

"hope deferred which maketh the heart sick" he felt in no small measure; and he was led to do some very unwise acts. At a somewhat early stage in his judicial career, he exhibited his want of judgment—I had almost said of common sense and common decency.*

George Rolph, who is described by Mackenzie as "an English Barrister†, and who was called to the Bar of Upper Canada, Trinity Term, 2 George IV., 1821, was practising in Dundas: he

*Dent in his "Story of the Upper Canadian Rebellion," vol. 1. p. 168, says that the judgment of Mr. Justice Willis in *Rolph v. Simons et al.* was the "very first judgment ever rendered by him." This is an error; in addition to what appears in the official Term Books we have the following statement in Willis' Narrative: "On the 18th of November (1827), the last day of Michaelmas term, judgment was given in two cases; in the first I differed with both my brother judges." And he shews that it was an action for malicious prosecution brought by a tailor against an employer who had prosecuted him for theft, and adds, "this was the first in which I gave any judgment that was not quite of course." In the other case the two puisne justices, Sherwood and Willis, were of the same opinion, but the Chief Justice (Campbell), dissented.

Dent is equally in error in saying "no hint of partiality had ever been heard against him. There had been no opportunity for any display of partiality by him, for he then took his seat upon the Bench for the first time." He had in May, 1828, been upon the Bench for two full terms, he had had on April 11th an open dispute with the Attorney-General, charging him with neglect of duty in not prosecuting those who had destroyed Mackenzie's press—and generally had shewn himself not well disposed to the Government. Public comment was not wanting.

Dent's mistake probably arose from a misapprehension of a passage in Lieutenant-Governor Sir Peregrine Maitland's dispatch to the Colonial Secretary of June 6th, 1828. He says: "In the first case ever tried by him he began an excitement to which our Courts of Justice have never before given occasion, by proceedings which have been already referred to your consideration."

The Lieutenant-Governor is apparently, by Dent, supposed to be referring to the case of *Rolph v. Simons et al.*, but such is not the fact. What he refers to is the first time Willis ever presided in a trial court, civil or criminal, in Upper Canada or elsewhere, which was April 11th, 1828, when Patrick Collins, editor of the *Canadian Freeman*, was to be tried for libel. On this occasion Willis allowed Collins to make a vicious attack upon the Attorney-General, and himself went out of his way to administer a rebuke to that officer wholly undeserved and effectively resented on the spot.

†George Rolph was not an English Barrister, as Mackenzie thought. Dr. Rolph was called to the Bar of Upper Canada upon his standing as a member of the Inner Temple, in Michaelmas Term, 2nd George IV.; but George was admitted on the books of the Law Society as a student-at-law, Saturday the last day of Trinity Term, 56 George III., 1816, as being under articles of clerkship, and he was called Saturday the 6th day of Trinity Term, 2 George IV., 1821, having proved his service for five years as a student-at-law in Upper Canada.