

pline is augmented, recourse may be had, with advantage in many respects, to shorter sentences. I speak under correction; but, in my view, a sentence of imprisonment for eighteen months, or, at the most, for two years, would be ample to meet the requirements of justice, and afford protection to such property as cattle or horses, in the case of a first offence without aggravating circumstances, such as breach of trust, previous bad character, &c.; for a second offence, three to five years; for a third—which might be considered as showing the convict to be a confirmed criminal—a prolonged term of punishment.

It may be said that there exists great difficulty in the identification of previously convicted persons, so as to enable the Courts to impose the graduated punishments; but this difficulty may be reduced to a minimum by the use of photography, and by keeping an accurate account of the name and *aliases* borne by the convict, and a description of his height, age, and general appearance.

If copies of these photographs and descriptions were made and kept at every circuit town, the expense would not be great, and the facility offered to the police and others, of recognizing persons previously convicted, would be vastly increased; while the knowledge that such was the case, on the part of the offender, would go far to deter many of those who have been betrayed into a first lapse from continuing a career of crime, especially when such knowledge was coupled, as it would be, with the certainty that each repetition of crime duly recorded and proved would bring with it a material increase of punishment, pain, and inconvenience.

I only throw these suggestions out for consideration. It is clear the attention of Judges ought to be invited, with a view to some remedy to the want of uniformity in the sentences for the same offence, and to the comparatively disproportionate severity with which some offences are visited—offences committed for the most part by young men, who cannot be considered as of the criminal class, though likely, under injudicious treatment, to become so.

As a class the rural marauders are less vicious, and more easily to be dealt with, than the street Arabs in the town. The latter have been exposed to the worst example, and inured from infancy to vagrancy and theft, and, in consequence of such evil training, prove much more difficult of treatment, and well nigh incorrigible.

A sharp penal servitude of short duration would work a change in the former, while long terms of imprisonment would seem better suited for the latter. At present the reverse of this view obtains in practice.

After due consultation with the Judges, and full deliberation, it would be expedient to recur to Parliament for authority to shorten the sentences of imprisonment for horse and cattle stealing, should it be deemed desirable to at least try the experiment of the shorter sentences with severer penal discipline.

J. Y.

No. 4.

Sir H. ROBINSON, K.C.M.G., to the Earl of CARNARVON.

(Extract.)

Government House, Sydney, 3rd July, 1874.

I HAVE, in separate confidential despatches by this mail,* reported fully upon the liberation of the bush-ranging prisoners, and the mode of exercising the prerogative of pardon in other than capital cases, both of which subjects have given rise here lately to considerable discussion and excitement. With reference, however, to the latter question, I may add that, since the date of my despatch of the 29th June,† I have received a reply to the inquiry which I addressed to the Governor of Victoria as to the practice of that colony in this particular. Sir George Bowen observes: "The practice here with regard to pardons and mitigations of sentences has always, I believe, been similar to that which, as I understand, you have wisely established at Sydney. All petitions on the subject, whether addressed to the Governor (as they often are) or otherwise, are referred to the Law Officers, who examine each case; communicate, if necessary, with the Judge or Magistrate who presided at the trial; and then submit the papers to the Governor for his decision, with a full written report and recommendation. I cannot believe any other course to be either constitutional or reasonable."

Thus it will be seen that, although I was not at the time aware of the fact, the practice which I have established here is precisely in accordance with the practice in Victoria and New Zealand, and practically in unison with that in force in Queensland, Tasmania, and South Australia, where such questions are decided in Executive Council. Mr. Du Cane, writing to me on this subject, observes: "With respect to petitions for pardon or mitigation in ordinary criminal cases the practice here is as follows: Such petitions are addressed to the Governor in Council, and come to me in the first instance. They are by me 'referred to Ministers,' which really means the Attorney-General. This Minister subsequently brings the petition before the Executive Council with his recommendation. I have never, on my own responsibility, set any of his recommendations aside, but we have now and then discussed them in Council, and made alterations in questions of mitigation of the amount of time by which he has recommended that the sentence should be reduced. As a general rule, however, the Law Officer's recommendations are accepted without discussion. This is pretty much the same as the system which you have recently established in New South Wales, and which appears to me to be a good settlement of the difficulty."

The only difference now in the practice of the Australasian colonies in this respect appears to be that in New South Wales, Victoria, and New Zealand petitions for pardon in ordinary cases are decided by the Governor upon the advice of a Minister, whilst in Queensland, Tasmania, and South Australia they are decided by the Governor in Executive Council on the advice of one of the Ministers. I think the practice here best carries out, at all events in this colony, the instruction in Lord Kimberley's circular despatch of the 1st November, 1871,‡ that the Governor is bound to examine personally

* Nos. 1, 2, 3.

† No. 1.

‡ (No. 4) in No. 1.