

Thirdly. Is there anything appearing in evidence, which will justify, excuse, or extenuate such homicide, by reducing it to that species of offense called manslaughter?

Before we enter upon these inquiries, permit me, gentlemen, to remind you of the importance of this trial, as it relates to the prisoners. It is for their lives! If we consider the number of persons, now on trial, joined with many other circumstances which might be mentioned, it is by far the most important, this country ever saw. Remember the ties you are under to the prisoners, and even to yourselves. The eyes of all are upon you. Patience in hearing this cause is an essential requisite, candor and caution are no less essential. It is tedious and painful to attend a trial of such length; but remember the time which has been taken up by the crown in the opening. By every bond of humanity and justice, we claim an equal indulgence; nay, it is of high importance to your country, that nothing should appear on this trial to impeach our justice, or stain our humanity.

And here let me remind you of a notion, which has certainly been too prevalent, and guard you against its baneful influence. An opinion has been entertained by many among us, that the life of a soldier was of very little value; of much less value than others of the community. The law, gentlemen, knows no such distinction; the life of a soldier is viewed by the equal eye of the law, as estimable as the life of any other citizen.

I cannot in any other way account for what I mention, than by supposing that the indigence and poverty of a soldier, the toils of his life, the severity of discipline to which he is exposed, the precarious tenure by which he is generally thought to hold his life, in the summary decisions of a court-martial have conspired to propagate a sentiment of this kind; but a little attention to the human heart will dissipate such a notion.

The soldier takes his choice, like all others, of his course of life. He has an equal right, with you, or me, so to do. It is best we should not all think alike. Habit makes all things