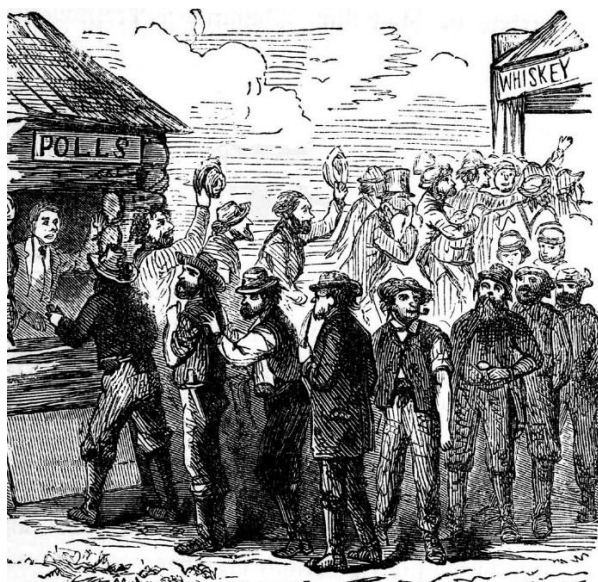


## FIRST WOMAN AT THE POLLS

### Ellen McGrath-Simons-Martin (1774-1861)

In the afternoon heat of July 10, 1820, 46-year-old Eleanor McGrath-Simons-Martin, then known as Ellen Simons, howled with laughter as the overloaded election hustings at the village of Perth, Upper Canada, collapsed into the dusty street. A dozen dignitaries were sent sprawling in the dirt but "... little damage was done, beyond a few splashes of ink over the dresses of the ladies, books, etc. [and] plenty of carpenters being at hand, the hustings were speedily repaired, and business commenced"<sup>1</sup>. When Returning Officer Roderick Matheson (1793-1873) called upon the electors to 'divide'<sup>2</sup>, Ellen Simons, the only woman among two hundred or more rowdy men, joined with the majority of 156 voters supporting candidate William Morris (1786-1858), over the 36 who favored Benjamin Delisle (c1760-c1868).



"During the day, rum and other liquors were served out in abundance by both parties, so that, in a short time, many of the people were drunk. Some ludicrous scenes occurred, and several battles were fought"<sup>3</sup>; but Ellen Simons stood her ground in the drunken sweating swearing queue, holding her place amid impatient shoving, until her vote and her name were inscribed in the poll book<sup>4</sup> ... and thus entered into history.<sup>5</sup>

A quarter century before any other woman is documented as voting in what is now the Province of Ontario, and nearly a century before Ontario women were officially enfranchised, Ellen McGrath-Simons-Martin defied convention and cast her vote in the first

election ever held at the four-year-old village of Perth - her history-making moment the result of a unique combination of events, circumstances and individuals.

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<sup>1</sup> Rev. William Bell *Diaries*.

<sup>2</sup> In 1820 supporters of opposing candidates formed-up to be counted in groups to the left and right of the hustings, then lined up to cast their vote by stating it aloud to the poll clerk.

<sup>3</sup> Rev. William Bell *Diaries*.

<sup>4</sup> *Perth Courier*, June 19, 1925.

<sup>5</sup> The location of the original Poll Book today is unknown. In June 1925, when the *Perth Courier* published a transcript, the Poll Book, as well as the petition requesting the right to elect a member to the Legislative Assembly, the Returning Officer's warrant and the winning candidate's certificate, were in the possession of "relatives of the late Honorable Roderick Matheson" who had made them available to the *Courier*. Enquiries concerning the original documents to Library and Archives Canada, the Ontario Archives, Archives Lanark and the Perth Museum, yielded no results. The Matheson papers described by the *Perth Courier* in 1925 seem to have been subsequently lost or destroyed. In the poll book Ellen's surname was spelled 'Simmons', with two m's.

That, in the early days of Upper Canada, women did not vote was a reality, but it was never an issue of legal prohibition. Rather, it was, first, a matter of 'custom', and, second, of qualification by property ownership.

The Constitutional Act of 1791, that created the colonies Upper and Lower Canada, did not mention gender at all. It described voters only as "*persons*" owning property to a certain value. Nevertheless, according to the Toronto Reference Library, for many years,

*... there are no written records of women in Upper Canada (which followed British common law) voting [although] there are numerous records and accounts of female property owners voting in Lower Canada (which followed the civil code practiced from French colonial days).*<sup>6</sup>

Forty years after the Constitutional Act, the British Government's Imperial Reform Act of 1832 did specifically exclude women from voting but, while that act had some impact on political thought and practice in the North American colonies, eight years later the Act of Union (1840), amalgamating Upper Canada (Ontario) and Lower Canada (Quebec) into the Province of Canada, still did not prohibit women from voting.

Then in 1844, what multiple sources (incorrectly) report as "*the first written record of breaking the common law practice*"<sup>7</sup> in Upper Canada (then called Canada West) occurred in the riding of Halton West<sup>8</sup>.

*The first violation of Common Law practice [in Canada West] occurred in the general election of 1844 in the west riding of Halton County. The defeated Reform candidate [James Durand Jr. 1799-1872] protested the receipt of the votes of seven women for his Tory opponent [James Webster (1808-1869)]. The Deputy Returning officer, partial to Webster, had accepted these votes despite the objection of Durand, and Webster had thereby secured his return [re-election] by a majority of four votes. The Reformers were not to forget this incident. When they returned to power they took advantage of the opportunity to consolidate election laws and to insert a clause excluding women.*<sup>9</sup>

That Election Act of 1849 was the first to legally and formally disenfranchise all women in the Province. Moreover, because since 1841 Upper (Ontario) and Lower (Quebec) Canada had been amalgamated as the United Province of Canada under a single central government, the Act of 1849 also disenfranchised women in Lower Canada, many of whom had, under the French civil code, been in the habit of voting since before the conquest.

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<sup>6</sup> Toronto Reference Library Blog - <http://torontopubliclibrary.typepad.com>.

<sup>7</sup> Ibid.

<sup>8</sup> Burlington, Ontario.

<sup>9</sup> *The Franchise & Politics in British North America 1755-1867*, by John Garner (1969).

When the Dominion of Canada was created through the British North America Act of 1867, Section-41 of the act confirmed that the franchise was limited to “every male British Subject, aged twenty-one years or upwards ...” and no women would vote in Canada until their franchise was restored in 1916.

In truth, we know very little about the Perth woman who first broke “*the common law practice*” in 1820, nearly a quarter-century before the women of Halton West, and cast that remarkable first female vote in Upper Canada (Ontario).

Born Eleanor McGrath at Halifax, Nova Scotia, in 1774, she arrived at Perth as Ellen Simons, the wife of Private Samuel Simons who had served for three years and nine months with the Glengarry Light Infantry (GLI) during the War of 1812. Samuel Simons, born in 1776, was also a native of Nova Scotia and had worked as a shoemaker before joining the army<sup>10</sup>. Ellen and Samuel may have been married before he enlisted on July 4, 1812, when he was 36 years of age and she was 38, or Ellen might have been married to another soldier and, losing her husband in the war, married Simons sometime between 1812 and 1816.

Samuel Simons was discharged from the GLI at Kingston on March 24, 1815<sup>11</sup> but, with surveys north of the Rideau River incomplete, his move to the Perth Military Settlement was delayed for more than a year. It was not until July 16, 1816 that he was issued a Location Ticket for land at Drummond Township C-3/L-10(SW).<sup>12</sup>

When he arrived at Perth in the summer of 1816, Samuel was recorded as being alone, with no accompanying wife or family<sup>13</sup>, suggesting that Ellen had remained behind at Kingston or even Halifax until he received his land and constructed some sort of shelter. Just as likely, his unaccompanied status is an error in the records because Ellen was in Drummond Township with her husband later that year and was counted in the Township census of early 1817. Then, only nine months after their arrival, Samuel Simons died on April 19, 1817<sup>14</sup>.

In the second decade of the 19<sup>th</sup> century in Upper Canada a woman was, in law, essentially, the property of her father, until such time as she became the property of a husband, and what we would today consider her property was automatically the property of her male guardian. It was not until 1859 that married women could own property and only in 1884 were laws amended to give women the same property rights as men.

Widows, however, were an exception. They could inherit their late husbands' property through his will and even when there was no will (meaning property passed automatically to the eldest son) widows were still entitled to the lifetime use of one-third of their husbands' real estate after his death.

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<sup>10</sup> *The Glengarry Light Infantry, 1812-1816*, by Winston Johnston (1998).

<sup>11</sup> *Ibid.*

<sup>12</sup> *Transactions of Land Grants Made at the Military Depot, Perth, Lanark County 1816-1819*, transcribed by Christine Spencer from National Archives of Canada, MG9, D8-27, Vol. 1, Microfilm Reel #C-4651.

<sup>13</sup> Recorded as “1 adult male”, see *Transactions of Land Grants Made at the Military Depot, Perth, Lanark County 1816-1819*, transcribed by Christine Spencer from National Archives of Canada, MG9, D8-27, Vol. 1, Microfilm Reel #C-4651.

<sup>14</sup> Notation in Location Ticket ledger, see *Transactions of Land Grants Made at the Military Depot, Perth, Lanark County 1816-1819*, transcribed by Christine Spencer from National Archives of Canada, MG9, D8-27, Vol. 1, Microfilm Reel #C-4651.

We do not know if Samuel Simons left a will but, in the primitive circumstances prevailing at Perth in 1817, it is highly unlikely that he did. Even if there was a will, it would be surprising if he had anything to bequeath. Nine (mainly winter) months was a very short time within which to complete Settlement Duties<sup>15</sup> and thus qualify for a Land Patent (Title Deed); yet, the coveted SDP (Settlement Duties Performed) notation appears next to Simons' name in the Location Ticket Ledger<sup>16</sup> and a further notation records that the Patent for Drummond C-3/L-10(SW) was approved on May 5, 1820, two weeks after Simons died.<sup>17</sup>

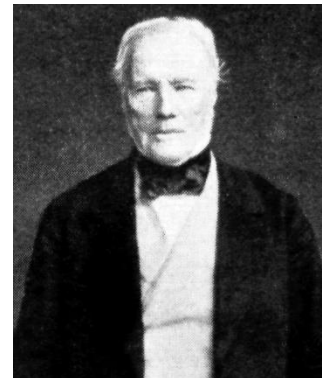
When a settler died without qualifying for or receiving his Patent, the property usually reverted to the Crown. In Samuel Simons' case, however, one can almost certainly see the hand of Perth Military Settling Department Superintendent William Marshall (1774-1864) at work.

Exceptional among the elitist and often-callous half-pay officers who administered the nascent settlement, Marshall was a man noted for his compassion. Reverend William Bell, a stern judge of character and no admirer of the half-pay officer class, said that Marshall,

*"... in consequence of his long residence in the country, was well acquainted with the difficulties to which a new settlement is exposed [and was] distinguished for [his] humanity, affability, and good management ..."*<sup>18</sup>.

Another observer called Marshall *"a kindly, sympathetic and diligent man"* who eased hardship in any way he could and who doubtless saved the lives of many who, without his intervention, might have succumbed to the harsh conditions.

In this case Marshall seems to have cut a few bureaucratic corners and determined that Simons' lot (where, in reality, clearing could hardly have begun) was somehow sufficiently developed to qualify for a Patent and thus ensure that Simons' widow was not left entirely destitute and abandoned in the Upper Canada backwoods. The no doubt unintended consequence of Marshall's practical kindness was the creation of the province's first female voter.



*William Marshall (1774-1864)*

The right to vote in Upper Canada in 1820 was available to any British subject (no mention of gender) over the age of 20 years, owning rural property worth 40s, or urban property worth £5, or, residents of the village for at least one year, paying rent of £10 annually. Had Samuel Simons lived to collect his Patent, Ellen, as his wife, would have owned no property at all and thus been unqualified to vote. As his widow and inheritor of his Patent, however, she owned 100 acres of land in Drummond Township and thus met the 40-shilling property requirement.

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<sup>15</sup> The 'Settlement Duties' required to obtain a Patent (Deed) were that, within a three-year period, the settler would clear and fence five acres of land, erect a house, clear the road allowance to the width of one chain (66 feet) along the concession line in front of the lot, and pay a small registration fee.

<sup>16</sup> *Transactions of Land Grants Made at the Military Depot, Perth, Lanark County 1816-1819*, transcribed by Christine Spencer from National Archives of Canada, MG9, D8-27, Vol. 1, Microfilm Reel #C-4651.

<sup>17</sup> Although it appears the Deed may not have been registered until 1837.

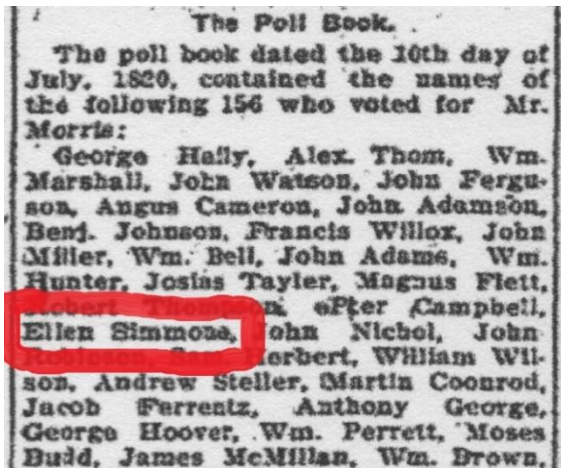
<sup>18</sup> *Hints to Immigrants* - Reverend William Bell (1824).



Roderick Matheson (1793-1873)

Another key player in the events surrounding Ellen Simons' vote at Perth in July of 1820 was Roderick Matheson whom the Government of Upper Canada had appointed as Returning Officer<sup>19</sup>. When widow Simons stepped forward to record her vote, it was within Matheson's power to turn her away, and no power on that hustings at Perth or at far-away York could have or would have raised any objection to his doing so. In fact, most of those present probably felt that he should have refused her. As for candidates Morris and Delisle, if either of them objected, as was their right, there is no surviving record. For his part, Matheson raised no objection, but accepted her vote and recorded it in the poll book.

Why he did so can only be guessed at. Matheson had joined the British Army as a drummer boy and risen through the ranks to a Lieutenant's commission by the time he served, and was wounded three times, in the War of 1812. In common with his cohort of half-pay officers at Perth he was a traditionalist and a Tory through and through. In 1847 he would be named to a life appointment on the Upper Canada Legislative Council and, at Confederation, Conservative Prime Minister John A. McDonald would make him one of Canada's first Senators. There was no more stalwart defender of the status quo than Roderick Matheson, but he was said to have expressed a life-long near-obsessive admiration for his late widowed mother who had struggled mightily to raise and educate him single-handedly until her own death when he was only 12. That he was a secret advocate of female emancipation for that, or any other, reason seems most unlikely, but, like Marshall, perhaps he had a soft spot for widows. Matheson may also have known enough law to realize that no statute actually prevented Ellen Simons from voting, or perhaps he did not think that, in such a lopsided contest (156-36), a dispute over a single female vote was worth the trouble - or perhaps Ellen just faced him down.



Finally, there was Ellen Simons herself. She was not the only property-owning widow in the settlement<sup>20</sup> that year but, for reasons we will never know, she was the only one to step forward (at Perth or anywhere in Upper Canada) in defiance of custom and convention. Perhaps Ellen was aware of, and inspired by, the fact that in her native colony of Nova Scotia six women had made a statement by voting in Windsor Township in 1793 and a smaller group had done the same in Amherst Township in 1806. Ellen's stand could also have had something to do with her prior life as an Army wife. That experience bred tough, self-reliant, take-

no-nonsense women. Whatever her motivation, and whether intentional or not, Ellen was a pioneer for her gender, almost a century ahead of her time.

<sup>19</sup> By warrant dated June 12, 1820.

<sup>20</sup> In 1820 Mary Ann Garlick-Holderness (1785-1865), the widow of William Holderness (1780-1816), held the patent to Bathurst Township C-1/L-21(SW) under circumstances very much like those of Ellen Simons, and there may have been others.

Ellen Simons' history-making vote also occurred at a particular moment in time; within a few months of the July 1820 election she forfeited her franchise by re-marrying.

Her new husband was Daniel<sup>21</sup> Martin, born in the United States<sup>22</sup> in 1789, who, like Samuel Simons, had also served as a Private in the Glengarry Light Infantry. Martin had been ticketed in November 1816 for Drummond Township C-3/L-10(NE), the lot adjoining the property granted to Samuel and Ellen Simons. On August 27, 1821, shortly after he married Ellen McGrath-Simons, Daniel Martin sold his own lot to Sutton Frizzell (1791-1875) for £25 and moved to what had been his new wife's property but had become, by virtue of their marriage, his property.

Ellen and Daniel Martin would live on their farm at Drummond Township C-3/L-10(SW) for more than three decades until they sold it to Duncan Campbell in 1854. Whether or not they had children is uncertain; when they married Ellen was 47 years of age and Daniel was 32.<sup>23</sup> Ellen McGrath-Simons-Martin died in December 1861 at the age of 87 years and was buried in the Roman Catholic<sup>24</sup> section of Craig Street Cemetery at Perth. The date of death for Daniel Martin is unknown, but his name also appears on the gravestone in Craig Street Cemetery.

- *Ron W. Shaw (2018)*

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<sup>21</sup> He enlistment in the GLI, and his Location Ticket at Perth, was issued under the name David Martin.

<sup>22</sup> Daniel/David Martin's GLI enlistment records show his POB as the United States. The 1842 census, however, records him as born in Ireland and the 1851 census records him as born in Canada.

<sup>23</sup> The 1842 census enumerated a household of four (but that census only names the heads of household); in 1849 Daniel Martin sold a portion of the property to a Nicholas Brown; and then in 1854 Daniel and Eleanor Martin, jointly with Nicholas and Mary Brown, sold the property to Duncan Campbell. These transactions may suggest Ellen McGrath-Simons-Martin was the mother of a daughter named Mary who married Nicholas Brown. If so, Mary's father could have been either Daniel Martin or Samuel Simons.

<sup>24</sup> According to the 1851 census, Daniel Martin was also a Roman Catholic.