



Center *for* Research Libraries
GLOBAL RESOURCES NETWORK

The Center for Research Libraries scans to provide digital delivery of its holdings. In some cases problems with the quality of the original document or microfilm reproduction may result in a lower quality scan, but it will be legible. In some cases pages may be damaged or missing. Files include OCR (machine searchable text) when the quality of the scan and the language or format of the text allows.

If preferred, you may request a loan by contacting Center for Research Libraries through your Interlibrary Loan Office.

Rights and usage

Materials digitized by the Center for Research Libraries are intended for the personal educational and research use of students, scholars, and other researchers of the CRL member community. Copyrighted images and texts may not be reproduced, displayed, distributed, broadcast, or downloaded for other purposes without the expressed, written permission of the copyright owner.

Center for Research Libraries

Identifier: 496ff23d-1c7b-45f4-b423-cda04434d79f

Range: Scans 001 - 018

Downloaded on: 2022-05-24 22:23:07

JAMAICA :
SLAVE TRIALS AND PUNISHMENT.

RETURNS to an Address to His MAJESTY, dated 23 March 1832 ;—for,

— No. 1. —

COPIES of all COMMUNICATIONS from *Jamaica* relating to the Trial of *George Anle*, a Negro Slave, and of *Samuel Swiney*, a Negro Slave, for certain alleged OFFENCES relating to RELIGIOUS WORSHIP.

— No. 2. —

COPIES of all COMMUNICATIONS received relating to the Adoption or Rejection, in the House of Assembly, of a Law for Abolishing the practice of Punishing Females by the Whip in *Jamaica*.

(*Mr. Fowell Buxton.*)

Colonial Department, Downing-street, }
24 May 1832.

HOWICK.

Ordered, by The House of Commons, to be Printed,
24 May 1832.

SCHEDULE.

— No. 1. —

- (1.) COPY of a Despatch from Secretary Sir *G. Murray* to the Earl of *Belmore*, dated Downing-street, 19th August 1830 - - - - - pp. 3
- (2.) COPY of a Despatch from the Earl of *Belmore* to Secretary Sir *G. Murray*, dated Jamaica, 1st October 1830 - - - - - pp. 4
- (3.) COPY of ditto - - - ditto, dated Jamaica, 1st December 1830 - - - pp. 4
- (4.) COPY of a Despatch from Viscount *Goderich* to the Earl of *Belmore*, dated Downing-street, 25th April 1831 - - - - - pp. 7
- (5.) COPY of a Despatch from the Earl of *Belmore* to Viscount *Goderich*, dated Jamaica, 6th June 1831 - - - - - pp. 9
- (6.) COPY of ditto - - - ditto, dated Jamaica, 23d August 1831 - - - pp. 10
- (7.) COPY of a Despatch from Viscount *Goderich* to the Earl of *Belmore*, dated Downing-street, 15th November 1831 - - - - - pp. 14
- (8.) COPY of a Despatch from the Earl of *Belmore* to Viscount *Goderich*, dated Jamaica, 11th January 1832 - - - - - pp. 16

(No Communications have been received from Jamaica relating to the trial of George Anle.)

— No. 2. —

- (9.) EXTRACT from the Minutes of the House of Assembly of Jamaica, relating to the rejection of a Law for Abolishing the Practice of Punishing Females by the Whip - - - - - pp. 17

— No. 1. —

COPIES of COMMUNICATIONS from *Jamaica*, relating to the TRIAL of *Samuel Swiney*, a Negro Slave, for certain Alleged OFFENCES relating to RELIGIOUS WORSHIP.

— (1.) —

COPY of a DESPATCH from Secretary Sir *George Murray* to the Earl of *Belmore*.

My Lord,

Downing-street, 19th August 1830.

I HAVE the honour of transmitting to your Lordship the copy of a letter which I have received from the Rev. John Dyer, Secretary to the Baptist Missionary Society, inclosing an extract of a representation from the Rev. W. Knibb of Jamaica, and I am to request that you will call upon the magistrate, who has been engaged in these proceedings, for such observations as he may think proper to offer upon the subject. Your Lordship will also obtain from the Rev. W. Knibb, a specification of the names of the persons concerned in the transaction mentioned in the postscripts of his letter, with the time, place and other circumstances of the case. When your Lordship shall have received Mr. Knibb's further statement, I am to desire that you will investigate the subject and report to me the result of your inquiries.

I have, &c.

(signed) G. MURRAY.

9 July.

26 April.

COPY of a LETTER from the Rev. *John Dyer* to the Right honourable Sir *George Murray*.

Baptist Mission House,

6, Fen-court, Fenchurch-street, 9th July 1830.

Sir,

RELUCTANT as I am again to intrude on your attention, I feel that I should be guilty of a breach of duty if I omitted to lay before you the statement enclosed, which has just been received from Jamaica. That His Majesty's Government will cause immediate inquiry to be made into the facts of the case, and give the directions therein which in their judgment will be requisite, we anticipate with the more confidence from the prompt and condescending attention with which our preceding communications have been honoured.

I have, &c.

(signed) *John Dyer*, Secretary.

EXTRACT of a LETTER from the Rev. *William Knibb*, dated Savanna la Mar, 26th April 1830.

“AN excellent young man of the name of Sam Swiney, a deacon of my church in this place, is now in chains for his love to Jesus. During my sickness he and others, both bond and free, met at my house to pray. Information of this was carried to the magistrates; and though I procured three respectable persons, neighbours, including the head constable, to prove on oath that no noise was made, which the informer had sworn to, the poor fellow was convicted. The magistrate would have it that preaching and praying are the same. I tried to convince him of the difference, but it was of no use; so for offering a prayer to God, and nothing more, this poor fellow is sentenced to receive 20 lashes

PAPERS RESPECTING SLAVE TRIALS;

on his bare posteriors, and he worked in chains on the roads for a fortnight; I did all I could to save him, and so did his owner, a respectable gentleman of colour (Mr. Aaron de Leon) who told the magistrates that he had his permission; next morning I went to see him flogged, determined to support him as well as I could, however painful to my feelings. There he was, a respectable tradesman, though a slave, stretched indecently on the ground, held firmly down by four slaves, two at his hands, and two at his feet. The driver was merciful, or every lash would have fetched blood; "O what have I done," was the only exclamation that escaped from his lips, accompanied by a moan extorted by the pain. He was raised from the ground, chained to a convict, and immediately sent to work. I walked by his side down the whole bay, to the no small annoyance of his persecutors. Amidst them I took him by the hand, told him to be of good cheer, and said, loud enough for them all to hear, "Sam, whatever you want, send to me and you shall have it." The good people here have behaved nobly to him, encouraging him by every means in their power; I shall see that he wants for nothing, and by my public notice of him show that I consider him a persecuted christian; almost every hour does he pass my door; he bears his affliction like a christian, and I hope will still bear it with the fortitude that becomes a man suffering for so good a cause. The magistrate who ordered the punishment was the Speaker of the House of Assembly.

"My other deacon, a slave, has had 87 lashes for a similar crime, and three month's imprisonment, or rather work in the streets."

—(2.)—

COPY of a DESPATCH from the Earl of *Belmore* to Secretary
Sir *G. Murray*.

Sir,

King's House, Jamaica, 1st October 1830.

I HAVE had the honour to receive your despatch of the 19th August last, enclosing the copy of a letter to the Colonial Office, from the Secretary to the Baptist Missionary Society, and accompanied by an extract of a representation from Mr. Knibb, dated Savanna la Mar, 26th April 1830.

The Speaker of the House of Assembly is at present absent from the island, but his return is daily looked for. I shall of course call upon him for such observations as he may think proper to offer on the subject, and I have already called on Mr. Knibb for a specification of the names of the persons concerned in the transaction mentioned in the postscript of his letter, with the time, place and the other circumstances of the case.

I have the honour to be, Sir,

Your most obedient humble servant,

(signed) BELMORE.

—(3.)—

COPY of a DESPATCH from the Earl of *Belmore* to Secretary
Sir *G. Murray*.

Sir,

King's House, Jamaica, 1st December 1830.

REFERRING to your despatch of 19th August last, and to my communication to the Colonial Office of 1st October last, I have now the honour to enclose for your information a letter which has been received from the custos of Westmorland, and also a communication from William Knibb, on the subject of a charge brought against Mr. Finlayson, for ordering an improper punishment to a negro, in his character of a magistrate.

I think it due however to Mr. Finlayson to say, that he is a gentlemen of remarkably mild disposition, and at a time of life not likely to lead him into any intemperate exercise of power.

I have, &c.

(signed) BELMORE.

AND PUNISHMENT OF FEMALE SLAVES.

5

LETTER from *David Finlayson, Esq.* to *W. Bullock, Esq.*

Sir,

Westmorland, 5th October 1830.

I HAVE received your favour of the 28th ultimo, with its enclosures.

I have to state in answer to them, that an affidavit was made by Richard Pessoa, that on the nights of Tuesday and Thursday the 6th and 8th, and Sunday the 11th of this instant month (April), deponent was present and saw nightly meetings and collections of sundry persons, slaves and of free condition, engaged in preaching, teaching and singing psalms and hymns in a house in Great George-street in the town of Savanna la Mar, at present occupied by William Knibb, Baptist missionary, but in his absence, and on many other days and times besides the beforementioned, when and where they made a great noise, to the annoyance and disturbance of all the neighbours, keeping it up until nine or ten o'clock each night; that Mary Vanhorne took the most active part in the ceremony, officiating as minister and giving out the hymns, after which followed a prayer alternately by the others, named Sam Swiney and Diana Swiney.

That Sam Swiney being brought before the sitting magistrates, was tried under the 50th clause of the slave law, and having been duly convicted upon the oaths of Pessoa, Thos. A. Mitchener, William Simeon and Alexander Gibson, jun., was sentenced to a fortnight's labour in the workhouse, and to receive 20 lashes in going in.

That the other slaves and free persons were not tried, but it was recommended that all further proceedings should be stayed.

I do not know anything of the other complaint alluded to.

I have the honour to be &c. &c. &c.

(signed) *David Finlayson.*

LETTER from the Rev. *W. Knibb* to *William Bullock, Esq.* Spanish Town.

Sir,

Falmouth, 12 October, 1830.

IN consequence of my removal from Savanna la Mar to Falmouth, I was not favoured with your's of September the 28th, until yesterday morning.

Severe indisposition prevents me from entering fully into the case to which you refer, you will therefore oblige me by presenting to his Excellency the Governor, the accompanying statement, which I published at the time that the occurrence took place.

Any further information that his Excellency may require, I shall be happy to furnish, when my health is re-established.

I am, Sir, your obedient servant,

(signed) *William Knibb.*

LETTER from the Rev. *William Knibb* to the Editor of the *Struggler*.

Sir,

Savanna la Mar, May 1830.

ENCLOSED you will receive the particulars relative to the late conviction of a negro named Sam Swiney, belonging to Mr. Aaron De Leon, of Savanna la Mar.

Thinking it my imperative duty to protect the members of my church from illegal or unmerited punishment, I have sent an account of the transaction home, to a quarter whence it will find circulation; and it is probable that it may be printed, and again reach this place; you will oblige me by noticing the following facts in your truly independent paper.

I am, Sir, your's respectfully,

(signed) *William Knibb,*
Baptist Missionary.

6 PAPERS RESPECTING SLAVE TRIALS;

“ DURING my absence from this place (Savanna la Mar), in consequence of serious indisposition, a number of my congregation were molested, by certain ‘lewd fellows of the baser sort,’ and which molestation ended, according to my conception in as manifest a perversion of justice as ever I have witnessed.

“ On the Sabbath after Easter, an express reached me at Falmouth, from which I was informed that proceedings were about to be instituted against some of my members, and I immediately hastened to the place, that I might become acquainted with the whole of the affair.

“ It appeared afterwards, that on Easter Sabbath evening, part of my congregation assembled at my house, for the purpose of holding a prayer-meeting, which is customary in all dissenting congregations. This meeting was conducted by a respectable person of colour, and in conformity with our usual practice the members of the church were called upon to pray; when they were thus engaged, much interruption was experienced by them from two persons of the names of Pessoa and Mitchener, and who on the following day, after consulting the clergyman of the Established Church what steps they should pursue, gave information, upon which a warrant was issued for the apprehension of six free persons, and six slaves.

“ Their examination took place on the succeeding Thursday, when I was present: but before I detail the proceedings, I will mention the particulars, made on oath by Pessoa, one of the informers. It contained the four following charges, the whole of which I am prepared to prove were *false*, as also that the majority of them were proved so on oath, by three respectable gentlemen.

“ 1st, That the persons were assembled for the purpose of *preaching and teaching*;

“ 2d, That the meeting was continued until between *the hours of nine and ten o'clock at night*;

“ 3d, That such a *noise was made as disturbed the whole of the neighbourhood*;

and,
“ 4th, That a slave named John Wright was there, who it could have been proved, at that time was four miles off.

“ To answer the second and third of these charges, the head constable who lives opposite to my house, Mr. Gibson who resides next door, and Mr. Qualo who was with the first-named gentlemen on the night mentioned, appeared, without being solicited, and on oath deposed, that so far from these charges being *true*, that they could not hear the least noise, and that they were certain the meeting was over before eight o'clock in the evening.

“ The owner of the slave, who subsequently suffered, Mr. Aaron De Leon, attended the investigation, and informed the presiding magistrates, the Hon. D. Finlayson, and T. W. Harden, Esq. that he gave the negro Sam free permission to attend the meeting; when the custos asked, whether such permission was given *in writing*, and on the owner answering that he was not aware that was necessary, he was informed, that the omission rendered his leave of no avail.

“ After a long investigation, and nothing tangible appearing against the parties, the custos appeared determined to find Sam Swiney, one of the slaves apprehended, guilty of something, for which he might be punished; and therefore, because he prayed without a book, and out of his *head*, or as one of the witnesses swore, with *his lips*, he declared, that praying and preaching were synonymous terms, and that he had acted illegally, and must suffer for the infraction of the law. Having obtained leave, I explained to Mr. Finlayson the nature of the meeting, and adverted to the testimony given by the gentlemen present, contrasting it with that sworn to by Pessoa. I told him that dissenters made use of no set form of prayer, and endeavoured to show, that there was a manifest difference between preaching and praying. He replied that there was not, that they were the same; that praying meant *teaching*, and that preaching meant *teaching*, and that it was nonsense to make a difference, that it would not do, and in no very gentlemanly manner said, ‘Mr. Knibb, you have done very wrong, and if you do so again, I’ll take away your licence.’ A threat that nothing but the respect for the office he held, kept me from answering in a manner that his arrogance and folly richly merited. The result of this extraordinary proceeding was, that though the owner of the slave appeared, and stated that the negro had his permission to attend the meeting; though the neighbours

neighbours declared that the depositions of the informer were false; without any hesitation, the man was convicted, and for simply on his knees offering a short prayer to God, was sentenced to receive 20 lashes, and to be worked in chains for a fortnight. Early on the following morning, I went to see the disgusting scene that was then enacted. What my feelings were, I will not now express, to behold a fellow creature, a respectable tradesman of his class, stretched indecently on the earth, and lacerated with a cart-whip, and immediately after chained to a convict, and sent to work on the road, to the amusement of the perjured infidel, and to gratify the prejudices of those, who hold that preaching and praying are the same, and equal infractions on the law of Jamaica. Whether justice has been pursued in this case, I leave others to determine; but for my own part, I must consider, that if the law sanctions such conclusion, that law is an abomination, a disgrace to a christian country; and I shall feel myself honoured by whatever reproach a polluted press, or any hireling editor may cast upon me, for expressing a sense of its being an infraction of every principle of right and of justice."

— (4.) —

COPY of a Despatch from Viscount *Goderich* to the Earl of *Belmore*.

My Lord,

Downing-street, 25th April 1831.

I have received your Lordship's despatch of the 1st of December last, transmitting communications which you had received from Mr. Finlayson, a magistrate of Jamaica, and from Mr. Knibb, the Baptist missionary, in reference to the representation of the latter gentleman, which was transmitted to your Lordship in my predecessor's despatch of the 19th of August last.

Mr. Knibb, in his communication, represents himself to be incapacitated by severe indisposition from giving your Lordship any further particulars of the cases which he had made the subject of complaint than was contained in a statement which he had made previously, inserted in a newspaper. This statement comprises only the case of the slave Sam Swiney. Mr. Finlayson's letter refers also to the same case, being the only one of which he had any knowledge.

Your Lordship does not apprise me that Mr. Finlayson, whose letter is dated the 5th of October, had been officially put in possession of the statement published by Mr. Knibb, which was formerly sent to you by that gentleman only on the 12th of October, but it had been published long before, namely, on the 29th of May preceding, and I presume therefore that its contents were known to Mr. Finlayson, as your Lordship has sent the communications from Mr. Knibb and Mr. Finlayson, without intimating any doubt of their accuracy, and as neither of the statements is irreconcilable with the other, though each contains particulars which the other omits, I conclude that the two together are to be received as exhibiting an account, accurate so far as it goes, of the facts which had occurred.

These facts, then, are as follows:— On the evening of Easter Sunday 1830, a part of Mr. Knibb's congregation assembled at his house, for the purpose of holding what is called by persons of their persuasion a "prayer-meeting." Mr. Knibb was absent on account of severe indisposition, and a person of colour presided at the meeting. According to the mode of worship adopted on such occasions, extempore prayers were delivered by members of the congregation.

The slave Sam Swiney was amongst those who were engaged in this religious exercise. Two persons, named Pessoa and Mitchener, having introduced themselves into the room where the meeting was held, and witnessed the proceedings, gave information upon which a warrant was issued for the apprehension of six free persons and six slaves. Of the persons who were apprehended Sam Swiney alone was tried, and he was tried before Messrs. Finlayson and Harden, magistrates, for a violation of the 50th clause of the Slave Act of 1816, which clause I find to be in the following words: "And whereas it has been found that the practice of ignorant, superstitious or designing slaves of attempting to instruct others, has been attended with the most pernicious con-
480. " sequences,

“ sequences, and even with the loss of life ; Be it Enacted, That any slave or
 “ slaves found guilty of preaching and teaching as Anabaptists or otherwise
 “ without a permission from their owners and the quarter sessions for the parish
 “ in which such preaching and teaching takes place, shall be punished in such
 “ manner as any two magistrates may deem proper, by flagellation or imprison-
 “ ment in the workhouse to hard labour.”

Sam Swiney was convicted, and Mr. Finlayson states, as the ground of the conviction, that “ an affidavit was made by Richard Pessoa that on the nights of Tuesday and Thursday, the 6th and 8th, and Sunday the 11th of this instant month (April), deponent was present and saw nightly meetings and collections of sundry persons, slaves and of free condition, engaged in preaching, teaching and singing psalms and hymns in a house in Great George-street, in the town of Savanna la Mar, at present occupied by William Knibb, Baptist missionary, but in his absence, and on many other days and times besides the before-mentioned, when and where they made a great noise to the annoyance and disturbance of all the neighbours, keeping it up until 9 or 10 o'clock each night ; that Mary Vanhorne took the most active part in the ceremony, officiating as minister, and giving out the hymn, after which followed the prayer alternately by the others named Sam Swiney and Diana Swiney.”

Mr. Finlayson further states that testimony on oath was given by Thomas A. Mitchener, Mr. Simeon, and Alexander Gibson, jun., besides Pessoa, but he does not mention either the particulars or the substance of their testimony. He adds that Sam Swiney was sentenced, as had been stated by Mr. Knibbs, to a fortnight's labour in the workhouse, and to receive 20 lashes. Mr. Knibb's account of the evidence on the trial is contained in the following extract from his published statement : “ Their examination took place on the succeeding Thursday, when I was present, but before I detail the proceedings I will mention the particulars of the deposition made on oath by Pessoa, one of the informers. It contained the four following charges, the whole of which I am prepared to prove were false, as also that the majority of them were proved so on oath by three respectable gentlemen ; 1st, that the persons were assembled for the purpose of preaching and teaching ; 2d, that the meeting was continued until between the hours of 9 and 10 o'clock at night ; 3d, That such a noise was made as disturbed the whole of the neighbourhood ; and 4th, that a slave, named John Wright, was there, who it could have been proved at that time was four miles off.

“ To answer the second and third of these charges, the head constable who lives opposite to my house, Mr. Gibson who resides next door, and Mr. Qualo who was with the first-named gentleman on the night mentioned, appeared without being solicited, and on oath deposed that so far from these charges being true, that they could not hear the least noise, and that they were certain that the meeting was over before eight o'clock in the evening.

“ The owner of the slave who subsequently suffered, Mr. Aaron De Leon, attended the investigation, and informed the presiding magistrates, the Hon. D. Finlayson and T. W. Harden, Esq., that he had given the negro Sam free permission to attend the meeting ; when the custos asked if the permission was given in writing, and on the owner answering that he was not aware that it was necessary, he was informed that the omission rendered his leave of no avail.”

Mr. Knibb proceeds to say that he attempted to convince Mr. Finlayson that there was a manifest difference between praying and preaching or teaching, but that his attempt was unsuccessful ; that the slave was convicted, and that he himself attended the infliction of the sentence, and saw the slave receive 20 lashes of a cart-whip, immediately after which he was chained to a convict, and sent to work on the road.

As your Lordship cannot but have perceived that the statements which I have thus recapitulated furnish a very imperfect account of the transaction which you were requested to investigate, and as Mr. Knibb, in his letter of the 12th of October, writes, that when his health should be re-established he would be happy to give any further information which your Lordship might require, I have hoped to receive from your Lordship a further communication, and in that expectation I have hitherto deferred to acknowledge your despatch of 1st December ; but as I have not heard from you again upon the subject, I am induced to suppose that Mr. Knibb continues incapacitated by ill health, and
 that

AND PUNISHMENT OF FEMALE SLAVES.

9

that your Lordship has not resorted to any other source from which the necessary information might be obtained. It is obvious however that the case cannot be allowed to rest here, when proceedings thus offensive to the principles of toleration, and the feelings of humanity, are brought to the knowledge of His Majesty's Government, and are justified on the part of those directing them by no allegation of reasonable grounds, but simply by an appeal to the clause of the Act under which they took place, it is at least necessary that their strict legality should be made apparent. But your Lordship will not have failed to observe, that the statements which you have transmitted leave the legality of the proceedings open to very serious doubts.

The evidence for the prosecution is stated to have been clearly contradicted, in more than one particular, by persons residing in the immediate neighbourhood of the house where the meeting was held, one of whom was the head constable. Pessoa, although he stated that the persons present at the meeting were engaged in preaching and teaching, appears, when he came to describe what took place, to have deposed to nothing on the part of the slave who was convicted, or indeed of any others in particular, except singing hymns and uttering prayers.

It is difficult to conceive how either of these acts of devotion could be properly designated as preaching or teaching. Moreover, the clause of the Slave Act to which Mr. Finlayson refers, although it authorizes punishment "by flagellation or imprisonment in the workhouse to hard labour," does not authorize the infliction of both these modes of punishment. The slave had the full permission of his owner to attend the meeting. Although I nowhere find that such permission must be in writing, as Mr. Finlayson is stated to have averred in order to be available, yet I perceive, in law, that it would not be of any avail under the 50th clause of the Slave Act, unless accompanied by a permission from the quarter sessions of the parish*. I do not mention this therefore as an additional objection to the sentence in point of law, but it is nevertheless a strong presumption of the harmless nature of the proceedings on account of which the sentence was pronounced. According to Mr. Finlayson, the deposition of Pessoa referred to sundry meetings which he has witnessed. Mr. Knibb speaks only of a meeting on Easter Sunday, from which I presume that the evidence, as regarded Sam Swiney, only applied to the single occasion.

* So in original.

It is obviously necessary, however, that this point should be distinctly set forth, in order to communicate a complete and satisfactory understanding of the questions at issue.

I repeat, therefore, that it is necessary to have much fuller information respecting this case, and that at least the lawfulness of the course adopted by Messrs. Finlayson and Harden must be shown before His Majesty's Government can lay aside the inquiry.

For this purpose your Lordship will be pleased to call for the whole of the depositions and recorded proceedings in the trial. Your Lordship will give Mr. Harden an opportunity which I do not find to have yet been afforded him, and to Mr. Finlayson a further opportunity of explaining these proceedings; and you will furnish each of these gentlemen with a copy of this despatch for their information. Your Lordship will transmit a copy to Mr. Knibb also, and you will receive from him, if his state of health will admit of it, such further information as he may wish to supply. When your Lordship shall have elicited all the information which in your judgment is calculated to elucidate the subject, you will be pleased to transmit it to the Attorney-general of Jamaica for his opinion and report in point of law, and you will then forward it to me along with that opinion and report, and accompanied by such observations as you may be pleased to favour me with.

I have, &c.

(signed) GODERICH.

— (5.) —

COPY of a DESPATCH from the Earl of Belmore to Viscount Goderich.

My Lord,

King's House Jamaica, 6th June 1831.

I HAVE had the honour to receive your Lordship's despatch of the 25th April last, copies of which have been transmitted to the custos of Westmorland.

25 April.

land, Mr. Harden, a magistrate of that parish, and Mr. Knibb, a Baptist missionary.

I am not aware whether Mr. Knibb has been prevented by ill health, or what other cause may have prevented him, from proceeding in this transaction, but I have received no further information from him or from any other person which has afforded me new matter to investigate. Had any additional communication been made to me, I should, in conformity with the invariable practice I pursue, have submitted it to the Attorney-general, in order to obtain his opinion whether it contained matter to authorize further proceedings, and in such case I should not have failed to transmit it to your Lordship; but I have not felt myself called upon as his Majesty's representative in this colony, to become the active promoter of proceedings in criminal prosecutions, nor did I consider that the decision of the magistrates could be impeached, or the construction your Lordship applies to the clause in the Slave Act against preaching and teaching, because, in a paper accompanying a despatch from Mr. Hay, dated 24th December 1828, containing the substance of certain arguments brought by certain religious societies against the clauses which were considered intolerant in the disallowed Slave Bill, in alluding to the 83d clause which was framed in the same terms as the 50th clause of the law of 1816, under which the prisoners were tried, it is stated "that it was not wished that slaves should preach, but the indefinite wording of the present clause would prevent a slave from praying aloud amidst a few of his fellow slaves, for *it had been declared in a former case in England, that the mere repeating of the Lord's Prayer constituted religious teaching.*"

As soon as I receive the information called for by your Lordship, I shall place the several documents in the hands of the Attorney-general, and then forward the same when complete to the Colonial Department.

I have the honour to be, &c.

(signed) BELMORE.

— (6.) —

COPY of a Despatch from the Earl of *Belmore* to Viscount *Goderich*.

My Lord,

King's House Jamaica, 23d August 1831.

I HAVE the honour to enclose for your Lordship's information, copies of all the correspondence which has taken place on a subject of a complaint made by Mr. Knibb, a Baptist missionary, against the chief magistrate of Westmorland; and I trust your Lordship will be of opinion that I have acted in strict conformity to your Lordship's instructions of 25th of April last.

I have, &c.

(signed) BELMORE.

LETTER from *W. Bullock*, Esq. to the Honourable Mr. *Attorney General*.

Sir,

King's House, 18th July 1831.

I HAVE the honour to enclose for your information the copy of a despatch from the colonial department of the date stated in the margin. I also enclose communications from the Honourable David Finlayson, Thomas William Harden, Esq. and Mr. Knibb, to whom copies of Lord Goderich's despatch have been furnished; and his Excellency the Governor requests that you will give these documents your best consideration, and act according to the instructions contained in the despatch from the Secretary of State.

I have, &c.

(signed) *W. Bullock*.

25 April 1831.

LETTER from *David Finlayson, Esq.* to *W. Bullock, Esq.*

Sir,

Savanna la Mar, 16th June 1831.

I HAVE received your favour, enclosing copy of Lord Goderich's letter; I regret that I cannot give a more satisfactory answer to the complaint against Samuel Swiney, than what was contained in my letter of the 5th October last.

I have, &c.

(signed) *David Finlayson.*LETTER from *Thomas William Harden, Esq.* to *William Bullock, Esq.*

Sir,

Savanna la Mar, Westmorland,

18th June 1831.

BY the desire of the custos I now enclose you copy of the proceedings on the trial of Samuel Swiney, on which occasion having coincided with him, I have nothing further to offer in compliance with his Excellency's orders.

I remain, &c.

(signed) *Thomas William Harden.*

Jamaica ss. } *Richard Pessoa*, of Savanna la Mar in the parish of Westmorland, carpenter, being duly sworn maketh oath and saith, that on the nights of Tuesday and Thursday the 6th and 8th of this instant month, he this deponent was present and saw nightly meetings and collection of sundry persons, slaves and free condition, hereinafter mentioned, engaged in preaching, teaching and singing psalms and hymns in a house in Great George-street in the town of Savanna la Mar aforesaid, opposite John Conery the chief constable's house, and at present occupied by William Knibbs, Baptist missionary, but in his absence and on many other days and times besides the before-mentioned, when and where they made a great noise, to the annoyance and disturbance of all the neighbours, keeping it up until nine or ten o'clock each night; and deponent saith that the names of the persons of free condition are, Mary Vanhorne, brown; Helen Collern, white; Mary Russell, brown; Mary Carey, brown; Ann Dobson, brown; Marianne Drachett, sambo. And those of slaves, Sam Swiney, belonging to Aaron De Leon, junior; Diana Swiney, belonging to Thomas Salter; Bob, belonging to Thomas Harper; Jack, belonging to Mrs. Robertson; Ruthy, belonging to Miss Sievright; Patience, belonging to Jane Woorhill, and Wright, belonging to Amity estate.

And deponent further saith that the above-named Mary Vanhorne took the most active part in the ceremony, officiating as minister and giving out the hymns, after which followed a prayer alternately by the slaves Samuel Swiney and Diana Swiney, contrary to the Act of this island, and against the peace, &c. &c.

(signed) *Richard Pessoa.*

Sworn before me this 17th day of April 1830.

(signed) *Thomas William Harden.*

HEADS OF EVIDENCE ON Summary Trial of *Samuel Swiney*, a Negro man
Slave to Aaron De Leon the younger.

Peace Office, Savanna la Mar, 22d April 1830.

Mr. *Richard Pessoa*, sworn :—*Vide* his affidavit for substance of evidence ; says incoherent expressions, such as following, made use of by Sam Swiney : “ Oh Lord, Lord God, Jesus my Saviour, Oh God, &c. &c.” without any connection, which examinant thought was a mocking of religion ; that at the meetings Mr. Knibb was not present, he was out of the parish ; the meetings were scarcely over before nine o'clock ; the bell generally had done ringing before they were up ; cannot positively state which of the nights stated in the affidavit that Wright belonging to Amity was there ; but he was there one of those nights, and before then had often seen him at the same meeting, but never particularly took a memorandum of the nights ; Wright was not there the night of the 11th April (Easter.)

Mr. *Thomas A. Mitchiner* sworn :—Corresponds with the above, being in company with Pessoa.

Mr. *William Simeon*, sworn :—To the same effect.

Mr. *Alexander Gibson*, sworn :—To the same effect.

Mr. *Conery*, head constable, sworn :—Says that he lives opposite to Mr. Knibbs, the Baptist missionary ; did not hear any riot or noise on the nights alluded to, and that they were over before the bell rung at night.

Mr. *Qualo*, shopkeeper, sworn :—Deposed to the same effect.

Mr. *Gibson* the elder, blacksmith, sworn :—Lives next door to Mr. Knibb ; heard no noise, and believes the meetings were generally over before eight o'clock, or before the bell rung.

(COPY ORDER OF JUSTICES.)

Jamaica ss. } AT the court of the town of Savanna la Mar, on Thursday the
Westmorland. } 22d day of April 1830.

Before the Honourable David Finlayson, Custos, and Thomas William Harden, Esq. Justice of the Peace.

Sam Swiney, a negro man slave belonging to Aaron De Leon the younger, was tried for preaching and teaching at improper hours in the evening to slaves and free persons, and found guilty on the testimony on oath of Richard Pessoa, Thomas A. Mitchiner, William Simeon and Alexander Gibson the younger, free persons of colour, under the Slave Act, and sentenced to a fortnight's labour in the workhouse, and to receive a flogging of 20 lashes on going in.

By Order,

(signed) *J. R. Brown*, Clerk.

Directed to

Archibald Weir, Superintendent of the Westmorland Workhouse.

LETTER from the Rev. *W. Knibb* to *J. Bullock*, Esq.

Sir,

Falmouth, 5th July 1831.

I TAKE the earliest opportunity of giving every information I possess relative to the case of Samuel Swiney, as requested by Lord Goderich in his despatch of the 25th of April. Had I supposed that his Excellency the Governor was waiting my restoration to health that he might have obtained further particulars, I should have communicated with you long ere this.

Of the nature of the meeting at which Samuel Swiney attended, I merely state that it was what is termed a prayer-meeting among Protestant Dissenters ; it was a special one, held by a few persons at my house, to implore the Divine Being on my behalf, being then dangerously ill in Falmouth. The only religious

religious exercises in the meetings, and in *this*, were reading the scriptures, *singing hymns*, and extemporaneous prayers by two or three members of the church. That there was neither preaching or teaching, and that the only part which Samuel Swiney took was on his knees praying for a short time. I beg to refer to Miss Vanhorn, Miss _____, Mrs. Rose and the sufferer Samuel Swiney; I beg leave also distinctly to aver, that not the smallest particle of evidence was adduced on the trial to prove that there was either preaching or teaching. Pessoa distinctly stated that he was on his knees, William Simeon has distinctly said that he prayed out of his lips on his knees. The ground on which he was convicted was, that preaching and praying out of the lips without a book were the same. To corroborate this I beg to refer to the Rev. William Crooks, and to Aaron De Leon, Esquire, the owner; the former is at present at Bath, in St. Thomas's in the East; the latter gentleman resides at Savanna la Mar; both were, with many other gentlemen, present, and heard the whole proceedings.

So in original.

In reference to the time at which the meeting closed, I refer to the evidence of Mr. Gibson, who lived next door, and to that of Mr. Couran the head constable, together with that of Mr. Qualo, who was visiting the latter gentleman on the Sabbath evening referred to. This will also apply to the charge, that so great a noise was made that it disturbed the whole of the neighbourhood. Who Gibson who I lament to say is since death, and who was a former owner of Sam Swiney, deposed on oath that he generally retired to rest between the hours of seven and eight, and that the meeting was over prior to this time, and that not the least disturbance was made; that he never knew the house more quiet; his house is not 20 yards off.

So in original.

Mr. Couran stated that he was in the open piazza in front of my house; that, as head constable, had there been any noise he should have quelled it; but that there was not. This evidence Mr. Qualo fully corroborated; these gentlemen are still alive and in Savanna la Mar. A female of the name of Jane Lake lived on the other side of the house. Her evidence, if required, can be obtained. To prove that Messrs. Gibson, Couran and Qualo kindly appeared and stated the substance of what I have written, refer to the Rev. William Crooks, and Aaron De Leon, jun.

In reference to the fourth charge, I refer to the six free persons who were taken up, to prove that it was wilful falsehood. To them also I refer for proof that Messrs. Pessoa and Mitchener merely guessed who were there, by knowing the parties who usually attend the chapel; the jalousies of the house were closed, neither of them entered the dwelling, and therefore must have sworn at random. They knew that John Wright, a worthy brown slave belonging to Amity estate, attended the chapel; that he had been most cruelly and inhumanly flogged in the streets of Savanna la Mar some time previous, for preaching, and on that I conceive they filled their affidavit that he was there.

In reference to my endeavours to convince Mr. Finlayson and Mr. Harden that there was a manifest difference between praying and preaching, I have merely to say that I used every effort, but in vain, that I was treated in the most ungentlemanly manner, and that he (Mr. Finlayson) stopped me, had the court cleared, told me it was nonsense to make the difference, that they were the same, and that if it was done again he would take away my licence; if this be contradicted I refer to the Rev. Mr. Crooks and Aaron De Leon, Esquire.

In reference to the punishments, I have only to add that it was inflicted with a cart-whip, that the man's back parts were indecently exposed, that the number of 20 were given with due severity, that the man was held firmly down by four negroes, and that when the number was completed the supervisor of the workhouse (Mr. Weir) said that he would flog the person who was appointed to inflict the punishment, because he did not flog with more severity! As I stated, the man was chained to a convict, and was sent to mend the road over against his own door, who appeared to me to add insult to cruelty.

Should his Excellency require any explanation of any part of this, I shall most cheerfully give it. The truth of this I stand ready to depose on oath.

I remain, &c.

(signed) *William Knibb.*

P.S. For proof that Mr. Finlayson stated that an owner's permission to attend a prayer-meeting must be in writing, refer to the owner, Aaron De Leon, Esq.

COPY of a LETTER from *Hugo James, Esq.* to *William Bullock, Esq.*

Sir,

Spa Town, 9th August 1831.

I HAVE the honour to acknowledge the receipt of your letter dated 18th July ultimo, enclosing a copy of the summary proceedings before two magistrates, in the case of the slave Samuel Swiney, together with letters from Mr. Finlayson, Mr. Harden and Mr. Knibbs on that subject, dated 16th and 18th June and 5th July 1831, accompanied also by a despatch from the Secretary of State, in which I am desired to report to his Excellency the Governor my opinion on those proceedings.

A complaint was preferred against a slave named Samuel Swiney under the 50th clause of the Slave Law of 1816, which enacts "That any slave found guilty of preaching and teaching as Anabaptists or otherwise, without a permission from their owner and the quarter sessions of the parish in which such preaching or teaching takes place, shall be punished in such manner as two magistrates may deem proper, by flagellation, or imprisonment in the workhouse to hard labour;" on this complaint several persons were examined, and the slave was sentenced to a fortnight's labour in the workhouse, and to receive a flogging of 20 lashes. The first observation which I beg leave to offer is, that such sentence was illegal, as it exceeded the authority delegated by law to two magistrates, who were alone justified in inflicting one or other of the punishments pointed out by the clause of the law, and not both.

The offence with which the slave was charged, at least as far as a summary jurisdiction before two magistrates could be exercised under the 50th clause, was that of preaching and teaching without a permission from the owner and the quarter sessions of the parish, and has no reference whatever to the hour of the evening or to its occasioning any annoyance or disturbance to the neighbours. If the latter were experienced, the person at whose house such unlawful assembly of slaves was permitted, subjected himself to a prosecution at the quarter sessions, and if convicted thereof to a punishment by fine of 100 *l.*, or imprisonment not exceeding six months under the 38th clause.

The evidence however which was given before the magistrates, appears to me to have been totally insufficient to warrant a conviction. A mere ejaculation of the words "Oh Lord, Lord God, Jesus my Saviour, Oh God," deposed to by Pessoa as alone constituting the part which the slave Sam Swiney took at the meeting, cannot in my judgment amount to the offence of preaching and teaching, which the legislature was desirous of suppressing in order to guard against the pernicious consequences resulting from ignorant persons attempting to expound the scriptures or promulgating erroneous doctrines.

The evidence also distinctly negatived so much of the charge as related to the annoyance which the neighbourhood experienced by the meeting not being over till past nine or ten o'clock; this however as I have already stated, formed no part of the inquiry in respect of which the two magistrates were invested with a summary jurisdiction.

I have, &c.

(signed) *Hugo James.*

— (7.) —

COPY of a DESPATCH from Viscount *Goderich* to the Earl of *Belmore*.

My Lord,

Downing-street, 15th November 1831.

I HAVE received your Lordship's despatch of the 23d August last, enclosing to me the further documents, which, in compliance with my instructions, your Lordship had obtained in elucidation of the case of the slave Samuel Swiney, a member of a congregation of Baptists, whom Mr. Knibb, the Baptist missionary, had stated to have been sentenced by two magistrates, Messrs. Finlayson

son and Harden, to be flogged and confined to hard labour, in chains, for uttering a prayer at a meeting of the congregation.

I have already, in my despatch of the 25th of April, recapitulated the circumstances of this case as I collected them from the documents which your Lordship had transmitted in your despatch of the 1st of December 1830, and as the account so collected is borne out in every material particular by the evidence on the trial of the slave, which I have now received, I need do little more than refer your Lordship to the view which I took in my former despatch of the proceedings of Messrs. Finlayson and Harden to explain the grounds of the instruction which it is the purpose of my present communication to convey.

Laying wholly aside the unsworn statement of Mr. Knibb, upon which my former views were partly founded, your Lordship will perceive that the facts sworn to are essentially the same as I assumed them to be on the faith of that statement, when it was uncontradicted by the parties whom it inculpated.

Richard Pessoa swore an affidavit on the 17th of April, and though he was examined *viva voce* at the trial five days afterwards, that affidavit appears to have been received as evidence. Passing over this irregularity, observe what his affidavit was.

He states himself to have been present, and to have seen nightly meetings of slaves and free people, engaged "in preaching, teaching and singing psalms and hymns," on the nights of the 6th and 8th of April at the house of Knibb, but in his "absence, and on many other days and times besides the before-mentioned, when and where they made a great noise, to the annoyance and disturbance of all the neighbours, keeping it up until nine or ten o'clock each night; and deponent saith that the names of the persons of free condition are, &c. (mentioning six names), and those of slaves Sam Swiney," &c. (mentioning five others). He adds, that "Mary Vanhorne took the most active part in the ceremony, officiating as minister, and giving out the hymns; after which followed a prayer alternately by the slaves Sam Swiney and Diana Swiney, contrary to the Act of this island."

The same person being examined on Swiney's trial, said that incoherent expressions, such as the following, were made use of by Sam Swiney, "O Lord; Lord God; Jesus, my Saviour; O God, &c. &c., without any connection, which examinant thought was a mocking of religion. The meetings were scarcely over before nine o'clock, the bell having generally done ringing before they were up."

The magistrates have stated in their report, that Mr. Thomas Mitchener was sworn. The account of his evidence is given in these words: "Corresponds with the above, being in company with Pessoa." Of Mr. William Simeon and Mr. Alexander Gibson, two other witnesses, it is merely said, "Sworn to the same effect."

Such was the evidence for the prosecution. Strangely as it is quoted, this much is evident; first, no specific day was mentioned on which Swiney was present. Secondly, Pessoa on the 17th of April declared that on each night the annoyance had been kept up until nine or ten o'clock; five days afterwards he swore that the meetings were scarcely over before nine. Thirdly, in his first affidavit he did not attribute to Swiney any expressions, nor even any direct participation in the alleged preaching or teaching; in his deposition he merely ascribed to him certain unconnected ejaculations. Fourthly, though he states himself to have been present, he does not say, nor is it probable, that he was within the house.

The evidence for the defence was as follows: "The head constable who lived opposite the house, did not hear any riot or noise on the nights alluded to, they were over before the bell rung at night." Quolo a shopkeeper is said to have deposed to the same effect. Gibson, a blacksmith, "lives next door to Mr. Knibb; heard no noise, and believes the meetings were generally over before eight o'clock, or before the bell rung."

No impartial man reading this evidence, could avoid the conclusion, that
480. there

there was no proof that in the terms of the Jamaica Statute, Swiney had been "preaching and teaching without a permission from his owner and the quarter sessions." The want of permission, which is of the essence of the crime, is not noticed in the evidence. Of preaching or teaching, there is absolutely no proof, unless certain ejaculations can be regarded as falling within the meaning of those words.

Had the crime been proved, Swiney might have been whipped, or he might have been imprisoned with hard labour; the magistrates condemned him to both.

The Attorney-general of Jamaica is clear in the opinion, that the conviction was illegal, and the punishments unauthorized.

Such being the circumstances presented for my consideration, I have felt that no choice was left me as to the course which I should pursue. It is impossible that any man can be more sensible than I am, to the irksome and painful nature of the duty, which has been more than once imposed upon me, of visiting with censure and disgrace persons whom it would be my first wish to maintain in the enjoyment of that respect, and in the exercise of that authority to which their station in society would naturally entitle them. But the principles of justice and toleration, and the interests of humanity must not be compromised, and there is no method of correcting such gross abuses of power as those which the present case discloses, except by the removal of the magistrates who have been guilty of them. I am therefore to convey to your Lordship the King's commands, to erase the names of Messrs. Finlayson and Harden from the commission of the peace.

I have further to instruct your Lordship to call upon the Attorney-general, to report, whether in his opinion there are grounds to sustain a prosecution against Richard Pessoa for perjury, and if so, you will direct him forthwith to institute one.

I have the honour to be, &c. &c. &c.

(signed) GODERICH.

—(8.)—

COPY of a Despatch from the Earl of *Belmore* to Viscount *Goderich*.

My Lord,

King's House, Jamaica, 11th January 1832.

REFERRING to your Lordship's despatch of 15th November, relative to the case of Samuel Swiney, I have adopted measures for issuing a new commission of the peace for the parish of Westmorland, in which the names of Mr. Finlayson, the late custos, and Mr. Harden, will not be included.

I shall, in compliance with your Lordship's instructions, call upon the Attorney-general to report whether in his opinion there are grounds to sustain a prosecution against Richard Pessoa for perjury, and if so shall direct him forthwith to institute one.

I have, &c.

(signed) BELMORE.

— No. 2. —

COPIES of all Communications received relating to the Adoption or Rejection, in the House of Assembly, of a Law for abolishing the practice of Punishing Females by the Whip in *Jamaica*.

(9.)—EXTRACT from the Minutes of the House of Assembly of Jamaica,
22d November 1831.

A MOTION being made, that a Committee be appointed to inquire and report on the expediency of abolishing the flogging of female slaves; and another motion being made, and the question being put, whether the matter proposed shall be debated :

Motion for a Committee to inquire into the expediency of abolishing the flogging of female slaves, negatived.

The house divided : the noes went forth.

Ayes 3.—Mr. Salmon, Mr. Beaumont, and Mr. Watkins.

Noes 25.—Mr. Mitchel, Mr. Barclay, Mr. Frater, Mr. Townshend, Mr. Hamilton, Mr. Leslie, Mr. Quarrell, Mr. Jones, Mr. Brown, Mr. Walker, Mr. Lynch, Mr. Lowndes, Mr. Crawford, Mr. Hodgson, Mr. Marshall, Mr. King, Mr. Brydon, Mr. Bernard, Mr. Berry, Mr. Yates, Mr. Turner, Mr. Guy, Mr. Stamp, Mr. Bayley, and Mr. Finlayson.

It passed in the negative.

JAMAICA:
SLAVE TRIALS AND PUNISHMENT.

RETURNS to an Address to His Majesty,
dated 23 March 1832 *pro*,

—(No. 1.)—

COPIES of all COMMUNICATIONS from *Jamaica*
relating to the Trial of *George Anle* and *Samuel*
Swiney, Negro Slaves, for certain alleged
OFFENCES relating to RELIGIOUS WORSHIP.

—(No. 2.)—

COMMUNICATIONS relating to the Adoption or
Rejection of a Law for abolishing the practice
of punishing Females by the Whip.

(*Mr. Fowell Burton.*)

Ordered, by The House of Commons, to be Printed,
24 May 1832.
