

THE COURT OF GENERAL QUARTER SESSIONS OF THE PEACE:
LOCAL ADMINISTRATION IN PRE-MUNICIPAL UPPER CANADA

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by

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ABSTRACT

Between 1800 and 1832 virtually all aspects of local administration in Upper Canada were overseen by those men appointed to the office of Justice of the Peace. During this era the Justices of the Peace sitting in the Court of General Quarter Sessions of the Peace accumulated the vast majority of administrative and judicial powers granted by the Colonial Government to oversee local settlement. In the District of Johnstown, prior to its spectacular growth between 1816 and 1820, the monopoly of power which the Magistrates were granted allowed them to effectively administer to the administrative and judicial needs of the settlers in the District. However, as the population of the colony grew and administration became more time-consuming and complex, an unwieldy number administrative tasks were placed upon the shoulders of the Justices of the Peace. By 1832 the system of local government by the Magistrates had virtually collapsed. Through an analysis of the office of the Justice of the Peace, its role in local government, and its accomplishments in the early years of Upper Canada, this dissertation identifies some of the basic reasons which led to the demise of the pre-eminent position of Justices of the Peace in local administration and its replacement with elected Boards of Police in 1832. This analysis reveals that the traditional belief of Justices of the Peace as self-glorifying members of the colonial elite rather than effective instruments of local government is oversimplified. In fact, there existed a determined core of Working Justices who rose beyond what was expected of them between 1800 and 1832 to provide an effective form of local government. That the Working Justices were eventually unable to fulfil the needs of their office is largely not a reflection of their abilities, but rather of circumstance.

PREFACE

This dissertation is the result of a number of coincidences. My interest in history is the result of reading a novel in elementary school based upon the life of David Thompson, the English cartographer who mapped in the early nineteenth-century much of what is now western Canada and the north-western United States. That novel, The Map Maker, unveiled a world of historical adventure, a joy of sleuthing, and a love of reading which I have been fortunate not to lose. My interest in Upper Canadian history was cultivated by numerous undergraduate courses at the University of Western Ontario and the guidance provided me by Professors Fred Armstrong, Roger Hall, and James J. Talman. The topic of this thesis is the result of a remark made by Professor J.M.S. Careless whom I had the pleasure of studying under during his brief tenure as visiting Professor of History at McMaster University in 1988. My first graduate class with Professor Careless took place while I was researching a number of possible thesis topics. During that class Professor Careless declared in mid-thought that "not enough" had been done on Justices of the Peace - and my search was ended. Finally, Professor John Weaver has provided much guidance to my inquiry of Upper Canadian judicial history.

A number of people have been generous with their knowledge and patience while I have pursued this topic. My family and especially my parents, Laurence and Esma, provided me the strength to complete this degree. As well, the efforts of the librarians at Mills Memorial Library and the archivists at both the Public Archives of Canada and the Archives of Ontario aided my investigations immeasurably. Finally, the members of the History Department of McMaster University have been generous with both their time and insight. In particular I would like to thank Professor Michael Gauvreau and my supervisor, Professor John Weaver, for their suggestions and guidance.

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The most important institution through which order was maintained and local government conducted in Upper Canada prior to the creation of municipal corporations in the 1830s was the Court of General Quarter Sessions of the Peace. Until the granting of municipal charters, this court and its magistrates, the Justices of the Peace¹, held in unison virtually all economic and political authority² exercised at the local level, overseeing local administration and helping maintain local order within the colony. The grip which Justices of the Peace held on local affairs has sometimes been perceived as all pervasive. One consequence of this impression is that a few historians have viewed life under the reign of the Justices of the Peace as honorable, conservative, and thoroughly law-abiding. However, the monopoly of authority which the Justices held also gave rise to the notion that the vast majority of Magistrates were self-indulgent officials whose main interest lay in becoming members of the elite within Upper Canada - a position signified in part by appointment as a Justice of the Peace.³ These images have long been associated with Upper Canadian history but recent scholarship suggests that the first portrait of Upper Canada as a "Peaceable Kingdom" is largely false.⁴ To a great extent this reputation is a product of the

¹. The members of this office are known variously as Justices of the Peace, Justices, JPs, and Magistrates. It is worth noting that all of these terms are used throughout this thesis.

² This thesis is using a narrow definition of this term, being official powers of government exercised within a hierarchical structure.

³ See F.H. Armstrong, "The Oligarchy of the Western District of Upper Canada 1788 - 1841", Historical Papers 1977, pp.87-102.

⁴ See W. Thomas Matthews, "The Myth of the Peaceable Kingdom: Upper Canadian Society during the Early Victorian Period", Queen's Quarterly 94/2 (summer 1987), passim.

romantic United Empire Loyalist myth long-nurtured by various provincial historical societies and by writers attempting to establish cultural differences between Canada and the United States. This thesis moves beyond the broad traditional studies of Upper Canadian administration by critically assessing the second notion, namely the belief that the Justices of the Peace were ineffective officials. The assessment will consider how the Justices of the Peace conducted local administration within the Court of General Quarter Sessions of the Peace.

The traditional image of Justices of the Peace is that they were self-glorifying members of the colonial elite rather than effective instruments of local government. This image is due in part to the neglect of historians to examine local government in Upper Canada prior to the creation of municipal corporations in the 1830s. Notable exceptions do exist such as Gerald Craig's Upper Canada The Formative Years 1784-1841 (Toronto: McClelland & Stewart, 1963) and D.H. Akenson's The Irish in Ontario A Study in Rural History (Kingston: McGill-Queen's, 1984). However, the majority of recent scholarship concerning Upper Canada between 1800 and 1830 is confined to reprints of previously published articles in "new collections".⁵ A direct result of this neglect is that the attacks against Justices of the Peace in the 1820s and 1830s have predominated among the historical perceptions of Magistrates in Upper Canada to the present. These attacks, led by one of the Justices' harshest critics, William Lyon Mackenzie, were repeated assaults on

The pervasiveness of this myth is evident in recent publications not directly related to the study of history. See Eugene Forsey, A Life on the Fringe The Memoirs of Eugene Forsey (Toronto: Oxford, 1990), p.122.

⁵ See, for example, Carleton Library Series No.146, J.K. Johnson and Bruce G. Wilson, eds. Historical Essays on Upper Canada New Perspectives (Ottawa: Carleton, 1989).

the Upper Canadian establishment which aided in denigrating Justices of the Peace as little more than colonial patronage appointees renowned more for their neglect of office than for their performance of duties.⁶ In examining Justices of the Peace between 1800 and 1832, this thesis depicts a crucial stage in the development of local government in Upper Canada, from virtual autonomous government by appointees at the local level during the initial settlement of Upper Canada, to an administrative system based upon elected town officials. This development produced a change in the concept of magistracy, the justices' relations to the governed, and the structure of politics and local administration.⁷ In examining provincial life through the accomplishments of Justices of the Peace rather than their critics, a new insight will be gained into Upper Canadian society. This new perspective is necessary because, perhaps more than any other group, Justices of the Peace symbolized the hierarchical order of Upper Canadian society to contemporaries.

In the years leading up to the first municipal incorporation in Upper Canada,⁸ settlers in the colony increasingly demanded a greater say in the administration of their townships.⁹ The administration of justice and local government since the first settlement of

⁶ Many of these accounts are contained in the House of Assembly Journals. See for example, W.L. Mackenzie, Chairman, "Seventh Report from Select Committee on Grievances," in Upper Canada. House of Assembly. Journals, 1835, Appendix No. 21, p.8.

⁷ This change is detailed in Norma Landau, The Justices of the Peace, 1679-1760 (Berkeley: University of California, 1984), p.5.

⁸ The first municipality to be incorporated in Upper Canada was York/Toronto in 1834 under 4 Wm. IV, c.23.

⁹ The earliest calls for reform occurred during the provincial election in 1804. See Terry T. Ferris, "Local Government Reform in Upper Canada" Canadian Public Administration Vol.12, No.1 (1969), p.387. This article is an excellent summary of the reforms in local government. However it focuses on local government after 1835.

the region was solely controlled by various Justices of the Peace appointed in each of the province's townships by the Lieutenant Governor of Upper Canada. As the province grew in population, agitation against the system of local administration and justice focused attention on the most visible representatives of that system, the Justices of the Peace. This movement called for greater participation in government and an end to what William Lyon Mackenzie and his followers perceived as an often-abused system of appointment inherent in the government of the colony. Minutes of evidence to the various reports submitted to the House of Assembly by the Select Committee on Grievances contain numerous references to Justices of the Peace, whose members "consist chiefly of persons of a particular bias in politics, and are a means of extending the power and influence of the colonial system."¹⁰ The passage included in the Seventh Report of the Committee on Grievances concerning Justices of the Peace is interesting for its portrayal of Justices of the Peace during the era:

The exclusive and excessively unpopular manner in which His Excellency distributes the patronage of the Government is a source of perpetual annoyance to the wealthy and spirited land-owners of the Colony. In the Home District a few officers of the Government with Dr. Dunlop, an officer of a company of speculators in land, here, set as a board of control over the local affairs of the two counties; disposing of the produce of the taxes, judging offences, regulating improvements, constituting courts of general quarter sessions, police magistrates, everything; while the task of the Farmers is to collect the taxes and pay it (them) into their Treasury, to be, in too many instances, wasted, and seldom fully accounted for. It might be admitted, even by the most captious friend of arbitrary power, that it would be but reasonable to give this

¹⁰ W.L. Mackenzie, Chairman, "Seventh Report from Select Committee on Grievances," Op. Cit., p.8.

local power at least partly, into the hands of the principal land-owners, as justices, and that the Members of the Assembly for the time being, in their districts, would be fit checks at least as the Legislative Council. His Excellency thinks otherwise; seldom indeed has a popular individual entered the magistracy, nor have Colonial Governors, either in Upper or Lower Canada, forgotten to make such changes as might warn aspirants to, or possessors of, the office of justice of the peace, how necessary it was that their political opinions should agree with the administration. Sometimes the land-owners have prayed for the appointment of certain capable and independent men as justices, but I never once knew of an instance of such a petition being listened to.

There are no doubt some few very independent men in the commission of the peace, but in general the justices all over the Colony act with other office-holders and the pensioned or salaried clergy, to uphold the existing system.¹¹

This passage is rife with the anti-establishment sentiment for which Mackenzie was famous but, more importantly, it reflects unrest among some citizens of Upper Canada regarding the administration of Justices of the Peace. That this unrest towards Justices of the Peace may have been indicative of the population as a whole is not the central issue. However, what is worth noting is that, rightly or not, this unrest gave rise to the present historical acceptance a priori of Upper Canadian Justices of the Peace as self-important petty officials. This opinion was shaped by various witnesses to the tenure of the Justices and their declarations which have survived to the present day and are perhaps best represented by the "Second Report on the Administration of Justice", submitted to the Upper Canadian House of Assembly on 11 April 1836.¹² This report noted that

¹¹ Ibid., p.87.

¹² Included in this committee were W.B. Wells, David Gibson, Henry W. Yager, John McIntosh, Chas. Waters, Dennis Woolverton, and W.L. Mackenzie. The committee was chaired by James Wilson (no relation to this author). See Appendix to the Journal of the

the Lieutenant Governors have had the appointment of Justices of the Peace for the last forty years, and it appears to us that they have too often made use of their power for their political purposes. At this late period of the session it might be inconvenient for the House, to enter into details, but it appears to Your Committee that an expression of opinion is called for on the question of the right of appointment to the offices of Justice of the Peace and Commissioner of the Court of Requests.¹³

The report goes on to state that "Your Committee think that the time has come in which the power to nominate and appoint these officers, should be placed in the hands of the only safe depository, namely the People of the Province; and that the mode of their election should be by ballot." In submitting their report the committee resolved, amongst other points, that it was expedient to place the appointment of Justices of the Peace in the hands of the people in their respective Townships, and that the mode of their election be by ballot.¹⁴ In order to ascertain the accuracy of the claims of the Select Committee on Grievances, this thesis will examine the development and application of administration in the district of Johnstown, one of the districts of Upper Canada. Johnstown has been chosen for two reasons: the district's history and its records.

Created by ordinance in 1800, the Johnstown District was bounded by the St. Lawrence River and the United States to the south and, first the Ottawa, then the Rideau

House of Assembly of Upper Canada, of the Second Session of the Twelfth Provincial Parliament. VI William IV. Marshall Spring Bidwell, Esq. Speaker. Session 1836. Vol. III. Sir Francis Bond Head, K.C.H. Lieutenant Governor (Toronto: M. Reynolds, 1836), p.136.

¹³ Ibid., p.136.

¹⁴ Ibid., p.10.

River to the north.¹⁵ This location on the main transportation artery of the colony meant that Johnstown experienced the early growth of Upper Canada and became one of the most colourful and populous districts during this era. Furthermore, a large quantity of records concerning the Court of General Quarter Sessions of the Peace for the District of Johnstown have survived to the present, making possible a close examination of the Court and its Justices. These records also permit the topical focus of this thesis to centre on the administrative rather than the judicial proceedings within the Court of General Quarter Sessions. This focus is important because, first, the administrative aspect of the Court has previously not been examined by historians of Upper Canada. Secondly, the administration conducted within the Court of General Quarter Sessions of the Peace helped to determine the path of development within each district.

As has been found in studies of British and American Justices of the Peace, this thesis too has discerned a "community of the district" or, more explicitly, a "community of the district elite", loosely referred to in various studies of Upper Canadian society as a "compact". The governing elite in the District of Johnstown between 1800 and 1841 was characterized by local and family pride, a degree of corporate sense, and a preoccupation with local matters. For those men who aspired to fulfil the spirit of their appointment there awaited an abundance of opportunity to further personal interests under the guise of municipal good. These opportunities were the result of the Magistrates being granted a virtual monopoly on the decisions which determined local patronage in their districts. For

¹⁵ Division of Upper Canada into districts began in the 1780s and underwent a number of further subdivisions as settlement progressed during the nineteenth century. See George W. Spragge, "The Districts of Upper Canada, 1788-1849" in Profiles of a Province, Edith G. Firth, ed. (Toronto: Ontario Historical Society, 1967), pp.34-42. Appendix 10 contains a map of the Johnstown District.

example, Justices of the Peace were responsible for recommending men for appointment as fellow Justices of the Peace; appointing persons for District office; issuing warrants for the purpose of holding town meetings; regulating police; overseeing the finances of the district; granting licences for keeping ale houses; granting certificates of character; granting licences to conduct religious services; repairing roads and bridges; and, perhaps most importantly, deciding where and when roads and bridges would be built. This monopoly over decisions concerning vital community matters came about as a result of the refusal of the Colonial Office to allow unsupervised town meetings or create municipal corporations in the early years of Upper Canada. This limitation of town meetings meant that "until 1832 the Quarter Sessions received all the authority granted by the legislature to deal with the special needs of the villages and towns."¹⁶ The original number of responsibilities granted to the Johnstown Justices in 1800 increased with the population between 1800 and 1832 and these powers were solely retained by the Justices of the Peace until 1832 when the granting of town charters with elected Boards of Police finally began to erode their predominance.¹⁷

During the years before municipal charters were granted, the Colonial Government made great use of the power of local families to manage the affairs in the province. As well, each District in Upper Canada became a more important unit of administration in taxation, defence, justice, and the regulation of economic and social affairs.¹⁸ This system,

¹⁶ J.H. Aitchison, "The Development of Local Government in Upper Canada, 1783-1850" (PhD Thesis, University of Toronto, 1953), p.30.

¹⁷ This action did not immediately negate the importance of the Justices of the Peace but did initiate the reduction of power the Justices once held alone.

¹⁸ This paralleled the framework of local government in England. See, for example, G.C.F. Forster, The East Riding Justices of the Peace in the Seventeenth Century (York:

based on prestige, was undoubtedly used by the House of Assembly in York to provide support for the government's measures. However, the localism which characterized this system also had its disadvantages. It allowed personal squabbles to disrupt the proceedings of the Court of General Quarter Sessions and encouraged local self-interest to dominate the conduct of public business, especially where money was concerned.¹⁹ The arguments between Justices of the Peace were perhaps no more vocal or disruptive than those between other settlers in Upper Canada. But in the eyes of those settlers who felt excluded from the decision-making process over which the Justices of the Peace presided, these disruptions reinforced a sense of isolation from the Justices of the Peace and perhaps contributed to their negative image which has characterized the history of the early Upper Canadian Court of General Quarter Sessions of the Peace to the present.

This thesis proceeds from a broad consideration of the activities of the Justice of the Peace and his place in provincial life through a series of inquiries into the mechanics of the Court of General Quarter Sessions to a concluding appraisal of that court and its proceedings within the larger context of District politics and development. To provide a proper context in which to assay the work of the Justices of the Peace, the first chapter of this thesis will examine the development of local government in Upper Canada. This survey will include a brief historical overview of the origins and powers of the Justice of the Peace within the English judicial system and an explanation of the development and

East Yorkshire Local History Society, 1973), p.5.

¹⁹ Ibid. See also Alan Shefman, "The Loyalists of Eastern Upper Canada A Study of an Emerging Political Structure." M.A. thesis, Carleton University, 1979, and G.R.I. MacPherson, "The Code of Brockville's Buells." M.A. thesis, University of Western Ontario, 1966.

application of the English judicial system in Upper Canada. The next four chapters take the proceedings of the Court of General Quarter Sessions for the District of Johnstown as their focus. Chapter Two examines the records of the court and the methodology which has been used in their examination. Chapter Three examines the proceedings themselves, particularly the variety of business transacted at the Quarter Sessions including the filling of offices, payment of expenditures and wages, the levying of taxes, and the authorization of road and bridge construction and repairs. Chapter Four turns from principle to practice to discern to what degree localism affected the letter of the law in Johnstown. This chapter also examines the degree of success, if measurable, that the Court of General Quarter Sessions had during its apogee. This final chapter will attempt to answer certain questions about the role of the Justices of the Peace in the government of pre-municipal Upper Canada. What do the Minutes of the General Quarter Sessions of the Peace reveal about the way local magistrates went about their public duties? How conscientious were they in their public work and to what extent were they equal to their responsibilities? The answers to these questions will reveal something of the social life in the early years of Upper Canada and something too about the problems of an age when government meant, for most people, local government.

Chapter I

The Justice of the Peace in English and Colonial Government

The English Background

Justices of the Peace had been an integral part of English local government since 1195. In that year the King of England, Richard I, issued Commissions empowering knights to preserve the peace in specified areas. These knights were awarded a new title signifying the authority given to them by these Commissions: Custodes Pacis, Keepers of the Peace. A further act in 1327 provided that "in every county there shall be assigned good and lawful men to keep the peace." That clear direction is the foundation on which the office of Justice of the Peace came to be built.²⁰

In 1361 "Justice of the Peace" became the common term for this position although "Keeper of the Peace" was occasionally used afterwards.²¹ Also in 1361, the criminal mechanism granted to the Justice was focused through a statute "To restrain the offenders, rioters, and all other barators, pursue, arrest, take and chastise them according to their trespass or offence, and to cause them to be imprisoned and punished according to the law and custom of the realm, to take all them that be not of good fame sufficient security of their good behaviour towards the King and his people. And to Hear and determine all manner of felonies and trespasses done in the same country."²² These powers brought the Justice of the Peace into association with various other agencies concerned with local

²⁰ Bertram Osborne, Justices of the Peace 1361-1848 A History of the Justices of the Peace for the Counties of England, (Dorsett: Sedgehill, 1960), p.4.

²¹ This term was often shortened to simply "Justice" or interchanged with "Magistrate".

²² Osborne, p.5.

criminal and civil matters. These agencies included local courts; royal officials appointed in the localities, such as the sheriff and coroner; local men specially commissioned by the Crown for the purposes of government; towns with chartered corporations; and parishes, with their customary officers.²³

An Act of 1362 set the meetings of Justices at stated seasons. This Act decreed that the Commissions of the Peace were to meet in Sessions "four times by the year; that is to say, one sessions within the utas of the Epiphany,²⁴ the second within week of Mid Lent, the third betwixt the feasts of Pentecost and St. John Baptist, the fourth within the eight days of St. Michael."²⁵ Working in unison with constables, surveyors of the highways, and other parish officials, these Sessions, the Court of General Quarter Sessions of the Peace, evolved into one of the basic instruments of English local government. During the succeeding century the authority of the Justices was extended to include a portion of what would be called today the criminal code and a wide range of supervisory and regulative obligations. The speed with which these obligations were at times thrust upon the Justices perhaps blurred the fine distinction between judicial and administrative duties or criminal and civil jurisdictions.²⁶ This double jurisdiction allowed the Justices to confirm themselves as more or less self-contained local oligarchies which doled out administrative and judicial pronouncements with almost absolute and unfettered control.

²³ Forster, p.7.

²⁴ The utas is the week following a festival.

²⁵ Osborne, p.5.

²⁶ Ibid., p.7.

Appointment as a Justice of the Peace was limited from the beginning to persons of high social and economic rank. The assumption was that rank ensured a certain standard of education. However, rank did not guarantee it. This problem was compounded by the nature of the office itself because it burdened the holder with "much loss of time, some expense, and many enemies, and after all, will afford him little or nothing towards bearing these inconveniences."²⁷ For these reasons there may have been a notable lack of men with enough substance, education and independence willing to implement Whitehall's directives. The problems experienced in England would recur in the colonies.

The initial framework for the office of Justice of the Peace was maintained with periodic revisions until 1590 when it was replaced with a new commission, but the authority of the Magistrates remained substantially unchanged after these revisions. The new Commission described the duties and powers of the Magistrates in more general terms: "to hear and determine the felonies, poisonings, enchantments, arts magic, forestallings, and regratings", and to punish "all those who to any of our people concerning their bodies or the firing of their houses have used threats."²⁸ Under these terms Justices of the Peace could proceed in three separate ways according to the matter at hand: they could sit alone; they could sit jointly with one or more of their fellow Justices; or they could sit collectively as defined by the Act of 1362, as a General Sessions of the whole county. This last procedure occurred at a publicly convened assembly with a Sheriff charged to provide the whole machinery of a court of justice.

²⁷ Sydney and Beatrice Webb, English Local Government The Parish and the County (New York: Longmans, Green and Co., 1906), p.320.

²⁸ Osborne, p.50.

The Court of General Quarter Sessions was presided over by the Custos Rotulorum, or "Keeper of the Rolls of the Peace." This man, picked from the leading Justices of the county for his "wisdom, countenance, or credit,"²⁹ presided over the collective judgements of the Justices as they waded through the elaborate procedure of the Quarter Sessions. By 1689 the bulk of civil administration concerning the counties was carried on at the Quarter Sessions. The repairing of bridges, the construction and maintenance of gaols, the fixing of prices and rates of land carriage, the licensing of ale houses and various traders, the sanctioning of levies for various parish needs, and the confirmation or disallowance of orders concerning almost every conceivable subject were part of the civil functions of Quarter Sessions.³⁰

Justices were never anxious to add to their labours but circumstances occasionally increased the weight of the Justices's administrative duties. For example, in 1597, Magistrates in England were saddled with the responsibility of administering a compulsory rate to pay for poor relief in each parish. In 1603 their energies were applied to organizing a road census. Shortages of grain in 1608 led the Government to direct the Justices to control all supplies of corn and malt and also reduce the number of alehouses in the country. This work fell to the Justices of the Peace simply because there was no other authority upon whom such new or immediate tasks could be placed. With the exception of the substitution of English for Latin in recording the minutes of the court in 1733, and periodic minor revisions in the substance of the position on other occasions, the Commission of the Justice of the Peace and the Court of General Quarter Sessions of the

²⁹ Webb, p.286.

³⁰ Ibid., p.297.

Peace remained virtually unchanged to the nineteenth century. During this time the General Quarter Sessions played a crucial role in administering local order and government within both England and her expanding colonial empire. This empire included her colonies in North America, particularly the colony of Quebec and it is therefore important to note how the systems of English local government and law were established in Quebec.

The Court of General Quarter Sessions in Canada

In September 1760 the Governor of New France, the Comte de Vaudreuil, signed with General Jeffrey Amherst, the British commander in North America, the articles of capitulation which surrendered Quebec (as the new possessions were called) to the British.³¹ The acquisition of Quebec posed formidable problems for the English Government, not the least of which was solving the problem of governing the province as it was assimilated into the British Empire.³² The initial solution adopted by the British Government was the implementation of martial law. This decision was deemed necessary because until 1763 it was uncertain whether Britain could retain the colony. This uncertainty was fuelled by the combined threats of American invasion and Native unrest

³¹ All that was left to France of the empire in North America were the islands of St. Pierre and Miquelon off the coast of Newfoundland. These islands, former English territories, became French possessions in full sovereignty but were not to be fortified. The significance of these concessions is discussed in W.S. MacNutt, The Atlantic Provinces The Emergence of Colonial Society 1712-1857 (Toronto: McClelland and Stewart, 1965), p.51.

³² This action created what some historians have justly termed one of the greatest problems in the history of the British Empire. See, for example, A.L. Burt, The Old Province of Quebec (Toronto: Ryerson, 1933), p.74, and John Manning Ward, Colonial Self-Government The British Experience 1759-1856 (Toronto: University of Toronto, 1976), p.4.

caused by the defeat of the Native's French allies. However, by 1763 these dangers had passed and military rule was replaced with a hybrid form of civil government described in three documents: the royal proclamation of 7 October 1763; General James Murray's Commission as Governor, dated 21 November 1763; and the Governor's instructions from Whitehall, issued in December the same year.³³

The proclamation of 7 October 1763, beyond re-establishing civil government in Quebec, contained two promises concerning the government of the new colony that have since become famous. The first declared that Quebec would have a new government based on the old French representative system - but only as soon as circumstances would permit. The second promise was that until the new government was formed, all persons inhabiting the colony "may confide in our royal protection for the enjoyment of the benefit of the laws of... England."³⁴ The flaw with the latter promise was that it was based on the assumption that English law was the only force established in the colony. In fact, French civil law was still in force in Quebec in 1763 and would continue to be so, according to English law established in precedents drawn from the English practice on the Channel Islands and the Isle of Man. French law would remain until England decided otherwise.³⁵

The form of government outlined for the colony in 1763 was contained in the Governor's Commission of November and further instructions issued the following month. These directives inaugurated what came to be called Crown Colony Government -

³³ Burt, p.76.

³⁴ Ibid., p.79.

³⁵ Ward, p.5.

government by an appointed council with executive and limited powers. Intended by Britain to be a temporary expedient, this form of government lasted in Quebec for thirty years.³⁶ The instructions received in December directed Governor Murray to establish a council composed of the two lieutenant governors, the chief justice of the colony, the surveyor general of the American customs, and eight others to be chosen from amongst the residents of the colony. Murray's Commission empowered him, with the advice of his council, to call assemblies and to create law courts for the colony. These directives created the basis for government in the new English province of Quebec.

The courts created for the colony were adopted from the English and French judicial systems and dealt with both civil and criminal matters within the colony. At the local level, an ordinance of 17 September 1764 abolished the old system which divided the colony into the districts of Montreal, Quebec and Three Rivers and created two larger districts, those of Quebec and Montreal. Provisions for administration at the local level were provided for each of the newly created districts at this time by the granting of Commissions as Justices of the Peace. Three Justices could hold Quarter Sessions in each of their appointed districts.³⁷

The similarities between Justices of the Peace in England and those in her newly-acquired colony encompassed more than jurisdiction and duty. Most importantly, the difficulty in finding men qualified for the position in Quebec was equal to if not greater than the situation in Britain. Beyond the preference for men of high economic and social

³⁶ Hilda Neatby, Quebec The Revolutionary Age, 1760-1791 (Toronto: McClelland and Stewart, 1966), p.33.

³⁷ Burt, p.89.

rank, the lack of Justices in Quebec was amplified because English law denied Roman Catholics appointment to the Bench. This constraint was compounded by the small number of Protestants in the colony prior to the 1780s. Almost at once, this problem focused agitation in the colony on administrative and judicial reform. One goal of the critics of colonial government was the establishment of an assembly in the province which would grant to the inhabitants of the province a greater say in government. Two attempts to change the laws of the colony in 1766 and 1767 failed,³⁸ but the challenges helped bring about the creation of a new judicial system for the area west of Montreal in 1771³⁹ and the passage of the Quebec Act in 1774.

When the Quebec Act came into force on 1 May 1775, it went far in mollifying the French-speaking citizens of Quebec because it granted to the province a legislative council and offered the opportunity to Roman Catholics to participate in its decisions. The connection between the Quebec Act and the American Revolution is important here because the purpose of the Quebec Act was to provide lawful and stable government for Quebec. That stable government was established at the expense of "American liberties" was unimportant to the inhabitants of Quebec.⁴⁰ Also important was the fact that the act legalized the free exercise of the religion of the Church of Rome and established the old

³⁸ The course of these attempts is detailed in "Notes and Documents: Lord Northington and the Laws of Canada," Canadian Historical Association Vol. XIV (1933), pp.42-61. See also Burt, *Op.Cit.*, pp.94-176.

³⁹ This system included four courts: the Court of King's Bench for Quebec, the Court of Common Pleas, the Prerogative Court, and the Court of General Quarter Sessions of the Peace. See the Provincial Archives of Ontario, Record Group #22, "Introduction", Preliminary Court Records, (Toronto: 1983), p.IX.

⁴⁰ Ward, p.9.

French law in most civil matters and English law in criminal cases. It is worth noting that the definition of the judicial matters of the colony was vaguely worded. The English criminal and Canadian civil laws were to hold "until they shall be varied" by provincial legislation.⁴¹ The legislation which initiated this change was presented in the Constitution Act of 1790.

The Constitution Act, also known as the Canada Act, divided the province of Quebec into Upper and Lower Canada and provided the basis of government for the Canadian provinces until 1841. This division also ushered in a new era of judiciary in Upper Canada which swept out the system that had been in place since 1771 with the important exception of the Court of General Quarter Sessions of the Peace. This exception is worth noting because it signifies the importance of Justices of the Peace sitting in General Quarter Sessions. Under the Constitution Act the machinery of local government was much as it had been before 1790 except that there was created a provincial legislature which took an increasingly active part in local government.⁴² However, in the early years of Upper Canada this legislature was confined largely to provincial matters and the actual maintenance of local affairs and justice in Upper Canada was controlled by the men appointed Justices of the Peace sitting in the Court of General Quarter Sessions of the Peace for each district.

The first step in creating an effective means of local government for the new English settlers arriving along the north shore of the St. Lawrence River was the creation

⁴¹ Ibid., p.197.

⁴² G.P. deT. Glazebrook, "The Origins of Local Government," in F.H. Armstrong, et al. eds., Aspects of Nineteenth-Century Ontario (Toronto: University of Toronto, 1974), p.42.

of townships beginning in 1783-1784. These townships increased in number with the growth of settlement. The second step created the districts - the basic unit of local government throughout the Upper Canadian period.⁴³ A proclamation of 24 July 1788 created the original four districts which were named from east to west, Lunenburg, Mecklenburg, Nassau, and Hesse. These districts, whose names were changed in 1792 to Eastern, Midland, Home and Western, were gradually subdivided as the population of the province increased until there were twenty districts and one provisional district in 1849.⁴⁴ The Constitution Act also modified the judicial system, replacing the old criminal and civil courts of King's Bench and Common Pleas with the Court of King's Bench for Upper Canada and the Court of Requests (32 Geo.III, c.6, 1792). At the local level, the Court of General Quarter Sessions remained much the same as the pre-1788 court throughout the Upper Canadian period even as the districts were subdivided. Although the townships were allowed to select their own officials for minor local matters after 1793, these men had little authority and were under the direct supervision of the Justices of the Peace until 1832 when municipal corporations began to erode what some historians have termed the "autocratic" powers of the Justices of the Peace.⁴⁵

One of the first new districts to be carved out of the original four districts was the Johnstown District, created in 1798 (38 Geo.III, c.5) and proclaimed on 1 January 1800.

⁴³ F.H. Armstrong, The Handbook of Upper Canadian Chronology rev. ed. (Toronto: Dundurn, 1985), p.158.

⁴⁴ Ibid., p.158.

⁴⁵ Ibid, p.158.

The Johnstown District, whose boundaries were modified a number of times,⁴⁶ was a section in the conduit through which the vast majority of migrants made their way into the new colony of Upper Canada. Between 1800 and 1832 Justices of the Peace operating in this district within the Court of General Quarter Sessions of the Peace were one of the principal means through which the maintenance of local administration and order was accomplished. The first Commission for the District of Johnstown was signed on 1 January 1800, and it appointed sixteen men as Justices of the Peace for the region. The Court of General Quarter Sessions for Johnstown first met on 22 April 1800, and was attended by Solomon Jones, Ephraim Jones, Joel Stone, William Fraser and Hugh Munro - thirty-one percent of those eligible.⁴⁷ This auspicious meeting, which probably took place in the home of one of the Justices or in a local ale house, was the beginning of formal local government in the district. Over the next thirty-two years these men, "and others their fellows",⁴⁸ extended their influence into virtually every aspect of local affairs in Johnstown.

⁴⁶ For an explanation of this process see "On the Act for the Better Division of the Province in 1798". Reproduced in E.A. Cruickshank, The Russell Papers, Vol. II, p.239. As cited in Aitchison, p.8.

⁴⁷ See Appendix 3 for Magistrate attendance at the Court of General Quarter Sessions for the District of Johnstown between January 1800 and May 1832.

⁴⁸ This phrase is common to the lists of attendance in the minutes of the Court of General Quarter Sessions for Johnstown. It was used to imply the eligibility of other Justices to attend but who, for some unrecorded reason, did not attend.

Judgements of the Office

The accumulation of duties in the office of Justice of the Peace, intentional or not, was common to all Magistrates appointed in the English judicial system. Whitehall's use of the office of Justice of the Peace as a repository for local administrative and judicial duties has accorded its members and their court a wide variety of opinion which has varied with time and circumstance. In the case of English Justices, a favourable review was given by Sir Thomas Smith in De Republica Anglorum in 1589. Smith noted:

There was never in any commonwealth devised a more wise a more dulce and gently nor a more certain way to rule the people whereby they are always kept as it were in a bridle of good order and sooner looked into that they should not offend than punished when they have offended.⁴⁹

This description contrasts sharply with what some observers were alleging by the middle of the eighteenth-century. For example, in 1748 an English pamphleteer wrote that "In this Kingdom... any booby is invested with the ensigns of magistracy, provided he has as many acres of land as are necessary to qualify him under the Act."⁵⁰ In 1750 a verse published in Ladies Magazine reflected the tasks dealt with in the Sessions in an effective satirization:

Three or four parsons, three of four Squires,
Three or four Lawyers, three or four Lyars,
Three or four Parishes bringing in Appeals,
Three or four hands, three or four Seals,
Three or four Bastards, three or four Whores,

⁴⁹ As cited in Bertram Osborne, Justices of the Peace 1361-1848 A History of the Justices of the Peace for the Counties of England (Dorsett: Sedgehill, 1960), p.61.

⁵⁰ Webb, p.346.

Tag, Rag, and Bobtail, three or four Scores;
 Three or four Bulls, three or four Cows,
 Three or four Statutes not understood,
 Three or four Paupers praying for food,
 Three or four Roads that never were mended,
 Three or four Scolds, - and the Sessions is
 ended!⁵¹

In Upper Canada the Justices and their Sessions did not escape the scrutiny of government critics. Several accounts of the mode of appointing Justices of the Peace and the character of those appointed were submitted to the government in various inquiries. For example, when asked whether the Lieutenant Governors of Upper Canada possessed sufficient knowledge of the inhabitants of the several Districts to enable them to select judicious persons as Justices of the Peace, James Wilson, Esq., M.P.P. for Prince Edward, replied "No... I think a system of favouritism prevails in regard to such appointments. I do not think His Excellency is acquainted with the character of those who are recommended to him. I think unfit men in several cases are appointed and very worthy men neglected."⁵² Mr. Wilson's opinion may have been influenced by his political leanings just as William Buell's answer undoubtedly was.⁵³ When asked in February 1835 how he felt Justices were appointed in his district, Buell replied "They are mostly appointed from among persons possessing one set of political opinions -- I mean opinions in accordance

⁵¹ Ladies Magazine, 15 December 1750, as noted in Norma Landau, The Justices of the Peace, 1679-1760 (Berkeley: University of California, 1984), p.19.

⁵² "Seventh Report of Committee on Grievances," p.20.

⁵³ William Buell was involved in a series of quarrels with the families of Justus Sherwood and Daniel Jones, both of whom settled in the Brockville area and competed for economic and political influence. See Ian MacPherson, "William Buell", Dictionary of Canadian Biography, Vol.VI, 1821-1835 (Toronto: University of Toronto, 1987), pp.91-92.

with the views of the Executive."⁵⁴ Partisanship may be held to account for the array of opinions concerning the process of appointment applied to Justices of the Peace in Upper Canada but the same argument cannot be employed when examining the effectiveness of Magistrates within the court itself.

These judgements concerning Justices of the Peace and the Court of General Quarter Sessions set the extremes of opinions produced by historians who have examined this office. One of the first studies of Justices of the Peace was by Sydney and Beatrice Webb in their examination of the formal administrative structure of rule in eighteenth-century English local government.⁵⁵ As can be ascertained from the title of their chapter "The Rulers of the County", the Webbs concluded that Magistrates in eighteenth-century England were "unrepresentative in character... unchecked in their irresponsibility", and were effectively granted autocratic power within their respective parishes.⁵⁶ The portrayal of the Magistrates as autocrats has persisted throughout much of this century. However, in the 1970s and 1980s historians such as E.P. Thompson, J.A. Sharpe, and J.S. Cockburn in Britain, and J.M. Beattie in Canada, renewed interest in the study of legal history. These historians have shed new light on the Court of General Quarter Sessions, its Magistrates, and their role in English Civil law and government. However, their efforts have focused attention almost exclusively on the study of crime in the context of communities.⁵⁷ One

⁵⁴ Ibid., p.35.

⁵⁵ Webb, Op.Cit.

⁵⁶ Ibid., p.605.

⁵⁷ See, for example, E.P. Thompson, Whigs and Hunters The Origin of the Black Act (London: Penguin, 1975); J.A. Sharpe, Crime in Early Modern England 1550-1750 (New York: Longman, 1984); J.S. Cockburn, ed., Crime in England 1500-1800 (London: Methuen, 1977); and J.M. Beattie, "Towards a Study of Crime in 18th Century England: A Note on Indictments", in Paul Fritz and David Williams, eds., The Triumph of Culture:

searches in vain for a precise discussion of the Court of General Quarter Sessions of the Peace operating in Upper Canada. In fact, no study of the Justice of the Peace or the Court of General Quarter Sessions in Upper Canada has been completed. What has been done in this field consists of counting and categorizing the criminal charges tried within the Court of General Quarter Sessions of the Peace.⁵⁸ Valuable as this information is, virtually nothing has been written about the administrative aspect of the Court of General Quarter Sessions of the Peace and little scholarship has been produced which questions the traditional belief that, during their apogee between 1800 and 1832, Justices of the Peace in Upper Canada were ineffective and members of a partisan system of administration.

18th Century Perspectives (Toronto: Hakkert, 1972).

⁵⁸ Sharpe, p.16.

Chapter II

The Records and Quarter Sessions of the Johnstown District

The Records

The records of the Johnstown Court of General Quarter Sessions of the Peace reflect the fact that Upper Canadians were inconsistent in both conducting and recording their affairs. An examination of the minutes of the Court of General Quarter Sessions reveals that they are divided into volumes, numbered 1 through 6. These minutes were recorded by the Clerk of the Peace on plain, legal size paper as each case came before the Magistrates. The neatness of the early entries suggests that they were likely transcribed after the sessions from rough notes. This neatness slowly gives way to hurried handwriting in later entries which probably means that as the Clerk became more proficient, he recorded only the essential points in legible fashion without making a second copy. Volume I of the Minutes, 1800-1818 entitled "Record A", begins on 22 April 1800 and ends 13 November 1818, paginated 1-442. The minutes for 1819, "Record B", have not survived and hence Volume II begins with the November Sessions of 1820 and ends with the February Sessions of 1822. These minutes are entitled "Record C" and are paginated 1-80. The proceeding volumes are: Volume III, May 1822 - November 1823, "Record D", paginated 1 - 84; Volume IV, February 1824 - August 1827, "Record E", paginated 1 - 128; Volume V, November 1827 - August 1830, "Record F", paginated 1 - 142; and Volume VI, November 1830 - August 1837, "Record G". This final volume is paginated only to the November Sessions of 1834 (paginated 1 - 206) and the proceeding pages are left unnumbered. Although this series of records is virtually intact additional records such as oaths and accounts (which detail each case mentioned in the minutes) have been ravaged

by time. Only by good fortune have the Johnstown minutes survived. These facts make difficult the task of determining first, who was a Magistrate in the district, and secondly, what business was transacted within the Quarter Sessions.

The difficulties of determining the exact number of Justices of the Peace who oversaw the Johnstown Quarter Sessions are numerous. For example, the initial Commission of the Peace⁵⁹ for the district of Johnstown,⁶⁰ dated 1 January 1800, cites sixteen magistrates.⁶¹ However, the Master List of Commissions for the District of Johnstown, which lists all those who were appointed to the Commission in the District, contains twenty-five names.⁶² Moreover, it can generally be assumed that the first meeting of the court for the newly-created district would be of significance to both the colonial government and the inhabitants of Johnstown. It appears, however, that this concern was not shared by the Justices themselves because only five (31%) of the Justices eligible actually attended the first meeting of the court which took place on 22 April 1800.⁶³ These discrepancies are notable because first, they illustrate the problem of trying to record accurately the number of Justices appointed in Upper Canada during this era. Secondly,

⁵⁹ It is important to recognize that the term "Commission of the Peace" is used in two senses. G.C.F. Forster has noted that one means the Royal Commission which granted powers to certain men as Justices of the Peace. The second refers to the body of Justices named in the Commission. Op.Cit., p.68.

⁶⁰ The Johnstown Commission of 5 April 1803 is found in Appendix 1.

⁶¹ Professor F.H. Armstrong has provided the thirteen Commissions for the District of Johnstown between 1800 and 1832. Professor Armstrong has also provided thoughtful and much-appreciated comments concerning the Justices of the Peace.

⁶² Public Archives of Canada, Record Group 68, General Index to Registrar General, 1651-1841, Part II, A, pp.407-408.

⁶³ Provincial Archives of Ontario, MS 699, Record Group 22, Series 12, Minutes of the Court of General Quarter Sessions - Brockville, 1800-1837, Vol.1, 22 April 1800, p.1.

they illustrate the poor attendance at the Court of General Quarter Sessions of the Peace in Upper Canada.

In examining the minutes of the court from 1800 to 1832 it was discovered that 76 Magistrates appeared in at least one Quarter Session.⁶⁴ When this number was compared with first, the Master List of Commissions, and second, the 124 names found in the thirteen Commissions that exist for the District between 1800 and 1832, it was discovered 214 men were appointed Justices of the Peace for the Johnstown District.⁶⁵ This total number derived from all three sources is at best approximate because the minutes of the Sessions between November 1818 and November 1820 have not survived. Furthermore, additional names of Magistrates have been discovered in various other record groups pertaining to the Johnstown District. For example, three Commissions in the Unprocessed Records Inventory of the Ontario Archive dated 22 February 1815, 28 September 1816, and 21 March 1818 are not mentioned in any records examined.⁶⁶ In addition, a District Account for Johnstown recording a submission for wolf bounty certificates in 1830 provides the only mention of Lewis Prant:

⁶⁴ "Sessions" has been used both in singular and plural tenses throughout the records of the Quarter Sessions. For clarity, "sitting" has been employed in this thesis when referring to an individual meeting of the Court of General Quarter Sessions. "Session" has been used to refer to each quarterly meeting of the Court which may have lasted a number of "sittings".

⁶⁵ See Appendix No. 2.

⁶⁶ PAO, RG 22, Leeds-Grenville, Clerk of the Peace/Crown Attorney, JPs Records: Commissions of the Peace 1803-18, Box 1.

Personally appeared before me, Lewis Prant, Justice of the Peace for the District of Johnstown, John Cook of the Township of Edwardsburgh, and made Oath that he killed a wolf in said township and produced his scalp to me this day for which he is entitled to the bounty allowed by the law of this Province.

John Cook

Signed before me at Edwardsburgh
this 8th day of July, 1830

Lewis Prant, JP⁶⁷

A further letter contained in the records of Leeds and Grenville held at the Ontario Archives is also worthy of note:

Oathes of Allegiance, Supremacy and abjuration (etc), unto Alexander Thorn, William Marshall, Levis P. Sherwood, Alexander Morris, Andrew Donaldson, and Bartholomew Carley, Esquires in due form of law - And also the oath of office as Justices of the Peace in and for the District of Johnstown, pursuant to their appointment as such by a Commission of the Peace issued for said District bearing date the 28th day of September 1816.

Signed 15 Oct. 1816

Wm. Campbell⁶⁸

⁶⁷ PAO RG 22, Series 16, Brockville General (Quarter) Sessions, Accounts 1828-1830, Box 8, Envelope 1, Account No. 158.

⁶⁸ PAO, RG 22, Leeds-Grenville, Clerk of the Peace/Crown Attorney, Correspondence, 1808-1838, Box 1.

This letter contains the only mention of Andrew Donaldson as a Justice of the Peace for Johnstown and also mentions a Commission for which there is no other reference. This suggests that supplementary Commissions may have been issued periodically.⁶⁹ Regardless, in total there were probably at least 220 Magistrates for the District, but it is unlikely that a precise number can be determined.⁷⁰

Establishing a list of names of Justices appointed in Johnstown presented a concurrent problem with the names themselves. Most are easily recognized but a few have presented some difficulty. The most obvious example here is that of Uri Scovil. This name appears in the minutes of the General Quarter Sessions for the first time on 19 May 1807 and for the last on 18 May 1831. Throughout this period within the minutes, other filings, and Commissions, a number of variations of this name appear, including Uri, Uriah, and Ira and Scovil, Scofield, and Schofield. All of these derivations have been interpreted to be either short-forms or versions of the same person's name. The same problem, but to a lesser degree, has been encountered with Smith (Smyth), Breakenridge (Brackenridge), Burritt (Burrett), and Denning (Deming).

A problem had also arisen in determining whether one or two Magistrates are referred to in the Minutes where the same name appears or alternately, when a name appears with or without "Senior" or "Junior". For example, Thomas Fraser first appears in the Johnstown Minutes on 18 May 1803. The Dictionary of Canadian Biography lists the date of Fraser's death as 18 October 1821. However, the last mention of Fraser is on 16

⁶⁹ The nature or number of these supplementary Commissions has not been discovered.

⁷⁰ A list of all those appointed Justice of the Peace in the surviving Johnstown Commissions is found in Appendix 2.

October 1827 - fully six years after his demise! This evidence suggests that there were two Thomas Frasers. Regardless, the Thomas Fraser listed in the Minutes has been regarded as one person because there is no way to determine otherwise. The problem of a name appearing variously with "Senior" or "Junior" is best illustrated by Edward Jessup who attended 34 Quarter Sessions in Johnstown. The first mention of Jessup is on 27 January 1801, when "Edward Jessup Senior" was sworn into office⁷¹ and his last recorded attendance at the court is on 9 August 1809. It is important to note that the initial entry is the only one which records "Senior", all other entries in the Quarter Sessions Minutes record "Edward Jessup". The problem in recognition arises on 14 October 1800, prior to Jessup presiding over any Sessions, when "Edward Jessup" appears twice within the Minutes of the Sessions. First, "Edward Jessup, Clerk of the Peace", appears in a petition to the court regarding remuneration. This name appears again in another petition which notes that "Edward Jessup Esquire presented a warrant from the Speaker of the House of Assembly for his wages allowed to him as Member of the House of Assembly during the last Sessions of the Second Parliament."⁷² It is unlikely that a member of the House of Assembly would also be a Clerk of the Peace and, upon closer examination, this problem is clarified by referring to the Commission of 1 January 1800 where the names of both Edward Jessup Senior and Edward Jessup Junior are found. Obviously, there were two Edward Jessup's involved in these proceedings - Edward Jessup Senior was the Magistrate and Member of the House of Assembly, while his son, Edward Jessup Junior, was the Clerk of the Peace. As the minutes of the Quarter Sessions record only "Edward Jessup",

⁷¹ PAO, MS 699, RG 22, Series 16, Minutes, Vol.1, 27 January 1801, p.20.

⁷² *Ibid.*, p.14.

it has been determined that Edward Jessup Senior was the Justice who appeared in the Sessions because it is unlikely that a person would be permitted to both preside as a Justice and act as the Clerk of the Peace at the same Session. This example is the most problematic but despite it and other problems such as illegibility,⁷³ most names can be identified. Therefore, the estimate of 220 Magistrates for the Johnstown District is quite reasonable.

The Working Justices

Out of the 214 Justices of the Peace appointed in Commissions for Johnstown, a list was prepared of those who actually appeared at a Quarter Sessions in Johnstown between 1800 and 1832. The creation of a list of "Working Justices" for the District helped ascertain later whether the Commission was employed as a means for the administration of District concerns or a consequence of political patronage. Unfortunately, this simple qualification excludes from the list those Justices who may have conducted some of their official duties outside of the Quarter Sessions. Regardless, the two determining factors for selecting "Working Justices" were, first, whether a Justice was listed in a Commission of the Peace, and second, whether he attended any General Quarter Sessions in the District.⁷⁴ Attendance at the Sessions was the most important factor in deciding whether or not a Magistrate was a working Justice because an honorary appointment meant that a Magistrate usually did not appear in any Quarter Sessions. This probability is of course not exact

⁷³ Three names were not identified in the Minutes of the Sessions.

⁷⁴ The list of "Working Justices" in the Johnstown District is contained in Appendix No.3.

because Justices appointed in back townships sometimes contented themselves with lesser roles in Courts of Requests.⁷⁵ The absence of these Justices at the Quarter Sessions might therefore wrongly appear to indicate that they were honorary appointees. Although much of the work of the Magistrates was done outside the court and from the Justice's house, attendance within the court is the only method of determining the degree to which each Magistrate met his responsibility. Therefore, while men such as John Elmsley, Lewis Prant and Andrew Donaldson were Justices of the Peace for Johnstown, they did not attend any Quarter Sessions for the District in which attendance records have survived and hence they have not been considered "Working Justices."

One of the most important observations about the "Working Justices" is that most of them were men about whom little is known. For example, Bartholomew Carley was first appointed to the Commission on 25 March 1816 and was named in all seven Commissions prior to May 1832. During this period Carley was the second-most proficient Magistrate in attendance, appearing at 181 of 287 (62%) of the Sessions for which he was eligible.⁷⁶ David Breakenridge, appointed to the Commission at the same time as Carley, was also named on all seven Commissions and was the fourth-most proficient in attendance, appearing at 126 of 305 (41%) of the Sessions for which he was eligible. In spite of their regular attendance little has been discovered about these men. This is important to note because it shows that the local magnates, who are perhaps better known, were not

⁷⁵ C.F.J. Whebell, "The Upper Canada District Council Act of 1841 and British Colonial Policy" The Journal of Imperial and Commonwealth History, Vol.XVII, No.2 (January 1989), p.187.

⁷⁶ The rank by attendance of Justices of the Peace in the Court of General Quarter Sessions of the Peace can be found in Appendix No. 3.

necessarily dominating local affairs. One Justice about whom much is known is Richard D. Fraser. Like Carley, Fraser was appointed on 25 March 1816, but he appeared only at 6 of 305 (2%) Sessions he was eligible to attend during the same period. However, because of his various other careers, which included fur trading, business, farming, politics and office holding, Fraser is worthy of mention in the Dictionary of Canadian Biography.⁷⁷ So, too, was Charles MacDonald, who was appointed 27 March 1821, and attended 2 of 70 (3%) of the Sessions for which he was eligible. In the Dictionary of Canadian Biography, the best authority for biographical information concerning this era, only eleven of the Working Magistrates in the district of Johnstown (14%) were deemed of sufficient interest for entry. The unpublished name card files of the DCB contain brief citations of seven other Justices for the district (13%). Obviously, appointment to and continued service in the Commission of the Peace did not ensure a place in posterity. Perhaps the burdens of office were so considerable that men with far-ranging and diverse business interests were more neglectful of their Quarter Session duties than other less-prominent men of affairs.

Quarter Session attendance records sometimes reveal a more accurate date as to when a Magistrate was first appointed. This is due to the fact that the attendance of Magistrates was usually, though not always, recorded at Quarter Sessions while a new Commission for the District was issued on average every two to three years. In fact, attendance was recorded at 421 of the 494 meetings of the court between 1800 and 1832,

⁷⁷ Fraser is also worthy of special mention because of his violent nature which found him convicted on at least three separate assault charges, one of which involved an attack on a Magistrate. See Cathy Shepard, "Richard Duncan Fraser" in The Dictionary of Canadian Biography, Vol.III, 1851-1860 (Toronto: University of Toronto, 1985), pp.304-306.

while only 13 Commissions of the Peace⁷⁸ were issued by the government for Johnstown during this period.⁷⁹ Due to the infrequency of the Commissions it has been necessary to calculate indirectly the period of time served by individual JPs. The period between the first citation of a Magistrate, either in the Minutes or on a Commission, and his last appearance in the Quarter Sessions has been considered when calculating his attendance and the total number of Sessions for which he was eligible to attend.⁸⁰ Attendance at the Sessions by these Justices indicates something like a degree of responsibility which each Magistrate held towards upholding the purpose of his appointment.⁸¹ Based upon this information, a list of "Johnstown District Working Justices" was established.

Criteria For Appointment

The method of appointment as a Justice of the Peace or an officer of the court in the early years of the district was straightforward. Selection as a Justice of the Peace in the more remote and less populous townships was often solely restricted by availability; the more settled areas allowed a greater degree of selectivity from trustworthy people, such as

⁷⁸ The 13 Johnstown Commissions between 1800 and 1832 were issued on: 1 January 1800; 30 June 1800; 5 April 1803; 18 October 1804; 11 December 1806; 10 March 1808; 25 March 1816; 19 March 1818; 24 August 1819; 27 March 1821; 23 July 1822; 18 April 1825; and 13 February 1828. These do not include any supplementary Commissions which may have been authorized.

⁷⁹ For purposes of comparison, the Western District was issued a total of 17 Commissions between 1788 and 1837. These were issued at irregular intervals, usually every three to five years. Armstrong, "Western Oligarchy", p.95.

⁸⁰ Appendix No. 3 contains a record of attendance for each Magistrate who attended the Johnstown Court of General Quarter Sessions of the Peace between 1800 and 1832.

⁸¹ See Appendix 3 for the rank by attendance of Johnstown Working Justices.

members of established families and the officials of the district.⁸² The first magistrates appointed in Johnstown included men who had lived in the area for a number of years and who had been appointed to Commissions in the District of Montreal prior to 1792 and in the Eastern District before the District of Johnstown was created in 1800. These men provided an immediate, established local authority upon the Court's creation. Of the five men who attended the first Sessions of the Johnstown Court of General Quarter Sessions, four, Solomon Jones, Ephraim Jones, William Fraser, and Hugh Munro, had been appointed in other districts prior to 1800.⁸³ Based on attendance, all of these men except Hugh Munro figured prominently in the Johnstown General Quarter Sessions for the next thirty-two years.

The element of continuity provided by the attendance of these men at the Sessions created stability within the Johnstown District. Of special note is Solomon Jones who was the undisputed leader of the Johnstown judiciary between 1800 and 1815. During this period Jones attended 73% (135 of 186) of the Quarter Sessions. As chairman of the great majority of these Sessions, Jones led the court and the District through formative years. However, Magistrates such as Jones and his early fellow Justices were not great in number and an alternate source of candidates was required.⁸⁴ In the early years of the province, when potential candidates for the magistracy were not readily known by the Lieutenant

⁸² Armstrong, "Western District Oligarchy", p.95.

⁸³ Ephraim Jones and William Fraser appear on the Commission of the Peace of 24 July 1788 for the Lunenburg District. Solomon Jones and Hugh Munro appear on the Eastern District Commission of 1 July 1796. See PAC, RG 68, General Index to Registrar General 1651-1841, Part I, B, pp.325, 401,

⁸⁴ Appendix No. 5 examines the number of Magisterial Appointments in Johnstown versus the actual attendance of Justices in the Johnstown District between 1800 and 1832.

Governor's office, candidates were chosen from the ranks of officers who settled in the region. Further candidates may also have been drawn from petitions for land grants, roads and grist mills because these documents recorded lists of petitioners and gave the government an indication of who was taking an active interest in the affairs of their districts. For example, the names of William Fraser and Gideon Adams, two of the sixteen Justices appointed to the first Johnstown Commission in January 1800 appear on a petition of 18 May 1797. This petition, from the inhabitants of Johnstown to Solomon Jones, their representative in the House of Assembly, called for the incorporation of Johnstown such that it "be allowed the same privileges and freedoms as are given to Borough Towns in England."⁸⁵ That this petition and others like it were not acted upon is important, but so too is the fact that those men who submitted their names on petitions were seen by the government as potential magistrates, willing to deal with concerns which they felt were important to their local communities.

One denominator exists for almost all of the men appointed to the Commission. They all were prominent at the local level. Local prominence is by no means easily determined, but it can safely be assumed that the politicians, militia officers, office holders, millers, physicians, and holders of large tracts of land found in the Johnstown Commission held a degree a stature.⁸⁶ A further denominator worth noting is the degree of plural office-holding which the Justices achieved. The Lieutenant Governor appointed those people whom he felt could afford the time away from their homes and businesses and,

⁸⁵ PAO, MS 520, Solomon Jones Papers, 18 May 1797.

⁸⁶ For an excellent study of the complex nature of determining local and provincial prominence in Upper Canada, see J.K. Johnson, Becoming Prominent: Regional Leadership in Upper Canada, 1791-1841 (Kingston: McGill-Queen's, 1989), passim.

more importantly, those who he and his council believed would attend the Sessions. Obviously this number did not include those settlers who were kept busy with the routine tasks of day-to-day living and simply trying to survive. But it did include those men who had the advantage of being appointed to a number of offices and who were thus established in the colony. This was more than just a continuation of the English tradition of appointing only persons of established means. The practice of plural office holding was spurred by a number of reasons, not the least of which was sheer economic expedience.⁸⁷ This is borne out by the fact that while Magistrates could collect fees, they were not paid for their attendance in the Johnstown Sessions until 1817 - and even then only nominally.⁸⁸ Therefore seeking out or accepting an appointment as a Magistrate was not spurred by the expectation of direct financial reward. The main reasons for seeking out appointment to a Commission were prestige and, more importantly, opportunity.

The Justices of the Peace inherited a certain amount of status with their office regardless of how, when or where the Commission was received. This fact was reason enough for the appointment to be coveted within the colony and explains in part that appointment to the Commission was a symbolic acceptance into the rank of the colonial elite. Beyond this symbolism, there existed an array of opportunities for an individual to enhance his personal wealth while undertaking the often mundane tasks of presiding as a Magistrate. What opportunities were available to those who accepted or actively sought out appointment to the Court of General Quarter Sessions? The key for many men seeking appointment as a Magistrate lay in the opportunity to use the office as a means to further

⁸⁷ *Ibid.*, p.18.

⁸⁸ Minutes, Vol.1, 12 April 1817, p.394.

personal ambitions. This implies a certain degree of conflict of interest on the part of the Magistrates but, as has been pointed out, the conflict of interest question is anachronistic here because not only is the concept of conflict of interest foreign to nineteenth-century civic morality, it is diametrically opposed to it.⁸⁹ In business ethics the citizens of Upper Canada recognized a fine line between fraudulent and ethical deeds,⁹⁰ but no such similar line was drawn between economic power and civic authority. During this era, it was believed that economic power and civic power should reinforce each other; thus the model for local government was not unlike that provided by the British aristocrat, a model in which "economic privilege was supposed to be balanced by civic responsibility."⁹¹ With this idea in mind, it is important to determine who the Johnstown Magistrates were, what the Magistrates had control over, and how they employed their power. Did they balance economic privilege and civic responsibility? This important question will be considered in depth in Chapter Four. Now, we must return to an account of who the Justices were.

Certain types of people had advantages over others when it came to gathering support for appointment as a Magistrate. One such advantage was family connection, which is well illustrated by Charles McDonald. A Scottish emigrant by way of Athol, New York, McDonald arrived in Gananoque, Upper Canada in the late spring of 1809. Two years later he married Mary Stone, the daughter of Joel Stone, one of the leaders of the Johnstown Quarter Sessions. By 1812 McDonald had joined Stone in operating his

⁸⁹ D.H. Akenson, The Irish in Ontario A Study in Rural History (Kingston: McGill-Queen's, 1984), passim.

⁹⁰ Ibid.

⁹¹ Ibid., pp.77-78.

prosperous mill and business interests and three years later, after Stone converted to Methodism, McDonald took over most of Stone's business concerns. In 1817 McDonald acquired a grist-mill and the following year offered his brother John a full partnership to help him with the expanding business.⁹² This career rise was capped in 1821 when Charles was appointed to the Commission in Johnstown. His brother John was appointed in February 1828.⁹³ The McDonalds' financial success and their appointments can be attributed to family ties, but these ties did not dictate accepting the responsibility that accompanied the Commission. Financial success may have outweighed any concern the brothers held for participating in their Commissions because Charles appeared at the Sessions only once, on 29 December 1824, and John, apparently just as busy with the family business, failed to appear at all. Of importance to the McDonald brothers was the fact that they were granted an honour, a sign of having arrived socially. The fact that they were able to retain the honours bestowed upon them, without fulfilling their purpose, may have been the type of conduct which brought the office of Magistrate under the critical scrutiny of reformers.

Another method of gaining a Commission in Johnstown was through honorary appointment, a custom adopted from the English judicial system. In England principal government and court officials were granted Commissions in various counties as recognition of their status. Prominent members of the clergy, land-owning peers, and lawyers also were sometimes granted commissions. However, all of these Commissions

⁹² Catherine Shepard, "Charles McDonald", Dictionary of Canadian Biography, Vol.VI, 1821-1835, p.435.

⁹³ *Ibid.*, pp.435-436.

were purely symbolic as their bearers performed no local duties. In spite of the honorary nature of these appointments they had some value as they did provide useful links with the Royal Court.⁹⁴ This method of appointment was also prevalent in Upper Canada and it explains the presence of nine names on the 1800 Master List of Commissions for Johnstown and their absence on the Johnstown Commission itself. For example, the Chief Justice of the King's Bench, the Honorable John Elmsley, is named as are three Puisne (Associate) Judges, Peter Russell, William Dummer Powell, and Henry Allcock; one Master in Chancery, John McGill; and one Official Principal of the Court of Probate, Aeneas Shaw. Also named to the Commission were David William Smith, the Surveyor General of Upper Canada, and Alexander Grant, a member of the Executive Council. Being named to the Commission was an honor which testified to the continuation of an old country practice but it was not a laurel granted to all men of stature in Upper Canada. The absence of other, perhaps more notable personalities to this list, might be explained by the lack of personal ties to the Johnstown District.

Several other honorary appointments account for the remaining names on the Master List of Commissions. Perhaps the most famous of these is the Right Reverend John Strachan who is first mentioned in the Master List of Commissions for Johnstown in 1818.⁹⁵ Considering the stature of Strachan, his having lived along the St. Lawrence prior to moving to York in July 1812, and the friendship he maintained with Solomon Jones,⁹⁶ his presence on the Commission is not surprising. The absence of honorary appointments

⁹⁴ Forster, p.20.

⁹⁵ PAC, RG 68, Master List of Commissions, 1651-1841, Part I, B, pp.407-408, 429.

⁹⁶ Much of their correspondence is contained in PAO, MS 520, Solomon Jones Papers.

on the Commissions for the District of Johnstown suggest that only those Justices who were expected to attend the Quarter Sessions were named on the Commissions themselves.

In the early years of the district few individuals had acquired the local standing and prestige that was a prerequisite for the magistracy in England but certain professions did dominate the nominations. Foremost were the merchants because of their literacy, financial power and presumed familiarity with politics and the law. Some of the earliest appointees included such businessmen as Thomas Fraser who was appointed in 1786 and Joel Stone, appointed in 1796. Stone is perhaps the best example of an influential entrepreneur in the District of Johnstown and his career also illustrates the common Upper Canadian practice of plural office holding. Joel Stone was born in 1749 in Guilford, Connecticut. His business career began in 1774 but was interrupted by the revolutionary war. After a move to New York in 1780 where he re-established his business career, and a three-year stay in England, Stone arrived in Quebec in October 1786. The following year he moved to Cornwall on the St. Lawrence River where he soon established himself as a principal land owner and businessman. Stone established a small distillery in 1787, and by 1795 he also had a successful saw-milling operation and lime kilns. As he acquired property and businesses, so too did he accumulate government positions which included appointment as a Justice of the Peace, customs collector in 1802, and roads commissioner in 1814. This collection of offices was completed with an appointment as colonel of the 2nd Leeds Militia.⁹⁷ In his capacity as Justice of the Peace, Joel Stone was the longest-serving Magistrate in the Johnstown District, serving the thirty years between 1800 and 1830.

⁹⁷ Elizabeth M. Morgan, "Joel Stone" in Dictionary of Canadian Biography, Vol.VI, 1821-1835, pp.738-739.

During this period he attended 146 of the 452 (39%) Sessions for which he was eligible. This record is all the more impressive considering that the average Magistrate in Johnstown was eligible to attend 157 Sessions and attended, on average, 24 (14%).⁹⁸ That Joel Stone was regularly able to attend Quarter Sessions is accounted for by the fact that he lived in the front of the District near both the best transportation available, the St. Lawrence River, and close to the district seat, Elizabethtown. The majority of Justices were not so ideally located to attend the Quarter Sessions on a regular basis. Therefore, Stone's impressive record of service compared to those of his fellow Magistrates illustrates the exception rather than the rule.

Military and loyalist connections also played a prominent role in the appointments to the magistracy, but as the province grew in population the most important factor in appointment probably remained family connection.⁹⁹ Although appointment was not hereditary a degree of nepotism was evident. An early example of this in the Johnstown District was the appointment of the son of a Magistrate, Edward Jessup Junior, as the Clerk of the Peace in 1800. This was no small favour as the Clerk of the Peace was one of the few officers during the early years of the Quarter Sessions who stood to gain financially by his appointment because he was one of the few officers of the court who was granted remuneration at each Session. Although family connections could help in obtaining appointments they did not guarantee them. They could not guarantee that personal disputes or competing and more powerful connections would block the path of advancement. Edward Jessup Junior is again an excellent example here. In 1803 Jessup

⁹⁸ See Appendix No. 3.

⁹⁹ Armstrong, "Western District Oligarchy", p.96.

fell into disfavour with the Magistrates of the Johnstown District. The precise reasons are unknown but the conflict led to the attending Justices laying the following charges against Jessup:

1. Refusing to make out the riot bill,
2. Refusing to lay before the Magistrates, when ordered, an order drawn upon the District Treasurer in favour of Seth Downs,
3. For having insinuated that the presiding Magistrates might from the manner in which the business of the Sessions was conducted, commit Fraudulent practices,
4. For having generally assessed the measures of the Magistrates, and endeavouring to impress the minor of the People without loans unfavourably in regard to their general conduct.¹⁰⁰

These charges were "substantiated" by the presiding Justices¹⁰¹ and a copy of them was forwarded by Solomon Jones, the Chairman, to the Lieutenant Governor, Peter Russell, "praying that His Excellency will be pleased to replace the present Clerk of the Peace Edward Jessup Esquire and appoint some other person in his stead."¹⁰² The correspondence between the Johnstown Magistrates and the Lieutenant Governor's office concerning this dispute reveals much about the inner workings of colonial government and the channels of communication between the government in York and its local representatives, the Justices

¹⁰⁰ PAO, MS 520, Solomon Jones Papers (1787-1843 and undated), 15 November 1804.

¹⁰¹ The eight presiding Justices were Solomon Jones, Thomas Fraser, Thomas Smyth, Gideon Adams, Alexander Campbell, Ephraim Jones, Truman Hicok, and Joel Stone.

¹⁰² PAO, MS 520 Solomon Jones Papers, November 1803.

of the Peace in the various district General Quarter Sessions. As such, a draft letter by Solomon Jones to James Greene of the Lieutenant Governor's office is worthy of examination:

Johnstown 25th Feb.y 1804

Sir,

I was duly honoured by your Lettor [sic] of the 12th within by which you are good enough to say "that the Charges of the Justices of the Quarter Sessions inclosed in my Lettor of the 15th Nov.r, had been laid before the Lieut. Governor who had commanded you to say that due attention would be paid them. You are further pleased to add that however strongly the Lieut. Governor might be disposed to support the Authority of the Magistrates in Sessions, over their Clerk, yet as the Charges against Mr. Jessup bore in part the appearance of personal altercations, and that the unanimous opinion of the Court was limited to one third of the Number of Justices in the Commission, the Lieutenant Governor discerned it highly necessary that Mr. Jessup should have an opportunity of answering and explaining the complaints against him, for which purposes a copy of the charges had been transmitted to him, and the Lieut. Governor would await his answer.

Since his Ex.y the Lieut. Governor has condescended, thr.o your means, to reply to my Lettor, as Chairman of the Quarter Sessions, but my Intentions have been frustrated; the Clerk of the Peace having thought fit to absent himself from the District, at the time appointed for holding the Sessions, by which means the Session was lost. True it is Mr. Jessup took upon himself to appoint a Deputy, but the Magistrates assembled could not concur in proceeding to business under such Authority, where criminal causes were to be determined and the Liberty of the Subject consequently at stake. It must be admitted that there are some offices which in their nature and Constitution imply a power annexed to the Grant or Institution may be so exercised. The Appointment of Clerk of the Peace in England instances the lattor [sic] case for by the Appointment under 37 Hen.8 c.1 & 1 W. [& M.] c.21 the officer cannot depute one in his stead if the Office be to be performed by him in person under these Impressions, and conceiving the Office of Clerk of the Peace in this district an office of Trust, the Magistrates were of opinion that the same

could not be exercised by deputy, unless there was a clause in the appointment for that purpose.

When the Magistrates in Sessions had the honour of forwarding the Charges exhibited against the Clerk of the Peace, they adopted the Measure from the Purest Motives of respect to his Excellency; You may judge therefore of the mortification of the Justices in discovering that their official Exertions were interpreted into personal altercation. Perhaps the Magistrates may have overstept [sic] the bounds of propriety, by requesting his Excellency to displace their officer for a misdemeanor - As the office in this province is granted *durante bene placito* (in England *quamdiu se bene gesserit*) they thought it only proper respect to address his Ex.y, tho' they well knew their own power under the Stat. of 1 W.& M. which enacts that if a Clerk of the Peace misdemean himself in his office and a charge of his misdemeanors be exhibited to the Justices at the General Quarter Sessions, they may suspend or discharge him.

The Magistrates doo [sic] highly value the Honour of his Majesty's Commission to submit to so marked an Instance of Disobedience in their Officer. So far from personal Altorcation [sic], the Justices beg to assure his Excellency, that Charges of a more serious nature than those attended to, were exhibited but withdrawn and from no motive but Delicacy to the party charged. As to the unanimous opinion of the Court being limited to one third of the number of Justices, the Magistrates by leave to observe that the number of acting Justices in the district of Johnstown does not exceed seventeen, & when the extent of the district is considered, it will doubtless with force strick his Excellency, that eight members must be considered as a very respectable Court: And the Justices are the more inclined to the Sentiment, from the established Law ascertaining that an assembly of two Justices makes a Session; In Truth, if the conduct of a Court so highly respectable can even be suspected of personal altercation with their Clerk, the same observation might be applied to every Session, for, very nearly is the Court so numerously attended.

From his Excellency deeming it necessary that Mr. Jessup should have an opportunity of explaining the complaints against him, it should seem, his Excellency must presume Mr. Jessup had not hitherto, had that opportunity. The Magistrates wish his Exc.y to know, that the Charges were exhibited in Mr. Jessup's presence who was furnished with a Copy of the

Charges, and employed Counsell [sic] on his Behalf.

As I am disappointed answering your Favour in Sessions I have requested the Magistrates approving of the Conduct of the last Session and who approve of this reply to signify the same by their signature of Approbation.

I have to by the honour of you, Sir, to do me the Honr. of laying this Letter before his Excellency & to request that he will pay such Attention to it and to my Letter of the 15th of November to his Ex.y shall seem proper.

In the mean time I have the honour to be
Your ob.d & etc. etc. etc.

SJ¹⁰³

The discrepancies in perception between Solomon Jones and the Lieutenant Governor's office illustrated in this letter concerning the number of working Justices in the Johnstown District is of special note. To determine a quorum, the Lieutenant Governor's office apparently followed the Master List of Commissions which cites 32 Magistrates for the Johnstown District as of 18 October 1804.¹⁰⁴ The Justices in Johnstown, however, seem to have followed the District Commission which lists 20 names,¹⁰⁵ and they have made the further distinction of pointing out that there were 17 "acting" or "working" Justices. Therefore, where the Lieutenant Governor felt that eight Magistrates was not

¹⁰³ PAO, MS 520, Solomon Jones Papers, 25 February 1804.

¹⁰⁴ PAC, RG 68, General Index, Part II, A, pp.414-415.

¹⁰⁵ F.H. Armstrong, A Comparison of the Johnstown Court of General Quarter Sessions of the Peace Commissions, 1800-1840 (Unpublished Manuscript).

enough to constitute a quorum (8 of 32, being 25%), the Magistrates justifiably felt otherwise (8 of 17, or almost 50%). Also worth noting is that while only two Justices of the Peace were required to constitute a Court of General Quarter Sessions, apparently, in matters of greater importance, a quorum of the total number of Justices of the Peace appointed on the Commission had to be achieved. Nevertheless, Greene's reply to this letter explained that the Lieutenant Governor would refer the case to the judge of assize for the District of Johnstown "that he will after having heard all parties report his opinion to the Lieutenant Governor, after which the Lieut. Gov. is pleased to say, he will take such steps as the Justice of the case may require."¹⁰⁶ Unfortunately, no formal record of the outcome of this decision has been discovered but a number of clues allude to the causes and the results of the dispute. An examination of the minutes of the Court of General Quarter Sessions for Johnstown suggests that remuneration provoked the dispute between the Justices and their Clerk of the Peace. It appears that soon after his appointment in 1800, Edward Jessup Junior began to request that his fees, which were set during the first meeting of the Johnstown Sessions,¹⁰⁷ be increased. The first request by the Clerk for an increase in his fees was in the October 1800 Sessions. Jessup submitted a petition with Thomas Fraser, the High Sheriff, asking that "they may be allowed the same fees as other Clerks of the Peace and Sheriffs throughout this province."¹⁰⁸ The minutes record that this petition was immediately withdrawn by Jessup and Fraser but hindsight suggests that this may have been at the prompting of the presiding Justices. Jessup apparently did not relent

¹⁰⁶ PAO, MS 520, Solomon Jones Papers, 19 March 1804.

¹⁰⁷ Minutes, Vol.1, 24 April 1800, p.7.

¹⁰⁸ *Ibid.*, 14 October 1800, p.13.

in his campaign for increased wages during the winter months and his efforts saw that during the two subsequent spring Sessions held in May 1801 and May 1802 the scope of the tasks for which the Clerk of the Peace was paid in Johnstown was expanded three-fold and most of his previous fees were raised.¹⁰⁹ These actions allowed Jessup to collect a greater amount of money for his troubles, but they also increased his work load. The measures apparently did not satisfy Jessup for long, because a change in the penmanship of the minutes of the court on 8 November 1803 reveals that a new Clerk of the Peace replaced Jessup at the Sessions. Presumably, the man who recorded these minutes was a temporary Clerk of the Peace employed until a permanent replacement was found for Jessup. The gentleman eventually employed in Jessup's place was Hamilton Walker, who was sworn into office on 13 November 1804.¹¹⁰

Perhaps in recognition of the dispute preceding his appointment and the concerns voiced by critics of the court concerning magisterial absenteeism, the new Clerk's first list of Magistrate attendance at the Session of 13 November 1804 is concluded with the words "and others their fellows." This simple phrase implies that in addition to those Magistrates whose names are recorded in the minutes as being present, other "anonymous" Justices were in attendance. Hence, in future when Justices of the Peace were questioned as to whether they were present at a Session, it was possible to employ Walker's phrase contained within the record of attendance. The addition of this phrase probably endeared Walker to his new employers and the minutes of the court indeed reveal this. Walker did not have the same degree of difficulty with the Johnstown Magistrates as had his

¹⁰⁹ Ibid., 9 May 1801, p.35.

¹¹⁰ Ibid., 13 November 1804, p.106.

predecessor. This is evidenced by the fact that Walker's tenure as Clerk of the Peace lasted twenty-six years until 13 August 1830¹¹¹ during which time he was also appointed a District Court Judge for the Johnstown District in November 1823.¹¹² The fact that Hamilton Walker's predecessor, Edward Jessup Junior, was the son of one of the Magistrates in the district probably had much to do with the latter's nomination. But in the face of a ruffled district magistracy, not even Edward Jessup Senior had the persuasion or allies to ensure that his son would retain his appointment. In sum, the Quarter Sessions were not without factionalism; the local elite was not a monolithic community.

No cases have been discovered in this study of a Justice in Johnstown being asked to renounce his Commission. Indeed, the thirteen Commissions for Johnstown reveal that most of the working Justices were recommissioned and the names of new Magistrates were recorded subsequently. This list appears straightforward but the list of Magistrates on the Commissions is deceiving. For example, Charles Jones first attended the General Quarter Sessions for Johnstown on 10 November 1812 but he was not named on a Commission until May 1816. The reasons for Jones' absence on the Commission during this period is unaccounted for but, nevertheless, the four years he attended the Sessions have been admitted in calculating his service as a Magistrate. Conversely, Hugh Munro last appeared at a Sessions on 16 October 1817; but his name appears on five of six subsequent Commissions prior to 1832. Munro's absences are a telling example of the government's lack of attention in finding men to replace absentee Justices. This lack of zeal may be

¹¹¹ Ibid., Vol.5, p.141. Hamilton Walker was succeeded by James Jessup who is first mentioned as Clerk of the Peace at the Quarter Sessions on 29 November 1830.

¹¹² Armstrong, Chronology, p.177.

explained by a desire to avoid risk and hurt feelings in upsetting the status quo but this explanation must not be heavily weighted because of the large gap in the records. We know nothing about the work of the Justices of the Peace out of the Sessions.

The records of the Johnstown Court of General Quarter Sessions of the Peace reveal much about the Court, the Justices who attended, and the District over which the Magistrates presided. Although it is difficult to determine the exact number of Justices of the Peace who were appointed to the Commission, from the surviving records it is possible to determine generally which appointments were honorary by examining the various Commissions which listed appointments to the Court versus the attendance of the Magistrates within the Quarter Sessions. This comparison permits the creation of a list of Working Justices of the Peace - those who actually attended at least one sitting of the Court. The list of those Justices who attended at least ten percent of the Quarter Sessions for which they were eligible illustrates that local, perhaps better known Justices of the Peace, did not necessarily dominate local affairs - at least not through the aegis of the Court of General Quarter Sessions. Those Magistrates whose lives garnered recognition within the Dictionary of Canadian Biography were more notable for their other pursuits rather than their Magisterial accomplishments. While much can be gleaned from the Minutes of the Court regarding the daily rhythm of the Johnstown District, little is known about the vast majority of the Justices of the Peace who participated on a regular basis in local administration through the General Quarter Sessions.

Chapter III

Administration in Johnstown

The Business of the Quarter Sessions

Between 22 April 1800 and 18 May 1832 the Court of General Quarter Sessions of the Peace for the District of Johnstown usually convened four times a year and each Session sat approximately five times.¹¹³ In practice the Court sat in each Sessions until it had dealt with all of the work at hand. Hence, Sessions often sat a number of times over the span of one week and sometimes over several months before they were formally brought to conclusion. For example, the summer Sessions in 1808 met three times between 9 August and 4 October.¹¹⁴ However, this Session was exceptional. The spring Session in 1804, which first convened on Tuesday 15 May, and ended ten meetings and four days later on 19 May, is more typical of the majority of the Quarter Sessions in the District of Johnstown and reveal the variety of work with which the Justices regularly dealt.

The opening of the May Session in 1804 was a semi-formal ceremony cloaked in the tradition of the English judicial system and not unlike participatory theatre.¹¹⁵ After the court was called to order, attendance was recorded and a chairman of the Sessions, Solomon Jones, was selected from among the seven Justices present. The selection of a

¹¹³ The Court did not hold winter Sessions in 1800 or 1804. Appendix No. 4 illustrates the business of the Johnstown Quarter Sessions between 1800 and 1832.

¹¹⁴ Minutes, Vol. 1, 9 August - 4 October 1808, pp.177-183.

¹¹⁵ See E.P. Thompson, "Patrician Society, Plebian Culture," Journal of Social History 7, no.4 (summer 1974), pp. 382-405.

chairman at each Session was unique to the Johnstown District as all other districts in Upper Canada preferred to choose one chairman who chaired a number of Sessions. This process was, however, a simple formality in Johnstown as the men chosen for this position usually retained the chairmanship for a number of years. The Commission was then opened and read and the precept, a written order proclaiming the meeting, was returned by the Sheriff. This was followed by the calling and swearing in of the members of the Grand Jury which invariably consumed much time. So convened, the court finally turned its attention to the immediate judicial and administrative matters at hand. In the May 1804 Sessions the first two matters dealt with involved binding two yeomen in recognizance¹¹⁶ in two separate cases, directing them "to appear at the next Court of Oyer and Terminer¹¹⁷ and General Gaol¹¹⁸ delivery to be holden for the District of Johnstown and not to depart the Court without leave."¹¹⁹ The Court then adjourned until nine o'clock the following morning.

The second sitting of the May 1804 Quarter Session was conducted by five Magistrates. The first matters dealt with involved four rate collectors in the District of Johnstown who were ordered to appear and explain irregularities in the return of collected rates; one person was bound by recognizance in the sum of five hundred pounds to appear at the next court of Oyer and Terminer; and two men charged with assault and battery

¹¹⁶ This refers to a bond paid to the Court to observe some condition, such as to keep the peace.

¹¹⁷ An Anglo-French phrase meaning "to hear and determine", this was a Commission to judges on circuit empowering them to try specific offenses.

¹¹⁸ "Gaol" is an early spelling of jail.

¹¹⁹ Minutes, Vol.1, 15 May 1804, p.92.

were bound in recognizance to appear at the next Quarter Session of the Peace. The final case dealt with concerned a presentment made to the Court by the Grand Jury against one of the Justices of the Peace for the District, James Breakenridge, "for encouraging bodily harm to be done to Billa Flint the twentieth day of March last."¹²⁰ Flint, an Innkeeper in Elizabethtown, was bound in recognizance in the sum of fifty pounds to appear at the present Session and prosecute Breakenridge before the Session was adjourned.¹²¹

The third day, only three Justices who had attended the previous two sittings of the Session remained. However, these Justices were joined in the Sessions by three other Magistrates. During this sitting an indictment for common assault was drawn against James Breakenridge; a district account was paid; and a licence to keep a house of public entertainment was approved. The court then adjourned for two hours. Considering the length of time these tasks may have taken, the purpose of this adjournment may have been for lunch. However, it is interesting to note that this adjournment took place before James Breakenridge's case was tried and following the adjournment, the six Magistrates who had attended the morning Session were joined by one other who had appeared the day before. During this sitting, two cases of assault and battery were dealt with, and the charge of assault against James Breakenridge, their fellow Justice, was tried. In this, as in all cases of assault, a petit jury was called and sworn to hear the case and the court adjourned for thirty minutes while the jury made its decision. After the adjournment, it is apparent that no decision had yet been reached because the court immediately adjourned again for two

¹²⁰ Minutes, Vol.1, 15 May 1804, p.92.

¹²¹ Criminal justice in English-speaking jurisdictions during this period dictated that prosecution was initiated and pursued by the victim as plaintiff, especially in lower courts.

hours. The jury eventually returned a verdict of not guilty and the May Session was adjourned a sixth time, until eleven o'clock the following morning.

The four Justices who attended the next sitting were joined by the exonerated James Breakenridge; they then heard one case of assault before a seventh adjournment for fifteen minutes was called, apparently because Gideon Adams had to depart the Session.¹²² When the Justices returned, they dealt with one case of assault and battery, discharged the Grand Jury, and ordered the Treasurer of the district to pay Thomas Kilborn, constable, the sum of ten shillings for "taking Jabez Mosher with a Warrant, travelling thirteen miles and [for paying] the assistance of one man."¹²³ Thus ended the day's sitting and the court was adjourned an eighth time, until nine o'clock the next day.

Three Magistrates woke on the morning of 19 May in time to attend the ninth appointed meeting of the court, but Thomas Fraser arrived late and the court adjourned for five minutes in order to allow him to preside in the Session. In its tenth and final meeting, the Court turned its attention to the administrative matters of the district. The Treasurer's accounts were examined at this point and it was ordered that a full rate should be collected from the inhabitants of the district for the year 1804. The court then fined William Castle, constable, twenty shillings for not attending his duty and ordered the Treasurer of the district to pay the sums of twenty-five pounds to William Fraser, Sheriff, for summoning five juries between April 1803 and May 1804, and eleven pounds, ten shillings to the Clerk of the Peace "for engrossing two precepts,¹²⁴ [recording and] attending

¹²² Minutes, Vol.1, 18 May 1804, p.96.

¹²³ *Ibid.*, p.97.

¹²⁴ Writing out two warrants in legal terminology.

two Quarter Sessions, including stationary."¹²⁵

One of the larger and more important tasks attended to during this final sitting was the appointment of nineteen constables for the nine townships within the district. The Clerk of the Peace duly recorded this list of constables in the minutes of the Sessions. Two final administrative tasks dealt with in the Sessions involved the payment of accounts: Thomas Armstrong was paid the sum of three pounds, ten shillings for fourteen days attendance at the land board in May and September 1803; and finally two constables were each paid three pounds, ten shillings for their services.¹²⁶ By the conclusion of the May Sessions, the court had convened ten times over five days and the Magistrates had dealt with 52 matters: 17 judicial (33%) and 35 administrative (67%). These figures correspond roughly to the overall distribution of work by the Johnstown Quarter Sessions between 1800 and 1832. On average the court met 5 times at each Session and usually dealt with 36 tasks: 14 judicial matters (43%) and 22 administrative matters (57%).¹²⁷

Administration

For the purposes of this dissertation, the determination of what constituted administrative and judicial tasks within the Sessions was accomplished by examining the individual nature of each matter recorded in the minutes of the Sessions of 1800 and the Sessions at four year intervals to 1832. In the nine sample years examined in this study¹²⁸ approximately 3000 matters were dealt with by the Justices in the daily rhythm of the

¹²⁵ Minutes, Vol.1, 19 May 1804, p.98.

¹²⁶ *Ibid.*, p.99.

¹²⁷ See Appendix 4 for a breakdown of these figures between 1800 and 1832.

¹²⁸ The sample years are 1800, 1804, 1808, 1812, 1816, 1820, 1824, 1828, and 1832.

Quarter Sessions. In other words, the Justices dealt with approximately 10,000 to 15,000 matters or 300 to 400 per year. This volume indicates the impressive amount of work done by the Justices of the Peace and directly contradicts the image of Justices of the Peace as under-worked. Perhaps local government required more attention but it cannot be said that the "Working Justices" were inactive.

The variety of business and subjective nature of how the matters themselves were dealt with in the Quarter Sessions precluded the establishment of a strictly objective method to categorize the nature of each task. The business of the Quarter Sessions was not only abundant, but it was often complicated. This diversity is an important observation in itself, emphasizing the challenges faced by the Justices in the Quarter Sessions. Objectivity is further negated by the fact that it is not possible to know whether all tasks touched upon in the Sessions were duly or properly recorded. Therefore, the following general rules are a subjective but reasonable exercise in illustrating the intended purpose of each action recorded in the minutes of the court. From a breakdown of actions, it should be possible to determine how the Justices presiding over the General Quarter Sessions spent their energy.

The minutes of the Johnstown District Quarter Sessions are recorded chronologically and by sittings within each Session. The manner in which the contents are recorded follows no particular order, but it appears that cases requiring a Grand Jury were heard first. This is important because the members of the jury were paid for their attendance. Therefore dismissing the Grand Jury as early as possible was an economic consideration that dictated the order in which cases were generally heard within the Sessions. A further reason for this order was that it allowed the settlers to return to their personal affairs

promptly. The business conducted within the Sessions is generally divided into two categories: judicial and administrative. The judicial matters involved hearing transgressions against the law and the vast majority of these cases involved various degrees of physical assault.¹²⁹ All judicial cases were easily identified within the minutes of the court by the fashion in which they were recorded. Major crimes were dealt with during the Assize held by the Court of King's Bench, but Justices could handle many minor offenses. For example, a charge of riot and assault tried on 13 August 1816 illustrates the usual method of recording cases in the minutes of the Sessions:

The King	} Indictment	}
vs.	} Riot and Assault}	
Richard Roebuck	}	

A Jury called and sworn as follows

1. William Clow	7. Nehemiah Ivory
2. David McCrady	8. Socrates Hunter
3. Henry Walt	9. Jacob Elliot
4. Marrin Hunter	10. Peter Clow
5. Alexander Kirnaid	11. Thomas Harrington
6. James Connell	12. Thomas

The jury find the Defendants Richard Roebuck, George Roebuck, Benjamin Roebuck and William Roebuck Guilty of the Riot and Assault whereof they stand indictment -- The Court sentence the said defendants to pay a fine of four pounds one shilling & seven pence farthing each they paid to the Sheriff.¹³⁰

¹²⁹ Indictments include assault, assault and battery, assault with intent to kill, riot and assault, and trespass and assault.

¹³⁰ Minutes, Vol.1, 13 August 1816, pp.358-359.

Judicial matters were studied only to assess how the court arranged its work and how much time and energy was devoted to judicial as opposed to administrative matters. This thesis will not consider criminal justice topics per se.

Just as difficulty was encountered in determining the number of working Justices of the Peace, problems arose in classifying the administrative matters of the court because of the complex and subjective nature of the various components. Administrative matters within the Quarter Sessions in Johnstown have been divided into three categories which represent the variety of tasks the court faced between 1800 and 1832: appointments, finances, and transportation.¹³¹ The monopoly of powers which allowed the Magistrates to oversee these tasks, combined with further statutes imposed on the Quarter Sessions between 1792 and 1832, placed the Justices of the Peace in an advantageous marriage between power and opportunity in the quickly growing district of Johnstown. The sum effect of these actions established the office of Justice of the Peace and the Court of General Quarter Sessions at the apex of local government in the colony of Upper Canada.

Methodology and Definitions

The responsibilities falling on the Justices of the Peace who attended the Johnstown Court of General Quarter Sessions increased in number between 1800 and 1832, but over the same time period the number of Justices of the Peace who oversaw these tasks remained virtually unchanged. In fact, although appointments to the Johnstown Commission increased between 1800 and 1832, the average number of attending Justices

¹³¹ See Appendix 11 for a further breakdown of these tasks.

remained virtually unchanged throughout the period.¹³² In the realm of local government matters were made worse by the complications created by the numerous statutes to be administered, the size of the Johnstown District, the increasing population,¹³³ and the reliance on the services of frequently inefficient officers.¹³⁴ The wealth of information which survives intact concerning the Quarter Sessions indicates that the Magistrates presiding over this court were burdened with ever-increasing responsibilities. The increase was so great in Johnstown that by 1820 the Court's use as a vehicle for effective district administration was being undermined by the volume and complexity of its duties.

The formal authority of the Quarter Sessions as a vehicle of local administration in Upper Canada was introduced in the Constitution Act of 1791 (31 Geo.III, c.31). In 1793 a further statute entitled "An act to repeal certain parts of an act passed in the fourteenth year of his Majesty's reign, entitled 'An act for making more effectual provision for the government of the province of Quebec, in North America, and to make further provision for the government of the said province'"¹³⁵ granted any two of His Majesty's Justices of the Peace, acting within their division, the power to summon town meetings for the purpose of choosing town officers. These officers, which included the town clerk, assessor, collector, overseer of highways and roads, fence viewer and poundkeeper, were nominated and chosen by the householders of the district and Magistrates were responsible for

¹³² See Appendix No. 5.

¹³³ Appendix No. 6 illustrates the growth of population within the Johnstown District between 1800 and 1832.

¹³⁴ Forster, p.37.

¹³⁵ The Statutes of The Province of Upper Canada; Together With Such British Statutes, Ordinances of Quebec, and Proclamations as Relate to the said Province, James Nickalls Jr., ed. (Kingston: Francis M. Hill, 1831), p.1.

overseeing these officers in the completion of their various duties. However, these officers and the town meetings which they held had virtually no autonomous authority in local government because they convened only when and if permission was granted by the Justices of the Peace. Therefore, the only vehicle of government that had authority to oversee or conduct local affairs in the Johnstown District before an elected Board of Police was granted in 1832 with powers equivalent to the Magistrates (2 William IV, c.17) was the Court of General Quarter Sessions of the Peace. Therefore, until 1832 the Quarter Sessions received all the authority granted by the legislature of Upper Canada to deal with the special needs of villages and towns. These grants included regulations for fire prevention in 1792; certificates of character in 1794; police in 1816; innkeeping in 1818; and the power to grant beer licensing in 1827.¹³⁶

It has been discerned that these special needs translated into 1,872 administrative tasks during the sample years covered in this thesis and approximately 7,500 tasks between 1800 and 1832. These tasks have been divided into three primary categories which represent the variety of tasks the Justices of the Peace faced between 1800 and 1832: appointments, finances, and transportation. A fourth secondary category has been incorporated to account for those entries in the minutes which do not fit into the three main categories. For example, on 20 May 1828 the court ordered "that John Webster of Johnstown do continue to occupy the old Court House in Johnstown aforesaid during the pleasure of the said court free of rent."¹³⁷ The purpose of allowing Webster to occupy the court house was probably to act as a caretaker for the vacant structure. Regardless,

¹³⁶ Aitchison, p.30.

¹³⁷ Minutes, Vol.5, 20 May 1828, p.17.

because this order falls under none of the three main categories employed in compiling the administration of the Quarter Sessions, it has been included in the fourth miscellaneous category. Because the number of tasks included in this category were few in number it has not been included when compiling the administrative statistics for the Sessions.

The first of the three main administrative categories concerns appointments. This classification includes two sub-categories: offices and licences. Justices in Quarter Sessions were responsible for appointing and overseeing twenty offices within the district¹³⁸ prior to the Municipal Corporations Act of 1841 which transferred these powers to town councils. This monopoly over meting out oaths long-enjoyed by the Justices is of great importance, "for without first repairing to a Justice to take his oath of office, not even the humblest of the township officers could legally perform his tasks."¹³⁹ These offices ranged from the very important office of the treasurer of the district, the only major official appointed by the Justices, to the minor posts of town crier and interpreter. Each of these individual appointments has been tallied in determining administrative tasks. Therefore, where nine constables have been appointed within the district, nine administrative tasks have been recorded, even though these appointments may have been found under one court order. The reason for counting each appointment as an individual administrative task is based on the time it took for this process to be completed beginning with the initial nomination, the delivery of notices of appointment, and travel to and from the Court, to the final taking of the oath of office. The granting of licences to ministers of the church and innkeepers has also been included in this category because of the nominating process which accompanied

¹³⁸ These offices are listed in Appendix 9.

¹³⁹ Aitchison, "Municipal Corporations Act", p.110.

these appointments. The only exception to this category was the appointment of Justices to various committees within the Quarter Sessions. For example, if a committee composed of two or more Justices was appointed to examine the treasurer's accounts, only one appointment was recorded because the Magistrates appointed to these committees were usually present in the Sessions and therefore little of the Court's time was required to complete this task.

The second category incorporated in this study concerns finances. This category includes five sub-categories which deal with the various aspects of finance within the District. The first of these sub-categories is assessments. This included both the calling of an assessment and its return to the court. For each of these separate tasks, a distinct administrative task was recorded. The second sub-category used is fees. This included money ordered to be paid out by the treasurer of the district for work or supplies obtained for the Quarter Sessions. These fees included the cost of construction and repairs to public roads and buildings; surveys of the same; fuel for the court house and gaol; food for the prisoners incarcerated in the gaol; and advertising public notices. Fees also included the payment of officers of the court who were "part-time" salaried employees of the district - those who were remunerated on a payment-per-task basis. This included payments to jurors, coroners, surveyors of roads, and constables. It also included payment of wolf bounties. The third sub-category in finances incorporated in the study of the administrative structure of the Court was salaries which included payments to those who were "full-time" employees of the Court or at least those whose presence was required at every Session. These positions included the Clerk of the Peace, the Gaoler, and the Sheriff. This sub-category also includes Members of the Legislative Assembly because their salaries were

paid on a regular basis through the Court. The third sub-category deals with appeals which were first-time requests for increases in salaries or compensations. These appeals differ from complaints in the petitions sub-category in that appeals usually came from individuals and they were actions rather than reactions to previous court proceedings. The fourth sub-category concerns the setting of rates for poundkeepers and ferries. The fifth and final sub-category employed in finances involves the various aspects of the censuses, including their call and return through the General Quarter Sessions. Censuses have been included under this sub-category because of the expense which they incurred the Court.

The third category used in examining the administration of the Court is transportation. This category includes the balance of tasks dealt with in the Quarter Sessions. It embraced petitions from inhabitants for roads and bridges; orders for repairs to the same; compensation for court-appropriated land; and finally, complaints from inhabitants regarding the construction of roads which were deemed not in the public interest.

The usual mix of administrative tasks undertaken by the Quarter Sessions is illustrated by an examination of the work done at one of the busiest Sessions, namely that of August 1828.¹⁴⁰ This Court convened on 12 August before three Justices of the Peace, Bartholomew Carley, William Bottom, and Truman Hicok. The usual array of district officers was also in attendance along with various petitioners, defendants, and prosecutors. Before the Court turned its attention to the administrative and judicial tasks at hand, Carley was chosen Chairman for the Sessions, the Commission was opened and read, and the precept was returned by the Sheriff. This ceremony was followed by the calling and

¹⁴⁰ Minutes, Vol.5, 12 August - 19 September 1828, pp.22-34.

swearing in of the twenty members of the Grand Jury and its Chairman, John Crafts. The first business attended to concerned fees: payment to Thomas Barber of twenty-five pounds to build a bridge across Grants Creek in Burgess and Elmsly; and allowing Christopher Leggo forty-two pounds nine shillings and five pence for his account as the Johnstown Gaoler.¹⁴¹ It is worth noting that the sum allowed to Leggo represents a sixty percent increase in the gaoler's salary between 1800 and 1828.¹⁴² A third payment authorized by the Justices was in the amount of two pounds five shillings to John L. Read. This payment is indicative of most orders appearing in the minutes of the Johnstown Sessions because it notes the amount paid but does not record any reason for the award. Before the Court adjourned for the day, a case was recorded concerning whether a new road through the township of Oxford in Johnstown should be confirmed, annulled, or modified. A petit jury consisting of twelve members confirmed the report but the whole case was deleted from the minutes by someone crossing a pen through it. Presumably this editing was to correct a mistake on the part of the Clerk of the Peace, Hamilton Walker, who was trying to prepare the minutes for this case ahead of time. His efforts were obviously thwarted by the Magistrates because the case was not tried during the sitting, hence the deletion. This case was tried the following day and Walker duly repeated his efforts, recording the passage for the minutes of the next sitting of the Court.

The following morning the Court met at nine o'clock when fourteen judicial cases were dealt with and six fees were paid ranging from eight shillings ten pence to four

¹⁴¹ Minutes, Vol.5, 12 August 1828, p.23.

¹⁴² The Gaoler was paid twenty-five pounds for his services in 1800. Minutes, Vol.1, 24 April 1800, p.8.

pounds ten shillings. The offenses tried at this sitting included eight cases of trespass and assault; one case of perjury; one of petit larceny; two involving recognizance; and two cases in which no bill was found by the jury. It is worth noting that twenty-one percent of the cases during this sitting involved women. One of these concerned trespass and assault in which the defendant's husband was bound in recognizance for the appearance of his wife at the next Session. In the other two cases, no bill was found and the women were dismissed.

The majority of work completed during the third sitting of the August Sessions was taken up with financial matters. During this sitting, the Court awarded two salaries; a salary of forty-two pounds to Jonas Jones for sitting as a Member of the Legislative Assembly for Grenville, and sixty pounds sixteen shillings and seven pence to Hamilton Walker for his services as Clerk of the Peace. The Court then ordered two fees paid of eight shillings and one pound; and recorded a miscellaneous administrative note "that in all cases where the Prosecutor does not maintain his action that he shall pay the costs of the Court unless the Court direct otherwise."¹⁴³ This notation is perhaps a recognition by the Justices that the Quarter Sessions were being used by some settlers as a means of publicly embarrassing or harassing foes. This note served to deter those who might waste the Court's time pursuing a personal vendetta. The final task dealt with by the Magistrates saw a petit jury confirm the report of a new road running through Oxford township. After the deliberations of this jury the Sessions adjourned until Monday the 25th day of August.

The fourth sitting of the Court was again completely taken up with administration. Adiel Sherwood, the Treasurer of the District, was paid ten pounds for making out

¹⁴³ Minutes, Vol.5, 25 August 1828, p.29.

accounts of the lands of absentees from 1820 to 1828, and ordered:

to make a list of all the lands in the district of Elizabethtown upon which the assessment for establishing the boundary lines of the said Township appear by the Collectors return to remain unpaid and that he shall cause the said list to be published as the law directs and also have one hundred copies of the said list put up in the most public places in the said Township and proceed to the sale of the lands as the law directs.¹⁴⁴

These "public places" undoubtedly included the gaol, inns, and ferries, but they also included crossroads and trees. However, of greater significance is the fact that the pattern of dispersed settlement in the Johnstown District compounded the problem the Magistrates had in overseeing and effectively administering the settler's needs, especially transportation. In addition to this list being made, a committee of three Justices was appointed to investigate claims of payment and direct any stays of sale deemed appropriate. Two fees were also paid before the Court recessed a fourth time.

On 30 August the court met again and dealt with two fees before adjourning until the fifth day of September. No reason for this sudden adjournment is recorded but in light of the season, the harvest may have played some role. At the sixth sitting of the court in September, two ale and beer licences were granted and a fee was paid to Thomas Freel for serving notices of appointment. It was also ordered by the Justices of the Peace before adjourning that,

¹⁴⁴ Ibid., p.31.

for the service of each notice of appointment or otherwise, upon making the necessary affidavit, such person serving the same shall be entitled to the sum of one shilling and three pence and for necessarily travelling each mile in order to serve such notices, the sum of four pence.¹⁴⁵

During the sitting of 12 September William McLean, Collector for the township of Elmsley, was fined two pounds and costs for neglecting to be sworn into office and a warrant was issued for his arrest. In McLean's absence, Elisha Landon was appointed Collector before the Court adjourned the last time until 19 September. This last recess was apparently time enough to remedy the situation concerning the Collector in Elmsley for at the final meeting of the August Sessions, Landon's appointment was revoked, McLean's fine was remitted, and McLean was reinstated as the Collector for Elmsley.

The Justices of the Peace present during this Session were faced with a multitude of decisions complicated by the statutes applicable in each case. While some decisions were straightforward others probably were reached through compromise or heated argument. In these instances the Magistrates, the majority of whom were not formally trained in the legal profession, were forced to rely heavily on tradition and the English Common Law as they interpreted it. Recourse to recent legal interpretations and precedents was virtually unavailable in the new District save consulting fellow Magistrates who may have had prior judicial experience.

The vast majority of Justices of the Peace did not attend the Court of General Quarter Sessions on a regular basis and probably did not concern themselves with studying

¹⁴⁵ Ibid., p.32.

the statutes for which they were responsible. These Justices probably were similar to their English counterparts. They were ill-acquainted with the concerns of settlers in the far reaches of the District and were amateur Magistrates who aspired to be little more. Therefore the Magistrates relied on a triumvirate of judicial officers in the district: the Clerk of the Peace, the Treasurer, and the Sheriff. In practical terms, these officers oversaw the daily routine of the Court and, in effect, the Johnstown Quarter Sessions were overseen by amateur Justices who were guided in their decisions by this professional staff.¹⁴⁶

Guidance Within the Court

The rhythm of the Quarter Sessions prior to 1832 was controlled by the nine men who served as Clerk of the Peace, Sheriff, and Treasurer in the District between 1800 and 1832. During this period there were three Clerks of the Peace, Edward Jessup Junior, Hamilton Walker and James Jessup;¹⁴⁷ four Sheriffs, Thomas Fraser, William Fraser, John Stuart, and Adiel Sherwood; and two Treasurers, Charles Jones, and Adiel Sherwood. This stable and knowledgeable body of officials, combined with a defined procedure for the conduct of their business, allowed even the most inactive Justice of the Peace to preside over Quarter Sessions with little difficulty.

The Clerk of the Peace was perhaps the single most-important office in the Court of General Quarter Sessions of the Peace. Being virtually the Custos Rotulorum, or Keeper

¹⁴⁶ Landau, p.258.

¹⁴⁷ An interim Clerk of the Peace whose name is not known replaced Edward Jessup Junior until Walker was sworn in. James Jessup first appears 29 November 1830. See Minutes, Vol.6, 29 November 1830, p.9.

of the Records of the District, a brief outline of his responsibilities is necessary. Appointed by the Lieutenant Governor, the Clerk held his office "quamdiu se bene gesserit" - "so long as he performs thoroughly". His formal duties included being in constant attendance at the Court of Quarter Sessions, drawing the process of the Sessions, reading indictments, recording proceedings, and recording other matters which appertained to the jurisdiction of the Sessions. The fees which the Clerk of the Peace was allowed to collect were established in 1807 under 47 Geo.III, c.11.¹⁴⁸ Under this Act the Clerk was allowed the following fees:

for drawing the precept, and attending commissioners to sign the same, and transmitting it to the Sheriff, one pound; attending each quarter session, one pound and ten shillings; making up the records of each session, two pounds and ten shillings; notice of every appointment, one shilling; list of jurors, every one hundred names, two shillings and six pence; making up estreats of each session, and transmitting the same to the inspector general, five shillings; to be paid out of the district treasury; every recognizance for the peace or good behaviour, to be paid by the party bound, five shillings; for discharging the same, two shillings and six pence; subpoena, two shillings and six pence; bench warrant, five shillings; drawing indictment, ten shillings; allowance of certiorari, to be paid by the person applying for the same, five shillings.¹⁴⁹

Numerous additional tasks were added to the Clerk's responsibilities after 1807. They should be noted because they included the routine business of the Quarter Sessions that demanded regular attention. In the actual course of the Sessions, the Clerk was to give notice of the Court being held or adjourned; read the acts directed to be read in

¹⁴⁸ Passed on 10 March 1807. See The Statutes of Upper Canada, Op.cit., pp.128-129.

¹⁴⁹ Statutes, p.129.

Sessions; call the jurors and make known their defaults and excuses to the Court; call the parties under recognizance, whether to prosecute, plead or give evidence; present the bills to and receive them from the grand jury; arraign prisoners; register the recognizances of inn-keepers, receive and record verdicts; administer all oaths, and make true entries of all proceedings in the minutes of the Court.¹⁵⁰ Outside of the Sessions, the Clerk was also responsible to make a return for the Quarter Sessions yearly; advertise the names of persons under recognizance in two public places in the district; convey to the inspector general quarterly statements of the rate of duties for licenses in the district; deliver to the Lieutenant Governor's office certified copies of returns of population as submitted by town clerks in the district and accounts of all assessed property; receive the assessment lists from the assessors and submit them to the Quarter Sessions; make out writs to the Sheriff for levying the arrears of assessments; grant certificates from the records of any conviction or pardon granted by the Court; deliver an annual list of jurors to the Sheriff; and record roads that had been passed at Quarter Sessions. The complex nature of these tasks required that the Clerk of the Peace be well-educated. More importantly, because of the time-consuming nature of his duties, realized in the District of Johnstown by the complaints from Edward Jessup Junior, it was soon apparent to the Court that the Clerk had to be handsomely paid for his trouble. The combination of these circumstances ensured that the Clerk of the Peace was one of the most important figures in Upper Canadian local government.

In addition to court officers, the Magistrates had other sources of information available to them concerning their responsibilities. There were handbooks which

¹⁵⁰ Keele, p.107.

summarized the comprehensive powers of their office. On 10 August 1815 the Johnstown Magistrates ordered that the Treasurer

pay Hamilton Walker, Clerk of the Peace, the sum of seventy pounds Cury. out of the next monies as shall come into his hands for the purpose of [purchasing] a roll of the British Statutes at large and the Province acts and such other books as the said Clk. of the Peace shall be enabled to purchase with such Money for the use of his Majesty's Justices in General Quarter Sessions assembled.¹⁵¹

It is not known which book Walker may have purchased but one of the standard references his successors may have purchased was William Conway Keele's encyclopedic text, The Provincial Justice, or Magistrate's Manual, being a complete digest of the criminal law of Canada and a compendious and general view of the provincial law of Upper Canada: with practical forms, for the use of the magistracy.¹⁵² First published in 1835, this manual lay the groundwork for Justices and Clerks of the Peace new to Quarter Sessions and was an invaluable tool for any court officer in Upper Canada. Keele's text is an alphabetical compendium of terms pertinent to the Quarter Sessions, providing those interested with a summary of administrative and judicial responsibilities concerning everything from agricultural societies and schools to inn-keepers and the insane. It also defined charges and illustrated standard forms of oaths with blank spaces where the appropriate names were to be inserted.

¹⁵¹ Minutes, Vol.1, 10 August 1815, p.340.

¹⁵² W.C. Keele, The Provincial Justice, or Magistrate's Manual, being a complete digest of the criminal law of Canada and a compendious and general view of the provincial law of Upper Canada: with practical forms, for the use of the magistracy. Fourth ed. (Toronto: Henry Roswell, 1858).

When confusion arose over a case that could not be solved by fellow Justices or the Clerk of the Peace, Magistrates often held a case over until the next Session while a letter was forwarded to an authority asking for guidance. In October 1803, Solomon Jones wrote Samuel Sherwood, the Surrogate Court Registrar,¹⁵³ to ask his opinion on a legal case about which he and his fellow Justices were unsure. To Jones' letter Sherwood replied that he did not feel the case in question was bailable or a felony: "there are two lawful modes of procedure for the Justices of the Peace before whom the prisoner shall be brought which are either wholly to discharge him or to commit him to gaol." Interestingly, Sherwood went on to advise, "At the same time I have to observe that Justices of the Peace in this part of the Province have frequently admitted persons to bail, accused of capital felony. It is for you to exercise your discretion in this case in considering how far the example is safely to be followed."¹⁵⁴ The subjective nature of this decision and others which granted the Justices authority to take measures "judged to be most expedient"¹⁵⁵ illustrate the degree of power granted by the government in York to the Johnstown Magistrates up to 1832. This local authority was of course not completely unsupervised as illustrated in a letter from the Lieutenant Governor's office in York to Edward Jessup which noted

certain persons in your District have applied for Licenses for the retail of wine and other spiritous [sic] liquors, without having entered into such Bonds or Recognizances to His Majesty as are requested by Law, having only entered into Bonds to the Lieutenant Governor for that purpose, and that some of the Magistrates of that District have endeavoured to

¹⁵³ Armstrong, Handbook of Upper Canadian Chronology, p.177.

¹⁵⁴ PAO, MS 520, Solomon Jones Papers, Samuel Sherwood to Solomon Jones, 31 October 1803.

¹⁵⁵ PAO, Upper Canada Sundries, George Hillier to the Chairman of the Land Board of the Johnstown District, 19 July 1819.

support the validity of the Last mentioned Bonds... I am commanded by the Lt. Gov. to signify that no person by Law, can obtain a License for retailing wine and other spiritous Liquors in this Province, without first having entered into a bond or Recognizance to His Majesty.¹⁵⁶

As the administration of the district became more complex with the addition of the larger number of responsibilities towards 1832, the degree of direct supervision from York over the decisions of the Justices of the Peace in Johnstown decreased. This was due perhaps to the fact that the increasing number of statutes reduced the latitude for confusion and need for consultation.

Growth of the District

Between 1800 and 1816 the task of administering to the needs of the population in the district of Johnstown presented few difficulties because the relatively small population ensured that the Justices were able to meet the requirements of district government. The population of Johnstown in 1800 was a manageable 2,635 persons according to the District Returns.¹⁵⁷ The Justices of the Peace administering to the needs of this population numbered 16. Therefore the ratio of settlers to Justices of the Peace was approximately 165 to 1. Gradual immigration into Johnstown increased the population of the District to 4,953 persons by 1816-17.¹⁵⁸ Over the same period of time the number

¹⁵⁶ PAO, Solomon Jones Papers, 10 October 1803.

¹⁵⁷ PAO, RG 22, Leeds and Grenville, Clerk of the Peace/Crown Attorney, Returns of Population, 1796-1852, Box 1, Envelope 1, 1796-1828. No roll was returned for Elizabethtown for this census, hence this number is at best approximate. See Appendix 6.

¹⁵⁸ Ibid.

of Justices of the Peace appointed to the District of Johnstown increased to 61¹⁵⁹ and the ratio of settlers to Magistrates actually decreased by over 50% to 81 to 1. However, these numbers are valid only in theory because when the working Justices of the Peace are taken into account instead of the number of Justices of the Peace appointed in the district, only 33, or 54%, of the Justices of the Peace appointed in Johnstown actually attended any Quarter Sessions during this period. Therefore, the settler to Working Justice ratio, which is the more accurate figure, is 150 to 1. In spite of the fact that on average only 5 Magistrates appeared at any given Quarter Sessions between 1800 and 1816, it is evident that the administration of local affairs through the Court of General Quarter Sessions of the Peace prior to 1816 was adequate, if not efficient. This conclusion is reinforced by the notable lack of complaints against the Court and its Justices within the records of the Quarter Sessions. The gradual influx of settlers may have presented little difficulty to the Justices as they administered to the needs of the District and the problem of attendance at the Sessions was mitigated by the small but sufficient number of Justices who attended the Court on a regular basis.

Between 1800 and 1816 the Court of General Quarter Sessions of the Peace in Johnstown maintained a comfortable position between the desires of the local settlers over which it presided and the basic needs of district administration. Perhaps not all of the wishes of the settlers were met during this time, especially those living in the remote corners of the District, but the administration of Johnstown was accomplished with few remonstrations. This situation changed dramatically between 1816 and 1820. During this period the population of Johnstown increased from 4,953 in 1816 to approximately 15,114

¹⁵⁹ Ibid.

residents in 1820.¹⁶⁰ This impressive rate of immigration into Johnstown decreased over the next twelve years as evidenced by the Upper Canadian Census of 1824 which shows that the number of settlers in the district of Johnstown actually decreased to 14,741.¹⁶¹ However, the district continued growing at a steady pace. In 1828 the population of Leeds and Grenville had reached 18,343¹⁶² and by 1832, the final year of this study, the population of Johnstown was approximately 24,299.¹⁶³

Between 1816 and 1832 the Court of General Quarter Sessions of the Peace oversaw the rapidly-increasing settlement of Johnstown, including the survey of new roads and the construction and repair of bridges. Over this same period, as the population of the district increased, so too did the number of Justices appointed to the District. In fact, according to the Master List of Commissions, 216 persons were appointed as Justices of the Peace in the Johnstown District between 1800 and 1832. Expressed in terms of a ratio of settlers to Magistrates, this translates into a basic figure of 85 to 1. When mortality is taken into account,¹⁶⁴ a more realistic figure of 173 Magistrates appears, which translates into a 140 to 1 ratio of settlers to Magistrates when the population of the District was at its highest in 1832. When the list of Working Justices is consulted rather than the Master List of Commissions, these figures are altered and a truer indication of the ratio of settlers to Justices of the Peace is discovered. Between 1800 and 1832, of the 216 Justices of the

¹⁶⁰ Ibid., Return of 1820.

¹⁶¹ Censuses of Upper Canada, 1665 to 1871 Statistics of Canada, Vol.IV (Ottawa: I.B. Taylor, 1876), p.83.

¹⁶² Ibid., p.100.

¹⁶³ Ibid., p.112.

¹⁶⁴ Mortality has been estimated at 20%.

Peace appointed to the District of Johnstown, only 76, or 35%, actually attended any Sessions. On average, these Magistrates were eligible to attend 157 sittings of the Court of General Quarter Sessions but the average total attendance of these Magistrates was 24 sittings. When this figure is employed as a further benchmark in determining the total number of Working Justices, of the 76 Justices who attended any Quarter Sessions, 49 or 64% had sub-standard attendance.¹⁶⁵ Therefore, the actual number of Working Justices is 17, or almost 8% of the 216 persons appointed as Justices of the Peace in the District of Johnstown between 1800 and 1832. Ironically, this is virtually the same number of Justices who were appointed by the Government in 1800 to administer to the needs of the original settlers in Johnstown. Expressed in a settler to Magistrate ratio, this means that in 1800 each Working Justice was responsible for administering to the needs of 165 settlers and by 1832, this ratio increased to 1 Magistrate for every 1079 persons. Therefore, the Court of General Quarter Sessions of the Peace, which was established in Johnstown to administer to the needs of 2,635 individuals in 1800, was faced with having to accommodate the same or greater needs for a population which had increased to 24,299, almost ten times its original size.¹⁶⁶ The demands which accompanied this increase undoubtedly created ever-increasing tensions between the Magistrates in Quarter Sessions and the settlers in the District. It is therefore not surprising that the April Sessions of 1817 provide the first mention of an order allowing the Magistrates immediate remuneration for those who chose to take such daily allowance "as stated in 12th Rich.d,

¹⁶⁵ 49 of the Justices who appeared in at least one Sessions attended less than 24 sittings of the Court.

¹⁶⁶ See Appendix 7.

2d Chapt. 10th for their attendance at the Sessions."¹⁶⁷ It is also notable that the number of petitions for roads, bridges, and remuneration found in the records of the Court should generally increase at this time. In conclusion, the population increase after the War of 1812 placed greater demands on the Justices of the Peace who, in turn, claimed greater reward for their trouble. Unfortunately for the settlers of Johnstown, the reward provided to the Justices by the Government was not sufficient to solve the persistent problem of attendance in the Quarter Sessions.

The Pattern of Business Within the Sessions

Within the early years of the Johnstown District a pattern of business developed within the Quarter Sessions which remained virtually intact until 1832. The summer, fall, and winter Sessions were usually divided equally between judicial and administrative tasks. However, the Minutes of the Johnstown Sessions reveal that the amount of administrative work handled by the Justices of the Peace increased by almost 30% during the spring, or May, Session.¹⁶⁸ One reason for this increase is that surveys for roads were usually presented during the spring Session, having been completed during the winter months when it was easier to sight a line and to clear out trees. However, the main reason for the greater amount of work conducted during the spring Session is that town officers for the ensuing year were usually sworn in at this time. The spring Session was the most opportune time to complete this task because the winter months slowed the pace of Upper Canadian society to a virtual standstill while the settlers waited for the onset of spring and

¹⁶⁷ Minutes, Vol.1, 12 April 1817, p. 394.

¹⁶⁸ See Appendix 8.

a new growing season. This lull gave the Justices of the Peace time to track down and serve notice to the various appointees and jurors, in order to secure their attendance at the spring Sessions. Appointments during any of the other three Sessions would be more difficult to complete because people were busy with their farms and could ill-afford to leave their homes for an extended period of time when crops needed tending. Still, some settlers escaped having to make the journey to the Sessions. For example, a letter written by Francis Scott on behalf of a "Mr. Brundage", summoned to the May Sessions in 1807, explained to the Court that Brundage was unavailable because he was "over the River getting out Lumber and his being [summoned] at this time is unexpected, and the Distance being so far, [his wife] Cannot Let him know as to attend at this Court."¹⁶⁹ That Mrs. Brundage employed a scribe to write the Justices of the Peace informing them of her husband's inability to attend the Sessions illustrates the degree of respect the Court of General Quarter Sessions of the Peace held in the District of Johnstown. This respect was also recognized by the Magistrates themselves as evidenced by Gideon Adams' notice of 14 September 1803 which provided reasons for his not being able to attend without being in danger "of lusing [sic] about forty pounds... if I due [sic] not embrace this opportunity to secure myself."¹⁷⁰ Letters such as these are rare in the records of the Quarter Sessions because those who failed to appear before the Justices when summoned risked a severe monetary penalty if their excuse for absence was deemed unsuitable.

¹⁶⁹ It is not unreasonable to surmise that the river Mr. Brundage was logging beyond was the St. Lawrence. It would be difficult for Mrs. Brundage to notify her husband and hence the immediacy of this letter is even more evident. Solomon Jones Papers, Scott to Jones, 2 May 1807.

¹⁷⁰ Ibid., Adams to Jones, 14 September 1803.

Business conducted by the Johnstown Quarter Sessions also included a number of payments in 1821 for executions in the District conducted under the aegis of the Court of King's Bench which was held once or twice a year at the District courthouse. The district always handled executions such as that paid for on 16 August 1821 when forty-two pounds was granted to the Sheriff of the District, John Stuart, for "money expended in procuring an Executioner from Montreal to execute Edward McLeveney in 1813."¹⁷¹ The reason for this payment taking eight years to be completed is not given. Stuart was paid the further sum of thirty-one pounds in November 1821 "for money by him expended for the execution of O'Conner & Murdock."¹⁷² Arranging for the execution of prisoners was a task rarely undertaken by the Quarter Sessions. In the area of administering criminal justice, the court busied itself routinely with supervising the gaol and gaoler. A large portion of this routine was taken up with the care for prisoners and the concerns of the gaoler. For example, the gaoler was originally paid twelve shillings and six pence per week to feed each prisoner but this arrangement was replaced on 10 July 1817 in favour of issuing rations to each prisoner. These rations included "one pound and a half of bred [sic] and one pound of beef or nine ounces of pork per day to each prisoner now in gaol or hereafter confined."¹⁷³

Offenders who were incarcerated in the gaol were the responsibility of the Johnstown Magistrates. To try to ensure their proper care a list of rules and regulations

¹⁷¹ PAO, RG 22, Series 16, Box 5, Envelope 6, Account No.53. This account is also recorded in the Minutes of the Quarter Sessions. Minutes, Vol.2, 17 August 1821, p.53.

¹⁷² Minutes, Vol.2, 14 November 1821, p.58.

¹⁷³ Ibid., Vol.1, 10 July 1817, p.403.

was imposed on the gaoler on 23 February 1821. It included six stipulations:

1. The gaoler to cook for those committed for felony or not being able to pay fines imposed in General Quarter Sessions.
2. The gaoler to cook for Debtors by them paying him at the rate of one shilling and three pence for each man per week.
3. The gaoler do furnish water to scrub the debtor's cell twice a week if required by them and if they think proper to scrub the Gaoler to have it done [sic].
4. The gaoler to furnish good hard wood for the stove and to furnish good clean water twice a day.
5. The gaoler to go at ten of the clock each day to any part of the village for the accommodation of the debtors and at two o'clock in the afternoon if required on their paying say one shilling and three pence per walk for each man and the debtors will manage their matters in that way as to be prepared to send for what they may want at those hours in case of Sickness of course the Gaoler must go as often as may be required.
6. The gaoler to empty the tubs once in each day at the hour of ten of the clock in the forenoon and in case any person in the cell unwell to be emptied at any time of the day and as often as may be required.¹⁷⁴

Medical care was also provided any prisoner confined in the gaol who needed attention. For example, an account for 10 August 1828 paid Dr. T. Robert Gilmour four pounds ten shillings for tending the "fracture of the shoulder bone for Thomas Edwards, Prisoner in Brockville Gaol", medicine, and twelve weeks subsequent care.¹⁷⁵ Gilmour was not the

¹⁷⁴ Ibid., Vol.2, 23 February 1821, p.28.

¹⁷⁵ PAO, RG 22, Series 16, Box 8, Envelope 1, Account No.7.

only doctor employed by the court while administering the district. In September 1819 the coroner, Doctor Oliver Everts, was remunerated for his holding an inquest on a body found in Elizabethtown. The outcome of this inquest is not recorded but a list of fees charged for conducting the inquest offer details concerning costs borne by the Quarter Sessions.

The fees included:

To a warrant, and taking it to a constable for summoning a jury -----	L 0 - 5- 0
Travel 13 miles @ 10 d -----	0 -10- 0
Holding inquest 22 s -----	1 -14- 0
Swearing 12 Jurors and 2 witnesses @ 1/ -----	0 -14- 0
Making a coffin -----	0 - 3- 9
For a Wagon & horses bringing the body to Brockville, Digging Grave, and interring etc. -----	0 -15- 0
Making up evidence and Verdict, and Returning it to the Court of King's Bench -----	<u>0 -15- 0</u>

L 4 - 5- 7¹⁷⁶

The Magistrates were responsible for the administration of Elizabethtown, which as the district centre, was the locale for the gaol. Constables, fence viewers, pound keepers, and the surveyors of streets for Elizabethtown were all local men who lived and worked near the Justices of the Peace.

¹⁷⁶ PAO, RG 22, Series 16, Box 5, Envelope 5.

The gaol, the courthouse, and the town were close to the dwellings of those Working Justices regularly at the Sessions. However, the authority of the Court of General Quarter Sessions was not confined to Elizabethtown. The Magistrates were responsible for administering the whole of Johnstown which extended from the shores of the St. Lawrence River into the wilderness at the back of the administrative divisions of the district. In 1800 these divisions consisted of the five existing townships of Elizabethtown, Edwardsburgh, Augusta, Yonge, and Bastard. But by 1832 the number of townships had grown to twelve - an increase over two-fold! The seven new townships were Kitley, Oxford, North Crosby, South Crosby, North Gower, South Gower, and Marlborough. The large size of these townships and their increasing population necessitated that they be subdivided for the purposes of administrative convenience. Just as the division of Upper Canada into districts was initially haphazard, so too was the division of Johnstown into administrative regions which variously included township boundaries, divisions for the Court of Requests, and areas of responsibility for overseers of highways, statute labour, and surveyors.

In viewing the minutes and various filings of the Johnstown Court of General Quarter Sessions it is evident that, with the ever-increasing population after 1816, the time necessary to complete the tasks for the government of the whole district became more difficult to find within the daily rhythm of the Court. In fact, the first year the Court met the Justices convened 8 times and accomplished 55 tasks. In 1828, the last complete sample year of this study,¹⁷⁷ the Court convened on 23 occasions and completed 192

¹⁷⁷ 1832 was the last sample year examined in this study however only those two Sessions which occurred prior to municipal corporation that year have been included. Hence, 1828 is the last complete year in terms of Quarter Sessions (four) in this study.

tasks.¹⁷⁸ The amount of work accomplished and the time consumed in completing all of these tasks was enormous. An examination of the duties carried out within the Quarter Sessions based on appointments, finances and transportation, three broad categories which readily permitted the division of the Court records illustrates this point effectively. These three categories represent the variety of tasks the Justices faced between 1800 and 1832. Quantitatively, the weight of these tasks prior to 1816 was not unbearable and their number allowed the Justices of the Peace to administer the local affairs of Johnstown adequately. Unfortunately for the working Justices of the Peace, the growing population in Johnstown and increasing political divisions of the District added to the weight of tasks the Magistrates had to bear. Each new division required the appointment of constables, surveyors, fence viewers and other minor officials who could only be appointed under the aegis of the Magistrates sitting in Quarter Sessions. After 1820 the bureaucratic weight of these additional tasks began to overwhelm the Quarter Sessions. Although the Magistrates were stifled in their efforts to continue administering to the needs of the District effectively, it cannot be said that the working Justices were inactive.

¹⁷⁸ See Appendix 4, "The Business of the Johnstown Quarter Sessions, 1800-1832."

Chapter IV

The Practice of Johnstown Administration

To govern effectively with almost absolute power is no more difficult than to love and be wise - neither is given to men. If this altered axiom of Edmund Burke is accepted a priori in examining the District of Johnstown during the reign of the Justices of the Peace between 1800 and 1832, it is left to determine the degree to which the Court of General Quarter Sessions of the Peace met the needs of local administration in the district, especially after the spectacular growth of Johnstown between 1816 and 1820.

Taxation and Transportation

Two major concerns of the settlers in Johnstown were taxation and transportation. These interests were intimately connected and, because the Court of General Quarter Sessions of the Peace managed all local government finance in Johnstown, it is important to examine them in relation to the District of Johnstown. Each year the Magistrates were responsible for estimating the expenditure of the District and to declare the rate of local taxation to meet the bill. Through the Quarter Sessions the Magistrates also levied additional rates to pay the wages of the local members of the House of Assembly and to meet the interest and repay the principal on sums borrowed to complete various municipal projects such as building the district court house and gaol.¹⁷⁹ A further aspect of district finance concerned transportation. Early transportation policy in Upper Canada combined a system of statute labour to construct highways and bridges with a revenue system of assessments and fees to maintain them. The rules and regulations of these policies were

¹⁷⁹ Aitchison, CHR, pp.108-109.

similar to those employed for land policy in Upper Canada in that both "were often changed by proclamation, and so generally unknown or ignored that rigid enforcement became impossible."¹⁸⁰ The enforcement of statute labour and finance that was possible in the district of Johnstown was completed under the broad aegis of the Quarter Sessions of the Peace.

Responsibility for taxation and the laying out, amending, and keeping in repair the public highways and bridges of Upper Canada was established in 1793 under 33 Geo.III, c.4 which placed the responsibility for taxation and transportation on the districts. Various further acts made minor changes or continued the Act of 1793 as amended. For example, an act passed in 1798 concerning the performance of statute labour on the highways of the province broadened the responsibilities of the districts and placed the maintenance of the province's roads and their upkeep squarely on the shoulders of the Justices of the Peace sitting in Quarter Sessions (38 Geo.III, c.7). An amendment to these acts worth noting, passed on 10 March 1810, ordered that the Johnstown Magistrates appoint in the May Session every year, Surveyors of Highways to lay out and regulate the highways and roads within Johnstown at the rate of seven shillings and six pence per day (50 Geo.III, c.1).¹⁸¹ The Sessions were further ordered that upon application in writing by twelve freeholders,

stating that any public highway or road in the neighbourhood of the said freeholders now in use, is inconvenient and may be altered so as better to accommodate his Majesty's subjects and others travelling thereon, or that it is necessary to open a new highway or road, it shall and may be lawful for such surveyor,

¹⁸⁰ H. Pearson Gundy, "The Family Compact at Work: The Second Heir and Devisee Commission of Upper Canada, 1805-1841" Ontario Historical Society Papers and Records, 66, No.7 (1974-75), p.129.

¹⁸¹ Statutes, p.153.

and he is hereby required to examine the same, and report thereon in writing to the Justices at their next ensuing Quarter Sessions, describing particularly the alteration intended to be made, or new highway or road to be opened.¹⁸²

Public notice of this application was to be placed near where the alteration was to be made or where a new highway was to be opened and, if no opposition was reported, the majority of Justices present at the next Sessions were to authorize its construction. If opposition to any application was made at the Sessions, the Justices appointed a jury of twelve disinterested men to serve as jurors at the Sessions, "who, after hearing evidence upon oath... shall upon their oath either confirm or annul the said report, or so alter and modify the same as the exigency of the case may appear to require, and their verdict shall be final."¹⁸³ The Clerk of the Peace retained a copy of these reports in a volume kept solely for that purpose, for which he was paid five shillings for each entry, and the Justices were directed to employ a Surveyor of Lands where necessary to assist the Surveyor of Roads in laying out highways at the rate of ten shillings remuneration per day.

The construction of roads and any bridges or causeways which might be included in their completion was directed by an Overseer of Roads, who was appointed by the Justices of the Peace according to the provisions of 33 Geo.III, c.2 and 46 Geo.III, c.5. The numerous statutory provisions which governed this and similar offices, such as the Overseer of Highways for Towns,¹⁸⁴ dictate that only a preliminary outline of their duties may be

¹⁸² Ibid., pp.153-154.

¹⁸³ Ibid., p.154.

¹⁸⁴ Appointed under the provisions of 4 Geo.IV, c.9.

provided here. The overseers were responsible for superintending, repairing, and keeping in order, all highways, roads, streets and bridges which had been laid out in their respective divisions by an act of parliament. To complete these tasks overseers were empowered to procure such labour as required on ten days notice from those male settlers in their district between the ages of twenty-one and fifty who were obliged to perform statute labour.¹⁸⁵ This labour included the amendment and repair of roads and bridges and the clearing of "all weeds that are hurtful to husbandry."¹⁸⁶ Any overseer who neglected or refused to complete his duty was fined forty shillings by Magistrates sitting in Quarter Sessions. All persons summoned to perform statute labour were to appear in person or provide "a sufficient man in his stead."¹⁸⁷ Each of these men was to bring with him one spade, pick-axe, bar,

or such other tool or instrument, useful for the purposes aforesaid, as he may be owner of, and be directed by the overseers to bring for and during any space of time he may be liable to work on the said roads in each and every year, allowing eight hours to each day's work, and that every person within each township... keeping a cart, wagon, or team of two horses, oxen, or beasts of burthen or draught, used to draw the same, shall send on every day to be appointed by the said overseers, a cart wagon, or team, and one able man to drive the same, for such space of time as he shall be held liable to work on the said roads by this act, to work on the highways, roads, streets, or bridges allowing eight hours to each day's work, which said day's work shall be held equivalent to two day's personal labour.¹⁸⁸

¹⁸⁵ Keele, p.204.

¹⁸⁶ Whether this directive meant that statute labourers could also be conscripted to clear private land is unclear. See Statutes, p.155.

¹⁸⁷ *Ibid.*, p.156.

¹⁸⁸ *Ibid.*

Those men who neglected or refused to perform statute labour when summoned to do so were fined five shillings which was applied to the upkeep of the highways of the township.

The performance of public labour was not confined to the construction of roads and bridges. The inhabitants of Johnstown were responsible for ensuring that the highways were free of all obstructions throughout the year. This included fallen trees in the summer, which had to be removed within twenty-four hours of notice under the penalty of ten shillings per day,¹⁸⁹ and the removal of snow drifts across the roads in the winter. In the latter case it was the duty of the overseer to direct persons owning a sleigh or sledge and teams "to open a free passage through the said highway, by driving or causing their sleighs or sledges to be driven over and through the said highway: Provided always, That the said labour shall not interfere, or be construed a part of the statute labour hereinafter mentioned."¹⁹⁰ During the winter months when ice roads were used for transport the inhabitants of the area were also liable to set up beacons on each side of the road to direct travellers as occasions required.¹⁹¹ Any person neglecting to complete these tasks was liable to the same fines as those neglecting to perform their proportion of statute labour on the highways.

The statute labour each settler was liable to perform¹⁹² was judged in proportion to the assessment of their real and personal property. On 6 March 1820 this was replaced by an order that any person liable to perform the duty imposed by the previous act

¹⁸⁹ Keele, p.203.

¹⁹⁰ Statutes, pp.157-158.

¹⁹¹ *Ibid.*, p.158.

¹⁹² Prior to a second amendment of the original act, 59 Geo.III, c.8, s.2, passed on 12 July 1819.

may compound for such duty, if he or she may think fit, by paying to the overseer the sum of ten shillings, for each cart, wagon, team, and driver, for each day, and every person liable to perform such labour may compound for the same, if he or she shall think fit, by paying to the overseers the sum of five shillings, for and in lieu of such day's duty or labour respectively...¹⁹³

It was further enacted that every eligible person shall be held liable to perform statute labour at the following rate:

If his property be rated at not more than L25 -----	2 days
If at more than L25, and not more than L50 -----	3 "
If at more than L50, and not more than L75 -----	4 "
If at more than L75, and not more than L100 -----	5 "
If at more than L100, and not more than L150 -----	6 "
If at more than L150, and not more than L200 -----	7 "
If at more than L200, and not more than L250 -----	8 "
If at more than L250, and not more than L300 -----	9 "
If at more than L300, and not more than L350 -----	10"
If at more than L350, and not more than L400 -----	11"
If at more than L400, and not more than L450 -----	12"
And for every L100 above L500, till it amounts to L1000 -----	1 "
And for every L200 above L1000, till it amounts to L2000 -----	1 "
And for every L300 above L2000, till it amounts to L3500 -----	1 "
And for every L500 above L3500, -----	1 " ¹⁹⁴

These acts allowed wealthy men in Johnstown to employ a worker in their stead to perform the statute labour they had been assessed. In 1824 the growing population of

¹⁹³ Ibid., p.250.

¹⁹⁴ Ibid., p.250.

Upper Canada brought about further amendments under 4 Geo.IV, c.9 and c.10 which granted Justices of the Peace the authority to appoint a Surveyor of Streets in each town within the districts.¹⁹⁵

The amount of statute labour every eligible man in Johnstown was liable to perform each year hinged upon the assessment of his property. By 59 Geo.III, c.7¹⁹⁶ Magistrates appointed assessors for each township in the district whose main responsibility was to take lists of rateable property from every inhabitant, between the first Monday in February and the next General Quarter Sessions, and submit the same to the Justices of the Peace. For their trouble, the assessors were entitled to receive from the Treasurer of the District four percent of the sum raised.¹⁹⁷ This incentive may have led to complaints from property owners who felt that their assessment was in excess. Nevertheless, upon ascertaining the district budget for the year, the Justices of the Peace then directed the Clerk of the Peace to transmit a copy of the assessment roll to the Collectors of the district who were empowered to collect from each inhabitant their sum levied and the Collectors were allowed to deduct five percent of the amount they amassed as compensation. If an inhabitant refused to pay his rate within fourteen days, the amount due could be appropriated by warrant and sale.¹⁹⁸ The Treasurer of each district in Upper Canada was required to keep separate accounts for each township within his district which could be checked by the inhabitants. No new assessment was made until one-half of the preceding

¹⁹⁵ Ibid., p.355.

¹⁹⁶ This act repealed 51 Geo.III, c.8 and 55 Geo.III, c.5.

¹⁹⁷ Keele, p.52.

¹⁹⁸ Ibid., p.52.

rate was expended. Every step in this complex process, from the initial calling of the rate to presiding over complaints concerning assessments, was overseen by the Justices of the Peace sitting in General Quarter Sessions. This process became increasingly complex and, more importantly, time-consuming as the population of the district grew and added to the weight of responsibilities with which the Magistrates had to deal.

Appeals

One of the procedures which took up much time within the Quarter Sessions was appeals. Appeals expressed formal dissatisfaction with the decisions of the Quarter Sessions in Johnstown and by far the most common method of taking the Court to task over its pronouncements was through the submission of petitions. The privilege to petition the Court of General Quarter Sessions was provided to all inhabitants of the district¹⁹⁹, including those incarcerated in the gaol. For example, William Howell, a prisoner in 1816, petitioned the Justices that he had "languished within the walls of these loathsome cells since the eighteenth of Nov. last upon a charge of being suspected of unlawfully taking two pair of government Shoes for which he feels himself perfectly innocent."²⁰⁰ No reply to this petition is recorded in the minutes of the court but the fact that the petition was allowed illustrates the open nature of the Quarter Sessions. Ironically, it also illustrates the potential for one wrongly accused of a crime, to suffer under a system of quarterly

¹⁹⁹ There were certain restrictions concerning some petitions such as the right of freeholders of land to petition for a road. In this case, only groups of ten freeholders or more could petition the Court for the construction of a road. Regardless, the right to petition the Court was open to all settlers.

²⁰⁰ PAO, RG 22, Series 13, Brockville General (Quarter) Sessions, Petitions, (1801-1828), Box/Vol.No.1, 22 May 1816.

meetings.²⁰¹

Numerous requests from court officers for salary increases appear in the minutes of the Sessions and these appear to have been treated sympathetically by the Justices. For example, Hugh Montgomery, Constable, presented a petition for one pound nine shillings and six pence to the Sessions for his fees in 1801. This petition was reviewed by the Magistrates who summarily decided that Montgomery was instead entitled to one pound thirteen shillings six pence, which was paid out of the treasury.²⁰² Constables and other immediate officers of the court were some of the most common petitioners to the Quarter Sessions but the number of their requests is dwarfed by petitions for the survey, construction, and repair of roadways. One of the best examples of a petition received by the Johnstown Quarter Sessions is the "Petition to the 'Worshipful Justices in General Quarter Sessions assembled for the District of Johnstown from Sundry Freeholders.'²⁰³

The Petition of the undersigned Loyal Subjects,
Freeholders of Elizabethtown -

Humbly represents

That whereas by the eleventh article of an act passed in the 33rd year of His present Majesty's Reign it is enacted, "That the highways & roads in, and through every parish, Township, or the inhabitants thereof," and whereas the roads and highways in the south easternmost division of Elizabethtown are as yet not cut, cleared out, or made passable the Statute labour having been insufficient heretofore and the same having been employed partially upon such roads as were

²⁰¹ Whether Justices sitting singly or in pairs outside of the Quarter Sessions could hear these matters is unclear.

²⁰² Minutes, Vol.1, 31 January 1801, p.25.

²⁰³ PAO, RG 22, Series 23, Brockville General (Quarter) Sessions, Petitions, [1801-1828], Box/Vol. No.1, "1804 or Later."

most immediately requisite. And whereas by a clause in the 7th article of the aforesaid act, it is provided, "that all the roads already marked, or laid out, in the Eastern District of this Province (when comprising the District of Johnstown and now Eastern District) under the authority of any commander in chief, or under the authority of any ordinance of Quebec, shall be and the same are hereby adopted and confirmed, and if any such roads are not yet opened, the same shall be laid open under and by virtue of this act." We humbly represent that some of the said established roads in the said division are as yet uncleared and unopened altho' practicable and essentially necessary, and convenient as well for travellers as for the inhabitants of this and the neighbouring Townships. Your Petitioners further beg leave to call the attention of your worships to a road lately laid out and now depending for the confirmation of your worships between lots No. 2 and 3 running with windings and anglings from the front road to the third concession which will not add to the convenience of travellers or the inhabitants of this or any other Township, two or three individuals excepted. Whilst it will tend to harrass [sic] and oppress the subjects, and draw from the Statute roads so great a proportion of the labour, that they will be in a great measure left useless and impassable.

Under these circumstances, your Petitioners, deeply impressed with a sense of difficulties which will impend over the County by a precedent in confirming a road totally unnecessary, most earnestly implore your worships to avert them by the rejection of an application so Publicly [sic] injurious and unjust. The statute roads are amply sufficient in this division for the two purposes of accommodating travellers, and the inhabitants: provided they are continued to be worked upon and opened, as the law directs. We beg leave further to remind your worships that the jury which laid out the said road was (we are informed) verbally summoned and comprised of the few individuals interested and their relatives, altho' of acknowledged respectability, and the charge given them was to say "if the ground would admit of a good roads [sic] being made." Your Petitioners humbly conceive that "the grounds admitting of a good road," is not the criteria by which roads are to be multiplied. We beg leave further to state to your worships that an expensive bridge of near 300 feet must be erected across the pond of Danial Jones Esquire in front of the third concession before the same can be travelled. Wherefore your Petitioners pray that your worships will not (under the various circumstances) confirm the said road lately laid out.

And as by duty bound we loyal subjects shall ever
pray.

David Larkin	James Covell
Caleb Henderson Junior	John McNish
Caleb Henderson	Ezekial Shipman
Josiah Marshall	Daniel Shipman
Ebenezer Salts	John Henderson
Joseph McNish	Richard Baxter
Linas Fields	Robert Putnam
Joseph Falkner	Prosper Demming
Sylvanus Keeler	Crock Hamilton
Elijah Steel	David Manhart
John Elliott	James Marshall

(illegible)²⁰⁴

It is likely that the Daniel Jones mentioned in this petition was one of the original settlers to petition the Quarter Sessions for the construction of this road. This man is also likely the Daniel Jones who is listed in the Johnstown Commission. As such, Jones' actions illustrate an attempt on the part of a member of the judiciary to employ his position to obtain services not offered to those outside the ranks of the Commission. Also worth noting is the fact that the above petition illustrates the process of checks and balances which assisted in reigning the "abuse" of the Commission.²⁰⁵ However, this system of checks and balances was weighted in favour of the Justices because of their predilection towards multiple-office holding. For example, a petition submitted to the Johnstown

²⁰⁴ PAO, RG 22, Series 17, No. 10, Brockville (Leeds & Grenville) Court of General Quarter Sessions, Road Report Book 'A' 1810-1832, (no date, 1804).

²⁰⁵ Unfortunately no record of the outcome of this dispute has been discovered in the records of the Court.

Quarter Sessions by two Surveyors of Roads on 15 August 1811 certified that

a Sufficient Sum of money was in the month of June last... Expended to build a bridge near the Stone Mill in Bastard for the accomidation [sic] of the public. Exclusive of what could be done by the Statute Labour -and what Mr.'s William Jones and Ira Schofield has furnished Property and Erected the same which is of Great use to the public and in our opinion ought to be refunded.

Truman Hicock
Ira Schofield
Surveyors of Roads²⁰⁶

That Ira Schofield was allowed to judge the usefulness of the bridge which he had contracted to build is by itself worthy of notice. However, the minutes of the Quarter Session held on 15 August 1811 reveal that one of the six Justices in attendance who approved the order of payment to Jones and Schofield was Ira Schofield.²⁰⁷ The minutes also reveal that Schofield and Jones were refunded the sum of twenty-seven pounds, four shillings, and seven pence for their demands, and further, that Schofield was paid the additional sum of one pound, two shillings and six pence for 3 days attendance in viewing roads.²⁰⁸ Instances of Justices of the Peace being remunerated for tasks assigned under the aegis of the Quarter Sessions are not uncommon. For example, on 23 May 1816 Truman Hicock was granted three pounds, fifteen shillings "for 10 days Service Laying a Road

²⁰⁶ PAO, RG 22, Series 23, Brockville General (Quarter) Sessions, Petitions 1801-1828, Box 1, Envelope 1.

²⁰⁷ The name of the Justice in attendance is Uri Scovil but, as has been previously noted, this name has been recorded in various fashions and all variations have been recorded as the same individual. Minutes, Vol.1, 15 August 1811, p.260.

²⁰⁸ Ibid.

from the Rideau Narrows to the rear of Leeds",²⁰⁹ Stephen Burritt was paid twenty pounds by the District Treasurer "in Rotation of other Applicants for the Purpose of Completing a Bridge over the River Rideau from Lot No.26 in Marlborough to Lot No.5 in the Township of Oxford,"²¹⁰ and Adiel Sherwood was granted fifteen shillings in open Sessions for two days of viewing two new roads in Brockville in 1821.²¹¹ The persistent practice of Magistrates assigning their own ranks to inferior offices overseen by the Quarter Sessions may be explained by the desire for remuneration. Indeed, the Magistrates probably tried to ensure that the officers of their court be remunerated at the fullest rate whenever possible in order to help facilitate the running of the court. However, regardless of pay, the most likely reason for Justices undertaking the completion of tasks which ideally should have been delegated to lesser officials was simply because there were few men in the district who could be entrusted with the official responsibility of overseeing municipal projects. As has previously been pointed out, this problem was compounded by the lack of Working Justices in Johnstown.

²⁰⁹ PAO, RG 22, Series 16, Brockville General (Quarter) Sessions, Accounts 1815-20, Box 4, Envelope 7, May 1816 - May 1818.

²¹⁰ Ibid.

²¹¹ Ibid., Box 5, Envelope 5, May 1821 - May 1822, Account No.30.

Conclusion

In 1832 the town of Brockville was incorporated and granted an elected Board of Police (2 Wm.IV, c.17) with powers equivalent to the Justices of the Peace. These actions effectively ended the monopoly of power the Magistrates had held since the creation of the district of Johnstown in 1800. The grant of local government in Brockville, as elsewhere in Upper Canada, was attributable to the fact that the system of government by the Magistrates had virtually collapsed.²¹² This grant was not a conscious action to spread democratic institutions in Upper Canada or rid the colony of Justices of the Peace, but simply an effort to improve the administration provided the settlers. In the aftermath of Brockville's incorporation, Justices of the Peace were not immediately relegated to a subordinate role. In fact, the Johnstown Commission immediately proceeding Brockville's incorporation contained a record 77 Magistrates.²¹³ It is worth noting that the Working Magistrates in Johnstown continued to play an important role in the daily rhythm of the district but the system of government in which they operated underwent a drastic evolution with the rise of party politics. The further consolidation of towns and cities in Upper

²¹² Armstrong, Handbook, p.200.

²¹³ The proceeding Commission of 20 February 1840 contained 88 names. See F.H. Armstrong, Magistrates (Unpublished Research Manuscript).

Canada continued to erode the predominance of the Justices of the Peace and the eventual rise of democratic government ensured that the rule of the Magistrates was less tenable as the 1830s progressed.

During the reign of the Justices of the Peace in Johnstown between 1800 and 1832, the administrative needs of the people who chose to settle within the district of Johnstown grew with the population. These needs were managed by the Working Justices within the confines of the Court of General Quarter Sessions during the early years of the settlement of the District. In spite of the low Magistrate attendance and the small number of Working Justices within the Court, the number of tasks accomplished within the confines imposed on the Quarter Sessions is striking. However, the weight of tasks heaped on the Justices of the Peace by the Colonial Government was bureaucratically suffocating. It is likely that no one office in the structure of local government could have completed all of the duties assigned to the Magistrates, let alone Magistrates sitting only quarterly, yet this was expected of the Justices of the Peace by both the Colonial Government and the settlers they oversaw. Prior to the population explosion which occurred in the district of Johnstown between 1816 and 1820, the work load shouldered by Working Justices in Johnstown was daunting and, contrary to the popular image of Justices of the Peace within Canadian historiography, the accomplishments they achieved are notable. However, the working Justices after 1820 were faced with having to accommodate the needs of a population almost nine times the original size of Johnstown - all within a system of administration still geared towards serving its initial complement. It is therefore not surprising that, beginning around 1816-1820, the Court of General Quarter Sessions of the Peace began receiving petitions for roads and bridges still unbuilt and complaints against

the same from different factions within the growing community. It is also worthy to note that during this same time the original Justices of the Peace appointed to the district of Johnstown such as Solomon Jones were not attending as regularly as they once did because of their advancing age. Whether the newly appointed Justices who were appointed to Johnstown Commission were instilled with the same degree of responsibility towards the Quarter Sessions as their predecessors were is difficult to gauge. However, if the number of Working Justices (17) versus appointments (214) between 1800 and 1832 is any indication, it is notable that the number of Working Justices remained virtually unchanged throughout the period of this study. The ratio of Working Justices to Appointed Justices within the District of Johnstown reinforces the traditional belief that some Justices of the Peace collected their Commissions the very way that some modern people collect honorary degrees. Appointment as a Justice of the Peace within Upper Canada was a form of social distinction and political patronage. However, as evidenced by the minimum historical visibility of the Johnstown Magistrates in the Dictionary of Canadian Biography, local administration in Johnstown was left to a group of men who are otherwise unknown. Taken together, these conclusions suggest that Upper Canada's "Family Compact" - the "elite of power",²¹⁴ were surrounded by a wider coterie of associates, the "elite of office", who permeated each District in the Province. It is at this juncture that a distinction between "Appointed" and "Working" Justices of the Peace is crucial. Working Justices were those relatively few men who rose to meet the spirit of their appointment and attempted to fulfill the letter of their obligations expressed in the Commission of the Peace.

²¹⁴ See Robert E. Saunders, "What was the Family Compact?" Ontario History Vol. 49 (1957), pp.165-171 and David W. Earl, ed. The Family Compact: Aristocracy or Oligarchy? (Toronto: Copp Clark, 1967), *passim*.

That the Working Magistrates were eventually unable to fulfill the needs of their office is largely not a reflection of their abilities, but rather of circumstance.

The system of government which the Court of General Quarter Sessions of the Peace was part was flawed. However, it must be recognized that until the system of administration was eventually reformed in the 1830s, there was simply no other office in the administrative framework of Upper Canada within which the mounting tasks of local government could be placed. Therefore, by concentrating too narrowly on the opinions of Upper Canadians such as those interviewed by William Lyon Mackenzie in his various reports of the Committee on Grievances, many generations of critics have mistakenly condemned all Justices of the Peace as self-glorifying members of an ineffective colonial administration. A closer examination of this office reveals that Working Justices in the District of Johnstown, those Magistrates who accepted the spirit as well as the letter of their appointment, rose beyond what was expected of them between 1800 and 1832 to provide the District of Johnstown with an effective form of local government. Unfortunately, as the population of Johnstown increased, administration became more unwieldy and the expectations placed on its Magistrates by both the settlers over which they governed and the Colonial Government which they served altered the concept of the Court of General Quarter Sessions of the Peace. In Upper Canada, this evolution marked a change in the concept of local government in which settlers replaced what they were told was effective government with a greater degree of self-government. This change from without the Johnstown Quarter Sessions was answered by municipal incorporation in 1832 and the demise of the Justices of the Peace was ensured.

APPENDIX 1The Johnstown Commission of the Peace

UPPER CANADA

P. Hunter, Lt. gov:r

George the Third by the Grace of God of the United Kingdom of Great Britain and Ireland King Defender of the Faith

To the Honorable Henry Allcock our Chief Justice of our said Province, the Honorable James Baby, the Honorable Peter Russell, the Honorable Robert Hamilton, the Honorable Richard Cartwright, the Honorable Alexander Grant, the Honorable Richard Duncan, the Honorable Aeneas Shaw, the Honorable John McGill, the Honorable David William Smith, the Honorable William Dummer Powell, the Honorable Thomas Cochran - Edward Jessup Senior, William Fraser, Peter Drummond, Ephraim Jones, Thomas Sherwood, Samuel Wright, James Breakenridge, Alexander Campbell of Augusta, Thomas Fraser, Gideon Adams, Solomon Jones, Thomas Smith, Daniel Jones, Truman Hicock, Joel Stone, Archibald McNeil,²¹⁵ Stephen Burritt, William Soles Junior, William Read Senior, Henry Arnold and Richard Arnold Esquires Greeting. Know ye that we have assigned you jointly and severally and every one of you our Justices to keep our Peace in our District of Johnstown, and to keep and cause to be kept all Ordinances and Statutes for the good of the Peace, and for Preservation of the same, and for the Quiet rule and Government of our People, made in all and singular their articles in our said District of Johnstown (as well within liberties as without) according to the force form and effect of the same and to Chastise and Punish all Persons that Offend against the form of those Ordinances or Statutes, or any one of them, in the aforesaid District as it ought to be done according to the form of those Ordinances and Statutes, and to cause to come before

²¹⁵ It is unknown why McNeil's name is underlined in the Commission.

you or any of you all those who to any one or more of our People concerning their bodies or the firing of their Houses, have used Threats, to find sufficient security for the Peace, or their good Behaviour towards us and our People, and if they shall refuse to find such security, then them in our Prisons, until they shall find such security, to cause to be safely kept. We have also assigned you the aforesaid Edward Jessup Senior, William Fraser, Peter Drummond, Ephraim Jones, Thomas Sherwood, Samuel Wright, James Breakenridge, Alexander Campbell of Augusta, Thomas Fraser, Gideon Adams, Solomon Jones, Thomas Smith, Daniel Jones, Truman Hicock, Joel Stone, Archibald McNiel, Stephen Burrirt, William Soles Junior, William Read Senior, Henry Arnold and Richard Arnold and every two or more of you our Justices to enquire the truth more fully by the oath of Good and lawful Men of the aforesaid District, by whom the truth of the matter shall be the better known of all and all manner of Felonies, Poisonings, Inchantments, Sorceries, Arts Magic, Trespasses, Forestallings, regratings, Engrossings and extortions, whatsoever, and of all and Singular other Crimes and Offenses, of which the Justices of our Peace may or ought Lawfully to enquire by whomsoever, and after what manner soever in the said District done or Perpetrated, or which shall happen to be there done or attempted: and also of all those who in the aforesaid District in Companies against our Peace in Disturbance of our People with Armed Force have gone or Rode, or hereafter shall Presume to go or Ride, and also of all those who have there laid in wait, or hereafter shall Presume to lie in wait, to maim or cut or Kill our People, and also of all Victuallers, and all and Singular other Persons, who in the abuse of weights and measures, or in selling Victuals, against the form of the Ordinances and Statutes, or any one of them therefore made for the Common Benefit of our Province of Upper Canada, and our People thereof have offended or attempt and also of all Sheriffs, Bailiffs, Stewards, Constables, Keepers of Gaols, and other officers, who in the Execution of their Offices, about the Premises, or any of them have unduly Behaved themselves, or hereafter shall Presume to Behave themselves unduly, or have been or shall happen hereafter to be Careless, remiss or Negligent in our aforesaid District and of all and singular Articles and circumstances, and all other things whatsoever that concern the Premises or any of them by whomsoever: and to Inspect all Indictments whatsoever so before you or any of you taken or to be taken or before others late our Justices of the Peace in the aforesaid district made or taken, and not yet determined, and to make and Continue Processes thereupon,

against all and singular the Persons so Indicted, or who before you hereafter shall happen to be indicted, until they can be taken, Surrender themselves or be outlawed, and to hear and Determine all and singular the Felonies, Poisonings, Inchantments, Sorceries, Arts Magic, trespasses, forestallings, regratings, Engrossings, Extortions, unlawful Assemblies, Indictments aforesaid, and all and singular other the premises according to the Laws and Statutes of Upper Canada, as in the like Case it has been accustomed or ought to be done, and the same offenders and every of them for their offenses by fines, Ransoms, Ameruaments [sic], forfeitures and other means as According to the Law and Custom of Upper Canada, or form of the Ordinances and Statutes aforesaid it has been accustomed or ought to be done to Chastise and Punish -- Provided always that if a Case of difficulty upon the determination of any of the Premisses before you or any two or more or you shall happen to arise: then let judgement in no case be given thereon before you or any two or more of you unless in the Presence of one of our Justices of our Court before us, or of one of our Justices appointed to hold the assizes in the aforesaid District - and therefore we Command you and every of you, that to Keeping the Peace, Ordinances, Statutes and all and singular other the Premises you diligently apply yourselves and that at Certain Days and Places which you or any such two or more of you as is aforesaid shall appoint for these Purposes into the Premisses you make inquires, and all and Singular the Premisses hear and Determine, and perform and fulfill them in the aforesaid form, doing therein what to Justice appertains according to the Law and Custom of Upper Canada. Saving to us the Ameruaments and other things to us therefrom belonging. And we Command by the Tenor of those Present, our Sheriff of our District of Johnstown, that at Certain Days and Places which you or any such two or more of you as in aforesaid, shall make known to him, be cause to come before you or any such two or more or you as aforesaid, so many and such good and Lawful Men of His Bailiwick, as well within liberties as without, by whom the truth of the Matter in the Premises shall be better Known and Enquired into -

In witness whereof we have Caused these our Letters to be made Patent - Witness our Trusty and well beloved Peter Hunter, Esquire, our Lieutenant Governor of our said Province and Lieutenant General Commanding our Forces in our Provinces of Upper and Lower Canada, at York, this fifth day of April, in the year of Our Lord One thousand Eight Hundred and three, and in the Forty third year of our Reign .//.

P.H.

(illegible signature)²¹⁶

²¹⁶ PAO, RG 22, Leeds-Grenville CP/CA JPs Records: Commissions of the Peace 1803-18, Box 1, Envelope 1, Commission of the Peace April 5, 1803.

MASTER LIST OF JUSTICES OF THE PEACE, JOHNSTOWN 1800 - 1832

Adams, Gideon	Crawford, George	Harvey, Robert
Adams, William Jr.	Crooks, James	Henderson, Rufus C.
Adamson, Peter	Crookshank, G.	Hicok, Truman
Allan, William	Cumming, Francis H.	Hilburne, John
Allcock, Henry	Dayton, Abraham	Hobson, John
Alston, John	Delisle, Benjamin	Hopper, George
Arnold, Henry	Denning, John	Horton, Nickolas
Arnold, Richard	Dickson, William	Howard, Peter
Atkins, Walter	Donaldson, Andrew	Hubbell, Elnathan
Baby, James	Drummond, Peter	Hurd, Truman
Baldwin, Augustus	Dulmage, Philip	Jessup, Edward Jr.
Berford, John R.	Duncan, Richard	Jessup, Edward Sr.
Berford, William R.F.	Dunn, John Henry	Jessup, Hamilton D.
Bogart, Henry	Easton, Roderick	Johnson, Richard
Boswell, Walter	Edmonson, Robert	Jones, Alpheus
Bottom, Elijah	Elliott, George F.	Jones, Charles
Bottom, William	Elmsley, John	Jones, Daniel
Boulton, D'Arcy	Fleming, John	Jones, Dunham
Bourke, George T.	Flynt, G.T.	Jones, Ephraim
Bradfield, Henry	Fraser, Alexander	Jones, Henry
Bradley, William B.	Fraser, Donald	Jones, John
Breakenridge, David	Fraser, Thomas	Jones, Jonas
Breakenridge, George	Fraser, Peter	Jones, Solomon
Breakenridge, James	Fraser, William	Jones, William
Bresee, Nicholas	Freel, Peter	Joynt, George T.
Brooks, William	Freeland, William	Kay, William
Brown, William	Fulford, Jonathon	Kerby, James
Burnham, Zacheus	Fulford, Jonathon Jr.	Kingsbury, Edward
Burritt, Daniel	Gardner, John	Kirby, John
Burritt, Daniel Jr.	Gates, Walter F.	Landon, Herman
Burritt, Henry	Gilkison, William	Leggat, John
Burritt, Stephen	Glasford, Paul	Lelievre, Francis T.
Cameron, Duncan	Goff, Joseph	Leslie, Anthony
Campbell, Alexander	Gordon, James	Lloyd, Arthur
Campbell, William	Graham, James	Longley, George
Campbell, James	Grant, Allan	Loucks, William P.
Campbell, Thomas D.	Grant, Allan Jr.	Lyman, Benjamin
Carley, Bartholomew	Grant, Alexander	Macaulay, J.B.
Cartwright, Richard	Grant, Lewis	Mackintosh, A.
Church, Basil R.	Hagerman, Christopher	Markland, G.H.
Clark, Thomas	Hall, James	Marshall, William
Claus, William	Hamilton, John	Matheson, Roderick
Cochran, Thomas	Hamilton, Robert	Maxwell, Joseph
Consett, Thomas	Hartwell, Joseph K.	McCord, Thomas

APPENDIX 2
(Continued)

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McDonald, Charles
McDonald, John
McDonell, Alexander
McDonell, A. (Rt. Rev.)
McDonell, John
McGill, John
McIlmoyle, James
McIntosh, Angus
McKay, John
McLean, Archibald
McLean, Neil
McLean, John
McMillan, Alexander
McMillan, A. (Augusta)
McNiel, Archibald
McQueen, William
Merwin, Justus S.
Mondelet, Jean Marie
Monk, John Binning
Morris, Alexander
Morris, James
Morris, William
Munro, Hugh
Munsel, Benjamin R.
Nelles, Abraham
Norton, Hiram
Ormsby, Sewell
PaMor, John
Penny, Archibald
Philips, Philip
Powell, D.W.

Powell, James
Powell, Robert
Read, William Sr.
Reade, John L.
Ridout, Thomas
Robinson, Peter
Robinson, John B.
Russell, Peter
Sache, Charles
Schofield, Ira
Schofield, James L.
Schofield, Peter
Scott, Thomas
Scott, William I.
Scovil, Uri
Shaw, Ancas
Shaw, James
Sheriff, Charles
Sherwood, Adiel
Sherwood, Levis P.
Sherwood, Thomas
Shook, Philip
Shuffield, Thomas
Smith, D.W.
Smith, Samuel
Smith, Terrance
Smith, Thomas
Soles, William
Stone, Joel
Strachan, John (Rt. Rev.)
Street, Benjamin

Talbot, Thomas
Taylor, Josiah
Thomas, Samuel Jr.
Thorn, Alexander
Thorpe, Robert
Warner, Seth
Washburn, Stephen
Watson, John
Weatherhead, John
Weatherhead, John Jr.
Weatherhead, William
Weatherly, James D.
Wells, Joseph
Wells, William
Whiting, William S.
Whitmarsh, Herbert
Wilks, John W.
Wilson, Andrew
Wright, Samuel
Wright, Silvester

TOTAL: 214

JOHNSTOWN WORKING JUSTICES OF THE PEACE, 1800-1832

Name	Commission	First Appearance	Last Appearance	Years JP	Sessions Eligible	Sessions Attended	% Attended	Rank by Attend.
Adams, Gideon	1 Jan 1800	31 Jan 1801	20 Feb 1823	23	299	66	20	17
Arnold, Henry	5 Apr 1803	13 Jun 1803	29 Dec 1821	21	289	34	12	33
Arnold, Richard	5 Apr 1803	13 Jun 1803	21 Feb 1822	19	235	22	9	40
Bogart, Henry	11 Dec 1806	19 May 1807	21 May 1812	6	62	11	18	20
Bottum, William	(unknown)	19 Feb 1823	12 Aug 1828	9	94	2	2	65
Breakenridge, David	25 Mar 1816	16 May 1815	18 May 1832	16	305	126	41	4
Breakenridge, James	1 Jan 1800	24 Apr 1800	21 Feb 1815	15	186	76	41	5
Burritt, Daniel	(unknown)	19 May 1807	23 Feb 1832	25	316	24	8	43
Burritt, Daniel Junior	11 Dec 1806	19 Feb 1812	23 Feb 1826	20	252	3	1	70
Burritt, Henry	27 Mar 1821	10 Nov 1824	21 Feb 1832	11	222	7	1	71
Burritt, Stephen	30 Jun 1800	10 Nov 1801	14 Oct 1817	17	226	33	15	25
Campbell, Alexander	1 Jan 1800	29 Apr 1801	17 May 1804	4	62	16	26	14
Campbell, Thomas D.	19 Mar 1800	16 Apr 1818	13 Aug 1831	13	239	45	19	18
Carley, Bartholomew	25 Mar 1816	12 Nov 1816	17 May 1832	16	287	181	62	2
Dayton, Abraham	19 Mar 1818	19 Feb 1822	20 Feb 1822	4	40	2	5	55
Denning, John	13 Feb 1828	14 Nov 1828	18 May 1832	4	101	6	6	52
Denny, Archibald	13 Feb 1828	19 May 1829	13 Aug 1830	2	63	3	5	54
Dulmage, Philip	27 Mar 1821	23 May 1822	19 May 1831	10	209	20	10	37
Easton, Roderick	19 Mar 1818	11 Aug 1818	17 Feb 1824	6	77	11	14	27
Fraser, Peter	25 Mar 1816	16 Nov 1816	9 Jul 1817	1	22	3	14	28
Fraser, Richard D.	25 Mar 1816	11 Aug 1818	15 Nov 1826	10	163	6	4	57
Fraser, Thomas	30 Jun 1800*	18 May 1803	16 Aug 1827	27	383	48	13	30
Fraser, William	1 Jan 1800	22 Apr 1800	22 May 1811	8	151	46	30	10
Freel, Peter	1 Jan 1800	24 Apr 1800	24 Feb 1826	26	358	3	1	68
Fulford, Jonathan Jr.	27 Mar 1821	18 May 1821	16 May 1832	11	229	14	6	48
Gardner, John	18 Apr 1825	10 Aug 1825	8 Nov 1825	1	9	3	33	8
Gates, Walter F.	19 Mar 1818	25 Dec 1820	17 Nov 1826	8	133	3	2	64
Hall, James	25 Mar 1816	12 Apr 1817	12 Apr 1817	1	20	1	5	56
Henderson, Rufus C.	19 Mar 1818	21 Feb 1822	8 Nov 1831	13	241	5	2	62
Hicok, Truman	1 Jan 1800	14 Oct 1800	14 Aug 1827	27	385	41	11	34

Name	Commission	First Appearance	Last Appearance	Years JP	Sessions Eligible	Sessions Attended	% Attended	Rank by Attend.
Hopper, George	19 Mar 1818	10 Nov 1818	10 Nov 1818	1	8	1	13	32
Howard, Peter	11 Dec 1806	19 May 1807	12 Aug 1807	1	7	3	43	3
Hubble, Elnathan	25 Mar 1816	16 Mar 1824	16 May 1832	16	286	17	6	47
Hurd, Truman	27 Mar 1821	13 Nov 1827	12 Aug 1828	7	139	2	1	73
Hurd, William	(unknown)	21 Feb 1827	21 Feb 1827	1	1	1	100	74
Innis, William	(unknown)	19 May 1821	19 May 1821	1	1	1	100	75
Jessup, Edward	30 Jun 1800	27 Jan 1801	9 Aug 1809	9	127	34	27	13
Jones, Charles	25 Mar 1816	10 Nov 1812	20 Feb 1822	6	97	21	22	16
Jones, Daniel	1 Jan 1800	27 Jan 1801	23 Feb 1816	16	204	32	16	21
Jones, Dunham	18 Apr 1825	21 Feb 1832	21 Feb 1832	7	145	1	1	72
Jones, Ephraim	1 Jan 1800	22 Apr 1800	20 Feb 1811	11	148	52	35	7
Jones, Henry	27 Mar 1821	16 Mar 1824	1 Dec 1829	8	180	17	9	41
Jones, Solomon	1 Jan 1800	22 Apr 1800	21 Feb 1815	15	186	135	73	1
Jones, William	25 Mar 1816	16 May 1815	18 Feb 1831	15	224	60	27	12
Landon, Herman	25 Mar 1816	16 Nov 1816	17 Feb 1829	13	211	46	22	15
Leslie, Anthony	27 Mar 1821	31 Dec 1821	31 Dec 1821	1	13	1	8	44
Lyman, Benjamin	11 Dec 1806	17 May 1808	15 May 1821	15	158	20	13	31
McDonald, Charles	27 Mar 1821	29 Dec 1824	29 Dec 1824	3	70	2	3	61
McDonell, John	25 Mar 1816	11 Aug 1818	29 Dec 1818	2	45	4	9	42
McKay, John	27 Mar 1821	21 May 1822	22 May 1822	1	20	2	10	38
McLean, Archibald	27 Mar 1821	24 May 1823	15 May 1832	11	227	13	6	49
McLean, John	25 Mar 1816	13 Nov 1816	13 Nov 1816	1	7	1	14	29
McMillan, Alexander	19 Mar 1818	10 Nov 1818	17 May 1825	7	102	6	6	51
Merwin, Justus S.	27 Mar 1821	10 Nov 1824	17 Feb 1831	10	202	4	2	63
Morris, Alexander	25 Mar 1816	12 Feb 1816	14 Aug 1831	15	272	40	15	24
Munro, Hugh	1 Jan 1800	22 Apr 1800	16 Oct 1817	17	232	26	11	35
Munsil, Benjamin R.	25 Mar 1816	16 May 1815	16 May 1815	1	120	5	4	58
Philips, Philip	11 Dec 1806	20 May 1807	12 Nov 1830	24	355	31	9	39
Scovil, Uri	11 Dec 1806	19 May 1807	18 May 1831	25	365	19	5	53
Sherwood, Adiel	19 Mar 1818	13 Aug 1818	19 May 1829	11	187	29	16	22
Sherwood, Bartholomew	(unknown)	13 Aug 1818	13 Aug 1818	1	1	1	100	76
Sherwood, Levius P.	25 Mar 1816	12 Nov 1816	12 Nov 1822	6	87	27	31	9
Sherwood, Thomas	1 Jan 1800	23 Apr 1800	19 Feb 1822	22	227	42	15	23

Name	Commission	First Appearance	Last Appearance	Years JP	Sessions Eligible	Sessions Attended	% Attended	Rank by Attend.
Smith, Terrance	27 Mar 1821	14 Nov 1821	21 Feb 1822	1	16	3	19	19
Smith, Thomas	30 Jun 1800	27 Jan 1801	14 Apr 1818	18	238	70	29	11
Soles, William	30 Jun 1800	15 Feb 1803	15 Feb 1803	3	41	1	2	67
Stone, Joel	1 Jan 1800	22 Apr 1800	21 May 1830	30	452	176	39	6
Street, Benjamin	27 Mar 1821	13 Aug 1822	13 Aug 1822	1	25	1	4	59
Thorn, Alexander	25 Mar 1816	20 Feb 1821	20 Feb 1821	5	52	1	2	66
Warner, Seth	11 Dec 1806	19 May 1807	22 May 1811	5	46	3	7	46
Washburn, Stephen	11 Dec 1806	13 Nov 1810	10 Nov 1814	8	80	12	15	26
Weatherhead, John	27 Mar 1821	14 Nov 1821	20 May 1820	7	136	8	6	50
Weatherly, James D.	24 Aug 1819	19 Feb 1822	20 Feb 1823	4	47	5	11	36
Whiting, William L.	13 Feb 1828	18 Feb 1829	18 Feb 1829	1	25	1	4	60
Wright, Samuel	1 Jan 1800	14 Nov 1800	15 Aug 1811	11	156	11	7	45
Wright, Silvester	25 Mar 1816	11 Nov 1817	9 Aug 1831	15	269	3	1	69
Total Number of Justices = 76			AVERAGE	24	157	24	14%	

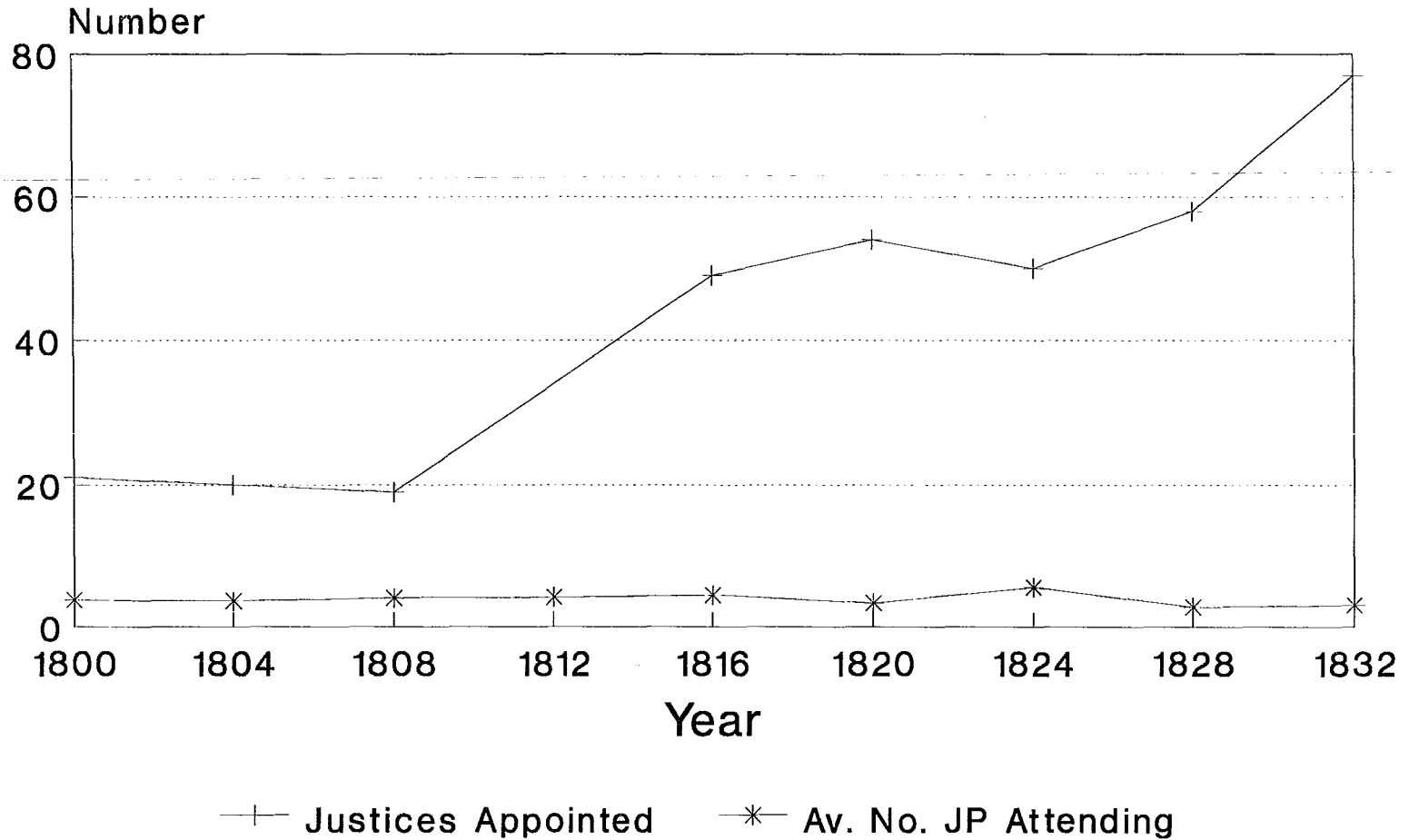
APPENDIX 4

THE BUSINESS OF THE JOHNSTOWN QUARTER SESSIONS, 1800 - 1832

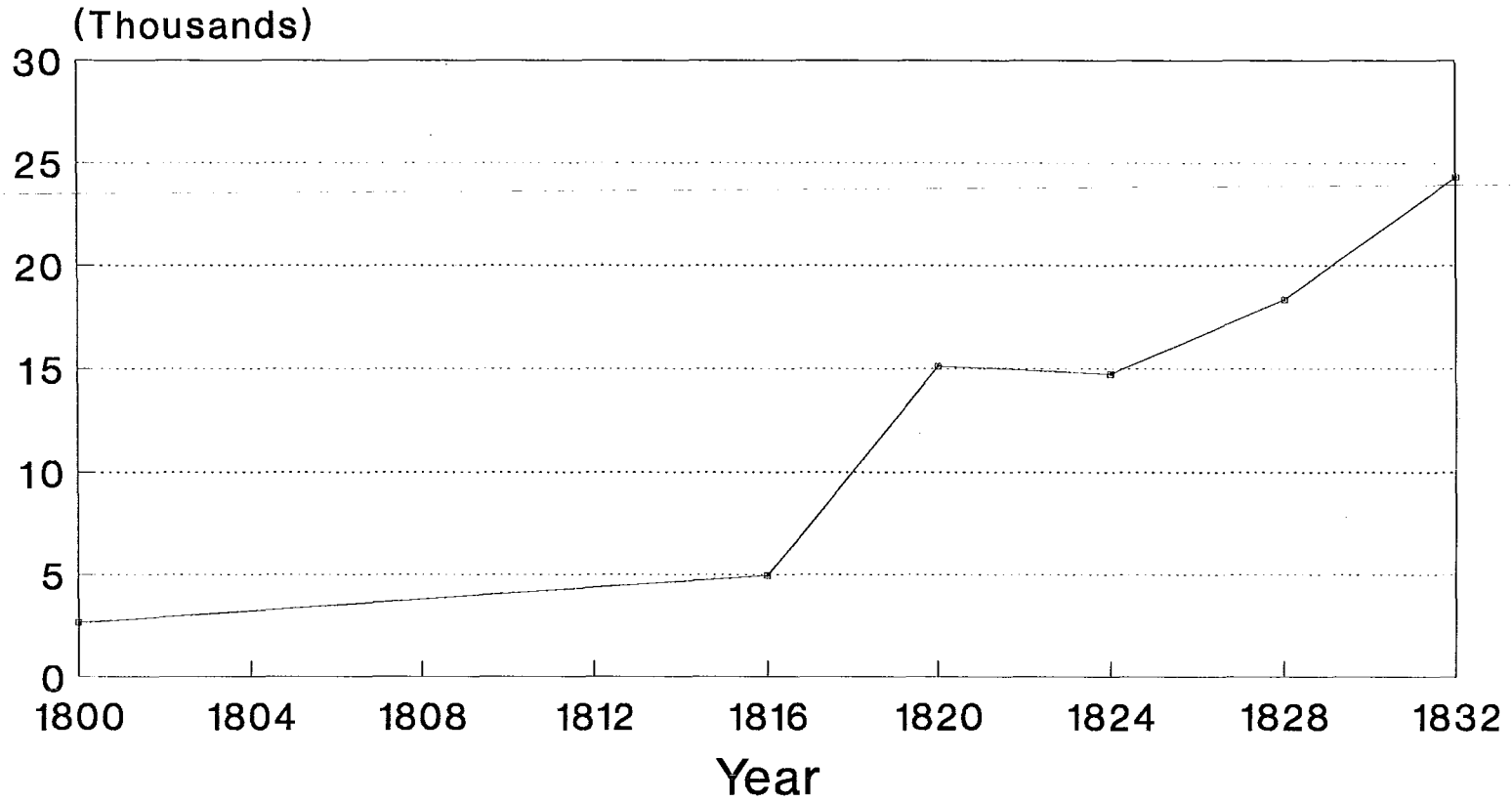
YEAR	SESSION	SITTINGS	JUDICIAL TASKS	%	ADMIN. TASKS	%	TOTAL TASKS
1800	APR	3	3	8	36	92	39
	JULY	1	0	0	1	100	1
	OCT	4	9	60	6	40	15
1804	MAY	10	17	33	35	67	52
	AUG	7	4	50	4	50	8
	NOV	4	6	46	7	54	13
1808	FEB	2	7	78	2	22	9
	MAY	5	6	18	28	82	34
	AUG	3	24	75	8	27	32
	NOV	2	15	75	5	25	20
1812	FEB	5	20	47	23	53	43
	MAY	3	16	25	47	75	63
	NOV	2	3	27	8	73	11
1816	FEB	4	17	61	11	39	28
	MAY	3	9	39	14	61	23
	AUG	4	15	68	7	32	22
	NOV	6	30	54	25	45	55
1820	NOV	6	40	70	17	30	57
1824	FEB	7	11	32	23	68	34
	MAY	4	9	18	40	82	49
	AUG	3	14	78	4	22	18
	NOV	7	17	35	32	65	49
1828	FEB	5	12	36	21	64	33
	MAY	3	7	9	69	91	76
	AUG	8	13	31	29	69	42
	NOV	7	29	71	12	29	41
1832	FEB	5	22	30	51	70	73
	MAY	5	20	24	62	76	82
AVERAGE		5	14	43	22	57	36

JOHNSTOWN MAGISTRATES

Appointments vs. Average Attendance

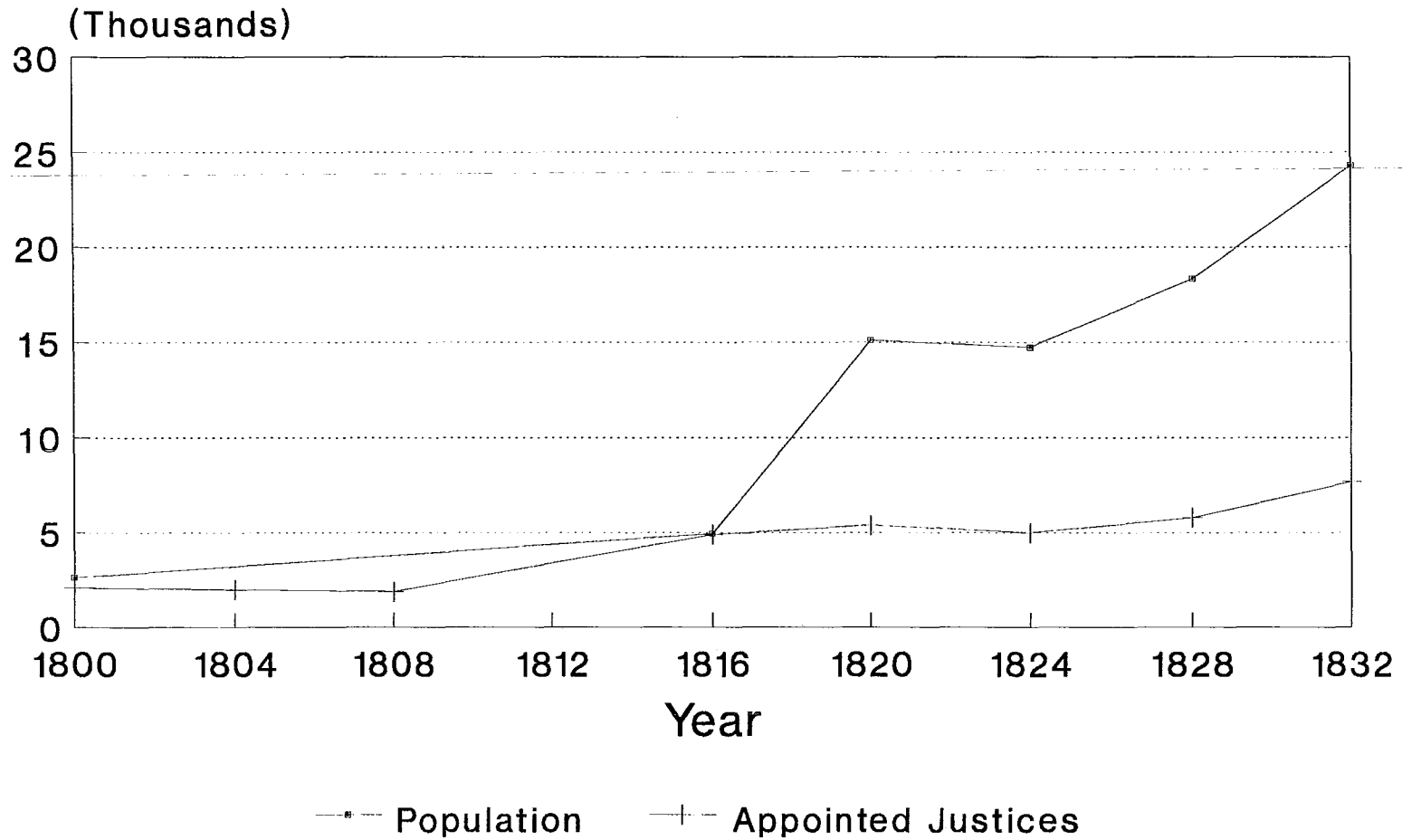


JOHNSTOWN DISTRICT Population, 1800-1832



—•— Johnstown District

JOHNSTOWN DISTRICT Population vs Appointed Justices



ADMINISTRATIVE DUTIES COMPLETED PER GENERAL QUARTER SESSION

1800 - 1832

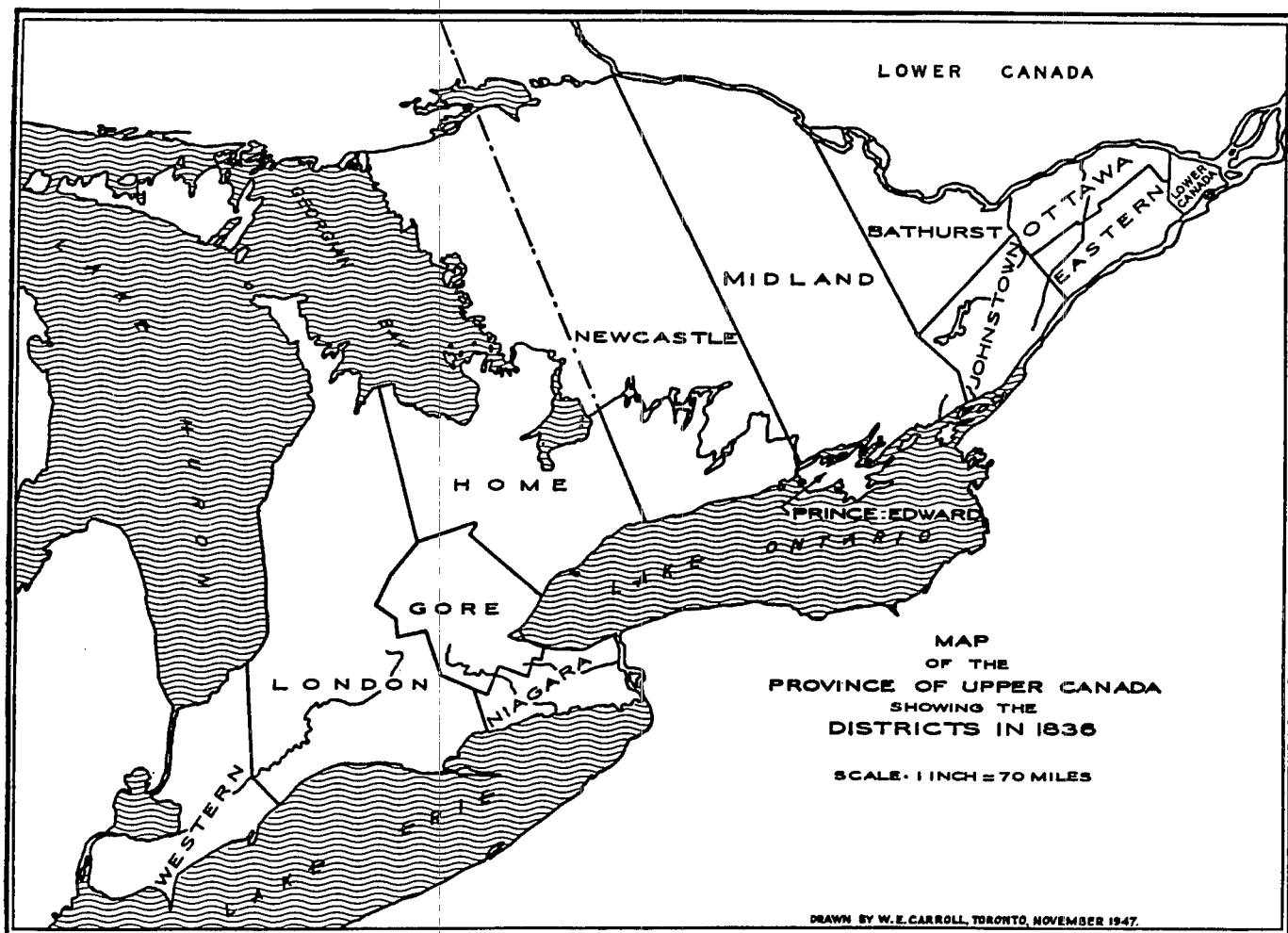
YEAR	FEB	MAY	AUG	NOV
1800*	-	92	100	40
1804	-	67	50	54
1808	22	82	25	25
1812	53	75	-	73
1816	39	61	32	45
1824	68	82	22	65
1828	64	91	69	29
1832	70	76	-	-
AVERAGE	52.6	78.3	49.7	47.3

* The Quarter Sessions of 1800 took place during April, July and October.

District Offices Overseen by the Johnstown Justices of the Peace

Assessor
Church Warden
Clerk of the Peace
Collector of Rates and Assessments
Commissioner of the Public Highways
Constable
Coroner
Crier
Fence Viewers
Gaoler
Inspector of Weights and Measures
Interpreter
Overseer of Highways
Overseer of Public Streets
Pathmaster
Poundkeeper
Sheriff
Surveyor of Lands
Surveyor of Roads
Town Clerk

* This list contains only offices recorded in the Minutes of the Johnstown Court of General Quarter Sessions. See, for example, Minutes, vol.1, 18 May 1813, p.298. Lists of further offices can be found in F.H. Armstrong, Handbook and Alan Shefman, "The Loyalists of Eastern Upper Canada", (M.A. thesis, 1979), Appendix D, "Appointed Positions Available to the Bureaucratic Elite", p.142.



* Spragge, "The Districts of Upper Canada, 1788-1849", p.39.

APPENDIX 11

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JOHNSTOWN
COURT OF GENERAL QUARTER SESSIONS OF THE PEACE

1800 - 1832

DIVISION OF ADMINISTRATION

<u>APPOINTMENTS</u>	<u>FINANCES</u>	<u>TRANSPORTATION</u>
Offices	Assesments	Petitions
Licenses	Fees	Statute Labour
	Salaries	
	Appéals	
	Rates	
	Censuses	

BIBLIOGRAPHY

MANUSCRIPTS

Public Archives of Canada

Record Group No.68, General Index to Registrar General, 1651-1841.

Provincial Archives of Ontario

_____. Appendix to the Journal of the House of Assembly of Upper Canada, of the Second Session of the Twelfth Parliament. VI William IV. Marshall Spring Bidwell, Esq. Speaker. Session 1836. Vol.III. Sir Francis Bond Head, K.C.H. Lieutenant Governor. Toronto: M. Reynolds, 1836.

_____. Censuses of Upper Canada, 1665 to 1871 Statistics of Canada, Volume IV. Ottawa: I.B. Taylor, 1876.

_____. Upper Canada Sundries.

Keele, W.C. The Provincial Justice, or Magistrate's Manual, Being a Complete Digest of the Criminal Law, and a Compendious and General View of the Provincial Law; with Practical Forms for the use of the Magistracy of Upper Canada. Toronto: U.C. Gazette Office, 1835.

Mackenzie, W.L., Chairman, "Seventh Report of Committee on Grievances," in Journal of the House of Assembly of Upper Canada From the 8th Day of January to the 6th Day of March, 1830 (Both Days Inclusive) In the Tenth and Eleventh Years of the Reign of George the Fourth: Being the Second Sessions of the Tenth Provincial Parliament.

Nickalls, J. Jr., ed. The Statutes of The Province of Upper Canada; Together With Such British Statutes, Ordinances of Quebec, and Proclamations as Relate to the said Province. Kingston: Francis M. Hill, 1831.

Record Group No.22, "Introduction", Preliminary Court Records. Toronto: Provincial Archives of Ontario, 1983.

Record Group No.22, Leeds-Grenville, Clerk of the Peace/Crown Attorney, Returns of Population, 1796-1852.

Record Group No.22, Leeds-Grenville, Clerk of the Peace/Crown Attorney, JPs Records: Commissions of the Peace 1803-18.

Record Group No.22, Leeds-Grenville, Clerk of the Peace/Crown Attorney, Correspondence, 1808-1838.

Record Group No.22, Series 13, Brockville General (Quarter) Sessions, Petitions 1801-1828.

Record Group No.22, Series 16, Brockville General (Quarter) Sessions, Accounts.

Record Group No.22, Series 17, Brockville (Leeds & Grenville) Court of General Quarter Sessions, Road Report Book 'A' 1810-1832.

MS 413, Reel No.1, Minutes of the Court of General Quarter Sessions of the Peace, Lunenburg District, 1789-1793, Eastern District, 1793-1822.

MS 519, Joel Stone Papers, 1774-1877.

MS 520, Solomon Jones Papers (1787-1843 and undated).

MS 699, Reel No.1, Minutes of the Court of General Quarter Sessions - Brockville, 1800-1837.

Unpublished

_____. Unpublished Card Index, Dictionary of Canadian Biography. Toronto: University of Toronto, n.d.

Armstrong, F.H. A Comparison of the Johnstown Court of General Quarter Sessions of the Peace Commissions, 1800-1840.

THESES

Aitchison, J.H. "The Development of Local Government in Upper Canada, 1783-1850,"
Ph.D. thesis, University of Toronto, 1953.

MacPherson, G.R.I. "The Code of Brockville's Buells," M.A. thesis, University of Western
Ontario, 1966.

Shefman, A. "The Loyalists of Eastern Upper Canada A Study of an Emerging Political
Structure," M.A. thesis, Carleton University, 1979.

ARTICLES

- _____. "Notes and Documents Lord Northington and the Laws of Canada," Canadian Historical Association, XIV (1933), pp.42-61.
- Aitchison, J.H. "The Municipal Corporations Act of 1849," Canadian Historical Review, XXX (1949), pp.107-122.
- Armstrong, F.H. "The Oligarchy of the Western District of Upper Canada, 1788-1841," Historical Papers 1977, pp.87-102.
- Beattie, J.M. "Towards a Study of Crime in 18th Century England: A Note on Indictments," in Fritz, P. and David Williams, eds., The Triumph of Culture: 18th Century Perspectives (Toronto: Hakkert, 1972), pp.299-314.
- Betts, G.M. "Municipal Government and Politics, 1800-1850," in G. Tulchinsky, ed., To Preserve and Defend: Essays on Kingston in the Nineteenth Century (Montreal: McGill-Queen's, 1976), pp.223-244.
- Biggar, C.R.W. "Some Notes on the Growth of Municipal Institutions in Canada: Ontario, 1788-1849," Canadian Law Journal, 33 (1897), pp.7-18.
- Cross, Michael S. "The Shiner's War: Social Violence in the Ottawa Valley in the 1830s," Canadian Historical Review, 54 (1973), pp.1-26.
- Ewart, A. and Jarvis, J. "The Personnel of the Family Compact," Canadian Historical Review, VII, No.3 (September 1926), pp.209-221.
- Fellows, J.A., ed., "A Bibliography of Loyalist Source Materials in Canada," American Antiquarian, 82 (1972), pp.67-270.
- Ferris, T.T.M. "Local Government Reform in Upper Canada," Canadian Public Administration, No.12 (1969), pp.387-410.
- Glazebrook, G.P. de T. "The Origins of Local Government," in F.H. Armstrong, H.A. Stevens and J.D. Wilson, eds., Aspects of Nineteenth-Century Ontario. Toronto: University of Toronto, 1974, pp.36-47.
- Gundy, H.P. "The Family Compact at Work: The Second Heir and Devisee Commission of Upper Canada, 1805-1841," Ontario Historical Society Papers & Records, 66, No.7 (1974-75), pp.129-146.
- Herrington, W.S. "The Evolution of Municipal Government in Upper Canada," Royal Society of Canada, No.25 (1931), pp.1-19.
- Landon, F. "The Evolution of Local Government in Ontario," Ontario History, No.42, (1950), pp.1-5.

- Locke, M.H. "The Loyalists in Ontario," Ontario Historical Society Papers & Records, No.30 (1934), pp.181-188.
- MacDonald, Judge H.S. "The United Empire Loyalists of the Old Johnstown District," Ontario Historical Society Papers & Records, No.12 (1914), pp.13-32.
- Matthews, W.T. "The Myth of the Peaceable Kingdom: Upper Canadian Society during the Early Victorian Period," Queen's Quarterly, 94, No.2 (Summer 1987), pp.383-401.
- Nelles, H.V. "Loyalism and Local Power: The District of Niagara, 1792-1837," Ontario History, 58, No.2 (June 1966), pp.99-114.
- Richards, E. "The Joneses of Brockville and the Family Compact," Ontario History, 60 (1968), pp.169-184.
- Saunders, R.E. "What was the Family Compact?" Ontario History, Vol. 49 (1957), pp.165-171.
- Spragg, G.W. "The Districts of Upper Canada, 1788-1849" in Profiles of a Province, Edith G. Firth, ed. (Toronto: Ontario Historical Society, 1967), pp.34-42.
- Stelter, G.A. "Urban Development in a Frontier Region: The Towns and Cities of Upper Canada, 1784-1851," Canadian Historical Review, 1979.
- Thompson, E.P. "Patrician Society, Plebian Culture," Journal of Social History,7, No.4 (Summer 1974), pp.382-405.
- Whalen, H. "Ideology, Democracy, and the Foundations of Local Self-Government," Canadian Journal of Economics and Political History, 26 (1960), pp.1-13.
- Whebell, C.F.J. "The Upper Canada District Council Act of 1841 and British Colonial Policy," The Journal of Imperial and Commonwealth History, XVII, No.2 (January 1989), p.187.

BOOKS

- Akenson, D.H. The Irish in Ontario A Study in Rural History. Kingston: McGill-Queen's, 1984.
- Armstrong, F.H. Handbook of Upper Canadian Chronology, Rev.ed. Toronto: Dundurn, 1985.
- Armstrong, F.H., H.A. Stevenson, J.D. Wilson, eds. Aspects of Nineteenth-Century Ontario. Toronto: University of Toronto, 1974.
- Bridenbaugh, C. Cities in the Wilderness The First Century of Urban Life in America, 1625-1742. New York: Capricorn, 1955.
- Bridenbaugh, C. Cities in Revolt, Urban Life in America 1743-1776. New York: Capricorn, 1964.
- Burt, A.L. The Old Province of Quebec. Toronto: McClelland and Stewart, 1968.
- Cockburn, J.S. ed. Crime in England 1500-1800. London: Methuen, 1977.
- Craig, G.M. Upper Canada: The Formative Years. Toronto: McClelland and Stewart, 1963.
- Demos, John. A Little Commonwealth Family Life in Plymouth Colony. New York: Oxford, 1970.
- Earl, David E., ed. The Family Compact: Aristocracy or Oligarchy?. Toronto: Copp Clark, 1967.
- Firth, E.G., ed. Profiles of a Province. Toronto: Ontario Historical Society, 1967.
- Forsey, E. A Life on the Fringe The Memoirs of Eugene Forsey. Toronto: Oxford, 1990.
- Forster, G.C.F. The East Riding Justices of the Peace in the Seventeenth Century. York: East Yorkshire Local Historical Society, 1973.
- Fritz, P., D. Williams, eds. The Triumph of Culture: 18th Century Perspectives. Toronto: Hakkert, 1972.
- Johnson, J.K., ed. Historical Essays on Upper Canada. Toronto: McClelland and Stewart, 1975.
- Johnson, J.K. Becoming Prominent: Regional Leadership in Upper Canada, 1791-1841. Kingston: McGill-Queen's, 1989.
- Johnson, J.K., B.G. Wilson, eds. Historical Essays on Upper Canada New Perspectives. Ottawa: Carleton, 1989.

- Landau, N. The Justices of the Peace, 1679-1760. Berkeley: University of California, 1984.
- Leavitt, T.W.H. History of Leeds and Grenville. Belleville: Mika, 1972.
- MacPherson, I. Matters of Loyalty: The Buells of Brockville, 1830-1850. Belleville: Mika, 1981.
- McKenzie, R. Leeds and Grenville. Toronto: McClelland and Stewart, 1967.
- McNutt, W.S. The Atlantic Provinces The Emergence of Colonial Society 1712-1857. Toronto: McClelland and Stewart, 1965.
- Neatby, H. Quebec The Revolutionary Age, 1760-1791. Toronto: McClelland and Stewart, 1966.
- Osborne, B. Justices of the Peace 1361-1848 A History of the Justices of the Peace for the Counties of England. Dorset: Sedgehill, 1960.
- Sharpe, J.A. Crime in Early Modern England 1550-1750. New York: Longman, 1984.
- Thompson, E.P. Whigs and Hunters The Origins of the Black Act. Markham: Penguin, 1985.
- Walling, H.F., ed. Illustrated Historical Atlas of the Counties of Leeds and Grenville, Canada West. 1861-62: rpt. Belleville: Mika, 1973.
- Ward, J.M. Colonial Self-Government The British Experience 1759-1856. Toronto: University of Toronto, 1976.
- Webb, B., S. Webb, English Local Government The Parish and the County. New York: Longmans, Green and Co., 1906.
- Zuckerman, M. Peaceable Kingdoms New England Towns in the Eighteenth Century. Toronto: George J. McLeod, 1970.

ENCYCLOPEDIAS

_____. Dictionary of Canadian Biography. Toronto: University of Toronto.