

## A report of the trial of Arthur Hodge, Esquire

A REPORT OF THE TRIAL OF Arthur Hodge, Esquire, (Late one of the Members of His Majesty's Council for the Virgin-Islands) AT THE ISLAND OF TORTOLA, ON THE 25TH APRIL, 1811, AND ADJOURNED TO THE 29TH OF THE SAME MONTH; FOR THE MURDER OF HIS NEGRO MAN SLAVE NAMED PROSPER.

STENOGRAPHICALLY TAKEN BY A. M. BELISARIO, Esquire, One of the Grand Jury who found the Bill of Indictment; And certified to be impartial and correct by His Honor RICHARD HETHERINGTON, Esq. President of the Virgin-Islands, and President of the Court on this Trial.

MIDDLETOWN: PRINTED BY TERTIUS DUNNING.

1812.

*DISTRICT OF CONNECTICUT, TO WIT.*

L. S. BE it remembered, That on the first day of January, in the thirty-sixth year of the Independence of the United States of America, Samuel Eells of said District, hath deposited in this Office the title of a Book, the right whereof he claims as Proprietor, in the words following, *to wit*—“*A Report of the Trial “of ARTHUR HODGE, Esquire, (late one of the members “of His Majesty's Council for the Virgin-Islands) “at the Island of Tortola, on the 25 th April, 1811, and “adjourned to the 29 th of the same month, for the murder “of his negro man slave PROSPER. Stenographically “taken by A. M. BELISARIO, Esquire, one of “the Grand Jury who found the Bill of Indictment; “and certified to be impartial and correct by his Honor “ RICHARD HETHERINGTON, Esq. President of the Virgin-Islands, “and President of the Court on his trial. ”*

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H. W. EDWARDS, *Clerk of the District of Connecticut.*

*A true Copy, examined and sealed by me H. W. Edwards, Clerk of the District of Connecticut.*

### **CERTIFICATE.**

Having, by request of A. M. Belisario, Esq. the reporter of the Trial of Arthur Hodge, Esq. (late one of the members of His Majesty's Council for the Virgin-Islands,) for the murder of his negro man slave named Prosper, carefully examined the manuscript, by him stenographically taken, and prepared for the press, containing all the documents, arguments, testimony and proceedings in the said trial—Do hereby certify, that to the best of our recollection, and belief, the same is, not only impartially reported, but is altogether correct.

*Tortola, 25 th, June, 1811.*

*(Signed) RICHARD HETHERINGTON, President of the Virgin-Islands, and President of the Court on said Trial.*

Attest.

*( Signed ) William Gordon, Secretary to his Majesty's Council, and Clerk of the Cro?vis for the Virgin-Islands.*

### **PREFACE.**

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THIS Trial, which I have undertaken to usher i?? to the world, will, I am persuaded, be esteemed one of the most important that ever attracted or engaged the public attention; I leave to be collected from the very able speeches of the learned Counsel, the moral and political effects, this report is calculated and likely to produce; on my part, I trust, it will be deemed sufficient that I give proofs of impartiality and correctness, which the certificate on the preceding page, cannot fail completely to establish.

I can, with confidence, affirm that my report, as far as it regards the examination of witnesses, law references and pleadings, is scrupulously correct: the very interesting *Depositions* and other papers and documents have been carefully copied, from the originals in the possession of the Secretary of the Island and Clerk of the Crown, who has attested the above mentioned certificate.

My endeavors were likewise exerted to follow minutely the elaborate, the eloquent speeches of the learned pleaders, but, in that attempt, I fear I may in some degree have failed—of them and of the public I entreat indulgence, when I shall be found to have fallen short of those appeals in Court, which it may be truly said, electrified the audience and produced general admiration.

*Tortola, 28th June, 1811.*

### **LETTER FROM WILLIAM COX ROBERTSON, Esq.**

TO WM. GUMBS CHALWILL, ESQ.; HENRY MAURICE LISLE, ESQ.; *and* WM. ROGERS ISAACS, ESQ. *three of his Majesty's Justices of the Peace, for the Virgin-Islands: —*

Gentlemen,

I HAVE received information of a highly important nature. I request you will accompany me to a place, where I think it necessary a deposition should be taken.

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I am Gentlemen,

Your most obedient servant, WM. COX ROBERTSON.

*Tortola, 4 th March, 1811.*

8

Virgin-Islands, Tortola, ss. Perreen Georges ' *Deposition.*

*Before the Hon. George Martin, Esq. one of His Majesty's assistant Justices of the Court of Common Pleas for said Islands, Daniel Ross, William Gumbs Chalwill, Henry Maurice Lisle, and William Rogers Isaacs, Esquires; all of them His Majesty's Justices, assigned to keep the peace, &c. &c. within and for the Virgin-Islands, aforesaid.*

Personally appeared Perreen Georges, of the said island of Tortola, a free woman of colour, who being duly cautioned to speak the truth, and who having declared she fully understood the nature of an oath; and being sensible of the pains and penalties inflicted for perjury, made oath upon the Holy Evangelists of Almighty God, and deposed, as follows: That from about five years ago, and until about a week after the death of the late Mrs. Ann Hodge, the last wife of the Hon. Arthur Hodge, of the said island of Tortola, Esq. she resided off and on, but generally on the estate called Belle Vue, belonging to the said Hodge; that during the said period of time, the said Arthur Hodge was guilty of repeated and excessive acts of cruelty towards his slaves on said estate, amongst which, falling under her immediate view, she notices the following, viz. That a slave, called "Tom Boiler," between there and four years ago, was by order of the said Hodge, laid down and cart-whipped without intermission for at least an hour; that the said Arthur Hodge stood by and saw it done; and that she this deponent also was present; that when the said negro slave "Tom Boiler," after the infliction of said punishment attempted to rise, he could not stand, but was taken up and carried to the sick-house, from where he never came out, but *died* in about a week after said cart-whipping, and as this deponent believes in consequence

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thereof; that immediately before said cart-whipping, said slave was stout, hale and hearty, and capable of doing his work; and that to her knowledge no Doctor was called in to said slave.

And further this deponent saith, that soon after the death of the said Tom Boiler, another slave belonging to the said Hodge was by his order and in his presence, and in the presence of her this deponent, laid down and for more than one hour was cart-whipped without stopping (or intermission); that the name of said last mentioned slave was Prosper, that after said cart-whipping he was taken up by order of said Hodge with his hands tied behind his back, lashed to a tree, and said Hodge then ordered the driver to use close quarters, meaning thereby, according to his usual expression, which she understood, to shorten the whip; that in this situation the said Prosper in presence of said Hodge was beaten until he fainted, his head hanging down backwards, and no longer able to bawl: 10 when this deponent no longer able to bear such a sight left the window where she had been standing. That this cruelty took place at the works; that the said Prosper was carried to the sick-house on the hill, where, within a fortnight he died, as this deponent believes, in consequence of said cruelty. And further this deponent saith that about three years ago to the best of her remembrance, a young slave named Cuffy, was, by order of said Hodge, and in the presence of this deponent, laid down and constantly cart-whipped for more than one hour, without stopping, receiving *at least*, to her belief, two hundred lashes; that he was cut to pieces; and had no black skin upon him remaining from his hips to his hands; that this cruelty was inflicted at the works; that he was carried from thence to the sick-house on the hill, where he died within a week; that to her knowledge, no Doctor was called to him, and that he was in health doing his work, and strong before the flogging.

That this deponent hath known the said Hodge to order, at different times, kettles of boiling water, prepared for the purpose of pouring said water down the throats of his negroes, who had offended him.

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That Margaret, the cook, and Else, a washer, were served so; that said Hodge said they were going to poison Mrs. Hodge and the children, and he would put an end to them—that this deponent did not see the boiling water poured down their throats, because 11 she had not the heart to be present; but heard the screams of Margaret, and saw both Margaret and Else running afterwards with scalded mouths, &c. That they lived sometime after in a miserable condition, always complaining of their stomachs until their deaths, that they never got better, but died.

That the day Margaret died, this deponent went into the kitchen where Margaret was, and observing she was stupid, told her she was so, and asked her what was the matter.

That Margaret then pulled an handkerchief off her head, and shewed deponent two very severe wounds in her head, which she told deponent said Hodge had given her. One of which wounds was in the forepart, and the other in the hind part of her head, that in the former, she could have laid her three fingers; upon which the deponent desired said Margaret to leave off her work, and deponent would do it, and advised her to eat some rice which deponent offered her; that said Margaret was unable to do so, but soon after fell on her face. She was carried into the sick-house, and died that evening. And some time before the death of Margaret \* \* \* \* That this deponent in passing the sick-house saw a child, about ten years of age, named Sampson, with the skin all off; that she enquired of the sick nurse what was the matter with said child, in the name of God; that the sick nurse shook her hand at her, and told her to go away, 12 that she did not wish her master to know the child had been seen; that this deponent made enquiry concerning said child, and learnt by general report on the estate, from the negroes, that said child had been by order of said Hodge, dipped into a copper of boiling liquor.

( *Signed* ) PERREEN her X mark GEORGES.

*Sworn to, this 4th day of March, in the fifty-first ,year of his Majesty's reign.*

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— *Before us,*

*Signed*— George Martin, A. J.

D. Ross.

William G. Chalwill.

Henry M. Lisle.

William R. Isaacs.

Virgin-Islands, Tortola, *ss. Affidavit and Recognisance of WILLIAM COX ROBERTSON, Before the Hon. George Richardson Porter, the Hon. Abraham C. Hill, the Hon. Maurice Lisle, the Hon. George Martin, Daniel Ross, Francis Harrigan Stout, William Gumbs Chalwill, Henry Maurice Lisle, and William Rogers Isaacs, Esquires.*

13

Personally appeared William Cox Robertson of said Island of Tortola, Esq. who being duly sworn on the Holy Evangelists of Almighty God, deposes, and saith, that he hath probable cause to suspect, and doth suspect that the Hon. Arthur Hodge of said Island of Tortola, Esq. hath wilfully, feloniously, and of his malice aforethought, murdered the following negro slaves, late his property, *to wit.* Tom Boiler, Prosper, Cuffy, Margaret and Else, by beating, wounding, and evil treating them, in so violent, shocking and cruel a manner, that they each, and every of them, the said negro slaves, died in consequence thereof.

WILLIAM COX ROBERTSON.

*Sworn to this 5th day of March, 1811.*

— *Before us,*

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George R. Porter,

Abraham C. Hill,

Maurice Lisle,

George Martin,

D. Ross,

Francis H. Stout,

William G. Chalwill,

Henry M. Lisle,

William Rogers Isaacs, ( *On the back.*)

*Memorandum,*

On the fifth day of March, 1811, the within named William Cox Robertson appeared, and entered into B 14 recognisance in the sum of one thousand pounds, current gold and silver money, to appear at the adjourned Court of Sessions, to be held in this Island, and prosecute the within mentioned complaint.

Taken before me in presence of all the within signed Magistrates.

GEORGE R. PORTER.

WARRANT OF COMMITMENT.

Virgin-islands, Tortola.

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*To the Deputy Provost Marshal of the Virgin-Islands, or, in his absence, to his Acting Deputy, and each, and every Constable of the Islands aforesaid —*

GREETING: —

Whereas complaint under oath hath been made and exhibited before us, the Hon. Richard Hetherington, Esq. the Hon. George Richardson Porter, Esq. the Hon. Abraham Chalwill, Esq. the Hon. Maurice Lisle, Esq. the Hon. George Martin, Esq. Daniel Ross, Esq. Francis Harrigan Stout, Esq. Joseph Harrigan, Esq. James O'Neale, Esq. William Gumbs Chalwill, Esq. Henry Maurice Lisle, Esq. and William Rogers Isaacs, Esq. each and every of us, His Majesty's Justices of the Peace, in and for the Virgin-Islands, that, The Hon. Arthur Hodge of the said Island of Tortola, 15 Esq. did feloniously, wilfully, and of his malice aforethought, beat, wound, and evil treat the following negro slaves, late the property of him, the said Arthur Hodge, *to wit* . Tom Boiler, Prosper, Cuffy, Margaret and Else, in so violent, shocking and cruel manner, that each, and every of them, the said negro slaves did die, in consequence of such beating, wounding, and evil treating by them severally received from the said Arthur Hodge.

These are therefore in His Majesty's name, to charge, command, and require you, any, or either of you, forthwith to apprehend the said Arthur Hodge, and him to bring before us, or any, or either of us, His Majesty's Justices of the Peace, aforesaid, in order that he the said Arthur Hodge may be dealt with according to law.

Given under our several and respective hands and seals, at Tortola, aforesaid, this 5th day of March, in the fifty-first year of his Majesty's reign.

Richard Hetherington, ( *LS.* )

George R. Porter, ( *LS.* )

Abraham C. Hill, ( *LS.* )

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Maurice Lisle, ( LS.)

George Martin, ( LS.)

D. Ross, ( LS.)

Francis H. Stout, ( LS.)

Joseph Harrigan, ( LS.)

James O'Neale, ( LS.)

16

William G. Chalwill ( LS.)

Henry M. Lisle, ( LS.)

William Rogers Isaacs, ( LS.)

Virgin-Islands, Tortola, ss. STEPHEN M. KEOUGH'S *Deposition,*

*Before the Hon. George Richardson Porter, Esq. the Hon. Abraham Chalwill Hill, Esq. the Hon. George Martin, Esq. Daniel Ross, Esq. Francis Harrigan Stout, Esq. William Gumbs Chalwill, Esq. Henry Maurice Lisle, Esq. and William Rogers Isaacs, Esq. each and every of them His Majesty's Justices of the Peace, within and for the Virgin-Islands, aforesaid.*

Personally appeared, Stephen M. Keough, formerly of the Island of Tortola, late of the Island of St. Croix, and at present resident in the Island of Tortola, aforesaid, planter; who being sworn on the Holy Evangelists of Almighty God, deposeth, and saith, That in the month of September, in the year of our Lord one thousand eight hundred and five, he resided at Paraquets Bay, in the East-End division of the said Island of Tortola, bordering upon the estate of the Hon. Arthur Hodge, of the aforesaid Island of Tortola, Esq. and

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though not in his immediate 17 employ, was engaged by him to inspect his estate; that the crop in that year, about the first of January following having begun,

Welcome, a slave about twenty-five years of age, being a hunter, belonging to said Hodge, was sent by him, in search of some run-away negroes, and exhibited his pass for such service to this deponent; that after said slave, Welcome, had hunted four or five days, he returned home unsuccessful in his pursuit, and in consequence thereof was laid down by said Hodge's order, and had a severe cart-whipping inflicted upon him; that the said slave, Welcome, was then *immediately* sent-out hunting a second time, and in a few days, again-returned home as formerly unsuccessful, when, with his old wounds from the before mentioned cart-whipping, uncured, he was a second time by order of said Hodge, laid down and severely cart-whipped upon the former wounds. That said Welcome was then immediately by said Hodge sent out hunting a *third* time, in the state he then, of course was, and again as formerly returned unsuccessful in a few days, and was then again cart-whipped severely by order of said Hodge, and put in very heavy irons, with a pudding on each leg, and a crook round his neck, and some nights was by deponent seen in this condition, put for the night in the bilboes, or stocks; that he was allowed little or no diet, and consequently became so weak, that he could scarcely walk. That about this time B 2. 18 said Hodge asked him, this deponent, to buy said slave Welcome, and offered to sell him for five joes, (that is forty dollars,) that previous to said cruelty, inflicted on said slave, Welcome, this deponent believes he was worth more than forty joes, but at the time said Hodge offered to sell him to deponent, he, this deponent, would not have given him two joes for him, as he was certain said slave could not live, in consequence of said ill treatment. That this deponent therefore refused to buy said slave, Welcome, but told said Hodge, he had no objection to taking him to Paraquets Bay, and keep him for a day or two. That he, this deponent left said Hodge's house, and told said slave, Welcome, to come on; that said slave, Welcome, proceeded as well as he could in the state he was in, and reached about half way down the hill, when he declared himself unable to proceed any further; that in consequence of his wounds from said cartwhippings, being unable

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to sit down, he laid down in the road on his belly; that this deponent had seen the flesh from said wounds, sticking to the seat of his, the said slave's breeches, from the sores formed on his posteriors, in consequence of said cart-whippings, repeatedly inflicted as aforesaid. That deponent proceeded home, and left said slave unable to proceed, and in the condition aforesaid. That he was informed that said Hodge, learning that said slave, Welcome, did not proceed with the deponent to Paraquets 19 Bay, had him that night brought home, and in the state he was then in, cart-whipped him immediately.

That he, this deponent went the next morning to said Hodge, who said he knew nothing of said slave, and had not seen him; that he this deponent when he last saw said slave, Welcome, was convinced he could not live, that he never after saw the said Welcome, and is sure he died in consequence of the cruelties aforesaid.

That at different periods of time, he, this deponent has lived as a manager in the employ of said Hodge, on his estate in said Island of Tortola, called Belle Vue; that during his residence on said estate, the said Hodge was in the practice of committing dreadful and excessive acts of cruelty towards his slaves; that in the year of our Lord one thousand eight hundred and seven, after the twenty-seventh day of March, in that year, that being the day on which said deponent went to reside on said estate, two negro slaves, Margaret and Else, were sent by said Hodge, to this deponent, naked as they were born, very severely cut by the cartwhip, and chained together, with orders to put them into the field. That he this deponent had previously heard the said Hodge say that said Margaret and Else should not live long, but that he would put an end to them, for striving to take the lives of his innocent babes. That when said slaves, last named, were so sent to this deponent, he understood that said Hodge 20 had had boiling water poured down the throat of said Margaret, and that he, this deponent, saw that her mouth and under-lip were scalded; that both Margaret and Else, aforesaid, soon after died, and as he adds, very shortly, as he believes in consequence of said treatment; and that they were previously and immediately before said treatment in good health.

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And further this deponent saith, that another negro slave, about nineteen years of age, was by order of said Hodge very severely cart-whipped, and put in heavy irons, crook puddings, &c. and allowed little or nothing to eat. That he was burnt in the mouth with an hot iron, and that he, this deponent, saw him in consequence thereof, with his mouth all raw, and that he shortly after died; and as this deponent believes, in consequence of said treatment; that the name of said slave last mentioned, was Jupiter. That deponent did not see him burnt, but heard it was done by order of said Hodge, but saw his mouth as above described; that this took place about three months after Mr. Hodge's duel with Lawyer Simpson. That as abovesaid, this deponent went to live on the said estate of the said Hodge on the twenty-seventh day of March, in the year of our Lord, one thousand eight hundred and seven, for the second time; that he saw a new negro slave, the property of said Hodge, whose name he is not certain of, but he believes to be Tom, Tommy or Thomas, cart-whipped in a most cruel manner in the presence of said Hodge; that he only lived 21 two or three days after; that he, this deponent, saw said slave when dead, taken out of the sick-house all raw, and carried away on a board to be buried, and is sure that he died in consequence of said treatment, and not in consequence of any thing else.

That deponent was seldom present when the severe cart-whippings were given to the negroes, but has seen them much mutilated after the beatings, and known several, nay, many to die in consequence thereof. That on deponent's coming into the yard of said Hodge when he was present, inflicting such cruelties, in the last mentioned, and other instances, the whip has stopped until his departure, after which he has heard it going on until he has reached the works, and sometimes for an hour after. That particularly in the instance of the said new negro, Tom, Tommy or Thomas, he heard the whipping going on, when about half way from the works up to said Hodge's dwelling house, called Belle Vue; that immediately on his appearance in the yard, where said Hodge was, seeing said new negro beaten, the whip stopped, but as soon as he, this deponent, left said yard, the whipping recommenced, and continued without intermission (though deponent stopped, listening to it about one quarter of an hour upon the road) un-until he reached

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the works, and sometime after, being one hour or more; that said cart-whipping of said last mentioned slave was not three weeks from said twenty-seventh day of said March, when this deponent 22 moved to said estate — And further this deponent saith that another slave, the property of said Hodge, called little Simon, has been in presence of said Hodge, and in the presence of this deponent, cart-whipped at what said Hodge calls short quarters for an half hour at least at one time, repeatedly: that the lips of said Simon were burnt as this deponent perceived, by their rawness; but never heard said Hodge enquire how they became so, or enquire or complain respecting other negroes who bear similar marks of cruelty. That a free man, named Peter, was hired by said Hodge, for his cloaths, victuals, and to the best of this deponent's remembrance (who signed the agreement as a witness) two joes per month, to work as a cooper, on said Hodge's estate. And that he, this deponent, has seen said Hodge in his presence, cart-whipping said Peter repeatedly, at short quarters, and every other way, and put chains upon him, and had him worked upon his estate with the field negroes; that Peter died as this deponent believes, in consequence of the ill treatment of said Hodge, and nothing else.

And this deponent saith, that the term *close quarters*, used by said Hodge, means the most cruel and severe mode of cart-whipping, as the whip is shortened and goes all round the body, cutting every part, particularly the stomach and belly, making no noise, which he believes to have been an inducement with said Hodge to practice it.

23

That another negro slave named Cuffy, the property of said Hodge, was by order of said Hodge, very severely and repeatedly cart-whipped, chained, &c. and in such a miserable condition, in consequence thereof, when this deponent left the estate of said Hodge, that he thought it impossible said last mentioned slave could ever recover; and that he died soon after, as this deponent believes, in consequence of said Hodge's cruelty aforesaid.

That he, this deponent has occasionally gone to the sick-house, belonging to said Hodge to put "Prisoners," (as said Hodge called his negroes who had offended him) in the Bilboes

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or Stocks, but that he was not able to stay inside of said house, owing to the offensive smell proceeding from the wounds occasioned by cart-whippings on negroes therein confined; that he has often seen the sick nurse washing and dressing such wounds as he considered corrupted.

And further, this-deponent saith that he hath known the said Hodge to order, and in his presence, and in the presence of him this deponent, the little small negro and mulatto children on his estate, about nine years of age, to be taken up by the heels and dipped into tubs of water, holding from fourteen to twenty gallons, with their heads downward, and with their heads under water, to be kept until they became stifled, then taken out and suffered to recover and breathe, and then again, immediately to be treated in the same 24 manner, and so repeatedly treated until this deponent hath seen them stagger and fall, when said Hodge hath ordered them to be taken up and suspended to a tree by their hands tied together, and in such situation cart-whipped for some time, *at close-quarters*, as he calls it; but that said Hodge was not aware that he, this deponent, or any other free person, was seeing such cruelty.

That Bella, a small mulatto child, reputed to be the natural child of said Hodge, by his female slave Peggy, (then about eight years of age, as this deponent believes) was repeatedly cart-whipped by order of said Hodge; and this deponent further saith, he hath more than once seen the said Hodge strike said child with a stick, upon her head, and break her head; and hath repeatedly seen him kick her so violently in the lower part of her belly, as to send her several feet on the ground, from whence, he, this deponent, thought she never again would rise.

That when he this deponent went to live with said Hodge, a slave named Cudjoe, was a smart active fellow, but being severely and repeatedly cart-whipped and otherwise ill treated by said Hodge's order, became weak and emaciated and unable to carry the Irons put upon him: that he died; and without any doubt of this deponent in consequence of the cruelty of said Hodge.

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25

That when he, this deponent, went the first time to live on said Hodge's estate, there was upon it a fine gang of able negroes, about one hundred or more in number, but that when the last wife of said Hodge died, that number was so reduced by cruelty, and absconding in consequence of cruelty, that negroes enough were not to be found on the estate sufficient to dig her grave, and that therefore this deponent, with Daniel Ross, Esq. one of his Majesty's Justices, now present, taking this deposition, assisted in digging the grave of the said Mistress Hodge; that from the length of time, this deponent cannot now remember all the names of the negroes who have died in consequence of the cruelties of said Hodge, but knows the number to be great; and that sometimes three and four have thereby died in the course of a day and night.

That another slave, named Gift, belonging to said Hodge, was working in the field in the forenoon, being a man-boy, and in chains, in the month of — in the year of our Lord, one thousand eight hundred and seven; that he had been severely cart-whipped before, and at that time was scarcely able to hold an hoe, and his wounds unhealed, when he was laid down in presence of this deponent by the driver, who said he had orders from his master, said Hodge, so to do, and again most severely cart-whipped, and died that night, as this deponent is certain, in consequence of said cruelty. C

26

That next morning he, this deponent, saw the negroes carrying his dead body uncovered on a piece of board to be buried, and saw that the body was dreadfully cut up by the cart-whip.—That this boy had been in good health, until he was cart-whipped and put in chains, and until then, had not complained of any indisposition; that on such occasions, no Doctor was called in, but from time to time, when negroes in this manner became missing, said Hodge desired him, this deponent, to mark them on the list board as runaway.

That during deponent's residence with said Hodge, he sent down three mules to Baugher's Bay, and took the tiles belonging to the heirs of Bezaliel Hodge, Esq. deceased; that when

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he, this deponent, saw the mules going down for said purpose, he brought the mule-boys to an account, as to where they were going, but they would not tell him, whereupon he, this deponent, as he had some days before been informed by one of Mistress Georges' negroes, of said Hodge's intention, relative to said tiles, not thinking it right, sent them back; in consequence of which, one of said mule-boys went to said Hodge, and told him of their being sent back by deponent, that thereupon the said Hodge came down and quarrelled with this deponent for so interfering with the mule-boys, saying at the same time, that he was sending them to Mr. Hills' for tiles; in consequence of which, the mule-boys went and brought the old tiles from out of the old 27 house belonging to said heirs of said Hodge on said Baugher's-Bay, which this deponent saw them do, assisted by a watchman belonging to said heirs, named Matthew, by looking at them through a spy-glass, from the mule-pen on said Hodge's estate; that said tiles were brought up to said Hodge's estate, and that he saw them by order, and in presence of said Hodge, put on the Copper-Hole Shed, belonging to said Hodge; that three mule loads of tiles were brought up that day, and enough afterwards to cover the whole of the said Copperhole Shed, or the greater part thereof.

And further this deponent saith, that said Hodge, while he lived with him, would occasionally have the draft cattle belonging to the heirs of said Bezaliel Hodge taken out of the pen of said heirs at Baugher's-Bay, before day, and would work them in carting sugar from his works to said Bay, and has made this deponent go to said Bay and tie the watchman belonging to said heirs, who was charged with the care of said cattle, and bring him up the hill to him, the said Arthur Hodge, when said Hodge, in this deponent's presence threatened said watchman to cart-whip him, if he heard he told of his, the said Hodge, so taking and using said cattle, and upon said watchman promising said Hodge not to tell the same, that said Hodge, in this deponent's presence, has given said watchman cornmeal and herrings to keep him secret.

( *Signed* ) STEPHEN M'KEOUGH.

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28

*Sworn to before us, his Majesty's Justices of the Peace for said Virgin-Islands, this 10<sup>th</sup> day of March, in the fifty-first year of his Majesty's reign; the said Stephen M'keough having first signed this, and the preceding eight pages in our presence.*

( *Signed* )

George R. Porter,

Abraham C. Hill,

George Martin,

D. Ross,

Francis H. Stout,

William G. Chalwill,

Henry M. Lisle,

William Rogers Isaacs.

PROCLAMATION.

Virgin-islands, Tortola. *One Hundred Joes reward, by the Hon. THOMAS THOMASSON, Esq. (Seal.) President of his Majesty's said Virgin islands, &c. &c. &c.*

Whereas complaint, under oath, hath been made before several of his Majesty's Justices of the Peace, within and for the Virgin-Islands, aforesaid, accusing the Hon. Arthur Hodge, of the said island of Tortola, Esq. of the crime of Murder; And, whereas, examinations, 29

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under oath, taken before several of his Majesty's said Justices of the Peace in support of said accusations, have been exhibited.

And whereas a warrant founded upon said complaint, and examinations have been granted by several of his Majesty's said Justices of the Peace, for said Islands, directed to the Deputy Provost Marshal of the Virgin-Islands, or in his absence to his acting Deputy, and to each and every the Constables of the Virgin-Islands, aforesaid, commanding each and every of them forthwith to apprehend the said Arthur Hodge, and him to bring before any or either of his Majesty's said Justices, to be on said complaint dealt with according to law.

And whereas the said Deputy Provost Marshal of the said Virgin-Islands, being absent, hath by his acting Deputy, received said Warrant against the said Arthur Hodge, and by him hath certified that he hath made strict and diligent search and inquiry for the said Arthur Hodge, in order to apprehend him by virtue of the Warrant aforesaid, but hath not been able to discover or find him, the said Arthur Hodge, and that he hath reason to suspect that the said Arthur Hodge is harboured and secreted by some person or persons in the Virgin-Islands, aforesaid:—These are therefore, in his Majesty's name, to charge and require each and every, his Majesty's liege subjects, to be aiding and assisting (whenever thereunto C 2 30 required) the Deputy Provost Marshal of the Virgin-Islands, aforesaid, and in his absence, to his acting Deputy, and each and every the constables of the Virgin-Islands, aforesaid, in making strict search for, and apprehending the said Arthur Hodge, in order that he may be brought to justice.

And these are further, in his Majesty's name, to forbid each and every his Majesty's liege subjects, to harbour, sustain or secrete the said Arthur Hodge, being accused as aforesaid, upon pain and penalty of what may fall thereon.

And whereas the council and assembly of these Islands, have authorized me to offer a reward for the apprehension of said Arthur Hodge; I do therefore, by virtue of said

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authority, hereby offer a reward of one-hundred Joes, to any person or persons who shall apprehend the said Arthur Hodge, and him deliver into the custody of the Deputy Provost Marshal of these Islands.

*Given under my Hand and Seal, this 12 th day of March, in the year of Our Lord, 1811, and of his Majesty's Reign, the fifty-first.*

THOMAS THOMASSON, *President.*

*A true Copy.*

William Gordon, *Secretary.*

31

*Writ of Habeas Corpus for the Provost Marshal, or his lawful deputy; returnable at 10 o'clock, March 16 th, 1811.*

*Filed March 16 th, 1811.*

William Gordon, *D. Secretary.*

Virgin-islands, Tortola.

GEORGE *the Third, by the grace of God, of the United Kingdoms of Great-Britain and Ireland, King, defender of the Faith, &c. To the Provost Marshal, or his lawful Deputy — Greeting.*

We command you, that the body of the Hon. Arthur Hodge, in your custody detained as it is said, together with the cause of the detaining, you have under safe and secure conduct before our beloved the Hon. Maurice Lisle, Esq. our senior Assistant Justice of our said Court of Common Pleas, and any other of our Assistant Justices of our said Court, at the CourtHouse, in the Road Town, at 10 o'clock in the forenoon of to-morrow the sixteenth

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day of this present month. To do and to receive all those things which our said senior Assistant Justice, and his Associate or Associates shall then and there consider of in this particular. And have you then and there this writ. Witness, the Hon. Maurice Lisle, Esq. senior Assistant 32 Justice of our said court, at Tortola, this 15th day of March, in the year of our Lord, 1811.

*Passed the Office.*

William Gordon, *D. Secretary.*

Virgin-islands, Tortola. Pursuant, and in obedience to the annexed Writ to me delivered, I appear before the Hon. Maurice Lisle, Esq. senior Assistant Justice of the Court of Common Pleas for the Virgin-Islands, aforesaid; the Hon. William Wallace, and the Hon. George D. Dix, Esquires, Assistant Justices of said Court, at the Court-House in the Road Town of Tortola, at ten of the clock in the forenoon of Saturday, this sixteenth day of March, instant; having there, under safe and secure conduct, (as in said writ is commanded) the body of the Hon. Arthur Hodge, said to have been detained in my custody in obedience to the following precept.

Virgin-islands, Tortola.

*To the Deputy Provost Marshal of the Virgin-Islands, or, in his absence, to his Acting Deputy, and to the keeper of the Common Gaol, for the Virgin Islands aforesaid —  
GREETING.*

33

Whereas, The Hon. Arthur Hodge of the said Island of Tortola, Esq. hath been brought before us, the Honorable George Richardson Porter, Henry Maurice Lisle, Francis Harrigan Stout, and William Rogers Isaacs, Esquires, each and every of His Majesty's Justices of the Peace, for the said Islands, by virtue of a warrant issued by the Hon. Richard Hetherington and others, His Majesty's Justices of the Peace for the said Islands,

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upon the information and complaint of William Cox Robertson, Esq. who therein upon oath saith, that he hath probable cause to suspect, and doth suspect that the Hon. Arthur Hodge, of said Island of Tortola, Esq. hath wilfully, feloniously, and of his malice aforethought, murdered the following negro slaves, late his property, to wit. Tom Boiler, Prosper, Cuffy, Margaret and Else, by beating, wounding and evil treating them in so violent, shocking and cruel a manner, that they, each and every of them, the said negro slaves died in consequence thereof.

These are therefore in His Majesty's name, to require and command you to take the body of the said Arthur Hodge, and him forthwith convey to the common gaol of these Islands, and him deliver to the keeper thereof, and you the said keeper, are alike required to receive the said Arthur Hodge, into your custody in said gaol, and him there safely to keep, until he be thence delivered by due course of law.

34

Given under our Hands and Seals, at Tortola, aforesaid, this fifteenth day of March, 1811.

( *Signed.* )

George R. Porter, ( *LS.* )

Henry M. Lisle, ( *LS.* )

Francis H. Stout, ( *LS.* )

William Rogers Isaacs, ( *LS.* )

*The Answer of William Bagnell, Deputy Prevost Marshal, by his attorney, R. G. Isaacs.*

Virgin-islands, Tortola. In the case of the *King vs. the Hon. Arthur Hodge, Esq.* I was yesterday morning, the fifteenth instant, called on to attend at the house of Francis

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Harrigan Stout, Esq. one of the Justices of the Peace for the said Islands, to sign the mittimus of the said Arthur Hodge.

The deposition of William Cox Robertson, Esq. and the warrant issued in consequence of that deposition, were read to the said Arthur Hodge, as was also the mittimus.

35

Mr. Hodge declared himself to be innocent of the charge laid against him.

GEORGE R. PORTER, J. P.

*March 16 th, 1811.*

*His Honor the President, Richard Hetherington Esqr's Charge to the Grand Jury, 15 th April 1811.— Delivered in Court on the 25 th April.*

Gentlemen of the Grand Jury.

By virtue of a special commission of Oyer and Terminer and general gaol delivery, under the hand and seal of His Excellency the Governor in Chief, you have been summoned and are now impanelled, as the Grand Jury of Inquest, for the Virgin-Islands.—So repeatedly, Gentlemen, have you discharged the duties of that important station, that it would be presumption in me to imagine you unacquainted with these duties; at this time it affords gratification to behold so respectable a collection of my fellow countrymen, assembled on the present occasion, and it cannot but be consolatory to myself and the rest of this Court, to feel from experience, an assurance that you will do every thing in your power to support the laws, and strictly by your indictments, agreeably to your oaths, to present every person guilty of offences, without partiality, favour, or affection.

36

The Government of the Virgin-Islands has too long, Gentlemen, been considered, not only weak, but perhaps pusillanimous by offenders; it has too long been believed so, and it is

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high time that the energy of the laws should be used to prove the contrary. Most of our magistrates have endeavored to carry the laws into just execution to prevent crimes *if possible*, being committed, and to punish offenders, as examples to others from doing evil. It is to be hoped they will meet every aid and encouragement in the righteous discharge of their duty, and that their sentences will be respected, and carried into proper effect; otherwise we need hold no Courts, but becoming in a state of insubordination, leave every man to assert his own rights, and maintain what he may call, his own privileges in the best way he can; for, Gentlemen, when the laws are trampled upon, and the magistrates defied, no good order or decorum can exist in society, but all must be confusion, and the worst of anarchy.

You will remember, Gentlemen, that you are not a jury to try offenders, but only to present offences, as they may be laid before you, or come to your knowledge, on behalf of the Crown. Should you need the assistance of the law officers on the present occasion, you have a right to call upon them for any information, which doubtless, they will either of them readily furnish you with. Consider, Gentlemen, that the peace, quiet, safety, and lives of the inhabitants, 37 ever rest in the hands of a Grand Jury, do your duty impartially, and trust for your reward to your own consciences, your country, and your God.

( *Signed* )

RICHARD HETHERINGTON, *President P. T.*

The Grand Jury consisted of,

John Allen,

Peter B. Arrindell,

A. M. Belisario,

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John Beel,

William Geo. Crabb,

John Carruthers,

John Vanterpool,

George Dyer,

James Grigg,

John Hanley,

John F. Lettsome,

John Mulloon,

Matthew Mulloon,

John Stephens, ( *Foreman.*)

George Nibbs,

William Ross,

William Rymer,

David Shearer,

William Thomas,

Thomas Watters,

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John Harrigan,

Richard King,

John Lettsome,

*Esquires.*

### **THE TRIAL OF ARTHUR HODGE, ESQ.**

Late one of the Members of His Majesty's Council for the Virgin-Islands—for the Murder of his Negro Man Slave, named PROSPER.

AT a Court of Oyer and Terminer, and General Gaol Delivery, for the Virgin-Islands, holden at the Court-House, in the Road-Town of Tortola, on Thursday, the 25th April 1811, —before his Honor,

RICHARD HETHERINGTON, Esq. *President, P. T.*

40

### **of His Majesty's Council.**

The Hon. Andrew Anderson, Esq.

The Hon. John Ferdinand Isaac Pickering, Esq.

The Hon. George Richardson Porter, Esq.

The Hon. George Davis Dix, Esq.

The Hon. Abraham Chalwill Hill, Esq.

His Honor James Robertson, Esq. *Chief Justice of the Court of Common Pleas.*

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Joseph Harrigan, Esq.

Francis Harrigan Stout, Esq.

William Gumbs Chalwill, Esq.

Thomas Dougan, Esq. and

William Rogers Isaacs, Esq.

The Grand Jury, consisting of the Gentlemen herein after named, found a Bill of Indictment against the said Arthur Hodge, Esq. for the wilful murder of Prosper.

*Grand Jurors.*

John Allen,

Peter B. Arrindell,

Abm. M. Belisario,

John Beel,

William G. Crabb,

John Carruthers,

George Dyer,

John Hanley,

John F. Lettsome,

John Mulloon,

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George Nibbs,

Matthew Mulloon,

William Ross,

William Rymer,

41

James Grigg,

William Thomas,

J. Vanterpool, senr.

John Harrigan,

John Lettsome,

David Shearer,

Thomas Watters,

John Stephens,

Richard King,

*Esquires.*

When John Stephens, Esq. was appointed Foreman.

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The Court being opened and Arthur Hodge set to the Bar, he was arraigned on the Indictment, which was then read by the Clerk of the Crown, (William Gordon, Esq) and was as follows, Virgin-Islands, Tortola, ss.

*At a Special Court of Oyer and Terminer and Gaol Delivery, for the Virgin-Islands, begun and holden at the Court-House in the Road-Town of the said Island of Tortola, on the ninth day of April, in the year of our Lord one thousand eight hundred and eleven, and in the fifty-first year of His Majesty's Reign, and adjourned from that time to Saturday, the twentieth day of the same month, April, and from the said twentieth day of said April, adjourned to Thursday this twenty-fifth day of the same month, April, and now thereon holden at the Court-House, in the Road-Town of the said Island of Tortola, within and for the Virgin-Islands aforesaid. D 2*

42

OUR SOVEREIGN LORD THE KING, vs. ARTHUR HODGE.

The Jurors for our Lord the King upon their oath present, That Arthur Hodge of the Island of Tortola, Esq. being a person of a cruel, malicious, and diabolical disposition, and not having the fear of God before his eyes, but moved, and seduced by the instigation of the devil, on the second day of October, in the forty seventh year of the reign of Our Sovereign Lord George the Third, by the Grace of God, of the United Kingdom of Great-Britain and Ireland, King, Defender of the Faith, and in the year of our Lord one thousand eight hundred and seven, with force and arms, in the Island of Tortola, feloniously, wilfully, and of his malice aforethought, did command certain men slaves, whose names are to the jurors aforesaid, unknown, belonging to, and under the direction and command of the said Arthur Hodge, to seize a certain negro man slave, called or known by the name of Prosper, belonging to, and being under the command of the said Arthur Hodge, and to throw down, and forcibly hold upon the ground, the said negro man slave Prosper, with his face and belly upon the ground, and both his legs and arms extended and held down; and that the said Arthur Hodge then and there feloniously, wilfully, and of his malice

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aforethought, did command a certain negro man slave, whose name is to the jurors unknown, belonging to, and in the possession of the said Arthur Hodge, to 43 flog and whip the said slave, Prosper, and that in obedience to the command, and by the coercion of the said Arthur Hodge, the said slave, whose name is to the said jurors unknown, in the presence of, and by the command of the said Arthur Hodge, so feloniously, wilfully, and of his malice aforethought, given as aforesaid with a certain instrument of punishment, commonly called a cart-whip, made of wood and rope of the value of one shilling, which the said slave, whose name is to the jurors aforesaid unknown, in his right hand, then and there had and held, did then and there strike, flog, whip, bruise and lacerate the naked right and left buttock, and naked right and left thigh of the said negro man slave Prosper, for the space of one hour, in the presence of, and by thee command of the said Arthur Hodge, so feloniously, wilfully, and of his malice aforethought given as aforesaid, and feloniously, wilfully and of his malice aforethought, continued and persisted in by the said Arthur Hodge; the said slave, whose name is to the said jurors unknown, then and there giving with the cart-whip aforesaid in obedience to the command of the said Arthur Hodge, so feloniously, wilfully and of his malice aforethought, given and continued and persisted in as aforesaid, upon the naked right and left buttock, and naked right and left thigh of the said negro man slave, named Prosper, divers mortal strokes, bruises, lacerations and hurts, of 44 which said mortal strokes, bruises, lacerations and hurts, the said negro man slave, named Prosper, from the said second day of October in the year aforesaid, until the fifteenth day of October, in the year aforesaid, in the Island aforesaid, did languish, and languishing did live, on which said fifteenth day of October, in the year aforesaid, and in the Island aforesaid, the said slave called Prosper, of the said mortal strokes, bruises, lacerations and hurts so given as aforesaid, by the command of the said Arthur Hodge, feloniously, wilfully and of his malice aforethought, died. And so the jurors aforesaid, upon their oath aforesaid, do say that the said Arthur Hodge, in manner and form aforesaid, the said negro man slave, named Prosper, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the peace of our said Lord the king, his Crown and dignity.

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And the said jurors, aforesaid, upon their oath aforesaid, do further present, That the said Arthur Hodge, of the said Island of Tortola, Esq. being a person of a cruel, malicious and diabolical disposition, and not having the fear of God before his eyes, but moved and seduced by the instigation of the devil, on the second day of October, in the forty-seventh year of the reign of our Sovereign Lord George the Third, by the Grace of God of the United Kingdom of Great-Britain and Ireland, King, Defender of the Faith, and in the year of our Lord, one 45 thousand eight hundred and seven, with force and arms, in the said Island of Tortola, feloniously, wilfully, and of his malice aforethought, did command certain men slaves, whose names are to the jurors aforesaid unknown, belonging to, and under the direction and command of said Arthur Hodge, to seize a certain negro man slave, called or known by the name of Prosper, belonging to, and being under the command of the said Arthur Hodge, and to throw down and forcibly hold upon the ground the said negro man slave, Prosper, with his face and belly upon the ground, and both his legs and arms extended and held down, and that the said Arthur Hodge then and there, feloniously, wilfully and of his malice aforethought did command a certain negro man slave, whose name is to the said jurors unknown, belonging to, and in the possession of the said Arthur Hodge, to flog, and whip the said slave, Prosper; and that in obedience to, and by the coercion of the said Arthur Hodge, the said slave, whose name is to the said jurors unknown, in the presence of and by the command of the said Arthur Hodge, so feloniously, wilfully, and of his malice aforethought, given as aforesaid with a certain instrument of punishment, commonly called a cart-whip, made of wood and rope, of the value of one shilling, which the said slave, whose name is to the jurors unknown, in his right hand, then and there had and held, did then and there strike, flog, whip, bruise and lacerate the naked right and 46 left buttock, and naked right and left thigh of the said negro man slave named Prosper, for the space of one hour, in the presence of, and by the command of the said Arthur Hodge, so feloniously, wilfully, and of his malice aforethought, given as aforesaid, and continued and persisted in by the said Arthur Hodge, the said slave, whose name is to the said jurors unknown, then and there giving with the cart-whip aforesaid, in obedience to the command of the said Arthur Hodge, so feloniously, wilfully

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and of his malice aforethought, given and continued and persisted in as aforesaid, upon the naked right and left buttock, and naked right and left thigh of the said negro man slave, named Prosper, divers mortal strokes, bruises, lacerations and hurts, of which said mortal strokes, bruises, lacerations and hurts the said negro man slave, named Prosper, from the said second day of October in the year aforesaid, until the fifteenth day of October in the year aforesaid, in the Island aforesaid, did languish, and languishing did live, on which said fifteenth day of October, in the year aforesaid, and in the Island aforesaid, the said slave called Prosper, of the said mortal strokes, bruises, lacerations and hurts, so given as aforesaid, by the command of the said Arthur Hodge, feloniously, wilfully and of his malice aforethought, died.

And so the jurors aforesaid, upon their oath aforesaid, do say, that the said Arthur Hedge, in manner and form aforesaid, the said negro man slave, named 47 Prosper, feloniously, wilfully, and of his malice aforethought, did kill, and murder, against the peace of our said Lord the King, his Crown and Dignity, and against the form of the act of the Commander in Chief of his said Majesty's Leeward Charribee Islands, in America, and the General Council and General Assembly of the said Islands, in such case made and provided.

PAUL HORSFORD, *Solicitor General*.

HENRY M. LISLE.

A True Bill.

John Stephens, *Foreman*.

The Prisoner arraigned, and pleaded Not Guilty.

William Gordon, *Deputy Secretary*.

Virgin-Islands, Tortola.

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In the Court of Oyer and Terminer and Gaol Delivery, for said Islands, Rex vs. Arthur Hodge.

Indictment for Murder.

### **Witnesses.**

Perreen Georges, *Sworn.* &

Stephen M'Keough, *Sworn.*

PAUL HORSFORD, *Solicitor General.*

HENRY M. LISLE, *Pro Rege.*

48

To which the Prisoner pleaded Not Guilty.

Then the Pannel returned by Robert Glover Isaacs, Esq. the Deputy Marshal, was called over and consisted of the following, *viz.*

Isaac Thomas,

George Strachan,

John Pittman Vanterpool,

John Davis Molineux,

Christopher Arrindell,

John Strachan,

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Benjamin Harper,

Alexander Carr,

Richard Roberts, sen.

William Isaac Palmer,

Robert Bowie,

Charles Walter Woods,

Thomas Wills,

John Rawbone,

Alexander Fraser,

W. E. Wilson,

Andrew M. Dougan,

William Glover,

Duncan M'Intosh,

John Skelton, Jun.

Donald Cameron,

Abraham Heiliger Long,

John Gibbs,

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Henry Shew,

Isaac Titley,

John Vanterpool, Jun.

Isaac Stephens,

John Belis,

Robert Greene,

George Leonard Fisher,

John Dracott,

A. M'Kechnie,

A. Armstrong,

George Smith,

Richard Roberts, Jun.

William Wareham,

William M'Laren,

H. A. Bontein.

John M'Donough

49

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Mr. Tyson, on behalf of the Prisoner, was proceeding to inform the Court, that he was not ready to come to trial, when Mr. Solicitor General, the Hon. Paul Horsford, Esq. applied to the Court to know whether counsel should be assigned the prisoner, and if so, whether for the examination of witnesses, and the discussion of points of law, or counsel in full; that with three able and experienced counsel on his behalf, Mr. Solicitor General thought the practice of the mother country ought to be adhered to, but admitted that the practice of the colonies varied in that respect; he proposed, in case counsel in full was assigned the prisoner, that one only, should address the jury, and mentioned the case of Barbot and Mills, at St. Kitts, where counsel in full was denied the prisoner, and cited 4 Blackstone, 355; 2 Hawkins P. C. 400; Lord Coke 3 Institute 137.

Mr. Chief Justice Robertson, said he had sat 24 years, and never knew that counsel in the fullest extent was refused even in crimes of a less degree; he admitted the doctrine in England recommended that one should open, another should examine, and the third should plead and address the jury; he should be sorry to sit where a prisoner was debarred counsel in the fullest extent. After some further argument, the Court appointed Mr. Tyson, Mr. Long and Mr. Musgrave, with permission to two, to address the jury, and any one to cross-examine, but that whoever began, D 50 should end with the same witness, and that one counsel should open the defence and the other close.

This being agreed to, Mr. Tyson addressed the Court to postpone the trial, stating that depositions had been taken relative to the destruction of a number of negroes, which depositions had been kept from the knowledge of the prisoner's counsel, in an extraordinary manner—that they were taken by surprise, and could not prepare a defence; they had prepared themselves for those mentioned first in the depositions, and were ready to try the first named; they had postponed the consideration of the succeeding charges, expecting the Solicitor General would have proceeded regularly with the first, and so on; they were not only prepared to meet them, but every other charge against Mr. Hodge.

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Mr. Long made several observations in addition; he stated that he knew no ground why the depositions were kept from them; they were deprived of the opportunity of questioning character; this was the first time the parties came face to face, he required a sight of the accusations against Mr. Hodge, and stated that the commitment took place before the depositions.

Here he was stopped by Mr. Solicitor General.

Mr. Lisle said they were taken, before the commitment, as to Prosper.

51

Mr. Long—The warrants were issued on the 5th March, before they were taken.

Mr. Lisle,—No. They were taken on the 4th March.

Mr. Long,—The 1st and 2d Philip and Mary 13, directs that the information and deposition shall be returned into the gaol delivery under a penalty; why were they not? No examination of the prisoner was taken, it was highly necessary, had it even been a charge of yesterday, but much more so, being one of four years ago; the opportunity of repelling evidence was debarred them—these people were guilty of misprison of felony by not bringing him forward before—he has unanswerable cases to support him; the examination and information should be taken before the magistrates, and should be put in writing within two days. He was ready, though no efficient reason in his opinion had been given.

Mr. Musgrave,—The depositions had never been read to Mr. Hodge.

Mr. Lisle,—They had been lodged.

The Court ordered that the prisoner's counsel may see the depositions lodged.

Mr. Solicitor General,—That it did not lie with the counsel for the Crown, but the Court, to consent to postpone the trial; he submitted whether any substantial reason had been

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given, to put the country to inconvenience; the difficulty of assembling juries in 52 these Islands was well known; Mr. Long was mistaken respecting Prosper; he would prove that Prosper, for whom the prisoner was committed, was named in those depositions; with regard to the order of charges he was not bound to call on the prisoner's counsel to say which they would have first; the counsel for the Crown were supported in the election they had made; the counsel on the other side knew Mr. Hodge was committed for Prosper, and ought to be prepared for that trial, they must be as capable to day to meet it, as any other day.

Mr. Lisle,—The depositions were kept back because if the prisoner or his friends were permitted to know who had testified against him, they might never be forth-coming.

Mr. Long replied at length, and supported his right to have the trial postponed.

The Court asked the Secretary, who gave directions that the depositions should be lodged in his office? He answered, Mr. Chief Justice Robertson.

Mr. Lisle,—He sent them the day before, but Mr. Gordon (the secretary) was not there; the affidavit respecting Prosper was filed before Mr. Tyson and Mr. Long arrived.

The affidavit of the Prisoner stating that he was not prepared, and praying to have the trial put off until Monday the 29th April, was then read; and the Court unanimously agreed thereto.

53

Mr. Lisle,—Whether the other depositions should be lodged?

Solicitor General was of opinion they should.

The Court read the 160th clause of the Court Act, mentioning they should be lodged four days before trial.

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Mr. Long—To what purpose, if the prisoner's counsel cannot see them?

Court,—All the depositions should be lodged, and a reference may be had to them, but no copies taken, they are only to be read.

*Adjourned to Monday, the 29th April, at 10 o'clock in the forenoon. D 2*

*ADJOURNED COURT,*

Of Oyer and Terminer and General Gaol Delivery for the Virgin-Islands—Court House, Tortola, 29th April, 1811.

TRIAL

Of Arthur Hodge, Esq. late of His Majesty's Council for the Virgin-Islands, for the Murder of his negro man slave, named PROSPER.

The Judges, Grand Jury and Pannel were the same as on the first day of Court, to the minutes of which refer.

The Court being opened,

Mr. Solicitor General stated to the Court that he had acceded to a proposition of his learned friend, Mr. Lisle. Since the evidence produced to the Grand Jury, there appeared some circumstances to the witnesses, that would establish the death of Prosper more clearly; he therefore in compliance with the suggestion of his learned friend, though he was not aware it was material, begged leave to alter, or withdraw the indictment and send in a new bill.

55

Mr. Tyson opposed it; he was satisfied with the indictment in its present state.

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Mr. Musgrave read a case where it was refused. It was by no means proper to encourage such practice; the prisoner in the case cited, had been put on his defence and acquitted.

Mr. Lisle,—The petit jury are not impanelled.

Mr. Long moved that the trial proceed on present indictment.

Court—Order the prisoner to be brought up.

Arthur Hodge was then set to the bar for trial on the indictment, to which he had pleaded *not guilty*. Then the pannel returned by the Deputy Marshal was called over—(see first day's minutes.)

The Court called on the prisoner's counsel to shew cause for their objections to the jurymen they had rejected—and first as to

*Robert Green*, challenged with cause.

Interrogated by Mr. Long.

*Question.* Was not Mr. M'Keough entertained by you at the cost of the prosecutor?

*Answer.* Mr. M'Keough has been entertained at my house; he still eats and drinks with me, as does Perreen Georges, both at my own charge.

By Mr. Solicitor General.

Q. Why were they placed with you?

A. Because they both told the magistrates they wished to be put under my protection, as they were 56 afraid of being assassinated, not by Mr Hodge, but by his friends. Perreen Georges has always lived at Turnbull's Mountain, the estate I manage.

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Q. Have you had any conversations with the witnesses?

A. I have, and wish to be excused; though I can conscientiously go upon the pannel, and do my duty towards Mr. Hodge and the King.

Mr. Long,—To the Court cited 2d Hale 306. “If a juryman, before sworn, take information of the case, it is cause of challenge, the law was otherwise before, but not so now.”

2d Burns Justice the same.

Solicitor General conceives the sort of information Mr. Green obtained, is not such as to disqualify him for a juror, it should appear he had voluntarily made himself a party with the witnesses. As informations before magistrates are public, they must necessarily be known generally; the witnesses were placed by the magistrates with Mr. Green, for the ease, comfort and safety of the parties, and to serve the ends of public justice. He declares they have made no bias on his mind, submits under these circumstances whether he is proper or not.

Mr. Lisle,—Jurors may be challenged, *propter affectum*, malice or favor; they should shew this.

Mr. Tyson,—Mr. Solicitor General has mistaken the premises; he says Mr. Green's information was 57 in a court of justice; Green says he has had frequent private conversations. That man knows little of the human heart, who does not know what impressions such conversations would have; first impressions are the strongest; the law says we won't run the risk of the man being perjured. I should myself, even as Mr. Hodge's counsel, have received unfavorable impressions; Mr. Green being influenced in the smallest degree, would render him ineligible; Mr. Green without knowing it, has received impressions from the only persons, by whom this prosecution can be supported, not from general report.

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The Court considered him ineligible.

*Mr. A. M'Kenzie*, peremptorily.

*Alexander Fraser*, do.

*D. M'Kintosh*, do.

*John Skelton, jun.* challenged with cause.

By Mr Long.

Q. Have you conversed with the witnesses?

A. Yes, yesterday. I am prejudiced against Mr. Hodge, but not so as to operate on my oath.

Q. For what cause?

A. In consequence of Mr Hodge saying something to me improper in another business.

The Court—Cause allow?d.

*Donald Cameron*, challenged peremptorily.

*Robert Bowie*, challenged with cause.

Q. Do you bear any ill will towards Mr. Hodge?

58

A. None, I have had a dispute with him.

Q. Have you conversed with the witnesses?

## Library of Congress

A. No.

Admitted on the pannel by the prisoner.

*Abraham H. Long*, challenged with cause.

Q. Did you go to fetch Mr. M'Keough?

A. I did, and am prejudiced against Mr. Hodge. Cause allowed.

*John Gibbs*, challenged with cause.

Q. Have you had any conversations respecting this trial.

A. Yes, but none with witnesses, nor with Mr. William Cox Robertson; my private opinion of Mr. Hodge is very bad.

Cause allowed.

*William M'Laren*, with cause.

Q. Are you ill disposed towards Mr. Hodge?

A. I have no ill will against him.

Peremptorily challenged.

*Richard Roberts, jun.* with cause.

Q. Are you ill disposed towards Mr. Hodge?

A. I owe him no ill will, and am not prejudiced.

Q. Have you conversed with the witnesses?

## Library of Congress

A. I have not.

Peremptorily challenged.

*Henry Shew*, with cause.

Q. Have you any prejudice against Mr. Hodge?

A. None.

59

Q. Have you conversed with the witnesses on the business?

A. No.

Peremptorily challenged.

The examination of jurymen closed on the part of the prisoner; 19 peremptorily challenged, 8 challenged with cause.

ON THE PART OF THE CROWN.

*George Leonard Fisher*.

By Mr. Solicitor General.

Q. Are you related to the prisoner?

A. I am a third cousin.

Q. Do you feel prejudiced in his favor?

A. I do.

## Library of Congress

Cause allowed.

*Andrew M. Dougan*, with cause.

Q. Have you ever conversed with the prisoner on the subject of this trial, and when?

A. I have twice; have visited him in gaol, and am prejudiced in his favor.

Cause allowed.

*John Rawbone*, with cause.

Cause allowed *propter affectum*, being married to prisoner's sister.

*William Isaac Palmer*, with cause.

Q. Have you expressed any opinion on this case?

A. I have spoken feelingly on it; I am not prejudiced.

60

Admitted on the pannel, making eleven on the pannel.

*John M'Donough*, with cause.

Without being questioned, said he thought the case would be hurtful to the West-India Islands: it would make the negroes saucy.

Mr. Solicitor General was astonished at such a declaration, and left it to the Court.

Mr. Tyson admitted that it might produce inconvenience, but it ought to be investigated: the condemnation or acquittal would not have the effect, it would only be the trial itself.

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The Court—Not competent—cause allowed, *de talibus*.

*John Brubey*, admitted on the pannel, being the twelfth.

The witnesses for the Crown were then called.

The counsel employed were,

### **For The Crown,**

The Solicitor General, the Hon. Paul Horsford, Esq. of Antigua.

Henry Maurice Lisle, Esq. King's Counsel, Tortola.

### **For The Prisoner,**

The Hon. George Tyson, Esq. Speaker of the House of Assembly, St. Christophers.

Samuel Long, Esq. of said Island.

William Musgrave, Esq. Tortola.

61

Witnesses called for the Crown.

Dr. John West,

Dr. William West,

Mr. William Hamilton,

William Wallace,

Miss Jane Todman,

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Mrs. Elizabeth Austin,

Mr. Robert Green,

Bezl. H. Donovan,

John Rawbone,

George Dyer,

The Hon. George D. Dix, Esq.

Nimrod Harrigan, (a free black man.)

Mr. Stephen M'Keough,

Perreen Georges, (a free woman of colour.)

Mrs. Frances Pasea Robertson,

Mr. Absalom Austin,

John Skelton, jun.

Christopher Roelosson,

Mrs. Margaret Roelosson, (his wife.)

The Hon. Andrew Anderson, Esq.

The witnesses for the prisoner were not called over.

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On argument respecting the separating witnesses, the prisoner's counsel did not think it necessary that any other witnesses should be kept apart, except Perreen Georges and Mr. M'Keough, who were ordered to remain apart, out of hearing of the Court.

The Indictment was then read by the Clerk of the Crown, (see page 41) when Mr. Lisle rose and addressed the Court and jury in the following words on behalf of the Crown. F

62

*May it please your Honors. Gentlemen of the Jury.*

You are now impannelled upon no common or ordinary occasion. You come not here to day to decide the trifling rights of property, but to be the arbiters of the fate of an unfortunate individual, charged with offences, and arraigned agreeably to the laws of his country, on trial for crimes, at the mention of which humanity shudders. In your hands, Gentlemen, are the “issues of life and death,” and consequently you must realize that you have not only an important, but a melancholy, awful task to perform. Painful to myself indeed is the duty imposed upon me, and feeling it to be so, I cannot but be sensible that yours is equally grievous; nevertheless, Gentlemen, we cannot shrink from the unpleasant office, for by the laws of God, by the laws of our common country, and by the sacred oaths we have severally taken, we are bound, conscientiously to discharge those duties now imposed upon us. As men possessing enlightened minds, and upright consciences, as men holding yourselves liable to future accountability, and as men believing in, and fearing to offend a righteous God, I now call upon you to render by the verdict you shall give, that justice which may be meet either for or against the prisoner.

To day no common culprit stands before you, nor is he a stranger to either of you—you have long 63 known him, and you are therefore the most proper persons to ascertain whether he be guilty or innocent, for to that invaluable privilege, the right of trial by jury, which among many others, every British subject enjoys, is annexed the right of a jury collected from the immediate vicinage. From the immediate vicinage, you, Gentlemen,

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are now impannelled, and having long known the prisoner at the bar, knowing also the witnesses who will be produced in support of this prosecution, and those (if any) which the prisoner may introduce in his defence; if any body of men can be competent to a decision, you Gentlemen, certainly are. If however, from your knowledge what character that ill-fated man for years has sustained, you have any of you imbibed prejudices against him, let me now explicitly charge you to banish them from your bosoms, for although charged with, and indicted for the most heinous crimes, the law presumes him to be innocent, and you are to consider him so until, beyond every reasonable doubt, he is proved to be guilty, and proved to be so, (as unhappily for him I fear will be the case) by the most clear and unquestionable testimony.

When we reflect, Gentlemen of the jury, for a moment that the unfortunate prisoner at the bar was born to, and did inherit a clear and ample estate, that he was rocked in the cradle of ease, and nursed on the lap of affluence; that he received not only a *64 liberal*, but *polished education*; that independence, with all her train, bearing concomitant blessings, attended him, that his prospects were once fair as could have been coveted; That the goddess, Fortune, was his handmaid; that honors awaited him, and his Sovereign called him in early life to his council—we cannot but now look with wonder at his degradation, and pity the deplorable state to which his barbarous criminality has reduced him. Can we behold him situated as he now is, plunged by guilt from the pinnacle of felicity on which he rested, into the deepest abyss of human misery, and not lament the fatal depravity of man which entices him to evil, and when infuriated by his ungoverned passions, subjects him to the worst of errors, hurling him into a vortex, alas! for ever destructive. We should never, Gentlemen, permit our passions to become our masters, for they are insurgent incentives to vice; if we do we shall find them like whirlwinds, sweeping every thing away loosely before them, and leaving us when their fury subsides, only to sigh and wonder at the awful desolation they have made.

The exhibition of human depravity, of savage cruelty, and unrelenting barbarity which will this day be presented before us, should ever be an indelible warning to each and every of

## Library of Congress

us. May we never prove unmindful of it, but endeavour, like the Bee, to extract profitable stores from noxious sources.

65

In the present case, Gentlemen, the prisoner at the bar, stands charged with the horrid crime of murder, always horrid in itself, but how much more aggravated and shocking when committed upon a poor defenceless fellow creature, who has not the means of resistance to effect self-preservation, but is debarred even the possibility of escape by flight from his barbarous murderer. Here, he who ought to have been the kind protector, the humane master, and the merciful owner, exhibits neither of those three characters, but will be proved to you, to have been the cruel oppressor, the savage proprietor, and the relentless manslayer.

Murder, Gentlemen, as I before observed is an offence which seldom occurs among us, and murder like that which is the subject of your present enquiry, surely never before to blast the character of human nature, occurred in any civilized community; it banishes even sympathy from our breasts, and almost renders us deaf to the soft impulses of pity.

Yet should the voice of pity, addressed to the ear of philanthropy, attack our sensibility; it becomes us on this occasion not to listen to her deceptive insidious appeal, but to be governed only by the solemn dictates of justice, regulated by law; our senses we must not permit to be stolen from us by sophistry, nor are we to suffer our necessary firmness in the discharge of duty to be subdued by the most eloquent address to the passions. With pity, a *jury* has nothing to do, and mercy is not *their* attribute, but that of an higher delegation.—By your oaths, Gentlemen, you are expected to be just, not merciful; and if you possess consciences pure as I conceive them to be, whilst you lend me your attention, your minds will be open to conviction, ready to discharge your important, your sacred duties to yourselves, your country and your God.

## Library of Congress

It may be observed, Gentlemen, that it is three or four years since the crime charged in the indictment is alledged to have been committed; it is of no consequence when it was perpetrated, nor through whose instrumentality the offender has been apprehended and brought to justice; for many years have culprits screened their villainy, and until betrayed by accomplices, or rendered self-instruments of conviction, they have escaped detection, but met their deserts at last. Murder, of all crimes, seldom, if ever, escapes the dreadful punishment which awaits it, for “blood for blood” is the retribution claimed by heaven itself.

There is no statute of limitation, Gentlemen of the jury, which if pleaded in bar to an indictment for Homicide can avail any thing; never was such a plea admitted for a moment, even in idea, and therefore I trust we shall hear no remarks as to the time which has elapsed between the period of the murder of 67 Prosper by the prisoner, and his present arraignment for trial on that occasion.

The ways of providence, Gentlemen, are dark and intricate, and as holy writ assures us, “past finding out;” inscrutable by short sighted mortals are the decrees of Omniscience. The mirror of futurity and the volume of destiny are wisely withholden from our inspection—we are not permitted to read the book of fate, but must be content in the knowledge that the same first cause who created us, and endued us with reason, made us free agents, accountable to him whenever he shall summon us to render to him an account of our stewardship on earth. For, “that there is a God, all nature cries aloud thro' all her works.”—Yea, Gentlemen, a God whose eye penetrates the pavillion of darkness, and inspects the most secret recesses of the heart of man—whose ear hears the weakest whisper, and whose hand records the foul deeds of the murderer; whose sacred law proclaimed on Sinai's mount, declares “Thou shalt do no murder,” and whose holy edict adds, “He who sheddeth man's blood, by man shall his blood be shed!”

With this promulgated sentence of the Almighty ever in his ears—with an ever conscious sense of his own guilt, and an accusing spirit, for ever tormenting him—how dreadful! How filled with horrors are the hours of a murderer! Life is loathsome to him, yet he dreads

## Library of Congress

to die; his days are days of 68 agony, and his nights, nights only of horror and affright; his couch is a couch of restlessness, for his pillow is filled with thorns; he starts from it at times, like Richard, fainting with terror, and derives momentary consolation, merely from the false conception, that “it was but a dream” which disturbed him.—Like Macbeth, his vision is haunted by the air-form'd dagger, whilst the dagger of conscience stabs deep in his breast, inflicting mental agony. Like Macbeth too, he may exclaim, “Alas! I have murder'd sleep!” and turn in utter despair to pray for mercy, which he knows not how to supplicate. The spectre of the murdered being flits before him—betwixt heaven and him, congealing him with fears, and palsying the arm which would otherwise grasp the stiletto at the head of his bed,\* were not the former rendered nerveless, and the latter innoxious to the gliding phantom.

\* *Alluding to the custom the prisoner had of keeping; a dagger at the head of his bed.*

I find I am trespassing too much upon your time, without having explained to you, either the criminality wherewith the prisoner is charged, or the law applicable to the present enquiry. You must however excuse me, for on this occasion my feelings are acute, and my emotions are unutterable.—Could the sensations of my soul be depicted in my countenance, 69 or expressed by my tongue, they should convince you how deeply I feel impressed, that I now address you by the direction of a providence, holy and divine, in the cause of humanity, supported by justice and virtue, endeavoring to bring to condign punishment, a wretch, guilty of the blackest crimes.

Without further digression, I will now proceed in the discharge of my official duty, and define to you the several kinds and degrees of homicide, as considered in the law—then cite the law authorities, pertinent to the present trial—produce and examine the witnesses on behalf of the Crown—apply the testimony and law to the offence, and conclude with a few observations which I trust will be applicable to the case.

## Library of Congress

In order, however, that you may be enabled to perceive the testimony of those authorities which I am prepared to quote, it may not be unnecessary, that I should previously state to you what are the facts which, I feel warranted to assert, will be testified to you. You will hear, Gentlemen, from unimpeachable witnesses, that Prosper died by *licks*, confinement and starvation, by order, and in the presence of, the prisoner at the bar: and that this cruel punishment was inflicted for a mango, which dropped off a tree, worth at most, one shilling, but which, he said Prosper should pay the exorbitant price of six shillings for, or be flogged. Unable to comply with the whole of this unjust demand, 70 he was not only flogged, but was beaten a second time the day following, with such unheard of severity, and cruelty that death ensued in less than a fortnight.

You may well, Gentlemen, appear amazed when I say such will be the testimony, for 'tis a tale of horrors at which every humane ear must be astonished, but the sad recital is nevertheless true.

Homicide, Gentlemen, is the killing of any human creature. And,

When the killing is through malice or general depravity, it is *murder*.

When without malice, it is *manslaughter*.

When through misfortune, or in self-defence, it is *excusable*. And,

When in advancement of public justice, in obedience to the laws, it is *justifiable*.

And in order that you may be enabled to make discriminations, I beg leave to call your attention to *Blackstone's Commentaries*, 4th vol. page 176 to 204. 5 *Bacon* 118 to 125, and 1st *Hale* 431.

From the lengthy quotations which I have just made, you must be fully aware, Gentlemen of the jury, of the distinctions which the law makes of the several kinds of homicide, and

## Library of Congress

doubtless you have noted, that in order to constitute the crime of *murder*, malice must be proved to exist at the time of the perpetration of the horrid act; but, Gentlemen, in a legal sense the word *malice* is not to be interpreted or <sup>71</sup> understood in the manner it is in common parlance or conception; it is not to be conceived a settled rancour of mind which has been concealed in the breast of him who kills, and upon opportunity presenting, is fatally exercised—No, Gentlemen, that is not the construction which you are bound by your oaths to put upon the word “*malice*,” and that my dictum may not be a rule for your decision. I will now read to you part of a case in which you will find the true legal signification of malice fully expressed. (Here Mr. Lisle quoted Sir *John Kelyng's Reports*, “*Regina vs. Maugridge*,” pages 126, 127 and 128.

“Some have been led into mistake by not well considering what the passion of malice is; they have construed it to be a rancour of mind, lodged in the person killing, for some considerable time before the commission of the fact; which is a mistake, arising from the not well distinguishing between hatred and malice. Envy, hatred and malice are three distinct passions of the mind.—

“1 *st.* Envy, properly is a repining or being grieved, at the happiness and prosperity of another, ‘*invidus alterius rebus macrescit opimis.*’

“2 *nd.* Hatred, which is *odium*, is, as Tully saith, *ira inveterata*, a rancour fixed and settled in the mind of one towards another, which admits of several degrees. It may arrive to so high a degree, and may carry a <sup>72</sup> man so far as to wish the hurt of him, though not to perpetrate it himself.

“3 *rd.* Malice is a design formed of doing mischief to another, *cum quis data opera male agit*, he that signs and useth the means to do ill is malicious, *2 d Inst.* 42. *Odium* signifies hatred; *Atia*, malice, because it is eager, sharp and cruel, he that doth a cruel act voluntarily, doth it of malice prepensed, *3 Inst.* 62 By the statute of *5 Hen.* 4, if any one out of malice prepensed, shall cut out the tongue, or put out the eyes of another, he shall incur

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the pain of felony; if one doth such a mischief on a sudden, that is malice prepensed; for, saith my Lord Coke, if it be voluntarily, the law will imply malice.

“Therefore when a man shall, without any provocation, stab another with a dagger, or knock out his brains with a bottle, this is express malice, for he designedly and purposely did him the mischief. This is such an act that is malicious in the nature of the act itself, if found by a jury, though it be sudden, and the words *ex malitia præcogitata*, are not in the verdict, I *Cro. Charles* 131. Halloway's case, who was woodward of Austerly Park; a boy came there to cut wood, whom by chance he espied, and the boy being upon a tree, he immediately calls to him to descend, which the boy obeying, Halloway tied him to an Horse's tail with a cord that the boy had, then gave him two blows, the Horse runaway and brake the boy's shoulder, 73 Whereof he died. This was ruled to be *murder* by all the Justices and Barons, except Justice Hutton, who only doubted thereof; and that was a stronger case than this, for there was some kind of provocation in the boy, who was stealing the wood in the Park, of which Halloway had the care; and it cannot be reasonably thought that he designed more than the chastisement of the boy, and the horse running away in that manner, was a surprise to Halloway; yet in regard the boy did not resist him, his tying him to the horsetail, was an act of cruelty, the event whereof proving so fatal, it was adjudged to be malice prepensed, though of a sudden, and in the heat of passion. This case is reported in *Jones* 198. *Pal.* 585, and there held, that the Court could determine it to be malice prepensed upon the special matter found. *Crompton* 23. Two playing at Tables fall out in their game: one upon a sudden kills the other with a dagger; this was held to be murder by Bromley at Chester Assizes, 27 *Eliz*, so in this case, if the bottle had killed Mr. Cope before he had returned the bottle upon Maugridge, *that would have been murder without all manner of doubt.*”

The doctrine respecting malice, I will also quote from a very highly respected *modern* authority; *East's pleas of the Crown*, 1 *st Vol. Fol.* 224.

## Library of Congress

You have heard, Gentlemen, the legal definition of malice, and, if you receive the testimony, I have assured G 74 you will be given, I am certain you will feel satisfied that if malice did not constitute the crime of murder in the killing of Prosper by the prisoner, it never could have been an ingredient in any offence heretofore committed; and that those who have hitherto been convicted of, and executed for murder, must have been illegally sacrificed at the shrine of justice.

You will have no doubt, I am sure, Gentlemen, that the killing of Prosper was murder; your senses, your feelings, your consciences, will tell you so; for at the horrid occurrences set forth in the indictment, your very natures revolt. What but malice induced that monster in cruelty to, coolly, lay down his miserable slave, and cart-whip him for upwards of an hour at the works? What but malice, diabolical malice could instigate him, after the poor, helpless, forlorn creature was lacerated till his flesh hung in shreds upon him, to order him up to the house on the hill, and there again, after having lashed him to a tree, a second time, to beat, cut, wound and torment the victim of his cruelty, until nature was exhausted, and his head fell down backwards, and he was no longer able to bawl? What but malice induced him to confine, chain, famish and persecute even unto death the friendless African? Turn humanity, turn from the melancholy, dreadful spectacle, for 'tis one thou canst not bear to contemplate; turn from that fatal spot, 75 that modern Golgotha,\* for every breeze that passes it is loaded with the groans of dying Africans, and every echo from yonder mountain, reverberates nothing but *murder!* turn and view the monster who has perpetrated those barbarous deeds, and execrate his cruelties, whilst justice awaking from her slumbers shall decide his fate.

\* *Pointing to the prisoner's estate, in full view of the speaker.*

Gentlemen, that many, very many severe wounds, by command of the prisoner at the bar, were given to Prosper by a cart-whip, and that those wounds occasioned his death, will be undeniably proved; and I anticipate that, by way of defence, two observations will be made to you—That Prosper neglected the care of those wounds, or he would not have died,

## Library of Congress

and that a master has a right, by law, to correct his slave or servant, who by ill conduct deserves correction.

Gentlemen, in the first place, I declare the law to be thus; if a man with malice aforethought, wounds another, who neglects his wounds, and consequently dies within a year and a day, it is nevertheless *murder* in him who inflicted those wounds, for if the wounds had never been given, the man would not have died by neglecting the cure of them; and on this point I crave your attention to *Kelyng*, fol. 26 and 1 *Hale* 428.

76

In addition to the doctrine established on this head by the law, I must here, Gentlemen, remark to you, that in the first place, however indefatigable poor Prosper might have been in curing his wounds, the punishment he had received was so severe, that time was not given to heal them, for he died within about ten days after the reception of his barbarous beatings. Besides, Gentlemen, who can suppose that a poor miserable being, beaten until he fainted, lacerated until he could not stand, then chained and confined, his wounds daily mortifying, and at last so corrupted that the creepers or worms were visibly crawling in his flesh, could in any wise aid or assist himself? Where was the physician he could apply to for salves and physic? Where were the means of procuring and paying for medicines? Alas! not within the reach of Prosper! Now, Gentlemen, let us contrast the argument; was it not the duty of the prisoner who had inflicted those wounds, to heal them? Was it not his duty to send for a physician, or procure medicines, &c. for the miserable dying Prosper? But did he so? No, Gentlemen, you will find he did not; his malice, his diabolical spirit was not yet sated; his damned deeds of cruelty, his woeful tragedy, his scenes of murder were not yet fully acted, the catastrophe was to be completed, and the death of Prosper ensued to finish it.—Prosper died—Prosper was murdered—murdered by the man, to promote whose interests, the strength of 77 his youth was exhausted; to till whose fields, his labors early and late had been devoted. Yes, by this man, by his own master, by him who ought to have protected him, soothed him, encouraged him and kindly supported him, was Prosper murdered; and notwithstanding the heinousness of the offence, the magnitude

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of the guilt, when the prisoner was brought up a few days since, under a writ of Habeas Corpus, it was not only asserted to be an offence bailable at law, but it was absolutely asserted—blush humanity—blush justice, to hear it—it was boldly asserted, that a negro, being property, “ *it was no greater offence in law for his owner to kill him, than it would be to kill his dog.* ”

My God! Are we patiently to hear such a declaration? Is this or any other community silently to permit it to be made, and not express its indignation? Forbid it heaven—forbid it God Almighty: for if we one instant even tacitly acquiesced we could expect nothing short of the vengeance of heaven to overtake us, and the judgments of an offended Deity, with plague, pestilence and famine to be our merited punishments.

That a parent has a right to correct his child; a school-master his scholar, and a master his servant, is not, Gentlemen of the jury, to be questioned; they each, and every one of them, undoubtedly may do so; but the law has very wisely decreed, that the correction *shall be inflicted with moderation*, and with an instrument, G 2 78 not in any wise unsuitable to the purpose. For should a master presume to correct his servant, for instance with a cudgel, and by a blow kill him, it would most clearly be *murder*; it was decided to be murder in Grey's case, where the master struck his apprentice with a bar of iron, of which blow the apprentice died; for if a father, master, or school-master will correct his child, servant or scholar, he must do it with such things as are *fit* for correction, and not with such instruments as may *even probably kill them*. *Kelyng*, 64 and 65.

The law also hath determined that if a parent, master or school-master correct with an instrument, not unsuitable or improper, but do inflict with such instrument *immoderate* correction, *evidently to that degree whereof the child, servant or scholar dieth*, that this is also *murder*; for instance, an horse-whip is a usual instrument where with a master might be supposed reasonably to correct his servant, but if the master should for a great length of time (say at least one hour) severely chastise his servant with a horse-whip, inflicting many cuts and wounds, whereof the servant should die, this being evidently immoderate

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correction in its *measure*, would imply malice in the master, and constitute the offence murder.

As to the measure of correction, I quote 1st *Hale* 454.

So if a person in gaol die by reason of duress and 79 hard usage in gaoler, it is murder. 1st *Hale* 466.

Rex vs. Huggins, 2d *Strange* 882. So if a *master* by premeditated negligence or harsh usage, cause the death of his apprentice, it is murder, Self's case, 1st *Leach*, fol. 163.

The cruel correction, Gentlemen, the infernal punishment inflicted by the prisoner on his helpless slave, was, in the first instance, to the greatest extremity immoderate but even then he was not satisfied, but had him lashed to a tree, and fresh wounds inflicted on those already received, until his victim lost even the power of speech.

I will not, Gentlemen, insult either your understandings or feelings by even asking you whether this can be called moderate correction; for I can call it nothing less, myself, than diabolical cruelty, imposed by a satanical master. It may perhaps be said, that as no blow was given, and no wound inflicted by Mr. Hodge himself, but by his driver only, that the prisoner cannot be convicted. It matters not, Gentlemen, whether the prisoner gave a blow, or inflicted a wound or not, he was present, not only aiding and abetting, but commanding, and of course, compelling his slave (a driver) to inflict those wounds, in consequence of which, the wretched, mangled Prosper died. Had he not compelled his driver thus to use the detestable cart-whip, I will venture to say, that what the prisoner never knew or felt, *viz.* compassion, would 80 have so sensibly affected the sable breast of the driver, that he would not have raised his arm against his miserable companion in bondage; but his master was present—a master, to whose savage ear he dared not make any appeal, to whom he dared not offer any petition for mercy, and by whom all his humane intercessions in behalf of Prosper, would have instantly been declared impudent and unpardonable offences; the fate of Prosper would, in such case, have also been the

## Library of Congress

fate of the driver, for some other reluctant slave would have had the sad duty, of flogging him to death, to execute.

These, Gentlemen, are observations only, the truth of which are deducible from the reputation of the prisoner; but I cannot content myself with observations merely, and therefore, in asserting that all persons who are present aiding and assisting, are equally principals with him who gave the stroke, whereof the party died; among many authorities which I have at hand and could produce, I will only take up a moment of your time in adverting to—1 *st Hale* 437–8. *Plowd. Com.* 98, *et seq.* 9 *Co. Ren.* 6 *b. Mackally's case.*

Over and above the prisoner's having been present, aiding and assisting, it will be proved to you that (as laid in the indictment) he commanded another (who remember was his, dependent slave, that dared not disobey even an illegal command at which he 81 shuddered,) to inflict the mortal wounds which occasioned the decease of Prosper, “ *qui facit per alium facit per se.* ”

Gentlemen, if any person should seduce by temptations, or intimidate by threat or command, or in any wise instigate one man to kill another, the person so seducing, tempting, or intimidating the person to perpetrate the crime, would, though absent when the killing took place, be unquestionably guilty of murder. “So if A puts a sword into the hands of a madman, and bids him kill B with it, and then A goeth away and the madman kill B with the sword as A commanded him, this is murder in A, though absent, and he is principal.” 1<sup>st</sup> *Puffendorf.* *Lex Naturae* fol. 52 and 53. *Kelyng* fol. 53. 1<sup>st</sup> *Hale* 435. *et seq.* 1<sup>st</sup> *East* 353.

The cart-whip, the ever to be detested cart-whip, by the lashes of which Prosper died, was, Gentlemen of the jury, in the hands of the driver, and the wounds were inflicted by command of the prisoner, who was also present; is he not then a murderer? Is he not a deliberate murderer? A murderer, killing his defenceless slave, who could not exercise, even if at liberty, the rights of self defence, and who could neither resist nor flee from that

## Library of Congress

savage monster, his barbarous unfeeling, unrelenting master—I once more emphatically ask, is this not *murder*?

82

God forbid a jury should be found in any country who by a verdict should say it was not.

Gentlemen, is it true that “a man is guilty of no greater offence in killing his negro, than he would be in killing his dog?” Not one of you who heard the declaration, but felt indignant at the assertion. Even the long exploded disgrace to British liberty, the ancient state of villeinage, to which West-India slavery seems more nearly allied than any other condition or bondage I can compare it to: even villeinage, which gave to the Lord of manors, a property in their villeins, so that they could not leave their service without permission, but if they ran away, or were purloined, might be claimed and recovered by action, like beasts or other chattels. Even villeinage which gave the Lord, not only a property in the villein, but in every thing he could acquire, and a perfect contro<sup>l</sup> over his person, nay, which even permitted him to beat his villein with impunity, was nevertheless so regulated, so restrained by law, that the persons of villeins, were protected against any atrocious injuries of the Lord; for the Lord could neither *maim nor kill* his villeins, but was obliged to call in the assistance of the law, whenever it became necessary to inflict *capital* punishment.

I will here quote 2d *Blackstone* 92 to 95.

Gentlemen, I would not live in, but hasten to quit any, nay, even this my native country, where, if only 83 for a day, the philanthropic principles of the British law, were either disavowed or disregarded; but in this country, this has never been the case: and before the passing of the meliorating act, the 21st clause of which declares as follows.—(XXI. “And be it further enacted by the authority aforesaid, that every white or free coloured person, charged with the murder or maiming of any slave, whether such slave belong to such person or not, shall be tried and punished for such murder or maiming, in the same manner, without any sort of distinction or privilege, as if he, or she, were charged with

## Library of Congress

the murder, or maiming of any white, or free person whatever; provided nevertheless, that if he, or she, shall be convicted such conviction shall not extend to, or occasion any corruption of blood, or forfeiture of lands, or tenements, goods or chattels.”)—the common law, would, being to all intents and purposes in force here, have been quite sufficient to arraign, try, convict and execute any one, and every one accused and not acquitted of the crime of murdering, as well a slave as free person.

Upon the Common Law of England, persons have in this country been indicted, not only for larceny, burglary and other offences, but for murder, and in one instance, which must be within the recollection of several of the honourable members of this Court; a master, that is an owner, was in this Island indicted 84 and tried for the murder of his slave. In the present indictment, Gentlemen, there are two counts, one upon the common law, and the other upon the statute, that is, the act commonly called the “meliorating act.” You may agreeably to law, if you should be satisfied beyond every reasonable doubt, of the guilt of the prisoner, find him guilty, either generally upon the indictment, or upon either of the counts contained therein.

Gentlemen, although there is a day, certain, laid in the indictment, upon which the prisoner is said to have murdered his slave, Prosper, yet you are not to suppose the counsel for the crown, are under the necessity of proving that the murder was actually committed upon the day which is mentioned in the indictment, “for in all cases, the day laid in an indictment, or appeal, is not material upon evidence, but the prisoner may be convicted upon proof of the fact at any other time, whether before or after the day laid, so that it be before the time when the indictment, or appeal, was preferred. *Macnally's Rules of Evidence*, fol. 496. 2d *Hawkins*, P. C. ea. 46. 1st *East P. C.* fol. 344.

I have mentioned this point, and have produced my authorities, not because I imagine the learned counsel for the prisoner will assert, or endeavor to maintain such a false position, but because I know that beyond the precincts of this court, it has not only 85 been said, but positively asserted, that it was absolutely necessary to the support of the indictment

## Library of Congress

that the murder should be proved to have been perpetrated on the very day laid in the indictment, and that if such proof was not afforded, the prisoner must be acquitted.

In order, Gentlemen, to prejudice the minds of those, who from the community at large, might compose a jury of trial on this occasion, and to influence them in favor of the prisoner, it has been industriously and generally circulated by one or two, his friends and adherents, that this prosecution is altogether the result of a conspiracy. If it is, Gentlemen, it is the result of a conspiracy heretofore unsuspected, heretofore unknown, and unprecedented in our little insulated government; permit me to ask each and all of you, who have so long enjoyed the privileges and received the protection afforded by the laws of this country: permit me I say, to ask you as honest and virtuous men, whether either of you have ever known any conspiracy to take away the life of any individual? or whether you have ever apprehended, or whether you do now apprehend any such base, such horrid conspiracy to have existed, or now to be in existence, against you or any other person whomsoever? No, Gentlemen, although *one* individual among us, may have committed the most savage cruelties, the most notorious acts, and the foulest murders—whose character rumour has long stigmatised and blasted, and who now is arraigned at this bar, on trial for homicide—yet thanks be to heaven, he, alone, is the only one among us, who would even be suspected of guilt enough to take away the life of his fellow creature. This, Gentlemen, is the last resort to detraction, to low cunning, and mean artifice, which that man, the prisoner at the bar, (who has often boasted that he had a head to plan, and an arm to execute,) will ever practice.

Who, Gentlemen, are intended to be represented as conspirators? Who are the characters thus vilified and slandered? Need I tell you? Who but your magistrates, who issued their warfare to apprehend this man of blood? to apprehend him, charged under oath, with the crime, not of one, but *many* murders. Who else are included in the accusation and anathema of the prisoner, and his very few friends? Who but your representatives? The Commons House of Assembly of the Virgin-Islands!! The men in whom you have placed, and still place the greatest confidence—the men on whom you have the firmest reliance—

## Library of Congress

the men to whom you have delegated your most essential powers—the men whose duty it is not only to make laws, but to support them, and whose province, and pride it is, to protect the rights and privileges of you, their constituents, unimpaired and undiminished.

The Honorable members of His Majesty's council 87 too are members of this conspiracy, and why? truly, because the counsel and assembly of the Virgin-Islands, hearing of the accusations against the prisoner, and having had before them the several depositions containing the sad recital, the horror-bearing testimony of his murders, in order to wipe away the stain of blood, the ignominy of guilt from our land, by bringing to justice this greatest of malefactors, resolved that a prosecution should be carried on against him, the expence of which should be paid out of the public treasury, and on his absconding, on his fleeing from justice, the president himself became a conspirator; by issuing a proclamation, offering one hundred johanneses for his apprehension, and forbidding all persons to sustain, harbour or secrete him.

These gentlemen, are the conspirators—your magistrates, your representatives, the members of the council and the president himself. I too an one of them, and feel extremely honoured by being ranked among such a respectable, such an honourable assembly of gentlemen, villainously called conspirators: and particularly so, because if this be a conspiracy, it proves itself to be the conspiracy of virtue against vice. The judges now convened, the grand jury, and you, gentlemen of the jury, (whom I now address,) upon the same principle, must all have become conspirators; but I should think it neither wonderful nor strange, had I heard a criminal going 88 to Tyburn declare, that the magistrates who issued their warrants to apprehend him, that the officer who seized and secured him, that the justice who committed him, that the grand jury who returned *billa vera* against him, that the petit jury who convicted him, that the counsel who argued against him, that the judge who sentenced him, and the executioner appointed to carry that sentence into effect, were all conspirators about to take away his life.

## Library of Congress

He might rail, he might attempt to deceive his vulgar auditors, but neither his rhetoric nor logic would ought avail to rob the gallows of its due.

Gentlemen, the magistrates of this, or any other country, who received information of the commission of an offence, and did not use every mean to bring the offender to justice, would not only be reprehensible, but justly merit the indignation of the public, nay the public execration for, to say the least, their supineness of conduct. Among the Spartans, he who did not reprove a person who offended in his presence, was punished as a partner in the crime.

Cato, exhorting the magistrates to put the laws into execution against offenders, told them that they who were able to restrain, or punish wicked doers, and yet neglected this power, did plainly assent, and contribute to their enormities. *As to the silence and dissimulation of magistrates*, Plato hath given those 89 crimes their due censure: for the second enemy to a state (says he) is the man, who, though he be not strictly a partner in villainy, (speaking of treason,) yet while he enjoys high offices in the commonwealth, doth not observe the crime, and if he does observe it, out of a timorous baseness neglects to succour and deliver the country. You may have read the story of Schedasius' daughter in Plutarch. Amator— *Grotius* ad prov. xxix. 24.

He that knows the thief, and doth not, when required upon oath before a magistrate, discover him, is in guilt equal to him. Levit. v. 1.

That the magistrates of this country, Gentlemen, have been indefatigable in bringing the prisoner to trial, is certainly true, and that the exertions they have used to do so, redound greatly to their credit, is equally true.

The prisoner is now on trial, and you are the persons to pronounce him innocent or guilty—you are a jury, I may truly say of his own selection, and in whom not only himself, but the Crown, may safely place every confidence.

## Library of Congress

If he is innocent, he ought to rejoice that he is brought to trial; for no man after the accusations made against him, which were alledged against the prisoner, could wish, if not culpable, to live with a character for ever ruined, with a reputation stained with blood, and in the minds of all who know him, H 2 90 with a mark set upon him, like that of Cain, to designate him a murderer among mankind. On the other hand, if he is guilty, and proved to be so, he ought by death to make atonement for the offences he has committed against the laws of his God and country. He has now an opportunity in his defence, by the assistance of learned counsel, from other Islands, to refute the enormous charges brought against him; to wipe away the ignominy, at present attached to his character, and to avert that awful sentence of the law, which must be the fatal concomitant of a verdict, *Guilty*.

That he may be enabled to do so, I most sincerely wish, for his own sake, and the credit of the human race; but that he will not be able to do so, alas! I feel too well convinced, from a knowledge of the testimony about to be produced, and the law (as I have read it to you) applicable to the case.

Why the witnesses, whom you will soon hear, did not earlier publish his guilt, you will learn from themselves.

Why he was not sooner arrested and brought to trial, you may as well, individually, ask yourselves, as any other person; for you must each, as well as the rest of the community, have learned from rumor the catalogue of his crimes, but what is every body's business, usually is performed by nobody, and not knowing where testimony might be procured of his guilt, 91 no individual would risk the chance of rendering himself the victim of Mr. Hodge's resentment and vengeance, by making accusations he might not be able to substantiate as true; for you well know, Gentlemen, that only on the evidence of *free persons*, can a free person be convicted. Policy has decreed that slaves shall only be permitted to testify against their fellow slaves, and not against free persons, in any case whatsoever. Were it otherwise, I would here introduce a number of sable wretches as witnesses, bearing the external marks of the prisoner's cruelty; whose very appearance

## Library of Congress

would make humanity shudder, and whose tales of woes would cause every nerve within you to vibrate with mental agony.

Having taken up your time for upwards of three hours in the opening of this important cause, quoting lengthy authorities, and making such observations, as I deemed not inapplicable to the subject—I shall, Gentlemen of the jury, hasten to a conclusion; as after hearing the prisoner's defence, this case will be closed on behalf of the Crown, by my very learned and able colleague the Solicitor General.

By whom accused, on from what motives Mr. Hodge has been arrested, are, Gentleman, questions immaterial to you. In order to investigate the charge against him, it is quite sufficient that he has in the 92<sup>nd</sup> due course of law been indicted, has pleaded, and is now on trial.

You have been sworn, Gentlemen: and under the sacred obligations of the oath you have severally taken, you are to try the issue, the awful issue: to him the all important issue of life or death. Like Lachesis, you hold the thread of existence—and fate herself delegates to you her powers. Your word as a jury, so far as is relevant to the *present* trial, either restores a man to society, and purifies him from guilt, or covers him and his memory with indelible disgrace and infamy, by consigning him to an ignominious end, as the only retribution offended justice can receive for violated laws—for *murder!*—for the worst of murders—the murder of an helpless slave, who dared not, could not even assert or maintain the natural right of self defence, nor flee from the lash of the death-inflicting cart-whip; the sound of which, even here, in this sacred temple of justice, in fancy, reaches my ears.

Suffer not, however, the glow of my feelings, nor the warmth which they give to my expressions, in any wise to mislead your judgments; hear the testimony with patience, and acquit the prisoner if you can.

## Library of Congress

Gentlemen, your duty, though awfully important, and truly painful, is nevertheless plain. You are to be governed by the testimony, and guided by the law in forming your verdict.

93

You are not to be influenced by a mistaken, false conception of feelings, nor seduced from your duty by insidious appeals to your compassion.

The laws of your country, the laws of your God, are alledged to have been violated to the utmost extent, and you are to decide whether they have been so violated or not; with mercy you have nothing to do in forming your verdict, for as I before observed to you, it is the attribute of a higher authority. Remember your oaths, your duty to your country, your King, and your God, and be governed by this highly important truth, that for the verdict you shall this day give, you are not only accountable on earth, but will hereafter be held responsible, when (as ere long must be the case) you shall severally appear before the judgment seat of Jehovah; there to answer for the “ *deeds done in the body.* ”

94

PERREEN GEORGES,

A free woman of colour, sworn upon “ *voire dire.* ”

Examined by Mr. *Musgrave.*

*Question.* Have you had any promise of reward from the persons, who went out to take your deposition?

*Answer.* I had not. I was taken by the Magistrates and only sworn to tell the truth.

Q. Were you ever persuaded to give testimony in this business?

A. Never. I have never been persuaded to come forward, nor has any body ever held out any temptation, or inducement to me.

## Library of Congress

Mr. *Lisle* —If it is the intention of the prisoner's counsel to accuse the magistrates of tampering with the witness, let them be impeached.

Mr. *Long* —to the Court.

If the counsel for the prisoner are stopped in this way, on a supposition, that it was their intention to criminate the magistrates, which was not the case—If I have not the opportunity of acting as my judgment leads me for my client, I must abandon him. This has been done in other trials, and the judge who did it is justly execrated. All I ask is to be heard in reason—my learned friend can oppose; if I am heard, and at large, I shall not complain.

95

Examined in chief by Mr. *Solicitor General*.

Q. Do you know the prisoner at the bar?

A. I do.

Q. Did you know a negro man slave, named Prosper, his property?

A. I know he owned a slave named Prosper.

Q. Is he dead?

A. He is.

Q. Do you know what occasioned his death?

A. He died by licks, confinement and starvation.

Q. By whose order was this done?

## Library of Congress

A. By order of Mr. Hodge—he was present.

Q. Was you present when those licks were inflicted?

A. I was present when he was laid down and flogged for a mango which dropped off a tree, and which Mr. Hodge said he should pay six shillings for—he had not the money, and came to borrow it of me; I had no more than three shillings—he said to his master he had no more money; his master said he would flog him if he did not bring it—he was laid down and held by four negroes on his face and belly, and flogged with a cart-whip—he was under the lash better than an hour; he then got up, and was carried up to the hill after—and his master said he should be flogged again, if he did not bring the other 3 s. —he was tied to a tree the next day, and the flogging was repeated: he was then licked so long that his head fell 96 back, and could not bawl out any longer. I supposed he was faint. I then went from the window, as I could not bear to see any more of it.

Q. Did Mr. Hodge call this kind of punishment by any particular name?

A. He did—he called it short quarters.

Q. What do you mean by short quarters?

A. The whip is half tied up, and half let out.

Q. What was done with him after the second flogging?

A. He was carried to the sick-house and put in irons.

Q. Was he flogged afterwards?

A. I did not see him flogged again.

Q. How long after did he die?

## Library of Congress

A. In about a week.

Q. Was he in irons all the time?

A. He was in chains with two other men for five days—they broke away, but he was so weak he could not go far.

Q. Where did he go to?

A. From the sick-house to his own house.

Q. Was he still in chains?

A. The other negroes loosed his chains.

Q. Was the prisoner told of the negroes getting away?

A. He was.

Q. By whom?

97

A. By the driver.

Q. Was he informed about Prosper?

A. I do not know.

Q. Can you state how long it was, after the second flogging, that he died?

A. It was not quite two weeks, it happened a little before Mrs. Hodge died.

Q. What was the cause of Prosper's death?

## Library of Congress

A. He did by licking, confinement and starvation—he had no black skin upon him, he was all cut to rags.

Q. The whole body?

A. The back part of him—at the time he died crawlers were in him.

Q. Was he attended by a doctor?

A. No doctor saw him.

Q. Did any doctor attend the estate?

A. Dr. West was the doctor of the estate, but I do not know if he was called to Prosper?

Q. Where was he buried?

A. Nearly on the spot he died, he was dragged to the door.

Q. Is there a burying ground on the estate?

A. There is.

Q. Do you know by whose order he was buried, and if in a coffin?

A. No person would take upon himself to do it without 198 Mr. Hodge's orders; he was not buried in a coffin.

Q. In what state was the body?

A. It was spoilt and offensive, by which means I found it out.

Q. State again how long after the second flogging he died?

## Library of Congress

A. In less than a fortnight.

By the *Jury*.

Q. Was you present during the whole of the time of the last flogging?

A. I was; the first flogging was at the works, and the second was on the hill.

Observation by Mr. *Long*.

Q. Then I presume that Mr. Hodge made it a practice to have you present, whenever he punished negroes?

Mr. *Lisle* objected.

Mr. *Long* shewed difference between cross examination, and examining in chief. The conduct of Mr. *Lisle* was very improper in his interfering with a question put to a witness; instead of addressing the court, quoted Peake 197, after a witness is examined in chief, you are not instructed to any particular mode of examination—if she would speak the truth there could be no harm, but if otherwise, and the answer such as to enable him by other witnesses to contradict her, and affect her testimony; witnesses will 99 by variations on questions unprepared for, be caught tripping.

Cross-examined by Mr. *Long*.

Q. Was you present on the first day?

A. I was, it was at the works.

Q. Was you present on the second day?

A. I was, it was at the hill.

## Library of Congress

Q. How came you to be at the hill?

A. I was washing at the bottom, and brought up cloaths to the hill.

By the *Chief Justice*.

Q. Was or was not Mr. Hodge present when it began.

A. He was at the beginning: he was present at both all the time.

By Mr. *Long*.

Q. What did you mean by saying he was at the beginning?

A. He was there from beginning to end.

Q. Do you understand the nature of an oath, or the rules of religion?

A. I understand religion so far that I will tell the truth.

Q. How many lashes do you think were given in the hour?

A. Better than one hundred—Mr. Hodge has flogged for half an hour, for one hour and for two hours: he has tied and flogged them from breakfast till noon.

100

Q. Have you heard Mr. Hodge mention close-quarters?

A. I have heard him mention short-quarters.

Q. Have you ever heard Mr. Hodge, to others mention the same?

A. No.

## Library of Congress

Q. Did you ever hear him mention it to his friends?

A. He did not do it to them.

Q. How long before Mrs. Hodge's death was Prosper flogged?

A. About three or four months.

Observation of Mr. *Long*.

Mrs. Hodge died in October 1808, Prosper was flogged on the bill near the dwelling house, and it was so severe you could not bear to see it.

Q. Did you stay there after this happened?

A. I remained working for Mrs. Hodge.

Q. Did you ever mention it to any one?

A. I dared not.

Q. How long did you live there?

A. Until Mrs. Hodge died, and three or four weeks after.

By the *Court*.

Q. Were any persons besides the family there when this happened?

A. Nobody besides Mrs. Hodge and the children.

Q. Was not Mrs. Collins, now Mrs. Rawbone there?

101

## Library of Congress

A. She was not there that day.

By Mr. *Long*.

Q. Did you ever mention Mr. Hodge's cruelty to any one?

A. I mentioned it to slaves.

Q. Did you not mention it in town?

A. Not particularly in town any more than any where else.

Q. Did you or did you not mention it in town?

A. I did mention it in town.

Q. Did you never mention it to any free person?

A. I cannot recollect that I ever did.

Q. Where was Prosper buried?

A. At the back door of his house.

Q. Was there not a negro on the estate named Scinda?

A. There was.

Q. Was that negro runaway?

A. I don't know.

Q. Were you not well disposed towards Mr. Hodge?

## Library of Congress

A. I could not like a man so cruel as Mr. Hodge.

Q. Did he not treat you well?

A. He was always very kind to me, but very cruel to his slaves.

Q. Have you always said so?

A. I have.

Q. Who did you ever speak to in this manner? 12

102

A. I can't recollect that I ever said it to any free person.

Q. Where was Prosper taken after he was flogged?

A. He was carried to the sick-house.

Observation by Mr. *Long*.

Now as Mrs. Hodge died in October 1808, and Prosper died three or four months before, he died about July 1808.

Q. Did not Dr. West attend the sick-house?

A. I never saw him attend more than three people, and they were afflicted by the Lord.

Q. Were there many people at the sick-house?

A. There were, and all cut up.

Q. Was the smell of the sick-house offensive?

## Library of Congress

A. It was.

Q. Did not the doctor visit the sick-house?

A. I do not know: the three people I mentioned were at the old manager's house.

Q. How is the sick-house situated?

A. It is near the great house: people going there pass by it.

Q. Did not other people notice its being offensive?

A. Other people did not tell me it was offensive: I found it so myself.

Q. Do you know Stephen M'Keough?

A. I do.

Q. Have you ever observed that the negroes were lacerated, when they came from the field?

103

A. I have—so much so that they stunk.

Q. Did Mr. M'Keough make any observations to you about it?

A. No.

Q. Do you know the cause of Prosper's death?

A. He died of the beating.

Q. Did it not occur to you that Mr. Hodge was guilty of a crime?

## Library of Congress

A. It did.

Q. Did not you think the law would punish him?

A. I did.

Q. Why did you not bring him forward?

A. I dared not—Mr. Hodge would kill me dead.

Q. Did you remain on the estate after Mrs. Hodge died?

A. I staid a little time.

Q. Were you permitted to see Mrs. Hodge?

A. Mr. Hodge would not let me take my work in to her.

Q. What did you do with it?

A. I took it away with me.

Q. You were there when Mrs. Hodge died, how long did you stay after?

A. I was there when she died, and staid a week or two after.

Q. Was M'Keough there when she died?

A. Yes.

104

Q. Was M'Keough there when Prosper was flogged?

A. I cannot say—he was not there when he died.

## Library of Congress

Q. Did you live on the estate?

A. I used to do work for Mrs. Hodge. I lived in town and went there occasionally.

Q. Was you there when Prosper died?

A. No, but I saw him after he was dead.

Q. Was Mrs. Collins there?

A. I cannot say.

Mr. Solicitor General—Witness is speaking of an occurrence that passed three or four years ago.

Mr. Long—This renders it more difficult to repel a charge of that distant date.

By Mr. *Long*.

Q. Was you constantly on the estate?

A. I did not always stay there, it was not my home. I would stay sometimes two weeks, sometimes three days.

Q. Was Mrs. Collins there?

A. I don't know though I lodged in the white peoples' house.

Q. Did you know Margaret and Else, and are they alive or dead?

A. Yes, I was there when both died.

Stopped by Mr. *Lisle*.

## Library of Congress

Mr. Long has asked questions which appear to have a general tendency; if it is the intention to treat the 105 matter generally, the counsel for the crown would be ready to meet him, but cautioned him how he proceeded.

Mr. Long—I am contented: I was only using the latitude allowed counsel in cross-examination.

By Mr. *Long*.

Q. What was the matter with Margaret?

A. I saw her scull almost split open.

Q. Was any thing the matter with Else?

A. She was confined in consequence of licks and by being scalded with boiling water.

Q. By whose order?

A. By Mr. Hodge's order.

Q. Were you there when Margaret died?

A. I was—she died in the sick-house on christmas day. I heard Mr. Hodge say he would be the death of Margaret and Else, because they had tried to destroy his children.

Q. Whether did Margaret die before or after Mrs. Hodge's death?

A. Before.

Q. Was Mrs. Collins there?

A. I do not know whether she was there or not?

## Library of Congress

Q. Was Mrs. Arrindell there?

A. She was.

Q. Did Mrs. Arrindell see her?

A. Margaret could not be seen by any one, she was so cut up.

106

Q. Was she in chains?

A. When dying Mr. Hodge took her out of chains and shackles and she died in the sick-house.

Q. Was she long sick?

A. She was sick some time.

Q. Did not Mrs. Arrindell know of Margaret's death?

A. She might have heard of her death, but she could not see her, as she could not be seen while she (Mrs. A.) was there—Margaret's feet were shackled.

Q. Did M'Keough leave the place before you?

A. He did—but I can't say how long.

By Mr. *Lisle*.

Q. Was not Margaret the cook?

A. She was.

## Library of Congress

Q. Was she not in the kitchen the day preceeding the night she died?

A. She was—on christmas day when she was taken out of the sick-house.

Q. What was she doing there?

A. She was chopping minced meat.

Q. Did you observe any thing particular about her?

A. Yes—she looked stupid: she shewed me her head: in the back part of it you could have put three fingers.

Q. Did she tell you whom this was done by?

A. She said it was done by Mr. Hodge.

Q. What happened afterwards?

107

A. She sat down and I did for her what she had to do—her head was then dropping. I told her to go from thence, she said “I can't go from here, as I am to be confined to night.”

Q. Did Mr. Hodge ask you any question respecting Margaret?

A. He did—he sent to call me, and asked me if Margaret had told me any thing; I said to him that she was getting the fever.

Q. Why did you say so?

A. Because I feared he would lick the people who told me—he had already locked me up once in the sick house, on account of money he owed me: he owes me money now, and I have been afraid to ask for it.

## Library of Congress

Q. Why were you afraid to ask for it?

A. On account of personal danger. I was afraid to say what Margaret told me, and that she shewed her head.

Mr. Lisle appealed to the court, conceiving that he was at liberty to bring general testimony as to Mr. Hodge's cruel disposition.

Mr. Long claimed permission to re-examine on the questions put by Mr. Lisle.

By Mr. *Lisle*.

Q. What was the general treatment of Mr. Hodge to his slaves?

Mr. Tyson—The point of examination for the prosecution is to support particular facts; the question 108 now at issue is, the murder of Prosper. Was ever evidence allowed to be given of general character on a charge of murder? Would they attempt to prove that Mr. Hodge was guilty of twenty murders on a trial for only one? If it appears that we can prove false swearing with regard to Margaret and Else, the jury will not credit the witness and our object in cross-questioning was to establish this false swearing and we are clearly able to support this assertion; we shall affect her credit—indeed, invalidate her testimony. Suppose a witness is so completely drilled that you cannot detect her on the case immediately before the court; are we to be debarred endeavouring to prove she has committed improper acts, even in other cases, to answer this purpose. The object of the King's counsel is, to blacken the character of the unfortunate gentleman at the bar, and in the event of their failing in this prosecution, they would tell the jury “it is true he is not guilty of this murder, but you have it in evidence that he has committed others, and you must consequently find him guilty of murder.” I submit that the court cannot permit them to enter into such examination.

## Library of Congress

Mr. Long quoted 1 *Peake* 7 and 8 “in prosecutions you cannot enter into prisoner's character unless his counsel question as to his character; they have a right to attempt to discredit the witness. *Macnally* 324.

109

Mr. Solicitor General—We have particularly confined ourselves in examining this witness to the charges laid in the indictment; my learned friends have travelled out of it, by examining as to particular cruelties to particular objects; having laid in the indictment that the prisoner at the bar, was a person of a cruel, malicious and diabolical disposition, we have a right to enter into it; it will not help cut our indictment but as it regards Prosper, therefore the examination we have entered into, is only to guard the witness against the traps laid for her.

If it is proved that Mr. Hodge was a saint, it will not avail him, if he is proved to have murdered Prosper. His counsel were warned, and we have a right, if they open a door to enter it; we don't mean to support our charge by shewing the general bad character of the prisoner, we only support the witness who, as yet, is unimpeached.

The Chief Justice—It appears to me that it would be time to support the witness when she is contradicted.

The Court gave leave to the King's Counsel to go on.

By mutual consent the jury retired to refresh.

—Jury returned.

By Mr. *Lisle* —to the witness (*Perreen Georges*.)

Q. What happened to Margaret after she nodded?

## Library of Congress

A. She was sitting down and appeared then to be dying K 110 She had a wound on the back of her head; she fell on her face, was carried to the sick-house, and died that night; I saw her coffin in the morning.

By Mr. *Long*.

Q. How did you know that she died that night?

A. Mr. Hodge told me.

Q. Was she in irons?

A. She was taken out of chains that morning, to go into the kitchen.

By Mr. *Lisle*.

Q. Was it only for this day she was taken out of chains, or at other times?

A. I have seen her in chains in the field, and at night in the sick-house, by way of confinement.

By the *Jury*.

Q. Was Prosper supplied with food or not, after he was flogged?

A. I cannot say whether he was or not.

Q. Where was Prosper's house?

A. A little below the dwelling house.

By Mr. *Long*.

## Library of Congress

Q. You saw creepers on Prosper's body?

A. Yes.

Q. Did Mr. Hodge never give his negroes any thing when they were confined?

A. I never knew him to do it while in a passion or even after—I never saw it done.

111

STEPHEN M'KEOUGH, Sworn upon the “ *voire dire*. ”

Examined by Mr. *Tyson*.

Q. Were you not at Santa Croix?

A. I was.

Q. Were you not applied to, to come over and give evidence on this trial?

A. Some persons came to me, but did not apply to me to come over to give evidence.

Q. Did you leave your employment without knowing what it was you came for?

A. I did.

Q. Was you promised any other place?

A. I was not—I had permission from my employer to come over.

Sworn in chief, examined in chief by Mr. Solicitor General.

Q. Do you know the prisoner at the bar?

A. I do.

## Library of Congress

Q. Have you lived in his employ?

A. I have.

Q. Do you know all his slaves, and particularly Prosper.

A. I know Prosper.

Q. Was Prosper ever cart-whipped?

A. He was several times, and very severely, and at close-quarters.—He had one whipping so very severe that I could put my finger in his side.

112

Q. Did you see him laid down?

A. I did.

Q. Did you see what you term close-quarters?

A. I did not see the close quarters, but I saw the marks of them.

Q. Was he put in confinement after being flogged?

A. He was.

Q. Was he worked after this?

A. I saw him turned out to work, he was then capable.

Q. How long have you lived in the prisoner's employ?

A. I lived with him three times: this was the first time.

## Library of Congress

Q. How came you to know that Prosper was dead?

A. Mr. Hodge told me—I saw Prosper some days before he died, in a cruel state, so bad, I could not go near him for the blue flies.

Q. Was you living with the Prisoner then?

A. No; but I used to go now and thee, when Mr. Hodge sent for me: I saw Prosper then at the ?ut; about two or three weeks before his death, I saw Mr. Hodge knock him down with a rock-stone.

Q. Where was Prosper then?

A. He was doing something about the works.

Q. What was the cause of the prisoner's knocking him down?

113

A. It was about a bull.

Q. In what situation was Prosper then?

A. He was underneath Mr. Hodge, who took up a stone and knocked him down; when I saw him the last time I did not think he could live long.

Q. Why did you think he could not live long?

A. I thought so from hunger, watching in the cold, and confinement.

Q. When you left the prisoner's employ, was you replaced by any other person?

A. No.

## Library of Congress

Q. Did the prisoner always treat Prosper with severity?

A. He was not always cruel to this man; he told me at one time that Prosper was a very good negro, and if he had not him, he should not know what to do to cart his Sugars. I thought he was a very good negro; and I observed that he deserved the character he gave him.

Q. By whose orders was the flogging inflicted?

A. I do not suppose it could be, but by Mr. Hodge's orders: if it had, Mr. Hodge would have inquired into it.

Q. What kind of a negro was Prosper?

A. A good looking strong negro.

Q. What was the cause of Prosper's death?

A. I believe the laceration to have been the cause.

Mr. *Long* cited 1 *Macnally* 262; in chief the witness K 2 114 must swear to fact of his knowledge, and not belief.

Mr. Solicitor General proceeded:

Q. Have you had any conversations with Mr. John Skelton, junr. relating, to the prisoner?

A. I did mention to him, Mr. Hodge's treatment of his slaves, years ago, when I left his employ the first time, and when I went to Paraqueto-Bay. I begged him not to mention it again.

Q. Why did you enjoin secrecy?

## Library of Congress

A. Because, I knew that if Mr. Hodge knew it, he would not hesitate to take my life.

Q. Why did you think so?

A. I thought so by the manner he treated his slaves.

Q. Did any thing more pass with Mr. Skelton?

A. I told him to beware of Mr. Hodge.

Q. Do you know any thing relative to Mr. Wallace's negroes?

A. I went at one time with Mr. Hodge, armed, and he said if he met Mr. Wallace, or his negroes he would shoot them.

Q. When did this happen?

A. On the second time of my living with Mr. Hodge.

Q. What induced you to return to him?

A. I went back in order to get my pay.

Q. Did Mr. Hodge say any thing to you concerning Mr. Skelton?

115

A. He told me if I kept company with him, he would discharge me, as he was an unsafe man. I told Mr. Skelton of it the same day, at dinner, at my house, on Mr. Hodge's estate.

Q. Had Mr. Hodge a good gang or negroes when you first went to live with him?

A. He had a fine gang.

## Library of Congress

Q. How many negroes had he then?

Mr. Tyson and Mr. Long, opposed.

Mr. Solicitor General withdrew the question.

Witness ( *M'Keough* ) cross-examined.

By Mr. *Tyson*.

Q. Did you not go to St. Thomas?

A. I did in 1809, from this place, in November.

Q. What was the cause of Mr. Hodge's discharging you?

A. Because I was not severe enough; I told him that he prevented me, by being so severe himself, and if he allowed the overseer, driver, and himself, to punish, he would not have a negro left.

Q. What did the prisoner say?

A. He said that if the work was not done to his will, he was satisfied so he heard the whip crack; his great pleasure was in cruelty.

Q. How long did you live with Mr. Hodge the first time?

A. Six months, in 1805.

Q. Were not the keys, at times, in danger, in consequence 116 of your being drunk? Did not you loose your hat and shoes?

A. I do not know or recollect that to be the case.

## Library of Congress

Q. Did not Mr. Hodge take the keys from you when you were in that state?

A. I do not know, nor recollect it.

Q. Did you never go to Mr. Hodge at any time to solicit him to take you back?

A. Never. I went to Mr. Hodge for a letter of recommendation to Col. Hetherington, who said he would employ me if he were not engaged.

Q. Don't you recollect saying any thing favorable of Mr. Hodge?

A. I do not, I might have said so, but don't recollect it.

Q. Where were you born?

A. Perhaps if I tell you, you would not know: in Ireland.

Q. How did you come over?

A. In a boat.

(Mr. Tyson displeased at the answer.)

Q. In what situation did you leave Ireland?

A. (After doubting whether he was bound to answer that question,) I paid for my passage and left Ireland to recover property at St. Thomas, where I went about 11 years ago.

Q. Did you live with Mr. Skerret at one time?

117

A. I did, after the first time I quitted Mr. Hodge in 1805 or 6.

## Library of Congress

Q. Was you with Mr. Hodge in 1808.

A. I was, but not living, with him; I was at the house and at the works frequently.

Q. Did you frequently see any strangers there?

A. The only person I saw there frequently was Mrs. Rawbone, (late Mrs. Collins.)

Q. Where were you when Mrs. Hodge died?

A. At the works.

Q. Was Mrs. Rawbone there?

A. She was.

Q. Was Mrs. Arrindell there?

A. I don't recollect seeing her.

Q. When did you quit Mr. Hodge as his overseer?

A. I left him in May 1807, but was off and on there in 1808.

Q. How far is it from the house to the works?

A. It is ten minutes walk, down hill.

Q. Where did Mr. Hodge tell you Prosper died?

A. At the works.

Q. Did Perreen Georges live at Mr. Hodge's while you was there?

## Library of Congress

A. She did.

Q. Was she there at the time you, were?

A. She was.

Q. What time was this?

A. It was in 1805; I Went back in 1805, I then? quitted him, and came again in 1807.

118

Q. In what situation was Perreen there, when Mrs. Hodge died?

A. As a kind of manager.

Q. How do you mean?

A. She attended and took care of the boiling-house, which I call being a manager.

Q. Was Mrs. Hodge in the habit of going to the boiling-house!

A. She was, frequently.

Q. For what purpose?

A. I do not know.

Q. Was you with Mr. Hodge after Mrs. Hodge's death?

A. I was, some weeks. Mr. Hodge begged me, as he was in trouble.

Q. How long were you with him the first time?

A. Six-months.

## Library of Congress

Q. Have you ever eat at the same table with Mr. and Mrs. Hodge?

A. I have breakfasted, dined and supped with them.

Q. Do you mean at the great house, as his bottle companion?

A. I do. I have sat at table with them and Mrs. Rawbone.

Q. Have you any thing to say against Mr. Hodge in regard to his treatment of yourself?

A. Nothing.

Q. Did not he ill treat you at any time?

119

A. He threatened to cart-whip me the last time I was with him—I asked him for payment several times.

Q. Did he ever threaten to kill you?

A. Never—I was armed with a good stick in case of need, but he did not offer me any violence.

Q. Have you ever had any quarrel with Mr. Hodge?

A. I have had a few words with him about pay; he has not paid me yet, but I don't intend giving up the debt, tho' I owe him no ill will in consequence of his not paying me, he owes me £ 56 (current money of Tortola.)

By Mr. *Lisle*.

Q. Do you feel any prejudice against Mr. Hodge for not paying you, or for any thing else.

## Library of Congress

A. I do not.

Q. When you said you came in a Boat, did you mean a sea boat—a ship?

A. I did mean so.

Q. Did Mr. Hodge tell you how Prosper died?

A. He did not.

Q. Did you assist in digging Mrs. Hodge's grave with Mr. Daniel Ross?

A. I did, because there were no proper negroes to do it.

120

JOHN SKELTON, Jun. Sworn in Chief.

Examined by Mr. *Solicitor General*.

Q. Do you remember having conversations with Mr. M'Keough while he lived with Mr. Hodge?

A. Mr. M'Keough represented to me, when I lived at Mr. Wallace's estate in 1807, Mr. Hodge's cruelty to his negroes, he used to tell what was going on frequently.

His Honor the President, (Richard Hetherington, Esq.)—to speak as to a letter of recommendation from the prisoner to Mr. Hetherington—Opposed by the prisoner's counsel, who submitted whether the President after being examined, should take his seat again.

Not persisted in by the prisoner's counsel.

MARK DYER FRENCH, Esq.

## Library of Congress

Q. Did you ride up to the prisoner's estate to enquire for the grave of Prosper, as one of the committee for carrying on this prosecution?

A. I did in company with some others.

Q. Who pointed it out to you?

A. Perreen Georges.

Q. Was the grave opened?

A. It was.

Q. In what situation did you find the corpse?

A. The head was lower than any other of the bones, 121 the legs crossed; but you had better refer to doctors who were there.

Q. What kind of grave was it?

A. It did not appear to be well dug, some of the bones were near the surface.

Q. Where was the grave?

A. At the back door of Prosper's house.

Q. You say the head was lower, and the grave seemed deeper about the head?

A. I do.

Cross-examined by Mr. *Tyson*.

Q. Was any notice given to Mr. Hodge to send an agent to attend?

## Library of Congress

A. No—not to my knowledge.

Q. Did you see any irons or puddings?

A. No.

Q. Did Perreen say when she saw the corpse, the irons or crooks were on?

A. I understood so: and that this related to Prosper, I will not be positive.

After a few observations from Mr. Lisle,

Mr. Tyson addressed the jury on behalf of the prisoner—(The reporter has sent this speech to St. Christophers, for Mr. Tyson's correction; on its being returned, with any material alteration, it will appear in its corrected state in a second edition.) L

122

Mr. *Tyson*.

*May it please your Honors, Gentlemen of the Jury.*

I rise on the part of the gentleman at the bar, and I think before I sit down, I shall produce the most unexceptionable witnesses, to satisfy your minds as to the innocence of the prisoner.

A variety of cases have been submitted to you, to explain the different species of homicide, but they have not been treated fairly; much would depend on the lawfulness of the weapon and the state of body the party was in at the time of the infliction of the punishment; much might be attributed to neglect. The cases the counsel for the crown have cited do not apply—it is not pretended that Mr. Hodge used any other than a lawful weapon: but excess of punishment is pretended. It has been stated by the learned counsel, just set down, that he attributed the corroboration of evidence as an act of God! I

## Library of Congress

say it was the act of man.—These witnesses have been kept together for a length of time, and it will be admitted that when two people are put together for a length of time, they will with facility trump up a story, and not only agree in it on being examined, but it may appear plausible.

What has Mr. M'Keough's conduct been? He treated the matter on his examination as a subject of mirth! He did not feel for three helpless children 123 whom he would deprive of their only protection, their father! M'Keough is a guilty man—he is guilty of misprision of felony. This offence was said to be committed years ago;—if this murder was committed, M'Keough should have brought Mr. Hodge to justice. Mr. Hodge is brought forward at this remote period of time under the most cruel disadvantages. Witnesses who could come forward in exculpation are now no more; others he is deprived of by a variety of causes.

Can you believe M'Keough when he tells you, Mr. Hodge cared not for the work done by his negroes, provided the cart-whip—the detestable lash of the cart-whip was heard by him! Is there any one in this court who can give credit to this declaration, that Mr. Hodge would sacrifice affluence, comfort, happiness, for the gratification of hearing the detestable cart-whip—it is impossible this can be true, and yes he swears to it!

M'Keough has denied his having the keys on the occasion mentioned, or did not know he had them—this alone would impeach him. I shall be obliged to refer to many occurrences when I open the case on the part of Mr. Hodge. M'Keough wishes to make it appear that he was intimate with—a bottle companion of Mr. Hodge! What will you say when I prove to you, that he was never suffered to come into any other than a particular part of his house! I shall 124 have occasion to bring Perreen's character into proper view. She tells you with regard to Margaret, that she was so ill, she was unable to cook the dinner, and that she (Perreen) did it for her. Now suppose I prove that Margaret dressed the dinner that day—that she was talking to her of her character; that she ought to behave better, and she would be a valuable negro; that on that day, when Perreen says she had the wound, she was well, and that at one o'clock in the morning Mr. Hodge was called up, attended to

## Library of Congress

her kindly, but owing to some affection of her breast, she died that day. Does this look like a wish for concealment on the part of Mr. Hodge, when it was notorious to all? If you find Perreen tripping, nay, falling in a matter foreign to the cause before us, must you not expect the same in what relates to it immediately? This humane creature could not bear to see the punishment of Prosper; she kept her post at the window until the flogging was ended, and then her stomach turned because there was no more flogging! Had she been humane as she would wish to be conceived, would she not have quitted her favorite window after the first lash of the whip? Close-quarters and short quarters are mentioned; I am held out in saying that so far from terms of that description being used by Mr. Hodge, he was ignorant of their import as it related to the present question. (Reference was here had to conversations with 125 Mr. Hodge in gaol, to support the assertion, which escaped the reporter.)

Mr. Hodge has been charged with atrocities, which appal human nature—why has this been done? for the purpose of justice? No—for the purpose of prejudicing the public mind against him! But the attempt is abortive. We are now before a jury of our country—a jury that will conscientiously do their duty.

Under these circumstances M'Keough stands before you in a very questionable light: but you will hear more of him, Gentlemen. He is a very convenient man—he has no recollection of his having spoken in favorable terms of Mr. Hodge at the time these atrocities were committing.—This I can prove.

Much has been said about this Prosper's death. Suppose I prove, and I can do it, that this negro was runaway at the time of this severe flagellation, and that Mrs. Rawbone, who was in the house, did not hear the lashes, though it is said it was done under the window, —this man is certainly dead, he has secreted himself in his house, and when found was in such a putrid state, it was absolutely necessary to put him under ground on the nearest spot.

## Library of Congress

I am instructed to say, the bones said to be Prosper's are now in court, and that some gentlemen went for the purpose of having them taken up! This is L 2 126 a horrible scene! Let the pleasure of such an act be stated—I shall be satisfied if the propriety is made out—it is a crime and punishable.

You have been told a story about a mango. Is it possible Mr. Hodge would sacrifice 50 joes for a man-go fallen from a tree! Would he lacerate a negro for six shillings! Had Perreen been humane, she would have exerted herself to relieve him; self-interest would have prevented it. Can you attribute it to resentment? Resentment against whom? his slave? A slave may excite anger, but surely not resentment. It is said that negroes were confined in the sick-house for six or seven days without food was this resentment, the same against those sick, as those by himself flogged? This sick-house you are told, was filled, and that they were all cut up! A monster could not have acted so.

Mr. Hodge has resided in this country fifteen or twenty years; these charges may be said to be only the other day.

Gentlemen who visited him, must see negroes in that state on an estate; you cannot therefore believe the witnesses. If he had no regard for himself, he would have some for a young family. Those little innocents, his only comforts, he was deprived of in prison. Mr. Hodge was above escape—could he not have escaped? He was not apprehended—yet he was, he went to the marshal for the purpose of being apprehended, 127 and I hope he will receive the reward. Mr. Hodge has undergone unheard-of hardships—loaded with irons. I never heard of a man, committing the grossest crimes, prevented seeing his friends, and thereby deprived of witnesses.

Our case is plain—Prosper died a natural death, and was found in a house, not his own, in a putrid state. Gentlemen, what are you called upon to do? to sacrifice a fellow creature!—on what evidence? M'Keough and Perreen Georges!

## Library of Congress

You feel he is not guilty, because it is impossible such a character, as he is described to be, can be supposed to exist!

This is not a question of *meun* and *tuum* —of 20 s. or 20,000£; it is not life—it is his honor, which is dearer, we are defending.

128

PENELOPE HODGE.

A free black woman, (very old) *sworn*.

Examined by Mr. *Musgrave*.

Penny, relate what you know of Prosper.

A. I don't know much about him, than that he is dead, which I heard.

Q. Do you know how he was buried?

A. He was dragged out of his house and buried.

Q. When did you see him?

A. I saw him a good while before his death, I can't say how long.

Q. Did you observe any marks of severity about him?

A. I did not, he was not cut up.

Q. Was he accustomed to run away?

A. He was.

## Library of Congress

Q. Where were you at the time of his death?

A. I lived at Mr. Hetherington's, where I still live.

Q. How long before his death did you see him?

A. I saw him a month before I heard he was dead.

Q. Can you hear any thing that passes at Mr. Hodge's?

A. Yes, sometimes.

Q. Did you see him frequently?

A. I did—he used to come to see me; I saw him before Mrs. Hodge died and after—heard he ran away.

Q. Was he sick?

129

A. He said he was.

Q. Did he complain of being beaten?

A. No.

Q. Is there any estate between Mr. Hodge and Mr. Hetherington?

A. No.

Q. Had not Prosper been mad?

A. Yes.

## Library of Congress

Cross-examined by Mr. *Lisle*.

Q. Do you know lawyer Lisle?

A. No.

Q. Did you ever see him?

A. My sight is very bad, I have lost my left eye?

Q. How long has your sight been bad?

A. Since Mrs. Hodge's death.

Q. Do you know how many days there are in a month, or how many months in a year?

(Did not answer, appeared to be unable.)

Q. Do you know how many weeks there are in a month?

A. Four or five weeks.

Q. How many days are there in a week?

A. Six.

Q. Did any persons go up to you to take your deposition?

A. Yes, there were eight persons.

Q. Was lawyer Lisle one of them?

A. My husband who was in the room told me so.

130

## Library of Congress

Q. Was you sworn: did they make you take an oath?

A. No—I was not sworn.

Mr. Lisle then applied to the prisoner's counsel for a sight of her deposition, taken on the estate, which, after some opposition, was produced and read by Mr. Lisle.

### *Deposition.*

Virgin-islands, Tortola.

*Penelope Hodge* of the Island of Tortola, free black woman, maketh oath and saith, That on Monday the fourth day of March, instant, between the hours of five or six of the clock, or about dusk of the evening, eight persons came to her house—that one of those persons, who deponent believes was a lawyer by the name of Lisle, administered an oath to deponent, and desired her to depose to such points to which she might be interrogated.

That among several questions put to deponent were these following.—“Whether Mr. Hodge ever murdered any of his negroes to her knowledge?” That deponent answered “No. That she never knew nor heard of any such thing—that she had heard that Mr. Hodge had flogged some of his negroes, but she had seen the negroes so flogged at their work afterwards.—That a Mr. Ross, one of the persons present, 131 asked deponent, how a certain negro, called Bennery, died?” and “whether he had not died from a whipping?” That deponent answered “No—That she knew he had been flogged for stealing a tongue, but she saw him after the flogging at his work—and that she never heard nor knew of any negroes having died from flogging or severity.”—That she this deponent was then asked “whether a certain negro, named Jupiter had not been burnt to death? and whether a negro woman called Margaret, had not been made by Mr. Hodge to drink hot or melted lead?” that deponent answered “never to her knowledge.” That deponent was asked “how a woman called Sarah, and one called Beck, and a man called Tower Hill died?” That deponent answered, “that Tower Hill ran away and was never after heard of—and as

## Library of Congress

to the others, that she supposed they died of sickness." That deponent was asked "by whom the negro belonging to Mr. Wallace was lately shot?" that deponent answered, "That she did not know." That she the deponent was further asked, "Whether one of Mrs. Hodge's arms was not broken?" that deponent answered "no, that she the deponent constantly attended her,"—that deponent was also asked, "how said Mrs. Hodge died?" that deponent answered, that "she died of a fever." That deponent was asked "How a white maid servant of Mrs. Hodge's died, and whether such maid servant did not miscarry, and upon 132 whom she called in her dying moments?" That deponent answered, "that she called upon no one, that she took cold after her miscarriage, which deponent supposed to have been the occasion of her death." That deponent was asked "who made the coffin for the woman, or maid servant?" that deponent answered, "one Moreton, a carpenter." That deponent was then asked "who made the coffin for the child, or abortion?" that deponent answered, "that there was no coffin—that it was wrapped up in a piece of cloth, as is usual in such cases." That one of the persons present, then observed, "we can get nothing out of her: we must take her to town." That after the conversation before mentioned, deponent was asked 'where a woman called Perreen Georges was?' That shortly after she saw the said Perreen Georges with the said persons, and heard some one say to the said Perreen Georges, that she must go with a Mr. Green to his house. That she the deponent was asked by one of the said persons for a light, which was given to them."

PENELOPE her X mark. HODGE.

*Sworn before me, this 5 th day of March, 1811.*

Thomas Dougan, J. F.

133

Mr. *Lisle*, in a very short address, pointed out to the Jury, the flagrant contradiction in Penelope Hodge's evidence in count, when compared with this deposition.—"Before

## Library of Congress

the court she says she does not know me; and, in her deposition, she states, she was sworn by me, which latter circumstance she contradicts also, when brought here; she has manifestly perjured herself, as you perceive, and, nothing but her age and apparent imbecility, protect her from punishment; you cannot pay the slightest regard to her evidence.”

The court were of the same opinion.

DANIEL ROSS, Sworn.

Examined by Mr. *Musgrave*.

Q. Did you know Prosper?

A. I did.

Q. What kind of a negro was he?

A. He was an able and fine negro. I have understood he is dead.

Q. Did you ever know him to be in a state of mental derangement.

A. I never did.

Q. When did you see him last?

A. I saw him the end of February or beginning of M 134 March, 1808; I went in a boat where he was one.

Q. Was Mr. M'Keough living with Mr. Hodge then?

A. No.

## Library of Congress

Q. Was Perreen there?

A. I can't be positive as to Perreen.

Q. Had Mr. Hedge any other white person in M'Keough's place?

A. He had two sailors, the one named Rose: the name of the other I did not know.

Q. Do you know any thing to the prejudice of M'Keough?

A. I do not—he would take his soup; inclined to liquor.

Q. Do you know any thing against Perreen?

A. Nothing.

Q. Have you seen M'Keough in Mr. Hodge's house?

A. I have often.

Q. Was he on intimate terms with Mr. Hodge?

A. No.

Q. Have you ever met him at his table?

A. I have once—on the day Mrs. Hodge died, he dined and drank tea there.

Q. Do you recollect any other time?

A. I do not.

Q. Did Mr. Hodge place confidence in him?

## Library of Congress

A. Very little.

135

Q. Do you know whether Perreen had the care of the boiling-house, or acted as manager?

A. I don't recollect, I know she was there after M'Keough quitted.

Q. Were the negroes disposed to runaway?

A. They were well disposed at that time, but when Mr. Hodge was in England they wanted privileges I would not grant, and I believe two-thirds absconded.

Cross-examined by the Solicitor-General.

Q. Was Mr. Green then the manager?

A. He was.

Q. How many negroes were there on the estate at that time?

A. There Were 130 of 131—I saw the account of taxes to day, which I paid.

Q. When was this?

A. In October, 1800; Mr. Hodge returned in 1803.

Q. Did the negroes, you mention to have runaway, return?

A. They did about a fortnight after, and I cart-whipped the whole with moderation.

Q. Did they conduct themselves well after that?

## Library of Congress

A. They did: I left it to their option to go away, or take punishment, and they chose the latter.

Q. Was Mrs. Rawbone with Mr. Hodge in 1808, after Mrs. Hodge's death?

A. She was—it was her home, but she visited her friends.

136

Q. How did Mr. Hodge treat his negroes?

A. I cannot tell.

THOMAS LLEWELLYN, (A free mulatto Carpenter,) Sworn upon the *voire dire*.

Q. Have you had any late conversations with the prisoner?

A. I have.

Q. What was the subject of these conversations?

A. He begged me to recollect what I knew of him—and asked me as to particular days that I worked for him.

Q. Do you expect reward for appearing here?

A. No.

Examined in chief by Mr. *Musgrave*.

Q. Did you do any work on the estate for Mr. Hodge?

A. I did, in 1805, 6 and 7.

## Library of Congress

Q. Did you see M'Keough there in 1806.

A. I did.

Q. Did you see him there at any other time?

A. I did in 1807, but he was not living there then.

Q. Did you ever converse with M'Keough and Perreen Georges?

A. Frequently.

137

Q. Did M'Keough speak to you of Mr. Hodge?

A. He did; he would sometimes speak well of him, and at others call him severe; but said the negroes told him Mr. Hodge was severe.

Q. Was M'Keough intimate with Mr. Hodge?

A. I thought he treated Mr. M'Keough with such contempt that, were it to me, I would not stay an hour with him.

Q. Did you ever see him at dinner with Mr. Hodge?

A. Never.

Q. Do you know any thing of M'Keough's character?

A. I do not.

Q. Did M'Keough keep the keys?

## Library of Congress

A. He did not keep the key of the rum-cellar Mr. Hodge said he could not trust him with it.

Q. What was his situation there—was he likely to see acts of barbarity?

A. It was such, that he could not go to the hill without being sent for; nor was he allowed to go into the yard without asking permission—nor I myself.

Q. Do you not know M'Keough to be a drunkard?

A. I do not, except from what I have heard.

Q. Do you know any thing against him?

A. Not from my own knowledge.

Q. During the time you were on the estate, did you observe any cruelty used towards the slaves? M 2

138

A. I was there in 1805, 6 and 7 very constantly, but did not observe any thing of cruelty to the negroes.

Q. Did you see Prosper?

A. I did, he was very weak; I asked him what was the matter—he said bad living.

Q. Do you know why M'Keough and yourself were not allowed to go in the yard?

A. No.

RICHARD MORETON, (A free black man, a Carpenter,) Sworn in chief.

Q. Have you worked on Mr. Hodge's estate?

## Library of Congress

A. I have; the longest time I was there was in 1807. I remained there 3 weeks in that year, and at other times, for a day or so.

Q. Was M'Keough there?

A. No—nor any other manager.

Q. Did you observe much flogging of negroes?

A. I did not hear the whip going.

Q. Was Perreen Georges there?

A. No.

Q. Do you know any thing of the character of M'Keough and Perreen Georges?

A. I do not.

139

THOMAS CROOK, (A free mulatto man, a shop-keeper,) Sworn in chief.

Q. Did M'Keough live with you at any time?

A. He was my tenant two years.

Q. Have you ever had any conversations with him about Mr. Hodge?

A. Mr. M'Keough told me that many people spoke ill of My. Hodge, but that he did not find it so himself.

Q. Have you observed him frequently to get drunk?

## Library of Congress

A. I have, sometimes at 11 o'clock in the forenoon.

Q. Do you know any thing to discredit his testimony?

A. I do not.

Q. Did you ever detect him in falsehoods?

A. No.

Q. Do you know Perreen?

A. I know nothing of her, or against her.

JAMES CROOK, (A free mulatto man, a carpenter,) Sworn in chief.

Q. Do you know M'Keough?

A. I knew him in 1808; I called upon him for house rent due to Mr. Thomas Crook.

140

Q. (This question escaped the reporter, but the answer to it was)

A. Mr. Hodge was very desirous of having Mr. M'Keough again.

Q. Did M'Keough say any thing to you of Mr. Hodge?

A. He said he was a good man, but comical, because he had bad slaves.

Q. Do you know any thing of the character of M'Keough or Perreen?

A. I do not.

Q. Was Perreen present when M'Keough spoke to you about Mr. Hodge?

## Library of Congress

A. She was, and said M'Keough was comical himself, and would not stay with Mr. Hodge?

Q. Did M'Keough tell you why ho would not return to Mr. H.?

A. He said he would not, on account of a quarrel about a key of the boiling-house.

Q. Did M'Keough tell you that Mr. Hodge took his hat and shoes away?

A. No.

141

Mrs. ANN ARRINDELL, Sworn in chief.

Q. Were you, at any time, a visitor at Mr. Hodge's?

A. I was.

Q. Did you know of Margaret's having cooked a dinner one day?

A. She did—remarkably well.

Q. Was she accustomed to have a pain in her stomach?

A. She was.

Q. Do you know any thing respecting her death?

A. Mr. Hodge was knocked up by the servants, on that night, after we had all gone to bed; she died in the morning.

Q. Did you observe any marks of violence upon her?

A. None.

## Library of Congress

Q. What was Mr. Hodge's disposition towards his servants?

A. I never saw him irritated with them; he was a kind master, husband and father.

Cross-examined by Mr. Lisle.

Q. Do you recollect whether her handkerchief was on or off?

A. I do not.

Q. Was her mouth scalded?

A. I do not know.

Q. How do you know that Margaret cooked the dinner?

142

A. I supposed so, because she came for orders.

Q. How often have you visited Mr. Hodge?

A. I have only been four times.

Q. How long have you staid on those occasions?

A. Four or five days at a time.

Q. Did you see Mr. M'Keough or Perreen there?

A. I did not.

Q. Had Mr. Hodge any manager at that time?

A. I do not think he had any.

## Library of Congress

Q. Did this happen on any particular day?

A. I do not think it was a remarkable day.

Q. Was Mr. Hodge attentive to his negroes when they were sick?

A. He was—he has often mixed medicines for them; he was clever that way.

Q. Do you know the cause of Margaret's death?

A. I can't be positive of what Margaret died; Mr. Hodge told me in the morning at breakfast table, that Margaret was dying, or dead, I can't say which.

By Mr. Solicitor General.

Q. Did Mr. Hodge say she had a cramp or pain in her stomach?

A. He told me she was very ill—I think he said it was a cramp or pain in, her stomach.

By prisoner's counsel.

Q. What is your opinion of Mr. Hodge?

A. I can't say any thing but what is pleasant of 143 Mr. Hodge, in justice to him, according to ray conscience.

Mr. *Lisle* —I shall go into evidence to prove the contrary.

Counsel for the prisoner—objected.

Mr. Solicitor General—cited *Macnally* 324.

## Library of Congress

The prosecutor cannot enter into evidence of the defendant's character, unless, the defendant enable him to do so by his calling witnesses to support it, and even then the prosecutor cannot examine to particular facts.

Mr. *Long*, in reply, quoted *Peak 7* and 8.

The court decided that each party may go into general character.

By Mr. Justice *Issues*.

Q. Was any Doctor called into Margaret?

A. I don't know if there was; there might be.

Q. Was it customary for Margaret to wear a handkerchief round her head?

A. I don't know; I think she did in general, but cannot say.

144

Mrs. ANNE RAWBONE, (Prisoner's Sister) Sworn upon the *voire dire*.

Mr. *Lisle*,

I object to the testimony of Mrs. Rawbone; I can prove that she has declared she knew something that would hang her brother, but if she was brought forward to give evidence, she would not say any thing to injure him.

Sworn in chief.

Examined by Mr. *Musgrave*.

Q. Did you know Prosper?

## Library of Congress

A. I did: he was runaway with a large pudding round his leg.

Q. Do you know of his death?

A. He was afterwards found in Scinda's house, dead, in a state of corruption, and buried near it.

Q. Did you see Perreen there?

A. I never saw her there.

Q. Do you know of Margaret's having cooked a dinner for Mr. Hodge?

A. I do—she cooked it very well.

Q. Do you know any thing of her death?

A. I heard a noise at night, and my brother going out and coming in, and in the morning I heard from him that she died of a pain in her stomach.

Q. Was not this a family complaint?

A. It was—her mother and sister died of it; her 145 mother nursed me and I have always been afraid of that pain.

Q. Do you know whether the puddings were taken off of Prosper?

A. I never heard of their being taken off.

Q. How long were you on the estate before he died?

A. Two or three months.

## Library of Congress

Q. Do you know of his being flogged?

A. I never knew of his being flogged.

Q. Was M'Keough on the estate at that time?

A. He was not—Mr. Rose was there.

Cross-examined by Mr. *Lisle*.

Q. Did Mr. Hedge lock you up when he was about to punish negroes?

A. No.

Q. Did you not say to some one that you could tell something to hang your brother, but if you were called on his trial, you would say nothing to condemn him?

A. I sent a message by Dr. John West to my brother, to say that if he did not do something respecting my negroes, I would shew a letter.

Q. What was the cause of the punishment of putting Prosper in irons?

A. Being a runaway; as he ran away with them, I suppose he had them on when he died.

Q. Where did he die? N

146

A. He was found dead in Scinda's house.

Q. Was she runaway?

A. I don't know.

## Library of Congress

DOCTOR WILLIAM WEST. Sworn in chief.

By Mr. *Musgrave*.

Q. Have you attended Mr. Hodge's estate?

A. I have the last six years, occasionally.

Q. Have you visited his sick-house?

A. I have.

Q. Did you ever encounter any offensive smell there?

A. Not more than in others; it was as comfortable as they generally are. I have performed operations in it.

Q. Did you ever observe mutilated negroes there?

A. No.

Here the prisoner's counsel produced the doctor's accounts for 1806—7 and 8.

Q. Are those your accounts?

A. They are extracted from my books, and I have been paid the amount of them.

Cross-examined by Mr. *Solicitor General*

Q. Did you attend the estate by the year?

147

A. No—only when sent for.

## Library of Congress

Q. Was you called in to attend Prosper?

A. No.

Q. Did you see Perreen there when your brother died at Mr. Hodge's?

A. I don't recollect having seen her.

Q. When was that?

A. He died in August 1808.

MRS. RAWBONE.

By Mr. *Solicitor General*.

Q. What do you know of M'Keough?

A. I think him a drunkard and a liar.

Q. What induces you to think so?

A. I have heard it generally.

Q. From whom?

A. From Mrs. Ross and Mrs. Hodge.

DOCTOR JOHN WEST. Sworn in chief.

Q. Have you visited Mr. Hodge's sick-house?

A. Mr. Hodge has consulted me about sick negroes, but I have not been sent for often.

## Library of Congress

Q. Have you been in the habit of visiting Mr. Hodge?

148

A. I have, frequently.

Q. Have you ever been challenged or prevented going in?

A. Never.

Q. Did you know Prosper?

A. I know nothing of him—I never heard his name before this business.

Q. Was Mr. M'Keough on the estate in July 1808?

A. I do not recollect.

Q. Have you ever seen him there?

A. I don't recollect having seen him there at all, except when Mrs. Hodge died.

MR. DANIEL ROSS.

By Mr. *Solicitor General*.

Q. Have you ever heard Mrs. Ross say any thing of Mr. M'Keough?

A. I declare I never did, nor do I believe she knows him, much less that she could have spoken ill of him to Mrs. Rawbone.

MRS. RAWBONE.

Q. What acquaintance had Mrs. Ross with Mr. M'Keough?

149

## Library of Congress

A. I don't know how she knew him.

JULIANA ROACH. (A free mulatto woman.)

Q. Do you know M'Keough and Perreen Georges?

A. Yes—they lived at Crook's yard in July or August, 1808.

JANE GOODWIN, (A free mulatto woman.)

Q. Do you know any thing of the character of Perreen Georges?

A. I know that she stole some clothes from her mistress when she was a slave.

Q. Do you know it of your own knowledge?

A. I do not know it of myself.

Q. Do you know any thing against her since she has been free?

A. Nothing.

The Hon. GEORGE DAVIS DIX, Esq. Examined on the Beach.

Q. Was Mr. M'Keough in your employ? N 2

150

A. I employed him as a manager at Ballast-Bay.

Q. Can you speak to his character?

A. He was an active, industrious man. I have no doubt of his veracity—I discharged him for intemperance in the evening—in 1804.

## Library of Congress

*Closed on the part of the Prisoner.*

*On the part of the Crown.*

MISS JANE TODMAN, Examined in chief by Mr. *Lisle*.

Q. Have you heard Mrs. Rawbone make any declaration respecting the prisoner?

A. I heard Mrs. Rawbone say that her brother dare not disturb her, for she could hang him.

Q. When did this happen?

A. Just before she married Mr. Rawbone.

Q. Was she at variance with her brother?

A. She was, and until his imprisonment.

Q. Did she make any other declaration?

A. She said she would take a false oath to save her brother—she had seen nothing done, but could nevertheless hang her brother.

Q. Did Mrs. Rawbone tell you that when her brother was going to punish negroes, he used to lock her up, and Mrs. Hodge?

151

A. No—but she said that on those occasions she would go into her room of herself.

MRS. FRANCES PASEA ROBERTSON. Sworn in chief.

Q. Did you hear Mrs. Rawbone make any declaration respecting her brother?

## Library of Congress

A. I did—Mrs. Rawbone declared in my presence, that she would perjure herself rather than condemn her brother.

Q. Did she say any thing more?

A. At another time she said she could hang her brother. I gave her refuge in my house before her marriage; I noticed that I was afraid of her brother, and I observed to her, that being without a male protector, (my son being in England and Mr. Smith at Ballast-Bay) “your brother may come with a side-saddle and take you away.”—Mrs. Rawbone answered, “don't fear, 'tis more than he dare do—I could hang him!” and she repeated that expression three times, holding up her finger.

Q. Have you conversed with Mrs. Rawbone on those subjects since 1809, and have you expressed yourself against Mr. Hodge with any animosity, or said you wished to see him hanged?

A. As I heard he spoke of me in a cruel manner, 152 my feelings were wounded, and I did appeal on my knees to the Almighty, to hear the prayer of the widow and orphan, and let him have his deserts, if it was even with hemp. He has injured me, but if I have the opportunity, I will return good for evil—I am now here without animosity, and would go a thousand miles to serve him, for his childrens' sake.

Cross-examined by Mr. *Long*.

Q. Have you heard Mrs. Rawbone declare to you that she intended saying in court, what she mentioned to you?

A. I have understood so from her.

Q. Has not Mrs. Rawbone told you that what she knew was from negro information?

## Library of Congress

A. She has.

By Mr. *Lisle*.

Q. Did she not tell you that she kept herself in her chamber to avoid being witness to these barbarities?

A. She did.

Q. At the time she said she could hang her brother, did she mention negro testimony?

A. No.

153

MISS JANE TODMAN,

Being again interrogated by the Solicitor General repeated precisely what she said before.

MR. JOHN RAWBONE.

By Mr. *Tyson*.

Q. When was it that Mrs. Robertson made the declaration “that she hoped Mr. Hodge would have his deserts, even if it were in hemp?”

A. It was on a Tuesday—Mrs. Rawbone was at Mrs. Robertson's, when the latter told Mrs. Rawbone that a warrant was issued out against her brother; Mrs. Rawbone was distracted. It was at that time Mrs. Robertson made the declaration you mention.

Q. Did you ever declare to any one that Mrs. Rawbone was locked up by her brother?

A. Never—I said that she went to her chamber.

## Library of Congress

Q. Did not you say to Mrs. Rawbone that she would make it worse for her brother?

A. I did not.

MISS JANE TODMAN.

By Mr. *Solicitor General*.

Q. Was the declaration by Mrs. Rawbone made before or after the warrant was issued?

A. Before.

154

MR. JOHN HANLEY.

By Mr. *Solicitor General*.

Q. Did Mr. Rawbone tell you that the prisoner made Mrs. Rawbone go down to her chamber when any thing was going forward?

A. He did.

Q. Did Mrs. Rawbone make any observation to you on meeting a negro with burnt lips on the road?

A. She did—she said “that is my brother's mark.”

Q. Did she say any thing to you respecting Jupiter?

A. She said that Jupiter had stolen some ratafia and was punished by burning in the mouth—that she heard his screams, and that he ran in her presence with his mouth in that state.

The Jury refreshed by mutual consent, at 2 o'clock A. M.

## Library of Congress

PERREEN GEORGES.

By Mr. *Solicitor General*.

Q. Did Margaret complain of a pain in her stomach?

A. She did.

Q. Do you know the cause?

A. It proceeded from boiling water poured down her throat.

Q. How do you know this?

A. I saw the kettle of water.

155

Q. Who called for it?

A. Mr. Hodge—I heard the screeches, and saw her coming with her mouth burnt.

Q. How long was it before she died?

A. It was about two or three months; she spit blood a long time.

By Mr. *Tyson*.

Q. What was Margaret doing in the kitchen?

A. Pounding minced meat.

Q. Was Joan there also?

A. She was.

## Library of Congress

Q. What happened after?

A. I helped Margaret; just as dinner went in she fell down and was carried into the sick-house.

Q. Did you see her in the white house?

A. I did not.

By the *Court*.

Q. Was Joan a good cook?

A. She was not.

Q. Was you doing what Margaret had to do?

A. I was.

Mr. STEPHEN M'KEOUGH.

By Mr. *Lisle*.

Q. Was Margaret a woman with a scalded mouth?

A. She was.

156

MR. ROBERT GREEN.

By Mr. *Attorney General*.

Q. When you lived on Mr. Hodge's estate, how many negroes had he?

## Library of Congress

A. One hundred and thirty or one hundred and forty.

Q. When did you quit him?

A. In 1803, after he returned from England.

MR. STEPHEN M'KEOUGH.

By Mr. *Lisle*.

Q. Did Mr. Hodge ever tell you to mark down negroes as runaway, whom he knew were dead?

A. He did.

Q. Did you keep a list of negroes?

A. I did—I gave him a list-board every morning.

Q. Was there a plantation book kept?

A. There was at one time—I kept one, but on Mr. Hodge finding things in it he did not wish, he destroyed it, and would not suffer any to be kept any longer.

Q. Did he ever sell any negroes?

A. Not more than one or two.

Q. Did he ever sell any to Mr. Forbes?

A. I don't recollect.

Q. Do you know of any runaways at St. Domingo?

## Library of Congress

157

A. There are 2 or 3 at St. Domingo.—I recollect Thomas being runaway.

Q. Have you frequently seen negroes on the estate, with puddings and crooks?

A. I have.

Q. Have you ever seen any with two puddings on each leg, and a crook?

A. One negro, I believe, named Fortune, Mr. Hodge said he could not bring him down.

Q. Was his mouth burnt?

A. It was.

Q. Do you believe Mr. Hodge to be a cruel man?

A. I cannot say otherwise than that he was cruel, from his treatment to his negroes.

*Evidence closed on both sides.*

Mr. TYSON,

In a very eloquent Address to the Court and Jury, closed the defence.

(The reporter, in justice to the learned gentleman, and presuming he shall be enabled to publish this speech, *verbatim*, in the second edition, trusts he shall be pardoned for inserting here, the substance only.)

Mr. Tyson adverted to the late hour at which he rose, and the exhausted state he found himself in; O 158 it could not be expected that he should speak at great length, but although he had already taken up much of their time, he must occupy a little more. He then reverted to the testimony of M'Keough and Perreen Georges, and commented

## Library of Congress

upon it at length. He could not give up the testimony of Mrs. Rawbone, on account of her relationship to Mr. Hodge; a father may give testimony against a son—a brother against his sister; it could not be affected; he admitted regard on the part of relations generally; but *they* had had family quarrels; she had charged Mr. Hodge with being the cause of her losing four negroes.—Mrs. Rawbone, therefore, did not possess that tender regard for her brother. Mr. Tyson attributed her expression, as to hanging him, to the circumstance of those negroes.—Before her reconciliation with him, she had declared that her intention or meaning referred to those negroes; Mrs. Rawbone was contrasted with Mrs. Robertson; the proceeding of the latter lady had been violent in the extreme; she entertained impressions against Mr. Hodge, and they had operated on her mind to that degree, that she threw herself on her knees in an agony, and recommended him to his deserts—hemp! qualified after by saying, “if he deserved it”—she had fervently prayed for the destruction of Mr. Hodge; said afterwards, she was not prejudiced against him, and would do any thing to serve him. She certainly was prejudiced; Mr. Rawbone gave a different account.

The declaration of Mrs. Rawbone was made in an agony of grief; she had been in that state two or three hours—it was then and only then, and under the excruciating feelings she was overpowered by, she said “ *if I knew any thing of my brother, I would perjure myself rather than injure him.*”

Mrs. Arrindell opposed Perreen's story about Margaret.

Mr. Tyson then recapitulated and contrasted the whole of the evidence, and commented upon it at great length.

160

MR. SOLICITOR GENERAL'S CLOSING ADDRESS TO THE COURT AND JURY.

*May it please your Honors, Gentlemen of the Jury,*

## Library of Congress

IT is now past 2 o'clock on Tuesday morning, and the trial of the prisoner at the bar, for the murder of his slave Prosper, commenced yesterday morning, at the hour of ten; sixteen hours have been consumed in the investigation of this most horrid, this most barbarous act of wanton cruelty—cruelty which has led to death.

Gentlemen, you may easily conceive that after the watchful attention necessary to be given to a cause of this importance, through all its shifts and changes, that nature must be almost exhausted; but I trust, by the assistance of the Almighty, whose laws I am now advocating, that the zeal which I feel, will enable the energies of my mind to support the feebleness of my body.

With the aid of my God, I shall be able to paint the murderer at the bar, as he really is, shocking to behold! By the command of the representative of Majesty, I present myself before you, as the advocate of humanity, to support the wholesome and beneficial laws of civil society.

I had intended to lay claim to your attention at the opening of the cause, but all that was necessary to be done, has been most effectually and impressively performed, by my learned friend and colleague, Mr. Lisle; and it now becomes my duty to shew you that the case which he opened has been completely proved and made out by the most ample and satisfactory testimony.

It is here necessary for me, gentlemen, on my part, to state to you the crime, of which the prisoner at the bar stands charged by the indictment.—It is for the wilful murder of a defenceless slave.

You will naturally inquire, what could be the crime, which a creature, not a free agent, one under the controul and dominion of the prisoner, could be guilty of, to deserve to forfeit his life by the hand of his master.

## Library of Congress

The investigation will then shew you how trivial was the offence; how wanton, deliberate and cruel was the punishment.

The witness, Perreen Georges, informed you that the fall of a mango from a tree, on which the deceased was set as a watch, excited the implacable resentment of the prisoner. This rich, but hard hearted man; this favorite of fortune; child of affluence, demanded from his poor distressed negro, whose labours had contributed to his luxuries, the enormous, the extortionate sum of six shillings, as an equivalent for the loss of *that*, which was not occasioned by theft or neglect, but by accident, or the act of God! half the O 2 162 sum demanded was obtained by the ill fated, helpless sufferer; from the witness herself—this was tendered to the master; but like the unfeeling Jew, in the “Merchant of Venice,” he rigidly exacted the penalty of his bond! he would have his price, or have his life!—his design is not, on the impulse of the moment, put into execution; life is not extinguished at a blow—No! he puts him to a lingering, agonizing death—his breath is dragged out by degrees.

The indictment states, and truly, that the deceased was laid down on his face and belly, extended and held out, and his body flayed and lacerated by the hand of his fellow slave, under the direction and command, and by the coercion of the prisoner at the bar, for upwards of one hour; during the whole of which time he was present. Malice is not yet glutted; the sufferer, though permitted to rise, is wrapped in fetters, confined in a pestilential prison; and the very next day brought forth, and undergoes, by the order, and in the presence of the prisoner, a second inhuman flagellation. Cruelty invents new methods of torture; he is tied to a tree, the whip curtailed in length, and he is flogged, at what the voluptuary merrily and facetiously terms “short-quarters” until he faints! animation is suspended; he would have said, if he could have spoken, what is mirth to you, is death to me.—Life vibrates, his eyes are opened, and he beholds himself linked to two other objects of 163 pity, in the loathsome cell, to which he was reconveyed. These three wretches attempt their escape: Prosper, the deceased, the hand of death, being upon

## Library of Congress

him, is incapable of proceeding but a few yards—creeps into his own or some other hut, and shortly ends his miserable existence; a sacrifice to the unparalleled barbarity of his inhuman master.

The testimony that has been produced before you, represents him to have been cut to rags; that no skin was left upon his body; and that before the soul had winged its flight from the mangled carcass, the worms had taken possession of the mortal frame!

A hole was dug, not a grave, and the offensive remains of him, who found mercy in death was thrust into it head foremost.

Gentlemen, I have not now stated to you what will be proved by witnesses—No, I have told you of that which has been deposed to, by the most unquestionable witnesses.

Murder, until the present instance, we have always been able to attribute to some particular baneful and diabolical source. The sacred pages inform us of the murder of Abel, by Cain, through *envy*; of Uriah, by David, for *adultery*; of Abner, by Joab, for *ambition*; of Naboth, by Jezebel, for *avarice*; and of Johu's son, by Alhaliah, for *revenge*. The prisoner at the bar, could not have envied his slave Prosper, for he was poor and wretched, and his master possessed every means of earthly happiness; he could not have excited his jealousy, his ambition, his avarice, or his revenge; these passions are not to be caused by our inferiors; they are moved by our equals and superiors in life. The words of the indictment, truly describe him, a person of a cruel, malicious, and diabolical disposition, not having the fear of God before his eyes, but moved and seduced by the instigation of the devil.

The depravity of his heart, has made him even regardless of self-interest; his ferocious and black heart, has caused him to murder his defenceless slave, and to the destruction of his own property. He who was in duty and honor bound to protect his slave, has raised

## Library of Congress

his hand and shed his blood, in return for faithful services, observance of orders, general obedience, actuated by a principle of duty. He has rewarded him with stripes and death.

The evidence given by Perreen Georges, has been supported by another material witness, Mr. M'Keough.

In proof of their credibility, of the strong claim they have to belief, I will recal to your recollection the circumstance of Mr. M'Keough's being at the Island of St. Croix when the investigation of the conduct of the prisoner took place, upon the charge of the murder of a great number of his slaves—that he had been, for a length of time, separate and apart 165 from Perreen Georges—that he was sent for by those to whom this prosecution was entrusted—that he was not a volunteer witness—that he was ignorant as to the subject he was to be examined upon when brought over—and what is the result? That he supports the examination of Perreen Georges, taken before his arrival at Tortola, and without seeing or conversing with her. Their respective examinations before the magistrates, as to the various acts of cruelty and murder, committed by the prisoner, put into writing, the prisoner's counsel permitted to have access to them; and the parole testimony given this day, before you, Gentlemen of the jury, after a long, close, and ingenious cross-examination, as to the matter, differs in no respect whatsoever.

If you believe these witnesses, there is an end to the defence set up by the prisoner's counsel; it rests altogether on the credibility of their testimony, which stands firm and unshaken.

Another, but indirect defence, is, that persons, enemies to Mr. Hodge, have conspired together to do him an injury; that through their exertions, this prosecution has been instituted. Has this been proved, Gentlemen? Does not the very contrary appear? Has not the murderer been too long at large? Has not suspicion, long ago, attached to his character? Has not his punishment been too long deferred?—But 166 the day of retribution is at length come, and the laws of his injured country demand blood for blood!

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Could any man have had a fairer or more impartial trial, than the prisoner at the bar? After exercising to the fullest extent all the humane regulations of the law in such cases made and admitted, he comes to be tried by a jury of his own choosing. Gentlemen, what is conspiracy? The law defines conspirators to be they who confederate or bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other, falsely and maliciously to do, or cause to be done, such and such injuries.

Who will the appellation of conspirator apply to on the present occasion? I will answer the question for you, Gentlemen—It will apply to the magistracy of your country; to the respectable members of the two houses of your Legislature, your Council and Assembly. The first holding the rank in the Virgin-Islands, that the peers of the realm do in the mother country—the last the members of your Commons House of Assembly, whom you have chosen to represent you in your parliament, to guard your rights and privileges—men of whose good conduct you have yourselves borne testimony, by repeatedly bestowing upon them your suffrages.

The first charge that is brought against the prisoner by affidavit, is by Mr. Cox Robertson, who was at one time the friend and companion of Mr. Hodge; 167 whether these quondam friends have quarrelled or not, or whether the accuser of Mr. Hodge, discovering the malignity of his heart, and the atrocity of his acts and deeds, or whether the accusation proceeded in the first instance from a motive of ill-will or revenge, is not an object of minute inquiry on your part, provided the fact, charged in the indictment be true, and proved to your satisfaction, either by positive testimony, or circumstantial evidence, or the one supported by the other. It is unnecessary for me to observe to you, I am sure, that accomplices in the very charge contained in a bill of indictment, are rendered legal witnesses, when they turn King's evidence, as it is commonly called, and are admitted to give testimony on the part of the crown.

I believe you have, Gentlemen, a recent instance in your own colony, of two slaves, convicted upon the testimony of a fellow slave, an accomplice, who was admitted as King's

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evidence, for the wilful and corrupt murder of their master, going from Tortola to Norman's-Island, one of its dependencies.

*Gentlemen,*

You must recollect how closely the counsel on the part of the crown confined themselves, in the examination of the witnesses, to the specific, to the individual charge of murder laid in the indictment, but notwithstanding this proper and extreme caution on their path, in performing a duty between the King 168 and his subject; what came out upon the cross-examination of our witnesses by the prisoner's counsel? In an attempt to invalidate the testimony, given on the part of the prosecution, they prove by their own shewing, that he is also guilty of the murder of an unfortunate female slave of the name of Margaret, by pouring into her mouth, and down her throat boiling water out of a tea kettle, and by other barbarous and diabolical inflictions of cruelty.

It is true, Gentlemen, an indictment is now ready, and on the table, to be presented to the grand jury for the murder of Margaret, as well as seven other indictments for murder, all of which, Gentlemen, no doubt, you have been informed of by general report; we should not have brought them forward in aid of the present indictment, now at issue, nor have mentioned them, had we not been authorized so to do, in consequence of their being touched upon by the prisoner's counsel, and mentioned with the hope and expectation of entrapping our witnesses. My learned friends judiciously refrained from going any further than the case-of Margaret, finding as they advanced, they stept in blood, shed by the murderer at the bar!

Gentlemen, you have attentively followed me in this melancholy labyrinth—this of horrors! I feel grateful, and in mercy, I wish I could present 169 you with a scene less dreadful and gloomy than this Golgotha.

The evidence that has been produced on the part of the crown, and the testimony that has been given on behalf of the prisoner, must be so fresh in your memory, Gentlemen, as to

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convince you, although there may be trifling variances as to matters of no importance, that there is no contradiction to the charge laid in the indictment of the murder of Prosper, and that his life was taken away by the cruelties of the prisoner at the bar.

The current of testimony all runs one way; the witnesses on the part of the prisoner, support the testimony given on the part of the crowns and fix the crime on the man of blood, now standing at the bar, who was arraigned and pleaded not guilty, and for his trial, put himself on his offended God and his injured country; and it now devolves on you, according to the oath you have taken, to discharge your duty to yourselves, to your King and to your God!

Gentlemen, it was stated to you in the opening of this cause, by my learned friend Mr. Lisle, that murder, is, when a person of sound memory and discretion, unlawfully killeth any reasonable creature in being, and under the King's peace, with malice aforethought, either express, or implied by law, so as the party wounded or hurt, &c. die of the wound or hurt, &c. so given, within a year and a day after the infliction. P 170 Apply this rule to the defenceless slave, Prosper, and you will say, if Prosper was a reasonable creature, that the prisoner at the bar is guilty of the murder of Prosper, within the words, meaning and construction of the rule. But, Gentlemen, according to the opinion of the prisoner, as appears by the evidence of Mr. M'Keough, he was not only a reasonable creature, but a good creature, a diligent, obedient and faithful slave to his cruel and unfeeling master; and this acknowledged and admitted by the prisoner at the bar, in a conversation with M'Keough, when Prosper was the subject thereof.

You will find, Gentlemen, in the feudal, Norman and Saxon times, the situation of the lord and his villein, very similar to the master and his slave, according to the constitution and establishment of our colonies. But even in those barbarous periods of the world, the law protected the persons of villeins against atrocious injuries of the lord: for he might not kill or maim his villein; though he might beat him with impunity, since the villein had no action or remedy at law against the lord, but in case of the murder of his ancestor, or the maim

## Library of Congress

of his own person. Neifs had also an appeal of rape, in case the lord violated them by force, nor could the lord inflict any capital punishment on his villein, without calling in the assistance of the law.

To the honor of my learned friends of counsel 171 with the prisoner, remember Gentlemen, they have not ventured in this civilized period of the world, in the nineteenth century, in a christian country, to contend that the killing of a slave is not murder in the master. However hard pressed and difficult they have found it, nay, impossible for them to defend their client, upon the principles of law and justice, they have not, in violation of their own feelings, in violation of the opinion of the world, and in violation of humanity, attempted to tell you, that, under any circumstances, the master can with impunity take the life of his slave—No, Gentlemen, they feel as I do—they feel as you do, that we are fellow subjects, that we are follow creatures;—that we owe allegiance to the same, king—owe our being to, and hold our lives at the will and pleasure of the same God;—that we worship in common the one supreme Deity;—that we are amenable to the same laws, human and divine, for the breach of the commandment of that God who says, “Thou shalt do no murder.”

That providence which is attentive to the fall of a sparrow, can never be regardless of the most excellent of his creation. That it is murder to kill a slave, is no new doctrine; it is universally admitted to be so by the Common Law of England. The Common Law of England is the law of the colonies, and God forbid that slavery should be tolerated, if the law were otherwise.

172

But to prevent doubts on a subject of so much importance to the cause of humanity, killing a slave is made murder by the Statute Law of the Leeward Island government, by an act passed in the Island of St. Christophers in the year 1798, at a meeting of the General Council and Assembly of the Leeward Islands—and, Gentlemen, long previous to the

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passing of this act, which is commonly called the Meliorating Act, it was made murder by the individual Statute Law of the Island of Antigua, to kill a slave!

To obviate any doubt in your minds, as to the offender coming within, and being punishable by the laws in force, two counts are laid in the indictment; the one shewing that the prisoner at the bar is guilty of murder at the Common Law, and the other shewing that the offence comes within, and is punishable with death by the Statute Law.

Gentlemen, I have lived long enough in this western part of the globe, since I have arrived at the mature period of life, to enable me, with experience to form a correct judgment on this subject; and I do most boldly affirm, that the slaves in these Colonies, are at least as happy as the peasantry in England, when they possess humane masters. No instance like the present is within the knowledge of man—this case, for the honor of the world, has no parallel.

They enjoy the comforts of an equal and temperate 173 clime—the protection of a master—their wants supplied, their grievances redressed, an asylum in old age—support in infancy—the dying parent leaves to its child a foster father. The master provides them house and home, and their own industry affords them comforts; acquired property of a limited description, is held sacred to themselves and their issue. In sickness they are nursed, nourished, and with medical aid provided. I have known the native black of the colonies, with gratitude speak of the protection and kindness, bestowed upon him and his offspring from father, son and grand-son, and with satisfaction and exultation count up his own generations, and pride himself on the antiquity of his sable ancestry—Yet Gentlemen, he is pitiable wretch, if his life is at the will of a fellow creature. Let the laws redress their grievances, and let the laws punish their crimes. Shall the slave be executed for the murder of his master, and shall the master find that it is not murder to kill his slave! When the laws protect the slave from the inhumanity of the master, he will then rely on the laws, and will not avenge his own wrongs.

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The advocate for the prisoner has attempted to address your feelings, knowing that according to your reason and judgment, guided by the evidence and the law, that you must find the prisoner guilty. He tells P 2 174 you, you will by a verdict of guilty, deprive three innocent children of their only parent.

Gentlemen, I must admonish you that you have no right to indulge your feelings, at the expence of your conscience; you have taken a sacred oath to do impartial justice, between the king and the prisoner. You are told you must disbelieve and discredit, or at least doubt the witnesses, which have been produced on the part of the crown, and if you entertain a doubt, you must then lean to the side of mercy and acquit the prisoner—but this is no case of doubt, the guilt is strong, the proof is clear.

Dismiss for a time from your minds the evidence that has been produced on the part of the crown; and out of his own mouth shall he be condemned! The defence set up to rebut the charge of murder contained in the indictment, is, that the deceased Prosper, died by the visitation of God; or that he was guilty of self-murder.

It is admitted that he is dead—then what occasioned that death? It is stated that he run away from his master's service—that he was apprehended—that he was punished with the usual and proper instrument—that irons were put upon him—that he was placed in confinement—that he illegally broke his prison, effected his escape, concealed himself in his house, where he remained shut up to avoid discovery till he died.

175

You will recollect that Prosper's character stood high in the estimation of his master; what then should makes good slave run away? The answer is, hard usage. He is apprehended and punished; what should induce any reasonable creature who had already suffered the corporal punishment which his crime merited, to break his prison and commit a new offence? The natural answer is, the fear of further punishment, or continuation of imprisonment, which well known experience had taught him was never ending! According

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to Mrs. Rawbone's evidence after his flogging, he is confined in the pestilential prison with irons, called puddings, upon his legs. What must be the feelings and sufferings of that slave, who shall become a voluntary prisoner, die an agonizing death from want of food, rather than face his inhuman master! Gentlemen, you will say, if this was the death Prosper died, which is proved by their own witnesses, the prisoner at the bar murdered him! The manner of his being buried and the state his body was in, is also admitted. Had the witnesses produced on the part of the crown, proved that which was beneficial to the prisoner—have they not been discredited? Has not the testimony of Mrs. Rawbone, sister to the prisoner, been completely done away by the evidence of Mrs. Robertson?

Mrs. Robertson has spoken feelingly, but she has spoken truth; she has told you that from the just resentment 176 unmerited injuries had created in her breast, in the impulse of phrenzy, occasioned by the barbarous reports of the prisoner respecting this lady, at the moment when she was informed that a warrant of commitment was issued by the magistrates for this wandering murderer, she did appeal on her knees to the Almighty, to hear the prayer of the widow and orphan, and to award that punishment that he merited, even if it were an ignominious death. Such were her sentiments, but what are her present feelings? He is in the power of the court, and that has appeased her just resentment; he can no longer hurt her, and her animosity is no more. It is only by her own language that I can do her justice; she says, "he has injured me, but if I have the opportunity, I will return good for evil. I am now here without animosity, and would go a thousand miles to serve him for his childrens' sake.

The finger of God has pointed out the son of this lady, to be with his divine aid, the avenger of her wrongs. He is his first accuser; he brings to view. in a legal light, that which was long known, but remained unnoticed and uninvestigated for want of proof to bring conviction home to the murderer's door.

Your injured country stands disgraced in the eyes of her sister colonies for criminal supineness. It is now struggling to wash away the imputed stain of 177 disgrace—what

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men could do, has been done.—You now represent that country, and by your verdict, you are to determine what regard you pay to the laws of God and the laws of the land.

The learned counsel for the prisoner tells you he cannot consent to give up Mrs. Rawbone's testimony. Mrs. Robertson's completely invalidates it: and, did that require support, Miss Todman's comes to its aid. She was present during the conversation between Mrs. Rawbone and Mrs. Robertson, which has been investigated, and her evidence has been so strong in favor of Mrs. Robertson, that the learned counsel for the prisoner has cautiously avoided making any comment upon it. I am much inclined to think from the manner in which the prisoner's counsel conducted themselves, at the commencement of the prosecution, that they believed him innocent, or that the legal evidence, on the part of the crown, would have been insufficient to support the charge laid in the indictment;—but I possess little knowledge of the human mind, if their sentiments are not wofully altered, and I will confidently predict, that if they filled your places they would think, as I am sure you do, that beyond every doubt, the prisoner is guilty.

The general character of the Prisoner at the bar, is well known to you all—his cruelty is notorious. Mr. Ross and Mr. Green inform you, that eight years ago 178 he was owner of near one hundred and forty negroes. How many, Gentlemen, to your own knowledge, has he now upon his estate?—that, coming within your own private knowledge is good proof. I am informed there are not more than thirty-five remaining. Has this deficiency been accounted for? Has there been any epidemic disorder in the Virgin-Islands, which could have destroyed so great a number of the slaves?—none has been proved. Has there been a like mortality among the slaves of any other proprietor within your knowledge?—none has been proved. Has he proved runaways beyond two or three, or the sale of more than one?

What says the medical gentleman, who occasionally attended the prisoner's slaves? Did he see Prosper, or did he see Margaret?—or did he see any of the slaves, which the prisoner is charged with having murdered? No—the doctor never saw any of them. If these

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deaths would have borne the test of enquiry, why was not the coroner applied to, to hold an inquest on their bodies? What was Mrs. Rawbone's conversation to her husband upon meeting a negro with his lips burnt off?—That the unfortunate wretch was her brother's slave, for that was his mark!

What says M'Keough? That the prisoner at the bar desired him to mark down negroes runaway, when he knew that they were dead, and died from his cruelties! that he was prohibited from keeping a 179 plantation book—that the prisoner finding things in it he did not like, he destroyed it. He did well to destroy it; had he suffered it to exist, it would have been a lasting record of his infamy—a living monument of his dishonor.

Gentlemen, have you now any doubt? View innocence in all its purity, and guilt with all its deformity, and you will no longer doubt.

Innocence, Celestial Virgin, always has her guard about her: she dares look the frowns, the resentments and the persecutions of the world in the face; she is able to stand the test of the strictest enquiry, and the more we behold her, still the more shall we be in love with her charms. But it is not so with Guilt—the baneful fiend makes use of unjustifiable means to conceal her wicked designs, and to prevent discovery.—Artifice and Cunning are her supporters—Bribery and Corruption are the defenders of her cause—she flies before the face of law and justice, and shuns the probation of a candid and impartial enquiry.

The dawn of the morning warns me of the time I have occupied. Let not the sun that is about to rise, set, and find you not at peace with your consciences. I know that that jury-box is filled with men of religion.—Let me remind you of the words of the Mosaical Law, as well as God's precept to Noah; “whoso sheddeth man's blood, by man shall his blood 180 be shed.” Moreover, “you shall take no satisfaction for the life of a murderer, who is guilty of death, but he shall surely be put to death; for the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it.”

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CHARGE FROM HIS HONOR THE PRESIDENT, RICHARD HETHERINGTON, Esq. TO THE PETIT JURY.

*Gentlemen,*

BY virtue of a special commission of oyer and terminer and general gaol delivery, from his Excellency the Governor in chief of the leeward Charrabee Islands, you have been summoned to try offences, said to be committed in the Virgin-Islands, and you have been selected out of the pannel summoned, by the prisoner at the bar, Mr. Arthur Hodge; and you have been sworn, on the Holy Evangelists of Almighty God, to do justice impartially, and according to your oaths.

You have heard the evidence, adduced by persons, as I believe, entitled to full credence; you have heard the law, as laid down in the books, respecting murder, the law makes no distinction between master and servant: God created white and he created black creatures; and as God makes no distinction in administering justice, and to him each is alike, you will not, nor can you alter your verdict, if murder has been proved—whether on white persons or on black persons, the crime is equally the same with God and the law. 2

182

If you believe the murder has been committed, *as I do*, you must find the prisoner guilty; if not, you must acquit him of the crime alledged against him; the fact and the evidence rest on you to determine on, now—whether guilty or not guilty.

*Tuesday Morning, 30 th April, 1811.*

HIS HONOR CHIEF JUSTICE. ROBERTSON'S CHARGE TO THE PETIT JURY.

*Gentlemen,*

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THE present is an awful and solemn inquiry, as it affects the life of the prisoner, a man of rank in the country, and the due administration of justice.—The law has been laid down to you, and the cause ably argued, both on the part of the prosecution, and on behalf of the prisoner; you are in possession of the whole of the evidence, and being, no doubt, greatly fatigued, I shall trespass on you but a short time.—I am clear, the life and member of a slave, are not at the disposal of his master; and that, however, an owner may have a right to correct his slave at his discretion, yet such correction must be presumed to be given for some fault or offence, and ought to be *limited* to the bounds of moderation; and wherever that 183 is exceeded and death ensues, the master ordering or directing it is accountable.

In the present instance, if you believe what the witnesses for the crown have sworn to, the conduct of the prisoner in the mode and manner of inflicting the correction, charged against him, the repetition thereof, the subsequent imprisonment in irons, and the total inattention to the deceased afterwards, were such aggravations as, I am concerned to say, will constitute the heinous offence laid to the prisoner's charge.

I am persuaded that you will consider the case with a due regard to the condition of the unhappy prisoner, your oaths, and what you owe to your country and your God. A great deal of evidence has been taken, partly with a view invalidate the testimony of the witnesses for the crown, which, however, chiefly went to the charging M'Keough with being sometimes addicted to inebriety—and Perreen with having, when a slave, purloined some of her mistress's cloaths; in other respects no material imputation was made against their veracity; and with respect to the lapse of time that had occurred since the commission of the offence, you have heard the excuse the witnesses gave.

The prisoner's sister, however excuseable her attachment to her brother may be, is reprehensible, as 184 is the old black woman, Penelope Hodge, who made the deposition.

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The credit of the witnesses remains with you to decide on, and you will, when you retire, consider the subject as its importance merits, and discharge your duty free from prejudice or favor, as you, by your oaths are bound to do, and bring in your verdict accordingly.

### THE PRISONER'S ADDRESS TO THE JURY ON THEIR RETIRING.

*Gentlemen,*

AS bad as I have been represented, or as bad as you may think me, I assure you that I feel support in my afflictions from entertaining a proper sense of religion. As all men are subject to wrong, I cannot but say that that principle is likewise inherent in me.

I acknowledge myself guilty in regard of many of my slaves, but I call God to witness my innocence in respect of the murder of Prosper.—I am sensible the country thirsts for my blood, and I am ready to sacrifice it.

185

THE Jury retired at about half past six o'clock in the morning of the 30th April, to consider their verdict, and at about eight o'clock returned with a verdict of GUILTY.

The majority of the Jury recommended the prisoner to mercy.

Mr. Chief Justice Robertson, in the usual form, and in the most impressive and affecting manner, pronounced the awful sentence of the law on the prisoner, namely, to be hanged by the neck on Wednesday the eighth of May following, until he was dead, on a spot near unto the common prison.

During the time allowed the prisoner for regulating his worldly concerns, and making his peace with his God; he was constantly attended by the Reverend Mr. Kerie, of St. Christophers—and also, by Mr. Turner and Mr. Jewett, preachers attached to the society of Methodists; he appeared sincere and fervent in his prayers, during the short

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time allotted him in this world; and on the day appointed to consign him to eternity, he walked from the gaol, accompanied by the Reverend Mr. Kerie, and Mr. Jewett, with a considerable degree of firmness, to the ground on which he was, by the forfeiture of that life, to make atonement for having employed a portion of 186 it, in the destruction of that of a fellow creature; when he reached the fatal spot, he addressed some individuals, whom he singled out in the crowd, and begged they would pardon any injuries they had received at his hands. After spending some time in devotion, he ascended the platform, where he again prayed, and his last words were addressed, generally, to all who surrounded him, to forgive him, and to join in prayer for his eternal salvation. He then gave the awful signal, and was instantly launched into eternity.

Note. —The expence attending the proceedings on this trial, paid out of the public Treasury of this Island, amounted nearly to £600 sterling.

The expence to the prisoner, was about £900 sterling.

*Carefully examined with the original Manuscript, and corrected.*

A. M. BELISARIO.