

a gaol—the first two years in irons—followed by expatriation for a further period of twenty-two years, is a punishment amply sufficient to satisfy the ends of justice, and to deter others from following Gardiner's bad example.

Whether Gardiner's apparent reformation is sincere is a point which time alone can determine. I am myself disposed to think that, after the experience he has gained, and under the altered circumstances of the colony, he might be released even in Sydney without any substantial danger; but there are many persons who apparently think differently, and who believe that if Gardiner had an opportunity he would revert to bush-ranging; and these fears, which are entitled to consideration, have been aggravated by a few isolated robberies which have occurred just at the time when this case was attracting public attention. Assuming, however, that these apprehensions are reasonable and well-founded, it appears to me that they are fully met by the condition of exile, which the Government will of course take effectual means to enforce. A legislative enactment authorizes and empowers the Government to take the necessary steps for this purpose, and none of the old and settled countries will offer opportunities for the peculiar crime of bush-ranging, even if Gardiner were disposed to revert to it. I do not think that sufficient weight has been allowed throughout the community to this condition of exile which it is intended to attach to Gardiner's pardon, and which supplies, in my opinion, effectual security for "preventing the individual from the committing of similar crimes."

The end and object of all punishment would, therefore, seem to have been secured by the course which it is proposed to adopt in the present case. The prisoner has, I hold, been sufficiently punished, and he can, I conceive, with safety be set free, upon condition of his leaving the country. If, while entertaining, as I do, these opinions, I were to break faith with the prisoner, and detain him in gaol beyond the time specified for his liberation, I should be doing so, not because I think such a course necessary, but simply in response to clamour which I believe to be unreasonable and unjust. It is indispensable for the maintenance of prison discipline that every hope held out to prisoners should be scrupulously fulfilled; that every promise, made or implied, should be held sacred, or broken only on grounds the sufficiency of which would be apparent even to the prisoners' minds. I can see no such grounds in the present case; and I am convinced that the moral bad effect upon the whole body of prisoners throughout the colony, as well as upon the community generally, which would result from disappointing without sufficient reason an expectation raised by Her Majesty's Representative, would be infinitely greater than any practical inconvenience which would be likely to result from keeping faith with the prisoner, and allowing him to leave the country.

For these reasons I think that Gardiner should receive a conditional pardon at the time when he was led to expect one, and that the Government should, at the same time, take steps to secure, as far as practicable, the continued absence of the prisoner from the Australasian colonies during the unexpired term of his sentence. I am sorry to think that such an exercise of the Royal prerogative of pardon is unfavourably regarded at the present moment by certain sections of the public, but it appears to me that the course which I suggest is the only course now open to the Government consistent with honor and justice, and I confidently anticipate that the fairness of this view will eventually be acknowledged by all impartial and reflecting members of the community.

HERCULES ROBINSON.

Government House, 23rd June, 1874.

MINUTE of the EXECUTIVE COUNCIL.

(Minute, 74/30.)

At Government House, Sydney, June 24, 1874.

Present:

His Excellency the Governor,
The Honorable the Colonial Secretary,
The Honorable the Colonial Treasurer,
The Honorable the Secretary for Lands and Mines,
The Honorable the Secretary for Works, and
The Honorable the Minister of Justice and Public Instruction.

His Excellency the Governor lays before the Council six petitions and memorials which have been presented to him with regard to the proposed release of the prisoner Gardiner; also a minute by His Excellency, setting forth his views on the subject.

2. The Council, having duly considered the petitions and minute referred to, are of opinion that sufficient grounds do not exist to warrant them in advising His Excellency to depart from the promise implied in His Excellency's minute of the 5th December, 1872, upon the case of the prisoner Gardiner.

ALEX. C. BUDGE,
Clerk of the Council.

Enclosure 6 in No. 3.

(S.)

PRISON REGULATIONS.

SENTENCES OF PRISONERS.

(No. 1.)

The SHERIFF to the PRINCIPAL UNDER SECRETARY.

SIR,—

Sheriff's Office, Prison Branch, Sydney, 25th March, 1867.

As the position and treatment of prisoners in the gaols will, under the new regulations, be materially influenced by the nature of the sentences passed by the Courts, I do myself the honor to