

Conduct Unbecoming

Patrick Heron 1690-c1752

Ann Vining 1692-1733

Discipline required

Patrick Heron came from an ancient and wealthy landowning family in Kirkcudbrightshire, Galloway, the border country of Scotland. His father was **Andrew Heron** of Bargaly and his mother was **Mary Grahame** of Floriston. Patrick was born at the Mains (the home farm) at Larg – one of the family properties, and on May 15th 1691 when Patrick was only about a year old, the family moved to their nearby property *Bargaly*. Here his father, a keen botanist, commenced the large-scale planting of trees in the Bargaly Valley on the estate and completed the building of *Bargaly House*.

Patrick's mother died in 1705 when Patrick was about 16 years old. He was then sent to London to be under the guidance of his older brother William and to learn about commerce. William however encouraged Patrick to take two voyages 'by way of frolic' on a 'guineaman' (i.e. a slave trading ship!) to the West Coast of Africa.¹ The father disapproved strongly and in order to bring some discipline and order into his son's life, he purchased in 1709, a commission for him as an Ensign in Lord Mark Kerr's Regiment of the English Army.

Wealthy merchant's daughter

Ann Vining was born in 1692, the second daughter of wealthy merchants **John and Elizabeth Vining** of Portsmouth, Hampshire. She grew up at no. 22 Penny Street Portsmouth (the original building now gone), located a short distance from St. Thomas' Church (now Portsmouth Cathedral) and in what is now known as Old Portsmouth. Her father was several times Mayor of Portsmouth and owned many properties, and Ann would have grown up with many material advantages.



Capt. Patrick Heron 40th Regiment age 21. original in the USA. Source: *The Family Papers of J.E.T. Rogers*



Ann Vining of Portsmouth, defied her father to marry Patrick Heron. Source: *The Family Papers of J.E.T. Rogers*

Elopement to Scotland

In 1710, the year after her mother's death, Ann clandestinely married her lover Captain Patrick Heron. According to a memoir written in 1793 by his granddaughter from his second marriage, Mrs. Coghlan, the couple met when he was stationed at Portsmouth and eloped to Galloway where his father lived. Ann's father did not approve of Patrick and had tried very hard to prevent the marriage. She wrote to her father asking forgiveness, and after much convincing John Vining asked them to return to Portsmouth after which he would give them her inheritance which included a 'handsome fortune' as well as '*Vicar's Hill*, a delightful seat in the New Forest near Lymington'.²

Early in their marriage in 1711 Patrick received a captain's commission in Lord Lovelace's Regiment and on April 20th that year Patrick's father obtained another commission for his son as a captain in Brigadier Munden's Regiment.



Vicar's Hill, Lymington. One of the Vining properties and the home of Patrick and Ann Heron. Source: St. Barbe Museum, Lymington

The couple settled at *Vicar's Hill*. Here all their children were born: Jane (1711), John (1713), Andrew (1714), Ann (b&d 1715), Ann (1716), Elizabeth (b&d 1717), William (1718); **Elizabeth** (1719), Patrick (1720), Benjamin (1722), Charles (1724), and Mary (1728). All the boys were baptised at Lymington, but none of the girls.

Debt dodger

Little is known about the young couple's married life. His wife Ann being wealthy probably meant there was no negative impact when in 1713 he was placed on half pay³, the reason is unknown - for disciplinary reasons or regiment austerity measures?

A more concerning issue would have been when difficulties concerning a debt, that Patrick's father Andrew had transferred to Patrick in 1726, was due to be paid to Patrick's cousin (Patrick Heron of *Kirroughtree* in Galloway). Patrick had no intention of honouring this debt (which had been arranged by his cousin to deliberately take advantage of Andrew), and he went to great lengths to avoid paying it. In 1728 he went to *Bargaly* to meet with his father to make a new arrangement of the terms of

inheritance without his cousin's input. This had implications for the security of the debt (being the *Bargaly* estate) and when his cousin learned of the changes, he was furious and pursued Patrick who, now being in Nova Scotia and in possession of all the documents and deeds of settlement, had just decided to ignore the whole issue. Needless to say, this left his father Andrew extremely upset and embarrassed. That was probably the last time Patrick saw his father. In 1730 Andrew writes to his son in Nova Scotia:

'I am favoured with yours after a long silence. I had no expectation of hearing any further from you, but that you had laid aside the concerns about me or anything that belongs to me, since you had laid a foundation for making me miserable when I believed ye was to be my Deliverer and the Retriever of my Family. It is needless for me to explain how I have been used and disregarded since, and how it has brought me. As for you, my Nephew (Patrick of *Kirroughtree*) speaks so diminutively of you as the falsest and one of the vilest men in the world, and how much you sunk his credit in London by that Disappointment ye gave him.'⁴

Poor Andrew Heron died in 1740 and the squabbling over *Bargaly* went on for years in the courts between Patrick's two eldest sons.



Bargaly House, Kirkcudbrightshire, Galloway, Scotland c1930s, where Patrick spent his childhood. Source: The Family Papers of J.E.T. Rogers

Flight from England

In the light of this, 1730 was a convenient time for Patrick to absent himself to North America. But he had another reason to leave at this time which also reflects poorly on his character.

There are two versions I have found referring to Patrick Heron leaving England. The first is from Julian Roger's book⁵ of 1902. He writes that shortly after Ann's death Patrick left England under very dubious circumstances that also bring his character into question. Apparently, he allowed a neighbour to store some contraband goods in the cellar at *Vicar's Hill*. When customs officers turned up with a party of soldiers to inspect, Patrick went into a rage, claiming he knew nothing of the nature of the goods. He subsequently struck the commanding officer and took off, never to be seen in England again, according to Julian Rogers.

The other version comes from Mrs. Coghlan's Memoir of 1793⁶. She writes that a desperate man named Boyes approached Patrick in a coffee-house and asked if he

could store some cider (or brandy) in his cellar for the night. Patrick agreed but when the exciseman came to inspect the cellar, Patrick's servants beat him up. Embarrassed, Patrick hurried to his father-in-law John Vining seeking advice. Mayor Vining told him to hide until he could get help. However, when he found that a reward of £20,000 had been issued for Patrick's arrest, Mayor Vining told Patrick he must join the 40th Regiment at Annapolis Royal across the Atlantic. Patrick promptly followed this advice, leaving his wife and children behind, Ann dying six months later from a broken heart, according to Mrs. Coghlan (more of her later).

Deserted children

Sadly, Ann died in 1733 at the age of about 41 years, the cause of death is unknown. She is buried at St. Thomas' Church, Portsmouth. As Patrick was pursuing his military career, their ten children were fortunate to be brought up by Ann's wealthy father John Vining and step-mother Elizabeth at 22 Penny Street in Portsmouth. This house was to support several generations of Ann and Patrick's descendants, either as a residence or an asset, right up into the early 20th century.

Patrick never returned to England. Apparently, he cut off all ties with his ten English children except for one instance of sending some Honduras mahogany, a rare timber at that time, to his daughter Ann Elliot. It was later made into a chest of drawers.

Canso, Nova Scotia

In 1730 as a captain in Brigadier Munden's Company, Patrick had been serving at Placentia, in New Foundland and in June that year he received a captain's commission in Governor Richard Philipps's Regiment (the 40th Regiment). In 1737 he was stationed at Canso (Canseau), a small fishery and port where a fortification called Fort William Augustus had been established in 1724, to protect Nova Scotia from the French at nearby Louisbourg, Cape Breton. Canso had also been the scene of several battles with the local native people, the Mi'kmaq and Acadians (descendants of French settlers) throughout the 17th and 18th centuries.



Governor of Nova Scotia
Richard Phillipps Governor
from 1712-1715 Unknown
artist. Source: bbc.co.uk

Court-martialled

Canso survived on trade in both legal and illegal goods (smuggling between the English and French and privateering) and it was Patrick's regiment's job to guard the settlement and its port. Whilst there he met Lieut. John Jephson, described as 'a man of poor character' who in the past had allowed his children to nearly starve due to his debts⁷. This man was to become Patrick's second father-in-law and no doubt the two officers were not a good combination.

In September 1737 Jephson was arrested at Canso 'for frequent breach of orders and his irregular conduct as an officer'⁸ and in December that year Patrick was arrested for being 'indebted to some of the men of his company for their subsistence, by giving them notes and afterwards refusing to pay.'⁹ Patrick's first court-martial was

inconclusive (due to many conflicting witness statements) and he had to reappear at Annapolis in April 1739. He must have been acquitted because he retained his command at Canso.

Officers' privileges

At the time when he was charged with owing money, the situation for most of the ordinary soldiers and civilians at Canso was one of severe poverty. However, it seems Patrick had enough funds to purchase a few luxuries for himself. Christopher Kilby, a Boston merchant, kept notes of sales in his 'daybook'. In an entry on September 21st 1738 he records Patrick ordering sugar, tea and wineglasses!¹⁰ Whilst the soldiers were billeted out in the civilian settlement (the barracks at the fort being too dilapidated to live in), the officers had their own residences. Jephson and Patrick lived in twin residences (no.6 below) near the fort and, like other officers, had their own vegetable gardens. Today the officers' houses and the fort have been excavated and are part of the Grassy Islands Heritage Site. Items excavated from Patrick's site include 'fine earthenware plate and the remains of a musket. A large fragment from an exploded shell was also retrieved from Heron's cellar'¹¹



The Fort (7) at Canso and the residences of the officers. Patrick's is no. 6. Source: Parks Canada: Canso Islands National Historic Site

Canso's weaknesses

In 1744 when war broke out between England and France (known as King George's War), Patrick had command of only 87 men at this frontier outpost. Canso was past its peak of the early 1730s and apart from some smuggling and a thriving tavern trade, the settlement was now in a very weakened and vulnerable state¹² and Patrick had constantly called attention to the poor condition of the fortifications there.¹³ This was no easy posting for any officer or soldier, as Governor Phillipps pointed out to the home government:

'that notwithstanding the dangerous situation of that place owing to its proximity to the French settlement of Louisbourg, there were neither fortifications nor forts

belonging to it; there were no barracks to lodge the four companies of the regiment nor storehouse to secure their provisions, other than that which had been slightly erected by the officers commanding there. For want thereof the soldiers had been reduced to the greatest extremity, and several of them had actually perished. That the low establishment of the companies of the regiment, and even those divided, were scarce enough for common duty in time of peace, but very insufficient for the defence of these places in time of war. That the four companies at Canso were so entirely separated, that those at Annapolis could scarce hear from them in a twelve-month, there being no vessel whatever allowed for keeping a necessary correspondence with them.'¹⁴



Nova Scotia showing the proximity of Canso to Louisbourg. Map: Steven Fick. Source: Canadian Geographic.

Attacked and surrendered

On May 13th 1744 a surprise attack early in the morning on Canso was made by a French force of 350 men from Louisbourg supported by about 200 local Mi'kmaq men. The fort was as good as useless, never having any substantial maintenance since it was first built, and was 'apt to tumble down in heavy rains or in thaws after frosty weather'. All other buildings, including a blockhouse and powder storage were made of timber.¹⁵ So, soon after the first cannon-shot burst through the thin fortification walls, Captain Patrick, probably sensibly, decided to surrender. He stated:

'That considering the bad state of the place, having but eighty-seven men, whereof one-third was sick or lame, the blockhouse not tenable against great shot, the first shot against us going through it, four barrels of powder damaged



A private in the 40th Regiment in 1742
Source: The Colonial Re-Enactment Society Inc.

for want of proper store-house to keep it, and no good flints...' he thought it advisable to capitulate 'in time to obtain better terms.'¹⁶

After the English capitulated, the French and their allies burned Canso, the fortifications, buildings and the town, to the ground.

The deal-maker

This had been Patrick's first experience of war against French troops - brief and inglorious. Patrick, the other officers, soldiers and the civilians were then taken to Louisbourg and imprisoned. The usual terms of capture were imprisonment for 12 months, however, possibly due to serious food shortages at Louisbourg, some of Patrick's men defecting to the enemy, and Patrick's incessant lobbying for his release¹⁷, French Governor Du Quesnel and Captain Patrick Heron entered into a deal. The agreement was that the English prisoners would be sent to Boston in exchange for French prisoners and to remain neutral for 15 months. Du Quesnel also stipulated that some British officers must remain behind as hostages. Patrick didn't volunteer for that.



Governor of Massachusetts Bay
William Shirley 1741-1749, by
Thomas Hudson 1750. Source:
National Portrait Gallery of
Washington. Shirley not happy with
Patrick.

When Patrick and his troops reached Boston in September 1744 Governor Shirley was furious that Patrick had given himself the authority to make these new terms of surrender. He severely reprimanded him and wrote a strong letter of protest to Governor Du Quesnel.¹⁸ Patrick and his men were then sent to Annapolis Royal in 1745 and disarmed until further notice. Perhaps Patrick was able to exonerate himself a little when in Boston as he and the other officers were able to give intelligence on the conditions at Louisbourg and the French troops' vulnerability to surprise attack. This information encouraged Governor Shirley to launch a successful attack on Louisbourg in 1745 (The Siege of Louisbourg).

'Conduct unbecoming'

Captain Patrick Heron returned to Nova Scotia but in 1750-51 he seems to have been in more trouble. At Fort Lawrence he was again court-martialled, this time for being constantly drunk and exhibiting 'conduct unbecoming a gentleman'¹⁹. In Harry Piers's history of the 40th Regiment, he writes that Patrick 'particularly molested one of the ensigns whom he derided while saying his prayers. Heron was not proved exonerated from a second charge of cowardice.'²⁰ The details of this I do not know.

Patrick's name does not appear in the regimental roll for 1752. Perhaps he was dismissed, but this seems to be the year he died. His will was made in 1748 when he

was still in Phillips' regiment which was mainly on garrison duty at Annapolis Royal and at St. John's, Newfoundland. On August 28th 1752 witnesses certified it to be his true will. Therefore, he must have died not long before that. Also, probate was granted at Halifax in Nova Scotia on 19th January 1753. Furthermore, in 1752 or 1753 Patrick's eldest son, John Vining Heron, received a box of deeds and documents from Patrick's widow in Nova Scotia which subsequently took him to Scotland to investigate what had happened to *Bargaly* and led him to pursue his perceived right to the property. So, it looks as Patrick's affairs were being sorted out at that time.

In Patrick's will of 1748 he states 'being weak and indisposed as to my bodily health but of sound mind and memory'. He was about 58 years old at the time and may have been suffering from injuries, disease or possibly alcoholism.



British Vessels at Anchor in Annapolis Royal, Nova Scotia, with a Vice-admiral of the Red Firing a Salute, oil on canvas attributed to Samuel Scott c1751. Source: Mutualart.com

Marriage to Margaret Jephson

As mentioned earlier, Patrick's second wife was Margaret Jephson, a daughter of the disreputable Lt. John Jephson whom he knew at Canso. Mrs. Coghlan who wrote the 1793 Memoir mentioned earlier, was Patrick and Margaret's 's granddaughter. She writes:

'He (Patrick) had not been long at Annapolis, when he was appointed governor of that place which situation he held at the time of his decease. Here he married Miss Margaret Jephson, daughter of Captain Jephson, belonging to the fortieth regiment, by whom he had Margaret my mother.'²¹ No proof has been found that Patrick was ever a governor, nor was Jephson a captain.

Patrick and Margaret had several children and it is this wife and second family who were the sole beneficiaries according to his will. Whether his widow realised, when she sent the box of documents to England, that her children could possibly challenge their step-brothers and sisters in England over rights to the *Bargaly* estate, I do not

know, but Mrs Coghlan in her memoirs of 1793 certainly believes she was a rightful heir to the property.

Very tragically, after Patrick's death, his widow and some of her children sailed for Ireland but were drowned at sea in a storm not far from their destination of Cork. Patrick and Margaret's son Robert and their daughter Margaret, who married when she was 14 Major Thomas Moncrieff, had been left behind when the rest of the family sailed to Ireland. Therefore, they were the only survivors of Patrick's second family.

Ann Hurley

2020

See my story **Apothecary and Surgeon** for more about their descendants.

hurleyskidmorehistory.com.au

Notes:

¹ Rogers, Julian C. - *A History of Our Family (Rogers of Westmeon) 1451-1902* (1902) p 76

² Coghlan, Mrs. (Margaret Moncrieffe). *Memoirs of Mrs. Coghlan* (1795) p 23

³ Rawlyk, G. A. - *Patrick Heron* Dictionary of Canadian Biography (1974)

⁴ Quoted in Rogers, Julian C. - *A History of Our Family (Rogers of Westmeon) 1451-1902* (1902) p 86

⁵ Rogers, Julian C. - *A History of Our Family (Rogers of Westmeon) 1451-1902* (1902) p 14

⁶ Coghlan, Mrs. (Margaret Moncrieffe). *Memoirs of Mrs. Coghlan* (1795) pp 24-26

⁷ Hart, Harriet Cunningham - *History of Canso, Guysborough County, N. S* (1921) p 6
(Jephson was arrested for unpaid debts then sent to Canso from Annapolis because there were not enough officers at Annapolis to conduct a trial.)
Piers, Harry - *The Fortieth Regiment, Raised at Annapolis Royal in 1717; And Five Regiments Subsequently Raised in Nova Scotia* (1921) p 120, 125, 127 from the Collections of the Nova Scotia Historical Society

⁸ Jephson was sent back to Annapolis for trial. He was subsequently cashiered.
Piers, Harry - *The Fortieth Regiment, Raised at Annapolis Royal in 1717; And Five Regiments Subsequently Raised in Nova Scotia* (1921) p 127

⁹ Rawlyk, G. A. - *Patrick Heron* Dictionary of Canadian Biography (1974). An interpretive board at the Grassy Island Heritage Site states he was charged with misusing army funds.

¹⁰ Candow, James E., Corbin, Carol, Eds.- *How Deep is the Ocean?: Historical Essays on Canada's Atlantic Fishery* (1997)

¹¹ Parks Canada <https://www.pc.gc.ca/en/lhn-nhs/ns/canso/culture/patrimoine-culture>

¹² The Canso fishery was unable to compete with the expanded French fishery and 'There were of course many other factors involved in the wastage of the Canso fishery: poor quality of the fish, the migratory habits of the cod, the change caused by direct operations from New England ports such as Marblehead and Gloucester...' and the war with Spain closing markets. Godfrey W.G. - *John Bradstreet at Louisberg: Emergence or Re-emergence* (1974) Arcediensis Vol.4 No.1

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- ¹³ Rogers, Bertram M. H. - notes in *The Family Papers of J.E.T. Rogers* - Bodleian Library, Oxford. Refers to letters in the British Museum from Patrick Heron.
- ¹⁴ Smythies, Capt. R H Raymond - *Historical records of the 40th (2nd Somersetshire) Regiment* (1894) p 7
- ¹⁵ Griffiths, N.E.S. - *Migrant to Acadian: A North American Border People, 1604-1755* (2005) p 335
- ¹⁶ Smythies, Capt. R H Raymond - *Historical records of the 40th (2nd Somersetshire) Regiment Now 1st Battalion Prince of Wales's Volunteers (South Lancashire Regiment) From its Formation in 1717 to 1893* (1894) p 11
- ¹⁷ Grenier, John - *The Far Reaches of Empire: War in Nova Scotia, 1710-1760* (2008) p 109
- ¹⁸ Rogers, Julian C. - *A History of Our Family (Rogers of Westmeon) 1451-1902* (1902) p 17-19
- ¹⁹ Rawlyk, G. A. - *Patrick Heron* Dictionary of Canadian Biography (1974)
- ²⁰ Piers, Harry - *The Fortieth Regiment, Raised at Annapolis Royal in 1717; And Five Regiments Subsequently Raised in Nova Scotia* from the Collections of the Nova Scotia Historical Society 1921 p127
- ²¹ Coghlan, Mrs. (Margaret Moncrieffe). *Memoirs of Mrs. Coghlan, written by herself, and dedicated to the British nation; being interspersed with anecdotes of the late American and present French war; with remarks, political and moral* New-York (1795) p 26.

Other resources:

England & Wales, Prerogative Court of Canterbury Wills, 1384-1858 (Ancestry.com)

MacMechan, Archibald - *A Calendar of two letter-books and one commission-book in the possession of the government of Nova Scotia, 1713-1741* (1900) Internet Archive

Mi'kmaw Spirit <http://www.muiniskw.org/pgHistory2.htm>

Parks Canada: Canso Islands National Historic Site <https://www.pc.gc.ca/en/lhn-nhs/ns/canso/culture/visite-tour>