

truth by analyzing the evidence, and arranging it under distinct heads of enquiry.¹

Gentlemen of the Jury, after having thus gone through the evidence, and considered it as applicatory to all and every of the prisoners, the next matter in order seems to be the consideration of the law pertinent upon this evidence.

¹ *Mr. Quincy* now entered, at large, upon a review of the appearances in several parts of the town; he was copious upon the expressions and behavior sworn to. He then, more particularly recapitulated the evidence touching Murray's barracks, Dock square, and the Market place. He next pursued several parties, through the several lanes and streets, till they centered at the scene of action.

The testimonies of the witnesses, who swore to the repeated information given the people; that the sentry and party were on duty; that they were desired to withdraw and warned of the consequences; were in their order considered.

Under the next three heads, was remarked "the temper of the sentry, of the party of soldiers, and of the people surrounding them."

The words, insult and gestures of the same persons were pointed out; and from thence was collected the designs of the persons assaulting, and the reasonable apprehensions of those assaulted.

Mr. Quincy then came to the attack itself—considering who the persons were (namely, some sailors), remarking minutely the words and actions immediately preceding the onset; the weapons used; the violence of the assault and battery; and the danger of the soldiers.

Mr. Quincy next exhibited those parts of the testimony, which evidenced the attack continued after the firing.

Under all these heads, there was methodically stated the number of the witnesses to each point, and by a comparative view of all the proofs, conclusions drawn as the force of the whole.

The next consideration, in this mode of inquiry, was the evidence as severally pertaining to each prisoner; with such observations, on the one hand, as served to show a defect of legal proof as to fact; on the other, such matter as served to justify, excuse or extenuate the offense, in law.

And particularly with regard to Killroy, *Mr. Quincy* cited and commented on the following passages from Judge Foster's crown law, and the Marquis of Beccaria's Essay on Crimes and punishments: "Words are often misrepresented, whether through ignorance, inattention, or malice, it mattereth not the defendant, he is equally affected in either case; and they are equally liable to misconstruction. And withal, this evidence is not in the ordinary course of things to be disproved by that sort of negative evidence by which the proof of plain facts may be and often is confronted." Crown Law, 243. "Finally, the credibility of a witness is null, when the question relates to the words of a criminal; for the tone of voice, the gesture, all that precedes, accompanies and follows the different ideas which men annex