The history of British imperialism contains a good number of incidents in which the authorities used excessive force to counter challenges to colonial rule, be they mere political protests or armed uprisings. The gunning down of more than a thousand demonstrators in the Amritsar massacre of 1919, the martial law excesses of Governor Lord Codrington of Ceylon in 1848 are but two examples which stand as testament to the willingness of men in positions of authority to go well beyond what were even at the time seen as the acceptable limits of official repression. The response of the Jamaican government to the troubles at Morant Bay in 1865 is one of the best known examples of this phenomenon. It led to an enormous outcry at the time, which in turn produced a Royal Commission which excoriated Governor Edward Eyre and some of his military commanders.

The trouble began at Morant Bay in October 1865, when a group of men and women, led by Paul Bogle, attacked and burned the courthouse in Morant Bay, killing the principal magistrate and seventeen others, mostly whites. Bogle was a black Baptist minister and the leader of a movement demanding political and land reform in a colony in which only a small minority of whites held political power and in which the vast majority of the population, though fully emancipated since 1838, lived lives of great poverty.

The response of the Jamaican government and military (regular and militia) was swift, almost immediately effective, and remarkably retributive. Martial law was declared for the Morant Bay area by Governor Eyre, and in the ensuing weeks literally hundreds of black Jamaicans were killed, many of them tortured first. The supposed rebellion itself was wholly suppressed within a few days, but most of the retaliatory violence - almost 450 killed, more than 600 viciously flogged - occurred after this, continuing throughout the 30-day period of martial law. Some were 'tried' by military tribunals before execution, most were simply gunned down.

Among those who died on an improvised gallows was George William Gordon, a mixed-race landowner and one of the few non-whites in the Jamaican Assembly. Like Bogle he was prominent in the movement for reform, and consequently much
disliked by the planter elite. But he did not advocate violence, and had taken no part in the Morant Bay incident. Indeed he had been at home in Kingston when it happened, at home when a warrant was issued for his arrest two days later, and at home when he surrendered to the authorities shortly afterwards. The warrant was issued personally by the Governor and accused Gordon of high treason. Remarkably, Eyre also ordered Gordon taken from Kingston, then under regular civilian law, to Morant Bay, to be tried by a military tribunal. He was quickly tried, convicted, and sentenced, without the benefit of legal representation or any of the protective procedures of civilian criminal procedure. Six days after his arrest he was hanged from the still-standing arch of the burned courthouse at Morant Bay.

The Morant Bay affair and its aftermath have been the subject of an extensive literature, but none has looked deeply at the proceedings from the standpoint of legal history, which is what R.W. Kostal does in this very fine book - meticulously researched, insightful, and very clearly written. He shows both that the affair was understood by many in England in legal terms and raised profound legal issues, and that the way that legal debate was conducted was infused by political considerations. In short, law mattered, but it was far from autonomous. Kostal is chiefly concerned to make the former point, letting the latter emerge at times by implication. Marshalling copious evidence he argues successfully that the way the Morant Bay affair was debated shows a profound penetration into the language used by what he terms the 'political class' of the 1860s of concepts of law and legality. In particular the affair forced a serious consideration of that most oxymoronic of terms, 'martial law.' The limits of raw power under martial law were not resolved by this consideration, but the debate was a spirited and at times divisive one which brought the contradictions of governing in supposed 'emergencies' to the fore. He similarly shows that empire, especially the non-white empire, posed considerable challenges to the English peoples' conceptions of themselves as a moral nation (a concern that can be traced back to Burke and his campaign to impeach Warren Hastings). The empire was supposed to be a moral force for improvement and civilisation, yet Morant Bay exposed the fact that an immoral lust to retain power too often was the hallmark of imperial administration on the ground.

In demonstrating these points Kostal takes us carefully and comprehensively, if at times just a little laboriously, through the numerous proceedings, legal and otherwise, that formed the aftermath of the rebellion and its suppression. An extensive investigation took place in Jamaica, carried out by a Royal Commission of which two of the three members were senior London lawyers. It concluded that while Eyre had been correct in seeing the situation as serious, as a potential rebellion more than a mere riot, and was therefore justified in declaring martial law, the operation of that law left much wanting. Some officers had inflicted 'barbarous' punishments (p. 121), courts martial had failed dismally to adhere to any standards of due process, and Eyre had kept martial law in place for much too long. While the government accepted the report's principal conclusions, it did not try to prosecute anybody criticised by the Royal Commission. That job was left to the so-called Jamaica Committee, a private group of powerful men concerned with the rights of
the empire's non-white citizens and critical from the beginning of Eyre's actions. The Committee launched private prosecutions against Eyre and two military officers for their role in the death of Gordon. The first foundered when Shropshire magistrates at the preliminary inquiry refused to send the case on for trial, and failed again twice more when different charges were preferred. The two officers were sent to trial in London, but a grand jury found the indictment not a true bill. Civil litigation also proved fruitless.

In the end, Kostal's account reveals, for all the grandeur of the law and for all the legalisation of the response to the Morant Bay affair, it was politics, the politics of imperial security in the non-white empire, that prevailed. Many Englishmen believed that 'their countrymen had betrayed the minimum demands of civilized conduct,' and that the suppression of the Morant Bay disturbance was 'a matter of intense shame' for them (pp. 460-461). Yet at the end of the day the twin beliefs that Britain was destined to rule over many parts of the non-white world and that that rule could be sustained only by brute force when challenged, prevailed. It is not the result that matters, however, as much as the extraordinarily spirited demand for law and legality that Morant Bay precipitated. And in this regard Kostal succeeds admirably in demonstrating his central thesis that the debate over Morant Bay was an essentially legal one.

Unfortunately the book's production qualities are not of the same standard as its scholarly ones. It is littered with errors, the kind that should have been picked up by copy-editors and proofreaders. There are numerous typographical mistakes, as well as words missing from sentences and/or extra words inserted. A typical example of poor proof-reading is the following sentence from p. 79: 'Having established a working relationship with the lawyers from the Jamaica Committee lawyers Storks tackled another thorny problem'. Obviously the word lawyers needs to be used only once, and presumably it was phrased one way and then the other. But the final version needs to get it right - one or the other, not both. This kind of problem appears throughout, many times over. There was a time when the Oxford UP name meant that this did not happen; this most venerable of university presses needs to improve its standards in this regard if it is to be considered among the first rank of academic publishers. A disservice has been done to a book that is certainly in the first rank of legal historical scholarship.

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