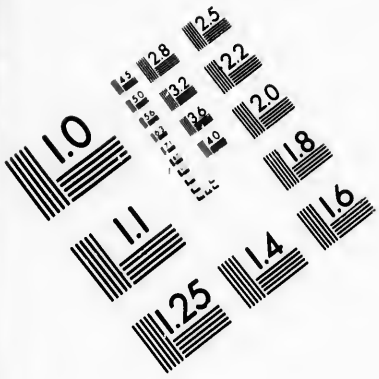

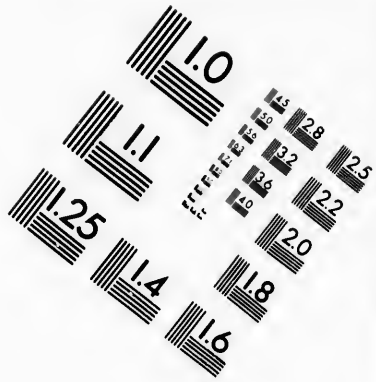

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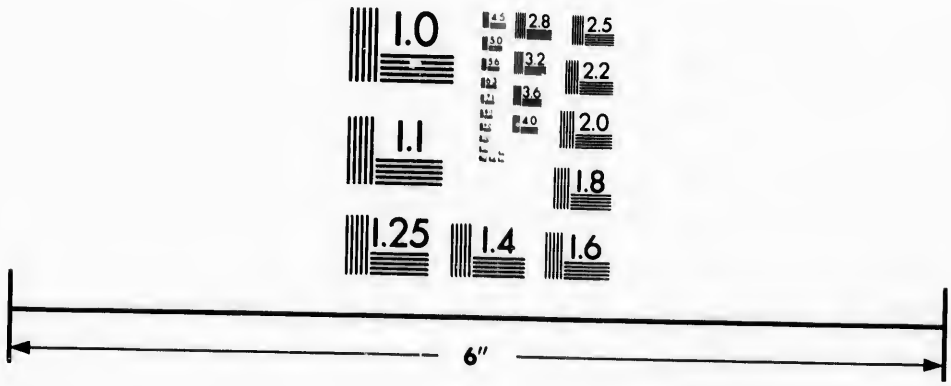

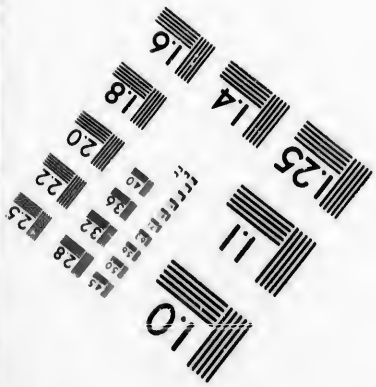

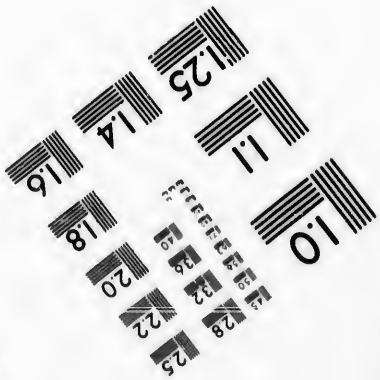

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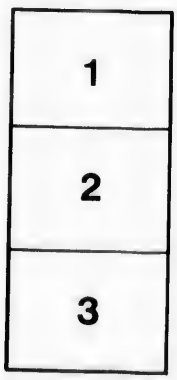

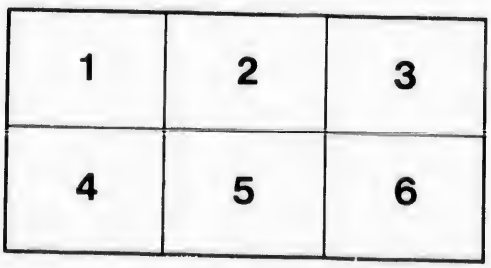

PRECIS

Of the case of Jeremiah Travis (late Stipendiary Magistrate at Calgary) as presented by the Report of Mr. Justice Taylor and the correspondence and evidence.

Preliminary.

Mr. Travis claims that such difficulties as have occurred in connection with the administration of justice by him in Calgary, have been the result of efforts on his part to enforce the law against persons engaged, or interested, in the Liquor traffic. His claim in that regard is based on the theory that the opposition to him has been stirred up in consequence of his action in the case of Clarke, in the case of Sheehy and McGrath, and in the dismissal of Cayley, clerk of court. In every one of these cases he has had the full support which the Government could give to a judge.

Clarke was a member of the city council of Calgary. He committed an assault on one of the Mounted Police who was searching his premises for liquor. It was contended, on his behalf, that a policeman had no right to search without a warrant, and that when such an officer came into his premises, without a warrant, he had a right to expel him, more especially if the officer were not in uniform.

It was also asserted that he resisted the search merely to test, before the courts, the right of the police to search without warrant, and without being in uniform. No "battery" was committed, and the assault consisted in threatening to strike the policeman with a bottle. Mr. Travis imprisoned Clarke for six months "with hard labour," without the option of a fine.

The Executive was moved to discharge the prisoner on the ground that the decision was wrong, and also on the ground that, if right, the sentence was too severe. No interference, however, took place and Clarke served out his term.

Sheehy and McGrath were charged with an aggravated assault. One of them was sentenced to imprisonment for a year, and the other for eighteen months. Mr. Travis informed them, shortly after the trial, that he had pronounced so severe a sentence in order to create a public impression of the strict manner in which crime would be punished, but that, if their conduct in prison was good, he would recommend that they be discharged at the end of three months' confinement. He then made a recommendation to the Department of Justice to that effect, but followed it by a letter stating that so strong a feeling of resistance to his authority had manifested itself, in reference to the Clarke case, that it would be unwise to release these prisoners at the end of three months. They were kept in confinement for seven months.

In reference to Cayley's clerkship, the dismissal occurred in consequence of Mr. Travis' believing that Cayley was addicted to drinking

habits, and because, on some not very important points, Cayley had failed to carry out the instructions which the magistrate had given him. The Executive refrained from interfering in any way whatever in this matter.

So far, therefore, as the cases are concerned, in respect of which Mr. Travis stated that the liquor interest of Calgary was arrayed against him, he had no reason to complain of want of support on the part of the Executive. He had used his judicial powers pretty fully, without any remonstrance on the part of the Government. It was only when he entered into personal conflict with those who were opposed to him, and when he pursued them with a resentment which was unbecoming the judicial position, and with penalties and procedure which seemed not warranted by law, that any remontrance was made by the Executive. There could be little doubt that the reasons for Cayley's dismissal were not so much his disposition to indulge in drink, nor his neglect of duty, as the fact that he had taken some part in a so-called "indignation meeting" which had been held by some of the citizens of Calgary to protest against the action of Mr. Travis in Clarke's case, and that he was understood to be the editor of a paper which had made comments on the Clarke case which were distasteful to the magistrate.

As the dismissal, however, professedly was based on the causes first set forth, no interference took place. That act, was immediately followed by proceedings of a less justifiable character, against some of the participants in the Clarke agitation.

It is said that Cayley was editor of the Calgary *Herald*, and that in his paper, he not only published an account of the Clarke meeting, but published editorial strictures on the decision itself.

Mr. Travis became indignant at these criticisms, and resolved to treat them as contempts of court. He summoned Cayley to answer for contempt, heard his defence, pronounced judgment against him, and sentenced him to pay a fine of $400, and $100 for costs, and to stand committed until the money should be paid. The fine not being paid Cayley was committed to prison.

Without going into the question as to the jurisdiction of a stipendiary magistrate, in Mr. Travis' position, to punish for contempt not committed in the face of the court, (as to which a good deal may be said), and assuming that Mr. Travis had as full jurisdiction as a judge of a Superior Court of Record has in such cases, the proceeding is open to grave objections for the following reasons:

(1.) The power to punish for contempt, not committed in the face of the court, has been rarely, if ever, exercised excepting when the act constituting the contempt has tended to obstruct or embarrass some judicial proceeding.

In this instance Mr. Cayley's contempt consisted merely of criticisms in the press, concerning a case which was no longer in the court, and which had gone before the Executive. If a judge can treat such criticisms as a contempt of his authority, and can visit the editor with indefinite imprisonment, the judiciary will be free from all criticism by the press, and may punish in the severest way any strictures which may awaken the displeasure of a judge.

To say that in this particular case the strictures were too harsh, were ill founded, or were untrue, does not affect this position, because, if Mr. Travis was right in his view of his authority, the validity, justness and

truth of the criticisms are all matters to be decided on by the judge who is the aggrieved party. There is no appeal, and the criticisms which the judge concerned might consider harsh, ill-founded and untrue, and which he might therefore punish with severe imprisonment, might in the eyes of other members of the bench and of the public at large be considered just and necessary.

The exercise of this power by Mr. Travis, therefore, was extreme and uncalled for.

There is much authority, judicial and otherwise, in favor of perfect freedom for criticism which does not directly interfere with the course of justice in any particular proceeding, and which does not interfere generally with the course of justice by intimidating or biasing the jurors, witnesses or others, on whom the administration of justice depends. In a modern case (The Queen *vs.* The Bishop of Oxford, 4 Queen's Bench Division, at page 556) Bramwell, L. J., stated that "the sentences of judges may, ought to be, and are criticized by laymen." In a debate which took place in the House of Lords, April 6th, 1883, Lord Fitzgerald said :—

"There was, again, another still more important, which was popularly known as 'constructive contempts of court.' They arose, not in the presence of the court, not in open court, but outside the court, and not in the presence of the judge; and as to them, time and place had no application. They arose sometimes from speeches, but principally from the publication of newspaper articles in reference to *some trial about to take place, or which was then actually going on.* This constructive contempt depended entirely upon the inference that the party speaking, writing or publishing intended in some way to interfere with and impede the administration of justice, and they had been known to our law for a very long period. It was unnecessary to consider when the practice arose—as far back as Edward III they had it in practice—and from that time down to the present, though *it was a power which was rarely exercised in modern times.* There was one recorded case of a rev. gentleman, John Barker, who, having called a meeting of his parishioners in the churchyard, and made a speech on local affairs, in which he spoke disrespectfully of the King's Bench, and for that was called up and sentenced summarily to a term of imprisonment, and in another case, where, in a petition to the corporation of London, the party libelled the aldermen, and also used words disrespectful of the King's Bench, he was indicted for the first and tried before a jury, but was summarily imprisoned for the last. *No doubt these cases would not now be followed.* In modern times this power of commitment had been confined solely to articles in the newspapers which were thought to interfere with the administration of justice. The doctrine of constructive contempt was one which he was not inclined to favour." (*Hansard*, vol. 277, page 1612).

Further on he says :

"Its effect was to enforce silence on the part of the press, when the public interests required the fullest publicity and the closest criticism of what was going on. He had such an objection to the doctrine and practice, that he should prefer being guided by the maxim—'*Nil falsi audeat, nil veri non audeat dicere.*' He need not say that constructive crime was in all cases contrary to the genius of the English law, and that in such cases it was usual to interpose a jury for the protection of the subject."—(*Hansard*, vol. 277, page 1613.)

Lord Coleridge said in the same debate :—

"It not uncommonly happened that offences amounting to an interference with the course of justice were committed that did not take place within the walls of the court—as *in the case of threatening witnesses or interfering with persons serving on the jury.* Those offences, although not committed within the walls of the court, and, therefore, not being cognizable by the court, or capable of being dealt with summarily, might cause a serious interference with the course of justice in this country. More than once he had happened to know that the course of justice was interfered with in the manner he had suggested; and he was clearly of opinion that if there was no power vested in the court of visiting summarily and at once such acts of contempt, though his noble and learned friend had called them constructive only—the result would be disastrous to the administration of justice. So far as he knew, the cases in which these powers of committal was exercised were extremely rare. He had hardly ever seen persons committed for contempt except in cases where the contempt

was outrageous; and he did not believe that instances of constructive contempt were at all common."—*Hansard*, vol. 277, page 1615.)

(2.) Mr. Travis' complaint really was that the editorial strictures in Cayley's paper were libellous. If so the more appropriate remedy would have been indictment, or criminal information. He chose, however, the more summary and exceptional method of trial for contempt, and, as is common in cases of contempt, but not in proceedings by indictment or criminal information, the aggrieved party sat as judge in his own cause.

An application was made for a writ of *habeas corpus* to some of the judges of the Supreme Court of Canada, but those judges considered that their jurisdiction did not extend to the Territories and declined to give relief. The case seemed to be eminently a proper one for Executive interference, because the action of the judge in enforcing the assertion of a very doubtful right, seemed to indicate personal resentment.

The Executive had to keep in view the generally recognized principle that punishment for contempt is a matter for judicial discretion, and is not one in respect of which the crown usually exercises the prerogative of mercy.

It was necessary also to consider that Mr. Travis, according to his own representations, was engaged in a conflict with sympathizers of an illicit business in Calgarry. It seemed therefore possible that a direct interference, in relieving Cayley, would weaken the authority of the magistrate, and give encouragement among his opponents, leading them to hope that the Government would come to their aid in other cases. Mr. Travis was therefore asked, by telegraph, to release the prisoner, and was told that his authority would be less impaired by his doing so, than by direct interference on the part of the Government.

Travis alleges that Cayley would have been glad to submit himself to the mercy of the court, pay the penalty or a portion of it, and make an apology. There is no reason for supposing that Cayley had any such disposition, but, if he had, the telegram sent to Travis did not prevent him from acting on that disposition. Mr. Travis, however, preferred not to take the advice tendered him by the Executive, but, in open court, announced that Cayley would be released, that the release was by order of the Minister of Justice, and that he repudiated all responsibility for so ill-advised a step.

Mr. Travis has taken a good deal of trouble to give evidence that the release of Cayley was immediately followed by an outbreak of lawlessness, and by manifestations of triumph on the part of people in Calgary who were not law-abiding. These were the natural results of the announcement by the magistrate that his authoriy had been over-ruled, and that the prisonner had been discharged, not by his clemency, but by the exercise of authority which he could not resist.

The next measure of resentment which M. Travis took was against Mr. Davis, who had been practising law in the courts of the Territories.

At that time there were no regulations providing for calls to the bar, or establishing the practice or standing of legal practitioners. In the absence of such, any person who, in his own opinion, was qualified to practise law, entered upon that practice without hindrance. Some of these were barristers from the Provinces, and some had only been law students. Subsequently the North-West Council passed an ordinance providing for the regulation of the Bar. This ordinance established the right of all persons who were in practice when, it came into force, to con-

tinue to practice for a year and thereafter to be enrolled as advocates, on complying with its provisions. As an illustration of the freedom which prevailed in this respect, it appears in the evidence that one of the most prominent practitioners in Alberta, a gentleman who has for some time acted as Crown prosecutor, has never been admitted to the Bar. Mr. Davis was practising in the same way. He had been a law student in Manitoba, and, after coming to Calgary, had been for some time in practice before Mr. Travis. His right so to practise had never been disputed—it had been recognized by Mr. Travis over and over again, and Mr. Davis had thereby acquired a status which justice and fairness required that he should not be deprived of without proper trial and without proper cause.

Mr. Davis, had, however, taken part in the Clarke "indignation meeting." He had been reported in the press as denying, at that meeting, the correctness of the magistrate's decision. The magistrate, at a session of the court which took place almost immediately afterwards, quoted in public the expression which Mr. Davis was reported to have used at the meeting, and said "I will show you what his law is worth," or words to that effect. He then addressed himself to Mr. Davis, informed him that he would be disbarred for two years, put forward the pretext that in a case which had recently been tried Davis had shewn ignorance of law, and alluded in sneering terms, which, Mr. Travis asserts now, were words of grace and kindness, to the exile in a colder climate, which he supposed would be the inevitable result of thus depriving him of the means of livelihood. Mr. Travis, as has been observed, had repeatedly recognized the right of Mr. Davis to practise.

In imposing this sentence he sought to justify himself by deciding, as a matter of fact, that Davis had never been called to the Bar, although he professed to *disbar* him, or, to use his own expression, "debar" him. Mr. Davis had not a moment's notice of the proceeding, he was not allowed to be heard in his own defence, and the only evidence on which the Magistrate decided, as a matter of fact, that Davis was not a barrister, and therefore not entitled to practise, was a postal card which he had received from some person in Manitoba and which he produced and read in court.

Mr. Murdoch was Mayor of Calgary when Mr. Travis arrived there, and, as such, he was exercising the functions of a justice of the peace.

Mr. Travis formed the opinion that the Mayor was giving encouragement to the liquor dealers, and he appears to have conceived the idea that he could unseat the Mayor and the whole city council, and prevent them from being re-elected, thus depriving the whole municipal body of the power of doing any harm. The opponents of the liquor dealers, (it is asserted, but not proved that this was by a suggestion of the magistrate), conceived the idea that the council had committed a wrong in connection with the revision of the electoral lists, and that certain penalties, established by an ordinance of the North-West Council, in reference to corrupt practices at elections, could be enforced against them.

The elections had taken place months before;—there was no controversy whatever as to any election;—but a petition was presented by a person named Marsh, charging that the Mayor and council had committed corrupt practices in reference to the electoral list for the municipal election which was about to come off. These so-called "corrupt practices" consisted of the council having added a number of names to the electoral list,

of persons whom they asserted to be qualified, without sworn evidence being adduced of their qualification, and without formal notice of the application to have the names added. In point of fact about 78 names had been added to the list. It does not appear that these persons had not the qualifications to entitle them to be added; but absence of notice and of sworn testimony does appear.

It may be that such irregularities would have enabled some tribunal to review the action of the council and to annul the revision. It may be that no such juridiction was in any tribunal. If the latter be true it has only to be said that the competent legislative authority of the Territories had chosen that the action of the council should be final, and not subject to review. To treat the action of the council, on account of these irregularities, as a case of personal corruption, was just as wrong as to impute personal corruption to a judge who has given a decision erroneous in law or irregular in form.

Mr. Travis, however, entertained the petition, and merely on the evidence of these irregularities, decided that the members of the council had been guilty of corrupt practices, and adjudged the extreme penalty of depriving them of their offices, and disqualifying them for two years for re-election, In addition to this, he fined Mayor Murdoch $100 and costs, and each of the other councillors $20 and costs, and caused executions to be issued and the goods of some of them seized.

It seems that the mayor and councillors had sympathized with Clarke, and that the mayor had undertaken to proceed to Ottawa to lay the Clarke case before the Executive.

What makes these proceedings still more peculiar is, that when the lists were being revised, and when the so-called "corrupt practices" were being committed by the Court of Revision, the mayor, on whom was inflicted the heaviest penalty, was not in Calgary, was not even in the Territories, but was visiting his former home in one of the Eastern Provinces. The process summoning him to appear in answer to the charge, was served on Mr. Murdoch's family before his return.

Mr. Travis answers this by stating that the mayor had been the prime mover in the "corrupt practices" before he left. The evidence on which this is based is simply that Mr. Murdoch, before he left Calgary, and before the time of revision had arrived, had prepared a list of persons whom he considered qualified to be added to the electoral list. This list he left with some members of the council, telling them that the matter should not be forgotten, but should be brought before the Court of Revision. He neither did nor said anything that would imply that any irregularities were to be committed in the revision, or that a single name was to be added without proper preliminaries being observed, and without proper evidence of qualification. Mr. Travis is then in this position—that if the "corrupt practices," which justify his decision, were the acts of the revisors in adding to the lists, Murdoch should not have been convicted because he committed no such act, and, if the corrupt practices consisted of the inducing the addition of names improperly to the list, there is no charge of that kind in the petition against Mr. Murdoch, and there is no evidence to support it if it were there. The decision is, therefore, not only a practical reversal, in a summary way, without jurisdiction, of the final decision of a court acting within its jurisdiction, but a severe punishment of members of that court for acting irregularly, inflicted under the pretext that they had acted

corruptly, and inflicted under the provisions of an ordinance which evidently related to corrupt practices at an election, although the practices were not committed at an election, and although no election was controverted, and although the election in respect of which the list was to be used and the practices had been committed had not yet come on.

Having pronounced this decision against the Mayor and obnoxious councillors, an election took place to fill the vacancies. Mr. Murdoch offered for re-election, although Mr. Travis had pronounced him disqualified. Mr. Travis then conceived the plan of treating the Mayor's act in offering for re-election as a contempt of court.

He sent the following telegram to the Department of Justice :—

"Please telegraph me by to-morrow your view as to whether sane and responsible parties from the Eastern provinces who prostituting electoral lists wholesale were found guilty of corrupt practices under the ordinance and disqualified, acting in wilful violation and utter disregard of court should be dealt with as they wou'd be elsewhere in the Dominion."

Subsequently he wrote as follows :—

"Parties are now preparing to bring the matter again before me, and this time I believe I should take the bull by the horns, and deal with the whole lot of them as Ritchie, Chief Justice, of the Supreme Court of Canada, or the late Judge Duff of New Brunswick, or any other judge in any of the Provinces would do."

The reply sent by telegraph from the Minister was this :—

"I do not advise judges as to what decisions they should give. Each must exerci-e his office on his own responsibility to the Government and to parties concerned."

After this reply Mr. Travis seems to have thought it safer not to take the bull by the horns, but, on the morning of the election day, he caused to be served on the Returning Officer, at the election, a judicial order forbidding him to receive any votes for Murdoch. This interference with the election was designed of course to make the poll show that Murdoch's opponent had received a majority of votes. There was no authority for the making of any such order, and the election officer disregarded it.

The poll was taken, Murdoch received 130 votes, and his opponent Reilly 18. It is alleged that of the 78 names irregularly added to the electoral list, about 41 votes were cast.

Even taking these off, Murdoch's election would seem to show, as was proved, indeed, by subsequent testimony besides, that the sense of the community was against Mr. Travis. He claims that he was merely supporting the better elements of society against a faction opposed to law and order, but if this was so, it is a strange circumstance, that the candidate whom he had unseated and disqualified had over seven votes to every one obtained by his opponent, even in the face of the sentence of disqualification.

In order to complete the work which he had commenced, he sent for the election return and reversed it, making a return that Reilly had been duly elected, and not Murdoch. The same operation was gone through as regards the councillors, and for some months, and until Mr. Justice Taylor had completed his investigation into the conduct of Travis, a dispute was waged in the town between the two rival bodies, each of whom claimed to be mayor and council of Calgary, and each of whom exercised the authority of mayor and council ineffectually. The mayor and council elected by Mr. Travis eventually gave up the contest and resigned.

When matters had reached this stage, and there seemed to be no limit to the authority which Mr. Travis was exercising in Alberta, both as to public bodies and to private individuals, and when his communications

to the Department of Justice had, even without any other testimony, made it apparent that an enquiry into his conduct and fitness for his position was necessary, an investigation was ordered to be held by Mr. Justice Taylor.

Mr. Travis seems to think that this investigation was ordered as a concession to Messrs. Bleecker and Lindsay, who came to Ottawa in February 1886, asking for his removal. As a matter of fact, however, the enquiry was not ordered in consequence of those gentlemen's solicitations. Their visit to Ottawa resulted in nothing more than the formulating of the charges against Mr. Travis which they thought required to be investigated.

Mr. Travis has also complained that he was not called upon to confront those gentlemen, but the only proceeding taken was to order an investigation in which he *could* confront them.

Another complaint is that the charges were not communicated to him, in order that he might reply to them before the Government decided to issue a commission of enquiry. As to this it is to be said that Mr. Travis had, from the commencement of the difficulties, adopted a course which was not only unusual, but unprecedented, in a person holding a judicial position. He had, at every stage of his conflict with individuals in Calgary, and with the municipal authorities, communicated to the Department of Justice, at great length, and with great particularity, his views as regards all the proceedings, and his arguments in his own favour, by which he sought to sustain every position which he took. It is obvious, therefore, that to submit to him the charges in reference to these very matters, in every one of which he had defended himself in so far as he could, would have been a mere matter of form, and would have caused a delay which was very undesirable in the very disturbed condition of affairs in his district.

Mr. Travis, in the course of the enquiry before Mr. Justice Taylor, has taken some pains to show that some persons who signed the petition to the Government against him, asking for an enquiry into his conduct, would not have signed it if they had supposed that it reflected so strongly as it does upon his conduct. No doubt much the same may be said of the majority of petitions, but all the evidence on that point seems irrelevant. There were *bonâ fide* names to the petition, and if the petition and the documents in the Department called for an enquiry, any names that were added, by mistake, or in absence of due enquiry by the signers, may be treated as surplusage. When the matter went before Mr. Justice Taylor, the Government had decided that an enquiry ought to take place, and it mattered little then who had asked for it.

The real question was whether Mr. Travis had been exercising his functions improperly or not.

It is to be observed on this point, however, that none of the witnesses called by Mr. Travis alleged that they would not have signed the petition if they had known what it contained. They were asked if they would have signed the petition if they had known that it contained an attack on the judge, or questions to that effect. There is some testimony of a like kind as to signatures which were obtained to a counter petition on behalf of Mr. Travis.

The conduct of Mr. Travis had been so marked by resentment, and by the exercise of arbitrary power, that it was apparent that he should not

exercise, generally, his functions as a magistrate until the investigation was concluded. If he had been allowed to do so, there would have been reason to fear that he might exercise his authority to influence those who were either promoting the enquiry, or might be called on to aid it, by their testimony or otherwise. Besides, it would be unseemly that he should exercise the functions of a Judge in the very place in which he was under trial. Again, the demand which would necessarily be made upon his time and energy to prepare for the investigation, and to conduct his defence, would render it impossible that he could discharge his ordinary duties; and consequently it was necessary that another magistrate should be sent into the district. Accordingly, leave of absence was granted him, and of this he has made much complaint.

He has represented, for example, that in reference to the "Mount Royal Ranching Company," which was in liquidation, certain powers had been conferred on him by the High Court of Justice of Ontario, in order that he might act in aid of that court, in proceedings to wind up the company, and he has contended that the liquidator availed himself of the fact that he, (Mr. T.), had leave of absence, to sell some of the property of the company without giving security for the proceeds, and without taking various precautions which he, (Mr. T.), would have ordered, had he possessed his usual authority.

He has even gone so far as to represent that the Government should be held liable for any loss which the creditors of the company may sustain for want of such orders as he would have made.

The High Court of Justice of Ontario might, on an application to that end, by the creditors, or their counsel, have conferred authority on some other of the magistrates to act in aid, in connection with the winding up proceedings, or might, perhaps, have made any necessary orders itself. Apart from this, however, it seems sufficient to remember that leave of absence does not deprive a judicial officer of any of his powers.

Conduct on the Bench.

On the 15th December, 1886, Mr. Travis delivered an address from the bench at the opening of the session of his court in Calgary in which he referred to various subjects.

Mr. Bleecker thus testifies as to part of this address, (p. 12).

"Q. What did he say?

"A. After he had got through with other parties, he said: 'I come now to deal with Mr. Davis; this man is reported to have said that he would stake his reputation against mine as a lawyer that he was correct on the law in the Clarke case; I will show you what his reputation will amount to by and bye.

"Q. Did he say anything else?

"A. Yes, he said: 'This man has been practising here under the false pretense that he is a barrister and solicitor; I will read his card (and he read your card) as to whether he is a notary public or not I cannot say.

"*Mr. Travis*—I object to this.

"*The Commissioner*—There is a charge, and I will allow the evidence to be put in, it may be that the charge is not proved.

"*Witness* (continuing)—'He is practising under false pretences as a barrister and solicitor,' and then he instanced a case, that of Mitchell *v.* Rivers; he said in that case two gross mistakes were made by Mr. Davis; one in his pleadings, where he had pleaded 'never indebted,' and 'payment into court,' and the pleadings were so bad that it was impossible to

get on with the case until he allowed him to amend them; that he had paid into court a very large amount, altogether beyond what the plaintiff was entitled to.

"Q. Did he say anything further?

"A. And that his ignorance of law was so gross that he was not fit to practise law or conduct a case in court, and that he himself (Travis) would not have made the same mistake after being a three months' student, and in order to protect the public he was bound to see Mr. Davis did not practise any more before him.

"Q. Did he say what he meant by protecting the public?

"A. That you so unskilfully conducted your cases in court that you were not fit to practise.

"Q. Anything else?

"A. He then went on to say 'I have no doubt the young man will feel it like banishment to leave this beautiful climate and go back to Manitoba with all its cold there.'

"Q. In what tone was that said?

"A. Sarcastic, sneering, or whatever you call it—wit.

"Q. Anything else?

"A He referred to you at the Clarke meeting of having committed contempt of court by your utterances there, and he also referred to you, not by name, but you were counsel in the Clarke case with me, and he referred to you as one of the counsel in the case; he said that the witnesses in the Clarke case were trained perjurors, that they had been deliberately trained and schooled by the counsel in the case, and that the counsel knew what these witnesses were going to swear to was untrue.

"Q. Was any document of mine read by him on the 15th?

"A. I will get through with the Clarke case first; I then, after his accusations against me, got up in the court and denied that I had ever trained the witnesses, or that I had ever known what the witnesses were going to swear to from themselves, and stated that if this allegation as regards me was not withdrawn by the court that I would be compelled to go into the box, or that I would be compelled to put the judge himself, on the bench, in the box."

Further on Mr. Bleecker says (p. 13):

"Q. Did he on the 15th day of December read any document of mine in court?

"A. There was an affidavit I believe in what is called the Bremner case; I don't know whether it was *exparte* Bremner, but it was the Bremner case in which he referred to and stated in that affidavit that Mr. Davis had sworn that he was a barrister, which, as far as he could gather, was absolutely untrue, and that it was a most serious matter for him, Mr. Davis."

Referring to the case of a man named Mercier who had been tried by the Mayor, Mr. Bleecker says (p. 14):—

"He compared the Mercier case and the action of the magistrate in that with another case called the McKinnon case; he said, on the 15th of December, that the Magistrate had fined Mercier $200 and costs and that he had let McKinnon off with $50 and costs, because McKinnon was a voter and had influence, or something of that kind, in town, and that Mercier had none.

"Q. Did he say anything with reference to Mr. Murdoch?

"A. He did; he mentioned several things with regard to Mr. Murdoch that I remember; he referred to the town matters as being infamously managed.

"Q. What position was Mr. Murdoch's at that time?

"A. Mr. Murdoch was Mayor of Calgary at that time. And that the parties who occupied the position in which they ought to suppress the whiskey traffic had done nothing to suppress it, but had taken hush money."

Mr. Bleecker also testifies (p. 14):—

"At that meeting he read a very large number of letters from a number of people in the Eastern Provinces; one I remember particularly was from British Columbia (New Brunswick?) shewing the manner in which he had brought influence to bear upon the Government to get this position, and the recommendations he had from different parties to the Government in order to get the position from the Government, and he produced these letters and read them and he said it was high time that the people in this country should know something about his antecedents, that so much had been said against him and it was high time that he shewed them who he was, and he produced these letters and read them.

"Q. Anything else?

"A. On the 28th, I think it was, of December, or somewhere about that time he made one of his very long harangues indeed, in which he told us of his past history, and how he had controlled political affairs in the East, and held audiences spellbound for two hours after Sir Leonard Tilley had been speaking, and stories of David Crockett and others.

"Q. On the 15th did he say anything with reference to yourself?

"A. Yes; he said that he had finished with you (Davis); he then turned to me (Bleecker) and said "now I come to deal with Mr. Bleecker; under the circumstances, as he is like myself—a married man with an interesting family—I will not punish him, as my heart would bleed if I were compelled to punish him for any acts that he had taken with regard to the Clarke matter" and warned me that if in the future I attended any such meetings, or anything of that kind, that he would punish me in some way or another.

"Q. What was Mr. Travis' manner delivering these addresses?

"A. His manner was exceedingly violent; I remember I came in a very few minutes after he commenced his address; I heard him some distance outside the court room and I thought there was some row going on in the court room; after I came in he was most wonderfully excited; he was half rising out of his seat every once and a while, and pounding the desk in a very hard manner indeed to emphasize every complaint that he made against every individual, or every charge, and in fact I thought it a very extraordinary exhibition altogether."

Referring to the Clarke meeting Mr. Davis testifies (pp. 68–9):

"A. He said that the Clarke meeting was an unlawful assembly, and all those who were there were guilty of contempt of court."

"Q. Did he say anything as to the character of the persons who had taken any prominent part in it?"

"A. He said the Clarke meeting was held by some who assumed to act as officers of the court, that it was led by wife and unscrupulous de[illegible]ogues."

"Q. Did you on that occasion hear him ch[illegible]acterise the people of this country or vicinity?"

"A. I heard him speak of the majority of the people here, whom he said were known as the whiskey ring, as a lawless set."

"Q. Did you hear him make any remarks as to any newspapers?"

"A. He called the *Herald* a miserable, slanderous sheet, and went on to say further that no one would buy it if it were not for a few men like himself and others who wished to read the telegrams."

"Q. Did he ever say anything as regards the civic government, or did he at that meeting?"

"A. He said that the civic affairs were infamously managed, and he spoke about the head of the corporation being the head of the whiskey ring, and the officers who were supposed to put down illicit whiskey selling were known to take 'hush money.'"

Mr. Cayley testifies thus (p. 86):—

"The situation was very ridiculous—men in the court room laughing at one another; one letter he read spoke of him as an eminent lawyer in New Brunswick, and the next spoke of him as the most eminent lawyer, without speaking of any place whatever, and he said, laying down the letter, "you will see, gentlemen, this has no limitation whatever," and I thought this very ridiculous, as I did not see what connection it had with the case; he said since he had come to Calgary, on account of the fearless method or manner in which he had done his duty, and although he had received these letters, threatening him, they would not deter him from doing his duty, and Mr. Ramsay, an insurance gentleman, was sitting in the court room, and he pointed to him and he said he had just insured his life for an additional $5,000, so that if his children were left fatherless, they would not be left penniless; and he said that he had received a vile infamous letter from that,—that man there, pointing to me, it was all with regard to the assassination business, but I would not pretend to give the exact words."

Again (p. 88):—

"He would thump the desk very violently sometimes, and stamp on the floor, and stretch out his arm and point at a man, as he did in my case, and half rise from the seat, and there was a certain amount of fascination in looking at him when he was delivering one of those addresses. I don't know why."

Mr. Cayley further testifies (p. 95):—

"He said the municipal affairs of Calgary were managed by the most infamous pack of men that ever presided over a city, and he said the corporation was headed by the head of the whiskey ring, one George Murdoch, who, as he understood, held him (Travis) in contempt, and he said: 'I prefer his contempt to his respect, knowing his antecedents.'"

Mr. Ingram testifies thus (pp. 103–4):—

"Q. Did you hear him say anything about the Mercier case?"

"A. He said that the parties concerned in the Mercier case were guilty of conspiracy, and it was absurd to think that a party could get whiskey in a theatre."

"Q. Who are the town officers whose duty it was to keep down the whiskey business?
"A. Mayor Murdoch and myself."
"Q. Did he say anything about the Clarke case?"
"A. He said the witnesses in the Clarke case were trained perjurors, and the counsel had trained them. That may not be *verbatim* just what he said, but that is what I understood him to say."
"Q. Were you present at any other addresses of Mr. Travis, except the one of the 15th?"
"A. Yes."
"Q. Many?"
"A. I was present at two or three sittings after the 15th."
"Q. What was Mr. Travis' manner in delivering these addresses?"
"A. He seemed to lose all control of himself."
"Q. How did he show that?"
"A. He showed it by pounding the desk with his fist, stamping the floor with his feet."
"Q. What was the tone of his voice?"
"A. Excited and loud."

Cross-examined by Mr. Travis:—

"Q. I would ask you if the language that I employed with reference to the Mercier case was that "I believed it was a case of conspiracy?"
"A. No. I swear positively that you said that the parties concerned in the case were guilty of conspiracy."

Mr. Ogburn testifies (p. 106):—

"Q. Did you ever hear him speak about Mr. Cayley in any of these addresses?
"A. Yes, I heard him speak about Mr. Cayley one time. the way it came up was Mr. Bleecker was on the floor speaking about some matter, and the way it came up Mr. Bleecker said he would advise his client to say nothing more in the newspaper about Mr. Travis until after his trial, and Mr. Travis half rose up from his seat and said' "I am sorry, Mr. Bleecker your client has not followed your instructions, for I have just received a vile infamous letter written by that, that thing"—pointing to Mr. Cayley,—and he went on to say that he was considerable of an expert in hand-writing and that he had shewn it to other parties and that they had agreed with him that it was Cayley's.
"Q. Did he say anything about the purport of it?
"A. Yes, that it was threatening him with assassination, "I heard him say with regard to Mr. Murdoch, he having said he held him (Travis) in contempt, I prefer his contempt to his respect," or some thing like that.
"Q What was in manner?
"A. His manner was extraordinary—crazy is the only word I can put to it, he seemed entirely to lose his reason for the time being."

Mr. Colin N. Campbell testifies (p. 118):—

"Q. Were you present in court when any addresses were delivered by Mr. Travis?
"A. December the 15th is the only occasion that I have any recollection.
"Q. On that occasion did you hear anything said with reference to the witnesses in the Clarke case?
"A. The exact words I cannot give them. I do not pretend to give, but the tenor was that they were trained perjurors, or that they were trained to the perjury that they were to commit. The result was that Mr. Bleecker arose and repudiated it as far as he was concerned; Mr. Travis accepted it, but the exact words I do not pretend to give. He said the municipal affairs of this town were most infamously mismanaged; he said that you (Davis) had made a speech at the Clarke meeting, and had staked your professional reputation against his with regard to some law that he had laid down from the bench, and he said we will refer to that again; and in another case. he said that you made two mistakes, one of which was paying a sum of money into court, I think it was what was greatly in excess, or at all events, it was in excess of what you had a right to pay in and he also referred to some pleadings that you had pleaded, and he said after he was a few months' student he would not (*sic*) have been ashamed to have pleaded such pleas; he said it was his duty to protect the public; and you were leading clients astray, and he finally disbarred you for two years; forbade you filing any papers in any court in Alberta, and at the end of two years you were to be admitted regularly and then you could plead before him. I cannot give you the exact words as to the Mercier case, he said that it was a conspiracy, and he mentioned all interested, or all engaged, in the conduct of the case had conspired in the matter."

On the 21st or 22nd of December, Mr. Bleecker made an application for an adjournment of the Cayley contempt case in reference to which he testifies (p. 11):—

" Mr. Stipendiary Travis interrupted me and said : "—

" ' I am very sorry that this man has not followed your advice.' He raised himself from a seat, leaned over the bench here and pointed with his finger to Mr. Cayley, who was sitting along side of me and said : ' I have been written a letter by that man ' (I think it was) threatening me with assassination.' He said : ' I am certain that he has written it because I am an expert of large experience in handwriting, and I know from the handwriting that it is his."

The writing of this letter was denied by Mr. Cayley. It was afterwards denied by counsel, and Cayley denied it on oath before the commissioner.

Mr. Davis testifies that addresses of this kind were delivered on every occasion after the 15th December, when Mr. Travis held a public court, and sometimes when he held private courts, until January when Mr. Davis ceased to attend.

Mr. Bleecker further says in his cross-examination (page 39) :—

" In one of your harangues you said that you were the Court of Appeal we have, and no court in the world to appeal from you ; that you were the *quo warranto* and *mandamus* and *habeas corpus* and everything else, and you thought it was the finest law in the world that made you all such."

Mr. Davis testified as follows (page 70) :—

" Q. Did you hear any subsequent addresses in which any statements were made as regards himself, or otherwise ?

" A. Yes, I heard a great many ; at one he read a large number of letters telling what a great man he was, chiefly about his energy and the great industry, and also told about some political meeting that he attended, when the chairman could not get the crowd to stay any longer he sprang forward and held them down for two hours. That harrangue was about two hours in length, and the whole subject was Mr. Travis and his antecedents ; he made a great many others (addresses) in fact at every court he made one, and it was all either praising up himself and his course, or abusing those men whom he thought fit.

" Q. Will you, it you can, describe his manner, particularly in his address on the 15th of December ?

" A. The tone of his voice was very loud, his manner very much excited, and he pounded the desk with his fist and stamped his feet and rolled his eyes around, and generally got in a very wild way."

It is true that Mr. Travis in his evidence denies much that is testified to with regard to his violent temper while delivering addresses from the Bench.

He does not, however, seem to have a very accurate opinion of the temper which a judge should observe, if one is to reason from his language and conduct where the evidence as to such is not disputed. He declares in one place that he made these addresses (to the public) because he combined in himself the functions not only of a judge and jury, but of a grand jury also.

Among other facts connected with this branch of the subject, which are not disputed, is his reading to the public, from the Bench, the various testimonials with which he, according to his own evidence, pursued the Government, seeking an appointment to the judiciary, first in Manitoba and afterwards in the North-West.

The case of the Town Council.

Mr. Marsh the applicant in this case states (p. 139) :

" Q. They were party names used by the parties here, for instance the Travis clique would call every body apposed to it the whiskey ring ?

" A. That is about it.

"Q. And it is no more than a name?
"A. No; no more than calling one a tory and the other a grit.
"Q. Since Mr. Travis has been here you have heard more about the whiskey ring?
"A. Yes, it came up more prominently since the last council campaign.
"Q. That was "Travis" or "no Travis"?
"A. It seemed that one party was "Travis," and the other party was "no Travis;" on the one side it was "Travis must go," and on the other side it was "Jerry is going to stay here."
"Q. I believe the town was divided into two sections?
"A. Yes.
"Q. There were some respectable men on both sides?
"A. Yes."

Mr. Thos. W. Soules testifies as follows (p. 141):—

"Q. What is the state of affairs now in the town with regard to municipal government?
"A. As a matter of fact we have no municipal government whatever at the present time; things are very unsatisfactory.
"Q. Tell us why you have none, or how it is?
"A. There are two councils claimants, and the great question is: which is the legal council?
"Q. There are two councils, and no assessment and no business can be done satisfactorily?
"A. Yes.
"Q. There are two mayors, or two men claiming to be mayors?
"A. Yes.
"Q. Any improvements to be made or otherwise?
"A. No."

It appears on page 404 that the mayor was proved not to be sitting with the Court of Revision when the so-called corrupt practices were committed. It appears on page 408 *et seq.* that the allegations against the town council were merely for irregularities, although the petitioners call them corrupt practices. It also appears on page 414, by the evidence taken before Mr. Travis himself, that the mayor merely instructed Mr. Lindsay to take his place in the Court of Revision, and to see that the lists were brought on in the regular way.

Mr. Murdoch, himself, testifies to the same fact on page 426.

Mr. Travis has attempted to justify his decision in the Council case by contending that although the irregularities alleged, as regards the revision of the lists, may not have been corrupt practices under the North West Ordinance, he had jurisdiction to punish corrupt practices at common law. Without disputing that position, his contention seems inapplicable for several reasons: (1.) The acts charged would not be corrupt practices at common law. (2.) There is no evidence to show corrupt intent, even by inference. (3.) The petitions, and all the proceedings, are based and conducted on the ordinance. (4.) The penalties which he pronounced, of disqualification and loss of office, were not penalties attaching by common law. (5.) The only jurisdiction which he could exercise for corrupt practices, at common law, must have been exercised on indictment, or a proceeding to annul a past election, in consequence of some corrupt practice committed in relation to that election. The so-called "corrupt practices," in this instance, were committed in relation to an election which had not yet taken place, and if, at that time, they were infractions of the common law, they could, probably, only at that stage be punishable by indictment, certainly not on a petition.

The following is Mr. Travis' argument taken from his evidence, on page 469:

"I took time to make an exhaustive judgment on the matter, and I would add this, that I believe, as the Stipendiaries in the North West Territories, have jurisdiction in all matters

of civil law and equity, and inasmuch as the English law as it existed in July 1880 that that brought into force all the common law of England applicable to this country, and that, inasmuch as under the English Municipalities Act there is a clause which provides that in addition to the special clauses, shewing particular acts being corrupt practices, there is also a clause shewing acts that are corrupt acts at common law shall be also punishable, and I claim that inasmuch as the Municipalities Act of England refers to cases of corrupt practices at common law that where these are not excluded by the Municipalities Ordinance of the North West Territories, and where there is no interpretation clause, shewing what corrupt practices are, that therefore any corrupt practices, which would be corrupt practices in England are equally corrupt practices here, and I haven't a doubt in the world that even after this very improper mode of acting with these lists, and I conceive it did come under his part of the Act, I have no doubt in the world that it would come under the corrupt law as referred to in the English Municipalities Act, and therefore it is a corrupt practice as referred to under the Act. That clearly would cover the whole ground, for it clearly, to my mind, being a corrupt practice, and further I may state this that a corrupt practice I think expressly under the Ordinance which provides that the improper interference with the freedom of the votes of the electors, would clearly cover the case where fifty electors were struck off the list improperly, and I think it is equally as clear that adding an equal number of names to the list is an interference with the proper exercise of voters, and they may swamp in that way, but at any rate I think these acts were, or came under the corrupt practices of the English law as I have stated, inasmuch as the Municipalities Act expressly recognises corrupt practices at common law that there clearly are such or there would not be such mentioned in the Act. And I thought it was such a corrupt practice that was punishable under that Act, and it seemed to me that acts committed before the election would not be as corrupt as acts in connection with the actual election; that was the way they put it to me and it seemed to me nonsense, because a corrupt act, such as bribery could not be committed after the election, it must be before."

Further Mr. Travis says (page 473) :—

"Mr. Millward told me this morning that the judgment in that matter was the first judgment in which he had ever followed me; and I asked him, "Did you assent to it?" and "clearly" he said, "Your judgment was correct." That judgment was the very judgment that I delivered, and was such as should satisfy any reasonable men in this world; it was one that I took as much trouble in as any of the others that I have delivered here, and Mr. Millward assents to it without a word of objection, and yet that was vilified, and I was vilified, and yet this is used against me to drive me out of here, and I would do my duty no matter what they did; Ingram having told me yesterday that but for him I would not have been in this chair yesterday, and I can put two men in the box to prove two separate threats against me, and I can prove that Bleecker himself had said that he was tired of the party, and it was only to prevent them running into destruction that he stood to them, and the man who told me that was no less than Dr. Lafferty."

He further testifies (p. 474) :—

"On the following day I delivered the judgment, and I having referred to the case of Fernandez, I referred to the case of Ist. Strange, Rits *vs.* University of Cambridge; I called their attention to the expressions of that case and I told them that if they had treated the Supreme Court process in that way that they would have laid them by the heels, but I told them that I did not think it would do any good, and I was inclined to be lenient and I would merely amend the return and make an order for the costs, and everybody in the court room seemed pleased and I thought it was a triumph, and I never saw a more pleased audience, and the entire masses were with me. I read this judgment and on the following morning I wrote a letter to the Minister of Justice, and that letter should be with the Minister of Justice. I got a letter from the Department yesterday: it was simply an evasion of the telegram that I had sent, but I mailed a letter with regard to that and I expected Your Honor would have them. I may state down to that time the place was revolutionized and I felt that I had conquered; when it was stated to Sir John I made just one mistake when I locked up too many of them, but I said no, that I had conquered. I call your attention to the letter of the 27th of January, and one before and one after I got his telegram to the Minister of Justice; I pointed out what would necessarily be the result. Now I find that they were denouncing Bleecker everywhere, and that Murdoch said: 'Do for heaven's sake leave me alone; if I come home I catch it, if I go out on the street I catch it, and if I come out to spend an evening I catch it,' in response to an appeal to go and pay the fine and get rid of the whole thing."

Mr. Travis thus testifies as regards his reversal of the election returns (pp. 557-8) :—

"But I exercised a most sound and legal discretion, and the reasoning in my mind which brought me to the conclusion of not ordering a new election, one very strong reason was that the Returning Officer Boys had utterly disregarded my previous orders and treated them with perfect contempt, and although I had gone to work and got a new returning officer, and although I did not feel inclined in the excitement following the discharge of Cayley, I did not feel inclined to take that step, so that what I did was justified; I wanted to calm the excitement and I did not feel that a new election would bring things into a calm state, but I conceived that in bringing things into a calm state I was doing my duty, and in that letter of the 29th of January I stated as I stated a few days ago would be the case that the backbone of the rebellion was now broken, and that was the case. But there was another reason which influenced me from my reading of the ordinance which provided, from my point of view, no machinery for a new election, but simply that I might order a new election, and I came to the conclusion that under that ordinance if I ordered a new election the result would be all those who were qualified for election who had been previously nominated - and it seemed to me to be almost absurd for me to order a new election of Councillors, because there had to be four returned and there were only four qualified, and I thought it would be more a farce, inasmuch as the very men would be necessarily returned again, and it was very much the same with regard to the Mayor. Here were two candidates left, Reilly and Dick, and if I had ordered a new election as between them Mr. Murdoch might have insisted upon running again and I could not have prevented him, and clearly, after the Cayley release, I have not a doubt in the world that would have been done; and there was another thing that influenced me that if I had been an elector in that case I would have voted for Dick and not for Reilly; I thought it was a very injudicious thing in face of the expressions that Mr. Reilly had made in my presence after all the people present at the delivery of the judgment in the Clarke case were kindly disposed towards my view of the law, and I do not think anybody should be interested in supporting the illicit liquor business, but I would not put them to the trouble and confusion, simply because I would not vote for Mr. Reilly, and that worked on my mind and the great fact worked on my mind that the four could not be changed at all, and I came to the conclusion that it would be better to let things stay as they were, and those were the influencing causes which passed through my mind, and which had their force in influencing me rather than to order a new election to order an amendment of the return of the returning officer."

He shows in the following extract that he was not ruling on the common law principle in regard to these practices. He says (page 558) :—

"I may state here that Mr. Murdoch stated that it was something with regard to vindication of character, and I tried here to impress upon their minds that corrupt practices did not necessarily mean moral corruption, and I referred to a case of where a person carried a voter to the poll, and that was a corrupt practice."

An indication of the way in which Mr. Travis pursued this enquiry is furnished by his letter to the Minister of Justice, dated 11th January, 1886. This was after the unseating and disqualification of the council, and after the re-election of the mayor and councillors. The following is an extract :—

"Parties are now preparing to bring the matter again before me, and this time I believe I should take the bull by the horns and deal with the whole lot of them as Ritchie, Chief Justice of the Supreme Court of Canada, or the late Judge Duff, of New Brunswick, or any other judge in any of the Provinces would do. I do not think that because they are unruly, lawless and persistent in such outrageous proceedings, with the view of embarrassing me and causing me trouble, and to accomplish their own base ends, when they should be treated with no more leniency than they would be in any other part of the Dominion acting in a similar way."

Not receiving, what he deemed a satisfactory reply to this letter, Mr. Travis, on the 22nd of the same month telegraphed thus to the Minister of Justice :—

"Please telegraph me by to-morrow your view as to whether sane and responsible parties from the Eastern provinces, who, prostituting electoral lists wholesale, were found guilty of corrupt practices *under the ordinance* and disqualified, acting in wilful violation and utter disregard of order of court, should be dealt with as they would be elsewhere in the Dominion."

To this telegram the Minister of Justice sent the following reply on the 23rd :—

"I do not advise judges as to what decisions they should give. Each must exercise his own responsibility to the Government and to the persons concerned."

The Davis case.

Mr. Travis dealt with the Davis case, disbarring him, as is stated in the extracts under the heading "Conduct on the Bench," and did so in the course of his speech of the 15th December, in a parenthetical way. The following extracts also appear in Mr. Bleecker's evidence (page 61) :—

"Q. I wish you to state again, please, exactly what you say I stated with reference to disqualifying Mr. Davis?

"A. You said, now I will come to the matter of Mr. Davis; this man is reported as to have put his reputation against mine as a lawyer and states my law is wrong, and I will show you by and bye what his reputation is worth. I here read his card. He has been practising as a barrister and solicitor under the false pretence, as I have caused search to be made and I cannot find that he has ever been admitted as a barrister and solicitor, and I am not sure that he is a Notary Public, and will give the sentence of disbarring him for two years, and he was not to be allowed to file any papers in court or anything of that kind, and you remarked about his feeling it like banishment, being sent away from here and going to the cold climate of Manitoba. Those words were used." * * *

"I got up in court afterwards and asked you, at Mr. Davis' request, why you disbarred him, and you stated in a loud tone of voice "because he is not a lawyer" and in a lower tone of voice the other reasons that I have given. You ordered Mr. Davis to be expelled from the court room.

"Q. Was the language I used that he shewed himself so ignorant of law that it is my duty not to allow him to practise?

"You said he shewed himself so ignorant of law that you would not allow him to practise."

Mr. Davis also testifies (pp. 66-67) :—

"Q. What occurred at that court as regards you?

"A. The first that Mr. Travis said was in this way: "It has been reported to me that Mr. Davis made a speech at the Clarke meeting, at which he staked his professional reputation that my law in the Clarke case was wrong. Now, I will show you what his reputation is worth by and bye." And then later on he said that he had caused searches to have been made, and that he could not find that I had passed my barrister examination, that in a case before him, in Mitchell *vs.* Rivers, I had two mistakes, that I had injudiciously paid 50 per cent. too much money into court—which was not true—that my pleadings in that case were childish—which was not true—and that he himself would not have made such mistakes when he was a three months or six months student, I don't recollect which. He said further that I did not know enough law to conduct a case in court; that I had been practising law here under the false pretence that I was a barrister, and that it was his duty, in order to protect the public, to prevent me from getting clients into trouble; that he would disbar me for two years. He then went on in a very sneering tone and said that he was very sorry for the young man to have to leave this beautiful climate and go back to the cold climate of Manitoba; it would be almost like banishment to the young man, but it was for his own good; that he had need to learn more law, or if he learned more law he might practise; he read an affidavit which I made in a suit of Smith *vs.* Brenner, which I had a few days before with me, in which I described myself as a barrister. He read the affidavit and said the description in the affidavit was a part of the affidavit itself, and that I had sworn to it, and that it was a very serious thing; meaning, as I took it, that it was perjury.

"Q. Before this 15th had you received any notices that this kind of thing was going to occur?

"A. I had received nothing; no notice of any kind.

"Q. Was any chance given you to show cause?

"A. No chance was give me whatever; a short time after he made the remarks I got up to reply to him and he refused to let me say anything, saying that I was disbarred.

"Q. Did you request any person or persons to speak on your behalf?

"A. I asked Mr. Bleecker to ask him the ground upon which he disbarred me, as I expected there would be some trouble in the future; I asked Mr. Bleecker to ask him to repeat

them, so that there would be no doubt, and he said, he is not a barrister, in loud tone, and then said in a low tone of voice that could not be heard any further than the table in front here (about 8 feet from the bench) and for other reasons, and he then went on with the other matter, so that there was no chance of asking him what the other reasons were."

Mr. Davis was not thereafter permitted to appear and conduct business in the court, but was ordered to leave the court room.

Mr. Burns testifies (p. 108):—

"Mr. Travis said in one of these that you did not know enough law to conduct a case and he said in one case, Rivers and some body you had made your client put twice as much money into court as was necessary, and that you were getting the people into trouble and he would have to protect them, and he was sorry to send you away, but he would have to banish you down to cold Manitoba for two years, and he was sorry to send you away from this beautiful climate down to cold Manitoba, and he was sorry but it would do you good; he said with regard to Mr. Cayley that he had discharged him for being drunk and that when he was away at Edmondtou he had been informed that he was drunk for ten days, and he spoke of his paper as that dirty scurrilous sheet, and that he had got a letter threatening him with assassination and it was written by that dirty thing, pointing to Mr. Cayley; and he said that he had acted wrongly with the money of the court; put it into the bank in his own name; his manner was rather hazy; I never saw a judge behave the same way in Scotland where I have been."

After contending, in the course of his evidence, that the law vested in him the right to decide, arbitrarily, who might practise before him, Mr. Travis proceeds to justify his action on the ground that Davis was not fit to practise. A singular statement on what he calls a question of fact is thus given (p. 565):—

"Then as to the statements of facts I have the advantage of him, because while the whole crowd of them came before you I think Your Honor will not have any doubt in saying that they were trained like so many pirates, giving the same story as to certain parties, and their loose, disjointed statements contradicting one another with reference to mere matters of scandal should not stand very much against the evidence that I have established, who was the utterer of what was done, confirming it by the minutes and the report published two days after in the leading paper of this place—the *Tribune*; but not only so, but with reference to the 15th of December I will state that Mr. Armour, who is the proprietor of the *Medecine Hat Times* (a paper which Mr. Davis does not seem very greatly to admire) published an article in that paper on December 17th.

Mr Bleecker:—That would not be evidence.

Mr. Travis:—I am going to call Mr. Armour.

The Commissioner:—Then it had better not be given until Mr. Armour comes here, when it may be given just as well as in your own evidence."

He seems to have been, at the investigation, of the opinion that no legal evidence was required as the basis of his order to disbar Davis, and that the whole proceeding was an act of kindness to the latter.

He says at page 566:—

"This is what I wrote on the 15th of December, when the whole thing was fresh in my mind. (See No. 84.) When I read this I produced the Calgary *Herald*, in which he was holding himself out to the world as a barrister, as I said, and it was marked as it is now; I treated him kindly and mildly; he stood up, defying me to remove him; there he stood, looking stupid, and in order that the proceedings of the court might be proceeded with I ordered the deputy sheriff to remove him, but it was unnecessary, as I have said, he having walked out."

"I also used this newspaper and the pleas in Mitchell *vs.* Rivers, and Your Honor will see that they speak for themselves; the first plea was not guilty, and the second, never indebted; and in the description in his affidavit I did not say that he committed perjury by describing himself as a barrister, but I stated he had in the affidavit described himself as a barrister, and made the further remarks to which I have referred and there was a post card to which I refered also; but independntly of that I had futher information that Mr. Davis was not a barrister and attorney and when he brought this affidavit to me I retained it, and I think this was the first court held."

In stating that the documents spoke for themselves, he apparently forgot that they were unverified, and that, even if they contained the

grounds for Davis' removal, they should have been proved to have emanated from Davis, and Davis should have had an opportunity to controvert the verification and to show cause in any other way that he could.

The extraordinary manner in which this case was disposed of, is only equalled by the unprecedented evidence which Mr. Travis gave at the investigation, disregarding all rules of evidence, and showing a strange notion of the justification which a judge can offer for such a line of conduct. He appears to have considered that the gravamen of the complaint against him in this particular case was that he had been unkind to Mr. Davis, and that he could exonerate himself completely by showing that on one occasion he shared his lunch with that person.

In his evidence he says (p. 566½) :—

"With reference to how I treated him I had heard that he had been drinking the night before he left for Edmonton with Blecker, Murdoch and Cayley, and in the morning when I saw him he had the appearance of being on the debauch; when I saw him in the morning, and I not knowing if there would be any stopping places on the way, I took a good lot of stuff with me, but I found there were stopping places on the way, and when we got out I noticed that Mr. Davis coming off a debauch, was perfectly ravenous, and I kept him supplied all the way of everything that I had, and I recollect that I gave him on three different occasions stuff, and not only the one piece of pie as he stated, and I recollect when we got to Edmonton my basket was empty, with the exception of half a dozen apples."

Mr. Travis appears to have entertained the idea that his right to punish for contempt extended to all persons who were present at the "indignation meeting" held as to Clarke's case, and he fully testifies as to the proceedings of that meeting, and his opinions thereon, although he was not present, but took his impressions chiefly from the report of the meeting in the Calgary *Herald*, which report he declares was a garbled one. He says at page 752 :—

"I say the report in the *Herald* is garbled and it shows that the speeches were violent and attempts to justify them, and I say I have no doubt that the assembly was an unlawful assembly, and that all those who were connected with it were guilty of contempt, and liable to be indicted for the same.

"Q. Show me where anything is said about the meeting being violent?

"A. Here is the statement, that the meeting was the outcome of the indignation felt by a large number of people, and in that paper the speeches are mentioned as being violent, but not more so than warranted; the whole report is garbled in the *Herald*.

"Q. Is the report of that meeting in the *Tribune* correct?

"A. It was from the report in the *Herald* I was speaking.

"Q. Is that a correct report in the *Tribune*, according to your knowledge?

"A. I have no knowledge at all because I was not at the meeting; from the report in the *Herald* I would say it was a violent meeting.

"Q. From the report in the *Tribune* would you say it was a violent speech?

"A. I could not say; I would have to read it; neither of the papers pretend to give the speeches; there is a meagre out line; the information I got, I got it from the parties and the newspaper reports."

The following explains Mr. Travis' view of the mode in which he was justified in proceeding in such a case (p. 765) :—

"Q. Did you ever hear of a man having judgment meted out to him in that way without notice?

"A. I have heard a harder case, where Judge Rouleau stated that he would not allow any per——

"Q. (interrupting the answer) Did you ever, in all your reading of law, either in England, America or otherwise, ever hear of a man being disbarred without notice being given to him?

"A. Yes, often.

"Q. Then you would think it would be perfectly just to commit a man without giving him a chance to be heard?

"A. I know it is legal, and I think it is just, and there was evidence before me satisfactory for me to act upon, and I acted upon that evidence."

Also at page 766 :—

"Q. Did you not already state to me that a man not being a barrister was no ground for disbarring?

"A. It might not be alone, but it might be if I wished to force it.

"Q. It was the holding out that was wrong?

"A. If a man came here and held himself out as an agent and showed intelligence I think that would be all right, but it was his not being a barrister and his holding out that he was a barrister and being incompetent were the grounds.

"Q. His holding out was one ground?

"A. Yes.

"Q. How was it proved before you that he was holding himself out as a barrister?

"A. In the affidavit in Bremner *vs.* Brown.

"Q. Where he holds himself out as a barrister at law.

"A. No, I don't think he does, but you can see from the papers what he says."

It must be borne in mind that one of Mr. Travis' claims to inflict summary punishment in this way arises from his contention that Davis was one of the officers of the court, and could therefore be dealt with in a summary way in relation to his office. He was only an officer as a barrister, and yet Mr. Travis' decision was that he was not a barrister, and had no status as such.

As page 768-9 the following passages occur:—

"Q. You wrote to Winnipeg although he told you that he was not a barrister?

"A. Yes.

"Q. You thought what he told you was not true?

"A. No; I did not.

"Q. Why did you send down to Mr. Ewart when you knew from his own lips that he was not a barrister?

"A. That was in September I got it from him; but that was a mere matter of form, and I wanted to know what time he passed and getting the information.

"Q. You considered this post card better information than his own statement?

"A. No, I did not; he had not told me when he commenced; I knew it was a matter of discretion on my part to allow him to practise; there was no law in force with regard to allowing particular men to practise; I knew it was a matter of sufferance.

"Q. Did you ever make up your mind in any other case before you as you made up your mind in Mr. Davis?

"A. There was no other case similar to the Davis case before me.

"Q. Did you ever make up your mind in any other case before you in the same way as you made up your mind in Mr. Davis?

"*The Commissioner*—Do you mean he came to the same conclusion or what?

"Q Did you ever in any case that came before you, in your court, make up your mind about the matter from evidence no stronger than you had in the Davis case?

"A. No; but in the Cayley case I acted very much similarly; I acted in both cases on about the same principle, that they were both under my control, and I treated them about alike; I think the Davis case and Cayley case were analogous; I think they were similar in their being parties connected with the court, persons under my special direction.

"Q. You treated Mr. Davis as an officer of the court?

"A. I treated him as one holding himself out to be an officer of the court.

"Q. And you had a perfect right to dismiss him whenever you chose?

"A. Yes.

Another ground on which he thought Mr. Davis should be disbarred, was that he had committed, what Mr. Travis thought, the grave impropriety of designating himself a barrister in an affidavit which he made.

As the commissioner remarked, it is not at all settled that the description by which a deponent designates himself in an affidavit, is to be considered as a statement that *he is* what *he is designated to be;* and there are decisions to the effect that one may describe himself in an affidavit, by a designation by which he is popularly known, without perjury being assignable if such designation is erroneous.

Mr. Travis however acted on a different view, (p. 770):—

"Q. You could have proved the papers couldn't you?

"A. I did not take the trouble, but when I got the affidavit I saw that he was swearing that he was a barrister in the descriptive part, but he described himself as a barrister in the descriptive part of the affidavit.

"*The Commissioner* —That is not a settled point, and it is a mooted question whether perjury would lie on such a statement."

He thus testifies as to the charge of ignorance on the part of Davis (pp. 770-1) :—

"Q. There was only one case in which he displayed all ignorance?
"A. I think in the Edmonton case he displayed similar ignorance.
"Q. Where was the ignorance in these pleas?
"A. I think they are utterly inconsistent and distinctive, and I never knew counsel before pleading those inconsistent pleas, and from my knowledge of law I should say they are most grossly wrong, and I produced authorities at the time to show that both at law and in tort they are wrong; the old plea of the general issue would be such an inconsistency but what I know of law is that you could not plead payment into court of the whole and the general issue. You could plead it with payment into court of part."
"Q. Is there anything extraordinary in a young counsel pleading anything inconsistently in that way?
"A. I should think so, and when I was a three months student I had read Chitty and Stephen on Pleading and I knew you could not plead in that way.
"Q. Our system of pleading here under the ordinance, it is for you to settle the pleas at the opening of court?
"A. Yes; they are generally correct.
"Q. That is the law here; the pleas are generally filed in advance and settled at the opening of the court unless the parties have settled them before? Under our system of law we have no technical pleading here?
A. I don't think you are bound to any particular technical pleading under the North-West Act nor under the ordinance, but the whole Common Law of England is in force, but when you do plead technically you must plead right, but I could not try the case as it was pleaded there."

He says at page 772 :

"Q. Then it was from hearsay that you went to hunt up this information as regards Mr. Davis—as to his character?
"A. His reputation was bad.
"Q. That is hearsay?
"A. Yes; and I knowing that he had a bad reputation that way, being a gambler, and being out on debauches, I looked it up, but I had no question I could debar him from the very start.
"Q. It was on hearsay that you started out to hunt up this information?
"A. Yes, in that sense.
"Q. Do you know, as a matter of fact, that Mr. Davis was not drunk in Edmonton?
"A. I do not.
"Q Do you know he never gambled in Edmonton?
"A I did not; he looked very bad the next morning when we were going to Edmonton."

Mr. Travis' letter to the Minister of Justice, dated 27th January, 1886, affords striking evidence of the mode in which Mr. Davis' case was prejudged. After referring to the manner in which he had punished the mayor and council, Mr. Travis goes on to say :—

"There is but one fellow here now, a worthless, drunken, gambling, Grit law student of two years' standing, from Winnipeg, who requires to be disciplined; and I feel fully disposed, in his case, to let his acts receive the punishment that would be meted out to them in any other part of the Dominion. The sittings of the court closed yesterday, and the next regular sittings of 'The High Court of Justice, Calgary Division,' as under the North-West Ordinances it will then be designated, will open on the second Tuesday of February, prox., by which time I will decide as to whether steps should be taken in his case. He is, however, but exceedingly small game, and is looked upon with intense disgust by the respectable people here, and if he gets the punishment he deserves there will be very little sympathy wasted over him here."

Mount Royal Ranche Company Proceedings.

Mr. Travis alleges that Mr. Bleecker, having been appointed liquidator of this company to act in aid of the High Court of Justice of Ontario, Bleecker's object in seeking his removal from the Bench at Calgary was to prevent him (Mr. T.), from issuing such orders as would make Bleecker account for such moneys as he had received as liquidator, and as would compel him to give security.

There is no evidence that the creditors desired security, but evidence to the contrary. There is no evidence that any money was misappropriated or unaccounted for, but evidence to the contrary. Mr. Travis, however, seems to have proceeded in this, as well as other matters in litigation, without being moved by evidence, or by application from any person. Two orders of his are put in evidence dated 1st April, 1886, and 7th April, 1886, against Mr. Bleecker, which do not show, as such orders usually do, and should, that they were made on any evidence, or were applied for by any person.

The violence of Mr. Travis, and his animus against Mr. Bleecker, are illustrated in the course of his cross-examination by Mr. Bleecker.

He thus testifies (p. 747) :—

"I think if you had got a good shock at the time it would have saved you going to ruin; I think it would have been better for you to have got a check, and it would have been for your good; I understand you will have to go away or you will be driven away, or I understand you have made an oath that you will go to San Francisco, but I don't think you will remain here when I am sustained, and I fully expect to be sustained.

"Q. You are anxious for the creditors of the Mount Royal Ranch Company matter?

"A. I am; and that you may not be allowed to abscond with their money.

"Q. Don't you know that the creditors have ratified my conduct and my every act in every way?

"A. No; I have not heard of it.

"Q. If that is the fact you surely would not put me in gaol?

"A. That would depend on circumstances; I would be bound to see under my oath that all parties interested were represented there, and if there were only a few creditors there I would have to act in the matter; I know Mr. Lougheed is very much dissatisfied in the matter, and I know Mr. Lougheed has referred the matter to the Government and asked them to place the matter in such a way that you may be punished for your acts.

"Q. Don't you know that Mr. Lougheed seconded the motion to take the accounts?

"A. No; I do not.

"Q. Do you know as a matter of fact that the solicitors begged of me to take it and never mentioned the security?

"A. I should think it was an awful case of misplaced confidence, and I think it would be such an awful case and would make the lawyers in the case liable to an action. I have had your evidence on the matter; you have admitted that you have not paid the money over, and I have ordered you to pay it over and you have not done so, and you know you are liable.

"Q. When did you discover that I had the money, first?

"A. When you were in Ottawa I knew it; the creditors called on me, and Mr. Lougheed called on me and Mr. Newson called on me."

Mr. Travis indicates, by his telegram to the Minister of Justice, June 22, '86, his intention to proceed of his own motion in this matter. He telegraphed thus :—

"Advise that you telegraph me immediately stopping leave of absence, and notifying me of withdrawal of Rouleau, so that at close of the investigation by Judge Taylor I may order an attachment issued to protect creditors of Mt. Royal Ranche Company, otherwise think the Government will be fairly liable. I believe Bleecker will abscond." (File 20 '86)

The petition against Travis.

Mr. Colin N. Campbell in his cross-examination, says (p. 120):—

"Q. You and I have had another conversation—a short one?

"A. Yes; you addressed me on the street once, and asked me if I had signed that petition.

"Q. For my removal?

"A. Yes; I signed a good many.

"Q. And didn't I tell you that it contained libellous statements, and that I intended taking action against you?

"A. You said it contained libellous statements and that you intended taking me and some others who where financially fixed here to Ontario."

Wm. E. Green, in the course of his evidence, says (p. 884):—

"Q In signing this petition would you say how you came to sign it?

"A. I was in the "Royal" and it was just about lunch time and the bell rang and I was coming in, and Dr. Lindsay asked me if I would sign the petition; and I asked him what it was for, and he said it was for a commission in the Travis matter, and I signed it thinking it was for a commission in the Travis matter.

"Q. If you had known it contained grossly slanderous charges against me would you have signed it?

"A. No, I would not."

The witness was not asked as to any particular statement in the petition, and as a matter of fact the petition does not contain "grossly slanderous charges."

Charges against his Colleagues.

In letters of the 15th and 26th of August, Mr. Travis makes charges against his colleague, Mr. Rouleau, and in a letter of the 28th of January, 1887, he repeats those charges, applies them to several suits which he names, and gives them, besides a general application, imputing ignorance and partiality. He communicated these charges to Judge Rouleau in a letter of the 24th January of which the following is a copy:

"Sir,—Although from circumstances connected with your coming here; from the grossly bad manner in which you have acted since you came here, and from the discourteous manner in which you have answered my enquiry as to whether or not you intended to fulfil your promise to prepare a written judgment in the Bleecker case, (no previous instance existing, I think, since you came here, of your having delivered anything else but your loose oral judgments), I might well take you at your word and have no further communication with you; yet, as I wish to act in the very reverse way of those whose secret, underhanded, fraudulent course was the means of bringing you here, I subjoin a copy of my letter to the Minister of Justice, containing the charges against you, which I forwarded to him on the 22nd instant." See file 120, 1887.

(Signed), "J. TRAVIS."

The immediate motive which prompted these charges seems, by the letter of Mr. Travis dated 21st January, 1887, to have been a desire to obtain from Judge Rouleau his judgment in writing in the case of Bleecker & Brown *vs.* Calgary.

The following is the conclusion of that letter addressed to Judge Rouleau.

"You will oblige me by letting me know by to-morrow, whether even yet you will or not prepare the promised written judgment in the Bleecker case to which I have referred." (See file 120, 1887.)

This was after the statement of charges which he had made to the Minister of Justice. Mr. Rouleau replied in a short letter of the same date,

declining to have any communication with Mr. Travis, concerning judicial affairs, and concluding by saying that he could afford to treat Mr. Travis' threats with perfect contempt, to which Mr. Travis replied in a letter concluding thus :—

"With reference to your contemptible affection of contempt, it is sufficient to say, that from one whose standing is, as it is, in places where he is well known, as he is in Prince Albert, Battleford, &c., and whose staying qualities and silly and notorious telegram (in effect—"I have run away safely from my post of duty! God Save the Queen!") have made himself the subject of such expressions of contempt as were heaped upon him in Parliament last Session, his contempt or his admiration are about equally as material or important to me." (*See* file 120, 1887.)

It would seem that such knowledge as Mr. Travis has of the case in respect of which he complains of Judge Rouleau is derived from hearsay. In the course of his cross-examination he says (p. 742) :—

"Q. Do you fear I will have an improper influence over some one else in case you leave ?
"A. I think you would like to get some one else whom you would have more influence over than you have over me, and I can tell you that you never would have come before me with the case of King *vs.* Dewry ; Mr., Loughed told me the case and I sent for Mr. Dewry and he told me the facts, and I have reported the matter to the Government, and it was brought in the name of King, and King had left here altogether, and it was a bad looking case, and my opinion is that it was a very much similar case to the Mercier case."

Again on page 743 :—

"I telegraphed the Minister of Justice with regard to the case and I think he will order an enquiry into the matter ; I followed the case up after that ; I think in the Donohue case, I think Judge Rouleau acted very badly.
"Q. Do you think Judge Rouleau acted very wrongly ?
"A. I do from the information.
"Q. Don't you think it was a conspiracy ?
"A. I think it was a very improper act for the judge to lend himself to act as he did, as I am informed by the counsel, and I think it would be a very injurious thing to Calgary if Judge Rouleau were detained here on your account, and I understood the court was even delayed on account of the state of Col. McLeod, but I don't know anything about him."

Speaking of a man named Fisk, who supported Mr. Travis, and who describes himself in his own testimony thus —"I have speculated, worked around, and often gambled and sold whiskey"—Mr. Travis in his cross-examination says (p. 804) :—

"Q. You would think that he is a honester man than Judge McLeod ?
"A. I don't know ; I have heard about his (Judge McLeod) drinking habits and delaying court several time."

Mr. Fisk's cross-examination thus concludes (p. 833) :—

"Q. Didn't you steal cards ?
"A. Yes, and there is not a gambler who does not do the same thing."

In Mr. Travis' cross-examination the following occurs (p. 805) :—

"Q. Don't you think "Jumbo" is more truthful than Judge Rouleau ?
"A. I cannot say ; I think Judge Rouleau has acted indiscreetly since he has been here.
"*The Commissioner*—That is not evidence at all."

In a letter to the Deputy Minister of Justice, dated 28th August '86, Mr. Travis says :—

"Had I been like one of my colleagues, (I state nothing but what I am prepared any minute to substantiate) lying day after day drunk here at one of the hotels ("The Royal"), with parties and witnesses kept waiting here from day to day to get him sober enough to hold a court, the opposition and petitions would no more have followed in my case than they have done in his."

As the only Stipendiary Magistrate who exercised functions as such in that district, after Mr. Travis went there, was Mr. Rouleau, this statement was communicated to him for his reply. He made a prompt and indignant denial, and demanded that he should have permission to prosecute Travis.

Mr. Travis afterwards wrote to the Department of Justice stating that he did not mean Mr. Rouleau at all and that his reference "was not made nor intended to be made as a formal charge against any one." He proceeded to state (in a letter of 14th October 1886) that he had made these assertions on the faith of statements made to him by two or three parties after he had come to the Territories.

As it then became apparent that his reference was to Judge McLeod, who was at Calgary before Travis, (as, indeed appears also from his evidence), the substance of his charge was communicated to that judge who replied as follows :—

"I have the honour, in reply to your letter of the 14th ult, containing copies of some letters written by Mr. Travis to the Minister, to state that I have no doubt that notwithstanding the fact that my name is not mentioned, he refers to me as I was the magistrate who tried the case McDougall *vs.* the Canadian Pacific Railway ; in which the plaintiff, a brother of one of Mr. Travis' informants, was non-suited.

"I indignantly deny the slanderous charge. It is entirely false. The court referred to was held in January 1885, and I remember I was confined to my room by sore eyes from which I suffered very great pain. This was caused by my driving against a bitterly cold wind from my own place to Calgary. The third day out I drove eighty miles with the thermometer, at 11 o'clock, a.m.,at 27 below zero. Dr. Henderson attended me. I was seen by suitors and lawyers whenever they wanted to see me, and transacted any Chamber business that was required, and a large number of friends came to see me. When I returned home I was very nearly a whole month confined to the house in a darkened room.

"With regard to the case of McDougall and the Canadian Pacific Railway it could not have been tried before it was, as both parties were not ready.

"I simply treat with contempt the insinuations about bawdy houses and whiskey rings. I do not know a soul in the North West that would not laugh at them.

I have the honour to be,
Sir,
Your obedient servant,

(Signed), JAMES F. MACLEOD."

"GEO. W. BURBIDGE, Esq.,
Deputy Minister of Justice."

MR. TRAVIS' DEFENCE.

Mr. Travis was sworn in his own defence, and delivered his evidence in the form of a speech, which occupies some hundreds of pages (foolscap) of type writing. The speech, in the first place, shows an entire disregard of the fact that he was a witness under oath.

It contains expressions of opinion, and "hearsay," on subjects which are not relevant to the enquiry, and his language was offensive, not only to persons who appeared in support of the petition against him, but to the commissioner, and to persons who were absent and had no part in the proceedings.

Among other papers which he has put in evidence is one on page 165, in which there is an account of the opening of the first session of his court, from which it appears that in his reply to an address of welcome to the Bar he said "he believed it was somewhat due to his own efforts that another judicial district had been created, and a judge resident at Calgary had been appointed."

At page 250 Mr. Travis thus testifies :—

"And I would also state, that as Mr. Bleecker was acting in that position, that I asked him if he would like me to recommend him for the position of Crown Prosecutor permanently? He said that he would like to have the position, would like to be Crown Prosecutor as regards all the cases except the liquor cases, and that it paid him better, with reference to

them, to be on the other side. I understood that Mr. Bleecker was an applicant for the position of Crown Prosecutor, and that when his name came before the Privy Council of Canada that Sir John A. Macdonald stated that it was useless to bring that man's name before him for any position."

"*Mr. Bleecker.*—Of course that is not evidence."

"*The Commissioner.*—It is hearsay, and not evidence at all."

Again (pp. 251–2):—

"During those previous cases in which Mr. Bleecker acted, whether for the Crown or in any civil case, I say that in neither of those cases, nor on any other occasion, did I ever say that Mr. Bleecker was an able lawyer, and I entirely deny the statement which was made by him that I did so. And I say, further, that I do not think that, with the lawyers whom I have met, I could have said so and told the truth. Nor have I ever referred to any lawyer here at all in any instance within my memory; and I will state that I have as a fact a remarkably retentive memory for facts, as I became not only aware from myself, but from a scientific examination, "a wonderful memory for facts," as stated to me by Professor Fowler, of New York. He made that statement at the request of a large audience in St. John, N.B. He stated that before an audience in New Brunswick, as I have said, and I said in reply that that statement was perfectly true, and I said if he had said that I had a remarkable memory for names, which I have not, I would have contradicted him."

Mr. Travis denies the statement that his manner was violent and excited during his addresses from the bench. He also denies Cayley's statement as to his (Mr. T's) life insurance. He says (p. 341):—

"But when the Government, I think inadvisedly and injudiciously, requested me to discharge Mr. Cayley, without consulting me on the matter, when on the following morning I was met by the President of the Methodist Conference at Winnipeg and congratulated on the good work I had done, I said all the good work I had done was knocked on the head, and that matters were placed back worse than they were before, and I did not fail to let the Government know that they were responsible for that ill-advised course, and I advised them that instead of pursuing that foolish course I would have told them that four different applications in law had failed to obtain Cayley's discharge as I had told them in the very outset they would fail; if they had told me that, I would have made these overtures of pardon to him and he would have jumped at it and I would have been the victor, and he would have come out subdued, and everything would have been right, and those letters I claim shall be put in whether the Government wish it or not.

"Queen *vs.* Sullivan; Queen *vs.* Munro; Queen *vs.* Whitbeck; Queen *vs.* McDonnough. Two of these were for stealing goods from the C. P. R. and two receiving stolen goods knowing them to have been stolen, and we had that day Mr. Howell from Winnipeg, and it is no secret at all that he said he never knew a judge to take so much trouble in deciding a case as I had."

At page 342 he says (referring to his speech of the 15th December):—

"I did not on that occasion roll my eyes or stamp my feet, neither did I strike that desk but once, once wishing to meet a slanderous statement, and I make it emphatic. I brought my hand down on the bench, and I only say I have seen Sir William Ritchie speak with ten times the vehemence over and over again that I did."

After giving an immense amount of irrelevant testimony and hearsay, and statements of his opinion, he says (page 345):—

"Now I have disposed of every one of their charges and I say every statement I have made is as true as I would make if I were expecting to pass into the next world in a minute."

He insists that he did not use in his speech at the opening of the court in December the word "dirty" in reference to the "Calgary *Herald*," but referred to it as "that little, insignificant, slanderous sheet." At page 360 he says:—

"Here in the *Tribune* (Calgary *Tribune*, December 16th, 1885) is where Mr. Burns got the term 'dirty.' I never used it. The statement I made was 'in that little, insignificant, slanderous sheet,' which is only kept in existence by parties like myself who purchase it on account of the telegrams in it."

At page 472 Mr. Travis proceeds:—

"I made an application on what I considered excellent ground for the production of these letters, and now I also ask letters from any of the parties to Mr. Cayley, and I have a

letter in my possession which shows on the face of it that he must have sent a letter and received an answer to it. These infamous scoundrels who are plotting for my destruction, and that was read by one of the most honorable men in the Dominion, who knowing how I have been bothered by these men all over the Dominion kept it from me at the time; it was thrown on the floor, picked up by Mr. Fitzgerald and handed to Mr. Bowen and by him passed to Mr. Murdoch, and in view of this damning letter that I have heard I would make the further application that these five persons be brought here to-morrow morning for examination by me—Davis, Bleecker, Cayley, Murdoch and Grogan."

The parties whom he then named were summoned, and were in attendance, at the close of his evidence, but he declined to examine them, stating that he "would not do them the honor."

He proceeds (p. 473):—

"And with regard to the judgment on the 15th of December, I am perfectly satisfied that the whole of the people who were present were satisfied that I had done my duty, and the effect was magnificent, and I had the statements coming to me that I had contradicted these lies that had been spread about; and I have telegraphed to Rev. Mr. McDougall, who came here too late for the court, who spoke as to the effect that my judgments had on the community, and there was another man who came to me this morning to detain me for a few minutes while he wrote me a letter with regard to these people and their schemes, and another man came to me, whom I did not know before, who came to me about his brother who was hurt and I promised to write to the Department of Justice with reference to him, and he said 'I was a gambler and I have lost a great deal of money at it,' but he is here and he will swear and I have no doubt he will swear to the truth, and I would sooner take his oath—I mean William Fisk—(see *Supra*), and I would believe him in preference to the whole of the other witnesses, Bleecker, Murdoch, Davis, Mortimer, Ogburn, Carney, Lindsay, Cayley, in fact the whole lot of them.

"On Tuesday, 26th, I delivered that judgment, and I state I never saw greater satisfaction with the delivering of a judgment than was here manifested."

At page 487, he says:—

"When Your Honour comes to see my letters you will see that I have done nothing wrong, and that I have concealed nothing. I claim every letter that I have written is truthful, and that there is not a lie in any one of them, because I never tell a lie; I always tell the truth, and I defy the production of them. Now let them come. I acted on the advice of Mr. Thompson, to pursue an extremely moderate course and I did not act in the same way that I would if I had been in New Brunswick, or any of the other Provinces, and I call Your Honour's attention to where the Chief Justice of New Brunswick sentenced a man to twenty years in the penitentiary for shooting off a revolver and not doing a particle of harm in the world."

Again at page 503 he reads a letter from himself to a member of the Government containing this passage:—

"At all events my every decision has been duly arrived at after the most mature thought in a manner strictly conscientious, and if in any one case I have been mistaken, and I know of none such, it is no more than the ablest judges in the Dominion have been over and over again. About four-fifths of the judgments in appeal from the Supreme Court of New Brunswick, being reversed by the Supreme Court of Canada, while as regards this latter court in Tufts *vs.* Chapman I heard Ritchie, Strong and Gwynne make a statement of law, the absurdity of which was most grossly apparent, and when their gross blunder was pointed out they were driven to receive the correction with painful silence."

Another illustration of the peculiar views which Mr. Travis holds, as regards the law of evidence, is furnished by the following extracts from the sworn testimony (pp. 592-3):—

"So I say the new Act is entirely within my own wish and one of which I will approve, because it will relieve a single judge from very much responsibility. In the issue of February 22, there is a lengthy article taken from the *Canadian Law Times* attacking the stand that Mr. Bleecker took, that because I was a stipendiary magistrate I had not more power than a magistrate, and I unhesitatingly say it is the greatest tissue of trash that I ever read claiming to be reasoning law."

Reading another article from the same *Herald*, the stipendiary said:—

"This is written by a man (Carney) who said that he believed that in all my acts I acted honestly, and when all the others were attacking me was the one man who stood alone

defending me, and who was here on the stand, and I will call witness after witness to show what he is; and if I did not know that one judgment is lying against that man, and if I did not know that he was worth nothing I would take him to Ontario, take him from this place and take him there where the courts would punish him for his barefaced libel. But I state that he is pecuniarily worthless, as he is worthless in every other respect. I would teach him a lesson. Just fancy a rascally coward using language like that with regard to me read before the "Pine Ribbon Society" and moved by one of the most honorable men in this land I am informed, Rev. Mr. Fortin.

"That is the first answer that I have made to that trash, but not the last, and if I don't expose that rascal in this community before I am done with him it will be a wonder.

"I now call Your Honor's attention to the article of 7th June in the paper with regard to Jam. McDonough. You will see what they say about that worthless thing Whitbeck, and I say that both stood in the same position to me."

Also the following (page 594):—

"Before that I could not, but I could then, having a leave of absence from the Government; before I could not attend meetings or express my opinion in any way. I have allowed these villians unhung, who have attempted to destroy that (my character) which I value more than all the money the Dominion Government can give me, inheriting that from my father, who was the most honest man I ever knew, who in all matters of doubt always gave it against himself. These men, unsparingly, recklessly and unscrupulously have followed me up to use Davis' own language "like Hell," and without my answering them until now, because I could not attend meetings and discuss matters with them."

"And I say again the fact that he was the son of Hon. Mr. Cayley, whom I never met in my life, but whom I understand, is a man in his dotage, and it was probably on that account that the discharge was ordered, a kind act on the part of Sir John, who perhaps said "telegraph to release him," but I say the fact that he was Hon. Mr. Cayley's son did not influence me in the least."

Mr. Travis takes occasion to refer, in the course of his evidence, not only to the various testimonials which he had secured, to induce his appointment, but also to various matters in relation to which he thinks he had deserved some reputation. In that connection he has referred to the case of Vernon *vs.* Oliver, which he argued in the Supreme Court of Canada, just before his appointment. He was cross-examined before the commissioner as to the distinction which he had achieved in this case. The following passage from his testimony refers to it (pp. 735-6):—

"Q. In that argument did you use any harsh language towards the Judges there?

"A. I will tell you what I said; you borrowed my factum and you never had the goodness to return it. I will say this that I used language with reference to a wrong act, a grossly wrong act of Mr. Justice Palmer where he falsified his notes of argument after they had been before the Supreme Court of New Brunswick on appeal, and I went to him in open court and asked him either to produce the original records or give me a copy of the original notes in any satisfactory manner, and if you (Bleecker) will have the honesty to bring back my factum I will be happy to place it on the record of the Court; and I will further state that I mentioned the case of Shields vs. Barron and the learned Chief Justice had never read that case but he had referred to a United States Report, and the case referred to held the very opposite conclusion that the Chief Justice held. Sir William Ritchie could not take part in the case on account of his wife being related to my client, and before I finished my argument they stopped the argument and said we are with you on both the positions you take, and I stopped and they did not rectify the award although they promised so to do, as I understood.

"Q. The language you used was that Judge Palmer falsified his note?

"A. It is in writing."

"Q. Was there any reason for his falsifying his notes?

"A. Yes; there is a kind of reason for a bad man; his son was counsel in the case, and he was almost indicted for scuttling a vessel, and I believe if Mr. Thomson had lived he would have been. And, I think, my factum is a fair review of their arguments; I mercilessly reviewed their judgments and showed their views were wrong, and the Supreme Court upheld my judgment.

"Q. Have you the report of the Supreme Court on that case?

"A. Yes; I heard the judgment in which they proposed not to allow costs, because they claimed that the bill was filed to rectify the award and I claimed that if I was entitled to a better remedy I was entitled to have that, and I think Judge Palmer and Ritchie held

differently, and inasmuch as they did not sustain my position and ordered the factum to be taken off the files as scandalous and impertinent, which are legal terms, I have sent that factum to a large number of men, and while in Prince Edward Island, I asked Davies if he had read it and he said he had and he saw nothing improper in it."

Again (p. 737):—

"Q. Didn't Judge Gwynne say: 'It is not, however, the printed case in appeal alone, which is objectionable, for the factum of the plaintiff is framed in such a scandalous manner, in fact in such a virulent and malignant spirit, of invective of the judgments of the learned judges, whose decision is appealed from as to disgrace not only the counsel by whom it was prepared, but this court also, if it should be permitted to remain upon its files, or among its records, and for this reason, and to mark the sense of the court, at the indignity offered to it by such a document being laid before it, it should to be struck off the files of the court and not to be kept among the records of the case. * * * The order of this court, in my opinion, should be that a decree for setting aside the award be issued out of Court of Equity of the Supreme Court of New Brunswick, but without costs, and that the Plaintiff's factum filed in the case be struck off from the files and records of this court as scandalous and impertinent, and that no costs of this appeal be allowed to either party'?

"A. I think they were the words: and I think further such language coming from that court was more disgraceful to themselves than any injury they could do to me under the facts."

The following passage from his evidence is also illustrative (p. 740):—

"I am not an enemy to any man living; I am not your enemy; I have treated Murdoch with every kindness and when I met him yesterday morning I bowed to him as kindly as I could; of course I have a feeling of contempt for those who are acting badly, but I have not a feeling of hatred towards those men who have been acting so badly towards me; I know they have acted badly against me, but I have no feeling of hatred against, or towards them, So help my Heavenly Father; I have a feeling of sorrow towards them, and even that young man Bown I have advised him to get rid of that bad gang. I know you are a very bad man, and you are an unscrupulous man, and if you come to me to-morrow and said you were sorry for all you had done towards me I would forgive you, but as to matters of law all you have done would not have a feather's weight. I think you are a bad wicked man, and I am very sorry for that young man who has not a strong intellect, and I know he is being ruined with you."

Also the following (p. 742):—

"Q. Did Professor Fowler tell you that you had a wonderful memory for dates?

"A. 'This gentleman has a wonderful memory for facts" and I interrupted him, 'the statement of Professor Fowler is perfectly right, had he stated that I had a memory for dates I would have contradicted him.' I recollect on one occasion I was introduced to Governor Washburn and later in the day he called me Mr. Travis, and he remembered, although he had been introduced to so many, and that was a remarkable instance;"

Mr. Travis seems to have entertained the same views of what it would be kind to do to Bleecker, as he had in regard to Davis. He repeatedly declared in his evidence, that he entertained nothing but kind feelings towards the persons in Calgary who were promoting the investigation. The explanation which he gives in his testimony is singularly at varaince with this assertion. The following is a specimen (p. 758):—

"Q. Did you always have a kind feeling towards Mr. Cayley after that?

"A. I have a kind feeling towards him now, and if in any way I could assist the young scamp nothing in the world would give me more pleasure.

"Q. Is it from kindness that you call him in open court a young scamp?

"A. Yes, I think it is kind; I see him drunk about the streets and I think it is kind that his attention should be called to his dreadful course and if possible that his friends should take him away from here and reform him; I believe he has a brother, a clergyman, and I think it is a pity that he does not take him away from here."

Again at page 773, he says:—

"Q. You remember saying it would be like banishment to Mr. Davis to have to go from this beautiful climate to the cold climate of Manitoba?

"A. Yes, I think I did, and I would feel it a banishment if he had to go.

"Q. Didn't you think that he got banishment enough by being sent to Manitoba for two years?

"A. No, I think if you and he both got your deserts you would both go to the penitentiary."

Also page 774:—

"Q. You would try us and send us to the penitentiary?

"A. No, I would get another judge to try these cases, because I don't think I would be bound to try the case, but I say if you got your just deserts, you would be in the penitentiary, and I make this statement that you and Davis ought to be in the penitentiary if you got your just deserts, but I do not give it as a matter of law, but I make it largely from that letter which was found on the street, and another letter which I have here.

"Q. And you think I ought to be in the penitentiary?

"A. I think that if the whole four of you, Blecker, Murdock, Davis and Cayley, were sent to the penitentiary, you would be in company with very much better men; I think you are the responsible parties, but I think you are the head of the whole thing."

Further on he says (p. 777):—

"Q. You say you are clearly satisfied that Mr. Davis was intoxicated last Tuesday morning?

"A. Yes; I have not a particle of doubt in the world.

"Q. If we got witnesses to prove that he was not, you would not believe them?

"A. Not if they were the same stamp that you have had in the box.

"Q. If we got Mr. Tim Dunn you would not believe him?

"A. Mr. Dunn could not have seen him when I saw him, and you could tell from his appearance when he came into court; his nose was red and his appearance was horrible, and if ever a man was drunk in this world he was drunk.

"Q. You will swear positively that he was drunk?

"A. If I am a judge as to the state of a man I say he was drunk then, and I say he is sober now.

"Q. Are you able to judge?

"A. I have ordinary comprehension, I believe.

"Q. Are you not so prejudiced against him that you would say he is drunk when he was sober?

"A. No.

"Q. That was the time you were going to strike him?

"A. Yes; that was the time I came pretty near striking him, but I am glad I did not strike him, and I would not for the world have struck him; I was going rapidly towards him and I would have hurt him if I had struck him; I had the impulse to strike him; I had read the night before the letter that he had written, and I had scarcely slept all night and it was a quarter to five in the morning."

"Q. Are you given to striking men on impulse?

"A. No; it is twenty-three years since I came so near striking a man; he called me a liar and with a drunken leer in my face, and he was drunk if ever I saw a man drunk in my life.

"Q. Did you call him a liar?

"A. I think I called him a drunken liar.

"Q. Did you call him a damn liar?

"A. I was in doubt as to whether I did or not; I have used it, very few times in my life, and never before since I have been in Calgary; it was a term that I heard Sir Wm. Ritchie use once. I do not look upon it as an oath taking God's name in vain, and it is a term that I may use in extreme cases. I spoke to him first, and I either called him a drunken liar, or a damn liar, but he leered in my face first.

"Q. You spoke to him first?

"A. Yes; and he leered a drunken leer in my face first.

"Q. You raised your cane to strike him?

"A. Not when he was close to me.

Again at page 806:—

"Q. Did you ever write this: 'The general position at once became that of denunciator of their bad adviser, the man who had made himself so badly conspicuous in the Clarke case, and who was blamed all around for being—as in fact for his own selfish progress he had been—the one source of all the trouble which has been made here, and about which so many papers throughout the Dominion have published the grossly falsified statements concocted here by a few drunken worthless unscrupulous characters, of the very worst possible reputation in every respect?' Did you ever make such a statement as that in the letters to the Blue Ribbon Society?

"A. I think I wrote such a statement as that, but I object to that way of proving it."

Mr. Travis in the course of argument said (p. 864) :—

"But Mr. Bleecker has been charging me with all kinds of charges and I say I have acted in a fearless and honorable way, and Mr. Bleecker has acted in such a way that it is to his interest to get me out of the way, because in case he came before me on the charges I would have to disrobe him.

"*The Commissioner* :—I don't think you would have any power to do any such thing.

"*Mr. Travis* :—What would be done would have to be done under the ordinance.

"*The Commissioner* :—Although I have not read the Ordinance formally, I don't think you would have any power to do any such thing."

The following telegrams from Mr. Travis to the Department of Justice will indicate his appreciation of the position which he occupied during the investigation before Judge Taylor :—

"G. W. Burbidge, Deputy Minister of Justice. "CALGARY, June 21st, 1886.

"Bleecker-Lindsay case proved a ridiculous collapse. Murdoch and Lindsay dared not take the stand. My victory a foregone conclusion. Now giving my evidence. Please tell Sir John, Costigan and Foster and wire Sir Leonard."

(Signed) J. TRAVIS.

"G. W. Burbidge. "CALGARY, June 22nd, 1886.

"Developments against my vile conspiring enemies here are perfectly dreadful. On their own case I absolutely demolished them, crushing witness after witness until they durst bring no more. Although I challenged them to bring Murdoch on, the developments were such that neither he nor Lindsay dare face the ordeal. Trust you will manage the pass I wrote you about."

(Signed) "J. TRAVIS."

"Hon. J. S. D. Thompson, Minister of Justice, "CALGARY, June 23rd, 1886.

"Investigation will establish first, I have done no wrong act; second, have made no mistake in law; third, have acted with uniform kindness and moderation; fourth, that I have been opposed by the vilest set of plotters and conspirators in the Dominion, with a possible fifth point arising out of the injudicious acts *re* Cayley of which I wrote you at the time."

"(Signed,) J. TRAVIS."

"G. W. Burbidge, "CALGARY, June 25th, 1886.

"I am mercilessly exposing and overthrowing the plots of those rascally conspirators Bleecker, Murdock, Cayley and Davis. Some evidence brought out has shewn fearful depravity in them. Regret very much that you did not send Judge Taylor my letters, enclosures and telegrams to Minister of Justice as promised me. My first report in Sheehy and McGrath case has not come to hand. It was a report on petition of Murdoch, and a priest petitioning for Sheehy's release only.

(Signed,) J. TRAVIS."

REFLECTIONS ON JUDGE TAYLOR.

After Judge Taylor made his report, Mr. Travis, in various places and ways has aspersed the Judge and attributed unworthy motives to him. In his evidence before the Commissioner, Mr. Travis says (p. 504) :—

"What I did say in that letter in speaking of the infinitely more severe sentences imposed by Mr. Justice Taylor than myself I spoke of him, as "that able judge," and I referred to him in that letter to the Minister of Justice, and I wish to state this here. Let this decision be what it may be, there is not a judge on the Supreme Court that I would sooner have

to conduct this case than Mr. Justice Taylor, as I believe he is a thoroughly upright, christian gentleman and will decide this matter without reference to me, and I wish to put that on record, let judge Taylor do what he may. They made statements that Fred Wade was helping them, and somebody else working like Hell against me ; these were the statements which were made in the matter."

These reflections will probably have less weight when it is observed that Mr. Travis is accustomed to use strong terms, in speaking of those who hold different opinions from his own. His letters to the Department contain attacks on judicial officers which it would be scandalous to publish.

Judge Taylor's Report.

Winnipeg, 25th August, 1886.

Sir,—I have the honour to report, that in obedience to the Royal Commission dated the 22nd of March, 1886, addressed to me, and directing me to enquire into certain charges against Jeremiah Travis, Esquire, a Stipendiary Magistrate in and for the North-West Territories, and in compliance with the instructions contained in a letter dated the 30th of March, 1886, from the Under-Secretary of State, I caused a copy of the charges to be delivered to Mr. Travis, accompanied by a notice appointing a time for the delivery by him of any answer in writing he might wish to make, and also appointing a time and place to proceed with the investigation of the charges.

Thereafter I proceeded to the Town of Calgary in the North-West Territories, for the purpose of executing the Commission, and at the time and place appointed was attended by Mr. Henry Bleecker and Mr. F. P. Davis for the petitioners, and by Mr. Travis on his own behalf. For the petitioners, nineteen witnesses were examined, and on the part of Mr. Travis, himself, and sixteen witnesses, all the evidence being taken down by a sworn shorthand writer. He also produced, and put in, a large quantity of documentary evidence. The time actually occupied by the sittings under the Commission was fourteen days.

At the close of the examination of witnesses, Mr. Travis took objection to the validity of the Commission and to the regularity of the proceedings, upon two grounds. First,—that he being a judge of the High Court of Justice in the North-West Territories, the only proper mode of enquiring into his conduct is by an impeachment in Parliament. Second,—that the Act, 3 Victoria, chapter 38, under which the commission is issued, is not in force in the North-West Territories, therefore, the Commission is wholly illegal and void, and the Commission has no power to administer an oath, or to examine witnesses under it.

Upon these objections I ruled that having taken all the evidence, I would in obedience to the Commission make a return of the evidence and a report thereon, leaving the question of what effect should be given to the evidence and report, to be dealt with by the Government.

As the commission directs me to return the evidence with my opinion thereon, I beg to express the following:

I. The evidence fails to establish the charge that Mr. Travis dismissed Cayley, the editor of the Calgary *Herald*, from the office of Clerk of the Court, from personal motives. Sufficient grounds for his removal from office seem to have existed.

2. As to the suspension of Mr. F. P. Davis from practising as a lawyer, Mr. Travis claims, that there being (at that time) no Law Society, or any other authority, to regulate the admission of barristers or advocates to practise in the Courts in the North-West Territories, a Stipendiary Magistrate had a right to say who should be allowed to practise before him. Also, that in suspending Mr. Davis he did so, because while he described himself in an affidavit and in a card published in a newspaper, as a barrister, he was not one, because his private moral character was bad, and because, in a case pending in Court, he showed himself so ignorant of law that it became necessary to protect clients and the public against him.

Mr. Travis had permitted Mr. Davis for some time to practise as a barrister or advocate, knowing, as he says he did from Mr. Davis' own statement, when the latter came to reside at Calgary, that he had not then been called to the Bar. At the time he suspended Mr. Davis from practising, he had not before him any legal evidence that Mr Davis had not in the mean time been called to the Bar in Manitoba, or some other Province. Neither had he any legal evidence before him, that the private character of Mr. Davis was such as to render him an unfit person to practise as a barrister, The ignorance of law shown by Mr. Davis was simply that, in a case pending in Court, he paid into Court for the Defendant a larger sum than Mr. Travis thought should, under the circumstances, have been paid in, and he pleaded two pleas which Mr. Travis considered could not be pleaded together, one of which he accordingly struck out when settling the issues to be tried, under the provisions of clause 17, of the North-West Ordinance, No. 3. of 1884.

The course adopted by Mr. Travis in summarily suspending Mr. Davis, without giving him any previous notice, and not allowing him to be heard on his own behalf, was exceedingly arbitrary, and wholly unjustifiable.

There can be no doubt, on the evidence, that the true reason for suspending Mr. Davis was, that Mr. Travis suspected him to be the writer of a letter signed "Justitio," which appeared in the Calgary *Herald*.

3. As to the proceedings against Hugh S. Cayley, the editor of the Calgary *Herald*, for contempt of Court, in publishing in his newspaper certain articles reflecting upon Mr. Travis, and his administration of justice, it seems exceedingly doubtful if Mr. Travis, holding the position he did, had any jurisdiction to punish for a contempt not committed in the face of the Court. In any event, the sentence passed upon Cayley was one of extreme severity.

It is apparent from the evidence given by Mr. Travis under the Commission, that as to what constitutes contempt of Court, and as to the manner in which it should be dealt with, he entertains extreme opinions, opinions not at all in accord with the sentiments generally entertained at the present day, nor in accord with the spirit in which the law is administered throughout the Dominion.

4. As to what have been spoken of as the Town Council cases, that is, the proceedings against the mayor and councillors for corrupt practices in connection with the revision of the voters list, and the subsequent proceedings to declare void, the election of Murdock, Lindsay and Freeze,

when re-elected after having been disqualified by Mr. Travis, the evidence does not establish the charges made, so far as they allege that Mr. Travis caused proceedings to be instituted against the mayor and councillors for corrupt practices. But when the matter was brought before him by a ratepayer, he proceeded in a manner for which no authority can be found in the Ordinance respecting municipalities. (North-West Ordinance No. 4 of 1884.)

That Ordinance contains no provision for an appeal to a Stipendiary Magistrate from the revision of a voters list by a Court of Revision. It does provide for proceedings before a Stipendiary Magistrate to quash a By-law passed by a Municipal Council, but a resolution passed by a Court of Revision, on a judgment or ruling of that Court can never be held to be a By-law passed by the Council.

Then, the first proceeding taken, and before any petition alleging corrupt practices had been presented, was the making on order, and compelling the Town Clerk to attend to be examined, and to produce documents, the only provision in the ordinance for a preliminary enquiry of that character being in the case of an application to quash a By-law.

Mr. Travis claims, that the acts of the Mayor and other members of the Council, in connection with the revision of the voters list, were corrupt practices at common law, and that apart from the provisions of any ordinance of the North-West Territories he had jurisdiction. But the proceedings taken, were all on their face, taken under Ordinance No. 4 of 1884, the petition, orders, and other documents, being all so styled, and the punishment inflicted was fine and disqualification, the penalty imposed by that Ordinance for corrupt practices in procuring by bribery parties to vote, or to abstain from voting, at an election. At common law, the appropriate proceeding for corrupt practices, was by indictment resulting, on conviction, in the penalty of fine or imprisonment, not in the penalty of disqualification.

In proceeding as he did Mr. Travis in my opinion exceeded his jurisdiction.

At the same time it should be remarked, that the members of the Court of Revision, in the proceedings they took, for adding to the voters list a large number of names, acted irregularly, even if they did not, as the evidence seems to show they did, add names which should not have been on the list.

From the evidence given under the Commission, it is beyond all doubt, that there existed among the population of Calgary a lawless element, dangerous to the peace and good order of society. In dealing with this element, Mr. Travis had a difficult task, but he did not pursue a prudent course. Many of his public utterances, especially, were calculated to excite, as they did in fact excite, a feeling of antagonisn towards him.

On a review of the whole evidence, including that of Mr. Travis himself, considering the excited state of public feeling, and the attitude of hostility in which Mr. Travis and a large number of the inhabitants of Calgary and neighbourhood, stand to one another, and for which both parties are blameable, I can express no other opinion, than that the Government ought not to continue Mr. Travis in the office of Stipendiary Magistrate at the Town of Calgary.

I return herewith, (1) the Commission, dated 22nd March 1886. (2) Copy of the petition addressed and copy of the formulated charges against Mr. Travis. (3) copy of the notice of executing the Commission served upon Mr. Travis. (4) The answer in writing to the charges, put in by Mr. Travis. (5) The written statement read by Mr. Travis on the opening of the Commission, and then filed. And (9) a Copy of the evidence taken under the Commission, and of the documents procured, and put in.

I have the honour to be, Sir,
Your obedient servant,

T. D. TAYLOR,
Commissioner

The Honourable
J. A. CHAPLEAU,
Secretary of State,
Ottawa.