

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Petition for special
leave to Appeal of Frederick Deeming, from
the Colony of Victoria; delivered May 19th,
1892.*

Present :

THE LORD CHANCELLOR.

LORD WATSON.

LORD HERSCHELL.

LORD MACNAGHTEN.

LORD MORRIS.

LORD HANNEN.

SIR RICHARD COUCH.

LORD SHAND.

[*Delivered by the Lord Chancellor.*]

THE application in this case assumes a twofold character. One form of it is that there are certain affidavits containing additional evidence which are on their way from this country to the Colony, which might induce the Colonial authorities there to advise Her Majesty to exercise her prerogative of mercy. That is a question with which this Committee has no concern.

The other part of the application appears to apply itself to the right which Her Majesty possesses of setting right any clear departure from justice in the administration even of the criminal law in a Colony. But that right, to whatever extent it exists, has been in the ordinary and usual practice of this Tribunal confined within certain limits. In the case of *Abraham Mallory Dillet* (Law Reports, 12 Appeal cases, 467) the following passage occurs, which their Lordships here agree to. "The rule has been repeatedly laid down, and has been invariably

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“ followed, that Her Majesty will not review or
 “ interfere with the course of criminal proceed-
 “ ings, unless it is shown that, by a disregard of
 “ the forms of legal process, or by some violation
 “ of the principles of natural justice, or other-
 “ wise, substantial and grave injustice has been
 “ done.”

Now, it was impossible here not to see that, in the application which has been made with great decorum and propriety by the learned counsel, there is nothing suggested or surmised, and certainly nothing actually verified by affidavit of any person familiar with the facts themselves—because the distance from the Colony would no doubt render that difficult to obtain—which brings it near any of the cases in which this Board has thought it right to interfere with the administration of criminal justice. On the contrary, so far as can be gathered from what is surmised, it is a question as to whether or not the evidence was sufficiently convincing to the minds of the jury, under the direction of the learned judge, upon the question of the guilt or innocence of the prisoner, including in that proposition the allegation that he was not responsible for his actions. It is impossible therefore to suppose that any such application as the present one could be successful. If it were, it would be easy for any person in any distant Colony to stay execution and, which would be a very serious and grave misfortune, to interpose a long delay between the vindication of justice by a verdict and execution of the sentence, simply by sending over such materials as are suggested to be the sole foundation for argument here.

Under these circumstances their Lordships have not the smallest doubt, and will so humbly advise Her Majesty, that this is not a case in which leave to appeal ought to be granted.