

(No. 2.)

*Minute by the Colonial Secretary respecting Petitions from Prisoners for Remission or Mitigation of Sentence.*

1. I am induced, not less by the frequency and irregularity of petitions presented for the remission or mitigation of the sentences of prisoners, than by communications which have been addressed to me by his Honor the Chief Justice and Mr. District Court Judge Simpson, to submit for consideration certain suggestions for the more satisfactory dealing with such petitions, by which it is hoped the time of the Judges, to whom they are referred for report, and of His Excellency, to whom they are submitted for decision, may be less trespassed upon.

2. It may be admitted that, as a rule, all evidence which can be adduced in favor of the prisoner is so adduced before sentence is passed upon him.

3. That in view of surrounding circumstances the sentence is not excessive, and that the only mitigation, therefore, which the prisoner or his friends can claim or expect is that provided by the gaol regulations for good conduct. Such remission becomes due at a certain time, is recommended by the Sheriff or Superintendent at Cockatoo Island, and cannot properly be made the subject of petition.

4. It follows, therefore, as it appears to me, that the petitions requiring special notice are exceptional, containing statements of new evidence requiring reference to the Judge, and perhaps to the Crown Law Officers, or particular circumstances not before known, calling for the exercise of the prerogative of mercy.

5. In the former class of cases reference to the Judges or the Crown Law Officers should, of course, be continued, but in the latter class of cases no such reference would be needed.

6. In England the administration of the prerogative of mercy has devolved upon the Secretary for the Home Department (answering in some sort to the Colonial Secretary here), who is considered as directly responsible for the same. (See "Todd's Parliamentary Government in England," vol. 1, folios 343, 4, 5.)

7. It is submitted, therefore, that in all future cases the reference to the judges on legal points or evidence should continue, but that, an expression of the opinion of the Minister should accompany the petitions submitted, whatever they be—such expression being viewed as embodying no more than a recommendation in the matter, of which the decision is within the competency of His Excellency.

8. It may be considered desirable, notwithstanding the right of petition, that all petitions from prisoners or their friends should be forwarded through (or be referred to) the sheriff or the Superintendent of Cockatoo Island, as the case may be, and that frivolous petitions, or false representations, should be disregarded.

(Signed), JOHN ROBERTSON.

[Date omitted—must have been early in July 1869.]

(No. 3.)

*The Secretary of State for the Colonies to His Excellency the Governor.*

DOWNING STREET,

4th October, 1869.

MY LORD,—I have the honor to acknowledge the receipt of your despatch No. 111 of the 14th of July, asking for instructions on the question whether a Colonial Governor is bound to act on his own independent judgment in deciding upon the petitions frequently presented for the mitigation of sentence passed upon a prisoner, or what weight he should attach to the advice of the Colonial Secretary.

The responsibility of deciding upon such applications rests with the Governor, and he has undoubtedly a right to act upon his own independent judgment. But unless any Imperial interest or policy is involved, as might be the case in a matter of