

**Donald Sinclair 1802-1871**  
**Magistrate, Nelson Provincial Councillor**

***Early life and first marriage***

Although born in Reay, Caithness, he grew up in Berwick upon Tweed, Northumberland, an army garrison town to which his father, Adjutant John Sinclair of the 1st Royal Veteran Battalion, was posted.

On completing his schooling, Donald became an articled writing clerk in the solicitors' offices of Rob Weddell and George Elliott of Berwick on Tweed, both of whom were willing to attest his good character in 1822 before he went off to London to complete his legal training. His departure may not have been immediate as on 26 Aug 1824 at Newcastle Upon Tyne, Donald Sinclair clerk to Mr Elliott gave evidence in a case where a client sued Donald's master for negligence.

In due course he received his warrants:

23 Jun 1828 - (of Church Street, Trinity Square) Attorney of the King's Bench

26 Jun 1828 - admitted at Durham as a solicitor in the High Court of Chancery

27 Jul 1830 - Commissioner of Oaths in the Court of Exchequer, in Durham,  
Northumberland, Cumberland, Westmoreland and York

The warrant as Commissioner of Oaths, although issued in London, was limited to the five northern counties, implying an intention to return to practice law in his home area.

On 4 Dec 1828 John Howard, aged 25, was found guilty of stealing Donald's handkerchief, value 4s, and sentenced to transportation for life. Sinclair's evidence: I am an attorney, and live in Devonshire-street, Trinity-square. I was going to my chambers in the Temple, and recollect my handkerchief being safe at the bottom of Fleet-street. I was stopped about the middle of Fleet-street by Roe, who asked if my pocket had been picked; I felt, and my handkerchief was gone; he had hold of the prisoner, and produced it. Constable Roe: On the 4th of November, about six o'clock in the evening, I saw the prisoner following the prosecutor in Fleet-street; I saw him get the handkerchief out a little way; I followed him about fifty yards further, when he got it quite out; I seized the prisoner, and took the handkerchief from him.

On 15 Jul 1831 at Berwick on Tweed Donald Sinclair married Hannah LANDLES. She was born on 6 Dec 1801 at Berwick, 11th of 12 children of James, a cooper, and his wife Margaret (nee DOD). Before the 1841 census Hannah had apparently died, and the household, living on west side of Hide Hill, comprised:

Donald Sinclair	age 39	solicitor	born Scotland
H Sinclair (female)	age 6		born Berwick on Tweed
MadIn Sinclair	age 5		born Berwick on Tweed
Isabella Bell	age 29	female servant	not born in county

Following the 1837 election, a House of Commons committee was hearing evidence of possible electoral bribery by the two MP's returned for Berwick. It was then alleged that Donald Sinclair, a solicitor in Berwick-upon-Tweed, approached one of the electors, asking him to give evidence to the Committee. When the man stated that he could give no such evidence, Sinclair was said to have offered him a large sum of money to induce him to give evidence. The House of Commons declined to hear the petition against Sinclair until the first matter had been resolved, and there is no indication that it was ever brought forward again.

About the same time he was appointed Auditor for the Guardians of the Poor at Berwick, and shortly afterwards a case was brought against the Master of the Workhouse who had claimed payment for more than 100 loaves of bread beyond what was authorized.

Donald signed the 1841 Berwick census returns as "Superintendent Registrar." Civil Registration of Births Deaths and Marriages had commenced in 1837, and Donald had been appointed local Registrar at Berwick. His name appears about this time in various notices in the London Gazette registering non-conformist buildings for the solemnization of marriages. Whether he continued a legal practice at this period is unknown, but in the 1837-38 year there were around 1000 registrations at Berwick to keep the office busy. He had the assistance of a Deputy Registrar.

### ***Emigration to Nelson 1842-1843***

Donald arrived in Nelson on 29 March 1843, as agent for one of the absentee land purchasers, W.W. Forster, M.P. [This is noted in the margin of the NZ Company Register of Applications for Passage.] His intention was to settle and send for his family should he find Nelson to his liking. His appointment as Registrar of Births, Deaths and Marriages may indicate that he had been unsuccessful in establishing a legal practice in Berwick, and he may have been looking for better opportunities.

Leaving the children behind, he had embarked on the *Phoebe* from Gravesend on 11 Nov 1842. There were 68 cabin passengers and 115 in steerage, one death and six births occurring en route. Donald paid £31 for his passage in the main cabin, while those in the fore-cabin paid £20. This was much less than had been charged on the 1841 ships to attract greater numbers of small capitalists. Unfortunately the reduction was carried too far, and Dr Greenwood, surgeon on the *Phoebe*, later informed the Company that although the feeling of the cabin passengers was in favour of the scheme, yet they would have willingly paid for an additional meal of fresh meat each week.

Donald's age on the passenger list is given as 28 though he was actually 40, and his occupation as "farmer" rather than solicitor. There would seem to be no reason for a cabin passenger, paying his own fare, to falsify these details. Perhaps the Company agents recorded what the Directors wanted to see. On arrival, Donald Sinclair was the lead signatory of a testimonial complimenting Dr Greenwood on his care of the passengers.

Donald had come to Nelson on business, and was not an original purchaser of a New Zealand Company land order. The only land grants in his name are for 1 acre in Nelson purchased from the NZ Company, and for 4 acres in Nelson purchased from the Crown, which hardly suggests a farmer.

Donald quickly set about establishing himself, and on 1st May 1843 was admitted at Nelson before Mr Justice Martin to be a solicitor of the Supreme Court of New Zealand. It would not have been an easy environment for a solicitor to set up in practice. Money was in short supply, and there were other lawyers already in town. His advertisements indicate diverse activities including Customhouse agency, property dealings - both sales and lettings, dissolution of partnerships, money lending, bankruptcies.

### ***Second Marriage 1845***

He must have decided that prospects in Nelson were sufficiently encouraging to send for his children, and in due course the two little girls, Hannah and Madge, arrived in the care of their nurse, Isabella Bell, who had been with the family since at least the

1841 census. On the 24th April 1845, Donald and Isabella were married - a necessary move to silence the Nelson gossips according to a family story. Isabella would add two sons to the family, Manson in 1846, and George Bell in 1849.

### **Magistrate 1844-1847**

Sinclair arrived at a time when the NZ Company surveyors, having been unable to deliver sufficient land to meet the pre-sold Nelson land orders, were turning their attention further afield. The Maori chiefs Te Rauparaha and Rangihaeata were resisting a move into the Wairau and creating annoyances by removing survey pegs, burning down shelters etc. The settlers' frustration culminated in the issue of a warrant for the arrest of the chiefs. It was during an attempt to execute this warrant that the unfortunate clash occurred between Maori and Europeans, now known as the Wairau Affair, at which the casualties included the Chief Police Magistrate and the New Zealand Company agent.

The newly arrived Governor Fitzroy, to the dismay of the settlers, took the view that the warrant should never have been issued. He sacked the acting Police Magistrate and withdrew the warrants of four J.P.s. His choice for a replacement Police Magistrate fell on Donald Sinclair, one of the few gentlemen in the community prepared to support the Governor. Dillon, one of the disgraced J.P.s, wrote to his mother: "This man would never be chosen if anyone else could be got as he is generally drunk." Ruth Allan suggests that since Dillon was completely at odds with the Governor, we should treat his testimony with some reserve.

#### **GOVERNMENT NOTICES.**

**NOTICE.—His Excellency the Governor**  
has been pleased to appoint DONALD SINCLAIR, Esq.,  
solicitor, to be Chief Police Magistrate in the district of  
Nelson.  
Mr. Sinclair will act as the Representative of Government  
at Nelson, subject to the control of his Honour the Superin-  
tendent of the Southern Division of New Zealand.  
By command of his Excellency,  
J. W. HAMILTON,  
Private Secretary.

Nelson, Feb. 8, 1844.

The Superintendent of the Southern District referred to was Major Matthew Richmond, at that time resident in Wellington.

Nelson residents, outraged by Fitzroy's refusal to bring "the Wairau murderers" to trial, got up a petition to the House of Commons, signed by virtually every adult male in the community. More than two years later word got back to Nelson that the petition, as forwarded, had had asterisks affixed to many names said to be "not on the jury roll," the implication being that these entries were either fraudulent or represented unfit persons. In fact, the names of several prominent citizens had been asterisked. Some had occupations precluding jury service, some lived too far from town to serve on juries, and some had been asterisked in error. Blame for this interference naturally fell on Sinclair, though it was conceded that Major Richmond may also have had a hand in it.

The period of Sinclair's magistracy was the most difficult in Nelson's history. It was his responsibility to smooth out problems arising from the virtual collapse of the New Zealand Company in 1844. Riots had occurred the previous year when work could not be found for more than 250 labourers. But in 1844 no disturbance occurred and it was not necessary to swear in special constables or accept an offer of troops from Wellington.

An idea of the role of Police Magistrate may be gathered from correspondence between Thompson, the first Police Magistrate in Nelson, and Governor Hobson.

Thompson realised that his powers would be inadequate, as his court had no jurisdiction if the property concerned was over 20/- and none at all in cases of debt. The Governor expected him to supplement his meagre powers with sufficient judicious tact to 'restrain the licentious'. The peace of the realm was to depend less on judicial institutions than on the 'wisdom and discretion of the Police Magistrate.'

These problems had been alleviated to some extent by the time Sinclair took office by the setting up of a county court and the appointment of a judge. A further development was the establishment of a Court of Requests "for the more easy and speedy recovery of small debts." Sinclair was appointed its Commissioner, and also Sheriff on 1st April 1845. He was also authorised to increase the police force by a sergeant and six men to control the animosity between the races ... engendered chiefly by the unfair conduct of the settlers in attempting to possess lands.

A proportion of the land in Company surveys was set aside for the Maori and this passed to the Government in a Native Reserves Trust. Sinclair was local representative of the Trustees from 1845-1848 when a new Board of Management assumed control. In Sinclair's time arrangements for general settlement of the Company's land claims began. It fell to him to delimit the Maori Reserves. In the course of 1847 he did some juggling of sections in Motueka to make sure that paha and cultivations came within the boundaries of Maori sections. In September of that year he went to Golden Bay to select reserves for the Maori. Besides existing cultivations he was to take as much additional land as he considered sufficient for the present and future wants of the Maori of that district.

As sole representative of the Government in Nelson, there were times when Sinclair was called upon to mediate in difficult situations. Thus, in January 1845, when the chief Paremata had been seriously harassing settlers, it was his duty to restore order. When the dissatisfied settlers moved to take the law into their own hands, Sinclair read a proclamation warning them against such action. Fortunately the matter blew over without coming to blows.

There were other instances of unpopular high-handedness in Sinclair's performance. When word was received from Wanganui that Maori were plotting to steal gunpowder from the Nelson magazine, Sinclair chose to keep the information to himself, rather than consult with the other J.P.s to devise an appropriate course of action. In the aftermath of this contretemps the chief constable resigned and Sinclair filled the vacancy, again without consultation.

Actions like these stirred up bitterness among citizens who had no voice in the governing of their affairs. Their remedy was to petition the Governor for the removal of the Resident\* Magistrate, but they were no better pleased on learning, on 7 Dec 1847, that Sinclair had been replaced by Major Richmond. The Examiner reported "Mr Sinclair, our former Resident Magistrate, has been superseded, but we hear that an offer was made him to continue Sheriff and Commissioner of the Court of Requests, at a salary of £100 a year; but we believe it has been declined." [\*The position had been upgraded from Police Magistrate to Resident Magistrate about this time.]

For the preceding three years Richmond had been Superintendent of the Southern District which comprised all of the South Island and the southern portion of the North Island. As chief executive and judicial officer over this territory he was responsible only to the Governor in Auckland. The Nelson settlers had never been happy with this arrangement and felt that a higher-ranked official should have been sent to Nelson. The appointment of a Lieutenant-Governor in Wellington made it possible to send Superintendent Richmond to Nelson. Sinclair was perhaps unfortunate to find

his position redundant, as increasing size of the colony required a more senior official at its head. He continued as a Justice of the Peace, and with his private legal practice.

As was customary, he was duly presented with a testimonial signed by 24 prominent citizens:

**ADDRESS TO D. SINCLAIR, ESQ.**

**To D. SINCLAIR, Esq., Nelson.**

**SIR—Upon your retiring from the office of Resident Magistrate and Commissioner of the Court of Requests, we, the undersigned inhabitants of Nelson, beg to convey to you our sense of the justness and impartiality which has distinguished your actions as a magistrate, and of the integrity of character which you have evinced as commissioner.**

**Wishing you, sir, that success in future which your past conduct as a servant of the Crown entitles you to expect,**

**We remain, sir,**

**Very truly yours,**

In the period of panic following the Wairau Affair fortifications were built on Church Hill and for weeks men enrolled as special constables were drilled twice daily. When Shortland, the acting Governor, eventually received news of the situation he immediately ordered all volunteer corps disbanded to avoid provoking further incidents. It was not until 1845 that the Nelson Battalion of Militia was officially established, with Donald Sinclair as Captain Commandant.

Sinclair's involvement with the volunteers continued at least until 1860, when he is listed as one of 10 Captains in the Nelson Regiment of the NZ Militia, no doubt a role he fell into easily, recollecting his father's military career. His two sons, Manson and George, also served in their turn.

Some glimpses of Sinclair's other activities can be obtained from the newspaper:

- 1844: refused to hear a case because the prisoner was not wearing a jacket
- 1844: published jury lists and called for objections - same in subsequent years
- 1845: authorised Saturday street markets in Bridge Street
- 1845: conveyed views of Grand Jury to the Governor on matters of concern to citizens
- 1845: called for tenders for supplies for gaol
- 1846: called for information as to which roads were most in need of repair
- 1846: called for tenders for two new bridges
- 1846: rescheduled court sitting due to Judge's arrival being delayed
- 1846: proclaimed new cattle trespass act passed by central government (not popular)
- 1847: called for tenders for street repairs
- 1847: called for tenders for supply of medical services to the natives
- 1849: founder member of the Nelson Institute providing a library and reading room
- 1850: heavy flood caused considerable damage - D Sinclair's house had to be taken down
- 1858: on committee of Nelson Institute

***Provincial Councillor 1853-1859***

To establish a successful practice in a new community, a lawyer needs to be widely known and respected. Donald's strategy seems to have been to combine his legal practice with public service. If that service attracted payment, so much the better. In

Berwick he had taken the role of Registrar, on arrival in Nelson he had served as Magistrate for a few years.

In 1853 a new system of Provincial Government was introduced, to address concerns of voters in far flung communities who demanded more control over local affairs. Donald was approached to stand as a candidate at the first election, representing the town of Nelson. *The Examiner* reported his sentiments at the nomination meeting:

*He was a liberal in principles, and had never had an imputation cast on his political principles till it was made by Tories in this settlement. (Hear.) He had been an advocate for, and had taken part in, promoting the cause of reform, and it was unlikely that he would change his opinions. If he had the honour of being elected, he would take his own counsel, and judge conscientiously for the electors, and would not pledge himself to govern his conduct by their opinions, for he lived by giving opinions, not taking them. He would support liberal principles, and he would make every child a child of the state, and punish the parent who did not educate his children. (Hear.) The price of land he thought should be regulated by its worth in the market, and should be put up at a low upset price when sold by auction. If elected, he would honestly and conscientiously serve them. (Cheers.)*

He was duly elected and was then selected by his fellow councilors to be Speaker. He apparently took this task very seriously, arming himself with a copy of the House of Commons Standing Orders, an action which drew criticism as being out of keeping with the needs of the Province. In 1857 the Speaker's salary was £100 p.a.

*The Speaker then addressed the Council, and thanked it for the distinguished honour conferred upon him by unanimously electing him to the Speakership. The encomiums passed upon him by his honourable friend, Dr. Renwick, he feared he scarcely deserved, nor would he attempt to conceal the apprehension he felt in accepting the office that he had been too ambitious, and that, fearing his own insufficiency, he might with great propriety have prayed the Council to make choice of a better man. By its vote, however, the Council had thought that he might be useful to it, but he should be able only to ill discharge his duties, unless assisted and supported by the members collectively and individually. Though nominally the president, he trusted that he should bear in mind that he was only the servant of the Council, and that he must implicitly obey its orders without attending to any other commands. That in matters of doubt or difficulty he was to explain or inform the Council on any point of law, practice, or order, to the best of his knowledge and ability; that he was not to attempt to sway its deliberations, nor be of any party; and, in short, that he ought not to see, hear, or act other than the Council should direct him. Such should be his endeavour; and he again begged to return thanks for the high honour done him.*

At the second election in October 1857, Sinclair failed to retain his seat. Feeling was expressed that too many of the labouring class had acquired the vote! However, in February 1858 a vacancy conveniently occurred and he took a seat representing Wairau, but having been absent for the opening session he was no longer Speaker. The choice of Sinclair for the Wairau seat is interesting as the Wairau settlers had been concerned that they were not receiving their fair share of roading expenditure. In choosing a Nelson man to represent them they displayed some confidence in his fairness. However, in the course of the second term residents of Marlborough successfully petitioned to have their own separate province, and in the process of the separation the three Wairau members, including Donald Sinclair, lost their seats. He stood again in the election of 1862 but was not successful.

### **Public service in the middle years**

Having occupied two high profile positions in a relatively small community, it is not surprising to find the name of Donald Sinclair cropping up in a diversity of other posts.

- 1852: advised a meeting exploring governance structure for the Anglican Church in NZ
- 1854: chaired Wesleyan School tea party, chaired meeting Wesleyan Missionary Society
- 1856: appointed to Education Committee for Town of Nelson
- 1856: marriage of his daughter Madge
- 1857: chaired Anniversary Dinner of Oddfellows Lodge - repeated for several years
- 1857: elected by Education Committee to Central Board of Education - chairman
- 1857: laid foundation stone for new Wesleyan Chapel
- 1857: chaired annual prize-giving at Nelson College
- 1858: chaired meeting to discuss roads at the goldfields
- 1858: chaired meeting of Dun Mountain Copper Mining Coy shareholders
- 1858: chaired meeting to receive results of steaming coal trial
- 1858: chaired meeting of Nelson Literary Institute, became vice-president
- 1859: Trustee, Nelson Trust Funds - wound up 1869
- 1859: chaired public meeting to consider gas lighting for Nelson
- 1859: appointed by Provincial Council to Hospital Management Committee
- 1859: Registrar, Anglican Diocese of Nelson; on standing committee 1st Diocesan Synod
- 1859: Vice-President, Nelson Savings Bank (President was the Governor, *ex-officio*)
- 1859: among the gentlemen introduced at the Governor's levee
- 1860: chaired meeting to establish a corps of Volunteers
- 1860: chaired public meeting to receive report of Nelson MPs on recent session
- 1862: deputy chair, Nelson Chamber of Commerce
- 1863: member Board of Governors, Nelson College (resigned 1870)
- 1865: chaired political meeting for E W Stafford
- 1866: chaired political meeting for Oswald Curtis
- 1867: member of committee to celebrate Nelson's 25th anniversary
- 1868: read deed at the consecration of All Saints Anglican Church

From the above list the most significant is Sinclair's contribution to education in Nelson. Having been elected to the local Education committee for the town of Nelson he was returned as their delegate to the Central Board of Education. He soon became the Chairman and retained this position for more than 10 years.

Another important role was that of Trustee for Nelson Trust Funds 1859-1869. This Fund amounted to almost £50,000 set aside from NZ Company sales to provide community facilities such as churches, schools, a museum and art gallery, etc.

### **An ignominious end 1870-71**

When I first started researching my gt gt grandfather several things surprised me.

First, I found there was no record of his will being probated. This seemed odd for a solicitor, but it never occurred to me that he had no estate to administer.

Next, I looked for an obituary, but found nothing, beyond the statement "*Deceased was one of the earliest settlers of Nelson*" appended to the death notice. I continued the search for a couple of weeks past his death until I found his old friend James Mackay honoured with a lengthy obituary. Apparently Sinclair had fallen out of favour.

Then there was the absence of any inscription on his grave. Buried alongside his son Manson, who had died six months earlier with a large monument erected by his

former school-friends, it should have been possible to add a line for his father, but nothing!

So this man who had held many positions of honour in his lifetime, was almost completely ignored in death. What had gone wrong?

The story unfolded in the newspapers. On 7 July 1871 attorneys for the Society for the Propagation of the Gospel alleged that large sums of money had been placed in Sinclair's hands for investment, but no account of capital or interest could be obtained. Judgment entered for the plaintiffs.

On 26 Aug 1871 land and house in Bronti street, late in the occupation of D. Sinclair was advertised for sale by auction.

On 8 Sep 1871 a notice advised that on the 15th an application would be made to proceed against Donald Sinclair under the Bankruptcy Act.

Donald died on the 13th. His death certificate gives the cause of death as "Bronchitis," but to some it must have seemed too convenient - to die a couple of days before he was to face bankruptcy charges. No doubt there was tittle-tattle in the town, and I assume that this is the basis for the statement in *Nelson Notables* that "facing financial difficulties he took his own life."

In the absence of an inquest I suggest that we should accept the death certificate. He was 69 years of age, his son Manson had been accidentally killed six months earlier, and his elder daughter had recently married in defiance of his orders and was banished from home. Then his finances began to unravel. His house was auctioned, and finally he was facing bankruptcy proceedings. Would it be surprising if the stress proved too much?

**Sources:**

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