolk, where they took our *declaration*, but would not permit us to speak. From Norfolk we were brought to Richmond. I declare that there was aboard a bag of 500 or 600 dollars, which I saw Don Felix give to the Mate, and which I saw counted, and about one-half put into a small trunk, which they intended to take ashore to buy provisions, and the remainder was given to the Mate. I also declare that I know nothing of what has been said against me.

[The preceding is translated from a paper written by Morando, and given to his Counsel on the day of his trial, and is nearly word for word what he said to the jury.]

He concluded by saying, that if the jury would take the trouble to examine his papers, they would find that he was a man of good character, and had served with honor in the Spanish Army.

The papers consisted of three passports; the first dated Santa Clara, 21st November, 1826; the second at Matanzas, the 22d of May, 1827, and the third at Valladolid, the 23d December, 1823. Endorsed on the last was a certificate of Don Avariano Veler, declaring, that Jose Morando, who was Sergeant with the rank and pay of Lieutenant, had served in the Spanish Army since the 1st of March, 1809, and gave a minute account of his services.

If this account applied to the prisoner, which was doubted, he had served with distinction in the Spanish army during the whole Peninsula war, and taken part in many celebrated battles and sieges.

The jury listened to what he had to say with the most patient attention, and having retired, without hearing argument, returned almost instantly with a verdict of *Guilty*.

The Court then adjourned.



THURSDAY, 19th July, 1827.

The prisoners having been brought up to hear the Sentence of the Court, Felix and Casares presented to their Counsel two papers in Spanish, in the hand-writing of Felix; which, on application of Mr. *Leigh*, were permitted to be read, and were translated by Mr. *Schmidt*, as follows:

I, Jose Hilario Casares, in the name of God, give this my declaration, before the Chief Justice of the United States:

That I took passage in the American brig for New-York, with \$6,000, which were put with the money belonging to Don Felix, to be applied to the purchase of a vessel in New-York, to go thence to the coast of Africa.

I declare that all of which I am accused by the Mate and the Frenchman, is false; because, Tardy was not a man, but a demon, and he alone, with his medicines, was capable of killing even a hundred men.

I hope the Judge will delay my cause, that I may furnish evidence of my character; and I pray God to preserve him many years.

JOSE HILARIO CASARES, <sup>his</sup> ×  
mark.



I, Felix Barbeito, in the name of God, give this my declaration before the Judge, presiding in this Court of the United States:

That I took passage in the American Brig, in Matanzas, for New-York, with \$8,000, which I gave in charge of the Captain of the vessel, together with other papers, and my letters of recommendation. I declare likewise, that every thing of which I am accused, is false—as I was asleep, and only know that, in the morning, Tardy told me that I need not be afraid, as he would pay me my \$8,000; but I and the other Spaniards were the cause that the vessel arrived in Norfolk, because Tardy and the French passenger did not wish to go thither.

I also declare to the presiding Judge, that if he will do me the favor to delay the cause, I will furnish proofs from the City of Havana, and from my relations, respecting my good character and situation in life—a favor which I expect from the presiding Judge of this Court, whom I pray God to preserve for many years.

Your supplicant;

FELIX BARBEITO.

The Judge replied, that it was his duty to execute the laws, and that they did not permit him to comply with the request made to him; that it would be happy for the prisoners, if their consciences were as much at peace as they professed; but that all that was left to him, was to discharge the duty imposed upon him.

He then enquired of the prisoners, whether they had any thing to say, why the sentence of the law should not be pronounced upon them. Through Dr. Lemosy [the interpreter] they requested time to hear from their friends in Havana, in order to obtain evidence of their character, &c. The Judge replied, that it was out of his power to suspend the course of the law, but that every indulgence should be extended to them, which it was possible to grant; that they might communicate with their friends, and that facilities would be allowed them for this purpose. He recommended it to them to think of the awful situation in which they were placed, and assured them that every means should be afforded them of communicating with the ministers of their own religion, (the Catholic.)

He then pronounced their sentence, and fixed the day of their execution to Friday, the 17th of August.

Felix and Courro seemed affected by their sentence, but Pepe remained unmoved.

They were tried under the Indictment for *piracy* only, Mr. Stanard, United States' Attorney, considering it to be unnecessary to try them for *murder*.

## REVIEW.

On the preceding trial, Mr. *Stanard*, in opening the cause, stated, that he expected it would be proved that the prisoners came aboard the *Crawford* under assumed names. This fact, however, was not made out by the evidence. It appeared that the prisoners were called by the names of *Pepe*, *Courro* and *Felix*. It was proved by Dr. Lemosy, who had resided several years in Spain, that the term *Pepe*, which was applied to Jose Casares, is synonymous with Jose, (Joseph) and that *Courro* was a familiar appellation for an inhabitant of the Province of Andalusia, in which the town of Cadiz is situated. *Courro*, or Jose Morando, said that he was a native of Cadiz. Those who are familiar with the locutions of the Spaniards, know, that in speaking of a person, no matter how elevated his rank, they seldom use his surname thus; Joseph Bonaparte, even during his reign, was familiarly designated as *Pepe*; and it was more conformable to the Spanish idiom to use the term *Felix* in speaking of *Barbeito*, than *Felix Barbeito*.

With this exception, every fact expected to be proved, was so clearly established, that the Counsel for the Prisoners did not attempt to insult the understanding of the jury, which, in every case, was composed of highly respectable and intelligent men, by offering arguments to prove the innocence of the accused. Nay, Mr. Leigh, whose fame as an advocate is known throughout the Union, and whose resources and ingenuity in criminal causes are unrivalled, admitted after the trial, that he had in vain endeavoured to frame an hypothesis, which, consistently with the facts, admitted to be true even by the prisoners, could explain the occurrences aboard the *Crawford*, without implicating the Spaniards. The prisoners, as appears from the explanation of *Courro*, did not attempt to deny that several persons had lost their lives; and the story told before the Mayor of Norfolk, by whom they were committed, viz: that each of them was asleep when the tragedy aboard the *Crawford* is said to have been acted, is the same, which they again repeated before and during the trial. When it is recollected, that the brig *Crawford* sailed from Matanzas on the 28th of May, with eight passengers and a crew of seven men; that she arrived at Old Point Comfort on the 12th of June following, with five passengers and only two of her crew, can it be believed that eight persons out of fifteen could have disappeared, unknown to either of those who remained? Other questions may be asked, equally incapable

of solution on the supposition that the Spaniards were innocent. How came an American vessel in the possession of Spaniards wholly ignorant of navigation and unacquainted with seamanship? Who inflicted the wounds on the Mate and the cook? Why did Tardy cut his throat? What induced the Spaniards to leave the vessel? &c. &c.

The following account, which has been collected in part from the admissions of Tardy and the Spaniards to Mr. Ginoulhiac, and the correctness of which can be relied on, will furnish a

#### SOLUTION.

*Tardy*, whose life had been a continued scene of villainy, arrived in Havana in the month of January, 1827, and presented a petition to General Vives, the Governor of the Island of Cuba, setting forth, that he had come to the Island with the intention of settling some old claims; but that being destitute of funds, he was desirous to obtain permission to clean teeth, cure the tooth-ach, with certain simples known to him, and to make and insert false teeth. The petition further set forth, that the exercise of these arts would not interfere with the Faculties of Surgery and Medicine already established at Havana. This petition was found among the papers of Tardy, and the permission granted, bears date the 24th of January, 1827, and is signed "Vivez." As a Dentist, Tardy received little encouragement in Havana. Whether his want of success arose from competition, want of skill in his profession, or want of inclination to pursue it, is not known; probably all these causes may have combined, as he is said to have been seen almost constantly lounging, in the morning about Coffee-Houses, and in the evening at places where games of hazard were exhibited. He was, however, never known to indulge himself in the dangerous amusement of gaming, but seemed to attend merely as a spectator, who took delight in viewing the workings of the passions, which operate on the votaries of such recreations.

Near the *Puerta de Tierra* in Havana, is a range of small shops, known by the name of *Las Barrillas*, which are occupied by vendors of second-hand clothes and miscellaneous articles. These retailers are a kind of pawn-brokers, and afford facilities to knights of the pad and other honest people, whose title to the goods they hold rests chiefly on the *right of legerdemain*, to dispose of their movables. At one of these shops, kept by a man called *Blasco*, Tardy was frequently seen to enter; and as a Faro-bank was exhibited in the house, it was supposed that that circumstance was his



principal inducement; but not so—his game was man. Tardy, whose desperate fortune had rendered him desirous to strike some hold stroke by which he could retrieve it, was in search of coadjutors who possessed the dexterity and courage necessary to execute his plan, and in this place he had met a man whom he thought adapted to his purposes.

Among those who resorted to the house of Blasco for the purpose of gratifying their fondness for play, Tardy had observed one, whose manners seemed superior to those with whom he associated, but whose reckless conduct, proved him a man of desperate fortunes. This man, as Tardy ascertained upon enquiry, had come to Havana some years previous, and had been engaged in mercantile business, which his irregular habits had soon compelled him to abandon; that thereupon he had gone to another part of the Island, whence he had returned from time to time provided with money, which no one knew how he had acquired; but from his conversation, it was supposed, that he had been engaged in desperate enterprises, and it was generally believed that he had herded with some of the numerous gangs of Pirates, which frequent the bays and inlets which every where indent the coast of the Island. No one, however, of those with whom he associated, thought proper to scrutinize very rigorously the past conduct of a *camarada de rancho*, who spent his money freely, as long as it lasted; and the Police of Havana proverbially weak, did not choose to molest a spirit, who, with "a soul to dare, a hand to do," would, from a sense of common danger, be hacked by companions equally daring. This was precisely such a man as Tardy wanted, and, as there exists a sort of freemasonry among kindred spirits, Felix soon became the inseparable companion of Tardy, and in the frequent conferences which they had, the plan was laid, which they subsequently carried into execution.

The Slave Trade, notwithstanding the execration in which it is held, and the rigorous measures adopted by the United States and most of the powers of Europe for its suppression, is still carried on from some of the West India Islands. The immense profits which have been realized by a few adventurers who have successfully engaged in this inhuman traffic, have raised up others, who have been willing, on account of the gain, to encounter the risks, which attend it. Tardy's first proposition to Felix, is said to have been, to take a voyage to the Coast of Africa, under the belief, that they would find in Havana, some one, ready to avail himself of their services, and willing to provide a vessel for the purpose. Felix, whose funds were exhausted, was ripe for any undertaking; but either

from the hazard attending similar enterprizes, or from some other cause, they were unable to enlist the co-operation of a man of sufficient capital to fit out a vessel, and after a month of fruitless exertions, they were compelled to abandon the hope of procuring a vessel in Havana. Tardy, however, was resolved not to abandon a plan, which promised so glorious a result, and proposed to Felix that they should make an effort to obtain a vessel at Matanzas, as their character was already too well known, and began to be suspected at Havana. He recounted so much of his history, as he thought sufficient to inspire his companion with confidence in the success of the plan, which he proposed, and told him that the Americans, against whom he had conceived the bitterest hatred on account of some fancied injuries and the imprisonment he had suffered in the United States for his crimes, could easily be surprised, and that an American vessel might be taken possession of by poisoning the crew, as he had done on former occasions. That it would be necessary to procure one or two trusty fellows, on whose courage and skill in the use of the poignard, they could rely, in case of need, and that he would answer for the success of the undertaking. Felix was easily persuaded to make the attempt, and undertook to provide the necessary assistance. Among the acquaintances, which he had acquired in the course of his irregular life, was Jose Casares. He was the son of a fisherman at Havana, and had early distinguished himself by deeds of daring courage, and was known among the Bravos of the suburbs as *Pepe lo intrepido*. Pepe was a merc man of action, whose fidelity to his employer was like that of the spaniel, and on whose readiness to execute any deed, however atrocious, he might with safety rely.

Felix had had an opportunity of doing this man some service, and found no difficulty in return to enlist his services for the contemplated enterprize. Tardy, Felix and Pepe having procured the necessary ship's papers from some clerk discarded from the Custom-house at Havana for malconduct, set out for Matanzas, where they arrived about the 10th of May; and Tardy immediately began to select, among the vessels then in port, one on which he might execute the plan he had devised. The Brig Crawford seemed best suited to his purposes, as she was a new vessel, and the indisposition of the Captain led him to expect that he might, in his professional character of Doctor, gain his confidence, which would greatly facilitate the execution of his scheme. He accordingly applied to Capt. Brightman, with whom he had previously become acquainted at a Coffee-house at Matanzas, for passage in his vessel; and the age, manners and intelligence of Tardy, being calculated to

inspire confidence, Capt. B. who was afflicted with the asthma, availed himself of Tardy's offer to give him medicine to relieve his complaint. Tardy, in the mean time having examined the vessel, and learned from the Captain the number of the crew, and that he expected two or three passengers in addition to Casares, Felix and himself, thought it prudent to procure the services of some additional hand; and having conferred with Felix and Casares on the subject, the latter recommended Morando, whom he had previously known, as a suitable person, and he was accordingly employed. It was agreed that Morando, who had been employed in some menial service at Matanzas, should go aboard in the capacity of Tardy's servant, and that Felix and Pepe should go as cabin passengers. Apprehensive that their appearance might excite suspicion, as they were not very well provided with baggage or clothing, Tardy advised that Felix and Casares should pass for merchants going to N. York to buy a vessel to be employed in the African trade; and to render this story probable, a box was procured, filled with iron and lead, which was to be represented as containing \$17,000 in gold. Every thing being arranged, and the Spaniards having procured the necessary passports, they went aboard in the manner told by Dobson, that is, not altogether, but separately, with the twofold object not to excite suspicion, and that in the event the enterprize failed, they might not all be implicated, and might serve as witnesses for each other. It was the intention of Tardy to take possession of the vessel immediately after her reaching the open ocean, if practicable; but in this object, he was defeated partly by the vigilance of the cook, and partly by the sickness of his companions, who were not accustomed to the sea. Stephen Gibbs, the cook, was tenacious of his skill in his profession, and Tardy had in vain endeavoured to gain his good will by his attentions; whether he suspected Tardy, or whether he thought himself such an adept in the culinary art as not to need the Frenchman's instructions, or thought it impertinent on his part to interfere with his department, it is certain that he obstinately refused to avail himself of every hint offered by Tardy, and watched his motions with such attention, that the Frenchman thought it prudent to be more circumspect in his conduct. On the third day after their departure from Matanzas, the Spaniards having recovered from the effects of the sea-sickness, were impatient to act, and proposed to make an attack on the crew that very night. This, however, was resisted by Tardy, who insisted on their deferring it until he had tried the effect of some medicines, which he resolved to administer the next morning. He accordingly went on deck early, and having



succeeded, unobserved by the cook, to mix some poisonous substance with the chocolate, he proposed to show him how to fry eggs according to the French fashion, but the cook being as intractable as ever, refused positively to take any instructions, when Tardy very deliberately taking some yellow powder from his pocket, sprinkled it over the eggs, saying that it was a kind of pepper always used in the West Indies, and which would give them a very agreeable flavor. The cook, however, not disposed to place confidence in Tardy's skill or taste, very deliberately scraped off the powder, without, however, suspecting that it was poison. Tardy, being thus in part foiled in his attempt, watched with anxiety the effects of the poison, and finding that every one of the crew was more or less affected, resolved to yield to the solicitations of the Spaniards, who were eager to imbue their hands in blood. Desirous, however, to preserve some one acquainted with navigation, of which he had himself but an imperfect knowledge, and believing that the Mate would be more tractable than the Captain, it was resolved to spare his life. Tardy had also resolved to save the life of Mr. Ginoulhiac, not only because he was a countryman, but because he thought that the Spaniards, being once in possession of the vessel, and being three to one, might not be so amenable to order as they had hitherto been, and that it would be prudent to have the co-operation of some one, who would be likely to take his part in case a difference of opinion should arise between himself and the Spaniards. Of this, however, he entertained little apprehension, as he knew his services would be indispensable, not only as interpreter in any foreign port to which they might arrive, but on account of his knowledge of navigation, and as he depended on the known energy of his character to keep them in subjection, it is probable that partiality for his countryman, was the strongest motive for his preservation.

It was resolved to make the attack on the morning of the 1st of June. On the evening of the 31st of May, the vessel was to the west of the Little Bahama Bank, and in the vicinity of the Matauilla Reef, which it had not yet cleared. The weather was warm and calm, and the heat of the cabin induced most of the passengers to stay on deck. About 10 o'clock, Mr. Robinson and the American and Irish passenger went below. Captain Brightman's indisposition confined him to his birth. The arrangements made in relation to the attack, are said to have been these: Tardy was to take possession of the helm, and prevent Ginoulhiac and the Mate, who slept on the quarter-deck, from taking part in the affray. Pepe was to take his station at the companion-way; Courro at the fore-castle, and Felix midships,

ready to assist Courro or Pepe, as either might want his services. The disposition of the passengers and crew, at the commencement of the attack, is said to have been this: Capt. Brightman, Mr. Robinson and the American and Irish passengers, in the cabin; Mr. Ginoulhiac, Dobson, Nathan and Dolliver, on deck; Bicknell, Potter and the Cook, in the fore-castle.

Tardy was to give a signal by clapping his hands. This signal was to be made a little after twelve o'clock, and as soon as Tardy had taken the helm. In the mean time the Spaniards went to sleep on deck. Courro was the first to wake, and perceiving that the night was far advanced, he called up Tardy and the Spaniards; Tardy then cut the throat of Dolliver, and gave the signal, when the Spaniards set up dreadful cries which roused every body, and as any one came up either from the Cabin or Forecastle, he was immediately stabbed. The American carpenter was the first to make his way from the cabin, and was stabbed by Pepe, but the blow not proving mortal, a struggle ensued, which lasted but a short time, when he fell and was dispatched by an axe. During the continuance of this struggle, Capt. Brightman rushed on deck and received a blow from Felix which laid him prostrate. Felix seemed to possess such skill in the use of his weapon, that it was admitted he never gave but one blow. The Irish passenger met the same fate, and Robinson is supposed to have thrown himself from the cabin windows into the ocean, upon seeing the death of the Irishman. Courro was equally successful at the fore-castle, and stabbed successively Potter, Gibbs, and Bicknell; Nathan, who slept on deck was not discovered in the darkness, and threw himself overboard without being wounded.

Since the sentence was passed upon Pepe, Courro and Felix, they have admitted that they were guilty of all the crimes laid to their charge, and expressed penitence.

The following facts have been collected in relation to

#### ALEXANDER TARDY.

The master spirit, which instigated the preceding atrocities, was a native of the Island of St. Domingo, and accompanied his father to the United States, where he sought refuge after the Revolution of that Island. The father of Alexander had several children, some of which are still residing in different parts of the United States, and are useful and respectable citizens. Alexander was the eldest son, and engaged in mercantile business in Philadelphia, where he was for a long time respectable and respected by all who knew him. He was, how-



ever, of a restless disposition, and from want of attention failed in business. This occurrence gave a different direction to his pursuits; for, disgusted with Philadelphia, which had witnessed his prosperity, he resolved to abandon it and go to sea; and through the influence of some friends, Capt. Smith, who was in command of the Congress Frigate, was prevailed upon to appoint him his steward. How long he served in this capacity is not known. In 1813, he accompanied the Frigate to Portsmouth, where he was discharged. It was supposed that he had poisoned Capt. Smith, but without foundation, as the physician who attended him in his last illness, has declared that he died of a pulmonary complaint. From Portsmouth, Tardy went to Boston, where he remained in the service of a German Dentist, from whom he received some instruction in his art. Tardy, however, had acquired a taste for dissipation, and to furnish the means of gratifying his inclinations, he had recourse to his neighbours' pockets. Being detected in stealing the pocket-book of a Captain Balch at Colonel Wilde's Stage Office in Boston, he was rewarded by three years' confinement in the State prison. When released from his imprisonment, he seemed to be possessed with the most invincible hatred against the Americans, and revenge was the glowing passion of his soul, which absorbed every other; even avarice was made subservient to this first and most cherished passion; and he afterwards executed many a deed of the darkest villainy, from no other assignable motive than revenge. From Boston, he found his way to New-York, where he took passage in a schooner commanded by Captain Latham, for Charleston, and after poisoning the passengers, had the audacity to charge the cook, who was a black man, and had always previous to that period sustained a good character, with the commission of the crime. Upon this charge, the cook was tried, convicted and executed at Charleston, although he declared that he was innocent until the last. Tardy remained at Charleston, where he had sufficient address to obtain employment, but his irregularities soon alienated the friends he had made, and having contracted debts, which he was unable and unwilling to pay, he thought it prudent to decamp, and took passage for Boston. There, however, he was soon recognized, and chose to retreat. He took passage in the Packet Schooner Regulator, commanded by Capt. P. Norton, for Philadelphia, under the name of Doctor Tardy. Here, he again resorted to poison. One evening after supper, every one in the cabin was taken sick except Tardy, who acted as physician, and declared that from the symptoms, he was convinced that they had taken poison. The passengers, who regarded the presence of Tardy



as extremely fortunate, freely took the medicines which he administered, and all of them recovered except a German passenger, who died, and was committed to the deep. On the following morning, Tardy detected arsenic among the sugar, which he had abstained from using during the voyage, and suggested his suspicions of the steward, (a black man.)

A strict examination into all the circumstances, was had at Philadelphia, where, from the testimony of the Captain and the consignees, in relation to the good character of the Steward, his guilt was doubted, and he was permitted to remain at liberty. Tardy, however, persisted in declaring him guilty, and evinced such anxiety to have him convicted, that he became suspected. These suspicions were augmented by his demanding the property of the German passenger, under pretence of a verbal promise from him to that effect, in consideration of his services as physician during his last illness. The consignees refused peremptorily to give up the property to Tardy, and set a spy over him, who ascertained that he stayed but one night at the City Hotel, and then removed to an obscure residence. There he planned another piracy, to be executed on board one of the Richmond Packets; but having been betrayed by one of his expected accomplices, he was charged with having poisoned the passengers of the Regulator, and was condemned to seven years hard labor in the Wallnut Street prison. There he was found very intractable, and boasted frequently of having committed more murders, than any convict in the penitentiary, and threatened amply to revenge himself when released. After his discharge, he took passage in the Brig Francis for Savannah, but being recognized as he was about to embark, he and his baggage were put ashore without much ceremony. Afterwards Tardy found his way to Charleston, where he made an attempt to run off with a pilot-boat, but was detected, brought back, and notwithstanding the Mayor of Charleston was apprized of his character and former crimes, Tardy found means to escape and make his way to Havana. Tardy was a man of small stature, rather delicately formed, his complexion was dark, and his countenance, which at first seemed destitute of expression, became

animated, when engaged in conversation and he continued to

viewed mankind with the utmost contempt; his address is said to have been consummate, and he frequently boasted of his knowledge of human nature, and his power to sway the mind, and mould it to his purposes.

This gifted villain spoke several languages, and never hesitated for a moment to perpetrate a crime, even where there was danger of being detected. In his creed he seemed to have proscribed all mankind, and was never more in his element, than when committing the most revolting crimes. Perjury, Poison and Poignards, were instruments always at hand, and he wielded all with equal dexterity.— Prompt to execute whatever a vicious fancy suggested as practicable, he never stopped long to consider of the means; whatever was certain of producing the desired effect, was chosen in preference, even though attended with the greatest danger to himself. That he displayed considerable tact in selecting his accomplices, is evinced by the horrid transactions in the Crawford; and he maintained his ascendancy over them, by his fertility in devising expedients to accomplish his atrocities, and his total disregard of danger in carrying them into execution. His indifference to life is attested by his death. If there were any redeeming traits in the character of this monster, our imperfect acquaintance with the story of his life, prevents us from laying them before the public.

For the honor of human nature, we trust that there were, and we are disposed to ascribe this unnatural predilection for villainy, to derangement, rather than to any other cause, as his deeds seemed, in many instances, to have been influenced by no motive which has been known to actuate any other villain.

He was buried at Old Point Comfort, at low water mark. His head is said to be in the possession of Doctor Archer of the United States' Army, who probably wishes by it, to test the doctrines of Gall and Spurzheim.

Among the papers of Tardy, was found a letter, dated Havana, April 24, 1827, addressed to *Messrs. Peree & Guillot, Bankers, Rue Mesnard, Paris*; it was signed *Le Marquis Duquesne*, and recommended Tardy as being in every respect an estimable man, who had been for some time known to the writer at Havana. It was written in the tremulous hand of an old man, and from several orthographical errors, the writer was evidently an illiterate man.

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