

entered the gaols that prisoners did not lay before him their cases, which compared favourably with those of men who had been released whilst they remained in prison. The Sheriff accordingly recommended that, instead of continuing to treat these cases individually, they should be dealt with collectively with a view to equality of treatment, as far as circumstances would permit, a consideration which should always have a first place in prison administration. He submitted a scale of reductions which he thought would meet the cases generally, excepting, however, from its operation cases in which life had been taken, the cases of old offenders, and others presenting specially unfavourable circumstances. This suggestion was laid before me by the Colonial Secretary without remark, and I eventually, after a slight modification of the scale, concurred in the proposal, endorsing on the papers the following Minute, under date 5th June, 1873:—"I think, with this amendment, the cases of the prisoners referred to might be dealt with in the general manner recommended by the Sheriff, each case being submitted with a separate Report from the Sheriff as to whether there are any circumstances in connection with it which render it undesirable to apply to it the general regulations in the accompanying letter of the 21st of January." This decision was initiated by the Colonial Secretary as seen by him on the 10th June, 1873, and in the following October the Colonial Secretary submitted to me the special recommendations of the Sheriff in 23 cases based on the general scale of reduction already sanctioned. Full particulars of these cases, with the precise mitigation in each case of which I approved, will be found in the return which which accompanies inclosure D before referred to.

Thus, it will be seen, that although Gardiner's case, and those of the other 23 bushrangers, were disposed of at a time when, for the reasons explained in another despatch, the exercise of the prerogative of pardon in other than capital cases, was understood to rest with the Governor; these cases were dealt with out of the usual routine. They were, as I have shown, the subject of much correspondence, which originated with the Colonial Secretary; and all subsequent communications passed through his hands. The cases, too, were eventually decided in precise accordance with the recommendations of the permanent head of the Prison Department, which were submitted to me by the Colonial Secretary, who was supposed, from the absence of any statement to the contrary, to concur entirely in the views and proposals of his subordinate officer.

So the matter rested until about two months ago, when a question was asked in Parliament as to the proposed liberation of Gardiner. Mr. Parkes' answer not being considered satisfactory by the questioner, the adjournment of the House was moved, and a debate ensued, which will be found reported in the accompanying copy of the *Sydney Morning Herald* of the 30th April last.*

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As soon as the question was disposed of in Parliament, several petitions, some of them largely signed, were presented to me, one being in favor of keeping faith with Gardiner, and the others deprecating any mitigation of his sentence. I found that Ministers, after the defeat of the adverse Resolutions in the House, did not propose to offer me any advice, but wished to leave me quite free to exercise my own unbiassed judgment as to whether the decision which had been come to in December, 1872, as to Gardiner's case ought or ought not to be adhered to. I accordingly considered very carefully whether any fresh facts had been brought to light by the public discussion of the question which would justify me in disappointing now the expectations which I had raised when Gardiner's case was first brought before me about eighteen months ago. Before coming to any decision I had a long conversation on the subject with the present Chief Justice, Sir James Martin, who having been Crown Prosecutor when Gardiner was convicted, was thoroughly conversant with all the circumstances of the case, and the condition of the country at that period of excitement. I found that Sir James Martin was very decidedly of opinion—(1) that Gardiner's sentence was excessive for the offences for which alone he had been convicted; (2) that he