

would have ended in the scaffold, and had great hopes the learned Judge who now presided would, in this case, follow so brilliant an example. Before proceeding to annalize the case and its details, he made some observations respecting the prisoner at the bar. He pointed out how the recruiting sergeant entrapped the unwary youth of Ireland, and drew a heart-rending picture of the desolation at home, and the misery of the poor unfortunate who listened to the voice of the charmer. It was enlisting in an unhappy moment that made the prisoner have recourse to the bottle, and that had undoubtedly placed him in the dock to-day.—The soldier who gets drunk on duty, deserved to be drummed out of his regiment, as unfit to be a guardian of the public peace. When duty was in the way, the man who allowed himself to become inebriated was no longer a man, and ought not to be treated as such.—The prisoner's career had shown that he was one of these unfortunates, one who by long habits of indulgence, had become so besotted, so deranged in his mind that he was no longer a responsible being. Their Honors on the bench might know little of the effects of drink upon the middle classes, but the intelligent Jury he was addressing had it constantly before their eyes. He cared not if it was written in the law that the man who killed another should die; it was not gentlemen like those he was addressing who would send this unhappy man to the scaffold, for his one only offence committed under influence of drink. If for the sake of military discipline an example was required, let it be made upon the canteen-keepers, and the system which established them in every barracks, and allowed them to sell, in order that government might make money of it, those intoxicating liquors which were ruin both to body and soul of the unfortunates who partook of them. The learned counsel adverted with indignation to the witnesses who thirsted for the blood of the prisoner at the bar. It was degrading to human nature, and to the religion which Christ had taught; and more especially did it degrade the officers of Queen Victoria who had so unblushingly avowed such sentiments. The conduct of the officers and men of the 16th reminded him of the conduct of the Jews eighteen hundred years ago, who cried crucify him, crucify him! Was this man's life to be taken away for one solitary act of wickedness? The prisoner got a good character from all, with the single exception of drunkenness and who was the man among them who had not his own peculiar failings, and knew his own peculiar temptations?—The Solicitor General had opened the case with his usual care and consideration, and was the first to admit his readiness to give the prisoner a chance for his life. As to the evidence, there was none to support the indictment in manner and form. Murder and manslaughter were the two different courses connected with the killing of a man. Murder was the crime of voluntary killing another with malice aforethought. For an individual to do this, he must be in the possession of all his senses; his mind must not be warped; he must not be frantic,

he must not be in the horrors; he must be calm and collected. There was another killing recognized by the law—that of manslaughter—where, upon a sudden affray, or upon a sudden impulse, a man strikes another without any intention of killing, and kills him. It had been held also that where a man, in a sudden fit of intoxication, killed another, it was not murder. On this point considerable difficulty attended. As a general rule drunkenness was no excuse for crime, nor for the peace of society, should it on all occasions be allowed to be so, but every case on its own merits, and though the general principle was not allowed, Courts of Justice still would hold that a drunken man committing a crime was not responsible for it to the extent a sober man would be. The learned Counsel had gone to the mess-room of the 16th to see if there was not some slight pity for the unfortunate man, some slight consideration for him, but though personally well received, there was no word of comfort or kindness for his unhappy client. And yet he (the learned counsel) believed as firmly as there was a God in heaven the statement of the prisoner to him, that from the time he went into bed until he found himself on the floor, pinioned, he knew nothing of what passed or had been done. Returning to the evidence, what did it amount to? That the prisoner had been often drunk on duty, and so early in the morning as six or seven o'clock; that on the night of the murder prisoner was under the influence of liquor is indisputably proved. It was also proved that the murder was committed and the prisoner was arrested. But no one saw the shot fired, and it was only his own admission made while in the horrors in the guard-room that told against him? Had the prisoner been in his sober senses would he have fired a shot which must result in discovery. Instead of stabbing deceased with his bayonet which he had close at hand? The cowardice of the soldiers was noticed by the learned counsel. If the courage of the men of the 6th company of the 16th Regiment is a fair sample of the valor of the regiment itself, God preserve us from their ever being called in the field, to defend our fire-sides; for if men who are by profession soldiers and supposed to be prepared to meet any emergency, sixty in number, cover their heads with a blanket, while one man is dancing about with a fixed bayonet, what must they be if they had to meet thrice that number in the field? For he, the son of a soldier, had always been taught to believe that one English soldier was a match for five of any other in the world. The learned counsel then took into his hands the rifle, with fixed bayonet as produced in court and said, I am a poor, feeble, emaciated creature, but with this arm in my hand, I defy any ten men in her Majesty's service to disarm me in the space of time in which it is said the prisoner was disarmed. I look upon it as impossible that, if the prisoner was in his sound mind and senses—a strong, powerful, athletic young man, the whole company could not have disarmed him in a quarter of an hour, unless they had used the same weapon which he had