

GASPÉ OF YESTERDAY

BY-ROAD TO THE BEACH

How New Carlisle of 125 years ago was embroiled in the long, serious and often bitter exercise of building a by-road to the beach.

KEN ANNETT

BY-ROAD TO THE BEACHFOREWORD

It was some 125 years ago that the good citizens of New Carlisle were embroiled in a prolonged and often bitter project of opening a new by-road to the beach. As the project was sponsored by the Municipal Council it was well documented and it has been the good fortune of GASPÉ OF YESTERDAY to have access to those records.

The various petitions, resolutions, reports, notices and legal cautions cited below will serve to recall the issues and the personalities involved. They will provide yet another window with a view on the past in Gaspesia.

The by-road story might be said to begin with the Petition of March 28th., 1864, which follows:

County of
Bonaventure

To His Worship the Mayor and Councillors of the
Municipality of the Township of Cox

The Petition of the undersigned inhabitants of
the Township of Cox

Respectfully Showeth

That your Petitioners are desirous of
obtaining a Bye Road along the edge of the Bank
from New Carlisle beach to Chisolm's line No. 2/3

That your Petitioners are willing to purchase the land required for the said Bye Road, "à-dire-d'experts", and also to purchase the land required for a lane between lots 2/3

That your Petitioners represent that they have been for years in the enjoyment of a right of way for Caplin and Herring fishing and other purposes through James Milne's property to the beach in front thereof and might almost claim a prescription right thereto from having assisted in the formation of the road leading down to the said beach

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County of
Bonaventure
(ctd)

and yearly repairing same. But the said property having as your petitioners learn recently fallen into the hands of the Honb'le Justice Thompson they have reason to apprehend that their right of way through the said property may now be disputed and your Petitioners prevented from having access as usual to the said Beach.

Wherefore your Petitioners pray that your Council may grant them such relief in the premises as to your Body may seem meet and as in duty bound will comply.

Cox 28th March 1864

(SIGNED BY)

J.G. LeBel	Louis Robitaille
William Munro	W.T. Meagher
Samuel Christie	Edmund Le Gallais
Octavius Sherar	William G. Munro
Henry Enright	James P. Scott
Daniel Chisholm	Johnston Munro
Hugh Chisholm	Edward Hall
Alfred Hall	Charles Dobson
Adam Alexander Scott	John Hall
Elias De La Perrelle	Edward Smyth
Joseph Vicq	John Assels
James Flowers	Daniel Thompson
Hugh Thompson	Jesse Caldwell
John Hall	William Cooke
Samuel Chatterton	Silvester Ray
Stephen W. Scott	William Enright
Edward McRae	Francis Michel
James Scott	William Sherar
John Dobson	B. Billingsley
William Dobson	Charles Assels
James Assels	

3.

County of
Bonaventure
(ctd)

We the undersigned do hereby certify that the
above names to the foregoing Petition have been
signed by the parties respectively in our presence.

New Carlisle (Signed) Jesse Caldwell
29 March 1864 William Munro

Presented on the 4th of April and Received
(Signed) J.A.LeBel, Sec.Treas.

NOTICE

Corporation of
the Township
of Cox

At a general monthly meeting of the Municipal Council
of Cox held in the said Township on Monday the fourth
day of April in the year of Our Lord one thousand eight
hundred and sixty four in conformity to the provisions
of "The Lower Canada Municipal Act of 1860", at which
meeting were present Messrs Councillors Le Boutillier,
Corbin, Kelly, John Loisel, David Joseph and Abraham
Castillou, it was resolved -

That Public Notice be given that on Thursday the
fourteenth day of April next, the valuator of this
municipality will proceed at the hour of ten in the
forenoon, to the lands of Mr. Justice Thompson and
other interested, for the purpose of estimating and
deciding what compensation shall be allowed for the
land to be taken and made use of, for a By-Road across
Justice Thompson's property and Mr. Alexander Hall's
along the edge of the Bank to New Carlisle Beach.

New Carlisle 5th April 1864 (Signed) C. Hamilton,
Mayor

I certify upon my Oath of Office that true copies of
this original NOTICE were duly posted up by me in the
store of Messrs Le Boutillier and Co. at New Carlisle,
in the Post Office also at New Carlisle and on the
front door of the Roman Catholic Church at Paspébiac
on the fifth day of April 1864.

J.A.LeBel

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4.

The Council, in addition to posting the above public NOTICE,
forwarded the following letter to the Hon. Justice Thompson

Municipal Council of
the Township of Cox
5th April 1864

Hon'ble Justice Thompson,
New Carlisle

Sir,

Hereby take notice that on the
fourteenth day of April instant, at the hour of ten in the fore-
noon, Messrs Daniel Chisholm, William Smith and Edmund Le Gallais,
the Valuators for this Township, will enter on the land occupied
by you, situate in the Township of Cox East of New Carlisle, for
the purpose of then and there making a survey and valuating a
certain portion of the same required for a By-road along the edge
of the Bank to New Carlisle Beach.

(Signed) J.A. LeBel, Secty Treas.

The action of the Council drew the following response:

New Carlisle
12 April 1864

Mr. Edmd Le Gallais
Mr. Daniel Chisholm
Mr. William Smith

Sirs,

A NOTICE having been posted up to the
effect that you as valuers will, on the 14th instant enter upon
Mr. Justice Thompson's property in order to value a certain portion
of the same, pretended to be required for a road along the edge of
the Bank; I beg to inform you on the behalf of Mr. Justice Thompson,
that if you enter on any part of his premises in your capacity as
valuator, without his consent, I shall bring an action for trespass
against you.

I have the honor to be,
Your most obedient servant,

(Signed) E. Martel

Attorney for Justice Thompson /5

5.

With the stage thus set for confrontation between the Council and the Hon. Justice John G. Thompson the date of April 14th., 1864 produced the following documents of interest.

New Carlisle, April 14, 1864

We, the undersigned Daniel Chisholm, Edmund Le Gallais and William Smith, duly appointed valuers of the Township of Cox, do hereby certify upon our oaths of office, that we have this day in conformity with an order of the Municipal Council of Cox bearing date the fourth day of April instant, examined the lands of Messrs Daniel Chisholm, Hugh Chisholm, John G. Thompson, George Cooke and Alexander Hall and decide that the compensation to be allowed to the above mentioned parties for that quantity of land required, if made use of for a road running along the Bank from the West line of Lot No. 3 to Carlisle Beach, be at the rate of Ten pounds currency per superficial acre.

(Signed) W. Smith

D. Chisholm

Valuators

Edm'd Le Gallais

The Attorney for the Hon. Justice Thompson followed up his warning shot of April 12th with the following verbal broadside dated April 14th 1864

Province of Canada

County of Bonaventure

To the Worshipful the Mayor and the Municipal Councillors of the Township of Cox.

In the matter of the Petition of several inhabitants for a Road across the lands of the Honorable John G. Thompson and others.

The undersigned Attorney and Solicitor, on the behalf of the said Honourable John G. Thompson begs leave to enter this his protest

- 8 thly Because the said John G.Thompson objects to the said above named valuation and to any certificate or report they may make to the Council in relationship to the said road.
- 9 thly Because all proceedings in regard to the said road, had by the Council, are unwarranted by law.

Wherefore, your Council by these presents, is respectfully notified that against the said grievances the said Hon'ble John G.Thompson will seek relief.

New Carlisle 14 April 1864

(Signed) E. Martel
Attorney and Solicitor
of the said Hon'ble
J.G.Thompson

It is not hard to imagine the discussions that took place among the Members of the Council and the Petitioners for the By-Road as to how best to proceed. A decision was made - as reflected in the following letter:

Municipal Council Office
New Carlisle 19 April 1864

R.H.Kempffer, Esq.,

Sir, you will please take notice that at the last meeting of the Municipal Council of Cox held in the Court Hall, New Carlisle on Friday the fifteenth instant, you were duly appointed "Special Superintendant" for the express purpose of making a Report or Procès Verbal upon the Petition of the Inhabitants of this Township (which I hereby enclose) praying that a Road be granted them along the edge of the Bank and immediately above said Bank in front of the lands of Messrs Chisholms, Cook, Hall and the Hon'ble Justice Thompson. Such Procès Verbal to be handed in to the Council by the 15th day of May next ensuing.

(Signed) J.A.LeBel, Secty Treas.

8.

The "Special Superintendant", in taking up his task, posted the following NOTICE on May 3rd., 1864 :

NOTICE

A meeting of the Inhabitants of the Municipality of the Township of Cox will be held in the Court Hall, New Carlisle, Saturday the 14th day of May instant at two o'clock in the afternoon to hear the parties interested in the opening of a certain By Road along the edge of the Bank on the lands possessed and occupied by Messrs Daniel Chisholm, Hugh Chisholm, Cook, Alexander Hall and the Honorable Justice Thompson, all of the aforesaid municipality. Said road to be opened from the East line fence of Daniel Chisholm to New Carlisle Beach. I further request that all the inhabitants interested in the opening of this road will communicate their views to me relative thereto.

New Carlisle 3rd May 1864

(Signed) Robt. H. Kempffer

Special Superintendant

REPORT OF THE SPECIAL SUPERINTENDANT

14 MAY 1864

District of Gaspé
Province of Canada

Know all men by these Presents that I the undersigned Robert H. Kempffer, Special Superintendant duly appointed by the Municipal Council of Cox on the fifteenth day of April, One Thousand Eight Hundred and sixty four for the purpose of examining the ground on which J.G. LeBel Esq., and other Petitioners for a Bye Road along the Bank to Carlisle Beach and also the right of way from the said Road to the Beach known as Milne's Beach and Accordingly I called a Public Meeting, according to Law, after sufficient Notice being given to the parties interested, and having heard the said Petitioners and the parties interested (His Honor Justice Thompson not being present) I went on the ground on which the said Bye Road is asked for in the above Petition and after having carefully examined

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the whole ground I come to the conclusion that the said Petitioners should have their Prayer granted, being the most practicable place and only place for to open a Bye Road and also do report that part of the land which the said Bye Road will pass, especially His Honor Justice Thompson's land, is of very little value on account of it not being fit for cultivation, the said Road to be made and kept in repair by the Petitioners or Parties interested in the said Road, the said Road to be completed by the first day of August next ensuing and to be made under the Superintendance of the Road Inspector in the Division wherein this Road is prayed for, the whole respectfully submitted.

New Carlisle 14th May 1864 (Signed) Robt H.Kempffer
Special Superintendent

This Report filed the 14th day of May 1864.

Received and homologated on 1st June 1864.

On May 16th., 1864 the Special Superintendent submitted to Council his PROCÈS VERBAL which was the same as the above Report. Three days later the following NOTICE was posted:

OFFICE OF THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF COX

Public Notice is hereby given to all parties interested that pursuant to the provisions of the "Lower Canada Municipal Road Act of 1860" on Wednesday the first day of June next at the hour of ten in the forenoon, at the Town Hall, New Carlisle, the Municipal Council of Cox will proceed to the examination or revision of the Special Superintendent's Procès Verbal relative to the opening of a By Road along the edge of the Bank on the lands of Messrs Chisholm, Thompson, Cook and Hall, etc., etc.

New Carlisle 19th May 1864 (Signed) J.A.LeBel Secty Treas.

Two decisions taken at the above meeting of June 1st., 1864 are reflected in the following documents:

June 1864

We the undersigned Inhabitants of the Township of Cox do hereby

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jointly and severally become answerable and accountable for the purchase money of a By Road in front of Mr. Justice Thompson's property; amount to be awarded the said Mr. Justice Thompson by valuers duly and legally appointed, as well as any other expenses attending the same, whether in Courts of Law or of any other nature or kind whatsoever it may be in the making and completing of said road and in accordance with the resolution of the Municipal Council of the Township of Cox passed at a meeting of the said Municipal Council on Wednesday the sixth day of June 1864.

Regretfully, the complete list of subscribers has not survived the passage of time. The fragment that remains records the names of James P. Scott; Elias Briard; Philip Gallie; P. J. Munro; Blais; John Le Masurier; Joseph Vicq; Francis Michel; Stephen W. Scott; William Sherar; Wm. Cooke; Will C. Assels; John Hall; Charles Assels; Edward Hall.....

New Carlisle 11 Oct. 1864

To the Hon'ble
J. G. Thompson

Sir,

The Municipal Council of the Township of Cox at a meeting held on the first day of June 1864, having granted the Petition of Messrs LeBel, Robitaille and others praying for a Road across your lands on the edge of the Bank, as well as on the lands of Messrs Hall, Cook and others, and the said Council having appointed a valuator, you are, as one of the interested parties, respectfully requested to appoint another valuator. The said valuator to proceed to the lands in question on the 15th instant - the whole in accordance with the amendment of the Sub Sect 7 Sec. 50 chap 24 Consolidated Statutes, Lower Canada.

Yours very respectfully,

(Signed) J. A. LeBel Secty Treas.

11.

It is interesting and possibly significant that decisions taken at the June meeting of the Council were not communicated in writing until October and November. The relatively short summer period was one of necessarily intense activity in Gaspesia - both on land and at sea. The autumn offered more leisure for attention to municipal affairs. As example, the following Notice :

New Carlisle 4th Nov.1864

William McDonald Esq.,
Provincial Surveyor,
New Carlisle

I have to inform you that on the first day of June last you were duly appointed valuator by the Municipal Council of the Township of Cox to view, examine and value a certain Road granted by the said Municipal Council, the same to be found along the edge of the Bank and in front of Mr. Justice Thompson's property. The day fixed for valuating said Road will be on the 14th instant at about the hour of 11 in the forenoon.

(signed) J.A.LeBel Secty Treas.

New Carlisle 4th November 1864

Martin Sheppard Esq.,

Sir,

I have to notify you that you have this day been appointed valuator jointly with Messrs William McDonald and Matthew Caldwell to value and appraise a certain Road granted by the Municipal Council of the Township of Cox and ordered to pass through the lands of the Hon'ble Justice Thompson and along the edge of the Bank.

(signed) J.A.LeBel Secty Treas.

New Carlisle 5th Nov. 1864

Hon'ble John G. Thompson

Sir

Be pleased to take notice that Martin Sheppard and Matthew Caldwell, Esq's having been appointed valutors jointly

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with Mr. McDonald, Land Surveyor, appointed by the Municipal Council, those Gentlemen will be upon the grounds required for a road along the front of your lands this day at the hour of four o'clock P.M. to value the same and also the privileges and rights whereof you may be deprived in consequence of the granting of such road and the damages which may thereby be by you incurred. You are therefore respectfully requested to attend the said valuator in order that they hear and estimate the compensation to be paid you.

(signed) J.A. LeBel Secty Treasurer

To put in perspective the appointment of Messrs Martin Sheppard, Matthew Caldwell and William McDonald as valuator it is necessary to examine the following document:

To the Hon'ble Justice Winter
Judge of the Superior Court

The Petition of Joseph A. LeBel, Secretary Treasurer of the Municipal Council of the Township of Cox

Humbly Sheweth

That your Petitioner having on the eleventh day of October instant notified the Hon'ble J.G. Thompson to appoint a Valuator in accordance with the Amendment of Sub sec 7 Sec. 50 Chap. 24 of the Consolidated Statute for Lower Canada, to value and appraise a certain By Road granted by the Municipal Council of the Township of Cox on the petition of a portion of the Inhabitants of the Township of Cox, ordered to pass through the front of the land of Messrs Hugh Chisholm, Daniel Chisholm, Cook, Hall and the Hon'ble J.G. Thompson, and on neglect of the said Hon'ble J.G. Thompson to appoint a Valuator, as an interested party, within a reasonable time after such notice having been given: Your Petitioner would therefore pray that in accordance with the above Section you would appoint two Valuator instead of one to value and appraise such Road jointly with William McDonald Esq., the Valuator appointed for this Special purpose by the Municipal Council of the Township of Cox.

The day fixed and selected for the valuation of this Road is to be on the first day of November next.

13.

And as in duty bound your petitioner will ever pray.

New Carlisle
Office of the Municipal
Council of Cox
29th October 1864

(signed) J.A.LeBel
Secty Treasurer
Mun'c of Cox

On the same document and immediately below the above Petition appear the following:

Ordered "avant faire droit" upon the foregoing petition, that copy thereof and of the present order be duly served upon the Honorable John G.Thompson and thereupon, unless good cause to the contrary be shewn, at Chambers in the Court House of New Carlisle, on Wednesday the second day of November next at ten of the clock A.M. the undersigned will, pursuant to Section 2 of Stat. 25th Vict. cap.14-7, proceed to the appointment of two valuator's prayed for in and by the said petition.

Given at New Carlisle this thirty first day of October, one thousand eight hundred and sixty four.

(signed) P.Winter, Judge S.C.

Whereas it is represented unto me that the foregoing order hath not been duly followed up, let the same, together with the foregoing petition and the present order be duly served as aforesaid to the ends and for the purposes aforesaid and cause to be shewn on Friday the fourth instant at the hour and place mentioned in the foregoing order.

New Carlisle 3rd November 1864 (signed) P.Winter, Judge S.C.

I, John Asseles, one of the Bailiffs of the Superior Court for the District of Gaspé, do hereby certify upon my Oath of Office, that on the third of November instant between the hour of three and four in the afternoon I did personally serve Hon'ble John Gawler Thompson at his domicile at New Carlisle with a true copy of this original Petition and two Orders, by leaving the same with him, said Hon'ble J.G. Thompson.

New Carlisle Nov.3rd 1864

(signed) John Asseles, Bailiff.

14.

The same document continues:

And on this fourth day of November one thousand eight hundred and sixty four, at the Court House of New Carlisle, Mr. Joseph A. LeBel "es qualitis" petitioner being present and the Hon'ble John G. Thompson not appearing to show cause to the contrary, I the undersigned, one of the Judges of the Superior Court for Lower Canada, in compliance with the prayers of the foregoing petition and in conformity with the provisions of the Statutes in such cases made and provided, I have appointed and do hereby appoint Martin Sheppard and Matthew Caldwell, Esquires, both of New Carlisle aforesaid, to be and act as valuers, jointly with William MacDonald, Esquire, hereto fore appointed (as it is represented) by the Municipal Council of the Township of Cox, of the part or parcel of land intended to be severed from the farm or property of the said Honorable John G. Thompson for the purpose of opening the public road mentioned in the foregoing petition and also the privileges and rights whereof he may be deprived in consequence of the granting of the said road and the damages which may thereby be by him incurred.

The whole in accordance with the provisions of the said Statutes and without prejudice to any right, title, claim, or demand which the said Honorable John G. Thompson or other parties interested may now or hereafter have in respect of the same.

Given at New Carlisle on the day of the month and year first above mentioned.

(signed) P. Winter, Judge S.C.

And on the fifth day of November 1864 the three valuers herein before named, having accepted the said office, were respectively and duly sworn to discharge their duty in such capacity without fear, favor or affection and to the best of their ability.

Before me,

P. Winter, Judge S.C.

Much thought and effort must have been devoted by the three valuers to their Report for though they visited the lands concerned in early November it was not until the 5th day of December that they submitted to Council their written Report. That document follows:

15.

CERTIFICATE OF MESSRS WILLIAM McDONALD, M.SHEPPARD AND MATHEW CALDWELL - VALUATORS. DECEMBER 5th 1864

To all to whom these presents shall come, We, Martin Sheppard and Mathew Caldwell Esquires and William McDonald, Land Surveyor, residing in the Township of Cox in the County of Bonaventure in the District of Gaspé and Province of Canada, Send Greeting.

Whereas by an Order from the Honorable Peter Winter, Judge of Her Majesty's Superior Court at New Carlisle in the County of Bonaventure and District of Gaspé bearing date the fourth day of November instant - We, the said Martin Sheppard and Mathew Caldwell were appointed to be and act as valuers conjointly with William McDonald (appointed as valuator by the Municipal Council of Cox) in conformity with the provisions of the Statutes in such case made and provided - to value a road intended to be severed from the farm or property of the Hon'ble John G.Thompson and also the privileges and rights whereof he may be deprived in consequence of the granting of the said road and the damages which may thereby be by him incurred - the whole in accordance with the provisions of the said Statute.

And after due notice to the Honorable John G.Thompson that we, the said valuers, would attend and be on the ground on Saturday the fifth of November instant at the hour of four o'clock P.M. to hear the said party and estimate the compensation to be awarded therein.

Now therefore know ye - that we, the said valuers, having taken upon ourselves the burthen of the said valuation, Did on the day and hour aforesaid repair to and upon the said ground, to wit, a road along the bank surmounting the sea shore and in front of the property of the said Honorable John G.Thompson, of an average width along the said bank of twenty six feet french measure or thereabouts, as laid off by the said William McDonald in his professional capacity at the request of the Municipal Council of Cox aforesaid, and after examining the same - the said Hon'ble John G.Thompson having absented himself on the occasion - and having heard parties interested in the said road as to the rights and privileges which the Hon'ble John G. Thompson would be deprived of in consequence of the said road passing

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through and across the front of his property; and the said interested parties having declared before us that the object of the said road was merely a thoroughfare along the bank - to wit, to and from the Eastern limit of the property of Mr. Alex'r Hall Westward to Daniel Chisholms, save and except the right of way to the sea shore at "Milnes Cove" which they had made, kept in repair and used and enjoyed for years for Caplin fishing and other purposes, and that the said thoroughfare would benefit the Hon'ble John G.Thompson as well as themselves in as much in particular as the road across George Cook's front was essential to communication between his properties on the East and West thereof.

And having duly considered the whole of and concerning the said road - Do make this our award in writing of and concerning the same and do hereby award, order, determine and direct that the compensation to be paid to the Honorable John G.Thompson for the said road and all considerations relative thereto shall be the sum of Ten pounds currency in full and final payment and compensation of and for all claims and demands whatsoever for and in respect of which the said Hon'ble J.G.Thompson hath any interest or claim.

And we do also order and determine that the charges of the said reference and all matters therein and of this award which we adjudged to amount to the sum of seven dollars and fifty cents to be paid unto us.

Given under our hands at New Carlisle aforesaid this fifth day of November A.D. eighteen hundred and sixty four.

(signed) M.Sheppard
M.Caldwell
Wm MacDonald

17.

Following upon the above award of the three valuator's the following Notice was issued:

New Carlisle 6th Dec. 1864

R.N.Kempffer Esq.,
Special Superintendent

Sir,

Please take notice that by an order of the Municipal Council of the Township of Cox you were duly ordered in your capacity of Special Superintendent to cause the Road, petitioned for by the Inhabitants East of New Carlisle and to run through the front of the lands of Messrs Chisholm, Cook, Alexander Hall and others, to be forthwith opened to the public.

(signed) J.A.LeBel Secty Treas.

Thus the "BY-ROAD TO THE BEACH" had run its course from March to December of 1864. The story was far from over, however, and will be continued into the new year of 1865 by GASPÉ OF YESTERDAY.