

treason or slave-trading, or in matters in which foreigners might be concerned, the Governor would be bound to allow great weight to the recommendation of his Ministry.

I have, &c.,  
(Signed), GRANVILLE.

(No. 4)

*The Secretary of State for the Colonies to the Officer administering the Government of New South Wales.*

(Circular.)

DOWNING STREET, November 1, 1871.

MY LORD,—Questions having been recently raised in the Colony of New Zealand as to the powers vested in the Governor of a Colony to grant pardons, it became necessary for Her Majesty's Government to consider carefully the various bearings of this important subject; and I have now to transmit to you, for your information and guidance, the conclusion at which they have arrived.

The cases which have to be dealt with may be classed under the five following heads:—

1. Pardon of convicted offenders.
2. Pardon or security of immunity to a witness fearing to criminate himself.
3. Pardon of an accomplice included in a prosecution, and turning Queen's evidence.
4. Promise of pardon to an unknown person concerned in a crime, but not being the principal offender, in order to obtain such information and evidence as shall lead to the apprehension and conviction of the principal.
5. Promise of pardon to political offenders or enemies of the State.

With respect to the pardon of convicted offenders, a Governor has already full powers under the terms of his existing Commission.

I am not aware whether in the Colony under your government it has been the practice for the Governor to leave signed pardons in blank, to be filled up and used during his temporary absence from the seat of Government. But as the question has been raised whether this procedure is admissible, I may here observe, for your guidance, that such a course would be irregular, and I am not aware of any circumstances which could justify it. The Governor, as invested with a portion of the Queen's prerogative, is bound to examine personally each case in which he is called upon to exercise the power entrusted to him, although, in a Colony under responsible Government, he will of course pay due regard to the advice of his Ministers, who are responsible to the Colony for the proper administration of justice, and the prevention of crime, and will not grant any pardon without receiving their advice thereupon.

When the person whom it is proposed to pardon has been already convicted, there can be no sufficient reason why the case should not stand over until it can be duly submitted to the Governor.

With respect to the second head, namely, the pardon of a witness fearing to criminate himself, it is undoubtedly necessary that means should exist by which the evidence of such a witness may be obtained. This case, however, may be better provided for by local legislation than by the exercise of the Royal prerogative through the Governor. The Judge presiding at the trial should be empowered to give a certificate under his hand, that the evidence of the witness was required for the ends of justice, and was satisfactorily given; and such certificate should be a bar to all proceedings in respect of the matters touching which the witness has been examined.

With respect to the third head, namely, the pardon of an accomplice included in the prosecution, and turning Queen's evidence, it appears to Her Majesty's Government that no local legislation, nor alteration of the Governor's Commission is needed, and the practice in England upon this point may properly be adopted in the Colony.