try, and recognized her for twenty-eight years as his wife. He visited with her almost all the trading posts in that part of the country. They had nine or ten children, and both among the natives and the whites she was acknowledged as his wife. In 1831, nearly twenty-eight years after the marriage, he came to Canada with this woman and his family, and at St. Scholastique and other places introduced her as his wife. She went by the name of Mrs. Connolly. In 1832, however, he repudiated her, and married the lady who is made the defendant in this action, and lived with her till 1849, when he died. He left a will in favor of his wife, who died in 1865, after making a will in favor of her children. The present action is by one of the children of Connolly and Susanne, claiming that she, Susanne, was the lawful wife of Connolly, and seeking to recover one-sixth of her half of Connolly's property. The defendant (the late Mrs. Connolly) met this action by denying that Mr. Connolly was ever married to Susanne, and setting up the marriage with herself in 1832. It is alleged that Susanne acquiesced in this marriage. Secondly, that the law of England prevailed in the Hudson Bay Territory, and therefore even if there was a marriage there, such marriage did not establish a community of property.

It will be necessary to go more fully into the facts to render the decision of the Court intelligible and satisfactory. It is proved, in the first place, that William Connolly went to Rat River in 1803, and married this Indian woman; that she went by his name, and that their connection lasted, without any violation or infidelity on either side, for twenty-eight years. To all intents and purposes they lived exactly as Christian man and wife, and not as a Christian living with a barbarian concubine. These facts are indisputable. His children were baptized, one at Quebec, and others after his return to St. Scholastique. He wished to have two daughters baptized, and went to a priest named Turcotte. He told this priest that Susanne was his lawful wife, but, apparently deficient in moral courage, he did not wish to have his children baptized as his lawful children. They were baptized simply as the children of Connolly and Susanne. The words legitimate marriage were omitted. Susanne received the news of her repudiation, and her husband's subsequent marriage to the defendant with true Indian apathy. It is proved that she smiled when she heard of it, and said, "Mrs. Connolly will have nothing but my leavings, and he will regret it." She was supported in a Convent by Mr. Connolly, and after his death by Mrs. Connolly, and died in 1862. These are the facts.

The Court has to decide, firstly, whether the place where the Indian marriage was entered into was in the Hudson Bay Company's Territory. After reading the Charter, and examining carefully the whole history of the Company, I have arrived at the conclusion it was not within their territory. It was in the possession of the Indians, and if the law of any civilized country had authority there, it was the law of France. Therefore, the English law has no application to the present case. Connolly, as clerk in the North West Company's service, did not take the common law of England with him. It has been laid down by Chief Justice Marshall, nine judges concurring with him, that unless the Supreme Legislature of England were by an act to abolish the customs of the Indians, no other authority could do it; but the Legislature has never interfered with them, and there has never been any interference even on the part of the executive authority, by proclamation or otherwise. Therefore, it must be concluded that in the year 1803, this region was governed by its own system of usages and laws. Mr. Justice Aylwin and Mr. Justice Johnson have been examined as to what law existed in this Indian territory in 1803, and their answer is, the English common law; and Mr. Hopkins, who was twenty-five years there, says, though the territory is not within the limits proper of the Hudson Bay Company, that Company exercises jurisdiction over it. This is not supported, but rather contradicted by the Charter. It is necessary then for the Court to look to the Indian usages, and the authorities are unanimous that the only form of marriage among the Indians is this: that the consent of the father is asked, and then if the parties consent, they take each other for man and wife. Something similar may