

ordinarily call it. The books give an illustration like this. Suppose a man were to shoot recklessly his gun into a crowd, killing someone; that would be murder because he did it sedately, and death ensuing, the party would be called a murderer. I repeat then, gentlemen, that after all that has been said, whatever opinion you may form in respect of that organization, whether you say it was a one-man power or whether it was a definite Government or not, whatever you may call it, I repeat in so far as you or I am concerned, it can have no influence or weight in determining this question whatever. It may have hereafter, but it can have none now. This is why I permitted the learned Counsels every latitude, so that the prisoner might have the benefit of it hereafter, but in so far as you or I am concerned, it must have no influence one way or other in the disposition of this case. I will now proceed to speak of the first part of the proposition, whether or not there was a homicide, and whether or not the prisoner at the bar is guilty of that murder. I did think of reading over the entire evidence, but it is so voluminous that it would take nearly a week; I will, however, refer to the evidence of one or two of the most important witnesses. I will read the whole of the evidence if you think that it is necessary. (The jury here intimated that it would be just as well to read only the evidence of what His Lordship considers the most important witnesses.) I must make an observation with reference to aiders, abettors and accessories. When several are acting together and a felony is committed, it is not necessary that all should be directly acting in that felony. For example, in the robbery of a house one person stands at a distance keeping watch on the road, one at the gate, and one enters the house and commits the robbery; all act together to accomplish the same purpose, all are equally guilty. In the consideration of this case, if the prisoner agreed along with others that Scott should be put to death and killed, whether he agreed to it or not if he assented to it, and agents were employed to execute that determination, if the prisoner were near enough by to assist, he is just as guilty as if he fired the guns himself. Now, I state this to you, and the oath that binds—binds you to make that decision according to law. I tell you what the law is; if that were not the law, what would be the consequence? Men would commit murder or felonies and employ agents to execute their designs, being always within reach if necessary to accomplish it themselves, yet escape the responsibilities of the evidence. We now come to the consideration whether or not the party is dead. All of the witnesses who speak of the occurrence of 4th of March agree substantially as to their statements; there is in fact no contradiction. They all agree that Scott was taken out on the east side of the Fort wall, that guns were fired at him, that some of the balls pierced him, that blood flowed, that at least all agree that two bullet perforations appeared on the body, one on the breast and one a little higher up, some speak of a third that grazed the shoulder. Mr. Young says he observed perforations in the coat at the back, and that it was some distance down from the shoulder, so that apparently the ball passed from out of the back. Most of the witnesses agree on the first firing, that there was a cry or a shout as if a man was hurt; that he was on his knees and fell forward, his hands being tied behind him; that they all agree that at that time there were indications that life was not extinct; that a man named Guilmette got a pistol in some way and shot it at Scott's ear; there was a kind of quivering sensation following that shot, and that the body fell down more prostrate; witnesses both for the prosecution and the defence say that the body was put in a rough box; one man says that the man that was taken up collapsed like a sleeping man. It is agreed by all that the body in this box was carried into the Fort near the bastion. Many witnesses say, some for the prosecution and some for prisoner, that noises were heard from that box. I have no recollection that some of the witnesses saw any blood flowing from the last wound, some saw it on the snow, some speak of it on the face or ground, but one witness for the prisoner who had carried in the box says he did not observe any blood at all. They carried in the box, that was in the afternoon of the 4th of March, on a