

Now, in the House of Lords, Lord Coleridge is reported to have said that, if he questioned anything in the speeches of his noble and learned friends, it was their use of the word "principle," for he doubted very much whether those who administered the criminal law were conscious, when pronouncing sentence, of administering law according to any elaborate and philosophical principle. But we should hold it to be one of the first duties of those who are called to the office of a judge amongst us to try and keep before them a right principle, and to apply it to the facts in passing sentence, just in the same way as if they were giving judgment in a civil case. This is absolutely the only way in which anything like equality of sentences can be obtained without sacrificing the substance for the shadow of justice. It is, of course, impossible to prevent the misapplication of principle to facts, and the principle must, in the nature of things, be so framed as to be very wide in its terms. But there are, it will be found on consideration of the subject, many safeguards that will keep the judge from going very far wrong.

The first object, as already stated, to be kept in view is the greater safety of the community. With reference to this object the facts may be grouped somewhat in the following way: The nature of the crime must be considered. If it affects that which every member of the community possesses, the punishment must be the more deterrent, as any member may be liable to suffer from the like crime at any future time. In this view of the case, offences occasioning bodily injuries would be regarded as more heinous than those involving injuries to property, and we think, to a certain extent, this ought to be so. Then it must be considered whether the like offences are rife in the neighbourhood, so as to occasion a widespread feeling of terror or insecurity. It may here be observed that crimes committed in combination by several offenders should be punished more severely than isolated offences by single criminals, because the existence of combinations antagonistic to the general interests of the community is more dangerous to public safety than any single individual can be, however many offences he can commit. With regard to offences against property, it seems that injuries to public property should be punished more severely than those against private property, and in punishing injuries against private property, it may fairly be taken into account whether such property is of a nature to be beneficial to the community such as industrial property, or is purely for the benefit of the individual possessor. Lord Coleridge remarked that the one most important duty of a judge was to take care that a sentence did not enlist the sympathy of the public on the side of the criminal. It is obvious that if the judge keeps always in view the greater safety of the community as the first object of punishment, he will run far less risk of enlisting public sympathy on the side of the criminal, especially if, in sentencing him, he takes care to make it clearly appear how far the offence is a violation of the public right. The repetition of offences is not always of great importance in this connection, and that is why it has not been sooner referred to. Its importance really depends upon the class of offence, so far as the public are concerned. It should always be remembered that the preventive power of punishment is strictly limited. In the