

No. II.

PROVINCE OF }
LOWER CANADA. }

Court of Appeals,

The 30th day of July, 1840.

The URSULINE NUNS of Quebec,

APPELLANTS,

The ATTORNEY GENERAL, *pro Regina*, RESPONDENT.

The Court having heard the parties by their Counsel, examined the record and proceedings, and deliberated thereon. It is considered that inasmuch by the report of the survey of William Saxe, referred to in the Judgment of the Court below, of the twentieth day of April, eighteen hundred and thirty one, it appears that there is a space between the Cape Diamond and high water mark in the River St. Lawrence, which the Crown cannot claim as the soil of the tide-water, and whereof the Appellants have been legally in possession from time immemorial, under titles which it was not the object of the information to try, the Judgment of the Court below, has, by awarding all the depth of land from low watermark to Cape Diamond, adjudged to the Crown more than ought to have been held and considered as its property, and the Judgment of the Court below is therefore in this respect reversed:—And this Court giving the Judgment which the Court below ought to have rendered, It is adjudged and declared that all the land between low water mark, of the premises described in the said Judgment, and the place designated in the plan of William Saxe, therein referred to by a line with the letters g, h, i, k, l, and a, as that at which the tide did rise and would again rise but for the obstacles in its way, shall be held to be the property of our Sovereign Lady the Queen, in right of Her Sovereignty, as the soil of tide-water, and therefore it is considered that the said Jean Baptiste Laporte, do within fifteen days from the service of the present Judgment, desist from, quit and abandon the same, and that in default thereof, he be removed of the possession and occupation of the said tract and parcel of land and beach, as herein awarded to Her Majesty in due course of law. The Court awarding no costs to either party, either in this Court or in the Court below. And it is ordered that the Record be remitted to the Court below.

Certified, E. DESBARATS, C. C. A.

No. III.

EXTRACT FROM A REPORT OF A COMMITTEE OF THE WHOLE COUNCIL, DATED THE 11TH MAY, 1841, AND APPROVED BY THE GOVERNOR GENERAL IN COUNCIL, 11TH JUNE, 1841, IN SO FAR AS THE SAME RELATES TO THE BEACH LOT AT *L'Ance des Mères*, CONCEDED BY THE CROWN TO MR. JEAN B. LAPORTE.

"The Committee of Council have had under consideration the several cases referred to, regarding claims to beach lots at Quebec, called *L'Ance des Mères*, and have agreed upon the following Report.

"The property called *L'Ance des Mères* is situated on the River St. Lawrence, above the Mariners' Chapel at Quebec, and extends to Wolfe's Cove above that city.

"According to a Report of the Inspector General of the Queen's Domain, it may, in reference to the present proprietors and claimants, be divided into five sections, &c. &c. :—

"The third lot or section of the Crown property at *L'Ance des Mères*, consists of 908 French feet in front. It was originally leased by the Ursuline Nuns to Messrs. Coltman, on the 21st October, 1808, for 30 years; the unexpired term of which lease came into the possession of J. B. Laporte, by assignment from Messrs. Coltman in 1816. During the continuance of this term, Mr. Laporte being desirous of obtaining a renewal of the lease, and finding some difficulty with the Ursuline Nuns, inquired into the title, and gave information to

Government, which suit against him as

"The Crown mark, but also from sued, called upon to suit, claiming low-

"Judgment in given in the Court appealed; and in J. garded the ground the Crown its title

"It is remarkable high water mark, a veyor, who was em assistance of the Cour and was not intend ceedings by any evic survey. This line r cabins erected on the

"The Ursuline N appeal from this Jud sary security, forfeit the right to insist up appeal from it, and l

"On the 7th Mar for a term of years, a he should have the fir annum for eight prev orders were issued to pletion has been preve

"Messrs. J. and J. first Judgment in favo the Ursuline Nuns, of tending from thence t the ground in litigation

Mr. Wm. Lampson h days past. The Comm pedient for the Govern reiterate their opinion, Committee are further to give him a preferenc

"The Committee n acquire a title to proper ty being in litigation sideration of the Govern

"They are also of o for all further interven of the property, withou spectfully recommend, t extending to the ordinar belonging to the Crown out compromising the Se under the Ursuline N Commissioner of Crown

Montreal, 11th May, 1841.