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TORONTO PUBLIC LIBRARY
REPORT

OF THE

SELECT COMMITTEE

OF THE

HOUSE OF ASSEMBLY,

ON

THE PETITION OF GEORGE ROLPH, ESQ. AGAINST THE
PROCEEDINGS OF THE MAGISTRATES OF THE
GORE DISTRICT.

YORK:

PRINTED BY ORDER OF THE HOUSE OF ASSEMBLY.

W. J. COATES, PRINTER.

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JUN 8 1933

REPORT ON THE PETITION OF GEORGE ROLPH.

The Committee to whom was referred the Petition of George Rolph, complaining of the conduct of a number of the Gore Magistrates in removing him from the office of the Clerk of the Peace, respectfully submit the following Report :

It appears that the following magistrates, John Willson, William Procter, Elijah Secord, John Secord, Robert Land, Richard Beasley, William B. VanEvery, William McCoy, Nathaniel Bell, Daniel O'Reilly, James McBride, Alexander Proudfoot, George Patten, Thomas Fyfe, William Scollick, William Ellis, James Racey, William Holme, Matthew Crooks, Daniel K. Servos, ——— Smith, and ——— Brewster, Esquires, met at a tavern in Hamilton the day preceding Mr. Geo. Rolph's removal, when Mr. Matthew Crooks produced the charges, a copy of which is annexed, upon which it was proposed on the day following to remove Mr. Rolph from the office of Clerk of the Peace.

These charges had been previously prepared ; and however extraordinary it may appear, it will be found from the evidence of James McBride, Esquire, and other Magistrates present at this meeting, that a large majority of those present consented not to receive any evidence of the truth of the charges or allow the accused any defence. This does not rest upon questionable recollection ; for James McBride, Esquire, and others prove that the injustice of such proceedings was pointed out with a spirit and conscientiousness much to their credit. It was urged that a copy of the charges should be given to Mr. Rolph and a time and place appointed to hear his defence against all the charges, or, such of them as he should choose to repel.— These remonstrances were of no avail, for notwithstanding objections openly made to the conduct as unjust, oppressive, and corrupt, they persisted in it. Mr. McBride retired in disgust desiring not to have any further participation in such proceedings. Of the magistrates present, James McBride, William Scollick, William Ellis, & Thomas Fyfe, Esquires, dissented from the course pursued, and the rest of the magistrates mentioned in the commencement of this report, Hugh Willson, William Procter, Elijah Secord, John Secord, Richard Beasley, William B. VanEvery, William McCoy, Nathaniel Bell, Daniel O'Reilly, Alexander Proudfoot, George Patten, James Racey, William Holme, Matthew Crooks, Daniel K. Servos, ——— Smith, and ——— Brewster, Esquires, combined to effect Mr. Rolph's removal in the manner above mentioned.

The respectability of the witnesses and the clearness of the evidence given by them, afford the most satisfactory proof of the truth of these extraordinary proceedings; but strong corroboration is derived from the course pursued the day following the meeting, when Mr. Rolph was removed precisely in the way which had been so predetermined. The magistrates came into court and finding Mr. Price acting as Mr. Rolph's deputy, having been approved both by the magistrates and His Excellency Sir John Colborne, they pretended he could not do so in the presence of Mr. Rolph the principal, and obliged him to take off the gown, and the principal to assume the discharge of the duties—preparatory to his arbitrary removal.

Mr. Matthew Crooks appears to have been the person appointed to take the lead; and he accordingly in the presence of the magistrates, who composed the above mentioned meeting (except Mr. McBride) delivered the charges to the chairman. The chairman (John Willson, Esquire) upon being urged by Mr. Matthew Crooks, who stated that he appeared on behalf of the magistrates, addressed himself to Mr. Rolph and read each of the charges in open court.— Upon the question being asked, whether Mr. Rolph should be allowed a defence, Mr. Matthew Crooks stated in open court that it had been otherwise determined. A balloting paper was, upon a motion for Mr. Rolph's dismissal, sent round, upon which the chairman announced to Mr. Rolph his discharge.

From the cross examination of the witnesses, it will appear that it was attempted to elicit from them that Mr. Rolph had an opportunity to make a defence had he chosen so to do. But this is denied by every witness. Indeed the removal appears to have been conducted just as it was predetermined. All agree that there was a very short time between the reading of the charges and the annunciation of the removal by the chairman. No one called upon Mr. Rolph to make his defence, nor was there any proof of the truth of the charges; but the removal was effected in defiance of remonstrances in court against the justice and legality of the proceedings.

Your Committee submit whether a public officer should be removed upon alleged charges not proved or attempted to be proved; and without communicating the charges to the accused and calling upon him for his defence notwithstanding remonstrances against its justice, and with a deliberate predetermination not to allow a defence.

Considering that the truth of the charges might on the one hand palliate the conduct of the justices, or their falsity on the other hand aggravate their misconduct, your committee felt themselves obliged to enquire into the charges. Every one of them is distinctly and satisfactorily disproved. All bear testimony to Mr. Rolph's respectful deportment to the court under embarrassing and irritating circumstances. The charge of refusing to answer questions except through counsel is satisfactorily repelled by the evidence of Mr. Binkley and Mr. Lesslie, and the misconduct of the magistrates on that occasion placed upon a parallel with the present matter of complaint. This transaction took place in April court one thousand eight hundred

and twenty eight, and led to the application to Sir Peregrine Maitland for the removal of Mr. Rolph; with which request His Excellency did not comply.

The charge of suppressing the complaint of Charles Prior, Esquire, is disproved by that gentleman himself, who also bears testimony to the correctness of Mr. Rolph's conduct at January sessions one thousand eight hundred and twenty nine. Mr. Hill, the constable, and others about Mr. Rolph at the time, as well as some of the magistrates present, disprove the charge of encouraging rudeness in Mr. Hill who addressed the court after obtaining permission so to do.

The charge of neglecting to subpoena witnesses according to the order of the court is answered by Mr. Price's evidence. It is singular that in a case in which the court was informed there were prosecutors, and when counsel appeared in support of the prosecution, they should persist in an interference and dictate the subpoenaing of witnesses whether the prosecutor chose to abandon the prosecution or not. Had the prosecutor appeared by himself, his attorney or counsel complaining of being delayed or defeated in his prosecution for a nuisance, in diverting a stream of water, by any alleged disobedience of an order of the court, it might have afforded some pretence for the charges; but as the prosecutor made no complaint, and the defendant was discharged by proclamation, Your Committee are at a loss to know how it could be considered as a ground for removing a Clerk of the Peace. The order too, was an absurd and impossible one. The Clerk was ordered to have the witnesses brought before a magistrate to be bound over in a recognizance to give evidence on this indictment for diverting a stream, at the next sessions. It was not in the power of the clerk to compel this attendance by the witnesses on a magistrate without subjecting himself to an action for any compulsory means he might use, nor could the magistrate enforce the entering into a recognizance without unlawful and arbitrary proceedings. To impose such a duty in a case where the prosecutors appeared by counsel, and make the omission to do it a charge for removal from office, appears to Your Committee very questionable conduct. It appears from the cross examination on the part of the magistrates that it was attempted to prove disrespectful conduct to the court by going back about nine years; but even this ancient complaint is repelled by the evidence of Mr. Ellis, who stated that he considered Mr. James Crooks the magistrate to blame for rather overbearing conduct on the occasion. Your Committee cannot but observe, that if men are continued in the commission of the peace, who by their own conduct endeavor to irritate or embarrass a public officer, and then out of it make a charge for his removal, no man can hold such a situation with that security and justice to which he is entitled.

The earliest opportunity was taken of communicating the appointment of Your Committee to the magistrates by a circular letter, a copy of which is annexed. It seems to have reached them on the 5th of February, and independent of this intimation, Mr. John Willson informed them of the proceedings.

During the examination of the witnesses Mr. John Willson appeared on behalf of the Magistrates and cross examined them. As Mr. John Willson stated on the floor of the House as well as before your Committee that he had no other participation in the removal than in acting as the organ of the Court. He was examined as a witness. The Magistrates as appears in the testimony of Mr. Chalmers appointed a Committee to prepare their defence in answer to the certiorari served upon them by Mr. Rolph, in the pursuit of a civil remedy, but not a criminal proceeding, Mr. John Willson was absent for a week at the head of the Lake during which time your Committee forbore to proceed in summoning and examining witnesses. On the sixteenth Mr. O'Reilly appeared before the Committee and in behalf of the Justices cross examined, stating that the Magistrates would enter on their defence. On a subsequent day Mr. James Crooks, Mr. O'Reilly, Mr. Matthew Crooks and several other Magistrates appeared before your Committee during the day, on which Mr. O'Reilly said the Magistrates would be prepared to produce witnesses—upon being called upon to do so, they requested an hour to consult; which was granted; and upon returning the Committee were informed that the Magistrates did not intend to offer any evidence at this time and place, not considering this the proper time and place for them to make their defence. Your Committee then proceeded to examine witnesses on the part of the Petition; but altho' the Magistrates avowed their intention not to make any defence before your Committee, they did cross examine, as will appear from the evidence, the witnesses produced.

To this course your Committee made no objection, being only desirous that the truth should be elicited and the Magistrates be allowed every facility of defence. And your Committee regret that the conduct of the Magistrates towards your Committee did not correspond to the disposition manifested towards them. They made repeated applications to your Committee to be allowed themselves to give evidence in their own behalf. This was refused by your Committee who desired them if dissatisfied, to appeal to the House. But in answer to repeated allegations by the Magistrates that they were denied a defence, your Committee informed them of their willingness to listen to their statements and explanations, and to receive any evidence they chose to offer in support of them, and to render any assistance in procuring the attendance of witnesses. It was also pretended that there was an application against them in the Court of King's Bench by certiorari: although it must have been known to them that the application to the King's Bench for a certiorari was a civil proceeding, for a civil remedy, and not an enquiry into the purity and uprightness of their Magisterial conduct. Your Committee understand that upon contemplating criminal proceedings against them, the late Attorney General was of opinion that no indictment, attachment or information could lie against them for any thing done by them, as Justices in Quarter Sessions, and that the only judicial conviction which could be realised against them, in such case

must be by impeachment. But there is not a case on record within the knowledge or research of your Committee where such proceedings have been instituted in England against Justices of the Peace, and your Committee would regret to see the time of Parliament occupied in prosecuting impeachments against inferior Magistrates for corruption. It is enough for the executive, who have the power of nomination and removal to exercise it with constitutional responsibility, wherever the interests and justice of the country may require it.

Your Committee cannot forbear to notice that an arbitrary removal without any reason, would have been less repugnant to every correct feeling, than a removal grounded on accusations not proved and accompanied with a predetermination to allow of no disproof by the accused, and much aggravation is collected from the falsity of the charges upon pretence of which the removal was effected, without regard to the feelings or character of the person injured.

Your Committee submit that those who so acted, ought to have shown themselves not only willing but able to offer their justification, if they had any, before your Committee: and the refusal to do so, except by cross examination of the witnesses in support of the petition, affords the most unfavourable inferences; nor is such conduct the less exceptionable, from its being pursued from the consideration that a Committee of your Honorable House inquiring into such abuses in the administration of justice, is not a proper time or place to remove any imputations cast upon them.

(Signed) JOHN J. LEFFERTY,
Chairman.

GORE DISTRICT, } IN GENERAL QUARTER SESSIONS
TO WIT: } OF THE PEACE.

The Magistrates of the said District, make the following charges against George Rolph, Esq. for misconduct in the discharge of his duties as Clerk of the Peace of the said District.

1st. His frequent disrespect shown to the Court, whose officer he is, and with repeated interruption which his other professional business occasions in his said duty as Clerk of the Peace.

2nd. His refusing on several occasions, to answer questions put to him by the Court, except through counsel.

3rd. His neglecting to obey the orders of the Court, in the case of the King vs. John Ross, Esq. for a nuisance, when directed to place the names of witnesses on the back of the Indictment, and when asked by the Court who was the prosecutor in said indictment, stated he did not know—whereas in fact the said George Rolph was the prosecutor, and thereby manifested a vascillating conduct in endeavouring to deceive the Court in the above case.

4th. His neglect and absolute refusal to subpoena witnesses when directed by the Court so to do.

5th. His suppression of the complaint of Charles Prior, Esq. against James Hamilton, Esq. for a nuisance.

6th. His contumacy in objecting to a motion before the Court, at January Sessions last, for an adjourned Quarter Sessions, respecting the jail and public accounts, and encouraging by his example and recommending publicly a constable to be impertinent and disrespectful to the Court, when the said motion was under discussion.

It is therefore ordered by the Court, that the charges above made against George Rolph, Esq. Clerk of the Peace for the said District, are sufficient in the opinion of the Court for his removal from the said situation of Clerk of the Peace, and that he is accordingly hereby removed.

Done at Hamilton in open court this 16th day of April 1829.

(Signed)

JOHN WILLSON,

Chairman.

A true copy, A. CHEWETT,

Clerk of the Peace.

Filed 26th June, 1829.

(Signed) C. C. SMALL.

I, Charles C. Small, Esq. Clerk of the Crown and Pleas in and for the Province of Upper Canada, Do hereby certify that the foregoing paper writing, is a true copy of a paper filed of record in the Crown Office, in the matter of complaint of George Rolph, Esq. against the Magistrates of the District of Gore. In testimony whereof I have hereto set my hand and affixed my seal of office, this second day of February, 1830.

(Signed)

CHARLES C. SMALL.

L. S.

JANUARY 29th, 1830.

THOMAS FYFE, Esq. called in and examined.

Where do you reside? In the township of Esquesing.

What offices do you hold? Justice of the Peace and Captain of Militia.

How long have you been a Magistrate? About two years, have resided in the Province ten years and am a native of Scotland.

Have you noticed any thing worthy of censure in the conduct of the Clerk of the Peace, George Rolph, Esq.? Nothing.

[Mr. Fyfe objects to answer any further questions on the subject, and urges to be exempted on the ground of his being a Magistrate, and of a writ of Certiorari being pending in the King's Bench.

The objection is overruled by the committee, and Mr. Fyfe ordered to answer any questions which may not criminate himself.]

Were you present at the late meeting for the removal of the Clerk of the Peace? I was.

Who were there? There were many and I cannot recollect all.

Do you recollect any who dissented from the proceedings? I recollect James McBride and Philip Sovereign, who dissented wholly, and others who dissented partially, Wm. Scollick.

Do you recollect what resolutions were passed? I heard them but cannot recollect them, but they went to criminate the Clerk of the Peace.

Was any evidence received of the charges so crinating the Clerk? There was no evidence taken in a legal form; nothing but what was stated by the Magistrates present. The Clerk of the Peace was not present or called upon in his defence.

Were the charges framed in that meeting? They were agreed upon there; I do not recollect them, but they did not appear to be very great.

Did you vote for his dismissal? I did not; not because I did not think the charges in themselves enough, but because I had no personal or other evidence of their truth.

Were you present in the Court when the charges were read? Yes.

Was the Clerk called upon to make his defence? No.

Did they produce any evidence in truth of these charges in Court? None in Court, nor at the private meeting.

From your knowledge of the Clerk of the Peace, do you think him a proper person to fill the office? I have known him for some years, and prepossessed from that knowledge in his favour, and know nothing against him as a public officer, I have complained of his handwriting being sometimes illegible.

On what ground did Mr. McBride dissent? I cannot distinctly relate—he objected and spoke against the proceedings, and urged it should be done publicly.

What interval was there between the private meeting and public dismissal? I think the charges were prepared one day and the dismissal on the next day.

What time intervened between the vote on the charges, and the removal? Quite a short time, I cannot speak more precisely.

JAMES HERVEY PRICE, Esq. called in and examined.

We understand you were present at the removal of Mr. George Rolph from the office of Clerk of the Peace in April Court 1829? Relate what passed as particularly as you can.—I was acting as Clerk of the Peace, being so appointed by the Court and sanctioned by the Lieutenant Governor, and Mr. George Rolph sitting on my right hand, when Mr. John Willson, Chairman of the Quarter Sessions, in the presence of one other Magistrate, asked Mr. Rolph if he appeared there by Deputy, and said the Deputy could not act in the presence of the Principal and then ordered me to take off the gown; and after being twice or thrice very peremptorily ordered to do so, I obeyed the command of the Court, and Mr. George Rolph took my place as Clerk of the Peace, shortly after which the rest of the Magistrates, to the number of about twenty, entered the Court and after a short interval Mr. Matthew Crooks rose with a paper in his hand containing charges against Mr. George Rolph which he read, and moved for the dismissal of Mr. George Rolph from his office as Clerk of the Peace. A paper was sent round the Bench,

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and the Chairman announced that Mr. Rolph was dismissed by the Magistrates, and ordered him to deliver up the papers. Mr. Rolph requested the Court would adjourn to enable him to take receipts for the papers and records in his possession—the Court refused and wished him to give them up there and then, and take the receipts in Court; this from the confusion of the Bench and immense crowd of spectators was impossible; but to this mode only would the Court consent, and Mr. Rolph repeatedly urged by counsel, that time was really necessary, but the Bench refused to adjourn, alleging the business of the country could not stand still, and the Sheriff was ordered and did by absolute force take away the papers. Mr. Chewett was appointed their Clerk, and shortly after the Court adjourned from that day (Thursday) till the following Monday—forgetting that the country was waiting on their pleasure and kept from their homes and business. The whole proceedings appeared to have been a conspiracy against Mr. Rolph, to remove him at all risks.

Was any proof offered of the truth of the charges, and was Mr. Rolph called upon to make any defence? It was urged by Counsel that it was necessary to substantiate the charges by proof: this the Court did not even attempt to do, alleging it to be unnecessary as the mere making the charges and reading them in Court were sufficient grounds to warrant their dismissing the said George Rolph. The Counsel urged to be allowed a defence—this the Court refused, and one of the Bench was for stopping his mouth. Counsel said all the charges could be proved to be false if the Court would allow: this was not allowed to be done, and all kind of defence refused although I believe, every charge could have been completely met and refuted, as I could flatly disprove the truth of some of them, but the majority of the Magistrates seemed determined, right or wrong, to remove Mr. Rolph, and a defence would have destroyed their plan. This was the general opinion in Court and out, and I was really astonished at the proceedings, having hitherto in Great Britain been used to see decency and decorum observed in Courts of Justice.

What can you say more particularly than you have done to the several charges now read to you, on which Mr. Rolph was removed? During my attendance at that Court for four successive Sessions in the years 1828 and 1829 commencing July 1828, and ending April 1829 his conduct towards the Court was respectful and decorous in every respect—and from my being in his office about 12 months preceding the removal from his office, I can distinctly deny the charge of his professional duties or any other causes interfering with his duty as Clerk of the peace—indeed I acted as his Deputy for some time, and did the writing required in his public office and therefore can speak more decidedly, that there was no foundation for such a charge.

As to the second charge I have no knowledge whatever.

As to the third charge, I was not present when any such occurrences took place; but I recollect a Petition being produced to the

Court from persons of the names of Kerr and Oliphant stating that they were prosecutors and an affidavit was produced of the sickness of the petitioners—I believe Mr. George Rolph took an interest in the prosecution, as many others did, because it affected the water privileges of the village of Dundas where Mr. Rolph resides.

As to the next charge, I recollect a motion in January Session 1820 for an adjourned Sessions to call the Magistrates together to levy an additional tax to finish the Gaol and Court House; in the course of which Mr. Rolph suggested whether it might not be done by sending letters to each Magistrate, to take their sense on the subject but it was done in a perfectly respectful manner, and no objection at the time whatever made to it by the Court or by any one. Mr. Hill the constable whispered in my hearing to Mr. Rolph that his part of the country would object to it; to which Mr. Rolph answered that if he had any thing to state he had better address the Court and not him: upon which the constable did address the Court in a respectful manner stating that such a tax would not be liked, upon which the Court told him to be silent and he was so. Had Mr. Rolph encouraged Hill to be impertinent I could not but have noticed it, as I was sitting as his Deputy and he was close to me.

Did you notice any thing in Mr. Rolph's conduct towards the Court unbecoming at any time? Never, always the reverse.

What was the conduct of the Magistrates towards him? I observed some of them to be particularly unfriendly towards him, but why I do not know.

(By JOHN WILLSON, Esquire.)

1st. Do you know who are the particular magistrates to whom you refer? Mr. Matthew Crooks and Captain Procter in particular.

2nd. Can you state any particulars on which you found that belief? Generally their manner and tone in addressing him in a contemptuous and disrespectful manner which no man of feeling could avoid noticing.

3rd. How long have you attended the court? Four Quarter Sessions and one adjourned session.

4th. Do you know of any other magistrates who have so behaved towards Mr. Rolph? I cannot specify any thing distinct, but that the majority appeared to be unfriendly to him. I cannot tell the reason, but it certainly appeared to me, from my own observation, and not from the prevailing rumour, that many of the magistrates always manifested a very unfriendly disposition in court towards Mr. Rolph.

(By MR. RADENHURST.)

Did you see any thing on these occasions in the conduct of Mr. Rolph to provoke such conduct towards him? I did not, and had there been such conduct I must have noticed it.

(By MR. WILLSON.)

1. Was not your attendance at court subsequent to a court at which there was a rupture between Mr. Rolph and said court? It was sub-

sequent to the April court, 1828, at which I was not present, and of the proceedings of which I know nothing but from public report.

2. Who was chairman in the July Court, 1828? I think it was Mr. O'Reilly.

3. Who acted as chairman in the October Court? I cannot positively state but I think it was Mr. McBride.

4. Do you recollect how long it lasted? I do not.

5. Do you recollect that Mr. Rolph sent or requested it of others for any magistrates to attend as his friends? I recollect there was some difficulty in having a quorum of magistrates. I recollect there was a boy charged with petty larceny, and Mr. Rolph was anxious there should be a quorum to try him or discharge him; and Mr. Rolph sent to Dundas for Mr. Overfield and made several applications to Mr. O'Reilly, and after some trouble a quorum was formed and the boy acquitted, and this was done to prevent the boy remaining in gaol till another session.

6. Do you recollect on the Monday in the course of October session, 1828, Mr. Ross coming into court and demanding to be tried upon an indictment for a nuisance against him? I do.

7. When was the indictment found? I do not know.

8. Do you know that a Bench Warrant was issued by the court against Mr. Ross though a magistrate, as he was not present when the indictment was found? No such warrant issued to my knowledge, it may have been before my time.

9. Do you recollect that the indictment was called for by me? I recollect it was called for by the court: and I presume by you—and it was accordingly produced by the Clerk of the Peace Mr. Rolph.

10. Do you recollect my enquiring why no names were endorsed as prosecutors on the indictment and what did Mr. Rolph say? I do—but what Mr. Rolph said I do not know—I recollect affidavits were produced to shew who did prosecute, and I believe in a subsequent court Mr. Ross was discharged by proclamation.

11. Do you recollect my saying that the course would not allow indictments to be capriciously got up without knowing who the prosecutor is? I do—and I recollect Mr. John Rolph saying, that he appeared on the part of the prosecution, and that he could not be forced to trial, as the defendant had not given the notice required by law. I think the court adjourned to another day from the Monday to try Mr. Ross on the indictment; and on the day there were affidavits of the prosecutor, and that the crown was not ready to go on to trial—It was I think on the Wednesday following.

12. Are you sure that the court sat till Wednesday? I think it did—If you took the chair on Monday, as the day when the indictment was called over as you state, I am sure it lasted longer than that day.

13. Did I not order Mr. Rolph to put the name of the prosecutor on the back of the indictment? I recollect a discussion of the kind, and that Mr. John Rolph said that he appeared on the part of the prosecution.

14. Did I not order Mr. Rolph to have the witnesses appear before a Magistrate and enter into a recognizance to appear and give evidence at the next Court? I do recollect it, but at the time the witnesses were sick and affidavits were produced: I made the affidavit of sickness myself.

15. Was not Mr. Ross recognizance respited and Mr. Rolph ordered to have the witnesses enter into a recognizance before a Magistrate to appear and give evidence at the next Court? I recollect Mr. Rolph was ordered to have the witnesses at the next Sessions for trial.

16. Do you recollect Mr. John Rolph saying that the Crown could never be forced to a trial? I do, and he pointed out that a notice should be given which had not been given.

17. Do you recollect that Mr. George Rolph was ordered to make a minute of my order to have the witness bound in a recognizance? I recollect your stating that it should be done but not that a particular entry should be made by the Clerk.

18. What part did Mr. Matthew Crooks particularly take in Mr. Rolph's removal in Court? He appeared in Court and stated he did so at the request of a body of the Magistrates who had met to draw up the resolutions preferred against Mr. Rolph, and who had determined to follow up the reading of those resolutions with the dismissal of Mr. Rolph and that they considered a defence unnecessary.

What time elapsed between the reading of the charges in open Court and the vote of removal? I think little or no more time elapsed than was necessary to take the sense of the Bench by ballot.

COMMITTEE MET Saturday 5th February, 1830.

CHARLES PRIOR, Esquire called in and examined.

What have you to offer as to the first of the charges against Mr. George Rolph now read to you? I have never seen any such disrespect or interruption from other professional duties when I have been present.

What knowledge have you of the other charges? As to the second charge I have no knowledge whatever: had there been in my presence any such conduct I should have felt it my duty to have noticed it.

As to the third charge I have no knowledge whatever.

As to the fourth charge, I do not know or believe nor have I any reason to know or believe that Mr. Rolph did suppress the indictment or that he in any way misconducted himself respecting it.

I relate the circumstances of the prosecuting the indictment upon which this charge is founded.

I preferred an indictment without any difficulty whatever from Mr. Rolph as Clerk of the Peace or any other person—I believe it went through the course of ordinary indictment. The indictment I believe was returned by the Grand Jury no bill and there the prosecution on my part ended.

What do you know of the fifth charge? I was present at the January Sessions mentioned in the charge till it closed. I believe a motion for an adjourned Session was made, and I took a part in it for I particularly insisted from a sense of courtesy that if any steps were intended against the Treasurer a notice should be previously given him, but on this occasion I recollect no contumacious conduct or objection on the part of Mr. Rolph, nor did I see any thing whatever unbecoming in Mr. Rolph's conduct. I recollect it was noticed by some that Mr. Rolph was sitting at the table in a great coat having, I believe, a cold, but his Deputy Mr. Price was in the discharge of his duties. I did privately say to Mr. Rolph that if he intended to address the Court in any way, to do it in his Gown, which Mr. Rolph told me he certainly should do if he did.

Had you any part in the removal of Mr. Rolph on those charges? I was not present nor had I any part in it or knowledge of it.

When you have presided in Court what has been the conduct of Mr. Rolph to the Court? Such as I should wish and expect from a public officer and in no wise differing from it.

If you have any thing to say which would in any way disqualify Mr. Rolph for the office or justify his removal be pleased to relate it? I have nothing and know of nothing.

FEBRUARY 6th 1830.

— CHALMERS, Esquire called in and examined.

Are you a magistrate in the Gore District? I was appointed in 1828.

Do you know any thing of the truth of the charges against Mr. Rolph now read to you? I do not—I never sat more than ten minutes on the Bench.—At the last Court I was present when a certiorari was served; and the magistrates appointed a Committee to substantiate their proceedings. I objected as not knowing any thing of the charges; but was over-ruled.

What was the result of this Committee? I do not think this a fair question, and my reasons are, first, I knew nothing of the transaction, but was over ruled as being on that account the most fit person. Secondly, I consider that as I am a person appointed by the magistrates to collect the evidence for their defence against the certiorari I do not think I ought to do it; I will answer any question that does not relate to the committee, who are: Myself, Messrs. O'Reilly, James Crooks, Matthew Crooks, and Col. Beasley.

Were you present at the court when he was dismissed? I was not.

Were you invited to attend any meeting of the magistrates respecting the removal of Mr. George Rolph? I was at Hamilton some time before the dismissal of Mr. Rolph, and I was invited by Mr. Matthew Crooks to attend a meeting at Mr. McNab's office; which I declined doing, stating that if the meeting was held at the tavern I should have no objection to attend.—I understood the nature of the meeting to be to consider the conduct of Mr. Rolph as unbecoming

his office—that I should not go to Mr. McNab's office and that I should and did recommend some others not to attend at that place—but would attend if they came to the tavern where I was staying. Upon this they did not go to Mr. McNab's, and the meeting was held at the tavern; but I do not recollect that I attended it. I never had any other invitation to attend a meeting on the subject.

WILLIAM SCOLLICK, Esquire, called in and examined.

Do you know any thing of these charges? I know nothing, nor have I seen any thing disrespectful in Mr. Rolph's conduct to the court. I have attended several courts when Mr. Rolph was clerk, and also before I was a magistrate, and never saw any thing disrespectful. I know nothing particularly of the other charges except the last charge, and that I know was false. I saw Mr. Rolph looking him in the face when Hill the constable spoke, but Mr. Rolph did not in any way encourage Hill. I desired Hill the constable to speak: he wished it and as a magistrate, then, I gave him leave. I desired the constable as collector for Dumfries to state that Mr. Dickson and Mr. James Crooks would not pay their taxes.

What was Mr. Rolph's conduct on that occasion? I saw nothing improper in his conduct.

Did he not make some objections to what was proposed? I recollect Mr. Rolph expressing a wish to have it arranged, that he might attend in person without interfering with his going to the House of Assembly. There was nothing disrespectful in it that I saw—he did not then act as Clerk of the Peace, he was in his great coat.—Mr. Price was acting as his deputy.

Did you attend the meeting held before his removal and what then passed? I did—I objected to the proceedings, not out of favor to Mr. Rolph but because I objected to the principle of the thing, condemning a man who was not heard. I told them it was like the inquisition. The charges were brought there by Matthew Crooks ready prepared and he made comments on them. There was no evidence produced whatever of the truth of the charges at that meeting.

Were you in court when he was dismissed? I was—I expect the magistrates had made up their minds to dismiss him at all events.—The charges were read—there was no evidence produced in court of the truth of the charges. He was immediately dismissed upon those charges. Mr. Rolph wished to be heard through his counsel Mr. John Rolph who said a good deal against the proceedings, but I cannot say what it was in detail.

Was there any interruption when Mr. J. Rolph spoke in Mr. G. Rolph's defence? There was a great confusion when he was removed—The Sheriff was ordered to take away the papers. There was opposition against the taking the papers, between Mr. John Rolph and the Sheriff.—Mr. John Rolph said he had private and professional papers mixed with them and that on that account he should refuse to give any till he had looked them over and that he preferred doing so himself.

(By MR. RADENIURST.)

On what ground then was he removed? On these charges without proof out of Court or within Court. The charges were preferred and he removed on them.

ROBERT LAND, Esquire, called in and examined.

How long have you been a magistrate? I was in the last commission of the Peace for the Gore District, but did not take the oath till last January a year ago.

Were you present at the late removal of George Rolph, from the office of Clerk of the Peace? I was not.

Do you know any thing of the charges read to you? I do not. I recollect there was some altercation between Mr. Rolph and the magistrates at the January Sessions 1829, about an adjourned Sessions proposed for the purpose of applying to the Legislature for an additional tax to finish the Court House, when Mr. Rolph made some objections which certainly interrupted the Court. I believe the objection was to the mode of sending round to take the sentiments of the magistrates upon the proposed tax, but I cannot very precisely recollect. A constable of the name of Hill made some remarks which I thought pertinent and impertinent, but I cannot recollect what it was he said. Mr. Rolph smiled, but I did not see him give any encouragement to the constable.

Was it such a meeting of the magistrates that any one might interfere? I considered it as a meeting of the magistrates.

Was Mr. Price then acting as Mr. Rolph's deputy? He was. Mr. Price sat in the gown as deputy. Mr. Rolph was sitting in a great coat.

(By MR. WILLSON.)

At the January Sessions was not Mr. Ross dismissed from the Indictment because Mr. Rolph had not put on it the names of the witnesses that I ordered him in the October Court, to have summoned before a magistrate to be bound in recognizances to give evidence? He was dismissed in consequence of there being no witnesses, but I cannot speak to the order having been made or whether it was obeyed or not.

Have you noticed an unfriendly feeling in any of the magistrates towards Mr. Rolph? I have, a reciprocal ill feeling between them.

What magistrates and on what occasions? I cannot name so particularly. I have not seen any thing of the kind between you and him.

Can you specify any others who showed this feeling? Mr. Procter and Matthew Crooks in particular.

JAMES MCBRIDE, Esquire, called in and examined.

How long have you been a magistrate? About ten years.

What knowledge have you of the charges? I have no knowledge or have observed any disrespect of Mr. Rolph towards the Court, but I have thought that business has sometimes been interrupted by

persons speaking to him, but I cannot say that it was on professional business, it might be, and often to my knowledge was, on business about the Court.

As to the second charge, I never knew him to do so, nor do I know any thing of the third charge or fourth charge or fifth charge.

Were you present at the private meeting and what passed? Relate as particularly as you can.

I attended the late April Court of Quarter Sessions in and for the Gore District. I attended a private meeting of the Justices, held at the Inn of one Terry, at Hamilton, in that District, at which meeting certain charges against George Rolph as Clerk of the Peace in that District, previously prepared by some of the magistrates, were read and proposed by Matthew Crooks Esquire, and the question was then put whether the charges were sufficient to authorize the dismissal of George Rolph from his office of Clerk of the Peace, which question was carried in the affirmative.—It was next resolved that the charges should on the day following at the opening of the Court be read in open court to George Rolph and that he should be thereupon dismissed from his office. I objected to such a course of proceedings stating that I had no objection to the charges being preferred against George Rolph, but I proposed that the charges should be read to George Rolph and a time allowed him to meet the charges if he chose to do so, and that there should be some proof of the truth of the said charges. My propositions were negatived by a large majority and so little attention was paid to any person who undertook to object to the course of proceedings that in disgust at the temper and principles, by which such proceedings were carried on, I withdrew myself from any further participation in them. In objecting to the proposition made to prefer charges and dismiss him on them, I represented to the Justices that it was the practice of all Courts of Justice to receive proof of accusations, and allow time for a defence, and that I could see no reason to depart from that practice in this case; but my remonstrances proved of no effect, and to the best of my recollection, it was proposed and the general opinion of the magistrates present was, that George Rolph should not be heard in his defence nor any proof of the charges be required. The meeting of the Justices at Terry's Inn was composed, to the best of my recollection, of the following magistrates: John Willson, William Procter, Elijah Secord, John Secord, Robert Land, Richard Beasley, William B. VanEvery, William McCoy, Nathaniel Bell, Daniel O'Rielly, Philip Sovereign, Alexander Proudfoot, George Patten, Thomas Fyfe, William Scollick, William Ellis, James Racey, William Holme, Matthew Crooks, Daniel K. Servos, Smith and Brewsters, Esquires.

What has been the state of feeling between the Clerk and the Magistrates? There has been an ill feeling; but only lately and I do not know the cause. At the private meeting I observed an intemperate zeal on the part, particularly of Mr. Matthew Crooks, inconsistent with the nature of the case before us.

It has been unpleasant to me to give evidence against my brother magistrates, but I think it my duty to do it.

(By MR. WILLSON.)

What Sir, do you say that it was agreed not to hear him in his defence? I do Sir—I believe it was. I know it was proposed, and I believe it was carried, and therefore I left the room.

PHILIP SOVEREIGN, Esquire, called in and examined.

How long have you been a magistrate? About 12 years.

What do you know of the charges? I do not recollect that I ever noticed in any degree whatever disrespect towards the court. I have known him often, interrupted, but I cannot say it was on professional business—it might have been on the business of the court.

(By MR. WILLSON.)

What part did I take? I heard Mr. John Willson say that he wished not to take an active part in it, but he was pressed by Mr. Matthew Crooks and others to take the chair in court. I think there was premeditation from the general movements and temper, and from Matthew Crooks saying he hoped one of the magistrates, Daniel O'Reilly, was not going to desert them.

Was Mr. Rolph prevented being heard in court? The impression on my mind is that there was no refusal—but Mr. Matthew Crooks said it was so agreed upon. I heard Matthew Crooks several times urge the chairman to bring on the matter who seemed to attend to other business. I heard Mr. Procter say he would never sit on the Bench while Mr. George Rolph was clerk, but I saw him sitting there the same day he said it. I was asked for my interest for the situation by Colonel Beasley for his son, and by another magistrate in favor of another magistrate.

(By MR. LEFFERTY.)

Relate as particularly as you can the transactions of the April court, 1829? I attended the April Court of Quarter Sessions at Hamilton, in and for the Gore District, and witnessed the proceedings by the magistrates then and there assembled for the removal of George Rolph from the office of Clerk of the Peace. I was present at a private meeting of the Justices when certain charges against George Rolph, which charges had been prepared and reduced to writing by some of the magistrates present, were produced by Matthew Crooks, Esq., and it was proposed that upon such charges George Rolph should be removed from the office of Clerk of the Peace—that the charges should be read to him in open court, and that without any proof of the charges or any hearing of the said George Rolph in his defence he should be thereupon dismissed from his office. I found from conversation that some of the magistrates had been engaged in another private meeting for the purpose of maturing what was to be done. I remonstrated against their proceedings as unjust, oppressive, and corrupt, but without effect. It appeared to me that a majority

of the Justices present met to carry what had been previously and privately arranged, and not fairly to consider the justice or legality of the proceedings. I remonstrated against the proceedings as being as bad as the Inquisition, and contended with James McBride, Esquire, William Scollick, William Ellis, & Thomas Fyfe, Esquires, magistrates then present, that some proof of the truth of the charges should be received, and that the said George Rolph should have an opportunity of making his defence—that with the exception of the last named magistrates it was decided that the charges should on the morning following be read in open court to the said George Rolph, and that he should thereupon, without proof or defence, be dismissed from his office. The conduct, temper, principles, and proceedings appeared to me unjust and oppressive on the occasion. The magistrates present at the meeting were John Willson, William Procter, Elijah Secord, John Secord, Robert Land, Richard Beasley, William B. VanEvery, William McCoy, Nathaniel Bell, Daniel O'Reilly, James McBride, Alexander Proudfoot, George Patten, Thomas Fyfe, William Scollick, William Ellis, James Racey, William Holme, Matthew Crooks, Daniel K. Servos, and Smith and Brewster, Esquires, and the day following the charges were read in open court and George Rolph thereupon dismissed from his office notwithstanding remonstrances against the legality and justice of such proceedings by Mr. John Rolph on the part of Mr. George Rolph, and Matthew Crooks declared in open court that it had been already determined that Mr. George Rolph should not be heard in his defence—that after much discussion the papers were taken from Mr. Rolph by force.—I verily believe the dismissal of Mr. George Rolph from his office, to be most unjust and undeserved and to have been effected by the most oppressive and unjust proceedings. I have known Mr. George Rolph upwards of nineteen years and have witnessed his conduct in his office as Clerk of the Peace, and that to my knowledge, whenever I have attended court as a grand juror or as a magistrate, his conduct and demeanor to the magistrates and the court has been gentlemanly and respectful.

WILLIAM ELLIS, Esquire called in and examined.

What do you know of these charges? I have been a magistrate eight or nine years or more—I have not attended as often as some other magistrates, but I have often done so and have never seen Mr. Rolph treat the court with disrespect.—I do recollect many years ago an altercation between Mr. James Crooks and Mr. Rolph, I forget the particulars, but I thought at the time Mr. Crooks was to blame, being rather overbearing on the occasion.

Were you present at the meeting mentioned by Mr. McBride, and was it understood that Mr. Rolph should be heard in his defence or the charges be proved? I was: I think it was determined that he should not be heard in his defence nor the charges proved.

Was Mr. Rolph asked by any of the magistrates present what he had to say in his defence? No such question was put.—Mr. Will.

son said, I have to read to you certain charges against you and call your attention to them.

What time elapsed between the reading of the charges and the dismissal? I cannot be particular as to the time.

What was the conduct of Mr. Scollick and Mr. McBride at the private meeting? They made the objections to the proceedings they said in their evidence.

What has been Mr. Rolph's conduct towards the court? Mr. Rolph always seemed respectful to the court and willing to do his duty.—I have seen the present Clerk of the Peace interrupted in the same way as Mr. Rolph used to be.

Mr. LEWIS called in and examined.

What do you know of the charges? In October Sessions, 1828, the court desired the witnesses names to be put upon the back of the indictment against Mr. Ross for a nuisance.—It was not done and the prisoner was dismissed. I recollect nothing more of it—he omitted doing it—I cannot say he refused—this I think was in October Sessions, 1828.

Were you at the January Sessions, 1829? I was there in January Court 1829, part of the time, but not when the dispute with Hill took place.

What has been Mr. Rolph's conduct in his office? I have heard some of the magistrates say that Mr. Rolph was not worthy of his situation but I know nothing against Mr. Rolph myself.

Were you present in April Court 1828, and did Mr. Rolph refuse to answer questions except through Counsel? He did.—It was respecting an indictment which he had been ordered by the Court to lay before the Grand Jury. It believe it was.

Did Mr. Rolph answer no questions on that occasion himself? I do believe he did. I cannot be positive that it was about the laying the indictment before the Grand Jury. The rest of the Grand Jury were present at the time.

Did the conduct of Mr. Rolph on the occasion shew a want of veracity or was it prevaricating? I did not see either.

Did you see any thing rude or impudent in his manner to the Court on the occasion? I cannot say I did.

Was his conduct on the occasion respectful towards the Court? It appeared to me as if he did not wish to gratify them, he was the prosecutor of the indictment which concerned him. The magistrates wished to force the trial on and he objected to it.

(JOHN WILLISON, Esquire, M. P. called in and examined.)

What do you know of the charges now given you to read, on which Mr. G. Rolph was removed? A number of the magistrates have so charged Mr. Rolph with disrespect to them. I never did myself charge Mr. Rolph with disrespect towards myself in the Court. I do recollect an altercation between Mr. G. Rolph and Mr. James Crooks some length of time ago, some years ago—some time after the altercation the Court opened and as Mr. Crooks declined

aking the chair I did. Mr. Crooks then appealed to the Court upon which the Court enquired if Mr. Rolph alluded to Mr. Crooks, and upon his stating that he did not it was no farther noticed. The words Mr. Crooks alledged were "that there were perjured magistrates." It took place some years ago. At another time, also some years ago, some of the magistrates, particularly Mr. James Crooks, complained heavily against Mr. G. Rolph, and, at a meeting of the magistrates, I was appointed to reprimand him, which I did, tho' Mr. Crooks was chairman, upon request, stating that the court felt that he had treated them with too much disrespect and desiring him to be more respectful for the future. I do not know what is meant by the interference of his professional duty or on what the charge is grounded.

In the second charge, I must suppose they alluded to some other proceeding than in April court 1828, because an application was made to the Governor Maitland for his removal and all which I suppose to have been disposed of in that appeal, and not to be revived. But if there were any other occasion I do not know what it is unless it refers to any thing which passed respecting Mr. Ross's indictment.

Respecting the third charge, I have some knowledge. Prior to the October court 1828, I had determined not to attend the court and did forbear till Sunday after the opening of the court, I received a note from Mr. VanEvery, magistrate, requesting me to attend on Monday, as it was supposed that some of the magistrates would meet on that day in court and dismiss Mr. Rolph. I did on Monday attend. Before the opening of the court on that day, several of the magistrates, particularly the young magistrates, asked my opinion of the matter respecting Mr. Rolph's dismissal being agitated in court. I said at once, the magistrates have already taken it into consideration and transmitted a request for his removal to the Governor, & he being the Umpire between the parties it would be indelicate and improper to meddle with it; and unless some new occasion arose, I did not think it proper for them to meddle with it.—Upon the expression of my opinion the intention, if any existed, was forbore altogether—the court then presently opened when Mr. Ross came into court and applied to the court to be tried on an indictment found against him, for a nuisance. I then called for the indictment, and discovering there were no names endorsed on the back, I enquired after the prosecutor in the case and why the names of no witnesses appeared on the indictment. Mr. G. Rolph did at first refuse to give the names of any witnesses. I then stated the court would discharge the Defendant by proclamation when Mr. John Rolph, who I then thought was acting as Counsel for the then Clerk of the Peace instead of the prosecution, stated he was not obliged to go to trial, and did state that if Mr. Ross was discharged it should not be the end of it; that it was the duty of the Defendant to give notice at a certain time before court, that he would be ready for trial and I thought at the time Mr. John Rolph was interfering for his brother instead of doing

it for the prosecution. I did not think that course was necessary when both parties were or ought to have been bound over to the court, and that that course could not be pursued in the case of an unknown prosecutor. After persisting that the Defendant should be discharged if the proreculator were not known Mr. G. Rolph did after some altercation give up the names of the prosecutors. I then did order the recognizance of Mr. Ross to be respited till the next court and directed Mr. Rolph in the mean time to cause the witnesses to appear before a magistrate, and enter into a recognizance to give evidence at the next Sessions. Whether this was attended to pursuant to the order or not I cannot say. I recollect nothing further of this charge.

4th Charge.—Of this charge I know nothing.

5th Charge.—Of this charge I know nothing.

JOHN BINKLEY examined.

1. Where and how long have you lived in the Gore District? I live in the township of Ancaster in the Gore District—I have lived there nearly 30 years—I am a tanner.

2. We understand you were present at the April Court of Quarter Sessions, 1828, relate what passed with as much particularity as you can? I was one of the Grand Jury at the April Court of Quarter Sessions held at Hamilton in that District in 1828. At that court I think Daniel O'Reilly, James Crooks, John Willson, and William Procter, Esquires, presided more or less till it ended. The outrage against George Rolph and the perpetrators thereof were accidentally brought to the knowledge of the Grand Jury at that court by a witness upon another indictment.—We intended to present indictments against the persons hereinafter named but from certain facts which came to our knowledge and belief without the intervention of any person, which facts as a Grand Juror I do not think I ought to disclose, it was apprehended that the ends of public justice might be defeated by allowing such indictments to be disposed of by the Court of Quarter Sessions, in which apprehension I was afterwards confirmed and justified by the outrageous conduct of some of the persons indicted and the partial and vindictive feelings manifested by the Justices in their judicial conduct. The Grand Jury therefore presented to the said Justices in court a representation of their wishes that the atrocious outrage might be transmitted to the Attorney General and the Court of King's Bench. Upon presenting this representation on Saturday the 12th day of April, Mr. Davis the foreman in behalf of the Grand Jury, requested to be dismissed as the petty jury already had been, which the Justices refused to do—and vexatiously detained the said Grand Jury from that day till late in the afternoon of Tuesday following, manifestly for the purpose of obliging us to be instrumental in forwarding their wishes to have the matter immediately tried before them. The persons accused and their counsel strenuously contended for immediate indictments and trial, while Mr. G. Rolph by his counsel Mr. J. Rolph declared the

crown was not ready for trial. After delivering the representation, Daniel O'Reilly in behalf of the said Justices threw out against the Grand Jury many most unpleasant and irritating reflections, now and then qualifying the same with an assurance that the said court meant to give the Grand Jury no offence, and at the same time the counsel for the persons accused as well as Allan N. McNabb made some insolent and provoking observations against the Grand Jury without being checked by the Justices in so doing. The Justices after consulting together returned the document to the Grand Jury, desiring them to reconsider the matter and do their duty by finding an indictment. We did retire and again presented the same document or representation to the court with the names of two witnesses endorsed because the court said it was necessary and informal without it, and the foreman again respectfully requested to be dismissed as the petty jury already had been. With this request the Justices again refused to comply, and among other unpleasant charges said that the Grand Jury would not comply with their oath. The Justices after another consultation informed the Grand Jury that they would not transmit their representation as requested, but that they would order an indictment grounded on the representation to be laid before us, and then ordered the Clerk of the Peace, Mr. George Rolph, so to do.— We retired and Mr. John Rolph for the first time came before the Grand Jury sworn as a witness and delivered two indictments founded on the representation, stating that he did so in behalf of the prosecution for the Clerk of the Peace who had been ordered so to do. After considering the matter we returned to the court and before being called over we returned the indictment to Mr. John Rolph at the court room door and delivered another document to the court and again requested to be dismissed, with which request the court refused to comply. They then adjourned till Monday at the hour of 12 o'clock; but before doing so the Chairman Daniel O'Reilly in behalf of the said Justices, in the presence of the Grand Jury, asked Mr. George Rolph whether it was true that two indictments had been laid before the Grand Jury, upon which question Mr. George Rolph stated that their worships would find it so stated before them by the written declaration of the Grand Jury. At this the Justices manifested displeasure and insisted upon a positive direct answer, when the said Clerk of the Peace said "it has been done." Mr. Allan N. McNabb rose in court and declared that it was false and requested the Justices to examine the Grand Jury as to the truth of their statement, and Mr. Daniel O'Reilly began the examination of the foreman, upon which Mr. John Rolph objected that the Grand Inquest at the instigation of Mr. Allan N. McNabb ought not to be so pumped as to the truth of what they had already declared to be a fact, and Mr. Thomas Taylor with great warmth reprobated the use of the word pump'd and the court then adjourned till Monday at twelve o'clock; but before the said adjournment took place the most indecent language was used by Mr. Allan N. McNabb and one Alexander Chewett, both of whom were accused of the outrage, calling Mr. George

Rolph and Mr. John Rolph by the epithets, fool, liar, ass, scoundrel, which conduct the Justices did not check, and when called upon after repeated abuse to notice it by Mr. John Rolph, Mr. Daniel O'Reilly said the language was improper, but by no means noticed the conduct in the way in which such conduct in a court of justice ought to be reprobated and punished, and persons as prosecutors or as counsel to be protected in the doing of a public duty. The Grand Jury met on the Monday according to the order of the court, and upon coming into the court before Daniel O'Reilly, James Crooks, John Willson, and William Procter, Mr. John Willson requested leave to address the Grand Jury and informed them they were labouring for what they could not attain, inasmuch as the offence set forth in the representation came under the black act, which was limited to a year and a day, and that the course pursued was of a nature more serious than they were aware of, inasmuch as they were leaving it to be proceeded on by the Court of King's Bench, by information, which was invidious and similar to the proceedings in the Star Chamber which had been abolished, and that they were allowing the trial to be taken from their own district in which he trusted they were disposed to confide, and in closing his address Mr. John Willson urged the propriety of our finding indictments. The Grand Jury then retired and I did not myself hear or witness the further proceedings in the course of that day. Late in the evening of that day two presentments were submitted to the Grand Jury by John Rolph on the part of the prosecution, which presentments the Grand Jury found and delivered into court, having first subjoined the same request that it might be transmitted to the Attorney General and King's Bench. The court ordered indictments to be framed upon these presentments and to be laid before the Grand Jury and then adjourned till Tuesday at 10 o'clock. On that day two indictments were laid before the Grand Jury who found the same and delivered them into court having first appended the same request as I have already mentioned. Mr. John Rolph requested the court to transmit the same indictments according to the request of the Grand Jury. After a consultation the Justices, viz. John Willson, acting chairman, James Crooks and William Procter, Esquires, returned and informed Mr. John Rolph that the court should proceed to the trial. Mr. John Rolph enquired how the court would proceed to trial after the petty Jury was dismissed, to which the said John Willson replied, if the court have fallen into that error the court will find a remedy. Mr. John Rolph then produced a writ of certiorari and served it upon Mr. John Willson. The Justices doubted whether they might not proceed because the indictments were found after the date of the writ, and after consultation of an hour and appealing to the counsel for disinterested advice they returned into court, as I am informed, and bound the parties over to the next assizes. I further say that the said parties accused, manifested particular anxiety to be tried by the said Justices, who manifested the same anxiety to forward their views to be so tried. The persons accused and the said Justices appeared to me to be combined

in favor of defendants and to embarrass the proceedings of the prosecution and to force an immediate trial at all events. The conduct of the magistrates with the prisoners and against the prosecutor and his counsel astonished and disgusted me. There was a great deal of confusion in court, abuse and laughing.

What is the general opinion on the removal? The general opinion as far as my knowledge extends was and is against Mr. Rolph's dismissal.

What have been your opportunities of judging of Mr. G. Rolph's conduct as Clerk of the Peace, to the court? I have been a frequent attendant at court for many years, going there as a spectator mostly every court for a day or two, and I have always noticed Mr. George Rolph's conduct as Clerk of the Peace, to be respectful and becoming to the court.

What has occasioned this conduct of the magistrates to Mr. Rolph? I cannot help thinking that what took place in the April court I have mentioned, has led to all that has followed. I understood an application was made after that court by the magistrates to Sir P. Maitland for his removal from the office of Clerk of the Peace, which was a long time pending, and I was present in April court 1829, when Mr. G. Rolph was dismissed by the magistrates.

Was Mr. Rolph called upon to make a defence or were the charges proved in court? I was present at the removal but I did not hear Mr. Rolph called upon to answer the charges then, or at any future day; a short time only elapsed between reading the charges and the chairman declaring the vote of the magistrates, that the Clerk was removed—I did not hear any one call upon Mr. Rolph to answer the charges, nor any proof of their truth received—there did not appear to be any opportunity of making a defence. It all appeared to me to be a predetermined matter carried through.

Was Mr. Rolph told that he was about to be removed on those charges on the spot? I heard no notice given Mr. Rolph that he was immediately to be removed on the charges. The first thing I knew was the declaration of the vote that he was removed.

What was Mr. Rolph's conduct to the court in 1828, when the presentments were in dispute, or at any time during the court? I saw nothing in the conduct of Mr. G. Rolph, in April 1828, that was disrespectful or improper to the court, though there was a good deal to provoke any person and to confuse.

FEBRUARY 16th, 1830.

Committee met,—Mr. O'Reilly repeated his application for the magistrates implicated in making these charges and consummating the removal of Mr. George Rolph on them, to be allowed to be themselves witnesses in their own defence, and he is again told that the committee will not do so, but will receive every testimony they may produce from persons not implicated upon the subject, whether magistrates, constables, and spectators, and render any assistance in issuing summonses for that end, or that he might appeal to the House.

Mr. O'Reilly is then asked if he has any witnesses he wishes to be examined this evening, who answered that he had not, because being here with Mr. Willson, he did not choose to act for the magistrates generally.

Mr. J. Willson, M. P. for Wentworth declines making any application to the House, or an appeal from the decision of the committee on Mr. O'Reilly's application, also stating that the other magistrates had not all arrived, but he thought they would arrive as he had sent them notice, besides the Letter directed to the magistrates by the chairman of the committee.

FEBRUARY 17th, 1830.

Committee met, Mr. O'Reilly is asked by the chairman whether he had any witnesses to produce, upon which he stated that he had not, but should be prepared the next day.

FEBRUARY 18th, 1830.

Mr. HILL called in and examined.

How long have you lived in the Gore District? About eleven years.

Do you recollect at what court it was, at which you were present, when it was proposed to petition parliament for an additional rate to finish the Gaol and Court House and what passed? It was January court, a year ago. It was proposed to have a double tax on those rated above £50: there was a good deal of discussion. I asked Mr. G. Rolph if I had a right to speak, and he told me that I must ask the court. I did ask Mr. Hugh Willson who acted as chairman, who told me as it was a public thing I might; and I then gave my opinion that those who were rated under £50 were as able to pay as those rated above it. Mr. Scollick approved of my speaking.

What has been the conduct of Mr. George Rolph to the court? I have attended court almost every court for five years, not missing more than two or three. I cannot say that Mr. Rolph was disrespectful; something took place many years ago between Mr. Rolph and Mr. Crooks, but I do not recollect the particulars. I have never seen any thing which I should consider disrespectful.

(MR. WILLSON.)

Have you ever seen any thing unpleasant between me and Mr. Rolph? No, I have always observed, that whatever you directed Mr. Rolph observed.

(BY THE COMMITTEE.)

Were you present at the April Court 1829, and if so relate what passed? Mr. John Willson was chairman, Mr. M. Crooks brought a paper into court stating they were charges which were against Mr. Rolph: it strikes me that Mr. Crooks read a part; the charges were read by Mr. Willson and Mr. Rolph was told that he was suspended.

I suppose I was the constable charged with rudeness to the court and said at the time it was false. I understood the papers were afterwards taken by force.

What did Mr. G. Rolph say in his defence? I did not hear Mr. G. Rolph say any thing, but Mr. John Rolph did for him.

(By MR. WILLSON.)

Did not Mr. George Rolph in some way encourage you, and after you had spoken justify you to the last? Mr. Rolph did not in any way encourage me to be rude: nor did Mr. Rolph afterwards say any thing to the court that I had a right to speak. I did go on to speak after I was ordered to stop. I had said that there was a sum still in the treasurer's hands, which should be first paid by the treasurer and be applied, and had I not been stopt, I would have gone on to say a little more about it.

(By COMMITTEE.)

Was Mr. Rolph called on to make his defence? I did not hear any one call on Mr. Rolph to make his defence or ask him if he wished so to do. There was a very short time between the reading of the charges and the dismissal: not more time than was enough cleverly to do it. Mr. John Rolph insisted on a defence, which was refused.

(MR. WILLSON.)

Did I not in April Court 1828 ask Mr. Rolph for an indictment and why the witnesses names were not endorsed on it? I was there at April Court 1828, but I was not there when you asked the question about an indictment.

(MR. O'REILLY.)

Did you not tell me in my house, that if you were asked whether Mr. Rolph ought not to be dismissed, that you would say you thought he ought to have been? I did not—I said that no person would be better pleased than I if another was placed in his room.

Did you not give another reason about his writing? I did say that there had been bad writing, and errors in the addition. Mr. Rolph I was told said it was his clerk, but it was said to be in his own handwriting—this was nine years ago.

Did I desire you to call or request you to stop? I did not call at your request; Mr. James Crooks, Junr. told me his father wished me to stop to see him. I did wait but I could not wait long enough to see him, and I called on you supposing you might know what it was Mr. Crooks wanted to say to me.

Did you not tell me that the numbers were put by the Clerk in the wrong columns; the members wages in a wrong column? I never said so. Upon Mr. O'Reilly's saying he would swear to it, Mr. Hill replied, "I never did say so."

(MR. McNABB.)

Where did you see Mr. John Rolph, and what did he say to you? At his house I called on him: he asked me some questions similar to

what I have been asked, and he told me not to state any thing of what I was not certain and satisfied.

(MR. O'REILLY.)

Did I not advise you not to speak of what you were not certain, and not to be influenced by prejudice? You did and Mr. John Rolph told me the like.

(MR. J. WILLSON.)

Did Mr. G. Rolph offer to make any defence? I should say that Mr. Rolph wished to make a defence and that he was not allowed.

Did I not call Mr. Rolph's attention to the charges? I recollect you (Mr. Willson) saying that it was a painful duty and you read the charges.

Did not Mr. Matthew Crooks hand me a paper? He did. Did not Mr. John Rolph make a long address? I understood he had, I was not in court at that time.

What time intervened between the reading the charges and the removal? Soon after the reading the charges the vote was taken for Mr. Rolph's removal. After the charges were read Mr. Crooks read the order of removal, which was not drawn out in court for he had kept it in his hand. I have no doubt it was all cut and fixed the evening before.

And why do you think so? Because you were altogether at the Tavern the night before and there was no consultation in court or enquiries among yourselves, but it was all done at once, there were no hasty or illnatured words either by the magistrates or Mr. Rolph.

Was not the order of removal written in court? Some magistrates and others may have written in court, but the order was not written by Mr. Crooks in court, I saw it in his hand.

Are you sure Mr. Rolph was not allowed a defence; be cautious? I am sure he was not allowed a defence, that was and is my impression. It is impossible after such a time to recollect every thing so particularly, but I think the chairman said that it was not proper to have an altercation on the subject.

(BY COMMITTEE.)

Were you asked in court by any magistrate whether the charge was true about you? No, no magistrate in court asked me as to the truth of the charge of recommending a constable to be rude.

Did you hear Mr. George Rolph say any thing against the charges? I did not, but Mr. John Rolph did for him and said a good deal.

(By Mr. J. WILLSON.)

Are you sure Mr. Rolph was not allowed a defence, I wish you to be cautious? I will not say that I am sure, but that is my impression.

May not your mistake arise from a petition which was industriously circulated on the subject? I never saw the petition nor signed it, or heard it read.

Did you hear of the meeting on the evening before the removal? I did hear of the meeting of the magistrates the evening before Mr.

Rolph's removal and I was told that the removal would take place the next day.

Mr. O'Reilly being asked if he had any further questions to ask the witness, stated he had not, that Mr. Hill was an upright and honest man, who would tell the truth, and had told the truth to the best of his recollection and belief, but he hoped the committee would judge between what he does recollect and what he imperfectly recollects.

Mr. O'Reilly stated that he received the note on the 5th February from the chairman.

MR. PRICE again called in and examined.

What passed in your presence between Mr. Rolph and Mr. Servos the magistrate respecting the attempt of the magistrates at that time to remove him by address to Sir P. Maitland? I recollect Mr. Servos some time in the latter end of the summer of 1828, either in August or September, calling on Mr. Rolph to be sworn in as a magistrate when a conversation was entered into between himself and Mr. Rolph respecting the charges that had been preferred by the magistrates against Mr. Rolph, in the course of which conversation I recollect Mr. Servos saying that he considered the proceedings against Mr. Rolph unjustifiable, for he had always thought that Mr. Simons the late Sheriff and Mr. Rolph filled their offices with more respect and credit than any other officers in the district, or words to that effect.

COMMITTEE MET 19th FEBRUARY, 1830.

Opened at 11 o'clock when the magistrates requested that Mr. Cameron might be allowed to take down for them the questions and answers.—Granted. They further requested leave to confer with counsel, and the committee agreed to delay therefore. At 13 o'clock the magistrates returned.

Mr. John Willson in behalf of the magistrates, informed the committee that he was requested by them as Chairman of the Quarter Sessions to state that they did not intend to offer any evidence at this time and place, not considering this the proper time nor place for them to make their defence.

[This witness' name omitted.]

What have you observed to be the conduct of Mr. George Rolph towards the magistrates? I have seen nothing disrespectful—I have only occasionally attended and also as a Grand Juror.

What has been the conduct of the magistrates to him? I have seen nothing unpleasant between him and the magistrates except the last court I attended.

When and what was this unpleasantness between them? It was April Court 1828.

Do you know any thing of the charges now read to you? I cannot say any thing respecting the charges.

Have you been a resident in the district since Mr. Rolph held the office? I have.

What have you thought of Mr. Rolph's fitness to fill the office? I have thought as far as I could judge that he was a proper person to fill the office.

The committee adjourned till one o'clock—the magistrates attended again.

MR. EBENEZER C. GRIFFIN called in and examined.

What knowledge have you of these charges? I have attended court a good deal for 7 years and have never seen any thing disrespectful.

I know nothing of the second charge.

I know nothing of the third charge. I have known the court often order witnesses subpoenaed—I never heard him refuse and I believe it was done.

The fourth charge I know to be untrue.—I was a Grand Juror and there was no business done at which I was not present, as the smallness of the number attending rendered it necessary. I am sure that Mr. George Rolph did not attend before the Grand Jury directly or indirectly to interfere with the prosecution of Mr. C. Prior.

(Mr. McNabb asks did not some person appear to do it for him?) No person did, I knew nothing till Mr. Prior himself handed the bill to the Grand Jury.

(MR. McNABB.)

Who was foreman? Mr. Cornell.

Did he sign it no Bill? Either he did or the Juror acting as his clerk.

Who was it? Mr. Kirkpatrick I believe.

Can Mr. Cornell write? He can but not so well as Mr. Kirkpatrick.

Did the foreman deliver it in no Bill in open court? He did and the court then expressed their surprize at it, which was noticed by every one. We disposed of it altogether on Mr. Prior's testimony and on no other evidence given directly or indirectly to us about it.

(BY COMMITTEE.)

Were you present at January Court 1829? I was present at January Sessions 1829, but was not present at the transactions referred to.

What has been the feelings of the magistrates to Mr. Rolph? I have noticed that some have manifested much unpleasantness to him at his dismissal. Matthew Crooks, William Procter, and Daniel O'Reilly, Esquires, took the most prominent and warm part on the occasion, chiefly towards Mr. John Rolph as counsel; the chairman did little one way or the other except as the majority ordered. Mr. Rolph insisted by counsel principally to be heard in defence, but it was not done.

(MR. McNABB.)

Did you hear the charges read and what was said? Mr. John Willson said it gave him pain to read the charges and he read them.

Did Mr. George Rolph object to the proceedings? Mr. John Rolph

protested against the legality and precipitancy of the proceedings, and that he could not be ready without notice to repel them. Mr. Matthew Crooks, in answer to the question by the chairman, whether Mr. Rolph should be allowed his defence said, that it was otherwise agreed on or determined on, it was one of those terms. Mr. Matthew Crooks then read the law, and said they could do it without any reasons, but that they had given reasons.

What took place at January Court 1829? I was not present at the January Court 1829 when the question respecting Hill took place.

Do you recollect the petition that was circulated, and by whom was it drafted? I do. It was drafted by a committee, one third was by me, about one third by Mr. Durand, sen'r., and the rest by Mr. John Rolph, and out of it the petition was framed.

Did not Mr. Rolph tell you the magistrates were to be indicted or an information filed against them? I do not recollect any such thing being told me. I understood that it could not be done in that way, but that it must be done by appeal to the Governor—the charge of the suppression of the complaint of Charles Prior was untrue, the evidence of Mr. Prior was upright and fair, and on his testimony alone, with very few minutes of discussion, it was disposed of.

(BY THE MAGISTRATES.)

How was this petition against the magistrates framed? Each drew a petition and about one third taken from each.

Did you not say that the petition produced at the meeting was not the same as was prepared? There was a petition at the first meeting which was not adopted, but a committee was appointed to do it, and it was done as I have stated.

Against which of the magistrates was the petition directed? Against them generally, for the vote was by ballot, and it could not be told who they were. Mr. John Rolph begged to know who they were but was refused.

Then how do you know that Mr. Matthew Crooks was one?—Because he said that he had voted against Mr. Rolph and had no objection to let his name be known.

Can you say that Mr. Rolph was prevented a defence? I well recollect Mr. Matthew Crooks saying, that it was agreed or determined that Mr. Rolph should be allowed no defence, and he had none. It appeared to me to be all determined on at a private meeting. Mr. John Rolph protested against the proceedings with great earnestness.

Was the question put by the chairman before or after the removal? It was before, there was also a good deal of discussion after the removal. Mr. Rolph protesting against all.

When was the chief discussion? There was not much discussion till after the removal, there was then a good deal said; I dare say the discussion afterwards, about the papers, took three hours.

Were many magistrates present? There was an unusual number of magistrates present, it was thought they were designedly collected together.

Do you say they were all corrupt but three? I think some were misled—I thought there was corruption—I think it was so to dismiss a person on charges unproved and without a defence—I think there were some corrupt and others misled by them. The chairman requested the questions put by the magistrates, might be put through him upon which Mr. McNabb and the magistrates said, that no questions are to be put in their behalf, to which the chairman answered, that Mr. McNabb, Mr. Holme, and Mr. James Crooks had suggested questions through Mr. Hamilton.

Mr. James Crooks asked how it could be known what he said to Mr. Hamilton, the chairman answered, that he no sooner whispered than the question was put. It was plain the questions were prompted by the magistrates and their counsel.

JAMES LEFFERTY called in and examined.

What do you know of the charges read you? I never saw any thing of the kind mentioned of disrespect—I never saw any disrespect to the court, nor have I reason to believe such disrespect, and I have been a frequent attendant. I have never known Mr. Rolph refuse to answer questions. I have known him to obey the Court.

What has been the conduct of the magistrates to Mr. Rolph? I have known Mr. Matthew Crooks and Mr. Procter behave to Mr. Rolph in a way in which a Clerk ought not to be treated.

Have you known Mr. Rolph refuse to subpoena witnesses at any time? No, I have known him ordered to subpoena witnesses but have never known him to refuse.

Relate what passed at the January Sessions 1829? I was present at the Sessions of January 1829—It was proposed to have an adjourned Sessions, and Mr. Rolph proposed it should be delayed beyond the time proposed, that he might attend as Mr. Price his deputy was new in the office. Mr. Hill addressed the court about the tax being equal instead of being only on those of above £50—Mr. Matthew Crooks asked who the fellow was, and wished to put him down, but he did not stop till ordered by the chairman, and then he stopt or said little more—he might have said a sentence. Hill before speaking asked leave of the court to speak and the chairman gave him leave.

Was any thing said against Mr. Rolph at the time? Mr. Procter said Mr. Rolph was the instigator of it.

Where you so situated with respect to Hill and Mr. Rolph as to judge how far he did encourage any rudeness? I was close to both. Mr. Hill was between me and Mr. Rolph, there were not many in court, the jury was dismissed—I judged from Mr. Rolph, his motion of his hand, and from Hill asking leave of the court just after, that he was directed by Mr. Rolph to the chairman.

(**MR. M. CROOKS.**)

Was he not rude Sir, at that time to the court? I cannot say any thing against his conduct to the magistrates, he has always appeared to me willing to do any duty required.

Were you present at the removal, relate what passed? I was. Mr. Willson said he had some charges put into his hands which he had to read with pain—They were read—and a slight pause after each, when Mr. Matthew Crooks in answer to the question whether Mr. Rolph should be allowed a defence, said it was otherwise agreed upon and no defence was allowed. Mr. Rolph asked for the names and they were refused. Mr. Willson said he could not tell as the names did not appear on the balloting paper.

(ON THE PART OF THE MAGISTRATES.)

Could not Mr. J. Rolph have objected before as after the dismissal? I am not a judge—the time between the reading of the charges and the dismissal was quite short—there was some discussion about a vindication and it was not allowed—It seemed to me that it was all predetermined.

Why do you think that it was predetermined? I think it was predetermined to remove, for a magistrate called on me about two o'clock in the morning and told there would be a new Clerk of the Peace that day.

Who shewed most warmth? There was much warmth by Messrs. Crooks, Procter, and O'Reilly—There was some discussion—Mr. George Rolph said nothing warm and Mr. John Rolph was not warmer than he often is in addressing the Court and Jury.

Did not Mr. Rolph refuse to give up the papers? Mr. Rolph said he could not in so short a time assort his papers, and Mr. John Rolph said that he had private papers among them—there was no violence. The Sheriff by order of the Court seized the papers.

MR. HARCHNER LYONS called in and examined.

What do you know of the charges read to you? I do not know any thing of the first charge or of any other except the charge about encouraging the constable to be rude. I heard Mr. Lafferty give his evidence to you and it is as correct as if it had been taken down at the time—I cannot give it myself half as particular.—I was at the court close to Mr. Lafferty, Mr. Rolph, and Mr. Hill, it did not appear to me that Mr. Rolph gave any encouragement—I was close to him—I could put my hand on his shoulder—I think the chairman gave Hill liberty to speak, but had I written it all down at the time it could not be correcter than Mr. Lafferty has given it.

What have you noticed to be Mr. G. Rolph's conduct to the court? I have for a number of years been an attendant at court, having lived in the district 36 or 37 years where I now live and I have always noticed Mr. George Rolph's conduct to the court to be respectful, and I have known him as long as he has been Clerk of the Peace.

MR. ANDRUSS called in and examined.

What do you know of the charges read to you? I never saw any disrespect to the court—I have often seen him called upon but never knew him to neglect the business of the court.

Have you any knowledge of his refusing to answer questions except through counsel? I recollect after his dismissal his refusing to

answer some questions except through counsel—I do not recollect it at any other time.

What do you know of the third charge? I know nothing of the charge No. 3.

What do you know of the other charges? I have known frequent orders to Mr. Rolph to issue subpoenas and he has as, far as I saw, always obeyed.

I know nothing of the 5th charge nor of the 6th charge.

What do you know of Mr. Rolph as Clerk of the Peace? I never heard any thing against Mr. Rolph in his public character—I have known the magistrates much against him.

Who were the most forward of the magistrates on this occasion? Mr. Matthew Crooks seemed to enter with great interest into the removal, and Squires O'Reilly and Procter more so than the others, tho' they all seemed pretty anxious for it.

Why are the magistrates so unfriendly to him? I believe it arose from the tar and feathering of Mr. Rolph by certain gentlemen who were associates of the magistrates and they have since become leagued against him.

In what way has this outrage led to this conduct to him? By prosecuting the matter and trying to bring it out by the Grand Jury in April Court 1828, and since that the feeling has increased—It was when the indictments were found and I was bail for some of the persons indicted—It was April Court 1828.

What was Mr. George Rolph's conduct in April Court 1828 to the court and of the court to him? At that court Mr. G. Rolph's conduct to the court was respectful and I was surprised that he did keep his temper so well when so perplexed and ill used, and it was a subject of general talk and surprise that he could do so. I saw with my own eyes that Mr. G. Rolph was respectful—it could not be disputed that the magistrates took the occasion and wished to force on the trial which he opposed by himself or counsel.

Then why was it not then tried? I thought that they wished to force on the trial at that time but it was stopped by a writ of certiorari, the persons accused seemed just as anxious to be tried as they to try them; which was opposed by Mr. George Rolph—they appeared to me to think they would have a more favorable hearing at that court.

Was there any thing in Mr. Rolph's conduct in April 1828 to justify their language in the complaint of the magistrates against him to Sir Peregrine Maitland now read to you? There was nothing in the conduct of Mr. Rolph at the April Court 1828 which could justify this representation or any part of it against Mr. Rolph, and I attended that court nearly all the time.

Were you at the dismissal? I was.

Did Mr. Rolph desire a defence? He did but he was not allowed one.

How was the removal effected? Mr. Matthew Crooks handed a paper to the chairman, who read the charges; there was no enquiry of Mr. Rolph whether he objected to the removal—some of the

charges were proved or attempted to be proved. I think a vote was taken that he should not be heard in his defence.

What interval was there between the reading the charges and the removal? The business of the dismissal went on as fast as it could.

Did not Mr. George Rolph make a defence or Mr. John Rolph for him? There was no opportunity of making a defence.

Are you sure of it? Mr. Crooks said as near as I can recollect that it was agreed no defence should be allowed Mr. Rolph.

What part did Mr. John Willson take? I thought Mr. John Willson took the least part—he seemed to act at the order of the court—he seemed to do only what was pressed on by others.

COMMITTEE MET February 20th, 1830.

MR. JOHN LESSLIE called in and examined.

Do you know any of the charges now read to you? I have never seen any thing in Mr. Rolph's conduct disrespectful to the court when I have attended, which has not been very often.

What do you know of Mr. Rolph's refusing to answer questions except through counsel? I recollect that in the April Court of Quarter Sessions 1828, the court consented that the questions put to him should be answered in writing. The questions were first put verbally and afterwards in writing. The questions were asked by Mr. McNabb. The court waited while the answers were prepared by Mr. John Rolph in behalf of Mr. George Rolph. The questions related to a doubt whether Mr. George Rolph had laid certain indictments before the Grand Jury as ordered by the court.

What was Mr. George Rolph's conduct to the court on that occasion? I did not see any thing unbecoming in Mr. George Rolph's conduct to the court.

Did you see any thing in Mr. George Rolph's conduct on that occasion to the court which can in any way justify the charge now read to you, made by the magistrates against him to Sir Peregrine Maitland? Mr. Rolph behaved in a respectful manner to the court and I saw nothing of the character now read to me as a charge sent by the magistrates against Mr. George Rolph to Sir Peregrine Maitland—I saw nothing of a want of veracity or of a prevaricating or impudent manner from Mr. George Rolph towards the court—There was nothing of the kind.

Did Mr. George Rolph receive on that occasion the protection he was entitled to from the magistrates? Considering the nature of the injury Mr. George Rolph had received, I should not, had I been in his situation have thought I received such protection.

MR. FREEMAN called in and examined.

What do you know of the charges now read to you? I have never known any disrespect of Mr. George Rolph to the court; quite the reverse. I have resided in the district 11 years, and have very frequently attended court, but I never saw any thing disrespectful. I know nothing of the other charges against him, but I was present at Mr. Rolph's dismissal.

Relate what you saw at the dismissal? Mr. John Willson read some charges and there was a stagnation for three or four minutes. It was then put round by ballot, I suppose whether he should be dismissed, and he was then told that he was dismissed. He was told to give up the papers. There was a good deal of asseveration about it, and Judge Taylor was consulted, and at length all the papers were taken away; some were taken from a trunk in court opened by the Sheriff and some from Mr. John Rolph.

Was any time given Mr. Rolph to make a defence? I do not think any time or opportunity was given for a defence—I do not think he was called upon to make a defence, for the impression on my mind at the time, was, that the proceedings were unjust as removing a person without a defence. I think the charges were not prepared in court or I should have seen it done. There was no attempt to prove the truth of the charges.

Does the office appear to you to be better filled since Mr. Rolph's dismissal? I have been on Grand Juries both before and since Mr. George Rolph's dismissal, and I do not think, indeed I know that things do not go on as well now as when Mr. Rolph was in office.

(By MATTHEW CROOKS, Esquire.)

To what case do you refer in particular that things do not go on as well? There was one case prosecuted by the late Mr. Hare for a nuisance, for taking away the water of a stream. The Grand Jury waited for an indictment and not receiving one, the jury applied to the court, and were told it should be done, but it was not done. There was no indictment and the prosecutor therefore failed.

(By THE COMMITTEE.)

What was Mr. George Rolph's conduct on the occasion of his dismissal? I thought Mr. Rolph bore every thing as calmly as any man could, considering that he was removed on charges not proved and without an opportunity of a hearing, which is not I think suited to a British Court of Justice.

(By MR. G. HAMILTON on the part of the Magistrates.)

Has not Mr. George Rolph often delayed the court by his being too late? No: I cannot say that I have seen Mr. George Rolph delay the court—I believe Mr. Rolph was generally there when the court was ready.

Has he not delayed the court by having other business of his own? No: I cannot say I have ever seen Mr. Rolph by other business of his own interrupt the business of the court.

Was not Mr. George Rolph at his dismissal called very particularly by the chairman to attend to the charges? I do not recollect Mr. Rolph being called to attend so very particularly to the charges..

Was there not a pause to give him an opportunity? I did not think the pause was for any defence, but from their feeling they were going on too fast.

What made you think the conduct of the magistrates so uncivil; was it that Mr. Rolph lost his office? I thought it uncivil to charge

a person—or dismiss him without a defence. My mind was much occupied at the time at their conduct, and I thought it strange a vote should dismiss him without a trial.

Had you a servant would you not dismiss him in the same summary way? Even servants I think have a right to vindicate themselves when so accused.

(By Mr. JOHN ROLPH.)

If you did dismiss your servant would you send him abroad with written charges unproved, published as tending to ruin his character? Were I to do so, I do not think I should do as I wish to be done with.

(By Mr. GEORGE HAMILTON.)

Have you heard no complaints of Mr. George Rolph's hand-writing when compared with Mr. Berries? Mr. Berrie I think writes a better hand than Mr. George Rolph, and I recollect Mr. Atkinson four or five years ago complaining of the writing on an Assessment Roll by Mr. George Rolph.

—Mr. ABNER EVERETT.

What do you know of the charges now read to you? I have frequently been in the court and some late courts before Mr. Rolph's removal. I attended pretty steady, but I have not seen any thing disrespectful to the court from Mr. Rolph.

As to the charge, I was present when Mr. Ross was dismissed. I heard the chairman ask who was the prosecutor, and Mr. Rolph did not inform the court. It bore the impression on my mind that Mr. Rolph did not wish the trial to be then brought on which the court seemed to wish. I recollect the chairman asking, and I think he asked Mr. Rolph who was the prosecutor, which question was not answered. There was afterwards some reply but what it was I do not recollect.

(Question by Mr. MATTHEW CROOKS.)

Was Mr. Ross tried or discharged by proclamation? He was not tried but discharged by proclamation.

Have you known Mr. Rolph refuse to subpoena witnesses when ordered by the court? I have heard Mr. Rolph ordered to subpoena witnesses but I cannot say whether it was always done or not.

Were you present when Mr. Rolph was dismissed? I was.

Relate what passed? I heard Mr. J. Willson read the charges in court—His observations were that there were charges against Mr. Rolph as Clerk of the Peace, and they were read. I do not recollect that they called on Mr. Rolph to make a defence. There was perhaps a short interval, and a paper was sent round for yeas and nays and Mr. Rolph was told he was dismissed.

What interval was there between the charges and the dismissal? There was not much time.—I do not recollect any offer made him of a defence.—I do not recollect whether there was a written order.—I suppose it was written, the chairman told Mr. Rolph he was dismissed. The papers were ordered to be given up and upon objecting to give them up, the Sheriff was ordered to take them, and he did. Mr. Rolph requested time to deliver up the papers that he might as

sort them and take what belonged to him privately. Mr. Rolph requested the names of the yeas and nays, but it was refused.

What was the temper of the magistrates on the occasion? I thought the conduct of some of the magistrates warm.—Mr. M. Crooks said speak out dont be afraid. I thought Mr. M. Crooks the warmest.

What was M. Rolph's temper on the occasion? I cannot say that Mr. G. Rolph was at all irritated in his conduct. He seemed passive. He did not like to give up the papers.

(By Mr. GEORGE HAMILTON.)

Have you often seen Mr. Rolph delay the court? I have often seen the court delayed but I cannot say where the blame laid.

What did Mr. John Willson say when he read the charges? I think before Mr. Willson read the charges, he said to Mr. Rolph, I have to draw your attention to the charges put into my hands against you.

Had Mr. J. Rolph addressed the court on the subject would the court have heard him? I cannot say as to that.

Did you hear Mr. Rolph ask for a defence?—It runs in my mind that such a request was made but I am not certain whether it was refused or not; it is so long since I cannot say.

Do you know whether Mr. M. Crooks spoke warmly? I thought it was from the present business, but I cannot tell what there was between himself and Mr. Rolph.

Where was the order of removal prepared? I cannot say, I did not see it done in court.

How are votes taken? I do not know how the votes are taken at Quarter Sessions.

MR. ANDERSON.

What do you know of the charges read to you? I have frequently attended court but have never seen Mr. Rolph behave disrespectful to the court.—I have lived many years in the district—I have known Mr. Rolph ordered to subpoena witnesses and do it.

Were you present at Mr. Rolph's dismissal? relate what passed.—I was: the magistrates came into court and read over some charges, the same as you now read, and dismissed Mr. Rolph from office. After reading the charges they stopped four or five minutes and then sent a paper round and said he was dismissed.

Did Mr. Rolph desire a defence? I am pretty sure Mr. Rolph requested to have a hearing and it was not granted to him—they told him there could be then no hearing and they offered him no defence. They seemed pretty warm chiefly M. Crooks and O'Reilly, they had most to say. I thought the chairman Mr. John Willson did what he did pretty freely.

Have you heard complaints against Mr. Rolph before his removal? I never heard the magistrates complain before his removal. It surprised every one that he was removed without knowing why till these charges were read. It seemed to be generally thought that if they

went on in this way they would hang a man one day and try him the next.

(MR. HAMILTON.)

Has not Mr. G. Rolph delayed the court a good deal? I have seen the Clerk of the Peace frequently when the magistrates were not there and the magistrates there when the clerk was not.

Did not Mr. Willson very particularly call Mr. Rolph's attention to the charges? No, I cannot say that he very particularly called Mr. Rolph's attention to the charges.

Did you sign the petition as a magistrate? I think I did. I heard it read. I was not acquainted with all the charges but some I knew to be true.

MR. SYLVESTER DAVIS.

What do you know of the charges read to you? I must say I always saw Mr. Rolph treat the court in a gentlemanly and courteous manner, and I have pretty generally attended the court for some years.

What do you know of this charge? I was in court when Mr. Ross wished to be tried, when Mr. John Rolph said he was not ready for trial. The witnesses were Mr. Ker and Mr. Moyer, but it was understood in court Ker was sick. It was sworn to, Mr. R. Hatt said he was able, as he had seen Mr. Ker in Mr. Durand's shop that morning buying some brandy and I think loaf sugar. It was answered by Mr. Price in court as well as by Mr. Durand that he had walked up to his shop from necessity for brandy and sugar, which the doctor had recommended, but that it was with difficulty and that he was the worse for it. It was not without a struggle by Mr. John Rolph with the magistrates that the trial was put off.

Was not Mr. George Rolph prosecutor in the case? I do not know that Mr. George Rolph was prosecutor.

What do you know of the charge? I was one of the Grand Jury when Squire Prior came before them. The bill was returned no bill by the Grand Jury. Mr. Rolph used no influence with me nor any before the Grand Jury. I think Mr. James Hamilton was sorry he was not indicted; he seemed so, and I thought he wished to be indicted, and there were others who seemed to be disappointed also.

Were you present when Mr. Rolph was dismissed? I was.

What appeared the general conduct and temper of the magistrates in their proceedings? I thought the magistrates were generally vindictive. I had a knowledge that those charges were coming on. I understood Mr. Rolph was to be dismissed. I went because being a witness in court in a suit, I wished if it was to take place to see it. There was a general alarm that it was to be done and the people crowded together waiting till the magistrates came in which was about two o'clock. Mr. M. Crooks handed some charges which were read. I am not sure whether Mr. Rolph first put the question, but in consequence I think of it the chairman asked if Mr. Rolph were to be allowed a defence, when Mr. M. Crooks said in reply that it was otherwise agreed or understood. I am not sure which:

6 paper was passed round, and when it came to the chairman he said to Mr. Rolph that he was dismissed, telling him that he was no longer their Clerk.

Was the order of removal now read to you produced in court? I think every word of the order you have read was spoken there, but I am sure it was read from a paper.

What was Mr. Rolph's general conduct to the court? From his manner and answers I have always seen him respectful to the court.

What has been the conduct and feeling of the magistrates towards Mr. Rolph? For a year or two I have noticed the magistrates to be unfriendly, particularly at the removal, and then the most intemperate were Messrs. Procter, Matthew Crooks, O'Reilly, Racey, the two Secords, Hugh Willson and another whose name I do not recollect, he was a new magistrate.

(By MR. G. HAMILTON.)

Have you known the court kept waiting by Mr. George Rolph? I have known the court delayed but I cannot say why. I have thought both clerk and magistrates were absent when I thought they ought to have been present. I recollect applying to Mr. Rolph for advice in Quarter Sessions and he told me he could not then advise me, but that when the District Court opened he said he would be at liberty.

Do you think that 17 out of 21 magistrates were generally corrupt as charged in the petition? I think one of the charges was corrupt, I mean the charge of suppressing the indictment. I think it affected the Grand Jury too without any ground for it against either, and I have reason to believe the whole were corrupt.

Did not Mr. J. Rolph make an eloquent speech after the removal? What Mr. John Rolph said afterwards was about the papers, and it is the only time that I was present when Mr. G. Rolph spoke through counsel, that I recollect.

Have you known Mr. G. Rolph indicted for any thing in his office? I have no such knowledge or recollection.

MR. MILLER.

What do you know of the charges now read to you? I have never seen Mr. Rolph disrespectful to the Court, though I have often attended as a witness. This is all I can speak to respecting the charges.

Were you present at the dismissal?—Relate what passed—I was. Mr. Matthew Crooks produced the charges and delivered them to Mr. John Willson as chairman, who called Mr. Rolph's attention to them and read them; a paper was sent round, to take a ballot, and Mr. Rolph was told that he was dismissed—Mr. Rolph claimed the right of a defence—upon which Mr. Matthew Crooks said a person might dismiss his servant without any reasons, though they had given some—and a defence was not allowed, nor was there any defence, nor was Mr. Rolph called upon to make a defence—it was said he had no right to one.

Who showed most warmth on the occasion? The warmest were; Mr. Matthew Crooks, O'Reilly, Procter, and two Secords, particularly Elijah, but they all generally consented Mr. Rolph should not be heard.

What is the general opinion of the removal? As a general opinion it is that Mr. Rolph was not treated fairly; and I have had much opportunity of conversing with farmers on the subject.

(By MR. G. HAMILTON.)

Do you think the general opinion is against the magistrates? Yes, as far as I can learn, the general opinion is against the magistrates.

Have you heard of a petition against them, and of any defence to it? I heard of the petition, but have not heard of any defence.

Have you heard of Mr. Rolph being indicted? I have never heard of any indictments against Mr. George Rolph as Clerk of the Peace or otherwise. I have lived in Dundas four or five years.

Did not Mr. John Willson call the attention of Mr. Rolph to the charges? The chairman said, I call your attention to charges put into my hands against you.

(By MR. J. ROLPH.)

From what you saw, was there any thing like an opportunity or what can be called an opportunity for a defence? Certainly not. Every person there, I have ever talked with, thought so, and I have conversed with numbers.

COPY,

To His Excellency Sir Peregrine Mailland, Governor of Upper Canada, &c. &c. &c.

The representation of the undersigned late Grand Jurors in attendance at the late and some at the different Courts of Session, at various periods since Mr. George Rolph's appointment to his office as Clerk of the Peace in this District for thirteen years past.

MOST RESPECTFULLY SHEWETH:

That under particular circumstances we feel it a duty to express that we have never observed on Mr. Rolph's behalf, while in the exercise of his duties as a public officer in the Court of General Quarter Sessions, any demeanour which had a tendency to bring the administration of Justice into contempt or disrepute. That we were in attendance in court when the questions mentioned in the representation by the magistrates against George Rolph, Clerk of the Peace for the District were made, and we did not discover any want of veracity, or any provocation or impudent manner by Mr. George Rolph in the answers he gave to the Court, but on the contrary a respectful deportment. Nor can we less respect a public body of Magistrates on the ground of Mr. Rolph's filling correctly, as he ever has done, as far as our individual knowledge extends, that office to which the government has appointed him: and trust on these grounds, that his dismissal "as prayed for" will not be required by the Governor, because we believe he does not merit such treatment

after a satisfactory discharge of his public duties for these thirteen years past

(Signed)

William Davis, *Foreman*,
Daniel Lewis,
Thomas J. Scott,
John Galbraith,
William Kent,
John Binkle,
William Binkley,
Caleb Hopkins,
John Williamson,

James Gage,
Robert H. Edgar,
Robert Best,
Benjamin Smith,
Mos. McCoy,
Gilbert Bastedo,
George Chalmers,
Daniel Campbell,

Dated District of Gore, June 1828.

COPY,

Bradley's Inn, }
York, 17th Feb. 1830. }

SIR,

I have the honor to state for the information of the Committee appointed by the Honorable the Commons House of Assembly on the petition of George Rolph, Esq., that in conformity to your circular of the first instant, the Magistrates of the District of Gore are now in attendance, and have desired me their counsel to communicate the same to you as Chairman of the Committee, and beg to be informed at what time and place the Committee will be pleased to hear them in their defence.

Permit me to add that the Magistrates are desirous to return so soon as their attendance can be dispensed with. May I therefore beg a reply at your earliest convenience.

I have the honor to be, Sir,

Your most obedient Servant

JOHN J. LEFFERTY Esq.
M. P. P.

ALLAN N. McNAB.

Commons House of Assembly, }
February 18th, 1830. }

DEAR SIR,

I have to acknowledge the receipt of your letter of the 17th current, and beg to acquaint you that the committee feel themselves prohibited by the decision of the House from communicating with counsel on the subject.

I can, however, see no objection in acquainting you that the committee to whom is referred the petition of George Rolph, Esq., meet on Friday at 7 o'clock P. M., when I hope any evidence the magistrates may have to offer in their vindication will attend.

I am, Dear Sir,

Your most obedient

Humble Servant,

ALLAN N. McNAB, Esq.

J. J. LEFFERTY, *Chairman.*

