

The Oldest Original Civil Document Written in Canada:

The Last Will of Basque Sailor Domingo de Luá, Placentia (Newfoundland), 1563

by Michael M. Barkham

PhD, University of Cambridge

In the spring of 1563, the Basque ship *La Mará del Juncal* set sail from that coast, like many Basque ships before, to fish for cod in Terra Nova, now broadly speaking the Canadian maritime provinces, eastern Québec, the island of Newfoundland and southern Labrador. Her owner and master was Joan Xuárez from the Spanish Basque port of Fuenterrabá (modern Hondarribia), on the border with France, and she was named after the Virgin of Juncal in the town of Irun on the same bay. The port chosen for the season's fishery was Plazená now Placentia in south-eastern Newfoundland, which was the Basques' main cod fishing - as opposed to whaling - area in Atlantic Canada during the 16th century. Plazená in Terra Nova was probably given its name in the first half of that century because of its physical resemblance to the Spanish Basque port known then as Plazená, now Plentzia.

Not long after arrival, the sailor and ship's storekeeper Domingo de Luá, also from Hondarribia, fell ill. On the 15th of May, knowing he might die, Domingo dictated a short will to the ship's notary, a person not carried on all ships, Joan de Blancaflor from San Sebastián. This document, dated almost half a century before Champlain's founding of Québec in 1608, is presented below translated to English from the 16th-century Spanish.

In this his last will Domingo requested that, if he died there, "my body be buried in this port of Plazená in the place where those who die here are usually buried". This is of interest to historians and archaeologists because it indicates the existence of a European cemetery at Placentia already in the mid 1500s. Among other things, he also referred to his debts and receipts, appointed the ship's master and another person to be his executors, and named his wife as his heir. Also present at the making of the will were seven witnesses, sailors of the ship, all but one of whom could sign their names. The storekeeper, who subsequently died on board, did not know how to write and, therefore, asked another crew member, Joanes de Landergorrieta from Hondarribia as well, to sign for him.

Landergorrieta provides a connection to the Basques' 16th-century whaling industry on the south coast of Labrador, discovered by historical geographer Selma Huxley Barkham in the 1970s. According to a manuscript found by her, in 1572, nine years later, he sold fellow Basque Joanes de Leñ four *chalupas* (shallops) or whaling boats in Chateau Bay/Henley Harbour, Labrador. This shows how Basque mariners could take part in both cod fishing and whaling expeditions.

At the end of the 1563 fishing season, Domingo's will was taken from the New World to Hondarribia where, on the 10th of October, his widow, María Martiñ de Aguinaga, presented it before the mayor and a notary for authentication and validation. It was incorporated in the notary's files along with the sworn testimonies of six of the eyewitnesses from the ship, who had been present at the making of the will.

These documents have survived over four and a half centuries in those files, now kept at the *Archivo Histórico de Protocolos de Gipuzkoa* in the Basque town of Oñati, until they were recently found there by the author. This was in the context of his research during the past 35 years on Basque and Canadian maritime history in the 16th and 17th centuries. On the 14th of May 2013 - 450 years after its writing - the will was presented by the author at a press conference in the sailor's home port, organised by the Town Council, along with the Councillor for cultural affairs.

Domingo de Luñ's testament, together with many other manuscripts, testifies to the considerable Basque cod fishing activity in Placentia and south-eastern Newfoundland - alongside other European fishermen - both before and after 1563. His will is now the oldest known original civil document written in Canada; as such it is an important document. Previously, in the 1970s and 1980s, Selma Huxley Barkham discovered similar original 16th-century documents written by Basque whalers in ports of present-day southern Labrador, dating from 1572, 1577 and 1584. She also located 16th-century copies of Basque manuscripts written in Newfoundland and Labrador in the 1540s and 1550s, including a will done in Trepassey, but the originals have not survived. What helps make these original documents written in Atlantic Canada in the 1500s so unique is that only a handful of them exist for the whole of that century.

## DOCUMENT

Will of Domingo de Luá inhabitant of Fuenterrabá

1563

In the name of God, Amen, let it be known by this written letter of testament and bequests of the soul that I, Domingo de Luá, inhabitant and resident of the town of Fuenterrabá, sailor and storekeeper of the ship named *La Mará del Juncal* that belongs to Joan Xupez, inhabitant of the said town of Fuenterrabá, who is master and captain on this present voyage, being ill in body and sound of my natural mind and understanding and full memory, such as God wished to give it to me, and fearing death which is a natural thing, and wishing to put my soul on the road to salvation, believing as I firmly and truly believe in the Holy Catholic Faith and in the Holy Trinity and all that which a good and true Christian must maintain and believe, I make and ordain this my testament and last will, and the bequests and legacies and pious things contained in it, in the following way and order.

- Firstly, I commend my soul to God Our Lord and to Jesus Christ the Redeemer, God and true man who raised it and redeemed it with his precious blood, and my body to the earth from which it was formed.

- Item, I ask that if the will of God Our Lord were served to take me by this illness from the present life, that my body be buried in this port of Plazená in the place where those who die here are usually buried.

- Item, I ask that my rites of the third and ninth days and of the end of the first year, and other offerings and suffrages and church things, be performed for my soul in the parish church of Our Lady of the said town of Fuenterrabá, and that they be paid for from my possessions together with the customary donations.

- Item, I state and declare that I owe the said Joan Xupez, our master, five ducats that he lent me in money in coins. I ask that they be paid to him from my possessions.

- Item, I state and declare that Gabriel de Urnieta owes me two *reales* and Esteban, son of Marta de Ayarna, two and a half *reales* and Pero Sanz de Tolosa three *reales*. I ask that they be collected from them.

- Item, I state and declare that of the other debts and receipts I have, a list of all of them, which I left at the time of my departure, is in the possession of Anton de Ubilla, inhabitant of the said town of Fuenterraba, to which list I refer; and I ask that according to it all my debts be paid, those that are found to be true, and my receipts be collected from those who owe me; which list as it is long for my memory and as I do not remember the particulars, I refer to what is found written on it.

- To carry out and pay the bequests and legacies and pious things contained in this my testament, I leave and name as my executors the said Joan Xurez and San Joan de Mugarrieta, inhabitants of the said town of Fuenterraba, to whom and to each one of the m for himself *in solidum* I give the full power to enter, take and sell from my possessions wherever they be, and to carry out and pay the bequests and legacies and pious things contained in this said my testament, and to give account with payment to my heirs of what remains;

[Page 2]

and carrying out and paying all that which is said, of the remainder that is left of the said my possessions or of the possessions which they find to be mine until today, I name and institute as my universal heiress Marta Marta de Aguinaga, my legitimate wife, with the obligation of doing the suffrages and church things declared above, and this is my last will; and I revoke and annul and consider as void any other testament or testaments, codicils or bequests I may have made before this one, and I grant by word of mouth or in writing that I want them to be invalid even if they were to appear, except this one that at present I make and ordain, which I wish be valid as my testament and as my codicil and as a public document, or in that way and manner it can and must be most valid in law, because this is my last and ultimate will; in testimony whereof I made this said my testament before the ship's notary and the undersigned witnesses, done in the port of Plazena which is in the parts of Terranoba, on the fifteenth day of the month of May of the year 1563, being present as witnesses master Miguel de Aguirre barber-surgeon and Joanes de apian and Joan Prez de Aya and Joanes de ornuz and Gabriel de Durango, inhabitants of the said town of Fuenterraba, and Domingo de Liarraga and Miguel de Liardi, inhabitants of El Pasaje de San Sebastia, all sailors of the said ship, each one of whom signed or made his mark, and because I do not know how to write I requested Joanes de Landagorrieta to sign for me, Joanes de Landergorryeta; done before me, Joan de Blancaflor, notary of the said ship, and I the said Joan de Blancaflor notary, together with the said witnesses, was present at the making of this testament, and I certify that I know the said party and witnesses, and in testimony of truth I signed it with my name.

[Signed:]

Miguel de Aguirre	Jn Perez de Aiã	Juanes de ðapyayn	
Grabiel de Durango	Jns de ðornuz	Miguel de Liãrdi	X [Liãrraga's mark]

Done before me,  
Jn de Blancaflor

[Document found and translated, respecting the 16th-century style, by Dr. Michael Barkham. I would like to thank the archivist of the *Archivo Históico de Protocolos de Gipuzkoa* in Oãti, Ramã Martã Suquã, for his kind assistance.]

[About the author: Michael M. Barkham is a historical and museum consultant, and member of the Advisory Committee of the Naval Museum, San Sebastiã, the Basque Country, Spain. He holds a doctorate in geography from the University of Cambridge, and has researched and written extensively on the maritime history of the Basque Country and Canada in the 16th and 17th centuries. He has been consultant to, among others, the National Maritime Museum (Greenwich), the Maritime Museum of Bilbao (the Basque Country), the Province of Newfoundland and Labrador, and Parks Canada's National Historic Site at Red Bay, Labrador.]

(In addition to the above material and translation provided Dr. Michael Barkham, the Placentia Area Historical Society was given permission from the institution to which the document belongs (Diputaciã Foral de Gipuzkoa- Provincial Council of Gipuzkoa) and the archive centre (Archivo Históico de Protocolos de Gipuzkoa – Gipuzkoako Protokoloen Artxibo Historikoa) to publish the images. It is assigned the number: AHPG-GPAH 3/3359:54r-59v.)

(PAHS also benefited from the assistance of Sabino Laucirica of Plentzia, Spain, where he is historical advisor and researcher for the municipality. He provided contact information and photos of the will.)

Thanks to the Department of Tourism, Culture and Recreation and the Placentia Lions Club for funding the translation and associated research.

(See photo of will on next page.)



Basque will of Domingo de Luca written in Placentia, May 15, 1563.