

with the Governor there and was again removed; this time, however, irregularly, and the Privy Council allowed his appeal (1846, *Willis v. Gipps*, 5 Moo. P.C. 379). But he was forthwith regularly removed and failed to obtain further employment. He died in 1877.

The statement of the Lord Chancellor (Lord Lyndhurst) at p. 388 of the report in 5 Moore that on the previous occasion "the order on a motion then appealed from was set aside because the appellant was not heard in Canada" is an error. Sir George Murray said in his place in Parliament, May 11th, 1830, when the matter was brought up by Lord Milton on the occasion of Willis petitioning for redress on the ground that he had acted in good faith: "The Government had taken the expense (of an appeal to the Privy Council) on itself. The case was argued before the Privy Council . . . Mr. Willis' complaint amounted to this, that his removal was unwarranted, illegal and ought to be void; and the decision of the council was that it was not unwarranted, not illegal and that it ought not to be void."

There has been only one other instance of removal of a judge of a Superior Court in Upper Canada (Ontario)—that of Mr. Justice Thorpe in 1807. Other troubles of Mr. Justice Willis may be seen in the report of *Willis v. Bernard*, 5 C. & P. 342; 8 Bing. 376. His wife, left behind in Canada, consoled herself with Lieutenant Bernard; and the injured husband brought a successful action of crim. con.

When Willis, J., refused to sit, Dr. W. W. Baldwin, his son Robert Baldwin, Dr. John Rolph and Simon Washburn declined to act as counsel before the court. But when the decision of the Privy Council became known, they all returned to the court except Dr. Rolph, who never again appeared in term, and shortly afterwards sold out his practice to his brother in Dundas.

We have gone far away from *Rolph v. Simons et al.*, but the result was such that Mackenzie was almost justified in saying in 1832 in his "Sketches of Canada and the United States," p.

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§Hansard's Parliamentary Debates, New Series, vol. 24, pp. 551 et seq. (1830).