The information communicated to me by letter this morning is as follows:—When the trial of Michael Lee for murder took place at Napanee some time ago, Dr. Metcalf, of Rockwood, Dr. Clark, of Toronto, Dr. Lavell, of Kingston, examined him. Drs. Metcalf and Clark pronounced him insane; Dr. Lavell pronounced him perfectly sane. His sentence was commuted and he was sent to the penitentiary, where he was transferred to the criminal insane ward as insanity became marked. Whether he still remains there or not I do not know. I know, having had some reason to learn, that a very great number of those whose minds are disordered are kept, and perhaps not unwisely so, out of the insane ward and mix with the other prisoners. That is the statement given to me; and I think, considering the circumstances and the names I have given, it would have been fortunate if the hon. member for Ottawa had so far perfected his investigation as to be able to state all the facts respecting the case of Lee. I think it is established beyond all contradiction that the practice accords with reason, that a disordered condition of the intellect, which in the view rightly or wrongly of the law is not sufficiently disordered to entitle the prisoner to immunity from crime, is yet to be regarded in dealing with the quantity of punishment awarded; that in all other cases than the capital cases that regard is paid by the judge, and in the capital cases it is to be paid by the Executive, whose duty is, not as a matter of clemency or mercy simply, but as part of the administration of criminal justice, as part of that justice which we declare in our Statute-books we seek to accomplish by the apportionment of the punishment to the moral guilt, to have regard to what surely must be an element of the moral guilt, the degree of the disordered intellect, the degree of the insane impulses, of the insane delusions of the unbalanced mind. Even although this degree may be not enough to entitle him to acquittal, though the verdict may be right and the judge's sentence under the law may be right, there is not a mere discretion but a sacred, solemn and imperative duty to have regard to the circumstances disclosed on the trial, and all other circumstances which may be made known; and if upon the whole of the circumstances, you find, as was said by Mr. Justice Stephen, that the man was not mad enough to be acquitted but too mad to be hanged, you cannot shelter yourself under the proposition that it was your duty to carry out the sentence of the law, and that the verdict of the jury had settled all that matter. The verdict of the jury settled no more than this; the prisoner was not so completely insane as to be entitled to be absolutely acquitted on the ground of insanity. Consistently with that finding, his intellect might be seriously disordered. He might be seriously disordered mentally though not sufficiently disordered to give him immunity. Is not that question to be decided? Was that question settled by the verdict? No, it was left unsettled. It was to be settled by the Executive. Has it been settled? If not, they did not discharge their duty. If they settled it, and decided that it did not apply in this case, then I humbly say that I wholly disagree from them in opinion. Now, Sir, to come to the other branch of this case, the question of political offences, that has also to be considered on the question of the award of punishment, and in this matter I am obliged to differ very much from the spirit of a good deal that has been said by hon. gentlemen opposite. The prerogative of pardon is dealt with by Mr. Amos, as applied to these cases, thus:

"There are other cases in which the faculty of granting a remission or diminution of the penalty may also properly belong to the Executive. Thus in cases of what are sometimes called 'political crimes' in which the perpetrators of them are as often as not persons of virtuous habits and tendencies, and even in some cases of a heroic spirit of self-sacrifices, it must depend entirely upon the danger to the community to be apprehended from a repetition of such particular offences whether any and what penalty should be exacted. It may not be wise to leave to the judge the supreme decision of a question more of political circumspection than of simple moral insight. The usual if not necessary rule is to leave a considerable amount of choice of penalties to the judge, but to reserve to the Executive the opportunity of entirely rebutting, or as political sagacity prompts from time to time the penalty exacted by the strict letter of the law. These remarks while justifying the institution of the prerogative of pardon, none the less point to the essential importance of hedging round the exercise of this prerogative with all the safeguards which a vigilant legislature and an active public opinion can devise."

With reference to the exercise of the prerogative in case of political offences, an instructive statement was made on the application in the case of certain Fenian convicts in 1869, when Sir Frederick Heygate said:

"He would beg to ask the Chief Secretary for Ireland, whether, in the selection of those Fenian convicts now proposed to the released, the course had been adopted usual in the remission of sentences of obtaining the approval of the judge who tried each case.

"Mr. Chichester Fortescue, in reply, said, that in ordinary cases when a memorial was presented from a prisoner for a mitigation of punishment or a free pardon, that memorial was referred to the judge who had tried the case. But in the present instance no such memorial had been received by the Government and the question was not considered as one respecting a mitigation of an ordinary sentence. On the contrary, it was regarded by the Government as a question to be decided by themselves and by the Lord Lieutenant of Ireland. What they did was to institute a most rigid examination into the case of each prisoner, and in conducting that examination they had the assistance of the law officers of the Crown, and more especially of the Attorney-General. The examination was conducted in every case in reference to the character of the person and the circumstances of the case, and to all that came out of the trial. Having done that, Her Majesty's Government and the Lord Lieutenant were of opinion that it was their duty to decide the question solely on their own responsibility, and without inviting the judges to share that responsibility."

Then, Sir, there is a most interesting and instructive discussion on Mr. O'Connor Power's motion, in 1877, with reference to certain Fenian convicts, notably the Manchester murderers, of whom three suffered the extreme sentence of the law, and the others sentences of imprisonment for considerable terms; and after a period, an agitation took place for a remission of these sentences. Mr. Gathorne Hardy said:

"He would admit that this question came very near the hearts of a great many of the Irish people; but they were not the Irish nation, and the Irish nation was not the whole people of the empire. This was an empire and not an aggregate of separate kingdoms, and the Government had to consider the interests of the whole of this great empire. It was also a free empire. Every man who was wronged had an opportunity of bringing his wrong to light, and there was no man who suffered an injury who had not an opportunity of obtaining redress in a constitutional manner. Therefore, the man who took up arms had to vindicate himself from a charge of the deepest dye. Where there was no necessity—not even an excuse—for shedding blood, the man who raised his arm to shed blood, committed a crime; and for that crime the country had a right to demand, he would not say vengeance, but the utmost punishment the law allowed. Much more when men who had taken upon themselves the character of defenders of the country, violated the oaths they had taken and conspired to destroy the country, no punishment could be inflicted upon them which they did not deserve."

Then the Attorney-General of England, in the same debate, describing the offences, used these words:

"When the van emerged from under a railway arch, about half-a-mile from Bellevue, a large number of persons were seen upon some vacant ground, slightly elevated above the road. They were armed with revolvers, and had evidently been waiting for the approach of the van, determined to all hazards to rescue the prisoners. It was proved afterwards that messages had been sent in order that they might be prepared. They discharged their revolvers at the policemen, stopped and surrounded the van, and some of them got on the roof and attempted to break it in by means of hammers, while others handed up large stones to aid them. Others, again, tried to break open the door. It was the duty of Sergeant Brett to guard the door. He was a brave officer, and he did his duty. He positively refused to admit the assailants. When he was in the act of closing a ventilator—which was something in the shape of a small venetian blind—for the purpose probably of preventing them from getting a hold there, one of the conspirators pointed a revolver at the aperture, and, deliberately discharging it, shot the officer. Sergeant Brett fell in the van, the door was then broken open, and the prisoners were released. Hon. members might, if they liked, call that accidental shooting, but he (Attorney-General) called it deliberate homicide.

* * * They might call it a technical crime; he called it vulgar murder. They might call it a political offence; he called it deliberate and atrocious assassination. It was a deliberate planned attack, carried out by the prisoners who were afterwards convicted, regardless whether they committed murder or not, but determined to do murder rather than fail in their object."