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 Officers' 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 each case in which he is called upon to exercise the prerogative of pardon. It is true that all the papers submitted to the Executive Council are sent to the Governor for his perusal before each meeting, but there is such a large mass of merely formal business passed through Council that if petitions were treated in the same manner each case would probably not be so carefully examined as if it were sent separately to the Governor with a Minute upon it by the Minister of Justice.

(No. 5.)

The Earl of Carnarvon to Sir H. Robinson, K.C.M.G.

DOWNING STREET, 7th October, 1874.

SIR,—I have to acknowledge the receipt of your despatch of the 29th of June,* in which you inclose a printed paper laid before the Parliament of New South Wales, at the bottom of page 7 of which paper is a Minute, embodying the decision arrived at by the Executive Council on the subject of the prerogative of pardon.

2. The decision of the Executive Council as contained in this Minute, being in accordance with what I believe to be the general practice in other Colonies, and also with the views of Her Majesty's Government, as expressed in my predecessor's despatch of the 17th of February, 1873,† appears to require no comment from me, except that I understand the Minute of course not to contemplate any departure from the rules laid down in Section 14 of the Royal Instructions as to capital cases; and a great part of your Minute immediately preceding it also expresses correctly the principles established for dealing with those other cases in which it is proposed that the prerogative of pardon should be exercised. But I doubt whether you correctly apprehend the meaning of my predecessor's despatch when you speak of his suggesting an "informal consultation" between the Governor and the proper Minister. Lord Kimberley, as it seems to me, suggested that, except in capital cases, such consultation need not be in the Executive Council, but I entertain no doubt that he considered, as I do, that it must be of an essentially formal character, and it is very proper that the

‡ (No. 4) in No. 1. * No. 1. † (No. 6) in No. 1.