

# HIGH COURT OF AUSTRALIA

Horwitz

Vs.

Connor

(Griffith C.J., Barton, O'Connor, Isaacs and Higgins JJ.)

10th June 1908

Griffith C.J. Barton, O'Connor, Isaacs and Higgins JJ.

The power given to the Governor in Council by sec. 540 of the *Crimes Act 1890* is a discretionary power to make regulations, and further, "to mitigate or remit the term of punishment accordingly," that is, in accordance with the regulations. The Governor in Council has power to remit the term of imprisonment of the applicant. He has not done so. The most that might be asked for here would be a mandamus to the Governor in Council to consider the matter. But a mandamus to the Governor in Council will not lie, and no Court has jurisdiction to review the discretion of the Governor in Council in the exercise of the prerogative of mercy. The application will be refused.

Applications refused.

Solicitor for the applicant, W. Bruce for Wighton, Geelong.

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