

confined to the sphere of law. It announces, "if any doubts occur on points of law, or with respect to the propriety of admitting any part of the evidence offered to them, they should come into Court, and pray the advice of the Chairman or Recorder."

In *Reg. v. Nelson and Brand*, the historic Jamaica riots affair, Lord Chief Justice Cockburn, in explaining with great fulness and power the *raison d'être* of martial law in a colony, and estimating the character and extent of disorder that would justify its proclamation, might at first glance seem, here and there, to have transgressed the canon set up in this regard; and to have charged adversely to the prisoners. The writer is unable, however, to perceive that he does more, at any time, than elucidate mixed questions of fact and law which the exigency of the hour supplied in abundance. Language of his own, just before concluding his brilliant resumé of the subject, confirms this understanding: "Gentlemen, it may be that all I have said upon the subject of the law will have left you, as I own candidly it still leaves me, not having the advantage of judicial authority to guide me, nor of forensic argument and disputation to instruct me, in some degree of doubt. Let me therefore add that if you are of opinion, upon the whole, that the jurisdiction to exercise martial law is not satisfactorily made out, and that it is a matter which ought to be submitted to further consideration, on the trial of the accused before a competent court, where all the questions of law incident to the discussion and decision of the case may be fully raised and authoritatively and definitely considered and decided, I must say I think the safe course will be to let this matter go forward. If, however, upon the review of the authorities to which I have called your attention, and of the enactments of the Jamaica statutes, and the recognition and reservation of the power of the Crown in the Acts of Parliament, you think the accused ought not further to be harassed by criminal proceedings, and that the case against them ought not to be submitted to the consideration of a jury, you will say so by ignoring this indictment."

The doctrine being as jurists lay it down, did not the learned judge in the Kennedy case, by dwelling (if the newspaper reports be correct) on various tokens of guilt, stray from the path marked out for a judge of Assize in respect of his duty to the jury. Recognizing, as the writer does, the faculty of discrimination that very able occupant of the Bench applies to matters claiming