

*Re-Examined.*

Supposing land above Blue Line were not enclosed but left open, and according to Patent inhabitants allowed to pass freely over Cap-Blanc and wharf, with the reserve of a high way not exceeding 36 feet over such part of lands at Cap-Blanc as are on the border of the river between high and low water mark, it would, I should think of course, instead of diminishing, materially benefit and improve property, if the people had the right of using it all in front of their lots.

*Re Cross Examined.*

If high way did not reach Blue Line, but property above Blue Line were cut off from the high way by a wall, fence or buildings, it would destroy the value of property above the Blue Line entirely.

*Re-Examined.*

Has no personal knowledge of extent of ground between Blue Line and cliff, but most of it has been dug out of the cliff.

AROLDUS LARUE, aged 45 years,

Land Surveyor for 21 years. Knows Cap-Blanc since his boyhood. Assisted his father in laying out a road there under the instructions of John Saxton Campbell, in continuation of Champlain St. It was then impassable for vehicles. At Laporte's and elsewhere there were little galleries to pass upon, for water went under these bridges at high tides. Few houses at the time. Mr. Laporte's the only decent one. I speak of the North side, I do not recollect that there was any on the South side. Had instructions from Government to determine high water mark by boundaries according to Sax's plan. Exh. No 5 is copy of the plan made by me.

*Cross Examined.*

Bridges and galleries had the appearance of having been made for the convenience of the persons occupying the houses. They were on the water side and some over the water. Jas. Saxton Campbell made the first road. The property above the Blue Line, if bounded by the Blue Line, would be of little value, unless the proprietor had a right of *riverain*. The principal value of Cap-Blanc is in its river front, for the purposes of navigation and commerce.

*Re-Examined.*

Supposing proprietors above Blue Line had a free right of passage over roads and wharf, it would render property above Blue Line more valuable. Being asked if the lots in the Patent are valuable in the hands of a stranger would they not be more valuable in the hands of the proprietors above Blue Line? Answered, that without the right of *riverain*, the value of the lots above the Blue Line would not be much.

REVEREND THOMAS MAESTER, aged 77 years:

The concession by the *Compagnie de la Nouvelle France* to Jacques Savestre, marked "Pld'a. Exhibit, no 64," does positively relate to Cap-Blanc. Witness made out a diagram from old titles (this among the rest) of the seven arpents of land at Cap-Blanc purchased by the Nuns from D'Artigny in 1737. The title in question covers the identical spot in controversy—generally known as Cap-Blanc.

THE APPELLANT RESPECTFULLY SUBMITS THE FOLLOWING OBSERVATIONS TO THIS HONORABLE COURT:

The principal point involved in the present Appeal is the right of the riparian proprietor to a grant of the beach and deep water lots in front of his property on navigable rivers in preference to any other. The Appellants as proprietors of the land bordering on the River St. Lawrence near Quebec in front of, and adjoining the beach and deep water lots forming the subject of the Letters Patent to the Respondent Baird, claim a right of preference to him and to all others to a grant of the said beach and deep water lots. The object of the action in the Court below was to determine this right.

By the information brought by the Attorney General on behalf of the Queen, Her Majesty submits this important question to the decision of Her Courts of Justice, and the matter in contestation has thus become *res integra* as between the Crown, the Nuns and Baird, precisely as it would have stood had no such grant been made. The Honorable Judge who rendered the Judgment in the Court below has ignored this important Common Law right.

The defence set up by the Respondent is contained in two pleas, a Temporary and a Perpetual Exception alleging the same matters of fact and constituting in reality but one plea. They are somewhat voluminous and much too argumentative, and were liable to be preliminarily disposed of by an issue of Law as containing little or nothing which could be legally deemed an answer to the case of the Appellants. The Respondent cannot complain that he has not had full latitude as well in his allegations as in his facts in evidence.

He has applied the main question in issue and has set up various pretensions and protests in justification of the grant.

The Judgment in Appeal of the 20th. July, 1840, (pleaded and produced by the Respondent,) ordering Laporte to surrender the beach to the Crown, as far as high water mark designated by a Blue Line on the plan filed in this cause, serves no other purpose pertinent to the present cause, than the establishment of the fact essential to the case of the Appellants, that their land is continuous with the beach belonging to the Crown; and that they are therefore the riparian proprietors.