

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 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.

In England a pardon is not granted before the trial, neither has the party admitted as Queen's evidence any legal claim to a pardon, nor has the Magistrate before whom the original examination is taken, any power to promise him one on condition of his becoming a witness.

In such cases where the accomplice's evidence has been obtained (which can be done either by his pleading guilty, or by the Crown entering a *nolle prosequi* against him before calling him as a witness against his accomplice), and he appears to have acted in good faith, and to have given his evidence truthfully, he is always considered to have an equitable claim to the merciful consideration of the Court, which is usually extended to him by the Judge presiding at the trial, by the infliction of a minor, or, in some cases, of a merely nominal, punishment.

With respect to the fourth head, namely, the promise of a pardon in order to discover and convict the principal offender, Her Majesty's Government will be prepared, in future commissions, to vest in the Governors of Colonies the power of granting a pardon to any accomplice, not being the actual perpetrator of the crime, who shall give such information and evidence as shall lead to the apprehension and conviction of the principal offender.

It is not, however, considered necessary to issue at once Supplementary Commissions for this purpose, as you (or your Executive Council, if an emergency should compel them to take action at a time when you are absent and cannot be immediately communicated with) can issue a notice that the grant of Her Majesty's gracious pardon to any accomplice who shall give such information and evidence will be recommended. Such notice, which is similar to that issued in England in like circumstances, will have the desired effect, and the formal authority to grant the pardon can in due course be transmitted to the Governor by the Secretary of State.

Lastly, with respect to the fifth head, namely, the promise of pardon to political offenders or enemies of the State, Her Majesty's Government are of opinion that, for various reasons, it would not be expedient to insert the power of granting such pardons in the Governor's commission; nor do they consider that there is any practical necessity for a change.

If a Governor is authorized by Her Majesty's Government to proclaim a pardon to certain political offenders or rebels, he can do so. If he is not instructed from home to grant a pardon, he can issue a proclamation, similar to that issued in 1865 by Sir G. Grey, to the effect that all who had borne arms against the Queen should never be prosecuted for past offences except in certain cases of murder. Such a proclamation would practically have the same effect as a pardon.