

insane delusion is of a character the tendency of which is to steal it will not excuse a homicide. The act is to be judged always by the nature of the delusion, and of the facts and circumstances insanely believed to exist, and which for this purpose are to be taken by the jury in reality to exist, and the moral and legal status of the act determined accordingly.

3d Class. Another class of cases of insanity which exempts its unfortunate victim from legal accountability is where, in consequence of mental disorder, the person labors under delusions, the necessary tendency of which is to break out into acts of violence and of blood, without the power of self-restraint, and where although clearly perceiving the moral enormity of the act, he is incapable of resisting the insane impulse which urges him on to its commission; in short, where the act is the necessary result of uncontrollable monomaniac impulse, and not that of a free agent, who is the subject of moral influence and governed by will. To establish this species of insanity as a justification in the case before you, clear proof, or such as will satisfy your minds with a reasonable certainty of its existence and presence at the time of the killing of Mr. Gordon should be produced, or at least the existence of a tendency exhibited on previous occasions, becoming habitual and confirmed; and where, in addition, the facts and circumstances attending the killing are consistent with the hypothesis and confirms its existence and presence at the time.

But the jury are admonished that the law presumes every man sane, and to possess a sufficient degree of reason and freedom of will to be accountable for his acts, until the contrary is established with reasonable certainty. But, on the other hand, if the jury should find the fact of insanity in any of its various forms and degrees above spoken of is established by the evidence in the cause, with reasonable certainty, then every consideration of reason, of law, of humanity and pity for the unfortunate appeals to your sense of justice and of right in behalf of the prisoner, and demands his acquittal at your hands.