Guyana Documentary History Series

British Parliamentary Debate

on the

Trial of Rev. John Smith

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Edited by:

Odeen Ishmael

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Rev. John Smith

Introduction

By Odeen Ishmael

A- The Demerara Slave Uprising and the Trial of Rev. John Smith

From around the closing years of the eighteenth century some organisations were established in England to campaign for the abolition of slavery in the British colonies. These included the Baptist Missionary Society, the London Missionary Society, the Church Missionary Society, the British and Foreign Bible Society, the Methodist Society, and the Anti-Slavery Society formed in 1823.

The Anti-Slavery Society was very influential since among its members were the Quakers and important Members of Parliament including William Wilberforce, Thomas Clarkson and Fowell Buxton. In April 1823 Buxton presented a motion in the House of Commons calling for a gradual abolition of slavery in all British colonies, but it was defeated because the majority felt that the abolition of slavery would leave the planters without a labour force. Instead, measures to ameliorate the condition of slaves were adopted. These ordered that female slaves should not be whipped as punishment and drivers should not carry whips in the field.

Lord Bathurst, the Secretary of State for the Colonies, immediately sent these new amelioration rules in a letter to all Governors of British colonies. In Berbice, Governor Henry Beard, as soon as he received the letter, sent it to Rev. John Wray to read it to the slaves. In Essequibo-Demerara on the other hand, Governor John Murray deliberately delayed its publicity. Even though he received the letter on 23 June 1823, he waited until 2 July to present it to the Court of Policy and urging the members, who were all slave owners, not to act on it immediately. It was not until 7 August the Court of Policy passed the required resolutions to adopt the amelioration rules.

While the amelioration rules were awaiting adoption in the Court of Policy, house slaves overheard their masters discussing them. Not fully understanding the implications of the new rules, they felt that the planters had received instructions to set the slaves free but were refusing to do so. This rumour was passed on to other slaves orally and in writing by some literate slaves. One of them, Jack Gladstone, heard the rumour from a slave owned by the Governor and he wrote a letter to the members of Bethel Chapel informing them of the matter and signed his father's name on it. His father was Quamina, a senior deacon of Bethel Chapel which was ministered by Rev. John Smith of the London Missionary Society.

On 25 July, Quamina, on learning of the matter, approached Rev. John Smith, who resided at Plantation Le Ressouvenir, and informed him that the King of England had granted freedom to the slaves but it was being withheld. Smith said that he had not heard of any such order and that such a rumour was false. He added that he had heard that the British Government wanted to make regulations to improve the situation affecting the slaves, but not to set them free. Quamina was not satisfied with what he heard and most likely felt that Smith, being a White, was siding with the planters and the Governor. He apparently reported to the other slaves, some of whom began to make preparations to seize their freedom which they felt was being deliberately kept away from them.

The slaves in East Demerara were convinced that the Governor and their masters were withholding their freedom from them and many of them felt they had no other option than to rise up against those who were not carrying out the King's orders. On the morning of Sunday 17 August 1823, slaves at Mahaica met together at Plantation Success and three of them, Jack Gladstone, a cooper on that plantation, Joseph Packwood and Manuel, assumed some kind of leadership of the group. All of them began to plan an uprising, but Gladstone's father, Quamina, who arrived at the meeting later, objected to any bloody revolt and suggested that the slaves should go on strike.

When someone asked if they should get guns to protect themselves, Quamina said he would have to seek the advice of the Rev. Smith on this matter.

Quamina departed for Bethel Chapel at Le Ressouvenir and after the Sunday service, he and two other slaves, Manuel and Seaton, went to Smith's home. There they told the priest that the managers of the plantation should go to Georgetown to "fetch up the new law." Smith rebuked them and advised them against speaking to any of the managers about this, saying if they did so they would provoke the Governor. He begged them to wait until the Governor and their masters inform them about the new regulations. When Quamina told Smith of the uprising being planned, the priest asked them to request the other slaves, particularly the Christians, not to rebel. Quamina promised to obey Smith and he sent his two companions to urge other slaves not to rebel. He also told Smith he would send a message in the evening to the Mahaica slaves not to rise up against their masters.

But despite Quamina's efforts, the slaves were determined to rebel from the following evening. Their plan was to seize all guns on the plantations, lock up the Whites during the night and then send them to the Governor on the following morning to bring the "new law." All Quamina could do was to implore them not to be violent in the process.

But on the morning of Monday 18 August, the plan was leaked by Joseph Packwood, a house slave, who revealed it to his master, John Simpson, of Le Reduit plantation, located about five miles east of Georgetown. Simpson immediately gave this information to Governor Murray who with a group of soldiers rode up to the area of Le Ressouvenir and La Bonne Intention where he met a large group of armed Africans on the road. He asked them what they wanted and they replied, "Our right." He then ordered them to surrender their weapons, but after they refused he warned that their disobedience would cause them to lose whatever new benefits the new regulations aimed to provide. Further, Murray asked them to go home and

to meet with him at Plantation Felicity the next morning, but the slaves bluntly refused this invitation.

It was very late that afternoon when Rev. John Smith first heard of the uprising. In a note to his informant, Jackey Reed, a slave who attended his church, he stated that hasty, violent measures were contrary to Christianity and begged Reed not to participate in the revolt.

Shortly after, while Smith and his wife were walking on the plantation, they saw a large group of noisy African slaves outside the home of Hamilton, the manager of Le Ressouvenir. Smith begged them not to harm Hamilton but they told him to go home.

That night the slaves seized and locked up the White managers and overseers on thirty-seven plantations between Georgetown and Mahaica in East Demerara. They searched their houses for weapons and ammunition, but there was very little violence since the slaves apparently heeded Quamina's request. However, some slaves took revenge on their masters or overseers by putting them in stocks; this action resulted in some violence a few White men were killed. The White population naturally were very terrified and feared they would be killed. But the slaves who were mainly Christians did not want to lose their religious character so they proclaimed that their action was a strike and not a rebellion. At the same time, not all slaves joined the rebels and they remained loyal to their masters.

The next day an Anglican priest, Wiltshire Austin, suggested to Governor Murray that he and Smith should be allowed to meet with the slaves to urge them to return to work. But the Governor refused to accept this suggestion and immediately declared martial law.

The 21st Fusileers and the 1st West Indian Regiment under the command of Lieutenant-Colonel Leahy, aided by a volunteer battalion, were dispatched to combat the rebels who were armed mainly with cutlasses and bayonets on poles and a small number of stands of rifles captured from plantations. At first, the movement of the troops was hampered since many of

the wooden bridges across the various plantation canals were destroyed by the rebels.

The suppression of the rebellion saw much violence. On Tuesday, 19 August, there were major confrontations at Dochfour estate where ten to fifteen of the 800 rebels were killed; and at Good Hope where six rebels were shot dead. On the morning of 20 August, six were killed at Bee Hive plantation and forty at Elizabeth Hall.

There was also a major battle on the same day Bachelor's Adventure where more roughly 2,000 slaves confronted the military. Lieutenant-Colonel John Thomas Leahy who had about 300 men under his command asked them what they wanted. They responded that they wanted to work for only two or three days a week. Leahy told them if they lay down their arms and returned home he would tell the Governor what they wanted. But perceiving that they were not interested in surrendering their arms he, accompanied by one of his officers, Captain John Croal, went up to them and again enquired what they wanted. They shouted that they wanted their freedom which the King had granted to them. Leahy then read the proclamation of martial law to them. When he completed the reading, Jack Gladstone, one of the slave leaders, showed him a copy of a letter signed by many plantation owners that they were not abused by the rebels.

One of the other leaders then suggested that they should hold Leahy and Croal as hostages, but Gladstone objected strongly and prevented such an occurrence. Many other rebels suggested that all the slaves should march to Georgetown to present their demands to the Governor, but Leahy discouraged this saying that if they did so they would all be hanged, and suggested that they should communicate to the Governor through him. He then gave them half an hour to decide to surrender their arms, failing which he would order his men to shoot. However, the rebels continued to show defiance and Leahy ordered his troops to open fire. Many of the slaves fled in confusion while some others quickly surrendered their weapons to the troops. In this savage crushing military action

more than 250 were killed. A report prepared by Governor Murray two days later praised Leahy and his troops and noted that only one soldier was slightly injured while noting that "100 to 150" slaves were shot dead.

The uprising collapsed very quickly since the slaves, despite being armed, were poorly organised. After their defeat at Bachelor's Adventure, the Governor proclaimed a full and free pardon to all slaves who surrendered within 48 hours, provided that they were not ringleaders of the rebellion. He also offered a reward of 1,000 guineas for the capture of Quamina whom he regarded as the main leader of the rebellion.

In the military sweeping-up exercises that followed, there were impromptu court-martials of captured slaves and those regarded as ringleaders were immediately after executed by firing-squad or by hanging. Many of the corpses were also decapitated and the heads were nailed on posts along the public road. Among those hanged was Telemachus of Bachelor's Adventure who was regarded as a "ringleader" of the uprising at that location.

Some of the rebels who escaped were also hunted down and shot by Amerindian slave-catchers. Quamina himself was shot dead by these Amerindian slave-catchers in the back lands of Chateau Margot on 16 September and his body was later publicly hanged by the side of the public road at Success. Jack Gladstone was later arrested and also sentenced to be hanged; however, his sentence was commuted but he was sold and deported to St. Lucia in the British West Indies.

Out of an estimated 74,000 slaves in the united colony of Essequibo-Demerara about 13,000 took part in the uprising. And of the 350 plantations in the colony, only thirty-seven were involved. No doubt, many who did not take part sympathised with the rebels and shared their suspicion that the planters would spare no efforts to prevent them from obtaining their freedom.

On 25 August, Governor Murray set up a "court-martial" headed by Lieutenant Colonel Stephen Arthur Goodman, for the trials of the arrested rebel slaves who were considered to be

"ringleaders." The trials which continued into early 1824 were conducted at different plantations and the condemned prisoners were executed by shooting or hanging and their heads were cut off and nailed to posts. Over 200 Africans were beheaded and their heads placed on stakes at the Parade Ground in Georgetown and from Plaisance to Mahaica in East Demerara. Of those condemned to death, fourteen had their sentences commuted but, like Jack Gladstone, they were sold to other slave owners in the British West Indies.

In addition, there were other sentences, including solitary confinement and flogging of up to 1,000 lashes each. Some were also condemned to be chained for the rest of their servitude.

Meanwhile, on the day of the Bachelor's Adventure battle, the situation took a strange turn when Rev. John Smith was arrested and charged for encouraging the slaves to rebel. While awaiting trial, he was imprisoned in Colony House. His arrest, undoubtedly encouraged by many of the planters, was seen as an act of revenge against the priest for preaching to the slaves.

Despite being a civilian and charged for the crime allegedly committed before martial law was proclaimed, he faced a trial by a military court-martial presided by Lieutenant Colonel Goodman from 13 October to 24 November 1823. He was tried for four offences: promoting discontent and dissatisfaction in the minds of the slaves towards their masters, overseers and managers, and inciting rebellion; advising, consulting and corresponding with Quamina, and aiding and abetting him in the revolt; failure to make known the planned rebellion to the proper authorities; and not making efforts to suppress, detain and restrain Quamina once the rebellion was under way.

Smith denied the charges but, nevertheless, he remained imprisoned for seven weeks in Colony House before his trial took place. He was found guilty and sentenced to be hanged and was transferred from Colony House to the local prison. He appealed to the British government which subsequently ordered a commutation of the death sentence and restored his freedom. However, while awaiting information of the results of his

appeal to arrive by ship from England, he died from pneumonia in the prison on 6 February 1824. To avoid the risk of stirring sentiment against the slave owners, the colonial authorities buried his body before daybreak but deliberately did not mark his grave.

The information that he was acquitted actually arrived in Georgetown on 30 March, weeks after his funeral. (Significantly, the appeals court in repealing his sentence also banned him from residing in Guyana and any other British Caribbean territory and ordered him to post a bond of 2,000 pounds.) News of his death was later published in British newspapers; it caused great outrage throughout Great Britain and 200 petitions denouncing the actions of the colonial authorities were sent to the British Parliament.

In Guyana, the slaves regarded Rev. Smith's death as a sacrifice which was made on their behalf, and soon after, they began referring to him as the "Demerara Martyr."

The numerous petitions, including some by parliamentarians, and newspaper comments condemning the military trial and the death sentence on Rev. Smith finally resulted in a formal motion being raised in the British House of Commons. It called for the members to "declare that they contemplate with serious alarm and deep sorrow the violation of law and justice" in the trial of Rev. Smith and urged King George to adopt measures to enable the just and humane administration of law in Demerara to "protect the voluntary instructors of the Negroes, as well as the Negroes themselves and the rest of His Majesty's subjects from oppression."

The motion was presented by a Member of Parliament from the Opposition and it was debated on 1 June and 11 June 1824.

Speeches opposing the motion and supporting the trial by court martial were made by parliamentarians on the government side as well as ministers of the government, including the Secretary of State for Foreign Affairs, George Canning. Speaking in support of the motion were leading members of the Opposition, including the famous leader of the

anti-slavery movement, William Wilberforce, but despite their strong arguments, the government majority voted against it.

The forceful speeches on both sides examined the trial of Rev. Smith through the perspective of various laws – British common law, Dutch law, British military law, Dutch military law and Demerara colonial law.

The debate also threw light on the political feelings of British lawmakers of the early nineteenth century regarding their opinions on slavery and British amelioration policies in Guyana and the British Caribbean possessions. In addition, it exposed some of their views on the East Coast Demerara slave uprising of August 1823 which was a major blow to colonial rule and most likely helped to hasten the end of African slavery in the British colonial territories.

This volume presents the text of the verbatim speeches as well as those recorded in "reported speech" form in the British parliamentary archives, and they are all shown in the order in which they were presented. Since the archives display the record of each day's debate as a lengthy continuous account, I have taken the editorial liberty of separating the text into separate parts to show the various speeches very clearly, and adding headings to them and explanatory endnotes where applicable.

August 2013

MOTION RESPECTING THE TRIAL AND CONDEMNATION OF MISSIONARY SMITH AT DEMERARA

House of Commons Debate, 1 June 1824

First Day

The debate occurred after numerous petitions had been presented to the House, for an inquiry into the proceedings on the trial of the late Rev. John Smith in Demerara.

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Speech by Henry Brougham

Mr. Henry Brougham [M. P. for Winchelsea] rose and addressed the House to the following effect:—

Mr. Speaker[1],

I confess that, in bringing before this House the question on which I now rise to address you, I feel not a little disheartened by the very intense interest excited in the country, and the contrast presented to those feelings by the coldness which prevails within these walls. I cannot conceal from myself that, even in quarters where one would least have expected it, a considerable degree of disinclination exists to enter into the discussion, or candidly to examine the details of the subject. Many persons who have, upon all other occasions, been remarkable for their manly hostility to acts of official oppression, who have been alive to every violation of the rights of the subject, and who have uniformly and most honourably viewed with peculiar jealousy every infraction of the law, strange to say, on the question of Mr. Smith's treatment, evince a backwardness to discuss, or even to listen to it. Nay, they would fain fasten upon any excuse to get rid of the subject. "What signifies inquiring," say they, "into a transaction which has occurred in a different portion of the world?" As if distance or climate made any difference in an outrage upon law or justice.

One would have rather expected that the very idea of that distance; the circumstance of the event having taken place beyond the immediate scope of our laws, and out of the view of the people of this country; in possessions, where none of the inhabitants have representatives in this House, and the bulk of them have no representatives at all, one might have thought, I say that, in place of forming a ground of objection, their remote and unprotected situation would have strengthened the claims

of the oppressed to the interposition of the British legislature. Then, says another, too indolent to inquire, but prompt enough to decide, "It is true there have been a great number of petitions presented on the subject with the sanction of the London Missionary Society[2]; but then everybody knows how those petitions are procured, by what descriptions of persons they are signed, and what are the motives which we know influence a few misguided, enthusiastic men, in preparing them, and the great crowd in signing them. And, after all, it is merely about a poor missionary!" It is the first time that I have to learn that the weakness of the sufferer; his unprotected situation; his being left single and alone to contend against power exercised with violence—constitutes a reason for this House shutting its ears against all complaints of those proceedings, and refusing to investigate the treatment of the injured individual.

But it is not enough that he was a missionary; to make the subject still more unpalatable, for I will come to the point, and at once use the hateful word, he must needs also be a Methodist. I hasten to this objection, with a view at once to dispose of it. Suppose Mr. Smith had been a Methodist; what then? Does his connexion with that class of religious people, because, on some points essential in their consciences, they are separated from the national Church, alter or lessen his claims to the protection of the law? Are British subjects to be treated more or less favourably in courts of law; are they to have a larger or a smaller share in the security of life and limb, in the justice dealt out by the government, according to the religious opinions which they may happen to hold? Had he belonged to the society of the Methodists, and been employed by the members of that communion, I should have thought no worse of him or his mission, and felt nothing the less strongly for his wrongs; but, it does so happen, that neither the one nor the other of these assumptions is true: neither the Missionary Society, nor their servants, are of the Methodist persuasion.

The Society is composed indifferently of churchmen and dissenters. Mr. Smith is, or, as I unhappily must now say, was a minister, a faithful and pious minister of the Independents, that

body, much to be respected indeed for their numbers, but far more to be held in lasting veneration for the unshaken fortitude with which, in all times, they have maintained their attachment to civil and religious liberty, and, holding fast by their own principles, have carried to its uttermost pitch the great doctrine of absolute toleration; men to whose ancestors this country will ever acknowledge a boundless debt of gratitude, as long as freedom is prized among us: for they, I fearlessly proclaim it—they, with whatever ridicule some may visit their excesses, or with whatever blame others, they, with the zeal of martyrs, the purity of the early Christians, the skill and the courage of the most renowned warriors, gloriously suffered and fought and conquered for England the free constitution which she now enjoys.

True to the generous principles in church and state which won those immortal triumphs, their descendants still are seen clothed with the same amiable peculiarity of standing forward among all religious denominations, pre-eminent in toleration: so that although, in the progress of knowledge, other classes of dissenters may be approaching fast to overtake them, they still are foremost in this proud distinction. All, then, I ask of those who feel indisposed to this discussion is, that they will not allow their prepossessions, or I would rather say their indolence (for, disguise it as they will, indolence is at the bottom of this indisposition), to prevent them from entering calmly and fully into the discussion of this proceeding. It is impossible that they can overlook the unexampled solicitude which the question has excited in every class of the people out of doors. That consideration should naturally induce the House of Commons to lend its ear to the inquiry, though fully sufficient, on its own merits, to command undivided attention.

It will be my duty to examine the charge preferred against the late Mr. Smith, and the whole of the proceedings founded on that charge. And in so doing, I have no hesitation in saying, that from the beginning of those proceedings to their fatal termination, there has taken place more of illegality, more of the violation of justice—violation of justice, in substance as

well as form—than, in the whole history of modern times, I venture to assert, has ever before been witnessed in any inquiry that could be called a judicial proceeding. I have tried the experiment with every person with whom I have had an opportunity of conversing on the subject of these proceedings at Demerara, as well members of the profession to which I have the honour of belonging, as others acquainted with the state of affairs in our colonies, and I have never heard one who did not declare to me, that the more the question was looked into, the greater attention was given to its details, the more fully the whole mass was sifted—the more complete was his assent to the conviction, that there was never exhibited a greater breach, a more daring violation, of justice, or a more flagrant contempt of all those forms by which law and justice were wont to be administered, and under which the perpetrators of ordinary acts of judicial oppression are wont to hide the nakedness of their injustice [*hear, hear!]*.

It is now necessary for me to call the attention of the House to that unhappy state of things which took place at Demerara during the course of the past year. Certain instructions had been forwarded from this country to those slave colonies which are more under the control of the government than the other West-India Islands. Whether the instructions were the best calculated to fulfil the intentions of those who issued them; whether the directions had not in some points gone too far, at least in prematurely introducing the object that they had most properly in view—and whether, in other points, they did not stop short of their purpose; whether, in a country where the symbol of authority was the constantly manifested lash of the driver, it was expedient at once to withdraw that dreadful title of ownership, I shall not now stop to inquire. Suffice it to say, that those instructions arrived at Demerara on the 7th of last July, and great alarm and feverish anxiety appear to have been excited by them amongst the White part of the population. That the existence of this alarm so generally felt by the proprietors, and the arrival of some new and beneficial regulations, were understood by the domestic slaves, there cannot be a doubt. By

them the intelligence was speedily communicated to the field Negroes. All this time there was no official communication of the instructions from the colonial government. A meeting had been convened of the Court of Policy, but nothing had been made public in consequence of its assembling.

A second meeting was held, and it was understood that a difference of opinion prevailed, after a discussion, which, though not fierce, was still animated. The only means which the circumstances of the case naturally suggested do not appear to have been adopted by those at the head of affairs in Demerara. I do not impute to them any intentional disregard of duty. It is very possible that the true remedy for the mischief may have escaped them in the moment of excited apprehension—in the prevalence of general alarm, rendered more intense by the inquisitive anxiety of the slave population—an alarm and anxiety continued by the state of ignorance in which they were kept as to the real purport of the instructions from England. But most certainly, whatever was the cause, the authorities at Demerara overlooked that course of proceeding best calculated to allay at least the inquisitive anxiety of the slaves; namely, promulgating in the colony, what it really was that had been directed in the instructions of the king's ministers, even if they were not disposed at once to declare whether they would or would not carry those instructions into execution. Unhappily, they did not take that plain course. Week after week was suffered to elapse; and, up to the period when the lamentable occurrence took place, which led to these proceedings, no authentic, or, at least, authoritative communication, either of what had arrived from England, or of what was the intention of the authorities at Demerara, was made to the slaves.

This state of suspense occupied an interval of nearly seven weeks. The revolt broke out on the 18th of August. During the whole of that interval the agitation in the colony was considerable: it was of a two-fold character. There was on one side, the alarm of the planters, as to the effect of the new instructions received from His Majesty's Government; and on the other, the naturally increasing anxiety of the Negro as to the

precise purport and extent of those instructions. There existed the general impression, that some extension of grace and bounty had been made to them. In the ignorance which was so studiously maintained as to the nature of it, their hopes were proportionably excited—they knew that something had been done, and they were inquisitive to know what it was. The general conversation amongst them was, "has not our freedom come out? Is not the king of Great Britain our friend?" Various speculations occupied them: reports of particular circumstances agitated them. Each believed in the detail as his fancy or credulity led him, but to one point all their hopes and their belief pointed. "Freedom! freedom!" was the sound unceasingly heard, and which continually raised the vision on which their fancy loved to repose.

And now, allow me to take the opportunity of re-asserting the opinion which, with respect to that most important subject of emancipation, I have uniformly maintained, not only since I have had the honour of a seat in this House, but long before, with no other difference, save perhaps in the manner of the expression, correcting that manner by the experience and knowledge which a more extended intercourse with human life must naturally have bestowed. My opinion ever has been, that it is alike necessary to the security of our White brethren, and just, and even merciful, to the Negroes—those victims of a long-continued system of cruelty, impolicy, and injustice—to maintain firmly the legal authorities, and, with that view, to avoid, in our relations with the slaves, a wavering uncertain policy, keeping them in a condition of doubt and solicitude, calculated to work their own discomfort, and the disquiet of their masters. Justice to the Whites, mercy to the Blacks, command us to protect the first from the effect of such alarms, and the last from the expectation, that, in the hapless condition in which they are placed, their emancipation can be obtained—meaning thereby their sudden unprepared emancipation, effected by violent measures or with an unjustifiable haste, and without previous instruction.

The realization of such a hope, though carrying the name of a boon, would inflict the severest misery on these beings, whose condition is already too wretched to require, or indeed to bear, any increase of calamity. It is for the sake of the Blacks themselves, as subsidiary to their own improvement, that the present state of things must for a time be maintained. It is because to them, the bulk of our fellow subjects in the colonies, liberty, if suddenly given, and, still-more, if violently obtained by men yet unprepared to receive it, would be a curse, and not a blessing; that emancipation must be the work of time, and, above all, must not be wrested forcibly from their masters [*hear, hear!]*.

Reverting to the occurrences at Demerara, it is undeniable that a great and unnecessary delay took place. This inevitably, therefore, gave rise to those fatal proceedings, which all of us, however, we may differ as to the causes from which they originated, must unfeignedly deplore. It appears that Mr. Smith had officiated in the colony of Demerara for seven years. He had maintained, during his whole life, a character of the most unimpeachable moral purity, which had won not alone the love and veneration of his own immediate flock, but had procured him the respect and consideration of almost all who resided in his neighbourhood. Indeed, there was not a duty of his ministry that he had not discharged with fidelity and zeal. That this was his character is evident even from the papers laid upon the table of that House. These documents, however, disclose but a part of the truth on that point. Before I sit down I shall have occasion to advert to other sources, which show that the character of Mr. Smith was such as I have described it; and that those who were best qualified to form an opinion, had borne the highest testimony to his virtuous and meritorious labours.

Yet this Christian minister, thus usefully employed was dragged from his house, three days after the revolt began, and when it had been substantially quelled, with an indecent haste that allowed not the accommodation even of those clothes which, in all climates, are necessary to human comfort, but which, in a tropical climate, were absolutely essential to health.

He was dragged, too, from his home and his family at a time when his life was attacked by a disease which, in all probability, would in any circumstances, have ended in his dissolution; but which the treatment he then received powerfully assisted in its fatal progress. He was first imprisoned, in that sultry climate, in an unwholesome fetid room, exposed to the heat of the sun. This situation was afterwards changed, and he was conveyed to a place only suited to the purposes of torture, a kind of damp dungeon, where the floor was over stagnant water, visible through the wide crevices of the boards.

When Mr. Smith was about to be seized, he was first approached with the hollow demand of the officer who apprehended him, commanding him to join the militia of the district. To this he pleaded his inability to serve in that capacity, as well as an exemption founded on the rights of his clerical character. Under the pretext of this refusal, his person was arrested, and his papers were demanded, and taken possession of. Amongst them was his private journal; a part of which was written with the intention of being communicated to his employers alone, while the remaining part was intended for no human eye but his own. In this state of imprisonment he was detained, although the revolt was then entirely quelled.

That it was so quelled is ascertained from the despatches of General Murray to Earl Bathurst[3], dated the 26th of August. At least the despatch of that date admits, that the public tranquillity was nearly restored; and at all events, by subsequent despatches, of the date of the 30th and 31st, it appears that no further disturbance had taken place; nor was there from that time any insurrectionary movement whatever. At that period the colony was in the enjoyment of its accustomed tranquillity, barring always those chances of relapse, which in such a state of public feeling, and in such a structure of society, must be supposed always to exist, and to make the recurrence of irritation and tumult more or less probable. Martial law, it will be recollected, was proclaimed on the 19th of August, and was continued to the 15th January

following—five calendar months, although there is the most unquestionable proof, that the revolt had subsided, and indeed that all appearance of it had vanished.

In a prison such as has been described, Mr. Smith remained until the 14th day of October. Then, when every pretence of real and immediate danger was over; when everything like apprehension, save from the state of colonial society, was removed; it was thought fit to bring to trial, by a military court-martial, this minister of the gospel! I shall now view the outside of that court-martial; it is fit that we look at its external appearance, examine the foundations on which it rests, and the structures connected with it, before we enter and survey the things perpetrated within its walls—I know that the general answer to all which has been hitherto alleged on this subject is, that martial law had been proclaimed in Demerara. But, Sir, I do not profess to understand, as a lawyer, martial law of such a description; it is entirely unknown to the law of England—I do not mean to say in the bad times of our history, but in that more recent period which is called constitutional.

It is very true, that formerly the Crown sometimes issued proclamations, by virtue of which civil offences were tried before military tribunals. The most remarkable instance of that description, and the nearest precedent to the case under our consideration, was the well-known proclamation of the august, pious, and humane Philip and Mary, stigmatizing as rebellion, and as an act which should subject the offender to be tried by a court-martial, the having heretical, that is to say, Protestant, books in one's possession, and not giving them up without previously reading them. Similar proclamations, although not so extravagant in their character, were issued by Elizabeth, by James I, and (of a less violent nature) by Charles I; until at length the evil became so unbearable that there arose from it the celebrated Petition of Right, one of the best legacies left to his country by that illustrious lawyer, Lord Coke, to whom every man who loves the constitution owes a debt of gratitude which unceasing veneration for his memory can never pay. The petition declares, that all such proceedings shall henceforward

be put down. It declares that "no man shall be fore-judged of life or limb against the form of the Great Charter;" that "no man ought to be adjudged to death but by the laws established in this realm, either by the custom of the realm, or by acts of parliament;" and that "the commissions for proceeding by martial law should be revoked and annulled, lest, by colour of them, any of His Majesty's subjects be destroyed or put to death, contrary to the laws and franchise of the land."

Since that time, no such thing as martial law has been recognized in this country; and courts founded on proclamations of martial law; have been wholly unknown. And here I beg to observe, that the particular grievances at which the Petition of Right was levelled, were only the trials under martial law of military persons, or of individuals accompanying, or in some manner connected with, military persons. On the abolition of martial law, what was substituted? In those days, a standing army in time of peace, was considered a solecism in the constitution. Accordingly, the whole course of our legislation proceeded on the principle, that no such establishment was recognised. Afterwards came the annual Mutiny Acts, and courts martial, which were held only under those acts. These courts were restricted to the trial of soldiers for military offences; and the extent of their powers was pointed out and limited by law.

But I will not go further into the consideration of this delicate constitutional question; for the present case does not rest on any niceties—it depends not on any fine-spun decisions with respect to the law. If it should be said that in the conquered colonies, the law of the foreign state may be allowed to prevail over that of England, I reply that the Crown has no right to conquer a colony and then import into its constitution all manner of strange and monstrous usages. If the contrary were admitted, the Crown would only have to resort first to one coast of Africa, and then to another, and afterwards to the shores of the Pacific, and import the various customs of the barbarous people whom it might subdue; torture from one; the scalping knife and tomahawk from another; from a third, the

regal prerogative of paving the palace court with the skulls of the subject. All the prodigious and unutterable practices of the most savage nations might thus be naturalized by an act of the Crown, without the concurrence of parliament, and to the detriment of all British subjects born, or resident, or settling for a season, in those new dominions.

Nothing, however, is more clear, than that no practice inconsistent with the fundamental principles of the constitution—such, for instance, as the recourse to torture for the purpose of obtaining evidence, can ever be imported into a colony by any act of conquest. But every consideration of this nature is unnecessary on the present occasion; for this court was an English court-martial. The title by which it claimed to sit was the Mutiny Act, and the law of England. The members of the court are estopped from pleading the Dutch law, as that on which their proceedings were founded. They are estopped, because they relied for their right to sit on our own Mutiny Act, which is time after time referred to; and they cannot now argue that they proceeded on any other basis.

Let us now look for a few moments at the operations which preceded the trial of this poor missionary. He was, as I have just stated, tried by a court-martial; and we are told by General Murray in his despatch of October 21, that it was all the better for him—for that, if he had been tried in any other manner, he might have found a more prejudiced tribunal. Now, Sir, I have no hesitation in saying, that if I had been the party accused, or of counsel for the party accused, I would at once have preferred a civil jurisdiction to the very anomalous proceeding that took place. First of all, I should have gained delay which, in most cases, is a great advantage to the accused. In this particular case, it might have proved of inestimable benefit to him, as the fever of party rage and personal hostility would have been suffered gradually to subside. By proceeding under the civil jurisdiction, the addition of the Roman law to that of the common law necessarily occasioned great prolixity in the trial.

Months must have elapsed during those proceedings, and at every step the accused would have had a chance of escape. All

this would have been of incalculable value; and all this was lost to the accused, by his being brought before a summary military tribunal. The evidence of slaves was admitted by the court without doubt or contest—a point, however, on which I do not much rely; for I understand that in Demerara the usage in this respect differs from the usage of some other colonies, and that the evidence of Negroes against Whites is considered admissible, although it is not frequently resorted to. Still, however, there is this difference as respects such evidence between a civil and a military court: in the latter, it is received at once, without hesitation; whereas, if the matter is brought before a civil jurisdiction, a preliminary proceeding must take place respecting the admissibility of each witness. His evidence is compared with the evidence of other witnesses, or parts of his evidence are compared with other parts, and on the occurrence of any considerable discrepancy the evidence of that witness is finally refused. There are also previous proceedings, had the subject been brought before a civil jurisdiction, which might have had this effect: a discussion takes place before the chief justice and two assistants, on the admissibility of witnesses, who are not admitted as evidence in the cause until after a preliminary examination; and I understand, that the circumstance of a witness being a slave, whose evidence is to be adduced against a White man, in cases of doubt, always weighs in the balance against his admissibility.

But I pass all this over. I rest the case only on that which is clear, undeniable, unquestioned. By the course of the civil law, two witnesses are indispensably required to substantiate any charge against the accused. Let anyone read the evidence on this trial, and say, how greatly the observance of such a rule would have improved the condition of the prisoner. Last of all, if the accused had been tried at common law, he would have had the advantage of a learned person presiding over the court, as the chief justice, who must have been individually and professionally responsible for his conduct; who would have acted in the face of the whole bar of the colony; who would also have acted in the face of that renowned English bar to

which he once belonged, and to which he might return, and whose judgment, therefore, even when removed from them by the breadth of the Atlantic, he would not have disregarded, while he retained the feelings of a man, and the character of an English advocate. He would have acted in the face of the whole world as an individual, doubtless not without assistance, but with the assistance of laymen only, who would not have divided the responsibility with him. He would, in every essential particular, have stood forth single and supreme, in the eyes of the rest of mankind, as the judge who tried the prisoner. In such circumstances, he must have conducted himself with an entire regard to his professional character, to his responsibility as a judge, and his credit as a lawyer.

Now, Sir, let us look at the constitution of the court before which Mr. Smith was actually tried. Upon a reference to the individuals of whom it was composed, I find what certainly appears most strange, the president of the civil court taking upon himself the functions of a member of the court-martial under the name of an officer of the militia staff. It appears to be the fact that this learned individual was invested with the rank and degree of lieutenant-colonel of the militia a few days before the assembling of the court-martial, in order that he, a lawyer and a civil judge, might sit as a military judge and a soldier! Sir, he must have done this by compulsion. Martial law was established in the colony by the power to which he owed obedience. He could not resist the mandate of the Governor. He was bound, in compliance with that mandate, to hide his civic garb, his forensic robe, under martial armour. As the aide-de-camp of the Governor, he was compelled to act a mixed character—part lawyer, part soldier. He was the only lawyer in a court where a majority of military overwhelmed him. Having no responsibility, he abandoned—or was compelled to sit helpless and unresisting, and see others abandoning—principles and forms which he could not, which he would not, which he durst not, have abandoned, had he been sitting alone in his own court, in his ermined robe, administering the civil law.

After this strange fact respecting the members of the court, it is not surprising that one as strange should appear with regard to the subordinate officers. The judge-advocate of a court-martial, although certainly sometimes standing in the situation of a prosecutor, nevertheless, in all well-regulated courts-martial, never forgets that he also stands between the prisoner and the bench. He is rather, indeed, in the character of an assessor to the court. On this point, I might appeal to the highest authority present. By you, Sir, these important functions were long, and correctly, and constitutionally performed: and in a manner equally beneficial to the army and to the country.

But I may appeal to another authority, from which no one will be inclined to dissent. A reverend judge, Mr. Justice Bathurst, in the middle of the last century, laid it down as clear and indisputable, that the office of a judge-advocate was, to lay the proof on both sides before the court; and that whenever the evidence was at all doubtful, it was his duty to incline towards the prisoner. No such disposition, however, appears in this judge-advocate. I should rather say in these judge-advocates; for, one not being considered enough, two deputies were appointed to assist him. These individuals exercised all their address, their caution, and their subtlety, against the unfortunate prisoner, with a degree of zeal bordering upon acrimony. Indeed, the vehemence of the prosecution was unexampled. I never met with anything equal to it; and I am persuaded, that if any such warmth had been exhibited before a civil judge by a prosecuting counsel, he would have frowned it down with sudden indignation.

In the first instance, the judge-advocate concealed the precise nature of the accusation. The charges were so artfully drawn up, as to give no notice to the prisoner of the specific accusation against him. They were drawn up shortly, vaguely, and obscurely; but short, vague, and obscure as they were, they were far from being as short, as vague, and as obscure as the opening speech of the prosecutor. That speech occupies about half a page in the minutes of the trial which yet give it

verbatim. But, scarcely had the prisoner closed his defence, than a speech was pronounced, on the part of the prosecution, which eighteen pages of the minutes scarcely contain. In this reply the utmost subtlety is exhibited. Topic is urged after topic with the greatest art and contrivance. Everything is twisted for the purpose of obtaining conviction; and, which is the most monstrous thing of all, when the prisoner can no longer reply, new facts are detailed, new dates specified, and new persons introduced, which were never mentioned, or even hinted at, on any one of the twenty-seven preceding days of the trial. Again, Sir, I say, that had I been the accused person, or his counsel, I would rather a thousand-fold have been tried by the ordinary course of the civil law, than by such a court.

To return, however, to its composition. I rejoice to observe, that the president of the supreme civil judicature, although he was so unwise as to allow his name to be placed on the list of the members, or so unfortunate as to be compelled to do so, refused to preside over the deliberations of this court. Although he was the person of the highest rank next to the Governor, and although in a judicial inquiry he must naturally have been more skilful and experienced than any man in the colony, nevertheless there he is in the list among the ordinary members of the court; and as he must have been appointed to preside, but for his own repugnance to the office, I am entitled to conclude that he refused it with a firmness not to be overcome. Against the other members I have nothing whatever to say. The president of the court, however, was Lieutenant-Colonel Goodman. Now, that gallant officer, than whom I believe no man bears a higher character, unfortunately, beside bearing His Majesty's commission, holds an office in the colony of Demerara which rendered him the last man in the world who ought to have been selected as president of such a judicature.

Let the House, Sir, observe that the reason assigned by Governor Murray for subjecting Mr. Smith to a trial before such a tribunal was not only that he might have in reality a fair trial, but that he might not even appear to be the victim of local prejudice, which it seems would have been surmised had his

case been submitted to a jury or a court of planters. How is it, then, that with this feeling the Governor could name Lieutenant-Colonel Goodman to be president of the court? For that gallant officer does, in point of fact, happen to hold the situation of Vendue-master in the colony of Demerara, without profit to whom not a single slave can be sold by any sale carried on under the authority of the courts of justice. Accordingly, it did so turn out that a few-days before the breaking out of the revolt, there were advertised great sales of Negroes by auction, which most naturally excited sorrow and discontent among many of the slaves. There was one sale of fifty-six of these hapless beings, who were to be torn from the place of their birth and residence, and perhaps separated forever from their nearest and dearest connexions.

I hold in my hand a *Colonial Gazette*, containing many advertisements of such sales, and to every one of them I find attached the signature "S. A. Goodman." One of the advertisements that I think for the sale of fifty-six Negroes states that among the number there are many "valuable carpenters, boat-builders, etc., well worthy the attention of the public." Another speaks of several prime single men. One party of slaves consists of a woman and her three children. Another advertisement offers a young female slave who is pregnant. Upon the whole, there appear to have been seventy or eighty slaves advertised to be sold by auction in this single *Gazette*, in whose sale Lieutenant-Colonel Goodman, from the nature of his office, had a direct interest.

I do not for a moment affirm that this circumstance was likely to warp his judgment. Probably, indeed, he was not personally aware of it at the time. But I repeat, that, if this proceeding were intended to be free from all suspicion, Lieutenant-Colonel Goodman was one of the last men to select as the president of the court. That, however, is nothing compared to the appointment of the Chief Justice of the colony as one of its members. He, the civil judge of the colony, to be forced to sit as member of a court-martial and under the disguise of a militia officer, by way of a qualification! He to

whom an appeal lay against any abuse of which that court-martial might be guilty! From whom but from him could Mr. Smith have obtained redress for any violation of law committed in his person? Yet, as if for the express purpose of shutting the door against the possibility of justice, he is taken by the Governor and compelled to be a member of the court. That this tribunal might at once be clothed with the authority of the laws which it was about to break, and exempted from all risk of answering to those laws for breaking them, the only magistrate who could vindicate or enforce them is identified with the court, and so outnumbered by military associates, as to be incapable of controverting, or even influencing, its decision, while his presence gives them the semblance of lawful authority, and places them beyond the reach of legal revision.

Sir, one word more, before I advert to the proceedings of the court, on the nature of its jurisdiction. Suppose I were ready to admit that, on the pressure of a great emergency, such as invasion or rebellion, when there is no time for the slow and cumbrous proceedings of the civil law, a proclamation may justifiably be issued for excluding the ordinary tribunals, and directing that offences should be tried by a military court: such a proceeding might be justified by necessity; but it could rest on that alone. Created by necessity, necessity must limit its continuance. It would be the worst of all conceivable grievances—it would be a calamity unspeakable—if the whole law and constitution of England were suspended one hour longer than the most imperious necessity demanded.

And yet martial law was continued in Demerara for five months. In the midst of tranquillity, that offence against the constitution was perpetrated for months, which nothing but the most urgent necessity could warrant for an hour. An individual in civil life, a subject of His Majesty, a clergyman, was tried at a moment of perfect peace, as if rebellion raged in the country. He was tried as if he had been a soldier. I know that the proclamation of martial law renders every man liable to be treated as a soldier. But the instant the necessity ceases, that instant the state of soldiership ought to cease, and the rights,

with the relations of civil life to be restored. Only see the consequences which might have followed the course that was adopted. Only mark the dilemma in which the Governor might have found himself placed by his own acts. The only justification of the court martial was his proclamation.

Had that court sat at the moment of danger, there would have been less ground for complaint against it. But it did not assemble until the emergency had ceased; and it then sat for eight-and-twenty days. Suppose a necessity had existed at the commencement of the trial, but that in the course of the eight-and-twenty days it had ceased—suppose a necessity had existed in the first week, who could predict that it would not cease before the second? If it had ceased with the first week of the trial, what would have been the situation of the Governor? The sitting of the court-martial, at all, could be justified only by the proclamation of martial law; yet it became the duty of the Governor to revoke that proclamation. Either, therefore, the court-martial must be continued without any warrant or colour of law, or the proclamation of martial law must be continued only to legalize the prolonged existence of the court-martial. If, at any moment before its proceedings were brought to a close, the urgent pressure had ceased which alone justified their being instituted, according to the assumption I am making in favour of the court, and for argument's sake; then to continue martial law an hour longer would have been the most grievous oppression, the plainest violation of all law; and to abrogate martial law would have been fatal to the continuance of the trial. But the truth is, that the court has no right even to this assumption, little beneficial as it proves; for long before the proceedings commenced, all the pressure, if it ever existed, was entirely at an end.

I now, Sir, beg the House will look with me for a moment at the course of proceeding which the court, constituted in the manner and in the circumstances that I have described, thought fit to adopt. If I have shown that they had no authority, and that they tried this clergyman illegally, not having any jurisdiction, I think I can prove as satisfactorily that their proceedings were

not founded on any grounds of justice, or principles of law, as I have proved that the court itself was without a proper jurisdiction. And here I beg leave to observe that the minutes of the proceedings on the table of the House are by no means full, although I do not say they are false. They do not misrepresent what occurred but they are very far, indeed, from telling all that did occur; and the omissions are of a material description. For instance, there is a class of questions which it is not usual to permit in courts of justice, called leading questions, the object of which is, to put into the witness's mouth the answers which the examiner desires he should make. This is in itself objectionable; but the objection is doubled if in a report of the examination the questions are omitted, and the answers are represented as flowing spontaneously from the witness and as being the result of his own recollection of the fact instead of the suggestions of another person.

I will illustrate what I mean by an example. On the fifth day of the trial, Bristol, one of the witnesses, has this question put to him: "You stated, that, after the service was over, you stayed near the chapel, and that Quamina was there: did you hear Quamina tell the people what they were to do?" To that the answer is, "No, Sir." The next question but one is, "Did you hear Quamina tell the other Negroes, that on the next Monday they were all to lay down their tools and not work?" To which the witness (notwithstanding his former negative) says, "Yes, I heard Quamina say so a week before the revolt broke out."

Now, in the minutes of evidence laid on the table of the House, both the questions and the answer to the first are omitted, and the witness is described as, saying, without any previous prompting, "A week before this revolt broke out, I heard Quamina tell the Negroes that they were to lay down their tools and not work" [*hear, hear!*].

The next instance which I shall adduce, of the impropriety of the proceedings of the court, is very remarkable, comprehending, as it does, almost all that I can conceive of gross unfairness and irregularity: I mean the way in which the court attended to that which, for want of a better word, I shall

call hearsay evidence; although it is so much worse in its nature than anything which, in the civil and even the military courts of this country, we are accustomed to stigmatize and reject under this title, that I feel I am calumniating the latter by the assimilation. In the proceedings before this court at Demerara the hearsay is three or four deep. One witness is asked what he has heard another person say was imputed to a third. Such evidence as that is freely admitted by the court in a part of its proceedings. But before I show where the line was drawn in this respect, I must quote a specimen or two of what I have just been adverting to. In the same page from which I derived my last quotation, the following questions and answers occur:

> "How long was it that Quamina remained there?
>
> "Three days. They said some of the people had gone down to speak to Mr. Edmonstone; that Jack had gone with them."
>
> "Do you know what has become of him (Quamina)?"
>
> "After I came here, I heard he was shot by the bucks, and gibbetted about Success middle path."

And this, Sir, is the more material, as the whole charge against Mr. Smith rested on Quamina's being an insurgent, and Mr. Smith's knowing it. So that we are here not on the mere out-works, but in the very centre and heart of the case. And this charge, be it observed, was made against Mr. Smith after Quamina was shot. It would appear, indeed, that in these colonies it was sufficient evidence of a man's being a revolter that he was first shot and afterwards gibbetted. In one part of the examination, a witness is asked, "Do you know that Quamina was a revolter?" The witness answers in the affirmative. The next question is, "How do you know it?" Now, mark, the witness is asked, not as to any rumour, but as to his own knowledge; his answer is, "I know it, because I heard they took him up before the revolt begun!" [*cries of hear, hear! and a laugh.]* This evidence is to be found in pages 24 and 25 of the London Missionary Society's Report of the Proceedings.

In page 35 of the same publication, I find the following questions and answers in the evidence of Mr. McTurk: "Where

were you on that day (the 18th of August?)"—"On Plantation Felicity, until five in the afternoon." —"Did anything particular occur on that day?"—"I was informed—I was informed by a Coloured man, about four o'clock, that the Negroes intended revolting that evening; and he gave me the names of two, said to be ringleaders, viz. Cato and Quamina of Plantation Success." Here, Sir, we have a specimen of the nature of the evidence adduced upon this most extraordinary trial.

In pages 101 and 102 of the Missionary Society's Report, I find the following pages in the evidence of John Stewart, the manager of plantation Success; and be it in the recollection of the House that the questions were put by the court itself before which this unfortunate man was tried:

> "Did Quamina, Jack, Bethney, Britton, Dick, Frank, Hamilton, Jessamine, Quaco, Ralph, and Windsor, belong to Plantation Success at the time of the revolt?"
>
> "Yes."
>
> "Did any of these attend the chapel?"
>
> "The whole of these, except Ralph.
>
> "Have the whole, or any of these, except Quamina, been tried by a court-martial, and proved to have been actually engaged in the rebellion?"
>
> "I have been present at the trial of Ralph and Jack and I have seen Ralph, Jack, Jessamine, Bethney and Dick, but have heard only of the others."
>
> "Who was the most active of the insurgents in the revolt on Plantation Success?"
>
> "Richard was the most desperate and resolute; Bethney and Jessamine were very active, and all those mentioned, except Quamina and Jack, whom I did not see do any harm; they were keeping the rest back and preventing them doing any injury to me."

The court goes on to ask, "Was not Quamina a reputed leader (I beg the House to mark the word reputed) in the revolt?—I heard him to be such; but I did not see him."

Here, then, we have hearsay evidence with a vengeance; reputation proved by rumour; what a man is reputed to be—which would be no evidence of his being so if you had it at first hand—proved by what another has heard unknown persons

say—which would be no evidence of his being reputed so, if reputation were proof. There are here at least two stages from anything like evidence; but there may be a great many more. The witness had heard that Quamina had been a reputed leader; but how many removes there were in this reputed charge we are unable to learn [*hear, hear!]*.

I next come to the evidence of the Rev. William Austin and I find, in page 112, that on the cross examination by the judge advocate ample provision is made for letting in this evidence of repute and hearsay. The judge-advocate says:

> "Did any of these Negroes ever insinuate that their misfortunes were occasioned by the prisoner's influence on them, or the doctrines he taught them?"
>
> "I have been sitting for some time as a member of the committee of inquiry; the idea occurs to me that circumstances have been detailed there against the prisoner, but never to myself individually in my ministerial capacity."

This line of examination is too promising, too likely to be fruitful in irregularity, for the court to pass over. They instantly take it up and, very unnecessarily distrusting the zeal of the judge-advocate, pursue it themselves. By the court: "Can you take upon yourself to swear that you do not recollect any insinuations of that sort at the Board of Evidence?" The witness here objected to the question because he did not conceive himself at liberty to divulge what had passed before the board of inquiry, but particularly to the form or wording of the question which he considered highly injurious to him. The president insisted (for it was too much to expect that even the chaplain of the government should find favour before that tribunal) upon the reverend witness's answering the question, observing that the court was the best judge of its propriety. The witness then respectfully requested the opinion of the court and it was cleared.

Upon re-entering, the assistant judge-advocate said, "The court is of opinion that you are bound to answer questions put by the court, even though they relate to matters stated before

the Board of Evidence." And, again, the opportunity is eagerly seized of letting in reputation and hearsay evidence. The court itself asks:—"Did you hear before the Board of Evidence any Negro imputing the cause of the revolt to the prisoner?"—"Yes, I have."

I shall now state to the House some facts with which they are, perhaps, unacquainted, as it was not until late on Saturday that the papers were delivered. Amongst the many strange things which took place, not the least singular was that the prisoner had no counsel allowed until it was too late to protect him against the jurisdiction of the court. Most faithfully and most ably did that learned person perform his duty when he was appointed; but had he acted from the beginning he, doubtless, would have objected at once to the power of the court as I should have done, had I been the missionary's defender. I should have protested against the manner in which the court was constituted; I should have objected that the men who sat in judgment in that case had previously sat upon many other cases where the same evidence, mixed with different matter not now produced but all confounded together in their recollection, had been repeated over and over for the conviction of other persons [*hear, hear!*]. I ask this House whether it was probable that the persons who formed that court should have come to the present inquiry with pure, unprejudiced, and impartial judgments, or even with their memories tolerably clear and distinct? I say it was impossible and, therefore, that they ought not to have sat in judgment upon this poor missionary at all.

But, is this the only grievance? Have I not also to complain of the manner in which the judge-advocate and the court allowed hearsay evidence to be offered to the third, the fourth, aye, even to the fifth degree? Look, Sir, to what was done with respect to the confession, as they called it, of the Negro Paris. I do not wish to trouble the House by reading that confession. It will be sufficient to state that finding his conviction certain, and perhaps judging but too truly from the spirit of the court that his best chance of safety lay in impeaching Mr. Smith, he at once

avows his guilt, makes what is called a full confession, and throws himself upon the mercy of the court. This done, he goes on with one of—I will say not merely the falsest—but one of the wildest and most impossible tales that ever entered into the mind of man, or that could be put to the credulity even of this court of soldiers. And yet, upon the trial of Mr. Smith, the confession of this man was kept back by the prosecutors; that is to say, it was not allowed to be directly introduced but was introduced by means of the questions I have last read, as matter of hearsay, which had reached different persons through various and indirect channels. In that confession, Paris falsely says, that Mr. Smith administered the sacrament to them (the form of which he describes) on the day preceding the revolt; and that he then exhorted them to be of good heart, to exert themselves to regain their freedom, for if they failed then, they would never succeed in obtaining it.

He says, in another place, that Mr. Smith asked him whether, if the Negroes conquered the colony, they would do any harm to him; to which Paris replied in the negative. Now, Sir, only mark the inconsistency of this man's confession. In one place Mr. Smith is represented as anxious for his personal safety and yet, in almost the same breath, it is said that this very Mr. Smith was the ringleader of the revolt—the adviser and planner of the insurrection—the man who joined Mr. Hamilton in recommending that the Negroes should destroy the bridges to prevent the Whites from bringing up cannon to attack them [*hear, hear!*].

This Negro is made to say, "I heard Mr. Hamilton say that the president's wife should be his in a few days; then Jack said the Governor's wife was to be his father's wife; and that if any young ladies were living with her, or she had a sister, he would take one for his wife." Mr. Smith is pointed out as the future emperor; Mr. Hamilton was to be a general, and several others were to held high offices of different descriptions. Again. Mr. Smith is made to state that, unless the Negroes fought for their liberty upon that occasion, their children's children would never attain it. Now, I ask, is this story probable? Is there

anything like the shadow of truth in it? I said just now that there was no direct mention of Paris's evidence on the trial; it was found too gross a fabrication to be produced. There were several others who, before the Board of Evidence, had given testimony similar to this but somewhat less glaringly improbable; but their testimony also was kept back and they themselves were sent to speedy execution. The evidence of Sandy was not quite so strong but he, as well as Paris, was suddenly put out of the way.

The tales of these witnesses bear palpable and extravagant perjury upon the face of them; they were therefore not brought forward, but the prosecutors, or rather the court, did that by insinuation and side-wind which they dared not openly to attempt. I say that the court did this; the court, well knowing that no such witnesses as Paris and Sandy could be brought forward—men, the excesses of whose falsehoods utterly counteracted their effect—contrived to obtain the whole benefit of their statements, unexposed to the risk of detection by the notable device of asking one who had heard them a general question as to their substance; the prisoner against whom this evidence was given, having no knowledge of the particulars, and no means of showing the falsehood of what was told, by questioning upon the part which was suppressed: "Did you hear any Negro, before the Board of Evidence, impute the cause of the revolt to the prisoner?" When compelled to answer this monstrous question, the witness could only say, "Yes." He had heard Negroes impute the cause to the prisoner; but they were the Negroes Paris and Sandy (and those who put this unheard-of question knew it, but he against whom the answer was levelled knew it not)—Paris and Sandy, whose whole tale was such a tissue of enormous falsehoods as only required to be heard to be rejected in an instant; and whose evidence for that reason had been carefully suppressed.

Having said so much with respect to the nature of the evidence offered against the prisoner and had occasion to speak of the confessions, I shall now call the attention of the House to a letter which has been received from a gentleman of the

highest respectability and entitled to the most implicit credit, but whose name I omit to mention because he is still resident in the colony. If, however, any doubt should attach to his statement, I shall at once remove it by mentioning the name of a gentleman to whom reference can be had on the subject—I mean the Rev. Mr. Austin. He is a man who had no prejudices or prepossessions on the subject; he is a clergyman of the Church of England, chaplain of the colony, and I believe the curate of the only English established church to which 77,000 slaves can have recourse for religious instruction. I mention this in passing, only for the purpose of showing that if the slaves are to receive instruction at all, they must receive it in a great degree from members of the Missionary Society. [*The honourable and learned member here read a letter in which it was stated that the Rev. Mr. Austin had received the last confession of Paris who stated that Mr. Smith was innocent, and he (Paris) prayed that God would forgive him the lies that Mr.— had prevailed upon him to tell*.]

I shall not mention the name of the person alluded to by Paris; it is sufficient at present to say, that he took a most active part in getting up the prosecution against this poor missionary [*hear, hear*!]. The letter goes on to state, that similar confessions had been made by Jack and Sandy. The latter had been arrested and sent along the coast to be executed without Mr. Austin's knowledge (as it appeared, from a wish to prevent him from receiving his confession); but that gentleman, hearing of the circumstance, proceeded with all speed to the spot and received his confession to the above effect. He also went to see Jack who informed him that Mr. Smith was innocent and that he (Jack) had said nothing against him but what he had been told by others [*hear, hear!*].

Now I beg the House to attend to what Jack, at his trial, said against Mr. Smith—statements which had been put into his mouth by persons who wished to injure Mr. Smith and bring the characters of missionaries generally into disrepute. This poor wretch said that he had lived thirty years on the Success estate and that he would not have acted as he had done if he had

not been told that the Negroes were entitled to their freedom, but that their masters kept it from them.

He went on to say that not only the deacons belonging to Bethel Chapel, but even Mr. Smith himself had affirmed this and were acquainted with the fact of the intended revolt; and this he stated as if, instead of being on his own trial, he was a witness against Mr. Smith. He also threw himself on the mercy of the court.

Now, what did the court do? They immediately examined a Mr. Herbert and another gentleman as to this confession. The former stated that he took the substance of the confession down in his own language to a certain point; the rest was taken down by a gentleman whom I refrain from naming, but who, I am bound to say, deserves no great credit for the part which he acted in this unfortunate scene.

Jack, in this defence, thus prepared, and thus anxiously certified, says:

> "I am satisfied I have had a fair trial. I have seen the anxiety with which every member of this court-martial has attended to the evidence, and the patience with which they have listened to my cross-examination of the witnesses. From the hour I was made prisoner by Captain McTurk up to this time, I have received the most humane treatment from all the Whites; nor have I had a single insulting expression from a White man, either in prison or anywhere else. Before this court I solemnly avow that many of the lessons and discourses taught and the parts of scripture selected for us in chapel tended to make us dissatisfied with our situation as slaves; and, had there been no Methodists on the East Coast, there would have been no revolt, as you must have discovered by the evidence before you.
>
> "The deepest concerned in the revolt were the Negroes most in Parson Smith's confidence. The half sort of instruction we received I now see was highly improper. It put those who could read on examining the Bible and selecting passages applicable to our situation as slaves; and the promises held out therein were, as we imagined, fit to be applied to our situation and served to make us dissatisfied and irritated against our owners, as we were not always able to make out the real meaning of these passages. For this I refer to my brother-in-law Bristol, if I am speaking the truth or not. I would not have avowed this to you now, were I not sensible that I ought to make every atonement for my

past conduct, and put you on your guard in future" [*hear, hear! and a laugh*].

Wonderful indeed are the effects of prison discipline within the tropics! I would [wish] my honourable friend, the member for Shrewsbury, were here to witness them. Little indeed does he dream of the sudden change which a few weeks of a West Indian dungeon can effect upon a poor, rude, untutored African! How swiftly it transmutes him into a reasoning, speculating creature, calmly philosophizing upon the evils of half education, and expressing himself in all but the words of our poet, upon the dangers of "a little learning;" yet evincing by his own example, contrary to the poet's maxim, how wholesome a "shallow draught" may prove when followed by the repose of the gaol! Sir, I defy the most simple of mankind to be for an instant deceived by this mean and clumsy fabrication. Every line of it speaks its origin and demonstrates the base artifices to which the missionary's enemies had recourse by putting charges against him into the mouth of another prisoner, trembling upon his trial, and crouching beneath their remorseless power.

I have stated that, up to a certain point, the court received hearsay evidence and with unrestricted liberality. But the time was soon to come when a new light should break in, and the eyes of those just judges be opened to the strict rules of evidence, and everything like hearsay he rejected. In page 116, I find that when the prisoner was questioning Mr. Elliot as to what another person, Mr. Hopkinson, had said, an objection was taken, the court was cleared and, on being re-opened, the assistant judge-advocate thus addressed Mr. Smith: "The court has ordered me to say, that you must confine yourself to the strict rules of evidence; and that hearsay evidence will not in future be received." [*hear, hear!*]—"Will not in future be received!" [*loud cheering*].

Up to that period it had been received; nay, the judges themselves had put the very worst questions of that description. I say that great as had been the blame due to the judge-advocate

upon this occasion; violent, partial, unjust and cruel as had been his conduct towards the prisoner, much as he had exceeded the limits of his duty; flagrantly as he had throughout wronged the prisoner in the discharge—I was about to say in the breach—of his official duty; and much and grievously culpable as were some other persons to whom I have alluded, their conduct was decorous in itself and harmless in its consequences, compared with the irregularity, the gross injustice, of the judges who presided [*hear, hear!*].

Well, then, those same judges, when the prosecutor's case was closed, and sufficient matter was supposed to have been obtained by the most unblushing contempt of all rules, from the cross-examination of the prisoner's witnesses, suddenly clothed themselves with the utmost respect for those same rules in order to hamper the prisoner in his defence which they had systematically violated in order to assist his prosecution. After admitting all hearsay, however remote, after labouring to overwhelm him with rumour and imputation, and reports of reputation, and insinuation at second hand, they strictly prohibited everything like hearsay where it might avail him for his defence. Nay, in their eagerness to adopt the new course of proceeding and strain the strict rules of law to the uttermost against him, they actually excluded, under the name of hearsay, that which was legitimate evidence.

The very next question put by Mr. Smith went to show that he had not concealed the movements of the slaves from the manager of the estate; the principal charge against him being concealment from "the owners, managers, and other authorities." "Did any conversation pass on that occasion between Mr. Stewart, yourself and the prisoner relative to Negroes, and if so, will you relate it?"—Rejected. "Did the prisoner tell Mr. Stewart that several of the Negroes had been to inquire concerning their freedom which they found had come out for them?"—Rejected. These questions, and several others which referred to the very essence of the charge against him, were rejected.

How, then, can any effrontery make men say that this poor missionary had an impartial trial? To crown so glaring an act of injustice can anything be wanting? But if it were, we have it here. The court resolved that its worst acts should not appear on the minutes. It suppressed those questions and expunged also the decision forbidding hearsay evidence for the future!

But the rule having, to crush the prisoner, been laid down, we might at least have expected that it would be adhered to. No such thing. The moment that an occasion presents itself when the rule would hamper the prosecutor and the judges, they abandon it and recur to their favourite hearsay. In the very next page, we find this question put by the court: "Previous to your going to chapel, were you told that plenty of people were there on that day?" If hearsay evidence was thus received or rejected as best suited the purpose of compassing the prisoner's destruction, other violations of law, almost as flagrant, were resorted to with the same view. Conversations with Mrs. Smith, in her husband's absence, were allowed to be detailed. The sentences passed upon five other persons, previously tried, were put in, and I should suppose privately read, by the court; as I find no allusion to them in the prisoner's most able and minute defence which touches on every other particular of the case; and all mention of those sentences is suppressed in the minutes transmitted by the court.

For the manifest purpose of blackening him in the eyes of the people and with no earthly reference to the charges against him, a long examination is permitted into the supposed profits he made by a sale of Bibles, prayer and psalm-books and catechisms! and into the donations he received from his Negro flock and the contributions he levied upon them for church dues; every one tittle of which is satisfactorily answered and explained by the evidence, but every one tittle of which was wholly beside the question. I find that many material circumstances which occurred on the trial are altogether omitted in the House-copy. I find that the evidence is garbled in many places and that passages of the prisoner's defence are omitted; some because they were stated to be offensive to the

government—others because they were said to be of a dangerous tendency—others, again, because the court entertained a different opinion on certain points from the prisoner, or because they might seem to reflect upon the court itself [*hear, hear!*].

Mr. Smith was charged with corrupting the minds of the slaves and enticing them to a breach of their duty and of the law of the land because he recommended to them not to violate the Sabbath. It was objected against him also by some that he selected passages from the Old Testament; and by others that he did not, as he ought, confine himself to certain parts of the New Testament: others, again, found fault with him for teaching the Negroes to read the Bible. And when, in answer to these charges, he cited passages from the Bible in his defence, he was told that he must not quote scripture, as it was supposed that every member of the court was perfectly acquainted with the sacred writings—a supposition which certainly did not occur to one on reading their proceedings [*hear! and a laugh*].

By others, again, this poor man was held up as an enthusiast who performed his functions in a wild and irregular manner. It was said that his doctrines were of a nature to be highly injurious in any situation, but peculiarly so amongst a slave population. In proof of this assertion, it was stated, that the day before the revolt he preached from Luke xix. 41, 42:

> "And when He was come near, he beheld the city, and wept over it; saying, If thou hadst known even thou, in this thy day, the things which belong unto thy peace but now they are hid from thine eyes."

Thus was this passage, which has been truly described by the Rev. Mr. Austin as a text of singular beauty, turned into matter of accusation and reproach against this unfortunate missionary.

But if this text was held to be so dangerous—so productive of insubordination and rebellion—what would be said of the clergy of the established Church of whose doctrines no fear was entertained? The text chosen by Mr. Smith on this occasion appeared to the heated imagination of his judges to be one

which endangered the peace of a slave community. Very different was the opinion of Mr. Austin, the colonial chaplain, who could not be considered as inflamed with any daring, enthusiastic and perilous zeal. But what, I ask, might not the same alarmists have said of Mr. Austin who, on that very day, the 17th of August, had to read, as indeed he was by the rubric bound to do, perhaps in the presence of a large body of Black, White, and Coloured persons, such passages as the following, which occur in one of the lessons of that day, the 14th chapter of Ezekiel:—

> "When the land sinneth against me by trespassing grievously, then will I stretch out mine hand upon it, and will break the staff of the bread thereof, and will send famine upon it, and will cut off man and beast from it. . ."
>
> "Though these three men" (who might easily be supposed to be typical of Mr. Austin, Mr. Smith, and Mr. Elliot), "were in it, they shall deliver neither sons nor daughters; they only shall be delivered, but the land shall be desolate. Or if I bring a sword upon that land, and say, Sword, go through the land, so that I cut off man and beast from it; Though these three men were in it, as I live, saith the Lord God, they shall deliver neither sons nor daughters; but they only shall be delivered themselves."

Let me ask any impartial man, if this is not a text much more likely to be mistaken than the other? And yet every clergyman of the established Church was bound to read it on that day.

The charges against Mr. Smith are four. The first states that long before the 18th of August he had promoted discontent and dissatisfaction amongst the slaves against their lawful masters. This charge was clearly beyond the jurisdiction of the court; for it refers to matters before martial law was proclaimed and consequently before Mr. Smith could be amenable to that law. Supposing that, as a court-martial, they had a right to try a clergyman for a civil offence, which I utterly deny, it could only be on the principle of martial law having been proclaimed that they were entitled to do so. The proclamation might place him and every other man in the colony in the situation of a

soldier; but if he was to be considered as a soldier it could only be after the 19th of August. Admitting, then, that the Rev. Mr. Smith was a soldier under the proclamation, he was not such on the 18th, on the 17th, nor at any time before the transactions which are called the revolt of Demerara; and yet it was upon such a charge that the court-martial thought proper, and indeed was obliged, to try him, if it tried him at all. But they had no more right, I contend, to try him for things done before the 19th in the character of a soldier liable to martial law, than they would have to try a man who had enlisted today for acts which he had committed the day before yesterday, according to the same code of military justice.

The same reasoning applies to three of the four charges. There is only one charge, that of communicating with Quamina touching the revolt, which is in the least entitled to consideration; yet this very communication might have been to discourage and not to excite or advise the revolt. In fact, it was clearly proved to have been undertaken for that purpose, notwithstanding the promises of the judge-advocate to the contrary. There are three things necessary to be established before the guilt of this unfortunate man can be maintained on this charge: first, that Quamina was a revolter; secondly, that Mr. Smith knew him to be a revolter; and thirdly, that he had advised and encouraged him in the revolt. For the misprision, the mere concealment, must be abandoned by those who support the sentence, inasmuch as misprision is not a capital offence.

But all the evidence shows that Quamina did not appear in such a character—that Mr. Smith was ignorant of it, even if he did—and that his communication was directed to discourage and not to advise any rash step into which the sufferings of the slaves might lead them. As to his not having seized on Quamina, which is also made a charge, the answer which the poor man himself gave was a sufficient reply to any imputation of guilt that might be founded on it. Look, said he, on these limbs, feeble with disease, and say how it was possible for me to seize a powerful robust man, like Quamina, inflamed with

the desire of liberty, as Quamina must have been if he were a revolter, even if I had been aware that he was about to head a revolt.

But, in truth, there is not a tittle of evidence that Mr. Smith knew of the revolt, while there is abundant proof that he took especial measures and watchful care to tell all he did know to the proper authorities, the managers of the estate. If, again, the defenders of the court-martial retreat from this to the lower ground of mere concealment, and thus admit the illegality of the sentence in order to show something like matter of blame in the conduct of the accused, I meet them here as fearlessly upon the fact as I have already done upon the law of their case; and I affirm that he went the full length of stating to Mr. Stewart, the manager of the estate, his apprehensions with respect to the impending danger; that "the lawful owners, proprietors, and managers" were put upon their guard by him and were indebted to his intelligence, instead of having a right to complain of his remissness or disaffection; that he told all he knew, all he was entitled to consider as information (and no man is bound to tell mere vague suspicions, which cross his mind, and find no abiding place in it); and that he only knew anything precise, respecting the intentions of the insurgents, from the letter delivered to him half an hour before the Negroes were up in arms, and long after the movement was known to every manager in the neighbourhood.

The court, then, having no jurisdiction to sit at all in judgment upon this preacher of the Gospel—their own existence as a court of justice being wholly without the colour of lawful authority—tried him for things which, had they ever so lawful a title to try him, were wholly beyond their commission; and of those things no evidence was produced upon which any man could even suspect his guilt, even if the jurisdiction had been unquestionable and the accused had been undeniably within its range. But, in spite of all the facts—in spite of his well-known character and upright conduct—it was necessary that he should be made an example for certain purposes. It was necessary that the missionaries should be

taught in what an undertaking they had embarked; that they should be warned, that it was at their peril they preached the Gospel; that they should know it was at the hazard of their lives that they opened the Bible to their flocks; and therefore it was that the court-martial deemed it expedient to convict Mr. Smith, and to sentence him to be hanged by the neck until he was dead!

But the Negroes, it seems, had grumbled at the reports which went abroad respecting their liberation by an act of His Majesty and the opposition said to be given to it by their proprietors. Who propagated those reports? Certainly not Mr. Smith. It is clear that they originated, in one instance, from a servant who attended at the Governor's table, and who professed to have heard them in the conversations which took place between the Governor and his guests. Another account was that a kept woman had disclosed the secret, having learnt it from her keeper, Mr. Hamilton. The Negroes naturally flocked together to inquire whether the reports were true or not; and Mr. Smith immediately communicated to their masters his apprehensions of what he had always supposed possible, seeing the oppression under which the slaves laboured, and knowing that they were men.

But it is said that at six o'clock on the Monday evening, one half hour before the rebellion broke out, he did not disclose what he could not have known before, namely, that a revolt was actually about to commence. Now, taking this fact, for the sake of argument, to be proved to its fullest extent, I say that a man convicted of misprision cannot by the law be hanged [*hear, hear!*]. The utmost possible vengeance of the law, according to the wildest dream of the highest prerogative lawyer, could not amount to anything like a sanction of this. Such I assert the law to be. I defy any man to contradict my assertion that up to the present hour no English lawyer ever heard of misprision of treason being treated as a capital offence and that it would be just as legal to hang a man for a common assault.

But if it be said that the punishment of death was awarded for having aided the revolt, I say the court did not, could not,

believe this and I produce the conduct of the judges themselves to confirm what I assert. They were bold enough in trying and convicting and condemning the victim whom they had lawlessly seized upon, but they trembled to execute a sentence so prodigiously illegal and unjust; and having declared that, in their consciences and on their oaths, they deemed him guilty of the worst of crimes, they all in one voice add, that they also deem him deserving of mercy in respect of his guilt! Is it possible to draw any other inference from this marvellous recommendation than that they distrusted the sentence to which it was attached?

When I see them—frightened by their own proceedings, starting back at the sight of what they had not scrupled to do—can I give them credit for any fear of doing injustice; they who, from the beginning to the end of their course, had done nothing else? Can I believe that they paused upon the consummation of their work from any motive but a dread of its consequences to themselves, a recollection tardy, indeed, but appalling, that "Whoso sheddeth man's blood, by man shall his blood be shed?" And not without reason, not without irrefragable reason, did they take the alarm; for, verily if they had perpetrated the last act—if they had dared to take this innocent man's life (one hair of whose head they durst not touch), they must themselves have died the death of murderers [*hear, hear!*].

Monstrous as the whole proceedings were, and horrid as the sentence that closed them, there is nothing in the trial from first to last so astounding as this recommendation to mercy coming from persons who affected to believe him guilty of such enormous crimes. If he was proved to have committed the offence of exciting the slaves to acts of bloodshed—if his judges believed him to have done what their sentence alleged against him—how unspeakably aggravated was his guilt compared with that of the poor untutored slaves whom he had misled from their duty under the pretext of teaching them religion. How justly might all the blood that was shed be laid upon his head! How fitly, if mercy was to prevail, might his deluded instruments be pardoned and himself alone be singled

out for vengeance as the author of their crimes! Yet, they are cut off in hundreds by the hand of justice and he is deemed an object of compassion! How many victims were sacrificed we know not with precision. Such of them as underwent a trial before being put to death were judged by this court-martial. Let us hope that they had a fair and impartial trial, more fair and more impartial than the violence of political party and the zeal of religious animosity granted to their ill-fated pastor.

But without nicely ascertaining how many fell in the field or by the hands of the executioner, I fear we must admit that far more blood was thus spilt than a wise and just policy required. Making every allowance for the alarms of the planters and the necessity of strong measures to quell a revolt, it must be admitted that no more examples should have been made than were absolutely necessary for this purpose. Yet, making every allowance for the agitation of men's minds at the moment of danger and admitting (which is more difficult) that it extended to the colonial government and did not subside when tranquillity was restored, no man can avoid suspecting that the measure of punishment inflicted considerably surpassed the exigencies of the occasion.

By the Negroes, indeed, little blood had been shed at any period of the revolt and in its commencement none at all; altogether only one person was killed by them. In this remarkable circumstance the insurrection stands distinguished from every other movement of this description in the history of colonial society. The slaves inflamed by false hopes of freedom, agitated by rumours, and irritated by the suspense and ignorance in which they were kept, exasperated by ancient as well as more recent wrongs (for a sale of fifty or sixty of them had just been announced, and they were about to be violently separated and dispersed), were satisfied with combining not to work, and thus making their managers repair to the town and ascertain the precise nature of the boon reported to have arrived from England. The calumniated minister had so far humanized his poor flock—his dangerous preaching had so enlightened them—the lessons of himself and his hated brethren had sunk

so deep in their minds, that by the testimony of the clergyman and even of the overseers, the maxims of the Gospel of peace were upon their lips in the midst of rebellion and restrained their hands when no other force was present to resist them.

"We will take no life," said they; "for our pastors have taught us not to take that which we cannot give"—a memorable peculiarity to be found in no other passage of Negro warfare within the West Indian seas and which drew from the truly pious minister of the established Church the exclamation, that "He shuddered to write that they were seeking the life of the man whose teaching had saved theirs!" But it was deemed fitting to make tremendous examples of those unhappy creatures. Considerably above a hundred fell in the field where they did not succeed in putting one soldier to death. A number of the prisoners also, it is said, were hastily drawn out at the close of the affray and instantly shot. How many, in the whole, have since perished by sentences of the court does not appear; but up to a day in September, as I learn by the *Gazette* which I hold in my hand, forty-seven had been executed.

A more horrid tale of blood yet remains to be told. Within the short space of a week, as appears by the same document, ten had been torn in pieces by the lash. Some of these had been condemned to six or seven hundred lashes, five to one thousand each; of which inhuman torture one had received the whole and two almost the whole at once. In deploring this ill-judged severity I speak far more out of regard to the masters than the slaves. Yielding thus unreservedly to the influence of alarm, they have not only covered themselves with disgrace, but they may, if cooler heads and steadier hands control them not, place in jeopardy the life of every White man in the Antilles.

Look now to the incredible inconsistency of the authorities by whom such retribution was dealt out while they recommended him to mercy, whom in the same breath they pronounced a thousand times more guilty than the slaves. Can any man doubt for an instant that they knew him to be innocent but were minded to condemn, stigmatize and degrade him because they durst not take his life and yet were resolved to

make an example of him as a preacher? The whole proceedings demonstrate the hatred of his persecutors to be levelled at his calling and his ministry. He is denounced for reading the Old Testament; charged with dwelling upon parts of the New; accused of selling religious tracts; blamed for collecting his hearers to the sacrament and catechism, all under various pretences, as that the texts were ill chosen—the books sold too dear—the communicants made to pay dues. Nay, for teaching obedience to the law which commands to keep holy the Sabbath, he is directly and without any disguise branded as the sower of sedition.

Upon this overt act of rebellion against all law, human and divine, a large portion of the prosecutor's invectives and of his evidence is bestowed. What, though the reverend defendant showed clearly out of the mouths of his adversary's witnesses, that he had uniformly taught the Negroes to obey their masters even if ordered by them to break the rest of the Sabbath; that he had expressly inculcated the maxim: Nothing is wrong in you which your master commands; and nothing amiss in him which necessity prescribes? What, though he reminded the court that the seventh day which he was charged with taking from the slaves, was not his to give or to withhold; that it had been hallowed by the divine lawgiver to his own use and exempted in terms from the work of slave as well as master—of beast as well as man? He is arraigned as a promoter of discontent because he, the religious instructor of the Negroes, enjoins them to keep the Sabbath holy when their owners allow them no other day for working; because he, a minister of the Gospel, preaches a duty prescribed by the laws of religion and by the laws of the land while the planters live in the contempt of it.

In short, no man can cast his eye upon this trial without perceiving that it was intended to bring on an issue between the system of the slave law and the instruction of the Negroes. The exemplar which these misguided creatures seem to have set before them is that of their French brethren in St. Domingo—one of whom, exulting in the expulsion of the Jesuits, enumerates the mischiefs occasioned by their labours. "They

preached," says he. "They assembled the Negroes, made their masters relax in their exactions, catechised the slaves, sung psalms, and confessed them." "Since their banishment," he adds, "marriages are rare; the Negroes no longer make houses for themselves apart: it is no longer allowable for two slaves to separate for ever their interest and safety from that of the gang" (a curious circumlocutory form of speech to express the married state). "No more public worship!" he triumphantly exclaims, "No more meetings in congregation! No psalm singing, nor sermons for them!" "But they are still catechised; and may, on paying for it, have themselves baptized three or four times" (upon the principle, I suppose, that like inoculation, it is safer to repeat it).

In the same spirit the Demerara public meeting of the 24th of February, 1824, resolved forthwith to petition the Court of Policy "to expel all missionaries from the colony, and to pass a law prohibiting their admission for the future." Nor let it be said that this determination arose out of hatred towards sectaries or was engendered by the late occurrences. In 1808, the *Royal Gazette* promulgated this doctrine, worthy of all attention:

> "He that chooses to make slaves Christians, let him give them their liberty. What will be the consequence when to that class of men is given the title of 'beloved brethren' as actually is done? Assembling Negroes in places of worship gives a momentary feeling of independence both of thinking and acting and by frequent meetings of this kind a spirit of remark is generated; neither of which are sensations at all proper to be excited in the minds of slaves."

Again, in 1823, says the government paper: "To address a promiscuous audience of Black or Coloured people, bond and free, by the endearing appellation of 'My brethren and sisters,' is what can nowhere be heard except in Providence Chapel"—a proof how regularly this adversary of sectarian usages had attended to the service of the church. And, in February last, the same judicious authority, in discussing the causes of the discontents and the remedy to be applied, thus proceeds:

> "It is most unfortunate for the cause of the planters that they did not speak out in time. They did not say, as they ought to have said, to the first advocates of missions and education, 'We shall not tolerate your plans till you prove to us that they are safe and necessary; we shall not suffer you to enlighten our slaves, who are by law our property, till you can demonstrate that when they are made religious and knowing they will still continue to be our slaves.'
>
> "In what a perplexing predicament do the colonial proprietors now stand! Can the march of events be possibly arrested? Shall they be allowed to shut up the chapels and banish the preachers and schoolmasters and keep the slaves in ignorance? This would, indeed, be an effectual remedy, but there is no hope of its being applied. The obvious conclusion is this; slavery must exist as it now is, or it will not exist at all. . . If we expect to create a community of reading, moral, church-going slaves, we are woefully mistaken."

Ignorant! oh, profoundly ignorant, of "the things that belong to their peace!" may we truly say, in the words of the missionary's beautiful text,—to that peace, the disturbance of which they deem the last of evils. Were there not dangers enough besetting them on every side without this?

The frame of West-Indian society, that monstrous birth of the accursed slave trade, is so feeble in itself and, at the same time, surrounded with such perils from without, that barely to support it demands the most temperate judgment, the steadiest and the most skilful hand and with all our discretion, and firmness, and dexterity, its continued existence seems little less than a miracle. The necessary hazards to which, by its very constitution, it is hourly exposed are sufficient, one should think, to satiate the most greedy appetite for difficulties, to quench the most chivalrous passion for dangers. Enough, that a handful of slave-owners are scattered among myriads of slaves. Enough, that in their nearest neighbourhood a commonwealth of those slaves is now seated triumphant upon the ruined tyranny of their slaughtered masters. Enough, that, exposed to this frightful enemy from within and without, the planters are cut off from all help by the ocean.

But to odds so fearful, these deluded men must need add new perils absolutely overwhelming. By a bond which nature

has drawn with her own hand, and both hemispheres have witnessed, they find leagued against them every shade of the African race, every description of those swarthy hordes, from the peaceful Eboe to the fiery Koromantyn. And they must now combine in the same hatred the Christians of the old world with the pagans of the new. Barely able to restrain the natural love of freedom, they must mingle it with the enthusiasm of religion—vainly imagining that spiritual thraldom will make personal subjection more bearable—wildly hoping to bridle the strongest of the passions, in union and in excess, the desire of liberty irritated by despair, and the fervour of religious zeal by persecution exasperated to frenzy.

But I call upon parliament to rescue the West Indies from the horrors of such a policy; to deliver those misguided men from their own hands. I call upon you to interpose while it is yet time to save the West Indies; first of all, the Negroes, the most numerous class of our fellow-subjects and entitled beyond every other to our care by a claim which honourable minds will most readily admit their countless wrongs, borne with such forbearance—such meekness—while the most dreadful retaliation was within their grasp. Next, their masters whose short-sighted violence is, indeed, hurtful to their slaves but to themselves is fraught with fearful and speedy destruction, if you do not at once make your voice heard and your authority felt where both have been so long despised.

[The honourable and learned gentleman concluded with moving:]

> "That an humble address be presented to His Majesty, representing that this House, having taken into their most serious consideration the papers laid before them relating to the trial and condemnation of the late Rev. John Smith, a missionary in the colony of Demerara, deem it their duty now to declare, that they contemplate with serious alarm and deep sorrow the violation of law and justice which is manifest in those unexampled proceedings; and most earnestly praying, that His Majesty will be graciously pleased to adopt such measures as to his royal wisdom may seem meet for securing such a just and humane administration of law in that colony as may protect the voluntary

instructors of the Negroes, as well as the Negroes themselves, and the rest of His Majesty's subjects, from oppression."

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[1] Sir Charles Sutton

[2] From the edition published by Hatchard and Son, with the sanction of the London Missionary Society.

[3] Secretary of State for the Colonies.

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Speech by Wilmot Horton, Under-Secretary of State for the Colonies

Mr. Wilmot Horton [M. P. for Newcastle] said:—

Mr. Speaker,

The House, Sir, are fully aware of the peculiar circumstances of difficulty under which I am placed, from the voluminous nature of the documents on which the honourable and learned member has founded his motion. I have earnestly to request their attention on this occasion, placed, as I am, in a situation which, they will easily conceive, is one of no ordinary difficulty; and if they find that I am thus compelled to this unequal war, I hope the more that they will give me their indulgence, as I feel confident that I shall more easily discharge my duty if I can command the patient attention of the House and that I shall diminish that claim on their time which the importance of the subject will compel me to interpose.

Sir, the honourable and learned gentleman commenced his speech by stating that he found, with much regret, that the interest excited on this subject within this House bore very little proportion to that which existed out of it. I beg to say, that I am not at all surprised at that remark. I well know by what means the interest has been excited. It will be in the recollection of the House that when the honourable member for Knaresborough [*Sir James Mackintosh*] presented a petition on this subject, containing many charges and imputations, I protested against the accuracy of the statements in that petition and against the prudence of those who preferred it. Before I sit down I trust I shall redeem that pledge. At present, I shall proceed to follow the honourable and learned gentleman in what has fallen from him through the course of his observations.

The honourable and learned gentleman seems to have endeavoured to establish an interest with a party in these proceedings, who, in point of fact, have no real relation or connexion with them. I contend that it is not against missionaries in general but against the misuse of the powers delegated to a particular missionary that any dissatisfaction exists. I contend that if this individual had followed those admirable lessons of prudence which had been addressed to him in the Instructions of the Society which sent him to the colony, instead of the House being employed, as they now are, in the examination of the circumstances that attended his unfortunate fate, he might have remained in the colony in the discharge of those duties which they had so discreetly imposed upon him. It appears to me that the solution of this case involves no material difficulty.

The honourable and learned gentleman has, for some time, descanted on the duties which belong to the situation of a missionary. But let us look to the state of that society to which this missionary was sent. It was one in which slavery existed by law. It was for him to inculcate religious doctrines on the minds of the slaves without exhibiting to them views referring to their lot in society. I think we have abundant proof that the solution will be found to be this, that Mr. Smith was an enthusiast. The honourable gentleman has characterized him by that term, supposing, perhaps, that it might be imputed to him. I impute it to him, not as a matter of criminality, but as the key by which his actions are to be explained; and I trace him through a long course of conduct, as influenced by ill-regulated enthusiasm, until I find him guilty of actions which, if not in themselves in the highest degree criminal, carried with them all the attributes of criminality to such an extent that they could not be distinguished from criminality itself.

Now, Sir, in the first place, let us consider in what this transaction originated. In speaking of the revolt which the honourable member admits to have taken place in Demerara, he does not at all undervalue its importance. He states it to have been one of a dangerous tendency; one which naturally excited

the utmost alarm and which might afford a justification for summary and severe measures. The correspondence of the Governor justifies that view of the case. He states that martial law was the only measure to which he could resort for the preservation of the colony. I shall leave that question to others more competent to speak on it than myself; but I would observe that I consider it to be a course of proceeding which ought only to be resorted to when a country is so situated that no other alternative remains for its safety. And the continuation of this state of martial law will not be a matter of surprise to any man who knows the circumstances; who is aware of the disproportion existing between the slaves and the White population; and who reflects upon the dreadful consequences that might result from one single day passing among those slaves in a state of insurrection. Every person, in this view of the case, will acknowledge the necessity that compelled the Governor to resort to such a measure which, as an inevitable consequence, carried with it the suspension of civil government and of the common course of judicial proceedings.

Under these circumstances, a court-martial was appointed for the trial of Mr. Smith. If it were proved, as the honourable gentleman states, that in some instances evidence was admitted contrary to the rules which govern the admission of it in ordinary courts of law, I am yet to be satisfied that it is necessary that those rules should be imperatively binding on the proceedings of a court-martial, or that the validity of that mode of administering justice can be in any degree affected by the introduction of evidence of a less limited nature. And I am at present uninformed as to the grounds upon which the honourable and learned gentleman has founded his objection to the legality of the evidence actually introduced; but I presume that it is not upon the official papers but upon the Report of the London Missionary Society.—[*Mr. Brougham here explained that his reasoning as to the evidence was founded on the House copy*.]—It appears from that Report, that the parties who took it down, (not meaning to impeach the correctness of their intentions), took it down as the result of their memory and

recorded what they believed to be the substance of the questions and answers.

The honourable and learned member principally founds his assertion of the illegality of these proceedings of the court-martial, with respect to the reception of evidence, on the presumed fact that at the period when they objected to the further introduction of hearsay evidence, that species of evidence had been previously admitted and that the effect of its introduction was of necessity prejudicial to the interests of the prisoner. He prefaced those observations by calling the attention of the House to a testimony, which he asserted not to be the genuine testimony of the person delivering it but a testimony got up for the purpose. But it is to be remembered that the individual to whom he specially alluded was not a witness on the trial but one of those persons whose evidence was taken before the Board of Evidence previous to the commencement of that trial.

Therefore, although I am willing to allow that the actual expressions which are put down as the evidence of that witness before the Board cannot be supposed to be his own, I am by no means prepared to admit that the substance of them might not have been communicated by that individual himself. But as the tendency of the arguments of the honourable and learned gentleman appears to have reference to the evidence actually admitted on the trial, it is right that the House should understand that this particular evidence was received at the Board and not introduced in the course of the court-martial. With respect to the passage in page 116 of the Missionary Society's Report in which the court is represented as admitting that hearsay evidence had been admitted up to that particular period but stating that for the future it could not be received, I am justified in saying that I do not believe that to have been the case; I mean that the interposition there alluded to was so expressed without material qualification.

The honourable gentleman has canvassed the constitution of the court and has expressed his dissatisfaction that the president of the court of justice should have been appointed a

member of that court-martial. But I would ask whether the state of Demerara was not such, at the period of those proceedings, as to make it probable that his introduction would materially sustain the ends of justice and give a more deliberate and judicial character to the proceedings—give them a greater bias towards the proceedings of civil justice than was likely to occur under the more technical regulations of military law. The introduction of a person, not only conversant with the administration of civil justice but holding the highest judicial situation in the colony, could only have had the effect of giving to those proceedings a more lenient character; and it is my decided opinion that it is impossible that he could have allowed anything so monstrous to have taken place as a rejection of hearsay evidence when it turned in the prisoner's favour after the admission of it when it tended to his crimination. I put it to the House, who are only cognisant of the documents which are officially before them, sent to us on the faith of the responsible servants of the Crown, whether it is to be inferred from those documents that anything so monstrous as that interposition could have taken place.

The honourable and learned gentleman has also referred to another member of that court-martial, the president. And here, again, I anticipate that the House will not share the belief of the honourable gentleman that because that individual happened to hold the office of Vendue-master of the colony he was prepared to abandon his duty as a gentleman and a soldier for the sake of some indirect interest in the maintenance of the slave system. I assert that such a presumption seems to be contrary to all probability and, therefore, I am persuaded that the House will pause before they admit a conclusion so fatal to the honour and character of an individual—that individual, a man of the highest reputation, who filled the office of judge-advocate during the Peninsular War and served with unblemished credit under the illustrious general who conducted its operations.

What individual, therefore, could be selected more proper and suitable to be appointed the president of that court-martial? I am the first to allow that the state of martial law is, in the

abstract, what all men must deprecate—and we, who come down to this House with all those feelings of confidence and security which belong to this happy country can be roused with much less eloquence than that of the honourable and learned gentleman when the contrast between that state and our habitual state is made the subject of observation. But the point for the consideration of the House is whether substantial justice was not intended to be done; and again, whether in point of fact it has not been done.

I would ask whether the House, up to the present moment, have any clear notion of the situation of Mr. Smith and the circumstances under which he was brought to trial? I am certain they could not have derived it from the statement of the honourable and learned gentleman. I am not here to defend these proceedings from the charge of having been conducted, in some instances, without exact technicality in point of law, but rather to recall to the recollection of the House the striking facts and circumstances which attend the case.

The colony was placed in a situation of most imminent danger. Its population consisted of between three and four thousand Whites, and between seventy and eighty thousand slaves. Reflect on the consequences immediately accruing to the property and to the lives of those persons and of their families. They were satisfied that by the existing laws their property was held sacred. Can it, then, be supposed that they should not entertain strong feelings on the subject? But when the constitution of that tribunal is considered, which, had not a court-martial been appointed, must have proceeded with the trial of Mr. Smith, no one can fairly consider that his interests were prejudiced by the substitution which circumstances rendered it necessary to make.

The court-martial consisted of thirteen individuals, eleven of whom had no sort of connexion with the colony but the accidental circumstance of military service at that precise period. The regular tribunal would have consisted of the president, Mr. Wray, who, in his capacity of lieutenant-colonel of militia, actually served on the court-martial, and of eight

planters, a majority of five of whom would have decided the sentence of the prisoner. Those planters would have been summoned to the exercise of judicial duty under the impression that their lives and property were placed at the utmost hazard; and it is impossible to suppose that they would not have entertained strong feelings on the subject had they been assembled under a belief that the cause of this critical situation was, in a great degree, referable to the conduct of Mr. Smith.

But, Sir, to return to the court-martial. Did Mr. President Wray divest himself of responsibility as a member of that court? No, certainly not. Was it not in his power to prevent any injustice being done? Was it not likely that his presence would be of assistance to the prisoner; and, above all, that he accepted his situation from benevolent motives? Is there any reason to believe that from the beginning of the transaction to the end there was any deliberate intention to do injustice to this individual? The honourable and learned member has characterised these proceedings as irregular, which character they may possibly bear when contrasted with those which we are in the habit of contemplating; but as a question on the measure of justice, is it likely that more substantial justice could have been dealt out to this individual, had he been tried in the civil court of the colony?

The honourable and learned gentleman complains that an injustice was done to the prisoner on account of the absence of that delay which would have occurred if the trial had taken place before a civil court. The petition, on the contrary, states that essential injustice was done by there having been so much delay. Now, both those propositions cannot be true. In point of fact there was no unnecessary delay. It will be found that the court was summoned immediately after the breaking out of the insurrection; and on the 25th of August it began its functions and continued them regularly from that period until their final termination.

The honourable and learned gentleman, at the close of his speech, contended, that this court-martial had affixed the punishment of death to an offence to which that punishment did

not apply. Now, for a moment divesting the question of all the technicalities and looking to the objects and motives of the parties who were in the situation to pronounce that sentence, I will appeal to the House and ask them deliberately to decide whether the court-martial, in pronouncing that sentence of death coupled with the recommendation to mercy, did not sentence the prisoner to the most lenient punishment they could possibly inflict? I will ask whether the House is not convinced that though the court-martial pronounced the sentence of death, it did not, at the same time, unequivocally show, by the recommendation of mercy, that it was never intended that that sentence should be carried into effect? The honourable and learned gentleman implies that that recommendation arose from fear. On the contrary, I will tell him that the court-martial, being aware that for the crime of misprision of treason which attached to Mr. Smith, no other punishment than that of death could have been pronounced under the Dutch law, thought that the crime itself did attach to Mr. Smith—that he was guilty of a concealment—but, on the other hand, considered that there were circumstances of palliation which made it desirable that that sentence should not be carried into effect.

It is necessary that the House should well consider the motives that influenced them. It is to be remembered that, though they found that individual guilty and sentenced him to death, it has been the constant and unvaried course for years, without exception, that where capital sentence has been passed by a court-martial accompanied with the recommendation of mercy, the capital punishment has not been inflicted. The court-martial well knew that the power of remitting the extreme sentence was deposited where it ought to be deposited, namely, in the Crown, which has the power of regulating punishment, of commuting it, and of carrying that recommendation of mercy specifically into effect. I will read, on this subject, the opinion of a noble lord (Loughborough) whose memory stands high in the respect of his country. The noble lord says, “With respect to the sentence itself, and the supposed severity of it, I observe that the severe part is by the court deposited, where it ought

only to be, in the breast of His Majesty. I have no doubt but that the intention of that was to leave room for the application for mercy to be made to His Majesty," etc.

I therefore contend that if it was argued that misprision of treason had been committed by Mr. Smith and that that commission under the Dutch law rendered him subject to the extreme punishment of death, still the circumstance of sentencing him to death with the re-commendation to mercy, would show, that even the Dutch law had not been carried into effect; for the sentence of death is not only qualified but changed by the recommendation to mercy; and the sentence, accompanied by that qualification, is not in fact a sentence of death.

To revert to the constitution of the civil tribunal at Demerara. What individual under the circumstances of Mr. Smith would not have preferred a tribunal composed of persons exempt, as far as possible, from the general irritation then prevailing among the colonists and from local prejudices to one constituted of individuals who might have been subject to both? Negro evidence would have been admissible upon that court as well as on the court-martial. There is not, therefore, that discrepancy which has been supposed between the proceedings of this court-martial and those of a court of common law in Demerara; and, in point of fact, the same measure and mode of justice were meted out to the prisoner under the operation of the court-martial as would have been if the civil course of proceeding had been adopted.

But the honourable and learned gentleman has accused the constituted authorities of having deliberately kept up this state of martial law for the purpose of involving the prisoner in the consequences of its maintenance and has stated that no necessity existed for such prolongation. I think I can bring before the House the most conclusive proof that such was not the case. The Governor writes in a letter addressed to Lord Bathurst, dated the 26th of August: "I shall not fail to seize the first justifiable period for restoring to the colony the regular course of law, consulting with the president thereon; but the

alarm of the White inhabitants is too great and too general to lead me to hope for an early return of confidence. They at present place none but in their arms; and the rigour of militia service must be permanently resorted to."

Now, under these circumstances, I appeal to the House whether they can doubt the accuracy of this statement when they consider the circumstances under which the colony was placed, with the fearful disproportion of Whites to Blacks and, above all, the small number of troops at that time under the command of the Governor. In a letter, dated as late as September, the Governor says:

> "The commander of the forces will have acquainted your lordship with his inability, under existing circumstances, to send me any reinforcements. I must depend on my own resources in any future emergency and will not fail to be prepared accordingly."

All this tends to show, that he was compelled by a severe necessity to maintain the state of martial law.

And now, Sir, I will call the attention of the House, as shortly as the subject will admit, to the nature of the insurrection itself. Has the honourable member alluded to the district in which this insurrection broke out? Has he attempted to deny that the principal leaders in it were the agents and assistants of this missionary? Does he mean to say that those circumstances do not involve the elements of strong suspicion? The extensive influence which, on all hands, it is admitted that Mr. Smith exercised over the minds of the slaves though it does not directly establish criminality, is a circumstance that cannot be put aside by the House in the view which they will be disposed to take of the subject. Again, what was the amount of the population of the slaves in this particular district? Thirteen thousand. This fact additionally convinces me of the reality and danger of the revolt and the necessity of martial law and, consequently, of the justification of the principle upon which this court martial was established.

I have already given the opinion which I have formed of Mr. Smith. I think that he must be pronounced an enthusiast by

every person who reads these papers with attention and who reads the evidence with a desire to possess himself of the real motives which influenced his conduct. It is impossible not to consider him as an enthusiast. I do not mean to attach to that term any criminality, but I think that if he had followed more strictly the admirable instructions of the Society who had sent him forth and which were given so carefully in detail—if he had expounded the principles there pointed out as right and necessary to inculcate in the minds of the slaves—he would have exercised a far more sound discretion than in resorting to those hazardous topics which were likely, at least, to be misunderstood, but which, in my opinion, had a tendency to produce much mischief. I do not here impute to him motives of a directly criminal character, but, at the same time, he appears to have been a man evidently intending to awaken feelings in the minds of the slaves, which, when awakened, it was most hazardous, if not impossible, to direct to any useful purpose.

I introduce these observations to show that he cannot be considered, what the Missionary Society unequivocally consider him, a perfect pattern of what a missionary ought to be. It appears to me that an enthusiast, in the sense in which I have employed the term, is not the fittest person for such a task. He seems to have been impatient to accomplish supernatural results by the intervention of human means. His mind reverted to those periods when events were brought about by signal judgments and by the special interposition of Heaven. He reasoned himself into error and became dangerous. Had he applied himself more closely to the development of those doctrines of the New Testament which recommend fidelity, patience, and obedience, he would have shown more discretion and fulfilled more accurately the directions of the society that sent him forth, than in expounding passages from the Old Testament (such as where the children of Israel were held in bondage to the Egyptians), which were calculated to excite dangerous impressions in the minds of those slaves who attended his ministry.

I allude principally to that part of the evidence where, in two different instances, the Negroes quote those parts of the Bible which speak of the children of Israel in Egypt, and make use of the term "slaves:"

> "God commanded Moses to take the children of Israel into the land of Canaan."
>
> "Was it told you why God so commanded Moses?"
>
> "That was because God did not wish that they should be made slaves."
>
> "Was it also read to you why Moses went to deliver the children of Israel?"
>
> "Yes, because they were slaves under Pharaoh."

To show in what respect I consider Mr. Smith as an enthusiast, I am compelled to have recourse to his journal, notwithstanding the honourable member objected to the production of that journal as evidence. I allude to this journal, not in any degree for the purpose of establishing his criminality, but to show you that enthusiasm had a great practical influence upon his conduct. I would refer the House to that passage which is in page 6 of the printed proceedings. He says:

> "I felt my spirit moved within me, at the prayer meeting, by hearing one of the Negroes pray most affectionately that God would overrule the opposition which the planters make to religion for his own glory. In such an unaffected strain he breathed out his pious complaint and descended to so many particulars relative to the various arts which are employed to keep them from the house of God and to punish them for their religion, that I could not help thinking" (and it is to this part of the passage that I wish to refer) "that the time is not far distant when the Lord will make it manifest, by some signal judgment, that he hath heard the cry of the oppressed."

He also says:

> "I should think it my duty to state my opinion respecting this to some of the rulers of the colony, but am fearful, from the conduct of the Fiscal in this late affair of the Negroes being worked on Sundays, that they would be more solicitous to silence me, by requiring me to

> criminate some individual than to redress the wrongs done to the slaves by diligently watching the conduct of the planters themselves and bringing them to justice (without the intervention of missionaries) when they detect such abuses of the law as frequently take place."

If such were the principles on which he acted—if he thought that he could not reconcile it to his duty to give the lawful authorities knowledge of this transaction, though he was cognisant of and privy to it—it appears to me that no man of correct judgment can think that he acted right.

Again, he says:

> "Just returned from another fruitless journey; have been for the answer to my petition, but was again told by the Governor's secretary that His Excellency had not given any order upon it, but that I might expect it to-morrow. I imagine the Governor knows not how to refuse, with any colour of reason, but is determined to give me as much trouble as possible in the hope that I shall be weary of applying, and so let it drop; but his puny opposition shall not succeed in that way, nor in any other, ultimately, if I can help it."

The House must perceive that Mr. Smith stands here in a character of direct opposition to the constituted authorities. Again:

> "Oh, that this colony should be governed by a man who sets his face against the moral and religious improvement of the Negro slaves! But he himself is a party concerned, and no doubt solicitous to perpetuate the present cruel system; and to that end probably adopts the common, though most false, notion that the slaves must be kept in brutal ignorance. Were the slaves generally enlightened, they must, and would be, better treated."

It is material here that the House should observe by reference to the concluding passage of these extracts which have been made from his journal that he appears to have changed his opinion. They will perceive how it ripened from one degree of enthusiasm to another still more intense. Having recorded his opinion on the 21st of October, 1822 that "the common, though most false, notion" was, "that the slaves must

be kept in brutal ignorance," and that if they were enlightened "they must, and would be better treated;" on the 15th of July, 1823, he says:

> "Mrs. de Florimont and her two daughters called to take leave of us; they are going to Holland. Mrs. de F. says she is uncertain as to her return to the colony. Hamilton, the manager, came in with them; his conversation immediately turned upon the new regulations which are expected to be in force; he declared that if he was prevented flogging the women he would keep them in solitary confinement, without food, if they were not punctual with their work. He, however, comforted himself in the belief that the project of Mr. Canning will never be carried into effect; and in this I certainly agree with him. The rigours of Negro slavery, I believe, can never be mitigated; the system must be abolished."

Is it meant to be laid down as a principle by any missionary society whatever, that an individual holding that sacred character should express, or even entertain, the opinion that the rigours of slavery can never be mitigated but that the system must be abolished? That opinion is a speculative one which may be right or wrong, but I contend that it is an opinion utterly unsuited for a missionary to hold. It is an opinion which is extremely dangerous in a slave colony; and such an opinion is irreconcileable with those principles which the House of Commons and the executive Government have pointed out, and those means by which amelioration of the condition of the slaves may be gradually effected. But Mr. Smith was not prepared to adopt this progressive course on the principles which this House proposed; he was not prepared to follow those directions, but he had created within himself an opinion founded on enthusiasm, or on what I should consider as mistaken notions of right and wrong, which, as it appears to me, induced him to think and reason falsely.

As I think it material to establish the fact of the enthusiastic disposition of Mr. Smith, I would refer you to p. 26 of No. I., to the evidence of Colonel Reed who stated that, in conversation with the prisoner, the prisoner observed "this was not the first insurrection that had taken place in the colony. I said it was an

insurrection of a peculiar nature. He then remarked that much blood had been shed at different periods in religious wars or on account of religion." I do not quote this passage as one to which any sort of criminality attaches, but I quote it to show that such was his habitual custom of considering the subject, such was his opinion, produced by his natural habits of thinking which led him to do what he did—to become cognizant of this conspiracy without making the necessary exposure of it.

I then refer to No. I. p. 7, to the deposition of Mr. W. McWatt who is the overseer of an estate in Demerara. He had a conversation with the prisoner; and he says:

> "I said I thought the slaves were much happier than some of the working people at home; I also mentioned that they were well attended to in sickness, a privilege that a number of working people did not enjoy at home. The prisoner then mentioned that they would not better their situation until something took place, such as had been done in St. Domingo. Mr. Bond[1] then replied, 'Would you wish to see such scenes as had taken place there?' The prisoner said he thought that would be prevented by the missionaries."

Now, do I quote this as crimination? I do not, but I quote it to show the character of Mr. Smith and the opinions which he entertained; and I infer that he thought that it was less his duty to ward off the measure as the dreadful alternative of shedding blood would not be, in his opinion, a necessary consequence. It is admitted, I presume, that he laid it down as a doctrine that it was religiously wrong to permit the slaves to work on the Sunday. Now, Sir, I think I am justified in attributing that doctrine to the extent to which he carried it to ill-regulated enthusiasm.

I affirm that it is the intention of government, that it is the positive duty of government, that it has been the resolution of the House of Commons, and that it is the general wish of the people of England, to provide that Sunday should be held sacred and that all compulsory labour on that day should be discontinued; but, under the circumstances of the colony of Demerara, it appears to me that it was a most inconvenient

doctrine to hold out to the slaves that they were to work for their masters on the Sunday but on no account to work for themselves. It was to deprive them of the only means they had of obtaining those little temporal comforts and conveniences which were so necessary to the endurance of their lot. I think, therefore, that it was departing from the responsibility of his situation to tell those slaves, "If you work on the Sunday for yourselves, you are, in a religious point of view, guilty of a criminal action." He should rather have said, "You are not responsible for the institutions of the country in which you live; but I trust the time will come when you will have no excuse for executing any work for yourselves on a day destined to be kept holy."

I now approach a part of the subject which is perfectly new. As yet I have considered Mr. Smith in no criminal character whatever. The facts which I have hitherto stated only present him to us as a person with an enthusiastic frame of mind and entertaining speculative opinions of what I consider a dangerous character; but I can now, I think, carry it further and show his conduct to have been criminal, or, at least, as I have said, having all the attributes of criminality. I can now demonstrate, by evidence not to be impeached, around which there can be none of that doubt which the honourable and learned gentleman would attach to some parts of the evidence adduced—that is, by the evidence of Mr. Smith himself—that he, Mr. Smith, was privy to this insurrection and that he did not communicate it to the proper authorities; and then I would particularly call the attention of the House to the fatal consequences which resulted from such conduct.

In p. 14 of No. I., it appears that Quamina, Bristol and other Negroes, being his own confidential assistants and holding situations under him, came to Mr. Smith and held a conversation with him on the Sunday immediately before the insurrection broke out when the expression was used, "driving the White people to town," on which the honourable and learned gentleman puts a very different meaning to what I am disposed to do. The honourable and learned gentleman says the

phrase is only equivalent to striking work. It is now for the House to interpose their judgment and to decide whether they agree in that construction of the import of the phrase. When we consider the obedience necessarily due from the slave to the master in any colony where slavery is sanctioned by law, am I not justified in inferring that such an avowal of intention ought to have excited in his mind the highest degree of alarm and to have produced the strongest terms of reprobation? Did not that avowal declare that such was their impatience of their condition, that such was their doubt whether any advantages were come out for them and such their anxiety to improve their state, that they were resolved to take their cause into their own hands and to use force?

I do not mean to say that they distinctly intended to take possession of the colony under the operation of a revolt; but their intention evidently was a resistance to power, resistance to authority, and the cessation of the obligation of obedience. Such doctrine could not be entertained by the slaves and be compatible with the safety of the lives and properties of any of the White residents in the West Indies or anywhere else where slavery exists.

And now I would ask whether Mr. Smith in his defence impeaches the veracity of that evidence? In p. 71 of No. I. you will find that he says, "They cannot all be believed; no two of them can be believed together. Three of them have certainly made use of the word 'drive'; it was not the word that Quamina used to me." I consider that as a distinct admission that Quamina employed some word similar to that in spirit and that no expression whatever conveying such an idea could be employed, tending to show that resistance to authority was their intention, without giving just cause for the highest degree of alarm and making it necessary that communications should be conveyed in a proper manner to the proper authorities on the subject.

I now, Sir, come to a point wholly omitted by the honourable and learned gentleman; I refer to p. 21 of No. I., where the examination of Jacky Reed is resumed. It proceeds as

follows: "The letter you received from Jack Gladstone, you state you sent to the prisoner. Do you know its contents?" Now, it is necessary to explain here, that that letter so sent to the prisoner had been destroyed by him. I believe it will not be attempted to show that such destruction had not taken place. The letter he states to be this:

> "My dear brother Jacky, I hope you are well, and I write to you concerning our agreement last Sunday. I hope you will do according to your promise. This letter is written by Jack Gladstone and the rest of the brethren at Bethel chapel; and all the rest of the brothers are ready, and put their trust in you, and we hope that you will be ready also. I hope there will be no disappointment either by one or the other; we shall begin to-morrow night at the Thomas about seven o'clock."

I am not aware that Mr. Smith protested against the genuineness of this letter. My object here is not so much to prove that Mr. Smith was guilty of misprision of treason, as to show that the individuals alluded to in this note were members of his chapel and that he lived with many of them on terms of confidence and intimacy. The House must never forget that these individuals were afterwards leaders in this revolt, which might have made the colony of Demerara one indiscriminate scene of desolation and blood. It will be observed that the plan of this conspiracy had been nursed and matured by the "brethren of Bethel Chapel" and I am inclined to think that a pre-disposition had been excited in the minds of these slaves which made them feel impatient of authority, which induced them to believe that the authority exercised over them was unlicensed and unlawful and, consequently, that they had a right, at any time, to resist those whom they considered as their oppressors.

The letter written to the prisoner was as follows:

> "Dear Sir, excuse the liberty I take in writing to you: I hope this letter may find yourself and Mrs. Smith well. Jack Gladstone present me a letter, which appears as if I had made an agreement upon some actions, which I never did, neither did I promise him anything. I hope you will see to it, and inquire of the members, whatever it is they may

> have in view, which I am ignorant of, and to inquire after, and know what it is. The time is determined on for seven o'clock tonight."

To which Mr. Smith sends this answer:

> "I am ignorant of the affair you allude to; and your note is too late for me to make any inquiry. I learned yesterday that some scheme was in agitation; but, without asking questions on the subject, I begged them to be quiet. I trust they will. Hasty, violent, or concerted, measures are quite contrary to the religion we profess; and I hope you will have nothing to do with them. Your's, for Christ's sake, J.S."

What am I to understand, then, that it is the duty of a missionary, when he becomes acquainted with intentions such as these—intentions to resort to measures of violence—that he is to exercise his discretion and ask no questions, and voluntarily deprive himself of the means of giving information to those authorities who might have repressed and checked this affair in its commencement? If such a doctrine is to be tolerated for a moment, more injury will be done to the cause of missions, the cause of religion, and to the resolutions of this House, with regard to that great object which all parties are pledged to carry into effect than ever has been done before.

I think it would have been enough to have been maintained by his dearest friends that Mr. Smith had been an individual of good intention and of a pure and spotless character; but to contend that he was a man who could be safely trusted in the delicate situation of a missionary, that he was a man of sound discretion, with a well-regulated mind, and safe maxims of conduct—all this appears to me to be pregnant with danger, and infinitely more so when we reflect on the consequences that may result from it. It does appear to me to have been plain that, whatever measures had been adopted by the government, whatever opinions he himself might have entertained on the question of the abolition of slavery, he ought to have known that that abolition could not have been safely carried into effect without a mutual good feeling between the proprietors and the slaves.

How can we imagine, for a moment, that the views taken by this House for the benefit of the Negro population can ever be effected without the co-operation and favourable disposition of the masters? Would any master be likely to accept the services of a missionary who declared himself unwilling to obtain information on a subject, the ignorance of which might involve the lives and property of the colonists in destruction? I must confess that it appears to me full of danger to establish the justification of any missionary on such principles, who had shown such a reluctance and such a resolution not to hear, or become possessed of, information which it was his duty to obtain for the safety of the inhabitants of the colony. He says, however, "I begged them to be quiet. I trust they will. Hasty, violent, or concerted measures, are quite contrary to the religion we profess; and I hope you will have nothing to do with them."

But when he wrote this, it is obvious that he knew of the existence or at least of the intention of carrying into effect "hasty, violent, or concerted measures" for, unless that were the case, there could be no necessity for his giving the caution to his correspondent to abstain from concurring in them. The existence of this letter satisfies my mind conclusively that at this time Mr. Smith was acquainted with an intended movement which must necessarily lead to insurrection and revolt; that, being acquainted with it, he did not give the information which it was in his power and which it was his special duty to have given. By not having communicated it, he placed himself in a situation of criminal responsibility; and it appears to me that, knowing that a treasonable conspiracy was in agitation, he was guilty of the crime of misprision of treason. Now, whether that crime be punishable by death or not, still I consider that I have established that he was guilty of it.

Then, Sir, I would draw the attention of the House particularly to the charge against Mr. Smith of having seen Quamina on the Wednesday; and if the evidence of the witness, Romeo, be believed, there can be no question of the establishment of that fact. It appears by his evidence (*p. 9, of*

No. I.) that he saw Mr. Smith after church on Sunday in his own house. He says:

> "I cannot recollect that I saw him on Monday; I saw him on Tuesday, in the evening. I went to visit him, seeing the Negroes make such a great noise, as my heart was uneasy. I bid the prisoner 'good night,' and he answered me 'good night.' He then asked me if I had seen Quamina or Bristol? I replied, 'No.' He made answer, 'They are afraid to come to me now'. He said further, 'I wish I could see any one of them.'"

He admits, indeed, that he saw Quamina on the Wednesday but that he had no knowledge of his being concerned in the revolt. The work published by the missionary society, to which the honourable and learned gentleman has made such frequent reference, contains a document which throws light upon this subject. It is stated by Mrs. Smith, in her affidavit published in that book, that the only conversation that passed between them on the occasion was an observation by Mr. Smith, that "he was sorry and grieved to find that the people had been so foolish and so wicked and mad as to be guilty of revolting"—expressions which I regret he did not use when such revolt was only in prospect—"and that he hoped Quamina was not concerned in it."

But it is difficult to understand how he could have entertained such a hope as the expressions that Quamina had employed in preceding interviews could hardly have led him to suppose that if a revolt took place he could not have been connected with its operations. And when it is considered that Quamina, himself engaged in the revolt, went to Mr. Smith on the Wednesday, I cannot but infer that he went to him with a consciousness that he was not endangering himself by those consequences of a visit which might have resulted from his going to any other person whom he considered less in the light of a friend and confidant.

All these circumstances appear to me to place Mr. Smith in an attitude affording a strong *prima facie* case of suspicion of guilt. I think the whole of the transaction carries with it this

conviction and that nothing can resist it. You find that individuals already convicted of participation in the insurrection were dependants of Mr. Smith on terms of intimacy and acquaintance with him, many of them his agents and some of them holding offices in his chapel; and yet you are told to believe that all these circumstances may be the creatures of mere accident and are utterly independent of the question.

I entreat honourable members, with regard to this part of the evidence, to read these papers with attention and then to avow what is the impression produced on their minds. I would ask any member to read this evidence with attention and to put his hand upon his heart, and declare that he believes Mr. Smith had not been guilty of misprision of treason, whether intentionally or inadvertently, in suppressing his knowledge of the proceedings of the Negroes. And if his conduct has placed him in a situation in which he appears to have been clothed with all the attributes of crime, it is impossible to clear or exonerate him; at least, it is unjust to criminate the court-martial on the ground of his having been induced to act as he did by good intentions.

If a man, under the influence of irregular opinions, of an indiscreet zeal, or of enthusiastic feelings, decides to act in a manner different from those who possess sound and accurate judgment, it is impossible to prevent criminality from attaching to him; and it is useless to deny that it is to such habits and opinions that he owes his misfortunes; and if the enthusiasm of this individual is to be defended, enthusiasm might be defended in her worst efforts. You may suppose, if you please, that every man is actuated by good intention, but you can only judge of the characters of men by their actions; and judging of Mr. Smith by his actions, you find that he was cognizant of this traitorous conspiracy—a conspiracy calculated to overthrow the whole colony; and that, being cognizant of it, he omitted to give the proper authorities that information which might have prevented it.

Before we throw unqualified censure on the court by whom this individual was tried, let us for a moment consider the

consequences of this conduct. If this conspiracy could have been prevented by the interference or communication of Mr. Smith, he himself became more or less responsible, not only for the consequences which did follow, but for those also which might probably have followed and which were and would have been the result of his concealment.

I now, Sir, particularly wish to refer you to a passage in the petition presented to this House by the honourable member for Knaresborough, which has necessarily produced an impression on the public. That petition states as follows:

> "It appears to have been rather a riotous assemblage than a planned rebellion; and within a very few days it was easily suppressed. Many Negroes were shot and hanged, though little, if any, injury had been done to any property, and though the life of no White man was voluntarily taken away by them."

As to the loss of property, I would ask, whether the effect of this temporary suspension of the course of common affairs was not highly prejudicial to the interests of property; and though the effect of the insurrection might not have been the destruction of houses and property by fire and plunder, yet I would inquire if the necessity of compelling individuals to abandon their civil for exclusively military occupations is not to be considered as highly detrimental to their interests; and whether in fact they did not sustain a severe loss in their property by this removal from their customary avocations?

With respect to loss of life, I call on the House to lend me its attention, while I refer to the examination and declaration of Mrs. Mary Walrand, to which I venture to challenge the particular attention of the other side of the House. This examination is in p. 22 of No. II. of the *Demerara Papers* now before the House. It is in these terms:

> "On this day, the 1st of September, 1823, personally appeared Mrs. Mary Walrand, wife of F. A. Walrand, part owner of Nabaclis, on the East Coast of the united colony of Demerara and Essequibo, who states that at half-past four in the morning of the 19th August, 1823, she heard

> the firing of guns and persons breaking into the house, the jalousies breaking open."

I am justified in pressing this statement upon the House. I think it scarcely possible for history to supply a case more interesting than the one I am going to read, or one where female heroism is more likely to challenge and receive admiration, than the narrative of the conduct of this lady.

She proceeds to say:

> "Mr. Walrand then ran down stairs to defend the house, and I ran to one of the chamber windows, threw it open, and begged them to desist. I asked them what was the matter; they said 'Look at the lady at the window;' some said, 'Fire at her;' they did fire, and struck me in the arm. I retreated then a little from the window, and returned to it again, where I again beseeched them to be quiet; when holding up my hands in an attitude of supplication they again fired and wounded me in the hand. I then ran from the window to the stairs. As I got on the stairs I met my servant boy Billy (a servant boy of Mr. Walrand's who came from Barbados); he asked me where I was going; I said, below; and he said, 'Oh! my dear mistress, don't go,' and spoke with great terror; 'They have killed Mr. Tucker, wounded Mr. Forbes severely, and my master, I believe, is killed; I saw him dragged on the ground.'"

Be it remembered that when the petitions which have been poured forth upon the table are exclaiming against the proceedings of the court-martial, and when the honourable and learned gentleman would have all the sympathy of mankind mortgaged, as it were, to his eloquence and pathos in behalf of Mr. Smith, I have a right to claim some portion of compassion for those who have fallen victims to this conspiracy; and I would inquire if some degree of pity is not due to the state of suffering and alarm which this lady was compelled to endure.

She goes on:

> "He then pulled me into my own room, an upper room, and locked the door as soon as I got in; and we had scarcely been in the room before they rushed up stairs. He then opened a window, and jumped on the gallery, where they attempted to fire at him; he called our cook, called Lancaster, and said, 'Are you going to fire at me? I know you.' A boy presented at me, standing in the window, when Billy said, 'Are you

going to shoot my mistress?' I then perceived a very tall man close under the window, below on the ground; he told me, putting his hand on his mouth, Hush! they would not kill me. I begged him then to come up stairs and protect me; he burst the door, a number rushed in, filled the room instantly; the tall man (believed to be Calib, as he confessed it to Mr. Walrand and Mr. R. Reed) entered first with a pistol presented at me; they all presented at me. I asked them why they would kill me; what harm I had done them. They said they did not intend to kill me but I must show them all the powder and shot, where it was and where my husband was; I said that he had gone downstairs on hearing the noise, and I had never seen him since that time. They said, 'Other gentlemen were in the house, where are they?' I said I did not know.

"They then proceeded to examine all the trunks in the room, and boxes, and to take everything valuable. About this time I began to inquire for Mr. Walrand, what they had done with him. A man then advanced from the crowd, and asked me if I knew him; I said no, I really did not. He said, 'I know you, you are a very good lady; I know that you go to your sick-house, give the people physic, and attend to them; and that Mr. Walrand is an excellent master. My name is Sandy, of Non Parel, head carpenter.' 'Well then,' said I, 'Sandy, tell me what they have done with Mr. Walrand?' He said, 'He is not hurt, m'aam; he is only in the stocks.' 'Then,' I said, 'I must go there too.' The tall man then said, 'O no, you must be guarded in the house.' Whilst I was begging to go, a man named Joseph of Nabaclis, driver, came up to me, and then I clung to him, and insisted to go to Mr. Walrand. He likewise entreated for me and spoke of my character as a good mistress to them and upbraided them with their cruelty in having fired at me.

"While Joseph was speaking, the tall man went to the window, called from the window to the Negroes who were committing great excesses, breaking open the logie and drinking the wine, 'Make haste away to the post; you are losing time.' After he gave that order, he gave no reply to my entreaties but ran down stairs to accompany them. All this time I held Joseph by the arm whilst they were retreating down the side line, they having only left a guard. Rodney, of Bachelor's Adventure, was the one. I still persuaded him to take me to Mr. Walrand; he said it was more than his head was worth, without leave from the guard. He then went away and brought one of the guards. I said I would run to him at all events.

"The guard, Rodney, came into the house and accompanied me down stairs, then gave me leave to go; and in my way downstairs I saw Mr. Tucker's body. They had rifled his person of his watch, and everything on him, except his clothes; and after recovering from the shock of the first sight of it, I thought it might make some impression on their minds to speak to them of the crime, and see whether religion had any government of their motions."

This passage appears to me to show the danger of trusting to the effects of religious instruction for its influence over the conduct of slaves in insurrection; it shows the shocking degree of barbarity which ensues when the passions of men are excited in consequence of their sudden freedom from restraint, and of a discontinuance of their usual habits of obedience.

She goes on:

> "Rodney said they had not murdered him; he had cut his own throat. Joseph was still with me; [he] said, 'Don't say so,' and stooped, untied his cravat, opened his shirt-collar to show him his throat was not cut, and said, 'Don't you see that throat is not cut? He is shot in the body.' I said, 'You will then say that I shot myself; here is blood on my hands and all over me; here is my gown all over with it.' (They had previously told me their freedom had come out, and they had great friends at home)."

Here I would remark that the circumstance of this misapprehension of the nature of the benefits intended to be conferred upon them affords no justification or palliation whatever of the conduct of the slaves; but if this insurrection of these slaves attending Bethel Chapel arose solely from the circumstance of the resolutions of the House of Commons having been known to have passed, how came it that all the rest of the 70,000 slaves in the colony, who were in a situation precisely to be acted on by the same feelings, who were equally interested in the subject, how happened it that they were not equally dissatisfied with the delay of this communication; that they did not join in this conspiracy; that they were not equally excited to these cruelties and atrocities? I answer, Sir, the movement did not arise from the operation of a general feeling but from a particular local cause; and to that it is mainly to be attributed.

Mrs. Walrand proceeds:

> "I told them I would send my gown home and let them see what savages they were to fire on a defenceless lady who attended them in sickness. I begged Joseph, and all our Negroes to testify if those who had been poorly had not drunk the chocolate out of my own cup. Joseph

said it was all true; and not one of our Negroes would injure me, he was sure. Rodney said there was no occasion to talk anymore; and took me by the arm over to the sick-house and into the room were Mr. Forbes, who was badly wounded, was lying on the hard floor, and Mr. Walrand was there; neither was in the stocks at that time.

"After speaking to Mr. Walrand, I went to Mr. Forbes; he was a Scotchman, overseer of the estate, and he said 'What a scene is this for you, madam!' His blood had covered the floor in great quantities. I asked him to have his wounds dressed; he replied to me, 'No, I would rather die; they have taken all my clothes and all the little money that I had been toiling for; and this is now no country for a poor man to get his living in.' He asked me if there was no hope of relief. 'If this act passes unpunished, what have we to expect? I lie here murdered by the hands of those wretches; our Prince gave me a blow in my head,' where there was a cut across his neck, which Mr. Walrand saw. He said, 'I wish Wilberforce was here in this room just to look on me; for we may thank him and them for all that has happened, that the same might be dealt to him by some hand."

[*Mr. Wilmot Horton did not wish to have read this last passage but the House called upon him to go on with it*.]

I would not have the House suppose that I read this passage for the purpose of exciting any sympathy of feeling; but, however these expressions may be to be regretted, still some apology is to be made for the language of a man expiring in the last painful agonies of death and asserting his intimate conviction of the cause which had occasioned it. It shows, at least, what impressions can be produced upon the minds of persons who are heated by strong feeling on those subjects in which this question is involved. This will show, at least, the danger of working upon the feelings and passions of men who are susceptible of excitement to the highest degree and will show the necessity of checking any dangerous exercise of enthusiasm. Those who act under its influence and are determined to go beyond the bounds which reason and the common course of nature prescribe to human actions must be taught to repress their enthusiastic feelings; and if you have missionaries like Mr. Smith who entertain opinions that Negro slavery cannot be improved, that there is an end of all rational probability of improving the condition of the slaves, and that it

is an evil which must suddenly be got rid of, it is not less our duty than our policy to prevent the evils which such a habit of thinking is calculated to produce.

I also contend that this great object to which the legislature of this country are solemnly pledged on the subject of the ultimate abolition of slavery, and which will require a long lapse of time to effect, will be inevitably frustrated unless you can induce the masters and the possessors of slaves to concur with you in the measures necessary for its accomplishment. Therefore, if it be imagined that there is one common ground of complaint against all missionaries because this court-martial has sat in judgment upon the missionary Smith, if all missionaries conceive themselves to be attacked, it is an error into which they have fallen, more to be deprecated than any other circumstance. No word has dropped from any honourable member of this House to warrant such an inference; no one would be capable of uttering it; for if the instructions of the London Missionary Society are read with attention, it will be impossible to imagine directions more prudent or more satisfactory.

Any missionaries who acted literally under such instructions must undoubtedly prove advantageous to any colony. I call on every gentleman in the House to answer, when he reads these instructions and compares them with Mr. Smith's conduct, whether he thinks that they were fulfilled by Mr. Smith. These instructions were of the most salutary nature; better could not have been devised; more proper instructions could not have been wished. But Mr. Smith is held up by his partisans, not only as a man of innocent intentions (which we are not discussing), but of exemplary prudence and discretion; and these are considerations well worth the attention of those persons who are connected with other missionary societies when they are called upon to make a common cause with this individual, who, whatever may be his guilt or innocence, had not the good fortune to possess that prudence and temperance of feeling, without which the labours of a missionary must not only be fruitless but dangerous.

Mrs. Walrand proceeds:

> "He (Mr. Forbes) said how he envied Mr. Tucker his immediate death, and seemed in the most excruciating agony but perfectly in his senses. I entreated the guard, in the name of every principle of humanity, just to let me send to Golden Grove, the next estate, to Dr. Goldie; I tried to get them to look at the dying, bleeding man, hoping the sight of his misery would move their compassion. Each of the guards at different times, Murphy, Rodney and others, refused. The man died at half past twelve that night. In the course of the forenoon of Tuesday, Murphy (the man since executed) came into the gallery of the sick-house and was examining the house. I asked what was the meaning of all they had done and what they wanted. He said their freedom; the King had sent it out and their owners would not give it. I asked, 'Who told you so?' he said, 'Parson Smith preached it every Sunday.' I gave him my word most solemnly that I knew nothing of it; at least our Negroes had received no such freedom. They seemed to think I was deceiving them. He said Parson Smith was put in the stocks also. They said, 'The Negroes no want to put him in, but Parson Smith said they must put him in if they put other Whites in for copy of countenance.'"

Whatever may be the credit attached to this latter testimony, I quote it to show the crimes that result from transactions such as these and the dangers to the White population. Mr. Smith held in his hands the destinies of this colony and might have prevented these scenes by communicating his information to the proper authorities; and he might have done so without producing mischief to any individual. If Mr. Smith had been afraid; if he had felt that, as the spiritual master and director of these slaves, as their confidant and friend he was unwilling to state anything that would tend to criminate them, still he might have made all necessary communications without any such consequences; he might have said, "There is some misunderstanding among the Negroes who have heard that the promise of some indefinite good has come out, which has been misapprehended from not having been properly explained; I think that this may lead to disturbances which, when once commenced, it may be difficult or impossible to check; you cannot do better than to have your police out to be on your guard and to watch the motions of the Negroes."

He does nothing of this kind. If he had reasoned and acted thus, he would essentially have done his duty. It would not be necessary that a man should have a tithe of the ingenuity which Mr. Smith possessed to have directed him how he should do all this; to have enabled him to hit upon some mode by which he might have acquitted himself consistently with his own sense of friendship for the Negroes and with his duty to the government.

While the House is directing its attention to the circumstances of Mr. Smith, let it reflect on the crimes that I have been describing and which were the consequences of that insurrection which he might have prevented. I should like to know where the casuist is, who, listening to this individual instance which I have read which appears to have been most atrocious, can justify it or can tell you, when once you let in the principle of insurrection, where its effects and its desolation will stop. To whom is it owing if in the present instance it proceeded no further? To the exertions of those honourable officers who are now sought to be criminated by the honourable and learned gentleman; whom he holds up as persons who have forfeited every principle of honour and whom he represents as hostile to the abolition of slavery.

But can you suppose that the officers of this court-martial, utterly unconnected with the colony, were actuated by such base and unworthy motives? Can you suppose that such men as Colonel Goodman and Mr. President Wray, though connected with the colony, should have acted upon such principles? What object could they expect to gain by such a dereliction of their plain duty? If it could be shown that they were actuated by unworthy motives, the feelings of the country might justifiably be roused; but I assert that the public are as yet utterly unacquainted with the details of this subject. I feel satisfied that the House will consider Mr. Smith, not as a pattern of prudence, but as a man guilty of the grossest imprudence; though as to the criminality or innocence of his motives, that is a question between his Creator and himself, and, as far as human judgment is concerned, there will be a difference of opinion upon it to the end of the world. For myself, I must

think him an enthusiast; I must think that he entertained notions of an extravagant and irrational nature, incompatible with the well-being of society or at least of that society in which he lived. He appears to me to have believed that there were cases where the end justified the means; that passive knowledge was not actual guilt and, whatever may have been his intentions, I do not see why he is not to be treated as guilty when we find that all the attributes of guilt belong to him.

As to the question of bringing him before a court-martial, I think there could have been no other intention than to do justice. Then, as to the character of the proceedings, I think I am justified in saying that nobody will maintain that the same nicety of evidence is to be required in a court-martial as is required in a trial at common law[2]. Under all the circumstances of the case, therefore, there appears to be no reason for suspecting any intended injustice towards Mr. Smith.

Now, Sir, before I sit down, I feel it my duty to allude once more to the petition which was presented by the honourable and learned member for Knaresborough. The petition states that the cause of this insurrection was in no degree connected with the conduct of Mr. Smith himself or of the slaves under his immediate jurisdiction,[3] but was the result of an opposition to the moral and religious instruction of the slaves on the part of his persecutors and the cruelty of the masters towards the slaves. I challenge the honourable gentleman or any other person to show that the slaves were influenced by ill-treatment. It so happened (and I beg the attention of the House to this) that the principal leaders in this insurrection were high in the confidence of their masters; they were trusted, they were well fed, they were well paid and, if I may be allowed the expression, they were in comparative circumstances of affluence and prosperity.

The petition states, that "capricious interruptions and impediments were thrown in the way of their religious duties," and that "a long and inexplicable delay in promulgating the directions transmitted from His Majesty's government, favourable to the Negro population that were known among

them to have arrived, were causes sufficient to have accounted for the effect." That statement is positively inaccurate. There may have been interruptions, but to what do they amount? Particular parties may have been wronged; but it forms no ground work for the transactions which ensued. With respect to the delay in promulgating the intentions of government, whether that was or was not prudent, I do not pause to argue; but still I think it is no cause sufficient to account for the effect. If it had been so, it would have operated as much in the other districts of this colony as well as in other parts of the West Indies which were placed precisely under the same circumstances.

I have already shown that the assertion that this "bloodless insurrection," as it has been called, had been productive of no loss of property or lives, is inaccurate. The petitioners then set forth that the particular circumstances connected with Demerara have rendered the duties of missionaries there particularly arduous and perplexing and have occasioned difficulties which no other West India colony presents in an equal degree. This statement I believe to be exaggerated but, at least, it does not affect the present question. I do not imagine that any missionary can go out without expecting that he is going on a severe and difficult service; that he will have much to endure, and much to bear, and to forbear; but even if he does meet with scandalous conduct, that does not justify him in taking measures of reprisals on the whole population of the colony. Why not disclose to the government any acts that might warrant a suspicion of an existing intention on the part of the Negro population to revolt?

It is stated that Mr. Smith was put in close confinement; and the honourable and learned member has descanted on the horrors of that imprisonment. It does not, however, appear that he had to endure any unnecessary severity; and the complaint of his imprisonment would at least have equally applied if he had been imprisoned under a civil process and not in pursuance of the sentence of a court-martial. There were circumstances which rendered it impossible that he could be imprisoned

elsewhere. I cannot believe that it was the intention of the parties under whose authority that imprisonment took place that it should be more severe than was necessary. I do think that all those points are crowded together in the petition by way of aggravation and to excite the feelings of the country, but before blame is imputed I think the proofs ought to be satisfactorily established.

Then it is stated that he had not the assistance of an advocate. The fact is otherwise; he had the assistance of an advocate as far as he could be useful to him for all necessary purposes. As to the receiving hearsay evidence against him and not for him, I am satisfied that it is an inaccuracy and that the court-martial did not do what they are stated to have done. It seems impossible that such a man as the honourable president of this court-martial can ever have said or suffered it to be said, "After admitting hearsay evidence for the prosecution, we will not now hear any more," that declaration being made, too, after the commencement of the defence with a view to deprive Mr. Smith of the benefit of similar evidence. I am satisfied that this could not have been said without some qualification which deprives it of its injustice; and I hope the House will not feel itself bound to agree with the honourable and learned gentleman's motion, made on the faith of this publication proceeding from a Society, however respectable, but not from official documents upon which this House has to act.

The petition states that the influence of the doctrine promulgated by Mr. Smith was visible in the manner of conducting the insurrection and by the absence of outrage by which it was marked; that more mildness was manifested during this commotion by the parties than is usual on such occasions. I ask the House how can any man who has read the declaration on oath of Mrs. Walrand agree with these petitioners that the happy influence of Christian instruction, with its mild and benignant spirit, was visible throughout those proceedings?

The whole country has been told that this was an insurrection attended by no violence. I deny it altogether. I

would refer to the evidence of Mrs. Walrand and ask, if there was not unnecessary cruelty. Was it necessary for any useful object that Mrs. Walrand should herself be shot at? It is true that she received the balls only in her arm, but they might have reached her heart. Surely there never was a case of insurrection more distinguished in some of its incidents than this was, by features of outrage. While such aggravation of some facts and mitigation of others have been put forth, can it be wondered at that petitions on this subject should have deluged the table? And will you be surprised that they should be continued until the public are satisfied of the exaggeration of the statements which have gone forth?

The petitioners say that "it was on Mr. Smith, an innocent and unprotected victim, that they (the colonists) chiefly poured the torrent of their wrath. I say that it was not on Mr. Smith as an innocent and unprotected victim; but on Mr. Smith whom they believed to be the person who might have prevented their distress and whom they believed to be cognisant of, and connivant at, the conspiracy, and who, though he did not criminally encourage it, might at least have prevented it. I cannot think, under these circumstances, that he is fairly to be characterised as an innocent and unprotected victim.

The petitioners state also that "all the legal opinions they have obtained and all the information they have collected tend to confirm their belief, not only of the legal but perfect moral innocence of Mr. Smith." As to what opinion he had formed in his own conscience of his own moral accountability of his notions of right or wrong, it is not for us to judge; but if a man suffers himself to believe that he can, with a false confidence on his own judgment, act in a manner not sanctioned by law—not only incompatible with the good of society but which must lead to the destruction of it—we are justified in characterizing him as a criminal though his own interpretation of his duty may absolve him from guilt. It is a necessity arising out of the imperfection of human nature that we are compelled to look at the actions of men as indicative of their intentions; and looking at those acts of Mr. Smith, whatever may have been his

misapprehension of his duty, I cannot but consider him as guilty.

I have endeavoured, Sir, to establish that the statements in the petition are inaccurate; and that this petition is to be considered as the parent of all the other petitions. On the faith that this petition has represented facts as they occur, there has been an universal disposition, on the part of those who are interested in missions generally, to present these petitions to the House. But I contend that it will be most unfortunate for the cause of missions and of missionaries if it is to be laid down that the conduct of Mr. Smith is to be considered as a model by those who are destined to the performance of the same duties with himself; and whatever may be the opinion of the petitioners of Mr. Smith's innocence, they would, in my opinion, have acted with more discretion if they had allowed that his conduct in some instances had all the characteristics of guilt belonging to it. I assert that no man could be guilty of misprision of treason without involving a doubt of his criminality. A man may have an innocent intention and yet do that which is criminal; the moral character of the crime may unquestionably be affected by the circumstances that attend it. It is not for me to lay down law; that must be read in the authorities that are to be found on the subject, or explained by honourable members who are more competent to the task; but Mr. Smith does unequivocally appear to me to have been guilty of misprision of reason, and his letter completely establishes the fact.

With respect to the mode of his trial, it was necessarily under the operation of martial law. I have shown that martial law was proclaimed, not for the purpose of injuring or oppressing Mr. Smith, but in strict compliance with the wishes of the inhabitants of the whole colony. The honourable and learned gentleman has allowed that the wishes of a whole community are always to be considered as the sanction of any measure. I have shown that the whole community were in favour of the continuance of martial law, so satisfied were they of its necessity; and, therefore, upon the principle of the

honourable and learned gentleman himself, the authorities were justified in continuing it. Under these circumstances, I cannot "contemplate, with serious alarm and deep sorrow, the violation of justice" in the proceedings against Mr. Smith. It appears to me that the case of Mr. Smith, under the suspicions which attach to him, and on the evidence adduced against him, was one that required justice to be put in action, and that justice in intention and in substance has been carried into effect.

It has been argued that the judge-advocate had mistaken his duty when he summed up the evidence rather in the character of a counsel against the prisoner than as an assessor to hold the balance between him and the court; but that argument, if it be tenable, as founded on precedent, cannot destroy or affect the weight of evidence itself on which the members of the court must be presumed to have formed their opinion.

Looking, then at the whole of this subject, the question is: Was it intended that substantial justice should be done to Mr. Smith and has substantial justice been done to him? And, under the circumstances of difficulty and danger in which this colony was placed; under the circumstances of its relative population, with its absence of means of military resistance; can it be said that the measures to which the authorities were compelled to resort were such as deserved the stigma which is attached to them by the resolution of the honourable and learned gentleman?

As to the concluding part of the resolution, "for securing such a just and humane administration of law," etc., that is a proposition, in the abstract, to which no one could object. At present, the Dutch law is in the progress of alteration in Demerara, for the purpose of having another and a better system substituted for it. I see no reason, therefore, for the House coming to the resolution which has been proposed. I have felt it to be important for me, in the discharge of my public duty, to express my opinion. It is the wish of government that the affair should be impartially heard and investigated on such evidence as the House is in the possession of. There are others who are more capable of doing justice to

the subject; but for myself, I must dissent from the proposition of the honourable and learned gentleman, and I trust that he will not be able to prevail on the House to concur with him in his motion and by their vote to sanction the resolution which he has brought forward.

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[1] Mr. Bond was apparently a member of the court-martial.

[2] "That all common-law courts ought to proceed on a general rule, namely, the best evidence that the nature of the case will admit, I perfectly agree. But that all other courts are in all cases to adopt all the distinctions that have been established and adopted in courts of common law, is rather a larger proposition than I choose directly to assent to."—Lord Loughborough, in Grant v Gould.

[3] Lord Loughborough, in Grant v Gould, op. cit.

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Speech by Sir James Mackintosh

Sir James Mackintosh [M. P. for Knaresborough] said:—

Mr. Speaker,

Even if I had not been loudly called upon and directly challenged by the honourable gentleman—even if his accusations, now repeated after full consideration, did not make it my duty to vindicate the petition which I had the honour to present, from unjust reproach—I own that I should have been anxious to address the House on this occasion, not to strengthen a case already invincible, but to bear my solemn testimony against the most unjust and cruel abuse of power under a false pretence of law that has in our times dishonoured any portion of the British Empire. I am sorry that the honourable gentleman, after so long an interval for reflection, should have this night repeated those charges against the London Missionary Society, which, when he first made them, I thought rash, and which I am now entitled to treat as utterly groundless. I should regret to be detained by them for a moment, from the great question of humanity, of justice, before us, if I did not feel that they excite a prejudice against the case of Mr. Smith, and that the short discussion sufficient to put them aside leads directly to the vindication of the memory of that oppressed man.

The honourable gentleman calls the London Missionary Society bad philosophers; by which I presume he means bad reasoners, because they ascribe the insurrection partly "to the long and inexplicable delay of the government of Demerara to promulgate the instructions favourable to the slave population," and because he, adopting one of the arguments of that speech by which the deputy judge-advocate disgraced his office, contends that a partial revolt cannot have arisen from a general cause of discontent—a position belied by the whole course of

history and which is founded upon the absurd assumption that one part of a people, from circumstances sometimes easy, sometimes very hard to be discovered, may not be more provoked than others by the grievance common to all.

So inconsistent, indeed, is the defence of the rulers of Demerara with itself that in another part of the case they represent a project for an universal insurrection as having been formed and ascribe its being in fact confined to the East Coast to unaccountable accidents. Paris, the ringleader, in what is called his confession, says, "The whole colony was to have risen on Monday, and I cannot account for the reasons why only the East Coast rose at the time appointed."[1] So that, according to this part of their own evidence, they must abandon their argument and own the discontent to have been as general as the grievance.

Another argument against the Society's petition is transplanted from the same nursery of weeds. It is said that cruelty cannot have contributed to this insurrection because the leaders of the revolt were persons little likely to have been cruelly used, being among the most trusted of the slaves. Those who employ so gross a fallacy must be content to be called worse reasoners than the London Missionary Society. It is, indeed, one of the usual commonplaces in all cases of discontent and tumult, but it is one of the most futile. The moving cause of most insurrections, and in the opinion of two great men (Sully and Burke) of all, is the distress of the great body of insurgents, but the ringleaders are generally, and almost necessarily, individuals who being more highly endowed or more happily situated, are raised above the distress which is suffered by those of whom they take the command.

But, the honourable gentleman's principal charge against the petition is the allegation contained in it, that "the life of no White man was voluntarily taken away by the slaves." When I heard the confidence with which a confutation of this averment was announced, I trembled for the accuracy of the petition. But, what was my astonishment when I heard the attempt at confutation made? In the *Demerara Papers* No. II there is an

ample and elaborate narrative of an attack on the house of a Mrs. Walrand by the insurgents, made by that lady, or for her—a caution in statement which the subsequent parts of these proceedings prove to be necessary in Demerara. The honourable gentleman has read the narrative to show that two lives were unhappily lost in this skirmish; and this the honourable gentleman seriously quotes as proving the inaccuracy of the petition. Does he believe, can he hope to persuade the House, that the petitioners meant to say that there was an insurrection without fighting, or skirmishes without death? The attack and defences of houses and posts are a necessary part of all revolts, and deaths are the natural consequences of that as well as of every species of warfare. The revolt in this case was, doubtless, an offence; the attack on the house was a part of that offence; the defence was brave and praiseworthy; the loss of lives is deeply to be deplored but it was inseparable from all such unhappy scenes. It could not be "the voluntary killing" intended to be denied in the petition.

The Governor of Demerara, in a despatch to Lord Bathurst, makes the same statement with the petition: "I have not," he says, "heard of one White who was deliberately murdered." Yet he was perfectly aware of the fact which has been so triumphantly displayed to the House. "At plantation Nabaclis, where the Whites were on their guard, two out of three were killed in the defence of their habitation." The defence was legitimate and the deaths lamentable. But as the Governor distinguishes them from murder so do the society. They deny that there was any killing in cold blood. They did not mean to deny, any more than to affirm (for the papers which mention the fact were printed since their petition), that there was killing in battle when each party were openly struggling to destroy their antagonists and to preserve themselves. The Society only denies that this insurrection was dishonoured by those murders of the unoffending or of the vanquished, which too frequently attend the revolts of slaves.

The Governor of Demerara agrees with them; the whole facts of the case support them; and the quotation of the

honourable gentleman leaves their denial untouched. The revolt was absolutely unstained by excess. The killing of Whites, even in action, was so small as not to appear in the trial of Mr. Smith or in the first accounts laid before us; I will not stop to inquire whether killing in action may not, in a strictly philosophical sense, be called "voluntary." It is enough for me that no man will call it calm, needless, or deliberate. This is quite sufficient to justify even the words of the petition. The substance of it is now more than abundantly justified by the general spirit of humanity which pervaded the unhappy insurgents, by the unparalleled forbearance and moderation which characterized the insurrection.

On this part of the subject, so important to the general question, as well as to the character of the petition for accuracy, the Missionary Society appeal to the highest authority, that of the Rev. Mr. Austin—not a missionary or a Methodist, but the chaplain of the colony, a minister of the Church of England, who has done honour even to that Church, so illustrious by the genius and learning and virtue of many of her clergy, by his Christian charity, by his inflexible principles of justice, by his intrepid defence of innocence against all the power of a government, and against the still more formidable prejudices of an alarmed and incensed community. No man ever did himself more honour by the admirable combination of strength of character with sense of duty, which needed nothing but a larger and more elevated theatre to place him among those who will be in all ages regarded by mankind as models for imitation, and objects of reverence.

That excellent person—speaking of Mr. Smith, a person with whom he was previously unacquainted, a minister of a different persuasion, a missionary, considered by many of the established clergy as a rival if not an enemy, a man then odious to the body of the colonists whose goodwill must have been so important to Mr. Austin's comfort—after declaring his conviction of the perfect innocence and extraordinary merit of the persecuted missionary, proceeds to bear testimony to the moderation of the insurgents and to the beneficent influence of

Mr. Smith in producing that moderation in language far warmer and bolder than that of the petitioners. "I feel no hesitation in declaring," says he, "from the intimate knowledge which my most anxious inquiries have obtained, that in the late scourge, which the hand of an all-wise Creator has inflicted on this ill-fated country, nothing but those religious impressions which, under Providence, Mr. Smith has been instrumental in fixing; nothing but those principles of the gospel of peace which he had been proclaiming could have prevented a dreadful effusion of blood here and saved the lives of those very persons who are now, I shudder to write it, seeking his life!"

And here I beg the House to weigh this testimony. It is not only valuable from the integrity, impartiality, and understanding of the witness, but from his opportunities of acquiring that "intimate knowledge" of facts on which he rests his opinion. He was a member of the secret Commission of Inquiry established on this occasion, which was armed with all the authority of government and which received much evidence relating to this insurrection not produced on the trial of Mr. Smith.

And this circumstance immediately brings me to the consideration of the hearsay evidence illegally received against Mr. Smith. I do not merely, or chiefly, object to it on grounds purely technical or as being inadmissible by the law of England. I abstain from taking any part in the discussion of lawyers or philosophers with respect to the wisdom of our rules of evidence, though I think that there is to be said more for them than the ingenious objectors are aware of. What I complain of is the admission of hearsay of the vaguest sort under circumstances where such an admission was utterly abominable.

In what I am about to say I shall not quote from the Society's edition of the trial but from that which is officially before the House; so that I may lay aside all that has been said on the superior authority of the latter. Mr. Austin, when examined in chief stated that though originally prepossessed against Mr. Smith, yet, in the course of numerous inquiries, he

could not see any circumstance which led to a belief that Mr. Smith had been, in any degree, instrumental in the insurrection, and that, on the contrary, when he (Mr. Austin) said to the slaves that bloodshed had not marked the progress of their insurrection, their answer was, "It is contrary to the religion we profess" (which had been taught to them by Mr. Smith). "We cannot give life and, therefore, we will not take it."

This evidence of the innocence of Mr. Smith and of the humanity of the slaves appears to have alarmed the impartial judge-advocate; and he proceeded in his cross-examination to ask Mr. Austin whether any of the Negroes had ever insinuated that their misfortunes were occasioned by the prisoner's influence over them or by the doctrines he taught them. Mr. Austin, understanding this question to refer to what passed before the committee, appears to have respectfully hesitated about the propriety of disclosing these proceedings; upon which the court, in a tone of discourtesy and displeasure, which a reputable advocate for a prisoner would not have used towards such a witness in this country, addressed the following illegal and indecent question to Mr. Austin: "Can you take it upon yourself to swear that you do not recollect any insinuations of that sort at the Board of Evidence?" How that question came to be waved does not appear in the official copy. It is almost certain, however, from the purport of the next question that the Society's report is correct in supplying this defect; that Mr. Austin still doubted its substantial propriety and continued to resent its insolent form. He was actually asked, "whether he heard before the Board of Evidence any Negro imputing the cause of the revolt to the prisoner?" He answered "Yes," and the inquiry is pursued no further.

I again request the House to bear in mind that this question and answer rest on the authority of the official copy; and, I repeat, that I disdain to press the legal objection of hearsay and to contend that to put such a question and receive such an answer were acts of mere usurpation in any English tribunal. Much higher matter arises on this part of the evidence. Fortunately for the interest of truth, we are now in possession

of the testimony of the Negroes before the Board of Inquiry which is adverted to in this question and which, be it observed, was wholly unknown to the unfortunate Mr. Smith. We naturally ask why these Negroes themselves were not produced as witnesses if they were alive; or, if they were executed, how it happened that none of the men who gave such important evidence before the Board of Inquiry were preserved to bear testimony against him before the court-martial? Why were they content with the much weaker evidence actually produced? Why were they driven to the necessity of illegally obtaining, through Mr. Austin, what they might have obtained from his informants?

The reason is plain. They disbelieved the evidence of the Negroes who threw out "the insinuations" or "imputations." That might have been nothing but they knew that all mankind would have rejected that pretended evidence with horror. They knew that the Negroes, to whom their question adverted, had told a tale to the Board of Evidence in comparison with which the story of Titus Oates was a model of probability, candour and truth. One of them (Sandy) said that Mr. Smith told him, though not a member of his congregation nor even a Christian, "that a good thing was come for the Negroes and that if they did not seek for it now, the Whites would trample upon them and upon their sons and daughters to eternity."[2] Another (Paris) says, "that all the male Whites (except the doctors and missionaries) were to be murdered and all the females distributed among the insurgents; that one of their leaders was to be a king, another to be a governor, and Mr. Smith to be emperor" [*id. p. 30*]; that on Sunday, the 17th of August, Mr. Smith administered the sacrament to several leading Negroes and to Mr. Hamilton, the European overseer of the estate, Le Resouvenir; that he swore the former on the Bible to do him no harm when they had conquered the country, and afterwards blessed their revolt, saying, "Go, as you have begun in Christ, you must end in Christ!"[3] [*id. p. 41*.]

All this the prosecutor concealed with the knowledge of the court. While they asked whether Mr. Austin had heard

statements made against Mr. Smith before the Board of Evidence, they studiously conceal all those incredible, monstrous, impossible fictions which accompanied these statements and which would have annihilated their credit. Whether the question was intended to discredit Mr. Austin or to prejudice Mr. Smith, it was, in either case, an atrocious attempt to take advantage of the stories told by the Negroes and, at the same time, to screen them from scrutiny, contradiction, disbelief and abhorrence. If these men could have been believed, would they not have been produced on the trial? Paris, indeed, the author of this horrible fabrication, charges Bristol, Manuel and Azor, three of the witnesses afterwards examined on the trial of Mr. Smith, as having been parties to the dire and execrable oath.

Not one of them alludes to such horrors; all virtually contradict them. Yet this court-martial sought to injure Mr. Austin or to contribute to the destruction of Mr. Smith by receiving as evidence a general statement of what was said by those whom they could not believe, whom they did not produce, and who were contradicted by their own principal witnesses; who, if their whole tale had been brought into view, would have been driven out of any court with shouts of execration.

I cannot yet leave this part of the subject. It deeply affects the character of the whole transaction. It shows the general terror which was so powerful as to stimulate the slaves to the invention of such monstrous falsehoods. It throws light on that species of skill with which the prosecutors kept back the absolutely incredible witnesses and brought forward only those who were discreet enough to tell a more plausible story; and on the effect which the circulation of the fictions, which were too absurd to be avowed, must have had in exciting the body of the colonists to the most relentless animosity against the unfortunate Mr. Smith. It teaches us to view with the utmost jealousy the more guarded testimony actually produced against him, which could not be exempt from the influence of the same fears and prejudices. It authorizes me to lay a much more than

ordinary stress on every defect of the evidence because, in such circumstances, I am warranted in affirming that whatever was not proved, could not have been proved.

But, in answer to all this, we are asked by the honourable gentleman, "Would President Wray have been a party to the admission of improper evidence?" Now, Sir, I wish to say nothing disrespectful of Mr. Wray; and the rather because he is well spoken of by those whose good opinion is to be respected. We do not know that he may not have dissented from every act of this court-martial. I should heartily rejoice to hear that it was so, but I am aware we can never know whether he did or not. The honourable gentleman unwarily asks, "Would not Mr. Wray have publicly protested against illegal questions?" Does he not know, or has he forgotten, that every member of a court-martial is bound by oath not to disclose its proceedings? But really, Sir, I must say, that the character of no man can avail against facts. "*Tolle e causâ nomen Catonis.*" Let character protect accused men where there is any defect in the evidence of their guilt. Let it continue to yield to them that protection which Mr. Smith, in his hour of danger, did not receive from the tenor of his blameless and virtuous life. Let it be used for mercy, not for severity. Let it never be allowed to aid a prosecutor or to strengthen the case of an accuser. Let it be a shield to cover the accused, but let it never be converted into a dagger by which he is to be stabbed to the heart. Above all, let it not be used to destroy his good name after his life has been taken away.

The question is, as has been stated by the honourable gentleman, whether, on a review of the whole evidence, Mr. Smith can be pronounced to be guilty of the crimes charged against him and for which he was condemned to death. That is the fact on which issue is to be joined. In trying it, I can lay my hand on my heart and solemnly declare, upon my honour, or whatever more sacred sanction there be, that I believe him to have been an innocent and virtuous man, illegally tried, unjustly condemned to death, and treated in a manner which would be disgraceful to a civilized government in the case of

the worst criminal. I heartily rejoice that the honourable gentleman has been manly enough directly to dissent from my honourable friend's motion; that the case is to be fairly brought to a decision; and that no attempt is to be made to evade a determination by moving the previous question. That, of all modes of proceeding, I should most lament. Some may think Mr. Smith guilty; others will agree with me in thinking him innocent; but no one can doubt that it would be dishonourable to the grand jury of the Empire to declare that they will not decide, when a grave case is brought before them, whether a British subject has been lawfully or unlawfully condemned to death.

We still observe that usage of our forefathers according to which the House of Commons at the commencement of every session of parliament nominates a grand committee of justice; and if in ordinary cases other modes of proceeding have been substituted in practice for this ancient institution, we may at least respect it as a remembrancer of our duty which points out one of the chief objects of the original establishment. All evasion is here refusal, and a denial of justice in parliament, more especially in an inquest for blood, would be a fatal and irreparable breach in the English constitution.

The question before us resolves itself into several questions relating to every branch and stage of the proceedings against Mr. Smith—whether the court-martial had jurisdiction; whether the evidence against him was warranted by law or sufficient in fact; whether the sentence was just or the punishment legal? These questions are so extensive and important that I cannot help wishing they had not been still further enlarged and embroiled by the introduction of matter wholly impertinent to any of them.

To what purpose as the honourable gentleman, so often told us, that Mr. Smith was an enthusiast? It would have been well if he had given us some explanation of the sense in which he uses so vague a term. If he meant by it to denote the prevalence of those disorderly passions which, whatever be their source or their object, always disturb the understanding and often pervert

the moral sentiments, we have clear proof that it did not exist in Mr. Smith so far as to produce the first of these unfortunate effects; and it is begging the whole question in dispute to assert that it manifested itself in him by the second and still more fatal symptom.

There is, indeed, another temper of mind called enthusiasm, which though rejecting the authority neither of reason nor of virtue, triumphs overall the vulgar infirmities of men, contemns their ordinary pursuits, braves danger, and despises obloquy; which is the parent of heroic acts and apostolical sacrifices; which devotes the ease, the pleasure, the interest, the ambition, the life of the generous enthusiast, to the service of his fellowmen. If Mr. Smith had not been supported by an ardent zeal for the cause of God and man, he would have been ill-qualified for a task so surrounded by disgust, by calumny, by peril, as that of attempting to pour instruction into the minds of unhappy slaves. Much of this excellent quality was doubtless necessary for so long enduring the climate and the government of Demerara. I am sorry that the honourable gentleman should have deigned to notice any part of the impertinent absurdities with which the court have suffered their minutes to be encumbered, and which have no more to do with this insurrection than with the Popish plot.

What is it to us that a misunderstanding occurred three or four years ago between Mr. Smith and a person called Captain or Doctor McTurk whom he had the misfortune to have for a neighbour—a misunderstanding long antecedent to this revolt and utterly unconnected with any part of it? It was inadmissible evidence; and if it had been otherwise, it proved nothing but the character of the witness—of the generous Mac Turk who, having had a trifling difference with his neighbour five years ago, called it to mind at the moment when that neighbour’s life was in danger. Such is the chivalrous magnanimity of Dr. McTurk. If I were infected by classical superstition I should forbid such a man to embark in the same vessel with me. I leave him to those from whom, if we may trust his name or his manners, he may be descended, and I cannot help thinking that

he deserves, as well as they, to be excluded from the territory of Christians.

I very sincerely regret that the honourable gentleman, by quotations from Mr. Smith's manuscript journal, should appear to give any countenance or sanction to the detestable violation of all law, humanity, and decency, by which that manuscript was produced in evidence against the writer. I am sure that when his official zeal has somewhat subsided he will himself regret that he appealed to such a document. That which is unlawfully obtained cannot be fairly quoted. The production of a paper in evidence containing general reflections and reasonings, or narratives of fact, not relating to any design or composed to compass any end, is precisely the iniquity perpetrated by Jeffries in the case of Sidney[4], which has since been reprobated by all lawyers and which has been solemnly condemned by the legislature itself. I deny, without fear of contradiction from any one of the learned lawyers who differ from me in this debate, that such a paper has been received in evidence since that abominable trial by any body of men calling themselves a court of justice.

Is there a single line in the extracts produced which could have been written to forward the insurrection? I defy any man to point it out. Could it be admissible evidence on any other ground? I defy any lawyer to maintain it; for if it were to be said that it manifests opinions and feelings favourable to Negro insurrection and which rendered probable the participation of Mr. Smith in this revolt (having first denied the fact), I should point to the statute reversing the attainder of Sidney against whom the like evidence was produced precisely under the same pretence. Nothing can be more decisive on this point than the authority of a great judge and an excellent writer. "Had the papers found in Sidney's closet," says Mr. Justice Foster, "been plainly relative to the other treasonable practices charged in the indictment, they might have been read in evidence against him, though not published. The papers found on Lord Preston were written in prosecution of certain determined purposes which

were treasonable, and then (namely at the time of writing) in the contemplation of the offenders."

But the iniquity in the case of Sidney vanishes in comparison with that of this trial. Sidney's manuscript was intended for publication. It could not be said that its tendency, when published, was not to excite dispositions hostile to the bad government which then existed; it was perhaps, in strictness, indictable as a seditious libel. The journal of Mr. Smith was meant for no human eye. It was seen by none; only extracts of it had been sent to his employers in England, as inoffensive, doubtless, as their excellent instructions required. In the midst of conjugal affection and confidence, it was withheld even from his wife. It consisted of his communings with his own mind or the breathing of his thoughts towards his Creator; it was neither addressed nor communicated to any created being. That such a journal should have been dragged from its sacred secrecy is an atrocity (I repeat it) to which I know no parallel in the annals of any court that professed to observe a semblance of justice.

I dwell on this circumstance because the honourable gentleman, by his quotation, has compelled me to do so and because the admission of this evidence shows the temper of the court. For I think the extracts produced are, in truth, favourable to Mr. Smith; and I am entitled to presume, that the whole journal, withheld as it is from us, withheld from the Colonial Office, though circulated through the court to excite West Indian prejudices against Mr. Smith, would, in the eyes of impartial men, have been still more decisively advantageous to his cause. How, indeed, can I think otherwise?

What, in the opinion of the judge-advocate, is the capital crime of this journal? It is that in it the prisoner "avows he feels an aversion to slavery!" He was so depraved as to be an enemy of that admirable institution! He was so lost to all sense of morality as to be dissatisfied with the perpetual and unlimited subjection of millions of reasonable creatures to the will, and caprice, and passions of other men! This opinion, it is true, Mr. Smith shared with the King, parliament and people of Great

Britain; with all wise and good men in all ages and nations. Still, it is stated by the judge-advocate as if it were some immoral paradox which it required the utmost effrontery to "avow" one of the passages produced in evidence and, therefore thought either to be criminal itself or a proof of criminal intention, well deserves attention: "While writing this, my very heart flutters at hearing the almost incessant cracking of the whip!" As the date of this part of the journal is the 22nd March, 1819, more than four years before the insurrection, it cannot be so distorted by human ingenuity as to be brought to bear on the specific charges which the court had to try.

What, therefore, is the purpose for which it is produced? They overheard, as it were, a man secretly complaining to himself of the agitation produced in his bodily frame by the horrible noise of a whip constantly resounding on the torn and bloody backs of his fellow creatures. As he does not dare to utter them to any other, they must have been unaffected, undesigning, almost involuntary ejaculations of feeling. The discovery of them might have recalled unhardened men from practices of which they had thus casually perceived the impression upon an uncorrupted heart. It could hardly have been supposed that the most practised Negro-driver could have blamed them more severely than by calling them effusions of weak and womanish feelings.

But it seemed good to the prosecutors of Mr. Smith to view these complaints in another light. They regard the "fluttering of his heart at the incessant cracking of the whip" as an overt act of the treason of abhorring slavery. They treat natural compassion, and even its involuntary effects on the bodily frame, as an offence. Such is the system of their society that they consider every man who feels pity for suffering, or indignation against cruelty, as their irreconcilable enemy. Nay, they receive a secret expression of these feelings as evidence against a man on trial for his life in what they call a court of justice.

My right honourable friend, Mr. Canning, has, on a former occasion, happily characterized the resistance, which has not

been obscurely threatened, against all measures for mitigating the evils of slavery as "a rebellion for the whip." In the present instance we see how sacred that instrument is held; how the right to use it is prized as one of the dearest of privileges; and in what manner the most private murmur against its severest inflictions is brought forward as a proof, that he who breathes it must be prepared to plunge into violence and blood.

In the same spirit, conversations are given in evidence, long before the revolt, wholly unconnected with it, and held with ignorant men who might easily misunderstand or misremember them, in which Mr. Smith is supposed to have expressed a general and speculative opinion that slavery never could be mitigated and that it must die a violent death. These opinions the honourable gentleman calls fanatical. Does he think Dr. Johnson a fanatic, or a sectary, or a Methodist, or an enemy of established authority?

But he must know, from the most amusing of books, that Johnson, when on a visit to Oxford, perhaps when enjoying lettered hospitality at the table of the master of University College,[5] proposed as a toast "Success to the first revolt of Negroes in the West Indies." He neither meant to make a jest of such matters, nor to express a deliberate wish for an event so full of horror, but merely to express in the strongest manner his honest hatred of slavery; for no man evermore detested actual oppression, though his Tory prejudices hindered him from seeing the value of those liberal institutions which alone secure society from oppression. This justice will be universally done to the aged moralist who knew slavery only as a distant evil, whose ears were never wounded by the cracking of the whip. Yet all the casual expressions of the unfortunate Mr. Smith, in the midst of dispute or when he was fresh from the sight of suffering, rise up against him as legal proof of settled purposes and deliberate designs.

On the legality of the trial, the impregnable speech of my learned friend has left me little, if anything, to say. The only principle on which the law of England tolerates what is called martial is necessity. Its introduction can be justified only by

necessity; its continuance requires precisely the same justification of necessity; and if it survives the necessity on which alone it rests for a single minute, it becomes instantly a mere exercise of lawless violence. When foreign invasion or civil war renders it impossible for courts of law to sit or to enforce the execution of their judgments, it becomes necessary to find some rude substitute for them and to employ, for that purpose, the military which is the only remaining force in the community. While the laws are silenced by the noise of arms, the rulers of the armed force must punish, as equitably as they can, those crimes which threaten their own safety and that of society. But no longer; every moment beyond is usurpation; as soon as the laws can act, every other mode of punishing supposed crimes is itself an enormous crime.[6]

If argument be not enough on this subject; if, indeed, the mere statement be not the evidence of its own truth; I appeal to the highest and most venerable authority known to our law. "Martial law," says Sir Matthew Hale, "is not a law, but something indulged, rather than allowed, as a law. The necessity of government, order, and discipline in an army, is that only which can give it countenance. '*Necessitas, enim, quod cogit defendit.*' Secondly, this indulged law is only to extend to members of the army, or to those of the opposite army, and never may be so much indulged as to be exercised or executed upon others. Thirdly, the exercise of martial law may not be permitted in time of peace, when the king's courts are" (or may be) "open."[7]

The illustrious judge on this occasion appeals to the Petition of Right which, fifty years before, had declared all proceedings by martial law, in time of peace, to be illegal. He carries the principle back to the cradle of English liberty and quotes the famous reversal of the attainder of the Earl of Kent, in the first year of Edward III, as decisive of the principle that nothing but the necessity arising from the absolute interruption of civil judicatures by arms can warrant the exercise of what is called martial law. Wherever and whenever they are so interrupted, and as long as the interruption continues, necessity justifies it.

No other doctrine has ever been maintained in this country since the solemn parliamentary condemnation of the usurpations of Charles I, which he was himself compelled to sanction in the Petition of Right.

In none of the revolutions or rebellions which have since occurred has martial law been exercised, however much in some of them the necessity might seem to exist. Even in those most deplorable of all commotions which tore Ireland in pieces in the last years of the eighteenth century; in the midst of ferocious revolt and cruel punishment; at the very moment of legalising these martial jurisdictions in 1799, the very Irish statute which was passed for that purpose did homage to the ancient and fundamental principles of the law in the very act of departing from them. The Irish statute 39 Geo. 3rd, c. 2, after reciting that martial law had been successfully exercised to the restoration of peace so far as to permit the course of the common law partially to take place—but that the rebellion continued to rage in considerable parts of the kingdom, whereby it has become necessary for parliament to interpose—goes on to enable the lord lieutenant "to punish rebels by courts-martial."[8] This statute is the most positive declaration that, where the common law can be exercised in some parts of the country, martial law cannot be established in others, though rebellion actually prevails in these others, without an extraordinary interposition of the supreme legislative authority itself.

I have already quoted from Sir Matthew Hale his position respecting the two-fold operation of martial law as it affects the army of the power which exercises it, and as it acts against the army of the enemy. That great judge happily unused to standing armies, and reasonably prejudiced against military jurisdiction, does not pursue his distinction through all its consequences and assigns a ground for the whole which will support only one of its parts. "The necessity of order and discipline in an army" is, according to him, the reason why the law tolerates this departure from its most valuable rules; but this necessity only justifies the exercise of martial law over the army of our own

state. One part of it has since been annually taken out of the common law and provided for by the Mutiny Act which subjects the military offences of soldiers only to punishment by military courts even in time of peace. Hence we may now be said annually to legalize military law which, however, differs essentially from martial law, in being confined to offences against military discipline, and in not extending to any persons but those who are members of the army.

Martial law exercised against enemies, or rebels, cannot depend on the same principle, for it is certainly not intended to enforce or preserve discipline among them. It seems to me to be only a more regular and convenient mode of exercising the right to kill in war, a right originating in self-defence, and limited to those cases where such killing is necessary, as the means of insuring that end. Martial law put in force against rebels can only be excused as a mode of more deliberately and equitably selecting the persons from whom quarter ought to be withheld in a case where all have forfeited their claim to it. It is nothing more than a sort of better regulated decimation, founded upon choice instead of chance, in order to provide for the safety of the conquerors without the horrors of undistinguished slaughter. It is justifiable only where it is an act of mercy. Thus the matter stands by the law of nations.

But by the law of England it cannot be exercised except where the jurisdiction of courts of justice is interrupted by violence. Did this necessity exist at Demerara on the 13th of October, 1823? Was it on that day impossible for the courts of law to try offences? It is clear that if the case be tried by the law of England, and unless an affirmative answer can be given to these questions of fact, the court-martial had no legal power to try Mr. Smith. Now, Sir, I must in the first place remark, that General Murray has himself expressly waved the plea of necessity and takes merit to himself for having brought Mr. Smith to trial before a court-martial as the most probable mode of securing impartial justice—a statement which would be clearly an attempt to obtain commendation under false

pretences, if he had no choice, and was compelled by absolute necessity to recur to martial law.

> "In bringing this man (Mr. Smith) to trial, under present circumstances, I have endeavoured to secure to him the advantage of the most cool and dispassionate consideration, by framing a court entirely of officers of the army, who, having no interest in the country, are without the bias of public opinion, which is at present so violent against Mr. Smith."[9]

This paragraph I conceive to be an admission, and almost a boast, that the trial by court-martial was matter of choice and, therefore, not of necessity; and I shall at present say nothing more on it than earnestly to beseech the House to remark the evidence which it affords of the temper of the colonists and to bear in mind the inevitable influence of that furious temper on the prosecutors who conducted the accusation on the witnesses who supported it by their testimony; on the officers of the court-martial who could have no other associates or friends but among these prejudiced and exasperated colonists.

With what suspicion and jealousy ought we not to regard such proceedings? What deductions ought to be made from the evidence? How little can we trust the fairness of the prosecutors or the impartiality of the judges? What hope of acquittal could the most innocent prisoner entertain? Such, says in substance Governor Murray, was the rage of the inhabitants of Demerara against the unfortunate Mr. Smith that his only chance of impartial trial required him to be deprived of all the safeguards which are the birth-right of British subjects, and to be tried by a judicature which the laws and feelings of his country alike abhor.

But, the admission of Governor Murray, though conclusive against him, is not necessary to the argument, for my learned friend has already demonstrated that, in fact, there was no necessity for a court-martial on the 13th of October. From the 31st of August, it appears by General Murray's letters, that no impediment existed to the ordinary course of law; no Negroes were in arms; "no war or battle's sound was heard" through the

colony. There remained, indeed, a few runaways in the forests behind; but we know from the best authorities that the forests were never free from bodies of these wretched and desperate men in those unhappy settlements in Guiana, where, under every government, rebellion has as uniformly sprung from cruelty, as pestilence has arisen from the marshes. Before the 4th of September, even the detachment which pursued the deserters into the forest had returned into the colony. For six weeks, then, before the court-martial was assembled and for twelve weeks before that court pronounced sentence of death on Mr. Smith, all hostility had ceased, no necessity for their existence can be pretended, and every act which they did was an open and deliberate defiance of the law of England.

Where, then, are we to look for any colour of law in these proceedings? Do they derive it from the Dutch law? I have diligently examined the Roman law which is the foundation of that system, and the writings of those most eminent jurists who have contributed so much to the reputation of Holland. I can find in them no trace of any such principle as martial law. Military law, indeed, is clearly defined and provision is made for the punishment by military judges of the purely military offences of soldiers. But to any power of extending military jurisdiction over those who are not soldiers, there is not an allusion. I will not furnish a subject for the pleasantries of my right honourable friend or tempt him into a repetition of his former innumerable blunders by naming the greatest of these jurists, lest his date, his occupation and his rank might be again mistaken, and the venerable president of the Supreme Court of Holland might be once more called a clerk of the States-General.

"*Persecutio militis*," says that learned person, "*pertinet ad judicem militarem quando delictum sit militare, at ad judicem communem quando delictum sit commune.*" Far from supposing it to be possible that those who were not soldiers could ever be triable by military courts for crimes not military, he expressly declares the law and practice of the United Provinces to be that even soldiers are amenable for ordinary offences against

society, to the court of Holland and Friesland of which he was long the chief. The law of Holland, therefore, does not justify this trial by martial law.

Nothing remains but some law of the colony itself. Where is it? It is not alleged or alluded to in any part of this trial. We have heard nothing of it this evening. So unwilling was I to believe that this court-martial would dare to act without some pretence of legal authority, I suspected an authority for martial law would be dug out of some dark corner of a Guiana ordinance. I knew it was neither in the law of England nor in that of Holland and I now believe that it does not exist even in the law of Demerara.

The silence of those who are interested in producing it is not my only reason for this belief. I happen to have seen the instructions of the States-General to their Governor of Demerara in November, 1792—probably the last ever issued to such an officer by that illustrious and memorable assembly. It speaks at large of councils of war, both for consultation and for judicature. It authorizes these councils to try the military offences of soldiers and, therefore, by an inference which is stronger than silence, authorizes us to conclude that the Governor had no power to subject those who were not soldiers to their authority. The result, then, is that the law of Holland does not allow what is called martial law in any case, and that the law of England does not allow it without a necessity, which did not exist in the case of Mr. Smith. If, then, martial law is not to be justified by the law of England or by the law of Holland or by the law of Demerara, what is there to hinder me from affirming that the members of this pretended court had no more right to try Mr. Smith than any other fifteen men on the face of the earth; that their acts were nullities and their meeting a conspiracy; that their sentence was a direction to commit a crime; that if it had been obeyed, it would not have been an execution but a murder; and that they and all other parties engaged in it must have answered for it with their lives?

I hope no man will, in this House, undervalue that part of the case which relates to the illegality of the trial. I should be

sorry to hear any man represent it as an inferior question, whether we are to be governed by law or by will. Every breach of law, under pretence of attaining what is called substantial justice, is a step towards reducing society under the authority of arbitrary caprice and lawless force. As in many other cases of evil-doing, it is not the immediate effect, but the example which is the larger part of the consequences of every act and which is most mischievous.

If we listen to any language of this sort, we shall do our utmost to encourage Governors of colonies to discover some specious pretexts of present convenience for relieving themselves altogether and as often as they wish from the restraints of law. In spite of every legal check, colonial administrators are already daring enough from the physical impediments which render it nearly impossible to reduce their responsibility to practice. If we encourage them to proclaim martial law without necessity, we shall take away all limitation from their power in this department, for pretences of convenience can seldom be wanting in a state of society which presents any temptation to the abuse of power.

But I am aware that I have undertaken to maintain the innocence of Mr. Smith as well as to show the unlawfulness and nullity of the proceedings against him. I am relieved from the necessity of entering at large into the facts of his conduct, by the admirable and irresistible speech of my learned friend who has already demonstrated the virtue and innocence of this unfortunate gentleman who died the martyr of his zeal for the diffusion of religion, humanity and civilization among the slaves of Demerara. The honourable gentleman charges him with a want of discretion. Perhaps it may be so. That useful quality, which Swift somewhere calls "an alderman-like virtue," is deservedly much in esteem among those who are "wise in their generation," and to whom the prosperity of this world belongs. But it is rarely the attribute of heroes and of martyrs; of those who voluntarily suffer for faith or freedom; who perish on the scaffold in attestation of their principles. It does not animate men to encounter that honourable death which

the colonists of Demerara were so eager to bestow on Mr. Smith.

On the question of actual innocence, the honourable member has either bewildered himself or found it necessary to attempt to bewilder his audience by involving the case in a labyrinth of words, from which I shall be able to extricate it by a very few and short remarks. The question is not whether Mr. Smith was wanting in the highest vigilance and foresight but whether he was guilty of certain crimes laid to his charge. The first charge is that he promoted discontent and dissatisfaction among the slaves, "intending thereby to excite revolt." The court-martial found him guilty of the fact but not of the intention, thereby, in common sense and justice, acquitting him.

The second charge is that on the 17th of August he consulted with Quamina concerning the intended rebellion; and on the 19th and 20th, during its progress, he aided and assisted it by consulting and corresponding with Quamina, an insurgent. The court-martial found him guilty of the acts charged on the 17th and 20th but acquitted him of that charged on the 19th. But this charge is abandoned by the honourable gentleman and, as far as I can learn, will not be supported by any one likely to take a part in this debate. On the fourth charge which in substance is that Mr. Smith did not endeavour to make Quamina prisoner on the 20th of August, the court-martial have found him guilty; but I will not waste the time of the House by throwing away a single word upon an accusation, which I am persuaded no man here will so ill consult his own reputation as to vindicate.

The third charge, therefore, is the only one which requires a moment's discussion. It imputes to Mr. Smith that he previously knew of the intended revolt and did not communicate his knowledge to the proper authorities. It depends entirely on the same evidence which was produced in support of the second. It is an offence analogous to what in our law is denominated misprision of treason and it bears the same relation to an intended revolt of slaves against their owners, which misprision in England bears to high treason. To support

this charge, there should be sufficient evidence of such a concealment as would have amounted to misprision if a revolt of slaves against their private masters had been high treason.

Now, it had been positively laid down by all the judges of England that "one who is told only in general that there will be a rising, without persons or particulars, is not bound to disclose." Concealment of the avowal of an intention is not misprision because such an avowal is not an overt act of high treason. Misprision of treason is a concealment of an overt act of treason. A consultation about the means of revolt is undoubtedly an overt act because it is one of the ordinary and necessary means of accomplishing the object. But it is perfectly otherwise with a conversation even though in the course of it improper declarations of a general nature should be made. I need not quote Hale or Foster in support of positions which I believe will not be controverted. Contenting myself with having laid them down, I proceed to apply them to the evidence on this charge.

I think myself entitled to lay aside, and indeed in that I only follow the example of the honourable gentleman, the testimony of the coachman and the groom which, if understood in one sense, is incredible and in the other is insignificant. It evidently amounts to no more than a remark by Mr. Smith after the insurrection broke out that he had long foreseen danger. The concealment of such a general apprehension, if he had concealed it, was no crime; for it would be indeed most inconvenient to magistrates and rulers and most destructive of the quiet of society if men were bound to communicate to the public authorities every alarm that might seize the minds of any of them.

But he did not conceal that general apprehension. On the contrary, he did much more than strict legal duty required. Divide the facts into two parts: those which preceded Sunday the 17th of August and those which occurred then and afterwards. I fix on this day because it will not be said by any one whose arguments I should be at the trouble of answering that there is any evidence of the existence of a specific plan of

revolt previous to the 17th of August. What did not exist could neither be concealed nor disclosed. But the conduct of Mr. Smith respecting the general apprehensions which he entertained before that day is evidence of great importance as to what would have been his probable conduct if any specific plan had afterwards been communicated to him. If he made every effort to disclose a general apprehension, it is not likely that he should have deliberately concealed a specific plan. It is in that light that I desire the attention of the House to it.

It is quite clear that considerable agitation had prevailed among the Negroes from the arrival of Lord Bathurst's despatch in the beginning of July. They had heard, from seamen arrived from England and by servants in the Governor's house and by the angry conversations of their masters, that some projects for improving their condition had been favourably received in this country. They naturally entertained sanguine and exaggerated hopes of the extent of the reformation. The delay in making the instructions known naturally led the slaves to greater exaggeration of the plan and gradually filled their minds with angry suspicions that it was concealed on account of the extensive benefits which it was to confer. Liberty seemed to be offered from England and pushed aside by their masters and rulers at Demerara. This irritation could not escape the observation of Mr. Smith and, instead of concealing it, he early imparted it to a neighbouring manager and attorney. How comes the honourable gentleman to have entirely omitted the evidence of Mr. Stewart?[10]

It appears from his testimony that Mr. Smith, several weeks before the revolt, communicated to him (Stewart), the manager of Plantation Success, that alarming rumours about the instructions prevailed among the Negroes. It appears that Mr. Smith went publicly with his friend, Mr. Elliot, another missionary, to Mr. Stewart to repeat the information at a subsequent period; and that, in consequence, Mr. Stewart with Mr. Cort, the attorney of Plantation Success, went on the 8th of August to Mr. Smith who confirmed his previous statements; [he] said that Quamina and other Negroes, had asked whether

their freedom had come out; and mentioned that he had some thoughts of disabusing them, by telling them from the pulpit that their expectations of freedom were erroneous. Mr. Cort dissuaded him from taking so much upon himself. Is it not evident from this testimony that Mr. Smith had the reverse of an intention to conceal the dangerous agitation on or before the 8th of August?

It is certain that all evidence of his privity or participation before that day must be false. He then told all that he knew and offered to do much more than he was bound to do. His disclosures were of a nature to defeat a project of a revolt or to prevent it from being formed; he enabled Cort or Stewart to put the government on their guard; he told no particulars because he knew none; but he put it into the power of others to discover them if they existed. He made these discoveries on the 8th of August.

What could have changed his previous system of conduct in the remaining ten days? Nay, more, he put it out of his power to change his conduct effectually. It no longer depended on him whether what he knew should be so perfectly known to the government as to render all subsequent concealment ineffectual. He could not even know on the 17th whether his conversation with Stewart and Cort had not been communicated to the Governor and whether measures had not been taken which had either ascertained that the agitation no longer generally prevailed, or had led to such precautions as could not fail to end in the destruction of those who should deliberately and criminally conceal the designs of the insurgents.

The crime of misprision consists in a design to deceive which, after such disclosure, it was impossible to harbour. If this had related to the communication of a formed plan, it might be said that the disclosure to private persons was not sufficient, and that he was bound to make it to the higher authorities. I believe Mr. Cort was a member of the Court of Policy [*Here Mr. Gladstone intimated, by a shake of his head, that Mr. Cort was not*]. I yield to the local knowledge of my honourable

friend, if I may venture to call him so, in our present belligerent relations. If Mr. Cort be not a member of the Court of Policy, he must have had access to its members. He stated to Mr. Smith the reason of their delay to promulgate the instructions; and in a communication which related merely to general agitation, Mr. Smith could not have chosen two persons more likely to be on the alert about a revolt of slaves than the manager and attorney of a neighbouring plantation. Stewart and Cort were also officers of the militia.

A very extraordinary part of this case appears in the *Demerara Papers* No. II, to which I have already adverted. Hamilton, the manager of plantation Resouvenir had, it seems, a Negro mistress from whom few of his secrets were hid. This lady had the singularly inappropriate name of Susannah. I am now told that she had been the wife of Jack, one of the leaders of the revolt—I have no wish to penetrate into his domestic misfortunes—at all events. Jack kept up a constant and confidential intercourse with his former friend, even in the elevated station which she had attained. She told him (if we may believe both him and her) of all Hamilton's conversations. By the account of Paris, it seems that Hamilton had instructed them to destroy the bridges. Susannah said that he entreated them to delay the revolt for two weeks till he could remove his things. They told Hamilton not only of the intention to rise three weeks before, but of the particular time on Monday morning. Hamilton told her that it was useless for him to manumit her and her children, as she wished for that all would soon be free; and that the Governor kept back the instructions because he was himself a slave owner. Paris and Jack agreed in laying to Hamilton's charge the deepest participation in their criminal designs.

If this evidence was believed, why was not Hamilton brought to trial rather than Smith? If it was disbelieved, as the far greater part of it must have been, why was it concealed from Smith that such wicked falsehoods had been contrived against another man—a circumstance which so deeply affects the credit of all the Negro accomplices who swore to save their own lives.

If, as I am inclined to believe, some communications were made through Susannah, how hard was the fate of Mr. Smith who suffers for not promulgating some general notions of danger which, from this instance, must have entered through many channels into the minds of the greater number of Whites. But, up to the 17th of August, it appears that Mr. Smith did not content himself with bare disclosure, but proffered his services to allay discontent and showed more solicitude than any other person known to us to preserve the peace of the community.

The question now presents itself which I allow constitutes the vital part of this case—whether any communication was made to Mr. Smith on the evening of Sunday the 17th, of which the concealment from his superiors was equivalent to what we call misprision of treason. No man can conscientiously vote against the motion who does not consider the affirmative as proved. I do not say that this would be of itself sufficient to negative the motion; I only say that it is indispensably necessary. There would still remain behind the illegality of the jurisdiction as well as the injustice of the punishment.

And on this latter most important part of the case, I must here remark, that it would not be sufficient to tell us that the Roman and Dutch law ranked misprision as a species of treason and made it punishable by death; it must be shown not only that the court were, by this law, entitled to condemn Mr. Smith to death, but that they were also bound to pronounce such a sentence. For if they had any discretion, it will not be said that an English court-martial ought not to regulate the exercise of it by the more humane and reasonable principles of their own law which does not treat misprision as a capital offence.

I am sorry to see that the honourable agent for Demerara has quitted his usual place and has taken a very important position [*Mr. Holmes was whispering to Mr. Canning*]. I feel no ill-will to the honourable member but I dread the sight of him when pouring poison into the ears of the powerful. He is but too formidable in his ordinary station, at the head of those troops whom his magical wand brings into battle in such

numbers as no eloquence can match, and no influence but his own can command.

But, to return. Let us now consider the evidence of what passed on the 17th of August. And here, once more, let me conjure the House to consider the condition of the witnesses who gave that evidence. They were accomplices in the revolt who had no chance of life but what acceptable testimony might afford. They knew the fierce, furious hatred which the ruling party had vowed against Mr. Smith. They were surrounded by the skeletons of their brethren. They could perhaps hear the lash resounding on the bloody backs of others who were condemned to suffer a thousand lashes and to work for life in irons under the burning sun of Guiana. They lived in a colony where such unexampled barbarities were inflicted as a mitigated punishment and held out as acts of mercy. Such were the dreadful terrors which acted on their minds and under the mental torture of which every syllable of their testimony was uttered.

There was still another deduction to be made from their evidence. They spoke to no palpable facts; they gave evidence only of conversation. "Words," says Mr. Justice Foster, "are transient and fleeting as the wind; frequently the effect of a sudden transport—easily misunderstood, and often misreported." If he spoke thus of words used in the presence of witnesses intelligent, enlightened, and accustomed to appreciate the force and distinctions of terms, what would he have said of the evidence of Negro slaves, accomplices in the crime, trembling for their lives, reporting conversations of which the whole effect might depend on the shades and gradations of words in a language very grossly known to them—of English words uttered in a few hurried moments and in the presence of no other witnesses from whom they could dread an exposure of their falsehood? It may be safely affirmed that it is difficult for imagination to conceive admissible evidence of lower credit and more near the verge of utter rejection.

But what, after all, is the sum of the evidence? It is that the Negroes who followed Mr. Smith from church on Sunday the

17th spoke to him of some design which they entertained for the next day. It is not pretended that time or place or persons were mentioned. The contrary is sworn. Mr. Smith, who was accustomed for six weeks to their murmurs and had before been successful in dissuading them from violence, contents himself with repeating the same dissuasives; believes he has again succeeded in persuading them to remain quiet; and abstains for twenty-four hours from any new communication of designs altogether vague and undigested, which he hoped would evaporate, as others of the same kind had done, without any serious effect. The very utmost that he seems to have apprehended was a plan for obliging, or "driving" as they called it, their managers to join in an application to the Governor on the subject of the new law; a kind of proceeding which had more than once occurred, both under the Dutch and English governments.

It appears from the witnesses for the prosecution that they had more than once gone to Mr. Smith before on the same subject and that his answer was always the same; and that some of the more exasperated Negroes were so dissatisfied with his exhortations to submission that they cried out "Mr. Smith was making them fools; that he would not deny his own colour for the sake of Black people."

Quamina appears to have shown at all times a more than ordinary deference towards his pastor. He renewed these conversations on the evening of Sunday the 17th and told Mr. Smith, who again exhorted them to patience, that two of the more violent Negroes, Jack and Joseph, spoke of taking their liberty by force. I desire it to be particularly observed that this intention, or even violent language, appears to have been attributed only to two, and that in such a manner as naturally to exclude the rest. Mr. Smith again repeated the advice which had hitherto proved efficacious: He told them to wait, and not to be so foolish. How do you mean that they should take it by force?—"You cannot do anything with the White people, because the soldiers will be more strong than you; therefore you had better wait. You had better go and tell the people, and

Christians particularly, that they had better have nothing to do with it."

When Mr. Smith spoke of the resistance of the soldiers, Quamina, with an evident view to persuade Mr. Smith that nothing was intended which would induce the military to proceed to the last extremities, observed that they would "drive" the managers to town; which, by means of the expedient of a general "strike" or refusal to work, appears to have been the project spoken of by most of the slaves. To this observation, Mr. Smith justly answered, that even if they did "drive" the managers to town, they "would not be able to go against the soldiers" who would very properly resist such tumultuary and dangerous movements. Be it again observed that Bristol, the chief witness for the prosecution, clearly distinguishes this plan from that of Jack and Joseph, "who intended to fight with the White people."

I do not undertake to determine whether the more desperate measure was at that time confined to these two men. It is sufficient for me that such was the representation made to Mr. Smith. Whoever fairly compares the evidence of Bristol with that of Seaton will, I think, find the general result to be such as I have now stated. It is true that there are contradictions between them, which, in the case of witnesses of another cast might be considered as altogether subversive of their credit. But I make allowance for their fears, for their confusion, for their habitual inaccuracy, for their ignorance of the language, for their own incorrectness if they gave evidence in English, for that of the interpreters if they employed any other language. In return, I expect that no fair opponent will rely on minute circumstances; that he will also allow the benefit of all chances of inaccuracy to the accused; and that he will not rely on the manner where a single word, mistaken or misremembered, might make the whole difference between the most earnest and the faintest dissuasive.

I do not know what other topics Mr. Smith could have used. He appeals to their prudence: "The soldiers," says he, "will overcome your vain revolt." He appeals to their sense of

religion: "As Christians you ought not to use violence." What argument remained if both these failed? What part of human nature could he have addressed where neither danger could deter nor duty restrain? He spoke to their conscience and to their fears; surely admonition could go no further.

There is not the least appearance that these topics were not urged with perfect good faith, as they must have been in those former instances where he demonstrated his sincerity by the communications which he made to Stewart and Cort. His temper of mind on this subject continued, then, to be the same on the evening of the 17th that it had been before; and, if so, how absolutely incredible it is that he should, on that night and on the succeeding morning, advisedly, coolly and malignantly, form the design of hiding a treasonable plot confidentially imparted to him by the conspirators in order to lull the vigilance of the government and commit himself and his countrymen to the mercy of exasperated and triumphant slaves.

I have already stated the reasons which might induce him to believe that he had once more succeeded in dissuading the Negroes from violence. Was he inexcusable in overrating his own ascendant; in over-estimating the docility of his converts; in relying more on the efficacy of his religious instructions than men of more experience and colder temper would deem reasonable? I entreat the House to consider whether this self-deception be improbable; for if he believed that he had been successful and that the plan of tumult or revolt was abandoned, would it not have been the basest and most atrocious treachery to have given such information as might have exposed the defenceless slaves to punishments of unparalleled cruelty for offences which they had meditated but from which he believed that he had reclaimed them?

Let me for a moment again remind the House of the facts which give such weight to this consideration. He lived in a colony where, for an insurrection in which no White man was wantonly or deliberately put to death and no property was intentionally destroyed or even damaged, I know not how many Negroes perished on the gibbet; and others, under the insolent,

atrocious, detestable pretext of mercy, suffered a thousand lashes and were doomed to hard labour in irons for life under the burning sun and among the pestilential marshes of Guiana? These dreadful cruelties, miscalled punishments, did indeed occur after the 17th of August. But he, whose heart had fluttered from the incessant cracking of the whip, must have strongly felt the horrors to which he was exposing his unhappy flock by a hasty or needless disclosure of projects excited by the impolitic delays of their rulers. Every good man must have wished to find the information unnecessary. Would not Mr. Smith have been the most unworthy of pastors if he had not desired that such a cup might pass from him? And if he felt these benevolent desires, if he recoiled with horror from putting these poor men into the hands of what in Demerara is called justice, there was nothing in the circumstances which might not have seemed to him to accord with his wishes.

Even without the influence of warm feeling, I do not think that it would have been unreasonable for any man to believe that the Negroes had fully agreed to wait. Nay, I am convinced that with Quamina, Mr. Smith was successful. Quamina, I believe, used his influence to prevent the revolt; and it was not till after he was apprehended on Monday, on unjust suspicions, and was rescued that he took refuge among the revolters and was at last shot by the soldiers when he was a runaway in the forest—a fact which was accepted by the court-martial as the sufficient though sole evidence of his being a ringleader in the rebellion!

The whole period during which it is necessary to account for Mr. Smith's not communicating to the government an immature project, of which he knew no particulars and which he might well believe to be abandoned, is a few hours in the morning of Monday; for it is proved, by the evidence of Hamilton, that he was informed of the intended revolt by a Captain Simpson at one o'clock of that day in Georgetown, the seat of government, at some miles distance from the scene of action. It was then so notorious that Hamilton never dreamt of troubling the Governor with such needless intelligence; yet this

was only four or five hours later than the time when Mr. Smith was held to be bound, under pain of death, to make such a communication! The Governor himself, in his despatches, said, that he had received the information, but did not believe it.[11]

This disbelief, however, could not have been of long duration; for active measures were taken and Mr. Stewart apprehended Quamina and his son Jack a little after three o'clock on Monday; which, considering the distance, necessarily implies that some general order of that nature had been issued by the government at Georgetown not long after noon on that day.[12] As all these proceedings occurred before Mr. Smith received the note from Jack of Dochfour, about half an hour before the revolt, I lay that fact out of the case as wholly immaterial. The interview of Mr. Smith with Quamina, on the 19th of August, is negatived by the finding of the court-martial. That on the 20th will be relied on by no man in this House because there is not the slightest proof, nor indeed probability, that the conversation at that interview was not perfectly innocent. Nothing, then, called for explanation but the conversation of Sunday evening and the silence of Monday morning, which I think I have satisfactorily explained as fully as my present strength will allow, and much more so than the speech of my learned friend left it necessary to do.

There is one other circumstance which occurred on Sunday and which I cannot pass over in silence. It is the cruel perversion of the beautiful text from the gospel on which Mr. Smith preached his last sermon. That circumstance alone evinces the incurable prejudice against this unfortunate man, which so far blinded his prosecutors, that they actually represent him as choosing that most affecting lamentation over the fall of Jerusalem in order to excite the slaves to accomplish the destruction of Demerara. The lamentation of one who loved a country was by them thought to be selected to stimulate those who were to destroy a country; as if tragical representations of the horrors of an assault were likely to be exhibited in the camp of the assailants the night before they were to storm a city. It is wonderful that these prosecutors should not have perceived that

such a choice of a text would have been very natural for Mr. Smith only on the supposition that he had been full of love and compassion and alarm for the European inhabitants of Demerara.

The simple truth was that the estate was about to be sold and the Negroes to be scattered over the colony by auction; and that by one of those somewhat forced analogies, which may appear to me unreasonable, but which men of the most sublime genius as well as fervent piety have often applied to the interpretation of scripture, he likened their sad dispersion, in connexion with their past neglect of the means of improvement and the chance of their now losing all religious consolation and instruction to the punishment inflicted on the Jews by the conquest and destruction of Jerusalem.

In what I have now addressed to the House I have studiously abstained from all discussion of those awful questions which relate to the general structure of colonial society. I am as adverse as any one to the sudden emancipation of slaves; much out of regard to the masters, but, still more as affecting a far larger portion of mankind, out of regard to the unhappy slaves themselves. Emancipation by violence and revolt I consider as the greatest calamity that can visit a community, except perpetual slavery. I should not have so deep an abhorrence of that wretched state if I did not regard it as unfitting slaves for the safe exercise of the common rights of mankind. I should be grossly inconsistent with myself if, believing this corrupting and degrading power of slavery over the mind to be the worst of all its evils, I were not very fearful of changes which would set free those beings whom a cruel yoke had transformed into wild beasts, only that they might tear and devour each other. I acknowledge that the pacific emancipation of great multitudes thus wretchedly circumstanced is a problem so arduous as to perplex, and almost silence, the reason of man. Time is undoubtedly necessary; and I shall never object to time if it be asked in good faith. If I be convinced of the sincerity of the reformer, I will not object to the reformation merely on account of the time

which it requires. But I have a right to be jealous of every attempt which, under pretence of asking time for reformation, may only aim at evading urgent demands and indefinitely procrastinating the deliverance of men from bondage.

And here I should naturally close. But I must be permitted to relate the subsequent treatment of Mr. Smith, because it reflects back the strongest light on the intentions and dispositions of those who prosecuted him, and of those who ratified the sentence of death. They who can cruelly treat the condemned are not in general scrupulous about convicting the innocent. I have seen the widow of this unhappy sufferer—a pious and amiable woman, worthy to be the helpmate of her martyred husband, distinguished by a calm and clear understanding and, as far as I could discover, of great accuracy; anxious rather to understate facts and to counteract every lurking disposition to exaggerate, of which her judgment and humility might lead her to suspect herself. She told me her story with temper and simplicity; and though I ventured more near to cross-examination in my inquiries than delicacy would, perhaps, in any less important case have warranted, I saw not the least reason to distrust the exactness, more than the honesty, of her narrative.

Within a few days of his apprehension, Mr. Smith and his wife were closely confined in two small rooms at the top of a building with only the outward roof between them and the sun, when the thermometer in the shade at their residence in the country stood at an average of 83 degrees of Fahrenheit. There they were confined from August to October with two sentries at the door which was kept open day and night. These sentries, who were relieved every two hours, had orders at every relief to call on the prisoner to ascertain by his answer that he had not escaped. The generality, of course, executed their orders; a few, more humane, said Mrs. Smith, contented themselves during the night with quietly looking into the bed. Thus was he, labouring under a mortal disease, and his wife, with all the delicacy of her sex, confined for two months without seeing a human face except those of the sentries and of the absolutely

necessary attendants—no physician, no friends to console, no legal adviser to guide the prisoner to the means of proving his innocence—no mitigation—no solace!

The first human face which she saw was that of the men who came to bear tidings of accusation, and trial, and death, to her husband. I asked her whether it was possible that the Governor knew that they were in this state of desolation? She answered that she did not know for nobody came to inquire after them! He was afterwards removed to apartments on the ground-floor, the damp of which seems to have hastened his fate. Mrs. Smith was set at large but obliged to ask a daily permission to see her husband for a limited time, and, if I remember right, before witnesses! After the packet had sailed and when there was no longer cause to dread their communications with England, she was permitted to have unrestricted access to him as long as his intercourse with earthly things endured.

At length he was mercifully released from his woes. The funeral was ordered to take place at two o'clock in the morning, that no sorrowing Negroes might follow the good man's corpse. The widow desired to accompany the remains of her husband to the grave. Even this sad luxury was prohibited. The officer declared that his instructions were peremptory. Mrs. Smith bowed with the silent submission of a broken heart. Mrs. Elliot, her friend and companion, not so borne down by sorrow, remonstrated. "Is it possible," she said, "that General Murray can have forbidden a poor widow from following the coffin of her husband?" The officer again answered that his orders were peremptory. "At all events," said Mrs. Elliot, "he cannot hinder us from meeting the coffin at the grave."

Two Negroes bore the coffin, with a single lantern going before; and at four o'clock in the morning the two women met it in silent anguish at the grave and poured over the remains of the persecuted man that tribute which nature pays to the memory of those whom we love. Two Negro workmen, a carpenter and a bricklayer who had been members of his

congregation, were desirous of being permitted to protect and distinguish the spot where their benefactor reposed;

That, ev'n his bones from insult to protect,
Some frail memorial, still erected nigh,
With uncouth rhymes and shapeless sculpture deckt,
Might claim the passing tribute of a sigh.

They began to rail in and to brick over the grave; but as soon as this intelligence reached the first Fiscal, his honour was pleased to forbid the work—he ordered the bricks to be taken up, the railing to be torn down, and the whole frail memorial of gratitude and piety to be destroyed!

"English vengeance wars not with the dead." It is not so in Guiana—as they began so they concluded; and, at least, it must be owned that they were consistent in their treatment of the living and of the dead. They did not stop here; a few days after the death of Mr. Smith they passed a vote of thanks to Mr. President Wray for his services during the insurrection; which, I fear, consisted entirely in his judicial acts as a member of the court-martial. It is the single instance, I believe, in the history of the world where a popular meeting thanked a judge for his share in a trial which closed with sentence of death! I must add, with sincere regret that Mr. Wray, in an unadvised moment, accepted these tainted thanks and expressed his gratitude for them! Shortly after, they did their utmost to make him repent and be ashamed of his rashness.

I hold in my hand a Demerara newspaper, containing an account of a meeting, which must have been held with the knowledge of the Governor, and among whom I see nine names which, from the prefix of "Honourable," belong, I presume, to persons who were members either of the Court of Justice or of the Court of Policy. It was an assembly which must be taken to represent the colony. Their first proceeding was a declaration of Independence. They resolved that the King and Parliament of Great Britain had no right to change their laws without the consent of their Court of Policy. They founded this pretension, which would be so extravagant and insolent if it were not so

ridiculous, on the first article of the capitulation now lying before me, bearing date on the 19th of September 1803, by which it was stipulated that no new establishments should be introduced without the consent of the Court of Policy—as if a military commander had any power to perpetuate the civil constitution of a conquered country, and as if the subsequent treaty had not ceded Demerara in full sovereignty to His Majesty.

I should have disdained to notice such a declaration if it were not for what followed. This meeting took place eighteen days after the death of Mr. Smith. It might be hoped that, if their hearts were not touched by his fate, at least their hatred might have been buried in his grave; but they soon showed how little chance of justice he had when living within the sphere of their influence by their rancorous persecution of his memory after death.

Eighteen days after he had expired in a dungeon, they passed a resolution of strong condemnation against two names not often joined—the London Missionary Society and Lord Bathurst—the Society, because they petitioned for mercy (for that is a crime in their eyes); Lord Bathurst, because he had advised His Majesty to dispense it to Mr. Smith. With an ignorance suitable to their other qualities, they consider the exercise of mercy as a violation of justice. They are not content with persecuting their victim to death. They arraign nature which released him; and justice, in the form of mercy, which would have delivered him out of their hands. Not satisfied with his life, they are incensed at not being allowed to brand his memory; to put an ignominious end to his miseries; and to hang up his skeleton on a gibbet, which, as often as it waved in the winds, should warn every future missionary to fly from such a shore and not to dare to enter that colony to preach the doctrines of peace, of justice, and of mercy

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[1] *Demerara Papers, No. II*, p. 21.
[2] *Ibid*., p. *26*.]
[3] *Ibid*., p. 41

[4] The reference is to one of the accused in the Monmouth "Popish" Uprising in England in 1682
[5] Dr. Wetherell, father of the Solicitor General.
[6] Hale's Hist. Com. Law, c. 11.
[7] Ibid.
[8] Ibid.
[9] Letter of General Murray to Lord Bathurst, 21st October 1823.
[10] Trial, p. 47.
[11] *Demerara Papers No. II*, p. 1.
[12] *Ibid*., p. 70

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Report on Speech by James Scarlett

Mr. James Scarlett [M. P. for Peterborough] rose and begged that a short time might be allowed him to express his opinion on this subject and to state the reasons for the vote which he should give on the present motion. He expressed his warmest admiration at the talent and eloquence which had been displayed by the learned and honourable member who had brought forward the motion; but he doubted very much whether he ought to concur in a vote of condemnation proposed against individuals who had no advocate in that House and proposed in language which described them as little better than murderers; for it was admitted by both of his learned friends that if the persons whose conduct was now under consideration had had the courage to carry into execution the sentence passed against Mr. Smith, the present proposition would have the effect of stigmatising them as persons who had committed murder.

When called on to take part in such a vote directed against individuals not before the House, he could not but wish that, instead of passionate declamation and vehement invective, they had been favoured with a little more argument and with less of those appeals which were only fit to inflame the passions of the hearers. He considered the question before the House of a nature that called for the utmost candour, gravity, and deliberation; and he thought that the House should be on its guard against the impressions of a speech which he was compelled to consider, not as judicial or deliberative, but as an extraordinary specimen of the highest sort of forensic eloquence.

Before he entered upon the discussion, he thought it proper to do justice to a gentleman whose name had been mentioned by the last speaker in terms which proved how little his learned friend was acquainted with him. He had long known Mr. Wray, the Chief Justice of the colony. He was a gentleman of high

education, liberal principles, and honourable feelings. When he stated that he had received his education at Cambridge, and was a distinguished member of Trinity college, there were many gentlemen in that House who would feel with him that he was not likely to be deficient in learning or illiberal in his conduct. He was certain that if his learned friend had known Mr. Wray as well as he did, he would have considered it fortunate for Mr. Smith that such a person, at least, was a member of the tribunal which tried him; and would have acknowledged that no man could have been found for that station of more correct judgment, more impartial feeling, or more undeviating rectitude.

There were, he must own, some parts of the proceeding of the court-martial of which he could not approve. He did not think it was correct that the court-martial should have been empowered or called upon to try an offence which was committed before the institution of martial law. He did not approve of the sentence of death which could not have been inflicted by the ordinary tribunals for misprision of treason. Neither was he satisfied of the propriety of using against the defendant those private memorandums which appeared not to have been intended for the inspection of any eye but his own. At the same time, it ought to be observed, in justice to the court-martial, that this evidence was laid before them by the judge-advocate and was not objected to at the time by the prisoner nor did it appear, till he entered upon his defence, that the court were apprised of the real nature and object of these notes. But though he was free to own that, in these particulars, he did not approve of the proceedings, he thought the difference was very great between not approving entirely and condemning entirely, more especially in the very strong language used by his honourable friends.

He would proceed to state, shortly, the points on which he differed with the mover of the question. It was asserted that Mr. Wray was the most improper person to have been a member of the court-martial, because, as Chief Justice, it might have become his duty to preside at the trial of an action that might,

upon the restoration of the ordinary tribunals, have been brought by the prisoner against the Governor. Now, this was a misconception. It was true that the Governor, when in England, might be liable to an action for exceeding his authority whilst Governor in the colony; but no such action could be brought against him in the colony where he represented the King and was, during the continuance of his office in the place where he exercised it, irresponsible. Therefore, Mr. Wray could have tried no such action.

Next, his learned friend who opened the debate had insisted that there was no evidence of Quamina being in open rebellion but hearsay evidence; and had read with many comments a part of the evidence which, if taken by itself, and in the manner in which his learned friend had stated it, seemed undoubtedly to warrant the assertion. But he had looked into the printed report at the very passage whilst his friend was reading it and he was surprised to find that the most essential part of the evidence was omitted by his learned friend. He would now read the whole of that part of the evidence from which the House would perceive that Quamina was proved, by the most direct testimony, to have been seen with arms, in open rebellion; and that the hearsay evidence related only to his being taken up afterwards and hanged, and was introduced, not by the design of the examiner, but by the ignorance of the witness, as often happened before the most tribunals. [*Here Mr. Scarlett read part of Bristol's evidence, in p. 15 of the printed trial*.]

He next adverted to a position laid down by his honourable friend who spoke last—that there could be no misprision of treason until after the commission of an overt act—from which his honourable friend had argued that, as the communication of Quamina to Mr. Smith was not of an overt act but only of an intention, there was no misprision of treason in concealing this communication although an overt act had afterwards taken place. Now, it was true that there could be no indictable treason without an overt act; and it might therefore be said, in one sense, that there could be no misprision where there was no overt act. But if an overt act did in fact take place, which the

party accused of misprision was aware was intended before it took place, he was clearly guilty of misprision if he did not immediately disclose his knowledge. For example, if a party knew tonight that the King's person was to be assailed tomorrow and that act of treason should be committed tomorrow, then the party omitting to disclose his knowledge would be clearly guilty of misprision of treason tonight.

This brought him to the main question in which he found himself obliged to differ with both his honourable and learned friends; namely, was there evidence to warrant the court in finding that Mr. Smith had been guilty of misprision of treason? He could only appeal to the evidence for his opinion. By this it appeared, and that upon the testimony of two witnesses, that before the insurrection broke out Quamina had conversations with Smith upon the subject; that he had communicated the intention of the slaves to drive the managers to the town to fetch the new law; that Mr. Smith understood him to mean force because he remonstrated against it and represented that it would be unavailing against the King and the Governor [*Here Mr. Scarlett read another part of the trial, in p. 17*].

The very next day, or the day but one after, the rebellion broke out and Quamina took an active part in it. Mr. Smith, however, made no immediate communication of what he had learned, nor indeed any communication at all; as it did not appear that he had told Mr. Stewart and Mr. Cort any of the particulars stated by Quamina. It was said, however, that the fact of these communications to Mr. Smith by Quamina was proved by the evidence of Bristol and another, and that these witnesses were unworthy of credit. Of the credit of the witnesses, the court-martial were competent judges; and it would be altogether a new ground for condemning the judgement of a court that they ought rather to have believed the statement of the prisoner, upon which his learned friend placed so much reliance than the evidence of the witnesses.

He had, however, looked at the statement of the prisoner. He collected from it that he was a man of considerable talent;

and he was bound to say that, though he thought his enthusiasm had led him into error, he was impressed with a strong persuasion of his general integrity and virtuous life. But he found in that statement the strongest confirmation of Bristol's evidence. Mr. Smith admitted that Quamina was at his house at the time mentioned by Bristol. He admitted a conversation with him. It was true he did not state the same terms exactly; but it was plain, from one circumstance, that the conversation was of the nature and substance stated by Bristol, for Mr. Smith admitted that be found it necessary to reprove Quamina for what he had heard him say. Then he must have said something that called for reproof. What was it? Mr. Smith did not state it; Bristol did. Again, Mr. Smith states his remonstrance to Quamina in such terms as are not only substantially the same as stated by Bristol, but as clearly imply that Quamina had been talking of force and using the very language which Bristol puts into his mouth.

He observed from some indications near him, and some expressions meant to be overheard by him, that some of his friends thought he should read the whole of Smith's statement and accept his protestations of innocence whilst he employed his own admissions against him. This, however, was not correct judicial reasoning. In trying whether a witness against the prisoner was worthy of credit, it was perfectly legitimate to consider how far he was confirmed by the prisoner's statements in his evidence without being obliged to resort to the extraordinary candour, which was adopted by his learned friends, of taking all that the prisoner said for himself to be true and all the witnesses swore against him to be false. This was an error they could only have fallen into from the warmth of debate. If, instead of contending with his honourable friends in this debate, he had them impanelled upon a jury, sworn to try the question upon its merits and freed from all prejudice, he entertained not the least doubt but that they and the whole jury would yield to the positive testimony of two witnesses, corroborated in many material points by the statements of the prisoner himself. Upon these grounds he was compelled to

come to the conclusion that the court-martial were warranted in finding Smith guilty upon the charge of misprision of treason.

It had been stated by the honourable gentleman who spoke second in the debate (Mr. W. Horton), that Mr. Smith might be guilty though not intentionally. He could not concur in that opinion. There could be no crime without the intention to commit the criminal act. "*Non reus nisi mens sit rea*" was a maxim of universal application. He imagined the honourable gentleman had confounded the motive with the intention. It might be very true, and he was disposed to believe, that Mr. Smith, in concealing the knowledge he had of an intended insurrection, acted from some motive which, according to his peculiar views of the subject, he could reconcile to his own conscience. He might wish to avoid the reproach of violating the confidence reposed in him. It was probable, from some passages which occurred in the trial, that he was persuaded an insurrection must break out at no distant time at all events and that no efforts of his could prevent it. But whether these were his motives or not, the law had nothing to do with the motives of men. If the party intend to do or to omit that, the doing or omission of which was criminal, then his offence was complete, whatever might be his object or motive.

He observed that his honourable and learned friend, who opened the debate, had made considerable use of a statement of the trial printed by the Missionary Society. He had considered that document as containing the most full and accurate account and complained of the trial printed by order of the House as imperfect. Now, if his learned friend was correct in that opinion, he might have a very proper ground to press upon the House a motion for an inquiry; but he (Mr. Scarlett) protested against the propriety of calling upon the House to come to a strong vote of censure, not upon the document which was official and communicated by the authority of government, but upon a document published without authority not laid upon the table of the House, and of the accuracy of which neither the House nor his learned friend had any means of judging. And he must say, however respectable the Missionary Society might

be, he thought it not a parliamentary proceeding to ask of the House, upon the mere publication of a statement by that Society, which for aught they knew might be wholly fallacious, to pass a strong vote of censure upon absent individuals.

His honourable and learned friend who last addressed the House appeared to him to be actuated by feelings as strong, and perhaps as exaggerated, though in an opposite direction as those which he imputed to the colonists of Demerara. Upon these unhappy persons he had poured forth his eloquent invective without measure or discrimination, involving in one common censure the planters, the Governor, the Chief Justice, and all the members of the court-martial. He charged them, not only with cruelty and injustice to Mr. Smith in his life time, but with an unrelenting vengeance which pursued him to his grave and disturbed his ashes. He also embarked on his side all the feelings of compassion that were due to the widow and declaimed upon her merits, her privations, and her sufferings. It was impossible for him (Mr. Scarlett) to listen to his honourable and learned friend without pleasure or to differ from him without pain and diffidence; but upon this occasion, he would appeal to the sober sense of the House, whether such topics, and the passions they were calculated to excite, were fairly or properly introduced upon a grave and important question of the conduct of judges acting under the sanction of an oath; introduced, too, without any authentic information on which the House could rely.

If it were indeed true that the natural prejudices of the planters and the inflammation of their minds against those who were favourable to the moral and religious improvement of their slaves rendered them partial, unjust, and incapable of fair judgment in the case of Mr. Smith, it did not follow that the Chief Justice and the military gentlemen who formed the court-martial were liable to the same objections. If he understood the matter correctly, most, if not all, of these gentlemen were officers in the army, having no local connection at Demerara. It would therefore afford an argument in favour of the Governor that he had referred the case of Mr. Smith to a tribunal so

composed, rather than to the ordinary courts which were formed of the planters. In this view of the subject, the friends of the missionary ought to find cause of satisfaction rather than of complaint that he had been tried by a court-martial.

With respect to the intemperance of which the colonists were accused, and the unjust as well as indiscreet conduct with which they were reproached, he would fairly own that, in his judgment, the very peculiar situation in which they were placed, called upon the candour of the House for some indulgence to their errors, instead of the indignation and the bitter animadversion with which their faults and their prejudices had been treated by his honourable and learned friend. Let it be recollected that the unfortunate state of society in the colonies exposed them to constant apprehension upon two subjects of the deepest interest to mankind, the loss of property and the loss of life. The greatness of the perils, to which they were exposed, placed them, upon the slightest cause of alarm, under the influence of the passion of fear which was, of all others, the most overwhelming. Was it reasonable to expect coolness, moderation, and judgment in the councils of those who debated with the knife at their throats? Was it candid to exaggerate, or was it prudent to excite, that exasperation of feeling which could not fail to arise in the colonies when they were threatened, by resolutions and speeches in Parliament, with ruin and death? Was it just, when they were persuaded that they were struggling against these mighty calamities, to ridicule the badness of their reasoning or to reproach the indiscretion of their conduct?

The House of Commons was debating in perfect security from all personal danger or loss at the distance of some thousands of miles from the scene of action. No fear influenced their deliberations, no interest biased their judgment; their passions, at the most, were but rhetorical. They had no excuse for violent resolutions or intemperate debates upon subjects so remote in position and in interest from themselves. But let him suppose that whilst he was addressing that assembly a cry should be raised that the house was on fire; that a panic should

seize them as had been sometimes known in a crowded theatre—the wisest counsel would be for a while to sit still. But would that disposition prevail? On the contrary, the members would probably rush out in the greatest confusion and crush each other in striving to escape. If at that moment some individual, more calm and collected than the rest, should endeavour to arrest their progress at the door and recommend their return till the passage was cleared, with what temper would they receive his advice? They would probably become exasperated by his resistance and trample him to death who was endeavouring to save them. Surely, however indiscreet their conduct as it affected themselves, however cruel and unjust as it affected him, it would be barbarous to reprove men for intemperance and misconduct, who acted under circumstances so little fitted for judgment and reflection. Such, in effect, was the position in which the colonies were placed; and to such extremities must they be reduced by the excitement of their slaves to insurrection or even by the very terror of so great a calamity.

He was, therefore, more disposed to make allowances for all that was really to blame in the indiscretion of their councils and the intemperance of their language than to condemn them, more especially in the severe terms of his honourable and learned friend's motion, rendered still more severe by the speech which introduced it. Seeing, however, as he thought he did, some things which he could not approve in the papers laid before the House, he should be glad if some middle course could be adopted that might avoid the necessity of appearing to approve what he could not conscientiously, in the terms proposed, bring himself to condemn.

[Dr. Stephen Lushington [M. P. for Ilchester] rose, but was nearly inaudible from the cries for adjournment. He said he thought there were many gentlemen most anxious to speak on this question and he should, therefore, submit to the feeling of the House; [he was] ready now to proceed but willing to defer

the expression of his sentiments, if they should think it necessary.

The cries for adjournment here became very loud and accordingly at half past one o'clock [early on the morning of 2nd June], the further discussion of the motion was adjourned to the following day. It was afterwards further adjourned to the 11th instant.]

MOTION RESPECTING THE TRIAL AND CONDEMNATION OF MISSIONARY SMITH AT DEMERARA

House of Commons Debate, 11 June 1824

Second Day

The order of the day being read for resuming the adjourned debate on the motion made by Mr. Brougham, on the 1st instant, respecting the Trial and Condemnation of Missionary Smith at Demerara; and the question being again proposed, viz.:

> "That an humble address be presented to His Majesty, representing that this House, having taken into their most serious consideration the papers laid before them relating to the trial and condemnation of the late Reverend John Smith, a missionary in the colony of Demerara, deem it their duty now to declare that they contemplate with serious alarm and deep sorrow the violation of law and justice which is manifest in those unexampled proceedings; and most earnestly praying that His Majesty will be graciously pleased to adopt such measures, as to his royal wisdom may seem meet, for securing such a just and humane administration of law in that colony as may protect the voluntary instructors of the Negroes, as well as the Negroes themselves and the rest of His Majesty's subjects from oppression."

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Speech by Dr. Stephen Lushington

Dr. Stephen Lushington [M. P. for Ilchester] rose, and addressed the House as follows:

Mr. Speaker,

Never in the whole course of my public life, when I have had occasion to address a public assembly, have I felt a greater solicitude to discharge my duty with strict fidelity to the principles of justice and impartiality. In my endeavours to vindicate the character of Mr. Smith from the charges brought against him by the colonial government of Demerara—charges which I have heard with sincere regret repeated from a high quarter in this House—I feel particularly anxious to establish that vindication, without affording the remotest ground for imputing to me that I have been guilty of injustice to any of the parties implicated in these proceedings.

In those observations which I shall feel it my duty to submit to this House, relative to the proceedings before the court-martial and the conduct pursued there, I wish it to be distinctly understood that I shall rest my arguments on the evidence furnished by themselves against themselves, and not on any extraneous communications [*hear, hear!*]. For the vindication of Mr. Smith, and in proof of the gross injustice of the treatment he experienced, I shall rest solely and exclusively on the documents laid before this House by His Majesty's government [*hear!*]—documents admitted on all sides, as far as they extend, to be unquestionable.

Having stated the documents on which I rest my case, it is next most proper that I should put this House in possession of those principles which I conceive, in the view I am determined to take, applicable to this great and important question. I mean not to limit myself to the mere showing whether the proceedings adopted against Mr. Smith were legal or not. I go

more directly to the great issue. I claim for that injured man perfect innocence, both legal and moral [*cheers*]; and I am satisfied in my conscience that I shall establish it by evidence which any fairly constituted tribunal, any judges seeking the truth only will declare to be unimpeached and unimpeachable. It is my purpose also to show that by the tribunal before which he was arraigned, not only all the forms of law were overlooked or disregarded, but that the most sacred principles of justice fundamental rules, indispensable to fair inquiry, without adhering to which guilt can never be satisfactorily established were, on this memorable occasion, in almost every stage of the proceeding, shamelessly abandoned and culpably violated. In my view of the case, it is not a question whether the concealment of an intended revolt was or was not high treason by the laws prevailing at Demerara. I am ready to concede that if it can be shown that Mr. Smith was a party to any guilty concealment of an intended revolt, he deserved to be duly arraigned for the crime and, if duly convicted, to suffer.

There are certain facts, unquestionable and undisputed, which it is of the highest importance to a just consideration of this case that all those who are solicitous to give an impartial decision should, on reviewing the evidence, continue to keep in their full recollection. Some time in the month of May, the Governor of Demerara, General Murray, issued a circular in that colony establishing certain regulations and restrictions with respect to the attendance of the slaves on divine worship on Sundays—regulations which I do not now stop to examine but which, beyond all doubt, excited much dissatisfaction in the breasts of that unfortunate and oppressed class. It was on the 21st of July that the despatches of Earl Bathurst, communicating to the Governor of Demerara the benevolent intentions of His Majesty's government, having for their object the welfare of the slaves in conformity with the expressed declaration of the legislature—which despatches were dated the 28th of May—were laid before the Court of Policy in the colony. These despatches particularly specified the prohibition of flogging females; the abolition of the use of the whip in the

field; and other improvements calculated to ameliorate the condition of the slave population generally.

On the 18th of August the revolt broke out in the colony. On the 21st of August Mr. Smith was apprehended and on the 13th of October he was brought to trial. It appears, also, that the principal charges of which Mr. Smith was found guilty were:—of having created dissatisfaction among the slaves; of having concealed the intended revolt; and of having corresponded with the rebel leaders after that revolt had commenced and while it was in progress. By my honourable friend, the Under Secretary for the Colonies (Mr. W. Horton), much blame has been imputed to Mr. Smith in the general discharge of his duties at a period long antecedent to the occurrence of those transactions which led to his trial and to all the more immediate subjects of our present consideration. Mr. Smith has been accused of too enthusiastic a devotion to the cause he espoused; of evincing, both in his conduct, his preaching and his writing, too intemperate a disapprobation of that system of crime and misery with which it was his lot to be daily conversant.

I do most unequivocally deny, that, in the documents laid before this House, there exists any evidence to justify any imputation either on the principles he maintained, the discretion with which he advocated them, or his general demeanour during his residence in that settlement. Indeed, on the contrary, though his private journal has been ransacked for accusatory matter, though the scrutiny into the whole of his past life for years has been as unsparing in extent as unjustifiable in principle, I cannot refrain from expressing my surprise and admiration, that, amidst all vexations and embarrassments, even when contending with the most disgraceful impediments and provoked by unjust opposition, though his feelings were naturally and necessarily excited by the oppression, cruelty, and misery which be constantly witnessed, still he abstained from all violence of invective and, in all the doctrines which he preached, inculcated the duty of obedience from the slave to the master even to the utmost verge of those limits beyond which

obedience to man becomes disobedience to the religion he came to propagate and maintain.

I doubt if there be any man, under similar circumstances, fervently believing the divine truths of the religion of which he was a minister, who under equal excitement, would have more eminently displayed patient endurance or so well have tempered his zeal with discretion. Indeed, had less been said or done, there might almost have existed cause for doubting the sensibility or the sincerity of the missionary. From this vague charge of excessive enthusiasm and general indiscretion, as well as from accusations of a more tangible description, I do, on the part of Mr. Smith, claim a verdict of entire acquittal.

I now proceed to consider more particularly the charges on which he was arraigned and found guilty; and, especially, the imputed concealment of the intended revolt after it had, as alleged, come to his knowledge. I deny the knowledge and, consequently, the possibility of guilty concealment. In support of this charge, the conversation between Mr. Smith and some of the Negroes on the 17th of August, the day preceding the revolt, has been relied on; and in weighing the effect of this testimony, it is most important to attend to the respective dates and to the connexion of the occurrences. That interview is stated to have taken place on Sunday the 17th after the evening service. Now, it is to be recollected, that Mr. Smith had not been at plantation Le Resouvenir a great portion of the week before; he had been down on the West Coast on a visit to Mr. Elliot, and only returned the Friday evening before to his own residence. It is stated in the charges against him that he had, previously to that period, advised rebellion and endeavoured to promote it; but in no part of the evidence of the witnesses, nor in any of the documents, is there the slightest proof of this averment.

I admit, however, that unimpeached as his conduct is by any testimony prior to the 17th of August, yet if at the interview on the evening of the 17th it did appear that anything transpired between the Negroes from which it was conclusive that he was apprised of a rebellion being in progress and, if so

apprised, he did keep his peace, then he was guilty of the offence laid to his charge. That admission I explicitly avow; but, while I make that admission, let us attend minutely to the proofs of Mr. Smith's guilt or innocence. To this all-important point I implore the attention of the House, I implore the attention of every individual member; I call upon them, individually and collectively, to listen to the evidence, to examine and compare the testimony of the different witnesses, and to found their judgment exclusively on that evidence and the inferences which naturally arise from it. Be there any member disposed to acquit, to hear the vindication of Mr. Smith is essential even to acquittal; but much more is it the indispensable duty of every man well to know and understand the evidence before he proceeds to condemnation.

To the evidence, therefore, as it bears upon the guilt or innocence of Mr. Smith, I shall at present proceed, reserving my observations on the court-martial till I shall have disposed of it. I court inquiry. I am, in vindication of Mr. Smith's innocence, anxious for the most rigid investigation; and with that feeling, I hope that those who differ with me will not spare their examination of those parts of the evidence on which I rest that vindication.

That portion of the evidence to which I request your attention is the very part to which my honourable and learned friend, the member for Peterborough (Mr. Scarlett) had adverted on the former night; and whom I regret not now to see in his place. I regret it because I am about to make observations which lead to a very different inference from that which he then drew; I mention it because, in commenting on that inference in his absence, I wish the House to remember that no blame can rest with me. In the first place, it is material to bear in mind that the circumstances which occurred at the interview on the 17th of August after evening service rest exclusively upon the evidence of Negro slaves—not slaves merely, but acknowledged accomplices.

Let us consider the weight which is due to such evidence. In what degree of estimation do the colonists themselves hold the

testimony of Negro slaves, even when there exists no suspicion of any culpability attaching upon them with respect to the transaction under examination? True it is, that in Demerara where the Dutch civil law prevails, the testimony of Negro slaves is under certain circumstances admitted; but this is an exception from the general rule. In all our other West India colonies testimony of that description, no matter how high the character of the individual, no matter the degree of confidence that his master from experience of his honesty and good conduct might repose in him, is universally rejected. Even on questions of property, of the most trivial value, the law refuses to receive the evidence of the best-informed slave, though in the result he cannot have the slightest interest.

Now mark the grounds on which the colonists and slave-owners have justified the total rejection of Negro evidence in the administration of every branch of justice, both civil and criminal; observe the principles, or rather the assertions, on which they refuse, even on trials for the most atrocious offences, the evidence of the slaves. We do not allow such evidence, say the colonists, because the Negro slave is not impressed with the sacred obligation of an oath; and how can you expect truth where there is no conscientious conviction of the sin and danger of perjury? Again, they aver, that the Negroes are almost universally destitute of education; so ignorant that they cannot discriminate between right and wrong or detail an ordinary statement with any reasonable accuracy. Under all circumstances, therefore, and almost on all occasions in the judgment of the colonists themselves, even of those who have been the foremost of Mr. Smith's accusers, Negro evidence is proscribed and considered to be entitled to a very slight, if any, degree of credit. But it is upon Negro evidence Mr. Smith has been found guilty; upon Negro evidence solely; for there is no other testimony even asserted to bear upon the charges on which the court-martial pronounced the accused guilty. Nor is this all. It is not even upon pure Negro evidence, if such an expression can be applied to the subject, that the judgment of this court-martial has rested; it is upon Negro

evidence, subject to a deduction of the greatest importance—a deduction which detracts from the evidence of every witness, though in all other respects he might be best calculated to give testimony. All those Negroes who were admitted as witnesses are, by their own statements, accomplices; and not accomplices merely in the alleged guilt of Mr. Smith, but the planners of the revolt itself and active participators therein.

Now, what are the principles which the law of England, of justice and of common sense, apply to such evidence? That it shall always be viewed with suspicion and distrust and shall never produce a conviction unless corroborated by other unexceptionable testimony. Let it be remembered that the evidence given on this memorable occasion was not the evidence of pardoned accomplices but of men swearing for their pardon; liable, at the pleasure of the government, to be tried for the same offence; to be convicted on their own admissions; to be executed, or to suffer worse than death, the tortures of a thousand lashes—a sentence which this humane tribunal passed on several of the unfortunate beings who were placed at their bar, and which, to the everlasting disgrace of the British name, was, in some instances, actually carried into execution. With the hope of life on one hand, with the fear of death or torture on the other, were these Negro witnesses dragged to the bar; well knowing, if they knew anything, the nature of the evidence they were expected to give and what would conduce to their own safety and protection.

Remembering therefore the worthlessness, in the estimate of West-Indians, of Negro evidence in all cases, remembering that in this case these slaves were acknowledged accomplices, let the House now look to the charges and the testimony adduced to uphold them. The whole of the accusation against Mr. Smith, resting upon this evidence, has no reference to any act committed by the accused but is exclusively confined to the conversations he heard from others. It is not alleged that he participated in this revolt by doing any overt act; nor that he uttered a single expression to encourage it; but merely that he heard a conversation which gave him knowledge of the

intended revolt and that he did not immediately communicate it to the constituted authorities. Then the question at issue is the purport of these alleged conversations and the fact whether Mr. Smith did overhear a treasonable conversation and concealed it.

In addition to all the general objections applying to the evidence of slaves, here is another arising from the peculiar nature of the charge itself. Look to the testimony of Mr. Van Cooten. Being asked, if Negroes are generally capable of relating with accuracy any conversation which may have taken place in their presence, what was his answer? "I think," said he, "very badly in general; some of them may be more capable than others." Again, he is asked, "Is it customary to send Negroes with verbal messages where accuracy is required?" "No, it is not; at least I would not do it."—"For what reason would you not send such message verbally?" "Because I think Negroes in general are bad messengers; ten to one if they carried it correctly."

Such is the testimony of a gentleman who was the attorney of the estate Le Resouvenir, himself the owner of a plantation and who had acquired his experience by a residence of fifty years in the colony. How admirably does the evidence of that respectable man contrast with the statements of other colonists whose passions and prejudices, rather than truth and candour, have governed all their depositions.

Having offered these preliminary observations that the House may be enabled to form a more correct judgment of the degree of credit to be given to the witnesses, I now proceed to call its attention to the only evidence on which it was attempted to affix the charge of a guilty concealment. Bristol, speaking of the Sunday afternoon, states, in fol. 14, as follows:

> "After service I did not go straight home; we stopped close to the chapel a little while, when we heard Jack and Joseph talking about the paper which had come from home, that the people were all to be made free. Emanuel told Quamina that he had better go and ask Mr. Smith about it; and when Quamina was going into Mr. Smith's house, I went in with him; and when we went, Quamina asked Mr. Smith if any freedom had come out for them in a paper; he told them that there was a good law come out but no freedom for them."

The House will bear in mind that the witness states that no one was present at this conversation but himself, Quamina, and Mr. Smith; and that it was the first time he (Bristol) had been in Mr. Smith's house on that day. Bristol then proceeds:

> "Mr. Smith said, 'You must wait a little, and the Governor or your masters will tell you about it.' Quamina then said, 'Jack and Joseph were speaking much about it;' he said, 'they (Jack and Joseph) wanted to take it by force.' Mr. Smith said,' You had better tell them to wait and not be foolish; how do you mean that they should take it by force? They cannot do anything with the White people, because the soldiers will be more strong than you; therefore you had better wait.' He said, 'Well you had better go and tell the people, and the Christians, particularly that they had better have nothing to do with it;' and then we came out."

The only other passage in the evidence of this witness, of similar import, is as follows:

> "When Mr. Smith observed to Quamina that the soldiers would be too strong for them, Quamina said, they would drive all the White people, and make them go to town."

Now, let us consider how far the testimony of this Negro accomplice is corroborated by other evidence; though, indeed, if he has spoken truly, his statement was incapable of any direct corroboration. For Quamina, the only other person by him asserted to have been present on the occasion was killed previously to the trial. Seaton, another Negro accomplice, is however produced and he begins by at once falsifying and contradicting the evidence of the preceding witness, for he swears that he himself was present at this conversation; and, in folio 23, he gives the following account of it:

> "Quamina went to Mr. Smith and asked him about this paper; Mr. Smith said, Yes, that the paper is come out; that the paper had come out so far as to break the drivers; and that nobody should be licked any more again; and that if anybody should be licked, it should be by their masters, or their managers; and if anything more than that, they were to be confined. After I had heard that, Quamina told me to go away to the

middle-path of Success to stop the people till he came, and I went with Manuel to stop them."

Manuel is called, and his deposition, so far as it goes, contradicts Bristol and confirms Seaton; but not a single expression falls from him denoting the avowal of any intended revolt in Mr. Smith's presence.

In support of this charge which sought to sacrifice the life of the accused, it seems almost incredible to say that this was the whole evidence adduced on behalf of the prosecution; but yet this is strictly the fact. In this country it can scarcely be credited that, on testimony like this, an Englishman should be put upon his trial; but so it was. That all the three witnesses for the prosecution should have spoken truly is impossible, for they are manifestly at variance with each other They differ as to the persons present at the conversation; they differ as to what passed on the occasion; they put language into the mouth of Mr. Smith which it is impossible he could have uttered. Mr. Smith was not a low, ignorant, and illiterate man, and yet he is made to have uttered expressions which could have been used by none save those of the lowest class. It is possible that Mr. Smith might, had he been under the influence of infatuation, have known and concealed or even encouraged a rebellion; but it was not possible for a man of knowledge and education to have used the language imputed to him on this occasion.

It is manifest, therefore, from this as well as all the other circumstances, that these witnesses have not truly and correctly stated what passed at that meeting. That Mr. Smith may, on that occasion, have delivered his opinion respecting the letter of Lord Bathurst somewhat to the effect, though not in the words deposed to by the witnesses, is consistent with probability; and sentiments more likely to have conciliated the minds of the Negroes and allayed the ferment which the concealment of the contents of that letter had occasioned could not have been uttered; and how grossly inconsistent is it to suppose that, at the very moment the missionary was avowing sentiments which even his enemies must approve, he was listening to disclosures

of treason and wilfully concealing his information! With all these circumstances of gross improbability, the charge finally rests on Bristol's assertion that in the missionary's presence it was declared that Jack and Joseph said they wanted to take their freedom by force and that Mr. Smith said the soldiers would be too strong for them.

On the assertion of this Negro slave, an avowed accomplice, unsupported by the testimony of any human being and in many parts contradicted by the evidence brought to uphold it, was this conviction founded. Had Mr. Smith used the expression imputed to him, as to the soldiers, it is impossible it could have escaped the recollection of those who were present. Upon that word hinges the whole charge of concealed rebellion; and yet, though questioned with all the ingenuity of the court and counsel, from the second accomplice, Seaton, the court-martial could not extract an admission that the word "soldiers" had ever escaped the lips of the prisoner. Of all words, it was that very one which was most calculated to make an impression upon the mind of a Negro slave engaged in a conspiracy to revolt. If, when the chances of revolt were discussing, the dangers of the proposed rebellion were debating, the word "soldiers" had been mentioned, is it possible that persons so circumstanced, with all their attention roused to the subject, could have forgotten an expression which must at once have called forth all their fears and apprehensions? Was not the danger from the soldiers that which they most naturally contemplated in attempting to carry their designs into effect? Had Mr. Smith uttered the word, it was impossible that any hearer could have forgotten it.

Nor is this all. The House has already seen that the three witnesses have given three different versions of the same conversation; they will now perceive that Bristol is not consistent even with himself. In page 17, on cross-examination, he swears positively that he had a conversation respecting his little girl when no one else was present except Mr. and Mrs. Smith; yet in his previous testimony he declared he went in with Quamina who continued with him at the interview and that

they left the house together. He swore, moreover, on his examination in chief, that after the interview was over he went directly home; on cross-examination, that he went to the chapel. And, yet it is on evidence in itself so unworthy of credit, so contradicted and so full of contradictions, that my honourable and learned friend (Mr. Scarlett), is prepared to conclude that the criminality of Mr. Smith has been established!

It is now time to advert to the evidence of the witnesses produced on behalf of the accused; and if their testimony be credited, the evidence of Bristol is wholly gone. At this same interview the girl Charlotte positively swears Bristol, Quamina and Peter were present. Here then is a new actor introduced on the stage. What says Peter? He was a Negro slave, it is true; but how was he circumstanced? He was an accomplice—an acknowledged accomplice. Every word he uttered in favour of the prisoner endangered his own life. Whatever came from a witness thus situated in regard to the prisoner was entitled to much greater consideration than, under any other circumstances, his testimony could claim.

Let us see his account of the transaction:

> "Were there any other persons present?"
>
> "Bristol, Seaton, a boy named Shute, a field Negro of Le Resouvenir, and Mr. Smith, were present, and with myself, made six."
>
> "Did Quamina say anything to the prisoner; if yea, what was it"
>
> "Yes. He said that they should drive all those managers from the estates to the town, to the courts, to see what was the best thing they could obtain for the slaves. Then Mr. Smith answered, and said that was foolish; 'How will you be able to drive the White people to town?' and he said further, 'The White people were trying to do good for them; and that if the slaves behaved so, they would lose their right;' and he said, 'Quamina, don't bring yourself in any disgrace; that the White people were now making a law to prevent the women being flogged; but that the law had not come out yet; and that the men should not get any flogging in the field, but when they required to be flogged they should be brought to the manager, attorney or proprietor, for that purpose;'' and he said, 'Quamina, do you hear this?' and then we came out."
>
> "What did Quamina say in answer, when Mr. Smith said 'you hear?"

"He said 'Yes, sir;' that was all."

"How long were you and Quamina and the rest at the prisoner's house?"

"We did not stop a minute."

"Was Seaton with you the whole time at that conversation?"

"Yes."

"Which of you all went out of the prisoner's house first?"

"We all five came out together."

Hence it appears, that, so far from this interview having taken place between Mr. Smith and Quamina in the presence of Bristol only, as he positively deposed, the number of persons is eventually doubled. Seaton adds himself; and, according to Peter's account, on this occasion there were assembled Mr. and Mrs. Smith, Quamina, Bristol, Seaton, Shute, and himself. Shute is the last witness and he contradicts Bristol, confirms Peter, and explains what had been previously stated as to driving the managers to town. His evidence is to be found in page 65, and is as follows:—

"Were you at the chapel the Sunday before the revolt?"

"Yes."

"Did you see Quamina of Success on that day?"

"Yes."

"Where did you see him?"

"At the chapel."

"Did you see him anywhere else?"

"Yes, I saw him at Success middle-path, and I saw him after that come over from Success to our place, to Mr. Smith."

"Did you see him at Mr. Smith's?"

"Yes, I saw him there, and was there myself."

"Was any body and who present when you saw him at Mr. Smith's?"

"Seaton, Bristol, and Peter, with Quamina and myself."

"Did any and what conversation pass on that occasion?"

"Yes. Quamina said to Mr. Smith he was going to drive all the managers down; and Mr. Smith told him, No; for the White people are doing many good things for you; and if you are going to do that—'you must not do that, Quamina, I tell you.' Quamina said, 'Yes, I will see;' and after that we all came out of the house from Mr. Smith."

"Did Quamina say what he was going to drive the managers down for?"

"That they must come down, that they may have a good law to give them a day or two for themselves."

"Was Seaton there all the time?"

"Yes."

"Which of you went away from Mr. Smith's house first?"

"We all together went."

It has been urged against the accused that, even from the expressions used by his own witnesses, he must have been cognisant of some intended rising; and it was asked, what other explanation could be given of the expression "driving the managers?" To this I answer, that, even presuming it could with justice be contended (as I verily think it cannot) that these identical words were used, still that, according to every rule of law and justice, they must be considered in conjunction with the context; and taken with that context, the whole inference falls to the ground. The managers were to be driven to "the courts," say some of the witnesses, in order to procure a new law for the treatment of the slaves. Could any man, by the utmost stretch of human ingenuity, convert this expression into a declaration that a revolt was already planned and rebellion about to be carried into execution? Is it not abundantly clear that by this expression remonstrance alone could be understood—an application to the constituted authorities of the colony? What have the courts to do with open revolt, or new laws, with insurrection and rebellion? If any doubt could exist that this is the true interpretation of this conversation, look to the evidence of Shute who declares that they intended "to drive the managers down, that they may have a good law to give them a day or two for themselves."

And here let me notice the argument of my honourable and learned friend the member for Peterborough; an argument which, I confess, has filled me with astonishment—I might almost say, indignation. In attempting to maintain that Mr. Smith was guilty of the charges brought against him, not only did my honourable and learned friend rely on the evidence of Bristol, without noticing the inconsistencies which pervade his evidence or the testimony by which it is contradicted and

invalidated, but, strange to say, he argued upon Mr. Smith's admission that he was on the spot at the time of the alleged conversation, as a circumstance confirmatory of Bristol's testimony, because there could be no doubt that he would otherwise have attempted to prove an alibi. Why, good God! Sir, what was the fact? Mr. Smith did produce evidence not to deny that he had had a conversation with Bristol, Quamina, and the other Negroes; he admitted, as an honest man was bound to admit, that he was present at the conversation; but he positively denied that the tenor of the conversation was such as could attach to him the slightest suspicion of his being cognisant of the rebellious object in contemplation. What would be the consequence if such an argument, as that to which my honourable and learned friend resorted, were to carry conviction in similar cases?

Perhaps the House may recollect that about twenty years ago the present Lord Chief Justice of the Court of Common Pleas was accused of an attempt to commit a rape at his chambers, in the Temple, on a lady who came to consult him professionally. What would my honourable and learned friend the member for Peterborough have said to the Lord Chief Justice of the Court of Common Pleas if, instead of admitting the fact that he was in his chambers at the time and standing on his character and on other evidence for the assertion of his innocence, he had attempted to establish an alibi. It is impossible to conceive a more unjust or a more illogical conclusion than that of my honourable and learned friend. I ask my honourable and learned friend if he were himself so unfortunate as to be accused of an offence similar to that to which I have alluded, he would attempt to defend himself by calling his clerk to swear that he was in court at the time? Instead of expecting such an opinion to escape from the lips of my honourable and learned friend, I should have really hardly expected it to escape from the lips of one of the deputy assistants to the judge-advocate at Demerara.

When, however, we consider how the ingenuity of my honourable and learned friend was evidently taxed to support

the failing testimony of Bristol; when we find that a lawyer, so skilled in his profession and of such long experience as my honourable and learned friend, had no better mode of corroborating Bristol's assertion of the guilt of Mr. Smith than the argument that Mr. Smith's own admission of having been present at the conversation with the Negroes was a proof of his having a knowledge of their criminal intentions, I am sure the House will be sensible that a cause must be bad indeed which is compelled to have recourse to such means for support [*hear, hear!*].

But, Sir, there are two other matters much relied on by those who assert that Mr. Smith was guilty of the offence with which he was charged. One is the note received by Mr. Smith on the evening of the revolt from a Negro of the name of Jacky Reed, communicating the contents of a letter which had been sent him by another Negro called Jack Gladstone. To that note Mr. Smith answers:

> "I am ignorant of the affair you allude to, and your note is too late for me to make any inquiry. I learnt yesterday that some scheme was in agitation, but, without asking questions on the subject, I begged them to be quiet, and I trust they will; hasty, violent, or concerted measures are quite contrary to the religion we profess, and I hope you will have nothing to do with them."

Here is Mr. Smith alleging his ignorance of the real intentions of the Negroes. Certainly, if it be a crime that he remained silent when he had received a vague intimation that some application was about to be made by the Negroes to their managers for redress of certain grievances of which they complained—if it be a crime that having obtained some loose information that some proceeding or other was in agitation without any knowledge of time, place, object, or other circumstance, he did not consider it his duty instantly to denounce his congregation and to become an informer against them, in utter ignorance of the facts to which his information referred—then, perhaps, Mr. Smith might be deemed criminal. It appears, however, that the court itself was not satisfied with

the evidence which had been adduced in inculpation of Mr. Smith and, therefore, that an attempt was made to find something in the confession of Mr. Smith himself which might warrant the conclusion that he was guilty. I call upon the House to consider the injustice of this mode of proceeding.

Let us look at the kind of testimony by which the alleged confession is supported. Is it probable that on the very night of the insurrection, Mr. Smith would make such a communication to persons in the condition of the two witnesses whose testimony is relied on in this respect; men whom he had never before seen in his life? Is it likely that he would have communicated a secret so personally dangerous to himself to such persons? One of them, John Bailey, a servant to the ordnance store keeper, swears that Mr. Smith told him he knew of the intended rising of the Negroes six weeks before. Now, Sir, it is utterly impossible that Mr. Smith could know, six weeks before, of a revolt which there is evidence to prove was planned only on the day before its occurrence. The other witness, John Aves, coachman to Colonel Goodman, who was examined immediately after John Bailey for the purpose of confirming the evidence of the latter, negatives the evidence of Bailey and denies that Mr. Smith made any such declaration. But it is clear that John Bailey also swears to that which is a palpable falsehood, as proved by the evidence of Dr. Robson, the witness immediately following the two witnesses I have just alluded to.

John Bailey says, "I asked Mr. Smith what time this disturbance took place? He said, 'about seven o'clock when the Negroes came from their work.' He said he had been busy writing all day." Now, it is proved by the evidence of Dr. Robson, as well as by Mr. Smith's own journal, that on that very day, Monday the 18th of August, Mr. Smith had been to the town, nine miles distant from his own home to consult that physician professionally. What reliance, therefore, can be placed on the evidence of an individual who puts into the mouth of Mr. Smith words which it is impossible he could have ever uttered; who swears that Mr. Smith declared that he had

been writing all day, when the fact, by his own statement and by the evidence of a physician, was that he had been to the town to consult the physician professionally?

But mark the next assertion of this witness, Bailey: "He (Mr. Smith) said the two overseers ran to him for protection; the manager was away." The fact was, first, that the manager applied to Mr. Smith for assistance and that Mr. Smith saved his life; and, secondly, that the overseers were not there. Now, Sir, I do put it to the House, when they find a person, not a Negro, not a slave, not an accomplice, but a freeman and an Englishman, come forward and make against him a deliberate statement, two of the allegations in which are proved to be false, with what justice any part of that person's testimony can be depended on? The objections which have been usually made to Negro evidence are not, in the colonies, applicable to Negroes alone. The perjury of White witnesses on this trial is at least equal to that of which any Black ones could be guilty. Nor is it Mr. John Bailey alone to whom this observation is applicable. There are others, in higher stations, on whose testimony little reliance can be justly placed.

While I am on this part of the case, I beg to advert to the statement of my honourable and learned friend, the member for Peterborough, that Mr. Smith ought instantly to have communicated to Mr. Stewart and Mr. Cort what he had learnt from Quamina. Really my honourable and learned friend appears to have read just as much of the evidence as tended to support the accusation and to have entirely neglected that which supports the defence. The interview which Mr. Smith had with Mr. Stewart and Mr. Cort was long prior to the insurrection of the 17th of August; after that day he had no opportunity of communication had there been any matter to be mentioned; and the whole of this argument is founded on the evidence of the Negro, Manuel, who has confused the dates of the different transactions. With these observations, I leave the charge, so strangely denominated misprision of treason and so ingeniously converted into a capital offence; and well assured am I that in the judgment of every man, unbiased by colonial

prejudices whose heart is not hardened and understanding clouded by participation in the horrors of the slave system, a verdict of perfect innocence must be recorded.

The next charge brought before the court-martial against Mr. Smith was that he had communication with Quamina on Wednesday the 20th of August. That charge Mr. Smith did not deny, for the best of all possible reasons, that there was nothing on his part criminal in that communication. It was clear from the evidence that Mr. Smith had never sought the interview in question; but that it had taken place accidentally, in consequence of Mrs. Smith's wishing to see Quamina at her house. And here I beg to observe, that contrary to all the principles of justice and all the rules of evidence, the court admitted evidence as to what Mrs. Smith said or did in the absence of her husband. For instance, on Mrs. Smith's conversation with Quamina is built the charge that Mr. Smith corresponded with and aided and assisted the insurgent Negroes. I maintain and I am persuaded there is not a single honourable member who will not say on his conscience that he believes that not a single word ever dropped from Mr. Smith having a tendency to encourage rebellion among Negroes. I believe any such accusation is repudiated by both sides of the House; and that it exists nowhere, except in those receptacles of every species of calumny and abuse, the newspapers of that ill-fated settlement.

There were other charges adverted to by the Under-Secretary of State for the Colonies of a totally different description—such as, I believe, were never the subjects of inquiry in any court of justice or before any other tribunal whatever. I mean the conduct of Mr. Smith during the whole term of his residence (six years) in the colony of Demerara. Sir, I never heard before of any tribunal, especially of any tribunal acting under English law, putting a man on his trial for all his actions and all his words during a period of six years continuance; and that, too, without specifying time, place and circumstances—merely one sweeping accusation that, by his general conduct, during a residence of six years, he had greatly

contributed to the creation of dissatisfaction and discontent among the Negroes. Where, Sir, is the man who would dare to trust his life to the issue of such an investigation? Where, Sir, is the individual so bold as to challenge such an inquiry? Where, Sir, is the tribunal so unjust as to pronounce sentence upon any individual so accused.

The honourable Secretary charged Mr. Smith with being an enthusiast; with requiring from the Negroes too strict an observance of the rites of the Christian church. I wish, Sir, I could have been spared the pain of touching on this part of the subject. I wish so, because it is difficult to describe the sacred obligation of keeping holy the Sabbath day without the use of terms which many persons will think savour of cant, or without falling into the other and much more dangerous error of lowering that sacred obligation, by not speaking of it with adequate reverence. To steer a middle course in such a case is difficult. It is difficult to draw a precise line under such circumstances. It is difficult, when any deviation is allowed from the direct rule, to say where that deviation ought to be unhesitatingly checked.

I am not one of those who are disposed to prohibit innocent amusement, or even necessary employment, on the Sabbath day. I wish that day to be spent in a manner calculated to gladden and enliven all human hearts. But if ever there was a state of society in which the adherence to the divine command for the observance of the Sabbath is more essential than in any other, it is a state in which slavery exists; a state in which, during the other six days of the week, man commands his fellow men to work for his benefit. Is it too much to say that, in such a state of society, the man who labours for others on the six days of the week ought on the seventh to be wholly exempt from labour? Is it too much to say that the vengeance of public opinion and of public law ought to fall on those who endeavour to compel their unfortunate slaves to incessant, to unintermitting toil? By the law of Demerara, a fine, I believe, of 500 guilders is imposed on every planter who compels his slaves to work on the Sabbath; but, notwithstanding that fine, it

is evident throughout the papers respecting this subject, that the law is constantly evaded. It is evident, from the proclamations of the Governor himself as well as by the statements of Mr. Austin, Mr. Smith and others, that the slaves are compelled, in many instances, to labour on the Sabbath; and that every endeavour on their part to obtain redress for this grievance has proved fruitless; aye, as I have been reminded by an honourable friend near me, that the sole effect of such endeavour has, in many cases, been to call down on the unhappy slaves the vengeance of those masters of whose oppression they have complained.

In such a state of society, I ask the House what is the line of conduct which Mr. Smith ought to have pursued? The House will, I hope, allow me to show, from the evidence of one or two of Mr. Smith's disciples, the nature of the doctrines which he really preached to them. Manuel, one of the Negro witnesses for the prosecution, deposes, "Parson said if your master has any work for you on Sunday, it is your duty to tell him Sunday is God's day." Sir, is that criminal doctrine? But how does the witness go on with his statement of Mr. Smith's exhortation? "That if the water-dam broke on Sunday, it was our duty to go and stop it; that if the boat was to ground on a sandbank on Sunday, it was our duty to shove it off; and that if people got drunk on a Sunday, it was right of their masters to make them work, to prevent them walking about, and making mischief." Is there anything in these declarations which deserves reprehension?

Romeo, another witness for the prosecution, when he is asked whether he did not hear Mr. Smith say that the Negroes were fools for working on a Sunday, for the sake of a few lashes, answers, "No, I did not hear that; but I heard him say that if their masters gave them work, they must do it patiently, and if they punish you for a wrong cause, you must not grieve for it." It appears, therefore, Sir, that Mr. Smith preached such obedience to the commands of man as was consistent with the commands of God. If he had used other language, if he had attempted to deceive the Negroes, by preaching one doctrine to

them, and allowing them a practice of another and an opposite nature, he would have been a renegade to his faith and an apostate from his religion. So far, however, from his having been an enthusiast, as my honourable friend the Under-Secretary for the Colonies was pleased to call him, Mr. Smith appears to me to have acted with the greatest circumspection and care and to have avoided, with all possible caution, anything that could have a tendency to excite discontent in the Negro population of Demerara.

I know that there is to be found, in the evidence of a single Negro witness for the prosecution, one passage which seems to imply the contrary. Azor, a Negro, deposes: "I heard him (Mr. Smith) say, 'You are fools for working on Sunday for the sake of a few lashes.'" Against that single passage in the testimony of one witness I set all the testimony of the other witnesses; I set the testimony of Mr. Austin as to the general conduct of Mr. Smith; nay, I set the conduct of the very slaves themselves. If, Sir, we seek for the effect which the doctrines inculcated by Mr. Smith had on the minds of the Negroes, let us look to the evidence of one of the planters; let us look to the evidence of Mr. Van Cooten, a gentleman who, at the time of the trial, had resided above fifty years in the colony of Demerara. Mr. Van Cooten declares it to be his opinion, "that the Negroes had become more obedient in consequence of their attendance on Mr. Smith." Other witnesses would not have been wanting to confirm this gentleman's testimony if the prejudice against Mr. Smith in the colony had not been so great as to prevent their giving honest evidence. As it was, Mr. Smith was compelled to rely for his character on the testimony of Mr. Van Cooten and Mr. Austin and on the prodigious number of certificates of recommendation which form so large a part of the documents on the table.

Sir, I will show the House why Mr. Smith could not rely on the testimony of other witnesses who were nevertheless cognisant of the favourable impression he had made on the minds of the Negroes. For that purpose I will take the examination of a planter of the name of John Reed, who was

summoned to tell what he knew of the accused. The House will find it in folio 52 of the printed proceedings. Let us see how Mr. Reed gives his testimony. A document produced in the court having been read, he is asked:

> "Did you send the paper or letter just read, or deliver it to the prisoner?"
>
> "I delivered it to the prisoner."
>
> "Where were you when you so delivered it?"
>
> "I was on my sick bed at Dochfour. The prisoner intruded himself at my domestic board, even at my sickbed side, asked and obtained permission to erect a place of worship on disinterested, though legal conditions."

It is clear that the impression which this witness intended to create was that Mr. Smith was so great an enthusiast that without regard to common decency, he forced himself on his, Mr. Reed's, privacy. His examination continues:

> "How many times was the prisoner at your house?"
>
> "I think three or four times."
>
> "Do you remember at what time of day, and on what occasion did the prisoner go first to your house?"
>
> "It was early in the morning for the purpose of obtaining leave to erect a place of worship."
>
> "Where did you on that morning meet with the prisoner, and did you ask him to stay for breakfast, or did he remain without invitation?"
>
> "I met him on the road leading to the estate and I believe I asked him to stay for breakfast."

All this showed what was working in this planter's mind. The House will recollect that at the commencement of Mr. Reed's examination, he declares that Mr. Smith intruded himself at his domestic board, and even at his sick-bed side. The close of his examination, however, is as follows:

> "What do you mean when you say the prisoner intruded himself?"
>
> "I was unacquainted with the prisoner before, and on one occasion he brought Mrs. Smith along with him: perhaps I should not have deemed it an intrusion but for his subsequent conduct."
>
> "Did the prisoner go into your sickbed room without being asked?"
>
> "No, he did not" [*hear, hear!*].

Now this, Sir, is an exemplification of the kind of feeling that prevails in this ill-fated settlement. At the moment of the trial of Mr. Smith, such was the outcry against all religious instruction that the very effort to erect a chapel for the purpose of benefiting the Negroes in his neighbourhood was considered reprehensible and produced, as has just appeared, a bias which induced a witness to make a statement in the early part of his evidence, which the fear of a prosecution for perjury forced him at the conclusion of his evidence to admit to be a total falsehood. The whole of the evidence is liable to similar comments; and yet it was on evidence like this that the court-martial found the accused person guilty; on such evidence did they, after five days deliberation, sentence him to the punishment of death; on such evidence did the Governor of the colony, to his eternal shame and everlasting disgrace, sanction the sentence!

In my humble opinion, Sir, I have stated enough already to justify me in declaring that no impartial tribunal, no competent judges, no honest jury, ever pronounced such a sentence as that which the court-martial at Demerara pronounced upon Mr. Smith; and that it could have emanated from nothing but the most virulent spirit of prejudice. But I will not be satisfied with what I have yet stated: I will endeavour to show the House, in as few words as possible, the foundation of the accusation which I unhesitatingly prefer against this court-martial, namely, that of having knowingly and wilfully given a false verdict. Sir, these are strong terms; but they are not too strong for the occasion. I know I have no right to travel out of the evidence before the court for the purpose of making good my charges and I pledge myself not to utter a syllable which is not to be found in the documents on the table.

In the first place, then, Sir, the court compelled Mr. Smith to plead before they allowed him counsel, and thus deprived him of every opportunity of objecting either to the jurisdiction of the court itself or to the illegality of the charges exhibited against him. In the second place, the charges are, on their very

face, illegal; referring, as they do, to various offences supposed to be consummated by the prisoner before the proclamation of martial law, which alone gave the court-martial power to try a civilian, and stating neither the time, nor the place, nor the circumstances of those imputed offences. Even my honourable and learned friend, the member for Peterborough, admits that it was illegal to try a man by martial law for an offence committed before that martial law was proclaimed. Does my honourable and learned friend consider it more legal to try a man for offences committed years before the accusation without any specification of the particulars of those offences?

Sir, the next charge I make against the court-martial is that they allowed the judge-advocate to make such a speech as that which he made on opening the case. On that occasion he was bound, as prosecutor, to state in detail the specific offences with which he charged the prisoner. Instead of that, he merely says "I shall first adduce in evidence that the prisoner, even from the beginning of his arrival in this colony, has begun to interfere with the complaints of the different Negroes upon the estates in the district where he has been admitted as a regular missionary;" and then goes on with a number of similar general charges without entering upon a single specific statement.

My next accusation against the court-martial refers to the partial spirit which they exhibited and to their evident prejudice against the prisoner. This is apparent in many parts of the proceeding. For instance, Seaton, a Negro witness for the prosecution, is cross-examined by the prisoner:

"Have you been instructed by anyone to say what you have just told the court?"

"I have been examined before at Mrs. Meerten's by Mr. Smith, judge-advocate."

"Was what you so told put down in writing?"

"Yes."

"Have you since seen or heard what was so put down in writing?"

"I saw the paper at the time but not since; it has not been read to me."

Now, Sir, these are very-ordinary questions on a cross-examination. They are very proper in order to ascertain if a

witness has been previously tampered with or has received any intimation of the evidence expected from him. The court-martial, however, instantly take fire at this cross-examination by the prisoner, charge as an offence that which he had an undoubted right to do, swear the deputy judge-advocate, and thus examine him:

> "Have you examined the witnesses for the purposes of this prosecution?"
>
> "I have examined several of them, and the witness is one."
>
> "Have you attempted to mislead or instruct the witnesses as to the evidence?"
>
> "As a witness here I must answer, No; but I should think on ordinary occasions such a question too degrading to be put to me."

And then, as if to mark still more strongly the spirit of the court, there comes this paragraph: "The court observed, that the two preceding questions were put for the purpose of protecting the judge-advocate from the imputations attempted to be thrown upon him by the prisoner." Now, I will only ask, not whether such a proceeding as this was consistent with good sense, but whether it could have been prompted by anything but the most profound ignorance, the most invincible prejudice, the most determined disregard of decency?

The next accusation I make against this court is their admission of such a mass of hearsay evidence—the hearsay evidence of Negro witnesses, two or three deep. I contend also that the court plainly showed the feelings by which they were actuated, when they permitted the judge-advocate, after four days preparation, to make the reply which he did. And, lastly, I maintain that no honest man would have concurred in pronouncing such a sentence as that which the court pronounced, even if he believed the prisoner guilty of the offence imputed to him [*hear*].

And what, Sir, can be advanced in extenuation of the conduct of the court? Is it that they were ignorant of the law? Can that be said when among their members was the Chief Justice of the colony? That this gentleman is a man of liberal

education was declared to the House the other evening by his honourable and learned friend, the member for Peterborough, who told us that Mr. Wray was a Fellow of Trinity College. He is also a barrister, selected by His Majesty's government to fill the highest station in the colony; so that, of course, he must know something of law. What did he do in the extraordinary circumstances in which he found himself placed? Did he remonstrate against the proceedings of the court, or did he not? If he did, that would certainly be some extenuation of his own offence but would involve in still deeper guilt all the other members of the court, who, having their ignorance dispelled and their eyes opened to the real character of their proceedings, nevertheless disregarded the opinion and advice of their instructor, and obstinately persevered in a course of error and injustice. But, how monstrous was it, if this gentleman did not remonstrate against the conduct of the court? Good God, the instant he heard the nature of the charges preferred against the prisoner, the speech of the judge-advocate in opening the prosecution, the admission of evidence in a shape partial and injurious, ought he not instantly to have expressed his warm indignation—ought he not to have insisted on the strict observance of the rules of law and of justice; and, in the event of a refusal to acquiesce in his representations, to have quitted a court in which he could not remain without shame and degradation? Sir, was his conduct in not doing so worthy of a man of liberal education, of a fellow of Trinity College, of a barrister? I am ashamed, deeply ashamed, that the gown which I have the honour to wear should have been so disgraced on this occasion.

But, Sir, we have been told that the situation of affairs in Demerara was one of a very critical nature and that some strong measures were indispensable to the public security. We, who represent the injustice of these proceedings, have been told, "All that you say is very true, but some allowance must be made for the urgency of the case." Let us inquire what this urgency was. The trial commenced on the 13th of October; sentence was pronounced on the 24th November, the court

having deliberated for five days before they were determined thus to record their everlasting shame. The revolt of the Negroes commenced on the 18th of August and not a trace of its existence remained on the 23rd of the same month. Three months, therefore, elapsed from the extinction of the insurrection to the commencement of the trial. Now, Sir, although I can make allowances for the urgency of an occasion, although I can make allowances for the impressions of fear, I can make no allowances for that urgency or for that panic which continues for three months, and which then issues in an act of gross cruelty and monstrous injustice [*hear*]. There never was anything more unfounded than the extenuation pleaded upon this occasion. From beginning to end the arguments of its supporters only serve to show the weakness, the hopelessness of their cause.

I am aware that I have already trespassed considerably upon the attention of the House [*hear, hear*], and in a few words more I shall have done. The House must perceive that I have hitherto abstained from saving a single word upon what has appeared in the missionary copy of these proceedings. If it be true, as stated in that copy, that certain questions proposed by Mr. Smith were refused to be put by the court, then I say that it enhances the guilt of that court a thousand fold and adds to the disgrace and discredit of the whole transaction in the same proportion [*hear, hear*]. I do not say whether those statements are true or false, but I maintain that they ought to be inquired into.

Let me now be permitted to say a word or two with respect to the causes of this revolt. It has been said that that revolt was owing to the dissatisfaction created in the Negroes' minds by the doctrines preached by Mr. Smith. Now, Sir, if ever any set of men could be expected to revolt sooner than another, it was the set of men implicated in this transaction, the slaves of Demerara. In the first place, there had been the largest importations of slaves into that colony and the mortality there was quadruple what it was in other places. According to the official report of September 1823, it appears that one great

cause of the mortality was the absence of medical aid in the hospitals! The Governor, it appears, gave orders in May which had for their object, right or wrong, to prevent the attendance of the Negroes at places of public worship. This produced discontent. But the principal cause of dissatisfaction arose from the extraordinary measures taken with respect to Lord Bathurst's letter which arrived on the 7th of July. What did the Governor do upon that occasion? Did he keep silent with respect to the contents of that paper; did he take care that they should not transpire? He did no such thing. On the contrary, he allowed a general rumour to go forth; he allowed it to reach even into the huts of the Negroes that something good had come out for them in a paper; but up to the 18th of August nothing whatever is published upon the subject.

Now, Sir, let me ask, what must be the necessary effect of such treatment upon ignorant minds? Their religious feelings were violated; their hopes were excited by reports respecting a paper, of the contents of which they were kept in ignorance down to the very day of the revolt. Here, then, you have at once the motives which induced the revolt. You have their hopes deterred, the severity of their punishments increased; and if you torture men thus, if you increase their punishments and defeat their hopes, must you not at length drive them to resist that tyranny which they find insupportable? [*hear, hear!*] Do we not find this to be every day the case? And it is well that it is so. It has pleased God in his wisdom to fix in the human mind a point beyond which endurance will not go and at which the oppressed is stimulated to turn round and avenge himself upon his oppressor. This has been ordained by the wisdom of an unerring Providence as a means of preventing the perpetuation of tyranny and slavery [*hear, hear!*].

The House are aware that Mr. Smith lived on the plantation called Le Resouvenir, and that the next plantation is called Success, to which Quamina and some others of the Negroes belonged; others, again, lived on adjoining plantations. It has been already stated that the orders sent out by Lord Bathurst were for the abolition of the cart-whip in the field and the total

prohibition to flogging females. Now, I find that Mr. Hamilton, of Le Resouvenir, stated on the 15th July that if he was not allowed to flog his female slaves, he would put them into solitary confinement without food [*hear, hear!*]. That humane gentleman at the same time comforted himself by expressing his conviction that the plan of Mr. Canning[1] would not be carried into effect. I sincerely hope he will find himself disappointed; I hope and trust that that right honourable gentleman will, as I know he can, introduce such measures as neither this manager, nor all the managers of all the estates in our colonies, will be able to resist. But Mr. Hamilton did not stop here. When he heard that cart-whips were to be prohibited in the field, he humanely furnished his drivers with cats-o'-nine-tails in addition. To the credit of Mr. Van Cooten, however, he took the cats-o'-nine-tails from the drivers and turned Mr. Hamilton away.

I cannot conclude without observing that the spirit which dictated this prosecution and seems to have attended it in its progress before the court-martial is not yet at rest. I find that there still exists the same spirit of resistance to the mild and lenient measures advocated by the mother country; the same anxiety to persecute every individual who stands up in support of the cause of truth and justice. The House are already aware of the part taken by the Rev. Mr. Austin, a clergyman of the established Church, in this transaction; but they are not, perhaps, aware of the extent of malice and misrepresentation and obloquy to which he has been subjected, in consequence of the honourable and Christian part which he took on the trial of Mr. Smith. In the *Guiana Chronicle* and *Demerara Gazette* of the 26th of April, I find the following observations: "And now for the sleek-headed Philistine—the preacher of bad-will to all men—the slanderer of all men, and the evil spirit of Demerara."

In the *Guiana Chronicle* of the 9th February the following paragraph appeared:—

> "There is some individual in this colony, a wolf in sheep's clothing who is doing incalculable mischief to the

cause of truth and the interest of the community, by his methodical mummery, and the mendacious and scandalous writings to people of his own class in England. The name of the individual has been hinted to us, and not only hinted to us, but, by the sacredness of the cause we advocate, if we happen to fix on the worthless animal in a tangible and credited shape, it shall be no fault of his if we do not make him publicly execrable.

"This wolf in sheep's clothing, this worthless animal, we have now fixed upon in a 'tangible and credited shape;' and, as the editor of the *Royal Gazette* says, 'the Rev. Mr. Austin is the man!' To find language sufficiently expressive to denote our abhorrence of the conduct of this individual is impossible. There is no language in the known world capable of supplying us with words sufficiently strong for the purpose. It deserves every epithet that is bad: it merits every stigma which can be cast upon it: and it is calculated to excite that unlimited reprobation, with which the acts even of the most hardened criminals are universally visited. To repeat the extract from Mr. Austin's letter, *verbatim et literatim* as it appears in the *Missionary Chronicle*, will not be necessary; it is recorded in our last; it will only be proper that we take to pieces that part of it which contains a direct charge against the inhabitants of this colony of attempting the life of a fellow-creature. In this we are in some measure relieved by our correspondent, 'Episcopalian,' whose communication we recommend to the perusal of our readers.

"In penning this paragraph, nothing but those principles of the Gospel of Peace, which he (Mr. Smith) has been proclaiming, could have prevented a dreadful effusion of blood here, and saved the lives of those very persons who are now (I shudder to write it) seeking his—Mr. Austin has not used that circumspection which his better sense ought to have prescribed for him. The contents of this paragraph are as false and libellous as falsehood and libel can be and we recommend the gentlemen of this colony, who have any

public spirit in their veins and whose rank in society entitles them to display it, to wait upon his honour, the first Fiscal, in a body, and insist upon the vilifier and traducer being prosecuted for his scandalous and infamous charge. This is the way in which our colonists are sacrificed. This is the way in which materials are afforded to the saints to fabricate their weapons of attack and to bear down the colonists before them. The very people whom we clothe and feed, the very people whom we nourish and enrich, are those who are our bitterest enemies and who do us more mischief by far than a whole host of declared opponents. We meet the latter on fair terms but we have no means of defending ourselves against the former. They stab us in the dark and the blow becomes mortal before a remedy can be applied. And will the people of this colony continue the tool of these fellows any longer? Will the inhabitants of Demerara permit Mr. Austin to continue to pocket their money at the expense of their lives? For what can we expect when our own well-paid minister, a minister of the established Church, rises in rebellion against us, but that ruin awaits our property—and they do take our lives when they do take the means by which we live. If they do, we can only say that Mr. Austin will be fully authorized to follow the line of business he has so fitly commenced and to go on dealing out, by wholesale and retail, and for exportation ready-made lies and other articles for the convenience and assistance of the saints. If, however, they do not, and we are in hopes that this will be the case, let them pursue that line of conduct towards their lurking foe, as shall render his longer residing amongst us more a matter of necessity than of choice. Let them do this and they will prove themselves to be the friends of the country.

"Mr. Austin's character is forever gone. As a clergyman, as a preacher of the doctrines of our Saviour, the fundamental principle of which was truth, he is sunk beyond redemption; his honour is forfeited; his name is blighted; and the pulpit cannot shield him from shame and

disgrace nor from the justly merited reproaches of an injured and calumniated set of people. Wherever he goes, the finger of hatred shall point him out and derision shall laugh him to scorn; while the misery of those who are connected with him shall add poignancy to the reflection that his reputation is blasted for ever; and that, for mere worldly gain, he betrayed the friends who fostered him, and 'like the base Indian, threw a pearl away richer than all his tribe.'

"It was our intention to have entered more largely into this matter—to have noticed the forfeiture of his word of his honour to His Excellency the late Governor, which he sacredly offered as a pledge that he would not write home to the Missionary Society upon anything connected with the trial of the late Smith; and to have touched upon his remarks before the Board of Inquiry, etc. But these points are ably bandied by an 'Episcopalian,' and supersede the utility or necessity of our saying a word more.

"In conclusion, we appeal to the inhabitants—we call upon them, as they respect the laws and institutions of the colony as they feel for the common weal and welfare and as they are identified with its safety and its danger—to unite in expelling, by all the legal means in their power, this pest from the shores of the country. We call upon them, as fathers, as Christians, and as men, to discontinue their attendance at his church until his presence shall no longer profane it; and to offer up their morning and evening prayers in the retirement of their own dwellings where the honest sentiments of devotion will be heard, though no crafty gownsman shall superintend the scene. We call upon them to do all this as a duty they owe to themselves and to the country which by birth or adoption is their own; and, finally, we call upon them to shun, in public and private places, all intercourse with the being who is a disgrace to his cloth and an enemy to the establishments and prosperity of the colony."[*Hear, hear! from both sides of the House*].

Now, Sir, mark, the revolt took place on the 19th of August; the publication which I have just read was given to the world on the 26th of the following April—a period of seven months having elapsed! The House will from this be able to judge what a malignant and persecuting spirit still exists in that colony. I could show from other documents (but it is not necessary) the same spirit of hostility to religious education—the same determination to degrade the Negro character, openly, disgracefully avowed in that colony. And Sir, those opinions will lead to the humiliation and disgrace of our tribunals of public justice in the colonies, unless this House expresses in the strongest and most decided terms its reprobation of such proceedings [*hear, hear!*]. If you do not do this, you will let it go abroad that you do not mean to govern your colonies upon principles of law and justice.

An awful responsibility now rests upon His Majesty's Ministers and upon this House. If we allow this question to go by without deep and serious consideration, we shall let slip an opportunity not easily regained. The right honourable gentleman opposite (Mr. Canning), whose talents all admire, and whose weight in this House and the country is notorious, can settle the question at once [*hear, hear!*]. That right honourable gentleman has hitherto stood forward as the friend and advocate of every measure introduced for the benefit of the Negro population of our colonies. I call upon him to consider what will be the effect of negativing my honourable and learned friend's motion this evening. I call upon him to reflect upon the triumph that will be obtained in Demerara by such a proceeding. Let it once be known in that settlement that this motion has been negatived and the persecutors of Mr. Smith will rejoice; the shouts of victory will burst forth. How, then, is the complaint of the humble Negro to be heard, now are injustices daily inflicted upon him, to be remedied? The consequence of such a determination on the part of this House will be that the severity exercised to the Negroes will be increased an hundred fold, the cause of religion will fall to the ground, government will lose its authority, and all the hateful

and degrading passions of man will be brought into full and unrestrained action [*hear, hear!*]. I say, Sir, that we owe it to ourselves—we owe it to justice—we owe it to him who is gone to render his account at the bar of Heaven to come to no decision upon this question which, as conscientious men, we cannot approve of as just and right. I call, then, upon every man who hears me not to vote until he has read the evidence and fully sifted the grounds upon which the question stands. I hope the decision to which we shall come will be in unison with the voice of the country, and that we shall, by our vote this night, mark, as it deserves, an act alike repugnant to British justice and British feeling [*hear!*].

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[1] George Canning, the Secretary of State for Foreign Affairs.

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Report on Speech by Nicholas Tindal

Mr. Nicholas Tindal [M. P for Wigtown District of Burghs] said that, in rising to oppose the motion of his honourable and learned friend, it was not his intention to offer himself either as the apologist or the defender of certain little irregularities which had, it appeared, crept into the proceedings before this court-martial. If his honourable and learned friend who had just sat down had called upon the House to consider what would be the effect of negativing this motion, he (Mr. Tindal) begged of them to consider what would be the effect of adopting it [*hear, hear!*]. The motion of his honourable and learned friend was for an humble address to His Majesty, stating, on the part of that House, that they had taken into their most serious consideration the papers submitted to them relative to the trial of Mr. Smith and that they felt it their duty to declare that they contemplated with feelings of serious alarm and deep sorrow the facts therein stated. The House should bear in mind that by this motion they would condemn, unheard, a set of men, bred in the school of honour and who had acted under the solemn sanction of an oath. It should be recollected that if Mr. Smith's character was dear to him and to his friends, there were in the settlement of Demerara gentlemen whose characters were also dear to them.

He could not help expressing some surprise at the turn which the debate appeared to have taken since the last discussion. On the former evening, he understood the main point argued to be the illegality of the tribunal before which this missionary had been tried. Tonight it appeared that his honourable and learned friend who had just sat down admitted what he (Mr. Tindal) had been led to consider as the great offence. [*Dr. Lushington dissented from this statement*]. For surely, if the illegality of the tribunal could have been shown, it must have appeared from the stores of learning which his

honourable and learned friend (Dr. Lushington) was capable of bringing to bear upon it. Before the House could pronounce an opinion that there had been a gross violation of law in the proceedings of the court-martial, it must found such an opinion on one of these grounds—either the measure of punishment inflicted must have been too heavy; or the court must have been without jurisdiction; or the conduct of the court must have been grossly partial and unjust. He for his part took it that the court was competent to the performance of the duties imposed upon it and to award in this case the punishment of death; but, lest any doubt should remain upon that point, he should trouble the House with a few authorities to prove that the punishment of death was the only punishment that could, according to law, be inflicted for the offence.

It was hardly necessary for him to state that the laws of Demerara were founded on the Dutch law; or to add that the laws of Holland were founded upon the old Roman law. And no man would hesitate to admit that, by the ancient civil law, the punishment of death was inflicted alike upon persons who committed treason, or who, knowing of its commission, concealed that knowledge. Huber, an eminent writer upon civil law of the sixteenth century, laid it down, in terms not to be mistaken that to conceal treason was the same offence as to commit it; and he added "if any man excites sedition, or commits it, he shall suffer death." It was not for him to defend that law or to contend that the milder law of England was preferable; it was sufficient for him to know that it was the law of Demerara which was the Dutch law; and it was in Demerara that Mr. Smith was tried. The honourable and learned gentleman quoted other writers upon civil law, French and Dutch, in support of this part of his argument in which it was stated that a person concealing high treason was liable to the punishment of death although he had no participation in the criminal act. The House had, therefore, a concurrent system of law established in Europe in support of the power of the court to pass the sentence which it did on Mr. Smith.

Having now disposed of the first point, with respect to the measure of punishment which he trusted he had set altogether at rest, he would apply himself to the second point, namely, the jurisdiction of the court and inquire whether it was not the best constituted and most impartial court that could have been, under all the circumstances, obtained. He agreed that as a court-martial sitting under the Mutiny Act, it was only the proclamation of martial law which could justify it. But the proclamation of martial law at once superseded all civil process and made it necessary that some other courts should be substituted in its stead. Before he went further, he wished to guard himself against a conclusion which had been come to by some honourable and learned gentlemen on the other side. It was said that martial law had been proclaimed on the 19th and that the offence of Mr. Smith, if any, had been committed on the 17th; and then it was asked whether that law was to have an *ex-post facto* operation and that under it all by-gone offences were to be tried? He said, certainly not; it would not be lawful to try in this way an offence committed last year or at any previous period, which gave it a character distinct and separate from the circumstances which occasioned the proclamation of martial law.

But here the case was different. Mr. Smith was charged with having a guilty knowledge of meditated treason and rebellion on the 17th of August and with having concealed that knowledge. On the 18th, the Negroes revolt and, in consequence, martial law was the next day proclaimed. Was he not, then, drawing too nice and subtle distinctions—distinctions unworthy of the honourable and learned members on the other side—to say that the offence of concealing the knowledge of the treason on the 17th was a bygone offence and not an offence cognisable by this court-martial, there being then, under martial law, no other court in the colony by which it could be tried?

Having said so much about the offence, he would inquire what the construction of the court was and whether it was not the best that could have been obtained? And, first, if a court-

martial had not been appointed, by what tribunal could Mr. Smith have been tried? According to the law of the colony in ordinary cases, he would have been tried by a court composed of the president of the court of justice and a certain number of planters who would be judges alike of the law and the fact, and who, as planters, would necessarily have been interested in the decision. Now, he would put it to the candour of the House whether a court composed of British officers, for the most part strangers, having no connection with the colony (with the exception of the Vendue-master) and therefore disinterested—he would put it to the House whether a court so constituted was not preferable to the former and more likely to be favourable to the prisoner?

His honourable and learned friend had not acted quite fairly in his allusions to Mr. Wray, the president of the civil tribunal. He was a gentleman of liberal education and amiable manners, to whom he had the pleasure of being known in the course of professional intercourse; and he did not believe that he would, for a moment, have lent himself to any base or unworthy proceedings, such as those described.

Again, with respect to the proceedings of the court, leading questions had been objected to; but it would be found that more leading questions had been put on the part of the prisoner than by the other side and that, upon the whole, the balance was considerably in his favour. The same observation would apply to another complaint, that of hearsay evidence. He had again to complain of a little unfairness on the part of his honourable and learned friend in not using, with his usual candour, the observations made by his honourable and learned friend (Mr. Scarlett) on a former evening, relative to the statements of some of the witnesses having been confirmed by Mr. Smith himself. Now, it appeared from the evidence, page 41, that he was present at a conversation in which, while he was taking a glass of wine in an inner room, he heard Quamina and Seaton talk in a low tone and speak of “driving their managers” and “a new law.”

Upon this part of the case it was asked whether every man should be bound to prove an alibi, against whom it was stated that he had been in some place where something illegal was spoken? But that was not the point at issue. Here it appeared that testimony was given by Mr. Smith himself, strongly corroborative of what had been stated by Bristol and Seaton. It could not be disputed that there was clear evidence of the following facts; namely, that a revolt had taken place on the 18th of August; that that revolt had been headed by persons high in office or duly attending at the Bethel Chapel where the accused officiated; that Mr. and Mrs. Smith remained in their house upon the estate after the other Whites in the colony had become alarmed and were flying for shelter; that on the evening when the revolt broke out, Mr. and Mrs. Smith had been found walking near the spot; that Smith had had an opportunity of informing the Governor of what he knew, as he had been that morning in town on horseback, for the purpose of consulting his medical adviser; and that in the evening of that day he was put in possession of information which he ought to have communicated to the Governor, but which, though he had an opportunity of doing so, he withheld.

He now came to the fact of the communications made to Mr. Smith on Sunday the 17th of August. It appeared, from the evidence of Bristol and Seaton as well as of Aves and Bailey, that he had had an intimation of discontent and dissatisfaction amongst the slaves so far back as six weeks before. But to come to the case of the 17th, Mr. Smith, in page 40, says,

> "They (Bristol, Seaton, and Quamina) were all standing together, and I went into the hall to get a glass of wine. While drinking it, I heard Quamina and Seaton, who were talking together in a low tone of voice, use the words 'manager, and new law.' This induced me to rebuke them for talking of such things."

Why, he asked, rebuke them, unless he considered their conduct improper; and if improper, why conceal what he knew from the Governor?

He then goes on to say,

"From all that passed, I had not the smallest idea that they intended to revolt. The receipt of Jackey's note on Monday evening brought to my recollection what I had heard on the preceding day and caused me then to attach to it a meaning which I had not attached to it before."

But the fair inference is that he knew more of the conspiracy than he was willing to admit. For mark what Peter says, when examined by the prisoner:

"Were you at the chapel the Sunday before the revolt?"
"Yes."
"Did you see Quamina of Success on that day?"
"Yes."
"Where did you see him?"
"At Mr. Smith's house."
"Were there any other persons present?"
"Bristol, Seaton, a boy named Shute, a field Negro of Le Resouvenir, and Mr. Smith, were present, and, with myself, made six."
"Did Quamina say anything to the prisoner; if yea, what was it?"
"Yes he said that they should drive all those managers from the estates to the town, to the courts, to see what was the best thing they could obtain for the slaves. Then Mr. Smith answered, and said, that that was foolish; how will you be able to drive the White people to town? And he said further, the White people were trying to do good for them, and that if the slaves behaved so, they would lose their right; and he said, 'Quamina, don't bring yourself into any disgrace; that the White people were now making a law to prevent the women being flogged, but that the law had not come out yet; and that the men should not get any flogging in the field, but when they required to be flogged they should be brought to the manager, attorney, or proprietor, for that purpose;' and he said, 'Quamina, do you hear this?' And then we came out."
"What did Quamina say in answer, when Mr. Smith said 'you hear?'"
"He said, 'Yes, sir;' that was all."

He would ask, could any person, who was acquainted with the state of society at Demerara, who knew the strong distinction between the Whites and Blacks, and who possessed

the knowledge which it was proved had been communicated to Mr. Smith—could he, he would ask, be considered as doing the duty of a good citizen in not making it known to the government? Would any man but Mr. Smith have contented himself with exhorting the Blacks to be peaceable and not have found it his duty to caution the government, that such steps might be taken as the probable course of events rendered necessary?

It was important, too, for the House to recollect, as was stated in evidence at page 26, that a letter was sent on the Monday, the morning of the insurrection, by Jack Gladstone to Jacky Reed, which the latter sends, enclosed in one from himself, to the prisoner. Jack Gladstone, it would be recollected, was the son of Quamina. The House would see, by referring to this letter, how far it was confirmatory. A slave, Jack Gladstone, writes to Jacky Reed and Reed sends the letter to Smith. Now, what is Smith's answer?

> "To Jacky Reed—I am ignorant of the affair you allude to, and your note is too late for me to make any inquiry. I learnt yesterday that some scheme was in agitation but, without asking any questions, I begged them to be quiet, and trust they will. Hasty, violent, or concerted measures, are quite contrary to the religion we profess; and I hope you will have nothing to do with them."

This was Mr. Smith's answer and could any reasonable man doubt, after having read it, that Mr. Smith had not more knowledge than he thought it prudent to confess? At least, he must have known there was something in agitation. But this would be confirmed, he thought, by Jack Gladstone's letter, which was as follows:

> "My dear brother Jacky—I hope you are well, and I write to you concerning our agreement last Sunday. I hope you will do according to your promise. This letter is written by Jack Gladstone and the rest of the brethren of Bethel Chapel; and all the rest of the brothers are ready, and put their trust in you, and we hope that you will be ready also; we hope there will be no disappointment either one way or the other. We shall begin to-morrow night at the Thomas about seven o'clock."

Now, this letter was from the brethren of Bethel Chapel and sent to the rest of the brethren; it came to Mr. Smith three quarters of an hour before the revolt was to break out. It was proved by the evidence of his own servant, Charlotte, that he had a horse in his stable; and what prevented him that instant from sending a communication to the government? He would now look at the answer. The letter of Jacky Reed says:

> "Dear Sir, Excuse the liberty I take in writing to you; I hope this letter may find yourself and Mrs. Smith well. Jack Gladstone has sent me a letter, which appears as if I had made an agreement upon some actions, which I never did; neither did I promise him anything; and I hope that you will see to it and inquire of members whatever it is that they may have in view, which I am ignorant of; and to inquire after it and know what it is about. The time is determined on for seven o'clock to-night."

It was important to notice what was Mr. Smith's answer to this. Was he ignorant of the affair alluded to in the letter of Reed? Must he not have known of those concerted measures of which he alone speaks? If he did know of them, was he doing his duty as a citizen of Demerara in keeping this knowledge to himself, remaining quiescent when the colony was on the eve of a rebellion? "I am ignorant," he says, "of this affair." But of what affair? And did not his use of such words show that a suspicion at least did exist in his mind [*hear, hear!*]. Why fancy "hasty, violent, and concerted measures," when no such measures were alluded to in the letter, unless he had good reason to know they were to take place? This part of the letter was extremely strong as a proof and ought to be well weighed.

He would not go through all the details of the evidence but allude to some parts of it only. It was on the evening of Wednesday that Quamina made his appearance and received some provision from Mr. Smith. This shows distinctly that there was not only a communication, but a connection between the two. If the only question were the guilt or innocence of Mr. Smith, this ought to be considered as entirely settling that point.

But this was not the question before the House. They were called on to pass a censure on the court-martial which tried him. Was this usual in other cases? Was it customary when a prisoner was committed by a magistrate after that magistrate had duly investigated the matter to censure that magistrate if it were afterwards discovered that the evidence had been erroneous? In trials before the usual courts of justice, where the judges used their best discretion, was it, he would ask, customary to pass a censure on them immediately after they had pronounced the sentence of the law? It was not; and they never were censured for their proceedings when they behaved with a proper discretion; and it was only in cases in which all mankind cried out against them, that they were subjected to reproof or punishment [*hear, hear!*].

He did not mean now to argue the question whether Mr. Smith was guilty or innocent; but he meant to say that it would be the hardest thing possible without hearing the members of that court, without hearing those who tried the prisoner and learning from them what parts of this evidence influenced their minds; it would be the hardest case possible to pass a vote of censure on those honourable persons, and consign them to ignominy for life [*The learned gentleman sat down amidst considerable cheering.*]

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Speech by John Williams

Mr. John Williams [M. P. for Lincoln] said:—

Mr. Speaker,

My honourable and learned friend for whom, on all accounts, I have great respect and whose judicial and temperate manner forms so striking and, so far as he is concerned, favourable a contrast to the violence of the proceedings which he undertakes to defend, began by observing that the debate has this night assumed a new shape. I am at a loss to account for this observation; for surely the House cannot have forgotten that my honourable and learned friend who introduced this subject (Mr. Brougham), in a speech worthy of his abilities, arraigned the whole proceedings—the constitution of the court, the law under which they affected to act, their conduct during the trial, and the deficiency of the evidence upon which they undertook to convict.

To my honourable and learned friend himself (Mr. Tindal), the observation may, with much greater truth, be applied. He, indeed, has introduced into the debate a perfect novelty. For neither the honourable member for Newcastle connected with the Colonial Department (Mr. W. Horton) nor my learned friend the member for Peterborough (Mr. Scarlett), who expressly abandoned the sentence which my honourable and learned friend, by his new lights steps forward to defend, ever thought of resting their palliation (for I cannot call it defence) upon those authorities which the fortunate adjournment for a week has enabled my honourable and learned friend to produce for the support and maintenance of the case.

But, above all, never did those persons, who had the conduct of the cause upon the spot and who might be supposed to abound with precepts of colonial law, refer or allude to that recondite learning upon which now, for the first time, reliance

has been placed as the foundation and justification of these proceedings. What said the deputy judge-advocate Mr. Smith? Where, in the course of that most laboured harangue, occupying, as it does, eighteen mortal pages of the parliamentary report, during which the learned gentleman tortured his faculties in a manner and to an extent so remarkable when compared with the opening speech of half a page—where, I repeat, is to be found any reference to the civil law, to the law of France or of Holland, with citations from which, by an after-thought, my learned friend has instructed the House? Not a word of any of them from the deputy Judge-advocate. He had bottomed himself upon other authorities—upon Hale, upon Blackstone, upon living writers on the English law of evidence, Serjeant Peake and Mr. Phillips—upon the Mutiny Act—in short, upon the laws or statutes of England and nowhere else.

Sir, my honourable and learned friend has observed early in his speech, and again at its close, that the resolutions import matter of grave and serious accusation. And if it be so, with whom is the blame? With the resolutions, or the acts of those whom they arraign? If the language be of some severity, it is but copied from those authorities for whom my honourable friend, I know, has an unfeigned and habitual respect, and who express themselves with some harshness or, if my honourable friend will have it so, coarseness of language respecting excesses committed under colour of martial law—if law it deserves to be called at all. Lord Hale, indeed, declares "that it is in reality no law but something indulged rather than allowed as law; that the necessity of order and discipline is the only thing that can give it countenance, and therefore it ought not to be permitted in time of peace when the King's courts are open for all persons to receive justice according to the law of the land; and if a court-martial put a man to death in time of peace the officers are guilty of murder."

To the same effect, and in terms of equal severity, Lord Coke also, the great apostle of the law of England, expresses himself: "If," says he, "a lieutenant or other that has commission of martial law doth, in time of peace, hang or

otherwise execute a man by colour of martial law, this is murder." My honourable and learned friend also, by the never-failing course pursued in this House when the conduct of persons vested with authority and more particularly if accused of an abuse or stretch of that authority is brought under review, has said much of the respectability of the Governor and the gentlemen composing the court-martial. Into that question, Sir, I will not enter. It costs me nothing to believe—I am ready to admit—that the character given to them all, and to one (Mr. Wray) from personal knowledge of my honourable friend, may have been perfectly well deserved. My concern is with the particular transaction and not with the men. The object of the motion is, by a notice of this case (a most fit and proper one surely for the purpose), to read a lesson to our colonies and dependencies—to have it clearly understood and practically taught that this House will allow no instance of violence and oppression and, above all, violence and oppression under the colour of legal forms to pass without due notice and animadversion.

Sir, my learned friend who spoke last, with the exception already noticed, has retreated upon the same ground already occupied by my learned friend, the member for Peterborough. He also rests upon the concealment by Mr. Smith on the Sunday, of—the plot, as he says—of something, as I say, according to the evidence—or, as the fashion has been to call it, misprision, upon a supposed (I trust I shall show it to be an unfounded) analogy to the case of high treason. It is, perhaps, hardly worth stopping to notice that though my learned friend set out by assuming the same point of time as my learned friend, the member for Peterborough, for the alleged misprision—Sunday—he afterwards (I presume, because two accusations seemed better than one) travelled into the Monday evening, and fixed upon the suppression of the letter as further misprision. This subsidiary charge, however, it will be seen at once, profits my learned friend little; because the revolt began about four or five, or, in other words, about two hours before the receipt of the letter which my learned friend says Mr. Smith

ought to have revealed to put people on their guard against mischief to happen! Permit me, however, Sir, for a moment to pause for the purpose of remarking that of criminal intention, of the consciousness of wrong, of moral guilt, Mr. Smith has been by all acquitted. My learned friend who spoke last never went the length of making that imputation; nor my learned friend the member for Peterborough; nor the honourable member for Newcastle connected with the Colonial Department. The latter gentleman throughout his speech, so far from expressing his belief of that guilt, which was, by the sentence at least, imputed to this unfortunate man, and which, if justly imputed, made him of all men in the colony a hundred-fold the most criminal, spoke of "enthusiasm,"—of "indiscretion,"—of "imprudence,"—of "objectionable conduct,"—of "conduct approaching so near to criminality that it assumed the aspect of criminality itself"—but of his belief in guilt, never.

Consider, also, Sir, I beg of you, how much has been abandoned by gentlemen on the opposite side. What is become of two-thirds of the reply of the deputy judge-advocate?—of 12 out of 18 pages of the report of his speech? Have my honourable friends forgotten, or do they cast behind them with scorn (I am sure they do), the use attempted to be made of the private journal of Mr. Smith; the laborious proof of the sale by him of Bibles, testaments, and primers to the Negroes; the miserable details of presents made of ducks, chickens, and yams to Mr. and Mrs. Smith; the breach of quarantine in preaching to the slaves supposed to have about them the possibility of contagion from the small-pox and not driving them from his chapel four years before, (though if the Mutiny Act had any relation to the proceedings, no offence committed more than three years before was cognisable at all); and that most serious and enormous outrage, so copiously proved and enlarged upon, of Mr. Smith having read the Old Testament to the Negroes, and, above all, that horrible narrative of the escape of the children of Israel from Pharaoh and his host—things which, however culpable on the other side of the ocean, are enjoined by the articles of the Church, prescribed by its liturgy,

and read, when they happen to officiate, by its dignitaries to the White congregations of England?

These charges, though well calculated it seems for the fiery climate of Demerara, obtain no currency in this more temperate region; but honourable gentlemen, one and all, and my learned friend who last addressed the House as much as any of the rest, have concentrated their defence in a corner of the third charge—this same misprision. And within narrow limits surely, it must be admitted, the defence is now cooped up when it is remembered that my learned friend, the member for Peterborough, the founder of that defence, abandoned the commencement of the proceedings because no man, he thought most truly, should be tried by martial law for acts done before its existence; that he abandoned also the conclusion, for the sentence he did not approve: and that the middle shared the same fate, for he censured the ravaging of his journal and the attempt, by extracts and selections, to fix criminality upon Mr. Smith.

But, Sir, to pursue the argument of my learned friend who spoke last, which seeks to prove that for misprision or concealment of treason by the law newly brought to light, the sentence of death was at least within the jurisdiction and competence of the court. Has my learned friend shown, or attempted to show, that the law on which he relies, if ever the law of the colony, still remained so after the cession to this country and to the time of the trial? Does he mean to contend that every usage and institution, of whatever kind, however outrageous and monstrous for absurdity or cruelty and repugnant to the essential principles of the law and constitution of England, if once existing in a conquered or ceded territory, for ever continues in force? This was necessary for the conclusiveness of the argument but it has not been done. On the contrary, the silence of the colonial lawyers and their constant reference to the law of England is almost conclusive against him, upon the matter of fact. But, further still, has my learned friend considered (if he has, he has not communicated his views and opinions to the House), how far Mr. Smith, a British

subject, could be involved in the guilt of treason by the proceedings, however dangerous, of the Blacks upon the occasion in question?

It has not, I am persuaded, escaped the observation of my learned friend that the charges themselves nowhere describe the revolt and rebellion (as it is termed) to have been a revolt and rebellion against the constituted authorities of the colony, which, perhaps by fair inference, might imply a rebellion against the King. But the revolt and rebellion is defined (in the only place where a definition is given at all) to have been one "against the authority of their lawful masters, managers and overseers." Be it then that these unfortunate beings, by rules and orders established against them and them only, by the will and pleasure of the Whites—for I will not condescend to dignify them by the respectable appellation of law; law implying equality, law protecting every class and denomination, law recognizing no distinction, and least of all that of colour—be it, that the Negro slaves, for running away, striking work, for combination (to use a phrase which I trust will soon be less familiar in this country), had been guilty of revolt and rebellion against their masters; or, if you please, had been guilty, in the phraseology of Demerara applicable to slaves, of high treason.

Does it therefore follow that a White inhabitant, one of the privileged class and a free subject of the King, can, by the same acts, involve himself in the guilt—not of Demerara high treason, but of high treason within the statute of Edward III; that statute which covers the accused with the whole armour of law, not for the purpose of oppression but defence and of which Mr. Smith has, by this course of proceeding, been deprived? These, Sir, are, as it seems to me, serious considerations overlooked by my learned friend and yet necessary to be established before he safely arrives at the conclusion that, even with his own law, the sentence of the court can, in its utmost extent, be sustained.

I proceed, however, Sir, to the evidence to sustain this charge of misprision (whatever the punishment might legally have been), alleged to have been committed by Mr. Smith on

the Sunday by withholding knowledge then communicated to him, this being, as I have observed already, the view of the subject originally taken by my learned friend the member for Peterborough. And here, again, I maintain, that this harsh and forced analogy, derived from the doctrine of high treason, absolutely and completely fails. But I beg, Sir, before I proceed, to be distinctly understood as abandoning no portion of the argument of my learned friend the member for Ilchester (Dr. Lushington), that I adopt all his observations and agree in the conclusion deduced from his most judicious and skilful dissection of the evidence, that the quality of the testimony and the collision and contradiction amongst the witnesses (and such witnesses!) ought to have led any reasonable man to the conclusion of the innocence of Mr. Smith. I believe the larger position—the outer works which he occupied—may be, as they were by my learned friend, successfully defended. My ground, however, shall be taken within his. Admitting, then, that the evidence had been from persons the most unsuspicious, instead of runaway slaves with halters about their necks; granting that the testimony of Bristol and Manuel (the only two witnesses for the prosecution who speak of any knowledge of any thing by Mr. Smith) must be taken without reserve; and, further, that it (I speak more particularly of that of Bristol as being the most important) received no contradiction, instead of being contradicted by not less than three other witnesses—even upon this most gratuitous admission, made only, as you perceive, Sir, for the sake of argument, I fearlessly contend that this charge is not proved.

To sustain this hopeful analogy, Mr. Smith must have had knowledge of a revolt and rebellion—a settled and organized plan, and not merely a vague suspicion of something about to happen. This cannot be denied. My learned friend, the member for Peterborough, who seemed to quarrel with a statement of my learned friend the member for Knaresborough, understanding that statement as more generally laid down than it actually was and said that it is not necessary in order to make a man an accessary to treason or guilty of misprision, that the

treason should be complete—as, for instance, if a plan be formed to put the King to death on a certain day, a man may be guilty of misprision by secreting the conspiracy before the accomplishment of the purpose—must also admit to us that the knowledge must be of treason and nothing else (I perceive he does admit it, and it could not be otherwise); but that a suppressed knowledge of general and rising dissatisfaction of personal but indeterminate hostility, of anything, in a word, short of high treason itself, would not amount to guilt.

Try the case, Sir, by these admitted principles: The evidence of a communication to Mr. Smith, relied upon by gentlemen opposite, is that of Manuel and Bristol; for it should be premised that there is no proof that he had any knowledge of the meeting at Middle-walk on Sunday afternoon; Bristol, in his cross-examination (by the court, of course, as the answer was expected to be unfavourable) expressly stating, that neither he nor Quamina to his knowledge acquainted Mr. Smith with it. Now, the evidence of Manuel is that he was at Mr. Smith's on a Sunday (mistakenly supposed by him to have been three weeks before the commotion) and that there was a conversation between Mr. Smith and Quamina as to the paper come from England.

> "He (Mr. Smith) told Quamina, that there was no freedom in the paper at all; he told them to bear patience; if there was anything good come, it was come for the women because the drivers were not to carry whips any longer in the field. Quamina told Mr. Smith to take Jack and Joseph and talk to them; Mr. Smith agreed to take them after chapel; and after one o'clock he did take them, but I cannot tell what he said. Quamina told the parson, in my hearing, that Jack and Joseph wished to make trouble on account of this affair about the paper, and to make a push for it, and for that reason he wished the parson to speak to them."

And this is the whole revelation deposed to by Manuel. Not, I beg of you to observe, Sir, that the Negroes were determined to make "a push for it;" not that they listened to the suggestions of Jack and Joseph or even knew of their "wishes to make trouble;" nothing definite, nothing specific, nothing general, so far as appears, was to be attempted, or had even been thought of.

The other piece of evidence is at page 14 of the parliamentary report; for I also, as well as my learned friend the member for Ilchester, do not travel out of that. This is Bristol's account of what passed on the Sunday.

> "Quamina asked Mr. Smith if any freedom had come out for them in a paper. He told them, No, but that there was a good law come out, but there was no freedom come out for them: he said, You must wait a little, and the Governor, or your masters, will tell you about it. Quamina then said, Jack and Joseph were talking much about it; he said, 'they (Jack and Joseph) wanted to take it by force.'"

This is the whole of the evidence as to communication to Mr. Smith who proceeds immediately, according to the account, to use to Quamina (to be repeated to Jack and Joseph) such arguments as, it must be admitted, were best calculated to repress any design. He points out the difficulty attending any enterprise of violence and the means by which it could not fail to be speedily put down and, naturally, as a leading topic, alludes to the soldiers who would be sure to overpower them. And here again the same remarks apply. It is a communication of no general plan; it is of a purpose, be it observed, of the same two Negroes, not, so far as appears, divulged to, still less adopted by, the whole body. The conversation, however, is not with the two malcontents but with a third person who himself disapproves and wishes them to be checked. The very utmost that the most malignant sagacity and hostile exaggeration can make of this is that Mr. Smith knew (as in his letter, page 26, he admits) of "some scheme" in agitation, though, at the same time, he adds, he exhorted them to be quiet. To infer from this that he knew of the scheme, the plan of revolt and rebellion (which, by the way, according to the evidence of Seaton, page 22, did not exist till after Jack and Quamina were seized between four and five o'clock on Monday afternoon) is not acting upon evidence, but concluding in favour of guilt upon wild surmise and hazardous conjecture, and that, too, in a capital case.

And here I must observe, that my learned friend who has just sat down, if, as I rather collected from his manner his eye-sight did not fail him, stopped short in reading the testimony of Peter (*page 63*) in a manner most unfair and unfavourable to Mr. Smith. This witness, after having given a very different version from Bristol's of the conversation with Mr. Smith on the Sunday—(I am now alluding to that part of the evidence which has been read to the House)—proceeds to give the remonstrances of Mr. Smith, as follows:

> "He (Mr. Smith) said further the White people were trying to do good for them; and that if the slaves behaved so, they would lose their right; and he said, Quamina, don't bring yourself into disgrace; that the White people were now making a law to prevent the women being flogged, but that the law had not come out yet; and that the men should not get any flogging in the field, but when they required to be flogged, should be brought to the manager, attorney, or proprietor for that purpose; and he said, 'Quamina do you hear this?' and Quamina said, in answer, 'Yes, Sir,' that was all." (*p. 63*.)

Why, Sir, this man's evidence, which alludes only to the same conversation as Bristol and contradicts him in many points, proves also this, that Mr. Smith, when he was informed of something (whether more or less) intended, had good reason for believing that his dissuasion and reproof would be attended with the desired effect. What sort of reasoning is this? The deputy judge-advocate labours again and again (*p. 74*) to inculpate Mr. Smith through the ascendancy obtained by him over the minds of the slaves; yet, when another view of the subject is presented and when it cannot be denied that the greater were the ascendancy and authority of Mr. Smith, the greater is the probability that his recommendations would be followed; and the greater his reason for believing that his exhortations to tranquillity which were uniform, the evidence upon that point being all one way, would be listened to and prevent any disturbance; then are his imputed ascendancy and authority forgotten and rejected from the case. But waiving this consideration and conceding to the uttermost the effect of the adverse evidence, it proves no more than this, that Mr. Smith was informed of something—not of anything definite, not of a

scheme actually formed and prepared, but of dissatisfaction at the freedom from England being withheld, which everybody else knew, from the Governor downwards—of discontent, which might, some time or other, grow up into acts of violence and disturbance or might not—but of nothing more; and if so, this forced and strained analogy derived from misprision of treason, the only support of the adverse argument, is cut up by the roots.

And here, Sir, I cannot help expressing my surprise that when the conduct of Mr. Smith was considered elsewhere and is re-considered in this House, it never seems for a moment to have occurred to honourable gentlemen to reflect what manner of person this was to whom this kind of guilt is imputed. I should have thought that if (which has never been pretended here) the piety of his ransacked closet—his private journal, mutilated and mangled for the purpose—did raise up any colour of imputation or prejudice against him, it must also have produced an unavoidable, however reluctant, conclusion that if he ever thought of obtaining kingdoms, they were assuredly not kingdoms of this world. It would not, I confess, have crossed my mind to scan and estimate all his actions, or rather sayings, as if he had been some aspiring chief or military adventurer sighing for command; who, rather than remain in obscurity, would be content to "wade through blood and slaughter to a throne," even though it were a throne amongst Negroes and in the steaming swamps of Demerara.

I could not think of judging him as if I had become a convert to those monstrous and impossible stories contained in the confession of Paris (*p. 31, second series*)—too strong for the acceptance and belief even of the colony itself—that Jack was to be king; Gill, I presume, queen; Hamilton, commander-in-chief; and Mr. Smith himself to be emperor! It does seem to me that if he really was, as it is impossible to doubt his having been an obscure, a lowly and retiring person, of great simplicity of life and singleness of purpose, intent upon the objects of his mission, unused to deeds of arms, and ignorant (what wonder?) of martial law, even after he had consulted his encyclopaedia

for information, as we collect from the evidence (*page 30*)—it does seem to me, Sir, little short of a miracle, a fact hardly to be established by any accumulation of the most convincing proof that he should, all at once, quit his peaceful habits and suddenly, as if in a dream, begin to think only of principalities, and powers, and empires—*imperium, fasces, legions*! What object had he to gain by commotion? What was there in a scene of violence and bloodshed which was not contrary to the whole tenor of his life and, as he himself expressed it, "to the religion he professed?"

Sir, I have observed already how much has been sunk and abandoned by the abettors of these proceedings in this House; and that one only of the four charges has received any countenance here. It is not my intention, however, to let the remainder escape without something like notice and exposure. The first charge imputes to Mr. Smith having promoted discontent amongst the slaves, "thereby intending to excite the said Negroes to break out in such open revolt," etc. The intention constitutes the crime; without it, the reading of the Ten Commandments or any portion of the Old or New Testament might, undesignedly by him, by an association the most unforeseen and fortuitous, have created the dissatisfaction of the slaves. Sir, the court find the fact of Mr. Smith having created dissatisfaction but acquit him of any such intention. They acquit him, then, absolutely, I affirm by all law criminal or civil, French or Dutch; by all the sense, the feeling and practice of mankind; in morality, as well as law—I repeat it—they absolutely acquit him. And yet (could you have believed it, Sir?) upon this charge as well as the rest, have these "second Daniels coming to judgment," under the information and learning of Trinity College—or ought I not rather compare such sternness to the conduct of the Aeacuses and Rhadamanthuses[1] of history or fable?) with a vigour of nerve and infirmity of understanding, pronounced a sentence—not that Mr. Smith should be reprimanded for "enthusiasm," or "imprudence," or "indiscretion," in the comparatively mild language of the Colonial Secretary—but that he should be hanged by the neck until he was dead! And that sentence stands uncancelled,

unrevoked—nay, I grieve to add, palliated, if not defended, in this House! But, it may be said, this same court may never sit again; and the man, it is certain, is gone where, if he is to render an account, it will, I doubt not, be before a more mild and indulgent tribunal than that by which he was condemned. Yes; but, for the sake of the justice and honour of the country, these things ought not to be done and to pass without censure.

Of the two remaining charges, the second and fourth, the latter imputes to Mr. Smith the not having seized Quamina on the Wednesday, and, also, the not having given information to the proper authorities. As to the seizure, when Mr. Smith, sinking under a fatal disease and with one foot treading on his grave, made an affecting appeal to his own weakly appearance and faded form, that part of the charge was too much for the military judges; they acquit him of that. Why, then, as to information, what had he to give? Was he to tell the constituted authorities on Wednesday the 20th of August that there was a revolt? Did they not know it? Had they not been two days fighting with it? As well might I stop to inform you, Sir, whose eyes are dazzled by them, that lights are burning in this House. These things, but for the event, would be ludicrous.

I shall conclude my notice of this charge by the panegyric bestowed upon it by the deputy judge advocate (*page 90*): "The fourth charge is satisfied by showing the bare circumstance of his (Mr. Smith's) being in the presence of Quamina at his house on the 19th and 20th of August!" Never surely, before, was there a capital charge of so capacious and accommodating a nature. What if, during every moment that Quamina was in the presence of Mr. Smith the latter had been upbraiding, threatening, remonstrating, entreating to recall Quamina to his duty, supposing him engaged in the revolt—would that have satisfied the charge? Why, so then would anything else.

The second and only remaining charge attributes to Mr. Smith the having "aided and assisted the rebellion, by advising and communicating, etc. with Quamina, a Negro slave" (this charge, with the usual laxity of the whole, nowhere stating directly that Quamina was in open revolt, etc.) "touching the

same." Of this charge Mr. Smith has been found guilty upon mere speculation and surmise. A grave and serious imputation this is, Sir, surely, if it can be made out against the finding and judgment of a court in a case of life and death. But this language is too mild for the occasion. It is a finding against evidence; nay, more, against all the evidence which, uniformly, and without a single exception, represents Mr. Smith as having held one language only—peace. At pages 8, 14, 22, 26, 50, testimony to this effect is to be found from witnesses for the prosecution as much as for the accused, and there is nothing against it. If there be, I shall be obliged by any honourable member now stopping me and pointing out a single expression to the contrary throughout the whole body of evidence. But it is impossible, for there is none such.

One part of this testimony, recommended at once by the station and character of the person (Mr. Austin) who gives it, I must read to the House. This gentleman says:

> "I had received an impression that the prisoner, Mr. Smith, was highly instrumental to the insurrection, and proceeded to inquiries. A variety of reasons were given which I do not consider necessary to recapitulate, farther than as they apply to the prisoner. I must add that in no one instance, among my numerous inquiries, did it appear or was it stated, that Mr. Smith had been, in any degree, instrumental to the insurrection. A hardship, in being restricted in attendance on his chapel was, however, very generally a burden of complaint" (*page 53*).

So then, I am sustained in my assertion, that this charge was not only not proved, but by the whole body of the evidence disproved.

Sir, when my learned friend who spoke last undertook to defend the previous proceedings as well as the result he surely must, for an instant, have overlooked the time at which the court martial was held. Upon that subject he was wholly silent. But, how does the matter stand? On the 26th of August the Governor, in his dispatches (*page 8, second series*), describes the improved state of the colony; and on the 31st of the same month he repeats the statement and says that there had been no interruption to his hopes, before expressed, of returning

tranquillity. Yet, six weeks after that was Mr. Smith tried by martial law Why not as well at the end of six months or of twelve? Where would my learned friend assign the limit and draw the line, except the excuse for having recourse to this form of proceeding must be considered as at an end whenever actual warfare ceases? Certain it is that the great authorities of the law of England, to whom I before referred, will allow no place for this kind of trial when peace is restored. It is "indulged" when the more slow and cautious forms of the ordinary tribunals cannot be resorted to from the prevalence of conflict and disorder, and when the flagrancy and notoriety of the guilt of men, taken with arms in their hands, supersedes in some sort the necessity of more deliberate inquiry; the importance of an immediate and prompt example is then supposed to be of more value than the preservation of general rules. Beyond this, it is not, in the language of Hale "allowed for law;" it is not law.

But it may be said that apart from all legal views of the subject, it must surely be admitted to have been shamefully negligent on the part of Mr. Smith not to have communicated to the proper authorities even his suspicions, considering the nature of the case. Some communication to Mr. Stewart, a person in authority "about the rumour among the Negroes of their freedom having come," he did make on the 7th of August (*page 57*). Further than this I much doubt whether I, in the same situation, should have been disposed to have gone. If Mr. Smith had been living in a state of society regulated by equal law, where parties accused would have been sure of a fair trial under the protection of that law, a question of some nicety, perhaps, but not this question, I beg to observe, might have arisen. There, as Mr. Smith well knew, the ill-fated beings whom he must have inculpated, were living under a system of coercion and of punishment and that a whisper from him of intended or possible mischief would have been enough to hand over the persons suspected to the whips and scourges of their tormentors, or to the more merciful, because compendious, stroke of the executioner.

I have no difficulty in avowing that, in such a state of things, I also should not any more than Mr. Smith have been forward in "asking questions" (*p. 26*). I am sure I should have paused and should not have acted without knowledge. Vague suspicion I should have thought, if in his place, and I do think now, a poor ground, not for putting a number of fellow-creatures upon trial but for subjecting them to certain punishment.

One word more, Sir, and I have done. My utter aversion to this proceeding depends not a little, I confess, upon an opinion, a rooted and fixed belief, that it was not so much the person of Mr. Smith which was attacked as Mr. Smith the missionary—as instruction of every description, and particularly religious instruction. Example, the most powerful of all arguments, leaves in my mind upon this subject, no doubt. Why, I ask, was Hamilton spared and Smith persecuted? Hamilton, against whom the second series of papers (if there be any truth in them) teems with accusations; Hamilton, who consulted with the Negroes upon the most effectual means of conducting their operations—Hamilton, who took the oath (*page 41, second series*)—Hamilton, who recommended the best method of preventing "the big guns from being brought up?" Why was Hamilton spared? He had, doubtless, his redeeming qualities—he was no missionary; he was no zealot for instruction—of that, I am persuaded, he might justly have been acquitted; he was no enthusiast—except, indeed, as we learn from my honourable friend (Dr. Lushington), for additional torture. This man is spared; but Mr. Smith, with his journal, his religion, and his piety is persecuted unto death.

Here, Sir, I beg leave to adopt the observation of the Foreign Secretary (Mr. Canning) upon the recent occasion of Mr. Buckingham's complaint against some of the authorities in India—"Let not the man be attacked through the faults and vices of the system." If it be indeed true that the mild precepts of the Christian religion and slavery—pure, unmitigated, uncompensated slavery—cannot long exist together, but that the introduction of that religion would be only the harbinger of immediate amelioration or total abolition; and if, further, for

the protection of the interests of the colonies, all attempts to introduce its doctrines or any instruction must be discountenanced and suppressed, say so at once. Change your system. Make your laws and proclaim them. Then, but not till then, try the missionaries; level down the chapels; burn the Bibles. But never, whilst an opposite course is not merely connived at and tolerated but justified and recommended, let this House lend itself to the angry and furious spirit which now more than ever appears (from that unmeasured abuse of Mr. Austin for merely speaking the truth, which my learned friend has this night read) to inflame the colony. Never let this House, by refusing to pronounce a censure upon violence and injustice, sanction an attempt manifestly made through the sides of Mr. Smith when living and by abuse of his memory when dead, to put down all instruction; and, by so doing, stifle the only hope and check the only means which the ministers of the Crown themselves have held out of mitigating at least, if not abolishing, that cruel system of bondage which, more than anything else, is a bitter sarcasm upon the vaunted civilization of modern times, a foul stain upon the character of our country and a disgrace to human nature itself.

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[1] In Greek mythology, Aeacuses and Rhadamanthuses are the sons of Zeus. Aeacuses is a judge in Hades and Rhadamanthuses is a judge of the dead.

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Report on Speech by Sir John Copley, the Attorney General

The Attorney General, Sir John Singelton Copley, [M.P. for Ashburton] said that in the observations which he proposed to address to the House he should not occupy a great portion of its time; but after the speech of his honourable and learned friend who had just sat down, he felt that he should not discharge his duty unless he briefly expressed his opinion on this very important subject. He did not feel bound to admit that he must take part with the honourable gentlemen opposite unless he could affirm that if he had been obliged to sit in judgment on Mr. Smith, the proceedings against whom were the subject of the present discussion, he should have come to the same conclusion that the members of the court-martial had adopted. That, however, was not the question before the House. The persons composing that court must be allowed to have been as independent of the colony as he could pretend to be. They were acting under the sanction and responsibility of an oath; they came to their decision after deliberately hearing the evidence on both sides. He could not therefore take upon himself to say, because he should perhaps have come to a different conclusion, that they had acted erroneously; much less that they had acted cruelly, unjustly, and corruptly, and had been influenced by the motives which had been so liberally ascribed to them by gentlemen on the other side of the House. Nothing could, he conceived, be more unjust than that, because upon a cool and careful revision of the evidence the House should form an opinion different from that of the court, it should therefore pronounce the court guilty of error and corruption.

In calling the attention of the House to the actual state of the question, he would first observe that with respect to the proclamation of martial law, no person could justify that

measure but upon the ground of absolute necessity. He admitted that the doctrine laid down by Lord Hale, which had been already stated, was the correct law on the subject. Unless gentlemen, therefore, were satisfied that a case of necessity existed, no justification could be made out for that measure. Let the House, then, look at the situation of the colony at Demerara when the events alluded to took place; and although in that House they were sitting in perfect safety and in tranquil deliberation, they would, he was sure, make some allowances for the influence of the terror which surrounded the inhabitants of that colony.

The White population consisted of 4,000 persons, thinly scattered over a very large extent of country; and there were nearly 80,000 slaves in actual or supposed hostility against those Whites. The military force of the settlement consisted of only 400 soldiers; and when an application was made to the commander in chief of the Windward Islands for a reinforcement, he had replied that he was not able to furnish any additional force. The White population were thus compelled to call in the aid of the Indians to make head against their revolted slaves. Now, if any circumstances could justify the proclamation of martial law, surely such as he had detailed would do so. The Whites had to protect everything that was most dear to them—their wives and families, their own lives and properties. And, could it be expected, that they would expose themselves naked to the barbarians who were armed for their destruction, instead of resorting to the most vigorous means which were presented to them for averting the evils by which they were threatened? Was it to be supposed that they had forgotten the horrors which accompanied the revolt of the Negroes in the neighbouring island of St. Domingo? Under such circumstances, who would not say that the Governor was justified in calling into exercise every power he possessed for the preservation of the colony?

But it was said that as soon as the revolt was put down, the system of martial law should have come to an end. This, no doubt, was very true. But the House was not in a situation to

judge of the precise moment at which the danger had ceased. No persons could judge of it but those who were on the spot. It could not be the interest of the inhabitants of the colony that martial law should continue an hour longer than was necessary. They could have no desire to encounter the fatigue of military duty to which they were unused—to have their ordinary occupations deranged, their commercial transactions interrupted, and those tribunals, by which their civil rights were protected, suspended. They would gladly have got rid of those evils, had it been possible. He would boldly ask, whether, under such circumstances persons on the spot were not better judges of the expediency of prolonging martial law than the members of that House? Enough, however, was known to show its expediency. At the very time when the proceedings of the court-martial were going on, a Negro called Richard was in the woods, at the head of a party of Blacks, and unsubdued, and the inhabitants felt their only safety was in arms.

As to the mode of trial which had been chosen, it was obvious that if it had been, as was alleged by some honourable gentlemen, the object of the Governor to deprive Mr. Smith of a fair trial, he would never have had recourse to the mode which had actually been adopted. Let gentlemen mark of what description of persons the court was composed. They were, for the most part, military men who had no connexion with the settlement but such as arose from the discharge of their military duties in it. The individual who had been selected to preside had previously filled the office of judge-advocate in Spain for many years and was fully qualified, by his knowledge as well as by his character, to perform the function to which he was on this occasion called.

His honourable and learned friend, who brought forward the present question, had, with the ingenuity of an advocate, produced a paper in which that gentleman’s name appeared affixed to all the advertisements for the sale of slaves. This practice, however, would continue if there were not a single slave in the settlement; for his interference as Vendue-master was necessary, according to the law, in all public transfers of

personal property. It had been mentioned, too, as if he had an interest in the number of slaves sold and was in the habit of receiving a percentage on them; but the fact was that he received a fixed salary for his services and had no emolument whatever from the slaves.

Mention had also been made of the President Wray in a manner which he did not deserve. When the proclamation was first issued, that gentleman offered his services to assist in the emergency as far as he was able. He was solicited to act as judge-advocate, but he declined this lest it should be said that he would have exercised too much influence had he taken upon him the office of counsel for the prosecution. He could not have been impelled to this course by any motives but those of a most praiseworthy and honourable description. What emolument, what distinction, could he hope to gain? There was nothing for him to expect but a very burdensome task and a great responsibility which, however, he could not evade without shrinking from the performance of a paramount duty. It was not necessary for him to repeat what had been said of Mr. Wray. He had known him long and he subscribed to all that had been so justly advanced in that gentleman's commendation. His learning and his talents were of the first order, and his judgment was clear, his temper calm and dispassionate, to a degree beyond those of most men with whom he had ever been acquainted. What, then, could be expected from him but fairness and justice?

It had been said that it was resolved by the court to oppress Mr. Smith, and under the pretence of a trial, to compass, *per fas et nefas*, his condemnation. To examine the truth of this very grave assertion, the better way would be to look at the facts of the case. If Mr. Smith had been tried by the ordinary civil tribunal, his judges would have been the president and eight planters. Now, if he had been so tried and found guilty, with what censure of unfairness and partiality would not such a trial have been assailed? His learned friend, the member for Winchelsea, seemed to think that if he had been tried by that ordinary tribunal his life would have been safe because he

would have been tried by the president alone on his responsibility. But, according to the constitution of that court, a majority of five had the power of deciding, so that either Mr. Wray must have had four planters of his own opinion or he must have been in the minority, and thus would have had no voice in deciding on the fate of the prisoner.

In the observations which had been made respecting the evidence, great stress had been laid on that of the slaves, to which many objections were taken. It should, however, be remembered, that these slaves were examined and cross-examined in open court and in a way which was best of all calculated to elicit the truth. If they had been examined in the usual way, it would have been on interrogatories and the cross-examination would have been conducted in the same manner; and he asked, whether, for the interests of justice it was not better that the open system should have been adopted than that of interrogatories? The introduction of hearsay evidence had been objected to; but he must tell the House on this subject that if Mr. Smith had been tried by the ordinary tribunal no objections could have been made on this score. His honourable and learned friends knew this well; and that there were not any courts in any country of the world where the same distinction was made with respect to evidence, hearsay evidence being almost always admitted. And Mr. Smith was to be tried by the law of Demerara and not by that of England.

He would say one word with respect to the crime of misprision of treason. There was not a single individual, at all acquainted with the law of Demerara, who did not know that if a man were acquainted with the existence of a treasonable plot and did not communicate it, he incurred the punishment of death, and that accompanied by circumstances of horror which it was not necessary here to mention. It had been said, that it was a hardship upon Mr. Smith that the prosecutor was allowed four or five days to prepare his reply; but surely this could not be objected to when it was recollected that the prisoner had been allowed four or five times as many. [*Dr. Lushington, across the table, denied that Mr. Smith had been allowed more*

than five days]. He might be mistaken, but he thought it was as he stated. With respect to his application for counsel having been refused, all he had to say was that the application was not made until after the prisoner had pleaded.

Now, he had a few words to say respecting the evidence. Whether the prisoner ought to have been tried under the law of England or under that of Demerara, it was not necessary now to inquire, because he thought this would be admitted to be quite clear that he was amenable to the laws prevailing in that country where the offence was committed. If by the law of England, Mr. Smith's offence had been treason and by that of Demerara only a misdemeanour, it would have been the height of injustice to visit upon him the former punishment in a country where the latter was usually enforced. The converse of this rule must be allowed also to be just; and if misprision of treason was punished as treason in Demerara, it was under that law that Mr. Smith, if guilty, ought to have been sentenced. Let them look, then, to what the intentions of the revolted Negroes were.

In the first place, they avowed that they proposed to gain possession of Georgetown and drive away the Whites. He presumed there could be no doubt that this was treason and that this was their intention, the evidence amply and indisputably proved. Any person who knew that such was their intention—although he might not know the manner in which it was to be effected, the number of the troops, the way in which they were armed, or the point of their attack—and did not communicate his knowledge to the government was decidedly guilty of misprision of treason. Could any man doubt that Mr. Smith really knew so much of the intentions of the Negroes?

According to his own defence, according to the admissions which he chose to make—not as was proved by the evidence of the slaves but by his own letters—this was manifested beyond all question. Besides this, there was the evidence of Bristol by which it appeared that Mr. Smith must have had communications on the subject with the slaves. It was true Bristol was a Black, but there was another of the name of

Seaton who confirmed his testimony. His learned friend said that the evidence of these men contradicted each other; but he was not borne out in this assertion, for Seaton only said that he went away and left Mr. Smith and Bristol together, after which the communication might have been, as Bristol swore it was, made to Mr. Smith.

His learned friend said that the evidence of two other witnesses was inconsistent, but he forgot to add that these were witnesses called by the prisoner himself. Peter and Shute, the witnesses alluded to, however, stated, in point of fact, the same thing; they said that Mr. Smith advised them not to do what they contemplated, which he said was foolish and could not succeed. But Mr. Smith's own letter put the matter beyond all doubt. He admitted in it that he knew of the revolt but that he purposely avoided putting any questions. A fortnight before this, Manuel said that Quamina had a conversation with Jack and Joseph when they said they were resolved to have a push for their freedom.

He now came to Jacky Reed's letter. That letter was accompanied by Jacky Gladstone's letter which announced that the rising was to take place at seven at Thomas's. The brothers were in it, all the members of the chapel were in it, and yet honourable members complained that there was nothing of precise information. Why? Was there nothing precise in all this? Upon considering this evidence attentively, he really thought no person could doubt, but that at six o'clock of the day on which the insurrection broke out the intention of rising was communicated to Smith in terms so precise as could have admitted of no mistake. The defence of Mr. Smith to this point was "that upon receiving the letter, he was really so agitated and alarmed that he did not know what to do." But was he so alarmed, so agitated? Nothing could well be imagined more collected than his letter to Jacky Gladstone written at this time.

Everybody would be struck with the palpable inconsistencies contained in the defence. Mr. Smith had a horse; and some discrepancy in the evidence in respect to that horse had been relied upon as in Mr. Smith's favour; but the

only question, on that part of the case was neither more nor less than whether, at a particular time, the horse was in the yard or in the stable. He said that after he had received any information at all, he had not sufficient time to make a communication to a single person before the insurrection actually broke out. But did he do anything at all in the way of attempting such a communication? He did not. Shortness of time was nothing to plead; the question was what he had endeavoured to do in that short time? Though the manager's house was not much more than 100 yards, and Captain McTurk not more than 300 roods from him, he never communicated the intelligence to the manager. At six o'clock on the day of the revolt, he had precise information that at seven the insurrection would break out. And what did he do in consequence? Nothing at all but take a long walk with his wife. And yet the House was asked to visit with such a measure as that proposed, the gentlemen who had come to an opinion that Mr. Smith was guilty of suppressing the important knowledge he possessed in this season of revolt and danger.

On the Tuesday after the day of the insurrection (the day on which Mr. Smith received Jacky Gladstone's letter with another from Quamina's son,) Mitchell, a Negro, saw Quamina come on the estate of Le Resouvenir and pass along through the yard to Mr. Smith's. And what took place on Wednesday, the next day? Let the House mark the effect of what was deposed (*at page 19 of the proceedings*) by the slave called Romeo. Smith had expressed to Romeo, on the Tuesday after the revolt, a desire to see Quamina, observing, "that Quamina was afraid to come and see him now." Quamina did come; and how? Mrs. Smith employed a witness of the name of Antje to send for him. Antje dispatched a boy, named Andrew, to him; and on the Wednesday he came at night to Antje's house and sent her to Smith's to see if anyone was there. Upon going, she saw Mrs. Smith, with whom was a Miss Kitty Stuart, whom Antje carried away with her. After that she saw Quamina go before her into Smith's house; "Mrs. Smith stood at the door, and as

Quamina went in she shut the door and the witness went back to her own house."

Such was the way in which Mrs. Smith saw him. Quamina himself was a slave belonging to Plantation Success on which property all the slaves had revolted. This was a material circumstance. A Miss Kitty Stuart, when Antje went into Smith's house at Quamina's request, was there and had been invited to sleep there all night; she was now, however, desired by Mrs. Smith, Quamina being expected, to go home with Antje; and, after showing some reluctance, did accompany that witness to her house. The Negro child Elizabeth was the only spectatress within doors of this transaction; and Mrs. Smith told her "that she must not tell anybody that Uncle Quamina had been in the house; for that if she did, she (Mrs. Smith) would beat her."

The House would not fail to observe the secrecy with which this visit was managed and all the accompanying circumstances of it. His learned friend, however, had said that there was no evidence whatever for the purpose of proving that Quamina was engaged in the revolt; and the learned member for Knaresborough, pursuing the same line of argument, had read some absurd answer to a question propounded to a slave who was one of the witnesses on this point. There were, however, several witnesses, who all swore in the most distinct and positive manner that Quamina was one of the leaders of this insurrection and was seen with a pistol in his hand busily engaged. Honourable gentlemen on the other side, however, seemed disposed to admit this, conditionally at least; but asked, if all was taken to be true, what proof was there in Smith's harbouring Quamina, that he knew of Quamina's being concerned in this revolt? He answered that there was strong presumptive proof in these circumstances: first, that Quamina was the originator of the insurrection; second, that he belonged to Success plantation, all the slaves upon which, as Smith knew, had revolted; third, that he was introduced into Smith's house in the manner described, because Kitty Cumming who was a slave on Success when the revolt broke out, was at

Smith's when Antje came to his wife and was sent out of the way, seeing that, had she been allowed to remain, she must have known Quamina. Now, the secrecy with which the matters he had referred to were conducted and the connexion shown to have subsisted between the parties did evidently prove that Mr. Smith knew of the intended revolt of these Negro slaves before it took place and concealed that knowledge from any part of the local government.

He was not pressing these circumstances, however, to prove that Mr. Smith was guilty of all the practices that had been imputed to him before the court; he was only showing what the nature of the evidence was which had been submitted to that court; and he would now ask the House, whether, upon the facts so submitted to that tribunal, it could be fairly blamed for having found Mr. Smith guilty of misprision of treason? Or whether they would concur in the vote of his honourable and learned friend—a vote which went to visit the proceedings of this court with so severe a censure? Sorry as he was to have detained the House at so great a length, he felt it incumbent upon him to demonstrate the strong grounds on which the parties concerned might reasonably have supposed they were proceeding; and although, on as careful a view as he had been enabled to take of this case through the medium of the notes of evidence, he considered it very possible that he should not have concurred in their sentence, yet he did in his conscience believe that the court-martial assembled to decide on the case of Mr. Smith had acted conscientiously in their endeavours to administer justice impartially between the country on the one side and the prisoner on the other.

~ 9 ~

Speech by William Wilberforce

Mr. William Wilberforce [M. P. for Bramber] said:—

Mr. Speaker,

Sir, the course pursued by the learned gentleman who has just sitten down, in his endeavour, I will not say to defend, but to palliate, the decision of the court-martial which condemned the missionary Smith, I cannot but regard as somewhat unfair; and, at least, as very different from that which would have been dictated by the liberal spirit of the judicial proceedings of this country. To do Mr. Smith justice, the learned gentleman should have considered all the circumstances of his situation and all the particulars of his conduct; whereas he has picked out of the great mass of evidence two or three passages which, taken by themselves, may produce an unfavourable impression towards Mr. Smith, but to which an abundant answer would have been supplied by other passages, and still more by a general view of Mr. Smith's situation and character and of the circumstances of the witnesses against him, as well as of their testimony.

It should ever be borne in mind that from Mr. Smith's entrance into the colony, the public prints were incessantly labouring to render the Christian missionaries, and more especially Mr. Smith himself, the object of the most bitter jealousy and hatred. They were represented as the agents and correspondents of the anti-slavery party in this country who were endeavouring, through them, to excite the most dangerous discontents among the slaves, indifferent to the interest and even to the personal safety of the White population. More especially the chief newspaper of the colony, called, if I mistake not, the *Guiana Chronicle*, abounded in these misrepresentations; and as no one undertook the defence of the calumniated individuals, it is not wonderful that, except in the minds of a few men of more than ordinary liberality, strong

prejudices against the missionaries were insensibly generated and prevailed throughout the whole community. This newspaper, it must be remembered, was under the influence of government, and might be the [one] rather supposed to speak the language which the Governor himself did not disapprove, because, from being himself a planter, he was likely to have contracted the ordinary prejudices of this class of individuals. To a community thus prejudiced, actions and language in themselves indifferent might assume a suspicious character. The learned gentleman, indeed, bringing forward the defence contained in one of the Governor's letters, has urged that it was for the purpose of counteracting these prejudices that Mr. Smith had been tried by a court-martial rather than by the ordinary civil tribunal of the colony.

But it is an unanswerable argument to all that can be urged in favour of the trial by martial law that if Mr. Smith had been tried by the usual civil tribunal he would have had the benefit of the right of appeal to this country. And what would have been the judgment and feelings of that august body, the Privy Council, by which the appeal would have been tried, we may infer from seeing that there has not been found one single man in this House or in this country who has defended the unfair proceedings of the court-martial, although there are some who with difficulty bring themselves to the admission that Mr. Smith's conduct was not altogether blameless, in the single particular of his not having communicated to government the information he had received of an intended insurrection. I should like to have witnessed the indignation and shame with which the worthy counsel would have treated such attempts at evidence as were made before the court-martial by bringing against Mr. Smith witnesses from their dungeons, in chains, hoping to obtain their own pardon by the testimony they should give against the obnoxious missionary.

What would the Privy Council have said to the indecent production of Mr. Smith's private journal, publicly ransacked, in order to find matter of accusation against him? How would they have sympathized with a passage which seems to have

excited no sort of feeling in the court-martial, that while he was writing his memoranda his heart was fluttering at the dreadful sound of the crack of the cart-whip! What indignation, again, would have been expressed at the attempt to change the religion of the New Testament and to make it a matter of accusation against the missionary, that he did not teach the slaves that they were at liberty, without breaking the laws of God, to do their ordinary work on the Sunday!

Oh no! Smith's enemies were too well aware of the effect of suffering any appeal to be made to a British tribunal, and therefore they adopted the plan of trying the missionary by martial law. But let it not be supposed that the generally prevailing prejudices against West Indian reforms were not likely to exist because Smith was to be tried by a set of military officers. Several of these officers had been long resident in the West Indies; and some of them, I understand, were West India proprietors; others had offices under the government. But they who, like my honourable friend near me (Mr. W. Smith), were parties to our early proceedings in the cause of the abolition of the slave trade, will well remember that there was no class of persons which imbibed the colonial *esprit de corps* more speedily, or were more completely under its influence, than naval or military men; who, associating with the owners or superintendents of slaves and when they visited estates seeing everything in holiday trim, were sure to sympathize rather with the White proprietor than with the Negro slave. How well do I remember that when the naval and military men of the highest personal respectability were examined concerning the state of the West India slaves, they universally spoke of it as being all that the most exquisite humanity could desire! And this, let it be remembered, when the system contained all its abuses unmitigated, and before any one of those ameliorating laws had passed which, we are assured by the colonial assemblies, have done so much to improve the slaves' condition.

One most respectable witness, a friend of my own and a man of the most amiable dispositions, declared that so happy were the slaves that he had often wished himself to be one of

the number! And if this was the case in the instance of witnesses of this high description, who were but for a short time conversant with the colonies, how much more must not similar feelings be expected to prevail in the instance of those of whom Mr. Smith's court-martial was composed; who, in truth, by the proof they have given us, in the production of the journal of their being entirely destitute of those sympathies which the perusal of it has excited in a British public, have manifested that their West Indian associations in a colony in which the anti-reform spirit prevails with peculiar force, have completely changed the feelings with which, I doubt not, they originally entered a West Indian community. In truth, Smith's judges were utterly incapable of forming an unbiased judgment of the case on which they had to decide. And let it be remembered that although everyone who in this House has expressed any disapprobation of Mr. Smith's conduct has confined it altogether to the crime of misprision, yet that what was imputed to him in Demerara was that he had been for many years prosecuting a regular plan of corrupting the Negroes with a view of bringing them at the last to rise against their masters and take possession of the colony. Surely nothing but the grossest prejudice could have rendered it possible for any men in their senses to impute to Mr. Smith any such design—a design at once of the most detestable wickedness and of the grossest folly.

Mr. Smith had maintained through life the character of a truly amiable and good man; and was it to be supposed possible that such a man could calmly devise and deliberately during a course of years pursue a plan which he must know would produce universal bloodshed and ruin throughout the whole community? But such a design was no less absurd than it was wicked. Even granting that Mr. Smith had been mad enough to think it possible that the Negroes could establish a Black community in Demerara, was it possible for any man so to deceive himself as to conceive that such a community would be allowed to possess the settlement in quiet or that it could resist the whole force of this country which would, doubtless, be

exerted to recover it? Was it possible that any man, more especially such a reasonable man as Smith appeared to be, could suppose that an unarmed and untrained set of Negroes could even obtain the temporary possession of the colony, still less that they could permanently retain it? What was he, then, to get by this wicked enterprise? What possible motive could urge him to attempt it? Yet all this was universally believed of him in Demerara! And the speech in which the evidence was summed up was really worthy of any grand inquisitor that had ever exercised his office in that tribunal of oppression and cruelty.

The subject we are now considering is of no small importance, inasmuch as it involves a question of the rights and happiness of a British subject, and, still more, the administration of justice in the West India colonies. But there is another point of view in which the question is to be regarded, in which it will assume far more importance and excite a still deeper interest. Let it be remembered that this House, about a year ago, declared its determination to ameliorate the condition of the slaves in the West Indies; and, more especially, by a course of religious instruction gradually to prepare them for the safe participation in those civil privileges which are enjoyed by their fellow-subjects in this country. We know but too well that a contrary spirit prevails very generally in the West Indies. It was not against Mr. Smith only and the particular body of religionists with which he was connected that the resentment of the colonial population was pointed; it was against all who were endeavouring, by religious instruction, to raise the condition of that degraded class whom we have taken under our protection.

In Demerara, on the late occasion, all the missionaries were at first seized and imprisoned; and all of them, without exception, had been vilified and calumniated for a course of years in the Guiana newspaper. But it was not to Demerara that such an anti-ameliorating spirit is confined. The extraordinary transaction that has lately taken place in Barbados deserves our most serious consideration. At the very time when the

prejudices against the Methodists had in some places subsided, when those good men had fairly lived them down by their inoffensive and meritorious conduct, in that very settlement of Barbados in which the proportion of the Whites to the Blacks is the largest and which has been supposed to bear the strongest resemblance to an English community, a chapel, lately erected at the expense of several thousand pounds, was utterly destroyed—not by a sudden impulse of fury but after a regular notice and by a pre-concerted collection of people—not by what is commonly termed a "mob," the lower orders of the community but, as was boasted, by men of superior rank and property—not at one heat, but after they were wearied by their first day's work, returning again the next day to complete the demolition of the building of which every trace was swept away, and to drive the missionary himself out of the colony. In fact, the rage against him was such that had he not been concealed from the fury of his enemies and been able to escape out of the island, his life could not possibly have been saved.

It ought not to be left unstated that when the Governor of the island, after conniving at this outrage at the time and slumbering over it afterwards, did at length issue a proclamation offering a reward for the discovery and apprehension of the perpetrators of this outrage—will this House believe it?—the Governor's proclamation was met by a counter-proclamation posted in all the streets, denouncing the vengeance of the colony against all who should dare to attempt to bring the destroyers of the chapel to punishment; but reminding the public that they had their cause in their own hands, intimating that, as they were to be jury, no one should ever be found guilty on account of so meritorious a transaction.

A similar anti-Negro spirit has lately also appeared in the island of Jamaica, though of a somewhat different kind, yet equally arising out of that abhorrence of the doctrine that Black men are to be considered as entitled to the rank and consideration of Whites, which, in fact, is the basis, or rather the vital spirit, of the colonial system. This spirit has been powerfully called forth in our colonies by the resolutions of this

House to meliorate the condition of the slaves; and the decision we form on the present question will be regarded as the test of our disposition to adhere to our determination, or of our being inclined to connive at the determination which prevails so generally throughout the colonies, to resist the reformation of the system. In Demerara, it was meant, by Mr. Smith's condemnation, to deter other missionaries from attempting the conversion of the slaves and, by the terrors of his example, to frighten away those whose Christian zeal might otherwise prompt them to devote themselves to the service of this long injured body of their fellow-creatures. We ourselves, therefore, are upon our trial, and by our decision on the present question men will judge of the leanings of our opinion, whether, from the influence of the West-Indian proprietors in this country, and even in this House, we are not in some measure under the influence of the same prejudices which prevail in all their force in the colonies of Guiana.

But, to return to the case of Mr. Smith. Though his defence was on the whole able and conceived in the manly spirit of a British subject, yet there were some points which he himself did not press with sufficient force. As an instance of this, let me refer to one particular which was clearly established on the trial—that, a fortnight before the rising of the Negroes, Mr. Smith had declared himself willing to inform the slaves from the pulpit that they were mistaken in the notion they had formed that orders for their emancipation had come out from the government at home. Is it not undeniable that this fact was utterly inconsistent with the idea of his having any concern in exciting the insurrection? But, in truth, the testimony in Mr. Smith's favour of the Rev. Mr. Austin is decisive. He declared that none of the slaves had mentioned Mr. Smith's name when they were questioned concerning the instigators and fomenters of their revolt. Indeed, Mr. Austin's testimony to Mr. Smith's character, highly honourable as it is to the missionary (for he declared that Mr. Smith had discharged his important duties in a manner that entitled him to the general esteem of mankind and to the gratitude of the poor objects of his kindness), reflects

even still greater honour on himself. He declared that he originally had entertained suspicions that Mr. Smith was in some degree a party to the insurrection, but these were afterwards overborne by the most satisfactory evidence; and with the genuine spirit of a British subject and the humanity of a true Christian, he boldly avowed his conviction of Mr. Smith's innocence; though he knew but too well, as the event indeed proved, that he was thereby blasting any views of preferment he might justly have entertained and that he must subject himself to the universal hatred and indignation of the colony.

The utmost, however, that has been imputed to Mr. Smith by any member of this assembly is that he ought to have informed the government of the criminal intentions of the slaves. But, in fact, it appeared in the evidence that he knew no more of those intentions than various other persons in the colony, some of them connected even with the government itself And what, in fact, did he know? Not that there was to be anything that deserved the name of an insurrection—merely that there prevailed a discontent among the slaves just as it had prevailed on former occasions. But Mr. Smith had before experienced such a want of candour and liberality when he did make communications to government that he had but too much reason to apprehend that anything he might state to them would be unfairly used and would be turned to the purpose of pointing the resentment against the religious slaves, and also of making him appear as their enemy and their betrayer.

But it is said, and I am more afraid of the effect of this consideration than of any other argument that can be adduced, that if we accede to the motion of my learned friend we shall be passing a censure upon a set of British officers whose conduct we ought to regard with liberality and indulgence. But it is not we who have placed the members of the court-martial in the situation which they occupy; it is they themselves on whom it is chargeable, or Governor Murray, who adopted that course of proceeding. We are, in fact placed in a dilemma; and the question is whether we should leave a much-injured man

labouring under a stigma most unjustly endeavoured to be affixed upon his character, or whether we should express that sense of the proceedings and conduct of the court-martial which justice most powerfully exacts from us. I shall indeed regret—it will indeed be a matter of deep condemnation to us from our countrymen—if we can suffer such proceedings as those on which we are now called upon to pronounce our sentence, to pass, without expressing our strong and decided reprobation of them.

The protracted sufferings of that much-injured man were such as one would have supposed likely to call forth pity from the hardest hearts. For a man, labouring under a disease which was gradually wearing away his strength and rapidly bringing him to the grave, to be kept in close confinement in a tropical climate in a small room, debarred from the common comforts of prisoners, called upon every two hours sometimes when he was asleep, to ascertain, as it was pretended, whether he had not made his escape, was such wanton and unnecessary cruelty as cannot be too strongly condemned. It really reminds me of the barbarities exercised on another poor victim of cruelty, the Dauphin of France, whose sufferings have drawn forth such deep commiseration. Let us not, then, be contented, as some respectable authorities appear to be, with expressing our sentiments on the shameful proceedings of the court-martial in a fugitive sentence which will possess no authority and will be soon forgotten. Let us not be satisfied with coldly expressing, as our individual opinions in our speeches, that there were circumstances in the trial which are to be regretted. But let us do justice to the character of a deeply-injured man by solemnly recording our judgment in the language proposed by the motion of my learned friend. Let us thereby manifest our determination to shield the meritorious but unprotected missionary from the malice of his prejudiced oppressors, however bigoted and powerful. Let us show the sense we entertain of the value of such services and prove that, whatever may be the principles and feelings which habitual familiarity with the administration of a system of slavery may produce in the colonies, we in this

House at least have the disposition and judgment and feelings which justice and humanity and the spirit of the British constitution ensure from the members of the House of Commons.

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Speech by George Canning, Secretary of State for Foreign Affairs

Mr. George Canning, Secretary of State for Foreign Affairs [M. P. for Harwich], said:—

Mr. Speaker,

Whatever difference of opinion may prevail with respect to the vote to which the House ought to come on this occasion, and whatever shades of difference there may be even among those who may concur in the same vote, there is one point on which I think the opinion of all who hear me will agree—and that is, that the question of this night is one of the most painful that ever was discussed within these walls. Indeed, Sir, I scarcely recollect any one question upon which I could say, what I feel that I must say upon this—that there is no part of it on which I can look with the smallest satisfaction.

To many of the principles which have been enforced in this debate with so much eloquence, I am disposed to give my hearty assent. But I entirely differ from my honourable friend who spoke last as to one part of his speech, although I admit that, generally speaking, my honourable friend has put the question on a fair issue. I allude to the assertion that the House is placed in the dilemma of being obliged either to contend, on the one hand, for the perfectness and propriety of every part of the proceedings of the court-martial, or, on the other hand, to be prepared to assign to the unfortunate gentleman who was the object of these proceedings the title or the honours of a martyr. I, Sir, am not prepared for either of these extravagant extremes and I do hope to be able to satisfy the House that they will best discharge their duty to all parties concerned in this transaction—to themselves and to the country—by abstaining from pronouncing any such exaggerated opinions.

Sir, it may be a very skilful and masterly artifice of debate to endeavour to throw upon those who do not agree to the resolution proposed by the honourable and learned gentleman the task of proceeding step by step through every stage of this protracted, anomalous and difficult proceeding; and of explaining step by step, as they go on, the grounds which justify them in dissenting from that resolution. For my own part I do not hold myself bound to do anything of the kind. In dissenting from the resolution of the learned member for Winchelsea, I shall be solicitous only to justify that dissent on grounds which appear to me to be perfectly sound and satisfactory, without necessarily identifying my opinions with those of the persons by whom Mr. Smith was tried or maintaining in all its parts the sentence by which Mr. Smith was condemned.

Sir, the charges which are brought against the proceedings of the court martial seem to resolve themselves into three principle heads—first, the impropriety of the tribunal; secondly, the incorrectness of its mode of acting; and, thirdly, the violence of the sentence—all which charges are aggravated by the assumption throughout that Mr. Smith was entirely innocent. Sir, it has been stated, that no man can dissent from the honourable and learned gentleman's resolution, who is not prepared to maintain the guilt of Mr. Smith to the utmost extent to which that guilt has been assigned. Here I am again compelled to declare myself of a different opinion; and without wearying the House by repeated reference to the particulars of the evidence, (which has already been discussed with so much ability as to have impressed on every man who has gone through the duty of previously reading it, a complete analysis of all its parts and all its bearings), I have no difficulty in stating the honest persuasion of my own mind to be this, that of that crime—call it by what name you will—which consists in the silence of Mr. Smith upon the subject of those alarming movements which he knew to be in agitation and a danger which he knew to be imminent, I cannot acquit Mr. Smith.

I state this persuasion, however, with no circumstances of aggravation, with no imputation of design on the part of Mr. Smith, with no presumption that I can dive into the motives of that individual. But as to the fact, after the most painful examination, I feel individually, upon my honour and my conscience, a persuasion that Mr. Smith did know that, which, if he knew its character, he ought to have divulged, and of which, if he had had only common discretion, the character must have been apparent to him! [*hear, hear*.]

Now, Sir, whether the law of Demerara as derived from its Dutch constitution, whether the law of courts-martial as sitting under the Mutiny Act, whether martial law in its larger sense assigned to that crime, under the peculiar circumstances of the case, that punishment which by the sentence of the court-martial was awarded to it is a question on which, from my own sources of learning and information, I do not pretend to decide. But when the House are called upon to inculpate the court-martial of murder, (for that is the effect of the proposition before us), the questions that I am to ask myself are: "Did the court-martial believe that they were acting legally in passing that sentence? And were they borne out by authority in doing so?"

I will add, that I should have a very different task to undertake, and I should stand up in this House with a much heavier feeling of responsibility if I were defending, or called upon to defend, a confirmation of that sentence; because I should then have to defend an act of the executive government, of which I form a part, adopting that sentence as their own; in which call I should be bound to show and to prove that the sentence was in every part legal. From the authorities that have been cited, I do believe the sentence to have been legal; but under all the circumstances under which it was passed, it was felt by His Majesty's government, as is I believe already well known to the individual members of the House (but it is fit that it should be distinctly stated in this debate), that the sentence should not be carried into execution. Upon this point there was not a dissentient voice, nor a moment's hesitation in His

Majesty's government. I stand here, therefore, not to defend the moral propriety of passing and executing that sentence, but only to vindicate the vote which, as a Member of Parliament, I shall give for not condemning unheard the tribunal by whom that sentence was pronounced.

Sir, another circumstance which appears not to have been stated in this debate, but which seems to be a very material one, is this: that, in pronouncing that sentence, the tribunal itself pronounced it in a way to afford the prisoner that only benefit, belonging to the law of Demerara, which my honourable friend has said that he would have enjoyed if tried by that law (but a benefit which would have been counterbalanced by many disadvantages of that mode of trial)—I mean the advantage of appeal—for with the sentence was coupled the recommendation to mercy; a recommendation which in this case was not, as it often is, formal and liable to be ineffectual, but which, as those who coupled the recommendation with the sentence must have known, carried with it its own execution. They knew it to be utterly impossible; that a sentence of death, pronounced at Demerara under martial law, could be remitted to the King in Council sitting here, not under martial law, but in the free light and liberty of this country. They knew, I say, that it was impossible that a sentence of death, so remitted home with a recommendation of mercy, should be otherwise than completely null.

Now, Sir, it is no fault of mine that at the period at which we are now called upon—not to institute inquiry, not to demand new lights, but to pronounce a sweeping condemnation under the circumstances as they appear before us—it is no fault of mine that I am obliged to resort to conjecture as to the considerations which may have prompted the severer rather than a more mitigated sentence. It undoubtedly occurs to many men to ask, why, if the sentence of death was to be coupled with a recommendation to mercy the court-martial did not rather, in the first instance, apply some lenient sentence which might have been executed without shocking the feelings of any portion of mankind? Why not transport from the colony? Why

not inflict a lesser degree of punishment, by imprisonment? Why, Sir, the reason, I can conceive—I do not say it is so—but the reason may be this: because any minor sentence, be it what it might, transportation or imprisonment, must have been carried into immediate effect without any pretence for appealing to the government at home. The capital sentence, with the recommendation of mercy annexed to it, while it appeased (for I do not deny that a great deal of irritation did exist in the colony)—while it appeased, I say, the inflamed passions of the colonists, in effect preserved the victim from the fate to which it appeared to consign him.

But was it only on the knowledge of the sentence itself that the feelings of His Majesty's government were awakened to the state of that colony and as to the possible consequences of a judicial proceeding there? No, Sir! My honourable friend must, I think, have known, and I dare say remembers, that at the period when the first news arrived in this country of the arrest of Mr. Smith and of his probable destination for trial, application was made to His Majesty's government to rescue him from the tribunals of a country where the minds of the population were inflamed against him and to bring him home for trial. I do not know whether my honourable friend is aware that the immediate consequence of that application was an order from the Secretary of State to direct that, if the proceedings were not already begun, Mr. Smith should be sent home unless the attempt to do so were likely to endanger the peace of the colony. We were not then aware, Sir, what the circumstances of the case might be; the charges were not then before us. Unluckily, the order did not arrive in time—the proceedings had already been carried to a conclusion—but, still, the order itself showed the disposition of the government here; and it operated, when known there, as an additional inducement to the colonial government to take Mr. Smith, as far as possible, out of the reach of the local prejudices against him.

But the character of the tribunal is not to be inferred from that of the colony. Their fault, if they be in fault, is the fault of

a competent tribunal, with respect to whom there is not the slightest ground for presuming partiality *a priori*. What reason is there, then, why the House of Commons should do that in this case which, with respect to the most ordinary magistrate, the highest legal tribunal in this country would not do—namely, condemn as criminal an act of competent jurisdiction, where malice or corruption is not imputed?

Now Sir, surely gentlemen must know, and especially the honourable and learned gentleman who spoke last but one on that side of the House, that the more they press the fact that the colony was inflamed against Mr. Smith and that it was utterly impossible that by a colonial tribunal he should have been judged fairly—the more they press that argument the more ought they to agree with me that the Governor did his best to counteract the effect of that exasperation and to ensure to the prisoner a fair trial when he withdrew him from that colonial jurisdiction which, by your own showing, must have been unfair as against him, and gave him over for judgment to a tribunal composed at least of unprejudiced men—of men untainted with colonial prejudice—and with respect to whom no man suggests that there was any personal disposition to do injustice.

Taking this view of the case, how, let me ask, would the resolution before the House operate? Would it be calculated to restore that feeling which it is so desirable should exist in the colony? I think not. What consequences can my honourable friend apprehend from the forbearance of the House to pronounce the severe censure proposed by the honourable and learned gentleman? If, I for one moment conceived, that by passing by this sentence on the present occasion a feeling would be excited in the minds of the inhabitants of any of our West India colonies, that either parliament or government were desirous of going back from the promises they had made, that religious instruction should be the basis of all the future improvement of slaves—if it could be imagined that they could be likely to adopt some of the opinions expressed in resolutions passed in that colony—I do not say, Sir, that I should be

contented to purchase the exemption from that danger by committing an act of injustice, such as in my conscience I think the condemnation of the court-martial would be; but there is scarcely any resolution to which I would not give my assent rather than submit to be so misconstrued.

But I assure my honourable friend that I believe it to be impossible that the opinion either of the government or of parliament should be so misconstrued. The opinion of parliament may be gathered as well from what passes in this debate as from any recorded resolution. The colonists cannot be mistaken; they are not mistaken with respect to the opinion of the government. We know that by the surest of all tests; we know it by the hostile animadversions which are heaped upon us by the resolutions of that colony, first, for having attempted to withdraw Mr. Smith (as they say) from justice; secondly, for not allowing the sentence to be executed; and, thirdly, for being disposed to press new instruments of instruction on their acceptance. They well know that the not condemning, that the passing by without any condemnation the proceedings of this court-martial, the coming to no resolution upon it, has nothing in common with any disposition to recede from the pledges which have been given or to retract the opinions which have been declared.

Sir, my honourable friend has stated another instance which he thinks might come in aid of the apprehension which he entertains—I mean the destruction of the chapel and the expulsion of the missionary from Barbados. But my honourable friend surely ought to have completed the picture; it would have been more candid—and I am sure it was only from forgetfulness, and not from want of candour, that he omitted to add that that missionary, so expelled by a tumult from Barbados, found shelter in a neighbouring island—in the island of St. Vincent—where he founded a new establishment. As to Demerara, my conviction is that the notice which this case has attracted, and for which I think the honourable and learned gentleman is entitled to our thanks—I think the notice this case has attracted and the mode in which it has been treated in this

House cannot fail to show the colony of Demerara that, whatever may have been the guilt or imprudence of any one individual, and however desirous they may be to put down religious instruction (and if such was their design, they have been, to a certain degree, lucky in the selection of their first victim), that in the person of that individual the spirit of religious instruction is not extinguished; and that the colony would find enough to be convinced that theirs was not a triumph over this individual as a missionary; and that many such triumphs (if triumphs they should be called) would only hasten the final triumph overall attempts to shut out instruction.

I therefore think, Sir, that the House need not entertain any apprehension of any practical mischief from adopting the motion with which I shall take the liberty to conclude—a motion, the object of which is only to avoid a decision to which I think we cannot come without injustice. The motion which I shall propose to the House is the "previous question"—a proceeding which will not give to the colony of Demerara any ground for supposing that there is any disposition at home to approve in detail what has been done in the colony; but which shall, at the same time, rescue from injustice men who have acted as conscientiously, perhaps, as we could have done ourselves in the discharge of a most painful duty—a duty not sought for by them for the purposes of vengeance or from a spirit of hostility, but cast upon them for the express purpose of rescuing this man—(this innocent man, as is contended on one side; but this man whom I in my conscience believe to have been guilty, though I will not undertake to define his crime)—of rescuing him from a tribunal in which he would have been heard with prejudice and judged with the extremest severity.

Sir, I am unwilling to dwell on any other parts of the question besides those which I have touched upon; but I must shortly say that the points of charge against Mr. Smith which I think it impossible to get over are these: his knowledge that something was in agitation—a something, the knowledge of which went back beyond the 18th of August, though it was not till that day that he clearly comprehended the exact nature of it.

He admits that the receipt of the letter on the 18th of August withdrew the veil from his eyes. I feel as strongly as any man the sentiment of (what shall I call it?) disgust, at the publication of the details of Mr. Smith's journal; and if I were trying Mr. Smith I hope I should dismiss them entirely from my mind; but the question that I am now trying is whether there was that degree of innocence in Mr. Smith which calls upon me to condemn his judges; and in that view of the question, I cannot throw out of my mind the moral conviction which the knowledge of Mr. Smith's feelings and opinions, however obtained, is calculated to produce. It is clear that he did generally apprehend some convulsion in the colony—an apprehension perhaps not distinct either as to mode or as to time; but he was of opinion that there were not only the elements of convulsion but strong probabilities of their explosion.

And why do I state this circumstance? Why, Sir, because, to a mind so prepared, it was almost impossible that such information as Mr. Smith received could have appeared so undeserving of attention as he represents himself to have considered it. If I had known—if it had been apparent from the disclosure of his journal or from any other source—that Mr. Smith was a man living in perfect unconsciousness of any danger, in a state of mind completely unapprehensive of anything likely to lead to tumult or confusion, and that, whilst in this unsuspecting temper, some facts of an equivocal nature had come to his knowledge, I might, in that case, have believed it possible that a man so totally unprepared might disregard such circumstances altogether. But when, by his own confession, his mind was in habitual expectation of some such event as did actually occur, it appears to me, I own, that not only it is not in human nature that information such as he received should excite no suspicion, but that, on the contrary, in a mind so prepared, "trifles light as air" would have excited suspicion even without a cause. I find Mr. Smith's mind previously impressed with a general dread of some undefined danger. While he is under that impression, there comes to him a

specific communication of at least an equivocal character; and this communication, he avers, awakens in him no particular apprehension. Sir, I cannot believe it.

Mr. Smith admits that the letter of the 18th of August led back his awakened judgment upon the communication previously made to him and showed to him its true nature. And what does he do with that letter? He tears it into pieces and holds his tongue as to its contents! Why, Sir, I cannot think that this is the act of an entirely innocent man. Is it not rather the act of a man conscious of guilt and apprehensive of personal danger? Here, Sir, I am aware of the technical objection that nothing ought to have been brought against him on the trial which had occurred before the proclamation of the Governor. I admit that if I were now trying Mr. Smith I would try him by the strict rules of evidence and give him the benefit of every technical objection; but the question before me now is whether the conduct of the court-martial was such as could only have arisen from malicious motives; and if, in my own mind, I am conscientiously convinced that the *corpus delicti* was there, I cannot join in condemning the court-martial even although in their place I might not have come to their conclusion. I would not have taken advantage of a knowledge of Mr. Smith's secret thoughts to convict him; but, in reviewing historically the question whether he was wrongfully, as well as perhaps irregularly, found guilty, I cannot shut my eyes to that evidence.

Why, good God! that a man habitually expecting some commotion could receive without alarm the communication that a "push" was to be made! (Such, I think, was the expression.) Is that credible? Was it to be believed of Mr. Smith that, as Mirabeau said of the planters in St. Domingo, "They sleep on the verge of a volcano, and the first sparks that burst from it give them no alarm?" Mr. Smith was well aware that he was sleeping on the verge of a volcano; the first sparks could not be invisible to him; and yet it was not till the explosion took place that he conceived the smallest apprehension! Do I therefore impute to Mr. Smith either the

wickedness or the folly of promoting or conniving at insurrection with a view to any personal ambition of his own? Oh no, Sir; no! I will not impute to him any other motive for concealment than that sentiment which is common to all men more or less and which, perhaps, belongs to refined and sensitive natures more than to any others—an unwillingness to betray—a horror of the name of "informer."

But, while I morally make this excuse for him, it was surely no excuse before a court-martial or any legal tribunal. Military law, or any other law which takes the safety of communities under its protection, is not at liberty to indulge those finer feelings. Who is there, who, in reading the scene between Pierre and Jaffier[1], after the council is over in which they had planned the shedding of so much of their fellow-citizens' blood—who is there, who, after hearing the vows of fidelity interchanged, does not feel an involuntary contempt for Jaffier when he gives information of their plot, even though so many lives were to be saved by that act of the informer?

However one may rejoice at the consequence of the information, one will detest the informer. But although such may be the code of honour in poetry, and such the colouring of sentimental enthusiasm, such is not the doctrine of morality, nor can such be the practice of ordinary life. We cannot, in administering justice, and in consulting the safety of the community, soften down the language of the law and call misprision delicacy and concealment an honourable fidelity! If the state is to be saved, it must be rather by the practice of duties, harsh though those duties may be than by the indulgence of romantic generosity. To betray a friend in betraying the plot may be a hard struggle; but if by faithfulness to that friend you ruin your country, your country will vindicate its right, and your life may be the forfeit of your friendship. Such, I say, is the language of law and justice, and such the duties of allegiance to a state.

Mr. Smith must, in this whole question, be considered as a subject of the colony in which he lived. Giving him, therefore, every credit for unwillingness to bring to punishment those

who had eaten his bread and crowded around his threshold, and perhaps for a little of human vanity in not liking that examples of misconduct should be detected in his own particular congregation—making every allowance for these feelings, laudable perhaps on one side, and natural on the other. I cannot forget that Mr. Smith was a subject of that colony and owed allegiance to its government; and if he was conscious, as conscious in my opinion he must have been, of a danger threatening its peace, it was his duty to give information at whatever cost that information might be given. But, Sir, was it necessary in giving that information that he should bring down punishment on the slaves? I say, no; he might have stated to the magistrates of the place that which he confided to his own journal—that he had a general apprehension of danger and that circumstances had lately come to his knowledge which made him believe that danger to be at hand. Nay might he not have stipulated for the safety of those whom his intelligence involved? Did that never occur to him? Did it never occur to him when he was called on under military law and refused to serve, partly on the mistaken ground of his profession, and partly on the ground of his weakness—did it never occur to him that there was another way in which he could have discharged his duty to the colony? Did it never occur to him that, having gained over his congregation a holy and just influence (to which be it admitted that his doctrines and his life might entitle him), he might have said to those who called on him to "arm," "No; it is not with arms like those that I can serve you; but I have spiritual arms, of brighter temper and greater force; send me into the field midst this tumultuous congregation and answer for it that they shall return through a sense of religion to their duty:"

If Mr. Smith were the excellent person that he is represented, such is the influence that he might naturally have possessed and such is the use which he would naturally have made of it. He did not do this; he withheld information; he passed, on the day before the insurrection, by the door of the Governor twice in going from his own house and in returning

to it; he passed and he paused not a moment to warn the Governor of the impending danger.

Sir, I enter not into his motives. I lament many parts of his trial and most deeply do I deplore his fate; but I do not see in the proceedings that have been had against him, either, on the one hand, that entire exculpation which entitles Mr. Smith to the glory of martyrdom, or that proof of *malus animus* on the part of his judges, which ought to subject them to such a sentence as the resolutions proposed to us imply. I think, Sir that the House will best discharge its duty by taking no further cognisance of the question on which it is utterly impossible to come to a completely satisfactory judgment. And I propose this mode of disposing of the question with the more confidence, as I am satisfied that the discussion itself will have answered every now attainable purpose of public justice; and that we cannot be misinterpreted, as intending by our vote, to show any lukewarmness in the cause of the improvement of our fellow creatures or in our belief that religion is the instrument by which that improvement is to be effected [*loud cheers*].

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[1] Characters in the popular play, *Tragedy of Venice Preserved*.

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Report of Speech by Thomas Denman

Mr. Thomas Denman [M. P. for Nottingham] assured the House that the difficulty which he felt in expressing himself, in a manner adequate to his own feelings, was aggravated at this moment by following a speech so eloquent as that of the right honourable gentleman and so full of statesman-like views, though leading, he thought, in the end to a conclusion condemnatory of themselves. It seemed, indeed extraordinary, that after the sentence of the court-martial had been given up as indefensible by everyone who had spoken on the question; that, after the right honourable Secretary had, as the climax, stated that the sentence had been annulled by the government; the House of Commons alone was to be prevented from expressing its disapprobation of it. But if, in point of fact, the sentence had not up to this moment remained unannulled, his learned friend (Mr. Brougham) would not have made that powerful statement by which he had carried home conviction to all those who heard him.

But when the sentence, in point of fact, was unannulled; when the sentence that he be hanged by the neck had remained upon the unhappy man till he died; when the government had adopted the sentence and only complimented the decision of the court by adopting its recommendation, and banishing him for ever from the colony in which he had done no wrong, it became the House of Commons to step in and condemn the policy under which these monstrous proceedings had been carried on. The government had thus acted a very inconsistent part. Indeed, it was curious to observe the inconsistencies to which the opposers of the motion were driven. The right honourable gentleman, at the time that he professed to make allowance for that delicacy of feeling in the case of Mr. Smith which made him unwilling to become an informer, had at the same time endeavoured to make it almost a legal crime that he

had not gone forth between the contending parties and had not exposed his breast to the cutlasses of the Negro and the tender mercies of the government of Demerara.

Was it probable that he could have escaped the double danger, or that he might not have fallen under that torture which was allowed by that civil law under which tonight, for the first time, an attempt had been made to palliate the truly-called anomalous proceedings of the court-martial? As to these proceedings, he did not wish to go further in their condemnation than the defender of them, his learned friend (Mr. Scarlett), had done; who only condemned them in the beginning, the middle, and the end [*hear hear*]. He only wished that those who went along with him in that opinion should come to a resolution expressive of it, and thus give His Majesty's government the authority with which it would invest them. The right honourable gentleman had said that he would not enter into the minutiae of the law of the court-martial. If this were a question of cicelies and minutiae, he (Mr. Denman) should be very unwilling to enter into it. If it were even like the case of an officer acting upon an informal warrant which was conscientiously believed to be valid, he should be most unwilling to animadvert on the court-martial. But this was a case in which not the minutiae but the substance of law had been departed from; and in which its forms had been perverted to injustice for the purpose of putting to death an innocent man. He did not complain of the first proclamation of martial-law; but why, after it had been proclaimed on the 20th of August was it continued without a shadow of cause to the end of the trial on the 20th November and to the month of January following?

But it was said that if the prisoner had not been tried by martial law he must have been tried by the civil law, and that his judges would have been in fact the president and eight commissaries, probably planters, from whom the government wished to protect him. He would have been tried, it was true, by the judge and eight commissaries—not necessarily planters, but any residents, the judge directing them and acting under his

responsibility and in his character as a judge. Could it be said that there was no difference between the security against a judge so acting and a judge voluntarily throwing off his judicial character and associating himself as a member of a court-martial among persons over whom he had no control? In the civil court they had a fixed standard of right and wrong; in the trial by court-martial there was a much wider discretion. If this were a disadvantage even to a soldier, how much more to a man situated as Mr. Smith was? A soldier tried by a count-martial was tried by his peers; and in the members of such a court there was naturally a strong feeling of the members towards the prisoner as one of their own profession whom they regarded kindly, perhaps from intimacy, and whom they were led on the principle of honour to protect. The accused soldier, therefore, looked with confidence to his judges. But, how different was the case of the destitute missionary—an outcast against whom all prejudices were running high; and who, from the beginning, had been stigmatized as the author of the revolt, which he (Mr. Denman) verily believed he (Mr. Smith) had from the beginning endeavoured to prevent, and who was alike ignorant of his judges and of the forms of their court?

How many were the safeguards for the prisoner under the civil law! In the first place, it was necessary to petition the Governor for liberty to arrest the accused, which he might refuse and bail him if he chose. The proceedings then commenced on the part of the prosecution and the evidence was taken, (it was true, in writing,) but at least as accurately as these oral depositions seemed to have been taken. Then the charge was drawn up on the demand of the Fiscal; and from this period forward he could affirm, though the contrary had been alleged, the prisoner was allowed counsel. Then the evidence was gone through and the president and court decided what evidence should be admitted and what rejected.

Now, he took the liberty to ask this question: Was it possible if this court had formally and responsibly exercised this judgment as to what evidence should be admitted and what rejected that the journal of Mr. Smith should have been

produced against him; or what was more monstrous that particular passages should have been admitted to the exclusion of all the rest? After all these advantages in favour of the prisoner, there then followed the public discussion of all the evidence; and, finally, supposing the party was convicted, there was an appeal on the whole case to the King in Council [*hear*].

It was said an appeal had been made to the government; but this was not an appeal to the King in Council but an appeal to the mercy of the Governor of Demerara; and, considering the temper of the colony, it would not have been wonderful if the punishment had been inflicted on this innocent and injured man. He had happened to read the evidence some time ago when he had seen nothing on the subject except insinuations against Mr. Smith and had heard none of the statements more recently made in his favour. He (Mr. Denman) was no fanatic; he subscribed to no missionary society; and he had no other feeling on the subject than that it would be wise to let West Indian questions alone for the present if the people of Demerara would let them. Yet, with all these feelings, he had read the evidence with utter astonishment; he had looked page after page for the proofs of Mr. Smith's guilt and he found none; and, looking fairly and honestly at the whole case, he thought this man had been most foully and unjustly treated; nay, that the very circumstances brought forward in proof of his guilt proved his innocence. Even the suppression of parts of his journal on the trial went to prove it. In his own mind, he could find nothing against Mr. Smith but an anxious desire to prevent the mischief and too much confidence, perhaps, in the power of doing so.

The right honourable gentleman had said that Smith had slept on the verge of the volcano and had given no alarm of the first sparks which indicated its eruption. The illustration would be perfect if the fact were true. But the fact was that he had given an intimation as distinct as his own knowledge of the subject. He did communicate to those in authority, the attorney and manager of Success, all he knew. He stated, from his imperfect knowledge, the discontent of the slaves in

consequence of the non-publication of Lord Bathurst's letter. The neglect, therefore, lay with those by whom that information had been held back. There was surely much difference between a combination for striking work, which he might have anticipated, and which might lead to riot and perhaps assaults on particular persons—there was a great difference between this and treason. If a man were to suspect, or even to know, that a combination of workmen was to take place with a view to a strike in England in consequence of the non-publication or non-fulfilment of some regulation relative to wages, could the concealment of that knowledge be called misprision of treason? He contended that it could not, even though the combination might afterwards be attended with fatal consequences.

The learned gentleman here entered into an examination of several parts of the evidence and contended that it was not of sufficient weight to convict Mr. Smith of any of the crimes of which he was accused. The whole tendency of it went rather to show that, as far as he had any reason to suspect the intentions of any of the slaves to be bad, he had endeavoured to dissuade them from any rash attempt by pointing out its dreadful consequences. Two wretched men, Bailey and Aves, were brought to say that he had told them that he had known six weeks before that something must happen and this was construed into positive knowledge of the plot! What motive, indeed, could Mr. Smith have had to engage in such a plot? The poor miserable men who were under sentence of death knowing that a missionary would be an acceptable sacrifice forged one story upon another against him, but none of them made out any guilt; and, when about to be executed, they all retracted their accusations as false and groundless. It appeared to him that there never had been a more gross perversion of evidence than this case exhibited.

Much had been said of hearsay evidence, but he was one of those who was very glad that it had been received, for it was impossible for any man to have gone through that hearsay examination and say that Smith had acted wrong. The right

honourable gentleman had asked whether they supposed the court martial had not thought they were justified by authorities in the course they had pursued? He should like to know what were those authorities. But of this he was quite certain, that there was no authority to show that martial law could have properly existed in the colony at the time of Smith's trial.

An attempt had been made to excuse the proceedings against Mr. Smith on the ground that the White population of Demerara was in a state of great agitation. But why were courts of law established in the colonies except for the purpose of allaying those angry feelings which might pervert the course of justice? The justification of this proceeding which had been set up appeared to him to be its condemnation; but it was quite enough to show that the sentence was indefensible and the evidence open to reproof. And that it was a case loudly demanding inquiry was abundantly proved by the parties themselves.

It was idle to say that the House was not in a condition to express an opinion. For what other purpose were the papers laid on the table? Here the parties themselves had made the returns. He denied altogether that the resolution charged murder; if he could learn the terms in which his learned friend (Mr. Scarlett) would express his opinion, he was ready to adopt them. In no instance, with which he was acquainted, had such hard measure been dealt out to any man as to the memory of the unfortunate Smith. And how was even the means of this defamation procured? Why, out of the defence of Smith himself on his trial. Nothing was ever heard like it. All they had in the way of evidence was that he had listened to a conversation; and then they gave credit to his testimony up to the very point which could betray him into danger, and after that he was to be disbelieved [*hear, hear!*]. He was not aware of any instance besides this, in which the admission of a prisoner was taken, up to a certain point, in confirmation of other circumstances which had not been proved in evidence.

But in all this there was involved a much higher principle—he meant with respect to the government of the colonies

themselves. In passing over the case, they would hold out a general proclamation of impunity to all abuses abroad, and it would be only necessary hereafter to find out a good case of abuse in order to load it with panegyric. He should give his cordial support to the motion.

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Report of Speech by Sir Joseph Yorke

Sir Joseph Yorke [M. P. for Reigate] said that the learned doctor (Lushington) had advised every member of the House to read over the evidence on the trial of Mr. Smith before he gave his vote. He had read the evidence and he declared conscientiously that he saw no reason for finding Mr. Smith guilty of the crime with which he was charged. If he had been a petty juryman he would have acquitted Mr. Smith upon the evidence. A whole lunar month had been consumed by the court-martial in finding him guilty.

On this subject he remembered a circumstance which took place in the early part of the revolutionary war. The present Lord Chancellor, then Attorney General, had spoken for nine hours to make out his charge of treason against Messrs. Tooke and Hardy.[1] A witty friend observed to him at the time that if such a sharp, shrewd chap as the Attorney General found it necessary to speak at such length in order to substantiate his charge against the prisoners they were sure to be acquitted.

He could not help thinking that the long period which Mr. Smith's trial occupied proved the weakness of the case against him. The speech of the right honourable Secretary for Foreign Affairs had not satisfied his mind. It was a mere brilliant apology and not a defence of the proceedings against Mr. Smith. He thought that that most bloody record ought to be blotted out; and, under that impression, he would vote with great pleasure for the motion.

[1] John Tooke and Thomas Hardy along with John Thelwall, members of the English radical movement, were charged with high treason in 1794. They were tried separately and were acquitted after long trials.

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Closing Speech by Henry Brougham

Mr. Henry Brougham [M. P. for Winchelsea], [in closing the debate], said:—

Mr. Speaker,

I do assure the House, that I feel great regret at having to address them again so late in the night; but, considering the importance of the case, I cannot be satisfied to let it rest where it is without trespassing upon their patience for a short time; indeed, that I rise at all is chiefly in consequence of the somewhat new shape into which the proposition of the right honourable Secretary has thrown the question. For, Sir, as to the question itself, not only have I heard nothing to shake the opinion which I originally expressed or to meet the arguments which I feebly endeavoured to advance in its support, but I am seconded by the admissions of those who would resist the motion; for, beside the powerful assistance I have received from my learned friends on the benches around me and who, one after another, have distinguished themselves in a manner never to be forgotten in this House or by their country, men of all classes and of all parties, without regard to difference of political sentiments or of religious persuasion, will hold them in lasting remembrance and pronounce their honoured names with unceasing gratitude for the invaluable service which their brilliant talents and honest zeal have rendered to the cause of truth and justice.

Besides this, what have I on the other side? Great ability, no doubt, displayed; much learning exhibited; men of known expertness and high official authority put in requisition; others for the first time brought forward in debate; an honourable and learned friend of mine for whom I have the most sincere esteem and of whose talents I did not for the first time tonight witness the exhibition. Yet, with all those talents and all that research

from him and from others who followed him, instead of anything to controvert the positions I set out with, I find support. I have an admission—for it amounts to nothing less than an admission—a confession—a plea of guilty with a recommendation to mercy. We have an argument in mitigation of the punishment of this court-martial and of the government who put their proceedings in motion—nothing against Mr. Smith, nothing on the merits of those proceedings.

An attempt, no doubt, was made, by my learned friend, the Attorney General, to go a little further than any other gentleman who has addressed the House. He would fain have stepped beyond the argument which alone has been urged from all other quarters against this poor missionary and would have attempted to show that there was some foundation for the charge which makes him an accomplice as well as guilty of misprision. All others, as well of the legal profession as laymen, and particularly the Secretary of State who spoke last but one, have at once abandoned as utterly desperate each and every of the charges against Mr. Smith, except that of misprision; and even this they do not venture very stoutly to assert. "It is something like a misprision," says the right honourable Secretary; for the House will observe that he would not take upon himself to say that he had been guilty of misprision of treason—strictly so called. He would not say there was any treason in existence, of which a guilty concealment could take place; still less would he affirm (which is, however, necessary in order to make it misprision at all) that Mr. Smith had known a treason to exist in a specific and tangible shape and that this knowledge being conveyed to him he had sunk it in his own breast instead of divulging it to the proper authorities.

All the charge was this—in this it began; in this it centred; in this it ended. "I cannot help thinking," said the right honourable gentleman, "when I take everything into consideration, whatever may be the facts as to the rest of the case—I cannot get out of my mind the impression that, somehow or other, he must have known that all was not right;

must have suspected that there might be something wrong; and, knowing or suspecting there was something wrong, he did not communicate that something to the lawful authorities!" My learned friend, the Attorney General, indeed, went a little further. He felt, as a lawyer, that this was not enough, and particularly when we are talking not merely of a crime but of a capital crime—not merely of a charge of guilty and of "something wrong," and having a misgiving in our mind that that "something wrong" was known to him and, being known to him, was concealed by him—but that on this something was to be founded, not barely an accusation of wrong doing, but a charge of criminality; and not merely a charge but a conviction; and not merely a conviction of guilt, but a conviction of the highest guilt known to the law of this or of any country; and a sentence of death following that capital conviction; and that ignominious sentence standing unrepealed, though unexecuted; sanctioned, nay adopted, by the government of this country because suffered to remain unrescinded; and carried into effect as far as its authors dared give it operation by treating its object as a criminal and making him owe his escape to mercy, who was entitled to absolute acquittal.

Accordingly, what says my learned friend (Mr. Tindal) in order to show that there was some foundation for those proceedings? He feels that English law will not do; that is quite out of the question; so does the Attorney General. Therefore, forth comes their Dutch code, and upon it they are fain, at least for a season, to rely. They say, "True it is, all this would have been too monstrous to be for one instant endured in any court in England—true, there is nothing like a capital crime committed here; certain it is, if treason had been committed by conspiring the death of the King, if an overt act had been proved, if the very bond of the conspirators had been produced with their seals in court, to convict them of this treason; and if another man, namely, Smith, had been proved to have known it to have seen the bond with the seals and the names of the conspirators upon it and had been the confidential depositary of their secret treasons and had done all but make himself their accomplice,

he might have known it, he might have seen its details in black and white, he might have had it communicated to him by word or by writing, he might have had as accurate knowledge of it as any man has of his own household, and he might have buried the secret in his own breast, so that no one should learn it until the design, well matured, was at length carried openly into execution; and yet that knowledge and concealment, that misprision of treason, could not by possibility have subjected him to capital punishment in any English court of justice!"

This they know, and this they admit; and the question being, What shall we do, and how shall we express our opinion on the conduct of a court-martial which, having no jurisdiction with respect to the offence, even if the person of the prisoner had been under their authority, chose to try him over whom they had no jurisdiction of whatever offence he might be accused—and moreover, to try him capitally for an offence for which no capital sentence could be passed, even if the party had been amenable to their jurisdiction and if, when put upon his trial, he had at once pleaded guilty and confessed that he had committed all he was accused of a hundred times over! This being the question before the House, my learned friends being called upon to say how we shall deal with those who first arrogate to themselves an authority utterly unlawful and then sentence a man whom they had no pretence for trying, to be hanged for that which he never did, but which, had he done it, is not a capital crime. Such being the question, the gentlemen on the other side feeling the pinch of it and aware that there is no warrant for such a sentence in the English law, betake themselves to the Dutch contending that it punishes misprision with death!

But here my learned friend (Mr. Tindal) gets into a difficulty with which all his acuteness only enables him to see the more clearly that there is no struggling and from which the whole resources of his learning have no power to extricate him. Nay—I speak it with the most sincere respect for him—I was not the only person who felt, as he was going on, that in this part of his progress he seemed oppressed with the nature of his

task and, far from getting over the ground with as easy a pace and as firm a footstep as usual, he hesitated and even stumbled as if unaware beforehand of the slipperiness of the path and only sensible of the kind of work he had undertaken when already in the midst of it. The difficulty, the insurmountable difficulty, is this: You must choose between jurisdiction to try at all and power to punish misprision capitally; both you cannot have by the same law. If the Dutch law makes the crime capital, which the English does not, the Dutch law gives you no right to try by a military tribunal. The English law it was that alone could make the court-martial legal; so, at least, the court and the prosecutor say. "Necessity," they assert, "has no law—proclaim martial law, every man is a soldier and amenable to a military court." They may be right in this position, or they may be wrong; but it is their only defence of the jurisdiction which they assumed.

By the law of England then, not of Holland, was the court assembled. According to English forms it states; by English-law principles it affected to square its modes of proceeding; to authorities of English law it constantly appealed. Here indeed, this night, we have heard Dutch jurists cited in profusion; the erudite Van Schooten, the weighty Voetius, the luminous Huber, ornaments of the Batavian school—and Dommat, who is neither Dutch nor English, but merely French, and therefore has as much to do with the question in any conceivable view as if he were a Mogul doctor; yet his name, too, is brandished before us, as if to show the exuberance and variety of the stores at the command of my learned friends. But, was any whisper of all this Hollandish learning ever heard in the court itself? Was it on those worthies that the parties themselves relied, for whom the fertile invention of the gentlemen opposite is now so nimbly forging excuses? No such thing. They appealed to the institutes of that far-famed counsellor of justice, Blackstone; the edict of the States-General commonly called the Mutiny Act; the Crown law of that elaborate commentator of Rotterdam, Hawkins; and the more modern tractate upon evidence of my excellent friend, the very learned professor

Phillipps of Leyden. It is to these authorities that the judge-advocate, or rather the many judge-advocates who were let loose upon the prisoner, constantly make their appeal; with quotations from these laws and these text-writers that they garnish their arguments; and Voet and Bynkershoeck and Huber are no more mentioned than if they had never existed, or Guiana had never been a colony of the Dutch.

Thus, then, in order to get jurisdiction, without which you cannot proceed one step, because the whole is wrong from the beginning if you have it not; you must abandon your Dutch authors, leave your foreign codes, and be content with that rude, old-fashioned system, part written, part traditional, the half-Norman, half-Saxon code, which we are wont to respect under the name of the old every-day law of England. Without that you cannot stir one step. Having got your foot on that, you have something like a jurisdiction, or at least a claim to a jurisdiction, for the court-martial. But, then, what becomes of your capital punishment? Where is your power of putting to death for misprision? Because the instant you abandon the Dutch law away goes capital punishment for misprision; and if you acquit this court-martial of the monstrous solecism (I purposely avoid giving it a worse name) of having pronounced sentence of death for a clergyable offence, you can only do so by having recourse to the Dutch law, and then away goes the jurisdiction—so that the one law takes from you the jurisdiction—the authority to try at all; and the other takes away the right to punish as you have punished. Between the horns of this dilemma I leave my learned friend.

Now, this is no immaterial part of the argument; on the contrary, it lies at the foundation of the whole; and I cannot help thinking that the practised understanding of my learned friend, the Attorney General, perceived its great importance and had some misgivings that it must prove decisive of the question; for he applied himself to strengthen the weak part to find some way by which he must steer out of the dilemma—some middle course which might enable him to obtain the jurisdiction from one law and the capital punishment from the

other. Thus according to him, you must neither proceed entirely by the Dutch, nor yet entirely by the English law, but just take from each what suits your immediate purpose, pursuing it no further than the necessities of your case require. The English law gives you jurisdiction: use it then to open the doors but, having them thus flung open, allow not to enter the gracious figure of English justice with those forms the handmaids that attend her. Make way for the body of Dutch jurisprudence and enthrone her, surrounded with her ministers, the Hubers, and Voets, and Van Cootens.

Now, this mode of treating a difficulty is one of the most ordinary and among the least excusable of all sophisms; it is that by which, in order to get rid of an absurdity inherent in any proposition, we arbitrarily and gratuitously alter its terms as soon as we perceive the contradictory results to which it necessarily loads, carving and moulding our data at pleasure, not before the argument begins but after the consequences are perceived. The alteration suddenly made arises, not out of the argument or the facts or the nature of things, but is made violently, and because there is no doing without it; and it is never thought of till this is discovered. Thus, no one ever dreamt of calling in the Dutch code till better lawyers than the court-martial found that the English law condemned half their proceedings; and then the English was abandoned until it was perceived that the other half stood condemned by the Dutch. Therefore, a third expedient is resorted to: the law under which they claim their justification is to be part Dutch when that will suit; part English when they can't get on without it; something compounded of both, and very little like either—showing to demonstration that they acted without any law, or only set about discovering by what law they acted after their conduct was impeached; and then were forced to fabricate a new law to suit their proceedings, instead of having squared those proceedings to any known rule of any existing law.

To put all such arbitrary assumptions at once to flight, I need only remind the House how the jurists of Demerara treated the Dutch law. Admitting, for argument sake, that the

doors of the court were opened by the English law giving them jurisdiction, then that by violence the Dutch law was forced through and made to preside; of course we shall find all appeal to English statutes and forms and common law cease from the instant that they have served their purpose of giving jurisdiction, and everything will be conducted upon Dutch principles. Was it so? Was any mention made, from beginning to end, of Dutch rules or Dutch forms? Was there a word quoted of those works now so glibly referred to? Was there a single name pronounced of those authorities for the first time cited in this House tonight? Nothing of the kind. All was English from first to last. All the laws appealed to on either side, all the writers quoted, all the principles laid down, without a single exception, were the same that would have been resorted to in any court sitting in this country; and the court-martial were content to rest their proceedings upon our own law and to be an English judicature, or to be nothing at all.

Sir, I rejoice well knowing that a legal argument, whether Dutch or English, or, like the doctrine I have been combatting, made up of both, is at all times very little of a favourite with this House, and less than ever at the hour of the morning to which we are now approaching, that what I have said, coupled with the more luminous and cogent reasons which have been urged by my honourable and learned friends, may suffice to settle the point of law and relieve me from the necessity of detaining you longer upon so dry a part of the question. My only excuse for having gone so far into it is its intimate connexion with the defence of the court-martial of whose case it indeed forms the very cornerstone.

And now, in passing to the merits of the inquiry before that court, I have to wish that my learned friend, the member for Peterborough (Mr. Scarlett) was here in his place that, after the example of others who have gone before me, I too might, in my turn, have taken the opportunity of paying my respects to him. But if he has gone himself, he has left a worthy representative in the honourable Under-Secretary for Colonial Affairs by whom, in the quality for which his very remarkable speech the

other night shone conspicuous—I mean, an entire ignorance of the facts of the case—he is, I will not say outdone, because that may safely be pronounced to be beyond the power of any man, but almost if not altogether, equalled.

There was, however, this difference between the two—that the honourable Under-Secretary, with a gravity quite imposing, described the great pains he had taken to master the details of the subject; whereas, my learned friend avowed that he considered it as a matter which any one might take up at an odd moment during the debate; that, accordingly, he had come down to the House perfectly ignorant of the whole question and been content to pick up what he could while the discussion went on, partly by listening, partly by reading. I would most readily have taken his word for this as I would for anything else he had chose to assert; but if that had not been sufficient, his speech would have proved it to demonstration. If, as he says, he came down in a state of entire ignorance, assuredly he had not mended his condition by the sort of attention he might have given to the question in his place—unless a man can be said to change his ignorance for the better by gaining a kind of half-blind, left-handed knowledge which is worse than ignorance, as it is safer to be uninformed than misinformed.

In this respect, too, the right honourable Secretary of State is his worthy successor, for the pains which he has taken to inform himself seem but to have led him the more widely astray. I protest I never in my life witnessed such an elaborate neglect of the evidence as pervaded the part of his speech which affected to discuss it. He appeared to have got as far wrong, without the same bias, as my honourable friend was led by the jaundiced eye with which he naturally enough views such questions from his West Indian connections and the recollections associated with the place of his birth and the scene of his earliest years. Without any such excuse from nature, the right honourable Secretary labours to be in the wrong and is eminently successful. His argument against Mr. Smith rests upon the assumption that he had an accurate knowledge of a plot, which the right honourable Secretary by another

assumption, supposes to have been proved; and he assumes that Mr. Smith had this knowledge twenty-four hours before he could possibly have known anything of the matter. Everything turns upon this, and whoever has read the evidence with attention is perfectly aware that this is the fact. Tell me not of Jacky Reed's letter which was communicated to him on Monday evening at six o'clock, or later! Talk not to me of going to the constituted authorities as soon as he knew of a revolt! If he had known it the night before; if he had been aware of the design before the insurrection broke out, then indeed there might have been some ground for speaking about concealment. If he had obtained any previous intelligence, though nothing had been confided to him, by a figure of speech we might have talked of concealment—hardly of misprision. But when did the note reach him? The only discrepancy in the evidence is that one witness says it was delivered at six and he was the bearer of it, while another, ascertaining the time by circumstances which are much less likely to deceive than the vague recollection of an hour, fixes the moment by saying that it was at night-fall, half an hour later. But take it at the earliest period, and let it be six.

When did the revolt break out? I hear it said at half-past six. No such thing; it broke out at half-past three, aye, and earlier. Look at the 15th page of the evidence, and you will find one witness speaking to what happened at half-past three, and another at half-past four. A most important step had then been taken. Quamina and Jack the two alleged ringleaders—one of them, Jack, unquestionably was the contriver of the whole movement or resolution to strike work, or call it what you will; and Quamina was suspected—and I believe the suspicion to have been utterly groundless; nor have I yet heard throughout the whole proceedings a word to confirm it—but both these men, the real and the supposed ringleader, had been actually in custody for the revolt, nay, had been both arrested for the revolt and rescued by the revolters, two or three hours before the letter came into Mr. Smith's hands!

It is for not disclosing this, which all the world knew better than himself, for not telling them at night what they knew in the afternoon, that he is to be blamed! Why go and communicate to a man that the sun is shining at twelve o'clock in the day? Why tell this House that these candles are burning; that we are sitting in a great crowd in no very pleasant atmosphere and listening to a tedious speech? Why state things which were as plain as the daylight and which everyone knew better and earlier than Mr. Smith himself? He was walking, with his wife under his arm, say the witnesses. He should have walked away with her or hired a horse and rode to Georgetown, says the right honourable Secretary. Why this would have been, at the least, only doing what was manifestly superfluous and, because superfluous, ridiculous.

But in the feeling which then prevailed; in the irritation of men's minds; in the exasperation towards himself which, I am sorry to say, had been too plainly manifested; I believe such a folly would not have been considered as superfluous only. He would have been asked, "Why are you meddling? What are you interfering about? Keep you quiet at your own house. If you are indeed a peaceable missionary, don't enter into quarrels you have no concern in or busy yourself with other people's matters." Answers of that kind he had received before; rebuffs had been given him of a kind which might induce him to take an opposite course. Not a fortnight previous to that very night he had been so treated. I, for one, am not the man to marvel that he kept himself still at his house, instead of going forth to tell tales which all the world knew, and to give information extremely unlike that which the evidence would have communicated to the honourable Under-Secretary, if he had read it correctly; and to the member for Peterborough, if he had read it at all. It would have informed no one because all knew it.

But, says the right honourable gentleman, why did not this missionary, if he would not fly to the destruction of his friends upon some vague surmise, if he would not make haste to denounce his flock upon rumour or suspicion, if he would not

tell that which he did not know, if he would not communicate a treason which probably had no existence, which certainly did not to his knowledge exist, if he would not disclose secrets which no man had entrusted to him, if he would not betray a confidence which no mortal had ever reposed in him—(for that is the state of the case up to the delivery of Jacky Reed's letter; that is the precise state of the case at the time of receiving the letter)—if he did not please to do all these impossibilities, there was one possibility, it seems, and that mentioned for the first time tonight (I know not when it was discovered) which he might do: Why did he not go forth into the field when the Negroes were all there, rebellious and in arms—some arrested and rescued, others taken by the insurgents and carried back into the woods—why did he not proceed where he could not take a step, according to the same authority that suggests such an operation, without seeing multitudes of martial slaves; why not, in this favourable state of things, at this very opportune moment, at a crisis so auspicious for the exertions of a peaceful missionary among his enraged flock; why not greedily seize such a moment to reason with them, to open his Bible to them, to exhort them and instruct them and catechize them and, in fine, take all those steps which for having pursued, in a season of profound tranquillity, he was brought into peril of his life; why not now renew that teaching and preaching to them for which, and for nothing else, he was condemned to death, his exhausted frame subjected to lingering torture and his memory blighted with the name of traitor and felon! Why he was wise in not doing this! If he had made any such unseasonable and wild attempts we might now think it only folly and might be disposed to laugh at the ridiculous project; but at that moment of excitement, when the exasperation of his enemies had waxed to such a height as he knew it to have reached against him, and men's minds were in a state of feverish alarm that made each one deem every other he met his foe, and all who were in any manner of way connected with plantations fancied they saw the very head and ringleader of their common enemy in whatever bore the shape of a Christian pastor—(this Mr. Smith knew,

independent of his personal experience, independent of experience the most recent—experience within the last fortnight from the time when such courses are pointed out as rational, nay, obvious and necessary)—but if with only his own general knowledge of the state of society, the recollection of what had happened to him in former times and the impression which every page of his journal proves to have been the genuine result of all he saw daily passing before his eyes—if, in such a crisis, and with this knowledge, he had fared forth upon the hopeless errand of preaching peace when the cutlasses of the insurgents were gleaming in his eyes, I say he would not merely have exposed himself to the just imputation of insanity from the candid and reflecting, but have encountered, and for that reason encountered, the persecutions of those who now with monstrous inconsistency blame him for not employing his pastoral authority to restrain a rebellious multitude, and who pursued him to the death for teaching his flock the lessons of forbearance and peace [*hear, hear*].

Sir, I am told that it is unjust to censure the court-martial so vehemently as I propose doing in the motion before you, and, really, to hear gentlemen talk of it, one would imagine that it charged enormous crimes in direct terms. Some have argued as if murder were plainly imputed to the court. They have confounded together the different parts of the argument urged in support of the motion, and then imported into the motion itself that confusion, the work of their own brains. But even if the accusations of which they complain had been preferred in the speeches that introduced or supported the proposition, could anything be conceived more grossly absurd than to decide as if you were called upon to adopt or reject the speeches and not the motion, which alone is the subject of the vote? Truly this would be a mode of reasoning surpassing anything the most unfair and illogical that I have ever heard attempted even in this place where I have certainly heard reasonings not to be met with elsewhere.

The motion conveys a censure, I admit, but, in my humble opinion, a temperate and a mitigated censure. The law has been

broken; justice has been outraged. Whoso believes not in this, let him not vote for the motion. But whosoever believes that a gross breach of the law has been committed that a flagrant violation of justice has been perpetrated, is it asking too much at the hands of that man to demand that he honestly speak his mind and record his sentiments by his vote? In former times, this House of Parliament has not scrupled to express, in words far more stringent than any you are now required to adopt, its sense of proceedings displaying the triumph of oppression over the law.

When there came before the legislature a case remarkable in itself for its consequences yet more momentous, resembling the present in many points to the very letter in some things resembling it—I mean, the trial of Sidney—did our illustrious predecessors within these walls shrink back from the honest and manly declaration of their opinion in words suited to the occasion and screen themselves behind such tender phrases as are this night resorted to—"Don't be too violent—pray be civil—do be gentler—there has only been a man murdered, nothing more—a total breach of all law, to be sure; an utter contempt, no doubt, of justice and everything like it, in form as well as in substance; but that's all. Surely, then, you will be meek and patient and forbearing, as were the Demerara judges to this poor missionary against whom, if somewhat was done, a great deal more was meditated than they durst openly perpetrate; but who, being condemned to die in despite of law and evidence, was only put to death by slow and wanton severity!"

In those days no such language was holden. On that memorable occasion, plain terms were not deemed too strong when severe truth was to be recorded. The word "murder" was used because the deed of blood had been done. The word "murder" was not reckoned too uncourtly in a place where decorum is studied somewhat more scrupulously than even here.

On the journals of the other House stands the appointment of Lords committees "to inquire of the advisers and prosecutors

of the murder of Lord Russell and Colonel Sidney," and their lordships make a report upon which the statute is passed to reverse those execrable attainders. I will not enter into any detailed comparison of the two cases, which might be thought fanciful, but I would remind the House that no legal evidence was given of Mr. Smith's handwriting in his journal any more than of Sidney's in his manuscript "Discourse on Government." Every lawyer who reads the trial must at once perceive this. The witness who swears to Mr. Smith's hand cannot say that he ever saw him write; and when asked how he knows, the court say "that question is unnecessary because he has said he knows the hand!" although all the ground of knowledge he had stated was having received letters from him, without a syllable of having afterwards seen him to ascertain that they were his or having written in answer to them or otherwise acted upon them. Now, in Sidney's case there was an endorsement on bills of exchange produced and those bills had been paid. Nevertheless Parliament pronounced his conviction murder, for this, among other reasons, that such evidence had been received.

The outrageous contempt of the most established rules of evidence, to which I am alluding, was indeed committed by a court of fourteen military officers, ignorant of the law; but, that their own deficiencies might be supplied, they had joined with them the first legal authority of the colony. Why, then, did they not avail themselves of Mr. President Wray's knowledge and experience? Why did they overrule by their numbers what he must have laid down to them as the law? I agree entirely with my learned friend (Mr. Scarlett) that the President must have protested strenuously against such proceedings. I take for granted, as a matter of course, that he resisted them to the utmost of his power. My learned friend and I have too good an opinion of that learned judge and are too well persuaded of his skill in our common profession to have a doubt in our minds of his being as much astonished at those strange things as any man who now hears of them; and far more shocked because they were done before his eyes and, though really in spite of his

efforts to prevent them, yet clothed in outward appearance with the sanction of his authority.

In Sidney's case, another ground of objection at the trial, and of reprobation ever afterwards, was the seizure and production of his private manuscript which he described in eloquent and touching terms as containing "sacred truths and hints that came into his mind and were designed for the cultivation of his understanding, nor intended to be as yet made public." Recollect the seizure and production of the missionary's journal to which the same objection and the same reprobation is applicable, with this only difference, that Sidney avowed the intention of eventually publishing his discourse, while Mr. Smith's papers were prepared to meet no mortal eye but his own. In how many other particulars do these two memorable trials agree?

The preamble of the act rescinding the attainder seems almost framed to describe the proceedings of the court at Demerara: admission or hearsay evidence; allowing matters to be law for one party and refusing to the other the benefit of the same law; wresting the evidence against the prisoner; permitting proof by comparison of hands—all these enormities are to be found in both causes. But, Sir, the demeanour of the judges after the close of the proceedings, I grieve to say it, completes the parallel. The Chief Justice who presided, and whom a profligate government made the instrument of Sidney's destruction, it is stated in our most common books—Collins, and, I believe also Rapin—"when he allowed the account of the trial to be published, carefully made such alterations and suppressions as might show his own conduct in a more favourable light."

That judge was Jeffries[1], of immortal memory, who will be known to all ages as the chief—not certainly of ignorant and inexperienced men, for he was an accomplished lawyer, and of undoubted capacity—but as the chief and head of unjust and cruel and corrupt judges. There, in that place, shall Jeffries stand hateful to all posterity, while England stands; but there he would not have stood, and his name might have come down to

us with far other and less appropriate distinction, if our forefathers, who sat in this House, had consented to fritter away the expression of their honest indignation, to mitigate the severity of that record which should carry their hatred of injustice to their children's children—if, instead of deeming it their most sacred duty, their highest glory, to speak the truth of privileged oppressors, careless whom it might strike or whom offend, they had only studied how to give the least annoyance, to choose the most courtly language, to hold the kindest and most conciliating tone towards men who showed not a gleam of kindness, conciliation, courtesy, no, nor bare justice, nor any semblance or form of justice, when they had their victim under their dominion.

Therefore it is that I cannot agree to this previous question. Rather let me be met by a direct negative; it is the manlier course. I could have wished that the government had still "screwed up their courage to the sticking-place," where for a moment it perched the first night of the debate, when by the honourable gentleman from the Colonial Department we were told that he could not consent to meet this motion in any way but the most triumphant—a decided negative. [*Mr. Wilmot Horton—"No!"*]—I beg the honourable member's pardon. I was not present at the time but took my account of what passed from others and from the usual channels of intelligence. I understood that he had given the motion a direct negative. [*Mr. Wilmot Horton— "I said no such thing; I said I should give my dissent to the motion without any qualification."*] I was not bred up in the Dutch schools nor have practised in the court of Demerara, and I confess my inability to draw the nice distinction, so acutely taken by the honourable gentleman, between a direct negative and a dissent without any qualification. In my plain judgment, unqualified dissent is that frame of mind which begets a direct negative. Well, then, call it which you will, I prefer, as more intelligible and more consistent, the direct negative or unqualified dissent.

What is the meaning of this "previous question," which the right honourable Secretary has tonight substituted for it?

Plainly this: there is much to blame on both sides; and for fear of withholding justice from either party, we must do injustice to both. That is exactly the predicament in which the right honourable gentleman's proposition would place the government and the House with respect to West Indian interests. But what can be the reason of all this extraordinary tenderness towards the good men of Demerara? Let us only pause for a moment and consider what it can mean. How striking a contrast does this treatment of those adversaries of His Majesty's ministers afford to the reception which we oftentimes meet with from them here! I have seen, in my short experience, many motions opposed by the gentlemen opposite and rejected by the House merely because they were accompanied by speeches unpalatable to them and their majorities. I have seen measures of the greatest importance, and to which no other objection whatever was made, flung out, only because propounded by Opposition men and recommended by what were called factious arguments.

I remember myself once moving certain resolutions upon the commercial policy of the country all of which have, I think, either been since adopted by the ministers (and I thank them for it) or are in the course of being incorporated with the law of the state. At the time, there was no objection urged to the propositions themselves—indeed, the Chancellor of the Exchequer professed his entire concurrence with my doctrines—and, as I then said I had much rather see his good works than hear his profession of faith, I am now happy that he has appealed to this test of his sincerity, and given me what I asked—the best proof that the government entirely approved of the measures I recommended. But, upon what grounds were they resisted at the time? Why, nine parts in ten of the arguments I was met by consisted of complaints that I had introduced them with a factious speech, intermixed them with party topics, and combined with the commercial part of the subject a censure upon the foreign policy of the government which has since been, I think, also well-nigh given up by themselves.

Now, then, how have the Demerara men entitled themselves to the especial protection and favour of those same ministers? Have they shown any signal friendship or courtesy or decent respect towards His Majesty's government? Far enough from it. I believe the gentlemen opposite have very seldom had to bear such violence of attack from this side of the House, bad though we be, as from their Guiana friends. I suspect they have not in any quarter had to encounter so much bitterness of opposition as from their new favourites whom they are so fearful of displeasing. Little tenderness, or indeed forbearance, have they shown towards the government which anxiously cherishes them. They have held public meetings to threaten all but separation; they have passed a vote of censure upon one minister by name; and, that none might escape, another upon the whole administration in a mass, and the latest accounts of their proceedings left them contriving plans in the most factious spirit, in the very teeth of the often avowed policy of the government, for the purpose of prohibiting all missions and expelling all missionaries from the settlement. Sir, missions and missionaries may divide the opinions of men in any other part of our dominions but the slave colonies, and the most opposite sentiments may honestly and conscientiously be entertained upon their expediency; but in those countries it is not the question whether you will have missionary teachers or no, but whether you will have teachers at all or no.

The question is not shall the Negroes be taught by missionaries but shall they or shall they not be taught at all? For it is the unvarying result of all men's experience in those parts, members of the Establishment as well as Dissenters—nay, the most absolute opinions on record and the most strongly expressed have come from churchmen—that there is but this one way practicable of attempting the conversion of these poor heathens. With what jealousy, then, ought we to regard any efforts, but especially by the constituted authorities who bore a part in those proceedings to frustrate the positive orders for the instruction of the slaves, not only given by His Majesty's government but recommended by this House—a far higher

authority as it is, higher still as it might be, if it but dared now and then to have a will of its own and, upon questions of paramount importance—to exercise fearlessly an unbiased judgment? To obtain the interposition of this authority for the protection of those who alone will, or can, teach the Negroes is one object of the motion upon which I shall now take the sense of the House. The rest of it relates to the case of the individual who has been persecuted.

The right honourable gentleman seems much disposed to quarrel with the title of martyr which has been given him. For my own part I have no fault to find with it; because I deem that man to deserve the name, as in former times he would have reaped the honours of martyrdom who willingly suffers for conscience. Whether I agree with him or not in his tenets, I respect his sincerity, I admire his zeal; and when, through that zeal a Christian minister has been brought to die the death, I would have his name honoured and holden in everlasting remembrance. His blood cries from the ground—but not for vengeance! He expired, not imprecating curses upon his enemies, but praying for those who had brought him to an untimely grave. It cries aloud for justice to his memory and for protection to those who shall tread in his footsteps, and—tempering their enthusiasm by discretion; uniting with their zeal, knowledge, forbearance with firmness; patience to avoid giving offence, with courage to meet oppression and to resist when the powers of endurance are exhausted—shall prove themselves worthy to follow him, and worthy of the cause for which he suffered. If theirs is a holy duty, it is ours to shield them in discharging it from that injustice which has persecuted the living and blasted the memory of the dead [*cheers*].

Sir, it behoves this House to give a memorable lesson to the men who have so demeaned themselves. Speeches in a debate will be of little avail. Arguments on either side neutralize each other. Plain speaking on the one part met by ambiguous expressions—half censure, half acquittal, betraying the wish to give up but with an attempt at an equivocal defence—will carry out to the West Indies a motley aspect; conveying no definite or

intelligible expression, incapable of commanding respect, and leaving it extremely doubtful whether those things which all men are agreed in reprobating have actually been disapproved of or not. Upon this occasion, most eminently, a discussion is nothing unless followed up by a vote to promulgate with authority what is admitted to be universally felt. That vote is called for in tenderness to the West Indians themselves—in fairness to those other colonies which have not shared the guilt of Demerara.

Out of a just regard to the interests of the West Indian body who, I rejoice to say, have kept aloof from this question as if desirous to escape the shame when they bore no part in the crime, this lesson must now be taught by the voice of Parliament—that the mother country will at length make her authority respected; that the rights of property are sacred but the rules of justice paramount and inviolable; that the claims of the slave owner are admitted but the dominion of Parliament indisputable; that we are sovereign alike over the White and the Black; and though we may for a season, and out of regard for the interests of both, suffer men to hold property in their fellow-creatures, we never, for even an instant of time, forget that they are men and the fellow-subjects of their masters—that, if those masters shall still hold the same perverse course if taught by no experience, warned by no auguries, scared by no menaces from Parliament or from the Crown administering those powers which parliament invoked it to put forth, but blind alike to the duties, the interests and the perils of their situation, they rush headlong through infamy to destruction; breaking promise after promise made to delude us; leaving pledge after pledge unredeemed, extorted by the pressure of the passing occasion; or only by laws passed to be a dead letter, forever giving such an illusory performance as adds mockery to breach of faith; yet a little delay; yet a little longer of this unbearable trifling with the commands of the parent state, and she will stretch out her arm in mercy, not in anger, to those deluded men themselves; exert at last her undeniable authority; vindicate the

just rights and restore the tarnished honour of the English name!

[1] George Jeffreys, (1645 – 1689), also known as "The Hanging Judge," was a Welsh judge. He became notable during the reign of King James II, rising to the position of Lord Chancellor.

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Votes in Support of the Motion

[The motion was then put to the House for a vote. The results were: Ayes 146. Noes 193. The majority against Mr. Brougham's motion: 47]

List of the Minority

Abercromby, Honourable J.	Belgrave, Visc.
Acland, Sir T.	Benet, J.
Allen, J. H.	Benyon, B.
Anson, Sir G.	Birch, J.
Astley, Sir J. D.	Blake, Sir F.
Barham, J. F.	Boughton, Sir W.
Barret, S. M.	Brougham H.
Brown, J.	Macdonald, J.
Brownlow, C.	Mackintosh, Sir J.
Burdett, Sir F.	Maddocks, W. A.
Bury, Visc.	Marjoribanks, S.
Butterworth, J.	Maxwell, J.
Byng, G.	Monck, J. B.
Calcraft, J.	Newman, R. W.
Calcraft, J. H.	Normanby, Visc.
Calthorpe, Honourable F.	Nugent, Lord
Calvert, C.	Ord, W.
Calvert, N.	Oxmantown, Lord
Carter, J.	Palmer, C.
Cavendish, Lord G.	Palmer, C. F.
Cavendish, C.	Pares, T.
Cavendish, H.	Parnell, Sir H.

Chaloner, R.
Chamberlayne, W.
Clifton, Visc.
Coke, T. W. Jun.
Corbett, P.
Cradock, S.
Creevy, T.
Davenport, D.
Davies, T. H.
Denison, W. J.
Denman, T.
Dickenson, W.
Duncannon, Visc.
Dundas, Honourable F.
Dundas, C.
Ebrington, Visc.
Ellis, Honourable G. A.
Ellison, C.
Evans, W.
Farrand, R.
Fergusson, Sir R.
Fitzgerald, Rt. Honourable M.
Fitzroy, Lord J.
Ford, M.
Gaskill, B.
Gordon, R.
Graham, S.
Grattan, J.
Griffiths, J. W.
Grosvenor, Honourable R.
Pelham, C. F.
Philips, G.
Philips, G. R.
Powlett, Honourable W.
Poyntz, W. J.
Proby, Honourable G. L
Pryse, Pryse
Pym, F.
Ramsden, J. C.
Rice, S.
Rickford, W.
Robarts, Col.
Robinson, Sir G.
Rowley, Sir W.
Rumbold, C.
Russell, Lord G. W.
Russell, Lord J.
Ryder, Rt. Honourable R.
Scott, J.
Sebright, Sir J.
Sefton, Earl of
Smith, A.
Smith, J.
Smith, G.
Smith, S.
Smith, Honourable R.
Smith, W.
Smyth, (Westmeath)
Stanley, Honourable E.
Staunton, Sr G.

Guise, Sir B. W.
Gurney, R. H.
Heathcote, G. J.
Heron, Sir R.
Heygate, Ald.
Hobhouse, J. C.
Honywood, W. P.
Hurst, R.
Hutchinson, Honourable H. C.
Inglis, Sir R.
Jervoise, G. P.
Johnes, J.
Kemp, T. R.
Kennedy, J. F.
Knight, R.
Lambton, J. G.
Lawley, T.
Leader, W.
Lennard, T. B.
Leycester, R.
Maberly, John
Townshend, Lord C.
Tulk, C. A.
Wall, C. B.
Warre, J. A.
Webb, E.
Wharton J.
White, Col.
Whitbread, S.
Whitbread, W.
Whitmore, W.
Wilberforce, W.
Wilbraham, E. B.
Williams, J.
Williams, Sir R.
Williams, W.
Wilson, Sir R.
Wilson, W. C.
Wodehouse, E.
Wood, Alderman
Wrottesley, Sir J.
Yorke, Sir Joseph

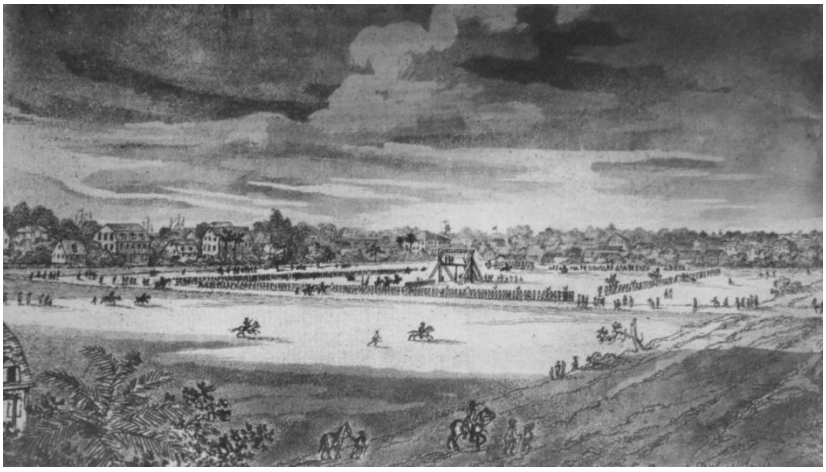
TELLERS

Buxton, T. F.
Lushington, Dr.
PAIRED OFF
Coke, T, W. (Norfolk)
Grenfell, Pascoe
Gurney, H.
Milton, Visc.
Newport, Sir J.
Price, R.
Portman, E.
Taylor, M. A.
Tavistock, Marquis
Stewart, W. (Armagh)
Stanley, Lord

Votes in Support of the Motion

Mostyn, Sir T.	Hamilton, Lord
Money, W. T.	Browne, D.

Bethel Chapel at La Ressouvenir – Rev. John Smith's church
(*From an old print – Source unknown*)



Execution of rebel slaves at the Parade Ground in the aftermath of the East Coast Demerara Slave Uprising in 1823
(*From print by Joshua Bryant, 1823*)