

the law to act upon unavoidable necessity; but also he who being assaulted in such a manner, and in such a place, that he cannot go back without manifestly endangering his life, kills the other without retreating at all." Sec. 16. "And an officer who kills one that insults him in the execution of his office, and where a private person, that kills one who feloniously assaults him in the high way may justify the fact without ever giving back at all."

In the case before you, I suppose you will be satisfied when you come to examine the witnesses, and compare it with the rules of common law, abstracted from all mutiny acts and articles of war, that these soldiers were in such a situation, that they could not help themselves; people were coming from Royal Exchange lane, and other parts of the town, with clubs, and cord-wood sticks; the soldiers were planted by the wall of the custom-house; they could not retreat, they were surrounded on all sides, for there were people behind them as well as before them; there were a number of people in Royal Exchange lane; the soldiers were so near to the custom-house, that they could not retreat, unless they had gone into the brick wall of it. I shall show you presently, that all the party concerned in this unlawful design, were guilty of what any one of them did; if any body threw a snow ball, it was the act of the whole party; if any struck with a club, or threw a club, and the club had killed any body, the whole party would have been guilty of murder in law.

Rules of law should be universally known, whatever effect they may have on policies. They are rules of common law, the law of the land; and it is certainly true, that, wherever there is an unlawful assembly, let it consist of many persons or a few, every man in it is guilty of every unlawful act committed by any one of the whole party, be they more or be they less, in pursuance of their unlawful design. This is the policy of the law, to discourage and prevent riots, insurrections, turbulence and tumults.

In the continual vicissitudes of human things, amidst the shocks of fortune and the whirls of passion, that take place