

# A "Petticoat Polity"? Women Voters in New Brunswick Before Confederation

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## RESEARCH NOTE/NOTE DE RECHERCHE

# A “Petticoat Polity”? Women Voters in New Brunswick Before Confederation

ON 20 JUNE 1820, THE NEW BRUNSWICK *Royal Gazette* printed an editorial written in Montreal about the recent elections in Lower Canada. The writer of the editorial complained that at the elections, “an absurd and unconstitutional practice [had] crept in”, whereby women were allowed to participate as voters. The writer denounced the spiralling influence of women in Lower Canadian politics, concluding that if women continued to vote, they might, in time, acquire greater power, becoming judges, magistrates, even members of Parliament. The unhappy result would be the creation of a “petticoat polity”.<sup>1</sup>

There are numerous documented episodes of women voting in Lower Canadian elections.<sup>2</sup> As the Lower Canadian writer noted, the colony’s election law did not specifically exclude women from voting. A similar situation existed in colonial New Brunswick. Although the instructions that guided the conduct of New Brunswick’s earliest assembly elections stipulated that voters must be male, the election statute that was in force from 1795 until 1843 did not specify the gender of eligible voters.<sup>3</sup>

Despite the lack of an explicit legal restriction, historians have uncovered little evidence that New Brunswick women, like their counterparts in Lower Canada, exercised the franchise. No women’s names appear in the colony’s extant pollbooks. Yet several sources suggest that some women in New Brunswick did cast votes in provincial elections before their formal disenfranchisement in 1843. A writer in *The Gleaner and Northumberland Schediasma* testified that four women voted in the October 1830 election in Kent County. In late 19th-century debates, several New Brunswick assemblymen justified their support for women’s suffrage by noting that women had occasionally voted before the 1843 regulation came into force.<sup>4</sup> These sources, however, provide no substantive evidence that women voted

1 Montreal, 25 April 1820, printed in the New Brunswick *Royal Gazette*, 20 June 1820.

2 John Garner, *The Franchise and Politics in British North America, 1755-1867* (Toronto, 1969), pp. 156-9.

3 The Lower Canada and New Brunswick election statutes were not exceptional in this oversight. Until the mid-19th century, the disenfranchisement of women in colonial British America was customary, and rarely written into election laws. Robert J. Dinkin, *Voting in Provincial America: A Study of Elections in the Thirteen Colonies, 1689-1776* (Westport, Conn, 1977), pp. 29-30; and Garner, *The Franchise and Politics*, pp. 155-6.

4 One who Voted for Mr. Jardine, *The Gleaner and Northumberland Schediasma*, 26 October 1830. Elspeth Tulloch notes this letter and legislators’ comments regarding episodes of women voting in *We, the Undersigned: A Historical Overview of New Brunswick Women’s Political and Legal Status*,

in colonial New Brunswick.

Tucked among the House of Assembly papers on controverted elections are three documents that confirm that dozens of women voted in provincial elections in New Brunswick before 1843. One document notes simply that the votes of 39 women were among those struck off the pollbook of the controverted Sunbury County election of 1839.<sup>5</sup> The other two documents offer more detailed information. One document lists the names of 43 women who voted in the Kings County election of 1827. The other document provides evidence that another Kings County woman, Tamzen Oram, voted in the 1827 election. The list of Kings County voters provides a unique opportunity to learn about the women who occasionally exercised the franchise in colonial New Brunswick and the nature of the elections in which they participated.<sup>6</sup>

Electoral politics in Kings County, especially during the 1820s and 1830s, was highly competitive and the election of 1827 was no exception.<sup>7</sup> Shortly after Lieutenant Governor Howard Douglas dissolved the House of Assembly on 24 May 1827 and issued writs for the election of a new house, six Kings County residents declared their intention to compete for the county's two seats in the Assembly. When the polls opened in Kings County on 15 June 1827, the candidates included the county's two sitting members, David B. Wetmore and John C. Vail; one former assemblyman, Samuel Freeze; the son of a former Kings County assemblyman, James Britain, Jr.; and two newcomers to county electoral politics, John Humbert and William McLeod. During the election, nearly one thousand people cast votes. When the election concluded on 2 July 1827, both incumbent assemblymen had been defeated. In their places, the people of Kings County had elected Samuel Freeze and John Humbert. Freeze had a comfortable margin of victory, polling 62 more votes than Humbert, the second-place finisher. John Humbert's edge over his opponents was much narrower. He received only 15 more votes than the third-place candidate, John C. Vail, and only 29 more votes than David B. Wetmore, who finished fourth.<sup>8</sup>

John C. Vail's slender margin of defeat probably encouraged him to challenge the election results in an attempt to regain his assembly seat. After the poll closed, Vail demanded a scrutiny of the votes cast, claiming that he had more good votes than John Humbert. When Vail's effort to have the election results overturned at the

*1784-1984* (Moncton, N.B., 1985), pp. 3-4. Note that the date in Tulloch's citation of the *Gleaner* letter (30 October 1830) is incorrect.

- 5 In the Case of..., Sunbury County, 1839, Controverted Elections Court Cases, RS 60C, Provincial Archives of New Brunswick [PANB].
- 6 In the Case of John Humbert, 1827, Controverted Elections Court Cases, RS 60C, PANB.
- 7 In his master's thesis, Raymond G. Watson contended that between 1785 and 1850 Kings County was remarkable for its "sobriety, stability and solidarity". He argues that Kings County was so orderly because a conservative Loyalist elite dominated county politics. Evidence gathered from Kings County elections, however, suggests that competition for political power was intense and frequent turnover of the political elite was common. See Raymond G. Watson, "Local Government in a New Brunswick County: Kings County, 1784-1850", M.A. thesis, University of New Brunswick, 1967.
- 8 The Petition of John C. Vail of the Parish of Sussex, County of Kings, Esquire, to the House of Assembly, 7 February 1828, Legislative Assembly Sessional Papers, RS 24, Session 36, Petition 7, PANB.

poll failed, he petitioned the Assembly, protesting the outcome of the election. After receiving Vail's petition, the Assembly appointed a select committee to review the qualifications of those who voted in the election. The committee made a list of voters whose qualifications to vote were doubtful. On that list were the names of 44 women, 25 of whom had voted for John Humbert and 19 of whom had voted for John C. Vail.<sup>9</sup>

An examination of the backgrounds of the women who voted in the election reveals that most met the legal requirements for voting.<sup>10</sup> To be eligible to participate in provincial elections in New Brunswick in 1827, voters had to fulfill age and property requirements. First, potential electors had to be at least 21 years old. As far as can be determined, all of the women voters were over 21 years of age. Second, potential voters had to own real estate in the county in which they intended to vote. County residents were required to own £25 of real estate and non-residents were required to own £50 of real estate. Freeholders had to have their property registered at least six months before the election writs were issued.<sup>11</sup> At least 34 of the 44 women voters owned sufficient real estate to fulfill the property qualification for voting.<sup>12</sup>

In addition to meeting the age and property requirements, the women of Kings County who voted had another characteristic in common. They could all be described as "femes soles". That is, they were probably all independent women, either widows or women who had never been married. Of the 44 women who voted, at least 31 were widows and seven had never married.<sup>13</sup> These women were heads of households and this status was probably a decisive factor when the Kings County sheriff was deciding whether they should be allowed to vote.

Under the letter of the law, the women who voted in the Kings County election of 1827 were qualified to vote. Ultimately, their qualification to vote did not sway the members of the Assembly's committee. In the course of its investigation, the

- 9 I must emphasize that at least 44 women voted in the election. Because the committee scrutinized only the votes cast for Humbert and Vail, it is possible that some of the other four candidates may also have received votes from women and that these votes were counted.
- 10 Biographical information on the women voters, including age, marital status and place of residence was collected from the following sources: R. Wallace Hale, *Early New Brunswick Probate Records, 1785-1835* (Bowie, Md., 1989); Daniel F. Johnson, comp. *Vital Statistics from New Brunswick Newspapers* (Saint John, 1982-96); and Julia M. Walker and Margaret Duplisea, comps., *The 1851 Census for Kings County, New Brunswick, Canada* (Fredericton, 1979).
- 11 An Act for Regulating Elections, of Representatives in General Assembly, and, for limiting the duration of Assemblies, in this Province. Passed by the General Assembly in 1791 and confirmed by an Order of His Majesty in Council, 3 June 1795. *The Acts of the General Assembly of Her Majesty's Province of New Brunswick From the Twenty-Sixth Year of the Reign of King George The Third to the Sixth Year of the Reign of King William The Fourth* (Fredericton, 1838), pp. 86-93.
- 12 To determine whether the women owned sufficient property to meet the voting qualification, three sets of sources were consulted. New Brunswickers could acquire real property through government grants, purchase, or inheritance. Government grants are listed in RS 686, records of Kings County land transactions are located in RS 91, Kings County Registry Office Records, and wills are located in RS 66, Kings County Probate Court Files. All of these records are located at the PANB.
- 13 The marital status of six women is uncertain.

committee determined that ineligible voters cast 93 of Humbert's votes and 83 of Vail's votes. The 44 women were among those deemed ineligible to vote. Next to each ineligible male voter's name, the committee listed the reason for his disqualification. In contrast, the women's names were lumped together on one page under the heading, "Women's Votes Struck off from Poll Book". Apparently, the committee disqualified the women who voted in the election solely because of their gender.<sup>14</sup>

Even though their votes did not stand, the question remains, why were they allowed to vote? A review of the other elections in which women voted in British North America and the United States during the 18th and early 19th centuries reveals that all were, like the 1827 election in Kings County, highly competitive contests. In situations in which every vote was needed, candidates were willing to ignore convention to secure as many supporters as they could.<sup>15</sup>

But how did they secure that support? The reasons why Kings County women chose to vote for either John Humbert or John C. Vail are largely inexplicable. Both Humbert and Vail were well-qualified, by the standards of the time, to serve in the House of Assembly. John Humbert was a native of Saint John who moved to Hampton to set up a mercantile business. John C. Vail, a farmer in Sussex, was a life-long resident of the county. Both were members of prominent families with long records of public service and had themselves served in numerous local offices, thereby proving their fitness for holding provincial office.<sup>16</sup> Shedding light on the candidates' personal and political backgrounds also serves to shed light on some of the women's electoral choices. John C. Vail had extensive family networks in the county and, in the election of 1827, his mother, Mary Vail; aunt, Mary Ann Barbarie; and sister-in-law, Susan Hallett, voted for him. As a life-long resident of Sussex parish, Vail also won the votes of six of the seven Sussex women who voted in the election. In contrast, John Humbert received only half of the votes of the women of his adopted parish, Hampton.<sup>17</sup>

Although some women in New Brunswick were allowed to vote in provincial

14 Report of the Committee, Legislative Assembly Sessional Papers, RS 24, Session 36, Report 20; and In the Case of John Humbert, 1827, Controverted Elections Court Cases, RS 60C, PANB.

15 See the examples cited in Garner, *The Franchise and Politics*, pp. 155-60; and Edward Raymond Turner, "Women's Suffrage in New Jersey: 1790-1807", *Smith College Studies*, IV (July 1916), pp. 165-87.

16 Humbert and Vail served as highway commissioners and school trustees for their parishes. Vail and Humbert were appointed justices of the peace in 1826 and 1827, respectively. Both also served as officers (Humbert as a vestryman and Vail as a warden) of their local Anglican parishes. The following sources provided biographical information about Humbert and Vail: Minutes of General Sessions, Kings County Council Records, RS 151/A1, 1815-1828; Vestry Minutes, Trinity Anglican Church, Sussex, MC 223/S15-1A3; Lists of Church Officers, St. Paul's Anglican Church, Hampton, F1087, PANB.

17 Women resident in every Kings County parish voted in the election. Twelve women voters were residents of Kingston; nine were from Hampton; seven from Sussex; six from Greenwich; three from Westfield; two from Springfield; and one from Norton. The residence of four of the women who voted could not be ascertained although it is likely that at least some of them were residents of Saint John County who owned property in Kings County.

elections during the 1820s and 1830s, in the 1840s the Assembly curtailed their participation as electors. In 1843, the Assembly passed a law that clarified the province's statute regulating elections by specifying the gender of eligible voters. Section XVI of the revised law specified that "male voters" were to choose the members of the Assembly.<sup>18</sup> Transcripts of the debates surrounding the amendment of the election law in 1843 do not survive so we can only speculate about what triggered the legislators' action. The legislators' desire to amend the election law to prohibit women from voting may, however, have reflected broader social and economic changes that were occurring in the mid-19th century British-American world. In the re-ordering of social relationships that occurred in the transformation from rural, agrarian societies to urban, commercial and industrial societies, appropriate roles for women were being redefined. Increasingly, men and women were supposed to inhabit two separate spheres, the public sphere and the private, or domestic, sphere. Ideally, women confined their activities to the domestic sphere. Formally prohibiting women from voting in New Brunswick may have been part of a broader movement to limit women's activities in the public sphere. By enacting legislation that excluded women from voting in provincial elections, legislators tacitly recognized that some New Brunswick women had participated as electors and sought to circumscribe their political activity and more firmly confine them to domestic roles.

The episode of women voting in the Kings County election of 1827 is more than an interesting footnote to New Brunswick history. New Brunswick was not a "petticoat polity", but this episode emphasizes that women were active participants in the creation of the colony's political culture. Even though women rarely exercised the franchise, as historians of colonial British America have pointed out, the disenfranchised influenced colonial politics in numerous ways, formal and informal, legal and illegal. Disenfranchised women could not vote but they could, for example, campaign for their favoured candidates, participate in election crowds and petition the government to address their concerns. These activities were undoubtedly more influential in the long run than the isolated episodes in which women were allowed to vote.<sup>19</sup>

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18 An Act to improve the Law relating to the Election of Representatives to serve in the General Assembly, passed 11 April 1843.

19 See, for example, Gail G. Campbell, "Disfranchised but not Quiescent: Women Petitioners in New Brunswick in the Mid-19th Century", *Acadiensis*, XVIII, 2 (Spring 1989), pp. 22-54; and Carol Wilton, "'A Firebrand amongst the People': The Durham Meetings and Popular Politics in Upper Canada", *Canadian Historical Review*, LXXV, 3 (September 1994), pp. 346-75.