"Insanity immediately produced by intoxication does not destroy responsibility where the patient when sane and responsible made himself voluntarily intoxicated. There can be no doubt upon this point, either on principle, policy or authority. Drunkenness, so long as it does not prostrate the faculties, cannot be distinguished from any other kind of passion. If the man who is maddened by an unprovoked attack upon his person, his reputation or his honor, be nevertheless criminally responsible —if hot blood form no defence to the fact of guilt—it would be a most extraordinary anomaly if drunkenness voluntarily assumed should have that effect independently of all extraneous provocation whatever. If, as is assumed, or else there is no ground for the exception, drunkenness so incapacitates the reason as to make it at least partially incapable of distinguishing between right and wrong, or else so inflames the passions as to make restraint unsupportable, then comes in the familiar principle that the man who voluntarily assumes an attitude or does an act which is likely to produce death in others, is responsible for the consequences, even though he had at the time no specific intentions to take the life of any one.

"As a mere matter of legal policy the same position holds good. There never could be a conviction for homicide if drunkenness avoided responsibility. As it is most of the premeditated homicides are committed under the stimulus of liquor. The guilty purpose is at first sedately conceived, but there are few men whose temperaments are so firmly knit as to enable them to enter a scene of blood without at first fortifying themselves for the task to be performed. The head dreads the heart's cowardice, and seeks to insure against it by drink. It will be found in fact that there is scarcely a case of violent homicide in which it does not appear that the defendant strengthened his nerves for the execution of his guilty plan by drink: just in the same way that he strengthened his hand by the fatal weapon. If therefore drunkenness imparts irresponsibility, there are not only but few convictions which have heretofore taken place which are good, but there will be no convictions at all for the future. If the assassin will not take liquor to strengthen his nerves, he will to avoid conviction. There would be no species of deliberate homicide under such a dispensation that would not avoid punishment. It would be the indeliberate only that would be made responsible. The tenor of common and civil law authority to this effect is clear. Even the German text writers, who generally attenuate to so wide and thin a texture the doctrine of moral responsibility, do not undertake to treat drunkenness as a defence. Sir E. Coke scarcely goes beyond the tenor of civil as well as of common law writers when he says: "As for a drunkard who is *voluntarius dæmon* he hath, as has been said, no privilege thereby but what hurt or ill soever he doeth; his drunkenness doth aggravate it. *Omne crimen ebrietas et incendit et detegit.*"

Baron Alderson said in 1836, "If a man choses to get drunk, it is his own voluntary act; it is very different from madness which is not caused by any act of the person. That voluntary species of madness which it is in a party's power to abstain from, he must answer for." And this decision is in harmony with the whole current of English authority.

I can add nothing, gentlemen, to the weight of these words. They are the *dicta* of men to whom every lawyer looks with respect; and the sentiments they embody are as just as they are clearly and forcibly expressed. The immunity of our persons from injury, of which we boast as one of the essential and most important characteristics of constitutional freedom would be at an end, if any man could qualify himself, by voluntary intoxication, to maim or slay us with impunity.

But, gentlemen, even the state of intoxication has not been proved. You have heard from the witnesses the exact quantity of liquor which the prisoner had taken, and you did not require the testimony of Dr. Robillard to satisfy you that it could have produced no perceptible effect. The utmost that any of the witnesses say is that they could perceive that he had taken liquor, but not one has been found who could be brought to declare that his intellect or his capacity for duty was affected by it.

You have been told that no sane man could have shot Sergeant Quinn; he would rather have stabbed him, and silently escaped. Well, gentlemen, it is impossible for us to enter into the mind of the prisoner and fathom his designs. He may not have intended to try to escape; he may have thought that the confusion caused by his shot, and by the darkness would be so great, that he would escape in the midst of it, and such would in fact appear to have been his expectations—and the preparation of his bayonet and the retention of a second cartridge would appear to indicate his determination to fight his way out in such confusion. But fortunately gentlemen those who commit great crimes are seldom succesful in escaping detection; providentially great criminals are never supremely wise or cunning—and their detection generally results from some miscalculation they have made or some combination they have overlooked. Whatever may have been the prisoners designs as to escaping, their insufficiency or futility forms no ground for adjudging him to have been insane.

But gentlemen let us apply another test, one which the prisoner himself has afforded us, and one which conclusively disposes of all the pretensions as to his unconsciousness of his own acts.—

The learned Counsel tells you that the prisoner instructs him to say that he was perfectly unconscious of what he did, and that he only awoke to such consciousness when he found himself on the floor, struggling with three men. But how does this agree with the facts: did he not himself,