

In the case here, we will take Montgomery, if you please, when he was attacked by the stout man with the stick, who aimed it at his head, with a number of people round him, crying out, kill them! kill them! had he not a right to kill the man. If all the party were guilty of the assault made by the stout man, and all of them had discovered malice in their hearts, had not Montgomery a right, according to Lord Chief Justice Holt, to put it out of their power to wreak their malice upon him. I will not at present, look for any more authorities in the point of self-defense; you will be able to judge from these how far the law goes, in justifying or excusing any person in defense of himself, for taking away the life of another who threatens him, in life or limb: the next point is this, That in case of an unlawful assembly, all and every one of the assembly is guilty of all and every unlawful act, committed by any one of that assembly, in prosecution of the unlawful design they set out upon.

The policy of the law hath framed such strong discouragements, to secure the people against tumults; because when they once begin, there is danger of their running to such excesses, as will overturn the whole system of government— There is the rule from the reverend sage of the law, so often quoted before. “All present aiding and assisting, are equally principal with him that gave the stroke, whereof the party died. For though one gave the stroke, yet in interpretation of the law, it is the stroke of every person, that was present aiding and assisting. If divers come with one assent to do mischief, as to kill, rob, or beat, and one doth it, they are all principals in the felony. If many be present and one only gives the stroke whereof the party dies, they are all principal, if they came for that purpose.”

Now if the party at Dock Square, came with an intention only to beat the soldiers, and began the affray with them, and any of them had been accidentally killed it would have been murder because it was an unlawful design they came upon; if but one does it they are all considered in the eye of the law to be guilty if any one gives the mortal stroke, they are