

"The majority in the Assembly followed up their triumph by passing a direct vote of censure upon the Chief Justice, setting forth that in certain proceedings taken in his Court against members of the 'Loyal Electors,' a society formed by the settlers in opposition to the proprietors, he had acted as solicitor, prosecutor and judge, and that, by seeking to appoint the sheriff he also aimed at having the choice of juries. His conduct was characterized as so dangerous to the lives, liberties and properties of His Majesty's subjects as to render it inadvisable that he should be longer continued in the discharge of the functions of his office. In accordance with the resolution an address was presented by the Speaker, Honourable Ralph Brecken, to the Lieutenant-Governor, praying for the suspension of the Chief Justice until His Majesty's pleasure should be known. The governor lost no time in granting the prayer of the Assembly, and the suspension took place in October, 1912. Shortly afterwards Governor DesBarres was recalled and the Chief Justice reinstated, but his usefulness in this field was gone."\*

At this time Chief Justice Tremlett of Newfoundland had got himself into trouble with the people and Legislature of the "Ancient Colony," not dissimilar to Colclough's experience in Prince Edward Island. Each had become very unpopular. They exchanged positions in 1813. Tremlett was sent to Prince Edward Island on board one of His Majesty's ships, and Colclough was taken to Newfoundland in the same dignified manner. He arrived in St. John's in September, 1813. Judge Prowse† writes that "Chief Justice Colclough lived in the house near Mr. Eden's shop, Rawlin's Cross. He had a royal coat of arms over his door, and compelled every one to take off his hat when passing the house." Colclough remained in St. John's for three years; he was "not much of a lawyer, and a very sorry administrator." In note to page 391, Judge Prowse describes the two men: "Both these legal luminaries were at the time under a cloud, and it was considered a good arrangement to give each a new sphere, so a man-of-war carried Chief Justice Tremlett to the Island, and on her return voyage in October (September) brought back the illustrious Caesar." From notes furnished by the late Lieutenant-Governor Howlan and Judge

\*Mathieson, p. 130.

†History of Newfoundland, pp. 390-1, Notes 1 and 2.

## CHAPTER XI.

THOMAS TREMLETT, SIXTH CHIEF JUSTICE  
OF PRINCE EDWARD ISLAND.

THOMAS Tremlett, the sixth Chief Justice of Prince Edward Island, had, previously to his appointment to that office, held a similar position in Newfoundland for a period of ten years. He was not a lawyer himself and he succeeded two doctors and a Collector of Customs in the position of Chief Justice of Newfoundland. Tremlett, or Trimlett, was a merchant. "His firm had been very large Newfoundland merchants; they came to grief through some outside speculation, and, in accordance with the custom of the country, he received a Government office. There never was a more independent, upright judge than Tremlett; his decisions gave great offence to his quondam friends in the trade. They made constant complaints against him; finally they embodied their grievances in a long elaborate petition containing three specific charges of injustice. The Governor, Admiral Duckworth, furnished the old chief with the complaints against him. His reply was unique. Here it is in full:

"To the first charge, Your Excellency, I answer that it is a lie, to the second charge, I say, that it is a damned lie, and to the third charge it is a damned infernal lie, and, Your Excellency, I have no more to say. Your Excellency's obedient servant.

THOMAS TREMLETT."\*

\*Prowse, History of Newfoundland, pp. 360, 361. In a foot note, Judge Prowse says that besides this letter there was a formal official one from Tremlett. In a second note (p. 361) he gives the despatch of Governor, Admiral Duckworth, on the charges against Chief Justice Tremlett. In substance the Admiral writes:

"The Chief Justice of Newfoundland, as far as my intercourse with him has enabled me to judge, is a person who will not be influenced in the discharge of his duty by the approbation or disapprobation of any man. . . . Of his abilities I am far from thinking poorly. . . . He is certainly a man of great diligence and application, but he has by an irritability of temper, and a certain rudeness of manner which are natural to him, and by separating himself entirely from the society of the people of the town, rendered himself in the last degree unpopular; and however circumspect his future conduct may be in the discharge of his public duties, he will never be approved by them. . . . The complainants are urgent for a public examination of evidence upon the spot, alleging that they are not equal to a discussion with the Chief Justice on paper;

Tremlett was sustained in his position both by the Governor and the authorities in England. It was, however, considered desirable that a man of more legal knowledge, of more popular manners, and unconnected with local interests, should be appointed. His Lordship was, therefore, transferred to Prince Edward Island. The choice next fell upon an eccentric Irish gentleman of good family, Caesar Colclough, who was Chief Justice of that Island. Tremlett was the last of the unlearned; subsequently the head of the Supreme Court had to be a barrister of not less than seven years standing.

Arrangements were arrived at for the exchange of positions between Tremlett and Colclough, which were carried out as set forth, in the sketch of Colclough preceding this article.

Tremlett was certainly unfit to fill the office of a judge in either Newfoundland or Prince Edward Island. His ignorance of law and of the practice of the Courts were insuperable obstacles to his satisfactory discharge of the duties of the chief justiceship. His personality was also against him. He was a crusty old bachelor,

that his representations are filled with falsehood, and that there is no other method of proceeding effectually than that of a public enquiry at which they may be able to bring forward their witnesses upon oath.

"It is my duty to state distinctly, in this report, that in whatever instances his judgments may have erred, I have not found in any part of the Chief Justice's conduct the most remote appearance of corruption, nor when I had called upon the complainants, have they ventured to charge him with it in any instance."

In a report by the Lords of the Committee of Council for Trade and Foreign Plantations, dated 13th June, 1812, their Lordships, referring to complaints preferred by the merchants of St. John's against the Chief Justice, say; That, . . . "after a full enquiry and deliberation it does not appear that any act of wilful injustice has been sanctioned by Chief Justice Tremlett, nor is there any well attested proof of partiality or opinion or of any unaccountable delay or unwarrantable decision.

Under these circumstances, their Lordships have not recommended His Royal Highness to dismiss the Chief Justice from the high and important position which he fills and H. R. H. is therefore pleased to continue to confide to him the charge of administering justice in the Island of Newfoundland."

In a separate paper, "their Lordships attribute the unpopularity of the Chief Justice not to any actual misconduct in his judicial capacity, but in some degree to the invidious nature of the duties which he is called upon to execute as well as to the ungracious manner in which they may be occasionally performed. Although there may have existed no ground for serious complaint and still less for any charge of partiality or corruption there can, however, be little doubt that whilst the Chief Justice is continued in his present position there will not be that general satisfaction and confidence that ought in all cases to accompany the administration of justice; and although H. R. H. will on no account consent to the dismissal of the Chief Justice or to any act which might imply the least suspicion of his integrity or even any disapprobation of his past conduct, H. R. H. would nevertheless be desirous that some arrangement should be made by which Mr. Tremlett might be employed with less embarrassment and inconvenience to himself and with greater prospect of advantage to the public service.

(Sgd.) BATHURST.

and was most profane in his language. He had a fair amount of ability and common sense. In this respect he had an advantage over Colclough, who had only a superficial knowledge of law, and no common sense. Tremlett's difficulties were largely due to his ignorance of law and practice, and to make matters worse the assistant judges were not lawyers and had never made a study of law.

An order for a commission under the seal of Prince Edward Island, appointing Thomas Tremlett Chief Justice of that colony was issued by command of His Royal Highness the Prince Regent at Carleton House. It bore date the 8th April, 1813. The commission itself was dated 22nd November of the same year. He held the position for over ten years, supported by Lieutenant-Governor Smith. He was finally removed at the same time and by the same means as Smith.

Between the two the Island was kept in a continual turmoil.\*

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\*A fairly complete account of Tremlett and Chief Justice of Prince Edward Island has already been given in Part V, *ante*, to which the reader is referred for further particulars.

Alley of Prince Edward Island, Prowse adds the following: "Colclough, an Irish barrister belonging to an old family in Wexford, was appointed Chief Justice of the Island on the 1st May, 1807. For the first few years he gave great satisfaction; afterwards he got into trouble with Governor DesBarres and was suspended in September, 1812. Colclough claimed the right to appoint the sheriffs; he showed himself a partisan on the side of the proprietors against the settlers society known as the 'Loyal Electors.' DesBarres was recalled through the influence of the proprietors, and Colclough was reinstated, but as he was greatly disliked in Prince Edward Island, and Tremlett was unpopular in Newfoundland, they exchanged offices."

island consist of entrapped loyalists and illiterate Roman Catholic highlanders, the latter floating over the face of the country like Scythians, without money, bed-clothes, or permanent building for residence . . . ”<sup>3</sup>

Despite the oppressive conditions, resistance grew among the people and the Loyal Electors continued to work underground. When the charge of malpractice was brought against Palmer, the Compact could not make it stick. By 1817 he was attorney for almost every merchant as well as many small landlords. No small reason for this was the fact that the only other two lawyers on the Island were employed by John Hill who owned 100,000 acres in Prince County. Hill, once a brave fighter against the Compact, turned to support it because he was threatened by the Loyal Electors escheat demands.

Support for the Loyal Electors came from many classes. Thomas Tremlett, who replaced Colclough as Chief Justice, was a supporter. When the militia rebelled in 1815, three companies were disbanded and the non-commissioned officers were brought before the Supreme Court. Tremlett, because of popular pressure and his own sympathies, let them go with a trivial fine. The Compact was desperate. Captain James Bagnall, a Compact supporter, reported “that the rapid culture of evil with its progression has been fostered with such care in the community that the uninformed . . . have formed the most extravagant notions of their respective stations and duties.”<sup>4</sup>

### Chapter Notes

1. In Frank MacKinnon, *The Government of Prince Edward Island*, Toronto, U of T Press, 1951, p. 54.
2. In Stanley B. Ryerson, *The Founding of Canada: Beginnings to 1815*, Toronto, Progress Books, 1963.
3. “Selkirk Papers”, PAC, M.G. 19, E1, Vol 73, “Angus M. McAulay—Lord Selkirk”, October 3, 1814.
4. PAC., M.G. 11, C.O. 226, “Capt. James Bagnall Report”, January 25, 1816.

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