The case cited is one of great authority from the eminence of the Learned Judge who decided it. The only difficulty is in knowing whether we get the very words of the Judge from the case quoted, and, if we do whether all the facts are stated which induced him to lay down a particular rule.

Although I agree with the substance of what my brother Patteson is reported to have said, I am not so clear as to the propriety of adopting the very words. If he said, that the jury could not find the intent without being satisfied it existed, I shall so lay it down to you. The only difference between us is as to the amount and nature of the proof sufficient to justify you in coming to such a conclusion. Under such circumstances as these where the act is unambiguous if the defendant were sober I should have no difficulty in directing you that he had the intent to take away life, where, if death had ensued, the crime would have been murder. Drunkenness is ordinarily neither a defence nor excuse for crime and where it is available as a partial answer to a charge, it rests on the prisoner to prove it, and it is not enough that he was excited or rendered more irritable, unless the intoxication was such as to prevent his restraining himself from committing the act in question, or to take away from him the power of forming any specific intention. Such a state of drunkenness may, no doubt, exist. To ascertain whether or not it did exist in this instance, you must take into consideration, the quantity of spirit he had taken as well as his previous conduct.

His conduct subsequently is of less importance because the conciousness (if he had any) of what he had done, might, itself, beget considerable excitement.