

And here, gentlemen, let me again inform you, that the law which is to pass upon these prisoners, is a law adapting itself to the human species, with all their feelings, passions, and infirmities; a law which does not go upon the absurd supposition, that men are stocks and stones; or that in the fervor of the blood, a man can act with the deliberation and judgment of a philosopher. No, gentlemen; the law supposes that a principle of resentment, for wise and obvious reasons, is deeply implanted in the human heart; and not to be eradicated by the efforts of state policy. It, therefore, in some degree, conforms itself to all the workings of the passions, to which it pays a great indulgence, so far as not to be wholly incompatible with the wisdom, good order, and the very being of government.

Keeping, therefore, this full in view, let us take once more, a very brief and cursory survey of the matters supported by the evidence. And, here, let me ask sober reason—what language more opprobrious—what actions more exasperating, than those used on this occasion? Words, I am sensible, are no justification of blows, but they serve as the grand clues to discover the temper and the designs of the agents; they serve also to give us light in discerning the apprehensions and thoughts of those who are the objects of abuse.

“You lobster,” “you bloody back,” “you coward,” and “you dastard,” are but some of the expressions proved. What words more galling? What more cutting and provoking to a soldier? To be reminded of the color of his garb, by which he was distinguished from the rest of his fellow citizens; to be compared to the most despicable animal that

to the same words, may so alter and modify a man's discourse, that it is almost impossible to repeat them precisely in the manner in which they were spoken. Besides, violent and uncommon actions, such as real crimes, leave a trace in the multitude of circumstances that attend them, and in their efforts; but words remain only in the memory of the hearers, who are commonly negligent or prejudiced. It is infinitely easier then to sound an accusation on the words, than on the actions of a man; for in these, the number of circumstances, urged against the accused, afford him variety of means of justification.”
Essay, 48, 9.