

Looking back... with Alun Hughes

THE BEGINNINGS OF LOCAL GOVERNMENT IN NIAGARA

The division of responsibilities between the three main levels of government in Canada, federal, provincial and municipal, has long been well-defined. Thus on April 11, 1793, John Graves Simcoe, Lieutenant-Governor of Upper Canada, issued the following proclamation:

Whereas it is the indispensable duty of all People, and more especially of all Christian Nations, to preserve and advance the Honor and Service of Almighty GOD, and to discourage and suppress all Vice, Profaneness and Immorality, which if not timely prevented may justly draw down the Divine Vengeance upon Us and our Country: and His Majesty having for the promotion of Virtue, and in tenderness to the best interest of His Subjects, given command for causing all Laws made against Blasphemy, Profaneness, Adultery, Fornication, Polygamy, Incest, Profanation of the Lord's Day, Swearing and Drunkenness, to be strictly put in Execution in every part of the Province, I do therefore direct, require and command the Peace Officers and Constables of the several Towns and Townships, to make presentment upon Oath, of any of the Vices before mentioned, to the Justices of the Peace in their Session....

The proclamation goes on, but I stop right there at mention of Justices of the Peace, for they were the councillors of the time. They were the people who ran local government, though they differed from modern aldermen in several respects. They were appointed, not elected, they represented districts that were vast in comparision to present-day municipalities yet very sparsely populated, and they had a variety of functions, not only administrative but also legislative and judicial (among the latter, as we see from the quote, the enforcement of public morality).

Local government in Simcoe's time was quite different from what we are familiar with today, and my aim is to trace its origins, with emphasis on the Niagara Peninsula, and to pursue the topic until 1849, when the Baldwin Act established a structure that was to survive for over a century, a structure that survives in modified form to the present day.

The “French” Period

I start in the early eighteenth century, during the French period. At this time there was no local government as we know it in Niagara, obviously so because apart from the Native peoples, who had their own systems, there was no one here to govern. Interestingly enough, there was no local government either in those areas where European settlers did exist, for apart from a brief period in the mid-seventeenth century, strong central control was the order of the day in New France.

With the assumption of British control in 1763 all power was vested in the military authorities, and the Province of Quebec was administered by a Governor and Legislative Council. A few concessions were made to local autonomy, but only in church matters did settlers exercise any great responsibility. The original intention was to introduce English institutions and laws, including the freehold system of land tenure, but apart from the creation in 1764 of Courts of Quarter Sessions composed of justices of the peace for the trial of minor matters, very little was done. This intention was formally abandoned anyway in 1774, when the Quebec Act re-affirmed the French character of Quebec and extended the province's boundaries to include much of what is now Ontario and with it, of course, Niagara.

The Quebec Act was in part a response to impending problems in America, and a year later these culminated in the outbreak of the Revolutionary War. The war set in motion a chain of events that transformed Niagara and led ultimately to the system of local government that exists today.

The Revolutionary War

Three key developments can be identified in the period during and immediately following the War: first, the influx of thousands of Loyalist and other refugees into Niagara and other border areas; second, the subdivision of the land into townships for the purpose of settlement; and third, a growing call on the part of settlers for control over their own affairs.

The influx began during wartime. At the start of the War the British presence in this area consisted solely of the garrisons at Fort Niagara on the east bank of the Niagara River and Fort Erie on the west. But

early in 1779 over 1300 persons, comprising troops, Butler's Rangers, displaced Natives and Loyalists, were listed as drawing rations at Fort Niagara alone. The fort was largely dependent on imported provisions and the situation was becoming increasingly critical. To alleviate the problem a strip of land on the west bank was purchased from the Seneca, and selected Loyalists were authorized to occupy and farm it. The intention was not to create a permanent settlement — the Loyalists were to return home when the War was won — but simply to provide food for the garrison. A map by Allan McDonell shows the 'Niagara Settlement' as it was early in 1783.

But the War was lost, and the Loyalists retained their land. The influx of refugees continued unabated, not only to Niagara, but also to the Kingston area, to the upper St. Lawrence and to Nova Scotia, and it was clear that vast areas of land had to be opened up for large-scale civilian settlement. Two prerequisites were the purchase of land from the Natives, and its subdivision into lots. In 1784 a huge tract extending as far as present-day London was bought from the Mississauga, and William Tinling was dispatched to Niagara to survey the land. How much work Tinling did is uncertain, but his efforts were superseded anyway in 1787 by an 18-month crash program of surveys under the direction of Philip Frey that saw the laying-out of 14 townships in the Niagara Peninsula, extending along the shoreline from Barton in the west to Bertie in the south-east, and including the inland townships of Binbrook, Pelham, Thorold and Crowsland. Over time the remaining townships were surveyed, thus completing what was to become the basic framework for local government in Niagara. However, the townships did not assume that role until much later; initially they were nothing more than units of survey.

Despite the patchwork of varying shapes and sizes the basic model for the townships surveyed in 1787-9 seems to have been the six-mile-square township with which many Loyalists were familiar from New England and New York State. They were also familiar with the degree of local autonomy that went along with township life. The New England Loyalists were accustomed to a vigorous form of local self-government centred on the town meeting, at which selectmen were elected to oversee town affairs. Though in theory their appointment and actions were subject to approval by the Governor, in practice they operated independently of central authority. In New York the townships enjoyed less autonomy, but still provided their inhabitants with a measure of local control. There was nothing even remotely comparable

in the new country of Canada, a fact that became a source of major discontent. The discontent was exacerbated by the fact that the settlers were subject to French civil law and in particular to the seigneurial system of land tenure, which deprived them of proper title to their land.

The immediate post-war need to maintain law and order led to the appointment of several ex-officers among the Loyalists as magistrates to settle minor disputes, and in 1785 they were given limited civil jurisdiction. But this was a token move, and in April of the same year Sir John Johnson, Superintendent of Indian Affairs, and several others petitioned the Crown for the abolition of the seigneurial system and the creation of a separate district in upper Quebec encompassing the lands settled by Loyalists and disbanded troops. The new district would extend west from Lake St. Francis near Montreal and would itself be subdivided into smaller districts. Though it would have its own "metropolis" in Cataraqui, it would still be subordinate to the Governor of Quebec, much as Cape Breton was subordinate to Nova Scotia.

Here we have the first formal proposal for local government in this area, but the response from the Crown was unsympathetic. Sobered by their experience in the American colonies, the British were most reluctant to grant local autonomy, so much so that when the earliest townships were surveyed they were numbered instead of named in a conscious effort to discourage the emergence of any sense of territorial identity on the part of the settlers. Thus Niagara Township was No. 1, Stamford was No. 2, Grantham was No. 3, and so on. The same occurred in the vicinity of Cataraqui and along the St. Lawrence.

The Districts

But the Loyalists persisted, and a combination of additional petitions and mounting population pressures forced the British to acquiesce. On July 24, 1788 Lord Dorchester, the Governor-General, issued a proclamation dividing the "Upper Country," formerly part of the District of Montreal, into four districts called Hesse, Nassau, Mecklenburg and Luneburg (German names being chosen presumably in deference to the British Royal Family's German connections). The boundaries were simple north-south lines running through Long Point and the mouths of the Trent and Gananoque Rivers, but the districts so defined neatly contained the four main areas of Loyalist settlement — Detroit, Niagara, Cataraqui and the St. Lawrence; Niagara was in Nassau.

Various officials were appointed to each district, among them a clerk and judges of the Court of Common Pleas, a sheriff, coroners, and justices of the peace or magistrates. The last named, who met four times a year at the Courts of Quarter Sessions, had a variety of responsibilities, including such typically municipal ones as regulating domestic animals running at large, overseeing licensed taverns, appointing minor officials and superintending highways. Another important function carried out at district level, though not by the magistrates, was the granting of land. To this end a Land Board was established in each district, with the first meeting of the Nassau Land Board taking place in Navy Hall in January 1789.

The new system of local government, rudimentary and non-democratic though it was, did not mesh well with the French laws and institutions entrenched by the Quebec Act, and pressure mounted for a separate province with English civil law and an English system of land tenure. This was finally achieved by the Constitutional Act of 1791, which established a new Province of Upper Canada governed by a Lieutenant-Governor, appointed executive and legislative councils and an elected legislative assembly. The predominance of appointed positions, which it was hoped would lead to the emergence of a hereditary political aristocracy, was entirely consistent with the prevailing view among those in power that democracy was at best undesirable and at worst, given what it had led to in the American colonies, positively dangerous.

And so the districts with their appointed officials were retained, though at the first session of the Provincial Assembly held in a recently-erected Freemason's Hall in Newark in September 1792 they were renamed, somewhat prosaically, Western, Home, Midland and Eastern. The Courts of Quarter Sessions continued to manage local affairs, and as the population increased and the problems requiring local attention multiplied, more and more responsibilities were added. To quote Crawford,

Over the years they were empowered to erect and manage court houses, gaols, and asylums, to lay out and improve highways, to make assessments for and to pay the wages of members of the House of Assembly, to make regulations to prevent accidental fires, to appoint district or township constables, to fix the fees of gaolers, town or parish clerks, and pound keepers, to appoint street and highway surveyors and inspectors of weights and measures, to regulate ferries, to establish and regulate markets in certain towns, to grant

certificates to sell liquor, and to permit dissenting clergy to solemnize marriages.

These district courts, composed of non-elected magistrates, continued to run local government until 1841.

The Counties

Meanwhile, in July 1792, Lieutenant-Governor Simcoe divided Upper Canada into 19 counties, one of which was Lincoln — a much larger Lincoln than that which was eventually to emerge as a unit of local government. Like the townships before them, the counties initially had no administrative significance, but they did possess three distinct roles.

First, they were units for organizing the militia. In each county Simcoe named a County Lieutenant, modelled on the Lords Lieutenant of counties back in Britain, as part of his attempt to foster an aristocracy, and assigned him the task of organizing and commanding the county militia. Ironically, while the militias survived their creators did not, for the County Lieutenants were literally allowed to die out after the Colonial Office raised objections to their existence in 1795.

Second, they were units for parliamentary representation. For this purpose Lincoln was split into four ridings, the second and third to have one representative each, the first to share a representative with the counties of York and Durham, and the fourth to share a representative with Norfolk. No doubt this allocation reflected the distribution of population at the time.

Third, the counties replaced the districts as units for granting land. The four district-based Land Boards were replaced by seven county-based ones, and the Nassau board in effect became the board for Lincoln. This third role lasted only until 1794, when the county boards were abolished and the process of granting land was centralized in the Clerk of the Council.

Something that is fairly apparent from the map is that the county boundaries were completely unrelated to the district boundaries. Thus most of Lincoln fell in the Home District, but the westernmost portion extended into the Western District. Somewhat less apparent is that the township boundaries were often similarly unrelated to either the county or the district boundaries. The territorial confusion was described by Peter Russell in a letter to Simcoe,

... all the County lines divide townships and District lines divide Counties and Townships. The consequence is that some Counties being in two Districts and several Townships being in two Counties and separate Districts, the inhabitants of such divided Counties and Townships cannot determine to which jurisdiction they belong and of course are neither assessed nor enrolled to the great hindrance of the due organization of the province — an evil which cannot now be remedied but by the interposition of the Legislature.

The Legislature had no choice but to act, and these anomalies were removed in 1798 as part of a major redrawing of district and county boundaries, using the townships as the basic building-blocks. The four original districts were replaced by seven: Western, London, Niagara, Home, Midland, Johnstown and Eastern. An eighth district — Newcastle — was carved out of the eastern part of the Home District two years later. The new Niagara District contained two counties — Haldimand, comprising part of the Grand River Tract acquired by the Mohawk of the Six Nations in 1784, and a super Lincoln that included most of the Niagara Peninsula and extended west as far as Ancaster Township.

The Townships

Mention of the townships raises the question of what role, if any, they played in local affairs in Upper Canada. We have seen that local government was run by the district magistrates, and that the townships were initially nothing more than convenient survey units. Yet little over a half century later they became the basic units for local government, assuming many of the roles previously performed by the districts. Did this come about suddenly, or was it the culmination of a process of gradual change? The answer is that it was a bit of both — the townships had a role from the very beginning, but the role was an extremely limited one and apart from a brief interlude in the 1830s, changed little prior to the Baldwin Act of 1849.

Given the desire of the Loyalists for local self-rule and their familiarity with the town meetings of the American colonies, it is perhaps not surprising that the first bill placed before the opening session of the Upper Canada Parliament in 1792 was “to authorize town meetings for the purpose of appointing divers parish officers.” When Simcoe engineered its postponement on second reading, another bill “to authorize the justices of the peace to appoint annually

divers public officers” was introduced. Having officers appointed by the justices instead of elected by township meetings was more palatable to Simcoe, who was decidedly not in favour of local democracy. This sentiment was shared by his Surveyor General, David W. Smith:

I have been of the opinion also that the magistrates in quarter sessions should choose the different county, town and parish officers but that, it seems won't succeed either — most of the members being for a town meeting and that these should be elective. However, as I conceive these meetings to have been the cause of the late unhappy rebellion and must always be attended by riot and confusion, it does not meet with my ideas. I think the majority of people should never be called together but to choose their representatives for the House of Assembly.

But Simcoe moderated, having resigned himself to the fact that appointment by magistrates was unpalatable, and at the second session of Parliament in 1793 the original bill was passed into law as the Parish and Town Officers Act. This act authorized the convening of an annual township meeting (initially on the first Monday in March, later changed to January) for the purpose of electing a clerk, two assessors, a tax collector, from two to six overseers of highways (who would also act as fence viewers), one or more poundkeepers and two town wardens (one of whom was to be chosen by the minister of the parish church if such existed).

If it is true, as Biggar has claimed, that the township meetings were “the germ of our democratic system of municipal institutions,” they were but a pale shadow of what Robert Gourlay called “those little republics, the towns of New England.” The meetings had almost no authority beyond the annual elections, and real power remained with the justices of the peace of the district. The duties of the elected officers were prescribed in detail by statute, and administratively they were answerable to the justices. A warrant signed by two justices was required to hold a meeting in the first place, and if the meeting failed to elect officers the justices were to appoint them. The justices could also remove township officers who failed to perform their duties.

The only legislative power given to the township meetings by the 1793 Act was that of regulating the height of fences. The following year they were authorized also to regulate the running at large of

animals, but even this limited power was somewhat curtailed ten years later.

We must not suppose, however, that these limited powers left the settlers dissatisfied, at least not to begin with. Most of them came from New York, where the township never occupied the position it did in New England. The main function of the town meeting in New York was to elect officers, and even after the creation of county boards of supervisors composed of selected officers in 1703, the justices of the peace retained extensive powers. As one Loyalist, writing in 1816, put it, the system of local government in Upper Canada had “a constitution similar to that with which they had lost during the Rebellion in the Province of New York.”

Moreover, the Loyalists were nothing if not loyal, and may well have had misgivings about reproducing in Upper Canada the New England style of township meeting, a political structure that had helped to foment rebellion against the Crown. There is also the fact that the powers granted to the townships — the regulation of fences and animals — were the very things, roads excepted, that mattered most in a pioneer agricultural community. Significantly enough, in those areas where township meetings were held prior to the 1793 act, these were the issues of most concern.

One of the areas in question was Grimsby, which has the distinction of being the site of the first-ever township meeting in Ontario, held in John Green’s house on April 5, 1790. Unlike early meetings held in other townships, this one was sanctioned by the district magistrates. An historical plaque alongside the museum (formerly alongside the old town hall) marks the event, at which the officers elected were a clerk, a constable, an overseer of the poor, two road overseers, and two fence viewers and prisers of damage. Further meetings were held in April 1791, 1792 and 1793.

The Township had to meet a second time in 1793, on August 12, following passage of the Parish and Town Officers Act. Five days later the first township meetings were held in Niagara and Stamford. Only from 1794 did the meetings take place on the first Monday in March, as required by law. Not all the townships convened meetings so promptly. The first record of a meeting in Thorold is dated 1799, though there is evidence that officers had been elected several years before, Crowland held its first meeting in 1803, and Bertie did not follow suit until 1808.

The proceedings of the meetings make for fairly dull reading, consisting basically of a record of those

elected to office and any new by-laws passed at the meeting. At the 1803 meeting in Crowland, for example, it was agreed that “all fences or field enclosures in the Township are to be 5 feet in height without any opening between the ground and the top of the fourth rail in each panel more than 5 inches.” There were no new by-laws in 1804, but a year later it was decided that “Hogs under the age of one year must be well yoked by their owners,” while “Hogs over the age of one year are allowed to run at large.” Only rarely is there something that strikes the imagination, such as the final entry for 1836: “The Board of Commissioners for Crowland met at Robert Doan’s Inn … and got drunk.”

By all accounts 1836 had been a difficult year in Crowland. There were numerous disputes over fences, boundaries and ditches, and several individuals were called to account for such transgressions as failure to perform official duties, not giving a true list of rateable property to the assessor, non-performance of statute labour and obstructing the road allowance. Partly it was that township life was becoming more complex as the population increased, but the main contributing factor was the expansion of township powers resulting from the passing of the Board of Commissioners Act the previous year.

The Act was a radical departure from its predecessor in 1793. The clerk could now call a township meeting himself, as well as administer oaths of office, and if he failed to act the inhabitants could convene of their own accord. Three persons were to be elected to a board of commissioners, which was to meet at least quarterly and which assumed many of the functions previously exercised by the justices, including control over township officers. The township meeting acquired additional legislative powers, among them the setting of fines for breaching the regulations concerning the control of animals.

The Act had a galvanizing effect on township meetings, but the deliberations that took place were by no means confined to routine township affairs. The Reform Movement was at its height, and the reformers openly used township meetings as a means of spreading propaganda against the Family Compact and in favour of “responsible government” and other changes. Reform candidates swept the elections in certain townships and anti-government resolutions were passed. The mood was exultant. As one correspondent wrote following a Burford Township meeting in 1837, “The people begin to know their strength and show their independence. They will not tamely be rode rough shod over any longer.”

To the authorities it must have seemed like New England in the 1770s all over again, and it was no surprise when most of the provisions of the 1835 act were rescinded three years later. The Mackenzie Rebellion of 1837 made certain of that. The Board of Commissioners disappeared, a magistrates' warrant was once again required for a meeting, and the townships reverted to their former docile state.

But the reversion was temporary, for there was no turning back the tide of reform. Upper Canada had changed out of all recognition since 1791. The population had increased dramatically, largely as a result of massive immigration from the British Isles. Vast new areas were opened up for settlement, and significant urban centres emerged. The economy expanded, major road- and canal-building projects were carried out, and the Bank of Upper Canada was established. Public schooling was introduced, a university was chartered — all signs that Upper Canada had moved far from the pioneer society that nurtured it in the late eighteenth century.

Yet the system of government, both provincial and local, was essentially unchanged. Certain developments did take place at the local level, however, two of them being of particular note. The first was the periodic modification of administrative boundaries in response to increasing population and shifts in population distribution. By 1826 the number of districts had increased to eleven. The new Gore District took a chunk out of Niagara, and there were corresponding reductions in the size of Lincoln and Haldimand counties, with the former assuming the boundaries now occupied by the Regional Municipality of Niagara. By 1838, there were 20 districts, though there was no change in Niagara.

The second development consisted of measures to accommodate the special needs of the emerging urban areas. At first the Courts of Quarter Sessions were simply given additional powers to deal with markets, paving, lighting, fire services, weights and measures, and so on. In the process five centres — including Niagara in 1819 — were designated police towns, in which the magistrates exercised special powers. But by the 1830s urban problems had become so pressing that in several locations these powers were transferred to Boards of Police, elected by male resident householders. The Boards were given extensive powers of legislation, with the justices retaining only their judicial functions. The first Board was established in Brockville in 1832, the second in Hamilton a year later, and Cornwall, Port Hope,

Prescott, Belleville, Cobourg and Picton were added by 1837. Another development was the formal incorporation of cities and towns, run by a mayor and elected council. Toronto was the first in 1834, and Kingston followed suit in 1838. It is interesting to note that the incorporation of Kingston, and as it happens Newark, had been proposed by Simcoe almost half a century earlier, in 1794, in the belief that such bodies would support the aristocracy, but his superiors would have none of it.

Post-1835 Developments

The contrast between the degree of local autonomy enjoyed by the urban and rural inhabitants of Upper Canada was becoming increasingly marked, and could not fail to engender profound discontent. The Board of Commissioners Act of 1835 was an attempt to redress the balance, but as we have seen it was short-lived. The rural townships were still controlled by the appointed magistrates, who often had meagre qualifications for public office. Many were ex-army officers, and most were sufficiently wealthy that they cared little for the privations of the typical settler. They controlled all the public funds for the building of roads and bridges, matters in which they had little expertise. They could order the erection of gaols and courthouses and require the settlers to pay for them. They were appointed for life and they were not accountable to the people. Furthermore, they were often in short supply, and when so many things (such as the calling of township meetings and the swearing of oaths) required their presence this could be a major inconvenience.

The Rebellion of 1837 proved to be the turning point. Though the immediate outcome was a curbing of township powers, in the longer term it resulted in a major restructuring of government at all levels. Lord Durham was dispatched from Britain to review the situation in both Upper and Lower Canada, and though his visit was brief he produced a lengthy report that pulled no punches and made sweeping recommendations for change. Among them was the union of the two Canadas, a measure that was put into effect in 1840. Another was the revamping of local government, and the following year saw the passage of the District Councils Act, which decreed that each district was to be administered by a council comprising an appointed warden and elected councillors. Each township was to elect one or two councillors, depending on its population. The councillors, who had to reside in the townships they represented and possess land in the district, served three-year terms. Most of the powers previously vested

in the justices, as well as the assets and liabilities of the district, were now in the hands of the councils.

The Act was the first real break with the system of local government by Courts of Quarter Sessions, but the district was still the basic geographical unit, with the township playing a decidedly subordinate role and the county no role at all. All this was changed in 1849, when the Municipal Corporations Act (commonly known as the Baldwin Act) got rid of all appointed positions, made the county the upper tier of municipal government in place of the district, designated the township as the basic unit in rural areas, and recognized villages, towns and cities as urban municipal units. The towns of St. Catharines and Niagara were included in the third group, for they had been incorporated four years earlier. Thus was

established in the Niagara Peninsula the local government structure that survived, albeit with modifications (notably the creation of Welland County in 1856), until the introduction of regional government in 1970.

The Crowland Township Council convened for the first time on January 21, 1850. They met in a “council room,” not an inn, and there is no record of anyone getting drunk. However, Luther Boardman’s inn was conveniently nearby, and I like to think that they repaired to the bar later for a celebratory pint or two. At that first meeting all they did was elect officers, but four weeks later they met again and set to work with a vengeance. They levied a 5 shilling tax on dogs and a 3 pound tax on ale houses, they declared that anyone crossing a bridge at faster than a walking pace was subject to a fine, they declared that puppet shows and circuses were to be regulated by law, and they passed a by-law to restrain the showing of “wax figures” in the Township. But that’s another story....

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