

cient reason to think it was, and he thereupon fired and killed Attucks for the preservation of his own life; it was justifiable homicide, and he ought to be acquitted. If you do not believe that was the case, but upon the evidence are satisfied that he was by that assembly assaulted with clubs and other weapons, and thereupon fired at the rioters and killed Attucks; then you ought to find him guilty of manslaughter only. But if, upon the evidence, you believe that Montgomery, without being previously assaulted, fired and killed Attucks; then you will find him guilty of murder. But you must know that if this party of soldiers, in general, were pelted with snowballs, pieces of ice and sticks, in anger, this without more amounts to an assault, not only upon those that were in fact struck, but upon the whole party; and is such an assault as will reduce the killing to manslaughter. And if you believe, what some of the witnesses have sworn, that the people round the soldiers, and many of them armed with clubs, crowded upon the soldiers, and with the cry of, "Rush on, kill them, kill them, knock them over," did in fact rush on, strike at them with their clubs, and give Montgomery such a blow, as to knock him down, as some of the witnesses say, or to make him sally, or stagger, as others say, it will be sufficient to show that his life was in immediate danger, or that he had sufficient reason to think so.

It seems that a doctrine has of late been advanced, that soldiers, while on duty, may, upon no occasion whatever, fire upon their fellow subjects, without the order of a civil magistrate. This may possibly account for some of those who attacked the soldiers, saying to them, "You dare not fire, we know you dare not fire." But it ought to be known that the law doth not countenance such an absurd doctrine. A man by becoming a soldier doth not thereby lose the right of self-defense, which is founded in the law of nature. Where any one is, without his own default, reduced to such circumstances that the laws of society cannot avail him, the law considers him "as still, in that instance, under the protection of the law of nature." This rule extends to soldiers as well as others;