

assistance, if indeed, to watch to prevent surprise, and by the knowledge of that fact, encourage and inspire the active agent with confidence and resolution to do the deed. It is not alone sufficient to render such persons liable, that they were present at the doing of a criminal act, the evidence must go farther, and show that they participated in the guilty purposes of the principal perpetrator of the deed, and were present aiding and abetting in its accomplishment. If, therefore, the jury find that the prisoner actually shot Mr. Gordon, or that William Bruff did it, himself having knowledge of his purpose, and being present aiding and abetting him in the deed, then they will find him guilty of murder in the first or second degree, as the evidence in the cause shall show the killing to belong to the one class or the other, according to the law above explained.

And if upon the whole evidence in the cause, the jury shall entertain a reasonable doubt of the guilt of the prisoner, they will acquit him; but the doubt which acquits must be such as the mind rationally entertains after an examination and consideration of the evidence; it must arise out of the evidence, and is not that species of doubt or hesitation of mind which the jury may be disposed to indulge from mere idle fancy or vague conjecture.

But the jury should not lose sight of another important and essential element of all crime, which in this case is brought prominently into view by the line of defense adopted. In every stage of this cause the inquiry arises, whether at the time of committing the act charged against him, the prisoner was in a condition of mind rightly to comprehend its nature and moral quality, or, on the contrary was he laboring under such a defect of reasoning arising from the mental disorder as to have no just sense of its enormity? Was he laboring under insane delusions of the existence of a state of facts and circumstances which in consequence deprived his act of any guilty consciousness, or whether rightly comprehending the guilty quality of the act, his mind and will, from the overwhelming violence of its disease, was brought under the control and dominion of insane impulses to such