AND HIS ANCESTORS.

The History of the Supreme Bench of New Brunswick Told by Mr. J. W. Lawace, Supplemented by Pen-Portraits of Present Occupants

non the 13th October, 1838, half a century ago, Francis A. H. Straton, John C. Allen and John M. Johnson were admitted attornies. The bench and crown officers at that

Chief Justice—Hon. Ward Chipman.
Puisne Judges—Wm. Botsford, James
Carter, Robert Parker.
Attorney General—Charles J. Peters.
Solicitor General—George F. Street.
Advocate General—John Simcoe Saund-

ers.

Clerk of the Crown—Geo. F. S. Berton.
Clerk of the Pleas—George Shore.
Clerk of the Circuits and Clerk of Crown
on Circuits—Wm. Tyng Peters. Hon. Isaac Allen,

the grandfather of John Campbell Allen, was born in New Jersey in 1741. He was educated for the bar, and practiced in Philadelphia and Trenton. In 1769, he married Sarah Campbell, of Philadelphia. Through



JUSTICE PALMER.

colonel of the 2nd Battalion New Jersey volunteers. He had a valuable property in Pennsylvania which he forfeited, consequent on taking part on the side of the crown. Col. Allen was ordered by the council of Pennsylvania to surrender, and take his trial for treason, or stand attainted and his estate forfeited.

Col. Allen, at the close of the war, with his family and five servants, went to Wilmot. N. S., receiving from the British government £300 stg. per annum, a lieutenantcolonel's half-pay.

Appointed to a Seat on the Bench.

On the organization of New Brunswick, 1784, Col. Allen was appointed one of the four judges of the supreme court and one of the twelve councillors. Col. Allen drew two lots at Parr Town, on Prince William street, between King and Princess streets, were not defended by counsel, it not being thorsfield, for £5 cach lot. Col. Allen obtained a grant of 2,000 acres on the St. John river, seven miles above Fredericton. Within the grant was an old Indian settlement, called Aukpaque, meaning the beginning of swift water. He also obtained a grant of an island opposite, called "Isle of Sauvage," or Savage island, containing 220 acres. His residence was a quarter of a mile above the Indian settlement, and there he lived to his death, October, 1806.

The residence of Chief Justice Ludlow was after the opening of the court, and one and sold them after the removal of the seat The residence of Chief Justice Ludlow was at Springhill, one mile nearer Fredericton.

The First Trial at Fredericton. In May, 1786, David Nelson and William Harboard, two disbanded soldiers, living in the parish of Queensbury, 25 miles above Fredericton, were arrested for shooting an Indian. Pierre Bonwah. They were examined May 24, before Hon. Isaac Allen and Hon. Edward Winslow. two justices of the peace, in accordance with a statute passed in the reign of Queen Mary, requiring the justices to take the ation of the prisoner, but he was not sworn and was not compelled to make any statement. If the prisoner made s ntary statement, it could be used as evidence against him.

Last Saturday, the sun about half an hour high, my comrade, William Harboard, and I went to the river to catch some fish. After being there a little while, I heard dogs by the house after our hogs. I dropped my pole and ran to the house for my firelock. When just above the house, I found two dogs gnawing one of my hogs, which they had killed. When the dogs we me they ran, and I fired at them. I spoke to William, Harboard, and asked him to fire, which he did, and killed one of the dogs. I then desired Harboard to go with me and see if the other hogs were missing. We went, but could not find any.

THE JUBILER OF THE CHIEF

And the Manner in Which the

Bar Recognizes It.

WHY OCTOBER 13, 1888, IS

A Red-letter Day in a Brilliant and Successful Career.

SOMETHING OF THE CHIEFJUSTICE

AND HIS AND HIS AND STORES.

The Statement of Harb

to satisfy the paramous savages.

In this situation, you will naturally suppose, that we have had an arduous task to keep them quiet. We have assured both parties that the men shall be tried quickly, and if guilty, they will be punished.

We have told them the chief justice must attend, and that he will set off as soon as he receives the information from us.

For fear of accident, I wish when you deliver the governor's letter, that you would

he receives the information from us.

For fear of accident, I wish when you deliver the governor's letter, that you would if necessary, suggest the peculiar situation of Col. Allen. The whole corps of Indians are encamped around his house, and their rudeness has already distressed his family and made them unhappy. He had lately made a compact with them for a lot of land and they think they have a right to call on him whenever they please. This event has increased their familiarity, and I believe if they had the idea that he possessed the authority to decide in the present case, they would press him to a peremptory decision, and if it was not agreeable to them they might render the situation of the family uncomfortable. I am not apt you know to anticipate evils, but I really believe the Indians would be troublesome on such an occasion. These considerations induce me to write thus ardently; that the chief justice will come, and that he come immediately; impress them strongly on the governor.

come immediately; impress them strongly on the governor.

And now Chip, let me tell you once more, that I think, you should come to this country on some public occasion; can a better opportunity offer than the present? The prosecution is a matter of national expectation on one side, and of great concern on the other. Either the attorney or solicitor general ought to attend. It will gratify your friends exceedingly if you will attend, Col. Allen authorises me to tell you, he has business of some importance to engage you in. His gown and bands at your house. His coat and waistcoat at Judge Putnams. Pray don't forget them, he is very anxious about them.

In haste, yours,
EDW. WINSLOW. In haste, yours, EDW. WINSLOW.

WARD CHIPMAN, Esq.

The Trial.

The court of over and terminor opened at Fredericton, June 13, 1786, with Chief Justice Ludlow and Judge Allen on the bench.

The prisoners, Nelson and Harboard, conducted the prosecution. The prisoners were not defended by counsel, it not being after the opening of the court, and one month after the commission of the offence

Nelson was executed, but Harboard parloned, as appears from the following from Jonathan Sewell to Ward Chipman, in whose office at St. John he was a student:

FREDERICTON, July 6, 1786.

Dear Sir:

Poor Harboard has been out of his senses.
When they told him he was reprieved, he replied that he had suffered what was more than death, and was perfectly indifferent about his execution. He is now at liberty and has returned to his former habitation.

Parson Beardsley did not think proper to attend the unfortunate Nelson the day of his exit, although he was, as you remember, particularly requested.

Yours truly, FREDERICTON, July 6, 1786.

WARD CHIPMAN, Esq.

The Slavery Test Case.

In February, 1800, the question of slavery in New Brunswick was before the full cour at Fredericton, Chief Justice Ludlow Judges Allen, Upham and Saunders.

Jounsel for the Master.
Jonathan Bliss,
Thomas Wetmore,
John Murray Bliss,
Charles J. Peters,
William Botsford. Counsel for the Slav Ward Chipman,

William Botsford.

The speech of Jonathan Bliss was divided into 32 divisions. Ward Chipnan's covered 80 pages of foolscap. Both

Nova Scotia, overing the whole ground.

The question came before the court, on the return to a will of he as copus, issued to Caleb Jones, directing him to bring into court Nancy, a colored woman in his possession, and whom he claimed the right to hold as a slave.
The beach divided Chief Justice Lud-

low and Judge Upham, supported the master's claim to the slave. Judge Allen and Judge Saunders, held against the sufficiency of the return to the habeas corpus. As the court was equally divided, no judgment was entered, and the master took back his slave. From that time slavery was practically at an end in New

ter Mayor General.

April 845, Sir William Colebrook ointed Col. Allen, with the late James ment, under the fourth article of the treaty of Washington, 1842, knewn as the Ashburton treaty, which fixed the boundary line be-tween Maine and New Brunswick. They were engaged from April to December 1845, were engaged from April to December 1845, and again from May, till October, 1847, settling the claims and laying off the vari-ous allotments, on the British side of the river, from the Grand Falls, to the river St. Francis, and on the Madawaska river and other tributaries of the St. John. Upon the report of the commissioners, grants were issued, to the persons who had established their claims. Sir William Colebrook in 1845, appointed

Col. Allen died at the old homestead, Aukpaque, April 29, 1875, in his 91st year. His sister, Miss Francis Allen, the last of the second generation, died at Fredericton



CHIEF JUSTICE ALLEN.

fight.

she married a man named Leck, who had been in Col. Allen's regiment. Some of Brunswick Regiment of Artillery, Mr. Allen her descendants have been in the Allen received a second lieutenant's commission. family to this day.

Death of Hon. Isaac Allen.

Oct. 12, 1806, Judge Allen died at his residence, Opa-que, in his 66th year, the second of the bench of 1784. On the death of Judge Allen, Hon. Gabriel G. Ludlow, then president and commander-in-chief, sent the following communication to the colonial office: FREDERICTON, N. B., Feb. 9, 1807.

I have the honor to transmit for His Ma-The prisoners. Nelson and Harboard, were indicted for killing the Indian, and severally pleaded not guilty. Ward Chipman, as clerk of the crown on the circuits, conducted the prosecution. The prisoners were not defended by counsel, it not being variety's consideration the enclosed list of His Majesty's council, and to report the death of Isaac Allen, Esq., late a member of the council, and one of the judges of the supreme court of judicature in this province, which happened on the 12th of Ortobe last

that neither of these gentlemen would wish to take the vacant seat with a salary limited to £300 stg. I therefore beg leave to recommend William Botstord, Esq., a barrister of good character in the province, as a fit person to fill this vacancy in the

ipreme court.

I have the honor to be
G. G. Ludlow.
Right Hon. WM. WYNDHAM. The appointment made by the British

povernment was

While the selection was made in the pro vince, it was of one who was never admitted the bar, or wore a lawyer's gown. To the vacant seat, the Hon. Edward Winslow was appointed. For the office he was indebted to the influence of Governor Carle-ton, then in England, whose special favorites in New Brunswick were, Jonathan Odell, Ward Chipman and Edward Winslow.

Judge Allen had two brothers and s sister. The latter died at Fredericton, in 1835, aged 91 years.

At Wilmot, N.S., his son John was born, June 27, 1784. For many years he was one of the judges of the inferior court of common pleas for York, and for 35 years continuously one of the representatives of that county. In the war of 1812, Mr. Allen held a commission as captain in the New Brunswick Fencibles, commanded by Gen. Coffin. In 1828, with the rank of Colonel, are extant, also four letters between Ward he was appointed Inspecting Field Officer of to power.

that time greatly more courageous than to | Hon. John Campbell Allen, D. C. L.

son of Hon. John Allen, and grandson of Stair Agnew and S. Denny Street, one Hon. Isaac Allen, was born at Kingsclear, of the counsel for the slave, fought. They, York county, Oct. 1, 1817. He received with their seconds, were indicted. The trial stood over, and the indictment was school. His education for the bar was ac-After the trial, Judge Allen manumitted his slaves, one a girl born in the East Allen was admitted an attorney, and Oct. Indies, bought from the master of a ship in New York. After obtaining her freedom, of New Brunswick.

At the formation, 1838, of the New received a second lieutenant's commission. His promotion was rapid, for in 1841, he was gazetted adjutant of the regiment, with the rank of captain, and his commissions never have been cancelled. In 1842, Mr. Allen was appointed by Sir William Colebrook one of his provincial aide-de-camps. In 1840 Mr. Allen was appointed register of the court of probates for York, also clerk of the court of marriage and divorce. On the retirement, in 1839, of D. S. Kerr from

the reportership of the decisions of the Supreme court, Mr. Allen succeeded him. having assisted Mr. Kerr for several years.

In 1852, Mr. Allen was elected mayor of

had come in force Jan. 1 preceding. The council thereupon resigned, and the governor called upon John H. Gray to form new government. He submitted the name of several gentlemen which were approved. They went to the people and were all elect-The legislature met immediately after ed. and the vote in the house on the question of the dissolution was 23 for the govern ment, and 17 against. The Prohibitory act was repealed by a vote of 37 to 3.

The members of the new government were: John H. Gray, attorney general; R. Montgomery, surveyor general; Charles McPherson, board of works: Francis Mc-Phelim, postmaster general; John C. Allen, solicitor general; E. B. Chandler and R. L. Hazen without office.

The session of 1857 was a most exciting and stormy one, consequent on three of the former supporters of the government going into opposition, leaving the government denendent on the vote of the speaker. Hon Chas. Simonds. At the close of the session the governor dissolved the house. Tho the members of the government were all r elected, the general result of the election was adverse to them, when they immedia ly resigned and their predecessors returned

ATTRACTION

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New Dress and Mantle Trimmings in all the Latest Designs. MANCHESTER, ROBERTSON & ALLISON.

> This space reserved for HENRY J. Pitts, General Dry Goods Merchant, 179 Union Street, St. John, N. B.

In 1860, Hon. J. H. T. Manners-Sutton | Should it go to one of the judges there offered Mr. Allen the appointment of Queen's counsel which he decli

Mr. Allen Speaker of the House. Consequent on the resignation of John son of the speakership of the house, Mr. Allen at the opening of the session, 1863, was elected to the speaker's chair. The honor was the greater from being one of the opposition members. The government's candidate was Charles Fisher. Mr. Allen held the office till the dissolution in January, 1865, when the government in January, 1865, when the government went to the country in support of the union of the provinces. G. L. Hatheway left the government, and with Albert J. Smith, one of its supporters, strongly opposed the proposed union. The government was defeated and the governor, Hon. Arthur H. Gordon, called to his council Albert J. Smith, president of the council; John C. Allen, attorney general; A. H. Gillmore, provincial secretary; G. L. Hatheway, chairman board of works; Bliss Botsford, surveyor general; Wm. H. Odell, postmaster general; R. D. Wilmot, T. W. Anglin and R. Hutchinson without office.

Delegation to England.

Hon. A. J. Smith and Attorney-General Allen, in accordance with a resolution of the house, of June 7, 1865, went to Engand as delegates against the proposed union. On their return, they presented the following to the governor:

We left for England the 20th June, and arrived there on the 3rd of July last. Shortly after our arrival, we waited on the Right Hon. Mr. Cardwell, Her Majesty's propriet scenators for the colonies and Right Hon. Mr. Cardwell, Her Majesty's principal secretary for the colonies, and announced to him the object of our mission. We subsequently had several interviews with him, at which we presented in detail objections to the scheme of the proposed union of the provinces, and in the terms of the resolution authorizing our appointment, informed him of the views of the house of assembly and people of the province on the subject. Mr. Cardwell admitted the force of many of the objections, but stated that the policy of the Imperial government was in favor of the union of the colonies.

The Four Judicial Epochs.

The Four Judicial Epochs.

The first epoch was in 1808, when Judge Upham died, followed by the death of Chief Justice Ludlow, the last of the bench of 1784. Their early associates were James Putnam and Isaac Allen. For the chief justiceship Attorney-General Bliss

bench of the supreme court.

Dispatch from the Lieutenant-Gov FREDERICTON, N. B., May 26, 1834.

Sir:

I regret to have to announce to you the death of Chief Justice Saunders, at this place, on the morning of the 24th instant.

Enclosed I have the honor, to submit to you an application from Attorney-General Peters for the vacant office, also from the senior and junior puisne judges of the supreme court, Mr. Justice Bliss and Mr. Ward Chipman. Having determined in an appointment of this importance, demanding qualifications of a high and peculiar color to shots in terms. The members of the new government are: John H. Gray, attorney general; R. Wilmot, provincial secretary; John contgomery, surveyor general; Charles or their, postmaster general; John C. Allen, licitor general; E. B. Chandler and R. Hazen without office. I have, etc., etc., ARCH. CAMPBELL.

Right Hon. E. G. STANLEY, Colonial office.

Attorney-General Peters claimed th chief justiceship in virtue of his office. Another ground was: he was the father of 21 children. The point was significant, om one of his rivals, Ward Chipman having "none to speak with his enemies in

the gate."
Should the attorney-general get the chief justiceship, his office would be vacated.

whichever became vacant there were three applicants, Robert Parker, John Simcoe Saunders and E. B. Chandler. As the chief justiceship was given to Ward Chip-man, the vacancy fell to the bench, yet neither of the applicants won the prize. The first intelligence as to the disposition of the puisne judgeship was the tollowing:

James Carter, jr., one of the aldermen for Portsmouth, has been appointed one of the puisne judges of New Brunswick.— London Morning Herald, July 30, 1834.



JUSTICE FRASER.

Judge Bliss was in his grave, before either of the appointments was known in New Brunswick

The Bar Remonstrate

A meeting of the bar was held at the ourt house Fredericton, Oct. 22, 1834, with Attorney General Peters in the chair-Claiming that appointments to the bench, should be made from the provincial bar, to this, they received the asurance, that all tuture appointments would be from the bar of the province.

To the vacancy by the death of Judge Bliss, Solicitor General Robert Parker was

appointed. The third epoch was, in 1851, consequent on the resignation of Chief Justice Chip-man, when Judge Carter was recommended by Sir Edmund Head, and confirmed by the British government. The vacancy in the puisne judgeship was given to Attorney-General Wilmot. The movements and counter movements, connected with the bench of 1851, began in 1848, on the death of Attorney-General Peters, and were consummated in 1854, by the overthrow of the

The fourth epoch was in 1865, the most eventful year in the judicial history of New

Attorney-General Allen on the Bench. The term of his attorney-generalship was the shortest in New Brunswick. He was appointed in April, 1865, and resigned in

eptember following. In July, Sir James Carter resigned the office of chief justice, and on the 21st of September, Judge Parker was appointed and Attorney-General Allen received the vacant judgeship.

Chief Justice Parker lived only one

month, and Judge Ritchie was placed at the head of the judiciary of the province. The vacant judgeship was given to Hon. John W. Weldon, son-in-law of Judge Upham, one of the bench of 1784.

Never did it fall to a government, whose tenure of office was little over a year to appoint two attorney generals and have so many judicial prizes at its disposal, two judgeships and two chief-justiceships. These were the last judicial appointments by the crown in New Brunswick

In 1866, Judge Allen was appointed vice-president of the court of governor and divorce, for the trial of divorce cases.

In 1875, on the appointment of Chief-Justice Ritchie to the supreme court of Canada, Judge Allen received the chiefjusticeship. Of the attorney-generals of New Brunswick, Jonathan Bliss and John C. Allen, alone attained to the office of chief-

(Continued on Sixth Page.) tent batem yeb ontero

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AN EP

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