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OPINION

OF THE

ATTORNEY-GENERAL,

IN

REPLY TO A RESOLUTION OF THE HOUSE
OF ASSEMBLY.



CAMDEN, N. J.
THE COURIER PUBLISHING ASSOCIATION.
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OFFICE OF ATTORNEY-GENERAL, }
TRENTON, February 1, 1885. }

HON. EDWARD A. ARMSTRONG,
Speaker of the House.

MR. SPEAKER:—In reply to the resolution of the House requesting an opinion as to “whether the Legislature has the constitutional power to authorize the Board of Inspectors of the State Prison to remit to any convict any portion of the term for which such convict has been heretofore sentenced,” I have the honor to say, that in my opinion, the Legislature has not the constitutional power to authorize the Board of Inspectors of the State Prison to remit to any convict any portion of the term for which such convict has been heretofore sentenced. It would be an interference with the judgment of the court sentencing the criminal, and therefore unconstitutional.

The trial, conviction and sentencing criminals are judicial duties, and the duration or period of the sentence is an essential part of a judicial judgment in a criminal record. It cannot be reversed or modified by a board of Prison Inspectors acting under legislative authority. If the Legislature could authorize Boards of Inspectors to disregard judicial sentences, why may they not repeal them as fast as they are pronounced, and thus assume the highest judicial function?

The Legislature has power to prescribe a general rule of law that does not affect previous judicial decisions. Such a rule, when it operates on future cases, and not retrospectively, is quite legitimate. The act for the government and regulation of the State Prison, approved April 21, 1876, was prospective in its provisions and declared that “all sentences of imprisonment in the State Prison made by any court of this State for a term of years or months, shall be construed and understood to be made under and subject to the provisions of this act.”

I am also of the opinion that Senate bill No. 69 does in terms propose to give such power to the Board of Inspectors; it is retrospective in its character; it proposes to remit to any convict now serving a first term of imprisonment two-fifths of the term for which such convict was or may be sentenced.

I have the honor to remain your obedient servant,
JOHN P. STOCKTON,
Attorney General.