

every case upon his own direct responsibility, subject of course to the refusal of the Crown to accept his advice, which refusal at any time should be held to be, as in all other cases, tantamount to dispensing with his services. The seventh paragraph of the minute alone touches the question of the Minister's relation to the Crown, and it seems to prescribe a position for the Minister, in which, on submitting petitions to the Governor, he is to express an opinion on each case, to be "viewed as embodying no more than a recommendation," after which he is to have no further concern in the matter. I cannot subscribe to this principle of Ministerial conduct, if this be what was intended by Mr. Robertson.

There can be no question, I believe, that from the beginning of the present reign the Home Secretary in England decides absolutely in all matters of this kind in the name of the Crown, and that the Crown does not in practice interfere. At no former time when the Crown took an active part in such decisions, could the Crown, in the nature of things, be subject to a superior or an instructing authority. The wide difference between the position of the Minister and his relations to the Crown and to Parliament in the Colony and in England is at once apparent on reading the despatches from the Secretary of State. The Governor is invested with the prerogative of the Crown to grant pardon, and by the letter of the instructions conveyed to him by Lord Kimberley's Circular of November 1, 1871, he "is bound to examine personally each case in which he is called upon to exercise the power entrusted to him." By the instructions previously conveyed to the Governor of this Colony by Lord Granville, in reply to Lord Belmore's despatch of July 14, 1869, he is told "that the responsibility of deciding upon such applications rests with the Governor," and, in reference obviously to advice that may be tendered, it is expressly added that the Governor "has undoubtedly a right to act upon his own independent judgment." And, finally, after the question has been re-opened by Sir Alfred Stephen, it is repeated by Lord Kimberley's despatch of February 17, 1873, that "in granting pardons" the Governor "has strictly a right to exercise an independent judgment."

It seems to be clear that the "portion of the Queen's prerogative" entrusted to the Governor of a Colony, unlike the prerogative in England, is intended to be a reality in its exercise. It is undeniably the case that the Representative of the Crown in a Colony, unlike the Crown itself, is subject to a superior or instructing authority. What, then, is the position of the Minister, and what is intended to be the nature of the advice he may be called upon to give, and under what circumstances is that advice to be given?

In no sense of responsibility, in this respect, has the Minister in this Colony hitherto been in the same position as the Home Secretary in England. He has neither exercised the function of pardon, nor, as a rule, been asked for advice. Except in rare cases, and then only in a limited degree, when special features or new facts have presented themselves, he has never actively interfered. What would be his position, if he entered upon a system of partial advice, and accepted in matters of the gravest moment a secondary or limited authority, irreconcilable with the nature of his duties and responsibilities as a Minister under Parliamentary government?

Lord Granville says, "the Governor would be bound to allow great weight to the recommendation of his Ministry." The Circular of November 1, 1871, says, "he will, of course, pay due regard to the advice of his Ministers." Lord Kimberley, in his despatch of February 17, 1873, repeats the words of Lord Granville.

It cannot be doubted that the advice here intended is wholly distinct in its nature from the advice given in the general conduct of affairs. In the general case the advice is uniformly accepted, as the first condition of the adviser continuing to hold office. In all his acts the Minister's responsibility to Parliament is simple, undivided, and direct. But in pardoning convicted offenders, the Governor, although he is to "pay due regard to the advice of his Ministers," is at the same time informed by the Secretary of State that he "is bound to examine personally each case in which he is called upon to exercise the power entrusted to him," and that with him rests the responsibility. The exceptional advice implied seems to be of the nature of opinions or suggestions, to which weight may be attached as coming from persons "responsible