

fire was. The account given by other witnesses, of the collection of the citizens, evidently refers to those who assembled on the soldiers rushing out, in the manner before mentioned. And though it cannot be fully justified, yet who will say, that any thing better could be expected when the people found they could not walk the streets in peace, without danger of assassination. But how does all this prove the grand point for which it was produced, namely, that there was a combination of the inhabitants to attack the soldiers? Does the threatening, rude and indecent speeches, of which so much pains has been taken to give you evidence, prove any thing like this? Is it to be wondered at, that among a number of people collected on such an occasion, there should be some who should rashly and without design express themselves in such a manner? And must the disposition and intention of the whole, be collected from such expressions heard only from a few?¹

THE CHARGE TO THE JURY.

December 5.

MR. JUSTICE TROWBRIDGE. Gentlemen of the Jury: The principal questions for your consideration are these:

First. Whether the five persons said to be murdered were in fact killed? And if so,

¹ The rest of the papers, which have been preserved, relating to this trial, are so torn and the notes therein so imperfect and disconnected, that it is impossible to determine the concluding remarks of *Mr. Paine*. It appears, however, from his very copious minutes, that he commented largely on the testimony, with much ingenuity and wit; that he stated the nature of the crime of murder, in so far as it is to be distinguished from manslaughter or simple homicide; and insisted that the conduct of the inhabitants was no justification for the firing of the soldiers, or the order of the captain for them to fire—that the first abuse and riot was from the soldiers at an earlier hour, which called the people together in the center of the town—that thus alarmed and agitated, some of them, chiefly boys, addressed the sentinel with threatening and abusive language—that some snowballs were thrown, and some hustling and pushing, when the crowd was about the sentinel, etc. But that the soldiers were not in danger of being beaten or wounded, as the citizens designed to act merely on the defensive, and therefore, that by the order to fire and by firing, the prisoners were justly charged with murder.