

DIGBY'S LOYALIST BURYING GROUND OF 1797

By Brian McConnell, UE (1)

Gravestones of early residents of Digby, Nova Scotia are visible in the Old Loyalist Cemetery but how many were Loyalists and who were they? Are there Loyalists buried there without a stone? Beginning with a 1797 Deed which traces the origin of the cemetery to a Loyalist Burying Ground this article will answer these questions.



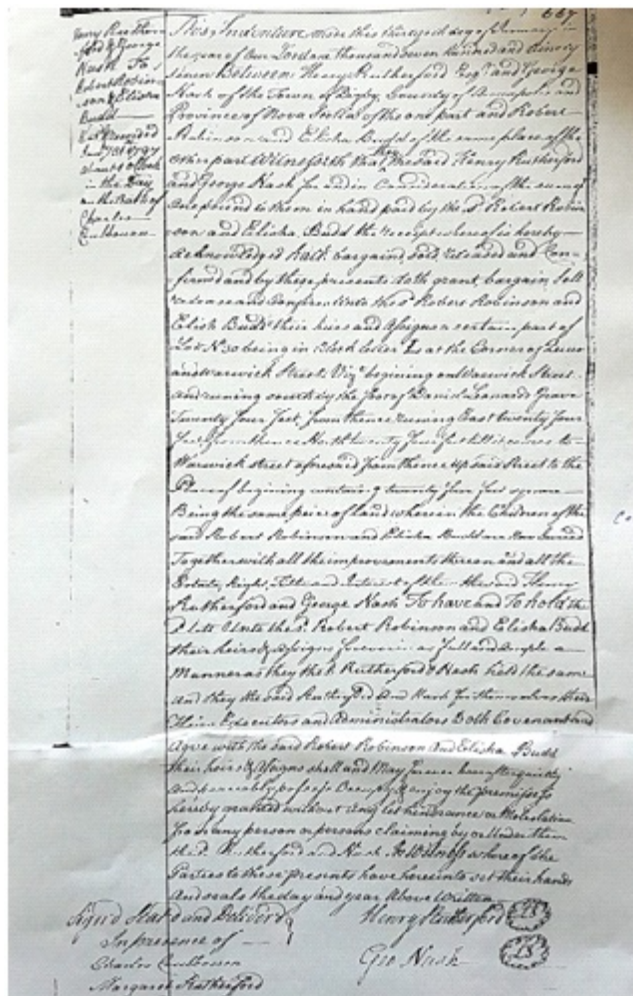
Gravestones in Digby's Old Loyalist Cemetery

It is not easy to always find the grave of a Loyalist. When the Loyalists first arrived in Nova Scotia after the American Revolution in 1783 many settled in areas where there were no churches and cemeteries yet established. Their graves often therefore could be on family private lands and not marked. Records may also have been destroyed or lost. (2)

The Old Loyalist Cemetery in Digby on the corner of Warwick Street and First Avenue is believed to date back to the time of the arrival of the Loyalists in 1783. It was at one time known as the Rutherford Burying Ground. (3) Henry Rutherford, a Loyalist from New York, owned land which included the burying ground. After Trinity Anglican Church was constructed on Queen Street in 1788 it had the first church cemetery in the Town.

Recently searching through Deeds of Loyalists in Digby I discovered a Deed in the Provincial Land Registry that described a Loyalist Burying Ground. The Deed dated January 30, 1797 was from Loyalists Henry Rutherford and George Nash to two fellow Loyalists, Robert Robinson and Elisha Budd. A piece of land in the location of the present day Old Loyalist Cemetery was conveyed for the nominal amount of one pound. The Deed described the land as:

"...a certain part of Lot No. 30 being in Block letter L at the Corner of Queen and Warwick Streets beginning on Warwick Street and running south by the foot of Daniel Leonard's Grave twenty four feet, from thence running East Twenty Four Feet, from thence North twenty four feet till it comes to Warwick Street aforesaid from then up said Street to the Place of Beginning containing twenty four square. Being the same piece of land where the Children of the said Robert Robinson and Elisha Budd are now buried." (4)



1797 Deed for Loyalist Burying Ground

Rutherford, Nash, Robinson, and Budd were all Loyalists who came from New York to Digby. Rutherford was originally from Waterford, Ireland where he trained to be a Presbyterian (Church of Scotland) Minister. The surname Rutherford is derived from a place in the Scottish borders region near Roxburgh and possibly his parents or ancestors originated from Scotland. In about 1772 he arrived in America and formed a business partnership with George Nash, a native of Scotland, at White Plains, Westchester County, New York.

When the American Revolution ended Rutherford and Nash came to Digby where they established the earliest and most extensive mercantile House in 1784. It was a General Store on the Retail principle. (5) They also became involved in the fishing trade and the trade in the West Indies. Rutherford was contractor for the construction of a road from Digby to Sissiboo (now Weymouth) in 1788. As well he was a commissioner for the construction of a road between Digby and Bear River in 1801.

From 1793 to 1806 Henry Rutherford was the elected representative of Digby in the provincial assembly and for Annapolis County from 1806 until his death in 1808. (6) When Trinity Anglican Church was organizing he served as Church Warden and was elected a Vestryman in 1788 and 1789. (7) He with his wife Sarah Eustus were buried in its' cemetery although no gravestones are visible. The stone can be viewed of his daughter Mary (Rutherford) Hughes, who married Digby merchant John Hughes. She died on April 15, 1840. Another daughter married Reverend Cyrus Perkins who was the Anglican Rector of St. Luke's Church in Annapolis Royal. Her gravestone is in the Old Burying Ground in Halifax where she was buried after her death on October 26, 1820. Rutherford had two sons, Dennis and David, and two un-named infant children, one who died in 1795 and the other in 1797.

George Nash, the business partner of Henry Rutherford, is buried in Trinity Church Cemetery. He died of apoplexy on April 14, 1809.

Robert Robinson is believed to have been a native of Scotland who settled in North Carolina before the American Revolution. When the conflict started he was given a commission in a Loyalist regiment. Elisha Budd also had been a soldier during the war. He lived at Rye, in Westchester County, New York and was an Ensign in the King's American Regiment.

Elisha Budd married Mary Ann Bonnell on August 15, 1789. She was the daughter of Loyalist Isaac Bonnell who had been High Sheriff of Middlesex County, New Jersey from 1763 - 1776. In 1777 he was commissioned a Lieutenant in the Prince of Wales American Regiment. By 1786 he had become established in Digby a Justice of the Peace and Judge of the Common Pleas.

Charles Budd, second son of Elisha and Mary Ann Budd, became the representative of Digby as a Conservative in the Nova Scotia House of Assembly. He was elected from 1830 -1836 and 1840 to 1851. The Budds had 10 children. (8) Their son named William died in November 1796 at the age of three years, four months. According to the 1797 Deed he was buried in the Old Loyalist Cemetery. Another son William Franklin, born in April, 1799 died four months later and possibly was buried in the Old Loyalist Cemetery.

Rutherford, Nash, Robinson and Budd all became landholders in the Town of Digby and surrounding County. In 1784 Rutherford received a grant for two Town Lots in Digby as a Loyalist.(9)

The lands which Rutherford was granted included the piece which he deeded to Robinson and Budd that later became known as the Old Loyalist Cemetery. Since the Deed was dated 1797 and refers to a Loyalist already buried there, being Daniel Leonard, it could be the earliest Loyalist burying ground created by Deed in Nova Scotia. (See transcribed Deed attached as Appendix 'A').

In addition to the graves of the children identified by Deed as being in the Old Loyalist Cemetery there are five Loyalists who can be confirmed as buried there based on gravestones. (10) (11) Another, Daniel Leonard, is identified in the same Deed as the Robinson and Budd children. There is also one stone for the infant grand- daughter of Loyalist Henry Rutherford. It is for Sarah Lovett (d. 1801). Her mother Margaret (Peggy) Rutherford, who married Pheneas Lovett Jr. on September 11, 1800 in Digby, was the daughter of Henry Rutherford.(12) The details of the five adult Loyalists can be listed beginning with the earliest death:

Daniel Leonard (- June 13, 1796)

Listed as a Loyalist in Muster Roll of Town of Digby taken on May 29, 1784. No gravestone, however, referred to in Deed in 1797 Deed. He came to Digby in 1783 with other Loyalists from New York. It is also noteworthy that in a subsequent Deed to the Town of Digby of the Old Loyalist Cemetery the boundaries also appear to include his remains. (13)

His date of death was noted in a Burial Register as June 13, 1796. Cause of death shown as consumption.(14) He was unmarried.

He worked with Joseph Leonard as a sail maker.

Thomas Holdsworth (1762 - Sept. 9, 1798)

Listed as a Loyalist in Muster Roll of Town of Digby taken on May 29, 1784. Eldest son of Loyalists James Addington Holdsworth and Betty Holdsworth, also buried in the cemetery.

He was unmarried. His gravestone indicates he drowned at sea and was later buried there. Age 36 years a month 6 days. The epitaph on the stone reads:

*“Upright and virtuous, true in all employ,
The Publick’s favorite, his parents joy,
An early fate has snatched him from our eyes
In Christ we trust to endless bliss he’ll rise
May the great fountain of all grace & power
Support his parents in this needfull hour.”*

James Addington Holdsworth (1736 - Nov. 16, 1804)

Listed as a Loyalist in Muster Roll of Town of Digby taken on May 29, 1784. He was born in London, England and emigrated to New York shortly before the American Revolution. He came to Digby from New York in 1783 and became a successful merchant. Stone indicates died aged 68 years. It also reads:

*“Behold and see as you pass by
As you are now once was I
As I am now so must you be
Prepare for death and follow me”*

There is also a stone for his wife **Elizabeth ‘Betty’ Holdsworth (May 27, 1736 - March 30, 1825)** who died aged 88 years 10 months and 3 days.

Capt. John Holdsworth (Jan.1, 1761 - Feb. 1, 1813)

Second son of Loyalists James Addington Holdsworth and Betty Holdsworth who arrived in Digby in 1783 from New York.

Listed as a Loyalist in Muster Roll of Town of Digby taken on May 29, 1784. He owned a dwelling on Water Street and became a sea captain.

His gravestone indicates he died aged 52 years and a month. It also states:

*“He was a tender Husband
and indulgent Father
he died beloved and revered
by all who knew him.”*

There is also a gravestone nearby for his first wife **Mahitable (Bourne) Holdsworth (April 22, 1780 - May 11, 1802)**. Died aged 22 years 19 days. Her epitaph reads:

*“A constant friend and tender loving Wife
Prudent in all the needful cares of life
Are freed early by the hand of death
In faith and hope resided her moral thread.”*

She was the daughter of Loyalists Lemuel and Clarissa (Harlowe) Bourne.

As well there is a gravestone for his second wife **Jane (Boice) Holdsworth (April 24, 1774 - March 22, 1806)** who he married on August 23, 1803. It indicates she died aged 32 years 10 months 28 days. She died of consumption.

His son James Bourne Holdsworth was a merchant, farmer, and representative of the Township of Digby in Nova Scotia House of Assembly from November 1836 to 1840 and was then elected to represent the County until 1843. He was a Reformer (Liberal).

Joshua Smith (1729 - Nov. 17, 1817)

Listed as a Loyalist in Muster Roll of Town of Digby taken on May 29, 1784. He came to Digby from New York with Loyalists in 1783.

Opened a Tannery on his property in Town which was located on the East side of First Avenue across from the Old Loyalist Cemetery at the corner of Warwick Street and Montague Row.

Also on the same gravestone are his wife **Letitia Smith (1739 - 1817)** , son **Henry Smith (1779 - 1853)** and wife **Sarah Sypher Hines - Smith (1783 - 1828)**, and daughters **Elizabeth Smith Sullivan (- 1820)**, husband **Tobias Sullivan (- 1820)**, a merchant who bought property in Digby in 1817 from David Rutherford, son of Henry Rutherford. (Deed recorded at the Registry of Deeds for Digby County, Nova Scotia in Book 5 at Page 332), **Charlotte Smith (- 1818)**, and **Lewis Smith (- 1873)** (15) and **Zachariah Smith**.

Notes:

- (1) This article was completed by Brian E. McConnell, UE, on October 9, 2017. To contact him email brianm546@gmail.com
- (2) "Loyalists in Digby & the Old Loyalist Cemetery" prepared by Brian McConnell, dated October 11, 2014 describes Loyalist burials in Digby and area. See: <http://www.uelac.org/events/Loyalist-In-Digby-by-Brian-McConnell.pdf>
- (3) Deed from James Cowan to Statira Rice dated March 30, 1885 and recorded June 23, 1885 in the Registry of Deeds for Digby County, Nova Scotia in Book 55 at Page 39 describes adjacent property as "Rutherford Burying Ground"
- (4) Deed dated January 30, 1797 from Henry Rutherford and George Nash to Robert Robinson and Elisha Budd recorded in Book 1B at Page 667 on January 31, 1797 at Registry of Deeds, Digby County, Nova Scotia (Also see complete transcribed Deed attached as Appendix 'A')
- (5) "A Geography and History of the County of Digby, Nova Scotia" by Isaiah W. Wilson, published in Halifax, NS, 1900, p. 53
- (6) "A History of the County of Annapolis" by W.A. Calnek, published in 1897 by William Briggs, Toronto, pp. 360-361
- (7) "The Church of England's Role in Settling the Loyalists in the Town of Digby, 1783 - 1810" by Taunya Jean Padley, Acadia University Thesis for M.A. (History), 1991, pp. 84, 92
- (8) According to records held in the Admiral Digby Museum, at Digby, Nova Scotia Elisha and Mary Ann Budd had 10 children: Isaac, b. May 14, 1790; James, b. Feb. 19, 1792; William, b. July 8, 1793; Charles, b. May 13, 1795; Marianne, b. April, 1797; William Franklin, b. July 14, 1799; Edward John, b. March 5, 1801; Grace, b. Sept. 11, 1803; Cotman Tongue, b. Nov. 9, 1805; Elizabeth Tongue, b. Aug. 2, 1807
- (9) "Loyalists and Land Settlement in Nova Scotia", compiled by Marion Gilroy under direction of D.C. Harvey, Archivist, Public Archives of Nova Scotia, 1937
- (10) There is another Loyalist who it has been suggested was buried in the Old Loyalist Cemetery. Joseph Barton was buried February 19, 1788 in the Old Loyalist Cemetery according to information found on website of NB Branch of United Empire Loyalists' Association of Canada. Born in Newton, Sussex County, New Jersey, he served as a Officer in the New Jersey Volunteers and appears in the Muster Roll of the Town of Digby taken in 1784. He was mortally wounded in Digby when felling a tree and it landed on him. However, there is no source for the burial information. Henry Rutherford was one of the Executors of his Will and having been a prominent member of Trinity Anglican Church in Digby he may have been buried there. See: <http://www.uelac-nb.ca/Documents/Loyalist%20ancestors%20110516a.pdf>

(11) Photographs of all these graves can be viewed on the internet in the Old Loyalist Cemetery at Digby, Nova Scotia on the Find A Grave Website (<https://www.findagrave.com/>)

(12) The other stone still standing is for Sarah Ann Armstrong, daughter of Leo & Mary Armstrong who died Dec. 11, 1831 at age 32. It cannot be confirmed if Mary Armstrong may have been the daughter of a Loyalist. Her maiden name is unknown. However, there are two Armstrongs, William and Frances, listed as Loyalists in the Muster Roll taken on May 29, 1784 in Digby. According to land records, in 1820, a Mary Armstrong, widow, held property near Digby at Culloden.

(13) See Deed from Cutler Titus and Eleanor J. (Holdsworth) Titus to Town of Digby, dated August 7, 1918 and recorded October 25, 1918 in the Registry of Deeds for Digby County, Nova Scotia in Book 119 at Page 29

(14) “A Geography and History of the County of Digby, Nova Scotia” by Isaiah W. Wilson, published in Halifax, Nova Scotia, 1900, p. 265

(15) When the Town of Digby was conveyed the property now known as the Old Loyalist Cemetery in 1918 from Cutler Titus and Eleanor J. (Holdsworth) Titus by Deed recorded in Book 119 at Page 29 the Deed provided that the Town was to maintain it “ as a Public Park for the use and benefit of the Public in perpetuity under the name of the ‘Lewis Smith Park’ and will keep and maintain the headstones where they are now placed in the said lot of land and at all times exercise proper care and supervision over the said lot of land and will place suitable granite posts at the four corners of the said lot of land to define the boundaries hereof.” An article in the Digby Courier in 1973 indicated the Admiral Digby Horticultural Society had announced it would undertake restoration of the old Loyalist Cemetery. It stated further that “the Loyalist cemetery had been neglected for many years until a descendant of the Holdsworth family, another Loyalist family buried there, arranged with the town to take over the cemetery and keep the grass cut.”

Appendix "A"

INDENTURE dated January 30, 1797
from
HENRY RUTHERFORD and GEORGE NASH
to
ROBERT ROBINSON and ELISHA BUDD
for
Lands now known as Loyalist Cemetery, Digby, Nova Scotia *

*This Indenture made this thirtyeth day of January in the year of our Lord one thousand seven hundred ninety seven **Between Henry Rutherford Esquire and George Nash of the Town of Digby, County of Annapolis and Province of Nova Scotia of the one part and Robert Robinson and Elisha Budd of the same place of the other part** Witnesseth that the said Henry Rutherford and George Nash for and in consideration of the sum of one pound to them in hand paid by the said Robert Robinson and Elisha Budd the receipt whereof is hereby acknowledged hath bargain, sold, release and confirmed and by these presents doth grant, bargain, sell, release and confirm unto the said Robert Robinson and Elisha Budd their heirs and assigns **a certain part of Lot No. 30 being in Block letter L at the Corner of Queen and Warwick Streets Viz beginning on Warwick Street and running south by the foot of Daniel Leonard's Grave Twenty four feet, from thence running East Twenty Four feet, from thence North twenty four feet till it comes to Warwick Street aforesaid from thence up said Street to the Place of beginning containing twenty four feet square Being the same piece of land wherein the Children of the said Robert Robinson and Elisha Budd are now buried.** Together with all the improvements thereon and all the Estate, Right, Title and Interest of them the said Henry Rutherford and George Nash To have and To hold the said lot unto the said Robert Robinson and Elisha Budd their heirs and assigns forever in as full and ample a manner as they the said Rutherford and Nash held the same*

*and they the said Rutherford and Nash for themselves their
Heirs Executors and Administrators Doth Covenant and Agree.
Agree with the said Robert Robinson and Elisha Budd
their heirs and Assigns shall and May forever hereafter quietly
and peaceably possess occupy and enjoy the premises
hereby granted without any let hindrance or molestation
from any person or person claiming by or under them
the said Rutherford and Nash. In Witness Whereof the
Parties to these presents have hereunto set their hands
and seals the day and year above written.*

Signed Sealed and Delivered

In presence of

Henry Rutherford

Charles Colbourn

George Nash

Margaret Rutherford

*Registered January 31st, 1797 about 10 o'clock on the oath
of Charles Colbourn in Book 1b at Page 667*

* Transcribed September 21, 2017 by Brian McConnell, UE.
Bold added where identifying parties and description of land.