great difficulty in finding funds to appeal, and so where the inequality bore hardly upon them they would submit to it; whilst, on the other hand, they would be pretty sure to have to defend an appeal in case their sentence appeared too light to the prosecutor, or else would have to run the risk of not being represented in defending the appeal. Besides, it would take long before a course of decisions would be established, and when established, or in course of being established, trials would be prolonged in the courts below, in order that the authorities might be brought to their notice. And there would, of course, be the less inducement to care in sentencing if it was generally felt that the case was pretty sure to be appealed.

Legislation could only to a certain extent prevent inequality of sentences by graduating a scale of punishment according to extenuating or aggravating circumstances. There is no doubt that there is room for some improvement in this direction. The first reform is obviously that in cases of murder the judge should not be obliged to pass the extreme sentence of the law. This could be altered either by leaving it entirely to the discretion of the judge, or by a statutory distinction between murder in the first degree and murder in the second degree, making the latter offence punishable by penal servitude for life, or for a less term, not being less than a certain minimum, at the discretion of the judge. There are also less serious crimes with regard to which there might be some judicial discretion. Then, with regard to previous convictions, rules might be laid down of simple character. For instance, with regard to larcenies, where, on a conviction for larceny, previous convictions for larceny of similar articles under similar circumstances were proved, the punishment should be increased sharply for the second, third, or fourth offence, but for subsequent offences the maximum should be inflicted. But where the previous convictions were for offences of a different character, they should be taken into account only so far as they led up naturally to the crime for which the punishment to be inflicted was under consideration, as where the prisoner had proceeded from picking pockets to robbery with violence, or from larceny to housebreaking, or shop-lifting to burglary.

The best of all remedies for inequality of sentences lies, no doubt, with the judicial authorities themselves. By careful self-education in the principles of punishment as generally received in this country, and there can be no question but that the general outlines are now settled, and by an intercommunication of information amongst themselves, the judicial authorities can do more than can be done for them to put them in the right way. If a man accepts the office of a judge without any previous legal experience, surely he ought to spare the time at least to consider the principles of the punishment of offenders; and the courts of general and quarter sessions might well interchange information as to sentences which would be worth their mutual attention.

The Lord Chancellor, in the course of the debate in the House of Lords, said that it was sometimes thought that particular classes of judges were more disposed than others to pass severe sentences. He believed that this was an error, and that there was no such distinction between classes of judicial functionaries, and he was therefore glad that Lord Herschell was not one of those who were