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OF

HENRY ROGERS, THE CAPTAIN,

WILLIAM MILES, FIRST MATE,

AND

CHARLES E. SEYMOUR, SECOND MATE,

OF THE

SHIP "MARTHA AND JANE," OF SUNDERLAND,

FOR THE

WILFUL MURDER

ON THE HIGH SEAS,

OF

ANDREW ROSE, A SEAMAN,

TRIED AT THE LIVERPOOL SUMMER ASSIZES, BEFORE MR. BARON WATSON, ON
THE 19TH AUGUST, 1857,

WITH THE PARTICULARS OF

THE EXECUTION OF THE CAPTAIN,

THE FATE OF THE TWO MATES BEING YET UNDECIDED.

The Evidence given verbatim from the Report made for Her Majesty's Government.

BY BOND HUGHES, Esq.

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The recurrence of oppressive tyranny, and disgusting cruelties on the part of Captains of Merchant Ships, particularly of the smaller class, has unfortunately, of late, become so frequent, that Her Majesty's Government felt it imperatively their duty to undertake the prosecution of Captain Rogers and his two Mates, Miles and Seymour. With this view, they entrusted the management of the trial to F. J. Hamel, Esq., the able and energetic Solicitor to the Board of Customs, who was specially deputed to act as Solicitor to the Treasury in this case. He arranged the evidence with his usual skill and ability, and adduced a case which left not even the shadow of a doubt as to the guilt of all the prisoners on the minds of the learned Judge, the Jury, and the intently listening auditors, in a court crowded almost to suffocation.

It has further been determined to publish the trial in a condensed, but most impartial form; and it is to be hoped that the awful death of Rogers, and the lifelong, hopeless, unalterable servitude to which Miles and Seymour will probably be consigned, by a commutation of their original sentence, will show to unworthy Masters of Merchant Vessels, that although every protection will be afforded to them in the legitimate maintenance of order and subordination on board, a sure and certain retribution will overtake them, if they wantonly abuse the powers with which they are armed for such purposes; and also prove to our hardy Mariners, that the law watches over them, however distant they may be from their native shores.

THE QUEEN v. HENRY ROGERS, WILLIAM MILES, AND CHARLES EDWARD SEYMOUR

Counsel for the Prosecution :

The ATTORNEY-GENERAL for the County Palatine, Mr. BLISS, Q.C.,
Mr. E. JAMES, Q.C., and Mr. W. D. SEYMOUR.

Solicitor for the Treasury, Mr. HAMEL of H. M. Customs.

Counsel for the Prisoners :

Mr. MONK, Q.C., and Mr. ASPINALL.

Solicitor for the Defendants, Mr. SNOWBALL.

The Attorney-General opened the case as follows :—Gentlemen of the jury, the three prisoners at the bar stand indicted for feloniously and of their malice aforethought killing one Andrew Rose. This offence was committed on the high seas, between the 11th May and the 5th June. The prisoner Henry Rogers was the Master of the ship, the Martha and Jane ; the prisoner William Miles was the chief mate ; and Charles Edward Seymour, the second mate. Andrew Rose, the deceased, was an able seaman on board, and the means of death a series of violences and outrages committed by the three prisoners upon the deceased, by beating and ill-treating him. The Martha and Jane is a British ship, owned at Sunderland, and it sailed from Hartlepool last year to Calcutta, where there was a change of Masters. From Calcutta it came to Demerara, and from Demerara to Barbadoes, where Henry Rogers became the Master, and Andrew Rose entered on board the ship. He entered on the 29th of April, as an able seaman, and signed articles which stipulated, among other things, for a certain allowance of provisions. When he came on board he was put to some duty by the second mate, Seymour, who found fault with him and beat him, so severely that Rose was advised by some of the crew to leave the ship, and he ran away. About the 9th or 10th of May he was brought back by the police, and was put in irons. The vessel sailed on the 11th May. The day after the vessel sailed he was again beaten by Seymour ; the chief mate also, and the Captain also beat him on the same day.

From that day until the last outrage, about two or three days before his death, he was beaten by the prisoners almost every day with a rope and a whip, when in irons and out of irons. It is difficult to get the precise dates; but they all occurred after the sailing of the ship, and before the death of the deceased. When he came on board he was apparently an able seaman and in good health; his hair was close cropped, and there is reason from that and his conduct to surmise that his intellect had been deranged. He was fond of singing, and he sang "Oh, be joyful." One Sunday morning the Captain bade him be silent, and said, "I'll make you sorrowful," and he forced an iron bolt of considerable size into his mouth, and the other two prisoners tied it with a rope behind his head, and he was kept with that gag in his mouth for about an hour and a half. The Captain had a dog on board, and he taught that dog to bite the deceased. He first set him on with a command to "bite that man;" and afterwards, whenever the Captain came forward with his whip, the dog would fly at him and bite him. Upon some occasions the blood spurted out. The dog bit out a piece of the flesh, and as the deceased put out his hands to protect himself, the dog bit them too. Upon another occasion the deceased was sent aloft to furl the sail. He was naked, and was sent up with a bucket of water probably for a cause to which I shall allude presently. The chief mate followed him up, and whipped him so severely that the blood ran in several places. Upon another occasion, when the deceased was in irons, he asked to be allowed to go to the bows to do a necessary act. And I must here mention that the deceased laboured under such an infirmity which prevented him from containing his excrement, which came from him involuntarily. When in irons he asked leave to go forward for that purpose. He was refused, upon which he relieved himself on deck. The mate and the Captain then beat him, and the latter ordered two men to hold the deceased upon his back, and called for a spoon. He took a "fid"—a wooden pin—with which he forced the excrement of the deceased into his mouth, and up his nose, saying, "Isn't it nice?" and "You shall have more of it," until those who were called to assist shrunk away, unable to bear it longer.

A day or two after, this was repeated several times. The Captain ordered the carpenter to knock the head out of a water-cask; but as he was not quick enough, the Captain and mate did it themselves. It was the smallest of the water-casks on board the ship. They brought Rose to the cask and put him in. They then rolled the cask backwards and forwards several times over the deck, the only means of getting air being through the bung-hole, which was on the bilge. They lashed the cask to the side of the ship, and there the deceased remained from twelve at noon till twelve at night. While there he begged for water, and uttered great cries of distress.

One of the men gave him a little pea soup—poured it into his mouth, at which the Captain was very angry, demanded who had done it, and threatened to serve him the same. Another seaman gave him a little water, when he complained of suffocation and excessive heat. The last act, which terminated the cruelties, I might almost say, and I believe that word is not too strong, terminated the sufferings of the deceased. Upon that occasion the deceased was told by the Captain—"Rose, I wish you would either drown or hang yourself;" to which Rose answered, "I wish you would do it for me." The Captain and the two mates then took him to the mainmast. They got a rope and made what was called a "timber hitch." They put it over his neck and hoisted him up, his feet being from one to three feet from the deck. He remained suspended by the neck for about two minutes. His face became black, his eyes protruded from the sockets, and froth came out of his mouth, and they then let him down. The moment his feet touched the deck he fell flat, as if lifeless, and the Captain was heard to say that, had they kept him there half a minute longer, he would have been dead. This seems to have been the last outrage he had to endure.

After this his body and mind both gave way. The crew got him down to the fore-castle, but he was so crazy they were obliged to tie his hands. He remained in the fore-castle a day or two, but on the morning of the 5th June—two or three days after the hanging—they got him up on the deck to wash himself. He could scarcely crawl. He lay down upon the deck, with his head towards the forward hatch, and the water came in over his legs, but not over his head, and he died. An hour or two after, they came to remove him and found him dead. He had wounds all over his body from the biting of the dog and the whipping. These wounds had festered. There were maggots in some of them, and he was in such a state that the crew were loth to touch him. They dragged him with a rope aft, and in an hour after that, by order of the captain he was thrown overboard. The ship made land next morning, and arrived in Liverpool on the 9th of June. Information was given and the captain and mates arrested. The captain said he almost expected it, for that villain Groves had said that he would do something of the kind. Groves was one of the seamen on board, and will be called. The captain afterwards imputed to Groves some violence to the deceased, and said that he himself had done him no harm, but whipped him for being dirty. The prisoner Seymour, when arrested, said "The less said about it the better." Miles, I believe, said nothing when arrested. Now, gentlemen, these are the facts of the case. These facts being brought under the notice of her Majesty's Government, they have instituted this prosecution. I do not mention this fact to influence you, but that you may know who the prosecutors are. We do not live in an age when it will be either to the advantage or disadvantage of a pri-

soner that a prosecution is conducted by such authority. But it is necessary that this enquiry should be made in order that all British seamen may know that however far they are from this country they are never beyond the reach of British laws to punish crime and to protect innocence. No doubt, gentlemen, the principal questions you will have to inquire into, will be whether these acts of violence were really committed. We shall call some of the crew.

All who were examined before the magistrates are here, but it is not necessary to call the whole. We shall call some four or five, and the rest are ready if the prisoners desire that they should be examined. You will judge how far you will credit what they say as to the conduct of the prisoners. A question no doubt will be raised whether what they did was for the proper correction of the deceased. As to that we shall put in the official log kept by the Captain, and which by law is required to register all punishments inflicted on seamen. There are several entries made of the conduct of the deceased; but you will find abundant evidence that those entries could not all have been made at the times they bear date; and you will find also this remarkable fact that in the whole of the entries, not one alludes to the biting of the dog, not one to the putting him in the cask, not one to the hanging, not one even to the whipping, but the utmost that is stated in the many charges in the log against the deceased, is that the Captain was obliged to stand over him with the whip to compel him to wash himself. The log imputes his death to his being rotten inside. I think it will appear that the Captain and the mates could not have thought that these acts were proper acts of punishment to the deceased; it will be for you to say whether they were punishments, and if so whether they were not excessive, and such as indicated wilfulness, malice and crime on their part. Another question no doubt will be whether these acts were the cause of the death of the deceased; of that you will have to judge, and to say whether the deceased coming on board a healthy man, and sinking under these acts of violence and outrage, you have any reasonable doubt that they caused his death.

It is not necessary for you to believe that they alone occasioned his death, for if the deceased had any disease upon him, though that disease might have been fatal, and though he might later have died of that disease, yet, if you believe that in consequence of the acts done by the prisoners, or any of them, that death was hastened, then, gentlemen, they are responsible for the homicide; but in this you will be assisted by some medical men who will be called, and who I understand are of opinion that in any state of health or disease death would be caused or accelerated by the acts of the prisoners. Then, gentlemen, will arise a question of law. What is the degree of this homicide, if you believe that the death is imputable to the prisoners? Is it murder or manslaughter? No doubt, to make it murder, you must believe that it was done with

malice aforethought. That does not mean any long pre-conceived and cherished grudge against the deceased; it means that the prisoners did what they did, intending to do him some grievous injury, though they might not have intended to cause his death, in which case they would be responsible for his death to the extent of murder. You will take the law upon that from the judge as you will take the facts from the witnesses. This is the case you will have to try. We will call the witnesses, you will hear the facts from them, and the law from the court, and then you will give your verdict accordingly.

Thomas Hayes sworn and examined by Mr. E. James.

Q. Do you remember the Martha and Jane being at Barbadoes?

A. Yes.

Q. Did you ship on board her there? A. Yes.

Q. As an able seaman? A. Yes.

Q. How long before the vessel sailed did you ship? A. I joined 10 or 11 days before she sailed.

Q. She sailed, I believe, on the 11th of May of this year? A. Yes.

Q. Do you remember the deceased, Andrew Rose, shipping on board? A. Yes; he shipped the same day as I did.

Q. And, I believe, likewise as an able seaman? A. Yes.

Q. When he came on board in what state of health did he appear to you to be? A. In a very good state of health.

Q. Was his hair cropped quite close? A. Yes.

Q. Had you ever known him before? A. No, I had never known him before.

Q. Was Henry Rogers, the prisoner, the Captain of the vessel. A. Yes.

Q. Was the second prisoner at the bar, William Miles, the chief mate, and the other prisoner the second mate on board? A. No, the second mate joined afterwards.

Q. But at the time you joined were they respectively the Captain and the chief mate? A. Yes.

Q. Afterwards did the other prisoner, Charles Edward Seymour, join as second mate? A. Yes.

Q. At Barbadoes? A. Yes.

Q. Do you remember when Rose first came on board any thing happening to him? A. I was not on board the night he came on board.

Q. But the night you came on board, what did you see? A. The night I came on board I saw Seymour ill use him.

Q. Was that some 9 or 10 days before the vessel sailed? A. No, it was not 9 or 10 days; he came on board on the Friday night.

Q. Then on Friday before the vessel sailed? A. No, he came on board on the Friday. I was not on board that night, I came on board the day the vessel sailed.

Q. That was on Monday the 11th, that the vessel sailed. Then on Friday preceding the sailing, which was on the Monday, you being on board, saw something happen to him? A. Yes.

Q. Describe what you saw happen to him?

Mr. MONK.—He said he was not there till the day the ship sailed.

Mr. JAMES.—Did you or did you not say so? A. I saw the second mate the first day I was on board.

Q. Will you state on the Friday what happened to him from the second mate? A. I did not see it on the Friday, I did not go on board until Monday.

Q. Then it was on the night of sailing? A. Yes.

Q. What happened then? A. I saw the second mate ill-use him. The man was helping to heave-up the anchor when I came. They were serving out some liquor, and the steward said he was not to give any to him by the Captain's order. We went to the Captain and spoke to him about it. After the anchor was hove-up, we made sail and I saw the second mate ill-use him.

Q. In what way, what did he do? A. He took a rope's-end, and rope's-ended him.

Q. The next day did you see any thing? A. I saw the two mates ill-use him the next day.

Q. Do you mean both at the same time, or one after the other?

A. Both at the same time very often, but not at all times.

Q. The next day you are speaking of? A. They did not hit him the next day, not at the same time.

Q. What was done by one or the other the day after the ship sailing? A. They rope's-ended him in the same way.

Q. What sort of a rope was it? A. A small rope, like that one (pointing to a rope on the table.)

Q. Such a rope as this (handing it)? A. Yes, but longer.

Q. Longer than this, but this thickness? A. Yes.

Q. Did they lay it on lightly or heavily? A. As hard as they could lay it on—they never showed any mercy at all.

Q. Could you discover what was the cause of their beating him? A. No, we did not know at all what it was.

Q. Did the deceased appear to you at all of sound intellect or weak? A. Sometimes he would talk sensibly, but not always.

Q. Did you about that time or the day after see the Captain do any thing? A. Yes, I heard the Captain order the steward to fetch the riding whip to him.

Q. That was on the third day you heard the Captain give that order? A. Yes, I heard him give the order to bring up the whip.

Q. I do not know whether you can speak to the whip, but was it such a whip as this (producing one)? A. Yes, that is the same whip.

Q. Did the steward bring the whip? A. Yes.

Q. When the whip was ordered, did you observe that Rose had

refused to do any thing, or could you discover what was the cause?
A. No, I did not know what it was. I was walking aft at the time the Captain was lashing him with the whip.

Q. You did not discover the cause? A. No.

Q. When the steward brought the whip, what did the Captain do with it? A. Why, he laid it on his back as hard as he could let him have it, and across his legs.

Q. You have now got to the third day. Before then did you see him in irons at all? A. No; I cannot say I saw him in irons before the third day.

Q. Was he in irons when beaten or out of irons? A. Out of irons.

Q. Did the man do his work up to that time the same as other men? A. Yes, he did what was ordered.

Q. Did you ever see him flogged afterwards by the three prisoners or any of them? A. Yes, every day. There was not a day passed without it until the day the man died. I saw him flogged every day by the three prisoners.

Mr. BARON WATSON—Never a day passed without it? A. No.

Mr. E. JAMES—With what did the Captain flog him? A. With that whip (pointing).

Q. And the other prisoners, what did they use? A. They used to have that whip when the Captain was in his cabin; they used to use the whip in the same way in their different watches.

Q. Did you ever see them use anything else? A. Yes, I have seen them rope's-end him. When the whip was not handy, they would take a rope's-end or the first thing they could lay hold of.

Q. Was there a dog on board? A. Yes.

Q. Have you ever seen any one urging on the dog at all? A. What? setting the dog at him?

Q. Yes. A. I have seen the captain.

Q. What did he say or do at that time? A. What, the man?

Q. No, the Captain. What did he say when you saw him set the dog at him? A. He would tell the dog to go and bite him, and the dog would know what the Captain said as well as anything.

Q. On the Captain saying so, what would the dog do? A. The dog would go and bite the man directly.

Mr. MONK—Don't tell us what he would do, but what he did do.

Mr. E. JAMES—What did the man do? A. He put out his hands to save his legs. The dog used to bite him in his arms and legs.

Q. Did you see any blood flow? A. Yes, out of his arms and legs where he bit him.

Q. Did you ever see Rose in irons? A. Yes.

Q. Often or seldom. A. Often.

Q. Do you know from what you heard from the Captain or mates why he was put in irons? A. No, I don't know at all; I never heard anything about it.

Q. Did you observe previous to that Rose being put in irons for neglect of duty at all? A. No, he always did as they told him.

Q. Did you ever see him flogged while in irons? A. Yes.

Q. By whom? A. By three of the men, by the Captain's orders for stealing sugar.

Q. You heard the Captain give orders and you saw them flog him. A. Yes.

Q. That was for stealing sugar? A. Yes, for stealing sugar out of the galley.

Q. Did he upon one or two or three occasions, I do not know how many, dirty the deck? A. Yes.

Mr. MONK—On one or two or three occasions: that is not a proper way of putting a question. This is too serious a case for that.

Mr. E. JAMES—I do not want to lead him at all, but I do not see how I can avoid putting that question.

Q. Was it upon more than one occasion? A. Yes, upon three occasions.

Q. Was he at liberty on all three occasions to which you speak? A. No, he was in irons.

Q. About how many times during the day have you seen him flogged? A. Well; I should say about ten or twelve times during the day, never less.

Q. By whom was he flogged ten or twelve times during the day? A. By the three prisoners.

Q. Do you mean by the three altogether, or one or other of them? A. No, by one or other of them.

Q. You have said you saw the Captain set the dog at him; have you ever seen the dog afterwards, of his own accord, fly at Rose? A. Yes.

Q. Upon what occasion was that? A. As soon as the Captain had taken the whip, the dog would fly and bite the man without any orders from the Captain at all.

Q. Do you remember one day I am going to speak to when a bolt was used; do you remember that particular day? A. The gagging?

Q. Yes. A. I did not see the gag put into his mouth. I was aft, steering the ship.

Q. Upon that occasion, did you see the gag in his mouth? A. Yes, when I came from the wheel.

Q. What sort of a thing was it? A. It was an iron bolt.

Q. The same as that? (handing an iron bolt). A. Yes.

Q. How was it put? A. It was put right across his mouth in this way (describing it).

Q. And bound with spun-yarn round his head? A. Yes, round to the neck.

Q. How long, to your knowledge, did that remain in his mouth?

A. I was at the wheel at four o'clock, and it was there at half-past four when I left. I saw the chief mate and second mate getting the iron to gag him; I was at the wheel when they went past.

Q. At four o'clock you saw the mates get a gag, and that remained in his mouth until half-past four? A. Yes.

Q. While you were at the wheel, you saw the two mates came to get something? A. Yes.

Q. And you saw them get the bolt? A. Yes, and the spun-yarn.

Q. When they were getting it, did you hear anything said? A. No, I did not know what it was for.

Q. But they got the bolt and spun-yarn? A. Yes.

Q. How long was that before you left the wheel? A. It was about a quarter or half-an-hour.

Q. Before you left the wheel? A. Yes.

Q. When you saw him with the gag in his mouth, how were his hands? A. They were shackled behind him, and he was fast by the feet at the same time.

Q. Do you mean that his feet were fastened by a rope or a chain? A. I think that is a piece of the same chain—(pointing).

Q. It does not matter—but by a chain like that?—(pointing to one on the table.) Was he fastened to the deck or what? A. To a ring bolt.

Q. In the deck? A. Yes—in the deck.

Q. Do you remember another day I am going to speak to—about a water-cask? A. Yes.

Q. What did you hear or see in reference to that? A. I heard the chief mate order the carpenter to unlash one of the water-casks, and get the head out so as to put him in.

Q. At that time where was the carpenter? A. The carpenter was in the gangway.

Q. Did the carpenter do that or not? A. No, he went to his dinner.

Q. He went to his dinner? A. Yes—the mate told him to get the head out after dinner.

Q. Did they wait until the carpenter returned from his dinner? A. No, they took it out themselves.

Q. Who? A. The two mates, and the Captain was standing by at the same time.

MR. BARON WATSON.—Did the Captain assist, or was he looking on? A. Yes, he looked on, and the two mates took the head out.

MR. E. JAMES.—When they got the head out, what was done? A. Why, they helped Rose into it.

Q. Where was Rose at that time? A. He was standing whilst the cask was being opened.

Q. When he was put in, what was done? A. They headed the cask up again.

Q. And fastened it? A. Yes.

Q. Fastened with hoops? A. Yes.

Q. About what time of the day was it? A. It was about a little after twelve—eight bells had just struck.

Q. When they had done that, was anything done to the cask. A. Yes; it was rolled two or three times across the deck.

Q. What was done then? A. It was put into its place and lashed.

Q. It was lashed and put into its place? A. Yes.

Q. How long did he continue in the cask? A. Till about twelve o'clock that night.

Q. That would be somewhere about twelve hours—from near noon till twelve o'clock at night? A. Yes.

Q. Did you speak to Rose at all while he was in the cask? A. Yes.

Q. Through the bung-hole? A. Yes.

Q. The bung-hole is large enough to put a can through? A. They could put a dipper through.

Q. What did you say to him?

MR. MONK.—I object to the question—I apprehend what was said is no evidence.

MR. BARON WATSON.—Of course what he said is no evidence.

MR. E. JAMES.—Well, you spoke to him? A. Yes.

MR. BARON WATSON.—It is no evidence, except that he cried to get out—that would be evidence.

MR. E. JAMES.—Did he make any complaint while he was there? A. I asked him how he felt.

MR. BARON WATSON.—That will not do.

MR. E. JAMES.—Did he make any complaint? A. No, he made no complaint at all.

Q. Did you see him after he was let out? A. Yes.

Q. In what condition did he appear to be? A. He appeared just as if he had had buckets of water poured over him with sweat.

Q. Was there anything else you observed about his condition, being faint, or hurt, or what? A. He was full of sores.

Q. At that time he was full of sores? A. Yes.

Q. Now, do you remember another time—I am now going to the first? Yes.

Q. Do you remember one particular day—the first day? A. Yes.

Q. Was he that time chained or not? A. Yes.

Q. Having dirtied the deck, did the Captain come and do, or say anything? A. Yes, he came and told him he would make him eat it.

Q. When he said that, did he do anything, or call to him? A. Yes, he took that fid there—(pointing to one on the table)—and put it into his mouth.

Q. He took that fid?—(handing it to the witness). A. Yes—that same fid.

Q. He took the dirt from the deck and put it into his mouth? A. Yes, and put it into his mouth.

Q. That you saw the Captain do himself? A. Yes, that he did himself.

Q. Was any person holding him at the time? A. I did not see that time whether he was held. I was told he done it three times, but I saw it only twice.

MR. MONK.—Tell us what you saw, not what you heard.

MR. E. JAMES.—Tell us what you saw. A. I saw it put into his mouth twice.

Q. At the time you saw it, no one held him? A. No.

Q. Did you afterwards see anything else done to him? A. Yes.

Q. On the first occasion you speak to, was any one present but the Captain? A. Not at the time I saw it. I saw it put in his mouth twice, and nobody held him.

Q. Was anybody standing by—were the mates there? A. No; we were all forward.

Q. Did you afterwards see something done again? A. Yes.

Q. By whom? A. By the Captain with a long stick.

Q. How long was that after the first occasion? A. That was the same day, only one was in the morning, and the other in the afternoon.

Q. Were the mates there at that time or absent? A. They were there in the afternoon.

Q. Did he do the same thing, put it into his mouth, except that he used the long stick? A. Yes; and stopped his nostrils up.

Q. Have you ever seen Rose when he has been naked? A. Yes.

Q. Do you mean quite naked? A. Yes; quite naked.

Q. I will ask you this,—how was he off for clothes when he came on board? A. Well, he had not many clothes.

Q. Did you observe what he did with those clothes in any way—with his trowsers? A. Well, sir, he dirtied them.

Q. Did you see what became of them? If you did not, do not tell me. A. I saw them pitched overboard several times.

Q. So that he was left without trowsers? A. Yes.

Q. You saw his clothes pitched overboard several times? Yes.

Q. What were they? A. Trowsers.

Q. Do you know whether the Captain gave him any trowsers or not? A. No, the Captain gave him one pair of drawers.

Q. Do you know what became of them? A. He dirtied them, and they were thrown overboard.

Q. Are those the same of what you have been speaking of before? A. Yes.

Q. Do you remember Rose being sent up aloft when he was naked? A. Yes.

Q. On one occasion, or more? A. I saw him going up aloft to

furl a sail; when he came on deck it was not furled right, and he was sent up again.

Q. By whom? A. By the chief mate.

Q. When he sent him up, did he do anything to him? A. Well, he rope's-ended him up the rigging.

Q. Now, I am going to bring you to another day, when a rope was used round his neck. A. Yes.

Q. Where were you the first time you saw anything of that sort done? A. I was painting the mainmast.

Q. What did you hear said by the three prisoners or any of them? What did you see done? A. The Captain was aft at the time, but he came forward to the mainmast, where I was painting. He called me by name, and said, "Hayes, come here, and make a hangman's knot, and we will hang him." I told him I could not make a hangman's knot, I was not used to that.

Q. Did the Captain say anything? A. No; he looked at me, that was all.

Q. Did you hear him say anything to anybody else? A. He told me to give him a rope, and he would do it himself.

Q. Did you see anything done with the rope? A. Yes.

Q. What was done? A. I saw the Captain make a timber-hitch.

Q. What sort of a hitch is that? A. It is a hitch they put round timber when they are going to heave it up.

Q. Is it a common hitch? A. It is a running hitch.

(The witness left the box, and made the hitch.)

Q. Now, when he made that sort of hitch, what did you see done? A. He placed it round his neck.

Q. Round whose neck? A. Round Rose's neck.

Q. Was anybody assisting him, or was he there by himself? A. Yes; there were the two mates.

Q. When they put it round Rose's neck, what was next done? A. He was pulled up.

Q. But, where? A. He was pulled up off the deck.

Q. Up to where? A. In the main-lifts—that is, part of it cuts off there.

Q. Were his feet raised from the deck—was he suspended? A. Yes.

Q. Is that part of the main lifts? A. Yes; that is part of the main lifts; it is cut off.

Q. While he was so suspended, did you observe what condition he was in? A. Yes; I saw the froth coming out of his mouth.

Q. How long was he kept in that state? A. He was kept there for about two minutes.

Q. They then let him down? A. Yes, they let him down.

Q. When he reached the deck what happened to him? A. He fell right on his back, just like a dead man.

Q. Did any of the three say anything when he so fell? A. No; I did not hear them say anything.

Q. Did they give him assistance to get up? A. No, not at all.

Q. How long did he remain on the deck before he came round? A. Four or five minutes.

Q. Did he then get up himself, or was he lifted up? A. He got up in the best way he could.

Q. He got up by himself? A. Yes.

Q. Do you remember the mate throwing water on him at all? A. Yes.

Q. Was that the chief mate or second mate? A. The chief mate.

Q. Was that at a time when he was at liberty or ironed? A. He was in irons.

Q. Dressed, or partially dressed? A. With a flannel shirt on; that was generally his dress.

Q. I do not know whether you can tell the exact day, but how long before he died was it that he was hanged in the way you have described? A. Well, I suppose it was about eight days, so far as I reckon it.

Q. Do you remember the day of the month on which he died? If you do not, say so. A. No, I cannot exactly recollect the day of the month.

Q. How long was it before you sighted Cape Clear? A. About two days.

Q. When you say eight days, do you mean eight days before he died, or eight days before you arrived at Liverpool? A. Before we got to Liverpool.

Q. Then you mean he was hanged in that way eight days before you got to Liverpool? A. Yes.

Q. About how many days after his death was it before you reached Liverpool? A. After his death?

Q. Yes. A. Between five and six days.

Q. I did not ask you before. I do not know whether my learned friend will ask the question; but when he fell on the deck, after being let down, did you see what became of him afterwards? A. Yes; I saw him rise after he had been lying there four or five minutes.

Q. Did you see what became of him? A. He walked aft along with the prisoners.

Q. In the interval between that and his death, did you see him from time to time? A. Yes.

Q. Whilst he lay on the deck, was Captain Rogers there? A. Yes, and the two other prisoners.

Q. You say, when he was let down he did not make any other observation? A. Nothing at all.

Q. But afterwards, while he remained on the deck, was anything said by him then? A. I did not hear anything.

Q. Did the master go away and leave him in that state? A. No, he stopped until he rose up.

Q. And then nothing was said. A. He walked aft, and the man said, "You had better finish me at once."

Q. Did the Captain make any reply, or either of the mates? A. No, I never heard them say anything—I went aft to my work.

Q. You went aft? A. Yes, I went aft.

Q. I think you said, afterwards, from time to time, he was in the forecastle? A. Yes,—three days before he died we took him into the forecastle.

Q. Was that after he was hanged? A. Yes.

Q. You took him into the forecastle? A. Yes.

Q. How long after he was hanged was he taken into the forecastle? A. Between four and five days after he was hanged we had him three days in the forecastle.

Q. You say the hanging took place about eight days before you arrived at Liverpool? A. Yes.

Q. And you arrived at Liverpool some five or six days after his death? Now, how long before his death was it that he was hanged? A. Before his death,—I cannot tell exactly.

Q. He was three days in the forecastle? A. Yes.

Q. When he had been three days in the forecastle, what happened to him? A. Well, he was sent for by the steward to get a dose of medicine, and he went aft and got it.

Q. Where did he die? A. He died on the forecastle.

Q. On the deck? A. Yes, on the deck.

Q. Did you see him lying there? A. Yes.

Q. Did you see his body after his death? A. Yes.

Q. In what condition did it appear to you to be? A. It was full of sores and corruption.

Q. I want the jury to hear your own words,—full of sores and corruption, I think you said? A. Yes.

Q. What else did you observe about his body? A. A mark on his head.

Q. What sort of a mark on his head,—what was the colour? A. It was all red, like the mark of a whip.

Q. Were there any sores on his body when he came on board? A. No, I did not see any.

Q. Could you attribute those sores to anything,—could you tell what had caused them?

Mr. MONK—I object to that question.

A. It was by ill-usage.

Mr. MONK—I apprehend this witness is not a scientific person,—he is not here to judge of the effect.

Mr. BARON WATSON—No, unless he prove cause and effect one way or the other.

Mr. E. JAMES—I will put the question in a different form.

Q. I think you say you saw the dog bite him several times?

A. Yes.

Q. Did you observe the condition of those bites afterwards?

A. Yes.

Q. Well, did they heal? A. No, they never healed at all.

Q. Can you tell whether the wounds caused by those bites were upon his body after his death? A. Some of them.

Q. In what state were those sores or wounds? A. Well, the sores where the dog had bitten him were full of maggots.

Q. For some days before his death did you observe what state he was in? A. Nothing but a mass of sores all over.

Q. Did you observe his general health when he was taken down to the fore-castle? A. Yes.

Q. Did he appear to you to be as well then as he had been some time before, or did he appear to be worse? A. He appeared to be worse.

Mr. BARON WATSON—For the last three days he was there? A. Yes.

Mr. E. JAMES—Was he a quiet man, or a noisy man, or what? A. A very quiet man.

Q. So far as you observed, as you said before, he obeyed orders and did any work he was set to do? A. Yes.

Cross-examined by Mr. Monk.

Q. I think you say you shipped as an able seaman? A. Yes.

Q. And so did he? A. Yes.

Q. How long had you been at sea? A. How long?

Q. Yes. A. For the last ten years.

Q. What age are you? A. Twenty-two.

Q. You went to sea when you were twelve years old? A. Yes.

Q. He was a quiet man, you say, and he did all that he was told? A. Everything he was told, as far as I could see.

Q. And did it properly and well? A. Yes.

Q. How many watches had you? A. Two watches.

Q. Whose watches were they? A. The Captain's and chief mate's,—the second mate used to have the Captain's watch.

Q. How many hands were on board? A. There were six able seamen, one ordinary seaman, a boy, a cook, a steward, and the three prisoners.

Q. That is ten? A. Yes, and the three prisoners.

Q. Can you tell me in what way they were divided into watches—who were in the Captain's and who in the chief mate's? A. There were three able seamen and a boy in the second mate's watch.

Q. The Captain's watch? A. In the Captain's watch.

Q. Now give me the names of the able seamen. A. There was Francis Doyle.—I do not know the names exactly.

Q. Can you tell who were in the other watch? A. Yes, there were three able seamen.

Q. What were their names? A. There was one Thomas Hayes, William Groves, and William Power.

Q. Who was also in the watch? A. The chief mate.

Q. And nobody else? A. No.

Q. Then there was one more in the Captain's watch than the chief mate's watch? A. Well, I never took notice of that.

Q. Do you mean to say you do not know? A. Yes, I know if I looked over it a bit. (The witness paused for a short time). Yes, there was one more in the Captain's watch.

Q. Now, are you able to tell me the names of the able seamen who were in the Captain's watch, or the names they went by on shipboard?

A. There was Francis Doyle, and one they called "Dublin." I do not know his name—they called him Dublin on board.

Q. There was Francis Doyle and one they called "Dublin," who else? (The witness hesitated). That will do for our purpose. Should you know Dublin's name if I told you—think you? A. Yes.

Q. Was it "Cahill"? A. Yes, Cahill.

Q. Who else was there—either by the ship's name or the real name? A. I don't know the other one's name.

Q. Now, on the 29th April, I think you say, you signed articles? A. Yes.

Q. And then you went on shore? A. Yes.

Q. And did not return until the 11th of May? A. Yes, I was on board to work on different days.

Q. You were on board to work at different times between the 29th of April and the 11th of May? A. Yes.

Q. Can you tell which days you went to work? A. No, I cannot think of those days.

Q. You cannot tell those days at all? A. No.

Q. Not one of them? A. I did not take notice of the days.

Q. If you cannot tell, say so, and there is an end of it—neither the day of the month nor the day of the week? A. No, I did not take notice of that.

Q. Do you know whether the ship's boat was missing during any part of that time? A. No, I do not. I heard that the man who died lowered the boat on the Saturday before we left Barbadoes.

Q. I want to know whether you know, before the ship sailed, the boat, as far as you know at the time, was missing? A. No.

Q. You never heard that? A. No, only what I heard—that the man lowered the boat and went on shore.

Q. You did not hear it? A. I heard it from the other men, I was not on board.

Q. Did you yourself make any search for the boat on shore? A. Make any search?

Q. Yes. A. I did not.

MR. E. JAMES:—We have persons on the watch who will prove all that.

Q. Oh, indeed! Very well.

Q. On the 11th of May what time of the day did you come on board? A. Eleven o'clock.

Q. Was Rose there too at that time? A. Yes.

Q. Was he in any of the watches? A. He was in both watches; he was kept up whenever they called on him.

Q. When the watches were arranged was he placed in either of them? A. No.

Q. How was that? A. I do not know the reason at all.

Q. Is it not usual for able seamen to be placed in one or other of the watches? A. Yes.

Q. And ordinary seamen also? A. Yes.

Q. But he was not? A. No, I did not see him placed.

Q. I do not know what name you sailors use for arranging the watches, whatever it was, when were the watches arranged or divided, or whatever it may be? A. As soon as the deck is cleared up. Soon after we left Barbadoes.

Q. You cannot tell me at all why it was that Rose was not placed in either of the watches? A. No, I do not know.

Q. Power, I think you say, was in the same watch as yourself? A. Yes.

Q. That I may not make a mistake, see if I know rightly who was in the second mate's watch? A. No, it was the chief mate's.

Q. I forgot that the Captain's and second mate's watch are the same? A. Yes.

Q. Had you been in the fore-castle before the watches were arranged? A. Yes, I was in the fore-castle in the morning.

Q. At that time had you seen any dirt Rose had made there? A. No.

Q. Nor smelt it? A. No.

Q. Nor heard any complaint? A. Yes. I did not see him do it in the fore-castle, but I heard he had done it.

Q. You mean to say you did not perceive it by smell, or any other sign of it? A. No, not at that time.

Q. That you swear? A. Yes.

Q. Do you know what became of Power's shirt that day? A. No, I cannot say I do.

Q. You do not know that at all? A. No, I did not see anything about it.

Q. Perhaps you do not know what I am alluding to? A. No, I do not remember any shirt of Power's.

Q. You do not remember Power's shirt being thrown overboard? A. No.

Q. Power is here? A. Yes, he is here.

Q. Do you remember Power's shirt being used on any occasion by the deceased man to wipe up dirt he had made in the fore-castle?

A. No, I do not know.

Q. I dare say you never heard it until this morning?

MR. BLISS:—That is not the proper way to put the question, I object to it.

MR. MONK—I have a right to ask the question to ascertain the credibility of the witness.

Q. I ask you again, do you mean to swear you never heard of Power's shirt until this morning? A. Of what?

Q. Of Power's shirt being used by the deceased to wipe up dirt with? A. I never heard it before you spoke of it.

Q. You told my learned friend that the man's trowsers were thrown overboard; who threw them overboard? A. Groves threw one pair overboard.

Q. How many pairs of trowsers and drawers had he at different periods during the time you were on board yourself between the 11th of May and the day of his death? A. Three pairs and one pair of drawers that the Captain gave him.

Q. Was he in the habit usually of dirtying his trowsers? A. Well, sir, he could not keep himself.

Q. How frequently do you think he was obliged to be made to wash himself from the condition he was in? A. I cannot say exactly how many different times. I saw him washing himself, and at the time he was getting washed he was getting lashed.

Q. Now, on the night of the 11th of May did he sleep in the fore-castle. A. Yes, I believe he did.

Q. Do you know whether he did or did not? A. I believe he did, but I was asleep myself. I could not see him all night. I believe he was pulled out in the night.

Q. Then, as I understand you, he was down in the fore-castle when you went to sleep? A. Yes, he went down.

Q. And he was not in the fore-castle when you awoke? A. No.

Q. Was there a bad smell or any dirt in the fore-castle when you awoke? A. No, I did not smell anything.

Q. You never saw him even dirty the deck at all, except when he was in irons? A. Oh, yes.

Q. I thought you said you never had? A. Frequently, not to say often.

Q. Did you see him take it up with his hands and throw it into the hold? A. No.

Q. Was there rice and sugar in the hold? A. I believe there was.

Q. Did part of the cargo consist of rum? A. Yes.

Q. Did you see him drink rum? A. No, only what the Captain gave him.

Q. Then the Captain did give him grog? A. Yes, sometimes, to try and make him drunk.

Q. How often? A. I have seen him four or five times.

Q. Who was by on those occasions? A. I don't know.

Q. What makes you say the Captain gave him rum to try and make him drunk? A. When he gave him a drop, he gave him half a tumbler full.

Q. That is your reason for saying he tried to make him drunk?

A. Yes, because the man was not sensible; sometimes he was not exactly right.

Q. Do I understand you rightly that when he was not in irons or they were not beating him, he did his work like other able seamen?

A. He did all they put him to do.

Q. Is it the duty of able seamen to take their turns at steering? A. Yes.

Q. Did you ever see him steering? A. Well, I have seen him there for a little while till he was put away.

Q. Now, sir, do you mean to swear upon your oath that that man was able to steer? A. Well, I cannot say.

Q. Do you mean to say that he was acquainted with the duties of an able seaman and able to discharge them? Mind how you answer the question. A. As far as I could see.

Q. Did you ever see him make any dirt when he was sent up aloft? A. No, I did not see anything of it; it was my watch below at the time.

Q. Now, about the dog; how many times did you see the dog set upon him by anybody? A. Three or four times by the Captain.

Q. By nobody else? A. No.

Q. Tell me when that was? A. Six or seven days after we left Barbadoes.

Q. That was the first time? A. That was the first time I saw it.

Q. I suppose up to that time you saw nothing the matter with the man? A. Oh, yes; he was full of sores, and every day regularly he got fresh sores.

BY A JUROR. Before the six or seven days after you left Barbadoes had he sores? A. Yes, he had some from the time we left; they began to get worse at that time, and they increased on him every day.

Q. Do we understand you that he had sores at the time you started from Barbadoes? A. I did not see any.

MR. MONK. Then why did you say just now that he had some sores? A. Yes, after we left.

MR. BARON WATSON—He said more than that—he said he was full of sores.

MR. MONK—I understand from what you say, that this man was on friendly terms with all the crew, except the Captain and the two mates. A. Yes, I saw no harm in the man.

Q. No quarrelling? A. No, I never saw him quarrelling.

Q. No fighting? A. There was one of the chaps was going to hit him one day, and the cook jumped between them.

Q. Which of the chaps was that? A. Why, Groves.

Q. Do you mean to tell me, with that exception that Groves was going to hit him and the cook got between them—that there was no quarrelling nor fighting between any of the crew and Rose? A. No, not that I saw.

Q. Had Groves anything in his hand when he was going to hit him? A. I did not see it.

Q. How do you know he was going to hit him? A. Well, I was aft at the time he jumped at him.

Q. You could see, I suppose? A. I heard a bit of a noise, I was aft at the time.

Q. You did not see what took place? A. I left the wheel, and came to look, having seen the cook jump between them.

Q. At that time did you observe any blood on Rose's face? A. No.

Q. Perhaps you will swear there was not? A. I was steering the ship.

Q. You say you left the wheel for the purpose of seeing what was going on. A. I stepped on one side.

Q. Will you venture to swear there was no blood on his face? A. No, because I did not see it.

Q. Did you ever see Power strike him? A. No.

Q. Power was in your watch? A. Yes.

Q. Then you and Power would be aft together and down together? you would be on deck in the same watch, and you would be below at the same time? A. Yes.

Q. Do you mean to swear you never saw Power strike him? A. No, I never saw him strike him.

Q. I understand you to say you never saw Groves strike him except this once? A. No.

Q. And except upon that occasion you never saw any quarrelling or any fighting between him and any other of the crew? A. No, I did not see anything else.

Q. When was it you saw Groves springing forwards to hit Rose, and the cook getting between them? A. We might have been out about a fortnight at that time.

Q. Were you present when the boat I was asking you about just now was brought back from the shore after it had drifted? A. No I was not.

Q. Did you hear any complaint made by any of the men to the Captain or either of the mates of the conduct of Rose? A. No, I never heard anything about it.

Q. You have told us he went down to sleep in the fore-castle the

first night, and when you awoke the next morning he was not there?

A. Yes.

Q. Where was he the second night—did he sleep in the fore-castle?

A. No, I believe he did not.

Q. Why did he not? A. I believe it was the Captain's orders.

Q. Had the men made any objection? A. I never heard any.

Q. Now the third night, where did he sleep? A. On deck.

Q. Did he ever sleep in the fore-castle at all after part of the first night until within two or three days of his death? A. Only when he has run below to clear away so that nobody could see him.

Q. Did he sometimes run into the hold as well as the fore-castle?

A. I believe he went into the hold two or three times.

Q. Do you know the phrase used on board—of "skulking?" A. Yes, I know what it is, but I am not in the habit of doing it myself.

Q. Did Rose go into the hold to skulk? A. I do not know what he went there for.

Q. Could he have to go there for any business? A. I do not if the officers sent him there.

Q. Do you mean to say you do not know when he went into the hold, that it was for the purpose of skulking or not? A. No, I do not.

Q. You have told us a different story once or twice about the length of time after he had the rope about his neck before he died. How long was it after that before he died? A. I suppose about eight days, I cannot exactly say.

Q. When he grew worse towards the latter part, did he get medicine from the Captain? A. I believe he did.

Q. Had he oil given to him? A. Yes, and something red, like brandy.

Q. Had he senna leaves given to him to make medicine of? A. Not that I know of.

Q. After he first went into the fore-castle, during the two or three days before his death, was he turned out by anybody? A. No, he was brought on deck to wash himself one morning.

Q. What was his state of health at that time? A. Full of sores and matter all about him.

Q. Had he dirtied himself at that time? A. Not that I know of.

Q. Did he use to have rice cooked for him by the cook? A. Yes, once or twice.

Q. Only once or twice? A. That is all I saw.

Q. Do you remember Groves on one occasion giving him a piece of canvas to clean up the deck where he had dirtied it—you understand what I mean? A. I did not see that.

Q. Do you know on one occasion he took a clean shirt from one of the crew instead of the canvas? A. No; I did not see that.

Q. Did you see him throw a clean shirt overboard after he had used it for that purpose? A. No.

Q. Did you see Groves strike him? Once with the flat of his hand—that was when he was in the fore-castle after he had taken the medicine, when we were obliged to lash his arms.

Q. Why did you lash his arms? A. Because he was ramping mad the night after he had taken the medicine.

Q. Were you afraid of him at all any of you? A. We were afraid of him, and we tied him up, thinking it would be safer; we did not know what he might do during the time we were asleep.

Q. Did you hear anybody say he had got matches, and there was danger of the ship being set on fire? A. There was a talk that he had matches, but I do not know whether he had a wish to set the ship on fire.

Q. Did you see him with matches? A. No.

Q. Did Power have a quarrel with him in any way? A. Not that I saw.

Q. Since you have been at sea, did you ever see any other man gagged besides this man? A. No; this is the first man.

Q. Were you ever on board a man-of-war? A. No.

Q. When Groves and Martin interfered, and you say Martin got between Groves and Rose, did you see Groves strike Martin? A. No, I did not: I was at the wheel.

Q. If you saw parts, why did you not see the rest? A. I could not leave the wheel long, or the ship would have been out of her way.

Q. Did you hear Groves use some ill language to Martin for interfering? A. No.

Q. Do you remember after the hanging affair we have been talking of, Rose assisting to alter the position of the cargo? A. No.

Q. Do you remember after that the bags of rice in the hold were changed from one part to another. A. Yes.

Q. How many were there—about 150? A. I cannot say; I was not working in the hold.

Q. Cannot you form some idea—were there 100? A. There might be about 100.

Q. How many men removed them? A. Two men.

Q. Was he one? A. Yes.

Q. What was the name of the other? A. Davidson.

Q. Did Rose carry one bag of rice and Davidson the other bag alternately? A. He used to drag them along the deck.

Q. Do you know the size of a bag of rice? A. I believe they were 156 lbs. bags.

Q. You have mentioned a man named Doyle as one of the able seamen? A. Yes.

Q. Did you ever hear him complain to Seymour about Rose, the deceased. A. No.

Cross-examined by Mr. Aspinall.

Q. Do you mean to say he never was turned out of the fore-castle the last two or three days before he died? A. He was put out once or twice.

Q. Did you see him during the last three days lying on the deck at any time? A. No.

Q. You never saw him lying on the deck with the sea washing over him? A. Not during the last three days.

Q. Was he lying on the deck with the sea washing over him the morning he died? A. Yes.

Q. How had he got there? A. Well, I do not know.

Q. You don't know how he got out of the fore-castle to the deck that morning? A. Oh, yes, me and Groves helped him out of the fore-castle to get washed, but how he got forward I do not know.

Q. How long before his death did you and Groves take him out of the fore-castle? A. The same morning.

Q. How long before his death? A. Two hours.

Q. Where did you leave him? A. We left him on the main hatch.

Q. Did Rose want to be taken out? A. Yes.

Q. What time was it? A. It was from about half-past seven to eight o'clock.

Q. Where did you see him after you left him on the main-hatch? A. I saw him lying on the fore-castle.

Q. Whereabouts? A. On the port side.

Q. What sort of weather was it? A. Not to say bad weather—there was a nice breeze.

Q. Was the sea washing over the decks? A. Not a great deal—on the lee where the ship was lying down.

Q. Was he on the side where the water was coming over? A. Yes.

Q. Did every sea that came over the ship, wash over him? A. Not every sea.

Q. Did the sea constantly wash over him? A. Not all over him, but sometimes a spray came in from windward and washed on him.

Q. The waves themselves washed over his feet? A. It was rather a heavy sea, but not so much wind, and the spray came over his feet.

Q. The sea itself came to his feet? A. It came through the hawse-holes.

Q. The sea itself and the spray all went over him? A. It could not go underneath, it went over his thighs.

Q. Which way was he lying? A. On his face.

Q. Which direction was he lying, along or athwart ships? A. Athwart ships with his feet on the rail, and his head on the bits.

Q. Was he not lying along the ship with his head forwards? A. No.

Q. How long did you see him in that position? A. From the time the watch was called until I went below, and was called up and told he was dead.

Q. What were you doing? A. I was on deck taking sails out of the after-house.

Q. Did you go up to him at all? A. We went to try to rouse him.

Q. Did you move him at all? A. No.

Q. If he had been moved to the other side of the deck, the water would not have come over him? A. I don't suppose it would.

Q. Do you remember at the commencement of the voyage anything about a bucket of sugar? A. I know there was a bucket of sugar.

Q. Do you remember his easing himself in the bucket of sugar? A. No, I was told of it when I came on board.

Q. Do you know when he first signed articles? A. Yes, the same day as I did.

Q. Do you know how many times he deserted before he left Barbadoes? A. No.

Re-examined by the Attorney General.

Q. The day you helped him on deck from the fore-castle to wash himself, was that after the hanging? A. Oh, yes, afterwards.

Q. When he was tied by his hands, because he was mad and Groves struck him with the flat of his hand, was that after the hanging? A. Yes.

Q. Are you sure the rice was removed after the hanging or before? A. I think it was before.

Q. You say he had rice once or twice to eat? A. Yes.

Q. Was he allowed to mess with you? A. No.

Q. Do you know what he commonly had to eat? A. Yes.

Q. What was it? A. Dry bread and water.

Q. How often had you meat? A. Every day, such as it was.

Q. Had Rose meat? A. No, I never saw any meat weighed out to him, only what we gave him ourselves.

Q. Had you tea and sugar? A. Yes.

Q. Had Rose tea and sugar? A. Only the tea that me and the cook used to give him on the sly.

Q. Did you ever hear the Captain give orders as to what he was to have to eat? A. No.

Q. How often did you see the Captain give him medicine? A. Twice.

Q. Was that before the hanging or after? A. After.

Q. You say on the third night after you sailed he slept upon deck, do you know whether he was in irons that night or not? A. No, I cannot say.

Q. Was he ever kept in irons by night? A. Oh, yes, very often.

Q. Was he ironed on deck then? A. Yes.

Q. Now, attend to me, when did you first see any sores upon him?

A. Well, four or five days after, I saw sores come on him.

Q. After what? A. After we left Barbadoes.

Q. Can you tell whether the sores were in the places where he had been bitten? A. Yes, it was by the biting.

Q. You say he was pulled out of the fore-castle one night, do you know whether that was done by any body's orders? A. Yes, by the Captain's orders.

Q. Had you a seaman named Davidson on board? A. Yes.

Q. In whose watch? A. In the second mate's.

Q. That would be the Captain's watch? A. Yes.

Q. Do you know the prisoner Rogers's handwriting? A. No.

Q. Do you know the mate's handwriting? A. No.

Q. Is your name to those articles? A. Yes, that is my name.

Q. Did you see Rose sign those articles? A. Yes, I was in the office at the same time.

Mr. MONK.—But did you see him sign them? A. I did not see him, but I was in the office at the same time.

Mr. ASPINALL.—I see you signed the articles with a mark? A. Yes.

Mr. MONK.—You say Rose was pulled out of the fore-castle one night by the Captain's orders? A. Yes.

Q. Did you hear him give the orders? A. No, but I heard on deck that he gave the orders.

William Groves sworn, examined by Mr. Digby Seymour.

Q. Did you ship on board the "Martha and Jane" at Barbadoes, as an able seaman in May last? A. Yes.

Q. Do you recollect the deceased, joining the ship? A. No, he was on board when I went on board.

Q. How long before the ship sailed did you join? A. I signed articles on the 9th, and joined on the 11th, and the ship sailed the same day.

Q. On that day did you see either of the prisoners do anything? A. Yes; I had not been on board a quarter of an hour before the man Rose came to me and asked if I had any liquor?

Q. You say you saw something done by one of the prisoners? A. Yes.

Q. Which of them? A. Seymour.

Q. What did he say or do? A. I saw him come down the fore-castle and strike Rose with his fist, and kick him.

Q. Could you, from anything you heard at the time, form an opinion as to what was the cause of the beating? A. The prisoner said he would not mind a man being in the fore-castle, but he could not allow a "thing" to be there, and he drove him on deck.

Q. You used the expression "Drove him on deck." Had he anything in his hand? A. No; nothing.

Q. What time of the day was that? A. About half-past ten.

Q. Did you ever afterwards see anything done to Rose by the prisoners? A. Yes; I saw Seymour and Miles beat him round the deck several times with a rope's-end. The captain was on shore. We were ready to go to sea, and were heaving anchor when the captain came on board.

Q. When you saw Miles and Seymour beat him were they together, or was it at different times? A. No; at different times. I never saw them both hit him at one time.

Q. Could you, on any occasion when you saw them beat him at different times, see any cause for it? A. I could see no cause for it. The man was an able seaman, so far as I could see of him.

Q. How long have you been accustomed to the sea? A. Since 1837.

Q. How was Rose with regard to ability to discharge the duties of an able seaman? A. He would have discharged his duty if the Captain and the rest of the prisoners had let him gone on the same as another man.

MR. BARON WATSON. He was perfectly able, I suppose? A. Yes; in my opinion he was perfectly able.

MR. SEYMOUR. Did you see him take the helm? A. Yes.

Q. Where were you at the time? A. I was at the wheel at the time.

Q. Was he able to steer the ship? A. He came one day aft to the wheel and asked me to let him steer; he took the helm, and I watched him for a quarter of an hour to see whether he could steer, when the captain came aft and drove him away, and the dog followed after him.

Q. You say you were watching to see if he could steer? A. Yes; I can steer a ship myself, and I can tell whether a man can steer by standing by the side of him.

Q. With regard to his health, in what condition did Rose appear, from outward appearances, when he came on board? A. When I first came on board, the man appeared to be in good health.

Q. Was he a stout, thin, or spare man? A. As stout a built man as you would see in a day's walk—a man of about thirty-two years of age, as far as I could judge.

Q. You say the ship sailed on the 11th? A. Yes.

Q. Do you recollect, on the next day, anything being done to him by either of the prisoners? A. Yes; I saw him rope's-ended about the deck by the two prisoners, and whipped by the Captain.

MR. BARON WATSON. Rope's-ended by whom? A. By the two prisoners, and whipped by the Captain with this whip (pointing to it).

MR. SEYMOUR. Is that like the rope you saw them use? (handing it). A. No; that was the rope they hung him with. At other times they used a piece of rope like that (pointing). When they wanted to strike him, they were not particular which rope they got hold of.

Q. At the time he was beaten by the captain with the riding whip how was he dressed—what had he on? A. He had an old flannel shirt on and a pair of fustian trowsers when he came on board.

Q. Where did the whip fall? A. He was no way particular, anywhere he could strike him—anywhere about the body.

Q. Did he make any complaint, or say anything? A. He said “Oh, God! what shall I do? What have I done?”

Q. Did you on any other day see similar acts done to Rose? A. I saw him one day in irons.

Q. In regard to whipping and beating, how long was it continued? A. It continued several days—there was hardly a day on the passage before the man’s death but what he got whipped by the Captain and rope’s-ended by the two prisoners, with the exception of the three days I took him into the fore-castle.

Q. That was three days before he died? A. Yes.

Q. We are told there was a dog on board? A. Yes.

Q. Did you ever see the Captain beat Rose while the dog has bitten him? A. Yes; I have seen the dog fly at Rose, and take pieces out of his feet and hands. The dog would bite him in this way (describing); he could not take the pieces out clean, but pieces would be left in this way.

Q. On what part of the body have you seen such bites given? A. The legs, arms, feet, and hands.

Q. Did you ever hear the captain speak to the dog? A. I have heard him speak to the dog to fly at him, and call him off.

Q. What did he say? A. He said, “Come here, Watch,” in that way.

Q. Did he speak to the dog before he bit the man? A. Not at that time.

Q. Did he set the dog at Rose? A. Oh, yes, often.

Q. Did Rose make any complaints when the dog was set at him? A. The only complaints he would make, were, “Oh, my God! what have I done? what are you doing it for? what shall I do?” The man was as harmless as a child.

Q. When Rose said that did you hear the Captain say anything? A. I did not hear him say anything at the time.

Q. Have you ever seen Rose in irons? A. I have.

Q. When did you first see him in irons? A. On the 15th day of May.

Q. How was ne fastened? A. Sometimes by his hands and sometimes by his feet to a ringbolt.

Q. On the 13th of May, how was he fastened? A. At that time in the morning he had his hands fastened, and at night they released his hands and fastened his feet.

Q. While he was in irons on the 15th of May, did you see him dirty the deck? A. I did.

Q. Did you afterwards see the Captain come up to Rose? A. Yes, the Captain and the two mates.

Q. Just state what then took place. A. This is a thing they call "A Fid," (pointing). I saw the Captain take it up from the deck and put it to Rose's mouth. He would not open his mouth, and then he stopped his nostrils, and when he did open his mouth, the Captain forced it in saying, with a smack—"How do you like that, my man? I will give you a bit more bye-and-bye."

Q. How were his arms at that time? A. On his arms there were the marks of a few blows where the Captain had struck him with the whip, and where the dog had bit him.

Q. At the time they put this fid into his mouth, were his arms free? A. No, they were fast.

Q. Who was by? A. The Captain and two mates; the Captain called a man by the name of Doyle, and one by the name of Cahill, to come and hold his legs while he put the filth in his mouth, I stood forward by the galley.

Q. Did they obey his orders? A. They did.

Q. Do you remember any other occasion when the Captain repeated the act? A. Yes, they shifted him to the starboard side of the deck, to another ring-bolt.

Q. On that same day or another day? A. Another day.

Q. How long afterwards? A. The next day.

Q. What else? A. Give me that chain—(a chain on the table was handed to the witness). This is one of the pieces of the chain that they rove through the ring-bolt—this is one half of it. They had two connecting shackles fastening another piece on to it, they took a round-turn round each leg, so they could play at see-saw in the ring-bolt when they liked.

Q. When he was in that state, what took place? I believe you were going to tell us something? A. He eased himself on the deck, and the Captain came up with a piece of wood, about the breadth of my two fingers, he took some of the filth up, and as before, he put it into the man's mouth and nostrils, then he asked the mate to heave a bucket of water over him.

Q. You saw what was on deck the Captain touched with a stick? A. Yes, I saw the filth on deck.

Q. From what you saw could you judge whether the man did it wilfully or because he could not help it? A. The man could not help it, he was fast and they would not release him to go to the head.

Q. Did he appear to be purged? A. No.

Q. Who was by on this occasion, was there anybody else besides the Captain? A. The two mates were there.

Q. Do you recollect anything about a water-cask on a Sunday? A. Yes.

Q. Tell us about that. A. The man was sitting on the main hatch in irons, his legs were in irons or chains, and he was singing—"Oh, let us be joyful," and then he prayed, and the Captain came and told him to stop that noise, and the man did so. The Captain said to the prisoner Seymour, "There,—get an iron bolt and some spun-yarn to gag the man." The prisoner Seymour brought a bolt that was too short, there were not ends enough to fasten it behind his head; he went away to get a longer bit, then they got a shackle bolt belonging to the main-sheet and they fastened his hands behind him, his feet were in irons, he was gagged and his hands were behind him, sitting down.

Q. Who put the bolt in his mouth? A. Mr. Seymour brought it, and the Captain put it in; and both mates assisted in fastening it behind the man's head.

Q. Do you remember something being done about a water-cask? A. Yes, Rose was let out out of the irons; they had kept him in that position with the iron bolt in his mouth for about an hour, when he was let out, he was lying on the deck all night and crept into the long boat. The next morning the Captain ordered the second mate to unlash one of the empty water-casks to put Rose into it. It was unlashd and the Captain and two mates were round it busy in taking the head out, when the head was taken out the Captain said "Come, Rose, get in here." The Captain and mates helped him over the chines of the cask and put him into it. The cask was then headed up the same as a cooper would do it; they then laid the cask down on its bilge and ran it two or three times from the long boat to the ship's side with Rose in it; they then placed the water-cask on its head and lashed it to secure it, the same as if it was full of water.

Q. What o'clock of the day was it? A. It was about twelve o'clock of the day when they put him in.

Q. How long was he in? A. He was kept there between eleven and twelve hours. The chief mate said he would not mind keeping him there twenty-four hours.

Q. When did the chief mate make that remark? A. He made that remark to him when I told him the man Rose wanted some water.

Q. You told him he wanted some water? A. Yes.

Q. In consequence of that did you go to the water? A. Yes.

Q. Did you see Rose after he got out of the cask? A. I saw him after 12 o'clock. I came on deck at 12. I was below when he was let out, he was let out between 11 and 12.

Q. What condition was he in when you saw him out of the cask? A. He had nothing on but an old flannel shirt, he was full of sweat

and perspiration; the shirt was full of sweat from being in the hot cask.

Q. Do you recollect on any occasion his being sent aloft? A. Yes, I saw him aloft one day stark-naked.

Q. How long was that after? A. Before he was put into the water cask and afterwards, he was often sent aloft naked.

Q. Did you ever see him carrying anything at the time he was sent aloft? A. I saw him carrying a bucket of water one day up to the main rigging.

Q. Was he naked then? A. He had an old flannel shirt on, and the chief mate was whipping him up with the whip.

Q. Where did he strike him? A. Anywhere he could get a blow at him—over his feet and legs.

Q. Did you see the blood come? A. Not at the time he was up in the rigging, but I have seen him struck with the whip sometimes.

Q. Do you recollect one day being at the wheel when something was said by the Captain to Rose? A. One day I was steering the ship when Rose came aft and said something to the Captain, but I could not rightly get hold of what he did say, and the Captain said to Rose, "Why do you not jump overboard, or else hang yourself?" and Rose said: "I wish you would do it for me."

Q. What did the Captain say? A. He said: "Come along here." The Captain took him forward to the starboard main-lifts. I did not see what he did to him, because the house on the deck was in the way.

Q. Did you see the Captain again? A. Yes, he came aft while I was steering the ship, and said: "If I had kept him there two seconds longer he would have been a dead man, for he was black in the face, when I let him down."

Q. How long was this before Rose died? A. I suppose it was five or six days before he died.

Q. Did you observe any change in his condition of health after that day? A. After the hanging by the rope and being in the water-cask. I found the man began to be a bit foolish, to look not altogether right as he used to be before that.

Q. That is as to the state of his mind. Did you observe the state of his body? A. His body was in a bad state, it was a mass of corruption, where he had been whipped, and lying about the ship, and where the dog had bit him, appeared a mass of matter.

Q. Had you observed any sores on his body previously? A. Nothing, except the whip and the rope, and the dog biting him.

Q. Did you observe anything on his body before that day? A. On, yes, I noticed his body was full of sores and a mass of corruption.

Q. When did you first notice the sores? How long after he shipped on board? A. I did not notice, but I suppose it may have been ten or twelve days. I have seen one of the men squeeze maggots out of his legs.

Q. What part of his leg? A. The right knee, I saw him squeeze two great maggots out.

Q. Were there any marks on his knees? A. Yes, places where the dog had bitten him.

By a JUROR:—What sort of a dog was it? A. It was a black and tan—a kind of terrier breed.

MR. D. SEYMOUR:—What victuals did Rose get? A. One day the Captain gave him four biscuits to see how much he could eat, but he never was allowed rations in the ship the same as another man.

Q. Had you meat regularly? A. Yes.

Q. Did the rest of the crew have rations of meat regularly? A. Yes.

Q. Had Rose any? A. He never was allowed rations the same as another man; pieces of pudding we used to give him when we could slip it in sily.

Q. Do you mean you gave it out of your own rations? A. Yes, out of our own rations. The Captain saw him eating a piece of pudding one day, and he said if he could find out who it was that gave it to him that he would put him in irons.

(The dog spoken to by the witness was here brought into Court. He was a powerful black-and tan bull terrier.)

MR. MONK.—This is the most extraordinary scene I ever witnessed,

MR. D. SEYMOUR, one of the jury, asked what sort of a dog it was, and it is but right they should see it.

Q. Do you remember, two or three days before he died, one morning, bringing him from the fore-castle? A. Yes.

Q. How did he get there? A. I took him there.

Q. Do you recollect what took place on that morning? A. We kept him three days in the fore-castle. One day the Captain sent somebody forward, to say he wanted him. I asked what the Captain wanted with him, and he said, to give him a dose of medicine. He gave him a dose of castor oil, and there was something in it like brandy. That night, about half-past eight, the man got crazy mad in the fore-castle; and I did not think it was fit for myself or my shipmates to go to sleep, with a man in that state. I did not know what he might get up in the night and do; therefore, I got two of my shipmates to assist me to tie his hands up with a piece of rope. As I was going to tie his hands, he spat at me. I took my hand and slapped him, but not so as to hurt him; I had got his hand at the time. That might be between ten and eleven o'clock. He got adrift again; he gnawed the rope. I went down, and spoke to him; he said he was hungry. I told him I would give him something to eat if he would let me tie his hands again. I tied his hands, and fed him with bread and water. There was salt meat, but I did not think it right to give it to a man in such a bad state; therefore I gave him bread and water, and fed him till he had had enough.

Q. Was this before or after the hanging? A. This was after the hanging, just before he died. The next morning I helped him on deck; I got a little pitcher, and went to the cask, and got half a bucket of warm water.

Q. What was his state then? A. He was getting weak, but his mind was a little better than the night before. I got half a bucket of water, and told him to wash himself. He asked for some soap, and I said I had none. There was a sudden change of wind, and I was called away to the fore-top-gallant backstay. I went up, and when I came down again, I saw Rose reeling and tumbling about like a man that is drunk. I said, "Why, some one has made him drunk, and given him liquor."

Q. How long was that before Rose died? A. He died about ten o'clock afterwards.

Q. What state was the body in after death? A. A mass of corruption. One side of his face was black.

Q. How was his body lying? A. He was on his face. I was below in the fore-castle when they hallooed down to me that he was dead.

Q. Did you observe any part of his body that had been bitten by the dog? A. Yes.

Q. In what state were they? A. In a state of corruption,—solid matter. A. The smell was very disagreeable.

Q. Did you see any other marks? A. Yes, one on his head, where he had a blow with the whip.

Q. Do you recollect rice being shifted? I understand it formed a portion of the cargo? A. Yes. I remember Rose and another man, named Davidson. The Captain ordered the rice to be shifted, but they did not shift many bags.

Q. Was that before or after the hanging? A. It was before the hanging.

Cross-examined by Mr. Monk.

Q. You are quite sure of that? A. Yes.

Q. It was before the hanging? A. Yes.

Q. A good while before? A. Not a great while.

Q. How long before? A. I suppose it was four or five days before.

Q. You saw nothing the matter with the man till a little before his death? A. Yes, a good deal was the matter.

Q. What was the matter? A. I saw masses of corruption where he was whipped and bitten by the dog.

Q. But no wounds or matter before he was hit and whipped? A. Yes.

Q. But if there were any wounds before he was whipped and bitten you must have seen them? A. Yes.

Q. You say there were none? A. I never see none.

Q. How long had you been on board before you saw anything done by the dog? A. Not the first day, but the next day I saw the dog bite him.

Q. At what time? A. Not any particular time, throughout the day several times,—throughout the whole time.

Q. Perhaps half-a-dozen times? A. Yes, and sometimes more.

Q. That occurred with the dog every day? A. Almost every day, except the three days I had him in the fore-castle.

Q. Then he was baited every day by the dog. A. Sometimes the dog would go at him but would not bite him.

Q. But he was bitten six or seven times a day? A. No, set on six or seven times.

Q. I saw you did something with your coat to show the flesh was not taken out. Tell us that again. A. The dog would bite the man, but could not take pieces of flesh out, because of the cloth.

Q. The quality of the cloth prevented him taking pieces out? A. The man had not trowsers on every time.

Q. Then, why did you lift up your coat to shew us? A. For the purpose of showing why he did not tear out pieces.

Q. How often was he bitten when he had trowsers on,—a dozen times? A. I cannot say, he never had but one pair of trowsers.

Q. What became of them? A. He flung them overboard, I believe.

Q. Why? A. Because they were dirty.

Q. Had he any more? A. Only a pair of drawers that the Captain gave him before he died.

Q. When did the Captain give him this pair of drawers? A. A few days before he died.

Q. When did he throw the trowsers overboard? A. I cannot tell exactly.

Q. Cannot you tell us? Did you keep any memorandums? A. Yes, I did keep a memorandum, but not of the time he threw them overboard.

Q. Have you got it? A. No.

Q. Who has got it,—the attorney for the prosecution? I do not want to see it—but you say you kept a memorandum? A. I kept it on lines.

Q. Can you write? A. I can, but I am a very poor scholar.

Q. Now, to go back to an earlier period. You say you came on board the day the ship sailed, in whose watch were you? A. In the chief mate's.

Q. Who were with you in the watch? Give me their names. A. Thomas Hayes, William Power, and Andrew Rose—he was picked out for the watch, but he was kept in all.

Q. Now, a word about seamanship, did you say Rose was an able seaman? A. Yes, so far as I could see.

Q. He did his duty as well as the others? A. I think he would if he had been treated like other men.

Q. You saw no imperfection about him at all? A. I did not.

Q. Do you remember seeing him sent to splice or bend a rope? A. No, I do not.

Q. Did you see him set to do any work that he was not able to do? A. I saw him sent to the wheel one day, and I saw the Captain drive him away, but I saw him afterwards and I know he could steer.

Q. Was he at the wheel in the course of an ordinary seaman's duty? A. He was.

Q. How long was he at the wheel? A. About a quarter of an hour.

Q. How long had he been on board before he made any dirt in the forecastle? A. That was just before he died; he went down one day.

Q. Did he ever sleep in the forecastle? A. When he was let out of irons, if he could steal a chance he would come down and get into one of the bunks.

Q. We are not all aware of nautical terms here; describe what a bunk is? A. It is a berth where a man sleeps.

Q. Did he sleep in the forecastle on the night of the 11th of May? A. No.

Q. Why did he not? A. I cannot say.

Q. Do you not know at all? A. I heard it was by the Captain's orders.

Q. On the night of the 12th, did he sleep in the forecastle? A. No.

Q. And on the night of the following day, the 13th? A. Not to my knowledge.

Q. Now, to your knowledge, when did he first sleep in the forecastle? A. To my knowledge, at the time I took him in.

Q. How long before the hanging? A. Two weeks* before the hanging.

Q. That was the time you took him in? A. I took him in by the Captain's orders just before he died.

Q. How many days before he died was it that you took him into the forecastle? A. He was two or three days in the forecastle, and on the fourth he died.

Q. Up to that time, he had never slept there at all? A. Not to my knowledge.

Q. But you slept there yourself? A. Sometimes I did and sometimes not. The weather was very warm, and it was so full of cockroaches, that I did not sleep in it.

Q. Did you eat your meat in the forecastle? A. Generally on deck.

* Evidently meaning days.—Ed.

Q. You were all good friends with Rose? A. First-rate friends.

Mr. BARON WATSON—Do you mean the whole of the crew? A. The whole crew.

Mr. MONK—You never saw anybody strike him for theft? A. One day he took a flannel shirt from me, and I was going to strike him, but the cook got in between us.

Q. What were you going to strike him with? A. My open hand.

Q. Did you never follow him round the deck with a stave in your hand? No.

Q. Are you sure of that? A. Yes, as sure as I am here.

Q. Or anything else? A. No, nothing else.

Q. Did you ever strike him? A. I struck him with my hand when Hayes helped me tie him—that was the only time.

Q. How long was that before he died? A. At the time I struck him we were lashing him down, and he died the next morning at ten o'clock.

Q. Except that time did you ever strike him? A. No.

Q. Are you quite sure of that? A. Yes; I would have struck him if I could have got hold of him at the time he took my shirt.

Q. Did you ever hear him make any complaints of the Captain and mates striking him? A. I do not know.

Q. You did not hear him say "That damned villain, Groves, will murder me?" A. No; I never did.

Q. Did you never say to the Captain "Why do you take that villain's part?" A. I never did.

Q. Did you never address the Captain with any complaints for taking Rose's part? Did you never abuse him? A. I never abused Rose in my life.

Q. You say he tore your shirt; what did he tear your shirt with? A. I was coming along the deck when the ship gave a lurch, and he caught hold of my bran-new shirt and tore it right down.

Q. What became of the shirt? A. I flung it away when I came into port here at Liverpool.

Q. Were any other clothes thrown away during the voyage? A. None belonging to me.

Q. The morning he died what sort of weather was it? A. A strong breeze.

Q. Was there much sea on? A. There was a lump of a head-sea, a tolerable bit of sea. She was a small vessel, and whenever there was a lift of sea on her she would bob into it.

Q. Did it wash the decks at all? A. There was a little water came through the hawse-holes when she pitched.

Q. When Rose was lying on the deck that morning, in what way did he lie? A. He was lying with his belly down.

Q. With his head fore or aft? A. Lying athwart ships.

Q. Was his head forwards? A. His head was towards the bowsprit.

Q. Did you see any water wash over him at all? A. I saw a little underneath.

Q. It did touch him? A. Yes, but not to do him any harm.

Q. Was there much spray? A. There might be a little spray at times; if there was a good spray, she would go bob into it.

Q. When there was a good spray, did that reach him? A. It would generally go over the ship's side.

Q. Would any touch him? A. A little.

Q. Would it go upon him or not? A. A little might go on him.

Q. Tell me how it was he was not sleeping in the fore-castle when you slept there until within three days, or whatever it was, of his death? A. The Captain's orders were, that he should not go into the fore-castle. The Captain said if he found anybody took him into it, he would punish them.

Q. You heard the Captain say that? A. Yes.

Q. When did he say that? A. He said so one day, but I cannot tell the day of the month.

Q. You cannot tell me when? A. No, I do not know what part of the voyage we were in.

Q. At the time that he laid hold of you, you say he did not do that in a fighting way at all, but merely because the ship gave a lurch, and you did not strike him for that? A. No.

Q. Nor make any complaint? A. No.

Q. What! did the Captain give orders to you, or to whom did he give orders? A. What about?

Q. About anything. You say you heard the Captain give orders that he was not to sleep in the fore-castle? A. He did not give the orders to me.

Q. Who did he give them to? A. He spoke to all hands.

Q. Did you not complain to Miles, that if he did not put Rose in irons he would set the ship on fire? A. No.

Q. Will you swear that? A. Yes, I will swear it. I told Mr. Miles that some of the men saw Rose with a box of matches.

Q. That they saw Rose with a box of matches? A. I told him that some of the men said they did.

Q. Will you swear, at that time, you did not say to Miles, that if he did not keep Rose in irons, he would set the ship on fire, as some of the men had seen him with matches? A. Yes.

Q. Did you ever say anything about his setting the ship on fire? A. What I said was, that some of the men had seen Rose with a box of matches.

Q. Did you not say anything about Rose setting the ship on fire? A. I did not say it. I know nothing about it.

Q. Did you say anything about Rose setting the ship on fire? A. Not to my knowledge.

Q. Will you swear that you did not say anything either to the

Captain or mates, about Rose setting the ship on fire? A. Not to my knowledge.

Q. Have you knowledge enough to enable you to say whether you did or not?

Q. Now, attend—will you swear you did not tell either the Captain or mates anything about Rose's setting the ship on fire? A. I never said so.

Q. Will you swear that? A. Yes.

Q. What is the reason you could not say that a quarter of an hour ago? If you did not say it, why did you mention it? If you said nothing about setting the ship on fire, why mention that the men had seen Rose with a box of matches? A. I may have said the men had seen Rose with a box of matches.

Q. Did you tell Miles that? A. Yes.

Q. Why did you tell Miles that, if you said nothing about the ship going to be set on fire? A. I did not say so.

Q. I ask you why you mentioned about Rose having a box of matches? A. I did not know what he might do with them—but that did not say that he would set the ship on fire.

Q. Was this man very dirty or not? A. He was dirty in irons.

Q. Was he not dirty when he was not in irons? A. He was dirty one day when he went aloft.

Q. I ask you whether he was dirty when not in irons? A. Not at all times—not when he was not in irons.

MR. BARON WATSON.—Answer the questions—do not evade them.

MR. MONK.—How often do you know of it? A. I never remember seeing him do it but once—that was in the fore-castle.

Q. You never remember his doing it when in irons? A. Oh, yes, when he was in the fore-castle I am talking about.

Q. Attend to me. I am asking you how many times do you know of his doing it when he was in irons? A. I have seen him do it on the larboard and on the starboard side, at the time the filth was put into his mouth.

Q. How many times? A. I know he did it twice.

Q. That is all you know of? A. Yes, while in irons.

Q. That is, on the larboard and starboard sides, at the time you have told us of about the Captain? A. Yes.

Q. A fid one time and a piece of board the other? A. Yes.

Q. What sort of a piece of board? A. A piece of pine board.

Q. Was it the same thickness all the way up? A. That I cannot say.

Q. Do you know what it had been used for? A. No.

Q. Now, you say you knew him to be dirty in the fore-castle once, when was that? A. Before he died.

Q. Up to that time you never heard of his being dirty in the fore-castle? A. No.

Q. You never knew of the crew sending him out of the fore-castle because he was so dirty? A. No.

Q. You spoke of the Captain using a whip to him, did you see the Captain standing over him with a whip to make him wash the filth from himself? A. Yes, I did.

Q. When? A. I have seen the Captain standing over him, when he put filth into his mouth and nostrils.

Q. Not at any other time? A. Not at any other time.

Q. I should like to ask you this, who gave information about this matter when you got to Liverpool? A. I went by myself.

Q. Am I to understand you to say that this man never dirtied himself except when in irons? A. Not to my knowledge, except at the time in the fore-castle.

Q. The fore-castle is not the deck? A. It is not the upper deck, but the one below.

Q. Is that the only time you ever knew him to dirty the deck of the fore-castle—the deck below? A. That is the only time.

Q. And never the deck above, except when he was in irons? A. No, I was not on deck the whole time.

Q. I thought you said you knew him dirty once, when he was aloft? A. That is above the deck and I did not see him at that time, I only heard the men say so.

Q. Did you see him sent up? A. I saw him when Miles sent him up.

Q. Was he sent up to furl a sail? A. To wash off the dirt from the rigging.

Q. Did he take any trowsers of yours to wipe up the dirt with? A. No.

Q. Do you know what "skulking" is? A. I don't know, I never practice skulking.

Q. Do you know what "skulking" is? I do not say that you practice it at all. A. A man ships on board to do his duty, but if he runs away and does not do his duty, that is "skulking."

Q. Did Rose skulk? A. I cannot say he did. If he had been left alone he would have done his work the same as any other man in the ship.

Q. Did Rose skulk? A. I cannot say whether he hid or not. I know what skulking is.

Q. Do you know that he stowed himself away in the hold? A. No.

Q. Do you know whether he stowed himself in the fore-castle to avoid work? A. No.

Q. Had you spare hands on board? A. Not to my knowledge.

Q. Had you more than your compliment of hands? A. No.

Q. Sharp work enough for you all? A. It was.

Q. Did you not sometimes complain "you had to do that wretch's work," or calling him by some name? A. No.

Q. Did you ever say that you had "that man's work" to do or

“Rose’s work.”? A. No, I am a man, I can only do my own work, I can only do one man’s work.

Q. If one or two skulk, is there not more for the rest to do? A. There is more.

Q. It must be done by somebody? A. If not done by me it must be done by some one else.

Q. Do you know whether, at the time Rose was taking the bucket of water up the rigging there was dirt on Miles—you know what I mean? A. I cannot say.

Q. You did not see any? A. I was not close enough to the man, I was forward when I saw him going up the rigging.

Q. Did you see anybody strike him, besides yourself? Did you see anybody quarrel with him? A. I saw one night when the Captain let him out of irons, he went to the galley and ate up all the mens’ sugar. The men went aft to the Captain the next day and asked him for more sugar, and he would not give them any. He told the men they might cob him, there was no law against that.

Q. Did you assist to cob him. A. We first of all told the Captain it was not our place to do it, and then we took him to the windlass and gave him three slaps, and when he was cast off he got up and laughed, and said: “I should like to have a feed of sugar every day for three such slaps as that.”

Q. You did not like to hurt him? A. I did not hurt him, nor the rest.

Q. He was not hurt? A. No, he was not hurt.

Q. No blood followed the blows? A. No.

Q. Then if anybody says so it is quite a mistake—it is quite false? A. Yes.

Q. Where did you strike him? A. On the backside.

Q. And only three blows? A. No.

Q. About what time was this? A. About three weeks before he died.

Q. That was about the time of the hanging? A. Oh, no.

Q. Before or after? A. It was before the hanging.

Q. Do you recollect some rice being cooked for him? A. Yes, two day’s rice.

Q. When he had eaten what he liked what did he do with the remainder? A. It was left in an iron pot.

Q. Where? A. It was taken into the cooking-house, where he could eat it again.

Q. Did you see him ever at any time hide the rice on the deck under the edge of the boat? A. No.

Q. Did you see him at any time put anything under the edge of the boat? A. No.

Q. How near to the boat was the dog fastened? A. The dog was never fastened up.

Q. Did you see the dog on any occasion take his rice? A. I never did.

Q. He never took the rice from the dog? A. No.

Q. Do you remember seeing him one day sleeping in the long boat?

A. I have seen him several times lying under the sails in the boat.

Q. Did you ever jump on him in the long boat? A. No.

Q. Did you ever see him with a topmast-sail wrapped round him?

A. No, I have never seen that. I have seen a boat's-sail wrapped round him, and Seymour took it away.

Q. Did you ever say you would just like Rose to feel your weight?

A. No.

Q. Nothing of that sort at all? A. No.

Cross-examined by Mr. Aspinall.

Q. You say he had only one pair of trowsers and one pair of white drawers? A. Yes.

Q. And he threw the pair of trowsers overboard himself? A. Yes.

Q. And he had the drawers when he died? A. No.

Q. You do not know what became of them? A. No.

Q. Then, it is not true you threw the pair of trowsers overboard?

A. No.

Q. Neither because he was dirty nor for any other reason? A. No.

Q. You never saw him dirty? A. Only a few days before he died.

MR. BARON WATSON:—You never saw him dirty at all? A. No.

MR. ASPINALL:—Do you know anything of his easing himself in a bucket of sugar? A. No, I did not belong to the ship at the time.

Q. Do you know of his using anybody's shirt to wipe up dirt with, and then flinging it overboard? A. Not to my knowledge.

Q. Then you know nothing about it; not his taking clothes belonging to any man? A. I do not think he took anything belonging to any man to wipe up dirt with. A. I know nothing about it.

Q. Then, so far as you know, except when he was in irons and a very few days before he died, he was as clean as anybody on board?

A. No, he could not clean his face because that was a mass of corruption—he was not so clean as another man—he was all full of sores.

Q. I am speaking of his habits. Was he as clean in those as any other man? A. I never saw him dirty the deck only when he was in irons, and in the fore-castle.

Q. He was as clean in his habits as other men except that? A. Not in his flesh.

Q. In his habits? A. I did not see him do anything. I was not on deck the whole time.

Q. You have told us about taking him up the morning before he died? Yes.

Q. Did you strike him with a stave at that time? A. No.

Q. Do you know Power? A. I do.

Q. Have you ever had any conversation with Power as to striking Rose on the head with a stave? A. No.

Q. At the time you were before the magistrates, did you not ask Power why he had said you struck Rose with a stave? A. When Power came out of the affair at the office before the magistrates, I was going to have him put on his oath before Mr. Mansfield for saying I struck him with a stave, and the next day Power told me that he did not say so.

Q. Then you did ask him why he had said so, and said you were going to have him on his oath before Mr. Mansfield, for saying you struck Rose with a stave? A. You were in court. I did tell him I should have him before Mr. Mansfield on oath.

Q. Did you threaten Power with something for that? A. Yes; you were present, if you remember.

Q. Power gave evidence before you were called? A. That day he did.

Q. And when he came out you threatened him with something? A. I did not threaten him, I said I would have him on his oath. You were in court at the hearing at the office.

Q. At any rate it is not true that you struck him with a stave at any time? A. It is false. I never did. I never struck him at all until the time he was crazy.

Re-examined by the Attorney-General.

Q. So far as you could judge of the dirt Rose made, could you form an opinion whether he did it wilfully or could not help it? A. I think he could not help it.

Q. You say you saw him once with a boat-sail? A. Yes.

Q. Wrapped round him, was it not? A. Yes, when he was turned out of the water-cask.

Q. Was he lying down? A. Yes, in the stern-sheets of the long-boat, with the sail round him.

Q. Did either of the prisoners do anything to him? A. Mr. Seymour took the sail away from him.

Q. You say you heard the men say they had seen Rose with a box of matches—did you ever see him with one? A. Never, only what I heard them say.

Q. Were you afraid he would set the ship on fire? A. I was not afraid of anything of the sort, the man was as harmless as a child.

Q. The morning he died, you say a little spray went over him? A. Yes, but it did not hurt him; it was only a few drops now and then, like a shower-bath—nothing at all—nothing to do any injury to anybody.

Q. You told my learned friend Rose dirtied the fore-castle two days before he died? A. Yes, a few days.

Q. You told my learned friend, Mr. Monk, that he dirtied the fore-castle two weeks before the hanging? A. Yes, it was near about that.

Q. Endeavour to recollect yourself. How long after the hanging was it that Rose died? A. I suppose, after the hanging, it was better than two weeks.

Q. I suppose fifteen, or sixteen, or seventeen days after the hanging with the rope? A. Yes.

Q. How many days after you left Barbadoes was it before he died? A. We left Barbadoes on the 11th of May, and arrived at Liverpool on the 9th of June.

Q. What day did he die? A. I think on the Saturday as we got to Liverpool on the Tuesday.

Q. That would be about the 5th of June. How many days before his death was the hanging? Endeavour to recollect that. A. Somewhere about two weeks before the hanging—to my knowledge it was pretty near that.

Q. What was two weeks before the hanging? A. I said it was two weeks before he died. I cannot say exactly, I was in the top busy at work in the ship.

Q. You took him down into the forecastle before he died? A. I did.

Q. Was he in irons at all after he was hanged? A. Yes, he was in irons.

Q. Was he in irons several days? A. Several days, off and on, he was in, and then let out a little, it happened so often I could not keep account.

Q. You are sure he was in irons after he was hanged? A. Yes.

Q. Did you say he lived two weeks after the hanging. A. Yes, I did.

Mr. BARON WATSON.—That would be a fortnight?

Mr. MONK.—It was 17 days, my Lord.

The ATTORNEY GENERAL.—How many days after you left Barbadoes was the hanging? A. I suppose 8 or 10 days after we left Barbadoes.

Q. Have you ever given Rose any rum? A. No, we could only get what the Captain gave us, we used to get a drop sometimes from the Captain.

Francis Doyle sworn, examined by the Attorney-General.

Q. Were you on board the “Martha and Jane” at Barbadoes? A. Yes.

Q. Did you ship on board her on the 6th of May? A. No, I shipped on the 4th, and joined on the 6th May.

Q. Do you remember the deceased, Rose, coming on board? A. Yes, he came on board on the Friday.

Q. After he came on board and before the ship sailed, did you see any thing done to him? A. When he came on board the mate asked

him where he had been, and he said he had been to Barbadoes to get his clothes; and then the mate asked him if he had got his clothes.

Mr. MONK.—Which mate? A. The chief mate. He said he had his clothes that he went for, and then he went down into the fore-castle and had something to eat, and then he went to sleep. In the morning at six o'clock, I heard Rose crying out, "Oh, Jesus! what is the matter!" and I saw the second mate beating him. I was on the fore-yard, and he made a run.

Mr. BARON WATSON.—Where was he then; on the foreyard? A. No, I was on the foreyard, he was on deck, and he ran off; and was going to jump over the taffrail, but the chief mate sent him forward again.

The ATTORNEY-GENERAL.—How did he send him forward? A. With a piece of rope.

Q. Did he strike him? A. Yes, and all that day he was set to scrub the deck.

Q. Did he do any thing more to him? A. Yes.

Q. What did he do? A. He hit him about all that day.

Mr. BARON WATSON.—Who? A. The chief mate and the second mate.

The ATTORNEY GENERAL.—What did they hit him with? A. With a piece of rope, and sometimes with a piece of wood.

Q. Did he use his feet at all? A. I did not see him use them at all.

Q. Was there a lighter alongside? A. There was on the Saturday.

Q. Was that the day he was beaten, or the day after? A. The day he was beaten. He said he would not stop on board to be beaten about like that, and we all advised him to go on shore in the lighter. When the lighter was about to put off he jumped into her, and the chief mate saw him and said, "Damn you, I will teach you to go on shore," and he took him on board again and rope's-ended him.

Q. On the Sunday morning did he go on shore again? A. I cannot say whether it was in the morning or not that he went away, he was away when I came on deck.

Q. He took one of the ship's boats and went ashore? A. Yes, we looked for him and could not find him.

Q. The mate went on shore and brought him back? A. Yes, with the police, his hands were shackled, and after he came on board again, the Captain came on board.

Q. Was he put in irons? A. Yes, on the larboard side of the quarter-deck, shackled by the hands with a ring-bolt.

Q. Did he remain in irons until the ship sailed? A. Yes, two hours on the quarter-deck, and then he was removed to the main-hatch.

Q. So that he remained in irons until the ship sailed? A. Yes.

Q. Was he beaten after he came on shore, the second time? A. No, he was put in irons.

Q. And released when the ship sailed? A. Yes, before we cleared out.

Q. Now, after the ship sailed was anything done to him? A. He was ordered to go to the wheel, and after that the Captain sent another hand to the wheel, he would not give up the wheel willingly; so the Captain took up part of the main-brace and struck him straight across the small of his back, and he sung out, "Oh, Jesus!" Then I went forward and lent a hand to cast the anchor.

Q. Was he used to steer? A. Yes, he could steer well enough.

Q. Was anything done to him after the ship sailed? A. Yes, he was set to sweep the decks, and was hit about forward and aft.

Q. Who hit him about? A. The Captain and the mates.

Q. After that, was anything done to him? A. Yes, all day he was hit about and struck.

Q. The next day, was anything done to him? A. Yes, the whip was brought out the next day.

Q. Who brought it out? A. The Captain.

Q. What did he do? A. He struck him with it at least six times a day; the lash was about so much—(describing)—larger than it is now.

Mr. BARON WATSON: How many times a day? A. He was whipped six times a day by the Captain, and struck by the mates.

Q. How many days do you say he was struck by the Captain with that whip? A. Every day, except three or four days before he died. If he did not beat him for some time, the Captain would say, "I must go and touch him up a bit with the whip, or else he will forget it."

Q. During the voyage, did the master do anything to him? A. Yes, and the chief mate, and the second mate.

Q. What did they do to him? A. They hit him about the same way.

Q. What with? A. The whip and pieces of rope, part of the main brace and the top-gallant lift.

Q. Was he in irons at any time during the voyage? A. Yes, he was as much in as out of irons.

Q. Did you ever see him beaten when in irons? A. Yes; I have seen the Captain go and tickle him up with that whip.

Q. How often have you seen him whipped when in irons? A. Five or six times.

Q. Did you see either of the mates do anything to him when he was in irons? A. Sometimes the mates would give him a kick or strike him as they passed him.

Q. Now, there was a dog on board? A. Yes, called "Watch."

Q. Did anybody set the dog on him? A. I saw the Captain set the dog on to him twice.

Q. And what did the Captain's dog do? A. When the Captain

set him on, the Captain was beating Rose with the whip, and the dog was biting him in the legs.

Q. After that, how many times have you seen the dog bite him?

A. I saw the dog go at him several times, without the Captain setting him on; because he got so used to him, I have seen him coming out of the cabin when the Captain was at dinner, and make a rush to the man, and then go straight to the cabin again.

Q. Did you observe the dirt he made when the Captain did anything to him? A. Yes, I was standing at the galley when he called out to me to come and hold him down on his back; and another man, called "Dublin."

Q. Do you know whether before that Rose had asked to go forwards? A. No, I cannot say that I heard him.

Q. You saw what was done with the dirt? A. Yes; me and the other man, Cahill, held him down by the hatch, on his back. The Captain picked it up with the fid, from the deck, and tried to put it into his mouth; he shut his mouth, and the Captain put it right up his nostrils with the fid; and when he opened his mouth, he rammed it as hard as he could down with the fid, and said, "That is nice; I will give you another fresh dose of it by-and bye."

Q. Did you see Rose put into the cask? A. No; I was not present.

Q. Did you go and speak to him? A. Yes. I went to him and said, "Jack, how are you?" and he said, "Give me something to drink."

Q. Did you give him something? A. I went to him and gave him some pea-soup. I teamed it down, and he caught it in his mouth, and five minutes after the chief mate came and looked into the bung-hole, and said, "Who the hell has been giving him pea-soup?" and he would not tell who it was.

Q. Did he say anything else? A. Yes; he said he should like to know who it was that gave him the pea-soup, and the man would not tell him.

Q. Do you know how long he was in the cask? A. About twelve hours.

Q. Did you see them put him in? A. No; I saw him in the cask.

Q. You saw the hanging? A. Yes.

A. Did you hear what the Captain said? A. He went to the Captain to ask him something, but I cannot tell what, and he said, "Jump overboard or hang yourself," and he said, "I wish you would do it for me." The Captain went to the mainmast, and took this rope—(pointing to it)—and made a timber-hitch, and put it round his neck, and the two mates hauled him up.

Q. How high were his feet from the deck when they hauled him up? A. About two feet or two and a half feet.

Q. How long did he remain up? A. I cannot tell exactly how long. I suppose about a minute, but they kept him long enough for his tongue to come out of his mouth and froth, and his eyes were glaring, and he made one howl, and they lowered him down.

Q. Did you see the colour of his face then? A. Yes; it was quite blue; then they lowered him down with his feet just touching the deck. The second mate had hold of the rope; the Captain told him to let go, and he fell flat on his back, and laid there for two or three minutes; then he got up and staggered. When he came to his senses he said, "You might as well have finished me at once," He staggered to the long-boat at the time.

Q. See if you can recollect, and tell me how long that was before he died? A. Not long. I cannot tell exactly; three or four days.

Q. Can you tell what Rose had to eat? A. He had bread and water, and rice.

Q. Do you know how many days he had rice? A. I cannot tell. I did not take notice. I gave him something to eat myself very often.

Q. What! out of your own mess? A. Yes; and the rest of the men forward as well as myself.

Q. Why did you give him anything to eat out of your mess? A. Because he always begged and prayed to give him something to eat; he was starving with hunger; he was in irons then.

Q. Do you remember on one occasion his going up aloft with a bucket of water? A. Yes, he had done something to the mainsail.

Q. Was he naked then? A. Yes; quite naked. The mate sent him up with a bucket of water to clean it, and at the time he was going up he was laying the whip about him.

Q. Who did that? A. The chief mate.

Q. He took the whip? A. He laid on him till the blood ran down his body; he sent him up three times. The third time he lost his hold of the bucket, and it fell into the clew of the mainsail, and the mate said, "That has saved him a damned good licking again."

Q. You saw him struck till the blood ran down his body? A. Yes.

Q. Whereabouts did he strike? A. No ways particular.

Q. How many times did he strike? A. Three times.

Mr. MONK:—Three blows? A. No, fifty blows at each time,

The ATTORNEY-GENERAL:—He struck on three different occasions about fifty blows? A. Yes.

Q. Did you see the body after death? A. Yes.

Q. Did you see his face? A. Yes.

Q. What state was it in? A. It was rather blackish and blueish like, all over his body was nothing but corruption, and matter, and blood.

Q. Where did the matter and blood come from,—what part of his body? A. Out of his arms and legs, and other parts of his body.

Q. Were there sores where it came from? A. Yes, where the whip had struck him and the dirt got in, and hauling him up and fastening him, I suppose.

Q. Before he was bitten, did you ever see any sores there? A. Yes, he was sitting on the fore hatch one day, and he said he found very great pain below his knee.

Q. Was that before he had been bitten? A. No, that was the time he was bitten, his legs were very much swollen. He had a pair of canvas trowsers on, I cut them open at the knees where the dog had bitten him, and I squeezed with my two fingers and two maggots came out. It was quite hard round the edges where the running was coming from.

Q. In what state of health was he when he first came on board? A. He seemed to be in very good health, a strong, able man.

Q. Had he any sores on him then? A. I did not see any at all.

Q. How long after his death was he thrown overboard? A. A very short time after he died.

Cross-examined by Mr Monk.

Q. If he had any sores when he came on board, you would have seen them? A. Yes.

Q. Why must you have seen them? A. Because he washed himself all over in the morning.

Q. What! without any clothes on? A. Yes.

Q. Where was that—on the deck? A. Yes.

Q. Why was he washing himself naked on the deck? A. I cannot tell you,—to clean himself.

Q. Why did he want to clean himself all over? Do sailors wash themselves all over on deck? A. Yes, very often I strip and wash myself all over at sea, it is nothing unusual.

Q. You have not the smallest idea why he did so that morning? A. No.

Q. Nothing particular about it—no dirt? A. I did not look so particularly at him.

Q. You and he and all the rest of the crew were always very good friends? A. Oh, yes very friendly, well enough.

Q. You never quarrelled at all? A. No.

Q. You say you never saw anybody strike or scuffle with him? A. No.

Q. Now, let us see what opportunity you had,—whose watch were you in? A. The second mate's

Q. Who was with you in that watch? A. James Cahill, Davidson, the boy and me.

Q. Tell me when you first saw Rose? A. The first day he came on board, on the Friday.

Q. Do you know whether you signed articles after Rose,—did you see Rose's name to the articles? A. No, I never saw Rose's name; I did not take any particular notice.

Q. Did anything happen when Rose came on board between him and the Captain and the mates? A. The Captain was not on board.

Q. Did anything pass? A. Yes, he asked him where he had been, and he said "To Barbadoes for my clothes."

Q. Had he any clothes with him? A. Yes, he had a bundle of some sort of clothes.

Q. What had he on? A. A pair of duck or drill trowsers. It was dark, I could not tell.

Q. What else? A. An old frock or something of that sort.

Q. Had he any shoes or stockings? A. No.

Q. Did he go away again after that? A. Yes, he went away on the Sunday morning as I said before.

Q. At what time? A. I cannot tell what hour of the morning it was.

Q. When was he missed? A. About six o'clock in the morning.

Q. Was the boat missed at the same time? A. Yes.

Q. When was the boat brought back? A. About ten o'clock in the morning.

Q. Who brought it back? A. The mate and two boys.

Q. Do you know where the mate had got it? A. I do not know.

Q. You say, if I understand you, they began to knock him about almost as soon as he came on board? A. Not as soon as he came on board but the next day.

Q. Then they did nothing to him that day? A. That night, it was not day when he came.

Q. Where did he sleep that night? A. In the fore-castle.

Q. With the rest of you? A. He slept in a truck by himself.

Q. Did he make any dirt? A. I don't know whether he did or not. If he did make any I am not sure whether it was him or not.

Q. Was there any dirt made? A. There was a smell on deck but not down in the fore-castle.

Q. Now, attend, I ask you if the first night he came on board if any dirt was made either on the deck or in the fore-castle? A. No, not that night.

Q. Do you mean to say that you, or some of you, did not send him out of the fore-castle, and say he was such a dirty fellow he should not be amongst you? A. No.

Q. Will you swear he was not sent out by the crew? A. He was not sent out then.

Q. When was he? A. About six or seven days after we left.

Q. Why was he sent out? A. Because he had taken some of the men's clothes.

Q. What had he taken the men's clothes for? A. To put on, I suppose.

Q. Do you know that he had taken the men's clothes to wipe the dirt up? A. Well, he might have taken them for that purpose.

Q. Did he steal any of your clothes? A. Yes.

Q. When did he steal them? A. The morning he went on shore.

Q. Did you complain to the Captain? A. Yes, I asked the Captain if he would fetch my clothes when he went on shore, and he said he had plenty to do for himself.

Q. Did you complain of Rose stealing your clothes? A. Yes.

Q. Did he ever take anything of your's on any other occasion? A. No, never.

Q. Do you know of a piece of canvas being given to him to clean off the dirt with? No.

Q. Do you remember his taking Power's shirt to clean up the dirt with? A. No, I saw the shirt, but I cannot remember his taking it.

Q. Had it been used to wipe up filth? A. Yes.

Q. Who had it when you saw it? A. Power.

Q. What became of it? A. He threw it overboard.

Q. After that did Rose throw any thing overboard, I do not mean that day, but at any time during the voyage afterwards? A. Yes, I believe he threw a bucket overboard, I heard so, but I did not see it.

Q. Did he throw any trowsers over? A. I did not see him.

Q. Did he throw any drawers over? A. I did not see him.

Q. Did he wipe up the filth on deck, with either trowsers or drawers? A. I cannot say.

Q. Do you remember him scooping up some filth and throwing a handful into the rice in the hold? A. No.

Q. In point of fact, you state he was a well-conducted, quiet, man? A. He was a quiet man and would not harm a child.

Q I ask you, did not you and the crew turn him out of the fore-castle because he dirtied it, and took the men's clothes to wipe it up? A. No.

Q. Did you help to cob him? A. Yes, it was by the Captain's orders.

Q. Who did you help? A. Groves and Hayes.

Q. What did you cob him with? A. With a handsaw.

Q. Were you short-handed at all that voyage? A. Yes, I think there were two hands short.

Q. There was yourself—you are an able-bodied man, Groves, and Hayes? A. Yes.

Q. Was there any body else but you three who knew the duty? A. Yes, there was Power.

Q. Who was the next who knew his duty? A. James Cahill.

Q. Do you know anything about Rose making dirt in a bucket of sugar? A. No, I know a bucket of sugar was made dirt into.

Q. Did any body make it? A. I saw the bucket of sugar on board, but I did not see it go away.

Q. When the lighter was going off, you say he went and stowed himself away? A. You were talking about sugar.

Q. I am talking about the lighter now, cannot you turn from one thing to another? You say you do not know who made dirt in the sugar? A. Yes.

Q. Now when the lighter was going off, did he stow himself in it? A. No, he jumped in.

Q. At that time was anything said of his having deserted before? A. Yes, the mate said he would learn him to go on shore, and he gave him a good rope's-ending.

Q. Where were you on or about the time the boat was brought back? A. I was on board.

Q. You were not on shore? A. Not from the time I joined the ship till I was in England.

Q. When he was brought back after Sunday, who brought him? A. The chief mate and two black boys.

Q. What black boys were they? A. Two the Captain hired to pull the boat back.

Q. When you clobbered him was there nothing the matter with him then? A. Only a little cut with the whip.

Q. But he was not in bad condition? A. No.

Q. When was it you clobbered him? A. About 10 or 12 days after we left Barbadoes, he stole a week's allowance of sugar, the Captain let him out of irons that night, he went into the galley, he was hungry and he ate a week's allowance, and when we spoke to the Captain he would not give us any, and told us to clobber him, there was no law against that.

Mr. BARON WATSON:—He stole a week's allowance of sugar—was that for all the men? A. Yes.

Mr. MONK:—You asked the Captain for more and he would not give you any? A. Yes, after we had clobbered him, the mate gave us some. We only gave him two or three slaps that did not hurt him, and he said he should like to have another feed.

Q. Where have you been living since your arrival at Liverpool? A. I have been living at the hospital and living at a boarding-house.

Q. Is that the same boarding-house where the other seamen of the "Martha and Jane" have been living? A. Some of them.

Q. Which of them? A. Power, Cahill, the boy, and myself.

Q. You have not been living with Groves or with Hayes? A. No.

Q. How did you fasten Rose when you clobbered him? A. We put a piece of rope round his arms and fastened him to the windlass.

Q. Did you tie his hands to his feet? A. We tied him across the windlass and made his hands fast.

Q. What did you do with his feet? A. We passed a rope round them.

Q. So you kept him in a bent position? A. Yes.

Q. Had he any clothes on? A. Yes, he had a pair of trowsers.

Q. How many times did you see him with different trowsers when on board? A. Many times.

Q. Tell me how many different trowsers you have seen him wear? A. Twice.

Q. Twice what? A. Twice,—two pair of trowsers and one pair of drawers.

Q. The drawers were given him by the Captain? A. Yes.

Q. Who gave him the trowsers? A. The chief mate gave him a pair.

Q. Did anybody give him a singlet? A. He was wearing an old flannel shirt all the time.

Q. What became of the old flannel shirt? A. He was buried in it.

Q. What became of his clothes when he was naked? He had washed them and hung them up to dry.

Q. Then they were not thrown overboard? A. No.

Q. You have sworn that the point of the fid was forced by the Captain up his nostrils? A. Yes, I was looking at them.

Q. And then he rammed it inside his mouth? A. Yes.

Q. Inside the teeth? A. Yes.

Q. In this way?—(describing). There is no doubt about his doing it exactly as I show you? A. Yes, and something worse than that, because he played it about his face as well.

Q. Did you see Groves strike him at all? A. No, I saw him strike him with his hand the night he was mad.

Q. You never saw him struck by any of the crew at all. A. No.

Q. Do you think you must have seen it if they had? A. Yes.

Q. Did you see him one day lying near the galley? A. One day.

Q. Do you remember his stealing meat out of the galley? A. I heard about it.

Q. Is Martin the cook here? A. Yes.

Cross-examined by Mr. Aspinall.

Q. Do you remember on any occasion his being struck by the cook? A. No.

Q. You say he was down living in the fore-castle? A. When he was out of irons he lived in the fore-castle for a while.

Q. How long did he live in the fore-castle after he came on board? A. Not many days; he did not live in the fore-castle at all, only he came down again for a day or so.

Q. Did he sleep in the fore-castle? A. Yes; for a day or so.

Q. Did the men all turn him out of the fore-castle? A. Not to my knowledge—only once.

Q. What did they turn him out for? A. For doing something in the fore-castle.

Q. When was that? A. I cannot tell exactly.

Q. The men turned him out for dirtying the fore-castle? A. They did not turn him out altogether, but to go and clean himself.

Q. But he did on that occasion dirty the fore-castle? A. Yes; he could not help himself.

Q. How many days was that after he came on board? A. Five or six days.

Q. Was that before you had gone to sea? A. After we had gone.

Q. And you think he could not help himself at that time? A. I do not think he could, or else he would not have done it.

Q. Did he use to dirty all about at that time? A. I did not see it.

Q. Did he dirty the deck? A. No, he went into the head.

Q. But, however, on this occasion he did it in the fore-castle when he was not in irons? A. Yes.

Q. And you think he could not help himself? A. Because he was going upstairs at the time.

Q. Do you remember the day before he died bringing him out of the fore-castle? A. Yes.

Q. What did you bring him up for? A. To wash himself. Groves took him on the quarter-deck, and he washed himself all over with warm water. That is when he got clear of the madness a bit.

Q. Do you remember meeting the Captain when you were bringing him up? A. I did not bring him up.

Q. Was he left in the water the day before he died? Was he put where the water could wash over him? A. I do not see where the water could wash over him, he was lying forward the day he died.

Q. The day he died? A. Yes; there might be some spray go over him, but he was well used to water; he often used to have two or three buckets over him.

Q. Except what came through the hawse-holes? A. Yes; it might run over his legs, and a little spray came over the bows.

Re-examined by the Attorney-General.

Q. You say you saw Groves strike him? A. Yes, with the flat of his hand when he was mad.

Q. Did it hurt him? A. No, it could not hurt him.

Q. When you told us you clobbered him for stealing a week's allowance of sugar, did he not say something about being hungry at the time? A. Yes; or he would not have stolen it.

Q. Where did he steal it from? A. Out of the galley.

Q. You clobbered him with a handsaw—what part of it? A. The flat part—we gave him two slaps.

Q. Did it hurt him? A. No, he laughed, and said he should like to have another feed of sugar.

Q. You say he was not offensive? A. No.

Q. Was there anything else disagreeable except the dirt that came from him? A. No, except the stink that came from his wounds.

Q. Was he quiet and inoffensive? A. Very quiet.

Q. You were not afraid of him at all? A. No, he would sing hymns and psalms like anything.

Q. Would he leave off when he was required? A. He would not leave off the 100th; he would any other but that.

Q. He would sing the 100th? A. Yes, to the day he died.

Q. Did you see anything happen when he was singing? A. Yes, one Sunday he was singing “Oh, be joyful,” when the Captain came up and said “Damn you, hold your tongue.”

Q. Was it before he was gagged that he said “I will make you sorrowful?” A. Yes.

Q. Did you ever hear him ordered by the Captain or officers to do anything he would not do? A. No, he always did it if the Captain and mates would leave him alone.

Mr. MONK.—This is new to me—the singing.

Q. You say he sung the 100th Psalm? A. Yes.

Q. And other songs—some of them were not very decent, I suppose? A. Decent enough for sailors.

William Davidson sworn and examined by Mr. Digby Seymour.

Q. Did you ship on board the “Martha and Jane” at Barbadoes in May last? A. Yes.

Q. I think you signed articles on the same day as the deceased, Rose? A. Yes.

Q. When did you first see Rose on board? A. On the 11th of May—the day we sailed from Barbadoes.

Q. In what condition did he appear to be with respect to his health? A. He appeared to me to be quite healthy.

Q. Did he appear to be a stout-built or a spare-built man? A. He was a strong-built man.

Q. As to his age—could you form any opinion from his appearance? A. I should reckon him about thirty years old.

Q. How was he dressed when you first saw him? A. He had on a flannel shirt and an old pair of trowsers turned up—that was all.

Q. When did you first take notice of anything done to him by any of the prisoners? A. The first night we left Barbadoes.

Q. Which of them did something to him? A. The second mate.

Q. What did he do? A. Licked him with a whip.

Q. Where did he strike him? A. Across his back and his shoulders, and across his body.

Q. Do you know what it was for? A. I cannot say. I did not see anything for the man to be so used as he was.

Q. How long have you been accustomed to the sea! A. Eight or nine years.

Q. Was Rose able to attend to his duty as an able seaman! A. If he had been allowed to do it.

Q. Did you ever see him put a hand to any of the sails! A. Yes; I saw him reef a topsail.

Q. How did he go about his work! A. The same as any other man.

Q. You say on this day you saw the two mates beat him? A. No.

Q. Did you ever see him whipped again? A. Yes, every night and every day—almost every hour of the day until the day before he died.

Q. By whom? A. The Captain, the mate, and the second mate.

Q. What was he whipped with? A. With the whip, a rope's-end, and a piece of wood.

Q. Did you ever see him in irons? A. I have.

Q. What was the first day you saw him in irons after you left Barbadoes? A. Passing it in my mind, I think it was the first or second day after we left Barbadoes.

Q. How often? A. Almost every other day; I believe he was only out of irons about three days during the whole of the time.

Q. On any occasion when he was in irons have you seen them beat him? A. I have seen the Captain, the mate, and the second mate beat him.

Q. Have you ever seen any water thrown over him? A. I have.

Q. By whom? A. By the chief mate.

Q. What was done with the water? A. He hove it right over him.

Q. You say he was beaten with a piece of wood, what sort of a piece of wood was it? A. A piece of wood about so long, and so wide, I should say (describing).

Q. Do you recollect a "fid" being used by the Captain? A. I do.

Q. State to the jury what you saw on that occasion. A. I saw the man while he was in irons. Power asked the chief mate to let him out to go to the head, and he refused him, and he eased himself while he was in irons. Then both the chief mate and the second mate went aft, and called the Captain, and told him that Rose had dirtied the deck; and the Captain came forward, and took some of

it up with a piece of wood, and tried to put it in his mouth for him to eat. The man would not open his mouth, and the Captain put it up his nostrils, to stop his breath, and when Rose opened his mouth he put it in.

Q. Who was by on that occasion? A. The Captain, the mate, and the second mate.

Q. Did you see that done once, or more than once? A. I saw it done twice—once on the port side, and once on the starboard side of the main hatch.

Q. Who were present on the second occasion? A. The Captain, the mate, and the second mate were present on every occasion.

Q. Do you remember, one Sunday, something being done while he was singing? A. I do; that was the time when he was in irons on the starboard side of the main hatch. He was singing a hymn—"Oh, be joyful!" The Captain heard him express himself so, and told him to stop; the man did, and the Captain said he would make him be sorrowful. With that, he ordered the second mate to go and get a piece of iron, and make a gag, and then they put it across his mouth, and tied it round the back of his head.

Q. How was the weather that day? A. It was warm weather.

Q. How long did he remain with the bolt in his mouth? A. I should think he remained two hours.

Q. Do you remember one day being at the helm, when something took your attention, and caused you to leave it? A. Yes; when I left the helm, I came right forward; I heard a noise, and I did not know what it was about.

Q. Tell us what you saw. You heard a noise, and having left the helm, you came forward? A. Yes, and I saw the dead man in the water-cask.

Q. Was it standing on its head? A. No, it was standing on end, and the dead man was in it.

Q. Did you look through the bung-hole? A. Yes.

Q. Did he make any complaint? A. Yes, he did.

Q. In consequence of that, did you go for water to give to him? A. Yes, I did.

Q. How long was he in the water-cask from the time you heard the noise until he was taken out? A. About twelve hours altogether.

Q. Do you remember his getting out of the cask? A. Yes.

Q. By whose orders did he get out? A. The chief mate let him out.

Q. Do you recollect, after his being let out, any of the prisoners doing anything to him? A. Yes; the second mate beat him as soon as he got out of the cask. The dead man got away, and went into the long boat, and covered himself up with an old sail, and the second mate came and took it away, and would not allow him to have

it. He was well nigh suffocated ; he wanted to lie down, and the mate would not let him.

Q. In what condition did he appear? A. In a very bad state indeed.

Q. Was he in a state of perspiration? A. Yes, all over sweat.

Q. You say he wrapped himself up in an old sail in the long-boat? A. Yes ; he had nothing to keep himself from the night-air, and the second mate came and took it away.

Q. Was anything done to him afterwards? A. Yes, he was whipped.

Q. More than once? A. Yes, he was whipped two or three times.

Q. Where was he struck with the whip? A. Across the body and shoulders.

Q. Was anything said—did Rose say anything? A. No, he wanted the sail to cover him, that was all. It was on account of his having taken the sail to cover him from the night-air.

Q. We are told you had a dog on board? A. Yes.

Q. Were you ever present on any occasion when the dog was set at Rose? A. I was.

Q. What have you seen done? A. I have seen the Captain set the dog on Rose.

Q. When the Captain set the dog on where were the mates? A. I cannot say whether the chief mate was present at the time—the second mate was aiding.

Q. Have you ever seen the chief mate present when the dog has been attacking Rose? A. I have.

Q. On more than one occasion? A. Yes.

Q. What was he doing at the time? A. Why, I cannot say.

Q. Why not? A. I cannot say I have seen the dog take pieces of flesh out of the deceased man's legs, and fly at him.

Q. Did you see any blood come? A. Yes, I have.

Q. Upon any occasion, shortly after you saw the dog bite the deceased, did you see either of the mates do anything—did you ever see them shortly after on any occasion use a whip? A. Yes, I have.

Q. How often? A. Several times.

Q. Upon any occasion when he was struck were they both present taking any part? A. Yes, they were.

Q. Have you ever seen him struck when in irons? A. I have, several times.

Q. By whom? A. By both the Captain, mate, and second mate.

Q. All together? A. No, one after the other.

Mr. MONK:—Do you mean all were present at the same time? A. Yes, all were present when it was done—the rest were looking on at the same time.

Mr. SEYMOUR:—Do you recollect on any occasion Rose being sent aloft? A. I do.

Q. Tell us what you remember. A. I have seen him sent aloft to loose the royal, then he was told to furl it again; it seems he did not furl it in the proper way, he came down, and after he came down the chief mate told him to go up aloft again to furl the royal, and on saying that he took a piece of rope's-end and licked him several times across the back, shoulders, and legs. He was quite naked at the time, not a single thing on him.

Q. Had you regular rations of meat served out during the voyage? A. We had.

Q. Had Rose? A. I never saw any rations weighed out for him from the time we left Barbadoes up to the day he died. I never saw anything served.

Q. Did you ever see him eat meat? A. No, I never have. All I have seen was what the poor fellow tried to steal—that is all I have ever seen the man eat. Orders were given that no person on board the ship was to give him a single thing to eat.

Q. Who gave those orders? A. The Captain said, if he found out any person who gave him anything to eat he would put him in the same place as the deceased man, and treat him in the same way.

Q. Two or three days before Rose died what condition did he appear to be in with regard to his health? A. He appeared to be in a very bad condition, he was very ill from the barbarity that had been used to him.

Q. Did you see the rope put round his neck? A. No.

Q. Was there any change in the state of his health a few days before he died? A. Yes, he was very ill from the barbarity.

Q. What was the nature of the change? A. He did not appear to be the same man as he was when he came on board, nothing like it.

Q. Do you remember the day when Rose died? A. I do.

Q. Where were you that morning? A. In the fore-rigging on the starboard side.

Q. In what state was his body? A. His body was beat black and blue, and in a corrupted state, and I knew it could be from no other source except he had been treated in the way he had been.

Cross-examined by Mr. Monk.

Q. On what day was it you signed articles? A. On the 29th of April.

Q. When did you join the ship? A. On the 1st of May.

Q. You were there from that time until the time the ship sailed? A. I was all the time, except the two days I had been on shore.

Q. What days were those? A. From the 9th to the 11th.

Q. You will be able to tell us something, then, that no one else can, if you were there on the 6th? A. I was all the time.

Q. Do you remember his coming on board on the 6th? A. I do not.

Q. What day did he first join the ship? A. When I signed articles, he told me he was going on board the same evening.

Q. You were present when he signed articles? A. Yes.

Q. Were you present when he received his money? A. I was present when he received his note.

Q. What was the amount of it? A. £3.

Q. That was on the 19th of April? A. Yes.

Q. And he told you he was going on board that night? A. Yes.

Q. I think you say you went on board on the 2nd? A. On the 1st.

Q. When did he first come on board after you went? A. The first day I saw him on board was the day we went to sea,—that was the first day I saw him come on board; but he told me, the first day I saw him, that he should come on board the same night.

Q. But you say you did not see him till the day you went to sea? A. No.

Q. Do you recollect what day that was? A. The 11th of May.

Q. I think you say from the 9th to the 11th you were on shore? A. Yes.

Q. From the 1st to the 9th you were on board? A. Yes.

Q. And he never came on board at all? A. I never saw him.

Q. Do you think he could have come on board in the day-time without your seeing him? A. Well, I do not know,—he may. I may have been somewhere else,—down in the hold.

Q. I suppose you were not in the hold for any length of time together;—what were you doing in the hold? A. There were several things we were told to do there.

Q. Now, just let us see: when he signed articles, did you hear anything said by the shipping-master as to his having been sleeping about in the fields, and asking the Captain to take him immediately on board? A. I did not.

Q. Were you in the office the whole of the time the deceased man, Rose, was there? A. I was there until he signed articles, and then I left.

Q. Which signed the articles first,—your name is Davidson, is it not? A. Yes.

Q. Then you went away, you say? A. Yes.

Q. Then, whether he came on board on the 29th of April you do not know, not being on board yourself? A. I do not know.

Q. Now, on the 8th of May what time did you come on board? A. On the 9th I left.

Q. Then you were on board on the 8th? A. Yes.

Q. Did you see him on board on the 8th? A. No.

Q. Now, just recollect yourself: was there a bucket of sugar in the fore-castle on the 8th? A. I don't know; I have not seen anything like sugar in the fore-castle.

Q. You know nothing about it? A. No.

Q. Did you see Rose in his berth in the fore-castle on the 8th?
A. No.

Q. Did you see any place where anybody had dirtied a berth in the fore-castle on the 8th? A. No.

Q. Was Power on board on the 8th? A. I believe he was.

Q. Did Power remain on board from that time until the ship sailed? A. Well, I don't know because he may have gone on shore.

Q. Did he remain on board from that time until the ship sailed?
A. He may have remained on board.

Q. Do you know of his going ashore at all? A. I do not know anything about his going ashore, except he might have gone on shore in the night time and come on board in the morning.

Q. Do you know anything of a shirt of Power's being used to wipe up the dirt? A. No, I do not.

Q. I dare say you have not heard anything about it till this moment? A. Yes, I have heard it talked of.

Q. Do you know anything of the bucket I have spoken of, being thrown overboard? A. No, I do not.

Q. This man was a good seaman? A. He was, as far as I have seen.

Q. Able to do all the work of an able seaman? A. I reckon he was.

Q. There was no quarrel or dislike by any of the crew to the man?
A. I never saw any.

Q. They never drove him out of the fore-castle? A. No, except by the Captain's orders.

Q. Did you ever hear the captain order them to drive him out of the fore-castle? A. I have.

Q. Who did he give the orders to? A. He gave them to the crew forward,—he told them not to allow him to come into the fore-castle.

Q. Was the Captain in the habit of giving orders to the seamen in the fore-castle, without telling the mates? A. He could tell any man on deck without speaking to the mates.

Q. Where did he give the orders? A. He gave it to us on deck.

Q. Himself? A. Yes.

Q. Were the mates by? A. The chief mate was.

Q. Was the Captain in the habit of giving orders himself on such matters and not through the mates? A. Well, he has told the mates too.

Q. You say about driving him out of the fore-castle, the Captain gave you the order? A. The Captain told us on deck not to allow him in the fore-castle?

Q. Did he give you any reason why you were not to allow him to come into the fore-castle? A. He gave no reason, but he said he should not be down there.

Q. Did you wonder at all why he was not to go into the fore-castle as well as yourself? A. I did so, I could not see any reason why he was not to be allowed to go there as well as anybody else.

Q. He was a very pleasant person for the fore-castle? A. I saw nothing the matter with the man to hinder his living among us, if he had only been left to himself.

Q. He did not dirty the fore-castle? A. I have never seen it.

Q. Have you never seen the fore-castle dirtied? A. I have never seen him dirty except he was in irons, and then he would dirty the deck if he was not allowed to go to the head to ease himself.

Q. And you never knew of any dirt in the fore-top? A. That was the day he was going up aloft when the chief mate sent him.

Q. And rope's-ended him? A. That was the day he dirtied.

Q. You saw him rope's-ended? A. Yes.

Q. The man was naked? A. Not a single thing on.

Q. And he rope's-ended him as far as he could reach him? A. He rope's-ended him to the topsail yard.

Q. Had the man a bucket in his hand? A. He had the second time.

Q. Did he rope's-end him a second time? A. He did, while he had the bucket in his hand and before.

Q. Did he go up a third time? A. I did not see.

Q. Do you remember something being stolen out of the galley? A. No, I do not.

Q. Do you remember seeing Rose one day lying by the side of the vessel opposite the galley doors? A. I have seen him there.

Q. Do you know how he came there? A. Well, I suppose he laid himself down there.

Q. He was not knocked down by the cook? A. I never saw him knocked down by the cook.

Q. I dare say you never heard of it? A. Well, I have not heard of it, except since the time of the commencement of these proceedings.

Q. You never heard that Rose had stolen any meat? A. I never heard anything about it.

Q. You never heard of his doing any dirt in a bucket of sugar? A. No.

Q. Now, you are quite sure that Rose had a bucket of water in his hand at the time you say he rope's-ended him up the rigging? A. Yes, he had, because the chief mate made him get a bucket of water.

Q. Did you ever see him dirty his clothes? you know what I mean. A. No.

Q. Have you never seen his clothes in a filthy state? A. No.

Q. Did you ever see him throw a pair of trowsers overboard? A. No.

Q. Did he tell you one day that the Captain had given him some trowsers? A. No.

Mr. MONK:—My Lord, I do not know whether I am at liberty to ask your lordship to look at what lies before you in evidence—this man's deposition.

(His lordship referred to the papers.)

Q. How many pairs of trowsers did you see him wear? A. I never saw any except the old pair he had when he first came from the shore.

Q. I suppose you saw him every day till he died? A. Yes.

Q. And if he had on any new trowsers you must have seen them? A. Certainly.

Q. And he continued, always except when his clothes were being washed and he went about naked, wearing the old trowsers? A. No.

Q. What then? A. He washed nothing at all except the old flannel shirt.

Q. When he wore trowsers at all, he wore none but those he had on at first? A. No.

Q. After the first week after leaving Barbadoes you never saw him have any at all? A. No, I cannot say where he put his old trowsers.

Q. Did you see him wear any drawers either? A. I have seen him wear a pair of drawers, but I did not ask him who gave them to him.

Q. When was that? A. I cannot exactly say whether it was a week or two after leaving Barbadoes.

Q. You never heard that the Captain gave them to him? A. I never knew who gave them to him.

Q. You never heard? A. No.

Q. Did Rose ever tell you the Captain had given him a pair of drawers? A. No.

Q. The day after you left Barbadoes did you see the Captain do anything to Rose? A. I saw him when we were getting the anchor up turn the man away from the helm.

Q. Why did he turn him away from the helm? A. Well, I don't know.

Q. Had you too many hands on board? A. No; we had three hands short.

Q. It was hard work, if there were so few of you to work the ship? A. It was hard for the complement that was on board.

Q. Have you any idea why the Captain turned him away from the wheel? A. I cannot say.

Q. Did you ever see him at the wheel afterwards? A. No.

Q. What duty on board did he do? A. Why, he seldom or ever did anything, because he was not allowed to do it. The man was kept in irons the greatest part of the time, and, therefore, he did scarcely any work at all on board the ship.

Q. Did he use to draw water? A. Yes; he drew water, I believe, but only once or twice.

Q. You had very often to draw water? A. Yes.

A. He drew off the water in the morning. A. Yes.

Q. Now, swabbing the decks, or whatever you call it, did he do that? A. I have seen him help to wash the decks as well as any one else on the watch.

Q. How often? A. The two days I saw him out of irons.

Q. I dare say when you first saw him he was in good health then? A. Yes.

Q. No sores upon him at all? A. Not that I saw.

Q. You must have seen them if he had any? A. I should have seen them if he had any, but I did not look at the man's body.

Q. He might have had sores without you knowing it? A. Yes; when he came on board, and being a few days out at sea, I saw his body, and he had no sores on it then.

Q. Then, if he had any when he came on board, they must have got healed by that time? A. He could not have had any, for a few days after we got out to sea, he had none, but in a few days after that he was all over sores from the whip and the rope's endings.

Q. He was in perfect health when he came on board? A. As far as my knowledge goes.

Q. As far as your belief goes you had no reason to believe otherwise? A. I had no reason to suppose he was not in good health.

Q. When did he first dirty the ship? A. When he was in irons on the port-side, near the main-hatch, and the starboard-side. The second time he was in irons.

Q. You never heard of such a thing except those two times? A. I saw him dirty the ship several times, because he was not allowed to go to the head, therefore the man had to ease himself; he was chained down to the ring-bolt.

Q. Did you find the poor man when he was dead? A. The cook was the first to find him.

Q. How soon after they found him did you see him? A. I saw him the same time as the cook did, but I was not near him.

Q. How far off—where were you? A. I was in the starboard fore-rigging at the time.

Q. You could see where he was? A. I could see where the man lay.

Q. Tell us which way were his head and his feet? A. He laid on his face and eyes, with his head to the fore-castle.

Q. With his head towards the fore-castle? A. Yes; and his feet bent, and his heels to the water-way.

Q. What sort of weather was it at that time? A. We were under single-reefed topsails, but we had a topgallant sail set.

Q. Was it blowing a stiff breeze? A. It was blowing about a six-knot breeze, I should think.

Q. Had anything gone overboard at that time—was it about half a gale? A. Not exactly half a gale.

Q. Did the sea break over any part of the vessel? A. When the ship pitched she pitched down now and then, and then the water used to come over her bows.

Q. How far did the water flow? A. Well, I did not get up to see how far.

Q. As far as where Rose was lying? A. It went past where Rose was lying.

Q. Did the spray come over? A. I saw no spray come over.

Q. You would have seen it if there had been any? A. There might be.

Q. Would the water come in through the hawse-holes? A. Yes.

Q. And were his legs in that position that the water coming in through the hawse-holes would sweep by him? A. No, not in the hawse-holes.

Q. Perhaps no water would come over his feet? A. The water that came over the bows.

Q. That would catch him? A. Yes.

Q. There was no spray? A. There was no spray—to say spray to hurt him.

Q. How long had he been lying there? A. I cannot say how long he had been lying there, because it was my watch below from four o'clock in the morning till eight, when I came on deck.

Q. Had you seen him, then, from eight to ten? A. Those are the hours we found him dead.

Q. Between the hours of eight and ten is a long time—which was it nearer, eight or ten? A. It was nearer ten.

Q. Had you seen him lying there from the time you came on deck until you found him dead at ten o'clock? A. I had been up that time.

Q. Had you seen him lying there during that time? A. I had.

Q. And you mean to say no spray broke over him? A. I saw none.

Q. Could any have broken over him without your seeing it? A. I do not suppose there could.

Q. How long did he remain in the water before he was removed? A. What water?

Q. That came over the bows? A. When the cook came up to him and shook him, and called him by name, he never answered him. Then he went aft and told the mate of it. I don't know what it was—then the second mate got a piece of rope and dragged him by his arms right aft, and left him there until half-past twelve, when he was taken up and hove overboard.

Re-examined by the Attorney-General.

Q. You saw him lying there from eight until you found him dead? A. Yes.

Q. And that was about ten o'clock? A. Yes.

Q. The precise time when he died—whether it was nearer eight than ten—you do not know? A. It was nearer to ten than eight when he was found.

Q. But how long before that he had died you do not know? A. It was about half-past nine when he was found dead.

Q. But how long he had been dead you do not know? A. No.

Q. Could the water, at any time he was lying there, have done him any harm? A. Not the least.

The ATTORNEY-GENERAL.—Those, my lord, are all the crew I propose to call; if, however, my learned friend wishes Power to be put into the box, I will call him without asking him any questions.

MR. MONK:—You had better call him.

William Power, sworn; Cross-examined by Mr. Monk.

Q. Were you a seaman on board the “Martha and Jane?” A. Yes.

Q. Did you join at Calcutta? A. Yes.

Q. And proceeded to Barbadoes? A. Yes.

Q. I believe, at Barbadoes you had a change of Masters? A. Yes.

Q. And the prisoner, Rogers, became Master? A. Yes, after being at Demarara.

Q. Were you examined on the charge against these persons before the Magistrate—Mr. Mansfield? A. Yes.

Q. Do you remember Rose (the deceased) joining the ship? A. No, I do not remember the day he joined, but I remember the man.

Q. I do not ask you what day it was, do you recollect the fact of his coming? A. Yes, I do.

Q. How long did he stay; do you remember the first time? A. I do not know, he came on board on the Friday, I think it was, and he went away on Sunday morning, about three o'clock.

Q. Did he take anybody with him—how did he go? A. He took the boat.

Q. Do you know how the boat was got back? A. I believe two men from the shore brought it back, but I cannot say exactly.

Q. Do you know how much was paid for picking it up? A. I heard the mate say it was twelve shillings and sixpence, but I am not certain.

Q. Before he went away on Sunday morning, had he dirtied the ship at all? A. Yes.

Q. When did he dirty the ship first? A. Well, to my knowledge, it was the morning after he came on board.

Q. Where? A. At Barbadoes.

Q. In what part of the ship? A. In the fore-castle.

Q. What time of the morning was it? A. It was about half-past seven, I think.

Q. Did he use any shirt of yours to wipe it up? A. Yes.

Q. What did he do with the shirt after he wiped it up? A. I hove it overboard myself.

Q. Did you ever see him dirt the ship at any other time? A. Yes, when he was in irons.

Q. Did you ever see him dirt the ship, except when he was in irons? A. Yes.

Q. When? A. I believe he dirtied aloft, one morning.

Q. Did he dirt the deck when he was not in irons? A. At times he did.

Q. Did he dirty the deck every day? A. Not quite every day.

Q. Did he sometimes dirty the deck two or three times a day? A. I cannot say how many times in a day, but he used to dirty it pretty often.

Q. Do you remember there being a bucket with the mens' sugar in the fore-castle? A. I do not remember it, I heard the men speak of it.

Q. What became of the bucket? A. I heard one of the men say he hove it overboard.

Q. Why? A. I do not know.

Q. Do you know whether Groves had a pannikin,—you know what I mean by a pannikin, was there dirt in it? A. I cannot say.

Q. You do not know anything about it? Did he use to dirty his own trowsers? A. Yes.

Q. Constantly? A. Yes.

Q. Was there not a great deal of trouble to make him wash himself? A. Well, at times there was, when he was told—he would go and wash himself sometimes.

Q. And at other times he would not? A. Not until he was forced.

Q. Have you ever known him take the clothes of anybody else besides yourself to wipe it up? A. No, I do not of my own knowledge.

Q. How many pairs of trowsers have you seen him wearing while he was there? A. I think he had three pairs.

Q. Was one of the pairs given him by the Captain? A. No, by the mate.

Q. Did the Captain gave him a pair of drawers? A. Yes, he did.

Q. Did he also give him a singlet or shirt? A. The mate gave him a flannel shirt.

Q. Did you see him wear them? A. Yes.

Q. Did the Captain sometimes give him grog? A. I believe he did now and then give him a glass of grog.

Q. Was there a dog on board? A. Yes, there was.

Q. Did you ever see any of the men set the dog at him? A. No, I never saw any of the men.

Q. Never saw Groves? A. No.

Q. Nor Hayes? A. No.

Q. Neither of them? A. No.

Q. Did you ever see Groves strike him? A. No, except once.

Q. Did you ever strike him? A. Yes.

Q. When did you strike him? A. When he dirtied my clothes.

Q. Did he ever dirty your clothes except that shirt affair? A. Yes, one morning afterwards he went down into the fore-castle and put my clothes on.

Q. Did you give him leave? A. No.

Q. What sort of an appetite had he? A. A very good appetite.

Q. Did he not eat a great deal more than anybody on board? A. He did.

Q. He was a very ravenous man—very hungry? A. He was very hungry and would eat an enormous quantity.

Q. Do you remember his stealing a piece of meat out of the galley? A. No, only what I heard the cook speak of.

Q. And that cook is here—Martin? A. Yes.

Q. Do you remember his lying down on the deck near the side of the vessel opposite the galley-door? A. No, I did not see him lying down.

Q. You did not see him lying down? A. No.

Q. Now, one day before he died do you remember seeing him lying opposite the galley door? A. Not opposite the galley-door, I saw him lying down forwards.

Q. Where? A. By the windlass.

Q. That would be a good way from the galley? A. Not a good way.

Q. Farther than you could knock a man with a blow? A. good deal further.

Q. Do you remember his going up the rigging while his clothes were being dried? A. I saw him going aloft naked.

Q. What, going up to furl the royal? A. I believe the mate sent him up to furl the royal.

Q. Do you know whether while up furling the royal he dirtied? A. Yes, he dirtied coming down.

Q. And was he then sent up to clean it? A. I cannot say whether he was sent up for that purpose, I saw the man, but I do not know whether he was going aloft to clean it.

Q. Do you know whether he deserted at all while on board the ship before she sailed? A. Yes, he deserted one Sunday morning.

Q. Any other time? A. I do not know, except what I heard.

Q. Do you know one day before the ship sailed he got into a

lighter? A. Yes, he got into a lighter, and the mate would not let him go on shore.

Q. Where did he generally sleep at night? A. On the main hatch.

Q. Why did he sleep there? A. Because he was dirty and we would not allow him in the fore-castle.

Q. Was he fit to be in the fore-castle? A. Not when he was dirty.

Q. Could you ever be safe any night that he would not be dirty? A. Yes, sometimes we allowed him to sleep in the fore-castle when he was clean.

Q. How often do you think he slept in the fore-castle, until three or four days before his death? A. I cannot say how many nights.

Q. A good many? I do not know how many nights.

Q. Then sometimes he did when he was clean, and sometimes he did not? A. Yes.

Q. Did the men ever refuse to allow him to sleep in the fore-castle when he was clean? A. No, they did not.

Q. Have you ever known the men refuse to eat their dinner when he was there on account of the stench that came from him? A. No, they did not refuse; but many times I have heard them tell him to go out of their way.

Q. Have you also heard them tell him to go to the other side of the deck when they were eating, on account of the smell? A. I have told him so myself.

Q. When he first came on board did not the crew refuse to have him in the fore-castle because he was not fit? A. Because he was not clean I objected to it myself.

Q. Did you ever see the men quarrel with him? A. I never saw any one strike him, except Groves, the night before he died.

Q. Where did Groves hit him? A. I cannot say where,—he hit him on his hands with the flat of his own.

Q. Did you ever see Groves chase him with a stave? A. No.

Q. Did you see Groves hit him with a stave, in the fore-castle, at the time you are speaking of? A. No; there were plenty of staves in the fore-castle at the time you are speaking of, but I did not see him hit him.

Q. Were those staves handy to Groves,—were they near him? A. They were not nigh him at the time,—they were in the after part of the fore-castle.

Q. How far from where he was? A. Three or four fathoms.

Q. What sort of staves were they? A. The staves of small casks.

Q. I think he was put in irons, was he not, before the ship sailed? A. Yes.

Q. What was that for? A. He took away the boat.

Q. Who brought him on board? A. I think the Captain was in the same boat, but I cannot say for certain,—a policeman was with him.

Q. Was that after he had gone away with the boat? A. The morning after.

Q. Now, just take care: did not Groves strike him when he was down in the fore-castle, with a stave? A. No, he did not. I was puzzled the last time by the counsel, or whatever you call him, and then I said it before Mr. Mansfield.

Q. Did not Groves beat him with a stave from a cask? A. No, he did not, only with his hand.

Q. Were not Rose's hands at that time sore? A. Yes, they were sore.

Q. Were they tied close together at that time? A. Not exactly close.

Mr. BARON WATSON—He was explaining to you just now how that happened,—did you hear him?

Mr. MONK—Yes, my Lord, I heard what he said.

Q. Were his hands, when Groves was tying him, full of sores and corruption? A. Yes, full of corruption,—nasty.

Q. Can you say for certain where Groves struck him? A. I cannot say,—I think it was in the hands.

Q. Can you say—recollect, you have given an account of this before—can you say he did not strike him on the head? A. I cannot say,—I think he struck him on the hands to keep him quiet while we were tying him.

Q. Can you say how many blows he struck him? A. I cannot say.

Q. Did you help to tie his hands? A. At one time I did.

Q. Did you interfere to prevent Groves striking him? A. No, only to take care he did not strike him to hurt him.

Q. I do not know whether you ever heard a complaint made, of Rose being likely to set the ship on fire? A. I never did.

Q. Perhaps you never heard of any complaint? A. It was talked about, the man being down in the hold. I do not know whether he intended to set the ship on fire or not.

Q. You never made a complaint to either the Captain or mates about that? A. No, I never made any complaint.

Q. Tell me what you ever saw him do as an able seaman? A. I never saw him do any able seaman's duty.

Q. Did he appear to you to be able to do an able seaman's duty? A. Well, to hear him talk he was, but when you gave it him to do he would not do it.

Q. Did you see a seaman's duty given him to do? A. Well, I cannot say, he took a hawser to splice and said he could splice it, but he did not do it.

Q. Splicing a hawser is not a very difficult work, is it? A. No.

Q. Any person who has been at sea some time knows how to do that, does he not? A. Yes.

Q. Did you ever see him try to steer? A. Yes, he relieved me

one day at the wheel, but he was not long at it when he was turned away.

Q. Could he steer? A. No, he held the helm in one position.

Q. Did you see Rose do anything he was ordered to do, except to draw water and such things as that? A. Yes, swabbing the decks and every thing of that sort.

Q. I mean drawing water and swabbing the decks, you do not call that the work of an able seaman, do you? A. No.

Q. Did you see him ordered to do any able seaman's work? A. No, I did not.

Q. Did you ever see Cahill and Doyle have any quarrel with him? A. No.

Q. Nor any other of the crew? A. No.

Q. Did you ever see him put any rice under a boat? A. No, but I have seen him eating rice by the boat.

Q. Did you ever see the dog when the rice was there fly at him? A. Well, I cannot say I saw the rice, I saw the dog fly at the man when the Captain was by.

Q. Did you ever see the dog fly at him when he was eating rice? A. No, but the dog would always bark and growl at the man.

Q. Perhaps the bark was worse than the bite? A. No, it could not be.

Q. Did the dog always bite when it barked? A. Not at all times.

Q. Have you ever been in the Royal Navy, in a man-of-war? A. No.

Re-examined by the Attorney General.

Q. When Rose was ordered to do any thing did he do the best he could? A. He always said he could do it, but he would not do it if he could.

Q. Was it that he could not do it, or that he would not do it? A. My opinion was that he did not care about doing it.

Q. What have you ever seen him ordered to do, which he would not do? A. The first job I saw him ordered to do was to furl, and he could not do it.

Q. He could not do what he was ordered to do? A. Yes.

Q. You say he could not steer? No.

Q. Did you watch to see how he could steer? A. Well, I stood by and the ship was running off her course.

Q. And you think he could steer? A. No, if he could he would not have let her run off her course.

Q. Did he try to steer? A. No, he did not try, he held the helm in one position all the time he stood there.

Q. Do you think it was because he would not, or he could not? A. By the man's talk I think he could, but he would not.

Q. You think he could have done it, but he would not? A. Yes.

Q. Is that your opinion? A. Yes.

Q. Could you form any opinion of the reason which induced him not to steer, when he could steer? A. I don't know, the man did not seem to be right in his senses.

Q. When you saw him dirty himself could you form any opinion, whether he did it because he could not help it? A. He might have prevented it sometimes, but he did not.

Q. You think sometimes he did it wilfully? A. He always said to me he could not help it.

Q. Have you known him sometimes, when in irons, ask to go forwards to do it? A. Yes, I have known him ask, and sometimes they would not let him out of irons.

Q. Now, you say he had a good appetite, that he ate an enormous quantity? A. Yes.

Q. Did he not eat like a man nearly starved? A. At first, when he came on board, he did.

Q. Was he better fed afterwards? A. No, he was not better fed afterwards.

Q. Was he not nearly starved the whole time? A. Sometimes he was.

Q. When did you see any meat given to him by the Captain's orders? A. I cannot say I ever saw meat given to him by the Captain's orders.

Q. Did you ever see him get any meat that the crew did not give him out of their own mess? A. No.

Q. Now, you say Groves struck him when he tied him, with his hand: do you think Groves hurt him when he struck him? A. No, he could not hurt him.

Q. When you struck him, when he took your shirt, do you think you hurt him? A. I might have hurt him at the time.

Q. Where did you strike him? A. Somewhere about the body, I can't say where.

Q. Do you think you hurt him much? A. No, I could not hurt him much.

Q. You say you never saw any of the men set the dog on him, have you seen any of the prisoners? A. The Captain

Q. Did you hear what the Captain said when he set the dog on him? A. No, but I have seen the dog running at him.

Q. Do you know what the Captain said? A. No, but the dog always tried to bite him whenever the Captain struck him.

Q. When the Captain set the dog on him, what did he say to the dog? A. He might say, "Catch him."

Q. You say, sometimes the man dirtied the ship on deck when out of irons? A. Yes.

Q. Was not that when the Captain was whipping him? A. I cannot say at all times.

Q. But sometimes? A. Yes, sometimes he dirtied his trowsers when the Captain was whipping him.

Q. But whether always or not, you cannot say? A. No.

Mr. MONK.—You continued all the voyage to Liverpool with the Captain? A. I was paid off from Barbadoes.

Q. How long have you sailed with him? A. Altogether, pretty nigh six months.

Q. How did he conduct himself—was he kind to the men? A. Yes, he was kind, as good a man as I ever sailed with.

Q. As good a man as you ever sailed with? A. Yes.

Q. Not only to yourself, but to the rest of the crew? A. I cannot say as to the rest of the crew, I can only say as to myself.

Q. Did you hear the deceased man, Rose, complain that he was bad in his inside? A. No, I heard him complain that his hands and feet were very sore.

Q. Recollect yourself. Did you never hear him say that he was bad in his inside? A. It is a long time ago; he might have said so, I cannot remember now.

Mr. MONK.—Do you call Martin?

The ATTORNEY-GENERAL—Yes, I will do so.

Nathaniel Martin (a man of colour), sworn, examined by Mr. Seymour.

Q. Did you ship on board the “Martha and Jane,” as cook, at Demerara? A. Yes.

Q. When did you join the ship? A. I joined the ship on the 26th of February.

Q. Were you afterwards with the ship at Barbadoes? A. Yes.

Q. Do you recollect seeing Rose join? A. Yes.

Q. Do you remember how long before the ship sailed you saw him join? A. I do not remember how many days.

Q. With regard to the state of his health, what did he look like when he came on board? A. He looked to my judgment in very good health, except his wearing apparel was not very good.

Q. Did you ever see any of the prisoners do anything to him after he came on board? A. After he came on board the first day, he went away two or three times. After that we never saw him for several days. He came on board on the Friday night, and dirtied the ship; the next morning the second mate gave him some work to do, and he could not do it.

Q. What did the mate do to him? A. He flogged him.

Q. With what? A. He beat him with a stick and boat line, and thumped him.

The ATTORNEY-GENERAL.—I do not ask this witness any more questions. I merely called him at my friend's suggestion.

Cross-examined by Mr. Monk.

Q. Now, just attend to me—had this man a very great appetite?
A. Yes.

Q. Could he eat as much as any two men in the ship? A. Yes.

Q. Did you, as cook, from time to time boil for him large quantities of rice? A. Several times I cooked for him a large quantity of rice.

Q. Had he pea-soup at times? A. At times when he went to the chief mate, and asked him, and he told me to give it him.

Q. Did he ever seem to want to eat flesh meat? A. Well, the Captain stopped his meat.

Q. Was this after he had dirtied the deck? A. Yes; afterwards.

Q. Do you recollect his once taking a piece of meat out of the galley? A. Yes; I do.

Q. How long was that before his death? A. I did not keep an account of the time.

Q. Tell me as nearly as you can, cook? A. I shoved him out the day before he died.

Q. What was that for? A. I came and found him eating the Captain's dinner.

Q. And you gave him a shove? A. Yes; I shoved him out.

Q. What became of him? A. I don't know; I put him out of the galley, and I did not look after him.

Q. How did you shove him out? A. I cried out, "What are you doing there, Jack?" and opened the door and shoved him out, just like that—(describing).

Q. Did you see where you shoved him to? A. I did not look to him afterwards.

Q. At that time was the ship pitching? A. There was not a great pitch on, we were about reefing topsails.

Q. You do not carry a ship under reefed topsails if it is very smooth water? A. No.

Q. Do you remember any of the people on board the ship shoving him besides yourself? A. Yes.

Q. Who shoved him? A. Groves and himself quarrelled, and I jumped between them, and received a blow for him from Groves. I caught the blow on my mouth.

Q. Did you ever hear Groves call him any names? A. Groves call Rose?

Q. Did you ever hear Rose call him "a bloody villain!" A. No.

Q. Do you recollect the Captain asking—when you say you got between them—what was the matter? A. I heard the Captain, and I left directly afterwards.

Q. Did not Rose point to Groves and say, "That villain! I call

him a villain, and he is villain!" A. I never heard him—he might have said so.

Q. Did he then run away from Groves? A. Yes; and as he ran I stepped and jumped in between, and I caught the blow intended for Rose.

Q. Is that all you saw or heard about it? A. Yes.

Q. Did Groves strike you afterwards for interfering? A. No, he did not—I was going to fight him afterwards, and he said he did not know what it was for.

Q. When you ran in and received the blow, were you going to return it? A. Yes, if the Captain was not there.

Q. What was that for? A. Because he had no right to strike me.

Q. Did Groves cut your lip? A. Yes he did, for the blow struck me right in the mouth.

Q. Did you observe at that time there was a mark of Rose having got a black eye? A. I did not observe it at the time, because I was in a passion.

Q. Did he give Rose a black eye? A. I saw Rose had a black eye, but I do not know who gave it him.

Q. Did you hear Rose say, "Captain, you ought to put that fellow Groves in irons, or he will murder me?" A. No.

Q. Did you hear Groves says, "Captain, why do you take that man's part?" A. I left and went into the galley. I do not know what happened afterwards.

Mr. MONK:—I should like to ask Clark one question, if he is here.

The ATTORNEY-GENERAL:—You can call him yourself.

Cross-examined by Mr. Aspinall.

Q. Is Clark here? A. Yes.

Q. Was he one of the crew? A. Yes.

Q. When you shoved Rose out of the galley, was not the ship lying down on her side? A. She had a list.

Q. Was she not very nearly lying over? A. No, she was not.

Q. Was she not under reefed topsails? A. Yes, and lying-to at the same time.

Q. You did look to see where Rose went to? A. No, I put him out of the galley, that is all.

Q. Did you give him a hard shove? A. I shoved him out.

Q. When was the next time you saw him? A. On the deck.

Q. Did you see him lying down where you had shoved him to? A. No, it was a long time after.

Q. You did not look for him till a long time after? No.

Q. Whereabouts was he lying? A. I went to the galley.

Q. You cannot tell where you shoved him to out of the galley?

Parties are here who will be able to do it.

Q. Who? A. If you call the boy, he will tell you.

Q. The boy was there and saw it? A. Yes.

Mr. MONK: Do you call Kennedy?

The ATTORNEY-GENERAL:—I will call him if you wish it.

Thomas Kennedy sworn, examined by the Attorney-General.

Q. Were you born in Barbadoes? A. Yes.

Q. How old are you? A. Eighteen.

Q. Were you on board the ship "Martha and Jane"? A. Yes.

Cross-examined by Mr. Monk.

Q. Do you remember when Rose came on board, my boy? A. Yes.

Q. How long had he been on board before he dirtied the ship?

A. I can hardly say, I think it was the same night.

Q. What became of him the next day, did he run away? A. Not the next day. He ran away on the Saturday.

Q. Was he brought back by the police? A. Yes, on the Sunday.

Q. Did he run away again? A. No.

Q. Did he dirty the ship again? A. Yes.

Q. How soon? A. The next day.

Q. How often do you think he dirtied the ship? A. I cannot say how often.

Q. He was in irons sometimes, was he not? A. Yes.

Q. Did he dirty the ship when he was not in irons? A. When he was and when he was not.

Q. Did he often dirty the ship when he was not in irons? A. Yes.

Q. Do you remember once his scraping it up with his hand, and throwing it down the hatchway? A. Yes.

Q. Do you recollect his dirtying up aloft? A. No.

Q. Do you recollect the day before the man died seeing him in the galley? A. Yes.

Q. Did you see him shoved out by the cook? A. Yes.

Q. Did he fall? A. No.

Q. What became of him? A. He went against the rails.

Q. The rails of what? A. The side of the ship.

Q. Do you mean the bulwark? A. Yes.

Q. Did his head come against them? A. No.

Q. What part? A. He went against them in this manner—
(describing it).

Q. Did he fall down? A. No.

Q. Did you see him carried below by the second mate and Cahill? A. Yes.

Q. How long was that after the cook had shoved him out? A. The next day.

Q. Had he been on deck all night? A. I cannot rightly say.

Q. When he was shoved out of the galley was he lying for some time in the water? A. That same day he was lying on the deck.

Q. After the cook shoved him out? A. Yes.

Q. Was he lying in the wet? A. Yes.

Q. Was the water breaking over him? A. Yes.

Q. Do you remember a brush-handle being broken? A. No.

Q. Did you ever see Rose struck with a brush-handle by any body? A. No.

Q. Never saw Groves strike him with a brush? A. No.

Q. You have seen Groves strike him? A. Yes.

Q. With what? A. With a hand-saw.

Q. Did you ever see him strike him with anything else? A. No.

Q. Have you never said to the mate that Groves broke the brush over Rose's head? A. No.

Re-examined by the Attorney-General.

Q. Now, when Rose was shoved out of the galley, was he shoved hard? A. No.

Q. When he was lying in the wet, over what part of him did the water break? A. It did not break over him but ran under him.

Q. How high did it wet him? A. Just on his back where he was lying. It ran under him.

Q. Do you think the water could have hurt him? A. No.

Q. When Groves struck him with the handsaw, was that the cobbing? A. Yes.

Q. What part of the saw did he strike him with? A. The flat part.

Q. Do you think it hurt him much? A. It must have hurt him.

Q. How far were you from him when he struck him? A. About two yards.

Q. Are you sure it was Groves who struck him and not Cahill? A. It was Groves.

Q. How long was that before he died? A. I cannot rightly say.

Q. Was it a fortnight? How long was it—three weeks, or a week, or what? A. About a week.

Q. How long had he been on board? A. About four weeks I think.

Q. It was a week before he died? A. Somewhere thereabouts.

Mr. Lorenzo Edward Desmond, Mr. William Wall, Mr. Thomas Pennington, medical gentlemen in Liverpool, were called. On Mr. Desmond, the first of these witnesses, being asked by the Attorney-General,

Q. Can you form a medical opinion as to the cause of the death of Andrew Rose from what you have heard?

Mr. MONK objected to the question, and referred to cases tried before his lordship at Lancaster.

Mr. BARON WATSON said, I think you cannot ask that question. You may take it that the man came on board in perfect good health, and the dog bit pieces of flesh out of him—you may propound all those matters to him, and then say, “In your opinion, would that cause death?”

The ATTORNEY-GENERAL.—Assuming that Andrew Rose came on board the ship in a fair state of health, that he was beaten by the Captain with a whip, and by the mates with a rope’s-end until cuts and sores were produced, that he was bitten by the dog, and those bites festered into sores, that his meat was withheld from him, that he was put into a water-cask and kept there for twelve hours, that he was afterwards taken out and hanged, and left suspended for two minutes, till the froth came from his mouth, his tongue hung out, and his face was black, and that he fell in the manner described and died within three days after—can you form an opinion as to the cause of his death?

This and similar questions were propounded to the medical witnesses, who all concurred in stating that death would be caused or hastened by the treatment described.

The certificate of registry of the ship and other documents were put in to prove that the “Martha and Jane” was British.

The official log was produced and various entries read, amongst which the following appeared with reference to Rose’s death:—

“6th June, 1857. Lat. 50. 44 north, long. 12. 30 west. At 2 P.M., buried Andrew Rose, who died this morning without anybody knowing what was a matter with him, no more than we all, officers and crew, think that his inside was rotten.

(Signed)

HENRY ROGERS, Commander.

WILLIAM MILES, Chief Mate,

CHARLES E. SEYMOUR, Second Mate.”

This being the whole of the evidence for the prosecution,

Mr. MONK proceeded to address the jury on behalf of the prisoner Rogers, as follows:—May it please your Lordship—Gentlemen of the jury:—Permit me, in the first place, before I make any of those observations in this case which are of a general character, and which I must make, to thank my Lord for the very kind consideration which he has manifested, not towards myself, gentlemen—for that would be comparatively trifling—but towards him who, in the position—the serious position—in which he stands, I have now the honour to represent before you; and gentlemen, having discharged very briefly that which I hold to be my duty in that respect, allow me to express to you—as I do most un-

feignedly—the very great anxiety with which I rise to address you on this matter. If I stated that anxiety arose from any cause but one, I should do injustice to myself, I should do injustice to my own feelings, to my own experience as an advocate in cases of this kind, and I should do injustice to the prisoner whom I represent before you. But when I remember the load of prejudice under which you must come to the consideration of the observations I have to lay before you, I may well indeed shrink from the magnitude of the task, and may well indeed predicate the great difficulty of obtaining from you a calm, dispassionate, and patient hearing. And, gentlemen, I am sure I am doing no injustice to you when I say so; that, having heard the details in this case, which have been repeated over and over again, sometimes, my learned friend, the Attorney-General for the Palatinate, must forgive me if I say unnecessarily, that it is scarcely possible that an impression should not have been made, so strong, as the strictest thought, the best regulated judgment, and the man whose mind is held in the best subserviency to his reason, can scarcely be expected to weigh calmly, and consider justly, and consider patiently, the observations laid before him on the part of a man accused of such cruelties as the prisoner at the bar has been accused of to-day.

Gentlemen, for your own sakes I pray you to do all that men possibly can do to remove that prejudice from your minds, and to hold equally the scales of justice until you have heard what I have to say, and what will afterwards be said by my friend the Attorney-General who prosecutes in this case for the Crown, and also what will be said by one whose words still more deserve your calm and dispassionate consideration. I cannot help saying, gentlemen, I never found myself placed in a prosecution of this kind under difficulties such as I labour under to-day; and it is forcibly apparent to me that there are strange anomalies in our law. Let me take, for instance, the position in which this man stands, under the accident of being prosecuted by him who is deservedly placed in a high position of honour in this country, the Attorney-General; I mean, my learned friend who stands next me at this moment. Is it not a strange anomaly, that the mere accident of the person by whom the prosecution is conducted—the mere accident of whether it is conducted directly from the Treasury—as it is called—of this country, or the executive Government, or in ordinary phrase, binding over some responsible gentleman, such as the gentleman by whom these prosecutions in Liverpool are conducted, should make so important a difference as to who is to have the last observations to you in a trial where three mens' lives are trembling in the balance. I do not complain of my friend exercising the right he has; I will complain of no man; I care not how much I suffer by it, who is doing his duty. Why! if I were in his place, I most certainly would do it

myself, and I should say I was bound to claim the right; therefore, I make no complaint against my learned friend for the assertion of the right, but, I have yet to see how he will exercise the right he has asserted, and upon that, and not upon the exercise of the claim, will depend whether I shall have any right to complain or not. The learned counsel reminded the jury that the vessel was short-handed, and asked, was it likely that, with three hands short, the Captain would be anxious to throw away the services of an able-bodied man? He contended that there were discrepancies in the evidence for the prosecution, of a very serious character. There were other witnesses who were examined before the magistrates—especially Cahill and Clark,—why had not they been called, and why had not some attempt been made to reconcile the discrepancies in the case? What was there in the whole case, he asked, to show that the deceased had not been brought to his grave by long-continued disease? Indeed, it was very plain that such was the fact. His close-cropped hair would lead one to suppose that he had just left some hospital, whilst his ravenous appetite and filthy habits showed clearly that he was in a declining state of health. He did not attempt to justify such acts as putting a man into a cask, or any of the other modes of punishment which had been described. But the question was not whether what the prisoners had done was the best to preserve the discipline of the ship, but whether they had of their malice aforethought, taken the life of the deceased. He concluded as follows:—

However, gentlemen, his life is in your hands, and it is for you to say whether it was by the joint or single act of the prisoner Rogers that this man was deprived of life wilfully, and by his malice aforethought. If it were an excess of punishment—if it were an act of wantonness—some sudden ebullition of passion hurried them at any time into an act which might have resulted in death, that would not justify you in finding them guilty of wilful murder. Where is the evidence of the death having arisen from any acts of the man Rogers? I implore you—as you will recollect the proceedings of this day hereafter—to approach the final consideration of this question with minds dispassionate and devoid of prejudice, so far as you are able. Forget, if you can, the disagreeable and noisome things you have heard. Men may sustain things unpleasant, but the deceased, Rose, was nasty and dirty, and they treated him like a dirty cat or dog. If any human being could deserve to be so treated, he was that unfortunate person. It is impossible, however, to listen without shuddering and revolting. You have here congregated together by hostile witnesses every act which may be made to tell, and brought in organized array before you in the most perfect, scenic order, and with all the theatrical effect which the introduction of the dog was made to conduce to. It was the first time I ever

saw a brute animal called as a witness in any matter whatever. I appear only on the part of Rogers, and I cannot help thinking that is another reason why every witness ought to have been called who appeared before the magistrates. Remember, the prisoners are at the mercy of those bold men in anything they may please to do for the purpose of affecting them. I ask you again to remember when you are considering the case, the utter absence of any motive whatever; and how inconclusive and unsatisfactory the medical testimony was, to remember if you are to go to the cause of death, that you must find some cause by one of these men, or all united, for some motive by which they were actually possessed, which made the act of one the act of all; and lastly, if they accelerated the death of Rose they have not called any person who would venture to swear that death was accelerated by the millionth part of a second!

Mr. ASPINAIL next addressed the jury in defence of the prisoners Miles and Seymour, urged that they were inferior officers of the ship, bound to carry out the orders of the Captain; and though they were only bound to carry out those orders so long as they were legal, at the same time it was not easy for them to discriminate as to the exact amount of punishment which might legally be inflicted upon a disobedient or negligent seaman. He dwelt upon the fact that the medical men did not venture to affirm that death would have been caused by anything less than an accumulation of the acts alleged to have been committed; and as to many of the acts which were relied upon to cause death, the prisoners Miles and Seymour had nothing whatever to do, he contended that they could not be found guilty of the death of the deceased.

The ATTORNEY-GENERAL, in reply, said—"Gentlemen, I have a very arduous and disagreeable task imposed upon me, and one which I would most willingly avoid; for, although enough has been said about me and my conducting of this case to make me desirous that I should vindicate myself, yet I would much rather sit still under the obloquy that has been thrown upon me, than reply against the prisoners, were it not my duty so to do. But, gentlemen, I have a duty to discharge. I did not make the law, but as long as the law remains as it is I consider it my duty to assert my privilege, and I shall endeavour to exercise it with all the temperance and discretion I can master.

"Gentlemen, my learned friend, Mr. Monk, has complained much of me that I have not called the two witnesses, Cahill and Clarke, and if my friend wishes to impress upon you that their names are on the back of the indictment, I can only say that he is very much in error. My friend also observed that he laboured under a disadvantage by their not being called; then why did he not put them into the box himself, when I myself should have experienced the disadvantage of not knowing what testimony they would give, and there-

fore I should not have had the power to contradict them. It will, no doubt, be in your recollection that I called four of the crew—two in each watch—who gave over and over again the same evidence as they did before the magistrate; and I appeal fearlessly to you whether my learned friend has not distinctly admitted, in his defence of Rogers, that I have conducted the prosecution in the manner he would have done had he been in the same position as myself.”

The learned gentleman then proceeded to argue from a careful analysis of the evidence, that the discrepancies alluded to by Mr. Monk and Mr. Aspinall, arose from the imperfect memory of the witnesses, who were not men of education, and consequently, could not remember dates with the greatest accuracy and precision, but that the main facts of atrocious cruelty to Rose were incontestably established: and with regard to the allegation that there could be no motive on the part of the prisoners for the barbarities they had practised, he said, if the jury would pay strict attention to the evidence, he thought they would find abundant indications of a most malignant state of mind, proving a common purpose and design between the three prisoners at the bar, and, with the exception of the under-feeding and the setting of the dog at the deceased, which applied only to the Captain,—that they all joined in the beating with the ropes’-ends and the whip, the gagging, the forcing the filth into his mouth, the heading him up in a water-cask, and finally the crowning outrage of the hanging.”

After alluding to the impossibility of there being *post mortem* examinations of the bodies of men who die at sea, and ridiculing the idea that no men should be found guilty of murder without such examinations, the Attorney-General concluded by saying:—

“Gentlemen, you have the evidence before you, and I have no doubt you will pay the strictest attention to it: if you discover in it any circumstance that leads you to doubt the prisoners guilt, you will give them the benefit of that doubt; but if, on the other hand, after a patient, fair, and full consideration, you are convinced that they are guilty, you will return a verdict of ‘wilful murder,’ and let the law itself answer for the penalty it has awarded to the commission of the crime.”

Mr. BARON WATSON then summed up, recapitulating with great care the evidence, and directing the jury with reference to the distinction between murder and manslaughter.

The Jury retired, and in about an hour returned, stating that the deceased’s death was caused by the brutal treatment of the Prisoners, but that they did know exactly what to call that.

Mr. BARON WATSON.—Gentlemen, I cannot receive that verdict. If you find that the treatment was such as that any reasonable man could only anticipate that death would ensue from it, you will find a verdict of Murder. But if a reasonable man, looking at the conduct

pursued towards Andrew Rose could not have anticipated such a result, then I tell you, it is Manslaughter only.

I illustrated this to you by saying, if a person were to strike with a slight weapon, he could not anticipate death, but if a person uses a large and deadly weapon, the necessary effect of which is to cause death, or from a succession of brutal treatment, or continuous succession of blows from time to time, that one could only look to a fatal result, and it could only have one end, then it is murder. And it is for you to say whether a reasonable man, considering the acts done from time to time, must not have foreseen the result, and if so, that is murder. If it was so slight that one could not have anticipated a fatal result, then, of course, it is manslaughter. That is the only direction I will give you in point of law. You must apply yourselves to the evidence.

The Jury again retired, and after an absence of twenty minutes, returned and gave a distinct verdict of Murder against each of the Prisoners.

Proclamation of silence was then made, and his Lordship having put on the black cap, proceeded to pass sentence of death, as follows:—Henry Rogers, William Miles, and Charles Edward Seymour,—you have respectively been found guilty of the crime of murder, after a most patient, and I am sure, most anxious trial on the part of the jury who have tried you, and they have come to the conclusion that the evidence entirely supports the charge. It is one of those cases which requires great care and attention on the part of judges and juries, in order that the innocent should not be punished and that the guilty should not escape unpunished. The account of the barbarous treatment which we have heard, hour after hour from the witnesses, has shown to me and everybody present, that your lives should be forfeited to the laws of your country. It is of the deepest importance to a maritime country like this, that whilst you are armed with power to repress all kind of insubordination on board your vessels, the law should watch with care that you should not exceed those great powers as you appear to have done.

The jury have recommended you to mercy,—with that I have not the power to interfere, except to do that which is my duty—to refer that recommendation to the authorities of this country, the Ministers who advise her Majesty; but I question whether it will be attended with success,—that I cannot say. I advise you not to rely on that—whether your lives are short, or whether you are spared for some commuted punishment, I conjure you to apply your minds, with all the energy that belongs to your characters, in seeking repentance for your sins at the Throne of Mercy.

It only remains for me to pass on you the awful sentence of the law; and that is, that you, Henry Rogers; you, William Miles, and you, Charles Edward Seymour, be taken to the place from whence

you came, and thence to the place of execution, where, respectively, you shall be hanged by your necks till you are dead, and your bodies shall be buried within the precincts of the prison where you are confined. And may the Lord have mercy on your souls.

The prisoners were then removed.

THE EXECUTION OF CAPTAIN ROGERS.

The final scene of this revolting tragedy—the execution of Captain Henry Rogers—took place at Kirkdale Gaol, on Saturday, September the 12th. During the whole of the previous day, an immense concourse of persons watched intently the preparations for the execution. As evening approached, the numbers gradually diminished, but some parties remained throughout the night, and before daylight was fully established, a large body of spectators was assembled, which continued steadily to accumulate with the augmenting light; and long before noon, the hour appointed for the execution, crowds might be seen hurrying along every avenue of approach by which access to the scene of death could be realised, or even a glimpse of the appalling spectacle could be obtained. A large number of seamen were early on the spot, and altogether the numbers present could not have been less than fifty thousand. The miserable man arose at five o'clock in the morning, and engaged earnestly in prayer with the Rev. Chaplain, and Mr. Wright, the well-known prison philanthropist. When leaving the press-room, after being pinioned, he begged of the Chaplain to teach him what to say at the last moment; the Chaplain suggested, as the shortest and most comprehensive prayer under the circumstances, “Oh, Lord Jesus, receive my spirit!” which sentence he continued repeating until he reached the scaffold. Precisely at twelve o'clock, Captain Rogers ascended the steps leading to the scaffold, with a firm gait, and the crowd immediately became hushed. He appeared somewhat thinner and paler than on his trial, but was quite cool and collected; and having gazed wistfully at the river and the sea, made some observation to Calcraft, the executioner. This functionary then put the cap over his face, and adjusted the rope also. Mr. Wright took leave of him, and he also shook hands with Calcraft. Rogers continued uttering a prayer for a few minutes longer, and having himself given the signal, the drop fell, and he died without a struggle. After hanging for an hour, the body was cut down, and buried the same afternoon, within the precincts of Kirkdale Gaol.