

permitted to say, that it appears to me that he has permitted his zeal to lead him beyond the most extended limits which the most humane interpretation of the law or the most lax administration of it would warrant him in going. The taunts of the learned counsel as to the character of the Regiment; his assertions that its colours were "maiden;" his statements as to the temptations which the regimental authorities threw in the way of the soldiery, by having as he said canteens at every corner hired by their keepers at so much per head of the soldiery in garrison and his aspersions in respect of their feeling towards the prisoner, seem to have been uncalled for and gratuitous; and to have been unwarranted either by facts, or by the exigencies of the defence. In point of fact the 16th Regiment is one of the oldest Regiments in the British service—it was raised nearly two hundred years ago—and it took a conspicuous and honorable part in the wars of the last century. It followed the great Duke of Marlborough in his glorious continental campaigns, and if the recent custom of inscribing upon the colors of a regiment the victories in which it had shared, had then prevailed, theirs would have borne the glorious names of Blenheim, Ramilies, Malplaquet, Oudenarde, and of many other victories, which in their day won the admiration of the world, and the gratitude of the nation, and still fill some of the brightest pages in the record of the glorious achievements of the British army. If the colors of the Regiment are maiden, it is not because its sword has not been fleshed; and if it be true that they do not bear the names of England's later victories, it is because then, as now, it was here in this country, aiding in our protection and defence. In the beginning of this century, when more fortunate regiments were earning laurels in the peninsula, the 16th regiment was in Canada engaged in the defence of our country from invasion by our neighbors over the lines; and when the unhappy circumstance occurred which gave rise to this trial, it was again here, upon what was at one time feared would prove to be an occasion of similar emergency. The taunts of my learned friend on this subject are therefore wholly unfounded in fact: and they seem peculiarly ungracious and unbecoming in a Canadian advocate, since the pretension on which they are founded rests solely on the fact of the regiment having been employed in the defence of his own country.

The aspersions as to canteens, and as to the prevailing feeling in the regiment, are equally unfounded and uncalled for. The statement as to the number of canteens, and as to the mode in which the licences to keep them are obtained, are simply incorrect. You may not be aware of the facts, gentlemen; and as my learned friend thought proper to make the statement he did, I have taken pains to verify the facts, and though there is nothing in evidence before you on the subject, my assertion is entitled to as much credit as that of the learned counsel for the defence. The

canteen, gentlemen, is simply a little shop, for permission to keep which a small and merely nominal annual fee is paid. In it the soldiers and their wives can obtain small articles of convenience, without the necessity of going out of barracks; and so far from their affording to the soldiers opportunities for intoxication or temptations to fall into it, the sale of spirituous liquors in them is strictly prohibited. And the charge that a bloody and unchristian desire exists in the regiment that the life of the prisoner should be sacrificed, is equally unwarranted. The learned counsel has been most pressing in his determination to elicit from the witnesses their opinion as to the guilt of the prisoner and as to the punishment they thought he merited; and from two of them he actually forced the reluctant admission that they believed him guilty and thought he deserved death. Was that in any respect surprising? Captain Rooke suddenly found himself deprived of one of his inferior officers, by a most base, cowardly and treacherous murder, upon no other provocation than that he had performed his duty, upon an occasion which is of too frequent occurrence both in and out of the army. He was satisfied by the admission of the prisoner himself, voluntarily made before his colonel, that he was the assassin. Was it "bloody" or "unchristianlike," or did it render Captain Rooke "unworthy of the uniform he wears," that he, upon the prisoner's own admission, believed him guilty; and that so believing him guilty of a crime for which death was the appropriate punishment, and which was rendered appropriate in a tenfold degree by the circumstances attending it, he thought he should be subjected to its lawful punishment? It is impossible, gentlemen, that any right thinking man could answer this question affirmatively, and it is upon such facts as these that this regiment generally, and its officers, have been assimilated to the Jews of old, when they cried "crucify Him," "crucify Him!" The indecorum, if not blasphemy, of the allusion, is on a par with its inapplicability. In fact it must be plain, gentlemen, that such expressions as had been used with respect to Captain Rooke, and similar ones which had been applied to Sergeant Bedson, could only be accounted for by supposing that the learned counsel believed, that to defame the officers and men of the regiment would increase the prisoner's chance of escape; and to attain that end he felt entitled to defame them unjustly. I give the learned counsel the full benefit of the belief that he was justified in this course by the task he was performing; but if he does entertain that belief, I must be permitted to say that he is wrong, and that no man, whether an advocate or not, has the right unjustly to asperse the character of another, even when the object to be gained is so momentous as the saving of the life of a fellow creature.

It has been repeatedly told you, gentlemen of the jury, that the law which dooms a murderer to death is a barbarous law: that it is the remnant