

tants; this was to prove that Killroy had preconceived malice in his heart, not indeed against the unhappy persons who were killed, but against the inhabitants in general; that he had the spirit not only of a Turk or an Arab, but of the devil. But admitting that this testimony was literally true, and that he had all the malice they would wish to prove, yet, if he was assaulted that night, and his life in danger, he had a right to defend himself as well as another man; if he had malice before, it did not take away from him the right of defending himself against any aggressor. But it was not at all improbable, that there was some misunderstanding about these loose expressions; perhaps the man had no thoughts of what his words might imply; many a man in his cups, or in anger, which was a short fit of madness, uttered the rashest expressions, who had no such savage disposition in general; so that there was but little weight in expressions uttered at a kitchen fire, before a maid and a coachman, where he might think himself at liberty to talk as much like a bully, a fool, or a madman as he pleased, and that no evil would come of it.

In regard to Montgomery, the evidence was clear that he was personally assaulted and knocked down before he fired. When the multitude was shouting and huzzaing, and threatening life, the bells ringing, the mob whistling, screaming, and rending like an Indian yell; the people from all quarters throwing every species of rubbish they could pick up in the street, and some who were quite on the other side of the street throwing clubs at the whole party; Montgomery in particular smitten with a club and knocked down, and as soon as he could rise and take up his firelock, struck on his breast or shoulder by another club from afar, what could he do? Did the jury expect he should behave like a stoic philosopher lost in apathy—patient as Epictetus, while his master was breaking his legs with a cudgel? It was impossible they should find him guilty of murder. They must suppose him divested of all human passions, if they did not think him at the least provoked, thrown off his guard, and into the *furor brevis*, by such treatment as this.