

whereon that declaration was founded, it is alike unlawful to be done in any other part of the king's dominions. But be that as it may, the mutiny acts annually made, show the consent of parliament, that the king in time of peace should keep up a standing army not only in the kingdom but in America also. They not only ascertain the number of troops that shall be kept up, but provide for the regulation of such of the king's troops as are in America. And therefore, as by these acts the king is empowered to keep up these troops, and he by common law, has the command and disposition of all forces by sea and land within his dominions, and is the principal conservator of the peace, he doubtless well might send such part of those troops to this part of his dominions, in order to restore the public peace, or to aid and assist the civil magistrate in preserving of it, as he judged necessary for the purpose; and if you should think there was no occasion for sending any troops here, for either of those purposes that will not alter the case, because the king being the proper judge in that matter, the validity of his order will not depend upon the truth of the representations whereon it is founded. The acts not only fix the number of troops to be kept up, but also establish a law martial for their government. Among other things, the acts subject every officer or soldier that sleeps on his post, or leaves it before he is relieved, or disobeys the lawful command of his superior officer, to such punishment as a court martial shall inflict, though it extend to death itself. These troops are and ever since they came here have been under this martial law and subject to as strict regulation as in time of war. Placing sentries is a necessary part of the regulation of an army; accordingly a sentry hath in fact been kept at the custom-house ever since the troops have been here; and it is sworn that it was done by order of the commanding officer. If so, you have no reason to doubt but that it was legally done.

Your next inquiry then will be, whether the sentry so placed at the custom-house was attacked? Many witnesses have sworn that he was. But the counsel for the crown say, that