The pretension of the Respondent, that from the 20th. April, 1831, to the 19th. February, 1848, his assignor Laporte retained the property as tenant of the Crown, and made improvements upon an understanding that he should receive a grant of it, is utterly unfounded and untrue, and not attempted to be proved; and even were it true, it could avail him nothing, because the Judgment having determined that the Crown was proprietor of the beach, the improvements made by the occupants under their leases, could not enure to Laporte, because he was bound to surrender them to the Nuns at the expiration of his lease. For this reason, the grant to Baird on the assumption that his assignor had made improvements on the property, and had thereby became entitled to the favorable consideration of the Government for a grant, was a pure fallacy and a surprise and a fraud upon the Crown.

That the grant was made with the sanction of the Metropolitan Government, of which no proof has been attempted, is one of those futile allegations which merely recall the periods of our Colonial History when the claims of individual subjects of the Queen in this Province were entertained and disposed of upon *ex parte* statements without much regard to the rights of others.

That the conditions in Baird's grant are beneficial to the public may possibly be found to be true when fulfilled, but not till then. Should the Nuns, however, have a superior claim to a grant, the same conditions if imposed upon them as grantees, would be equally available to the public. But that these conditions, as found in Baird's Patent, protect the Nuns in their rights as Riparian proprietors, is a contradiction in terms, if not a self evident absurdity and a mockery.

That the road which has been made by the inhabitants from time to time for their own convenience, the creation and the growth of necessity, cuts off the riparian rights and privileges of the Nuns, is a proposition without any Law to sustain it.

That the sale to the Fraser's would deprive the Nuns of the right of enforcing their privilege as riparian proprietors is an exception which sets up the *Jus alterius*, and is moreover unfounded in the present case, in as much as it is stipulated in the deed or *contre-lettre* produced by the Respondent himself, that in the event of the Frasers being dispossessed of the beach lot, and of their afterwards obtaining a grant thereof from the Government, the said stipulated rent of £50 should be reduced to a sum equivalent to the rent to be paid by them to Government, but should not be less than £25; in consequence of which the interest of the Nuns to enforce their riparian rights still subsists. The deed from the Nuns gives the Frasers the right of using their name, and hence under this stipulation it would be competent to the Frasers or to Lampson, to litigate the question in the name of the Nuns, even if they had no interest.

The allegation that the Queen admitted Laporte's right to compensation is a mere gratuitous assertion not sustained by any evidence; and were it true or practicable, would be a mere *nudum pactum*, being entirely without consideration or legal cause.

The right of fishery on the beach in question derived by the Nuns under the original grant from the Company of New France made nearly two centuries ago, and emanating from the French Crown, by deed dated 19th. January, 1663, filed in this cause, is a right which was at least sufficient to exclude all others from the same privilege; and although under the French as under English public law, it could not bar the right of the public to make improvements on the beach for the purposes of navigation and commerce, was nevertheless a private right recognised by the law of France which could not be defeated or extinguished by a change of sovereignty; and was moreover one the value of which was appreciable in money, and of which they could not be deprived without an indemnity. Its bearing on the present case is to enhance the equity of the claim of the Nuns to a full recognition of their rights as riparian proprietors.

The grant to Baird, which, as he alleges, secures the rights of the public and *of the Nuns!* effectually bars the latter from any egress from their property, in as much as the cliff is inaccessible on the Nord West side, and Baird excludes them from the river and the high way on their front.

The grant is attempted to be justified on the assumption that it is a compensation to Baird as assignee of Laporte, who himself had no claim or right whatever, save that which might accrue to him as a refractory non-paying tenant, and who availed himself of his position as lessee of the Nuns to impair their title and drag them into a law suit.

The assignment said to have been made by Laporte to Baird of the 19th. February, 1848, for the consideration of £3,000 and *upwards* has not been produced and does not exist.

There is an absolute failure on the part of the Respondent to establish the fact of any improvements having been made by Laporte or himself entitling them to any indemnity, and their pretensions to that effect constitute a surprise and a fraud upon the Government, as none such were ever made.

The Appellant respectfully contends that the Judgment of the Court below ought to be reversed on the following grounds.

1° Because the fact of the Ursuline Nuns being proprietors of the land bordering on the River St. Lawrence and fronting upon and adjoining the beach and water lots granted to the Respondent by the Letters Patent sought to be rescinded, is fully established by the evidence in the cause, and more particularly by the Judgment of the Court of Appeals of the 20th. July, 1840, produced by the Respondent.

2° Because the St. Lawrence being a navigable River, the Ursuline Nuns, as riparian proprietors, are entitled by the Law of the land to a grant of the said beach and water lots in preference to the Respondent or any other person, and that the grant to Baird does therefore prejudice and injuriously affect them as such riparian proprietors.