

rule which, if taken in its strict literal latitude, would imply that a man killing another in self-defense, would incur the pains of death. A doctrine which no man in his senses would ever embrace; a doctrine that certainly never prevailed under the Mosaical institution. For we find the Jews had their six cities of refuge to which the manslayer might flee from the avenger of blood. And something analogous to this (if it did not originate from it) is our benefit of clergy.

And so, that, "the murderer shall flee to the pit" comes under the same consideration. And when we hear it asked, as it very lately has been, "Who dare stay him?" I answer, if the laws of our country stay him, you ought to do likewise; and every good subject dares to do what the law allows. But the very position is begging the question; for the question now in issue is whether either of the prisoners is a murderer, in the sense of our laws; for you recollect that what is murder and what not, is a question of law arising upon facts stated and allowed.

But go on; "You shall take no satisfaction for the life of a murderer which is guilty of death." Here again is a begging the question; and moreover the words "guilty of death," if rightly rendered from the original, must be one of those general rules I just now mentioned; which always have their exceptions. But those words seem to be wrongly translated: for in the margin of our great bible we find them rendered "faulty to die." Against a position of this kind we have no objection. If we have committed a fault, on which our laws inflict the punishment of death, we must suffer. But what fault we have committed you are to inquire: or rather you, gentlemen, are to find that the facts proved in court against us, and the judges are to see and consider what the law pronounces touching our offense, and what punishment is thereby inflicted as a penalty.

In order to come at the whole law resulting from the facts which have been proved, we must inquire into the legality of the assemblies. For such is the wisdom and policy of the law, that if any assembly be lawful, each individual of that