

(No. 9.)

MINUTE OF EXECUTIVE COUNCIL.

June 2, 1874.

HIS Excellency the Governor lays before the Council a minute by the Hon. the Colonial Secretary on the subject of the system of treatment of cases of petitions presented for the absolute or conditional pardon of convicted offenders ; also, a minute by His Excellency on the same subject.

2. The Council concur in the views expressed by the Hon. the Colonial Secretary and his Excellency the Governor in these minutes, and advise that for the future all applications for mitigation of sentences should be submitted to His Excellency through the intervention of a responsible Minister, whose opinion and advice, as regards each case, should be specified in writing upon the papers.

Approved.—H. R., 2/6/74.

ALEX. C. BUDGE,
Clerk of the Council.

(No. 10.)

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Secretary's Office, Sydney, 2nd June, 1874.

CONSEQUENT upon the change in the system of treating the cases of convicted offenders in view of the exercise of the prerogative of pardon, I recommend that in future all petitions and applications for mitigation of sentence or pardon be received, considered, and submitted to His Excellency the Governor by the Minister of Justice and Public Instruction.

HENRY PARKES.

(No. 11.)

MINUTE OF EXECUTIVE COUNCIL.

June 2, 1874.

HIS Excellency the Governor lays before the Council a minute paper by the Hon. the Colonial Secretary, recommending, in consequence of the change in the system of treating the cases of convicted offenders in view of the exercise of the prerogative of pardon, that in future all petitions and applications for mitigation of sentence or pardon be received, considered, and submitted to his Excellency the Governor by the Minister of Justice and Public Instruction.

2. The Council approve of the recommendation of the Hon. the Colonial Secretary, and advise that it be adopted accordingly.

Approved.—H. R., 2/6/74.

ALEX. C. BUDGE,
Clerk of the Council.

No. 2.

Sir H. ROBINSON, K.C.M.G., to the EARL of CARMARVON.

(Extract.)

Government House, Sydney, 29th June, 1874.

IN a public despatch by this mail I have forwarded to your Lordship a Parliamentary paper, showing the decision which has been come to in Executive Council as to the mode of exercising the prerogative of pardon in cases which are not provided for by the Royal Instructions; but I think it right, at the same time, to state fully in this confidential despatch all the circumstances which have occurred here, and which have led to the conclusion which has at length been arrived at on this subject.

When I assumed the Government of New South Wales in June, 1872, my attention was almost immediately attracted to this question by finding a number of petitions for mitigation of sentences submitted for my decision, without any opinion or advice indorsed on them by the Colonial Secretary, through whose hands they reached me. I was the more surprised at this because I was aware that such a course was unusual, even in a Crown colony, where the Governor is assisted in forming a judgment by the opinion expressed as to the merits of each case by the Colonial Secretary or other member of the Executive by whom such cases may be submitted for decision. Upon inquiry I was informed that it had been the practice here, ever since the establishment of responsible government, for the Governor to dispose of all applications for mitigation or pardon, except in capital cases, without reference to Ministers. I was told that a correspondence had been going on with the Home Government for nearly three years on the subject, but that, the instructions received being thought to be conflicting, Sir A. Stephen had, a few days before my arrival, written fully to Lord Kimberley,* describing precisely the practice here, and inquiring whether it was thought desirable that a different course should be adopted. Although, therefore, I entertained grave doubts myself as to the propriety of the practice, I thought it better, as it had been in force for sixteen years, and was then under reference to the Secretary of State, to make no change until a reply was received to Sir Alfred Stephen's despatch.

When Lord Kimberley's answer reached me in May, 1873, I at once forwarded a copy of it to the Premier, for his consideration in connection with the previous correspondence on the same subject.† It appeared to me that this despatch, read in conjunction with the circular despatch of 1st November, 1871,‡ was clearly condemnatory of the practice which had up to that time been pursued in New South Wales. Under that system the Governor alone could be considered responsible for the exercise of the

* Enclosure 5 in No. 1.

† Enclosure 6 in No. 1.

‡ Enclosure 4 in No. 1.