whelming evidence, that there *was* a conspiracy for the massacre; and it was a conspiracy by his intimate political associates. Could he have been ignorant of it? The natural inference would be that he was *not*. And by military law the mere concealment of such a danger would be a capital offence. The courts-martial in Ireland have shewn us that. We repeat, however, it was not necessary to shew that he was privy to the particular massacre. It was enough that he had used language calculated to incite to rebellion; and this was beyond a doubt. The sentence, therefore, was in every respect perfectly legal.

And even if it were not so, there would be great legal difficulty in making the governor criminally liable for the execution. For, as Mr. Finlason shews, in his book, the effect of martial law is to make the *general* in command the supreme authority in the district; and it was the general in command who directed the trial. All that the governor did was to send the prisoner into the district where the rebellion broke out; and where, beyond all doubt, *either* at common law *or* by martial law, the prisoner was triable. It was the *general* who considered that he was triable under martial law. Then he stated at the time in his report:—"After six hours search into the documents connected with the case of G. W. Gordon, *I found* that *I had sufficient evidence* to warrant my directing his trial. I prepared a draft charge and precis of evidence for the court. It assembled about 2 P. M. this day, and closed its proceedings after day light. The President having transmitted them, *I carefully perused them*. The sentence was death. I considered it my *duty fully to approve and confirm*. . . . . I inclose the whole of the proceedings of the court for *your* information, as you may desire to see what evidence led to the conviction of so great a traitor. I have not furnished any report of the court to his excellency the governor, because his excellency is now at Kingston. *I* apprehend all my report should be made through *you*, my immediate commanding officer. Hoping, as heretofore, to gain your approval."

This report was sent, *not* to the governor but, to the commander-in-chief of the colony, the general military superior and the supreme military authority on the island, who alone, by military law, could reconsider and review the sentence, and refuse to confirm it. By military law it is very questionable whether the governor could have disapproved and set aside the finding. Indeed, it is clear that he could not except by an extraordinary exercise of the prerogative. Previously it was a purely military matter. Accordingly the general did not send a report to him; and though the commander-in-chief sent it to him, it was only as a matter of courtesy, or to afford him an opportunity of exercising the prerogative. For he had previously approved of the sentence, and wrote to the War Office that he had approved of it; and all that can be said of Governor Eyre, therefore, was, that he did not think proper to interfere by the exercise of the prerogative to prevent the execution. It is perfectly ridiculous to call this murder; as every lawyer knows mere nonfeasance will not make a man a murderer. There must be an act and a *direct* act. The party to be tried must have directly committed or caused the act; and if other persons who had legal power to do it intervened and directed it, all that can be said is, that he did not *prevent* their doing it; it is a nonsensical abuse of terms to call that murder, no matter how unjustifiable the sentence was, unless there was a conspiracy to commit a murder under *colour* of martial law.

To shew this, however, several things must be shewn: that the prisoner was innocent; and that there was no pretence for supposing him guilty; and that the parties concerned did *not*, in fact, however wrongly, believe him to be so. But can any man in his senses suppose either of these things? Can any one suppose, for instance, that General Nelson and General O'Connor, when, after reading the proceedings, they approved and confirmed the sentence, did not *believe* there was evidence? Mr. Buxton and the *Saturday Review* see the absurdity of such a supposition. And if the *generals* considered there was sufficient evidence to sustain the sentence, why should it be supposed that the *governor* did not think so? Especially as it was a purely military matter; a military trial; for a military offence; under military law; with a military penalty to be inflicted under military authority. In such a case he would naturally yield to military judgment. And in point of law the execution was their act, not his. The idea of making him, or any one else, guilty of murder for it, is a downright absurdity. If, indeed, there had been a conspiracy among all the parties to execute an innocent man, under colour of martial law, then it would have been murder. But Mr. Buxton and the *Saturday Review* see the absurdity of such an idea, and scout it. Mr. Buxton, indeed, is under the impression that the Commissioners have reported the innocency of Gordon. That is a complete mistake. They have carefully avoided doing so. What they have said is, that, in their opinion, the evidence was insufficient to sustain the charge—that is, the *whole* charge, as they evidently understood it. Not that the evidence was insufficient to warrant the court in finding any part of the charge proved—that he incited to rebellion; still less, that he was innocent of such incitement. On the contrary, they go on to say that he did, in fact, incite to rebellion; that is, that he used language calculated to incite the blacks to rise, although they choose to say that they think he did not intend it. With great respect, we venture to say that the lawyers on the commission ought to have known that this was legally immaterial; and, no doubt, they did know it as to sedition; only they fancied that