

GASPÉ OF YESTERDAY

" WITH THIS RING I THEE WED "

THE VEXING LEGAL STATUS OF MARRIAGE IN EARLY
GASPESIA

With the rare exception of a visit from an occasional, itinerant clergyman, the early Protestant settlers in Gaspesia lacked the ministry of regular clergy for the first sixty years of the British Regime - from 1760 until 1820.

In the remote District of Gaspé, baptism, marriage and the burial of the dead were performed by Justices of the Peace or by some respected person of the community who could read the appropriate service. No official Church records were kept and this would lead to serious legal problems in the matter of Wills, Property, etc.

In this attempt to recall the vexing legal status of marriage in early Gaspesia, GASPE OF YESTERDAY will concentrate on the hearings of the Select Committee of the Quebec Legislative Assembly in 1846 which are on the public record.

KEN ANNETT

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THE SITUATION OF GASPESIAN PROTESTANTS - 1760-1820

The start of Protestant settlement in Gaspesia began very soon after the end of the Seven Year's War in 1763. In Gaspé Bay the family of Felix O'Hara was settled at the Basin by 1765 and had as neighbours the pioneer Ascah family of Peninsula and the Patterson family of York River - the vanguard of a population of British born and their descendents that would grow to some one thousand over the next fifty years. The fishery of Percé and Malbay attracted a growing number of Protestant settlers. Charles Robin of the Island of Jersey arrived on the Gaspé scene in 1766 and from his fishing base at Faspébiac began the building of the fishery empire that brought so many of his countrymen, predominately Protestant, to Gaspesia. Contemporaneously with Robin, the rich resources of the Restigouche estuary at the head of Bay Chaleur drew English and Scotch merchant-traders whose workmen, such as Adams and Duncan, became permanent settlers. In 1784 there occurred the significant influx of Loyalists and veteran soldiers that founded New Carlisle and augmented the Protestant population of other Gaspesian settlements. To the scenic slopes of the Forillon came the Guernseymen who shared with their Jersey neighbours a strong Wesleyan tradition. Yet, for some three generations, from 1760 until 1820, this growing Protestant population along the coasts of Gaspesia was almost totally deprived of the ministry of Protestant clergy and the lack of records of Baptism, Marriage and Burial. In retrospect, it is remarkable indeed that these early settlers remained firm adherents to their Protestant faith and traditions.

APPEALS TO PROVIDE PROTESTANT CLERGY

It is of interest to recall evidence of the recognition of the religious situation in early Gaspesia and some of the appeals made to correct it:

- . In 1785, the Lieutenant-Governor of Gaspé, Nicholas Cox, appealed for clergy to serve the Loyalist settlements. His request, documented in the CHURCH AND STATE PAPERS, was seconded by George Longmore, Apothecary to His Majesty's Forces, who was then serving in Gaspesia, at New Carlisle, by order of Governor Waldimand.
- . Four years later, in June, 1789, the first Church of England Bishop of Canada, the Right Reverend Charles Inglis, visited Gaspé and Percé while en route to Québec from Halifax on the "H.M.S. DIDO". Clearly appaled by the lack of Protestant clergy on the Coast, Bishop Inglis wrote:

"...No place for the practice of worship. Four to five hundred souls here (Gaspé) and at Percé Isle; they live in a state of paganism..."
- . The urgent need for clergy in Gaspesia may have been raised by Bishop Inglis on his visit to Québec for in 1790 the Rev. Motz of that city wrote to the Bishop of London pointing out that there was no minister in the District of Gaspé and urging that one be sent.
- . In 1801 the Protestants of Paspebiac wrote directly to the London based Society for the Propagation of the Gospel requesting that a clergyman be sent.
- . The Hon. Judge William Crawford of the Inferior District of Gaspé made a personal appeal to the Anglican Bishop of Québec and to Judge Sewell for the appointment of a clergyman in Gaspesia. 1807.
- . In 1811-1812 the Rev. John Young of the Church of Scotland, Parish of Addington, New Brunswick, visited Gaspesian communities along Bay Chaleur to baptize, marry and bury the dead. One of the early records of his ministry that survive was the burial of Captain Azariah Fritchard, Sr., aged 68 years, on August 29, 1811.
- . One of the most dramatic and descriptive accounts of the religious situation in Gaspesia was made in 1813 in a letter of Col. Henry Johnston of Douglastown to the Anglican Bishop of Québec. The following are pertinent extracts:

"...I will now crave Your Lordship's attention to the degraded state of the Protestants as such...In this north-eastern division of the District (the Gaspé Bay area) and where three-quarters of the commerce center, there are fifty-six Protestant families, producing a population of 336 souls, on an average of six to a family, all of whom (a few of the parents excepted) have never looked a regular Protestant clergyman in the face..."

"...My Lord, we are taught to consider Marriage a most serious and important period of a man's life. When it is thought necessary to enter into the married state in this wilderness, recourse is had to the nearest Magistrate (or in fact to any other person who can read) who generally performs the ceremony and until the passing of the late provincial Act, which disqualifies everyone but a Church of England or Romish clergyman, matters of this kind went on according to the civil law and the off-spring of such marriages were recognized as legitimate. But since the enactment of the Law alluded to, all children procreated by such marriages are considered illegitimate, consequently disqualified from succeeding to their parents property or appearing in a Court of Law to sue for or defend it..."

1820 - THE TIDE TURNS

The year 1820 may be regarded as a turning point for the religious situation of the Protestant population of Gaspesia for several reasons. In 1819 the Society for the Propagation of the Gospel of London offered to the Bishop of Québec the services of the Rev. John Suddard. Appointed to the Mission of the District of Gaspé, the Rev. Suddard took up residence at Gaspé Basin in 1820. His Mission posed a great challenge in its geographical extent and in the religious neglect of the settlers over six decades. His territory extended from Gaspé Bay to Restigouche at the head of Bay Chaleur and across that Bay to the shores of northern New Brunswick. Coincident with this first appointment of a resident clergyman the Gaspé Land Claims Commission arrived in Gaspesia to hold hearing in 1819 and 1820 at centers from Douglastown to Restigouche. In addition to hearing the claims of Gaspesians for their lands the Commissioners had a broad mandate to report to the Québec Legislature on the state and needs of the

District of Gaspé in general. The hearings and the formal report of the Commissioners did much to bring the situation of long neglect in Gaspesia to the attention of Government and the public. In response to petitions from Gaspeians regarding the vexing legal status of marriages in those years when Gaspé lacked clergy and the lack of official records of birth, baptism and burial, the Québec Legislature adopted an Act (1 G3C. Chap.19) in 1821 to correct the situation. This Act provided for the confirmation and legal recording of the informal marriages performed by Justices of the Peace and others and the recognition of births and burials. However, Gaspé was so remote and communications so poor that very few of the Gaspeians who had need of the provisions of the Act appeared to know of it or take advantage of it.

The persistence of the problem of the legal status of marriages in Gaspé led, in 1832, to the adoption of a new Act (2 WILL. Chap.4) to provide for proof of the solemnization of marriage, etc., in the District of Gaspé and gave the parties five years for this purpose. But once again, either through ignorance or neglect, few of the inhabitants of Gaspé took advantage of its provisions.

In the 1840's a new lot of petitions reached the Government from Gaspeians praying for new legislation to deal with the same, old problem of marriage and other records. Consequently a Bill was introduced to renew and extend the Act of 1821 and a Select Committee of the Legislature appointed to hear witnesses, prepare recommendations and report back to the House. This article will recall firstly the witnesses that came before the Committee and then turn to the Committee's report.

WITNESSES BEFORE THE SELECT COMMITTEE

. TIMOTHY SPRUEN OF GASPE.

A resident of Gaspé for 30 years, Timothy Spruen had come overland from Gaspé to Québec in winter. (He testified April 8, 1846)

He had been married in 1816 by James Stewart of Douglastown to a daughter of the late Henry Johnston. His wife was dead. He had a son and a daughter - both married.

He was a petitioner for the Act under study as he had not been aware of the Act of 1832 and considered that not more than one

person out of ten in Gaspé was aware of it.

He stated that the petitions for new legislation arose out of great anxiety among the people of Gaspé.

The Bill had his entire support.

. JOHN S. CAMPBELL OF SCHOOLBRED SEIGNIORY AND DALHOUSIE

Had resided at Maria, Bay Chaleur for four years.

Now resident at Dalhousie but with a farm in the Seignior of Schoolbred, his wife being Annabella Stewart.

Asked to read petitions submitted by Benjamin Coffin and others of Gaspé and by John Moriarty and others of Percé he stated that he knew the petitioners and that they were respectable men.

Considered the Bill good and supported it entirely.

- . Documents in support of the Bill, submitted by the Municipalities of New Carlisle and Percé were laid before the Committee.

. JOHN D. M'CONNELL OF GASPE

Sub-collector of Her Majesty's Customs at Gaspé.

Had lived at Gaspé since June, 1825.

Family interest in the Bill as his mother-in-law, Maria Anna Court (Cort), widow of the late Hugh O'Hara, and his wife, Jane Baird O'Hara M'Connell are concerned since Mr. and Mrs. Hugh O'Hara were married by a Justice of the Peace in 1821.

He stated that the petitions express the general wishes of the inhabitants of Gaspé.

. JAMES ARMSTRONG OF MONTREAL

Advocate, residing in Montreal.

His mother a native of Gaspé. His relatives still live there.

He had been in Gaspé in 1843, 1844 and 1845 and had remained for a considerable time on each visit.

Aware of the situation that the Bill seeks to meet as in his own family there was need to establish the marriage of his grandfather and grand-mother on the maternal side.

In his opinion the Bill is necessary

. MILLIAM HYMAN OF GRAND GREVE, GASPE.

Had resided at Grand Greve for last three years and knows many of the people of Gaspé Bay.

Considered that the Bill is answer to a general wish in Gaspé knows the Gaspé petitioners to be respectable and creditable men. The Bill has his support.

JEAN C. BELLEAU

Sub-collector of Her Majesty's Customs of the Magdalen Islands. Had resided in Gaspé at l'Ance a Deaufils.

Knew persons in or near Percé who were married by Justices of the Peace, including: James Lenfesty, Sr. Councillor, Township of Percé
Josiah Cass, Justice of the Peace
John Beck, Cap d'Espoir.
John P. Moriarty

Testified that he knew the Boyles, Coffins and O'Hara's of the Basin of Gaspé as respectable people.

The signers of the Percé petition were most respectable and leading men. As a trader he knew them all well.

He always understood Marthe Arbou to be legally married to Philip Robin.[of which more below] Others did too. She is a person of respectable standing - esteemed by her neighbours.

WILLIAM H. LE MOINE

Had lived for three years at Percé, Grand Riviere and Ste. Anne des Monts.

Acquainted with Dame Marthe Arbou.

Considers her to be the lawful widow of the late Philip Robin. Dame Arbou well known in Percé and-respected by her neighbours. He expressed his strong support for the Bill

JOHN ROBINSON HAMILTON, Q.C., OF NEW CARLISLE

As opponent of the Bill in his capacity of legal advisor for his client, Isaac Hilgrove Gosset of the Island of Jersey, John Hamilton was called before the Select Committee on four occasions and testified at length and in interesting detail.

On a personal note he stated that he had first gone to Gaspé in 1830, was commissioned as an Attorney for the Gaspé Courts and had been appointed Queen's Counsel. He had been elected to represent the County of Bonaventure. As a resident of New Carlisle from 1834

he claimed to know most of the men in the Counties of Bonaventure and Gaspé. In response to questions from members of the Select Committee, he replied that he knew the following:

At Gaspé ;- Benjamin Coffin; Abraham Coffin; Maria Anna Cort, the widow of the late Hugh O'Hara; Charles Davis, Schoolmaster; John Eden; Joseph Languedoc; Captain William Harbour; Philip Echevaise; the men of the Patterson and Boyle families; Isaac Kennedy; Thomas Kennedy.

At Percé:- John E. Moriarty; John Baker Flondin; Charles Benfesty; Peter Winter, Attorney and Registrar; T.E. Tremblay, Clerk of the Court; Edmund Flynn; James Pooney; Lawrence Lamb.

At Point St. Peter Henry E. Johnston; James Alexander; Francis Collas

At Cape Cove John Beck; Captain John Baker; A. Payne; William Baker

At Grand River Henry Dalton; Robert Houston

At Malbay Philip Mabee

He considered these all to be respectable persons.

HAMILTON'S CASE

At the risk of simplification of a complex legal matter, the case presented by John Hamilton before the Select Committee on behalf of his client, Isaac Hilgrove Gosset, may be summarized as follows:-

On the death of Charles Robin, the founder of the Charles Robin Co., (the firm well-known in Gaspé as the CRC) one of his heirs was his nephew, Philip Robin. When he was resident at Percé, Philip Robin had met Madame Marthe Arbou and according to her subsequent petition to the Provincial Judge of the District of Gaspé, supported by a certificate of marriage, they had been married, in the absence of clergy, by John Beck, Sr., Justice of the Peace, according to the rites of the established Church of England. The validity of this certificate of marriage had been supported by subsequent testimony of John Beck, Jr., Henry O'Hara; Susan Beck and Joseph Methot.

Various witnesses testified that Philip Robin and Marthe Arbou had lived together at Percé as man and wife. A daughter, Elizabeth, born of this marriage, grew up to marry John Le Boutillier.

[Elizabeth Robin and John Le Boutillier were married by the Rev. John Cuddard, the first resident Church of England minister in Gaspé in November, 1824 . Their son, Horatio, was baptised by the Rev. Arnold in 1827 and another son, John William, was baptised by the Rev. Arnold in 1836]

Philip Robin left Percé and returned alone to Jersey. Subsequently he married Madelaine Lehmann and at the time of his death in 1841 was living at Maburn, near Berne, Switzerland. Described as a man of "immense fortune", Philip Robin made his Last Will and Testament in Paris, France, in 1840. A copy of this Will, probated at the Perogative Court of the Archbishop of Canterbury in England was placed before the Select Committee. Among its many provisions in disposition of Robin's large estate, the following were of special interest to the case presented by John Hamilton to the Select Committee :

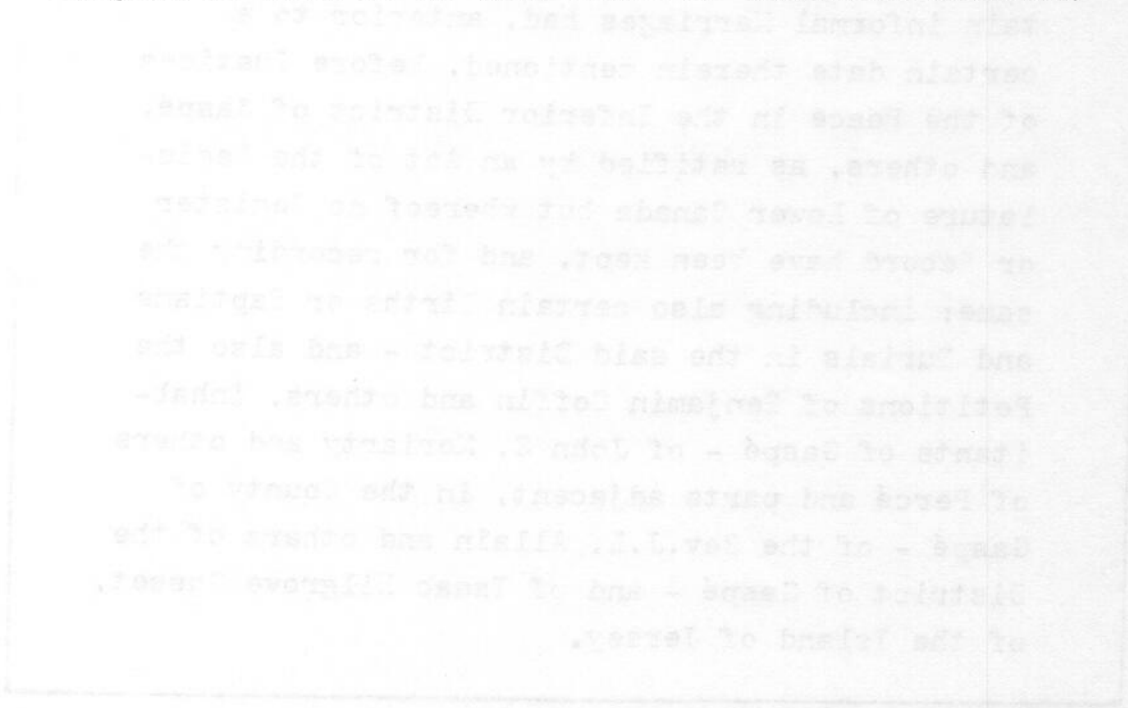
- . A life annuity of £ 100 Sterling to be paid to Dame Marthe Arbou of Percé.
- . A bequest of £ 2000 Sterling to be paid to his "natural" daughter, Elizabeth, the spouse of John Le Boutillier, independently of the sum of £ 3000 Sterling to be held in trust for her by James Robin and John Durell.
- . A life annuity of 3000 francs of France to be paid "to my dear wife, born Madelaine Lehmann."
- . The residuary legatees of the estate to be his nephews, Isaac Hilgrove Gosset and Charles Robin Gosset

[Note - John Hamilton stated to members of the Select Committee that Charles Robin Gosset's wife was the daughter of Madelaine Lehmann by a marriage previous to that to Philip Robin]

Certificates were produced by John Hamilton and placed on the public record to prove that the terms of Philip Robin's Will respecting the bequest to Elizabeth Robin Le Boutillier and the annuity to Dame Marthe Arbou had and were being fulfilled.

The thrust of the case presented to the Select Committee by John Hamilton with great skill and vigour was that the Bill under study would, if enacted into Law, threaten grave injury and loss to his client by its retroactive effect on the Will of Philip Robin, should it make possible the proving of marriage between Marthe Arhou and Philip Robin. He intimated that Dame Arhou was considering a legal case against his client in the amount of some £ 10,000 Sterling. He argued that other Gaspé families might be adversely affected by such a Law. Queried by a member of the Select Committee if he had discussed the issue with Dame Arhou, Hamilton replied - "I neither speak to her nor any of her relations".

With the conclusion of the testimony of the above witnesses the Select Committee proceeded to deliberate on the vexed legal question of marriages in early Gaspesia and to draft their report on the Bill proposed to the Legislature. That Report will be the subject of Part II of this GASPE OF YESTERDAY account.



GASPE OF YESTERDAY

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GASPESIA

PART II

Report of the Select Committee to which was referred the Bill to make provision for the legal proof and preservation thereof of certain informal Marriages had, anterior to a certain date therein mentioned, before Justices of the Peace in the Inferior District of Gaspé, and others, as ratified by an Act of the Legislature of Lower Canada but whereof no Register or Record have been kept, and for recording the same; including also certain Births or Baptisms and Burials in the said District - and also the Petitions of Benjamin Coffin and others, inhabitants of Gaspé - of John S. Moriarty and others of Percé and parts adjacent, in the County of Gaspé - of the Rev. J. L. Allain and others of the District of Gaspé - and of Isaac Hilgrove Gosset, of the Island of Jersey.

KEN ANNETT

PART II

Your Committee have examined the said Bill, together with the Petitions referred to them, upon all which they have taken evidence.

In 1821 an Act (1 GEO. 4, Chap.19) was passed by the Legislature of Lower Canada to confirm certain marriages of the description above mentioned, that had taken place in Gaspé, where there was no resident clergyman of the established Church of England or other Protestant ministers, by law competent to solemnize marriages.

The Act was found, however, to be deficient in its provisions, no means being afforded by it for enabling parties concerned in those marriages to prove and record them in authentic shape. The deficiency was supplied by an Act in 1832 (2 WILL. 4, Chap.51) "to provide for the proof of the solemnization of marriages, etc., in the District of Gaspé" and which gave parties interested in them five years for this purpose. Its existence, it would seem, however, was not generally known during the time it was in force, by the inhabitants of the District to which it related, many of whom, through ignorance of it, and possibly from neglect, lost the benefit intended by it.

It is to remedy this, and afford the interested another opportunity of proving and recording such marriages that the Bill referred to Your Committee, nearly in the same terms as the expired Act and substantially the same, has been brought forward; a measure which there is abundant evidence, by petitions numerous and respectably signed, as confirmed by the testimony of persons they have called and examined on the subject, to prove to Your Committee is necessary and desired by the inhabitants of Gaspé generally, and which testimony Your Committee append to their present Report, for the information of Your Honorable House.

The Bill it is to be observed, legalizes no marriages whatever, and authorizes the proving and recording of such only as were confirmed and legalized by the Act of 1821, the validity whereof resting wholly upon that Act, will neither be enhanced nor deteriorated by the present Bill, which admits those concerned in such marriages merely to prove and record the fact, as they would have been entitled to do under the Act that has expired, leaving the reputed marriages themselves, with all their consequences, if questioned in a Court of Law by any party concerned in testing the

validity of any of them, to stand or fall on their merits or demerits.

Your Committee have also taken into consideration the Petition of Isaac Milgrove Gosset of Jersey, bearing date at Jersey, 29th December last, against the Bill under consideration, and have admitted evidence on the matter to which it relates. They have in like manner considered the Petition of the Rev. J.L. Allain and others, against the Bill, representing it as intended merely to deprive certain large proprietors in this District of Gaspé of their lands, and offer a reward to concubinage of former days - allegations in no respect sustained by any evidence offered to Your Committee.

Mr. Gosset states, among other matters, that he is one of the Executors of the last Will and Testament of his uncle, the late Philip Robin, Esq., who died at Waburn, near Berne in Switzerland, in April 1841, and for many years carried on trade and business in the District of Gaspé. That the said Philip Robin, when resident at Gaspé, became father of a natural daughter to whom by his Will dated at Paris, 10th June, 1840, he bequeathed a legacy of L 2000 Sterling, independently of L 3000 more to certain Trustees in trust for her and her children.

That the said Philip Robin, after several other legacies expressed in his said Will, named and declared him (the Petitioner) together with his brother, Charles Robin Gosset, his sole legatees for the residue of all his property, subject to the payment of a life annuity of L 100 Sterling to Madame Marthe Arbou, residing at Percé, in this Province, the mother of his said natural daughter. That the said legacy of L 2000 has been paid, and that the said annuity bequeathed to Dame Marthe Arbou has also been regularly paid to her.

That, nevertheless, the said Dame Marthe Arbou, since the death of the said late Philip Robin, has attempted to establish proof of a marriage between her and the said Philip Robin, by a Petition to that effect to the Provincial Judge for the District of Gaspé, but that the application was rejected, and the rejection, on an appeal to the Court of Queen's Bench at Québec, confirmed.

The Petitioner respectfully submits that the enactment contemplated would be fraught with the most injurious effects to

the members of the community at large, and more particularly to him whose rights and interests it is obviously (as he states) intended to set aside by a Law having a retroactive effect, and granting the novel power of establishment of pretended marriages by the production of evidence not deemed legal, and thus tending to unsettle families, and creating the greatest uncertainty and confusion in the tenure of property and in the relations of life between the members of society in the District of Gaspé, with the view, as regards the petitioner, of depriving him unjustly of his rights and interests, as beneficially interested in the Will of the late Philip Robin, Esq.

The Petitioner concludes by praying Your Honorable House will not pass any Bill having a retroactive effect, altering the existing Laws of Canada with respect to marriages in Gaspé, whereby the interests of the Petitioner may be affected.

Mr. Gosset's Counsel has been heard on the above Petition, and such testimony as he had to offer received, all of which, as well as the documents produced by him in elucidation of it, are annexed, for the information of Your Honorable House. It appears that the above named Dame Marthe Arbou of Percé, in the District of Gaspé, claiming to be the widow of the aforesaid late Philip Robin, represented by her Petition bearing date at Percé, 10th August, 1843, to the Provincial Judge, "that at the time of her marriage with Mr. Robin there was neither Priest nor Minister resident in the County of Gaspé, and that, in consequence thereof, the marriage took place before John Beck, Esq., in his lifetime of Cap d'Espoir, a Justice of the Peace for the District of Gaspé, and which marriage was celebrated according to the rites of the established Church of England"

"That according to the Act made and provided in this behalf, the said marriage was to all intents and purposes good and valid at Law, and that as no public registers of any authentic character of marriages, baptisms and burials had been kept in the District (at that time) it had become necessary, in conformity with the Law, to prove the celebration of the said marriage before the said Justice, as appeared by a certificate he had given under his hand and seal to that effect, bearing date 23rd August, 1811. She therefore prayed for leave to produce the said certificate before him, the Provincial

Judge, at such time as he should be pleased to appoint, with the proofs and evidence she might produce in support of her Petition, and consequently, the validity of her marriage".

This application was made evidently in ignorance of the expiration of the Act for proving and recording marriages in Gaspé of the above description. The Provincial Judge, although without jurisdiction in the matter, nevertheless entertained the Petition, under a misconception, as will presently appear, of the Law in virtue of which the Petitioner expected to prove her case, and a hearing accordingly was granted and took place the day following, i.e. 11th., August, 1843.

A certificate, in the handwriting (as it is proved by the evidence adduced) of Mr. Robin himself, of the fact of this marriage with the said Dame Marthe Arbou, at the time and place specified, signed "John Beck, J.P.", the Justice of the Peace celebrating it was produced and filed in support of the Petition, a copy whereof is to be found in the annexed minutes of the proceedings that took place on the subject before the Provincial Judge. Four witnesses were examined by him on the occasion, viz: Henry O'Hara and John Beck (son of the above named) Esquires, Susan Beck and Joseph Methot.

On the 18th September following, the matter was disposed of by an Order, as follows: "It is ordered, upon mature consideration, that inasmuch as it appears that the Petitioner's pretended marriage with the late Philip Robin took place on the 23rd day of August, 1811, it became (if such marriage took place) good and valid in Law, for all Civil Rights, under the Provincial Statute of the 1 GEO.4, Chap.19; and as far as relates to the latter part of the conclusions of the said Petition, calling upon the Provincial Judge of this District to order the enregistration of the said marriage, under the 4 GEO.4, Chap.13, it is adjudged that as the case of the Petitioner does not fall within the meaning of the last mentioned Act, the conclusions of the Petition are therefore rejected."

The case, as truly stated above, does not fall within the meaning of the Act (4 GEO. Chap.13) quoted, nor, as will be seen by referring to the Petition of the said Dame Marthe Arbou, did not invoke the aid of nor mention that Act (as assumed by the Provincial Judge), it being wholly irrelevant and foreign to her purpose, which was simply and solely to prove and record, under the Act previously

mentioned (2 WILL. 4, Chap.51), erroneously believing it still in force and permanent, but instead of relating to the proof and recording of marriages, is "to render valid certain Acts, agreements in writing and contracts of marriage, "sous seign privé", heretofore executed in the Inferior District Of Gaspé and to provide for the want of Notaries in the said District", having no bearing whatever upon the case brought by the Petitioner, Dame Marthe Arbou, viz. to prove the fact of her marriage as stated above.

The validity or invalidity of the marriage, it is also apparent, was not in question by these proceedings. The rejection of the Petition of Dame Marthe Arbou to prove and record her marriage, was solely owing to want of jurisdiction in the Provincial Judge, and not, as implied in Mr.Gosset's Petition, on the merits. It was necessarily confirmed in appeal, which was allowed pursuant to the same Act (4 GEO.4, Chap.13) on the supposition that the case appertained to it, whereas it was of the class of cases provided for by the Act of 1832 (2 WILL. 4, Chap.51) expired, but which allowed no appeal. In fact, the application and the appeal from the rejection were both founded in error, and accordingly dismissed.

There is nothing as it seems to Your Committee to be inferred from the failure of Dame Marthe Arbou's application to prove and record her alleged marriage anterior to 1821, with Mr.Robin, further than that the Law formerly passed in this behalf being expired, and she foreclosed from its benefits, her case is an additional proof of the expediency of the measure. The proceeding itself is not of a nature to create surprise or distrust, it being but natural if she were "bona fide" married, that she should entertain a wish to prove and put on record the fact, and (setting aside all other considerations) thereby rescue herself from the reproach of concubinage and her offspring from that of illegitimacy, which, in dying, Mr.Robin has attempted to fix upon them. As to the Will of that gentleman, in which he speaks of this lady as his "natural daughter" by her, to the one of whom he bequeaths a life annuity, and to the other a legacy, it proves nothing in the estimation of Your Committee, to the prejudice of either, it being scarcely to be believed that the Law can allow him, by his Will, or any other act of his own, to abrogate his marriage, if it were in good faith contracted, no more than it would, by the same means, to absolve

himself, in the opinion of the world, from the imputation of bigamy, to which, by the second marriage, he rendered himself obnoxious, if the first were valid.

The passage of the Bill referred to Your Committee into a Law, will but enable her, if she thinks fit, to prove and record the fact of her marriage in Gaspé, anterior to 1821, if such took place (which, however, Your Committee have not thought it necessary to make an object of their inquiry) in common with others similarly situated, and within the purview of the Act of that year. With respect to the "vested rights" which it is pretended the passage of such a Bill may disturb, Your Committee are of the opinion that the rights of all be best consulted by avoiding any exceptional legislation in the matter, the rights of one, in the eyes of Your Honorable House, being equally as sacred as those of the other, and with respect to which the Courts of Law will be open to the parties.

Your Committee view the Bill in question as a general Law, and not as special legislation, either for or against the Petitioner, Mr. Gosset, and the terms in which it is worded, is such as to place all parties in the same state in which they stood at the passing of the Statute in Lower Canada of 1832. The Committee view that Act as necessary to the peace and quiet of families in the District of Gaspé, and considering the remoteness of that District, and its want of roads and communications, it is not surprising that the benefits of its provisions has not been as general as was intended. The renewal of the Act at this time, appears, under all circumstances, as necessary in Gaspé as its original enactment.

Your Committee, nevertheless, have thought proper to amend the Bill, making it merely a revival of the expired Act of 1832, for a limited time (three years next hereafter) thereby intending to place all those concerned in precisely the same, and no better situation than they would have been, if they had availed themselves of it during the five years it was in force.

The whole however, respectfully submitted
30 April, 1846.

THE UPSHOT OF THE HEARINGS

The members of the Select Committee, Messrs Price, Petrie, Williams, Laché, Chaveau, Chahot and Christie, their chairman, submitted their report, above, to the Legislative Assembly. The Assembly passed the Bill on May 15th., 1846 and sent it on to the Legislative Council for action.

The Council, in its turn, referred the Bill to a Committee of its members, Messrs McGill, Walker, Neilson, Joliette and Bruneau. On May 27th., the Council ordered one of the Masters in Chancery to obtain all the related Documents, Evidence and Proofs from the Legislative Assembly.

On June 1st., there was a laconic, Council Order that, "the said Bill be no further proceeded with".

Thus, despite the evidence submitted in parliamentary hearings, the Bill was not enacted into Law. It is interesting to speculate on the prseeures that may have led to the Council's decision. In any case, the legal status of early Gaspesian marriages, baptisms and burials remained as vexing a question as formerly in that distant summer of 1846.
