

him two or three times. The result was that I wrote to the Solicitor General a letter recounting to him the promises of the Minister of Justice. I did not hear from the Solicitor General for some time, and so I went to see him. I called at the office several times and after considerable interval—which I find by the documents was from the 21st April to the 10th May—I got a letter which I will read to the House. It consisted of an extract from a letter sent by the Minister of Justice to the Solicitor General. The letter is as follows:—

Ottawa, 10th May, 1898.

Regina vs. Skelton.

Dear Sir,—On receipt of your letter of 21st April last, I communicated with the Minister of Justice, who wrote to me yesterday to the following effect:—

"In reply to the inclosed letter I beg to say that Mr. Davin called upon me with reference to this case some time ago. I told him that no action further than to obtain the papers relating to the trial had been taken, and he asked me that he might have an opportunity of being heard before a new trial was granted, if I had the question before me. I told him I was prepared to hear anything he had to say in reference to the subject, and I am ready now to hear him any time he chooses to call."

Yours truly,

(Sgd.) C. FITZPATRICK.

Well, of course the writer of that paragraph had completely forgotten what had taken place. No papers could possibly have come at the time I first went to see him, and none had come, as a fact. The moment I got that letter I went and saw the Minister, of Justice and he gave me an appointment and he heard me, and I told him that the extract from his letter sent to me in the Solicitor General's was quite inaccurate. He told me he had received an affidavit and had no objection to let me have copies and he would tell me his decision. The moment he said that, I took from my pocket one of the papers I had, and with a pencil I began to take down in shorthand what he said. This is what the Minister said:

I have no objection to tell you how I regard it. The 145th section of the Criminal Code is that which gives a definition of perjury. I doubt whether it is perjury under this section. But section 147 is that under which, as it seems to me, the Minister of Justice might be properly called on to interfere. That section requires that that statement of the declaration shall be one authorized or required by law. An inquiry ordered by the Postmaster General, a statement made, is not one authorized or required by law. Such an inquiry is not a judicial proceeding nor an administrative act required or authorized by law. Then, what was alleged seems to be true. They state in their affidavit that the jury was packed, that this man Mercer was guilty of partisan conduct.

I said to him it was impossible I could make any statement or argument until the papers were before me, but

incidentally pointed out that it was impossible under our system in the Territories, to pack the jury, as a large number of names were taken, and six of these were chosen by lot; that the judge was a complete stranger in the district and one of the ablest lawyers and best judges on any bench, a man who, in holding the balance of justice would not lean a hair's breadth to one side or the other. I asked him as to the statement that what was alleged seemed to have been true. He replied: "This man Mercer seems to have had the voters' list in the Conservative committee room." I said that was impossible. I said the voters' list was posted up and added that the statement was not only untrue but that it was physically impossible to see any document so as to swear to it from the position that Skelton was proved to have been in. However, I said, until I see the affidavits I can make no argument. He promised me the affidavits forthwith. Well, the right hon. gentleman knows that I have been asking for copies of the affidavits and could not get them. The time for these men to come up for judgment arrived on the 16th of May last, and when they came up for judgment the Crown prosecutor rose and said that he was instructed by the Attorney General to ask that the judge postpone sentence until the next sitting. Now, let us see what section 748 of the Act says:

If, upon any application for the mercy of the Crown on behalf of any person convicted of an indictable offence, the Minister of Justice entertains a doubt whether such person ought to have been convicted, he may, instead of advising Her Majesty to remit or commute sentence, have such inquiry as he thinks proper by an order in writing directing a new trial at such time and before such court as he may think proper.

Now, I want to point out to the Prime Minister that this section provides only for a new trial. First in order is the application for the mercy of the Crown. There can be no application for the mercy of the Crown until the man has been sentenced. So this clause implies that the man for whom any application is made to the Minister of Justice shall have been convicted and judgment pronounced. But here an application is made with an affidavit and entertained by the Minister of Justice. Now, I will give my own view of what this clause 748 signifies. Before this enactment there were sometimes wrong convictions, and then the mercy of the Crown purged the conviction and the sentence, but the man was a pardoned criminal. Undoubtedly the reason why the English commissioners put this 748th clause into the code was to provide for the case of an innocent man who should be tried and wrongfully convicted, and to provide that such man should not be placed in a worse position than he was before. That is to say, that if he was innocent, the Attorney General in England should order that he would