

# **The Establishment of Elective Rural Municipal Government in Nova Scotia**

The year 1979 marks the centenary of the legislation establishing elected municipal government in rural Nova Scotia. In 1879, the Holmes Thompson administration passed the County Incorporation Act.(1) This Act provided the legislative foundation for the twenty-four rural municipalities. It introduced elected municipal governments for the whole province outside the City of Halifax and the five towns that had been specially incorporated to that date.(2) Originally, following the election of the first General Assembly in 1758, local government was in the hands of Crown-appointed justices with the assistance of grand juries composed of local proprietors chosen by lot. These officials met in courts of sessions in the counties to hear cases, make regulations, authorize assessments, and appoint local officers. The development of elected municipal government was a slow process. Initially, the demands by the settlers for a measure of local autonomy were opposed by both the Legislature and the Colonial Office in England. The only concessions granted were relatively minor, and related to the powers of local meetings to provide for the poor and to support schools. Up until the 1830's there was little additional pressure on the central government to grant local autonomy. In 1835, however, allegations of financial improprieties by the sessional magistrates of Halifax became the subject of Joseph Howe's famous trial. Following his triumphant acquittal, Howe entered the Legislative Assembly where he championed municipal reform. In 1841, he achieved one of his major goals, the incorporation of Halifax as a City (3). In the years following this incorporation, the attitude of the provincial authorities shifted in favour of local self-government, largely as a means to reduce provincial expenditures on highways. But, by then, there was widespread local opposition to self-rule for fear of increased taxes. Consequently, an attempt in the 1850's to permit voluntary incorporation by the counties ended in failure. Only Yarmouth opted for incorporation in 1855, but quickly reverted to its former status three years later. Faced with continuing local reluctance to incorporate under the optional legislation, the provincial government eventually forced the issue. On April 4, 1879, Simon Holmes, the Provincial Secretary, introduced Bill 117, An Act entitled "The County Incorporation Act", almost a month after the session had opened. It obtained second reading April 7 by a vote of 28 to 7. April 14, 1879, it obtained third reading (this is the date noted in the statute books as the Bill having passed). The Bill was approved by the Legislative Council (the second house, abolished in 1928) with an amendment the following day. On April 16 the amendment was agreed to by the House and on April 17 the Bill was given Royal Assent and the House was prorogued.(4) The County Incorporation Act is the forerunner of the present Municipal Act (5), and set out in outline much of the basic structure of rural municipal government today. The Act, which should more properly have been named the Municipal Incorporation Act, rather than the County Incorporation Act after its New Brunswick model, prescribed that "The Inhabitants of every County and Sessional District in this Province . . . shall be a body corporate under the name of the Municipality of the

respective county or district, as the case may be, . . . " (6) Thus, twenty-four rural municipalities covering the whole province were created on the basis of the existing sessional boundaries of twelve counties and twelve districts in six divided counties.

Since then, none of these boundaries has been changed to any significant degree, and the original twenty-four rural municipalities remain the basic units of local government outside incorporated towns and cities. While the Act of Incorporation was amended and its provisions consolidated from time to time, its main features have remained unaltered.

The new rural municipalities were run by elected councils, replacing the non-elective courts of sessions. Their powers embraced those of the sessions and of town meetings, and extended further primarily to roads, streets, and bridges. Broad authority was also conferred on the new administrations to pass by-laws in relation to "the good rule and government of the municipality, and for the regulation and management of the local, municipal, fiscal, prudential, and sanitary affairs thereof." (7) In all, the authority to pass by-laws listed 39 distinct objects covering such topics as elections, administration of justice, police and fire protection, assessment, revenues and expenditures, roads, streets and sidewalks, ferries, firearms, licences and nuisances.

Most of the original by-law powers enumerated in the County Incorporation Act appear in the present statute, if one take into account some explication and division. As well, many of its important features remain the basis of the present rural municipal government. These include separation of incorporated urban centres from the rural municipality, election of councillors on a district basis, selection of the warden by and from among the councillors, the power to tax property and approval of by-laws and borrowings by the province.

Elections for the newly created councils were to be held the third Tuesday in November (November 18) in 1879 and each subsequent year. The councils were to have their first meetings on the second Tuesday in January, 1880 (January 12).

The new form of government was not well-received. The District of Yarmouth was the first to ask for dissolution, and reversion to its former status, (8) perhaps relying on its earlier experience with the optional legislation. Possibly the reason for the creation of elected local governments was the main reason for opposition to them. Faced by serious financial difficulties, the new government saw the creation of elected municipal governments as a means of relieving some of the pressure. As clearly spelled out by the Attorney-General, John S.D. Thompson, the measure was primarily intended to "compel the Counties to tax themselves directly to keep up their roads and bridges." (9)

Experience with the new statute soon revealed the difficulties in establishing a new form of government. (10) As early as 1880 revisions were made in electoral procedures, notably the extension of the term of office of councillors from one to two years. Also, the first of many restrictions on road moneys was imposed. The provincial road grant would be paid only after the municipality filed an attested and certified road return. (11) Other amendments dealt for the most part with matters of minor consequences, for example,

legalizing and validating council - appointed municipal officers and authorizing council to receive gifts, to appoint a deputy clerk, and to pay auditors.

Additional amendments were introduced in 1881, and this time some important questions of principle were involved. Included in these amendments was an extensive procedure for use in the case of controverted elections and for the prevention of corrupt practices.(12) Many of these provisions still apply and are now to be found in the Municipal and Town Controverted Elections Act.(13)

By far the most important changes brought by the measure of 1881 were in relation to the control and distribution of provincial moneys for roads and bridges. Successive governments in Nova Scotia had long recognized that their management and allocation of road moneys constituted a potent political weapon. The 1879 Act had surrendered this prerogative to the municipalities by authorizing them to spend the provincial road grant freely. (14) The prospect of municipal councils controlled by the opposition allocating the grant on a partisan basis haunted the government, and the 1881 legislation sought to pre-empt such patronage. Henceforth, the grant could be spent only after due appropriation by council and under the inspection of supervisor of highways. No councillor could be a supervisor of highways, and all expenditures were to be by contract after tender or public auction. As well, the grant would continue to be paid only after an attested and certified road return was made. (15)

Still more amendments dealing with road moneys were brought before the Legislature in 1882. These restricted further the manner in which councils could spend the road grant. For example, the municipality had to post a bond for the total amount of the road and bridge grant before any part of it would be paid.(16)

The government changed in 1882, and the new administration lost no time in amending an Act they had initially opposed. Further requirements for financial accounting came into force with the amendments of 1883. This time the municipal bond requirements was reduced to half the road and bridge grant. Councils were empowered to make no payment or only partial payment where an investigating committee of council determined that the work carried out on a road project was unsatisfactory. (17)

There were three other amendments to the County Incorporation Act before the consolidation in 1884 (18), but none was of any importance. In any case, municipal power over the management of the road service at its apex in 1879 had been eroded within a few years as step-by-step the province re-asserted its control over the provincial road grant. A system of dual control by the province and the municipalities emerged from the extensive regulation over the road service. But, as it turned out, even this division of responsibilities proved unworkable and by 1907 the province reassumed direct expenditure of all its road funds. Then, a decade later, the last vestige of municipal control was removed as the province took full charge of road maintenance outside incorporated towns and cities. Municipal contributions to the road service continued, much to the chagrin of local officials, in the form of collecting a highway tax for the province, (19) up until 1957.

Because of incorporation of rural municipalities in Nova Scotia had not stemmed from popular pressures on the government, their very survival was in doubt for a period of time. For one thing, and not surprising given the reason for the creation of rural municipalities, property taxation increased substantially to offset the costs of various services, including administration and road maintenance. Increased taxation proved to be highly unpopular with the electorate, and might have contributed to the defeat of the government in the election of 1882. Significantly, the Municipality of the District of Yarmouth petitioned to revert to its former status as a sessional district within a year of incorporation, and similar requests quickly followed from other parts of the province. Moreover, few provincial politicians were willing to abandon permanently the long-standing practice of patronage in the distribution of road funds. Thus, from a political standpoint, any government in office had little to lose and much to gain in repealing the County Incorporation Act given the wide-spread unfavourable reaction to its provisions.

However, successive provincial governments resisted the pressure to repeal the Act of incorporation. Thus, when a bill was introduced in 1883 by a government backbencher calling for a revival of local government by courts of sessions, W.S. Fielding, then Minister without portfolio, convinced the House to give the Act a longer trial. The bill was reintroduced three years later, but this time W.S. Fielding, who had since become premier, threw his weight fully behind the Act, declaring "if we are not able to administer it we are not fit for self-government . . ." (20) With this bold stand, the premier effectively stifled opposition to municipal incorporation, and the Act of 1879 had finally become accepted as a basis for local government in the rural areas of Nova Scotia.

Shortly after, a Select Committee of the House looked into the workings of the new form of government. (21) Among its conclusions were:

1. That the principle of the Act is on the whole satisfactory, except in Counties where the Provincial Road Grant has been expended on illegal principles.
2. That the cost as a general rule, is slightly more than that of the old Court of Sessions.
3. That party politics has been one of the great causes of dissatisfaction with the working of the Act.

The committee recommended improved controls over the road moneys, and a strong minority would have preferred to take the road moneys completely away from municipal councils.

The municipalities (except for receiving problems with the road moneys) had now the backing of a strong premier, whose party was to remain in power for nearly forty years more. They also had a clean bill from an all party committee. There was time to grow and develop, free of the uncertainty of possible dissolution. In time, the original twenty-four rural municipalities became strongly cemented in the political fabric of the Province, so much so that they still provide elected municipal government in most of Nova Scotia.

## FOOTNOTES

1 S.N.s. 1879, c.1

2 Dartmouth (1873, c.17), Pictou (1874, c.54), Truro (1875, c.47), New Glasgow (1875, c.49) and Windsor (1878, c.41).

3 John R. Cameron in consultation with John F. Graham, Provincial Municipal Services in the Maritime Provinces, (Fredericton: Maritime Union Study, 1970). For this early history see DD. 1-3. 4 Journals of the House of Assembly, 1879.

5 R.S.N.S. 1967, c.192.

6 S.N.S. 1879, c.1, s.1.

7 Ibid., s.84, 6th.

8 Journals of the House of Assembly, March 10, 1880 (p.23): "A petition of rate-payers of the Township of Yarmouth was presented by Mr. Kinney, and read, praying that such Township may be excepted from the operation of the County Incorporation Act of 1879. Ordered, That the petition do lie on the table."

9 Acadian Recorder, April 7, 1879. In J. Murray Beck, The Government of Nova Scotia, (Toronto: University of Toronto press, 1957), p.302.

10 S.N.S. 1880, c.1, s.2.

11 Ibid.,s.42

12 S.N.S. 1881, c.1, ss.7, 10-70.

13 R.S.N.s. 1967, c.194.

14 S.N.S. 1879, c.1, s.69. As Beck puts it, "To anyone knowledgeable about the inner workings of the Nova Scotian government system this was by all odds the most radical feature of a far-reaching act. Since the early days of the century, expenditures on roads and bridges had been the lubricant that had oiled the governmental and political system." In J. Murray Beck, The Evolution of Municipal Government in Nova Scotia, a study prepared for the Nova Scotia Royal Commission on Education, Public Services and Provincial-Municipal Relations, (Halifax: Queen's printer, 1973), p.27.

15 S.N.S.1881,c.1,ss.1-6.

16 S.N.S. 1882,c.1,s.9.

17 S.N.S. 1883, c.1,

s.11.

18 S.N.S. 1883, c.2; S.N.S. 1884, cc.13 and 14.

19 J. Murray Beck, *The Government of Nova Scotia*, op. cit., p.307.

20Ibid.,p.303.

21 Report of the Select Committee on the County Incorporation Act, Journals of the House of Assembly, tables April 29, 1887.

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