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TRIAL

OF

PETER HEAMAN

AND

FRANCOIS GAUTIEZ,

FOR PIRACY AND MURDER.

THE

TRIAL

OF

PETER HEAMAN

AND

FRANCOIS GAUTIEZ,

BEFORE THE

High Court of Admiralty,

AT EDINBURGH,

ON THE 26TH OF NOVEMBER, 1821,

FOR

PIRACY AND MURDER.

LEITH:

PRINTED AT THE COMMERCIAL LIST OFFICE, FOR WILLIAM REID, BOOKSELLER, NO. 40, SHORE; AND SOLD BY ALL BOOKSELLERS.

1821.

were conducted throughout with

An Account of the

EXECUTION

OF

Peter Heamen, late of Sunderland, and Francois Gautiez, a Foreigner,

On THURSDAY last, on LEITH SANDS,

FOR

Piracy and Murder.

ON Thursday last (January 10th,) these two unfortunate men were executed on a platform on the Sands of Leith, within high water mark, for the crime of Piracy and Murder, pursuant to the sentence of the High Court of Admiralty.

Between eight and nine o'clock the Magistracy and their attendants proceeded from the Council Chamber to the New Jail, where a detachment of the 3d Drag. Guards had arrived. About half past nine o'clock the great gate of the prison was thrown open, when the procession proceeded as follows :—

A detachment of Cavalry,
A large party of the Police.
The City Officers, with their halberts.

Three Carriages, in the first of which were four Bailies of the city in their robes, with white gloves and white staves.—In the second were two gentlemen in attendance upon the Magistrates, and the Reverend Mr Wallace, a Roman Catholic Clergyman. In the third were the Reverend John Campbell, one of the Ministers of the City, and the Rev. James Porteus, Chaplain of the jail.

A Cart, with a seat on the upper end, on which the criminals sat.

The whole was closed with another party of the Police, who also surrounded the cart, and a party of Dragoons.

The procession proceeded in this manner from the jail, along the Regent Bridge, down Leith Street, Leith Walk and Constitution Street, to the Platform, which was erected at the bottom of the street on the Sands, about 50 yards from the N. W. corner of the Naval Yard, and was guarded by a company of the 41st Regt. At the bottom of Leith Walk the Admiral and resident Magistrates of Leith fell into the procession immediately after the carriage in which were the City Magistrates.

Immediately upon ascending the scaffold, the 51st psalm was given out by Dr Campbell, and sung, in which Heamen seemed to join with the utmost seriousness, while Gautiez, kneeling, was assisted in his devotions by the clergyman who attended him.

Upon the psalm being concluded, Dr Campbell addressed the spectators, in a manner the most feeling and impressive, and well adapted to the solemn and melancholy occasion. In the course of his address the Dr. observed he was instructed by Heamen to acknowledge, in the most public and unqualified manner, his participation in the crime for which he was about to suffer, the fairness of the trial, and the justice of the sentence which had been pronounced.

Heaman then came forward, and bowing to all around him, spoke for a short time. He cautioned all who heard him to take a warning from the melancholy situation to which his crimes had reduced him, to abstain from bad company, his associating with whom, and disregarding the principles and precepts of our holy religion, had been the means of bringing him to his untimely end.

Dr Campbell then offered up a most impressive prayer, during which Heaman kneeled. During the time that Dr Campbell addressed the spectators, as well as while he engaged in prayer, and during the time that Heaman spoke, Gautiez was engaged with the clergyman who attended him in acts of devotion, according to the forms of their religion, in which he seemed very earnest, and which continued a short time after Dr Campbell had concluded his prayers.

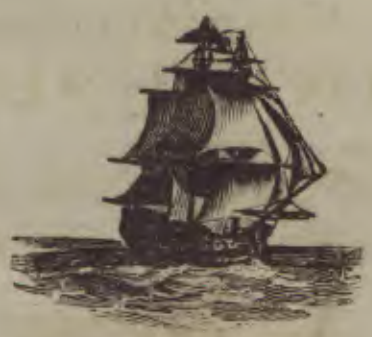
The devotional exercises over, which were conducted throughout with much fervour and solemnity, the unfortunate men shook hands with the magistrates and clergyman around them, and mounted the fatal drop, while there, Heaman prayed aloud most fervently for some time. Heaman's last words were, "Lord Jesus receive my soul." Upon pronouncing which he shook hands with Gautiez, and then dropt the signal, when they were launched into eternity.

The behaviour of both the criminals was decent, resigned, and penitent. They were dressed in coloured clothes, Heaman in a brown jacket and white trowsers, and Gautiez in a brown coat. The procession moved at a slow rate down Leith Walk, and as Heaman passed the crowds collected at the corners of the different streets and lanes, and the people at windows, he stood up uncovered, and bowed respectfully. Gautiez seemed absorbed in thought, and remained seated, taking little or no notice of any thing around him. He appeared weak, and for some time was supported by a man on the platform.

The crowd of spectators was immense, particularly on the Sands, being little short of from forty to fifty thousand, but, owing to the excellent manner in which every thing was arranged, not the slightest accident happen'd.

During the execution, the great bell of South Leith Church tolled. After the unfortunate men were cut down, their bodies were conveyed under an escort of dragoons, to Dr Munro's class-room, for dissection pursuant to their sentence.

SUMMERS, PRINTER, SUNDERLAND.



THE LAST SORROWFUL

Groans and Lamentations

OF THE

TWO SEAMEN,

Who are to be Executed on the 2nd of January, 1822, at Leith Shore,

FOR

Murder and Piracy,

WITH AN

Account of their present Behaviour in Edinbro' Gaol.

The unfortunate two men, Peter Heaman, mate of the schooner Jane of Gibraltar, an Englishman; and Francois Gautiez, or Gautier, cook of foresaid schooner, a Frenchman; for the heinous crimes of murdering the captain and steersman, and robbing the schooner of specie, &c. was tried before the High Court of Admiralty, at Edinburgh on the 29th of Nov. last.

The substance of the principal evidences, (which was given by John Hard, Alias Dhura, Peter Smith, David Robertson Strachan, alias Robert Strachan, and Andrew Camelier, all late seamen on board of the schooner, and now prisoners in Edinburgh Jail) was on the 19th of May, 1821, the schooner Jane, belonging to a Jew in Gibraltar, sailed for the Brazils with eight barrels of Dollars, &c. and when about 17 or 18 days at sea, the cook and mate killed the captain and steersman. The mate shot the captain in the head while in his bed in the cabin. The captain came upon deck, holding his hand on his head, and was knocked down by the cook with a musket, the mate was fighting with Paterson at this time, when the cook assisted and overpowred him, and both bodies were thrown overboard, the captain was not dead, and groaned very much; the hatchway was nailed upon the rest of the crew; they tried to suffocate them with smoke, which failed; they forced them to take an oath and promised them share of the money. The mate acted as captain and the cook as mate, and immediately steered for Scotland. They landed at Lewis and divided the money, each getting 6300 Dollars. The ship boy found means to make his escape and informed the inhabitants who committed them to prison.

The prisoners plead not guilty on the trial, but now they have made a full confession, and say that no person was concerned in the murders except themselves, they planned the deed for sometime previous, they fully acknowledge the justness of their sentence, aud employ the time in preparations for death. The mate is deeply concerned for his wife and four children; he had been a prisoner in France, where he married his wife, a Frenchwoman, and brought her to England, and settled in Shields, where she has been for a long time back, and bears a most excellent character. She came to Edinburgh previous to the trial, where she still remains; she is in a terrible state of mind, like a person deranged: she is pitied and supported by the humane. Her husband belongs to Sunderland. The following are their groans and lamentations.

Oh pitying reader lend an ear,
Unto our lament:
It will make tears of sorrow fast
From every eye to vent.

In Edinburgh Jail's dismal cell,
In heavy irons we lie,
The awful thoughts that we do feel,
Make us afraid to die.

Unhappy men, been well for us
That we had ne'er been born,
We might have 'scap'd a shameful death,
Nor from our families torn.

We took our captain's life away,
The poor steersman's likewise.
Their bloody forms are for ever
Straight before our eyes.

Their corpses we did heave o'erboard
Before life was extinct;
Hark! is not that the dying groan
That made our flesh to shrink.

O why did we to Satan listen,
Why not our minds control,
What good can dollars do to us,
Alas! we've lost our souls.

Our wives and children we must leave
On the wide world to roam;
And every stranger passing by
Will say there is a murderer's son.

May God on high our prayers receive,
And take mercy on our souls:
And when we on the Gallows hang.
May you take warning all.

POLLOCK, PRINTER, NORTH SHIELDS.

countenance, in particular, has a very superior cast;—during the whole proceedings he was very attentive.

The Judge of the High Court of Admiralty, preceded by a macer, soon after took his place on the bench, and was followed by Wm. Boswell, Esq. Advocate, to whom, the Judge stated, he had given a deputation for the purpose of dictating the depositions of the witnesses, while he himself took notes.

The Chief Baron of the Court of Exchequer, Sir Samuel Shepherd, also accompanied the Judge into Court, and took his seat on his right.

Mr Gabriel Surenne, teacher of French in Edinburgh, was then sworn to interpret faithfully to the latter prisoner whatever should be addressed to him.

Mr Stewart, Depute Clerk of Court, then read aloud the Indictment as follows:

INDICTMENT.

GEORGE the Fourth, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, to

officers and serjeants of Our High Court of Admiralty of Scotland, jointly and severally, specially constituted, greeting.—FORASMUCHAS, it is humbly meant and complained to Us by Our Right Trusty Sir WILLIAM RAE of St Catharines, Baronet, Our Advocate, for Our interest, and ALEXANDER KIDD, Procurator Fiscal of Our High Court of Admiralty, upon PETER HEAMAN, present prisoner in the tolbooth of Edinburgh, and FRANCOIS GAUTIEZ, or GAUTIER, present prisoner in the tolbooth of Edinburgh; THAT ALBEIT, by the laws of this and of every other well governed realm, MURDER and PIRACY are crimes of an heinous nature, and severely punishable: YET TRUE IT IS AND OF VERITY, that they the said Peter Heaman and Francois Gautiez or Gautier are guilty of the said crimes, or of one or other of them, actors or actor, or art and part, IN SO FAR AS, the schooner or schooner brig, Jane of Gibraltar, of which Moses Levy, merchant in Gibraltar, was owner, and Thomas Johnson was captain or master, having sailed from Gibraltar for the port of Bahia, or some other port in the Brazils, on the 19th day of May 1821, or on one or other of the days

of that month, having on board specie to the amount of 38,180, or thereby, Spanish silver hard dollars, and two reals, of which 31,195 dollars or thereby were shipped by Manoel or Manvel de Andrade Sylva, residing in Gibraltar, and consigned or addressed to Sr. Carlos, Mez. Ferreira, Sr. Joaqm. Aer. Vella Leone, Sr. Luiz de Souza Gomez, Sr. Joze Joaqm. Mackado, Sr. Antonio Jacintho Pimenta, Sr. Joze Alvarez de Freitas, Sr. Antonio Luiz Ferreira, Sr. Ml. Gonsalvez, Vianna; 6765 dollars, or thereby, and two reals, were shipped by Manoel or Manvel Nunes Chanto, merchant in Gibraltar, or by the Company, carrying on business at Gibraltar under the description or firm of Barros and Chanto, of which Company the said Manoel or Manvel Nunes Chanto is a partner, and consigned or addressed to Sr. Vital Prudencio Alves Monteiro, Snr Luis Antº de Passos, Sr. Joao Fagundes de Faria, and Sr. Thome Affonco de Moura; and 220 dollars, or thereby, were shipped by Joshua Levy, merchant in Gibraltar, and consigned or addressed to Sr. Luis Antonio de Passos; and having also on board 20 pipes or thereby of sweet oil; 34 bales of paper or thereby; 98 barrels or thereby of

bees wax; 15 bags or thereby of aniseed; the said goods being consigned or addressed to Joao Miguel Dias de Faria; and having also on board a variety of other goods and merchandize of different sorts belonging to persons to the Prosecutors unknown; the said specie and other cargo above mentioned being then in the lawful possession, or under the charge of the said Thomas Johnson, and being deliverable at the said port of Bahia; and they the said Peter Heaman and Francois Gautiez or Gautier, having, time aforesaid, sailed on board the said vessel Jane from Gibraltar, the said Peter Heaman as mate, and the said Francois Gautiez or Gautier, as cook, the said Peter Heaman and Francois Gautiez or Gautier, did, on board the said vessel Jane, while the said vessel was sailing in her course to the said port of Bahia, and in seven degrees, or thereby, north latitude, and five days sail, or thereby, to the west of the Canary Islands, or in some other part of the Atlantic Ocean, between the straits of Gibraltar and the said port of Bahia, to the Prosecutors unknown, on the 7th day of June 1821, or on one or other of the days of that month, or of May immediately preceding, or

of July immediately following, wickedly and feloniously, and for the piratical purpose of seizing and taking possession of the said vessel, and of the said specie and other cargo above mentioned, on board the said vessel, both and each, or one or other of them, attack and assault the said Thomas Johnson, and did murder the said Thomas Johnson, by discharging a musket loaded with ball, or other hard substance, at the head, or some part of the body of the said Thomas Johnson, or by other means to the Prosecutors unknown, and by savagely and cruelly beating the said Thomas Johnson with the butt end of a musket, or with some other instrument, in consequence whereof the said Thomas Johnson died immediately thereafter; and they the said Peter Heaman and Francois Gautiez or Gautier did, time and place aforesaid, further, both and each, or one or other of them, wickedly and feloniously attack and assault James Paterson, then a seaman on board the said vessel, and did murder the said James Paterson, by beating and wounding him with muskets or other instruments to the Prosecutors unknown, in consequence whereof the said James Paterson died immediately thereafter; and they the

said Peter Heaman and Francois Gautiez or Gautier did thereafter throw, or cause to be thrown, the bodies of the said Thomas Johnson and James Paterson overboard into the sea; and they the said Peter Heaman and Francois Gautiez or Gautier, did then confine Peter Smith and David Robertson Strachan, *alias* Robert Strachan, then seamen on board the said vessel, in the forecastle of the said vessel, by fastening down the hatchways or otherwise, and did attempt to suffocate the said two persons by smoke, and did thereby succeed in terrifying the said Peter Smith and David Robertson Strachan, or Robert Strachan, and did compel them to assist the said Peter Heaman and Francois Gautiez or Gautier in their plan of seizing the said vessel, and the said specie and cargo on board thereof; and they the said Peter Heaman and Francois Gautiez or Gautier having thus murdered the said captain or master of the said vessel, did then and there, both and each, or one or other of them, feloniously and piratically seize and take possession of the said vessel, and of the whole specie and cargo above mentioned, then on board the said vessel, and did thereafter alter the course or destination

of the said vessel, and did steer, or cause to be steered, the said vessel for the coast of Ireland, or of Scotland, for the purpose of enabling them, the said Peter Heaman and Francois Gautiez or Gautier to appropriate to themselves the said specie and cargo which they had thus piratically and feloniously seized; and they the said Peter Heaman and Francois Gautiez or Gautier having arrived in the said vessel off the coast of the island of Lewis, in the county of Ross, on the 21st day of July 1821, or on one or other of the days of that month, or of June immediately preceding, or of August immediately following, did then and there, nearly opposite to the point of Chickenhead, in the said island of Lewis, or opposite to some other part of the said island, feloniously sink, or cast away the said vessel Jane, by boring, or causing to be bored, holes in the bottom of the said vessel, or otherwise to the Prosecutors unknown, by which means the said vessel was lost and driven ashore on the coast of the said island; and they the said Peter Heaman and Francois Gautiez or Gautier did, on the 22d, or on one or other of the days of the said month of July, land the said specie, or part thereof, and the said cargo,

or part thereof, on the coast of the said island, near to Swordale, in the parish of Stornoway, in the county of Ross aforesaid, for the purpose of secreting and carrying off the same, when they the said Peter Heaman and Francois Gautiez or Gautier were apprehended: by all which, the crime of piracy was committed by the said Peter Heaman and Francois Gautiez or Gautier; and the said Peter Heaman having been taken before James Adam, Esq. James Robertson, Esq. William Morison, Esq. and Syme Tod, Esq. all his Majesty's justices of the peace for the county of Ross, did, in their presence, at Stornoway, on the 25th day of July 1821, emit and subscribe a declaration; and having been thereafter taken before George Tait, Esq. advocate, sheriff-substitute of the county of Edinburgh, did, in his presence at Edinburgh, on the 7th day of August 1821, emit and subscribe another declaration; and the said Francois Gautiez or Gautier having been taken before the said justices of the peace for the county of Ross, did, in their presence at Stornoway, on the 26th day of July 1821, emit and subscribe a declaration; and having been thereafter taken before the said George Tait, Esq.

did, in his presence, at Edinburgh, on the 7th day of August 1821, emit and subscribe another declaration: Which declarations, being to be used in evidence against the said Peter Heaman and Francois Gautiez or Gautier respectively; as also four bills of lading, signed Thomas Johnson, dated Gibraltar, 18th May 1821, with an instrument of procuration, dated Gibraltar, the 29th August 1821, and signed Barros and Chanto, and Henry Stokes, notary public; an affidavit, dated 29th August 1821, and signed Moses Levy and Henry Stokes, and an affidavit dated 30th August 1821, and signed Moses Levy and Henry Stokes; as also seven bills of lading, signed Thomas Johnson, dated Gibraltar, 18th May 1821, with an instrument of procuration, dated Gibraltar, the 29th August 1821, and signed Manoel d'Andre Sylva, and Henry Stokes, notary public; affidavit dated 29th August 1821, and signed Moses Levy and Henry Stokes; and an affidavit dated 30th August 1821, and signed Moses Levy and Henry Stokes; as also a bill of lading, signed Thomas Johnson, dated Gibraltar 18th May 1821, for goods addressed to Joao Miguel Dias de Faria; as also a bill of lading for 220 dol-

lars, signed Thomas Johnson, and dated Gibraltar, 18th May 1821; as also policy of insurance, Mello, Robertson, and Company, on specie on board the vessel Jane, dated 11th June 1821, to the amount of £3375; as also policy of insurance, M. L. Bensusan and Company, on goods on board the vessel Jane, dated London, 11th June 1821, and bearing to be delivered of the same date; as also invoice of sundries shipt on board the schooner brig Jane, dated Gibraltar, 18th May 1821, to the address of Joao Miguel Dias de Faria; as also an inventory, dated Stornoway, July 27th 1821, and subscribed Rodk. M'Iver and Kenneth M'Kenzie; as also three white muslin neckcloths, marked T. J.; as also two muskets and a pistol; as also a silver watch, with the name 'Wm. Simpson, London,' on the dial plate; as also two pair of cotton trowsers, a striped cotton waistcoat, and a silk and worsted waistcoat, a buff coloured cassimere waistcoat, a striped cotton jacket, a green coat, a red and white muslin half handkerchief, a blue watch coat; as also a book, intituled Trial of Captain Delany for piracy*; as also a trunk with

* It is remarkable, that this book constituted the whole library of the schooner.

canvas cover, and a trunk with calf skin cover; two plain white linen shirts, three pairs of short white cotton stockings, a white flannel jacket, one and a half pair of white cotton sheets, a pair of white braces, and two coarse hand towels, being all to be used in evidence against the said Peter Heaman and Francois Gautiez or Gautier, at their trial, will be lodged in due time in the hands of the Clerk of the High Court of Admiralty, before which they are to be tried, that they may have an opportunity of seeing the same. AT LEAST, time and place foresaid, the said Thomas Johnson and the said James Paterson were murdered; and, time and place foresaid, the crime of piracy was committed; and the said vessel, the Jane of Gibraltar, and the said cargo on board thereof, were feloniously and piratically seized and taken possession of by the mate and cook on board the said vessel, for the purpose of appropriating to themselves the said specie and cargo; and the said Peter Heaman and Francois Gautiez or Gautier are guilty thereof, actors or actor, or art and part. ALL WHICH, or part thereof, being found proven by the verdict of an Assize, before the Judge of Our said High Court of Admiralty,

in a Court of Admiralty to be holden by him, within the Tolbooth or Criminal Court-House of Admiralty at Edinburgh, upon the 26th day of November 1821, they the said Peter Heaman and Francois Gautiez or Gautier OUGHT to be punished with the pains of law, to deter others from committing the like crimes in all time coming.

OUR WILL IS HEREFORE, &c.

Dated and signeted 31st October 1821.

CHAs. RAITT, *Dept.*

The Indictment being read, the Judge-Admiral then addressed the prisoners severally by name, as follows: Are you *guilty* of the crime there charged, or *not guilty*. Both prisoners pleaded *not guilty*.

The Judge-Admiral then asked the Counsel for the prisoners if they had any objection to the relevancy of the indictment. The Counsel answered they had none. Upon which the Judge-Admiral pronounced the usual interlocutor, " Finding the indictment " relevant to infer the pains of law; and re-

" mitted the same to the knowledge of an
" Assize; and allowed the exculpatory proof
" craved."

The Clerk of the Court then gave to the Judge-Admiral the following list of forty-five Jurymen, duly summoned to attend this trial.

LIST OF ASSIZE

For the Trial of PETER HEAMAN and FRANCOIS GAUTIEZ or GAUTIER.

George Hay, merchant in Edinburgh
James Cathcart, wine-merchant, Leith, residing in Edinburgh
Henry Wood, Esq. residing in Great King Street, Edinburgh
Alexander Gordon, Esq. residing there
5 John Buchanan, Esq. residing there
William Paul, accountant in Edinburgh
Thomas Wilkinson, Esq. residing in Duke Street there
Patrick Borthwick, Esq. residing in Albany Street there
Charles Fleming, Esq. residing there

10 William Gordon, Esq. residing in Drummond Place there
John Inverarity, cabinet-maker in Edinburgh
Peter Begbie, ironmonger there
John Aird, boot-maker there
William Trotter, upholsterer there
15 Peter Peddie, trunk-maker there
Robert Fraser, jeweller in Edinburgh
John Scott, plumber there
William Henry Brown, china-merchant there
John Marnoch, carver and gilder there
20 George Small, music-seller in Edinburgh
Thomas Richardson, merchant-tailor there
Patrick Cunningham, jeweller there
Richard Whytock, furniture merchant there
Francis Howden, jeweller there
25 John Johnston, clothier there
William Marr, merchant there
William Marshall, jeweller there
John Cameron, merchant-tailor there
Alexander Deuchar, seal engraver there
30 Thomas Allan, banker there
George Scougall, merchant in Leith
William Vertue, merchant there

William Allan, merchant there
Andrew Park, wood-merchant there
35 John Spence, merchant there
Robert Marr, woollen-draper there
James Smith, merchant there
George Turner, merchant there
George Young, merchant there
40 John Harvey, writer there
William Wyld, merchant there
William Murdoch, writer in Leith
James Sutherland, coal-merchant there
Laurence Skeen, ship-owner there
45 William Sibbald, merchant there

(Signed) JOHN CONNELL.

Out of the forty-five jurymen, the following fifteen were called upon; and the prisoners being asked if they had any objections why they should not pass upon this assize; and no objections being made, they were sworn in by the following oath, five at a time.

OATH.

"You swear by Almighty God, and as you "shall answer to God at the great day of "judgment, that you will truth say, and no

"truth conceal, so far as you are to pass up-
"on this assize."

LIST OF JURYMEN.

George Hay, merchant in Edinburgh
William Paul, accountant in Edinburgh
Patrick Borthwick, Esq. residing in Albany Street there
William Gordon, Esq. residing in Drummond Place there
5 Peter Begbie, ironmonger there
Robert Fraser, jeweller in Edinburgh
John Scott, plumber there
Thomas Richardson, merchant-tailor there
William Marshall, jeweller there
10 John Cameron, merchant-tailor there
George Scougall, merchant in Leith
Andrew Park, wood-merchant there
James Smith, merchant there
William Murdoch, writer in Leith
15 William Sibbald, merchant there.

LIST OF WITNESSES.

1 James Adam, Esquire, one of his Majesty's

justices of the peace for the county of Ross.

2 James Robertson, Esquire, collector of the customs at Stornoway, island of Lewis, and county of Ross, and one of his Majesty's justices of the peace for the county of Ross.

3 Syme Tod, Esquire, one of his Majesty's justices of the peace for the county of Ross.

4 William Morison, Esquire, one of his Majesty's justices of the peace for the county of Ross.

5 Hector Mackenzie, shipmaster at Stornoway aforesaid.

6 Roderick Mackenzie, substitute sheriff-clerk of Ross-shire for the district of Lewis, residing in Stornoway aforesaid.

7 Kenneth M'Kenzie, clerk to the collector of customs at Stornoway aforesaid.

8 Kenneth MacIver, tacksman of the farm of Tolsta, in the parish of Stornoway, in the island of Lewis aforesaid.

9 Roderick MacIver, surveyor of the customs at Stornoway aforesaid.

10 Peter M'Kinlay, tidesman of customs at Stornoway aforesaid.

11 Alexander M'Kenzie, joiner in Stornoway aforesaid.

12 Colin M'Kenzie, constable in Stornoway aforesaid.

13 John Murray, sub-tenant in Melbost, in the parish of Stornoway aforesaid.

14 John MacAulay, sub-tenant in Knock, in the parish of Stornoway aforesaid.

15 James Reid, merchant and shipowner in Stornoway aforesaid.

16 Evander M'Iver, residing at Tolsta, in the parish of Stornoway aforesaid

17 Torquil MacLeod, residing at Tolsta, in the parish of Stornoway aforesaid.

18 Peter Smith, late seaman on board the Jane of Gibraltar, and now or lately prisoner in the tolbooth of Edinburgh.

19 David Robertson Strachan, *alias* Robert Strachan, late seaman on board the Jane of Gibraltar, and now or lately prisoner in the tolbooth of Edinburgh.

20 Andrew Camelier, late seaman on board the Jane of Gibraltar, and now or lately prisoner in the tolbooth of Edinburgh.

21 John Hard, *alias* Johanna Dhura, late seaman on board the Jane of Gibraltar, and now or lately prisoner in the tolbooth of Edinburgh.

22 Mrs Katharine Downie or Morison, residing at the farm-house of Swordale, in the parish of Stornoway aforesaid.

23 Lieutenant Donald M'Neill, now or lately residing in Killis, in North Uist, in the county of Inverness.

24 Hugh M'Neil, son of Donald M'Neil of Watersay, residing in the parish of Barra, and county of Inverness.

25 Angus M'Donald, kelp overseer in the island of Barra.

26 Captain Benjamin Oliver, of the Prince of Wales, revenue cutter, in Leith Roads, or cruising on the east coast of Scotland.

27 Gabriel Surenne, teacher of French in Edinburgh, now or lately residing in George Street there.

28 George Tait, Esquire, advocate, sheriff-substitute of the county of Edinburgh.

29 James Currie, clerk in the sheriff-clerk's office, Edinburgh.

30 John Duncan, sheriff-officer in Edinburgh.

31 Abraham Levy Bensusan, Great Prescot Street, Goodman's Fields, London.

32 Adam Wilson, at Messrs Butler, Brothers, Old South Sea House, Broad Street, London.

33 George Robertson, of the house of Mello, Robertson, and Company, Great Winchester Street, London.

34 John Martin Sardina, teacher of the Spanish and Portuguese languages, now or lately residing in MacDougall Street, Paul's Work, Edinburgh.

35 Gilbert M'Donald, teacher, Warriston's Close, Edinburgh.

JOHN HOPE, *A. D.*
ALEXR. KIDD, *P. F.*

The Jury being impannelled, and furnished with pen, ink and paper, and copies of the indictment being laid before them, the Court ordered the Counsel to proceed to the evidence.

We shall here mention the Counsel for the posecution and for the prisoners.

COUNSEL FOR THE PROSECUTION.

Sir WILLIAM RAE, Lord Advocate.

JOHN HOPE, Esq. } Depute
DUNCAN M'NEIL, Esq. } Advocates.

Mr ALEXANDER KIDD, Procurator Fiscal of the High Court of Admiralty.

Mr ADAM ROLLAND, Crown Agent.

COUNSEL FOR THE PRISONERS.

THOMAS MAITLAND, Esq. Advocate.
A. H. CULLEN, Esq. Advocate.
Mr GEORGE ROBERTSON, } Agents.
Mr WILLIAM SMITH, }
M. P. HUGOT, French Consul.

The Court now proceeded to the evidence, when the Counsel for the pannels admitted that their declarations were emitted freely and voluntarily, and in their sound and sober senses, which thus rendered the examination of the Sheriff of the county, and the Justices of the Peace in the North, before whom they had been taken, unnecessary.

At 10 minutes past 11, the first witness was called, viz. ANDREW CAMELIER, a Maltese boy, aged 18 years, who being placed in the witness box, was asked if he had any objection to be sworn in the manner in which an oath is administered in this Court, said he had none, but requested that a Bible should be brought him; holding the open Bible in his left hand, and raising his right, he took the oath accordingly, after which he kissed the Bible. He then deposed as follows:

Had been at sea for 4 years, was last on board

a schooner belonging to Gibraltar; does not remember the name of the vessel. Went on board at Malta. Sailed from Malta to Gibraltar, Captain Thomas Johnson Master. Stopped at Gibraltar, where they manned the schooner, there being 8 men including the captain and deponent. The pannel Gautiez or Gautier was shipped as cook, the other pannel Heaman as mate. The other seamen were Paterson, Peter Smith, Bob Strachan, and John Hard, or Dhura. The schooner sailed from Gibraltar for the Brazils, but does not know the port, with a cargo of oil, raisins, bees-wax, olives, silks, and 8 barrels dollars, 2 small and 6 large. The dollars were taken on board last, which happened in the afternoon, and they sailed the following morning. Believes the dollars were brought from the shore, and were not taken from any other ship. Believes they sailed on the 19th of May last. Deponent slept in the cabin, in a bed near the captain, on the same side, but more aft. The deponent's and captain's heads were near each other, and merely a plank between them. The mate also slept in the cabin, but on the other side. The mate and cap-

tain ate together. The rest of the crew slept in the forecastle. Deponent acted as cabin boy. Sailed about 16 or 17 days before any thing particular happened. Strachan and John Hard watched with the captain, and Peter Smith and Paterson watched with the mate; but after Smith got his leg cut, he went below, and the Frenchman Francois Gautiez went in his place. Smith's leg was cut before the captain was killed. The captain was killed about 16 or 17 days after sailing from Gibraltar. The deponent was in the cabin in bed, and asleep when he heard a shot fired; it was at night. The captain had been on watch that night along with Strachan and Hard, and left the watch at 12 o'clock, when they were succeeded by the mate, the cook and Paterson. The deponent was awakened by the shot, and he went upon deck. It was perfectly dark. The shot was fired, as he supposed, into the captain's bed. It was very loud. The first thing he saw when he went upon deck, was the mate striking Paterson; that Paterson and mate were near the main-hatchway; the mate had a musket in his hand, and was striking Paterson with the butt end of

it. Heard Paterson cry out. Saw nothing in Paterson's hand with which he could defend himself. Did not see Paterson strike the mate, but saw Paterson struck by the mate oftener than once. The mate knocked Paterson down, who fell by the main-hatch and the boat. Does not know on what part of the body Paterson was struck. The deponent afterwards saw the captain come up from the cabin, which was after the mate had struck and knocked down Paterson. The deponent's bed in the cabin was nearer the door than the captain's. Did not see the cook when he first came upon deck, when mate was striking Paterson, but saw the captain before he saw the cook. When the captain came upon deck, he said to deponent, "What is this! What is this!" The captain was then holding his hand on the right side of his head. Not sure of the side. When in bed the captain lay with his head forward, and his feet aft on the larboard side of the vessel. Saw some blood on the captain's head. When the captain asked "What was this!" the deponent told him he believed the mate was fighting with Paterson; the cook then came from forward, caught hold

of the captain, struck him with the butt end of a musket and knocked him down: The mate then came and struck the captain on his belly with his musket. Does not know on what part the cook struck the captain. The captain cried or groaned after he had been struck by the cook and the mate. After this the mate went forward and called John, one of the sailors, to come upon deck. Hard came up, and Strachan wished to follow him; but the mate, who had an axe in his hand, ordered Strachan not to come upon deck. The mate then shut the hatch to prevent Strachan and Smith from coming up. The mate then took Hard aft, but does not know for what purpose. They then threw the bodies of the captain and Paterson overboard. Paterson first with his clothes on, who appeared to be dead. A piece of the anchor's iron was tied to his feet. Does not recollect who did this. The mate ordered the deponent to assist in throwing the bodies overboard. Deponent was crying at the time, and was unable to give much assistance, but lent a hand. Hard also assisted, and deponent believes that Hard was frightened, and looked so. He did not see the mate touch the bodies. The

cook, Hard and deponent, threw them overboard. Some stones were attached to the captain's body. When the captain came on deck, he had only on his trowsers and shirt. He generally slept in bed in this state. He had no night cap on. The cook was the most active in throwing the bodies overboard. The captain did not appear quite dead when thrown overboard. Deponent assisted in throwing the bodies overboard from fear. When mate was striking the captain, deponent said to him, " dont kill me." The mate then said, very well, go forward. After deponent heard the shot fired, and went on deck, the captain came up from the cabin in the course of five or six minutes. That night the mate made the hatch fast on Smith and Strachan, and nailed them down in the morning. After nailing down the hatch, the mate lighted a fire in the cabin with tar and wood, and used some powder in lighting it. He then made two holes in the bulk head, to allow the smoke to go forward to where Smith and Strachan were. Mate also took some flour and water, and after making it into a paste, ordered deponent to stop up all the seams of the hatches, in order to prevent the smoke from escaping.

Smith and Strachan were kept below for two nights and one day. The smoke was kept up till next morning, when mate said, he wondered whether they were dead or not, (meaning Smith and Strachan); to which the cook answered, that he did not know. The hatches were opened on the morning of the second day, when (as the boy expressed himself) Smith and Strachan were down-hearted, they were given some bread, and the hatches were again fastened. They were opened again the third day, when deponent heard Hard implore mate to spare Smith and Strachan, and suffer them to come upon deck; they were allowed to come up accordingly. The mate and cook then compelled Smith and Strachan to swear, which they did upon the bible, and kissed the book. They swore they would not reveal any thing of what had happened. After the captain was killed, when day light began to appear, the mate sent the deponent into the cabin, to wash the blood from the cabin floor: he saw blood on the floor, on the seat, and on the captain's pillow; and feathers from the pillow were flying about. The pillow was all spoiled. The deponent washed out the cabin, and carried the bed-clothes on

deck, when they were thrown overboard, but does not know by whom; the deck of the vessel was also washed by the mate's order. On the morning after the captain was killed, saw blood on the deck where Paterson and the captain had been lying; saw a musket ball in the cook's hand, and a little blood on it. The cook said it was the ball from the captain's head. The captain was a good man, good tempered, and deponent never saw him drunk. When the cook came on board at Gibraltar, his arm was tied up, and the captain gave him some camphire to heal it. There were six muskets on board, which, after the captain was killed, were thrown overboard, excepting two. Mate, Hard, and Bob opened the casks, and took out the dollars. The cook was then at the helm. The dollars were brought upon deck, and put into bags. Some small bags were made, and dollars put into them. They were then secreted in the bulwarks of the ship. After the captain was killed they steered for Scotland. The first land they made was the isle of Barra. After the death of the captain the mate took command of the vessel, and the cook acted as mate. The mate, Strachan, and Smith, here

went on shore. The mate had on two coats, his own, and the captain's under coat, which was green. Deponent was not ashore in the ship's boat. The mate bought a boat at Barra, which he said was to take the crew and the money on shore. They then sailed for Stornoway in the island of Lewis. When they neared Stornoway, they sunk the vessel, by knocking holes in her bottom with a crowbar. Hard, Smith, and deponent, did this by direction of the mate. They then went ashore with the dollars, part of which they counted with their hands, and then measured the rest with a tin pot. That they then made a division, and each got about 6300 dollars. That they made belts into which they put their dollars. The boat was driven ashore, and damaged. After getting on shore they put part of the money under the sand, and small stones on the beach. That they then took the boat ashore, and formed a tent with it. They were visited first by some poor persons, and afterwards by two gentlemen, who took their names, and opened the chests they had, in which was part of the dollars. They opened all the chests but the mate's. These gentlemen soon after went away. When Mr M'Iver, one of the gentlemen, went away, the deponent

went after him, and told him the whole story. (Deponent now identified Mr M'Iver in Court.) The deponent had not told the cook or the mate, that he intended to leave them, but mentioned to Hard, the day before the gentlemen came, that he meant to tell the story. Hard said, " very well." After the mate had taken charge of the ship, the rest of the crew were compelled by the mate and the cook to assist them in sailing the vessel. Deponent always intended, from the first, to give information of what had taken place, as soon as he got on shore. He never heard of any intention to kill the captain, or take the money before the captain was killed. The captain had a silver watch, which the cook got after the captain was killed (witness here identified the watch on its being produced in Court). It had also a gold chain and seals, which the mate got and put on to his watch. (Deponent identified a pistol, two muskets, two trunks, with articles in them, as belonging to the captain). The mate took one of the trunks, and the cook the other. The papers on board were partly burned, and partly thrown overboard by the mate, the cook, and the deponent. Deponent did so by

order of the mate. Stones and pieces of iron were tied to the papers, in order to sink them. This happened five or six days after the captain was killed. When the fire was lighted in the cabin, there was copper placed under the firewood, for preventing the floor from burning. There was no fire place in the cabin. Did not see the captain shoot Paterson, or do any thing to him.

Cross-examined.

Cannot say what size the vessel was; thinks it might carry about fifty tons, but is not sure as to the size. Deponent went to bed about eight o'clock on the night the captain was killed. It was a calm. Was in bed all the time till awakened by the shot. Saw no person at the time, but saw the flash. Deponent had all his clothes on but his jacket. Did not look into the captain's bed after the shot, but ran upon deck. Saw no light in the binnacle. Came upon deck by the starboard side. Saw nobody at the helm. The fire was in the cabin from morning till next morning. The captain's bed had no mattress, only a piece of a sail and some blankets. There was a curtain before it. There was no window or lights to the cabin

but two small holes for air. Thre was a bulk-head between the cabin and the hold. Heard nothing as to coming to Scotland before Strachan and Smith were taken out of the hold.

By the Judge-Admiral.

Only sailed from Malta with the captain.

By the Counsel for the Prisoners.

Captain had two knives, which were stolen before the captain was killed. Provisions were partly in the hold, partly in the cabin, and partly on deck. There were no casks of provisions in the forecastle where the sailors slept, but salt beef. There was a small door between the forecastle and the hold, but they could not get through it.

By the Judge-Admiral.

Smith and Strachan, while confined, might have got to some salt beef, in the forecastle. Never heard of any quarrel the master had with Paterson.

By the Counsel for the Prisoners.

For 20 days after the murder, all hands

slept on deck, and afterwards they all slept in the cabin. Deponent cannot write. The Judge-Admiral, on this witness being removed from the box, informed him that he had acted in a manner most praise-worthy, in giving information to the magistrates as soon as it was in his power to do so; that his behaviour this day in Court, was also highly satisfactory, and that he hoped, he would be taken care of, and sent home in a comfortable manner to his own country.

David Robertson Strachan, or Robert Strachan, Scotchman, sworn, and after being admonished by the Judge-Admiral, that he was in safety, so long, and so long only, as he adhered to the truth,—said he was aged 19 years; had been at sea four years come March; was last on board the Jane schooner. Went on board of her the 13th of May last, at Gibraltar; the vessel was to sail from that port for St Salvador, in the Brazils. Concurs with preceding witness as to the cargo, and dollars in casks. Concurs as to the captain's name and the crew. The cook's arm was lame when he went on board. Sailed from Gibraltar on the 19th of May: was at sea to the 6th or 7th of June, and west of the Canaries before the cap-

tain was killed. Before the murder, he frequently heard conversations respecting killing the captain, and getting the money. These began about two days after the schooner left Gibraltar; and Heaman the mate was the first man who spoke of it. He spoke thus in the forecastle. Heaman asked the sailors to join, but said he did not wish them to take any hand in the murder, as there was a man on board who would do it, but that he wanted them to take a share of the money. That the deponent, Paterson and Smith, said they would have nothing to do with it. That upon the night of the murder, Heaman came upon deck during the master's watch, about 10 o'clock, and spoke to the deponent, still wishing him to join. The deponent mentioned to the captain that things were spoken of which he did not like, but did not mention any names. That the captain said the Frenchman was not such a stout man, as to reign over them all. Heaman desired the crew to give over talking of the matter; and the deponent heard no more of it, till the morning the captain was killed. That Hard, the deponent, and the captain were on the watch, from 8 to 12 o'clock, when the captain went

to bed quite sober. That the two pannels and Paterson then took the watch. Smith being lame, was at that time below. The deponent went to bed, had been asleep, and was awakened ,by Paterson crying out, O Lord ! O Lord ! when Heaman came forward and called all hands to turn out and shorten sail. Hard and the deponent turned out. Hard went up first, and deponent went to get up, but was prevented from going upon deck by Heaman, who had a hatchet in his hand, and ordered the deponent to stay down, saying that the deponent had given information to the captain. The hatches were then shut upon Smith and the deponent. That morning the deponent heard the noise of breaking up the water casks. That smoke then came through to them. The deponent also heard the people above washing the decks. A great deal of smoke came in, in the forenoon. Smith and deponent were almost suffocated. The smoke continued for two or three hours on the first occasion, and a second attempt was afterwards made, when the smoke continued longer. After two days and one night, the hatches were opened for the first time. This was done by Heaman. When

the hatches were down and they below, they got no meat or water, although they called out for water. And when the deponent called upon Heaman for assistance, Francois the cook said that Heaman was overboard. When at last the hatches were opened and the deponent called up, Francois tied the deponent's hands, but Hard soon after loosed him, and told him not to be afraid, and also gave him a glass of brandy. Smith, by this time, was upon deck. Heaman then proposed that the deponent and Smith should take their share of the money, and said he would give them provisions and water if they would take the boat and leave the ship. The mate said to deponent, that Francois had killed the captain; and the deponent understood that Paterson was also killed. That deponent and Smith refused to take the boat, and they were again put down into the forecastle, and the hatches fastened. That afterwards they again got up; Heaman said, that the captain had killed Paterson. Got some provisions from Francois after being put down the second time. That after getting up altogether, deponent went to Heaman, and told him, that if he would spare his life, he would

be the same as himself. That Heaman asked the deponent if he would take an oath, which the deponent agreed to do. Heaman then desired him to bring his bible, which he did, when Heaman made him swear that he would never mention any thing of the matter. Deponent took the oath in fear for his life. Smith was also sworn. Heaman asked him to lend a hand in breaking up the dollar casks, which deponent did. Small bags were made, and the dollars put into them. They were then stowed away in the ship's side. Saw Heaman throw some of the papers overboard, and saw part of them burned. Some muskets were also thrown overboard. The schooner was at that time standing northward, and Heaman said that they intended going to some part of the Orkney Islands. Heaman now acted as captain, and Francois as mate. Heaman instructed the deponent to say, if spoken to, that the ship had been boarded by a pirate, and the captain and the man at the helm killed, and the dollars taken away. After this they were spoken by a Dutch schooner from Newfoundland, to which they hoisted American colours, and Heaman said, the Jane was the Rover, 30 days from

New York, and bound for Archangel. Steered on till they came to Barra. That Heaman and the deponent went on shore at Barra. Three gentlemen came on board at Barra. Heaman bought a boat at Barra, with a sail, and brought it to the vessel. Heaman stated, that this boat was to take the men and the money on shore. That they then sailed along the coast; till near Stornoway, when the vessel was scuttled. Heaman asked the deponent to assist but he refused. By this time the dollars and other articles were in the boat. It was dark. We sailed all night, and then returned about 1 P.M. to near Stornoway, not being able to make the main land. Stopped all night in the boat, and went ashore next day and took the money, and buried the most of it in the sand. Part of it was in chests. The money had been divided. After landing, some people came about them, and soon after some customhouse officers. Heaman stated, that his name was George Shadwell, or some such name; that he was from New York, and had been cast away, and desired him, the deponent, to call him so. The customhouse officers opened the chests, and saw the dollars which were in them.

After the officers had gone, the deponent missed Andrew Camelier, and the mate desired deponent to go and see to find him. The cook and deponent went and searched for Camelier, but could not find him. Told Heaman so, who went himself in search of him. Heaman came back without his coat, vest, and watch, and said he had thrown them away, having been chased. The customhouse officers brought Heaman's things next day, with the exception of the watch, which was never again seen. They remained with the boat till two or three in the morning, when they were taken into custody. The captain had two trunks on board, one of which the mate took, and the cook took the other. [Being shown these in Court, witness identified them.] The captain had a watch [which witness also identified, as well as two muskets and other articles which were carried ashore in the boat.] Witness never sailed with the captain before. He was a very good man; but quarrelled sometimes with the cook about the victuals. Hard had no quarrel with the mate that he knew of; but heard him say they would lash him down, if he should propose to take their lives.

Cross-examined for the defence.

The door in the bulk-head was about the size of the square of the witness-box—not larger. Slept on deck for a week or two after being liberated from the forecastle. The Maltese boy did not go ashore at Barra with a basket for eggs. Has been ashore in prison about 4 months with Hard and the Maltese boy, and they had not been kept separate, except during the first week, before they were examined.

Re-examined by the Lord Advocate.

The door in the bulk-head was kept fast by a large spar, and nailed. The smoke got through and filled the forecastle, so that they were almost suffocated. It was never mentioned, in the course of the voyage, that the captain was killed.

The witness having signed his deposition, the Judge-Admiral informed him that he was free from prison, and commended the distinct manner in which he had given his evidence. The only thing to be regretted was, that he had not, like the Maltese boy, given his information earlier to the government.

PETER SMITH, aged 19, being sworn, said,

that he came from Arbroath, and had been at sea for 4 years: Was last on board the Jane schooner. Went on board at Gibraltar on the 14th of May last. Size of the vessel about 100 tons. She belonged to a Jew of the name of Levy. [This witness corroborated the two preceding witnesses as to the cargo, the circumstances respecting the commander, and the number of the crew and their names; the ship's destination, and time of sailing, &c: he also identified both the prisoners as part of the crew.] Heaman first informed the witness of the contents of the barrels. Heaman said, that he wished to make away with the captain, and get possession of the dollars; and that he would carry the ship in safety to a port. Strachan was present at that time; and also Paterson. Heaman said, that he wished the deponent to join them in the plan. Witness and others said they wished to have no hand in it. Heaman replied, that there was no danger, and that he would take the vessel to a place of safety, where it would never be known. Heaman understood navigation, but none of the rest of the crew did. Heaman used often to come down to the place where they slept, requesting them to join him. None of them that

he knew consented. [Corroborated the Maltese boy as to their births, where they slept.] There was no window in the cabin, but two air holes. After refusing to join him, Heaman gave over talking about murdering the captain. The murder happened on the 6th or 7th of June, (but cannot be certain,) about two or three in the morning. [Witness specified those who attended the captain's watch, and the hour he went off watch.] Was not on deck when the watch was changed; was not able to watch himself, in consequence of an injury he received on his foot; was awakened by Paterson running forward and crying, and calling out "Murder." He called out, "Murder! Murder! God save my soul, for I am murdered now." Those in the forecastle got up to go on deck, but the deponent was not able to get on deck. The mate ordered all hands on deck to shorten sail. Strachan was not permitted to go on deck, and the deponent heard the mate say, "Go down; you have been the occasion of all this." The deponent heard the mate say to Strachan, that he had informed the captain: did not say what had become of the captain, and did not see the mate, but heard him speak. [Corro-

borated the boy as to the nailing down the hatch.] Heard a noise after this, as if they were breaking up some water casks on deck; and they were nearly suffocated to death by smoke from the cabin through the holes. The smoke passed through the crevices in the cabin. [Corroborated the boy as to the time during which they were confined.] They could have got bread had they chosen to go into the hold, but they were afraid they might be heard from the deck. The deponent and Strachan did not try to get any bread. The hatchway was first opened in the morning. Did not see the hatchway opened more than once. Was in bed the whole time, except when he was obliged to get up for the smoke. Strachan got up first, and the Frenchman said, "You go in the water." He asked also what had become of Smith. After they got up, went to the mate, and prayed him to save their lives. He said he would save their lives, if they would join him, and reveal nothing of what had passed. Made them swear. The words of the oath were, as he can recollect, "May God Almighty never save their souls, if they ever revealed what had passed." Neither saw the captain or Paterson on deck, after he came up. The mate

said that they had killed the captain, and also Paterson, who offered to assist the captain. Neither the mate nor the cook ever told the deponent that the captain had killed Paterson. [Corroborated the preceding witnesses as to the barrels, bags, division of the dollars, &c.] When the captain was killed, they were about 5 degrees northward of the line. In making for Europe, they spoke the Lark, of Canterbury, from New York. Instructions were given by the mate, in case of being boarded, to say that they had been robbed by a pirate; the dollars were concealed. Saw a number of papers hove overboard; iron hoops and muskets were fastened to them. A pistol and two muskets were kept, and the rest hove overboard. If the deponent had not assisted in managing the vessel, he does not believe he would have been alive to day; he did it through fear; but they used no threat. Touched at the Western Islands, first at the island of Barra, and got a boat there, then went on to Lewis. The mate said that he was afraid of a revenue cutter which used to come there. The Maltese boy and the deponent were sent down to make the holes in the vessel. Went into the large boat, and the vessel was scuttled; put

on board some provisions, and betwixt 38 and 40,000 dollars. The dollars were divided in the boat. They beat about for a day and a night in the boat; were not able to get to the main land, as they intended; landed, and buried the money ashore. Mr M'Iver and some other customhouse officer visited them that night, and the Maltese boy went away. Witness had an intention himself of giving information. The mate said that they were afraid of none informing but Robert Strachan and the deponent. [Corroborated the Maltese boy as to the places where they slept after the murder.] On Tuesday morning they were all taken prisoners. One of the arms of the cook was lame when he came on board the vessel. At Lewis the mate said the captain's name was Rodgers, and that he and part of the crew had gone to Liverpool in another vessel, and that he was the owner's son. Neither the Frenchman nor the mate ever told the deponent how the captain was killed. [Witness identified the fire arms, the watch, and the captain's green coat, and trunks.] The latter were marked with the captain's initials, which were taken off by the deponent, by order of the mate.

Cross-examined by the Counsel for the prisoners.

The deponent and Strachan went ashore with the mate at Barra. Does not recollect which arm it was that the Frenchman had hurt when he came on board. The captain also had another watch enclosed in a wooden frame, and kept in the binnacle; does not know what became of this time-piece. The fire arms used to be kept on the cabin-bulk head. Did not see any of the muskets on deck the day before the captain was killed. The deponent put the pistol in order for the captain, about a week before the unfortunate accident; never saw the pistol on deck after it was repaired; could not say that the pistol lay at his bed-head.

By the Judge-Admiral.

He believes the mate was an Englishman, but was not personally informed of this, but because he spoke of several places in that country, particularly about Sunderland.

By the Jury.

The wound did not prevent him from coming on deck during the day, but kept

him from doing any work above. The mate called himself after a different name at Lewis from that he took at Barra, but does not recollect it; also gave the ship a different name.

By another Juryman.

Was not certain whether the bulk-head door was partly open or not the night before they got out of the forecastle, having never tried it.

By the Court.

The cook's arm was still weak, from the time he came on board till they landed.

By the Counsel for the prisoners.

He cannot exactly say how long it might be betwixt Paterson crying out, and Hard going up the hatch-way; but thinks it was about ten minutes.

By the Judge-Admiral.

Did not hear the report of a gun or pistol that night of the murder.

JOHN HARD, an Italian, understands a little English, is a Roman Catholic, and was sworn after the Romish form. Is about

25 years. Joined the *Jane* schooner at Gibraltar. Identified the prisoners as cook and mate of the vessel, and corroborated the evidence of the preceding witness as to the destination of the vessel,—the space which elapsed from the time of her sailing to the period of the murder—his being in the forecastle at the time the event happened; named the persons on watch with the captain, and confirmed the boy's testimony as to the sobriety of the captain, likewise as to the succeeding watch; fell asleep and was awoke by a noise which he thought was Paterson's voice, but did not hear what he said. He afterwards heard a cry of "All hands to shorten sail." He then went on deck; saw three people when he came up, and the mate had an axe in his hand, or something like that. [The Judge here interrupted the witness, to assure him as to his exoneration from all impeachment on account of this offence, although he may have had a share in it, provided he now adhered to the truth: At this, the deponent smiled, and said he had no hand in it.] The mate swore the deponent to secrecy, and then ordered the deponent to throw the corpses of the captain and Paterson overboard; the boy was frightened, and crying at the

time. Witness could not distinguish which was which, and consequently could not say which was thrown over first. He heard groans from one of the bodies, when preparing to throw it overboard, which he supposed to be the master's. The mate ordered the deck to be washed in the morning; does not recollect who was at the helm; saw no blood on the deck, but saw some on his own coat next morning. At the time it was washed he could not see whether there was blood upon the deck or not, it was so dark. The boy cleaned the cabin; saw the captain's clothes thrown overboard, but does not recollect who did it. [Corroborated the preceding evidence as to the kindling of the fire in the cabin. The smoke proceeding from the fire was prevented from coming up out of the cabin by the door being shut; and it proceeded through two holes into the bulk-head, and hence through a small door into the forecastle. In many other circumstances, this witness only corroborated the testimony of preceding witnesses, without adding any new evidence.] The mate swore the deponent a second time, that if Smith and Strachan were permitted to come up, he (witness) would not join them against the cook and mate. They were af-

terwards allowed to come up, and sworn at the binnacle that they would not say any thing about what had happened. While boring holes in the vessel, to scuttle her near Stornoway, witness desired Andrew to go up and see whether the mate was coming, for he was afraid they would lock him down below while the vessel was sinking. The boy told the deponent several times before they landed, that he would give information. Was sent to seek for the boy, and called at Mrs Morrison's, but did not get him. The deponent then went back to the boat. The deponent did not, after the captain was killed, threaten the mate in any way.

By the Counsel for the Prisoners.

The first thing he saw when he came on deck, on the morning of the murder, was the sails. When he saw the bodies, he could not say which was which; did not measure the distance betwixt them, but they were lying near one another. When he went aft he was not looking for dead bodies, which might be the reason why he did not see them. He can speak French words here and there, but can't speak it half nor quarter so well as English.

By a Juryman.

The cook did nothing previously to the murder but act as cook, and keep watch for Smith; after the murder he assisted in the management of the vessel. He saw him sometimes on the rigging aloft.

Hugh MACNEIL, residing at Barra, Inverness-shire, is aged 38, and unmarried. Recollects a schooner coming to Barra in July last; saw the master of her, saw no other schooner there last summer; the master, who was on shore, went into his father's house; he called himself Rogers, and said he had come from New York. He was dressed in a green coat, and paid 60 dollars for the boat which he had bought. The deponent was on board the schooner, but saw no dollars while he was there; was down in the cabin for a short time with the captain; is not certain whether the prisoner (Heaman) is the same man or not, but said he was very like him, if he was not the same person.

Mr R. M'IVER, aged 46, is Surveyor of the Customs at Stornoway. Recollects of a vessel, supposed to be a smuggler, being at anchor at a small bay there, in the month of July last: the deponent immediately dispatched four boatmen to ascertain

what the vessel was. Did not find the schooner, but found a large fishing boat on the shore, and six men belonging to her. Spoke to Peter Heaman.—[Identified both the pannels.]—He stated that he was a merchant from New York to Liverpool, and that his ship was lost off Barra-head, and that the captain and four men had gone in a boat to Greenock, to go to Liverpool; and that he and the other five men had in their boat attempted to reach the main land, but had failed. He said that the vessel belonged to his father. Proceeded to search their chests; found in them clothes, and dollars. The chest the largest bag of dollars was in belonged to Smith, but there were dollars in the whole. He took down the names as they gave them. It rained so hard that the names were obliterated as soon as they were written down, but he recollects the mate calling himself George Sadwell. After leaving the place, he saw a foreign boy following him, who came and told him that the mate and cook had murdered the captain and another seaman of the name of Paterson, and had taken possession of the ship. The deponent deferred questioning the boy more particularly until he got him to the top of the

hill: his reason for this was to get him along with him, and prevent them from laying hold of him. He sent two of the boatmen after the ship's crew, and gave them directions to inform the country people to look after them, and in case they should attempt to escape, to bind them with ropes. He afterwards sent his son with a party to secure the crew of the vessel. The Maltese boy informed him that they had a great quantity of money concealed in the hammocks and clothes of the crew, and also under ground. In consequence of this information. he returned to the creek very early in the morning. On his way he met with Mr M'Kenzie, assistant sheriff's clerk. Found about 31,211 dollars in the chests. When he first saw the mate he, Heaman, told him that 3000 of the dollars belonged to him, but he did not speak of what was in the sand. Was not present when the ship came ashore. [This witness's evidence being concluded, Mr M'Iver was complimented from the Bench, for the zeal, prudence and activity, which he had in this instance displayed.]

John Murray, subtenant in Melbost, parish of Stornoway, did not understand English, and Mr Macdonald was sworn to interpret

truly the evidence of this witness. Is about three-score; knows Mr M'Iver. Recollects Mr M'Iver being at the shore near Stornoway, where there were six men. He searched their chests, &c. [This witness corroborated the evidence of Mr M'Iver.] After Mr M'Iver went away, the mate sent two of the crew to seek for the boy, but they did not find him; the mate said the boy did not care what he said or what he did. The mate appeared very agitated when the boy did not come back, and he went after him himself. The mate returned, and had nothing upon him but his trowsers and drawers. The mate told the deponent that he had met two men who robbed him of his clothes and his watch.

KENNETH M'IVER, aged 62, saw the schooner at 6 o'clock on the morning of the 23d of July. She was lying upon her broad side in the water, and part of her topmast was carried away. It was a rocky coast. It was blowing hard when he saw her; but it blew harder towards the afternoon, when she went to pieces. Supposed she had struck upon a rock, but she did not appear to have been long in that situation. He saw that she was schooner rigged. Some casks of oil and bales

of paper came on shore from her, and afterwards some olives were picked up at the place where she came ashore.

Mr Abraham Levy Bensusan, a Jew, residing in Great Prescott-street, Goodman's-fields, London, was sworn with his hat on, holding his hand upon the old testament. Mr Moses Levy is a correspondent of his, living in Gibraltar. On receiving instructions from Mr Levy to take out insurance upon the cargo of the Jane, he was informed that he, Mr Levy, had such a vessel. The date of the original letter, containing such instructions, was the 21st May, and the confirmation was dated the 28th. In obedience to his instructions, he effected an insurance on the cargo of the Jane, to the amount of £2000. Has since received bills of lading from Mr Levy. The voyage was to be from Gibraltar to Brazils. Identified the copy of the invoice, and read the articles mentioned in it to the Court. Date on the invoice was 18th May, 1821. Being shown the bills of lading, deponed to their authenticity, and that they were signed by Thomas Johnson, master. Did not receive any information of the dollars till the bills of lading were transmitted to him. [A considerable time was

taken up in proving the policies of insurance. The deponent being acquainted with a number of the hand-writings of the subscribers to the policy, those which he knew to be genuine he mentioned.]

George Robertson, London. Sr. Sylva of Gibraltar, ordered deponent, by an order dated 21st May, to insure 15,000 Spanish hard dollars: he effected insurance accordingly, dated 11th, of June. [Identifies the same subscriptions as were identified by Bensusan, sum L.3375 insured, 7 bills of lading were produced and identified, as sent to deponent's house. These bills signed by Johnson, and dated 18th May. Shewn policy, dated 11th June, effected by Robertson and Co. Knows the two first signatures thereto to be genuine.]

The prisoners' declarations were then read, in which an exculpation was attempted on the following allegations:—That it was the captain who shot Paterson, and that this was the only shot which was fired. That the whole crew then struck at the captain with the exception of the mate, who took the helm until the captain was killed. That they could not

say who it was that proposed to conceal the dollars, but they all assisted in concealing them.

The Lord Advocate rose and addressed the Jury.—Their attention having already been fixed on this case for 16 hours, he could not now think of occupying their time by stating any general observations. The offences which most frequently come under the jurisdiction of this Court were such as were committed within the realm of Scotland; but here was a case in which the crimes libelled were committed thousands of miles from this country, and by individuals belonging to another state. The crimes of piracy and murder all nations agree in considering atrocious, and such as can only be expiated by the lives of the culprits. He rejoiced at perceiving the able counsel by which the pannels were and are to be defended. He rejoiced also at noticing another circumstance in favour of the pannels, which was the attendance of the French consul. It was a praise-worthy and honourable thing in that gentleman to attend this trial; and he hoped that, at the conclusion of these proceedings, that respectable gentleman would feel himself justified in remitting to his Government a satisfactory

report. After these remarks, his Lordship explained what in law constituted piracy, and took a summary review of the evidence, from which he inferred that the crime of piracy was unquestionably established. The theory which the prisoners had invented, to account for the whole affair, was, that Paterson having communicated to the captain the purport of their consultations, the captain, after being three hours in bed, came up on deck and shot Paterson through the head, mistaking him for the cook. There were only two parts of the evidence in which there was any discrepancy: the circumstance of Strachan being on deck before Smith, and the dimensions of the door from the bulk-head to the forecastle. His Lordship quoted authority to show, that immaterial disparities connected with any important event, did not go to invalidate the whole testimony, but rather strengthen the evidence, because, where witnesses agree as to the leading facts, and disagree as to immaterial circumstances, this is the best and surest proof that there is no compact among the witnesses to tell the same story. His Lordship adverted to the oaths extorted from the witnesses,

which he considered most glaring indications of the consciousness and the enormity of the pannels' guilt. On the whole, he conceived that there were no grounds upon which any defence could be rested.

Mr Maitland addressed the Jury in behalf of the prisoners. Notwithstanding the patience and labour which they had already exercised, he was sorry to say that he would perhaps find it necessary to address them at considerable length. He should commence by removing out of the way those preliminary points with which the Lord Advocate had set out, and upon which there was only one opinion;—namely, the heinousness of the offences, and the utter abhorrence with which they are held by all civilized nations. He was not at all surprised at the line pursued by the Lord Advocate in making out his case. He first began by proving the piracy, and then the murder. Now, his proceeding would be quite the reverse. He then alleged the several improbabilities which appeared in the detail of the whole story: 1st, as to the circumstance of the plan originating with the pannels; 2d, in the murder of the captain and Paterson; 3d, smoking of the individuals in the forecastle; 4th, allowing them to escape

when they were entirely in their power; 5th, when the period of their liberation had arrived, they had it completely in their power to overcome the prisoners. The only reason that is given for this is, that none of them could navigate the vessel. But that was a statement of their own, and not to be credited. The probability of the two men being compelled by the four, deserves as much credit, as the other part of the Lord Advocate's case. The other point to which he adverted, was the discrepancy of the evidence. They had four individuals brought before them, who had, no doubt, been confined for some months back, but they were not separately imprisoned, and had all the means for concocting a story in their own favour. They knew that it was upon the principal point, that an agreement would be required; but he (Mr Maitland) insisted, that if he could prove, which he had no doubt he had done, that these witnesses were found tripping in any minor instances, this very circumstance was sufficient to set aside the whole evidence. The conversations about the perpetration of the crime are contradicted by the boy. The division of the dollars

—the door in the bulk-head—the circumstance of Paterson's crying—the one giving a short and the other a long statement—the occasion of Strachan being brought up for air before his final liberation,—these were the contradictions which had appeared in comparing the several depositions, and which certainly went to neutralise the whole evidence. He then endeavoured to show, that the witnesses were actors and abettors in the crimes libelled against the prisoners. Their concurrence in the several movements after the murder, and their criminal silence before it, which happened when they were six to two. When in Barra—when they arrived first at Lewis—when they were surrounded by the country people—when the Custom-house officers first visited the crew—upon a review of the whole case, from the discrepancy of the testimony, the improbability of the theory, and the inconsistency of the whole, he sincerely trusted the Jury would bring in a verdict of *Not proven.*

His Lordship, the JUDGE ADMIRAL, then charged the Jury, and at considerable length,

summed up the evidence, taking a minute survey of the depositions of the witnesses, and of the arguments dwelt upon by the Counsel. His Lordship stated, that as the Lord Advocate had done, he would first consider the piracy, which he was of opinion, was the proper way of treating the case, as the piracy was first conceived, and the murder afterwards resolved on, that the piracy might be carried into effect. With regard to the piracy, his Lordship could not entertain the slightest doubt. It was clear that the property in question, was not the property of the pannels. The evidence on this point did not rest only on the depositions of the rest of the crew, who are charged by the Counsel for the prisoners, with having entered into a conspiracy, to throw the whole weight of the crimes on the pannels; for their evidence is confirmed on this point, not only by the admission of the pannels themselves in their declarations, that they took possession of the specie, and divided it with the view of appropriating a considerable part of it to their own purposes, but also by the evidence of the persons from Barra and Lewis. The case of the murders rested only on the evidence of the crew and the declarations of the pannels, and the Counsel for the pri-

soners had endeavoured to shew that the four seamen who were examined as witnesses, were unworthy of credit from the improbability of some parts of their stories; the discrepancies alleged in their evidence, and their being parties to the piracy. His Lordship however could see nothing improbable in the testimony of these lads; the discrepancies were trifling, such as occur on almost every trial when several witnesses are examined as to minor points; and that from his Lordship's view of the case, the share which the witnesses took in the navigation of the vessel, and the division of the dollars after the murder, was the result of the pannels controul over the witnesses, and the dread they were in of being deprived of their lives unless they joined with the pannels. Besides, in many circumstances the pannels declarations confirmed the testimony of the crew. His Lordship said he had pointed out the facts and circumstances which he considered proved the pannels guilt. It was also his duty to point out to the Jury every circumstance in favour of the pannels, a duty which he would have been most happy to have performed; but he was sorry to say that there did not in the present

case appear to be any one circumstance favourable to the unfortunate men at the bar. His Lordship stated, that he was himself convinced of the guilt of the pannels, both as to the murders and piracy; but that it was for the Jury to deliberate and satisfy themselves, and to return such a verdict as their view of the proof suggested. If they had any doubts, of course they would give the panels all the benefit of such doubts, and if not satisfied of the guilt of the pannels, it would be their duty to return a verdict of not proven. On the other hand, if they believed the evidence, and were satisfied that the crimes had been made out, it would be their duty then to return a verdict of guilty.

In this charge, which occupied nearly two hours, his Lordship, in a very able, clear and impartial manner, recapitulated the whole evidence, and applied the several facts and circumstances proved, to the charges in the libel, and the arguments of the counsel for the prosecution and defence.

As it was now half-past six o'clock in the morning, his Lordship stated, that he would receive the verdict of the Jury, at half-past two o'clock that day. The Court therefore

adjourned to that hour, and the Jury were inclosed, to consider and make up their verdict.

The Court having met at half-past 2 o'clock on Tuesday the 27th, the Jury returned the following verdict.

At Edinburgh the 27th day of November, 1821 *years,*—The assize having inclosed, made choice of WILLIAM GORDON to be their Chancellor, and of WILLIAM MURDOCH to be their Clerk; and having considered the criminal letters raised and pursued at the instance of SIR WILLIAM RAE of St Catherines, his Majesty's Advocate, for his Majesty's interest, and ALEXANDER KIDD, Procurator Fiscal of the High Court of Admiralty, against PETER HEAMAN and FRANCOIS GAUTIEZ, or GAUTIER, present prisoners in the Tolbooth of Edinburgh, Pannels, the interlocutor on the relevancy of the libel pronounced by the Judge of the High Court of Admiralty, and proof adduced in support of the libel, they all in one voice find the said PETER HEAMAN and FRANCOIS GAUTIEZ or GAUTIER, *guilty* of the crimes libelled.

The verdict having been recorded, was read by the Clerk, and was then trans-

lated in French to *Gautiez*, by Mons. SURENNE, who attended the trial as French interpreter, and whose attention to the unhappy man during his long trial had been unremitting. His Lordship then addressed the unfortunate criminals nearly as follows :—

Peter Heaman and Francois Gautiez,—After a long trial, and an able defence on the part of your Counsel, you have been convicted, by the unanimous verdict of a jury, of the crimes of murder and piracy ; and it is now my painful duty to announce to you the punishment which our law has prescribed for such offences. Each of these crimes is of a very atrocious nature, and severely punishable by the laws of this and every other civilized country, not excepting those of which you are natives ; but when committed together by the same persons, as in your cases, they mark as great depravity on the part of the perpetrators, and are as dangerous in their nature and consequences, as any offences which are to be found in our criminal code. Not only are the crimes very heinous, but they have been committed by you both under circumstances of peculiar aggravation. You were received on board of the vessel,

which afterwards became your prey, on the faith of an engagement which imported a submission to the master, and a discharge of certain duties necessary for the carrying the vessel to her destined port; but instead of discharging those duties, you basely entered into a plot for murdering two of the crew, one of them the very master whom you had engaged to serve; and afterwards for running away with the vessel. The master you put to death in cold blood, while asleep and in bed, or, at least, you there gave him that mortal wound which enabled you immediately afterwards to accomplish your purpose; and the other mariner you in a similar insidious and cowardly manner bereft of his life while faithfully discharging his duty as helmsman.—You then carried off the vessel with the intention of appropriating her valuable cargo to your own uses; but Providence arrested you in your bloody career, and prompted you to land upon these shores, where, although the innocent find an asylum, the guilty are sure to meet with detection and punishment. If the law of this country permitted any punishment greater than death to be imposed in any case, that punishment

would be inflicted upon you; but although barbarians sometimes are to be found upon our shores, there is nothing barbarous in our laws. The principle of our criminal code is example, not retaliation. While I announce to you, therefore, the sentence of death, I have to intimate to you at the same time, that this sentence will, in all human probability, be forthwith put into execution.—To the misguided and penitent offender the door of mercy is sometimes opened, but against the pirate and the murderer it will be for ever shut. While, therefore, your fate is finally and irretrievably fixed in this world, I would exhort you to devote the short time you have to live in the preparation for another. What prospect of mercy there may be for you from the Almighty, it is not for me to say; but sure I am there can be none, unless by a speedy, by a sincere, and by a steady repentance. Delay not for a moment, therefore, this work of repentance; for, let me again repeat, it is only by such a line of conduct that you can escape the Divine vengeance for the atrocious crimes of which you have been convicted, as well as for any other sins of which you may have been guilty. His Lordship concluded by passing sentence in the following terms:—

That they be taken back to jail, there to be confined till Wednesday the 9th day of January; and fed only on bread and water, in terms of an act, passed in the reign of his Majesty, King George the II.; from thence to be taken on that day, between the hours of nine and twelve, to the Sands of Leith; and there hung upon a gibbet within the flood-mark, and their bodies afterwards given to Dr MONRO, Professor of Anatomy, for dissection. The prisoners received the announcement of their melancholy fate with great composure, and bowed respectfully to the Court. The crowd was very great.

The feelings of the multitude outside the Court were strongly excited by the affliction of Heaman's wife, who remained in the Outer House, in painful anxiety, and whose distress, on learning the fatal sentence, may be easily imagined. On the prisoners being brought out, she endeavoured to make her way to her husband, but was prevented, and the poor woman followed him to prison, uttering most piercing lamentations for her children.

Heaman is 35, and Gautiez 23 years of age.

FINIS.

W. REID, Printer, Leith.