

the *Rivière-aux-Rats*, and by the law which has prevailed in that country for the last 100 years, no community of property resulted from a marriage there.

The plaintiff answers, that at the time of Connolly's pretended marriage to Julia Woolrich, 16th May, 1832, Susanne, Connolly's lawful wife, was living, she having died long after, that is, on the 14th August, 1862; that Wm. Connolly was born at Laëchine, in Lower Canada; that he had not resided in the H. B. Territory with the intention of remaining, but intended always to return; that he was in the employ of the Company, returned to Montreal in 1831, and remained in Lower Canada till his death in 1849.

The plaintiff has ignored entirely the marriage between Wm. Connolly and Julia Woolrich, and the suit has been directed against her as an unmarried woman;—as a *spinster*. Neither by his declaration, nor by his special answer, has the plaintiff prayed that this alleged marriage be declared null. It is also to be observed, that the defendant has not, by her plea, asked that the marriage existing between Connolly and the Indian be declared a nullity, or that the Court should hold that such a marriage never legally existed. The only questions, therefore, raised by the pleadings and presented for my adjudication, are 1° was there a legal marriage between Connolly and the Cree woman; and if so 2° did a community of property result from that marriage, under the circumstances of this case?

Upon this restricted, but intelligible issue, the parties proceeded to the adduction of evidence which will receive the careful consideration of the Court hereafter. But before entering upon an examination of this testimony in regard to those points where it may prove concurrent and conclusive; where it may conflict, or bear a less clear and direct proof of important facts, it may be proper, with a view to a more complete understanding of the real difficulties of the case, to state generally but briefly, what the testimony of record establishes indisputably as matters of fact, in the opinion of the Court.

The late Wm. Connolly went to the Indian country as a clerk in the service of the North-West, not the Hudson's Bay, Company, in the year 1802 or 1803. He was stationed at the *Rivière-aux-Rats*, or Rat River, in the Athabaska district, which is situated, according to Judge Johnson's evidence, about 2000 miles from York Factory, and over 1200 miles from the Red River Settlement. In the year 1803 he, by his own admission, married, according to the customs of the country, the daughter of an Indian chief of the Cree nation, named Susanne *Pas-de-nom*. The Cree Indians are a tribe whose territory is on the Elk or Athabaska River, near the lake of the same name, and which is about 300 miles from the Rocky Mountains. They were both minors. After their alleged marriage, and up to the summer of 1831, they appear to have lived together as husband and wife at Rebasca and other posts in the North-West country. It is proved that he continually acknowledged and treated this Cree woman as his wife during twenty-eight years, and also that they had several children. They lived happily, and their conjugal relations, so far as the evidence goes, were those of inviolable fidelity to each other.

In the year 1831, Wm. Connolly, (who, after the amalgamation of the two Companies had become a chief factor and member of Council of the Hudson Bay

Connolly  
vs.  
Woolrich and  
Johnson et al.